

DONAL K. COFFEY
STEFAN VOGENAUER (EDS.)

Legal Transfer and Legal Geography in the British Empire

Sinéad Mercier

A Haunting Absence:

Tracing the Origins of International Energy Law
from the Laboratory of Ireland

| 279–317



MAX PLANCK INSTITUTE
FOR LEGAL HISTORY AND LEGAL THEORY

A Haunting Absence: Tracing the Origins of International Energy Law from the Laboratory of Ireland*

We may imagine ourselves at an angle in the Anglosphere, basking in our guilt-free posturing as both recovering colony and third richest country in Europe, but we have little countervailing sense of what exactly the absence that haunts our modernity might be.

Michael Cronin¹

1. Introduction

Energy law is primarily concerned with the management of the extraction of natural resources,² and their use in infrastructures to create heat, power and light. These management techniques have caused such a level of devastation that the planet has entered a new geological epoch – the Anthropocene.³ What happens to the law’s claim to universalism, timelessness, objectivity and reason, if the law has created a new epoch which is likely to end in our extinction as a species?

Scholars within the discipline have roundly criticised energy law from within,⁴ in particular highlighting the irreconcilable aims of climate action

* This research is an output of the PROPERTY [IN]JUSTICE project, which has received funding from the European Research Council (ERC), under the EU’s Horizon 2020 research and innovation programme, grant agreement no. 853514. Thank you to Donal Coffey and Stefan Vogenauer, Chairs of the Legal Transfer in the Common Law World Stream at the Third Annual Legal Histories of Empires Conference 2022 and Thomas Mohr for their insightful comments. The writer would also like to thank the PROPERTY [IN]JUSTICE team for their direction, support and guidance.

1 CRONIN (2019) 11.

2 HEFFRON (2015) 3.

3 CRUTZEN (2002) 23.

4 TALUS (2013).

(or more precisely, decarbonisation)⁵ and the goals of the internal energy market, as well as the lack of an energy justice and ‘just transition’ approach.⁶ A wave of activist litigation is occurring, seeking to hold fossil fuel companies and their facilitative states to account for climate change and biodiversity loss.⁷ In response, many states have passed new climate legislation, accompanied by much furore, though with little impact on emissions. Yet, energy contracts that increase fossil fuel production continue, proliferating in parallel with new climate legislation.⁸ This article seeks to uncover whether there are lessons to be learnt for our current point of stasis from the historical development of energy law, and its origins in the colonial-capitalist treatment of land and natural resources.⁹ In doing so, we find value in understanding the Anthropocene from the perspective of critiques of the Capitalistocene or Plantationocene, terms which will be discussed further below.

Today, energy is placeless in the law. Despite the sources of the world’s energy being from a concentrated number of places, the focus is on ensuring that energy – once released from the land – becomes as fluid as possible. The concept of ‘energy’ is analogous to the contemporary treatment of money, to a regime of stocks and shares that can be bounced around from space to space, subject to ‘light-touch regulation’ as a commercial product in a free market.¹⁰ This concept is historically and temporally distinct. In her book *The Birth of Energy*, Cara New Daggett traces “genealogy of energy” as a *natureculture* – a “hybrid assemblage” of cultural and natural factors, influences and entanglements.¹¹ Daggett shows that the concept of thermodynamic energy – which is foundational to energy production and consumption today – was developed at the height of the Industrial Revolution by a “group of mostly northern British engineers and scientists”.¹² These “mid-wives of energy” sought to align the technological and capital achievements

5 MARHOLD (2021); BARRETT (2016) 1.

6 MUINZER et al. (2022); MUINZER/ELLIS (2017); HEFFRON (2022) 168.

7 SETZER/HIGHAM (2023); KAMINSKI (2023).

8 AZARIA (2015) 1.

9 MISIEDJAN (2022).

10 MCCABE (2017).

11 DAGGETT (2019) 5 referring to Donna Haraway (and others).

12 DAGGETT (2019) 3.

of the Victorian era enabled by fossil energy to a “political rationality” that justified unequal labour relations, colonial extractivism and imperialism.¹³

Processes of contest and struggle have continued to shape the historical progress of the concept of energy, its legal treatment and its attendant infrastructures of consumption and production.¹⁴ As Daggett rhetorically asks “[w]hy does energy politics refer to the acquisition and security of fuel, rather than to the politics of ensuring public vitality?”¹⁵ The waves of climate litigation that are now taking place across the globe are merely the most recent example of centuries’ of struggle over centuries to return energy to the meaning of ensuring vitality, of the Irish *fuinneambh*, as opposed to something to acquire and secure for private gain. This research incorporates a law and geography approach to the development of Irish energy law through the prism of Nicole Graham’s ‘Landscape’, which highlights how law follows the Cartesian eye to rewrite the land in the language of a private property regime. By writing the biography of particular places and localities¹⁶ we can examine the spatial impacts of Ireland’s natural resource regimes. In examining these national conflicts over land values, use and appropriation, ‘energy’ can be placed in historical and political context. From these contextual, emplaced narratives, we can build an energy epistemology that is ‘landscape’, not ‘Landscape’ and so gives due credence to ‘othered’ ways of seeing the world as an enmeshed *combshaol*.¹⁷

2. The contribution of legal geography to energy law: Between Landscape and Landscape

a) Understanding the Landscape of energy law

How do we disentangle the concepts of energy over which regimes clash, resulting in spatial justice or injustice? One means of doing so is by taking a law and geography approach. Legal geography approaches seek to interrogate

13 Ibid.

14 MOORE (2015); LOHMANN (2021).

15 DAGGETT (2019) 3.

16 GODDEN (2014) 3.

17 *Combshaol* is an Irish language term for the “environment”. It expresses the environment not as an extractable entity which ‘environs-us’, but as the “collective/shared-life/world”, discussed further below.

ate the co-constitutive nature of law and spatiality.¹⁸ For Irus Braverman, Nicholas Blomley, David Delaney and Alexandre (Sandy) Kedar, “[l]egal geographers note that nearly every aspect of law is located, takes place, is in motion, or has some spatial frame of reference. In other words, law is always ‘worlded’ in some way.”¹⁹ The world we live in, from bathrooms to pathways to electricity sockets is ordered by law and the meaning it assigns. Such understandings of law are key to understanding the ‘place’ of seemingly placeless and abstract legal entities such as energy.

Lawscape is a concept developed by Nicole Graham that highlights how law follows the Cartesian eye to rewrite the land in the language of a private property regime. “Land law” deals not with land, but with “placeless property”, othered, abstracted and disembodied from the physical or metaphysical being of the land itself.²⁰ Law refuses “to venture beyond the limited Cartesian spatiality of quantifiable, fixed on a map, empirical, absolute space”.²¹ Law charts territory and renders it visible only on the terms of a mythology where lawyers are “translators” and “creators of the language into which they translate”.²² The land becomes dephysicalised; a *Lawscape*.²³ The material characteristics of a place, its history, limits and inhabitants, have no bearing on how an owner may use them under the dominant legal and economic system. Property law forms the basis of our concept of the land to this day; it “fostered the development of the growth economy and thereby encouraged, supported and even rewarded environmental degradation”.²⁴

As my colleagues show in this volume, scholars have deconstructed the supposedly apolitical and scientific foundations of environmental and property law, exposing certain conceptions of the world were connected to capitalist imperial expansion – often employing racialised hierarchies of knowledge to dispossess and dismiss alternative ways of managing land.²⁵ This research seeks to add to these developments by applying a legal geographical

18 BRAVERMAN (2010) 7.

19 BRAVERMAN et al. (2014) 1.

20 GRAHAM (2011).

21 KOTSAIKIS (2011) 193.

22 CAIN (1994) 415.

23 GRAHAM (2011) 37.

24 GRAHAM (2014) 402.

25 GUHA (1999).

lens to the large body of work by energy lawyers, historians,²⁶ anthropologists²⁷ and theorists of energy.²⁸

Energy is placeless in the law. It has a “distinctively legal” form and meaning, with no responsibility to the places from which it is produced, or the people that produce it. Concepts of ‘energy’ as a distinct, “unit of equivalence through which we can compare human civilisations”²⁹ comes from the concept of intangible, autonomous and placeless property. A concept developed through legal techniques which transformed emplaced land into product during the twin 1600s developments of colonial settlement in Ireland and the enclosure of the commons in England. In the *Landscape* of the global property regime, energy is private fungible property, that at most results from ‘natural resources’.

b) Energy in the Irish Landscape: Rooting ‘resources’ in place

The legal interpretations of land and its ‘resources’ are resisted and contested, even by the physicality of land itself – as is evident from advancing biodiversity loss and climate change.³⁰ These contestations allow us to see ways in which the meaning of ‘energy’ in law can be reinterpreted and reformed. The concept of ‘landscape’ helps to give expression to the many ways in which humans build co-constitutive, respectful relationships with the world around them. These relationships can provide counterpoints to the *Landscape’s* reduction of the meaning of land and elements to the mere commodity form.

Landscape is a term whose complexity “is matched only by the clamour of competing theoretical and methodological positions which have sought to understand it”.³¹ Landscape scholars have come from backgrounds as diverse as literature, art history, and the social sciences (particularly Human Geography). The tradition also has had a major impact in Ireland, particularly planning, cultural heritage and Irish Studies.³² Landscape is “not simply as

26 YERGIN (1991).

27 LOLOUM et al. (eds.) (2021).

28 MITCHELL, T. (2013); PIRANI (2018).

29 DAGGETT (2019) 2.

30 Mary Laheen speaks of the land itself as a primary source for analysis: LAHEEN (2010).

31 DUBOW (2009).

32 COLLINS et al. (2016) 9; STRECKER (2019).

an object to be seen or a text to be read, but a process by which social and subjective identities are formed”.³³ Landscape lawyers have brought new understandings of how “[t]he environment is not just the backdrop to law or society, where the non-human can be separated ontologically from what is human, but a mesh of entangled bodies co-producing each other in, as well as with, the landscape”.³⁴ Continuing developments in progressive deconstructions of property have enabled new understandings of how land can be managed to avoid splitting the human from the nonhuman, and people from the land. The area in which this has advanced most is in landscape studies. Landscape is peopled place. Landscape law enables people to have control over where they live and what is situated there, in a dynamic, enfolded concept that does not require it to be frozen in time, or treating land as museum or extractive wasteland. Even degraded landscapes can be powerful evocative places that can be ecologically rebuilt through relationships between humans and nonhumans. Kenneth Olwig describes landscape as not just being an aesthetic object, pleasing to the eye, but rather “a nexus of community, justice, nature and environmental equity, a contested territory”.³⁵ It is land that is shaped by its customs and culture, not by its physical characteristics alone.

Ireland is an interesting site for the exploration of the conflict between Lawscape and Landscape in energy law and policy. Elizabeth Chatterjee, Ankit Kumar and others have shown that there is a dire need to displace Euro-American concepts of energy in Anthropocene narratives.³⁶ While a seeming paradox, I respond that Ireland has unique and important lessons for interrogations of empire, its legal treatment of land and its elements. The legal frameworks of empire have shaped the boundaries of “Other(ed) energy histories—those not embedded in the Euro-American contexts”,³⁷ primarily because international energy law has been developed in the US and Europe and is dependent on legal techniques developed in the colonial era to instrumentalise land and resources. Ireland has been described as a “laboratory for empire” for these techniques, primarily in the use of new property

33 MITCHELL, W.J.T. (2002) 1.

34 STENSEKE ARUP (2021) 24–25.

35 OLWIG (1996) 632.

36 KUMAR (2022).

37 Ibid.

regimes and techniques to dispossess, mollify and fundamentally alter people-place relations through imperial laws.³⁸ However, due to its position as a hub for international financial law and accountancy, Ireland benefits from the continued use of these techniques. As noted by historian Jane H. Ohlmeyer, “Ireland was England’s first colony. Yet if Ireland was colonial, it was also imperial. The Irish were victims of imperialism as well as aggressive perpetrators of it.”³⁹ While being “unique” in Europe in being colonised and not coloniser, Irish people “participated in, and benefited from, the expansion of the British empire, and indeed other imperial worlds.”⁴⁰ Ireland is also instructive in terms of how it opposed imperial understandings of energy and resources. In the 1920s, the Irish Free State initiated a series of nationalisations of existing energy infrastructure under the newly established Electricity Supply Board, leading Ireland to not only have one of the first publicly owned energy systems in the world, but one of the first to be owned by a decolonising state.⁴¹ In building this energy infrastructure from 1927, Ireland operated in a historical context framed by modernist experiments in the concept of science and technology (especially electricity) as a modernising, centralised public good; developed in Bolshevik Russia through the GOELRO rural electrification programme,⁴² later influencing Roosevelt’s Tennessee Valley Authority and 1935 Rural Electrification Administration, and 1940s India under Jawaharlal Nehru.⁴³ Energy became socially ‘landscaped’ in gas and electricity infrastructures, though on the terms of productivist developmentalism and a growth economy. Ireland has also been home to major resistances to energy infrastructure projects, from anti-nuclear campaigns in Carnsore Point, to the Corrib gas project. Numerous sociologists and geographers have pointed to these campaigns being unique in Northern Europe in that they conceive of the environment as an enfolded concept that does not separate the human and non-human.⁴⁴ This notion may have its

38 OHLMEYER (2004).

39 OHLMEYER (2015) 169.

40 OHLMEYER (2021).

41 Though, the process of decolonisation is a continuing project, particularly in relation to partition and creation of Northern Ireland, see McVEIGH/ROLSTON (2021), and the heavy influence of London over finance, see McCABE (2014).

42 COOPERSMITH (1992) 153, 175.

43 CHATTERJEE (2020) 12; WILLIAMS/DUBASH (2004) 413.

44 TOVEY (1993); GARAVAN (2007); TAYLOR (1998); BARRY/DORAN (2009).

roots in the Irish language, which is closely related to place-based understandings of the world⁴⁵ – evident in the phrase for environment – *an combhsbaol* which translates as the collective or shared life / world.⁴⁶ Ireland has also been home to a remarkable series of ‘firsts’ in anti-fossil energy campaigning – being the first country to divest its state investment fund (the Irish Strategic Investment Fund) from fossil fuels, ban fracking, and ban (new) offshore oil and gas exploration.⁴⁷ Finally, from the 1990s to the present, Ireland was (and continues to be) a site for the application of new energy market techniques tested in other laboratories, including the Southern Cone particularly Chile and Argentina under dictatorship.⁴⁸ The legal techniques of Empire were renewed and re-applied in response to decolonising claims to sovereignty over natural resources in the inter- and post-war period, and the threat this caused to Western patterns of extraction from dependencies such as Mexico⁴⁹ and British protectorates in the Middle East.⁵⁰ These legal techniques formed the basis of international law, making it difficult for decolonising states and peoples to fully decolonise their treatment and conception of land and resources.⁵¹ Can an analysis then of Ireland’s history and context allow us an insight into what it might mean to ‘decolonise’ energy in a European context? To do this, I seek to tell an alternative history of energy law’s origins, by engaging in a legal geographical analysis of energy law as it emerged from its first laboratory, Ireland.

3. Understanding the origins of placeless energy in the Lawscape in land abstraction

The following section will provide a chronological analysis of Irish energy law. In charting the changes in energy law in Ireland over time, I hope to provide insight into how wider social, political, cultural and environmental events have shaped the law. This allows us to draw a family tree; a genealogy

45 MAGAN (2020); MURPHY (2009).

46 With thanks to Paul Mercier for this translation.

47 MCKENZIE/CARTER (2021) 6–7.

48 The Southern Cone includes Chile, Argentina and Uruguay. See further KLEIN (2007); DEZALAY/GARTH (2002).

49 MAURER (2011).

50 MITCHELL, T. (2013) 86, 209.

51 COULTHARD (2014) 74.

of the concepts of energy in the Irish context and how these might be different from the concepts of energy that underpin international law, including private economic law.

The aim in outlining these legislative shifts is to show that the concept of energy in society has changed over time, as reflected in national legislation. In showing that particular ideas of energy in the law are particular to time and space, we can unsettle hegemonic notions of how energy should be produced, where it is produced and for whom. In unsettling and unseating hegemony, we can see conflicts over energy production in a clearer and “more objective light”.⁵²

a) The early modern era: Colonial capital in the Plantationocene through the *Adventurers Act 1642*

As noted above, energy law is concerned with “the efficient management of natural resources that produce fuel”.⁵³ Therefore, our examination of Irish energy law must begin with an examination of the concept of ‘natural resources’, and where such a concept came into being. Our concept of ‘energy’ has its origins in land-as-commodity, imposed through early modern colonial-capitalist techniques of improvement and dispossession first practiced in the laboratory of Ireland. The Tudor experiment in (language) extinction and (territorial) extraction “made Ireland the ideal laboratory for a form of ecological dispossession that will be replayed endlessly in various corners of the Empire”.⁵⁴ In one of the first major legal feats of financialisation, the conquest of Ireland was to be paid for by the land of Ireland. *The Adventurers Act 1642* mandated the transfer of the land of Ireland from the Irish to the private adventurers, merchants and soldiers that joined the English military campaign led by Oliver Cromwell (1649–1652). In the Downs Survey from 1656–1658, the surgeon-general of the English army, William Petty, developed a standardisation and quantification process to render Ireland a blank slate, what later became the basis for the *terra nullius* (no man’s land) doctrine applied to other colonies.⁵⁵ The survey sought to measure all the land

52 PROULX/CRANE (2020).

53 HEFFRON (2015) 3.

54 CRONIN (2019) 11.

55 McVEIGH/ROLSTON (2009).

to be forfeited, reduced to “an amalgam of economic units [...] estimating the value of people’s productive output, the cost of their labor, and the value of stock (‘wealth’) of the nation”.⁵⁶

This transfer was made possible through the development of what Brenna Bhandar terms “a racial regime of ownership” in the common law. Property law built on Lockean theories of ‘improvement’ which designated only those who engaged in specific conceptions of what produced economic worth – English cultivation methods through ‘improvement’ – as being entitled to the divine, natural right of ownership.⁵⁷ This divine right of property ownership was also formed through the knots required to marry the slave trade with the emerging rights of the liberal human subject in the law, a practice which white Irish subjects of empire later benefited from.⁵⁸

Jane Ohlmeyer, Richard Ross and Phil Stern show that the Anglicisation of the law enabled this process.⁵⁹ A “conquest by law” ensued, with colonisation forcibly removing previous embedded understandings of land, to replace them with tenure and resource-ownership as we understand it today.⁶⁰ The dominance of English law was consolidated not only by the clearance of Irish landowners to resettle in Connaught but by the establishment of English legal systems as superior to Irish law.⁶¹

In opposition to the previous “woodland culture” which understood forests as part of an embedded cultural landscape,⁶² trees became natural resources and were rampantly removed to produce heat for a colonial iron-works industry based in Ireland.⁶³ Iron smelting required high heat levels from charcoal, a process which in England involved coppicing of 25-year old oak, but in Ireland engendered the wholesale destruction of forests.⁶⁴ From an initial forest cover of around 80%, 12% remained in 1600.⁶⁵ This shift in perspective and land-use caused great distress to the local population as is

56 BHANDAR (2018) 40–43.

57 BHANDAR (2018) 40.

58 PARK (2022); HOGAN et al. (2016).

59 University of Illinois (2016). See also OHLMEYER (2021).

60 SMYTH (2007) 84.

61 DENNEHY (2023).

62 SMYTH (2007) 84. See also GUIRY (2023).

63 MCCRACKEN (1971) 93.

64 MCCRACKEN (1971) 92.

65 Forest cover in Ireland remained below 2% until 1945. MCCRACKEN (1971) 93.

evident in the poetry and song of the time, including *Dirge of the Munster Forest* (1591)⁶⁶ and *Cad a dhéanfaimid feasta gan adhmada?* (The Lament for Kilcash), which lamented the loss of “the last of the woods”.⁶⁷ Rebellions occurred in places where the most extreme destruction of forests had occurred. “Nature herself” was believed to be delivering people from the invaders.⁶⁸

By the late 1600s, due to over-extraction of resources, legislation was introduced to try to retain some level of ‘sustainable development’ of resources. However, the use of the woods by *woodkerns* to conduct guerrilla warfare against plantations necessitated the clearance of forest.⁶⁹ By 1800, only 2% of woods remained, primarily in the estates of the Anglo-Irish gentry. Other resources were turned to to produce energy, such as wind, water mills and coal. Ireland may therefore be an example of Colonial Capital, not Fossil Capital and shares similarities with descriptions of the Plantationocene.⁷⁰

b) Under the “Victorian Eye”: Early landscaping of energy infrastructures in the *Dublin Electric Lighting Order, 1892*

In the Victorian and high imperial era, a tentative idea began to emerge that energy *infrastructures* should be ‘landscaped’: that is managed and controlled to reflect social and cultural relationships with them. Energy produced from placeless natural resources began to be seen as something that should be put towards social ends, however the land itself and its elements was subject to further disembedding.

The Victorian era brought about a shift to steam-powered, machine energy from coal, replacing wind and water mills.⁷¹ As the ‘improvement’

66 McCracken (1971) 13.

67 Smyth (2007) 86–87.

68 Simms (2000) 27.

69 The rebelling Irish were named ‘woodkern’ due to their use of the prodigious woods to conduct guerrilla warfare against plantations. McCracken (1971) 27–29: “After 1646 the name woodkerne was generally replaced by tory, from the Irish *tóir* – search: a tory was one who was searched out [...]. Wolves and woodkernes were commonly bracketed together, for they inhabited common ground and represented a common threat to settlers; and there were rewards for the destruction of wolves as well as of woodkernes.” See also Sands (2022).

70 Haraway / Tsing (2019).

71 McCabe (1992); Malm (2016).

of land became a signifier of racial superiority in the early modern colonial period,⁷² in the high imperial era the ability to wield machine-power became a universal “measure of men”.⁷³ The public realm of the British city was a site of education and discipline⁷⁴ for the superior citizens of empire. The generation, transmission and distribution of energy was quickly brought under municipalisation through the *Electric Lighting Acts 1882 to 1909* in order to ensure efficiency and safety of an often dangerous technology, and to prevent ‘oppressive monopolies’ controlling a service now fundamental to new forms of interrelated modern life. One popular measure of municipalisation was through the grant of Charters to companies to set up infrastructures and run services for a limited time period, after which they would be brought under the ownership of the town corporation in return for compensation.⁷⁵

In his in-depth history of Victorian light, Otter states that “[t]he distribution of electric light followed no simple pattern, determined as it was by innumerable local technological, economic, political, and topographical factors”.⁷⁶ While contingencies of geography, resource and place did shape energy infrastructures in Ireland under British rule, we must heed Marks’ warning against “false contingency”.⁷⁷ The delivery of energy infrastructures was shaped also by colonial and capitalist exigencies, which has led to similar patterns of progress across empires. The peculiarly British solution of “an ecology of liberalism”⁷⁸ to manage the advent of gas and electricity was not applied across the British Empire. Laissez-faire approaches to energy, with its low-quality service, lack of access outside the colonial grid and excessive monopolies remained in most colonies. As noted by Hasenöhrl: “most colonial infrastructures remained piecemeal affairs, reaching only a fraction of the people, segregated along ethnic and class lines, as well as fraught with (often unintended) social and ecological consequences”.⁷⁹

72 BHANDAR (2018) 45.

73 ARNOLD (2005) 92.

74 OTTER (2008).

75 MANNING/McDOWELL (1984) 5. The Electric Lighting Act 1882 allowed local authorities to take private company assets into municipal ownership after 21 years. This was extended to 42 years by the Electric Lighting Act 1888, with optional 10-year extensions.

76 MANNING/McDOWELL (1984) 178.

77 MARKS (2011).

78 OTTER (2008) 262.

79 HASENÖHRL (2018) 11.

In Ireland, new energy technologies such as gas and electric light were confined largely to the homes, industry and public realm of the wealthy.⁸⁰ However, even provision to these upper-class groups was underpinned by a logic of extraction. Much of the coal used in Ireland was British coal, as Irish coal and peat were unable to gain prominence due to the greater technical difficulty in extraction,⁸¹ competition with cheaper coal from Britain, and a lack of scientific and landlord interest in investing in production.⁸²

In these circumstances, the question of who should own and operate energy, and for what purpose, was a major topic of debate in 19th-century Ireland, as it was in the rest of Europe.⁸³ As municipalisation of gas and electricity spread across Britain and Europe, Irish municipalities were often blocked from doing the same by the Westminster Parliament under the Act of Union of 1801. Liberal nationalists of the era set up “Irish-owned” gas companies to compete with the mainly British owned industry, for example the short-lived Dublin Consumers Gas Company established in 1844 under the chairmanship of Daniel O’Connell (with shareholders only allowed from the Pale).⁸⁴ The purpose of the Dublin Consumers Gas Company was “almost certainly” to purchase all other companies to bring them under one united private, though Irish-owned, gas company.⁸⁵ The *Alliance and Dublin Consumers Gas Act* in 1866 did result in an Irish merger of the three main private gas companies under the Alliance Gas Company, but the issue of ‘oppressive monopolies’ remained.⁸⁶ Therefore, when the technology developed, Dublin Corporation leapt at the opportunity to switch public lighting to electricity. The first public electric lamp was lit outside the offices of the Freeman’s Journal⁸⁷ on Princes Street, Dublin which had long

80 McCABE (1992).

81 In Ireland there were four worked coal deposits in the 18th and 19th centuries. HOGAN (1944) 45–49.

82 WHEELER (1944) 17; MOKYR (1983).

83 McCABE (1992) 33.

84 The Pale included Dublin, Meath, Kildare, Wicklow and the Borough of Drogheda. McCABE (1992) 35.

85 Ibid.

86 This was to remain the basis for the Dublin Gas Company until the Gas Act of 1987 which nationalised gas infrastructures under Bord Gáis Éireann. McCABE (1992) 35.

87 MEEHAN (1943) 130–136. In relation to attempts to undermine Dublin Corporation’s with the re-introduction of free competition, the Freeman’s Journal responded: “Mr. Trevelyan is supposed to be a Radical, but in this instance he appears to have developed a hostility worthy

criticised the behaviour of London gas companies. This may point to electricity being tied to the burgeoning *fuinneamb* of egalitarian nationalist idealism. Indeed, Dublin Corporation's municipalisation of the generation, sale and supply of electricity under the *Dublin Electric Lighting Order, 1892* was viewed as a precursor to Home Rule and strenuously opposed by loyalists and unionists.⁸⁸ As an example, in 1900, loyalists and unionists introduced the *Dublin Electric Lighting Bill (by Order)* which sought to roll back Dublin Corporation's municipal control of electricity by re-opening it to private competition.⁸⁹

These campaigns to take ownership of the infrastructures which produced energy were set within a wider context of the Irish Famine and mounting militant agrarian unrest against landlordism on the island of Ireland. The natural resources of the land used to produce electricity – particularly coal – remained within landlord ownership. Militant land agitation had resulted in the Land Acts and the Land Commission, beginning improvement of conditions through the *Landlord and Tenant (Ireland) Act 1870*. The *1903 Land Acts* had shorn landlords of their estates, but not their rights to existing natural resources, such as fishing rights and minerals.⁹⁰ The Land Acts also imposed a common law regime of land ownership, cleansing prior regimes of communal landscaped management – such as the rundale (or Roinn Dáil) and the *bailte fearainn*.⁹¹ The organising skills developed through agrarian revolt in Ireland against landlordism brought lessons to worker organising around coal in the UK, Australia and the US, most famously through the Molly Maguires in Pennsylvania, USA and Peter Lalor's involvement in the Eureka Stockade in 1854 in Victoria, Australia.

of Sir Henry Fowler to the Liberal principle of the municipalisation of monopolies. It is not a good beginning to a Liberal career." *Dublin Electric Lighting Bill (By Order)*, Volume 85, debated on Monday 2 July 1900 (House of Commons, Private Bill Business).

88 *Dublin Electric Lighting Bill (By Order)*, Volume 85, debated on Monday 2 July 1900.

89 *Dublin Electric Lighting Bill (By Order)*, Volume 85, Monday 2 July 1900. The proposers of the Bill sought to place Dublin Corporation in competition with a re-established Dublin Electric Light Company. The original private Dublin Electric Light Company had as its directors William Martin Murphy and John Findlater. It had gone into liquidation and was taken over by the Alliance Gas Company.

90 MOHR (2007).

91 Land was given out in straight strips, with some areas of poorer land given over to commonage. Rights to cut turf and take seaweed for fertilisation were also granted. BYER (2023a); DUNNE (2018). See also McNEILL (2021).

However, the Land Acts did strengthen the bargaining position of the peasant and working classes⁹² whose demands and connections to international socialist movements may have later influenced the policy choice of energy nationalisation in the 1920s. Through the Wyndham *Irish Land Act 1903*, land was subdivided into small plots and bought by local coal workers. These plots were generally around 14 acres, not enough to subsist on the land but could “cushion the family against the uncertainties and risks of mining”.⁹³ With gas and electricity confined to industrial centres and large cities, for the wider Irish population, hand harvested peat remained the main source of fuel for cooking, heating and light.⁹⁴

c) Landscaping the brutal machine: Decolonising responses to the First World War in *(R) Moore v Attorney-General*

In *Networks of Power*, Thomas Hughes describes electricity systems as “evolving cultural artifacts” which shape and are shaped by political, geological and cultural features of a polity.⁹⁵ In the inter- and post-war period, imaginaries of new modernities took hold, formulated in a normative *schismogenesis* with the imperial West.⁹⁶ These modernities sought to take destructive energy technologies and morally repurpose them. As Timothy Mitchell recounts, the “destiny” of colonial regions and peoples was to “mimic, never quite successfully, the history already performed by the West”.⁹⁷ For dominated peoples in the inter-war period, the resolve was found to re-articulate and re-imagine other uses for human creativity and skill involved in the creation of energy and machines.⁹⁸

This resolve was founded in brutal circumstances. For its supporters, the technologies of the high imperial era displayed the mastery of Empire over nature and other peoples.⁹⁹ With 40 million dead in its wake, the Great War

92 Though the landless labourer without tenancy, the spailpín, was left to emigrate. HIGGINS (2016).

93 BORAN (2021) 5.

94 The first industrial harvesting of turf began in 1825 in Mona bog, however it was not pursued in earnest.

95 HUGHES (1983).

96 GRAEBER/WENGROW (2021).

97 MITCHELL, T. (2000) 1.

98 MITCHELL, T. (2000) 2.

99 ARNOLD (2005) 92.

was a reckoning with such racist romanticisms. In contrast to grand ideals of triumphalist progress,¹⁰⁰ the human inventiveness of the West was used to unleash “butchery and ecological devastation on a scale unknown in human history”.¹⁰¹ In *World making after Empire*, Adom Getachew charts how the hypocrisy of the imperial powers led to an outburst of revolutionary thought demanding anti-domination as a guiding principle of international law. The role and purpose of energy in modern society, and who should have control over the means of producing it, played a central conceptual role in these demands. For Vladimir Lenin, the Great War made explicit the “barbarous policy of bourgeois civilisation”. In *The African Roots of War*, W. E. B. Du Bois traced the origins of WWI in “desperate flames” from colonial aggrandisement after the Berlin Conference; stating that “the ownership of materials and men in the darker world is the real prize that is setting the nations of Europe at each other’s throats today”.¹⁰² These claims were repeated across the world by other anti-colonial revolutionaries demanding self-government, from Egypt and India to China and Korea.

In this era, a number of anti-colonial theories on technology emerged. With growing Third World nationalism and technological skepticism within and outside the West, rich ‘indigenist’¹⁰³ and indigenous technologies were revived and re-explored.¹⁰⁴ An understanding grew that many of these systems of knowledge had been co-opted or suppressed by colonial-capitalist modernity.¹⁰⁵

As Ireland neared independence, the pre-colonial texts of the Brehon Law were brought into contemporary legal practice, where they could form the basis for the decisions of the Republican or Dáil Courts run by the IRA during the War of Independence¹⁰⁶ and a number of common law cases.¹⁰⁷

100 Ibid.

101 GETACHEW (2019) 22.

102 QUOTED IN GETACHEW (2019) 38.

103 ARNOLD (2005) 101 (fn. 8) uses this term to describe how “exponents of this approach did not need to be indigenous to the societies they described (they often were not) but to identify with its traditions and to see Europe as an external, intrusive and colonial force”.

104 ARNOLD (2005) 87.

105 BOURKE (1999) 60.

106 Many of these judgements are still today deemed more egalitarian than the common law of the time, particularly with regards to women and children. See LAIRD (2013).

107 MOHR (2007); LAIRD (2005).

Harking back to a ‘Gaelic Utopia’, Brehon law challenged the contemporary treatment of the land and natural resources.¹⁰⁸ Land was seen as farmed collectively, an interpretation popularised by Friedrich Engels who concluded from a reading of Brehon law texts that “the soil had been the collective property of the gens or the clans”.¹⁰⁹ While the similarities of Gaelic Ireland to communist ideals have been hotly contested,¹¹⁰ Thomas Mohr notes that “[i]n the early years of the independent Irish state such perceptions proved to be so strong that they decisively influenced the outcome of a number of important court cases”.¹¹¹ In fisheries cases such as (*R*) *Moore v Attorney-General*, Irish Brehon law was used to establish community rights to fish in waterways owned largely by the landlord class, through title derived through landlord ownership.¹¹² Armed with original research into Brehon law texts, Irish Professors Eoin MacNeill and Daniel Binchy set about founding an argument for *nullius in bonis* based on the Brehon law formulation of the communal right to ‘*aé áite*’, which was interpreted to mean “the salmon of every place”.¹¹³ The interpretations of the right, however, were indicative of the thinking of the time, with the salmon reduced to an exploitable resource (though for the people), rather than requiring guardianship and spatially just sustainable, relational management.¹¹⁴ While

- 108 For the state also, Ireland’s own independence had been beset by famine in 1920–1921. CUNNINGHAM (2020).
- 109 Friedrich Engels wrote often about Ireland, being connected through his wife Liz Burns to Irish working classes in Manchester and the Fenian movement. Quoted in MOHR (2007).
- 110 See KELLY (1988) 105: “The 1865–1901 edition of the Ancient Laws of Ireland almost always translates *fine* as “tribe” rather than “kin-group”. This misled Engels and other modern political thinkers into believing that land was held in common by all members of the *túath* in early Ireland. In fact, early Irish society clearly attached great importance to the principle of private ownership of property, and even extended it to mines and fishing rights.”
- 111 MOHR (2007).
- 112 MOHR (2002). Other cases after the Erne Case included the Moy, the Foyle and Bann Fisheries Cases. In the Erne case, the exclusive fishing rights on the Erne were owned by a private company, the Erne Fishery Company. The company’s title was derived from landlord ownership and major members were of the landlord class, however many shareholders were far from wealthy. With thanks to Thomas Mohr for this point.
- 113 *Ibid.* Interestingly, the Brehon Laws also made their way to India where they influenced independence movements. LAIRD (2006).
- 114 BYER (2023b). See also MCNEILL (2022).

eschewing these more ecological management regimes, the 1919 Democratic Programme issued by the first Dáil and the 1922 Constitution sought to bring about more egalitarian ownership of land and resources, being influenced by the property clause of the USSR Constitution.¹¹⁵ The early drafts of the 1937 Irish constitution also prioritised a concept of natural resources as “dedicated to the maintenance of the people of [Éire]”.¹¹⁶ However, the final 1937 constitution finally protected established understandings of property rights in an “individualist democracy” under the existing common law regime, eschewing the ethos of the original Constitution Committee’s “commitment to a social and communitarian property ideology, framed in terms of the collective interest in social justice, rather than in terms of individual rights”.¹¹⁷ Social protections and economic, social and cultural rights were relegated to Article 45 Directive Principles of Social Policy, which provided non-justiciable guidance for the Oireachtas. Restrictions on women’s rights¹¹⁸ and labour¹¹⁹ were also inserted.

While the purpose of the 1937 Constitution may have been to ensure that natural resources “should be exploited for the benefit of the people and not for the private profit of individuals”, the State was to play this role in a context in which the State’s private property rights to land supported private

115 WALSH/FOX O’MAHONY (2018). The USSR Constitution provided that: “[i]n order to establish the socialisation of land, private ownership of land is abolished; all land is declared national property, and is handed over to the workers, without compensation, on the basis of an equitable division, carrying with it the right to use only”. Quoted *ibid*.

116 Part IX “Constitutional Guarantees”. Part X on economic life, Article 39.3 states: “The natural resources of E. (including the air and all forms of potential energy) are dedicated to the maintenance of the people of E. and are under the special control and supervision of the State. Rights of private property in any of the said natural resources shall be exercised and the use and exploitation thereof by private owners shall be conducted with a view to the conservation and development of the said resources for the benefit of the community.” First Draft, undated late 1936 [Source *ucda* p150/2385] in KEOGH/McCARTHY (2007) 395. In terms of extractivist regimes, it is interesting to note that one draft of the 1937 Constitution (11 Jan.) sought to give control of resources under Article 10 to the Dept of Finance (11 Jan. 1937). See COFFEY (2018) 80. With thanks to Donal Coffey for the point that control of natural resources was to be given to the Executive branch, rather than the Legislature as under the 1922 Constitution.

117 WALSH/FOX O’MAHONY (2018).

118 LUDDY (2005).

119 KEOGH/McCARTHY (2007) 120. De Valera and McQuaid were also “politically dismissive” of O’Rahilly’s 1922 draft of the constitution in relation to property and competition and feared the strike as “the most potent form of social agitation”.

profit.¹²⁰ In fundamentally seeing land as a fungible commodity to be turned towards private gain, the Constitution still maintained the existing colonial natural resource licensing regime that prioritised private commercial extraction under Article 10.¹²¹

The natural resources that form the source of ‘energy’ are held under a separate property regime to property title. A person may own their titled property, but the rights to exploit the natural resources below it belongs to the state under the same ‘Crown’ process as in British Commonwealth countries. Natural resources regimes such as oil and gas, forestry, mining – until recently peat – are de facto dealt with (if they are regulated at all) through licensing regimes outside of the ordinary planning processes covered by the Planning and Development Acts 2000–2022.¹²² The removal of natural resource regimes from this process protects them from ordinary processes of scrutiny.¹²³ This process of instrumentalised nature is applied through international natural resources law,¹²⁴ and is used to undermine indigenous claims to land, who have rights in international law to practice and self-determine their own cultural framings of land and resources.¹²⁵ For example, in New Zealand, the state has recognised Māori title to land under the Treaty of Waitangi but not to natural resources in that land. As noted by Estair Van Wagner and Maria Bargh “it is Crown policy not to consider minerals-based remedies for Treaty settlements” or successful claims before the Waitangi Tribunal to “a proprietary right in petroleum resources, and a subsequent inquiry into the management of petroleum under the CMA [Crown Minerals Act 1991]”.¹²⁶ Māori are permitted to manage the land they have title to in keeping with *te ao Māori* (the Māori worldview) which

120 Arthur V. Matheson’s advice to Eamon de Valera in the drafting of the new Article 10. COFFEY (2018) 81.

121 Article 10.3 states: “Provision may be made by law for the management of the property which belongs to the State by virtue of this Article and for the control of the alienation, whether temporary or permanent, of that property.” See SLEVIN (2015) which interrogates this approach in the Constitution.

122 JACKSON (2021); ACCOGLI (2021).

123 A third party right of appeal is generally retained in these processes, but in a regime subject to less structural transparency/clarity as set out in legislation and case-law in the wider planning regime with respect to land and housing. See SARGENT (2020).

124 PROULX/CRANE (2020) 62.

125 UNDRIP (2007); UNDROP (2018); CBD (2004).

126 VAN WAGNER/BARGH (2021).

prioritises “the fundamental law of the maintenance of properly tended relationships” where “broader ecological systems [are] central to sustaining not only human life, but all parts of the natural and spiritual worlds and future generations”. However, the kaitiaki (guardianship) ethic¹²⁷ cannot be extended to natural resources regimes. Even in relation to resources within their territory, the role of the Māori is restricted to making submissions or working with companies to improve their process.¹²⁸ With these lessons from indigenous scholars such as Glen Sean Coulthard,¹²⁹ the winning of land rights in Ireland on the basis of property rights as defined by Empire can be understood as a narrowing of the more revolutionary agrarian land ownership claims of the period. This continued use of colonial legal regimes and understandings of land and energy has contributed to Ireland’s rapid rate of biodiversity loss and a high carbon emissions trajectory.¹³⁰ The potential offered by the Brehon law for a more emplaced and relational treatment is thoroughly undermined, even in fisheries.¹³¹

d) Vertically integrated communities:

Building landscape approaches to energy infrastructures after World War II through the *Electricity (Supply) Act 1927*

A third approach can be described as ‘postcolonial’ and ‘anti-domination’ in vision, though not its circumstances, seeking to appropriated new technologies for public, nationalist and decolonial purpose. Rather than a site of profiteering by global financial flows that were seen as a contributor to the Great War, energy was to be de-commodified. Energy systems and infrastructures were to be directed towards a variety of aims including lifting populations out of poverty, education, industrialisation as a means of modernising backward societies and an employment guarantee. As Chatterjee

127 Dame Nganeko Minhinnick quoted in: *ibid.*

128 *Ibid.*

129 COULTHARD (2014) 74.

130 It is worth noting that Native American peoples strenuously opposed the Land Commission process applied in Ireland being repeated on their collective lands through the US *Dawes Severalty Act 1887*. The legislation was seen as a means of assimilation into capitalist land ownership regimes. MERJIAN (2010) 609.

131 See the critique of the ‘market environmentalist’ approach to fisheries in Ireland and New Zealand in McCORMACK (2017).

says of decolonising India, “[e]lectrification was at least partly decommodified, instead reconceptualized as a national good and increasingly as an (imperfectly recognized) entitlement to be demanded from the state”.¹³² Energy was imbued with a sense of positive, anti-imperial, modernist purpose and its infrastructures became ‘landscaped’, not ecologically, but socially.¹³³ The first steps towards this were taken by Bolshevik Russia under Lenin’s Five-Year Plans. Many young nations soon followed,¹³⁴ as did the United States under President Roosevelt’s New Deal Rural Electrification Programme. The UK took tentative steps to centralise the industry in with the establishment of the Central Electricity Board under the *Electricity (Supply) Act 1926*, but did not nationalise until the *Electricity Act 1947*.¹³⁵

In December 1922, the Irish Free State secured a modicum of independence after the Anglo-Irish treaty, though at the cost of partitioning the country. In a context of civil war and great poverty, the nascent government began to prioritise national independence through water-generated electricity.¹³⁶ Though often left out of histories of electrification and nationalisation, Ireland was “the first country in western Europe to opt for the establishment of a state-owned monopoly to meet the public electricity demand of an entire nation”.¹³⁷ The Irish electricity industry at the time was expensive and erratic, concentrated in urban industrial areas and “fragmented among numerous municipal and private undertakings, some authorized by statute, but most non-authorized”.¹³⁸

One of the first pieces of legislation passed by the Oireachtas [Irish Parliament] was the *Electricity (Supply) Act, 1927*. This legislation established the first Irish state company, the Electricity Supply Board (ESB), nationalising all existing undertakings.¹³⁹ The new semi-state company would be a vertically

132 CHATTERJEE (2020) 4.

133 The possibility to see how this purpose could have been taken to more ecologically landscaped directions was not given the chance to emerge.

134 HASENÖHRL (2018) 18.

135 HANNAH (1979). The Electricity Act 1989 privatised the British electricity industry.

136 MANNING/McDOWELL (1984) 28.

137 CROSS (1996) 70.

138 CROSS (1993) 34.

139 MANNING/McDOWELL (1984) 35. However, “[t]he drafters of the Electricity (Supply) Act 1927 did not declare outright that the Electricity Supply Board (ESB) was to be the sole and exclusive electricity supplier [...]. They recognized ‘authorized undertakers’ that had been previously granted exclusive rights to generate, distribute or supply electricity in

integrated undertaking, with full responsibility for the generation, transmission, distribution and marketing of electricity.¹⁴⁰ The plan for the body was to deliver universal access to electricity at a low cost, regional employment and to secure state control over electricity production.¹⁴¹

This electricity was to be provided by a hydroelectric dam on the Shannon River at Ardnacrusha, Co. Clare, called the “Shannon Scheme”. The focus on water power emerged from two committees set up after the First World War to examine natural resources; the Sinn Féin Commission of Enquiry into the Resources and Industries of Ireland (Dublin 1923) established by the first Dáil of 1919, and the UK Water power resources of Ireland sub-committee (Dublin 1921).¹⁴² In both committees, the lack of investment in electricity were heavily criticised. Led by Thomas A. McLaughlin,¹⁴³ the “Shannon Scheme” was built with the central assistance of the German electrical engineering company Siemens-Schuckert. Efforts had been made to attract US multinationals to do the project, however “most of the big [international] corporations objected to the government’s stipulation that unprofitable rural lines might have to be built without any guaranteed government subsidy”.¹⁴⁴ There was also concern that a private system would conflict with the State’s plans for ‘defensive’ industrial development.¹⁴⁵

The project helped build a highly educated and entrepreneurial workforce under the ESB that would go on to deliver electricity systems across the island (including in Northern Ireland) and the world, including to other new states such as Bahrain and Egypt.¹⁴⁶ The creation of the ESB occurred in the context of other state priorities, including recognition of the Irish state at an international level and extending the Land Commission tenant purchases

specified areas [...]. The ESB, however, was granted substantial powers to acquire, take control of, and alter the supply areas of such authorized undertakings [...]. In addition, new entrants were prohibited absent the ESB’s permission.” *Ibid.*

140 MANNING/McDOWELL (1984) 16.

141 SHIEL (2003) 18.

142 MANNING/McDOWELL (1984) 13. Though Robert Kane had first put forward the idea of harnessing the Shannon in 1844 in KANE (1844), which was based on the recent findings of the Irish Ordnance and Geological Surveys.

143 MANNING/McDOWELL (1984) 14.

144 MANNING/McDOWELL (1984) 7.

145 CROSS (1996) 70.

146 BARRETT (2015) 63.

of land from large estates.¹⁴⁷ In these endeavours, as during the War of Independence, nationalists and labour had combined their aims. However, Ardnacrusha exemplifying the new state's willingness to subordinate the cause of labour (and the environment) to "the national interest".¹⁴⁸

While the "Shannon Scheme" was promoted with literature invoking an ancient Brehon Ireland and a continuation of Celtic tradition,¹⁴⁹ the "Shannon Scheme" involved severe ecological damage such as the drowning of the primordial Gearagh forest, the removal of local fisheries rights and it remains a primary contributor to the slow extinction of the European eel.¹⁵⁰ Similarly, while the public ownership of Ardnacrusha and the ESB was seen as intimately connected to socialist programmes such as Russian electrification,¹⁵¹ the building of the project represented how the state saw itself in this new era of independence. Just one month after the contract between the Irish Free State government and Siemens-Schuckert was signed on 13 August 1925, a major dispute arose over low pay and poor, overcrowded conditions, resulting in a strike on 10 September. The Government sided with Siemens-Schuckert and sought to break the strike, a choice made in the overarching context of agrarian unrest. The dispute was underpinned by fear that higher wages for workers on the Ardnacrusha project would bolster *spailpíní* (landless labourers) who were already demanding better conditions and redistribution of large 'rancher' farms.¹⁵² For Michael McCarthy, "[t]he defeat (of the strike) was a crucial blow for Irish labour in general, coming as it did only four years after the foundation of the State".¹⁵³ Nevertheless, the project remains in the Irish imagination as a reinterpretation of energy for a Gaelic Utopia that married traditionalism and modernity.¹⁵⁴

147 The first state to recognise the young Irish state was Bolshevik Russia, which was in the midst of its own national rural electrification project. See O'CONNOR (2004).

148 MAGUIRE (1998).

149 Ibid.

150 LAFFAN (2020).

151 Ardnacrusha was described as "the cloven hoof of socialism" in the Seanad, see MAGUIRE (1998) 61. The ESB was described by the Irish Times as "the first fruits of Bolshevism in this country", see SHEIL (2003) 18.

152 MANNING/McDOWELL (1984) 43.

153 Quoted in MAGUIRE (1998) 60.

154 MAGUIRE (2000); O'BRIEN (2023). See contemporary use in the arts: SWEENEY/O'DWYER (2020).

- e) Fossil developmentalism and capitalist decommodification:
The Irish Energy system until the “new dawn” of
the *Electricity Regulation Act 1999*

Irish hydroelectric developmentalism became fossil developmentalism¹⁵⁵ with the ending of the Second World War. In 1945, the government passed the *Electricity (Supply) (Amendment) Act*, which began Rural Electrification Scheme in earnest. The Scheme prioritised delivery not on the basis of highest price offered or ability to pay, but was directed by the needs and request of the most isolated communities.¹⁵⁶ The following year, the government passed the *Turf Development Act 1946*, which established the state company Bord na Móna, to research and exploit Ireland’s peat resources.¹⁵⁷ The government began to invest heavily in turf production, including use in electricity generation. This was to ensure secure indigenous fuel to deliver rural electrification, for national security reasons, to create employment in the Midlands and create educated industrial expertise. The *Electricity Supply (Amendment) Act 1955* further accelerated the project. However, this developmentalism did not engender a labour republic. From 1949–1950, one of the longest strikes in Irish labour history occurred in Castlecomer coalfield.¹⁵⁸ The resolution of the strike finally ushered in the recognition of pneumoconiosis as an industrial disease, as well as other features of stability.

After World War II, many European states followed Ireland and Russia in nationalising their energy systems, bringing power generation, network infrastructure and retail supply under state companies. These are known as “vertically integrated electricity undertakings” and were used to deliver universal access to electricity and high-quality employment.¹⁵⁹

Energy was to fulfil a range of social aims, including employment, industrialisation and the delivery of the benefits of electricity such as education. While attempting to embed energy production in social ideals rather than capitalist ones, decolonising and postwar European states were still working off the colonial legal techniques which (continually) dispossessed their pop-

155 CHATTERJEE (2020).

156 O’BRIEN (2023) 4.

157 McMAHON (2019).

158 BORAN (2021). The strike was led by Nixie Boran, nicknamed, interestingly, “the miners’ brehon and champion”.

159 JOSKOW (2008) 10.

ulations. The abstracted treatment of land led many states to take on ecologically devastating and locally contested projects, called “high modernist ideology” by James C. Scott.¹⁶⁰

Up to the 1990s, Ireland continued its process of fossil developmentalism; a “moral economy”¹⁶¹ of “a certain democratization of consumption”¹⁶² within fossil fuel-based energy infrastructures. However, when it came to the land and natural resources that created that energy, they were largely treated in a manner facilitative of extractivism, particularly from the 1960s onwards. While opening up the economy and encouraging foreign direct investment, successive political leaders such as Taoiseach Seán Lemass refused to cut the employment and non-profit mandate of the ESB, or to reduce the use of highly subsidised peat by Bord na Móna.¹⁶³ Energy remained a low cost, universal and efficiently provided state service, the ESB in particular.

However, this relative de-commodification did not mean that energy provision was anti-capitalist.¹⁶⁴ Conor McCabe¹⁶⁵ and Amanda Slevin¹⁶⁶ in their different approaches have shown how Ireland marketed its facilitative tax regimes, labour laws and cheap nature¹⁶⁷ to extractivist industries and multinational corporations. Ireland also marketed its well-managed, reliable, cheap and distributed energy system – resulting in the building of high energy polluting industries next to power stations. An example is the Russian-owned Rusal Aughinish Alumina, the largest alumina refinery in Europe, which ships mineral ore bauxite from Guinea to undergo high-energy processing on the Shannon river estuary near Moneypoint power station.¹⁶⁸ Irish capitalism at this time appears to have depended “existen-

160 SCOTT (1998).

161 CHATTERJEE (2019) 18.

162 CHAKRABARTY (2014), cited after CHATTERJEE (2020) 15.

163 MANNING/McDOWELL (1987) 100–101; ANDREWS (1982).

164 HALL (2023).

165 McCABE (2014) 121–140.

166 SLEVIN (2015).

167 “For capitalism, Nature is ‘cheap’ in a double sense: to make Nature’s elements ‘cheap’ in price; and also to cheapen, to degrade or to render inferior in an ethico-political sense, the better to make Nature cheap in price. These two moments are entwined at every moment, and in every major capitalist transformation of the past five centuries.” MOORE (2016) 2–3.

168 CROTTY (1986) 94–96; HARRIGAN (2014). Moneypoint is run on cheap imported coal from the Cerrejón mine in Columbia, which is the subject of numerous reports on human rights abuses.

tially on” a decommodified electricity system.¹⁶⁹ Another example of this is the offshore fossil fuel industry. In 1971, gas was discovered by the multinational corporation Marathon Oil off the Old Head of Kinsale, coming onshore by 1978. In order to distribute and supply this gas to the public, the semi-state company Bord Gáis Éireann (BGÉ) was established under the *Gas Act 1976*. The government also nationalised the largest distributor, the Dublin Gas Company, under the *Gas (Amendment) Act 1987*.¹⁷⁰ However, these changes operated alongside the introduction of a remarkably facilitative offshore exploration regime from 1985.¹⁷¹

This relative decommodification and approach of fossil developmentalism, flawed as it may be, came to an end with the introduction of the *Electricity Regulation Act 1999*. The 1999 Act transposed the European Commission’s 1996 First Energy Package, which sought to apply internal market rules to the electricity and gas sectors.¹⁷² In introducing the original Bill, the then Minister for Public Enterprise, Mary O’Rourke, opined that “[it] will herald a new dawn for Ireland as we face into the next century.”¹⁷³ The Act required the unbundling of national electricity systems (including generation, transmission, distribution and supply) to introduce competition to the profitable parts of generation and supply. It also opened up 28% of the Irish electricity market to competition. The reforms were based on the belief that effective competition would reduce energy costs and increase freedom of choice for consumers.¹⁷⁴

Subsequent EU Energy Packages have further dis-embedded legal practice from the land. In 2009, the Third Energy Package introduced the aim of an EU Target Model; a fully liberalised internal EU-wide electricity market.¹⁷⁵

169 HALL (2023) 558.

170 See Minister for Energy Ray Burke in introducing the Gas (Amendment) Bill 1987. Dáil Éireann (1987).

171 SLEVIN (2015).

172 Directive 96/92/EC of the European Parliament and of the Council of 19 December 1996 concerning common rules for the internal market in electricity. The legal basis for the opening up of the energy sector are Articles 114 and 194 of the Treaty on the Functioning of the European Union.

173 Dáil Éireann (1999).

174 BARRETT (2014) 37.

175 The Third Energy Package consisted of two Directives and three Regulations including Directive 2009/72/EC concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC. In 2019, Directive 2009/72/EC was replaced by the

The Target Model aims to develop a single, integrated EU gas and electricity market. The end goal is a ‘supergrid’ – a fully disembedded Lawspace in which financial traders can pick and choose where and how to direct energy flows. Trading itself is increasingly automated, run by and through algorithms and data mining. This Lawspace, however, for all its dissimulation and apparent abstraction, is reliant on continued fossil fuel extraction (especially gas) and substantial energy use, including in data centres used to run financial trading networks.¹⁷⁶ With the concurrent financialisation of climate action and biodiversity commitments: “[t]his is where commoning can finally be ended – through the full financial externalisation of collective responsibility, turning what need to be collective decisions on the fate of the commons into a financial product in a global market”.¹⁷⁷

4. Conclusion

Law is central to an understanding of not only how the Anthropocene came into being through the treatment of land and energy, but how such practices have become institutionalised and continue, apace. This article has sought to show how *energy is placeless in the law*. Energy is a commodity in a free financial market driven solely by the price imperative, that can be bounced from place to place, shorn of the major impacts it has on the land and communities it pollutes, or is extracted from. This results from the treatment of energy as a distinct, “unit equivalence through which we can compare human civilisations”,¹⁷⁸ a standardisation procedure which has its origins in the creation of land into “an amalgam of economic units”¹⁷⁹ during the legal and cultural conquest of Ireland. In tracking these connections through a legal geographical analysis, this article has sought to add another layer to

Fourth Energy Package ‘Clean energy for all Europeans’ in 2019, but the gas aspect is still in place.

176 BRODIE (2020). Europe’s continuing reliance on gas was exposed with the Russian invasion of Ukraine in 2022 leading to volatility in energy prices. The EU has sought to address energy crises with the Fifth Energy Package and the REPowerEU plan which phases out Russian fossil energy imports. However, the plan has led to entrenchment of reliance on fossil fuels, especially US imports of Liquefied Natural Gas.

177 PATEL/MOORE (2018) 178.

178 DAGGETT (2019) 2.

179 BHANDAR (2018) 40–43.

the narrative of the Anthropocene, bolstering critiques of the epoch as a Capitalocene or Plantationocene.

This article should not be taken as an example of “colonial fatalism”, which outlines the “structural inevitability” of legal regimes¹⁸⁰ and their drive towards mass extinction and climate chaos. The process of fungible placelessness is also fuelled by the emptiness of energy; its status as a vessel for political desires and dys/utopias.¹⁸¹ Energy historian Vaclav Smil articulates that “[d]espite its crucial importance in human development, there is no concrete grasp of what energy is. We know that energy is conserved, it is the ability to do ‘work’ and that matter (specifically mass) and energy are equivalent. As our understanding of these concepts has evolved, so has our civilization.”¹⁸² If energy is such a formless concept, open to co-option by various ontologies, it can be reimaged and reconstructed. Re-imagining life beyond the Anthropocene – whatever its origins – means coming to terms with the systemic colonial-capitalist structures that maintain the idea of *placeless energy*. The above paragraphs have sought to unsettle the ground so that those next steps can be taken.

Addressing the ‘lack’ of a subject in environmental and energy law is not simply about re-materialising land or the academic endeavour of crafting “hazy dreamscapes”;¹⁸³ but about securing and institutionalising the practices of spatial justice that enable land to be managed.¹⁸⁴ This work is for another day and another article, but I will mention here that concepts of re-territorialisation and the attendant rights to cultural as well as economic popular sovereignty over land and energy infrastructures may be one concept we can turn to in Ireland.¹⁸⁵ This may involve rooting energy in place, giving due credence to the land and its elements in law (including rights to nature), meaningfully securing collective popular rights to land (at home and abroad), alongside protecting the public participation rights of those who depend on the land.¹⁸⁶ Implementing this process could require a first step of (re-)de-commodification of energy infrastructures; re-bundling Irish

180 PROULX/CRANE (2020) 62.

181 DAGGETT (2018) 1.

182 QUOTED IN LOWANS et al. (2023) 414.

183 AJL (2022) 1415.

184 BYER (2023b).

185 See SALOMAN (2022).

186 BYER (2023b); STRECKER (2018).

energy infrastructures under national public ownership and requiring the ESB to adhere to a mandate of public good, poverty eradication and climate/biodiversity action rather than the price imperative. This will involve actions such as a ban on fossil fuel energy infrastructure and exploration, requiring large scale investment in energy efficiency and just distribution of energy use on the basis of human/non-human need, not greed.¹⁸⁷ This is not merely a national project, but requires an internationalist campaign to deliver just transformations of land and energy systems abroad as Ireland and Europe rely on cheap fossil fuel supply chains that have enabled the offshoring of emissions, human rights violations and egregious environmental damage. As just one example, a just transition or transformation may require supporting and funding the transition away from coal mining in Cerrejón, Columbia, which currently feeds Moneypoint power plant in Co. Clare as well as other EU countries.¹⁸⁸ A just transition in this context may involve an international agreement between the EU and Columbia to ensure protections for workers' rights and trade unions, the return of sovereignty over land and resources, such as to indigenous peoples, with reparations for wider land, community and climate rehabilitation. For lawyers, questions must also be asked of Ireland's financial and legal sector, which is a direct contributor to the Anthropocene through the facilitation of international investment in fossil fuel and other extractive industries. We can work instead to replace concepts of the Energy Lawscape and its reductive re-ordering of the townland as sites of licensable extraction, with a landscaped, living heritage; working alongside those counter-mapping the land in more just, eco-feminist ways.¹⁸⁹

Rather than tired re-draftings or small edits to a fundamentally corrosive and deadening legal regime, new worlds and new concepts can be built, working with other peoples to develop a pluriverse of ideals, underpinned by a principle of non-domination.¹⁹⁰ Energy in the law can be returned to a concept of *fuinneamb* and *comhshaol* – ensuring human/non-human vitality in the collective-life-world.

187 GOUGH (2017).

188 Christian Aid (2020).

189 See CIREFICE (2023); CIREFICE et al. (2022); BRENNAN et al. (2022).

190 GETACHEW (2019).

Bibliography

- ACCOGLI, ALESSANDRA (2021), Friends of the Irish Environment v Minister for Communications: one stretch of “the long and winding road” to bring peat extraction into the Irish planning regime, in: *Irish Planning and Environmental Law* 4, 151–155
- AJL, MAX (2022), Everything Stays the Same while Everything Changes, in: *Development and Change* 53,6, 1398–1420, <https://doi.org/10.1111/dech.12732> (accessed 17 October 2024)
- ANDREWS, C. S. (1982), A Man of No Property, Dublin, <https://doi.org/10.1080/07341510500037537> (accessed 17 October 2024)
- ARNOLD, DAVID (2005), Europe, Technology, and Colonialism in the 20th Century, in: *History and Technology* 21,1, 85–106, <https://doi.org/10.1080/07341510500037537> (accessed 17 October 2024)
- AZARIA, DANAÉ (2015), *Treaties on Transit of Energy via Pipelines and Countermeasures*, Oxford, <https://doi.org/10.1093/law/9780198717423.001.0001> (accessed 17 October 2024)
- BARRETT, EVA (2014), Getting the Price Right: Could a Reintroduction of Temporary Price Controls Solve the Problem of Increasing Renewable Energy in Ireland While Simultaneously Guaranteeing Affordable Electricity to Domestic Consumers?, in: *Dublin University Law Journal* 37, 31–53
- BARRETT, EVA (2015), Ireland: Brewing up a Storm: Ireland’s Onshore Wind Development Strategy, in: *Renewable Energy Law and Policy Review* 6,2, 163–168
- BARRETT, EVA (2016), A Case Of: Who Will Tell the Emperor He Has No Clothes? – Market Liberalization, Regulatory Capture and the Need for Further Improved Electricity Market Unbundling Through a Fourth Energy Package, in: *The Journal of World Energy Law & Business* 9,1, 1–16
- BARRY, JOHN, PETER DORAN (2009), Environmental Movements in Ireland: North and South, in: McDONAGH, JOHN, TONY VARLEY, SALLY SHORTALL (eds.), *A Living Countryside. The Politics of Sustainable Development in Rural Ireland*, London, 321–340
- BHANDAR, BRENNA (2018), Colonial Lives of Property: Law, Land, and Racial Regimes of Ownership, Durham (NC), <https://doi.org/10.1215/9780822371571> (accessed 17 October 2024)
- BORAN, ANNE (2021), *Challenge to Power: Nixie Boran (1904–1971), Freedom and the Castlecomer Coal Miners*, Dublin
- BOURKE, ANGELA (1999), *The Burning of Bridget Cleary*, London
- BRAVERMAN, IRUS (2010), Hidden in Plain View: Legal Geography from a Visual Perspective, in: *Journal of Law, Culture and the Humanities* 7,2, 173–186, <https://doi.org/10.1177/1743872109355579> (accessed 17 October 2024)
- BRAVERMAN, IRUS, NICHOLAS BLOMLEY, DAVID DELANEY, ALEXANDRE (SANDY) KEDAR (2014), Introduction: Expanding the Spaces of Law, in: IDEM (eds.), *The Expanding Spaces of Law. A Timely Legal Geography*, Stanford (CA), 1–29

- BRENNAN, CIARA et al. (2022), Rights of Nature in Ireland – Towards a Living Island of Rights-Bearing Communities. Submission to the Citizens’ Assembly on Biodiversity Loss, Belfast
- BRODIE, PATRICK (2020), Climate extraction and supply chains of data, in: *Media, Culture and Society* 42,7–8, 1095–1114, <https://doi.org/10.1177/0163443720904601> (accessed 17 October 2024)
- BYER, AMANDA (2023a), Placing Property: A Legal Geography of Property Rights in Land, London, <https://doi.org/10.1007/978-3-031-31994-5> (accessed 17 October 2024)
- BYER, AMANDA (2023b), *Heritage, Landscape and Spatial Justice*, Leiden
- CAIN, MAUREEN (1994), The Symbol Traders, in: CAIN, MAUREEN, CHRISTINE B. HARRINGTON (eds.), *Lawyers in a Postmodern World: Translation and Transgression*, Buckingham, 15–48
- CBD [Secretariat of the Convention on Biological Diversity] (2004), Akwé: Kon Voluntary guidelines for the conduct of cultural, environmental and social impact assessments regarding developments proposed to take place on, or which are likely to impact on, sacred sites and on lands and waters traditionally occupied or used by indigenous and local communities, CBD Guidelines Series: Quebec
- CHAKRABARTY, DIPESH (2014), Climate and Capital: On Conjoined Histories, in: *Critical Inquiry* 41,1, 1–23, <https://doi.org/10.1086/678154> (accessed 17 October 2024)
- CHATTERJEE, ELIZABETH (2020), The Asian Anthropocene: Electricity and Fossil Developmentalism, in: *The Journal of Asian Studies* 79, 3–24
- Christian Aid (2020), *Undermining Human Rights: Ireland, the ESB and Cerrejón coal*, Dublin
- CIREFICE, V’CENZA (2023), *Ecofeminism, Countermapping and Movements for the Rights of Nature*, UCC Law and the Environment Conference, Cork
- CIREFICE, V’CENZA, SINÉAD MERCIER, AIDEEN O’DOCHARTAIGH (2022), Resistance to mining and pathways to a sustainable rural environment: Rewriting the maps, in: ATTORP, ADRIENNE, SEAN HERON, RUTH MCAREAVEY (eds.), *Rural Governance in the UK: Towards a Sustainable and Equitable Society*, London, 99–119
- COFFEY, DONAL K. (2018), *Drafting the Irish Constitution, 1935–1937*, Cham, <https://doi.org/10.1007/978-3-319-76246-3> (accessed 17 October 2024)
- COLLINS, TIM (2016), Forword, in: IDEM, GESCHE KINDERMAN, CONOR NEWMAN, NESSA CRONIN (eds.), *Landscape Values: place and praxis*. Conference Publication, Galway, 29th June–2nd July 2016, 8–13
- COOPERSMITH, JONATHAN (1992), *The Electrification of Russia, 1880–1926*, London
- COULTHARD, GLEN SEAN (2014), *Red Skin White Masks: Rejecting the Colonial Politics of Recognition*, London, <https://doi.org/10.5749/minnesota/9780816679645.001.0001> (accessed 17 October 2024)
- CRONIN, MICHAEL (2019), *Irish and Ecology/An Ghaeilge agus an Éiceolaíocht*, Dublin

- CROSS, EUGENE D. (1993), EC Electricity Legislation and the Irish Electricity Industry, in: *Tulsa Journal of Comparative and International Law* 1,1, 33–55
- CROSS, EUGENE D. (1996), *Electricity Utilities Regulation in the European Union: A Country by Country Guide*, London
- CROTTY, RAYMOND (1986), *Ireland in Crisis: A Study in Capitalist Colonial Underdevelopment*, Dingle (IRL)
- CRUTZEN, PAUL J. (2002), Geology of Mankind, in: *Nature* 415, 23, <https://doi.org/10.1038/415023a> (accessed 17 October 2024)
- CUNNINGHAM, PETER (2020), The forgotten famine and how it put the fledging Irish Free State on the brink, *Irish Times*, 9 April
- DAGGETT, CARA NEW (2018), Petro-Masculinity: Fossil Fuels and Authoritarian Desire, in: *Millennium: Journal of International Studies* 47,1, 25–44, <https://doi.org/10.1177/0305829818775817> (accessed 17 October 2024)
- DAGGETT, CARA NEW (2019), *The Birth of Energy: Fossil Fuels, Thermodynamics and the Politics of Work*, London, <https://doi.org/10.1215/9781478005346> (accessed 17 October 2024)
- Dáil Éireann (1987), Gas (Amendment) Bill, 1987: Second Stage, Dáil Éireann debate, 23 June
- Dáil Éireann (1999), Dáil Éireann debates, Electricity Regulation Bill, 1998: Second Stage, 3 February
- DENNEHY, COLEMAN A. (2023), Crime, Criminal Policy, and Law Reform in Seventeenth-Century Irish Parliaments, in: *The Journal of Legal History* 44,1, 2–31
- DEZALAY, YVES, BRYANT G. GARTH (2002), The Internationalization of Palace Wars: Lawyers, Economists, and the Contest to Transform Latin American States, Chicago (IL), <https://doi.org/10.7208/chicago/9780226144276.001.0001> (accessed 17 October 2024)
- Dublin Electric Lighting Bill (By Order), Volume 85, debated on Monday 2 July 1900, <https://hansard.parliament.uk/Commons/1900-07-02/debates/8eeb71c6-e8a1-4-17d-bdee-3eabf3633074/CommonsChamber> (accessed 17 October 2024)
- DUBOW, JESSICA (2009), Landscape, in: KOBAYASHI, AUDREY (ed.), *International Encyclopedia of Human Geography*, 2nd ed., vol. 8, 105–111, <https://doi.org/10.1016/B978-0-08-102295-5.11016-9> (accessed 17 October 2024)
- DUNNE, TERENCE M. (2018), Letters of Blood and Fire: Primitive Accumulation, Peasant Resistance, and the Making of Agency in Early Nineteenth-Century Ireland, in: *Critical Historical Studies* 5,1, 45–74
- GARAVAN, MARK (2007), Resisting the Costs of ‘Development’: Local Environmental Activism in Ireland, in: *Environmental Politics* 16,5, 844–863, <https://doi.org/10.1080/09644010701634224> (accessed 17 October 2024)
- GETACHEW, ADOM (2019), *Worldmaking after Empire: The Rise and Fall of Self-determination*, Oxford, <https://doi.org/10.1515/9780691184340> (accessed 17 October 2024)
- GODDEN, LEE (2014), A Biography of land, law and place, in: BABIE, PAUL, PAUL LEADBETER (eds.), *Law as Change: Engaging with the Life and Scholarship of*

- Adrian Bradbrook, Adelaide, 111–138, <https://doi.org/10.20851/law-change-06> (accessed 17 October 2024)
- GOUGH, IAN (2017), *Heat, Greed and Human Need*, London, <https://doi.org/10.4337/9781785365119> (accessed 17 October 2024)
- GRAEBER, DAVID, DAVID WENGROW (2021), *The Dawn of Everything: A New History of Humanity*, London
- GRAHAM, NICOLE (2011), *Landscape: Property, Environment, Law*, New York, <https://doi.org/10.4324/9780203847169> (accessed 17 October 2024)
- GRAHAM, NICOLE (2014), This is Not a Thing: Land, Sustainability and Legal Education, in: *Journal of Environmental Law* 26, 395–422, <https://doi.org/10.1093/jel/equ020> (accessed 17 October 2024)
- GUHA, RAMACHANDRA (1999), *Environmentalism: A Global History*, London
- GUIRY, NIAMH (2023), *The Sacred Nature of Trees: A Comparative Exploration of Trees in Brehon Law and the Modern Rights of Nature Movement*, 13th Post-graduate Research Symposium on Environmental Law Wednesday, 19th April, Cork
- HALL, DEREK (2023), ‘Commodification of Everything’ Arguments in the Social Sciences: Variants, Specification, Evaluation, Critique, in: *Environment and Planning A: Economy and Space* 55,3, 544–561
- HANNAH, LESLIE (1979), *Electricity before Nationalisation: A Study of the Development of the Electricity Supply Industry in Britain to 1948*, London, <https://doi.org/10.1007/978-1-349-03443-7> (accessed 17 October 2024)
- HARAWAY, DONNA, ANNA TSING (2019), Reflections on the Plantationocene: A Conversation with Donna Haraway and Anna Tsing, moderated by Gregg Mitman, in: *Edge Effects, Wisconsin*, https://edgeeffects.net/wp-content/uploads/2019/06/PlantationoceneReflections_Haraway_Tsing.pdf (accessed 17 October 2024)
- HASENÖHRL, UTE (2018), Rural Electrification in the British Empire, in: *History of Retailing and Consumption* 4,1, 10–17, <https://doi.org/10.1080/2373518X.2018.1436220> (accessed 17 October 2024)
- HEFFRON, RAPHAEL (2015), *Energy Law*, Dublin
- HEFFRON, RAPHAEL (2022), Energy Law in Crisis: An Energy Justice Revolution Needed, in: *The Journal of World Energy Law & Business* 15,3, 167–172, <https://doi.org/10.1093/jwelb/jwac012> (accessed 17 October 2024)
- HIGGINS, MICHAEL D. (2016), *Mise Eire and Saoirse?*, Speech given at Liberty Hall, Dublin, 13th March
- HOGAN, LIAM, LAURA McATACKNEY, MATTHEW C. REILLY (2016), The Irish in the Anglo-Caribbean: Servants or Slaves?, in: *History Ireland* 24,2, March/April 2016, <https://www.historyireland.com/the-irish-in-the-anglo-caribbean-servants-or-slaves/> (accessed 17 October 2024)
- HOGAN, M. A. (1944), Fuel Resources, in: *The Natural Resources of Ireland. A Series of Discourses Delivered before the Royal Dublin Society on April 12th, 13th, and 14th, Dublin*, 43–53
- HORRIGAN, MICHELE (2014), *Stigma Damages*, Askeaton, https://michelehorrigan.com/app/uploads/2014/07/Stigma_Damages.pdf (accessed 17 October 2024)

- HUGHES, THOMAS P. (1983), *Networks of Power: Electrification in Western Society, 1880–1930*, Baltimore (MD)
- JACKSON, ANDREW (2021), *The Legal Framework for Peatlands*, in: *Peatlands Gathering 2021*, https://www.youtube.com/watch?v=Z_PaGeGs3NE (accessed 17 October 2024)
- KAMINSKI, ISABELLA (2023), *Why 2023 will be a watershed year for climate litigation*, in: *The Guardian*, 4 January, <https://www.theguardian.com/environment/2023/jan/04/why-2023-will-be-a-watershed-year-for-climate-litigation> (accessed 17 October 2024)
- KANE, ROBERT (1844), *The Industrial Resources of Ireland*, Dublin
- KELLY, FERGUS (1988), *A Guide to Early Irish Law*, Dublin
- KEOGH, DERMOT, ANDREW MCCARTHY (2007), *The Making of the Irish Constitution 1937*, Douglas Village (Cork)
- KLEIN, NAOMI (2007), *The Shock Doctrine*, München
- KOTSAKIS, ANDREAS (2011), *Heterotopias of the Environment: Law's Forgotten Spaces*, in: PHILIPPOPOULOS-MIHALOPOULOS, ANDREAS (ed.), *Law and Ecology: New Environmental and Legal Foundations*, London, 193–213, <https://doi.org/10.4324/9780203829691-10> (accessed 17 October 2024)
- KUMAR, ANKIT (2022), *Energy Geographies in/of the Anthropocene: Where Now?*, in: *Geography Compass* 16,10, e12659, <https://doi.org/10.1111/gec3.12659> (accessed 17 October 2024)
- LAFFAN, REBECCA (2020), *Pressure on ESB to act over mass fish kill at power station near Limerick*, in: *Limerick Leader*, 1 February
- LAHEEN, MARY (2010), *Drystone Walls of the Aran Islands: Exploring the Cultural Landscape*, Cork
- LAIRD, HEATHER (2005), *Subversive Law in Ireland, 1879–1920*, Dublin
- LAIRD, HEATHER (2006), *India and the Translation of the Irish Brehon Laws*, in: FOLEY, TADHG, MAUREEN O'CONNOR (eds.), *Ireland and India: Colonies, Culture and Empire*, Dublin, 3–11
- LAIRD, HEATHER (2013), *Decentering the Irish Land War: Women, Politics and the Private Sphere*, in: CAMPBELL, FERGUS, TONY VARLEY (eds.), *Land Questions in Modern Ireland*, Manchester, 175–193, <https://doi.org/10.7228/manchester/9780719078804.003.0008> (accessed 17 October 2024)
- LOHMANN, LARRY (2021), *White Climate, White Energy: A Time for Movement Reflection?*, in: *Social Anthropology* 29,1, 225–227, <https://doi.org/10.1111/1469-8676.12995> (accessed 17 October 2024)
- LOLOUM, TRISTAN, SIMONE ABRAM, NATHALIE ORTAR (eds.) (2021), *Ethnographies of Power: A Political Anthropology of Energy*, New York/Oxford, <https://doi.org/10.3167/9781789209792> (accessed 17 October 2024)
- LOWANS, CHRISTOPHER et al. (2023), *Energy Systems*, in: GARCÍA, JORGE (ed.), *Encyclopedia of Electrical and Electronic Power Engineering*, Amsterdam etc., vol. 1, 413–425
- LUDDY, MARIA (2005), *A 'Sinister and Retrogressive' Proposal: Irish Women's Opposition to the 1937 Draft Constitution*, in: *Transactions of the Royal Historical*

- Society 15, 175–195, <https://www.jstor.org/stable/3679367> (accessed 17 October 2024)
- MAGAN, MANCHÁN (2020), *Thirty-Two Words for Field*, Dublin
- MAGUIRE, MARK (1998), *Socialists, Savages and Hydroelectric Schemes: A Historical and Anthropological Account of the Construction of Ardnacrusha*, in: *Anthropology Ireland* 6, 48–63
- MAGUIRE, MARK (2000), *Constructing Culture in the West of Ireland: Representations of Identity in Text and Space*, in: *Limina* 6, 85–99
- MALM, ANDREAS (2016), *Fossil Capital: The Rise of Steam Power and the Roots of Global Warming*, London
- MANNING, MAURICE, MOORE McDOWELL (1984), *Electricity Supply in Ireland: The History of the ESB*, Dublin
- MARHOLD, ANNA-ALEXANDRA (2021), *Energy in International Trade Law: Concepts, Regulation and Changing Markets*, Cambridge, <https://doi.org/10.1017/9781108551526> (accessed 17 October 2024)
- MARKS, SUSAN (2011), *Human Rights and Root Causes*, in: *Modern Law Review* 74,1, 57–78, <https://doi.org/10.1111/j.1468-2230.2010.00836.x> (accessed 17 October 2024)
- MAURER, NOEL (2011), *Empire Struck Back: Sanctions and Compensation in the Mexican Oil Expropriation of 1938*, in: *The Journal of Economic History* 71,3, 590–615, <https://doi.org/10.1017/S0022050711001859> (accessed 17 October 2024)
- MCCABE, CONOR (1992), *History of the Town Gas Industry in Ireland 1823–1980*, in: *Dublin Historical Record* 45,1, 28–40
- MCCABE, CONOR (2014), *Sins of the Father: Tracing the Decisions That Shaped the Irish Economy*, Dublin
- MCCABE, CONOR (2017), *Money, Cork*, <https://doi.org/10.1353/book62377> (accessed 17 October 2024)
- MCCORMACK, FIONA (2017), *Private Oceans. The Enclosure and Marketisation of the Seas*, London, <https://doi.org/10.2307/j.ctt1trkjm4> (accessed 17 October 2024)
- MCCRACKEN, EILEEN (1971), *Irish Woods since Tudor Times: Distribution and Exploitation*, Dublin
- MCKENZIE, JANETTA, ANGELA V. CARTER (2021), *Stepping stones to keep fossil fuels in the ground: Insights for a global wind down from Ireland*, in: *The Extractive Industries and Society* 8,4, 101002
- MCMAHON, CIAN (2019), *The Political Economy of Worker Cooperative Development: Meitheal and Sustainability*, PhD thesis, National University of Ireland Galway
- MCNEILL, BRONA (2021), *Is the grass always greener? Understanding grazing and cropping rights in Northern Ireland*, in: FARRAN, SUE, RUSSELL HEWITSON, ADAM RAMSHAW (eds.), *Modern Studies in Property Law*, vol. 11, Oxford, 3–23
- MCNEILL, BRONA (2022), *Reimagining Johnston v O’Neill: Towards a Sustainable Future for Lough Neagh*, paper at conference: *Back to the Future of Property Law – Reimagining Sustainable Property Law Conference*, Maastricht, 22nd April

- MCVEIGH, ROBBIE, BILL ROLSTON (2009), Civilising the Irish, in: *Race and Class* 51, 2–28, <https://doi.org/10.1177/0306396809106160> (accessed 17 October 2024)
- MCVEIGH, ROBBIE, BILL ROLSTON (2021), *Anois ar theacht an tSamhraidh: Ireland, Colonialism and the Unfinished Revolution*, Belfast
- MEEHAN, PATRICK (1943), Early Dublin Public Lighting, in: *Dublin Historical Record* 5,4, 130–136
- MERJIAN, ARMEN H. (2010), An Unbroken Chain of Injustice: The Dawes Act, Native American Trusts, and *Cobell v. Salazar*, in: *Gonzaga Law Revue* 46,3, 609–658
- MISEDJAN, DAPHINA (2022), Separate but equal in the protection against climate change? The legal framework of climate justice for the Caribbean part of the Kingdom of The Netherlands, in: *The Geographical Journal* 189,4, 613–624, <https://doi.org/10.1111/geoj.12504> (accessed 17 October 2024)
- MITCHELL, TIMOTHY (2000), The Stage of Modernity, in: IDEM (ed.), *Questions of Modernity*, Minneapolis (MN), 1–34
- MITCHELL, TIMOTHY (2013), *Carbon Democracy: Political Power in the Age of Oil*, London
- MITCHELL, W. J. T. (2002), Introduction, in: IDEM (ed.), *Landscape and Power*, 2nd ed., Chicago/London, 1–4
- MOHR, THOMAS (2002), The Salmon of Knowledge: Brehon Law before Twentieth Century Courts, in: *Peritia* 16, 360–395, <https://doi.org/10.1484/J.Peri.3.495> (accessed 17 October 2024)
- MOHR, THOMAS (2007), Law in a Gaelic Utopia: Perceptions of Brehon Law in Nineteenth and Early Twentieth Century Ireland, in: BRUPBACHER, OLIVER, NADINE GROTKAMP, JANA OSTERKAMP, TILMANN RÖDER, STEFAN RUPPERT, DAVID SÖRDEL (eds.), *Erinnern und Vergessen/Remembering and Forgetting (Jahrbuch Junge Rechtsgeschichte/Yearbook of Young Legal History 2)*, München, 247–276
- MOKYR, JOEL (1983), *Why Ireland Starved: A Quantitative and Analytical History of the Irish Economy, 1800–1850*, London
- MOORE, JASON (2015), *Capitalism in the Web of Life: Ecology and the Accumulation of Capital*, London
- MOORE, JASON (2016), Introduction: Anthropocene or Capitalocene? Nature, History, and the Crisis of Capitalism, in: IDEM (ed.), *Anthropocene or Capitalocene? Nature, History, and the Crisis of Capitalism*, Oakland (CA), 1–11, https://orb.binghamton.edu/sociology_fac/1 (accessed 17 October 2024)
- MUINZER, THOMAS L., GERAINT ELLIS (2017), Subnational Governance for the Low Carbon Energy Transition: Mapping the UK’s ‘Energy Constitution’, in: *Environment and Planning C: Politics and Space* 35,7, 1176–1197
- MUINZER, THOMAS L., KIRSTEN E. H. JENKINS, DARREN A. MCCAULEY, GAVIN MACLEOD LITTLE (2022), Energy Justice Beyond Borders? Exploring the Impact of Brexit on Ireland’s All-Island Energy Market, in: *The Electricity Journal* 35,10, article 107218

- MURPHY, JOSEPH (2009), *Place and Exile: Imperialism, Development and Environment in Gaelic Ireland and Scotland*, Leeds
- O'BRIEN, SORCHA (2023), Electricity, Modernity and Tradition during Irish Rural Electrification 1940–1970, in: *Journal of Energy History* 8, energyhistory.eu/en/node/322
- O'CONNOR, EMMET (2004), *Reds and the Green: Ireland, Russia and the Communist Internationals*, Dublin
- OHLMEYER, JANE H. (2004), A Laboratory for Empire?: Early Modern Ireland and English Imperialism, in: KENNY, KEVIN (ed.), *Ireland and the British Empire*, Oxford, 26–60, <https://doi.org/10.1093/acprof:oso/9780199251841.003.0002> (accessed 17 October 2024)
- OHLMEYER, JANE H. (2015), Ireland, India and the British Empire, in: *Studies in People's History* 2,2, 169–188, <https://doi.org/10.1177/2348448915600920> (accessed 17 October 2024)
- OHLMEYER, JANE (2021), Lecture Two: Anglicisation, in: *The James Ford Lectures in British History: Ireland, Empire and the Early Modern World*, Dublin, 29 January
- OLWIG, KENNETH (1996), Recovering the Substantive Power of Landscape, in: *Annals of the Association of African Geographers* 86,4, 630–653, <https://doi.org/10.1111/j.1467-8306.1996.tb> (accessed 17 October 2024)
- OSKOW, PAUL L. (2008), Lessons Learned from Electricity Market Liberalization, in: *The Energy Journal* 29,2, 9–42, <https://doi.org/10.5547/ISSN0195-6574-EJ-Vol29-NoSI2-3> (accessed 17 October 2024)
- OTTER, CHRIS (2008), *Victorian Eye: A Political History of Light and Vision in Britain, 1800–1910*, Chicago (IL), <https://doi.org/10.7208/chicago/9780226640785.001.0001> (accessed 17 October 2024)
- PARK, K-SUE (2022), The History Wars and Property Law: Conquest and Slavery as Foundational to the Field, in: *Yale Law Journal* 131,4, 1062–1384
- PATEL, RAJ, JASON W. MOORE (2018), *A History of the World in Seven Cheap Things: A Guide to Capitalism, Nature and the Future of the Planet*, London, <https://doi.org/10.1525/9780520966376> (accessed 17 October 2024)
- PIRANI, SIMON (2018), *Burning Up: A Global History of Fossil Fuels*, London, <https://doi.org/10.2307/j.ctv4ncp7q> (accessed 17 October 2024)
- PROULX, GUILLAUME, NICHOLAS JON CRANE (2020), “To see things in an objective light”: the Dakota Access Pipeline and the ongoing construction of settler colonial landscapes, in: *Journal of Cultural Geography* 37,1, 46–66, <https://doi.org/10.1080/08873631.2019.1665856>
- SALOMAN, MARGOT (2022), Culture as an Alternative to ‘Sustainable Development’, *TWAILR: Reflections* #44/2022, <https://twailr.com/culture-as-an-alternative-to-sustainable-development/> (accessed 17 October 2024)
- SANDS, DARA (2022), *Dewilding ‘Wolf-land’: Exploring the Historical Dimensions of Human-Wildlife Conflict and Coexistence in Ireland*, in: *Conservation and Society* 20,3, 257–267, https://doi.org/10.4103/cs.cs_118_21 (accessed 17 October 2024)

- SARGENT, NIALL (2020), 'David vs Goliath': why individuals are challenging Ireland's forestry licences, in: *Noteworthy*, 26 October, <https://www.noteworthy.ie/spruced-up-pt2-5241570-Oct2020> (accessed 17 October 2024)
- SCOTT, JAMES C. (1998), *Seeing Like a State: How Certain Schemes to Improve the Human Condition have Failed*, New Haven (CT)
- SETZER, JOANA, CATHERINE HIGHAM (2023), Global trends in climate change litigation: 2023 snapshot, LSE Grantham Research Institute on Climate Change and the Environment, <https://www.lse.ac.uk/granthaminstitute/publication/global-trends-in-climate-change-litigation-2023-snapshot/> (accessed 17 October 2024)
- SHIEL, MICHAEL J. (2003), *The Quiet Revolution: The Electrification of Rural Ireland 1946–1976*, Dublin
- SIMMS, KATHARINE (2000), *From Kings to Warlords: The Changing Political Structure of Gaelic Ireland in the Later Middle Ages*, Suffolk (VA)
- SLEVIN, AMANDA (2015), *Gas, Oil and the Irish State*, Manchester, <https://doi.org/10.7228/manchester/9781784992743.001.0001> (accessed 17 October 2024)
- SMYTH, WILLIAM J. (2007), *Map-making, Landscapes and Memory: A Geography of Colonial and Early Modern Ireland, c. 1530–1750*, Cork
- STENSEKE ARUP, GUSTAV (2021), *Entangled Law: A Study of the Entanglement of Wolves, Humans, and Law in the Landscape*, doctoral thesis, Karlstad
- STRECKER, AMY (2018), *Landscape Protection in International Law*, London, <https://doi.org/10.1093/oso/9780198826248.001.0001> (accessed 17 October 2024)
- STRECKER, AMY (2019), *The Protection of Cultural Landscapes in the European Union*, in: JAKUBOWSKI, ANDRZEJ, KRISTIN HAUSLER, FRANCESCA FIORENTINI (eds.), *Cultural Heritage in the European Union. A Critical Inquiry into Law and Politics*, Leiden/Boston, 395–416, https://doi.org/10.1163/9789004365346_017 (accessed 17 October 2024)
- SWEENEY, FRANK, O'DWYER, REBECCA (2020), *All I believe happened there was vision* (film by Frank Sweeney), with an introductory text by Rebecca O'Dwyer, <https://aemi.ie/works/frank-sweeney-all-i-believe-happened-there-was-vision-2020/> (accessed 17 October 2024)
- TALUS, KIM (2013), *EU Energy Law and Policy: A Critical Account*, Oxford, <https://doi.org/10.1093/acprof:oso/9780199686391.001.0001> (accessed 17 October 2024)
- TAYLOR, GEORGE (1998), *Conserving the Emerald Tiger: The Politics of Environmental Regulation in Ireland*, in: *Environmental Politics* 7,4, 53–74
- TOVEY, HILARY (1993), *Environmentalism in Ireland: Two Versions of Development and Modernity*, in: *International Journal of Sociology* 8,4, 413–430, <https://doi.org/10.1177/026858093008004002> (accessed 17 October 2024)
- UNDRIP [UN Declaration on the Rights of Indigenous Peoples] (2007), A/RES/61/295
- UNDROP [United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas] (2018), A/RES/73/165, https://digitallibrary.un.org/record/1661560/files/A_RES_73_165-EN.pdf (accessed 17 October 2024)

- University of Illinois (2016), University of Illinois' Symposium on Comparative Early Modern Legal History, *Anglicization of Law and Through Law: Early Modern British North America, India, and Ireland Compared*, April 8, 2016
- VAN WAGNER, ESTAIR, MARIA BARGH (2021), *Unearthing (De)colonial Legal Relations: Mining Law in Aotearoa New Zealand*, in: XAVIER, SUJITH, BEVERLEY JACOBS, VALARIE WABOOSE, JEFFERY G. HEWITT, AMAR BATHIA (eds.), *Decolonizing Law. Indigenous, Third World and Settler Perspectives*, London, 158–180, <https://doi.org/10.4324/9781003161387-12> (accessed 17 October 2024)
- WALSH, RACHEL, LORNA FOX O'MAHONY (2018), *Land Law, Property Ideologies and the British-Irish relationship*, in: *Common Law World Review* 47,1, 7–34
- WHEELER, T. S. (1944), *Sir Robert Kane – His Life and Work*, in: *The Natural Resources of Ireland. A Series of Discourses Delivered before the Royal Dublin Society on April 12th, 13th, and 14th, Dublin*, 5–42
- WILLIAMS, JAMES H., NAVROZ K. DUBASH (2004), *Asian Electricity Reform in Historical Perspective*, in: *Pacific Affairs* 77,3, 411–436
- YERGIN, DANIEL (1991), *The Prize: The Epic Quest for Oil, Money and Power*, New York