



**TIPPERARY HISTORICAL JOURNAL
1988**

© County Tipperary Historical Society

**www.tipperarylibraries.ie/thc
society@tipperarylibraries.ie**

ISSN 0791-0665

LIFE IN FETHARD IN THE 1700s

by Michael O'Donnell

Introduction

Fethard's corporation minute-books survive for the years 1707 to 1834 in two volumes. The first, for the years 1707 to 1774, is a copy of an original book; the second, from 1742 to 1843, is an original manuscript.

The copy was made as a consequence of a dispute between the O'Callaghans (Lord Lismore) of Shanbally, Clogheen, who from early in the eighteenth century controlled the corporation, and the new owners of Grove, Fethard, the Bartons of Bordeaux, who desired to share that control.¹ The copy of the minutes was preserved among the Barton Papers in Grove until some years ago; it is now in the National Library of Ireland (MS 5858). The original minute-book, preserved also among the Barton Papers, is also in the National Library (MS 5859).

When the corporation came to involve itself in a practical way in the governing and day-to-day running of the town, it was through an assembly named the D'Oyer Hundred jury court. D'Oyer Hundred courts grew out of the *hundredum magnum* courts that were created by the Magna Carta of 1215. The court's title came from the hundred, which was a medieval land division or piece of ground, sufficient to support 100 families. It had jurisdiction in matters of trespass and forty-shilling debts, and was empowered to handle criminal cases should a sheriff preside:

Laffan in his article on Fethard's charter of 1608 was of the opinion that the D'Oyer court was the relic of some ancient and long-lost charter. It is quite likely that the court was created by the original founder of Fethard when he set about attracting settlers to his new vill. Neither the charter of James I nor the earlier one of Edward VI mentions the court.

The D'Oyer court sat twice yearly, at Easter and at Michaelmas, and not rarely as mentioned by Thomas Laffan in his article.² Laffan stated that the jury was composed of freemen of the corporation; but from a reading of the minutes this would not appear to be entirely correct. Rather the names were local ones picked, it would seem, at random.

By the time the Fethard corporation minutes begin, the authority of the court had changed considerably, due mainly to their being reformed in the Tudor era. Their status now lay somewhere between a local council and a district court; they could highlight problems and crimes, but were unable to control and reform such ills. Also, the court did not often sit on the dates cited, but on any day between March and December.

The jury oath, taken from the corporation's books, may add further to our knowledge of their function:

You, as foreman of this D'Oyer Hundred Jury, shall true presentment make of all such matters and things as shall be given you in charge by the sovereign, chief burgesses and portrieve in council assembled.³

The various demands of the town that came under the scrutiny of the jury are entered in the minute-books. These entries form the main interest for the early decades, and constitute the bulk of the matter in the books up to 1742. Up to this date the court sat regularly, but from then on it hardly met on half-a-dozen occasions until the dissolution of the corporation in the mid-19th century. As in so many other instances, this appears to have been due to a lack of interest in the affairs of Fethard by the different sovereigns and burgesses.



The expenses of the jury are, after a fashion, given in the minutes. An order made on 19 October 1724 records that the D'Oyer jury were to be paid twenty shillings (£1) from the corporation's revenue to help defray their costs. This amount was to be paid to each court that sat. The same minute records that the former allowance had been 5/- (25p). On 31st May, 1733 the allowance was raised to 40/- (£2). Since the records from the 1750's onwards contain no further reference to D'Oyer courts, it is impossible to trace any other development in the jury-men's expenses.

Rents, Leases and Debts

Various minutes in the records during the period 1707 to 1724 reveal the duration of leases and the annual rent payable on property within the liberty. Most of the leases dealt with plots of ground and cabins, and the duration ranged from 21 years to 51 years. The latter seems to have been for protestant members of the community. But from the mid 18th century onwards all leases appear to have been set for 99 years.

The collecting and fixing of rents was, in the early decades of the century, one of the principal concerns of the D'Oyer jury. However, for only one year (1716) was anything like a complete record kept. In that year a cabin was let on the Green for 31 years at 6s. (30p) a year, while another in the same area was set for the same time-span but at a yearly rent of 4s.6d. (22½p).

Among others recorded was a small slate house to the west of the market house, which was set for 5s. (25p) per annum, and a small tenement outside the Watergate for a rent of 2s.6d. (12½p) a year. Those figures reflect the range of charges being levied on houses and cabins owned by the corporation. Generally, the lease had a life of 21 years for most cabins.

In 1716 a piece of ground 30 feet by 30 feet was set at an annual rent of 2s. (10p), while in 1722 a piece of ground 30 feet square was set to George Everard for 51 years at an annual rent of 6d. (2½p). Another leasing, though no rental is mentioned, may be worthy of inclusion. By it, one Henry Shepherd was granted a piece of waste ground near to the Watergate for the purpose of erecting a workhouse. The lease, granted on 27 June 1748, was to run for 99 years. There is no trace of such a workhouse today.

Only for eight years, between 1708 and 1715, was a record kept of the total income accruing to the corporation from its rentals. Those for 1706 were also entered in the minute-book. In that year the total received was £25. 1s.2d. (£25.07); for the other eight years it ranged from £28.3s.2d. (£28.17) to £40.15s.2d (£40.77). After 1715 the total returns were no longer being kept. For those eight years of recorded figures the average rent roll per year works out at £31.18s.2d (£31.91).

However, we are nowhere told the number of cabins or plots of ground the corporation owned. Sometimes the D'Oyer jury took a lenient view of those unable to pay their rent. In 1715 Edmund Sheehy was dispensed from paying 17s.6d. (87½p), which represented four years' rent. The cause was Sheehy's extreme poverty. The next year John Kelly, a weaver, was remitted a half-year's rent, as was Morris Scanlan the sum of 32s. (£1.60). But not all those in arrears were allowed free; the corporation treasurer was frequently directed to proceed against defaulters.

In the early decades of the century the rents appear to have been collected by the corporation's two constables. For this they were paid 5s. (25p) each a year. In 1748, however, the task was being discharged by the then portrieve, for which he was offered a salary of 12d. (5p) in every pound sterling he collected.



Revenue and Tolls

Besides obtaining money from the letting of property, the corporation also made use of tolls. The early pages of the minute-books contain various directives for the collecting of such tolls.

On 2 December, 1723 it was ordered that “the Box now made use of shall be used but in Tolling of Single Bushells and that a new Pottle Box Shall be made for tolling of Single Barrells”. A pottle box was a small wicker basket. Tolls continued to be collected down to 1832, when the Perrin Commission visited the town. The commission supplied a list of tolls with their report.⁴

Street traders too contributed to the coffers of the town. Traders resident in the town were free, and so did not pay tolls; those who traded from the streets were expected to pay “according to their Respective Dealings”. The actual sum payable is not recorded. Such tolls served to control the number of traders about the streets, as well as bringing money to the corporation.

Various directives on the methods for collecting such tolls have been entered in the minute-books for the years 1715, 1718, 1721 and 1722. These ordered that only those persons who had been officially sworn into the position of toll-gatherers were entitled to collect them, suggesting, perhaps, that a number of unauthorised persons were availing themselves of the opportunity to make a little money on the side.

Fairs and Markets

According to the corporation records, there were two principal fairs held in Fethard each year — at Trinity and at Martinmas — and a number of markets. From the years for which various incomes are recorded, it is possible to obtain a yearly average for the two fairs and the markets.

As in other instances, the tolls were not collected piecemeal by the corporation, but were farmed out to the highest bidder for a sum which varied from fair to fair. In a minute of 27 October 1712 we read that it was an ancient custom of the corporation to have the tolls for the fairs and markets canted for three days about the town in a public manner. By this means it was intended that all tolls should pass to the highest bidder.

Irregularities must have set in, because on 7 May 1716 a meeting of the D'Oyer jury recorded that several of the freemen made a habit of keeping to themselves the collecting of the tolls accruing from the fairs and markets, and that public cant was no longer being carried out. It was the verdict of the jury that any freeman so infringing ancient rights was to have his freedom withdrawn. The sovereign of the day was to be answerable for such misconduct.

Throughout the minutes dealing with fairs there are numerous references to barons of fairs. These were two in number, and were appointed from among the list of burgesses. Their function, although at no point clearly stated in the minutes, appears to have been to oversee the fairs and to report on any infringements.

In the period for which references to fairs exist — 1701 to 1725 — the sums received for the Trinity fair varied from £5.6s. (£5.30) to £10.5s. (£10.25). The average income accruing to the corporation was £8.0s.2d (£8.01). In general the Martinmas fair took in a higher return. It ranged from £7.5s. (£7.25) to £11.2s.6d. (£11.12½), and the average was £8.7s.6d. (£8.37½).

The markets were also canted to the highest bidder. In the years 1707 to 1726 the annual income from them ranged from £6.5s. (£6.25) to £11. The average annual income was £8.17s.9d. (£8.89).



The Pound

Another means by which the corporation gained much needed revenue was through the farming out of the pound. Every animal found wandering about the town and captured was placed in the pound, whence it was released only through the payment of a fine. So, instead of collecting money piecemeal from the owner of every animal, the corporation, on payment of an agreed sum, gave the task to some individual. This individual was sought through public cant.

The corporation minutes contain a record of the annual income received from the pound for the years 1707 to 1725, with the exception of 1708 which was omitted for some unknown reason. In 1707 it was set for £2.12s. (£2.60), and in 1725 for £3.14s. (£3.70). The average for the 18 years covered in the records is £2.18s.4d. (£2.92) a year.

What the actual charge per animal is not known, or whether it varied from type to type. The charge levied in Thomastown, County Kilkenny at the beginning of the 18th century was 1d ($\frac{1}{2}$ p)⁵

The physical condition of the pound also attracted the attention of the D'Oyer court. In 1708 a John Bulfin was paid for repairs to the pound following a presentment from the jury, but on 21 December 1710 a further order was issued to Bulfin to repair the pound, with the proviso that should he not do so before August 1711 he should be fined £5.

The records do not tell us if the job was completed; but in October 1711 the jury again noted that the pound was in the need of a door and paving, and that payment for it had been made. There is no reference to Bulfin in this record. By 1718 the pound was again in the need of a door or gate, and the sovereign was requested to purchase the same and have it erected. After this the pound was no longer mentioned among the directives of the D'Oyer jury.

Weights and Measures

In the realm of weights and measures the corporation would have been required to have a standard in both, especially so in the 17th and early part of the 18th century. This would have served as an official guide to all weighing and measuring done about the town. The set in the hands of the corporation would, no doubt, have been made use of by many of the townsfolk who would not have the ready use of such things.

All this is borne out by an entry in the records for 28 October 1715: "... there is a Necessity of Keeping the Standard and Measure Constantly in the Market House there to remain to be preserved for the use it was first intended for, and such as shall make use of the said Standard to Pay five shillings (25p) . . . and that the said Measure shall be immediately delivered to the sovereign".

When they met on 6 May 1717, the D'Oyer jury ordered that £5.4s (£5.20) be collected for the buying of beams, scales and weights for a new crane, that a weighman be appointed and that the crane should stand in the shambles. They further directed that all those who contributed to the purchasing of the new weighing crane should have the free use of it.

The first weighmaster was appointed to the corporation on 9 November 1719. The corporation issued a new directive for using the crane and weights which was to be effective from 1 November 1721. According to it, all the users of the crane in the town were now to be liable for a charge of one halfpenny for each item weighed, and all persons from the country were to pay a levy of one penny.

On 4 May 1724 James Slattery of Fethard, a joiner, was made weighmaster, with the proviso that he was to provide "Lawful Weights to weigh five Hundred Weights at His own Cost and



Charges before the 1st Day of July". These weights when purchased or made were to be left in the weight house. When he retired from his position, Slattery was to be refunded the money he had spent on them.

The corporation also had a barrel and measure. These would most likely have been used by the brewers and malsters of the town as their correct measure, who had to pay a certain sum to the corporation for each item so measured. The amount levied was one penny for every barrel of malt sold at the malt house, and a like sum for every barrel sold to other malsters. The money had to be paid to the collector of customs.

All malsters and brewers were to swear their agreement to the paying of such a levy. This directive was issued on 28 April 1718, and any person who refused to pay it was to be deprived of the use of the corporation's barrel and measure.

However, there appears to have been much opposition to such a levy. An entry of 9 November 1719 records that when the D'Oyer jury sat they made a further decree to the effect that all who opposed it were to be liable for an annual payment of one pound sterling to the corporation should they continue to malt and brew.

Corporation Property

By the first half of the 18th century there are references to intrusions on corporation property, which were to become commonplace as the century developed. These were to be a constant source of debt, necessitating the employment of lawyers to fight the various cases.

The earliest references to the taking-over of property is to be found on 29 September 1714, when an order was made against Richard Everard for encroaching on a part of the Green and adding to it his freehold. One Nicholas St. John was cited on 29 September 1716 for a similar offence by running a stone wall seven or eight feet into the Green. Despite various orders and directives, such intrusions continued.

During the 1750s an effort was made to re-assert the corporation's rights over their lost property. This led to the employing of a number of lawyers, who tried to recover the many losses and to regularize the existing leases. However, such men proved very expensive and accomplished little.

For the last three decades of the century the corporation seem to have lost the will to gain control of its property, or to oversee the regular collecting of rents. From a reading of the records the strictures of the Perrin Commission would appear to be accurate:

The property of the corporation has been much neglected for many years; many tenants have been permitted to run about thirty years' rent in arrears; and although a great part of the leases have expired many years ago, possession of the premises has never been demanded, nor these holdings made productive in any way to the corporation.

From this it seems likely that not only the tenants, but also the corporation, contributed to the decline.

The Commons

Numerous references to the common land made by the D'Oyer court are to be found in the minutes, even though the 1608 charter did not vest control of it in the hands of the corporation. The Perrin Commission did report in the mid-19th century that the common land had always been considered part of the corporation lands, and reported having seen a map dated 1748 which showed that such land then consisted of 153a.2r.30p.



This land lay around the present-day Green and Market Hill. By the mid-19th century only 42 acres of the common land had survived intact to the corporation.

The opening directive in the minute-books on the commons is dated 28 April 1707. It states that freemen only were to be permitted to graze six colps (or bullocks) or their equivalent, free of all charges. All excess animals were to be paid for, and all trespassers were to be fined.

A list published on 17 May 1708 records that all stock in excess of the six colps were to be charged at the rate of eight shillings (40p) per colp, eight shillings per horse and 6d. (2½) per sheep. The minutes are not however, clear on the last charge since, in one entry, four sheep cost two shillings (10p), and yet again twelve sheep cost eight shillings (40p). All those rates were to be levied on a yearly basis.

All such persons not free of the corporation had to pay these rates for all stock grazed upon the commons. The same rates and conditions were repeated in the records of 14 October 1717, with a note added that on the previous 6 May the bellman had been ordered to cry the terms about the town for three consecutive days.

Thirty years were to pass before further references were made to the common land. An entry on 28 September 1751 records that in September 1747 part of the lands of Market Hill, which was common property, had been set to Thomas Hackett, whose estate adjoined the land. Hackett, who was a burgess in the corporation, received 89 acres at 3s. (15p) an acre on a lease of 999 years. Fr. Walter Skehan, in his article on Fethard's corporation, states that the rent was never paid by Hackett, and that in 1787 an attempt was made to recover the land from the Hackett family.

It would appear that the effort failed because on 29 September 1832, according to the Perrin Commission, the Hackett family agreed to pay one year's rent in lieu of all the arrears then due, and thereafter to pay the annual rent of £13.7s. (£13.35). As to what happened to the 89 acres in the years that followed we do not know. Most likely they were quietly incorporated into the Hackett estate.⁶

Forty-two more acres of the commons were set aside for the Incorporated Society for Promoting Protestant Schools. This gift was made on 10 November 1747. The society had the support of the Irish parliament, and in a report of 15 November 1763 to that body it is recorded that the society had accepted and agreed to proposals to build schools at a number of centres, including Fethard. But it seems that parliament was unable or unwilling to grant the money necessary to build the schools, though it continued to support the society in dealing with its normal expenses. Fethard never got its charter school.⁸

Officials' Salaries

In 1714 Kinsale's sovereign was paid "£60 as last year".⁸ But in 1707 and before that Fethard's sovereign was paid much less, and on an irregular basis, according to a return made on 29 January 1708. The late sovereign, Peter Cooke, was granted £40 as four year's salary, and for having to attend the assizes and petty sessions held within those years he was granted a further £10.2s.6d (£10.12½).

The sovereign must have continued to receive the £10 a year up to 1724, because on 4 May of that year the D'Oyer jury noted: "whereas the sovereign's salary being so small is not sufficient for the expenses he is at on several occasions, we therefore present that the custom of the two new fairs of the town (be presented) as an additional salary to the sovereign." Each successive sovereign was likewise to have the custom of those fairs. They continued to be paid in this manner up to 1760, when it was ordered "that all sovereigns for the future do serve without any salary until the debts owing to the said corporation be paid". The "usual and accustomed"



salary was restored to the sovereign on 28 June 1762.

Among the other officials whose salaries are recorded in the corporation minutes is the Beadle. In a minute of 28 April 1707 we learn that the Beadle “or town Cryer” was to receive an annual salary of twelve shillings (60p). Three years later, on 9 October 1710, the sum of 8s. (40p) was laid out for the purchase of a coat and hat for the Beadle.

Despite the Beadle being referred to as Town Cryer, we read that on 17 May 1708 the jury presented “that a Ballure be employed for the Town service and that twelve shillings (60p) and a coat be allowed him by the year”. To provide a “coat, hat and jockey” for the Bellour the sum of 10/- (50p) was paid out on 9 May 1715. On 10 October 1720 his annual salary had been raised to 16s. (80p), and at the meeting of 2 December 1723 he was given the extra task of impounding pigs.

Although he had the additional work imposed upon him, it would appear that the Bellman was not paid his salary on a regular basis. For many years William Gunn had been Bellman to the corporation. In a minute of 29 June 1752 the sum of £5 sterling was ordered to be paid to Mrs. Gunn to discharge all the arrears of salary due to her late husband. To gain some idea of what a Bellman’s duties were we have to look elsewhere. In Kinsale he was expected “to knock at each door in all remote places at two of the clock each night, and that he may have a two-hour glass and lanthorn”.⁹

Another corporation official paid a salary was the town constable. There were two of these. They were paid 10/- (50p), which one presumes was a total payment. We read elsewhere that they were paid 5/- (25p) each for collecting the corporation rents. This appears to have been their sole function.

On 28 April 1707 a serjeant of the commons was appointed, with the task of overseeing the grazing and collecting the fees. He was given the use of a plantation acre on the commons as salary. But two years later, on 23 May 1709, the appointee and the method of payment were considered to be not satisfactory. A new man was nominated with a salary of 20/- (£1) a year. This salary was to be paid out of the money accruing from the setting of the common’s grazing.

This must have been a thankless job, because on 9 May 1715 the corporation were again looking for a serjeant of the commons. At that point the whole matter disappears from the records, so it is not known if the corporation obtained its serjeant.

The corporation had also a serjeant at mace. Again, we are not told his precise function, nor, despite a number of appointees being named over a span of 50 years, do we learn what the salary was.

Chief Rent

From the 13th century onwards the archbishop of Cashel held title as overlord to the lands and town of Fethard. In consequence, he was due a chief rent. This rent continued to be paid down even to the middle decades of the 19th century. The corporation minutes for the first half of the 18th century contain an occasional reference to this rent.

They open with the note that the portrieve, the corporation’s officer responsible for collecting the rent, had not made payment to the archbishop of the day. The minute went on to record that should this be not immediately done the consequences would be prejudicial to the corporation. What these would have been we are not told. For the first decade of the century the corporation appears to have been behind in the payment, so finally it was ordained that any portrieve who did not settle his affairs immediately should be proceeded against.

By 1720 the chief rent was being collected by a bailiff, and seems to have been done so in kind.



On 7 October 1720 we read that one Henry Shephard was assaulted while collecting the chief rent and had a bundle of "Cloth Shirt" removed from him.

From an earlier minute of 1717 it would appear that the archbishop was entitled to a chief rent from the customs collected from the various fairs held in Fethard. The same minute noted that this payment should be promptly made to the archbishop.

The corporation books at no time indicate what the overall total of the chief rent was, how it was computed or, indeed, what the outstanding arrears were at the beginning of the century. Following the 1720 minute the chief rent is no longer mentioned in the corporation books.

The corporation occasionally interested itself in the physical development of the town. We read in an entry for 15 October 1711 that "John Nugent was ordered to remove a wall which he lately built without authority of the corporation as it reflected on the building adjacent to it. Otherwise it shall be in the power of the corporation to remove it".

Elsewhere, other controls and permissions ranged over the building of cabins, the intrusion on corporation land and the erecting of walls. On 20 May 1723 a Mr. John Shea was ordered to remove his new forge from the site where he had built it. It was considered to be too close to a number of thatched cabins. Should Mr. Shea not do so a penalty of 10/- (50p) was to be imposed upon him.

From then onwards the records contain nothing further on such checks and controls. There is no way of knowing if the development and planning of the town continued to exercise the minds of its corporate members.

Market House and Court House

Throughout the corporation books can be read here and there the saga of the court house and the market house. The earliest minute would suggest that these were separate buildings with both in use. Both were structurally bad and, despite fairly regular attention from the D'Oyer jury, they continued so.

In 1708 30/- (£1.50) was laid out for repairing the floor of the courthouse; and so it was to continue for the next 40 years, with presentment after presentment ordering this or that repair to be carried out. Despite the ordinances from the D'Oyer jury, and money being laid aside, it would seem that the repairs were not taken in hand.

By 1712 the market house was judged to be beyond repair and fit only to be pulled down. A suggestion was made that a new one should be built in its place. This should be 14 feet in breadth and 25 feet in length, with its walls 10 feet high. It was to have arches and a loft with three beams and joists. The roof was to have three pairs of principal couples with good rafters, and the loft to be floored with deal. There was no mention of costs, or where the money was to be got.

Like the courthouse nothing was done, because in 1738 the D'Oyer jury directed that "a market house be built or repaired for the use of the town out of revenue and profits of the corporation".

The final entry relating to both the market house and the court house is that of 10 November, 1747. It reads:

Whereas we find that a market house is very necessary and much wanting in said Town and that the Court house of said Town is very much out of repair we therefore Present that the Sovereign do cause the underpart of said Court house to be converted into a market house and the upper part thereof be immediately repaired at the expense of the said Corporation and that the sovereign for the time



being and Laurence Clutterbuck be overseer of the same.

This directive must have been carried into effect, because we have today in Fethard a tholsel house with above it a large room that was once a court house.

The Bridges

Today Fethard still has two bridges spanning the river Clashawley to the south of the town, both with an antique appearance. The corporation minutes give the names of both: Watergate bridge and Madam's bridge. The latter is on the west end of Fethard on the road leading to Clonmel.

The D'Oyer court in October 1707 presented that Madam's bridge was out of repair and ought to be immediatly put in order. It was still not repaired in either 1708 or 1709. On 18 May, 1713 the jury ordered that 10^s (50p) was to be paid for its repair, suggesting that over the preceding years the bridge was being neglected. It was again in need of minor repair in 1716 and in 1718, but disappeared from the records for the next 30 years.

The D'Oyer court came back to the subject on 20 January 1742. "We find and present that the Bridge called Madams Bridge within the said Corporation is greatly out of repair and that seven perches of pavement in length and three yards and half in breadth which at the rate of two pence (1p) a yard amounting to the sum of one pound three shillings and fourpence (£1.17) which we lay in on this Corporation for the repair of the same". We are not informed as to the outcome of this decision.

The D'Oyer jury at their Easter meeting of 23 April 1722 presented "that the Bridge of Fethard near Water Gate leading from this town to Clonmel is very much out of repair and that no less than three Pounds ten Shillings (£3.50) will repair the Same which is laid in already in the Town". This must have been attended to, because there is no further mention of it but since it led from the town to the high road to Clonmel, it would have to be kept open and in good repair.

The walls around the town may have served the purpose of defence up even to the Williamite campaign in 1690, but from the beginning of the new century they would have no longer such a relevance. As late as 1745 Clonmel ordered that "In consequence of the rebellion of the Popish Pretender that there be immediatly an inspection made into all the walls, castles, gates and fortifications of this town".

In Fethard, it seems that from the early decades of the 18th century breaches were made in the walls. This is borne out by a minute of 6 May 1717. On that date the D'Oyer jury ordered that all persons who made doors in the walls had to pay an "acknowledgement of four pence (2p) each year to the corporation". Fortunately, despite such developments, the outlines of the walls continued to exist down to the present day.

Roads and Streets

All households in Thomastown in the early 18th century were ordered to pave the street before their houses to a width of three yards.¹⁰ In Fethard too the D'Oyer jury gave much of its attention and its presentments to the condition of the streets and roads about the town. Despite a stream of directives, it can be seen that the jury had difficulty in having its orders carried to a successful conclusion.

Heaps of stones left lying about on the streets were one of the problems tackled by the D'Oyer jury. The earliest presentment notes that all loose stones were to be removed from about the streets and this should be done by labourers — "and allowances to be made (to) such



Labourers in the Six days they are obliged to give by Statute”. This was on 18 May 1713. In the following year the problem was still being noted, and particularly in “the Moor”, now Burke St. The jury directed that a fine of 10/- (50p) be levied on all who failed to remove such heaps.

The throwing up of ditches, or water channels, was another of the problems to which the jury addressed itself. At a meeting of 18 May 1713 one William Mahony was recorded as having thrown up ditches in the street that ran westwards from the Half Gate. He was directed to have such ditches filled in before 1 August or in default to pay a fine of 20/- (£1).

From an entry of 1708 it appears that the sovereign was spending £3 annually on the upkeep and repair of the streets. Yet when the jury sat on 4 May 1724, they proclaimed that “the streets of the Town is very much out of Repair. We present that the Street Leading from the Wickett Gate to the old Gate Joining to the Abbey wall to be Repaired and the street from Piers Gate to the Garden be Repaired and from Piers Mootens forge down to the water Gate be done by the Statute of Labourer within the town”.

These same streets had been presented the previous year as being in want of repair. Perhaps because streets were considered to be within the control of each citizen rather than the function of the corporation to keep in repair, there is little reference to them. Their surface may have been allowed to deteriorate, despite the Statute of Labourers which gave a free pool of labour to the corporation.

The roadways leading out of the town also came under the notice of the jury on various occasions. The earliest presentment was dated 17 May 1708. This recorded that the roads requiring renovation were those from Templemartin to Clonmel, the road leading to Cashel and that out of Saucetown. On the following year it was the road from Watergate to the Common Hill. But in 1710 and 1713 most of those roads were still being presented as being out of repair.



*Fethard – Sparagoleith, or Half Gate; the only surviving town gate.
Photo by Kitty O'Donnell.*



At the meeting of 27 October 1712 an individual was cited as having so broken up the road leading to Crompt's Bridge that it was no longer safe for carriages or passengers. The jury requested that it be restored before the coming fair. When they met on 9 May 1715, the jury made a presentment concerning an ancient road which ran from Piers gate to the Wickett gate. This had been stopped up. The jury ordered its immediate opening and that those responsible for its closure should be so notified.

The cleaning of ditches on both sides of the roadway was also from time to time presented. In 1711 John Kelly was directed to clean his ditches at Templemartin. In 1715 the lane at Kilnockin, the lane from Gortnabouly to Clonmel and the "Togher leading to Fryars Mill" were listed as being in the need of having their ditches cleaned.

The Statute of Labourers was invoked at the Easter D'Oyer court held on 7 May 1716, when the jury pointed out that the "High road leading from Fethard to Kilnockane on the lands of Gortlogh within the Libertys of this town" should be repaired by means of that system. This stretch of road continued to be a problem for some years, and in 1721 it was noted as being in a dangerous condition. It was still being presented when the last entry on roadways, dated 20 May 1723, appears on the condition of the roads.

A somewhat different problem claimed the attention of the jury when they met on 13 April, 1719. "There are some Pitts and Holes made by several People on the High Road leading from Fethard to Saucetown to the great Prejudice of many who has occasion to make use of the said Road we therefore present that those that opened and made the said Pitts shall forthwith stop the said Pitts and that Nicholas Flyng and James Kearny and Loghlin Meagher shall inform against those that made said Holes and Pitts".

Another entry of 29 September 1716 demonstrates that more than blocked ditches and holes on the high road came to occupy the attentions of the D'Oyer jury. "The Lane called Borreenishy going Between Monclegg and Thos Scanlans Garden is made up for a by way for Rouges and Thieves and thereby as a Nuisance to the said Town. The same to be taken by Edmund Everard, Miller, who is to make up the Passage with a Stone Wall and to pay twelve pence (5p) sterling per annum, a Lease to be granted to him of one and thirty Years to commence from the 1st November, 1716".

This last entry on roads and streets illustrates the frustrations and troubles that faced each D'Oyer jury at their twice yearly sittings. It may well have been the desire of the jury to keep the town in some order; but the reality was very different. On 18 October 1714 they presented that water from the mill street at Blanchmill flowed on to the public road especially during times of heavy rain. It was their opinion that this was caused by a gap in the mill dam, and that the amount of water on the roadway made it extremely dangerous to travellers.

In their efforts to have the dam repaired and the road cleared, the jury spent nine years making presentments. While the records do not tell how the affair finally ended, they demonstrate that the jury had little effective power when it came to dealing with individuals such as the owner of Blanchmill dam.

Street Conditions

In all 18th century Irish towns the streets were used as open sewers. Indeed, for many they would have been the only available sewer. Consequently, most corporations made efforts to have them kept clean. For example, in Kinsale the citizens were expected to keep the street before their houses clean, or be liable for a fine of 40s (£2).¹¹

In Fethard, the D'Oyer court also applied itself to this task. By an order issued in October, 1707 all "House Keepers of this Corporation shall every Saturday clean the streets before their



Door on the forfeiture of twelve pence (5p) a piece. The owners of a dung heap at Piers gate were to remove it immediately or suffer a fine of 6s.6d. (32½p) each. A year later the D'Oyer jury required that all dunghills about the town be removed, because they were a hindrance to passengers and roaming pigs were rooting among them.

In nearby Clonmel the situation was somewhat different. There the corporation kept the open sewer in the middle of the street clean, while householders swept only at their discretion before their doors.¹² At the beginning of the 18th century in Thomastown a fine of 1/- (5p) was exacted from anyone keeping a dunghill before his house.¹³

In Fethard the D'Oyer jury continued to issue presentments in an effort to keep the streets clean. On 9 October 1710 all householders were again requested to clean before their doors. This time the fine for not doing it was set at 6d. (2½p). The Bellman was requested on 27 October 1712 to notify all who did not clean their portion of street, and on 28 October, 1715, the citizens were noted as being still neglectful of their duty. On this latter date the householders were also directed to remove all dunghills or pay a fine of 2s.6d. (12½p). On 7 May 1716 matters had reached such a point that the jury named all those who still had dunghills before their doors. If they were not taken away the owners were to be made pay a fine of 6/- (30p). Presentment after presentment continued to be issued, but in 1718 the fine had dropped to 5/- (25p).

On 9 November 1719 the jury made a presentment against "Nicholas Flyng for making a Sink from the upper part of Castle wherein he now Dwells the same to be a great Nuisance to the Street as also for the Heap of Rubbish which lay before the said Castle in the Street". Others too were named in the same presentment as having heaps of dung on the streets before their doors. Similar presentments continued to be made to 1724, when the problem disappeared from the record books.

Fethard was not unique in having such problems. Clonmel also had them: "... the Inhabitants of Clonmel labour under great Evills and Inconveniences not only from the filth, suds and Excrements frequently thrown into the streets of this town by leasy and nasty persons, and by Inhabitants frequently neglecting to sweep before their doors"¹⁴

Accordingly, there is ample evidence to prove that Fethard's corporation made numerous efforts to keep the streets clean and free of nuisances. Time and time again the citizens were directed to carry out the weekly Saturday cleaning of the street before their doors. Fines were levied and names publicly recorded to hold them to their civic duty. Despite this, it seems that the inhabitants continued to pile rubbish and dung before their doors all through the 18th century.

Crime Prevention

The early minutes infer that Fethard was deficient in both stocks and a whipping post. Both of these were in the 18th century the first line of defence in the flight against crime. In 1720, Thomastown, County Kilkenny, corporation raised £5.10s (£5.50) to "erect and build a payr of stocks and whipping post for the use of the said corporation".¹⁵

At a meeting of 17 May 1708 in Fethard, it was the petition of the D'Oyer jury that stocks and a whipping post should be provided from the surplus money accruing from the grazing of the common land. Whatever about the whipping post, the jury of 1709 again noted that Fethard had not yet acquired a pair of stocks. Finally, on 10 October 1720, the jury ordered the paying of 4s.3d. (21½p) for the making of the stocks, and appointed one William Power to see that the work was taken in hand.

By now the town must have got its stocks, because the question of repairing the stocks came



up in 1721. On this occasion the jury noted that 10/- (50p) would be required for their renovation and that it should be collected from among the inhabitants. After this the preventive measures must have been effective, because no further mention of stocks or whipping posts can be found.

All references to crime disappeared also from the minute books from the early 1720s onwards. Before this the records contained many references, although it seems hardly likely that stocks and a whipping post would have eliminated crime from the town.

The nature of the crimes can be illustrated by a few quotations. Joan Hackett, widow, assaulted Mary Lahiffe on 27 December 1709; Maurice Connell committed assault and battery on Thomas Grady; Margaret Keating beat up Mary Nugent; John Brown, weaver, assaulted John Bulfin; Thomas Carroll of Sladagh committed battery on Catherine Holland.

The assaulting of a bailiff, which became so common later on, can be seen in the case of one Morris a brogue maker. He assaulted Henry Shephard and rescued from him a bundle of "Cloth Shirt" that was being collected as payment for the chief rent due to the archbishop of Cashel. This took place on 7 October 1720.

All this would suggest that Fethard in this period did not suffer from serious crime. The truth is, however, that the D'Oyer court was competent to deal with petty offences only, and so would not have recorded the more serious occurrences.

Fire

In a small walled town, where roofs were of thatch and the fire-fighting equipment of the most primitive sort, words can hardly describe the terrors that fire held for the citizens. To fight it the equipment would have been most basic; buckets of water and a pike-like implement for pulling down the burning thatch. By 1765 Clonmel had a fire engine of sorts: "ordered that four pounds (£4) be allowed to the person that shall attend the fire engine belonging to the corporation".¹⁶

In Fethard in the first half of the 18th century efforts to prevent fire were to occupy much of the corporation's time. On 6 May 1717 a presentment was made requiring all stacks of furze left lying about the streets be removed. Being dry, they were a major fire hazard. The presentment went on the decree that in future a fine of 2s.6d (12½p) was to be imposed on all who left such stacks lying about the streets. This furze, collected from the hills about, would have been tied in bundles and made into stacks or ricks to be used for firewood in the winter-time.¹⁷

Forges, on their nature, were also a worry to the D'Oyer jury. At a meeting in May, 1723, the jury recorded that John Shea's forge was in a bad state of repair and a danger to the nearby thatched houses. He was ordered to have it repaired or, in default, to pay a fine of 10/- (50p).

Broken and cracked chimneys constitute another of the corporation's problems. Efforts by various D'Oyer juries to keep them in some repair are recorded throughout the minute books. The books open with an order to Cisly Wall and John Bulfin to put their chimneys into repair and were given two months to do so, or failing that pay a fine of 5/- (25p).

At each sitting of the D'Oyer jury over the next few years chimneys were to continue to demand attention. On each occasion up to twenty persons were to be cited as having their chimneys in bad repair, until at the meeting of 3 November 1713:

We find and Present that Notwithstanding the Several Presentments made heretofore of the Chimneys out of Repair in the Town and Whereas there is no care taken to put the said Chimneys in Repair for the Safety of the said Town, we do Confirm the said Several Presentments made to that Purpose and further



present that unless the persons who live in the said House shall before the 1st day of March Build or Repair their Chimneys in the said Houses shall be fined 10s. (50p) sterling to be levied by distress or at Lease the money so Collected to be disposed of at the Sovereign's Pleasure.

The presentments still continued despite the hazards that broken chimneys represented. By 1718 56 persons were being listed by name as having their chimneys out of repair. That year the D'Oyer jury decided that the sovereign should execute fines against all of them. However, in the following years, the presentments continued, but not in the records; these were the same names year after year.

The sovereign, according to the directive of 1718, must have collected the fines, because on 20 May 1723 the minutes note that several very dangerous fire-places within the corporation were still not repaired despite the many fines imposed. The next year the town was "in Great Danger for want of repairing" the chimneys. The last entry on this subject appeared on 19 October 1724 when the D'Oyer jury presented that a number of house chimneys were still not being repaired. It is unlikely that the problem disappeared in this year.

Stacks of turf and scallops were also seen as a cause of fire. On 23 April 1722 an order was issued that these were to be liable to a custom duty. Despite the fire risks, this tax must have been burdensome to the citizens. Another presentment declared that the baking ovens belonging to James Grady and Maurice Scanlan were dangerous for want of chimneys. These were to be built by 8 June 1715, or the two bakers, should they fail to do so, were to be fined.

In 1721 the D'Oyer jury were of the opinion that provision should be made for dealing with fires within the town. The corporation were therefore requested to purchase four poles and iron hooks, and two persons, Henry Fountain and Patrick Bray, were ordered to see that the work was properly carried out. These new acquisitions cost £1.2s. (£1.10), and an order of 21 November, 1721 was entered in the minutes desiring that the amount be paid.

The Watch

Probably more because of the political uncertainty of the times than through any desire to protect the welfare of its citizens, the town of Fethard kept a watch. Although we are not told what duties they performed, it seems likely that their job was to keep watch on the walls to alert the town against external attack rather than to protect the inhabitants and their property from violence from within.

Practically every year between 1707 (when existing records begin) and 1724, the D'Oyer jury made reference to the need to have the watch kept and supervised. For this purpose the constables were appointed, and in 1708 they were ordered to check each night on the watch at nine o'clock and again at three o'clock.

In 1714 a penalty of 2s.8d. (13p) was levied on any person who did not attend to his duty on the watch; on the following year this stood at 2s.6d. (12½p). By now the constables were ordered to be extra vigilant; in 1715 the Old Pretender had led a Jacobite revolt in Scotland. By 1721 the political turbulence had eased, so we read that "in case of bad weather or storm (the watch was) to have access to the room where the crane stands".

As in Clonmel where in 1724, wandering beggars were noted as a source of annoyance, Fethard had its complement of beggars. The corporation made efforts to reduce the numbers. In 1723 the jury were disturbed by the "several strange Mumpers and Beggars" living about the town; numbers of people who implored alms. These were a source of concern to the corporation because they paid neither taxes nor rents, and kept unringed pigs.



By the following year this problem appears to have been getting beyond endurance. The D'Oyer court recorded that:

Whereas it appears unto us that it has been a Practice in the Town of Fethard of persons Entertaining of Whores with Child and Beggars coming from all Parts of the Kingdom. We therefore present that every person who entertain or set any House, Room or Ground to Build a House on to any common Whore or Strange Beggar that every person so letting or entertaining after Public Notice been given by the sovereign of the said town that for persons so offending shall forfeit the sum of ten shillings (50p); four shillings (20p) to the poor, four shillings (20p) to the informer and two shillings (10p) to the constables for levying the said fines.

This directive was the last on the subject to appear in the minute books.

By the mid-century the corporation had begun to provide for their fundamental needs, food and drink. On 20 January, 1743 the D'Oyer jury presented that "the sum of Sixteen pounds sixteen shillings and three pence (£16.81½) was due to Mr. Stephen Hackett, Innholder, for public entertainments to the corporation". In 1751 the same man, for the same reasons, was due "Ten pounds, one shilling and sixpence" (£10.07½).

Another group in Fethard which came under notice were the malsters. In 1718 they were ordered to pay 1d. (½p) toll, or custom, for every barrel of malt sold from their "several malt houses". Should they refuse to do so, they were to be deprived of the use of the corporation's barrel or measure.

All or some refused to do so, and consequently, on 9 November 1719, an order was enacted that all those refusing to comply were to be fined 10s. (50p) a half-year for every year they continued to malt without paying their dues. The 10s. (50p) was to be "recovered by distress or otherwise".

By 1737 malsters who enjoyed the freedom of the corporation had still to pay yearly one barrel of malt. Those who were not free were ordered to pay "one shilling (5p) each by the year for using their trade within the said town".

Butchers

At the start of the 18th century the corporation of Kinsale decreed that butchers were not to kill animals within the walls of the town. The fine for doing so was 40s. (£2) for each offence. We are not told if the town had a shambles, or butchering yard.¹⁸

Fethard, however, did have a shambles for its butchers from 1717 onwards. In Clonmel at the same period the butchers were directed to use the shambles at a rent of 17s.4d. (87p) for each stall, and the meat was to be "dressed in such a manner as the law directs". There is no reference in the Fethard records to any such levy being imposed.¹⁹

There is, however, reference to "great abuses being done by the Butchers of this Town (i.e. Fethard) in their Dressing of Meat in Stripping of Kidneys and suet from the said Meat". This problem was to be presented in 1714, 1715 and 1722. These are the only corporation references to butchers and butchering within the liberty of Fethard that are to be found in the minute books.

Pigs wandering unringed around the town came also to the notice of the D'Oyer jury. In 1710 it was ordered that any person who had pigs straying within the liberty was to be fined 6d. (2½p). In the following year the beadle was requested to have all pigs ringed to stop them rooting. In this entry those citizens who had pigs unringed were named.



The problem of unringed pigs disappeared from the corporation minutes for a few years, but in 1718 it once more reared its ugly snout. By now the problem must have become more serious, because the beadle was ordered to not alone impound all wandering pigs but to kill any captured.

Two years later the jury again requested the beadle to impound any pigs found roaming. On this occasion there was no mention of killing them. Instead, they had to be redeemed from the local pound at a cost of 12d. (5p) a pig. In Thomastown in the 1720's a similar system prevailed and the fine also stood at 12d.²⁰

By the mid-1720's the problem of wandering pigs rooting in Fethard had disappeared from the corporation minutes.

Among the many matters scattered throughout the records is a reference to the quartering of soldiers on the inhabitants of Fethard. The reference has a date, 20 February 1720, and deals with the quartering of dragoons. In payment the corporation decided that £7 should be laid out among the several inhabitants involved, and the method of distribution was to be left to the discretion of the sovereign.

There is no explanation given to account for quartering at that particular time. It may well have been the result of a bitterly contested parliamentary election which had taken place in the town in the previous year.

This is the only reference to the quartering of troops. It may well be that it was noted only because the troops were invited to the town by the corporation and so the latter would have been liable to reimburse the citizens. It is possible that troops were often quartered on the inhabitants without any compensation being offered.

The Michaelmas D'Oyer meeting on 29 September 1717 presented that all the inhabitants living within the liberty of Fethard should be obliged to do "Suit and Service" at all the courts held by the corporation, no excuse was to be accepted. Throughout the 130 years of extant records this is the only time such obligations were placed on the citizens.



BIBLIOGRAPHY

Because the minutes of each meeting of the corporation or D'Oyer jury carried a date at its head, it has been decided not to burden the text with a plethora of references to either MS. 5858 or MS. 5859, the Fethard Corporation Minutes.

Since the originals are in the National Library of Ireland any reference may be checked by using the date quoted.

1. W.G. Skehan, 'Extracts from the Minutes of the Corporation of Fethard, Co. Tipperary', *Ir. Genealogist*, iv. (1969), 82. (Hereafter Skehan).
2. Thomas Laffan, 'Fethard, County Tipperary: its Charters and Corporation Records, with some Notice of the Fethard Everards', *JRSAI*, xxxvi (1906), 151. (Hereafter Laffan).
3. N.L.I. MS 5859, Introduction.
4. Municipal corporation report, H.C., 1835, 37/38 at Fethard; Laffan, 149/150
5. W.J. Pilsworth, 'Thomastown Corporation', *Old Kilkenny Review*, No. 4 (1951), 41. (Hereafter Pilsworth).
6. Skehan, 91.
7. Journal of the House of Commons, (Dublin, 1796), xiii, 537/39
8. MacLysaght, E.; 'The manuscripts of the Old Corporation of Kinsale', *Analecta Hibernica*, No. 15 (1944), 181. (Hereafter MacLysaght)
9. Ibid.
10. Pilsworth, 42
11. MacLysaght, 181
12. W.P. Burke, *History of Clonmel* (1983 reprint, 121)
13. Pilsworth, 42
14. Burke, 122
15. Pilsworth, 41
16. Burke, 123
17. A.T. Lucas, *Furze*, (Dublin, 1960), 41 — 64
18. MacLysaght, 181
19. Burke, 122 — 23
20. Pilsworth, 42.

