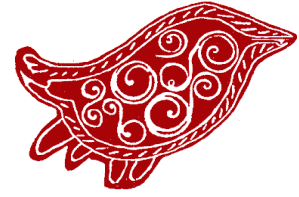


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Robert Pearce<sup>37</sup> (Peirce) resided at Ballygromans, Ovens, Co. Cork. He and his descendants were intimately associated with much of the business of the Phaire family. The identity of Ruth Hubbard has not been ascertained.

It may be well to state here that a family of Phayre, some of whom followed the trade of tiler or slater, resided at, or near, Kilmallock, Co. Limerick, but that no indication of relationship between them and the family of Colonel Phaire has ever been discovered.

The Marriage Licence Bonds (Cork) of two of these were in the Public Record Office, Dublin, viz. :—

(1) Joseph Phayre of Kilmallock, tiler, to Mary Gilbert of St. Peter's, Cork, 27 Jan., 1753.

(2) John Phayer of Bruff, Co. Limerick, slater, of St. Peter's, Cork, to Margaret Condon, 29 Jan., 1753.

In view of what is to follow it is well to note the name of Margaret Condon of the second marriage licence bond above. It is not Courtenay or any name resembling Courtenay. We have the will of this John Phaire, "slater," signed 8 July, 1761, proved 18 Dec., 1761, in which his wife Margaret is mentioned. One of his executors is Richard Gardiner of Cork, a surety of his M.L.B., and a witness to the will is John Condon, the other surety: Colonel Phaire's second son of the name of John had probably died before 1761, his wife's name was Mary Whitby, whose will was signed 1762, April 17, and proved 1763, Jan. 24. They were married in 1699. An effort has been made to exchange John Phayre, the slater, for John Phaire the son of Colonel Phaire, and to turn the slater's wife's name into Margaret Courtenay, and much spurious genealogy has been founded upon this illegitimate transmutation, as we shall show hereafter.

<sup>37</sup> A Major Robert Peirce was one of the 1649 officers (Adjudications in favour of the (1649) officers, P.R.O., Dublin).

*(To be continued.)*

## History of the Lavallins.

BY GEORGE BERKELEY.

*(continued)*

### II.—HOW THE LAVALLINS LOST WATERSTOWN CASTLE AND ITS LANDS.

It must have been a sad day for Ellinor Lavallin when, in 1687, she and her infant daughter left Waterstown Castle; but far worse misfortune was to come. Hers was an unusually hard lot even for a period of war.

As already detailed, she soon afterwards married again, a man named John Baggott. When the war broke out he supported the Irish cause and King James, and was outlawed for high treason; so Ellinor followed him into exile in France and was also outlawed. She did not see her native land again for nearly twenty years. In the year 1709 she returned to Ireland (or according to another less probable account in 1701) and got a special Act of the Irish Parliament to remove the bar of outlawry. In the

following year her daughter Jane, now about 24 years of age, brought an action to recover the Lavallin property from Melcher, but was unsuccessful.<sup>1</sup>

How Ellinor lived during those 20 years it is hard to say. Her own property and her daughter's were forfeited. Her rich father who had promised her £2,000 a year was an outlaw, and Melcher had long given up sending the income of her jointure (£166 a year, and maintenance for Jane), which at first had been paid with regularity. It is likely enough that this treatment embittered her against him.

Melcher, who had not gone to the war, had inherited all the estate of his brother Peter. And in 1717 he bought the fee simple of the property which had been leased by his cousins, John and Patrick, that is to say, the lands of Coolowen (10 gneeves), Farranrostig, and Boolibeg. He bought them from "the Right Hon. Ulick Lord de Rupe and Fermoy" for £80 and other consideration.<sup>2</sup> But there is one point which is not clear, namely, how he succeeded in retaining all the family lands forfeited by Peter. One wonders whether he turned Protestant. D'Alton's *King James's Army List*, for instance, states that Sir Robert Southwell of Kinsale obtained a grant of the estates (among others) of Peter Lavallin in the County of Cork. But it seems unlikely that he got any large share of them. The following is Melcher's own account of what happened, taken from his brief in the lawsuit of 1710:

"Peter Levallin dyeing without Issue, Deft (Melcher) being by sd Settlement and Last will of his father the next in remayndr and thereby Intitled to the freehold and possion (possession) of the premisses did soon after

"After the Reduction of Lymerrick, Enter upon all the Lands Except the Lands of Knockeendenellssossing believing himselfe to be rightfully Intitled thereunto by said Settlement and will."

When he wrote those words Melcher had been in possession of the property for nearly twenty years. And in none of the family documents known to me is there any reference to forfeitures.

Under Melcher's guidance one would imagine that the Lavallin family had reached its highest ebbs of prosperity. The original estate which had been charged by Peter with Ellinor's jointure included the lands of Waterstown, otherwise Ballinvatterig, otherwise Lavallin's Park; the town and lands of Killockery, otherwise Killmucky, otherwise Ballivocky; Ringmoyn, otherwise West Rinmire; Ballincarrownig; Ballintertownig; Ringlowbey, otherwise Ringmartin; the moiety of the half plowland of Lehanebeg; Rathmakilly, otherwise West Rathmacullreck; Tullagh-coucane, otherwise Drumgariffe; Burreene; the moiety of Cloyfadda; Coolowen (gristmill); Ballybeg; Ballinfelleck and Drumcappell, other-

<sup>1</sup> The Trial. The rest of the above facts are quoted from this *Journal*, Oct.-Dec. 1915.

<sup>2</sup> Contract dated July 20th, 1717, in the collection. By this deed Melcher bought the fee simple. But there is a lease of the year 1699 wherein he let the same Coolowen lands to Henry Gerald of Moneard for 24 years at £50 per ann. In 1724 another conveyance shows that eight out of the ten gneeves were let to Patrick Waters for £120 per ann.

wise Castle Lavallin with the appurtenances<sup>3</sup>; about 2,000 acres. But Melcher had many other lands besides these, probably about 5,000 acres in all; and a rent roll that could be estimated at about £2,000 to £2,500 a year, which would be equal to about £6,700 at the present day. I give herewith the long list of the places which he had inherited or acquired during his thirty years of ownership.<sup>4</sup> One deed of 1699 gives us the rather interesting piece of information that at Coolowen the tenants had to do suit and service "at y<sup>e</sup> courts Leet and Barron of ye said Melchior Lavallin his heirs and assigns in such manner as the rest of the tenants of the five plowlands of Farronrostigard shall be obliged to doe."<sup>5</sup> It was surely unusual to find courts leet and barron on an estate so late as the year 1699.

By the time he had reached his middle age, Melcher was apparently at the height of his prosperity. Throughout those troubled times he had succeeded in retaining and increasing the wide estates of his fathers. The lands were entailed on his son James, and it seemed as if the family were firmly established for generations to come. But just at this moment their misfortune came upon them.

It is possible, of course, that he had never been quite so successful as he appeared, for we find him mortgaging certain lands to Sir Thomas Meade of Ballintober for sums amounting to £760, and there is later reference to his having sold lands to St. John Broderick.<sup>6</sup> But by far the most continuous drain on his income was the jointure annually due to Ellinor, of which he had not paid a farthing for many years. It was this claim which was destined to become the curse of his descendants.<sup>7</sup>

But at this point we come to the episode which is the best known in the history of the family, namely, the great Lavallin lawsuit.

It is, I suppose, one of the longest and most bitterly contested on record. It arose, as already related, out of the charge created by Peter Lavallin in 1687. Then, in 1710, Ellinor Baggott had brought an action to obtain ownership of the property for her daughter, a proceeding which doubtless embittered both sides. She failed; so then, abandoning all idea of ownership, she set to work to make good her claim to the annual jointure and to the arrears which had been accruing, with interest, for probably about twenty years. The income of the jointure had been secured on the above-named portions of the Lavallin estate.

The story of Ellinor Baggott's attempt to recover this debt, which, as

<sup>3</sup> This list is copied from the assignment of the Decree in 1751. But Melcher had other lands besides these, e.g., Coolowen and Farranrostig above-mentioned.

<sup>4</sup> The lands that passed to Lord Barrymore between the years 1728 and 1732 were estimated in 1770 at £3,000 a year. But such leases as remain do not suggest at all so high an income. At a rough guess, about seven hundred a year would seem more probable. But rents had risen before the year 1770 which would partly account for the over-estimate.

<sup>5</sup> Lease by Lavallin to Gerrard, April, 1699.

<sup>6</sup> Lease by Lavallin to Gerrard, April, 1699.

<sup>7</sup> A full account of this lawsuit giving Ellinor's side of the case was printed in 1739. I have never seen this, but there is a long and clear analysis of it to be found in this *Journal* for 1895. And among my papers there are various legal documents giving short summaries of the case, in order to trace the history of various mortgages that arose out of Ellinor's claim and were only paid off in the year 1910.

a matter of fact, was never fully recovered, is a striking instance of how genuinely bad the law could be in the eighteenth century. It is farcical, almost unbelievable. From being a lawsuit it degenerated into a hereditary feud which lasted for generations, and went far towards ruining both sides. The actual litigation began on June 23rd, 1716 (the quarrel being already about 25 years old), and lasted with little intermission until May 23rd, 1751. During all those years hardly any of the jointure due was ever paid, or its arrears, or the interest on its arrears. Yet on no less than seven different occasions the claimants appeared in court, and were always successful; and finally, in 1751, obtained a decree to sell up the whole of the Lavallin estates, but by that time had no longer any desire to do so. On the other hand this lawsuit which did Ellinor so very little good, was the cause of the Lavallins being obliged to leave their home.

I give a brief summary of its various phases :

In 1716 Patrick Lavallin's widow, Ellinor, and her trustee, "Elizabeth Lady Dowager Mahon"<sup>8</sup> filed a bill against Melcher to recover the arrears of her jointure, charged on the old part of the estate. After four years of litigation, in 1721, she was awarded £4,143 and an income of £166 a year during Melcher's life. Here she had scored her first victory, and it was one of considerable importance.

From this defeat we may date all the subsequent troubles of the Lavallins. The judgment of 1721 for £4,143, accompanied no doubt by huge legal costs seems to have been a frightful blow to them; in fact, a blow which brought them within measurable distance of ruin. It must have come as a complete surprise that they should be compelled to pay up arrears of jointure due for over twenty years to an outlawed woman in France, to whom they could hardly send money without incurring suspicion. And if, indeed, Melcher was one of those men who had made his profit by staying at home while others went to the war and by keeping back the jointure due to his exiled sister-in-law, he certainly was destined to suffer for these sins in his old age. Of course one cannot now say for certain what his early motives may have been, but it seems as if a pitiless nemesis fell upon him in 1721. Old Ignatius Goold must have rejoiced in his grave.

So serious was their position that before the year was out Melcher and James, his son, put their heads together and decided to sell the whole estate.<sup>9</sup> A large portion of it was already charged with the income of the jointure, and their plan was to sell the property in order to pay off incumbrances and reinvest the balance of the money in land elsewhere. But Ellinor stopped them. She got an injunction to be put in possession, and went into Waterstown, where she remained until Melcher's death.

In 1724 Melcher died, and was succeeded by his son James. In 1726 Ellinor filed a bill against James, but she could no longer interfere with his selling the land charged.

<sup>8</sup> So she is described in the Deed of Assignment of the Decree of 1751. It does not say of what settlement she was the trustee. She died before 1724.

<sup>9</sup> A summary of the articles of agreement is to be found in R. D. Old Books, No. 32, page 62. (R. D. stands for the Registry of Deeds Office, Henrietta Street, Dublin.)

From the day of his father's death James proceeds to carry out their program of selling the family estate, especially those lands charged with Ellinor Baggott's jointure. In 1724 he sold the lands of Kilvokey<sup>10</sup> to Redmond Barry for £500. In 1728 he sold Ballynoe and Ringacoultra<sup>11</sup> to James Lord Barrymore for £11,686. In 1730 he sold him Rathmacullig and a moiety of Lehanebeg<sup>12</sup> for £1,325, and he mortgaged to him the lands of Lisduff, Thresherstown, Gortavaron, the other moiety of Ballybeg, Gurteenastookey, Lisheenowen, and part of Drumgariffe<sup>13</sup> for £3,500. In 1732 he sold to the same purchaser Ballinphelick and Drumcappell<sup>14</sup> for £1,470, and in the same year mortgaged North Coolowen and Sluggery<sup>15</sup> to Robert Hoare, gent., for £666 14s. 4d. Thus during his first eight years he had mortgaged or sold the greater part of the family estate. He had raised over £10,000, of which at least four-fifths came from James Lord Barrymore, but how this money was spent does not appear. Ellinor Baggott certainly got none of it, but his lawyers may have been more fortunate. It certainly looks as if James had sworn she should never have a penny, because he had raised enough to pay her twice over.

Undoubtedly the saddest part of the debacle was the loss of Waterstown Castle<sup>16</sup> and the immediately surrounding lands. It is hard to be certain of the exact details, but it seems that in 1721, before Melcher's death, and immediately after the loss of his suit, James had agreed to sell Waterstown to Arthur, Lord Doneraile, and had received £1,000 on the strength of the agreement. As the sale was never concluded, in 1726 Lord Doneraile sold his bond and his rights to a victualler named Grant, who seems to have done some money-lending. Grant bought it for £11,250 (principal and interest for five years), and resold it in 1727 for £11,436 5s. od. to Henry Boyle of Castlemartyr, Boyle being merely trustee of Lord Barrymore. Thus Lord Barrymore had acquired a fairly large charge on the property and castle, and the rights in James' agreement of sale. (V. Registry of Deeds Office, Old Books, Vol. 55, p. 423.)

Lord Barrymore was soon to acquire more. In September, 1726, James had let Waterstown for 31 years to "Maurice Worth of the City of Bruxelles, Flanders," at a rent of £80 a year. Six months later Worth, whose real name was Dunworth, assigned this lease to Lord Barrymore.

<sup>10</sup> R. D., Vol. 40, p. 484.

<sup>11</sup> R. D., Vol. 56, p. 199.    <sup>12</sup> R. D. Vol. 66, p. 22.

<sup>13</sup> R. D., Vol. 66, p. 62.

<sup>14</sup> R. D., Vol. 68, p. 284; Vol. 69, p. 439.

<sup>15</sup> R. D., Vol. 72, p. 226.

<sup>16</sup> The latest mention known to the present writer of the castle of Waterstown, as distinct from the lands, is a memorial of lease dated January 21st, 1727, made by James Lavallin of Waterstown letting "the Castle, town and lands of Waterstowne" to Maurice Worth of Brussels for 31 years, at £80 per ann. (Registry of Deeds Office, Dublin—Old Books, Vol. 56, p. 215, No. 37,669.)

It seems that the lease itself was dated 21 Sept., 1726; that Maurice Worth of Brussels was in reality called Maurice Dunworth of the City of Cork, and that he assigned this lease to Lord Barrymore by deed poll very soon afterwards (v. R. D. Office, Vol. 56, p. 200, No. 37601.)

The castle thus passed into the possession of Lord Barrymore. It must have been taken down soon afterwards, because Dr. Smith says, in 1743, "it has long since been demolished." (*History of Queenstown*, by the Revd. H. E. Dennehy and James Coleman, F.R.S.A.I.)

Thus Barrymore had also got an actual tenancy.<sup>17</sup> He was rapidly becoming the possessor of nearly all the old Lavallin estate.<sup>18</sup>

It is curious that in each case Lord Barrymore should have acted through an agent. Whether there was trickery about this procedure it is hard to say. He was afterwards accused by the Lavallins of having jockeyed them out of their land, but the methods alleged against him were entirely different.

On December 4th, 1728, we find rather an astonishing document. James sells "the lands of Waterstown and the lands of Ballinoe and Ringe Coultigh<sup>19</sup>" to one Francis Price for £985 16s., "being at the rate of six years' purchase." Price was to re-let the lands of Waterstown to James for life, at a rent of £80 a year. Whether this Price was also a representative of Lord Barrymore it is impossible to say. But a week later we find James assigning all rights in Rathmacullig and Lehanebeg to one William Peard, apparently a representative of both Price and Barrymore, as additional security for the sums due to Barrymore, and the covenants entered into with them both.

In this way Waterstown passed out of the Lavallin's estate, and into the possession of the Lords Barrymore. Whether they obtained an absolutely good title to the castle, and whether James remained in it to the end of his life, I do not know. From what we have said it will be seen that James had signed an agreement to sell it in consideration of receiving £1,000. His descendants asserted that they had a right of redemption over Waterstown and its lands. But they made a similar claim to rights of redemption on all the other lands which had undoubtedly been sold to Lord Barrymore, and paid for by him. They also asserted that Lord Barrymore never actually paid them, but this claim we must leave for discussion later on. One point is certain, namely, that in the deed of sale to Price, the lands of Waterstown are mentioned but not the castle. Nevertheless, after the year 1730 James is always described as "of Thresherstown," and never again as "of Waterstown."

We now return to Ellinor Goold and the description of her law suit.

In 1735 her cause was heard and the sum of £4,143 of arrears was made a charge on the lands already encumbered with the interest. But this cannot have troubled James very much, because more than half of the lands had now passed to Lord Barrymore. In the next year Ellinor died. So she never made good her rights, but she left her claim to her sister, Christian Goold, who carried on the war for another fifteen years.

In 1737 Christian Goold filed a bill of revivor against Melcher's son James. She was successful.

In 1738 James appealed to the House of Lords, and in 1739 his appeal was dismissed with costs.

<sup>17</sup> R. D. Office, Vol. 56, pp. 200 and 215.

<sup>18</sup> In this *Journal* for Oct.-Dec., 1915, p. 178, mention is made of the Hon. Capt. David John Barry, brother of the Earl of Barrymore. He is said to have married a rich widow (Mrs. Blennerhasset, née Crosbie) and to have spent most of her fortune in purchasing from the Lavallins, Hurleys (Hodnetts) and others in the Great Island, during the years 1732 to 1734, such lands as they retained at that period.

<sup>19</sup> R. D., Vol. 57, p. 517. This document is hard to understand; because on March 30th, 1728, James had sold these lands of Ballynoe and Rinacoultig to Lord Barrymore for £1,686 (v. R. D., Vol. 56, p. 199). Waterstown is not mentioned. Possibly there exists some other document which would explain the matter.

The debt claimed now amounted to £9,034 11s. 9d., and Christian Goold again took proceedings to recover it. But in 1742 James died. And in 1744 the next owner, his grandson (Melcher junior), also died, and was succeeded by the great-grandson, an infant called James Melcher Matthew.

Against him, in 1751, the indefatigable Christian, who must now have been nearly 80 years old and was suing the fifth generation of defendants, filed a bill of revivor, and finally obtained a decree ordering the great-grandson, aged ten, to pay her £8,002 4s. 10½d. for the arrears of his great-grandfather; otherwise the estates were to be sold. Lord Barrymore must have been annoyed at their decree, as he was the person whom it chiefly concerned.

This decree of 1751 for £8,002 is the turning point in the story of the family. It marks the end of the drama. In the same year Christian sold her hard-earned decree for its face value to Mr. Robert O'Callaghan of Shanbally. After sixty or more years of fighting she probably felt it was time to get something in pocket. At all events that is the last we hear of her.

From this long struggle the Lavallins emerged impoverished but by no means ruined. They were no longer in possession of their castle, but they still owned most of their land—it is hard to say exactly how much, but at a rough estimate one imagines that they retained perhaps 3,600 acres, of which, say, 800 were charged under the decree of 1751—and some mountain land, as well as an income of about £2,000 a year. James Lavallin was henceforth described as “of Thresherstown,” and his last successor, Philip Lavallin, as “of Carrigaline.”

During all these years of the lawsuit there is little else of note to be found in the records of the family. James Lavallin, who had sold the lands, lived on until 1742; the next owner, Melcher the younger, died within two years, and was succeeded by his son, James Melcher Matthew, a minor who lived eleven years but never came of age. All that we know about his period is that after three years of widowhood his mother, Jane Spread, was married again to a man called John Bowerman, and, if we are able to believe a brief afterwards drawn up for counsel's opinion, apparently by the next heir, Philip Lavallin, she and her husband plundered the property as far as they could. This old document states that Jane Spread was daughter of John Spread,<sup>20</sup> a man of good fortune, but that he never gave her even “a shilling portion”; and that as soon as she was married to Bowerman she brought an action for dowry against her infant son, and being his guardian “by collusion” suffered judgment to go by default. Incidentally we may remember that it was during her guardianship that the decree of 1751 was obtained by Christian Goold charging all the estate with £8,002. Her boy died in October, 1755, at the age of 14, “but a day or two before his death in the rage and violence of his disorder when his Physicians despaired of his Life he made or attempted to make a will which was Prepared for him, and thereby disposed as its (*sic*) pretended all of his personal estate which mostly consisted of the redundancies, produced by the issues and profitts of his reale Estate since his

<sup>20</sup> Possibly John Spread of Ballycannon, near Cork. But no details are given.



father's death which will contrived to prevent his personal Estate from going in ease of his real Estate," or, in other words, left no ready money to pay off any of the charges or interest "which has not been kept down but suffered to accumulate." What a charming picture of family life in the eighteenth century!

This, then, is the story of how the Lavallins lost their castle and most of their lands. And for the reasons stated there was no one directly interested in recovering them from Lord Barrymore until this child's uncle, Philip Lavallin, the last of the Waterstown line, became owner in 1755.

(To be continued).

## The Old Castles of South-West Cork.

(Continued from p. 33, Vol. XXX.)

### CASTLEHAVEN CASTLE.

This O'Driscoll Castle, which gives its name to the haven near whose mouth it stands, is now in so dilapidated a condition that it is difficult to believe that it was actually inhabited in the early part of the 19th century, as stated by Mrs. Dorothea Townshend in the *Cork Journal*, at which time it was hung with tapestry, the destruction since wrought on it being due to an English tenant of the place whilst the owner was a minor. In *Sketches of Carbery* we read that from Lough Hyne to Castlehaven the coastline presents a great variety of scenery, and a ride between the two places affords some very fine sea views. Numerous small bays indent the land, and give a picturesque character to scenery which would otherwise be extremely wild. Starting from Lough Hyne we meet with the following inlets:—Tralisheen, Tragomina, formerly Fennis Cove, and Toehead which runs in and forms Tralegoch. After passing the precipitous promontory of Toehead, we come to Sandy Cove, formerly Torbay, near which is Tracartagh; and, finally, we enter the harbour of Castlehaven which from its mouth, about half-a-mile in width, runs up for a distance of three miles. Castlehaven was anciently called Glanbarrahane, after the patron saint of this place, St. Barrahan, to whom was dedicated the old ruined church to be seen on the west side of the harbour not far from the old castle, which in conjunction with the saint's name, has originated its ancient place name. As far back as the 17th century it was styled by the Irish Cuanan Caislean, by the Spaniards Porto Castello, and Castlehaven by the English, all three having the same meaning, viz., the Port or Haven of the Castle. The story of the Spaniards landing here instead of at Kinsale, their attack by Sir R. Levison's fleet, its willing surrender by the Spaniards shortly afterwards and its owner's unsuccessful endeavour to regain it has been above narrated. It continued to be held by Harvy for a considerable time after its surrender to him, as will presently appear, though its possession was not considered a very important matter, as is pointed out in *Pacata Hibernia*, Vol. I., p. 216, where it is classed as the "last and indeed the least of the three havens," the other two being Baltimore and Bearhaven, "called by the Irish Glanbarrahane, renowned for that memorable seafight lately acted there by Sir Richard Levison against Pedro de Zubiaur, commonly called Suryago, the Spanish Admiral. The passage into the harbour