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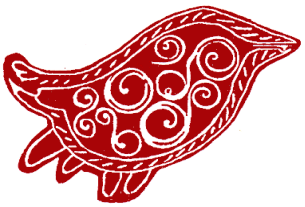

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The Development of the Privileges, Liberties and Immunities of Medieval Cork and the Growth of an Urban Autonomy *c.* 1189 to 1500

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INTRODUCTION

The Anglo-French (or Anglo-Norman if that term is preferred) invasion and settlement of much of Ireland in the late twelfth and early thirteenth centuries altered fundamentally the social and economic structure of the area occupied and settled by the invader, and influenced strongly the residual Gaelic areas. The manorial economy with its feudalized social structure was established in the colonized regions and (a phenomenon to be seen throughout thirteenth-century Europe from Ireland to the central and eastern parts of the continent) many new boroughs, markets and fairs were established. These constituted a network of points for the distribution or collection of merchandise imported or exported through the major Irish port towns. As Professor Lydon has pointed out:

> . . . it was the seaport towns, including those of Scandinavian origin, which especially prospered under Anglo-Norman rule and organisation. Dublin, Cork, Waterford, Wexford and Limerick were enlarged, strengthened and given a new vigour under royal charters. New ports, like Drogheda . . . Galway, New Ross and Carrickfergus were similarly developed. All of this, of course, had an important effect on external trade, for these ports not only provided an outlet for the exportable produce of Ireland, but also gave the kind of facilities which attracted foreign importers and greatly increased the flow of goods into Ireland.[1]

The potential of the seaport trading towns, founded by the Vikings about the late ninth or early tenth centuries, was recognized by the English monarchy from the outset of the conquest and settlement of much of Ireland. Thus, Dublin, Waterford, Cork and Limerick were reserved to the crown and, accordingly, became royal boroughs. In granting the kingdom of Cork and the whole demesne of Desmond to Robert fitz Stephen and Miles de Cogan in 1177, Henry II retained to the English crown in perpetuity the city of Cork and the lands of the Ostmen adjacent to it.[2] These latter appear to have consisted of a Viking settlement[3] in Kerrycurrihy, which extended from Cork to Crosshaven, together with another settlement close to Cork city 'on the eastern side of (the present) Barrack Street, between the Lee and (the present) Cove Street' together with a small harbour situated close to the present Sullivan's Quay. Although it enjoyed some autonomy, the Viking settlement at Cork was subject to the ultimate authority of the Mac Carthy kings of Desmond who 'levied customs on all goods imported through the port of Cork'. At the time of the Anglo-French invasion, therefore, Cork consisted of a mixed settlement of Irish and Hiberno-Vikings, relations between both of whom were friendly. The Hiberno-Vikings were traders and their

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overseas commerce brought about the development of the port of Cork which 'before the twelfth century . . . was very small, and not very important'.

With the coming of the Anglo-French invaders in the late twelfth century a whole new process of development was set in train. The Mac Carthy kings were displaced in the Cork area and fitz Stephen and de Cogan embarked on the sub-infeudation of their newly-acquired lands and the introduction of the manorial economy. The Hiberno-Viking settlement at Cork appears not to have been disturbed by the change of regime but certainly became subject to the ultimate authority of the English crown. In turn, the crown promoted the fortunes of the city of Cork and its port. This development was further facilitated by both the strategic importance of Cork for the political settlement imposed by the invader and the rapid economic growth, reflected in agriculture and commerce, which the twelfth and thirteenth centuries witnessed in Europe as a whole. Thus, the Anglo-French invasion of Ireland occurred at a time when, in Europe generally, there was a vast and rapid expansion in trade and, consequently, an accelerating urban growth. There was, of course, a close link between the two phenomena of economic expansion and urban growth since, from as early as the tenth century onwards, the impetus to establish towns as centres of trade was brought about by the necessity to free merchants and traders from the too rigid constraints of feudal society.[4] In turn, the removal or lessening of feudal constraints required the granting to towns of at least a measure of autonomy whereby their burgesses acquired personal liberties and immunities at law. For a city such as Cork to prosper as a major borough it was necessary both to establish its urban autonomy and to develop a significant mercantile economy. While the present study is concerned exclusively with the range of legal privileges accorded to Cork in its several charters, the importance of economic activity must constantly be borne in mind[5] and it should be said that, in both respects, Cork's fortunes were promoted by the English crown.

The period from the late twelfth to the early fourteenth centuries saw a vast and rapid increase in the establishment of boroughs and urban markets as a consequence of the unprecedented economic growth which had developed. For feudal lords (and in Ireland as in England this included the crown) the establishment of boroughs offered the prospect of enhanced profits — particularly if the borough became economically important — derived from market profits, rents, tolls, levies and the like. Thus, landlords established new boroughs or promoted existing ones for the simple reason that the new trading, mercantile and money economy, based essentially on the surplus production of agriculture, could be exploited by them in order to increase their profits. However, in order to establish boroughs and markets, landowners had to attract settlers to them and, to that end, they had to offer concessions. These concessions consisted essentially of two things: first, competitive (i.e. relatively cheap) rents for tenements held in the borough (thus, burgage rents, as rents for borough tenements were called, tended to be much lower than the rents of peasant land holdings; in medieval Ireland, the normal burgage rent appears to have been 1s. per burgage and this was certainly the case in Cork[6]) and second, the right of the inhabitants of the borough, the burgesses as they were called, to control their own affairs, at least to some extent.

Accordingly, since most thirteenth-century landlords were anxious to maximize their profits by establishing boroughs and markets, there was considerable competition between them to attract settlers and in every way promote the fortunes of their boroughs. It was not in the landlord's interest to offer to his burgesses either burgages at a lesser rent or

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more rights of self-government, more autonomy, than circumstances, or market conditions, compelled him to offer. Thus, the development of urban autonomy was very much an evolutionary one and was based on a range of liberties, privileges and immunities set out in the various charters granted by lords to their burgesses.

By the thirteenth century it was axiomatic that burgesses should have full control over their property, both real and personal, and this notion formed part of the developing mercantile ethos. Equally, the right of the burgesses to establish in their boroughs merchant guilds to control and regulate trade and, for the most part, to enjoy a virtual monopoly of trade therein was accepted and increasingly established. Legal and jurisdictional rights were closely bound up with social and economic privileges and were increasingly strengthened and reflected in borough charters as the thirteenth century progressed. Economic conditions and prospects forced landlords to offer more and more concessions to their burgesses and in this way borough autonomy grew and developed. Accordingly, in the thirteenth and early fourteenth centuries the trend to be discerned was towards the enlargement of borough autonomy. To that end boroughs sought further charters setting out in greater detail and confirming the liberties, privileges and immunities which they already enjoyed and establishing new ones which circumstances, not least the buoyant economic climate of the period, induced feudal lords to concede. This process is to be seen in the way existing charters to boroughs were, for the most part, repeatedly confirmed by their lords and new charters were granted.

Of course, the king of England was not merely a powerful landowner. As ruler of a centralized kingdom, he exercised considerable political power. In the thirteenth century, when the English lordship of Ireland was at its peak, the king of England enjoyed similar political power in the Irish lordship also. Accordingly, Irish boroughs held of the crown could experience problems and difficulties similar to those experienced by their English counterparts where 'in almost all its activities, judicial and administrative, a town was liable to interference from the central government' and, therefore, 'the practice was now becoming established whereby towns felt it necessary to purchase charters in each reign even if they gained very little that was new from them'.[7]

In general, borough charters confirmed existing rights and amplified and extended them. Their development marked a new departure in the history of the European town which now acquired an autonomy hitherto unknown. Thus, in order to be appreciated fully, the history of later medieval Cork — its economy, charters and borough autonomy — must be seen not only in the context of medieval Ireland as a whole but also in relation to trends and developments in the history of Europe in general. Moreover, the charters of Irish towns such as Cork reflected both the principles of the developing English common law and decisions taken by successive English kings in regard to the degree of autonomy proper to towns in their dominions. One way or another, the history of later medieval Irish towns was greatly affected by these various external influences. Not surprisingly, English influence was paramount as will be demonstrated in the discussion of the charters granted to medieval Cork which follows.

THE CHARTER OF *c.* 1189

Henry II's charter of 1177, in which the city of Cork was retained to the English crown in perpetuity, did not, it should be emphasized, confer any distinctive urban rights on the city. However, in the following half-century the basis of Cork's municipal autonomy was established. Not surprisingly, the model chosen for the urban liberties of the king's Irish towns was

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Copy of earliest Cork charter, from Harleian MS 74I f.9v.
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the city of Bristol which, thus, became 'the precedent for the charters of the Irish boroughs, of which Bristol is the "metropolis".'[8] The first Irish borough to receive the customs of Bristol was Dublin which was granted them by royal charter of Henry II in 1171-2. This charter was confirmed by Prince John, as lord of Ireland, in 1185. Cork's first charter of liberties was also granted by John, lord of Ireland,[9] but its date is uncertain. However, in the opinion of the present writer it was probably granted about 1189.[10] There is no doubt about the fact that it must be dated sometime between 1185 and 1199. It should, however, be emphasized that the question of the precise date of the charter is very much less important than its content.

The charter made two provisions. First, it granted to the burgesses of Cork the city with the land on which it was situated to hold of the English crown in free burgage in perpetuity. Free burgage was, certainly by the late twelfth century, the normal kind of landholding in English boroughs. 'The burgesses of all boroughs held their houses and lands in the borough on a tenure known as burgage tenure of which the characteristics were (1) the payment of a money rent in lieu of all services (2) the owner's liberty to sell and devise his property . . .'[11]

Free burgage brought with it to the holder a number of associated or ancillary rights in the borough. These included freedom of movement into or from the borough and freedom to dispose of real property. Thus, following Bristol, the burgesses of Dublin, Waterford, Cork, Limerick and Rathcool were free to devise and, subject to the maintenance of the

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rights of heirs, to sell their burgages in whole or in part.[12] Moreover, burgages were free from other feudal obligations and charges which were normal elsewhere. The burgesses held their burgages on payment of a fixed rent. This rent, known as landgable or hawgable, was a kind of ground-rent leviable on land or houses and it 'seems often to have been fixed at a standard figure'.[13] Such a rent was known at Dublin, Waterford and Cork.[14] The burgesses paid their rent *pro omni servicio* and they were not liable to such feudal incidents as heriot or relief; likewise, they enjoyed freedom of marriage.[15] As Professor Stephenson has pointed out in his classic study:

> . . . the borough is a privileged community; the burgess is a privileged member of the community; he and he alone may hold by the privileged tenure of that community. The townsman's plot of land is called *burgagium* because it is inseparable from the *burgagium* that constitutes the free borough . . . burgage was more than a tenure. It was a social and legal status, a mode of life dependent on membership in a community. A borough could not be established without also establishing burgess franchise and burgage tenure.[16]

'So intimately', therefore, 'was [burgage tenure] connected with the existence of the borough that the grant that all the inhabitants of a vill should thenceforth hold their houses by free burgage appears to have had the effect of raising of that vill to the rank of a borough'.[17]

Second, the charter granted to the city of Cork in perpetuity all the franchises and free customs which Bristol had (*et a cloer ma cite de Cork joe[ay] grauntey ausi a meymes mes ceteins de Cork teutes les leys fraunchises & fra[n]ches costumes qe sunt a Bristou*). However, these laws and customs were not specified in the charter and, as Professor Mac Niocaill points out, the burgesses of Cork had to ascertain them for themselves.[18] Accordingly, Dr O Sullivan concluded that subsequently little notice was taken of this first charter since 'no great pains were taken by John to enumerate the privileges granted' and that this 'would also account for its absence from the official records'.[19] At the outset it should be said that Dr O Sullivan is quite right in asserting that this charter was subsequently superseded. It is quite clear, from the series of confirmations of charters relating to Cork made throughout the later medieval period, that Cork's second charter of 1242 (that and subsequent charters and confirmations are discussed below) became the city's basic charter of liberties. Nevertheless, Dr O Sullivan's appraisal of Cork's first charter is altogether too bleak since that charter not only established the principle of urban autonomy but also laid down the basic foundations of that autonomy. (The fact that the charter has not survived among the official records is not surprising when we remember that even in England there was no established procedure for the enrolment of charters before 1199 and 'even after 1199 it was prudence and convenience, not the force of law, that led to the enrolment of charters on Chancery rolls'.[20]) Moreover, Cork's charter of 1189 was intended to be taken in conjunction with Bristol's first substantive charter, also dated about 1189, which conferred on Bristol a wide range of urban autonomy and established for its burgesses important rights at law.[21] By 1189, therefore, Cork enjoyed, at least by implication, an array of privileges, liberties and immunities already impressively large. That autonomy was further extended in the course of the thirteenth century in parallel with the developing rights of self-government acquired by contemporary English towns.

THE CHARTER OF 1242

The charter of (about) 1189 remained Cork's basic charter of liberties until 1242. In January of that year, Henry III, on payment of one hundred marks to the crown, by royal charter made a substantial grant to the burgesses of

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Cork whereby the autonomy of the city was significantly extended.[22] The terms of this charter were similar to those in the charter granted to Dublin in 1192 and confirmed in 1200.[23] The charter, on the one hand, provided for a wide range of local autonomy, administrative and legal, while, on the other, it sought to promote the internal and external trade of the city. The basic privilege it conferred — central to the question of autonomy — was the right to hold the city of the crown in free burgage on payment of a yearly fee farm rent, the *firma burgi*, of eighty marks payable to the Dublin exchequer in two moieties at Easter and Michaelmas. The development of the fee farm was a matter of the utmost importance in relation to developing borough autonomy for:

> . . . real progress in urban liberty came when towns secured the right to appoint their own officials and thus to control their own internal affairs. In England this came generally through grants of the 'farm of the borough' (*firma burgi*), so that the townsmen became corporately responsible for paying over the annual royal dues and, by consequence, for appointing the reeve who accounted for them yearly at the Exchequer. The advantages of such a system are obvious, for it allowed the town some autonomy in raising its farm and running its affairs in general. It must be remembered nevertheless that the king did not give up all his interests in the town when he granted the farm. An elected reeve still had to carry out many orders from the central government, and where a town already paid its farm separately from the rest of the county, as some did, its corporate existence was to some degree already recognized even before it had elected its own officers to pay over the farm.[24]

However, concession of the fee farm 'was relatively rare under Henry II. At his death only five royal towns were farming their own revenues'.[25] The situation changed greatly in the course of

> the thirteenth century and later [when] there was a steady development of urban privilege in Ireland as elsewhere and one of the most important stages in this was the grant to the citizens of the right to farm their city: that is, to discharge their obligations to the crown by a fixed annual payment, for which they were themselves responsible, to the exclusion of the officers of the crown. Dublin obtained this right in 1215, Waterford in 1232, and Cork ten years later.[26]

In addition to the concession of the fee farm, the charter gave the burgesses of Cork a wide jurisdiction in the administration of law and justice, that is to say in the area of both criminal and civil law.

With regard to criminal law, it was provided that no citizen, indicted of murder, should be tried outside the city; nor might he, on indictment, purge himself by means of battle, but rather he ought to be tried before a jury consisting of twenty-four lawful men of the city. This latter provision regarding trial by jury accorded, of course, with the developing practice in common law whereby increasingly recourse was being made to the use of juries not least as an alternative to trial both by battle and ordeal. Procedure by indictment and trial by jury was a novelty in English law which had been introduced by Henry II. 'It had taken its place beside the older procedure of an appeal [to trial by battle] by the party wronged'.[27] Limitation of the use of trial by battle is to be found in other borough charters. For example, Newcastle's charter stated that 'the burgess shall not be liable for trial by battle except in a case of treason, but shall defend himself by compurgation'.[28]

With regard to civil law, the charter provided that no citizen should plead outside the city, but rather should plead within it before the hundred court in the guild hall, except in the case of pleas concerning tenements lying outside the city. Thus, the hundred court,[29] i.e. the borough court, which was to be held once each week, was to enjoy a wide jurisdiction over and competence in respect of internal actions and suits in both civil and criminal matters. For example, the charter provided

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that nobody was to be amerced (fined) other than in accordance with the law of the hundred.

The charter also made several provisions regarding debts. No burgess of Cork was to suffer seizure of his property or to be distrained, in consequence of actions concerning debt, unless he was either the debtor or the debtor's guarantor. The purpose of this provision, presumably, was to protect the individual citizen of Cork, a corporate entity by virtue of its charter, from actions for debt which he had not incurred or in the contraction of which he was not involved; in other words to protect any citizen from being sued for debt incurred by another citizen on the grounds that, being part of a corporate entity (the city of Cork), he was thereby responsible in law for debt contracted by another citizen, likewise a member of that corporate body. This concession was particularly important in connection with the promotion of Cork's trade, especially outside the boundaries of that liberty. It was in accord with similar concessions granted by the crown to other towns and, as such, was particularly avant garde. The royal grant of 1256 to the city of Southampton is a case in point; it stated that the burgesses of Southampton 'or their goods wheresoever found within our jurisdiction, shall not be arrested for any debt for which they are not either sureties or principal debtors'.[30]

Burgesses were to distrain for debt within the city and all pleas concerning debts incurred there were to be heard in the city of Cork in accordance with its customs. Likewise, the burgesses might distrain in Cork, in accordance with its customs, for debts due to them, even debts owed by persons who were not citizens of Cork. However, in accordance with common law practice, the charter precluded the entering into of recognizances in Cork itself. The recognizance was a device whereby debts were formally acknowledged and recorded. The debtor entered into a recognizance, most frequently by appearing in the chancery or the exchequer, and that recognizance was duly enrolled. In this way the debtor 'acknowledged his indebtedness and voluntarily submitted to execution by the sheriff. His position was thus the same as if he had been successfully sued upon a writ of debt'.[31] However, as far as Cork was concerned, the restriction regarding the entering into of recognizances was considerably modified by the subsequent charter of 1318, a point developed below.

The charter of 1242, moreover, gave to the burgesses of Cork a large measure of autonomy in regard to their persons, merchandise and lands.

The burgesses, their children and widows were allowed to marry without having to obtain licence to do so from the king or any other lord. Nor was any lord permitted to have the wardship or marriage[32] of a child of a burgess of the city of Cork even though that burgess held land of him (the lord) outside the city, although, of course, in accordance with normal feudal custom, the lord could have custody of any land held of him by feudal tenure outside the city until the majority of the heir. Freedom from the operation of the normal right of wardship and marriage was, of course, a major component of urban status and urban liberty. Thus, burgesses were to be free of the constraints imposed by the feudal regime in regard to both their persons and their lands and tenements situated within the city. (One of the basic purposes of borough liberties was to evade the limitations imposed by feudal law; this has been discussed above in relation to such feudal incidents as heriots and reliefs).

With regard to land tenure the charter of 1242 contained three important legal provisions. First, land and tenements in the city were to be held in accordance with the custom of the city. This provision, of course, directly impinged on the question of urban autonomy. Second, burgesses holding land outside the

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city, wherever situate in the king's dominions, were to have their rights in them protected by the law of the land. This provision was probably intended to supplement that regarding the limitation of suits arising from actions for debt. Third, tenements within the city were to be held in free burgage by the service of landgable (the basic provision of the charter of 1189) and the burgesses were permitted to build on all vacant land within the city. Cork and Waterford were among the boroughs 'empowered by charter to build upon vacant places within the borough limits. These grants seem fully to bear out Maitland's statement that the intramural "waste" (like the waste without) was not conveyed to the burgesses by a grant at fee farm'.[33] In Maitland's opinion there was a connection between the wish to develop waste land and the need to boost borough revenue; the community began to grant 'leases of waste and "common" land . . . in answer to an increasing demand for building sites'.[34]

Finally, on the matter of personal or movable property, the charter conceded that royal justices or other officers of the crown might not take any goods or merchandise belonging to burgesses of Cork, or of merchants trading in or with the city, without the consent of the owners of such goods. This latter provision was intended to foster the city's commerce. Promotion of the trade of the city was, of course, a supremely important matter for both Cork merchants and the crown and, accordingly, a number of important concessions were made in that regard.

As noted above, Bristol was the model on which the liberties and privileges of Cork were based. The charter provided that the burgesses might establish guilds on the model of those established in Bristol. It has been shown that:

> . . . the relationship between a town and its guild could be close. At Canterbury the burgesses' guild and the merchant guild were the same and the burgesses of Dover had a guild hall by 1066. One of the most obvious fields of corporate activity in a town enjoying expanding trade would be the protection of guildsmen — or townsmen — at home and abroad against extortion, violence, and perhaps outside competition. Consequently the guild — whether or not actually called a guild merchant — could become the body which campaigned for privileges for the town's traders and its president, or alderman, might become the spokesman for the townspeople at large. Some towns sought or achieved corporate liberties not through their guilds but under the name of a commune, which a large or small proportion of the townsmen might formally bind themselves by oath. Sometimes, as the social and convivial purposes of a guild were absorbed in the new political purposes of its members, the words guild and commune were used interchangeably.[35]

In addition, the burgesses of Cork were to be free, throughout the king's dominions, of toll, lastage, passage, pontage and all other kinds of customs payments arising from town levies. (Toll was the right granted to boroughs to impose a levy on strangers bringing goods to the town's market. Lastage was a charge imposed for lading ships. Passage was a toll imposed on passengers or goods, while pontage was a toll levied for the building or repair of bridges.) This was a particularly important concession for whereas 'many towns received grants for a few years at a time of murage, pavage, or portage, which enabled them to levy tolls from outsiders to build or repair walls and bridges and to pave their streets, few towns got corresponding exemptions for their burgesses from such tolls'.[36] This privilege was strengthened and reinforced by a further provision that if such tolls were levied and not repaid immediately the provost (*prepositus*) could distrain for it at Cork. The usage 'provost' here rather than 'mayor' is not surprising. Terms such as provost, reeve or bailiff are normal in the twelfth century and they reflected the, as yet rather limited, degree of autonomy which most royal towns had acquired at that stage since, as pointed out above, these officers 'had financial and

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administrative responsibilities to the king even if they were appointed by their fellow townsmen . . .'. However, 'the English mayor was from the start a purely urban official who symbolized the town's unity', although 'formal permission to have a mayor was rare before the later thirteenth century . . .'.[37] Nevertheless, the office evidently was in existence at a rather earlier date. Not surprisingly, Dublin was the first Irish town to obtain from the king (Henry III) the right 'to elect annually from themselves a loyal discreet, and proper mayor for the government of our city of Dublin'.[38] Accordingly, Cork's charter of 1242 was granted at a time of transition and the usage 'provost' in that charter was derived from Bristol's charter of 1189 which contained an identical provision regarding distraint to recover monies unlawfully levied by way of tolls.

The charter made substantial concessions also in regard to the very important matter of restricting, within the city, the commercial activities of strangers. Merchants who were not denizens of Cork were to be precluded from buying in the city, from anyone other than a burgess, corn, hides, wool or other merchandise. This kind of monopoly was quite common. At Newcastle, for example, it was established that 'no one except a burgess may buy merchandise within the neighbourhood of the borough, nor may any one buy inside it except from a burgess'.[39] In Ireland, similar provisions are to be found also in charters granted to Dublin, Drogheda, Waterford, Cork, Limerick and Carrick-on-Suir since 'as with the retailing of wine and salt the burgesses sought to prevent foreign merchants from setting up shop and selling imported cloth. The charters of most Irish towns had a clause to the effect that no foreigner [might] retail cloth or remain in town with his wares for more than forty days.'[40] Cork's charter of 1242 restricted foreign merchants in this latter respect also. The charter prohibited such merchants from abiding in the city, for the purpose of selling their merchandise, save with the consent of the burgesses. Foreign merchants were also forbidden to keep a tavern in the city for the sale of wine other than on board ship. Presumably, this provision was intended to facilitate the importation and landing of wine and is reminiscent of the provision in the charter of Tynemouth, Northumberland, that 'a burgess may buy what he will from a ship touching at Tynemouth and wishing to depart immediately'.[41] However, direct sales from ships were not always acceptable to the burgesses of individual towns who devised town ordinances against them. Thus, 'Waterford Corporation . . . passed a law in 1433-4 which stated that no man could sell salt "out of ship", but only from his cellar'.[42] Like restrictions are to be found in other towns. There is no doubt that, whatever differences in approach or emphasis there might be between them, 'regulations such as these were aimed at securing a monopoly of all retail trading for the Guild merchant of the ports. At the same time they ensured that in practice foreign merchants could sell only to members of the Guilds.'[43] Thus, at an early date burgesses of all towns, and not merely Cork, strove to establish, by way of their guild merchant, as full a monopoly as possible over trade, particularly retail trade, within their towns.

The autonomy of the Irish towns developed *pari passu* with that of their English counterparts, but some Irish towns (like some English towns) were more advanced in this regard than others. Not surprisingly, Dublin set the standard and was in the vanguard of urban advance in Ireland. Accordingly, Cork's charter of 1242, as already indicated, contained much which had been conceded to Dublin fifty years earlier.

The provisions of the charter of 1242 were confirmed by Edward I in 1291.[44] That confirmation, however, added nothing to Cork's existing urban autonomy. Its significance was

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political rather than legal. The confirmation was sought by the commonalty of the city of Cork (the burgesses paid 100s. to the crown for it[45]) and it is a reasonable surmise that the reason for seeking confirmation at that time was pressure of the *Quo Warranto* enquiries begun by Edward I at the outset of his reign and conducted in the period 1274 to 1294. Proceedings against a number of franchise-holders in England were begun following the Gloucester parliament in 1278 which announced that 'proclamations are to be made in every county, city and borough calling upon franchise-holders to come and claim their liberties and show their warrants before the justices in eyre, or on a day to be given them in the king's bench . . . Those who do not appear in response to the proclamation are forbidden to use their franchises in the meantime.'[46] Of course, the *Quo Warranto* enquiries were aimed most especially at members of the aristocracy, the great landowners, who collectively exercised a wide range of jurisdiction delegated to them by the crown. However, the proceedings resulted in scrutiny of borough liberties also. It has been cogently argued that the enquiries reflected Edward I's autocratic spirit and that:

> . . . a further indication of the government's attitude to franchises is provided by the treatment of urban liberties. London was taken into the king's hands in 1285 following the protest of the mayor at an apparent extension of royal juridical authority over the city. It was ruled through a warden appointed by Edward for the next thirteen years, and rights of self-government were only restored in return for 2,000 marks . . . Even the highly-favoured town of Hull . . . was not granted full self-government, but was ruled by royal officials. Bristol was fined £500 by the king in 1285, and in 1294 was taken into his hands. York was deprived of its rights of self-government between 1280 and 1282, and again in 1297. Other towns that received similar treatment in the course of the reign included Newcastle-upon-Tyne and Canterbury . . . The franchises of the towns were not destroyed by the government, but they were undoubtedly being eroded.[47]

It is quite inconceivable that developments such as these escaped the notice of the burgesses of Cork and the ruling patriciate of the city, particularly since Bristol, a town with which Cork already enjoyed a lucrative reciprocal trade, was one of the English boroughs affected. Accordingly, the commonalty of Cork deemed it prudent to seek, as a matter of urgency, royal confirmation of the privileges, liberties and immunities conferred on them by the king's predecessors.

Despite the confirmation of 1291, there is evidence that Cork's urban liberties continued to be in some jeopardy because of the fact that either the king, Edward I, or royal officials were not averse to restricting, where possible, urban and other franchises. Events after the termination of the *Quo Warranto* enquiries suggest that the policy of challenging liberties and franchises had not altogether been abandoned with the enactment of the Statute of *Quo Warranto* of 1290 which stated that 'the king was prepared to confirm in their tenure by letters patent all those who had held their franchises continuously from at least 1189 . . . But, in a summary of the statute that was regarded as authoritative by the courts, prescriptive claims dating from before the accession of Richard I [1189] were accepted as valid without the need for any confirmation by Edward I.'[48] However generously the statute might have been interpreted by the courts, it would appear that while Cork's first charter might have been beyond challenge that granted in 1242 was not. Thus, in 1298-9 protracted litigation developed between the mayor and burgesses of Cork, on the one hand, and the royal justices on the other, in regard to jurisdiction. The basic facts of this case are worthy of recitation. Elias Stakpoll, burgess of Cork, brought in the king's court an action under the assize of novel disseisin[49]

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against Walter Forester, Adam son of Adam Reith, Walter Bradley and William Barber in respect of tenements in Cork and Dungarvan in Cork's suburbs. This action was resisted by the mayor and commonalty of Cork who maintained that, in accordance with their charter of 1242, such an action properly pertained to the hundred court in Cork since it concerned tenements in Cork city. Accordingly, they appealed the issue to the court of common pleas before Sir John Wogan, justiciar of Ireland. Their submission was rejected, for reasons which are not clear but which certainly do not appear to have been substantial. The mayor and burgesses then appealed to the king's (Irish) council in parliament which ordered the sheriff of County Cork to enquire 'whether such assise [of novel disseisin] was accustomed to proceed in said city from the time of the charter'. The County Cork jurors found that pleas concerning tenements within the city of Cork were accustomed to be heard in the city and that, accordingly, the action brought by Stakpoll before the royal justices was unprecedented. The charter of 1242 was then examined by the Irish council and, in the light of the provision that 'no citizen should be impleaded of any tenement within the walls, elsewhere than in their own hundred', judgment was given in favour of the mayor and burgesses and the proceedings before the royal justices were annulled.[50]

THE CHARTER OF 1318

Cork's urban privileges, however, survived enquiries and litigation of this kind and they were significantly extended by a further charter granted to the city in 1318. By that time, it should be said, Cork, in common with other Irish towns (not least the seaport towns) had for long been of great use to and importance for the crown in the matter of raising revenue for the operation of royal government in general and the king's wars in Wales, Scotland and France in particular. Cork was of considerable importance also as a centre for providing, assembling and shipping overseas to theatres of war, supplies of foodstuffs and materials for the use of the king's armies.[51]

The charter of 20 July 1318[52] confirmed the charter of 1242, as confirmed in 1291, and augmented the privileges enjoyed by the citizens of Cork under existing charters. On election, the mayor of Cork was to be permitted to take his oath of office before his predecessor rather than in the exchequer in Dublin, provided that neither the Irish justiciar[53] nor any of the barons of the exchequer were present in Cork at the time of the mayor's election. This matter had been a cause of conflict between the citizens of Cork and the Irish administration. Remedy was now provided by the king who in making this concession, indicated that he was doing so because of the fact that Dublin and Cork were far apart and, therefore, no safe passage between them could be guaranteed in the event of war or rebellion on the part of the (Gaelic) Irish and that, accordingly, it was necessary to provide for the security of the citizens of Cork.[54] That assertion did not misrepresent contemporary political reality in Ireland. Political conditions in the English lordship of Ireland were already deteriorating by the beginning of the fourteenth century and that situation was further aggravated by the Bruce invasion. Indeed, when Cork's third charter was granted in 1318 that invasion was at its height.[55] Thus, apart from anything else, Cork's charter of 1318 strikingly illustrates the degree of disruption and upheaval which the colony was already experiencing by the early fourteenth century. Moreover, the final defeat of the Bruces did not mark a return to political normality since, within two decades of the end of the invasion, much of Munster, including County Cork, was thrown into turmoil by the rebellion of Maurice fitz Thomas, first earl of Desmond.[56] Political factors such as these, particularly because of the fact that their impact was

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reinforced by a developing economic malaise in the late fourteenth and early fifteenth centuries, had the effect of inducing the crown to offer substantial concessions[57] to Cork, in the period from the late fourteenth to the early sixteenth centuries, in order to maintain it, in the face of adversity, as a (notional) 'English' centre supposedly loyal to the crown.

The principal significance of the charter of 1318, however, lies in the area of law and administration. The city of Cork was granted the right to return all writs relating to summonses and attachments in respect of matters arising within the city, thereby excluding the sheriff of County Cork. This was a matter of considerable importance for 'in excluding the [king's] sheriff from the boroughs [the burgesses] had won the first round in the long battle that would eventually bring to many of the greater boroughs the freedoms of independent county status'.[58] (County status, however, was not attained by Cork until 1608 when a charter of James I established the County of the City of Cork and 'reconstituted the inhabitants anew as a corporate body under the name of the "Mayor, Sheriffs and Commonalty of the City of Cork".')[59] However, this grant regarding return of writs did not extend to the four pleas of the crown, viz. rape, arson, forestall and treasure trove. The four pleas of the crown were of considerable antiquity. Forestall was included in the Laws of Canute while all four were included in the next list of pleas of the crown set out in the *Leges Henrici Primi* (1108-18). In the course of the thirteenth century the practice of permitting borough authorities to exercise the right of return of writs had developed and the exercise of that right had come within the purview of the *Quo Warranto* enquiries.[60] Not infrequently, towns were obliged to 'purchase new charters to authorize the practice. What appears in the charters as a new kind of liberty was . . . just an expensive confirmation or even restriction of an old practice'.[61]

Further legal privileges were accorded to Cork's burgesses. The charter provided that they might not be put on juries outside the city by virtue of the fact that they held lands or tenements outside it, nor might they be convicted by persons other than fellow-citizens in the case of pleas arising within the city. With regard to recognizances entered into in respect of lands, tenements and rents belonging to burgesses of Cork, the charter made provision also. It was ordained that the practice followed in London was to be observed, that is to say that such recognizances should be entered into in the king's court before the mayor and bailiffs (of Cork) by the king's writ of the chancery (of Ireland). This provision was particularly concerned with the question of the collection of mercantile debts, a matter of profound importance for a trading community of the kind which Cork had become. In law, the entering into and the collecting of debts had been a rather cumbersome affair, but the process had been greatly simplified by the Statute of Acton Burnell in 1283, further extended and amplified by the Statute of Merchants of 1285.[62] These two statutes had established the procedure whereby the contracting of debts could be done locally in individual towns before the mayor. Accordingly, this provision in Cork's charter of 1318 simply extended to the city what had been provided for generally by the above statutes.

The charter extended the privileges of the city in other important areas also. The mayor and bailiffs were granted the keeping of the assize of bread and ale and control over weights and measures, that is to say they were empowered to establish and maintain the standard, qualitative and quantitative, of these commodities sold within the city. This entailed ensuring that only standard weights and measures were used. The maintenance of these standards was to be left to the borough (the city of Cork) itself, subject only to the provision that the operation of the system would be overseen

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by the royal officials once a year as a matter of course or at any time on receipt of a complaint.

Finally, the burgesses of Cork were relieved of any obligation to pay anywhere in the king's dominions such tolls as pavage, carriage, quayage and murage. Like tolls such as lastage, passage and pontage, which are specifically mentioned in the charter of 1242, these tolls were levied, with royal permission, by borough authorities. Their purpose was to finance the construction and maintenance of roads, bridges and quays in the borough, and, in their operation and objective, they were similar to murage or tolls levied in respect of town walls. This concession appears merely to supplement, amplify and make explicit what was implicit in the charter of 1242 by the use of the phrase *et de omnibus consuetudinibus* following the tolls specified therein.

The following description of the operation of these tolls in the case of the city of Southampton is equally applicable, mutatis mutandis, to Cork or any other similar borough:

> Public works in the borough, whether they took the form of wall-building, road and bridge repairs, or the maintenance of quays, were frequently financed, at least in part, by local tolls, the burden of which might be expected to fall principally on outsiders. As most boroughs had to meet the same, or similar, expenses, it was inevitable that the burgesses of each should seek, whether by mutual arrangement or by grant of the king, to be relieved of the multiple payment of dues. Richard I, as early as 1189, had confirmed the burgesses of Southampton in their exemption from 'toll and passage and pontage'. And, as wall-building and other programmes of public works everywhere got under way, they tried to extend their privileges, reasoning, no doubt, that the heavy charges they themselves were meeting at home warranted exemption elsewhere. Edward II, on 4 June 1317, added to a general confirmation of the liberties of the borough the further concession that the burgesses and their heirs 'for ever may be free from murage and pavage on their goods and merchandise throughout our whole realm'. On 4 April 1341 . . . Edward III enlarged the right, freeing the burgesses from toll known as 'quayage'.[63]

This grant to the burgesses of Cork was a particularly important concession and is a clear indication of the way in which Cork, and other Irish towns, were very much in step with their English counterparts, in this formative period of the thirteenth and early fourteenth centuries, in obtaining from the crown concessions designed not alone to enhance their control over local borough government and affairs, but also to foster and encourage the expansion of their trade, not least their overseas trade.

ANCILLARY GRANTS

Important grants and concessions were made by the crown to Cork and other towns by means other than formal charters, but such grants were no less important for that. Usually these grants were concerned with single, or at least limited, issues. Murage grants constitute a case in point. By 1318, important grants of this kind had already been made to Cork. These were, of course, very important and desirable from the borough's point of view. Indeed, not infrequently, they could be of greater importance to the borough than some of the more minor provisions contained in formal charters. Accordingly, they should properly be evaluated in conjunction with Cork's basic charters of liberty. They must, therefore, be seen as part of a more general process of elaboration and extension of the privileges and immunities of the city set out in the major charters discussed above.

In July 1284[64] Edward I granted to the burgesses of Cork, for a period of five years, permission to levy and retain, for the purpose of enclosing the city with a wall, customs on a wide range of commodities. In response to representations made to him, however, the king agreed that the revenue accruing from these customs duties might also be deployed

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for other equally desirable purposes such as the repair of bridges in the city, the restoration of the port or further building. This latter concession is one of very great importance for it shows quite clearly that in Ireland murage grants were following the general pattern already established in England. In theory, murage grants were made to towns to enable them to construct and maintain their walls. In reality, the situation was much more complex than a simple matter of raising money to build walls to defend the town.

The question of why towns developed defences after the political and strategic need for them had largely passed is one of considerable interest and complexity. It should be recognized that the walls performed a number of functions of which defence was only one. A circuit of town defences was an expression of urban status and was used to monitor and control trading access. The construction of town walls also had a fiscal function as murage grants were used to raise revenue and only a portion, sometimes a very small portion, was actually used for building or repair.[65]

Thus, town walls expressed, in a very physical way, the fact that the town was a distinct legal and administrative entity and that, in that regard, it was to be clearly differentiated both from its thoroughly feudalized surroundings and from other towns. The walls asserted an urban autonomy won by the town and set out in specific terms in its charters and supplementary grants.

Further murage grants were made in 1303 and 1317. While the grant made in October 1303[66] was for a period of six years, that of January 1317[67] did not specify any fixed period for its operation. This latter grant, however, was more like a charter than a simple murage grant for it extended some existing liberties enjoyed by the city and introduced a new one.

The grant of prisage of wines, which originally had been made by Henry III in his charter of 1242, was confirmed. Prisage of wines was a royal right to take wine for the household which in course of time was commuted for a cash payment when a duty of 2s. per tun on imported wine was levied by the king's butler.[68] Therefore, the grant to the burgesses of Cork of prisage of wines, a regalian right, not alone augmented their borough privileges but also enabled them to increase their revenues from the duties levied in much the same way as did grants of murage, pavage, carriage, pontage and quayage. Indeed, the burgesses of Cork received from the crown, in August 1318 (that is to say almost contemporaneously with their charter of that year) the right to levy, for a period of five years, pavage, pontage and quayage 'upon all wares for sale brought, either by land or water, into their city'.[69] With regard to prisage of wines, it is interesting to note the contention by the commonalty of Cork that the grant of it to them enabled them to pay their fee farm.[70]

Finally, the royal grant of January 1317 confirmed the burgesses in their customary (since 1242) right to arrest those convicted before them of debt. In addition, strangers were to be forbidden to carry arms in the city without permission.

THE CHARTERS OF 1323 AND 1330

Many of the preceding privileges, liberties and immunities were included in a further charter to Cork dated 18 November 1323.[71] This charter was granted to the burgesses in response to a petition made by them in that year and on payment by them of £100.[72] Cork was again given the privilege of a fully autonomous legal jurisdiction, except in respect of the four pleas of the crown, and their immunity from seizure of or interference with their property or merchandise was confirmed. Moreover, Cork's burgesses were now to be permitted to refuse to serve in any royal office in the county of Cork, including the key offices of sheriff and coroner, or the office of receiver of the king's monies in the city. This

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latter provision was so important to the citizens of Cork that Edward III's charter to them of 15 July 1330[73] (which was concerned almost entirely with confirming the previous charter of 1318) repeated it but in a somewhat amplified and extended form.

The charters of 1323 and 1330 reiterated existing liberties and further extended them. In doing so they strengthened further the status of the city of Cork as a corporate entity enjoying a large measure of municipal self-government, under the crown of England, on terms of relative independence of the royal administration in Ireland. In short, the city acquired considerable urban autonomy. This process was very much an evolutionary one. 'The conception of the borough as a juristic person distinct from the individuals who composed it was not yet fully grasped in the thirteenth century, though the growing self-government of the towns was forcing it on the attention of lawyers like Bracton'.[74] The concept of corporate status can be discerned in the charters of one kind or another granted to Cork, and other European towns, from the twelfth century onwards. In Cork's charter of 1323 it is particularly evident in the provision that the mayor and bailiffs might appoint, under the common seal of the city, attorneys to pay the fee farm of the city at the exchequer in Dublin, with the proviso that any loss to the exchequer through default on the part of the attorneys would be met by the commonalty of Cork. This concession, together with that exempting Cork burgesses from participation in the royal service, had been specifically requested in the burgesses' petition referred to above.

Finally, the charter of 1323 contained an important provision regarding purveyance. 'The royal household had always obtained much of its food supplies by exercising the right of prise, or compulsory purchase. This practice was liable to abuse . . . It was possible to extend this unpopular system of prise, normally used to provide the household with its supplies, to obtain victuals for the army. [75] The charter stated that purveyance should not be embarked upon other than by royal mandate under the great seal of England or the seal of Ireland. This provision, however, would at best only limit abuses of the system, a system which was itself a matter of bitter dispute between the king and his subjects. This contention was particularly acute because of the incessant demands for supplies made by Edward I and the fact that large-scale purchases of this kind meant that merchants and others received rather less than market price for their merchandise. The royal purveyors were active in Ireland, not least in the south coast ports, and caused considerable resentment. It is not possible to discuss the details of that here,[76] but suffice it for present purposes to say that a rather limited concession of this kind, enshrined in a charter, did little, if anything, to relieve the pressure on Cork merchants, nor diminish their resentment, which the system of purveyance produced.

All the foregoing liberties, immunities and privileges granted to Cork were repeatedly confirmed by royal charters or letters patent[77] in the later fourteenth and fifteenth centuries. In the same period also important concessions, principally of a financial nature, were made to Cork by the English crown.[78] Important instances of the latter are the murage and pavage grant made, on 20 November 1368, for seven years because, as it was alleged by the commonalty of Cork, the city was founded on watery soil and, accordingly, the walls and towers were 'daily penetrated and weakened by the ebb and flow of the sea'[79] and the grant of remission of £20 every five years of the fee farm of Cork payable at the exchequer because, as the citizens of Cork alleged, 'the city of Cork was impoverished by decay of buildings . . . whereby the citizens are unable to pay their farm without impoverishing themselves'.[80]

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Cork's charters were confirmed on 12 February 1382,[81] 13 September 1400,[82] 12 November 1413,[83] 11 May 1423,[84] 18 August 1464,[85] 8 July 1482[86] and 1 August 1500.[87] These charters and grants reaffirmed existing rights and extended them by making them more specific and by adding to them in accordance as the burgesses of Cork were able to win further concessions from their overlord, the king of England.

Cork's basic autonomy had been established by the early fourteenth century at latest and subsequent confirmations did not add significantly to it. However, the charter of 1482 has an additional significance. It also defined the area of the city's jurisdiction. That area was now considerably expanded beyond the original chartered city and included much of the Cork harbour area. That extension of the boundaries of the city of Cork was also included in and confirmed by the charter of 1500. By the later fourteenth century it was unusual for Cork to pay its fee farm in full and considerable arrears built up. From time to time, Cork was granted by the crown for a term of years relief from the obligation to pay the fee farm. The charter of 1482 remitted arrears of the fee farm due to the crown at the Dublin exchequer and reduced the amount payable for the future.

NOTES AND REFERENCES

1 J.F. Lydon, *The Lordship of Ireland in the Middle Ages* (Dublin, 1972) 93.

2 That settlement is discussed in my 'The territorial ambitions of Maurice fitz Thomas, first Earl of Desmond, with particular reference to the barony and manor of Inchiquin, Co. Cork' *Proc. Roy. Irish Acad.* lxxxii (1982) pp. 59-88.

3 For what follows regarding Viking Cork see H. Jefferies, 'In quest of the Vikings' in *History of Cork* (published in *Cork Examiner* 30 January 1985).

4 M.M. Postan, *Medieval Trade and Finance* (Cambridge, 1973) 141-2. See also J. Le Goff, 'La fonction economique', in G. Duby (ed.), *Histoire de la France Urbaine: La Ville Médiévale* (Editions du Seuil, Paris, 1980) 241-61.

5 This will be considered in detail in my forthcoming study 'Medieval Irish overseas trade and the Irish south coast region c.1200 to c.1520'.

6 Morley de Wolf Hemmeon, *Burgage Tenure in Medieval England* (Cambridge, Mass., 1914) 68, 96-7.

7 S. Reynolds, *An Introduction to the History of English Medieval Towns* (Oxford, 1977) 129.

8 F.W. Maitland, *Township and Borough* (Cambridge, 1898) 189-90. The charter established that the customs and rent by which the city of Cork was to be held of the crown of England would be the same as those by which the burgesses of Bristol held their city (*par tele coustume e rente comme les burgeys de Bristou en Engleterre rendent par an de lor burgages*).

9 The original charter does not appear to have survived but what appears to be a thirteenth-century transcript of it is conserved among the Harleian MSS in the British Library (BL Harleian 741 f. 9v.), the text of which is printed in G. Mac Niocaill, *Na Buirgéisí XII-XV Aois* (2 vols., Dublin, 1964) i 158-9. A translation is given in W. O Sullivan, *The Economic History of Cork City from the Earliest Times to the Act of Union* (Cork, 1937) 282-3. (A calendar of various charters granted to Irish boroughs, from the early fourteenth century onwards, will be found in M. Weinbaum (ed.), *British Borough Charters 1307-1660* (Cambridge, 1943) 193-229).

10 The arguments in favour of 1189 as the date are discussed at length in my contribution to the *History of Cork*, under the title 'Charter Date Unresolved', published in *Cork Examiner* on 6 February 1985. Professor Mac Niocaill informs me that he intends to publish a study of Cork's first charter in the context of Prince John's *acta* as a whole. In his opinion the date of the charter is 1185 to 1189.

11 F. Pollock and F.W. Maitland, *The History of English Law Before the Time of Edward I* (2 vols., Cambridge, 1898) i 640. For a discussion of the nature of the burgage see also Hemmeon, op. cit. 92-101, 166-72.

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12 Hemmeon, op. cit. 113, 123, 184. 'The burgesses could dispose of their tenements more freely than was usual for small-holders elsewhere' (Reynolds, op. cit. 93).

13 Reynolds, op. cit. 93.

14 Hemmeon, op. cit. 62, 65-6.

15 Ibid. 19; C. Stephenson, *Borough and Town: A Study of Urban Origins in England* (The Medieval Academy of America, Cambridge, Mass., 1933) 124.

16 Stephenson, op. cit. 143.

17 A. Ballard (ed.), *British Borough Charters 1042-1216* (Cambridge, 1913) XLIV.

18 Mac Niocaill, op. cit. ii 332.

19 O Sullivan, op. cit. 18.

20 M.W. Beresford and H.P.R. Finberg, *English Medieval Boroughs: A Hand-List* (Newtown Abbot, 1973) 23-4, 56.

21 The text of Bristol's charter of 1189 will be found in N. Dermott Harding, *Bristol Charters 1155-1373* (Bristol Record Society, 1930) 9-13. The basic provisions of Bristol's first substantive charter of liberties of 1189 and the significance of that charter in relation to Cork's first charter of (probably) 1189 are discussed in some detail in my contribution to the *History of Cork* referred to above.

22 TCD MS 2013 nos. 268, 269; *C.Ch.R., 1226-57* pp. 266-7; *CCR, 1237-42,* p. 400; *Chart. Privil. Immun.* 24-5; Mac Niocaill, op. cit. i 159-63. A translation of this charter is given in O Sullivan, op. cit. 283-6 while reference to the granting of the charter and the establishment of the fee farm will be found in *Cal. doc. Ire., 1171-1251,* nos. 2552, 2555.

23 Mac Niocaill, op. cit. ii 334.

24 Reynolds, op. cit. 102-3. See also Maitland, op. cit. 204-5.

25 Stephenson, op. cit. 166.

26 A.J. Otway-Ruthven, *A History of Medieval Ireland* (2nd edn., London, 1980) 124.

27 F.W. Maitland, *The Constitutional History of England* (Cambridge, 1961) 213. See also S.F.C. Milsom, *Historical Foundations of the Common Law* (London, 1969) 356-7.

28 Stephenson, op. cit. 126.

29 For a discussion of the hundred court see ibid. 112.

30 C. Platt, *Medieval Southampton: the Port and Trading Community 1000-1600* (London, 1973) 80-81. Dr Platt points out that this kind of concession 'was one of the chief inducements held out to the merchants of Bruges in 1269 to persuade them to set up as traders in the town'.

31 T.F.T. Plucknett, *Legislation of Edward I* (Oxford, 1949) 148-9. See also Postan, op. cit. 3-6, 39-40.

32 For a discussion of the operation of such feudal incidents as wardship and marriage see A.L. Poole, *Obligations of Society in the XII and XIII Centuries* (Oxford, 1946) 92-107; F. Stenton, *The first Century of English Feudalism 1066-1166* (2nd edn., Oxford, 1961) passim; J.M.W. Bean, *The Decline of English Feudalism* (Manchester, 1968) passim.

33 A. Ballard and J. Tait (eds.), *British Borough Charters 1216-1307* (Cambridge, 1923) LXXI.

34 Maitland, op. cit. 204-5.

35 Reynolds, op. cit. 82. See also Stephenson, op. cit. 129-31. For a detailed study of the merchant guild see C. Gross, *The Gild Merchant* (2 vols. Oxford 1890) and for the operation of it in one major Irish borough see J.J. Webb, *The Guilds of Dublin* (London, 1929) 1-50.

36 Reynolds, op. cit. 109. A supplementary grant of relief from the obligation to pay pavage, carriage, quayage and murage, made to the burgesses of Cork in 1318, together with grants of murage, pavage, portage and quayage are discussed below.

37 Ibid. 108-9. See also Mac Niocaill, op. cit. ii 338-9.

38 J.T. Gilbert, *Historic and Municipal Documents of Ireland 1172-1320* (London, 1870) XXVI, XLIV, 91-2.

39 Stephenson, op. cit. 126.

40 T. O Neill, 'Irish Trade in the Later Middle Ages: A Survey', unpublished M.A. thesis (National University of Ireland 1979) 95-7.

41 Stephenson, op. cit. 126-7.

42 O Neill, op. cit. 157-8.

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43 Ibid.

44 BL Additional Charter 8669; *C.Ch.R., 1257-1300,* p. 401; *Chart. Privil. Immun.*, ii, 36; *Cal. doc. Ire., 1285-92,* nos. 904, 931.

45 *Cal. doc. Ire., 1285-92*, no. 903.

46 Plucknett, op. cit. 38-9. For a further discussion of the *Quo Warranto* proceedings see ibid. 35-50; D.W. Sutherland, *Quo Warranto Proceedings in the Reign of Edward I, 1278-1294* (Oxford, 1963); H.M. Cam, *The Hundred and the Hundred Rolls: An Outline of Local Government in Medieval England* (London, 1930) 233-9. An evaluation of the political, as distinct from the legal, significance and consequences of the *Quo Warranto* enquiries will be found in M. Prestwich, *War, Politics and Finance under Edward I* (London, 1972) 225-8 and passim and also his *The Three Edwards: War and State in England 1272-1377* (London, 1980) passim.

47 Prestwich, *War, Politics and Finance,* 228.

48 Ibid. 227.

49 The assize of novel disseisin was one of the possessory assizes instituted by Henry II to provide redress for those forcibly deprived of their freehold. The assize established that 'no one is to be disseised of his freehold unjustly and without judgment, that every one so disseised has an action (called an assize of Novel Disseisin) before the king's own justices. In 1207 King John sent a writ to the people of Ireland in which he coupled these two rules: "We will that none shall disseise you of your free tenements unjustly and without a judgement, and that you shall not be impleaded for your free tenements, without our writ or that of our justiciar" ' (F.W. Maitland, *The Forms of Action at Common Law,* ed. A.H. Chaytor and W.J. Whittacker (Cambridge, 1936) 17). For a discussion of this assize see also W.L. Warren, *Henry II* (London, 1973) 338-42; F.W. Maitland, *The Constitutional History of England* (Cambridge, 1961) 124-5, 138-9; Milsom, op. cit. 116-9.

50 *Cal. justic. rolls Ire., 1295-1303*, pp. 225, 244-5.

51 This involves the whole question of purveyance, referred to further below, and to be considered in detail in my forthcoming study 'Medieval Irish overseas trade and the Irish south coast region c. 1200 to *c.* 1520'.

52 The text of this charter is to be found in BL Harleian MS 741 f. 178 and is printed in: *C.Ch.R., 1300-26,* pp. 390-91; Mac Niocaill, op. cit. i 163-6; *Chart. Privil. Immun.* p. 49. A summary of its principal provisions is given in O Sullivan, op. cit. 288; Weinbaum, op. cit. 203.

53 When the office of mayor had been established in Dublin in 1229 the king had ordained that, on his election, the mayor would take his oath of office before the justiciar if the king were not present (Gilbert, op. cit. 91).

54 'nos, pro eo quod dicta civitas Corkagie a civitate Dublinie longe distat propter quod ingruente guerra seu turbacione Hibernicorum securus accessus a dicta civitate Corkagie usque ad dictam civitatem Dublinie aliquando non patebat nec patebit in futurum volentes securitati civium dicte civitatis Corkagie providere'.

55 For a discussion of the Bruce invasion see R. Frame, 'The Bruces in Ireland, 1315-18' in *IHS*, xix no. 73 (Mar. 1974) pp. 3-37; J.F. Lydon, 'The Bruce Invasion of Ireland', *Historical Studies IV* (1963) pp. 111-25.

56 G.O. Sayles, 'The Rebellious First Earl of Desmond' in *Medieval Studies Presented to Aubrey Gwynn S.J.*, J.A. Watt, J.B. Morrall, F.X. Martin (eds.) (Dublin, 1961) pp. 203-29.

57 An analysis of these concessions in relation to both Cork and Youghal (particularly in regard to financial and jurisdictional matters) will be the subject of forthcoming studies by the present writer.

58 C. Platt, *The English Medieval Town* (London, 1976) 135.

59 O Sullivan, op. cit. 88. See also RIA, MS 12 I 4 (Windele MSS).

60 For a discussion of the pleas of the crown see Maitland, op. cit. 107-11. A useful summary of the law of treasure trove is given in M. Dolley, *Medieval Anglo-Irish Coins* (London, 1972) 72-5. Pleas of the crown were usually reserved. Cf., for example, King John's charter to Dublin in 1215 (Mac Niocaill, op. cit. 87).

61 Reynolds, op. cit. 110.

62 Plucknett, op. cit. 138-43.

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63 Platt, *Medieval Southampton*, 80.

64 RIA MS 12 J 1, p. 22; *Cal. doc. Ire., 1252-84* nos. 2247, 2248. See also O Sullivan, op. cit. 286-7. In making the grant Edward I stated that he 'had learnt that the bridges of [Cork] are ruinous and the port there so deteriorated that unless a speedy remedy is provided the [city] itself will suffer no small detriment. There is also a vacant place, which if built upon would confer great advantage on the [city]'.

65 T. Rowley, *The Norman Heritage 1066-1200* (London, 1984) 121-2.

66 *Chart. Privil. Immun.*, , ii, 48. Apparently the commonalty of Cork was permitted to devote half of the proceeds of this grant 'to defray the cost of an aqueduct for the conveyance of fresh water into the city' (RIA MS 12 J 1, p. 162).

67 *Chart. Privil. Immun.*, , ii, 48.

68 The levy 'was really a grant of the difference between the actual market value of the two tuns [of wine], one before and one behind the mast (where the best wine was carried) which the king was entitled to take and the price which he had to pay per tun which was fixed in [the twelfth] century when wine was cheaper. In the Cork case it was stipulated that the ordinary custom must first have been paid on the wine and its payment recorded by the cocket [customs] seal' (Ballard and Tait, op. cit. LXXI).

69 RIA MS 12 J 1, p. 22; *Chart. Privil. Immun.*, ii, 48; *CPR, 1317-21,* p. 195.

70 This argument was advanced in the course of a petition to the crown. It is to be found in TCD MS 2013 no. 269A and allegedly dates from sometime in the reign of Edward I. However, the text is similar to that published by Professor Sayles who dates it to 1378-9 (G.O. Sayles, *Documents on the Affairs of Ireland before the King's Council* (Irish MSS Comm., 1979) no. 260).

71 *C.Ch.R., 1300-26*, p. 460; Mac Niocaill, op. cit. i, pp. 167-70. A summary of the charter's provisions is given in O Sullivan, op. cit., 288-9; Weinbaum, op. cit., 203. See also RIA MS 12 D 12, p. 151.

72 Sayles, op. cit., no. 149.

73 *C.Ch.R., 1327-41*, p. 180.

74 Ballard and Tait, op. cit. LXXI-LXXII.

75 Prestwich, *War, Politics and Finance,* 118-9.

76 The operation of the system in Ireland has, however, been studied by Professor Lydon (J.F. Lydon, 'Ireland's participation in the military activities of English kings in the thirteenth and early fourteenth centuries', unpublished Ph.D. thesis (University of London, 1955).

77 As indicated above, important grants were made by means of letters patent. These differed from charters only in that the latter was the more formal of the two instruments. 'The royal charter was the most solemn form of Chancery instrument, and was distinguished from letters patent chiefly by the attestation of witnesses and by being addressed "To the archbishops, bishops, abbots, priors, earls, barons etc." instead of simply "To all to whom these presents shall come" ' (M.S. Giuseppi, *Guide to the Contents of the Public Record Office* (London, 1963) i 15.

78 As already indicated, these were politically motivated and were made because of the supposedly English character of Cork city. They will be examined in detail in a forthcoming study to be presented by me.

79 *CPR, 1367-70*, p. 185.

80 PROI, Calendar of Memoranda Rolls (40-41 Edw. III), RC8/29, p. 282.

81 *CPR, 1381-5*, p. 94.

82 *CPR, 1399-1401*, p. 330.

83 *CPR, 1413-16*, p. 127.

84 *CPR, 1422-9*, p. 128.

85 *CPR, 1461-7*, p. 392.

86 *C.Ch.R., 1427-1516*, pp. 254-5.

87 *CPR, 1494-1509*, p. 204.

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