

“One Continual Warfare”: Law, land and confrontation on the Shee Estate, 1839-44

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Situated about eight kilometres from Kilkenny city, the townlands of Dunbell Little, Bishopsloough and Ballyreddin, as well as the town of Bennettsbridge, were held by the Shee family of Blackwell Lodge.¹ In September 1839, after the death of the landlord John Shee, the estate passed to his brother Richard. Within a year, Richard Shee was embroiled in numerous lawsuits with his tenants, the first having been brought soon after he inherited the estate when he filed an “ejectment” (eviction) notice against one of his tenant farmers, Patrick Ring, despite the fact that Ring did not owe an “extraordinary arrear” in his rent. Five years later, Ring recalled with some nostalgia, that the “tenants were very comfortable under John Shee, and he was as respectable a landlord as any in the county of Kilkenny.” In a similar vein, solicitor Barnaby Scott stated: “I look upon Mr. [Richard] Shee to be a very bad example of a landlord. His dealings with tenants and others, whether upon contract or otherwise, is marked with the same [hard] disposition.” Indeed, his relations with tenants “were marked with a good deal of unusual rigour; and of the proprietors, he is the only bad landlord in the county, or who treats his tenants with severity.”

Both Ring and Scott were speaking before a British parliamentary inquiry investigating the workings of the law which were connected to the occupation and use of land in Ireland.² On 4 October 1844, when the commissioners from the inquiry visited Kilkenny, they heard evidence from a series of witnesses who, like Ring and Scott, were connected with the estate of Richard Shee. This evidence, published *verbatim*, allows us to enter into a nineteenth-century world and to explore several issues which were important to people at the time: how the law mediated the relations between landlords and tenants; how amiable relations with a landlord were crucial for a tenant-farmer; and how a “bad landlord” managed his estate.

The Law and its Application

Barnaby Scott was a solicitor living in Kilkenny city. He told the commissioners how, during the previous four years, he was "often" engaged by Richard Shee's tenants to defend them in "ejectments or in replevin cases upon distresses for rent." An *ejectment* or eviction notice was obtained by a landlord from the Quarter Sessions³ when the landlord wished, for whatever reason, to dispossess a tenant whose lease had expired or who was a yearly tenant or a tenant-at-will. An ejectment notice would also be obtained to evict a tenant whose rent had not been paid. If the landlord "proved one year's rent to be due," he would succeed in obtaining an eviction notice from the court. Often, however, landlords obtained ejectment notices simply to force tenants to pay their overdue rents. Rents normally came due every six months, on so-called "gale" days. Most local landlords, however, allowed "a running gale" – that is, they allowed tenants to be in arrears for six months, or even a year or more, before insisting on payment and then, if necessary, forcing such payment by a threat of eviction. On most estates, tenants were always at least six months behind in their rents.

As an alternative to threatening or carrying out an eviction when a tenant did not pay the rent, a landlord could obtain a *distress notice* from the Quarter Sessions giving him permission to *distrain* a tenant's moveable goods: livestock, corn, household furnishings and so on. The goods would be removed by the landlord's bailiff and then auctioned off to pay the rent and any outstanding arrears. In response to such distraint, a tenant could recover his goods, before they were auctioned off, by *replevin* – that is, the tenant could retrieve his goods if he promised to allow the dispute to be tried in the sessions and to return the goods if s/he lost the case. Since late 1839, solicitor Scott had been kept busy defending tenants against Shee's ejectment notices and representing them in their replevin cases through which they tried to recover the property which Richard Shee had seized.

Landlord-Tenant "Terms" on the Shee Estate after 1839

According to Robert Cahill, Richard Shee's "receiver" or rent collector,⁴ some tenants on the estate were "not on terms" with Shee. When asked by the commissioners what he meant

by this expression, Cahill said: "There are some tenants, as well as I can understand, from their own fault, from taking law proceedings against him, [Mr. Shee] wishes to hold up to their rent, – they are but a few." When asked who these tenants were, Cahill named Patrick Ring and John Ryan, "a man of the name of Doyle" and a tenant named Holohan who had "settled with [Shee] now, but he is not on terms with him." That, said Cahill, "is all." The Commissioners, presumably well-briefed, then named several other tenants, asking Cahill to comment. Andrew Breen, as it turned out, was also not on terms with Shee. Nor was Martin Keefe "since the last gale of rent." Thomas Kelly, who did not reside on the estate but who held land from Shee, "is partly on terms with him, but he was not." However, John Byrne was on terms with Shee. He had been served with a notice to quit about twelve months before, "but it was not proceeded in." The widow Hart, who held a house, was also on terms with Shee even though her "goods had been distrained" about a year and a half before. Cahill did not know if her goods had been auctioned off. In contrast, widow Donnelly was "not on terms with Mr. Shee" as "she paid him no rent since she came upon it." A man named Dowling was also "not on terms," but "he has gone away." Matthew Dormer now held Dowling's field and "pays no rent for it." He too was not on terms with Shee. Two years before, Dormer and Shee had a law suit over a passage to Dormer's field. Finally, tenant Bush was "now" on good terms with Shee "but he was not some time ago. The man has given up his field, and he has the house at a cheap rate."

"What," asked a commissioner, "was the general cause of the quarrel between Mr. Shee and these people?" Cahill answered: "The first cause was a man of the name of Pat Ring, who produced a receipt passed in March, 1840 – and there was an 0 brought out at the end of the receipt; that part of the receipt was cut across, and a part of the nought was cut away, and he made the receipt stand for 1841." Mr. Shee said he "would not go to law with him for that time" but told me to "keep him up for his rent in future. That was the first cause of the quarrel."

"What," asked a commissioner, "was the cause of the quarrel with the rest; was there any one general cause? – I

think each quarrel stood on its own particular basis. Whatever way the tenants disobliged him a quarrel ensued."

In other words, those tenants who took "law proceedings" against landlord Shee or who "disobliged" him in some way were singled out. If they did not have a lease, they were evicted. If they did have a lease, they were "held up to their rent." This meant that Cahill was instructed to demand the rent immediately it was due, within two days or a month, and to take legal action if it was not immediately paid. Other tenants, those who were on good terms with Shee, had somewhat more leeway. According to Cahill, "sometimes the March rent is paid in June, and some of them run this time up to September without proceedings being taken against them." Nevertheless, all tenants had to pay: there was no hanging gale. Thus, in October 1844, according to Cahill, there was "nothing of the last March rent due."

The tenor of life for favoured tenants on the Shee estate was described by Richard Samphy, a farmer from Bishop's Lough who held forty one acres on lease.

Question: "How long have you had the lease? - I had it, and my father before me had it."

Q: "At what time is the rent due? - The 25th of March and the 29th of September."

Q: "At what time is it generally demanded? - Sometimes the day it will be due, most times not."

Q: "Is there any usual time for demanding it? - No; but whatever time he likes to call for it."

Q: "In case it is not paid, what does he do then? - He seizes."

Q: "How soon after does he seize? - As soon as he does not get the rent."

Q: "What is the longest time you have known him to give you for the rent? - I do not know exactly."

Q: "What is the shortest time within which he ever asked for it? - The very day it becomes due."

Q: "Has he ever seized from you on the day it became due? - No, he has not seized on me, because I pay him the rent."

Q: "Do you always pay him the rent? - Yes, I do."
According to Cahill, Samphy was a tenant "on terms" with Shee. "The last rent that was due, [Samphy] paid it to himself

[Shee]; and [Shee] told Samphy in my presence that he never wished to disturb him, and would leave him as he was."

Clearly, Richard Shee administered his estate in ways which, as Scott noted, departed so severely from the norm that Scott, "judging from his acts, [did] not consider Mr. Shee to be of perfectly sound mind." The acts to which Scott referred were Shee's inflexibility in rent collecting and, most importantly, how Shee singled out certain tenants and used the courts and the law to harass and persecute them. That the law could be so used, or abused, was an issue being investigated by the 1844 parliamentary commissioners.

Richard Shee vs John Ryan

John Ryan, a farmer with twenty nine acres, lived in Ballycommins. He held a lease to his land until December 1839 when he gave it up "upon condition of getting a new lease for thirty one years or two lives,⁵ subject to a new survey, at the same acreable rent." That "undertaking" had been given to him by Shee's agent, William Hanbury. Ryan had since applied for the lease, but Richard Shee refused to give him one. "He wanted to put me out of the land, and has done ever since."

Q: "What was the reason given for his refusal? - He said that if his own name was signed to any written document, he would do so."

Q: "Did you show him the document you now produce, signed by Mr. Hanbury? - No; I never gave it into his hands. If I did, I could not be certain of getting it back again. ..."

Q: "What reason had you to suppose he would keep it? - Because I knew if he could he would put me out of the farm and out of the country."

Q: "What has he done for that purpose? - The first commencement was after I got from his brother slates and timber for a barn and cow-house and stable. ... I got them as a present, and he went and processed me in the name of his brother. ...He...put me in the city prison, where I had to remain from the 29th of January, on Saturday, up to the 25th of March following."

Q: "What did he claim from you? - The value of those things due his brother. ...He got his agent Mr. Alexander Ramsay to go and prove on oath that his brother authorised

him to sue me; [but] the brother James Shee came forward when I was on trial before the insolvent court, and swore that he had not authorised him. ...The insolvent court acquitted me."

Q: "What was the nature of your trial before the insolvent court? – Owing to my distresses I was not able to pay the money. ..." Then Ryan, on legal advice from Hanbury, brought Shee to the assizes and "got a verdict for £100 against him" for damages, but Shee "brought it to Dublin, and got it tried" before a higher court. "I obtained a verdict there again with costs; and now in order that I should not have the benefit of it, and to send me out of the country, he is bringing it before the twelve judges in [another superior] court..., and all that for improving on his own estate at the expense of his brother. It is one of the finest out-offices in the county of Kilkenny. The slates cost £10.10s. a thousand."

Ryan went on to describe how Shee had distrained him "very often" – "about thirteen times since the 27th of April, 1840." Shee also had made five seizures of Ryan's property in 1842. At the time of the first distress and seizure, Ryan owed one year's rent "because he never demanded it before."

Q: "You did owe rent? – Yes, I did, but not over that."

Q: "What is your condition in consequence of these proceedings? – I am in the greatest poverty that can be; and if it was not for a gentleman in the town [Clifford] that got money for me from the loan banks, I should have to go and beg through the world. ...About the 14th or 15th of March, 1843, Mr. Shee came over to my place; he said he was told there was some timber cutting on the place. ...I told him I only cut a small stick hanging over the road; but I was summoned to this court for it, for the value of threepence...; and there was a charge of conspiracy brought against me by his means, in regard to the conspiracy to shoot at him. On that day I asked him if it was the rent he wanted; this was the 15th and it did not come due till the 29th. I said, 'If you want the rent give me my lease as you have promised me, and...I will not ask you to wait for the day on which it becomes due.' 'No,' said he, 'I will not have the rent till it becomes due, and then I will have fifteen keepers [bailiffs] on you.' I said, 'You need not have a keeper upon me: give me my lease according to the agreement, and I will have

the money ready;' but he refused to do so."

Q: "What is your present situation? – I am working the farm; but Mr. Clifford has a claim upon the farm [as manager of the loan fund]. I have been in insolvent circumstances, and I am insolvent now."

Commenting later on Ryan's evidence, receiver Robert Cahill used it as an example of how "three distresses" were made "for one gale of rent." When asked why this was done, Cahill explained. "When one distress was made, if Mr. Shee did not consider it sufficient he would seize again, but if he could get the entire of the stock or corn on the lands I do believe he would seize the whole, but I have known him to go there [to the tenant's farm] and when his [the tenant's] horses were in town he would seize the horses when they came in."

Richard Shee vs John Dowling

Shee ejected Dowling, a smallholder and a mason, for non-payment of rents. Shee took possession. He also took the crop which was growing on the land and which, in fact, covered the rent that was due. According to solicitor Scott, "the man himself was unable to pay it, but a gentleman, Lord Clifden's agent, happened to be in my office at the time when this man [Dowling] was making his complaint, and I believe his wife was an old follower of the family of the agent, and he gave the man the money, and I paid it to Mr. Shee and took his receipt – that was the rent mentioned in the ejectment. After that, there was an action [taken for] ...trespass. ... Witnesses were examined, and it was proved that Mr. Shee refused to give any account whatever of the crop; that he cultivated it in so unhusbandlike a manner that it yielded nothing; that he sold it by auction, and brought the potatoes which were then growing into his own place at Blackwell Lodge, into his own farm yard, and that he brought the corn in the same way; that there were no bidders but his steward, and that they were sold for half their value; that he desired the stack of corn to be so made that it did not appear large, that it might not bring the price." The magistrate suggested that Dowling proceed to take an action which would force Shee "to account for the value of the crop while he remained in possession six months." However, Dowling was unable "to take any proceeding, much

less a proceeding in chancery.⁶ ...He quitted the country and went to America. He was a working mason, and after he had gone to America, there was a report spread that he had been implicated in the conspiracy against the life of Mr. Shee, and upon that account he fled; but this I know to be the case, that he had been before in America working as a mason and returned to this country and resided here for some time – that he went back to America in very great poverty. He called upon me on his way to Liverpool, and has since sent money home to his family, and he has also sent over for his son, a young boy who underwent a great deal of hardship in travelling about when the replevins were brought, for he was distrained several times.”

The Hardship of the Law

Solicitor Scott told the commissioners that he has “considerable experience” in practising before the Quarter Sessions. He also told them that the case of Dowling, and the legal proceedings in which he was enmeshed, were “an exception to the general rule.” Nevertheless, the law could be used to harass and bankrupt tenants. The commissioners asked Scott:

Q: “Was it the practice upon that [Shee] estate, in making a distress for rent, to seize what was sufficient to meet the demand, if sufficient was found upon the premises in the first instance, or were several distresses made? – The general practice was to seize what was sufficient for the present, and there was a series of distresses kept up from one end of the year to the other.” In the case of Patrick Ring, “during the progress of these proceedings,” Ring “would have been utterly unable to have his case defended if they had not been defended without charge, and that I knew him to be suffering great hardship indeed, travelling the country from place to place in order to get bail for the replevins. One distress came so quickly upon another that he had exhausted all his friends, and they would not go bail for him any more.”

Q: “Then do I understand you to state, that whether the landlord was right or wrong, the expense of the proceedings to which the tenant was subjected arising out of these several distresses would be considerable? – Yes, very considerable; and

sufficient to embarrass him, and prevent him from being able to get bail for the [release] of the goods in the event of a decree passing against him.”

Q: “What is the expense of taking out a replevin and giving bail to the sheriff? – I should think that the cost...would be about 18s. or £1. There is the sheriff’s fee, and the fee to the clerk of the peace, which is very trifling, but altogether it must have cost him the sum I have stated.”

Q: “...Are you able to state whether there is any remedy in law against a landlord making frequent distresses for the same sum? – There may be, if you can show malice in the landlord; in that case you may bring an action for malice if he does it maliciously.”

Q: “Is that proceeding expensive? – Yes, very expensive; and it cannot be tried in the sessions’ court.” In other words, “the poor tenant has no remedy in my opinion against frequent distress. If the tenant is enabled to bring replevin after replevin, the assistant barrister [at Quarter Sessions] has the power of giving him damages for each distress, and those damages may be set off against his accruing rent... So that he has that remedy...”

Q: “But he cannot obtain those damages if the distress was legally made for rent legally due? – No. If a landlord makes a distress in a legal manner for rent legally due, the barrister can give the tenant no redress.”

Q: “No matter how often the landlord makes the distress? – No matter how often he makes it.”

Part of the hardship of distresses was that they could be made on growing crops. Scott saw this as “a great grievance” which “works a great deal of ill-will and a great sacrifice of property. I have known an instance where Mr. Shee, in controversy with his tenants, has seized, in my opinion illegally, the scythe with which the corn was being cut, to prevent the crop being cut, and then a day or two afterwards to seize the crop when it was ripe and of less value. My opinion is that it is a very oppressive mode, and injurious to the landlord himself.” In fact, though, “the actual distraining of farming implements” was not common, according to Scott.

Richard Shee vs Patrick Ring

Landlord Richard Shee did not like Patrick Ring, a tenant-farmer who held sixteen Irish acres and who had "disobliged" him by allegedly trying to pass off a false rent receipt. Solicitor Scott, in his turn, also "had not the best opinion of Ring." As the "law agent" for the deceased John Shee, Scott knew Ring. He "never had occasion to proceed against Ring; but I do not think he is a fair sample of what tenants are or ought to be." In part, this was because Ring was a bad farmer and barely solvent. "Ring's mother was, I believe, an old follower of the family of John Shee, and I believe nursed some of the family. Whether upon that account he got any peculiar indulgence I do not know, but Ring continued to pay his rent. He was not a very comfortable farmer, but he continued to pay his rent." Patrick Ring also had spent some time in gaol. According to Scott, Ring "was suspected, but there was no proof to maintain the suspicion, of being concerned in a conspiracy to shoot Mr. Shee, and was imprisoned for it; but it appeared that the persons who did perpetrate the act were brought to justice, and Ring upon the trial was not implicated." Finally, Shee had initiated proceedings in Chancery Court against a "Waterford gentleman" named Mr. Harris, and "Ring furnished a rental of Mr. Shee's estate to Mr. Harris, and I believe," said solicitor Scott, "that a good deal of the ill will which was against him arose from that circumstance." In thus falling out with his landlord, and in continuing to oppose him, Ring became the object of a concerted legal campaign by the landlord to get rid of him. Said Scott: "There was one continual warfare" between them. Indeed, according to Scott, the "principal ejectments were against Patrick Ring."

Barnaby Scott's Evidence

The first ejectment notice against Ring was taken out by Richard Shee soon after inheriting the estate. At the time, Ring "did not owe more than the running gale." According to Scott, Shee first sought a notice to quit (or ejectment) against Ring "for want of title." However, "it was then discovered that Ring had a lease, which was proved; and then all the subsequent ejectments were for non-payment of rent." During all this time, Ring "allowed two or three years [of rent] to

accumulate" because he was "under the pressure of distresses and various proceedings, under which his manure and crops were distrained and taken from him. ...It appeared in some of the cases that the distress was made on the day the rent became due, which was held [by the court] to be an illegal distress." As a result of these actions, however, Ring "was unable to pay any rent, or did not pay any, and two or three years' accumulated, and each distress became heavier." At one point, Ring "was prosecuted for having forcibly taken potatoes which were distrained." He was also "besieged in his house...for the greater part of [a] year, [and] was unable to go out...except on Sundays, fearing arrest from Mr. Shee for law proceedings of some kind. I have also known him to be in jail for a very small sum, which I assisted to pay. ...It was for the cost of some law proceeding which had failed." The situation, according to Scott, was "notorious in the neighbourhood. I went upon an occasion shortly after this to see Ring's house. I saw his mother, and they appeared to me in a most abject state of poverty. I never saw any thing equal to it."

Q: "What has been the result of these proceedings: has Ring been ejected? - Yes, he has."

Patrick Ring's Evidence

At the time of the parliamentary inquiry, Ring lived in Bennettsbridge, having been evicted in 1843 from his sixteen Irish acres in Ballyreddin. He had held a lease, dated 1828, for a term of thirty one years plus his own life. The rent was £1.15s.2d. per acre. He had lived in "a very good house with three windows in front, and a barn, and a stable adjoining." He had built these himself, as well as a "six-foot wall round [his] cabbage garden; and [he] had planted the trees there himself."

"I never saw a distraint paper," said Patrick Ring, "till Richard Shee came into the property. I got a lease from Mr. John Shee at the time I was going to be married; and at the time of his death there was no person living with John Shee but my mother, whose name was Judith Ring, and who nursed him. I was steward in the family, and my father was in the family since I was born. My father was the manager of his affairs; and when John Shee died all the tenantry were called in; and when they were examining the leases, the counterpart

of my lease was not to be found. Richard Shee came up to me in the April following, when I was sowing barley – ‘What are you tilling that ground for, Ring?’ ‘Going to sow it,’ says I. ‘You shall not be here,’ says he; ‘I will put you out.’ ‘For what, sir,’ says I; ‘I owe you no rent.’ ‘I will let you know you do,’ says he. Then he gave me notice to quit on the 25th of March following. The notice was wrong and I defended it by Mr. Scott, and it was dismissed. Then on the 19th of September, at twelve in the morning, he brought two bailiffs into my yard, and made a seizure for rent, alleged to be due on that day. I told him that I was no March or September tenant: that I was a May and November tenant. He said I was not. I said, ‘I will show you your brother’s last receipts, five, six, or ten of them: they will show I am a November and May tenant; and if you seize on me it will be a sorry seizure for you.’ ‘I do not care,’ says he, ‘I will do it.’ He laid the distress. I replevined before the sheriff of the county, and then there was some delay because...Mr. Hyland (who was concerned for the landlord) could not attend; and it went over till the 25th of March following, and he seized again at 12 o’clock in the day for rent alleged to be due. I then showed him my lease to stop litigation and law, I not being able to go to law, and to drop all, and I said I would pay him the rent if he would let me alone. I replevined that seizure before the sheriff again; and the two trials came on, and I believe he was fined £10 for the two false seizures he made on me.”

Q: “Did the two trials come together? – Yes. ...Then I sent him a half year’s rent the 1st of November; and himself and his agent (Mr. Coyne) refused to take [it].” I made the offer “three days before the 1st of November, but they kept out of the way till the year’s rent became due, because they must take it if it was tendered to them before the 1st of November. Then he fired ejectments at me until they ran up to eight, and he beat me on the ninth. I dismissed him on eight ejectments, and he made thirteen seizures on one crop, and had myself and seven in family [sic] kept in the house by bailiffs for four days and four nights, till the neighbours had to put in stagnant water from the pool through the loft to give me to drink.”

Q: “In what year did this take place? – 1843.”

Q: “Why did you keep the door closed? – I had potatoes in the field, and he kept me in the house, so I could not get any;

and the children being hungry I went out, and took a fork in my hand. He got three decrees against me – two against my property, and one against my body – so I could not escape at all; and he offered £5 for taking me, dead or alive, if the bailiffs could catch me.”

Q: “How do you know that? – From the words of the bailiffs themselves.” ...They hunted me night and day for it; and then they thought I was in the house when they surrounded the house, and kept guard there three days and three nights, thinking I should surrender for want of provisions of some kind; and then he laid a distress on the early potatoes, and prevented me from digging them. And on the fourth day, when the children and my wife and mother (the woman who nursed his brother) were exhausted with hunger, I took out a spade, and swore that the bailiff who came near me would have his life till I got a gallon of potatoes. I took out the gallon, which held four quarts, and I took it in full; and the bailiffs were afraid to come near me – they stood upon the low wall, and saw me digging the potatoes, and they proceeded to Blackwell Lodge, where Mr. Shee lived, which was two fields off my house, and they swore informations against me, and sent me before the assistant barrister for trial; and when the information went before the...jury they cried shame on them, and threw the bills out, and turned the bailiffs out and desired them to go home, and acquitted me of the charge. Then he seized on four acres of oats – he made three distresses on four acres of oats. I had mowers at work, as to-day, and he seized what I cut to-day. I had two to-morrow, and he seized what they cut also, in order to run me to expense in replevins – that took place in 1842; and then he also made a distress on my two horses, and he sold my manure which I had for potatoes, under the costs for the replevin, and did not leave me a single item. Then my barn was falling down – there was a couple broke on a stormy night; I cut one of the trees which I planted myself, and he summoned me before a magistrate and got me convicted under the warrant, and got me fined 7s.6d. for cutting the tree, and did not let me put a couple into the roof; he swept it over to his own place, top, butt and all, till the barn fell, owing to my not being able to get a tree. He got me convicted and fined 7s.6d. until his agent, Mr. Coyne, paid the

fine for me unknown to him (I was in such a wretched state I was not able to pay seven half-pence); then he seized upon four acres of wheat. I had that replevined before the sheriff, and the replevin served on his bailiff at half-past ten, and he commenced the sale at ten o'clock. My replevin was served before the corn was removed off the land. He canted [auctioned] eight acres of corn without ever posting a notice for sale, and took them into Blackwell Lodge in order to break me, and not to leave me twopence. Mr. Scott then took an action in the courts above against him, and ... he stayed the trial and prevented the case coming on for the distraint. Then, in 1843, he gave me another ejectment, and I dismissed that in April and came to Mr. Scott, and told him that if I had not something to sow I should have nothing for the six months' redemption; and Mr. Scott gave me £4.10s. out of his pocket, and I bought corn and potatoes, and I sold the crop; and when he served me with that ejectment, the crop was taken out of my hands, and I got it valued by two men, and they valued it at £20. I offered to leave it to his own man and another, and he would not. The crop was valued at £20, and [Shee] canted it for £16.10s. Out of the £16.10s. he took certain fees, £6.10s. for keeper's fees by night and by day, and sold even half an acre of potatoes which my children and family had to eat, and did not leave them one. Then a decree for possession was obtained here before the judge at the assizes, and my family happened to be in a most raging fever - they were lying in the ruins of the house. He thought to have them dispossessed, and said the sheriff was in collusion with me, as he would not turn them out."

Q: "Did you hear him say that? - The sheriff told me he said so; and for fear we were scheming upon him, and seeing we were sick, he sent a medical man, a Doctor Reilly, and he said they were in a state that they could not be removed. Then we remained in the house I believe for ten or twelve days, or three weeks, and my parish priest, the Rev. Mr. Cavanagh, seeing the state we were in, and knowing my character and conduct since I was born, took compassion upon me. I came into him, and told him my story, and a Kilkenny gentleman, a Mr. Maxwell, got a memorial [petition] drawn up, signed by the parish priest, and nine priests more, and I sent it to the association in Dublin; and the reporter of the *Kilkenny Journal*

drew out a memorial, and got everything represented, and Mr. Scott gave all the distraint papers to me, and I went up with them to Dublin, and gave them to Mr. Ray. Then Mr. Shee took me one day and put me in gaol, when I was going to Dublin, and I was lying in gaol three weeks when my family were sick."

Q: "What were you put in prison for then? - For the costs of the dismissal of one of the replevins; he left me lying in gaol for three weeks and the gentlemen in Kilkenny then subscribed money for me, and paid the fees, which were £3.19s., and brought me out of gaol. ...Then when I came home from Dublin, where I got some money, I sent him a letter...saying, that I would redeem my land, and pay him the £54.1s.2d., with costs, and let him forget and forgive, and I would do the same; ...and his answer to me back was, to be ready for another half year's rent, or as soon as the year's rent became due another ejectment would be served."

Q: "Was that in writing? - Yes, to his agent and driver, Cahill. ..."

Q: "Why did you not redeem your farm at the time you got the money in Dublin? - I will tell you that. When I got back, Mr. Walsh, of the Club House, and the mayor and the parish priest said, if I gave the money to Mr. Shee, I should stand in the farm with my hands in my pockets, without a plough, or a horse, or a single item, and said, 'If you get the farm, what can you do with it; at the expiration of the twelve months he will have another ejectment upon the ground, and you will have nothing to meet it' ..."

Q: "Where do you live now? - The house I got into...was [held by] a man of the name of John Holohan. [Shee] served an ejectment upon that man for £3 for a year's rent, and the man not being able to pay it [Shee] got the house tumbled down.Then I had to get into my sister's house to live. Then I was going to get a situation with a man of the name of Moss [sic], who is a miller at Bennettsbridge, and Mr. Shee wrote a letter to Mr. Moss, telling him not to have anything at all to do with Ring and Doyle, or Holohan, for we were all black sheep."

Q: "What did he mean by that? - There was a house at Bennettsbridge belonging to a man of the name of Doyle, and as soon as there was any ejectment there would be five or six who would meet at Doyle's house, and write our statements

down, and bring them in to Mr. Scott.

Mr. Shee was addressing a letter one day to Doyle, and he addressed it to Mr. Doyle of the black sheep office. He was the first that gave it that title, because we used to be always going to law with him, and meeting together. He would not let us get a day's employment from Mr. Harvey [a gentleman] or Mr. Moss, who were the only men who kept any men going. ..."

Q: "What stock had you at the time of John Shee's death? - I had two horses."

Q: "Any cows? - I had no cows. I had two pigs and an iron plough and a car, and he used to seize upon one horse to-day and another tomorrow."

Q: "Had you any sheep. - No, I had not. It is all tillage land."...

Q: "What articles generally speaking did Mr. Shee seize for rent? - He seized upon a gate and sold it for 3d. and household furniture; and he sold my car wheels for 1s.6d.; and he sold a scythe and cradle for cutting corn, which belonged to the mower, and sold it for 1s. ...He called an auction on the dressers. He seized them nine or ten times, and the agent, Mr. Coyne, stood up against the dresser and put the money into my hands to release them, 7s.6d.; a table, and copper, and chairs, and even the bellows for blowing the fire for boiling the potatoes, he set up by auction."

Q: "Was Mr. Coyne Mr. Shee's agent at the time? - Yes, he was."

Q: "How happened it, seeing that Mr. Shee was so much disposed to annoy you, that you did not continue to pay up your rent punctually so as to be out of his power? - He put it out of my power. How could I do it when he would cant my horse? When I saw he would not leave me alone, I processed him for £12. My mother was with his brother John, and he allowed her six guineas for clothes; and if she did not want the money, he would allow it to me in the rent, and I made him pay that when he would not leave me alone."

Q: "Have you ever taken part with Mr. Harris against Mr. Shee in a law suit? - Yes, I was summoned in the court of chancery, and ...then he said he would never let me alone for doing that."

Q: "Had you ever had communication with Mr. Harris

previous to that time? - No, never. He sent for me one day. The townland is divided into two parts, one goes by the name of Threddingstown land, and Mr. Harris could not find out the name in any of the books." ...

Q: "How do you support yourself [now]? - I burnt some lime in my uncle's kiln, and got two acres of potatoes, and had them set, and I have had to buy clothes, and I bought a couple of pigs, but the money [from Dublin] is very nearly gone now, in supporting seven in the family for a year and a half." In addition, as Ring noted somewhat later in his testimony when he was asked who had his farm now: "It is now under the court of chancery. The property is taken out of [Shee's] hands by a fair lawsuit, which notice I have to produce. I have been serving notices on the tenants to that effect."

Q: "In whose employment? - In the employment of the agent and receiver, Mr. Robert Wilson. It is at the suit of Mr. Harris the property is taken out of his hands." Ring had become Harris's man.

The Law and the People

The law underpinned and anchored landlord-tenant relationships. It defined how ownership was achieved or inherited and it set out the obligations and rights of these owners ("landlords") and of those who rented their property ("tenants"). How that law was used and applied, however, could vary. It depended on the nature and aims of the landlord, on the actions and decisions made by tenants and, as a result of these, on the bonds and attachments which came to link landlords and tenants together. The land-tenant relationship was therefore rooted in both law and behaviour. It was both a legal and a moral relationship.

In this relationship, in mid-nineteenth century Ireland, landlords had the upper hand. Their rights in law were greater than those of tenants. They could evict anyone without a lease or anyone who had a lease but owed more than a year's rent. If a tenant held a lease, the landlord could seize (distrain) and sell a tenant's goods in order to obtain the rent. For any of these actions, a landlord had to go through the Quarter Sessions or the county sheriff.

In response to such legal proceedings taken by a landlord,

the weapons which tenants had was also the law itself: to find legal errors which would cause the landlord's action to be dismissed. For example, was the ejectment notice properly obtained? Was the seizure for distress legal? According to Scott: "There have been a great many ejectments brought by Mr. Shee. ... Many of these were defeated upon technical objections in point of law. At one time he failed to prove the notice as required, and other objections of that kind. Many of the ejectments...failed upon matters of form." In Ring's case, for example, one of the distraint notices taken out by Shee was followed by Ring filing for replevin. According to Scott, "distraint was made of a heap of dung, a mare and tackling, a cart and tackling, a looking-glass, two tables, and some other small articles of household furniture, a settle-bed, and dresser, for the sum of £12.12s. I have," continued Scott, "the notice of sale of that distress. The replevin was tried in court, and it was tried by a jury, ...and there was a finding for the plaintiff, 'No rent due at the time of the distress until the 1st of May following.' The 13th of March was the time of the distress, so that at that time his rent was clear." The jury also "gave £2.10s damages against Mr. Shee." As another example, also in the case with Patrick Ring, was a legal fight against "an ejectment for non-payment of rent. The rent claimed was 'the sum of £25.5s, sterling, for rent of said premises, ending the 1st of November last past, and £7.16s.,' which was not before demanded, or had been forgotten, 'of like currency, for four years' rent-charge.' This was dismissed. The [successful] objection was that [Ring's] lease, when produced, must be proved by the attesting witness, and they had not the attesting witness in court, and the case was dismissed. The merits were not tried at all; but the barrister [at Quarter Sessions] thought it a sufficient objection."

In other words, using legal tactics and technicalities, and with the support of a court system which held that minute, legal forms were important, solicitor Scott was able to defend Ring and other tenants. But only to a point. As Ring himself noted: "He fired ejectments at me until they ran up to eight, and he beat me on the ninth." Moreover, Ring's life was a misery during these years of altercation with his landlord. John Ryan's life, less dramatically, was also difficult as he

attempted to continue working his farm, in debt to the Loan Fund. The common sense of the time, as evidenced in the advice given to Ring by the parish priest, the owner of the Club House hotel and the mayor of Kilkenny when Ring did not use the money he had obtained in Dublin "to redeem his farm," was that such an action would be of little use. Shee would get him in the end.

In county Kilkenny, according to Scott, the law was seldom if ever so stringently applied and manipulated as it was on the Shee estate. Indeed, a more usual course was for a landlord to come to some terms with the tenant, using the law to bind the tenant to his/her promise to pay the rent. According to Scott: "Nothing is more common than where a tenant is processed for rent, that he comes in and gives consent to the decree. No landlord would refuse him two months, or even three months time, if he consents to a decree." Moreover, unlike Shee, few landlords used distraint. On the one hand, according to Scott, "the remedy by ejectment is not so near so expensive as the remedy by distress." On the other hand, said Scott, "I do not know anything more destructive to a tenant at all than the proceeding by distress. The great injury is this, in my opinion - it is a perfect declaration of bankruptcy. The moment a man's property is seized all his creditors come upon him." Nevertheless, "the remedy by replevin" was of "every advantage to a tenant if he has a harsh landlord. If he is distrained, he gets two or three months more time for a few shillings." What was important here was that the tenant had "the power of proceeding in the inferior courts" rather than being driven into higher ones. It allowed for landlords and tenants to come to terms. "I bring a great number of ejectments for different landlords," said Scott, "and I do not suppose that one-half of the ejectments I bring are ever executed."

In short, the use of the law by Shee followed two patterns. He used it to harass tenants, such as Ring, Ryan and Dowling, to the point where they would leave their tenancies. He also used it, for those with whom he was on terms, such as Samphy, to the point whereby they never departed from the exact terms of their tenancies. A more common situation, however, according to Scott's evidence, was when the law was used for mediating landlord-tenant dealings. How much time, for

example, should a tenant have to pay the rent? How much time could a tenant squeeze from the landlord if he agreed to an ejectment decree? Other tactics also emerged from the evidence before the commissioners. For example, the commissioners asked Patrick Ring if his "November rent [was] paid when Mr. [Richard] Shee first came up to you in the field." He answered: "I owed not a halfpenny rent. I owed half a year's rent like all the other tenants. At the death of his brother, they all owed a half year's rent; and then I was bail for a brother-in-law of mine in the bank, and I was afraid the bank would come against me, and I went to Mr. Shee of my own free will to tell him to come and make a distress, and he came and sold, and I paid him the November rent." Ring had used the law, in collusion with his landlord, to avoid paying what he owed the bank for having stood surety for his brother-in-law.

Similarly, one of Shee's tenants, Martin Keefe, also used the law and its agents for his short-term advantage. Robert Cahill, the receiver, explained how "there was a proceeding against Keefe" for "two rents he owed" on lands he held under two separate leases. "When the distress was made, [Keefe] said he would proceed to Thomastown, he told me, and get Mr. Nugent [corn merchant and moneylender] to give him the amount of the rent. I made the distress and he came to me and said I did not return [list in the distress notice] all the articles he had. ... 'If you give me notice of what the crops and every thing are, I will go to Mr. Nugent and get the [rent] money.'" Presumably Keefe wanted all his assets listed so as to assure Cahill that Nugent would lend him the money. Thus, he told Cahill that "he would give that which is the best security." So Cahill "immediately went and gave him the notice and put the crops into it. Unfortunately, I did not go on to the land to seize." For Keefe "went and took replevin and never went to Mr. Nugent to ask for the money at all. It was just to take me in. Then I had to come in to Kilkenny and serve him with [another] notice, withdrawing [the] seizures and got him served with... writs for the amount of the...rents he owed." Out of this legal gambit, Keefe had obtained more time.

Despite such tactics and machinations, the fact remained that, in the mid-nineteenth century, it was the landlords who "went to law" and it was the tenants who responded to, or

manoeuvred within, these legal challenges. One of the best ways to restrain the landlord from going to law was for a tenant to maintain good relations with the landlord. For Samphy, this meant conforming carefully to the terms of his tenancy. For others, it was to have extra-legal and non-economic ties which might moderate the unequal power of the landlord as compared with the tenant. For example, Judith Ring's relation with John Shee enabled six guineas a year to be deducted from Patrick Ring's rent - a remuneration and exchange probably built out of the facts that her husband, according to Patrick Ring, had been a "manager of John Shee's affairs" while Patrick had been a "steward in the family." Patrick Dowling's wife, in her turn, "was an old follower of the family of [Lord Clifden's] agent." This agent paid Dowling's rent to Shee. Patrick Ring, after his eviction, was hired by Mr. Harris whose law case against Shee he had supported.

Such relations, often based on "family ties," were fragile however, and could put the tenant at risk from numerous sources. According to Patrick Ring, "at the time of the death of [Shee's] brother, there was no person in the house but my sister and my mother, and my mother was minding him. My sister saying to herself she had a better right to the clothes than any other person, she took some of the clothes belonging to the master for her husband. I went off to Mr. Percy McMann with word of his death, and the very minute he expired I locked up the house and gave the key to his niece, Miss Shee, to see that everything was in the same state; and when I got back I found the place had been turned over, and the whiskey drank, and the clothes taken away. But saving the scarf I got at the funeral, I never got a cravat out of the place." Ring did not say who "turned over the place" or drank the whiskey, nor did he say if Richard Shee knew about his brother's clothes being taken. However, the person who locked up after John Shee's death would certainly be a prime suspect.

In all this, where were the neighbours and kin of those tenants being persecuted on the Shee estate? According to Ring, "when I came home [from Dublin], I was obliged to turn out in the night, as soon as the family got a little recovered; and Mr. Shee being the landlord of that place entirely, of the village of Bennettsbridge, he promised my uncles, who had

houses there, with persecution if they let me in, or any one belonging to me."

Q: "How do you know that? – They told me they dare not let me in, nor the children, nor to let us have anything to eat, unless it was after dark. My family was out about five or six hours, and they could be not let into any house until my sister came and brought them into her own house in the street in Bennettsbridge. There was twelve or thirteen of us, with her family and my family, living together for five months, before I could get a place to put my head in. I offered a woman of the name of Margaret Foster half a year's rent into her hand, or a year's rent, for a house she had empty, and her answer to me was, that she would be afraid of Mr. Shee to let me in."

If the past were an indication, Richard Shee's tenants had a right to be afraid. Asked if Mr. Shee "endeavoured to eject any of the other tenants," Ring responded: "I have known him eject a tenant for £29.10s.11d., a year's rent, and run her to £42 costs."

Q: "Who was that person? – Widow Byrne, Elizabeth Byrne, and Michael Byrne. And they had to put some stones under the bed to keep them out of the water. He would not let them into any house in the neighbourhood, and no one dared to let them into a house. He took the crop away from them."

If neighbours and kin were afraid of Richard Shee, this was not the case among those who were not from Bennettsbridge and who were not dependent on Richard Shee. Those who helped were of three types. First were those of superior classes who provided what was, in effect, charity. Ring told the commissioners that he never kept an account "of the costs" he "was put to by these various [law] proceedings" because "Mr. Scott, seeing I had no money, conducted it without costs." Scott did this, even though he did not think that Ring was "a fair sample of what tenants are or ought to be." Scott also gave Ring £4.10s "out of his [own] pocket" to buy seed. Mr. Coyne, Shee's agent, paid a fine for Ring at one point as well as paying off Ring's debt at an auction. The county sheriff refused to remove Ring's family from their house because they were ill and he sent Dr. Reilly to tender medical care. Mr. Clifford, manager of the Loan Fund, came forward to secure a loan for John Ryan.

Second, there were those who proffered advice: the parish priest, the owner of the Club House Hotel and the Kilkenny mayor. Their concerns and involvements were probably linked to a third group of outsiders who became involved. These were the supporters of Daniel O'Connell and his political movement who likely saw events on the Shee estate as fodder for their political agitations. They included "gentlemen in Kilkenny" who subscribed money so Ring could get out of gaol; the owner-editor (Mr. Maxwell) of the nationalist *Kilkenny Journal* newspaper who began a petition; and the "association in Dublin," presumably O'Connell's, which provided Ring with enough money for him either to redeem his farm or to live for eighteen months after being evicted. O'Connell even makes a personal appearance, having dinner with a London journalist who became interested in events on the Shee estate and who interviewed Patrick Ring at length.

"There was a gentleman came over to Ireland of the name of Somerville. He had heard of my case, and how I was persecuted and he hired a car and went out to Bennettsbridge and got up to the place, and saw my mother out in the ruins with an infant in her arms. ...They were in a famishing way, and he...left her a sovereign and a half. He brought myself into Kilkenny, and he kept me at Flude's Hotel taking down my case two days and a night. I told him I was going to Dublin, and he gave me some clothes, and then he took me down with him to Dublin, and he got my case put into the *Morning Chronicle* in London, and he laid it also before Mr. O'Connell; and then when Mr. O'Connell came to understand who he was, he and Mr. Somerville dined together."

It is clear from Ring's other evidence, however, that such outside people did not accidentally find out about local conditions. Those whom Richard Shee labelled the "black sheep" and whom he was determined to evict – among them Ring, Doyle and Holohan – had been "meeting together" and writing their "statements down." They sent these to solicitor Scott and, presumably, to other political activists and journalists – who in turn, passed them on – in order to elicit support for their situation and also, perhaps, to challenge the legal situation which gave so much power to landlords.

Through their actions, then, local events in

Bennettsbridge came to the notice of those who set up the witness lists for the 1844 parliamentary inquiry. As a result, the records were generated which allow us to see the nature of an early land agitation and how local events might become linked to national heroes and the Irish land movement. Through their actions, too, we are able to explore how the law mediated relations between landlords and tenants in the mid-nineteenth century; how amiable relations with a landlord were crucial for a tenant-farmer; and how a "bad landlord" was defined by people at the time.

Notes

1. Michael O'Dwyer, "The Estate of James Carnegie Shee", *In the Shadow of the Steeple*, No. 5, pp. 60-65 (1996); See also Edward Law, "Richard Shee of Blackwell Lodge, Bennettsbridge", *In the Shadow of the Steeple*, No. 6, pp. 4-11 (1998).
2. H.C. 1845, xx. [Devon Commission] *Her Majesty's Commission of Enquiry into the State of Law and Practice in Respect of the occupation of Land in Ireland*.
3. The Quarter Sessions were held four times a year ("quarterly"). Kilkenny city and Thomastown had such sessions. The bench at such sessions was composed of magistrates (usually landlords), headed by a "barrister" or "assistant barrister" who provided professional expertise and, therefore, the leadership. His advice or opinion was usually crucial.
4. Cahill lived at Blackwell. In 1844, he had been Shee's receiver for four years.
5. The terms of leases - their length or duration - were often specified in terms of "lives." The length of the lease thus depended upon how long the person named actually lived.
6. Chancery, or the Court of Chancery, was the highest judicial court apart from the House of Lords.
7. According to Kieran Somers, Shee's bailiff who gave evidence before the inquiry, he was not only employed "in seizing upon the lands of Patrick Ring...three or four times" in the previous five years, but he also "executed a decree against the person of Patrick Ring. ...I had a decree against his body." Apparently, Somers had a great deal of "difficulty in arresting him." Ring had locked himself in his house, with his family and Somers "employed others to do it". On other occasions, when the bailiffs were seizing crops, or trying to get into the house to seize household goods, they kept a close watch, day and night, to prevent Ring from removing his goods. "We used to be there very early in the morning; ...there was property going away if we did not watch very close." At one point, "we summoned him for digging potatoes; we let him dig as many as his family could use. I did not hinder him. [But] I found he was digging more than I thought his family would use and I thought it my duty to stop him."
8. The Assizes were judicial sessions held periodically in each County to try serious cases, both civil and criminal. They were headed by a judge of the superior court who travelled a circuit of county assizes.