

Dublin's Commons under Colonial Rule and the Exclusion of 'Foreigners'

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INTRODUCTION

My talk concerns suburban commons of Dublin – no longer in existence – but which were important to the life of the city in the Middle Ages and in the early modern period. Their management was somewhat unique in that they were subject to rules of a coloniser, and as such they illustrate one aspect of the history of colonisation in Ireland. I will present a summary account of Dublin's commons; discuss the nature of governance in Dublin following the Anglo- Norman conquest; and then examine the effects the mode of governance had on the use of the commons.

Colonization involves an attempt to transform a colonized culture by subjecting the population to the colonizer's notions of legality and citizenship and entirely displacing the indigenous culture. Ireland was subjected to classical colonial patterns of confiscation and plantation of lands, and systematic attempts to extirpate native law, language, religion and culture. The process was pursued for many centuries and ultimately failed, though it left behind a legacy of post - colonial consciousness.¹ (1)

There is a well-known 'poem' or doggerel directed at the enclosure of commons:

The law locks up the man or woman

Who steals a goose from off the common

But lets the greater villain loose

Who steals the common from the goose'

The key term is 'the common' which has been stolen, as the piece says by some villain –likely to be a wealthy landowner. The lines are thought to have been written in 1821 in opposition to an intended enclosure of an English forest – Waltham Wood

¹ An English account from the late 14th century states that there are three kinds of people in Ireland- 'wild Irish, our enemies, Irish rebels, and obedient English' in Fitzpatrick ,S.A.O.' *A Historical and Topographic Account of the City of Dublin* '(London, 1907), p. 43.

near Northampton in the East Midlands. The poem was apparently known in Ireland in the 17th century- the century of what are called the plantations – when the English government, following what was essentially the final wholesale conquest of Ireland, took possession of Irish – owned lands in the southwest province of Munster, and the northeast province of Ulster, and planted them with settlers from England and Scotland.(2) Oliver Rackham – the historian of woodlands- refers to customary common rights in the context of their dilution in the first English Commons Act – the Statute of Merton, dated 1235, as *‘remnants of a time before the Normans made land grabbing the sport of kings, courtiers and the church’*. (3) The determination of the English in regard to Ireland extended beyond sport. Its aim from at least the time of Henry V111 (1491 – 1547) was to anglicise and protestantize the country.

A United Irish pamphlet *‘The Poor Man’s Catechism’*, published in 1798, called for a return of the common land-*‘It is not possible that God can be pleased to see a whole nation depending on the caprice and pride of a small faction, who can deny the common property in the land to his people’*. (4) The return of land commenced in the latter part of the 19th century, particularly under a land act of 1881, which set out terms for the re-assignment of lands in what has been referred to as the magna carta of Irish tenants’ rights.

Dublin had a number of common lands or Greens located in the immediate suburbs of the medieval city walls. They were named in the Anglo - Norman town as Oxmanton Green, Abbey Green, Hoggen Green, the Steine, and St. Stephen’s Green. There were others, though the records on them are scant. The Greens may have been in existence from ‘time out of mind’ but they were certainly in existence from the period of the Vikings (8th to 11th century) and persisted until the late 18th century. All these commons have disappeared as a result of extensive or piecemeal appropriation, essentially acts of inclosure.² Minute remnants of Oxmanton Green and Abbey Green remain but they are not remotely recognisable as former commons. The perimeter lands of St. Stephen’s Green were developed in part for

² Inclosure is a legal term referring to the dispossession of common rights whereas enclosure refers to the physical act of creating field boundaries. As stated by Gommer, inclosure entailed the closing of land against all rights save those of the individual owner Gommer, E.C. K. *‘Common Land and Inclosure’* (London, 1912),p.43

residences in the 17th century, with c. 11 ha retained as centrally located Green space – now a very popular city centre park or square.

The substance of this talk concerns the manner in which the colonisers imposed rules on access to the commons that prevented what were termed by them ‘foreigners’ from such access. The Anglo- Normans choose to refer to native Irish people in Ireland as foreigners. Of course all common lands and rights were subject to regulatory control. As noted by Olwig, (5) *‘the commons would have been an area in which citizens of such institutions would have use- rights in the common land. These rights would be institutionalized through the common customary laws of the town and land- a different sort of institutionalization than that generated by statute and state bureaucracy. These rights would constitute an important practical and symbolic expression of one’s citizenship within the community circumscribed by the town. Rights in land as a material phenomenon gave rights in the land as a social phenomenon e.g. citizens’ rights in the country’*. Dublin’s commons were borough commons administered by the Municipality and therefore part of the town’s bureaucratic structure rather than being derived from customary traditions and practices, and they did give symbolic expression of citizenship but only to the English occupiers.

The Greens of Dublin

I will firstly give a summary overview of common rights and land in Dublin. Land law in Ireland was compiled chiefly from the Brehon Laws - statutes that governed the country from the early medieval period until the seventeenth century. The Brehon Laws demonstrated the existence of common lands and waste in Ireland prior to the Anglo - Normans. Under the laws the land belonged, in theory at least, to the basic political unit of early Irish society - túath or kin, and not to an individual. Ownership of commons or waste was vested in túatha, and each freeman of túath was entitled to a share of its use. A 10th century source- Immacallan in dá Thuarád- prophesied various disasters that will befall the country. These include over - population, and the extension of privately owned lands, with the implication that it is an offence against the community to encroach on communally held lands. (6) Unenclosed fields in

Ireland were associated with the communal farming system called Rundale-(similar to Scotland's Run rig) originating probably in the early medieval period. The essence of the system was that members of a community equalized their access to the different types of resources in their areas. Each member of the community held cultivable land as well as sharing access to commons on a proportional basis.

Vikings invaded Ireland from around 841 AD or possibly earlier, and remained for some 300 years. They were the first colonists though they did integrate and inter-marry with the Irish and many of them became known as Hiberno- Norse. By contrast the later colonists, the Anglo - Normans sought to resist such integration. They promulgated the Statutes of Kilkenny in 1367, recognising with alarm that the English settlers had become 'more Irish than the Irish themselves'.³ The Statutes were directed at re-asserting English culture among the settlers. The Statutes had very little impact –*'the efforts of civilisation to reclaim her errant brothers came however too late'*. (7) The Statutes did find their logical culmination in the Penal Code of the eighteenth century.

The Vikings initiated the establishment of Dublin as an urban centre, a process that was then advanced by the Anglo - Normans. Gaelic Ireland, with its emphasis on the culture of kinship and economic self-sufficiency, possessed no urban tradition. Early Christian monasteries such as the putative monastic settlement associated with Dublin - Dubhlinn - formed the nearest approximation to towns and functioned as central places of culture, market, education, and politics. Vikings established inter - country trading networks and in so doing brought about a gradual change to the Gaelic pastoral economy, with Dublin becoming one of the important trading posts on the Eastern seaboard. The Dane, Saxo Grammaticus, writing in the 12th century, said of Dublin that it was *'filled with the wealth of barbarians'*. One of the principal activities was the slave trade. (8)

The common lands may have been in use in pre - Norse Dublin but there is a complete absence of documentary evidence. There was a strong association between common lands, churches and monasteries. Thus St. Stephen's Green may

³ An 18th century appellation still in use refers to Anglo – Irish. They were the class of wealthy Irish Protestants whose lineage derived from English settlers.

have been associated with a church in the monastic settlement of Dubhlinn. An ecclesiastical connection was indicated by the presence of a cross on the Green.⁴ Oxmantown Green is directly associated with the Vikings. The settlement of Oxmantown was a sparsely populated area on the north side of the River Liffey and had been in existence from c. 10th century. An historian writing in the 17th century - Meredith Hammer - records that '*in anno 1095 there came Easterlings to the North side of Dublin adjoining the Liffey and seated themselves there so that of them to this day the place is called Ostonmontowne...*' (9) Easterlings referred to Vikings and the name of the settlement derives from Old Norse.

Vikings are also associated with the Stein /Hoggen commons. The Stein, a nose or spit of land on the River Liffey estuary, was their first landing stage and at some later date they marked it with a large commemorative stone called the Stein. The area was described as *cattle sprinkled pastures*. Hoggen Green (now College Green) was named from Old Norse - haugr- meaning sepulchre - a reference to its use as a Viking burial ground. There was also a mysterious 12 m high mound on the Green called Hogges which some have argued was the location for the Norse Thingmót- the place of legal assembly. It is likelier that the Thingmót site was slightly to the west of Hoggen Green immediately outside the town walls. The hogges was destroyed in the 17th c to make way for building development- a deed described by a commentator '*as that most flagrant act of vandalism in that improving age*'. (10) In addition to its historical value, it had been a popular elevated viewing point for the populace, affording extensive vistas across Dublin bay

Dublin was again colonised in 1171 following the Anglo Norman invasion. King Henry 11, with 400 knights and an army of 4000 men were the invaders. It is thought that they held their Christmas festivities in the Thingmót and it is written, perhaps surprisingly, '*Many of the Irish princes flocked thither to pay their duty to the king.... Not without admiration and applause by his magnificence, and when they saw the great abundance of vittels and the noble services, as also the eating of cranes, which they much lothed... but in the end, they being by the King's commandment set down,*

⁴ A cross is similarly associated with Abbey Green, and is shown on Dublin's earliest map – Speed's map of 1610.

did also there eat and drinke among them'. Henry distributed *'large slopes of land and huge territories'* to the grandees who attended. It was noted that there was an outbreak of dysentery of epidemic proportions among his soldiers arising from the consumption of unusual foods, possibly the cranes. (11)

With astounding arrogance - he had just arrived in Dublin - Henry made it known that *'he has granted to his men of Bristowa (Bristol) his city of Duvelina (Dublin) to be inhabited and held by them for him.'* Dublin was reduced to the status of a personal demesne of the king. English law and feudal tenures were introduced into Ireland. The king assumed *'paramount power'* and the assumption decreed that English kings were from that time onward deemed to be lords paramount of Ireland with the fee of soil vested in them.(12)

The Greens are mentioned in the event called *'Riding the Franchises'* whereby city dignitaries and guild members marked the boundaries of the town. The integrity of the boundaries was of overriding importance to the burgesses. It was the means *'to protect the rights and properties of the citizens against the usurpation of powerful neighbours –church and lay* (13). The 1192 charter is named *'the Charter concerning the bounds and franchises of the city of Dublin, and of the liberties granted thereto..'* and the Charter marks those lands *'as far as the boundary of the town that they may have their limits, as they were perambulated by the oaths of honest men of the city itself'*(14).⁵ While there is no explicit award of the commons to the citizens in the charters, as was the case for example in Scotland,(15) it may be inferred from the 1192 charter that such an award had been intended. *'And they shall have and possess all void grounds and places which are contained within the aforesaid boundaries'* (16) and a later entry stated *'that the men of the city and suburb shall have the freedom of the city in common pasture and all else'*. (17) The commons are encompassed in the riding of the franchises- and it can be assumed that they were therefore considered part of the lands vested in the municipality. A summary recitation describes a perambulation of 1488 whereby the mayoral party of dozens or even hundreds of mounted citizens set - out from the western gate Dam's gate-

⁵ Riding the Franchises became one the great shows of the city. It was intended to occur annually but very few took place until the 17th century and then many thousands took part and its fame was widespread. Barrow, L. *'Riding the Franchises'* DHR 33, no. 4 (1980), pp. 135 -138.

with great pomp heading for the coast *“the seid mayre and his bretherne toke their way, in the name of God, first, owte at the Dammys Gate, and so forthe by the Longe Stone of the Stayn....,”* and continued around the boundaries of the city at the time encompassing the Greens in the course of the journey(18).The common lands were located in each of the four suburbs of the town, and duly recorded for the first time; Stephen’s Green and St. Kevin’s common to the south; Hoggen Green and the Stein were to the east, and adjoining the town walls; Oxmantown Green and Abbey Green were on the north side of the River Liffey.

The Greens served a wide and important range of functions, ranging from the practical such as grazing to the celebratory- sports and festivities to the insalubrious – dung disposal being one example - in the course of their long existence in the city. They were thus a vital component of the town’s civic life. Hoggen Green retained its ceremonial status inherited from the Viking era and it was used, in addition to grazing, for formal celebration, the enactment of plays, archery, and bowling, It was the place of assembly were the lord deputy, the king’s representative in Ireland, was greeted by the mayor and aldermen of the city guided by a troop of horse and trumpeters. It was used by the scholars for taking the air when Trinity College was established. A contemporary map shows footpaths criss-crossing the Green. In 1540 the Green was characterised as a viridarium-*‘the chief pleasaunce of the town’*. (19) Oxmantown Green was similarly used by the local people of Oxmantown, and hosted games and mayday celebrations. It became the principal site of the city’s cattle market in the 16th century, and was also associated with hay making and quarrying. Abbey Green was attached to the large monastery of St. Mary’s Abbey and was used solely for grazing. Stephen’s Green was used for grazing in the summer- it was marshy land on the catchment basin of a small stream called the Stein - and for estovers⁶ in the winter as it supported vegetation such as willow and gorse. It in all likelihood functioned as social open space for the people living on the south side of the town.

Dublin’s growth was accompanied by attendant problems of disease, dirt and disorder. Mortality levels, even outside epidemic years, were generally high due to

⁶ The right to take underwood or small branches for fuel or for repairing fences or buildings.

those poor environmental conditions. The problems affected all medieval and early modern European towns. The conditions of the city had an impact not only on the streets but also on the commons. The most continuous day - to - day concern was the removal of refuse. In the 16th and 17th centuries the Greens had the unenviable role of being the city's official dumping sites for dung and refuse. On Hoggen Green this was referred to as '*the great holl of All Hallowe's*', and is the site currently occupied by Trinity College. (20)

Other somewhat unsavoury roles for the Greens included places of isolation, prisons, and gallows. A Lazaretto was established on the Stein in the 14th century, and St. Stephens's Hospital, associated with Stephen's Green was a leper hospital.⁷ Gallows were located near Stephen' Green, Oxmanton Green, and Abbey Green. Public hangings were well-publicised affairs and attracted huge numbers of people. .The affair involved a hanging procession to the gallows on one of the greens, with the condemned felons riding in a cart accompanied by their family, friends and supporters. (21)

The Corporation showed little interest in the Greens until at least the 16th century. Entries in the early volumes of the Calendar of Ancient Records of the City of Dublin⁸ note petitions principally for land leases on the commons. From the 16th century trespass became an issue of interest to the Corporation, as did the general management of the Greens.

Dublin in the early modern period underwent dramatic changes arising from population growth, and from the rise of new leisure activities and the imperative to address Dublin decaying physical fabric. The morphology of the city as it evolved was particularly influenced by the location of the commons, and of former monastic lands. They were in municipal ownership and could therefore be readily sold off. Dublin in the early 17th century, as shown on the first map of the city, Speed's map of 1610, was a small rectangular walled area roughly 1 Sq.km within which lay a mosaic

⁷ The Stein landing place was the point of embarkation of pilgrims to Santiago de Compostela to secure immunity from leprosy. A lazaretto was a 'quarantine hospital to assess if people were suffering from leprosy.

⁸ The Calendar of Ancient Records of Dublin is a record of the Royal carters, grants and proceedings of the Dublin City Assembly between 1447 and 1822 ed. By J .Gilbert and RM Gilbert in 19. Vols.

of narrow streets lined with tightly packed houses. One hundred and sixty years later a map by John Roque shows a greatly enlarged urban area and the disappearance of most of the medieval fabric. The population by 1680 was in excess of 50,000.⁹

The initial focus of development involved a vigorous colonization of the Greens. Hoggen Green was gradually occupied from the 16th century by prestigious dwellings owned by the wealthy and the aristocratic members of society. Trinity College Dublin was founded on the Green at the end of the 16th century '*for the planting of learning, the increasing of civility, and the establishment of true religion*'. (22) It was followed by Chichester House which subsequently became the site of the Irish House of Parliament. It had lost its Green connotation by the 1630's, and at a slightly later date was renamed College Green. The Stein was gradually encroached on by buildings and became the harbour of the River Liffey following extensive quaying works to form the river estuary into a narrow and safe channel. A contemporary description characterises the change- '*It is here necessary to remark, that the eastern side of the city is almost entirely laid out in elegant streets for the residence of the gentry: and the western side, though more remote from the sea and consequently not so conveniently situated for the purposes of commerce, is chiefly inhabited by merchants and mechanicks*'. (23)

In 1635 the lord deputy stated that '*whereby no part or parcel of the Greenes or Commons of this cittie viz. Hoggins Greene, Saint Stephen's Greene, and Oxmantown Greene, might not from henceforth be sett or leased to any person but that the same be kept wholie for the use of citizens and others to walke and take the open aire, by reason this cittie is at present groweing very populous*'. (24) Less than 30 years later, the City initiated the programme of dismantling the Greens. Wentworth's edict was in the words of a commentator '*doomed to mutability*'. (25) The Corporation claimed that wars in Ireland had exhausted their coffers – a claim that was probably no more than a half truth. Individual members of the City Council - merchants and financiers- would have gained considerable financial benefits as an outcome of the wars. The Corporation provided as rationale for the action that the outskirts of Stephen's Green '*and other wast land about the cittie that now added nothing att all to pleasure or*

⁹ The population in 1610 was estimated to be 10,000 IHTA p. 12

profit may be sett for ninetie nine years or to fee farme...and a considerable rent reserved'. (26)

The perimeter of Stephen's Green was divided into building lots in 1663 and a central area of c. 11 ha. reserved as open space but it ceased to function as a commons. The neighbourhood of Stephen's Green over time became a fashionable quarter of the city attracting the wealthy to live in opulent residences surrounding Georgian Squares. A portion of Oxmantown Green was similarly divided from 1665 with building plots surrounding a large square named Smithfield, which became the city's principal cattle market. It was the aspiration of the Corporation that Oxmantown would become as prestigious quarter as Stephen's Green but this failed to materialize. There was a conflict between luxurious residences and for example the use of Smithfield as a cattle market, and later incursions included military barracks with hordes of unruly soldiers, hospitals and what were called Houses of Industry or workhouses.

On Oxmantown Green building development gradually encroached on the entirety of Oxmantown Green – notably a school called the Blue Coat School¹⁰, and in the early 18th century a Royal Barracks – *'the largest and most commodious in Europe'*. (27) Dublin as a colonial capital was allowed hold a major army garrison and thus a sufficiently large military force was kept in waiting in Ireland to subdue internal subversion, and to hold a reserve force in place in anticipation of foreign invasion. The Protestant community in Dublin and in Ireland generally, felt themselves, as a minority population, to be vulnerable in a country under their control.

The Municipality in the early 18th century disposed of the remainder of Oxmantown Green. Part of the argument for so doing was the presence of a very large area of parkland near the Green-Phoenix Park. Though in royal ownership, it was open to the public. The other Green on the north side of the River Liffey-Abbey Green- became over time a mixed residential and commercial area, and a location for a number of municipal buildings including a prison and a marshalsea- that is a debtor's prison.

¹⁰ A school of for what was described as the sons of freemen who had been unsuccessful in business, or *'reduced freemen'* where they would receive *'a solid English and mercantile education'*.

Governance of Dublin under the Anglo- Normans and the English

The purpose of the feudal system was to establish a system of governance whereby power emanated from the king. English law and customs under this regime were to be established throughout the county. The system was adopted in an area called the Pale- the territory along the east coast over which the Anglo - Normans had assumed full control, but Irish law continued to be practiced in the rest of the country until the 17th century after which it was entirely displaced.

Dublin in those early years of colonisation came to be governed by charters and grants. It is assumed that the Greens of Dublin were granted to the City Assembly by means of a Charter of Liberty of Dublin dated 1172 and a subsequent charter of 1192, though the charters are not explicit on the matter. The 1192 Charter states in reference to the Assembly *'And that they shall have and possess all void grounds and places which are contained within the aforesaid boundaries, to be built on at their pleasure'*. (28) It has to be said, as noted above, that the Corporation showed little interest in the management and welfare of the Greens for literally many centuries. They were used principally for grazing but would also have had an important role in the social life of the city, and were the location for festivities such as Corpus Christi processions and plays, and for celebrations such as those of Mayday.

Dublin had become by the 17th century a Protestant city administered by a powerful elite, who, it has to be said, represented a minuscule minority of the country's population. The citizens – they were called Old English, ancestors of the first Anglo – Norman conquerors- spoke English, not Irish, dressed in English styles and sought to model themselves on their English counterparts by engaging in upper class English pursuits. A Bowling Green and banqueting house for the *'pleasure of gentlemen and others'* was installed on an extensive piece of ground on Oxmantown Green in 1664. (29) A visitor commented – *'Alderman Tighe's new bowling Green (played on so airy a ground) so fans the nobility of both sexes every day that no immoderate heat offends them or putrefies their blood'*.(30) Thus the colonization had been completed albeit for a limited period. Increasingly through the 18th century inward migration of rural Irish to Dublin changed the balance of population structure and ultimately contributed to the end of the colony.

The Penal Code, known as the Penal Laws, referred to above, were introduced in the late seventeenth century and gradually repealed through the late eighteenth century. Their aim was to force Irish Catholics and Protestant dissenters to accept the reformed Christian faith of the Anglican Church, - known in Ireland as the Church of Ireland. The Penal Laws were according to Edmund Burke *'a machine of wise and elaborate contrivance, as well fitted for the oppression, impoverishment and degradation of people, and the debasement in them of human nature itself, as ever proceeded from the perverted ingenuity of man'*.(31). As early as 1607, Catholics were barred from holding most public offices, with the consequence that the government of the country was entirely in the hands of Anglicans. The penal code extended such edicts with clauses including a ban on intermarriage; excluding Catholics from holding voting rights; excluding them from the legal professions and the judiciary; a ban on their attendance at the university, Trinity College; prohibition on their holding land with a lease greater than 31 years; and even a prohibition on their owning a horse valued at more than £5. (32)

The religious divisions of eighteenth century Ireland did arise from colonisation, but they did occur in the context of a deeply divided Europe where religious antagonisms continued to express a whole range of political, social, and cultural tensions, and where religious differences were equated with political disloyalty. Rules not dissimilar to the Penal Laws were applied in many European states against minority religions. In Ireland however Irish Catholics were not a religious minority. They made up around 80 per cent of the country's population.

In practice the Code was implemented selectively. Historians now hold mixed views as to the real impact of the Code on the majority of the Irish population. The code must nevertheless have been seen as valuable. The Anglicans regarded them as essential to their safety. Members in Dublin City Assembly, protested vehemently and at length when moves were taken by the English parliament to have them repealed. Their protests fell on fairly deaf ears as the laws were largely repealed by 1778. (33)

The Colony and the Greens

As noted above, the colonizers felt vulnerable. They were dependent on each other, as they believed themselves to be in an outpost of civilization in a hostile country. They sought to incorporate themselves through the use of civic regulation that, it was hoped, would then create a world not dissimilar to their homeland of England. They had, *'to build a code of their own in a country hostile to them, with a trowel in one hand and a sword in the other'*. (34) With the trowel they built and maintained defensive walls and tower gates around the town, and they built Dublin Castle as a symbol of English power in Ireland. Their anxiety did have a credible foundation. During the late Middle Ages, the city was subject to intermittent raids from the Leinster Mountains by clans who demanded 'black rent' in return for immunity from arson and theft. As a 17th century historian, Richard Stanihurst, wrote *"the inhabitants being dailie and hourelie molested and preied by their prolling mounteine neighbours were forced to suffer their buildings fall in decaie and embayed themselves within the city wals'*.(35)

As noted above, feudal tenures were introduced into Ireland by the Anglo - Normans- The basis of the tenures was the manorial system by which the lord of the manor 'owned' the soil from which commoners could take certain profits such as grazing or estovers. Dublin's commons were known as borough commons, and the City Assembly would have functioned as the 'lord of the manor'. Dublin obtained its governance structure by means of the Royal charters and grants, and these were overseen by an elite called *citizens* or *freemen*. Borough freedom referred to a set of rights or privileges know as liberties or franchises that townspeople obtained through chartered grants. Burgesses or freemen were inhabitants of the borough and members of an enfranchised community. The privileges were ensured as long as the burgesses paid fixed yearly royal dues, known as landgable, for a burgess plot. Early grants to the city were called Frankes dones or free gifts and the first of these was the free gift of the ground on which the town was erected. Citizens, under a charter of 1215, were persons who were granted the rights to inhabit the city and to hold

same in fee farm of two hundred marks. Holding a burgage plot entailed responsibility in the governance of the town and hence those citizens of Dublin came to form the Corporation. A resident of the town was not necessarily a freeman but acquired his status by entering the freedom, and this required that he be a resident of Dublin. The citizens under the Charters were entitled to form trade guilds. Guild members were a constituent part of the municipality with responsibility for maintaining and regulating the trade monopoly.(36)

There was a conscious determination to exclude native Irish from the Freedom, from the guilds and from any representation in local government- a determination that was sustained for many centuries. A condition of entry to the guilds was to be English. In a Dublin Bye –Law of 1454, the paramount condition for guild membership is stated as *'to be of English name and blood, of honest conversation and also a free citizen'*. (37) The Assembly ordained that no man with a right to liberties should be refused admission to the Corporation provided *he be of free condition and not of the Irish nation*. (38) In 1542, the City Assembly pronounced that *'all craftsmen, being forrene or stranger'*, were forbidden from setting up open shop in the franchise until they were adopted and sworn as freemen. (39) Following the reformation, the prohibitions extended to Roman Catholics and non- conforming Protestants. Thus in 1652 it was pronounced that *'none shall be admitted unto the assemblies of any Corporacion of this cittie unless he bee a Protestant, and that noe freeman take any to bee an apprentice but such as are or will bee and continue in the Protestant role.'*(40) A municipal edict of 1652 identified *'Irish papists'* as common enemies and, as such , were not allowed to live within two miles of the city. An Act of Supremacy required holders of public office to swear an oath that the monarch was the head of the church, and Acts of Uniformity prescribed the form of worship authorized for the Church of Ireland. The guilds in 1691 adopted the same requirement. Catholics by and large declined to take the oath. (41) The rules had a serious adverse impact on trades and crafts in Dublin. In response, the status of quarter-brother was created to allow Catholics follow *'the art of merchandising'* but without voting and other rights. In practice most Catholics did not join and in reality there was very little the guilds could do to prevent them from engaging in their trade. (42)

The rights of common were granted solely to freemen and they could not be, as noted above, *of the Irish nation*. *'that noe person who is not free shall use of exercise any arte ,trade, mystery, or handy craft occupation within this cittie or suburbs'*.⁽⁴³⁾ One of the consequences of these prohibitions on the commons was the recurring problem of trespass. Another consequence was the problem of overgrazing – *the pasture of this cittie is greatly decayed and will be unless speedie remedy therein be provided*. ⁽⁴⁴⁾

The extent to which the Irish were excluded from using the Greens, and therefore prohibited from grazing, is not that evident prior to the 17th century but from that period onwards the incidences of trespass by cattle on the Greens, meaning cattle owned by non- freemen, was noted. Edicts were issued stating that *'foreigners'* found guilty of allowing their animals graze on the Greens would be fined and their cattle held until they made reparation. In the year 1577 it was noted that *'whereas the common pasture of this cittie is daylie oppressed with the catle of forrens which beareth no cess, scott or lott with the said cittie.....'* ⁽⁴⁵⁾ The problems persisted and appear to have been a considerable nuisance to the municipality. Actions taken included the appointment of constables to manage the Greens; the installation of penfolds to hold impounded animals; and probably, in a council of despair, an arrangement whereby certain unfree persons would be allowed graze their animals on payment of a rent – a departure from the traditional character of common rights.

Another aspect of discrimination arose in connection with sports for which the commons were popular venues, functioning in the period as the city's public open spaces. In the early modern period, changes in relation to play and celebration occurred throughout Europe. The Irish 'cauldron of conflict' meant that there was very little agreement as to what constituted acceptable sporting activities. The English in Ireland favoured archery, bowling and tennis. They viewed the Irish preferences particularly for the native game of hurling with suspicion. An 18th century English visitor recognised that Protestants in Ireland were disposed instinctively to look with discomfort at all manner of collective indigenous expression. The belief took hold that large gatherings of native Irish were covertly seditious. Many of the native pastimes came to be denounced and suppressed on the

grounds of Sabbatarian observance; the belief that Irish games were a source of violence and disorder; that they were unproductive; and that they encouraged lawlessness. (46)

In regard to governance of the city, policies to exclude Catholics from guild membership resulted in the counterproductive outcome of large numbers of craftsmen working illicitly in the city. An Act of Parliament of 1793 removed restrictions to Catholic admission to the Corporation and to the guilds. The Act had little impact on the discriminatory practice of the guilds but did eventually erode their power. The coup de grace against discrimination was finally delivered in a Municipal Act of 1840 which removed and replaced the old civic franchise with a broad democratic franchise. The government of civic affairs was placed in the hands of a whole body of burgesses. The privilege by which freemen were admitted into the Corporation through the guilds was abolished by the Act. (47)

The end of the 'abuse' of the Greens by the privileged evolved with the changing fortunes and circumstances of the city. Firstly the Greens themselves were encroached on for building land particularly from the late 17th century – a time of considerable population expansion, and consequent demands for building land. A second factor involved a decline in the demand for grazing land in the city, probably due to changes in agricultural practices in the surrounding countryside. The Greens had entirely disappeared by the early 19th century.

The Greens were lost through that act of privatisation – inclosure - for private developments and profit. The decision to enclose the commons was taken by Dublin Corporation- a process that of course occurred in many other European countries. Factors bringing about their demise included a decline in demand for urban grazing lands, and increased pressure for building land due to a major population expansion from the 17th century. The Greens in Dublin were the city's open spaces and used for a variety of recreational activities, celebrations, festivities and protests. As noted above, Dublin had an unusually large area of accessible open space in the North West corner of the city- Phoenix Park, but over time and particularly with population growth and expansion, Phoenix Park was inadequate to provide for the needs of the larger population – a situation that was not remedied until late in the 20th century.

Stephen's Green which was privatised in the mid 17th century remained an entirely private space until the mid 19th century. Curiously the loss of the Greens appears not to have been accompanied by any form of protest or resistance. In contrast, many of London's contemporary open spaces were commons which had been protected through protests, mass meetings and legal actions.(48)

Conclusion

As noted in the introduction, the Anglo - Normans pursued over the centuries an attempt to colonize Ireland- that is to supplant all aspects of native culture with an English culture. The major events in the process were the appropriation and plantation of Irish - owned lands, the abolition of the native legal system, and the suppression of the indigenous religion. A myriad of other actions and determinations ran in parallel with these events, and amongst them were the rules that the Corporation developed over those centuries to restrict the use of the common lands and membership of the guilds.

Dublin's urban commons were managed in accordance with rules determined by the Corporation and its guilds. The rules arose from the Common Law, which applied to Britain and to Ireland. The Common Law derives from the Statute of Merton which was the first Commons Act. Its essence is that the law is applicable to everybody in the same way. However in Ireland a distinction in its application was made between Irish people and settlers. Irish people were in this instance '*not everybody*' in the context of colonialism. It was established practice both in Ireland under the Anglo Normans to restrict the use of commons to freemen or burgesses. What distinguished the Dublin situation from that of Britain were the calculated acts of exclusion of native Irish –'foreigners', enshrined in bye- laws. In practice the rules and bye-laws were too unwieldy to be supervised and hence were erratically implemented. Irish names did for many generations appear in the franchise rolls. It would have been impossible to prevent Irish people from using the Greens for leisure and celebration. The laws provoked a range of stratagems including defiance, deviance, protest, trespass, and secrecy. But I would argue that the creation of the rules was part of the wider determination to dilute as far as possible all

manifestations of Irish culture. Gudeman(36) argues that *'the commons is the material thing ... a people have in common, what they share , so that what happens to a commons is not a physical incident but a social event...Taking away the commons destroys community and destroying a complex of relationships destroys a commons'*.(49)

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