

# Limerick - Magnet of Liberty

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*In this article we take a detailed look at the rights and liberties granted to Limerick by Prince John in his Charter of 1197. For ease of recognition, we have referred to John as 'Prince', rather than his correct title, Count of Mortain.*

IN 1175 the Normans took Limerick by storm, but were forced to withdraw the following year and it was not until twenty years later in the mid-1190s that they returned and re-occupied the city. At the time, Hamo de Valoignes, as Justiciar (Viceroy) of Ireland, granted plots of land in the city to various people following the re-occupation. One of the priorities of Prince John, as Lord of Ireland, was to consolidate the settlement by confirming the rights of the early Anglo-Norman pioneers and encouraging prospective settlers to take up permanent residence in this small, but strategically important port town on the western frontiers of the Angevin realm. Establishing a commercially viable, stable community capable of holding the city for the Crown required the presence of loyal, law-abiding merchants and artisans from England, but they could only be enticed to settle and put down roots in the community if they were given specific guarantees concerning their rights and civil liberties, these being:

1. Their property rights were to be absolutely guaranteed.
2. They would be free of the arbitrary rule of feudal lords.
3. They were allowed to administer their own local courts of justice.
4. They were not subject to some of the harsher aspects of the English Common Law.
5. Merchants were to be granted monopoly trading rights over the city and receive commercial advantages similar to those enjoyed by other chartered towns.

With this in mind, Prince John issued a Charter to Limerick in December 1197 offering both Anglo-Norman colonists and the original Hiberno-Norse merchants substantial privileges. In return, Prince John gained the allegiance of the citizens of Limerick, beholden as they were to Royal grace and favour, in pursuance of Royal policy of keeping the feudal barons in Ireland in check. The loyalty of the mercantile and artisan classes in the walled and fortified cities of Ireland was vital to the maintenance of Royal authority in the country and the English monarchy was not to be disappointed with Limerick, for the city remained a true and steadfast friend of the Crown through all the vicissitudes and turmoils of medieval and Tudor Ireland. So much so, that in 1575 Elizabeth I presented a ceremonial civic sword to Limerick in recognition of its loyalty.

Prince John's Charter to Limerick was basically a glorified letter stating that the citizens of the city were to, *have all the liberties and free customs through all*

*Ireland which the citizens of Dublin have.*' Although the document did not spell out precisely what these *liberties and free customs* were, the model and reference point is obviously a charter issued to Dublin by Prince John just five years previously in 1192 [see previous article for full text]. This most detailed and comprehensive manuscript lists all the rights and privileges given to Dublin, and hence to Limerick, and for the first time since its foundation by the Vikings in 922 A.D. Limerick was provided with a clear legal framework setting out both the liberties of its citizens and the terms under which they held property in the borough.

### Property Rights

The colonists who settled in Limerick were allocated a plot of land known as a *burgage plot* on which to build a house, the owner being known as a *burgess*. The burgesses constituted the property-owning class of the city and it was this social grouping that enjoyed all the liberties and freedoms laid down in the Charter - the laws and administration of the city being geared to protecting and maintaining their interests. In the twelfth century citizenship in the English and colonised Irish cities was strictly limited to those who owned property in the municipality and paid taxes to the King. The term *burgess* is synonymous with *citizen* and *freeman*. During the first half of the thirteenth century, however, the limits of citizenship were widened and the status could be inherited from one's parents, by paying a fee for the privilege, or by becoming an apprentice to a burgess.

Those burgage plots situated within the walls of the city were sited along the main street - the plots being long and narrow in outline, only about twenty feet in width, and extending back from the main street to the city walls. Due to the narrowness of the plot, the gable end of the timber-framed, thatched houses tended to face onto the street, with access to the house being gained via a path or laneway leading off the street. Between the house and town wall there might be a garden in which fruit, herbs and vegetables would be grown and a cess-pit dug. Cess-pits might very well prove to be seriously damaging to one's health for it was not unknown for people to fall into them and drown; leaking cess-pits also polluted nearby water wells. To our eyes Limerick would have seemed quite a small place in 1197, no bigger in size than a large modern village, for at the time of the Norman invasion the walled area of the Hiberno-Norse city extended only from Newgate Lane to present-day Baal's Bridge in length, and from the present Civic Offices to Bishop Street in breadth. At the time, King John's Castle had yet to be built, Thomond Bridge and Baal's Bridge did not exist and the population was only a few thousand.

The property rights of the burgesses were protected under the terms of the Charter because they held their land in *free burgage* from the Crown, an arrangement allowing them to inherit, alienate and otherwise profit from their property, provided that any improvements did not interfere with the common good. Tenures were held by *land-gable* which was a fixed ground-rent paid to the city *Reeve* who functioned as the King's representative and financial officer in Limerick. Later, in the thirteenth century, the town authorities were permitted

by the Crown to collect the money.

An important safeguard for the property rights of burgesses holding lands outside the city limits is contained in two provisions of the Charter dealing with wardship and marriage. Under feudal law, if a minor inherited an estate the lord from whom he or she held the land in *fief* (fee) assumed powers of guardianship over the minor until (s)he came of age - an arrangement known as wardship. [*Fief* was land, generally inheritable, held in vassalage from a lord in return for service, usually military service, which could be commuted by payment of a sum of money known as *Scutage*]. In the meantime, the lord administered the property for his ward - a situation obviously open to exploitation, for the lord might wish to arrange a 'suitable' marriage for his ward. However, under the Charter the lord of an external estate owned by a burgess family could only exercise wardship over the land, not the ward's matrimonial prospects. Another clause of the Charter reinforces this by stating that citizens could marry whosoever they wished without seeking permission of any lord; so too could their sons, daughters and widows - a vital liberty freeing the propertied classes of Limerick from the manipulations of feudal lords and ensuring that their property stayed within the family.

As in all the other colonised towns of Ireland most of the settlers came over from England; however our knowledge of the early Anglo-Norman residents of Limerick is virtually non-existent given the lack of documentary evidence. But if Dublin is anything to go by, many of them would have come from Bristol and the Severn Estuary area of south-west England and south Wales. Many of these 'Welsh' settlers were originally of Flemish stock, who had moved from Flanders to England during the time of the Norman Conquest. Other colonists would have come from London, the south-east area of England and the Midlands, with a smattering of Northerners, Scots, Continentals and settlers from other Anglo-Irish towns. Most of the new arrivals came from urban backgrounds and they expected the same civic rights as those enjoyed by merchants and master craftsmen back home in England, France or in Dublin.

### Freedom to Trade

Limerick's first Plantagenet Charter conferred on the mercantile community a number of valuable economic privileges including exemption from paying tolls and internal customs duties on the movement and sale of goods throughout Prince John's lands. Among the tolls exempted were *lastage* - duties levied at fairs and markets, and *pontage* - tolls paid at bridges; and should anyone in John's jurisdiction levy any toll on a citizen, and refuse to return it after being summoned to do so, the Reeve of the city could *distrain* - temporarily seize - goods as security for the return of the money.

Burgesses were entitled to enforce collection of their debts by *distraint* the personal property of a debtor as security or indemnity for the sum owed. However, citizens of Limerick could only be pursued and distrained for debts by outsiders if they were personally the debtor or had pledged (guaranteed)

er's debt, otherwise their property was immune from any collective liability for other citizens' debts. (It was a common practice in medieval urban regimes to seize the property of any visiting merchant who just happened to come from the same town as the debtor.) Another clause in the Charter enacted that no one could be forced to *repledge* another person i.e. go guarantor for another person's debts, even if he was living on the other's land.

The citizens were also permitted to *'have all their rightful gilds, as fully as the burgesses of Bristol have'* - a guild being a fraternal organisation, generally bound by an oath, and gathered together for a trade, religious or charitable purpose. Politically and commercially the most important guild in any English or Irish chartered city in Prince John's day was the *Guild Merchant* - an organisation that by the end of the twelfth century incorporated not only wholesale merchants, but retailers and master craftsmen who sold the goods they produced, such as bakers, shoemakers and the like. Specialist craft guilds exclusively devoted to trades such as weaving etc. were looked on as subversive by the English authorities at the time and were not encouraged; so, given the small size of Limerick in 1197 it is probable that the Guild Merchant was the only trade guild authorised to function in Limerick. It was not until the fourteenth and fifteenth centuries that craft guilds in Ireland became properly established and socially respectable.

The *raison d'être* of the Guild Merchant was to secure and maintain trade advantages for its members and monitor the activities of strangers trading in the municipality. The protection of local traders from outside competition and the maintenance of cosy monopolies was always dear to the heart of any medieval merchant, and *extern merchants*, i.e. non-residents, operating in the city were subjected under the terms of the Charter to a number of restrictions; these being:

1. Outsiders had to buy their supplies of corn, animal hides and wool from local merchants - these commodities being the staple trades of the city at the time and the raw materials from which local commodities such as bread, leather goods and woollen garments were produced.
2. Extern merchants could not stay in the city for more than forty days.
3. Furthermore, they were not allowed to own taverns within the city limits or sell cloth at retail.

As a bonus for himself, Prince John reserved the privilege, exercised through a bailiff, of choosing two casks of wine from any vessel importing wine into the city for a set payment of twenty shillings a cask.

### Legal Freedoms

The Charter also offered citizens a number of important judicial safeguards protecting them from some of the cruder manifestations of late twelfth century medieval justice. For example, they were to be free of *murdrum* - a financial penalty imposed on a community when a murder occurred within its bounds and the killer could not be found. The murdrum fine was originally introduced into England by William the Conqueror when it was observed that dead Normans were frequently being found under very mysterious circumstances. As

a deterrent, William The Bastard (as The Conqueror has sometimes been known, for he was indeed born out of wedlock) enacted that a fine should be imposed on the inhabitants of a locality for its failure to hand over the murderer. The practice soon grew up of taking inquests and if it were shown that the murder victim was English, then the fine was not imposed. Later, murdrum became a penalty for the killing of any freeman. Relief from murdrum was a boon for the burgesses in a frontier town like Limerick, where people of various ethnic backgrounds met - drunken fights, brawls and assassinations might break out at any moment and bodies might be dumped on the street for any variety of reasons. It was really good news for the burghers that they weren't to be penalised every time a corpse happened to turn up on their doorstep.

They were also made free of *miskenning* - an archaic principle in law whereby a verbal slip made in court, or an error in following court procedure, could result in a litigant losing his case and possibly facing a hefty fine. The error could not be withdrawn, for a man had to be literally *taken at his word*. Miskenning, as one might imagine, was the dread of litigants and an oppressive principle, especially in urban communities based on commerce where complicated and intricate law suits might arise.

Another important civil liberty conferred by Prince John, was that no citizen should be expected to fight a duel to prove his innocence in the event of a serious criminal charge being brought against him by another individual, such as an accusation of homicide, cattle rustling, wounding or robbery - all offences carrying the death penalty. Under English Common Law it was accepted practice for a defendant, in order to prove his innocence, to appeal to the just judgement of God by challenging his accuser to single mortal combat. Known as *Ordeal of Battle, or Trial by Battle* it was used in cases where the guilt or innocence of the accused was not obvious and could not be decided upon by normal court procedure. Electing to undergo ordeal by battle was a calculated risk on the part of the accused, but if he were stronger than the plaintiff then it might be worth the chance. A religious service might be held before the encounter, but religious sanction was not considered essential to the proper functioning of a duel. The weapons commonly used by contestants were hammers, or staffs with sharpened ends, and it is not too difficult to imagine the fight degenerating into a nasty eye-gouging affair as the duellists attempted to bash each other's heads in with hammers or drive a sharpened stake into an opponent's throat. If the defeated defendant was not already dead at the end of the fight he was immediately hanged. It was really *Mad Max* stuff. It was, of course, an utterly uncivilised way of carrying-on, and to be relieved of trial by battle was greatly beneficial to the good health of the portly burghers of Limerick.

Instead of having to face this dreadful ordeal, the Charter allowed a man to clear his name of any criminal accusation if forty *lawful* men, i.e. citizens of the town, were willing to declare that the defendant's oath was pure. Known as *compurgation*, or *wager of law*, the procedure involved the accused swearing a solemn oath that he was totally innocent of the crime in question and producing in court forty honest fellows to swear that his oath was good and true. They did not actu-

ally swear to the facts of the case, but to their belief that the accused was an honest and credible person. It was, in fact, a character test by one's peers - certainly an ordeal if one wasn't exactly the most popular man in town.

Although the privilege of compurgation had been granted by Royal grace, the Crown wasn't particularly enamoured with the procedure as a defence in criminal cases and in 1276 we hear of Geoffrey de Geneville, Justiciar of Ireland, complaining to King Edward I that in Limerick:

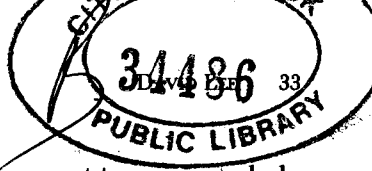
if a man of their franchise openly kill another man within the city, and he purge himself of the deed by 40 men he shall be quit of the felony.<sup>1</sup>

The use of compurgation in criminal cases died out in the Middle Ages, but the procedure still continued as a defence in civil cases involving debt until the 19th century, finally being abolished in 1833.

### Ordeal of Iron

Although the burgesses of Limerick were free of trial by battle, there is no mention in the Charter of exemptions from other forms of judicial ordeal. At the end of the twelfth century the barbaric and primitive ordeals of *hot iron* and *cold water* were used under the law to determine the guilt or otherwise of criminal suspects. Let us assume that in 1197 a newly arrived settler from England accused another of cattle rustling, or some such offence, and brought the defendant before the *Hundred Court* for judgment; but proving the case might be difficult - perhaps there was insufficient evidence or lack of witnesses. However, a strong air of suspicion hangs over the accused, or he is known to be a shifty and disreputable character and to force a confession the accused might be threatened with the ordeal of hot iron. If he still refused to confess he would be taken to a church to undergo the ordeal, which was seen as God's judgement on the matter. During an obligatory religious service the accused had to grasp a red hot bar of iron in his hand, walk three paces and then have his hand bandaged. Three days later the bandages were removed and if his wound were clean he was declared innocent, 'God be praised'. But if unclean he was guilty and liable to hanging, mutilation, banishment, or whatever punishment was deemed appropriate to the case.<sup>2</sup>

The ordeal of hot iron was the most common test for freemen under suspicion of a crime. Another form of ordeal for freemen was that of boiling water whereby the hand had to be thrust into a bowl of boiling water and a stone removed; his guilt or innocence being ascertained three days later. A rather odd ordeal reserved solely for the interrogation of clergymen was the *cursed morsel*, the accused being made to swallow a piece of food in which a feather was concealed; if he choked he was guilty. The ordeal of cold water was applied to unfree men who were lowered into a pit of water by a rope tied around their waist. At a distance of a long hair's length from where the rope was attached to the body a knot



was tied in the rope. Let down gently into the water so as not to cause a splash, the accused was saved if he sank to the depth of the knot. If not, God's judgement lay heavy on him. For those who failed the test twelfth century justice could be pretty brutal. For theft a man might be hanged or blinded in both eyes and his testicles cut off. Or he might lose an ear, a foot, or his right hand and be banished from the realm. The savagery, or pleasure, of the sentence was heightened by the fact that the victim of the crime, or his kinsman, could himself carry out the mutilation or hanging of the criminal.

The role of the clergy in giving religious sanction to these rather barbaric ordeals of iron and water was essential to their continuance. However, not everyone in the Church of Rome was happy with the practice and finally in 1215 Pope Clement III forbade the clergy from performing any religious service in connection with ordeals. Young Henry III of England immediately recognised the Papal decree and abolished all ordeals, except trial by battle, an ordeal not covered by the Papal Ban since Church ceremonies were not essential to it. However, under the 1197 Charter the burgesses of Limerick had already been freed from ordeal by battle.

### Freedom from Feudal Lords

One of the attractions which drew people to Limerick was that they were allowed to administer their own judicial affairs and be judged by their own peers without interference from the arbitrary rule of feudal lords and shire sheriffs whose jurisdictions lay outside the city boundaries. That this principle of judicial independence was considered vitally important is highlighted by the fact that the very first provision of Prince John's Charter deals with this matter and states that no citizen shall be summoned to appear before any external court [whether seignorial or shire] to answer any charges or take part in any lawsuit. The only exception being in relation to legal proceedings involving *tenements* (land and property) owned outside the city boundaries.

Judging from the English and Irish experience, freedom from the shire sheriff and all his works was no small civil liberty for townsmen. Following the Norman Conquest of England, sheriffs often purchased their counties from the Crown at a fixed rent, pocketing the profits of the office and sub-letting the *Hundred Courts*. Serving under the sheriff were a sub-sheriff, clerks and a chief-serjeant who had under his direct authority a number of serjeants whose job it was to serve writs, collect debts, arrest criminals etc. The sheriff had little effective control over the chief-serjeant because his office was hereditary and held from the King. The whole system was obviously wide open to abuse for it encouraged the unscrupulous to enrich themselves by false arrest, torture, blackmail, and the levying of extortionate fines. The shire of Munster, i.e. Tipperary and Limerick combined, was founded in 1211-12 and by 1235 Tipperary and Limerick had their own shire courts, the two becoming completely separate shires in the early 1250s.

The cornerstone of Limerick's judicial independence was the *Hundred Court*

which the Charter allowed to meet once a week. As this court had an important role to play in the local administration of justice and civic affairs it deserves some attention. The term *Hundred Court* is derived from the English system of local government the Normans found, and wisely left intact, when they conquered England in 1066. Anglo-Saxon England had been divided into Shires which were sub-divided into territorial units known as *Hundreds*, the number of Hundreds in each Shire varying as the Hundred had no fixed territorial size. By Prince John's time there were about 600 Hundreds in England. Each Shire and each Hundred had its own court and in Anglo-Saxon times the Shire court met twice a year and the Hundred Court once a month - but under the Normans they came to be held far more frequently. The Shire court was presided over by a sheriff, the principal local agent of the Crown, while the *Hundred Court* was presided over by an official known as a Reeve, or his appointee. When the Normans came to Ireland they brought this system of local justice and administration over with them and it functioned in those areas of Ireland held within the English sphere of control.

In Limerick the Hundred Court met once a week, perhaps on a Monday, the session lasting a day. Those entitled to attend were the property owners of the borough, the burgesses, who were known as *suitors* to the court - judgements in cases resting with them. Besides judicial matters, both criminal and civil, the Hundred Court also dealt with a wide range of local administrative and civic affairs important to the smooth running of the municipality. The presence of the burgesses as suitors and jurors ensured that their legal, economic and social interests were reasonably well protected.

### Come Blow Your Horn

Exactly where the Hundred Court met in Limerick in the High Middle Ages is not known, but it could have been in a churchyard or church. It was customary in medieval times to summon citizens to the local Court by the blowing of a horn, or ringing of bells, and in Romney in Kent a customary law of 1352 informs us that at the hour the court is to sit the bailiff shall:

have the common horn sounded twice at least in two parts of the town, in the market and at the cross, to warn the parties plaintiff and defendant, and the good folks and people of the town, who have business in the said court or choose to come to the said court.<sup>3</sup>

In fifteenth century Sandwich also in Kent, on the Monday morning the Court was to be held, the mayor's serjeant shall go:

with the horn about 6 a.m. to certain places aforesaid to sound his horn, and . . . he shall say these words, 'everych man of twelf yer elde, and of more, go to seint Clementes cherche to the hundrede, an haste, an haste.'<sup>4</sup>



While there was no obligation on the burgesses to attend the weekly Hundred Court, once, twice, or thrice a year, according to the custom of the place, a 'great court' was held at which all burgesses had to attend, or forfeit a fine if no excuse for non-appearance was offered. To take just one informative example, in twelfth century London a customary law stated:

There are three folkmoets a year. One is at the feast of St. Michael [September 29] to know who is sheriff and to hear his charge. And the other is at Christmas for keeping the wards. The third is at the feast of St. John [Midsummer] to guard the city from the fire owing to dry weather.<sup>5</sup>

The term *keeping the wards* refers to a general muster of the citizens to arrange the watches - a civic obligation to police the streets at night and guard the walls of the city. After 1215, when London received the right to elect a mayor, the 'folkmoet' of St. Michael would have heard who was to be the new mayor. In Limerick, it was traditional to swear in the Mayor on the Monday after Michaelmas (29 September) and he held the position until the same day the following year. In certain medieval Irish boroughs the term *Dernhundred*, or *derne-*, *der-*, *deare-*, *doer*, *doyer-hundred*, was the term used to describe the full assembly of the burgesses. In Waterford, for instance, in the fifteenth century, the term *the dernhundred day* was commonly used. In its later usage in Limerick, Cork, Dungarvan and Kinsale in the eighteenth and nineteenth centuries the term *Court of d'oyer hundred* described the annual assemblies of the freemen of the city.

The provision in the Limerick Charter *'That no Assise be made in the city'* relates to the fact that the King's judges were not entitled to hear cases covered by assise legislation in the city. This legislation might cover anything from weights and measures to questions of inheritance i.e. the assise of *mort d'ancestor*. As Limerick was entitled to have its own judicial courts to decide such matters they applied the same rules as the King's officers, but employed their own officers and also kept the money accruing from such cases instead of giving it to the King.

Neither, under the terms of the Charter, could any feudal lord or marshall force the citizens to give them free quarter and lodgings without the permission of the burgesses. The citizens were also assured that they would not be subject to extortionate fines by the Hundred Court as the maximum that could be imposed was fixed. Fines for not turning out for the *watch* are mentioned in the text of the Charter, as are fines imposed on bakers and brewers for not producing bread or ale of the correct measure, weight and standard.

### A Mayor for Limerick?

The only two civic officials referred to in the Dublin charter of 1192 are the *reeve of the city* (or *provost*, as the Latin term *prepositus* is also translated) and the *bailiff*, who is referred to in the document as the person responsible for selecting, for Prince John, two casks of wine from ships importing wine into the city. The

Reeve acted as the King's chief representative and financial officer in the borough and in 1192 the Reeve of Dublin was appointed by the Crown and was not an elected official. It was not until 1229 that Henry III, in his charter of that year, granted the citizens of Dublin the right to elect annually from among their own number a *loyal, discreet, and proper Mayor* for the government of Dublin - an honour that London had secured fourteen years earlier in 1215. The office of reeve/provost was still retained, but became relegated to that of assistant to the mayor - provision being made for the annual election of two provosts.

There is a strong tradition in Limerick that Prince John gave the citizens of the city the right to elect a mayor in 1197, thus giving Limerick precedence over London and Dublin. Unfortunately, there is little evidence to sustain the myth, for the fact remains that in 1197 Limerick was only granted the same freedoms and liberties that Dublin had obtained in 1192, no more and no less. Consequently, Limerick was only allowed a lowly Reeve in 1197, certainly not a mayor. A more in-depth look at this issue is contained in Larry Walsh's article *The Mayoral Myth*, published elsewhere in this book.

### Bill of Rights

Prince John's Charter to Limerick has been described as the foundation-head of Limerick's civic democracy. In some ways it was, for it established Limerick as a Royal city offering the citizens protection against the arbitrary rule of local aristocrats and empowering the burgesses to govern and administer their own city. The Charter was a comprehensive Bill of Rights enabling the merchant and artisan classes of the city to trade and prosper and it provided a sound foundation on which the burgesses were able to establish a viable civic government; a regime which served the city well throughout the medieval period. The Charter provided liberties for the citizens that were more than just economic, enabling the city to survive as an island of urban civilisation in a land that by the fourteenth century was constantly being riven by wars as the English Crown, the Anglo-Irish lords, 'degenerate English' and the warring Gaelic clans (divided among themselves by internal power struggles) fought with, and against one another, in complicated alliances and shifting coalitions.

However, if the Charter were the foundation of mercantile civic liberties it took more than 700 years before democracy, as we understand the term, to come to fruition in Limerick. For until the electoral reform acts of the late nineteenth and early twentieth century the majority of the inhabitants were excluded from voting, let alone participating in local politics other than as occasional mobs. Until the dawn of the twentieth century the city was run by various mercantile cliques and factions, some more corrupt than others.

And of course, the 1197 Charter was a planter's charter establishing in the former Viking city a new wave of intruders and colonists, most of whom were of Anglo-Norman or English stock. Throughout the Middle Ages the Irish were excluded from all aspects of civic government, denied access to business and

trading opportunities, refused citizenship and denied access to justice and redress of grievances in the courts of English Common Law. Defensive attitudes towards the Irish hardened still further in the fourteenth and fifteenth centuries as the English were forced back into the Pale and the urban enclaves. In a Charter issued to Limerick in 1413 by Henry V, he of Agincourt fame, it was stated that no one of Irish blood should be mayor or exercise any other office in the city; and that no man or child of Irish blood be made an apprentice. So, as well as being Bills of Rights, English Royal charters were also a consolidation of wrongs and for much of its chartered history Limerick was run solely for the profit and benefit of the propertied and commercial classes.

Research on this article was also carried out by Anne Fitzgerald, who lives in Sarsfield Barracks, Limerick and who worked for Limerick Civic Trust as a history research assistant 1996/97.

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