

THE COUNCIL BOOK FOR
THE PROVINCE OF MUNSTER

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IMAGE OF ELIZABETH ON FOLIO I OF BL, HARLEIAN MS 697.

THE COUNCIL BOOK FOR THE PROVINCE OF MUNSTER

EDITED BY

MARGARET CURTIS CLAYTON

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INTRODUCTION

From 1570–1672 the province of Munster was administered by a council. This system of local government was based on the councils of the Marches of Wales and of the North of England which successfully brought ‘civility’ to those areas.¹ Conciliar rule had a difficult birth in Munster. The last quarter of the sixteenth century saw the province engulfed in a series of armed conflicts, beginning with the Desmond revolt of 1579–83 (resulting in the Munster Plantation), through the rebellion of 1598, and culminating in the defeat of the Irish at the Battle of Kinsale in late December 1601. The province, exhausted and depopulated, was ripe for renewed plantation (most of the original planters fled in 1598) and the replantation was spearheaded by a reinvigorated council.² Harleian MS 697, ‘The Council booke for the province of Munster’,³ is the only extant register of this rejuvenated council and, in the main, covers the period from 1601 to 1624.

The manuscript is a unique document. Its rarity is highlighted by the disappearance of the remaining registers of Munster and of those of the councils of Connaught and the North of England. Just one remains from the Welsh council for the early seventeenth-century period.⁴

Harleian MS 697 enables us to reconstruct the hierarchy of the Munster administration. The chief officer of the council was the lord president. Those mentioned in this manuscript as filling the office are Sir George Carew, Sir Henry Brouncker, Henry Lord Danvers, Vice-President Sir Richard Moryson, and the earl of Thomond. The lord president was assisted by councillors who were nominated by the lord deputy. The councillors were generally New English adventuring soldiers and members of the Church of Ireland episcopacy and their signatures, in order of status, appear throughout the Council Book.⁵ Next in rank were the chief

¹ R. R. Reid, *The King's council in the North*, (Longmans, 1921; reprinted by EP Publishing, West Yorkshire, 1975); Penry Williams, *The Council in the Marches of Wales under Elizabeth I*, (Cardiff, 1958).

² Michael MacCarthy-Morrogh, *The Munster Plantation: English Migration to Southern Ireland 1583-1641*, (Oxford, 1986). Other relevant works are: Dennis J. Kennedy, ‘The Presidency of Munster under Elizabeth and James I’ (MA thesis, Cork, 1973); William G. Irwin, ‘The Presidency of Munster 1660-1672’ (MA thesis, Cork, 1976). See also 1628-29 correspondence of Lord President Sir William St Ledger (1627-42) in the Youghal Town Papers at Cork City and County Archives, YTRI/35-77.

³ BL, Harleian MS 697, f. 2r.

⁴ BL, Egerton MS 2882. Called the ‘Dovaston’ manuscript, it is calendared for the Historical Manuscripts Commission in its *Thirteenth Report, Appendix, Part IV*, (HMC, London, 1891), pp. 247-282. The only other surviving register for Wales is BL, Bodley MS 904, calendared by R. Flenley in *Calendar of the Register of the Council in Wales, 1569-1591* (London, 1916).

⁵ For the role of the councillors see Margaret P. Curtis, ‘Provincial government and administration in Jacobean Munster’, (PhD thesis, UCC, 2006), pp. 87-98. The councillors who signed this Council Book are: Bernard Adams (bishop of Limerick), Sir Richard Aileward of Waterford, Sir Richard Aldworth, Sir Francis Barckley, Sir George Bouchier, Sir Richard Boyle (earl of Cork),

justice,⁶ the second justice,⁷ the attorney general,⁸ and the clerk of the council who, because of his closeness to the lord president, had more influence than his title would suggest.⁹ The council generated several other officials such as provost marshal, clerk of the fines, attorneys of the court, pursuivant etc., and it was also supported by reinvigorated and new local government officials.¹⁰

The Council Book probably started life as a ready-bound book which could have been sourced in London. The calligraphic headings with the portrait of Queen Elizabeth at the beginning (ff 1–2) and the fragment of binder's waste at the end (ff 208r–208v) suggest that it was prepared with care, and stoutly bound, for use over an extended period of time. The list of contents (f. 2r) and the sub-headings: 'Recognizances' (f. 53r), 'Entries of Proclamations and Inhibitions' (f. 171r), 'Generall hoastings and Rysinges-oute' (f. 201r) are in the same hand and supports the view that it originated as a blank book.¹¹ At rebinding and repagination in 1876¹² each folio was mounted on brown paper. The folios measure 11" wide by 17" long (28cm x 33cm). They are cash-book-type sheets – that is, with a faint red line on the left and 3 lines on the right. These lines do not intrude on the script and are not detectable on microfilm. The scribes have written 2" from the left hand side (i.e. red line is at 1" and they indent another 1"); they leave c. ½" at the top and commonly write to the right-hand edge and often to the very end of the page. Some letters on the right-hand edge are obscured and this could have been caused by the rebinding of the register when it entered the Harley library in 1707. At that time, much to the annoyance of the librarian, binders customarily cropped off the edges before rebinding.¹³ Folio 70* is considerably smaller while folios 203r and 207v are slightly shorter and probably were originally inserted loosely into the bound volume. Folios which are difficult to

⁵ *contd.* Sir Thomas Browne, Henry Bryan, Lord Ibrackan, David Lord Buttevant, Sir Thomas Button, Edmund Carie, Gerald Comerford, Hugh Cuffe, Sir John Dowdall, Sir George Flower, Sir James Fullerton, Luke Gernon, Henry Gosnold, Edward Harris, Sir John Jephson, John Lancaster (bishop of Waterford & Lismore), William Lyon (bishop of Cork, Cloyne and Ross), Sir Francis Kingsmill, Sir Parr Lane, Robert Marshall, Lawrence Parsons, Sir Richard Peirce, Sir Thomas Roper, Sir Dominick Sarsfield, William Saxey, Captain Henry Skipwith, Sir Francis Slingsby, Sir Thomas Southwell, Sir Thomas Standish, Sir George Thornton, Sir Nicholas Walshe, Sir Charles Wilmot.

⁶ William Saxey (1594-1604), Dominick Sarsfield (1604-1608), Edward Harris (1608-1624), Henry Gosnold (1624-), Curtis, 'Provincial government', pp. 100-105.

⁷ Gerald Comerford (1600-1603), Robert Marshall (1603-1606), Henry Gosnold (1606-1619), Luke Gernon (1619-), *ibid.*

⁸ Dominick Sarsfield (1600-1604), John Birkett (1604-1609), John Farewell (1609-1612), Lawrence Parsons (1612-1621), Gerald Lowther (1621-1623), Richard Fisher (1623-), *ibid.*, pp. 105-109.

⁹ Richard Boyle (1600-1607), Richard Boyle & Francis Annesley (1607-1611), Randall & Lawrence Clayton (1611-1635), Randall & John Clayton (1635-1637), *ibid.*, pp. 110-16. See also *idem*, 'The Claytons and their Circle: New English arrivals in early Seventeenth-Century Cork' (MA thesis, UCC, 1998).

¹⁰ See Curtis, 'Provincial government', chapters 2 and 3.

¹¹ Editor's correspondence with Dr. Arnold Hunt, Curator of Historical Manuscripts, The British Library, February 2007.

¹² Date written on inside back cover.

¹³ C. E., Wright, 'Humfrey Wanley: Saxonist and Library-Keeper', *Proceedings of the British Academy*, vol. xlvi, 1960, p. 118.

read on microfilm are easier to decipher in the original, though some are still problematical because of fading and wearing. Many of the folios are renumbered, some twice and others three times. They were originally numbered on the top right-hand corner when the book was brought into service in Munster – many of these numbers have been worn away. It was probably renumbered when it entered Robert Harley's library, and again when the document was rebound in 1876. For example, 'Generall hoastings and Ryssinges oute', was at f. 209 in the early seventeenth century but currently it is at f. 201, while the whole manuscript now comprises 207 folios.

The Council Book of Munster is catalogued as dating from 1601–1621¹⁴ but internal evidence shows the earliest date as 9 May 1599 (f. 139v), the last major document April 1625 (f. 93r), and the last entry 26 June 1649 (f. 131v). The variety of hands, about sixteen, the additional notes to many of the recognizances, and the cramped folio 131v show that this register was a working document for 50 years. It contains a wide variety of records ranging from provincial court cases (in English) to valuable records of assizes and gaol deliveries (in Latin),¹⁵ appointments of officials and councillors, protections, concordatums, instructions to the lords president, proclamations, and correspondence with Dublin and with the privy council in London. There is considerable emphasis on the management of the towns, the importance of electing conformable municipal officers and the unwelcome prevalence of priests and pirates.

The Council Book disappeared from view after the last entry in August 1649 and resurfaced in a 1685 catalogue of the library of Edward Stillingfleet, bishop of Worcester.¹⁶ Following the death of Bishop Stillingfleet in 1699 his manuscripts were purchased for the library of Robert Harley. The cost to Harley for the Council Book was £2.3.0.¹⁷

The transcription of the Council Book has been done *verbatim*. In order to make the text more readily accessible to those unfamiliar with seventeenth-century abbreviations the English contractions (apart from signatures) have been silently expanded. Generally superscriptions have been aligned, unless the clarity of the text should be in doubt. Several of the folios have been difficult to decipher because of fading, wearing, or a difficult hand. Gaps are indicated by [...]; words are completed within the brackets when the meaning is obvious; words which are illegible or don't appear to be correct are followed by [?]; blank spaces in the manuscript are indicated in square brackets. Lists of names and attendant figures have been tabulated to obviate confusion in interpretation. Folio 131v would be impossible to reproduce in its current form as there are so many marginal notes – therefore the marginal material has been reproduced by date.

Because the Council Book is a large document of 207 folios, it has been necessary to compact it somewhat. For example signatures are rendered in one or two lines

¹⁴ This date is on the spine.

¹⁵ These are the only extant common law court records for 1603-1604, ff 61r, 64v, 65r-66v, 70r.

¹⁶ BL, Harleian MS 7644, f. 1.

¹⁷ BL, Harleian MS 7055, ff 73-4.

separated by commas, as are the dedications which, at this period, appeared at the end of a communication. Latin entries have been silently expanded by Dr. Jason Harris, Department of History, UCC. They have not been translated as they are formulaic and some of the Latin documents appear in English elsewhere in the manuscript. At a critical period in Munster prior to and following the Battle of Kinsale the common law courts of assize and gaol delivery were conducted by the presidency. The extant records are in Latin at ff 53r–64r. The heading of the first record is the only one that has been expanded. Unusual words and phrases that appear once are footnoted in the text. Those that occur more than once are included in a glossary that contains legal and Latin terms, and words that are either obsolete or whose meaning has changed.

It is hoped that this transcription will be welcomed by historians of all hues as its pages contain legal, administrative, religious, genealogical, and social information concerning a hitherto vague and dark period of provincial history.¹⁸

¹⁸ In the nineteenth century some sections pertaining to Co. Cork were calendared by the antiquarian Richard Caulfield: *The Council Book of the Corporation of Kinsale from 1652-1800* (Surrey, 1879), pp. 301-27.

THE COUNCIL BOOK
OF MUNSTER

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[2r]

The Councill booke for
the Prouince of Mounster. contayninge
all the Actes. Recordes and entries of that
Provinciall state. from the xxth daie of August 1601 forward
Devided vnder the Sixe heads and titles hereafter followinge¹

Viz.:

50²

Orders and decrees with Concordatums ending ffollio o—60
Recognizaunces begynning ffollio o—60 o— ending ffollio o—120
Pleadings³ and alteracons of pledge beginning at 120: ending
o— 140
Entries of Comissions⁴ & Letteres of State begynning at 140
ending [...]
proclamacions and inhibicions etc. begynning at 180 [(1.9.179)]⁵
Generall hoastinges and Rysinges oute begynning [fol. 209]⁶ [...]

[3r]⁷

ARTHURE CHICHESTER BY THE LORD DEPUTY AND COUNCELL

Whereas we have received Letteres from the Lords of his Maiesties most honorable privy councill in the behalf of David Condon⁸ gentleman, son and heire to Patrick Condon Deceased, bearing date the third of September 1610. The tenure whereof ensueth in this wordes following videlicet After our very hartie comendacons to your Lordship and the rest: where upon humble suite heretofore in her late Maiesties time made by Patrick Condon Deceased, complaying that he for burning of an old castle called Ballinhenden where he apprehended certaine mallefactors a service then well allowed was attaynted of Treason, in somuch as he was Enforced to procure his pardon⁹ and nevertheless his Landes weare past by Letteres Pattentes to Arthure Hyde

¹ This is followed by 'all th th' which is extraneous to the text.

² This number is written over the Concordatums.

³ There is an erasure at 'in'.

⁴ P(ro)clamacons is erased.

⁵ These figures in brackets, (1.9.179), are pencilled in by a later hand.

⁶ Fol. 209 is pencilled in by a later hand.

⁷ Fol. 2v is blank.

⁸ For the early phase of the case of Condon v Hyde see Anthony J. Sheehan, 'Official reaction to native land claims in the plantation of Munster', *Irish Historical Studies*, Vol. XXIII, No 92, November, 1983 pp. 307-8, 314. The dispute between the parties was briefly mentioned in the Exchequer Court in autumn 1606, NAI, Ferguson ix, pp. 48, 50, *ibid.* xi, p. 177, and *ibid.* xii, p. 22.

⁹ This pardon to the 'seneschal Patrick Condon' was mentioned in instructions dated November 1585 to be conveyed to the lord deputy by secretary Fenton, John Lodge, *Desiderata Curiosa Hibernica*, (Dublin 1772) vol. I, p. 76.

Marmaduke Redmand and Thomas ffeletwoode Deceased his highness was pleased that the said Patrick shold be restored to repossession of all his Landes so granted unto them by Letteres Patente And to that end seuerall Letteres were heretofore written from this bourde to the then Lorde Deputy and vicepresident of Mounster, and accordingly the said Patrick was reestablished in his possession, and contynued seised thereof vntill the said Arthour Hyde suggested that the said Patrick Condon was attainted for being in Rebellion with James fitz Morris¹⁰ and not for the fact aforesaid and was also attaynted by outlawye in the 24th yere of her Maiesties raigne for being in accion of Rebellion with Garrett late Earle of Desmond. Whereupon by Dirreccion from hince the said Patrick Condon was remoued and the said Hide put in possession of the porcion so formerly granted to him, of the premises, since which tyme some five yeares past, David Condon son and heire of the said Patrick having repayred vnto vs, and affirmed that his father was never in accion with James fitz Morris as the said Hide did enforme and produced a Lettere under the hand of our very good Lord the Earle of Ormonde testefyeing so much wherein also the said Earle doth reporte that upon his Lordships Returne thither out of England and being then appointed gennerall of the Late Maiesties forces in Mounster His Lordship by her highness dirreccion received vnto her Maiesties mercy upon his humble submission the said Patrick Condon who was then one of the principall adherentes to that Rebellion of the said Desmond with promis further (in her Maiesties name) to the said Patrick of his pardon for life land and goodes; And that consequently the said Patrick hath Don many acceptable Services to the Crowne as by the said Earle of Ormond Letteres Dated the eight of August 1593 appeareth further the said David hath shewed vnto vs Letteres dirrected from the Late Earle of Essex to the said Patrick Condon wherein yt is expressed that her Maiestie had agracious intent and did promiss to relive and right him in theis causes: vpon Late consideracion had of all which and five seuerall Dayes being spent in the hearing of this cause and of theis and other allegacions aswell on the parte of the said David Condon and on the parte of Arthour Hyde the younger son and heir of the said Arthure Hyde Deceased the Learned Councell of either partie being present It was thought meete for the reason aforesaid and for other Respectes and so order was taken that both of them shold surrender their Landes and possessions to the number of foure score and one ploughlands and half or thereabouts, to his Maiestie which being accordingly performed his highnes Did thereupon grant the same withall profitts and rentes reserved vpon any former Letteres Pattents thereof vnto the said David Condon and his heires only at xij^d yearly rent for euerie ploughland besydes his Maiesties Composicon and other savings mencyned in the same grant as may further appere vnto your Lordship vpon view of his Maiesties said Letteres Pattentes past thereof to the said David as aforesaid. And for the satisfaccion of the said Arther Hyde in consideracion of his said conformitie herein and yeilding vp of his estate in the premisses there is acourse taken in an other kynde. Now the kinges Maiesties gracious pleasure is, and so wee pray and require your Lordship to take order that the said David be restored to his bloode, and that all the Mannors Landes Castells and other hereditamentes whatsoever mencyned in the said Letteres Patents not grannted vnto

¹⁰ James FitzMaurice FitzGerald (d. 1579).

him by the kinges Maiestie together with all other the Late possessions Landes and hereditaments of his said father Patrick Condon Deceased, be confirmed unto him the said David his heires and assignes by act of Parliament at the next Cessions [of] [3v] Parliament to be held there in Ireland And withall that yow take order fourthwith that the said David Condon and Arthor Hyde the younger and their heires together with the same Mannors, castles Landes and premisses be freed and Discharged for euermore of all rentes and arrearages of rents reserved vpon the same premises in all and euerie the Letteres patentes past vnto the said Arthure Hyde deceased Marmaduke Redman and Thomas fleetewood and that the premisses be freed and Discharged of all Intrusions Distresses and other forfeitures whatsoever before the Date hereof notwithstanding any former Warrant grant or order from his Maiestie [to] this bourd or by yow there heretofore to the contrary. And that all bonndes and Recognizances to his Maiesties use or otherwise taken of or acknowledged by the said David Condon and Arthor Hyde and of euerie one of them to annswer any suites in any Court or Courtes or before any Judg or Judges there concerning the premisses or for payment of arrearages of Rent be Deliuered vp to the said David Condon and Arthor Hyde the younger to be cancelled: It is his Maiesties further gracious pleasure and so wee do pray and require your Lordship to take order from tyme to tyme that the said Arthor¹¹ his heires and assignes be not Disturbed in any Court or before any Judges in that Realme for the possessions and landes of his said father or by the said Arthor Hyde the younger Marmaduke Redman and Thomas fleetwoode or by any of them their heires or assignes or by any other pattentees that may pretend tittle to the premisses by collar of any the attaynder or forfeitures of the said Patrick Condon deceased. But if any of them fynde cause to follow further suites against the said David then they are to repayre hither before vs, where there complanintes may be first heard and considered of at this bourde, when both parties shalbe presente And further that yow take order (if the said David Condon and Arthor Hyde the younger or any one of them be evicted or their tennants Disposed out of any parte of their Landes or seuerall possessions since there Last coming vnto England) forthwith to restore them againe therevnto without suite or Delay. And that yow Dirrect your Letteres in that behalf to the vicepresident or other his Maiesties officers in the province of Mounster as occasion shall require for the more speedy performance of his highnes express pleasure herein for the releefe of the said David and Arthor. Wee further thinck yt meete that the said Letteres pattents now granted by his Maiestie to the said David be enrolled there. To tend that the said yearly rentes of xij^d for euerie ploughland may be annswered and paid at the receipt of his highnes Exchequier there and his Maiesties Composicon rent annswered according to the Limitacion in the same Letteres Pattents. And albeyt the said Patrick Condon hath in the begining of his tyme fayled in his Loyaltie (which is as yt hath ben often affirmed) proceeded rather of Discontentment he conceived in prosecution of his Law causes, then out of any vnnatural inclynacon in him to Disloyaltie, yet having in his Later Dayes manifested by his good endeoures and services (performed with the often effucion of his blood) his fidelitie to the state and Last of all, having by meanes of a cruell wounde and his thigh bone being broken) Lost his life in service his Maiestie

¹¹ David inserted between the lines – to replace the name Arthor.

Doth in his princly wisdom accept thereof as an expiacion of the said Patrick his former imprisions. The Due consideracion thereof will, wee hope, perswade your Lordship to vse the said Dauid Condon being his son and heire in all favor in the performance of all the dirreccions herein: And so we bydd yow hartely farwell. Dated this 3^{ten} of September 1610 Post script: It is thought meete that restitution be made vnto the bearer hereof Dauid Condon of the present possession of so much of the said Landes mencyoned in the Letteres Pattentes now granted vnto him as weare evicted from him by Arthor Hyde upon an order made by Sir Henry Brouncker your Lordships etc. very Louing frends T. Ellesmere Can, R: Salisbury, H. Northampton, Lenox, Northingham, Tho Suffolke, Gilb: Shrewsbury, E: Worchester, Jul Caesar.

Inaccomplishment of [4r] of which Letteres, and of his Maiesties pleasure thereby signified. Wee thinck meete that the said David Condon may procure an act to be Drawen by his Councill and exhibited to be transmitted into England aswell to be restored to his bloode and to haue such Landes and possessions confirmed unto him at the next Cessions of Parliament to be holden in this Realme as weere in the possession of his said father or past unto himself by the Letteres Patentes Lately granted unto him by his Maiestie under the great seale of England according the tenure of the said Letteres with such savings as shalbe thought fitt. And wee do Lykewise order and decree that the said David Condon and Arthor Hyde and their heires and assignes, together with the said Mannors, castles and other the premises, shallbe freede and Discharged foreuer of all Rentes and arreares of rentes, reserved out of the premises, in all and euerie the Letteres Patentes past to the said Arther Hyde, Thomas ffleetwood and Marmaduke Redman (the kinges composicion excepted), And that lykewise the said Landes shalbe freed of all Intrusions, Distresses, and other forfeitures incurred before the Date of the said recyted Letteres being answerable to his Maiesties gracious pleasure notwithstanding any former Dirreccion to the contrary. And also that all bonndes and Recognizances taken or acknowledged to his Maiesties vse of the said Condon and Hyde to annswer suites or for paymentes of any arrearages (Composicion excepted as before) shalbe cancelled and made voide Whereof the Channellor and Barrons of his Maiesties Courtes of Exchequer and all other officers to whome yt may apperteyne are to see the same performed accordingly. And furthermore according the tenure of the said Letteres wee do order and Decree that that the said David Condon shall not be Disturbed or impleaded in any of his Maiesties Courtes or before any Judg of this Realme for any the possessions and Landes of his said father, either by the said Arther Hyde, or by the said ffleetwoode and Redman their heires or assignes or by any other patentee that may pretend title by collor of any the attayndors of the said Davides father but if any of them fynde cause to follow further suite, they are to repayer before the Lords of his Maiesties most honorable privy Councill in England according the tenure of the said Letteres. And yt is Lykewise orderd and Decreed that if the said David Condon or Arthore Hyde or either of them haue ben evicted or their tennantes disposed of any parte of their Landes or seuerall possessions since their Late going ouer into England, which weare in the possession of Patrick Condon father to the said David, then shalbe presently restored vnto the same againe, without suite or delay according the true

meaning and purpose of their Lordships said Letteres, whereof the vicepresident of Mounster, Sherriff and all other his Maiesties officers to whome yt may apperteine, are to take notice and to see the same Duly performed, any former order from this bourde to the contrary notwithstanding: But because yt is affirmed by one Richard Condon, and so offered to proue, that he comenced suite against the said Dauid and others for the Townes and Lands of Dungullan in the countie of Corck before the said Dauides going into England, and recouered the same by cours of Law in the absence of the said Dauide. It is ordered that the said Richard shall bring an accion of Tresspass against the said Dauide, this next Tearme in the kinges Bench or Court of Comon pleas, for the said Lands to which the said Dauid shall pleade the generall yssue whereby the matter may receive tryall at the next Lent Assize and the Jury to be returned by the Judges of Assize. And if the verdict shall pass for the said Richard Condon, then he to be established in the possession of so much as shall so pass for him, and if yt pass for the said Dauid then he to contynue his possession accordingly. And in the meane tyme the said Dauid not to remoue the vnder tennantes inhabiting the said Lands, vntill May next and the said tennants to be permitted to carry away their Cropps, they putting in securitie to pay the fourth sheaf and such other rentes as they iustly owe to such of the said parties for whome the verdict shall pass. And it is further ordered that the said Richard shall not be within the compass or meaning of the vnder tennants that are to contynue the possession till may next as aforesaid. Lastly it is ordered and Decreed that the said David Condon shalbe restored to the present possession of so much of his [4v] Landes mencenyed in the Letteres Patents, as weare evicted from him by the said Arthor Hyde by vertue of an order made by Sir Henry Brouncker knight Late Lord president of Mounster being agreeable to the contentes of the said Letteres of the Councell requireing hereby the vicepresident of Mounster to see him established accordingly: Geven at his Maiesties Castell of Dublin the foure and twentieth of December 1610

Tho: Dublin Canc, Tho: Ridgway, Rich: Wingfilde, Hu: Winch, John:
Denham, Fran: Aungier, Hen: Power, Ad: Loftus, Rich: Cooke Ex¹² Pa Fox

Irrotulatio in officio Capitalis Rememoratoris scaccarij Domini Regis nunc Jacobi intra Recorda De Termino Sancti Hillerij. Anno Regni sui Angliae etc. viii et Scotiae xliiij^s per Wm Marwood, Dep RRc 1610
Concordat cum originale Exemplo
Randall Clayton

BY THE VICE PRESIDENT OF MOUNSTER

Whereas yt hath pleased the Lords of his Maiesties most honnourable privy Councell, to Direct their Lordships Letteres vnto the Lord Deputie and Councell dated 3^o Septemberis 1610 in the behalf of David Conden gentleman, concerning the repossessing him of certaine Landes Latly in controuersie between the said Conden and Arthor Hyde Esquire with Divers other clauses therein incerted.

¹² Either *exacte/exactum* or *extracte/extractum*.

The said Lord Deputie and Councell haue thereupon conceived signed and sent unto mee an order Dated 24^{to} December 1610 accordingly; wherein I am required to see him the said David presently established in the possession of so much Landes mencyoned in his late Letteres Patente granted unto him by his Maiestie and weare evicted from him by the said Arthor Hyde by vertue of an order made by Sir Henry Bronncker knight etc together with the Castle Towne and Landes of Dungullan now in one Richard Condons and his vndertennantes possession between whome and the said David there is in the said order a course of tryall for the said Towne and Landes layde Downe with this Clause also That in the meane while the said David is not to remove thundertennantes Inhabiting the said landes vntill may next, and withall to permitt them to carry away their Croppes they putting in security to pay the fourth sheaff and such other Rentes as they justly owe to such of his said parties for whome the verdit shall pass out of which number of vndertennantes which are to contynue their possessions as aforesaid untill May next, the said Richard Conden is by the said order absolutely secluded. By vertue of which said order Theis shal[be] to requier and aucthorize you presently upon receipt hereof to putt and esta[blish]¹³ him the said Daud [5r] in the possession of the seuerall Castles, Townes and Landes with thappurtenances hereunder named then being the self same castles Townes and Landes (Dongullane excepted) mencyoned and conteyned in the said Sir Henry Brounckers order whereof (in accomplishment of the said order grounded upon the Lordes of the Councells said Letteres yow are at your perrill not to faile And for by your Doinges herein this shalbe your sufficient warrant. Geeven at Aghevane under his Maiesties privy Signet of this Province this xvijth day of ffebruary 1610

Rich Moryson

Yow are carfully to examyne whether the Landes of Dungullane with thappurtenances weare Evicted from the said David Condon in his absence in England and what other his Landes or possessions belonging to his Deceased father Patrick Condon weare also at that tyme Evicted and fynding the same to be as a foresaid yow are Lykewise hereby required presently to establish him in the possession of euerie part and parcell thereof so by yow founde This being annswerable to the Contentes of the said Lord Deputy and Councells said order:

Rich Moryson

Carrigibrick Cloghlow Kilcanna Ballivoda Ardye Lisnesellagh Shaneclone
Crogshordan BallyInnyne SkartIhole and Downerierder:

The castles Townes and Landes of Garrangynnagh FarrenIelary CarhowIordan and Knocknegaple

The castles townes and Landes of Ballinehaw, Ballyarthor Ballymcshinnkine
Ballyaduck and Gortinhowane

¹³ Manuscript torn.

And the castle Townes and Landes of Momogg alias Manning and Cowlemucky with all and singuler the appurtenances to them and every or any of them belonging or apperteyning, together with the castle Towne and Landes of Dungullan:

[6r]¹⁴

ORDERS: AND DECREES

BY THE LORD PRESIDENT AND COUNCELL OF MOUNSTER

Whereas complaint was exhibited before us by William Casie of the Cittie of Cork gentleman declaringe that David Creagh of kilmallock burgesse Henry Creagh and John Meaugh of the same marcheantes; Shane mc Donogh mc Connogher of the same Smithe, Shane Kittaugh mc Edmond of the same Sherman, Shane yglanny¹⁵ of the same Sherman. Donell mc Moriertaugh, Shane O Lomasnye and Robert Poyce same husbandmen; the second of September 1600 wrongfully entred to ye suppliantes landes Ballingaddy, and brocke his close there, and thence tooke tenn acres of Oates price every acre fffitie Shillings sterling of your suppliants Corne thene growen, to the Complainers Damages of xxx^{li} sterling and therein praid remedie, and proces against the Defendanthe to annswer; which process accordingly beinge granted Defendant appeared and answered to this effect viz that the said bill wantinge the woordes (vi et armis) and beinge in nature of a comon action of trespas, ought to abate and for further annswer, David Creagh aforesaid pleaded not giltie; and the rest of the said Defendants said that longe before the supposed trespas, one William Creagh of Milton gentleman was lawfully seised of the said Ballingaddy specified in the Bill as of his inheritance, and beinge so seised at Kilmallock in the Countie of Lymrick the last of ffebruarye 1599 hath demised the premises to the Defendants for one year then next insuinge the said last of ffebruarye rendinge certaine rent by force whereof the said defendants entred into the premises, manured and sowed the same with their owne proper Corne, and the same Cropp did reape and carry awaie as lawfull was for them to doe which is the trespas whereof action is brought; with averiment to prove the same and praid in ayd of the said William Creagh with travers that they tooke none of the plaintiffs Corne as the Bill purported etc. Whereunto the plaintiff for replicacion mainteyned his Bill and that the said David Creagh was giltie of the said trespas, and for Replicacion to the rest of the Defendantes said that longe tyme before the said William Creagh anie thinge had in the said Ballingaddy wheare the said trespas was comitted, One Phillipp mc Edmond was thereof with thappurtenance seised in his Demasne as of fee, and beinge so seised thereof Died seised and that thereby the said Landes Descended to Thomas mc Phillipp sonne and heire to the said phillipp mc Edmond, and that the said Thomas entred thereunto and was accordingly thereof seised in his Demeasne as of fee, and beinge thereof so seised hath (at Kilmallock

¹⁴ Fol. 5v is blank.

¹⁵ Shane an ghleanna?

aforesaid the xxvjth of Julye 1597. And in the xxxixth yeare of her maiesies Raigne) Demised the said landes of Ballingaddy by the name of Ballingaddymore to the plaintiff for tearme of yeares yet vnexpired by force whereof the said plaintiff entred and was lawfully possessed of the premises vntill the Defendantes the daie and yeare in the bill specified wrongfully committed the trespass therein conteyned. All which the plaintiff hath offred to aver etc. and trauersed, that the said William Creaughe was euer lawfully seised as of his inheritance of the said Ballingaddmore, or that he demised or had seisin or interest to demise the same to the Defendants as they have pleaded, with agenerall trauese to all the rest of the matters in thannswer, and that the said ayd praier was not grannitable etc. Whereuppon the Defendantes beinge Comanded by process, have appeared, and reioyned, that by the said former omission in the bill, and for other imperfeccions the said sute was abateable, and yet for further reioynder pleaded yt longe time before Phillipp fitz Edmond mencioned in the Replicacon anie thing had in the said landes, wheare the said trespass was supposed. One Thomas mc Gibbon was lawfully thereof seised in his Demesne as of his inheritance, and that the said Thomas Died of that estate seised and that the premisses Discended to David sonne and heire to the said Thomas and that the said David entred and was seised and died deised, and so conveid by Disente from [6v] the said David, to David his sonn, and from David the son to William, and from William to Edmond, and that the said Edmond had yssue William, Shane Richard and the said Phillipp, in the Replicacon specified; and that the said Edmond died seised and so conveyed by Discent to the said William as son & heire to the said Edmond; and from the said William to Richard as son & heire to the said William, and from Richard to William fitz Richard, as son and heire to the said Richard and that the said William fitz Richard entred and was seised; after the Death and supposed dyenge seised of the said Phillipp mentioned in the Replicacon; and that the said William fitz Richard died accordingly seised; without yssue of his boddy after the said Phillippes death. And that the said landes Disended to Edmond mc Shane as cousin and next heire to the said William videlicet son and heire to Shane; second son to Edmond, the Comon anncestor and that the said Edmond accordinglie entred and was seised, and died seised of the premises, and that the same Disended to John fitz Edmond as son and heire to the said Edmond, and that the said John entred and was seised untill he made a ffeofment therof in fee unto the said William Creaugh mentioned in the annswer, and that the said William by vertue thereof entred into the premises and was lawfully seised, theis xvijth yeares past untill he made the lease specified in the annswer to the Defendantes and that they by force thereof manured the same, and tooke the Cropp of their said manurance as lawfull was for them to doe, and trauersed the seisin and dienge seised of the said Phillipp fitz Edmond, and the Discent to Thomas mc Phillipp and that he was sonn and heire to the said Phillipp, or that he made anie suche lease as the plaintiff pretendeth; Whereunto the plaintiff for Surreplicacion mainteyned all his pleadinges to be sufficient, and that ayd praier is not grannitable before ysue ioyned and for all that the Discente conveyed in the Reioynder from Thomas mc Gibbon to the Edmond mc William, as they neither advantage nor disadvantage his said sute, he holde it

not matterial to make answer thereunto with further averment that the said Phillip fitz Edmond was lawfully and lastlie seised, in his demeasne as of fee of the said landes wherein the said trespas was committed; and thereof died so seised, and that after his death, the said disended to the said Thomas mc Phillip, sonn and heire to the said Phillip, and that he entred and was accordinglie seised, and made the said lease to the plaintiff as formerlie he pleaded, and that the said plaintiff was accordinglie possessed untill the said trespas was comitted; and traversed the disente from Edmond to William and from William to Richard, and from Richard to William; and traversed the seisin and dienge seised of the said William fitz Richard after the saide Phillippes death; or that the same disended to the said Edmond mc Shane, or from him to the said John fitz Edmond, or that the said John was lawfully seised whereby he might lawfully infeeve the said William Creagh, and traversed the perfection of the said feofement, and all other the Disente and matteriall pointes of the said aduers pleadings, with further averment that the said Thomas mc Phillip the plaintiffs leassor was lawfully seised of the said landes where the trespas was comitted at the seuerall tymes of the deathes of the said William fitz Richard and of Edmond mc Shane mc Edmond and contynually before and after the said Deathes, and that he contynued his said seisen untill he made the said demise to the said plaintiff etc. Uppon all which pleadings the said parties plaintiff and defendanntes, havinge grown to full and perfect issue, and havinge drawn and exhibited their Interrogatories, and taken furth Comissions for examinacion of their wittnesses of either side, and that the said examinacions were taken and returned before us, and publicacion granted of both sides, and after Diverse Daies of hearinge prefixed, & lastie the xvijth daie of this present moneth of August 1601. At which Daie appeared before us, aswell the said plaintiff in person and the said Thomas mc Phillip his leassor as the said Defendantes by Attorney, and the said William Creagh their leassor with their Counsells of both sides, and their said pleadings beinge pervsed and heard, and [7r] their bookes of examinacions of both sides and such further proufe, as they or either of them could produce, and all exceptions, argumente and allegacions as the parties and their said Counsells, have made, aswell to the forme as to the substance and matter of the said sute and cause, beinge dylie; deliberatlie, maturely, advisedlie and judicially by us heard then, and sondrie tymes after: **forasmoch** as the wyttnesses produced and examined on the said Defendantes behalfe, have manifestlie appeared vnto us to be persons of smale knowledge iudgement or credit in matters of Discent and inheritance, beinge for the most parte laborers and women, persons verie incapable of suche matters, and titles; and that also manie of them weare repugnant in testimony and som of them Deposinge preseiulye of matters before they weare borne; and non of them Deposinge effectually or matterially to the pointes in yssue for the seisin and discente pleaded by the said defendanntes; And for that on the plaintiffs side the wittnesses produced and examined, were manie of them gentlemen, and persons well known to us to be men of good reputacion, credit and iugement in matter of inheritance and discent they themselves beinge ancient inheritors and gentlemen. And for that also they have verie effectually and matterially proved, that the said Phillip fitz Edmond was

quietly seised of an estate in fee, of the said landes of Ballingaddymore in the said pleadings mencioned, and that he contynued his said estate and seisin, and tooke the yssue and proffitte of the same, and that he dyed quietlie seised, and that after his death, the said landes discended vnto the said Thomas mc Phillip, sonn and heire to the saide Phillip; and that the said Thomas accordinglie entred to the said landes, and that he was, and contynued seised of the same, and tooke the issues and proofettes thereof before, at, and after the tyme of the death of the said William fitz Richard mentioned in the Reioynder; and before, at, and after the tyme of the death of the said Edmond mc Shane likewise in the said Reioynder specified; and vntill the said Thomas Demised the same to the said plaintiff as in his bill he hath declared; which demise was proved before us aswell by viewe of the Deed thereof well perfected, and testified; as by some of the wittinsses examned in that behalf, and the said trespass, was likewise proved and in sorte confessed by the said defendantes by their said iustificacions. Wherefore the plaintiffs said title and right in substance and matter, beinge so sufficientlie proved as aforesaide, and for that the excepcions taken to the forme haue been held insufficient to overthrowe the said sute or staie our Judgement. It is therefore ordered, decreed, and adiudged, by us the said Lord President and Counsell of Mounster, that the said William Casie the plaintiff shall for his Damages haue and recover against the said defendante for breakinge the said plaintiffs Close in the landes aforesaid; and takinge awaie the said Tenn acres of Oates and the rest of the trespas conteyned in the said bill, the some of Twentie poundes sterling. And for the plaintiffs coste of Court susteyned in this sute the some of Three poundes sterling amountinge in all to the some of Twentie three poundes sterling. And this our Decree and order we will and Demande the Sherif of the Countie of Lymerick vndelaidly to putt in operation, by satisfienge the plaintiff of the said Defendantes goodes, for his said Damage to him deemed as aforesaid: Geven at Shandon under the testymonyne of our handes and her Maiesties privie Signett of the province aforesaide the xxth daye of August 1601

George Carewe, William Saxie, Cha: Willmott

[7v]

BY THE LORD PRESIDENT AND COUNCELL

Whereuppon a petition exhibeted unto us by Nicholas Creagh of Kilmallock merchant agaynst William Creagh of Milton Marchant praying a warrant for perambulacon to be made betwixt the sayd Nicholas his Landes of f Flemingstown, and the sayd Williams Landes of ffarrynadden in the County of Limerick for asmuch as both the sayd parties have consented that the sayd perambulation shalbe made and by their mutuall consente haue Chosen you David Creagh and Gerrott ffoxe of kilmallock Burgesses as indifferent personns betwixt them to make the same certen and knowen. These are therefore to requier and authorize you to repayre personnalye to the sayd Landes and ye meares and boundes of them that are in question & takeinge with all care the examminacions indifferently and proofes that of eyther, and