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## Study of Available 19th Century Irish Debtors' Records *historyeye*

Debtors were the only class of prisoner that the penal system set out to punish by detention. This is reflected in the fact that of the nine prisons operating in Dublin in the Eighteenth and Nineteenth Centuries, five were exclusively devoted to debtors.<sup>1</sup> These were the **Sheriff's Prison** (closed in the 1840s) and **Marshalsea**, ( reserved for the few imprisoned by the Court of Conscience or Lord Mayor's Court). Both were based near Newgate , Mary's Abbey. In addition to these two, there were the **Four Courts Marshalsea** (closed in 1874), **St Sepulchre's Manor**, ( Kevin Street ) and **Smithfield Depot**.

Few if any of debtors' prison records have survived however. Of all class of prisons, the debtors' prisons were the worst run with little central supervision. A valuable list of debtors in Dublin jails between 1730-31 appeared in the *Dublin Gazette* and is reproduced by the *Dublin Historical Record*.<sup>2</sup> It gives particulars such as name, address and trade. An equivalent list of fifty-five names for Cork city is available too.<sup>3</sup>

Another surviving list is the **Kilmainham Jail** register of debtors covering the period from August 11th 1845, to September 27th 1881. <sup>4</sup> The record is reasonably legible although legal terms, often in Latin, make it less user-friendly. The total number of names on the Kilmainham list is 1559 . As the Nineteenth Century progressed, county jails catered increasingly for debtors by providing designated marshalseas on their grounds. Debtors' lists exist for Sligo, Cork, Limerick and Nenagh

<sup>1</sup>Jane Lyon. [http://myhome.ispdr.net.au/~mgrogan/cork/jane\\_prison.htm](http://myhome.ispdr.net.au/~mgrogan/cork/jane_prison.htm). 1999. Accessed Oct 31 2010.

<sup>2</sup> Patrick O'Connor, *Dublin Historical Record*. Vol. 6, No. 2 (Mar.-May 1944), pages 75-80 ; Vol. 6, No. 4 (Sep.-Nov. 1944), pages 157-159.

<sup>3</sup> Michael V. Conlon, 'Debtors in Cork Gaols - 1705-1872', *Journal of the Cork Historical & Archaeological Society*. No. 47 1942, page 10-11.

<sup>4</sup> National Archives Dublin . MFGS 51/050.

jails and it is likely that all county jails kept this type of record but they have not survived into the present day .

Like most debtor registers, Kilmainham’s list differs markedly from general prison registers in format and detail. The researcher will find the name of debtor, date committed, amount of debt, at whose suit committed, class of debtor , when discharged and remarks. But they will find no address, age, or occupation. In some cases the name of the plaintiff or creditor can help to pinpoint the debtor’s identity or sphere of activity. The process by which the debtor is committed may also be revealing. Eg *City of Dublin Decree, Mary’s Abbey Decree, Grangegorman Decree*. Mention of a *Coroner’s Execution process* is significant as it can provide important clues to the death of a party.

The debtor was divided into two classes - **master** or **pauper**. The pauper debtor was dependent on the county for his maintenance in jail and had to undertake work to pay back the upkeep. Debtors could go from master to pauper over a period of time. Other processes by which the debtor was committed included:

- A: **Queen’s Bench** (the court dealing with offenses against the ‘Queen’s Peace’, which can be either civil or criminal )
- B: **Exchequer Bench** (revenue cases usually)
- C: **Seneschal Decree** (the Seneschal was a legally trained official appointed by the Archbishop of Dublin to preside over courts and market juries of the Liberty <sup>5</sup>).
- D: **Judge’s Fiat** (court order by a judge).
- E : **Court of Common Pleas** ( had jurisdiction over real estate and civil cases). A more expensive and slower court than the Queen’s Bench.
- F: **Chancery Attachment** ( Equity cases. Rarer in the debtors’ records).

In Dublin and Cork the enforcement of civil court orders was the responsibility of a government-appointed sheriff. The commonest process of debt discharge in the Kilmainham register was through the **Court of Insolvency**. This was a non-jury court run by government-appointed commissioners . It allowed a debtor, after a reasonable period of imprisonment, to apply for release if he surrendered all his possessions, except his clothes and tools, to his creditors. The mechanism was summed up by the well-known phrase: ‘**The person is for ever released, but the property never, as long as any claims remain unsatisfied.**’ <sup>6</sup>

1848 stands out as the worst year for insolvents in Ireland, with 136 cases in Kilmainham. (The previous year’s total had been 17 and the year 1849 had 66.) Interestingly this trend was duplicated in all the other surviving records studied and , unlike vagrancy, begging and robbery, it saw a dramatic tailing off the following year.

**Table 1: comparing debtor numbers for the various county jails.**

Jail	1847	1848	1849
Limerick	490	626	137
Sligo	286	308	67

<sup>5</sup> *Proquest*. House of Commons Parliamentary Papers Online. <http://parlipapers.chadwyck.co.uk>. Vol. 24. Corporations Ireland. Vol. 24 , 1836, page 294. Accessed October 23, 2010. Institutional subscription required.

<sup>6</sup> *Google Books*, <http://books.google.com>, Samuel Leigh . *Leigh’s New Picture of London*. Leigh and Co. 1839, page 45.

Jail	1847	1848	1849
Dublin (Kilmainham)	17	136	66
Cork County Jail *	238	273	121
Nenagh	415	473	116

(\*Figures derived from general register of Cork County Jail. 7)

In 1864 the automatic jailing of debtors was abolished in certain circumstances (**Small Debtors Discharge Act 1864**)<sup>8</sup>. This situation was consolidated by further legislation in the 1870s, and a steep decline in prison debtors was observed after the 1864 watershed. In 1873, the Queen's Bench, Chancery, Exchequer and Common Plea courts, all of which had their origins in Medieval law, were merged into the **High Court**.

The Kilmainham debt records were found not to involve too many families. There were few instances of members of the same surname being brought to court or appearing in the same suit. An attempt was made to study this list in conjunction with the records of the Registry of Deeds (ROD) in Dublin. Since a debtor might be forced to offload leases around the year of insolvency, this could provide a useful finding aid to significant entry dates in the ROD. This exercise yielded rich results in some cases but it was by no means commonplace for those in the Debtor's book to feature in the ROD.

Debtors were found in great numbers in the general prison registers of nearly all county jails, where they consistently made up between 8 and 12 % of the jail population from the 1820s to the 1840s. In the case of Kilmainham jail's general register, debtor entries become increasingly easy to spot as they are fainter than the rest, suggesting a different colour pen was used by the registrar, possibly even a pencil. However there was rarely any attempt to fill in the descriptive column, prisoner's religion, marital status, trade or native place. Standard of education column and debtor's age were sometimes given. Since their offense was civil rather than criminal, debtors were not supposed to be subject to the prison regime. They had different food and quarters and could wear their own clothes. Nonetheless, in 1809 a parliamentary report criticised Governor Dunn of Kilmainham Jail for his tyrannical, oppressive attitude to debtors.<sup>9</sup> And in 1848 the Inspector of Prisons was dismayed to discover a debtor being made to use the treadmill at Monaghan jail.

A substantial debtor record survives for **Cork County Jail** for the years 1858- 1872.<sup>10</sup> The collection consists of 653 names. There are between thirty and fifty cases each year with a spike in the early 1860s of between 61 and 68 cases, mirroring the situation in Dublin. The Cork debtor records are greatly boosted for the Eighteenth Century by the records of a charitable society set up

<sup>7</sup> National Archives Cork County Jail MFGS 51/009.

<sup>8</sup> *Proquest*. House of Commons Parliamentary Papers Online. <http://parlipapers.chadwyck.co.uk> 19<sup>th</sup> Century House of Commons Sessional Papers, Vol. 11 . 1864. Page 353. Accessed Feb 15 2011. Institutional subscription required.

<sup>9</sup> *Ibid*, 1809 (265) (Ireland.) Report from the commissioners appointed to inquire into and inspect the condition and government of the state prisons and other gaols in Ireland. Accessed Mar 17, 2011.

<sup>10</sup> National Archives, Dublin, MFGS 51/025.

by Henry Sheares in 1774 to help small debtors. Two reports of the Relief and Discharge of Persons Society, 1775 and 1783, are available at the Royal Irish Academy.<sup>11</sup>

Another extensive list of debtors is found for **Sligo Jail** for the years 1843 to 1878.<sup>12</sup> This archive consists of 1492 names. The record is clear and legible, though there are a few missing pages at the start. Unlike the Dublin and Cork records, the debtor's religion was always given. The legal process used in Sligo was usually a *Barrister's Decree* or a *Capius ad Satisfaciondum*, a writ issued on foot of a civil judgment that enabled a plaintiff to have a defendant jailed until a debt was paid.<sup>13</sup>

Most of the Sligo debts were small, a matter of a few pounds, though there was the occasional large sum. Names typical of the Sligo area such as McGetrick were in evidence. Other unusual names to feature were Tivnan, (a regional variation of Teevan or Teehan), Currid and Sharket. Sligo's debtor records are more valuable from a genealogical point of view as there was a larger proportion of obvious cases involving families, with people of the same surname, likely brothers or fathers and sons, owing money to the same creditors. There were also several instances where debtors and creditors had the same surname and were possibly related. This was also seen in the Cork archive.

The longest surviving unbroken record for imprisoned debtors belongs to **Limerick Jail**, stretching from 1835 to 1881.<sup>14</sup> With well over six thousand names recorded, it is by far the largest archive of its kind as well as being the best preserved and legible. It broadly follows the format of the Sligo archive, but gives religion and age of debtor from 1868 only.

Debtor records for **Nenagh Jail** extend from 1843 to 1872.<sup>15</sup> They are also in pristine condition. Like Sligo they recorded religious persuasion from the beginning, while also providing the extra information of the debtor's **standard of education**. It was interesting to note that in 1843, 45 out of the total of 48 debtors could write, well above the national average of the time.

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Further information on this and other topics relating to Irish prisons in the 19th century can be explored in the book *Irish Nineteenth Century Prison Records: survey and evaluation*.

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<sup>11</sup> Michael V. Conlon, 'Debtors in Cork Gaols - 1705-1872', *Journal of the Cork Historical & Archaeological Society*. No. 47 1942, page 15.

<sup>12</sup> National Archives, Dublin, MFGS 51/163.

<sup>13</sup> New Jersey Law Revision Commission. 'Relating to Civil Arrest Capius ad Respondendum et Satisfaciendum'. Final Report. 1997 page 1-5. <http://www.lawrev.state.nj.us>. Accessed November 12 2010.

<sup>14</sup> National Archives, Dublin, MFGS 51/078. Limerick Jail Debtors' List. 19 Sep 1835 -14 May 1850. 22 May 1849- 28 Feb 1881.

<sup>15</sup> Ibid, MFGS 51/092.