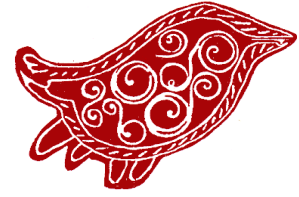


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Journal of the Cork Historical and Archæological Society.

(Thirty-fourth Year of Issue.)

History of the Lavallins.

BY GEORGE BERKELEY.

(concluded)

III.—THE ATTEMPT TO RECOVER THE LANDS.

When in the year 1755 Philip Lavallin succeeded his nephew, James Melcher Matthew Lavallin, as owner of the estate, we feel at once the influence of a more vigorous personality. Philip was probably not a man of outstanding ability, but he was, at all events, one of considerable vitality.

His one determination in life seems to have been the recovery of the property of his ancestors; not, I think, for the sake of the income—because he was well off—but for the sake of the sentiment. One suspects that he had inherited a tradition of injustice from his father James, and that they regarded Lord Barrymore as having taken advantage of their temporary misfortunes. And indeed one knows that it would be impossible for one old family to supplant another in its ancestral estates without bitterness arising.

The case which Philip made is so curious that it would carry very little credibility were it not for the fact that he evidently believed in it wholeheartedly himself, and that it actually lived on almost into the reign of Queen Victoria. It is definitely stated in two documents (there are, of course, many others referring to it), each of them a case for counsel's opinion; the first is undated, but probably belongs to the years 1760 to 1770, a case for the opinion of John Fitzgibbon, Esq.; the other is dated 1832, and is marked £10, for the opinion of Mr. Lefroy. We have also a formal deed of claim made by Philip Lavallin in 1770, to be handed down to his descendants, and various secondary documents.

His version of the facts, drawn probably from his father James, is as follows: He says that James had agreed with James Lord Barrymore to sell him the town and lands of Waterstown, and various others named, that is to say, his country house and the best part of his property. The price which Lord Barrymore paid him, according to these documents of Philip's, was only £6,000, although the rental of the lands was *said* to be about £3,000 a year. This, as both documents observe, was a "monstrous undervalue." But more astonishing still is the account rendered, which runs as follows:—

To the purchase of lands	...	...	£6,042	0	0
Cr. Sums paid by Lord Barrymore for James Lavallin for several people and Interest	...	...	£5,426	10	0½
Balance	...	...	£615	9	11½

Thus, according to Philip, for the trifling payment of £615 9s. 11½d., Lord Barrymore entered without more ado on a country house and property said to be worth £3,000 a year. And we are told that he never paid a farthing of the balance due, but that he and his descendants remained in possession. Moreover, Philip claimed that these lands had been mortgaged and not sold, that the fee simple was his, and that he had a right of redemption.

This is a curious version. Certainly the documents at the Registry Office in Dublin give an entirely different account. According to them Lord Barrymore had paid £4,471 as the sale price of various lands, and had advanced £3,500 on mortgage, making a total of £7,971 in all, out of his pocket. As regards crediting James' debts against him, it is quite possible that he may have cancelled this large mortgage and several others smaller in consideration of receiving further lands. But no documents have turned up relating to the subject.

One is bound to admit that this seems the most probable solution. As far as the documents go at present, one finds that the lands of Ringmoyne, Ballycarownig and Ballintertownig passed into Lord Barrymore's possession without any recorded sale. On the other hand, his mortgage of £3,500 over the lands of Thresherstown, Gortavaroon, Gurteenastookey, Ballybeg (moiety of), Lisheenowen and part of Drumgariffe entirely disappears. It seems reasonable to suppose that he cancelled it in consideration of receiving the lands of Ringmoyne, etc. But this, of course, is merely guesswork.

Philip Lavallin most undoubtedly believed in his cause, and so, apparently, did his lawyers and agents. Even after his death there were perfectly serious efforts made to recover the lands. It is this fact which makes one wonder whether he really had any possible right of redemption over Ringmoyne, Ballycarownig and Ballintertownig, or any shred of claim to the old castle of Waterstown, beyond sentiment.

But the whole situation was complicated by the existence of Christian Goold's decree of 1751—the judgment decree for arrears of the jointure due to Ellinor Lavallin (afterwards Baggott). This was a charge of £8,200 secured on all the lands that had passed to Lord Barrymore, and on various others as well.

When Philip Lavallin began to prosecute his claim he found this decree standing in his way. As already related, Christian Goold had sold it to Mr. Cornelius O'Callaghan of Shanbally. It was a fine security, paying 6 per cent., and O'Callaghan's widow was now living on it. It was in reality a judgment empowering her to sell all the lands charged, at six months' notice if she liked. And this was what Philip wanted her to do. He evidently hoped to get the lands into the market. But Alicia O'Callaghan was an old woman and did not want to be bothered.

As a matter of fact, she was rapidly running up another bill of arrears against the Lavallin estate for non-payment of interest. How far Lord Barrymore came into this new debt, I do not know, but it very soon amounted to £2,400, and afterwards to £1,100 more, making a grand total of £3,500 extra, an unsecured (and very insecure) debt. All this is now inexplicable. How a property of so great a value entirely failed to meet a charge of only £480 a year one cannot say.

In 1765, however, Philip made a definite arrangement with Alicia, and signed articles of agreement whereby, firstly, she was to allow him to use

her name and the decree in his attempt to recover possession of his family's land, and secondly, she was to reduce her rate of interest to 5 per cent., while he on his part agreed to secure the extra £3,500 on the whole of the Lavallin property, not merely on those lands already named in the decree of 1751, but equally on various others of which he was seized. He thus substituted one single mortgage of £11,500 secured on almost the whole of his estate, for the several debts in existence.¹ By this means he had cleared the decks for action.

Rightly or wrongly, one pictures to oneself Philip Lavallin as being a cheery, quick-tempered, unbusinesslike old landowner, imbued with a very human resentment over the way in which the family property had been filched away (according to his view), and a determination to claim every inch of it. He still must have had an income of over £2,000 a year,² and seems to have "lived like a gentleman" at Carrigaline. Money was worth twice as much then as now, and, after all, in the eighteenth century no gentleman troubled about debts unless they were debts of honour. He had three daughters, Jane, Sarah and Mary, the eldest of whom, at all events, must have been pretty in her young days. She was the original of the miniature spoken of at the beginning of this paper. In 1770 she became engaged to a rich young neighbour, Robert St. Leger Atkins,³ and for the moment it seemed as if the fortunes of the Lavallins would rise again. On the day of the marriage Philip signed a deed of claim, in which he formally stated his right of ownership or of equity of redemption over the whole of the old Lavallin property, especially enumerating the lands that had passed to Lord Barrymore. And he gave to his son-in-law a life estate in the lands to be re-won. After him they were to go to Jane for life, and then to the second son of the marriage on condition that he took the name of Lavallin.⁴ If he refused or neglected to do so he was not to have them.

A few months later Philip was dead. He was the last of the Watertown line, and left three daughters, co-heiresses. The eldest, Jane, was Mrs. St. Leger Atkins of Waterpark; the second, Sarah, afterwards married Mr. Henry Puxley of Dunboy, son of John Puxley who in 1758 was shot by Morty Oge O'Sullivan,⁵ and a century later became the hero of Froude's celebrated novel, *The Two Chiefs of Dunboy*; the third, Mary, married Dr. Joseph Rogers of Seaview. Thus the old Lavallin property

¹ *Vide* the articles of agreement of 1765 between Philip Lavallin and Alicia O'Callaghan: also many other documents referring to it. Philip was seized in fee simple of various lands not included in the first list that I have given as belonging to Melcher, or covered by Alicia's decree of 1751.

² The one-third of his estate (excluding the portion in Lord Barrymore's possession) that passed into the St. Leger Atkins family, was worth £682 a year in 1770, and was bringing in £1,263 per ann. in the year 1835, although Raheen and one of the other parcels had by then been sold by Warham St. Leger Atkins. As regards Philip's indebtedness, one must remember that Alicia's mortgage of £11,500 only entailed a payment of £575 per ann. of which a fair proportion would have been paid by the lands in Lord Barrymore's possession.

³ Robert St. Leger was second son of Mr. W. St. Leger and Helena Atkins. He was left a property by his maternal grandfather, Alderman Atkins of Cork (died 1765), on condition that he took the name of Atkins.

⁴ Deed of Claim, 1770.

⁵ I am indebted for this interesting item to the kind assistance of Mr. Herbert H. L. Puxley (now living at Goring): who has in his possession the Coroner's verdict in the above case.

eventually became divided among these three families. The St. Leger Atkins branch got the lion's share of the land, I think, but the portions were considered to be equal. The old mortgages remained charged on the whole of estate, and each family was liable for one-third of the debts due.

Robert St. Leger Atkins at once set to work to recover the property, but old Alicia O'Callaghan was apparently determined that he should not do so. At all events, we are told that when Robert Atkins' agent wrote to her she answered she must consult her solicitor; then when the solicitor was appealed to, he said that he must consult counsel; and no reply was ever sent,⁶ and so the years went by, and Robert Atkins finally gave up his attempt. After Philip Lavallin's death we are told there was never any rent collected by his heirs off the lands in possession of Lord Barrymore in whose family they seem to have remained, paying their mortgage interest to Alicia O'Callaghan, and after her to her nephew, Cornelius O'Callaghan, junior, Lord Lismore.

Robert St. Leger Atkins and Jane Lavallin, Philip's eldest daughter, had six sons, namely, Robert, Warham, Philip, James, Heyward, Joseph, and two daughters, Sarah (Mrs. Berkeley) and Jane (Mrs. Westrop).

In the next generation the Berkeleys, the Westrops, and three families of St. Leger Atkins became co-owners of an undivided one-fifth of the Atkins' third of the Lavallin estate. But of these five co-owners the Berkeleys had the most satisfactory share from the historical point of view, because the old mortgages on that one-third of the Lavallin estate were left them by will, and with them came most of the family's legal documents, which are of considerable interest.

In 1779 Alicia O'Callaghan died. In her will she left the mortgage divided into its three original parts. The first, the original £8,000, she bequeathed to her nephew, Cornelius O'Callaghan, junior (son of Thomas O'Callaghan), who afterwards became Lord Lismore. The second part consisted of £2,400, originally the earliest batch of arrears which had been due to the O'Callaghans. This she left to her nephew, Sir Henry Newenham. The third or later batch of arrears, £1,100, had already been settled on her granddaughter, Elizabeth, who married Mr. Robert Longfield, and secondly Mr. William Colthurst. By the latter she had a son, Captain Fitzmaurice William Colthurst, and a daughter, Elizabeth, and they also became entitled to the mortgage for £1,100.⁷

⁶ In 1776 the agent, Alexander Durden, wrote to Mrs. O'Callaghan: "Madam, I am directed by Mr. Robert St. Leger Atkins, who is married to the eldest daughter of the late Mr. Phil Lavallin, to apply to you for liberty to proceed in your name to recover £8,000 which Mrs. Christian Goold obtained a decree for against the Lands of Waterstown and other Lands the estate of the said Lavallin, which decree is now vested in you as the Executrix of the late Mr. Robert O'Callaghan. James Earl of Barrymore possessed himself of the Lands of Waterstown, which were subject to the said £8,000, and has not rendered any account of the Rents or profits thereof, nor will he give up the lands. Mr. Atkins' second son is now become entitled to those lands, subject to this £8,000, and is advised that if he gets leave to proceed on said decree he can sell those lands to discharge the principal, interest, and costs due, etc., etc."

This letter was written five years after Philip's death.

⁷ Letter from Mr. Alexander Durden to Heyward St. Leger Atkins (at Dromada, Castle Martyr, Co. Cork), dated 14th Nov., 1810.

To cut a long and dull story as short as possible⁸: The three mortgage holders eventually began to turn up for payment. In the year 1800 Sir Henry Newenham's assignees (Robert and Parsons Persse) obtained a decree to sell the lands for their mortgage of £2,400. But the representatives of the three families combined together (Warham Atkins, John Puxley and Joseph Rogers), and in their name Joseph Rogers bought the mortgage for £2,800, and set up a trust for all three.⁹ He became trustee for the Lavallin estate. Warham Atkins eventually sold his one-third of the mortgage to his brother Heyward for £1,300 (apparently a sum of £1,769 was due on it), and Heyward left it in part payment of a legacy of £3,000 to his nephew, Robert James Berkeley.

In 1825 Lord Lismore's claim for £8,000 was made out, and (though I possess no details) it seems to have been paid off by the trustee of the Lavallin estate.

In 1832 Capt. Fitzmaurice William Colthurst brought an action to recover the £1,100, to which he had a claim, with interest for 67 years. As regards the St. Leger Atkins share, the five co-owners combined together, and Heyward Atkins paid £650 for their one-third liability. This mortgage of £650 also passed to Robert James Berkeley as part of the legacy of £3,000. What was done about the other two-thirds portions of the estate, the Puxleys' and the Rogers', I do not know.¹⁰ But another old charge of Philip Lavallin's worth about £900, known as the Phipps mortgage, has also descended in the Berkeley family.

We thus get seven different families (and their number soon increased) owning undivided moieties or other interests in the property, and affording a sad instance of the system under which land was merely an income-producing investment. It is typical of the days when there were so few investments to be had, that everyone wanted rents or a mortgage because "the land can't run away"; days when half the old ladies in Ireland lived on a judgment debt against their best friend, who paid them six per cent., whereas the Funds only paid three. But the Lavallin estate, as it is known to this day, has remained alive and even solvent, though heavily charged.

⁸ It seems necessary just to give a summary of the main facts, because in the *Journal of the Cork Historical and Archaeological Society* for Oct.-Dec. 1915, a pedigree was published by the Revd. H. Lavallin Puxley which is extremely inaccurate. One is glad to know, however, that the Puxleys of Dunboy, descending from Sarah, the second daughter of Philip Lavallin, have perpetuated the name and impaled the arms of the old Waterstown family.

⁹ I don't know whether this is what Mr. H. Lavallin Puxley refers to when he says that "the debt due to Lord Lismore devolved on Mary Rogers, £2,000." It does not seem possible that any debt charged on the whole property could devolve on her alone. *V.* the pedigree published by him in this *Journal*, Oct.-Dec. 1915. He says also that "John Puxley paid off all debts and incumbrances and took the whole of the Lavallin property." This is obviously an error. The St. Leger Atkins third remained among their descendants until they combined and sold it in 1910, as the present writer knows. And some of the incumbrances were never cleared. But Mr. Lavallin Puxley believed that the original Robert St. Leger Atkins and Jane Lavallin had died without issue, whereas they had the six sons and two daughters above-mentioned. Such documents as I possess lead me to suppose that John Puxley partly cleared his own one-third share of Philip Lavallin's estate, but left the Colthurst mortgage intact.

¹⁰ The above facts are taken from the papers relating to the Colthurst lawsuit, which was compromised, and from an abstract of title made in 1869, tracing the history of the mortgages. It speaks of "Mrs. Puxley of Dunboy, and Mrs. Rogers of Seaview House," but naturally does not give any details of their affairs.

Most of it has lingered on without a master for a century and a quarter, an investment rather than a property, paying its rents yearly to various co-owners of different names; people who did not know each other, who sometimes did not even own the land, but had merely undivided fifth portions of its rents, complicated by interest due on the incumbrances; in fact, mortgagees and rent-owners, but not landlords in the true sense of the term.

But, it may be asked, what of the present day? And what of the future? What part will these lands play in the modern self-governing Ireland of the peasant-proprietors?

Here we come to the reverse side of the picture; perhaps, indeed, the most instructive from a present-day point of view. With the Wyndham Land Act of 1903, all these co-owners and mortgagees were cleared away, and down below was left uncovered the substratum of everything, the old Celtic stock. There you get the permanent element, the growth that is genuinely rooted in the soil. Various families of gentry, about a dozen in number, have passed over the surface as legal owners of divisions or sub-divisions or decrees. But the men next the land, the producers, though some of their individual families have died out in hard times, or emigrated, or changed, nevertheless remain a native substratum. Taking them as a whole, the tenantry of the estate is probably as Celtic now as it was in the days before the Lavallins came.

It is in reality as interesting to trace how the tenantry have weathered the storms of the nineteenth century as it is to trace the history of the greater people. As regards the St. Leger Atkins one-third of the lands, one can give a few details. For 1835 a list of the tenants is still in being, and shows the following results: On that one-third there were then 31 tenants paying £1,263 net in rents. Of these 31 tenants all bore typically Celtic names except two (Buckley and Hyde). The point of interest is to see how far these families have been wiped out during the Great Famine, the Land War, and the unstaunchable flow of emigration.

Sixty-six years later, just before the passing of the Wyndham Land Act, we have another list for the same one-third of the property. In that year, 1901, there were 36 tenants who together paid £1,061 net in rents, a reduction of about 13 per cent., but in reality far more, allowing for the depreciation of money. Among these 36 families there were five that had non-Irish names, four called Humphries, and one Daunt.¹¹ It is true, indeed, that among the old typically Irish families of tenants there had been considerable changes. Of the original 22 Celtic names among the 31 tenants in 1835, no less than 12 have vanished in 1901. But they have been replaced by other names equally Celtic. As regards the remaining 10, one can suppose that there is very little alteration. For instance, in 1835 Michael Lenihan paid £20; in 1901 D. Lenihan paid £20 18s. od. In 1835 M. Toomey paid £23; in 1901 Denis Toomey paid £26 (and, incidentally, he was in debt £124 for arrears).

¹¹ This small example is probably typical of hundreds of others all over Ireland. A list of the tenants in another estate in County Cork, a property which has belonged for two centuries to an Anglo-Irish family, shows that there are 111 tenants of whom only 24 have non-Irish names, and most of the latter belong to the type that have long ago been Hibernicised. Yet many of these lands were not far from the trading city of Cork. Further inland the foreign element would undoubtedly be less numerous.

Now the old system and arrears are gone. The cultivator is the landowner.

Here, then, we close the story of the Lavallins of Waterstown. They are not only dead, but to-day they are no longer possible. Still there remains a certain interest about their memory, because it is a completed record of a southern landlord family from the first owner to the last legatee; from Catholic Jacobites to Protestant vendors under the Wyndham Act. And it illustrates the changeful history of our Irish estates since the days before the Boyne. Even the prosaic business charge which we disposed of only the other day (1910) is actually the same that was created on January 4th, 1687, by poor Peter Lavallin for young Ellinor Goold when she said goodbye to the family place. Of their old castle only a few massive fragments of wall have remained for the last hundred years or more. In fact, all is gone now except their name.

THE ONE-THIRD OF THE LAVALLIN ESTATE WHICH PASSED INTO THE
ST. LEGER ATKINS FAMILY.

	Acreage	Rent in 1724.	In 1770.	In 1835.	In 1900.
Gurteenastookey	240	£114 (in 1733)	£90 0 0	} Place names not stated.	£475 19 6
Shantire	—	—	—		86 14 6
Ballyellis	—	—	—		—
Gordota (or Gortaduff)	238	} 134	} 214 0 0		109 19 4
Lisheenowen	112				64 6 6
Drumgariffe	113	—	—		76 13 0
Dromanare	53	20	22 15 0		99 11 0
Banard	—	—	—		—
Sluggery	—	—	108 15 0		—
Tullo or Tullig	144	—	—		65 7 6
Coolowen 10 gneeves	138 (half)	—	42 0 0	83 0 6	
	120 (half)	—	(middle lands)		
Raheen and Drumgariffe	—	—	206 0 0	Sold	Sold
Total			£683 10 0	£1263 14 3½	£1061 11 10

The Cork Arms.

BY VERY REV. THE DEAN OF ROSS, D.D., M.R.I.A.

Mr. Michael Holland contributed to the *Journal* of 1916 an interesting account of a pen and ink sketch of the Cork arms by Daniel Maclise. The original sketch is in the possession of our Council Member, Mr. Daly Murray, and bears a note in Maclise's hand to the effect that he copied it from a stone taken out of a wall of an old house in the North Main Street, which was originally the Custom House.

Mr. Holland suggests that the design for the Cork arms on the dinner service of the old Cork Mansion House was based on that of the old stone of which Maclise made the sketch. No doubt, G. R. Pain, the architect, who was responsible for the design on the dinner service, was familiar with the stone and the arms as represented on it. This would seem to be