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All That Is Not Given Is Lost: Irish Traditional Music, Copyright, and Common Property

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[Note: this article has been critiqued in Chapter 1 of the *Beyond the Commons* dissertation]

Irish music in a traditional idiom finds itself in the best of times and the worst of times. On the one hand Irish traditional music has become a global phenomenon, lending its symbolic and commercial weight, replete with what Irish cultural historian Luke Gibbons calls, "the communal Prozac of the heritage industry" (1996:172), to anything from Riverdance(tm) to Xena,(tm) Warrior Princess and its ethereal glances of uilleann pipe incidentals. Commercially speaking, the music has never been as popular, a boon for those determined to make a living playing the music that they live by. On the other hand we find that the embedded cultural practices and values that have supported the transmission and life of the music are being threatened as a result of the very embeddedness, their being taken for granted, that has guaranteed their lack of articulation thus far.

The aim of this paper is twofold. Firstly, I feel it necessary to clarify the nature of the social relationships that are inextricably bound up with Irish traditional musical practice, in partial answer to Luke Gibbons' comment that, "though much valuable work has been done on Irish society from the point of view of economic development, political mobilization, and administrative structures, very little has focused on culture as a set of material practices informing and constituting the social environment" (1996:10). To do this, I shall address issues of gift and commodity, ultimately concluding that grass-roots Irish traditional music transmission rests upon an as-yet-unarticulated system of gift or sharing. And secondly, I believe that it is crucial that we clarify the power relations and the dynamic processes that frame those social relationships. For this purpose, I shall use certain aspects of Common Property Theory, still a very young field, with a view to highlighting the actors and signposting directions. As Michael Goldman has written, "The commons-a material and symbolic reality, always changing, never purely local or global, traditional or modern, and always reflecting the vibrant colors of its ecological, political, cultural, scientific and social character-is not at all disappearing into the dustbin of history. To the contrary, we find that the commons are increasingly becoming a site for robust and tangible struggles . . ." (1998:14).

At the UNESCO/WIPO World Forum on the Protection of Folklore in Phuket, Thailand (April 1997), it was admitted that: "The participants were of the view that at present there is no international standard of protection for folklore and that the copyright regime is not adequate to ensure such protection" (WIPO 1997). As has been elaborated in a number of sources (McCann 1998; Mills 1996; Seeger 1996; Weiner 1987), the musical practices that support traditional music transmission abide by models of creativity, collaboration, and participation that together add up to the antithesis of the text-based, individualist, and essentially capitalist nature of intellectual property regimes. All problems relating to copyright and neighboring rights in traditional musics can ultimately be traced back to these issues. Hence the need to develop a sui generis system of protection for traditional culture and traditional musical expression, one that grows from the nature of traditional systems as they are, rather than one imposed on them as the way they should be. The challenge we face is to attempt to reconcile these two apparently irreconcilable world views in practical terms.

The Irish Context

The last three years have seen a growing but notoriously vague awareness in the Irish traditional music scene of a conflict of interest that involves publicans, amateur practitioners of traditional music and song, and the performance royalties collection agency, the Irish Music Rights Organization (IMRO). This growing awareness has led to a national newspaper article proclaiming "Save the Session" (Vallely 1997). At the same time, there has arisen a public debate clouded in

ambiguity and a lack of direction due to a lack of a shared lexicon or conceptual consensus and the complications of the philosophical basis of copyright legislation.

A very small percentage of traditional musicians are members of the Irish Music Rights Organization (IMRO). IMRO claims the right to police traditional compositions despite being originally formed to serve the needs of commercial songwriters. IMRO claims that it only has the best interests of musicians at heart, and within its own circle of logic this is undoubtedly true. IMRO was formed to champion the cause of commercial composers and songwriters, and feels duty-bound to extend its reach on the assumption that all musical practice is commodity exchange, an assumption founded on the epistemologies of neo-classical economics.[1] To diffuse growing hostility among traditional musicians, and in the shadow of a developing Copyright Bill in the Irish parliament, IMRO recently signed an agreement (1999)[2] with the largest voluntary music body in Irish traditional music, Comhaltas Ceoltóiri Éireann, both parties claiming, as a result of the agreement, that the "copyright-free status of traditional music" has been secured. This does not, however, mean that the fundamental philosophical issues at the heart of the conflict have been resolved, and they will most likely surface again in another form.

As Irish traditional music has increasingly entered the commercial arena, collectors of traditional songs and tunes, and performers of traditional tunes[3] are personally claiming copyright on works presumed to be in the "public domain,"[4] Increasingly, however, many new compositions in traditional idioms are assumed to be in the "public domain," even though the composers can often be sourced, and many of whom are still alive. Usually this is the result of laziness or an unwillingness to source the tune or song. The reluctance of traditional composers to copyright their tunes, thus leaving their work vulnerable to piracy, stems from a complex web of social relationships, and a recognition of a "tradition" that incorporates past, present and future generations, and is often simply a case of offering a tune up to the possibility of future anonymity.

A recent study by Carlos Salazar entitled *A Sentimental Economy: Commodity and Community in Rural Ireland* (1996) states, "We have seen that the farming communities of the west of Ireland are deeply integrated into the world market economy, and they undoubtedly participate in the individualistic and profit-maximizing ethos that characterizes all capitalist societies, but they still have a substantial sphere of noncommodity transactions" (1996:126). I would argue in no uncertain terms that the same can be said of Irish traditional music and the musicians that practice it. I would go further to suggest that the noncommodity aspect of Irish musical practice, with both its amateur and participatory aspects, is the lifeblood, the "cultural glue" that holds the whole system together.

The Session

Undoubtedly the most popular form of Irish traditional musical activity in public places[5] is the "session." [6] Involving at least three people who play jigs, reels, hornpipes, planxties, and so on in heterophonic union, with the odd solo thrown in, this musical practice takes place for the most part in pubs,[7] a typical "third space,"[8] the site of an obvious cultural lubricant, and also in houses, although those gatherings have more the character of private parties. It has become an extremely widespread phenomenon, allowing at best (deliberate moral overtones) the shepherded involvement of younger or less experienced players by older and respected musicians, and is the site of most musical transmission.[9] It is the site of focus for a complex system of codes and etiquettes,[10] humiliations and value reinforcements that are distilled from the wider context of the Irish traditional scene. Many musicians involved in sessions are also professionals[11], many of them full-time, a number of them most likely members of IMRO, but once embraced by the aura of the session, the hierarchies are of a "traditional" not a commercial nature. As is evident by the paraphrasing below, a portion of C. A. Gregory's analysis of Papua New Guinea is equally applicable to a discussion of the session:

The gift economy of [the Irish instrumental session] has not been destroyed by [commercialism] but has effloresced. The labor-time devoted to the production and exchange of things as gifts has risen rather than fallen, a change that has occurred simultaneously with the introduction of [paid sessions, commercial recording, and regular concert opportunities]. To understand this process, it is necessary to abandon the concept of dualism which classifies this part of the economy (e.g. urban sector) as "modern," and that part (e.g. rural sector) as "traditional." The fact of the matter is that the whole economy is "modern." The gift exchange practiced in [Irish instrumental session culture] is not a precolonial relic but a contemporary response to contemporary conditions Economic activity is not a natural form of activity. It is a social act and its meaning must be understood with reference to the social relationships between people in historically specific settings. The essence of the [Irish musical] economy today is ambiguity. A [tune] is now a gift, now a commodity, depending upon the social context of the transaction It is because of this ambiguity that the concept of dualism, with its clearly defined traditional sector, must be abandoned. (1982:115)

One of the top traditional musicians in the commercial scene has commented to me that there is no greater thrill than hearing one of her own tunes at a session with no-one knowing who composed it (personal interview, 1997). Authorship takes a back seat as a designation of respect and cultural capital rather than ownership. As another celebrated performer commented to me: "I mean, like, nobody owns the stuff. You can't own this stuff" (personal interview, 1999). But "the tune"[12] in this situation has been placed in that site of ambiguity mentioned above. For IMRO the tune undoubtedly walks, talks and quacks like a commodity. For the musicians engaged in the session the tune cannot be separated out from the social and historical context of the non-commodified musical moment, in a process of forging and acts of personal courage, where "Talent is tested. The self is risked and accomplished. Human power is restrained and focused to make the self a gift to the other, the past a gift to the future. Past and present, internal and external collapse into union" (Glassie 1995:146). There is also the widespread practice, as Gregory has identified in general terms, of de-commodification, of tunes having been written as commercial, commodified money-making "works" with the cow-bell of copyright draped around their neck, only to be transformed in the context of the session into gifts to be distributed freely among musicians in a context of tradition and community.[13]

The session conforms readily to the idea of a "gift cycle": "In a gift cycle the gift is given without contract or agreement about return. And yet it does return; a circulation is set up and can be counted upon"(Hyde 1983:114). The gift is the risk of self, the tunes, the songs, the chat, the shared experience, the history of personal endeavor. As another musician commented: "The music doesn't belong to anybody, so if somebody's trying to learn it and you can help them, it's not yours, so it's not like you can hold back, because it's not yours anyway. There have been people who have come to the sessions who have been rude, and I've had differences with them. But if somebody is sincere and it seems like they're trying to tap into the spirit of the music then you have to stretch your hand out to them" (personal interview, 1998).[14]

Intellectual Property and Commodification

At this stage in history it is almost impossible to separate intellectual property from its role as an instrument of commodification within capitalist systems (Bettig 1996). In fact, the development of capitalism and intellectual property have been concurrent (Rose 1993, Woodmansee and Jaszi 1994). The appearance in the eighteenth century of things of the mind as transferable articles of property matured simultaneously with the capitalist system (Jaszi 1992). It could be argued that the application of intellectual property in any circumstance assumes the a priori application of capitalism, where the production and distribution of goods depend on invested private cultural capital and profit-making. If this is the case, then unlimited participation in a capitalist system,

which seeks by its nature the furthestmost penetration of the market, and the unbounded acceptance of intellectual property as a legal solution, impose an unnecessarily individualist vision. Ecologist Vandana Shiva has written:

The first restriction of Intellectual Property Rights is the shift from common rights to private rights. This excludes all kinds of knowledge, ideas, and innovations that take place in the "intellectual commons" . . . The second restriction of Intellectual Property Rights is that they are recognized only when knowledge and innovation generate profits, not when they meet social needs This immediately excludes all sectors that produce and innovate outside the industrial mode of organization of production. Profits and capital accumulation are recognized as the only ends to which creativity should be put. (1993:115)

Recognition that intellectual property is not going to go away^[15] makes it tempting to just accept that intellectual property is the lesser evil. But unchanged application of intellectual property rights carries profound implications, as Stephen Gudeman rightly points out:

In my view, the use of intellectual property rights on an international scale to compensate nonmarket economies not only raises problematic issues but presents a paradox. Some people would use the legal and monetary entitlements afforded by intellectual property rights to protect and foster the local knowledge and innovations of a folk in order to secure global equity and help them preserve community identity. But if intellectual property rights is a property and component of Western capitalism, then abetting its acceptance elsewhere must lead to economic transformation or adoption of the market form exactly among those people whom it is said to protect. (1996:104)

Common Property Studies

In The Ecologist magazine of July/August 1992 (Goldsmith et al. 1992), one reads:

Despite its ubiquity, the commons is hard to define. It provides sustenance, security and independence, yet (in what many Westerners feel to be a paradox) typically does not produce commodities Systems of common rights, far from evolving in isolation, often owe their very existence to interaction and struggle between communities and the outside world. It is arguably only in reaction to invasion, dispossession or other threats to accustomed security of access that the concept of common rights emerges.

I have found it useful, in assessing traditional music as it intersects with issues of intellectual property, to turn to Common Property^[16] Studies. It is widely believed, though not entirely true, that Common Property Studies has primarily developed in response to the 1968 publication of Garrett Hardin's article, "The Tragedy of the Commons," which described the collapse of an unmanaged commons comprised of self-interested individuals. This literature^[17] generally distinguishes four property regimes: open access, common property resources, private property, and state property. The two that most concern us here are open access and common property. "Open access is the absence of well-defined property rights. Access to the resource is unregulated and is free and open to everyone" (Feeny et al. 1998:79).¹⁸ Common Property Resources (CPRs) fulfill two criteria. The first is that of non-excludability, which is well-illustrated in Douglas Noonan's example of the Internet, where "excluding users from the Internet is technically impossible or prohibitively expensive" (1998:189). We have only to think of Mark Slobin's comment that, "A music can suddenly move beyond all its natural boundaries and take on a new existence, as if it has fallen into the fourth dimension" (1993:20).¹⁹ The second criterion is that of subtractability or rivalrous consumption, "the source of the potential divergence between individual and collective rationality" where "each user is capable of subtracting from the welfare of other users" (Feeny et al.

1998:78).[20] As Noonan describes it in relation to the Internet, "Too many users can overload different links in the network chain, reducing the value of other transmissions congested at that point" (1998:189). Musically speaking we have a number of areas for comparison here.

Firstly, there is the question of musical sound acting in support of a particular value system, within a particular value system. To what extent is the actual musical sound bound up with the values of the community from which it comes? To what extent do the "participatory discrepancies" (Keil and Feld 1994) or the "fuzzy edges" disclose a sonically ordered worldview? The further the music moves from its origin, the less likely that these "extras" will be passed on in transmission. Does it matter? I believe it does.

Secondly, modifying Sahlins' concept of "kinship distance" (1972), the further that music moves from its register of origin, the more likely, it seems, it is to be commodified. This has certainly happened in Irish traditional music, something which certainly changes, if not radically reduces the social value of the music. The question of individuals copyrighting tunes that have been held in common for time immemorial is another site for rivalrous consumption. As Bish writes, "the existence of valuable unowned resources provides an incentive for individuals to try to capture the resource before other potential users can do so"(1998:66). It will be interesting, in further research, to see to what extent Irish traditional music fits the criteria for CPRs,[21] and to what extent common property theory can be enriched by studies of traditional transmission.

Where Common Property theory is most useful in the context of copyright and traditional music is in the identification of the process of "enclosure." We have already seen how a central element of Irish traditional music is based on an idea of gift, which supports what could be seen as a characteristically non-commodified common property resource. It would not be too difficult to then see the commodifying processes of neo-classical economics, commercialism in music, and of the conceptually-bound and conceptually-driven agency of the Irish Music Rights Organization as an example of enclosure in a musical context. In *The Ecologist* we read, "Enclosure cordons off those aspects of the environment that are deemed "useful" to the encloser Instead of being a source of multiple benefits, the environment becomes a one-dimensional asset to be exploited for a single purpose that purpose reflecting the interests of the encloser, and the priorities of the wider political economy in which the encloser operates" (Goldsmith et al. 1992). Music becomes product, musician becomes producer in the capitalist process of commodity production.[22] Again, Goldsmith et al. write:

Enclosure claims that its own social frame, its language, is a universal norm, an all-embracing matrix which can assimilate all others. Whatever may be "lost in translation" is supposedly insignificant, undeveloped or inferior to what is gained Because they hold themselves to be speaking a universal language, the modern enclosers who work for development agencies and governments feel no qualms in presuming to speak for the enclosed. They assume reflexively that they understand their predicament as well as or better than the enclosed do themselves. It is this tacit assumption that legitimizes enclosure in the encloser's mind-and it is an assumption that cannot be countered simply by transferring the visible trappings of power from one group to another.

So what are some of the lessons that can be learned from interpreting the practices of Irish traditional music as a common property resource? The threat of the "Tragedy of the (unmanaged) Commons" is undoubtedly a real one. What warning signs are there? John Baden has written that,

Tragedy strikes when self-interest and social interest diverge . . . a common-pool resource is a resource for which there are multiple owners (or a number of people who have nonexclusive rights to use the resource) and where one or a set of users can have adverse effects upon the interests of other users. In the situation where

there is no agency with the power to coordinate or to ration use, action which is individually rational can be collectively disastrous. This is the central point of the "tragedy of the commons." (1998:51-52)

Need we be mindful of the commercially motivated actions of professional Irish "traditional" musicians and the potentially harmful effects of their activity in a time of "communal Prozac"? What Noonan has written of the Internet strikes a number of pertinent echoes when applied to traditional music in an Irish context,

. . . for the Internet to continue creating new value, it must remain robust and functional-and not fall victim to its commons status. Up to now, the pressures on the Internet infrastructure have been relatively light, but the staggering growth in use leads to justifiable concern about "managing the commons." The Internet currently has ingredients for tragedy: open access, rivalrous use, and rising value and decreasing costs of access to users. Limiting access to the Internet is highly problematic because of its abstract, global nature, and open access is integral to the Internet's character. Infinitesimal marginal costs of use make metering use difficult; charging access fees, for instance, is often more costly than the access itself. If nothing changes, some might reasonably expect the Internet to eventually crash Avoiding this requires addressing problems of overuse (appropriation) and undermaintenance (provision)." (Noonan 1998:190)

All That Is Not Given Is Lost

The Common Property paradigm clearly enunciates some of the pressures that are being brought to bear on the continued practice of Irish traditional music in its amateur and non-commodified forms. It also invites us to properly address the underlying complexities in those areas where Slobin's (1983) "subcultures," "intercultures," and "supercultures" intersect, challenging us to dispense with false dualisms:

Our studies . . . do not present themselves as essentially anti-modern or solely dependent on either private property or community-controlled commons for their survival. They demand that their worlds be recognized as situated within multiple (albeit contradictory) linkages that can be empowering while also running the risk of being exploitative. (Goldman 1998:13)

If the continued commodification of Irish traditional music is allowed to go unchecked, or is even allowed the force of law through the imposition of intellectual property and neighboring rights upon amateur and inherently non-commodified musicking contexts, then a very precious, and ultimately humanizing domain of gift will be diminished. One of the reasons that processes such as these have gone without opposition or even without clarification for so long is that the value systems are deeply embedded in cultural practice (Bourdieu 1977; Foucault 1990, 1995): "These communities are ruled by a set of rights and obligations that do not have to be explicitly manifest in each particular interaction, since they are taken for granted" (Salazar 1996:151). Silence against political processes that are in no way benign invites dehumanization and suppresses individual responsibility to past, present and future. As Glassie writes, "Silence is not harmless. It brings disengagement. As surely as the evil tongue, silence threatens the destruction of the self and the community" (Glassie 1995:35). This is a question of music as community, community as music, the consolidation of personal participation. In Glassie's words, "True communities are built not of dewy affection or ideological purity but of engagement" (Glassie 1995:282).

So, where to from here? Michael Goldman outlines the pessimistic view in Common Property Studies,

On the one hand, we know that capitalism can't stop. It is a kind of malignancy which will keep on devouring new resources even as it undermines the very body . . . upon which it depends. Codes of conduct and voluntary restraint are laughably (or lamentably) inadequate to protect common property resources from capitalist confiscation, because that appropriation allows the cancer to spread for a while longer. This is why the stakes keep rising and the subject of the commons, whether in its local or global form, is now so hotly debated. (Goldman 1998:xiv)

The contexts for musical practice that are untouched by the hand of either competitions, tourism-oriented showcases, or commercial performance are becoming few in number. We can seek to re-evaluate the role of intellectual property as it impacts on Irish traditional music by coming to an understanding, in future work, of what I identify as the "Cultural Commons," in an attempt to wrest our approaches away from the goods-based, economic analysis that has until now dominated CPR literature.

We need to be careful not to prescribe cultural activity. We need to assert the contemporary validity of traditional practices as a contemporary response to contemporary conditions. In the words of sociologist Craig Jackson Calhoun, "I shall ask that we go still further beyond the Enlightenment's historicist opposition of tradition to modernity and see tradition as grounded less in the historical past than in everyday social, practice" (1983:888). We need to carefully examine the registers of social interaction within which traditional practices occur, for it is here that the keys to transmission will be found. We need to explore the effect of gift, and the effect on gift of market relations. We need to be aware of the human dimension of intellectual property application, the human dimension of individualist possessiveness, the distancing effects of increasing professionalization, the drive to convert folklore into spectacle, the change that all of these effect upon relationships, upon community, and ultimately upon the transmission process:

. . . a circulation of gift nourishes those parts of our spirit that are not entirely personal, parts that derive from nature, the group, the race, or the gods. Furthermore, although these wider spirits are a part of us, they are not "ours"; they are endowments bestowed upon us. To feed them by giving away the increase they have brought us is to accept that our participation in them brings with it an obligation to preserve their vitality. When, on the other hand, we reverse the direction of the increase-when we profit on exchange or convert "one man's gift to another man's capital"-we nourish that part of our being (or our group) which is distinct and separate from others. Negative reciprocity strengthens the spirits-constructive or destructive-of individualism and clannishness. (Hyde 1983:38)

It is crucial that the legal system, informed by consultative scholarship, recognizes the wealth, the breadth, and, most importantly, the social nature of traditional musics and transmission, and that it invites a fair, accurate, and proportioned representation of the music and its cultural context. The challenge is to effect a paradigm shift from the dominant folklore-as-materials to folklore-as-practice. The challenge is to find ways to support traditional practices, by legal means, in education and in community action. To quote Calhoun,

During times when the existing order seems deeply threatened. . . such communities may find that they can be traditional only by being radical. (Calhoun 1983:911)

Notes

1. Copyright is the foundation upon which the Music Business rests (Frith, ed. 1993).
2. See the press release at http://www.imro.ie/Old_News/1999/comh.html. Also http://www.imro.ie/Old_News/1999/Comhaltas2.htm1.
3. At the present time in Ireland [2000] a musician is allowed to garner 100% performance or mechanical royalties for the fixation of an "arrangement" of a traditional tune. However, there is no definition available that clarifies exactly what a "traditional" tune is. Most people assume that traditional means that the tune was composed by someone, but that no one knows who, that it is an anonymous composition. This equating of "anonymous" with "traditional" is the position of the Irish Music Rights Organization. Many people, assuming that traditional is a marker of genre, think that anything that sounds "traditional" is therefore anonymous and that they can get full royalties.
4. "Public domain" is a concept that stems from the construction of copyright, and is that space that is left over after all else has been parsed out. Anything that is not in copyright is regarded as "public domain," effectively infinity minus copyright. However, "public domain" is synonymous with uninhibited exploitation of the music or song, and it reinforces the anonymous/authored dichotomy. Not only is a piece that sounds traditional often assumed to be of unknown origin, but it is therefore assumed to be open to all for free and unbridled exploitation. In musical practice 'public domain' is inadequate, logically enough, as copyright, the foil of "public domain," has also proved so. In real terms, traditional Irish musical practice has not been open access, bounded as it is by customary norms that regulate and control the entry requirements for community participation, the repertoire content, and the internal hierarchical dynamics, among other things. Participation in the resource-as-community is earned by personal face-to-face investment of time and self in negotiation with others. For a further discussion of "public domain" see Litman (1990), Frow (1997), and Boyle (1996).
5. "In effect, public spaces help provide the glue for genuine community. Not only do they provide a form of refuge for community members and link them together in informal, relaxed settings, but the public spaces, if carefully situated, physically and symbolically link people together. When public spaces function effectively, they overlap and reinforce the patterns of interaction that occur in the broader community and help define community boundaries"(Freie 1998:59).
6. See Fairbairn (1993).
7. See Malcolm (1998).
8. "Third Spaces, as discussed by Oldenburg (1989), are simply the informal gathering places for people beyond the family and work. They include cafes, pubs, corner stores, pool halls, coffee shops, barbershops, parks, and other hangouts. They are oriented primarily for conversation and free play. They have been typically modest, inexpensive and small, where people met spontaneously to entertain each other without hidden agendas or clearly defined purposes" (Freie 1998:50).
9. The following description of musical practice from Green and Pickering's article "The Cartography of the Vernacular Milieu" (1987) could easily have been written about the "session"; . . . performance occurs in small groups and . . . is rooted in shared, immediate, everyday experience. Within the group it can be said that 'all members know each other, are aware of their common membership, share the same values, have a certain structure of relationships that is stable over time, and interact to achieve some purpose.' Members of such groups today are of course more articulated and orientated to other external social and cultural frameworks of reference than ever before, and this must not be forgotten. Conversely, the decline of the family and community in social life has augmented the value of their symbolic celebration. So far as the group's own dynamics are concerned, the cultural and aesthetic mode we are discussing differs from mass communication in the following major ways. It is generally two-way and participatory; it is usually confined to amateur performance, and where professionalism is involved it is generally at a low economic level; it is situation-specific and contextually local as a communicative event and process, and therefore its impact is only on those involved who at the time of the event . . . bear a low relation to industrial and business structures; it involves little technological equipment and little division of labor; and as we have already indicated, it gives very low priority to the extraction of

surplus value from the labor of its performance. That labor is unproductive in terms of market structures and relations, and thus holds a valid potentiality, at least, of subverting or reversing the alienation of the commodity form" (4).

10. "It's a painfully familiar scenario: newly returned from one of the music's distant hot spots, afire with enthusiasm over the brilliant playing you heard there, you make your way to your local session venue on the usual night, determined to give the listeners a serenading they won't soon forget. But how quickly your mood changes! Within the first ten minutes it becomes clear that something is amiss. Is it the quality of the playing? Possibly. But that's only part of the problem. The rest lies in the nature of the session itself. It's not flowing, it's not breathing, it has no inner logic or natural momentum. It isn't bringing out the best in the musicians, nor is it particularly pleasing the listeners.

"This is the moment when you realize that the seeming offhandedness and impromptu grace of a good session are no accident, and that a sense of how to conduct one-and how to conduct yourself at one-is not something you're born with after all, your Irish surname notwithstanding. The fact is, these things must be learned, either by example or by outright instruction"(Foy 1999:10).

11. For a brief discussion of the ambiguities thrown up by professional and amateur status see Ruth Finnegan (1989).

12. A "tune" here is to be seen as a "complex of features," a term more commonly used to speak of words, as composite representations of five classes of information: graphic, phonological, orthographic, semantic, and syntactic (Gibson and Levin 1975:194). Within the tune, and the word, I would also identify social context and self-knowledge as feature-variables, among many others.

13. In fact, to talk of the domain of gift in the context of the writings of Mauss, Sahlins, Strathern, and many more, is to assume the presence of reciprocation. I am attracted, however, in the Irish context, to an article by social anthropologist James Woodburn entitled, "'Sharing is not a form of exchange': an analysis of property-sharing in immediate return huntergatherer societies" (1998). In this article Woodburn outlines the sharing practices of the Hadza, which can be transposed fairly successfully into the Irish context. Sharing, as John Price has written, is "the most universal form of human economic behaviour, distinct from and more fundamental than reciprocity" (Cited in Woodburn 1998:50). For Woodburn,

[T]o treat this type of sharing as a form of exchange or reciprocity seriously distorts our understanding of what is going on My argument is that to treat such sharing as a form of exchange or reciprocity is inappropriate when donation is obligatory and is disconnected from the right to receive. To describe such sharing as exchange or reciprocity does not accord with local ideology or local practice among the Hadza and most other hunter-gathering societies with immediate return systems. (1998:50)

Although space does not allow me to elaborate on this point, I hold that the Irish context of musical transmission works very much along the lines of "sharing" as opposed to "reciprocation." An indepth analysis of the ceiling practices in Glassie (1995) would bear this out.

Sharing here is, as we have seen, not a form of exchange. We must correct our models. Some societies operate with both ideologies and practices which repudiate reciprocation. It makes no sense to construct analyses of human social life which are based implicitly or explicitly on the notion of a universal necessity to reciprocate. Of course in day-to-day interaction Hadza do at times reciprocate. They show affection to those who show affection to them. They help those who help them. They are friendly to those who are friendly to them. But in their use of food and of other property, the expected behavior is nonreciprocal sharing. (Woodburn 1998: 61)

14. It is also a context that fits into Appadurai's description of a "tournament of value": "Tournaments of value are complex periodic events that are removed in some culturally well-

defined way from the routines of economic life. Participation in them is likely to be both a privilege of those in power and an instrument of status contests between them. The currency of such tournaments is also likely to be set apart through well-understood cultural diacritics. Finally, what is at issue in such tournaments is not just status, rank, fame, or reputation of actors, but the disposition of the central tokens of value in the society in question. Finally, though such tournaments of value occur in special times and places, their forms and outcomes are always consequential for the more mundane realities of power and value in ordinary life" (Appadurai 1988:21).

15. "The institution of copyright is of course deeply rooted in our economic system and much of our economy does in turn depend on intellectual property. But, no less important, copyright is deeply rooted in our conception of ourselves as individuals with at least a modest grade of singularity, some degree of personality. And it is associated with our sense of privacy and our conviction, at least in theory, that it is essential to limit the power of the state. We are not ready, I think, to give up the sense of who we are" (Rose 1994:142).

16. In dealing with the concept of property I would follow C. M. Hann in saying that, "I argue that the focus on property must not be restricted to the formal legal codes which play a major role in our own society, but must be broadened to include the institutional and cultural contexts within which such codes operate. The concept of property has greater salience in capitalist society, but it can never be disembedded from these contexts. There is no anachronism in studying property relations in other forms of society where the economic and legal systems are very different. If we adopt a broad analytic concept of property in terms of the distribution of social entitlements, then it can be investigated anywhere in time and space" (Hann 1998:7).

17. "For the most part the conceptual analysis of the commons (also described as common property resources, common pool resources and CPRs) has concentrated on the universal principles, conditions or rules that characterize successful regimes and institutions (Ostrom 1990; Bromley 1993; Wade 1987; McGinnis and Ostrom 1993). In the process the analysis has largely circumvented the implications of internal differentiation or asymmetry including the plurality of beliefs, norms and interests involved in interactions between resource users, the effects of complex variations in culture and society, as well as wider aspects of social, political and economic conflict relating to the commons"(Prakash 1998:168). The vast majority of the literature in this field can be accessed via the International Association for the Study of Common Property, based at the Workshop in Political Theory and Policy Analysis at Indiana University, <http://www.indiana.edu/iascp>. I am grateful to participants of the workshop for their assistance in this work.

18. Already we can see that the description of an open access system pretty much conforms to the general understanding of the free-for-all concept that embraces the public domain. As has been stated in the literature on the commons, "Many of the misunderstandings found in the literature may be traced to the assumption that common property is the same as open access" (Feeny et al. 1998:79).

19. I would like to make it clear at this point that for me the resource in question may not be "tunes" or "musical works" but the musicking, the amateur, non-commodified musical practice. Speaking of music in terms of a "resource" at all may not be appropriate.

20. "Hence, we define common-property resources as a class of resources for which exclusion is difficult and joint use involves subtractability" (Berkes et al. 1989:91).

21. It has been suggested to me that Public Goods might be a better model to use for these purposes.

22. Interestingly, C. A. Gregory (1982) comments that Political Economy, and not neoclassical Economics, is the only field in which we can properly analyze concepts of Gift and Commodity, while Jacques Attali (1985) comments that Political Economy is inadequate when dealing with music.

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