

Managing a medieval frontier: government policy towards the  
Irish marches and the lands beyond them, c.1200-c.1318

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## **Declaration**

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## Summary

This thesis explores methods employed by the Dublin administration during the long thirteenth century in its efforts to manage the colonial frontiers and to minimise their impingement on government activities and finances. Some of the measures examined were systematic in nature, while others were implemented on a more ad hoc basis in response to local circumstances. Collaboration between the king and his Irish representatives played an important role in policy formation, as did consultation and negotiation with those directly involved on the frontiers. Throughout the thesis, efforts are made to establish the location, simultaneously both geographical and hierarchical, of policy formation, as well as the actual operation of the measures examined.

The thesis is divided into two sections. The first comprises three chapters presented in broadly chronological fashion, though there is some chronological overlap between chapters. These deal, respectively, with fortification, 'waste' settlement, and the lenient treatment of men who were willing to hold land or fight on the Irish frontiers. Each of these chapters is focused in particular on efforts to manage frontier problems through the devolution by successive kings, either to the Dublin administration or to frontier landholders, of exceptional powers to tackle frontier problems. In every case, these measures were designed to encourage settlement and defensive initiatives. These sweeping measures were rare, and each chapter in Section One also explores non-systematic measures that were informed by the same principles. This permits a more all-encompassing view of government policy to be attained, as well as providing further context for the sweeping measures examined.

Due in part to the vagaries of source survival, the thematic content of the chapters in Section One shifts alongside their periods of chronological focus. Nevertheless, these chapters share common themes. Particularly prominent are the studious efforts made by the king and his Irish representatives to prevent the permanent alienation of anything pertaining to the crown. This combined with practical necessity to create a situation whereby the responsibilities and expenses of frontier defence were largely delegated to march landholders, but additional powers were only granted rarely and for limited periods. As a result of the disjunction between these imperatives, policies frequently failed to align with the realities on the frontiers.

Section Two deals with measures that were implemented in response to specific local frontier challenges. Unlike in Section One, these measures were directed from Dublin, sometimes in consultation with the localities, without any need for direct royal input. Chapter Four explores the payment of money for the heads of individuals regarded as dangerous to local or regional security. Such payments might be made out of the treasury or by the imposition of local levies, but in both cases Dublin's influence is clear. Chapter Five looks at efforts to shape the operation of trust on and across the frontiers by trying to limit communications. It also examines espionage and counter-espionage efforts by the central government, and the facilitation by the justiciar's court of local efforts to prevent spying. These chapters, too, share common themes. Chief amongst these are the interplay between the Dublin administration and localities in order to deal with specific frontier threats, and efforts by the government to curtail, and sometimes also manipulate, the relationships that developed across the frontiers.

Government 'policy' towards the frontiers was situational, often short-lived, and closely tied up with magnate patronage. Moreover, there can be no expectation that the sources provide a window onto most elements of official efforts to manage the frontiers, nor that the elements they do reveal are wholly representative. Nevertheless, trends spanning sections One and Two have

also been identified. Throughout the thesis, the Dublin government's considerable freedom of independent action within Ireland, and its influence over royal thinking and policy towards the Irish frontier, are clear. So, too, is the unreality of efforts to centralise power while simultaneously decentralising the responsibilities and expenses of frontier defence. The study affords a window onto the operation of government in Ireland, as well as the relations between the king, his Irish government, and the frontiers – two layers of core and periphery.

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## Abbreviations

- AC *Annála Connacht. The annals of Connacht (A.D. 1224-1544)*, ed. A. Martin Freeman (Dublin, 1944)
- AFM *Annala Rioghachta Eireann: Annals of the kingdom of Ireland by the Four Masters, from the earliest period to the year 1616. Edited from MSS in the library of the Royal Irish Academy and of Trinity College Dublin with a translation and copious notes*, ed. John O'Donovan, 7 vols (Dublin, 1848-1851)
- AI *The annals of Inisfallen (MS, Rawlinson B. 503)*, ed. Seán Mac Airt (Dublin, 1951)
- ALC *The annals of Loch Cé. A chronicle of Irish affairs from A.D. 1014 to A.D. 1590. Edited, with a translation, by William M. Hennessy, M.R.I.A. Published by the authority of the Lords Commissioners of Her Majesty's treasury under the direction of the Master of the Rolls*, ed. William M. Hennessy, 2 vols (Oxford, 1871)
- Alen's reg.* *Calendar of archbishop Alen's register, c.1172-1534, prepared and edited from the original in the registry of the united dioceses of Dublin and Glendalough and Kildare*, Charles McNeill (ed.), Royal society of antiquaries of Ireland (Dublin, 1950)
- Ann. Clon.* *The annals of Clonmacnoise being the annals of Ireland from the earliest period to A.D. 1408*, ed. D. Murphy (Dublin, 1896)
- Annals of Multyfarnham* Stephen de Exonia, *The 'annals of Multyfarnham': Roscommon and Connacht provenance*, ed. Bernadette Williams (Dublin, 2012)
- AT *Annals of Tigernach*, ed. Whitley Stokes, 2 vols (Llanerch, 1993)
- AU *Annala Uladh. Annals of Ulster, otherwise Annala Senait, Annals of Senat; a chronicle of Irish affairs A.D. 431-1131: 1155-1541*, ed. Bartholomew MacCarthy, 4 vols (Dublin, 1893)
- BBCS *Bulletin of the Board of Celtic Studies*
- Caithréim* *Caithréim Thoirdhealbhaigh*, ed. Standish Hayes O'Grady (London, 1929)
- CChR *Calendar of the charter rolls, 1226–1516*, 6 vols (London 1903–27)
- CCR *Calendar of the close rolls preserved in the public record office, 1272-[1509]* 47 vols (London, 1900-1963)

- CDI *Calendar of documents relating to Ireland*, eds H.S. Sweetman and G.F. Handcock, 5 vols (London, 1875-86)
- CDS *Calendar of documents relating to Scotland preserved in her majesty's Public Record Office, London*, eds Joseph Bain et al, (London, 1881-1986)
- CFR *Calendar of the Fine Rolls preserved in the public record office*, 22 vols (London, 1911-1962)
- CIPM *Calendar of inquisitions post mortem and other analogous documents preserved in the public record office, Henry III–[15 Richard II]*, 16 vols (London 1904–74)
- CIRCLE *A Calendar of Irish Chancery Letters, c. 1244–1509*, ed. Peter Crooks (chancery.tcd.ie)
- CJRI, 1295-1303 [etc.] *Calendar of the justiciary rolls of Ireland or proceedings in the court of the justiciar of Ireland [1295-1314]*, eds J. Mills et al, 3 vols (Dublin, 1905–56)
- Clyn, *Annals* John Clyn, *The annals of Ireland*, ed. Bernadette Williams (Dublin, 2007)
- COD *Calendar of Ormond deeds*, ed. Edmund Curtis, 6 vols (Dublin, 1932-4)
- CPL *Calendar of entries in the papal registers relating to Great Britain and Ireland: papal letters*, eds William Bliss, J.A. Tremlow, et al., 20 vols (London, 1893-2005)
- CPR *Calendar of the patent rolls preserved in the public record office, 1232–[1509]* 53 vols (London, 1911)
- CR [1227-...1272] *Close rolls of the reign of Henry III*, 14 vols (London, 1902-38)
- CS *Chronicon Scotorum, RS 46*, ed. W.M. Hennessy (London, 1866)
- CSM *Chartularies of St Mary's abbey, Dublin; with the register of its house at Dunbrody, and annals of Ireland*, ed. John Thomas Gilbert, 2 vols (London, 1884)
- Dialogus de scaccario* 'Dialogus de scaccario' in *Dialogus de scaccario, and constitutio domus regis: The dialogue of the exchequer, and the disposition of the royal household*, eds Amt Emilie and S.D. Church (Oxford, 2007)
- DIB *Dictionary of Irish biography*
- Die Kildare-Gedichte* *Die Kildare-gedichte; die ältesten mittelenglischen denkmäler in anglo-irischer überlieferung*, ed. W. Heuser (Bonn, 1904)
- Dowdall Deeds* *Dowdall Deeds*, ed. Charles McNeill and A.J. Otway-Ruthven (Dublin, 1960)

<i>EHR</i>	<i>English Historical Review</i>
<i>Eolas</i>	<i>Eolas: The Journal of the American Society of Irish Medieval Studies</i>
<i>FAI</i>	<i>Fragmentary annals of Ireland</i> , ed. Joan Newlon Radner (Dublin, 1978)
<i>Fitzmaurice and Little, Materials</i>	<i>Materials for the history of the Franciscan province of Ireland, A.D. 1230-1450</i> , eds Father E.B. FitzMaurice and A.G. Little (Manchester, 1920)
<i>Foedera</i>	<i>Foedera, conventiones, litterae et cujuscunque generis acta publica</i> , ed. Thomas Rymer, 20 vols (London, 1816-69)
<i>Expugnatio</i>	<i>Expugnatio Hibernica: the conquest of Ireland by Giraldus Cambrensis</i> , ed. A.B. Scott and F.X. Martin (Dublin, 1978)
<i>Gormanston reg.</i>	<i>Calendar of the Gormanston register from the original in the possession of the right honourable the Viscount of Gormanston</i> , ed. James Mills and M.J. McEnery (RSAI Dublin 1916)
<i>Hist. and mun. docs</i>	<i>Historic and municipal documents of Ireland, A.D. 1172-1320, from the archives of the city of Dublin, etc</i> , ed. John Thomas Gilbert (London, 1870)
<i>IEMI</i>	<i>Inquisitions and extents of medieval Ireland</i> , eds Paul Dryburgh and Brendan Smith, <i>List and Index Society</i> , vol. 320 (Kew, 2007)
<i>IHS</i>	<i>Irish Historical Studies</i>
<i>Irish bardic poetry</i>	Osborn Bergin, <i>Irish bardic poetry: texts and translations together with an introductory lecture; with a foreword by D.A. Binchy</i> , eds David Greene and Fergus Kelly (Dublin, 1970)
<i>Irish exchequer payments</i>	<i>Irish exchequer payments, 1270-1446</i> , ed. Philomena Connolly (Dublin, 1998)
<i>JGAHS</i>	<i>Journal of the Galway Archaeological and Historical Society</i>
<i>JMH</i>	<i>Journal of Medieval History</i>
<i>JMMH</i>	<i>Journal of Medieval Military History</i>
<i>JRSAI</i>	<i>Journal of the Royal Society of Antiquaries of Ireland</i>
<i>Letters from Ireland</i>	<i>Stephen of Lexington: Letters from Ireland 1228-1229</i> , ed. Barry W. O'Dwyer (Kalamazoo, 1982)
<i>MCB</i>	<i>Miscellaneous Irish annals (A.D. 1114-1437) [fragment from Mac Carthaigh's book and two fragments from Rawlinson B.488]</i> , ed. Séamus Ó hInnse (Dublin, 1947)

Mullally, <i>Deeds</i>	<i>The deeds of the Normans in Ireland. La geste des Engleis en Yrlande</i> , ed. Evelyn Mullally (Dublin, 2002)
<i>Na Búirgeisi</i>	Mac Niocaill, Gearóid, <i>Na buirgeisí, xii-xv aois</i> , 2 vols (Dublin, 1964)
NHI, ii	Art Cosgrove (ed.), <i>A New history of Ireland, ii: medieval Ireland, 1169-1534</i> (Oxford, 1987)
ODNB	<i>Oxford dictionary of national biography</i>
Orpen, <i>Ireland under the Normans</i>	G.H. Orpen, <i>Ireland under the Normans, 1169-1333</i> , 4 vols (Oxford, 1911-20)
Pipe roll Ire. 14 John	'The Irish pipe roll of 14 John, 1211-12', eds Oliver Davies and David B. Quinn, <i>Ulster Journal of Archaeology</i> , third series, vol. 4 (1941), pp 1-76
PR [1216-...1232]	<i>Patent rolls of the reign of Henry III</i> , 2 vols (London, 1901-3)
PRIA	<i>Proceedings of the Royal Irish Academy, section c: archaeology, Celtic studies, history, linguistics, literature</i>
PROME	<i>Parliamentary rolls of medieval England, 1275-1504</i> , ed. Chris Given-Wilson et al, 16 vols (1990-2005) ( <a href="http://www.sdeditons.com/PROME/home.html">http://www.sdeditons.com/PROME/home.html</a> )
RCH	<i>Rotulorum patentium et clausorum cancellariæ hiberniæ calendarium. vol. i pars i Hen. II.-Hen. VII</i> , ed. E. Tresham (RCI, Dublin, 1828)
<i>Red book of Kildare</i>	<i>The red book of the earls of Kildare</i> , ed. G. Mac Niocaill (Dublin, 1964).
<i>Red book of Ormond</i>	Edmund Curtis, <i>The red book of Ormond. From the fourteenth-century original preserved at Kilkenny Castle, with missing portions supplied from the fifteenth-century transcript in the Bodleian library, edited by Newport B. White, published by the Dublin Stationery Office</i> (Dublin, 1932)
Rep. DKPR	[First (etc.)] <i>Report of the Deputy Keeper of the Public Records in Ireland</i> , 59 vols (Dublin, 1869-1951)
Richardson and Sayles, <i>Administration</i>	H.G. Richardson and G.O. Sayles, <i>The administration of Ireland, 1172-1377</i> (Dublin, 1963)
RLC	<i>Rotuli litterarum clausarum in Turri Londinensi asservati</i> , ed. T.D. Hardy, 2 vols (London, 1833-44)
RLP	<i>Rotuli litterarum patentium in Turri Londinensi asservati</i> , ed. T.D. Hardy (London, 1835)
<i>Rotuli chartarum</i>	<i>Rotuli chartarum in Turri Londinensi asservati, 1199- 1216</i> , ed. T.D. Hardy (London, 1837)

<i>Sayles, Affairs</i>	<i>Documents on the affairs of Ireland before the king's council</i> , ed. G.O. Sayles (Dublin, 1979)
<i>Scotichronicon</i>	Walter Bower, <i>Scotichronicon</i> , eds D.E.R. Watt et al, 9 vols (Aberdeen, 1987-98)
<i>Seanchas Ardmhacha</i>	<i>Seanchas Ardmhacha: Journal of the Armagh Diocesan Historical Society</i>
Shirley, <i>Royal letters</i>	<i>Royal letters illustrative of the reign of Henry III</i> , ed. W.W. Shirley, 2 vols (1862-66)
<i>Statutes and ordinances</i>	<i>Statutes and ordinances, and acts of the parliament of Ireland: King John to Henry V</i> , ed. H.F. Berry (Dublin, 1907)
<i>Statutes of the realm</i>	<i>The statutes of the realm</i> , 11 vols (London, 1810-1828)
TRHS	<i>Transactions of the Royal Historical Society</i>
WHR	<i>Welsh History Review (Cylchgrawn Hanes Cymru)</i>



# Introduction

In 1209 or 1210 Gerald of Wales presented a new version of his *Expugnatio Hibernica* to King John, and in its rather stern foreword he chided the king for his failure to complete the conquest of Ireland. Island kingdoms, he said, should have no march but the sea itself.<sup>1</sup> As was often the case when Gerald set his pen to work, there were ulterior motives at play, as he hoped that the measures required to bring about his envisaged conquest would advance the position of his relatives in Ireland. W.L. Warren contended that John probably did not share in Gerald's desire for a 'complete' Irish conquest.<sup>2</sup> Nevertheless, the premise underlying the Welshman's admonition is difficult to dispute: the persistence in Ireland of marches, and of the unconquered lands that lay beyond them, constituted a marked difference between John's kingdom of England and his lordship of Ireland, and the resulting frontier challenges made it difficult to effectively and consistently exercise the full range of royal power there. This thesis is concerned with some of the measures adopted by successive English kings and their Irish officials to attenuate the frontier's impingement on the security and profitability of the Irish colony during the long thirteenth century.<sup>3</sup>

James Lydon, in his influential article on 'the problem of the frontier in medieval Ireland', took as his starting point the short-lived treaty of Windsor drawn up between Ruadrí Ua Conchobair and Henry II in 1175.<sup>4</sup> This represented a bilateral effort to take stock of the Irish geopolitical situation – it formally established the relationship between the two kings, and set out their respective spheres of influence.<sup>5</sup> The treaty's delineation of an ultimately ephemeral

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<sup>1</sup> *Tutum insularis precipue regibus nullam in regnis suis omni ex latere preter mare solum marchiam habere* (*Expugnatio*, p. 263). For this letter's dating, see Robert Bartlett, *Gerald of Wales 1146-1223* (Oxford, 1982), p. 56, fn. 13.

<sup>2</sup> W.L. Warren, 'King John and Ireland', James Lydon (ed.), *England and Ireland in the later middle ages: essays in honour of Jocelyn Otway-Ruthven* (Dublin, 1981), pp 26-8. See also F.X. Martin, 'John, lord of Ireland, 1185-1216', *NHI*, ii, p. 150.

<sup>3</sup> For the appropriateness of applying the terminology of colonialism to medieval Ireland, see Brendan Smith, *Colonisation and conquest in medieval Ireland: the English in Louth, 1170-1330* (Cambridge, 1999), pp 1-9; R.R. Davies, 'Lordship or Colony?', James Lydon (ed.), *The English in Medieval Ireland: proceedings of the first joint meeting of the Royal Irish Academy and the British Academy, Dublin, 1982* (Dublin, 1984), esp. pp 150-2; Robin Frame, *Colonial Ireland, 1169-1369* (2nd ed., Dublin, 2012), p. xv.

<sup>4</sup> James Lydon, 'The problem of the frontier in medieval Ireland' (1967), repr. in Peter Crooks (ed.), *Government, war and society in medieval Ireland: essays by Edmund Curtis, A.J. Otway Ruthven and James Lydon* (Dublin, 2008), p. 318.

<sup>5</sup> The deepest exploration of this treaty remains Marie Therese Flanagan, *Irish society, Anglo-Norman settlers, Angevin kingship: interactions in Ireland in the late twelfth century* (Oxford, 1989), chapter 7. For the text, see *Gesta regis Henrici secundi Benedicti abbatis. The chronicle of the reigns of Henry II and Richard I, AD 1169-1192, known commonly under the name of Benedict of Peterborough*, i, ed. William Stubbs, p. 101. This chronicle, composed by Roger of Howden, was long mistakenly attributed to Benedict

boundary, and its establishment of Ruairí as Henry's subking (*rex sub eo*), is well known. Nevertheless, it seems an appropriate place to commence the present study. The treaty highlights some elements of the English king's approach to the Irish frontier that would remain consistent throughout the period under study; and its failure reveals how challenging it would be to operate on these principles. The treaty assured Ruaidrí of the justiciar's assistance should he struggle to depose (*amoveat*) Gaelic kings who defaulted on Henry's tribute, and in exchange Ruaidrí undertook to compel the return of Gaelic labourers who had fled before the invaders. These clauses tacitly acknowledged two major challenges that were bound to face any bilateral initiative to agree a *modus vivendi* in Ireland at this time: the limited ability of any Gaelic ruler to permanently uphold such a bargain, and settler dissatisfaction with the viability of their present holdings.

The tone of Anglo-Gaelic relations depended chiefly on local interactions between those who lived on the frontiers, and bilateralism was therefore insufficient to manage the colonial peripheries.<sup>6</sup> As such, the apparent absence of settler delegates at Windsor, compounded by the omission of any punitive clause to enforce their adherence to the agreement's terms, seems to indicate a considerable shortcoming in the treaty's drafting process. Although Hugh de Lacy, William fitz Audelin, and Strongbow were all in England at the time of the treaty's conclusion, Roger of Howden gives no indication that they were involved in its negotiation.<sup>7</sup> Some have cast aspersions on Henry's sincerity in negotiating the agreement;<sup>8</sup> and Colin Veach has posited that the settlers may have refused to negotiate such terms with an Other that was much more real and more dangerous to them than to Henry – particularly when doing so would proscribe further conquests.<sup>9</sup> It is also possible that Henry simply overestimated the power that Ruaidrí and the justiciar could bring to bear – perhaps the settlers' exclusion arose from a devastatingly ill-judged attempt to minimise their input into the running of the colony. The treaty was unworkable, and although historians have debated the precise significance of Henry's Council of Oxford of May 1177, that conference surely sounded the agreement's death knell.<sup>10</sup> Nevertheless, in its clear

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of Peterborough (David Corner, 'The *gesta regis Henrici secundi* and *chronica* of Roger, parson of Howden', *Historical Research*, vol. 56, no. 134 (1983), *passim*).

<sup>6</sup> For a discussion of the 'core-periphery' model's applicability in a medieval context, see Robert Bartlett, 'Heartland and border: the mental and physical geography of medieval Europe', Huw Pryce and John Watts (eds), *Power and identity in the middle ages: essays in memory of Rees Davies* (London, 2007), pp 23-36.

<sup>7</sup> Colin Veach, *Lordship in four realms: the Lacy family, 1166-1241* (Manchester, 2014), p. 39.

<sup>8</sup> Lydon, 'The problem of the frontier', p. 318; *idem*, *Lordship of Ireland*, p. 52; Frame, *Colonial Ireland*, pp 24-5.

<sup>9</sup> Veach, *Lordship in four realms*, p. 39.

<sup>10</sup> For various views, see Flanagan, *Irish society*, pp 255-63; Veach, *Lordship in four realms*, p. 63; Frame, *Colonial Ireland*, p. 26; Seán Duffy, 'Henry II and England's insular neighbours', Christopher Harper-Bill and

presentation of English royal authority as the foremost power in Ireland, and its efforts to minimise settler autonomy on the frontiers, the treaty exhibited an official stance that would shift very little during the following hundred and fifty years.

Notwithstanding the 'patchwork' nature of lordship in the Irish colony, familiar to historians, successive English kings were loath to permanently alienate anything that pertained to the crown, even to facilitate greater frontier security.<sup>11</sup> This did not, of course, prevent Irish frontiersmen from appropriating and enjoying powers beyond those to which they were officially entitled – but this thesis takes as its chief focus the intentions of government, and these remained firm. As will be seen, sweeping measures were occasionally instituted to encourage settlement and defensive initiatives on the frontiers, and these sometimes involved the delegation by the king of exceptional powers, either to landholders or to the administration. But circumspection was exercised: when landholders were the beneficiaries, the measures were always implemented on a strictly temporary basis; and when additional powers were devolved to the government, the king retained, implicitly or explicitly, the power to veto any decisions made.

The caution exhibited by Henry and his successors in Ireland was learned through bitter experience in Wales, where the lords marcher proved extremely difficult to keep under thumb. Historians have identified the 'March of Wales' (as opposed to marches in Wales) as a historiographical construct,<sup>12</sup> but it is nevertheless clear that the spirit of marcher independence was a thorn in Henry II's side.<sup>13</sup> English government had rigidified during the century that intervened between the earliest Norman intrusions into Wales and the English invasion of Ireland, resulting in a diminished tolerance for legal variation, and Henry did not wish see the emergence of similar liberties in Ireland.<sup>14</sup> But the origins of the Welsh marcher liberties lay in military

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Nicholas Vincent (eds), *Henry II: new interpretations* (Woodbridge, 2007), p. 148; Lydon, *Lordship of Ireland*, pp 52-3; Warren, 'King John and Ireland', p. 26; A.J Otway-Ruthven, *A history of medieval Ireland* (2nd ed., New York, 1980), p. 60; R. Dudley Edwards, 'Anglo-Norman relations with Connacht, 1169-1224', *IHS*, vol. 1, no. 2 (1938), pp 139-140; Orpen, *Ireland under the Normans*, ii, pp 33-4.

<sup>11</sup> It is highly likely that a 'non-alienation clause' was sworn to by English kings from at least the time of Henry III (Ernst H. Kantorowicz, 'Inalienability: a note on canonical practice and the English coronation oath in the thirteenth century', *Speculum*, vol. 29, no. 3 (1954), esp. pp 488-90, 498-502). See also below, p. 133. For the oft-cited 'patchwork' metaphor, see Robin Frame, 'Power and society in the lordship of Ireland, 1272-1377' (1977), repr. in idem (ed.), *Ireland and Britain, 1170-1450* (London, 1998), p. 191.

<sup>12</sup> For the distinction, see Kevin Mann, 'The March of Wales: a question of terminology', *WHR*, vol. 18, no. 1 (1996), esp. pp 2-3, 10-11; R.R. Davies, *Lordship and society in the March of Wales, 1282-1400* (Oxford, 1978), pp 16-17.

<sup>13</sup> See, for instance, Max Lieberman, *The medieval March of Wales: the creation and perception of a frontier, 1066-1283* (Cambridge, 2010), 76-7.

<sup>14</sup> Robin Frame, 'Lordship and liberties in Ireland and Wales, c.1170-c.1360', Huw Pryce and John Watts (eds), *Power and identity*, p. 138; idem, 'Ireland after 1169: barriers to acculturation on an 'English' edge', Keith J. Stringer and Andrew Jotischky (eds), *Norman expansion: connections, continuities and contrasts* (Farnham, 2013), p. 125; A.J. Otway-Ruthven, 'The constitutional position of the great lordships of south

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exigencies not unlike those faced by the settlers in Ireland,<sup>15</sup> and Rowlands suspected that the weakness of royal power during Stephen's reign was crucial to these Welsh liberties' development.<sup>16</sup> It was therefore essential that strong royal control be imposed and maintained in colonial Ireland, particularly on its frontiers.

This could not be achieved from Henry's court alone. Messengers could travel from Westminster to Wales within eight days, but communication across the Irish Sea was less reliable, and sending soldiers to protect (or cow) Irish landholders posed greater logistical challenges.<sup>17</sup> Henry therefore began establishing a colonial administration with substantial delegated authority. He appointed chief governors to represent him from 1172, and an Irish exchequer had been established by the end of the century.<sup>18</sup> As a result, he was able to prevent the emergence of similarly expansive liberty powers in Ireland.<sup>19</sup> The administration remained in constant correspondence with the royal court, and it is clear that advice from Dublin was valued highly when it came to questions of frontier management. Thus, the broad measures explored in the first part of this thesis, which required royal input, were often introduced on foot of Irish advice, and the administration was always involved in their implementation. In order to protect royal subjects and rights, and to inhibit the development of excessive seigneurial independence, the Dublin government also needed considerable latitude to act independently in response to dynamic situations. This the administration possessed, although it is clear that limitations of resources, and of ministerial personnel, meant that not all areas of the colony experienced royal power and assistance in equal, or timely, measure.<sup>20</sup> Nevertheless, that the approach to government met

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Wales', *TRHS*, fifth series, vol. 8 (1958), p. 6. Henry II also took a very severe stance towards the Welsh marchers during the 1170s (Lieberman, *The medieval March of Wales*, p. 122).

<sup>15</sup> R.R. Davies, 'Kings, lords and liberties in the March of Wales, 1066-1272', *TRHS*, fifth series, vol. 29 (1979), p. 46. See also idem, 'Frontier arrangements in fragmented societies: Ireland and Wales', Robert Bartlett and Angus McKay (eds), *Medieval frontier societies* (Oxford, 1989), esp. p. 80.

<sup>16</sup> I.W. Rowlands, 'The making of the March: aspects of the Norman settlement in Dyfed', R. Allen Brown (ed.), *Proceedings of the Battle Conference of Anglo-Norman Studies iii, 1980* (Suffolk, 1981), p. 144. A similar view was expressed by Davies ('Kings, lords and liberties', p. 55).

<sup>17</sup> Mary C. Hill, *The king's messengers, 1199-1377: a list of all known messengers, mounted and unmounted, who served John, Henry III, and the first three Edwards* (Stroud, 1994), p. 3. In 1253, Henry III claimed it was easier to travel from Ireland to Gascony than from Ireland to England (*CPR, 1247-58*, p. 206); and in 1268 the justiciar drowned making the crossing (*Annals of Multyfarnham*, pp 164-5). See also James Lydon, 'The expansion and consolidation of the colony, 1215-54', *NHI*, ii, p. 170

<sup>18</sup> A.J. Otway-Ruthven, 'The medieval Irish chancery' (1960-1), repr. in Crooks (ed.), *Government, war and society*, p. 106; Richardson and Sayles, *Administration*, pp 14-15. Roger Howden termed Hugh de Lacy Ireland's justiciar, but it is doubtful whether this term was in fact used (Richardson and Sayles, *Administration*, p. 73).

<sup>19</sup> See Beth Hartland, 'The liberties of Ireland in the reign of Edward I', Michael Prestwich (ed.), *Liberties and identities in the medieval British Isles* (Woodbridge, 2008), p. 200.

<sup>20</sup> The small size of the governmental core sometimes caused delays. See, for instance, Brendan Smith, 'The medieval border: Anglo-Irish and Gaelic Irish in late thirteenth and early fourteenth century Uriel',

with some success during the period concerned here is perhaps indicated by historians' tendency to liken fourteenth-century Ireland to twelfth- and thirteenth-century Wales, rather than to regard the thirteenth-century situations alongside each other.<sup>21</sup>

### *Organisational frameworks*

The contents of this thesis have been selected and arranged on the basis of two potentially problematic organisational frameworks, namely 'government policy' and 'frontier'. Both are employed quite loosely in this thesis, as these concepts tend to be in the historiography of medieval Ireland. They have served more as organisational frameworks than theoretical underpinnings. Nevertheless, inherent in the employment of these frameworks is the contention that they are appropriate lenses for examining the topics explored. As such, some background to their historiographies in the Irish context, and an outline of my own intentions in using them here will be provided.

### *Governmental principles and policies*

Medievalists are wary of construing the actions of medieval rulers as 'policy', and Beth Hartland has argued that what at first looks like policy can often be more accurately regarded as repeated action in accordance with consistent principles.<sup>22</sup> Medievalists, she contends, have been misguided in perceiving a steady royal policy towards Ireland; indeed, she has doubted 'the capacity of any medieval king to pursue a consistent policy in the modern usage of that term'.<sup>23</sup> Earlier, Lydon had assessed that 'medieval "policy" was usually a matter of expediency, and certainly so far as Anglo-Irish relations are concerned it is difficult to escape the conclusion that the king and his council in England made decisions on a purely ad hoc basis, with little regard for

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Raymond Gillespie and Harold O'Sullivan (eds), *The borderlands: essays on the history of the Ulster-Leinster border* (Belfast, 1989), pp 43-7.

<sup>21</sup> See, for instance, Davies, 'Frontier arrangements', p. 78; Frame, 'lordship and liberties', pp 126-7.

<sup>22</sup> Beth Hartland, 'Policies, priorities and principles: the king, the Anglo-Irish and English justiciars in the fourteenth century', Brendan Smith (ed.), *Ireland and the English world in the late middle ages: essays in honour of Robin Frame* (Basingstoke, 2009), p. 131; idem, 'The liberties of Ireland', pp 200-1.

<sup>23</sup> Hartland, 'Policies, priorities and principles', pp 131-2, at 131. Elsewhere, Hartland has argued that royal attitudes could only be as consistent as the makeup of the king's retinue (idem, 'English landholding in Ireland', Michael Prestwich, Richard Britnell, Robin Frame (eds), *Thirteenth century England x: proceedings of the Durham conference, 2003* (Woodbridge, 2005), p. 127).

the future'.<sup>24</sup> Peter Crooks, too, has contended that "[r]oyal policy", unless it is understood quite loosely, is far too grand a term for such an extemporary method of government'.<sup>25</sup>

The term 'policy' is indeed liable to invoke thoughts of long-term planning and correspondingly consistent action, to a degree that is in little evidence in the sources for medieval Ireland. While it would be unreasonable to accuse medieval rulers of being incapable of formulating and executing long-term plans, medieval bureaucratic and communication technologies and practices were certainly insufficient to sustain policies in the 'modern usage'. As is the case today, outbreaks of war, pestilence, or rebellion could rapidly alter the crown's financial situation, diminishing its revenues or necessitating the immediate reallocation of stored funds from one cause to another.<sup>26</sup> Moreover, kings and their administrators were not necessarily always fully aware of the practicalities involved in the implementation of some commands – one might very generously regard Edward I's repeated withdrawal of Irish moneys to fund foreign wars in this light.<sup>27</sup>

It is worth noting, however, that while the comments by Lydon, Hartland, and Crooks were concerned with 'royal' policy, most of the measures employed in the management of the Irish frontiers were primarily devised and, of course, implemented, within Ireland. During the first half of the thirteenth century, in particular, most justiciars served lengthy terms and were familiar with Irish conditions. These men can be expected to have provided reasonably consistent advice to the king, and to have themselves acted in reasonably consistent ways towards the frontiers. Moreover, the justiciar's activity was itself influenced by the king's other Irish ministers, as well as the leading barons in the Irish council. Membership of these bodies changed over time, but they, too, provided a measure of stability in policy formation. The distinction drawn by Hartland between policies and principles is valuable, and we certainly see that the various measures implemented in the interest of Irish frontier management tended to be shaped by the same principles. Nevertheless, it does not seem inappropriate to term recurrent, consistent, and sometimes even ostensibly systematic action by or on the advice of the Irish administration, and in accordance with consistently held governmental principles, as constituting 'policy' – albeit with the proviso that these were liable to ebb and flow over time. Indeed, to do otherwise is to risk minimising the importance of particular trends in governmental approaches to frontier challenges.

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<sup>24</sup> James Lydon, *The lordship of medieval Ireland* (Dublin, 2003), p. 127.

<sup>25</sup> Peter Crooks, "'Divide and rule": factionalism as royal policy in the lordship of Ireland, 1171-1265', *Peritia*, vol. 19 (2005), p. 271.

<sup>26</sup> See, for instance, below, p. 107.

<sup>27</sup> See below, p. 98, fn. 190.

This thesis explores several measures that were employed in the management of the Irish frontier, and it attempts to assess the principles that informed them. In some cases it is suggested, on the basis of the consistent or systematic implementation of certain measures, that 'policies' can be discerned. Each of the measures explored were designed to service one or both of the closely related aims of increasing settlement on the frontiers and improving the physical security there; the measures were further delineated by the dogged unwillingness of the king and his Irish representatives to permit any permanent abrogation of royal rights. These are the three principles that it is suggested underlay government 'policy' towards the Irish frontier more broadly.

### *Frontier*

James Lydon, in his 1967 article on the frontier in medieval Ireland, invoked F.J. Turner's influential essay, 'The significance of the frontier in American history'. Lydon contended that the frontiers of high medieval Europe were as consequential in their results as the American frontier was to Turner's conception of American history.<sup>28</sup> He was far from the only medievalist to see utility in the concept, which has remained a historiographical staple for many decades. Indeed, Berend suggested that medievalists are surpassed in their enthusiasm for frontiers only by students of American history.<sup>29</sup> The concept's popularity is amply attested by the large number of edited volumes that have been organised around the theme of medieval frontiers, particularly since the publication of Bartlett and MacKay's influential *Medieval frontier societies*.<sup>30</sup> Lydon had hoped

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<sup>28</sup> Lydon, 'The problem of the frontier', p. 317. Lydon was not the first historian to regard the broad sweep of high medieval European history from a Turnerian perspective. See, for instance, Archibald R. Lewis, 'The closing of the medieval frontier, 1250-1350', *Speculum*, vol. 33 (1950), pp 475-83. See also the discussion in Robert I. Burns, 'The significance of the frontier in the middle ages', *Medieval frontier societies*, p. 313.

<sup>29</sup> Nora Berend, 'Medievalists and the notion of the frontier', *The Medieval History Journal*, vol. 2, no. 1 (1999), p. 57.

<sup>30</sup> Bartlett and MacKay, *Medieval frontier societies*. For chiefly Anglophone volumes, see Daniel Power and Naomi Standen (eds), *Frontiers in question: Eurasian borderlands 700-1700* (Basingstoke, 1999); David Abulafia and Nora Berend (eds), *Medieval frontiers: concepts and practices* (Farnham, 2002); Jörn Staecker (ed.), *The European frontier: clashes and compromises in the middle ages* International (Lund, 2004); Florin Curta (ed.), *Borders, barriers, and ethnogenesis: frontiers in late antiquity and the middle ages* (Turnhout, 2005); O. Merisalo and P. Pahta (eds), *Frontiers in the middle ages: proceedings of the third European Congress of Medieval Studies* (Louvain-la-Neuve, 2006); Jenifer Ní Ghrádaigh and Emmett O'Byrne, *The march in the islands of the medieval west* (Leiden, 2012); A.M. Clarke (ed.), *Power, identity and miracles on a medieval frontier* (Abingdon, 2017). For an earlier volume, see B.K. Roberts and R.E. Glasscock (eds), *Villages, fields and frontiers: studies in European rural settlement in the medieval and early modern periods. Papers presented at the meeting of the Permanent European Conference for the Study of the Rural Landscape, held at Durham and Cambridge, England, 10-17 September 1981* (Oxford, 1983), section 2. Note also Muldoon and Fernández-Armesto's republication of influential essays on premodern frontiers ranging in date from 1919 to 1993 (James Muldoon and Felipe Fernández-Armesto (eds), *The expansion of Latin Europe, 1000-1500: the medieval frontiers of Latin Christendom* (Farnham, 2008)).

that the growing popularity of comparative studies might someday produce ‘a coherent and all-embracing [frontier] thesis’ for the middle ages, and this wish was perhaps fulfilled, to the extent that such a desideratum was achievable, by Bartlett’s subsequent monograph, *The making of Europe* – the book that launched a thousand frontier studies.<sup>31</sup> Here, Bartlett examined the expansion of Latin Christendom during the high middle ages, with a particular focus on the Germanic and Celtic regions.<sup>32</sup> The book’s sustained influence and continued relevance is clear from its ubiquity in the footnotes of studies on medieval frontiers.

Notwithstanding the importance of these works, both have been regarded as inadequate to explain developments in the Mediterranean region.<sup>33</sup> This should not be seen as a failing on Bartlett’s part, but rather as an indication of the frontier concept’s unsuitability for application on a continentally paradigmatic scale.<sup>34</sup> Indeed, *The making of Europe* has certainly withstood academic critique better than Turner’s original frontier thesis, which has been heavily problematised in terms both conceptual and empirical since the 1930s, and has by now passed through celebrity and into notoriety.<sup>35</sup> That the foundational text of historical frontier studies has aged so poorly serves to remind that the use of ‘frontier’ as an organisational framework is not without dangers. We cannot, for instance, simply transplant Turner’s troubled conception directly onto medieval contexts, and historians have instead individually interpreted the concept to fit their needs. Power distinguished two broad schools of interpretation (though admixture is not uncommon): American-style ‘frontiers of settlement’, Turnerian in emphasis, in which man found himself pitted against nature, and European-style ‘political frontiers’ – linear or zonal boundaries between peoples and states.<sup>36</sup> The diversity of approaches to ‘frontier’ is significant, as

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<sup>31</sup> Lydon, ‘The problem of the frontier’, p. 317; Robert Bartlett, *The making of Europe: conquest, colonization and cultural change, 950-1350* (London, 1993).

<sup>32</sup> For further exploration by Bartlett of similar themes, see idem, ‘Heartland and border’, pp 23-36; idem, ‘The Celtic lands of the British Isles’, David Abulafia (ed.), *The new Cambridge medieval history, vol. v, c. 1198-c. 1300* (Cambridge, 1999), pp 809-827; idem, ‘Colonial aristocracies of the high middle ages’, *Medieval Frontier Societies*, pp 23-47.

<sup>33</sup> David Abulafia, ‘Seven types of ambiguity, c. 1100-c. 1500’, *Medieval frontiers: concepts and practices*, p. 2.

<sup>34</sup> See also Anssi Paasi, ‘A border theory: an unattainable dream or a realistic aim for border scholars?’, Doris Wastl-Walter (ed.), *The Ashgate research companion to border studies* (Farnham, 2011), pp 27-8.

<sup>35</sup> For an overview, see William Cronon, ‘Revisiting the vanishing frontier: the legacy of Frederick Jackson Turner’, *The Western Historical Quarterly*, vol. 18, no. 2 (1987), pp 157-9. See also Glenda Riley, ‘Frederick Jackson Turner overlooked the ladies’, *Journal of the Early Republic*, vol. 13, no. 2 (1993), esp. pp 221-5; Berend, ‘Medievalists and the notion of the frontier’, pp 56-7; Burns, ‘The significance of the frontier’, pp 307-10.

<sup>36</sup> Daniel Power, ‘Frontiers: terms, concepts, and the historians of medieval and early modern Europe’, Power and Standen (eds), *Frontiers in question* (1999), pp 2-12. Lattimore contended that ‘the linear frontier as it is conventionally indicated on a map always proves, when studied on the ground, to be a zone rather than a line’ (Owen Lattimore, ‘The frontier in history’ (1955), repr. in *Studies in frontier history: collected papers, 1928-1958* (London, 1962), pp 469-70).

proponents of frontier studies cite their facilitation of comparative studies as a large part of their appeal. Janeczek opined that '[i]n the fact that the terms "frontier" and "frontier society" are explanatory concepts, but are not self-explanatory one may perceive both drawbacks [and] benefits'<sup>37</sup> – the multiplicity facilitates the identification of illuminating comparisons, but less auspicious results can arise from incautious frontier studies.<sup>38</sup>

The variety of approaches to 'frontier' no doubt arises in part from the term's commonness in the modern lexicon, which can inculcate a sense that frontiers are 'natural', and perhaps not, therefore, in need of explanation. This can be highlighted by reference to the Irish historiography, where the term is sometimes used in quite distinct ways even by a single historian, and within the same publication. B.J. Graham contended, on the basis of archaeological and statistical analysis, that concerns about frontier security were the dominant factor in shaping settlement patterns in Meath after 1169;<sup>39</sup> he viewed thirteenth-century Roscommon as a frontier area characterised by a constantly shifting power balance between the crown and the Uí Conchobhair;<sup>40</sup> and writing on Ireland more broadly, he suggested that a complex blend of economic, political, and social factors created 'a shifting frontier' in Ireland.<sup>41</sup> He also portrayed the River Shannon as a crucial fixed frontier, both before and after the advent of the English into Ireland.<sup>42</sup> Thus, we encounter a frontier to be defended, a frontier shared, a moveable frontier, and a linear frontier. It must be noted that in no case does undue confusion arise from Graham's use of the term, and such variety is common – but such a proliferation of meanings highlights the dangers inherent in allowing a study to hinge upon so ostensibly simple a concept.

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<sup>37</sup> Andrzej Janeczek, 'Frontiers and borderlands in medieval Europe: introductory remarks', *Quaestiones Medii Aevi Novae*, vol. 16 (2011), passim, quoted at p. 14. Similar views are expressed in Power, 'Frontiers', p. 12; Berend, 'Medievalists and the notion of the frontier', p. 71.

<sup>38</sup> See, for instance, Robin Frame, '[Book review:] Identity on the medieval Irish frontier: degenerate Englishmen, wild Irishmen, middle nations by James Muldoon', *EHR*, vol. 119, no. 483 (2004), pp 1029-30. For some more effective comparative frontier studies, see Davies, 'Frontier arrangements', pp 77-100; Aleksander Pluskowski, Adrian J. Boas, and Christopher Gerrard, 'The ecology of crusading: investigating the environmental impact of holy war and colonisation at the frontiers of medieval Europe', *Medieval Archaeology*, vol. 55 (2011), pp 192-225; Emilia Jamrozik, *Survival and success on medieval borders: Cistercian houses in medieval Scotland and Pomerania from the twelfth to the late fourteenth century* (Turnhout, 2011); Max Lieberman, 'The medieval 'marches' of Normandy and Wales', *EHR*, vol. 125, no. 517 (2010), pp 1357-1381.

<sup>39</sup> B.J. Graham, 'Anglo-Norman settlement in County Meath', *PRIA*, vol. 75C (1975), pp 230-40, esp. p. 233.

<sup>40</sup> Idem, 'Medieval settlement in County Roscommon', *PRIA*, vol. 88C (1988), esp. 19-20.

<sup>41</sup> Idem, 'The high middle ages: c.1100 to c.1350', idem and L.J. Proudfoot (eds), *An historical geography of Ireland* (London, 1993), p. 65.

<sup>42</sup> Graham, 'Medieval settlement in Roscommon', p. 20. This perspective was later explored further by Helen Perros ('Crossing the Shannon frontier: Connacht and the Anglo-Normans, 1170-1224', T.B. Barry, Robin Frame, and Katharine Simms (eds), *Colony and frontier in medieval Ireland: essays presented to J.F. Lydon* (London, 1995), pp 117-138). See also Patrick Holland, 'The Anglo-Norman landscape in County Galway; land-holdings, castles and settlements', *JGAHS*, vol. 49 (1997), p. 180.

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When Lydon referred to the 'problem' of the frontier he did not mean the historiographical difficulties outlined above, but rather the military and administrative challenges that the colonial administration faced at the outer limits of its effective territorial control. He presented much of the thirteenth century as an 'age of expansion' and contended that the stone castles constructed by the English were effective as a means of repelling Gaelic attacks. Thereafter, and particularly with the devastation wrought by the Bruce invasion and Black Death on English Ireland, the colony, and frontier, began to retreat.<sup>43</sup> By 'frontier' Lydon meant an English defensive line, and the Gaelic recovery of long lost territories during the late middle ages therefore represented the 'complete collapse of the frontier'.<sup>44</sup>

Most have agreed, implicitly or explicitly, with the basic premise that Gaelic and colonial society were separated in some regards by a porous frontier characterised by military challenges. This view is not diverged from here, and there would be little value, in the limited space available, in listing and comparing historians' subtly different applications of the term in an Irish context. However, Prescott warned that 'there is no excuse for geographers who use... "frontier" and "boundary" as synonyms', and within the Irish historiography most writers diverge from Lydon by more or less equating the frontier with the marches.<sup>45</sup> The frontier is therefore conceived of as zonal, moveable over time, and militarised.<sup>46</sup> The pervasive effects that the frontier could have even within the *terra pacis* is clear from Smith's observation that although Uriel was not wholly in the march, it was wholly a marcher society.<sup>47</sup> Historians sometimes describe areas as being characterised by 'frontier conditions',<sup>48</sup> a sufficient diagnostic for which has been provided by Maginn: 'infrequent communication with the Dublin administration and frequent interaction with the enemy'.<sup>49</sup> Notwithstanding the presumption of hostility between Gael and Gall, Maginn's emphasis on interaction, rather than warfare, is worth keeping in mind: although our sources

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<sup>43</sup> Lydon, 'The problem of the frontier', pp 320-1.

<sup>44</sup> *Ibid*, p. 326.

<sup>45</sup> J.R.V. Prescott, *Political frontiers and boundaries* (Sydney, 1987), p. 36.

<sup>46</sup> See Brendan Smith, 'The Concept of the March in Medieval Ireland: The Case of Uriel', *PRIA*, vol. 88C (1988), pp 257-269.

<sup>47</sup> Smith, 'The Concept of the March', p. 265. For the *terra pacis*, see below, p. 15, fn. 78.

<sup>48</sup> For instance, Patrick J. Duffy, 'The nature of the medieval frontier in Ireland', *Studia Hibernica*, vol. 22/23 (1982/1983), p. 23; Robin Frame, 'Commissions of the peace in Ireland, 1302-1461', *Analecta Hibernica*, vol. 35 (1992), p. 3; *idem*, 'English officials and Irish chiefs in the fourteenth century' (1975), repr. in *Ireland and Britain*, p. 249. The de Vescys' efforts to adapt to distinct frontier conditions in Ireland and in Scotland are compared in Keith J. Stringer, 'Nobility and identity in medieval Britain and Ireland: the de Vescy family, c. 1120-1314', Brendan Smith (ed.), *Britain and Ireland, 900-1300, insular responses to medieval European change* (Cambridge, 1999), pp 230-1.

<sup>49</sup> Christopher Maginn, 'English marcher lineages in south Dublin in the late middle ages', *IHS*, vol. 34, no. 134 (2004), p. 113.

constrain us into examining the marches primarily as sites of intermittent warfare, we should not assume that these provide a wholly representative view of all marches.

Lydon and Graham did not dabble in more theoretical approaches to historical frontiers;<sup>50</sup> but the necessity of closely defining one's frontier terminology was recognised by P.J. Duffy, who took issue with the frequent depiction of 'two Irelands' in historiographical contributions such as Lydon's. Surveying the chronological breadth of high and late medieval Ireland, he suggested that the frontier should be viewed not as a dividing line but as a 'hybrid zone', at once political, spatial, cultural, ethnic, and ideological, within an ethno-political continuum spanning those areas of Ireland that were dominated more fully by Gaelic or English society.<sup>51</sup> In Ireland, he said, 'a politically indeterminate frontier was characteristic', and this was characterised by cross-frontier collaboration.<sup>52</sup> In Duffy's assessment, the importance of the frontier had been exaggerated in the historiography: '[i]n Ireland... the term frontier is applied too easily to a too-simplistic cultural or ethnic divide into Gael and Gall. In reality it was a much more complex and... European-like fragmentation of land-owning power groups, often but not invariably, divided along ethnic li[n]es'.<sup>53</sup>

Duffy was rightly wary of tendencies to present diametrically opposed ethno-political interests on the frontier. But this flaw lay in the frontier's historiographical depiction rather than the concept itself. Scholars have often explored modern and historical frontiers as liminal sites where groups encounter and interact with the Other in a variety of ways, peacefully as well as hostilely, and frontiers past and present have long been viewed as sites of ethnogenesis.<sup>54</sup> Historians of all periods of medieval Irish history have regarded the frontier in this way too. Elva Johnston, examining Ireland as a frontier of the Roman Empire, contended that the term denotes 'complex cultural, economic, and military interactions wherein the differences between Roman and non-Roman could be blurred or attenuated or even hardened and emphasised, depending on

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<sup>50</sup> For instance, Lucien Febvre, 'Frontière: the word and the concept' (1928), repr. in Peter Burke (ed.) and K. Folca (transl.), *A new kind of history: from the writings of Febvre* (London, 1973), pp 208-218; Ladis K.D. Kristof, 'The nature of frontiers and boundaries', *Annals of the Association of American Geographers*, vol. 49, no. 3 (1959), pp 269-282; Martin W. Mikesell, 'Comparative studies in frontier history', *ibid*, vol. 50, no. 1 (1960), pp 62-74; D. Hay, 'England, Scotland and Europe: the problem of the frontier', *TRHS*, fifth series, vol. 25 (1975), pp 77-91.

<sup>51</sup> Duffy, 'The nature of the medieval frontier', pp 21-38.

<sup>52</sup> *Ibid*, pp 35-6.

<sup>53</sup> *Ibid*, p. 38.

<sup>54</sup> See, for instance, Michael Kulikowski, 'Ethnicity, rulership, and early medieval frontiers', Florin Curta (ed.), *Borders, barriers, and ethnogenesis: frontiers in late antiquity and the middle ages* (Turnhout, 2005), pp 248-9; Walter Pohl, 'Frontiers and ethnic identities: some final considerations', *ibid*, p. 265. For a discussion of the same phenomena in a modern context, see David A. Chappell, 'Ethnogenesis and frontiers', *Journal of World History*, vol. 4, no. 2 (1993), esp. pp 267-271.

historical circumstances'.<sup>55</sup> Seán Duffy wondered whether the 'degeneracy' condemned by the 1297 parliament was an 'inevitable product of frontier life'.<sup>56</sup> In Frame's view, the frontier was not a dividing line, but a 'broad belt where men and customs met and interacted'.<sup>57</sup> And according to Steven Ellis, the historiography of late medieval Ireland was so skewed towards examining 'a frontier of contact rather than a frontier of separation' that the Pale's development as a 'physical frontier' had been largely overlooked.<sup>58</sup>

All of this implies that a correction has occurred within the historiography, and research into other aspects of ethnic interaction in medieval Ireland has improved the situation still further. In particular, Freya Verstraten Veach's studies of Anglicising influences on Gaelic society provides an extremely valuable counterbalance to the historiographical overemphasis on conflict (and Gaelicisation);<sup>59</sup> and Stephen Hewer's recent work on access to the English royal courts in Ireland by ethnically non-English individuals shows that some of the most basic assumptions about the medieval Irish colony, and interethnic relations, require re-examination.<sup>60</sup> The research of these historians should not be regarded as devaluing the frontier concept. Rather, the ambiguity, hybridity, and dynamism that often characterised frontier zones is a large part of what makes them worthwhile objects of study. The statement by Tadhg O'Keeffe and Pat Grogan that in the Irish historiography 'the frontier model presupposes that identities were stable for as long as the

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<sup>55</sup> Elva Johnston, 'Religious change and frontier management: reassessing conversion in fourth- and fifth-century Ireland', *Eolas*, Vol. 11 (2018), p. 108. See also Courtney Palmbush, 'The frontier and Patrick's "ministry of slavery"', *Eolas*, vol. 7 (2014), esp. pp 29-32

<sup>56</sup> Seán Duffy, 'The problem of degeneracy', James Lydon (ed.), *Law and disorder in thirteenth-century Ireland* (Dublin, 1997), p. 88.

<sup>57</sup> Robin Frame, 'War and peace in the medieval Lordship of Ireland' (1984), repr. in *Ireland and Britain*, p. 228.

<sup>58</sup> Steven G. Ellis, 'Region and frontier in the English state: Co. Meath and the English Pale, 1460-1542', Sissel Laegreid, Torgeir Skorgen, Helge Vidar Holm (eds), *The borders of Europe: hegemony, aesthetics and border poetics* (Aarhus, 2012), p. 50. Ellis, too, has contributed to the study of the frontier as a zone of contact (idem, 'The English state and its frontiers in the British Isles, 1300-1600', Power and Standen (eds), *Frontiers in question* (1999), pp 239-253). Ellis's *festschrift*, like Lydon's, has frontiers as one of its organising principles (Christopher Maginn and Gerald Power (eds), *Frontiers, states and identity in early modern Ireland and beyond: essays in honour of Stephen G. Ellis* (Dublin, 2016)).

<sup>59</sup> Freya Verstraten Veach, 'Anglicization in medieval Ireland: was there a Gaelic Irish 'middle nation'?', Seán Duffy and Susan Foran (eds), *The English isles: cultural transmission and political conflict in Britain and Ireland, 1100-1500* (Dublin, 2013), pp 118-137; Freya Verstraten, 'The anglicisation of the Gaelic Irish nobility, c.1169-c.1366' (PhD, TCD, 2008); idem, 'Naming practices among the Irish secular nobility in the high middle ages', *JMH*, vol. 32, no. 1 (2006), pp 43-53; idem, 'Both king and vassal: Feidlim Ua Conchobair of Connacht, 1230-65', *JGAHS*, vol. 55 (2003), pp 13-37. So far has the study of Anglicisation progressed that Robin Frame has been able to cogently examine its limitations ('Ireland after 1169', pp 115-141). For the standard work on Gaelicisation, see K.W. Nicholls, *Gaelic and Gaelicized Ireland* (2nd ed., Dublin, 2003).

<sup>60</sup> S.G. Hewer, 'Justice for all? Access by ethnic groups to the English royal courts in Ireland, 1252-1318' (PhD, TCD, 2018). For the long-held views on Gaelic exclusion from the courts, see G.J. Hand, *English law in Ireland, 1290-1324* (Cambridge, 1967).

boundary was moving' pertains only to Lydon's presentation of that concept.<sup>61</sup> And it is important to note that Lydon, too, recognised the frontier's role in ethnogenesis: he discussed Gaelicisation in his frontier essay and elsewhere, though this process was necessarily presented as detrimental, rather than intrinsic, to the linear frontier with which he was concerned.<sup>62</sup> On the medieval Irish frontier as anywhere, identities were not fixed, and acculturation was not a zero-sum game.

O'Keefe began his career as an enthusiastic proponent of the frontier concept's application to medieval Ireland, but he has since become its most frequent critic. In 1992 he described Turner's frontier thesis as 'an outstanding contribution to our understanding of pattern-process relationships behind the cultural landscape' and opined that 'the potential of the concept has by no means been fully realised' in the medieval Irish historiography; but a creeping scepticism of the concept is clear in his later publications.<sup>63</sup> Already by 1995 he was decidedly more tepid: 'the idea of frontier, left unsharpened by rigorous definition, seems too blunt a tool for meaningful analysis to be shaped by it'.<sup>64</sup> Although their characterisation of Irish medievalists as unconcerned with processes of mutual acculturation is inaccurate, Grogan and O'Keefe's follow-up contention that the Irish historiography lacks a 'native counter-frontier' is important.<sup>65</sup> We have already seen the tendency to give ownership of the frontier to one 'side' in Lydon's reference to the 'collapse' of the frontier; similar is Graham's comment that, with the *adventus Anglorum*, 'the perspective of the Shannon frontier was reversed'.<sup>66</sup>

Speaking of the contemporary term 'marches' instead of frontiers might seem to provide a sensible solution, but this concept was an English import, and the marches were defined by the limits of English settlement – so far as can be discerned the Gaelic corpus lacks any extant Gaelic equivalent to the marches, or indeed to any uniquely Gaelic concept of an intercultural frontier in

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<sup>61</sup> Tadhg O'Keefe and Pat Grogan, 'Building a frontier? The architecture of the military orders in medieval Ireland', Martin Browne and Colmán Ó Clabaigh (eds), *Soldiers of Christ: the Knights Hospitaller and the Knights Templar in medieval Ireland* (Dublin, 2016), pp 101-2.

<sup>62</sup> Lydon, 'The problem of the frontier', pp 327-31. See also idem, 'The middle nation' (1982), repr. in Crooks (ed.), *Government, war and society*, pp 342-5.

<sup>63</sup> Tadhg O'Keefe, 'Medieval frontiers and fortification: the Pale and its evolution', F.H.A. Aalen, K. Whelan (eds), *Dublin city and county from prehistory to the present: studies in honour of J.H. Andrews* (Dublin, 1992), p. 57. This article has been described as providing 'an archaeological perspective with a whiff of Turner' (Peter Crooks, 'Government, war and society in English Ireland, 1171-1541: a guide to recent work', idem (ed.), *Government, war and society*, p. 373).

<sup>64</sup> Tadhg O'Keefe, 'Settlement and the frontier in Anglo-Norman Ireland: some reflections', *Group for the Study of Irish Historic Settlement Newsletter*, no. 4 (1995), p. 2.

<sup>65</sup> O'Keefe and Grogan, 'Building a frontier?', pp 101-2. Berend, too, has warned that frontier studies can inadvertently foster nationalist histories ('Nine case studies of premodern frontiers', Power and Standen (eds), *Frontiers in question* (1999), pp 25-7.

<sup>66</sup> Graham, 'Medieval settlement in County Roscommon', p. 20.

Ireland.<sup>67</sup> Our understanding of the marches is thus shaped almost entirely by colonial sources, and it is only too easy to portray this concept, too as directional. This is seen, for instance, in Smith's characterisation of the marches as lands which the English believed were on the verge of subjugation.<sup>68</sup> O'Keeffe has suggested referring to 'borderlands' instead of frontiers in order to '[strip] away the more ideologically contentious issues associated with Turner's frontier model, specifically that one "culture" is "better" than the other'.<sup>69</sup> Similarly, John Morrissey has proposed that 'contact zone' be substituted for frontier, as the latter 'encapsulates a number of problematic assumptions respecting the bounding and functioning of human geography'.<sup>70</sup>

The problems that it is proposed these substitutions would solve are important ones. But, again, the criticisms levelled by O'Keeffe and Morrissey are not inherent to the frontier concept itself. We have already seen that 'frontier' has been used to denote what these authors describe as borderlands and contact zones, both in Ireland and farther afield. Burns observed that historians have frequently 'substitut[ed]... zones of intercultural contact for Turner's winning of a wilderness', and Cronon, before him, described one approach to frontiers as to regard them 'essentially [as] contact zones, where culture, rather than environment, plays the pivotal defining role'.<sup>71</sup> Janeczek, in his article on frontiers and borderlands, employs those terms as though interchangeable, as does Standen in her introduction to *Frontiers in question*.<sup>72</sup> And in David Newman's survey of border studies, the subheading 'Borderlands, frontiers, and zones of transition/hybridity' precedes a section that refers only to borderlands, suggesting that he, too, regarded these terms as interchangeable.<sup>73</sup> The utility of substituting 'borderland' for 'frontier' in discussions of medieval Ireland is therefore doubtful. The solution to a perceived imbalance within the historiography should not be to disavow the associated concepts and reach for their nearest

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<sup>67</sup> This is despite a plethora of Gaelic terms for boundaries of various types (Christopher Maginn, 'Gaelic Ireland's English frontiers in the late Middle Ages', *PRIA*, vol. 110C (2010), pp 181-2).

<sup>68</sup> Smith, 'The medieval border', p. 41.

<sup>69</sup> Tadhg O'Keeffe, 'Frontiers of the archaeological imagination: rethinking landscape and identity in thirteenth-century Roscommon, Ireland', *Landscapes*, vol. 19, no. 1 (2018), p. 78. For more theoretical discussion of this concept, see Tim Cresswell, 'Moral geographies', David Atkinson, Peter Jackson, David Sibley and Neil Washburn (eds), *Cultural geography: a critical dictionary of key concepts* (London, 2005), pp 128-134.

<sup>70</sup> John Morrissey, 'Cultural geographies of the contact zone: Gaels, Galls and overlapping territories in late medieval Ireland', *Social & Cultural Geography*, vol. 6, no. 4 (2005), p. 553.

<sup>71</sup> Burns, 'The significance of the frontier', p. 310; Cronon, 'Revisiting the vanishing frontier', p. 170.

<sup>72</sup> Andrzej Janeczek, 'Frontiers and borderlands', passim; Standen, 'Nine case studies of premodern frontiers', pp 17, 21, 22.

<sup>73</sup> David Newman, 'Contemporary research agendas in border studies: an overview', Doris Wastl-Walter (ed.), *Ashgate research companion*, pp 37-9.

synonyms; given the frontier framework's continued use in the historiographies of other medieval regions, it should not be discarded incautiously.

It is also worth noting that borderlands and contact zones are conceptually narrower than frontiers, in that they are unambiguously spatial. Frontier is a more malleable concept, and neither of the proposed alternatives can precisely replace it.<sup>74</sup> This is not to dismiss the idea of borderlands either: the term is occasionally used here to denote areas approximating to marches – the lesser specificity of borderlands compared to 'marches' sometimes seems more appropriate.<sup>75</sup> Ultimately, 'frontier', whether conceived of zonally or linearly, or indeed entirely non-spatially, implies the existence of some sort of division – physical, cultural, social, linguistic, ideological, or mental. It is up to the historian to delineate and explain the fault line upon which their study pivots, and to recognise that, in most cases, their chosen frontier will neither be an objective fact nor the only lens through which their subject of study might be viewed.<sup>76</sup>

The division employed in this thesis is not unusual in the Irish historiography – it is the territorial limit, perhaps sometimes as ill-defined to contemporaries as it is to the modern historian, of the administration's comfortable reach.<sup>77</sup> However, the consequent 'frontier' which it is proposed to study is perhaps somewhat broader than is frequently intended by historians. It consists of the lands that lay beyond the comfortable reach of the Dublin government, and which therefore had to be dealt with in unorthodox ways – that is, 'the marches and the lands beyond them'. This therefore encompasses the contemporary concept of the 'land of war' as well as the marches.<sup>78</sup> However, the focus here is not on relations with Gaelic Ireland, but rather on this

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<sup>74</sup> See, for instance, Richard E. Sullivan's suggestion of four different ways in which one might regard a medieval monk as operating on a frontier – of the fourth frontier, the cloister itself, he commented 'and here I risk appearing ridiculous' ('The medieval monk as frontiersman', William W. Savage, Jr and Stephen I. Thompson (eds), *The frontier: comparative studies, volume two* (Norman, 1979), pp 27-8, at 28). In the context of medieval Ireland, some have employed the frontier concept in non-territorial senses. See, for instance, Ciarán Parker, 'The internal frontier: the Irish in County Waterford in the later middle ages', Barry, Frame, and Simms (eds), *Colony and frontier*, pp 139-154; Katharine Simms, 'Frontiers in the Irish church – regional and cultural', *ibid*, pp 177-200.

<sup>75</sup> Smith has likened efforts to precisely define the contemporary meaning of the term march in an Irish context to 'lifting mercury with a fork' (Smith, 'The concept of the march', p. 257).

<sup>76</sup> For discussion of the limitations of historical narratives and frameworks, see Tadhg O'Keeffe, 'Theory and medieval archaeology in Ireland and beyond: the narrative tradition and the archaeological imagination', *The Journal of Irish Archaeology*, vol. 27 (2018), esp. pp 103-8.

<sup>77</sup> It seems that the extent of the administration's normal reach was defined by the courage of individual local government officials, who assessed whether or not they could safely exercise their office in particular march regions. See, for instance, below, pp 80-1. Sometimes, a sheriff's claim that he could not operate in a particular area was contested. See, for instance, *CJRI, 1305-1307*, pp 193-4, 269.

<sup>78</sup> The idea of the land of war deserves further study – although historians speak of a tripartite division between the land of peace (*terra pacis*), the marches, and the land of war (*terra guerre*) as though this was a rigid and well-established division, the *terrae* in fact appear quite infrequently in the sources during the thirteenth century. The first reference to the land of war appears in 1195 (*Gormanston reg.*, pp 144,

expansive frontier's effect on the administration and the settler community. The measures adopted by the government in order to deal with the problems that arose from this often had a bearing on both the marches and the land of war, and it is for this reason that the two concepts are examined together here. It must be admitted that this conception of frontier, too, is rather directional, and is decidedly colonial in outlook. However, it is believed that this openly government-oriented interpretation of frontier is the most appropriate way to tackle the aims of this thesis, while also signifying the strengths and limitations of the sources upon which the study is reliant. The intention is not to deny a Gaelic perspective, but to acknowledge the limits of that perspective's accessibility.

## Sources

The study's chief focus is the Dublin government, and its main sources are those produced by or pertaining to that government. In particular, the calendared close and patent rolls of the Westminster chancery have been utilised extensively,<sup>79</sup> as have the calendared pipe and issue rolls of the Irish treasury<sup>80</sup> and the calendared rolls of the justiciar's court.<sup>81</sup> Other administrative sources used include the fine rolls,<sup>82</sup> inquisitions *post mortem*,<sup>83</sup> the rolls close and patent of the

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193), but the second does not appear until 1272 (Richardson and Sayles, *Administration*, p. 230 (CDI, ii, no. 930)). The land of peace is mentioned more often during the thirteenth century, but it, too, appears quite infrequently.

<sup>79</sup> Letters close and patent were issued by the English chancery under the king's seal: letters close were closed by a wax seal and contained instructions to named addressees; letters patent expressed the royal will publicly, and their authenticity was indicated by a seal pendent. See Philomena Connolly, *Medieval record sources* (Dublin, 2002), pp 15; 34-5.

<sup>80</sup> For the Irish exchequer and the documentation arising therefrom, see Connolly, *Medieval record sources*, pp 18-22. See also Richardson and Sayles, *Administration*, pp 21-3.

<sup>81</sup> For the production and value of the court rolls, and an overview of the surviving material, see Connolly, *Medieval record sources*, pp 23-7, esp. p. 25. See also Hewer, 'Justice for all?', pp 17-20. As well as containing the minutes of judicial proceedings, these records occasionally also contain parliamentary material.

<sup>82</sup> The purpose of these rolls was to record sums of money promised to the king, though other material relating to the royal finances is also often found there. For the fine rolls, see Beth Hartland and Paul Dryburgh, 'The development of the Fine Rolls', Janet Burton, Phillipp Schofield, and Bjorn Weiler, *Thirteenth century England xii: proceedings of the Gregynog conference, 2007* (Woodbridge, 2009), pp 193-205.

<sup>83</sup> For a thorough overview of the production, survival, and utility to the historian of inquisitions *post mortem*, see Paul Dryburgh, 'Inquisitions *post mortem* in medieval Ireland', M.A. Hicks (ed.), *The later medieval inquisitions post mortem: mapping the medieval countryside and rural society* (Woodbridge, 2016), pp 24-48.

Irish chancery,<sup>84</sup> and Irish petitions heard at the king's parliaments in Westminster.<sup>85</sup> Where sources are available in multiple calendars, this has generally been noted in the footnotes, as different calendarists sometimes emphasise different aspects of a given document.<sup>86</sup> Here, the main types of source used in the study will be briefly outlined, and the dangers inherent in the use of those sources in this study will be assessed.

It is first worth briefly outlining the relationship between the bureaucracies of Dublin and Westminster, which produced most of the sources used here. The great seal of Ireland, by which the Irish chancery dispensed the royal authority delegated to it, had equal validity within Ireland as did the great seal of England. Indeed, it has been suggested, albeit tentatively, that there may have been doubts in the late thirteenth century about the appropriateness of the king promulgating legislation for Ireland without Irish input.<sup>87</sup> Nevertheless, the king's own court was clearly regarded as superior to that of his Irish justiciar. Rulings of the justiciar's court could be appealed to the king, and it was also permissible for petitions pertaining to Irish affairs to be sent directly to the Westminster administration, bypassing the justiciar. However, the parliamentary evidence of the 1290s indicates that Edward I was disinclined to deal with Irish petitions if he thought they fell properly within the justiciar's remit. Ultimately, the hierarchical superiority of the Westminster bureaucracy over that of Dublin has worked to the historian's advantage: much of our documentation survives only because it was created in Westminster or was sent there for audit.<sup>88</sup>

The governmental documentation has many features that are of value in a study such as this. Perhaps foremost amongst these is the volume and variety of the records available for the period, though this is less pronounced in the earlier part of the period. The extant records are rich

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<sup>84</sup> See the historical introduction to the online calendar of these letters (*CIRCLE* [[www.chancery.tcd.ie/content/irish-chancery-rolls](http://www.chancery.tcd.ie/content/irish-chancery-rolls)]). See also Robin Frame, 'Rediscovering medieval Ireland: Irish chancery rolls and the historian', *PRIA*, vol. 113C (2013), pp 193-217; Otway-Ruthven, 'The medieval Irish chancery', esp. pp 106-8.

<sup>85</sup> *PROME*. See also Philomena Connolly, 'List of Irish material in the class of chancery files (*recorda*) (C.260) Public Record Office, London', *Analecta Hibernica*, no. 31 (1984), pp 1, 3-18; idem, 'Irish material in the class of Ancient Petitions (SC 8) in the Public Record Office, London', *Analecta Hibernica*, no. 34 (1987) pp 1, 3-106; idem, 'Irish material in the class of chancery warrants series i (C 81) in the Public Record Office, London', *Analecta Hibernica*, no. 36 (1995), pp 135, 137-161.

<sup>86</sup> Connolly has observed that Betham's pipe roll extracts tend to be brief and narrowly focused on genealogical information (*Medieval record sources*, p. 21). Nevertheless, Betham's extracts occasionally contain valuable information that is absent from the *Rep. DKPR* calendars. See, for instance, below, p. 156, fn. 162. Similarly, the relative quality of the *CDI* and *PRO* calendars of English chancery documents varies throughout the period, making the consultation of both a valuable exercise.

<sup>87</sup> Paul Brand, 'King, church and property: the enforcement of restrictions on alienation into mortmain in the lordship of Ireland in the later middle ages', *Peritia*, vol. 3 (1984), p. 500.

<sup>88</sup> See Connolly, *Medieval record sources*, chapter 1.

enough to facilitate a considerable breadth and depth of research into many aspects of thirteenth-century Irish history, and for a student of trends in the government of Ireland their value is unsurpassed. Of course, these strengths are counterbalanced by several significant weaknesses which must be considered. Some records – most notably the pipe rolls – survive only in calendars designed to summarise documents which were available in Dublin at the time of their production, but which have now been lost.<sup>89</sup> Moreover, each administrative document was produced with a very specific function in mind. As such, the records of the Dublin and Westminster governments tend to be formulaic and to provide a rather limited perspective on any given area of inquiry. They almost invariably present a one-sided view, and this seldom provides a very clear window onto events on the Irish frontier.

The danger inherent in overreliance upon these materials should therefore be clear. If treated uncritically, the government records are liable to produce an exaggerated impression of the crown's power, reach, and singularity of purpose. The activities of those individuals who dealt with the challenges and opportunities of the frontier on a daily basis are seldom the main focus of such documents, which therefore often leave us blind to developments in Gaelic and seigneurial Ireland. Poor documentary survival means that this shortcoming can seldom be mitigated by consulting local records, though the administration's pipe and court rolls, and non-governmental sources such as annals, chartularies, and literary works, can sometimes provide further insights into events on the frontier itself. Nevertheless, this imbalance in the source material is perhaps amplified here by the heavy use of government records, and it is important to emphasise from the outset that while this thesis examines the approach of the governmental 'core' to the Irish frontier, this ought not to be interpreted as minimising the importance of the 'periphery'. In practice, royal power on the frontier probably only overshadowed that of determined local lords and officials when its resources were temporarily focused towards a particular local end.<sup>90</sup>

The most frequently cited sources in this thesis are the letters close and patent of the Westminster chancery. This body of commands and licences constitutes a vast and varied evidence base, but it must be handled carefully. Chancery letters were often issued on foot of advice, petitions, and complaints received from various quarters, and as such their contents

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<sup>89</sup> Note, for instance, the apology offered by Herbert Wood for the fact that some of his references would have to be taken on good faith, as the documents upon which they were based had been destroyed in 1922 ('The office of chief governor of Ireland, 1172-1509' in *PRIA*, vol 36C (1921-24), pp 207-8).

<sup>90</sup> The geographical limitations on the exercise of royal power are clear from the perambulations of the justiciar's court during the period 1295-1376, as the vast majority of its sessions were held in Leinster. See *CJRI, 1305-1307*, pp vii-xiv. For the period 1308-76, see Philomena Connolly, 'Pleas held before the chief governors of Ireland, 1308-76', *Irish Jurist*, vol. 18, no. 1 (1983), pp 103-31. See also below, pp 256-7.

should not be attributed solely to the king and his ministers. Nor should it be presumed that the representations upon which chancery letters were based were wholly accurate. These considerations must be considered when reading these letters as evidence of frontier policy.<sup>91</sup> Notwithstanding these provisos, a clear consistency in the methods employed by the Dublin and Westminster governments in response to recurring frontier challenges has been discerned by this research.

Another important consideration when dealing with the rolls close and patent is that they are populated not with the documentation of official action, but with that of official intentions.<sup>92</sup> We should not assume that a particular command or licence was acted upon unless evidence to that effect is forthcoming. Subsequent communiques sometimes reveal that commands issued by the royal chanceries were not carried out. In one particularly egregious and protracted instance, the Dublin government failed to facilitate Henry III's attempts to grant land to Geoffrey de Lusignan for several years. Further examples of commands from Westminster and Dublin going unheeded are noted throughout this thesis. Such episodes illustrate the limits of royal power within Ireland and serve as a reminder that the contents of letters close and patent cannot always be taken at face value. This shortcoming is not regarded as a major impediment to the aims of this thesis, however. The intention here is to examine trends in the government's responses to recurring frontier challenges – if royal commands were not always obeyed, they can still reveal a lot about the thinking within official circles concerning the Irish frontier.

The records of the Dublin exchequer are also regularly drawn upon in this thesis. These record moneys received, issued, or deferred by the exchequer, and so might be regarded as more straightforwardly 'factual' than the documentation of the chancery. Although the explication of the sums listed is generally quite cursory, this can sometimes be mitigated by reference to other sources. The records of the justiciar's court, too, have been used extensively in the latter two chapters of this thesis. Smith has noted the imprudence of judging a society by its criminal records, and we must be careful not to read as too representative the comparative wealth of qualitative data contained within the court rolls.<sup>93</sup> Nevertheless, they provide valuable insights into the justiciar's perambulations, the dangers facing some frontier communities, and the approach taken

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<sup>91</sup> The diversity of influences upon these classes of document prompted Robin Frame to warn against reading them as the 'impulses of officialdom' ('Rediscovering medieval Ireland', p. 195).

<sup>92</sup> For the operation and documentation of the exchequer, see Connolly, *Medieval record sources*, pp 18-23.

<sup>93</sup> Smith, *Colonisation and conquest*, p. 75.

by the king's representatives in resolving some of these dangers. They also provide an invaluable window onto the lives of ordinary people living on the frontiers.

Clearly, then, while the government records are extremely diverse and useful sources, further context should be gathered from other sources where possible. Throughout the research process, efforts have been made to test and revise the arguments advanced through the incorporation of non-governmental source material. The Gaelic annals are utilised regularly throughout, and these provide a valuable Gaelic perspective on the frontier. These often yield information that cannot be gleaned from any other extant sources, particularly relating to local warfare. Indeed, the comparative abundance of information that the Gaelic annals provide about frontier conflict highlights the limits of the administrative sources in this respect. In terms of their focus, each set of annals tends to emphasise regional interests and developments pertinent to the annalist's own political affiliations. Moreover, notwithstanding the extensive borrowing that occurred between the various major sets of annals, coverage is generally poor for those regions for which no annals are extant. During the thirteenth century, Connacht receives by far the greatest annalistic coverage, and this complements the administrative evidence very well. Munster, Ulster, and the midlands are also quite well covered, but the annals provide little information on developments in Leinster.<sup>94</sup> In this thesis the Gaelic annals have generally been used to further explore the local contexts underpinning government records of particular interest.

The writings of Anglo-Irish annalists have also been drawn upon. These, too, provide a valuable perspective on events – English, but non-governmental. Like the Gaelic annals, those produced by Anglo-Irish chroniclers consist mostly of terse records summarising what their authors regarded as the most important events of a given year. As with their Gaelic counterparts, these annals' ease of use belies the editorialising inherent in the choice of items included and the level of detail provided: each annalist emphasises local events, the clerical order of which he was a member, and the writer's own interests. Thus, the thirteenth-century annalist of Multyfarnham provides little information on regional frontier developments. The fourteenth-century annals of Friar Clyn and of St. Mary's Abbey contain considerably more material of interest for present purposes, but due to their late date they are generally used here as potential indicators of later views.<sup>95</sup>

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<sup>94</sup> See Katharine Simms, *Medieval Gaelic sources* (Dublin, 2009), chapter 1, esp. pp 22-31.

<sup>95</sup> For the Anglo-Irish chronicles, see Bernadette Williams, 'The Latin Franciscan Anglo-Irish annals of medieval Ireland' (PhD, TCD, 1991); idem 'The "Kilkenny chronicle"', *Colony and frontier*, pp 75-95; idem, 'The Dominican annals of Dublin', Seán Duffy (ed.), *Medieval Dublin ii: proceedings of the Friends of*

Other non-governmental and non-Gaelic sources have also been used. The thesis commenced with a quote from Giraldus Cambrensis, and further references to his *Expugnatio Hibernica* are scattered throughout. The Welshman's biases, and his propensity for airing his grievances in his writings, are well known. Efforts have been made to treat claims made in the *Expugnatio* with the requisite scepticism.<sup>96</sup> The first rescension of this work was completed in 1189, though its author did continue to rework it thereafter. This, and Giraldus's death in 1223, means that the *Expugnatio's* value here is mostly as an indicator of popular memory, and as an occasional point of comparison with the testimony of other sources. Similarly, the late twelfth-century *Song of Dermot and the Earl*, which was most likely composed by a lay administrator in one of the emergent baronial households of Ireland, is used as an occasional indicator of popular memory.<sup>97</sup> The letters written by Stephen of Lexington during his time as the Cistercian visitor to Ireland in 1228 are also drawn upon occasionally throughout the thesis. It is clear from Stephen's writings that he found his time in Ireland decidedly unpleasant, and his legacy in Ireland was the introduction of reforms to the Irish Cistercian houses which aimed to weaken Gaelic influence in the order, as he deemed some practices that had arisen in Gaelic-run houses detrimental to their appropriate operation.<sup>98</sup> This should be borne in mind when dealing with his letters, which are generally quite negative in their portrayal of Ireland.

The last major document type utilised here is charters, which have mainly been used to explore the rights granted to recipients of frontier holdings. Although a number of chartularies have been consulted for this study, the use of charter evidence has not been very extensive, and there is considerable scope for further research into the topics explored in chapters two and three using charter evidence. Nevertheless, charter evidence has provided valuable additional context at many points throughout the thesis, and has demonstrated that successive kings, and other grantors, were sometimes willing to offer unusually generous terms to individuals willing to settle in frontier regions.<sup>99</sup> Further research into this topic would incorporate a more systematic analysis of royal frontier grants so that the representativeness of this observation can be assessed.

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*Medieval Dublin symposium 2000* (Dublin, 2001), pp 142-68; see also Williams's introduction to Clyn, *Annals*, esp. pp 31-5.

<sup>96</sup> For Giraldus's life, character, and works, see Robert Bartlett, *Gerald of Wales 1146-1223* (Oxford, 1982).

<sup>97</sup> See the insightful discussion of the *Song's* authorship and audience in Keith Busby, *French in medieval Ireland, Ireland in medieval French: the paradox of two worlds* (Turnhout, 2017), pp 95-107.

<sup>98</sup> For Stephen of Lexington, see Brendan Smith, 'The Armagh-Clogher dispute and the "Mellifont conspiracy": diocesan politics and monastic reform in early thirteenth century Ireland', *Seanchas Ardmhacha*, vol 14, no. 2 (1991), pp 34-7.

<sup>99</sup> See for instance, below, pp 95-6, and chapter 3. Cf. the specification in John fitz Thomas's 1291 grant to John de Hotham that the lands provided should lie in the *terra pacis* of Kildare, and not in Offaly or Leys (below, p. 161).

## Introduction

The extensive use of the documentation of government in this thesis places it in the familiar mould of administrative history and has the effect of emphasising the Dublin government's role in frontier management. It is hoped that the emphasis on government is justified by the new light which has been cast on the engagement of the Dublin government with the Irish frontier. Nevertheless, as has been noted, it is important to recognise that this represented only a small part of the story of the Irish frontier, which was a highly localised phenomenon shaped chiefly by local conditions and personalities; the arguments advanced here should not be regarded as diminishing the role of local lords and populations in frontier management efforts.

### *Structure*

The thesis is divided into two sections. The first contains three chapters, each of which has at its core efforts to systematically apply some measure for the management of the frontier. In each case, royal authorisation was given for the sweeping measures adopted, but communication between Dublin and the king can generally be seen or inferred, and this was clearly instrumental in shaping the approaches taken. The measures explored were designed to augment the security of the marches, or to bring about further frontier settlement. These measures were further shaped, and ultimately undermined, by the determination that nothing pertaining to the crown should be alienated unduly. Thus, of the three main governmental principles that defined Irish frontier management in the thirteenth century, the principles of security and settlement complemented each other, but were obstructed by the stringent insistence on the maintenance of royal rights.

Chapter one looks at consistent efforts by John and Henry III to coerce and occasionally cajole Irish landholders into fortifying their marches during the first five decades of the thirteenth century, but evidence for the compulsory fortification of the marches, which is the chapter's main focus, ceases after 1229. This probably does not represent any diminished conviction in the utility of fortifications for march defence, but rather the greater power of the Dublin government to act on its own authority. Chapter two commences with an overview of the concept of waste in the middle ages and in Ireland specifically. This provides some conceptual context for the plethora of grants of 'Irish wastes' – that is, Gaelic lands in the west of Ireland – that were made during the reigns of Henry III and Edward I. It is contended that what first seems like opportunistic magnate patronage by Henry III was in fact the king's ad hoc participation in a frontier settlement policy further characterised by the empowerment of successive chief governors to systematically grant

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away Irish wastes. Chapter three takes as its focus royal leniency and generosity towards individuals who were willing to settle or fight on the colonial frontiers during the first two decades of Edward's reign. In particular, it focuses on the 1293 extension of exceptional rights of territorial alienation to all royal tenants-in-chief whose lands lay in the marches or the *terra guerre*.

The pattern of source survival unfortunately means that the chronological and thematic content of these chapters shifts together. Thus, none of the topics examined in section one can be explored in equal depth through the entire breadth of the period under study. Nevertheless, it is felt that the persistence of common themes throughout these three chapters makes section one a valuable undertaking. The predominant themes are the interaction between Dublin and the king, the latter's deferral to his Irish officials on matters pertaining to the frontier, particularly during Edward's reign, and the frequent subordination of the principle that the frontiers should be securely kept to the insistence on the inalienability of royal rights.

Section two focuses on measures that were devised and implemented within Ireland, without apparent royal input. These chapters are less chronologically constrained than those explored in section one. Chapter four examines the government's use of headhunting in order to maintain law and order, prosecute war, and sometimes also carry out politics. Offers of money for the collection of targeted heads could be a cost-effective means of obtaining frontier military objectives without needing to mobilise large forces. It could also have the effect of disrupting the bonds that inevitably formed across the frontiers, which may sometimes have been regarded as a desirable secondary result of this measure, if it reinforced settler solidarity. Chapter five explores this latter point further through an examination of the operation of trust within the marches and across the frontier. Efforts by the government to limit the types of contact that occurred in borderland regions took the form of measures forbidding unlicensed negotiations and restricting the freedom of frontier clerics to dispense the duties of their office. The engagement of the justiciar's court with local concerns about spies, and governmental efforts to carry out and protect against espionage are also considered. These chapters highlight the capacity of the Dublin administration for independent policy formation, and the engagement of the government with localities in order to find solutions to specific frontier challenges. They also explore official efforts to limit, control, and manipulate the bonds that formed across the frontiers.

The conclusion attempts to draw together the various themes encountered throughout the thesis, and to bring them to bear on a number of broader questions about the topic at hand. Here, the measures adopted by the Dublin administration in its efforts to manage the challenges posed by the Irish frontier are regarded collectively; the ways in which these measures were

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devised is assessed; the interaction of the various principles that shaped these measures is examined; and the appropriateness of referring to government 'policy' or 'policies' towards the Irish frontier is considered.

Finally, the period covered by the thesis must be explained. The point of departure, 1200, has been selected because it is in October 1200 that the earliest extant official document refers to 'marches' in Ireland. This is not to say that the fledgling frontiers were neglected by the government prior to that date – speculative land grants, the construction of royal castles, and military expeditions during the period all indicate that the Dublin government was already making vigorous efforts to shape and control the frontiers during the twelfth century. However, there was insufficient space to explore this earlier period here. The end date selected for the present study does not reflect the later limit of its political analysis; rather, it was necessary for chapters three and five that material be drawn from the first two decades of the fourteenth century, and the concluding date of 1318 has been selected on that basis.

# I

## Fortifying the frontiers in the reigns of John and Henry III

Lydon contended that Ireland possessed 'one of the first systematically fortified frontiers in Europe', and that this was a significant facet of its frontier character. He regarded the castles constructed by the early invaders as adequate to '[keep] the native Irish out' (though he expressed scepticism at the efficacy of the motte and bailey in this regard).<sup>1</sup> Archaeological work has shown the situation to be more complex than might first appear. Nevertheless, the present chapter takes as its focus the controversial concept of 'system' – can a frontier fortification 'policy' be detected in the approach taken by the Dublin government and the crown to the fortification of the Irish marches? And if so, what principles informed it? This will be done through an examination of efforts to ensure that Irish landholders fortified their march holdings, and the provision of funds to some landholders to support their doing so, during the reigns of John and Henry III. The documentary evidence for these efforts is largely restricted to the first three decades of the thirteenth century and is well known; but these documents have not been subject to detailed or collective examination by historians, and they have largely been overlooked in archaeological analyses. From the mid-1230s, royal interest in directly participating in the management of the Irish frontier apparently ceased, and they feature little more in the English close or patent rolls. If the measures explored here were pursued further, it was done under the authority of the Dublin government, the sources for which are sparse during the thirteenth century.

### *Systematic fortification? Castle distribution in Ireland*

From the very first there is a strong and consistent association in our documentary evidence between the Irish marches and fortification. Giraldus's belief in the military value of castles is evident throughout the *Expugnatio*. He contended that '[Ireland] would long since have been successfully and effectively subdued from one end to the other (*de fine in finem*), and easily reduced to an ordered and settled condition by the construction of castles everywhere in suitable places from coast to coast'.<sup>2</sup> The failure to systematically fortify Ireland, he argued, had given the Gaels time to adapt to the technologies and strategies of the new settlers. In a chapter outlining his recommendations for how the Gaels should be conquered (*qualiter Hibernica gens*

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<sup>1</sup> Lydon, 'The problem of the frontier', pp 317, 320.

<sup>2</sup> *Expugnatio*, pp 230-1.

*expugnanda sit*), he suggested that Ireland should be blanketed with castles as far west as the Shannon, and that these should be sited such that they could support each other militarily.<sup>3</sup>

Gerald's views are well known, and T.E. McNeill has demonstrated, through his research into the siting and morphology of mottes in eastern Ireland, that the *Expugnatio's* programme of systematic encastellation was in no way adopted.<sup>4</sup> He has contended that militarily functional mottes 'were very much the minority' in Ireland – '[o]verall... castles were not a necessary tool of conquest but a fruit of it'.<sup>5</sup> In drawing attention to the frequently non-military nature of castles in Ireland, McNeill has done a lot to bring the field up to date with research elsewhere in Europe.<sup>6</sup> Castles could serve defensive, administrative, and domestic purposes, and individual sites ought not to be thought of as monofunctional. McNeill noted that in Leinster and Munster, and in the cores of the lordships of Meath, Uriel, and Ulster, encastellation was comparatively light. In these areas, mottes tended to serve as *caputs*, built mainly in the centres of wealthy lordships, suggesting little sense of immediate danger.<sup>7</sup>

McNeill identified distinctly different trends in the borderlands between and to the north of the lordships of Meath and Uriel. There, mottes were much more densely distributed, and they tended to be lower in height than in Leinster, which made their construction quicker and cheaper. These areas also possess a higher prevalence of extant baileys (which are comparatively rare in Ireland), and lower-status holdings contain fortifications. McNeill interpreted the distribution in this region as evidence of 'a strategic plan, shared between several lordships facing a common

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<sup>3</sup> *Preterea pars terre citerior usque ad Sinneni fluvium... crebra castrorum constructione stabiliatur et muniatur* (Ibid, pp 248-9).

<sup>4</sup> Thomas McNeill, '*Hibernia pacata et castellata*' (1990), repr. in Robert Liddiard (ed.), *Anglo-Norman castles* (Woodbridge, 2003), esp. pp 270-1; idem, *Castles in Ireland: feudal power in a Gaelic world* (Abingdon, 1997), pp 76-7. See also Frame, *Colonial Ireland*, p. 30. From the very first, stone castles were built at sites like Carrickfergus, Nenagh, Adare, and Trim, but the majority of English castles in Ireland until the 1220s were earthen mottes.

<sup>5</sup> T.E. McNeill, 'Mountains or molehills? Different uses for mottes in the lordships of eastern Ireland', *Archaeological Journal*, vol. 168, no. 1 (2011), p. 267; idem, 'Early castles in Leinster', *The Journal of Irish Archaeology*, vol. 5 (1989/1990), p. 62.

<sup>6</sup> See, for instance, Charles Coulson's statement that '[n]oble architecture, properly understood, was militant not military. It was generated by status-aspiration more than by fear of violence. Castellation made a social and an aesthetic statement' ('Freedom to crenellate by licence – an historiographical revision', *Nottingham Medieval Studies*, vol. 38 (1994), pp 91-2). See also Oliver Creighton and Robert Liddiard, 'Fighting yesterday's battle: beyond war or status in castle studies', *Medieval Archaeology*, vol. 52 (2008), passim. Tadhg O'Keeffe has also stressed the non-military aspects of fortifications in Ireland ('Concepts of "castle" and the construction of identity in medieval and post-medieval Ireland', *Irish Geography*, vol. 34, no. 1 (2004), pp 72-3; idem, 'Theory and medieval archaeology in Ireland and beyond: the narrative tradition and the archaeological imagination', *Landscapes*, vol. 18, no. 2 (2018), pp 104-8).

<sup>7</sup> McNeill, 'Mountains or molehills?', p. 257; idem, 'Early castles in Leinster', pp 60-2; idem, '*Hibernia pacata et castellata*', p. 267.

threat of pressure from the Irish lordships of Breifne';<sup>8</sup> he hypothesised that these mottes would generally have been unmanned until a Gaelic raid was detected, at which point local fighters would mobilise to carefully selected fortifications and attempt to cut off the likeliest route of escape.<sup>9</sup>

McNeill detected little evidence for collective approaches to castle siting elsewhere in Ireland, with the possible exception of Ulster. Many low mottes are clustered around the north-eastern corner of Lough Neagh and Dundrum Bay, perhaps protecting the main western entry points into the lordship of Ulster rather than serving as manorial centres.<sup>10</sup> McNeill has suggested an entirely different interpretation of clusters in Twescard, in north Ulster. There, mottes were typically situated away from valleys, often on river crossings and on the peripheries of lordships; but due to their generally low height, a dearth of baileys, and the fact that most mottes in Twescard were not oriented towards the boundaries with Uí Tuirtre to the south, or west across the Bann, he suggested that their placement may reflect efforts at toll collection, rather than defensive aims. He has further posited that the pattern of English motte placement in the area, and the possible presence of Gaelic mottes, indicates 'a fusion of Irish and English ways of life'.<sup>11</sup>

Evidently Giraldus's lobbying for systematic fortification did not have the desired result. But an ostensible lack of collective strategy does not mean that castles were not militarily important during the early years of English settlement in Ireland. McNeill has observed that the author of the *Song* places less emphasis on castles than Giraldus, and he warns against blind acceptance of the Welshman's views.<sup>12</sup> This is always a prudent course, but it should be noted that the *Song* did not share the *Expugnatio's* didactic function; moreover, the poet's perception that castles played an important part in English colonial settlement is indicated by the lines

Know then, that in this manner,  
the country was planted (*herbergé*)  
with castles and fortified towns  
and keeps and strongholds,

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<sup>8</sup> McNeill, 'Mountains or molehills?', p. 262. More generally, see *ibid*, pp 238-44, 262-3. See also *idem*, '*Hibernia pacata et castellata*', p. 266.

<sup>9</sup> McNeill, 'Mountains or molehills?', pp 242-3.

<sup>10</sup> *Idem*, 'Early castles in Leinster', p. 60; *idem*, '*Hibernia pacata et castellata*', p. 266; *idem*, *Castles in Ireland*, p. 68.

<sup>11</sup> *Idem*, 'Mountains or molehills?', pp 244-8, 256, 264, quote at 256.

<sup>12</sup> *Idem*, *Castles in Ireland*, pp 75-6; *idem*, '*Hibernia pacata et encastellata*', p. 270.

So that the noble and renowned vassals  
were able to put down firm roots (*aracinez*).<sup>13</sup>

Elsewhere the author notes the construction and fortification of several castles, and describes Ruairí Ua Conchobair's fury at Hugh de Lacy's construction of a castle at Trim, which he immediately undertook to destroy.<sup>14</sup> It does not seem appropriate to contend that Gerald's views on the importance of castles to English settlement and military power in Ireland were unique on the basis that they are not foregrounded in the *Song*.

There is also little reason to suspect that dense castle distributions were deemed essential on the frontiers. McNeill has observed that although standalone mottes tend to be sited in defensible positions, they often lack further clear strategic value;<sup>15</sup> but King has warned against expecting castles to follow 'the rules of fortification of a much later age' – what historians regard as strategic points were often left unguarded, even in the Levant, 'where warfare was at its most serious and its most scientific'.<sup>16</sup> He contended that during war a castle's main function was to hold territory, not to prevent the movement of armies, and most could not withstand serious opposition.<sup>17</sup> Holding land, deterring attack, and protecting a garrison were purposes best served by being individually well-built and -sited. That the construction of a single castle could have a considerable impact on physical and psychological security is indicated by an inquisition of 1224, in which it was claimed that after Cork was wasted by war, Philip de Prendergast *quoddam castrum in dicta terra construxit in predicta guerra quod adhuc tenet, per quod castrum idem Philippus adhuc usque ad hodiernum diem totum prenominatum cantredum tenet*.<sup>18</sup>

Sometimes strategically well-sited frontier castles were quite isolated. In 1185 John had castles constructed at Tybroughney, Ardfinnan, and Lismore, which historians have regarded as being sited to protect Waterford.<sup>19</sup> Their frontier character is further indicated by their use as

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<sup>13</sup> Mullally, *Deeds*, II 3200-5.

<sup>14</sup> *Ibid*, II 3233-63.

<sup>15</sup> McNeill, 'Early castles in Leinster', p. 60.

<sup>16</sup> D.J. Cathcart King, *The castle in England and Wales: an interpretive history* (2nd ed., London, 1991), p. 11. It has also been noted that the famous Chinese and Roman boundary fortifications were not intended as impermeable defensive barriers (Berend, 'Medievalists and the notion of the frontier', pp 60-1; Power, 'Frontiers', p. 4).

<sup>17</sup> King, *The castle in England and Wales*, p. 7.

<sup>18</sup> K.W. Nicholls (ed.), 'Inquisitions of 1224 from the miscellanea of the exchequer', *Analecta Hibernica*, vol. 27 (1972), pp 111-12.

<sup>19</sup> Adrian Empey, 'The evolution of the demesne in the lordship of Leinster: the fortunes of war or forward planning?', John Bradley, Cólín Ó Drisceoil and Michael Potterton (eds), *William Marshal and Ireland* (Dublin, 2017), p. 46. See also F.X. Martin, 'John, lord of Ireland, 1185-1216', *NHI*, ii, p. 128; Goddard H. Orpen, 'Motes and Norman castles in Ireland [ii]', *EHR*, vol. 22, issue 87 (1907), p. 456.

staging posts for plundering forays in the year of their construction.<sup>20</sup> But these castles were widely dispersed and cannot have reliably supported one another. It seems they were expected to function as standalone fortresses.<sup>21</sup> Also important in this regard is the well-known construction by John de Grey of a motte and bailey at Clones (co. Fermanagh), which has generally been regarded as a bridgehead designed to bring about further conquest and settlement – indeed, McNeill described the royal castles of Roscrea and Clones as ‘the nearest thing seen in the medieval period to the use of castles in a strategic plan for conquest across Ireland, above the level of individual lordships’.<sup>22</sup> But this motte’s isolation prompted Orpen to comment that, had the annalists omitted reference to it, the presence of a motte there would be puzzling indeed<sup>23</sup> – despite its importance and vulnerability, Clones was apparently unsupported by other mottes during its year-long existence.<sup>24</sup> Thus, although McNeill has identified areas of exceptional motte density and associated them with defensive functions, it does not necessarily follow that areas lacking such distributions were generally regarded as ill-defended.<sup>25</sup>

Moreover, a lack of mottes does not necessarily indicate a lack of defended sites.<sup>26</sup> Archaeologists have emphasised that contemporaries would have viewed mottes as timber fortifications, but it is often impossible to glean insights into the nature of such structures without excavation, little of which has been done in Ireland.<sup>27</sup> If lesser defensive structures were sometimes built independently of mottes, these are lost to us.<sup>28</sup> Our lack of knowledge of what, if anything, sat atop a given motte should also be borne in mind when considering McNeill’s contention that the presence of a bailey was essential for a motte to be militarily functional – he

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<sup>20</sup> AFM 1185.6; ALC 1185.6, 1185.7.

<sup>21</sup> They did not last very long however: the annalist of Inisfallen claims that Tibberaghny and Lismore, and all the castles of Decies and Ossory were destroyed in 1189 (AI 1189.1-2).

<sup>22</sup> McNeill, ‘Mountains or molehills?’, p. 262. See also Smith, ‘The concept of the march’, p. 262; Warren, ‘King John and Ireland’, pp 27-8; Otway-Ruthven, *A history of medieval Ireland*, p. 83.

<sup>23</sup> Orpen, ‘Motes and Norman castles [ii]’, p. 455. Further evidence for this castle came to light with the publication of the Irish pipe roll of 14 John.

<sup>24</sup> The justiciar assisted Costello in building Caoluisce castle (co. Fermanagh) in the same year, but it lay many miles from Clones and cannot have provided immediate backup in emergencies. It has been suggested that this fort lay west of Lough Erne (P. Ó Gallachair, ‘The Erne forts of Cael Uisce and Belleek’, *Clogher Record*, vol. 6, no. 1 (1966), pp 106-7).

<sup>25</sup> See below, pp 41-2.

<sup>26</sup> O’Keeffe, ‘Settlement and the frontier’, p. 3.

<sup>27</sup> Tadhg O’Keeffe, *Medieval Ireland: an archaeology* (Stroud, 2000), p. 21; David P. Sweetman, *Medieval castles of Ireland* (Cork, 1999), p. 23. On the unlikelihood of future excavations, see McNeill, ‘Mountains or molehills?’, pp 231-2, 268-9. Orpen identified twenty-seven Irish townlands, all associated with early English settlement, which took elements of their names from the *bretasche* (Goddard H. Orpen, ‘Mote and bretesche building in Ireland’, *EHR*, vol. 21, no. 83 (1906), pp 418, 421-2; cf. *ibid*, pp 435-6).

<sup>28</sup> If so, these cannot have made much of an impression on the Gaelic annalists – Orpen’s analysis of the sites of castles named in Gaelic and English primary sources found that in almost all cases, mottes could be found, or were known to have been cleared from, castle sites (Goddard H. Orpen, ‘Motes and Norman castles [ii]’, p. 464).

has argued that the lack of baileys attached to most Irish mottes indicates ‘the formality of the presence of the motte at the majority of sites’.<sup>29</sup> Yet while a motte without a bailey would have had one less line of defence, and a smaller garrison, it could still be defensible. Giraldus emphasised the importance of archery in combatting the Gaelic-Irish;<sup>30</sup> and although the Gaels sometimes used bows as weapons, these were especially effective in defensive positions – as, indeed, were stones.<sup>31</sup> Moreover, crossbows are regularly encountered in the Irish sources from 1205 and were certainly used in the defence of royal castles, at least.<sup>32</sup>

Nevertheless, the military utility of baileys is clear not only from their prevalence in frontier regions, but also from annalistic reportage. In 1246 Gofraid Ua Domhnaill led a daring raid on Maurice fitz Gerald’s castle of Sligo in an attempt to free hostages. He managed to breach the bawn (*badhún*) but could not take the castle (*c-caislén*), and his hostages were hanged before him from its ramparts (*mhullach an chaislén*).<sup>33</sup> The episode highlights the effectiveness of earthwork fortifications and the defensive strength that a bailey could bring to a freestanding motte. Baileys were also effective for storing valuables – in 1236 Felim Ua Conchobair’s ‘voice was broken’ attempting to recall his men who, having stormed the bawn (*mbadun*) and moat (*clasaig*) of Rinndown castle, proceeded to seize ‘all the cows of the territory’ which were there for protection, and then retreated with their booty without proceeding to take the castle.<sup>34</sup> But the effectiveness of baileys does not preclude the possibility of mottes that lack them being defensible. It seems from this brief review of archaeological analyses and primary source references that while castle distribution, siting, and morphology can provide important information on a castle’s functions, these factors cannot provide definitive evidence of a site’s military functionality or lack thereof.

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<sup>29</sup> McNeill, ‘Mountains or molehills?’, p. 264. Approximately 30% of Irish mottes have extant baileys (ibid, p. 267).

<sup>30</sup> *Expugnatio*, pp 248-9.

<sup>31</sup> See, for instance, AFM 1177.3, 1223.5, 1235.5, 1288.3. Cf. Andrew Halpin, ‘Military archery in medieval Ireland: archaeology and history’, *Military studies in medieval Europe: papers of the medieval Europe Brugge 1997 conference*, vol. 11 (Zellik, 1997), p. 55.

<sup>32</sup> See, for instance, *CDI*, i, nos 312, 1228, 3133; ibid, ii, nos 890, 1907; ibid, v, nos 306, 607; Pipe roll Ire. 14 John, pp 14-15, 46-7, 54-5, 58-9, 60-1; *Rep. DKPR*, no. 35, p. 34; ibid, no. 38, pp 68, 103; *CIRCLE*, Henry III, no. 9; J.F. Lydon, ‘Three exchequer documents from the reign of Henry the third’, *PRIA*, vol. 65C (1966/7), p. 21; *Irish exchequer documents*, pp 13, 14, 112; *CJRI, 1305-1307*, pp 85, 355; *CIRCLE*, CR 35 Edw. I, no. 44.

<sup>33</sup> AFM 1246.5-6.

<sup>34</sup> AC 1236.8; 1236.9. In 1214, Cormac Mac Art Ua Maelsechlainn ‘burned the bawn’ of Athboy castle, slew eight of its inhabitants, and carried off many cattle (ALC 1214.5).

*The reign of King John**Compulsory fortification under John*

The practical significance of fortifications on the colonial frontiers is evidently difficult to ascertain from the archaeological evidence – the comparative lack of fortifications in Munster and Connacht, in particular, is notable, and writers on the topic must proceed cautiously. The historian is undoubtedly on firmer ground when dealing with contemporary opinions, and it is clear from the documentary sources that successive kings regarded it essential that adequate fortifications be maintained in the Irish marches. The first extant reference to Irish marches in the administrative sources appears in a charter roll letter to *omnibus habentibus terras in marchia Hybernia*, dated 28 October, 1200. The addressees were given eight months to fortify their marches, in order to guarantee the continued security of John's own Irish lands: *ita quod per defectu vestri non accidat dampnum terrae nostrae sicut hactenus fecistis/fecit*. Marches that were inadequately protected on 24 July would be forfeited for redistribution to more conscientious landholders (*alioquin terras vestras de marchia in manum nostrum capi percepimus terra aliis eas dabimus qui eas firmabunt*).<sup>35</sup> King expanded *feč* to *fecistis*, implying that the obligation to maintain sufficiently fortified marches was well-established by October 1200;<sup>36</sup> however, the more usual expansion of *feč* is *fecit*, and as King did not explain the reasoning behind his expansion, it is perhaps likelier that John was alleging that damage had already arisen due to the negligence of march landholders.<sup>37</sup>

If so, the letter may have been commenting on recent Irish events. Most Gaelic annalists record little conflict in the period immediately prior to October 1200, but ALC records a flurry of raiding activity out of Connacht: Cathal Crobderg destroyed the *bódhún* of Ath (most likely Ardnurcher) in 1199; in 1200 he raided western Meath; and in the same year the '*Connachtuibh*' harassed Limerick, Castleconnell, Meath, and Offaly.<sup>38</sup> John had made several burgage grants in and around Limerick in 1199, and he may have been particularly displeased by news of attacks there.<sup>39</sup> It is unclear whether his command had any effect on march landholders, or if the justiciar took the drastic action prescribed against those who resisted. The annals record the construction of only two castles in the following two years, but they seldom record minor fortifications.<sup>40</sup> It may

<sup>35</sup> *Rotuli Chartarum*, pp 98b-99a (CDI, i, no. 125).

<sup>36</sup> King, *The castle in England and Wales*, p. 13, fn. 19.

<sup>37</sup> Charles Trice Martin, *A collection of abbreviations, Latin words and names used in English historical manuscripts and records* (London, 1892), p. 49.

<sup>38</sup> ALC 1199.3, 1200.2, 1200.6. Perros suggests that 'Ath' was Ardnurcher. Perros, 'Crossing the Shannon frontier', p. 128.

<sup>39</sup> CDI, i, nos 87, 93, 94, 96, 97, 99, 103, 104.

<sup>40</sup> MCB 1202.4.

have been the case that John only intended the improvement of the wooden defences on existing fortifications, as suggested by Sweetman, which might explain the annalistic silence.<sup>41</sup> However, as the ordinance was designed to improve the security of the marches and their effectiveness as a defensive buffer zone, it seems likely that both building and improving defences was intended, as necessary.

The royal government was repeatedly troubled by deficiencies in march defence. In July 1215 the justiciar was again told to command march landholders to fortify those lands (*firment terras suas quas habent in Marchia*) by Michaelmas 1215. As before, marches unfortified by that time would be conferred on others more willing to defend them.<sup>42</sup> Here, again, news of significant Gaelic raiding may have prompted John's command. 1213 had seen a series of extremely destructive raids by Aedh Ua Néill which had ended the justiciar's Clones offensive.<sup>43</sup> And in both 1213 and 1214 Cormac mac Art Ua Maelsechnaill devastated the midlands. Cormac's raid on Ardnurcher in 1213 had prompted the construction or completion of castles at Clonmacnoise, Durrow, Birr, Kinnity, and Roscrea, but Cormac subsequently led further attacks on Clonmacnoise, Athboy, Birr, and Smear, and in 1214 year he struck at Delvin.<sup>44</sup> These were evidently troubled years for the southern midlands.

There is little annalistic evidence of castle-building in the following year, but again we should be cautious of reading into this too deeply. MCB records the construction of ten castles in Cork and Kerry in 1214, but the Dublin annalist of Inisfallen records seventeen built in 1215, including all those listed in MCB.<sup>45</sup> It seems, however, that these castles were built opportunistically during warfare amongst the Meic Carthaig.<sup>46</sup> Whether the command that marches be fortified was precipitated by specific events or simply by a general sense that the frontiers were insecure, it is clear that the matter was considered important. Indeed, John's concern with frontier fortification at this time is also evident in another document issued on the same day in 1215: Thomas fitz Anthony was granted the shrievalties of Waterford and Desmond, and his duties were to include guarding at his own cost the *comitatus... et castra... et terras nostras*

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<sup>41</sup> Sweetman, *Castles of Ireland*, p. 27. See also below, pp 44-5.

<sup>42</sup> RLC, i, p. 218b (CDI, i, no. 574).

<sup>43</sup> AFM 1213.6; AU 1213.6, 1213.7; MCB 1213.4; ALC 1213.1, 1213.2; *A. Clon*, p. 225.

<sup>44</sup> ALC 1214.1, 1214.3, 1214.5, 1214.6, 1214.7; *Ann. Clon.*, pp 226-8.

<sup>45</sup> MCB 1214.3; AFM s.a. 1215, fn. y. For the relationship between MCB and the Dublin annals of Inisfallen, see Meidhbhín Ní Úrdail, 'Some observations on the "Dublin annals of Inisfallen"', *Ériu*, vol. 57 (2007), pp 148-9. Orpen examined some of the Kerry sites (Orpen, 'Motes and Norman castles [ii]', pp 458-60).

<sup>46</sup> Orpen, 'Mote and bretesche', pp 430-1.

*tam in marchia*, though he would be reimbursed any costs incurred in fortifying castles in lands he held due to their escheat to the king's hand.<sup>47</sup>

These commands reveal that it was possible to ascertain with considerable certainty what land lay within the marches. That marches were clearly identifiable, and, indeed, regarded as long-term fixtures in the landscape, is further indicated by references made to the marches in two later land grants. In a grant of 1234x41, Gilbert Marshal bestowed £20 of land upon the Order of St. Thomas of Acre *in tenement... de Donmas videlicet in marchia Offalie in ulteriori parte versus terram Johannis filli Thome inter terram illam vbi sita fuit noua villa que combusta fuit post duellum et conflictum Kildarie*;<sup>48</sup> this grant was later confirmed in identical words by Gilbert's brother and heir, Walter (1241x45).<sup>49</sup> Similarly, in c.1280 Matthew son of Walter son of Griffin granted his son, Griffin, land 'in the tenement of Couleryn, namely that which lies near the march of Cnockegawir and Croboli'.<sup>50</sup> From these, and other references to lands lying 'near', as opposed to in, the marches, it is clear that it was possible, locally at least, to be quite certain as to the extent of the marches. Presumably the justiciar would have relied upon this local knowledge to establish whether particular lands should be regarded as marchlands.

Whatever the immediate contexts and impacts of these letters, John's commands concerning march fortification indicate that maintaining secure marches was believed to be of paramount importance, to the extent that the stated penalty for neglecting frontier holdings was their forfeiture. Coulson, writing on the Norman custom of 'rendability', by which castle-owners might be compelled to deliver their fortresses to the king, observed that 'at no point was realty less absolute than when it was a fortress, liable to arbitrary interruption of exclusive occupation at any time'.<sup>51</sup> Although this custom was 'latent' in England, Coulson observes that 'cooperation by magnates with the [English] Crown in all aspects of the use of their fortresses... in the Marches particularly, had been generally close, dispensing with the formal and explicit formulations of

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<sup>47</sup> *Rotuli chartarum*, i, p. 210b (*CDI*, i, no. 576). For fitz Anthony's time as sheriff, see Ciaran Parker, 'Local government in county Waterford in the thirteenth and fourteenth centuries, i. the office of sheriff, c. 1208-1305', *Decies*, no. 50 (1994), pp 19-20. This document perhaps has some bearing on the situation that pertained prior to the assignment of responsibility for escheats to the justiciar in 1220. See Richardson and Sayles, *Administration*, p. 28.

<sup>48</sup> Eric St. J. Brooks. 'Irish possessions of St. Thomas of Acre', *PRIA*, vol. 58C (1956/1957), p. 32. For an English translation, see Niall Byrne, 'The Irish order of St. Thomas the Martyr of Acre', *Decies*, vol. 65 (2009), p. 44.

<sup>49</sup> Byrne, 'The Irish order of St. Thomas', p. 45. St. John Brooks does not reproduce the text of the confirmation, but it can be read on NLI MF p.1165, m276r.

<sup>50</sup> *COD*, i, no. 238.

<sup>51</sup> Charles L.H. Coulson, *Castles in medieval society: fortresses in England, France, and Ireland in the central middle ages* (Oxford, 2003), p. 172.

European rendability'.<sup>52</sup> Royal seizure of castles, then, was not unheard of, and the example given by Coulson is particularly illuminating in the present context. In 1263 Henry III ordered twenty-six Welsh marchers to prepare their castles for an anticipated incursion by Llywelyn ap Gruffudd. If they refused, he would take their castles into his hand. This, Coulson says, was normal, and their ownership of the fortifications remained 'protected by the same right of tenure (as distinct from continual control) as other property'.<sup>53</sup> But in 1200 and 1215 negligent Irish marchers faced the loss not just of neglected fortifications, but also the ill-defended lands upon which those fortifications were (or perhaps were not) sited. Moreover, John was threatening to permanently relieve them of the lands.<sup>54</sup> This is consistent across both letters, and it speaks both to the seriousness with which the government regarded the Irish marches during John's reign, and the degree of authority that John intended to possess even in the extremities of English Ireland. The threat of disseisin forcefully conveyed John's view that while the marches may be geographically peripheral, they remained firmly within the royal jurisdiction.

### *The administrative context in 1200 and 1215*

In 1200 the territorial reach of the Dublin administration was quite proscribed even within English Ireland, and march fortification cannot have been monitored in any systematic way.<sup>55</sup> Deficiencies in local fortification might have come to official attention through the complaints of concerned parties residing in or near the marches, and if assessments took place they probably only did so when the justiciar's itinerations or expeditions brought him to the areas in question. The most obvious interpretation of the letters is that royal commands such as these were issued at moments of particular need. But John may have intended for this to become a consistent feature of official policy towards the marches (if it was not already one, as suggested by King). The letter of 1200 appears on the charter roll almost immediately after the undated appointment of Meiler fitz Henry as justiciar – the two are separated only by a command ordering some Irish magnates to

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<sup>52</sup> Charles Coulson, "'National" requisitioning for "public" use of "private" castles in pre-nation state France', Alfred P. Smyth (ed.), *Medieval Europeans: studies in ethnic identity and national perspectives in medieval Europe* (Basingstoke, 1998), pp 121, 124.

<sup>53</sup> Coulson, *Castles in medieval society*, pp 171-2.

<sup>54</sup> By contrast, the obligation of rendability was a temporary measure and did not permit waste of land (Coulson, *Castles in medieval society*, pp 169-70).

<sup>55</sup> By 1201, Ireland possessed only four royal counties: Dublin, Waterford, Cork, and Munster (Gerard McGrath, 'The shiring of Ireland and the 1297 parliament', Lydon (ed.), *Law and disorder*, pp 109-10). For the situation of Cork and Limerick, which were sometimes administered jointly, see *ibid*, fn. 14.

release hostages to fitz Henry.<sup>56</sup> All three letters were designed to emphasise and legitimise the authority of the new justiciar (John's first such appointment), and to assert that of the king. Indeed, fitz Henry's letter of appointment also reserved to the king all pleas touching the crown, mint, and exchange – evidence that the rights of the crown were on John's mind at the time.

A similar chronological alignment is seen in 1215 between Geoffrey de Marisco's appointment as justiciar and his empowerment over march landholders. Geoffrey was appointed on 6 July, but he had already been styled justiciar three days beforehand,<sup>57</sup> the letter empowering the justiciar to seize unfortified marches was enrolled between entries dated 2 and 3 July, and was presumably intended to empower de Marisco, not his predecessor. The letters of both 1200 and 1215 coincided precisely with the appointment of a new justiciar. That the 1215 letter was issued within a month of John's acquiescence to the Runnymede charter further underlines John's insistence on his possession of considerable powers in the Irish marches: clauses 39 and 52 of the charter had forbidden the disseisin of landholders without lawful judgment of their peers, and clause 56 guaranteed this right in Wales, where this judgement was to be given in accordance with English, Welsh, or March law as appropriate.<sup>58</sup> Thus, while the letters' contents asserted the primacy of frontier security over individual landholding rights, their contexts emphasised the extent of royal power in Ireland and the supremacy of the justiciar's delegated authority.

What of the justiciars who served between 1208 and 1215, John de Gray (1208-1213) and Henry de Loundres (1213-1215)?<sup>59</sup> There is no record of either man receiving letters like those of 1200 and 1215. De Gray's letter of appointment is not extant, and the letter appointing de Loundres, in keeping with other thirteenth-century letters of appointment, gives no indication as to the extent of his powers.<sup>60</sup> Nevertheless, it seems quite likely that both men possessed the same power over march landholders. Whether or not the letters of 1200 and 1215 were informed by Irish developments, John's aims in those years were to ensure the longer-term security of his Irish lands and to impress the authority of the crown and its representative on the frontiers of a dynamic *outremer*. Both imperatives remained strong in 1208, particularly because Meiler's decidedly partisan justiciarship had culminated in the royal government's humiliation at the hands

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<sup>56</sup> *Rotuli chartarum*, i, pp 98b-99a. Meiler held the justiciarship at the beginning of John's reign until he was recalled early in 1200 – we do not have evidence for the period up to his reappointment (Richardson and Sayles, *Administration*, p. 75).

<sup>57</sup> Richardson and Sayles, *Administration*, p. 76.

<sup>58</sup> J.C. Holt, *Magna Carta* (2nd ed., Cambridge, 1994) pp 460-1, 464-9.

<sup>59</sup> The administration was also briefly headed by Richard de Tuit and by William le Petit during John de Gray's absences on royal business (Veitch, *Lordship in four realms*, p. 145).

<sup>60</sup> *RLP*, i, p. 102a (*CDI*, i, no. 466). For the ambiguity of letters of appointment of justiciars in the thirteenth century, see A.J. Otway-Ruthven, 'The chief governors of mediaeval Ireland' (1965), repr. in Crooks (ed.), *Government, war and society*, pp 80-1.

of William Marshal and the de Lacys.<sup>61</sup> Thus, the extent of royal authority in Ireland was probably at the forefront of John's mind when he appointed de Gray. Warren viewed de Gray's appointment as an attempt to reassert royal control by imposing a more authoritative representative in Ireland, and others, too, have regarded this lifelong royal servant's appointment as a significant shift in the crown's approach to Ireland.<sup>62</sup>

Frontier security also remained a significant concern of the Dublin government at the time of de Gray's appointment in 1208. Severe depredations were committed in the midlands by Muirchertach Ua Briain and Cormac mac Art Ua Mael Sechnaill in 1207 and 1208,<sup>63</sup> and the crown's possession of Theobald Butler's lands due to his minority meant that John was far more exposed to the effects of such attacks in 1208 than he had been in 1200. This effect only became more pronounced with the de Lacy and de Braose forfeitures during de Gray's justiciarship. The tenures of de Gray and de Loundres saw the government invest in important castle-building activities directed against Gaelic Ireland, and much of John's own time in Ireland in 1210 was spent trying to 'regularise' English relations with the dominant factions within Gaelic Ireland.<sup>64</sup> Moreover, de Loundres' justiciarship shortly followed upon the collapse of the government's Clones offensive, which has been seen as heralding the commencement of a decades-long period of entrenchment.<sup>65</sup> Frontier conditions evidently reigned in various places throughout Ireland at the time, and it would be uncharacteristic of John to spend so much on defence in the face of these military challenges while simultaneously softening his attitude towards other march landholders.

Whether viewed in terms of royal authority or frontier security, then, it would be surprising if these justiciars wielded less power in the marches than fitz Henry had done. The absence of letters to that effect may simply reflect the greater authority possessed by de Gray and de Loundres due to their close association with King John.<sup>66</sup> It is also possible that oversight of march fortification was regarded as a regular part of the justiciar's duties by 1208, in which case

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<sup>61</sup> David Crouch, 'William Marshal in exile', John Bradley, Ó Drisceoil and Potterton (eds), *William Marshal and Ireland*, pp 38-9. For fitz Henry's partisanship during his time as justiciar, see Colin Veach, 'King John and royal control in Ireland: why William de Briouze had to be destroyed', *EHR*, vol. 129, no. 540 (2014), pp 1062-5.

<sup>62</sup> Warren, 'King John and Ireland', pp 32-5; Frame, *Colonial Ireland*, pp 66-7. See also F.X. Martin, 'John, lord of Ireland', p. 138; Aubrey Gwynn and Dermot F. Gleeson, *A history of the diocese of Killaloe* (Dublin, 1962), p. 221, fn. 5.

<sup>63</sup> *Ann. Clon.*, p. 222. See Gwynn and Gleeson, *A history of the diocese of Killaloe*, pp 220-1.

<sup>64</sup> McNeill, 'Mountains or molehills?', p. 267; Perros, 'Crossing the Shannon frontier', p. 132. For John's 1210 dealings with Gaelic Ireland, see Seán Duffy, 'King John's expedition to Ireland: the evidence reconsidered', *IHS*, vol. 30, no. 117 (1996), *passim*.

<sup>65</sup> Smith, 'The medieval border', p. 41.

<sup>66</sup> For their respective careers, see Roy Martin Haines, 'Gray, John de', *ODNB* (2004); Margaret Murphy, 'Balancing the concerns of church and state: the archbishops of Dublin, 1181-1228', Barry, Frame, and Simms (eds), *Colony and frontier*, pp 48-50.

continual reiteration of the power to disseise may not have been required. The provision of a July 1201 deadline did not simply schedule a *dies irae* – presumably it remained the justiciar’s prerogative to seize inadequately fortified marches after the passage of the deadline. This argument must be made almost entirely *ex silentio* – but as will be seen, Geoffrey de Marisco retained the power to disseise marchers many years after the Michaelmas 1215 deadline had passed, despite the absence of any extant reiteration of the power.

When the timing of the letters of 1200 and 1215 is considered, and whether the matter is set in the context of contemporary political and military developments within Ireland, the personality of king John, the careers of de Gray and de Loundres, or future events during de Marisco’s justiciarship, it seems quite likely that John’s justiciars retained this authority over those holding in the marches. The powers of the justiciar were seldom spelled out to any great degree in these years – Lydon suggested they were left deliberately vague to facilitate effective governance.<sup>67</sup> Perhaps, then, the 1215 letter should be viewed not as a revival of a decade-old royal prerogative in response to dire need, but as a reiteration of a continuously-held power, thought necessary, perhaps, due to the lesser stature of Geoffrey de Marisco, a mid-tier magnate, compared to the two administrator-bishops and close royal advisors who preceded him as justiciar. Finally, these letters should be seen as indicative not only of the Dublin government’s efforts to manage the marches, but also of the king’s determination to firmly assert his authority on the colonial frontiers.

### *The reign of King Henry III*

#### *Continuity of defensive obligations during the minority of Henry III*

Evidence suggesting that these letters were in fact acted upon, and that maintaining march defences was regarded as an ongoing obligation, only surfaces in Henry III’s reign. In November 1219, de Marisco was commanded not to disseise John Marshal of his land of Terryglass despite his failure to adequately fortify it ‘[just] as others have fortified the neighbouring lands (*sicut alii terras suas ei vicinas firmaverunt*)’.<sup>68</sup> That Marshal had not fortified his lands sufficiently, and was being let off the hook, is clear from the phrase *donec aliud inde vobis praeceperimus* – Marshal’s seisin was preserved only because the king willed it. A similar respite is encountered in March

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<sup>67</sup> James Lydon, ‘The expansion and consolidation of the colony, 1215-54’, *NHI*, ii, p. 170.

<sup>68</sup> *RLC*, i, p. 408a (*CDI*, i, no. 913).

1220, when Jordan de Sackville was given until Michaelmas to fortify his Irish lands, and he was subsequently respited further, from May 1221 until Easter 1222.<sup>69</sup>

We do not need to look far to see why these men were pardoned their default. Not only was John Marshal a nephew of William I Marshal (and at times his ‘closest advisor’), but he was also a seasoned royal servant.<sup>70</sup> He was granted the hereditary marshalcy of Ireland by King John in 1207, had accompanied the king to Ireland in 1210, and served as an Irish justice for both king and earl during Henry III’s minority.<sup>71</sup> Little surprise, then, that he was respited. However, seisin at the king’s pleasure may not have seemed a very secure after King John’s reign, and by 1235 Terryglass was being administered from ‘a house of stone and lime’.<sup>72</sup> De Sackville was of lesser stature than John Marshal but he, too, was a man of some standing. He was a frequent witness to the Earl Marshal’s grants, and in 1207 he had served as one of Eva Marshal’s two bailiffs, responsible for the northern half of Leinster.<sup>73</sup> In July 1210 we find reference to ‘Jordan de Sackville’s castle’ in Ireland;<sup>74</sup> in May 1216 he was responsible for restoring wines and chattels arrested at Drogheda to citizens of Drogheda and Dublin; and in 1217 he received £60 of land in Lincolnshire from the king.<sup>75</sup> Like John Marshal, then, Jordan was a favourite of the Earl Marshal and had experience in royal service. Although William I had died in 1219, his name, and heir, carried considerable power and it is unsurprising that Jordan, too was respited.

It is quite likely that these respites were issued after de Marisco made or threatened to make distrains against the offenders. De Sackville’s second respite, issued eight months after the expiry of the first, commanded that *si vero de catallis vel averiis sive de terra ipsius Jordani aliquid ceperitis eo quod terram suam predictam in Hybernia non firmaverit: illud ei sine dilatione reddi faciatis*. While the letter is not clear as to whether the justiciar had seized any of Jordan’s property, it was evidently considered at least an imminent risk. The letter illustrates the range of options available to the justiciar if a landholder neglected his marches, namely multiple levels of distraint. There is no question in this letter of the justiciar redistributing confiscated lands, and this would presumably have been done by the king himself. As Henry could not yet permanently alienate

<sup>69</sup> RLC, i, pp 413b, 455a (CDI, i, nos. 931, 989).

<sup>70</sup> Crouch, ‘William Marshal in exile’, p. 37.

<sup>71</sup> For his career, see David Crouch, ‘Marshal, Sir John’, ODNB (2004).

<sup>72</sup> CPR, 1232-47, pp 205-6 (CDI, i, no. 2427).

<sup>73</sup> Jordan was the fourth-most frequent witness to the those grants of the earl which are now extant (David Crouch, *William Marshal: knighthood, war, and chivalry, 1147-1219* (Abingdon, 2002), pp 217-19; *ibid*, p. 107).

<sup>74</sup> CDI, i, no. 404, p. 62. It has been suggested that this castle was Ardglass, co. Down, though Orpen noted that the identification may be incorrect (Goddard H. Orpen, ‘Motes and Norman castles [ii]’, p. 445).

<sup>75</sup> RLC, i, p. 271a (CDI, i, no. 686); RLC, i, p. 313a.

lands due to his minority, march landholders in Ireland may have been relatively safe in these years.

By the same token, perhaps we should view de Marisco's continued exercise of the power to disseise marchers in light of the minority government's difficulties replacing English shrieval appointments – de Marisco may have refused to relinquish a power that should have long since expired. It is significant, however, that neither the premise that Marshal and de Sackville's lands should be fortified, nor de Marisco's authority to distrain them for default on that count were disputed. Indeed, the provision of new deadlines to de Sackville, and the latent menace of the *donec aliud inde... praeceperimus* in the Marshal respite, appear to affirm the justiciar's authority to use distraint in these circumstances. Given the dissatisfaction in England with de Marisco's conduct in office, the lack of censure on this count is notable<sup>76</sup> – in October 1221, de Marisco's letter of dismissal listed many sources of dissatisfaction with his exercise of the justiciarship, but it mentioned no problems in his dealings with landholders other than the king.<sup>77</sup> Thus, although the respites convey the distinct impression that the fortification of these men's marches was not deemed urgent, they also reveal that the official stance on march fortification had remained firm since John's reign – it seems that de Marisco remained, in 1221, in full possession of the powers bestowed upon him in 1215.

The only indication that anyone other than Marshal and de Sackville had their fortifications assessed is the allusion to the sufficiency of other fortifications near Terryglass, and our lack of administrative evidence means we only learn about these cases due to the king's decision to overrule his justiciar. Given the stature of the men involved, it is quite possible that the king's interference was unusual, and that the justiciar carried out disseisins, or at least distraints, on this basis as necessary. It is very unlikely, however, that systematic frontier fortification assessments took place. Even in the early fourteenth century the Dublin government had limited power to monitor the activities of landholders unless their lands came into the king's hand, and negligent marchers, too, were probably only identified when their lands came to official attention for some other reason.<sup>78</sup> The respite for John Marshal is suggestive in this regard, as he most likely held Terryglass from the Butlers, whose lands were in the king's hand due to the heir's

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<sup>76</sup> De Marisco's sluggishness in coming to England to do homage to Henry highlighted the regent's inability to control the Irish justiciar, and it was necessary to bribe him to leave the office in July 1221 (D.A. Carpenter, *The minority of Henry III* (London, 1990), pp 70-3, 253-4). Suspicions about de Marisco's management of Irish moneys also led to the institution of checks on the justiciar in the form of a counter-roll of receipts and issues (Lydon, 'Expansion and consolidation', p. 171).

<sup>77</sup> RLC, p. 476b (CDI, i, no. 1001). For de Marisco's dismissal, and for more on official dissatisfaction, see Orpen, *Ireland under the Normans*, iii, pp 22-6.

<sup>78</sup> See below, Appendix II.

long minority (1206-1222).<sup>79</sup> Moreover, de Marisco was keenly interested in this region: in 1216 he had built Killaloe castle and tried to intrude a nephew into the diocese of Killaloe; and he may also have built Nenagh castle, 30km south of Terryglass, during the Butler minority. He also married his daughter Joan to the Butler heir.<sup>80</sup> The inadequacy of Marshal's fortifications may have come to the justiciar's attention while he was pursuing these endeavours.

As neither of de Sackville's respites name the lands in question we can only speculate as to whether they might have come to the justiciar's attention for other reasons. The names of some of Jordan's Irish holdings are found in a letter of April 1217, which restored him to lands of which King John had disseised him *per voluntate sua*.<sup>81</sup> The lands named in 1217 were Clanauley,<sup>82</sup> Clanbeg, Arglas',<sup>83</sup> and Holywood; they cannot be identified with certainty, and it is not certain that they were the same lands targeted by de Marisco. It is possible, however, that Clanbeg represents Clonbeg in Ely O'Carroll, which was part of the Butler inheritance and was therefore in the king's hand.<sup>84</sup> As it lay about 30km east of Terryglass it was not only within de Marisco's bailiwick, but also his area of particular interest. It seems quite likely that this area was regarded as marchland, as Birr and Kinnitty, a little to Clonbeg's north, had been devastated by Cormac mac Art earlier in the decade.<sup>85</sup> Moreover, Clonbeg lies just west of a thoroughly encastellated zone, and could certainly have been characterised as insufficiently fortified compared to neighbouring lands.<sup>86</sup> Although this identification is not certain, it is plausible in light of de Marisco's area of operation and the range of his office.

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<sup>79</sup> It is also possible that he held from the bishop of Killaloe, who held Terryglass in the fourteenth century (George Cunningham, *The Anglo-Norman advance into the south-west midlands of Ireland, 1185-1221* (Roscrea, 1987), p. 145). Theobald Butler received seisin of his inheritance on 18 July 1222 (*CDI*, i, no. 1043).

<sup>80</sup> Gwynn and Gleeson, *A history of the diocese of Killaloe*, pp 179-80, 223-32; Otway-Ruthven, *A history of medieval Ireland*, pp 87-9; David Beresford, 'Marisco, Geoffrey de', *DIB* (2009).

<sup>81</sup> *RLC*, i, p. 304b (*CDI*, i, no. 775).

<sup>82</sup> This is probably now Ouley in county Down (Goddard H. Orpen, 'The earldom of Ulster. Part iii. Inquisitions touching Down and Newtownards', *JRSAI*, sixth series, vol. 4, no. 1 (1914), p. 53, fn. 4).

<sup>83</sup> This is probably Ardglass in county Down (Orpen, 'Motes and Norman castles in Ireland [ii]', p. 445).

<sup>84</sup> *COD*, i, no. 26. For the fortification of Butler Offaly, see Caimin O'Brien, 'The earthwork castles of Anglo-Norman Offaly', Timothy P. O'Neill and William Nolan (eds), *Offaly: history and society* (Dublin, 1998), pp 171-5.

<sup>85</sup> See above, pp 32, 36. Cunningham regarded the whole area between Slieve Bloom and Terryglass as vulnerable marchland (Cunningham, *The Anglo-Norman advance*, p. 153).

<sup>86</sup> See the map provided in *ibid*, p. 152. See also <http://webgis.archaeology.ie/historicenvironment/>. [accessed 20/02/2020]

*North Tipperary: a well-defended march?*

We are fortunate to have the name of the area Marshal failed to fortify, and still more fortunate that the timber fortifications of North Tipperary have been subject to detailed study by J.L. Immich. Although Immich does not examine this episode, or indeed Terryglass, her conclusion that 'clear military strategy by Anglo-Norman lords' can be discerned in the siting of castles within the region accords with the implication of the Marshal respite that, Terryglass notwithstanding, the area was adequately-encastellated.<sup>87</sup> Immich emphasised the multifaceted nature of the region's sites: substantial defences often coexisted alongside domestic and work spaces.<sup>88</sup> However, she also observed that castles were situated such that they controlled key routes, river crossings, and boundaries. In most cases these imperatives also provided garrisons with ready access to water.<sup>89</sup>

When regarded on a fortification distribution map, it is clear that the region was nowhere near as heavily encastellated as the Meath-Uriel borderlands. Terryglass is about 6km southwest of the motte and bailey that was destroyed at Lorrha in 1207; 12km east of Lorrha lies another substantial motte and bailey in Killeen, which is very close to Birr motte;<sup>90</sup> and approximately 12km southeast of another freestanding motte. Although the National Monument Service identified an 'Anglo-Norman masonry castle' about 5.5km east of Terryglass, in Kilfadda, a recent writer has described this as a fifteenth-century tower house, and the site is not noticed by Cunningham or Immich.<sup>91</sup> Another masonry castle lies at Ballingarry, 8km southeast of the dubious Kilfadda site and almost 13km from Terryglass. As for representatives of the controversial 'ringwork' designation, there is only one in the area, around 12km south of Terryglass and 2.5km southwest of Ballingarry – distant enough to have little bearing in the present context.<sup>92</sup> If Cunningham's map of communication routes in the region is correct, then baddy land to the southwest of Terryglass may have made many of these fortifications unsuitable for supporting each other. Rapid defensive collaboration in the vicinity of Marshal's holding may therefore have been restricted to Terryglass, Lorrha, Killeen, and Birr. By contrast, in the Meath-Uriel borderlands

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<sup>87</sup> Jennifer L. Immich, 'Siting of castles in the midlands of Ireland: a spatial approach to cultural landscapes' (PhD, University of Minnesota, 2015), p. 5.

<sup>88</sup> Ibid, p. 253.

<sup>89</sup> Ibid, pp 249-50. McNeill notes that poor access to water sources makes military functions unlikely (McNeill, 'Mountains or molehills?', p. 263).

<sup>90</sup> All measurements given here are as the crow flies. See Cunningham, *The Anglo-Norman advance*, pp 140-1.

<sup>91</sup> Patrick Larkin, 'The castles of Lough Derg: an illustrated survey', *JGAHS*, vol. 64 (2012), p. 27.

<sup>92</sup> For the current, but slow-moving, debate about ringworks in Ireland, see Terry Barry, 'The study of medieval Irish castles: a bibliographic survey', *PRIA*, vol. 108C (2008), pp 120-3. See also McNeill, 'Mountains or molehills?', p. 228.

McNeill identified a line of thirty-five mottes with within 6km of at least one other motte.<sup>93</sup> When governmental efforts to enforce some degree of march fortification since at least 1200, professedly throughout the colony, but certainly in north Tipperary, are considered, it is clear that the unique clustering of mottes found in the Meath-Uriel borderlands cannot represent the only acceptable defensive fortification pattern. Indeed, it seems probable that much of the fortification in the area occurred from the mid-1220s, and that the region was much less-thoroughly fortified in 1200 and 1215 than it now appears.<sup>94</sup> Immich's seemingly independent corroboration of the Marshal respite's assessment of north Tipperary's defensibility highlights the fact that local approaches could vary considerably in terms of the defensive strategies adopted with regard to motte placement; the omission of Terryglass from her study only strengthens the case.

If the justiciar had the authority to judge the quality of frontier fortifications and seize inadequately fortified lands, and exercised it even intermittently, then he presumably had some ability to force individuals to fortify particular areas. Whatever metric he may have used in assessing the adequacy of fortification is irrecoverable. Factors such as fortification quality and density, McNeill's focuses, were presumably considered, but assessments may have been largely contingent on matters of local topography, population and resource distribution, as well as local opinion. Thus, McNeill's suggestion that evidence of strategic castle placement can only be observed in the Meath-Uriel borderlands must be tempered. If flat, boggy, and relatively sparsely encastellated north Tipperary was regarded as adequately fortified by the Dublin government in 1219, then the intensity of fortification McNeill identified in the drumlin borderlands he studied was evidently not deemed necessary everywhere. The area clearly underwent nothing like the physical transformation seen in Meath and Uriel, but it appears that there was some level of oversight, though perhaps not planning, by the royal administration.

### *Compulsory fortification in the reign of Henry III*

No further evidence for compulsory fortification has been identified in the early years of Henry's reign, but in the latter half of the 1220s commands on the matter were issued in three consecutive years. We learn from a close enrolment of September 1226 that William Pippard had complained to the king about some of his tenants. His ancestors had granted fees in the marches on the condition that the grantees fortify them (*terras illas firmarent, et sic marchias tutiores redderent*

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<sup>93</sup> McNeill, 'Mountains or molehills?', pp 238-9.

<sup>94</sup> McNeill suggested, based on the chronology of English expansion and Gaelic entrenchment, that the mottes between Meath and Uriel were built after 1189, and that the northern defensive line was established after 1225 (*ibid*, p. 243-4). See also below, pp 42-7.

*et roborarent*), but they had failed to do so, and the marches were not improved by the dispensation.<sup>95</sup> Given the official attitude exhibited towards the Irish marches since 1200, it is unsurprising that this communication was taken seriously by the king.<sup>96</sup> The justiciar, Geoffrey de Marisco, was told to prevail upon Pippard's tenants to fortify their marches. Should they refuse, the justiciar was to authorise Pippard to resume the ill-kept lands into his hand, to either fortify them himself or redistribute them for fortification by others.<sup>97</sup>

In its illustration of royal willingness to coordinate with and support Pippard in dealing with his tenants, this document is unlike those that preceded it; but it indicates the seriousness with which the king, presumably on the advice of Irish advisors, continued to regard Irish march fortification. Whatever course was adopted, Pippard's marches were to be fortified, either by the current tenants, Pippard himself, or future grantees. If the likelihood of the justiciar carrying out systematic reviews of the island's march fortifications is doubted, there is perhaps less room for scepticism at the prospect of this aggrieved frontier magnate endeavouring to resume the lands of negligent tenants back into his demesnes. The king's grant would leave him free to install march tenants in whose ability, and reliability, he was confident.

Henry's letter was a significant boon to Pippard, but it is important to note the centrality of the justiciar to the process outlined. The key verb *permittatis* implies that Pippard would be empowered to disseise his tenants only if the justiciar remained unsatisfied with their efforts after some unspecified period of time, perhaps to be decided by the justiciar or negotiated on a case-by-case basis. This minimised the scope for this power to be abused by Pippard, while also asserting the king's ultimate authority in the matter. Licensing a magnate to dissolve the tenurial bonds by which his tenants held their lands was no small matter – the very fact of Pippard's petition indicates that he could not do so on his own authority, despite his claim that his tenants held their lands on the condition that they keep them well-fortified. The seriousness of permanent dispossession has been discussed above, and can be further underlined by an episode of the early 1240s, when Walter Bisset argued that Alexander II of Scotland, as a vassal of Henry III, could not

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<sup>95</sup> *RLC*, ii, p. 138b (*CDI*, i, no. 1445).

<sup>96</sup> The crown also made grants conditional upon fortification: a late thirteenth- or early fourteenth-century inquisition claimed that in 1216 the archbishop of Dublin received the manor of Swords on the condition that he maintain a fortification at Castlekevin; Swords would perpetually revert to the crown if he neglected to do so (*Alen's Reg.*, p. 161). Orpen suggested that the jurors probably had written records (Goddard H. Orpen, 'Castrum Keyvini: Castlekevin', *JRSAI*, fifth series, vol. 38, no. 1 (1908), pp 18-20).

<sup>97</sup> [*P*]ermittatis [Pippard] capiat in manum suam predictas terras et eas firmet si voluerit vel tradat aliis ad claudendis qui eas velint claudere et firmare, ut sic partes marchie roborentur et firmentur (*RLC*, ii, p. 138b (*CDI*, i, no. 1445)).

disinherit his subjects without Henry's permission.<sup>98</sup> The lord's normal recourse when a tenant failed to perform services was distraint of chattels, and sometimes also of lands. This was probably unsatisfactory in the case of undefended marches, as it meant either depriving an already needy area of resources, or taking on defensive obligations without recovering full legal ownership.<sup>99</sup> In theory, further refusal to do service could lead to forfeiture, but there are very few recorded instances of distraint escalating to disseisin within feudal honours in England, and Hudson has queried whether this is due to inadequate sources or a reflection of reality.<sup>100</sup> Pippard's complaint perhaps points towards the latter interpretation, as he evidently did not consider disseisin an option without royal input.

It is in this light that we should regard the justiciar's insertion into the role of arbiter. Magna Carta required that disseisins be made by view of a public hearing, and it is possible that the proposed disinherison of a march landholder on the grounds of inadequate fortification would be adjudicated upon in a session of the justiciar's court with a local jury in attendance. Such a jury would probably tend to support their lord's position, if not to ensure the security of the marches then for the maintenance of good relations with their lord.<sup>101</sup> Whether or not the justiciar's involvement reached this level, it is clear that Pippard was not empowered to disseise his tenants at will – this was a one-time deal expressed in a form decidedly ill-suited to later construal as precedent-setting. As in 1200, 1215, and 1219-21, this letter firmly asserted the pre-eminence of royal power as exercised by the justiciar, and it made clear that the threat of forfeiture and redistribution remained, or was back, on the table for those who did not fortify their marches.

The sources permit brief comparison between Henry's attitude towards some of his other fortification in Ireland and the March of Wales, as in 1225 a similar letter commanded all who possessed mottes in the Vale of Montgomery to immediately fortify them with bretasches.<sup>102</sup> Montgomery was the focus of considerable official attention due to the ongoing construction of a stone castle overlooking the Vale, which had been commenced by Hubert de Burgh in 1223 due

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<sup>98</sup> Michael Brown, 'Henry the Peaceable: Henry III, Alexander III and royal lordship in the British Isles, 1249-1272', Björn K. U. Weiler and Ifor W. Rowlands (eds), *England and Europe in the reign of Henry III (1216-1272)* (Aldershot, 2002), p. 45.

<sup>99</sup> The distrainer of goods or lands did not (officially) have their full and free use (John Hudson, *Land, law, and lordship in Anglo-Norman England* (Oxford, 1994), pp 39-42).

<sup>100</sup> John Hudson, *The formation of the English common law: law and society in England from King Alfred to Magna Carta* (2nd ed., London, 1996), pp 103-4; idem, *Land, law, and lordship*, p. 34.

<sup>101</sup> For the tendency of jurors to carefully consider their own interests, see below, p. 236.

<sup>102</sup> [M]otas suas bonis bretaschiis firmari faciant ad securitatem et defensionem suam et parcium illarum (RLC, ii, p. 42a). For maps of the castles of the Vale of Montgomery, see Lieberman, *The medieval March of Wales*, pp 156-7.

to the 'frequent irruptions of the Welsh'.<sup>103</sup> Unlike in Ireland, no threat of disseisin or distraint was levelled at these motte owners. This should not be taken to indicate lesser royal authority in the March of Wales compared to in Ireland – Henry was the chief lord of Montgomery due to the extinction of the de Boulers family in 1207, and Hubert de Burgh's personal involvement there can only have increased royal authority.<sup>104</sup> It is possible that there was simply little concern that the order would be ignored in the Vale; if it was, then presumably the measure of rendability outlined above was regarded as sufficient to rectify the situation. It appears, then, that while the active maintenance of fortifications was considered an important facet of local security in the marches of both Ireland and Wales, it was thought appropriate, and perhaps necessary, to apply more pressure to achieve this aim in Ireland.<sup>105</sup>

A little under a year after the letter for Pippard, in August 1227, a similar letter was addressed to a far wider audience. The justiciar was to inform all those with lands in the marches that they must be fortified within by Easter 1230; otherwise, *[r]ex concessit et licitum dedit dominis suis feodorum illorum quod terras illas in manus suas capiant et in eis ad proprios usus suos firment*.<sup>106</sup> This seems like a general extension of the policy outlined in the previous year, though with the important addition of a clear deadline. It presumably arose from the petitions of landholders other than Pippard, and it indicates that some among the king's Irish tenants-in-chief were struggling to ensure the fortification of subinfeudated lands.

The letter for Pippard had instituted a remarkable delegation of royal power, albeit under official supervision, but this letter's scope was far greater, and it marks a significant departure from prior practice. Indeed, the letter of 1227 even appears less watertight than that of the previous year in terms of protecting the king's rights: it omitted the role of the justiciar, and its wording implies that lords of fees would automatically be empowered to disseise tenants whose efforts they deemed unsatisfactory once the distant deadline was reached.<sup>107</sup> Thus, the letter of

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<sup>103</sup> Roger of Wendover, quoted in Carpenter, *The minority of Henry III*, p. 313. For the castle's strategic importance, see *ibid*, pp 311-13. For the challenges of the Montgomery frontier at this time, and the fortifications in the vale, see Lieberman, *The medieval March of Wales*, pp 153-9.

<sup>104</sup> Robert Higham and Philip Barker, *Timber castles* (2nd ed., Exeter, 2004), pp 328-9.

<sup>105</sup> A comparable situation arose in Henry's French lands in 1224: after a Capetian offensive revealed the weakness of some of the king's fortifications, castle-owners were compelled to maintain military equipment, garrisons were installed in some fortresses, and castles were confiscated from any who sided with the French king, though even this offence was not grounds for permanent forfeiture (Robin Studd, 'Reconfiguring the Angevin Empire, 1224-1259', Weiler and Rowlands (eds), *England and Europe*, p. 35). Thus, in 1237 Geoffrey Rudel was deprived of his castle of Blaye, though it was restored to him five years later (*CPR, 1232-47*, pp 202, 328).

<sup>106</sup> *RLC*, ii, p. 197b (*CDI*, i, no. 1546).

<sup>107</sup> The various deadline durations were approximately as follows: 1200 (9 months), 1215 (3 months), 1220 (6 months), 1221 (11 months), 1227 (32 months).

1227 reads *rex concessit et licitum dedit*, as opposed to the lesser certainty of the *permittatis* which had, in 1226, indicated the justiciar's oversight. This was probably not the spirit of the document, and it should not be overemphasised, but it is possible that this represented a concession to logistical necessities. It would have been unfeasible for the justiciar to methodically assess so many marches, and it is probable that in John's time, too, the marches of subtenants were only assessed on the basis of petitions, despite his commands' applicability to *omnibus habentibus terras in marchia Hybernia*.<sup>108</sup> Leaving this power in the hands of marchers would facilitate more effective frontier management by diminishing the reliance on the person of the justiciar.

Ireland can have had no shortage of lords willing to capitalise on the king's grant of 1227. There is a possible allusion to disseisins made on the basis of this letter in the 1235 agreement by which Hugh de Lacy restored to Roesia de Verdon, for the duration of Hugh's life, the lands that the de Verdons had given to the de Lacys in 1195. By this agreement, Roesia undertook not to dispossess the earl's feoffees in the area, 'except those... [whose] lands were seized into the hand of sir Nicholas de Verdune... for failure of service'.<sup>109</sup> This reading of the document requires Nicholas to have successfully withheld lands from the restored earl of Ulster from April 1227 until the fortification deadline.<sup>110</sup> This is possible, as Hagger has noted Nicholas de Verdun's efforts in the mid-1220s to recover some of these lands, and his closeness to the king in the latter half of that decade may have emboldened him. Moreover, the wording of the 1235 agreement implies that Hugh had not yet recovered possession of the lands transferred to him in 1195.<sup>111</sup> Given Pippard's inability to disseise his march tenants prior to 1226, the suggestion that Nicholas carried out the disseisins referred to by Roesia on the basis of this letter, which made disseisin more feasible, seems plausible.

If the letter of 1227 did represent a diminution of the king's rights, a letter of March 1228 struck a more imperious tone. The recently appointed justiciar, Richard de Burgh, was to inform all those with march holdings that if they were not fortified within a year of Easter, he would seize them until further notice (*capiat in manum domini regis et salvo custodiat donec dominus rex aliud*

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<sup>108</sup> It is also unlikely that John intended to personally appoint new subtenants to hold from his tenants – doing so would not be unprecedented in John's Irish career, but it would be deeply unpopular (cf. the episode of 1189 described in Veach, 'King John and royal control', p. 1058).

<sup>109</sup> *Gormanston reg.*, pp 161-2. For the earlier agreement see *ibid*, p. 144. For grants to last during the life of the grantor, see J.M. Kaye, *Medieval English conveyances* (Cambridge, 2009), pp 250-2.

<sup>110</sup> The original deadline was Easter 1230, but as will be seen it was shortly changed to Easter 1229.

<sup>111</sup> Mark S. Hagger, *The fortunes of a Norman family: the de Verduns in England, Ireland and Wales, 1066-1316* (Dublin, 2001), pp 67-8.

*inde preceperit*).<sup>112</sup> That this measure had some teeth is indicated by a respite given to Nicholas de Verdun in June 1229 *de terra sua firmanda* despite Henry's earlier writ *quod omnes de partibus illis terras suas firmarent*.<sup>113</sup> This letter referred to *omnibus illis qui terras habent in marchiis*, indicating that the subtenants targeted in 1227 were also intended. The deadline for fortification was therefore moved forward by twelve months. Although this letter clearly emphasised the pre-eminence of the crown, the fact that indefinite distraint, rather than disseisin, was threatened, may reflect a concession to the reality that in the case of lands not held directly of the king, it would be legally difficult for the crown to directly regrant them.<sup>114</sup>

Like his father before him, Henry evidently deemed the failure to fortify marches an affront to his lordship and a matter of great import. The letter of 1228 may have represented a pivot away from the present course of further empowering Irish marchers, and towards restoring power to the king. It is worth noting, in light of the earlier coincidence of appointments with empowerments, that de Burgh had been appointed to the justiciarship less than a month earlier. It is tempting to imagine a covert battle of wills between the young king and the barons who had ruled in his stead for over a decade, many of whom 'benefited prodigiously' from Henry's newfound right to make permanent grants in January 1227.<sup>115</sup> Perhaps this apparent policy *volte face* represents an effort on Henry's part to reassert a right that he perceived to be on the verge of alienation. Irish landholders were clearly petitioning the king about march defence, and one wonders, in particular, if Hubert de Burgh, who always had an eye to the advancement of his nephews' careers, may have hoped to influence royal policy towards the Irish marches in 1227 to help Richard de Burgh's burgeoning interests there.<sup>116</sup> Of course, this is entirely speculative, and the fact that Richard himself would be the agent of Henry's turnaround perhaps makes it unlikely. What is certain is that in 1228 the recently augmented powers of Irish march landlords were reined back in, and royal authority was forcefully re-emphasised. Whether the king's justiciars had continued to exercise the powers Geoffrey de Marisco had possessed in the interim is unclear, but it seems probable. After all, in 1226 and 1227 Henry still reserved the right to dissolve the tenurial

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<sup>112</sup> *CR, 1227-1231*, p. 27 (*CDI*, i, no. 1576).

<sup>113</sup> *CR, 1227-1231*, p. 182 (*CDI*, i, no. 1690).

<sup>114</sup> Since the twelfth century, confiscated lands were supposed to go to the immediate lord from whom they were held, not to the king (Susan Reynolds, *Fiefs and vassals: the medieval evidence reinterpreted* (Oxford, 1994), p. 385).

<sup>115</sup> Quote from Stephen Church, *Henry III: a simple and God-fearing king* (London, 2017), p. 20. Henry III declared himself no longer a minor a year and eight months before his twenty-first birthday (Carpenter, *The minority of Henry III*, p. 389).

<sup>116</sup> Hubert damaged relations with both Stephen de Longespée and William Marshal II in his eagerness to improve the fortunes of his nephews Raymond and Richard de Burgh (Darren Baker, *Henry III: England's survivor king in the aftermath of magna carta* (Gloucestershire, 2017), pp 60-1, 66-7).

bonds between lord and tenant in Ireland on the basis of frontier defensive needs, even after his 1225 reissue of Magna Carta.<sup>117</sup> Although the force of the fortification commands was diluted by a measure of magnate patronage, it seems that the government line remained firm during the first three decades of Henry's reign – the royal writ most assuredly did run in the Irish marches.<sup>118</sup>

*Absenteeism in the early thirteenth century?*

Rees Davies, commenting on the remarkable expenses incurred by Welsh marchers in fortifying their holdings, suggested that '[t]hey did so because no lord could militarily afford to "opt out" in thirteenth-century Wales'.<sup>119</sup> But in Ireland it seems there was a belief that some march landholders were already doing just that during the first three decades of the century. This probably either reflected a perception that it was unnecessary to fortify marches (for instance due to a lack of danger), or simply a lack of interest in the marches amongst some landholders. The latter problem was certainly thought to exist by 1297, and it seems probable that it was also a factor in the fortification commands of the early thirteenth century, given that such a severe penalty was levelled at landholders.<sup>120</sup> It is clear from later sources that the fear of Gaelic raids could have a debilitating effect upon communities living near the frontier, and there is no reason to suspect that the same was not also true in the early decades of the thirteenth century.<sup>121</sup> Thus, it seems quite likely that many of those who failed to fortify their marches were absentees, from their marches at least, if not from Ireland altogether. Some landholders had the clout to secure reprieves, but poorer absentees may have had their marches taken from them, silently as far as the historian is concerned.

Over a decade before John's first letter on the matter of march fortification, Giraldus claimed that the men John introduced into Ireland were abandoning the marches. In Gerald's hyperbolic telling, this created a situation whereby 'all roads became impassable; no one was safe from the axes of the Irish; every day brought new reports of fresh disasters befalling our people'.<sup>122</sup> There can be little doubt that Gerald's testimony was exaggerated in the extreme, but by 1200 there was clearly a perception that marches were being neglected, to the material detriment of neighbouring lands. The impression that Irish marchers were regarded as being particularly lax is

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<sup>117</sup> For the charter's reissue, see Carpenter, *The minority of Henry III*, pp 382-4.

<sup>118</sup> Cf. the situation in Wales (R.R. Davies, 'The law of the March', *WHR*, vol. 5, no. 1 (1970), pp 11-12).

<sup>119</sup> Davies, *Lordship and society*, p. 74.

<sup>120</sup> Connolly, 'The enactments of 1297', pp 150-3.

<sup>121</sup> See below, pp 81-2.

<sup>122</sup> *[U]bique luctus, ubique clamor; omnes vie facte sunt invie; a securibus nulla securitas; cotidie novi rumores, novam nostre gentis ruinam nunciantes (Expugnatio, pp 240-1).*

strengthened when the five sweeping commands and four respites concerned with Irish march fortification are set alongside the sole, toothless order issued to motte owners in the Vale of Montgomery; while Hartland has argued that 'non-resident' lordship was not yet seen as a major problem during the thirteenth century, this impression may simply be due to the lack of sources with a bearing on such matters.<sup>123</sup>

Reticence to fortify may have been related to the comparatively limited freedoms of Irish marchers. During John's reign considerable efforts were made to curtail the liberties of the great Irish magnates, which were already paltry next to those enjoyed in the March of Wales. These limiting efforts were not specific to the marches, but it does not seem that any extra flexibility was extended to Irish marchers by the crown. The significance of this should not be overemphasised – whatever their rank, many Irish marchers in this period could probably largely do as they pleased in their domains, and the jurisdictional limits set by the crown ought not to be viewed as rigid, factual boundaries. Nevertheless, Pippard's 1226 complaint reveals that he was quite constrained in dealings with his march tenants, and powerful Irish landholders must have realised early – if not by 1171 or 1185 then certainly by 1210 – that they would never enjoy the regalities of their Welsh counterparts.<sup>124</sup>

Gerald presented the marches as warlike areas requiring militarily adept stewards. While the letters of John and Henry emphasised infrastructure over personnel, the letter of 1215 perhaps also hints at the idea that march landholding in Ireland was somewhat vocational: If the present landholders did not want to fortify their marches (*[m]archia firmare noluerint*), they would be conferred on others who would (*firmare voluerint*). Some, no doubt, relished the challenges of Irish frontier lordship – certainly this is Hartland's impression of Geoffrey de Geneville – but this cannot have been a universal reaction.<sup>125</sup> Already by 1200 the Irish marches, and the government's efforts to prevent the emergence of 'frontier institutions' there, were known quantities. Those who possessed lands both in the marches and elsewhere may have been uninterested in the difficulty of enticing settlers to the seemingly intractable Irish frontier, the expense of fortifying their holdings, and the risk of it all going up in flames in a well-executed Gaelic raid.

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<sup>123</sup> Beth Hartland, 'Absenteeism: the chronology of a concept', Björn Weiler, Janet Burton, Phillipp Schofield, Karen Stöber (eds), *Thirteenth century England xi: proceedings of the Greynog conference, 2005* (Woodbridge, 2007), passim.

<sup>124</sup> For marcher regalities, see Davies, *Lordship and society*, pp 217-19.

<sup>125</sup> Beth Hartland, 'Vaucouleurs, Ludlow and Trim: the role of Ireland in the career of Geoffrey de Geneville (c.1225-1314)', *IHS*, vol. 32, no. 128 (2001), p. 474.

*Funding private fortifications*

The crown's efforts to make march landholders fortify their lands was the most all-encompassing aspect of the government's approach to ensuring the security of the Irish frontier. In its applicability to everyone possessing Irish marches it was systematic in intent, if not, perhaps, in execution. No other aspect of the government's approach to the marches was comparable in this regard.<sup>126</sup> However, this was not the only way in which the government's concern for frontier security manifested. The construction or improvement of important fortifications was also encouraged by the provision of funding to some Irish landholders to build castles. In most cases, the money set aside for this purpose was paid out of the royal service, indicating a purportedly military function, and examination of the castles financed in this way shows that they were indeed strategically important sites.<sup>127</sup> This was by no means a matter of systematic policy. It was sporadic, firmly tied in with magnate patronage, and it exclusively occurred during the first three decades of Henry III's reign. The only instance of which I am aware of John providing similar funds for the fortification of a private seigneurial dwelling in Ireland was in 1200, when Geoffrey de Marisco was given 20*m. ad firmandis domum suam de Katherain*.<sup>128</sup> Though traditionally identified as Knockaine in Limerick, this site has been plausibly identified as Corcaguiny on the Dingle Peninsula – a deeply isolated area for English settlement<sup>129</sup> – Funding may well have been provided here on the basis of the envisaged difficulty of settling in the area, as well as being an indication of royal favour.<sup>130</sup>

The willingness to fund private fortifications in the early decades of Henry III's reign can probably be explained by the fact that the men who took the helm during the minority had a

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<sup>126</sup> However, see below, p. 138.

<sup>127</sup> For the royal service and scutage in Ireland, see A.J. Otway-Ruthven, 'Royal service in Ireland' (1968), repr. in Crooks (ed.), *Government, war and society*, pp 169-72; idem, 'Knight service in Ireland' (1959), repr. in *ibid*, pp 155-168; Mary Bateson, 'Irish exchequer memoranda of the reign of Edward I', *EHR*, vol. 18, no. 71 (1903), pp 498-9. It should have been possible to raise approximately £850 of royal service, but Frame has noted that in the fourteenth century this was an unattainable ideal (R.F. Frame, 'The Dublin government and Gaelic Ireland, 1272-1361: the making of war and the making of peace in the Irish lordship' (PhD, TCD, 1971), p. 29). See also idem, 'Military service in the Lordship of Ireland, 1290-1360: Institutions and society on the Anglo-Gaelic frontier' (1989), repr. in idem (ed.), *Ireland and Britain*, p. 284. During the years at issue here (c.1220-1242), the lands of the de Lacys and Butlers moved from the king's hand back into seigneurial possession, and the de Burgh invasion of Connacht commenced, so the sums involved probably varied considerably.

<sup>128</sup> *Rotuli de liberate ac de misis et praestitis, regnante Johanne*, ed. T. Duffus Hardy (London, 1844), p. 10 (CDI, i, no. 140).

<sup>129</sup> The area was known as Cathair Aine Clainne Conaire (M.J. deC. Dodd, 'Note as to the identification of 'Katherain' (C.D.I., i., 139 & 140)', *JRSAI*, seventh series, vol. 8, no. 2 (1938), pp 287-8).

<sup>130</sup> In the event, de Marisco was able to effectively settle the cantred of Ossuris, which occupies the peninsula's southern and western parts (Paul MacCotter, 'Lordship and colony in Anglo-Norman Kerry, 1177-1400', *Kerry Archaeological and Historical Society*, vol. 4, series 2, pp 67-8). For Ossuris, see idem, *Medieval Ireland: territorial, political, and economic divisions* (Dublin, 2008), pp 169, 260.

rather different attitude to magnate patronage than King John had had. John's financial difficulties after 1204 are well known and have been regarded as very influential in shaping his approach to his subjects.<sup>131</sup> He has been described as 'the arbitrary imposer of fines', as his preferred method of control was to permit his magnates to rack up enormous debts to him.<sup>132</sup> By contrast, it seems that Henry III liked to win loyalty through generosity.<sup>133</sup> But Henry's minority was also a time of financial hardship – Gillingham, seeking a sub-title to encapsulate the minority, opted for 'Government Without Cash'.<sup>134</sup> It is interesting, then, that the period coincided with greater liberality with the Irish revenues, albeit non-systematically and in the form of local taxes.

The discussion is perhaps best begun with Nicholas de Verdon, whose June 1229 fortification respite was mentioned above. In the same letter that this extension was granted, Henry also told the justiciar to advise and assist de Verdon when he decided to fortify his lands.<sup>135</sup> It is not entirely clear whether financial assistance was intended, but Henry evidently wanted Nicholas to receive both leniency and aid. This was very much due to royal favour.<sup>136</sup> Although it is unclear exactly what was intended by *auxilium*, the episode shows that the king was willing to help some subjects in ensuring that their marches were protected. Here, we witness the duality of the crown's policy of fortification in the marches of Ireland. The coercion directed at Irish landholders was supplemented, albeit to a small degree, by financial assistance to favoured subjects; and the de Verdon episode indicates that the class of march landholder that benefitted from these measures was the very same that might be let away with a slap on the wrist for failure to fortify.

The earliest instance of such assistance being promised during Henry's reign is encountered in June 1217, when the justiciar was told to assist Thomas Fitz Adam 'with men, and

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<sup>131</sup> For an overview, and the suggestion that Hubert Walter's death marked the loss of a significant moderating influence, see Jane Frecknall Hughes and Lynne Oats, 'King John's tax innovations – extortion, resistance, and the principle of taxation by consent', *Accounting Historians Journal*, vol. 34, no. 2 (2007), pp 76-9. For a re-evaluation of John's revenues, see Nick Barratt, 'The revenue of King John', *EHR*, vol. 111, no. 443 (1996), passim.

<sup>132</sup> Hartland and Dryburgh, 'The development of the Fine Rolls', pp 195-6.

<sup>133</sup> Michael Prestwich, *English politics in the thirteenth century* (New York, 1990), pp 42-3. Henry also granted pardons of debts, terms for payment of debts, and respites on payments of debts more frequently than his father (Beth Hartland, 'Administering the Irish fines, 1199-1254: the English chancery, the Dublin exchequer, and the seeking of favours', David Crook and Louise J. Wilkinson (eds), *The growth of royal government under Henry III* (Woodbridge, 2015), p. 77).

<sup>134</sup> John Gillingham, *The Angevin Empire* (London, 2001), p. 108.

<sup>135</sup> *cum... Nicholaus terram suam firmare voluerit, ei sit consulens et auxilians in locis in quibus ipse potest et debet claudere* (*CR, 1227-1231*, p. 182 (*CDI, i*, no. 1690)).

<sup>136</sup> Henry also allowed Nicholas to delay payment of 100s. owed for a pledge of Thomas de Erdinton (*CR, 1227-1231*, p. 410. See also *ibid*, p. 16 for an earlier debt pardoned), and he froze various Irish court proceedings involving Nicholas in 1228, 1229, 1230, and 1231 rather than simply having him appoint an attorney, though Nicholas did so later in 1231 for three cases (*CR, 1227-1231*, pp 16, 198, 343, 505, 587).

otherwise to fortify his castle in the land of Corcobasky Etragh', which he had received from John de Gray.<sup>137</sup> Like the justiciar's own holding of Katherain, this was remote indeed. Empey suggests that fitz Adam's castle is today represented by the lonely motte in Kilkeel (Kilkee, co. Clare), the only site in Thomond outside the cantreds of Limerick and Estermoy where English settlement appears to have been attempted before the end of John's reign.<sup>138</sup> John had claimed three cantreds in the area in 1199 and subsequently granted them to John de Gray, who had enfeoffed fitz Adam and Reginald Finegal in the area by 1215.<sup>139</sup> The 1217 grant of assistance to fitz Adam perhaps represented an effort to reify this envisaged subinfeudation, which was probably progressing slowly. In August 1220 the king again requested that the justiciar provide fitz Adam with *efficax auxilium... ad firmandis terram suam de Corcumbasky et Etherac*.<sup>140</sup> This may indicate that the aid had not been provided the first time, or it could simply mean that fitz Adam's fortification was to be strengthened further. Orpen interpreted the verb *firmare* in grants like this as intending the construction of a stone castle, and in most cases, this is probably correct.<sup>141</sup> No such structure exists in Kilkeel, however, and the grant may have gone unfulfilled again.

The provision of manpower and other assistance to fitz Adam was presumably intended to ensure that he could build a secure and defensible residence-cum-*caput*, and perhaps also to impress the Uí Briain with a show of manpower. Muirchertach Ua Briain had undertaken to provide fitz Adam and Finegal with 30*m.* a year until they had built in their Thomond fees (*in feodis suis possint et velint edificare*).<sup>142</sup> Evidently, the attempted settlement was being carried out on the basis of an understanding with Ua Briain, at least initially. It may have been hoped that more settlement would follow, but the existence of local cooperation was probably essential to the initiative – the solitary fortification cannot have been expected to suffice on its own in the face of any real threat. The enterprise may therefore have been disrupted by the death of the Gael with whom these agreements were made, as Muirchertach Ua Briain was apparently slain by 'the sheriff and Diarmait Mac Carthaig' in 1214.<sup>143</sup> If the settlement did indeed exist in 1217 or in 1220 it was probably an exceedingly vulnerable frontier outpost. The provision of assistance to fitz

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<sup>137</sup> *RLC*, vol. i, p. 310a (*CDI*, i, no. 784).

<sup>138</sup> C.A. Empey, 'The settlement of the kingdom of Limerick', Lydon (ed.), *England and Ireland in the latter middle ages*, pp 3-4. See also MacCotter, *Medieval Ireland*, p. 194.

<sup>139</sup> *RLC*, i, p. 224a (*CDI*, i, no. 629).

<sup>140</sup> *RLC*, i, p. 427b (*CDI*, i, no. 958).

<sup>141</sup> Goddard H. Orpen, 'Motes and Norman castles in Ossory', *JRSAI*, fifth series, vol. 39, no. 4 (1909), p. 318.

<sup>142</sup> *RLC*, i, p. 224a (*CDI*, i, no. 629).

<sup>143</sup> AI 1214.2; ALC 1214.10.

Adam would thus have served both to reward a royal servant of particular note and also to improve the likelihood of lasting settlement being established in the area.

Governmental aid was sought in the fortification of another area in 1219, when the archbishop of Dublin complained to the English justiciar that he could not rouse the magnates of Ireland to provide the counsel and aid necessary to secure a grant of the royal service due from Walter de Lacy's lands. The archbishop wanted this service to be assigned for the fortification of a castle (*castrum unum firmandum*) for Richard de Tuit in Delvin.<sup>144</sup> This complaint supports Otway-Ruthven's suggestion that the royal service was normally summoned by the king's great council in Ireland.<sup>145</sup> The archbishop's letter did not explain the need, but the Delvin area had been prone to outbreaks of war in recent years. It had been a high-status Gaelic site before being fortified by Hugh de Lacy on behalf of Gilbert Nugent in 1181 and it evidently remained contested thereafter.<sup>146</sup> In 1211 Cormac mac Art Ua Mael Sechnaill 'wrested Delvin from the English', in the course of a campaign which forced de Gray's government to establish a defensive ward at Ballyloughloe;<sup>147</sup> and although it was recovered in 1213 by a large English force that then went on to fortify Athlone, Kinnity, Birr, and Dorrha, Cormac was able to reassert himself in Delvin and burnt Birr again later that year or in 1214.<sup>148</sup> The archbishop's embassy bore fruit in the following year, when de Tuit was promised one year of the service of Walter de Lacy's Meath holdings to fortify a castle, if the justiciar thought it expedient to the king and his lands, and *ad commodus et tranquillitate terre nostre*.<sup>149</sup> These stipulations indicate the concern that this money should be put to good strategic use, and reveal the king's deference to his Irish justiciar on such matters. It seems that the fortification of de Tuit's marches continued to be seen as important after this, as in 1225 he was promised a further twenty days of the service of Meath *ad firmandum quoddam castrum in terra sua de Dalun*.<sup>150</sup>

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<sup>144</sup> Shirley, *Royal letters*, no. 25 (*CDI*, i, no. 884). For the episode's significance in the development of principles of communal consent for local taxation, see H.G. Richardson and G.O. Sayles, *The Irish parliament in the middle ages* (2nd ed., Philadelphia, 1964), p. 55.

<sup>145</sup> A.J. Otway-Ruthven, 'Knight service in Ireland', p. 160. This was set out in clause 12 of Magna Carta (Holt, *Magna Carta*, pp 454-5).

<sup>146</sup> Marie Therese Flanagan, 'Anglo-Norman change and continuity: the castle of Telach Cail in Delbna', *IHS*, vol. 28, no. 112 (1993), pp 385-389. It is unclear how often such sites were appropriated, but it probably occurred quite often, both for symbolic and practical reasons (O'Keeffe, *Medieval Ireland*, pp 21-2).

<sup>147</sup> Pipe roll Ire. 14 John, pp 52-3.

<sup>148</sup> AFM 1211.6, 1213.11, 1213.12; ALC 1213.4, 1213.3, 1214.7; MCB 1213.6; *Ann. Clon.*, pp 225-8. Cormac's obituarist, in 1230, describes him as 'the prince that most annoyed and hindered the English'.

<sup>149</sup> *RLC*, i, p. 430b (*CDI*, i, no. 970).

<sup>150</sup> *RLC*, ii, p. 32a (*CDI*, i, no. 1267). The patronage element is clear on this occasion, as on the same day de Tuit was also assigned £15 of escheats near Athlone (*RLC*, ii, p. 32a (*CDI*, i, no. 1261)).

It is clear from the later calendared pipe rolls that payment of scutage could be spread out over many years, but these issues probably did not affect payments made to individuals such as Richard de Tuit. Rather, sums for fortification were probably provided upfront by the Dublin government and collected subsequently. This was obviously what had to happen when scutage was put towards military expeditions. It seems probable that the royal service was normally expected as scutage when it was put towards the construction or improvement of private fortifications (though in areas with limited manpower some personal service might also be desirable). Thus, in July 1222 the king ordered all Irish landholders in Munster, Decies, Desmond, and the Vale of Dublin to render their royal service in money whenever the justiciar summoned it for expeditions to Ulster, Cenel Eoghan, or other remote parts *ad firmanda castra vel alia negocia nostra procuranda*.<sup>151</sup>

Greater magnates, too, might benefit from the king's willingness to contribute financially to private frontier fortification. In May 1222 William II Marshal was promised the service he owed to the king for the following year *in auxilium firmandi quoddam castrum suum in Hibernia*.<sup>152</sup> In April 1225, the day after de Tuit received the service of Meath and Uriel, Marshal was promised his service for the following year.<sup>153</sup> This was apparently not received, and in August 1226, the justiciar was told that if he could do without it, Marshal was to have his service for the present year in fulfilment of the promise of 1225.<sup>154</sup> The grants to Marshal differ from those granted to de Tuit in that Marshal was given only his own service. This clearly could not be paid by summoning the service for Marshal – rather, Marshal was presumably being permitted to sit out of a summoning of the service. Thus, on the basis of this grant Otway-Ruthven suggested that an expedition was summoned to Connacht in 1226.<sup>155</sup> Therefore a grant of service for private fortification might be obstructed if the service was not summoned, if the justiciar thought that the entire service was necessary in that year, or (at least in de Tuit's case) if the justiciar did not believe the proposed use of the service beneficial to the king's lands. In both April 1230 and March 1231 Marshal was permitted to put his royal service towards the fortification of Castlecomer, though his death on 6 April, 1231 presumably precluded his enjoyment of the service in that year.<sup>156</sup> This ought not to have impeded him in 1230, and as the king's 1231 letter does not mention the

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<sup>151</sup> *PR, 1216-1225*, p. 337 (*CDI*, i, no. 1048).

<sup>152</sup> *RLC*, i, p. 495b (*CDI*, i, no. 1030).

<sup>153</sup> *RLC*, ii, p. 32 (*CDI*, i, no. 1269). *CDI* is insufficiently clear as to what portion of the king's service was promised to Marshal in this year.

<sup>154</sup> *RLC*, ii, p. 134a (*CDI*, i, no. 1439).

<sup>155</sup> Otway-Ruthven, 'Royal service in Ireland', p. 173.

<sup>156</sup> *CR, 1227-31*, pp 342, 482 (*CDI*, i, nos. 1809, 1866). Orpen, 'Motes and Norman castles in Ossory', p. 318.

justiciar having vetoed Marshal's use of the service it is possible that he did obtain it. However, no royal service is known to have been summoned in either year, and the fact that the same grant was made in two consecutive years might indicate that it was not received the first time, perhaps on the objection of Richard de Burgh, the justiciar and one of William's chief Irish rivals.<sup>157</sup>

The site to be fortified in 1231 and 1232, Castlecomer, already possessed a motte by the end of the twelfth century, and this is thought to have been built by William Marshal. Nevertheless, fortifying Castlecomer was probably understood as a genuinely military use of the king's service. The motte was destroyed by the Uí Breannáin in 1200, and Empey has described the earl's manor of Castlecomer, as well as those of Offerlane and Aghaboe to its north, as 'military outposts' built to protect against the midland septs.<sup>158</sup> It does not seem that Castlecomer developed far beyond this description during the thirteenth century, as seven successive archaeological studies have found no evidence of medieval settlement there.<sup>159</sup> Certainly, the area was under considerable pressure later in the century. Although a receipt roll records the presence of a stone castle there in 1289,<sup>160</sup> an extent taken in 1297 describes only an 'ancient castle burnt down of old'.<sup>161</sup> It may have been rebuilt by 1305, when the justiciar held his court there, but the area's persistent frontier character is evident from the 1306 description of the castle and lands of Comerith in Kilkenny as 'in the march between the Irish'.<sup>162</sup> Like de Tuit's castle at Delvin, then, Castlecomer lay in a march region at the edge of English settlement, and the king's willingness to commit part of the royal service to its improvement should be regarded in that light. Nevertheless, the commitment of large portions of the royal service to the fortification of Castlecomer and other Marshal sites smacks more of magnate patronage than an earnest effort to improve key frontier infrastructure – it is hard to believe that this lofty magnate was in greater need of subsidisation for the defence of his Irish lands than any number of smaller landholders were. Military considerations informed the grants to Marshal, but these particular grants were probably not engineered to bring about the greatest possible military benefit to the colony and were, at their core, grants of patronage.

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<sup>157</sup> The 1226 grant of Connacht to Richard de Burgh had soured relations between Hubert de Burgh and William II Marshal (Carpenter, *The minority of Henry III*, p. 390. See also Helen Walton, 'The English in Connacht, 1171-1333' (PhD, TCD, 1980), p. 57).

<sup>158</sup> Orpen, *Ireland under the Normans*, i, p. 376; Adrian Empey, 'The evolution of the demesne in the lordship of Leinster', p. 68.

<sup>159</sup> Cólín Ó Drisceoil, 'Excavation of a seventeenth century bastioned fort at High Street, Castlecomer, co. Kilkenny', *Old Kilkenny Review*, (2018), p. 48, fn. 8.

<sup>160</sup> *CDI*, iii, no. 251.

<sup>161</sup> *CIPM*, iv, no. 347 (*CDI*, iv, no. 481).

<sup>162</sup> *CDI*, v, no. 530.

That the royal service should be employed for patronage in the absence of more pressing military needs was perhaps inevitable, and displeasure at this fact within Ireland can perhaps be seen in Henry of London's inability to secure support for his initiative to have part of the service assigned to de Tuit in 1219. But the king also tried to put the royal service to use in this way in support of broader royal objectives. Thus, in 1226 Richard de Burgh was granted the service of all Ireland to advance his fortification of Connacht (*in auxilium ad terram illam competenter firmandam*), which de Burgh did not yet possess, even in law.<sup>163</sup> This was part of a pattern of patronage of Richard de Burgh, but it also represented an effort to utilise the royal service of Ireland in a manner that would facilitate the long-term extension of the colony's bounds, improve the security of English lands in western Meath and Thomond, and eventually increase the king's Irish income. This application of the royal service was engineered to improve the security of the new frontier settlements that would arise in Connacht from an early stage.

It is unclear whether de Burgh ultimately used the royal service for the purpose of fortification, but it was certainly employed in support of his 1227 invasion: in March 1228 Nicholas de Verdun complained that although he had travelled to Connacht with de Burgh and the justiciar, and had performed the service he owed the king by remaining 'by direction of the justiciar to guard the marches', the exchequer was nevertheless demanding scutage from him for that service.<sup>164</sup> This employment of a defensive ward to defend the frontier of settlement while an expedition was ongoing is exactly like that which Frame observed later in the century.<sup>165</sup> If the letter of the king's 1226 grant was followed, perhaps he was protecting areas where fortifications were being built, which would mean that the warded areas would not be left wholly undefended after de Verdun's forty days were up – mottes could be raised faster than masonry fortifications, but their erection was still a large job requiring time and manpower.<sup>166</sup>

In November 1228, at his own request, de Burgh was again promised the royal service of all Ireland *in auxilium firmandi castra in terra nostra Cunnacii*.<sup>167</sup> It is notable that in these instances the stated purpose of the royal service was to fund entrenchment, rather than to payroll armies. The idea that rapid fortification was integral to the process of English conquest in Ireland has been hotly contested by McNeill; nevertheless, it is clear from documents such as the 1224 inquisition quoted above and the funding promised to Richard de Burgh that contemporaries did

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<sup>163</sup> *RLC*, ii, p. 127a (*CDI*, i, no. 1426). See Walton, 'The English in Connacht', pp 58-9.

<sup>164</sup> *CR*, 1227-1231, pp 28-29 (*CDI*, i, no. 1581).

<sup>165</sup> Robin Frame, 'English officials and Irish chiefs', p. 257.

<sup>166</sup> Immich, 'Siting of castles in the midlands of Ireland', p. 69.

<sup>167</sup> *CR*, 1227-1231, p. 134 (*CDI*, i, no. 1648).

not always regard fortification in this way.<sup>168</sup> Prior to the invasion of Connacht, it was evidently thought important to construct fortifications quickly and at considerable expense in order to ensure the longevity of the settlements established. How real this need was, and how effectively it was acted upon, are different matters. That the entire royal service was promised to de Burgh in both 1226 and 1228, explicitly for this purpose, is as clear a statement as any that the construction of castles in Connacht was considered a crucial military undertaking. De Burgh did not manage to bring about effective settlement in Connacht until 1235, and it is notable that in 1237 the annalists tell us that ‘Irish barons came into Connacht and began the building of castles therein’.<sup>169</sup>

The considerable financial assistance promised to de Burgh for fortification suggests that longer-term defensive considerations were also being taken into account. If de Burgh was able to seize parts of Connacht then the government would provide some financial backing to ensure that the resultant marches were stable, and that the financial gains which the conquest ought to produce for the crown would remain secure. The similarly militarily-oriented patronage of William Marshal was not forgotten during these years, but it was made secondary to de Burgh’s requirements. Thus, in May 1227 Marshal was promised he could have the service due to the king in Ireland after Richard de Burgh had acquired Connacht, unless the king wished to fortify an Irish castle after that acquisition (*post conquestum praedictae terre*).<sup>170</sup> Although magnate patronage shaped the pattern of such grants, then, it seems that patronage was a subsidiary aim of awards of military service.

Henry and his advisors clearly took strategic considerations into account when assigning the royal service to the fortification of private castles, and Henry may also have been swayed by evidence of effective frontier lordship. In July 1236 he wrote to the justiciar saying that Archbishop Luke of Dublin had informed him of Roesia de Verdon’s construction of a castle *bonum et forte in terra sua propria super Hibernienses*. Roesia now wished to build another castle *ad magnam securitatem terre nostre* but required financial assistance. She was promised forty days of the service of Meath and Uriel, once this would not harm the king’s interests.<sup>171</sup> The first castle is

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<sup>168</sup> McNeill, ‘Mountains or molehills?’, p. 267. See above, p. 28.

<sup>169</sup> AC 1237.5; ALC 1237.4; AFM 1237.12. See also AC 1238.6; ALC 1238.5; AFM 1238.7.

<sup>170</sup> RLC, ii, p. 210 (CDI, i, no. 1515).

<sup>171</sup> CR, 1234-1237, p. 364 (CDI, i, no. 2334). Sweetman’s calendar states that the proposed castle was to lie near the sea, but this detail is absent from CR. Cf. the incident of 1273, when Avelina de Burgh had her dower revised against her will because she had received *quinque castris quid fuerunt... in marchia comitatus Ultonia, et quo de Guerra existent*, which was not then regarded appropriate land for a woman to hold in dower (NLI MS 1, f. 259. This document has been translated in several places, each time slightly differently, but Harris’s transcription has been largely overlooked. For translations, see CDI, i, no. 950;

thought to have been the de Verdons' stone castle at Roche. Although McNeill has regarded the site as more domestic than military in design, this did not deter Henry or the archbishop,<sup>172</sup> indeed McNeill, too, has more recently suggested that the castles of Roche and Donaghmoyne may have been sited to consolidate the defensive line of mottes in the area.<sup>173</sup>

It is significant that the grant to de Verdon, like those of 1220 and 1228 (to de Tuit and de Burgh, respectively), was made in response to a petition. The various grants to William Marshal probably had similar geneses. It seems that the archbishop's claim that both the castle at Roche and the new castle proposed by Roesia were strategically important convinced the king to provide assistance; reports of Roesia's success at Roche convinced him that her second effort would be equally as valuable. That castles were particularly important in this region is clear not only from McNeill's examination of motte distribution, but also from the apparent prominence of castleries in Uriel. Indeed, after the construction of Castleroché the de Verdons' free tenants were required to perform military service at the castle when the Gaels were at war.<sup>174</sup> The king's letter notes that none of Roesia's predecessors had been able to fortify Roche, and Simms has suggested that this had been made possible by the death of Aedh Meith Ua Néill in 1230.<sup>175</sup> The justiciar, too, managed to construct a fortress in Armagh in 1236. Perhaps the king's Irish advisors felt it was a particularly opportune moment for the construction of a further de Verdon fortress in the area. In any case it was fortuitous that the area was under such capable lordship at the time. Roesia's own confidence in Castleroché's security is clear from the relocation of her *caput* from Castletown (now Dundalk) to Roche, around 8km to the northwest, after its construction.<sup>176</sup> The castle remained fit for purpose at the century's close, as in 1299 *plures Hibernici venerunt ad gravandum Dominum Theobaldum de Verdon* at Castleroché, but he lived to tell the tale.<sup>177</sup>

The crown also appears to have been willing to repeatedly subsidise the fortification of particularly vulnerable march fortifications, presumably dependent upon both their strategic importance and the standing of the lord responsible for them. We have already seen this in the cases of Delvin and Castlecomer, but it is most apparent in the case of Donaghmoyne (co.

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CPR, 1272-81, p. 7; Charles McNeill, 'Harris: Collectanea de rebus Hibernicis', *Analecta Hibernica*, no. 6 (1934), p. 302). For discussion of this episode, see Coulson, *Castles in medieval society*, pp 340-50.

<sup>172</sup> McNeill, *Castles in Ireland*, pp 86-7, 117.

<sup>173</sup> McNeill, 'Mountains or molehills?', p. 244.

<sup>174</sup> Smith, *Colonisation and conquest*, p. 35.

<sup>175</sup> Katharine Simms, 'The O Hanlons, the O Neills and the Anglo-Normans in thirteenth-century Armagh', *Seanchas Ardmhacha*, vol. 9, no. 1 (1978), pp 75, 77-8. For Aedh's reign, see *ibid*, pp 74-7. Hagger further suggests that the conflict with Hugh de Lacy may have prevented Roesia's ancestors from fortifying the land (Hagger, *The fortunes of a Norman family*, p., p. 81).

<sup>176</sup> *Dowdall deeds*, pp x-xi.

<sup>177</sup> CSM, ii, p. 329.

Monaghan). The register of Clogher recounts two variants of a tale about the bishop of Airgialla's resistance to this castle's construction in 1193. In both, the enraged bishop ultimately cursed Peter Pippard, who ominously vanishes from our sources after a run-in with Walter de Lacy in the following year.<sup>178</sup> Nevertheless, the fortification was completed and came to hold considerable strategic value. Thus, in 1228 Ralph fitz Nicholas, an influential member of the king's council in England and the holder of the wardship of William Pippard's heir, was promised forty days of the service of Meath and Uriel to fortify the castle of Donaghmoine (co. Monaghan).<sup>179</sup> In 1230 the king again allocated forty days of the same services to Ralph to build a stone castle at Donaghmoine, as the original fortification had been burnt by the Gaels (*combustum fuit ab Hiberniensibus*), indicating, once again, that these grants were not being made solely due to Ralph's high standing.<sup>180</sup> In the following year the king wrote to the justiciar querying why fitz Nicholas had not yet received the proceeds of this service.<sup>181</sup> De Burgh's failure to convey these funds to fitz Nicholas may explain the king's decision to give Ralph de Pitchford respite until Michaelmas concerning £20 that he owed at the exchequer<sup>182</sup> – as fitz Nicholas's Irish seneschal, de Pitchford was probably the one responsible for the actual fortification process.<sup>183</sup> In May 1233 the new justiciar, Maurice Fitz Gerald, was asked to give Ralph the service of Meath for the same purpose,<sup>184</sup> and in February 1234 Ralph, '*senescallo regis*', was again promised the service of both Meath and Uriel to improve Donaghmoine's defences.<sup>185</sup>

During these years the castle of Donaghmoine was in fitz Nicholas's hands due to his possession of the Pippard wardship. From the point of view of patronage, grants of the royal service meant that fitz Nicholas could make improvements to the strategically important castle with minimal disruption to his income from the wardship. In 1242, after a period of diminished

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<sup>178</sup> Peter Pippard is mistakenly named Richard in the register (K.W. Nicholls, 'The register of Clogher', *Clogher Record*, vol. 7, no. 3 (1971/1972), pp 388-9, 404-7). See Smith, *Colonisation and conquest*, p. 57. The castle's construction is recorded in ALC 1193.12.

<sup>179</sup> *CR, 1227-1231*, p. 125 (*CDI*, i, no. 1632). For fitz Nicholas, see Brendan Smith, 'The de Pitchford family in thirteenth-century Ireland', *Studia Hibernica*, no. 27 (1993), pp 33-5; idem, *Colonisation and conquest*, pp 41-2.

<sup>180</sup> *PR, 1225-1232*, p. 339 (*CDI*, i, no. 1806).

<sup>181</sup> Sweetman's calendared version of this document does not indicate that the previous year's instructions had not been carried out (*CR, 1227-1231*, p. 502 (*CDI*, i, no. 1885)).

<sup>182</sup> *CR, 1227-31*, p. 502.

<sup>183</sup> Smith, 'The de Pitchford family', p. 34. In 1244 litigation involving Ralph was adjourned because he was on the king's service '*in munitione cuiusdam castris in marchia Wallie*'; perhaps his Irish experience made him an ideal contractor for work of this kind on this other Angevin frontiers (*CR, 1242-7*, p. 346 (*CDI*, i, no. 2724)).

<sup>184</sup> *CR, 1231-1234*, p. 224 (*CDI*, i, no. 2040).

<sup>185</sup> *CR, 1231-1234*, p. 376 (*CDI*, i, no. 2090).

favour since 1236,<sup>186</sup> fitz Nicholas secured a firmer hold on the Pippard inheritance by marrying his own son, Ralph, to his ward, Alice Pippard.<sup>187</sup> Ralph Jr apparently took immediate control of the Irish lands as in September, '*ad instantium ipsus Radulfi patris sui*', he was granted the service of Meath and Uriel to fortify Donaghmoyme.<sup>188</sup> AU's 1244 record that 'the castle of Domnach-Mhaighean was covered with stone this year' indicates that this grant was fulfilled, though it perhaps raises questions as to what purpose the earlier grants had been put to. The fact that the annalist was aware of this development and deemed it noteworthy indicates that the castle was of enduring significance to Gaelic Ireland;<sup>189</sup> Smith, commenting on the significance of Donaghmoyme and Castleroché for the security of Uriel, contended that their strategic siting on important routeways enabled them to hold off the growing strength of Gaelic Ireland 'for an improbably long time'.<sup>190</sup>

The 1242 grant was the last issued for Donaghmoyme specifically, but in the following decade royal assistance for fitz Nicholas's fortification of his lands resumed, though its character had changed. In May 1251 Ralph II was permitted to have an aid from his own knights and free tenants in Ireland for the fortification of Uriel (*ad terram suam de Uriel firmandam*).<sup>191</sup> As this was to be an aid rather than a portion of the royal service, the king's own income would not be affected. It seems that Ralph was unable to obtain the aid, perhaps because the justiciar had failed to officially licence it, or due to resistance from his tenants. In June 1252 the grant was reiterated in clearer terms: Ralph was to be allowed to impose a service and aid on his knights and tenants of Leinster and Uriel to fortify castles in his lands (*ad firmandum castra in terris suis*); he was permitted to distrain for this purpose if necessary.<sup>192</sup> The sum raised, then, was to be put to use in the fortification of other parts of Ralph's Irish lands, not just Donaghmoyme. Like the grants to Fitz Adam, Marshal, de Burgh, and de Verdon, these endowments reflected royal favour. The grants of 1251 and 1252 were witnessed by Ralph the elder himself, and we have already seen that the 1242 grant was made at his suggestion. There can be little doubt that the earlier grants, too, arose from Ralph's entreaties. But the burning of Donaghmoyme after 1228, and the annalistic reference of 1244, indicate that this was not the only reason for the multiplicity of grants. The

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<sup>186</sup> D.A. Carpenter, 'The decline of the curial sheriff in England, 1194-1258' (1976), repr. in idem (ed.), *The reign of Henry III*, p. 167. 174.

<sup>187</sup> Smith, 'The de Pitchford family', p. 35.

<sup>188</sup> *CR, 1237-42*, p. 510 (*CDI*, i, no. 2574).

<sup>189</sup> AU 1244.5.

<sup>190</sup> Smith, 'The concept of the march', pp 263-4; see also idem, 'The de Pitchfords', pp 42-3.

<sup>191</sup> *CR, 1247-51*, p. 447 (*CDI*, i, no. 3143).

<sup>192</sup> *CR, 1251-1253*, pp 104-5 (*CDI*, ii, no. 43). In *CDI* 'Leynestere' is rendered 'Leicester' and 'castra' is translated to 'castle'; moreover, the calendar gives no indication that the previous year's grant had gone unfulfilled.

castle evidently lay in a vulnerable march at the start of the 1230s, and the further grants across two-and-a-half decades suggest that this continued to be the case.

This was not the only march under fitz Nicholas's control where fortification was necessary, and an incident of 1254 indicates that Ralph II was either a less diligent, less competent, or perhaps simply less fortunate manager of Irish marches than his father had been. In November of that year Brian Ua Néill rose up in war in Ulster. The deputy justiciar, Richard de la Rochelle, was allowed £100 from the treasury, to be augmented by local money and assistance, to combat the problem. Edward's letter to de la Rochelle alleged that

[m]any evils have arisen in the land of the Lord Edward, and war has, in great measure, been caused by Ralph fitz Ralph having left his lands of Duffran (co. Down) undefended. Mandate that Ralph defend these and his other lands in the marches; otherwise the Lord Edward shall take them into his hands. Mandate to the seneschal of Ulster to take these lands into the Prince's hands if Ralph should fail to defend them.<sup>193</sup>

The aid of 1251 had specified that the aid granted was intended for the fortification of Uriel, but Ralph's defensive responsibilities clearly extended beyond that province, as Ralph was now thought to have been remiss farther north. That his alleged default was considered a leading cause of the irruption implies that strong march fortification was regarded not just as a practical necessity during war, but also as an effective deterrent to such flareups. Perhaps Dufferin, which Roger Pippard had received from Hugh de Lacy in 1207, was regarded an unlikely flashpoint for violence. But in 1253 Ua Néill had destroyed many castles in Ulster, including the justiciar's recently constructed castle at Maycove, about 35km southwest of Dufferin.<sup>194</sup> As such, landholders in the area were probably expected to maintain a war footing at the time.

In the event, the war of 1254 caused difficulties for the central as well as local government. The deputy justiciar was ill-prepared to handle the strain on his finances and resorted to imposing an aid of 10*m.* on every cantred in Leinster, '*ad Guerra de Hulvester' sustinendam*', without first obtaining the consent of the Marshal coparceners or their seneschals.<sup>195</sup> Edward's desire for a speedy resolution is clear from his empowerment of the seneschal and Henry de Mandeville to treat with the warring Gaels about returning to his peace.<sup>196</sup> With this in mind, it is

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<sup>193</sup> *CDI*, ii, no. 411.

<sup>194</sup> AU 1253.4. McNeill has observed the militarily functional design of the rebuilt Maycove castle ('County Down in the later middle ages', Lindsay Proudfoot (ed.), *Down: history and society: interdisciplinary essays on the history of an Irish county* (Dublin, 1997), p. 114). For the 1207 grant, see *COD*, i, pp 365-6.

<sup>195</sup> *CR*, 1254-1256, p. 159 (*CDI*, ii, no. 428).

<sup>196</sup> *Rôles Gascons, supplement au tome premier, 1254-1255*, ed. Charles Bémont (Paris, 1896), no. 4355 (*CDI*, ii, no. 412). Cf. below, pp 210-215.

notable that Ralph received little more than a slap on the wrist. Like his father, he remained a man of some standing – only a month earlier he had procured a royal grant of free warren for Maurice de Bermingham in the latter's Connacht lands.<sup>197</sup> Evidently, defensive shortcomings could be overlooked for such a man. Nevertheless, the threat in Edward's response makes it clear that the matter was regarded seriously, and that those who received royal assistance to fortify their lands were still expected to foot the remainder of their defensive bills. It does not appear that the seneschal required further input from Edward or the justiciar to distraint Ralph should he continue to neglect his lands, and his empowerment to do so recalls the penalties for inadequate march defence outlined in the letters of John's reign and the 1220s.

Although the threat of distraint ostensibly reveals that this course of royal action remained on the table fifteen years after it was last referred to in the sources, it may also indicate that this was not a power ordinarily wielded by the justiciar. Edward's communication conveys ostensibly contradictory signals. Landholders clearly had an ongoing responsibility to maintain well-defended marches, but the justiciar, or at least the seneschal of Ulster, was unable to deal with the matter without royal authorisation. As in the earlier decades, evidence on the matter is simply non-existent, but three potentially mitigating factors should be noted in this case. Perhaps most important is the fact that the justiciar himself (John fitz Geoffrey, Henry's appointee) was absent, and his place was being filled by Edward's representative, Richard de la Rochelle, the deputy justiciar. Indeed, even the arrangement by which the colony was effectively being governed by a 'condominium' between Henry and Edward was a very new development, and jurisdictions may not yet have been clearly delineated.<sup>198</sup> Moreover, Ulster was beyond the normal range of the justiciar's activities, and it was perhaps more appropriate to leave the monitoring of a specific landholder's fortifications in the hands of the seneschal; he may have ordinarily lacked the power to distraint on these grounds, particularly in the case of landholders of fitz Nicholas's stature.

It is clear from Henry's provision of funding to these prominent frontier landholders that march fortification remained important to him after the last of the sweeping commands regarding march fortification; it is equally clear that Edward's idea of the appropriate penalty for negligence in that regard aligned with those of his father and grandfather. As for Ralph, perhaps leaving slightly lax, but wealthy, individuals in charge of marches was deemed a necessary evil, as long as they could be pressured into bringing some of their riches and administrative acumen to bear on

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<sup>197</sup> *CDI*, ii, no. 407.

<sup>198</sup> The term is used to describe the arrangement in Richardson and Sayles, *Administration*, p. 10; James Lydon, 'The years of crisis, 1254-1315', *NHI*, ii, p. 181. See also below, p. 95; p. 105, fn. 236.

the protection of those lands. From the mid-1230s royal participation in the management of the Irish frontier appears to have diminished, and it is probable that greater control was by then being exercised by the king's Irish officials. Unfortunately, the lack of Irish administrative evidence means that official measures that did not require royal input are largely lost to us. If, as seems likely, distraint of inadequate march landholders had become an accepted power of the justiciar by the 1250s (if not much earlier), positive evidence is unforthcoming.

### *The effect of royal funding on frontier defence*

The provision of funding to particular landholders was no holistic approach to frontier defence. There can have been no expectation that the prestigious and powerful strongholds that benefited from the royal service would be able to single-handedly deter raiders from the areas where they were built. While the resulting fortifications were probably defensively powerful on an individual basis, no single castle could prevent the passage of Gaelic raiding parties through an area outright. This much is clear from the descriptions of Gaelic warfare provided by Simms and McNeill.<sup>199</sup> The main military applications of Irish frontier castles were probably as refuges and rallying points – there was, in any case, insufficient manpower to garrison any sort of impenetrable barrier. With this in mind, it is worth noting that of all the private castles known to have been funded at the king's command, the Gaelic annalists only record work on Donaghmoyne. Moreover, besides the 1299 attack on Castleroché, the only apparent annalistic reference to attacks on any of these is found in 1264, when ALC records that all the castles and street-towns (*chaislénaibh ocus do srádbhailtibh*) of Delvin were destroyed by Art Ua Maelsechlainn.<sup>200</sup>

In the case of Castlecomer, the quietude of the annals may reflect lack of annalistic coverage for the region, but the same is not true of the other castles built with royal aid. Hagger observed that a good measure of stability was needed in order to construct a stone castle – and of those Gaelic annals that note Roscommon's construction, only Inisfallen fails to mention that the irrepressible Aedh Ua Conchobair was ill at the time.<sup>201</sup> Although each of the fortresses funded by royal service lay in areas prone to warfare, it does not appear that they were of particular concern to the Gaelic annalists, either at the time of their construction or subsequently. It was simply unfeasible, in most circumstances, to construct or maintain impenetrable fortresses in the

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<sup>199</sup> Katharine Simms, 'Warfare in the medieval Gaelic lordships', *The Irish sword*, vol. 12 (1975), passim; McNeill, 'Mountains or molehills?', pp 242-3.

<sup>200</sup> ALC 1264.6.

<sup>201</sup> Hagger, *The fortunes of a Norman family*, p. 181. AI 1270.2; AC 1269.3; AU 1267.1; ALC 1269.2; AFM 1269.10. The site had been marked out almost a decade earlier (AC 1262.4; ALC 1262.2; AFM 1262.3).

areas most vulnerable to raiding. Perhaps Gaelic leaders considered these well-funded fortresses too strong to be worth attacking unnecessarily, and simply avoided them. It was probably intended that these castles should protect their owners and their immediate environs, and perhaps also limit the routes of attack and escape available to raiders, thereby making other local fortifications, and defensive efforts, more effective.

While the sums involved and the level of protection provided by the castles constructed varied, they provide an indicator of the king's attitude towards the Irish marches during these years – and, perhaps, an indicator of his changing opinions as to who should fund frontier defence. In twelve of the years between 1220 and 1236, and again in 1242, Henry authorised the assignment of some or all of the royal service to the construction or improvement of private frontier fortifications. This was normally reserved for the justiciar's expeditions, and its redirection to private ends, seemingly on the basis of petitions, is significant. It is important to note, however, that a veto was reserved to the justiciar. These were not cheap castles. The service of Meath alone should have amounted to £100, while the service of Uriel, frequently granted together with that of Meath, should have produced a little over £73. When this is compared to the costs incurred in the construction of the Clones earthwork it is clear that this kind of money could go a long way.<sup>202</sup> Moreover, some landholders received multiple grants, and in the case of Roesia's second castle it is clear that the king believed the service of Meath and Uriel would only allay part of the expense – clearly a significant building project was envisaged.

Only one later example of a royal service being summoned for the fortification of a castle has been identified. In 1299, John fitz Thomas's castle of Rathmegan was destroyed, and he wished to construct a new fortalice, for which the service was granted. Fitz Thomas proved unable to build at the time that this was done, and so in the following year, rather than summon another service, he was given an advance of £100, which he was to return if he failed to build.<sup>203</sup> The lack of evidence for other redirections of the royal service for the purpose of fortifying private castles may represent a shift towards other means of funding these. In 1200, 1217, 1220, and 1229, other royal money or assistance was promised for private fortification, and in May 1251 Robert de Muscegros was remitted the £30 farm he owed at the exchequer for two years to facilitate his

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<sup>202</sup> In 1211-12, the Dublin government spent £19 4s. 10½d. on works, £15 4s. 7d. on supplies, and £21 11s. on carriage of men and materials for the construction of Clones (McNeill, *Castles in Ireland*, pp 57-8).

<sup>203</sup> *CJRI, 1295-1303*, pp 230, 362. A petition dated by Connolly to 1302 may in fact relate to this episode (Philomena Connolly (ed.), 'Irish material in the class of ancient petitions (SC 8) in the Public Record Office, London', *Analecta Hibernica*, no. 34 (1987) p. 58). The justiciar, John Wogan, had also given fitz Thomas £40 to fortify his castle of Legh in 1297-8, but this was a loan (*CIRCLE*, CR 25 Edw. I, no. 39; Connolly, *Irish exchequer payments*, p. 140 (*CDI*, iv, no. 438); *Rep. DKPR*, no. 38, p. 87).

fortification of Tradery and Ocorn' (Bunratty and Clare).<sup>204</sup> Perhaps more indicative, however, is the aid fitz Nicholas was authorised to take from his tenants in 1251 and 1252. The imposition of aids and tallages on localities for various defensive undertakings, on the authority of the justiciar's court, became quite common during Edward's reign. These generally only come to our attention if they were the source of a legal dispute. Thus, in 1306, David de Caunteton regaled the justiciar with a tale of his difficulties obtaining an aid of 6d. from certain carucates in the liberty of Wexford, which had been imposed so he could build a fortalice at Moylagh to 'resist the malice of the Irish of that march'.<sup>205</sup>

Although the support promised was not always delivered, the evidence points to considerable royal and governmental concern for the construction and maintenance of private frontier fortification. It also reveals a willingness on Henry's part to contribute to the establishment of such fortifications, at least until the mid-1230s. The payment of sums such as these was, of course, intimately connected to magnate patronage, and we have seen that Nicholas de Verdon had his obligation to fortify his lands respited simultaneously with being promised assistance in constructing one. The lack of evidence after the early 1240s may indicate that tallages were being used to fund local fortifications by that time, but it is also possible that they were simply no longer being funded. It is clear, however, that Henry was less inclined to make contributions to the construction of private fortifications out of royal moneys after the early 1230s

### *Later compulsory fortification*

Notwithstanding scepticism from some quarters about the military value of most Irish castles, it is clear from the foregoing that they were regarded as essential for the maintenance of secure marches, and drastic measures were employed in order to ensure their construction and maintenance. The 1228 command to fortify the marches is the last extant document of the sort in the period, and it is unclear whether the justiciar's power over the marches was maintained, or simply permitted to lapse. After the period discussed here, the king's interest in the marches

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<sup>204</sup> *CR, 1247-1251*, pp 448-9 (*CDI*, i, no. 3126). For the identifications, see Orpen, *Ireland under the Normans*, iv, p. 60.

<sup>205</sup> This money was promised from 'each carucate of land of the liberty accustomed to contribute to common subsidies' (*CJRI, 1305-1307*, p. 13). For the further progression of David's woes, see *ibid*, pp 190-2. For more on the imposition of tallages and aids, and the difficulties frequently had levying them, see below, pp 79, 128-30, 186-8.

appears to have waned. Only one royal letter referring to marches is extant until the late 1260s,<sup>206</sup> though in 1242 Roesia de Verdun was twice respited of her obligation to settle her lands, *non obstante priore mandato regis*, indicating that Henry had issued a command, no longer extant, concerning the settlement of Irish lands, either directed at Roesia or more generally.<sup>207</sup> The sources give an impression of relative peace until the late 1240s, but sporadic outbreaks of violence meant that military ability, and defensive infrastructure, remained important; and in 1254 Edward evidently regarded failure to adequately defend one's marches as a grave offence, punishable in the same way that it had been during the first three decades of the thirteenth century.

From the lack of royal input into the management of the marches after 1228, it seems that this had become the remit of the Dublin government alone. Dublin had probably always taken the lead in such matters, but our lack of extant documents emanating from Dublin at this time means that decisions made within Ireland are generally hidden from our view. As the Dublin government grew in power and size, the Irish parliament and king's council took on the dominant role in legislating for frontier security. The earliest known parliament was not held until 1264, but in 1250 a group representing the *communitas Hibernie* had promised £300 for the head of a Gaelic leader, and as early as 1213 the king's rudimentary Irish council met to pledge loyalty to John and organise opposition to the rampaging Muirchertach Ua Briain. To this end, the magnates constructed a series of defensive fortifications in north Tipperary.<sup>208</sup> Our earliest parliamentary evidence comes from 1278, and while this convocation was by no means preoccupied with defensive matters, these did come within its purview – it legislated that henceforth, Gaelic leaders at peace would be responsible for punishing the crimes of individuals under their authority.<sup>209</sup>

If the parliament could put such measures in place, then it could probably also order distraint for failure to fortify one's marches. This was certainly the punishment outlined by the

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<sup>206</sup> This document simply pertains to the clearing of a pass near the marches of Ossory (*CR*, 1237-42, p. 513 (*CDI*, i, no. 2583)). For the document of 1268, which has more of a bearing on the present subject, see below, pp 111-12.

<sup>207</sup> See also below, pp 83-4. If Roesia alone was obliged in this way, it may have related to the decision to let the manor of Louth to her at farm in October 1241 (PRO C 60/38, m. 14 [accessed at <https://finerollshenry3.org.uk/> on 19/12/2019] (*CDI*, i, no. 2544)).

<sup>208</sup> Richardson and Sayles, *The Irish parliament*, pp 12-14, 55, 58. For the payment of 1250, see below, pp 179-80, 187.

<sup>209</sup> *Ibid*, p. 292; G.J. Hand, *English law in Ireland, 1290-1324* (Cambridge, 1967), p. 203. This tenet was extended to English '*chief[s] de graunt lygnage*' in 1310 (*Statutes and ordinances*, pp 266-7). See James Lydon, 'The impact of the Bruce invasion', *NHI*, ii, p. 278.

parliament of 1297.<sup>210</sup> This parliament obliged march landholders to place wards of appropriate sizes in their marches, or they would be punished by distraint of the lands in question – this was buttressed by the threat of ‘[additional] means which the court of the lord king may see fit’.<sup>211</sup> This parliament also obliged absentees to leave their bailiffs sufficient funds to ensure that their marches remained defensible. Here, too, distraint was threatened should they demur.<sup>212</sup> And an Irish parliament of 1310 ordered that ‘those who have lands in the march cause their marches to be guarded’, or the lands in question would be withheld from them until they reimbursed the lord from whom they were held any expenses he had incurred in conquering, securing, and guarding them (*conquerre come de la affirmer e garder*).<sup>213</sup> Some things, it seems, had changed little. The problems targeted by the parliamentarians of 1297 and 1310 were much the same as those which King John had perceived over a century earlier when he explained that he wanted the marches fortified so that *per defectu vestri non accidat dampnum terrae nostrae*.

### *Conclusions*

The sources do not permit detailed assessment of the efficacy of efforts by the crown and its Irish administration to coerce and coax march landholders into fortifying their lands. Nevertheless, consistent official concern for the adequacy of frontier defences can be discerned during the reigns of John and Henry III. The obligation to maintain well-fortified marches was barbed with threats of severe punishments for transgression, particularly under John. These threats served to underline both the king’s claim to ultimate power over the Irish marches, and the importance attached to the maintenance of fortifications there. Although the Irish marches were not systematically fortified during these years, it was clearly the intention of the king and his Irish government that all marches should be adequately encastellated.

The role of the Dublin government in shaping royal policy is quite muted within the evidence examined here, but this probably reflects limitations of the extant sources, not the dynamic between the king and his Irish advisors. Nevertheless, the justiciar’s role in the

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<sup>210</sup> For an excellent summary, see Cormac Ó Cléirigh, ‘The problems of defence: a regional case-study’, Lydon (ed.), *Law and disorder*, pp 26-8. It would be unwise to regard this as a ‘model parliament’, however (H.G. Richardson and G.O. Sayles, ‘The Irish parliaments of Edward I’, *PRIA*, vol. 38C (1928/1929), p. 128).

<sup>211</sup> Connolly, ‘The enactments of the 1297 parliament’, pp 150-3.

<sup>212</sup> *Ibid*, pp 152-3. Of course, the king himself was the biggest offender in this regard, a fact he was forced to admit by the Ordainers in 1311 (James Lydon, ‘Edward II and the Revenues of Ireland in 1311-12’, *IHS*, vol. 14, issue 53 (1964), pp 39-49).

<sup>213</sup> *Statutes and ordinances*, pp 272-3. The clause outlining this punishment highlighted the potential stakes of poorly-defended marches – the penalty could only be brought to bear ‘if [the lord could] conquer the said marches’.

implementation of the blanket commands regarding fortification is clear. And while the provision of funds to favoured landholders, and the sweeping commands of 1226 and 1227, were probably issued in response to petitions, the king was also receptive to counsel from Irish advisors on these matters. This is seen most clearly in the case of the grant to de Tuit, which was made on the basis of a petition from the archbishop of Dublin, a former justiciar. The grant to Roesia de Verdon was also based on the advice of an archbishop of Dublin, albeit not one with Irish administrative experience. In several cases Henry explicitly stated that grants of the royal service were only to be made if the justiciar considered them advantageous. This was probably also the case when the king's letters did not directly say so. This added an unusual dimension to these grants as instances of magnate patronage, and emphasised that they were, ultimately, made for the purpose of improving frontier security.

It seems reasonable to suggest that the Dublin government had a march fortification policy during these decades, albeit one of uncertain practicability. What was ordained in 1200 and 1215 had probably remained in place in the interim, and in the early 1220s Geoffrey de Marisco continued to exercise powers he had been granted six years earlier by a different monarch. In 1200, 1215, and 1228 there was a close correlation between the appointment of a new justiciar and the restatement of that officer's power over march landholders. It seems unlikely that Henry would strip his justiciar of powers designed to secure the colony, limit the financial strain on the Dublin government, and assert royal authority. As such, it seems probable that these powers were maintained after 1229, though this cannot be confirmed. The absence of further evidence may simply reflect the growing authority of the Dublin government to act on such matters independently, as the Irish legislation later in the century reveals similar concerns and solutions. The provision of funds to marchers served to supplement the more systematic efforts to maintain secure marches.

There may have been somewhat of an inverse relationship between royal authority on the marches and the efficacy of frontier management. The resolve that what pertained to the crown must be inalienable, even on the frontiers, undoubtedly made landholding there more challenging, and thus made the marches more dangerous for landholders and their tenants. Moreover, the practical infeasibility of the justiciar systematically assessing march castles may have made it difficult to rectify infrastructural shortcomings in the marches. Thus, the success in reserving royal rights in the marches may have contributed to the breakdown of security in some marches due to abandonment. This realisation perhaps informed the brief extension to march landholders of the power to disseise tenants whose marches were insufficiently fortified, but if so, it soon became clear that the principle of inalienability trumped that of security.

## II

### Settling the Irish wastes, c.1229-1285

Ill-defended English frontier holdings were liable to become depopulated, making them worthless, and it was therefore crucial that defences suitable for local conditions be maintained in the Irish marches. But constructing, manning, and maintaining physical defences was not the only way to tackle the military problems posed by the frontier, and in the middle of Henry III's reign a more proactive approach was adopted: like his grandfather before him, Henry began making speculative grants of lands in the west of Ireland, which he termed 'Irish wastes'. The term 'waste' commonly referred to the overgrown and untamed lands that proliferated at the peripheries of medieval settlements. The association between wastes and the frontier is therefore clear in the Turnerian sense of man versus nature, and at first glance the waste grants made by Henry, and subsequently by Edward, may appear little different to the colonisation of wastes for arable that occurred throughout medieval Europe to accommodate expanding human settlement.<sup>1</sup> But there was an important political dimension to this policy, as most of the 'wastes' intended were in fact lands held by Gaels, particularly in the portion of Connacht retained by the Uí Conchobhair (the king's cantreds).<sup>2</sup> Thus, Walton suggested that 'in Ireland the term "waste lands" could mean land which was not inhabited by the English'.<sup>3</sup> As well as conveying Henry's inability to profit from the lands in question, then, the term 'waste', was also a euphemism for the unconquered frontier.

This chapter will commence with discussion of the medieval meaning of waste, followed by an exploration of the association between waste and the Irish marches specifically. This takes us some way away from government policy, but it provides context for the terminology applied to the unconquered portions of Ireland, hopefully providing insights into the official perception of the lands that remained in Gaelic hands. It also facilitates some examination of the challenges faced by ordinary people in some march areas, particularly in poorly protected ones. The remainder of the chapter focuses on the waste grants themselves. These grants have not been missed by historians, and there has been some debate over whether they were designed to

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<sup>1</sup> See, for instance, Michael Williams, 'Marshland and waste', Leonard Cantor (ed.), *The English medieval landscape* (London, 1982), p. 87. For discussion in the context of a military frontier, see Pluskowski, Boas, and Gerrard, 'The ecology of crusading', pp 192-225.

<sup>2</sup> The term is not used in the extant sources for the grants made from the lands of the Uí Briain in Thomond around the same time, but as these lands had no tenant in English law it is quite likely that the king and his Irish advisors conceived of the Connacht and Thomond grants in much the same way (Aoife Nic Ghiollamhaith, 'The Uí Briain and the King of England, 1248-1276', *Dál gCais*, no. 7 (1984), pp 95-7).

<sup>3</sup> Walton, 'The English in Connacht', p. 218, fn. 68.

resolve an Irish frontier problem or an English court patronage problem.<sup>4</sup> But historians have not explored one crucial facet of the waste grants, namely repeated efforts by Henry and Edward to effect a more systematic settlement of the frontier by empowering their justiciars to make extensive waste grants on their own initiative. The topic thus permits further exploration of the collaboration between the king and his Dublin administration when it came to decision-making about the Irish frontiers, and it allows the centrality of the Dublin government to this process to be highlighted.

### *The concept of wasteland*

Medievalists are very familiar with references to 'waste'. The term frequently denoted the destruction of property which one had no right to destroy – accusations of 'waste during wardship' were often levelled at minors' guardians,<sup>5</sup> and 'waste of commons' referred to the overuse of shared natural resources.<sup>6</sup> These were significant offences, and both were legislated against by the statute of Westminster (1285). Waste of commons had earlier been tackled by the statute of Merton (1236), and Magna Carta had forbidden waste by guardians.<sup>7</sup> The damage done by housebreakers and thieves was also called waste,<sup>8</sup> and in the late 1170s, Richard fitz Nigel penned a very precise definition of waste of woodland, a crime so severe that it was forbidden even within one's own woods.<sup>9</sup> The right to go 'quit of waste' was highly sought-after, but grants of this liberty were often subject to constraining qualifications.<sup>10</sup> A related concept was the 'year, day, and waste' of an outlaw's lands and chattels to which the king was entitled,<sup>11</sup> which might be dispensed by grant.<sup>12</sup>

The term did not just denote destruction and devaluation, however. It was also applied to land that was neither settled nor cultivated, whether its untilled and uninhabited state reflected

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<sup>4</sup> The debate has been summarised by Frame, who steers a middle course by emphasising the role of the justiciar in shaping Henry's policy towards Ireland (Robin Frame, 'King Henry III and Ireland: the shaping of a peripheral lordship' (1992), repr. in idem (ed.), *Britain and Ireland*, pp 51-3).

<sup>5</sup> For an Irish example, see *CJRI*, 1295-1303, pp 386-9; *CDI*, v, no. 255.

<sup>6</sup> See Jean Birrell, 'Common rights in the medieval forest: disputes and conflicts in the thirteenth century', *Past & Present*, no. 117 (1987), pp 42-7.

<sup>7</sup> *Statutes of the realm*, i, pp 2-3, 81-2, 83, 94.; Holt, *Magna Carta*, pp 450-1.

<sup>8</sup> *CJRI*, 1295-1303, p. 52, *CJRI*, 1305-7, p. 449, *CJRI*, 1307-14, pp 312.

<sup>9</sup> *Dialogus de scaccario*, pp 92-3.

<sup>10</sup> Birrell, 'Common rights in the medieval forest', p. 32. Many such grants are found in *CChR*, i-ii.

<sup>11</sup> Frederick Pollock and Frederic William Maitland, *The history of English law before the time of Edward I*, i (2nd ed., Cambridge, 1898), pp 471-2. For an Irish example see *CJRI*, 1305-7, p. 272.

<sup>12</sup> *CChR*, vol. ii, pp 192, 197, 306, 384, 464. For some Irish examples see *CJRI*, 1295-1303, p. 169; *CJRI*, 1305-7, pp 468-9, 477.

legal or demographic constraints, inhospitable terrain, the threat of violence, or some admixture of these factors. Thus, wastes included woodland and heathland, peatbog and grassland, each of which could fulfil important economic roles such as pasturing animals, hunting, gathering nuts and berries, or collecting fuel and building materials.<sup>13</sup> The importance of these resources is self-evident, and common rights of access were enshrined in the 1217 charter of the forest and the 1236 statute of Merton.<sup>14</sup> That the forest charter was reissued thirty-two times by 1301 is perhaps more indicative of baronial interests than the defence of common rights, but it nevertheless indicates the importance of its provisions.<sup>15</sup>

Wastes do not tend to feature prominently in historians' analyses. These were lands that were being used neither for crop cultivation nor for settlement, and they are seldom the main focus of the sources that allude to them.<sup>16</sup> The modern understanding of the term 'waste' has perhaps also contributed to the lack of interest in this topic – the term conjures up desolation, worthlessness, and leftovers.<sup>17</sup> But although they were uncultivated, wastes were not necessarily uncultivable. Woodlands could be turned to assart and marshes drained to create new arable as populations grew; in periods of downturn, unused arable might be permitted to revert to waste.<sup>18</sup> Thus, the ebb and flow of wasteland has been used to gauge the changing economic and demographic situation in parts of medieval Europe.<sup>19</sup> If sufficient manpower was available, converting waste to arable could bring about a rapid increase in revenue, albeit at the cost of limiting the variety of one's tenants' diets.<sup>20</sup> Thus, the 1259-60 account for Twescard in Ulster

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<sup>13</sup> Willy Groenman-Van Waateringe, 'Wasteland: buffer in the medieval economy', *L'homme et la nature au Moyen Âge: paléoenvironnement des sociétés européennes, actes du ve Congrès International d'Archéologie médiévale tenu à Grenoble* (Paris, 1996), pp 113-16. For emparkment – the taming of wilderness for the cultivation of resources such as fish, rabbits, and deer – see Margaret Murphy and Kieran O'Connor, 'Castles and deer parks in Anglo-Norman Ireland', *Eolas*, vol. 1 (2006), esp. pp 57-64; Fiona Beglane, *Anglo-Norman parks in medieval Ireland* (Dublin, 2015), esp. pp 56-60; idem, 'Deer parks: lost medieval monuments of the Irish countryside', Vicky McAlister and Terry Barry (eds), *Space and settlement in medieval Ireland* (Dublin, 2015), passim; idem, 'Forests and chases in medieval Ireland, 1169-c.1399', *Journal of Historical Geography*, vol. 59 (2018), pp 92-7.

<sup>14</sup> *Statutes of the realm*, i, p. 20. For an excellent overview of the many uses of woodland see Birrell, 'Common rights in the medieval forest', esp. pp 26-40.

<sup>15</sup> William Stubbs, *Select charters and other illustrations of English constitutional history from the earliest times to the reign of Edward the first* (9th ed., 1913), p. 490.

<sup>16</sup> Eleanor Johnson, 'The poetics of waste: medieval English ecocriticism', *Publications of the Modern Language Association*, vol. 127, no. 3 (2012), p. 461.

<sup>17</sup> Ibid; Teresa Bolger, 'An analysis of the environmental history of medieval County Dublin based on Archbishop Alen's Register c.1172-1534', Seán Duffy (ed.), *Medieval Dublin VIII: proceedings of the Friends of Medieval Dublin Symposium 2006* (Dublin, 2008), pp 306-8.

<sup>18</sup> Waateringe, 'Wasteland', p. 113.

<sup>19</sup> This approach is taken in relation to England for the eleventh to fourteenth centuries in Williams, 'Marshland and waste', pp 86-125.

<sup>20</sup> See Christopher Dyer, *Standards of living in the middle ages, social change in England, c.1200-1520* (Cambridge, 1989), p. 37. See also Bartlett, *The Making of Europe*, pp 155-6; idem, 'Heartland and border', p. 28.

records the receipt of 15s. from lands in Drumgenath and Drumcarbri, which had previously lain waste and uncultivated – no mean increase.<sup>21</sup>

Nevertheless, the resources provided by some wastes meant that their conversion to arable was not always the top priority. Considerable swathes of wasteland were intentionally kept in Durham, and in Ireland, too, wastes were sometimes intentionally retained.<sup>22</sup> Thus, a grant of uncertain date made by Archbishop Luke of Dublin (1228-55) permitted the grantee and his men to take deadwood and underwood and to pasture their beasts in the wood of Fythgonerogy; but they were expressly forbidden from cultivating that wood without the prelate's consent.<sup>23</sup> Sometimes the concepts of waste as destruction and as purposefully uncultivated land could overlap: Orderic Vitalis claimed that 'so great was [William the Conqueror's] love of woods that he laid waste more than sixty parishes, forced the peasants to move to other places, and replaced the men with beasts of the forest, so that he might hunt to his heart's content'.<sup>24</sup> Evidently the term 'waste' was not exclusively negative in connotation – one set of writers rather prescriptively contended that '[t]he study of wasteland... does not concern itself with land that was literally waste, and whose value was judged only by its potential for conversion into arable'.<sup>25</sup> When applied to land, as in the waste settlement policy to be discussed here, the term can be understood to refer simply to land which, while not necessarily useless, was not rendering the revenue that it could be.

### *Wastes of war and boundary wastes*

Inquisitions *post mortem* (IPMs) relating to England indicate that during Henry III's reign wastes typically made up a small portion of varied holdings.<sup>26</sup> This is consistent with the view long held amongst medievalists that the limits of agricultural expansion were all but reached in England during the thirteenth century.<sup>27</sup> By contrast, a low population density in Ireland meant that wastes

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<sup>21</sup> 'Ancient exchequer accounts of Ulster, A.D. 1260-1262', ed. James F. Ferguson, *Ulster Journal of Archaeology*, first series, vol. 3 (1855), p. 162.

<sup>22</sup> H.M. Dunsford and S.J. Harris, 'Colonization of the wasteland in County Durham, 1100-1400', *The Economic History Review*, vol. 56, no. 1 (2003), p. 54.

<sup>23</sup> *Alen's reg.*, pp 81-2.

<sup>24</sup> *The ecclesiastical history of Orderic Vitalis*, vol. v, trans. and ed. Marjorie Chibnall (Oxford, 1975), pp 284-5. This is an exaggeration (*ibid*, p. 284, fn. 1).

<sup>25</sup> Dunsford and Harris, 'Colonization of the wasteland in County Durham', p. 36.

<sup>26</sup> See, for instance, *CIPM*, i, nos. 253, 307, 341, 416, 672, 804, 820. For 'uncultivated' (*frische*) lands, see *ibid*, nos. 279, 913. Cf., however, *ibid*, no. 528, where at his death in 1262 Hugh de Bolebek held 215a of waste in Northumberland, as well as 518a 1r which appears to have been assart.

<sup>27</sup> Williams, 'Marshland and waste', p. 119; Dunsford and Harris, 'Colonization of the wasteland', pp 34-5. The latter authors contend that this historiographical consensus ill-serves north-eastern England.

were widespread there, even in relatively heavily settled areas, and the shortages of pasture experienced in England due to population pressure must have been rare in Ireland.<sup>28</sup> Moreover, if neglected, settled land could rapidly become overgrown and ‘waste’. This inevitably happened often on the frontiers of English settlement, where colonial outposts were frequently abandoned or destroyed. Lucas, in his comprehensive study of the historical uses of furze (gorse) in Ireland, commented on the plant’s ‘colonial habit of growth’.<sup>29</sup> The adjective is peculiarly apt in the context of the Irish frontier, as lands depopulated and devastated by war were liable to be rapidly overtaken by such weeds. Thus, once-pristine English settlements could quickly revert to waste and become inhospitable to English mobility, habitation, and cultivation.<sup>30</sup> Thus, omitting ‘literally wasted’ lands from an analysis of the Irish frontier, as suggested by Dunsford and Harris, would severely curtail the sources at one’s disposal.

Historians of medieval Ireland are well-acquainted with references to lands that lay waste despite their owners’ wishes. The court records contain numerous allegations of the countryside being wasted by bands of robbers;<sup>31</sup> descriptions of lands lying ‘waste by war’ (often suffixed with ‘of the Irish’) are commonplace in the calendared pipe rolls and IPMs;<sup>32</sup> the phrase was applied to parts of northern England when the impact of war with Scotland began to be felt.<sup>33</sup> Richard Kaeuper has shown that the intentional wastage of land was a characteristic part of medieval warfare – even a small force could rapidly devastate large areas of agricultural land.<sup>34</sup> This has been most thoroughly discussed in relation to the Domesday wastes, as historians have debated whether or not the ambiguous references to large swathes of wasteland recorded in 1086 had

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<sup>28</sup> Bolger, ‘An analysis of the environmental history’, p. 296; Williams, ‘Marshland and waste’, p. 119.

<sup>29</sup> A.T. Lucas, ‘Furze: a survey and history of its uses in Ireland’, *Béaloideas*, vol. 26 (1958), p. 2. For this plant’s vast distribution in Ireland see *ibid*, pp 2-5.

<sup>30</sup> The same could, of course, happen anywhere. For abandoned villages falling waste in England see Christopher Dyer, *Everyday life in medieval England* (2nd ed., London, 2000), p. 39.

<sup>31</sup> For instance, *CJRI*, 1307-14, pp 176, 235, 322.

<sup>32</sup> ‘*Guerram hibernicorum*’. For examples of lands waste by war or waste by war of the Irish during Edward I’s reign see *CIPM*, ii, nos. 209, 436, 437, 446, 530; *ibid*, iv, no. 435; *ibid*, v, no. 56. For ‘waste places where the Irish dwell’ and similar see *ibid*, ii, nos. 272, 437; *ibid*, iii, no. 48; *ibid*, iv, nos. 347. For lands which have suffered from reduced income due to war etc. but are not described as waste see *ibid*, ii, nos. 209, 446, 530; *ibid*, vol. iii, nos. 288, 366, 437; *ibid*, iv, no. 435. For references to waste which make no allusions to war see *ibid*, ii, nos. 484, 446, 696, 507; *ibid*, iv, nos. 373, 434, 435; *ibid*, v, no. 424. In each category, some inquisitions contain multiple relevant references. See also *CDI*, ii, nos. 146, 1181, 1283, 1801, 1912, 2329; *ibid*, iv, nos. 306, 806; *ibid*, v, nos. 666, 670; *Rep. DKPR*, 36, pp 30, 32, 33, 60-1, 63-4; *ibid*, 38, p. 78; *PROME*, roll 3, m1d. no. 21; *CJRI*, 1305-7, pp 28-30.

<sup>33</sup> For instance, *CCR*, 1302-7, pp 294, 471.

<sup>34</sup> Richard W. Kaeuper, *Medieval Chivalry* (Cambridge, 2016), pp 187-94; John Palmer, ‘War and Domesday waste’, Matthew Strickland (ed.), *Armies, chivalry and warfare in medieval Britain and France: proceedings of the 1995 Harlaxton Symposium* (Stamford, 1998), pp 262-5; see also Robin Frame, ‘The Bruces in Ireland’ (1974), repr. in *idem* (ed.), *Ireland and Britain*, p. 76.

their genesis in the Conqueror's 'harrying of the north'.<sup>35</sup> Similarly, wastes recorded in the early pipe rolls of Henry II have been associated with the civil war of Stephen's reign.<sup>36</sup> There has been no comparable discussion of war wastes in the English sources for Ireland, but wastes were sometimes explicitly associated with the Irish marches, most notably in the second statute of the 1297 parliament.<sup>37</sup> War in the Irish marches, while not unremitting, was recurrent, and the long-term maintenance of arable was unfeasible in particularly volatile marches.<sup>38</sup>

War, and the consequent abandonment of lands, certainly led to the development of wastes on the Irish frontier during the period covered by the calendared pipe rolls, and in the later medieval period, too, wastes proliferated beyond the marches.<sup>39</sup> But the direct effects of war may not have been the only reason for the appearance of wastes there. On other frontiers wastes were intentionally maintained or even created, and could serve as frontier defences.<sup>40</sup> Ó Riain has noted that in pre-invasion Ireland wastelands sometimes served as boundary markers, and Patterson, too, has observed that pre-invasion *tuatha* were often delineated by common wastes.<sup>41</sup> Ancient Irish practices should not be given too much weight in a discussion of English policy towards Irish wasteland centuries later, but there were English precedents too. Despite the great extent of English arable in 1086, substantial waste reserves remained in the Welsh and Scottish borderlands, though these were largely converted to arable during the twelfth and thirteenth centuries.<sup>42</sup> Wastes had long functioned as frontier buffer zones throughout Britain and Ireland, and they probably did so in post-invasion Ireland as well. Indeed, it would be surprising had these uneasy cultural neighbours operated cheek by jowl given Ireland's low population density. As such, it seems quite likely that a strong association pertained in Ireland between wastes, war, and the frontier.

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<sup>35</sup> See, for instance, T.A.M. Bishop, 'Assarting and the growth of the open fields', *The Economic History Review*, vol. 6, no. 1 (1935), p. 13; Palmer, 'War and Domesday waste', esp. pp 266-7; Stephen Matthews, 'William the Conqueror's campaign in Cheshire in 1069-70: ravaging and resisting in the north-west', *Northern History*, vol. 40, no. 1 (2003), p. 55.

<sup>36</sup> Emilie M. Amt, 'The meaning of waste in the early pipe rolls of Henry II', *Economic History Review*, vol. 44, no. 2 (1991), pp 240-1.

<sup>37</sup> See below, p. 80.

<sup>38</sup> Stephen of Lexington put it evocatively: 'though there may be peace by the hour there, there is however no constant peace, no secure peace' (*Letters from Ireland*, p. 57; 'Registrum epistolarum Stephani de Lexington', ed. P.B. Griesser, *Analecti Sacri Ordinis Cisterciensis*, vol. 2 (1946), p. 42).

<sup>39</sup> S.G. Ellis, 'The English state and its frontiers in the British Isles, 1300-1600', Standen and Power (eds), *Frontiers in question* (Basingstoke, 1999), p. 161.

<sup>40</sup> Standen, 'Nine case studies of premodern frontiers', p. 24.

<sup>41</sup> Pádraig Ó Riain, 'Border association in early Irish society', *Studia Celtica*, vol. 7, 1972, p. 7; Nerys Patterson, *Cattle lords and clansmen: the social structure of early Ireland* (Notre Dame, 1994), p. 92.

<sup>42</sup> Dunsford and Harris, 'Colonization of the wasteland in County Durham', p. 34. Cf. also the uninhabited 'debateable lands' between parts of the English and Scottish marches in the late medieval period (Hay, 'England, Scotland and Europe', p. 82).

Clearly, to view Irish wastes solely through an economic lens would be to adopt a very limiting viewpoint. Moreover, in the marches and land of war wasteland clearance was not just a matter of man versus nature. The English and Gaelic social and economic systems emphasised different aspects of agricultural practice. For instance, it does not appear that the Gaelic-Irish kept hay, whereas the English did. Thus, in 1256 collectors of crusading obventions were advised to complete their collection from the Gaels by early winter, or little would remain.<sup>43</sup> The Gaelic preference for mobile pastoral farming meant that lands deemed waste by the English were sometimes viable sites for Gaelic habitation. Patterson has argued that the early Irish *tuatha* upon which many later English political units were based often owed their shape to the historical distribution of common waste, which was used for booleying.<sup>44</sup> Wastes were also used to maintain large herds to supply cattle for forging clientship relationships and paying indemnities to powerful neighbours, and Patterson contended that 'the linch-pin of the political economy was... the control of wilderness'.<sup>45</sup>

In some places, lands designated waste by the English gained considerable political importance as powerful Gaelic septs adapted to survive in the mountains, bogs, and woods. A.P. Smyth suggested that much of Leinster's Gaelic population was pushed above the 600-foot contour to land which had not been settled before the arrival of the English.<sup>46</sup> Nicholls has contended that settlement would in fact have been impossible at this height in the Leinster mountains. Whoever is correct, the debate highlights Ireland's low settlement density, as historians have regarded the limited settlement above 800 feet which Domesday reveals in some areas as evidence of limited settlement.<sup>47</sup> Whatever altitude they settled at, the Leinster septs did not wither away in their lofty retreats. The Uí Broin and Uí Tuathail remained a force to be reckoned with, and the Meic Murchada, too, returned to a position of dominance after a century of obscurity. Smyth also argued that the 'expanse of boggy waste' in north-west Leinster was a

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<sup>43</sup> *Et circa finem autumni et principium hyemis oportebit colligere legata et alias obventiones crucis ab Hiberniensibus, dum aliquid habent; quo tempore lapsa parum plurimis remanebit* (Fitzmaurice and Little, *Materials*, p. 24). For Gaelic and English hay-harvesting practices in Ireland, see Fergus Kelly, *Early Irish farming: a study based mainly on the law-texts of the 7th and 8th centuries AD* (Dublin, 1998), pp 2-3, 20.

<sup>44</sup> Patterson, *Cattle lords and clansmen*, p. 92. The first recorded use of the term 'booley' dates from 1596. Tadhg O'Keefe, *Medieval Ireland*, p. 68.

<sup>45</sup> Patterson, *Cattle lords and clansmen*, p. 94.

<sup>46</sup> Alfred P. Smyth, *Celtic Leinster: towards an historical geography of early Irish civilization, A.D. 500-1600* (Dublin, 1982), p. 108. Nicholls, has contended that much of the region highlighted by Smyth 'is bare mountain top which could never have supported a population even during the climatic optimum of the thirteenth century' (K.W. Nicholls, 'The land of the Leinstermen [review of Smyth, *Celtic Leinster*]', *Peritia*, vol. 3 (1984), p. 541).

<sup>47</sup> Williams, 'Marshland and waste', p. 113.

focal point for Gaelic culture both before and after 1169 – in Ireland, it seems, one man's waste was another's treasure.<sup>48</sup>

### *The dangers of waste on the Irish frontier*

The distinct attitudes towards waste also imbued Irish wastes with a keen military significance. As well as being ideally suited to the particularly mobile Gaelic economic system, it seems that woodlands also facilitated guerrilla-style Gaelic warfare.<sup>49</sup> In Gaelic Ireland land was plentiful and manpower scarce, and the Gaels generally exhibited little interest in seizing territory that they had neither the population to hold nor the economic need to intensively inhabit.<sup>50</sup> It has been persuasively argued that the Gaelic and English modes of warfare differed less than has often been supposed, but there remains plenty of evidence to suggest that the Irish landscape posed military problems for the English.<sup>51</sup> The majority of the evidence for this arises from colonial sources, and it must be treated cautiously – O'Keeffe has regarded O'Conor's acceptance of Henry Chrysted's description of Irish woodland mobility as 'unwitting acquiescence in Chrysted's stereotyping of "foreign" Irishness'.<sup>52</sup> Nevertheless, in light of the volume of evidence, some of which is found in Gaelic sources, the matter deserves discussion in the present context.

The best-known testimony comes from the *Expugnatio*. Giraldus emphasised the military difficulties that arose in Ireland because much combat occurred in wooded (*silvestria*) or marshy (*palustri*) land. Mobility on confined or difficult ground (*arta vel aspera*) was important when withdrawing or giving pursuit – essential manoeuvres given the centrality of harrying to Gaelic warfare.<sup>53</sup> Giraldus's analysis was engineered to support his claim that the Geraldines were uniquely well-suited to Irish warfare, and we must beware the 'wild man' of the woods trope he

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<sup>48</sup> Smyth, *Celtic Leinster*, pp 104, 106, 108. For a more recent exploration of this idea, see Thomas Finan, *Landscape and history on the medieval Irish frontier: the king's cantreds in the thirteenth century* (Turnhout, 2016), pp 57-63.

<sup>49</sup> Beglane, *Anglo-Norman parks*, pp 61-2; Kieran O'Conor, 'Gaelic lordly settlement in 13th and 14th century Ireland', Ingunn Holm and Sonja Innselset (eds), *Utmark: the outfield as industry and ideology in the iron age and the middle ages*, (Bergen, 2005), p. 218.

<sup>50</sup> Simms, 'Warfare', pp 99-100. This was not always the case – cf. the statement, in 1312, that the Uí Broin were 'destroying the faithful people and devastating their land, occupy[ing] it as if conquerors' (NAI KB 2/4, p. 44).

<sup>51</sup> Marie Therese Flanagan, 'Irish and Anglo-Norman warfare in twelfth-century Ireland', Thomas Bartlett and Keith Jeffery (eds), *A military history of Ireland* (Cambridge, 1996), passim, but see esp. p. 74.

<sup>52</sup> O'Keeffe, 'Concepts of "castle"', p. 81.

<sup>53</sup> *Expugnatio*, pp 246-7. See Simms, 'Warfare', p. 100; idem, 'Gaelic warfare in the middle ages', Bartlett and Jeffery (eds), *A military history of Ireland*, p. 107. From Prestwich's description of the logistics of English knightly combat it is clear that Irish warfare, as described in the sources, would be exceedingly difficult for a fully-equipped knight (Michael Prestwich, 'Miles in armis strenuus: the knight at war', *TRHS*, fifth series, vol. 5 (1995), pp 205-7).

purveyed.<sup>54</sup> There are, however, plenty of other attestations of Gaelic mobility. The *Song's* author commented that the English knights were fearful while traversing a pass where Diarmait Mac Murchada had thrice been defeated: 'it is not surprising if the brave knights feared these men who were as swift as the wind.'<sup>55</sup> The 'eulogy' for Piers de Bermingham (d.1307), says that he pursued the Irish even into the wilderness hideaways to which they retreated for safety.<sup>56</sup> Lionel of Clarence returned to Dublin a contrite man after losing a hundred men on an expedition against the Uí Broin, having excluded the English of Ireland (*nativ[i] de Hibernia*) from his force, and it seems quite likely that his army had required their local expertise.<sup>57</sup> According to Froissart's Anglo-Irish informer,

Ireland is one of the worst... countries in which to carry on warfare... [the Gaels] retire into such remote and impenetrable fastnesses that it is impossible to come up with them... [F]rom their minute knowledge of the country they [often] find a favourable opportunity for attacking their enemies... and when they have the worst of any skirmish, they scatter and hide in hedges or bushes, or underground, and seem to disappear without trace.<sup>58</sup>

Similarly, Sir John Davies contended that by forcing the Gaels into the woods and mountains, they gifted them 'natural fortifications and castles.'<sup>59</sup>

A small amount of Gaelic evidence should also be brought to bear here. In 1230, during a huge English expedition into Connacht, we read that the Síol Muiredaig retreated into the woods; 'since their cattle and folk had gone with them to Slieve Anierin and into inaccessible fastnesses, they determined to take no heed of the Galls and made no plans concerning them'.<sup>60</sup> This recalls Roger of Wendover's claim that in 1210 some Gaelic kings 'scorn[ed] to come to the king because

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<sup>54</sup> See Richard Bernheimer, *Wild men in the middle ages: a study in art, sentiment, and demonology* (Harvard, 1952), pp 12-20, esp. p. 16. See also Jacques le Goff, *The medieval imagination* (1985), trans. Arthur Goldhammer (Chicago, 1988), pp 56-8. Cf. the earl of Hereford's retinue at the fraught parliament of 1312, which was strengthened by a '*turba Wallensium uallata, siluestris et fera*' (*Vita Edwardi secundi: the life of Edward the second*, ed. Wendy R. Childs (Oxford, 2005), pp 56-7).

<sup>55</sup> Mullally, *Deeds*, II 660-3.

<sup>56</sup> *Die Kildare-Gedichte*, p. 162. For more on this poem, see below, pp 190-1.

<sup>57</sup> *CSM*, ii, p. 395.

<sup>58</sup> John Joliffe, *Froissart's chronicles* (London, 1967), p. 363. Cf. the description of Robert Bruce's mode of warfare in 1310 (*Vita Edwardi secundi*, pp 24-7). For Ireland's 'otherness' in Froissart's works, see Claire Sponsler, 'The captivity of Henry Chrystede: Froissart's *Chroniques*, Ireland, and fourteenth-century nationalism', Kathy Lavezzo (ed.), *Imagining a medieval English nation* (Minneapolis, 2004), pp 314-17.

<sup>59</sup> Sir John Davies, *A Discovery of the true causes why Ireland was never entirely subdued nor brought under obedience of the Crown of England until the Beginning of His Majesty's happy Reign (1612)*, Henry Morley (ed.), *Ireland under Elizabeth and James the First* (London, 1890), p. 288.

<sup>60</sup> AC 1230.5.

they dwelt in impregnable places'.<sup>61</sup> The *Caithreim* describes Muirchertach Ua Briain's troops abandoning their armour, projectiles, and horses, 'for they... thought that on foot they would make better play over the rough intricate paths'.<sup>62</sup> Beglane has suggested that Gaelic nobles may have hunted cross-country rather than in parks, as was common in more tillage-based societies. Hunting provided medieval warriors with opportunities to hone essential military skills, and cross-country hunting had the added benefit of improving participants' familiarity with the landscape and their facility at navigating it.<sup>63</sup> Presumably most Gaelic soldiers were not fortunate enough to indulge in this pastime, but by all accounts the Gaels were considered to be comparatively at ease in the 'waste' landscapes of Ireland, and this complicated the matter of protecting the frontiers of English settlement.

The vast wastes in Ireland, coupled with the frequent military instability of the frontiers, made the careful upkeep of forest and mountain passes a matter of considerable importance to the colonists. Passes were often the sites of ambushes and could quickly become overgrown. Giraldus commented on the importance of clearing forest passes in Ireland, and regarded negligence in this regard as one of the many areas in which the non-Geraldine colonial leadership was deficient.<sup>64</sup> Passes would remain problematic. In the late 1220s Stephen of Lexington claimed to have 'escaped mortal dangers from robbers in the wood outside Kilcooly', and in 1242 the king ordered his justiciar to clear the pass of Cumsy between Fethard and the march of Ossory because travellers were often killed and robbed there.<sup>65</sup> In c.1274-6 a pass was cut in the Faes of Athlone,<sup>66</sup> and in 1277 Edward ordered that a castle be built in the pass of Slydale, which appears to have been the site of a recent ambush.<sup>67</sup> This is reminiscent of the fortification raised by Mac Giolla Pátraic raised in a strategic pass in Osraige in 1170.<sup>68</sup> On de Sandford's peacekeeping itineration of 1290, he cleared the pass of Delvin and other passes in Connacht and Meath;<sup>69</sup> in 1309 Piers Gaveston *amputavit et mundavit passum inter castrum Keviny et Glyndelach*;<sup>70</sup> and in 1317 Roger

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<sup>61</sup> Roger of Wendover, *Flowers of history. Comprising the history of England from the descent of the Saxons to a.d. 1235. Formerly ascribed to Matthew Paris*, ii, trans. and ed. J.A. Giles (London, 1849), p. 254.

<sup>62</sup> *Caithréim*, p. 128.

<sup>63</sup> Beglane, *Anglo-Norman parks*, pp 60-2; Michael Prestwich, *Edward I* (2nd ed., Yale, 1997), pp 6-7.

<sup>64</sup> *Expugnatio*, pp 240-1.

<sup>65</sup> *Letters from Ireland*, p. 45; *CR, 1247-42*, p. 513; *CDI*, i, no. 2583.

<sup>66</sup> *Rep. DKPR*, 36, p. 41. See also below, p. 80, fn. 83.

<sup>67</sup> Sayles, *Affairs*, p. 15. An English force was ambushed in the pass of Slydale in c.1275 while Thomas de Clare was leading a force against the Gaels of Slieve Bloom (*Rep. DKPR*, 36, p. 33).

<sup>68</sup> Mullally, *Deeds*, II 1014-19.

<sup>69</sup> *CDI*, iii, no. 559, pp 269, 270.

<sup>70</sup> *CSM*, ii, p. 338. The same entry also appears in the later annals of Thomas Case (*ibid*, p. 281). For the relationship between the various annals contained in the chartularies see Bernadette Williams, 'The

Mortimer, leading a force against the Uí Fearghail, *scindere fecit passum malum, et destruxit omnes habitaculos suos* in order to obtain hostages.<sup>71</sup>

There was also an element of collective local responsibility involved in the clearance of passes, undoubtedly due both to the importance of the work and to its backbreaking nature. In c.1284 efforts were made to raise 2s. from every carucate in Limerick in order to 'destroy a pass there',<sup>72</sup> and in 1285 it was alleged that the justiciar had mishandled a levy of 2s. per carucate for levelling a pass in Leinster.<sup>73</sup> An account for Dublin and Meath covering 1311 to 1314 records £20 granted by the community of Fingal for the clearing of the pass of Dossan, and a further £7 8s. 7½d. was accounted for in 1315.<sup>74</sup> In 1299 Piers de Bermingham was promised an aid for a variety of military purposes including repressing the Gaels of Offaly 'and to clear their passes'.<sup>75</sup> Another element in the efforts to ensure that passes were maintained is observed in a document of 1290-1, according to which the sheriff of Tipperary was normally expected to 'deliver those attached by mainprise, giving to them the bad passes of the country (*mauveys pas du pays*) to cut down; [and] to cause the people of the county to be summoned to the passes; and to amerce those who did not come'. This had recently been forbidden by the justiciar, but the county's farm had not been adjusted to reflect that.<sup>76</sup> In 1297 the abbot of Rosglas was amerced for shirking his obligation to keep the pass of Grangihokel clear.<sup>77</sup> In the same year a jury summoned in Leys informed the justiciar that it would be to the good of the country if those bound to clear the passes of Colonagh, Belagh, Daragh, and Kilcorhene did so.<sup>78</sup> On a subsequent visit to Leys he learned of a robbery in the 'pass to Oboy'.<sup>79</sup>

Such was the importance of keeping passes unobstructed that in 1297 local men offered to clear a pass through John de Valle's wood of Ballycallan for free.<sup>80</sup> The jurors on this occasion specified that a width of about five perches (approximately twenty-five metres) would be appropriate, and the justiciar granted their request. The considerable width which they hoped to

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Dominican annals of Dublin', Seán Duffy (ed.), *Medieval Dublin ii: proceedings of the Friends of Medieval Dublin Symposium 2000* (Dublin, 2001), passim.

<sup>71</sup> *CSM*, ii, p. 356.

<sup>72</sup> *CDI*, ii, no. 2338, p. 557.

<sup>73</sup> *CDI*, iii, no. 2, p. 7. For similar levies, see below, pp 128-30; 186-8.

<sup>74</sup> *Rep. DKPR*, 39, pp 47, 53.

<sup>75</sup> *CJRI*, 1295-1303, pp 286-7.

<sup>76</sup> *CDI*, iii, no. 999, pp 447-8. See also *ibid*, no. 963, p. 424.

<sup>77</sup> *CJRI*, 1295-1303, p. 175.

<sup>78</sup> This record is damaged, and additional passes may also have been mentioned (*ibid*, p. 168).

<sup>79</sup> *Ibid*, p. 179.

<sup>80</sup> *Ibid*, p. 173.

clear was probably intended to improve visibility and security from ambush.<sup>81</sup> According to the parliamentarians of 1297, the royal highway was overgrown in many places so that 'the Irish, trusting in the thickness of woods and the depth of the adjacent bogs' could easily escape after committing misdeeds. Any whose lands the royal highway passed through were therefore obliged to 'cause passes to be cut and cleared, low and close to the ground and sufficiently wide... so that a road may be opened, sufficiently wide and totally cleared of briars and trees both standing and lying'. If a landowner could not afford this, an aid should be raised from the adjacent districts, and if they refused to do so the justiciar would do it at their expense and they would be severely punished.<sup>82</sup> This official ordinance perhaps lends some weight to the testimonies adduced above for the mobility of Gaelic fighters over rough terrain. The above examples indicate that passes were regarded as ideal sites for ambushes, and this is further attested by incidental references to horses lost in passes around Ireland.<sup>83</sup>

Permitting passes to fall to waste was clearly dangerous, but the same was true of other lands. The second statute of the 1297 parliament complained of absentee landholders

leaving their lands in the marches waste and uncultivated and unguarded, [so that] the Irish felons, going through these waste lands in their marches, freely pass to commit... evils on the English, and return through them without arrest, hue and cry or hindrance.

Thus, marches were destroyed and their inhabitants forced either to flee or to obey Gaelic felons. The parliament ordained that wards must be maintained in the marches to prevent this from happening.<sup>84</sup> Frontier wastes were clearly considered a liability that left the colonists open to attack, whether they originated from war or neglect. Indeed, sometimes the term is used as though it were interchangeable with 'march'. For instance, in a case that came before the justiciar in Cork in 1297, the sheriff claimed that the defendant could not be found because he was 'among the Irish in waste land, where no serjeant or bailiff of the king dared go to attach him'.<sup>85</sup> The following week in Tipperary the justiciar heard a more familiar formulation: debts owed to the

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<sup>81</sup> *Viae regiae* were to be of a specific width which Jäger suspects to have been an unobtainable ideal in many instances (Helmut Jäger, 'Medieval landscape terms of Ireland: the evidence of Latin and English documents', John Bradley (ed.), *Settlement and society in medieval Ireland: studies presented to F.X. Martin, o.s.a.* (Kilkenny, 1988), p. 282).

<sup>82</sup> Connolly, 'The enactments of the 1297 parliament', pp 156-9.

<sup>83</sup> *CDI*, ii, nos. 890, 1219; *Irish exchequer payments*, p. 26; *rep. DKPR*, 36, p. 33. For a harness lost in the pass of Fethes (the Faes of Athlone), see *Irish exchequer payments*, p. 12. Also note the claim that nothing could be taken from a certain wood in Bray because of robbers and war (*Red book of Ormond*, no. 10).

<sup>84</sup> Connolly, 'The enactments of 1297', pp 150-1. For the emergence of the use of defensive wards in Ireland see Robin Frame, 'English officials and Irish chiefs in the fourteenth century' (1975), repr. in *idem* (ed.), *Ireland and Britain*, p. 257.

<sup>85</sup> *CJRI, 1295-1303*, p. 143.

chancellor, Thomas Cantock, could not be levied because ‘the goods... are in so strong a march that no serjeant dare go’. In this instance the sheriff was ordered to gather the *posse comitatus* to recover the debt.<sup>86</sup> In the escheator’s account submitted in 1302-3 nothing was answered for the lands of Dunhugge (co. Cork), extended at 39s. 6d. annually, because ‘the greater part... [lay] waste and uncultivated and is in the march near the Irish’.<sup>87</sup> March and waste appear virtually synonymous in the first two instances and are closely intertwined in the third. Waste was clearly an extremely versatile concept, but in Ireland, ‘waste’ and ‘march’ had strong shared connotations.

Many landholders may have regarded waste portions of their holdings as lands which were simply not yet cultivable. But on the frontiers, wastes were probably viewed with considerable trepidation as Gaelic raiders could seemingly travel through them with comparatively minimal impediment. The administrative sources sometimes afford us a window onto the concerns of those who lived on the frontiers. Those present at Edward’s Easter parliament of 1290 heard how William le Deveneys’ betaghs had fled his mountainous holdings due to ‘*nimiam guerram*’.<sup>88</sup> A case heard in June 1312 reveals how a band of English-surnamed robbers capitalised on the fear of Gaelic raids by impersonating the Uí Tuathail. They entered Hugetoun le Rede by night and shouted out “‘Fennok abo, Fennock abo”, *quod est signum de OTohils*’. When the terrified townspeople fled, the crooks burgled their homes.<sup>89</sup> According to an inquisition taken in 1326, the betaghs of the archdiocesan manor of Boly Minor refused to perform the labour services they owed because they dared not remain in the marches overnight.<sup>90</sup> Similarly, in 1310 eight carucates of arable lay untilled in the liberty of Wexford because ‘[nobody] dare[s] to put hands to them on account of the Macmurghs, who... preyed upon and devastated that land’;<sup>91</sup> and the escheator’s 1302-3 account recorded nothing from the manor of Anise

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<sup>86</sup> Ibid, p. 147. Lydon was undoubtedly correct when he suggested that Cantok’s office probably influenced the decision to use the posse (James Lydon, ‘Ireland in 1297: at peace after its manner’, idem (ed.), *Law and disorder*, p. 24). For another case in which assistance was needed to levy goods in the marches, see *CJRI, 1295-1303*, p. 397; this case is drastically and misleadingly calendared in RC 7/9, p. 521.

<sup>87</sup> *Rep. DKPR*, no. 38, p. 77.

<sup>88</sup> Edward told his justiciar to cause the betaghs to return unless they now inhabited royal demesne – a reminder of the shortage of labour in parts of Ireland (*PROME*, roll 4 Edw. I, no. 15; *CDI*, iii, no. 622). William le Deveneys was also accused of bribing his way into office under de Fulbourne, though this charge might better be viewed as one of extortion by the justiciar (*CDI*, iii, no. 2, p. 4). For le Deveneys’s career, see Áine Foley, *The royal manors of medieval co. Dublin: crown and community* (Dublin, 2013), pp 97-9.

<sup>89</sup> NLI MS 1, f. 403r; *CJRI, 1307-14*, p. 244. This is the earliest extant phoneticized representation of an Irish war cry (David Greene, ‘The Irish war-cry’, *Ériu*, vol. 22 (1971), p. 169).

<sup>90</sup> *Opera eorundem ad nullum precium extendunt per annum quia in Marchia et non sunt ausi ibidem morari per noctem* (‘Notices of the manor of St. Sepulchre, Dublin, in the fourteenth century’, ed. James Mills, *JRSAI, 4th series*, vol. 9, no. 78 (1889), p. 39).

<sup>91</sup> *CJRI, 1308-1314*, p. 159. For a similar complaint from 1275x84, see Sayles, *Affairs*, no. 41.

(Kildare): this lay in the march near the Irish, 'and nobody has courage to live there'.<sup>92</sup> Such dangers might even be factored into land grants – in 1310 Edward Wutton farmed out some land to John the merchant, but conceded that 'When through general war the land is untilled, no rent is to be paid while the war lasts, except for one year, after which no rent shall be paid nor shall the time of war be reckoned in the term'.<sup>93</sup> Clearly some residents on the frontiers feared for their safety there; if the presence of wastes was a risk factor for attacks, then it must have been detrimental to settlement.

In Ireland the significance of wasteland often went beyond the resources it provided. Converting wastes to arable at an appropriate pace as the population grew was not policymakers' sole, or even main, concern. The eradication of wastes served military as well as economic purposes, and their continued existence not only limited the colony's potential for growth but could actively work against the maintenance of its existing limits. The appellation 'wastes' in the land grants shortly to be examined thus had military and ideological, as well as economic, underpinnings, and the language of 'colonisation' of wastes used by historians serves as a double entendre in the context of government policy in Ireland.

### *Early frontier settlement under Henry III*

The remainder of this chapter will focus on the emergence of an official policy of literally cutting back the so-called 'wastes' on the Irish frontier. It is clear that wasteland colonisation offered many potential financial benefits, and many landholders would probably have been interested in settling them once their lands' populations reached a sufficient size. Still more stood to be gained by colonising wastes outside one's existing holdings, something which could not be done in Ireland without royal licence – something which would be in plentiful supply during the latter half of the thirteenth century, which bore witness to a royal drive to grant away Irish 'wastes' *en masse*. But Henry III's interest in systematically putting more Irish land under the plough had emerged long before that, and we will first explore the earlier manifestations of these impulses.

In July 1229 he inquired about those of his Irish lands that had yet to be settled or built on (*non edificati nec habitati*). He ordained that the best of these should be retained by the crown, and the remainder granted out for settlement.<sup>94</sup> The justiciar, Richard de Burgh, appears not to have capitalised on this licence to direct royal patronage in Ireland, as a royal letter of September

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<sup>92</sup> *Rep. DKPR*, no. 38, p. 82.

<sup>93</sup> *Dowdall Deeds*, no. 43.

<sup>94</sup> *CR*, 1227-31, p. 194.

1230 reiterated the previous letter's contents and chastised de Burgh for neglecting the king's command.<sup>95</sup> Clearly this was no passing whim, and Henry's interest in increasing the area of English settlement in Ireland, specifically on the frontiers, had already been indicated earlier in 1229 when he made grants in Connacht to Adam de Staunton and Geoffrey de Costentin.<sup>96</sup> In 1214 de Costentin had received the cantred of Trí Tuatha in the marches of Connacht in exchange for the cantred in which Athlone lay;<sup>97</sup> now, in exchange for that cantred Henry gave de Costentin 30 fees that lay *remotiora a castro nostro de Atlon et viciniora Hiberniensibus*.<sup>98</sup> It seems that de Costentin's holding was gradually moving farther west and encroaching upon the Ua Conchobair patrimony.

Henry had also expressed interest in the progress of settlement outside Connacht. In March 1229, de Burgh had been told to inquire into the honor of Lune, which had been taken into the king's hand when it was discovered that Richard de Mandeville was holding it without a charter. De Mandeville claimed that he had received it *vastam, incultam et inhabitatam* from King John. If the justiciar found this to be true, *et quod postea eam ad custum suum habitavit, et in ea edificavit*, then de Mandeville was to regain seisin, *non obstante eo quod cartam predicti... non habuit*.<sup>99</sup> The requirement that de Mandeville effect settlement on the holding recalls grants made on other expanding frontiers of medieval Europe.<sup>100</sup> Given the threat that wastes could pose to English march settlement in Ireland, it also recalls the expectation, repeatedly stated during the 1220s, that march holdings should be well-kept.

It is unclear whether de Mandeville's obligation to settle his lands was a general requirement in Ireland, or if Henry simply deemed this an appropriate criterion to establish a 'right by conquest' of sorts. There is little evidence for others being similarly obliged to settle their Irish lands, although given the letters of 1229-30, and the emphasis placed by Henry on Irish settlement in the coming decades, this may not have been a unique occurrence. In July 1242 Roesia de Verdun was granted respite until Michaelmas *de terra sua in Hybernia hospitanda... non obstante priore mandato regis*, implying that she had already been ordered to do so by some earlier command.<sup>101</sup> She was again respited in October, *assidendi vastam terram suam in Hybernia*.<sup>102</sup> Hagger suspected that these respites related to holdings around Dundalk, a rather unstable area which

<sup>95</sup> *CR, 1227-31*, pp 449-50 (*CDI*, i, no. 1852).

<sup>96</sup> Walton, 'The English in Connacht', p. 67.

<sup>97</sup> *RLC*, i, p. 170b (*CDI*, i, no. 508); *Rotuli chartarum*, p. 212 (*CDI*, i, no. 590).

<sup>98</sup> *CR, 1227-1231*, pp 196-7 (*CDI*, i, no. 1719).

<sup>99</sup> *CR, 1227-31*, p. 158 (*CDI*, i, no. 1677).

<sup>100</sup> Bartlett, *The making of Europe*, p. 118.

<sup>101</sup> *CPR, 1237-42*, p. 451 (*CDI*, no. 2567).

<sup>102</sup> *Rôles Gascons, tome premier, 1242-1254*, ed. Francisque Michel (Paris, 1885), no. 526 (*CDI*, i, no. 2588).

cannot have been attractive to settlers;<sup>103</sup> and Smith has suggested that the sense of urgency that made it necessary to oblige Roesia to bring about effective settlement may have faded.<sup>104</sup> In any case, unlike in the case of the obligation to fortify marches there is no earlier evidence for any widespread obligation to settle Irish lands. It may be significant, however, that both de Mandeville and de Verdun held in Uriel, where fortification continued to be prioritised. Perhaps wastes, too, were regarded as important for frontier security there.

Henry was particularly interested in the settlement of Connacht. By the time he attained his majority Connacht, alone amongst the ancient provinces of Ireland, remained largely untouched by English settlement. He may have associated this province with the kingship of Ireland, given the history of Ua Conchobair relations with the crown. The king's intentions for the region were baldly stated in a May 1233 letter to the justiciar, Maurice fitz Gerald. Henry acknowledged fitz Gerald's recommendation that the five Connacht cantreds reserved to the crown should be settled, and stated his wish that the justiciar should 'strive to subject the whole of Connacht to the king, and to establish peace in Ireland as well as in Connacht'. Maurice was also told to revoke alienations made by de Burgh, who was tainted by avuncular association with Hubert de Burgh – perhaps an indication that de Burgh had eventually acted on the instructions of 1230.<sup>105</sup> In July Henry expressed his concern for the bridge of Athlone to be completed: money assigned for work on Rinndown castle was to be redirected to that end, perhaps indicating that Henry had begun to envisage moving large numbers of men into the province. This was reiterated in another letter, in which Maurice was again told to strive to bring Connacht under the king's power (*laboret ad terram connacie potestati regis subjugando*).<sup>106</sup>

De Burgh's display of loyalty and ability in the Marshal war led to his recovery in Henry's estimation, and in the following year he was permitted to recommence his conquest of Connacht, *viriliter et potenter*.<sup>107</sup> This, and the use of the royal service in the force mustered, makes it clear that in seeking to conquer Connacht Richard was not just a recipient of royal favour but also an agent of royal policy. Although Richard was the beneficiary, the initiative was ultimately designed to benefit the king: de Burgh was not granted the lordship of Connacht as a liberty, and Henry certainly hoped that the grant would significantly increase his revenues at the Dublin

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<sup>103</sup> He also suggested southern Armagh as a possibility (Hagger, *The fortunes of a Norman family*, pp 81-2).

<sup>104</sup> Smith, *Colonisation and conquest*, p. 52.

<sup>105</sup> CR, 1231-4, p. 306 (CDI, i, no. 2032).

<sup>106</sup> CR, 1231-4, p. 315 (CDI, i, nos 2043, 2044).

<sup>107</sup> CR, 1231-4, pp 524-5 (CDI, i, no. 2189).

exchequer.<sup>108</sup> He also undoubtedly hoped that a successful settlement in de Burgh's portion of Connacht would make his own cantreds more secure and enticing to settlers.

After the conquest Henry retained five Connacht cantreds, which he leased to the king of Connacht. But de Burgh's successes encouraged Henry to look once more at establishing English settlement in his cantreds – plans were made to build three more castles there, though in the end one was built, at Onagh, and this lasted only until the 1270s.<sup>109</sup> Nevertheless, Henry's ambition to settle the area shortly returned into view. On 25 July, 1238, He tasked Peter Grimbaud (*de cuius fidelitate, peritia et prudentia plurimum confidimus*) with assisting the justiciar in establishing how best to deal with Connacht. This would involve ascertaining how many castles, towns, and cities (*castra, ville et civitates*) would be needed, where they might best be sited, and which lands ought to be retained in the king's hand.<sup>110</sup> As well as illustrating the manner of settlement envisioned, the letter's opening clause also provides an indication of how Henry's policy towards Connacht was being formulated: Peter's assignment arose from the frequent requests of the justiciar and itinerant justices for assistance in inspecting the exchequer and deciding the best course of action with regard to Connacht. In this regard the letter is like that of 1233 which noted that Maurice fitz Gerald had advised settlement in Connacht. It serves to remind that chancery letters do not reflect the mere 'impulses of officialdom'.<sup>111</sup> Rather, Henry's policy towards Connacht was informed by correspondence with Irish officials, and, in this instance, corroborative evaluation by a reliable and ostensibly unbiased third party. The letter affords a welcome insight into the processes underlying Irish policymaking, the machinery of which is often hidden from the historian's view.

Another royal letter dated 27 July conveyed the king's wish that William Bluet, a knight of the countess of Pembroke, be provided with £20 of land *vel escaetis de conquestu extra dominica regis in Hybernia*. This, too, was to be done by view of Peter Grimbaud.<sup>112</sup> This letter has been overlooked, probably because there is no evidence of William's subsequent appearance in Ireland. But in the present context, the phrase *conquestu extra dominicis regis* is of interest; its meaning is further clarified by an earlier epistle on the same topic dated 10 January, which had proposed giving William lands *in escaetis vel terris Hybernica*.<sup>113</sup> As Connacht was the region with which Grimbaud was expected to become familiar, and given that Henry was assessing the settlement

<sup>108</sup> Walton, 'The English in Connacht', pp 79-80.

<sup>109</sup> Ibid, pp 77-8.

<sup>110</sup> *CR, 1237-42*, pp 140-1. Henry's belief in Peter's competence was probably due to his performance as a debt collector for the king across vast swathes of England in the preceding months (*CR, 1237-42*, pp 116, 118).

<sup>111</sup> See Frame, 'Rediscovering medieval Ireland', p. 195. See also above, pp 18-19.

<sup>112</sup> *CR, 1237-42*, p. 81 (*CDI*, i, no. 2435). Sweetman renders this 'lands of escheat or Irish lands'.

<sup>113</sup> *CR, 1237-42*, p. 20 (*CDI*, i, no. 2457).

possibilities there at the time, it had probably been resolved that William should be endowed from Feidhlimidh's land. Lack of geographical specificity would be a hallmark of the grants of Connacht wastes which Henry would soon begin issuing, and his use of *conquestu* was probably synonymous with 'wastes' as it would soon come to be used – that is, Gaelic lands, to be identified by the justiciar, which might be made more profitable by the introduction of English settlers.<sup>114</sup>

Walton has noted that nothing concrete came of the 1238 assessment. In 1240 Feidhlimidh visited Henry in England and was, according to the Clonmacnoise annalist, granted all five of the king's cantreds.<sup>115</sup> The very fact of this visit is remarkable, as it is the first known appearance of a Gaelic king at the English monarch's court outside Ireland since Mac Murchada's fateful voyage. Although there is no official record of the grant, it certainly appears that relations between Feidhlimidh and Henry were relatively strong at this time. Perhaps Peter Grimbaud had deemed it inadvisable to interfere with the relative stability of the king's cantreds so soon after de Burgh's campaign, which, while successful, had not brought about extensive settlement.<sup>116</sup> It seems, however, that Henry (or perhaps his justiciar) was dissatisfied. In June 1241 William le Brun and Henry of Bath (the latter a senior justice and former sheriff)<sup>117</sup> were sent to Ireland to 'extend and assess... the waste lands of Connacht and elsewhere', to restore the king's rights so far as was feasible without disturbing Ireland's peace, and to assist in auditing the treasurer's account. The letter had a caveat: 'nothing is to be done without the counsel of the justiciary' – further indication of the king's ultimate reliance on that official for such matters.<sup>118</sup>

Henry's decidedly underhanded approach to relations with Feidhlimidh probably reflected the influence of his justiciar, whose experience and expertise Henry valued highly, and who had instigated the assessment of 1238. We need not look far for a motive: fitz Gerald had acquired a stake in northern Connacht in 1238, when Hugh II de Lacy granted him Tirconnell and two cantreds in Sligo, effectively making him a partner in efforts to subject the northern parts of Ireland to baronial rule. Settlement in the king's cantreds would have improved the security of

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<sup>114</sup> Cf. *CR*, 1247-51, pp 137, 145, which relate to grants of *conquestus* in Wales; cf. also *CR*, 1237-42, p. 369, concerning corn collected from the *conquestu regis de Rothelan*, and *CCR*, 1251-3, p. 365, *CR*, 1254-6, p. 301, which relate to a tallage being assessed on the king's *novo conquestu* in Wales.

<sup>115</sup> *Ann Clon.*, p. 237; cf. Matthew Paris, *English history from the year 1235 to 1273*, i, ed. J.A. Giles (New York, 1968), pp 297-8. Walton, 'The English in Connacht', p. 81. Feidhlimidh's intention to visit Henry's court had been stated in 1233 (Verstraten, 'Both king and vassal', p. 17).

<sup>116</sup> Walton, 'The English in Connacht', pp 201-2; Graham, 'The high middle ages', p. 64.

<sup>117</sup> D.A. Carpenter, 'Justice and jurisdiction under King John and King Henry III', *idem* (ed.), *The reign*, p. 25.

<sup>118</sup> *CPR*, 1232-47, p. 263 (*CDI*, i, no. 2519).

these holdings.<sup>119</sup> The use of the term ‘waste’ in 1241 evidently alluded to the fact that the cantreds remained in Gaelic hands. It is interesting, however, that the letter implies Henry intended to settle wastes outside Connacht too. It seems that Henry truly had turned his attentions to the Irish frontier. He may have started looking at Thomond as well, as he would begin making grants from the Ua Briain holdings before the decade was out. In the event, however, the 1241 assessment, like that of 1238, led to no immediate action.

The zenith of Feidhlimidh’s cooperation with the English was reached in 1245, when he assisted in fitz Gerald’s construction of Sligo castle and travelled to Wales to fight for Henry.<sup>120</sup> Feidhlimidh’s efforts were recognised: in this year Henry referred to him as the ‘king of Connacht,’ a considerable improvement on ‘son of the king of Connacht,’ by which he had addressed the Connachtman in 1243.<sup>121</sup> But 1245 also saw the onset of Gofraid Ua Domnaill’s attacks on the Geraldine position in Sligo, most likely prompted by the castle’s construction.<sup>122</sup> Gofraid’s efforts have been credited with inspiring subsequent anti-settler attacks in the region, most notably that led in 1249 by Feidhlimidh’s son Aedh, who would prove a resilient and highly capable foe of the English.<sup>123</sup> The shift in the character of Anglo-Gaelic relations in Connacht in the latter half of the 1240s compounded the damage done by an astounding series of deaths amongst Ireland’s leading barons in the first half of the decade.<sup>124</sup> From the point of view of the king’s growing interest in Irish frontier settlement, the most significant loss was that of Richard de Burgh in 1243. His heir, another Richard, attained his majority in February 1247, and it is clear that he, like his father, was pegged to serve as an agent of royal interests on Henry’s westernmost frontier.<sup>125</sup> The king expressed a willingness to grant Connacht’s shrievalty to de Burgh, and he was knighted in May 1248.<sup>126</sup> But Richard’s upward trajectory was cut short by his death – in early November arrangements were being made for his widow to receive dower.<sup>127</sup> Fate had thwarted Henry’s

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<sup>119</sup> Goddard H. Orpen, ‘The Normans in Tirowen and Tirconnell’, *JRSAL*, sixth series, vol. 5, no. 4 (1915), pp 280-1. For earlier hostility between Feidhlimidh and Maurice fitz Gerald, see Verstraten, ‘Both king and vassal’, p. 19. For de Lacy’s grants to fitz Maurice in this area, see *Red book of Kildare*, nos 21-2.

<sup>120</sup> AFM, 1245.3-4; ALC 1245.2, 1245.5; AC 1245.3, 1245.5.

<sup>121</sup> Walton, ‘The English in Connacht’, p. 213.

<sup>122</sup> AFM, 1245.11. This castle remained broken in 1289 (*Red Book of Kildare*, no. 129).

<sup>123</sup> Walton, ‘The English in Connacht’, p. 204. In 1249 a force led by Aedh ambushed Piers de Bermingham and slew several of his companions (AFM 1249.8).

<sup>124</sup> This aristocratic crisis has been seen as the end of an era (Smith, ‘Irish politics’, passim; Lydon, *The lordship of Ireland*, p. 85). A comparable genealogical disaster struck the Welsh marchers in the mid-thirteenth century (Davies, *Lordship and society*, p. 37).

<sup>125</sup> *CR*, 1242-1247, p. 501.

<sup>126</sup> *CR*, 1242-1247, p. 537 (*CDI*, i, no, 2909); *CR*, 1247-1251, p. 50. If Richard did receive the shrievalty he made little impression, as the Gaelic annalists do not mention his passing – an honour bestowed upon two prior sheriffs (AFM, 1247.3; *Ann. Clon.*, p. 238).

<sup>127</sup> *CR*, 1247-51, p. 126.

designs on Connacht yet again, and the English position there was beginning to look vulnerable. The province had experienced fierce warfare in 1247 – according to the annalist of Loch Cé '[t]he English of Connacht had not for a long time... experienced such a war... for there was not a district or cantred of the possessions of the English in Connaught which [the roydannas of Connacht] did not plunder and devastate'.<sup>128</sup> There is no suggestion that Feidhlimidh was involved in the insurrection, but the warfare may have convinced Henry that supporting him was wholly insufficient to maintain regional security. If he had not yet been won over by those claiming that his Connacht cantreds were ripe for settlement, the idea would soon be resurrected.

### *Waste grants, 1248-1251*

Renewed, or perhaps continued, royal interest in Irish settlement and expansion was signified in August 1247, when Henry ordered that Irish lands worth £30 be temporarily granted to Piers de Bermingham 'until the king provide for him in land to the value of £40 a year of waste without the king's demesne'.<sup>129</sup> Evidently Henry wanted de Bermingham's endowment to lie beyond the present effective limits of royal reach. Letters of August and November 1248 reveal that the justiciar had assigned £40 of land in the manor of Esker, co. Dublin to him. However, the king wished to retain this due to its proximity to Dublin castle, and the request that wastes (*terra vasta*) should be given instead was reiterated.<sup>130</sup> Similar thinking may explain the command, in August, that a grant of 10*m.* of land in Newcastle to St. Mary's Abbey be rescinded and different lands, *que sit de excaeta vel aliter*, be provided instead.<sup>131</sup> In November 1248 de Bermingham was granted the custody of the Butler and de Burgh lands and castles, which was perhaps intended to tide him over until wastes could be found.<sup>132</sup> Ultimately, however, it seems that the Esker property remained in the de Bermingham family for the next century.<sup>133</sup>

The king was evidently disinclined to alienate demesnes upon which his hold was already consolidated if he could avoid doing so, and he clearly believed that his patronage options went beyond secure demesnes and escheats. Similar intentions probably lay behind the May 1250 grant

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<sup>128</sup> AFM, 1247.7-9; AU 1247.3; ALC 1247.8-12. Quote at AFM 1247.8.

<sup>129</sup> CPR, 1232-47, p. 507 (CDI, i, no. 2896).

<sup>130</sup> CR, 1247-1251, p. 74; McNeill, 'Harris: Collectanea', p. 278; CIRCLE, *antiquissime*, no. 3; CDI, i, no. 2960; MS 1, f. 166r.

<sup>131</sup> CR, 1247-51, pp 197-8.

<sup>132</sup> TNA PRO C 60/46 m.12 [accessed at <https://finerollshenry3.org.uk/> on 20/12/2019] (CDI, i, no. 2975).

By 1252 de Bermingham was unhappy with the expenses involved in these custodies and he received 100*m.* to assist him (CR, 1251-3, p. 248 (CDI, ii, no. 87)). He had already received £200 and 100*m* spent in the custody of the lands in May 1250 (CCR, 1247-51, p. 288 (CDI, ii, no. 3056)).

<sup>133</sup> Áine Foley, *The royal manors*, p. 4.

of an annuity of 25*m.* to Jordan de Exeter until £20 of Irish wastes could be found for him.<sup>134</sup> As with de Bermingham, it seems that finding appropriate lands proved challenging, as in May the grant to Jordan was reiterated, though this time the mention of wastes was replaced with the standard specification that the lands should lie *ubi melius et commodius et ad minus dampnum regis*.<sup>135</sup> It goes without saying which of these desiderata was to be prioritised, and given that Jordan would eventually receive these ‘wastes’ in a virtually uncolonised part of Feidhlimidh Ua Conchobair’s portion of Connacht, it is clear that a frontier grant was still intended.

This early evidence indicates that Henry entertained notions of utilising unconquered Irish lands for patronage purposes long before the well-known shift in this direction in the 1250s. Given that the grants pertained to land outside English control, anyone attempting to reify such grants would probably have found themselves with a march holding that required both fortification and manpower if it was to be held onto (and, if defensive obligations remained in place, perhaps also to retain legal seisin). Speculative grants of ‘wastes’ were beginning to re-emerge as a tool deemed appropriate for furthering the colonisation of Ireland and extending the royal administration’s territorial reach, though it should be noted that their success in both regards was, as of yet, negligible. Henry’s interest in taking a more systematic approach to the settlement of Irish wastes was signified in June 1250. He requested the advice of Archbishop Luke of Dublin, Maurice fitz Gerald, Piers de Bermingham, ‘and many others’ as to ‘whether it would be more advantageous for the king’s wastes in Ireland to be [settled and] cultivated (*hospitari et excolere*) or to be let to farm to the men of Ireland’.<sup>136</sup> This is reminiscent of the initiatives of 1229-30, 1233, 1238, and 1241. Again, Henry’s decision to accede to the expertise of resident magnates (in this case not just that of the justiciar) in formulating his policy towards the settlement of the Irish frontier is significant. These men were the guiding force behind both the formulation and implementation of his policy towards the frontier in Ireland.

Given the apparent difficulty of assigning wastes to de Bermingham, one of the counsellors of 1250, one would think that farming out wastes *en masse* was impractical, as, indeed, was direct cultivation. Nevertheless, it seems that Henry was advised to farm the lands out, for in June 1251 fitz Geoffrey was ordered to extend Henry’s demesnes and let them to farm.<sup>137</sup> The details of fitz Geoffrey’s dealings in this regard might have been clear from the pipe rolls, now lost. His approach can perhaps, however, be ascertained from a letter of July 1252, in

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<sup>134</sup> *CPR, 1247-58*, p. 67; *Calendar of the liberate rolls preserved in the public records office*, eds William Henry Stevenson and Cyril Thomas Flower (London, 1916), p. 291; *CDI*, i, nos. 3052, 3059.

<sup>135</sup> *CR, 1247-51*, p. 448.

<sup>136</sup> *CPR, 1247-58*, p. 68 (*CDI*, i, no. 3061).

<sup>137</sup> *CPR, 1247-58*, p. 99.

which Henry expressed his annoyance at fitz Geoffrey for farming out demesnes and other royal lands to members of the royal household, which Henry believed was not to his profit.<sup>138</sup> Fitz Geoffrey was told to desist, and to instead deliver the lands to Henry's 'proper tenants', presumably meaning that Henry wished to resume direct cultivation of the demesnes in question. Henry may have believed that the justiciar was using his newly delegated powers to reward favourites. But fitz Geoffrey's approach may in fact have reflected efforts to stabilise lands that the administration was struggling to manage. Direct cultivation enabled the greater exploitation of resources but was less reliable and more complex to administer;<sup>139</sup> Lyons has noted several instances in which political and economic instability precipitated a switch from direct cultivation to farm in Ireland.<sup>140</sup> The deteriorating situation in Connacht has already been outlined. That difficulties were emerging elsewhere as well is indicated by the huge sum paid for the head of Carbri Ua Máel Sechlainn, taken in 1250, and by the money offered for the heads of malefactors in Dublin, Cork, and Connacht in c.1251.<sup>141</sup> Fitz Geoffrey was no fool – he was keenly aware of the colony's financial situation, and Henry tempered his reprimand by conceding that the present policy should be maintained if fitz Geoffrey '[saw] the king's profit evidently therein.'

Henry's faith in fitz Geoffrey was further demonstrated by another letter of the same date rebuking the treasurer and chancellor for their reticence to obey the justiciar's orders. They were to follow fitz Geoffrey's lead

in improving and letting (*hospitandis*) the king's manors and other lands... repairing the king's castle and houses, and in doing all other matters in Ireland as shall seem to them best, as the king has left all his affairs to the discretion of the said John, and his will is that they... shall be intendant to him without contradiction.<sup>142</sup>

This was a stern reminder of the authority delegated to the justiciar, but it also highlights the importance of Henry's other chief ministers and the need for cooperation within the Dublin administration. These two letters add weight to Frame's suggestion that fitz Geoffrey held considerable sway over Henry's policy towards Ireland.<sup>143</sup> It has been seen that fitz Geoffrey's predecessor, Maurice fitz Gerald, was also frequently deferred to on matters of frontier

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<sup>138</sup> *CPR, 1247-58*, p. 205 (*CDI*, ii, no. 212).

<sup>139</sup> See, for instance, Mary C. Lyons, 'Manorial administration and the manorial economy in Ireland c.1200 – c.1377' (PhD, TCD, 1984), pp 33-4. The same was also true lower down on the social ladder (John Gillingham, *Conquests, catastrophe and recovery: Britain and Ireland, 1066-1485* (London, 2014), p. 52).

<sup>140</sup> Lyons, 'Manorial administration', pp iv, 11, 118, 176, 255-6, 331. Lyons does not discuss this episode.

<sup>141</sup> See below, pp 178-80.

<sup>142</sup> *CPR, 1247-58*, p. 205 (*CDI*, ii, no. 216).

<sup>143</sup> Frame, 'King Henry III and Ireland', pp 52-3.

settlement. As well as indicating the justiciar's considerable influence over royal policy, these two letters also reveal that the king's chief priorities in Ireland were the maintenance of infrastructure and maximisation of revenue through settlement and, if possible, direct cultivation.

### *Waste settlement, 1251-1253*

Henry's waste settlement initiative began to pick up more steam after he promised a gift of land to Oliver de Aspreville in June 1251. This grant, and those which would follow, have rightly been placed in the context of Henry's patronage difficulties at court (the January 1248 grant of a cantred in Thomond to Robert de Muscegros has also been seen in this context).<sup>144</sup> De Aspreville was to receive £20 of land to hold by knight's service, where it would be least damaging to the king and would most benefit Oliver.<sup>145</sup> When, in July, Thurstan de Pierrepont, who had long served Henry in Ireland, was granted £10 of wastes (*terris forinsecis vastis*) to settle (*quas inhabitari faciet*), it was specified that his grant should be fulfilled before all others except that to Oliver de Aspreville.<sup>146</sup> Thurstan, then, was to be given lands that were presently unprofitable and beyond royal control, and he was to prioritise settlement. Perhaps the settlement obligations of de Mandeville and de Verdon had originated in similar clauses. In August, the justiciar was told to provide the king's marshal, Roger de Lokinton, with £10 of land *in loco competenti et meliori pace... de vasta terra*.<sup>147</sup> Further grants were made two years later: in August 1253 William de Chabbeney was promised £40 annually at the exchequer until he could be assigned £40 of waste, and Robert Walerand was to have £20 annually until £40 of wastes or escheats could be found for him.<sup>148</sup> It is unclear whether the lands promised to de Pierrepont and de Chabbeney were ever assigned, but others amongst these waste grants were.

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<sup>144</sup> Nic Ghiollamhaith, 'The Uí Briain and the king of England', pp 94-9; Robin Frame, 'England and Ireland, 1171-1399' (1989), repr. in idem (ed.), *Ireland and Britain*, pp 18-19; idem, 'King Henry III and Ireland', esp. pp 49-53. For the Thomond grants see below, pp 96-7.

<sup>145</sup> *CR, 1247-51*, p. 458 (*CDI*, i, no. 3154).

<sup>146</sup> *CR, 1247-51*, p. 480 (*CDI*, i, no. 3176).

<sup>147</sup> *CR, 1251-3*, p. 141 (*CDI*, ii, no. 75).

<sup>148</sup> *CR, 1251-3*, p. 408 (*CDI*, ii, no. 290); *CPR, 1248-1257*, p. 220 (*CDI*, ii, nos 281, 288). William de Chabbeney was described as the 'king's yeoman' in 1249, and as the 'king's kinsman' – presumably translated from *familia* – in 1251 and again in January 1253, when he was promised £40 annually at the king's exchequer until wards or escheats could be provided for him. The August letter probably reflected efforts to offload some of the demands on the English exchequer onto that of Ireland (*CPR, 1247-58*, pp 44, 119, 174). William had no known earlier association with Ireland, but in April 1253, he witnessed Henry III's confirmation of a grant to Mellifont Abbey (Fr. Columcille, 'Seven documents from the old abbey of Mellifont', *Journal of the County Louth Archaeological Society*, vol. 13, no. 1 (1953), p. 51)

De Aspreville's grant was fulfilled in May 1252, when he received five vills around Aughrim in Uí Maine, the southernmost cantred of Henry's Connacht demesnes, in fee.<sup>149</sup> The grant inaugurated a new drive to settle the king's cantreds, and although this may have been influenced by the Gaelic hostility of recent years,<sup>150</sup> it is clear that Henry had been weighing up his arrangements in Connacht for at least two decades. Feidhlimidh was relatively amenable to Henry's overlordship, but from the crown's perspective Feidhlimidh's probable heir, Aedh, was an unpredictable menace. Even if Aedh was better-disposed to the settlers, the Gaelic dynastic system meant that Feidhlimidh and his successors were simply less beholden to the crown than the likes of the de Burghs. For instance, both Feidhlimidh Ua Conchobair (d.1265) and Walter de Burgh (d.1271) owed the crown enormous sums on their deathbeds,<sup>151</sup> but these debts could far more easily be used to wring support from de Burgh's heirs than from Feidhlimidh's.<sup>152</sup> Financial risk assessment must be seen as one of the chief factors underlying Henry's decisions relating to settlement in the Irish frontiers.

It is highly unlikely that Henry was acting entirely on his own initiative in making the Uí Maine grant to de Aspreville: the two lay magnates mentioned by name in Henry's 1250 request for advice on the settlement of his Irish wastes, Piers de Bermingham and Maurice fitz Gerald, had recently suffered severe setbacks at the hands of the Uí Conchobhair and would probably have relished seeing that sept weakened. They may have recommended granting land in the cantreds to individuals who did not already possess Irish lands in order to introduce new settlers into Ireland. But Henry's Irish advisors probably did not advise the specific course which he elected to take, namely trying to eliminate his pressing court patronage problem and his Irish frontier problem in one fell swoop. Most of those to whom waste grants were made in 1251 and 1252 possessed neither great wealth nor notable military records; Irish officials would have recognised that most such grantees were unsuitable for a frontier which even the de Burghs could not effectively settle.<sup>153</sup> De Aspreville himself may have expressed reservations to Henry about the holding's viability, for after two months the king ordained that nobody was to 'deprive Oliver... of

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<sup>149</sup> *CChR*, i, p. 391 (*CDI*, ii, no. 35); *COD*, i, no. 117.

<sup>150</sup> Walton, 'The English in Connacht', p. 458.

<sup>151</sup> The calendared pipe rolls record huge arrears due from Feidhlimidh and Walter long after their deaths. See, for instance, the pipe roll for 1286-7, which recorded £16,500 of arrears owed by Feidhlimidh and £1,928 9s. 9d. from de Burgh (*Rep. DKPR*, no. 36, p. 24).

<sup>152</sup> For the crown's use of unpaid fines to control the nobility, see Hartland and Dryburgh, 'The development of the Fine Rolls', pp 195-6. For an example of the king's use of Irish magnate debts in negotiations with them, see *CDI*, v, no. 145.

<sup>153</sup> De Burgh settlement in Connacht was heavily influenced by the need to secure strategically important sites (Patrick Holland, 'The Anglo-Norman landscape in county Galway; land-holdings, castles and settlements', *JGAHS*, vol. 49 (1997), pp 163-4).

his Irish or other *betaldos*'.<sup>154</sup> De Aspreville, an English courtier of little note who lacked prior interests in Ireland, cannot have possessed the resources necessary to bring about any great settlement in the west of Ireland, and the king's letter may have been written after de Aspreville surveyed the land and discovered that reliance on Gaelic labour would be essential in Uí Maine.<sup>155</sup>

Henry was slow to make further Connacht grants, perhaps to avoid provoking attack, and for a time Oliver was the region's sole English grantee. His enthusiasm remained muted: an *inspeximus* of July 1253 reveals that he had sold four vills to John fitz Geoffrey, who in turn granted them to his nephew Richard de la Rochelle in fee.<sup>156</sup> On 5 July Henry granted de la Rochelle another £20 of land 'near the land of Oliver de Aspreville' in Uí Maine in lieu of his fee, and licensed him to keep his own gallows, with all appurtenant rights, in his manor of Haghedrinn (Aughrim), which would become the de la Rochelle *caput*. Profits could accrue from gallows only if laws were broken by settlers, and this valuable concession indicates that the goal was the colonisation of Feidhlimidh's cantred of Uí Maine. Aughrim was the only vill Oliver had not granted to fitz Geoffrey, so it seems that Henry's courtier had abandoned all claim to his Irish wastes.<sup>157</sup> The day after the grant to de la Rochelle, the £10 promised to Roger Lokinton were assigned in the more northerly cantred of Tír Maine, though this grant was probably never realised.<sup>158</sup> Three days later Jordan de Exeter, too, finally received his Irish wastes, namely four vills in Uí Maine.<sup>159</sup> He was already a substantial landholder in the de Burgh lordship and was much better placed than de Aspreville or de Lokinton to capitalise on the gift.<sup>160</sup> Although Henry made many waste grants, it seems only those in favour of de la Rochelle and de Exeter, both of whom were already based in Ireland, still stood in 1255. De la Rochelle alone appears to have attempted to establish settlement, and there is little indication that any of Henry's other grantees came to Ireland at all. Men like Oliver de Aspreville can have had little interest in sinking their limited wealth into uncertain settlement projects on distant, dangerous, frontiers.

But these individual grants did not represent the entirety of Henry's efforts to bring about English settlement on the frontiers of his Irish demesnes. As well as his own ineffective efforts to

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<sup>154</sup> *CR, 1251-1253*, p. 116 (*CDI*, ii, no. 52).

<sup>155</sup> Other references to de Aspreville have been listed in Frame, 'King Henry III and Ireland', p. 50, fn. 114.

<sup>156</sup> *CDI*, ii, no. 226.

<sup>157</sup> *CPR, 1247-58*, p. 208 (*CDI*, ii, no. 223); *CDI*, ii, no. 224.

<sup>158</sup> *CDI*, ii, no. 225. Walton, 'The English in Connacht', pp 472-3.

<sup>159</sup> *CDI*, ii, no. 228.

<sup>160</sup> Jordan was granted the southern half of the cantred of Leyny by Hugh II de Lacy prior to September 1240, and although he sold part of this, he was established in the other half by the 1250s (Walton, 'The English in Connacht', p. 145). Jordan was the sheriff of Connacht in 1249, and his son would later also occupy this role (*Ibid.*, p. 215). De Exeter, still sheriff, was killed while pursuing Hebridean pirates in 1258 (AC 1258.6-8).

use the frontier for ostensibly lossless patronage, Henry also envisaged his justiciar taking a more systematic approach to the settlement of Irish wastes. In July 1253, he ordered fitz Geoffrey to settle (*hospitari*) all Irish wastes by Michaelmas 1254. Wastes ‘found’ subsequently were to be kept in the king’s hand until further notice.<sup>161</sup> Two weeks later fitz Geoffrey was empowered to farm out the king’s Irish wastes for periods of eight-years.<sup>162</sup> As we have seen, a pattern had emerged in that Henry’s vague grants of Irish ‘wastes’ were repeatedly made from Gaelic lands in Connacht. The king’s attention on this province may have been partly due to its association with the high-kingship, which may have been strengthened by Feidhlimidh’s communications with Henry; it is unclear whether fitz Gerald’s waste grants were also supposed to be made in Connacht or if broader powers were intended. Evidently the more systematic approach to expanding settlement that had been mooted in 1229-1230 and 1250-1251 remained on the table. The king’s efforts to kill two birds with one stone were ill-judged, but he recognised the value of his justiciar’s expertise in Irish frontier matters, and his willingness to permit the justiciar to act on his own initiative reveals that he was not concerned only with patronage, but also with settling the frontier.

### *Resistance to royal policy from Dublin*

As well as permitting the justiciar to farm out Irish wastes and making some small grants himself, Henry had also begun formulating ideas about making bigger grants from the king’s cantreds. This, too, had the obvious benefit of easing Henry’s court patronage pressures – but it should also be remembered that most major Irish conquests had occurred under the auspices of well-resourced magnates on the basis of large speculative grants. The reorientation may have been precipitated by the failure of the lesser grantees to effect much settlement. Thus, on 8 July, 1253, Stephen de Longespee was promised first refusal should the king ever decide to grant away ‘the four cantreds in Connacht which Fethelinus Ochonochor holds at the king’s pleasure’.<sup>163</sup> It is unclear just how much the king’s word was worth. In May he had professed to harbour no intention of making grants out of the lands of the kings of Connacht or Thomond, despite the fact that many sizable grants had already been made of both kings’ lands and more were soon to come.<sup>164</sup> Henry was clearly set on ousting the Uí Briain and the Uí Conchobhair via speculative grants akin to those

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<sup>161</sup> *CPR, 1247-58*, p. 215 (*CDI*, ii, no. 253).

<sup>162</sup> *CPR, 1247-58*, p. 220 (*CDI*, ii, no. 286).

<sup>163</sup> *CPR, 1247-58*, p. 211 (*CDI*, ii, no. 237). The omitted fifth cantred was presumably Uí Maine, indicating that de Lokinton’s Tír Maine grant had been forgotten.

<sup>164</sup> *CR, 1251-3*, p. 474 (*CDI*, ii, no. 189).

made in the first decades after the invasion;<sup>165</sup> when, in 1258, the foremost sons of the kings of Connacht and Thomond heard out Brian O'Neill's lofty ambitions at Caeluisce, the nascent English settlements in their rapidly-diminishing kingdoms surely motivated their decision to subscribe (in varying degrees) to his ideal of a broad inter-provincial Gaelic alliance.

It also seems unlikely that the promise to de Longespee was kept, for on 11 February, 1254, Henry made a huge grant involving the Connacht cantreds to his Poitevin half-brother, Geoffrey de Lusignan.<sup>166</sup> This ultimately abortive grant of £500 of Connacht wastes is well known, if only for the ubiquity of references to it in the administrative sources for 1254-6. The lands granted were to include the manor of Any in Limerick, formerly held by the disgraced justiciar Geoffrey de Marisco (d.1245), but were to be made up mainly from 4½ of the king's cantreds, with any necessary surplus to be provided from 1½ cantreds in Thomond.<sup>167</sup> On the same day as the grant to de Lusignan Henry also reiterated his gift of £40 of waste to Robert Walerand,<sup>168</sup> and when, three days later, he conferred most of Ireland upon his adolescent son Edward, Walerand and de Lusignan's as-of-yet unassigned wastes were amongst the lands reserved by Henry, meaning that Edward could not fail to honour the grant.<sup>169</sup>

Even after granting Ireland to Edward, Henry could not shake the sense that the Irish frontier offered valuable opportunities for magnate patronage – a little over a month after handing Edward his appanage he offered Geoffrey's brother Guy £300 of land in 'the waste lands of Ireland' in fee instead of a £200 annuity. Edward's consent was needed, and given that no more mention is made of the matter, he may have demurred.<sup>170</sup> It is striking that Henry felt alienating wastes worth £300 in fee simple was preferable to paying £200 annually from his exchequer – similar arithmetical mismatches will have been noted in the grants to Piers de Bermingham, Jordan de Exeter and Robert Walerand. This probably reflected Henry's immediate financial situation, and perhaps also the knowledge that taking a profit from these Irish wastes would prove

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<sup>165</sup> Frame, 'King Henry III and Ireland', p. 49.

<sup>166</sup> Perhaps the grant of 400*m.* made payable to Longespee at the Irish exchequer on 18 February reflected his displeasure at being overlooked by the king (*CPR, 1247-58*, p. 271).

<sup>167</sup> *CDI*, i, nos. 319-21 (*CPR, 1247-58*, pp 271, 273).

<sup>168</sup> *CPR, 1247-58*, p. 72 (*CDI*, ii, no. 322).

<sup>169</sup> Paul Dryburgh and Brendan Smith (eds), 'Calendar of documents relating to medieval Ireland in the series of ancient deeds in the National Archives of the United Kingdom', *Analecta Hibernica*, no. 39 (2006), pp 34-5; *CDI*, ii, no. 326. This marriage was part of the prelude to Edward's marriage to Eleanor of Castile, the half-sister of Alphonso X of Castile (Prestwich, *Edward I*, pp 9-10).

<sup>170</sup> *CPR, 1247-58*, p. 282 (*CDI*, ii, no. 343). For the contribution of the de Lusignan brothers' unpopularity (caused in no small measure by their receipt of excessive royal patronage) to the crisis Henry would face in 1258, see D.A. Carpenter, 'What happened in 1258?' (1984), repr. in idem (ed.), *The reign*, p. 191.

difficult or even impossible.<sup>171</sup> Considerable expenditure, on both infrastructure and defence, would certainly be required at the outset. No indication is given as to where Guy's proposed wastes should lie, and Walton has noted that the Connacht cantreds were unlikely to contain even the £500 promised to Geoffrey.<sup>172</sup> Henry may not have known this, but he cannot have expected them to furnish Guy with an additional £300 as well.

Henry may have intended to endow Guy in Thomond. That he was open to making grants there was clear from the grant to Geoffrey, and some grants had already been made in the area. In January 1248, Henry had granted the cantred of Tradery to Robert de Muscegros in fee farm, and in February 1252 this tenure was changed to fee simple.<sup>173</sup> John fitz Geoffrey, the justiciar, had received a fee farm grant of the more westerly cantred of Islands in August 1253, around the same time that he was told to settle Irish wastes. This tenure, too, was changed to fee simple before August 1254.<sup>174</sup> These were undeniably frontier grants: the cantreds lay to the northwest of Limerick and were bounded to the south by the Shannon estuary – they were firmly within Ua Briain territory. The grantees were licensed to fortify castles and hold fairs and markets, and fitz Geoffrey also received very considerable additional liberties in the area.<sup>175</sup> Like the grant of a gallows to de la Rochelle these boons signified the king's hope that substantive settlement would occur. Licences to fortify were unusual, and these have been regarded as an appreciation of the area's military situation.<sup>176</sup> That this situation was indeed appreciated is clear from the sums given to these men to fortify their lands. However, it seems unlikely that they would have been penalised for constructing fortifications otherwise, particularly when the existence of defensive obligations in the marches is considered. Indeed, in 1254 Ralph fitz Nicholas received a severe dressing down for failing to adequately fortify his marches. Coulson has argued that the licences to crenellate that proliferated in England at this time were primarily about status, and that castles were frequently built in their absence, and the same was probably true in Ireland.<sup>177</sup> As in Connacht, the Thomond grants represented a compromise between Henry's vision for Ireland and the politics of his own court: while fitz Geoffrey's suitability for establishing new settlement on

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<sup>171</sup> At this time Henry was spending enormous sums and contracting huge debts in aid of his Gascon campaign. D.A. Carpenter, 'The gold treasure of King Henry III' (1986), repr. in idem (ed.), *The reign*, pp 108, 118-20.

<sup>172</sup> Walton, 'The English in Connacht', p. 464.

<sup>173</sup> *CChR*, i, pp 328, 377-8; *CDI*, i, 2920.

<sup>174</sup> *CDI*, ii, nos. 289, 392. For the complexity of identifying the area covered by this enormous cantred, see MacCotter, *Medieval Ireland*, pp 194-5. The subsequent grant of rights to de Muscegros indicates that he also held lands in the cantred of Cenél Fermaic.

<sup>175</sup> *CChR*, i, p. 420; *CDI*, ii, nos. 155, 289, 393.

<sup>176</sup> Hartland, 'English landholding', p. 127.

<sup>177</sup> See above, p. 61. For licences to crenellate, see Coulson, 'Freedom to crenellate', p. 94

the Irish frontier is readily apparent,<sup>178</sup> de Muscegros's qualifications are less clear. This is not to say that the de Muscegros' were unsuited to the role, however: Robert died in 1254 but his heir, John, worked hard to realise the grant and it was only after his death that the family rid themselves of their Irish frontier holding.<sup>179</sup>

In the event it would prove exceedingly challenging for Geoffrey de Lusignan to gain seisin of his £500 of Connacht wastes. A series of increasingly exasperated letters patent issued between May 1254 and November 1256 chronicle the king's vain efforts to make good the promised grant.<sup>180</sup> Henry blamed the repeated delays on Edward's representative, Richard de la Rochelle, and on John fitz Geoffrey.<sup>181</sup> In one fulminating letter sent to de la Rochelle in March 1255 Henry alleged that the delay was due to 'the instigation... of malevolent persons';<sup>182</sup> he then sent his marshal, William de Troubleville, to Ireland to ensure that the grant was fulfilled, and rather optimistically commanded that the king's cantreds be extended and Geoffrey assigned '£500 of lands... in the more secure parts of the 4½ cantreds'.<sup>183</sup> The resulting extent has not survived, but neither de Lusignan nor Henry was impressed, and the king's dissatisfaction was conveyed to Edward by a patent letter dated June 1255.

It has been suggested, however, that Henry now began to re-evaluate this huge frontier grant, particularly the potential loss of the royal castles. The grant's terms were revised, perhaps on de Troubleville's advice.<sup>184</sup> Edward would now retain the best Connacht cantred, and that which contained the royal castles (Tír Maine); Geoffrey could then select two of the other cantreds, and must deem the grant fulfilled whether or not they were worth £500. Edward did not share his father's concerns – a deed poll dated 9 December, 1255, indicates that he assigned to Geoffrey the fortified cantred of Tír Maine, as well as the homage of Richard de la Rochelle and Jordan de Exeter.<sup>185</sup> This was a peculiar conclusion to almost two years of equivocation and a recent command that Edward retain the royal castles. Ultimately, however, the grant was not

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<sup>178</sup> Nally's characterisation of this grant as 'an obvious act of nepotism' overlooks fitz Geoffrey's eminent suitability as an Irish grantee (David Nally, 'Maintaining the marches: seigneur, sept and settlement in Anglo-Norman Thomond', Matthew Lynch and Patrick Nugent (eds), *Clare: history and society. Interdisciplinary essays on the history of an Irish county* (Dublin, 2008), p. 34).

<sup>179</sup> Robin Frame, 'England and Ireland, 1171-1399', p. 18. For evidence of John de Muscegros's efforts to bring about settlement in Thomond, see *Red book of Kildare*, no. 38.

<sup>180</sup> The evidence has been ably discussed by Walton, 'The English in Connacht', pp 461-5.

<sup>181</sup> Although fitz Geoffrey remained the justiciar, he spent lengthy stints in Henry's court in 1247, 1250, 1251, 1253, and 1254 (Frame, 'King Henry III and Ireland', p. 52).

<sup>182</sup> *CPR, 1247-58*, pp 405-6. See also *ibid*, p. 310.

<sup>183</sup> *Ibid*, p. 406.

<sup>184</sup> *CR, 1254-6*, pp 204-5 (*CDI*, ii, no. 447). Walton, 'The English in Connacht', p. 364.

<sup>185</sup> *CDI*, ii, no. 478. A unilateral 'deed poll' was the normal form of charters of feoffment in the period (Pollock and Maitland, *The history of English Law*, ii, p. 94).

realised, and in November 1256 Geoffrey was given £300 of land in Uriel and England, with the remainder to be made up 'in England and Ireland in a tranquil country and suitable place'.<sup>186</sup> Geoffrey's attorney had travelled to Ireland at the same time as de Troubeville and may have counselled Geoffrey to push for the inclusion of this revealing proviso before taking on Irish holdings.<sup>187</sup> The protracted episode must have been humiliating for Henry (and in fact the embarrassment would continue), but the November agreement between Edward and Geoffrey resolved the longstanding issue.<sup>188</sup>

Little material emanating from Edward's chancery ended up on Henry's rolls, and the destruction of 1922 was thus particularly damaging to documents arising from Ireland's period as part of Edward's appanage. As a result, these years are very poorly documented.<sup>189</sup> It is clear, however, that like his father Edward was determined to use Ireland as a source of patronage, his main interest in Ireland being its potential to generate revenue.<sup>190</sup> In 1258 he granted the entire cantred of Uí Maine (except Jordan de Exeter's £20) to de la Rochelle, whose obstinacy in the face of an increasingly irate king had clearly paid off. De la Rochelle also received extensive liberties, including licence to fortify.<sup>191</sup> This charter was confirmed by Henry in 1267, as was another charter to de la Rochelle of a tuath in Tír Maine.<sup>192</sup> This, and Edward's 1264 grant of the manor of Any to Warin de Bassingbourne,<sup>193</sup> showed that the lands originally earmarked for de Lusignan were not fundamentally ungrantable, lending credence to Henry's fuming allegations that his commands were being intentionally thwarted. This impression is deepened by the failure of Henry's waste grant to Robert Walerand at the same time: a letter of August 1254 had reminded de la Rochelle

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<sup>186</sup> *CChR*, i, pp 453-4; *CDI*, ii, no. 524.

<sup>187</sup> De la Rochelle had been ordered to give seisin to Geoffrey's attorney, Thomas de Castro, in March 1255 (*CPR*, 1247-58, pp 405, 406).

<sup>188</sup> In July 1256 Geoffrey had been awarded 500*m.* from the debts of the king's Jewry in compensation for the delays, but these issues, too, were unforthcoming and in December he had to be promised 250*m.* from the eyre of Norfolk and York (*CPR*, 1247-58, pp 489, 536; *CDI*, ii, no. 511).

<sup>189</sup> Otway-Ruthven, *A history of medieval Ireland*, pp 164, 200-1; Robin Frame, 'Ireland and the barons' wars' (1986), repr. in idem (ed.), *Ireland and Britain*, pp 59-60, 64, 65. *CDI* contains approximately 75% fewer documents for the period that Ireland was part of Edward's appanage than it contains for the same number of days before and after that period.

<sup>190</sup> Lydon is far more damning of Edward I than of Henry III in this regard (Lydon, *The lordship of Ireland*, pp 101-4; idem, 'The years of crisis, 1254-1315', *NHI*, ii, p. 180). One writer has suggested that Edward saw Ireland as a 'food factory' (Tadhg O'Keeffe, 'Landscapes, castles, and towns of Edward I in Wales and Ireland: some comparisons and connections', *Landscapes*, vol. 11, no. 2, p. 64-5, at 65). See also Frame, *Colonial Ireland*, p. 76; Prestwich, *Edward I*, p. 14; Beth Hartland, 'The height of English power: 1250-1320', Brendan Smith (ed.), *The Cambridge history of Ireland, volume i, 600-1500* (Cambridge, 2018), p. 243.

<sup>191</sup> *COD*, i, no. 123. Walton did not think it appropriate to connect these generous liberties with baronial pressure in the royal court (Walton, 'The English in Connacht', pp 466-7).

<sup>192</sup> *CPR*, 1266-1272, p. 85. Walton has suggested that the tuath was also granted around 1258 (Walton, 'The English in Connacht', p. 473).

<sup>193</sup> Dryburgh and Smith (eds) 'Calendar of documents', p. 16.

to furnish Walerand with £40 of wastes,<sup>194</sup> but two years later Robert received Rush and Balcaddan in the vale of Dublin 'in place of 40 *librates*... in the wastes of Ireland'.<sup>195</sup> It seems clear that Walerand, too, was hindered by Irish officials from obtaining his Irish wastes.<sup>196</sup>

But in which quarter did the hindrance originate? The simplest explanation is that Henry was correct and Richard de la Rochelle, who clearly had his own ambitions in the king's cantreds, obstructed de Lusignan and possibly also Robert Walerand.<sup>197</sup> De la Rochelle had a lot of power as Edward's chief Irish representative, particularly given the absence of Henry's justiciar, John fitz Geoffrey, from Ireland for most of the period in question, when de la Rochelle acted as his deputy.<sup>198</sup> Fitz Geoffrey himself may have resented the effect which the grant to de Lusignan had on his freedom to make waste grants in Ireland. This considerable power, which had been set to last until summer 1255, was severely curtailed and perhaps entirely superseded by the large Connacht grant. Both men may also have been opposed to de Lusignan in the context of the growing animosity towards aliens within England. De la Rochelle's opinions on the issue are unknown but fitz Geoffrey stood firmly on the baronial side. In 1258 a brutal attack on some of fitz Geoffrey's servants during a dispute with Aymer de Lusignan would become one of the immediate flashpoints which triggered the emergence of the baronial reform movement in that year.<sup>199</sup>

It is also possible that Edward himself was not entirely, or at least consistently, onboard with Henry's grant to de Lusignan, as in May 1254 Henry accused fitz Geoffrey and de la Rochelle of delaying the grant's execution on the pretext that it interfered with Edward's lordship of Ireland.<sup>200</sup> In fact, Edward wrote in support of the grant to his uncle several times, but historians have noted the prince's changeability prior to the commencement of his reign proper. In the following decade the pro-Montfortian *Song of Lewes* would describe Edward as *leo per superbiam, per ferocitatem, est per inconcstanciam et varietatem Pardus, verbum varians et promissionem*.<sup>201</sup> Certainly, de la Rochelle's maintenance of his position despite resisting the express wishes of both

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<sup>194</sup> *CPR, 1247-58*, p. 323.

<sup>195</sup> *CDI*, ii no. 520.

<sup>196</sup> Much of the vale of Dublin would become highly politically unstable within the next quarter-century, but these lands lay to Dublin's north, near Lusk, and were quite secure. Further, this grant was made near the height of the Dublin manors' productivity (Lyons, 'Manorial administration', p. 12).

<sup>197</sup> Walton, 'The English in Connacht', p. 460.

<sup>198</sup> Richardson and Sayles, *Administration*, p. 78. Frame has identified other periods of absence during fitz Geoffrey's justiciarship (Frame, 'Henry III and Ireland', p. 52).

<sup>199</sup> Orpen, *Ireland under the Normans*, iii, p. 231; Carpenter, 'What happened in 1258?', pp 192-5; J.R. Maddicott, *Simon de Montfort* (Cambridge, 1994), pp 153-4.

<sup>200</sup> *CPR, 1247-58*, pp 308, 310.

<sup>201</sup> *The song of Lewes*, ed. C.L. Kingsford (Oxford, 1890), p. 14. See also Michael Prestwich, *War, politics and finance under Edward I* (Totowa, 1972), p. 19; idem, *Edward I*, pp 63-4.

Henry and Edward for a prolonged period gives pause for thought. Between 1254 and 1257 Edward's allegiance within Henry's fractious court lay with the Savoyards rather than the Poitevins,<sup>202</sup> and Ridgeway pinned the grant's failure on Edward's resistance.<sup>203</sup> The episode was more extensively discussed by Walton, who argued that de la Rochelle and fitz Geoffrey 'do not seem to have been encouraged to take this attitude by Edward himself'. In July 1254 Edward not only commanded that the grant be fulfilled, but also confirmed it by *inspeximus*, and in December he received de Lusignan's homage for the grant.<sup>204</sup> It is possible that Edward was double-dealing, but given his lack of interest – and independence – in Ireland this is unlikely.<sup>205</sup> When one also considers the inclusion of the royal castles and de la Rochelle's homage in the deed poll of 1255, apathy seems rather likelier than princely connivance.

A sturdier line of inquiry is perhaps suggested by Edward's July communication to fitz Geoffrey and de la Rochelle, which noted that Geoffrey had surrendered his claim to the Any portion of the grant because it had been promised to the queen in dower.<sup>206</sup> Queenly interference is a possibility that has not been considered by writers on Ireland (though a biographer of the queen has presented this scenario as near-incontrovertible fact).<sup>207</sup> Eleanor was the Savoyard influence *par excellence* at Henry's court, an inveterate opponent of the Lusignans,<sup>208</sup> and was close to Edward.<sup>209</sup> Furthermore, fitz Geoffrey was well-disposed towards her, leading Howell to argue that 'collusion [between them]... seem[s] almost certain'.<sup>210</sup> In fact there is no evidence of Eleanor's interference with any part of the grant besides the manor of Any, though it is certainly conceivable that Henry's powerful queen, rather than Edward himself, obstructed Geoffrey. It is worth noting, however, that Robert Walerand, whose own waste grant also fell through, was both a part of Edward's inner circle and a Savoyard-aligned ally of the queen.<sup>211</sup> Although Walerand's

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<sup>202</sup> Prestwich, *Edward I*, pp 21-2.

<sup>203</sup> H.W. Ridgeway, 'Foreign favourites and Henry III's problems of patronage, 1247-1258', *EHR*, vol. 104, no. 412 (1989), pp 601-2. Ridgeway's interpretation is followed in Frame, 'King Henry III and Ireland', p. 50.

<sup>204</sup> Walton, 'The English in Connacht', p. 462.

<sup>205</sup> For Henry's continued interference in Ireland after 1254, see Prestwich, *Edward I*, pp 13-14 and Lydon, *Lordship of Ireland*, pp 89-90.

<sup>206</sup> *CPR*, 1247-58, p. 308 (*CDI*, ii, no. 365). For the manor's assignment in dower to Queen Eleanor, see *CDI*, ii, no. 271. It has been noted that the Poitevins often lost out when they competed for patronage with members of the royal family or important courtiers (Ridgeway, 'Foreign favourites', pp 602-3).

<sup>207</sup> This has been noted by Howell, who saw the letter as evidence of a 'political skirmish' (Margaret Howell, *Eleanor of Provence: queenship in thirteenth-century England* (Oxford, 1998), p. 113).

<sup>208</sup> See Carpenter, 'What happened in 1258?', p. 194, fn. 49; Howell, *Eleanor of Provence*, p. 141.

<sup>209</sup> Edward's hostility towards the Londoners in the 1260s has been connected with their mistreatment of his mother (D.A. Carpenter, 'King Henry III and the tower of London' (1995), repr. in idem (ed.), *The reign*, p. 214; Prestwich, *Edward I*, pp 45, 54).

<sup>210</sup> Howell, *Eleanor of Provence*, p. 129. See also *ibid.*, pp 56, 115.

<sup>211</sup> *Ibid.*, pp 107, 162, 269.

company was probably imposed upon Edward by Henry,<sup>212</sup> it does not seem likely that Eleanor or Edward sabotaged their confidante's grant. Its failure, like that of Geoffrey's waste grant, points rather towards disinterest than stratagem on Edward's part and indicates the limits of Eleanor's interest and influence in Ireland.<sup>213</sup> Ultimately, Edward was probably unconcerned with both grants. He was unlikely to gain much politically or financially from Irish grants made by Henry, particularly when there can have been little expectation that Geoffrey would ever reside in Connacht – for it must be remembered that the likelihood of the grant being effectively acted on was minimal.<sup>214</sup>

The latter point may have been a more significant obstacle than de la Rochelle's aspirations, Edward's capriciousness, or Eleanor's hostility. The inevitability that the grant, if successfully carried through, would introduce an avaricious and absent lord to an already rapidly destabilising frontier must have worried Irish officials. This may have made de la Rochelle's intransigence seem acceptable – perhaps even admirable – in Dublin. If Edward and Eleanor's interest in the Irish situation was limited, then the administrative heel-dragging probably originated in Dublin. The failure of the grant may thus reflect dissonance between the king's preferred approach to his Irish frontier – namely parcelling it out to his favourite courtiers – and the more realistic views of his Irish government. This was an age of itinerant lordship, and the personal exercise of seigneurial power remained important, particularly on the Irish frontier.<sup>215</sup> The great conquests of the early decades of English involvement in Ireland, and Richard de Burgh's more recent conquest of Connacht, had been achieved by active, present, leaders; and the coincidence of the glut of aristocratic deaths with the onset of the 'Gaelic revival' has been noted. By contrast Limerick had long remained in Gaelic hands after Philip de Braose abandoned his efforts to seize it.<sup>216</sup> In Ireland, weak lordship and absenteeism could leave frontier holdings vulnerable and cause severe problems.<sup>217</sup> For instance, in 1283 the seneschal of Ulster had to be permitted £105 13s. 4d. as he could not collect rents from various lands owing to the war that

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<sup>212</sup> Prestwich, *Edward I*, p. 22.

<sup>213</sup> Howell's claim that thereafter 'Geoffrey... never got his Irish lands but he was eventually compensated by Edward with lands in England' is misleading and ascribes too much importance to the evidence of the letter (Howell, *Eleanor of Provence*, p. 129).

<sup>214</sup> Hartland, 'Absenteeism', p. 217.

<sup>215</sup> See R.R. Davies, *Lords and Lordship in the British Isles in the late middle ages*, ed. Brendan Smith (Oxford, 2009), pp 198-201; idem, 'Lordship or Colony?', pp 144-8.

<sup>216</sup> *Expugnatio*, pp 184-7.

<sup>217</sup> See Beth Hartland, 'Reasons for leaving: the effect of conflict on English landholding in late thirteenth-century Leinster', *JMH*, vol. 32, no. 1 (2006), pp 20-1. Hartland has argued, however, that strong anti-absentee sentiment was not yet acute in Ireland even during the Bruce invasion (Hartland, 'Absenteeism', *passim*).

broke out after Walter de Burgh's death.<sup>218</sup> And in 1284 it was agreed that henceforth in times of vacancy an official should be appointed to protect the see of Dublin 'in view of the various dangers that befell the province of Dublin during vacancy'.<sup>219</sup> Of course, the king himself was Ireland's arch-absentee. A document of 1234 had strenuously urged Henry III to visit the colony,<sup>220</sup> and Nic Ghiollamhaith has suggested that a sense of personal distance from the English king catalysed the impulse to revolt in Tadc Ua Briain and Aedh Ua Conchobair. Both their fathers – more cooperative men by all accounts – had met English monarchs face to face.<sup>221</sup> The importance of the personal exercise of power in Ireland was well understood in Dublin. Indeed, it was also recognised at Henry's court. This is clear from a letter from Queen Eleanor to John fitz Geoffrey in May 1254 about the deployment of Irish troops to Gascony.<sup>222</sup> Eleanor acknowledged a report that the Gaels had become *nimis superbiunt propter adventum vestrum et dilecti et fidelis nostri Mauricii filii Geroldi et aliorum magnatum nostrorum Hybernie ad nos in Wasconia*. She accepted that, even after making defensive preparations, some great magnates and perhaps the justiciar himself would need to remain in Ireland.<sup>223</sup>

Given this context, there can have been little enthusiasm in Dublin for Henry's self-serving grants to outsiders whose mettle was untested on the Irish frontier.<sup>224</sup> Efforts to bring de Lusignan's grant to fruition would certainly have been highly disruptive. Feidhlimidh's influence

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<sup>218</sup> *CDI*, ii, no. 2130.

<sup>219</sup> *Alen's reg.*, 150. See also the endorsement of Alexander Bicknor's appointment to the see of Dublin partly on the grounds that 'the peace of the land well-guarded by one who is acquainted with those parts' (*Calendar of chancery warrants preserved in the Public Record Office, prepared under the superintendence of the deputy keeper of the records, A.D. 1244-1326*, ed. R.C. Fowler (London, 1927), pp 365-6).

<sup>220</sup> Sayles, *Affairs*, pp 2-3.

<sup>221</sup> Nic Ghiollamhaith, 'The Uí Briain and the King of England', p. 95; Frame, 'Ireland after 1169', pp 133-7. See also Lydon, *Lordship of Ireland*, p. 95. The effects of royal absenteeism in Wales and Ireland are briefly contrasted in Helen Fulton, 'Poetry and nationalism in the reign of Edward I: Wales and Ireland', Peter Crooks, David Green, and Mark W. Ormrod (eds), *The Plantagenet empire, 1259-1453, proceedings of the 2014 Harlaxton Symposium* (Dodington, 2016), pp 171-2. The king's 'spatial specificity' remained problematic within England itself during the later middle ages (W.M. Ormrod, 'Law in the landscape: criminality, outlawry and regional identity in late medieval England', Anthony Musson (ed.), *Boundaries of the law: geography, gender and jurisdiction in medieval and early modern Europe* (Aldershot, 2005), pp 9-10, 13-14).

<sup>222</sup> Eleanor acted as regent while Henry was in Gascony from 6 August 1253, until her own departure for those parts on 29 May 1254 (Howell, *Eleanor of Provence*, p. 117). Her leading advisor was Richard of Cornwall, and the letter concludes with *per reginam et comitem* (*ibid.*, p. 112).

<sup>223</sup> *CR*, 1253-4, p. 134 (*CDI*, ii, no. 356-7). Henry had requested Irish troops in December (*CDI*, ii, nos. 305-6).

<sup>224</sup> Distrust amongst the Anglo-Irish nobility was already strong in the 1180s – notwithstanding the maintenance of political and tenurial transmarine links, there was probably resentment at the Irish frontiers being granted to the likes of de Aspreville, Walerand, and de Lusignan. See J.F. Lydon, 'The middle nation' (1984), repr. in *Government, war, and society*, pp 332-352.

had moderated Aedh's aggression in the early 1250s,<sup>225</sup> but Feidhlimidh himself was unnerved by the grant of 1254 and may have felt betrayed by the king whom he had regarded highly. Henry certainly harboured no illusions as to the dispossession he was licensing: in June 1255 he granted de Lusignan 'two whole cantreds... which Feidhlimidh O'Conor... held of the king in Connacht at farm'.<sup>226</sup> Feidhlimidh sent envoys to England in the same year, and it appears from Henry's July correspondence that these had conveyed Feidhlimidh's indignation. Henry asserted that the grant to Geoffrey was not injurious to Feidhlimidh, and intimated that he might switch his support to one of Feidhlimidh's rivals should further objection be raised.<sup>227</sup> The thinly-veiled threat was probably sincere, as Henry foresaw his influence in Ireland being temporarily boosted by a projected visit not only of Geoffrey but also of Edward.<sup>228</sup> It is easy to imagine Henry's pugilistic *primogenitus* making a first impression to rival that of his grandfather.<sup>229</sup> But it was clear from Aedh's rising star that Feidhlimidh's long cooperation with the English signified no diminished capacity for war-making amongst the Uí Conchobhair. In 1255 Aedh journeyed north and successfully negotiated peace between Feidhlimidh and the Cenél nEógain – an ominous portent of things to come for the English of the region.<sup>230</sup>

Given the worrying developments in Connacht, it seems appropriate to query whether ambition and anti-alien sentiment truly were the chief motivations behind de la Rochelle and fitz Geoffrey's resistance to Henry's commands. Instead, their inaction may indicate that a negative view of Henry's waste grants now prevailed in Dublin. It should be remembered that Geoffrey de Lusignan was not the only grantee who struggled to obtain seisin of his Irish wastes. Oliver de Aspreville prevaricated and was bought out; Roger Lokinton's grant was made but never realised; Robert Walerand, like de Lusignan, was apparently stonewalled by the administration; and the grant to William de Chabbeneys was never mentioned again, perhaps lapsing or being commuted to some more tangible reward. The apparent failure of the grant to Thurstan de Pierrepont, who had long served the king in Ireland, is harder to square with the suggestion that realism amongst Henry's Irish officials led them to sabotage the king's patronage efforts.<sup>231</sup> However, Thurstan may

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<sup>225</sup> Aedh's aggression was directed at neighbouring Breifne for most of the 1250s (Verstraten, 'Both king and vassal', p. 24).

<sup>226</sup> *CPR*, 1247-58, p. 414.

<sup>227</sup> AC 1255.6; *CR*, 1254-6, p. 213 (*CDI*, ii, no. 457).

<sup>228</sup> *CR*, 1254-6, p. 213 (*CDI*, ii, no. 457). A subsequent letter reveals that Edward was to travel to Ireland that winter: *CDI*, ii, no. 461.

<sup>229</sup> Cf. the unpopular policy by Edward's officials in Wales around this time (Prestwich, *Edward I*, p. 17).

<sup>230</sup> AC 1255.4.

<sup>231</sup> In 1225, 1227, and 1228 Thurstan was promised varying sums of Irish escheats to maintain him in the royal service, and in 1229 he did homage for escheats in Uriel. In 1238 he was awarded an annuity of £10 at the Dublin exchequer until he could be otherwise provided for (*CDI*, i, nos 1272, 1479, 1577, 1724, 1728).

not have wanted Connacht wastes – although he was responsible for the temporalities of Connor in 1241, his service had focused on eastern Ireland. He may have already had land in eastern Ireland; or perhaps his son's possession of land there several decades later arose from the waste grant of 1251.<sup>232</sup> The opposition to most of Henry's grantees was not necessarily to their receiving Irish lands, but specifically to their receipt of frontier 'wastes' in Connacht. In 1256 both de Lusignan and Walerand, admittedly two particular royal favourites, obtained lands which were superior, in terms of fertility, stability, and proximity to England, compared to the wastes originally promised. A July 1253 grant to Stephen Bauzan of land in Cork formerly possessed by Thomas Bluet was successful, although reiterative letters from Henry and Edward were needed in this case, too.<sup>233</sup> De la Rochelle's personal interest in Connacht complicates the matter of establishing how far the reticence to enact Henry's commands reflected the attitude of the Dublin government more broadly. It is certainly possible, however, that Henry's commands were subverted not just by de la Rochelle or Edward, but by those responsible for the colony's governance more broadly.

Henry's main concern in all of this was undoubtedly profit. He wished to expand the area from which his Irish government could draw revenue and saw an opportunity to reduce the demands on his exchequer while doing so. He was, however, acting on the advice of his justiciar and Irish council to some degree, as he had certainly been advised to pursue further Irish settlement as recently as 1251. Henry's Irish advisors undoubtedly shared his interest in improving Irish revenues, and they probably felt that fresh settlement might reduce the threat to existing outposts near Gaelic enclaves. Some of Henry's counsellors may also have hoped to benefit from royal expansionism, as de la Rochelle and fitz Geoffrey did. The 1235 conquest of Connacht had been a profitable venture for many, and the opportunity to share in the spoils of de Burgh's campaign has been seen as a powerful tool for unifying a colonial community splintered by a traumatic civil war.<sup>234</sup> But the speculative grants made by Henry to improbable recipients may have been resented and derided in Dublin, as they were unlikely to achieve anything of lasting value. Notwithstanding the huge flaws in the course adopted by Henry, his grants should not be seen as evidence of royal cupidity or misrule (at least as far as Henry's lordship over the English of

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<sup>232</sup> Two days after the waste grant of 1251 (above, p. 91), Thurstan's son Stephen did homage to the king for lands and tenements which he had in Ireland of his father's gift. Thurstan may have demised his Irish stake to his son (*CR, 1247-51*, p. 481 (*CDI*, i, no. 3177); Sweetman mistakenly calls Thurstan Stephen). In 1282 Stephen was a juror on an inquisition into Richard de Burgh's attacks on Warin fitz Warin's property, and a receipt roll shows that in 1286 he rendered 40s. owed by Adam le Petit in Meath. It is possible that he was granted wastes in the area, but his holdings may also have been the Uriel escheats granted to his father in 1229 (*CDI*, ii, p. 432; *CDI*, iii, p. 119).

<sup>233</sup> *CDI*, ii, nos. 262-3, 387, 390. Stephen Bauzan's widow retained Irish interests (Frame, 'King Henry III and Ireland', p. 51, fn. 120).

<sup>234</sup> Smith, 'Irish politics', p. 19.

Ireland was concerned). Although he was perpetually optimistic about his military undertakings Henry was not renowned for his ability to realistically assess their viability.<sup>235</sup> He may well have believed that his waste grants, and particularly that to de Lusignan, would truly bring the cantreds under his thumb. He was not, however, entirely ignorant of Ireland's security needs and nor was he unwilling to take his Irish council's advice. Their input – and go-slow protest – probably explains the eventual abandonment of his ill-conceived scheme.

### *The justiciarship of Alan de la Zouche, 1256-1258*

In June 1256, Ireland received a new justiciar, Alan de la Zouche. This was Edward's first appointee to the position, and his arrival heralded a change in royal policy towards the king's cantreds, namely a move towards rapprochement.<sup>236</sup> In 1256 de la Zouche and Aedh Ua Conchobair met at Rinndown and made peace. According to the annals, Aedh was assured that he would 'suffer no diminishing of territory... so long as this justiciar held office'.<sup>237</sup> Aedh also met John de Verdun at Athleague, perhaps as a result of the discussion with de la Zouche. De Verdun held Breifne by his marriage to Margaret de Lacy, and the reassertion of ancient Ua Conchobair claims in that region was one of Aedh's major preoccupations in these years; the search for a compromise undoubtedly occasioned this meeting.<sup>238</sup> In the following year Feidhlimidh himself met de la Zouche, Walter de Burgh, 'and the chief Galls of Connacht and the rest of Ireland by appointment at Athlone', where they made peace.<sup>239</sup> According to the annalist of Connacht, Feidhlimidh also received a charter for all five of the king's cantreds in this year, though this is belied by subsequent pipe roll evidence.<sup>240</sup> Rather, Feidhlimidh held the northernmost three cantreds in fee farm, the cantred of Tír Maine to

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<sup>235</sup> Matthew Paris noted Henry's inability to raise funds even when he pretended he was about to make war on France: 'it was believed that his military skill, or strength, or money, whencesoever extorted, would not have been sufficient to deprive the French king of even his smallest possessions...' (Paris, *English history*, ii, p. 290). For an overview of Henry's military misadventures, and his efforts to disassociate himself from military iconography later in his reign, see D.A. Carpenter, 'The burial of King Henry III, the regalia and royal ideology', *idem* (ed.), *The reign*, pp 439-42. See also Crooks's observations on Henry's proposed self-presentation in Ireland in 1243 (Peter Crooks, 'The structure of politics in theory and practice, 1210-1541', Smith (ed.), *The Cambridge history*, p. 452).

<sup>236</sup> Henry III withdrew his seals from the Irish administration, and Edward's seal was to be used thenceforth in Ireland (Richardson and Sayles, *The Irish parliament*, p. 57-8). However, even after this Edward still had a writ revoked by the king on one occasion (Prestwich, *Edward I*, pp 13-14).

<sup>237</sup> Quoted from AC 1256.17. See also AFM 1256.8 and ALC 1256.6.

<sup>238</sup> De Verdun may have seen Aedh as a useful ally against the Uí Ragallaigh (Walton, 'The English in Connacht', pp 226-7). See also Verstraten, 'Both king and vassal', p. 27. De Verdun would go on to be quite a successful peacemaker between English and Gaelic enemies – in 1273-4 he successfully brought Art O Melaghlin and Aodh Buidhe O Neill to the king's peace (Simms, 'The O Hanlons, the O Neills and the Anglo-Normans', p. 84).

<sup>239</sup> AC 1257.8.

<sup>240</sup> '... *ar v. tricha cet an Rig*' (AC 1257.14).

farm, but not in fee, and 28 villates in Uí Maine by the justiciar's gift. The 1258 grant to de la Rochelle indicates that the latter part of this arrangement was ephemeral.<sup>241</sup> Nevertheless, de la Zouche's arrival clearly signalled a marked shift in the official approach to the king's cantreds, with an apparent move away from further settlement and towards security of tenure for the Uí Conchobhair.

Of course, this change of direction was feasible only because the de Lusignan grant had fallen through. De la Zouche was building on the foundations laid by de la Rochelle and fitz Geoffrey in Connacht, not charting an entirely new course. The seemingly arbitrary confiscation of Uí Maine and Tír Maine from the Uí Conchobhair was not reversed, and the subsequent grant to de la Rochelle shows that his interests there were being enhanced, not subverted. While small steps were being taken towards reconciliation in Connacht, the likely alternative could be seen elsewhere in Ireland. The year of the Athlone conference also saw Gofraid Ua Domnall violently challenge his Geraldine neighbours and Mac Duinn Sléibhe launch attacks in Ulaid; similar scenes were also playing out in Thomond under Conchobar and Tadhg Ua Briain.<sup>242</sup> De la Zouche has received most of the credit for the royal change of tack, and Hartland is not alone in praising the 'clear-sightedness' of men like de la Rochelle and de la Zouche in resisting Henry's immoderate policies towards Connacht.<sup>243</sup> It seems more likely, however, that the resistance occurred prior to de la Zouche's appointment, and that he was assigned specifically to implement a royally approved policy, devised by others, to deal with this mercurial frontier. De la Zouche's short tenure as justiciar thus gives cause for some discussion of the formation of Irish policy towards the frontier.

It was unusual at this time for an English administrator without prior Irish connections to be appointed to the justiciarship.<sup>244</sup> The most recent prior such appointee was Henry de Loundres, in 1213, when he also became the archbishop of Dublin. It has been suggested that de la Zouche was selected for his experience as justice of Chester (1250-1255), and this is undoubtedly true.<sup>245</sup> But de la Zouche's behaviour in Wales by no means marked him out as an effective peacemaker. Complaints about his conduct there had led to the appointment of a commission of two Welshmen

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<sup>241</sup> See above, p. 98. For these events, see Walton, 'The English in Connacht', pp 227-9; Holland 'The Anglo-Norman landscape in county Galway', p. 181. Verstraten accepts the annalist's claim that Feidhlimidh kept all five cantreds at this juncture, but concedes that he was probably unable to maintain his grip on Tír Maine and Uí Maine (Verstraten, 'Both king and vassal', p. 27). In light of the grants made to de la Rochelle and Jordan de Exonia, however, it is unlikely that Uí Maine was restored to Feidhlimidh.

<sup>242</sup> For Ua Domnaill, see AC 1257.11, 1257.12; for the Uí Briain, see AC 1257.15; for Mac Duinn Sleibhe, see AC 1257.16.

<sup>243</sup> Hartland, 'The height of English power', p. 227; Orpen, *Ireland under the Normans*, iii, p. 271; Walton, 'The English in Connacht', pp 225-6, 229; Holland, 'The Anglo-Norman landscape', p. 182.

<sup>244</sup> Otway-Ruthven, 'The chief governors', p. 86.

<sup>245</sup> Walton, 'The English in Connacht', p. 226.

and two Englishmen to ascertain whether he had abused his position.<sup>246</sup> Matthew Paris reported de la Zouche's considerable success at increasing Welsh revenues in 1252,<sup>247</sup> but historians have adjudged his severe administration one of the key factors that provoked the Welsh revolt of 1256.<sup>248</sup> Edward, who was lord of northern Wales as well as of Ireland, could not handle the situation and in order to pacify Wales Henry had no choice but to expend the treasure he had amassed since his 1254 Gascon expedition, which was supposed to fund his Sicilian ambitions. After this revolt, Llywelyn ap Gruffudd would remain dominant in Gwynedd until 1282.<sup>249</sup>

Given his Welsh record and unfamiliarity with Ireland, it seems appropriate to further discuss de la Zouche's role in the pivot towards moderation in Connacht. First and foremost, the new policy required reconciliation with the Uí Conchobair. Their relations with the government had not yet reached breaking point, and it may have been decided that a new face was necessary for negotiations. Both fitz Gerald and his obvious successor, de la Rochelle, were already heavily associated with colonial enterprises in Ireland, and de la Rochelle had a vested interest in the Ua Conchobair patrimony.<sup>250</sup> De la Zouche was a more neutral arbiter, the need for which may have become clear during de la Rochelle's brief occupancy of the justiciarship following fitz Geoffrey's departure.<sup>251</sup> As well as dealing with the Uí Conchobhair diplomatically, the new approach also required the cancellation or significant alteration of a grant to the king's half-brother. De Lusignan was perhaps unlikely to object, having seen de la Rochelle's 1255 extent, but the new justiciar cannot have been responsible for swaying Henry from this course upon which he had long been set.<sup>252</sup> As far as the king was concerned, the waste grant allowed him to handsomely endow Geoffrey at negligible cost to himself – no alternative arrangement could match this.

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<sup>246</sup> J. Beverley Smith, *Llywelyn ap Gruffudd: prince of Wales* (2nd ed., Cardiff, 1998), pp 78-83. For the appointment of the commission, see *ibid*, pp 78-80; David Stephenson, *Medieval Powys: kingdom, principality and lordships, 1132-1293* (Woodbridge, 2016), p. 118; Prestwich, *Edward I*, p. 17.

<sup>247</sup> Paris, *English history*, vol. ii, p. 486. For de la Zouche's earlier confidence in his ability to make Wales profitable, see *ibid*, p. 435.

<sup>248</sup> See especially Smith, *Llywelyn ap Gruffudd*, pp 80-3. See also Prestwich, *Edward I*, p. 17; T.F. Tout, 'Zouche [Zouch], Alan de la', revised by R.R. Davies, *ODNB* (2004). Matthew Paris laid the blame on Geoffrey Langley, Edward's steward (Paris, *English History*, iii, p. 200).

<sup>249</sup> Prestwich, *Edward I*, pp 17-19; Carpenter, 'The gold treasure of King Henry III' p. 123. It has been suggested that the fact that the rebellion of 1256 had targeted Edward's lands may have emboldened Llywelyn in 1282: David Stephenson, 'Llywelyn ap Gruffydd and the struggle for the principality of Wales, 1258-1282', *Transactions of the Honourable Society of Cymmrodorion* (1983), pp 46-7. For Llywelyn's severe financial and political difficulties during his years of pre-eminence from 1258-1277, see *ibid*, pp 37-44.

<sup>250</sup> One chronicler implied that fitz Geoffrey's displeasure at being removed from the justiciarship prompted his participation with the barons in 1258, but given fitz Geoffrey's continued reliability in the interim this seems unlikely (*Flores Historiarum*, ed. Henry Richards Luard (London, 1890), vol. iii, p. 252).

<sup>251</sup> Richardson and Sayles, *Administration*, p. 78.

<sup>252</sup> De la Zouche is known for his loyalty to the crown in the 1260s, but in 1256 his most notable career accomplishment was his time in Chester (Tout, 'Zouche').

It therefore seems more likely that the new approach to Connacht reflected the recommendations of the king's Irish council, including fitz Geoffrey and de la Rochelle. The former was a highly valued counsellor to the king himself,<sup>253</sup> and de la Rochelle was trusted by Edward, whom he would later join on crusade.<sup>254</sup> Of those specified as advisors in Henry's earlier letters relating to frontier settlement, Piers de Bermingham and Maurice fitz Gerald were still alive, and Archbishop Luke had only died in 1255. These men probably still played a key role in shaping Henry's approach to Connacht. It must be noted, however, that there were some changes to the personnel of government at this point, most likely because 1256, in which year Edward was knighted and married, also saw him granted greater authority over his appanage. The aged chancellor was replaced in June or July of 1256, when Edward's seal supplanted his father's, and a new escheator was appointed in May.<sup>255</sup> The latter might be taken to indicate royal displeasure, as the escheator was Henry's particular representative in Ireland – however, the outgoing escheator was by no means a *persona non grata*, and was again discharging that office by January 1257.<sup>256</sup> The misgivings of Henry's Irish counsellors concerning the grant to de Lusignan had long been clear from their inaction, and were perhaps also communicated to him verbally. For de la Zouche and the other new ministers to do otherwise than to follow the advice of the experienced Irish magnates would have been unwise. It therefore seems probable that de la Zouche's brief justiciarship simply enabled the official adoption of a policy which had been clandestinely pursued since 1254, namely limiting the rate of settlement in the king's cantreds to a more controlled level that was less likely to engender Gaelic outrage.

Although de la Zouche's role in formulating the new policy was probably minimal, he played a far larger part in its implementation. His skill as a frontier negotiator, perhaps honed in Wales, must have been considerable.<sup>257</sup> He ably defused a fraught situation without surrendering the newly-annexed cantred of Uí Maine, and he also brought de Burgh and de Verdun to the negotiating table with the Uí Conchbhair. The initial promise of undiminished holdings for the duration of de la Zouche's own justiciarship may have reflected a limitation of the justiciar's delegated powers. He operated within a framework that could be rapidly redefined by the king, and he could not bind his successors without royal licence, which had presumably been obtained

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<sup>253</sup> So great was Henry III's respect for fitz Geoffrey that when the latter suddenly died while heading up the baronial opposition, the king had a solemn mass performed for him (Matthew Paris, *English history*, iii, p. 309).

<sup>254</sup> Prestwich, *Edward I*, p. 69. It is also worth recalling his brief justiciarship in 1256 and the grant made to him by Edward in 1258.

<sup>255</sup> Richardson and Sayles, *Administration*, p. 92.

<sup>256</sup> *Ibid*, p. 125. For the importance of the Irish escheator see below, pp 148-58.

<sup>257</sup> He worked closely with Gruffudd ap Madog, lord of Bromfield, on several occasions during his time as justice of Chester (Stephenson, *Medieval Powys*, pp 118-19).

by 1257. The vague promise of 1256 might have seemed like a guarantee of reasonable security to the annalist, as only two men had occupied the justiciarship between 1232 and 1256. In any event the agreement of 1257 was firmer, and Feidhlimidh's construction of a Dominican friary at Roscommon in that year may indicate his confidence in his security of tenure there.<sup>258</sup>

Nevertheless, de la Zouche's understanding of 'undiminished holdings' probably differed from Aedh's. Although the Ua Conchobair tenancy was made more secure, the grant of only three cantreds in fee meant that the Ua Conchobair holdings had been almost halved since 1252. The annalist's account is at odds with the pipe rolls, and the Uí Conchobhair may have felt the premise of the negotiations had been betrayed.<sup>259</sup> Edward's 1258 grant to de la Rochelle must have seemed particularly treacherous, especially if the Tír Maine lands referred to in 1267 were also granted to him at this point.<sup>260</sup> Further, in light of de la Zouche's *modus operandi* in Wales, it is possible that the huge sums promised by the Uí Conchobhair for the king's peace and to continue holding their lands bear the personal stamp of this acquisitive administrator.<sup>261</sup> Indeed, perhaps his appointment was rooted in his ability to extract large sums from the Welsh. If so his legacy in Ireland, as in Wales, was revolt. The combination of extortionate rents with the diminution of the Ua Conchobair patrimony must have influenced Aedh's decision to join Brian Ua Néill in 1260.<sup>262</sup>

Henry's efforts to settle the king's cantreds had met with little success, and the subsequent efforts to mollify the area's ruling Gaelic dynasty fared little better. That Geoffrey de Lusignan was granted only the homage of de la Rochelle and de Exeter in December 1255 indicates that de Lokinton and de Aspreville no longer had claims in the area. There is no evidence that de Exeter encouraged settlement in Uí Maine, and the earliest evidence for de la Rochelle attempting to do so comes from 1270.<sup>263</sup> In 1282 Richard de la Rochelle's heir Philip claimed that his Connacht inheritance had lain waste and uninhabited since his father's death in 1277 – and while these lands were in the king's hand the escheator had needed to negotiate with the Gaels who formerly

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<sup>258</sup> Walton, 'English in Connacht', p. 230.

<sup>259</sup> Verstraten suggests that Aedh and Feidhlimidh were pursuing independent policies at this time. Given that there is no indication of a breach between them, and the fact that both were following a similar course, it is also possible that Aedh was acting as Feidhlimidh's lieutenant in 1256 (Verstraten, 'Both king and vassal', p. 27).

<sup>260</sup> As suggested by Walton, 'The English in Connacht', pp 240-1.

<sup>261</sup> Pipe roll evidence from 1261-2 shows that Feidhlimidh owed 5,000*m.* and 2,000 cattle for improving his tenure, and 600*m.* for he and Aedh to have peace; the annual farm was set at £300 (Walton, 'The English in Connacht', pp 227-8, p. 228 fn. 111).

<sup>262</sup> Aedh's ambition to succeed his father was already clear, and his blinding of two prospective rivals in 1257 made it still clearer (AU 1257.7).

<sup>263</sup> Holland, 'The Anglo-Norman landscape in county Galway', p. 181. In 1262, as justiciar, de la Rochelle led an expedition against the Uí Conchobhair but the area was not yet ready for settlement. Walton, 'The English in Connacht', p. 467.

occupied them to return so that some revenue could be taken.<sup>264</sup> According to an inquisition of 1303, after Richard's death the Gaels destroyed his castles and wasted his lands.<sup>265</sup> This suggests that, under Richard, these lands had been settled to the degree that he could profit from their lordship without relying on the original inhabitants of the land. However, without his personal lordship the settlement was unsustainable. Philip granted most of these lands, and some holdings in Dublin and Wicklow, to Theobald Butler, but the Butlers, too, struggled to pay rent or attract settlers, whether English or Gaelic.<sup>266</sup> Although there was some settlement around Aughrim and Suicin, there is little historical or archaeological evidence that this lasted, and in 1315 the Uí Ceallaigh regained control of Uí Maine.<sup>267</sup> Ultimately the king's waste settlement initiative achieved little except for antagonising the leading Connacht Gaels.

### *Henry and the Irish frontier, 1256-1272*

As has been noted, the documentation for the years 1254-1272 is relatively slender. During these years Edward's attention was taken up by the Gascon war, his marriage arrangements, the Welsh revolt, the baronial reform movement, the resulting civil war and the reconciliation that followed, his crusade preparations, and the crusade itself. Unsurprisingly, his interest in Ireland was limited during these years. There is evidence for a number of grants made by Edward during this time, most notably his grants of Desmond and Decies to John fitz Thomas and of the earldom of Ulster to Walter de Burgh.<sup>268</sup> In 1257 Henry confirmed Edward's grant to Walter de Trouleville of the manor of Ballymadun in Dublin;<sup>269</sup> and at Henry's request Edward granted lands to Richard de Altaribus and the mayor of Down to reward them for vanquishing Brian Ua Néill in 1260.<sup>270</sup> In October 1268 John de Ardern was granted land in the Tír Maine, though he had transferred these into the more enthusiastic hands of Richard de la Rochelle by 1270.<sup>271</sup> At some stage prior to his

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<sup>264</sup> *CDI*, ii, no. 1986.

<sup>265</sup> *CDI*, v, no. 198. A jury of 1305 claimed that after Feidhlimid's death, the only part of the king's cantreds that produced any revenue for the king was de la Rochelle's holding (*CJRI*, 1305-1307, p. 134).

<sup>266</sup> *COD* nos 257-261; *CDI*, v, no. 198. The lands Theobald gave Philip in exchange included Rush and Balscaddan, the same lands which Robert Walerand had received instead of Irish wastes. See above, pp 98-9.

<sup>267</sup> Walton, 'The English in Connacht', p. 185; Graham, 'Medieval settlement in county Roscommon', pp 33-4; Holland, 'The Anglo-Norman landscape in county Galway', pp 181-3.

<sup>268</sup> For the minimal Irish influence on these weighty grants, see Frame, 'Ireland and the barons' wars', pp 66-8.

<sup>269</sup> *CDI*, ii, 565.

<sup>270</sup> For the relevant documents, see *CR*, 1259-61, p. 64; *CDI*, ii, nos. 661, 665, 667, 668, 670;

<sup>271</sup> *CChR*, p. 149; Robin Frame, 'King Henry III and Ireland', pp 51, 55.

accession Edward also granted land in Ulster to Robert de Bello Manso, and in Limerick to Warin de Bassingburn.<sup>272</sup>

As well as land grants by Henry and Edward, other elements of royal patronage also had a bearing on the security of the Irish frontier. For instance, in granting the marriages of Walter de Lacy's heirs to John de Verdun and, latterly, to Geoffrey de Geneville, Henry bestowed critical lands upon suitably conscientious magnates.<sup>273</sup> The same can be said for the remarriage of Hugh II de Lacy's widow, Emelina, to Stephen de Longespee – indeed, it seems Henry strong-armed Emelina into this marriage in breach of Magna Carta: 'too much of the colony was in the hands of heiresses for the rights of widows to remain inalienable'.<sup>274</sup> Two of these men would later serve as Ireland's justiciar. Grants of wardships, too, could be used to try to maintain stable frontiers; this probably informed the decision to grant Piers de Bermingham's the de Burgh and Butler wardships. Piers went on to incur great costs in keeping these lands, though whether these arose from defensive needs is uncertain.<sup>275</sup> The waste grants were different in that they were speculative grants intended to inaugurate further expansion in Ireland. Edward probably left much of the running of Ireland to his Irish advisors without too much interference, as, indeed, he appears largely to have done during his reign proper. Edward preferred to supervise, rather than direct, his Irish government.

The 1253 extension of power to dispense Irish wastes to the justiciar was the last such empowerment of Henry's reign.<sup>276</sup> After this, the creation of Edward's appanage greatly diminished Henry's role in Ireland's government. Nevertheless, the king himself issued another grant of comparable powers on July 12, 1268, when he appointed his nephew, Henry of Almain to go to Ireland to recover lands and manors that Edward had alienated without licence. He was told to ignore 'any charter of feoffment which Edward may have made to anyone contrary to the tenor of the... grant [of Ireland to Edward]'. This was part of an ongoing dispute between the king and his son, who resented his inability to do as he saw fit with his appanage; Edward probably understood his father's motivations, as he would take a very strong line on alienations during his own reign.<sup>277</sup> Henry of Almain was also empowered to hear and determine pleas, complaints, and

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<sup>272</sup> Frame, 'King Henry III and Ireland', p. 51.

<sup>273</sup> It has been suggested that de Geneville may have chosen to call Meath his home because of the invigorating challenges posed by its frontier character (Hartland, 'Vaucouleurs, Ludlow and Trim', p. 473).

<sup>274</sup> Daniel Brown, *Hugh de Lacy, first earl of Ulster: rising and falling in Angevin Ireland* (Woodbridge, 2016), p. 198.

<sup>275</sup> See above, p. 110.

<sup>276</sup> See above, pp 93-4.

<sup>277</sup> For an overview of the dispute, see J.R. Studd, 'A catalogue of the acts of the lord Edward, 1254-1272' (PhD, Leeds, 1971), pp 39-42. For Edward's policy towards unlicensed alienations of lands held in chief of the king, see below, pp 139-40.

demands, 'and to do all other things which the king would do himself'. Most significantly for present purposes, Henry was empowered to 'make feoffments of the king's lands amongst the Irish or near the Irish or in the march of the Irish; or to let them at farm, or dispose of them in any other way as may seem best'.<sup>278</sup> The similarities to the powers granted to de Burgh in 1229 and to fitz Geoffrey in 1251 and 1253 are unmistakable, particularly in light of the frontier orientation of the earlier empowerments. It is unclear whether Henry of Almain ever came to Ireland, and the episode, if it ever developed far enough to warrant even that description, has received very little attention. Henry of Almain showed great promise but his violent and controversial death in 1271 has limited his impact on the historiography.<sup>279</sup> This may partly explain why the letters have received such little notice. Discussion of them has generally been restricted to the breach they highlighted between Henry and Edward.<sup>280</sup> Henry of Almain's 'prevarication in matters of personal loyalty' has been observed,<sup>281</sup> and it may be that just such a prevaricative flight explains this appointment, which set him in opposition to Edward, his close friend since childhood.<sup>282</sup> If so, Henry of Almain may have stood his ground and opted to side with the heir-apparent, as the letters of protection issued eight days later stated that he was 'going to Ireland for the affairs of Edward the king's son and himself [the king]'.<sup>283</sup>

Letters of protection hint at intention but are not proof of action, and there is very little evidence for Henry's arrival in Ireland. O'Byrne places Henry in Ireland in 1268, and contends that he 'was dispatched to Glenmalure to end Irish resistance'. This is based on a receipt roll entry from 1286-7 which charged Henry of Almain with £15 for an aid to overcome the Irish of the region at some unspecified time in the past.<sup>284</sup> Given the entry's belatedness and chronological ambiguity,

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<sup>278</sup> *CPR, 1266-72*, p. 246 (*CDI*, ii, nos 844-6).

<sup>279</sup> For the change in the king's tone towards his vanquished Montfortian nephews after Henry of Almain's murder, see F.M. Powicke, 'Guy de Montfort (1265-71)', *TRHS*, fourth series, vol. 18 (1935), pp 4-6. Dante placed Guy de Montfort in the seventh circle of hell for his crime, which Maddicott has described as 'one of the most infamous crimes in European history' (Maddicott, *Simon de Montfort*, pp 370-1).

<sup>280</sup> J.R. Studd, 'The lord Edward and King Henry III', *Bulletin of the Institute of Historical Research*, vol. 50, no. 121 (1977), p. 11; Frame, 'Ireland and the barons' wars', pp 68-9. A comparable letter patent was issued in June 1258, when Henry commanded the people of Gascony, Bordeaux, and Ireland 'not to be intendant to any seneschal, or constable or keeper, newly appointed, unless he have the king's letters patent of assent' (*CPR, 1247-58*, p. 639).

<sup>281</sup> Nicholas Vincent, 'Henry of Almain [Henry of Cornwall] (1235-71), courtier', *ODNB* (2004).

<sup>282</sup> For the childhood friendship between Edward and Henry, see Prestwich, *Edward I*, pp 5-6. Gervase of Canterbury frequently places Henry of Almain immediately after Edward when listing names, and both men were given as hostages for the maintenance of the mise of Lewes (*The historical works of Gervase of Canterbury*, ii, ed. William Stubbs (London, 1879), pp 229, 232, 238, 237, 249).

<sup>283</sup> *CPR, 1266-72*, p. 248 (*CDI*, ii, no. 848). This must explain Vincent's statement that Henry was sent to Ireland 'as Edward's representative, to resume control of Edward's lands and rights' – this interpretation is clearly incompatible with the content of the earlier letters (Vincent, 'Henry of Almain').

<sup>284</sup> Emmett O'Byrne, *War, politics and the Irish of Leinster, 1156-1606* (Dublin, 2003), p. 59. O'Byrne cites Frame, 'The Dublin government', p. 80, fn. 6, which directs the reader to the receipt roll at *CDI*, iii, p. 124.

Henry of Almain's death in 1271, the lack of other evidence for disturbances in Glenmalure in 1268,<sup>285</sup> and the absence of further reference to this political behemoth's appearance in Ireland, it seems reasonable to suggest that the Henry of Almain in question might in fact have been the merchant of the same name who appears in an issue roll of 1279-80 selling cloth to the justiciar.<sup>286</sup> Merchants often collected customs in the ports; collecting aids may have been logistically more challenging, but there is nothing inherently unbelievable about a merchant being responsible at the exchequer for the money raised. The identification is lent credence by the fact that the more mercantile Henry of Almain was explicitly associated with the justiciar in 1275, particularly as much of de Geneville's justiciarship (1273-6) was spent trying to deal with the problems in Glenmalure.<sup>287</sup>

Although the letters issued for Henry of Almain probably never came into effect, their neglect is unfortunate because they give an indication of Henry's priorities in Ireland after fourteen years of Edward's lordship. He clearly intended for Henry of Almain to take on huge defensive responsibilities in Ireland, as well as to resume granting away Gaelic lands. Indeed, it seems that the king's views on the best approach to the Irish frontier had changed little since 1254. Henry of Almain was a 'warlike' young man and was probably a suitable appointee as far as the military situation in Ireland was concerned.<sup>288</sup> The power granted to him over pleas, plaints, and demands is our earliest evidence of efforts to systematically deal with Irish petitions.<sup>289</sup> This, too, seems an appropriate duty for him to discharge: one historian has opined that during his lifetime 'Henry of Almain... looked to be the statesman, rather than the opportunistic Edward'.<sup>290</sup> The letters of appointment bestowed no official title upon Henry, and this, together with the possibility that he never came to Ireland, means that his omission from lists of Ireland's chief governor is reasonable.<sup>291</sup> Less reasonable is the failure even to mention these letters patent in assessments of the duties of the Irish justiciar, which are poorly documented in this period.<sup>292</sup> Henry was explicitly appointed to represent the king and was empowered to carry out several key

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<sup>285</sup> This receipt roll is the only evidence adduced by either Frame or O'Byrne for war in the region prior to 1270. See preceding footnote.

<sup>286</sup> *Irish exchequer payments*, i, pp 38, 40. The writ of liberate was dated to June 1275 (*ibid.*, p. 40, fn. 8). The same identification was made in Sweetman's index (*CDI*, iii, p. 530).

<sup>287</sup> See preceding footnote (fn. 286).

<sup>288</sup> Carpenter, 'What happened in 1258?', p. 195.

<sup>289</sup> Richardson and Sayles, *The Irish parliament*, pp 65-6. These authors presume that the visit occurred.

<sup>290</sup> Michael Prestwich, *Plantagenet England, 1225-1360* (Oxford, 2005), p. 140.

<sup>291</sup> Orpen, *Ireland under the Normans*, iii, p. 14; Wood, 'The office of chief governor of Ireland', pp 218-238; Richardson and Sayles, *Administration*, p. 80.

<sup>292</sup> Wood, 'The office of chief governor', pp 206-217; Otway-Ruthven, 'The chief governors of mediaeval Ireland', pp 79-89; *idem*, *A history of medieval Ireland*, pp 145-6; Richardson and Sayles, *Administration*, p. 80.

duties incumbent upon the justiciar, namely judicial responsibilities and legally protecting the royal demesnes. Robert de Ufford's appointment as Edward's representative in September, two months after the empowerment of Henry of Almain, reveals that a new justiciar was indeed needed at the time, and if the intention in July had not been for Henry to take on this office then it must have been to interpose him between the justiciar and king.<sup>293</sup> So peculiar and unprecedented an initiative deserves brief discussion even if it was not carried through.

As a baron of the highest rank, the powers bestowed upon Henry may have been untypically expansive, but his responsibilities do not seem far removed from the normal duties of a justiciar, and his broad authority over the marches is heavily reminiscent of the earlier policy of waste settlement. Unlike John fitz Geoffrey, however, it seems that Henry was authorised to make grants in fee. This was not just restricted to the lands of the Gaels, but also lands 'near the Irish or in the march of the Irish', which presumably meant demesnes and escheats in the marches. The measure was probably a response to the Gaelic agitations that had occurred since 1254. Brian Ua Néill's revolt had crumbled nearly a decade earlier, but in the interim Aedh Ua Conchobair had been able to launch attacks against the Geraldines in northern Connacht and Offaly.<sup>294</sup> Henry's confirmation of Edward's grants to de la Rochelle in 1267, and de Ufford's completion of Roscommon castle in 1269, were probably also responses to the mounting frontier challenges. South Munster, too, had seen trouble in the early 1260s as John fitz Thomas attempted to make good Edward's grant of Decies and Desmond. In 1261 the battle of Callan had ended in a complete routing of the English forces, after which the Gaelic leader, Fíngin Mac Carthaigh, went on a destructive victory lap of the English fortresses in Desmond. Fíngin was killed shortly after, but a second attempt to assert English dominance in 1262 ended in a Gaelic victory that effectively precluded the establishment of English dominance in Desmond.<sup>295</sup> All of this probably underpinned King Henry's emphasis on securing the Irish marches, while the licence to grant away Gaelic lands was a return to the policy of trying to increase the colony's territorial basis. It is striking that when Henry briefly undertook to completely bypass Edward due to his inappropriate alienation of demesnes, he picked up where he had left off in the 1250s by resuming and intensifying his earlier policy of trying to systematically introduce new settlement on the frontier. Even if Henry of Almain never exercised any of the powers granted to him, these letters amount

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<sup>293</sup> *CPR, 1266-72*, p. 255 (*CDI*, ii, no. 849).

<sup>294</sup> It has been suggested that their loss in the conflict with the de Burghs made it harder for the Geraldines to gain support against the Uí Conchobhair (Walton, 'The English in Ireland', pp 244-5).

<sup>295</sup> Orpen, *Ireland under the Normans*, iii, pp 139-142. According to Orpen, most of the fortresses constructed in 1215 were destroyed in this year ('Mote and bretesche building', p. 431).

to a statement of royal policy, in that moment, at least, towards Ireland, the marches, and the justiciarship.

For much of his reign, Henry envisaged further English expansion in Ireland. Although the extant documentation consists entirely of Henry's directions to his Irish officials, it is clear that the king took his cue from his Irish advisors, and in particular from his justiciars. His faith in the expertise of his Irish officials and in their competency to carry his wishes to fruition is clear from the instances in 1229, 1251, and 1253, when his justiciars were authorised to make grants in Ireland. As was usual when the king permitted exceptional powers to be exercised in Ireland, this was by no means a blank cheque. So far as can be seen, the justiciar could only grant lands in farm, at least in the 1250s, and Henry could veto grants or intrude his own grantees; he did so liberally in Connacht. Whether the improbable grants Henry made in the king's cantreds arose from a naïve misunderstanding of the political situation in Ireland, or simply represent cynical treatment of individuals to whom royal patronage was due, is uncertain. In the case of Geoffrey de Lusignan, at least, the former seems likelier. Henry persisted in his belief as to the best way to deal with Ireland's frontiers, even after fourteen years of Edward's indifferent rule. Perhaps he continued to hear the same advice from his own Irish agents, or he may simply have firmly held that the recommendations he had received from the 1230s through to the 1250s had been sufficient to make Ireland safe and profitable. The failure of his efforts throughout the period probably arose in large part from a combination of insufficient surplus population and unenthusiastic grantees.

### *Waste settlement under Edward I*

The idea that the Irish frontier could be dealt with through further settlement did not fade when Edward ascended to the throne. On 28 June, 1280, the justiciar Robert de Ufford, and treasurer Stephen de Fulbourne, were authorised to make enfeoffments of the king's Irish wastes or to let them in fee farm or for a certain rent, as they saw fit. The best sites were to be retained in the king's hand so vills and castles could be built there, and any grants they made would require royal ratification.<sup>296</sup> This was similar to the powers granted to Henry of Almain (although no royal veto had been mentioned in 1267, one was presumably intended since Henry wished to regain control over improperly alienated lands). Edward's focus, like that of his father, appears to have been on Connacht. In 1274 he had ratified burgage grants made by de Geneville in Rinndown, provided that the recipients dwelt in the area.<sup>297</sup> That Geoffrey had made these grants may indicate that

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<sup>296</sup> *CPR, 1272-81*, p. 384 (*CDI*, ii, no. 1697).

<sup>297</sup> *CDI*, ii, no. 1022.

he, too, had been empowered to grant away royal property subject to ratification, though I have not identified any document empowering him to do so. It is conceivable that this had become an ordinary duty of the justiciar. On the same day that de Ufford and de Fulbourne were empowered to grant away Irish wastes, Edward also granted 100s. of land in the wastes of Connacht to Robert de Stapleton in fee, and £20 of Connacht wastes to Richard de Exeter in fee farm. De Exeter had apparently been promised this land by de Ufford, further indicating that the justiciar may have already possessed some power to dispense Irish wastes.<sup>298</sup> De Stapleton later received land in Waterford instead, and Walton has suggested that he might have declined an offer of Connacht wastes.<sup>299</sup>

In June 1278 Edward promised £30 of Irish wastes (*vastivis*) to John de Walhope.<sup>300</sup> This preceded Edward's empowerment of his justiciar to make Irish waste grants, but it is indicative of the method followed when granting Irish wastes. It also makes for an interesting case study because the de Walhope tenure can be followed, to some degree, over three decades. John's career prior to 1278 was quite anonymous: he was pardoned a debt of 12*d.* in 1275, but otherwise escaped the notice of our sources.<sup>301</sup> Nevertheless, he was clearly well-regarded, as he was granted wastes to reward his long service to the king. He does not appear to have held land elsewhere, and was eager to have his waste grant realised: around October 1279 de Ufford reported that, although he had been too busy to immediately assign the wastes, he had deputed the sheriff of Connacht to do so because of de Walhope's impatience.<sup>302</sup> Nine vills were extended for him in Tír Maine, but these were worth only 20*m.*, and in December 1279 he instead received five carucates in Ballihaulis (Balally) and Balliotyre (Ballinteer) in the vale of Dublin.<sup>303</sup> The episode reveals a lot about the approach being taken to these waste grants. Edward's initial grant specified the value and character, but not the location, of the lands de Walhope was to receive, and it was the justiciar's duty to find a suitable site. When the attempt to endow him in Tír Maine fell through, wastes were found elsewhere, and Edward quickly confirmed the justiciar's more specific grant.<sup>304</sup> The process was probably identical in the case of grants made by the justiciar, only it was then he, rather than the king, who chose the recipient of royal patronage.

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<sup>298</sup> *CPR, 1272-81*, p. 403 (*CDI*, ii, nos. 1702, 1704).

<sup>299</sup> Walton, 'The English in Connacht', p. 475.

<sup>300</sup> *CPR, 1272-9*, p. 465 (*CDI*, ii, no. 1466).

<sup>301</sup> *CCR, 1272-9*, pp 174, 465.

<sup>302</sup> *CDI*, ii, no. 1613. For de Walhope's lack of holdings elsewhere, see *IEMI*, nos 92-4; *CIPM*, iii, no. 288 (*CDI*, iv, no. 228, p. 100).

<sup>303</sup> *CDI*, ii, no. 1625.

<sup>304</sup> The king's grant of these lands was given on 27 December, 1279 (*CJRI* says 28 December). The Tír Maine extent had been made around Michaelmas (*CChR*, ii, p. 220; *CJRI, 1295-1303*, pp 302-3).

In 1253 Robert Walerand had received secure lands in the northern part of the vale of Dublin instead of Connacht wastes. By contrast, the lands given to de Walhope were vulnerable frontier holdings in the foothills of the Dublin mountains.<sup>305</sup> De Walhope initially owed the service of 1½ knights, but this was soon reduced to one fee, perhaps reflecting concerns about the land's security or agricultural viability.<sup>306</sup> Notwithstanding his holdings' waste character, de Walhope was an ambitious and proactive asset manager. In November or December of 1281, he petitioned Edward for one carucate and 50 acres of land to qualify him for knighthood, and requested the rights of inbote and housebote in the wood of Glenree, and four Irishmen (*hibernici?*) who had lived there for four years.<sup>307</sup> He may have already been enjoying some of this without licence.<sup>308</sup> In any case there is no indication that his request had been granted by 2 January, by which date John was dead, leaving two minor female heirs.<sup>309</sup> Like the Connacht waste grants, the grant to de Walhope does not appear to have been very effective. A gift of seven oaks from Glenree in 1280 probably assisted him in constructing a strong house, but it does not appear that any effort was made to support him by issuing further grants in the area to other settlers.<sup>310</sup>

In 1284, the de Walhope lands in the manor of OKelly were described as being *subtracto et quasi vastum*, and Thomas Godefroy was allowed default of rents due from de Walhope's lands of Ballinteer and Garvach in his 1286-7 account for the manor of Obrun.<sup>311</sup> This was a period of relative calm in the mountains of Leinster, and this state of affairs probably reflected the holdings' remoteness and small population rather than war. Under Henry III this manor, like those of Othee

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<sup>305</sup> The manor of Okelly, contained within this grant, was omitted from Lyons' study of the royal manors, but it formed a small part of the defensive line to Dublin's south which was dominated by Newcastle Lyons, Saggart, Bray, and Newcastle McKynegan (Lyons, 'Manorial administration', p. 12). See also Foley, *The royal manors*, p. 180. For an overview of Okelly's history, see Foley, *ibid*, p. 25.

<sup>306</sup> *CDI*, ii, nos. 1625-6; Bateson, 'Irish exchequer memoranda', p. 503. See also *Rep. DKPR*, 38, p. 61. Hartland suggested that Edward assigned an inappropriately low level of service to improve the gift's value (Hartland, 'English landholding', p. 128).

<sup>307</sup> *CDI*, ii, no. 2002. According to George Griffiths this letter is dated 12 November 1282, and thus relates to another John de Walhope, presumably the heir. This is possible, but is inconsistent with the testimony of the jurors of 1295 and 1300, and it seems likelier that the letter was written in November 1281 (George Griffiths, *Chronicles of the county Wexford, being a record of memorable incidents, disasters, social occurrences, and crimes, also, biographies of eminent persons, &c., &c., brought down to the year 1877* (Enniscorthy, 1890), p. 453).

<sup>308</sup> In 1300, jurors alleged that John de Walhope had 'occupied and appropriated to himself half a carucate of the king's land in G...', which was recovered after his death (*CJRI, 1295-1303*, p. 303). This must have been the unexplained half carucate in Garvath which appears in a pipe roll of 1286-7 and the IPM taken in 1295; it must not have been recovered by the crown until after the death of John's heir Margaret (*Rep. DKPR*, 37, p. 26; *IEMI*, no. 92; *CIPM*, iii, no. 288, p. 187 (*CDI*, iv, no. 228, p. 100)).

<sup>309</sup> *CPR, 1281-92*, p. 8; *CDI*, ii, no. 1891. De Walhope's wife Margery was not assigned her dower until May 1283, and she had to undertake not to remarry without licence (*CDI*, ii, no. 2083).

<sup>310</sup> *CCR, 1279-88*, p. 4 (*CDI*, ii, no. 1633).

<sup>311</sup> Bateson, 'Irish exchequer memoranda', p. 509; *Rep. DKPR*, 37, p. 26. For Garvach see above, p. 117, fn. 308.

and Obrun, had been rented from the crown by betaghs,<sup>312</sup> and the employment of Gaelic manorial bailiffs in the region in 1262, 1295, and 1296, indicates that English settlement had not taken root.<sup>313</sup> By June 1295 both of John's daughters were dead, and the holdings' value had been halved by 'war and accidents'.<sup>314</sup> Muiris Mac Murchada's depredations in that year may have been to blame, but given the brevity of John de Walhope's lordship, any efforts on his part to make the area profitable cannot have progressed far.<sup>315</sup> John's next heir was his brother William, who was 23 in 1295. But William struggled to obtain seisin until April 1300.<sup>316</sup> Notwithstanding the extravagance of his youth, Edward was loath to alienate demesnes during his reign, and he tended to overestimate their value; this perhaps explains the delay in permitting William's seisin.<sup>317</sup> This cannot have improved the likelihood that strong settlement would be established in the area.

Given the holding's exposed location, the delay in sanctioning William's inheritance seems imprudent. Nevertheless, William seemingly effected some economic recovery and augmented his holdings through the addition of lands at Ballyhamond: he was dead by early 1310, when the escheator, accounting from Hilary 1308 to Hilary 1310, accounted for £8 14s in rent for Ballyhamond, Balally, and Ballinteer.<sup>318</sup> The account of wards and escheats for September to December, 1310, record £2 18s. of rent from the same lands, and £11 12s. of rent was collected for the period 1311-13.<sup>319</sup> Thereafter, the holdings' custody was given to William de Moenes, a baron of the exchequer, until the majority of the heir. De Moenes is recorded owing, but not paying, money for the lands between 1313 and 1315, after which no more mention is made of the de Walhope holding.<sup>320</sup> Collection of revenue from the area may have become unfeasible. The death of an active frontier landholder was always untimely, and particularly at so early a stage in its settlement; the enterprise was successively robbed of its momentum by the deaths of John and William. The frontier grouping of Ballyhammond, Ballinteer, and Ballyhauhy would persist, however. In 1334 these lands were granted to Maurice Howel, one of south Dublin's leading

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<sup>312</sup> James Mills, 'The Norman settlement in Leinster', *JRSAI*, fifth series, vol. 4, no. 2 (1894), p. 173.

<sup>313</sup> Hewer, 'Justice for all?', pp 72-3 (*Rep. DKPR*, 35, p. 43).

<sup>314</sup> *JEMI*, no. 92; *CIPM*, iii, no. 288 (*CDI*, iv, no. 228, p. 101); *CIRCLE*, CR 23 Edward I, nos 1, 5.

<sup>315</sup> *CSM*, ii, p. 324. Muiris submitted to the justiciar in October (*CJRI*, 1295-1303, p. 61). For this outbreak of war see J.F. Lydon, 'Medieval Wicklow – "a land of war"', Ken Hannigan and William Nolan (eds), *Wicklow history & society: interdisciplinary essays on the history of an Irish county* (Dublin, 1994), p. 154; O'Byrne, *War, politics and the Irish of Leinster*, pp 62-3. See also below, pp 136-7.

<sup>316</sup> *CJRI*, 1295-1303, pp 302-3; *CFR*, i, p. 427.

<sup>317</sup> Prestwich, *Edward I*, p. 110. He would also express an unwillingness to part with the frontier fortification of Newcastle McKynegan and its surrounding lands (see below, pp 135-6).

<sup>318</sup> *Rep. DKPR*, 39, p. 29.

<sup>319</sup> *Rep. DKPR*, no. 39, pp 40, 59.

<sup>320</sup> *Ibid*, pp 53, 60, 70.

marchers, and in 1407 they were granted to William Walsh, who was required to construct a fortalice within three years.<sup>321</sup>

Although de Ufford and de Fulbourne were willing to assign de Walhope land outside Connacht, they were determined to assign wastes, and were willing to reduce the level of military service owed in order to keep the grantee interested in taking on the holding. Edward's willingness to permit this is striking, for there is little indication of similar flexibility in Henry III's policy thirty years earlier, when several waste grants appear simply to have been allowed to lapse. Edward may have been more willing to bow to the greater expertise of his Irish ministers on such matters. That the same approach was taken to waste grants made by the justiciar as was taken to those made by Edward is apparent from an instance in 1283 when the king authorised de Ufford and de Fulbourne's grant of an array of waste holdings in the Connacht *theodum* of Clann Conmhaig to John de Sandford, the escheator. As with the de Walhope grant, Edward confirmed a grant that had already been made, but the importance of his personal oversight was clear from his exclusion of one carucate which had already been granted to William fitz Warin.<sup>322</sup> Edward also respited de Sandford's annual dues of £34 for the first six years, presumably to give him time to make the lands in question profitable.<sup>323</sup> De Sandford owed suit for these lands at the county court of Roscommon; the recent establishment of this court has been taken to indicate increased confidence in the feasibility of colonisation.<sup>324</sup> However, the county of Roscommon would have only an ephemeral existence.<sup>325</sup>

Although the power over wastes granted by Edward in June 1280 was to be exercised by de Ufford and de Fulbourne together, the latter was apparently the acting justiciar at that time and he may have exercised the power alone for some time during de Ufford's absence.<sup>326</sup> This may explain an intriguing thread spanning several memoranda arising from the investigation into Stephen's pecuniary misconduct as treasurer, which commenced in the summer of 1284.<sup>327</sup> One

<sup>321</sup> Maginn, 'English marcher lineages', p. 120; *CIRCLE*, CR 8 Edward III, no. 80; *ibid*, PR 9 Henry IV, no. 102.

<sup>322</sup> *CPR, 1281-92*, p. 74 (*CDI*, ii, no. 2115); *Alen's reg.*, p. 148.

<sup>323</sup> *CFR*, i, p. 189. De Sandford also acquired five more villates in Connacht from Richard son of John (*Alen's reg.*, p. 149).

<sup>324</sup> Walton, 'The English in Connacht', pp 476-7.

<sup>325</sup> Connacht went through five different kings, excluding Aedh, between 1274 and 1280 (AFM 1274.1, 1274.4, 1278.8, 1280.2).

<sup>326</sup> De Ufford's absence, and his ailing health upon his return, is noted in Otway-Ruthven, *A history of medieval Ireland*, p. 204; Richardson and Sayles, *Administration*, p. 81.

<sup>327</sup> The investigations into de Fulbourne require study, but the consensus is that some corruption was a natural by-product of de Fulbourne's effective administrative reform programme. He was treated very leniently, and continued as justiciar until his death in 1288. See Otway-Ruthven, *A history of medieval Ireland*, pp 204-5; Lydon, 'The years of crisis', pp 191-2; *idem*, *The lordship of Ireland*, pp 97-9; Seán Duffy, *Ireland in the Middle Ages* (Hampshire, 1997), p. 129. For evidence of peculation in the mints during de Fulbourne's justiciarship, see N.J. Mayhew, 'Irregularities in the Irish mint accounts, 1279-1284', N.J.

memorandum reads that ‘the king is deceived regarding the making over of his lands in fee or on lease’;<sup>328</sup> another elaborates that Stephen was pocketing fines of entry of lands, ‘for when waste or other lands are committed the receivers give a portion into hand, and with this the treasurer does not charge himself in his receipts’.<sup>329</sup> This was a relatively minor transgression amongst the many accusations levelled at Stephen, but another memorandum, which was unfortunately heavily damaged when Sweetman calendared it, appears to claim that de Fulbourne was letting good lands on the pretence that they were waste, while actual wastes continued to be neglected.<sup>330</sup>

It is impossible to say whether the allegations of misconduct in granting away wastes were accurate. Lydon judged the investigation a biased affair,<sup>331</sup> and de Fulbourne’s mandate over wastes may have simply attracted negative attention from some of his many detractors. Despite the accusations levelled at his justiciar, Edward renewed de Fulbourne’s power to lease Irish wastes in August 1285. This was a testament to the king’s confidence in the value of Irish ‘waste’ settlement, perhaps reinforced by his recent successes in Wales. This time the initiative was more geographically restricted: waste feoffments were permitted only ‘in Connacht in the district of Roscommon.’ Moreover, de Fulbourne was also subject to greater oversight, as the power was now to be exercised in association with John de Sandford, Thomas de Clare, and Geoffrey de Geneville.<sup>332</sup> It is notable that, despite the growing importance of the king’s ministers in his Irish council as the thirteenth century progressed,<sup>333</sup> it was still felt that advice on the frontier was best given by the magnates.<sup>334</sup> Since the grant of de Muscegros’ Thomond lands to de Clare in 1276, precious little of Ireland remained to be granted away in a speculative manner; the specification

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Mayhew and Peter Spufford (eds), *Later medieval mints: organisation, administration and techniques. The eighth Oxford Symposium on Coinage and Monetary History* (Oxford, 1988), pp 88-90.

<sup>328</sup> *CDI*, ii, no. 2333. Another memorandum reads ‘the king is deceived as to letting of his lands’ (ibid, no. 2334).

<sup>329</sup> Ibid, no. 2338, p. 557.

<sup>330</sup> *CDI*, iii, no. 2, p. 14. See also *CDI*, ii, no. 2329, p. 548.

<sup>331</sup> Lydon, ‘The years of crisis’, p. 192. Others, too, have noted that the difficulty of establishing the accusations’ veracity renders them suspect (Otway-Ruthven, *A history of medieval Ireland*, p. 205; J.A. Watt, ‘English law and the Irish church: the reign of Edward I’, J. A. Watt, J. B. Morrall & F. X. Martin (eds), *Medieval studies presented to Aubrey Gwynn, S. J.* (Dublin, 1961), p. 151; Richard Huscroft, ‘Edward I’s government and the Irish church: a neglected document from the Waterford-Lismore controversy’, *IHS*, vol. 32, no. 127 (2001), pp 428-9). Cf. John of Wales’s suggestion that poor men should not be given high office, as they will be tempted to enrich themselves at the expense of the poor! (Frédérique Lachaud, ‘Ethics and office in England in the thirteenth century’, *Thirteenth century England xi: proceedings of the Greygnog conference, 2005* (Woodbridge, 2007), p. 27).

<sup>332</sup> *CPR, 1281-92*, p. 188 (*CDI*, iii, no. 137).

<sup>333</sup> Richardson and Sayles, *The Irish parliament*, p. 19.

<sup>334</sup> De Sandford, the only one of the king’s Irish ministers involved, appears as a beacon of probity in an embattled administration: one of the few extant positive comments made by the auditors of 1284 was their statement that de Sandford exercised his office ‘laudably’ (*CDI*, iii, no. 2, p. 9).

that the grants were to be made from the king's cantreds confirms that Edward's intention was not simply to put unused land to good use, but to settle his most substantial remaining demesne frontier with Gaelic Ireland. The affiliation of three magnates of considerable calibre with de Fulbourne for this purpose ensured that men well apprised of the colony's military needs could assess any grants made, though it may also have been hoped that this would obviate the risk of further corruption seeping into the justiciar's waste dealings.

The few known grants which might have arisen from these powers were certainly more appropriate than Henry III's grants had been. £14 6s. 8d. was given to William Huse to fortify £10 of land granted to him in the wastes of Connacht in the same regnal year. This seems reasonable, as William had long experience in Connacht.<sup>335</sup> De Fulbourne's grant of the vill of Moyavennan to William de Prene for 100s. per year at some point before 1287 perhaps also arose from the 1285 empowerment.<sup>336</sup> De Prene had been the colony's highly influential master carpenter since 1284 and had frequently worked on the Connacht castles. It would later transpire that he was cruel, corrupt, and grossly negligent, but in 1284 a grant of Connacht wastes probably seemed prudent.<sup>337</sup> The king himself may also have continued to make waste grants in Connacht during these years. In c.1285 John Mape wrote to the English chancellor claiming that Edward had granted him 100s. of Connacht wastes, but he had so far received only 1½ carucates, and thus found himself one carucate short.<sup>338</sup> John had long served as the keeper of the royal castles of Athlone, Rinndown, and Roscommon,<sup>339</sup> a fact of which the chancellor was reminded, as John also informed him that he was owed £39 9s. for expenses he incurred while keeper of Athlone.

The continued focus on the king's cantreds reflected the fact that this enduringly volatile frontier was part of the royal demesne. Again, efforts to establish stable settlement there had little success. Roscommon castle had been destroyed in 1272 and again in 1277, and Walton deemed it 'rather remarkable that people were prepared to settle in the marcher town of Roscommon in the second half of the thirteenth century' – a damning assessment, given that

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<sup>335</sup> *CDI*, iii, no. 169, p. 79. William received £8 for expenses incurred *in municione* of Roscommon castle in 1272 and received animals from the smith of Rinndown in 1277-8; between 1275 and 1279 he received payments totalling £20 for a horse lost in the king's service (*Irish exchequer payments*, pp 1, 12, 17, 20, 27).

<sup>336</sup> *CCR*, 1288-96, p. 22 (*CDI*, iii, no. 528). William had to be pardoned two years of the vill's rent due to war.

<sup>337</sup> For an overview of William's rise and fall, see R.A. Stalley, 'William of Prene and the royal works in Ireland', *Journal of the British Archaeological Association*, third series, vol. 41, no. 1 (1978), pp 35-9.

<sup>338</sup> *CDI*, ii, no. 2364.

<sup>339</sup> The first reference to John Mape being paid for custody of a royal castle appears in 1276 (*CDI*, ii, no. 1293, p. 237).

Roscommon was the new county's *caput*.<sup>340</sup> An undated letter from Roscommon's mayor to the king informed him of the kindness of the prior and convent of St. Coman's of Roscommon in giving them a safe site near to Roscommon castle to rebuild their town after its destruction. Formerly, they had suffered from *multimodas gerras et... insultus Hybernicorum*.<sup>341</sup> The nascent county of Roscommon was very reliant on the physical and psychological security provided by its castles, and intensifying settlement was thus of the utmost urgency there. It is in this context that the 1285 empowerment to alienate royal wastes in fee or farm ought to be viewed.

The policy's ultimate ineffectiveness in the king's cantreds is clear from an inquisition of 1305, in which the jurors betray a yearning for the halcyon days before Henry III had aggravated the simmering frontier situation there. They claimed that during peace, the two-and-a-half cantreds in Gaelic hands presently rendered 100*m.*; but these had rendered 250*m.* under Feidhlimidh. Extracting that sum now would require 'a great force of the king, and inestimable expense exceeding the value of the land'. They therefore advised granting the Ua Conchobair portion of Connacht to Richard de Burgh, in exchange for 100*m.* in the land of peace. De Burgh, they said, would be 'better able to chastise the Irish of that land than another'.<sup>342</sup> As an established landholder de Burgh was unlikely to introduce new settlement, and they were effectively recommending employing him to cow the region's Gaels into paying their rent, to his own immense profit. That they thought the further aggrandisement of an already overmighty magnate was the best course of action to restore the king's cantreds to their supposed former state of peace and prosperity was an indictment of the waste grant policy's effectiveness, particularly under Henry. During Edward's reign, greater powers of alienation were vested in the Dublin government, and Edward himself also made more plausible waste grants, but settlement efforts there appear to have lost their momentum, perhaps due to demographic challenges. The jurors' portrayal of a time when English settlers in the king's cantreds had ever been truly secure was perhaps somewhat fantastical, but the government's waste grants had achieved little besides alienating the Uí Conchobhair.

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<sup>340</sup> Walton, 'The English in Connacht', p. 456.

<sup>341</sup> *Na Búirgeisi*, ii, pp 332-3, fn. 14; Sayles, *Affairs*, no. 80; NLI MS 1, f. 302. Walton assessed that this was probably written before November 1282 (Walton, 'The English in Connacht', pp 457-8).

<sup>342</sup> James Hogan, 'Miscellanea of the chancery, London', *Analecta Hibernica*, no. 1 (1930), pp 212-5; *CJRI*, 1305-7, p. 134. Hogan's transcript was made from a damaged document.

### *Conclusions*

Beth Hartland, examining the grants to de Muscegros and fitz Geoffrey in Thomond, commented that '[r]oyal grants... do not a royal policy make'.<sup>343</sup> It is clear from the foregoing, however, that the Thomond grants were only a small part of the equation. Henry and Edward made frequent speculative grants in the western extremities of Ireland across four decades, often on terms that were advantageous to the grantee. Moreover, justiciars were empowered to systematically grant away such lands in 1229 and 1230, 1251, 1253, 1280, and 1285. It seems reasonable to also append the 1268 empowerment of Henry of Almain to this list. There is some indication, during Edward's reign, that these powers were also being exercised in the interim. However one sees fit to regard a collectivity of royal grants, policy seems an appropriate term to apply to these repeated efforts to bring about a more systematic settlement. In most instances these lands were euphemistically referred to by Henry and Edward as 'Irish wastes', a term which was seemingly supposed to indicate that they were not presently producing the revenues that might be expected from them. In fact, these lands were under Gaelic control, and any landholdings established on their basis would unequivocally be frontier holdings. This, and perhaps also the remoteness of the lands concerned, appears to have dissuaded most grantees from ever taking up their grants. For the most part, the exceptions to this rule were already based in Ireland, and those who did try to establish settlements in the 'wastes' struggled to maintain them. The frontier, it seems, reversed the colonial double entendre, converting settlements to waste.

A number of possible reasons for the failure of this protracted attempt at settling Ireland's westernmost frontier might be suggested. That so vigorous a Gaelic leader as Aedh Ua Conchobair was a prominent figure during the years that Henry was making waste grants must be chief among these. Henry III's courtiers evidently lacked the enthusiasm for conquest that his grandfather's Welsh marchers had possessed, and the king's efforts to resolve his court patronage problem with grants in a remote and hotly contested frontier region were ill-advised; indeed, many of Henry's grants were probably not based on Irish advice at all. The apparent governmental disregard of Henry's increasingly agitated epistles in the mid-1250s indicates that his course was regarded as imprudent in Dublin, and the resistance he faced, both from the Irish administration and from his grantees, probably also played an important role in the failure of these efforts to settle Connacht. It seems that Edward was more inclined than Henry to defer to his Irish advisors on frontier matters, and the grants which he personally made seem decidedly more apt than those made by Henry. However, limited financial and human resources may have hamstrung Edward's efforts to

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<sup>343</sup> Hartland, 'English landholding', p. 127.

## Settling the wastes

bring about the settlement of his Irish wastes, and a measure of corruption may also have played a role. Smith has suggested that the heavy march focus of the 1297 parliament indicates that 'the settlers no longer thought beyond the marches', and this suggestion is perhaps strengthened by the evidence explored here: by the end of the 1280s, it seems, the efforts to settle the 'Irish wastes' had failed.<sup>344</sup>

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<sup>344</sup> Smith, 'Keeping the peace', p. 58.

### III

## Leniency and its Limitations under Edward I

In the foregoing chapters we have seen that landholders with responsibility for frontiers within Ireland sometimes received distinctive treatment on that account. Waste grants were made for relatively low annual rents, and march landlords were temporarily granted exceptional powers over their tenants in order to ensure that the frontiers would be safely kept. During Edward's reign, and particularly from the 1290s, the quantity and variety of available evidence expands, and a more sustained study of these trends of leniency in the government approach to the frontier becomes possible. The issues at the heart of the topic are the finances and rights of the crown – these factors appear to have delimited the boundaries beyond which lenient treatment became rarer. As such, it will be seen that the instances of leniency by the king and his Irish representatives that are explored in this chapter were always on a case-by-case or temporary basis. By no means was it intended for one rule to emerge for the marches and another for the land of peace. The chapter will focus on the tension between the recognition that flexible government was often necessary on the Irish frontiers and the concern (justified, perhaps, by the experience gained in Wales) that lack of circumspection might lead to precedents that were corrosive to royal rights.

This tension is examined at three different levels. First, the Irish justiciar's use of judicial mercy in order to support frontier initiatives will be briefly examined. The court records show the willingness to assist local frontier undertakings by treating felons leniently. Doing so on a case-by-case basis did not detract from the king's rights or finances, the two crucial parameters that often appear to have marked the limits of official leniency. Of course, the pipe and issue rolls attest to considerable government outlay in support of frontier defensive efforts, but the leniency in the justiciar's court was designed to mitigate such costs. Next, Edward's approach to Irish petitions that cited frontier exigencies or opportunities in order to bolster their case will be examined. Again, money and the rights of the crown appear to have been the crucial factors that shaped the answers arrived at by Edward and his advisors. Finally, the systematic, but temporary, extension of exceptional powers of alienation to a sizeable subsection of frontier landholders within Ireland will be examined. Here, too, it will be seen that the king's magnanimity was not boundless – rather, it ended exactly at the point where royal prerogatives began.

### *Clemency and Compensation*

War was one of the great drivers of royal policy in the latter half of Edward I's reign.<sup>1</sup> The period saw efforts to incentivise participation in the king's wars, and so in 1294 a practice emerged in England of pardoning felons to secure or reward their service in war.<sup>2</sup> The same phenomenon has been observed in the Irish material as well, particularly in relation to military service in Scotland.<sup>3</sup> However, pardons were also offered to reward military service within Ireland and to coerce men into joining expeditions or local defensive efforts. Frame assessed that interminable war made the pardon 'a vital instrument of government' in Ireland during the fourteenth century.<sup>4</sup> The measure was a cost-effective means of amassing soldiers, albeit perhaps not armies. That the measure was employed to support domestic as well as overseas conflicts indicates that the balance of power in many frontier regions was regarded as unstable – small numbers of men could make an important difference. The phenomenon permits an avenue into the study of lenient governance being used to maintain secure frontiers by the Irish administration.

That individuals with the will and ability to fight in the marches were highly valued by the Dublin government was explicitly spelled out in 1297, when the justiciar learned of an effort by Nigel le Brun and his men to pervert the course of justice. While he was seneschal of Kildare, Nigel had led a costly foray against the Irish of Irch. The party had been ambushed by a joint force of Gaels and Englishmen while returning, and several of their number were slain. Later, while passing by Newtown of Leys one of Nigel's men 'saw Will. Balaunce, an Englishman, and running his horse towards him, struck him with a lance through the middle so that he died'. No explanation is given for this act – presumably Will was suspected of participating in the ambush – but when Nigel heard what had happened he pardoned the killer, flagrantly exceeding his authority. The impropriety of this pardon was clear to the justiciar, who imposed a 100s. fine on the perpetrator of the crime. But this was the only punishment meted out: 'as to Nigel and the others, for the great service done in defending the marches, suit of peace [was] pardoned'.<sup>5</sup> Evidently the continued good

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<sup>1</sup> See Prestwich, *War, politics and finance*, pp 282-90. For the impact on Ireland in general, see James Lydon, 'The years of crisis', pp 195-204.

<sup>2</sup> For the emergence, progression, and consequences of this measure, see Naomi D. Hurnard, *The king's pardon for homicide before A.D. 1307* (Oxford, 1969), pp 311-323.

<sup>3</sup> Lydon, 'Ireland in 1297', pp 18-19; idem, 'The years of crisis', p. 203; Smith, *Colonisation and conquest*, pp 149-50; G.J. Hand, 'English law in Ireland, 1172-1351', *Northern Ireland Legal Quarterly*, vol. 23, no. 4 (1972), p. 408. For examples of pardons for Scottish service, see *CJRI, 1295-1303*, pp 171, 367, 428; *CJRI, 1305-1307*, p. 150; KB 2/7, pp 3-4. For reference to a debt being pardoned for like service, see *CJRI, 1305-1307*, p. 12.

<sup>4</sup> Frame, 'English officials and Irish chiefs', pp 255-6.

<sup>5</sup> *CJRI, 1295-1303*, p. 168. For another instance of Nigel attempting to redirect the course of justice, see *ibid*, p. 171. For a brief overview of his background and career, see Áine Foley, 'The abbey of St Thomas the Martyr and the le Brun family: piety and patronage in Anglo-Norman Dublin', *Medieval Dublin xvii*:

service of this frontier raiding party was regarded as sufficiently valuable to warrant overlooking their transgression in pardoning and failing to take the killer.<sup>6</sup>

By no means was this an isolated incident, though pardons for service in Ireland do appear to have become more common in the early fourteenth century. In 1295 twelve men were pardoned 'at [the] instance of Maurice de Rupefort and to lessen the power of the king's enemies'; and earlier in that year a long list of men were pardoned for securing Newcastle McKynegan and Castlekevin against the Uí Broin.<sup>7</sup> A damaged record from 1306 recorded pardons issued to several men for crimes including robberies, a killing, and being 'of affinity of the Irish' because they were 'very useful in fighting the felons of the race of Othotheles, when they have a good leader and captain'.<sup>8</sup> In 1311 Stephen Germeyn was pardoned partly because he 'is a strong man and often fights well against Irish felons although he is poor';<sup>9</sup> and Smith noted an episode in which a Gael escaped outlawry due to his reputation for 'repress[ing] the felons of his parts for the good of the peace'.<sup>10</sup> Many other instances of pardons being dispensed for felonies of all stripes on the basis of military service past and future are found in the court records. Sometimes the men concerned pledged to participate in specific upcoming expeditions, and other times their pledges were more general.<sup>11</sup> This was much the same phenomenon as was occurring in England during the same period, and unsurprisingly it proved problematic and unpopular in both areas.<sup>12</sup> This means of drumming up fighters for expeditions within Ireland and for local defence facilitated and perhaps encouraged crime, and it diminished the profits of justice; that clemency was used to recruit soldiers in spite of these problems indicates the seriousness of the military problems faced on some frontiers at the time. It also reveals that even at a small-scale and local level, the Dublin government was willing to tolerate considerable excesses in the interest of security.

While killers and robbers might be pardoned to improve the defence of the frontier, there were limits to the administration's generosity, and the crown was disinclined to foot the bill for local defensive efforts, particularly from the mid-1290s. Lydon set this tendency in the context of

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*proceedings of the Friends of Medieval Dublin Symposium 2015* (Dublin, 2019), pp 271-2. Nigel later served as seneschal (Richardson and Sayles, *Administration*, p. 126).

<sup>6</sup> Hewer has noted instances when the death of an Englishman was pardoned because the killing occurred in self-defence or accidentally – neither scenario appears to adequately explain this episode (Hewer, 'Justice for all?', pp 197-201).

<sup>7</sup> *CJRI, 1295-1303*, pp 4, 69. For the war in the Leinster mountains at this time, see above, p. 118, fn. 315.

<sup>8</sup> *CJRI, 1305-1307*, p. 503. One of those pardoned was less useful in this regard, because he lived so near those Gaels 'that he cannot resist them without danger of his life'.

<sup>9</sup> *CJRI, 1308-1315*, p. 213.

<sup>10</sup> Smith, *Colonisation and conquest*, p. 81.

<sup>11</sup> *CJRI, 1305-1307*, pp 293, 359, 481, 497, 500, 501, 504, 506-7; *CJRI, 1308-1315*, pp 146-7, 189-90, 199-200, 221, 237, 245, 247, 251, 271, 315-16, 324-5; KB 2/7, pp 49-50.

<sup>12</sup> See Hand, 'English law in Ireland, 1172-1351', p. 413; Lydon, 'Ireland in 1297', p. 19.

the growing demands being placed on Irish resources for Edward's overseas wars.<sup>13</sup> One type of defensive outlay may have already been minimised during the 1280s however – payments for horses lost in the king's service in Ireland stop appearing on the issue rolls after 1286<sup>14</sup> (payments for horses lost in Scotland continue to appear occasionally<sup>15</sup>). The escheators' accounts do frequently note allowances made for horses lost in the king's service, and during Edward's reign a few reimbursements for those lost in local defensive efforts are recorded again. Perhaps the evidence for such payments is simply hidden under another heading on the issue rolls in the interim.<sup>16</sup> In any case, Edward I's reluctance to compensate those who lost horses outside of royal expeditions was set out in his response to a petition from Walter l'Enfaunt in 1290. Walter wanted payment for horses lost 'in the lord king's service in various places at the command of the justiciar', and in response the king claimed that Walter's request had already been dealt with in Dublin. However, the king added that 'if [the horses] went to the defence of their own march they did well and did their duty. The king is not accustomed to make good their losses'.<sup>17</sup> This may hint at some dispute over Walter's characterisation of the losses, but it certainly sets out the king's position with regard to his administration shouldering the financial burdens of local defence.

The fact that the crown's charitable treatment of marchers did not extend to paying for horses lost in the marches did not mean that those who fought on the frontiers had no financial support from Dublin. In the first decade of the fourteenth century there is evidence of local taxes being levied to reimburse equine losses suffered in the marches. Although the sums were levied by local officials, the measures were pronounced in the justiciar's court, and problems arising in their collection could be raised and resolved there, indicating that they were guaranteed by the crown. Richardson and Sayles observed there was no English parallel for royally-backed local taxes of this sort, which are first in evidence as early as 1207.<sup>18</sup> Elsewhere in this thesis it is shown that similar levies paid for private fortifications from at least the 1240s, for the heads of felons from at least the 1250s, and for the clearing of passes from at least the 1270s.<sup>19</sup> Such levies could alleviate

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<sup>13</sup> Lydon, 'Ireland in 1297', esp. pp 22-3.

<sup>14</sup> For repayments for horses lost in the king's service in Ireland before that year, see *Irish exchequer payments*, pp 4, 10-13, 16-17, 20, 25-7, 40, 44, 70, 84, 100-4. For horses lost in Scotland, see *ibid*, pp 139, 195; *CJRI, 1305-1307*, pp 33-4. *CIRCLE*, CR 12 Edw. I, nos 14, 21, 23, 40; *ibid*, CR 14 Edw. I, nos 4, 7.

<sup>15</sup> *Irish exchequer payments*, pp 139, 170, 195.

<sup>16</sup> For some payments during Edward II's reign, see *CIRCLE*, CR 3 Edw. II, no. 15; *ibid*, CR 6 Edw. II, nos 19, 31.

<sup>17</sup> *Et, si iverunt ad defensionem proprie marchie, bene fecerunt et debitum suum. Rex non est consuetus restaurare eis dampna sua etc (PROME, Edw. I, Roll 3, m.1, no. 13 (CDI, iii, no. 558, p. 250)).*

<sup>18</sup> Richardson and Sayles, *The Irish parliament*, p. 51. See also Frame, 'Military service', pp 287-8.

<sup>19</sup> See above and below, pp 60, 64-5, 79, 186-8.

the pressure on, or actively reward, those who fought in the marches, but they were also a source of local discontent.

The earliest evidence for levies to pay for lost horses appears in 1305, but the clearest explanation of the measure is found in a record from the following year:

lately before the justiciar at Carlow, in the presence of the seneschals of the liberties of Wexford, Kilkenny and Carlow, and the country people, as well of those liberties, as of other parts of Leinster, as well free tenants as others, for the utility of the state, it was agreed and ordained that any of the men at arms who should lose his horse in fighting the Irish felons of the mountains of Leinster, in a feat of arms, the community of the men, as well of liberty as county, in the borders of the marches of which such horse was lost, shall return the price of the horse, to the value of £10 to him who so lost it.<sup>20</sup>

A similar situation pertained in Tipperary in relation to horses lost 'guarding the peace in the parts of Slefblame': in June 1305 the chancellor was told to direct the sheriff to assess the value of a horse lost there by Geoffrey de Burgo and to levy its value from the community.<sup>21</sup> In July 1307 defendants in Limerick attempted to justify their extra-judicial distraint of livestock on the basis that the justiciar had formerly ordained that 'if anyone of the confines of the marches, or elsewhere in the county, in fighting thieves [lose] a horse of the value of £10 or more, all the men of this county should contribute to pay the value of the horse'. Here, 1½*d.* was to be levied from each carucate in the county.<sup>22</sup>

The measures followed in different areas were not identical. It seems, for instance, that the men of Limerick were expected to pay for more expensive horses than their counterparts in Leinster. Regional distinctions probably arose because the measure was agreed to – and presumably also debated – separately in each area in which it is in evidence. It was not imposed by the king or Dublin, at least in theory, although the justiciar may have been a driving force behind its establishment and implementation. Nevertheless, in each case the role of the central government is clear. With this in mind, it is interesting that the measures were so systematic, as in those instances that have been identified of the king or the Dublin administration behaving leniently or generously to those on the frontiers, it was always on a case-by-case or temporary basis. Strenuous efforts were made to prevent the detachment of rights from the crown or the establishment of precedents that were disadvantageous to the king or his finances. In this regard

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<sup>20</sup> *CJI*, 1305-1307, p. 325.

<sup>21</sup> *Ibid*, p. 85.

<sup>22</sup> *Ibid*, p. 449.

the practice was consistent with the general preference for placing the burden of defence on the localities; the measure's breadth was probably only permissible because it was paid for and managed by local communities and officials, and did not impact on the treasury.<sup>23</sup>

Unsurprising, then, that local taxes of this sort could be deeply unpopular. The sentiment expressed by the burgesses of Clonmel in 1275, when they claimed to be impoverished by tallages and prises levied to sustain the tranquillity and peace of the land, was probably widely shared in areas subject to such measures.<sup>24</sup> This was in evidence in the instance noted above in which distraint was carried out to secure payment for horses, and further examples of grumbling about having to contribute to local taxes will be seen in the following chapter. Horses suitable for combat were expensive, and the third statute of the 1297 parliament had obliged anyone with lands worth £20 a year to maintain a suitably armoured horse, while lesser men, too, should keep mounts appropriate to their status.<sup>25</sup> Compensating fighters for the loss of horses could obviously become expensive fast during war, and it is clear that the measure was intended not to incentivise participation in frontier warfare, but to indemnify combatants against a financial danger of march defence. Nevertheless, there was a perception that some landholders took advantage of the provision. In 1306 a jury tasked with assessing the veracity of William de Dunheved's claim to have lost a horse worth £20 in Ballymore alleged that the animal had died on a predatory raid launched for personal gain and without local consent. Nevertheless, the justiciar adjudged that £10 (the upper limit promised by the area) must be levied in compensation. Like the pardon to Nigel le Brun and his men in 1297, the episode indicates that the justiciar regarded good service on the frontier as sometimes warranting a light-handed approach to upholding the law.<sup>26</sup>

The justiciars during this period generally had a good understanding of Irish conditions, and they recognised that it was often prudent to compromise in the interest of frontier security. Sometimes these compromises might manifest in legal matters. The use of pardons has been discussed, but less problematic examples might also be adduced, such as when, in 1307, Stephen de Vale was pardoned the taking of age (for a fine), because 'Connacht is in these days at war, so that the withdrawal of men out of those parts is full of danger'.<sup>27</sup> But the security of the Irish colony was not the only – indeed, perhaps sometimes not even the foremost – concern of the

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<sup>23</sup> This is not to say that the central government never contributed to local defensive costs. See, for instance, *ibid*, pp 242-3.

<sup>24</sup> Sayles, *Documents on the affairs of Ireland*, no. 14.

<sup>25</sup> For discussion of the importance, value, and vulnerability of warhorses see Prestwich, '*Miles in armis strenuus*', pp 209-11. For the statute of 1297, see Connolly, 'The enactments of 1297', pp 152-3.

<sup>26</sup> *CJRI, 1305-1307*, pp 325-6.

<sup>27</sup> *Ibid*, p. 341.

Dublin government. Edward expected Ireland not only to be self-sufficient, but also to contribute to his overseas enterprises in men, money, and resources. Unsurprisingly, then, the limits of governmental leniency and generosity in aid of frontier measures tended to fall firmly along financial lines, and it was expected that, so far as was feasible, frontier undertakings of local importance should be funded directly by the beneficiaries.

### *Requests for frontier favour*

We have briefly looked at the parameters of the Dublin administration's approach to frontier leniency, and will now turn to the that of the king, although as will be seen this was heavily influenced by Irish advice. All free subjects of the king were entitled to seek judgement at his court, and from c.1275 Edward encouraged petitioners to send grievances and requests for favour to be heard before him in parliament.<sup>28</sup> Amongst those who petitioned the king from Ireland were individuals or groups that were involved in frontier defence or suffering from the effects of insecure frontiers. Parliamentary petitionary evidence is not very complete during Edward I's reign, but most extant petition rolls contain some Irish material.<sup>29</sup> There is also some miscellaneous survival of petitions absent from the rolls, some of which may also have been heard before parliament.<sup>30</sup> Naturally, documents conveying such requests were tailor-made for their audience, and frontier allusions were presumably designed to improve the chances of a sympathetic hearing. As will be seen, however, the king did not uncritically accept petitioners' claims. It is hoped that this exploration of petitionary material will highlight both the crown's willingness to employ flexibility in its dealings with the Irish frontier, and the limits of those instincts.

The earliest Irish petition to Edward to cite frontier circumstances is from October 1274, when the citizens of Limerick requested, among other things, relief of 40m. annual rent owed to the king for forty carucates of land outside the city, 'which the Irish had hostilely entered'.<sup>31</sup>

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<sup>28</sup> Hand, 'English law in Ireland, 1172-1351', p. 398; Paul Brand, 'Petitions and parliament in the reign of Edward I', *Parliamentary history*, vol. 21, no. 1 (2004), pp 14-15.

<sup>29</sup> For the survival of rolls of petitions and calendars of those rolls, see Brand, 'Petitions and parliament', passim, but esp. pp 17-18.

<sup>30</sup> Brand, 'Petitions and parliament', p. 20. For Irish material with a bearing on parliamentary petitions, see Philomena Connolly, 'Irish material in the class of chancery warrants series I (C 81) in the Public Record Office, London', *Analecta Hibernica*, no. 36 (1995), pp 137-161; idem, 'Irish material in the class of Ancient Petitions (SC 8) in the Public Record Office, London', *Analecta Hibernica*, no. 34 (1987) pp 3-106; idem, 'List of Irish material in the class of chancery files (recorda) (C.260) Public Record Office, London', *Analecta Hibernica*, no. 31 (1984), pp 3-18.

<sup>31</sup> *CDI*, ii, no. 1056.

Petitioners' histrionics must be regarded cautiously, and Edward remained level-headed when faced with such claims. In this case, he asked for certification as to the quantity and value of the lands affected, and what sum might be remitted on that account. An inquisition held the following November claimed that sixteen of the forty carucates lay waste 'owing to the war of the Irish on the other side of the bridge of the city, towards Thomond', and to the 'war of Bren Roch Obbren'. From these carucates the citizens had 'not received profit but hindrance' during the past seventeen years. It further appears that the citizens did not, in fact, hold all twenty-four remaining carucates, and that the rent for the full forty should have been £40, not 40*m*. The jurors advised that £7 6*s*. 8*d*. of the rent owed be permitted for the wasted portion.<sup>32</sup>

When, in March, the justiciar forwarded this inquisition to the king, he included a cover letter explaining that he had been too occupied in Connacht to take the inquisition and had delegated the task to the escheator; he also shared his views on the inquisition's contents, at Edward's request. According to de Geneville, the jurors had undervalued the part of the holding that remained profitable; '[t]he citizens can pay the king's rent without loss and without the waste land'. However, he further opined that 'they make a great stand against the enemies of those marches, and have suffered much damage by the Irish... and therefore the king would do well to give them a grant'.<sup>33</sup> The threat to Limerick was very real, and it is worth noting that £1 was a very small sum for a carucate to render annually in Ireland, even on the frontier; this rent may already have been calculated with frontier considerations in mind.<sup>34</sup> Further indication is found in the 1275-6 allowance to the sheriff of Limerick for wages of two men 'watching the tower of the bridge of Limerick towards Thomond'.<sup>35</sup> The king, too, was certainly already apprised of the frontier situation by March 1276: in October Robert de Muscegros had temporarily surrendered his nearby castle of Bunratty to the king 'to be held against Irish rebels',<sup>36</sup> and shortly before the Limerick inquisition was sent to England, de Muscegros surrendered his Irish possessions outright, for bestowal upon Thomas de Clare.<sup>37</sup>

Although it is uncertain whether the king ultimately followed the justiciar's advice, the fact that the justiciar recommended reducing the rent despite the fact that the full amount could be paid is significant. De Geneville's letter perhaps permits a glimpse into a period, before Edward's wars began, when the frontiers could be managed less frugally by the Dublin

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<sup>32</sup> *CDI*, ii, no. 1181.

<sup>33</sup> *Ibid*, no. 1205.

<sup>34</sup> Cf. below, pp 158-9.

<sup>35</sup> *Rep. DKPR*, no. 36, p. 40.

<sup>36</sup> *CPR, 1272-1281*, p. 107 (*CDI*, ii, no. 1167). See also *Rep. DKPR*, no. 36, p. 32.

<sup>37</sup> *CDI*, ii, nos 1202, 1203, 1204.

administration. The documents relating to this petition also provide valuable insight into Edward's approach to Irish petitions, and perhaps to his Irish lordship more generally. Petitioners frequently misrepresented the truth, and Edward did not take their testimony at face value. If a request seemed reasonable, he would order inquisitions to ascertain the truth of the situation. Jurors, too, were liable to mislead on occasion – in the above case both the petitioners and jurors provided inaccurate information. This danger was further mitigated by the king's reliance on the counsel of his Irish ministers. In Ireland, Edward ruled not by impulse but by delegation, advice, and long deliberation. In the preceding chapters, too, we have seen the faith of successive kings in their Irish representatives. With regard to frontiers specifically, it was recognised that flexibility was sometimes required. Excessive rigidity would only hasten the depopulation of such areas by making landholding unsustainable.

While financial leniency might be given on the basis of specific, clearly quantified, frontier difficulties such as that outlined above, the king and his Irish administration studiously avoided alienating royal rights or permitting the emergence of disadvantageous precedents. These criteria mark another of the key limits of the leniency and generosity that could reasonably be expected on the frontiers, as elsewhere. This was clear in Edward's terse response, in 1278, to a petition from Nicholas Mac Maol Íosa, the archbishop of Armagh. Nicholas had asked to be pardoned the services and suit he owed for a certain manor (probably Inniskeen), which he had purchased *in medio perverse gentis*, and in which he had built a castle, *ratione cuius emptionis pax et concordia in tota marchia illa melius observetur*. The response came back: *Rex non potest relaxare, quia de Corona*.<sup>38</sup> There is no indication that inquisitions or advice informed Edward's answer – he simply enunciated a guiding principle of his rule.

The roll of petitions heard at Edward's parliament in Easter 1290 contains requests from three men independently seeking advantageous terms of landholding partly on the basis that the lands in question lay on the frontier. That three such petitions are found on a single roll is striking, but perhaps more notable is the absence of such references in the rolls of 1293, 1302, 1305, and 1307, which also contain Irish material. With the exception of the 1293 roll, each was highly miscellaneous in content and might be expected to provide a good cross-section of the types of petitions coming from Ireland. It is possible that petitioning conditions changed after Easter 1290

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<sup>38</sup> Aubrey Gwynn, 'Documents relating to the medieval diocese of Armagh', *Archivium Hibernicum*, vol. 13 (1947), p. 9. For translation and discussion, see Diarmaid MacÍomhair, 'Primate Mac Maoiliosa and county Louth', *Seanchas Ardmhacha*, vol. 6, no. 1 (1971), pp 85-6. For the importance of 'the Crown', see Peter Crooks, 'The structure of politics in theory and practice, 1210-1541', Smith (ed.), *The Cambridge history*, i, p. 447.

– Hand noted that the justiciar’s court was frequently bypassed for the king’s before 1290.<sup>39</sup> Edward may have preferred not to handle petitions concerning the marches, as he generally deferred to Dublin on such matters. If some change explains the absence of similar petitions from later rolls, they may have been filtered out at the level of the collection and sortation of Irish petitions before they were sent to England.<sup>40</sup>

The most audacious of the petitioners of 1290 was John de Ufford, who requested a grant of Othee ‘*en la Marche de Glindelury*’.<sup>41</sup> The area was presently occupied by *Irreys* for 2*d.* an acre, but John claimed that they seldom paid this sum and offered to take on the holding for the same rent. Although the petition provides no evidence for the allegation, it is corroborated by the pipe rolls.<sup>42</sup> The premise struck a chord with Edward, though he was apparently not concerned for the enterprising petitioner to benefit on this account, as the justiciar was told to act for *le le pru le rey a celuy Johan or a autre, sicom il quidra meud fere*.<sup>43</sup>

Both the petition and its response indicate the persistence of the view, already explored, that the Irish frontier remained an inadequately tapped source of revenue. The exchange also highlights Edward’s belief that his Irish justiciar was best placed to make good decisions relating to the Irish frontier. This was prudent, as de Ufford probably falls into that category of opportunistic petitioners highlighted by Hartland – men who petitioned the king because they knew they would be unsuccessful in Dublin.<sup>44</sup> The justiciar at the time, John de Sandford, had recent experience of march warfare and had been the escheator during the during the Glenmalure crisis of the 1270s; it seems unlikely that he would have advised dispossessing the Gaelic tenants there, and there is no indication that the petition was granted.<sup>45</sup>

Another of the petitioners of Easter 1290, John de Burgh, related that he held *une gaste de terre a ferme ke est en Marche en le conte de Lymerik*. His tenure was subject to renewal on an

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<sup>39</sup> Hand, *English law in Ireland*, p. 19.

<sup>40</sup> For this process, see Brand, ‘Petitions and parliament’, pp 33-5; Beth Hartland, ‘Edward I and petitions relating to Ireland’, Michael Prestwich, Richard Britnell, and Robin Frame (eds), *Thirteenth century England ix: proceedings of the Durham conference, 2001* (Woodbridge, 2003), pp 62-3.

<sup>41</sup> It is unclear if this was the same John de Ufford who would later serve as escheator twice (1313-16, 1321-1322).

<sup>42</sup> The pipe roll for 1286-7 indicates that the area was supposed to render £56 11*s.* 6*d.* annually (*Rep. DKPR*, no. 37, p. 26). By contrast, receipt roll evidence shows that Othee rendered 5*m.* in Hilary 1285 (*CDI*, iii, no. 180, p. 86), 2*m.* in Michaelmas 1286 (*ibid.*, no. 271, p. 126), £6 in Easter 1288 (*ibid.*, no. 371, p. 169), 60*s.* in Michaelmas 1288 (*ibid.*, no. 434, p. 187) and 60*s.* in 1289 (*ibid.*, no. 475, p. 224).

<sup>43</sup> ‘to the king’s profit for that John or another, as he thinks it is best to do’ (*PROME*, Edw. I, roll 4, m.1*d* (*CDI*, no. 622, p. 313)).

<sup>44</sup> See Hartland, ‘Edward I and petitions relating to Ireland’, pp 60-1.

<sup>45</sup> If the request was granted, de Ufford, too, was unable to render the appropriate rent, as in 1292 only 60*s.* was received from Othee (*CDI*, iii, no. 1148, p. 509). Cf. above, p. 134, fn. 42.

annual basis, which prevented him from building or spending money there. He requested a longer term, of 20 years, and Edward again delegated the decision-making to his justiciar.<sup>46</sup> It seems a compromise was reached in this case, as the sheriff of Limerick recorded that a John de Burgo accounted for 40s. for the land of Balybinneacht, in 1291-2 and 1292-3. The account further states that '[John] has this land to farm for 10 years from Michaelmas [1291]'. This was probably the waste referred to in John's petition, as the sheriff's account does not record him holding any other lands.<sup>47</sup> De Sandford may have opted to improve John's terms, albeit not to the extent requested, in order to elevate the holding from its waste status and make the annual collection of rent a likelier prospect.<sup>48</sup>

The third petition of interest came from Robert de Hastings, an experienced royal servant and the custodian of Newcastle McKynegan,<sup>49</sup> who wanted a fee farm grant of that castle and the surrounding lands. Edward had already taken advice and rebuffed this request at his previous parliament, in Hilary 1290, and had offered Robert a life term instead.<sup>50</sup> Robert was unrelenting, and his Easter petition set out his Irish frontier credentials: he had arrived in Ireland eight years earlier with Stephen de Fulbourne, and 'had continually remained [in Ireland] at great expense and peril to carry out the king's advantage and to pacify the land'.<sup>51</sup> He had taken on Newcastle McKynegan for 40*m.* annually although the king had formerly paid £40 or £60 a year for its custody. When he first took on the farm, the area was so devastated by *la plus forte gerre de Irlande* that there had been nowhere for Robert to dwell, and the holding had required expenditure beyond its worth.<sup>52</sup> Robert offered £40 annually for a fee farm grant of the castle and

<sup>46</sup> *PROME*, Edw. I, roll 4, m. 1, no. 22; *CDI*, no. 622, p. 310.

<sup>47</sup> *Rep. DKPR*, no. 37, p. 51. The ten-year term probably commenced after the conclusion of John's old term.

<sup>48</sup> If this John was one of the two John de Burgos who would come before the justiciar in 1297 accused, alongside the earl of Ulster, of procuring the robbery and murder of the son of the sheriff of Limerick, his petition may have been lent additional weight by this lofty association (*CJRI, 1295-1302*, pp 120-1).

<sup>49</sup> Between Hilary 1281 and Easter 1282 Robert received £166 13*s.* 4*d.* for his passage to Ireland with horses and men, and for assisting the justiciar in Connacht (*Irish exchequer payments*, pp 70, 73, 101, 102 (*CDI*, ii, no. 2310, p. 535; *ibid*, iii, no. 169, p. 74); *CIRCLE*, CR 11 Edw. I, no. 6). Between 1281 and 1284 he accompanied the escheator in taking assizes of novel disseisin and delivering gaols in Kerry, Cork, Limerick, Tipperary, and Waterford (*Rep. DKPR*, no. 35, p. 25; *Rep. DKPR*, no. 36, pp 61-2, 70, 74).

<sup>50</sup> [R]ex non habet consilium dimittendi illud in feodum (*PROME*, Edw. I, Roll 3, m1*d.*, no. 19 (*CDI*, iii, no. 558 pp 250-1)).

<sup>51</sup> '[E] continuent ad demore en la terre a fere le prou le rey e la terre apaysier a greff custages e mises et perils de soen cors' (*PROME*, Edw. I, Roll 4, m3, no. 21 (*CDI*, iii, no. 622, p. 310)).

<sup>52</sup> This is borne out by the pipe roll evidence. Robert is first recorded accounting for Newcastle McKynegan in the pipe roll for 1286-7, where he is recorded as owing £31 2*s.* 2*d.* for that year, and £124 8*s.* 8*d.* for the preceding four years. He rendered £36 to the exchequer. This suggests that he was able to take enough from his holdings in that year to pay slightly more than his annual rent but had been unable to do so beforehand (*Rep. DKPR*, no. 37, p. 25). Thereafter, Robert consistently rendered £12 per accounting term (*CDI*, iii, nos 309, 341, 371).

surrounding lands. He also asked that the holding be taken back into the king's hand and inquiry be held into Robert's service, seemingly indicating that he no longer wanted Newcastle Mckynegan except in fee.<sup>53</sup>

In the event, however, a compromise was reached. In August 1290 Robert received a life grant of the castle and surrounding lands, with appurtenances, for £40 annual rent.<sup>54</sup> It seems that considerably more lands were included in the grant than Robert had requested in his petition, perhaps making the grant more palatable. The crown's reluctance to alienate the holding in fee was probably partly because the castle and lands were royal demesne, which Edward was loath to diminish.<sup>55</sup> The site's importance during the wars of the 1270s may also have persuaded de Sandford to retain it under royal control so its management could be more easily directed by the justiciar if war arose again.<sup>56</sup>

Robert's life grant does not appear to have lasted long, as in 1295 the Gaels of the mountains wasted Leinster and burnt Newcastle Mckynegan and other villis.<sup>57</sup> This irruption may have been precipitated or exacerbated by famine in the Leinster mountains,<sup>58</sup> and it seems very likely that de Hastings was a casualty, because in 1295 John de Stratton rendered an account of Robert's goods found at Newcastle Mckynegan.<sup>59</sup> The severity of the situation in the area is clear from a litany of substantial expenses that were allowed to de Stratton for the wages of soldiers mustered to resist the warring Gaels and to repair and improve the castle.<sup>60</sup> The allowances included wages for Peter le Petit, who brought 80 hobelars and 200 *satellites* from Meath to remain at Newcastle Mckynegan and Castlekevin – Peter and many others received the king's peace in exchange for their service against the Uí Broin in that year.<sup>61</sup> The area remained

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<sup>53</sup> Cf. the sentiments of a jury of 1313 concerning another march holding discussed below, pp 158-9.

<sup>54</sup> *CPR, 1281-1292*, pp 383-4 (*CDI*, iii, no. 762). Thereafter, Robert's termly payments increased slightly (*CDI*, iii, nos. 780, 918, 965, 1148; *ibid*, iv, no. 21).

<sup>55</sup> See also above, p. 118.

<sup>56</sup> For an account of this castle, see Goddard H. Orpen, 'Novum Castrum Mckynegan, Newcastle, County Wicklow', *JRSAL*, fifth series, vol. 38, no. 2 (1908), pp 126-140.

<sup>57</sup> *CSM*, ii, p. 324.

<sup>58</sup> See O'Byrne, *War, politics, and the Irish of Leinster*, pp 76-7; Lydon, 'A land of war', p. 243. See also Bruce M.S. Campbell, 'Global climates, the 1257 mega-eruption of Samalas volcano, Indonesia, and the English food crisis of 1258', *TRHS*, sixth series, vol. 27 (2017), p. 89.

<sup>59</sup> These amounted to over £57; the rents and issues of the town came to over £40 in ten months, indicating that after a period of peace, this could indeed be a profitable holding (*Rep. DKPR*, no. 38, p. 47).

<sup>60</sup> *Ibid*; *CIRCLE*, CR 23 Edw. I, nos 3-4.

<sup>61</sup> *CIRCLE*, CR 23 Edw. I, no. 4; *CJRI, 1295-1303*, p. 4. Peter moved in litigious circles and frequently found himself before the justiciar's court. For some non-exhaustive examples, see *CJRI, 1295-1303*, pp 28, 29-30, 106, 156.

dangerous thereafter, and large sums were spent on defence in subsequent years.<sup>62</sup> Robert's custody had taken place in the chronological eye of the storm: in 1305 a jury advised that 'of all places which they know in Ireland', it would be least injurious to the king to grant John fitz Thomas Newcastle McKynegan, 'where is a castle very weak, and in a strong march'.<sup>63</sup>

The history of Newcastle McKynegan, and Robert Hastings' place within it, recall Stephen of Lexington's characterisation of the marches as areas where war, while not perpetual, was recurrent. The vulnerability of Newcastle McKynegan was surely matched by many other Irish frontier holdings, and the prospect of dispossession at the end of an arduous term of years made it highly preferable to possess the fee.<sup>64</sup> Indeed, this can be further illustrated through Newcastle McKynegan, as in 1320 William de Bermingham petitioned for a fee farm grant of the castle, noting that Maurice de Rocheford had declined a life grant.<sup>65</sup> The very danger and undesirability of some frontier holdings afforded ambitious men an opportunity to seek, and sometimes obtain, improved terms of landholding. From the king's perspective these were impulses worth entertaining, though he evidently preferred such requests to be handled in Dublin. De Ufford's far-fetched proposition clearly intrigued Edward, and the other petitioners of Easter 1290 managed to improve their terms of landholding, albeit not to the extent desired. However, the fact that the petitioners' desires were not fully met, and in particular the refusal to grant Newcastle McKynegan in fee, highlights the limits of frontier flexibility. Willing frontiersmen stood to profit from propositioning the king, but in 1290 as in 1278 Edward I's wariness of alienating rights *de corona* extended firmly beyond the land of peace.

### *Quia Emptores Hiberniae?*

So far, we have looked at occasional instances of lenient treatment of defendants and landholders on a case-by-case basis; the remainder of the chapter will focus on a sweeping royal ordinance sent to Ireland on July 12, 1293, which augmented the seigneurial powers of anyone holding land in fee from the king on the frontier. The ordinance was one of six sent together containing instruction on administrative procedure and the rights of the crown.<sup>66</sup> The ordinance of interest here dealt with the alienation of lands without royal licence, while its fellows tackled the manner

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<sup>62</sup> *Irish exchequer payments*, p. 135 (*CDI*, iv, no. 360, p. 169); *Rep. DKPR*, no. 38, pp 55, 68, 87; *Ibid*, no. 39, pp 34, 38, 53; 'The enrolled account of Alexander Bicknor, treasurer of Ireland, 1308-14', James F. Lydon (ed.), *Analecta Hibernica*, no. 30 (1982), p. 29.

<sup>63</sup> *CJRI, 1305-1307*, p. 29 (*CDI*, v, no. 335, p. 117).

<sup>64</sup> See also below, pp 158-9.

<sup>65</sup> Connolly (ed.), 'Irish material in the class of Ancient Petitions', p. 28.

<sup>66</sup> *Statutes and ordinances*, pp 191-5.

of appointment of Irish sheriffs,<sup>67</sup> the impropriety of bench or itinerant justices acting as seneschals of liberties, the terms of the year in which fees should be paid to ministers of the king, the collection of the fifteenth promised to Edward, and ensuring that lands held to farm from the king rendered appropriate sums. Together these ordinances sought to define Irish administrative procedures and bring them into conformity with English practice – indeed, four of the six specified that the procedures in question should henceforth be done *come en Engleterre*.

The ordinance of interest here, the second listed, alleged that royal tenants-in-chief in Ireland freely alienated lands that were held in chief of the king without royal licence.<sup>68</sup> By contrast, alienation in England was heavily restricted and had been the subject of important legislation as recently as 1290 – the Irish ordinance therefore addressed a very current topic. It established that henceforth when lands held in chief of the king were alienated without the approval of Edward or his justiciar, they would be seized by the escheator until satisfaction was made. The justiciar, treasurer, and council were jointly empowered to take fines for this purpose.<sup>69</sup> Royal tenants were also forbidden outright from alienating by subinfeudation: henceforth only licences to alienate by substitution would be granted, through which the grantee would take the grantor's place as a royal tenant, rendering identical services, rather than holding from the grantor.

This ordinance was unique amongst the six in that it made an exception for those who held on the frontiers. Royal tenants-in-chief with holdings *en tere de gerre ou de marche* would have 'full power to enfeoff others to hold of them for the defence of the land, to their profit and to the increase of the lordship of the king and of his peace'.<sup>70</sup> This situation would pertain until such time as the king chose to retract it; should he do so, grants already made on its basis would be permitted to stand. This was a very significant concession on a matter of considerable contemporary importance; it differed from the types of leniency examined earlier in this chapter and thesis in that it was more systematic and explicit than we have encountered elsewhere. The only other measures identified in the period under study that are comparable in this regard are the obligations that marches be fortified. Those strictures, too, dealt with the marches as a distinct administrative category, indicating both that frontier holdings could be identified with precision and that they warranted unique treatment.

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<sup>67</sup> This ordinance alleged that sheriffs appointed by the great seal of England were less obedient to the Irish exchequer. Stephen de Fulbourne had complained about this very matter in 1281 (*CDI*, ii, no. 1881).

<sup>68</sup> *Statutes and ordinances*, pp 192-3.

<sup>69</sup> [E]yent... ioyntement poer de prendre tels manere de fyns.

<sup>70</sup> [P]ur defendre la terre a prou de eus e al enres de la seygnurye le Rey e de sa pes.

### *The Statute Quia Emptores, 1290*

Writers on medieval Irish law have associated the ordinance of 1293 with the important English statute *quia emptores* of 1290. This statute effected permanent change regarding the power of landholders to alienate land. Hitherto the holder of a fee simple estate (a freeholder) could subinfeudate in fee simple, creating a new tenure so that the grantee held from the grantor. *Quia emptores* proscribed this practice, but empowered all freeholders to alienate freely by substitution, without recourse to their lord. This was done because subinfeudation took control away from the chief lord, whose tenants or subtenants might alienate in a manner detrimental to the chief lord's interests.<sup>71</sup> For instance, lord 'B' might subinfeudate lands that he held of lord 'A' to lord 'C' for only nominal services. This might later create a situation whereby 'B' could not afford the services owed to 'A' for the holding. In this scenario 'A' could distrain the subtenant, 'C', for 'B's' default.<sup>72</sup> But 'A' lost out more severely when it came to his rights of wardship and escheat: he would not gain direct control of lands subinfeudated by 'B' when these rights were invoked, and would instead be entitled only to the services that 'C' owed to 'B'.<sup>73</sup>

By taking control away from the chief lord, the practice of subinfeudation had come to favour the tenant – a situation described in *quia emptores* as 'very hard and extream unto those lords and other great men'.<sup>74</sup> It was in this context that *quia emptores* was enacted, professedly for the benefit of the aggrieved magnates, though Lyall noted that through subinfeudation '[t]he king lost and never gained, since he was always a lord but never a tenant'.<sup>75</sup> The statute tackled the problem in a radical manner. Plucknett concurred with earlier authorities who viewed *quia emptores* as 'one of the pillars of real property law', and Bean described it as the 'most important single law relating to the land for the rest of the middle ages'.<sup>76</sup> In light of the change which it

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<sup>71</sup> Reynolds has emphasised that the terminology of 'mesne lords', 'superior lords', 'subtenants', etc., much like that of 'feudalism' itself, is largely a product of later analysis of 'feudal' society. Nevertheless, it is useful in a technical discussion such as this (Reynolds, *Fiefs and vassals*, pp 359-60).

<sup>72</sup> Paul Brand, 'Lordship and distraint in thirteenth century England', P.R. Coss and S.D. Lloyd (eds), *Thirteenth century England iii: proceedings of the Newcastle upon Tyne conference, 1989* (Woodbridge, 1991), pp 7-8.

<sup>73</sup> Andrew Lyall, 'Quia emptores in Ireland', Oonagh Breen, James Casey, Anthony Kerr (eds), *Liber memorialis: Professor James C. Brady* (Dublin, 2001), pp 277-8.

<sup>74</sup> *quod quidem eisdem magnatibus et aliis dominis quam plurimum durum et difficile videbatur* (*Statutes of the realm*, i, p. 106).

<sup>75</sup> Lyall, 'Quia emptores in Ireland', p. 278. See also Pollock and Maitland, *The history of English law*, i, p. 337, fn. 5. This view is not universally shared: Bean saw the statute as a compromise between crown and magnates (J.M.W. Bean, *The decline of English feudalism, 1215-1540* (Manchester, 1968), pp 79-103, esp. p. 96), and Carpenter described it as an attempt to '[conciliate] the magnates' (D.A. Carpenter, 'The Plantagenet kings', David Abulafia (ed.), *The new Cambridge medieval history, volume v, c.1198-c.1300* (Cambridge, 1999), p. 356).

<sup>76</sup> Theodore F. Plucknett, *A concise history of the common law* (5th ed., London, 1956), p. 30; Bean, *The decline of English feudalism*, p. 97.

wrought on the landholding system it is a deserving bookend to the 'great legislative period' of Edward's reign.<sup>77</sup>

Berry, in the introduction to the first volume of *Statutes and Ordinances*, noted the lack of any extant record of *quia emptores'* transmission to Ireland; but the statute was clearly cited in the justiciar's court in 1302.<sup>78</sup> It is perhaps therefore unsurprising that writers on medieval Irish law have perceived a connection between the ordinance of 1293 and the statute *quia emptores*. Donaldson, for instance, suggested that the 1293 ordinance may have been an adaptation for Ireland of *quia emptores*. Donaldson, however, was not a medievalist, and his suggestion was not reviewed by Hand, whose comments on *quia emptores* and the Irish ordinance occupy only three sentences of his pioneering work.<sup>79</sup> The only writer who has examined *quia emptores* and the Irish ordinance at greater length is Professor Andrew Lyall, who took as his starting point the peculiar situation in modern Irish land law whereby subinfeudation is still permissible. This, he traced to the frontier exemption of 1293.<sup>80</sup> Lyall's is a valuable contribution to the study of *quia emptores'* operation in Ireland, but in the medieval portion of his work he was let down by the limitations of the medieval historiography available to him.

Each of the above writers regarded the 1302 case as the only extant evidence for *quia emptores'* operation in Ireland. The case was transferred before the justiciar and council from the Cork eyre at the instance of a serjeant pleader of the king, who perceived a breach of royal rights which had apparently not been noticed by the presiding justice itinerant, Walter l'Enfaunt. It was alleged that Maurice de Carreu had subinfeudated the cantred of Fermoy to Maurice de Caunteton for 100m., such that de Caunteton was inserted as mesne between de Carreu and his erstwhile tenant, David Roche. This situation was evidently more problematic than mere subinfeudation after the statute – de Carreu had unilaterally altered the terms on which David Roche held Fermoy by inserting another landholder between them. Nevertheless, the court record noted that in doing so de Carreu had 'aliened a fee and *dominium* of the [k]ing without licence... [in contravention of] the statute by which it is enacted that no one may alien a tenement in fee, to hold of the feoffor, or of any others than of the chief lords of the fee.'<sup>81</sup> This was evidently a reference to *quia emptores* and it was recognised as such by the modern calendarists.<sup>82</sup> The

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<sup>77</sup> This description of the period down to 1290 is G.J. Hand's (*English law in Ireland*, p. 163).

<sup>78</sup> *Statutes and ordinances*, p. xv; *CJRI, 1295-1303*, pp 383-5.

<sup>79</sup> Hand, *English law in Ireland*, pp 50-1, 162.

<sup>80</sup> See esp. Lyall, 'Quia emptores in Ireland', pp 281-5. See also idem and Albert Power (ed), *Land law in Ireland* (3rd ed., Dublin, 2010), pp 104-5.

<sup>81</sup> *CJRI, 1295-1303*, pp 383-5.

<sup>82</sup> The identification was first made in the calendar's index (*CJRI, 1295-1303*, p. 607). See also Lyall, 'Quia emptores in Ireland', pp 284-5.

justiciar's court disseised both Maurices until further notice, and in the meantime the service David normally rendered to Maurice de Carreu were to be paid directly to the king.

That this subinfeudation had gone unchallenged by a royal servant of Walter l'Enfaunt's calibre may indicate that there was a degree of uncertainty or controversy involved surrounding its application in Ireland.<sup>83</sup> Nevertheless, the fact that the statute was upheld by the justiciar and council in 1302 demonstrates that *quia emptores* was in at least occasional operation in Ireland. In fact, Otway-Ruthven incidentally suggested further evidence for the statute's operation in Ireland when she observed the absence of Clonmore and Beaulieu from the de Verdon holdings in 1332 due to their alienation by Theobald II after 1290.<sup>84</sup> Nevertheless, with the 1302 episode as the only known case of *quia emptores'* operation in Ireland, writers on the topic have been rightly wary of pronouncing too strongly on the statute's applicability there. Lyall outlined several potential difficulties with the exemption permitted in the ordinance of 1293 and suggested that they may ultimately have put paid to *quia emptores's* operation in Ireland. In particular, he suggested that challenges in identifying and monitoring the progress of marches and lands 'in a state of warfare' would have made enforcement increasingly challenging in Ireland as time progressed. He suggested that the exemption 'probably entrenched the general disregard of *quia emptores* which had applied up to that time'.<sup>85</sup>

The historiographical focus on *quia emptores* has obscured some peculiar facets of the 1293 ordinance. Although its preference for substitution over subinfeudation clearly marks it out as a product of the post-*quia emptores* world, this part of the ordinance has been accorded too much importance. In fact, *quia emptores* is not the most appropriate analogue for the Irish ordinance: while the latter did not conflict with *quia emptores*, it certainly did not encapsulate that statute. The most significant difference between the measures lies in the exclusive focus of the 1293 ordinance on royal tenants-in-chief. By contrast, *quia emptores* makes no mention of those who held land from the king – indeed, its vagueness on this point fuelled a historiographical debate during the twentieth century as to whether or not the statute applied to such landholders at all. Bean, whom Brand described as '[t]he great historian of the control of alienation', concluded that *quia emptores* did not extend freedom of alienation by substitution to royal tenants-in-

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<sup>83</sup> For the L'Enfaunts' long service to the king, see Beth Hartland, 'The household knights of Edward I', *Historical Research*, vol. 77, no. 196 (2004), pp 173-6.

<sup>84</sup> Jocelyn Otway-Ruthven, 'The partition of the De Verdon lands in Ireland in 1332', *PRIA*, vol. 66C (1967/1968), p. 409.

<sup>85</sup> Lyall, '*Quia emptores* in Ireland', pp 283-5, at 284.

chief.<sup>86</sup> Royal tenants were already forbidden from alienating without royal licence and therefore did not benefit from the freedom of alienation by substitution that *quia emptores* bestowed upon all freehold tenants.<sup>87</sup> The second important distinction between the statute and the ordinance is that, while *quia emptores* prohibited only subinfeudation in fee simple,<sup>88</sup> the Irish ordinance proscribed all unlicensed alienation of land held in chief of the king.<sup>89</sup> This was a far stricter measure than anything alluded to in *quia emptores*. Indeed, from a practical standpoint the ordinance's stricture that tenants-in-chief could henceforth alienate only by substitution was irrelevant, as this, too, required prior royal licence.<sup>90</sup> This was a far cry from *quia emptores'* promise that 'henceforth it shall be lawful to every freeman to sell at his own pleasure his lands, tenements, or part of them'.

The Irish ordinance of 1293 lacked the essential elements of the statute *quia emptores*, and it should not, therefore, be regarded as an adaptation for Ireland of that statute. Its exclusive focus on tenants-in-chief meant that the Irish ordinance neither imposed a universal ban on subinfeudation nor permitted free alienation by substitution. Although the 1302 case outlined above, and perhaps also the evidence noted by Otway-Ruthven, indicate that *quia emptores* was operational in Ireland, the 1293 ordinance cannot have served to transmit it.

### *The Ordinance of 1256*

*Quia emptores* marked the beginning of a new push to emphasise royal rights over alienations in England, and it is clearly an important part of the context of the 1293 ordinance. Indeed, the protection from injurious subinfeudations that the statute afforded to landholders probably explains the limitation of the frontier exemption to tenants-in-chief only. However, the legal basis for most of the ideas conveyed in 1293 originated in Henry III's reign, not Edward's. The rights emphasised in the Irish ordinance recall far more closely a royal ordinance of 1256 which lay undiscovered on the close rolls until 1896, when it was published by G.J. Turner.<sup>91</sup> This ordinance,

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<sup>86</sup> Bean, *The decline of English feudalism*, pp 80-3. For this description of Bean, see Paul Brand, 'The fine rolls as a source for the legal historian', David Crook and Louise J. Wilkinson (eds), *The growth of royal government under Henry III*, p. 50.

<sup>87</sup> See below, pp 142-3.

<sup>88</sup> Grants in fee tail or for a term of years were still permitted (Joseph Biancalana, *The fee tail and the common recovery in medieval England, 1176-1502* (Cambridge, 2001), pp 177, 217; Bean, *The decline of English feudalism*, p. 95).

<sup>89</sup> The ordinance was concerned with *teres tenues en chef du rey qe sunt aloingnees saunz conge le rey*.

<sup>90</sup> '[H]enceforth none have power to enfeoff another of land which is held in chief of the king, save to hold of the king in chief, and that by leave of the king or of the justiciar'.

<sup>91</sup> G.J. Turner, 'A newly discovered ordinance', *The Law Quarterly Review*, no. 12 (1896), pp 299-301; *CR*, 1254-6, p. 429. The key clause runs thus: '... *providimus quod nullus decetero baronum vel aliquod feodum*

which was sent to all the sheriffs in England, complained of the king's loss of the profits of wardships and escheats due to alienations by royal tenants-in-chief. It ruled that henceforth anybody who held land directly from the king was forbidden from alienating them without royal licence. This ordinance was not entirely unprecedented either: the 1217 reissue of Magna Carta had forbidden anyone to alienate so much land that they could not perform the services they owed to their lord, and in 1228 Henry had forbidden his tenants-in-chief from alienating such lands to religious houses or persons without licence.<sup>92</sup> Turner's discovery of the 1256 ordinance came too late for the first edition of Maitland and Pollock's *History of English Law*, but in the second edition Maitland opined that the ordinance constituted an important step towards royal control of alienations, but probably went unenforced under Henry.<sup>93</sup>

Subsequent research has borne out Maitland's assessment – for instance, Paul Brand unearthed evidence indicating that Henry did not thoroughly enforce the 1256 regulations.<sup>94</sup> This supports Waugh's characterisation of Henry as a 'vigilant landlord' but not a 'rigorous enforce[r]' – he 'left it up to his son to put teeth into his policies'.<sup>95</sup> That the principles of 1256 were not universally enforced did not mean that they were forgotten, however; indeed, Bean demonstrated that during Edward's reign strenuous efforts were made to implement the ordinance. This is clear from the survival on the close rolls of many licences to alienate lands held in chief, and of pardons for having done so without permission on the fine rolls. Many such documents enrolled between 1272 and 1280 were concerned with alienations made towards the end of Henry's reign, indicating that the ordinance was still deemed to be in effect during those years, even if it was not policed systematically.<sup>96</sup> Failure to secure royal licence for an alienation would render the buyer's title to the lands in question defective, and they could be taken into the king's hand by the escheator upon the grantor's death.<sup>97</sup> If the measure lacked teeth under Henry, then, this was not the case during Edward's reign.

The 1293 ordinance, too, simply forbade the alienation of land held of the king: it asserted the applicability in Ireland not of *quia emptores*, but of the principles of 1256. It is clear from the opening clause of the ordinance that Edward believed these principles should have already been

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*quod de nobis teneatur in capite per empcionem vel alio modo ingrediatur sine assensu et licencia nostra speciali*'.

<sup>92</sup> Bean, *The decline of English feudalism*, pp 42-4, 58-60.

<sup>93</sup> Pollock and Maitland, *The history of English law*, i, pp 354-5. Bean noted the difficulty of the evidence during Henry's reign, particularly after 1265 (Bean, *The decline of English feudalism*, pp 70-1).

<sup>94</sup> Brand, 'The fine rolls of Henry III', p. 50.

<sup>95</sup> Scott L. Waugh, *The lordship of England: royal wardships and marriages in English society and politics, 1217-1327* (Princeton, 1988), pp 91-2.

<sup>96</sup> Bean, *The decline of English feudalism*, pp 70-3.

<sup>97</sup> *Ibid*, p. 75.

operational there, and there are earlier indications of this belief as well. For instance, in 1276 Edward empowered Thomas de Clare to 'enfeoff knights and others of part of the land of Thomond which the king had granted to him in tail'.<sup>98</sup> Presumably Edward believed Thomas would be unable to do so otherwise. Similarly, in 1284 a jury was asked, on the basis of a writ from the king, to assess whether Christiana de Mariscis should be permitted to alienate certain Irish lands.<sup>99</sup> In light of the fact that this was deemed a suitable premise for an inquisition, and the degree to which transmarine landholding persisted in the thirteenth century, it is probably safe to assume that many Irish tenants-in-chief knew that they ought to be acquiring royal licences before alienating lands held in chief of the king long before 1293. Nevertheless, it is entirely possible that the 1256 ordinance had never been officially transmitted to Ireland – even the statute of mortmain was not transmitted until c.1296.<sup>100</sup>

An interesting distinction between the ordinances of 1256 and 1293 highlights the fact that the latter was not a direct transmission of the former, but only of the principles that it had established. The 1256 ordinance complained about the damage done by unlicensed alienations, but it actually forbade unlicensed entry into fees of the king. The sparse evidence of pardons being issued for unlicensed alienations made in Ireland indicates that fine was usually made by the alienee, but could be made by the grantor instead.<sup>101</sup> This technicality notwithstanding, both formulations achieved the same end, and historians have depicted the 1256 ordinance as a ban on alienations, not entries.<sup>102</sup> In any case, the precise origin of legal principles could be forgotten without their effects ceasing, and practice could evolve without any necessity for corresponding legislation to be promulgated. Brand has shown this phenomenon at work in the case of the statute of mortmain: by 1284 the standard summary of this statute warned that alienations into mortmain required royal licence, but the statute itself simply forbade such alienations outright.<sup>103</sup> The official attitude towards such evolutions of the law is perhaps seen in Chief Justice Ralph de Hengham's response to a plaintiff's attempt to reinterpret Westminster II: '[d]o not gloss the statute, we understand it better than you, for we made it, and one often sees that one statute

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<sup>98</sup> *CPR, 1272-1281*, pp 155-6 (*CDI*, ii, no. 1261).

<sup>99</sup> *IEMI*, no. 48 (*CDI*, ii, no. 2010, p. 462).

<sup>100</sup> Paul Brand, 'King, church and property', p. 487.

<sup>101</sup> Of the four Irish pardons identified in this thesis, three fines were made by the alienee, and one by the grantor. See below, appendix II, p. 273-4.

<sup>102</sup> See, for instance, Waugh: 'in 1256 [Henry] issued a sweeping prohibition against all alienations without licence... [H]enceforth no one could enter a royal fee without special license' (*The lordship of England*, p. 93). See also Bean, *The decline of English feudalism*, pp 67-8; Brand, 'The fine rolls', p. 50.

<sup>103</sup> Paul Brand, 'The mortmain licensing system, 1280-1307', Adrian Jobson (ed.), *English government in the thirteenth century* (Woodbridge, 2004), p. 88.

defeats another'.<sup>104</sup> In light of this, and the king's belief that alienations should have already been under official control, it should not be regarded as strange that the long-established principles set out in 1256 were conveyed to Ireland bereft of their original packaging in 1293.

The ability of the law to shift over time is significant in relation to the 1293 ordinance, as it seems that the Irish ordinance possessed something of an innovation. This lay in its description of a system of licences and pardons. The ordinance stated that licences for substitution could be obtained from the king or justiciar, and that fines could be made for the restitution of confiscated lands. No such system had been set out in 1290 or 1256; indeed, the ordinance of the latter year stated only that illegally alienated lands would remain in the king's hand *donec aliud inde preceperimus*. Respites were comparatively rare in England until 1294, in which year Bean detected an abrupt relaxation of the restrictive attitude towards alienations by tenants-in-chief. This permitted the emergence of a system whereby licences to alienate became easy to obtain for a fine; from 1299 pardons for transgressions also became more common.<sup>105</sup> Brand, writing on the earlier emergence of a similar system for mortmain alienations, observed that '[t]he impression one gets... is that the king's need for money was sufficiently strong to override most other considerations'.<sup>106</sup> Similarly, Bean regarded Edward's about-face as an effort to shore up magnate support and augment the royal war chest.<sup>107</sup> The reference to a licencing system in the Irish ordinance perhaps provides an early indication of the evolving attitude of the crown on this matter. From 1294 the question of alienation by royal tenants became a financial matter in England, and the royal power to dispense licences and pardons effectively became an incident of royal lordship.<sup>108</sup> The 1293 ordinance may represent an early attempt at establishing a profitable licensing system like that which would shortly emerge in England.<sup>109</sup>

### *The exemption of 1293 re-examined*

The recent promulgation of *quia emptores*, and the very fact that this ordinance was sent to Ireland in 1293, indicate the importance Edward placed on controlling alienations by his tenants-in-chief at this time. The foregoing discussion of the English context is essential for understanding

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<sup>104</sup> Quoted in Sandra Raban, *Mortmain legislation and the English church, 1279-1500* (Cambridge, 1982), p. 31. For context, see Paul Brand, *Kings, barons and justices: the making and enforcement of legislation in thirteenth-century England* (Cambridge, 2003), pp 255-6.

<sup>105</sup> Bean, *The decline of English feudalism*, p. 75.

<sup>106</sup> Brand, 'The mortmain licensing system', p. 95.

<sup>107</sup> *Ibid*, pp 77-8.

<sup>108</sup> *Ibid*, p. 103.

<sup>109</sup> *Ibid*, pp 99-101.

the significance, from Edward's perspective, of the ordinance's exemption to frontier tenants. Freedom to alienate in fee simple had been the norm a mere half-decade ago but it had quickly become a boon of considerable value. Bean has demonstrated that, in England at least, there was considerable appetite for greater freedom of alienation. Whether or not *quia emptores* and the ordinance of 1256 had been operational in Ireland before 1293, the king evidently believed that they should have been, and the exemption must be regarded in that light. In any case, the ordinance made it clear that royal tenants were no longer to alienate without licence. The king was concerned to enforce royal rights but also to maintain those of his subjects; as such, the exemption's applicability only to tenants-in-chief was probably intended to maintain the protection which *quia emptores* had bestowed upon all fee-holders from injurious subinfeudation by their tenants. Of course, this would count for little if the Dublin administration made no effort to control alienations by tenants-in-chief anyway. However, in the course of this study a substantial amount of evidence has been found to show that these rights were indeed enforced in Ireland.<sup>110</sup> This must fundamentally change our interpretation of the ordinance and its significance: the exemption that it granted meant that for now, at least on paper, many Irish landholders possessed considerably greater seigneurial powers on their frontiers than were enjoyed elsewhere in Edward's dominions. For a time, the ability to prove that one's lands held from the king lay in the marches may have been very valuable indeed. Moreover, evidence has also been found to suggest that the ordinance did not last indefinitely; it was therefore consistent both with Edward I's character and with the parameters within which leniency was extended to Irish frontiersmen more broadly.

The exemption's couching reveals something of governmental priorities. Tenants-in-chief were expressly exempted in order to *defendre la terre a prou de eus e al encres de la seygnurye le Rey e de sa pes*.<sup>111</sup> According to the ordinance, then, the immediate concerns underlying the exemption were the defence and continued control of the marches, and it was ultimately hoped that this would increase the king's lordship in Ireland. *Seygnurye* should here be taken to mean effective royal authority rather than territorial range, although given Edward's interest in the wholesale settlement of Irish wastes until at least 1285, he probably hoped that this would follow on from the improvement of the English position in the marches.<sup>112</sup> Given that the ordinance's ultimate aim was to augment royal power, it is entirely unsurprising that the concession was terminable at the will of the king. This was consistent with other extensions of leniency to Irish

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<sup>110</sup> See Appendix II.

<sup>111</sup> '... to defend the land to their profit and to the increase of the lordship of the king and of his peace'.

<sup>112</sup> See above, pp 115-21.

marchers by the crown – as usual, care was taken to prevent Irish marchers from permanently obtaining superior powers. Nevertheless, the exemption clearly amounted to an immediate reduction in royal control over the Irish frontiers, and when regarded alongside developments in England there can be little doubt that this was a significant concession in the eyes of the king.

The suggestion that the arrangement could be profitable to landholders (*a prou de eus*), indicates that the intention was to incentivise royal tenants to take a direct interest in the future of their Irish frontiers. This may represent a recalibration of the expansionary efforts of the preceding decades. Outright territorial expansion had not proved very successful, and the initiative of 1293 was instead designed to optimise and intensify settlement on existing frontier lordships. By permitting frontier landholders to subinfeudate without fear of repercussions, the concession facilitated the placement by absentee or unenthusiastic march landlords of more interested frontiersmen in their marches. It also made it possible to increase the number of landholders with stakes on the Irish frontier, and by extension to increase the resources which could be brought to bear there, at no cost to the Dublin government.<sup>113</sup> As only subinfeudation was permitted, those who took advantage of the exemption would remain liable to the king for their services. This may have diminished the temptation to make quick sales to individuals who were unlikely to maintain their marches. And the fact that the exemption was only to last at the king's pleasure may have encouraged landholders to quickly turn their minds to how they could best provide for their frontier holdings. Those to whom lands on the frontier were subinfeudated were also in an advantageous position, as they could avoid the onerous burdens of royal control of wards and widows, and could presumably alienate freely by substitution under *quia emptores*. Thus, the best interests of both feoffor and feoffee were served by ensuring that the subinfeudated lands were securely kept. The 1293 ordinance's relaxation of royal rights should therefore be viewed as an attempt to make Irish march lordship more appealing both to royal tenants-in-chief and to their prospective subtenants, in order to advance settlement and the security of the marches and adjacent regions.

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<sup>113</sup> Brendan Smith has noted that patterns of subinfeudation in Louth in the twelfth century were partly shaped by the ability of grantees to bring resources to bear in subjugating the lands they received ('Tenure and locality in north Leinster in the early thirteenth century', Barry, Frame, and Simms (eds), *Colony and frontier*, pp 38-9).

*The Irish escheator and the frontier, 1272-1291*

It seems certain that the 1293 exemption was made at the instance of Edward's Irish officials. As we have seen, the king often deferred to Dublin on Irish matters, and Edward was not in the habit of alienating royal rights on a whim. Moreover, his rights over alienations by tenants-in-chief were particularly prominent in the early 1290s. Edward probably granted the concession with great reluctance, and as will be seen, it did not last indefinitely. In addition to the suggestions outlined above, there was also a further reason for Dublin to encourage subinfeudation in the marches and land of war: effective subinfeudation by tenants-in-chief diminished the need for direct crown intervention when frontier holdings came into the king's hand through vacancy, wardship, or escheat.<sup>114</sup> The rights of the crown weighed heavily on those who held directly from the king, whose eagerness to enjoy his royal prerogatives is well known; but the government cannot normally have sought direct responsibility for others' frontier holdings, which could be unprofitable and even costly to keep. Thoroughly subinfeudated holdings, however, only came directly into the king's hand only when a wardship within a wardship arose.<sup>115</sup> Thus, on the intermittently war-torn Irish frontiers, alienations that might normally be regarded as an unwelcome obstacle to the king's enjoyment of the profits of the land instead became a welcome buffer from unwanted responsibilities and expenses. These considerations may have been the chief reason for the decision to permit tenants-in-chief to subinfeudate such holdings.

The exemption thus encourages us to turn our attention to the escheator, whose bailiwick was most directly affected by subinfeudation.<sup>116</sup> The potential inconvenience of frontier holdings coming into the king's hand is clear from a document pertaining to the escheatorship of Walter de la Haye, the talented and experienced administrator who occupied the post from 1285 until 1308.<sup>117</sup> A letter of July 1290 from the king to the treasurer and barons of the Irish exchequer complained that Walter was incurring considerable expenses in the execution of his office, 'all the greater and more grievous because there are enemies of the king and disturbers of the peace in parts of his bailiwick'. He expressed the wish 'that Walter do not come to the king nor send his

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<sup>114</sup> In Ireland, as in England, escheats proper were rare (E.R. Stephenson, 'The escheator', William A. Morris and Joseph R. Strayer (eds), *The English government at work, 1327-1336* (Cambridge Mass, 1947), p. 109). For an overview of this officer's duties, see *ibid*, pp 109-113.

<sup>115</sup> Wardships within wardships were by no means unheard of, but their necessity reduced the likelihood of lands coming into the king's hand. For some examples, see *Rep. DKPR*, no. 37, p. 36; *ibid*, no. 38, p. 78; *ibid*, no. 38, pp 38-40.

<sup>116</sup> For a recent overview of the Irish escheator's role, see Paul Dryburgh, 'Inquisitions *post mortem* in medieval Ireland', Michael Hicks (ed.), *The later medieval inquisitions post mortem: mapping the medieval countryside and rural society* (Woodbridge, 2016), pp 33-6.

<sup>117</sup> For a modern glowing appraisal of Walter's abilities, see Ciaran Parker, 'Local government in county Waterford in the thirteenth and fourteenth centuries. Part ii. The sheriffs of Waterford in the early fourteenth century, 1304-1350', *Decies*, no. 51 (1995), p. 81.

messengers or servants so frequently to obtain allowances, as they cannot do so without great expense'. Instead Walter's expenses were to be viewed in Dublin as often as necessary, and he was to be permitted appropriate allowances.

Amongst the expenses of de la Haye's bailiwick listed by the king were those arising from 'difficult marches, attacks on rebels, going and staying with a great body of armed men in the said marches, castles, manors and lands whenever required, money spent in the munition thereof, for horse and foot for the king's defence, and for horses lost'.<sup>118</sup> The letter is well known, and this is not the first time it has been quoted at length. However, its context and significance deserve further exploration.<sup>119</sup> Evidently marches in the king's hand could require swift and unilateral action by the escheator, and could cause the Dublin government considerable inconvenience and expense. That Edward thought it preferable to alter the system of monitoring allowances then in operation is particularly significant when the scandals of Stephen de Fulbourne's treasurership are considered.<sup>120</sup> As such, the impact of marches on the escheator's finances, and his role in managing of frontier holdings in the king's hand, will be examined here through the escheators' accounts enrolled on the pipe rolls.

Holdings were seldom described as marches in the escheator's accounts unless they were problematic in some way, and we cannot expect the calendared pipe rolls to indicate when marches in the king's hand presented no problems. Conversely, the accounts do not appear to reliably inform us of frontier factors unless these resulted in revenues being less than expected. This can be illustrated with reference to the diocese of Ross, the temporalities of which are first encountered in the king's hand from Christmas 1274 until April 1275. During which time the 'greater part [of the diocese was] wasted by war of the Irish', and the diocese's revenue amounted to £8 6s. 8d. But when the same temporalities again came into the king's hand from September 1290 until April 1291, only £8 12s. 9d. was received, and no mention is made of the temporalities being in poor condition.<sup>121</sup> Presumably this sum was now expected from these lands, so no additional comment was necessary.<sup>122</sup> Moreover, although in the earlier account only the record for Ross indicates that there were difficulties obtaining issues, de Sandford was given 'allowances of rent where no rent received either because land was waste, or war was in the

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<sup>118</sup> *CPR, 1281-92*, p. 378 (*CDI*, iii, no. 730). The other expenses listed were robes and arrears of wages.

<sup>119</sup> See Dryburgh, 'Inquisitions *post mortem*', p. 35; Otway-Ruthven, *A history of medieval Ireland*, p. 161.

<sup>120</sup> See above, p. 119-21. Edward was still taking precautions: from 1290 the escheator's accounts were to be audited by the treasurer and barons of the exchequer with 'some of the Irish council'.

<sup>121</sup> *Rep. DKPR*, no. 36, p. 30; *ibid*, no. 37, p. 40. This diocese was amongst the least profitable during vacancies (Art Cosgrove, 'Irish episcopal temporalities in the thirteenth century', *Archivium Hibernicum*, vol. 32 (1974), p. 67).

<sup>122</sup> The monthly revenue had in fact diminished in the intervening fifteen years.

neighbourhood'.<sup>123</sup> This suggests that the temporalities of other dioceses, too, proved difficult during this accounting period.

Evidently an examination of lands described in frontier terms in the escheators' accounts can provide no sense of the scale or proportion of the challenges posed by such holdings. Another difficulty of the accounts is that each covers different lengths of time, and it is not always clear how long particular lands were in the king's hand for. This means the totals of expenses and receipts cannot be easily compared between accounts. Moreover, lacunae mean that not all years are covered by the accounts, and that not all information is included in the extant accounts.<sup>124</sup> A final problem is that although the published and unpublished calendars were truncated differently and sometimes complement each other, neither is wholly satisfactory. For present purposes, then, the calendared escheators' accounts must be regarded as indicative and qualitative, rather than quantitative, in value. Nevertheless, they adequately illustrate the variety of the challenges posed by frontier holdings in the escheator's hand, as well as the persistence of those challenges. In this study the inquisitions *post mortem* (IPMs) supplement, but do not surpass, the enrolled accounts. IPMs give no details of vacant dioceses, and they may sometimes have been based on outdated information;<sup>125</sup> they also typically only survive for Irish landholders who also held in England. Moreover, the static nature of IPMs contrasts unfavourably with the (compressed) diachronic data for the time lands spent in the king's hand given in the escheator's accounts.<sup>126</sup> This can be illustrated by reference to Grellly, which came into the king's hand after the death of Jordan Dardiz in 1293. The IPM reports nothing amiss there, but the more dynamic escheator's account submitted in 1302-3 reports that after the taking of the IPM, 'a great part of the manor was wasted by the war of the Irish and a murrain as well of men as beasts', so that the manor's value fell by over a third.<sup>127</sup> Thus, despite their limitations, the enrolled accounts have been accorded more prominence here. Taken together with the letter of 1290, they give reason to suspect that the difficulties involved in executing the office of escheator in Ireland influenced Edward's decision to temporarily permit subinfeudation on the Irish frontier.

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<sup>123</sup> *Rep. DKPR*, no. 36, p. 33.

<sup>124</sup> See Appendix I, esp. fn. 3.

<sup>125</sup> Paul Dryburgh, 'Inquisitions *post mortem*', pp 41, 45-6. However, cf. Dryburgh's suggestion that the manner of selection of IPM jurors in Ireland may have improved their reliability there (*ibid*, pp 37-40, esp. 40).

<sup>126</sup> However, when multiple IPMs exist for the same possessions these can provide detailed snapshots of change over time. See Dryburgh, 'Inquisitions *post mortem*', p. 46.

<sup>127</sup> *Rep. DKPR*, no. 38, p. 78; *IEMI*, no. 89; *CIPM*, iii, no. 129.

We will begin with shortfalls recorded in the accounts.<sup>128</sup> The account rendered by de Sandford in 1281-2 reveals that parts of the temporalities of many dioceses were exhibiting the signs of war. The archdiocese of Dublin was briefly vacant at the start of 1279, and although most of the temporalities in this profitable diocese were in good health, a memorandum records that nothing could be received from the manors of Castlekevin, Killickabawn, or Kilmasanctan, for they 'were waste, and nobody cared to take them during the time on account of the war of the Irish'.<sup>129</sup> The diocese of Meath was in the king's hand for a year from around January 1282, and there a similar situation was described in parts of the manor of Durrow.<sup>130</sup> Likewise, while the diocese of Killaloe contained many unfettered sources of revenue while in the escheator's care from 1281 to 1282, no account was rendered, nor even an extent taken, for some lands in Thomond, which were wasted by the war of the Irish. In the diocese of Killala, in the king's hand from October 1280 until September 1281, the lands of Clonichoscryg and Drummard contributed nothing to the already meagre revenues of the temporalities because they were 'waste and nobody cared to take them', although in this instance no reason is given.<sup>131</sup> In the diocese of Clonmacnoise the receipts of £30 13s. 4d. taken between November 1279 and February 1282 may have been lower than expected, as we read that wastes could not be extended in 'Clonmacnoise, Moybateran in Omany, and elsewhere in the marches of Connacht and Meath'.<sup>132</sup>

De Sandford's account of wardships and escheats submitted in the same year (1281-2) recorded an income of £2,200 from the Connacht lands of Walter de Burgh from February 1272 until February 1280. However, several parts of the lordship rendered nothing because they were wasted by war of the Irish, and all the issues of Meelick had to be assigned to Theobald Butler to guard the area.<sup>133</sup> It is not clear how long this arrangement persisted, but in the 1275-6 account the escheator was allowed the issues of Meelick, Castlekoning, and Castle Amory from 1272-3 to 1275-6, as they were assigned to Theobald for their defence.<sup>134</sup> Elsewhere, from February to April 1281 nothing could be taken from the lands of Richard de Cogan, John Heyrun, or the heirs of William Russell, nor from the lands of Clonehyt of Dundreyan (co. Cork) or the manor of Newcastle, because they had been devastated by the war of the Irish.<sup>135</sup> In Ulster the lands that

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<sup>128</sup> Dryburgh has surveyed the IPM evidence from a similar perspective (Dryburgh, 'Inquisitions *post mortem*', pp 45-8).

<sup>129</sup> *Rep. DKPR*, no. 36, p. 60. The untruncated account is described as 'very important and interesting'.

<sup>130</sup> *Ibid.*

<sup>131</sup> *Ibid.*, p. 61.

<sup>132</sup> *Ibid.*

<sup>133</sup> *Ibid.*, p. 63. See also Lydon, 'A land of war', p. 250. No indication is given of how long this situation pertained in these wastes.

<sup>134</sup> *Rep. DKPR*, no. 36, p. 33.

<sup>135</sup> *Ibid.*, pp 63-4.

had belonged to Henry de Mandeville until Pentecost 1277 were 'waste and nobody would pay rent for them', presumably a lasting consequence of the infighting that had engulfed Ulster in the wake of Walter de Burgh's death.<sup>136</sup>

There follows a gap in the extant escheators' accounts until Walter de la Haye's submission for 1287-8.<sup>137</sup> His account of vacant dioceses recorded that several holdings in Tuam rendered nothing because they were waste and nobody would rent them, though he extracted almost £175 from the diocese as a whole. He was allowed sums expended in 'the manor of Twem which is near the march', though the calendar gives no indication of the sums or expenses involved, nor whether they were necessitated by the manor's location.<sup>138</sup> The escheator was also allowed sums for 'failure of rents, etc.' in his account of vacant bishoprics, though the calendar provides no further details of these rents.<sup>139</sup> Although the escheator managed to take £17 from Richard de Exeter's Connacht holdings they could not be extended due to war there,<sup>140</sup> and twelve villates in Thomond in the king's hand due to Thomas de Clare's death rendered nothing because they were waste and could not be extended at any value.<sup>141</sup> And although Terryglass appears to have been quite a profitable holding while in the king's hand, it did not meet expectations in 1286-7, when 'everything was burned by the Irish'.<sup>142</sup>

The last account enrolled before the transmission of the ordinance of 1293 is that submitted for 1289-90. This account records that the demesnes of Cashel rendered nothing in Michaelmas 1289 because 'they lay uncultivated', most likely indicating that the fields had not been planted before coming into the king's hand. The description of Clonmacnoise is less ambiguous: the temporalities produced £25, but 'no extent could be made of the demesnes because they lay uncultivated among the Irish'.<sup>143</sup> As for wards and escheats, Typernehunche in the march of Thomond was in the king's hand due to Thomas de Clare's death, though there is no further indication that the holding was problematic. The calendar states that in the original roll

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<sup>136</sup> Ibid, p. 32. For this conflict see *CDI*, ii, no. 929; Orpen, *Ireland under the Normans*, pp 133-6. This conflict may also explain de Sandford's receipt of only £8 6s. from the diocese of Connor from November 1274 until May 1275.

<sup>137</sup> *Rep. DKPR*, no. 36, pp 33, 34.

<sup>138</sup> Ibid, no. 37, p. 37.

<sup>139</sup> Ibid, p. 34.

<sup>140</sup> Ibid, p. 35; NLI MS 760, p. 120.

<sup>141</sup> *Rep. DKPR*, no. 37, p. 36. In the IPM some of de Clare's holdings were described as wastes which nobody would hold, but as in the enrolled account, it is unclear whether these were simply poor quality lands or if they were regarded as unsafe (*IEMI*, nos 60, 65; *CIPM*, ii, no. 696 (*CDI*, iii, no. 459)).

<sup>142</sup> *Rep. DKPR*, no. 37, p. 36.

<sup>143</sup> Ibid, p. 40.

'[t]he lands from which rents are not obtained, and the causes, are also given', but unfortunately neither calendar provides this information.<sup>144</sup>

After 1291 another lacuna is encountered: the next extant escheator's account, enrolled in 1297-8, contains no information from prior to 1296. A rehearsal of war-torn lands is liable to give a misleading impression, and it is important to emphasise that although the frontiers mentioned in the escheators' accounts seem to have diminished local revenues, they seldom crippled the finances of the entire lordship to which they belonged.<sup>145</sup> But the king's 1290 letter was concerned not with the escheator's shortfall, but his expenses; and these were clearly a much greater drain on the escheator's resources than were his occasionally disappointing revenues.

As indicated by Edward's letter quoted above, it was often necessary to make substantial and varied allowances for the escheator. While the justiciar was the chief director and agent of government policy, the escheator appears to have acted almost as his deputy on some matters, particularly with regard to lands in the king's hand.<sup>146</sup> The greater importance of the Irish escheator compared to his English counterparts is well known – whereas the Irish escheator was a frequent member of the king's council, in England he was a lesser officer than the sheriff.<sup>147</sup> The distinction is generally considered to have arisen from the escheator's role as Henry III's chief Irish representative after the 1254 grant of Ireland to Edward, as well as from the considerable revenues that could accrue from liberties and diocesan temporalities in the king's hand.<sup>148</sup> It might also be suggested that in Ireland the escheator's importance was augmented by the danger that an absence of lordship could pose in some areas. Though chiefly concerned with revenues, the escheator's role as the periodic assessor and overseer of vulnerable lands peripheral to the normal business of the Dublin government also enabled the administration to monitor and manage threats, and sometimes also to mobilise resources and manpower for use elsewhere in Ireland.

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<sup>144</sup> Ibid, p. 42.

<sup>145</sup> With regard to the temporalities of bishoprics specifically, see Cosgrove, 'Irish episcopal temporalities', pp 67-8.

<sup>146</sup> We have already seen his appointment to take an inquisition which the king requested be taken by the justiciar (above, p. 132).

<sup>147</sup> Stephenson, 'The escheator', p. 109.

<sup>148</sup> Richardson and Sayles, *Administration*, p. 27; Otway-Ruthven, *A history of medieval Ireland*, pp 161-2; Lydon, 'The expansion and consolidation of the colony', pp 172-3; Frame, *Colonial Ireland*, p. 118; Brendan Smith, 'Before reform and revival: English government in late medieval Ireland', Christopher Maginn and Gerald Power (eds), *Frontiers, states and identity in early modern Ireland and beyond: essays in honour of Steven G. Ellis* (Dublin, 2016), p. 29.

The earliest calendared escheator's account, that submitted by de Sandford for 1272-3 contains no list of expenses,<sup>149</sup> but a lengthy summary was included in the account of wards and escheats enrolled for 1275-6.<sup>150</sup> Some of the outlay recorded here looks like fairly routine expenses of government, albeit perhaps not always normal expenses of an English escheator. These included sums expended in the purchase of robes; in the custody and management of manors in the king's hand; in the purchase of goods and their delivery to the justiciar; money given to the justiciar and others to expedite official business; sums given as rewards for good service; travelling to Ulster with the treasurer to see the state of the land and hold assizes; and travelling to the district of Athlone with the justiciar (though expenses incurred by loss of horses on the former journey may have been less ordinary). Other expenses hint at the importance of securely keeping the frontier holdings then in the king's hand. De Sandford was allowed sums expended in the rebuilding of Roscommon castle and the keeping of Bunratty castle, the assignment of revenues to Theobald Butler to guard particular localities; allowances made for uncollected rents; and the payment of expenses incurred by Richard de Exeter in Connacht assembling troops 'to pacify the land'. The lack of detail given with regard to Bunratty gives an indication of the limitations of the expenses lists – from other sources we learn that the castle had been subject to a lengthy siege by Brian Ruadh Ua Briain while it was in the king's hand, which had necessitated expenses by the treasury and the sheriff of Tipperary as well as the escheator.<sup>151</sup>

The escheator also incurred expenses on frontiers that were not in the king's hand at the time. Glenmalure looms large amongst these:<sup>152</sup> the account was enrolled at the height of the trouble there, and it is no surprise to see the escheator's revenues directed to assist de Geneville's war effort.<sup>153</sup> The escheator contributed various sums to Thomas de Clare's expedition in Glenmalure and paid for some horses lost in that expedition. He also funded wards at Baltinglass, Ballymore, and Saggart, and contributed to repairs at Castlekevin and Newcastle McKynegan, as well as paying the wages of soldiers involved in expeditions there. The escheator was also

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<sup>149</sup> The account of wards and escheats reads only 'allowed various sums amounting to £2,321 12s. 11¼d.' (*Rep. DKPR*, no. 36, p. 23).

<sup>150</sup> For what follows, see *Rep. DKPR*, no. 36, p. 33; NLI MS 760, pp 94-5.

<sup>151</sup> *Irish exchequer payments*, p. 16; Edmund Curtis, 'Sheriffs' accounts for county Tipperary, 1275-6', *PRIA*, vol. 42C (1934/1935), p. 87. This sheriff's involvement in Bunratty is not the most unusual cross-jurisdictional entanglement encountered in the Irish frontiers: in 1298-9 the sheriff of Cork was allowed expenses incurred 'custody of the king's lands in the marches of Offaly' (*Rep. DKPR*, no. 38, p. 30).

<sup>152</sup> Although the archdiocese of Dublin was vacant, Thomas de Chaddesworth had the custody of the temporalities (William Betham, 'On the account of Thomas de Chaddisworth, custodee of the temporalities of the archbishop of Dublin, from 1221 to 1256 [sic]', *PRIA*, vol. 5 (1851), pp 145-162; *Rep. DKPR*, no. 36, pp -7; NLI MS 760, pp 65-79).

<sup>153</sup> In 1275 the justiciar had written urging the king to quickly turn his mind to the situation in Ireland – the situation had grown *mout empire* since his last communication (Sayles, *Affairs*, p. 8).

personally involved in assembling soldiers in Connacht, in the king's hand during the minority of Richard de Burgh, and guiding them to Glenmalure. He also contributed sums to efforts in other frontier regions. For instance, he gave sums to William Cadel to succour O'Dempsey against hostile attacks; forwarded money to John le Gras which had yet to be levied for the heads of outlaws he had slain; and incurred further expenses by loss of horses while he was accompanying Thomas de Clare on the latter's expedition to Slievebloom. In this accounting period, the escheator's expenses vastly exceeded his income.

The expenses listed above were calendared in greater detail than those in most other accounts. Nevertheless, they were not exceptional, and similar types of expenses are also encountered in most other accounts. There is little point in listing annual expenses, particularly given the inconsistency with which they were transcribed by the calendarists, who intended for their labours to provide only a guide to the originals. Nevertheless, it will be beneficial to highlight particular types of activity seen in the records in order to show the consistency of the escheator's contribution to frontier endeavours, and to show that this officer's involvement was often personal as well as fiscal.

Expenses incurred in the repair, fortification, munitioning, and garrisoning of castles are alluded to in almost every account, and probably occurred even where they are not mentioned. Escheators were forbidden from wasting their charges' holdings, and maintaining a lordship's infrastructure was therefore an important part of providing for a ward of the king.<sup>154</sup> But this responsibility could have an importance beyond the etiquette (and legal responsibilities) of protecting lands in the escheator's care. This is encapsulated by a comment in the 1292 IPM into Robert de Cruces's lands:

At Ardmays there are certain wooden buildings roofed with straw, and a stone tower, none of which can be extended as they are in the marches with the Irish and the costs of sustaining and defending them are now so great. If they were to be knocked down, the consequences for the country would be considerable.<sup>155</sup>

Responsibility for this land might have been avoided had Robert enfeoffed someone there. The escheator's account does not explicitly record expenses incurred here, but the costs of maintenance were probably taken from the issues of the rest of the holding, which was quite profitable. Nevertheless, the frontier threat may have made it difficult to find a custodian for Ardmays: in 1292 William Wyght received £10 of Robert's lands, and after a year and a half the

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<sup>154</sup> Holt, *Magna Carta*, pp 450-3; Waugh, *The lordship of England*, p. 137.

<sup>155</sup> *IEMI*, no. 86; *CIPM*, iii, no. 48 (*CDI*, iii, no. 1066, p. 468).

manor of Naul was assigned to Thomas de Mandeville; but Ardmays remained in the king's hand.<sup>156</sup>

We have already seen that the escheator sometimes travelled with other ministers or magnates for military purposes. The account submitted in 1281-2 records his accompaniment of the justiciar on many journeys, some military in nature, between December 1276 and the time of the account's submission.<sup>157</sup> The escheator frequently paid the wages of soldiers involved in expeditions and wards, and we have also seen that he occasionally played a personal role in the assembly and deployment of troops. The 1281-2 account records expenses incurred 'going through the country of Leys with eighteen horses and as many boys to collect the guards', as well as 'remaining in Connacht to collect the Connacht force and bring it to Roscrea... and remaining nine days at Roscrea to procure provisions and guard the country while the army was at Tachdothan'.<sup>158</sup> The 1290-1 account is calendared in still lesser detail, but it contained payments relating to Richard de Burgh's expedition to the castle of Adtrim 'with a large host to suppress the Irish'.<sup>159</sup> The personal involvement of Irish escheators in matters military has been regarded as a phenomenon of the post-Bruce era, but it is clear from these expenses that he was already extensively involved in such affairs much earlier.<sup>160</sup>

In June 1290, the month before the king's letter concerning the escheator's expenses, Edward had empowered him to treat with warring Gaels, although he was to inform the justiciar and council of the details of any agreements made.<sup>161</sup> This was not an entirely new departure for this officer. Both de Sandford and de la Haye had already been involved in negotiations with and mediation between Gaels and Englishmen. In de Sandford's 1281-2 account he was permitted £27 9s. incurred travelling by precept of the justiciar to Desmond, to parley (*ad parlamentum*) with Dovenald Roth Mac Carthaigh.<sup>162</sup> During this accounting period large holdings in southern Munster spent time in the king's hand, including the diocese of Cork and the lands of John de Cogan, and this probably explains the escheator's involvement with Mac Carthaigh.<sup>163</sup> The account of vacant bishoprics for the same year records that the escheator remained in Connacht with the justiciar

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<sup>156</sup> *CDI*, iii, no. 1126; *Rep. DKPR*, no. 38, p. 80.

<sup>157</sup> *Rep. DKPR*, no. 36, p. 62. The calendar notes that the escheator took with him on these journeys 'a large number of followers (the number is always given)'.

<sup>158</sup> *Ibid*, p. 64.

<sup>159</sup> *Ibid*, no. 37, p. 42.

<sup>160</sup> See Dryburgh, 'Inquisitions *post mortem*', p. 36. Dryburgh cites issue roll evidence from the 1330s – perhaps it was not the escheator's duties that changed, but the degree to which his own income could support his expenses.

<sup>161</sup> *CPR, 1281-92*, p. 360 (*CDI*, iii, no. 671).

<sup>162</sup> On this episode, the MS calendar is more detailed than the published calendar (NLI MS 760, p. 95).

<sup>163</sup> See *Rep. DKPR*, no. 36, pp 60, 62.

‘for security of the district and to hold an inquisition concerning the prey taken in Thomunth’, and also journeyed to Ulster to settle the dispute that had arisen between Richard de Burgh and William fitz Warin after the former attained his majority.<sup>164</sup> De la Haye’s 1287-8 account records sums spent in ‘Limerick (parley with Thord’ Obren’),<sup>165</sup> and his 1289-90 account records ‘journeys to treat with T. Obrun and the Irish of Tomonya’.<sup>166</sup> These negotiations occurred during the long minority of Gilbert de Clare (1287-1302). The escheator was also responsible for another mediator on at least one occasion, as his 1287-8 account records £2 13s. 2½d. spent by Thomas de Cantwell in taking inquisitions between the English and Gaels of Uí Maine.<sup>167</sup> The king’s 1290 letter indicates that this had become one of the escheator’s regular duties; that it should be executed without constant referral back to Dublin indicates both the importance of the responsibility and of the officer.

It is not being suggested that the escheator’s main role was that of frontier commander. Many of the expenses he incurred on the frontiers required no personal participation, and it is probable that much of his work was silently delegated to his seldom mentioned, but ever-present, sub-escheators and bailiffs.<sup>168</sup> Nevertheless, it is clear that the Irish escheator was much more than a sheriff of no fixed abode. He had expansive powers and responsibilities within his ever-shifting bailiwick, and was an important and deeply trusted agent of royal policy in Ireland. This is made still clearer by de Sandford’s subsequent appointment as keeper and justiciar of Ireland, and de la Haye’s twenty-three-year tenure. Perhaps the appointment of Nigel le Brun to the office in 1308, when de la Haye’s failing eyesight forced him to relinquish the post, had something to do not only with Nigel’s experience of administration, but also his experience of the Irish frontier.<sup>169</sup>

Nevertheless, the foregoing also illustrates the undesirability, from the government’s point of view, of having direct responsibility for lands on the frontier. This prospect was no more appealing to favour-seekers than it was to the Dublin administration, and it was probably difficult for the crown to sell the custody of lands in such areas. The same conclusion was reached by Waugh, who suggested that frontier conditions in the north of England probably made it hard to

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<sup>164</sup> Ibid, p. 62.

<sup>165</sup> Ibid, no. 37, p. 37. This account was not calendared in detail by either of our calendarists – each provides information omitted by the other, but taken together they are still insufficient.

<sup>166</sup> Ibid, p. 42.

<sup>167</sup> NLI MS 760, p. 121. This is absent from the published calendar.

<sup>168</sup> For references to sub-escheators, see Anonymous, ‘Court of exchequer records relating to Kerry’, *Kerry Archaeological Magazine*, vol. 4, no. 18 (1917), p. 127; *Rep. DKPR*, no. 38, p. 83; *ibid*, no. 39, p. 62; *CJRI*, 1295-1303, 277; *CJRI*, 1305-1307, pp 174, 235, 244, 291, 404, 420, 425; *NAI KB 2/4*, p. 76. For the ‘escheator’s bailiffs’, see *Alen’s Reg.*, p. 102.

<sup>169</sup> For de la Haye’s deteriorating health, and his recommendation of John de Hotham rather than Nigel le Brun as his successor, see *CDI*, v, no. 675.

sell wardships there towards the end of Edward I's reign, when the escheator north of the Trent frequently retained unprofitable border holdings in the king's hand.<sup>170</sup> Naturally, landholders were more inclined to take on dangerous holdings if they had greater tenurial security, and preferably the fee.<sup>171</sup> Effective subinfeudation on the frontiers would diminish the likelihood that they would come directly into the king's hand. Ideally, the defensive efforts made in subinfeudated holdings would also improve the security of nearby lands, making rent collection easier in areas prone to raiding; any resulting diminution of the escheator's income would be offset by the reduced need for expenditure on fortifications, supplies, soldiers, and negotiations.

### *The end of the march exemption*

Of those tenants-in-chief whose holdings were taken into the king's hand for unlicensed alienation, none appear more brazen than Nicholas Mac Maol Íosa (d.1303) and Richard de Ferings (d.1306), the archbishops of Armagh and Dublin, respectively.<sup>172</sup> It is in documents relating to alienations by the latter that we encounter our earliest evidence that the exemption afforded to frontier landholders in 1293 did not last indefinitely. It seems, then, that the exemption had been retracted, forgotten, or disregarded by 1306, the latest date by which these grants can have been made. As the documents in question were not drawn up until 1313, however, it remains possible that the shift occurred later, and that the guarantee that alienations made on the basis of the exemption would be respected was broken. Edward had a keen eye for threats to royal rights, however, and it seems likeliest that the exemption was withdrawn within a few months or years of July 1293. Doing so would have been firmly in keeping with government policy towards the Irish frontier more generally, as successive kings were quite consistent in preventing royal rights from being permanently alienated on the Irish frontiers.

The exemption of 1293 certainly did not protect Robert de Schirbourne, to whom de Ferings had alienated 90 acres of arable, 17 acres of meadow, and 53 acres of bog and pasture in Perrystown. This we learn from an inquisition taken in 1313 to assess whether a series of fee farm grants made by the archbishop were injurious to the crown. De Schirbourne's Perrystown holding yielded 61s. 4d., but was worth no more because it lay

in the march and mountains near the Irish frequently felons (*in marchia et in montanis prope hibernicos sepius felones*)... [I]t is not to the damage of the king or others that [de

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<sup>170</sup> Waugh, *The lordship of England*, pp 167-8.

<sup>171</sup> See above, pp 134-7, and what follows.

<sup>172</sup> For the illegal alienations made by these archbishops, see Appendix II, pp 274-8.

Schirbourne] and his heirs hold the land forever for the aforesaid rent especially because it is so in the march that nobody would wish to dwell or remain there except he could have the fee of the land forever.<sup>173</sup>

It does not appear that these jurors knew of any legal basis for de Ferings to subinfeudate without licence in his marches, indicating that by the time of his death the 1293 exemption had lapsed. Nevertheless, the jurors were clear that de Schirbourne should retain the holding. While they regarded most of de Ferings' alienations as nonharmful to royal interests,<sup>174</sup> only the Perrystown grant was described as positively advantageous. Moreover, they appear to have considered it reasonable for this holding to render less per acre than the other lands they assessed.<sup>175</sup> The jurors' testimony did not move mountains at Edward II's court: only in August 1318 were the alienations assessed in this inquisition permitted to stand.<sup>176</sup> Given the length of time that had passed, it is probable that the grantee continued to possess the holding in the interim, though rendering his dues to the king rather than the archbishop. A like arrangement was sometimes permitted in England.<sup>177</sup> Nevertheless, the fee was not legally secure without royal approval, and de Schirbourne and the other landholders affected would not have had security of tenure during this time, at least in theory.

Notwithstanding the sluggish response from the royal court, the testimony of the jurors is significant. Their claim that nobody would take on this land unless he could have it in fee immediately recalls Robert de Hastings' request that Newcastle McKynegan be taken from him if he could not have it in fee, and John de Burgh's attempt to secure a longer term in his march waste. The retention of Ardmays in the king's hand after Robert de Crues's death might reflect similar considerations by prospective custodians who were unwilling to take on frontier responsibilities for the duration of a minority. Comparable impulses were projected onto William Douz by jurors summoned in 1312 to assess whether he should be given in fee 40a in Saggart which he presently held from the king at farm. They claimed this would be advantageous both to the king and the surrounding area, as William had 'built a stone fortress for the defence of the country against the Irish of the Leinster mountains... and if William can obtain the said 40a from

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<sup>173</sup> NAI KB 2/4 pp 332-7, at 333; NAI RC 8/8, pp 226-35, at 229.

<sup>174</sup> Some of the alienations were regarded as injurious to the king. See appendix II, p. 277-8.

<sup>175</sup> In de Ferings' other alienations the jurors expected each acre of arable to render between 8d. and 1s. At the lower of these rates de Schirbourne's 90 acres of arable ought to render 60s. on their own. This was approximately the sum rendered for the entire holding, indicating that the jurors considered it acceptable for 70 acres of bog, meadow, and pasture to effectively produce no income.

<sup>176</sup> *CIRCLE, antiquissime*, no. 59; *CPR, 1317-21*, p. 204. Even the alienations deemed disadvantageous to royal interests in 1313 were permitted to stand as they were.

<sup>177</sup> Bean, *The decline of English feudalism*, p. 86.

the king he can better keep up and repair when necessary the fortress to the great defence and security of the whole country'.<sup>178</sup> The intimation that a fee-holder would be more apt to maintain the holding does not seem implausible, and the same was undoubtedly true of many other frontier holdings as well.

In fact, the 160a at Perrystown was not the only march holding illegally alienated to de Schirbourne by de Ferings. An inquisition held in January 1313 had assessed whether the king should permit a similar grant of a carucate in Johnstown to de Schirbourne to stand.<sup>179</sup> The jurors claimed that de Schirbourne's possession of the holding was advantageous to the king, 'because at the time of a vacancy of the archbishopric... the king would take no profit thereout since it would lie uncultivated as no one else would wish to hold that land'. Evidently the holding was undesirable, but the record does not make clear whether it lay on the frontier. This was regarded as a matter of importance, and, the sheriff was further told to inquire whether the holding lay within the march or outside it; and if the former he was to find out whether, and how, confirming the grant would affect the 'peace and tranquility' of the area's inhabitants. New jurors assembled in March and these corroborated and elaborated upon the testimony of the original jurors.<sup>180</sup> They claimed that if not for Robert's possession of the carucate

four neighbouring villages would be burned and plundered and the tenants of same killed by Irish felons many times since his acquisition thereof... [N]either the king nor the archbishop during a vacancy could take any profit thereout unless Robert were enfeoffed thereof for it would lie waste[.]<sup>181</sup>

The counterfactual presented by the jurors accords exactly with the situation discussed above regarding the benefits, from the perspective of both the king and those living nearby, of permitting subinfeudation in the marches. On the basis of these inquisitions, the grant at Johnstown was authorised by the justiciar, chancellor, and council.<sup>182</sup> It seems, then, that although the exemption of 1293 had expired, the logic that had informed it remained persuasive.

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<sup>178</sup> NAI KB 2/4, pp 201-2; NAI RC 8/8, pp 62-4. The fee was granted but the jury may have been deemed overly friendly to William: although they claimed each acre was worth 10*d. et non plus*, he was told to render 14*d.* per acre henceforth.

<sup>179</sup> This grant was made for 60*s.* 16*d.* annually.

<sup>180</sup> The first inquisition had twelve jurors, the second fourteen.

<sup>181</sup> NAI KB 2/4, pp 298-300.

<sup>182</sup> For the frontier importance of Carrickmines, immediately to the south of Johnstown, see Emmett O'Byrne, 'A much disputed land: Carrickmines and the Dublin marches', Seán Duffy (ed.), *Medieval Dublin iv: proceedings of the Friends of Medieval Dublin Symposium 2002* (Dublin, 2003), pp 236-7.

The administration did not want direct responsibility for the Johnstown holding, and nor, according to the jurors, did other landholders. The inquisitions into each of the holdings that were illegally alienated to de Schirbourne claimed not only that his possession of the lands in question was beneficial, but also that his willingness to take on these dangerous possessions was unusual. The claim is credible – we have seen plenty of evidence for the dangers and defensive obligations attendant to march landholding. Robert de Hastings' fate might be regarded as representing a cautionary tale about the latent perils of frontier landholding. The mindset of a more typical would-be tenant is perhaps exhibited in an agreement made between John fitz Thomas and John de Hotham in 1291, by which the latter was promised 10*m.* of land in *loco congruo et bono et terra pacis in comitatu Kildare, ita quod non sint infra limites de Ofaly nec de Leys*.<sup>183</sup> Prospective landholders like de Schirbourne were not the norm. The archbishop's grants at both Perrystown and Johnstown minimised the likelihood of march holdings coming into the king's hand, and they were probably exactly the kind of alienation envisaged in 1293.

The configuration of officials and advisors that granted Johnstown to de Schirbourne is striking, for although the 1293 ordinance had empowered the justiciar, treasurer, and council to accept fines for illegal alienations, this is the only clear evidence identified in the course of this research for alienations being pardoned by the Dublin government.<sup>184</sup> This does not mean that the exemption of 1293 persisted. De Schirbourne made fine by 20*s.* 'for having said grace', indicating that the alienation had not been legal, but was permitted because it was advantageous. Nevertheless, the fact that the alienation was pardoned in Dublin is striking given that the Perrystown grant remained unlicensed until 1318. It is possible that the king had specifically empowered his ministers to deal with Johnstown. The fact that the matter was deliberated upon by the council, apart from de Ferings' other alienations, certainly indicates that the inquiry was of some specific importance.

Another instance has been identified of a fine being made with the Dublin government to have an unlicensed march alienation pardoned. In 1318 the king pardoned a fine of 25*m.* made by Roger Bygeton, from whom John Pembroke had 'acquired certain tenements in the march of Ossory' without licence. Edward pardoned the fine not because of the holding's march location, but for John Pembroke's good service as sheriff of Tipperary.<sup>185</sup> The episode leaves us none the wiser: the fine pardoned by Edward had presumably been demanded by the Dublin

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<sup>183</sup> *Red. Book of Kildare*, no. 13. De Hotham occupied various roles in the treasury and chancery during his career (Richardson and Sayles, *Administration*, pp 100, 106, 115). See also above, p. 157, fn. 169.

<sup>184</sup> However, see Appendix II, p. 274, fn. 29.

<sup>185</sup> *CIRCLE*, PR 11 Edw. II, no. 80.

administration, but this could have been done on the basis of an inquisition ordered by Edward. The evidence is simply not strong enough to firmly assess the role of the Dublin government in pardoning unlicensed alienations. It is clear, however, that neither Dublin nor the king felt any urgency to restore lands alienated without licence, even if they lay in the marches. Indeed, lands taken for this reason routinely spent considerably longer in the king's hand than they did in England.<sup>186</sup> In England, lands were restored once fine was made; in Ireland it seems either that the administration was unwilling to accept fines, or that many landholders stubbornly refused to make fine for several years.<sup>187</sup>

Lyall's conclusion that the 1293 exemption attained permanence was based on the apparent lack of evidence for royal efforts to control alienation by tenants-in-chief, and on the logistical difficulties that would have plagued any attempt at reining in so broad an exemption after some years. But evidence for policing efforts has now been found in abundance, and the logistical difficulties could be mitigated by recalling the ordinance after a short period. The evidence suggests that this was indeed what happened. It is certain, in any case, that the ordinance did not introduce permanent freedom of subinfeudation within Ireland.

This is unsurprising, as Edward had no proclivity for discarding royal rights. Indeed, another of the ordinances sent in 1293 told the administration to resume into the king's hand lands that were held to farm for less than their correct value, so that they might be let to tenants who would pay more.<sup>188</sup> Edward cannot have intended, at the same time, for the exemption to last forever. As far as can be discerned from the extant evidence, Irish landholders never gained permanent rights on the basis of the frontier character of their holdings during the thirteenth century. Certainly, Henry III's empowerment of march landholders over their tenants had been for strict one- or two-year periods, and such precautions also continued to be taken beyond the period under study here as well. Thus, in 1328 the justiciar was empowered – for three years only – to let bishops acquire land in the marches for settlement by men who would defend them.<sup>189</sup> There is little reason to suspect that Edward intended to do any differently than his father had done and his grandson would later do, particularly if, as has been argued above, the exemption

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<sup>186</sup> Bean described a seizure of five years as 'the most remarkable illustration' of the length of time that lands could remain in the king's hand; this would be unexceptional in Ireland (Bean, *The decline of English feudalism*, pp 74-5). See Appendix II.

<sup>187</sup> Bean, *The decline of feudal England*, pp 76-7.

<sup>188</sup> *Statutes and ordinances*, pp 195-6.

<sup>189</sup> Paul Brand, 'The licencing of mortmain alienations in the medieval lordship of Ireland', *Irish jurist*, vol. 21 (1986), p. 132.

was engineered to produce immediate results, and not to permanently turn Irish marches into particularly favourable fees, as in Wales.

In Ireland the government managed to maintain an effective distinction between lenient treatment of frontier landholders on a temporary or case-by-case basis, and the permanent alienation of royal rights. It is possible, however, that the rigidity with which this distinction was maintained made the marches still less appealing to could-be landholders. Nevertheless, the situations described above, of isolated march holdings remaining in the king's hand for long periods on the basis of their unlicensed alienation, contrasts starkly with the situation that arose in the March of Wales between 1319 and 1322, when threats to the freedom of alienation claimed by the marchers served to unite those lords in war against the king.<sup>190</sup> A like situation would have been unthinkable in Ireland. Most of the illegally alienated lands found in the king's hand were alienated between small landholders, and it seems probable that greater barons simply got away with alienating land without permission. But after the ordinance of 1293 no Irish lord could have plausibly claimed the right to alienate lands held in chief of the king. If the emergence of such a situation was a danger of the exemption of that year, this risk was ably managed by the king and the Dublin administration.

### *Conclusions*

During Edward I's reign it was recognised that a measure of leniency was required in order to ensure that the Irish marches remained populated by tenants who were both willing and able to contribute to their defence. This was strikingly exhibited in the pardons issued to criminals regarded as experienced (or potential) frontier combatants. The issuance of such pardons was not unique to Ireland, but the irony inherent in permitting thieves and killers to remain in their communities in order to protect those communities from external thieves and killers is immediately apparent. This legal liberality was counterbalanced by financial parsimony, which reflected official antipathy towards paying for local defensive undertakings. Where possible, it was preferred that such expenses be borne by surrounding communities. This is seen throughout the thesis, but here the focus has been on levies imposed under the aegis of the justiciar's court in order to repay the loss of horses in the marches. Such measures highlight not only the limits of the crown's willingness to bankroll frontier undertakings, but also its determination that these

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<sup>190</sup> For the role of alienations in the dispute, see J. Conway Davies, 'The Despenser war in Glamorgan', *TRHS*, third series, vol. 9 (1915), pp 37-41.

enterprises should be carried out anyway, and that the individuals who did so should be reimbursed, or even rewarded for their troubles.

Given the persistence of such levies it is unsurprising that some who lived in the Irish colony believed the frontier challenges they faced, or were willing to face, warranted special treatment. In 1275 the citizens of Limerick cited their travails as warranting reduced rents; three years later the archbishop of Armagh presented that his pacification of Inniskeen deserved reward; and the petitioners of 1290 believed they should be given advantageous terms of landholding for their willingness to maintain frontier holdings. It is clear from the king's responses to these petitions that he shared in these sentiments, to an extent. Edward's approach to such requests was shaped both by the conviction that nothing pertaining to the king should be unduly permitted to diminish, and the recognition that leniency was sometimes necessary on the frontier. He could rely on the advice of his Irish ministers when seeking to balance these often-conflicting principles.

This conflict within governmental policy has been explored in particular in the context of the background, purpose, and transitory nature of the partial exemption from the royal ordinance of 1256, which was granted in 1293 to royal tenants on the Irish frontier. The limited historiography on this important ordinance appears to confirm Frame's contention that land law in medieval Ireland has been insufficiently studied.<sup>191</sup> The ordinance was unique amongst the measures examined in this chapter, and unusual amongst those discussed in the rest of the thesis, in that its applicability to a holding depended on that holding's frontier status; in this regard it was systematic.<sup>192</sup> The measure sought to encourage subinfeudation in the marches and the land of war in order to increase the number of landholders who were actively invested in securing the Irish frontiers; it also served as a preventative, designed to minimise the likelihood of difficult frontiers coming into the king's hand and draining the time and resources of the escheator. The inherent tensions between the principles guiding Edward's Irish frontier policy are clearest in the expiry of this exemption within a decade-and-a-half, and quite possible early within that timeframe.

The wariness of successive kings when it came to alienating anything pertaining to the crown may have helped to sustain an Irish polity that was, in many respects, relatively united during the thirteenth century. But the vision for the frontier that lay at the core of government

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<sup>191</sup> Frame, 'Rediscovering medieval Ireland', p. 216.

<sup>192</sup> That it only applied to tenants-in-chief probably reflected the inalienability of the protections *quia emptores* had granted to landholders who did not hold from the king.

policy was unrealistic, and in trying to prevent the alienation of royal rights the crown instead alienated royal subjects.<sup>193</sup> As government assistance became sparser, those who dwelt on the frontiers remained legally constrained in the methods they could employ to protect themselves, and the inevitable result was the emergence of frontier practices that were out of step with official strictures.<sup>194</sup> Thus, the townspeople of Ireland complained early in Edward III's reign that there pertained in Ireland 'three manners of law... which are contrary to each other: common law, the law of the Irish, and the law of the march... [and] where there is diversity of law the people cannot be of one law or community'.<sup>195</sup> This was perhaps unavoidable, and the 1293 exemption itself implies that the utility of systematically relaxing certain regulations was recognised. But by recoiling from contributing to frontier defence, refusing to bestow march holdings upon embattled landholders in fee, and declining to delimit permanently distinctive march practices, Edward and his Irish administrators missed the opportunity to shape those that emerged anyway. The kings of England had learned their lesson in Wales, and Edward's 1278 position would endure: *Rex non potest, quia de Corona*.

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<sup>193</sup> Brendan Smith, 'Keeping the peace', *Law and disorder*, pp 63-5.

<sup>194</sup> For two examples, see below, pp 216, 238-42.

<sup>195</sup> *Na Buirgéisí*, ii, pp 336-7, fn. 21. The precise dating of this document is uncertain. See Gearoid Mac Niocaill, 'The contact of Irish and common law', *Northern Ireland Legal Quarterly*, vol. 23, no. 1 (1972), p. 20; Hand, 'English law in Ireland', pp 413-14.

## IV

### Headhunts on the Irish frontier

Decapitation was a feature of justice, warfare, and sometimes politics in thirteenth-century Ireland.<sup>1</sup> It features prominently in the *Expugnatio* and the *Song*, and so, it occupied a place in the popular memory of the English invasion.<sup>2</sup> That decapitation was considered a significant aspect of intercultural conflict in Ireland from an early date is clear from Giraldus's inclusion of that deed in his list of contrasts between warfare in Ireland and Wales on the one hand and France on the other: '[in France] knights are taken prisoner, [but] here they are beheaded; [t]here they are ransomed, [here] they are massacred'.<sup>3</sup> The passage implies that by the 1180s decapitations were occurring in the context of intercultural conflict with enough regularity to warrant comment, and it is clear that these were being carried out by Englishmen as well as by Gaels. In the context of intercultural warfare, decapitation sent a powerful message of dominance by depriving the victim's kin of the ability to deal with the body in the manner they thought most appropriate.

The late thirteenth-century court records also contain many references to decapitations by criminals,<sup>4</sup> and to fugitives beheaded by overzealous pursuers.<sup>5</sup> In Ireland the act of taking a felon's head occupied a space between the martial and the judicial: this was not a punishment meted out by the king's courts, but nor was it completely taboo – thus, there was apparently no problem with the constable of Ballymore castle beheading an escaped thief and throwing his body

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<sup>1</sup> For the role of violence more broadly in the medieval British Isles, see John Gillingham, 'Killing and mutilating political enemies in the British Isles from the late twelfth to the early fourteenth century: a comparative study', Brendan Smith (ed.) *Britain and Ireland, 900-1300: insular responses to medieval European change* (Cambridge, 1999), *passim*. See also Stephen Morillo, 'A general typology of transcultural wars – the early middle ages and beyond', in Hans-Henning Kortüm (ed.), *Transcultural wars: from the middle ages to the 21st century* (Berlin, 2006), pp 33-41.

<sup>2</sup> *Expugnatio*, pp 176-7; Mullaly, *Deeds*, ll. 776-783, 1474-1487. For discussion of the latter episode, see Brendan Smith, "'I have nothing but through her": women and the conquest of Ireland, 1170-1240', Christine Meek and Catherine Lawless (eds), *Pawns or players? Studies on medieval and early modern women* (Dublin, 2003), pp 49-51.

<sup>3</sup> *Expugnatio*, pp 246-7. Cf. Lydon's interpretation of Geoffrey de Geneville as an ineffective commander in Ireland due to his familiarity with the French style of combat ('A land of war', p. 257).

<sup>4</sup> For crimes involving decapitation or the threat of decapitation, see *CJRI*, 1295-1303, p. 92; *CJRI*, 1305-1307, pp 469, 514; *CJRI*, 1308-14, p. 320. See also *PROME*, Roll 8 Edw. I, no. 13. In one particularly shocking case a sizable band of Welsh thugs decapitated a manorial serjeant in the street (*CJRI*, 1305-1307, p. 104).

<sup>5</sup> For the decapitation of fugitives see *CJRI*, 1295-1303, p. 176; *CJRI*, 1305-1307, pp 486, 488, 489. For two damaged records referring to decapitations, apparently of felons, see *CJRI*, 1305-1307, pp 469, 472. See also the unusual case in which the prior of St. Peter's of Trim was attacked by monks who found his rule overly restrictive ('they could not have drink at their will, as they were accustomed to have'). The record is badly damaged, but in the ensuing confrontation it appears the prior struck a brother 'with a sword in the neck, so that he nearly cut off his head' (*CJRI*, 1305-1307, pp 511-12).

into the Liffey in 1297.<sup>6</sup> Heads were sometimes displayed publicly, presumably to deter undesired behaviour: the early thirteenth-century seal of Dublin City portrays heads impaled high above the city gate, and a similar image on the seal of Athenry may depict the heads of Feidhlimidh Ua Conchobair and Tadg Ua Ceallaigh, who were decapitated after the pivotal battle of Athenry in 1316.<sup>7</sup> Excavations at various points along the medieval walls of Dublin city have uncovered body parts including skulls that may once have adorned the city's perimeter; and Brian Hodgkinson, commenting upon fragments of decapitated skulls found at the castle of Dunamase, contended that 'it must be assumed that they at one time adorned the battlements'.<sup>8</sup>

Some of these skulls may have been taken in battle, but others were specifically hunted down. Evidence is encountered throughout the period under study for the payment of sums by the Dublin government for the heads of specific criminals, or those of individuals who were regarded as a threat to frontier security. Tigernan Ua Ruairc's death at a parley in Meath may represent an early instance of a frontier assassination condoned by the Dublin government. It is clear from the fact that his head and body were displayed at Dublin that the deed had official approval, at least retrospectively, and this impression is bolstered further by the subsequently delivery of his head to Henry II.<sup>9</sup> Of course, heads were easier to transport and display than bodies, and it was normal for only the head to be delivered to Dublin.<sup>10</sup>

Decapitation during and after combat was not unique to Ireland, and nor were officially sanctioned headhunts.<sup>11</sup> Nevertheless, there is considerable evidence for the practice in Ireland,

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<sup>6</sup> ... *decollavit et corpus jecit in aquam de Athlynify* (NAI RC 7/4, p. 422; *CJRI, 1295-1303*, p. 176).

<sup>7</sup> Seán Duffy, 'Ireland's Hastings: the Anglo-Norman conquest of Dublin', Christopher Harper-Bill (ed.), *Anglo-Norman studies xx: proceedings of the Battle Conference* (Woodbridge, 1998), pp 70-1; Andrew Carpenter and Rachel Moss (eds), *Art and architecture of Ireland: volume 1* (Dublin, 2015), p. 382; Etienne Rynne, 'The Athenry corporate mace and seal' (1999), repr. at <https://athenryparishheritage.com/the-athenry-corporate-mace-and-seal-by-professor-etienne-rynne/> [accessed 25/7/2019]. Note the *culán* visible in the seal.

<sup>8</sup> Barra O'Donnabhain, 'The social lives of decapitated heads: skull collection and display in medieval and early modern Ireland', Michelle Bonogofsky (ed.), *The bioarchaeology of the human head: decapitation, decoration, and deformation* (Gainesville, 2011), p. 129; Brian Hodgkinson, 'A summary of recent work at the Rock of Dunamase, Co. Laois', John R. Kenyon and Kieran O'Connor (eds), *The medieval castle in Ireland and Wales: essays in honour of Jeremy Knight* (Dublin, 2003), p. 46. My thanks to Dr Áine Foley for alerting me to Hodgkinson's research.

<sup>9</sup> That Ua Ruairc's head was subsequently sent to Henry II himself emphasises the deed's significance still further. See Colin Veach, *Lordship in four realms*, p. 31; F.J. Byrne, 'The trembling sod: Ireland in 1169', *NHI*, ii, pp 36-7.

<sup>10</sup> The ode to Piers de Bermingham (d.1308) may provide some hints as to one method by which a cargo of heads was transported: it refers to 'hoodes' given to slain Gaelic-Irishmen in 1305, and to an Irishman who escaped (or was perhaps freed) and was left 'unhooded'. For brief discussion, see St. John D. Seymour, *Anglo-Irish literature, 1200-1582* (Cambridge, 1929), p. 87. See also below, pp 190-1.

<sup>11</sup> See especially F.C. Suppe, 'The cultural significance of decapitation in high medieval Wales and the Marches', *BBCS*, vol. 36 (1989), *passim*, and Maribel Fierro, 'Decapitation of Christians and Muslims in the

and the topic has been largely overlooked. We often only learn of a particular instance of licensed headhunting due to the survival of correspondence from the king regarding unforthcoming payments, and it therefore seems probable that the measure was more commonly employed even than the extant sources might suggest. Offering money for the heads of specific Gaelic leaders was one method employed by the government to stabilise colonial frontiers. It facilitated the attainment of difficult objectives in areas beyond the administration's normal reach without necessitating the mobilisation of substantial forces.<sup>12</sup> Here, an effort will be made to provide context for this practice, to ascertain the various types of headhunt sanctioned in the colony, to establish the ways in which such headhunts were organised and managed, and to assess the effectiveness of offers of 'head money' as a means of stabilising the Irish frontier during the period under investigation.

The relevance of officially sanctioned headhunting to a study of the frontier in Ireland is threefold. Firstly, the measure was often employed for the advancement of march security interests. Targeted headhunts reflected administrative efforts to shape the political complexion of the marches, ideally with the effect of improving the English position, although this was not always the result. Secondly, they could serve as a source of incidental (albeit dangerous) income for individuals with the means and inclination to fight. Headhunts were probably mostly carried out by individuals with march interests – frontiersmen whose lives were heavily shaped by their fight-or-flight reflexes were particularly well-placed, in both geographical and experiential terms, to capitalise on such offers. And thirdly, headhunts were often funded by the imposition of a levy on the communities that would ostensibly benefit from the killing.<sup>13</sup> Again, then, we see the tendency for the central government to try to minimise its exposure to the financial costs of frontier defensive initiatives.

In general, any Gaelic leader whose head the Dublin government was willing to pay for was probably a source of still greater worry to his nearest English neighbours. The lords threatened by the target's actions would thus often have had an added incentive to capitalise on, or promote, the reward, and we find that nearly every substantial sum of head money encounter

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medieval Iberian Peninsula: narratives, images, contemporary perceptions', *Comparative Literature Studies*, vol. 45, no. 2 (2008), pp 145-156.

<sup>12</sup> In this it fits Harari's definition of 'special operations', a context in which this topic could certainly be viewed (Yuval Noah Harari, *Special operations in the age of chivalry, 1100-1550* (Woodbridge, 2007), p. 1).

<sup>13</sup> We sometimes encounter a tallage called *capitagium* (*CJRI*, 1305-1307, p. 353) or *testagium* (*CDI*, ii, no. 2333). Although both terms are quite rare in the printed sources, most historians exclusively use *capitagium*, even when citing references to *testagium*. See, for instance, Robin Frame, 'The justiciar and the murder of the MacMurroughs in 1282' (1972), repr. in idem (ed.), *Ireland and Britain*, p. 242; Lydon, 'Medieval Wicklow – "a land of war"', p. 168.

was associated in some way with a great magnate or prominent government official. The practice's benefits weighed heavily in favour of these men, whose continued loyalty and devotion to march security the administration was forever anxious to maintain. There was, however, some opportunity for individuals of lower status to claim head money too. On each occasion that a small sum of head money is observed, its recipient was either anonymous or is otherwise unknown to the historian. When larger sums were offered for felons' heads, very powerful men typically reaped the financial rewards. It seems unlikely, however, that they themselves were the killers. More probably, they took the opportunity to strengthen their bonds with their leading tenants and to profit from their warlike energies by delegating the task and dividing the reward.

This brings us within touching distance of the often-conflicting principles of secrecy and the consent of the community, which are pertinent to the question of how these headhunts were funded and managed. Not all offers of head money were paid for by a levy of *capitagium*, and as such it was not always necessary to proclaim a felon's head very openly. In this regard, distinctions will be drawn between sums of head money offered for purposes of maintaining general law and order or encouraging participation in regional defence, and those offered for the elimination of individuals thought to pose a significant threat to parts of the colony. For present purposes, headhunts have been divided into three categories: the decapitation of felons proclaimed by a court (that is, for the maintenance of law and order); decapitations paid for as part of a wider war effort; and high-profile assassinations commissioned by the government. The latter two categories were closely related but have been separated because assassinations sometimes required secrecy and therefore had to be managed differently.

In each case, the heads were taken for public use as trophies and as evidence of the deed's completion. Frame has described head money as a 'blandishment' to marchers, and his view is not diverged from here:<sup>14</sup> offers of head money incentivised individuals to take on law enforcement duties or to carry out the government's political aims, ideally at a lesser cost than would be incurred by a military expedition. The potential benefits and pitfalls which the practice held for those with march interests will be analysed, as will the factors that recommended this tactical device to the administration, and the practice's efficacy. Finally, historians' have tended to focus on the biggest, boldest, and most memorable instances of headhunting, which have often been used to illustrate points about the nature of intercultural relations in Ireland. These will be delved into here as well, but it is hoped that looking beyond the *causes celebre* of the Gaelic remonstrance of 1317 will permit a deeper discussion of the practice.

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<sup>14</sup> R.F. Frame, 'The Dublin Government', pp 407-8. See also idem, 'English officials and Irish chiefs, p. 255.

### *Decapitation in Wales and Ireland*

The long history of decapitation in Irish warfare prior to the arrival of the English, and the English experience of this act outside of Ireland, deserve brief exploration before delving into the practice's role in government policy towards the frontier. Headhunting has received little attention from writers on medieval Ireland, but Fry has written on decapitation in the context of burial, Ó Donnabhain has provided an archaeological overview of the same practice, and Suppe's study of decapitation in medieval Wales facilitates valuable comparisons.<sup>15</sup> Suppe outlined evidence for pre-Christian 'head veneration' in Wales and argued that this was a wider phenomenon amongst 'pre-Christian Celts'.<sup>16</sup> Fry found no comparable evidence for pre-Christian Ireland but emphasised that the importance of the head there from at least the early Christian period is clear.<sup>17</sup> Decapitations certainly occurred in Ireland in a military context after this point.<sup>18</sup>

Suppe, examining the act's cultural connotations in Wales, contended that as late as the thirteenth century there was honour in the decapitation of one's foe in battle, but that beheading a warrior outside of that context 'would strike Welsh sensibilities as a ghastly and barbaric mutilation'.<sup>19</sup> There is some early evidence for a similar attitude in Ireland. According to the annals, in 866, Aedh Finliath waged a ferocious campaign against the *gaill* in the north, after which twelve-score heads were 'collected to one place in [his] presence'. Elaborating on this grisly scene the annalist notes that these were the heads of warriors slain on the battlefield and did not include 'the numbers... who were wounded and carried off... in the agonies of death'.<sup>20</sup> This suggests that there was etiquette to decapitation in Ireland in this period: as in Wales, it was proper to take heads during, not after, combat.<sup>21</sup> Notwithstanding the head-cleavings and

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<sup>15</sup> Susan Leigh Fry, *Burial in medieval Ireland, 900-1500: a review of the written sources* (Dublin, 1999), pp 96-102; Ó Donnabhain, 'The social lives of decapitated heads', esp. pp 122-130; Suppe, 'The cultural significance of decapitation', pp 147-160.

<sup>16</sup> Suppe drew on the *Táin Bó Cúailnge* in support of this argument (Suppe, 'The cultural significance of decapitation', pp 149-50). For the problems of 'Celtic' terminology, see Patrick Sims-Williams, 'Celtomania and Celtoscepticism', *Cambrian Medieval Celtic Studies*, no. 36 (1998), pp 17-18, 25-6, 29-30; Steven G. Ellis, 'Why the history of "the Celtic Fringe" remains unwritten', *European Review of History – Revue européenne d'Histoire*, vol. 10, no. 2 (2003), passim.

<sup>17</sup> Fry, *Burial in medieval Ireland*, p. 97.

<sup>18</sup> The limited pre-Viking archaeological evidence is outlined in Ó Donnabháin, 'The social lives of decapitated heads', p. 123.

<sup>19</sup> This is how Suppe suspects the decapitation of Llywelyn ap Gruffudd was perceived in 1282 ('The cultural significance of decapitation', p. 156).

<sup>20</sup> AU 866.4; AFM 864.3.

<sup>21</sup> Norms probably changed over time – cf. the far later description of the aftermath of Hugh O'Donnell's victory at Yellow Ford in 1598: his men stripped the dead and beheaded the severely wounded (Patricia Palmer, "'An headless ladie" and "a horses loade of heades": writing the beheading', *Renaissance Quarterly*, vol. 60 (2007), p. 28).

decollations that proliferate in Gaelic and chivalric literature,<sup>22</sup> decapitation was a difficult and very deliberate act which can seldom have arisen naturally in the course of battle.<sup>23</sup> It took the earl of Lancaster's executioner 'two or three' blows to complete his task in 1322, even with the benefit of a chopping block.<sup>24</sup> The method used in Ireland may have been that described by Giraldus: he claimed that during a decisive battle in Osraige '[g]roups of Irish foot soldiers [on the English side] immediately beheaded with their large axes those who had been thrown to the ground by the [English] horsemen'.<sup>25</sup> The association of Gaelic fighters with the battle-axe would persist in popular consciousness – from the 1280s depictions of foot soldiers wielding battle axes and donning fools' caps were used as a finding aid to denote documents relating to Ireland in the English exchequer.<sup>26</sup>

The presentation of heads to Aedh Finnliath recalls Giraldus's description of the pile of heads brought before Diarmait Mac Murchadha in Osraige,<sup>27</sup> and the delivery of thirty-one heads of 'the Welsh and Leinstermen of West Connacht' to Aedh Ua Conchobair in 1266.<sup>28</sup> These incidents were not outliers. Annalistic references to the taking of heads in battle abound both before and after the English invasion.<sup>29</sup> The annals describe engagements in the 1250s, 1260s, and

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<sup>22</sup> For violence in chivalric literature, see Richard W. Kaeuper, 'Chivalry and the "civilizing process",' idem (ed.), *Violence in medieval society* (Woodbridge, 2000), passim. Early Irish literature, too, depicts a warrior society of which honour was an integral part and was won primarily through the demonstration of physical prowess in combat. See Philip O'Leary, 'Honour-bound: the social context of early Irish heroic *geis*', *Celtica*, vol. 20 (1988), pp 93-4; Katharine Simms, 'Images of warfare in bardic poetry', *Celtica*, vol. 21 (1990), p. 611.

<sup>23</sup> Atkinson contends that decapitation 'can only be achieved... by bringing the opponent to the ground' (Stephen Atkinson, "'They ... toke their shyldys before them and drew oute their swerdys ...': inflicting and healing wounds in Malory's *Morte Darthur*", Larissa Tracy and Kelly DeVries (eds), *Wounds and wound repair in medieval culture* (Leiden, 2015), p. 535). In Iberia, too, decapitation was generally performed on wounded or dead combatants, although it was said that some exceptional individuals could decapitate an opponent with a single blow (Fierro, 'Decapitation of Christians and Muslims', p. 145).

<sup>24</sup> *Vita Edwardi secundi*, pp 212-15.

<sup>25</sup> *Expugnatio*, pp 36-7. Gerald repeatedly emphasises the Gaelic proclivity for wielding axes. See, for instance, *ibid*, pp 114-15, 136-7, 186-7.

<sup>26</sup> Documents relating to Scotland and Wales were signified by foot soldiers wielding swords, spears, and (in the case of the Welsh) bows (Julian Luxford, 'Drawing ethnicity and authority in the Plantagenet exchequer', Peter Crooks and David Green (eds), *The Plantagenet empire, 1259-1453, proceedings of the 2014 Harlaxton Symposium* (Dodington, 2016), pp 83-5).

<sup>27</sup> *Expugnatio*, pp 36-7. In its specifics, however, Giraldus's telling is suspect. In Diarmait's treatment of his enemy's decapitated head, Vincent has detected allusions to Ptolemy XIII's inappropriate treatment of general Pompey's decapitated head (Nicholas Vincent, 'Angevin Ireland', Smith (ed.), *Cambridge History of Ireland*, i, p. 187).

<sup>28</sup> AC 1266.19, AFM 1266.14, ALC 1266.17.

<sup>29</sup> For some examples see AFM 861.10, 864.3, 865.12, 888.6, 894.13, 915.6, 931.12, 968.4, 1000.9, 1076.10, 1140.8, 1144.11; AI 573.1; AT 1140.4; AU 866.4, 953.3, 1001.5; CS s.a. 866; FAI s.a. 851, 856, 908; MCB s.a. 695, 856. For some archaeological evidence for heads taken in battle, see Niamh Carty, "'The halved heads": osteological evidence for decapitation in medieval Ireland', *Papers from the Institute of Archaeology*, vol. 25, no. 1 (2015), p. 17.

1270s in which heads were taken *en masse* by Gaelic forces.<sup>30</sup> The prevalence of the practice may explain the rarity with which the decapitation of important individuals is commented upon in annalistic obituaries – perhaps kings were often buried without their heads.<sup>31</sup> For instance, although we know from English sources that Domnaill Óg Ua Domnaill's (d.1281) head was taken in battle and sent to Dublin, AFM records his interment at the monastery of Derry without reference to any such ignominy.<sup>32</sup> Perhaps the fact of his decapitation was regarded as unremarkable.

Fry has suggested that the intentional burial of a strong leader's body in multiple parts could bestow spiritual, political, and financial advantages upon his surviving kin, and it was not unheard of in Ireland.<sup>33</sup> More often, however, it appears that decapitation was an act of deliberate mutilation of a vanquished foe to obtain a trophy and it denied both the victim and his kin the advantages which control over burial bestowed.<sup>34</sup> That the Irish practice was intended to degrade is suggested by an entry in the fragmentary annals which claims that it was customary for kings to ritualistically crush their vanquished opponents' decapitated heads.<sup>35</sup> The episode may be apocryphal but it suggests that decapitation was a denigrating act in Ireland, which empowered the killer. Moreover, it was widely believed that division of the body would impede resurrection on Judgement Day; the practice of headhunting was therefore probably very upsetting.<sup>36</sup> This is clear in the tale of a gifted musician named Donn Bó, who, having promised to entertain his king the following night, fell in battle. His severed head cried out to an enemy combatant to bring him

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<sup>30</sup> These battles were waged against both English and Gaelic opponents (AC, 1256.15, 1266.19, 1275.9; AFM, 1252.12, 1266.14, 1275.6; ALC, 1256.5, 1266.17, 1275.8).

<sup>31</sup> The well-known obits of Tigernan Ua Ruairc and Hugh de Lacy are quite unusual, though by no means unique, in this regard (AFM, 1172.4, 1186.5). For some further instances, see AI, 1311.3; AFM, 1185.3; ALC, 1186.17, 1306.4; MCB 1165.2. Mulhaire has identified four instances of regicide by decapitation, all in the late ninth century (Ronan Mulhaire, 'Kingship, lordship, and resistance: a study of power in eleventh- and twelfth-century Ireland' (PhD, TCD, 2018), p. 148, fn. 454).

<sup>32</sup> This episode is discussed below, p. 180.

<sup>33</sup> Fry, *Burial in medieval Ireland*, pp 99-101.

<sup>34</sup> The sources give no insights into the distress caused by decapitations, though see *CJRI*, 1305-7, p. 32. Fierro tells of a commander of a victorious force in Iberia dying from the horror of what he had witnessed a few days after surveying vast quantities of heads taken from his vanquished foes (Fierro, 'Decapitation of Christians and Muslims', pp 151-2). For revulsion at violence within thirteenth-century Gaelic Ireland more generally see Thomas Finan, 'Violence in thirteenth-century Ireland', *Eolas*, vol. 4 (2010), pp 92-7.

<sup>35</sup> This is discussed in Fry, *Burial in medieval Ireland*, p. 99. See FAI s.a. 908, p.159.

<sup>36</sup> For Christian anxiety around the importance of burial in one part, see Caroline Walker Bynum, 'Material continuity, personal survival, and the resurrection of the body: a scholastic discussion in its medieval and modern contexts', *History of Religions*, vol. 30, no. 1, (1990), pp 77-81. According to Fierro, the Islamic belief that salvation was up to God and could not be interfered in by human actions led to less anxiety regarding decapitation (Fierro, 'Decapitation of Christians and Muslims', p. 158). Piers Gaveston's head was reattached by Dominicans after his execution, but they still could not bury him as he was excommunicate (*Vita Edwardi secundi*, pp 48-9).

to his slain king so he could fulfil his promise, but he further beseeched his bearer to 'let Christ be your surety that if you take me, you bring me back to my body again'.<sup>37</sup>

Distress at the taking of a Gaelic head by the English is expressed most memorably in the first seven stanzas of Giolla Brighde Mac Con Midhe's lament for Brian Ua Néill (d.1260), which mourned his head's use as a trophy: '[t]o take Brian's head to London was as bad a hurt as all that the [f]oreigners did; wretched the end to his countenance that his head should be in a foreign church'.<sup>38</sup> Earlier, an annalist had described the exhibition of Tighernan Ua Ruairc's head at Dublin as 'a miserable spectacle for the Gaeidhel'.<sup>39</sup> In Wales, similar anguish was expressed at the postmortem decapitation of Llywelyn ap Gruffudd (d.1282),<sup>40</sup> and an elegy for Aodh son of Eoghan Ua Conchobair (d.1309), too, accused the Clann Muirchertach Ua Conchobair of mutilating his body by beheading it.<sup>41</sup> The tale of Gillachrist Mac Cearbhaill's head in 1186 suggests that the sentiment was no mere poetic conceit: after his killers 'carried off [Mac Cearbhaill's] head', his followers endeavoured to recover it and returned it home after a month.<sup>42</sup> Suppe emphasised that decapitation held an important place in Welsh culture and contended that the English inadvertently 'perpetrated decapitations in situations culturally inappropriate to Welsh sensibilities and enraged their opponents'.<sup>43</sup> In Ireland, however, it is clear that headhunting, whether carried out by Gael or Gall, added a grievous insult to the injury of defeat and caused survivors considerable anguish. Offers of head money may have facilitated the attainment of the administration's frontier goals, but they probably also deepened hostilities there.<sup>44</sup>

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<sup>37</sup> FAI, s.a. 722, p. 75. Fortunately for Donn Bó this promise was kept, and he subsequently came back to life and returned home.

<sup>38</sup> *The poems of Giolla Brighde mac con Midhe*, ed. N.J.A. Williams (Dublin, 1980), pp 136-7.

<sup>39</sup> ALC, 1172.2.

<sup>40</sup> Suppe, 'The cultural significance of decapitation', pp 157-8. Llywelyn's head, like that of Brian Ua Néill, was displayed on the tower of London, as was that of his brother Dafydd (Smith, *Llywelyn ap Gruffudd*, pp 578-9, 568-9). For a parallel between Brian and Llywelyn's careers in 1258, see *ibid*, p. 116.

<sup>41</sup> 'An elegy on the death of Aodh Ó Conchobhair († 1309)', ed. Damian McManus, in *Ériu*, vol. 51 (2000), p. 83; Katharine Simms, 'A lost tribe: the clan Murtagh O'Conors', *JGAHS*, vol. 53 (2001), p. 10.

<sup>42</sup> AFM, 1185.3; ALC, 1186.17. Fry has suggested the possibility that Mac Cearbhaill's head was ransomed (Fry, *Burial in medieval Ireland*, p. 97). Cf. the efforts of the Anglo-Normans in the March of Wales to recover the head of Robert of Rhuddlan in 1088 (Suppe, 'The cultural significance of decapitation', p. 151).

<sup>43</sup> Frederick C. Suppe, *Military institutions on the Welsh Marches: Shropshire, A.D. 1066-1300* (Woodbridge, 1994), p. 148. Suppe's reading of the cultural meanings of decapitation in Wales suggests that the marchers viewed the Welsh practice as barbaric, but viewed their own use of the technique as appropriate. This duality approximates closely to the English view discerned by Palmer in the sixteenth and seventeenth centuries (Palmer, "'An headless ladie'", pp 30-1).

<sup>44</sup> See below, pp 188-92. This should be borne in mind when considering those instances in which Gaelic-Irish or Welsh heads were sent to Dublin or to Henry III.

*The roots of English headhunting in Ireland*

Vincent has pondered whether King John's 'delight in head-hunting and in watching judicial duels', and his penchant for cruelty towards hostages, might have been learned from Irish politics.<sup>45</sup> In light of the foregoing discussion the suggestion may seem plausible, though Vincent's evidence for John's 'delight' in headhunting consists only of Giraldus's claim that a hundred heads were sent to Dublin during John's 1185 visit to Ireland. These were apparently the heads of the men of Cenel Eoghain, whom William le Petit defeated when they invaded Meath.<sup>46</sup> Whether or not the future king's interests were shaped by this gruesome gift, it is by no means certain that le Petit's act was inspired by Gaelic influence. Le Petit, a leading feudatory of Hugh de Lacy, was a relatively recent arrival in Ireland, and originally hailed from the Welsh March, and may have learned the practice there.<sup>47</sup> Although Suppe emphasised that, amongst the marchers, '[b]eheading... prisoners was hardly a routine practice', it was probably not an entirely alien practice to many of Ireland's new arrivals either.<sup>48</sup> Giraldus expressed disgust at the beheading of Welsh hostages during Henry II's disastrous 1165 expedition there, perhaps indicating that this was unusual at the time,<sup>49</sup> but another beheading by a marcher is encountered in 1175, and when Gerald wrote the *Descriptio Cambriae* (c.1192), the practice was common enough to warrant the near-exact replication of his earlier passage about the decapitation of prisoners in Ireland.<sup>50</sup>

In any case, John was by no means the only, nor indeed the prime, Plantagenet king to whom a macabre interest in frontier headhunting might be ascribed. Giraldus did not implicate Henry II in the behaviour of 1165, but we have mentioned the delivery of Tigernan Ua Ruairc's head to that king. Suppe noted two occasions on which dozens of Welsh heads were sent to Henry III, and another on which he oversaw the decapitation of two Welsh thieves in Dunstable, where theft was normally punished by hanging; and as we have seen, Brian Ua Néill's head, too, was sent to Henry III.<sup>51</sup> And in the winter of 1306-7 Edward I, enraged by the murder of John Comyn, ordained that any of Robert Bruce's adherents taken in war were to be hanged or beheaded,

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<sup>45</sup> Nicholas Vincent, 'Angevin Ireland', Brendan Smith (ed.), *The Cambridge history of Ireland, volume 1, 600-1550*, p. 217.

<sup>46</sup> Ibid, p. 217, fn. 154. See *Expugnatio*, pp 234-5. The annalist of Loch Cé claims that Maelsechlain, king of Cenel Eoghan, was slain 'through treachery, by Saxons' in this year (ALC, 1185.16).

<sup>47</sup> Orpen, *Ireland under the Normans*, i, pp 86-7; Veach, *Lordship in four realms*, pp 62-3.

<sup>48</sup> Suppe, *Military institutions*, p. 110.

<sup>49</sup> *Expugnatio*, pp 220-1.

<sup>50</sup> Gerald of Wales, *The journey through Wales and the description of Wales*, ed. Lewis Thorpe (Middlesex, 1978), p. 269; see above, p. 166.

<sup>51</sup> Suppe, 'The cultural significance of decapitation', pp 147-149.

appropriate punishments for traitors.<sup>52</sup> Evidently the English experience of and participation in headhunting was not unique to Ireland.

Law in the Anglo-Irish colony developed alongside the still-developing English common law, and it has been suggested that English involvement in Ireland may have catalysed the calcification and formalisation of that law.<sup>53</sup> In England serious crimes were punishable by a sentence of outlawry, which effected the ostracization of a convicted criminal, whose name was proclaimed in seigneurial and county courts and at other public gatherings. He could be arrested on sight, and anyone found to have knowingly given him refuge was liable to receive the same punishment as the felon himself. In this way, criminals were forced out of settled life.<sup>54</sup> Moreover, they '[bore] the wolf's head and in consequence perish[ed] without judicial inquiry', meaning that a felon's killer would go unpunished.<sup>55</sup> Some felons were beheaded in flight, and it seems from the volume of such cases that this was considered a suitable punishment for an outlaw on the run in England.<sup>56</sup> As a declaration of outlawry was considered a judgement in itself, a captured outlaw was not entitled to a trial and all that remained to be done upon his capture was sentencing and punishment.<sup>57</sup> Effectively excluded from society, the felon's experience in thirteenth-century England has been summed up thus: he was 'reduced to the status of hunted vermin, liable to arrest when seen and execution when arrested'.<sup>58</sup>

The status of outlawry also existed in Ireland from at least 1200.<sup>59</sup> There, however, the urgency of a felon's predicament could be compounded by the offer of a monetary reward for his head. This practice has received little attention and has been regarded as a measure targeted only

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<sup>52</sup> J.G. Bellamy, *The law of treason in England in the later middle ages* (Cambridge, 1970), pp 39-40.

<sup>53</sup> Paul Brand, 'Ireland and the literature of the early common law', *Irish Jurist*, vol. 16 (1981), esp. pp 96-7. For the simultaneous development of law in Ireland under English supervision see Paul Brand, 'Ralph de Hengham and the Irish common law', *Irish jurist*, vol. 19 (1984), p. 107; Hewer, 'Justice for all?', pp 279-80.

<sup>54</sup> Susan Stewart, 'Outlawry as an instrument of justice in the thirteenth century', John C. Appleby and Paul Dalton (eds), *Outlaws in medieval and early modern England: crime, government and society, c.1066–c.1600* (Farnham, 2009), p. 45. Conviction rates for those accused of receiving felons were, however, very low in fourteenth-century England (Barbara Hanawalt, *Crime and conflict in English communities, 1300-1348* (Cambridge, 1979), p. 93).

<sup>55</sup> Bracton quoted in Stewart, 'Outlawry as an instrument of justice', pp 40-1. For this practice in Ireland, see KB 2/8, pp 14-17, which states that a recent Dublin parliament had declared it acceptable to kill idle kerns extorting hospitality, and the 1310 parliament's ruling that people 'shall do with [such kerns] as with an open robber' (*Statutes and ordinances*, p. 269).

<sup>56</sup> Stewart, 'Outlawry as an instrument of justice', pp 41-2; Elizabeth Papp Kamali, 'Felonía felonice facta: felony and intentionality in medieval England', *Criminal law and philosophy*, vol. 9 (2015), pp 397-8.

<sup>57</sup> Bellamy, *The law of treason*, p. 35.

<sup>58</sup> H.R.T. Summerson, 'The structure of law enforcement in thirteenth-century England', *American Journal of Legal History*, vol. 23 (1979), p. 313.

<sup>59</sup> Paul Brand, 'Ireland and the literature of the early common law', *Irish Jurist*, no. 16 (1981), p. 99, fn. 15. For appeals of outlawry, see Anthony Musson, *Public order and law enforcement: local administration of criminal justice, 1294-1350* (Suffolk, 1996), pp 169-172.

at Gaels.<sup>60</sup> It does seem to have been far more usual for Gaels to be the subject of headhunts, and some colonists may have considered decapitation a particularly suitable punishment for the Gaels – Suppe perceived a comparable attitude amongst Welsh marchers.<sup>61</sup> But the exigencies of frontier existence sometimes made it necessary to offer money for the heads of elusive English recidivists too. The record of £5 paid from the exchequer for William of Kylmecham's head in 1275-6 may point to this, although caution must be taken when reading names as evidence of ethnicity.<sup>62</sup> In 1295 William Kynec was to be taken 'alive or dead' and in 1298 Isabella de Moorton was found innocent of receiving her brother John, 'a felon, whose head [was] proclaimed'.<sup>63</sup> Further suggestive evidence is provided by an inquisition taken between 1257 and 1263 which relates how, during the time of archbishop Luke of Dublin (1230-1255), Richard de Carricke ambushed a notorious group of robbers whom David de Clerk had received. Having killed the robbers Richard 'beheaded them and brought their heads to the castle'. The only robber to escape was David's brother Walter, who later paid a fine to be restored to the archbishop's peace. David's lands were seized and granted away by the archbishop for knowingly receiving Walter, and the record explicitly states that '[t]hese were Englishmen', though it is possible that only the de Clerks are intended by this.<sup>64</sup> Although there is no mention of payment for the heads in this record, the episode strongly suggests that Englishmen, too, were legitimate targets for headhunts – at least ones sanctioned by local authorities.

### *Headhunting for the maintenance of law and order*

The smaller sums of head money encountered during the period should be dispensed with first. The topic of headhunts carried out for the maintenance of law and order has already been approached in the discussion of headhunts targeting Englishmen. Although the long thirteenth century saw rebellions by Hugh de Lacy, Richard Marshal, Maurice de Caunteton, and Robert de

<sup>60</sup> James Lydon, *The making of Ireland: from ancient times to the present* (Abingdon, 2012), p. 79.

<sup>61</sup> Suppe, 'The cultural significance of decapitation', p. 149.

<sup>62</sup> *CDI*, ii, no. 1294; *Irish exchequer payments*, p. 12. In the index of *CCR, 1360-1364*, 'Kilmesham' is equated with the manor of 'Kinsham', co. Worcester. The name Uilliam was used in Gaelic Ireland during the thirteenth century (Freya Verstraten, 'Naming practices among the Irish secular nobility in the high middle ages', *JMH*, vol. 32, no. 1 (2006), p. 43). For a profitable prosopographical examination of the ethnic implications of (mainly elite) Scottish naming trends, see Matthew Hammond, 'Ethnicity, personal names, and the nature of Scottish Europeanization', *Thirteenth century England xi: proceedings of the Greygnog conference, 2005* (Woodbridge, 2007), *passim*.

<sup>63</sup> *CJRI, 1295-1303*, pp 77, 197. It seems that John de Morton was himself thought to be a hitman, albeit an illegal one – in 1306 a McMoghan was found innocent of paying John de Morton 'half a mark to slay... de Tyremoghan, an Englishman' (*CJRI, 1305-1307*, p. 495). For another alleged instance of an attempt to illegally contract a killing, see *NAI KB 2/12*, p. 62.

<sup>64</sup> *Alen's reg.*, p. 111.

Verdon, there is no indication that head money was utilised by the government in dealing with these, and every indication suggests that it was hoped that peaceful settlements could be arrived at. It is probable that during this period money was only offered for Englishmen in the interest of maintaining regular law and order, rather than for grander political reasons. References to the practice of headhunting occur as early as 1211-12, when the solitary extant pipe roll records 12*d.* paid for the head of an outlaw (*pro capite unius utlagi*) in Meath, and three cows given for the heads of three robbers (*pro tribus capitibus trium latronum*) in Ulster.<sup>65</sup> Little can be said on the basis of these terse records, but both payments were made in substantial frontier lordships that had recently come into the king's hand, and it is possible that the payments, and the different currencies used, reflected practice in those areas prior to John's seizure of the lands into his hand. The sums are quite small, at least compared to the sums paid out for assassinations in later decades, and the number of heads, too, is limited. It therefore seems probable that these were targeted headhunts – otherwise we would expect the roll to record far more heads being sold to the administration.

The same can be said of the other (relatively) small payments of head money we encounter, namely the £5 given to William de Melingge for the head of William of Kylmecham in 1275-6,<sup>66</sup> the £6 which two soldiers (*servientes*) received for the heads of 'some Irish felons' in 1281,<sup>67</sup> and the 1282 payment of £2 to Gerald O'Brien for the head of an unnamed felon (the only instance of a probable Gael being paid for a head).<sup>68</sup> From the infrequency with which such payments are encountered, it seems clear that only specific felons had prices put on their heads – to do otherwise would have been very expensive, and would have made the de-escalation of warfare difficult. These small sums of money, with the possible exception of the 1281 payment of £6, were most likely offered for the purpose of maintaining law and order and targeted at low-level repeat offenders, whether that meant violent thugs or local cattle rustlers. One notable difference between these small sums and the larger amounts to be discussed shortly is the lack of reference to difficulty securing payment – perhaps these sums were small enough to flow smoothly out of the exchequer, although it is also possible that the financial woes of these low-level agents of public order are simply obscured from the historian's view. Small payments of this sort were probably often made locally, but if so, they are now irretrievable to the historian.

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<sup>65</sup> Pipe roll Ire. 14 John, pp 46-7, 62-3.

<sup>66</sup> *CDI*, ii, no. 1294; *Irish exchequer payments*, p. 12.

<sup>67</sup> *CDI*, ii, no. 1781; *Irish exchequer payments*, p. 56.

<sup>68</sup> *CDI*, ii, no. 1907; *Irish exchequer payments*, p. 76.

### *Headhunts as a tool of war*

The politico-legal space occupied by the 'Gaelic felon' was quite distinct from that of his English counterpart. For one thing, it does not seem that the process by which one was outlawed after ignoring five separate court summonses and having one's head publicly proclaimed was necessary to be considered a 'Gaelic felon'.<sup>69</sup> Moreover, although the Gaelic felon's killer might go unpunished,<sup>70</sup> the marches were prone to tit-for-tat warfare which could be extremely damaging to human and economic resources. Thus, circumspection in the making of war and peace in Ireland was essential. That this was well understood is illustrated by the seventh and eighth ordinances of the 1297 parliament, which prohibited colonists from making private truces or independently starting wars.<sup>71</sup> A case tried in Louth in 1311 reveals that these principles were taken seriously by the government: the trial turned on the question of precisely when the receipt of a royal pardon by the sept of Matthew son of Cecil Ua Raghallaigh had become known in Louth, as a cattle raid launched subsequent to its issue had destroyed 'the whole peace of those marches'.<sup>72</sup> Frontier warfare had been a consistent problem for the colony, and it is inconceivable that these principles were new in 1297.

Given that incautious aggression in the marches could result in considerable expense, it is probable that the government wished to monopolise and control, or at the very least monitor, the payment of money for Gaelic heads. In almost every instance for which evidence exists head money appears to have been offered for quite precise targets, and there is little reason to suspect that this was not the norm. Although Lydon suggested that the practice of headhunting 'encouraged attack on innocent Irish',<sup>73</sup> there is little indication that the indiscriminate killing of Gaelic people was encouraged or rewarded by the administration. Nevertheless, this is a question worth exploring, and it will be seen that broad offers of head money sometimes made in times of war may lend some weight to Lydon's indictment.

In May 1251 a close letter of the king recalled that a proclamation made in Cork, Dublin, and Connacht had promised that a levy would be imposed to pay any who killed the king's enemies

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<sup>69</sup> For an overview of this process, see Áine Foley, 'The outlaw in later medieval Ireland', Travis R. Baker (ed.), *Law and society in later medieval England and Ireland: essays in honour of Paul Brand* (London, 2018), p. 154.

<sup>70</sup> For discussion of an incident of 1305, when the killers of several Meic Murchadha were punished, see Hewer, 'Justice for all?', pp 180-2, esp. fn. 11. Emmett O'Byrne, discussing the same killings, noted that the victims had a safe conduct, and has suggested that the offenders were punished by the justiciar in an unsuccessful attempt to placate the Meic Murchadha (*War, politics and the Irish of Leinster*, p. 64).

<sup>71</sup> Connolly, 'The enactments of 1297', pp 154-157.

<sup>72</sup> *CJRI, 1308-14*, pp 209-10.

<sup>73</sup> Lydon, *The lordship of Ireland*, pp 126-7.

and disturbers of the peace. As such, John de Cogham and his men were to be paid for the malefactors they had killed.<sup>74</sup> The emphasis on enemies killed rather than military service performed, and the lack of reference to a precise sum of money to be paid out, suggests that these men were being paid on the basis of how many Gaelic warriors' heads they presented to the exchequer – perhaps these were identified by their *culán* or some other Gaelic hairstyle.<sup>75</sup> If this interpretation is correct, the amount paid out per head must have been quite small. There is a very close Welsh parallel for this measure: in 1233 the exchequer was directed to pay Richard de Muneton and his followers 57s. for the heads of fifty-seven Welsh raiders whom they had slain in Shropshire.<sup>76</sup> In this instance, too, there is no indication that efforts were made to identify the deceased individuals, and a similar problem may have arisen in the medieval Iberian peninsula, where money was sometimes offered for the heads of rebels and of individuals who acted as spies or guides for Muslims on the frontier.<sup>77</sup> 1s. per head had also been the rate paid for heads in Ireland in 1212, and it may have been consistent throughout the English frontiers; this was by no means a negligible sum but was tiny compared to the amounts offered for some targeted killings.

The need for the king to get involved in 1251 indicates that de Cogham and his men had been unable to obtain payment, and there may have been local opposition to the levy. Opposition to levies of *capitagium* was common, and the decision to use this means of payment probably imposed limitations on the frequency with which payments for heads could be made in this case. There was also a geographical limitation, as the money was only being offered in specific problem regions: Cork, Dublin, and Connacht. The proclamation was probably made in reaction to prevailing instability in those regions – it was clearly neither a licence to take Gaelic heads freely throughout Ireland, or a tactic of long standing.<sup>78</sup> Nevertheless, exactly what measures could have been taken to prevent this licence from being abused are unclear from our limited evidence, and the fact that the document seems to be unique amongst the extant sources may indicate that this sweeping approach to frontier security was found to be unfruitful.<sup>79</sup> As we have seen, the king's letter appears at a time when the king and his government were making a concerted effort to deal

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<sup>74</sup> *CR*, 1247-51, p. 448 (*CDI*, i, no. 3145).

<sup>75</sup> For the dangers faced by Englishmen who opted to wear the *culán*, see Connolly, 'The enactments of 1297', pp 158-9. Simms described the *culán* as a 'quasi-berserker hairstyle affected by those whose lives were dedicated to rapine and murder' (Simms, 'Gaelic warfare in the middle ages', p. 101). For the various implications which hair could hold in the middle ages, see Robert Bartlett, 'Symbolic meanings of hair in the middle ages', *TRHS*, fifth series, vol. 4 (1994), esp. pp 45-6.

<sup>76</sup> Suppe, 'The cultural significance of decapitation', pp 147-8.

<sup>77</sup> Fierro, 'Decapitation of Christians and Muslims', pp 145, 151; Helen Nicholson, *Medieval warfare: theory and practice of war in Europe, 300-1500* (Hampshire, 2004), pp 3-4.

<sup>78</sup> The English had recently backed the losing side in a kingship contest in Connacht (see AU and AFM, *s.a.* 1250). For conflict between the Cogans and the MacCarthys in Cork, see AI *s.a.* 1249-51.

<sup>79</sup> However, for payments which may have arisen from a similar initiative see below, p. 181.

with the frontier by granting away large swathes of wasteland. Moreover, in 1250 the enormous sum of £300 had been granted to David de Rupe for the head of Carbri O'Melaghlin.<sup>80</sup> This proclamation should therefore be considered in the context of local war and a general program to tackle the Irish frontier.

If war explains the proclamation referred to by the king in 1251, it probably also lay behind Edward I's 1283 command that Thomas de Mandeville, the bellicose seneschal of Ulster who had recently fought for the king in Wales, be paid 'what is due to him for the head of O'Donnell, proclaimed to be cut off, and which Thomas causes to be borne to the exchequer'.<sup>81</sup> Although no sum is mentioned, de Mandeville's stature and his decision to involve the king suggests that a considerable amount of money was involved. It is almost certain that the O'Donnell in question was Domnall Óg Ua Domnall, who had fallen in battle against the Uí Néill and the English of Ulster in 1281.<sup>82</sup> Simms has interpreted the record of £18 paid to Aodh Buidhe Ua Néill and the Gaels of Ulster in c.1284 as payment for their services on the same occasion.<sup>83</sup> If this is accurate then it is probable that Ua Domhnaill's head had been publicly proclaimed and was to be paid for by the imposition of a levy. Thus, a monetary inducement could be used to direct the war-making efforts of interested colonists.

A similar tactic probably explains two government initiatives to deal with the Meic Murchadha which were separated by over twenty years. The first is the money raised for the head of Art Mac Murchada before he was received into the king's peace in the 1270s or early 1280s. This money was apparently collected but may never have been claimed, as Art was killed after being received into the king's peace, and it seems that a new levy was imposed after his death.<sup>84</sup> The second was the sum offered for Murchad Ballagh Mac Murchada's head in 1306. Murchad did not lead his kin's war effort in this year but he must have been one of its driving forces, as his death brought the Mac Murchada war machine to a grinding halt.<sup>85</sup> In both instances a *capitagium*

<sup>80</sup> *CR*, 1247-1251, pp 391-2. See above and below, pp 91-4, 187.

<sup>81</sup> *CDI*, ii, nos 2049, 2051; *CCR*, 1279-1288, p. 202. For Thomas's stewardship and service in Wales, see *CDI*, ii, nos. 1918, 2021. Duffy describes this deed as building on an 'ugly precedent' (Seán Duffy, 'Irish and Welsh responses to the Plantagenet empire in the reign of Edward I', Crooks, Green, and Ormrod (eds), *The Plantagenet empire, 1259-1453*, p. 160).

<sup>82</sup> *AFM*, 1281.2; *AU*, 1278.2. The weight of Orpen's opinion lies behind this interpretation: he suggested that Thomas de Mandeville was none other than the Mac Martain mentioned in the Ulster annalist's account (Orpen, *Ireland under the Normans*, iv, p. 140, fn. 20).

<sup>83</sup> Simms, 'The O Hanlons, the O Neills and the Anglo-Normans', pp 85-6.

<sup>84</sup> *CDI*, ii, no. 2338, p. 557; *CDI*, iii, no. 2, p. 7. Eliminating a military leader often secured victory in medieval warfare (John Gillingham, "'Up with orthodoxy!' In defense of Vegetian warfare', *JMMH*, vol. 2 (2004), p. 154; Harari, *Special operations*, pp 21-2).

<sup>85</sup> O'Byrne, *War, politics and the Irish of Leinster*, pp 65, 82. For further discussion of this episode, see below, p. 185

was proclaimed in order to achieve a specific objective of the Dublin government in the context of an ongoing war. The use of financial inducements to target the enemy's leadership during war was not exclusive to Ireland during Edward's reign: in 1287 Edward offered £100 for the head of Rhys ap Meredith, who was then in rebellion, and in 1304-5 he put up 300*m.* for William Wallace's head.<sup>86</sup>

War may also explain the 1281 payment of £6 to two soldiers for the heads of Gaelic felons, mentioned above;<sup>87</sup> it certainly explains the 1306 payments of £40 to Fyn Ua Díomusaigh and John fitz Thomas for the heads of 'Odyng (Ua Doinn) and other felons', and that of £23 to Piers de Bermingham for 'beheading diverse felons'.<sup>88</sup> At this time north Leinster was embroiled in bitter warfare sparked off by Piers de Bermingham's massacre of the Ua Conchobair Failge leadership.<sup>89</sup> As Ua Doinn is the only victim named between these three cases, it seems probable that the very round sums granted were simply a reward for evidence of the war's bloody progress, rather than a literal *per capita* payment. Similarly, it seems unlikely that the number of heads delivered by John de Wellesley in 1313 affected the size of the £20 he was awarded by the community of Kildare for his expenses in bringing that land to peace, and for the heads of seventeen named felons.<sup>90</sup>

The head money payments encountered in the records for 1251, 1281, 1283, 1306, and 1313 reflected a government strategy of directing the war-making efforts of settlers by rewarding those who assisted in the attainment of specific military objectives. They indicate the seriousness with which the administration regarded the frontier, the neglect of which could mean the permanent eradication of settler communities. The human cost of such disasters was compounded by the resultant reduction in revenue and gradual encroachment of the marches and land of war into the land of peace. When possible, local levies, rather than exchequer funds, were used to fund these interventions. But these, too, ate into a limited store of local resources and goodwill. Of the years mentioned above levies were certainly used in 1251 and 1313, but in the former year sluggish payment resulted. Nevertheless, these sums represented an effort to

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<sup>86</sup> Bellamy, *The law of treason*, pp 30, 33.

<sup>87</sup> *CDI*, ii, no. 1781; *Irish exchequer payments*, p. 56. See above, p. 177.

<sup>88</sup> *CJRI*, 1308-14, p. 270. De Bermingham seems to have had a particular interest in decapitation: in 1307 he came upon the site of a homicide and found the killer, William O'Flynn, safely attached by the townspeople. He 'commanded [the killer's] head to be cut off', and an onlooker promptly obliged (only to be attached himself the following day at the coroner's command) (*CJRI*, 1305-1307, p. 514).

<sup>89</sup> De Bermingham received £100 for this deed, and it seems unlikely here, too, that a *per capita* rate was paid (*CIRCLE*, CR 33 Edw. I, no. 21; *CJRI*, 1305-1307, p. 82).

<sup>90</sup> *NAI KB 2/4*, pp 329-30; *NAI RC 8/8* pp 219-20. John may have been related to the William the Wellesley who served as constable of Kildare around this time (*Irish exchequer payments*, pp 206, 211, 214, 218, 224, 230).

avoid the costs that would be incurred by mobilising a royal army in pursuit of the same objectives. Although the difficult military situation in 1306 was of Piers de Bermingham's making, and despite the fact that he and John fitz Thomas had little choice but to fight to protect their own lands, the administration still provided them with rewards and subsidies for doing so – this, too, was probably done to minimise the need for greater expenditure by the administration.<sup>91</sup> Money offered for the heads of individuals such as Ua Domhnaill and Ua Doinn gave the administration a degree of influence over the war's prosecution at minimal cost to the exchequer. In war, sums of head money can hardly have sufficed to cover their recipients' costs; but in less tumultuous conditions the payments would have been profitable.

### *The operation of headhunts: contracts and delegation*

So far, we have focused on head money paid for the maintenance of law and order or the prosecution of war. Substantial sums were also sometimes offered for political assassinations. This category often overlapped with wartime headhunts targeting particular Gaelic leaders, and the motives were very similar. It was hoped that the once-off payment of a large sum for the head of a particularly worrisome Gael would bring about savings in time, money, and manpower for the government. When the target was at war, an offer of head money could be publicly proclaimed in order to guide the efforts of the more profiteering marchers. But when the targets were at peace, as when the Mac Murchada brothers were killed in 1282 and when the Uí Conchobhair Failge were killed in 1305, the targeted heads were probably proclaimed less openly, perhaps at a meeting of the king's council or parliament.<sup>92</sup> In the case of two substantial payments of *capitagium*, it seems very likely that someone promised to render the felon's head to the exchequer and then sub-contracted for the deed's performance. This would have enabled powerful men to profit from centrally-directed march security efforts while also ensuring that headhunts were carried out in a controlled, and discrete, manner. The several strands of evidence pointing towards that conclusion will now be adduced.

In March 1305, Walter L'Enfaunt acknowledged before the justiciar's court that he owed Matthew de Millebourn £40 by pledge of Edmund Butler. Matthew would receive the money upon

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<sup>91</sup> During this conflict fitz Thomas was granted a subsidy, half of which was to be paid by the exchequer while the other half was to be levied from the community (*CJRI*, 1305-7, p. 215). For another subsidy to fitz Thomas to be funded in a like manner, see *ibid*, p. 270.

<sup>92</sup> For these Meic Murchadha leaders being at peace at the time of their deaths, see *CDI*, ii, no. 2338. For the Uí Conchobhair see Ó Cléirigh, 'The problems of defence', p. 49.

delivery to Walter of Maelsechlainn Ua Conchobair's head.<sup>93</sup> While it is possible that Walter himself commissioned this headhunt, it seems likelier that he had taken up an official offer of head money, and then farmed the job out to Matthew. The importance to the administration of maintaining control over the making of war and peace has been noted, and the recognisance before the justiciar's court indicates that Walter's payment at least had the administration's approval. Moreover, the l'Enfaunt family had a long history of government service, and Walter's father, also named Walter, had engaged in similar acts before.<sup>94</sup> In a petition of 1290, Walter Sr complained that he had not been reimbursed for expenses incurred 'for the taking of Calvach [Ua Conchobair Failge] and [Art] MacMurchadha and for the death of Adam de Staunton... and also of other felons'.<sup>95</sup> The younger Walter, too, had a history of royal service: he had been custodian of Kildare castle, and was a justice of the justiciar's bench from 1298 until 1302.<sup>96</sup> Evidently the family was willing to spend money in pursuit of government aims, but expected reimbursement; the recognisance of 1305 may represent a similar undertaking. This seems likelier when it is considered that, a few months later the government would pay out huge sums for the heads of the Uí Conchobhair Failge leadership.

This arrangement may have indemnified Matthew from liability should he fail to procure the head. That it was permissible to farm out headhunts is strongly indicated by the payment made to John de Wellesley, mentioned above. John received £20 in part 'because he beheaded or got beheaded (*decapitavit vel decapitare fecit*)' seventeen named individuals.<sup>97</sup> The wording implies that whether John personally took these heads was immaterial to the question of whether he should be paid for their delivery. The pertinent point was that John had brought about the decapitation of these men, and l'Enfaunt may have been trying to do the same in 1305 – indeed, perhaps some of the expenses l'Enfaunt Sr referred to in 1290 were incurred in similar fashion. The record concerning John de Wellesley gives no indication that he had promised to deliver these heads in advance, but given that each victim's name was known, it is possible that he had done so. Their heads had probably been proclaimed at the county court, as his reimbursement came from the barons, knights, free tenants, and whole community of Kildare.

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<sup>93</sup> *CJRI*, 1305-7, p. 44. The recognisance has been taken to indicate that trouble was already brewing between the English and the Uí Conchobair early in 1305 (Ó Cléirigh, 'The problems of defence', pp 45-6).

<sup>94</sup> For the careers of both Walter l'Enfaunts, see Hartland, 'The household knights of Edward I', pp 174-5.

<sup>95</sup> '*pro capcione de Calvauch' et Macmorwyth' et pro morte Ade de Staunton... et aliorum eiam felonum*' (*PROME*, Edw. I, roll 3, m1 (*CDI*, iii, no. 558, p. 249)).

<sup>96</sup> Richardson and Sayles, *Administration*, p. 166.

<sup>97</sup> NAI KB 2/4, pp 329-30; NAI RC 8/8, pp 219-20.

It has been suggested above that failing to deliver a promised head might result in amercement. This is suggested by a receipt roll entry of 1287, which records that David and Philip Mac Walter rendered one mark 'because they did not have the heads of two thieves'.<sup>98</sup> The Mac Walters must have either fraudulently claimed to have heads which they did not have, presented the wrong heads, or undertaken to render particular thieves' heads in advance, but then failed to do so. As the heads were required as proof of the job's completion, the first scenario is unlikely. It is possible that the heads of the wrong unfortunate victims were proffered, but the record gives no indication that this was the case. It is thus suggested that the Mac Walters had promised to procure two particular thieves' heads but failed to do so.

Neither the Mac Walters nor the promised heads reappear in the sources, but there are other reasons for believing that headhunters often undertook to deliver particular heads in advance. First, we must turn to the extensive headhunt undertaken by Geoffrey son of Reymund de Burgo.<sup>99</sup> In 1314 Geoffrey was pardoned by the justiciar's court for his service to the king and for killing ten named felons.<sup>100</sup> We read that 'Geoffrey slew [the felons]... and put himself to great expense in their slaying, (and especially at the instance of the custos of Ireland), whose heads he promised to render to the court here or to slay them'.<sup>101</sup> Another pertinent case is encountered in January 1315, when Achy Beg McMahon made an astonishing deal with the justiciar to be pardoned of robberies and other trespasses he had committed. As well as making fine by thirty cows, Achy also undertook 'to take Philip Oschethel accused of divers robberies felonies and other trespasses committed by him and to produce him alive to the justiciar or at least to kill him if he cannot be taken alive'. He also gave his wife and children into the justiciar's custody as sureties for the task's completion. Even if Achy was successful the justiciar would select one son to remain in his keeping, to ensure Achy's strict adherence to the king's peace henceforth.<sup>102</sup> It is possible that their cases were untypical, and that Geoffrey and Achy only undertook to kill these men in advance because their own heads would be on the semi-proverbial chopping block otherwise. But in light of the recognisance of 1305, the entry about the MacWalters, and perhaps also John de Wellesley's headhunt, the alternative here outlined, that binding commitments were made to

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<sup>98</sup> *CDI*, iii, no. 330.

<sup>99</sup> Geoffrey may have already established a reputation as a fighter in the Irish marches. See above, p. 129.

<sup>100</sup> These men were Geoffrey McHanerth, Maurice O Lochevan, Geoffrey O Lochevan, Donald O Hengys O Corcran, Reginald O Bothy, Donald O Makan, Adam Makowyn, Thomas McTrayn, John O Hanedhan, and Lochlyn O Gryfyn.

<sup>101</sup> *CJRI*, 1308-14, p. 321. The two ostensibly identical outcomes which Geoffrey had promised to deliver may imply that he, too, delegated some of the headhunts (i.e. that he would either personally kill the felons, or procure their heads).

<sup>102</sup> *NAI KB 2/7*, p. 17.

deliver particular heads to the appropriate court and that non-performance was punishable, seems likely.

Finally, we must also examine Edmund Butler's claim to a 100*m.* reward that was offered for the head of Murchad Ballagh Mac Murchada.<sup>103</sup> The rolls of the justiciar's court, on four separate occasions, attribute Murchad's killing to the future earl of Ormond himself,<sup>104</sup> but Pembridge claims that Murchad was beheaded by David de Caunteton, 'an energetic knight'.<sup>105</sup> Pembridge was writing four decades later, and his record of minutiae must be treated with caution, particularly when it is at odds with the testimony of the court rolls.<sup>106</sup> But it certainly seems rather likelier that the pugnacious rebel-to-be David de Caunteton, rather than the future deputy justiciar Edmund Butler, took this valuable head.<sup>107</sup> The deed may have been attributed to Edmund in the court records because it was he that was liable for its delivery. Although David, described as Edmund's assignee, was authorised to receive the money levied for this purpose, the court record strongly implies that Edmund was the fund's official recipient – presumably Edmund would apportion some of the money received to David. It is difficult to see why de Caunteton would have been interested in such an arrangement if he was the successful headhunter, but protection from amercement should he fail to carry out the killing would certainly make sense of the situation. Moreover, as will be seen it is quite likely that this offer of head money was made in a council or parliament, at which one would be likelier to find Edmund Butler than David de Caunteton. If Edmund Butler undertook to deliver Murchad Ballagh's head at a parliament or council, this would explain how he attained a superior position in the eyes of the law as far as this head money was concerned – as we have seen, it was not necessary to be the killer in order to take the credit for a headhunt. A similar process might also explain the arrangement between Walter l'Enfaunt and Matthew de Millebourne.

By having individuals undertake to deliver a felon's head at an official gathering of concerned parties, rather than openly proclaiming it, the government could minimise the risk that

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<sup>103</sup> In 1308 the court ordered that Edmund Butler be paid what he was owed 'for the capture of Moruhuth Ballagh McMoruhuth, felon, whom he slew' (*CJRI*, 1308-15, p. 23). Cf. the 'taking' of Calvagh Ua Conchobair and Art MacMurchada, both of whom survived their encounters with Walter l'Enfaunt, and of the rebel Simon Gernoun in 1314-15 (see above, p. 183; *Irish exchequer documents*, p. 230).

<sup>104</sup> *CJRI*, 1308-14, pp 11, 22-3, 32, 55.

<sup>105</sup> *CSM*, ii, p. 335.

<sup>106</sup> For the dating of Pembridge, see Bernadette Williams, 'The Dominican annals of Dublin', Duffy, Sean (ed.), *Medieval Dublin ii: proceedings of the Friends of Medieval Dublin Symposium 2000* (Dublin, 2001), pp 155-6.

<sup>107</sup> Áine Foley has seen de Caunteton as Butler's accomplice ('High status execution in fourteenth-century Ireland', James Bothwell and Gwilym Dodd (eds), *Fourteenth century England*, vol. xiv (Suffolk, 2016), p. 140); idem, 'The outlaw in later medieval Ireland', p. 156. For further evidence of de Caunteton's participation in frontier defence, see above, p. 65.

would-be assassins hunting the same prey might turn their swords on one other. It is known from the eleventh ordinance of the 1297 parliament that violence between settlers could result in reciprocal killings between English families.<sup>108</sup> The delegation of headhunts in this way may also have reduced the likelihood of the mark finding out that he was being targeted by the administration – as will be seen, secrecy was certainly sometimes valued. Important men like l’Enfaunt or Butler could promise to deliver a particular head and then pay someone else to obtain it. Perhaps hiring hitmen also accounts for some of the expenses incurred by Geoffrey de Burgo in felling his ten felonious marks, and some of the expenses l’Enfaunt Sr incurred in his ostensible one-man war on felony. Of course, such arrangements would also enable powerful men to profit from headhunts without risking their lives in doing so, while the risk of amercement may have ensured that they made genuine efforts to obtain the heads promised. While headhunting can have provided no steady form of income, it nevertheless offered various benefits to marchers. As well as the obvious primary aims of eliminating frontier threats, both lord and tenant stood to profit, and perhaps also to improve the depth of their mutual bond.

### *The operation of headhunts: secrecy and consent*

Payments of head money were made only after certain preconditions of governmental consensus had been met. In 1253 we learn that money had been promised by the *communitas Hibernie* – a term which most likely meant the barons and magnates<sup>109</sup> – for Carbri Ua Máel Sechlainn’s head.<sup>110</sup> The payment to Piers de Bermingham of £100 for killing the Uí Conchobhair leadership in 1305 had the approval of the council and justiciar, which was given in Richard de Burgh’s presence and with the consent of Geoffrey de Geneville;<sup>111</sup> and when, in 1307, John de Stratton was given 40 marks to be used ‘for secret parleys with some, for head-money (*capitagium*) of the worst felons’, he was told to keep it secret and await instructions from the justiciar and council.<sup>112</sup> In each instance the payment of head money required agreement within the governmental core. Magnate approval was sometimes obtained, but only appears to have been strictly necessary when a tallage or aid was to pay for the killing. Thus, when Roger Bigod resisted the levy of head money for the killing of his Mac Murchada cousins in 1282, he did so on the grounds that neither

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<sup>108</sup> Connolly, ‘The enactments of 1297’, pp 158-161.

<sup>109</sup> Richardson and Sayles, *The Irish parliament*, p. 55.

<sup>110</sup> *CDI*, ii, no. 252.

<sup>111</sup> *CJRI*, 1305-7, p. 82; *CIRCLE*, CR 33 Edw. I, no. 21.

<sup>112</sup> *CJRI*, 1305-1307, p. 353; *CIRCLE*, PR 35 Edw. I, no. 42 (*CDI*, v, no. 434). Frame suggested that the intention may have been for de Stretton, then constable of Newcastle Mckynegan, to ‘enlist the lesser felons against the greater’ (‘The Dublin Government’, pp 170-1).

he nor his freemen had consented to the proclamation of Art's head, which was customarily required before a *capitagium* was collected. The king sided with Roger, and while the earl's outstanding service in Wales may have been a mitigating factor Edward evidently accepted Roger's premise that magnate consent was necessary for such a tax to be levied.<sup>113</sup> It seems, then, that headhunts that were paid for by the imposition of levies had to be consented to in advance by representatives of the communities that were expected to pay up. If the suggestions made earlier about the delegation of headhunts are correct, then it is probable that this was generally obtained in parliament. It is not clear whether even the king's Irish council had consented to the killing of the Meic Murchadha, but given the episode's murky nature it should perhaps not be used as an exemplar.<sup>114</sup>

Bigod was one among many who opposed paying up in 1282.<sup>115</sup> Resistance to levies for head money was not restricted to this occasion, nor even to occasions on which consent had not been obtained. This is not surprising – we have already seen resistance to levies imposed for the construction of a fortalice and for the replacement of horses lost defending the marches.<sup>116</sup> In 1250 the annals inform us that Carbri Ua Máel Sechlainn was 'treacherously slain' by David de Rupe, and in December of that year the king commanded the justiciar to distraint all those who had promised £300 for O'Melaghlin's head so that David could be paid.<sup>117</sup> Yet in 1253 the justiciar had to be told once more that, 'notwithstanding their liberty', the men of Leinster must be distrained for that purpose.<sup>118</sup> The consent of the *communitas Hibernie* was evidently inadequate to ensure timely payment, and the earlier licence to use the power of distraint, too, had proven ineffective. The letters sent by Henry III and Edward I in support of John de Cogham and Thomas de Mandeville, respectively, indicate that they, too, had struggled to obtain what they were owed.<sup>119</sup> As de Rupe was not mentioned in the king's 1253 letter, it may be that his supplications were dealt with as John le Gras' would be in 1276 – John received a prest of money that had yet to be levied for the heads of outlaws whom he had slain.<sup>120</sup>

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<sup>113</sup> *CDI*, ii, no. 1919. It was noted during the 1285 audit of the Irish treasury that Bigod's seneschal had rendered £60 for the killings and that the liberties of Wexford and Kildare, and the county of Dublin had rendered 2s. per carucate. The auditors observed that 'the king ought to have had much money' from this levy (*CDI*, iii, no. 2, pp 6-7).

<sup>114</sup> See Frame, 'The justiciar and the murder of the MacMurroughs', *passim*.

<sup>115</sup> *Ibid*, p. 247.

<sup>116</sup> Above, pp 65, 130. See also the opposition of the Marshal coparceners to levies imposed on their Leinster holdings to pay for war in Ulster in 1255 (*CDI*, ii, no. 428); similarly, note the resistance to an aid imposed to fortify various Irish vills in 1234 (*CR*, 1231-34, p. 552 (*CDI*, i, no. 2094)).

<sup>117</sup> *AFM*, 1250.8; *CDI*, i, no. 3093.

<sup>118</sup> *CDI*, ii, no. 252.

<sup>119</sup> *CPR*, 1279-1288, p. 202 (*CDI*, ii, no. 2049); *CDI*, ii, no. 2051.

<sup>120</sup> *Rep. DKPR*, no. 36, p. 33.

Most high-value headhunts appear to have been paid for by the imposition of levies, and this fits into the general trend in official policy of trying to ensure that most expenses incurred in frontier defence were footed in the localities. However, obtaining consent may have been difficult when secrecy was of the utmost import. Consent for levies of *capitagium* was therefore probably not normally obtained when the intention was to assassinate someone who was at peace. The difficulty of imposing retroactive *capitagia* is clear from the resistance of levies to pay for the killing of Art and Muirchertach Mac Murchadha. Similarly, the 40*m.* given to John de Stretton for secret parleys concerning headhunts was probably not paid for by levy, as it was given to him in advance of any decisions as to its purpose, which was to be decided by the council. It does not appear that de Bermingham's notorious massacre of the Uí Conchobhair was paid for by a levy, and Ó Cléirigh has expressed uncertainty as to whether there was even official foreknowledge of this deed.<sup>121</sup> In light of the broader context for the practice that has been outlined here, it seems unlikely that de Bermingham would have been paid unless it had been prearranged with the administration – and it is difficult to see the hard-pressed Irish exchequer releasing £100 for the unsolicited receipt of the heads of over a dozen Gaels who were at peace. Nevertheless, given the sensitivity of this episode it seems probable that magnate foreknowledge of the plot against the Uí Conchobhair was restricted to those magnates who were part of the king's council.

### *Victory at a price: the efficacy of headhunting*

The Meic Murchadha were quiescent during the decade after 1282, and both Frame and Lydon have contended that although the assassination of Art and Muirchertach was unsavoury, it served its purpose.<sup>122</sup> But this was not always the case – the protracted war and attendant expenses and disruption that followed the massacre of the Uí Conchobhair Failge in 1305 cannot have been intended. In June 1305 Agnes de Valence's long-running efforts to litigate against John fitz Thomas were impeded: not only were the justiciar and others of the council too busy in the marches, but John himself was occupied fortifying his Offaly marches 'which [were] much disturbed by the

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<sup>121</sup> For discussion of the possible part culpability of the government and John fitz Thomas in this deed, see Ó Cléirigh, 'The problems of defence', pp 50-1.

<sup>122</sup> Frame, 'The murder of the MacMurroughs,' pp 244-5; James Lydon, 'A Land of War', *NHI*, ii, pp 260-1; idem, 'Medieval Wicklow – "a land of war"', p. 163. For the shifting Mac Murchada fortunes during this period, see Robin Frame, 'Two kings in Leinster: the crown and the MicMurchadha in the fourteenth century', Barry, Frame, and Simms (eds), *Colony and frontier*, pp 155-163. The MacMurchadha assassinations have been convincingly placed in a broader British Isles context in Duffy, 'Irish and Welsh responses', pp 156-9.

death of the captains of the OKoneghors slain by... Peter [de Bermingham]'.<sup>123</sup> The resultant war was costly to fitz Thomas, de Bermingham, and the administration – the £100 given to Piers evidently failed to prevent further expenses.<sup>124</sup> The incident also highlights the importance of stable marches, from the government's perspective – frontier emergencies that required the justiciar's attention could paralyse the colony's highest court. It has been argued that the ultimate failure of Agnes's legal exertions indicates the importance of placating fitz Thomas, whose support was necessary for peace in Ireland;<sup>125</sup> given that the king had written to the justiciar in June to complain of fitz Thomas's outrageous behaviour towards Agnes, it is difficult to come to any other conclusion.<sup>126</sup> The entire episode serves to illustrate the importance of the leading marchers to regional security, as well as the delicate balancing act that justiciar and magnate alike had to master in order to ensure frontier stability.

The money offered for major assassinations had to be substantial. The victims of 1282 and 1305 were powerful Gaelic leaders at peace with the crown at the time of their deaths; Carbri Ua Máel Sechlainn, too, may have been at peace in 1250, for despite the enormity of the sum paid for his head, he is an otherwise obscure figure and the annals allege that his death was treacherous.<sup>127</sup> It is possible that de Rupe was close to Ua Máel Sechlainn, or induced somebody who was to kill him. Gaelic assistance was crucial to the assassination of Tigernan Ua Ruairc in 1172, and Hugh II de Lacy was apparently behind Aedh son of Cathal Crobderg's death at the hands of one of his men in 1228.<sup>128</sup> William *liath* de Burgh also used this method to eliminate Aodh Breifneach Ua Conchobair in 1310.<sup>129</sup> The events of 1282 and 1305 brought about immediate transformations in regional politics and were recorded by both Gaelic and English annalists.<sup>130</sup> They also became a source of bitter resentment amongst some segments of the Gaelic

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<sup>123</sup> *CJRI*, 1305-7, pp 77-8. For the litigation between Agnes de Valence and John fitz Thomas, see Cormac Ó Cléirigh, 'The absentee landlady and the sturdy robbers: Agnes de Valence', Christine Meek and Katharine Simms (eds), *The fragility of her sex? Medieval Irishwomen in their European context* (Dublin, 1996), pp 106-12.

<sup>124</sup> See Ó Cleirigh, 'The problems of defence', pp 52-3; O'Byrne, *War, politics and the Irish of Leinster*, pp 80-3.

<sup>125</sup> Hartland, 'The household knights', p. 163; Cormac Ó Cléirigh, 'The absentee landlady', pp 116-17.

<sup>126</sup> *PROME*, appendix to Roll 12, Edward I, no. 503.

<sup>127</sup> AFM, 1250.8; *CDI*, i, no. 3093.

<sup>128</sup> AC 1228.2; AFM 1172.4, 1228.1; ALC 1172.2, 1228.1; AU 1228.1; Colin Veach and Freya Verstraten, 'William gorm de Lacy: 'chiefest champion in these parts of Europe'', Seán Duffy (ed.), *Princes, prelates and poets in medieval Ireland: essays in honour of Katharine Simms* (Dublin, 2013), p. 77.

<sup>129</sup> AC 1310.3-6; AFM 1310.7; ALC 1310.1; Simms, 'Gaelic warfare in the middle ages', p. 108. See also ALC 1311.12, which claims that the killer was soon killed by the weapon he had used on Aedh Breifneach.

<sup>130</sup> AC, 1250.7, 1305.2; AFM, 1250.8, 1305.1; AI, 1282.3, 1305.4; ALC, 1250.4, 1305.1; AU, 1301.1; MCB, 1305.1. In the case of the Meic Murchadha, several annalists record the event but make no mention of foul play, which is found only in the Annals of Inisfallen and the Remonstrance (AC, 1282.2; AFM, 1282.1; ALC, 1282.1; AU, 1279.6).

population.<sup>131</sup> Although the Carbri Ua Máel Sechlainn of 1250 remains enigmatic, a man of the same name, perhaps inspired by his forebear's gruesome fate, won a resounding victory over a substantial government-supported force in western Meath in 1289.<sup>132</sup> As well as potentially exacerbating tensions in their marches, those who undertook to assassinate their neighbours at the government's behest surely risked a steep personal price, as the deed could involve brutally severing longstanding ties.

For the recipients, as for the administration, a monetary award which failed to cover the job's costs was worthless. Unless a war was already underway (as in the case of the head money for Ua Domnaill, Murtagh Ballagh, and that which was collected for Art Mac Murchada before he received the king's peace), the mobilisation of substantial military forces for the purpose was probably usually out of the question. 'Perfidy' necessarily followed, and Suppe has identified a similar trend in marcher assassinations of Welshmen.<sup>133</sup> This must have heightened racial tensions in the marches, and a deep-seated distrust of the colonists amongst some segments of the Gaelic population is indicated by the Remonstrance and the Gaelic annals.<sup>134</sup> Indeed, l'Enfaunt claimed in 1290 that because of his efforts in service of the government's military aims 'he is distrusted by the English and Irish'.<sup>135</sup> The main motivation behind the placement of head money for assassinations was the elimination of particular Gaelic threats, but one must wonder, in some instances, whether the exacerbation of ethnic divisions in the marches was a secondary objective of the administration, for it must surely have seemed an inevitable consequence.

The best incident to explore this idea is the massacre of 1305, for which we have an exceptionally large supply of near-contemporary opinions. There was certainly some personal familiarity between de Bermingham and the Uí Conchobhair, particularly if the claim that he was godfather to one of his victims is true.<sup>136</sup> The betrayal cut deeply across spiritual, social, and

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<sup>131</sup> AI 1305.1; *Scotichronicon*, vi, pp 392-5.

<sup>132</sup> Orpen, *Ireland under the Normans*, iv, p. 114; ALC 1289.5. According to the justiciar's account. this expedition involved '100 war horses and 4,500 vassals together with the king of Connacht with all his force for four days' (CDI, iii, no. 269).

<sup>133</sup> Suppe, 'The cultural significance of decapitation', pp 159-60.

<sup>134</sup> Smith has regarded racial conflict as the defining characteristic of the marches ('The concept of the march', p. 269).

<sup>135</sup> 'Et pro predictis est ipse diffidatus de Anglicis et Hybernicis...' (*PROME*, Edw. I, Roll 3, m1, no. 10 (CDI, iii, no. 558, p. 249)). For the central role that trust occupies in human societies, and its consequent importance for the writing of history, see Geoffrey Hosking, 'Trust and distrust: a suitable theme for historians?', *TRHS*, sixth series, vol. 16 (2006), *passim*.

<sup>136</sup> AI 1305.4. The 1277 killing of Brian Ua Briain also allegedly breached bonds of gossiped and some sort of blood brotherhood. AC, 1277.2; ALC, 1277.1; AU 1275.9. See also AFM, 1277.2 and AI 1278.2, the latter of which alleges treachery by Ua Briain's own captains. For this incident, see Lydon, 'A Land of War', p. 253; Seán Duffy, 'The problem of degeneracy', pp 98-9. The veracity of these annalistic claims of blood brotherhood is contested in Klaus Oschema, 'Blood brothers: a ritual of friendship and the construction of

cultural bonds, and the severity of the breach is reflected in the warning of the Inisfallen annalist: 'woe to the Gaedel who puts trust in a king's peace or in foreigners after that'.<sup>137</sup> The English author of the so-called Kilkenny chronicle was circumspect in his treatment of the issue, stating only that *Calwach cum fratribus interfectus est*;<sup>138</sup> but other English writers imply that deceit rather than prowess lay at the incident's core. Clyn, Pembridge, and the annalist of New Ross all note that the Uí Conchobhair were killed in the house or court of Piers de Bermingham.<sup>139</sup> De Bermingham's 'eulogist' writes that '[i]n felle, flesse, and bone/ a better knight nas none/ No none of more prise', before going on to outline his muse's reputation for killing Gaels and his crowning achievement, the eradication of the Uí Conchobhair Failge leadership, during the course of which he 'spill[ed] ale and bread'.<sup>140</sup> Clearly little effort was made here to hide the nature of this deed's execution, which the poet presented as a countermeasure to an alleged Gaelic plot to murder Piers, John fitz Thomas, Richard de Burgh, and Edmund Butler.<sup>141</sup> Historians have tended to take this composition at face value, but Michael Benskin has convincingly argued that the poem was in fact a blatant satire: if the poet's aim was to glorify Piers it was a 'miserable effort'.<sup>142</sup>

Although Pembridge described Piers as '*nobilis debellator hibernicorum*' in his obituary, the 1305 murders and resulting war can hardly have been viewed positively in 1308, when the magnate died.<sup>143</sup> Even if the colonial community in general had no compunction about killing Gaels

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the imagined barbarian in the middle ages', *JMH*, vol. 32, no. 3 (2006), p. 298. See also Elizabeth A.R. Brown, 'Ritual brotherhood in western medieval Europe', *Traditio*, vol. 52 (1997), pp 367-70.

<sup>137</sup> AI 1305.4.

<sup>138</sup> Robin Flower (ed.), 'Manuscripts of Irish interest in the British museum', *Analecta Hibernica*, no. 2 (1931), p. 334. Bernadette Williams has convincingly argued that the section of the 'Kilkenny Chronicle' covering the years 1264-1316 was in fact written in Castledermot, c.1316 ('The "Kilkenny chronicle"', Barry, Frame, and Simms (eds), *Colony and frontier*, pp 79-83).

<sup>139</sup> Clyn, *Annals*, p. 156; *CSM*, ii, p. 332; 'The annals of Ross', in *The annals of Ireland. By Friar John Clyn, of the convent of friars minor, Kilkenny; and Thady Dowling. Chancellor of Leighlin; together with the annals of Ross*, ed. Richard Butler (Dublin, 1849), p. 42. For the Annals of Ross see Bernadette Williams, 'The Latin Franciscan Anglo-Irish annals of medieval Ireland' (PhD, TCD, 1991), Ch. 6. Pembridge's claim that the killer was Jordan Comyn, with accomplices, may hint at a later tradition, perhaps aimed at exonerating de Bermingham; alternatively, it might provide some insight, albeit a murky one, into the deed's actual prosecution.

<sup>140</sup> *Die Kildare-Gedichte*, p. 162-3. The dating of the manuscript in which this poem is found is discussed in Alan Bliss and Joseph Long, 'Literature in Norman French and English to 1534', *NHI*, ii, pp 720-1. The poem itself professes to have been written on April 20, 1308.

<sup>141</sup> *Die Kildare-Gedichte*, p. 163. Ó Cléirigh, commenting on the alleged plot's improbability, noted that the Gaels were not known for effective collaboration ('The problems of defence', p. 49).

<sup>142</sup> Michael Benskin, 'The style and authorship of the Kildare poems – (i) *Pers of Bermingham*', J. Lachlan Mackenzie and Richard Todd (eds), *In other words: transcultural studies in philology, translation, and lexicology presented to Hans Heinrich Meier on the occasion of his sixty-fifth birthday* (1989, Dordrecht), pp 61-7, quoted at p. 61. See also Angela M. Lucas, *Anglo-Irish poems of the middle ages* (Dublin, 1995), pp 207-9.

<sup>143</sup> *CSM*, ii, p. 336. He was elsewhere described as '*miles strenuus Hibernorum debellator*' (FitzMaurice and Little, *Materials*, p. 88). The MS citations in this source compilation are inadequate (in this case the reader

at peace (a wholly unwarranted generalisation), the massacre was ill-judged. The effort to micromanage the behaviour of leading marchers through monetary incentives had done serious damage to interethnic relations on this frontier, and historians have perceived the war which this massacre precipitated as the death knell of the English settlements in west Kildare.<sup>144</sup> Head money played no small part in the creation of this debacle. This did not deter its future use, however. It was used as a reward during the ensuing war, and it has already been seen that Fyn Ua Díomusaigh, who had little compunction about siding with English interests in January 1306, reaped some of the financial benefits which the practice held for marchers (though it is worth noting that Ua Díomusaigh was specifically associated with fitz Thomas, not de Bermingham). From de Bermingham's point of view, the loss of local ties may have seemed a reasonable price to pay for closer ties with the royal government, and his son's elevation to the status of earl after the Bruce invasion shows that his family's loyalty and importance was recognised.<sup>145</sup>

### *Conclusions*

It seems that it was quite common during the long thirteenth century for the Dublin administration to offer money for the heads of criminals, warring Gaelic chieftains or bandits, and more powerful Gaelic kings who were regarded as posing a threat even while at peace. In keeping with government policy more broadly, the sums promised were raised from the localities affected whenever possible, though this was deeply unpopular. It is probable that major offers of head money were typically made in parliament. This venue afforded a measure of secrecy while also facilitating the extraction of consent for local levies. Attendees who undertook to deliver a particular head could subcontract for its acquisition, but failure to bring a promised assassination may have resulted in amercement. This certainly appears to have happened with lesser headhunts, which could be announced in regular sessions of the justiciar's court. Although assassinations could be effective at attaining the government's frontier military aims, they also had the potential to be highly damaging both to governmental interests and to regional stability, if they led to an outbreak of war.

Headhunts continued after the conclusion of the period covered by this study. According to Grace's annals, decapitations were very prevalent during the Bruce invasion; a terroristic policy

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is pointed to 'Necrolog. Timoleague, in King's MSS.'). This shortcoming was noted by Little, who edited the volume after FitzMaurice's death (*ibid*, p. vi).

<sup>144</sup> Ó Cléirigh, 'The problems of defence', p. 55; O'Byrne, *War, politics and the Irish of Leinster*, p. 83.

<sup>145</sup> For the abiding importance in Ireland of ties to the crown, see Frame, 'King Henry III and Ireland', pp 34-8; Hartland, 'English landholding in Ireland', p. 127.

of decapitation played a prominent role in Humphrey Gilbert's efforts to eradicate resistance to the plantation of Munster in the early 1570s; and grisly tales of the treatment of decapitated heads in Ireland from as late as the seventeenth century have been related by Palmer, who also notes the payment of 'hedd monie' for the Earl of Desmond's head in 1583.<sup>146</sup> The primary principle underlying government sanctioned headhunts was security: this gruesome stratagem permitted the government to shape developments within Gaelic Ireland at comparatively minimal cost. However, high-profile assassinations on the frontier often hinged on treachery, and the provision of money for heads sometimes led to breakdowns in otherwise seemingly amicable relations between Gael and Gall.<sup>147</sup> The government officials responsible for the provision of head money may have had deeper motives in this regard – efforts to restrict private negotiations on the marches, and the refusal to officially recognise march law, had similar effects. Offers of head money for the assassination of prominent Gaels – essentially paying marchers to sever links with their Gaelic-Irish neighbours – may have been yet another step taken to inculcate a stronger sense of a united settler identity on the Irish frontier.

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<sup>146</sup> Fry, *Burial in medieval Ireland*, p. 98; Nicholas Canny, 'The ideology of English colonization: from Ireland to America' (1973), repr. in David Armitage (ed.), *Theories of Empire, 1450-1800* (Farnham, 1998), pp 186-7; Palmer, "An headless ladie", p. 26.

<sup>147</sup> 'Confidence grows at the rate a coconut tree grows, and it falls at the rate a coconut falls' (Montek Ahluwalia quoted in Geoffrey Hosking, *Trust: a history* (Oxford, 2014), p. 22).

## V

### The management of trust on the frontier

Over a decade ago, Geoffrey Hosking urged his fellow historians to give trust a chance – that is, to devote some thought and paper to the question of how trust operated within the societies they studied.<sup>1</sup> Drawing on work in the field of sociology, he contended that in all human societies trust serves as the oil that facilitates the smooth operation of human interaction, and that in its absence these interactions can be slow, painful, and often dangerous – something he would subsequently illustrate through the example of the ‘land of maximum distrust’, the USSR during the 1930s. Hosking’s challenge piqued the interest of a number of historians, including Susan Reynolds, who highlighted the inadequacy of sociologists’ conceptions of pre-modern societies, and the consequent difficulty of applying their insights in a medieval context. Although she was not convinced that a history of trust was possible, she deemed it a worthy subject of study and provided some valuable insights into its operation within medieval western European societies, which she perceived as being held together by communal values and a concern for the common good. Trust in leaders and trust in the institutions they represented, be that a home, town, or kingdom, were distinct phenomena; usually the former took the blame when things went wrong, indicating a high level of trust in institutions, but not necessarily in individuals.<sup>2</sup>

The topic’s interest for a student of the Irish frontier should be clear. This was a place where dealings with the Other were a part of life, whether that Other was encountered peacefully, for instance through trade, intermarriage, fosterage, and other social interactions, or through conflict. Sometimes familiar institutions, laws, and conventions might be found inadequate for the particular circumstances of a given frontier, which could give rise to the development of new, more expedient approaches to problems at a local level.<sup>3</sup> Local innovation, however, was not always looked on kindly by central authorities, particularly in the context of an increasingly bureaucratic government. Thus, in Ireland we find a measure of distrust between central and local powers. We also encounter distrust across the frontier itself, which could easily percolate into the

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<sup>1</sup> Hosking, ‘Trust and distrust’, *passim*. Hosking subsequently produced a monograph on the topic (*Trust: a history* (Oxford, 2014)).

<sup>2</sup> Susan Reynolds, ‘Trust in medieval society and politics’, *idem* (ed.), *The middle ages without feudalism: essays in criticism and comparison on the medieval west* (Farnham, 2012), pp 1-15.

<sup>3</sup> Discontent at central efforts to interfere in local problems was by no means restricted to the frontier. Cf. the disastrous trailbaston commissions in Edward III’s England (Robin Frame, ‘English Policies and Anglo-Irish attitudes in the Crisis of 1341-2’, *Ireland and Britain, 1170-1450*, pp 114-15). More generally, see Reynolds, ‘Trust in medieval society and politics’, pp 11-12; Davies, ‘Frontier institutions’, *passim*.

colony at large (and, most likely, into Gaelic society as well). This contributed to broader trends of ethnically rooted distrust, which manifested in the development of exclusionary practices and policies, and these undoubtedly exacerbated frontier tensions still further. Another offshoot of distrust across the frontier was suspicion within frontier communities, particularly directed at individuals who engaged in cross-frontier communication.

This chapter focuses on the role trust played in government policy towards the Irish frontier, primarily through an examination of official efforts to control the flow of information across the frontier by regulating interaction and policing illicit behaviour. This can be most clearly discerned through an examination of harbouring, negotiation, 'espionage', 'counter-espionage', and the church. For the most part, there is little evidence to suggest royal participation in the development of government policy on these matters, which were of chiefly local concern. The administration's approach was shaped by the principle that security must be maintained on the frontiers, and it may have been further coloured by the principle that it was important to maintain as unitary as possible a colonial community, which has been touched on in the previous chapter. As is often the case, the nature and quantity of the available evidence changes in the 1290s; the earlier period must chiefly be approached through fortuitously extant scraps, comparison with other English frontiers and later Irish conditions, and more general trends within Ireland with regard to attitudes towards the Gaelic-Irish and the frontier.

### *Trust in the historiography of the Irish frontier*

There has been little focused historical work on spying in medieval Ireland, nor, indeed, on medieval spying more generally.<sup>4</sup> However, several writers have examined the fourteenth- and fifteenth-century statutes that sought to restrict the formation of intercultural ties on the grounds that they facilitated Gaelic spying. Sparky Booker has observed that the Irish parliament of 1357 restricted ties with the Gaelic-Irish on the grounds that marriage, fosterage, and 'divers other ties' were exploited to spy on the colonists, to the detriment of centrally-directed military activities; and a proclamation of 1431 complained that Gaelic-Irish people were coming to 'reside among the English lieges and spy their different secrets, power, ways and contrivances, to the great

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<sup>4</sup> The standard English-language work on the topic remains J.R. Alban and C.T. Allmand, 'Spies and spying in the fourteenth century', C.T. Allmand (ed.), *War, literature, and politics in the late middle ages* (Liverpool, 1976), pp 73-101. The subject's neglect has long been recognised. See, for instance, Philippe Contamine, *War in the middle ages*, trans. Michael Jones (2nd ed., New York, 1984), p. 226, fn. 61; Everett U. Crosby, *Medieval warfare: a bibliographical guide* (London, 2000), p. xv.

prejudice of those same lieges'.<sup>5</sup> These enactments are far too late to detain us for long here. Nevertheless, they deserve mention, as the cross-frontier bonds upon which they cast aspersions were already present in the period being examined.

There may have been an edge of paranoia to the proclamations of 1357, 1366, and 1431, but they ought not to be dismissed out of hand. Certainly, the idea that close links with Gaels from across the frontier could bring about the transfer of sensitive information is plausible, and many writers have stressed the strength of the cultural and personal links forged by fosterage, in particular.<sup>6</sup> Gaelic children who spent their formative years embedded in English society would become familiar with – if not fluently conversant in – the language and culture of Anglo-Ireland. There seems nothing unbelievable about the idea that such individuals might subsequently exploit their knowledge and experience to make political gains to the detriment of the English.<sup>7</sup> Of course, the reverse was equally true, and Englishmen who were deeply familiar with Gaelic society, too, could be regarded with suspicion. The deep binding power of the institutions imputed in 1357 is indicated by the fact that from the fourteenth century marriage, fosterage, and gossiped were integral to the formation of aristocratic affinities in Ireland.<sup>8</sup>

Unfortunately, the direct evidence for the formation of such ties during the thirteenth century is slender; even high-status ties normally only come to our attention if they soured.<sup>9</sup> Nevertheless, it is well-established that ties of marriage<sup>10</sup> and gossiped<sup>11</sup> were formed across the frontier throughout the thirteenth century. And while there is very little evidence for ties of fosterage in the thirteenth century, this may simply reflect the disinterest of annalists in the raising of children. Nevertheless, it is clear that fosterage across the frontier was a credible prospect from

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<sup>5</sup> Sparky Booker, *Cultural exchange and identity in late medieval Ireland: the English and Irish of the four obedient shires* (Cambridge, 2018), pp 61-2, 144.

<sup>6</sup> Verstraten, 'The anglicisation of the Gaelic Irish nobility'; Nicholls, *Gaelic and Gaelicized Ireland*, p. 79. For the sixteenth century, see Fiona FitzSimmons, 'Fosterage and gossiped in late medieval Ireland: some new evidence', Patrick J. Duffy, David Edwards and Elizabeth Fitzpatrick (eds), *Gaelic Ireland c.1250-c.1650: land, lordship and settlement* (Dublin, 2001), p. 142. For an overview of the practice in Ireland, see Bronagh Ní Chonaill, 'Fosterage: child-rearing in medieval Ireland', *History Today*, vol. 5, no. 1 (1997), pp 28-31.

<sup>7</sup> Thus, Kelleher's contention that one of the Meic Anmchadha could not hope to blend into an English market (tempered somewhat later in the same article) is unconvincing (John V. Kelleher, 'Mac Anmchaid, lebróir', *Ériu*, vol. 42 (1991), p. 57).

<sup>8</sup> FitzSimmons, 'Fosterage and gossiped', p. 144.

<sup>9</sup> Verstraten, 'The anglicisation of the Gaelic Irish nobility', pp 36-7, 58, 61.

<sup>10</sup> Inter-marriage is in evidence from an early date (Nicholls, *Gaelic and Gaelicized Ireland*, pp 16-17; Verstraten, 'The anglicisation of the Gaelic Irish nobility', pp 35-52; Duffy, 'The nature of the medieval frontier', p. 28). It is striking however, how few of the genealogical notes in Betham's plea roll extracts provide strong evidence of inter-marriage, although many cases may be hidden by the frequent omission of the woman's surname. For clear instances from 1260 and 1289, see GO MS 189, pp 3-4, 31.

<sup>11</sup> A possible example of gossiped has been identified in 1201, and a certain example in the 1230s (Verstraten, 'The anglicisation of the Gaelic Irish nobility', pp 57-8).

the claim in the 1317 Remonstrance that John fitz Thomas killed an Ua Conchobair Failge boy whom he had fostered. This magnate, who was mightier even than the earl of Ulster in 1317, can hardly have been unique in taking the child of a Gaelic neighbour into his home.<sup>12</sup> Certainly, known children of mixed marriages might become equally at home in both the Gaelic and English worlds,<sup>13</sup> and it seems that Gaelic women sometimes retained strong links to their consanguineous kin even after intermarriage.<sup>14</sup> The brief Irish career of William de Vescy, during which he took a concubine and had a son whom he made his heir in Ireland, should serve as a cautionary tale to anyone inclined to view 'degeneracy' as a process that occurred only after generations of living side by side on the frontier: as early as the 1290s a relative newcomer could quickly become deeply enmeshed within Ireland's intercultural political fabric.<sup>15</sup>

Keith Busby has drawn attention to contemporary concern about cultural exchange of another sort by highlighting the statutes of Kilkenny's exhibition of 'le peur d'être infiltré par l'ennemi' – that is, by Gaelic minstrel-spies performing in English households.<sup>16</sup> This, too, seems a reasonable fear: minstrelsy has been described as the 'classic cover for the spy', and below a minstrel-spy from 1315 has been identified. But the Gaelic creative class had already begun 'infiltrating' English high society over a century earlier.<sup>17</sup> In a poem of c.1213 dedicated to Richard de Burgh, who had yet to attain his majority, Muiredach Albanach Ó Dálaigh addressed his muse: 'o youth of foreign beauty (*ngailsgéimh*), o ye who have become Gaelic'. He continued by outlining his own credentials as a *file* and the suitability of his writing for such a patron: 'oft have I been amid a foreign court (*ghallchúirte*)'. It should be noted that this encomium was unsolicited,<sup>18</sup> and if its unsuspecting recipient understood its language (and was not insulted by the suggestion as to his ethnicity), he may not have understood its allusions. Certainly, the poetic

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<sup>12</sup> *Scotichronicon*, vi, pp 394-5. Verstraten, 'The anglicisation of the Gaelic Irish nobility', pp 54-5; Duffy, 'The problem of degeneracy', pp 101-2. See also the suggestions made in Duffy, *ibid*, pp 102-3; Verstraten, 'Naming practices', p. 50.

<sup>13</sup> Veach, 'Anglicization in medieval Ireland', p. 126.

<sup>14</sup> See below, pp 238-42.

<sup>15</sup> For de Vescy's relations with the Meic Carthaigh, see Stringer, 'Nobility and identity', pp 211, 235.

Frame has made similar observations about Thomas de Clare ('Power and society', pp 212-13).

<sup>16</sup> Keith Busby, 'Performance, trahison, espionnage', *Le Moyen Age*, vol. 122 (2016), p. 666. See also *idem*, *French in medieval Ireland, Ireland in medieval French: the paradox of two worlds* (Turnhout, 2017), p. 273.

<sup>17</sup> J.C. Holt, writing on Robin Hood, quoted in Alastair MacDonald, 'Did intelligence matter? Espionage in later medieval Anglo-Scottish relations', Eunan O'Halpin, Robert Armstrong and Jane Ohlmeyer (eds), *Historical Studies xxv: intelligence, statecraft and international power. Papers read before the 27th Irish conference of historians held at Trinity College, Dublin 19-21 May 2005* (Dublin, 2006), p. 14, fn. 15. See also Busby's observation that Irish minstrels did not need a disguise to spy, as they were welcomed into English homes ('Performance', p. 669). For the Gaelic minstrel-spy of 1315 see below, p. 236.

<sup>18</sup> See, for instance, the line '[I]ittle thou knowest, methinks, who I am of the men of Ireland; thou art bound to give heed to my verses for that I am O'Daly of Meath'. For the circumstances that drove Muiredach to Richard de Burgh's court, and their resolution, see AFM 1213.8-9.

commonplace '[t]hine is Meadhbh's mighty Cruacha' may have rung truer a few decades later.<sup>19</sup> Nevertheless, the poem sheds light on an early stage of the construction of cultural bridges between Gael and Gall: even if Ó Dálaigh's claim to frequent the courts of other English patrons is doubted, the fact of his writing suggests that such a thing was, by c.1213, feasible.<sup>20</sup>

If intermarriage, fosterage, gossiped, and literary patronage were thought to give rise to spying in the middle of the fourteenth century, these channels for interaction had presumably posed the same dangers in the thirteenth too. Indeed, we have already seen close connections across the frontier betrayed in the opposite direction in exchange for head money. Nevertheless, in the absence of direct evidence linking these practices to spying in the thirteenth century, the foregoing can serve only to outline some possible channels by which sensitive information might be conveyed across the frontier and these practices will not be explored further here.

### *Spying in Ireland before the frontier*

In order to assess the spying practices and capabilities of Gaelic kings, it is worth looking at earlier references to spying in Ireland. Within the narratives of the invasion, the earliest spying episode is encountered in the *Song*.<sup>21</sup> Diarmait Mac Murchada was directing his English troops against an old rival, the king of Osraige Domnall Mac Gilla Pátraic; the latter, hoping to pre-empt any attacks from the neighbouring Uí Mórda during this time of vulnerability, led a force into Loíges and extracted from its ruler a promise that he would render hostages at a fixed date. Before the agreed-upon day had passed, Maurice de Prendergast, a recent defector from Mac Murchada's side, warned Mac Gilla Pátraic that he suspected treachery was afoot.<sup>22</sup> These suspicions were shortly corroborated by *un espie*, who told Mac Gilla Pátraic that while he awaited Ua Mórda, Mac Murchada was fast approaching with a force that included fitz Stephen and fitz Gerald – indeed, the resurgent *rí Laigin* had already entered Loíges with 300 Englishmen and additional men who came through 'feudal obligation' (*feffement*). On the basis of this information, Mac Gilla Pátraic

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<sup>19</sup> *Irish bardic poetry*, no. 20.

<sup>20</sup> Katharine Simms once expressed reservations as to the authenticity of Muiredach's poetry, but has subsequently commented that '[m]ost of the poems bearing [his] name are of such a high standard of composition that it is easier to accept them as genuine than as a pastiche' ('Bardic poetry as a historical source', Tom Dunne (ed.), *The writer as witness: literature as historical evidence* (Cork, 1987), p. 59; idem, 'Muiredhach Albanach Ó Dálaigh and the classical revolution', Ian Brown (ed.), *The Edinburgh history of Scottish literature, volume 1: from Columba to the Union (until 1707)* (Edinburgh, 2007), quote at p. 85).

<sup>21</sup> For this conflict and its context, see F.X. Martin, 'Allies and an overlord, 1169-72', *NHI*, ii, pp 69-72.

<sup>22</sup> It has been suggested, on the basis of an impressive amount of circumstantial evidence, that Maurice and Domhnall shared mutual links to the Knights Hospitaller (Niall Byrne, *The Irish Crusade: a history of the Knights Hospitaller, the Knights Templar, and the Knights of Malta, in the south-east of Ireland* (Dublin, 2007), pp 51-5).

beat a hasty and effective retreat.<sup>23</sup> Nothing about the account is inherently implausible. The *Song's* author may have been informed in part by de Prendergast or one of his protégés, and the information he provides may have come from someone intimately familiar with its details. Alternatively, the *espíe* could be a fabrication to explain an unexpected, but prudent, military decision. In either case, it was presumably deemed credible, as the *Song's* intended audience was familiar not only with the narrative concerned, but also with Ireland itself.<sup>24</sup> The indication of the *Song*, then, is that the use of *espionage* in Gaelic warfare was deemed normal.

The episode's basic credibility notwithstanding, the mechanics of this 'espionage' remain elusive. Did Mac Gilla Pátraic purposely deploy this *espíe*, or might he have been a messenger from another king who had received unwelcome overtures from Mac Murchada? Is it possible that he was a plant in the camp of Mac Murchada or one of his allies? On the latter point it is worth noting that the Gaelic king's core administration was typically quite small (though it was increasing in size during the twelfth century);<sup>25</sup> it seems unlikely that this would have been easily infiltrated, particularly given the role of heredity in Irish politics. The same is true of the suggestion that the *espíe* was a messenger from another king opposed to Mac Murchada: this is possible, but is not suggested by the evidence – if the *Song's* author suspected *traisun* he would surely have reported it. As well as 'transmitt[ing]... Ua Mórda's message [concerning his urgent need for assistance in Loíges]' to the English leaders, Mac Murchada also 'had it loudly proclaimed that anyone who could bear arms was to follow him at once'.<sup>26</sup> If this was done as conspicuously as the *Song* makes it sound, it may have tipped off Domnall's informant.

A second, and perhaps likelier, translation of *espíe* should also be considered. That is, a scout. There are a number of reasons to suspect that the *Song's* author thought Mac Gilla Pátraic's informant was a scout. For one thing, the fact that the *espíe* could quickly locate Mac Gilla Pátraic with an urgent military update when the king was encamped outside the bounds of his own kingdom suggests that he had not been apart from the main force for long. It has been argued that because information could only be conveyed at the speed of its bearer, real-time military intelligence was seldom prioritised by pre-modern spies; but this was certainly not universally true

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<sup>23</sup> For this episode, see Mullaly, *Deeds*, II 1176-1253. For the spy's tidings, see *ibid*, II 1232-1241.

<sup>24</sup> For the poet's apparent links with the small military community of which de Prendergast was a part, see Mullaly, *Deeds*, pp 36-7. For a recent, highly insightful, discussion of the *Song's* authorship and audience, see Busby, *French in medieval Ireland*, pp 95-107.

<sup>25</sup> See Katharine Simms, *From Kings to Warlords: the changing political structure of Gaelic Ireland in the later middle ages* (Woodbridge, 1987), pp 79-87.

<sup>26</sup> *Song*, II 1200-1210.

in the middle ages.<sup>27</sup> Prestwich opined that ‘William the Conqueror, Henry I, Henry II and Richard must be credited with a mastery of the skills of [military] intelligence which they used to good effect in most of their operations’ (he reserved judgement on John).<sup>28</sup> And MacDonald argued that the relative efficacy of English and Scottish intelligence-gathering may have influenced the outcome of many crucial battles during the fourteenth century.<sup>29</sup>

Medieval use of intelligence, then, is in no way implausible. Over distances as short as those involved in intra-Leinster, or in this case intra-Loíges, conflict it would have been possible to keep abreast of developments, by using multiple scouts and lookouts (and *en espie* translates to ‘on the lookout’). In the thirteenth century the English king’s messengers were expected to travel approximately twenty-five miles per day on good roads, whether mounted or on foot, in order to preserve their health and that of their steeds. Mounted messengers could travel farther on a single horse in a pinch, but they usually hired additional horses rather than upping their pace.<sup>30</sup> Speeds may have been slower on Irish roads, but Mac Murchada’s large body of heavily armed troops could not have outpaced a solitary light traveller well used to Irish conditions, even with guidance from the men of Loíges. It is probable that the extensive use of scouts and lookouts was normal in Ireland, both before and after the invasion.<sup>31</sup> In any case the *Song*’s author clearly expected his audience to find the prospect of a Gaelic king having the means to get wind of and prepare for military plans credible, and there is no suggestion that the use of ‘spies’, most likely in the form of scouts, was deemed unusual, or indeed improper.

De Prendergast’s escapades were omitted entirely from the first version of the *Expugnatio*, where little space is given to the subjugation of Osraige.<sup>32</sup> However, Gerald recounts a similar spying episode. In 1173 Hervey de Montmorency and Strongbow brought a force to

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<sup>27</sup> John Keegan, *Intelligence in war: knowledge of the enemy from Napoleon to Al-Qaeda* (Bournemouth, 2004), p. 16.

<sup>28</sup> J.O. Prestwich, ‘Military intelligence under the Norman and Angevin kings’, George Garnett and John Hudson (eds), *Law and government in medieval England and Normandy: essays in honour of Sir James Holt* (Cambridge, 1994), p. 28.

<sup>29</sup> Alastair MacDonald, ‘Espionage in later medieval Anglo-Scottish relations’, pp 6-7; Alban and Allmand, ‘Spies and spying’, p. 85.

<sup>30</sup> ‘[T]he medieval messenger did not, like his eighteenth-century successor, pride himself on riding night and day. With one horse, night travel was out of the question’ (Mary C. Hill, *The king’s messengers, 1199-1377: a contribution to the history of the royal household* (London, 1961), pp 108-10, quoted at 109). Messengers’ horses (presumably bearing lighter loads than those carried by the English steeds) needed to be rested every ten miles (idem, *The king’s messengers, 1199-1377: a list...*, p. 3).

<sup>31</sup> The annals contain some references to Gaelic scouts and scouting parties (ALC 1106.1, 1200.2, 1225.11, 1225.42; MCB 1120.4, 1121.2). For use of scouts and lookouts by the English of Ireland, see ALC 1200.2, 1235.5, 1239.4; AFM, 1239.5. For a disastrous defeat inflicted on Gaelic forces as a result of the English realisation that ‘they had neither watch nor ward over the [f]oreigners’, see ALC, 1235.15; AC 1235.13.

<sup>32</sup> For the subjugation of Osraige, see *Expugnatio*, pp 34-7. For Gerald’s initial exclusion and later inclusion of de Prendergast, see *ibid*, pp xxiv, 293, n.28.

Cashel, where they intended to meet reinforcements from Dublin for a campaign in Thomond. According to Gerald, Domnall Ua Briain, 'who, for an Irishman, was not devoid of good sense, and who had prior knowledge of their approach from the accurate reports of his spies (*exploratione certissima prescius*)', intercepted the Dubliners in Osraige, killing many and forcing Strongbow, when he heard the news, to retreat to Waterford.<sup>33</sup> From AT we learn that this routing had occurred at Thurles.<sup>34</sup> Although it has been charged that Gerald 'glossed over' the episode, in fact both accounts provide different information.<sup>35</sup> For one thing, Gerald tells us that *quadringentos Ostmannorum viros* were slain – more ethnically specific and numerically credible than the *secht cét deg do Gallaib* reported in most of the annals.<sup>36</sup> More significant in the present context is the indication that the rout was achieved through the effective use of spies. Here, as before, the question might be asked whether Gerald can be relied upon for such details – if his reportage is accurate, Ua Briain was able to successfully coordinate a significant engagement many miles from his *caput* on the basis of intercepted military plans. The venture's precision was crucial, as the Dublin reinforcements were startlingly close to rendezvousing with Strongbow when they were set upon, and the Munster force may have been hidden in the hills between Limerick and Thurles.

Any tactical analysis must be based on inadequate sources, but this nevertheless seems the best way to approach the episode. Ua Briain's decision to move his main force to Thurles seems unusual if it was not engineered to cut off Strongbow's reinforcements, as it left a path open for the earl to travel deeper into Munster. Even still, the triumph at Thurles might be attributed to good fortune rather than immaculate planning. Perhaps Ua Briain, unaware of the Dublin force, intended to permit Strongbow's western advance only to cut off his lines of retreat, supply, and communication with Waterford. Certainly, tactics to this effect were utilised in Connacht at least twice in subsequent decades – and some of the annalists claim that Ua Briain had Ua Conchobair assistance at Thurles.<sup>37</sup> But this scorched earth approach was a desperate measure taken by underpowered, unprepared armies with no choice but to buy time and let the enemy force wear itself out. There is no indication that Ua Briain's position was weak at this time – indeed, a successful attack on Kilkenny in the previous year by a joint force from Munster and

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<sup>33</sup> Ibid, pp 138-9. Two sets of Munster annals imply that Strongbow was personally defeated at Thurles, but on balance this seems unlikely (AI 1174.3, MCB 1175.1).

<sup>34</sup> AT 1174.9.

<sup>35</sup> F.X. Martin, 'Overlord becomes feudal lord, 1172-1185', *NHI*, ii, p. 103, fn. 2.

<sup>36</sup> AT 1174.9, AI 1174.3, MCB 1175.1. AFM, perhaps informed by the *Expugnatio*, mentions the Ostmen (AFM 1174.10).

<sup>37</sup> For two examples of this strategy in Connacht, see Simms, 'Warfare in the medieval Gaelic lordships', p. 103. For the Connacht contingent, see AT 1174.9, AFM 1174.10. No mention is made of Ua Conchobair support in AI 1174.3 or MCB 1175.1. Flanagan, however, has deemed Ua Conchobair assistance probable (*Irish society, Anglo-Norman settlers*, pp 229-30).

Connacht indicates that Domnall was a force to be reckoned with.<sup>38</sup> Moreover, despite their recent cooperation, Ua Briain's submission to Henry II had meant a rejection of Ua Conchobair's overlordship.<sup>39</sup> The wisdom of inviting the recently slighted high king to witness the ravaging of Munster and participate in its salvation seems dubious in the extreme. The Thurles confrontation, then, probably came about due to good information, rather than desperate good fortune. Gerald's failure to indulge his penchant for spiteful finger-pointing must also be noted: despite a lame pot-shot at Hervey (the disastrous campaign arose from his desire to 'appear to be doing something worthwhile'), the Welshman firmly attributes the Gaelic victory to Ua Briain's strategic abilities. If nothing else, then, it seems that Gerald believed his own explanation for the rout at Thurles.

If the involvement of spies in this case, too, is plausible, it remains to be established what form their spying took. In this case the sources provide more from which to extrapolate but are nevertheless inconclusive. It is tempting to suggest the defection or capture of one of Strongbow's emissaries to Dublin, on the basis of the peculiar annalistic statement that the earl sent messengers to Dublin.<sup>40</sup> It is possible that the annalist was simply explaining a gap in his narrative, but it should be noted that reference to messengers sent between English enclaves was not an annalistic commonplace.<sup>41</sup> Once again, it seems certain the Uí Briain were relying on a network of scouts to provide updates on the approaching force from Dublin, and presumably also on Strongbow's movements – this would have been necessary to correctly time the movement on Thurles. If a messenger was intercepted, it was probably done by a scouting party.<sup>42</sup> In any case, regardless of whether the information was initially obtained from a messenger, the course taken by the Dublin force was presumably relayed by a network of scouts and lookouts – the initial capture of a messenger simply makes it likelier that an early warning would have been received, thus explaining the decision to move on Thurles rather than Cashel.

This is all necessarily speculation, with the aim simply of highlighting a range of possibilities that might be intended by colonial references to Gaelic 'spying'. Although our sources on the topic are unsatisfactory, these few references to Gaelic spies seem conceptually plausible. Scouting – the primary meaning of *exploratio* as practised in the late Roman Empire – certainly occurred in Ireland, most likely very widely; and as will be seen, this also appears to be the primary means of 'spying' that we encounter in our later sources.

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<sup>38</sup> AT 1173.10.

<sup>39</sup> Flanagan, *Irish society, Anglo-Norman settlers*, pp 226-7.

<sup>40</sup> AT 1174.9, AFM 1174.10.

<sup>41</sup> Although there are many references to messengers sent to, by, or between Gaelic leaders, I am aware of only one other instance of messengers between the English of Ireland in the annals (ALC 1203.6).

<sup>42</sup> For a scouting party initiating combat, see ALC 1225.11.

*The morality of spying on a developing frontier*

If scouts were the key players in the two episodes outlined above, then cross-frontier trust probably played little role in either episode. Moreover, these early episodes concerned warfare between great armies, quite unlike the tit for tat combat that would become prevalent in the marches. Nevertheless, this initial detour has been felt necessary for two reasons. It has permitted the introduction of what appear to have been the primary method of Gaelic military intelligence-gathering around the time of the invasion: it will be seen that later, when trust became a factor in spying, scouting often remained central to the spy's tasks. Furthermore, it has illustrated the potential danger in translating terms like *espie* and *explorator* as 'spy'. While not necessarily incorrect, this translation has the potential to mislead the reader. Sometimes, of course, 'spy' seems appropriate. For instance, as part of his campaign to malign Hervey de Montmorency, Giraldus alleged that Hervey was a spy (*explorator*) for Strongbow, rather than a conqueror – in other words he did not have his comrades' best interests at heart.<sup>43</sup> And amongst the flaws of John's Irish policy Gerald contended that the men John left in Ireland were 'more interested in spying on the citizens (*in cives explorationis*) than in conquering the enemy'.<sup>44</sup>

Gerald wished to indicate that these leaders were untrustworthy, but the same sense does not come across in his descriptions of Gaelic *exploratio*. Far from condemning Ua Briain's effective use of *exploratores*, to Gerald this marked him out as an effective military leader. This can also be seen in another episode in the *Expugnatio*, which is more relevant to the present topic and which strikingly illustrates the fact that Gaelic 'spying' was not necessarily seen as improper. Gerald claimed that John's pattern of land grants while in Ireland broke promises to Gaelic allies who had supported the settlers since their first arrival. These 'immediately went over to our enemies and, changing their role, spied against us (*exploratores in nos*) and guided the enemy to us, being in a much better position to harm us because they had previously been on so much closer terms with us'.<sup>45</sup> This allegation was contested by the *Expugnatio*'s modern editors, who contended that of the earliest English allies, the Meic Murchadha and the Uí Bhriain, the former maintained possession of their lands whilst the latter acted treacherously without prompting.<sup>46</sup> This seems a rather limiting interpretation of Gerald's statement. Gerald mentions no septs by name and there seems no reason to assume that lesser septs were not intended. It is also

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<sup>43</sup> *Expugnatio*, pp 30-4.

<sup>44</sup> *Ibid*, pp 238-9. Gerald subsequently described these men as *nec subditis fideles, nec hostibus formidabiles* (*ibid*, pp 240-1). For *explorator* and other terms used to denote spies in the middle ages, see Alban and Allmand, 'Spies and spying', p. 74.

<sup>45</sup> *Expugnatio*, pp 238-9.

<sup>46</sup> *Ibid*, p. 356, fn. 490; *ibid*, pp 328-9, fn. 278.

important to remember that those Gaelic families that were most privileged under English rule still, for the most part, lost wealth and prestige. Even exemplary conduct by John may have failed to satisfy some Gaelic allies.<sup>47</sup>

As far as feasibility goes, this spying claim, too, is credible. Diplomatic espionage would certainly not be unique in the annals of intelligence-gathering; it was probably already occurring in both directions long before John angered these Gaelic leaders. Spying has long been seen as a routine part of diplomacy: just as scouts were expected to report on observations made abroad, so were political representatives and messengers<sup>48</sup> – Gerald himself spent two days imprisoned as a spy in Châtillon-sur-Seine.<sup>49</sup> Hill has observed that '[e]very envoy and... messenger... was a potential spy', including those sent by allies;<sup>50</sup> and on a similar note, Busby has pointed out instances of interpreters 'not... behaving above board' in twelfth- and thirteenth-century French literature. He contended that '[i]nterpreters in Ireland will have carried out similar tasks',<sup>51</sup> and interpreted the stalling tactics used by Aed Meith Ua Néill's interpreter (*drughemant*) during his 1210 negotiations with King John in this light.<sup>52</sup> Information gleaned through observation by envoys perhaps also informed Ua Conchobair and Mac Murchada's decision to make peace in 1169 – Gerald says this was painstakingly negotiated 'through messengers who went back and forth between the two armies'.<sup>53</sup> This was simply a fact of medieval political interaction, and the sources pass little comment on it. Nevertheless, the fact that valuable information might easily be revealed in any type of communication probably increased paranoia about communicating with

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<sup>47</sup> See, for instance, the Mac Gilla mo Cholmóc family (Frame, 'Ireland after 1169', pp 128-30).

<sup>48</sup> See Alban and Allmand, 'Spies and spying', pp 74-9; Hill, *The king's messengers, 1199-1377: a contribution...*, p. 96. For a later continental example of the same phenomenon, see James P. Ward, 'Security and insecurity, spies and informers in Holland during the Guelders War (1506-1515)', *JMMH*, vol. 10 (2012), p. 185. See also Busby's observation that in northern France minstrels *jouent souvent le rôle de messenger ou d'espion* (Busby, 'Performance, trahison, espionnage', p. 667). Nor, of course, was this a medieval phenomenon: for the sophisticated espionage role played by diplomats and messengers in the late Roman Empire, see N.J.E. Austin and N.B. Rankov, *Exploratio: military and political intelligence in the Roman world* (London, 1995), pp 16-25; William G. Sinnigen, 'Two branches of the late Roman secret service', *The American Journal of Philology*, vol. 80, no. 3 (1959), p. 240.

<sup>49</sup> Jean Dunbabin, *Captivity and imprisonment in medieval Europe, 1000-1300* (Basingstoke, 2002), p. 65. Released hostages or prisoners, were also probably expected to share any observations they had made while imprisoned. See, for instance, the wealth of information later provided to Froissart by Henry Chrystede (John Joliffe, *Froissart's chronicles* (London, 1967), pp 362-9). This account has been analysed in detail in Sponsler, 'The captivity of Henry Chrystede', pp 304-339.

<sup>50</sup> Hill, *The king's messengers, 1199-1377: a contribution...*, p. 95. Cf. Alban and Allmand's comment that 'to the mind of the fourteenth century the distinction between the spy and messenger was a fine one' (Alban and Allmand, 'Spies and spying', p. 75).

<sup>51</sup> Busby, *French in medieval Ireland*, pp 55-6.

<sup>52</sup> *Ibid*, pp 60-1. Cf. Duffy, 'King John's expedition to Ireland', pp 16-17.

<sup>53</sup> *Expugnatio*, pp 50-1.

the Gaelic-Irish across the frontier, and about anyone thought to be engaged in such communications.

It seems unlikely, therefore, that John's behaviour led to allies becoming spies. More likely, it simply led to open breaches, meaning military information gathered through passive observation could be acted upon. It is striking that these allies-turned-spies were essentially thought to have become scouts as well: they guided attacks on the English. We have already seen Gerald's dramatic claim that poorly defended march towns and castles were being devastated by Gaelic attacks around this time – perhaps John's behaviour caused the breakdown of tentative ententes in some areas, facilitating the exploitation of intelligence gathered during peace.<sup>54</sup> As in its description of Ua Briain's *exploratio* in 1174, the *Expugnatio* is surprisingly uncritical of this alleged spying, which is blamed on the moral shortcomings of English, rather than Gaelic, actors, whose behaviour seems somewhat justified in Gerald's telling. Of course, his immediate intention was to criticise John and his agents, not the already thoroughly lambasted Gaelic-Irish; but this may also reflect the acceptance that spying was an ordinary part of warfare, and an expected outcome of relations souring across a frontier.

### *Gaelic spying across the frontier in the thirteenth century*

Notwithstanding his lack of hostility towards Gaelic spying, it is perhaps unsurprising that Gerald makes no positive references to English spying. He, like other medieval writers, may have harboured reservations about the propriety of espionage.<sup>55</sup> An annal entry of 1249 indicates that this perspective was not universally shared within Gaelic Ireland. That the practice of spying was approved of by at least some Gaels is suggested by that year's obituary of 'the bravest and most bountiful captain of all the Ossory', Donnchad Mac Anmchaid. The annalist describes his death as 'a benefit to the Galls', whom Donnchad had inveterately opposed – a claim perhaps corroborated by Clyn's reference to '*guerra Mackanfy*' in the sparse thirteenth-century portion of his annals. After some elaboration on this theme the writer adds that '[h]e used to go in person as a spy (*do brath*) in the market-towns, in the guise of a beggar or carpenter or turner or some other craftsman'.<sup>56</sup> To this he appends what seems to be a line from a praise poem or folk song about

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<sup>54</sup> *Expugnatio*, pp 240-1.

<sup>55</sup> For discontent regarding the morality of spying, see Alban and Allmand, 'Spies and spying', p. 76.

<sup>56</sup> AC 1249.11; ALC 1249.14; AFM 1249.12. His death is also recorded in AI 1249.2. For Donnchad's war on the English, see AC 1247.8; ALC 1247.8; AFM 1247.7. That he truly was a thorn in the side of the English – or was at least remembered as one – is suggested by Clyn and Pembridge's inclusion of his obit in their annals; the latter adds that his fate was *sicut bene meruit* (Clyn, *Annals*, pp 142-3; CSM, ii, s.a. 1250, p. 315). This has been contrasted with these annalists' omission of reference to the battle of Athenry of 1249

Donnchad: '[h]e is a carpenter, he is a turner, my bonny lad, and a book-peddler and a seller of wine and hides, wherever he sees men speaking together'.<sup>57</sup> Kelleher, examining this entry, commented on the tale's improbability, but noted the appearance of a family of wine merchants in the 1280s and 1290s with the surname Mac Anmchaidh. This, he suggests may have fed Donnchad's posthumous myth.<sup>58</sup> If correct, this implies that there was some Gaelic awareness that the Meic Anmchaidh frequented English markets, which probably means that these merchants continued to move in Gaelic circles as well – perhaps they were known for providing information about and rumours from English Ireland to their customers in Gaelic Ireland.

Whatever the truth of the tale of Donnchad Mac Anmchaid there is nothing improbable about Gaels gathering intelligence at English markets, whether as beggars, tradesmen, or merchants, legitimate or feigned. The anecdote and accompanying verse reveal Gaelic-Irish awareness of the timeless utility of markets as a site for intelligence-gathering.<sup>59</sup> Hewer's identification of ninety-eight possible Gaelic-Irishmen on the *Dublin guild merchant roll* (c.1190-1265), and the later Mac Anmchaidh merchants, make it clear that at no point in the thirteenth century was Gaelic commercial activity within English Ireland inconceivable.<sup>60</sup> Many merchants of Gaelic-Irish blood are undoubtedly hidden behind English names in the sources. Robert de Bree, a one-time mayor of Dublin who had earlier received a charter of English law in 1291, is perhaps the most prominent example.<sup>61</sup> That is not to impute this esteemed burgess's loyalty to Dublin, or to the English community more generally – the mere fact of Gaelic origins is of course no evidence of rebellious sentiments. But some such individuals would have been a potential source of valuable information – innocent or otherwise – from across the frontier, and perhaps also dispensers of deliberate misinformation to both the English and the Gaelic-Irish. The same was

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(Kelleher, 'Mac Anmchaid', pp 56-7). Mac Anmchaid's absence from the more contemporary Multyfarnham annals may strengthen the suggestion that the tale was legendary, but this annalist exhibits little interest in warfare.

<sup>57</sup> AC 1249.11; AFM 1249.12. It has been suggested that 'merchant' should be substituted for 'book-pedlar', which is the translation given for '*lebroir*' (Kelleher, 'Mac Anmchaid', p. 55).

<sup>58</sup> Kelleher, 'Mac Anmchaid', pp 57-8.

<sup>59</sup> The market is the first of three 'alternative channels of information' identified in Bastian Walter's study of fifteenth-century Burgundian espionage ('Urban espionage and counterespionage during the Burgundian Wars (1468-1477)', *JMMH*, vol. 9 (2011), pp 135-6). Markets were recognised as the best venue for the government to spread news to the peasantry (James Masschaele, 'The public space of the marketplace in medieval England', *Speculum*, vol. 77, no. 2 (2002), p. 391).

<sup>60</sup> Hewer, 'Justice for all?', pp 40-1.

<sup>61</sup> *Hist. and mun. docs*, pp xxx-xxxi. It is worth noting that Robert was already a citizen and merchant of Dublin before receiving this grant (*ibid*, p. 541).

true of merchants on other English frontiers,<sup>62</sup> and similar patterns are seen in contacts between cultures more alien than the Irish and English.<sup>63</sup>

Unlike the invasion-era 'spying' episodes, Mac Anmchaid's purported espionage expeditions involved a betrayal of trust, albeit the non-explicit trust between strangers sharing a public space. Scouts undoubtedly remained an essential, albeit little-documented, feature of warfare, but with the proliferation of settlements, other forms of spying became possible as relationships were formed across the frontier and intercultural familiarity grew. Whatever the Mac Anmchaid tale's veracity, the behaviour it portrayed was now feasible. The insecurity felt by many English settlers in the early decades of Irish settlement persisted alongside military troubles throughout the thirteenth century, and it was most keenly felt on the frontier. The potential danger inherent in positive interaction with Gaelic leaders would not have subsided, and prejudice and paranoia probably shaped many Anglo-Gaelic interactions.

### *Official concerns about cross-frontier contacts*

It was not only English relations with Gaelic leaders beyond the marches that were shaped by these factors, but also those with the betaghs who worked on most English lands in Ireland, even in the most heavily-colonised areas. Despite, or perhaps because of, the reliance on Gaelic labour, concerns lingered as to their loyalty.<sup>64</sup> In 1208, on the advice of William Marshal, Walter de Lacy, and other Irish barons who were then in England, King John ordered his justiciar that *latrones Hibernicorum* were to be expelled, and anyone who received them was to be treated in accordance with the laws of England.<sup>65</sup> Veach has interpreted this in the context of the struggle with de Braose, but *latrones* implies villains of lesser status;<sup>66</sup> it is possible that the comment about receiving related to fears that betaghs on English-held lands might harbour them. If so, their

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<sup>62</sup> MacDonald, 'Espionage in later medieval Anglo-Scottish relations', p. 4.

<sup>63</sup> Early Dominican efforts to establish contacts in Greater Hungary and with the Mongols were most effective when they disguised themselves as merchants (Gregory G. Guzman, 'European clerical envoys to the Mongols: reports of western merchants in Eastern Europe and Central Asia, 1231-1255', *JMH*, vol. 22, no. 1 (1996), p. 58; see also *ibid*, pp 61, 65-6). In the late Roman period markets were important sites for the dissemination and collection of information, and merchants were frequently suspected as spies (Mark W. Graham, *News and frontier consciousness in the late Roman Empire* (Ann Arbor, 2006), pp 113-14).

<sup>64</sup> Most English manors in Ireland contained large betagh populations (R.E. Glasscock, 'Land and people, c.1300', *NHI*, ii, p. 222; Foley, *The royal manors*, p. 141).

<sup>65</sup> *RLP*, i, p. 80; *Statutes and ordinances*, p. 4; *CDI*, i, no. 380; MS 1, f. 44r. Harbourers of felons were to be treated as felons themselves (see above, p. 175). A royal command of late 1234, similar to that of 1208, probably referred not to Gaelic-Irish troublemakers, but to ongoing banditry after the bloody conclusion of the Marshal war. The 'barons, knights, freemen and lieges' of Ireland were implicated in this later instance (*CPR*, 1232-47, p. 83 (*CDI*, i, no. 2229)).

<sup>66</sup> Veach, 'King John and royal control in Ireland', p. 1069.

concerns were not wholly unreasonable. The Irish pipe roll for 1211-12 records 200 cows received from the Gaels (*Hyberniensibus*) of the wardenship (*warde*) of Gilbert de Angulo for their receipt of Toirdelbach.<sup>67</sup> This was probably Toirdelbach son of Ruaidrí Ua Conchobair, an inveterate rival of Cathal Crobderg, with whom Gilbert de Angulo was then allied.<sup>68</sup> If so, these betaghs were harbouring an individual who posed a significant threat to their own lord's interests. Whether this fine was imposed on the basis of the 1208 ordinance is unclear; but de Angulo's *hibernici* had evidently engaged in the type of behaviour targeted in 1208. Such episodes probably bred fear and distrust in frontier regions, feeding into the wider anti-Gaelic attitudes that seemingly intensified as the thirteenth century progressed.<sup>69</sup>

The problem in this case was not spying, but it nevertheless reflected serious concerns about the trustworthiness of some members of the community. It was a problem deriving primarily from the continued existence of a volatile frontier, and such concerns were not harboured exclusively about Gaels, nor about the lowest ranks of society. Many instances of receipts of felons appear in the justiciary rolls, but they are seldom detailed enough to be fruitfully examined in the present context. The same terminology of criminality was shared by robbers, warlords, and everyone in between, and we often learn nothing about the crimes of the individuals received, nor about the backgrounds of their receivers. For instance, the sheriff of Tipperary's account for 1275-6 records that Robert Lovel was charged 113s. for receiving Muirchertach Mac Cerbaill.<sup>70</sup> Both men are obscure, and although the fine is larger than what is typically encountered later for the receipt of a single felon, no more can be said on the matter. The later court records abound with similarly tantalising but vague records, which combine to paint a picture of a society in which the receipt of felons was extremely common – but whether we are dealing with burglars or raiders from the mountains is seldom clear. Moreover, receivers often acted under duress, and this, combined with frequently poor sources, means that the study of receipt has little to offer here.<sup>71</sup>

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<sup>67</sup> *Et de cc vaccis de Hyberniensibus warde Gilberti de Angulo quia receptaverunt Turdelevach* (Pipe roll Ire. 14 John, pp 36-7).

<sup>68</sup> For the hostility between Toirdelbach and Crobderg, and Toirdelbach's attack on Crobderg's allies, see ALC 1203.7, 1211.1. For Crobderg's cooperation with Gilbert Mac Costello (de Angulo), see AFM 1211.4. This Toirdelbach should not be confused with Cathal Crobderg's son of the same name, who was given to King John as a hostage in the same year: 38 cows were given as payment to the soldiers who received him for this purpose; by contrast, de Angulo's betaghs were paying a fine (Pipe roll Ire. 14 John, pp 38-9).

<sup>69</sup> This intensification has been identified by Hewer in the courts of law (Hewer, 'Justice for all?', pp 73-4).

<sup>70</sup> Edmund Curtis, 'Sheriffs' accounts for county Tipperary, 1275-6', *PRIA*, vol. 42C (1934/1935), p. 66.

<sup>71</sup> Foley, 'The outlaw in later medieval Ireland', pp 160-1. Often, criminals were received by family members (see below, pp 235-7).

Nevertheless, two less opaque early episodes featuring unusually large fines for receiving will illustrate the importance the administration placed on being able to trust frontier barons. In 1274-6 Richard de Tuit owed 100*m.* to have the king's peace after 'receiving the enemies of the king and breakers of the peace, and sending them provisions'.<sup>72</sup> The Tuits had long played an important role on the frontiers of Westmeath. Richard's father of the same name was described by the annalist of Loch Cé as the 'noblest baron in Erinn' at his death in 1272,<sup>73</sup> and the younger Richard was later honoured with the same title when he fell in battle against Carbry Ua Mael Sechnaill in 1289.<sup>74</sup> That successive generations of Tuits were highly-regarded by this annalist indicates appreciable friendly contacts with Gaelic Ireland; it therefore seems probable that Richard had been amerced for engaging in peaceful communications with individuals deemed to be at war with the king. The severity of the punishment reflected the importance of ensuring that this march baron toed the line.

The Cauntetons of Carlow found themselves in a similar position in 1282. An account covering this year records Thomas de Caunteton's debt of £54 13s. 4*d.* for 'receiving and associating with felons, outlaws, incendiaries, and disturbers of the peace of the land'.<sup>75</sup> The size of this fine indicates that the corresponding offence was deemed egregious. Disturbing the peace was not, of course, the preserve of Gaelic-Irishmen – the de Cauntetons would themselves become notorious in the coming decades.<sup>76</sup> But the same account reveals that Thomas's kinsman William, a household knight of the king,<sup>77</sup> had not only acted as a pledge for Art Mac Murchada's appearance at court, but had also undertaken the pledges made by Theobald Butler and John de Sandford for the same. This suggests a strong pre-existing relationship between William and Art – perhaps the former induced the latter to come to the king's peace. Nevertheless, William was landed with £400 of debt to the crown when Art failed to appear at court, and he was still paying this sum in 1299.<sup>78</sup> There is no indication that William had done anything untoward, but Thomas may have been associating with the newly re-emergent scourge of the Leinster English in a less

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<sup>72</sup> *Rep. DKPR*, no. 36, p. 34.

<sup>73</sup> *ALC* 1272.9; *AC* 1272.9, *AFM* 1272.7.

<sup>74</sup> *ALC* 1289.5, *AFM* 1289.4. For a brief outline of the background to the younger Richard's death, see Katharine Simms, 'Relations with the Irish', *Law and disorder*, pp 75-6; Orpen, *Ireland under the Normans*, iv, p. 114.

<sup>75</sup> *Rep. DKPR*, no. 36, pp 72. Thomas's debt was finally paid off in an account covering 1286-9 (*ibid*, no. 37, p. 32).

<sup>76</sup> For Gaelic influence on Caunteton naming practices from c.1300 see Duffy, 'The problem of degeneracy', pp 102-3. The Carlow Cauntetons rebelled against the crown together with the Uí Broin (Frame, 'English officials and Irish chiefs', p. 268).

<sup>77</sup> See Hartland, 'The household knights of Edward I in Ireland', p. 175. As early as 1276 he received an annual retainer of £40 (*Irish exchequer documents*, p. 10). For his warding of Odrone, see *ibid*, pp 15, 31.

<sup>78</sup> *Rep. DKPR*, no. 36, p. 72; *ibid*, no. 38, p. 55; *CDI*, iv, no. 637.

positive way. The fines imposed on de Tuit and de Caunteton are not evidence of spying, or even of direct engagement in criminal activity. They point only to friendly contacts across the frontier, albeit with *personae non gratae*. They thus demonstrate the suspicion with which cross-frontier contacts could be viewed from the centre. As will be seen, this was mirrored at all levels of society, both secular and ecclesiastical.

### *Regulating frontier negotiations*

#### *Negotiations for peace and for the return of goods*

Less ambiguous is the seventh statute of the 1297 parliament, which proscribed the negotiation of private truces with *felones hybernici* who were at war. The Gaels who engaged in such truces, it claimed, often wished to divide the marchers and conquer them one by one. Moreover, the ostensibly conciliatory Gaels later turned on those with whom they had agreed their truces once they had 'destroyed' their other English neighbours. Henceforth, anyone involved in negotiating such truces would be deemed a participant with the Gaels in their crimes and would have to restore part of the property stolen from their Gaelic co-conspirators' victims.<sup>79</sup> There should only be one peace and one war in Ireland: here was a clear statement of the official intention to maintain a unitary colonial community.

The terror that sometimes prevailed in the marches has already been examined, and in some areas, community survival probably depended on the ability to communicate across the frontier. Some concession was made to frontier realities: two magnates were to be appointed in frontier areas to negotiate temporary peaces if the justiciar was unavailable; he was to be immediately informed of any decisions made. This, then, was a limited position with clearly defined powers.<sup>80</sup> Nevertheless, given the parliamentary revulsion at 'degenerative' practices in 1297, it is unsurprising that private cross-frontier negotiations were also targeted. Such negotiations engendered governmental distrust of marchers, and the reason given in the statute itself indicates that issues of trust might also arise on the frontier itself from private negotiations, as by striking secret deals with Gaelic raiders, individual marchers endangered their neighbours. Private negotiations were therefore seen as detrimental to march security, and the statute aimed

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<sup>79</sup> Connolly, 'The enactments of 1297', pp 154-5. The behaviour of the Meic Murchadha after the defeat of the de Caunteton rebellion in 1309 is interesting in light of this statute: after Maurice de Caunteton was slain, these erstwhile Gaelic allies began preying on his lands, making living there impossible (*CJRI*, 1308-1315, p. 159).

<sup>80</sup> Connolly, 'The enactments of 1297', pp 160-1.

to encourage the English living on the colonial frontiers to rely upon one another for military support. It is important to note, however, that it did not prohibit communications with Gaels who were at peace – it was not an attempt to prevent all interaction, only to ensure that the deepest bonds were between marchers, while friendly ties with Gaels would be severed upon the outbreak of regional hostilities – thus, it was hoped that the men of the marches could be forged into a united defensive front.

Negotiations across the frontier have not received much focused attention from historians, and there is a sense in the historiography that the prohibition of private peaces was a new development in 1297.<sup>81</sup> References to negotiations of locally-exclusive peaces are rare, but negotiating with felons at war was already forbidden before 1297. This can be best illustrated by a letter patent of 1292 authorising the bishop of Ossory to treat with, receive amends from, or make peace with the *inimicis Hibernicis* who regularly plundered his diocese, notwithstanding the fact that ‘according to custom in Ireland it is not allowed to any person despoiled of his goods by [Gaelic enemies] to treat with [them], to receive amends, or otherwise make peace with them (*seu quovis alio modo cum eisdem pacificare*)’.<sup>82</sup>

Although this is the first extant appearance of the principle proscribing private negotiations and peaces, there is a dearth of references to negotiations of any kind in earlier sources, and the reference to custom should not be doubted on that count. Private negotiations across the frontier were certainly not a new necessity in the late thirteenth century, and they probably simply left little evidence before the 1290s. As will be seen, grants of this sort were typically made by the justiciar’s court or were recorded on the Irish patent rolls, survival of which is slim prior to 1295 (the survival of the 1292 document, and some other early grants, is due to their issuance by the king rather than the Dublin government). The proscription against specifically local peace negotiations forbidden in 1297 presumably also encapsulated within the custom that was relaxed for the bishop of Ossory in 1292. It seems, then, that the statute of 1297 was not instituting a new principle, but reaffirming one that was already well-established.

There is no way of knowing how longstanding the principle outlined in 1292 was, but the records of the justiciar’s court abound with evidence for central efforts to police cross-frontier negotiations between 1292 and 1297. Many licences similar to that of 1292 are recorded in a list

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<sup>81</sup> See, for instance, Hartland, ‘The height of English power’, p. 236. See also Frame’s observation that this was a concern of the parliament from as early as 1297 (‘The judicial powers of the medieval Irish keepers of the peace’ (1967), repr. in *Ireland and Britain*, pp 303-4); see also the comments in Keith Stringer, ‘States, liberties and communities in medieval Britain and Ireland (c.1100-1400)’, Michael Prestwich (ed.), *Liberties and identities in the medieval British Isles* (Woodbridge, 2008), pp 14-15.

<sup>82</sup> *Foedera*, p. 90; *CPR, 1281-92*, p. 481 (*CDI*, iii, no. 1068).

of remembrances from 1295: in June the abbot and convent of Baltinglass were licensed to send to and receive from malefactors who had robbed from them; Richard Talun was licenced to recover stolen goods; and Ralph Patrik was permitted to communicate with the Obrins for the recovery of his property.<sup>83</sup> In October Elyas le Blund, the sheriff of Tipperary, was similarly empowered, as was Philip Haket, whose licence also specified that he could send messengers to the felons in question.<sup>84</sup> The seneschal of Carlow was permitted to treat with the Onolans and William Talun from 10 November until 30 November, and Eustace le Poer was allowed to treat with William le Poer from 28 October until 30 November. Meanwhile Robert Purcel and Philip de Barry were permitted to treat with John de Barry and his followers from 11 November until early January, and John Harold and John Louelenche were allowed to treat with the Omalcolmys, the Obrynnis, the Russells, and Thomas de la Haye, for the same period.<sup>85</sup> As well as being issued to specific individuals or groups, and permitting negotiations only with specific felons, then, these licences were also often time-limited – the government was very careful to keep tight control over any easing of its policy on cross-frontier negotiations. It is also important to note that the justiciar's court took a similar line towards both English and Gaelic felons. As such, the prohibitions against negotiations across the frontier might be regarded simply as a logical extension of the more general principle that one must not receive, assist, or communicate with any felons – albeit an extension of such importance that it warranted restatement at a parliament convened to tackle the problems of the marches.

As might be expected, these licences continued to be issued after the 1297 parliament. In 1303, for instance, the bishop of Limerick was allowed to treat with the Gaels of his bishopric concerning the peace, 'with special power (*cum potestate speciali*) to recapture his goods and chattels';<sup>86</sup> in 1306 Reymond Sugagh was permitted to receive stolen goods from various felons, seemingly on behalf of the nuns of Tamelyn Beg, whose livestock had been robbed by the felons in question.<sup>87</sup> In the following year the bishop of Kildare petitioned the king for permission to negotiate with the Gaels to receive stolen good and to make peace with them to his own advantage, 'without being prosecuted by [the king's] officials'.<sup>88</sup> And in 1311 the abbot of Duiske was allowed to recover his stolen goods, and in 1312 the monks of St. Mary's of Dublin were

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<sup>83</sup> *CJRI, 1295-1303*, pp 71-2.

<sup>84</sup> *Ibid*, p. 72.

<sup>85</sup> *CJRI, 1295-1303*, pp 73-4.

<sup>86</sup> *CIRCLE*, PR 31 Edw. I, no. 69 (*RCH*, p. 6).

<sup>87</sup> *CJRI, 1305-1307*, p. 506.

<sup>88</sup> *PROME*, roll 25 Edw. I, m. 2d, no. 69. This petition was earlier published, but misdated, in Geoffrey Hand, 'Two hitherto unpublished membranes of Irish petitions, presented at the midsummer parliament of 1302 and the Lent parliament of 1305', *PRIA*, vol. 71C (1971), p. 10.

allowed to redeem goods stolen from their granges.<sup>89</sup> It is easy to see why these grants were necessary, and how strict adherence to the convention against such engagements might have caused problems in the marches. In some cases, denying communities the power to negotiate for the recovery of stolen livestock may have condemned them – efforts to force frontier communities to rely either on their own military might or on governmental intervention probably contributed to the abandonment of some areas. Raids could come quickly, and it goes without saying that private negotiations must have continued to occur in the marches.<sup>90</sup> Nevertheless, it is significant that people continued to petition for, and receive, these licences – evidently the power of the Dublin government was still highly regarded in the marches at the end of the period being studied here.

However, the statute of 1297 was not concerned with negotiations for the recovery of goods, but with the negotiation of private truces. Clear evidence for such negotiations is elusive, as they typically occurred without governmental approval. The principle behind the 1297 parliament was that the English of Ireland should be united in war and in peace, and it is far more common to find evidence for negotiations concerning entry into the king's peace, as opposed to local truces, in the sources. Such negotiations were often carried out by the justiciar or other governmental officials to whom the justiciar delegated the powers.<sup>91</sup> Sometimes, however, nobles were authorised to negotiate with Gaelic felons to bring them to the king's peace. In 1272, for instance, Robert de Muscegros was sent to Ireland to receive into the king's and Edward's peace any Gaels who wished to have it.<sup>92</sup> These powers were unusually broad. More often, landholders were authorised to negotiate with specific Gaelic felons about returning to the king's peace. Permitting such negotiations took pressure off the administration and permitted local *modi vivendi* to be arrived at between conflicting parties. This reality is best illustrated by reference to Richard de Exeter's arbitration between Breen Mac Mathghamhna and the English of Uriel, and, separately, between Mac Mathghamhna and the de Verdons, in the course of carrying out his commission to restore the Meic Mathghamhna to the king's peace in the early fourteenth century.<sup>93</sup> Local appointments of this sort were also made before the 1297 parliament. A possible early example is found in 1279, when Thomas de Cheddesworth was allowed sums that he had expended in treating with the 'Weymati' and receiving hostages from them while he was the

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<sup>89</sup> *CJRI*, 1308-1315, pp 174, 246.

<sup>90</sup> See also Simms, 'Relations with the Irish', p. 81.

<sup>91</sup> See, for instance, *CDI*, iii, nos 558, 653, 671, 684; *rep. DKPR*, no. 37, p. 42.

<sup>92</sup> *CPR*, 1266-1272, p. 656 (*CDI*, ii, no. 1020).

<sup>93</sup> *CJRI*, 1305-1307, pp 502. Richard was subsequently employed in this role again (*CJRI*, 1308-1315, p. 161). See Smith, 'The medieval border', pp 44-6.

custodian of the archdiocese of Dublin. These may have been private negotiations, rather than negotiations regarding the king's peace, but they clearly had official sanction.<sup>94</sup> In 1283 John de Cogan was empowered to receive his own warring Gaels into the king's peace,<sup>95</sup> and in the following year Theobald de Verdun received a similar grant, albeit with the stipulation that the justiciar's consent must first be obtained.<sup>96</sup> In 1295 Theobald was again empowered to treat with the local Gaels about having the king's peace.<sup>97</sup> Presumably, given the custom referred to in 1292, grants like these were the only way in which these men could legitimately negotiate for peace with the Gaels in question.

We are not entirely without evidence of negotiations for private peaces. One possible example of a magnate being empowered to make a private peace prior to the parliamentary proscription is found in 1292, when John fitz Thomas was permitted to treat for peace with Gaelic enemies within and without his liberty. This power was to last at the king's pleasure, although John apparently had to obtain the justiciar's stamp of approval before finalising any peace.<sup>98</sup> As this grant does not specify that fitz Thomas could grant the king's peace, he presumably lacked that authority. This further suggests that private negotiations were already forbidden.<sup>99</sup> Post-1297, too, something similar may have been intended by the permission granted to Milo de Verdun to treat and parley with the Irish of Meath and Uriel for the good of the peace in 1308.<sup>100</sup> Similarly, in July 1310 William de la Ryvere and another man were empowered to negotiate with the Uí Raghallaigh in Meath; and in the same month Richard de Burgh and Thomas de Mandeville were allowed to parley with the Gaels of Ulster.<sup>101</sup> In none of these cases do the records specify that they were empowered to grant the king's peace.

Clearly the evidence for private negotiations is both sparse and uncertain, though unlicensed negotiations undoubtedly occurred regularly in the marches. In light of the paucity of evidence, we are very fortunate in the survival of a fascinating memorandum from Edward's reign

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<sup>94</sup> *CDI*, ii, no. 1577, p. 313.

<sup>95</sup> *CPR, 1281-92*, p. 67 (*CDI*, ii, no. 2092).

<sup>96</sup> *CPR, 1281-92*, p. 132 (*CDI*, ii, no. 2298).

<sup>97</sup> *CIRCLE*, PR, 23 Edw. I, no. 16.

<sup>98</sup> *CDI*, iii, no. 1103. The briefer abstract given in the patent roll calendar says that the grant was made to John 'although [he is] an Irishman'. This is presumably a mistake, although it is conceivable that the intended meaning was that such negotiations were not typically permitted in Ireland (*CPR, 1281-1292*, p. 488).

<sup>99</sup> The eighth statute of 1297 referred to wars arising from attacks on Gaels who were at peace, had temporary truces, or had the protection of the peace from the justiciar. Presumably the temporary peaces referred to here were supposed to arise from grants like that to fitz Thomas (Connolly, 'The enactments of 1297', pp 156-7).

<sup>100</sup> *CJRI, 1308-1315*, p. 51; *CIRCLE*, PR 1 Edw. II, no. 9.

<sup>101</sup> *CIRCLE*, PR 4 Edw. II, nos 12, 16.

which was probably drafted for Geoffrey de Geneville's liberty court of Trim. This document, usually dated to the early 1290s, indicates that private negotiations in the marches were already a matter of contention between marchers and the government before 1297.<sup>102</sup> Citing the conduct of the *homes marchiz* of Wales during a royal campaign of 1267, this memorandum argued that *seingnurs de la franchise* should be allowed to make truces with warring Gaels without fear of punishment, provided that the king's banner was not presently raised against the enemies in question.<sup>103</sup> That it was felt necessary to record this line of argument for the future reference of liberty officials suggests that some controversy had arisen over the matter. The memorandum only represents the views (and perhaps the practices) of de Geneville's officials, but these were probably not anomalous within Ireland. Nowhere does the memorandum imply that this Welsh precedent ought to be followed only in de Geneville's Irish lordship, although less territorially connected landholders may have justified the same stance by reference to necessity and local custom rather than Welsh precedents. The view exhibited in this memorandum is incompatible with the custom alluded to in 1292, which seems rather impractical. There was a stark disjoint between official preference and local necessity. That the Dublin government saw fit to publicly restate an ostensibly well-established custom in parliament in 1297 suggests that local truces were seen as a significant or growing problem, with the potential to undermine the government's preferred pattern of political alignment – namely trusting relationships between marchers and a watchful suspicion of the Gaelic leaders across the frontier.

### *Negotiations for the release of hostages*

There are few clear cases of individuals being charged before the justiciar for engaging in unlicensed negotiation, though this should probably not be taken to indicate that the official restrictions were seldom breached. A court case heard by the justiciar at Castledermot in April 1302 provides fascinating evidence of the difficulties that could arise on frontiers as a result of the official stance. John de Lyvet recounted his capture by a felon, John Talon, who delivered him to the Gaelic felons of the mountains. The nature of the exchange that followed is not entirely clear, but it seems that the unfortunate prisoner negotiated for his own release by leaving hostages with his captors, and was given two horses as sureties for his hostages' safety. However, 'thinking that

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<sup>102</sup> Hartland placed the document in 'c.1290', perhaps on the basis that Mills placed this dating after the memorandum that follows this one in the calendar (Hartland, 'Vaucouleurs, Ludlow and Trim', p. 474). Frame, more conservatively, dated the document to 'the reign of Edward I' ('Lordship and liberties', p. 125).

<sup>103</sup> *Gormanston reg.*, pp 9, 181. For discussion of the Welsh episode to which this appears to refer, see Davies, 'Kings, lords and liberties', p. 58.

evil might happen to him if he received those horses, both on account of the danger to his hostages, and from the king's court for treating with felons', John decided to send them to two separate keepers, one of whom he was now prosecuting for stealing both horses from him. The case is quite confusing, and the logic underlying some of his actions is obscure. For instance, it is unclear why John thought splitting up the horses would protect him from either of the risks he outlined – he appears simply to have been admitting that he had tried to hide knowledge of the exchange from officials. Nevertheless, the jury attested the truth of John's tale and his erstwhile confidante was made to return the horses to him – but John was ordered to return to the justiciar's court with the horses to hear judgement for having received them 'by the hand of felons'.<sup>104</sup>

The restrictions against negotiations with felons clearly made operating on the frontiers more difficult: de Lyvet feared punishment for his efforts to extricate himself from a very dangerous situation.<sup>105</sup> John was not ultimately punished, and even procured a pardon for a messenger who had delivered one of the horses to be safely kept for him (the necessity of which speaks volumes in itself).<sup>106</sup> But the legal ordeal that followed hot on the heels of his personal crisis illustrates the unreality of the government's position on cross-frontier negotiations. It is little surprise that de Geneville's officials sought to justify contravening the official line on this matter. We are fortunate in the survival of this detailed account of the kind of quandaries which could arise for frontier landholders as a result of the restrictive government policy on negotiations. It is notable that the accusation brought against John at the end of this record was essentially just that he had received goods from felons – many other such simple formulations, less fully expanded upon in the extant records, may hide similarly complex frontier predicaments.

John de Lyvet's case directs us towards another type of negotiation on which the sources are generally silent, namely negotiating for the return of hostages and prisoners of war. It is striking that John's provision of hostages to Gaelic felons to secure his own release from captivity does not appear to have been regarded as a problem in the record of his court case, though perhaps this was dealt with in documents no longer extant. Norms developed for the treatment of prisoners and hostages on the frontier, and these were based on trust in informal, but shared, systems of behaviour. This had the effect of reducing the ferocity of frontier hostilities.<sup>107</sup> The government, by its participation in these norms, legitimised a measure of conciliatory behaviour

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<sup>104</sup> *CJRI*, 1295-1303, pp 368-9.

<sup>105</sup> John was a man of importance in the locality. The combined value of the horses was £20; moreover, this was not John's first frontier transgression – in 1297 it was found that he had insufficient horses and arms relative to his wealth (*CJRI*, 1295-1303, p. 175).

<sup>106</sup> *CJRI*, 1295-1303, p. 428.

<sup>107</sup> Cf. Morillo, 'A general typology of transcultural wars', pp 36-41.

in Irish frontier warfare. Perhaps the best-known, and certainly the best-documented, episode of hostage negotiations in Ireland during this period is the effort to secure the release of John de Fulbourne, a nephew of Stephen de Fulbourne who was captured by Calvagh Ua Conchobair Failge's forces during de Sandford's extensive campaigning in the late 1280s, and whose rescue was ultimately effected through a very long process of negotiation.<sup>108</sup> The episode showcases the value of hostages and prisoners of war as bargaining chips and illustrates the importance of treating hostages well.

These negotiations were initially led by John de Bentleye, a former constable of Newcastle Mckynegan, who petitioned the king for permission to treat with Calvagh for de Fulbourne's release. Edward deemed this a 'laudable proposal' and granted him authority to treat with Calvagh as often as necessary for that purpose. However, he specified that the justiciar was to ensure that John '[did] not countenance the Irish in perpetrating their crimes'.<sup>109</sup> Hostage negotiations, it seems, were to conform to the same principle that were supposed to govern negotiations with any warring Gaels, that the collective security of the marches must be prioritised over the interests of even a household knight. At Edward's Hilary parliament of 1290, John de Fulbourne himself petitioned for the release of Calvagh's brother Malachelyn, who was in English captivity at Dublin as a surety for a debt owed by Calvagh, in exchange for John's own release.<sup>110</sup> The king granted this, but refused to hear a further petition on John's behalf; when this was heard at the Easter parliament, it transpired that John's captors also wanted two further captives released. The king refused, and in doing so he drew an interesting distinction between *hostages pur la pees*, whom he would not release, and *hostages pur deners* who might be released as appropriate.<sup>111</sup> De Fulbourne was finally freed when the king ordered the release of 'all the hostages awaiting ransom in Dublin' – presumably meaning only the *hostages pur deners* of the Uí Conchobair Failge.<sup>112</sup>

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<sup>108</sup> An overview is provided in Avril Thomas, 'Interconnections between the lands of Edward I: a Welsh-English mercenary force in Ireland, 1285-1304', *BBCS*, vol. 40 (1993), esp. p. 145. For the death of nine of these Welshmen during 1295, see *Irish exchequer documents*, p. 126. For more on John de Fulbourne, see Hartland, 'The household knights of Edward I', pp 167-8.

<sup>109</sup> *CPR, 1281-1292*, p. 327 (quoted from *CDI*, iii, no. 541). De Benteleye had a prior association with John de Fulbourne, having served as his attorney in England while the latter was in Ireland in 1286 (*CPR, 1281-92*, p. 252).

<sup>110</sup> *PROME*, roll 3 Edw. I, m. 1, no. 2 (*CDI*, iii, no. 558, p. 248). For the king's writ granting this request, see *CPR, 1281-1292*, p. 341 (*CDI*, iii, no. 585).

<sup>111</sup> *PROME*, roll 4 Edw. I, m. 4, no. 23 (*CDI*, iii, no. 622, p. 310). These demands may have been known for some months prior to the Easter parliament, as at Hilary the king had refused to hear Adam de Fulbourne's additions to John's initial petition (*PROME*, roll 3 Edw. I, m. 56, no. 14 (*CDI*, iii, no. 558, pp 254-5)).

<sup>112</sup> *CPR, 1281-1292*, p. 369 (*CDI*, iii, no. 698).

The episode provides some fascinating insights into the character of Irish march warfare and the operation of trust within that context. For one thing, it is clear that by the late thirteenth century Irish warfare was not always the zero-sum game that Gerald of Wales had described a century earlier, at least for nobles.<sup>113</sup> The episode also raises questions about the treatment of prisoners. It has been suggested that Gerald fitz Maurice's imprisonment by Calvagh between 1285 and 1286 may have 'broke[n] his health' and led to his early death.<sup>114</sup> By contrast, although John de Fulbourne's career soon provided what must have been a welcome escape from Ireland, he remained vigorous enough thereafter to be taken prisoner again in 1299, in Gascony.<sup>115</sup> Might John's familial connection to the Irish administration, his status as a household knight, or his lack of any ties to the Offaly marches have earned him unusually gentle treatment in Gaelic imprisonment? It certainly seems plausible that these factors may have shaped the way John was treated during his captivity. But it is also doubtful that the Uí Conchobhair Failge would have mistreated fitz Maurice, their most formidable opponent, and in doing so risked aggravating the Dublin government and the Geraldines, if not the entire colonial establishment. Calvagh himself had survived capture by the English in 1286<sup>116</sup> – in fact, the 1000*m*. he owed for his release, presumably represented by the Dublin captives, was wiped away when de Fulbourne was freed.<sup>117</sup> It is difficult to see Calvagh receiving such merciful treatment if he was himself known as a cruel jailer. It therefore seems unlikely that Calvagh would have wished to disrupt the mutually beneficial norms of prisoner treatment in Ireland. That prisoner exchanges were becoming a standard, and standardised, part of warfare is indicated by a similar episode from the same decade, when the bishop of Kildare requested the release of an unnamed Gaelic noble imprisoned in Dublin castle, to secure the release of an exemplary young knight named Gerald Tyrel.<sup>118</sup> This system relied upon a measure of trust even in animosity, and the fact that this trust was understood to exist provides further context for the disgust often exhibited in the Gaelic annals when recording the removal of prominent Gaelic heads by the English.

Although our best evidence for the back and forth of hostage negotiation is provided by de Fulbourne's case, in which the king was directly concerned and was kept abreast of developments, it is clear that more or less identical processes occurred at a more local level too,

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<sup>113</sup> See above, p. 166.

<sup>114</sup> Ó Cléirigh, 'The problems of defence', pp 31-2.

<sup>115</sup> He was in prison in May 1299 (*CJRI*, 1295-1303, p. 263).

<sup>116</sup> Pembridge places Calvagh's capture in 1286 (*CSM*, ii, p. 319). In Hilary 1290, Walter l'Enfaunt complained that he was still burdened with debt for his role in the taking of 'Calvanth and Macmorwyth' (*PROME*, roll 3 Edw. I, m. 1, no. 10 (*CDI*, iii, no. 558, p. 249)).

<sup>117</sup> *CDI*, iii, no. 1018.

<sup>118</sup> Fitzmaurice and Little, *Materials*, p. 59; *CDI*, iii, no. 828.

without governmental involvement. The importance of captives to relations across the frontier is illustrated by one of the complaints levelled at the justiciar, William de Vescy, in 1293. He was accused of wrongfully releasing a captive whose imprisonment was supposed to preserve the peace between Thomas fitz Maurice and Domhnall Roth Mac Carthaig, and forcing fitz Maurice to subscribe to an unfavourable peace settlement with Domhnall.<sup>119</sup> And a document pertaining to de Geneville's marches set out the proper way for preys taken there to be divided: although soldiers were entitled to a cut of the spoils of battle, all prisoners were the preserve of the lord.<sup>120</sup>

The approach to prisoner-taking reflected an important mechanism of cross-frontier relations that involved trusting in an informal system. Prisoners taken in war could be exchanged for money or for the release of one's own captured comrades; they could also serve as insurance against subsequent military setbacks. That this was a delicate system is clear from de Vescy's response to the allegations brought against him in 1293. He claimed that fitz Maurice's captive had been held for money, not for peace, but that fitz Maurice had refused to release him when Domhnall rendered the stipulated sixty cows. Fearing that this breach of trust would lead to war, and with the consent of fitz Maurice's own seneschal, de Vescy had released the hostage.<sup>121</sup> The development of a mutually-beneficial system like this is as we would expect on the frontiers between Gaelic and English Ireland, where gradual acculturation led to the development of mutual comprehension, if not always to good relations.<sup>122</sup>

Davies has argued that governmental efforts to prevent negotiation across the Irish frontier were futile.<sup>123</sup> Overall, this seems a fair assessment – private negotiations must have regularly occurred without official approval, both before and after 1297. It is difficult to believe, for instance, that the mighty and headstrong magnates Richard de Burgh and John fitz Thomas, each of whom was licensed to carry out negotiations during this period, only did so on those occasions when they had official approval. The Dublin government probably often turned a blind eye to such transgressions, and its stance appears to have softened over time, as in 1317 the justiciar's court heard a plea concerning money owed by one frontier lord to another for breach of an agreement between them that neither would make private truces with the Gaels.<sup>124</sup> Nevertheless, it does not seem right to consider these licences to negotiate for the recovery of stolen goods or the restoration of peace as evidence of the policy's failure. Licenses to treat with

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<sup>119</sup> *PROME*, roll 8, Edw. I, m. 1d., no. 6.

<sup>120</sup> *Gormanston reg.*, p. 10.

<sup>121</sup> As above (*PROME*, roll 8, Edw. I, m. 1d., no. 6).

<sup>122</sup> See Morillo, 'A general typology of transcultural wars', pp 35-6.

<sup>123</sup> Davies, 'Frontier arrangements', pp 84-7, at p. 85.

<sup>124</sup> Hand, *English law in Ireland*, p. 35.

Gaelic enemies were not handed out without discretion, and they were usually strictly time-limited. While recognising the necessity of compromise, the government was also emphasising its position as the sole power in Ireland that could legitimately authorise cross-frontier negotiations during war; and in seeking licences to negotiate, the recipients acknowledged that authority, even if they also acted on their own when necessary. If such licences were good enough for John fitz Thomas and Richard de Burgh we can be sure that the stamp of governmental approval still carried a lot of weight even in the most difficult marches and with the most powerful marchers in the early fourteenth century.

### *Spying and the Dublin government*

#### *Centrally organised espionage*

There are a handful of records suggestive of organised espionage efforts by the central government. These are worth examining in the context of the official policy towards the marches, marchers, and Gaelic Irish, although firm conclusions cannot be arrived at. That the records are so slim is unsurprising. Writing on England, Alban and Allmand observed that '[t]he necessarily clandestine nature of fourteenth-century espionage has to this day prevented historians from gaining a complete insight into it';<sup>125</sup> and Bastian Walter, commenting on his plentiful, but terse, sources for organised espionage in late fifteenth-century Burgundy, suggested that his sources' circumspection is 'surely [due to] the secrecy under which spies were operating'.<sup>126</sup> It is by no means being suggested that operations comparable to those seen in the hundred years' war or fifteenth-century city states were being carried out in thirteenth-century Ireland. But the argument that records on the topic were intentionally censored or destroyed perhaps finds support in the fact that the limited evidence for such activities in Ireland during this period is found only in documents relating to the investigations into the separate misconduct allegations against Stephen de Fulbourne and Nicholas de Clere in the mid- to late-1280s. Documents arising from each of these investigations alludes briefly to the mismanagement of the dividends of espionage.

The more compelling evidence is perhaps provided by the accusations against de Clere. With Stephen de Fulbourne's passing in 1289, the colony lost an archbishop and a figure who had

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<sup>125</sup> Alban and Allmand, 'Spies and spying', quoted at p. 74 but see also pp 79-80. As well as expediency, there is some evidence that spying, though widely practiced, was considered ignoble (ibid, pp 76-7).

<sup>126</sup> Walter, 'Urban espionage and counterespionage during the Burgundian Wars', p. 138.

been at the core of the colonial administration for over a decade.<sup>127</sup> These losses were inevitable; but less inevitable was the disappearance of many of de Fulbourne's possessions, and of royal property that had been in his custody – vestments, jewels, church ornaments, money, and documents all went missing before his will could be executed. It seems that Nicholas de Clere was blamed for this: amongst the many charges levelled at him before the king's Hilary parliament in 1290, was the allegation that 'bags and boxes with writs and other secret [documents] of the lord king's (*brevibus et aliis secretis domini regis*)' were taken from their boxes by the treasurer, had their seals broken, and were spirited away never to be seen again. Often *secretus* simply meant private business, and some of these documents, from England and Gascony, may simply have recorded official transactions; but others were concerned with 'conspiracies between the English and Gaels to wage wars (*de conspiracionibus inter Anglicos et Hybernicos de guerris movendis*)'.<sup>128</sup> The loss of these documents is omitted from the records of two subsequent inquiries into the matter before the Irish justiciar, justices of the bench, barons of the exchequer, and others of the king's council – perhaps we are encountering a form of censorship.<sup>129</sup>

These documents preceded by some decades the rebellions of the de Cauntetons and the de Verdens, and there is little further indication of 'conspiracies' emerging so early.<sup>130</sup> Although the precise nature of the documents is unknown and can only be speculated upon, their contents were presumably gleaned from informants, English or Gaelic. It is possible that the government specifically tasked some individuals with spying; the suitability of travelling merchants for such undertakings has already been observed. Spies were certainly employed on the English frontiers of Britain. Payments made to English spies in Scotland are recorded in 1302, 1306, and 1307, and other references are found in 1301.<sup>131</sup> In 1299 we read of Richard le Bret, an Irish hobelar serving as a spy, or perhaps a sentry, in Scotland – the warden of Lochmaben castle requested that Richard

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<sup>127</sup> For an assessment of de Fulbourne's administrative career, see James Lydon, 'The years of crisis', pp 191-3.

<sup>128</sup> *PROME*, Edw. I, roll 3, m. 2d, no. 37 (*CDI*, iii, no. 558, p. 255). Opening private boxes and spiriting away their contents appears to have been a specialty of this treasurer – cf. *PROME*, Edw. I, roll 3, no. 53 (*CDI*, iii, no. 558, p. 263). For *secretus*, see Hill, *The king's messengers, 1199-1377: a contribution...*, p. 98; Alban and Allmand, 'Spies and spying', pp 74-5.

<sup>129</sup> *Documents illustrative of English history in the thirteenth and fourteenth centuries, selected from the records of the department of the queen's remembrancer of the exchequer*, ed. Henry Cole (London, 1844), pp 90-1, 96, 99).

<sup>130</sup> However, see below, pp 250-1, for claims that some clerics were preaching against the English around this time.

<sup>131</sup> *CDS*, v, no. 472, p. 203; *ibid*, no. 492, p. 216; *ibid*, ii, no. 1949. See also *ibid*, no. 1225; *ibid*, no. 2, p. 535; *ibid*, v, no. 256.

be paid soon, as he had been on duty for over six weeks and might leave otherwise.<sup>132</sup> A spy report from August of the same year details the dissensions that arose at a Scottish meeting to assign guardians of the realm. According to Edward's well-placed informant, David de Graham and Malcolm Wallace drew their knives on one another, and John Comyn grabbed the Earl of Carrick by the throat. He also reported where each council member was travelling to after the meeting's conclusion, and their intention to strike at the English March.<sup>133</sup> Edward was clearly running a complex system of espionage in Scotland by the turn of the century, and he was kept personally informed of developments.<sup>134</sup>

We should not expect this level of sophistication in earlier Irish governmental spying efforts, but such activities were not specific to Scotland, or to the fourteenth century. J. Beverley Smith has noted the record of nine men sent into Snowdonia in 1282 *ad Lewelinum et David fratrem suum insidiandum*;<sup>135</sup> and the retention of Alan, *quondam nuncius Leulini*, as one of Edward's personal messengers from 1282-4 is particularly striking,<sup>136</sup> given the care with which the English king's messengers were selected.<sup>137</sup> No Gaelic king in this period could rival Llywelyn's authority for breadth, and it cannot be assumed that English strategies for combatting the Welsh were precisely mirrored in Ireland, where a less cohesive foe may have diminished the efficacy of espionage.<sup>138</sup> Rather than being intentionally collected, it is possible that the information recorded in the inquiry into de Fulbourne's possessions was volunteered, perhaps in exchange for pay or simply out of concern at the havoc that might be wreaked by the alleged conspiracies. In any case, Stephen de Fulbourne's government had evidently collected sensitive information on cross-

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<sup>132</sup> Richard's job was to 'spy the passings and haunts of the enemy by night and day' (*CDS*, ii, no. 1084). Although sentry may be the better translation here, it seems that castle wardens were sometimes responsible for spies in their vicinity (Alban and Allmand, 'Spies and spying', pp 84-5).

<sup>133</sup> *CDS*, ii, no. 1978.

<sup>134</sup> Cf. *CDS*, ii, no. 1221, and *CDS*, v, no. 256. For Edward's personal involvement, see Alban and Allmand, 'Spies and spying', p. 86.

<sup>135</sup> Smith, *Llywelyn ap Gruffudd*, p. 529, fn. 79. See also Emma Cavell's discussion of the espionage role played by leading march lords' wives in bringing about Llywelyn's downfall in 1282 (Emma Cavell, 'Intelligence and intrigue in the march of Wales: noblewomen and the fall of Llywelyn ap Gruffudd, 1274-82', *Historical Research*, vol. 88, issue 239 (2014)).

<sup>136</sup> Hill, *The king's messengers, 1199-1377: a list...*, p. 11.

<sup>137</sup> The king's messengers were part of his household and had to be trusted; they typically had prior experience in another important messenger service such as those of the queen, a prince, the wardrobe, or a government minister (*ibid.*, p. 4; *idem*, *The king's messengers, 1199-1377: a contribution...*, pp 121-3). For brief examination of Irish messengers, see Beth Hartland, "'To serve well and faithfully": the agents of aristocratic English lordship in Leinster, ca. 1272-ca.1315', *Medieval Prosopography*, vol. 24 (2003), pp 216-18.

<sup>138</sup> Llywelyn's broad support, however, was a recent acquisition and was neither universal nor undying. See, for instance, Stephenson, 'Llywelyn ap Gruffydd and the struggle', esp. pp 36-40; *idem*, 'New light on a dark deed: the death of Llywelyn ap Gruffudd, prince of Wales', *Archaeologia Cambrensis*, vol. 167 (2017), pp 244-6.

frontier threats to the colony, and the loss of this information, amongst many other valuables, was considered detrimental to the king's Irish interests.<sup>139</sup>

It is possible that the king had Gaelic informants – perhaps operating like Mac Anmchaid in reverse. This is suggested by an earlier, similarly ambiguous episode. A commission of June 1285 recounts how Philip Keling, junior, the constable of Dublin castle, released an Irish chaplain who was 'detained in the prison of [Dublin] castle on information of the Irish (*super exploratione Hibernicorum*)'. Philip claimed that this was ordered by the treasurer, Walter de Fulbourne, the justiciar's brother. But Stephen de Fulbourne had Philip imprisoned, set his bail at £100, and used distraint to force him to pay. The justiciar had also obstructed an inquiry into the episode which the king had ordered – and the purpose of the June 1285 the commission was thus to appoint new inquisitors for the same purpose.<sup>140</sup>

Setting the alleged injustice of the episode aside, this unusual reference is of great interest here. Little can be said of the chaplain himself, nor of his release, though while the government was under de Fulbourne's thumb it would be unsurprising if a bribe was involved.<sup>141</sup> But it is striking that Gaelic *exploratio* brought about this chaplain's arrest – here spying, rather than scouting, certainly seems the more appropriate reading.<sup>142</sup> Might this cleric have been imprisoned on the basis of centrally organised intelligence-gathering? And might something similar explain the documents that disappeared after de Fulbourne's death? That such organisation occurred seems probable given the Scottish and Welsh contexts. The enigmatic assignment in 1307 of 40*m.* to John de Stratton 'for secret parleys with some, for head money for the worst felons', and the limited information available on the various assassinations discussed earlier, serve to remind not only that the Dublin government was willing to use deception and manipulate personal ties to maintain colonial security, but also that things supposed to remain 'secret' tend to do so, at least as far as the historian is concerned.<sup>143</sup>

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<sup>139</sup> It is not unusual that Edward was personally informed of this information's loss: arrested spies were usually sent to the king, council, or both for interrogation (Alban and Allmand, 'Spies and spying', p. 98. See, for instance, *CDS*, ii, no. 1152).

<sup>140</sup> *CPR*, 1281-92, p. 210; *CDI*, iii, no. 90.

<sup>141</sup> Adrian Empey has observed that, notwithstanding the ubiquity of chaplains in the sources, it is difficult to profile any one chaplain ('Irish clergy in the high and late middle ages', *The clergy of the Church of Ireland, 1000-2000: messengers, watchmen and stewards*, ed. Toby Christopher Barnard and W.G. Neely (Dublin, 2006), p. 31).

<sup>142</sup> *PROME*, Edw. II, 1316 January, m. 7.

<sup>143</sup> *CJRI*, 1305-7, p. 353. Discussed above, p. 186-8.

### *Anti-espionage measures by the central government*

Government directed anti-espionage efforts are also quite subdued in the sources, though they may have informed many discriminatory practices. A striking case study is provided in the record of a career setback experienced by William de Balygaveran in 1304, partly on the basis of ethnicity, after his appointment to the ushership of the Dublin exchequer.<sup>144</sup> William's appointment was disputed by his predecessor in the role, John de Selby, at Edward's Easter parliament of 1305. Making his case, John pointed to his own long occupation of the ushership prior to William's appointment; he also asserted that William was *puyr Irreis* and was therefore unsuitable to hold the office of usher and to *saver les privetez de eschequer*. Edward commanded that the treasurer and barons of his Irish exchequer should ascertain whether William *sit Hibernicus et non ydoneus pro domino rege ad officium predictum*. All of John's claims were confirmed by the Irish justiciar and treasurer *et plures alios de consilio regis hic presentes*: William was *purus Hibernicus et minus ydoneus ad officium illud retinendum*. He was dismissed and John was reinstated as usher.<sup>145</sup>

Hewer has seen William's dismissal as an aberration.<sup>146</sup> He has conclusively demonstrated that Gaels often occupied administrative roles within the colony, not only for the crown but also for lesser lords, secular and ecclesiastical, through the identification of an array of probable Gaelic-Irish attorneys, *narratores*, bailiffs, sheriffs, receivers, collectors, serjeants, sub-serjeants, provosts, and mayors.<sup>147</sup> But these were all local administrative positions. By contrast, the usher worked primarily in the exchequer, the heart that pumped the lifeblood of the colony into those areas that most needed it (and, less salubriously, into Edward's coffers). Offices like sheriff and mayor certainly required trustworthy and diligent incumbents, but these roles did not involve the confluence of access and mobility that, it will be seen, the oft-overlooked usher possessed. A treacherous sheriff was a significant, but local, problem; treachery by the humble usher might have far worse consequences.

This unassuming officer seldom appears in royal correspondence and received a modest wage of 1½*d.* each day that the exchequer was in session. But this was supplemented by door money from people coming to the exchequer, and his considerable responsibilities reflected this

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<sup>144</sup> The changeover may have occurred in Trinity term 1304, when John de Selby and William Baligaueran were jointly paid 5*s.* as ushers (*Irish exchequer payments*, p. 177). This (i.e. 1½*d.* per day) was the sum normally paid to a single usher for Trinity term (ibid, pp 136, 138 208). Although both the higher and lower exchequers had ushers, it was possible for one person to hold both offices (ibid, pp 204, 228, 588, 594).

<sup>145</sup> *PROME*, roll 12 Edw. I, m. 15*d.*, no. 516 (433).

<sup>146</sup> Hewer, 'Justice for all?', p. 83.

<sup>147</sup> Hewer, 'Justice for all?', pp 65-73. There may have been regional variation in this regard – Parker identified Gaelic tradesmen and manorial managers in Waterford, but no Gaels involved in local administrative roles (Parker, 'The internal frontier', pp 145, 149).

augmented income.<sup>148</sup> According to Fitz Nigel's *dialogus*, the usher was responsible for permitting or denying all entry to the exchequer – a task which he was empowered to delegate to a trustworthy servant when he needed rest.<sup>149</sup> Immediately the need for an usher of undoubted loyalty becomes clear. Furthermore, not only might he be privy to at least some of the secrets of the exchequer, which could easily be passed on to merchants, clerics, or other mobile agents stopping in Dublin, but the usher was also responsible for ensuring that writs and summonses issued by the exchequer reached their proper destinations. According to the *dialogus* these writs and summonses could either be delivered personally or by a trusted messenger (*in propria persona vel per fidelem nuncium*),<sup>150</sup> and the Irish issue rolls indicate that Irish ushers were known to employ both methods of delivery.<sup>151</sup> Perhaps ushers sometimes chose to personally deliver the writs in order to diminish their expenses and build rapport with the sheriffs and others who would later give them door money at the exchequer. Clearly the lowly usher not only had a lot of responsibility, but also physical mobility when the exchequer was out of session. Should he so please, he might admit unsavoury individuals into the exchequer, but the more significant danger was perhaps that he might convey sensitive information, or writs, from the core of English power in Ireland to persons ill-disposed to the colony.

The usher's control over entry into the exchequer and the delivery of writs and summonses may explain the unwillingness to permit a Gaelic-Irishman from holding the office – the incumbent's loyalty clearly needed to be beyond all doubt. If, however, after being identified as an *hibernicus*, William had been permitted to retain the office his tenure may have been short, or at least his loyalty subject to further scrutiny, as in subsequent years the exchequer was thought to be vulnerable to Gaelic attack. The issue roll for Trinity term 1307 records 2s. ½d. spent on 'carriage of coffers and bags from the castle to the exchequer... and back at various times to avoid

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<sup>148</sup> In c.1303 Adam de la Roche, the seneschal of Wexford, requested reimbursement from his mistress, the countess of Pembroke, for 3s. paid to three ushers at the exchequer (Richardson and Sayles, *Administration*, p. 233). In the *dialogus* we read that the usher of the lower exchequer received no wage, but received 2d. for every writ of issue and for every forel, which he provided. In Fitz Richard's schema the doorkeeper of the upper exchequer received 5d. per day (*Dialogus de scaccario*, pp 18-19).

<sup>149</sup> *Dialogus de scaccario*, pp 18-19. The office could also be held by attorney – John Gerard was usher for part of April 1309, before being supplanted by Henry de Gildeforde – but John continued in the role as Henry's attorney (ibid, p. 209). John was soon replaced as Henry's attorney by John le Fissacre, who appears to have permanently performed the role for Henry thereafter (*Irish exchequer payments*, pp 213, 215, 222, 226, 228, 232, 233).

<sup>150</sup> Ibid, pp 68-9.

<sup>151</sup> Sometimes the minor necessary expenses included money for 'messengers carrying writs and summonses' or some variant of this phrase (*Irish exchequer payments*, pp 159, 209, 213, 226, 228, 232). In other terms the usher was paid 'for carrying writs and summonses to various parts of Ireland' (ibid, pp 136, 138, 143, 146, 150). When this phrase appears, no money is recorded as having been paid to messengers.

danger because of the war in Leinster'. In Trinity term 1308 it was felt necessary to do so daily, at a cost of 4s. 11½d.<sup>152</sup> These sums, which do not appear on earlier rolls, were released to the usher: as part of his responsibility for small expenses he it was his duty to pay, and perhaps, given his authority for choosing his own messengers and substitute doorkeepers, also select, the men who transported these items to and fro. William's initial appointment suggests that he was deemed suitable in all other respects,<sup>153</sup> and in all likelihood he would have performed the role admirably – but ensconcing a Gael in the exchequer was simply a risk not worth taking.

Some of those consulted by Edward, the *fidedignes*, apparently came from England, and it has been suggested that William de Balygaveran may have spent time there, or that the *fidedignes* were in league with John de Selby.<sup>154</sup> Both suggestions are plausible – John certainly appears to have had a lot of support in Ireland, and his claim that William *procura par ses amys devers le roy que cel office luy fust graunte* suggests that William also had important friends.<sup>155</sup> Nevertheless the matter should be teased out further. Edward sought information on three matters: whether William was a *hibernicus*, whether he was unsuitable for the office of usher, and whether John de Selby had served loyally in that role. The appropriateness of the English *fidedignes* testifying on Edward's first two queries has been questioned – but it seems likelier that these advisors were concerned with the third, and perhaps also the second, queries. With regard to the third, John appears to have been adequate as usher for a long time before William's appointment, and it is unsurprising that he believed his dismissal was unjust. The English *fidedignes* consulted by Edward – perhaps individuals who had visited Dublin during the prior eight years – may have been expected to attest to John's character, rather than to pronounce on William's ethnic origins.

More significantly for present purposes, it appears that John's alleged Gaelicness was intimately connected to his alleged unsuitability to know the exchequer's secrets.<sup>156</sup> It is possible that the English *fidedignes* were expected to assist Edward only in interpreting the advice of his

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<sup>152</sup> *Irish exchequer payments*, pp 195, 204. For the growing threat to Dublin from the 1290s, see James Lydon, 'The defence of Dublin in the middle ages', Seán Duffy (ed.), *Medieval Dublin IV: proceedings of the Friends of Medieval Dublin Symposium 2002* (Dublin, 2003), pp 71-2.

<sup>153</sup> It should be noted, however, that Edward apparently appointed William without consulting with the Irish treasurer, as he mistakenly believed that the ushership was vacant. It seems from John de Selby's petition that the treasurer and barons of the exchequer, the justiciar, and the chancellor, were amongst his supporters.

<sup>154</sup> Hewer, 'Justice for all?', p. 83.

<sup>155</sup> *PROME*, appendix to Roll 12 Edw. I, no. 516.

<sup>156</sup> Each of the five references to the allegation that William was unsuitable for the office is immediately preceded within the same clause by the claim that he was *puyr Irreis* or *purus Hibernicus* (*PROME*, Edward I, roll 12, m. 15d., no. 516 (433)).

Irish officials, on the basis of their knowledge of England, Scotland, Wales, and France, where war had increased the incidence – or at least the reported incidence – of spying. Concerns about the dangers of French spying are suggested by the principle, established in 1295, that alien religious houses should not be permitted to hold coastal lands during war.<sup>157</sup> Furthermore, fears that a centre of English government might be infiltrated at its very core had a historical basis. Edward's own court had been infiltrated by spies at least twice prior to 1305. A 1285 court record reveals that at some point in the past (probably c.1275) Nicholas de Waltham, parson of Banbury in the diocese of Lincoln, had spied on Edward's court for Llywelyn ap Gruffudd and the sons of Simon de Montfort. Nicholas escaped and could not face punishment in body, but he was outlawed and deprived of his church.<sup>158</sup> Better known is the case of Thomas de Turberville, one of Edward's household knights, who was induced, during French imprisonment, to feign escape and spy on the English king's court. A treacherous epistle addressed to the provost of Paris was betrayed to Edward by Thomas's own messenger and he was hanged and drawn.<sup>159</sup> If nothing else, the episode illustrates the importance of having a trustworthy messenger. To spy within Edward's own court was extremely ambitious and cannot have been the norm. It is probable that many lesser spying episodes went unreported, and perhaps unnoticed, despite the growing paranoia in the English administration.<sup>160</sup> In any case, infiltration by malefactors was deemed a very real threat.

Evidence of such episodes is exceedingly rare at this early date, and contemporary reportage of Turberville's case is clearly sensational, as, most likely, is the court record concerning de Waltham.<sup>161</sup> But in overlooking the sensational one forgoes opportunities to examine some of

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<sup>157</sup> Alban and Allmand, 'Spies and spying', p. 92. The confiscation of French properties and goods from 1294-7 had a significant fiscal dimension, but also served to reduce the mobility of French merchants whose ships were confiscated. For this episode, see Bart Lambert and W. Mark Ormrod, 'A matter of trust: the royal regulation of England's French residents during wartime, 1294-1377', *Historical Research*, vol. 89, no. 244 (2016), pp 212-15. For fears of mercantile spies in the fourteenth century, see Alban and Allmand, 'Spies and spying', pp 93-4.

<sup>158</sup> *Oxford city documents, financial and judicial, 1268-1665*, ed. James E. Thorold Rogers (Oxford, 1891), pp 204-5. See Stephenson, 'Llywelyn ap Gruffydd and the struggle', p. 44; Smith, *Llywelyn ap Gruffudd*, p. 395.

<sup>159</sup> For the evidence and context of de Turberville's treason, see John Goronwy Edwards, 'The treason of Thomas Turberville, 1295', R.W. Hunt, W.A. Pantin, R.W. Southern (eds), *Studies in medieval history presented to Frederick Maurice Powicke* (Oxford, 1948), pp 296-309. De Turberville's letter was recorded in the Cotton annals; one of the details that he sought to report to Paris was the presence of John fitz Thomas in London in connexion with his dispute with Richard de Burgh. Edwards considered this letter genuine (ibid, p. 299).

<sup>160</sup> For less dramatic spying episodes, see, for instance, the recidivistic Scottish spy recorded in *CDS*, ii, no. 1152. See also the bishop of Chester's letter concerning the capture of a spy of William Wallace (*CDS*, v, no. 236).

<sup>161</sup> De Turberville's treason has been described as a *cause celebre* of its day – it was recorded in most contemporary chronicles and was the subject of a popular song (Edwards, 'The treason of Thomas Turberville', p. 296).

the most contagious ideas in the society under examination.<sup>162</sup> The outline of de Turberville's tale provided in Pembridge's annals suggests his enduring notoriety in Dublin, at least in the mid-fourteenth century.<sup>163</sup> These startling, and startlingly recent, episodes, and the ongoing hostilities with France and Scotland, can only have heightened paranoia – certainly, rumours of Welsh collusion with the Scots became common in England from c.1300.<sup>164</sup> If the *fidedignes* of either Ireland or England were expected to pronounce on the wisdom of placing an otherwise exemplary Gaelic-Irishman in the treasury, it is hardly surprising that they balked. Whether or not this was the purpose of their appointment, the dismissal of the only known Gael to hold an exchequer office during these years should not be deemed aberrant, and nor should it be viewed in isolation. Distrust of outsiders was waxing high in England at the time and this trend probably influenced official attitudes towards the Gaelic-Irish as well.

It will by now be clear that the evidence for organised spying by – or, indeed, on – the Dublin government is slim. Nevertheless, it seems quite likely that spying of some sort was directed, or at least capitalised upon, by the Dublin government. This is unsurprising in an environment characterised by distrust of both Gaels and frontiersmen.<sup>165</sup> The documentation arising from the administrative scandals of 1285-90 afford us two glimpses at what appears to be the mismanagement of information gained through espionage. What further evidence may have once existed has been lost. As has been noted, reluctance to commit information on such matters to writing – at least on the surviving rolls – is not a state of affairs unique to Ireland, nor to the thirteenth century. The dismissal of William de Balygaveran from the role of usher arose primarily from the need to correct the accidental dismissal of John de Selby, whose suitability for the job is clear. But in the process of sorting out the situation, a discriminatory principal apparently rooted in concerns about espionage was explicitly laid out: a *purus hibernicus* should not be employed in the exchequer. This should be regarded in the context of the crown's contemporary Scottish and Welsh, as well as Irish, frontiers. Nevertheless, if it is felt that the evidence for centrally directed

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<sup>162</sup> It is perhaps inappropriate to use the term 'sensational', a medieval context, given that the evidence upon which we rely was produced and consumed by a small portion of the population. See Joy Wiltenburg, 'True crime: the origins of modern sensationalism', *American Historical Review*, vol. 109, no. 5 (2004), pp 1381-2. For the unique place of crime in the history of sensationalistic writing, see *ibid*, pp 1379-80.

<sup>163</sup> *CSM*, ii, pp 324-5. He also remained notorious to English chroniclers – Edward II's biographer included him in a list of historical traitors who received their just desserts (*Vita Edwardi ii*, pp 168-9).

<sup>164</sup> Ethan Gould, 'Fishing in troubled waters: Scottish intrigue and interference in Wales, 1315-1327', *Journal of the Mortimer History Society*, vol. 2 (2018), pp 23-4. The credibility of this threat grew considerably after Bannockburn, and with the onset of the Bruce invasion of Ireland (*ibid*, p. 24ff).

<sup>165</sup> That is not to say that to be Gaelic was to be cast out from society altogether. Consider, for example, the case of John Francis, who tried to have his election as reeve annulled in 1320 on the grounds that he was Gaelic-Irish (Lyons, 'Manorial administration', p. 45).

espionage and counter-espionage is too thin, the same is not true of spying at a more local level. As will be seen, it certainly happened on the frontiers of late thirteenth- and early fourteenth-century Ireland, as well as in Wales and the north of England.

## *Local Spying*

### *The character of local spying*

We turn now to the many allegations of spying that came before the court of the justiciar or his *locum tenens* from the late 1290s. The existence of spying allegations within the court rolls is well known, but their historiography consists of little more than passing comments intended to service broader arguments. This has resulted in the development of some misleading emphases within discussions of the topic. Moreover, published work has not recognised the number of extant spying cases. If evidence for the management of organised spying by the central government is an uncertain prospect, there was certainly a relatively widespread belief that Gaelic felons had planted spies on the frontiers, some of whom operated for many years before coming to trial. In extant records from the years 1297-1318 alleged spies were tried in Offaly, Kildare, Dublin, Ballymore, Drogheda, Carlow, Cork, Limerick, Wexford, and Waterford. Here, some apparent trends will be drawn out from a much wider range of cases than has been studied up to now. Given that spying cases often involved the alleged betrayal of the local community, it was probably a very emotive issue, and definitive evidence may often have been lacking.<sup>166</sup> As such, the verdicts will not be accorded too much empirical value here; rather, these local efforts to police frontier interactions, and the official support that they received, should be taken to indicate frontier paranoia, as well as empirically-founded concerns about local security. With regard to government policy, these cases should be taken to indicate official interaction and cooperation with the frontier localities in order to improve security there.

First, however, precisely what judicial allegations of 'spying' denoted must be ascertained as closely as possible. We have seen that *exploratio* had a range of related but distinct meanings. In England, *explorator* could describe those who spied in the service of the crown or its political rivals, but it could also signify people who spied for regular brigands. This is illustrated by the case of Walter de Ufton, the Nottingham-based *explorator* who, in 1332, assisted in the escape of

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<sup>166</sup> Cf. MacDonald's observation that some spying cases in Scotland appear to have been founded on exceedingly flimsy grounds (Alastair MacDonald, 'Espionage in later medieval Anglo-Scottish relations', pp 7-8).

notorious felons John Coterel and Roger Savage by warning them of approaching lawmen.<sup>167</sup> Similarly, in Ireland it cannot be assumed that all 'spying' episodes in the Irish records involved malignant collusion across the frontier. In 1297 four or five men accused as 'common robbers and spies' fled and were outlawed;<sup>168</sup> in 1316 Alice Ynybrenan (Ua Bhraonáin) was hanged, having been charged that she was a common robber and spy, and had taken £40 of goods at the robbery of John de la Freyne;<sup>169</sup> and in 1317 Philip McOldrich (Mac Ualgaire) was acquitted of being 'a common thief... robber and spy... went to spy upon the faithful patriots for divers thieves'.<sup>170</sup> In none of these cases is it certain that the alleged spying was supposed to have benefitted Gaelic felons – and Muriartagh O Coygnan spied for the de Cauntetons and other felons.<sup>171</sup> Although terms like 'thief', 'robber', and 'felon' were often applied to Gaelic-Irish political opponents, it should not be assumed that all so named were Gaels from beyond the frontier when positive ethnic identifiers are absent.<sup>172</sup>

Collusion across the frontier was certainly not a factor in the case of Thomas Shorthond. In 1297 this would-be thief tried to take advantage of the panic caused by an Uí Diomasaigh raid by spying out the land around Kildare town to nefarious ends (*explorantes patriam ad malefaciendum*). While doing so he was apparently slain by the Uí Diomasaigh, and after three days passers-by were alerted to his remains by the presence of *corvos et canes comorantes in campis*.<sup>173</sup> Shorthond evidently hoped to capitalise on the dangers of the frontier to his advantage, and the record implies that he did so habitually. But there is no indication that this was anything other than a solo venture. However, this episode, and the ambiguous cases mentioned above, are outliers amongst the extant sources: in each of the remaining cases that have been identified for the present study, the accused spies were explicitly charged with collaborating with Gaelic felons.

The Shorthond case may reveal little about trust on the frontier, but it is of immense value here. The compilers of the unpublished Record Commission (RC) court roll calendars were

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<sup>167</sup> E.L.G. Stones, 'The Folvilles of Ashby-Folville, Leicestershire, and their associates in crime, 1326-1347', *TRHS*, fifth series, vol. 7 (1957), p. 127. For de Ufton's other crimes, and the leniency he was extended, see J.G. Bellamy, 'The Coterel gang: an anatomy of a band of fourteenth-century criminals', *EHR*, vol. 79, no. 313 (1964), p. 711.

<sup>168</sup> *CJRI*, 1295-1303, p. 188. Their names were Nicholas McCrinan, Thateg Okellan, Walter Martin, and Roger le Rede. It is unclear in the calendar whether Walter Martin was Thateg's son, or if Thateg's son was a fifth suspect.

<sup>169</sup> NAI KB 2/8, p. 94.

<sup>170</sup> NAI KB 2/12, p. 57.

<sup>171</sup> NAI KB 2/7, pp 39-40.

<sup>172</sup> See, for instance, Robert de Ufford's 1277 report that '[t]he thieves who were in Glendelory have departed, many of them having gone to another strong place' (*CDI*, ii, 1400).

<sup>173</sup> *CJRI*, 1295-1303, p. 176; RC 7/4, p. 420. For measures in Kilkenny town for closing the gates 'in time of war, uncertainty or peril', as appears to have happened here, see *Liber primus Kilkenniensis*, trans. and ed. Jocelyn Otway-Ruthven (Kilkenny, 1961), p. 14.

apparently uninterested in spying allegations – this is the only ‘spying’ case that is available both in translation and in the Latin RC calendar. It provides valuable insight into the translation practices of the published calendar, in which *explorantes* was rendered as ‘searching’.<sup>174</sup> This is not an unreasonable translation, but it highlights a potential problem in the present context – the term may have been translated inconsistently in *CJRI*. This does not seem to have arisen frequently however – the translators were not averse to using the term ‘spy’, probably translated from *explorator*,<sup>175</sup> and I have identified only two further cases in which their translations might be questioned on these grounds. In each, the loss of the original Latin means that reservations must be harboured, but it nevertheless seems quite likely that *explorator* was translated to searching in these instances, as in the Shorthond case.

One such case appears in December 1310. David Dunegan, miller of Balicotlan, and Philip son of Thomas le Lang of Molaghcassyr (Mullacash, co. Kildare?) came before the justiciar at Ballymore, charged that

‘they commonly search the country and inns for the goods and chattels of the natives of the county Kildare against the arrival of Irishmen from the mountains of Leinster, felons of the king, and... they lead these felons by night to rob their neighbours being at peace with the king’.<sup>176</sup>

They were also accused of having art and part with these Gaelic-Irish robbers, and Philip was further charged with involvement in the theft of seventy-one pigs and killing Henry Donne, an Englishman. Philip was hanged, but David escaped the noose, as it turned out that his brother of the same name ‘sojourns among the Irish, and it is that David who does all the evil he can do throughout the country’.<sup>177</sup> The description of their crime of reconnoitring targets for Gaelic felons is the same as that given in many other ‘spying’ cases, and it seems very likely that ‘they... search’ was translated from *explorant*. As in the Shorthond case, ‘search’ seems a perfectly adequate translation here, and, indeed, the same might be said of the majority of ‘spying’ cases identified. It seems that ‘scouting’ or ‘reconnoitring’ might often be as appropriate a translation as ‘spying’.

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<sup>174</sup> *CJRI*, 1295-1303, p. 176; RC 7/4, p. 420. In the published calendar the first-quoted phrase is rendered ‘searching the country to do mischief’.

<sup>175</sup> A case found on an extant original court roll uses the term *explorator* (NAI KB 1/2, m. 1). Smith took *insidiandum* to denote spying in Wales, and was probably correct in doing so (see above, p. 222). However, the appearance of ‘spy’ and ‘intriguer’ together in a single Irish case suggests that the calendarists were translating *insidiator* as intriguer (see below, p. 232).

<sup>176</sup> *CJRI*, 1308-1315, p. 164.

<sup>177</sup> Perhaps one of these siblings was the ‘David the miller’ who was hanged in Waterford three months later (*CJRI*, 1308-1315, p. 183).

David and Philip were accused of spying out valuables and then guiding bands of felons to them, and this appears to have been one of the key features of the *exploratio* cases that came before the justiciar. Certainly, when details of spying escapades are provided the defendants always appear to have been searching, seeing, *spying out* – not simply gathering and passing on any sensitive information at all. Many cases involve individuals engaging with felons in ways that presumably involved some degree of communication, such as receiving them, but not being charged as spies. A few particularly striking examples will be adduced here. In 1311 Johanna Bryde and her husband made fine by 60s. when they were accused of harbouring and having art and part with six robbers; Johanna herself was further accused of ‘abet[ting] them to rob her neighbours, whom she hates’. This vague charge perhaps implies the sharing of information, as opposed to more direct assistance.<sup>178</sup> The record of a 1297 case brought against three married couples is less ambiguous: they were ‘often in company of felons, and tell them the secrets of the English’. The record is incomplete, but it seems that the accused fled and were outlawed.<sup>179</sup> Still more striking are the charges brought against Gillice Odufgyn in 1313. She was found innocent of ‘receiving Gylyn, a kinswoman of Nyvyn son of Hyghe, who is an Irish spy and an intriguer between Irish and English, and [of] carr[ying] victuals to felons, robbers and thieves of the countryside’.<sup>180</sup> Although Gillice was accused of having provided a known spy and intriguer with accommodation, and of personally carrying food to felons, she was not herself charged with spying. This strongly implies that *exploratio* was a more specific act than simply sharing any and all information.

Descriptions of other spies’ activities also imply movement. Although the act of *exploratio* is omitted from the accusations brought against Walter Gigg in 1311, it might be presupposed by the charge that he ‘leads Coulygh Macneel and other Irish felons coming from the woods and mountains of Hatherde (Ardee) to steal animals and other goods of faithful Englishmen in the said county’.<sup>181</sup> After all, the notorious Coulygh Mac Néill, who had recently risen in war alongside Matghamhna Mac Mathghamhna, was surely capable of commanding his own band of brigands. Walter, then, was their guide.<sup>182</sup> In 1313 Thomas Smegyn was found guilty of being ‘a common spy upon loyal countrymen’, and of ‘bring[ing] Irishmen from the parts of Desmond to rob the said

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<sup>178</sup> Ibid, p. 192. The felons’ names were John Ohartwor, Philip Omoreghyht, Roger son of Nicholas Duff de Caunt’, Hubert de Cauntetoun, Gillebervagh Ohanemeghth son of McDille Ohanemeghythe, and William Beket.

<sup>179</sup> *CJRI, 1295-1303*, p. 188.

<sup>180</sup> *CJRI, 1308-1315*, p. 294.

<sup>181</sup> Ibid, p. 167.

<sup>182</sup> As a result of this war ‘the whole peace of those marches [was] disturbed’ (*CJRI, 1308-1315*, p. 170). As well as Walter Gigg the justiciar also dealt with a common arsonist from Mac Néill’s following at this session (ibid, p. 168). For the dynamics between Mac Néill and Mac Mathghamhna, see Brendan Smith, ‘The medieval border’, p. 51; idem, *Colonisation and conquest*, pp 84-5.

lieges’;<sup>183</sup> in 1315 Muriartagh O Coygnan, a common spy amongst certain felons, was accused of guiding them to the homes of those who denied him hospitality;<sup>184</sup> and in 1318 Robert O Farghyll, a chaplain, was convicted as a ‘common spy and messenger of felons of the king by the name of the Brynnes of Duffre’. He had ‘often guided [them] within the liberty of Wexford to commit divers robberies there’.<sup>185</sup> Cases against spies who were not accused of personally leading felons to their marks also sometimes implied movement. The case of Thomas Shorthond, discussed above, certainly involved actively searching the land, and in 1297 John le Feure de la Graue was found innocent of ‘hav[ing] access to felons of the mountains when at war, to spy the state of the country’.<sup>186</sup> In 1302 Isabella Cadel and Fynewell Seyuyn were arrested while coming from the felons of the mountains – like Robert O Farghyll they were, by their own admission serving as messengers and couriers for Gaelic felons, and they were initially charged as spies.<sup>187</sup> Grathagh Ua Tuathail, whose spying on behalf of the English will be discussed shortly, travelled into the mountains to carry out this task. That many spies were believed to be personally guiding felons on their damaging raids probably made spying cases still more emotive.

In each case that provides details of the information which alleged spies were thought to have betrayed, they were accused of sharing the locations of herds or other valuables. We have already seen this in the cases brought against David Dunegan and Philip son of Thomas le Lang, Walter Gigg, and Thomas Smegyn, each of whom allegedly guided felons on their raids. The same can be seen in other cases. Henry son of Simon was charged with spying out the afers and oxen of faithful men;<sup>188</sup> Grathagh Ua Tuathail spied out ‘cattle carried off by her race’ for the English, and later spied for Gaelic felons, who robbed the community she had once aided;<sup>189</sup> the *hibernici* of Henry de Cruces were accused of receiving Gaelic felons of Offaly and spying out diverse robberies for them (*et sunt eorum exploratores ad diversas roberias faciendas*);<sup>190</sup> those who were visited by the harpist Muriartagh O Coygnan might soon after be attacked by felons;<sup>191</sup> and Philip McOldrich was charged with spying on faithful patriots for divers thieves, for the purpose of robbing them’.<sup>192</sup> It is not certain that every spying case heard by the justiciar related to scouting

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<sup>183</sup> *CJRI, 1308-1315*, p. 286.

<sup>184</sup> NAI KB 2/7, pp 39-40.

<sup>185</sup> NAI KB 2/12, p. 78.

<sup>186</sup> *CJRI, 1295-1303*, p. 205.

<sup>187</sup> *Ibid*, p. 368. See below, p. 243-4.

<sup>188</sup> *CJRI, 1305-1307*, pp 477-8.

<sup>189</sup> *Ibid*, pp 480-1; NAI KB 1/2, m. 1. See below, pp 238-42.

<sup>190</sup> David Victor Craig, ‘The memoranda roll of the Irish exchequer for 3 Edward II’, i, unpublished PhD thesis (TCD, 1984), p. 405.

<sup>191</sup> NAI KB 2/7, pp 39-40.

<sup>192</sup> NAI KB 2/12, p. 57.

out valuables, but the preponderance of evidence seems to suggest that this was the specific meaning of the term's use in the justiciar's court.

Most of those charged with spying had reputations for criminality. They were often termed 'common spies',<sup>193</sup> and it was rare for a defendant to be charged only with spying.<sup>194</sup> The typical alleged spy was often also a thief or a robber, had art and part with their collaborators, was a receiver, or was simply known to commonly keep the company of felons. However, there is no indication that 'spying' was liable to be added casually to an already long list of charges by accusers. It was a sufficiently rare, and, it seems, specific, accusation to suggest that espionage was regarded as a genuine and distinct concern for the communities that brought spies before the justiciar. Nevertheless, spying was clearly an auxiliary crime that facilitated the subsequent perpetration of more directly injurious acts; it is unsurprising that alleged spies were typically already known as criminals. Sometimes the felons with whom charged spies were associated were specified. Several individuals charged in Kildare and Dublin were accused of spying for felons from the mountains,<sup>195</sup> and Henry de Crues's *hibernici* of Rathcosthy (?) were charged with spying for the Gaelic felons of Offaly.<sup>196</sup> Sometimes the record is still more specific. Gillicolm Omoran was 'a man of Calvagh Oconnughor'; Walter Gigg worked with Coulygh Mac Néill and other Irish felons from the woods and mountains of Ardee; Ger. de Beafon was an associate of the Obrynnes; Thomas Smegyn was connected with Dermod Roth Offelan in Desmond; Alicia Oketyf was associated with Dovenald Okethyf; and Robert O Farghyll was a spy and messenger for the Brynnes of the Duffry.<sup>197</sup> It was not only Gaelic felons that employed such agents – Muriartagh O Coygnan was accused of spying for the de Cauntetons and other malefactors of Cork.<sup>198</sup> The spying that shows up in the court records fit into local patterns of both crime and warfare – categories which were heavily intertwined, and perhaps often indistinguishable on the frontier.

A spying allegation could be very dangerous. Anyone suspected of guiding raiders to vulnerable and valuable targets was bound to be looked on poorly by their accusers. Some alleged spies were found innocent, but most extant verdicts record guilt, and those who were convicted were almost invariably hanged. It is possible that fines for peace were seldom permitted, or that the fines demanded were so high that the accused could rarely find pledges for their payment. Only two alleged spies that came before the justiciar in the extant records were permitted to make

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<sup>193</sup> *CJRI*, 1308-1315, pp 164, 286, 303; *NAI KB* 2/8, pp 17, 94; *NAI KB* 2/12, pp 57, 78; *NAI KB* 1/2, m. 1.

<sup>194</sup> The only such case I am aware of is that of John le Feure de la Graue (*CJRI*, 1295-1303, p. 205).

<sup>195</sup> *CJRI*, 1295-1303, pp 205, 368; *CJRI*, 1308-1315, p. 164; *NAI KB* 1/2, m. 1.

<sup>196</sup> Craig, 'The memoranda roll', p. 405.

<sup>197</sup> *CJRI*, 1295-1303, p. 208; *CJRI*, 1308-1315, pp 167, 232-3, 286, 303.

<sup>198</sup> *KB* 2/7, pp 39-40.

fine. Richard le fi[t]z Adam le Stabler was charged as a spy for Irish robbers and a receiver of Adam, his father, and was permitted to make a fine of 1*m.* – a small sum to find promised in the justiciar’s court for any crime.<sup>199</sup> And John Jordan promised £20 to have the king’s peace for spying for Irish felons and knowingly receiving them and other malefactors.<sup>200</sup> As these are the only two instances of charged spies making fine, as opposed to being hanged, handed over to their bishop, or found innocent, there is little use in speculating as to the means by which fines for spying were calculated. It seems quite likely that Richard le fitz Adam was found guilty of receiving his father but not of spying, which would explain the small size of the fine extracted from him – receiving friends and family was very common and Richard’s jurors could probably forgive his doing so.<sup>201</sup>

By contrast with Richard’s fine, that made by John was very large and probably more nearly reflects the perceived seriousness of his offences. It is unlikely that most of those charged could have paid or found pledges even for far smaller fines, however. Of those convicted spies who did not make fine, only two had chattels. In 1317 Grathagh ynyne Otothil (Ua Tuathail) was hanged, but had chattels worth 12*s.*; and Ger. de Beafon, who told his arresting serjeants ‘he would rather be slain than hanged’ and was duly felled, had twenty-six pigs, worth 15*s.* 2*d.* in total.<sup>202</sup> Neither could have come close to paying the fine imposed on John Jordan, but if they had supporters within the community they might have been able to find pledges for a lesser fine. It appears, from the admittedly limited evidence, that local support could make all the difference in a spy trial – the very fact that some perpetrators were allowed to live reveals that although spying was a very serious offence, it was not necessarily unforgivable.<sup>203</sup> In 1302 Isabella Cadel and Fynewell Seyuyn (Finnghuala ?) were accused of a litany of crimes including spying, but they escaped the noose through the intercession of some powerful men who had known Isabella’s father. Instead of being hanged they only had their chattels seized. It is also striking that John Jordan was also accused of receiving, indicating that he lived in the area and was known to the local community. Indeed, Áine Foley has identified John as the brother of the local king’s serjeant, Adam Jordan, and despite his crime he managed to secure at least five pledges for his fine, many

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<sup>199</sup> *CJRI, 1295-1303*, p. 194. Adam le Stabler appeared before the same court nine months later and claimed that he had already made a fine of one mark for his crimes – a search of the rolls revealed that he was referring to the fine made by his son (*ibid*, p. 197).

<sup>200</sup> *CJRI, 1305-1307*, p. 509.

<sup>201</sup> Cf. Hanawalt, *Crime and conflict in English communities* (Harvard, 1979), p. 122. For some other Irish examples (both probable and certain) of felons being received by family, see *CDI*, ii, no. 2274; *Alen’s reg.*, p. 111; *CJRI, 1295-1303*, pp 32-3, 167, 173, 187, 199; *CJRI, 1308-1315*, p. 145.

<sup>202</sup> KB 1/2, m. 1; *CJRI, 1308-1315*, pp 232-3.

<sup>203</sup> Cf. the observation that ‘[I]n medieval Dublin there was no long-lasting stigma attached to having a criminal past’ (Áine Foley, ‘Violent crime in medieval County Dublin: a symptom of degeneracy?’, Séan Duffy (ed.), *Medieval Dublin X: proceedings of the Friends of Medieval Dublin Symposium, 2008* (Dublin, 2010), p. 225).

of whom appeared on other juries and were therefore evidently well-to-do individuals themselves.<sup>204</sup>

By contrast, none of those who were hanged were accused of receiving, and some may have been wanderers. Spying out and reporting upon the locations of herds did not necessarily require detailed local knowledge, and career longevity cannot have been very promising for 'common spies' who habitually targeted their own locale. It seems that the harpist Muriartagh O Coygnan perambulated within his domain. In 1315 he was accused of being present at the burning and robbery of John Kenefeg's grange and haggard at Rathmelignan, and of being 'in the habit of coming to the houses of the liege men of the country as a minstrel to ask for alms', and attempting to rob those who denied this request. The jury attested that he was not present at the attack, but had procured it, and had done similarly before: he was a 'common spy... [and] as an actor commonly begs hospitality from the liege men of the country and if anyone refused...he forthwith gets the said felons to take vengeance upon them'.<sup>205</sup>

The prospect of spies as wanderers, and the tendency for those convicted to hang, recalls Hanawalt's suggestion that the high acquittal rate for felons in England might be partly explicable by the finality of the punishment meted out to those found guilty. A defendant whom the jurors knew personally was much safer than a stranger in the same court, and the potential for reciprocal hostility to be directed against unmerciful jurors probably tempered inclinations to convict one's neighbours.<sup>206</sup> Local support was probably lacking for the two hanged spies who possessed chattels. When Ger. de Beafon was confronted at his home and accused of receiving, he claimed that the justiciar was 'moved against him' for his initial refusal to submit peacefully; but Ger. had allegedly been a public malefactor, spy, and associate of the Uí Broin and their confederates for fourteen years, and his attempted flight probably reflected a well-founded concern that he would receive little sympathy from any local jury.<sup>207</sup> Similarly, Grathagh had been a member of her community for over a decade – twelve years earlier she had received a glowing character testimony before the justiciar's court. Nevertheless, it seems that both she and de Beafon lacked not only the funds needed to make fine, but also the still more important trust of their neighbours.

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<sup>204</sup> Foley, *The royal manors*, p. 168. For these jurors' appearance on other juries, see, for instance, *CJRI*, 1305-1307, pp 258, 476, 492, 504.

<sup>205</sup> KB 2/7, pp 39-40.

<sup>206</sup> Hanawalt, *Crime and conflict*, pp 268-9; Reynolds, 'Trust in medieval society and politics', pp 10-11. For exploration of this idea in an Irish context, see Foley, 'The outlaw in later medieval Ireland', p. 157; *idem*, *The royal manors*, p. 151. For more on the importance of local support, see below, pp 241-2.

<sup>207</sup> Cf. Foley's observations on the tendency for outlaws to get away with their crimes by intimidating the local population ('The outlaw in later medieval Ireland', p. 165).

Unlike Richard and John, who made fine, and even Grathagh and Ger., who had some chattels, the majority of those charged with spying appear to have been individuals of very limited means. Of the twenty-seven alleged spies I have identified for whose cases the verdict is known, only three were found innocent.<sup>208</sup> Of the remaining eighteen or nineteen, two made fine;<sup>209</sup> two simply had their chattels taken as punishment;<sup>210</sup> four or five fled;<sup>211</sup> and nine were hanged, while a tenth, because he was a clerk, was handed over to his ecclesiastical superior.<sup>212</sup> Of these ten, Grathagh alone had chattels.<sup>213</sup> Given the limitations of the evidence these proportions should not be accorded too much weight, but are worth outlining nevertheless.

With regard to the low incidence of chattel possession amongst those hanged as spies, similar trends have been observed by Hewer amongst thieves hanged in Ireland during the same period,<sup>214</sup> and by Hanawalt in her examination of people hanged in Ramsay during the first half of the fourteenth century. Hanawalt warned against reading into this too deeply: felons' families were liable to hide their wealth if they could, while unscrupulous lawmen were liable to use it to augment their incomes. Even awaiting one's fate in gaol could be expensive, as prisoners were maintained at their own cost.<sup>215</sup> In the case of spying in Ireland, however, many of the defendants – and in particular those who were hanged – may have been wanderers living from crime to crime, or at least leading unsettled lives at the time of their capture. This suggestion is made due to the strong association between *exploratio* and movement, their lack of chattels, and their lack of any association with receiving despite being accused of other crimes. It is easy to see how someone with little choice but to steal for sustenance might have fled the colony and begun spying for bands of robbers. After all, it was as well to be hanged for a sheep as a lamb, and association with organised 'criminal' bands that dwelt beyond the comfortable reach of the law probably provided a stronger sense of security than the slim hope of clemency from the justiciar on account of poverty.<sup>216</sup> Equally, it is easy to see how unfamiliar individuals passing through frontier

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<sup>208</sup> *CJRI, 1295-1303*, p. 205; *CJRI, 1305-1307*, p. 164; *NAI KB 2/12*, p. 57.

<sup>209</sup> *CJRI, 1295-1303*, p. 194; *CJRI, 1305-1307*, p. 509.

<sup>210</sup> *CJRI, 1295-1303*, p. 368.

<sup>211</sup> *Ibid*, p. 188; *CJRI, 1308-1315*, pp 322-3. It is unclear in the first case whether four or five men were being accused as spies; the latter case was that of Ger. de Beafon, who had chattels.

<sup>212</sup> *CJRI, 1295-1303*, pp 176, 208; *CJRI, 1308-1315*, pp 164, 167, 286, 303; *NAI KB 2/8*, p. 17; *NAI KB 2/8*, p. 94; *NAI KB 2/12*, p. 78; *NAI KB 1/2*, m. 1.

<sup>213</sup> It is unclear whether the men who fled in 1297 had chattels (*CJRI, 1295-1303*, p. 188). Ger. de Beafon is excluded from these figures as he was not tried.

<sup>214</sup> Hewer, 'Justice for all?', p. 219. See also Foley, 'The outlaw in later medieval Ireland', pp 163-4.

<sup>215</sup> Hanawalt, *Crime and conflict*, pp 129-30. For an instance of an Irish sheriff trying to pilfer his charge's property, see *CJRI, 1305-1307*, p. 160.

<sup>216</sup> For some instances of the poor being pardoned by the justiciar for minor crimes or amercements, see *CJRI, 1295-1303*, pp 28, 53, 119; *CJRI, 1305-1307*, pp 173, 238, 414; *CJRI, 1308-1315*, p. 213; *NAI KB 2/12*, p. 55.

settlements might have been suspected, rightly or wrongly, of involvement with local raiders from across the marches. Nevertheless, it is clear that some of those charged with spying were locals, and the ambiguity of most cases means that precisely how common this was cannot be discerned. The justiciar's court supported frontier communities by hearing these charges and punishing those found guilty; doing so fit into its broader priority of ensuring the security of the frontier by minimising the incidence of Gaelic raids.

### *Sex and spying*

The decision to examine female alleged spies as a single group has been influenced more by the historiography than the sources. Writers who have alluded to spying in Ireland have almost exclusively focused on female spies,<sup>217</sup> largely because, while the records from spying cases are rarely informative, two cases in which the defendants were female are quite detailed and provide fascinating insights into often inaccessible topics other than spying. However, it will be seen that only a small proportion of the extant spying cases involved female defendants. This is not to say that the primary sources provide no grounds for studying female spying as a separate category. A case that came before the justiciar in 1305 provides some reason to suspect that female spying was more common than the records of the justiciar's court might lead us to believe, and that it may have been facilitated by intermarriage. If so, this may have lent a different character to some cases of female *exploratio* – and, of course, it cannot be presumed that the sources provide a proportionally representative sample. Nevertheless, it is clear from the balance of extant evidence that an undue, and therefore misleading, overemphasis has been placed on female spying.

The most important case relating to female spying is the second of the two cases, mentioned earlier, in which the calendared translation is suspect.<sup>218</sup> In December 1305 Andrew le Deveneys and his wife, Grathagh, were accused of receiving Kelt (Caoilte), 'a man of David McKilecoul O Tothil' but were acquitted. The jurors stated that Grathagh was herself an Ua Tuathail and that she

is accustomed at the request of faithful men of peace, to go to the parts of the mountains, where she stays with women of the parts of peace, to see and search for cattle carried off by her race. That so men of peace may more easily [recover] their goods and cattle carried

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<sup>217</sup> For two brief exceptions, see Hewer, 'Justice for all?', p. 208, fn. 154, and Ó Cléirigh, 'The problems of defence', pp 36, 40.

<sup>218</sup> Above, p. 230-1.

away. But she does not go there for the purpose of doing any evil, but for the good of the peace. Therefore [they are quit].<sup>219</sup>

The case is well known but has not been examined very deeply, and as a result it has been subject to inadvertent mischaracterisation. Both Hand and Lydon suggested that Grathagh was regularly employed to negotiate for the return of stolen goods<sup>220</sup> – but the record makes no mention of negotiation, only of seeing and searching, and it seems quite likely that the latter term was translated from *explorare*, as in the Thomas Shorthond case. Rather than being employed to negotiate, the jurors appear to have been claiming that Grathagh was employed to spy out the locations of stolen herds on behalf of the English community into which she had married. Perhaps the ‘men of peace’ then entered into negotiations or launched counter-raids to recover their stolen goods (it is possible that the claim that only stolen goods were targeted represents subtle spin to avoid censure for attacking Gaels at peace without provocation).

Although Grathagh was spying for an English community, the aim of her undertaking – that is, locating herds and goods – appears identical to that attributed to individuals accused of spying on behalf of Gaelic-Irish groups. The record also appears to suggest that Grathagh had the assistance, or at least the support, of Englishwomen living in the mountains, who had presumably married into Gaelic-Irish families. If this interpretation of the phrase ‘women of the parts of peace’ is correct, then it seems that a web of ties spanning the frontier had been constructed in the Saggart region through intermarriage, and that in 1305 these bonds facilitated communication between the English of Saggart and their Gaelic-Irish neighbours.<sup>221</sup> In Gaelic custom women often retained ties to their kin after marriage, which might become important in the case of marital breakdown or widowhood. Here we see that phenomenon in operation across a porous frontier. Grathagh may not have been unique amongst the area’s intermarried women in retaining cross-frontier ties. Her endeavours highlight one way in which the English community that she had joined sought to exploit her sustained connection with her kin.<sup>222</sup>

It is not made entirely clear in the court record how the information provided by the jurors about Grathagh’s cross-frontier activities was relevant to the case at hand. Caoilte was only

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<sup>219</sup> *CJRI*, 1305-7, pp 480-1. The square brackets are present in the calendar. For McKilecoul O Tothil, see below, p. 256, fn. 296.

<sup>220</sup> Hand, *English law in Ireland*, pp 34-5; Lydon, ‘A land of war’, ii, p. 261. It is unclear what Lydon intended by his further comment that Grathagh’s services came ‘at a price’.

<sup>221</sup> Áine Foley has identified another possible Ua Tuathail woman, Mcnabyth, who married into the Saggart community (‘Violent crime in medieval County Dublin’, pp 229-30).

<sup>222</sup> Katharine Simms, ‘The legal position of Irishwomen in the later middle ages’, *Irish jurist*, no. 10 (1975), pp 109-11.

mentioned in the initial charge, and at no point were the defendants said to have been innocent of receiving him – indeed, it seems that Grathagh’s activities were the reason for the couple’s acquittal. The jurors may simply have provided the information on Grathagh as a character reference, but it is also possible that they believed her activities justified receiving Caoilte, as Grathagh’s spying presumably required that she remain on good terms with the Uí Tuathail.<sup>223</sup> The record’s exclusive focus on Grathagh rather than Andrew is striking; it may reflect the considerable degree of personal agency Grathagh’s actions gave her, as well as the local significance she earned through her spying.<sup>224</sup> That Grathagh had some freedom to pass between the English community into which she had married and the mountain fastnesses where she had been brought up indicates that she was firmly trusted by at least some of her English neighbours – after all, she could have easily betrayed their trust on her travels.

Grathagh’s case provides unique insights into local spying by the English; it is a stroke of considerable good fortune (for the historian) that she was brought before the court in 1305. While it is possible that Grathagh’s undertakings were unique, that seems unlikely. It was certainly believed that a lot of spying occurred in the opposite direction, and exploiting cross-frontier bonds in this way seems not just a feasible tactic but an eminently sensible one on a partially-porous, but intermittently hostile, frontier characterised by reciprocal cattle raids. It goes without saying that identities are complex constructions, and Grathagh’s alleged receipt of Caoilte may indicate that she was torn between competing affiliations to the community into which she had married and her consanguineous family. Indeed, the naturalness of this dilemma probably explains much of the distrust of Gaels that is often seen within the sources for the colony. If Grathagh’s receipt of Caoilte was a sign of an internal conflict, then this may have continued to deepen over the years that followed. Grathagh reappeared in court over a decade later, in August 1317, when she found herself before the custos, Edmund Butler, and a less appreciative jury. Now named as Grathaght ynyne Otothyl, she was charged with being a *communis exploratrix*, as a result of whose *explorationem* the Gaels of the mountains had stolen divers goods to the value of £20. No reference was made to her earlier service to the community, and the record gives no indication

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<sup>223</sup> A recent writer on medieval English felony law has argued against viewing the justice system as purely ‘exculpatory’ in nature – the technical definitions of felonies did not always hold fast when contextualised before a jury (Kamali, *Felonia felonice facta*, pp 416-18). Similar is Hanawalt’s contention that the centrality of hanging as a punishment often led jurors to pardon criminals (Hanawalt, *Crime and conflict*, p. 268).

<sup>224</sup> Cf. the common phenomenon of women being pardoned felonies on the grounds that they could not deviate from the activities of their husbands (Kamali, *Felonia felonice facta*, pp 407-8).

that Grathagh was thought to have any legitimate reason for continuing to engage with her kin. She protested her innocence, but was found guilty and hanged.<sup>225</sup>

There is little use in speculating upon the accuracy of the judgements passed in 1305 and 1317, but the opposite verdicts, and the details of the records, demonstrate that Grathagh's standing in her local community had changed drastically. Evidently the dissonance which can be perceived in the English perception of Grathagh's identity in 1305 persisted long after her acquittal, at least in the eyes of the community she had joined through marriage. These snapshots of two related but very different moments from one woman's life serve as a stark reminder of how much human experience is obscured in the terse records with which medievalists often work – and of how many equally evocative tales are hidden behind the brusque formulation '[j]urors say he is guilty. Hanged. No chattels'.<sup>226</sup> The revelations of 1305 are purely incidental to the legal record, and we are very fortunate in their survival: while Grathagh's case is unique within the sources, it should not be assumed that her experience, or her exploitation of both sides of an ostensibly divided identity, were unique.

Grathagh's two court appearances provide ample material for a discussion of the operation of trust on and across the frontier at the local level. At the time of her first appearance she was 'accustomed' to seek out herds in the mountains on behalf of the English community, which was evidently exploiting the cross-frontier tie formed by Andrew and Grathagh's marriage. However, Grathagh herself was also exploiting her blood tie to the Uí Tuathail in order to win the confidence of the English of Saggart. In this she was clearly quite successful, as in December 1305 she was trusted enough that her jurors vouched for her despite the serious accusation she faced. The processes by which trust was won across the frontier are seldom clear in the sources, and this case provides a fascinating illustration of one strategy by which a relatively low-status woman of Gaelic origins might try to ingratiate herself with an English community. As is often the case when examining higher-status alliances, the sources cast more light on the military implications of this inter-ethnic relationship than the personal ones. Grathagh married into a militarised community that felt itself under siege from the mountains – but she was uniquely well-placed to assist with the problems facing that community. Her transition from spy for the English to alleged spy for the Gaelic-Irish over the course of a decade starkly illustrates the fluidity of identity on the Irish frontier.

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<sup>225</sup> KB 1/2, m. 1. It is perhaps worth noting that the two trials appear to have shared no common jurors, although the William Loterel of 1317 could be the '... Loterel' of 1305.

<sup>226</sup> This conclusion to case records is frequently encountered – for instance in the case of another alleged spy between English and Gaelic Ireland, Nicholas Toan (*CJRI*, 1295-1303, p. 176).

However, even in 1305 there was clearly some concern within the community that Grathagh's liminal position might be exploited in the opposite direction; and if she truly did receive Caoilte then perhaps these concerns were well-founded. Relations between the people of Saggart and the *hibernicos de montanis* had been fraught for decades,<sup>227</sup> and while Grathagh's jurors were sympathetic in 1305, the very fact of her arraignment reveals that she was not trusted unreservedly. Although her ongoing engagement with her kin was advantageous to the community it also perpetuated her association with the Uí Tuathail, and it may well have aroused suspicions about Grathagh. This can only have been exacerbated by the events of 1305, which may have left a faint question mark over her loyalty. Even in Ireland's cities, which were usually more sheltered from the realpolitik of the frontier, the taint of association with Gaelic Ireland could be dangerous. Parker regarded Alice Ua Bhraonáin's execution as a spy and robber in Waterford in 1316 as a rare outbreak of anti-Gaelic paranoia in the city, which lay far from any land frontier;<sup>228</sup> but this, and the apparently violent end met by Stephen Brendan, an *hibernicus* with the audacity to be appointed collector of customs in Cork, are instructive.<sup>229</sup> Of course, this was not the universal Gaelic experience – but going where few dared to tread to spy for the English must have been a perilous task. Even if Grathagh achieved her purpose solely by scouting around, her very survival in lands controlled by the Gaelic brigands who terrorised nearby regions probably engendered distrust, and losing the faith of one's neighbours' must have been a perennial risk. Far from comparatively sheltered Waterford, Grathagh travelled unharmed amongst a deeply feared mountain sept on a highly charged frontier. Any unusually damaging or well-targeted Gaelic raids – indeed, perhaps any Gaelic raid – could have given rise to whispers, borne from wariness or malice, that she had betrayed the community. The veracity of the accusations of 1317 will never be known, but the atmosphere in Saggart was probably very tense at the time, and the accusations against her were evidently deemed credible.<sup>230</sup> Grathagh walked a dangerous path, not only in the mountain redoubts of the Uí Tuathail but also in the foothills of Saggart.

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<sup>227</sup> Saggart had been suffering from Gaelic raids since at least the 1270s. See, for instance, Richardson and Sayles, *Administration*, p. 230 (CDI, ii, no. 930); *Irish exchequer payments*, pp 12, 17-18, 20, 22, 78, 122; Sayles, *Affairs*, p. 32; CSM, ii, p. 340; James F. Lydon (ed.), 'The enrolled account of Alexander Bicknor, treasurer of Ireland, 1308-14', *Analecta Hibernica*, no. 30 (1982), p. 30; KB 2/4, pp 201-2. In the fourteenth century the area around Saggart towards the mountains would come to be known as the 'Grange of the marches' (Edmund Curtis, 'The clan system among the English settlers in Ireland' (1910), repr. in Crooks (ed.), *Government, war and society*, p. 299).

<sup>228</sup> NAI KB 2/8, p. 94; Parker, 'The internal frontier', p. 154.

<sup>229</sup> *Na Buirgeisi*, ii, pp 351-2, fn. 77. For Stephen's plight, see Hewer, 'Justice for all?', pp 186-7. For this and a similar case in Galway, see J.A. Watt, 'Approaches to the history of fourteenth-century Ireland', *NHI*, ii, pp 308-9.

<sup>230</sup> The Uí Tuathail and Uí Broin of the Leinster mountains rose up in war in support of Edward Bruce, and as early as December 1315 it had been necessary to prepare Saggart for defence against the Leinster Irish (Robin Frame, 'The Bruces in Ireland, 1315-18' (1974), repr. in *Ireland and Britain*, pp 84-5).

The second case that has led to the skewing of the historiography is almost as fascinating in the present context and has received far more attention from historians. In April 1302 Isabella Cadel and her maid, Finnghuala Seyuyn, came before the justiciar at Kildare, having been arrested while 'coming from the felons of the mountains'. They were charged with having art and part with those felons and with being 'spies of the country' for them. It is fortunate for us that Isabella was willing to explain her actions. She told the court of her involvement with Dermot Odymsi, with whom she 'dwel[t]'; when they were arrested the women had been returning from discussions with Dermot's confederates, in which they had engaged at his request. They were carrying jewels which his mountain allies had given them as a gift for Dermot. Moreover, both women admitted that they knew the Irish of the mountains were felons at the time. Notwithstanding the seriousness of their actions the pair was pardoned 'at the instance of Geoffrey le Bret... and other magnates' on account of the good service that Isabella's father William had often done for the king 'and also [for] the simplicity of the women in this affair'.<sup>231</sup> The latter comment is obscure – Ó Cléirigh has suggested that it might have been a reference to their sex,<sup>232</sup> and Hewer has noted that simplicity was sometimes ascribed to individuals possessing traits redolent of 'Gaelicism'.<sup>233</sup> Certainly, it is unlikely that the fearsome Diarmait Ua Diomasaigh would have assigned diplomatic duties to these women if their reliability and competency to navigate, confer, and avoid detection was doubted. Historians have undoubtedly been correct in viewing the leniency extended to Isabella and Fynewell as a result of their social status.<sup>234</sup> Although Ua Diomasaigh was evidently their most prominent Gaelic associate, the accusations levelled at the two women related only to their interactions with the unnamed felons of the mountains, presumably because Ua Diomasaigh was officially at peace at the time.<sup>235</sup> They were probably suspected of spying because of their wandering down from the mountains, perhaps dressed in Gaelic fashion. The conclusions reached about the crimes with which the women were charged are not given in the record, and so it is unclear whether their testimony had exonerated them of spying.

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<sup>231</sup> *CJRI, 1295-1307*, p. 368. For William Cadel's long Irish career in the service of both Roger Bigod and the crown, see Beth Hartland, 'English lords in late thirteenth and early fourteenth century Ireland: Roger Bigod and the de Clare lords of Thomond', *EHR*, vol. 122, no. 496 (2007), pp 335-6.

<sup>232</sup> Ó Cléirigh, 'The problems of defence', p. 40.

<sup>233</sup> Hewer, 'Justice for all?', p. 257. Hewer defines this term as 'Gaelic culture and blood; the state of being Gaelic' (ibid, p. viii). Cf. the discussion of the 'imbecility' of women in the eye of medieval law (Christine Meek and Catherine Simms, 'Introduction', Christine Meek and Katharine Simms (eds), *The fragility of her sex? Medieval Irishwomen in their European context* (Dublin, 1996), pp 7-8).

<sup>234</sup> Hartland, 'The height of English power', p. 239; Duffy, 'The problem of degeneracy', pp 96-7; Ó Cléirigh, 'The problems of defence', p. 40.

<sup>235</sup> Ó Cléirigh, 'The problems of defence', p. 43.

Judging solely by the court records it seems that Isabella's loyalties were less divided than Grathagh's, though of course administrative documents are highly unsuited to such queries and it is possible that Isabella's statement took the form of a tearful confession rather than a proud declaration of her loyalty to Ua Diomasaigh. The relationship between Diarmait and Isabella is particularly striking given that her father was most likely a household knight of the king. Hartland has suggested that William probably arranged the marriage between Isabella and Diarmait,<sup>236</sup> though if, as seems probable, she was Diarmait's concubine rather than wife, this might be less likely. The case highlights the duality of identity which could develop even within the highest ranks of colonial society, as Isabella's self-identity and her identity as perceived by her jury appears to have differed significantly.

The intrinsic interest of the charges against Grathagh, Isabella, and Fynewell is clear – but the near-exclusive emphasis on these cases has misleadingly skewed the meagre historiography of 'spying' in Ireland. A reader of Irish medieval history could easily be led to believe that spying accusations were almost exclusively levelled at women. Moreover, when other spies have appeared in the historiography, they, too, have usually been women.<sup>237</sup> But if the extant sources provide any sort of representative sample then this emphasis is misleading. This problem is exacerbated by the few general statements that historians have made on the topic. Lydon suggested that women regularly acted as negotiators or spies for malefactors, as they had greater freedom of movement than men, particularly if they had English names;<sup>238</sup> and Kenny made the similar, though more moderate, suggestion that single women might have been thought to have more freedom of movement and opportunity to intrigue than married women.<sup>239</sup> Lydon's argument was based on the cases of Isabella, Fynewell, and Grathagh, and Kenny refers to Isabella, Gyllyn, and Alica Oketyf.<sup>240</sup> But half of these cases are remarkable and have made an inordinate impact on the historiography – and between these historians, the only female spy that has been missed from the extant sources is Alice Ua Bhraonáin, while the many other recorded spying episodes have been ignored by both. The extant sources provide little support for the suggestion

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<sup>236</sup> Beth Hartland, 'The height of English power', p. 239; Verstraten, 'The anglicisation of the Gaelic Irish nobility', p. 51; Duffy, 'The problem of degeneracy', pp 96-7.

<sup>237</sup> Gillian Kenny, *Gaelic and Anglo-Irish women in Ireland, c.1170-1540* (Dublin, 2007), p. 45; Parker, 'The internal frontier', p. 154. Frame also emphasised that many of the spies that came before the justiciar's court were women or chaplains ('English officials and Irish chiefs', p. 253).

<sup>238</sup> Lydon, 'Medieval Wicklow – "a land of war"', p. 164.

<sup>239</sup> Kenny, *Gaelic and Anglo-Irish women*, p. 45. Kenny does not engage with Isabella's apparent concubine relationship with Ua Diomasaigh.

<sup>240</sup> See below, Appendix III.

that women were especially well-placed to act as spies, nor for the contention that single women were particularly liable to be accused of espionage.

Of the alleged spies during the period 1297-1318 whose names are known, twenty were male (across fifteen separate cases) and six were female (across five separate cases).<sup>241</sup> Of these women three were hanged, one was found innocent, and two were found guilty but escaped the noose.<sup>242</sup> Indeed, even the idea that women with English names were particularly safe operating as spies is unsupported by the extant evidence: Isabella Cadel is the only woman with an obviously non-Gaelic name that appeared before the justiciar charged with spying in the extant records. While it is true that she got off with only a rap on the knuckles, the same was true of Fynewell, and a single case is no foundation upon which to base a general principle. The suggestion that women had greater freedom of movement than men is peculiar and unexplained, but Lydon may have meant freedom of sociocultural mobility across the frontier due to intermarriage and other similar devices. We have already seen that Grathagh's marriage facilitated her spying upon the Uí Tuathail, at least for a time; the same might be said for Isabella, for in spite of her apparent concubine relationship with Ua Diomasaigh, she was welcomed back into the English community. With regard to both social norms and physical security, however, it is probable that women were less mobile on the frontiers of the colony.<sup>243</sup>

### *Trust and the church*

#### *The articuli cleri, 1291*

Throughout this chapter several shady clerics have been encountered. Nicholas Waltham exploited his position as a go-between to spy on Edward I's court; an unnamed chaplain was imprisoned in Dublin castle, apparently on the testimony of Gaelic informants; and two clerics were accused of spying in the extant records of the justiciar's court. In the earlier case Henry son of Simon was charged with receiving thieves from the mountains in a stone house and having art and part with them, and with spying out afers and oxen for those thieves; and in 1318 Robert O Farghyll was found guilty as a common thief, robber, and spy, and as a messenger of the Brynnes

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<sup>241</sup> This tally excludes Nicholas Shorthond (see above, p. 230-1).

<sup>242</sup> The greater number of men charged with the crime makes the cases' results more complex to summarise. Three were found innocent; four fled; two were permitted to make fine; one was found guilty but was a clerk; one was slain while fleeing; six were hanged; and one result is unknown.

<sup>243</sup> For this topic, see Diana Webb, 'Freedom of movement? Women travellers in the middle ages', Christine Meek and Catherine Lawless (eds), *Pawns or players? Studies on medieval and early modern women* (Dublin, 2003), passim, but see esp. pp 75-6, 82.

of Duffre.<sup>244</sup> It is the latter allegation that chiefly interests us here, as the government appears frequently to have suspected clerics of improper communication with felons on the frontier. Examination reveals parallel trends of suspicion towards Gaelic churchmen and frontier clerics in both the secular and ecclesiastical spheres.

This distrust is clear from the fifth article in a list of thirteen clerical *gravamina* sent to the king in 1291 concerned with the allegedly widespread perpetration of certain injustices against the Irish clergy.<sup>245</sup> This complaint began with the premise that clerics were morally obliged to preach, ‘especially [to] bad Christians, namely... outlaws and disturbers of the peace’, to bring about the salvation of their souls. But when ecclesiastics

spiritually communicated with them in any way, they are attached forthwith, as if they were consenting parties to their evil deeds, though neither advisers, favourers, nor harbourers of them; and it frequently happens in all the marches (*frequenter accidit in omnibus marchiis*).<sup>246</sup>

Neither the justiciar nor the king had much sympathy for this complaint. De Vescy’s response ran: ‘if those who have suffered injury complain about a certain fact, justice shall be done them’, while the king asserted that ‘[b]ecause certain Irish prelates frequently make this a pretence, rather for an evil than a good purpose, the [k]ing wills that no one hold such communication, without presentation, and by the advice of the Justiciar’. It was evidently not felt that Irish churchmen could be trusted to limit their communications to the strictly spiritual, particularly on the frontier, and so the exercise of their sacred duties was to be regulated in much the same way as private negotiations with the Gaelic-Irish.

In requiring that Irish clerics obtain permission from the justiciar before preaching to certain groups in march regions, the king was clearly adopting a rather extreme stance. His response indicated his approval of the behaviour of local lawmen, and increased the burden of accountability on clerics. In this he was probably influenced by the advice of his Irish justiciar and council. The king’s statement exhibits royal acceptance of the sentiment expressed by the Irish justiciar, William de Vescy, in response to another of the complaints of 1291 (article 2): ‘[m]any

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<sup>244</sup> *CJRI, 1305-1307*, pp 477-8; NAI KB 2/12, p. 78. A later Scottish example of clerical spying across the frontier is discussed in MacDonald, ‘Espionage in later medieval Anglo-Scottish relations’, p. 5.

<sup>245</sup> The complaints of 1291 are discussed more generally in J.A. Watt, *The church and the two nations in medieval Ireland* (Cambridge, 1970), pp 132-134.

<sup>246</sup> *Statutes and ordinances*, pp 182-3. Hand mistook ‘attached’ (*attachiantur*) for ‘attacked’ and suggested that violence against clerics was very common, citing the archbishop of Armagh’s 1267 request for payments of *éraig* when clerics were unlawfully slain (Geoffrey Hand, ‘The church in the English lordship, 1216-1307’, Patrick J. Corish (ed.), *A history of Irish Catholicism*, vol. 2, no. 3 (Dublin, 1968), p. 32).

things have to be permitted for the immunity of the Church, the King and the Kingdom, at a time and at the seat of war, which at another time ought not to be permitted'.<sup>247</sup> The transcription of these petitions and their responses in the now lost Red Book of the Irish exchequer led Watt to suggest that they were of 'quasi-statutory significance',<sup>248</sup> indicating the high level of influence which Edward's Irish officials could exercise over the formulation of his domestic Irish policies. There may have been some interplay between the development of English and Irish policy regarding limiting clerical freedoms during war, as later in the 1290s the principle was established that that alien priories near the English coast should be seized during conflicts with France.<sup>249</sup>

### *Trust and the church before 1291*

Prior to 1291, little evidence arises for the activities condemned in that year. Perhaps the most relevant episode is found in a record of the preceding year, when the abbot of Wetheney (Abington, co. Limerick) was allowed terms for the payment of a fine owed 'for... harbouring the Irish of Thomond, enemies and rebels'.<sup>250</sup> Better court roll survival for the pre-1295 period would probably turn up many examples of clerical fraternisation with felons, and this would probably be focused on Gaelic clerics, against whom suspicions are observed in the sources from an early date. Indeed, Stephen of Lexington justified his preference for English Cistercian abbots partly on the grounds that, unlike Gaelic abbots, these 'would not at all accept becoming harbourers or dispatchers of robbers and murderers'.<sup>251</sup> The accusation resonates particularly closely with the king's comments six decades later. But to explore the earlier period, we must briefly trace broader trends in suspicions of and within the church. Concerns about the trustworthiness of Gaelic clerics, in particular, are seen throughout much of the thirteenth century; although much of the evidence for these trends lacks frontier specificity, distrust of churchmen was expressed most vigorously on the frontiers, as suggested by the 1291 complaint.

As early as January 1217 the king wrote to the justiciar, on the advice of the archbishop of Dublin, that only Englishmen should be promoted within cathedrals because 'the peace of

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<sup>247</sup> *Statutes and ordinances*, pp 178-9. Cf. the approach taken in England to foreign houses in England from 1291.

<sup>248</sup> Watt, *The church and the two nations*, p. 132.

<sup>249</sup> Alban and Allmand, 'Spies and spying', p. 92.

<sup>250</sup> *CFR*, i, p. 285 (*CDI*, iii, no. 802). For the cantred of Wetheney, see MacCotter, *Medieval Ireland*, pp 212-13.

<sup>251</sup> *Letters from Ireland*, pp 136-7. This was probably an allusion to Stephen's belief that he was being pursued by the agents of a vengeful Gaelic abbot – a not unlikely prospect, given the consternation that his arrival caused in some houses (*ibid*, pp 97, 134, 136).

Ireland has been frequently disturbed by elections of Irishmen'.<sup>252</sup> And in 1250 the pope related that he had been told of a council of Irish bishops and archbishops, which had decreed that Englishmen were to be excluded from becoming cathedral canons. In both cases, he commanded that the proscriptions be revoked.<sup>253</sup> It seems, then, that at times ethnic distrust could run both ways during the thirteenth century. Ethnic hostility should of course not be overemphasised – the archbishop of Armagh's famous 1242 reference to a 'church... built in the midst of two nations which persecute one another with insatiable hatred' in fact related to Welsh rather than Irish conditions.<sup>254</sup> And although in some respects, the characteristics of the Irish church were indeed split along ethno-geographic lines,<sup>255</sup> issues like reforming zeal and opposition to Edward's clerical taxes could unite churchmen across the frontier.<sup>256</sup>

A case study in ambiguity is provided by the archbishop of Cashel, David Mac Cerbaill (1254-1289). In 1254 Innocent IV confirmed his election to the archdiocese of Cashel in opposition to the suffragan bishops and Henry III, who claimed that Mac Cerbaill 'sided with the enemies of the king'.<sup>257</sup> No indication is given as to this claim's precise nature, and the opposition fell away when the pope ordered an inquiry.<sup>258</sup> But some accusations later made against Mac Cerbaill by the justiciar, Robert de Ufford, in 1277, indicate that his ethnicity was a factor. De Ufford claimed that the archbishop wanted to subject English Cistercian houses in Ireland to the filiation of the Gaelic-Irish house of Mellifont, and that his appointment of a 22-year old Gael to the diocese of Cork had been engineered 'to shame the English (*pur hunir les Engleis*)'.<sup>259</sup> The first of these accusations, at least, had some factual basis, as in 1274 Mac Cerbaill had secured approval for the

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<sup>252</sup> ... *per elections factas de Hibernicis... pax ipsius... frequentius fuerit perutrata* (CR, 1216-1225, pp 22, 23 (CDI, i, nos 736, 739)). King John was generally unconcerned about his Irish bishops' ethnic origins, once assured of their loyalty (Watt, *The church and the two nations*, pp 56-9).

<sup>253</sup> CDI, i, no. 3084. For the practical motivation that may have underlain this ordinance, see Watt, 'English law and the Irish church', pp 140-1.

<sup>254</sup> Arlene Hogan, *The priory of Llanthony Prima and Secunda in Ireland, 1172-1541: lands, patronage and politics* (Dublin, 2008), p. 163. For the charter, see *ibid*, pp 307-8. The confusion may arise from the comment later in the charter that Llanthony has often been a safe refuge for bishops of Armagh.

<sup>255</sup> for example, in the incidence of the institutions of the *airchinneach* and *comharba*, and the attainment of 'quasi-marital status' by clerical concubines (Simms, 'Frontiers in the Irish church', pp 177-84).

<sup>256</sup> Brendan Smith, 'The Frontiers of church reform in the British Isles, 1170-1230', Abulafia and Berend (eds), *Medieval frontiers: concepts and practices*, p. 251; Richardson and Sayles, *The Irish parliament in the middle ages*, p. 67.

<sup>257</sup> CPL, i, p. 304. For Henry's opposition, see Watt, *The church and the two nations*, p. 80, fn. 1.

<sup>258</sup> If he faced a conspiracy, David got off lightly – in 1289 the bishop-elect of Cloyne had to step down after he was 'blinded by some sons of perdition' (CPL, i, p. 501).

<sup>259</sup> Jocelyn Otway-Ruthven, 'The request of the Irish for English law, 1277-1280', *IHS*, vol. 6, no. 24 (1949), pp 267, 269. Unlike in the case of David's presentation to the see of Cashel, Edward I acquiesced to this diocesan appointment (Aubrey Gwynn, 'Edward I and the proposed purchase of English law for the Irish, c. 1276-80', *TRHS*, vol. 10 (1960) p. 122).

restoration of the *fillatio Mellifontis*, which Stephen of Lexington had dissolved in 1228.<sup>260</sup> Ethnicity was also foregrounded by a petitioner of 1279, who alleged that Mac Cerbaill had her father killed by *latronibus* who occupied an abbey that he had built illegally on the king's land. These thugs regularly killed Englishmen, and thus, *predictus episcopus culpabilis est de mortis plurimorum Ancllicorum*.<sup>261</sup> Irrespective of the veracity or sincerity of the various accusations against him, Mac Cerbaill's loyalty to the crown was being questioned on each occasion. And certainly in 1277, but quite likely also in 1254 and 1279, the matter hinged on his Gaelic origins.

Of course, these were expressions of distrust in a particular Gaelic cleric, based on specific alleged actions; they are not illustrative of more general negative views of Gaelic clerics. But a striking exposition of just such views is found in c.1277-80, seemingly from the pen of Mac Cerbaill himself, or of some of his adherents. During these years the archbishop spearheaded the well-known initiative to purchase English law for the Gaels of most of Ireland, to be forcibly imposed on them through the enthusiastic employment of spiritual sanctions.<sup>262</sup> Several hypotheses have been forwarded as to the motivations behind the desire for this grant. Otway-Ruthven first posited that Mac Cerbaill wanted Gaels to be accorded equal status under Gaelic law, but later suggested that his chief concern may have been the desire to extirpate Gaelic-Irish marriage customs.<sup>263</sup> Watt saw in Mac Cerbaill's enterprise a conflict between 'the natural instinctive sympathy' towards Gaelic Ireland and the necessity of cordial relations with the English government.<sup>264</sup> Gwynn posited that the idea of making this grant may first have occurred to Edward I, who proposed it to Mac Cerbaill around 1274, though this interpretation was later contested by Phillips.<sup>265</sup>

Perhaps, however, too much emphasis has been placed on the archbishop's ultimately irrecoverable true motives. The petitioners themselves justified their request on the grounds that a blanket grant of English law would be a step towards 'put[ting] an end to the evil law and... disaffection which is in the land of Ireland concerning the Irish tongue'.<sup>266</sup> This has recently been

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<sup>260</sup> Aidan Breen, 'Mac Cerbaill (MacCarwell), David', *DIB* (2009).

<sup>261</sup> NLI MS 1, f. 296r.

<sup>262</sup> The grant excluded *les Ireis de Ulwister* (Otway-Ruthven, 'The request', p. 267).

<sup>263</sup> *Ibid*, p. 261; *idem*, 'Review: *The Irish Jurist*', *IHS*, vol. 16, no. 61 (1968), p. 104, fn. 2. Hewer has recently agreed with Otway-Ruthven's latter view ('Justice for all?', p. 276-7).

<sup>264</sup> Watt, *The church and the two nations*, p. 160.

<sup>265</sup> Aubrey Gwynn, 'Edward I and the proposed purchase of English law for the Irish, c. 1276-80', *TRHS*, fifth series, vol. 10 (1960) p. 121; Seymour Phillips, 'David MacCarwell and the proposal to purchase English law, c.1273-c.1280', *Peritia*, vol. 10 (1996), pp 253-73.

<sup>266</sup> *Pur oster la mauueise ley e la desauenance ke es ten la terre de Irelande endreit de Iresche lange* (Otway-Ruthven, 'The request', pp 267, 269).

dismissed as mere rhetoric.<sup>267</sup> But to be effective rhetoric must either feed or foster concerns that resonate emotionally with its audience, in this case either the king or justiciar and their respective councils.<sup>268</sup> While we cannot tell if the petition's stated aim was disingenuous, the decision to frame the proposal as an attack on the Irish language, portrayed as a powerfully subversive force within Ireland, was clearly made in the expectation that doing so would get governmental cogs turning.<sup>269</sup> Mac Cerbaill's professed conviction that Gaels should be amenable to English governance, both for their own good and that of the colony was a far cry from his alleged effort to shame the English through a diocesan appointment. The episode illustrates further the suspicion with which Gaelic clerics might be viewed; but it also, perhaps, hints at a genuine capacity for contextual versatility in their political alignments. Nevertheless, the very fact that such versatility was an option for some Gaelic clerics was probably a source of suspicion in and of itself.

In its targeting of the Irish tongue, in which communication between and perhaps also with Gaels was primarily carried out, the letter recalls the 1291 imputation of clerical communication across the frontiers. Similarly, in 1284 Stephen de Fulbourne's auditors proposed excluding Gaels from archdiocesan posts, *quia semper predicant contra regem*. Moreover, such archbishops filled their churches with Gaels to ensure the election of more Gaelic bishops, *ad sustinendam linguam suam*.<sup>270</sup> Similarly, in a missive of 1284 or 1285, the bishop of Kildare, Nicholas Cusack, warned Edward that 'the peace... is frequently disturbed by the secret counsels and suspect and poisonous colloquies which certain insolent religious of the Irish tongue (*religiosi lingue hibernice*), belonging to divers orders, hold with the Irish and their kings'. This letter had many lacunae when edited, but Nicholas's intent was to encourage the replacement of Gaelic clerics with English ones in 'dangerous districts'.<sup>271</sup> Notwithstanding the façade of clerical unity maintained in 1291, then, a measure of distrust of specifically Gaelic frontier churchmen can be detected within the upper echelons of the Irish church. It seems that language was a particular concern at this time: in some circles, the Gaelic tongue was viewed as a medium of sedition.<sup>272</sup>

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<sup>267</sup> Hewer, 'Justice for all?', p. 276.

<sup>268</sup> Otway-Ruthven, 'The request', p. 263.

<sup>269</sup> It seems probable from contemporary developments in Wales that the king would have been quite willing to grant this petition (Gwynn, 'Edward I and the proposed purchase of English law', pp 126-7).

<sup>270</sup> Printed in Watt, 'English law and the Irish church', pp 150-1, fn. 71. After 'archbishop[s]' Sweetman adds 'or bishop[s] (?)' (*CDI*, iii, no. 2, p. 10). It seems that Watt later came to accept Sweetman's reading ('Gaelic polity and cultural identity', *NHI*, ii, p. 346).

<sup>271</sup> FitzMaurice and Little, *Materials*, pp 52-3 (*CDI*, iv, no. 689). For the document's date, see Níav Gallagher, 'The mendicant orders and the wars of Ireland, Scotland and Wales, 1230-1415', (PhD, TCD, 2005), pp 136-7, fn. 20.

<sup>272</sup> Cf. Reynolds' observation that around this time in Anglo-French relations, language could arouse distrust but was not yet a 'hypersensitive marker of identity' (Reynolds, 'Trust in medieval society and

Letters like this probably coloured Edward's interpretation of the Irish frontier and shaped his interpretation of the clerical complaint of 1291, though the justiciar's response and reportage was undoubtedly also influential.

The 1291 complaint about clerical attachments does not suggest that heavy-handed policing was restricted to Gaelic-speaking clerics, but such specificity would be surprising. The writers wished to portray these attachments as prejudicial to the rights of the church, not as beneficial to frontier security. Whatever the concerns of individual churchmen about improper clerical communications across the frontier, the secular attachment of clerics was damaging to the church's coffers, as the chattels of anyone who pleaded benefit of clergy were forfeit, regardless of the jury's verdict. These could be recovered after a not guilty verdict, but a royal writ of restitution was required. This was as in England, but widespread suspicion of frontier clerics may have given agents of the secular arm an easy means of profiting from seized chattels and fines for writs of restitution.<sup>273</sup> The sense that clerics were being preyed upon by greedy officials was also conveyed in the third complaint of 1291, which alleged that in Ireland clerics were often arrested on flimsy pretexts (*ad querelam aliquos*) and were so subjected in prison that, for fear of torture, they often paid a fine or ransom.<sup>274</sup>

The reference to marches in the first-quoted complaint was presumably intended to imply that rogue officialdom reigned on the frontiers. Nevertheless, it seems quite likely that some of the complainants of 1291 shared the professed concerns of those who were attaching clerics.<sup>275</sup> The writers were well aware of the political context in which they were writing, and would not have wished to aggravate Edward by referring to improper clerical conduct. By 1291 the king had turned his eye towards Ireland, and its clergy in particular, to shore up his war-making funds.<sup>276</sup> He would have had little patience for destabilising activities like those described in Cusack's letter – de Sandford's extensive itineration between 1288 and 1290 had recently demonstrated that quelling Gaelic unrest and defending the marches could be a costly and time-consuming

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politics', pp 7-8). Bartlett, commenting on the state of affairs in the mid-fourteenth century, has described 'systematic and persistent' efforts to weaken the Irish tongue (Bartlett, *The making of Europe*, p. 203). For another example, from c.1281, see *Na buirgeisi*, ii, pp 351-2, fn. 77.

<sup>273</sup> Watt, *The church and the two nations*, pp 137-8; Hewer, 'Justice for all?', p. 263. Displeasure over the seizure of the chattels of felonious clerics in Ireland was no new phenomenon. See *CDI*, ii, nos 276-7.

<sup>274</sup> *Statutes and ordinances*, pp 180-1.

<sup>275</sup> Bishop Cusack himself was probably involved in drafting the *articuli*, as the third article alludes to an injustice recently done to the bishops of Ferns and Kildare (*ibid*). The other dioceses mentioned in the *articuli* are Cashel, Clonfert, and Ossory; an injustice at Roscrea, in the diocese of Killaloe, was also cited.

<sup>276</sup> Edward expected his Irish subjects to submit to the clerical tenth that had been conceded in England in the preceding year (*CDI*, iii, no. 980; Richardson and Sayles, *The Irish parliament*, p. 67; Prestwich, *Edward I*, p. 569; James Lydon, 'Parliament and the community of Ireland', *idem* (ed.) *Law and disorder*, p. 131). For the objections of the archbishop of Tuam and his suffragans, see *NLI MS 1*, f. 324.

business.<sup>277</sup> Given that the attachments complained of in 1291 were ostensibly engineered to prevent subversive behaviour, then, it is easy to see why the king and his advisors were willing to countenance it.

One more ambiguous case study is warranted. Brendan Smith has demonstrated the amenability of Nicholas Mac Maol Íosa, archbishop of Armagh, to English rule, and his 'unrelenting hostility' to the Gaelic-Irish *reguli* that frequently harried parts of English Uriel; his fortification of Inniskeen has also been noted.<sup>278</sup> But this prelate, too, was suspected of contributing to destabilising activities. In 1284 he was accused of having received 'his relatives and their maintainers, felons who were present at the death of Nicholas de Verdun, of John his brother, and of the knights who were with them, all faithful to the king'. Moreover, 'these relatives were present with others at the levelling of the castle of Adlet (Athleague), which belonged to Theobald de Verdun and was one of the fortresses of Ireland towards Connacht'.<sup>279</sup> These events had occurred in 1271, but the allegation was borne out by the testimony of 'credible persons'. Even the most congenial cleric (an adjective decidedly ill-suited to Nicholas) would be regarded a menace for aiding individuals involved in acts so emphatically opposed to colonial interests. The de Verdun deaths were shocking and persisted in collective memory;<sup>280</sup> and Athleague had been a site of considerable strategic importance for many decades.<sup>281</sup> Activities like those he had allegedly supported in 1271 probably engendered distrust of Gaelic-Irish clerics, both from within the church and outside it.

Moreover, while Mac Maol Íosa famously capitalised on every possible advantage he could gain through the king's courts, he also used his Gaelic influence to benefit at the king's expense. A 1278 report on his usurpation of the temporalities of vacant dioceses observed that a feigned right had developed because 'some suffragan sees of the archbishop are situated in Irish and woody land, where the English cannot safely go in time of vacancy'.<sup>282</sup> This allegation was reiterated by the auditors of 1284, who added that Mac Maol Íosa had even appointed bishops in

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<sup>277</sup> Otway-Ruthven, *A history of medieval Ireland*, pp 207-9; Lydon, 'A land of war', pp 265-6.

<sup>278</sup> Brendan Smith, 'Church and community on the medieval Irish frontier: County Louth, 1170-1346', *Archivium Hibernicum*, vol. 45 (1990), p. 40. See also above, p. 133.

<sup>279</sup> *CDI*, ii, no. 2274. For the identification of this site as Athleague, now Lanesborough-Ballyleague, see Walton, 'The English in Connacht', pp 249-50.

<sup>280</sup> *Annals of Multyfarnham*, p. 168; Clyn, *Annals*, p. 148; *CSM*, ii, p. 317; AFM 1271.8; ALC 1271.7; AC 1271.8.

<sup>281</sup> Athleague was the first point north of Athlone where the Shannon could be crossed on foot (Linda Doran, 'Medieval communication routes through Longford and Roscommon and their associated settlements', *PRIA*, vol. 104C, no. 3 (2004), pp 64-5, 68). For the site's frontier importance, see Otway-Ruthven, 'The partition of the de Verdun lands', pp 414-15; Helen Perros, 'Crossing the Shannon frontier', p. 134; Veach and Verstraten, 'William gorm de Lacy', pp 76-7; Walton, 'The English in Connacht', p. 226.

<sup>282</sup> *CDI*, ii, no. 1483.

some sees where ‘the escheator can never go to the bishoprics aforesaid on account of the Irish’.<sup>283</sup> And in 1299 a thieving vicar from Ardee could not be brought to justice because he was ‘with the archbishop at Armagh, where no serjeant could execute his office on account of war of the Irish’.<sup>284</sup> These episodes were clearly problematic, from the government’s perspective, and Mac Maol Íosa’s usurpation of royal rights in places the king’s escheator could scarcely enter probably aggravated official distrust towards Gaelic clerics in frontier regions.

### *Trust and the church after 1291*

Evidently, high levels of distrust of both specific Gaelic clerics and of Gaelic churchmen more generally sometimes arose in Ireland, particularly on the frontiers. The matter should not be overemphasised. Many Gaelic clerics worked amongst or in cooperation with the English without problems, and the reverse was certainly true as well – indeed, one ostensibly English bishop of Down, Nicholas le Blund, was suspected of excluding English clerks from monasteries in his diocese.<sup>285</sup> Nevertheless, the English sources, upon which we must rely, frequently portray Gaelic and English clerics as discrete groups. The emergence of internal divisions was perhaps inevitable within an institution spanning a politically divided island and lacking any effective exclusionary recruitment policy; and given the medieval churchman’s symbolic and political importance it is unsurprising that factions, real or imagined, became the focus of distrust.

Although evidence for specific instances of clerical collaboration with felons across the frontier prior to 1291 is lacking, such evidence abounds in the records of the justiciar’s court from 1295. Some select episodes from these records will now be examined, but first, two dangers of using the court records to examine clerical collusion on the frontiers will be outlined. It goes without saying that clerics often behaved badly without frontier conditions influencing them, and it would be unwise to read criminality in the marches as a necessarily frontier phenomenon, or as evidence of the ‘degeneration’ deplored by the parliamentarians of 1297.<sup>286</sup> Reading names as indicators of ethnicity is a dangerous methodology, and reading ethnicity as an indicator of

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<sup>283</sup> *CDI*, iii, no. 2, pp 9-10. In 1292 the archbishop petitioned the king to have his rights over the temporalities of Derry, Dromore, Clogher, Raphoe, and Kilmore while vacant restored (*PROME*, Edw. I, Roll 3, no. 23).

<sup>284</sup> *CJRI*, 1295-1303, p. 253.

<sup>285</sup> See below, p. 257.

<sup>286</sup> For the impossibility of hazarding guesses as to cause and effect of regular crime in the context of the Irish frontier, see Foley, ‘Violent crime in medieval County Dublin’, pp 239-40.

political alignment still more so. This is perhaps particularly true when examining the church, an organisation which provided a higher unified purpose for its members.

The second problem poses less of a challenge here but warrants mention. Although a defendant could claim the benefit of clergy (*privilegium fori*) with minimal clerical training, the veracity of such claims was strenuously tested. Furthermore, if the accused's clerical superior did not send a meticulously-accredited representative to retrieve him, the defendant would languish in gaol until he could be mainprised.<sup>287</sup> Because of the unwillingness of both the courts and the church to surrender any clerics without a fight, the danger of misidentifying individuals as clerics is thus quite low. This can be seen in one case of collusion with Gaelic felons. In 1295 Hubert de Ruyllly was charged with highway assault and that he 'often sent presents to Folan Othel (Fáelain Ua Tuathail) when he was against the King's peace'. As no ecclesiastical authority appeared to claim him Hubert was handed over to the king's marshal, and he subsequently had to be mainprised.<sup>288</sup> This case illustrates both the potential danger to the historian of false appeals to the benefit of clergy, and the ease with which this danger is often mitigated in reasonably full case records.

Often, however, those accused of assisting Gaelic felons were bona fide clerics. In 1298 the abbot of Rosglas (Monasterevin, co. Kildare) was accused of receiving Gaelic felons of Offaly in his abbey. He did not deny this, responding only that his house lay 'in the march outside the land of peace'. The jurors advised that the receipt had been involuntary, and the abbot was fined only half a mark for failing to raise the hue and cry.<sup>289</sup> Although the fine was light, the court was in fact taking a harder line against unclamorous churchmen than had been outlined in response to one of the complaints of 1291 (article 1). Both king and justiciar had agreed that it was inappropriate to arrest clerics for failure to raise the hue and cry, and the king added that such clerics should be unmolested.<sup>290</sup> Nevertheless, the decision to overlook the abbey's receipt recalls the promise that justice would be done to clerics with specific objections to their treatment at the hands of the law, and shows that a measure of clerical frontier communication was accepted as inevitable.

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<sup>287</sup> The standard work on the benefit of clergy remains C.R. Cheney, 'The punishment of felonious clerks', *EHR*, vol. 51, no. 202 (1936); see esp. pp 217-32. For Ireland, see Hewer, 'Justice for all?', pp 261-7; Watt, *The church and the two nations*, pp 136-7; idem, 'English law and the Irish church', pp 153-5.

<sup>288</sup> *CJRI, 1295-1303*, p. 65. Fáelain was the leader of the Uí Tuathail in 1295, when a peace concluded between Mac Murchada and the justiciar involved giving Fáelain's son as a hostage (*ibid*, p. 61). He remained a menace over a decade later (*CJRI, 1305-1307*, pp 503-4; *CJRI, 1308-1315*, pp 15, 173-4). However, he also engaged with the justiciar's court during peace (*CJRI, 1295-1303*, pp 171, 173).

<sup>289</sup> *CJRI, 1295-1303*, pp 199-200.

<sup>290</sup> *Statutes and ordinances*, pp 178-9.

Rosglas Abbey's frontier location was well known. During de Sandford's keepership, Rosglas had served as an interface between the Gaels of Offaly and the administration. In 1289 or 1290 the abbot rendered at the exchequer £25 6s. 8d. of the 'fines of the Irish of Offaly', who had come to the king's peace in September 1289; and before he pacified the area by force, de Sandford had held an unsuccessful parley at Rosglas. Perhaps the abbot had a hand in bringing his warring neighbours to the table, and to an eventual settlement.<sup>291</sup> Notwithstanding the jurors' acknowledgement that the abbey had received felons in 1298 under duress, the fact of the abbot's appearance at court indicates that this kind of clerical activity could upset the English populations of the marches, on whose initiative his arraignment had presumably arisen. Nevertheless, the relatively lenient punishment issued, and the justiciar's use of the abbey's ties to the Offaly Gaels to facilitate negotiations a decade earlier, reveal that the inevitability and potential utility of such frontier ties was recognised by the administration.

Other frontier institutions also had dealings with their Gaelic neighbours. The same jury that heard the Rosglas case also heard how Donald Mactawly, a monk of Baltinglass, had knowingly receiving warring felons of his own kin and risen against the English with them.<sup>292</sup> Baltinglass had been exposed to war during the trouble of the 1270s,<sup>293</sup> and in 1302, the abbot of Baltinglass justified his request for terms by which to pay a huge debt to an Italian merchant by claiming that it was well known that because the abbey lay *en si forte march*, it was put to great expense in protecting the house and its environs. This was accepted by the king, who granted the abbot's request.<sup>294</sup> And in 1316 the monks were empowered to send to and receive from malefactors. This may have been essential for the abbey's security, but it probably also facilitated the collusive activities of monks like Donald Mactawly, particularly if monks were employed in negotiations with their own kinsmen.<sup>295</sup> Nevertheless, here, too, we see recognition that a measure of leniency was necessary in dealings with frontier foundations.

Even substantial religious houses close to the centre of governmental power could be browbeaten into collusion with Gaelic felons. In 1305 the prior of Holy Trinity was charged with receiving David McGilnecowil O Tothil and giving him a coat. The case record is incomplete, but a

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<sup>291</sup> *CDI*, iii, no. 559, pp 272, 277. Three prominent leaders of the Offaly Gaels promised 100 cows each to have peace (*Rep. DKPR*, 37, p. 46). For the abbot's responsibility for clearing a nearby pass, see above, p. 79.

<sup>292</sup> *CJRI*, 1295-1303, p. 199. Donald had also aided a killer in 1297 (*ibid*, p. 186).

<sup>293</sup> *Irish exchequer payments*, p. 15.

<sup>294</sup> This petition and related documents have been widely published (Sayles, *Affairs*, pp 56-7; PROME, Edw. I, Roll 25, no. 46; Connolly (ed.), 'Irish material in the class of Ancient Petitions', p. 11). For the king's response, see *CPR*, 1296-1302, p. 547; Hand, 'Two hitherto unpublished membranes', pp 3-4.

<sup>295</sup> NAI KB 2/8, ff 2-3.

rather large fine of 40s. was imposed on the prior despite the apparent acceptance of his plea that he had only placated Ua Tuathail 'that he might abstain from injuring him'.<sup>296</sup> In this case the justiciar evidently took a still firmer stance than he had done with the priory of Rosglas seven years earlier, possibly due to the abbey's importance and wealth. Although Holy Trinity lay within the walls of Dublin city, the receipt probably occurred in one of its granges, perhaps that of Clonkeen.<sup>297</sup> The prior had presumably been acting to protect the priory's resources, and the abbot remained trusted despite the transgression.<sup>298</sup>

Other major houses were also pressured into engagement with Gaelic felons through attacks on their granges. In 1295 and 1316 St Mary's Abbey was licensed to treat with felons, 'English, Irish [or] other of whatsoever nation, surname, or condition', because the house was so impoverished by attacks on its granges; and in 1312 they were pardoned for treating with Gaelic felons that regularly attacked their granges at Carrickbrenan and Balyoky.<sup>299</sup> In 1317 a monk from St Mary's was pardoned for parleying with and providing victuals to some Uí Tuathail from the mountains. He had done so 'to save the ploughs and other chattels of the [abbey's] granges from being stolen'.<sup>300</sup> That lesser and more vulnerable establishments, farther from the seat of royal power in Ireland, might more easily be drawn into deeper and more collusive relationships with their Gaelic neighbours seems certain.

Difficulties policing crime more generally in frontier areas is highlighted in another case involving suspicious behaviour by a frontier cleric. In 1307 the prior of Athmakart (Aghmacart, co. Laois) was charged with receiving Doneghuth son of Fym Mac Gilla Pátraic while he was a felon; the court also heard that robbers from the mountains had been received in the *villatae* of Aghmacart and nearby Fertekeragh (Fertagh, co. Kilkenny).<sup>301</sup> But in the event neither case could be tried because 'the jurors [were] in the company of the seneschal of the liberty of Kilkenny in

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<sup>296</sup> *CJRI, 1305-1307*, p. 481. This was the David McKilecoul O Tothil whose man, Caoilte, was allegedly received by Grathagh and her husband (see above, pp 238-40). Before his outlawry he had been given the land of Kilfeith, co. Kildare, by Richard Bedeford (*CJRI, 1305-1307*, p. 355).

<sup>297</sup> Clonkeen was within the reach of the Wicklow Gaels and apparently lacked defences (Liam Clare, 'The kill and the grange of Clonkeen: two early settlements in south county Dublin', *Dublin Historical Record*, vol. 58, no. 1 (2005), p. 19).

<sup>298</sup> In Michaelmas 1306 and Hilary 1307, when the exchequer's extramural location was felt to present a risk of Gaelic attack, money was moved between the exchequer, Dublin castle, and the priory of Holy Trinity with some regularity (*Irish exchequer documents*, p. 190).

<sup>299</sup> *CJRI, 1295-1303*, p. 72; quote taken from NAI KB 2/8, ff 7-8; *CIRCLE*, PR 9 Edw. II, no. 5.

<sup>300</sup> NAI KB 2/8, pp 49-50. Providing food to anyone who was at war in *les quatre counteez de Leynestere* had been singled out in an Irish parliament of 1310 as a particularly reprehensible act, with transgressors themselves being deemed to be at war (*Statutes and ordinances*, pp 270-1). A similar accusation was made against the prior of Old Leighlin, another highly exposed monastic establishment, in 1318 (NAI KB 2/12, pp 79-80; NAI RC 7/12, p. 271).

<sup>301</sup> *CJRI, 1295-1303*, p. 468.

the marches of Slefblame for the defence of peace'.<sup>302</sup> Evidently, competing local and regional security demands could not be adequately balanced in this area, and it is easy to see why frontier lawmen might have been inclined to exceed the normal bounds of their jurisdiction when it might be necessary to wait a very long time before royal justice became accessible. Most extant instances of clerics communicating illicitly across the frontier appear to have been tried in the broad region to the south-west of Dublin, with a particular focus around the Carlow corridor, which provided crucial access between Leinster and Munster. This probably reflected the preoccupations of the government during the years for which the records of the justiciar's court survive, when frequent war in Leinster took up much of the administration's resources.<sup>303</sup> Similar episodes were probably dealt with locally in areas that could not depend on regular visits from the justiciar: a combination of unceremonious arrests, indefinite imprisonments, exorbitant ransoms, and trials in liberty courts – all complained of in 1291 – may have limited the need for official involvement.<sup>304</sup>

The more general distrust of Gaelic clerics also persisted during these years, and was reciprocated in kind. In 1297 the abbot of Mellifont, as head of the Cistercians in Ireland, was ordered by the justiciar to gradually place English monks in the abbey of Holy Cross (co. Tipperary) until they made up half its number. The Irish monks there had been alienating lands without royal licence, 'as commonly happens in every place where houses are placed under their rule'.<sup>305</sup> In the same year the bishop of Down and archbishop of Armagh denied ordaining that no Englishmen were to be received into monasteries within their purview. Rather, religious houses could 'receive clerks of English origin whom they may wish, at their own risk'.<sup>306</sup> A similar case is encountered in 1307, when the abbot de Magio (Monasternenagh) in Limerick was accused of refusing to permit English monks to enter the abbey, 'in hatred of the English tongue'.<sup>307</sup> This foundation had troubled Stephen of Lexington and was apparently a cause of considerable and protracted concern for the English of the region at this time as well, as in 1312 the 'commonalty of county Limerick'

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<sup>302</sup> Ibid, p. 467. Aghmacart was a deeply troubled area: according to the record of a recent taxation of the diocese of Ossory, the 'prior of Aghmecart [rendered] nothing on account of war' (Hugh Jackson Lawlor, 'Calendar of the Liber Ruber of the Diocese of Ossory', *PRIA*, vol. 27C (1908/1909), p. 177).

<sup>303</sup> The Irish justiciars and *locum tenentes* did frequently itinerate outside Leinster, but most of their time was spent in that province. See also above, p. 18, fn. 90.

<sup>304</sup> See articles 3, 4, 5, and 6 of the 1291 complaints (*Statutes and ordinances*, pp 180-3). Articles 3 and 6 alluded to recent transgressions in the dioceses of Ferns and Kildare – it is unclear if the problems in question (ill treatment of arrested clerks and clerics being tried in liberty courts) were restricted to those areas.

<sup>305</sup> *CJRI, 1295-1303*, pp 134-6, esp. p. 136.

<sup>306</sup> Ibid, p. 102-3. See also Hewer, 'Justice for all?', pp 257-8; Alexander Gordon and Brendan Smith, 'Blund, Nicholas le (d. 1305), bishop of Down', *ODNB* (2004). Nicholas le Blund's earlier tenure as treasurer of Ulster complicates the picture still further.

<sup>307</sup> *CJRI, 1305-1307*, p. 351.

petitioned the king to expel the Gaelic monks of Monasternenagh and replace them with English monks.<sup>308</sup> These complaints were probably informed by more than just ethnic prejudice, as the abbey truly was the site of some very concerning activity – in 1308, for instance, it was plundered by a ‘large body of men’ led by a former abbot, who claimed he should still control the house.<sup>309</sup> Nevertheless, the petitioners evidently thought the problems at Monasternenagh were rooted in ethnicity.

Gaelic churchmen were not targeted by the parliament of 1297, which focused primarily on the frontier misdeeds of secular landholders, but they did not escape censure at a more holistic parliament held in 1310, which decreed that only those *qe sount de la nacioun des Engleis* were to be admitted into religious houses *en terre de pees ou terre Engleis*.<sup>310</sup> The prelates at this parliament undertook to excommunicate anyone who breached its ordinances, knowingly disturbed the king’s peace, or provided counsel or aid to evildoers, whether secretly or openly (*sive clam vel palam*).<sup>311</sup> The exclusionary ordinance was controversial however, and in May, on the advice of the archbishop of Armagh, it was revoked by Edward II: it had not led to ‘greater tranquillity and peace... but rather [to] damage, hatred, and discord’.<sup>312</sup> Some of these alleged secret counsellors to evildoers were probably clerics, as was suspected in 1284 and 1285. Similarly, in a letter of 1317, Pope John XXII complained that ‘some brothers of the mendicant orders and many rectors, vicars, and chaplains of parish churches in Ireland’ administered ‘secret and depraved counsels and incitements’ to ‘the Irish people... under their charge’, encouraging their rejection of royal authority, and absolving them of heinous crimes.<sup>313</sup> The letter’s immediate context was the Bruce invasion, but the perceived problem within the Irish church was an old one and fit into an established pattern of suspicion of Gaelic clerics in frontier regions.

In 1317 as in 1217, then, the Irish church suffered from divisions rooted in ethnicity. These can be seen in the suspicions harboured about the two best-sourced Gaelic clerics of the period, David Mac Cerbaill and Nicholas Mac Maol Íosa, as well as in the geographically and chronologically sporadic, but recurrent, tussles for ethnic monopolies over certain churches or

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<sup>308</sup> Sayles, *Affairs*, pp 69-70; abstracted in Connolly, ‘Irish material in the class of Ancient Petitions’, p. 44. For Stephen of Lexington’s complaints about Monasternenagh, see *Letters from Ireland*, pp 136-7, 145, 188-91, 194.

<sup>309</sup> *CIRI*, 1308-1315, p. 1.

<sup>310</sup> *Statutes and ordinances*, pp 272-3. The meaning of *ou* here is presumably that the two are synonymous; but given the limited research into the concepts of the land of peace and war, the possibility that the parliamentarians were referring to English-controlled lands that lay beyond the marches should not be wholly discounted. See above, p. 15, fn 78).

<sup>311</sup> *Statutes and ordinances*, pp 274-7.

<sup>312</sup> *CIRCLE*, patent roll 3 Edw. II, no. 6.

<sup>313</sup> *COD*, i, no. 523.

arms of the church. These tensions were most keenly focused on frontier establishments, which could easily come under physical threat. It was inevitable that contacts would occur across the frontier, and this was recognised by the administration, which regularly issued licences to negotiate to frontier foundations, or treated transgressors in this regard with leniency. Nevertheless, such contacts had the potential to endanger not only the clerical community, but also nearby settlements, and it is easy to see why clerics in the marches who protested their calling to preach to *utlagatorum et pacis perturbatorum* may have been regarded with suspicion by both secular and ecclesiastical authorities.

Of course, the sources tend to amplify unpleasant interactions, and present purposes, too, have required a firm emphasis on acrimony.<sup>314</sup> It is striking, however, that even when set in this context, the words and actions of the prelates of Armagh, Cashel, Down, and Kildare illustrate the fact that inter-ethnic relations were far from black and white, although they were often presented that way. Although the Irish church's ethnic divisions are writ large across both the primary sources and the historiography, when examined through the lens of trust, the more interesting division is perhaps the secular distrust of churchmen that is seen in some volatile march regions.

### *Conclusions*

The frontier provide an interesting focal point for the study of trust in medieval Ireland. That relations between those dwelling in the *terra pacis* and the *terra guerre* might be complex and, at times, fraught, goes without saying. But the very fact that such cross-frontier relations were a possibility also complicated relations between the Dublin government and frontier landholders, as well as between lords living in borderland regions. The focus here has been on efforts by the Dublin government to inhibit the strength of the bonds that were formed across the frontier, and strengthen those between frontier landholders. In service of these aims, private truces and other communications with felons at war were forbidden. This accorded with practice in England, but differed from that in the March of Wales, which provided the closer analogue in terms of the frontier conditions faced. In theory, concentrating truce-making powers in the hands of the justiciar facilitated the maintenance of one peace and one war, but as has been seen elsewhere in this thesis, conditions were too varied throughout Ireland, and the administration's reach too

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<sup>314</sup> Empey noted that the court and papal records were not designed to deal with those clerics that did a good job ('Irish clergy in the high and late middle ages', p. 41).

proscribed in practice, for this approach to be feasible.<sup>315</sup> It was therefore necessary to issue many licences to individual frontier landholders to treat for peace, and there can be no doubt that unlicensed private negotiations were frequently carried out.

Similar measures were also applied to lesser types of negotiations. Thus, treating with felons for the restoration of stolen goods was also forbidden. This proscription was described as 'custom' in 1292, though it is unclear how long before that year this measure was regarded as operative. This measure probably hit those who occupied the lower rungs on the social ladder harder, and although it was possible to obtain licences to carry out such negotiations, examples abound of amercements imposed for breaches of this 'custom'. Efforts were also made to prevent clerical communication across the frontier; this was informed by trends of anti-Gaelic sentiment within the church, widespread fears about spying, and the broader attempts to obstruct the formation of cross-frontier bonds. The difficulties that arose from these measures is clear from the many licences and amercements that were issued in connection with such negotiations, and a more human aspect has been seen in John de Lyvet's anxieties about being prosecuted for his efforts to free himself from Gaelic captivity.

Spying has also been explored here. It seems probable, in light of English practice in Britain and some suggestive Irish documents, that the Dublin government utilised espionage in its efforts to mitigate the threat from some Gaelic septs. Concerns about Gaelic espionage can also perhaps be discerned in the removal of William de Ballygaveran from the exchequer's ushership, because it would be inappropriate to let a Gael learn the secrets of the exchequer. The English experience of Welsh and Scottish espionage should be borne in mind when considering this episode, but so, too, should the annalist's tale about Donnchad Mac Anmchaid's attendance at English markets in disguise. Concerns about spies on the frontiers have also been identified on a more local basis throughout Ireland. These may have played an important part in planning some Gaelic cattle raids, and the Dublin government took local concerns about spying very seriously. The resolution of these concerns was facilitated by the adoption of a very hard stance against spies: most of those who were found guilty were hanged.<sup>316</sup>

Much like its efforts to control frontier fortification and alienation, the administration's capacity to actually enforce its strictures on cross-frontier contacts was limited. Efforts to prevent

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<sup>315</sup> As has been noted, some escheators were also empowered to negotiate frontier truces, though the justiciar and council had to be apprised of their decisions. See above, pp 156-7.

<sup>316</sup> Cf. the case of the Scot, Robert Skort, who came before the king's justices in Cumberland in 1300, 'suspected of treachery, [he came] to the king's peace "once, twice, and thrice," and after each time returning to the Scots, telling them of the state of England and of these parts... the jury find that he is a spy... He is recommitted to gaol till the king is spoken with' (*CDS*, ii, no. 1152).

## The management of trust

the formation of deep cross-frontier bonds were futile, and cultural, familial, and political links only became stronger and more prevalent over time. By attempting to monopolise powers of negotiation which it did not have the capacity to manage effectively, the government simply forced landholders to engage in officially unacceptable behaviours. Just like other governmental efforts to tightly control the behaviour of march landholders, this, too probably had the effect of making frontier conditions more difficult than they already were, and perhaps also of alienating frontiersmen.

## Conclusion

Robin Frame contended that 'in Ireland frontier conditions fostered – indeed demanded – consolidated lordships, local power, self-help and, gradually, local customs'.<sup>1</sup> During the thirteenth century, however, official efforts to foster settlement and security on the colonial frontiers were frequently undermined by a contradictory impulse to prevent the developments listed by Frame from taking place. This impulse was rooted in the conviction that what pertained to the crown ought to remain inalienable, and perhaps also in the royal experience on the March of Wales, where the exercise of royal power was often inhibited and even directly challenged. Official efforts to prevent the emergence of a similarly independent strain of Irish frontier lordship met with little success in the long run: in the fourteenth century the chronically overstretched and underfunded government had to acknowledge its reliance on magnate power even for the maintenance of law and order.<sup>2</sup> It is notable, however, that there is no indication of any collective marcher identity emerging in Ireland. Collective references to Irish marches are occasionally encountered, but these consist almost exclusively of general descriptions of march conditions, and references to the defensive obligations of frontier landholders. There is no reason to suspect that Irish marchers were regarded as a discrete bloc.<sup>3</sup> In Ireland, *marchia* simply represented a technical category of land characterised by its vulnerability to Gaelic raiding, and by the defensive obligations with which those who held land there were burdened.

This perhaps represented a measure of success in the government's approach to the Irish frontier. But if so, it came at a price. The military difficulties associated with Irish march holdings, coupled with governmental reticence to permit landholders to exercise exceptional powers in their defence, may have contributed from an early date to the emergence of absentee lordship on the frontiers. The Irish marches were certainly thought to be ill-protected by those responsible for them in the early decades of the thirteenth century. Reluctant measures adopted to mitigate the strain on frontier landholders by permitting them to coerce their tenants into fortifying the marches in 1226-7, and granting them greater powers of alienation in 1293, were short-lived. That official strictures could be a source of worry for those who lived on the frontiers is clear from the case of John de Lyvet. The existence of proscriptions against treating with or receiving from

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<sup>1</sup> Robin Frame, 'English officials and Irish chiefs', p. 249.

<sup>2</sup> Idem, *English lordship in Ireland, 1318-1361* (Oxford, 1982) pp 27-8.

<sup>3</sup> The only instance of which I am aware when Irish marchers (*aliquos de marchia*) were referred to collectively arose in 1205 (*RLC*, i, p. 40 (*CDI*, i, no. 268)). H.G. Richardson has shown that a reference contained in the Irish pipe roll of 14 John to 'marchers' remaining at Clones (Pipe roll Ire., 14 John, pp 24-5), was a misreading by Davies and Quinn (H.G. Richardson, 'Norman Ireland in 1212', *IHS*, vol. 3, no. 10 (1942), p. 156).

## Conclusion

enemies of the king did not prevent him from engaging in these acts when he was taken captive by Gaelic felons, but they forced him to go to great lengths to hide the fact that he had done so. The issuance of very many fines for this reason indicates that John was not the only one frustrated by the government's stringent policy on this matter.

Notwithstanding the limiting effect that the inalienability of royal rights had on government policies, march security was evidently the chief aim of most of the measures examined in this thesis. Repeated efforts were made during the first three decades of the thirteenth century to compel all march landholders to fortify those lands. These efforts were supplemented by the intermittent provision of funds to individual landholders to assist in the establishment of strong private fortifications. The importance of securely keeping the marches was seen in the second chapter's discussion of the proliferation of wastes on the colonial frontiers. Ill-protected marches could rapidly become depopulated, and one consequence of this was the encroachment of the marches upon the *terra pacis*. It is clear from the complaints of Giraldus, King John, and the parliamentarians of 1297 that the marches were supposed to serve as defended buffer zones to protect ostensibly less-vulnerable areas.<sup>4</sup> Notwithstanding a measure of historiographical scepticism as to the effectiveness of most extant Irish mottes, it seems that contemporaries had few doubts about their utility in the marches.

Defensive concerns also motivated the pardons that were dispensed liberally by the justiciar's court to those willing to fight on the frontiers, as well as the payment of money for the heads of individuals regarded as threatening to colonial security. Neither measure was unique to Ireland, but headhunts may have been instituted with greater regularity in Ireland than in Wales; and unlike in England, pardoned criminals were sometimes expected to fight in their own localities. Thus, some Irish convicts did not even need to leave their communities in order to earn their pardons. The danger that this strategy might embolden criminals of all stripes is clear – in England it certainly became easy to obtain such pardons, even multiple times, and it has been noted above that in both Ireland and England complaints were made about the damage caused by the easy availability of such pardons.<sup>5</sup> As a local defensive measure, then, this was not without its perils. Similarly, it has been noted that some headhunts, particularly assassinations of important Gaelic leaders, were high-risk propositions. De Fulbourne's clandestine procurement of the heads of Art and Muirchertach Mac Murchada in 1282 ushered in a decade of relative security in Leinster – but the 1305 massacre of the Uí Conchobhair Failge had the opposite effect.

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<sup>4</sup> See above, pp 48-9, 52; Connolly, 'The enactments of 1297', pp 152-3.

<sup>5</sup> Hurnard, *The king's pardon*, pp 313-15, 320-1.

## Conclusion

It was probably not the government's intention, in 1305, to spark off a costly war. But the massacre also had the effect of disintegrating trusting relationships that had grown up in the marches of Offaly, and it seems that high profile assassinations often involved the betrayal of such bonds. It has been suggested here that this may not have been entirely unintended on the government's part. This is an unsavoury accusation, and I do not wish to overstate the evidence for it, which largely consists in references to treachery in highly emotive Gaelic documents. Nevertheless, efforts were clearly made to inhibit the development of strong connections across the frontier, and to ensure that the most resilient bonds were instead formed between Englishmen. This has been seen in the official efforts to prevent fraternisation across the frontier during war, the practical difficulties of which have been noted.

Of course, these limitations on social interactions were also rooted in security concerns, and specifically in the desire to maintain one war and one peace. Notwithstanding royal willingness to exploit fault lines within the colonial community in order to best maintain royal power, the colonists themselves emphasised the need for unity at the parliament of 1297, when they condemned 'degeneracy' on the grounds that it led to reciprocal killings.<sup>6</sup> Thus, wearing the Gaelic *culán* hairstyle was regarded as a serious insult to the king: 'no more answer will be made to an Englishman having his head changed into the form of an Irishman, than would be to an Irishman if he complained in a similar case'.<sup>7</sup> Of course, in emphasising the importance of unity, the statutes of 1297 reveal that English society in Ireland was plagued by deep divisions.<sup>8</sup> It seems quite likely that in its refusal to countenance the emergence of a centrally-accepted framework for frontier interaction, the Dublin government made independent action, and the entrenchment of divisions on the frontiers, still more inevitable.<sup>9</sup>

We have also seen that the desire to encourage settlement in frontier regions, both in the marches and beyond them, played a role in shaping some policy decisions. Settlement initiatives were closely connected to defensive measures, as settlement and security naturally begot and sustained one another. This was most extensively examined in relation to the repeated efforts to make grants of 'Irish wastes' throughout the thirteenth century. This phrase, which implied empty

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<sup>6</sup> For royal willingness to encourage factionalism during the period covered here, see Crooks, "Divide and rule", pp 263-307.

<sup>7</sup> Connolly, 'The enactments of 1297', pp 160-1.

<sup>8</sup> Smith, 'Keeping the peace', pp 58-9.

<sup>9</sup> Although the English crown's enthusiasm for the laws of the Scottish and Welsh marches was muted, both were accepted as legitimate. See Davies, 'The law of the March', pp 1-30; J. Beverley Smith, 'England and Wales: the conflict of laws', Michael Prestwich, Richard Britnell, and Robin Frame (eds), *Thirteenth century England vii: proceedings of the Durham conference, 1997* (Woodbridge, 1999), pp 189-205; William W. Scott, 'The March Laws: for use or ornament?', Jenifer Ní Ghrádaigh and Emmett O'Byrne (eds), *The march in the islands of the medieval west* (Leiden, 2012), pp 261-284.

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land ripe for agricultural colonisation, was euphemistically applied to those lands that remained under Gaelic control in the west of Ireland. As early as 1229, Henry commanded his justiciar to settle all lands that had not yet been settled and built on, and similar commands were issued in the 1250s and 1280s. Henry's intentions were stated more baldly in the letter of 1268 empowering his nephew, Henry of Almain, to make grants of lands amongst and near to the marches of the Gaels. As well as these intermittent efforts to systematically establish new settlement on the frontiers, Henry and Edward also made their own waste grants, at least until the 1280s. The exemption from the royal proscription against subinfeudation that was extended to royal tenants-in-chief in the marches and *tere de gerre* in 1293 was also designed to encourage greater English settlement in those regions.

Of course, part of the reason to encourage settlement and security was to increase royal revenues, and, perhaps more importantly in the present context, to diminish the government's expenditure on frontier defence. Grants of Irish wastes promised to make more profitable, and more amenable to royal justice, lands that could not presently be relied upon to render their annual rents. Ideally, these waste grants would also diminish the need for the justiciar to lead military expeditions to suppress local agitations. It has been seen that the escheator also often incurred extensive costs in the maintenance of frontier holdings that came within his purview. The ability of officials to carry out their other duties could be hindered by frontier responsibilities, and this, too, made it preferable to minimise such engagements. Thus, other efforts were also made to offload the costs of frontier defensive initiatives onto the landholders and communities living in and near to the marches. This has been seen, in particular, in the imposition of local levies to pay for the construction of fortifications and the clearing of passes, to replace horses lost in march warfare, and to reward those who successfully completed headhunts. Ideally, the latter two undertakings would also minimise the need for further military expenditure on the government's part, though, this was not always the result.

The impetus to reduce expenditure on the frontier was undoubtedly increased by the additional demands made on the Irish revenues during Edward's reign, though it is important to note that such requests were not a wholly new departure under that king.<sup>10</sup> The frequent

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<sup>10</sup> In 1212, King John had withdrawn over 6,000*m.* from Ireland (*CDI*, i, no. 436). And although in March 1230 Henry III acknowledged his receipt of 2,000*m.* from Ireland, in the very next month he requested that 'all the treasure' in his Irish treasury be sent to him (*CDI*, i, nos 1781, 1808). Similar requests were made in April 1237, March 1238, August 1241, April 1242, April 1243, and September 1246 (*CDI*, i, nos 2394, 2438, 2530, 2560, 2562, 2849, 2612). And in July 1246 he requested 'all the money in the treasury or which Geoffrey can borrow in the king's name', for a Scottish campaign (*CDI*, i, no. 2718). Note, however, Lydon's assessment of these sums, on the basis of the contemporary Irish financial situation:

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extraction of large sums from Ireland by successive monarchs reveals that their Irish priorities did not lie on the frontiers. Indeed, such withdrawals were decidedly short-sighted as far as the Irish military situation was concerned. This may have shaped the opinions expressed by Hartland and Lydon, that 'royal policy' towards Ireland was characterised by impromptu decisions in service of immediate aims.<sup>11</sup> The present thesis has hopefully shown, however, that consistency and, sometimes continuity and even system, can be discerned in the government's approach to the various frontier problems it faced during the period.

The crown's propensity for withdrawing funds from Ireland which the Dublin government might need should a frontier emergency arise has a bearing on one of the central questions of this thesis, namely, where was official policy towards the Irish frontier devised? It seems that, for the most part, decisions concerning the frontier were made in Dublin. This was certainly true when it came to matters that did not bear directly on the rights of the crown or lands in the king's hand. There were no clear impediments to the Dublin government's power to offer money for the heads of particular Gaelic leaders; and at a local level, the justiciar's position at the head of the king's court gave him considerable power to decide how to treat certain frontier transgressions, such as spying. It has been seen, however, that the king also sometimes played a role in frontier policy formation. Communications between Dublin and the king were frequent – indeed, so constant was the back and forth of messengers, and even important ministers, between Ireland and England that Lydon suggested that 'the king was kept fully informed of what was going on and he frequently took the initiative himself in policy decisions', at least in the first half of the thirteenth century.<sup>12</sup> Royal input was required when decisions involved the diminution of royal rights, or when authority exceeding that possessed by the justiciar was needed. The latter consideration may explain the king's commands that marches must be fortified, though it is possible that the justiciar was able to enforce this obligation on his own as well, at least later, as Geoffrey de Marisco did during Henry III's minority. Royal licence was of course also required when making grants of wastes in the king's hand, and when granting exceptional powers of alienation to frontiersmen.

However, the kings generally allowed themselves to be guided by Irish counsel in such matters. News and advice from Dublin, as well as the wish to bolster the authority of the king's Irish representative, probably explains the commands made by John and Henry regarding

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'[t]here was no question of overexploitation, or of excessive demands. Henry III was moderate' ('Expansion and consolidation', p. 176).

<sup>11</sup> Lydon expressed the view that Edward's demands on Irish finances made governmental aspirations to control the Leinster Gaels through a submission agreement unattainable ('A land of war', pp 260-1).

<sup>12</sup> Lydon, 'Expansion and consolidation', p. 175.

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compulsory fortification. And the prospect of Edward I granting great powers of alienation to frontier tenants-in-chief in 1293 without prompting from Dublin is almost unthinkable. Many of the waste grants were made by Henry III, but his decision to target the western reaches of Ireland was heavily influenced by Irish advice. And it is clear, from the grants of sweeping powers to various administration officials to systematically dispose of royal waste holdings, that Henry and Edward trusted their Dublin officials to operate prudently with a high degree of independence from royal oversight. Similarly, several of the grants made from the royal service to build or improve upon private fortifications were conditioned upon the justiciar's concurrence with the value of the undertaking, and his confidence that the royal service would not be needed elsewhere. Moreover, the king's responses to various petitions concerning Irish matters, and particularly Irish frontier matters, frequently simply referred the petitioner back to the justiciar; it is clear that Edward preferred for such matters to be heard in Ireland in the first instance, and that he was disinclined to overrule his justiciar's decisions.

Although the justiciar was the head of the administration, in whom royal powers were vested, the king intended for his Irish officials to work as a unit. Thus, in 1251 he rebuked the chancellor and treasurer for their resistance to the justiciar's orders. Several years later, it was Henry's own orders that were being defied when his grants to Geoffrey de Lusignan and other courtiers foundered, seemingly on the resistance of Edward's Irish officials. This, too, points to the Dublin government's considerable power to shape its own policies even in the face of royal resistance. And on the matter of governmental autonomy, it is important to note that for much of the period under study here, the evidence only permits us to see those aspects of frontier policy which required royal input. Independent actions by the Dublin government are largely hidden from view, but when further evidence does start emerging, it is clear that royal government was being exercised vigorously throughout Ireland not only by the justiciar, but also by the escheator within his well-defined bailiwick. It is also clear that, from at least the 1270s, the king's Irish council and parliament were exercising a lot of control over Irish policy. In 1297 and 1310, Irish parliaments published ordinances concerned with march defence. There can be little doubt that the parliament had played a part in shaping frontier policy before this too, and the council had probably done so for much longer, since as early as 1213 a rudimentary version of this body was making military decisions in Ireland. The king had always listened to his magnates, to some extent, and his Irish officials were expected to do the same when making decisions about the frontiers.

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Indeed, in 1285 Thomas de Clare and Geoffrey de Geneville, who were not then members of the administration, were associated with de Fulbourne and de Sandford to make waste grants.<sup>13</sup>

Such men were also able to represent local interests, and it is important to note that the localities, too, played a role in policy formation. Naturally, the specific measures adopted by the government, such as decisions to offer head money or to advise the king to make land grants on generous terms, were based on local exigencies. The influence of frontier landholders on government policy can also be discerned in the king's concession to marchers, during the mid-1220s, of the power to disseise tenants who failed to fortify their marches. This short-lived measure probably arose from the receipt of many petitions. The government could get a sense of local needs during official itinerations, from shrieval visits to the exchequer, and through exchanges of messages. Thus, measures were sometimes implemented in frontier areas far beyond the government's normal reach, such as the offer made in c.1281 of money for Domhnall Óg Ua Domhnaill's head. Localities could also contribute to frontier policy-making by consenting, or refusing to consent, to the imposition of levies to pay for the implementation of particular measures. This gave communities a certain degree of control over the government's approach to frontier problems in their areas, though it is clear from the assassination of the Meic Murchada that the government could act without local consent if it was willing to foot the bill.

As has been noted by Hartland, the term 'policy' is apt to imply a level of cohesiveness and consistency of practice that was unknown to medieval actors. But it is not unreasonable to expect readers of medieval Irish history to permit some flexibility in their interpretation of the term, as medievalists frequently choose to do in order to make useful suggestions about the societies they study. Although there was no rigid long-term plan for Irish frontier management, the measures examined here exhibit recurrent, consistent, and even systematic elements. They also reflect consistent action in accordance with the aims of increasing the security of, and level of settlement on, the frontiers, without permitting any derogation from royal prerogatives. Thus, when we step away from the idea of specifically 'royal' policy, it becomes easier to accept that aspects of the governmental approach to the Irish frontier can be profitably grouped and studied through the lens of policy. This is certainly preferable to regarding the government's approach to the frontier as entirely situational and ad hoc. Rather, decisions concerning the frontiers were formulated chiefly in Dublin by a cadre of advisors and officials whose membership changed over time, but not all at once. Most new appointees to the justiciarship were already familiar with Irish

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<sup>13</sup> See above, pp 120-1. Similarly, in 1205 the justiciar was told not to make war on the marchers (*aliquos de marchia*) without the advice of the de Lacy brothers and other royal subjects (*RLC*, i, p. 40 (*CDI*, i, no. 268)).

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conditions but those who were not, such as Alan de la Zouche in 1256, were probably guided by the collective experience of this group. Policies were further shaped by consultation and negotiation between Dublin, the king, and frontier landholders and communities. Depending on the approach selected by the historian, any of these three nodes might be regarded as the 'centre'; but although the sources are best suited to a study of governmental intentions such as this, it is clear that, in practice, the preponderance of power often lay in the hands of frontier landholders.<sup>14</sup> That deviations from the official line would emerge was perhaps an inevitable result of an overambitious frontier policy rooted in conflicting principles designed to delegate the responsibilities and costs of frontier management while withholding, so far as was possible, powers appropriate to deal with those burdens.

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<sup>14</sup> Note Frame's observation that 'one man's periphery is another's core' ('King Henry III and Ireland', p. 34).

## Appendix I

### Periods covered by escheators' accounts, 1272-1315

Pipe Roll <sup>1</sup>	Period covered (wards and escheats) <sup>2</sup>	Period covered (vacant bishoprics) <sup>2</sup>
1272-3 (a.r. i)	Unspecified (Jan 1272 to Aug 1274) <sup>3</sup>	Unspecified (Jan 1272 to Jan 1273) <sup>3</sup>
1275-6 (a.r. iv)	Unspecified (Aug 1271 to Feb 1277) <sup>3</sup>	Unspecified (Apr 1272 Sept 1276) <sup>3</sup>
1280-1 (a.r. ix)	Apr 1274 to Jan 1277 (Ulster only)	-
1281-2 (a.r. x)	Unspecified (Sept 1276 to c.Feb 1283) <sup>3</sup>	Unspecified (July 1271 to Sept 1282) <sup>3</sup>
1287-8 (a.r. xvi)	Apr 1287 to Apr 1289	Apr 1287 to Apr 1289
1289-90 (a.r. xviii)	Apr 1290 to Apr 1291	Apr 1289 to Apr 1291
1297-8 (a.r. xxvi)	Apr 1296 to Apr 1299	-
1300-1 (a.r. xxix)	-	Sept 1298 to July 1300 (Dublin only)
1302-3 (a.r. xxxi)	Apr 1299 to Feb 1304	Apr 1295 to Feb 1304
1307-8 (a.r. i)	Nov 1306 to Mar 1308	-
1309-10 (a.r. iii)	Mar 1308 to Feb 1309 <sup>4</sup>	- <sup>4</sup>
1312-13 (a.r. vi)	Dec 1310 to Dec 1312 <sup>4</sup>	- <sup>4</sup>
1315-16 (a.r. ix)	Sept 1310 to Dec 1310, Dec 1312 to Sept 1313, Sept 1313 to Apr 1315 <sup>5</sup>	Aug 1313 to Sept 1315 (Dublin only) <sup>5</sup>

<sup>1</sup> The escheators' accounts often contain small amounts of material from the year after the date of the roll.

<sup>2</sup> The years given here are taken from accounts' headings, but accounts frequently include some material from outside these dates.

<sup>3</sup> The earlier account headings lack date ranges, and in these instances the dates given are based on the earliest and latest account dates. Unfortunately, these are often considerably earlier or later than the bulk of the accounts' contents.

<sup>4</sup> Accounts of diocesan temporalities are included in this roll, under the heading for the escheator's account of wards and escheats.

<sup>5</sup> This roll contains a series of accounts by various escheators.

## *Appendix II*

### *Control of alienation by royal tenants-in-chief in Ireland*

There is plenty of evidence, hitherto overlooked, to suggest that the Dublin government put considerable effort into ensuring that lands held in chief were not alienated without licence, at least from the late 1290s. Previous writers on the topic referred only to the case that came before the justiciar and king's council in 1302; but it does not seem that court proceedings were necessary for illegally alienated lands to be taken into the king's hand.<sup>1</sup> This is unsurprising: the 1293 ordinance established that lands alienated without licence were to be seized by the escheator, who typically only became involved with lands upon the death of a tenant-in-chief.<sup>2</sup> Although the ordinance had commanded that unlicensed alienations be seized immediately, it does seem that illegal alienations normally came to official attention during the drafting of IPMs. Unless an alienation was legally problematic for some other reason, as in 1302, it was unlikely to end up in court. In many cases it is clear that the feoffor's death preceded the seizure of the lands. Most evidence has been found in the escheators' accounts, which frequently record lands taken into the king's hand due to their unlicensed alienation.<sup>3</sup> The evidence is set out at length here because it constitutes essential context for the discussion in Chapter 3 of this thesis, and for its intrinsic value due to its absence from previous assessments of the Irish ordinance of 1293.

It is unfortunate that no escheator's accounts are recorded for the period between Easter 1291 and Easter 1296. The account submitted in 1297-8 contains only wardships and escheats and records no unlicensed alienations. The earliest evidence for official efforts to control alienations by tenants-in-chief are therefore found in the account of cavant bishoprics covering Easter 1299 to February 1304, in which we read that lands at Lucan in Newcastle Lyons were in the king's hand due to their unlicensed alienation by Maurice Ua hOcáin, bishop of Killaloe, to Thomas, son of James Ua hOcáin. As this had been done without royal licence the lands in question had been taken into the king's hand.<sup>4</sup> The alienation, which was made in fee, had stood for three years before the lands were seized, and it probably eluded official notice until the diocesan

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<sup>1</sup> For the case of 1302, see above, pp 140-1.

<sup>2</sup> See above, p. 138.

<sup>3</sup> Both the published calendar and Betham's MS calendar have been consulted in every case. The published calendar is generally more detailed, but Betham occasionally gives information absent from the publication.

<sup>4</sup> *Rep. DKPR*, no. 38, p. 79; NLI MS 760, p. 261. For the information that the alienation was made in fee, see *CCR, 1302-1307*, pp 169-70 (*CDI*, v, no. 351). The episode and its background are discussed in Gwynn and Gleeson, *A history of the diocese of Killaloe*, pp 221-3, 316-20.

temporalities came under the escheator's purview during the vacancy following Maurice's death in 1298.<sup>5</sup>

The same account also records Nicholas Dunheved's unlicensed alienation of the manor of Mansfieldstown to Ralph Pipard. The manor, which was held in chief of the king, was seized in February 1300 and was restored to Ralph the following August by royal writ. In these few months the escheator had managed to extract £39 8s. of rent; moreover the release was only secured after Ralph made a fine of £20.<sup>6</sup> Exercising this royal right could clearly be lucrative. There is no indication that Nicholas Dunheved's death preceded the seizure of this manor, and it is possible that investigations were carried out outside the context of an IPM. The same account contains an unusually detailed list of expenses, which records money allowed to the escheator for two horses lost while travelling to Connacht in 1300 'to hold an inquisition concerning lands aliened from archbishopric of Tuam, bishopric of Clonfert, and the lands which Adam de Cretynge and Juliana de Clare held of the inheritance of Gilbert son and heir of Thomas de Clare'.<sup>7</sup> Significantly, neither diocese was vacant at this time, indicating that the escheator was making proactive efforts to uncover unlicensed alienations at the time. As none of these lands appeared in the king's hand, it seems that no wrongdoing was uncovered, or that the matter was resolved immediately.<sup>8</sup>

The next enrolled account records that Henry de Belinges held the manor of Corkagh to farm from the king for the three-and-a-half years up to Easter 1306. This manor had been taken from Geoffrey de Lusignan, who had alienated it without licence to Nicholas de Typergragan.<sup>9</sup> De Belinges was a loyal and experienced royal servant,<sup>10</sup> and had earlier kept the same manor during the Gascon war, when it was in the king's hand due to de Lusignan's alien status.<sup>11</sup> In 1307 de Lusignan implored the king to restore land that he had lost to the king 'by default of his attorney' who was hindered at sea, though the king insisted that the lands would only be restored upon payment of a fine.<sup>12</sup> It is unclear whether this relates either to de Lusignan's alien status or his unlicensed alienation, but making fine was the remedy set out in the 1293 Irish ordinance, and we have already seen that this course was adopted by Pippard in 1300. The lack of reference to custodians like de Belinges in the case of other lands taken into the king's hand for unlicensed

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<sup>5</sup> *CCR, 1302-1307*, pp 169-70 (*CDI*, v, no. 351).

<sup>6</sup> *Rep. DKPR*, no. 38, p. 80; NLI MS 760, p. 262. For the £20 fine made by Ralph, see NLI MS 760, p. 171.

<sup>7</sup> *Rep. DKPR*, no. 38, p. 82.

<sup>8</sup> Not all lands seized for unlicensed alienation appeared on the pipe rolls. See below, pp 273-4.

<sup>9</sup> *Rep. DKPR*, no. 38, p. 95; NLI MS 760, p. 246.

<sup>10</sup> His career also saw him serve as a collector of the fifteenth and as a receiver at the Irish exchequer (Hartland, "To serve well and faithfully", p. 210).

<sup>11</sup> *Rep. DKPR*, no. 38, p. 57; NLI MS 760, p. 243. For broad context and analysis of this episode, see Lambert and Ormrod, 'A matter of trust', pp 212-15.

<sup>12</sup> *PROME*, roll 25, m.2, no. 48.

alienation may indicate that the grantees continued to hold the land, albeit with less secure title to the holdings. This was sometimes done in England.<sup>13</sup> In the case of the Irish alienations, the fact that the individual holdings were often very small and remained in the king's hand for a long time bolsters this suggestion.

The account for November 1306 to Hilary 1308 records the receipt of 5s. 4d. rent from eight acres which had been taken into the king's hand in Castleknock after their unlicensed alienation by Hugh Tyrel to John Abbot.<sup>14</sup> These lands remained in the king's hand for some time – they continued to appear in escheators' accounts down to John de Dufford's account covering 1315 to 1316.<sup>15</sup> The account covering the two years up to December 1312 records 13s. 4d. taken from Gilbert de Pembroke's land of Lyskilchyn in Waterford, which was in the king's hand for unlicensed alienation, as well as 8s. taken from lands illegally alienated by Matthew de Bruys in the same county.<sup>16</sup> In the latter case the alienation was probably noticed because the lands were in the king's hand due to minority.<sup>17</sup>

Further examples can be adduced. A 1315-16 account records that John de la Rokeley had obtained lands from John fitz William le Butler without licence;<sup>18</sup> the escheator's account for the two years and thirteen weeks commencing 14 May 1317, records freeholds in Callan in the king's hand due to their unlicensed alienation by the abbot of Mellifont to Nicholas Taaf;<sup>19</sup> a 1322 account records lands in the king's hand due to their illegal alienation by Adam de Howth to his son, and the seizure and restoration of the grange of Ballispellan after the abbot of Tracton alienated it without licence;<sup>20</sup> and an account covering January 1323 to February 1325 recorded Philip de Holywood's unlicensed alienation of the manor of Holywood to John le Bret.<sup>21</sup>

Evidence for illegal alienations is also found in other sources. A letter of 1305 on the Irish close roll details a complex example. William le Irreys had alienated lands held in chief of the king to Audoen son of John, who appears to have attempted to alienate the same lands to William le Marshal. Audoen perhaps sought permission before doing so, as at this juncture he and William le Marshal had to make fine for Audoen's initial improper acquisition of the lands from William le

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<sup>13</sup> Bean, *The decline of English feudalism*, p. 86.

<sup>14</sup> *Rep. DKPR*, no. 39, pp 23; NLI MS 760, p. 281. In this alienation's first appearance in *Rep. DKPR*, the amount of land alienated is mistakenly recorded as having been 1 acre.

<sup>15</sup> *Rep. DKPR*, no. 39, pp 29, 40; *Rep. DKPR*, no. 42, pp 21, NLI MS 760, pp 294, 365.

<sup>16</sup> *Rep. DKPR*, no. 39, p. 41; NLI MS 760, p. 294. For further sums taken from these lands, see *Rep. DKPR*, no. 39, pp 60, 63; *Rep. DKPR*, no. 42, pp 22, 34, 39, 44.

<sup>17</sup> *Rep. DKPR*, no. 39, p. 40. The land had in fact been in the king's hand for some time (*ibid*, pp 23, 28).

<sup>18</sup> NLI MS 760, p. 349.

<sup>19</sup> *Rep. DKPR*, no. 42, p. 17; NLI MS 760, p. 343.

<sup>20</sup> *Rep. DKPR*, no. 42, p. 36; NLI MS 760, p. 362.

<sup>21</sup> *Rep. DKPR*, no. 42, p. 57; NLI MS 760, p. 380.

Irreys. After making fine Audoen was permitted to enfeoff William le Marshal to hold directly from the king (that is, to alienate by substitution).<sup>22</sup> Royal tenants-in-chief did not have freedom to alienate by substitution under *quia emptores*, but the king still preferred to give licences for substitution rather than subinfeudation, preventing the extension of the ‘feudal ladder’ – Bean has demonstrated that this was the case in England, and it appears also to have been the case in Ireland.<sup>23</sup> An Irish letter patent dated May 1311 records John son of William Hay’s payment of a fine to be pardoned for acquiring tenements appurtenant to Old Ross, which were held in chief of the king, in fee.<sup>24</sup> In 1312 the sheriff of Cork reported to the justiciar’s court that it would not be to the king’s damage to permit Henry de Cogan to retain, for life, a moiety of the manor of Beauver which he had obtained without licence from John de Cogan. The grant was permitted to stand and Henry was pardoned a £20 fine for trespass.<sup>25</sup> And in 1318 the king pardoned a fine made by Robert Bygeton due to his illegal alienation of land in the march of Ossory to John de Pembroke without licence.<sup>26</sup> None of these cases appear on the pipe rolls, and in every case a fine was made; in all but the latter case, this was made by the grantee rather than the grantor – this was the norm in England as well.<sup>27</sup>

### *Unlicensed alienation in the archdiocese of Armagh*

We have already seen that the diocese of Killaloe was punished for bishop Maurice’s unlicensed alienation – other prelates also breached the king’s rights in this way. The escheator’s account for December 1312 to September 1313 reveals that a vast array of lands held of the king had been alienated without licence by the late archbishop of Armagh, Nicholas Mac Máel Ísu (d.1303).<sup>28</sup> Mayn in co. Uriel was alienated to Donald Cecus; in Monsterbod 30 acres were ‘similarly aliened’ to Ismania de Repenteneye, while Mortauch Omoledi and Geoffrey the chaplain each received 80 acres there. In Dromiskin Reginald Taaf was given a carucate, Rosya de Parys received another carucate, 19 acres were given to Vincent son of Ralph, 40 acres to Donald Cecus, 22 acres and a messuage to ‘William called the vicar’,<sup>29</sup> a carucate to Walter le Reve, and a messuage to Thomas

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<sup>22</sup> *CIRCLE*, CR 33 Edw. I, no. 7.

<sup>23</sup> Bean, *The decline of English feudalism*, p. 76.

<sup>24</sup> *CIRCLE*, PR 4 Edw. II, no. 89.

<sup>25</sup> NAI KB 2/4, pp 24-5; RC 8/8, pp 36-8.

<sup>26</sup> *CIRCLE*, PR 11 Edw. II, no. 80.

<sup>27</sup> Bean, *The decline of English feudalism*, pp 74-5. The fact that

<sup>28</sup> For what follows, see *Rep. DKPR*, no. 39, pp 43-4. These alienations remained in the escheator’s hand for a long time (*ibid*, pp 61, 63-4; *Rep. DKPR*, no. 42, pp 15, 22, 34, 38-9, 44).

<sup>29</sup> William had this land restored to him by order of John d’Ufford, the escheator, before Easter 1315 (*Rep. DKPR*, no. 39, p. 64).

le Bonde. In 'Newtown and Secone'<sup>30</sup> a messuage and 10 acres were alienated to Robert le Botiller; in Ivermongan<sup>31</sup> Richard, prior of St. Leonard's received a carucate and 80 acres; Nicholas son of Richard was given 26 acres and a messuage in Ivormacbury; and in Termonfeckin 34 acres were alienated to Reginald Taaf, who also received a carucate in Calverstown.<sup>32</sup> Betham did not transcribe the names of the places alienated by the archbishop, but summarised the account well: 'Nicholas late archbishop of Armagh alienated many lands'.<sup>33</sup> It seems that these alienations were not seized by the escheator until the resignation of Archbishop Walter Jorz in 1311, meaning that four archbishops had come and gone before Mac Maol Íosa's illegal alienations were punished. De la Haye's slow reaction to these alienations may go some way towards explaining the absence of any illegal alienations from the 1297-8 account.

Mac Maoil Íosa's alienations were noticed in Maclnery's volume on the Irish Dominicans, under the pointed subheading 'further instances of legal robbery'. He expressed the view that the alienations were probably deemed to be in breach of *quia emptores* rather than mortmain.<sup>34</sup> However, one of the archbishop's alienations was demonstrably not in breach of *quia emptores*: a close letter of 1319 explained that the lands alienated to Vincent son of Ralph had been alienated for life only – that is, not in fee. Moreover, this had been done forty-three years earlier, near the beginning of Nicholas's archiepiscopacy.<sup>35</sup> The grant predated the statutes *quia emptores* and mortmain, as well as the 1293 ordinance. Perhaps this alienation was contested on the basis of the broader principles of 1256, which the Irish ordinance made clear ought to already have been in effect in Ireland by 1293.<sup>36</sup> Two further possible life grants can be identified. In 1308 Richard le Blund of Arklow sought and received royal confirmation of a life grant of a carucate near Drummyng', which the archbishop had given him in December 1302.<sup>37</sup> It is not clear, however, if

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<sup>30</sup> Gogarty suggested that this elusive place-name might be Seatown (Thomas Gogarty, 'Review: *A history of the Irish Dominicans* by M.H. Maclnery', *Journal of the County Louth Archaeological Society*, vol. 4, no. 1 (1916), p. 107). This suggestion is lent additional weight by a later reference to the confiscation in which it is rendered 'Newtown of Setoun' (*Rep. DKPR*, no. 39, p. 61).

<sup>31</sup> Smith has suggested that this may be modern Magoney, co. Monaghan (Brendan Smith, *Crisis and survival in late medieval Ireland: the English of Louth and their neighbours, 1330-1450* (Oxford, 2013), p. 147).

<sup>32</sup> *Rep. DKPR*, no. 39, pp 43-4, p. 61, pp 63-4. There are some discrepancies between the earliest and later accounts (Thomas Gogarty, 'Review: *A history of the Irish Dominicans* by M.H. Maclnery', *Journal of the County Louth Archaeological Society*, vol. 4, no. 1 (Dec. 1916), p. 107).

<sup>33</sup> NLI MS 760, p. 299. Some, though not all, of these alienations were noted in Betham's transcription of a later account (NLI MS 760, p. 347).

<sup>34</sup> M.H. Maclnery, *A history of the Irish Dominicans, from original sources and unpublished records, vol. i: Irish Dominican bishops (1224-1307)* (Dublin, 1916), pp 595-598, at 595-6.

<sup>35</sup> *CIRCLE*, CR 13 Edw. II, no. 3.

<sup>36</sup> Lyall interpreted the final part of the Irish ordinance to mean that alienations prior to 1293 should be regarded as valid, but it in fact meant that alienations made on the basis of the frontier exemption would be permitted to stand if the exemption were revoked (Lyall, '*Quia emptores* in Ireland', p. 283).

<sup>37</sup> *CPR, 1307-1313*, p. 63; *CCR, 1307-1313*, p. 29.

this alienation lacked earlier royal approval. And in 1307 Robert Bagod, a former sheriff and chief justice of the Dublin bench, successfully petitioned for the recovery of rents worth 100s. which Mac Maol Íosa had granted him without licence. The rents were restored to him for life, though it is not stated whether this was the term given by the archbishop.<sup>38</sup> Whether or not this was originally a life grant, it is significant for present purposes that this alienation was absent from the pipe rolls despite being taken from Bagod. Evidently the escheator's accounts do not give a complete picture of this royal right's enforcement.

The possibility raised by MacInerny that the archbishop's clerical status may have restricted him from making alienations warrants some discussion. The statute of mortmain forbade ecclesiastical officeholders from receiving land without licence, and this may have problematised the grant to Geoffrey 'the chaplain' and William 'the vicar', though it is unlikely that all these grants were prohibited on that basis.<sup>39</sup> Raban observed that 'control over the church's losses as well as its gains was undoubtedly exercised, but not on the basis of the 1279 statute'. In the twelfth century Glanville had argued that bishops and abbots required royal assent to alienate land in perpetuity, but this obviously did not apply in the case of life grants; in any case, the more recent ordinance of 1256 applied to both lay and ecclesiastical tenants-in-chief.<sup>40</sup> The second statute of Westminster (1285) instituted a further proscription against alienations by 'abbots, priors, keepers of hospitals, and other religious houses founded by the king or his progenitors'; but this statute pertained only to *domibus* and contains no mention of secular clerics.<sup>41</sup> The principles of 1256, restated in Ireland only a decade before Mac Maol Íosa's death, were sufficient grounds to confiscate any unlicensed alienations he had made. Moreover, the Dublin government was clamping down on alienations by lay tenants of the king at this time. It therefore seems likeliest that Mac Maol Íosa's unlicensed alienations were seized on the basis of the earlier and more extensive royal rights of 1256.

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<sup>38</sup> *PROME, vetex codex* 1307, m.135v, no. 95. Robert Bagod was a former sheriff of Limerick and chief justice of the bench (*Rep. DKPR*, no. 38, pp 74, 76; *CJRI, 1295-1303*, p. v).

<sup>39</sup> Brand, 'The mortmain licensing system', p. 87.

<sup>40</sup> Raban, *Mortmain legislation*, pp 35-6, quote at 35.

<sup>41</sup> *Ibid*, p. 36; *Statutes of the realm*, i, p. 91. We are probably seeing this principle in the measures taken against unlicensed alienations by the abbot of Holy Cross in 1297 (*CJRI, 1295-1302*, pp 134-6) and the abbot of Monasternenagh in 1307 and 1313 (*CJRI, 1305-1307*, p. 351; KB 2/5 pp 68-70). In the 1297 and 1313 cases it was alleged that possessions given for the souls of the king and his ancestors were being interfered with; but the former record also emphasised that: '[none] of the tenants [can] say that they have entry by assent or licence of the king'.

### *Unlicensed alienation in the archdiocese of Dublin*

Unlicensed alienation was apparently also rampant in the archdiocese of Dublin under Archbishop Richard de Ferings (d.1306). The records in the published and unpublished pipe roll calendars complement one another on these alienations, which they first record in John de Dufford's account of wards and escheats for September 1313 until Easter 1315.<sup>42</sup> However, both sources are improved upon still further by an earlier inquisition enrolled on the custos's court roll in February 1313 which was concerned with '[lands] demised... to be held of him the archbishop and his successors without licence'.<sup>43</sup> The inquisition was taken in response to a petition from a subsequent archbishop, John de Leche (1311-13), who sought the restoration of these lands. It provides greater precision as to the types and quantities of land alienated, the sums rendered annually by the alienated holdings, the holdings' true worth, the names of the recipients, and the nature of the alienations. It also names some alienees not mentioned in either pipe roll calendar. The details given here are taken from the inquisition, with some minor discrepancies between the sources highlighted in the footnotes.

In Perrystown Robert de Schirbourne was given 90 acres of arable, 17 acres of meadow, and 53 acres of bog and pasture in fee, and in Tallaght Adam the Carpenter received 8½ acres.<sup>44</sup> The former holding will be returned to shortly. At Lusk, Edmund de Sydlyng was given a carucate which he subsequently gave to Gilbert de Haspale. Gilbert further alienated the holding to Warin Owayn, whose annual rent the jurors regarded as too low, making the alienation injurious to the king during vacancies.<sup>45</sup> Also at Lusk, John Lucas received 60 acres, John Pistor 26 acres, and Simon de Russe five cottages and 45 acres.<sup>46</sup> At Swords the archbishop gave to John son of Roger a burgage, 12 acres, and a stang;<sup>47</sup> to Peter Faber 25 acres; and to Ralph le Botiller a 'piece of land'. Le Botiller also received 80 acres at Glynmethan, and Elias de Assebourne received 35 acres there. According to the jurors de Ferings had given Elias's father, Roger, advantageous terms here because he was the archbishop's serjeant pleader – as such, the alienation was harmful to royal

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<sup>42</sup> *Rep. DKPR*, no. 39, pp 64-5; NLI MS 760, p. 340.

<sup>43</sup> NAI KB 2/4 pp 332-7; NAI RC 8/8, pp 226-35.

<sup>44</sup> For the grant to de Schirbourne, see above, pp 158-61. According to the pipe record, Adam received 9 acres.

<sup>45</sup> Both pipe roll records state that this was Ballymacwither near Lusk; they do not record the further alienations (*Rep. DKPR*, no. 39, p. 64; NLI MS 760, p. 340).

<sup>46</sup> Simon de Russe does not appear in the pipe roll account; Simon Baker (Pistor) does appear, but the pipe roll records only 60 acres and one carucate alienated in Lusk.

<sup>47</sup> John son of Roger may be the John de Winchester mentioned in the pipe roll as having received 21 acres in Swords – however, this is a considerably greater amount of land than was alienated to John son of Roger.

interests.<sup>48</sup> At Shankill John Dalke held a messuage and 68 acres of land and pasture, and at Finglas John Heyne had a messuage and 12 acres at Finglas, to the king's detriment during vacancies. Richard de Wheltoun received 60 acres of arable and 5 acres of pasture at le Rath near Dublin, and 40 acres in the field of St. Patrick. These grants were not considered harmful to the king, but 11 acres granted to Richard at Newland were. Finally, Heylin Grage held a mill at Dunlavin. In every instance the inquisition specifies that the holding was granted in fee, and this is supported by the descent of Roger de Assebourne's holding to his son Elias. It is worth noting that nowhere do the jurors suggest that de Ferings' alienations inflicted any spiritual losses on the king. Moreover, the inquisition's preamble states that 'Richard demised the lands to be held of him the archbishop and his successors' – that is, he subinfeudated. More specifically it claims that the grants discussed in the inquisition were all fee farm grants.<sup>49</sup> In every case the assessments of the individual holdings also reiterate that the grants were made in fee. Fee farm grants, too, were forbidden under *quia emptores*<sup>50</sup> – but as has been discussed in relation to Armagh, it is likelier that the unique and extensive royal rights of 1256 were at issue here.

As with Mac Maol Íosa's alienations, it is unclear why these are absent from earlier escheators' accounts. According to the inquisition's preamble the lands were taken into the king's hand by 'the escheator of the king's father on the death of Richard' in 1306, but they do not appear on any pipe roll until September 1313. In fact, an inquisition taken slightly earlier into another carucate alienated to de Scirbourne in Johnstown without licence adds to this evidence.<sup>51</sup> This provides yet more reason to suspect that the extant evidence for the policing of unlicensed alienation does not provide an accurate sense of the problem's scale, nor of the government's counter-measures. In fact, the inquisition also omits at least one alienation: Walter de Istlep, during whose term as escheator (1310-1313) the inquisition was taken, had received 'premises' in Glynmethan for life.<sup>52</sup> It is striking that the alienations only appear on the rolls from December 1313, after de Istlep's tenure had ended, though it is possible that the jurors were concerned only with holdings alienated in fee. In any case, the omission of these alienations from the pipe rolls remains mysterious.

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<sup>48</sup> The pipe roll calendar records the alienation to Roger but omits reference to the fee's successful descent to Elias. The pipe roll does not mention the alienation to Ralph le Botiller.

<sup>49</sup> NAI KB 2/4, p. 332; NAI RC 8/8, pp 226-7.

<sup>50</sup> J. M. Kaye, *Medieval English conveyances* (Cambridge, 2009), p. 109.

<sup>51</sup> See above, pp 158-61. Why the Johnstown alienation to de Schirbourne was dealt with early in 1313, separately from de Ferings' other alienations, is unclear. It may be because this was held 'for the time being', perhaps indicating that the grant was subject to review by the archbishop, however, later the inquisition describes this, too, as an enfeoffment.

<sup>52</sup> A later document reveals that de Istlep received 89½ acres there (*CIRCLE, antiquissime roll*, no. 59).

There is clearly far more evidence for the control of alienations by royal tenants-in-chief after 1293 than has hitherto been recognised. The delay following that year before evidence of this shift begins to appear may be partly due to the absence of an escheator's accounts covering the period from 1291 to 1296 (1295 for vacant bishoprics). But it perhaps has more to do with the way the escheator operated. Unlicensed alienations normally only came to official attention when the alienor died, and even then, it seems that there could be lengthy delays before they appeared in the escheator's accounts. This delay can be seen in the case of the alienations by Maurice Ua h'Ocáin and Nicholas Mac Maol Íosa, and especially Richard de Ferings. Far from being a tacit admission that *quia emptores* was unenforceable in Ireland, the ordinance of 1293 heralded a period of policing and punishment of illegal alienations.

*Appendix III*  
*Table of spies named in administrative documents*

Case #	Name	Date	Sex	Court Location	Verdict/punishment	Chattels	Source
1	Nicholas Toan	1297	M	Offaly	Hanged	No	<i>CJRI</i> , i, p. 176
2	Thomas Shorthond	1297	M	Kildare	N/A	N/A	<i>CJRI</i> , i, p. 176; RC 7/4, p. 420
3a	Nicholas McCrinan	1297	M	Offaly	Fled, outlawed	Unclear	<i>CJRI</i> , i, p. 188
3b	Thateg Okellan	1297	M	Offaly	Fled, outlawed	Unclear	<i>CJRI</i> , i, p. 188
3c <sup>1</sup>	Walter Martin [son of Thateg Okellan?] <sup>1</sup>	1297 <sup>1</sup>	M <sup>1</sup>	Offaly <sup>1</sup>	Fled, outlawed <sup>1</sup>	Unclear <sup>1</sup>	<i>CJRI</i> , i, p. 188 <sup>1</sup>
3d	Roger le Rede	1297	M	Offaly	Fled, outlawed	Unclear	<i>CJRI</i> , i, p. 188
4	Richard le fiz Adam le Stabler	21 Jul, 1297	M	Kildare	Fine 1m.	N/A	<i>CJRI</i> , i, p. 194
5	John le Feure de la Graue	14 Apr, 1298	M	Kildare	Not guilty	N/A	<i>CJRI</i> , i, p. 205
6	Gillecolm Omoran	14 Apr, 1298	M	Kildare	Hanged	No	<i>CJRI</i> , i, p. 208
7a	Isabella Cadel	12/19 Apr, 1302	F	Kildare	Chattels taken	N/A	<i>CJRI</i> , i, p. 368
7b	Fynewell Seyuyn	12/19 Apr, 1302	F	Kildare	Chattels taken	N/A	<i>CJRI</i> , i, p. 368
8	Henry son of Simon	14 Dec, 1305	M	Dublin	Not extant	N/A	<i>CJRI</i> , ii, pp 477-8
9 <sup>2</sup>	Gratagh (O Thotele), wife of Andrew le Deveneys <sup>2</sup>	14 Dec, 1305 <sup>2</sup>	F <sup>2</sup>	Dublin <sup>2</sup>	N/A <sup>2</sup>	N/A <sup>2</sup>	<i>CJRI</i> , i, pp 480-1 <sup>2</sup>
10	John Jordan	18 Nov, 1306	M	Dublin	Fine £20	N/A	<i>CJRI</i> , i, p. 509
11 <sup>3</sup>	The betaghs of Henry de Crues <sup>3</sup>	4 July, 1310 <sup>3</sup>	N/A <sup>3</sup>	Kildare <sup>3</sup>	N/A <sup>3</sup>	N/A <sup>3</sup>	Craig, 'Memoranda', p. 405 <sup>3</sup>
12a	David Dunegan, miller of Balicotlan	11 Dec, 1310	M	Ballymore	Not guilty	N/A	<i>CJRI</i> , iii, p. 164
12b	Philip son of Thomas le Lang of Molaghcassyr	11 Dec, 1310	M	Ballymore	Hanged	Unclear	<i>CJRI</i> , iii, p. 164
13 <sup>4</sup>	Walter Gigg <sup>4</sup>	4 Jan, 1311 <sup>4</sup>	M <sup>4</sup>	Drogheda <sup>4</sup>	Hanged <sup>4</sup>	No <sup>4</sup>	<i>CJRI</i> , iii, p. 167 <sup>4</sup>
14	Ger. De Beaufon	30 Dec, 1311	M	Carlow	Slain fleeing	Yes	<i>CJRI</i> , iii, pp 232-3
15	Thomas Smegyn	6 Aug, 1313	M	Cork	Hanged	No	<i>CJRI</i> , iii, p. 286
16 <sup>3</sup>	Gylyn, kinswoman of Nyvyn son of Byghne <sup>3</sup>	6 Aug, 1313 <sup>3</sup>	F <sup>3</sup>	Cork <sup>3</sup>	N/A <sup>3</sup>	N/A <sup>3</sup>	<i>CJRI</i> , iii, p. 294 <sup>3</sup>
17	Alicia Oketyf	12 Nov, 1313	F	Limerick	Hanged	No	<i>CJRI</i> , iii, p. 303
18	Muriartagh O Coygnan, harpist	12 June, 1315	M	Cork	Not extant	Unclear	NAI KB 2/7, pp 39-40
19	Philip Tancard	5 Aug, 1316	M	Kildare	Hanged	No	NAI KB 2/8, p. 17
20	Alice Ynybrenan	4 Aug, 1317	F	Waterford	Hanged	No	NAI KB 2/8, p. 94
21	Philip McOldrich	14 Nov, 1317	M	Cork	Not guilty	N/A	NAI KB 2/12, p. 57
22	Robert O Farghyll	26 Jan, 1318	M	Wexford	Guilty (clerk)	None	NAI KB 2/12, p. 78
23 <sup>2</sup>	Grathagh ynyne Otothil <sup>2</sup>	22 Aug, 1317 <sup>2</sup>	F <sup>2</sup>	Dublin <sup>2</sup>	Hanged <sup>2</sup>	Yes <sup>2</sup>	NAI KB 1/2, m. 1 <sup>2</sup>

<sup>1</sup> It is unclear whether the 'son of Thateg Okellan' was Walter Martin or was in fact a fifth, incompletely named, defendant in this case.

<sup>2</sup> Cases 9 and 23 appear to involve the same individual. In the first case, Grathagh was spying for her English community; in the latter, for Irish felons. See above, pp 238-42.

<sup>3</sup> In cases 11 and 16, the spies were mentioned incidentally to the record; the dates given are those of the court records.

<sup>4</sup> The term 'spy' is not used in this entry. For discussion of Walter Gigg's inclusion here, see above, p. 232.

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KB 2	Justiciary rolls (calendars)
RC 7	Record Commissioners' calendar of plea rolls
RC 8	Record Commissioners' calendar of memoranda rolls

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GO MS 189-92	William Betham's plea roll extracts from the reigns of Henry III to Eliz. I
MS 1	<i>Collectanea de rebus Hibernicis</i> , compiled by Walter Harris, vols 1 & 2
MSS 760-1 Elizabeth I	William Betham's pipe roll extracts from the reigns of Henry III to Elizabeth I
MF p.1165	Cartulary of the Hospital of St. Thomas of Acon, London (microfilm from British Museum MS Tiberius C V)

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