

'ALL IRELAND SOURCES' NEWSLETTER

A Monthly Newsletter: Editor: Terry Eakin, 334 Burns Bay Road, LANE COVE, NSW 2066

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Introduction: '*All Ireland Sources*' is a monthly newsletter distributed free by E-mail to Family History Societies and interested researchers near the end of each month. Distribution by Australia Post each three months (three issues) costs \$6.00 annually within Australia. The aim is to bring items of interest regarding Irish record sources to the Australian genealogist. The editor would appreciate being made aware of records relating to the Irish, particularly those held in Australia or new in the LDS Family History Library. Back copies are available free for downloading from www.sag.org.au

LAND RECORDS IN IRELAND:

Encumbered Estates: What is an encumbered estate in Ireland and are there any records? This was a question posed by a family historian at a recent workshop. I'll do my best to answer this here but I may cover other developments as well of a similar nature. High poor law rates and reduced rental income during the famine pushed many landowners into insolvency. The Government of the United Kingdom of Great Britain and Ireland brought in the Encumbered Estates Acts of 1848 and 1849. This was designed to solve the problem of insolvent indebtedness by facilitating the sale of encumbered estates, discharging the debts and providing the purchasers with a clean title.

Normally this would have been the responsibility of the Chancery Court but that Court had been unable to meet the problems of large scale indebtedness increased by the famine. The government planned for the new legislation to solve the insolvency of landed estates and to boost Irish agriculture with money from Britain. The 1849 Act repealed the 1848 Act and improved title by resolving disputation over titles, creating the encumbered estates court presided over by three commissioners or judges to process the sales.

This legislation stated that where any land or lease of land was subject to encumbrances the value of which exceeded half the net annual rental, any creditor on such land or lease could apply to the commissioners for the sale of the land or lease and so discharge the encumbrances thereon. All the holders of encumbrances, except the person who applied for the sale, could bid for the property and the successful purchaser (bidder) would be given a clear title to the property by the court. With the permission of the court, even the debtor who applied for the sale could be permitted to bid for the property.

The judges were given wide powers under the legislation and could arrange exchanges and subdivisions, even if lands were not subject to be sold under the Act, if this would facilitate the sale of the encumbered property. They were also empowered to sell lands included in different applications in the same sale. The Act did not provide that any of the purchase money should be used to compensate tenants who had carried out permanent and fixed improvements to the property. It simply allowed the replacement of one landlord with another landlord. Earlier the Devon Commission (1843) has recommended that tenants be compensated for permanent improvements to the property.

By 1859, over 3,000 estates (five million acres) had passed to new landlords, mostly Irish, and many of these new landlords soon commenced evicting tenants. In 1858, the Encumbered Estates Court was superseded by the Landed Estates Court. In 1877, the Landed Estates Court was superseded by the Land Judges Court. The records of sales conducted under the encumbered estates acts can be found in the National Archives, 8 Bishop Street, Dublin. Advertisements for the sale of properties, known as estate rentals, contain much of interest to the genealogist and local historian including maps, description, contents, valuation, details of title and tenants' names, rents and tenure.

Court of Chancery: Chancery began in Ireland in the 13th century with the appointment of Ralph Neville, the English Lord Chancellor, to the Irish chancery in 1232. It functioned principally as the secretariat of the English administration, the department where important documents, writs and letters patent were prepared, sealed and enrolled but it also developed an equitable jurisdiction in disputes for

which no remedy lay at common law. The twofold division of chancery as a court of equity and secretariat was completed by the 16th century.

Chancery holds the distinction of being the only court for which original records survive, some bundles of 16th and 17th century pleadings and answers and books of recognisances having escaped destruction in the Public Record Office of Ireland fire in 1922. These, together with 19th century calendars of chancery bills and decrees, are held in the National Archives of Ireland. Letters patent, the instrument by which the Crown conferred grants of land, leases, privileges and office, were required to pass the great seal which was in the custody of the Lord Chancellor, the chief executive of chancery. There were only two divisions in Irish chancery, the patent and the close rolls.

Even that distinction was discontinued and all were destroyed in the PROI in 1922. However calendars of the patent rolls, prepared for the Irish Record Commission (1810-1830) by James Morrin and John Erck. The National Archives of Ireland also holds John Lodge's transcripts of the patent rolls which contain material not included in the calendars.

Landed Estates Court: The Landed Estates Court was introduced in 1858 as successor to the Encumbered Estates Court which had been established to facilitate the sale of insolvent estates. Unencumbered as well as encumbered estates could be sold in the Landed Estates Court. The court rentals, brochures issued for the information of prospective buyers, provide details of the estate for sale, the names of occupying tenants, rents paid and the rents and conditions of tenure. The records of the landed estates court are held in the National Archives of Ireland.

Landlord and Tenant Act (1870): This was an attempt to improve the plight of tenants by legalising the Ulster tenant-right wherever it existed and provided for compensation for improvements made by the tenant and for disturbance on a tenant's giving up the land. Tenants, however, wanted security of tenure rather than compensation after eviction. Unscrupulous landlords increased rents, forced tenants into arrears and then claimed the arrears against any improvements. Shortage of land provided a surplus of prospective tenants willing to rent at the increased rents. Tenants who sub-let without permission from their landlords or his agent were prohibited from seeking compensation.

Compensation was based on the value of the tenant's interest, not on the rent paid. If tenants went to court, the best outcome was monetary compensation but whether they won or lost in the court, they were compelled to surrender the land. The tenants were in a no win situation.

Land Law (Ireland) Act (1881): This act gave statutory recognition to the claim for fair rent, free sale and fixed tenure. In doing so it recognised the principle of dual ownership of land. The Irish Land Commission, a legal tribunal, was established to arbitrate a fair rent between the landlord and the tenant which became legally binding for a period of 15 years and the free sale of their interest in their holding was conceded, subject to the landlord's entitlement to first call as purchaser. Initially the act was a success, about 75% of eligible tenants took advantage of its provisions, resulting in rents being reduced by about 20%.

Excluded from the provisions of the act were a large number of tenants who held an acre or more, about 150,000 leaseholders and a further 130,000 tenants in rent arrears. The former group had their rents fixed by the Land Law Act (1887). The Land Commission assumed the land purchase functions previously carried out by the Board of Works under the 1870 Landlord and Tenant Act. The proportion advanced was increased from two thirds to three quarters and the deposit required was reduced from one third to one quarter but the term of 35 years at 5% interest remained unchanged.

The Land Commission was also authorised to purchase entire estates and to then sell off portions to the tenants. The use of the scheme was limited as the conditions of sale remained the means of the majority of tenants. There were many similar changes in the law and variations to the land laws over the next twenty years or more, each time trying to help tenants. There was a belief that the wholesale transfer of land from landlords to tenants would help resolve unrest in Ireland and create peace and stability.

The Land League: The Land League, founded in 1879 by Michael Davitt, aimed to secure rent reductions and the right of tenants to purchase the freehold of their holdings. The boycott and non-payment of rent were the main tactics used for land reform. The Land Law Act (1881) and the Land Law (Ireland) Act (1887) and Purchase of Land (Ireland) Act (1891) were designed to quell the unrest and agitation and to resolve the situation by making it easier for tenants to purchase their leased holdings from their landlords. The Land League only existed for three years but achieved some of its aims in that time and got the Government setting an agenda for reform to stop the Land War which was sweeping the country.

Land Leaguers sought to force the government to introduce laws to facilitate small farmer ownership. An outbreak of famine at the time, falling prices for produce and an increase in evictions fuelled the unrest which resulted in agrarian outrages and assassinations. The Arrears of Rent Act (1882) included retrospective rent reductions and later changes in 1887 extended this rent reduction process to include many more tenants with holdings greater than an acre.

An agreement between Gladstone and Parnell in early 1882, known as the Kilmainham Treaty, ended the Land War. Parnell had been jailed in 1881 for sedition and from the prison, he issued a “No Rent” policy which highlighted the problem of rent arrears faced by numerous tenants throughout Ireland. Parnell was free on parole when the treaty was negotiated and he agreed to withdraw his ‘no rent’ policy and to stop agrarian unrest and the government agreed to legislate for rent relief for tenants. The Arrears of Rent Act (1882) resulted and gave relief to 130,000 tenants with retrospective reductions in their rents averaging about 20%.

The Devon Commission: An overview of land would not be complete without a brief mention of the Devon Commission. This was a royal commission of enquiry in the state of law and practice in relation to occupation of land in Ireland. It was prompted by William Shannon Crawford’s unsuccessful bid in 1835 to introduce legislation to compensate evicted tenants for improvements they had made. Robert Peel established the commission to inquire into the occupation of land in Ireland.

As the commissioners consisted of Irish landlords they were unlikely to make any radical changes in the system of tenure but they did confirm the benefits of tenant right in those areas where it prevailed. They recommended the introduction of a bill to give tenants compensation for improvements but it was defeated in parliament when introduced by Stanley in 1845. The establishment of the Devon Commission was the first time that the Irish landed system as a whole was subject to reform.

Its report is extremely valuable to local and family historians as it contains detailed interrogations of landlords and farmers on conditions in their locality throughout all 32 counties of Ireland. Witnesses from all locations, including absentee landlords, gave evidence. Volume XXII, from page 385, has an index of witnesses with surname, given name, occupation, witness number to evidence and address where witness resided. The Devon Report can be found under ‘British House of Commons Sessional Papers (1845), Volumes XIX, XX, XXI and XXII [19, 20, 21 and 22] and give a good description of pre-famine Ireland in its 4,500 pages. These are available in libraries throughout Australia. The Macquarie University library, Western Sydney has a full set of all the British Parliamentary Papers.

Further references:

Historical Manuscripts Commission Archives Register	www.hmc.gov.uk
National Archives of Ireland	www.nationalarchives.ie
National Library of Ireland	www.nli.ie
Public Record Office of Northern Ireland	www.proni.gov.uk
Registry of Deeds	www.landregistry.ie
Valuation Office	www.valoff.ie

Private Estate Records: Private estate archives are major sources of genealogical information. In general the best sequence in which to consult the different types of estate records for genealogical searching is:

- (i) Rent Rolls: Which normally list the tenants, townland by townland;

- (ii) Leases: Which give the tenant's name, and probably those of some of his children, with their ages, if it should be what is known as a 'lease for lives'. These were common in the eighteenth century because if landlords granted tenants leases for lives they qualified as freeholders and were entitled to vote and this strengthened the political 'interest' of the landlord;
- (iii) Rent Ledgers: Showing how much and when each tenant paid his rent;
- (iv) Maps: Which are usually on a large scale of 6" = one mile and these plot tenants' holdings;
- (v) Wages Books: In which will be found the names of estate labourers, gardeners and household servants who may not appear as tenants;
- (vi) Land Agents' Note-books: Where sometimes a page is devoted to a tenant and his family, giving personal details of children and character or an observation that a tenant had 'gone to America';
- (vii) Land Agents' Letters: These are often detailed but being unindexed they are not easily and quickly searched.

These private estate records may be found in the National Archives of Ireland, the Public Record Office of Northern Ireland, some Irish county libraries and sometimes in England repositories. It is always worth checking to see if the archives have been filmed by the LDS FHL and are available in their network of libraries worldwide.

A quick look at Estate Records in the LDS FHL Catalog on CD ROM showed that the following were among the records available on microfilm:

- Draft sectional list of records of administration of landed estates counties Armagh, Fermanagh, Londonderry and Tyrone.
- Draft sectional list of pre-ordnance survey maps and plans, surveys and valuations counties Armagh, Fermanagh, Londonderry and Tyrone.
- Sale of estates, 1855 – 1945.
- Guide to landed estate records / Northern Ireland in the Public Record Office of Northern Ireland.
- Abercorn papers [a major estate in Ireland] James Hamilton, Duke of Abercorn 1811-1885. PRONI website has catalogues of introductions to some landed estate records of up to 30 or more A4 pages listing the types of records and papers available in their archives.

Irish Post Office History: I intended to do an introduction to the records of the Irish Post Office but have not been able to gather enough information here in Sydney. I will research this topic in 2006 during a visit to Dublin and the National Archives of Ireland. I had previously thought that all the records including employee lists were in England but I now am told that these records are held in the National Archives of Ireland in Dublin.

There was an article by Sean Magee about early Irish Post Office employees published in the journal of the Genealogical Society of Ireland, Volume 5, No. 1 which is available in the Society of Australian Genealogists overseas library, Rumsey Hall, 24 Kent Street, Sydney, 2000.

OTHERDAYS.COM DATABASES, ETC.:

www.otherdays.com This website which is excellent for printing valuation pages from Griffith's Valuation 1848-1864 appears to have had a hardware crash around 01 February 2005. The website is now restored and back on-line (02 March 2005) but I have had some difficulty logging in. Perhaps the records of the subscribers have been damaged and are in the process of being restored. I'll check this out before the April newsletter is printed.

Articles, suggestions and information for this newsletter are welcome and may be E-mailed to: teakin@chilli.net.au or posted to Terry Eakin, 334 Burns Bay Road, Lane Cove NSW AUSTRALIA 2066