

The interface between the Gaelic clan system of Co. Clare and the emerging centralising English nation-state in the late sixteenth and early seventeenth century.

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ABSTRACT

At the beginning of the sixteenth century a clan-based system still informed Co. Clare society. Such a societal system had an inherent flexibility that allowed it to adapt to changing internal and external circumstances. This ability appeared to work in its favour in the context of its engagement with the feudal world. However, the collapse of feudalism and the emergence of a market-based economy seriously undermined this system. There was a distinct geography to this collapse, which can be interpreted using Dodgshon's hypothesis on the tensions between fundamental differences within a society towards the maintenance or abandonment of a particular ideology and its impact on societal change and the consequent emergence of zones of inertia and unused freedoms. A detailed analysis of the inquisitions post mortem 1577-1637 reveals the varied responses of the different clans to these changing socio-economic and political circumstances providing a suitable opportunity to broaden our understanding of the dynamics of societal change during this key period.

Key index words: Gaelic clan system, societal change, property transactions.

Introduction

The historiography of the early modern period in Ireland has been the subject of considerable debate and reinterpretation since the early 1970s. At least two different conceptual frameworks emerged (Canny, 2001:vii). The most widely accepted hypothesis saw Ireland as the first colony of 'British overseas expansion'. Advocates of this viewpoint range from the uncompromising position of Crotty (1986), through to Canny (1988, 1991 and 2001), Quinn (1966, 1991) and Cullen (1972), and the more graduated positions of Gillespie (1986, 1993 and 2006), Cunningham (1979, 1986), Ó Murchadha (1982), O'Dowd (1991), and Lennon (1999). The second conceptual framework, while sometimes acknowledging the use of colonisation strategies towards a more effective administration of Ireland, viewed Ireland as an annexed province of an emerging English/British nation-state. Barber (1995), Brady (1986, 1994 and 2005), Edwards (2001), Ellis (1985, 1995), Morrill (1995) and Ohlemeyer (2001 and 2004) are the main exponents of this position. Historical geographers have tended to occupy a middle ground that can accommodate a more nuanced engagement with either or both perspectives. Their barony (Morrissey, 2003; Nolan, 1979; Nugent, 2000), county (Duffy, 1981, 1988, 2001; Nugent, 2002, 2006; Smyth, 1980, 1985, 1990 and 1992), provincial (Robinson, 1984) national and transnational studies (Andrews, 1970, 1985, 1997, 2000; Graham, 1993, 2000; Duffy, 2001; Simms, 1988; Smyth, 1978, 2002, 2004 and 2006) focus on the spatial dynamics of the evolving political environment. These studies collectively highlight the limitations of island-wide generalisations that fail to recognise the internal and geographically defined cultural diversity of early modern Ireland. This cultural

diversity militated against a shared affinity with a singular geopolitical entity. A complementary geographical reinterpretation of this period can be achieved through the application of Dodgshon's (1987, 1998) geographical perspective on societal change and its impact on spatial order.

Historical and geographical context

The lordship of Thomond (Co. Clare) prior to 1541 can be defined as a clan-based society (Nugent, 2002:79-89). However, by the mid-sixteenth century this society was experiencing considerable political and economic upheaval due to the support of Murrogh O'Brien, chief lord of Thomond for the unsuccessful rebellion of Silken Thomas against the English monarchy (Hayes-McCoy, 1976:43-4). Ironically, Henry VIII's surrender and regrant scheme provided a solution. By granting ownership in fee-simple of the lands out of which Murrogh had formerly received tribute as chieftain, but to which he could lay no other claim, his political and economic fortunes greatly improved (Frost, 1893:236). However, with Murrogh's acceptance of this agreement, Thomond was, in theory, transformed into a late feudal lordship at a time when feudalism was disintegrating more widely with the emergence of the early modern era (Wylie, 1986:16-7).

This fundamental change in the basic ideology that underpinned society did not result in any immediate perceptible change for the majority of Thomond's population, since as Nicholls argues the landholding and inheritance practices of late Gaelic Thomond were already approaching a feudal system (1972, 1976). Murrogh, by professing allegiance to the king and by relinquishing his former Gaelic title for that of Earl, theoretically became a feudal lord (Wylie, 1986:17). The granting in fee-simple of all his existing lands basically recast the existing tenurial arrangements as feudal charters. Murrogh's good fortune prompted other chieftains to seek a similar agreement with the Tudor monarch. Donogh the Fat, Murrogh's nephew and legitimate heir to the Earldom of Thomond under the primogeniture rule of inheritance, became the Baron of Ibrickan. Sheeda McNamara (Finn), the Lord of Clanculein, gained a knighthood and all his lands granted to him in fee-simple, as did Donogh O'Grady, Lord of Uí Dunghaile.

Initially it would appear that the consequences of their actions had little practical significance for the lesser members of their constituent clans. These fellow kinsfolk continued to pay tribute as they had done before. It was only on Murrogh's death that the ideological change underlying the title to land was fully realised. Within a year, in 1552, Donogh was overthrown and the O'Brien kinsmen elected Donald O'Brien of Ennistymon in accordance with their 'ancient' customs (Ellis, 1985:233). He ruled until 1558, when Conor O'Brien, the legitimate heir in accordance with English Law, enlisted the aid of the Lord Deputy, the Earl of Sussex and retook the Earldom. The next twelve years brought with them much unrest, with various coalitions of O'Briens aided by the Earl of Desmond, attempting to unseat Conor. This unrest prompted the English to establish the Presidency of Connacht (1569-1672). Cunningham believes that Conor's expulsion of Sir Edward Fitton, the first president of Connacht, from Thomond in 1569 was related to his precarious hold of the Earldom (Cunningham, 1979:21-9). A brief period of exile, followed by an apology to the Queen, led to Conor's reinstatement as Earl in 1570. However, his fear of the presidency remained. In 1577 with the introduction of the first Composition of Connacht, the Earl called for the abolition of the Presidency, but to no avail. Conor's reluctance was in marked contrast to his son's attitude. On becoming Earl in 1580, Donogh embraced the institution wholeheartedly. His loyalty was rewarded under the second Composition agreement in 1585 (Nugent, 2002:305-15).

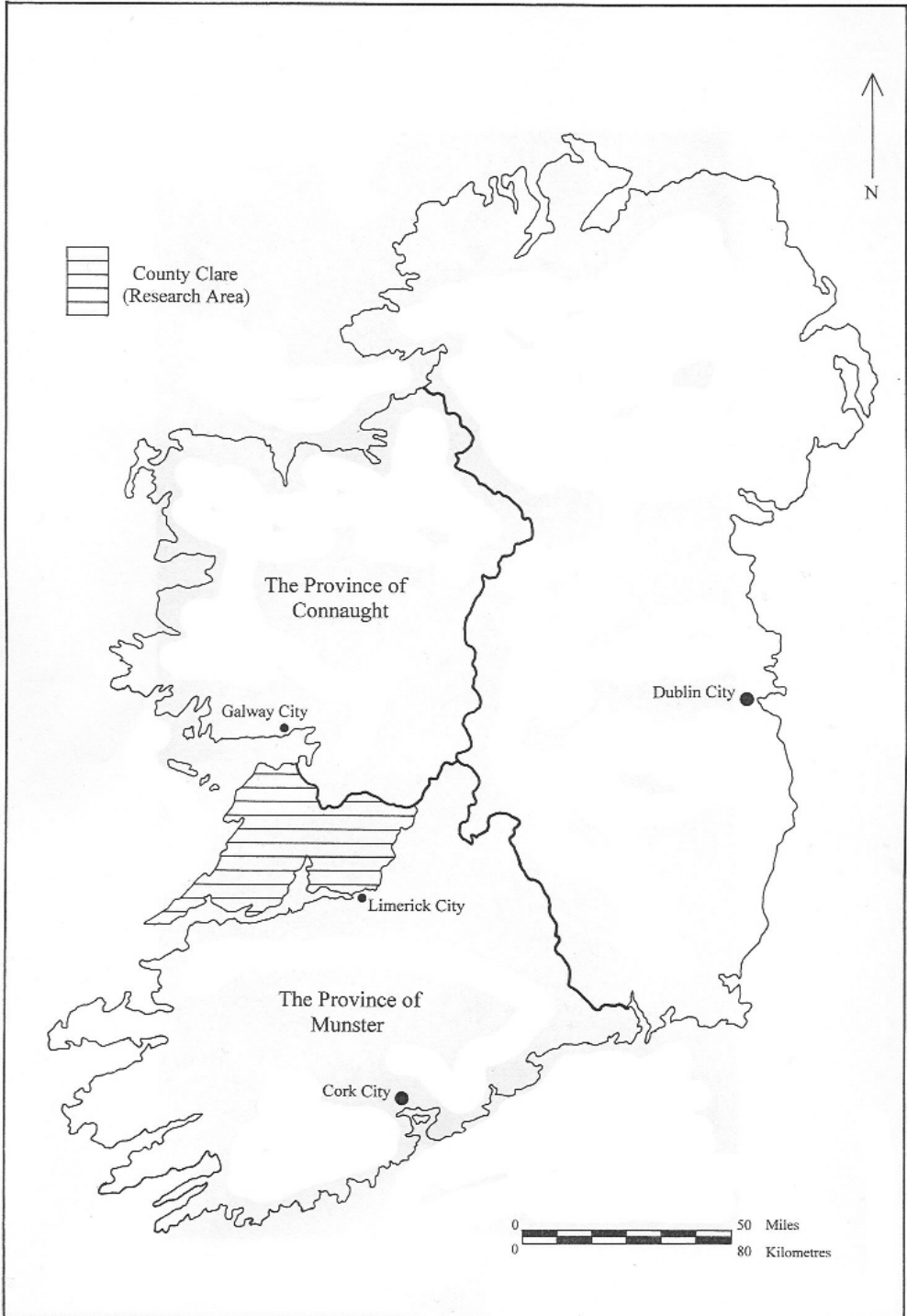


Figure 1: The periphery of Co Clare within an island-wide context.

The inquisition abstracts 1577-1637

An inquisition post mortem was an enquiry by local jury, under the direction of New-English commissioners, into the holdings, services, land divisions, buildings and tenancies of a deceased land holder's estate in order to check if lands were in charge to the crown (Dudley Edwards & O'Dowd, 1985:14). The Latin originals were part of the patent and close rolls that covered the period from the 1303 to 1898. These were destroyed by fire in the Public Record Office during the Civil War in 1922. Fortunately the late nineteenth-century antiquarian Frost included an English language summary of some of the relevant inquisition abstracts for this period in his 1893 publication. However, it is difficult to establish the degree to which Frost edited these two hundred and eighteen abstracts. Prior to Frost's editorial exploits others had examined these government records. John Lodge's manuscripts, (MFS 42/1-2, Vol 1. Edward II to 1596 and Vol 2. James I to 1610 and 1617) and the Irish Manuscript Commission's (IMC) 1966 publication of work carried out in the early nineteenth century on an English translation of the Irish patent rolls of James I are moderately useful in establishing the quality and validity of Frost's work. Even though both focus almost exclusively on land grants, as opposed to Frost who was primarily concerned with inquisitions, they provide useful material for cross-referencing purposes. An examination of the relevant Lodge manuscripts and the IMC publications in the National Archives relating to the proprietors mentioned in Frost's abstracts appears to authenticate the latter's translation. While this is not completely satisfactory, it does legitimise the use of Frost as a credible historical source (Nugent, 2002:99-100).

The evolving geopolitical environment

The frequency, location and officials of the inquisition hearings reflect the evolving geopolitical environment from 1577 to 1637. Table 1 records the location and year of the eighty-eight recorded hearings. It also identifies three different phases of inquisition activity. Figure 2 reveals the locations of the hearings.

1577-1599

During the reign of Elizabeth, the location and frequency of the hearings may have been influenced by the differing disposition of the third and fourth Earls of Thomond towards the Connacht presidency. Given Conor's hostility to the presidency, the inquisition hearings took place at venues under the patronage of local Gaelic land magnates who were well disposed to the New-Order. Cunningham demonstrates how the first Composition was of greater material benefit to the minor elite of Clare than to the principal landowners (1979:105). Only six inquisition sessions were held prior to 1585. These hearings were held in five different locations: Knockenegan, Ennis, Quin, the Windmill and Dromoland. The five venues were located in or near Ennis, the core of New-English control. The officials at these hearings were of New-English or Old-English stock.

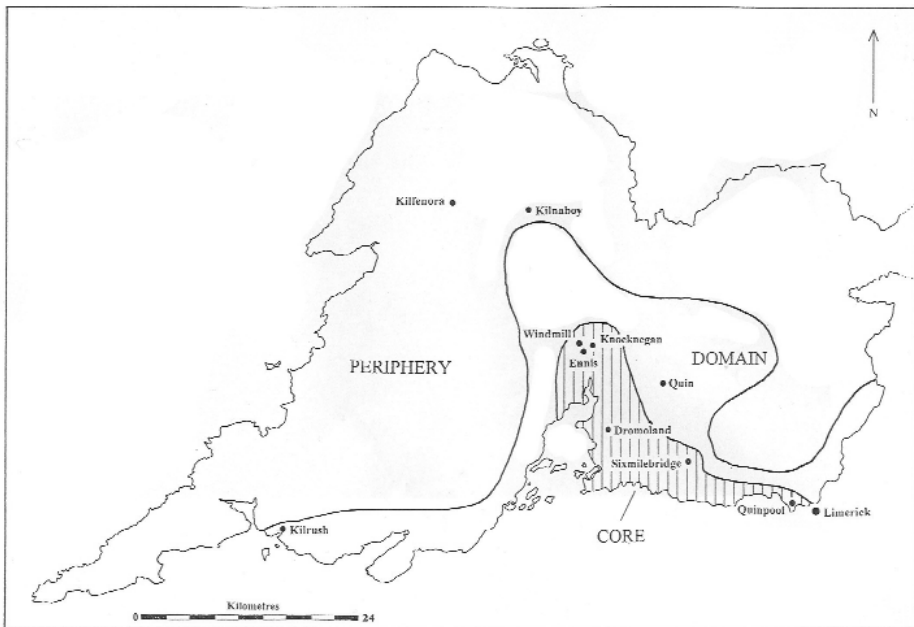
With the accession of the fourth Earl of Thomond in 1580, all but one of the thirteen subsequent proceedings were held at Ennis. The infrequency of these hearings directly reflected the political turbulence of the closing years of the sixteenth century. After the signing of the second Composition in 1585 there was a lull in the activities of the presidency.

Table 1: The changing frequency and venues of inquisition hearings

	Jan	Feb	Mar	Apr	May	Jun	July	Aug	Sept	Oct	Nov	Dec	Misc.
1577-1599	E85 E89		E91 E92		E79 E92 E99	E95	E92 E78 Q78 w80	E85 E96 dn86		E93	Kn77	dd80	E ?
1604-1613	E12		E04 E10 E13 w06	E11 Q09	E05 K06 ky13		w08 w09	E11 q12		ce04 ck10 E 12			? 08 E12
1619-1637	S25 S26 S27 S27 E29 E30 E31 b35		E19 E27 S33	E26 E26 S26 S26 S27 S28 S28 E30 E30 E31 E32 E36 E37 E37	E21 E27 ck27	E25 S26	E24	q22 E23 E24 S28 E30 E32	E27 S33 E33	E21 E28 S30 E31 E34 E35 E36			cn20 E 22 E ?
Total (88)	11		9	16	9	3	7	11	3	11	1	1	6

Key:- E = Ennis, S = Sixmilebridge, Q = Quin, K = Kilrush, b = Ballinahinch, w = Windmill, ky = Killinaboy, ck = Castlebank, dn = Derryowen, q = Quinpool, ce = Clare town, kn = Knockenegan, dd = Dromoland, cn = Corofin, ? = venue or year of hearing unknown.

Figure 2: The Core, Domain and Periphery of Early Modern Co Clare and the locations of the inquisition hearings



The period from 1591 to 1593 was exceptional with five recorded sessions. Some of these abstracts concern the forfeited lands of second order O'Brien kinsmen who were executed in 1586 for their part in the Desmond rebellion in 1582 to 1583. The inquisition abstracts invariably deal with land transfer arrangements which had taken place a considerable time before the actual date of the hearings. The closing years of the reign of Elizabeth were almost devoid of any inquisition activity. This second lull coincided with the Rebellion of the Ulster chieftains. In 1598 these chieftains raided the county, to punish the fourth Earl's perceived treachery in consistently supporting the New Order. The disaffected local Gaelic chieftains welcomed and actively participated in these incursions.

The officials at these hearings were all of New-English origin. In 1599, the Lordship of Thomond became independent of both Connacht and Munster presidencies. This political independence demonstrates the increasing power of the fourth Earl and the confidence of the New-English administration in his loyalty.

1604-1613

In the opening decade of James I's reign, twenty-four inquisition sessions were recorded. The frequency and location of these hearings and the ethnic composition of the adjudicating officials reflected both the changing nature of New-English administrative policy and the increased powers of the fourth Earl of Thomond. Between 1604 and 1613, inquisitions were held on average twice a year. While Ennis was the primary location for these sessions, others were also used. These included Quin in mid-east Clare, Kilfenora in the north, Kilnaboy in the barony of Inchiquin, Quinpool immediately adjacent to the Liberties of Limerick City, Kilrush in south-west Clare and finally three sessions took place at the Windmill. This increase in inquisition activity and diffusion to different locations, reflected a desire by the New-English authorities to increase their knowledge of the land ownership matrix and to extend its direct influence beyond the core zone. It coincided with the granting of a corporation charter to Ennis in 1613 and the granting of licenses to hold markets and fairs in the town of Clare in 1606, Kilmurry in 1607 and Ennis in 1609. An examination of the location of the inquisition venues, reveals that all were located within the estates of the Earl and his political allies, the Baron of Inchiquin and the former lords of Clonderlaw and West Clan Cuiléin. The unassailable power of the fourth Earl thus provided a politically stable environment in which the Stuarts tightened their control of the county.

The changing ethnic composition of the administrators of the inquisitions reflected a mutually beneficial arrangement between the Earl and the New-English. During this phase, Gaelic and Old-English gentry and Old-English Limerick merchants presided over half of these hearings. The mixed ethnicity of the officials possibly reflects a combination of the influence of the fourth Earl, New-English confidence in him to manage the county according to their liking and the county's peripherality within an island-wide context. There were no recorded inquisition hearings for the next six years.

1619-1637

During the mid-1620s the accession of Charles I was to create unease amongst the New-English and initially raise the expectations of the Old-English. By the 1630s, rising political tensions in England and Wentworth's selectively imposed trade restrictions were to decelerate

the buoyant and expanding economy of the preceding decades. As the decade progressed, English administrative policy in Ireland became increasingly centralised. By dissolving the parliament in 1634, without granting the 'graces' promised to the Catholic community and by questioning and challenging the validity of land titles arising from the late sixteenth century Composition Agreement, he created a deep unease amongst and between the competing ethnic groups.

The session held at Ennis in 1619 heralded the beginning of the most intensive period of inquiry into the complex proprietorial arrangements of the county's inhabitants to facilitate the more effective levying and collection of crown rent. Some fifty hearings were held, on average thrice yearly. With two exceptions, all were held in either Ennis or Sixmilebridge. This represented the consolidation of a distinctive core area of New-English influence, under the patronage of the Earl of Thomond. The Thomond estate rental of 1626 reveals that settler tenants congregated in the hinterlands of Ennis, Sixmilebridge, Limerick and the estuarine townlands of the Fergus (O Murchadha, 1982:13; Nugent, 2002:354). A combination of a judicious deployment of settlers on the Earl's best lands, together with their necessary protection from hostile local clans may have informed this geographical distribution. Ennis and Sixmilebridge were the largest settlements in this core zone. While the primacy of the county town of Ennis was predictable, the hosting of fifteen hearings in Sixmilebridge signified the growing importance of the county's only plantation style town.

The names of the officials of these hearings were frequently omitted. When mentioned, the all-pervasive influence of the fifth Earl of Thomond and his allies is apparent. This influence is supported by the Strafford Survey (1637-8) which recorded the Earl and his kinsmen as owning forty-four percent of the entire county. Thus the county had effectively become a palatinate lordship similar to those of the neighbouring Earls of Clanricard and Ormond to the North and East.

Varied responses to societal change

Some 432 property-related transactions can be identified in the 218 abstracts. These have been organized into five categories: inheritance; mortgaging; conveyancing in trust; other conveyancing transactions and land grants and disputes. An analysis of these categories revealed the varied responses to societal change by focusing on the ethnicity, social status and the changing geographical distribution of the subjects of the abstracts. To facilitate this discussion, two tables have been constructed. Table 2 focuses on ethnic interaction in relation to the five categories while Table 3 subdivides each category in accordance with the social standing of the landholder being investigated. Social status has been primarily determined by the size of landholdings. Freeholders who possessed greater than eight quarters of land (1000 Irish acres) are deemed to belong to the upper strata of society. Those with holdings of between two and eight quarters (250-999 Irish acres) are classified as being of intermediate status and any individual with less than two quarters (c.250 Irish acres) is classified as belonging to the lower levels of society. The latter category was almost entirely ignored during the first two phases of inquisition hearings. The abstracts provide little information on tenants and no information on the landless. The numerical frequency and percentile within each category, together with the ethnic interactional permutations, have also been tabulated. This approach reveals the diverging fortunes that evolved both within and between the following three ethnic groups: Gaelic (G), Old-English (OE) and New-English (NE). Figure 3 reveals the changing geography of the inquisition abstracts over this sixty year period by

mapping the principal abodes of the freeholders returned in each of the 215 abstracts. Abstracts belonging to the three consecutive phases are denoted by different symbols thus revealing the gradual diffusion of New-English administration from the core to the periphery.

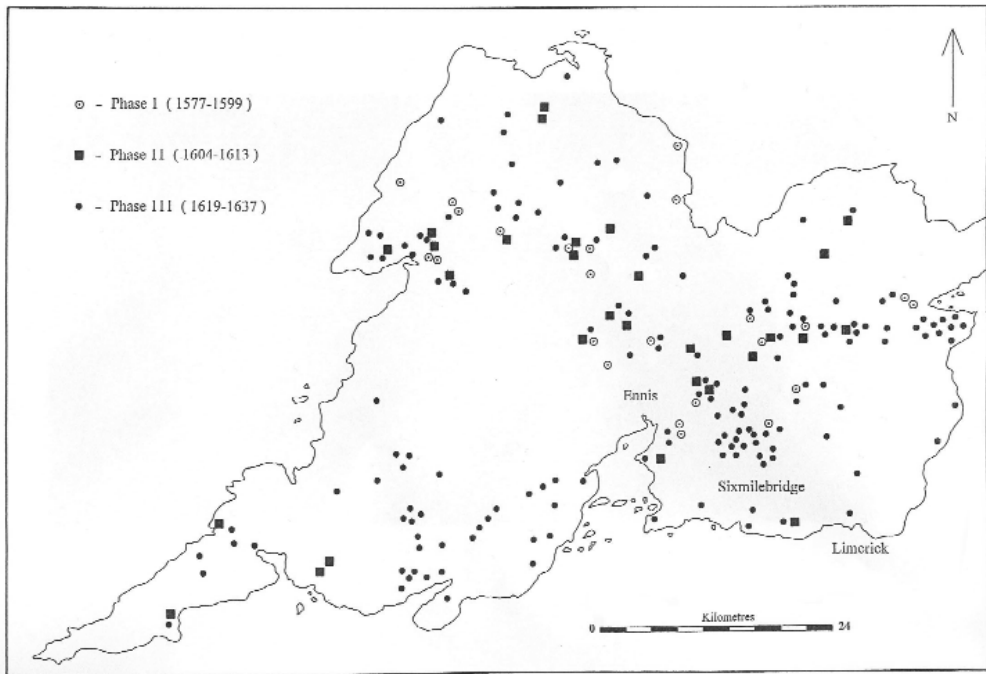
Table 2: Property Related Transactions from 1577-1637

Total	%	Transaction	G-G	G-OE	G-NE	OE-OE	OE-G	OE-NE	NE-NE	NE-G	NE-OE	Other
137	31.7	Inheritance	120 87%	3		8 6%			5 4%	1 1%		
64	14.8	Mortgages	41 64%	14 22%	2 3%		3 5%	1 1.5%	1 1.5%	1 1.5%		1 1.5%
53	12.3	Conveyances in trust	36 68%	6 11%	5 9%	1 2%						5 9%
77	17.8	Land Grants	51 66%	12 16%	4 5%	5 7%				1 1%		4 5%
67	15.5	Disputes	56 84%		2 3%		3 4%		1 2%	5 7%		
34	7.9	Misc.	18 53%	1 3%	13 38%							2 6%
432	100%		322 74.6	36 8.3	26 6.0	14 3.2	6 1.4	1 0.3	7 1.6	8 1.9		12 2.7

Table 3: Social and Ethnic Interaction

Transaction		G-G	G-OE	G-NE	OE-OE	OE-G	OE-NE	NE-NE	NE-G	NE-OE	Misc.
Inheritance	Small 67 (49%)	60 90%	3 5%		1 1%			2 3%	1 1%		
	Medium 42 (31%)	35 83%			5 12%			2 5%			
	Large 28 (20%)	25 89%			2 7%			1 4%			
Mortgages	Small 49 (77%)	34 70%	8 16%	2 4%		3 6%	1 2%		1 2%		
	Medium 8 (12%)	3 38%	4 50%					1 12%			
	Large 7 (11%)	4 57%	2 29%								1 14%
Conveyance In trust	Small 12 (33%)	9 75%		1 8%							2 17%
	Medium 26 (49%)	16 62%	4 15%	4 15%							2 8%
	Large 15 (28%)	11 73%	2 13%		1 7%						1 7%
Land Grants	Small 58 (75%)	43 75%	6 10%	4 7%	2 3%				1 2%		2 3%
	Medium 17 (22%)	7 41%	5 29%		3 18%						2 12%
	Large 2 (03%)	1 50%	1 50%								
Disputes	Small 33 (49%)	26 79%		1 3%		1 3%		1 3%	4 12%		
	Medium 28 (42%)	26 93%				2 7%					
	Large 6 (9%)	4 66%		1 17%					1 17%		
Misc.	Small 14 (41%)	8 57%	1 7%	5 36%							
	Medium 07 (21%)	5 71%		2 29%							
	Large 13 (38%)	5 39%		6 46%							2 15%
Totals	432%	322 74.6	36 8.3	26 6.0	14 3.2	6 1.4	1 0.3	7 1.6	8 1.9		12 2.7

Figure 3: The locations of the subjects of the inquisitions



Prior to addressing these themes, the following subsection will outline changes over time in relation to the aforementioned three phases. The abstracts of the first phase concentrated primarily on the inheritance practices of the local inhabitants. On examining Figure 3, the domain of the county was the primary location of the freeholders under investigation. An examination of surnames helps explain this peculiar locational pattern. The affairs of second order members of the O'Brien and McNamara clans dominated three-quarters of the abstracts. The fourth Earl of Thomond and Sir John McNamara Finn who controlled most of the core and some of the periphery were not subject to investigation. This partially explains the absence of these areas from investigation. The remaining four Gaelic clans being examined included the McClancys, O'Neylons, the McInerneys and O'Bradys (O'Gradys). The traditional homeland of three of these clans lay within the domain. Old-English and New-English freeholders featured infrequently. These abstracts highlighted two features relating to the evolving geopolitical environment: land confiscations and the advantages of the Second Composition Agreement. There were six references to the confiscation of lands of participants in the failed Desmond Rebellion. Following the second composition, double tribute payable to the local clan chieftain and Gaelic overlord was replaced by crown rent. By standardising rent payments, the Second Composition was broadly welcomed by the majority of Clare freeholders in preference to the former variable and burdensome tributes. However, the perceived advantages of the 1585 agreement were short-lived. With the absorption of the county within what Dodghson's terms a 'market-based economy' (1987:347) all but the upper stratum of the local population were to experience a decline in fortune.

The first ten years of James I's reign have been identified as the second phase of inquisition hearings. Some thirty abstracts dealt with a wider variety of transactions than in the previous century. While the geographical focus of the hearings now extended beyond the

core and domain to also include freeholders in West and North Clare, much of the evidence relating to these new areas refer to events of the previous century. Significant regions within the periphery and much of the core were still excluded. As before, the abstracts dealt only with the affairs of large and intermediate freeholders. The lower strata of society appeared infrequently as tenants or mortgagees. In excess of eighty-five per cent of all persons mentioned were of local Gaelic origin. An analysis of these Gaelic freeholders revealed that the majority were either the principal gentry of county recorded by the 1585 Indenture or their direct descendants or kinsfolk (Table 4). Certain families like the O'Neylons, Whites, O'Connors, O'Clancys and the Smithtown O'Briens appear to have been adapting to new economic and political order. Other families like the McNamara Reaghs and the family of Teige Caech McMahon were experiencing dramatic fluctuations in fortune. Economic and inheritance problems were crippling the former, while the rebellious escapades of the latter resulted in the clan's complete collapse. The New-English and Old-English appeared to have little impact on the land holding matrix at this time.

Table 4: The sociopolitical hierarchy of 1585

The Earl of Thomond
The Bishop of Killaloe, The Baron of Inchiquin, The Bishop of Kilfenora, Sir Tirrelagh O'Bryen Knt.
John McNemarra (Finn), Donnell Reogh McNamarra, Teige McMahon, Tyrellagh McMahon, Oyne O'Loghlin, Mahone O'Brien, Dame Margo O'Brien.
Sir Edward Waterhouse, Edward White, Boetius Clanchy, George Cusack, Dr James Neylan, The Dean of Kilfenora.
Mahowne O'Dea, Dermot O'Dea, Connor McGilleroch, Donogh McGlanchi
Luke Brady, George Fanning, The Dean of Killaloe, The Archdeacon of Kilfenora.
Morietagh O'Brien, Tirrelagh McTeig O'Brien, John McNemarra, Henri O'Grady, Donogh Gancagh O'Brien, Connor O'Brien.
Willam Nelan, Cosny McGlanninchy, Oliver O'Davoren, Teige McKisoge, Teige Nelane, Teige McRory, Teige McBrody, Nicholas McCahane, Gillabudy McBrody, Donell O'Shane, Mahon McNemarry, Moriethagh Daly, Mohon McConogher.

The first eighteen individuals have been organised into four tiers based on similarities in the particular agreements made with different individuals. The indenture identifies a further fourteen who are described either as temporal chieftains, freeholders or farmers. These have been allotted to the fifth, sixth and seventh tiers respectively. The final tier lists the thirteen 'lawfull men of the county' who are identified in the Inquisition. The Indenture and Inquisition were the two most significant documents of the Composition of Connaught of Connacht (1585) which records an agreement between Sir John Perrot Knt, the Lord Deputy of Ireland and the Lords Spiritual, the chieftains, gentlemen, freeholders and inhabitants of the Province. This agreement saw the effective assimilation of the province within the New-English administrative system (Nugent, 2002:308-312).

At the end of the first decade of James I's reign, these differences within the upper tiers of Gaelic society increased. The ethnicity of the mortgagers and trustees of adapting Gaelic families demonstrated that they were forming strategic alliances with their New-English administrators and strengthening their long-standing connections with the Old-English merchants of both Limerick and Galway cities. Tradition-bound clans appeared not to recognise the permanency of land transfers under common law. Consequently land disputes became increasingly common. Whether this non-recognition was based on incomplete

knowledge of the 'new' legal system, a hankering for the brehon contractual and theoretically terminable at will land transfer arrangements, or opportunistic manipulation of a volatile geopolitical environment, is difficult to establish. What is apparent is that disputes were generally settled in favour of adapting Gaelic families and newcomers.

The third and fourth decades of the seventeenth century witnessed a dramatic increase in the number of inquisition hearings. From the fifty recorded hearings and one hundred and sixty-one translated abstracts, a relatively comprehensive county-wide picture emerges for the first time (Frost, 1893: 300-327). The principal dwelling places of the recorded landholders from these proceedings are delineated on Figure 3. The area of poorest representation coincided with marginal peripheral areas and the estate of the Earl of Thomond. These inquisitions now examined the land transfer arrangements of major, intermediate and limited number of lesser freeholders. While the vast majority of the abstracts deal with relatively recent events, abstracts from first time locations sometimes related to the late sixteenth century. The abstracts again referred to inheritance practices, mortgages, other contractual agreements and disputes. In general, Catholic local Gaelic landholders were still experiencing considerable difficulties with the new economic order. Gaelic Protestants were generally prospering, as were the local Old-English. These three groups were employing similar tenurial contracts, while the main beneficiaries of these transactions were the merchants of the two neighbouring port cities. The New-English and Dutch were slowly making an impact on the landholding matrix, even though most remained tenants of the major Gaelic Protestant land magnates (O Murchadha, 1982:217 and Appendix V).

Inheritance

The nature of inheritance in late medieval and early modern Gaelic Ireland has been best explained by Nicholls. In his description of the varied nature of Irish gavelkind, he identifies at least five operational variations on the practice of the equal division of land amongst male heirs or kin members. Subdivision could be by the clan chieftain, youngest co-heir, annual or periodic redistribution, redistribution on the death of a kinsman only, preferential allocation of subdivisions based on seniority amongst kinsmen or relatedness to the deceased kinsmen (Nicholls, 2003:69). Kelly's research suggests another variable; different operational procedures in relation to personal land or kinsland. He also identifies the practice of division of personal land amongst co-heirs during the lifetime of a kinsman (Kelly, 2000:412, 429-31). Given the complexity of this system and the potential for contestation arising from the different redistribution procedures, the attractiveness of primogeniture inheritance for the local population was readily apparent. Over 95 percent of the 137 recorded inheritance transactions can be described as primogeniture. The only exceptions relate to examples of Irish gavelkind dating to the Elizabethan period. Unsurprisingly 97 percent of the land transfers remain within their respective ethnic groups. The four exceptions involved three Gaelic men who married wives of Old-English stock and a New-English male who left a local Gaelic widow and heir. There was little perceptible difference between small, intermediate and large freeholders, except that the four examples of intermarriage occurred within the minor landholding class.

The following abstracts recorded examples of Irish Gavelkind and legal transfers that effectively achieved the same result. At an Inquisition hearing at Ennis on April 6th 1626, the death in 1594 of Daniel McGorman of Dromnehily and Cahermurphy was recorded. Daniel

was the principal landholder in the peripheral south-western territory of Tuath Achadh Meádhonach. His 3622 Irish acres estate was subdivided between his three sons, Conor, Melaghlin and Caher (Frost, 1893:302). A more striking example related to the parish of Ogonnelloe on the banks of Lough Derg in East Clare. This inquisition, recorded in the previous year (Frost, 1893:306), related how on the death of John McNamara in 1587 his five sons, Donogh, Maccon, Shane, Hugh and Daniell received equal part of his 6523 Irish acre estate. All other examples of multiple division of land between male heirs and / or kinsmen occurred among Gaelic Catholic families before the end of the sixteenth century.

But the abandonment of their traditional inheritance customs was not as finite as the abstracts initially suggest. The apparent mass adoption of primogeniture inheritance was often nothing more than an English veneer on Gaelic arrangements (Clarke, 1976:170). A more detailed examination of some of the land transactions recorded in 1620s and 1630s reveals that some of the major Gaelic landholders were circumventing the proscription on partible inheritance by other means. By assigning a fraction of their estate to a second son or kinsmen prior to their death, major Gaelic freeholders managed to continue dividing their estate according to Irish gavelkind, while legally adhering to the primogeniture ruling.

The evidence from two major Gaelic magnates illustrated just such a practice. The 1630 inquisition into the affairs of Turlogh Roe McMahan, 'Lord of East Corca Baiscinn', in midwest Clare, records a major Catholic land magnate experiencing considerable financial difficulty within the new economic environment. The first transaction dated from 1617 (Frost, 1893:312-3). It involved the demising of the Old Court of Ballymacrina and four adjoining townlands to two Old-English merchants, Andrew and Michael White of Limerick. By 1625 a further three townlands were mortgaged to Stephen Stritch and two years later eleven more townlands were mortgaged to another Limerick merchant, James Bourke. Under the primogeniture rule, all of his estate would have gone to his first born male heir, Teige. However, in 1628, Turlogh conveyed seventeen townlands and the castle and town of Derrycrossane to his second son, Brian, thus circumventing the primogeniture rule. A year later Turlogh died leaving Clonderlaw Castle, the ancestral seat, and ten townlands to Teige. It would appear that Turlogh adjudicated the ability of his two sons insightfully, since his first son, Sir Teige, immediately mortgaged three townlands, one to Daniel O'Keely and the rest to his brother, Brian. Meanwhile, in East Clare, a 1633 inquisition revealed that a Mahone Donogh McNamara who owned an intermediate sized holding in Kilkishen, in East Clare, had accomplished the same arrangement by assigning approximately half his estate to his second son, John, on his reaching the age of eighteen (Frost, 1893:319).

Mortgaging

According to Clarke, mortgaging appealed to many freeholders because it allowed them to retain possession of their land while providing them with the opportunity of raising cash. Consequently those merchants, and others who sought to invest in land for profit, found many local landholders willing to mortgage their lands (Clarke 1976:170). Some sixty-four mortgages were recorded in the abstracts. Table 3 records how 77 percent involved relatively small estates of less than two quarters (c.240 Irish acres). While Old-English and New-English landholders were willing to accept a mortgage from anybody, the local Gaelic freeholders were four times more likely to mortgage lands to a fellow Gael than to a Limerick or Galway-based Old-English merchant. This tendency was most pronounced with lesser

freeholders. Intermediate and large estate owners demonstrated a contrasting preference. Once again the local Gaelic freeholder accounted for almost 90% of all mortgaging transactions. Sheer numerical strength partly explains this, but an increasing inability to adapt to an evolving market based economy was the most significant factor. The ready cash from a mortgaging transaction gave the local Gaelic freeholder a false sense of security, and some freeholders found themselves having to mortgage more and more of their holdings. Earlier mortgage arrangements involved both a transfer of cattle and sterling. But as the century progressed all transactions involved sterling only. The Old-English and New-English freeholders dealt in cash and local Gaelic mortgagees received only cash from their Old-English mortgagers.

The following mortgage transactions between two Gaelic freeholders and a neighbouring Gaelic freeholder and a Limerick merchant respectively, highlighted the cultural differences between the different ethnic groups. A 1613 deed recorded in 1621 showed how John Reagh McNamara, owner of a medium-sized estate of six adjoining townlands in east Clare, mortgaged two townlands to Teige and Conor O'Ruddane for eight cows and £8 (Frost, 1893:292). The O'Ruddanes were traditional allies of the McNamaras. A neighbouring kinsman, Donogh McCuuea McNamara who owned a similar sized holding, mortgaged part of a townland to a Limerick merchant for £20 five years later. Large Gaelic magnates also experienced financial difficulties. One such magnate, Turlogh O'Brien of Kilshanny in North Clare, a kinsman of the Earl of Thomond, had to mortgage his land to a Henry Blake, a Galway merchant (Frost, 1893:314). This transaction also hints at the geographical realm of Galway city's influence in the early modern period. Non-local mortgagees in the baronies of Corcomroe, the Burren and Inchiquin in North Clare, were invariably Galway merchants (Gillespie 2006:81-2), while the remainder of the county, but particularly the core and the domain fell within the realm of Limerick city merchants.

Assigning and conveyancing in trust

Since it was not possible to transfer land by the making of a will until 1634 (Wylie, 1985:21), assigning or conveyancing land in trust achieved substantially the same result. This type of land transfer accounted for one-eighth of the recorded transactions. With the exception of the two localised Old-English families, it appeared to be an exclusively Gaelic practice. Another reason for the popularity of these transactions was the avoidance of crown rent.

In order to understand these transactions more clearly, it is necessary to explain the principle of conveyancing land in trust in greater detail. Taking, for example, an abstract recorded in 1627, which stated that in 1602, a certain Turlogh O'Brien, owner of the castle, towns and land of Ballymulcashall and two adjoining townlands just north of Sixmilebridge conveyed in trust, these lands to a Mahone Roe McNamara of Mooghaun and Brian, son of Turlogh for his use and that of his son, Conor (Frost, 1893:305). Because of this deed, Mahone Roe McNamara and Brian, son of Turlogh, became the *de facto* owners of these lands. It was also clear that Turlogh and his son, Conor, were to benefit from any profits that might be gained by Mahone and Brian. The benefits of such a transaction were not immediately apparent, but since crown rent and the demands of the Earl of Thomond were only payable by persons seized of land, Turlogh and his son Conor, were now free of those exactions. A common feature of all such transactions was that land was conveyed to a minimum of two persons. In Turlogh's case, this meant that neither Mahone or Brian could

transfer the land to their successors. Apart from avoidance of crown rent, the consequences of forfeiture for treason or escheat could also be avoided. By the same token, a landowner might try to put his land out of the reach of his creditors.

The following example will show why assigning in trust was four times more likely to occur among medium and large freeholders than amongst smaller landholders. In 1602, Donald Merigagh McNamara of Ballinahinch, a substantial landholder in mideast Clare had demised his estate to Boetius Clancy in trust for the use of his wife, Honora Clancy, and his son, Donogh (Frost, 1893:286). Some twenty-four years later his son Donogh died having mortgaged certain lands to a fellow kinsmen Daniel McNamara Finn, Donogh O'Moloney, Rory McShane Mac Isog and five O'Hallorans. Unfortunately for the estate, Daniel, the son of Donogh was but a minor when his father died. A fascinating inquisition held at Ballinahinch in 1635 shows how the normal wardship system did not function in this case (Frost, 1893:321-2). The abstract related how the sheriff of the county, Turlogh O'Brien Esq., had allowed the estate of his ward, Daniel McNamara of Ballinahinch, to fall into disarray. The abstract catalogues the disintegration of stables, coupled houses, a kitchen, bakehouse, a mill and a dam, and the unlawful felling of trees. However, the ward's attendance at mass until five weeks prior to the hearing was viewed as the more appalling aspect of the sheriff's guardianship. Gillespie has highlighted how education in the Protestant religion was central to the wardship system (Gillespie, 2006:37-8). Nevertheless such incompetence did not result in the dismantling of his estate. In 1641, the Books of Survey and Distribution (BSD) returns the said Daniel as owner of all his grandfather's lands (Simington, 1967:36-40).

Other conveyancing transactions and land grants

These land transfer transactions can be reduced to two basic types of land transfers, conveyancing or granting land from one party to another. Unlike the transactions discussed in previous subsection, the proviso 'in trust' was absent. When one compared the sizes of land units being transferred and the origins and social status of the participants with those of the previous subsections, three trends emerged. Firstly, the vast majority (seventy five percent) of all recorded instances of conveyances and grants of land involved holdings of less than or equal to two townlands. This contrasts sharply with conveyances in trust where seventy two percent involved medium to large holdings. Secondly, conveyances in trust occurred between freeholders of near equal societal status, conveyances and grants (in perpetuity) occurred between two parties from opposite ends of the societal hierarchy. Thirdly, only the upper strata of local Gaelic society engaged with the Old-English merchants and the New-English elite. An analysis of Table 3 shows that seventy five percent of smaller land unit transfers were exclusively between the local Gaelic population. A further seventeen percent involved transfers from local Gael to an Old-English or New-English tenant, while five percent emanated from Old-English or New-English freeholders. Medium-sized land transfers displayed a contrasting scenario. While they accounted for only twenty two percent of these transactions, the local Gaelic freeholder was three times more likely to transfer these land amounts to an Old-English tenant than to a local Gael. Old-English freeholders transferred land exclusively to their own ethnic persuasion and the single New-English freeholder transferred his medium-sized holding to three McCurtins of non-local Gaelic origin.

The following discussion illustrates the differences between conveyances and grants of land. When one cross-referenced different abstracts relating to the same estate through

succeeding generations, culminating with the 1641 survey, one discovered that the first transaction involved the permanent transfer of both legal and physical possession of property. The latter transactions revealed the genesis of the classic landlord-tenant relationship that was to dominate the societal and proprietorial matrix for the next three hundred years (Wylie, 1986:20).

A 1626 inquisition hearing revealed that in 1590, a certain Oliver O'Davoren conveyed by deed, Lissylisheen, a townland in the Burren, to Constance Davoren (Frost, 1893:301). Some fifty years later the BSD reveals that Gillananevee, the heir of Constance, was in possession of these lands (Simington, 1967:473). There are numerous examples of this type of internal family land transfer amongst intermediate and minor freeholders. A more detailed example, involving the McNamaras of Castletown Muckerish, related how, in 1634, Teige conveyed by deed half the castle and town of Muckerish, certain stone houses, and six adjoining townlands to his grandson for £200 (Frost, 1893:323). The 1641 survey confirmed this transaction some seven years later (Simington, 1967:116). However, this legally binding agreement did not appear to have guaranteed unambiguous ownership of these lands as the following example illustrates. In 1620, the Earl of Thomond was recorded as having conveyed by deed part of two townlands in the parish of Kilconry, to two distant kinsmen, Kennedy McBrien and Brian McMurtagh (Frost, 1893:303). By 1641, both men were recorded as being in dispute with Pierce Creagh of Limerick for the said lands (Simington, 1967:165-6).

The remaining land transfer transactions related to land grants. These grants were usually by letters patent. The letters patent then usually went on to grant a special dispensation from the statute *Quia Emptores* to the grantee, so as to enable him to subinfeudate by way of in fee farm grants (Wylie, 1986:20). All examples of grants of land, most of which were granted in perpetuity, emanated from three key individuals, the Earl of Thomond (Frost, 1893:294-5), his kinsman, Lord Inchiquin (Frost, 1893:326) and Sir John McNamara Knight of Mountallon (Frost, 1893:318). Some forty transactions can be classified in such manner. Unfortunately, Frost decided to ignore most of the land grants relating to the Earl, due to their sheer volume and only included nine sample transactions. From these nine grants alone, however, one can surmise that the Earl's management of his estate differed markedly to that of his fellow local Gaelic land magnates. The Earl appeared to grant lands to Gaelic, Old-English and New-English grantees in equal measure. However, the distinctive geography of the Earl's tenants revealed that almost all of the Gaelic grantees were located in peripheral areas of his estate, while in the core of his estate, New-English and Old-English tenants were preferred. This geographical distribution coincided with Ó Murchadha's findings, concerning the tenantry of his estate in 1626, where approximately 50 percent were non-indigenous (Ó Murchadha, 1982:217). Lord Inchiquin appeared to have adopted a similar multiethnic tenantry policy. The remaining Gaelic landholder was Sir John McNamara Knight. The records show that he was granting minor land units in perpetuity for monetary or other considerations. The grantees in this case were almost exclusively of local Gaelic origin. These holdings were located within Tuath Ó bhFloinn. This tuath had become the patrimonial lands of this branch of the McNamara Reagh Clan from the fourteenth century. Since McNamara granted almost half of his lands in perpetuity, the status of the grantees on his estate were much more secure. The BSD recorded these grantees as the owners of their holdings in 1641, thus grants in perpetuity signified transfer of legal title (Simington, 1967:73-8). By employing this form of grant, one can surmise that he was experiencing a decline in his social, political and economic situation.

Disputes and claims

Property transfers will always generate disagreement where a degree of uncertainty of title is evident. Table 2 and 3 recorded some sixty-seven disputes. The plight of widows losing title to their former lands, the encroachment on the holdings of a ward of court by neighbouring freeholders and contested title arising from conveyancing agreements have already been alluded to. The following abstract revealed the most likely outcome of these disputes. An inquisition on January 19th 1622 recorded the claims of thirty-six individuals against the Earl of Thomond. (Frost, 1893:195-7). The fourth Earl had made significant land gains at the expense of his kinsmen and clients in the preceding decades, by amassing former ecclesiastical lands and by acquiring considerable holdings through inheritance claims based on the past strategic marriage alliances of his antecedents. An examination of the ethnicity of these claimants revealed twenty-nine Gaelic, four New-English and three Old-English. It also revealed the disenchantment of the established church with the Earl, the growing confidence and significance of the New-English class and the continuing influence of Old-English Limerick City merchants on the economic and socio-political life of East Clare. The BSD revealed that almost all of the claimants were entirely unsuccessful in achieving their aims (Simington, 1967:29-185).

Conclusion

New attitudes to property arising from New-English legislation that imposed primogeniture inheritance and fostered the individual and finite ownership of property informed the transformation of Clare society from a hierarchical, regulated clan-based Gaelic society to an embryonic, market-based system. Many of the local elite greatly benefited from compliance with this legislation and embraced this New-Order. These local actors have been termed 'adaptive'. However, a significant minority of the Gaelic social elite, a substantial proportion of the intermediate strata and the overwhelming bulk of the smaller freeholders did not adapt successfully to the New-Order. Whether their failure to adapt was based on incomplete knowledge or a desire to retain a Gaelic clan-based ideology or a combination of both, these individuals attempted to operate a Gaelic approach to land organisation and management enveloped in a thin veneer of compliance with New-English property legislation. These clans and individuals have been termed 'tradition-bound'.

The core zone was the location of the majority of those who adapted to the New-Order while the domain and periphery were the realms of the tradition-bound clans. This core zone can be described as a region where the resources of unused freedom (Dodgshon, 1998b:180) arising from the changing socio-economic and political environment were being utilised. The domain and periphery can be described as zones of inertia (Dodgshon, 1998b:180) where tradition-bound clans failed to grasp these new opportunities and innovations. However, within these three zones, there were clans and individuals who did not conform to the general trend. This was most significant within one distinct sub-region of the periphery. This region centred on the emerging urban settlement of Ennistymon in north-west Clare. This towerhouse and reformed church centred settlement was owned by the Earl of Thomond. The estates of his liked-minded kinsmen the O'Brien brothers of Dough and Newtown and his allied brehon clan, the O'Clancys, bordered Ennistymon and its hinterlands thus constituting a clear zone of innovation outside the core region. A possible explanation of the actions of the O'Briens and their allies is to acknowledge that fundamental differences of attitude existed within Clare society as to whether the particular forms of socio-cultural knowledge, values or

structure, encapsulated within the clan-system should be maintained or abandoned (Dodgshon, 1998b:181-2 and 187-90). These differences permeated all dimensions of social and economic life. In the early modern core, the values of self-interest were clearly different but not to the extent of being polar opposites of those in the periphery. Within the broader geopolitical environment, the county was undoubtedly a periphery within the New-English administrative realm. Consequently adaptive clans felt bonded, or sought to be bonded, to the values and structures of this administration while the tradition-bound clans were becoming increasingly marginalised both within a Clare context and the broader geopolitical context of a centralising English nation-state.

Late medieval Gaelic Clare had little direct experience of Anglo-Norman colonisation but it had significant economic interaction with the neighbouring Anglo-Norman ports of Limerick and Galway and socio-political interaction at the elite level with the Anglo-Normans lordships of Clanricard, Ormond and Desmond. Consequently Gaelic Clare differed to the Gaelic lordships of mid and west Ulster in that it had a greater degree of exposure to the feudalised world of the Anglo-Normans. As with Scottish Gaelic lordships fringing the Norman lowlands, the clan-based society adopted what was economically beneficial from the feudalised world due to its inherent flexibility while retaining its ideology as to the order of social, political and territorial relationships (Dodgshon, 1987:170; Whyte, 1995:133).

The early modern period exposed the county and its Gaelic society to greater external forces of change, through Henry VIII's surrender and regrant policy of 1541 and its far-reaching consequences. Throughout the mid-sixteenth century this resulted in internecine strife between the competing septs and clans. However, the seven Earls of Thomond from 1541 to 1646, with the exception of the third Earl were enthusiastic supporters of the New-English administration, since it invariably supported their hegemony. They also continued to maintain political and marital alliances with the neighbouring Anglo-Norman lordships. Their conversion to and promotion of the reformed church was also viewed positively by the New-English administration (Ford, 1997:30-7). The granting of the Presidency of Connacht to the fourth Earl was proof of New-English confidence in his ability to mediate the desired socio-economic, political and ideological changes in what was possibly the least troublesome peripheral territory in the emerging British / English nation-state (Fitzpatrick, 1988:51; Gillespie, 1993:136, 2006:37; Nugent, 2002:323-5). However, the fourth and fifth Earls tended to promote these changes only amongst their own like-minded allies thus providing a secure environment within which their New-English tenants could commercially exploit their estates. Their *laissez-faire* approach towards the dissemination and promotion of a New-English ideology to the wider Gaelic population mirrored a similar situation in the lordships of Clanricard (Cunningham, 1979:247-253) and Ormond (Smyth, 2006:342). Consequently it allowed for cultural continuities in many aspects of the pre-existing Gaelic society. Whether this was due to protecting their own self-interests or because their adaptive disposition had alienated them locally to such a degree that their rivals ignored their example are also factors underlying this cultural continuity. Consequently Early Modern Co. Clare differed significantly from the Gaelic Lordships of Ulster who were subjected to an aggressive, radical externally sponsored plantation scheme which resulted in what Cleary terms a mixed settlement model of colonialism (2003:16-45). This scheme saw the introduction of a significant New-English and Scottish settler population which created a society which was intrinsically bonded to the values and structures of the emerging British / English nation-state (Robinson, 1984:91-108). The maintenance, survival and prosperity of this colonial society

resulted in the active relegation of the local Gaelic population to a culturally, economically and socially inferior position. The extent to which the fourth and fifth Earls of Thomond had inadvertently facilitated Gaelic cultural continuity was not fully understood by the New-English administration until the Rebellion of 1641-2. The depositions of the expelled New-English settlers reveal a genuine unawareness that their Gaelic neighbours generally despised them (Ó Murchadha, 1982:110).

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