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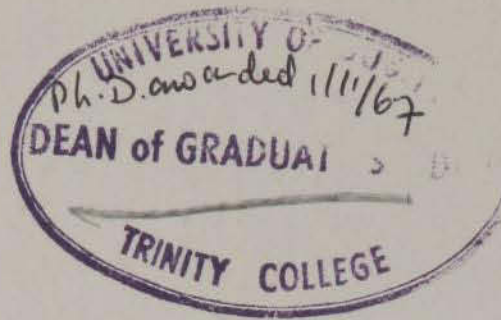
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**The Restoration Land Settlement
in Counties Dublin and Wicklow, 1660-1688.**

By L. J. Arnold, M.A.

A thesis submitted for the degree of
Doctor in Philosophy
of the University of Dublin.

Preface

The restoration land settlement has always been one of the great unresolved problems facing historians of seventeenth century Ireland, mainly because of the statistical uncertainties to which W. F. T. Butler drew attention in his Confiscation in Irish History. The object of this thesis is to present the facts concerning the settlement in two counties, Dublin and Wicklow. The approach has been, firstly, to establish a sound statistical foundation concerning acreage figures and land ownership for the years 1641, 1669 and 1688, and, secondly, to fill out the narrative by describing the fortunes of various families as they were affected by the settlement. The statistical framework for the thesis has been based primarily on the Quit Rent Office set of Books of Survey and Distribution, deposited in the Public Record Office of Ireland, which record in detail the ownership of Irish land during the seventeenth century. Other sources which have not previously been used by those who have written about the restoration land settlement

include the Armagh manuscripts of the record of submissions and evidence of the first court of claims (1663) for the hearing of innocents; the entry of warrants of the commissioners of the second court of claims of 1666-69 (N.L.I. MS 816) and the proceedings of the commissioners of the second court of claims of January-May 1666 (N.L.I. MS 31). The Boyle family documents (N.L.I. MS 10, 933), John Lodge's transcripts of enrollments of patents in the chancery office, deposited in the Public Record Office of Ireland, and various volumes of the Carte papers, for the period 1658-88, of which microfilms are in the National Library of Ireland, have also been of great value.

In regard to dating I have treated the old year as beginning on 1 January, but preserved the old style for the days of the year.

I am pleased to acknowledge my gratitude to those who have helped me: to the staffs of the various libraries in which I have worked, particularly those of the National Library of Ireland, the Public Record Office of Ireland, the Royal Irish Academy and the library of Trinity College, Dublin; to Dr. R. C. Simington, who offered me valuable advice during the early stages of my research; to Mrs. Mary Davies, who

drew the maps; to Mr. J. Starr of the State University of Wisconsin and Mr. R. J. Hunter of Magee University College, Londonderry, both of whom also offered helpful suggestions.

I.	This thesis has not been submitted as an exercise for a degree at the University of Dublin or any other university. It is entirely my own work, and I have received no assistance in writing it apart from the suggestions of my supervisor, Dr. J. G. Simms, to whom I am very much indebted.	1
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Three maps at the end of the thesis
illustrating

(i) the proportion of land in each barony
of counties Dublin and Wicklow held by
catholic proprietors in 1641 and 1688,
and

(ii) the territories of county Wicklow.

I. Introduction

The restoration land settlement was the second in a series of three major changes in land ownership which occurred in Ireland during the course of the second half of the seventeenth century. Before 1641 land confiscation in the country had been aimed primarily against the old Irish civilization; after that date religion formed the main dividing line. The Cromwellian settlement, the most radical of the three changes, was carried out on a simple religious basis; all catholic proprietors in the country, with the exception of those few who were able to prove their 'constant good affection' to the English parliament, forfeited their estates. The restoration settlement was a compromise solution which resulted in the restoration of a certain percentage of the land of Ireland to those proprietors - mainly catholics - whose estates had been expropriated under the Cromwellian settlement. As such it reflected the compromise circumstances under which Charles II was restored in England. The settlement was given legal expression in the Act of Settlement of 1662 and the Act of Explanation of 1665, both long and complex documents

which provided, among many other things, for the restoration of a limited number of the dispossessed proprietors. The whole settlement involved the establishment of two courts of claims - one in 1663 and the other in 1666 - for the purpose of resolving a large number of complex and conflicting claims to the land. As a result of the decisions handed down in the two courts some proprietors succeeded in recovering all their lands; others were partially restored; some never regained an acre. The final settlement was substantially completed in January 1669 when the second court of claims rose for good, but litigation concerning a few estates continued beyond 1669, and indeed right up until 1688. Even some of those who successfully established claims found great difficulty in gaining actual possession of their old estates. Because of its compromise nature, none of the parties affected by the restoration settlement were wholly satisfied, and a situation of instability was created which lasted until 1688.

There has hitherto been no satisfactory study, based on a firm statistical basis, of the whole restoration land settlement. W. F. T. Butler, the only historian who has made any serious attempt to resolve the whole complex problem of the settlement,

finally concluded that 'the whole matter - still requires a further investigation, and perhaps certainty cannot now be obtained'.¹ The present work is an attempt to fill a small portion of the great historical lacuna which the whole question of the settlement represents. Because the subject is so large and complicated it has been thought best to limit the scope of the thesis to an investigation of counties Dublin and Wicklow, not only because they are contiguous, but also because of the distinct historical and geographical contrasts which the two counties present; Dublin, the long-established Norman-English settlement, the very core of English influence; Wicklow, the remote and mountainous county, long the preserve of the Irish clans, one of the last such to be subdued by the English.

The presentation of the subject falls into three general sections. First, the historical background prior to 1660, including the nature of proprietorship in both counties in 1641, along with a general description of the effects of the Cromwellian settlement. Secondly,

1. W. F. T. Butler, Confiscation in Irish history, p. 199.

the period from the restoration to 1669, during which time legal title to most of the land in Ireland was settled, under the terms of the Acts of Settlement and Explanation. Finally, the period from 1669 to 1688, when various important commercial land transactions were effected; when litigation concerning several important estates in both counties, which had not been settled prior to 1669, were finally resolved; and when the court of grace of 1684-88 had completed its work.

Names such as Nugent, Talbot, Molyneux, Dillon, A. 1682, Fagan, Barnevelt, Archer, Austin, Ferrville and Fitzwilliam had been established in the county since the fourteenth century. Such were the feelings of the Irish that Michael Nugent could write in 1684 that the old English were 'barbarous and ignorant' and the Gaelic, who are civil - and have obtained their obedience to the Crown and retained the English habit and language since the conquest of Henry the Second - 1171. Nugent wrote these words at a time of great peace in Irish history.

1. For the purposes of this thesis I have taken the term 'old English' to mean the descendants of the original Norman colonists who had been established in Ireland prior to the sixteenth century. The term 'new English' I have used to denote those proprietors who acquired their estates in Ireland after the sixteenth century.
 2. For exceptions to this generalization see appendix 1.
 3. Gal. S.P. Ire., 1681-86, p. 23.

II. County Dublin Before Cromwell

A cursory examination of a list of the landowners in Dublin in 1641 would reveal the almost total absence of names of old Irish origin, for the Pale had for centuries been in the hands of the old English, and, since the sixteenth century, of both the old and new English.¹ Most of the old English proprietors, still predominantly catholic in 1641,² had long family antecedents in the county, in many cases extending back to the original Norman colony. Names such as Nugent, Talbot, Hollywood, Dillon, Aylmer, Fagan, Barnewall, Plunket, Preston, Netterville and Fitzwilliam had been established in the county since the fourteenth century. Such were the families of the Pale that Richard Hudson could write in 1604 that the old English were 'noblemen and gentlemen descended of the English, who are civil - and have continued their obedience to the Crown and retained the English habit and language since the conquest of Henry the Second ---'.³ Hudson wrote these words at a time of great moment in Irish history.

1. For the purposes of this thesis I have taken the term 'old English' to mean the descendants of the original Norman colonists who had been established in Ireland prior to the sixteenth century. The term 'new English' I have used to denote those proprietors who assumed their estates in Ireland after the sixteenth century.
2. For exceptions to this generalisation see appendix B.
3. Cal. S.P. Ire., 1603-06, p. 231.

The battle of Kinsale several years earlier had all but extinguished the old Irish civilisation, and the Flight of the Earls several years later was to effectively prepare the way for the Ulster plantation. Effective administrative control over the entire country was now possible, and the city of Dublin, instead of being - as it had been - just one of a number of centres of political power in Ireland, emerged as the only such centre.

The influx of the new English into Ireland can properly be said to have coincided with Henry VIII's attempt to extend English authority throughout the country after the destruction of the political power of the house of Kildare. An important element in this attempt was Henry's policy of 'surrender and regrant', whereby various old English and Irish magnates were persuaded to surrender their lands and to receive them back from the crown under conditions of medieval tenure, thus invalidating the old Irish laws of communal land ownership. This, together with the introduction of reform religious legislation in the Irish parliament of 1536-7, along with the start of the dissolution of the religious houses several years later, marked the beginning of the process of English penetration which led, ultimately, to the total subjection of the country under Cromwell a century later. But the doctrinal changes introduced by Henry had little immediate effect. The

Englishman who was probably related to the archbishop of

religious divisions in the country did not become distinct until later in the century, and the Henrician religious innovations were accepted, ostensibly at least, by most of the catholics in Ireland, both lay and ecclesiastical. Moreover, a large proportion of the spoils resulting from the dissolution of the religious houses was distributed to the old English and Irish magnates, which had the effect of attaching them, temporarily at least, even closer in their allegiance to the Crown. It naturally followed that Henry's expansionist policies would lead to an increasing tendency towards the appointment of English-born officials, or their retainers, to the higher legal, ecclesiastical, military and administrative posts. After 1534, for example, with the appointment of Sir William Skeffington, all of the lord deputies were English born. From these positions of political power the new English administrative families began to attain the status of landed proprietors. There was of course no question, in Dublin at least, of any plantation of the Ulster variety. The new English penetration into the land proprietorship of the county was accomplished almost wholly by normal commercial transaction or as a result of the monastic suppressions.

Typical of the new breed of office seekers who began to arrive in Ireland at this time was Sir John Allen, an Englishman who was probably related to the archbishop of

Dublin of the same name, who rose from having been clerk of the council to master of the rolls and, finally (in 1538), lord chancellor. Another was Sir William Brabazon, who had earlier acted as a financial adviser to Wolsey and Cromwell and the king, and who had also acted as a surveyor of dissolved monastic lands in England. Brabazon arrived in Ireland in 1534 as vice-treasurer, and both he and Allen were deeply involved in the dissolution of the religious houses in Ireland.¹

Several of the old English were also closely connected with the dissolutions, including Gerald Aylmer, Thomas Luttrell, Thomas Cusack, James Bath and Patrick Barnewall. Aylmer, Luttrell and Bath, among others, acted as members of a commission to ascertain the amount of monastic property in Dublin and Meath which would revert to the crown as a result of the dissolutions.²

Since monastic lands in 1540 amounted to about 17% of the 127,902 acres³ which comprised the county, it is

1. R.D. Edwards, Church and state in Tudor Ireland, pp.36-7.
2. Cal. pat. rolls Ire., Hen. VIII, p.77.
3. All acreage figures used henceforth, unless otherwise noted, will be Irish plantation acres, based on the Quit rent set of Books of survey and distribution, deposited in the Public record office, Dublin. For a fuller discussion of acreage figures for both Dublin and Wicklow see appendix A.

obvious that the dissolutions offered a unique chance for individuals with the proper political connections to acquire estates.¹ The immediate results of the dissolutions show that the new English received about half of the monastic land. A large proportion of this total, however, including the land held by the abbey of the Blessed Virgin Mary in Dublin, was in 1543 leased, for 21 years, to Walter Peppard, a 'gentleman usher',² and in the following year regranted (by reversion) to various representatives of the old English.³ It might be more accurate to say, therefore, that at the time of the dissolutions the old English received, by lease or grant, about 60-70% of the monastic lands. Patrick Barnewall among the old English, appears to have received the largest amount of such land in the county, amounting to about 2,000 acres, including the convent and lands of Gracedieu in Balrothery barony.⁴ Gracedieu became the seat of this branch of the Barnewall family. Many other

1. J. Otway-Ruthven, 'The medieval church lands of county Dublin', in Medieval studies presented to Aubrey Gwynn, S.J., part i, p.56. Church lands in general amounted to about 45% of the total land area of the county, which, professor Otway-Ruthven points out, was a higher proportion than seems to have occurred anywhere else in the country.
2. L. & P. Hen.VIII, 1509-13, xix, part i, 621.
3. Cal.fiants Ire., Ed. VI, no 1083. Cal. fiants Ire., Hen.VIII, nos 384, 397.
4. Ibid., no235. Cal.pat. rolls Ire., Hen. VIII-Eliz., pp. 71-2.

representatives of the old English received large grants of dissolved monastic lands in the 1540s, including Gerald Aylmer, Thomas Luttrell, Walter Tyrell, Thomas Stephens, Thomas Cusack and James Bath.¹ Among those of old Irish ancestry, the earl of Thomond (Donnogh O'Brien) received a reversionary grant of the site of the hospital of St. John the Baptist Without Newgate.²

Among the new English a large proportion of the monastic lands was granted to a few prominent individuals. Lord chancellor Allen and Sir William Brabazon were given substantial grants. Allen, who had petitioned for a grant of the monastery of Thomas Court even before its suppression,³ was granted the manor of Palmerston (563 acres) in Newcastle and Uppercastle barony, the property of the hospital of St. John the Baptist Without Newgate.⁴ Despite Allen's anticipatory petition, the monastery of Thomas Court was granted to Brabazon, whose ancestors still held it in 1641.⁵ Several of the new English who had gained eminence in the

1. Cal. fiants Ire., Hen. VIII, nos 350, 374, 323, 324, 91.

2. Ibid., no 400.

3. S.P. Hen. VIII, part iii, 68.

4. N.B. White (ed.), Extents of Irish monastic possessions, 1540-1541, p.59.

5. Cal. fiants Ire., Hen. VIII, no 547. Brabazon was responsible for dismantling several monasteries, in one case carting away the masonry for the purpose of repairing Dublin castle. White, Monastic extents, p.69.

Irish wars of the sixteenth century also received grants of former monastic land. Sir John Trevers, who subsequently became master of the king's ordnance in Ireland, was in 1545 granted the castle and lands of Monkstown (634 acres), a valuable parcel of land on the coast a few miles south of Dublin city.¹ Another large piece of former monastic land, that of Grangegorman in Coolock barony (878 acres), was granted in 1560 to Francis Agard, a member of the privy council and a soldier who had earlier (in 1548) served in Scotland, and subsequently served in Ulster against Shane O'Neil.² Grangegorman was still in the possession of Agard's descendants in 1641. The hospital of St. John of Jerusalem in Kilmainham (600 acres) was from the first reserved for the use of the government. In 1541 it had been suggested that the manor house would be a suitable residence for the lord deputies of Ireland;³ indeed, lord deputy Gray appears to have been living there as early as 1536.⁴ The suggestion was quickly adopted and John Rawson, the last prior, was retired after being given a title and an annuity of £10 a year.⁵ Before his retirement, however,

1. Cal. fiants Ire., Hen. VIII, no 460.

2. Cal. pat. rolls Ire., Hen. VIII-Eliz., p.433.

3. White, Monastic possessions, p. 81

4. S.P. Hen. VIII, part iii, pp. 382-4.

5. Cal. fiants Ire., Hen. VIII, no 201.

Rawson gave a 99 year lease to Mathew King of the manor of Clontarf, a desirable 500 acre estate north of Dublin city that had been held by the hospital.¹ Clontarf, too, was still in the hands of King's descendants in 1641, although an unsuccessful attempt was made in 1600 by Sir Geoffrey Fenton, the secretary of state, to wrest the property from the family.² Much of the monastic land that was leased-out by Henry in large blocks to a few individuals was later redistributed by Elizabeth in smaller parcels to a large number of proprietors. The result is that by the early seventeenth century most of the major landowners in the county had at least a small portion of former monastic land.

The attainder of several important proprietors in the sixteenth century resulted in the forfeiture of substantial estates in Dublin. Only two prominent Dublin proprietors were involved in the Geraldine rebellion, John Burnell and William Bath. Burnell's estate included the important manor of Balgriffin (480 acres) in Coolock barony which, after Burnell's attainder, was granted to Con, earl of Tyrone,

1. Cal. fiants Ire., Eliz., no 6425.

2. Cal. S.P. Ire., 1600-01, p. 58.

3. An inventory of Bath's estate, taken in 1570, appears in J. Ainsworth, Reports on MSS in private custody, N.L.I., II, 674-5.

with remainder to Mathew, his eldest son.¹ By 1561, however, Shane O'Neil, questioning Mathew's right of inheritance, was petitioning the queen for a grant of the estate.² Shane himself was attainted in 1569,³ and Balgriffin was purchased by a member of the Bath family from the earl of Tyrone.⁴ A John Bath was living on the estate in 1596,⁵ and his title to the estate was recognised in 1615.⁶ John Bath's son, James, held Balgriffin in 1641. Between 1545 and 1585 grants and leases of Burnell's forfeited estate were given to the earls of Ormond and Clanrickarde, John Plunket, Luke Dillon, John Bath, Richard Finglas, Katherine Brereton and James Ware.⁷

William Bath was attainted for 'treasonable words spoken in the time of Thomas Fitzgerald's rebellion'.⁸ Bath's estate in Dublin amounted to about 485 acres and was situated for the most part in Kilbride parish in Newcastle and Uppercross barony.⁹ The entire estate

1. Cal. pat. rolls Ire., Hen. VIII-Eliz., p. 109.
2. Cal. S.P. Ire., 1509-73, p. 165.
3. 11 Eliz. I, c.1, s.3.
4. Cal. S.P. Ire., 1615-25, pp. 83-4. Probably Hugh O'Neil, second earl of Tyrone.
5. Cal. Carew MSS, 1589-1600, pp. 188-9.
6. Cal. S.P. Ire., 1625-32, p. 99.
7. Cal. fiants Ire., Eliz., nos 333, 1123, 1328, 1390, 3282, 4401, 2459, 2460, 2590, 2615, 3693, 4575.
Cal. pat. rolls Ire., Hen. VIII-Eliz., no 395.
8. Cal. S.P. Ire., 1509-73, p. 162.
9. An inquisition of Bath's estate, taken in 1538, appears in J. Ainsworth, Reports on MSS in private custody, N.L.I., ii, 674-5.

was in 1540 granted to Gerald Aylmer, a prominent old English proprietor of the Pale who had been active in promoting Henry's policies in Ireland.¹ But in 1563, after it had been discovered that Bath's attainder may have been obtained under questionable circumstances, his son Thomas was allowed to sue for recovery of his father's estate.² The result was that in 1565 an agreement was reached between James Aylmer, son of Gerald, and Thomas Bath, whereby James surrendered part of the forfeited estate to Bath.³ In 1641, however, James and Thomas Aylmer still held 125 acres of the old Bath estate.

A third important forfeiture occurred in 1585 with the attainder of James Eustace, viscount Baltinglas, for complicity in Desmond's rebellion.⁴ Much of the forfeited Baltinglas land in the county was leased out for 21 or 30 years, with the land then reverting back to the crown. The earl of Bedford, James and Katherine Vaughan, John Eustace, and Daniel Kelly received such leases.⁵ The forfeiture did not include, however, those lands held

1. Edwards, Church and state, p. 37.
2. Cal. S.P.Ire., 1509-73, pp. 194, 228.
3. T. O'Laidhin (ed.), Sidney state papers, 1565-70, p. 7.
4. Cal. pat. rolls Ire., Jas. I, p. 59.
5. Cal. fiants Ire., Eliz., nos 3745, 4126, 4129, 5260, 4925, 6570. Kelly was given land 'in consideration of his service in slaying the traitor Desmonde'.

jointly by Baltinglas and his wife, a cousin of Sir John Trevers. Thus Monkstown, inter alia, was re-granted to Mary Trevers shortly after the attainder.¹ Another portion of Baltinglas's estate, about 1,000 acres in Uppercross barony, was in 1597 leased to John Hoy, a 'gentleman usher' to lord deputy Sir William Russell.² Hoy received a new lease in 1605,³ and his descendants still held the land in 1641. Probably the most prized portion of the Baltinglas estate, however, was the manor of Rathfarnham (600 acres) in Newcastle and Uppercross barony, situated only three statute miles from Dublin city. The estate had been granted in 1583 to Thomas Coppinger of Youghal, an old English catholic, 'in consideration of his great losses, in the time of--- the rebellion of Desmond'.⁴ Coppinger's grant must have proved disappointing to lord chancellor Sir Adam Loftus, who had petitioned for a portion of the forfeited lands the previous year.⁵ Although precise evidence for the transaction is

1. Ibid., no 4134. Monkstown in 1641 was held by Walter Cheevers, who had married a sister of Mary Trevers. J. Lodge, Transcripts of records of enrolments of patents in the chancery office, i, 172, P.R.O.I.
2. Cal. fiants Ire., Eliz., no 6033. Cal. Carew MSS, 1589-1600, pp. 240, 258.
3. Cal. pat. rolls Ire., Jas I, p. 67.
4. Lodge, Patents, i, 454.
5. Cal. S.P. Ire., 1574-85, p. 418.

lacking, it appears that Loftus purchased Rathfarnham sometime between 1583 and 1590.¹ He was certainly living there by 1597.² Rathfarnham, however, only represented a minor part of the estate in Dublin which Loftus had accumulated at the time of his death in 1605. Loftus had arrived in Ireland in 1559 as chaplain to the earl of Sussex, the lord deputy. Showing remarkable political and social acumen, he became successively, archbishop of Armagh, archbishop of Dublin and finally, in 1581, lord chancellor. Moreover, through the marriages of his many (possibly twenty) children with 'divers of the ablest possessioners in the English Pale and borders adjacent'³ he allied himself with some of the most influential families in the country.

The archbishop's grandson, also Sir Adam, was lord chancellor for twenty years, between 1619 and 1639. He seems to have inherited his grandfather's business acumen, for by 1641 he had amassed 7,940 acres in Dublin, the largest individual holding in the county.

Although the religious divisions in Ireland did not emerge until her reign, Elizabeth had found it expedient, in view of the extremely unsettled condition of the

1. Cal. S.P. Ire., 1588-92, p. 340.
2. Cal. Carew MSS, 1589-1600, p. 247.
3. Cal. S.P. Ire., 1588-92, pp. 534-36.

country, to adopt a conciliatory policy towards the old English catholic rescuants, who were still well established in positions of local administration. But though the restrictions imposed upon catholics were not strictly enforced, a barrier, according to one historian,

was being introduced between the queen's "loyal subjects" and their government, and it was strengthened by the advent of new colonists, the new English, whose protestantism made them the more appropriate representatives of the revised English interest in Ireland. [The old English found that] the measure of authority, confidence and influence which [they] had enjoyed was being transferred to the new English interest, which was replacing [them] both in government office and in the goodwill of the administration.¹

One measure of this transfer of influence can be made by drawing a comparison between the composition of the Irish bench in 1591 with that of 1603. Whereas in the former year eight members of the bench were old English catholics and two were English-born protestants, in the latter year only three members were old English catholics, two of whom had been on the bench in 1591. And in 1613 the entire bench was composed of protestants, ten of whom (out of a total of thirteen) were English-born.²

1. A. Clarke, The old English in Ireland, 1625-42, p.18.
2. F. E. Ball, The judges in Ireland, 1221-1921, i, 151, 234.

Besides the new English who arrived in Ireland as appointees to administrative posts, Elizabethan Ireland also attracted a wide variety of place-seekers and fortune hunters, usually the impoverished younger sons of the gentry. One such arrival was William Parsons, described by Carte as 'plodding, assiduous, indefatigable and greedy',¹ a characterisation which would probably equally apply to many of the new English land speculators of seventeenth century Ireland. Parsons was not long in Ireland before his uncle, Sir Geoffrey Fenton, was recommending him to Sir Robert Cecil as qualified to fill the vital post (from which Fenton conveniently resigned) of surveyor-general.² This post, to which he was appointed in 1602,³ obviously afforded Parsons a unique chance to acquire land, for by 1641 he had accumulated a vast estate of nearly 35,000 acres, most of it in Wicklow, King's and Cavan counties. It is significant that Parsons, among others, acted as a member on various commissions of inquiry concerning land titles during the first forty years of the seventeenth century. His name is mentioned in connection with a commission, instituted by Chichester in 1606, to

1. T. Carte, The life of James, duke of Ormond, i, 382.

2. Cal. S.P. Ire., 1603-06, p. 49.

3. Cal. fiants Ire., Eliz., no 6739.

'inquire within Dublin county and city of possessions of the chief monasteries and abbeys which have come or ought to have come to the hands of His Majesty ----'.¹ Perhaps more significant, however, was his membership - along with Sir Richard Bolton (later lord chancellor), Sir Adam Loftus, Sir Gerald Lowther, Sir George Radcliffe and Sir James Ware - on Wentworth's commission for defective titles of 1638, a position from which, it has been suggested,² it may have been possible to acquire land by questionable methods. All of the members of this commission were new English by ancestry and all of them, with the exception of Lowther, had acquired large estates in Dublin or Wicklow by 1641. They were all closely associated with Wentworth's administration.

During the years between the death of Elizabeth and the outbreak of the rebellion in 1641 the new English continued their peaceful penetration into proprietorship of Dublin. There is every indication that these years were marked by brisk activity in commercial land transaction. Licences granted for the sale of land,

1. Cal. S.P. Ire., 1603-06, p. 49.

2. H. F. Kearney, Strafford in Ireland, 1633-41, p.83. Parsons did in fact pass a patent for lands in Dublin the following year. Lodge, Patents, vi, 6.

and fines imposed by the crown for failure to obtain such licences, appear regularly in the land records of the period, often involving the conveyance of land by the old English to the new English.¹ An inquisition taken in 1624 revealed that Sir Adam Loftus had acquired over 800 acres in Dublin from Peter Talbot.² Leases of former monastic land, or leases of the forfeited lands of John Burnell and Lord Baltinglas, which had originally gone to the old English in the sixteenth century are found reverting to the crown in the seventeenth century and then being re-granted or leased to the new English. Christopher Bysse, for many years the recorder of Dublin and appointed chief baron of the exchequer in 1660, received in 1611 a grant of half the townland (180 acres) of Balgeeth in Balrothery barony, once a parcel of Burnell's estate.³ Garret (later lord) Moore received a grant in 1621 of the former monastic lands of Clonliff (243 acres) in Coolock barony.⁴ Clonliff had been granted during the reign of Henry VIII to the earl of Desmond, whose son forfeited his estate by rebellion. It was

1. Cal. pat. rolls Ire., Jas. I, pp. 388, 409, 447-8, 572, 577, 588.

2. Ibid., p. 570.

3. Cal. pat. rolls Ire., Jas I, p. 206. The Bysse family appear to have maintained a monopoly on seats on the exchequer. See Lib. mun. pub. Hib., ii, 60-1.

4. Cal. pat. rolls Ire., Jas I, p. 455.

then (in 1590) leased to the widow of Mathew King of Clontarf, following which, in 1611, it was granted to Henry King. Clonlif came to Moore by 'measne assignment' from Henry King.¹ Richard Cooke, Roger Jones (later lord Ranelagh) and Sir John King also received grants of former monastic lands which had originally gone to representatives of the old English.²

A common method used by the new English to acquire land was to purchase, in whole or in part, the interest of a grant which had gone to another party. Thus, in 1617 Sir James Ware was empowered by Sir Charles Wilmot (for £100) to accept a grant from the king of lands of a yearly value of £5.2.6d, 'being a parcel of the lands to the value of £200 English whereof Sir Charles had a grant from the King'.³ The history of the ownership of Portmarnock, in Coolock barony, offers an illuminating example of the circuitous course of proprietorship followed by one parcel of former monastic land in the century following the dissolutions. This parcel (345 acres), which had been held by the abbey of the Blessed Virgin Mary

1. Cal. fiants Ire., Eliz., no 4196. Cal. pat. rolls Ire., Jas I, p. 455.
2. Cal. pat. rolls Ire., Chas I, p. 563. Cal. pat. rolls Ire., Jas I, pp. 3, 296-7, 451.
3. Ibid., p. 311.

in Dublin city, was leased in 1536 by the last abbot to Walter Goulding for 61 years. On 20 June 1544 Walter Peppard, an usher of the king's bedchamber, received a lease of the same land, which was renewed on 7 November 1552 for 21 years from the termination of his earlier lease.¹ On 7 July 1575 a lease of Portmarnock was given to the earl of Ormond for 60 years, to take effect upon the termination of the interests of Goulding and Peppard. In 1602, however, Ormond assigned his interest in the estate to Thomas Wingfield, the son and executor of Jacques Wingfield, the old Elizabethan soldier and the former master of the ordnance.² The property only remained in the hands of Wingfield a short time, however, and in 1604 Portmarnock, among other lands, was granted to Sir George Carew, the lord president of Munster. But Carew apparently sold his interest in the estate to Sir Charles Wilmot, another soldier, who in turn (in 1614) sold his rights to the estate for £2,000 to Sir John King and Sir Adam Loftus. King then sold his interest in half of the estate to Loftus the same year.³ Loftus only held the estate for two years, then sold his interest, on 16 December 1616, to a William Hilton for £500. Hilton on the same day conveyed the

1. Cal. fiants Ire., Ed. VI, no 1083. It is not certain when Peppard's lease expired.

2. Cal. fiants Ire., Eliz., nos 2616, 2717, 6670.

3. Cal. pat. rolls Ire., Jas I, pp. 57, 296, 314.

property to Ambrose St Lawrence for the same price. St Lawrence held it for over 11 years, and 12 February 1627 his widow, Ann, conveyed the estate to Luke Plunket, whose son Walter held it in 1641.¹ Thus, eleven different proprietors held Portmarnock between 1656 and 1641, and the ownership during that time had come full turn, having been held by a representative of the old English catholics in 1536 and, after an interval of nearly a century, by Luke Plunket, another such representative.

Aside from the lord deputy the most influential administrative positions in Ireland in the seventeenth century were the judicial offices. By the year 1632 every member of the Irish bench had been knighted and the lord chancellor (Sir Adam Loftus, viscount Ely, a nephew of the archbishop), the master of the rolls (Francis Aungier, Lord Longford) and the chief justice of the common pleas (Domminick, viscount Sarsfield) were peers. The judiciary as it was composed in 1641 was created by Strafford, who had arrived in 1633 as lord deputy, for the purpose of circumventing the political power of the new English interest in Ireland; indeed, lord chancellor Sir Richard Bolton and Sir Gerard Lowther, the chief justice

1. Ainsworth, Reports, vi, 1546-8.

of the common pleas, very narrowly escaped impeachment in 1641 for their close association with Strafford's administration.¹ Seven of the eleven justices in 1641 were new English, five of whom had been in Ireland only since 1614 or later. The only old English representative on the bench was Sir James Barry, a protestant descendant of an eminent Cork family, who was appointed chief baron of the exchequer in 1634.² One of the more significant of Strafford's appointments to the bench occurred in 1637 when James Donnellan, the Irish protestant son of the archbishop of Tuam, was appointed a justice of the common pleas, apparently as a form of encouragement to the Irish in Connaught who might have been willing to conform to the reformed faith.³ Three of the members of the bench as it was constituted in 1641 held estates outright in Dublin. Lowther held a tiny (16 acres) estate in Nethercross barony, but Barry, who was the son of a former mayor of Dublin city,⁴ had 1,730 acres, and Sir Edward

1. Kearney, Strafford in Ireland, p.211. It was also intended to impeach Sir George Radcliffe, Strafford's private secretary.

2. Barry was created lord Santry in 1660.

3. Clarke, Old English, p.119. Ball, Judges in Ireland, i, 337.

4. Ball, Judges in Ireland, i, 335.

Bolton, the chief baron of the exchequer and the son of the lord chancellor, had 1,471 acres. Probably because of their positions on the bench, three of the justices held mortgages on various estates in the county. Sir Christopher Plunket of Dunsoghly had mortgaged his entire estate in Dublin to four different people, two of whom were justices. Sir Samuel Moyart, the second justice of the common pleas, held 270 acres of Plunket's land by mortgage, and James Donnellan held 410 acres by second mortgage (from Sir Francis Blundell) in the same barony. Another 240 acres in Rathdown half barony ~~were~~ held in mortgage by Sir William Reeves, a justice of the king's bench, 'from the lord Meryoung about fourteen or fifteen years before the warres'.¹

It is worth noting that the only proprietor of old Irish descent to hold outright a substantial estate in the county in 1641 was Donnogh (O'Brien), the earl of Thomond, a protestant, who had 1,052 acres. Most of this estate was acquired as a result of a surrender Thomond made to the king in 1604 of the manor of Galbally in Limerick, in return for which he received a reversionary

1. R.C. Simington (ed.), The civil survey, A.D. 1654-1656, vii, 199, 210, 212, 260. Sir Henry Tichbourne held a mortgage on Plunket's chief seat at Dunsoghly in Coolock barony, and another portion was held in mortgage by Richard Molyneux. Civil survey, pp. 210-11. See below p. 146.

grant of the former monastery of Holmpatrick in Balruddery barony.¹

The protestant new English² penetration into the proprietorship of Dublin had achieved such proportions that by 1641 forty seven of them had acquired 22,621 acres, or 17% of the total land area of the county. Seven new English proprietors, between them held nearly 14,000 of this total, and the greatest landowner in the county was Sir Adam Loftus, who was new English by descent. At the same time twelve old English and old Irish protestants held a further 11,885 acres which, taken together with the land held by the new English protestants, meant that fifty nine individual protestant proprietors held 34,506 acres, or 27% of the land. Only fifteen of them held 82% of all the land held by individual protestants. By adding all forms of church lands (10,093 acres), together with the lands held by Trinity College (539), the protestant interest in general held 45,138 acres, or 35% of the total land area of the county. All but 3,217 acres of this was profitable. In the same year 157 old English catholics held 71,590 acres; the old Irish catholics 1,905 acres, and the new English catholics 2,000 acres - in all, 75,495 acres, or 59% of the land,

1. Cal. pat. rolls Ire., Jas I, pp. 78-9.

2. There were a few new English catholic proprietors in Dublin in 1641. See appendix B.

of which all but 1,798 acres was profitable. The ten greatest catholic proprietors held 22% of the catholic total.¹ Such was the state of land ownership in Dublin on the eve of the rebellion.

The topography also acted as a refuge for the powerful old Irish clans, mainly the O'Neills and O'Connors, who occupied much of the region. These families seem to have for many years been a source of trouble to the old English colonists, particularly in county Wick, against whom they often directed their raids. The O'Neills also, who appear to have been driven into the Wicklow mountains from the plains of Kildare in the thirteenth century by the Norman settlers,² constituted a particular hazard for the old English since they occupied an area situated directly on the southern border of Dublin known as the Parishes and Sliogap.³ This region had the ancient name of 'Moor's Court' (Powerscourt) and was subsequently forced into the half

1. S. Fitzgerald, 'The names and estates of Powerscourt, county Wicklow, in the sixteenth century', in *Journal of the Royal Society of Antiquaries*, vii. 127 (1877).
2. See the map illustrating the various territories within Wicklow which appears at the end of the thesis.

1. For an account of those lands which cannot be classified as either 'protestant' or 'catholic' see appendix F.

III. County Wicklow Before Cromwell

Historically and geographically Wicklow presents a picture in sharp contrast to that of Dublin. Its forested and mountainous topography had for centuries acted as a barrier to the inroads of old English influence. The topography also acted as a refuge for the powerful old Irish clans, mainly the O'Tooles and O'Byrnes, who occupied much of the region. These hostile clans had for many years been a source of trouble to the old English colonists, particularly in county Dublin, against whom they often directed their raids. The O'Toole clan, who appear to have been driven into the Wicklow mountains from the plains of Kildare in the thirteenth century by the Norman settlers,¹ constituted a particular hazard for the old English since they occupied an area situated directly on the southern border of Dublin known as the Fercullen and Glencap.² This region had the ancient name of 'Poer's Court' (Powerscourt) and was subsequently formed into the half

1. W. Fitzgerald, 'The manor and castle of Powerscourt, county Wicklow, in the sixteenth century', in Kildare Arch.Soc.Jn., vi, 127 (1909).
2. See the map illustrating the various territories within Wicklow which appears at the end of the thesis.

barony of Rathdown. It had great strategic importance, situated as it was only eleven statute miles from Dublin city. Powerscourt had been wrested from the O'Tooles in the late fifteenth century by the eighth earl of Kildare, who then erected a strong fort as a defensive measure to protect the Pale. It was to remain in the hands of the earls of Kildare until 1535 when it was forfeited by Richard Fitzgerald, son of the ninth earl.¹ Besides Powerscourt the O'Tooles in the mid-sixteenth century also occupied three other general regions of the county: in Imaal on the western border near county Kildare; in the Fertir, directly south of Powerscourt and extending down into the region of Glendalough; and in parts of Shilelagh in the southern most area of the county.² Of the other great old Irish clan, the O'Byrnes, one branch occupied what in the sixteenth and seventeenth centuries was known as the Crioich Branach or the 'Birnes' country', which was the fertile coastal strip running roughly, from Delgany, in Newcastle barony, in the north, to Arklow in

1. L. Price, 'Powerscourt and the territory of the Fercullen', in R.S.A.I. Jn., lxxxiii, 118 (1953).
2. P. L. O'Toole lists the five great houses of the clan O'Toole in Wicklow in his History of the clan O'Toole, pp. 217-18. There is appended to the book what purports to be an ancient map of the country of the O'Tooles and O'Byrnes.

the south and extending inland anywhere from three to seven statute miles. The Birnes' country did not include either the area between Bray and Delgany in the north, nor the shires of Arklow in the south. These two regions were all that remained in old English hands from the original Norman settlements in the twelfth and thirteenth centuries. All the rest had been reconquered by the old Irish. The earls of Ormond had held the shires of Arklow since the twelfth century, and though considerably reduced in size by the inroads made by the old Irish, it still contained over 6,000 acres in the sixteenth century.¹ North of Delgany a few old English families - the Walshes, Archbolds, Talbots - descendants of the Norman settlers, still retained substantial estates.² In the Western regions, on the Kildare border, the old English also had large estates. Here, where the land begins to level out towards the planes of Kildare, the old English penetration maintained itself throughout the fourteenth and fifteenth centuries, the O'Tooles having been driven up into the mountains to the east. Old English names such as Talbot,

1. L. Price, 'The Byrnes' country in county Wicklow in the sixteenth century', in R.S.A.I. Jn., lxxiii, 224 (1933).
2. Cal. stat. rolls Ire., Hen. VI, p. 489. F.E. Ball, 'Loughlinstown and its history', in R.S.A.I. Jn., xxxi, 68 (1901).

Wickham, Eustace and Cheevers were found in this area.

The government in Dublin in the mid-sixteenth century regarded most of Wicklow as a wild, remote, rather unfamiliar and amorphous territory, populated for the most part by independent, war-like clans who lived wholly outside the royal jurisdiction and who had the disturbing habit of making war on the old English of the Pale and elsewhere. As late as 1579 the privy council reported that --- 'the sherifes of the counties of Dublin and Wexforde have not often executed the writte in these [i.e. Wicklow] mountaynes and woody countries ---'.¹

Although various attempts were made throughout the sixteenth century to form Wicklow into a separate county² - indeed the O'Byrnes of the Birnes' country petitioned for the erection of Wicklow into a separate county in 1542³ - it was not until 1606 that the boundaries were officially delineated and the area recognized as a county.⁴ It was only at this date that the territory of Shillelagh was incorporated into Wicklow. Until then it had usually been regarded as forming a part of county Carlow.⁵ Despite the

1. Hogan, J., and N. McNeill (edd.), Walsingham letter book, p.65
2. Cal. fiants Ire., Eliz., nos 3003, 6791.
3. Cal. Carew MSS, 1515-1574, p.193.
4. Cal. pat. rolls Ire., Jas I, p. 84.
5. L. Price, 'The barony of Shillelagh', in R.S.A.I. Jn., lxxxvi, 77 (1956).

official formation of the new county in 1606 some confusion as to the precise location of various border areas continued to exist well into the seventeenth century, government documents often referring to a townland as being in 'Dublin and Wicklow or one of them'.¹ The external boundary of the county as it existed in the mid-seventeenth century, however, has remained approximately what it is today.

With one major exception the proprietorship of the county was unaltered as a result of the rebellion of Silken Thomas. The ~~one major~~ exception concerned Powerscourt, which was granted to Peter Talbot in 1537 after Richard Fitzgerald's attainder.² Talbot, however, retained Powerscourt only for a short time. Henry VIII's policy of conciliation as expressed in the system of surrender and re-grant was applied to the O'Byrnes and O'Tooles. Talbot was persuaded 'in a gentle sort' to surrender Powerscourt in return for a grant of other lands in Wicklow and Dublin, and Turlogh O'Toole was in 1542 granted the estate 'for a full winning of Turlogh and the better alluring of others by his example'.³ The O'Byrnes of the Birnes' country submitted to lord Gray the same year,⁴

1. Lodge, Patents, v, 419. The reference is dated 25 May 1637.

2. Cal. fiants Ire., Hen. VIII, no 283.

3. Cal. pat. rolls Ire., Hen. VIII, pp. 47, 80.

4. Cal. Carew MSS, 1515-1574, p. 193.

so that for a few years, relations between the government and the old Irish clans in Wicklow were relatively peaceful. By their submission in 1542 the O'Byrnes in the Birnes' country had agreed to the appointment of a sheriff, or seneshal, to be placed in their territory. The manor of Newcastle (about 2,300 acres) was surrendered by the O'Byrnes for this purpose.¹ It was not, however, until Elizabeth's accession that the post was filled. The appointment in 1558 of Brian McTeige Oge O'Byrne as seneshal of the Birnes' country, 'to hold during pleasure', can be said to have marked the beginning of the efforts by the government to win effective administrative control over the region.² The appointment of an old Irish catholic as the first seneshal was doubtless done to reassure the inhabitants of the good intentions of the government. O'Byrne was removed, however, after a few months and was replaced by Patrick Barnewall, an old English catholic.³ But Barnewall only lasted a year in the post. Between 1561 and 1565 Jacques Wingfield, the master of the ordnance, held the post.⁴

1. Ibid., p. 193.

2. Cal. fiants Ire., Phil and Mary, no 203.

3. Cal. fiants Ire., Eliz., no 25.

4. Cal. pat. rolls Ire., Hen. VIII-Eliz. p. 445.

In 1566 Wingfield was replaced by Francis Agard,¹ and upon Agard's death in 1577 the post went to Sir Henry Harrington, a prominent soldier, 'the most sufficient servaunt for the Queen in all this land'.² The western region of the county, 'all the coast under the Red mountain, being the west part of the Tooles' and Byrnes' countries, bordering on the county of Kildare ---',³ was placed under the jurisdiction of Robert Piphoo, a cousin of Sir Francis Walsingham, Elizabeth's chief secretary.⁴ These offices were vested with broad powers. Harrington was empowered to do 'all things he may devise for the defense and public weal of the county, and to hear causes, and make war on rebels'.⁵ Some of the earliest grants of land given to the new English went to these military commissioners. Agard received a grant of the manor of Newcastle in 1576⁶ and Harrington, in 1581, got a 21 year lease of the entire territory of Shilelagh.⁷

1. Cal. fiants Ire., Eliz., no 848.
2. Cal. S.P. Ire., 1509-73, p.296.
3. Cal. fiants Ire., Eliz., no 1415.
4. Cal. S.P. Ire., 1574-85, p.234.
5. Cal. fiants Ire., Eliz., no 3612.
6. Ibid., no 2855.
7. Ibid., no 3707.

Although the Birnes' country until 1595 was relatively peaceful, Agard is reported to have carried out a military expedition in south Wicklow and Shilelagh in 1571 against a branch of the O'Byrnes led by Feagh McHugh O'Byrne.¹ Feagh McHugh (and his father) submitted in 1578² but were once again in rebellion the following year, leading the O'Byrnes from the Ranelagh and the Cosha, in central Wicklow, in support of lord Baltinglas in Desmond's rebellion. The O'Tooles also, led by Garret O'Toole, son of Phelim O'Toole of Powerscourt, joined Feagh McHugh in the rebellion. With the failure of the rebellion Feagh McHugh gave pledges to the government and was pardoned in 1584.³ He remained, until his death in 1597, the most prominent of the O'Byrne's in the region of central Wicklow.⁴ Despite Feagh McHugh's pardon, he and many of the O'Byrnes, including a few from the Birnes' country, forfeited their lands by act of parliament in 1585.⁵ But the forfeitures, with one exception, proved to be ineffective. The government was

1. L. Price, 'Notes on Feagh McHugh O'Byrne', in Kildare Arch. Soc. Jn., xi, 139 (1931).
2. Cal. S.P. Ire., 1574-85, p. 143.
3. Cal. plants Ire., Eliz., no 4510.
4. L. Price, 'Byrnes' country in sixteenth century Wicklow', in R.S.A.I. Jn., lxxiii, 230 (1933).
5. Cal. pat. rolls Ire., Jas I, p. 59.

not strong enough to enforce them, and most of the land involved was still in the effective control of the old Irish. What the act of forfeiture did accomplish, of course, was to establish legal justification for subsequent confiscations. The only large estate to be in fact confiscated was that of James Eustace, viscount Baltinglas.¹ Although the extent inquisitions relating to the Baltinglas estate in Wicklow are generally unsatisfactory² it would appear that the estate in Talbotstown barony which was held in 1641 by Thomas Roper, viscount Baltinglas (about 11,000 acres), represents approximately the extent of the estate as it existed before the forfeiture. In 1581, four years before the actual forfeiture, the entire estate was leased to William Russell, a son of the earl of Bedford.³ The townlands listed in Russell's lease correspond closely to the estate held by Roper in 1641 as recorded in the Books of Survey and Distribution. In 1587 Sir Henry Harrington received a reversionary grant of the estate,⁴ but by

1. Cal. pat. rolls Ire., Jas I, p. 60.

2. See for example Cal. pat. rolls Ire., 18-45 Eliz., pp. 65-6.

3. Cal. fiants Ire., Eliz., no 3745.

4. Ibid., no 5081.

2. Cal. fiants Ire., Eliz., no 6977.

3. Cal. pat. rolls Ire., Jas I, p. 60.

1618 it had come into the hands of Sir James Carroll, who leased it to Roper.¹

Feagh McHugh O'Byrne once again led the O'Byrne's of central Wicklow into rebellion in 1595 in support of the general uprising under O'Neil. Fighting continued until 1601 when Feagh's sons (Feagh had meanwhile died) submitted and were pardoned.² But in the rising some of the O'Byrnes of the Birnes' country took the side of the government against O'Neil; Phelim O'Toole of Powerscourt took no active part. An inquisition taken in 1603, however, declared that the lands of Powerscourt and the Fercullen were forfeited on account of the rebellion of Phelim's son, Garret, in 1580.³ Phelim remained in possession of Powerscourt until his death in 1603. Therefore, although the series of rebellions in Wicklow in the sixteenth century did not result in any general confiscation, the old Irish landowners at the opening of the seventeenth century were in a precarious position. Their land titles were not secure and the same tide of English influence which was then extending throughout

1. It is not clear exactly how the Baltinglas estate came to Carroll. The Cal. pat rolls Ire., Jas I, p. 578; indicates that Sir William Harrington, the son of Sir Henry, sold the land to Carroll. But another source, the Cal. pat rolls Ire. 1-8 Chas. I, pp. 183-4, suggests that Carroll purchased the benefits of a grant which had been given to Sir Charles Wilmot in 1618.
2. Cal. fiants Ire., Eliz., no 6577.
3. Cal. pat. rolls Ire., Jas I, p. 60.

Ireland was now starting to exert itself in Wicklow. With O'Neil's submission in 1603 the old dream of the crown of extending its jurisdiction throughout the country, extirpating the ancient Irish political and social system, now appeared feasible. The Ulster plantation (1609-10), the most 'dramatic --- illustration of the reality of the Tudor conquest',¹ appeared to provide a convenient model for a similar scheme in Wicklow. Many of the prominent new English families who had become landowners in Dublin, and elsewhere, in the previous fifty years - Parsons, Loftus, Agard, Brabazon, Hoy - also figure largely in the plantation of Wicklow, along with such names as Jones, Wentworth and Wingfield.

Shortly after the accession of James I pardons were again issued to many of the Irish who had participated in the rebellion.² But in 1603 old Phelim O'Toole of Powerscourt died and an inquisition declared his estate to be forfeited as a consequence of the rebellion of O'Toole's son, Garrett, nearly twenty years earlier.³ The government refused to put Turlogh, Phelim's grandson, into possession, despite the fact that he had received a

1. T. W. Moody, 'The Irish parliament under Elizabeth and James I; a general survey', in Proceedings of the Royal Irish Academy, xlv, 51 (1939).
2. Cal. pat. rolls Ire., Jas I, pp. 99-100.
3. See above p. 35

pardon in 1603.¹ Instead, Powerscourt, '5 miles in leinth and 4 in bredth', was leased to Sir Richard Wingfield, a soldier and a cousin of Jacques Wingfield.² This was the first significant grant of Wicklow land given to a representative of the new English in the seventeenth century. Wingfield's grant was called into question a few years later by various tenants of the estate,³ but the government undoubtedly considered the area so strategically important that there was small hope of the old Irish ever regaining possession. Sir Richard Wingfield died in 1634 and Powerscourt descended to a nephew, Sir Edward Wingfield. In about 1635 Sir Edward purchased, for £400, some 2,600 acres in the Glencap, an area contiguous to Powerscourt.⁴ The two parcels amounted to over 11,000 acres.

The history of the plantation of the other regions of Wicklow presents a much more complex picture. Despite the pardons granted to the old Irish in 1606 it appears to have been generally accepted by the government in Dublin that the

1. Cal. pat. rolls Ire., Jas I, p. 30.

2. Ibid., p.17. Wingfield received a patent for the estate in 1610. Ibid., p. 141.

3. Ibid., p. 208.

4. Cal. S.P. Ire., 1625-32, p.627. Cal. S.P. Ire., 1663-65, p.61.

only satisfactory solution for the ultimate security of the area lay in some form of plantation scheme. As early as 1535 Sir William Brabazon, anticipating the Cromwellian settlement by over a century, had urged the banishment of the old Irish from Wicklow.¹ The various commissions of survey instituted between 1577 and 1604² were clearly in anticipation of some kind of plantation. The influential administrative families, mainly new English but also a few old English, saw in the political situation in Wicklow a chance to exploit for their own benefit the traditional government policy of confiscation and plantation. Names such as Loftus, Parsons, Usher, Brabazon, Allen, Jones, and Esmond, among others, appear regularly on the commissions set up between 1604 and 1641 to establish legal justification for the confiscations in Wicklow and elsewhere.³ The plantation of Wicklow, however, unlike that of Ulster, was accomplished in piece-meal fashion. It has been pointed out by W. F. T. Butler that the results of James's policy were that some years before his death Wicklow was almost the only Leinster district 'in possession of the Old Irish

1. Cal. S.P. Ire., 1509-73, p. 14.

2. Cal. fiants Ire., Eliz., nos 3003, 6791.

3. Ibid., pp. 59-60, 464, 575. Cal. pat. rolls Ire., 1-8 Chas I pp. 48-9. Cal. S.P. Ire., 1633-47, p. 47.

in which there had been no definite scheme of confiscation and plantation'.¹ In the sense that Wicklow was not wholly in the possession of the old Irish in, say, 1620, Butler's statement is not strictly accurate; but he is correct in his description of the absence of any general direction given by the government to a plantation. The vacillation and indecision was to continue in fact until 1641.

Besides his pardon of 1606 Phelim McFeagh O'Byrne, head of the old Irish clans of the Ranelagh and the Cosha, also received recognition of a 'superiority' over the freeholders of the region.² This vague suzerainty over an area of over 40,000 acres continued, amid much negotiation, until 1617. At this point Sir Richard Graham, an officer under Mountjoy, received a grant of all the lands of the Cosha. But Phelim McFeagh obtained a commission for an inquisition which found, in the same year, that he was seized of all the lands of the Cosha and the Ranelagh.³ A legal battle between Graham and Phelim McFeagh then started,

1. W. F. T. Butler, Confiscation in Irish history, p. 90.

2. Cal. pat. rolls Ire., Jas I, p. 94.

3. Cal. S.P. Ire., 1615-25, p. 238.

with the result that the verdict, reached by inquisition in 1623, went against Phelim and this branch of the O'Byrnes.¹ Title to the entire region was declared to be vested in the crown. During the struggle Phelim McFeagh and five of his sons were imprisoned in Dublin castle and lord deputy Falkland was recalled as a result of the scandal which followed. Although Phelim McFeagh was in 1627 confirmed to 4,000 acres in the most remote and unprofitable region of the Ranelagh,² the following year an attempt was made to plant the area, and six large grants, totalling over 16,000 acres, were given to Sir Adam Loftus, Sir William Parsons, Sir Roger Jones, Lord Esmond, Lord Henry Dockwra and Thomas Stockdale.³ The Cosha remained in the possession of Graham.

In the Birnes' country the opening of the seventeenth century found only two large blocks of land in the possession of the new English. Sir Henry Harrington held Agard's former estate at Newcastle and Sir John Hoy held several thousand acres in Arklow barony.⁴ The inquisition

1. Cal. pat. rolls Ire., Jas I, p. 595. The members of the commission were Sir William Parsons, Sir Adam Loftus, Arthur Usher, Walter White and Robert Part. Deputies appeared for Loftus and White.

2. Cal. S.P. Ire., 1625-32, p. 290.

3. Cal. pat. rolls Ire., 1-8 Chas I. pp. 356-7.

4. Cal. pat. rolls Ire., Jas I, pp. 47, 67.

of 1605 had set out the names of the old Irish who had been killed in the rebellion or attainted for treason, and ascertained the lands they held. But not all of the O'Byrnes of the Birnes' country had supported O'Neil. Of the land which was forfeited, however, nearly 13,000 acres were granted to Sir William Parsons between 1608 and 1619.¹ Smaller grants were given to Sir Robert Leister, Sir Henry Broncker, Sir Francis Annesley, lord Devlin (Richard Nugent)² and the earl of Meath.³ There was less opportunity for a plantation in Talbottown barony where the old English still held a considerable amount of land. Nevertheless, Sir Thomas Chichester and Sir Arthur Savage, among the new English, and Lord Esmond and Christopher Cheevers, among the old English, got large grants of land in the Imaal region which had been forfeited by the O'Tooles.⁴

Although the O'Byrnes still held about half of the land in the Birnes' country in 1620, government pressure upon their land titles made their position very insecure.

Projects for a plantation of the area were from time to time

1. Ibid., pp. 115-16, 197, 446, 526.
 2. Ibid., pp. 64, 197, 526.
 3. Cal. S.P. Ire., 1669-70, pp. 95-6. Sir William Brabazon, grandson of Sir William, was created earl of Meath in 1627.
 4. Cal. pat. rolls Ire., Jas I, pp. 114, 205, 337, 426.

put forward, commissions and inquisitions established, a few surrenders actually made.¹ In 1628 James Hay, earl of Carlisle, with a view to a plantation, purchased the manor of Newcastle from Sir William Harrington, the son of Sir Henry Harrington. Carlisle also received a crown patent to the Birnes' country.² The grant was rescinded the same year, however, when the crown, seeking the goodwill of the inhabitants during the war with Spain, announced its intention of confirming the freeholders' titles to the Birnes' country.³ With the coming of peace in 1630 Carlisle pressed his original claim, but his death in 1636 put an end to the case.

The arrival of Wentworth as lord deputy in 1633 was to significantly alter the proprietorship of the county. His acceptance of the office appears to have been considerably influenced by the prospect of speculative land acquisitions in Ireland.⁴ By 1641 he had acquired four main blocks of land in Wicklow, amounting to some 54,000 acres, or about 19% of the total land area of the county. Of the four parcels, two - the Cosha (about 20,000 acres)

1. Ibid., pp. 201, 464-5. Cal. S.P. Ire., 1611-14, pp. 69, 258.

2. Cal. pat. rolls Ire., 1-8 Chas I, p. 399. Cal. S.P. Ire., 1625-32, p. 380.

3. Ibid., p. 400.

4. J.P. Cooper, 'The fortune of Thomas Wentworth, earl of Strafford', in Economic History Review, second series, xi, 240 (1958).

and the half barony of Shilelagh (about 24,000 acres) - were purchased, and the other two - the manors of Newcastle (4,337 acres) and Wicklow (4,752 acres) - were acquired by royal grant. Cosha was purchased in 1637 for £8,900 from Sir William Graham (and several partners), the son of Sir Richard Graham.¹ The half barony of Shilelagh had been purchased in 1618 by Calcott Chambre from William, the son of Sir Henry Harrington, the former senechal.² Chambre died in 1635, but he had earlier (in 1629) sold the estate to James and Nathaniel Fynes and John Crowe, the sale to take effect upon Chambre's death. Shilelagh was purchased by Wentworth in 1637, but only, it seems, after at least one of the parties concerned in the sale had been imprisoned and forced into the transaction.³ The other two parcels - the manors of Newcastle and Wicklow - were granted to Wentworth in 1639 after Carlisle's widow had surrendered the crown patent to the Birnes' country for a consideration of £15,000.⁴

1. Kearney, Strafford in Ireland, pp.175-6. Graham's partners were Sir William Parsons, Sir Richard Bealings, Sir Edward Wingfield and the earl of Meath.
2. Cal.pat.rolls Ire., Jas I, p.362. According to Dr Kearney, who has based his figures on a survey taken in 1656, Shilelagh contained about 8,000 acres of unprofitable land. Kearney, supra, p.179.
3. H.M.C. Egmont MSS, i, part i, pp.97-8, 177. Cal.S.P.Dom., 1660-85, p.322.
4. Lodge, Patents, v, 390-1. The manner in which crown title was found to the Birnes' country has been examined by T.Ranger, 'Strafford in Ireland; a revaluation', in Past and Present, no 19, pp. 37-8 (1961).

One month before Wentworth's attainder all his lands in Ireland were granted in trust to George Carr, William Billingsley and Francis Wetherhed, to the use of William, Wentworth's only son and heir, with £500 a year being reserved to the use of both the lady dowager Carlisle and Wentworth's wife.¹

Wentworth also used highhanded methods in dealing with the earl of Meath, who was dispossessed, by warrant issued by the lord deputy in 1639, of certain lands in the Birnes' country which had been granted to him in 1611. Although Meath was later given other lands in lieu of those from which he had been dispossessed, he claimed some years later that they were not worth one seventh of his former lands in the Birnes' country.² The old English had no reason to love Wentworth, and such cavalier treatment of a powerful new English peer had the effect of solidifying old and new English opposition against him, creating the enemies who were later to assure his attainder and execution.

1. Cal. S.P. Ire., 1663-65, pp. 413-14. Chambre the elder had died in debt to Carlisle. The younger Chambre satisfied the debt in the form of a 22 years lease to lady Carlisle, at £500 a year for 18 years, out of the income from Shilelagh. Wentworth, a great friend of lady Carlisle, agreed to the arrangement after his purchase of the territory. H.M.C. Egmont MSS, supra, p.515.
2. Cal. S.P. Ire., 1669-70, pp. 95-6.

Wentworth used his rights of patronage to help various friends obtain estates in Wicklow. Thomas Blood, the mysterious adventurer who subsequently earned great notoriety by his unsuccessful attempt to steal the crown jewels from the tower of London, was given 500 acres in Glenmalur, in Ballinacur barony, 'adjoining the lands assigned to Phelim McFeagh O'Byrne'.¹ Wentworth also secured a large estate in Wicklow for Sir John Coke, one of Charles's principal secretaries of state. Early in 1636 Wentworth had told Coke that he had discovered 'a pretty portion of land' called the Fertir, a 10,000 acre tract of mountain and bogland in north-central Wicklow, south of Powerscourt between the Imaal and the Birnes' country. This land would be granted to Coke, Wentworth said, at a rent of £100 per year, but if Coke decided to part with it Wentworth could guarantee him £1,000 for his interest in it.² A month later an inquisition found, not surprisingly, that title to the territory was vested in the king. The inquisition found that Henry VIII had issued patents for the manor of Castle Kevin and the territory of the Fertir to Arte Oge O'Toole, the brother of Turlogh O'Toole, 'with conditions to use the English habits, language, education, hoistings,

1. Ainsworth, Reports, v. 1158. For the subsequent history of the Blood estate see below, p. 272
2. H.M.C., Cooper MSS, ii, app. 12, 111.

aidings, and the like, and particularly Arte Oge O'Toole that he should keep Castle Kevin in repair - with instructions to Sir Anthony St. Leger, the lord deputy, that these conditions shall be inserted into the body of the grant and that in case he failed to perform the same he should resume the same into the King's hands again ---'. Arte Oge had died and his son, Barnaby, on 17 January 1596, together with his brother-in-law Feagh McHugh O'Toole, had gone into rebellion in support of O'Neil. Luke O'Toole, Barnaby's son, was still in possession of the region at the time the inquisition was being taken, despite the fact that James I had granted the Fertir in 1603 to a John Wakeman, who in 1609 had sold it back to Luke. The commissioners therefore found, again not surprisingly, that (1) although the inquisition was being taken after Barnaby's death, 'yet he stands attainted', (2) that Castle Kevin was 'an absolute forfeiture', having been 'uncovered for the past thirty years', and (3) that the letters patent of James I to John Wakeman were clearly void, since no inquisition was taken prior to the grant in order to discover the king's title to the territory, 'and the King could not grant that which he had not'.¹ While preparations for Coke's grant were going forward Luke O'Toole

1. Ibid., pp. 114-15.

was in London attempting to salvage his estate. He seems to have gained admission to the court and even to see Coke himself. Luke's son-in-law, writing to Luke in London on 10 August 1636, wished him well in his mission but stated that 'if the matter goes to the worst I hope in God you can agree with Secretary Coke ---'.¹ Coke's grant of the 'whole territory of the [Fertir and] the Castle and manor of Castle Kevin, and all other lands and towns in the territory', was issued in 1637,² but apparently some kind of provision was intended to be made for Luke, probably with Coke's sanction. As late as 2 May 1640 one of Wentworth's agents had written to Coke, explaining that the lord deputy had 'given order for a distribution for O'Toole'.³ The whole question may have involved a determination of the exact boundary^A of the Fertir, or it may simply have been a private agreement between Coke and O'Toole. Whatever the reason, Coke was finally settled on only 5,446 acres in the northern regions of the territory and Luke O'Toole was allotted 4,761 acres in the more mountainous area around Kildalough.⁴

1. Ibid., p. 133.

2. Cal. S.P.Ire., 1633-47, p. 153.

3. H.M.C. Cooper MSS, ii, app. 12, 253.

4. Coke's allotment of 5,446 acres is substantiated by the Crown rental, c. 1706, xx (Co. Wicklow), 10, P.R.O.I.

Although Calcott Chambre had lost his interest in Shilelagh he was at the same time buying land in the Ranelagh ~~for~~ ^{from} Sir Adam Loftus. Loftus had purchased several of the grants which had gone in 1628 to Parsons, Jones, Esmond, Stockdale and lord Dockwra. In 1639 Loftus sold most of this land, over 10,000 acres, to Chambre (the younger) for £10,000, retaining only 500 acres in the barony.¹ Chambre and Wentworth were not the only new English representatives to buy heavily into Wicklow land in the years before the outbreak of the rebellion in 1641, although the number of people involved in such transactions was far smaller than was the case of Dublin, where the new English penetration took a far different course. The names of the earl of Meath, Sir Thomas Roper, Sir Edward Wingfield and Kimbro Piphó are all reported to have purchased land in the county between 1620 and 1640, in some cases from the old Irish.²

It was not only the old Irish in Wicklow who lost their lands to the new English interest. In one case at least a representative of the old English lost his lands

1. A. Grosart (ed.), The Lismore papers, first series, iii, 204-6. L. Price, 'The case of Phelim McFeagh O'Byrne and the lands of Ranelagh', in R.S.A.I. Jn., lxxiii, 58-9 (1943).
2. Ainsworth, Reports, xii, 2511, 2516, 2530. Cal. pat. rolls Ire., Jas I, p. 263. Lodge, Patents, v, 388, 390. Kimbro Piphó was the widow of Robert Piphó, the former seneschal of the western region of the county. Cal. pat. rolls Ire., Jas I, p. 263.

in the county by what can only be described as gross legal chicanery. Patrick Archbold's title to the manor of Bray (2,200 acres) in Rathdown half barony was challenged, probably by Sir William Brabazon. Although in 1609 Archbold received a royal letter accepting a surrender and a regrant of the manor, attorney-general Sir John Davis, later the same year, reported that it was being alleged (again, probably by Brabazon) that the estate had been in the king's possession since 1603. Archbold asked to be allowed to search the records, claiming that his ancestors had held the land for over 200 years. Several years later an inquisition found that one of Archbold's ancestors who had been a proprietor of the manor had been attainted to felony at Dublin Castle in the early sixteenth century. In 1625, probably either after giving up the fight to retain the land or compounding for it privately, the manor was conveyed by Edward Archbold to Sir William Brabazon. Unfortunately (for Brabazon at least) the manor was in 1629 granted to George Kirk, a groom of the king's bedchamber. Kirk, however, sold his interest to Brabazon (now earl of Meath) the following year for £200.¹ Another old English proprietor who was more successful in averting the grasp of the new English speculators was Edward Walsh. After buying 825 acres in Clonmaying in Rathdown half barony Walsh's title was

1. Ainsworth, Reports, xii, 2505-6, 2513, 2516. Cal. pat. rolls Ire. Jas I. p. 153.

challenged by Sir William Parsons. But Walsh had married an aunt of Lord Delamer (Sir George Booth), a prominent English parliamentarian and later a member of Cromwell's parliaments of 1654 and 1656.¹ Under Delamer's name Walsh repurchased the estate and successfully held it until 1641.²

Another, more comprehensive scheme for the plantation of the Birnes' country was meanwhile being attempted. In 1634 a directive was issued calling for a commission to discover the royal title to the territory.³ In pursuance of this directive an inquisition was taken in 1638 which returned the royal title not only to the Birnes' country, but also to much of Ballinacur barony. The jurors found that Richard II had been seized of these lands and that they were therefore vested in the king.⁴ Thus, all previous grants within this region, amounting to nearly one half of the land area of the entire county, were automatically invalidated and declared to be in the king's hands. The lands involved were then (in 1640) vested in trustees who were to make re-grants to persons they saw fit.⁵ The outbreak of the rebellion, however, prevented any effective steps from being taken to carry out the new plantation.

1. Dictionary of national biography, ii, 839-40.

2. P.R.I., rep. D.K., app. 19, p. 36.

3. Cal. S.P. Ire., 1633-47, pp. 52-3.

4. Inquisitionum in officio rotulorum cancellariae Hiberniae - repertorium, i, Wicklow, Chas I (21).

5. Cal. S.P. Ire., 1633-47, p.238.

The interruption caused by the rebellion found the new English in possession of a substantial proportion of the land of Wicklow. In dealing with the new English penetration into the proprietorship of the county the question of delineating the extent of the Birnes' country needs to be considered. There is adequate reason for being cautious about accepting the enumeration of the fourteen parishes comprising the Birnes' country which appear in the published calendar of patent rolls of reign of Charles I,¹ upon which J.P. Cooper has based his calculations in a recent study of Wentworth's land speculations in the region.² By adding the acreage figures of thirteen of the fourteen parishes³ as they are entered in the Books of Survey and Distribution, Cooper arrives at a total figure for the Birnes' country of 43,200 acres. It seems clear, however, that in 1626 the fourteen parishes represented more than 43,200 acres, mainly because the acreage figures as entered in the Books of Survey and Distribution for the protestant landowners were taken from the Civil Survey, which in general undermeasured the size of townlands by at least 10%. Moreover, various baronies in the region, held entirely, or

1. Cal. pat. rolls Ire., Chas I, p. 49.

2. J. P. Cooper, 'Strafford and the Birnes' country', in I.H.S., xv, 1-20 (1966).

3. Dromoah, one of the fourteen parishes, does not appear in the Books of survey and distribution.

nearly so, by the old Irish in 1641 are not included in the above-mentioned list. There is no reason to believe, for example, that Templemitchel parish in Arklow barony (2,129 acres), which was held entirely by the old Irish in 1641, did not constitute a part of the Birnes' country, even though it does not appear in the above-mentioned list. Nor is there reason to believe that Rathdrum parish (530 acres), also in Arklow barony, and held wholly by Brian McPhelim O'Byrne in 1641, was not also a part of the Birnes' country, especially as it was bordered on three sides by parishes that do appear in the list, as reference to the appropriate Down survey barony map will show. It would be more accurate to say, therefore, that the Birnes' country extended to about 64,000 acres and not, as Cooper has suggested, 43,200. Of this total of 64,000, the old Irish in 1641 still held 23,990 acres. About 75% of this lay in the inland, less profitable parishes, such as Castlemacadam, Kilmachoge and Kilcommin in Arklow barony, and Killeskey and Glanealy parishes in Newcastle barony. The principal new English proprietors in Arklow barony were Sir William Parsons, with 12,937 acres; Wentworth, with 4,578; Sir John Hoy, with 2,893; and Sir Edward Wingfield, with 2,560. The only old English landowners with large estates in Arklow were Sir William Usher, with 1,042 acres, and the earl of Ormond, with 5,798.

In Newcastle barony, only a few old English held large estates; Sir Henry Bealings had 1,190 acres and several branches of the Walsh family had 2,900. The new English held 5,445 acres, most of which consisted of lands held by Wentworth and Sir William Parsons.

In Ballinecur barony the old Irish still retained 15,676 acres in 1641. Luke and Brian O'Byrne, Luke O'Toole, together with Brian McPhelim and Dr. Edmond O'Meara, between them, held most of this land. The new English had acquired 42,449 acres. Wentworth held 20,672 acres in the Cosha; Calcott Chambre held 11,418 acres in the Ranelagh; Parsons, Sir Adam Loftus, Lord Ranelagh, and a handful of other new English, held the remainder. Sir John Coke had just been granted 5,447 acres in the Firtir. The old English retained 13,601 acres, most of which consisted of the lands held by Lord Lawrence Esmond.¹

The church held a large tract of land around Glendalough -

1. Although Lord Lawrence Esmond was a protestant, for the sake of simplification I have classified the estate as being 'catholic' in 1641 since Esmond's son, Sir Thomas, a catholic, forfeited the estate under the Cromwellian settlement. See appendix D, p. 324. For a fuller account of the Esmond estate see below, p. 176. Including the Esmond estate in his calculations has led J.P. Cooper to the mistaken conclusion that 'Irish papists' (i.e., the old English and old Irish catholics) in Ballinecur barony held some 25,000 acres in 1641, whereas in fact they held only about 17,000 acres. Cooper, 'Strafford and Byrnes' country', op.cit., p.17.

Since various old English and old Irish landowners were protestants (and one new English proprietor was catholic)

some 16,500 acres - but much of this land was unprofitable mountain and bogland. To the south of Ballinecur barony Wentworth held all of Shillelagh half barony (24,000 acres), and to the north of Ballinecur, in Rathdown half barony, Sir Edward Wingfield held Powerscourt and the Fercullen, amounting in all to 11,124 acres. The rest of the barony, about 3,000 acres, was held by the earl of Meath and a few old English families - Walsh, Archbold, Talbot.

In Talbotstown barony, in the west, the old English were still in possession of some 28,598 acres. Six of the old English proprietors, Sir Richard Bealings, Walter and James Cheevers, Sir Robert Talbot, James Woolverton and Peter Wickham, between them, held nearly all of this land. Because of the forfeiture of the Baltinglas estate in the previous century the Eustace family were reduced to only a few hundred acres in the barony. The new English held 29,671 acres, much of which consisted of Edward Allen's estate and Sir Thomas Roper's manor of Baltinglas. Mrs. Kimbro Piphoo held 5,600 acres, and the remaining 5,000 acres were held by Sir William Harrington, Sir William Parsons and Sir William Reeves. Cahir O'Toole held most of the 2,500 acres which still remained in old Irish hands in the Imaal region of the barony. The church held 8,500 acres in the barony.

Since various old English and old Irish landowners were protestants (and one new English proprietor was catholic)

the true nature of proprietorship in the county in 1641 can only be seen by relating it to religion. On this basis, twenty eight protestant proprietors - including twenty two new English, three old English and three old Irish - held 135,123 acres, or 48% of the total land area of the county. When to this total is added the 25,005 acres held by the church it is seen that the protestant interest as a whole held 160,128 acres, or 57% of the land, of which about 85% was profitable. At the same time seventy six catholic proprietors - including twenty eight old English, forty seven old Irish and one new English proprietor - held 99,043 acres, or 35% of the total land area, of which about 96% was profitable.¹

It is clear that only the eruption of the rebellion in October 1641 prevented further new English encroachment on the old Irish catholic proprietorship in the county. The new plantation was only delayed a decade, and when it occurred it took a form no one could have foreseen in 1641. Henceforth, throughout the entire country, religion and not ancestry was to be the deciding factor. As such, all catholic proprietors, and not just the old Irish catholics, were threatened.

1. For a fuller discussion of acreage figures, including the problem of the profitability of land, see appendix A.

IV. Dublin and Wicklow, 1641-1660

With the outbreak of the rebellion in October 1641 the old English catholics of Dublin and Wicklow - and the Pale in general - faced a difficult choice.¹ Although by long tradition loyal to the English crown and antagonistic towards the old Irish catholics, they saw that only by an alliance with the northern rebels, and by supporting the king's prerogatives against the ambitions of the English parliament, could they hope to have their grievances redressed. This decision, however, was not arrived at until several months after the rebellion had started. Although a few old English catholics had been associated with the conspiracy from the beginning, most of them were not inclined towards rebellion. Indeed, several days after the outbreak most of the catholic lords of the Pale, including Gormanston, Netterville, Fitzwilliam, Fingal and Dunsany, approached the lords justices, protesting their loyalty to the crown and requesting arms for their defence. But the government did not trust them and on the same day a proclamation was issued,

1. The following general narrative of events between 1641-42 has been chiefly based on Clarke, Old English in Ireland, pp. 153-234; for the period 1642-53 on J. C. Beckett, The making of modern Ireland, 1603-1923, pp. 90-109.

referring to the conspiracy as having been conducted by 'some evil affected Irish papists',¹ an indefinite phrase which implicated the old English catholics as well as the old Irish catholics. Though a week later the lords justices issued a further proclamation, explaining that they had not meant to implicate the old English of the Pale in the rebellion, the episode clearly illustrates the mood in which the government was operating. By early November the government had relented somewhat in its attitude towards the old English catholics and several of them in selected areas, including Dublin and Wicklow, were authorised to exercise powers of martial law and to wage war against the old Irish rebels. A small amount of arms were even allocated for the purpose. At the same time the old English members of the Irish parliament, then meeting in Dublin city, addressed a petition to the king, calling for a redress of their long-standing grievances as the best way of dealing with the rebellion.

The old Irish rebel army of the north, meanwhile, had advanced into the Pale and many of the old English gentry, having little choice, joined them. A month after the rebellion had started the lord justices received a report that Wicklow was once again in rebellion, 'the principal

1. A. Clarke, Old English in Ireland, p. 163.

leaders therein [being] the Byrnes and Tooles, who have now taken up the rebellious example of their traiterous ancestors'.¹ By November the old Irish were besieging Wicklow castle and making forays to within a few miles of Dublin city. Fifteen hundred rebels were also reported to be in the vicinity of Powerscourt.² In reply the government, in late November, dispatched two expeditions from Dublin city, one to Drogheda and the other to Wicklow. The expedition to Wicklow was led with ruthless efficiency by Sir Charles Coote, who in four days between November 28 and December 2 relieved Newcastle and Wicklow castles, executing various non-combatants in the process. Coote's violence in Wicklow, together with the summary execution of four people in Santry, in Dublin, for alleged criminal offences, only served to spread distrust and fear of the government among the catholics. By this time the government had apparently abandoned all attempts at conciliation, and in December, after receiving reports of pillaging in Clontarf, north of Dublin city, ordered Coote to put down the disorders. With the same efficiency that

1. H.M.C. Ormond MSS n.s., ii, 19.

2. J. Gilbert (ed.) A contemporary history of affairs in Ireland, from A.D. 1641 to 1652, i, 13. H.M.C. Ormond MSS, n.s., ii, 39.

1. Richard Nugent, first earl of Westmeath, refused to join the rebellion and was killed in about May 1642 as a result of injuries inflicted upon him by the rebels. H.M.C., xii, pp. 526-28.

had characterized his expedition to Wicklow, Coote destroyed the fishing fleet at Clontarf and burned a large part of the town, including the manor house of George King, the principal proprietor of the area. This episode only increased the alienation between the catholics and the government, but even before Coote's punitive raid on Clontarf most of the old English catholics of the Pale had already agreed to an alliance with the old Irish rebels. It was emphasized by both parties, however, on several different occasions, that they had taken up arms in defense of religion and property, and not against the crown.

By Christmas 1641 the initial momentum of the rebellion had carried the rebel army to a position which appeared to be very favourable. Dublin city was surrounded, Drogheda was under siege, and the O'Byrnes and O'Tooles were in effective control of most of Wicklow, with the exception of several coastal areas including the towns of Wicklow and Arklow. The old English catholics, with few exceptions,¹ were now committed to the rebellion, although, as Dr. Clarke has explained, they saw their association with the old Irish as 'an alliance rather than as a union, and were determined to insist upon their continued independence and freedom of decision'. By this time 'the motives of the northerners,

1. Richard Nugent, first earl of Westmeath, refused to join the rebellion and was killed in about May 1642 as a result of injuries inflicted upon him by the rebels. G.E.C., xii, pp. 526-28.

at first necessarily suspect, were to all intents and purposes authoritatively scrutinized and approved by the traditional leaders of old English opinion'.¹ By early 1642 the rising had spread to all other sections of the country except Galway, where the earl of Clanrickarde was able to maintain an uneasy peace.

By April 1642, however, the whole complexion of the rebellion began to assume new dimensions. The government had recovered the military initiative, at least in the Pale, and had cleared the rebel army from the Dublin city region and had forced it to abandon the siege of Drogheda. This, coupled with the news that the king had categorically condemned the rebellion and upheld the authority of the Irish government, had the effect of once again obliging the old English catholics to reconsider their position. In light of the king's condemnation of the rebellion contact was made with Ormond, through whom various old English catholics submitted, or attempted to submit, to the government.

James Bath, John Talbot of Malahide and Lord Dunsany all submitted, but were immediately committed to Dublin castle. Patrick Barnewall of Kilbrew also submitted but, after protesting his loyalty to the king in a most abject manner,

1. A. Clarke, Old English, op.cit., pp. 192-3.

was put to the rack. Finally, in June 1642, the growing alienation between the catholics and the government led to the expulsion of forty-one catholic members from the Irish house of commons.¹ By the end of 1642 some 350 individuals from Dublin and 323 from Wicklow had been outlawed, including nearly all the catholic proprietors from the two counties, among whom were 146 O'Byrnes and twenty four O'Tooles.²

A change in the complexion of the rebellion of a more far-reaching nature occurred in England, where on 19 March 1642 the king gave his assent to the so-called 'Adventurers act', providing for the setting aside of 2,500,000 acres of land in Ireland which were expected to be forfeited, to be used for repayment to those who advanced money to suppress the rebellion. The consequence of this act was to crystalize the opposition of the old English catholics and to solidify the alliance already established between

1. Commons' jn. Ire., i, 299 (22 June 1642).
 2. R.C. Simington and J. MacLellan (edd.), 'Oireachtas library, list of outlaws, 1641-1647', in Analecta Hibernica, no 23 pp. 319-67 (1966). Another list of outlawries, appearing in B.M. Add. MS 4772, pp. 38-87, gives 'Persons indicted and outlawed of treason in the king's bench --- 1641-42'. This list is printed in Gilbert, History of the confederation and the war in Ireland, 1641-1653, iii, 340-86, and although dealing with outlawries only up to 1642 it contains most of the Dublin and Wicklow names which appear in the Oireachtas library list.

the old English and the old Irish catholics. It also tended to reduce the principles (for the catholics) over which the war was being fought to a choice of either gaining a total victory and preserving their religion and estates, or, failing that, to lose both.

Another consequence of the hardening of the attitude of the Irish government and the English parliament towards the catholics in Ireland was an increased awareness on the part of the old English catholics that some form of revolutionary governmental machinery was necessary in order to conduct the course of the rebellion. Accordingly, with this in mind, the 'Confederate catholics' convened at Kilkenny in June 1642 and a parliamentary form of government was established, consisting principally of old English catholics, with a president (lord Mountgarret), a supreme council, and a general assembly consisting of representatives from each province. One of its first acts, in August, was to communicate with Ormond with a view to re-opening negotiations with the king. By this time the English civil war had begun and the catholic cause in Ireland could now be identified more closely with the king's cause in England. Moreover, the war in Ireland had reached a stalemate, with neither side able to achieve significant success. Despite opposition

from within the parliamentary party in the Irish government,¹ a truce, arrived at mainly through Ormond's influence, was agreed to in 1643, during which it was planned to discuss terms for peace. Negotiations between the Confederates and the king dragged on for some years, but finally, with the king in dire need of a Confederate army for service in England, a treaty was concluded in March 1646, whereby in return for a promise of an army of 10,000 men, the king made various concessions to the Confederates, including several which removed some of the disabilities against the catholics.

The effectiveness of the treaty of 1646 was vitiated, however, by the opposition of Giovanni Batista Rinuccini, who had arrived in Ireland as papal nuncio in late 1645. The opposition of Rinuccini, who had the treaty condemned at a synod in Waterford in August 1646, was made all the more effective by his alliance with Owen Roe O'Neill, the leader of the northern old Irish rebel army. The result was that a rift developed between the Confederacy and the 'nuncio's party', led militarily by O'Neill, who, ignoring the treaty, continued the war in the north.

1. Sir William Parsons, Sir Adam Loftus, Sir John Temple and Sir Robert Meredith were committed close prisoners in Dublin castle in 1643 for protesting the cessation. Cal. S.P. Ire., 1633-47, p. 388.

Despite an impressive military success at Benburb against a Scottish parliamentary army, O'Neill failed to follow-up his victory and instead marched south to Kilkenny in support of Rinuccini, where he deposed and imprisoned the supreme council and appointed a new one, with himself as president. The treaty of 1646 was abandoned and the new Confederate government prepared to attack Dublin city. But disagreements broke out amongst the Confederate generals and O'Neill finally withdrew. Rinuccini eventually released the old supreme council from prison and called a meeting of the general assembly for early 1647. This assembly, still dominated by the nuncio's supporters, rejected the peace treaty of 1646.

Ormond had now come to realize that he could not hold Dublin city indefinitely and that it would ultimately have to be placed in the hands of either the Confederates or the Irish parliamentary party. Faced with this choice he chose the parliamentary party, to whom he surrendered the city in June 1647, along with other garrisons under his command, following which he left Ireland, eventually joining the exiled English queen at Paris in 1648.

Following Ormond's withdrawal the political and military situation in Ireland dissolved into a state of chaos. Rinuccini continued to be a disruptive influence among the various catholic parties, and by mid-1648 the

Confederacy was in a state of civil war. But there seems a chance for a new royalist alliance towards the end of the year when lord Inchiquin, the capable and ruthless old Irish protestant peer who by this time had subdued nearly all of Munster, declared for the king as a result of his dissatisfaction with his treatment by the English parliament. With the hope of constructing a new alliance between the anti-nuncio Confederates, along with Inchiquin's and O'Neill's forces, Ormond returned to Ireland in late 1648, at which time a new treaty, given urgency by the execution of Charles I several weeks earlier, and differing only slightly from the one of 1646, was signed with the Confederates in January 1649. The Confederacy, however, was formally dissolved and the centre of authority was given to Ormond. But O'Neill, the only really competent commander among all the catholic forces, rejected the new treaty, and Rinuccini, shortly before his final departure from Ireland, condemned it. Attempts to negotiate with the parliamentary party in Dublin failed and in August 1649 Ormond's defeat at Rathmines, near Dublin city, at the hands of a parliamentary force under the command of Michael Jones, marked the beginning of the end of all royalist hopes in Ireland. Ormond retired to Kilkenny and several weeks later Cromwell arrived at

Dublin with 3,000 English troops. The war dragged on for three more years, but after the siege and sack of Drogheda in September 1649, and the fall of Wexford and New Ross the following month, together with the voluntary surrender of Cork, Youghal, Kinsale and Bandon by their protestant garrisons, the issue was no longer in doubt. Ormond sailed for France in 1650, and although Limerick and Galway held out for some months after his departure, by 1652 the English parliament was in effective control of the entire country. Wicklow, it is worth noting, was one of the last regions to be suppressed by the parliamentary army. Edmund Ludlow led a party of 4,000 horse and foot into the county as late as 1652.¹

With the country finally subdued the English parliament, after protracted negotiations, passed the Act of Settlement in August 1652,² giving expression to the earlier Adventurers' Act of 1642 by describing precisely what classes of proprietors were to forfeit their estates. Four classes of persons were excepted

1. C. H. Firth (ed.), Memoirs of Edmund Ludlow, i, 326.
2. C. H. Firth and R. S. Rait (edd.), Acts and ordinances of the Interregnum, ii 722-53.

1. Luke O'Toole was later executed in Dublin for murder.
 Cal. S.P. Dom. 1673, p. 450.

from pardon for life and estate, the first being all who had taken part in the rebellion before the formation of the Confederate government at Kilkenny. Also excepted were all catholic ecclesiastics who had aided the rebellion; all who had been responsible for killing civilians, or, if themselves civilians, had been responsible for killing English soldiers; and all those still in arms who failed to submit within twenty-eight days from the publication of the act by the parliamentary commissioners. Excepted from pardon by name were 104 individuals, including the earls of Ormond, Fingal, Roscommon and Westmeath, lords Trimleston, Gormanston and Netterville, together with Sir Richard Barnewall, Sir John Netterville, Sir Thomas Esmond, Nicholas Plunket, Richard Bealings, Arthur Fox, Brian McPhelim O'Byrne, Hugh McPhelim O'Byrne and Luke O'Toole,¹ all of whom were Dublin or Wicklow land owners. All other proprietors, excepting those who could prove that they had shown 'constant good affection' to the Commonwealth were to forfeit from one fifth to two thirds of their estates, depending on the degree of their 'delinquency'. Furthermore, such persons were threatened with the possibility of being obliged to accept, in lieu of the

1. Luke O'Toole was later executed in Dublin for murder. Cal. S.P. Dom. 1673, p. 468.

proportions of the estates which remained to them, other lands of equal value elsewhere in Ireland, 'in such places in Ireland as the parliament - shall think fit'. Because of the need for further legislation dealing with the administration of the Act of Settlement, little progress was made during 1652 in carrying out the new plantation. The parliament, however, had already been formulating a more comprehensive scheme for the future settlement of the country, involving the transplanting of all 'delinquent' proprietors into Connaught and Clare, where they would receive lands equivalent in value to the proportion of their former estates that they had been allowed to retain. The forfeited lands in ten counties in other parts of the country were to be set aside for the satisfaction of the soldiers and adventurers, with the rest of the forfeited land in the country reserved for the uses of the government. Instructions based on this scheme had already been issued when, in September 1633, the Act of Satisfaction, giving legal sanction to the whole plan, was passed by the parliament.¹ Even so, there were administrative delays

1. Firth and Rait, Acts and ordinances, ii, 598-603.

in putting the act into effect. It had been intended to have all transplantable persons resettled by 1 May 1654, but permission to delay departure was frequently given, often on a claim of illness or infirmity or that crops had first to be harvested.¹ Thomas Luttrell managed to remain on his estate in Castleknock barony, county Dublin, until 1655, probably because he was able to obtain a favourable decree from the commissioners at Athlone who were executing the transplantation. But the decree stated that he had shown only 'good affection' towards the Commonwealth and not 'constant good affection'.² Luttrell was transplanted the following year, receiving 2,969 acres in Galway and 787 acres in Roscommon.³ Besides Luttrell at least forty one other proprietors from Dublin and Wicklow accepted lands as transplanners. Most of them were prominent old English catholics, and few received less than 500 acres. Lord Trimleston was allotted 1,471 acres in Galway; Sir Richard Barnewall 3,342 acres in Galway; Walter Cheevers 1,149 acres in Galway

1. J. P. Prendergast, The Cromwellian settlement of Ireland, pp. 110-16.
2. *Ibid.*, p.108. Although he was allowed to remain on his estate until 1655 Prendergast states that Luttrell was forced to live in the stables and till the land.
3. Allotments set out to the transplanners are to be found in the third set of the Headfort Books of survey and distribution, deposited in the P.R.O.I. Ten of the transplanners from Dublin and two from Wicklow who are entered in the above set of Books of survey and distribution do not appear in the 'List of transplanted Irish, 1655-59', given in H.M.C. Ormond MSS, ii, 114-76.

and 416 in Mayo; Christopher Cruise 1,178 acres in Galway and 524 in Mayo; Nicholas White 1,269 in Galway; Patrick Sarsfield 726 in Clare; Philip Hore 710 in Roscommon. Henry Talbot of Templeogue and John Talbot of Malahide both received their allotments in Roscommon, Henry on 2,593 acres and John on 3,189. The earl of Westmeath received the largest allotment of any transplanter, with 5,909 acres in Galway and 5,179 in Roscommon. Smaller allotments were given to Edmund Walsh (58 acres) and Thomas Denn (285 acres) in Galway, and to John Caddle (519 acres) in Roscommon and James Aylmer (239 acres) in Clare. John Talbot of Belgard is also listed in one source as a transplanter,¹ but his name does not appear in the Headfort set of Books of Survey and Distribution as having been settled on any lands in Connaught or Clare under the Cromwellian settlement. Moreover, Talbot is included in the Act of Settlement of 1662 as an 'ensignman', having served under the king's flag during the royal exile.² Furthermore,

1. H.M.C. Ormond MSS, ii, 175.

2. See below, p. 112

1. B. Jennings (ed.), The wild geese in Spanish Florida, 1565-1720, p. 440.

he is reported in 1660 as being on the continent, acting as an infantry officer in the duke of York's regiment.¹ It seems likely that Talbot, having been assigned lands as a transplanter, finally decided, instead, to go into exile. Only three of the transplanted proprietors from Wicklow received any substantial estates in the west. Sir Thomas Esmond was allotted 3,089 acres in Galway and 2,054 in Mayo; Sir Robert Talbot got 3,584 acres in Roscommon and 2,281 in Mayo, and Peter Wickham was given 826 acres in Galway. Only two old Irish catholic landowners from Wicklow were allotted lands as transplanters. Brian O'Byrne got 378 acres in Mayo and 369 in Galway, and Cahir O'Toole got 500 acres in Galway.

What of the fate of the other catholic proprietors from the two counties? A surprisingly large amount of land held by catholics in Dublin was never sequestered. The Books of Survey and Distribution contain numerous entries to the effect that various catholics were able to obtain decrees of 'constant good affection' from the Commonwealth government. It is seldom possible to ascertain

1. B. Jennings (ed.), The wild geese in Spanish Flanders, 1582-1700, p. 440.

the reasons why they were able to earn these favourable decrees, although their proximity to Dublin city obviously offered them greater opportunity to perform services in behalf of the parliamentary party than would otherwise have been the case. Robert Usher, for example, had acted as an informant for the parliamentary forces shortly before the battle of Rathmines by 'daily informing Michael Jones of the transactions in the [royalist] camp ---'.¹ Usher, as a catholic, doubtless was able to gain access to the royalist camp without arousing suspicion. John Connell, whose estate in Castleknock barony was absorbed into the Phoenix park after the restoration,² escaped sequestration because of his 'good faith with the commonwealth', about which mention was made in 1655.³ Besides Usher and Connell, decrees of 'constant good affection' were issued to Edward Taylor, James Barnewall of Dombroe and James, Martin, and Robert Dillon. Barnewall and Connell may have escaped sequestration by claiming to be protestants. Both are classified as catholics in the Books of Survey and Distribution

1. Cal. S.P.Ire., 1660-62, p. 121.

2. See below, p. 241

3. B. M. O'Connell, O'Connell family tracts, no 1, p. 20.

but as protestants in the Civil Survey.¹ It is not certain whether Katherine Strong, James May and James Humphries also received decrees of 'constant good affection'; the Books of Survey and Distribution only indicate that their estates were not sequestered. By judiciously ingratiating himself with Cromwell, Oliver Fitzwilliam, the son of Lord Merrion, was allowed by the Protector to live quietly on his Irish estates during the Interregnum.² Taken together, therefore, by one means or another the catholic proprietors in Dublin were allowed to retain at least 6,000 acres in the county during the Commonwealth era. There is no evidence that any catholic proprietor from Wicklow avoided sequestration.

Of the remaining catholic proprietors, some of the more prominent-like Sir Richard Bealings - joined the royal court in exile. Others served as officers under the king's assigns abroad. The services of most of these proprietors were later acknowledged in the Act of Settlement of 1662, and included Nicholas Plunket, John Talbot of Belgard, Christopher Russell, John Harold and

1. Simington, Civil survey, vii, 218, 247.

2. For fuller particulars in the case of Fitzwilliam see below, p. 140.

Sir William Talbot.¹ There were probably numerous members of the minor gentry from Dublin and Wicklow who served in continental armies during the Interregnum. By 1652 the Commonwealth government, in order to rid the country of large bodies of catholic soldiers, was actively assisting the commanders who had surrendered to take their troops abroad for service in other countries. By January 1653 the parliamentary commissioners reported to parliament that some 13,000 Irish soldiers had been transported to Spain alone, often in ships provided by the Commonwealth.²

Under the Act of Satisfaction of 1653 Dublin had been designated as one of the counties which was reserved for the disposal of the government, and within the county Castleknock barony was selected to be set aside to satisfy the claims of maimed soldiers and widows and orphans.³ In 1654 Coolock and Balrothery baronies were added for the same purpose,⁴ but there is no evidence that any of the three baronies were ever employed for this purpose. Indeed, later the same year it was recommended to Cromwell

1. See below, p. 112.

2. Jennings, Wild geese in Flanders, p. 608.

3. Firth and Rait, Acts and ordinances, ii, 726-7, 736.

4. R. Dunlop (ed.), Ireland under the commonwealth, ii, 519.

that the three baronies should instead be sold for 'ready money', and the cash realized from the sale to be used to meet the claims of the orphans, widows and maimed soldiers.¹ In fact, most of the more desirable forfeited estates in the three baronies were granted, as they were in the county as a whole, to influential Cromwellians or new English protestants who had performed valuable services for the parliament. George King's estate at Clontarf was granted to John Blackwell, a favourite of Cromwell, who had adventured £2,350. Blackwell, who acted as a treasurer at war under the Commonwealth, was mentioned by name in the instructions to the Act of Satisfaction of 1652, to be satisfied out of lands 'of his choice' in Dublin, Kildare and Cork.² He later assigned his interest in Clontarf to John Vernon, whose son, Colonel Edward Vernon, held the estate at the restoration.³ The valuable manor of Artaine which, like Clontarf, was in Coolock barony, was set out during the Interregnum to Sir Theophilus Jones, an important new English figure who had rendered valuable service for the parliamentary cause

1. Ibid., p. 453.

2. T. Larcom (ed.), History of the Cromwellian survey of Ireland, A.D. 1655-56, p. 381. Firth and Rait, Acts and ordinances, ii, 753.

3. Cal. S.P. Ire., 1660-62, p. 60.

during the wars. Jones was granted 3,437 acres in Dublin, including, besides Artaine, the former Sarsfield estate of Lucan, and Grange Portmarnock, held in 1641 by Walter Plunket. He also occupied lands once held by Luke Dillon, Philip Conran, John Talbot of Malahide, George Blackney and Rowland Archbold.¹ John Talbot's ancient seat at Malahide, also in Coolock barony, was occupied by Miles Corbet, the regicide. Dr. Abraham Yarner, a physician, was in possession of Thomas Russell's estate in Swords.² In 1649 the Dublin corporation granted to colonel Michael Jones, a parliamentary commander and a brother of Sir Theophilus, the former estate of James Bath in Clonturke parish. Michael died six months later and the estate, which included the manor of Balgriffin, passed to his sister, who still held it in 1653.³ John Burnisten, who came to Ireland in 1656 as a commissioner for stating the accounts for the army, was given the former Gough estate of Sutton on the Howth peninsula.⁴ The vital stronghold of Dunsaghly castle, also in Coolock barony, was already in the hands of Sir Henry Tichbourne,

1. Inq. cancell. Hib. report., I, 2, 6-Car. II (6).
2. Simington, Civil survey, vii, 28, 50. E. McLysaght, Irish life in the seventeenth century, p. 444.
3. Calendar of ancient records of Dublin, iii, 478-80.
4. Cal. S.P. Ire., 1647-60, pp. 618, 845. Burniston in 1662 was described as a cousin to Sir Heneage Finch, then English solicitor-general, later (1674) lord chancellor. Cal. S.P. Ire., 1660-62, p. 550.

by way of mortgage, before 1641. Tichbourne, who was largely responsible for directing the defence of Drogheda in the early months following the outbreak of the rebellion,¹ was to hold Dunsaghly until his death in 1667.²

There is no evidence that Balrothery or Castleknock baronies, either, were ever employed for the purposes for which they were intended in the Act of Satisfaction. Sir Charles Coote, the son of the military commander of the same name who had carried out the infamous expedition into Wicklow,³ was in 1658 granted lord Gormanston's chief seat in Gormanstown, county Meath, which included 735 contiguous acres in Dublin.⁴ Audley Mervin, who had led the committee that prepared the articles of impeachment against four members of Strafford's administration in 1641,⁵ was in possession of 1,270 acres in Balruddery barony in 1660, and Colonel Alexander Staples, a new English protestant who had held a command in the royal army before 1641,⁶ occupied 608 acres in the

1. H.M.C. Ormond MSS, n.s., ii, 9.

2. See below, p.147.

3. Coote the elder died in battle in May 1642.

H.M.C. Ormond MSS, n.s. ii, 121.

4. See below, p.153 (n).

5. Kearney, Strafford in Ireland, p. 211.

6. Cal. S.P. Ire., 1647-60, pp. 288-9.

same barony.¹ Luke Netterville's former estate in Palmerston and Donabate parishes was granted to the widow of Sir Symon Harcourt.² Some years after the restoration an inquisition revealed that Major General Edmund Ludlow, the regicide, had been in possession of nearly 3,000 acres in Dublin on 7 May 1659, of which about 1,100 acres lay in Balrothery barony.³ In Castleknock barony several of the more desirable estates were set out to individuals to whom the Commonwealth was indebted. John Hewson, another regicide, was given Symon Luttrell's ancient seat of Luttrellstown,⁴ and Thomas Hooke, an alderman from Dublin city, was given most of Philip Hore's old estate in the county. Hooke, who was also one of the commissioners of the Civil Survey for Dublin, received a grant of Hore's estate in 1650 for providing £948 worth of provisions for the 'Protestant army', the land to be held until the loan, plus interest,

1. See below, p. 233.

2. Simington, Civil survey, vii, 50, 53.

3. See below, pp. 208.

4. Prendergast, Cromwellian settlement, p. 108.

had been repaid. By 1657 the principal had been paid to Hooke but the interest had accumulated to £806, nearly equal to the amount of the original loan. In September of the same year, therefore, Hooke was given a twenty one year lease, including the manor of KILLSAGHAN, of 1,059 acres of Hore's land.¹

In the other baronies of the county the land was also given over to influential Cromwellian and new English figures. Besides the Clontarf estate, John Blackwell was also granted Henry Talbot's manor at Templeogue in Newcastle and Uppercross barony. Blackwell sold this estate, before 1660, to Sir John King, who held it at the restoration.² A Mrs. Sarah Burton and her son, Henry, received a grant from the parliament in 1657 of 1,058 acres 'in lieu of £200 that was ordered out of delinquents' estates in England'. Forfeited lands in Newcastle barony, once belonging to Symon Luttrell, Limerick Nottingham, and Henry Segrave, were given to Mrs. Burton.³ The 240 acres estate of

1. W. H. Hardinge, 'On manuscript mapped and other townland surveys in Ireland of a public character, 1640-1688', in *R.I.A. Trans.*, xxiv, 46 (1862). *Cal. S.P. Ire.*, 1647-60, p. 664. *Carte MSS*, xxxiv. f. 473.
2. *Cal. S.P. Ire.*, 1660-62, p. 286.
3. *Lodge, Patents*, vi, 441.

Ballogh in Nethercross barony, formerly the property of James Bermingham, was occupied by a Cromwellian officer named Henry Smith,¹ and Sir Jerome Sankey, one of Cromwell's more effective military commanders and later governor of Tipperary,² occupied the Cabrah¹ estate of the Segrave family in the same barony.³ The heirs of Colonel Robert Hammond, who had been the custodian of the captive Charles I in the Isle of Wight in 1648,⁴ received a grant of 1,994 acres, worth £600 a year, consisting of lands which had been held in 1641 by George Blackney, Bartholomew Russell, Lawrence Bealings, Patrick Barnewall, Nicholas Barnewall and Thomas Conran.⁵

The Commonwealth government also reserved for its own use all church lands and tithes, and directions were issued that these lands were to be carefully distinguished and set aside in each county and barony.⁶ In Dublin, however, it had earlier been provided, by an act passed on 8 March 1650, that the lands of the archbishop of

1. Simington, Civil survey, vii, 131. See also below, p. 219.
2. R. Bagwell, Ireland under the Stuarts, ii, 356-7.
3. Cal. S.P. Ire., 1660-62, p. 39.
4. C. V. Wedgwood, The trial of Charles I, p. 25.
5. Lodge, Patents, vi, 432-3.
6. R. Dunlop, Ireland under the commonwealth, ii, 578.

Dublin and the lands which had belonged to the Dean and Chapter of St. Patrick's Cathedral were to be vested in trustees for the 'settling and maintaince of --- Trinity College ---'.¹ The land involved amounted to some 7,130 acres, of which 6,450 acres had been held in 1641 by the then archbishop, Lancelot Buckley. The fact that the Cromwellian re-endowment of the college was actually carried out under the terms of the act of 1650 is substantiated by reference to several entries in the Books of Survey and Distribution, one of which provides the information that 283 acres of archepiscopal land in Uppercross barony had been 'given by his Highness [i.e. Cromwell] to Dublin colledge', and another which describes 1,340 acres in Clondalkin parish in Newcastle and Uppercross barony as being formerly 'Bishopslands now belonging to the Colledge of Dublin ---'.²

In Wicklow, meanwhile, the old Irish clans had finally been effectively subdued for the first time since the Norman conquest.

1. Firth and Rait, Acts and ordinances, ii, 355-7. 'An act for the better advancement of the gospel and learning in Ireland'.
2. Books of survey and distribution, pp. 20, 40. The entries also appear in the Down survey maps for the two baronies.

3. *Ibid.*, pp. 191-3.

4. Firth and Rait, Acts and ordinances, ii, 933-7. 'Indemnity of the English protestants of the province of Munster', 27 June 1654.

Under the provisions of the Act of Satisfaction of 1653 Wicklow was assigned for the satisfaction of the arrears of the so-called '49 men',¹ which in 1653 referred to the protestant officers who had fought in the interests of the parliament under Michael Jones, Sir Charles Coote and George Monck before 5 June 1649.² In 1654, however, the 'old protestant army of Munster' that had rendered the towns of Cork, Youghall, Kinsale and Bandon to Cromwell in late 1649 also claimed satisfaction for their arrears. But because these garrison towns, under Inchiquin, had changed sides several times during the wars, the officers were liable to transplantation, and at best could only hope to obtain decrees of 'good', and not 'constant good affection'.³ In June 1654, however, at Cromwell's instigation, an act was passed providing for the indemnity of these officers, but only after they had first proved, by examination, that they had been active in rendering the four towns to the parliament.⁴ Wicklow was selected for their satisfaction, but as a result of the delay caused by the examinations the officers had still not received their allotments at

1. Dunlop, Ire. under Commonwealth, ii, 579.

2. Prendergast, Cromwellian settlement, pp. 187-8. The date marks the day on which the first order of the council of state in England was issued for the transporting of English troops into Ireland.

3. *Ibid.*, pp. 191-3.

4. Firth and Rait, Acts and ordinances, ii, 933-7. 'Indemnity of the English protestants of the province of Munster', 27 June 1654.

the time of the restoration.¹

Although it had not been the intention of the Commonwealth to extirpate, or even to transplant, the entire peasant population of Ireland, it was decided, in 1654, that an area consisting of all lands in Dublin to the south of the river Liffey, together with Wicklow, Wexford, Kildare and Carlow (later known as 'the five founties') was to be formed into an exclusively protestant plantation, to counterbalance the catholic plantation in Connaught and Clare. From these 'five counties' all catholics, without exception, were to be transplanted by mid-1655.² But before the deadline arrived the proprietors in the region to be affected, faced with the prospect of losing their tenants and servants, had petitioned the government against the measure.³ As a result, the clearing of the catholics was postponed, and eventually permission was given to the proprietors to retain a small number of catholic tenants, proving that certain regulations regarding their religious conformity were fulfilled.⁴ Although there is no evidence that any

1. Prendergast, supra, pp. 193-4.

2. Ibid., p. 269.

3. Dunlop, Ire. under Commonwealth, ii, 486.

4. Prendergast, op.cit., pp. 270-1.

large scale uprooting of the catholic cottager class actually occurred, the proprietors seemed to have at least felt the need to comply with the letter of the law. As late as 13 April 1659 Dr. Abraham Yarner, who had got a grant of forfeited land in Newcastle barony, petitioned the government for permission to retain seventeen of his catholic tenants and servants. Permission was duly given, providing that Yarner did his best 'to see that they [the catholics] do frequent the public place of God's worship, be conformable to the English in their habits, and that their children be instructed in the English tongue ---'.¹

It is quite certain that no catholic proprietor in Wicklow escaped sequestration under the Cromwellian settlement, which meant that a total of over 99,000 acres in the county became available for a new plantation. This figure includes the 11,561 acre Esmond estate,² but does not include the great 54,000 acre Wentworth estate,

1. Dunlop, Ire. under Commonwealth, II, 694-5.
2. See above, p. 55 (n).

which was not forfeited. After Wentworth's attainder in 1641 his estate was automatically vested in the king and later granted to trustees, to the future use of William, Wentworth's only son, then a minor. William spent some time on the continent but returned to England during the Interregnum and seems to have accommodated himself to the government, living an inoffensive and peaceful life in London.¹

The sources do not permit a very satisfactory study of the Cromwellian land settlement in Wicklow. It would appear, however, that about 85,000 forfeited acres in the county were allotted to the '49 men and the remainder to a few favoured individuals. The vast Esmond estates in Wicklow, Wexford and Carlow were granted to general Monck,² and the above mentioned Dr. Yarner occupied 825 acres in Newcastle barony. But these references are rare, and it seems probable that the plantation of the county, disrupted as it was by a certain amount of vacillation in government policy, was not far advanced at the time of Cromwell's death in 1658.

1. C. V. Wedgwood, Thomas Wentworth, first earl of Strafford, 1593-1641: a revaluation, pp. 393-4.
2. Cal. S.P. Ire., 1647-60, p. 802.

During the anxious months between the Protector's death and the restoration of Charles II, in May 1660, the exiled or transplanted catholic proprietors began drifting back to their old estates. The so-called Census of Ireland, Circa 1659, which may have been compiled for purposes of taxation,¹ shows at least twenty-five catholic proprietors from Dublin back in the county shortly before the restoration, including three - John Arthur, Luke Dillon and Thomas Luttrell - who had been transplanted.² But of the twenty-five proprietors, nearly half are reported to be resident on estates which they had not held in 1641. John Arthur is listed as the 'titulado'³ in Roganstown in Nethercross barony, which before the rebellion was held by Lord Barnewall and Thomas Fitzsymons; John Hollywood of Artaine is entered against the manor of Kinsaley in

The return of the catholic proprietors in 1660

1. S. Pender (ed.), Census of Ireland, circa 1659, pp. v. There are no entries for Wicklow in the census.
2. Ibid., pp. 383, 388, 391.
3. Ibid., p. v. The term 'titulado' is defined by the editor as 'the principal person or persons of standing in any particular locality'. Dr Simington, however, holds the view that the census represents only a return of those individuals who were liable to a poll tax, and was probably compiled in early 1660. He has also defined the term 'titulado' as referring to 'persons holding title of honour, viz., dukes, earls, esquires, or titles of office, professions or calling - mayors, aldermen, doctors, lawyers'. R. C. Simington, 'A census of Ireland, c. 1659', in Analecta Hibernica, no 12, pp. 17-18 (1943).

Coolock barony, the chief seat, in 1641, of the Goulding family; John Jordan, whose principal estate in 1641 was in Wethercross barony, is reported in 1659 to be living in Tirrelstown, in Castleknock barony, once the property of Sir Henry Bealings; and Christopher Russell is stated to be living on Lord Barnewell's manor of Gracedieu, in Balrothery barony.¹ It is likely that some of the catholics were only residing temporarily on these estates, having found, on returning to Dublin, that new English or Cromwellians were in possession of their old estates. The fact that so many of the former catholic proprietors are to be found back in Dublin suggests that the Census was probably taken in very late 1659, or even early 1660, at a time when a few of the Cromwellian occupants may have found it judicious to remove themselves from Ireland.

The return of the catholic proprietors in 1659 and 1660 naturally caused apprehension among the Cromwellians. Apparently some of the catholics were imprisoned. Nicholas French, writing only eight years after the restoration, stated that 'Broghil [Roger Boyle]

1. Ibid., pp. 383, 385, 388, 391.
 2. J. Harris (ed.), A collection of state letters of James Boyle, 1641-1652, Dublin, 1852.
 3. R. Cox, *Historical Annals*, ii, 3. Cox was appointed lord chancellor of Ireland in 1703.

and [Sir Charles] Coote --- convoqued a convention [in early 1660] of persons newly interested in that Kingdom, to consult the best and safest course that might be taken to prevent the restoring of the Irish Cavaliers to their estates ---; various gentlemen were imprisoned'.¹ Although Boyle later denied that any returned transplater from Munster had been committed, he understood that 'some men in the two other provinces were committed on that score ---'.² Some of the dispossessed catholics probably forcibly repossessed their old estates before the restoration, or at least attempted to do so. Richard Cox, writing in 1689, claimed that 'this grievance [among the Cromwellians] was so general that the Convention [of 1660] was necessitated on the 20th of May 1660, to issue a Declaration for preserving the peace and quieting possessions ---'.³ It was the primary purpose of the convention of 1660, however, now that Charles was to be restored, to formulate

1. N. French, A narrative of the earl of Clarendon's settlement and sale of Ireland, p. 2. French was appointed catholic bishop of Ferns in 1646. He was a supporter of Rinuccini, and opponent of Ormond, and, in 1647, was sent by the Confederacy to Rome (with Nicholas Plunket) to solicit assistance from Innocent X. He never returned to Ireland, dying at Ghent in 1678. D.N.B., VII, 427-8.
2. T. Morrice (ed.), A collection of state letters of Roger Boyle, the first earl of Orrery, i, 96. Orrery to Ormond, 26 Feb. 1662.
3. R. Cox, Hibernica Anglicana, ii, 3. Cox was appointed lord chancellor of Ireland in 1703.

plans for the preservation of the Cromwellian settlement
in the country.

1. V. L. Sackee (ed.), *The History of Ireland*, vol. 1, p. 69.

V. The Scheme of the Restoration

Land Settlement to 1662

It was recognized on all sides that the restoration of Charles II would mark the start of a political struggle, the outcome of which would involve, ultimately, the ownership of the land of Ireland. Even before the restoration, in April 1660, the general convention of Ireland, led by Broghil and Coote, had dispatched two representatives (Sir John Clotworthy and Sir William Aston) to attend the English parliament and protect the Cromwellian interest in Ireland.¹ The Cromwellian party were anxious that nothing would be done by the parliament which would allow the dispossessed old Irish and old English catholics to recover their estates. They were particularly worried least an act of indemnity and oblivion, then being drawn up by the English parliament, might be so extensive as to include the former catholic landowners of Ireland in its benefits. Lord Aungier reported to Ormond on May 22 that

1. W. L. Sachse (ed.), The diurnal of Thomas Rugg, 1659-1661, p. 68.

2. State Papers, xiii, f. 667.

3. Gilbert, Confederation and War, vii, 188-89.

4. Cobbett, Parliamentary History of England, iv, 15-16.

a knot of commissioners from Ireland were attending parliament, who being concerned --- in the new purchases there, refuse to think themselves secure in a parliament which shall be called in Ireland --- except they can exclude out of the act of indemnity --- all those who have had any hand in the rebellion: under which notion they would comprehend promiscuously all --- of the popish religion who have been either sequestered or in arms. This work is driven hard.¹

The 'knot' of commissioners referred to by Aungier included some of the most prominent and influential of the Cromwellians, including Broghil, Coote, Clotworthy, Sir Theophilus Jones, Sir John King, Sir Audley Mervin and Sir George Rawdon.

Hopes ran high at the restoration among the dispossessed catholic proprietors. The peace concluded in 1648 between Charles I and the confederate catholics had, besides granting a full pardon, expressly provided that all catholics who submitted to the articles in the treaty should be restored to their respective possessions, and that all treasons and other offences committed since 1641 should be covered by an act of oblivion.² Furthermore, the king's declaration from Breda, in May 1660, had promised a general pardon to all his subjects, excepting only those excepted by parliament.³

1. Carte MSS, xxx. f. 667.

2. Gilbert, Confederation and war, vii, 188-89.

3. Cobbett, Parliamentary history of England, iv, 15-16.

The catholic party, meanwhile, had not been idle. Agents representing their interests were in London several months before the king's arrival. A petition directed to the earl of Ormond, then in Breda, from the 'Irish catholic agents in London', requesting justice for their co-religionists, was dispatched on 6 May 1660. Most of the twenty signatories were dispossessed lords and gentry of the Pale, including lords Netterville, Barnewall and Fitzwilliam, together with John Seagrave and Nicholas Plunket.¹

Even while it was recognized by most parties that Charles would be obliged in some manner to acknowledge the claims of a few of the catholic magnates, the realities of the situation did not warrant the rather naive optimism which the catholics entertained. Charles in fact had written to Coote in March 1660, declaring that 'whatever you shall promise and undertake in my name and on my behalf, that is in my power to perform --- I do give you my --- word to make good'.² While this commitment by Charles to maintain the Cromwellian settlement - for that is what

1. Carte MSS ~~X~~, xxx. f. 626.

2. Ibid., f. 557.

his letter really implied - may have appeared reassuring to the new settlers as a whole, it should be remembered that the dispossessed catholic proprietors of the Pale, and county Dublin in particular, represented the most influential portion of the old land owners who were then flocking back to London with the restored king. Chief among them was Richard Talbot, the son of William Talbot of Carton, county Kildare. Richard had been taken into the duke of York's household in Flanders during the royal exile and had become a great favourite of the duke. 'His credit and power with the duke --- were well known', said Carte.¹ It was to Talbot that the catholic party turned as their chief spokesman.

The catholic interest, however, suffered a parliamentary defeat in August when the royal assent was given to the act of indemnity and oblivion, excluding from its benefits 'any person who had any hand in the plotting, contriving, or designing, the --- rebellion of Ireland (other than such as by another act intended to be passed, shall be therein named) --- nor to cause to restore

1. Carte, Life of Ormond, ii, 296. P. Sergeant, Little Jennings and fighting Dick Talbot, i, 83-86.

2. Clarendon, Life of a contemporary, part 1, 50-1.

any person (other than - Ormond - and other the protestants of Ireland) and their heirs - any estate - in England, or Ireland - '.¹ The prescription of the catholics did not go unnoticed in France. Louis XIV, through his envoy Ruvigny, expressed to Charles, 'partly out of compassion and partly for the affront done him as guarantor for the peace of 1648 ---',² his concern for the fate of the excluded catholics.

The king, meanwhile, was being inundated with petitions from the dispossessed catholic landowners. Within six months after his restoration virtually all the old proprietors from Dublin and Wicklow had submitted such petitions. 'The king', said Clarendon, 'had been exposed to all manner of importunities, received all mens addresses, and heard all they would say, made many promises without deliberation, and appeared desirous to satisfy all men, that he was irresolute in all things'.³

1. 12 Car. II, c. 11.

2. Gilbert, Jacobite Narrative, p.12. Louis XIV's connection with the treaty of 1648 is also illuminated in a source from the Vatican propaganda archives, in 'Collection scritte riferite nei congressi, Irlanda', published in Collectanea Hibernica, nos 6 and 7 (1963-4), p.57. The transcription reads: '- - - the said articles [of the peace] of 1648 --- were concluded and agreement with the catholics established through the intervention of his most christian majesty. The king of France had his ambassador in London present to the English king a letter dated 7 September 1660 in which he exhorted king Charles to observe the said articles ---; but the duke of Ormond and the lord chancellor (Clarendon), because of their anti-catholic bias, have - prevented [it] from being - granted; ---'.

3. Clarendon, Life: a continuation, part i, 56-7.

A spate of royal letters, calling for the restoration of many of the catholic proprietors, flowed into Ireland. The confusion was compounded by royal directives calling for grants to be given to court favourites and eminent Cromwellians. One such letter, of February 1661, called for reprisals for any lands taken from lords Masserene and Kingston and Sir George Lane and Sir Audley Mervin to be made in Castleknock barony, county Dublin.¹ Kingston in fact received several such letters, one of which directed the lord chancellor to convey to him the old Hollywood family manor of Artaine in Coolock barony, 'with 1,500 acres about it'.² Another letter ordered the lord chancellor to direct the surveyor-general to survey and return the lands then held by the king in the baronies of Coolock, Newcastle, Uppercross and Balrothery, all of which lands were to be set out to Kingston in custodiam.³ The cause of much subsequent litigation was the custodiam grant issued in February 1661 to Sir Maurice Eustace, the old lord chancellor, of all the forfeited lands in Rathdown half barony, county Dublin, with the exception of those lands which had been set out during the Interregnum to John Jones and Edmond Ludlow.⁴ Eighteen months later

1. Cal. S.P.Ire., 1660-62, p. 234.

2. Ibid., p. 284.

3. Ibid., p. 509. A custodiam is a temporary grant.

4. Ibid., p. 232.

Eustace was granted 1,500 acres in the same barony, including the old Harold family estate of Kilmackeoge, the old Woolverton estates of Stillorgan, Little Newton and Leopardstown, together with the former Archbold estate of Kilmacud and the Walsh estate of Prompston.¹

Many of the royal instructions were contradictory and irregular, leaving the impression that there was no equitable or systematic method of issuing the letters and grants. One such letter was issued in early 1661, calling for the restoration of the earl of Meath to the manor of Loughlinstown in Rathdown half barony, county Dublin, the earl's father (then dead) having had a claim on the estate since before the rebellion. Several months later another royal letter arrived, complaining that the order had not been carried out: 'You shall execute these orders at once', the directive read, 'in spite of anything which you may have from us to the contrary'. Shortly thereafter the lords justices replied that they could not comply with the order, 'inasmuch as it [i.e. the estate] was before given by grant under the great seal to Sir William Domville, the king's attorney-general'.² Indeed, the king had written to the general convention of Ireland,

1. Cal. treas. bks, v, part 2, 884-5.

2. Cal. S.P. Ire., 1660-62, p. 309.

in January 1661, declaring that despite his royal letters it had not been his intention to prejudice the Cromwellian settlement: 'We leave it wholly to your discretion to govern yourselves in complying with those letters as you shall find it expedient, --- certifying us from time to time the reasons for which you think not to cause grants to be made according to our letters'.¹ In view of this policy it is scarcely surprising that the Cromwellian settlement was hardly disturbed in the year following the restoration.

Of course in cases where an estate had been occupied during the Interregnum by a regicide the restoration of the former proprietor presented less difficulty. Such was the situation which resulted in the early restorations of John Talbot to Malahide, Walter Cheevers to Monkstown and Thomas Luttrell to Luttrellstown, all in county Dublin. Ormond's exalted position also earned him early restoration in county Dublin. Sir William Flower, who seems to have acted as the earl's land agent in the year following the restoration, reported that all of Ormond's lands in the county were back in his possession by October 1660.² Aside from

1. Sachse, Diurnal of Rugg, pp. 144-5.

2. H.M.C., Ormond MSS, n.s., iii, 7.

those exceptional cases, however, most of the old catholic proprietors found it very difficult to dislodge the Cromwellian settlers. In some cases the sheriffs refused to execute the warrants calling for the return of the catholic owner; in other cases the occupant simply refused to obey the order to vacate the estate.¹ In several instances the occupants were not, strictly speaking, Cromwellian planters, but grantees who had received the land by virtue of grants given by Charles I, based upon the attainders of 1641-2. Luke Bath, for example, got an order for his restoration late in 1660, but Robert Hanna claimed the estate, including the manor of Balgriffin in Coolock barony, by grant from Charles I, based on the outlawry of Luke's father.² Charles, Lord Lambert, was in 1647 granted Artaine, the old Hollywood family estate in the same barony, following the attainder of Nicholas Hollywood in 1642. Richard and Oliver, Lambert's sons, petitioned for a confirmation of the grant at about the same time that John Hollywood, son of Nicholas, was also petitioning to be restored on the grounds that his father come in on the articles of the

1. Cal. S.P.Ire., 1600-62, pp. 214, 351-2.

2. Ibid., pp. 75-6.

peace of 1648. Furthermore, John presented certificates to prove that four of his brothers had been killed while fighting in the king's forces.¹ Even the royal favourites who got grants met with stiff resistance. Sir George Lane, Ormond's private secretary, received a grant in late 1660 of Philip Hore's former estate of Kilsaghan in Castleknock, County Dublin. Lane was still not in possession in May 1661, however, because Thomas Hooke, the Cromwellian occupant, was claiming the estate by right of his grant from the Commonwealth.² Clearly, the Cromwellian interest had every intention of standing fast until a new land settlement, which they had every reason to believe would be favourable to them, had been agreed upon and sanctioned by parliament.

The settlement finally agreed upon, the so-called 'Gracious Declaration of 30 November 1660',³ was in fact a statement of intent for the settlement of the country.⁴ Carte maintained that the Declaration was issued after Clotworthy (now Lord Masefield), Broghil (now Lord Orrery)

1. Ibid., pp. 136, 214.

2. Cal. S.P. Ire., 1660-62, p.344. See also below, p. 166.

3. 14 and 15 Chas II, c.2.

4. Carte MSS, lxvi. f. 6. Ormond declared that the Declaration was a 'temporary compliment or signification of good intended'.

and Sir Andley Mervin had persuaded the king that the supply of forfeited land was ample enough to satisfy all classes of claimants.¹ This view is substantiated by Lord Chancellor Eustace, who declared, four months after the Declaration was issued, that although the king had had good intentions towards the dispossessed catholics there had been 'too much abuse by some who carried on the declaration by making His Majesty believe that there was lands enough forfeited to reprise the adventurers and soldiers and great surpluses for himself to dispose of ----'.² With the Declaration came a long and involved act of instructions containing seventy two clauses which, after some modification, was later to be embodied in the Act of Settlement of 1662. The Declaration itself, which sets out the general principles upon which the land settlement was to be based, provided that the soldiers and adventurers were to be confirmed in the lands they possessed on 7 May 1659, with the exception of, (1) lands they had got illegally, (2) church lands, which were to be restored immediately, (3) lands of those individuals excepted from the act of indemnity of 1660, and (4) the lands of 'innocent papists' who could 'prove themselves to

1. Carte, Life of Ormond, ii, 215.

2. Eustace to Sir George Lane, 17 April 1661, Lane papers, N.L.I., MS 8643 f. 1.

have been faithful and loyal unto, and never acted against our royal father or ourself since [22 October 1641]. The '49 officers were to receive satisfaction out of the undisposed forfeited lands in counties Wicklow, Longford, Leitrim and Donegal, and out of similar lands in Connaught and Clare, within a mile of the river Shannon (the 'Mile Line').¹ The few protestants who had been dispossessed of their estates were to be restored 'forthwith', and the soldiers and adventurers who were removed to accommodate them were to be 'reprised' (i.e. compensated) with lands of equal value elsewhere. Catholics who could prove themselves 'innocent' were to be restored, and the soldiers and adventurers removed for the purpose were to be 'forthwith' reprised. If the innocent catholic had accepted lands in Connaught or Clare as a transplanter he was first required to surrender those lands to the king before being restored to his old estate. If he had sold the land in Connaught he was to repay the purchase money to the purchaser; the person restored to the Connaught land was to pay the purchaser the

1. After the restoration the term '49 interest' referred to those protestant royalist officers who, having served under Ormond until 5 June 1649, had subsequently received no satisfaction for their arrears under the Cromwellian settlement. Prendergast, Cromwellian settlement, pp. 187-8.

difference between the purchase price and any improvements which might have been made on the estate. Thirty eight individuals, called 'proviso-men', were named as especially meriting the king's favour and were ordered to be restored without having to be put to further proof of their innocence. To these thirty eight were added several hundred 'ensignmen' who had served the king overseas and were also ordered restored (if they had not sued out decrees for lands in Connaught or Clare), but only after the adventurers and soldiers who were to be displaced for the purpose had first been reprised. Finally, an order of precedency for restoration was established, whereby the first to be restored were to be all innocent protestants, followed by innocent catholics who had taken no lands in Connaught or Clare, followed by innocent protestants and catholics who had taken out such decrees. Last to be restored were to be the ensignmen. The Declaration also provided for thirty six commissioners to execute the settlement, all but one of whom (Sir James Barry) was either Cromwellian or new English by ancestry.

Although the Cromwellian party appears to have been quite satisfied with the provisions of the Declaration, the catholics certainly were not, for the qualifications of an innocent catholic were made very strict.

'No man was to be restored as an innocent papist',
says Carte,

who at or before the cessation of
September 15 1643, was of the rebels'
party, or enjoyed his estate --- in the
rebels' quarters ---, or who had entered
into the Roman catholic confederacy before
the peace of 1646. Whoever had at any
time adhered to the nuncio's party ---;
whoever derived the title to his estate
from any that died guilty of the aforesaid
crimes, or pleaded the articles of the
peace for his estate, or living in the
English quarters held correspondence with
the rebels; whoever before the peace in
1646, or that of 1648, sat in any confederate
Roman catholic assemblies or councils ---;
whoever employed agents to treat with any
foreign power for bringing into Ireland
foreign forces, or acted in such
negotiations, --- was not to be deemed an
innocent papist.¹

The commissioners, applying a literal interpretation
to the Declaration, soon found that the stock of land
available for distribution was exhausted. Furthermore,
it was discovered that the commissioners were in no
position to administer the Declaration on an impartial
basis, since many of them had a personal interest in the
very lands about which they were being asked to adjudicate.²
Even more important, however, was the fact that the
legality of the Declaration itself was being called into

1. Carte, Life of Ormond, iv, 40-1.

2. Ibid., p. 40.

question. Lord chancellor Eustace, four months after its publication, stated that the work of the commission was at a standstill, the commissioners 'not knowing what course to take, having no rule of law to go by but His Majesty's Declaration, which, as they say, is not warranted by law, for they take it for granted that His Majesty has no legal title to any lands in Ireland but to such who have been indicted and --- outlawed'.¹ The result of the apparent illegality of the Declaration was that in the year following its publication few, if any, claims were submitted by either catholic or protestant claimants. It was finally agreed that in order to legalize the Declaration an act of parliament would be required. With this in mind the draft of a new bill, based on the Declaration, was hurried through the Irish house of commons in the summer of 1661. It was sent into England, followed, some weeks later, by agents from both houses of parliament.²

The most trusted adviser to the king on Irish affairs in the years immediately following the restoration was James Butler, created duke of Ormond in March 1661.

1. Eustace to Sir George Lane, 17 April 1661, Lane papers, N.L.I., MS 8643. f.2.
2. Commons' jn. Ire., i, 397 (29 July 1661). Lords' jn. Ire., i, 270 (26 July 1661).

Ormond would seem to have been the person best qualified to act as patron for the catholic party. Though a protestant (the first of his family) Ormond was of ancient and distinguished old English ancestry and the greatest landowner in Ireland in 1641. He had spent ten years in exile with the king, and, according to Carte, 'had a mind to serve the old and great families of the English race --- [who] were now in danger of being extirpated, to make way for a new colony of doubtful affections, who in such case would have no power to ballance them ---'.¹ Nevertheless, the catholic party turned instead to Richard Talbot for leadership. Ormond's relationship to the catholic interest was, in fact, somewhat of an enigma. He undoubtedly regarded many of the Cromwellian settlers as little more than crude interlopers into the long established social structure of the country. Yet he was distrusted by various factions within the catholic party, particularly that segment - mainly Rinuccini's party - which had opposed the peace of 1649. Ormond's relationship with the Talbot family in particular was mercurial, and he certainly disliked, personally, Nicholas Plunket, one of the principal catholic agents.² It was perhaps Ormond's

1. Carte, Life of Ormond, ii, 296.

2. See below, p. 156.

speech in the English house of lords, calling for the exclusion of the catholics from the benefits of the act of indemnity and oblivion,¹ which was the genesis of the antipathy, especially since the king had several days earlier reminded the lords of his debt to Ireland: '--- they alone shall not be without the benefit of my mercy'.²

Although most of the evidence comes from protestant sources, it would appear that in the discussions on the new bill the catholic party presented their case in a most maladroit fashion. Michael Boyle, bishop of Cork,³ remarked that the catholics raised objections 'which contained in it nothing but matter of vindication of themselves and crimination of us, as if the rebellion of Lynster were an act rather enforced on them by a rude multitude out of the North, whose power they could not resist, and by the great suspicion, jealousy and designs of the then Lords Justices, which they knew not how to

1. The report of the speech appears in Gilbert, Jacobite narrative, p. 7. No record of it appears in the Lords' jn.
2. Lords' jn., xi, 189.
3. Boyle became archbishop of Dublin in 1663 and Lord Chancellor in 1666.

evade, rather than by an inclination in themselves; ---'.¹
 To this Hugh Montgomery, earl of Mount-Alexander, agreed:
 'The Irish do themselves more prejudice by justifying
 their innocence, aspersing --- the former and present
 governors of Ireland, and adhering to the benefit of the
 peace [of 16] 48, which they --- have often broken, than
 all any other says against them hurts them'.² The result
 was that the king and council (which contained several
 Commonwealth men) were offended and the catholic cause
 damaged. The Cromwellian agents on the other hand,
 with everything to gain, submitted their case in a most
 abject manner, throwing themselves on the king's mercy.³
 It is patently clear, however, that the manner in which the
 various agents comforted themselves was nearly irrelevant.
 In fact the catholic cause was in general desperate from
 the start. The restored monarchy was henceforth to be
 a limited one and although the king, undoubtedly felt
 sympathetic towards the catholics, the Cromwellian party,
 still strong in England, was predominant in Ireland.
 The atmosphere in which the hearings were conducted has

1. H.M.C., Reginald Rawdon Hastings MSS, iv, 106.
2. Ibid., p. 108.
3. Carte, Life of Ormond, ii, 242.

1. Carte, Life of Ormond, ii, 242.

been described by Carte as one in which 'the English nation had heard nothing of the rebellion but what gave them horror, and possessed them with the worst opinion of the whole Irish nation. Those of the council --- knew little of the conduct of particular persons who deserved favour, but were ready to involve everybody in the general guilt --- The king considered the settlement of Ireland as an affair rather of policy than justice'.¹ If the catholic cause was unpromising at the start of the discussions, it became hopeless towards the end, when two of its principal champions - Richard Talbot and Sir Nicholas Plunket - caused personal offence to the king; Talbot by nearly precipitating a duel between himself and Ormond, and Plunket by being confronted with, and acknowledging the authenticity of, his signature affixed to a document authorizing the offer of Ireland (in 1647) to various catholic foreign powers. Talbot was sent to the Tower, Plunket was banished from the court, and all further addresses from the catholic party to the council were forbidden, following which the royal assent was given to

1. Clarendon, *Life of Ormond*, part ii, 173.

1. Carte, Life of Ormond, ii, 242.

4. Clause iii excluded the lands of several individuals from the power of the vesting clause, including Ormond, the earl of Strafford, together with Sir Richard and

the new bill of settlement.¹

Based on the Declaration and instructions of 30 November 1660, which were embodied in the new bill, the Act of Settlement of 1662² has been called 'so many private bills, which passed with similar formality to that which is usual upon separate proceedings of that nature'.³ Prefixed to the Declaration, and forming a part of the act, was 'An act for the better execution of the - declaration', which provided that all forfeited lands were to be vested in the king,⁴ with the exception of, (1) the lands held by Trinity College, Dublin, (2) church lands, and, (3) the lands of protestants and catholics who proved themselves innocent. The Cromwellian occupants of the lands held by innocent protestants and catholics were to be 'forthwith' reprised with other lands of equal value elsewhere. Much the greater part of the act, however, was given over to the instructions to the commissioners. Here, provision was made for many individual claimants. The act as a whole contains the names of fifty two individuals (some appearing more than once) who were then, or subsequently, concerned with

1. Clarendon, Life: a continuation, part ii, 173.

2. 14 and 15 Car. II, c.2.

3. Mountmorres, The history of the Irish parliament, 1634-1666, ii, 397.

4. Clause iii excluded the lands of several individuals from the power of the vesting clause, including Ormond, the earl of Strafford, together with Sir Richard and Sir George Lane.

estates in Wicklow and Dublin. Among the thirty
 eight proviso-men, mentioned above, appear the names of
 the earls of Westmeath and Fingal, lords Netterville
 and Dunsany, along with Sir Richard Barnewall, Sir
 Richard Bealings and Bernard Talbot, all of whom held
 estates in Dublin or Wicklow in 1641.¹ Among the long
 list of ensignmen who also held estates in one or the
 other of the two counties appear the names of Sir William
 Talbot, John Talbot (of Belgard), Sir Nicholas Plunket,
 Christopher Russell and John Harold.² In the final
 clause of the act, as if it were almost an afterthought,
 the names of several more 'eminent sufferers for their
 loyalty' appear, and their restoration is called for 'as
 fully as lord Netterville and others in the declaration'.
 A few Dublin and Wicklow proprietors appear here,
 including John Talbot (of Malahide), Sir Luke Dillon,
 John Walsh and Luke Bath.³ Ormond was mentioned no
 less than five times in the act, and Sir Maurice Eustace,
 the lord chancellor, was confirmed in all the lands he had
 been granted (by royal directives) before 30 November 1660
 or since 30 November 1660.⁴

1. Clause xxv of the Declaration.

2. Ibid.

3. Clause ccxxv of the instructions.

4. Clauses xliv and cxxx of the instructions.

1. Carte MSS., xxvi, f. 302. 29 August 1661.

While nearly all the catholic proprietors with whom we are concerned were dealt with in groups, many of the new English and Cromwellian figures received individual provisos, some of which need to be singled out. One such proviso was given to Sir George Rawdon, who had before 1641 been private secretary to Lord Conway, a great Ulster planter. Rawdon had also been a royalist officer in Ireland before the rebellion, but, like most of his fellow new English contemporaries, had accommodated himself to the new order after 1649. He does not appear to have been an enthusiastic parliamentarian, however, and he was in close contact with Monck shortly before the restoration. He seems, in fact, to have acted for Monck in some official capacity, for in 1661 Monck (now Albermarle) wrote to Ormond, expressing his concern for Rawdon:

'Major Rawdon - is an old friend of mine and one to whom I am much obliged for the care of my estate in that kingdom, and therefore I desire your lordship if any difficulty arrise concerning him that you will be pleased to have a care of him'.¹ Rawdon's proviso in the Act of Settlement provided for the payment of his arrears out of 'so much of the forfeited lands in the town and lands of Lispopel, Nutstown, Wagestown, and Cordenstown - in the barony of

1. Carte MSS, xxxi. f. 302. 24 August 1661.

Balrothery - containing one thousand two hundred forty nine acres - [in] full and just satisfaction of the public debts due to him by debentures, for provisions and money disbursed for the use of the army in Ireland - which - amounts unto two thousand three hundred twenty four pounds ten shillings four pence; ---'.¹

Sir George Lane was mentioned more than once in the Act of Settlement, but the most important proviso, at least in relation to his estate in county Dublin, was the one which confirmed him in the grant he had received the previous year of the estate that had formerly belonged to Philip Here of Kilsaghan.²

Although Colonel Edward Vernon was also confirmed in the lands he had been granted, an exception was made of those proprietors claiming title to estates by way of conveyance from John Blackwell, the adventurer. Thus, Vernon's title to the manor of Clontarf, which was mentioned by name in the proviso, was placed in jeopardy.³

The proviso relating to the estate of Lord Mountrath (Sir Charles Coote), who died while the act was under

1. Clause xcvi of the instructions.
2. Clause clxii of the instructions.
3. Clauses cxxx-cxxxi of the instructions. Blackwell's father, according to J.P. Prendergast, was responsible for the erection of the scaffold for the execution of Charles I. See his Ireland from restoration to the revolution, p. 8. See also below, p.171.

discussion, reveals that a dispute had broken out between Mountrath's widow and her stepson, the second earl, over the interpretation of the first earl's will. 'Some questions have arisen', the proviso reads, 'between the countess of Mountrath, and the heirs and younger children of the said --- Mountrath, and his intentions to dispose of his new acquired estate'. Until the dispute was settled it was decreed that the estate was to be placed in the king's hands. Meanwhile, the lord lieutenant and the Irish privy council were directed to examine the last will and testament of Mountrath in order to determine his intentions in the matter.¹ Part of the lands in question involved the manor and lands of Gormanstown, on the Dublin-Meath border, which had been granted to Mountrath during the Interregnum.

Both Lord Kingston and his father, Sir Robert (who died in 1657) had purchased a great deal of land from adventurers and soldiers and transplanners. This was acknowledged in Kingston's proviso, where it was stated that he was to be confirmed in all the lands he or his father had 'purchased by them - from any adventurers, soldiers, transplanners or transplantable persons - and

1. Clause ccxxii of the instructions.

possessed by them in or on seventh May - [1659].¹

A subsequent proviso, however, directed that if any of these lands were restored to the former proprietors (especially Lord Strabane, Sir Henry Talbot of Templeogue, Sir William Dungan and Thomas Harrman), then Kingston was to be reprised in counties Dublin, Cork and Kildare with other lands of equivalent value.¹

The only clause in the Act of Settlement dealing with a name of old Irish derivation, relating to land in Dublin and Wicklow, concerned the orphans of colonel Owen O'Connelly, an officer in Sir John Clotworthy's northern army, who acted as an informer in warning the lords justices of the impending rebellion of 1641.² O'Connelly was dead by 1658, but the Commonwealth had already provided his children with debentures worth over £1,500.³ The proviso in the act called for lands worth £200 per annum to be set out to the orphans. It was suggested that the lands selected be located in Balruddery or Coolock

1. Clauses cxcvi-cxcvii of the instructions.
2. Gilbert, Contemporary history, i, appendix ix, 355-59. It has been pointed out by Dr. J.R. MacCormack that O'Connelly probably owed his position under Clotworthy to Cromwell, who, some ten months before the outbreak of the rebellion, commended him to Leicester, the lord lieutenant, 'to be preferred in employment in Ireland'. I.H.S., x (no 37), March 1956 (n).
3. Carte MSS, xxxiv. f. 473.

baronies, county Dublin. It was even suggested which forfeited estates might be chosen, including, inter alia, the old Hollywood family manor Artaine in Coolock barony and the former Finglas family estate of Westpelstown in Balruddery barony.¹

Probably the most important proviso in the act concerning county Dublin, at least in relation to the amount of land involved, was that which vested in the duke of York all the estates which had been occupied by the regicides during the Interregnum. The names of sixty nine regicides are listed, three of whom - John Hewson, Miles Corbet and Edmund Ludlow - had held large estates in the county. But the proviso also called for York's reprisal with lands of equal value in the event that these estates were restored to their ancient owners.²

Few provisos dealt directly with lands in Wicklow. The one concerned with the arrears of the '49 interest has already been mentioned above. Another proviso delivered over the entire estate of Thomas Allen of St. Woolstan's to Hugh, earl of Mount-Alexander, a

1. Clause cxlvii of the instructions.
2. Clause cxciv of the instructions.

prominent royalist officer. The following proviso, however, reserved to the king the right to revoke the grant, at which time the disposition of the estate would immediately become subject to the provisions of the Act of Settlement, 'as if this grant had not been made'.¹

Although all church lands were excluded from the vesting clause, provision for the support of the protestant hierarchy was dealt with by two separate provisos, The hierarchy (along with the provost of Trinity College, Dublin) were to be maintained from the income realized from any ecclesiastical land which had been granted or conveyed in fee farm (that is, on indefinite lease) and had since been forfeited and vested in the king under the provisions of the act. The archbishop of Dublin in particular was to receive such forfeited land equal in value to a yearly income of £2,000 a year. It was further directed that, if possible, this income was to come from such forfeited lands within their own bishoprics; if this did not prove possible the difference was to be made up out of such lands from the nearest bishopric which had a surplus of such land.²

1. Clause lxvii of the instructions.
2. Clauses civ-cv of the instructions.

Henry Coventry, Sir Thomas Coventry, and Sir Thomas Coventry, Coventry was replaced by Sir Allen Frederick in May 1663. Col. S.P.Tr., 1660-63, p. 577. Col. S.P.Tr., 1663-67, p. 87.

At the time of the passing of the Act of Settlement it may not have seemed necessary to provide special provisions for the benefit of some of the prominent Cromwellian and new English figures who, after all, had been largely responsible for effecting the restoration in Ireland. A single clause, therefore, provided confirmation of their estates to, among others, the duke of Albermarle, lords Orrery and Valentia (Sir Arthur Annesley) and Sir Theophilus Jones.¹

In contrast to the thirty six commissioners who had been appointed to execute the Declaration of 30 November 1660, only seven commissioners were selected to carry out the provisions of the Act of Settlement.² One of these was Winston Churchill, father of the duke of Marlborough. Churchill, it seems, owed his introduction at court to the patronage of Sir Henry Bennett, later (1672) earl of Arlington and secretary of state between 1662 and 1674, when all Irish affairs passed through his hands. The genesis of Churchill's introduction at court can probably be found, however, in the influence of the duke of York, who had

1. Clause xx of the Declaration.
2. The seven were Winston Churchill, Henry Coventry, Sir Edward Deering, Sir Richard Rainsford, Sir Thomas Beverly, Edward Smith and Edward Cooke. Coventry was replaced by Sir Allen Broderick in May 1663. Cal. S.P.Ire., 1660-62, p. 577. Cal. S.P.Ire., 1663-65, p. 87.

taken Churchill's daughter, Arabella, as a mistress.¹ Richard Talbot became a friend of Churchill and later, in 1681, married Frances Jennings, Marlborough's sister-in-law.² Three of the commissioners - Rainsford, Beverly and Smith - were judges, and all of them were described by Clarendon as 'gentlemen of very good extractions, excellent understanding and aboge all suspicion for their integrity, and generally reputed to be superior to any base temptation'.³ The commissioners, along with Ormond, who had been appointed viceroy in November 1661, arrived in Ireland late in the summer of 1662 and were at work by October, but owing to procedural delays it was not until January 1663 that the court of claims heard its first case.⁴

1. A. L. Rowse, The early Churchill's, pp. 40, 45-6.
2. Sergeant, Little Jennings, i, 280.
3. Clarendon, Life: continuation, part ii, 56. The diarist Papys had a high regard for Coventry. See his Diary for 28 October 1667.
4. Time limitations were set by the Act of Settlement within which the various classes of claimants - soldiers, adventurers, etc., - were required to submit their claims. When it became apparent that there would be long delays before the court would be able to hear its first claim a special act, the Act of Enlargement (of time) was passed in the autumn of 1662, extending these periods of time at the discretion of the viceroy and council. 14 and 15 Car. II. c.12. Cal.S.P.Ire., 1660-62, p. 603.

VI. The Hearing of the Claims of
the Innocents

The court of claims for the hearing of innocents heard its first case on 13 January 1663. By 22 August 1663, the final day of its hearings, it had issued 820 decrees. Between seven and eight thousand claims had been submitted,¹ and the pressure upon the commissioners to increase the rate of adjudication grew as the day approached for the rising of the court. This pressure is reflected in the steep rise in the number of decrees which were issued after June 1. Whereas only 295 decrees were issued between January 13 and May 30, between June 1 and August 22, 525 decrees were handed down, including sixty nine decrees during the last four days in which the court was in session - nearly equal to the total for the first seven weeks. Of the total of 820 decrees issued, 188 were given to individuals who had proprietary interests in Dublin or Wicklow, or both.² This is not meant to suggest that these decrees involved 188 separate estates. In some

1. Lansdowne, The Petty-Southwell correspondence, 1676-87, p.152. Cal. S.P.Ire., 1663-65, pp. 395, 503.
2. Statistics based on the abstracts of the decrees of the court for the trial of innocents, printed in the 5th appendix to the 19th rep. D.K.P.R.I., pp. 35-87.

cases separate decrees were issued to several members of the same family; three decrees, for example, were given to the Sarsfield family of Lucan.¹ All but sixteen of the decrees issued to Dublin and Wicklow claimants were allowed in whole or in part, although several claimants who were given decrees of innocence were left to the ordinary law courts to recover their estates. The total of 188 represents approximately the number of old English catholic proprietors in both counties in 1641, although a handful of these decrees were given to protestant proprietors.

The proceedings of the court seem to have been conducted, on occasion at least, in a very public manner. In one session a throng of five hundred people was in attendance. This may not seem surprising in view of the general appetite of people in the seventeenth century for public performance of any kind. The size of the crowd, however, may have contributed to the demise of John Bramhall, archbishop of Armagh, who, while attending

1. Ibid., p. 72.

court involving a dispute with the cantankerous Sir Audley Mervin, 'collapsed in a swoon' and shortly thereafter died.¹

Although 820 decrees were issued by the court, the commissioners actually investigated over 900 cases.² Some were postponed; some were heard more than once; others were dismissed, with no decision being handed down. Thomas Aylmer, John Caddle and John Purcell, all Dublin landowners, had their hearings postponed on the grounds that they had taken lands in Connaught or Clare under the Cromwellian settlement.³ Richard Nugent of Dublin had also accepted lands in Connaught, but this did not prevent the commissioners from issuing him an innocent decree. It was noted on the court record, however, that Nugent 'had a decree for lands in Connaught, yet restored as innocent'.⁴ Decisions on cases were sometimes postponed because difficult legal questions which arose during the hearings had first to be resolved. The case of Angel and Francis Plunket, for example, was

1. Cal. S.P. Ire., 1663-65, pp. 19, 154.

2. Records of submissions and evidence of the court of claims for the hearing of innocents, January-August 1663, Armagh public library, Northern Ireland.

3. Armagh MSS, i. 2, 45; ii. 58.

4. Ibid., i. 44.

put off for a week until a case could be drawn up and argued 'whether a tenant in tailed could forfeit the estate tailed'.¹ John Hollywood of Artaine submitted what really amounted to three separate claims. He entered his first claim on July 8, and on August 4 submitted another claim, but with an amendment which almost repeated what had been said in the second claim. Notice was taken of this by the Commissioners, and a note was added to the court transcript to the effect that 'the claimant to the aforesaid premises hath exhibited 3 several claims but the 2 latter differ little or nothing in substance nor but here and there a word in circumstance'.²

The commissioners were almost from the start hampered in their work by the recall to England in February of Henry Coventry, one of their members, thus leaving an equal number of votes. It was not until May 1663 that Coventry was replaced by Sir Allen Broderick.³ In April one of the commissioners reported that the equilibrium of votes had almost brought court business to a standstill:

1. Ibid., i. 31.

2. Armagh MSS, ix. 427-9.

3. See above, p. 119 (n).

'We do not like to hear important cases', he said, 'as, if we are evenly divided, we put the possessor in for ever by leaving the matter as it was before the hearing. Thus my lord Fingal's case remains, like Mahomet's tomb, between heaven and earth, in equilibrio. We are afraid to deal with it least we ruin him by giving no sentence'.¹ Another eminent victim of this equal division of votes was Christopher Fagan of Feltrim, whose case was heard on March 13. After putting off a decision for several days the court finally found John Fagan, Christopher's grandfather (who had died in 1643), innocent and restored, but could come to no decision as to Christopher, 'being equally divided in their opinion'. No judgement was therefore given.² It was said that the division of votes usually followed along similar lines, with Rainsford, Beverly and Churchill voting 'for the king' (that is, for the old English and Irish catholics), and Smith, Deering and Cooke 'for the English interest'.³

The court used various records of the Cromwellian period to aid them in their work. One of these was the collection of depositions made in 1642 in which the

1. Cal. S.P. Ire., 1663-65, pp. 56-7.

2. Armagh MSS, i. 46.

3. Cal. S.P. Ire., 1663-65, p. 231.

protestants registered their complaints of loss of life and property during the first year of the rebellion.¹ Entries extracted from these depositions were often added to the claims submitted to the court. Though most of the depositions were unfriendly, usually crediting the claimant (or his ancestors) with acts of rebellion or violence, an occasional friendly witness was recorded. One such witness described Nicholas White of Leixlip as 'one of their [i.e. the protestants] friends and that had it not been for him they might have been cut off in their beds'.² After Arthur Cheevers, an alderman, had sworn that John Cheevers had been a member of the supreme council of the confederate catholics at Kilkenny and had lived during the first year of the rebellion in the rebels' quarters, he added that the 'cause of [his] knowledge is for that he married his [i.e. John Cheevers] sister'.³

The commissioners also used the so-called 'Books of Discrimination', commonly known (among the catholics) as the 'Black Books of Athlone', comprising various records of the confederate catholics. These records had been collected and indexed by the Commonwealth government and

1. Originals deposited in the library of Trinity College, Dublin.
2. Armagh MSS, i. 22.
3. Ibid., ii. 100.

were later used by the commissioners at Athlone to execute the transplantation to Connaught.¹ Entries from these records also appeared on the claims submitted to the court. Most of these entries referred to the fact that the claimant, or his ancestors, had been indicted or outlawed, or that he had helped elect, or had actually been, a member of the supreme council of the confederate catholics at Kilkenny, 'One James Archbold of Tuckmoyne, county Wicklow', a typical entry reads, 'and one James Archbold of Ballykec, county Wicklow, indicted and outlawed';² or 'The Lord Netterville was one of the supreme council and did sit and act amongst them, subscribed several oaths, signed several orders conceived by the supreme council, with many other things of like nature'.³

The claims varied rather widely in nature, although most claimed by deed of settlement as next of heir of a forfeiting proprietor. The claims submitted during the first five or six weeks that the court was in session tended to be much more simple and compressed than those

1. Prendergast, Cromwellian settlement, pp. 156-58.
2. Armagh MSS, i. 33.
3. Ibid., ii. 63.

submitted subsequently. Thus, for example, Mathew May, on February 25, claimed in remainder 'certain lands by virtue of a deed of feoffment made by Mathew May, his grandfather, bearing date 14 November 1632, to certain feoffees, to the use of himself for life, the remainder to James May, the claimant's father, for life, the remainder to Bartholomew May, son of the said James, and the heirs males of his body, and for want of such issue the remainder to the second son of the said James, who is the claimant'.¹ On the same day Richard Daniel claimed 'certain houses and lands in Ballymore Eustace, County Dublin, and also lands and tenements in Borganmore, County Wicklow, by descent from David Daniel, his father'.² After about March 1, however, the claims became much longer and more complex, with detailed lists of lands owned outright, in fee farm or lease, together with jointures and dowers still owing or annuities and tithes due, often accompanied by long and complicated statements of proof of inheritance, in some cases providing long genealogical histories.³ The longest claim (over 2,800 words) was submitted by the earl of Westmeath and his son.

1. Ibid., i. 16.

2. Ibid., i. 18. Ballymore-Eustace was then a part of Uppercross barony, County Dublin.

3. For a typical example see appendix J.

It was not submitted until late July, which was relatively late, considering the eminence of the claimant. It is possible that in such a case the task of drawing up the claim, which contained the names of 350 townlands, had caused some delay. The claim consisted of twelve schedules, the third of which contained an interesting list of chief rents which the earl claimed were due him from the barony of Fower in County Westmeath. Among a large list of other items, he claimed one ripping hook and two mutton from the town land of Clondalkin; one pound and two barrels of oats from the townland of Tocher; four hundred eels from the townland of Belsbarvy, and one spice cake from the townland of Baliston.¹

Although the Books of Survey and Distribution do not indicate as much, it is likely that Alexander Hayden, who was an officer in the royal army in Ireland before the rebellion, had held 492 acres in Newcastle barony in Wicklow in 1641. It is probable that he actually held the land in fee farm from Brian O'Byrne, the owner as entered in the Books of Survey and Distribution. Other new English proprietors had such leases before 1641, including Sir Henry Tichbourne, who held over 400 acres in Arklow barony from Redmond MacFeagh.² Nevertheless, in

1. Armagh MSS, viii. 32-41.

2. Entered as such in the Books of survey and distribution, County Wicklow, p. 116.

the court of claims Hayden claimed that he had been 'seized in anno 1641 of the town and lands of Aghale, parish Kilcoole, barony Newcastle'. In spite of the fact that he had always been a protestant and had, as he said, taken no part in the rebellion, he had been dispossessed of his estate by Cromwell.¹

Some interesting light is thrown on some of the decisions handed down by the court. John and Patrick Flemming of Dublin city had their first claim (they submitted another later) dismissed on the grounds that they had claimed under the wrong person. Patrick, it seems, had no right to submit a claim at all.² Cahir MacTeige O'Byrne, Hugh MacConnor O'Byrne and Turlagh MacGerald O'Byrne of Talbotstown barony in Wicklow submitted a claim which the commissioners found was 'not to be understood'. Whether it was for this reason or not, Cahir MacTeige was given a 'nocent' decree.³

Various methods were used by the catholic claimants to attract favourable decrees. Some, whose immediate ancestors were catholics, claimed their estates as protestants. Walter Eustace of Dowdington, County Dublin,

1. Armagh MSS, ix. 415.

2. Ibid., ii. 64.

3. Armagh MSS, iv. 133. P.R.I. rep. D.K. 19, app. v, p.52. 'Nocent', meaning guilty.

claimed under his father (a catholic), as a protestant, as did Robert Brice, also of County Dublin.¹ Richard Jacob, a catholic from the same county, had died at about the time of the outbreak of the rebellion in 1641, leaving as sole heir a daughter, Bridget, a minor. During the Interregnum Bridget was dispossessed of her estate, but she later married Thomas Holliday, a protestant, 'according to the canons of the Church of England'. In the court of claims both Bridget and her husband were declared to be innocent protestants.² The Books of Survey and Distribution contain an entry which suggests that John Lock, whose father was a catholic, probably claimed his estate as a protestant. Christopher Handcock, too, the grandson and heir of a catholic, entered his claim as a protestant. But his ploy did not work and Christopher was issued a nocent decree.³ William Denn, of Saggart, also the son and heir of a catholic, was more successful. He claimed as a protestant and was issued an innocent decree.⁴

Several decrees relating to land in Dublin and Wicklow were issued under the name of a second party.

1. Armagh MSS, i. 3. 10. Cal. S.P.Ire., 1669-70, pp.585-86.
2. Transcript of the dècree of innocence issued to Thomas and Bridget Holliday, MS 3538, P.R.O.I.
3. Armagh MSS, i. 3. P.R.I. rep. D.K. 19, app. v, p.43.
4. Ibid., p. 56.

John Power, the father of Richard, earl of Tyrone, had been 'distracted' for many years and had been placed under the guardianship of the earl of Anglesey, Richard's father-in-law. Richard therefore claimed under his father by Anglesey, with the decree of innocence being issued to his father.¹ A somewhat similar case involved John Walsh of Shanganagh, County Dublin. John's grandfather had married a daughter of Sir Robert Kennedy of Newcastle barony, County Wicklow, an influential old Irish protestant who had been involved in the questionable proceedings against the O'Byrnes and O'Tooles earlier in the century. Sir Robert, who lived until 1668, acted as guardian to John, an infant in 1663, and presented his claim to the court. John's decree was issued in Kennedy's name, with Walsh declared an innocent protestant.² Thomas Clerke, a Dublin alderman, had died in about 1641, leaving several children, all minors. He had provided, however, that various prominent Dublin merchants should act as his trustees, and in the court of claims Clerke's claim was submitted by Walter Kennedy, George Usher and John Walsh,

1. P.R.I. rep. D.K. 19 app. v, p. 64. G.E.C. xii, 141-2.

2. Armagh MSS, iv. 183-4. P.R.I. rep. D.K. 19, app. p.64.

the surviving trustees. The decree of innocence was issued to Kennedy in the name of Clerke's children.¹

While only sixteen nocent decrees were issued to people claiming estates in Dublin and Wicklow, some of these were given to old English claimants of very distinguished ancestry, including lords Dunsany and Netterville, the earls of Tyrconnell and Fingal, along with James and Christopher Plunket, Nicholas Eustace and Patrick Sarsfield of Lucan.² The Armagh manuscripts show only four O'Byrnes to have submitted claims for land in Wicklow, but only two decrees were issued. One, a nocent decree, was given to the above mentioned Cahir MacTeige O'Byrne, and the other to Daniel O'Byrne, who received a decree as an innocent protestant.³ Since no other O'Byrne was issued a decree of innocence it appears certain that Daniel had encountered no difficulty in proving his religion to the court. A Daniel O'Byrne, described as a tailor, was a minor office holder in

1. P.R.I. rep. D.K. 19, app. v, p.48. Armagh MSS, ii, 48-9.
2. The others were: Dame Mary Bolton, Christopher Handcock, Thomas Chamberlain, Nicholas Freene, Pierce Archbold, Katherine Finglas, Thomas Russell (from Dublin), and Cahir MacTeige O'Byrne (from Wicklow). Hugh O'Byrne and Margaret, his wife, submitted a claim but were 'not adjudged'. Armagh MSS, i. 11.
3. P.R.I. rep. D.K. 19, app. v, p. 52.

Dublin city in 1654, a time when only a protestant could have held office.¹ No O'Toole from Wicklow submitted a claim and none received a decree from the court of claims. It should be noted that Dunsany and Netterville received nocent decrees in spite of the fact that they had both been included in the Act of Settlement as proviso-men.

The fact that a claimant received a nocent decree, however, did not necessarily result in the loss of his estate, nor indeed did it necessarily mean that further recourse to the court was denied him. In several important cases nocent decrees were issued to the father or grandfather, while decrees of innocence were given to sons. Thus, even though Nicholas Eustace of Confev was declared nocent his grandson was declared innocent; Mathew Russell was declared innocent at the same time that his father and grandfather were being declared nocent; Lord Netterville and his father and grandfather were also declared nocent, but his younger brothers and sisters were given innocent decrees.² In a decision which was to result in a long and complex legal struggle, Patrick Sarsfield of Lucan was given a nocent decree,

1. J. Gilbert (ed.), Cal. anc. rec. Dub., iv, 147.

2. P.R.I. rep. D.K. 19, app. v, pp. 48, 71.

but his wife, brother, and son, William, were all declared innocent.¹ Furthermore, some claimants were allowed to re-submit claims, although it appears to have required some court influence or money, or both, to accomplish this. Sir George Lane was involved in collecting money from people who wanted to obtain permission to enter new claims. Lane complained that most of these people 'hadn't a farthing to their names', and at one point stated that £11.0.0. was all he had been able to collect for the purpose.² Mention has already been made above of what, in effect, were the three claims submitted by John Hollywood of Artaine.³ Luke Bath, Christopher Russell, Christopher Archbold, Mathew Plunket and Patrick Sarsfield, among others, were all allowed to re-submit claims, Plunket, Russell and Archbold presumably because their common counsel, a man named Patrick Brien, had died a short time before their claims were due to be submitted.⁴ John and Patrick Flemming from Dublin were

1. Ibid., p. 72.

2. Cal. S.P. Ire., 1663-65, p. 46.

3. See above, p. 124.

4. Cal. S.P. Ire., 1669-70, pp. 458-9.

5. Ibid., p. 199.

6. Ibid., p. 193.

7. Carte MSS, ILVII f. 796. Lane to Bennett, 8 July 1663.

8. Cal. S.P. Ire., 1663-65, p. 199.

allowed to put in a new claim for the very reason that their first claim was disallowed, that is, because on the first occasion they had attempted to derive title under the wrong person.¹ Philip Hore of Kilsaghan was allowed to 'amend' his claim, but when it was re-entered it was done so in the name of his four children.² Sir George Lane, who had got a grant of Hore's estate several years earlier, viewed Hore's activities with mounting concern. In July 1663 he expressed his anxiety to secretary of state Henry Bennett. Hore, he said, had failed in his efforts 'on your side, --- [but] succeeded with the other [i.e. with secretary of state Joseph Williamson] secretary in obtaining a letter which be a very great prejudice --- I am confident of your favour in this ---'.³ Bennett's favour, however, failed to prevent Hore's children from re-submitting another claim in August. On the day that Hore's children entered their claim Lane again wrote Bennett, begging for relief from the king.⁴ But no such aid was forthcoming and Hore's children received a decree of

1. Cal. S.P.Ire., 1663-65, p.199.

2. Ibid., p. 158.

3. Carte MSS, XLVII f. 796. Lane to Bennett, 8 July 1663.

4. Cal. S.P. Ire., 1663-65, p. 199.

innocence on August 20, two days before the rising of the court.¹ Dr. Edmund O'Meara had had his claim dismissed during the first week that the court was in session on the grounds that he had failed to prove title to his estate.² O'Meara pointed out, in a petition to the king several weeks later, that his claim was dismissed not for any inherent flaw discovered in the title to his estate, but because the witnesses who were called to help prove his title had failed to appear at court on the day appointed for the hearing. He asked for letters from the king directing the commissioners to accept a new claim, and within a month O'Meara, whose ancestors were hereditary physicians to the earls of Ormond,³ had received such permission. The clerk of the court noted that the claim had been 'heard before and dismissed, but now to be reheard by special order from his majesty'.⁴ At the second hearing, on May 18, O'Meara was declared innocent and restored to his Wicklow estate, the only catholic of old Irish ancestry to have achieved this.⁵

1. Cal. S.P. Ire., 1663-65, p. 199.

2. Ibid., p. 32.

3. Cal. S.P. Ire., 1669-70, p. 445. See also P. Hogan, 'Dermot and Edmund O'Meara, father and son', Irish medical association journal, xliiii, 312-17 (1958).

4. Armagh MSS, v. 205-6.

5. P.R.O. rep. D.K. 19, app. v, p. 57.

Although Christopher Plunket, second earl of Fingal, had died in 1649, he was issued a posthumous decree of nocency. His son Luke, however, the third earl, was declared innocent. The question of Christopher's activities during the rebellion (he was indicted and outlawed seven times) probably played an important part in the decision. The Armagh manuscripts contain a list of depositions made against him, probably in 1642, by fourteen old English and old Irish catholics, including Garrett Aylmer, Sir Richard Barnewall, James Grace and John Talbot of Robertstown.¹ The hearing of Luke's claim was postponed several times, but was finally heard on February 23, at which time an interesting legal question arose. The question was put to the court 'whether the claimant, being specially provided for by name in the act [of settlement], might be admitted to claim otherwise than by the said proviso ---'. After a long debate a final decision on the question was put off for several days, at which time the court allowed Fingal to claim as an innocent rather than as one of the thirty six proviso men. The following day, February 26, he was issued a decree of

1. Armagh MSS, i. 11-12.

innocency, being 'not personally criminated' in the rebellion.¹ Fingal's desire to claim as an innocent indicates the value which he (and the other catholic claimants) placed on a decree of innocence, rather than attempting to claim as an ensignman or as an 'articleman',² the other two cla^sses entitled to make claims before the court. Besides his proviso and decree of innocence Fingal could rely on powerful family connections to assure his restoration, since the duke of Ormond was his wife's uncle.³ Luke's son, Edward, was also given a decree of innocence. Edward claimed that he had been sent abroad for his education, and that upon returning was taken at sea by the Turks and kept prisoner until 1653. He then repaired into England where, having had no hand in the rebellion, he was 'put in a way of restitution'.⁴

Although Fingal and Netterville were minor landowners in county Dublin, Lord Dunsany held several hundred acres. It was explained that Edward Plunket, Dunsany's son, had failed to put in a claim because he had been confident that

1. Transcript of the notes taken by the registrar of the court of claims on the hearing of Fingal's claim, Fingal papers, N.L.I., MS 8033.
2. 'Articlemen' were those who claimed to have accepted and kept the terms of the peace of 1648.
3. G.E.C., v, 386.
4. Armagh MSS, v. 208-09.

1. Col. R.P. Inq., 1651-53, p. 190. Curie MSS, lxvii, f. 38.
 2. Clarendon, Hist. a continuation, part II, 59.

his father would be declared innocent. Edward was allowed to submit another claim, and on August 20, after a long debate, he was adjudged innocent and ordered to be restored, but only after the death of his father. It was entered on the record of the trial that he had 'come in [i.e., allowed to submit the claim] on the king's letter'.¹

An interesting case from various viewpoints was that of Oliver, earl of Tyrconnell, son of Lord Merrion, the first Viscount. Tyrconnell had fought under Ormond, later repairing to France, where he was employed by the exiled Henrietta-Maria to attempt to make contact with the confederate catholics. He subsequently returned to England, somehow managed to ingratiate himself with Cromwell, and as a result was allowed to live quietly on his Irish estate during the Interregnum. When he submitted his claim to the court someone produced a letter in evidence, written years earlier from Paris by Tyrconnell to a Jesuit in Ireland, in which he declared that his purpose in coming to Ireland was 'to do their friends some service'.² Unfortunately for Tyrconnell the Act of Settlement had prohibited the restoration of any person who had 'held correspondency with such as were then

1. Cal. S.P. Ire., 1663-65, p. 190. Carte MSS, lxvii. f. 32.

2. Clarendon, Life: a continuation, part ii, 59.

in opposition against [the crown].¹ Upon this basis the commissioners issued him a nocent decree 'upon the attempt of a seditious and rebellious letter sent by him in anno 1646 to the supreme council'.² The decree, says Clarendon, was issued 'without any pause, that a correspondence with the rebels was a good evidence', ignoring the fact that the letter had been written 'when the queen first designed to send him to the King, that the Irish - might know of his purpose to come hither, before they should hear of his being in Dublin'.³ While this may have been the technical reason for Tyrconnell's decree, the more human cause probably rested on what seems to have been his personal character. He had, it appears, many enemies, and even Clarendon's panegyric fails to conceal what must have been a most offensive personality. 'Elate and proud', says Clarendon, 'with a greater value of himself than other men had, and less of other men than they deserved, which got himself not beloved - . Many people laughed at the ill luck of a man whom they did not love: and all men were well enough

1. Clause xi of the instructions.

2. Armagh MSS, i. 23-4.

3. Clarendon, *op. cit.*, p. 59.

pleased with the sentence, who were displeased with the person'.¹ Though given a nocent decree through what were probably vindictive motives, Tyrconnell did not lack influential friends. He received his decree on February 27, and on March 14 Ormond wrote to the king in Tyrconnell's behalf, suggesting that his (Tyrconnell's) former service to the crown might 'outweigh the oversights in that letter which was the cause of his being declared nocent'.² Tyrconnell also had the support of the duke of Albermarle, who wrote to Ormond in March, asking that the '49 interest, to whom most of Tyrconnell's lands had been assigned, not be allowed to retain the estate.³ Later the same month a royal letter arrived, ordering the '49 interest to release Tyrconnell's estate.⁴

A claim for the Sutton estate on the Howth peninsula, north of Dublin city, was presented to the court on April 16

1. Ibid., p. 60.
2. Cal. S.P. Ire., 1663-65, p. 41.
3. Carte MSS, xxxii. f. 327. It is not clear what portion of Tyrconnell's estate - most of which was in county Dublin - had been given over to the '49 interest. Although the Act of Settlement did not provide lands in the county for their satisfaction, an entry in the journals of the house of lords suggests that such lands had been set out for the '49 interest before the passing of the act. The entry contains a reference to an order prohibiting the court of exchequer from granting custodiams of land in the county 'until one third part of the forfeited lands in the county were set out to the '49 men'. Lords' jn. Ire., i, 303 (27 May 1662). The Act of Settlement was passed on 27 September 1662.
4. Cal. S.P. Ire., 1663-65, p. 53.

by George Usher and his wife, Alice, a sister and sole heir of William Gough, the last catholic proprietor. It was revealed during the hearings that another brother, Ignatius, who may have been a Jesuit, had left Ireland twenty two years earlier and had not since been heard from. Alice had meanwhile received powers of administration over the estate. Another claim for the estate was submitted to the court by a William Gough, a collateral descendant, but clearly Usher had the stronger claim, and a decree of innocence and title to the estate was given to him, in right of his wife.¹

Several prominent old English catholic proprietors did not submit claims to the court. One of these was Sir Robert Talbot, a brother of Richard, who in 1641 held over 10,000 acres in Wicklow. It is difficult to understand why Talbot never submitted a claim. Although the Armagh manuscripts contain no reference to Sir Robert, another source indicates that his hearing was postponed because he had taken lands in Connaught. Lord Anglesey, writing to Ormond in 1664 in Talbot's behalf, pointed out that when the Act of Settlement was under consideration Sir Robert 'was esteemed so innocent as not to need any

1. Cal. S.P.Ire., 1660-62, pp.498-9, 550, 674. Armagh MSS, iii. 116-18; iv. 142-3. Usher testified that he had been dispossessed of his estate during the Interregnum, so presumably he was a member of the catholic branch of the family.

particular provision in the bill -'. Having taken lands in Connaught as a transplanter, Talbot 'was postponed from having his innocency tried within the time limited without any failing on his part'.¹ But others who had accepted lands in Connaught as transplanters had submitted claims and had had hearings in the court of claims. Moreover, Talbot, besides being the brother of Richard Talbot, appears to have been held in high regard by many of his contemporaries, including Ormond.² Although he did not submit a claim Talbot began to use other methods in an attempt to regain his estate, about which mention is made in subsequent chapters.³

Another eminent old English catholic who failed to submit a claim was Nicholas Harold of Kilmackeoge, County Dublin, whose father, John, had died shortly before the sitting of the court, leaving Nicholas, who was then only twelve years old. Nicholas failed to enter a claim, but later applied to 'his kinsman', Sir Maurice Eustace, to whom the estate had been granted in 1662. Eustace, according to Nicholas, promised to return the

1. H.M.C., Ormond MSS, n.s., iii, 148. Talbot's Christian name is incorrectly given as 'James'. Anglesey refers to Talbot's brother-in-law, Lord Baltimore. Sir Robert married a sister of Cecil (Calvert), Lord Baltimore. Sergeant, Little Jennings, ii, 643.

2. Ibid., i, 180.

3. See below, pp. 174, 205, 271.

estate in a few years, after he had recovered the charges he had incurred in obtaining the grant.¹ It is doubtful, however, if Eustace ever had the intention of returning the estate to Harold. Even before the sitting of the court of claims he had managed to get a private bill passed in the house of commons, securing his estate.² The Kilmackeoge estate was in fact the only portion of his 1662 grant which the lord chancellor succeeded in retaining. Stillorgan, Little Newton and Leopardstown were restored to James Woolverton when he received his decree of innocence.³ The old Archbold estate of Kilmacud was claimed by two branches of the Archbold family. Gerald Archbold, a catholic from County Kildare, claimed half the estate (75 acres) as a representative of Edmond Archbold, the joint owner before 1641, whose son had sold his part of the land to Gerald's father. Richard Archbold, a protestant from Cheshire, claimed the other half of the estate by inheritance from Maurice Archbold (a catholic), his grandfather.⁴ Richard was restored to his half of the estate and the

Coolock barony, Dublin, to Sir Henry Stoburne, 333

1. Cal. treas. bks., v, 884-5.
2. Commons' jn. Ire., i, 522 (14 June 1662).
3. P.R.I. rep. D.K. 19, app. v, p. 49.
4. Civil survey, vii, 262. F. E. Ball, A history of the county Dublin, part i, pp. 132-3.

duke of York was given the other half. The duke was also given the former Walsh estate of Prompston, which had also formed a part of Eustace's grant.

Even after obtaining decrees of innocence some claimants experienced difficulty in recovering their estates. James Woolverton was given orders to be restored to his manor of Stillorgan on 14 May 1663, but found that lord chancellor Eustace had leased the chief house and part of the lands to a Major Henry Jones.¹ On the night that Woolverton's order for repossession was issued Jones saw Eustace and pleaded that he had no other place to go and no other lands upon which to grave his cattle. He also claimed that he had spent over £300 in improvements on the estate. Eustace ordered that Jones was to be allowed to stay for a year, but Woolverton refused to acknowledge the order, whereupon Jones obtained an injunction, putting himself in possession for one year.²

Sir Nicholas Plunket's grandfather, James, had before 1641 mortgaged the family manor of Dunsoghly in Coolock barony, Dublin, to Sir Henry Tichbourne, one

1. Probably Dr Henry Jones, Bishop of Clogher, a brother of Sir Theophilus and Colonel Michael Jones.
2. Carte MSS, xxxiv, ff. 622-3.

of the foremost new English figures in Ireland. John Plunket, Nicholas's father, had died in 1631. After the death of the grandfather in 1641 Nicholas became a ward of Tichbourne, who paid £2,000 for the trust. After the restoration Nicholas, who received a decree of innocence, had great difficulty in recovering Dunsoghly, and in fact it was not until Tichbourne's death in 1667 that he finally succeeded in regaining possession.¹

It is significant that most of the proprietors from Dublin, and the few who were heard from Wicklow, had their claims heard by the court at relatively early dates, most of them in fact by April 1. This was not the result of chance, but because the court had in October 1662 agreed upon an order of procedure in the hearing of the claims. It was stated that the order of procedure was established 'in order to prevent unnecessary attendance of claimants and defendants'; but it really reflects the relative political influence of the old English catholic claimants from the Pale, who made certain that their claims were the first to be heard. The order of procedure provided that claimants from Leinster were to be heard first, followed by those from

1. Cal. S.P. Ire., 1663-65, pp. 482-3.

Munster, then Ulster, and finally Connaught. Within these broad categories the order was further defined. Claimants from the city of Dublin were to come first, followed by those from Dublin county, proceeding to those from County Wicklow, then those from Counties Carlow and Kildare. Next were to be heard those from the city of Drogheda, followed by those from Counties Louth and Meath. The midland counties were to be considered next, followed by the counties of Munster, then Ulster, and last were to come the claimants from Connaught and Clare. The obvious effect of this procedure was to hear the claims on the lines of concentric circles, progressing outward from Dublin city to Connaught. Clause five of the procedural order, however, seems to have been intended to save the lands of a few claimants whose principal estates were in western counties, for it was provided that those who intended to claim lands in more than one county or province were to receive adjudication for all their lands in Ireland in the county wherein they should first be heard.¹ In theory, therefore, a claimant with 1,000 acres in Clare and twenty acres in Dublin

1. Rules, orders, and directions - for the execution of the act for the settlement of Ireland, Dublin, 22 October 1662.

could hope to have his claim considered early in the court schedule, based on the established order of procedure which allowed claims from Dublin to be heard first. In fact, however, this does not seem to have occurred. It was not until March 11, when Peirs Butler's claim was considered, that a claimant with large estates outside of Leinster was heard; and it was not until March 23, when the claim of the earl of Cavan and his two brothers was heard, that a claim for lands in Connaught was investigated.¹

1. Armagh MSS, i. 43; ii. 66-7.

VII. Claims and Counter-Claims

It was probably inevitable that the Cromwellian party in Ireland, distrustful of the court of claims from the first, should begin to raise a clamour within a short time after the court had issued its first few decrees of innocence. As early as 21 January 1663, when no more than sixteen such decrees had been given out, Henry Coventry (one of the commissioners) stated that the English interest had become so alarmed at the restoration of a few innocents ('an act of justice, and therefore, an unheard of crime in this land') that they were going to make a complaint to the government.¹ The complaint was duly made, in February, by Sir Audley Mervin in the name of the house of commons. The conduct of the commissioners was called into question and a request made to issue a new set of instructions which, if implemented, would have made nearly every catholic incapable of being restored. It was suggested, for example, that all those declared to have been in rebellion before the cessation of 1643 be barred from receiving

1. Cal. S.P. Ire., 1663-65, p. 11.

decrees of innocence. If enforced this would have involved nearly every catholic proprietor in Dublin and Wicklow. It was also proposed to prohibit the issuing of decrees of innocence to any member of parliament who since 1641 had been declared to have been 'rotten members, and fit to be cut off', meaning of course all the catholic members who had been expelled from the parliament in 1641 and 1642. Another proposal revived the earlier plan of barring innocency on the basis of residence in rebels' quarters during the wars. It was suggested that the 'English quarters be ascertained from time to time until [Ormond's] recess in 1647, and that all quarters not so ascertained be adjudged the rebels quarters'. Furthermore, it was proposed that any witness called to prove the innocence of a claimant must have 'constantly lived in the English quarters'.¹ The address brought a rebuke from the king,² but an armed conspiracy against the government in May, hatched by a group of extreme Cromwellians, had the effect of forcing the government to consider a

December 1661, threatening prosecution against any

1. Commons' jn. Ire., i, 617-31 (13 February 1663). The complaint was delivered to Ormond in person.
2. Cal. S.P. Ire., 1663-65, p. 29.

new bill of settlement which would be more palatable to the protestants. With this in mind the Irish privy council, in the autumn of 1663, drew up and transmitted to England a 'bill of explanation', designed to amend the Act of Settlement in the interests of the protestants.¹

It was not only the issuing of a few decrees of innocence, however, which had caused apprehension among the Cromwellians. There are indications that the dispossessed catholics were causing considerable trouble to the Cromwellian settlers, in particular to some of the members of the Irish parliament. Sir Paul Davis, for instance, who was chief clerk of the council in Ireland during the Interregnum, had got a lease from the Commonwealth of about 170 acres in county Dublin which had been sequestered from the Denn family. In 1661 Davis complained, in a petition to the commons (of which he was a member), that he was being 'disturbed' by the Denn's.² The insecurity felt by the members of the commons finally led them to issue an order, in December 1661, threatening prosecution against any

1. Ibid., p. 234.

2. Commons' jn., Ire., i. 435 (23 July 1661).

sheriff found guilty of dispossessing any of its members.¹ But the order does not seem to have been very effective, and the following year there were as many complaints from the members of the house as there had been in 1661.² The rising spirit of anxiety in the commons was probably nourished by Sir Audley Mervin, the cantankerous speaker of the house, who complained, late in 1662, that he had been dispossessed of over 600 acres in Garristown parish, County Dublin, by the Talbot's of Malahide.³ It may have been Lord Gormanston's rash act of 30 April 1662, however, which raised the level of apprehension in the commons to its greatest height. With a force of 120 men, Gormanston forcibly repossessed the manor of Gormanstown,⁴ the ancient seat of his family, killing several people in the process. Sentries were placed on the walls of the manor, and when the sheriff arrived a short time later with a posse comitatus to remove Gormanston he was shot at and forced to withdraw. Three weeks later Sir Francis Hamilton and Sir James Cuffe, trustees of the

1. Ibid., p. 451 (10 Dec. 1661).

2. Ibid., 499, 510, 515, 522, 525. See also Lords jn. Ire., i. 328.

3. Commons' jn. Ire., i. 612 (20 Dec. 1662).

4. The manor of Gormanstown itself, about 1,500 acres, was in County Meath, directly on the Dublin border. But the estate contained 750 contiguous acres in Balruddery barony, on the Dublin side.

earl of Mountrath,¹ to whom the estate had been granted by the Commonwealth, entered a petition to the commons calling for Gormanston's removal. The commons responded by drawing up an order to the high sheriff of Dublin, directing him to restore Hamilton and Cuffe. But Gormanston had meanwhile petitioned the house of lords, apparently justifying his actions by virtue of his privileges as a peer, whereupon the lords ordered him to remain in possession until a report could be made on the petition.² On three separate occasions the commons sent deputations to the lords, requesting clarification as to why they had obstructed the original order for Gormanston's removal.³ It was not until September 22 that the lords heard the report, which stated that, first, the manor and lands had been in the possession of Hamilton and Cuffe in 1661; secondly, that Gormanston was not a peer, not having sat in parliament, and his father having been outlawed; and thirdly, that Gormanston had gained possession by means that were contrary to the privileges of parliament.⁴ The ousted occupant of

1. Mountrath had died in 1661.

2. Commons' Jn. Ire., i, 496, 504 (6 May 1666; 19 May 1662).
Lords' Jn. Ire., i, 299 (15 May 1662).

3. Commons Jn. Ire., i, 507, 572, 584 (23 May; 4, 24 Sept. 1662).

4. Lords' Jn. Ire., i, 345 (22 Sept. 1662).

the estate was a Dr Robert Reading, who had recently married Mountrath's widow. Reading had the dispute submitted to the court of the king's bench, but, since the court was then not in session, it appeared to him that he would be kept out of possession until the following term.¹ In April 1663 Reading and Hamilton made another approach to the house of commons, but the parliament was dissolved several days later.² Meanwhile, Gormanston had received his decree of innocence from the court of claims.

It was in an atmosphere created by such conflict that the hearings on the new bill of settlement were begun. Richard Talbot, along with his brothers Peter and Thomas, returned to England in the summer of 1663 carrying with them, according to Carte, £18,000 in bonds and other securities collected from various catholics who wanted provisos in the new bill of settlement.³ In fact, the money carried by the Talbots only represented a portion of the spoils of a cynical business in Irish land traffic which, as a consequence of the still unsettled

1. Cal. S.P. Ire., 1663-65, p. 305.

2. Commons' jn. Ire., 1, 651 (13 April 1663).

3. Carte, Life of Ormond, iv, 190.

state of the country, was being carried on by influential courtiers, both protestant and catholic. The centre of influence for the catholic party rested primarily on the pro-Catholic party within the English court, led for the most part by certain courtiers who had formed the duke of York's household in Flanders, but also including the queen mother, Henrietta-Maria, who appeared actively interested in various old English catholics. She at one point recommended both Sir Nicholas Plunket and Sir William Talbot (of Robertstown) to Ormond.¹ Ormond referred Plunket's case to the earl of Orrery, with the comment that he had told the queen that Plunket was looked upon as a person 'more obnoxious than others in his condition ----'.² The queen also took a special interest in Luke Bath, Patrick Satsfield, Christopher Archbold, Christopher Russell and John Arthur, all of whom were claiming large estates in Dublin.³ Sir Nicholas White of Leixlip, whose estate straddled the Dublin-Kildare border, probably

1. B.M., Add. MS 22, 548, p. 43. Queen mother to Ormond, 30 October 1661.
2. Carte MSS, XLVIII. f. 11. Ormond to Orrery, 26 February 1662.
3. Ir. rec. comm. rep., 1821-25, p. 644, 'Names of the Irish as the queen mother appears for ----'.

also owed his restoration, at least indirectly, to the queen mother. White had married a niece of Theobald Taaffe, first earl of Carlingford, an old English catholic royalist who was highly regarded by the queen.¹ He was also held in esteem by Ormond, who composed the following certificate of recommendation, probably directed to the commissioners of the court of claims:

By the lord lieutenant general and general governor of Ireland.

We do certify that we knew Nicholas White, esquire, in the first year of the rebellion; and that by whatever we could observe he behaved himself as a good and faithful subject ought to do, and we well remember that he often went forth with us well mounted and armed when we marched against the rebels. We also certify that upon his offering us to go amongst the rebels to gain their strength and purposes we did move the lords justices to give him leave so to do, and that they and we accordingly did give him, the said Nicholas White, leave to go to Leixlip and other quarters under pretence of recovering some goods of his taken by the rebels, which at his return he gave us a faithful and serviceable account. All which we sign under our hand and seal this 26th of February 1662-(3).²

Ormond was probably responsible for easing the path to restoration for numerous other old English catholics,

1. Cal. S.P.Ire., 1666-69, p. 696. See Henrietta-Maria's letter concerning Carlingford, written to the duke of Lorraine in 1650, in G.E.C., iii, 28(n).
2. Carte MSS, lxviii. f. 589.

including Christopher Fagan, Richard Barnewall and lords Trimleston and Westmeath, all of whom received certificates of recommendation from the duke.¹

It is likely that Maurice Berkeley procured Thomas Luttrell's proviso in the Act of Settlement.²

Maurice was the third Viscount Fitzharding, the son of Charles Berkeley, first viscount, who had been groom of the bedchamber to the duke of York in Flanders.³

Charles, who died at sea in action against the Dutch in 1665, was a close friend of Richard Talbot, both of whom became closely associated in the Irish land trade. Berkeley and Talbot collaborated in 1662 in blocking a grant, intended for the earl of Mount-Alexander, of the estate of James Allen of St. Woolstan's, which had been provided for under the terms of the Act of Settlement. They had purchased at least part of the estate from Allen and were fearful of losing their investment. On 8 November 1662 they both wrote to secretary Bennett expressing concern over Mount-Alexander's proviso in

1. Carte MSS, xxxi. f. 218; xxxii. f. 353; xlvi. f. 8.
 2. Carte MSS, xxxiii. f. 316.
 3. G.E.C., v, 407-9. Pepys described Charles Berkeley as 'a most vicious person ---'. None in court hath more the king's ear now than - Berkeley, and Sir Henry Bennett ---'. Diary for 17 October 1662.

the act. 'Mount-Alexander's grant has not been recalled as it should have been', said Talbot, 'and unless it is the estate is lost. --- If he [the king] does not [recall the grant] Lord Berkeley and I will lose all the money which was laid out upon the purchase of that estate, which I assure you is no small sum'. Berkeley's letter suggests that Mount-Alexander had misrepresented the size of Allen's estate in his petition for a grant: '--- it turns out', Berkeley said, 'that, contrary to what Mount-Alexander stated, the estate is not small and the owner has not been disloyal, or his predecessors either. The Lord Chancellor has stopped the grant ---. It should be withdrawn, in as much as it takes away from the king a power of revocation specially given him by the Act of Settlement'.¹

Also deeply involved in the land trade at this time was Henry Jermyn, the earl of St. Albans, described by the diarist John Evelyn as 'a prudent old courtier, much enriched since His Majesty's return'.² St. Albans usually acted for his clients in the name of the queen mother, with whom he had long maintained a close relationship.

1. Cal. S.P. Ire., 1660-62, pp. 612, 614.

2. Diary for 18 Sept. 1683.

While the court of claims was in session he sent a memorandum to secretary Joseph Williamson, then in Dublin, concerning 'the interest of some Irish gentlemen for whom the queen hath entreated the King's justice and favour. I shall be obliged if you will confer with [Ormond] on what is to be done for them ---'. The memorandum contains a reminder of the 'king's good intentions, previously expressed', for a group of old English catholics, including Philip Hore, Patrick Sarsfield, Sir Luke Bath and Christopher Archbold.¹

The normal procedure was to give bonds, or some other form of security, in return for successful restoration, the payment to be made in specie or in a portion of the estate thus restored. Occasionally payment was made in the form of income derived from the restored estate for a specified period. The cost of procuring a proviso in the Act of Settlement was high. Sir James Shane, who was chief registrar to the commissioners of the court of claims, was approached by two dispossessed catholic proprietors who wanted him to speak with Lord Anglesey with a view to securing provisos in the act. Shaen replied

1. Cal. S.P. Ire., 1666-69, pp. 443-4.

that his price for getting Anglesey to do it would be £2,000, a very large sum in the seventeenth century.¹

A long and illuminating report which appears in the Carte manuscripts throws some light on some of these transactions. The earl of St. Albans, it seems, accepted bonds of £1,000 each from Philip Hore, Sir Luke Bath, Patrick Sarsfield and Christopher Archbold, which explains in no small degree his concern for the welfare of those four proprietors as expressed in the memorandum mentioned above. Richard Talbot's brother, Thomas, acted as agent for Bath and Hore in their dealings with St. Albans. Bath, it appears, agreed to pay £400 of the required £1,000 immediately, but could raise only £300. The £300 he borrowed from a Daniel Arthur, a London merchant, for which he agreed to pay Arthur £60 a year for the life of Arthur's daughter, then a minor. As if to insure their successful restoration, Bath, Sarsfield, Hore and Archbold also entered into bonds of £500 each to the duke of Albemarle. The same report maintains that Sir William Domville, the attorney-general, compounded with Robert Preston and Marcus Fitzsimonds,

1. Carte MSS, xxiii. f. 313. 'A brief of the names of such as took bonds -- to restore them to their estates.'

1. Carte MSS, xliv. f. 656.

2. Carte MSS, xxiii. f. 313. Enclosed letter addressed to Sir George Lane, 21 April 1664.

3. Ibid., f. 314.

with Domville 'getting the one half of the estate for recovering the other half'.¹ Substance is lent to this report by reference to an order, issued in 1663, for a grant to Domville of two parcels of land in county Dublin, one held by Fitzsimonds, the other by Preston.² Preston was also approached by Richard Talbot, who assured him that the new bill of settlement, then under discussion, would never settle Ireland, and that he would be secure only under his (Talbot's) patronage, but that Preston must give him eighty acres of land in return.³

Another name which appears prominently in the report is the earl of Fingal, who became engaged for £1,500 to two army officers named Hern and Stopford. It was said that Stopford literally carried £100 into the court of claims to use in aid of his client. ~~Hern~~, it was further said, was being patronized by Commissioners Rainsford and Beverly, and that he would deal with 'none but pale men, and none under 3 or £400 a year, accounting under that not worth his labor'.⁴

1. Carte MSS, xxxiii. f. 313. 'A brief of the names of such as took bonds --- to restore them to their estates'.
2. Cal. S.P. Ire., 1663-65, p. 279.
3. Carte MSS, xxxiii. f. 368. Unsigned letter addressed to Sir George Lane, 21 April 1664.
4. Ibid., f. 314.

Sir Gilbert Gerard is mentioned briefly as having accepted bonds of £800 each from John Flemming, James Barnewall (of Braemore) and Sir Christopher Aylmer, in which secretary of state Sir William Morris was to have a share.¹

Details of some of Richard Talbot's activities in behalf of Sir Robert Nugent are also available. After the restoration John Talbot told Sir Robert and his father, Sir Thomas, that his brother Richard was a man of considerable influence with the commissioners of the Act of Settlement, and that without his patronage he (Sir Robert) would meet with insuperable difficulties in attempting to recover his estate. An agreement was finally reached whereby Richard Talbot agreed to prosecute the case at his own expense, with the understanding that he would receive £3,000 if the Nugents were restored before the death of Sir Thomas, and £2,000 if after. Sir Robert later claimed that though his own efforts and expense he obtained patents for the greater part of his estate, including several hundred acres in county Dublin, without the help of Talbot, who, he said, had expended no more than £10 on the matter. Later, after the death of

1. Ibid., f. 316.

Sir Thomas, Talbot demanded £2,000, which Nugent refused to pay. Talbot, however, had already got a decree in chancery for part of the money. In April 1670 Nugent took his case to the English house of lords, petitioning for a reversal of Talbot's decree in chancery, but there is no evidence as to what decision was finally taken in the matter. Nugent however was ultimately restored.¹

Among the influence merchants it was St. Albans who appears to have carried the greatest weight. Both Richard Talbot and Winston Churchill were employed in trying to obtain an Irish estate for secretary of state Henry Bennett. Talbot was exerting himself on Bennett's behalf in attempting to get the former Clannelier estate in King's and Queen's counties, while Churchill was at the same time suggesting to Bennett that Luke Bath's old estate, including the manor of Balgriffin, was ripe for plucking. Bath's estate had been set out to Colonel Michael Jones during the Interregnum. Jones had died in 1649 but the estate was being claimed in 1663 by his

1. This episode is described by Sergeant in Little Jennings, i, 235-37, based, says the author, on the manuscripts of the English house of lords, under date 8 April 1670. It is also described, however, in Carte MSS, lx. ff. 463-68. A letter from Ormond to Orrery, appearing in Carte MSS, xlvi. f. 223, indicates that Talbot's decree in chancery was issued in 1667.

brother, Henry, Bishop of Clogher, who was maintaining that he was in possession on 7 May 1659, thus being automatically confirmed by the provisions of the Act of Settlement. In early March 1663 Churchill told Bennett that the commissioners were of the opinion that the bishop had never been in actual possession. Several weeks later, however, Churchill discovered that Bath was being patronized by St. Albans and advised Bennett to drop the case. He added in a subsequent letter that he doubted, furthermore, that Ormond would have approved of the estate being granted to Bennett.¹

Meanwhile, the Cromwellians who were in danger of losing their estates as a result of the decrees of innocence issued by the court of claims were reacting in a predictable manner. Several days after James Allen and his mother had received their decrees of innocence the earl of Mount-Alexander complained bitterly that the decrees were granted despite the fact that fourteen witnesses, each one identifying him independently in a large crowd, had testified to Allen's eminent acts of rebellion. 'On this clearness', he said, '100 to 1 was offered on my side, yet --- the court adjudged him innocent'.²

1. Cal. S.P. Ire., 1663-65, pp. 42-4, 56.

2. Cal. S.P. Ire., 1663-65, p. 19.

Still later, in a letter to the Duchess of Ormond, Mount-Alexander maintained that by a 'seasonable interception' of some of Richard Talbot's letters, he could prove that Talbot had practiced fraud in the case.¹

The decree of innocence given to the children of Philip Hore of Kilsaghan precipitated a struggle between Hore and Sir George Lane which finally ended in a compromise agreement, negotiated in August 1665, while the new bill of settlement was still under discussion. By the agreement Lane got half the estate, or 527 acres, including Kilsaghan, and a few smaller parcels, together with Hore's property in Dublin city; Hore received the remainder.² Both sides in the dispute were able to muster an impressive array of patrons, and the struggle behind the scenes seems to have been keen. The compromise itself was proposed by Richard Talbot and drawn up by Nicholas Plunket. Some years later Hore maintained that he had never authorized Talbot 'to say anything against Lane or his grant',³ but rather than Talbot it was undoubtedly

1. Carte MSS, xxxiv. f. 12. Mount-Alexander to Duchess of Ormond, 11 Jan. 1665.

2. See below, p. 190.

3. C. Farrell to Lane, 2 March 1671, N.L.I., Lane papers, MS 8644.

the influence of St. Albans which had provided the protection which Hore needed to regain half of his old estate. Lane, who had spent ten years in exile with the king, could of course call upon Ormond for support, having been the duke's private secretary for twenty years.¹ The contest appears to have been a cause célèbre in English court circles, even to the extent of becoming the subject of an entry in the diary of Samuel Pepys, who was in attendance at one of the debates in Whitehall in 1664 which he described as 'a great and famous cause --- [concerning] Lane and one Mr. Phill. Whore --- about Lane's endeavouring to reverse a decree of the late commissioners of Ireland. Lane's sollicitor did argue most angell like ---'.²

Another source of agitation resulted from the decree of innocence given to the heirs of Patrick Sarsfield of Lucan. The Cromwellian occupant, Sir Theophilus Jones, was a man of considerable influence in restoration Ireland. He had played a vital role in effecting the restoration, even to the extent of securing the person of Miles Corbet, the regicide, shortly before the meeting of the general convention in early 1660.³ The court of claims, although

1. F. E. Ball, 'Some notes on the households of the dukes of Ormond', in Proc. R.I.A., xxxvii (1928), 2-4.
2. Diary for 18 Nov. 1664.
3. Cal. S.P. Ire., 1663-65, p. 229.

decreeing Patrick Sarsfield nocent, gave an innocent decree to William, Patrick's son and heir. Jones was given title to Lucan for the life of Patrick, at whose death the estate would revert to William; Jones was to be given reprisals for the loss.¹ The network of influence working for Sarsfield was rather extensive. Robert Leigh, an agent for secretary Bennett (among others), was in Dublin in 1663-64, soliciting favour for Sarsfield. 'On behalf of Mr. Sarsfield', he wrote to secretary Joseph Williamson, 'for whom the earl [of St. Albans] so much interceded, I ask that if Sir Theophilus Jones pass anything to Sarsfield's prejudice, you first be pleased to acquaint lord St. Albans therewith ---'.² Jones maintained, in a letter written to Sir George Lane in 1664, that Patrick was unworthy of any royal favour, having 'lurked at home and never having served his majesty abroad but received lands in Connaught'. Furthermore, Jones added, Patrick already possessed an estate (it is not clear which estate) of more value than Lucan, 'which may be thought enough for one --- [as] little revered as Patrick Sarsfield'. Then, in a suggestion which goes

1. Cal. S.P. Dom., 1660-85, pp. 483-85.

2. Cal. S.P. Ire., 1663-65, p. 142. Leigh to Williamson, 8 June 1663. For further information on Robert Leigh see below p. 287.

--- were probably Thomas Luttrell, Thomas White, Thomas Eustace, James Allen, Peter Nottingham and John Foster, all of whose land estates to the west of Dublin city.

far to illuminate the military-plantation mentality of a Cromwellian soldier settled only six miles from Dublin city, Jones urged consideration of the strategic problems which would arise if Sarsfield were restored. 'It may be considered', he said, 'that the Irish are all restored to their estates on the west side of Dublin, viz., Luttrell, White, Eustace, Allen, Nottingham, Foster, and a score of others. Lucan is yet preserved, and I offer how necessary it may be that a scoutmaster may be kept in the heart of them ---'. Moreover, in those six miles, Jones continued, 'there is not a place for a protestant to resort to devine service but into Lucan', which, he concludes, 'may not be least worthy of consideration of debate of the whole matter'.¹ The debate, in fact, was to continue for a good number of years, about which further reference will be made in a later chapter.²

Although the Act of Settlement had provided for lands worth £200 per annum to be settled on the orphans of colonel Owen O'Connelly, no particular land from which this income might be realized was mentioned. Instead, it was only suggested that the income might be obtained

1. Jones to Sir George Lane, 16 July 1664, N.L.I., Lane papers, MS 8643. The 'Irish' referred to by Jones as being restored were probably Thomas Luttrell, Thomas White, Thomas Eustace, James Allen, Peter Nottingham and John Foster, all of whom held estates to the west of Dublin city.

2. See below, p. 269.

from one of several estates in county Dublin, including the manors of Artaine and Westpellstown. Meanwhile, however, Sir Nicholas Armorer, a garrulous old royalist officer with a penchant for agua-vitae, had discovered that title to Artaine had been 'concealed', apparently by the heirs of the earl of Cavan, to whom the estate had been granted by Charles I, following the attainder of Nicholas and Christopher Hollywood in 1642. Moreover, Armorer calculated that the lands which were intended to be given to O'Connelly's children would provide far more than the required £200 per annum. Such being the case, Armorer petitioned for, and received, a royal letter calling for a grant of Artaine for 31 years, from March 1663.¹

The need that catholic claimants had for powerful patronage is well illustrated by the futile attempts made by the heirs of George King to recover the manor of Clontarf, just north of Dublin city. It has already been noted that Edward Vernon's claim to the estate, based as it was on conveyance from John Blackwell, had been placed in serious jeopardy. Moreover, James Aylmer and his wife, the only daughter and sole heir of King,

1. Cal. S.P. Ire., 1669-70, p. 469.

had got letters from the king enabling them to start proceedings to reverse the outlawry against King.¹ A report on Aylmer's claim, submitted by lord chancellor Eustace to the king in 1661, deserves extensive quotation, serving as it does as a representative example of the involved and complex set of interests which attended the restoration settlement in Dublin and Wicklow, and indeed throughout the country:

I have seen a report --- dated 17 November 1660, certifying that George King --- submitted and adhered to the peace concluded by --- Ormonde --- in 1649. [Ormond] appointed him Excise Master of Waterford, where he was besieged by Cromwell, and died during the siege.

If these were all the facts, there would be a case for restoring the daughter, but upon a petition of --- Vernon --- I reported --- that King had been indicted and outlawed --- and that it was in your power to dispose of the lands; and they have been granted to Colonel Vernon. On the other hand the Articles of Peace made between your Majesty and the General Assembly of the - Catholics of Ireland contains an agreement that all indictments, attainders, outlawries, etc., and all patents, grants, leases, bonds, etc., depending thereon or taken by reason thereof since 7 August 1641 in prejudice of the said Catholics shall be vacated. The indictment and outlawry in question were within that time.

The Earl of Mountrath is also a suitor to the King that he may have the said [estate] in reprisal for some land which he supposes he shall lose by your Majesty's intended Declaration [i.e. the Act of Settlement]. And whether your Majesty will settle the said lands on the - daughter, whose

1. Cal. S.P. Ire., 1663-65, p. 171.

right is bound up by nothing but the -
 articles of peace - or - on --- Vernon, who
 hath already proceeded so far as to the
 Great Seal upon your Majesty's title to
 the premises, grounded upon the said
 indictment and outlawry - ; or upon -
 Mountrath - this is a matter for your
 royal consideration.¹

Aylmer's case rested on a challenge to Vernon's claim to the estate based on the attainder of John King, father of George. It was maintained by Aylmer that Clontarf was 'confered' on George King upon his marriage to Mary Talbot, the proprietorship to be assumed by George upon the death of his grandfather (also George). John, he claimed, was never the proprietor but 'only had an annuity thereout during life'.² Vernon responded by calling the claim 'a cheat, intended by that claim which looks back five descents backwards. These can do nothing against me but by some forged deed. I am on my defense and rely on your [i.e. Joseph Williamson] help and that of Mr Secretary [Henry Bennett] to hinder such letters as may [oust me]'.³ Neither Aylmer nor his wife submitted a claim to the court of claims, and there is

1. Cal. S.P. Ire., 1660-62, p. 372.
2. Cal. S.P. Ire., 1669-70, pp. 447-50.
3. Cal. S.P. Ire., 1663-65, p. 121.

1. *Ibid.*, p. 309. See above, pp. 153.

no evidence that either of them enjoyed the patronage of anyone who could have helped them. It would seem to have been a case in which Aylmer simply lacked the necessary financial resources or court influence to seriously challenge Vernon's claim on the estate.

The contest between Lord Gormanston and the earl of Mountrath's heirs was complicated by two concurrent disputes, one involving the still unsettled quarrel between Mountrath's widow and her stepson, the second earl, over interpretation of the late earl's will. This dispute was heard before the king in council but was referred back to Ormond and the Irish council, where it was still unresolved in 1664.¹ The other dispute centered around the claims being made by the widow of Sir Thomas Lucas, to whom Gormanston's estate had been granted in 1644 by Charles I as compensation for having expended (as it was claimed) £10,000 in the royal service. Lucas died in 1648 and several years later Coote was in possession under the Cromwellian settlement. Lucas's widow and her second husband, Sir Edward Sutton, were however allowed to remain on the estate as tenants, at a rent of £400 a year. Furthermore,

1. Ibid., p. 305. See above, pp. 153.

2. *Old. S. P. Ire. 1660-62*, pp. 374-5.

lady Lucas was claiming the wardship of Gormanston, and he (Gormanston) had been ordered to pay her £1,200 a year, of which he had by 1663 already paid a part. This dispute was also submitted to the Irish council, where it was ordered that Gormanston was to pay Lady Lucas £1,500, at a rate of £300 a year, after which she was to relinquish all claim to the estate.¹

An interesting tactic was tried by Sir Robert Talbot to recover his extensive estate in Wicklow. Talbot's estate had been earmarked for the satisfaction of the '49 interest. Some time in late 1662 or early 1663, Talbot, who was apparently still in possession of his transplanter's estate in Mayo, submitted a proposal to the trustees of the '49 interest, offering an exchange of his Mayo lands in return for his old Wicklow estate. He pointed out that the Mayo land would yield as much rent as those in Wicklow, since the quit rent on the Mayo lands was much lower. He suggested that many of the officers would sell their debentures to other officers for half a crown in the pound, at which ratio those doing the purchasing would receive five times greater an estate in Mayo than in Wicklow. He maintained that he would doubtless be restored by the court of claims,

1. Cal. S.P. Ire., 1660-62, pp. 374-5.

in which case the officers would have no reprise.

Finally, he claimed the patronage of both Lords Masseurene and Ormond.¹ But the offer was apparently

rejected and nothing more is heard of the proposal.

It is very likely, moreover, that Lord Mayo, on whose lands Talbot had been settled as a transplanter, would have had no reason to approve such an arrangement.

Several other old English catholics from Wicklow could claim stronger support for restoration than Sir Robert Talbot. Furthermore, unlike Talbot, they had all got decrees of innocence. Besides James Allen of St. Woolstan's, who had the powerful and self-interested patronage of Richard Talbot and Charles Berkeley, Sir Richard Bealings and Sir Lawrence Esmond were able to muster formidable support. Bealings held large estates in both Dublin and Wicklow. His father (also Sir Richard) had played an important role in the activities of the confederate catholics during the wars, acting as secretary to the supreme council at Kilkenny. He had been a trusted adviser to the royal family in exile and was later named as one of the thirty six proviso men in the Act of Settlement. There is no doubt that

1. Carte MSS, lx. f. 431. 'A proposal rendered on the behalf of Sir Robert Talbot - in order to reprise the officers before 1649 for his lands in County Wicklow'. The MS is undated, but can be placed before the rising of the first court of claims.

Sir Richard the elder, who was still alive in 1665, could claim the patronage of the king himself. Indeed, some years later Sir Richard's son was described as a 'secretary to Queen Catherine Braganza'.¹

Although Sir Thomas Esmond's father, Lord Lawrence Esmond, had been a protestant (he died in 1645), he had, it seems, married as his first wife a sister of Morrhagh O'Flaherty of Connaught. She, being an orthodox catholic and fearing for the religious upbringing of her child, fled to Connaught, whereupon Esmond repudiated her and married Elizabeth Butler, a granddaughter of the ninth earl of Ormond. Esmond had no issue by Elizabeth, however, and bequeathed his vast estate to Thomas, his son by his first wife. Thus, although the peerage became extinct with Lord Lawrence's death in 1645, the estate passed to his legitimate heir, a catholic.² Although Thomas's son, Lawrence, was issued a decree of innocence,

1. Ainsworth, Reports, viii, 2025.

2. Some doubt has been expressed in the G.E.C., v, 112-13(n)x, over the legitimacy of Thomas, but the evidence, including the fact that he claimed the estate in the court of claims by right of succession from Lord Lawrence, goes far to prove otherwise. The Armagh MSS, vi. pp. 300-03, show Thomas's son, Lawrence, as the claimant. But this was a technicality; Lawrence was a minor in 1663 and Thomas obviously wanted his son to have the decree of innocence. In 'A catalogue of the reports and schedules addressed to the court of claims', appearing in Ir. rec. comm. rep., 1816-20, p. 264, Thomas is listed as claiming by descent from Lord Lawrence. See also John O'Donovan's notes in the Annals of the four masters, app. vi, 2497.

he was left to law to recover the estate. His prospects of doing so, however, appeared rather dim, since the entire Esmond estate, including 11,650 acres in Wicklow, had been granted to general Monck (now Duke of Albemarle) during the Interregnum. The contest between the Esmonds and Albemarle was to continue for some years. There is some reason to believe that the Esmond cause was aided by George, second Duke of Buckingham, with whose father (the first Duke) Sir Thomas Esmond had participated in the ill-fated attempt made in 1627 to relieve the protestant garrison of La Rochelle.¹ True or not, Albemarle felt insecure enough to have thought it necessary to obtain the king's assent, in late 1665, to a private bill securing him in his Irish estate.²

Another source of agitation in the years 1662-65 arose as a result of the 'cautionary reprisal' grants which were being given to the Duke of York after various estates had been taken from him in order to accommodate the restoration of various catholics. Although the lands of the regicides had been earmarked for York from the start, Clarendon states that the Duke had been

1. G. Griffiths, Chronicles of the county of Wexford, p.106.
 2. Commons' jn. Ire., i, 694 (23 Dec. 1665).

persuaded not to prosecute the grant, with the understanding that much of this land would be used to satisfy the dispossessed catholics. It was not until York 'heard of great quantities of land every day granted away by his Majesty to his servants and others; - [that] he resolved to be no longer a loser - and so proceeded in getting that grant from the King to himself of those lands designed to him'.¹ Some of the more desirable estates in Dublin - Malahide, Luttrellstown, Monkstown, for example - had already been restored to their former owners, and York's agents were beginning to make themselves obnoxious by trying to claim various estates for the Duke in reprisal. John Foster, for instance, who had been restored by royal directive in 1661, complained the following year that he was being 'disturbed' in his eighty-eight acres in Ballydowde. Foster claimed that he had been in possession since 1661, that his father had served under Ormond and had contributed to the maintenance of the royal army during the wars, and that neither he nor his father

1. Cautionary reprisals were intended to be temporary grants, to be held against the possibility that permanent reprisals could not be found elsewhere.

had ever been indicted or outlawed, although his father had spent some time in a Commonwealth jail and had with much difficulty avoided being transported to the Barbadoes.¹ Even some catholics who had received decrees of innocence in 1663 were forcibly evicted by York's agents.² By 1664 the stock of land in Dublin which might be used for York's reprisals had shrunk to such an extent that it was ordered that all lands in the county, still in the king's hands, which had been let in custodiam were to be revoked and passed to the Duke. A year later the order was extended to include all such lands throughout the entire country.³

The catholic party, headed now by Richard Talbot, submitted a plan which called for, among other things, (1) the repeal of all attainders since 23 October 1641, (2) the confiscation of all the estates of the court of claims, (3) the vesting in the King of all lands belonging to catholics in 1641, (4) the resumption of 1,600,000 acres of profitable land to the adventurers and soldiers and the '45 interest, (5) the confiscation

1. Carte MSS, lx. f. 513. Cal. S.P. Ire., 1660-62, p. 448.

2. See below, p. 209.

3. Cal. S.P. Ire., 1663-65, pp. 370-1, 562.

VIII. The Act of Explanation

Meanwhile, at the hearings on the new bill of settlement it had become apparent that the drawing up of an act would be a long and complicated procedure. Ormond was told in late 1663 that the committee which was considering the bill, having found the matter 'intricate and perplexed', had asked the king to direct the attorney-general (Sir Heneage Finch) to draft a new bill or to amend the old one, taking as a basis the Act of Settlement.¹ The agents representing the various landed interests in Ireland once more submitted their claims to the Irish committee. The catholic party, headed once more by Richard Talbot, submitted a plan which called for, among other things, (1) the repeal of all attainders since 23 October 1641, (2) the confirmation of all the decrees of the court of claims, (3) the vesting in the king of all lands belonging to catholics in 1641, (4) the assigning of 1,600,000 acres of profitable land to the adventurers and soldiers and the '49 interest, (5) the confirmation of the lands decreed to those adjudged innocent by the court of claims, and (6) the satisfaction of a small group of still unrestored catholics, to be especially named in

1. Carte, Life of Ormond, iv, 190.

the new act. It was suggested that the king would hold 200,000 acres of vested lands until after the subdivision was concluded, with half going to the protestants who had suffered most by the alteration, and the other half going to catholics for the same reason. The 200,000 acres were to be supplied in equal portions from the lands assigned to catholics and protestants under the Act of Settlement. The whole plan, however, was rejected by the protestant interest. The agents representing the soldiers wanted the catholics restored to 2/5th of what they had held in 1641, with the remainder distributed among the various protestant claimants. The adventurers complained that they had lost over 200,000 acres because of the decrees issued by the court of claims, but wanted only to be confirmed in what remained to them.¹

Ormond was called to England in the summer of 1664 to try and break the deadlock. When he arrived he found the contending parties 'all weary of the unsettled condition wherein they found themselves: the expense and trouble of disputes, and the uncertainty of the event, made them uneasy, and disposed them to relax something of their former pretentions'.² Clarendon described the

1. Carte, Life of Ormond, iv, 204-6.

2. Ibid., p. 200.

various factions as finally reaching the conclusion that 'any settlement would be better than none; and that more profit would arise from a smaller proportion of land quietly possessed and husbanded accordingly, than from a much greater proportion under doubtful title - '.¹

The new spirit of accommodation may have arisen, in part at least, by the discovery, made during the course of the discussions, that due to highly irregular methods of surveying the soldiers and adventurers were probably in possession of far more land than they were legally entitled to. With all parties in a mood for some kind of compromise, a solution, originally put forward by the catholic agents, was finally adopted on 6 July 1665, whereby the adventurers and soldiers agreed to part with one third of their lands, thus creating a stock of land which might be used for reprisals.² This compromise was embodied in the Act of Explanation, which finally passed the Irish house of commons under very dramatic circumstances in December 1665.³

As in the Act of Settlement, the new act vested in the

1. Clarendon, Life of Clarendon, part ii, 63-4.
2. Carte, Life of Ormond, op.cit., 205. The compromise took the form of a written agreement, signed at Lord Anglesey's house, at which all the contending parties were in attendance, including Lord Clancarty and Sir Nicholas Plunket, who represented the catholics. See Lansdowne, Petty-Southwell correspondence, 259, 262.
3. 17 and 18 Car. II, c.2. Clause v deals with the retrenchment of land. The atmosphere in the commons during the debate on the final passage of the bill was described as 'most virulent, the members confronting each other with half drawn swords'. Cal. S.P. Ire., 1663-65, p.699.

king all lands in Ireland which had been forfeited in 1641, with the exception of: (1) those lands held by individuals who had succeeded in obtaining decrees of innocence from the court of claims of 1663, (2) church lands, (3) the lands held by Trinity College, Dublin. To these three classifications were added the lands of a few favoured individuals whose estates were declared exempt from the provisions of the vesting clause by the terms of the Act of Settlement.¹ Twenty two individuals were also declared to be exempt from the obligation to retrench one third of their estates, including the dukes of York and Albemarle, lords Kingston and Mountrath, together with Sir Theophilus Jones, Sir George Rawdon, Edward Vernon and the orphans of Colonel Owen O'Connell, all of whom had proprietary interests in Dublin or Wicklow.² Fifty four persons, thirty four of whom had already been named in the Act of Settlement, were named to be restored to their principal seats and 2,000 acres adjoining (provided they had held so much in 1641), but only after those removed from estates in question had first been reprised. Among the fifty four - called 'Nominees' - appear the names of six old English catholic proprietors from Dublin and Wicklow: the earl of Westmeath, Lord Trimleston,

1. Clauses i-v. See above, p. 111.

2. Clause clxxxvii.

Sir Richard Barnewall, Bernard Talbot, Sir Luke Dillon and Sir Thomas Esmond.¹ Finally, those individuals who had received decrees of innocence but had not yet been restored were left to law to recover possession of their estates. The soldier or adventurer on land claimed by such a person was required to decide within three months from the first day of the sitting of the court of claims whether to submit to a trial or relinquish the estate and hope to get a reprisal of two thirds from other forfeited lands.² Although providing for a pool of land with which to partially restore a few individuals, the new act proved ruinous for the hundreds of unheard catholic claimants, since no provision was made for the resumption of the hearing of the claims of innocents.

Besides the above mentioned nominees, only a few catholics from Dublin and Wicklow were mentioned by name in the Act of Explanation. John Arthur, the son of Robert (who was dead by 1665) received a separate proviso calling for his restoration to his whole estate in Dublin as it existed in 1641, 'except what thereof is in the hands

1. Clause cxlviii. The list of nominees was drawn up by Ormond with the help of the earl of Clancarty, Lord Athenry, Sir Robert Talbot, Sir Richard Bealings and John Walsh, who was the Ormond family lawyer. Carte, Life of Ormond, iv, 207, 212.

2. Clause lxx.

of adventurers or soldiers, or is in the city of Dublin, for which [John] --- is to be forthwith reprised elsewhere --- as near and contiguous to [Dublin city] as conveniently may be'.¹ Lord Dunsany, who had been named as one of the thirty eight proviso men in the Act of Settlement (following which he was decreed nocent by the court of claims), received a rather ambiguous proviso in the new act. Dunsany's restoration was called for 'without any previous reprisal', but only after the 'respective adventurers or soldiers --- now in possession thereof --- were first satisfied'.² Lord Netterville, who was also named as one of the proviso men in the Act of Settlement (and also adjudged nocent by the court of claims), was ordered restored to his estate after two thirds of its equivalent had first been set out elsewhere to Edward Smith and Sir Courtney Poole, who held a mortgage on the estate.³ John Talbot of Malahide was ordered restored to his 1,585 acres in Dublin, but only after 'such persons who had purchased the same of and from Susannah Bastwick or her children, or their assigns', were first satisfied with forfeited lands of equal value elsewhere.⁴

1. Clause ccxxviii.

2. Clause cxxxvi.

3. Clause xcvi.

4. Clause xliii.

Sir Luke Bath of Drumconra in county Dublin was ordered restored to his estate, which amounted to nearly 1,200 acres. But a formidable obstacle was placed in the way of his restoration by the proviso that the Duke of York, who had taken possession of the estate as a cautionary reprisal, was to be reprised before Bath could be restored.¹

Two provisos dealing with Lord Gormanston's estate, and appearing to be contradictory, did little to clarify what was already a confused situation. The first called for Gormanston's restoration, with the heirs of Lord Mountrath, however, being first satisfied with other forfeited lands of equivalent value. Since Gormanston had already seized the demesne land by force, it was further provided that Mountrath's heirs should also be first satisfied and paid for the loss of income from the estate which they suffered by being forcibly removed. The second proviso, however, confirmed Mountrath's heirs in the lands they held in 1659, 'except such as had been decreed away, or shall be by this act, or restored unto the Irish [i.e., Gormanston] proprietor, for which he or they shall forthwith have the like quantity of profitable acres set out unto him or them respectively ---'. The second proviso also provided for a division (unspecified)

1. Clause xciii.

of the late earl's estate to be made among his children, which would indicate that Ormond and the Irish council had reached a decision over an interpretation of the provisions of the earl's will.¹

It is significant that many of the fourteen catholic proprietors from Dublin and Wicklow who were named in the Act of Explanation had either received nocent decrees from the court of claims in 1663 (Dunsany, Tyrconnell, Netterville), or were at the time involved in litigation concerning their estates in one or the other of the two counties (Sir Thomas Esmond, Philip Hore, Lord Gormanston and John Talbot of Malahide). The fact that the earl of Tyrconnell's proviso invalidated the nocent decree he had received from the court of claims in 1663 is indicative of the quality of the patronage at his command; it was in fact the only such proviso in the entire act. A second proviso ordered Tyrconnell to be restored to his estate.²

All the influential protestants, both old and new English, who held land in Dublin and Wicklow were given mention in the new act, although there were several significant alterations from the provisions made for some of them in the Act of Settlement. After the passing of

1. Clauses cxii, cxvi. See previous references to Gormanston's case above, pp.153, 173.

2. Clauses lxxvii-lxxviii.

the Act of Settlement it was realized that the restoration of the Duke of Ormond to his vast estate (the largest in Ireland), much of which had been set out to adventurers and soldiers, or the allocation to him of reprisals of equivalent value, would cause a serious disruption in the orderly settlement of the country. Ormond, says Carte, 'could not bear the reflection that the settlement of a whole kingdom should be delayed for his particular benefit or interest; especially in a time when the jealousy, envy and emulation, faction and self-interest --- were so rife --- This reason determined him to give up his forfeitures¹ --- and accept a sum of money in lieu thereof'.² Another motive which 'inclined' him to accept compensation in money rather than in land was the fact that Ormond had incurred large debts during the wars and as a result had mortgaged his Irish estate for some £50,000. The Act of Explanation therefore provided that £50,000 sterling was to be paid out of the years' rent of forfeited lands which had been assigned to soldiers and adventurers, which, after being paid into the exchequer, was then to

1. That is, Ormond's own lands forfeited to the duke by reason of the failure of some of the tenants who held estates in fee farm, to fulfill obligations of military tenure during the wars.
2. Carte, Life of Ormond, iv, 216.

be paid by the exchequer to Ormond. The £50,000 was to be paid to him in lieu of those lands to which he was not restored, or for which reprisals could not be found.¹

John, Lord Kingston was confirmed in the lands which had been ratified to him in the Act of Settlement, with a slight modification however; those lands which had been decreed away by the commissioners of the court of claims and those which had been granted and confirmed to Charles, Lord Fitzharding, were excepted from the confirmation. It was further provided that if the income from Kingston's estate did not equal £700 per annum, then he was to have the deficiency made up in lands equal to that amount in the counties of Dublin, Limerick, Tipperary, Cork and Kildare, except that none of the lands set out to him for this purpose was to come from the lands set out to Fitzharding.² Fitzharding himself received a separate proviso of only seventy three words, confirming him in the lands he had received by letters patents issued to his father, Lord Falmouth, who had recently died.³ Another short (101 words) proviso was devoted to Sir Nicholas Armorer, who was confirmed in his grant of the old Hollywood family manor of Artaine for

1. Clause xlv. Carte, Life of Ormond, iv, 218.

2. Clauses cvii-cviii.

3. Clause lxxv.

thirty one years.¹

Sir Theophilus Jones was mentioned on various occasions in the new act, but the most vital clause was that which dealt with the disposition of the old Sarsfield estate of Lucan in Newcastle and Uppercross barony in Dublin. In effect the proviso upheld the judgement of the court of claims by confirming Lucan to Jones for the life of Patrick Sarsfield only. Jones was to be given reprisals for his loss of Lucan.²

Sir George Lane was also mentioned in the new act on more than one occasion, but the most important proviso concerned the agreement, arrived at before the passing of the act, between Lane and Philip Hore of Kilsaghan, which was embodied in the new bill. Comprising more than four pages of the printed act, the first (of two) proviso dealing with the agreement presents a brief historical background to the compromise; that after Lane had received letters patent to Hore's old estate in February 1661 and July 1662, the court of claims had found Hore himself nocent, but at the same time had found his children innocent; that 'in order for avoiding of all future difficulties touching the matter', Hore's son

1. Clause cxxxi.

2. Clause ccxxiii.

1. Clauses clxxxiv-clxxxv.

(also Philip) and Lane came to an agreement by which the estate was to be divided between them. The first proviso also sets out in great detail the exact amount of property which was to be settled on Lane: 'two stables, one piece of waste ground, one garden, and another edifice near the said stable, --- three messuages covered with straw ---; one shop or room in High Street under the house wherein Robert Dowling formerly lived, which shop was held by John Jourdan'. The second proviso dealt, in much less detail, with the portion of the estate which was earmarked for Hore the younger.¹

In connection with Ormond's plan to create a royal park near Dublin city which would also serve as a suitable viceregal residence, a clause in the Act of Explanation dealt with the purchase by the government of about 440 acres in Chapelizod, a few miles west of the city on the Liffey river, from Sir Maurice Eustace, the lord chancellor, who had bought the land in 1661. At about the same time, apparently in the interest of protecting his Chapelizod estate, Eustace had purchased the fishing weirs and mills of Kilmainham, a parcel of some 100 acres on the river near Chapelizod. Eustace had agreed to the sale of both properties in 1663, but only a portion of

1. Clauses clxxxiv-clxxxv.

the purchase price of £10,000 had been paid to him at the time of his death in June 1665, so a proviso in the Act of Explanation calls for the payment of the balance to his heirs.¹

Sir Henry Tichborne, who was in possession of the old Plunket estate at Dunsoghly in Coolock barony at the time of the passing of the new act, was given a proviso confirming him in the lands 'which were set forth unto him in recompense and satisfaction of money, and other provisions, by him furnished for relief of the army in Ireland, between - [1641 and 1643]'. This confirmation, however, was to apply only to lands which had not been decreed away by the commissioners of the court of claims; he was to be reprised for those lands which were decreed away.²

Whereas the Act of Settlement had vested in the duke of York all the lands held by the regicides, provision for him was somewhat modified in the Act of Explanation. Also excepted from the lands to be vested in the duke were, (1) those lands granted to Ormond, the archbishop of Dublin, Sir George Lane and Hercules Hunks, (2) those lands which

1. Clause cxci. Cal. S.P.Ire. 1660-62, pp. 405, 661.
2. Clause cxlv.

had been purchased from the regicides and, (3) those lands which had already been decreed away by the commissioners of the court of claims.¹

An important proviso dealing with a large tract of land in Wicklow was devoted to preserving the rights of the heirs of Sir John Coke, the principal secretary of state to Charles I, in the territory of the Forter, which had been granted to Coke in 1637. Since this land was in the heart of the region assigned for the satisfaction of the '49 interest, the proviso expressly mentioned that 'no sequestration or allotment of any of the lands --- to any adventurer or soldier shall --- bar or weaken the right --- of the said [heirs of] Coke --- to the said lands ---'.²

Though the '49 interest was allotted lands in Wicklow as a group, several officers from their ranks were specifically mentioned in the new act. One of these was a Captain Henry Finch of Derry, who in November 1641 had levied and armed a foot company of one hundred men which he had maintained at his own expense for three years, finally disbanding it in 1648 without having received

1. Clauses xlviiii-xlix.

2. Clause clxvii.

1. Clause cxli.

any satisfaction. Furthermore, it was pointed out in the proviso that Finch's arrears due to him for service before 5 June 1649 had not been stated by the commissioners of the Act of Settlement, partly because some doubt had arisen whether his company of foot had actually formed a part of the royal army in Ulster, and partly 'by reason of other accidents'. The proviso proceeded to order Finch's arrears to be stated by the commissioners of the Act of Explanation before any distribution of land was made to other '49 officers, and that his heirs (Finch had died in the wars) were to be satisfied 'in like manner as any other commissioned officer who served before 5 June 1649'.¹

Though Sir Lawrence Esmond had been given a decree of innocence in the court of claims, and his father, Sir Thomas, had been named as one of the fifty four nominees, a special proviso in the Act of Explanation, almost immediately following the one listing the nominees, expressly provided that 'nothing herein contained shall extend to restore or intitle the said Sir Thomas, baronet, to the possession of any [lands] --- whereof George, duke of Albemarle is now in possession --- but that the same shall be held and enjoyed by the said - Albemarle,

1. Clause cxii.

his heirs and assigns; anything herein before contained to the contrary in any wise notwithstanding'.¹ Although having the man who was largely responsible for the restoration of the English monarchy confirmed in his Irish estate would seem to have constituted an almost insuperable obstacle to the restoration of the Esmonds, in fact the Wicklow portion of the estate was back in their possession a few years later.²

It seems certain that the influence of Lord Fitzharding and Richard Talbot had procured the provision in the earl of Mount-Alexander's proviso in the Act of Settlement whereby the king reserved the right to revoke Mount-Alexander's grant of James Allen's estate. The Allen estate was very valuable, and included the chief seat of St. Woolstan's in County Kildare, which was the real prize over which the contest was being fought. Between 1662 and 1665 Fitzharding and Talbot had had time to assure themselves of favourable consideration in the new bill, and indeed the result was that by a special proviso in the Act of Explanation James Allen and his mother were restored to their ancient estate. The proviso

1. Clause cl.

2. See below, p. 250.

1. In 1663.

2. Clause cl.

3. Clause vi.

states, in rather apologetic terms, that 'whereas in and by the former act [of Settlement] the [estate of James Allen] was intended to be settled upon --- Mount Alexander, with benefit of reprisal in case of restitution ---; since which time the commissioners --- have --- adjudged James Allen to be innocent, and restored'. Mount-Alexander had meanwhile died¹ and a petition against Allen's decree of innocence was submitted to the king by the earl's brother, William Mountgomery, in behalf of the dead earl's infant son. On a defence made by Richard Talbot, however, 'to whom part of the lands restored by the said decree were for good and valuable considerations --- legally conveyed by the said James Allen, his Majesty thought fit not to alter the said decree ---'. It was therefore directed that Mount-Alexander was to be reprised by the allotment of other undisposed forfeited lands equal in value to two thirds of what he had lost by the restoration of Allen,² including over 11,000 acres in Wicklow.

The only other catholic from Wicklow to receive a favourable proviso in the Act of Explanation was Sir Richard Bealings. The proviso called for his restoration to the estate, including nearly 2,000 acres in Wicklow and 1,730 acres in Dublin, as held by his grandfather in 1641.³

1. In 1663.
2. Clause clxvi.
3. Clause cvi.

There were several prominent protestant magnates with landed interests in Dublin and Wicklow who, although amply provided for in the Act of Settlement, received no special mention in the Act of Explanation. Edward Vernon of Clontarf, Sir Arthur Forbes, Sir William Flower, Sir George Rawdon, and several others, received no individual provisos. A single clause, however, appears to have been intended to cover these cases. Twenty five such individuals are named, including the four mentioned above, together with Sir Theophilus Jones and Sir George Lane, who along with 'all others particularly provided for in the said former act, and not particularly mentioned in this present act' (provided their lands had not been decreed away and confirmed) were to enjoy the lands settled on them.¹ This broad proviso, then, would include provision for other proprietors, like Lord Strafford and Sir George Radcliffe, who otherwise received no special mention in the new act.

The passing of the Act of Explanation in December 1665 represented a compromise solution to a complex and volatile situation, arrived at more through weariness than reason. It had the virtue, as one historian has suggested,² of

1. Clause lv.

2. Butler, Confiscation, p. 194.

not fully satisfying any of the contending parties. Most of the catholics who had failed to get their claims heard in the court of claims of 1663 were left with no hope of ever being restored. But the log-jam was at least broken and a few - mostly prominent old English catholics - could hope to regain some of their lands. Sir Edward Deering, Sir Edward Smith, Sir Allen Broderick, Sir Winston Churchill, and Sir Edward Cooke, all of whom had served as commissioners of the Act of Settlement, were appointed to execute the new act.¹ They were back in Dublin shortly after Christmas 1663, ready to begin hearings in the second court of claim.

1. Clause clix.

IX. The Second Court of Claims

On 4 January 1666, eighteen days after the passing of the Act of Explanation, the second court of claims began its hearings. It was not to rise until 3 January 1669, although there were numerous recesses while the court referred difficult or doubtful cases to the lord lieutenant and council, as provided for in the act. There is, unlike the first court of claims, a paucity of records dealing with the history of the second court. Those that exist are scanty and fragmentated. There is no way of telling how many cases were heard or how many decisions were handed down. Nevertheless, from the sources that are extant we are able to make several judgements which have not hitherto been made.

A list of eight rules and directions governing the submission of claims was issued on January 5. Rule one stated that all claimants were to put in their petitions or schedules (i.e. lists of lands claimed) within thirty days of the publication of the rules. The second rule required all claimants to 'distinctly express' the lands they held on 7 May 1659, listing the county and barony in which they were located, together with the denominations of the lands and the number of profitable and unprofitable

acres according to the Down survey. Rule number three directed that all claimants set forth what lands they had lost or had been removed from since 7 May 1659, either by decree of the first court of claims or otherwise. The trustees of the '49 interest were required by rule four to immediately submit a list of the officers whom they judged to be unqualified to claim arrears under the '49 security. The fifth rule declared that when several persons claimed the same lands, the one submitting the first claim was to give adequate notice to the attorney of the other interested parties. By rule six the fifty four nominees in the Act of Explanation were to deliver in writing the denominations and number of acres they elected to be restored to, along with the names of those then in possession. Rule seven stipulated that those who had been restored by royal letter only, and had not received a decree of innocence from the first court of claims, were to put in within thirty days a schedule of the lands they held. If they held more than 2,000 acres they were to elect that portion, not over 2,000 acres, they chose to retain, provided they had held as much in 1641. Finally, by the eighth rule, any soldier or adventurer who held land whose former proprietor had been adjudged innocent but was left to law to recover his estate was to

decide within thirty days whether to stand trial at law or to surrender the estate and take his chances at obtaining a reprisal of two thirds.¹

It is clear from several of the above rules that although the hearing of the claims of innocents had ceased in 1663, the commissioners of the second court were not, as it has been maintained,² almost exclusively employed in the hearing of the claims of adventurers and soldiers. The fifty four nominees were of course mostly old English catholics, and rule seven, above, would seem to apply to the nominee who had already been restored. Rule eight would also certainly involve innocent but unrestored catholics; it was regarded as important enough to be included in the Act of Explanation itself.³ Moreover, a transcription of some of the decisions of the court for the period January-May 1666 suggests that the number of decisions involving catholics might have been far higher than previously thought.⁴ It would be dangerous of course to project percentage figures based on evidence which

1. Cal. S.P. Ire., 1666-69, pp. 35-40.

2. C. W. Russell and J. P. Prendergast, The Carte manuscripts in the Bodleian library, Oxford, p. 160.

3. See above, p. 184.

4. N.L.I., MS 31. 'Proceedings of the commissioners appointed for putting in execution the Explanatory Act and Act of Settlement, Dublin, 1665-66'. The MS is bound and entitled 'Order Book' on the spine of the cover.

covered so short a span of the life of the court, especially when it involves only the first three months of the hearings, when the claimants - doubtless with the history of the first court of claims in mind - probably flooded the court with petitions. Nevertheless, based on the fragment of the court record as presented in the Order Book the number of cases involving catholics for the entire life of the court session may have been as high as four or five per cent of the total. Of the 443 entries at least 30 involved catholics, either as petitioners or defendants; in a few cases both parties were catholics. Not all the entries involved legal decisions, some being merely directives to postpone or to set dates for future hearings. In several cases the court seems to have acted as a kind of court of appeals, to which claimant's reverted after a decision had been issued by the court of claims of 1663. The beleaguered Lord Gormanston made an appearance in the court in April 1666, with Lord Mountrath's widow and stepson, the second earl, along with Robert Reading, the countess's then husband, appearing as defendants. After establishing that the first earl of Mountrath had been in possession of Gormanston's estate on 7 May 1659 the court declared, in a very ambiguous decision, that 'the title of the petitioner [Gormanston] to the said lands is not hereby confirmed, but in case the said defendants

do want a reprisal for the said lands, that then they shall be restored unto and confirmed in the possession of the said land. But if they be reprised according to the said acts, that then the said petitioner shall be confirmed in his possession of the said lands'. Meanwhile, however, Gormanston was ordered to remain in possession until the further orders of the court, but that he was to pay Mountrath's heirs £944 for meane profits due to them for four years, to May 1666, and £236 each year that they remained unreprised.¹ Eighteen months later Gormanston had defaulted on the payments and had been forced to sell at least part of the estate (it is not clear what part), but had not realized enough money from the sale to pay the £472 due to Mountrath's heirs for the two years 1666-1668. By this time Gormanston was claiming that they were refusing to accept his offers of reprisals, hoping to delay the proceedings until the court rose for good, when they would then be confirmed in his estate under the provisions of the Act of Explanation. In a petition to the king he pleaded that he was still not restored, despite the Declaration of 30 November 1660, and despite royal letters in his behalf in 1661 and 1667, together with his proviso in the Act of Explanation.² The petition

1. Order book, p. 160.

2. Cal. S.P. Ire., 1666-69, pp. 542, 657-8.

was supported by Ormond, who blamed Gormanston's troubles chiefly on 'the unskillfullness of those who solicited for him', and by Robert Leigh, who was soliciting favour from secretary Joseph Williamson.¹ The fact that Leigh was involved in the case strongly suggests that either Richard Talbot or St. Alban's, or both, were concerned in the contest. Whatever the source of Gormanston's patronage, the result of his petition was that the king wrote to the commissioners in late 1668, urging them to set out reprisals for Mountrath's heirs whether or not they agreed to attend the court for that purpose.² Despite the insecurity of his position Gormanston was by this time receiving rents and profits from at least the county Dublin portion of his estate.³

Sir Richard Bealings and the earl of Tyrconnell also made an appearance in the court, both as petitioners, with the intention of regaining possession of lands in Dublin which had been mortgaged before 1641 to Sir Robert Dixon. In Bealings's case the court left decision of title to the regular law courts, the lands in question amounting to about seventy acres. The mortgages on the

1. Cal. S.P. Ire., 1666-69, pp. 317, 466, 638.

2. Ibid., pp. 657-8.

3. Ainsworth, Reports, iv, 1039.

townlands of Kilternan and Ballybetagh in Rathdown half barony, however, amounted to over 500 acres, and had been mortgaged by Lord Merrion to Dixon's grandfather in 1639. In this case the court confirmed Dixon in the estate, presumably until Tyrconnell could redeem the mortgage.¹

Sir Robert Talbot, whose attempt several years earlier to recover his large Wicklow estate by private agreement with the '49 interest had failed, made an appearance as a defendant in the second court of claims in April 1666, begging not to be dispossessed from the lands in Mayo which had been set out to him as a transplanter under the Cromwellian settlement. The petitioner, Theobald (Bourke), Viscount Mayo, upon whose lands Talbot had been settled, simplified the matter for the court, however, by declaring that he was content that Talbot should be allowed to stay on the land, whereupon the commissioners ordered Talbot not to be disturbed and that Lord Mayo was not to be restored. They added, however, that the case should constitute 'no presedent for any others who have any final settlement--'.²

1. Order book, pp. 130, 161. Civil survey, vii, 273.

2. Order book, p. 165.

The Books of Survey and Distribution do not show Talbot to have been given any lands in Mayo under the final settlement; doubtless it was a personal arrangement between Talbot and Mayo, with Talbot holding the estate at Mayo's pleasure.

Talbot was not the only person trying to wrest land in Wicklow away from the '49 interest. Sir William Flower was at the same time challenging Lord Powerscourt's¹ title to the territory of the Glencap, that portion of the Powerscourt estate (about 3,000 acres) lying to the south of the river Dargle in Rathdown half barony. Powerscourt was claiming that the Glencap had been granted before 1641 to Sir Edward Wingfield, his grandfather, and that title to the region had been confirmed by a royal grant issued in 1663.² By 1667, however, Flower, in the name of the '49 interest, was claiming that he had discovered that title to the area had been 'concealed'.³ It is not clear exactly what form Flower's challenge to Powerscourt's title took, but it was probably based on Powerscourt's claim to possession prior to 1641. The case was considered by the court of claims on at least

1. Folliet Wingfield was created Lord Powerscourt in 1665.
2. Cal. S.P. Ire., 1663-65, p.62.
3. Cal. S.P. Ire., 1666-69, p.335.

two occasions, and by 1668 Flower had apparently proved that the Glencap had not been in possession of Sir Richard Wingfield (Powerscourt's father) before 1641, but had been in the possession of various proprietors - probably the O'Toole's - who later forfeited the estate. Thus, the king's grant to Folliot Wingfield in 1663 had been based on false information and was therefore automatically invalidated. By this time the king was referring to Flower's discovery, in his letters to the commissioners, as having been made 'as well on behalf of himself as of the '49 officers'.¹ The fact that Flower was claiming the Glencap in the name of the '49 interest strongly suggests that he was indeed basing his claim on the forfeiture of the estate after 1641, since most forfeited land in the county was by the Act of Settlement set aside for the satisfaction of the '49 interest. Although the sources for the history of the litigation are scanty, the contest was probably carried on between Flower and the earl of Orrery,

1. Cal. S.P.Ire., 1666-69, p.582. The suggestion made by A.E.Stokes, that the flaw discovered in Powerscourt's title to the Glencap rested on the fact that the region had in the thirteenth century been ecclesiastical land, over which the manor of Powerscourt could have had no chiefry or jurisdiction, would seem to be too elaborate. See his pamphlet entitled The parish of Powerscourt, p.11.

Powerscourt's guardian and future father-in-law. The opposition of such a formidable personality as Orrery would seem to have been a serious obstacle, but Flower had the patronage of Ormond, who in 1667 had provided secretary Arlington with the draft of a royal letter for Flower which, he said, was 'in favour of the '49 officers, but more especially Sir William Flower ---'. He recognized, he continued, the opposition to the letter which could be expected from Orrery and Powerscourt, and while having great respect for their 'alliance', he could ~~force~~^{find} no difficulty for them as long as they were able to prove Powerscourt's title to the Glencap prior to 1641.¹ But this they were apparently unable to do, for in 1668 Flower was issued a patent for 2,639 acres in the Glencap.²

Much of the litigation as it appears in the Order Book is devoted to the Duke of York's claim to lands in Dublin which had been set out during the Interregnum to Major-General Edmond Ludlow, the regicide. Ludlow's grant - nearly 3,000 acres - had consisted of a large

1. Carte MSS, lii. f. 296. Ormond to Arlington, 1 March 1667.
2. Ir. rec. comm. rep., 1821-5, p.181. The figure of 1,640 acres is a misprint, since the equivalent figure of 4,272 statute acres is also given. Moreover, the Crown rental, c.1706, xx, i, P.R.O.I., also shows Flower in possession of 2,639 acres.

number of small parcels, mostly in Balruddery and Rathdown half baronies. The Order Book contains entries of the duke's claims against Marcus Fitzsymonds, Robert Finglas, James Humphries, James Barnewall of Braemore, Dr. Richard Murphy and Lord Gormanston, all of whom held land in the barony which had been set out to Ludlow. In the course of the hearings it was revealed that the duke's agents had forcibly dispossessed both Murphy and Barnewall from some of the lands to which they had already been restored by the first court of claims. The commissioners ordered all the defendants to be confirmed in the lands in question, and Murphy and Barnewall to be restored, the decisions being based on the previous judgements of the first court of claims. It was again a question of confirming catholics in lands which had been granted to York in custodiam while he awaited permanent reprisals.¹ As late as 1669 there were complaints that the commissioners were taking these lands from the duke, or that catholic proprietors were detaining lands which were rightfully his. The king found it necessary to reiterate that his brother was to stand 'absolutely first among persons to be reprised of forfeited lands'.² One catholic

1. Order book, pp. 193, 202, 219, 235.

2. Cal. S.P.Ire., 1666-69, pp. 247-8.

claimant from whose lands York was not removed, however, was Luke Bath of Balgriffin, County Dublin. In 1667 a royal letter, directed to the commissioners of the court of claims, urged Bath's restoration. Bath's estate, it read, 'was not a part of the regicides, but only encumbered by way of cautionary reprisals to the duke of York until he be reprised for what he lost through the decrees of the court of claims. You shall forthwith reprise the duke for the land so adjudged from him and restore Sir Luke to his estate before any other person save - York, and the adventurers and soldiers who are settled on his estate'.¹ But of course lands of equal value could seldom be found, especially in Dublin. Furthermore, Bath's proviso in the Act of Explanation, whereby York was to be reprised before Bath could be restored, placed him in a particularly difficult position.

The Order Book makes it clear that York's agents submitted a large number of claims to the court, and there is every indication that their activities in his behalf constituted a disruptive influence not only in the court itself, but also on the general land settlement of the country. The agents appear to have been a rather obnoxious group. The appointment of Dr. Robert Gorges as chief agent for the duke can be traced to the patronage

1. Cal. S.P.Ire., 1666-69, p. 300.

of his cousin, Clarendon. But even so the appointment appears remarkable, since Gorges had arrived in Ireland in 1655 as secretary to Henry Cromwell.¹ A half dozen subagents were appointed along with Gorges, most of whom Ormond strongly objected to. Gorges, he maintained, had all along managed the duke's affairs in Ireland with 'the worst under instruments he could well light on - I mean [Sir Jerome] Alexander and Mr. Shapcott - [along with] Thornhill, Townly, Dunbaun, and others, fellows of notorious infamy'.² Commissioner Sir Edward Cooke complained on various occasions about the delays caused by the demands of the agents. He pointed out that on one occasion the court had devoted an entire day to adjudicating the duke's claims. Such time-consuming activities, he said, were proving ruinous to the other claimants. Cooke reserved his bitterest invectives, however, for Alexander, the irascible second justice of the common pleas, who some years earlier had been disbarred in England:³ 'Sir Jerome has been twice this week in person in our court', he said, 'both times pressing so

1. R. Gorges, The story of a family through eleven centuries, being a history of the family of Gorges, pp. 215, 217.
2. Russell and Prendergast, Carte manuscripts, p.171. Alexander was the father in law of Thomas Gorges, the brother of Robert Gorges. Gorges, History of Gorges, p.217.
3. Ball, Judges in Ireland, i, 348-9.

immodestly for unreasonable things that he put the court in some heat, and himself broke forth into some flames of passion'. Later, Cooke reported that 'the murmurs and repinings daily increase that whole families are reduced to penury by the delays these agents put upon all causes they are concerned in, -'.¹ Sir Winston Churchill called the agents 'a pack of knaves and cheats that daily betrayed their master'. Thornhill apparently misinterpreted the statement and later attempted to draw a treasonable statement from Churchill, with the result that he narrowly avoided being flung down a stairway. Churchill later found difficulty in explaining his position (and that of the other members of the court) to the duke. He got no other rewards from the duchess, he said, 'but to be represented to the duke as the very greatest enemy he has of all the commissioners'.² The antagonism between the commissioners and York's agents finally led Gorges, in December 1667, to make a complaint to the king, charging the commissioners with using unjust and illegal proceedings against the duke. The commissioners in turn charged Gorges with putting in a schedule of lands on behalf of the duke which contained many thousands of acres which

1. Russell and Prendergast, Carte manuscripts, pp. 175-7.

2. W. S. Churchill, Marlborough, his life and times, i, 48-9.

were not applicable to York's reprisals. They then adjourned to await a decision from the lord lieutenant and council. The disagreement was somehow resolved and the court resumed its deliberations the following month.¹

One large estate which eluded the grasp of the duke's agents was the old Harold family manor of Kilmackeoge in Rathdown half barony, county Dublin, then in the hands of Sir Maurice Eustace, the nephew and heir of the lord chancellor of the same name who had died in 1665. The agents presented a claim for the estate as a reprisal for the duke, but Eustace and the Dean of Christ Church, apparently after having made a prior agreement, appeared in the court, alleging that the estate was in fact the inheritance of the church and had been let out in fee farm to the Harold family late in the sixteenth century. The court thereupon refused to grant the estate to York, following which, after the court had risen in 1669, Eustace denied the claim of the church and produced the patent his uncle had received in 1662.²

The activities of Michael Boyle, archbishop of Dublin and lord chancellor of Ireland, also absorbed a high proportion of the court's time. One of the reasons for

1. Cal. S.P. Ire., 1666-69, pp. 494-526, 564.

2. Carte MSS, lx. f. 201. Civil survey, vii, 272.

this can probably be attributed to the provision in the Act of Settlement which allowed all proprietors, with the exception of catholics who had failed to obtain decrees of innocence, to 'implead, sue for, and recover by due course of law, any right, title, claim and interest' in restored church lands. It was further provided that all church lands which had been leased out and later forfeited or vested in the king should also be restored to the church, except those falling within the areas allotted for the satisfaction of the '49 interest. The '49 officers holding such land were either to pay to the appropriate see or church such rents or duties which were still due on the unexpired portion of the original lease, or to pay two shillings in the pound out of the value of the estate to the bishop of the diocese within which the lands fell.¹ These provisions doubtless led to a larger number of claims being submitted to the court than would normally have been the case. In 1670, in a petition for a remission of quit-rents, it was pointed out that Boyle had recovered much church land for the augmentation of the archbishopric 'by a tedious prosecution against several persons who had possessed themselves of them'.² In order

1. Clauses ciii-civ of the Act of Settlement.

2. Cal. S.P.Ire., 1669-70, p. 242.

to ascertain the amount of additional revenue which would be needed in order to realize the £2,000 a year income due to him as archbishop of Dublin under the provisions of the Act of Settlement, Boyle had been asked to submit to the court a rent roll of the income from lands currently being used for his support. This was duly done, which revealed that his income was then (i.e. about 1666) £1,034.11.2d. a year, or slightly over half the required amount. A commission was then issued, which by inquisition discovered that Boyle was entitled - also under the terms of the Act of Settlement - to a further £430 from fees issuing out of forfeited lands which had been leased out by the church in fee farm or in freehold, thus raising his income to £1,564. Boyle was at the same time holding a great deal of land in Dublin in custodiam, and in the court he pleaded for a grant of all the lands in the county which were due to him as archbishop, plus enough of the custodiam lands to bring his income up to the required £2,000 a year. Boyle submitted a schedule of lands to the court which contained claims on some 5,400 acres in the county, about 2,000 acres of which he claimed as his inheritance as archbishop, although the claim included the 703 acre manor of Kilmackeoge, mentioned above, which seems to have been the inheritance of the dean and chapter of Christ Church and not of the Archbishop of

Dublin. Boyle also claimed another 3,000 acres of forfeited lands, some, but not all of which, he then held in custodiam, and out of which he wished to have his augmentation made up. Some of the land Boyle was holding in custodiam was restored in remainder to catholics who had received decrees of innocence. Thus, his income from these estates was only temporary, contingent upon the time (usually the death of a father) when the innocent heir assumed possession. Boyle in 1666 held about 1,000 acres in Dublin under these circumstances, including Walshtown (232 acres) in Nethercross barony, which had been restored to Patrick Gawden in remainder, after the death of his father.¹ He also held over 700 acres in the same barony, including the manor of Seatown, which had been decreed to Bartholomew Russell in remainder, after the death of his father, Christopher, providing Bartholomew could prove title in law. Most of the Russell estate (over 500 acres) was held in fee farm from the archbishop, who was to hold the land until Bartholomew's 'pretence' to the estate could be determined in the courts.² Many of these leases had been granted by the church years earlier and by 1666 were very much undervalued. In 1641 Bartholomew Russell

1. N.L.I., MS 10, 933, part i, ff. 1-5.

2. Ir. rec. comm. rep., 1821-5, p. 359.

paid the archbishop of Dublin only £3.6.4¹d a year freehold rent for Seatown.¹ It would seem likely that Boyle was attempting to regain control over some of these alienated church lands in order to realize of higher rent.

Boyle's claims to other estates he held in custodiam also ran into opposition from various influential protestant magnates. Sir Walter Plunket, who was old English but protestant, was finally issued a patent for forty-one years for the old Blackney family estates of Richenhore and Sawcerstown (260 acres) in Nethercross barony, both of which Boyle had included in his schedule of lands which he submitted to the court.² The old Harold estate of Kilmackeoge, which was also included in Boyle's schedule, was, as mentioned above, finally granted to Sir Maurice Eustace. Boyle also claimed that James Bath's old estate of Drumconrath, in Coolock barony, was also held as a freehold estate from the church.³ The Civil Survey does not indicate as much;⁴ even so, the estate was finally given to the duke of York.

Even some of the estates to which Boyle successfully established claims were 'encumbered' i.e. portions of the

1. Civil survey, vii, 102.

2. Ir. rec. comm. rep., 1821-5, p. 50.

3. N.L.I., MS 10, 993, op.cit., ff. 3, 5.

4. Civil survey, vii, 180.

income, usually chief rents, annuities, jointures etc., were being claimed by various people by prior right, as established by the first court of claims. Out of Walter Jordan's forty one acre farm in Swords barony, for example, which Boyle proved title to, Jordan's widow claimed an annuity during her life of £13 a year which had been decreed to her by the first court. This was the reason, Boyle's petition pointed out, why the jury had valued the farm at only £4. Boyle also was successful in establishing title to 251 acres in Nethercross barony which had been held in 1641 by Lawrence Bealings. But the entire estate was valued at only £5 because of the encumbrances which had been placed on the property.¹

Boyle claimed 256 acres in Coolock barony which had before 1641 been the property of the old English catholic family of Chamberlain. The archbishop managed to get possession of a few acres, but Robert Chamberlain refused to surrender the bulk of it, 'pretending', as Boyle's agents claimed, 'to be an innocent protestant'.² Yet Chamberlain had been outlawed and had not submitted a claim to the first court of claims, his name being mentioned only in a secondary manner.³ Despite this he

1. N.L.I., MS 10, 993, op. cit., ff. 2-3.

2. Ibid., f. 3.

3. Armagh MSS, i. 24.

had contrived to remain in possession of his Dublin estate until 14 May 1666, when he appeared in the court of claims in the role of defendant, begging the court not to issue a certificate to Boyle for his lands. But without a decree of innocence Chamberlain had no hope of success, and the court ordered Boyle to be put in possession, with the recommendation that the archbishop take heed of Chamberlain's wretched condition and to 'afford him such relief as his grace shall think fit'.¹

Another estate which Boyle claimed an interest in was the manor of Ballogh (243 acres) in Nethercross barony, which had in 1641 been the property of James Bermingham. James had died before 1663 and his widow, Ellen, had been granted a decree of innocence and £30 a year out of the estate.² Ballogh would seem to have been set out to the '49 officers, since they appear as defendants in the court on 13 November 1667, with Boyle petitioning for a chief rent out of the estate which he claimed was due to him as archbishop. An entry in the Civil Survey shows Ballogh to have been held in 1641 by a Captain Henry Smith, who in turn had mortgaged it to one Richard Roe.³ But this

1. N.L.I., MS 10, 993, op.cit., part ii. Boyle vs Chamberlain, 14 May 1666.

2. Armagh MSS, ix. 311. part ii. Boyle vs the '49 officers.

3. Civil survey, vii, 131.

4. Civil survey, vii, 131-5, pp. 183-4.

is clearly an error. Smith was doubtless a Cromwellian officer, and the real owner in 1641, as the Books of Survey and Distribution show, was indeed James Bermingham. Nevertheless, the error in the Civil Survey lends support to the evidence that the '49 officers had been given land in the county before the passing of the Act of Settlement in 1662. Boyle, however, was able to prove an interest in the estate and the court ordered the officers to pay the archbishop two shillings in the pound per year out of the value of the estate.¹ A patent for Ballogh, with provision for 'total rent payable to the see of Dublin', was eventually given to Major Alexander Piggot, a Cromwellian officer.² This suggests that Piggot had possession in 1659 or that he had purchased the debentures of the other officers who may have had portions of the estate before the restoration.

Boyle's activities in the second court of claims shed a little light on the mechanics by which the court operated. It makes clear, for one thing, that a petitioner claiming interest in a large number of estates would often have hearings involving the separate estates heard over a long period of time. Boyle's claim to the manor

1. N.L.I., MS 10, 993, part ii. Boyle vs the '49 officers, 13 Nov. 1667.

2. Ir. rec. comm. rep., 1821-5, pp. 183-4.

of Killruske (part of Chamberlain's estate) was heard on 14 May 1666; that of Ballogh on 13 November 1667; and 11 November 1669 was 'appointed for his grace to make out his title to the lands of Nealstown ----' in Newcastle and Uppercross barony, once the property of the Mills family.¹ Boyle was finally issued patents for 2,840 acres in Dublin, of which about 500 acres represented grants over and above what his predecessor had held in 1641.² The Civil Survey shows that at least 440 acres of the 2,840 had been archepiscopal land in 1641, most of which had been leased out in fee farm. It is likely that Boyle took out new patents for these lands after experiencing difficulty in establishing title to them in the court of claims.³

The great manor of Palmerston (563 acres) in Newcastle and Uppercross barony had been mortgaged before 1641 by Mathew Allen to Arthur White, a younger son of Sir Nicholas White of Leixlip. Arthur White died in 1648, bequeathing the mortgage to his brother,

1. N.L.I., MS 10, 993, part ii. Appointment of the day for Boyle to make out title to Nealstown, 11 Nov. 1669.
2. Ir. rec. comm. rep., 1821-5, pp. 140, 158.
3. Because of the missing entries in the Civil survey for county Dublin it is not always possible to tell whether various estates in Newcastle and Uppercross and Uppercross baronies had been leased out by the church prior to 1641.

Nicholas. Sometime before 1666 the mortgage was purchased for £2,000 by Sir John Temple, the eldest son of Sir William Temple, the fourth provost of Trinity College, Dublin. Under the terms of the Act of Explanation the benefit of redeeming mortgages was made a part of the satisfaction of the '49 interest,¹ and on 5 April 1666 the commissioners of the court of claims ruled that Temple was to pay £403.10s. to the '49 interest above the original purchase price of £2,000.² Since Temple was issued a patent for Palmerston in 1667 it appears that White sold his interest in the estate outright to Temple.³

It is regrettable that the sources do not make clear the manner or procedure used in the retrenchment of land under the terms of the Act of Explanation. The problem is a formidable one and has been ignored by virtually every historian dealing with this period in Irish history. Only W. S. Hardinge has attempted to solve the difficulty:

1. 17 and 18 Chas. II, c. 2, clause xxxii.
2. N.L.I., MS 816, p. 36.
3. Ir. rec. comm. rep., 1821-5, p. 72.

It should not be concluded, as it very commonly is, that when retrenchments were made and new titles taken out - that there was a seizin of lands anew into the lands of the Crown and a consequent practical fresh distribution. No such process took place. The operation was one on paper, which calculated and exhibited the exact portion of the lands previously assigned to each soldier and adventurer that should be retrenched by each possessor and placed at the disposal of the commissioners - for the benefit of the new participating interests -. When a paper retrenchment was thus affected, the commissioners confirmed the respective parties in the residue of their lands by certificate.¹

The Books of Survey and Distribution offer only unreliable hints of the reassignments of land following the retrenchments. An entry appearing in the schedule of lands which Archbishop Boyle submitted to the court of claims suggests that there may have been a fair amount of shifting-about of lands. The entry, involving Sir Walter Plunket's grant of Richenhore and Sawcerstown, carries the notation 'The court decreed this to Plunket to retrench 1/3'.² This suggests that Plunket was given the land in compensation for another estate from which he had been removed in order to accommodate the restoration or reprisal of another claimant.

1. W. H. Hardinge, 'On manuscript mapped and other townland surveys in Ireland of a public character, 1640-88', in Trans. R.I.A., xxiv (1873), 30.
2. N.L.I., MS 10, 933, part 1, f. 3.

X. The Situation at the End
of Ormond's First Viceroyalty.

When the second court of claims finally rose at midnight on 3 January 1669 the work of settling legal title to the land of Dublin and Wicklow under the terms of the two acts of settlement had been largely completed, although litigation concerning some estates was to continue for some years. In Dublin, by 1669, the catholics had been restored to some 52,000 acres. Among those large catholic landowners who for all practical purposes were fully restored (a few lost small parcels of land here and there) at this time were Sir Richard Bealings, James Allen, James Barnewall of Braemore, Christopher Fagan, Walter Cheevers, Thomas Luttrell, Nicholas Plunket, John Seagrave, John Walsh, James Woolverton, Henry Talbot of Templeogue, along with lords Barnewall, Tyrconnell and Trimleston. Others, like John Talbot of Malahide, Philip Hore, and John Hollywood, were only partially restored. A few, like William Sarsfield, were still in the process of attempting to dislodge the Cromwellian occupants of their estates, with good hopes of success. But a large number of catholics were still wholly dispossessed. Besides the Kings of Clontarf and

the Scurlock's of Balscaddan, the heirs of such proprietors as George Blackney, James Caddle, Christopher Chilliam, Thomas Conran, James Goodman, John Harold, William Trevers, and many more, had small hope of ever regaining possession of their estates in the county.

The patents issued to the Leinster proprietors, whose claims had been heard first, were issued earlier than those from the other provinces. Most of those dealing with lands in Dublin and Wicklow were issued by 1675, but a few were given as late as the 1680's.¹ There were probably two reasons for this slow procedure, the first being the delay caused by what was undoubtedly the large backlog of work which faced the ordinary law courts as a result of settling title to lands which had been referred to them by both the first and second courts of claims. In 1670 Sir Lawrence Esmond, in a petition to the king for a remission of new quit-rents, stated that he had 'run through great suits for the recovery of his estate at common law',² and as late as 1673 Essex, then lord lieutenant, was complaining about the delay in the issuing of patents and certificates from the court of

1. Ir. rec. com. rep., 1821-5, pp. 276, 278.

2. Cal. S.P. Ire., 1669-70, p. 221.

claims, which had ceased its adjudications four years earlier: 'I have ventured to pass four of these certificates', he said, 'Mr. Robert Readings', Mr. Chidley Coote's, Clement Spillman's and Henry Finch's, in regard that [they] have some suits at law they cannot so well go on with 'till their patents be passed'.¹ The second cause may have been the result of proprietors claiming patents to lands which fell due to them in remainder or as a result of saving clauses.

A claimant, protestant or catholic, who had received a decree of innocence in the first court of claims was not obliged to take out new patents to those lands to which he proved clear title, since he was not claiming new title but was simply restored to his former title by the power of the vesting clause in the Act of Settlement.² Despite this, some innocent claimants - Sir Richard Bealings for instance - took out new patents for their entire estates.³ Most, however, appeared to have taken out new patents only for those parcels to which they had difficulty in establishing title. John Hollywood of Artaine was restored to 1,400 acres in Dublin

1. Cal. S.P. Dom., 1673-75, pp. 8-9.

2. R.C. Simington (ed.), Books of survey and distribution, 1, County Roscommon, xv.

3. Ir. rec. comm. rep., 1821-25, p. 78.

but took out patents for only 375 acres.¹ The Books of Survey and Distribution indicate by symbol the kind of title under which every proprietor was settled on each parcel of land.² Some restored catholics held lands under the restoration settlement by three kinds of title. Christopher Fagan held 1,914 acres in Dublin by decree of innocence, 200 acres by certificate of the court of claims, and 124 acres by patent under the Act of Settlement; Nicholas Plunket held 1,064 acres by decree of innocence, 446 by patent, and thirty acres by certificate of the court of claims.

It is very likely that many of the innocent catholics were unable to establish proof of title to small portions of their estates, in which case the land in question was vested in the king, to be disposed of at his discretion. This explains why small bits of land which had been held by innocent proprietors in 1641 were later granted to protestants under the restoration settlement. The estates given to Lord Fitzharding, Sir George Rawdon and Lord Kingston, among others, were composed in part by such land.

Of the nearly 19,000 acres gained by individual protestants at the expense of catholics in Dublin under the had been issued a recent decree. Lake's entire estate

1. Ir. rec. comm. rep., 1821-5, p. 55.

2. Simington, Books of survey and distribution, i, county Roscommon, liii.

restoration settlement, nearly 14,000 acres were granted to only fifteen individuals, excluding the Duke of York. Two of these - Ormond and Sir Maurice Eustace - were old English protestants, and three of them - Ormond and lords Ranelagh and Kingston - had inherited, or had themselves held, estates in the county in 1641, although only Ormond's could in any way be considered to have been sizable. Most of the land granted to these fifteen protestants was taken at the expense of catholics who had failed to obtain decrees of innocence from the first court of claims.

Sir Maurice Eustace was given patents for the old Harold estate of Kilmackeoge, after John Harold's son and heir failed to submit a claim, and Ormond received patents for 2,328 acres over and above the 1,248 acres he held in the county in 1641. Ormond's grant consisted almost wholly of lands held by catholic proprietors who had not obtained decrees of innocence, including Thomas Delahide, William Trevers, George Blackney and Luke Netterville of Corbally, uncle of Nicholas, third viscount Netterville.¹ Luke had been killed during the war and his widow, Dame Mary Bolton, had been issued a nocent decree.² Luke's entire estate

1. Ir. rec. com. rep., 1821-5, pp. 48, 126.

2. Lodge, Peerage, iv, 209. Cal. S.P. Ire., 1660-62, p.331.

of over 1,200 acres was delivered over to Ormond, probably in reprisal for what he had failed to recover elsewhere.

Lord Ranelagh also added to his estate in the county at the expense of catholics who had not obtained decrees of innocence. His 761 acres were taken from the old English catholic families of Walsh, Dongan, Archbold and Handcock, the latter family being represented in 1663 by Christopher Handcock, who had received a nocent decree from the court of claims.¹

Lord Kingston's father, Sir Robert King, held only eighty acres in Dublin before the rebellion, but his son was issued patents for 1,380 acres, almost all of which was taken from Robert Preston, Richard Goulding and Walter Plunket, the latter also having received a nocent decree from the court of claims.²

Despite the proviso in the Act of Settlement which prohibited the confirmation in their estates of anyone claiming title by way of conveyance from John Blackwell, the manor of Clontarf was granted to Colonel Edward Vernon.³ The threat to Vernon's hold on the estate was never serious,

1. Ir. rec. comm. rep., 1821-5, p. 255.

2. Ibid., p. 204.

3. Ibid., p. 228.

since neither George King's daughter, the sole heir of the 1641 proprietor, nor her husband, James Aylmer, submitted a claim to the first court of claims.

The largest grant among the fifteen protestants went to an English peer, Charles Berkeley, second viscount Fitzharding, which is not surprising, considering the activities of his father in the Irish land trade. Fitzharding was issued patents for 2,089 acres, consisting of scattered parcels taken from twelve different catholics, including lands held in 1641 by the families of Trevers, Preston, Conran, Begg, Cruise and Russell.¹ None of the representatives of these families in Dublin had received decrees of innocence.

Attorney-general Sir William Domville, also English born, was issued a patent for the old Goodman estate of Loughlinstown in Rathdown half barony.² The county Dublin branch of the Goodman family, in fact, appears to have disappeared from sight during the Cromwellian era; the name does not appear in the records of either of the two courts of claims nor in any other contemporary record or manuscript.³ Domville had created a favourable

1. Ir. rec. comm. rep., 1821-5, p.186.

2. Ibid., p.66.

3. James Goodman, the proprietor of Loughlinstown in 1641, was executed for rebellion. Civil survey, VII, 268.

1. See for example Gal. S. P. Ire., 1652-3, p. 111.
2. Gal. S. P. Ire., 1652-3, p. 111.
3. See above, p. 111.

impression in Ireland almost from the day of his arrival. He was active in prosecuting the conspirators who attempted to seize Dublin castle in 1663, and his reports in the 1660's on the various legal and statistical aspects of the Irish land settlement are models of clarity and objectivity.¹ He attracted Ormond's admiration to such an extent that in the autumn of 1666, when it appeared that an illness might prove fatal to lord chancellor Boyle, the lord lieutenant wrote to secretary Arlington, stating that if Boyle died 'no man had more of my vote for succeeding him at the seal than - Domville -'.²

The patent issued to Sir George Lane was unique because it represented the only one based on a prior agreement, arrived at outside of a court of law, concluded between a new English protestant and an old English catholic, over disposition of an estate in county Dublin which was being claimed by both. The estate in question was of course Kilsaghan, and the son of the 1641 owner, Philip Hore, could normally have been expected to be restored, having received a decree of innocence from the first court of claims. But Lane was one of the favoured few whose estate, by special proviso in the Act of Settlement, was exempt from the provisions of the vesting clause.³

1. See for example Cal.S.P. Ire., 1663-65, pp. 236-41.

2. Cal. S.P. Ire., 1666-69, p. 228.

3. See above, p. 111.

The wording of Lane's patent is similar to his proviso in the Act of Explanation, describing in great detail the precise portions of Hore's former estate which he was to receive.¹

The children of the informer Owen O'Connellly were given patents for 498 acres in Balruddery barony, including the manor of Westpellstown, which in 1641 had formed a part of the estate of Richard Finglas. Major Alexander Piggot was issued a patent for the manor of Ballogh in Nethercross barony, once the chief seat of the Bermingham family.²

The remaining five of the fifteen protestants under consideration @ Sir Audley Mervin, Alexander Staples, Sir George Rawdon, Nicholas Armorer and Sir Theophilus Jones - were issued patents which, taken together, amounted to nearly 3,500 acres.³ All five of the patents, however, contained saving clauses, reserving various interests or rights in the estates, usually to the former

1. Ir. rec. comm. rep., 1821-5, p.74.

2. Ibid., pp. 166, 183-4. The patent issued to O'Connellly's orphans was enrolled on 1 February 1667. Three months later Hugh Rowley, the husband of Martha, one of O'Connellly's children, leased out the estate for 41 years to a man named Giles, who in turn assigned it to Sir Valentine Browne. Browne was attainted under the Williamite settlement and the estate was given to Robert Craige, but only for the residue of the terms of the lease, i.e., until 1708. Thus, the symbols on page 78 of the Books of survey and distribution, which suggest that Craige purchased the estate under the Williamite settlement, should be read in light of the above information. Ir. rec. comm. rep., 1821-5, p.369.

3. Ibid. pp. 55- 62, 94, 176.

catholic proprietor. Staples, a Cromwellian officer who had been implicated in the conspiracy against the government in 1663,¹ was given a patent for ninety nine years for 608 acres in Garristown barony, most of which had belonged in 1641 to John Talbot of Malahide. Not only was the grant limited to ninety nine years, but a saving clause reserved to Richard Talbot, John's son, his right to two-thirds of the estate in remainder, after the death of his father.²

Sir Audley Mervin, the contentious speaker of the house of commons, who shared nearly all of Garristown barony with Staples, received a patent for 1,282 acres, most of which had also once belonged to John Talbot, but some of which had been the property of the Russell and Seagrave families. Mervin's patent, however, also contained saving clauses, one reserving to Mathew Russell and his wife their right in remainder, to fifty acres, after the death of Mathew's father; and the other reserving to Richard Talbot and his wife their right, based on their decrees of innocence, to all other lands

1. Cal. S.P.Ire., 1663-65, p.112.

2. Ir. rec. comm. rep., 1821-25, pp. 55, 282

in Garristown contained in Mervin's patent - amounting to about 1,200 acres. Richard's father, John, also received a saving clause, calling for the benefit of his decree of innocence and his proviso in the Act of Explanation, but only after reprisals had first been given to Mervin.¹

Most of the 1,055 acres for which Sir George Rawdon received patents had been held in 1641 by three people - Robert Preston, George Blackney and Nicholas Barnewall. Rawdon's proviso in the Act of Settlement had specifically stipulated that his arrears were to be satisfied out of 1,249 acres in Balruddery barony, including the town and lands of Wegestown, Cordenstown, Nuttstown and Lispopal. Cordenstown had been Robert Preston's property in 1641; Nuttstown was George Blackney's, and Lispopal was Barnewall's. Neither Preston nor Blackney had received decrees of innocence, but a saving clause reserved Cordenstown (272 acres) to John Hollywood of Artaine (who had received a decree of innocence), whose father had taken a mortgage on the estate from Preston in 1638.² Hollywood also managed to retain ultimate right to his chief manor of Artaine

1. Ibid., p. 176, 306.

2. Ibid., p. 62, 284.

in Coolock barony, which had been granted in 1663 to Nicholas Armorer for thirty one years.¹

Although Sir Theophilus Jones was given patents in 1667 for the old Sarsfield lands (1,295 acres), including the manor of Lucan,² his hold on the estate was precarious, since by proviso in the Act of Explanation his tenure was limited to the life of Patrick Sarsfield, at whose death the estate was to revert to William, Patrick's eldest son. For this loss Jones was to be given reprisals of lands of equal value.

It is seen, therefore, that although these fifteen protestants received patents for nearly 14,000 acres in the county under the restoration settlement, in fact only about 10,000 acres of this represented unrestricted patents. Several of the old catholic proprietors, on paper at least, could still hope to regain some of their lost land.

There were of course various patents issued to other protestants for much smaller estates. John Hughes, one of the attorney's appointed to practice in the second court of claims, was given a patent in 1669 for 154 acres in Balruddery barony that had once belonged to

1. For further information concerning the manor of Artaine see ^{below} above, p. 271.

2. Ir. rec. comm. rep., 1821-25, p. 94.

Richard Finglas; a Robert Hilton was issued a patent in 1667 for 200 acres in Coolock barony during the remainder of a lease of ninety nine years, originally given by the city of Dublin to John Bath in 1623; Oliver Tallant, a Dublin merchant, received a patent for sixty acres in Newcastle and Uppercross barony that had formerly been Maurice Fitzsymond's.¹

Besides the 14,000-odd acres granted to the above fifteen protestants, the duke of York's settlement absorbed a further 8,013 acres that had formerly been the property of some twenty six catholic proprietors.² Half the 8,013 acres was taken from estates once held by eight old English catholics - James Bath, Patrick Scurlock, Christopher Cruise, Nicholas Eustace, Patrick Bermingham, Thomas Fitzsymonds and Elizabeth Finglas. Bath, Scurlock, Cruise and Eustace forfeited, between them, over 3,000 acres to the duke. The other half of York's estate was comprised of many smaller parcels, extracted from a variety of former catholic estates. Quite a few of the proprietors from whose lands the duke's estate was formed had received decrees of innocence. Sir Richard and Christopher Barnewall, James Nugent, Lawrence Bealings and Walter Cheevers all received

1. Ir. rec. comm. rep., 1821-25, pp. 83, 130, 184.

Hughes was murdered in the summer of 1666. The patent was given to his son, Samuel. Cal. S.P. Ire., 1666-69, pp. 39, 154.

2. Ir. rec. comm. rep., 1821-25, pp. 72, 187, 189-90.

decrees of innocence yet lost small parcels of land to York, probably because they failed to prove title in the court of claims. But these were great old English landowners who could afford to lose twenty or thirty acres. Luke Bath, however, lost his entire estate of 1,175 acres to York, including the manor of Balgriffin. Luke had received a decree of innocence, but his unfortunate proviso in the Act of Explanation, by which he was to restore only after York had first received reprisals, proved to be disastrous for him. Lawrence Cruise, Christopher's son, also received a decree of innocence, but the decree applied only to 2,500^{acres} in Meath, with no mention being made of his Dublin estate,¹ which amounted to 1,198 acres. Although Nicholas Eustace of Confey had received a nocent decree, his grandson, Thomas, was declared innocent. York was issued a patent for the 425 acre Eustace estate in Dublin, but a saving clause reserved to Thomas his right to the estate in remainder, after the death of his father, James, his mother, and his grandmother.² Another saving clause was given to John Delahide, who had also received a decree of innocence. York was issued a patent for some 170 acres of Delahide land, but the saving clause reserved John's right by

1. P.R.I., rep. D.K. 19 app. v, p. 77.

2. Ir. rec. comm. rep., 1821-5. p. 285.

'reference to law by decree dated ultimo February 1663, to Phepstown, Shrubby-wood - and Irishtown', in Castleknock barony.¹ Many among the twenty six catholic proprietors from whose estates York's Dublin estate was formed lost everything to the duke, and old English catholic names like Freene, Mills, Hackney, Pentany and Stoakes disappear as landowners in the county during the seventeenth century. Despite the provisions of the two acts of settlement, York failed, in the end, to acquire much of the land that had been set out to the regicides during the Commonwealth. Indeed, only the manor of Callestown (305 acres) in Newcastle and Uppercross barony, which had been set out to Edmond Ludlow, was eventually given to the duke. Instead, York's estate consisted chiefly of lands which had been given to him as temporary reprisal land, to hold until other lands of equal value could be found as permanent reprisals. Although he was issued patents for 8,013 acres, there is reason to believe that York's effective possession in the county never extended to much over 6,000 acres, the subject of which will be treated in a subsequent chapter.²

1. Ir. rec. comm. rep., 1821-5, p. 286.

2. See below, p. 288.

The archbishop of Dublin's settlement (8,500 acres) represented about 68% of the total amount of land restored to the church as a whole under the restoration settlement. Whereas in 1641 church lands in general (including the archbishop's) amounted to some 10,093 acres, under the restoration settlement it was settled on 12,643 acres. The general increase is accountable by the extra 2,049 acres settled on Archbishop Boyle over and above what his predecessor had held in 1641, together with another 500 acres to which the representatives of other church bodies succeeded in establishing title, over and above what they had held in 1641. The cathedral and chapter of Christ Church gained several hundred acres, mainly in Rathdown half barony, as a result of the vigorous activities of a Dr. William Lightborne, one of its members, who acted as land agent for the cathedral.¹

Ormond's plans for the creation of a royal park which would also serve as a suitable viceregal residence was meanwhile being carried through. The nucleus of the park was formed from some 350 acres of crown lands surrounding the Phoenix house, then the viceregal residence, on the north side of the Liffey river, only a mile west

1. Ball, History county Dublin, part i, 64.

of Dublin city. This was all that remained in crown hands from what had once formed the lands of the priory of Kilmainham, which in 1540 probably extended to several thousand acres on both sides of the river. Since the Henrician dissolution the old monastic lands had been sold or leased out to a variety of people, and in the process many parcels had become alienated. The Books of Survey and Distribution enter fifteen proprietors - mostly old English catholics - who held these lands in 1641. By 1663 the government had already purchased the entire manor of Chapelizod (441 acres) from lord chancellor Eustace, and at about the same time several hundred acres in Newton and the Phoenix, immediately north of the Phoenix house lands, were purchased for £3,000 from Daniel Hutchinson. Moreover, Ormond had been given authority to purchase any further lands which he thought would be necessary, and between 1665 and 1669 various contiguous parcels, amounting to about 225 acres, were purchased in Castleknock and Grangegorm, so that by the latter date the park extended to about 1,200 acres on both sides of

2. *Sal. S. P. Ire.*, 1670, pp. 142-3.

3. *J. H. C. Ormond MSS.*, 2.0. 111, 115.

4. *J. H. C. Ormond MSS.*, 2.0. 111, 115.

the river and had cost the crown over £31,000, only £18,557 of which had been paid in 1669.¹ Eustace and Hutchinson were still not fully compensated in 1670.² Part of the land purchased in Castleknock barony included the manor of Ashtown (207 acres). The proprietor was John Connell, who had escaped sequestration during the Interregnum, and who was at this time acting as a steward for Ormond, who doubtless had no difficulty in persuading Connell to surrender Ashtown to the crown.³ The size of the park remained unchanged until 1681, when sixty four acres on the south side of the Liffey river were assigned for the use of the newly founded Royal Hospital. At the same time several smaller parcels of land were cut off from the main body of the park as a result of the straightening of various walls, so that by 1688 the size of the park had been reduced to about 1,100 acres - all on the north side of the Liffey. Thus, the park assumed the shape it has substantially retained to the present day.⁴

1. C. L. Falkiner, Illustrations of Irish history and topography, pp. 52-8. H.M.C., Ormond MSS, n.s., iii, 293-5, 'An account of money expended and owing for the purchase of land and works in the phoenix park'. The abstract shows Daniel Hutchinson receiving '£300 on account of Newton within the park'. This sum refers to the purchase of Hutchinson's sixty one year lease which he held from Christopher Fagan of Feltrim. The total cost was £3,000, all of which, for what reason it is not clear, went to Hutchinson. The Newton land was the only portion of his estate not restored to Richard Fagan, Christopher's son and heir, and an innocent catholic.
2. Cal.S.P. Ire., 1670, pp. 142-3.
3. H.M.C. Ormond MSS, n.s., iii, 115.
4. Falkiner, Illustrations, pp. 57-8.

Although many of the smaller estates that had been held by catholics were absorbed into the large grants given to the new protestant interest under the restoration settlement, a surprisingly large number of small catholic proprietors were restored. In some cases, of course, the proprietor maintained a modest estate near Dublin city for social or political purposes, with his principal seat lying outside the county. In 1641, for example, Luke Dillon held only 160 acres in Dublin but nearly 17,000 in Roscommon; Richard Nugent, earl of Westmeath, held 190 acres in Dublin but almost 12,000 acres in Westmeath. Under the circumstances no great significance could be attached to the loss, under the restoration settlement, of either of the small Dublin estates. But of those catholic proprietors who held no other land outside the county, just over 2,000 acres were restored to some twenty landowners who held estates of 180 acres or under. The estates ranged in size from Ann Shields's four acres in Newcastle and Uppercross barony to Richard Brice's 180 acres in the same barony. Several reasons may account for this, the first being the fact that the county had always contained a higher proportion of smaller estates than was the case in the other counties. It was for this reason that Sir William Petty had complained in 1654 that he had 'done (i.e. mapped)

the most troublesome and almost endless county of Dublin - lying in many small straggling parcels - ¹ Another reason may have been the result of the order of procedure in the hearing of the claims of innocents, whereby the Dublin claims were the first to be heard. Even so, it required patronage to get restored. The above mentioned Richard Brice, for example, was restored to his 180 acres almost certainly through Ormond's influence. Brice's father had furnished Ormond with £2,864 worth of provisions and £2,000 in cash, by way of a loan, in order to help prosecute the war. Richard's certificate of recommendation carried the information that his father, before the battle of Rathmines (1649), was the only man who had kept him (Ormond) informed of the activities of colonel Michael Jones, then governor of Dublin city. For these activities in behalf of the royalist cause Brice's estate was sequestered and Brice himself made a prisoner, where he died some months later. Moreover, Richard, whose father had been a catholic, claimed the estate as a protestant.²

1. Larcom, Down survey, p. 124.

2. Cal. S.P. Ire., 1669-70, pp. 585-6.

3. Sargeant, Ireland's Journey, i, 176 (n). The author states that Moore's 'duty' was to supply Ormond with news of Dublin affairs. For a typical letter of Moore's to Ormond see H. B. O. Ormond MSS, n.s., III, 176-7.

Patrick Moore, it appears certain, also owed his restoration to nine acres in Nethercross barony to Ormond, for whom he seems to have acted as a kind of political informant on the many occasions when the lord lieutenant was absent from Dublin city.¹

Those catholic proprietors from Dublin who had been especially named as proviso-men or ensignmen in the Act of Settlement or as nominees in the Act of Explanation fared little better, as a whole, than these who had not been so named. Of the six proviso-men, three (lords Fingal and Dunsany and Sir Richard Bealings) were wholly restored by 1669; two (lord Netterville and Sir Richard Barnewall) were partially restored; one (the earl of Westmeath) had lost his entire estate of 190 acres. Of the nine ensignmen with lands in Dublin, four (John Talbot of Belgard, Nicholas Plunket, Christopher Russell and John Walsh) were wholly restored; one (John Talbot of Malahide) was partially restored; four (Sir William Talbot, John Harold, Luke Dillon and Sir Luke Bath) were completely unrestored. Only one of the four nominees, Lord Trimleston) was fully restored. Of the other three,

1. Sergeant, Little Jennings, i, 176 (n). The author states that Moore's 'duty' was to supply Ormond with news of Dublin affairs. For a typical letter of Moore's to Ormond see H.M.C. Ormond MSS, n.s., iii, 176-7.

Lord Westmeath and Luke Dillon were totally unrestored and Sir Richard Barnewall only partly so. But the latter three held only small estates in the county; their principal seats were not in Dublin.

The fortunes of the catholic proprietors from Dublin varied as much outside the county as within it. Some old English magnates suffered great losses. The above mentioned earl of Westmeath's failure to regain his tiny 190 acres in Dublin appears inconsiderable compared to his losses of over 8,000 acres in Cavan, over 3,000 in Sligo, 1,500 in Leitrim, 12,000 in Westmeath and over 12,000 in Longford, along with smaller parcels in Waterford. Only in Westmeath, where he regained some 1,720 acres adjacent to his chief seat, did he manage to salvage anything of his vast inheritance. Sir Richard Barnewall, though restored to 125 out of the 200 acres he had held in Dublin in 1641, lost over 11,000 acres in Meath. Lord Trimleston, while regaining his 500 acres in Dublin, lost over 2,000 acres in Meath. James Eustace of Confey¹ lost his thirty eight acres in Dublin to the duke of York, but much more significant was

loss of some 40,000 acres in other parts of the country.

1. Not to be confused with Nicholas Eustace of Confey.

1. Not including that part of Regum's estate in Castleknock which was absorbed into the Phoenix park.
2. *Ir. Rev. Hist. Soc.*, 1881-5, p. 253.

his failure to regain 2,300 acres in Kildare and 600 acres in Carlow.

Other catholics were more successful. Lord Barnewall was restored to his entire estate in Ireland (over 12,000 acres) as it stood in 1641, as was Richard Fagan of Feltrim.¹ Equally successful was Luke Plunket, third earl of Fingal, who, besides regaining his small Dublin estate, was also restored to 9,325 acres in Meath and 5,338 acres in Cavan. Also wholly restored to all their lands in Ireland were Thomas Luttrell and Lord Netterville, the latter despite the fact that he had received a nocent decree in the first court of claims.

While many of the catholic proprietors from Dublin lost some, or all, of their estates both within and without the county, a few of them were compensated by receiving patents for lands in Connaught or Clare to which they had been transplanted under the Cromwellian settlement. The earl of Westmeath was given 2,456 acres in Galway and 3,007 acres in Roscommon, which represented about half the amount of land which he had received as a transplanter.² It was hardly adequate compensation, however, for his loss of some 40,000 acres in other parts of the country.

1. Not including that part of Fagan's estate in Castleknock barony which was absorbed into the Phoenix park.

2. Ir. rec. comm. rep., 1821-5, p. 255.

Lord Trimleston did rather better. He was able to keep the 1,400 acres in Galway to which he, too, was transplanted.¹ But the land in Galway was doubtless not as profitable as the 2,000 acres he never succeeded in recovering in Meath. A few catholics from Dublin even managed to retain possession of some of the lands to which they had been transplanted, even though they had been wholly restored to their former estates, and despite the fact that they were required, under the terms of the Act of Settlement, to surrender all such land to the king upon their restoration. Sir Nicholas White and Lord Netterville were fully restored to their Irish estates in 1669, yet both were issued patents for small estates in Leitrim and Roscommon under the restoration settlement.² Thomas Luttrell also contrived to keep the lands in Galway to which he had been transplanted, but was ordered to surrender them to the king upon the occasion of his restoration.³ There were several other catholic proprietors from Dublin who managed to keep small estates

1. Ir. rec. comm. rep., 1821-5, p. 242. Trimleston died in 1667 while living on the estate in Galway to which he had been transplanted. See the interesting photograph of the mural tablet above Trimleston's grave in Galway which appears in Prendergast's Cromwellian settlement.
2. Ir. rec. comm. rep., 1821-25, pp. 248, 278.
3. Cal. S.P. Ire., 1660-62, p. 447.

in Connaught and Clare under the restoration settlement. James Barnewall of Braemore and Edmond Malone both received patents for small estates in Roscommon, as did James Aylmer in Clare.¹ Although no patents are enrolled for them, Philip Hore, John Arthur and Christopher Fagan are also shown by the Books of Survey and Distribution to be in possession of small estates in Connaught in 1669. But these were the exceptions. Many of the transplinters had, of course, sold their allotment certificates to new English speculators. Sir Charles Coote, Sir George Bingham, Sir Oliver and Sir George St. George and Sir John King, among others, purchased large blocks of transplinters' lands in Connaught and Clare.² Even so, it is clear that the lands which the catholic transplinters received in the west in no way compensated them for their losses which they sustained elsewhere under the restoration settlement.

In summary, the year 1669 found 106 catholic proprietors, including those whose estates had not been sequestered during the Interregnum, in possession of 52,164 acres, all but several hundred of which were profitable.

1. Ir. rec. comm. rep., 1821-25, pp. 252, 261.

2. Prendergast, Cromwellian settlement, pp. 151-2.

This represents 40% of the total land area of the county and about 69% of what they had held in 1641. Ten of the largest catholic landowners held, between them, 21,000 acres of this total, and twenty of them held nearly 30,000 of the catholic total. The same year found eighty one protestant proprietors, including the duke of York, settled on 54,996 acres, an increase of 20,490 acres over what they had held in 1641, and representing 43% of the total land area of the county. About 3,500 acres of this was unprofitable. Together with church lands, the lands of Trinity College, and the lands comprising the Phoenix park, the protestant interest in general held 69,478 acres, or 54% of the land of the county. A further refinement of the statistics show that the old English still held 62,412 acres, representing a loss of 19,725 acres over what they had held in 1641; the new English held 37,204 acres, an increase of 12,583 acres; the old Irish held 3,013 acres, a loss of only 230 acres since 1641.

In Wicklow, meanwhile, things were going much less favourably for the catholics than was the case in Dublin. In 1669 only twelve catholics had been restored to 31,240 acres, representing only 32% of what seventy six of them had held in 1641. Moreover, over 25,000 acres of this total was restored to just three individuals,

Sir Lawrence Esmond, James Allen and Sir Richard Bealings.

It seems likely that Lawrence Esmond had recovered his 11,651 acres in the county by 1669. Litigation over the principal Esmond estates in Wexford, however, was to continue for some years. The duke of Albemarle was issued a patent for the Wexford lands in 1668, but a saving clause had reserved to Lawrence the benefit of his decree of innocence. Furthermore, Lawrence had been left to law to recover his estate,¹ and there were references to his 'vexatious suits in the courts of Dublin to molest or disturb' Albemarle.² The Taylor set of Books of Survey and Distribution, which records allotments of land under the restoration settlement down to 1669, shows Lawrence restored to his Wicklow estate in that year. His restoration may have been made easier by a grant given to Albemarle after the restoration of a large tract of land in Mayo which had been allotted to the city of Gloucester under the Cromwellian settlement.³

Sir Richard Bealings appears to have encountered little difficulty in recovering his 2,178 acres in the county, and James Allen, with the powerful patronage of

1. Ir. rec. comm. rep., 1821-25, pp. 144, 300. P.R.I., rep. D.K. 19, app. v, p. 59.

2. Cal. S.P. Ire., 1666-69, p. 216.

3. J. G. Simms, 'Mayo landowners in the seventeenth century', in Jn.R.S.A.I., xciv (1965), 243.

Richard Talbot and Lord Fitzharding, was back in possession of his 11,671 acres. Only one other estate of a size that could be considered substantial was restored to an old English catholic. This was the 1,897 acres in Newcastle barony which was recovered by John Walsh, the Ormond family lawyer. Also restored to small estates were Thomas Luttrell, Robert Netterville, Thomas Sexton, Bernard Talbot and Sir Valentine Browne, the latter having been a ward of Ormond.¹

Of the forty eight Irish catholic proprietors - mostly O'Byrnes and O'Tooles - who had possessed land in Wicklow in 1641, only one was restored by 1669.

Dr. Edmond O'Meara, who owed his restoration to Ormond,² not only recovered the 1,186 acres he had held in 1641, but somehow managed to acquire a further 778 acres in Newcastle barony, in the Birnes' country, from land that had been held by Brian O'Byrne. The only O'Byrne to be restored in the entire county was George O'Byrne, who in 1682 was described as a 'Dublin chirurgeon'.³

It is likely, however, that George O'Byrne was a protestant, probably the son of Daniel O'Byrne, a Dublin city tailor

1. Armagh MSS, v. N. 216.

2. See above, p. 137.

3. Ir. rec. comm. rep. 1821-5, p. 275.

who had received a decree of innocence in 1663 as an innocent protestant.¹ Several denominations of land appearing in the claim Daniel submitted to the court of claims also appear in George O'Byrne's patent (for 397 acres) under the restoration settlement.² All that remained of the 38,835 acres which the old Irish catholics had held in the county in 1641, therefore, was O'Meara's 1,964 acres. It is significant that along the entire coastal strip of Wicklow, generally the most profitable region of the county, from Bray in the north to Arklow in the south (a distance of about thirty statute miles), the catholics were restored to only 3,990 acres, all but about 500 of which was in the Birnes' country. This was all that remained to them of the 27,530 acres they had held in the Birnes' country in 1641. Most of the remainder of the forfeited lands in the Birnes' country - over 18,000 acres - was set out for the satisfaction of the '49 interest. The '49 interest also received 20,841 acres in Talbotstown barony and another 7,325 acres in Ballinecur barony,³ which explains why various branches

1. P.R.I. rep. D.K. 19, app. v, p. 52.

2. Armagh MSS, iii. 113. Ir.rec.comm.rep., 1821-25, p.275.
See above, p. 133.

3. The '49 interest also received ninety six acres in Rathdown half barony.

of the old English catholic families of Cheevers, Wickham, Eustace and Talbot, who had held large estates in the barony, were not restored.

Aside from the 46,656 acres set out to the '49 interest, a further 14,400 acres of forfeited lands were given to a group of new English and Cromwellian figures, several of whom had held no land in the county before the rebellion. Of this total, about 4,800 acres in the Birnes' country went to six individuals, including 2,684 acres to Sir John Borlace and 1,096 to Sir Richard Parsons, the son of Sir William. Borlace's father, according to a claim made by Sir John, had come to Ireland with Strafford after selling some of his property in England in order to raise the £3,000 needed in order to purchase the office of master of the ordnance, then held by Lord Caulfield. He had, it was further claimed, incurred many debts in the king's service in the Low Countries, but had been promised compensation.¹ Smaller estates in the Birnes' country were given to the heirs of captain Henry Finch, a Peter Cowell, and to John Berr, who was new English but German by ancestry.²

1. Cal. S.P.Ire., 1669-70, pp. 377-8. Borlace the elder died in 1648. He had been one of the lords justices from 1641-3.
2. Ir.rec.comm.rep., 1821-5, p.232. Only Finch's patent is enrolled. The others are entered in the Books of survey and distribution. Cowell's entry indicates that he got the land (eighty three acres) by 'gr', or grant.

Outside of the Birnes' country, the largest grants were given to the earl of Mount-Alexander, who was issued a patent for 1,394 acres in Talbotstown barony, and to Sir William Flower, who had successfully established his claim to 2,639 acres in the Glencap, in Rathdown half barony.¹ Mount-Alexander's grant, which was probably given to him as a form of compensation for his loss of the Allen estate, consisted of two parcels, about equal in size, that had once belonged to James Woolverton and Walter Cheevers. A block of 427 acres in Arklow barony was given to Sir Hans Hamilton, one of the trustees for the '49 interest, and a descendant of a prominent Ulster planter family. The grant in Arklow only represented a small portion of a series of larger grants issued to Hamilton in Sligo, Monaghan, Westmeath and Kildare.² Only one other change occurred in Rathdown half barony aside from Sir William Flower's penetration. In the parish of Bray, just over the Dublin border, a Richard Edwards, who was probably a Welshman, was issued a patent for 595 acres. The patent included the manor of Old Court (277 acres), which had been in the

1. Ir. rec. comm. rep., 1821-5, pp. 134~~1~~, 181.

2. Ibid., p. 232. Cal. S.P. Ire., 1666-69, pp. 41-2.

possession of a branch of the Walsh family for many years, together with 319 acres that had formerly been the property of Bernard Talbot. Although a saving clause in the patent had reserved Talbot's interest in the estate, the Edwards family remained in possession until the mid-nineteenth century.¹

The catholic proprietors did no better or worse under the restoration settlement in the other counties of Ireland than they did in Wicklow. Lawrence Esmond was eventually restored to his estates in Wexford and Carlow, as was James Allen in Kildare. Richard Bealings recovered his estates in Dublin and Kildare. But Rowland Eustace, besides losing his tiny seventy five acres in Wicklow, also lost over 1,200 acres in Kildare. Sir Robert Talbot was still not back in possession of his 10,261 acres in Wicklow, and was able to recover only half his old estate of 878 acres in Meath. William Archbold, on the other hand, while never able to recover his seventy five acres in Wicklow, regained over 1,200 acres in Kildare. But three other branches of the Archbold family never recovered an acre of land in Wicklow, nor, it seems, in any other part of the country.

1. Ir.rec.comm.rep., 1821-5, p.58. G. Scott, The stones of Bray, p. 174.

The Wickham family met the same fate. Furthermore, there is no indication - with one exception - that any of the proprietors from Wicklow who had been transplanted under the Cromwellian settlement were able, or attempted, to keep possession of any of the lands in Connaught or Clare to which they had been transplanted. The one exception is Dr. Edmond O'Meara, who is shown by the Books of Survey and Distribution to have been settled on 369 acres in Clare under the restoration settlement. But there is no indication that O'Meara had been transplanted, nor is a patent enrolled under his name for the land. In view of the fact that he was able to acquire several hundred acres in Wicklow (from the O'Byrnes) in excess of what he had held in 1641 suggests that he may have purchased transplanted allotments in Clare.

The church of course was by 1669 restored to the 25,005 acres it had held in the county in 1641, most of which lay in the region of Glendalough in central Wicklow. Added to this was a vast grant of 6,182 acres in Talbotstown barony, formerly the property of James Cheevers, given to Archbishop Boyle in 1667. It would seem to have been issued to Boyle as a private grant, however, and not as part of his support of £2,000 per year

as provided for in the Act of Settlement. Boyle's patent contains no mention of the intent of the grant.¹

A summary of the land settlement in Wicklow in 1669 would show forty seven individual protestant proprietors in possession of some 156,300 acres, or 52% of the total land area of the county; the '49 interest held about 46,600 acres, or 16% of the land; the church held 25,000 acres, or 7% of the land. The protestant interest in general, therefore, held some 227,900 acres, or 81% of the land in the county.

About 25,000 acres of this was unprofitable. Twelve restored catholics, nine of whom were old English, were in possession of about 31,240 acres, or 11% of the land, of which about 2,500 acres was unprofitable.²

By the restoration settlement the protestant interest had, since 1641, gained nearly 68,000 acres at the expense of the catholic proprietors, and since the death of Elizabeth they had gained about 194,000 acres, or 68% of the land of the county. The long-cherished

1. Ir. rec. comm. rep., 1821-25, pp. 129-30.

2. For an account of the remaining 8% of the land in the county see appendix I.

plan, held by the Dublin government since the late sixteenth century, of planting the county and reducing it to obedience to the crown, had finally been realized.

While the second object of this plan was to secure the still dispossessed, or partly dispossessed, Catholics were turning to other methods in an attempt to regain their lost estates. It was not, however, a propitious moment for such activity. The attention of the English government was focused on other, more pressing matters. The plague of 1663, followed by the great fire of London the next year, together with the second Dutch war of 1665-67, drew much of the government's attention. Nevertheless, great political undercurrents, which were to affect Ireland indirectly, were at work in England. Clarendon, who had been steadily losing his influence at court, and who had been blamed for a series of disasters connected with the war (which he had opposed), was finally forced from power and imprisoned by a conviction of high treason. The administration which succeeded his (the Cabal) was as hostile to Clarendon as it had been to Cromwell. Buckingham in particular was anxious to have Clarendon removed, partly because he wanted the lucrative post of lord lieutenant of Ireland for himself. Lady Castlemaine, the king's mistress, also harboured a grievance against

XI. The Settlement under Attack

While the second court of claims was in the process of carrying the restoration land settlement to a conclusion the still dispossessed, or partly dispossessed, catholics were turning to other methods in an attempt to regain their lost estates. It was not, however, a propitious moment for such activity. The attention of the English government was focussed on other, more pressing matters. The plague of 1665, followed by the great fire of London the next year, together with the second Dutch war of 1665-67, drew much of the government's attention. Nevertheless, great political undercurrents, which were to affect Ireland indirectly, were at work in England. Clarendon, who had been steadily losing his influence at court, and who had been blamed for a series of disasters connected with the war (which he had opposed), was finally forced from power and impeached by a combination of his enemies. The administration which succeeded him (the Cabal) was as hostile to Ormond as it had been to Clarendon. Buckingham in particular was anxious to have Ormond removed, partly because he wanted the lucrative post of lord lieutenant of Ireland for himself. Lady Castlemain, the king's mistress, also harboured a grievance against

Ormond, who had earlier blocked an attempt to grant her the newly formed Phoenix Park outside Dublin city. The attempt to bring down Ormond began as early as 1667, when a motion was passed in the English house of commons, ostensibly to review the whole Irish land settlement, but in reality to try and prove a case of fraud against Ormond in his own land transactions, thus providing a telling charge in any future impeachment proceedings.¹ The intention, wrote Allen Broderick to Ormond in December 1667, was 'the future intention to unravel as much of the settlement as is possible. My Lord Ranelagh is still said to have many designs, and indeed all the ~~sec~~retaries grow to a high degree of confidence and promise themselves an interest in government very speedily'.² Orrery, too, was anxious to see Ormond removed. There had been a lingering antipathy between the two since the days of the commonwealth. John Nicholas, the brother of secretary of state Sir Edward Nicholas, reported in 1668 that he had spent a whole day in hearing complaints against the commissioners appointed to execute the Act of Settlement, especially against Rainsford, Beverly and Broderick:

1. Commons' jn., IX, 10 (31 Oct. 1667).
2. Carte MSS, xxxvi. f. 31.

These complaints come in the name of the adventurers in Ireland, and they have a second part of their petition to which they are to be heard, viz., the total setting aside the --- act of explanation. It's believed this business is chiefly levelled at --- Ormond, in order to the impeaching of him, and that it's principally promoted by --- Orrery.¹

Although there is no conclusive evidence to support the suggestion, it is almost certain that Richard Talbot and his brothers joined in a strange alliance with the Cabal, along with Orrery and Castlemain, to effect Ormond's removal. In the course of the year a pamphlet, published in Louvain, appeared, entitled A Narrative of the Earl of Clarendon's Sale and Settlement of Ireland, in which both Ormond and Clarendon were attacked for the part they had played in the Irish settlement. The pamphlet was apparently written by Nicholas French, catholic bishop of Ferns, who was then on the continent,² although it was also attributed to Peter Talbot.³

Ormond was finally recalled in August 1669 and replaced by Lord Roberts. But Roberts lasted less than a year and was replaced in turn by Lord Berkeley of Stratton,

1. B.M., Egerton MS 2, f. 539. John Nicholas to Sir Edward Nicholas, 21 April 1668.
2. See above, p. 90 (n).
3. Carte, Ormond, iv, 368.

a nephew of Charles, first viscount Fitzharding.

The catholic proprietors in Ireland had some reason to expect a certain amount of support from Berkeley. The Talbot's had known him as one of the duke of York's party during the royal exile, and they believed that in concert with the Cabal and Orrery and Castlemain the overthrow, or at least a significant alteration, of the Irish land settlement might be effected. It was decided that a direct appeal to the king might be more fruitful, so a petition signed by fifty of the catholic peers and gentry was drawn up. Twenty of these who signed the petition had interests in Dublin or Wicklow land, including lords Westmeath, Netterville, Dongan, Trimleston and Barnewall, along with Mathew Plunket, Philip More and James, John and Sir William Talbot. The petition stated that the signatories had been dispossessed of their lands by the Cromwellians for their loyalty; that they had always remained faithful to the king and had suffered with him at home and abroad; that despite his declared intentions they had still not been restored. They asked for an impartial tribunal to hear their grievances, and, meanwhile, it was suggested that all further grants of undisposed lands should be stopped. Richard Talbot was empowered to act as agent to carry the petition to England.¹

1. Cal. S.P. Dom.. 1670, p. 70.

Talbot arrived in England in late 1670, and in January 1671 he appeared before the king in council and delivered the petition, which, appearing reasonable to a majority of the members, it was ordered to assemble an impartial commission to hear the petitioners' grievances. A committee of thirteen, chosen from the privy council, heard Talbot suggest, on 21 January, that certain amendments be made in the acts of settlement. Ormond, who was one of the thirteen, immediately opposed the motion, maintaining that it would be far better to uphold the acts, despite their imperfections, than to begin a new settlement. Talbot's suggestion was favoured by a majority, however, and he was allowed to present his case for altering the two acts. The presentation of the case was handled by Talbot's counsel, a Mr. Aylofffe, who, apparently, offended Ormond by his pompous and injudicious manner.¹ In the course of the hearings several witnesses were heard, including Sir George Lane. Lane appeared after the petitioners had submitted several cases in which they claimed the provisions of the Act of Explanation had voided those in the Act of Settlement. The son and daughters of Philip Hore of Kilsaghan, it was maintained, had received

1. Carte, Ormond, iv, 455.

decrees of innocence from the first court of claims and had been restored under the Act of Settlement; yet under the provisions of the Act of Explanation their decrees were declared null and void, 'as if there were no such decrees'.¹ This was probably a rather coloured reference to Hore's proviso in the Act of Explanation, where it was explained that after Hore (the younger) had received his decree of innocence Sir George Lane had 'exhibited' a petition to the king in which he questioned the validity of Hore's decree, 'and on the hearing of the cause it was ordered that [Lane] should be at liberty to impugne the said decree by any matter in fact or law that he could object against them, whereupon - for avoiding of all future differences [it was agreed] that the estate should be divided [between Hore and Lane]'.² Lane appeared in council and, according to one report, 'baffled the petitioners in that matter, and proved an agreement with Mr. Hore - to the satisfaction of the king [and] committee --- and much contrary to the expectations of the petitioners -'.³ It is difficult to understand, considering Richard Talbot's

1. P.R.O., S.P. Ire., Eliz.-Geo. III, 63/330, p. 5A1.
2. Clause clxxxiv of the Act of explanation.
3. 'A letter to the author of the History of Ireland', printed in Richard Cox's Hibernica Anglicana, ii, 11.

concern in drawing up the original agreement between Hore and Lane, why it was decided to mention this case in council at all. It appears to have been a most inept procedure. Several weeks later Robert Leigh, then in Dublin, wrote to secretary Williamson, expressing his satisfaction over Lane's successful defense of his agreement with Hore:

The news has given much occasion of discourse and content to those that are settled in their possessions pursuant to the late acts - .
I suppose the address made by those concerned in the acts is with you - by now and that it will help to persuade you on that side that there are many more concerned to preserve the settlement than to destroy it.¹

Meanwhile, a petition sent in behalf of the adventurers, soldiers and '49 interest had been presented to the commission, urging that the settlement of Ireland be preserved.²

In early February 1671 all the papers relating to the matter were submitted to Sir Heneage Finch, the attorney-general, who reported several weeks later against the petitioners' claims. But enough members of the commission were still in favour of hearing the petitioners, so Ormond was released and a new, smaller body was formed, which

1. P.R.O., S.P. Ire., Eliz.-Geo. III, 63/330, p.36. Leigh to Williamson, 25 Feb. 1671.
2. P.R.O., S.P. Ire., Eliz.-Geo. III, 63/330, p.26. 13 February 1671.

reported to Charles in June 1671 with a recommendation that another committee should be authorized to examine in full the entire land settlement of Ireland. This suggestion was adopted and in September 1671 the new commission assembled, with all the evidence collected and Richard Talbot once again appearing as a witness. The main purpose of the investigation, the impeachment of Ormond, failed, however, when charges against him remained unsubstantiated. The charges were dismissed as false and scandalous, and although the commission continued its investigations into the Irish settlement, there was now no hope of accomplishing anything. Talbot returned to Ireland.¹

The cause of the catholic proprietors in Ireland was jeopardized, however, for far more pertinent reasons than the collapse of the case against Ormond. Anti-Catholic feeling, which had been dormant for several years, was once again on the rise in England, caused partly by the leniency shown to the catholics by the Cabal. In Ireland, meanwhile, Berkeley had been replaced as viceroy in August 1672 by the earl of Essex. Under both men several long standing rules against catholics had been relaxed; catholics were admitted into corporations throughout

1. Carte, Ormond, iv, 456-72.

the country, and several were appointed justices of the peace; nine catholics were elected to the common council of Dublin city.¹ The high state of public anti-catholic agitation in England led the English house of commons, in March 1673, to submit a petition to the king, in which a plea was made for the maintenance of the Acts Settlement and Explanation and for the recall of the commission of inquiry, which had been examining the evidence concerning the Irish settlement since February 1671. The Talbots - Richard and his brother Peter, who had since been appointed catholic archbishop of Dublin - both of whom were then in England, were mentioned by name. The commission of inquiry, the petition read, was designed to disturb the peace of the kingdom of Ireland and that 'Colonel Richard Talbot, who had notoriously assumed to himself the title of agent-general of the roman catholics of Ireland, might be immediately dismissed out of all commands, either civil or military, and forbid access to court'. The petition further demanded that no catholics should be continued or admitted as judges, justices of the peace, sheriffs, mayors etc., in Ireland; that the titular popish ecclesiastical authorities, 'in particular Peter Talbot - for his notorious disloyalty and disobedience and

1. Carte MSS, lii, f. 80.

contempt of the laws', should be sent abroad; that permission for catholics to live in corporations should be recalled; that all catholics in Ireland should be disarmed; and that the king should give further directions for the encouragement of the English planters and the protestant interest in Ireland and the suppression of disorders in Ireland, by whose practices, and particularly of the said Richard and Peter Talbot, the peace and safety of Ireland had been so much of late endangered.¹ In response the king dissolved the commission of inquiry and declared that he was resolved to preserve the settlement of Ireland and to do nothing to infringe upon the Acts of Settlement and Explanation. This was issued as a proclamation,² since, as Essex pointed out, 'the Irish do almost universally discours that they will have their lands again; and some of them in the remote parts - have forcibly entered and taken possession -'.³

Richard and Peter Talbot were able to delay their banishment from England for six months, finally leaving for Paris in the autumn of 1673. Richard was back in Ireland in 1678, but was almost immediately arrested and imprisoned as a result of accusations made by Titus Oates,

1. Commons' jn., ix, 276-7.

2. P.R.O., S.P. Ire., Eliz.-Geo. III, 63/333, p. 79.

3. E. Airy (ed.), Essex papers, i, 52.

who was then providing the English public with tales of a popish plot. Pleading illness, he was allowed to return to Paris, where he remained until 1683, by which time the reaction against Oates had provided a more suitable climate in which, for the moment at least, catholics were able to once more move more or less freely. Talbot was back in Ireland the following year.¹ Ormond, meanwhile, had begun his second viceroyalty, replacing Essex in 1677.

After the closing of the second court of claims the prospects of restoration for those catholics who were still dispossessed became bleak indeed. There were, nevertheless, several such proprietors who managed to regain their estates in Dublin and Wicklow after 1669.

Although Sir Theophilus Jones's patent gave him possession of the Sarsfield estate only during the life of Patrick Sarsfield, a new twist in the case occurred in 1672 when William Sarsfield, Patrick's eldest son, 'privately stole away and married Mary, the sister of the duke of Monmouth, then fifteen years of age, without the consent - of her guardian'.² Monmouth's influence was exerted on the king and an agreement was reached in 1674,

1. Sergeant, Little Jennings, i, 256-7, 265, 273, 287.
2. P.R.O.I., Sarsfield-Vesey papers, MS 2778, f. 2.

by which Jones's interest was purchased by the king, in return for which Jones received a grant of £300 a year in concealed lands elsewhere. A similar amount was settled as a jointure on William Sarsfield's wife. William died in 1675 and by his will the estate passed to his younger brother Patrick, later earl of Lucan. The case was further complicated when William's widow, who had taken as her second husband an English court figure named Fanshawe, attempted to prove William's will a forgery. This attempt, however, had made small headway by 1688.¹ It is not precisely clear when the entire estate in Dublin was back in Sarsfield hands. In 1675 Patrick the elder, who lived until 1690,² was living in 'the great house' at Lucan and refused to give it up to Jones, who wanted to deliver it to William's widow in accordance with Monmouth's wishes.³ Jones seems to have surrendered the estate in piecemeal fashion, giving up each time the equivalent he received in concealed lands elsewhere. There were complaints about Jones's reluctance in surrendering the estate until 1678.⁴ It

1. Cal. S.P. dom. 1660-85, pp. 483-85.
2. P.R.I. rep. D.K. 56, app., p. 346.
3. Ibid., p. 380.
4. Cal. S.P. dom., 1678, p. 499. Jones died in 1685.
H.M.C., Ormond MSS, n.s., vii, 313.

would be safe to assume that all 1,400 acres were back in Sarsfield hands by about 1680.

Since Sir Nicholas Armorer died in early 1686¹ it can also be assumed that John Hollywood, or his descendants, were back in possession of the old family manor of Artaine in Coolock barony shortly thereafter. A member of the family was certainly back in possession in 1697, when it was reported that a catholic priest named Kale, who was serving the parish of Artaine, was 'living att Mr. Hollywoods'.²

After the closing of the second court of claims the indefatigable Sir Robert Talbot once again shifted tactics in an attempt to regain his great estate in Wicklow. He had, by this time, the support of Orrery, who was soliciting favour from Lord Arlington in Talbot's behalf.³ Orrery's championship of Talbot at this time can probably be related to the movement, then under way, to bring down Ormond. In May 1669 Talbot received a royal letter ordering a custodiam grant to be given to him of all the lands in Wicklow that he could discover which were concealed from the king. Talbot was to pay a rent of £20 a year

1. The state letters of the earl of Clarendon, i, 73.
2. W. M. O'Riordan, 'A list of the priests, secular and regular, of the diocese of Dublin in the year 1697', in Reportorium novum, Dublin dioceson historical record, i, 147 (1955).
3. Cal. S.P. Ire., 1666-69, pp. 7-8, 51, 86.

to the crown for the lands he could prove were concealed. The remainder of the income would 'enable him to subsist 'till the lands due to him be settled and confirmed', indicating that the way for his restoration had already been cleared.¹ Sir Robert, however, never lived to enjoy his restored estate. He died sometime in 1670² and it was to his son, Sir William, that a patent was issued, the same year, for 2,000 acres in Talbotstown barony.³ It is certain that Richard Talbot's influence (perhaps aided by Orrery) was decisive in obtaining William's restoration. Nevertheless, the question still remains as to why it took ten years to get William, the nephew of the most influential catholic in Ireland, restored. Richard had accomplished much more for lesser men than his nephew. William forfeited his estate under the Williamite settlement, at which time his Wicklow estate amounted to only 1,530 acres.⁴ He had either disposed of 500 acres between 1670 and 1689, or, as seems more likely, he had never been able to gain actual possession of more than 1,530 acres.

The 500 acre estate which Thomas Blood, the adventurer, had acquired in Wicklow before 1641 was

1. Cal. S.P. Ire., 1666-69, p. 731.
2. Sergeant, Little Jennings, i, 234.
3. Ir. rec. comm. rep., 1821-5, p. 235.
4. Simms, Williamite confiscation, p. 181.

forfeited in 1663 as a result of his complicity in the attempt to seize Dublin castle.¹ Blood had managed to avoid capture, however, and in late 1670 he was involved in an unsuccessful attempt to kill the duke of Ormond, following which, in 1671, he was also unsuccessful in attempting to steal the crown jewels from the Tower of London. But Blood, much to the amazement of most people, was pardoned and his estate was restored to him in 1673.² The reasons for Blood's pardon and restoration have remained a mystery, although there is some evidence that he was shielded by Buckingham.³ The diarist John Evelyn, who was one of those mystified by the pardon, noted that some people believed that Blood had been a spy in the pay of the crown, he 'being well with the Sectaries and Enthusiasts and did his Majestic services that way, which none alive could so well as he'.⁴

There were only a few other avenues open for the other catholics who were not yet restored. One involved a simple plea for a grant of land which was vested in the king, yet still undisposed. The other, more common,

1. P.R.O.I., Cal. exchequer inquisitions, RC 9/9, p. 245.

2. P.R.O., S.P. Ire., Eliz.-Geo. III, 63/333, p. 15.
Pardon dated 8 Jan. 1673.

3. D.N.B., 2, 696.

4. Diary for 10 May 1671.

1. Cal. S.P. Ire., 1665-82, p. 679.

2. Cal. S.P. Ire., 1673-5, p. 41.

3. See above, p. 270.

method was by obtaining a commission to discover concealed lands. If such a commission could be obtained and doubt could be established concerning title to a parcel of land the discoverer might hope for a custodiam grant, with a possibility of later getting an outright grant of at least part of the land in question.

Unfortunately for the unrestored (and usually poor) catholic this method was more often used by the new English protestants or influential English court figures, for it usually involved protracted law suits. On the very day that the second court of claims rose for good Robert Leigh reported that 'there are still many concealed lands - in the king's power to dispose of by patents'.¹ In 1675 Leigh was still anxiously searching for concealed lands for his clients in England. He wrote to secretary Joseph Williamson that he had 'several discoveries by me, but I see so many others concerned in the like, and the lord lieutenant so averse to them all, that I judge it not seasonable as yet to put you on the like'.² The grant of right of discovery was also used, as we have already seen in the case of Sir Theophilus Jones and the Sarsfield estate, as a form of compensation for the Cromwellian settlers who were removed to accommodate the return of the catholic proprietors.³ From the start of his

1. Cal. S.P. Ire., 1666-69, p. 679.

2. Cal. S.P. Dom., 1675-6, p. 41.

3. See above, p. 270.

viceroyalty Essex complained of the disruptive effects that the grants of rights of discovery were having.

In 1673 he wrote:

Men pretend discoveries which belong to the king, and upon that procure letters to pass grants for them. When these letters arrive here their usual plea is, let me have the benefit of my letter, and if it prove that his majesty hath no title, the king has given nothing, and there is no hurt done - [The] possessors of these lands, who, if poor, and not able to contest, have been necessitated to compound, nay, there are some cases - wherein patents have been granted for lands to which the king had no right at all, but the persons who had these grants being great men, and those whose lands were passed being meare and not able to wage law with them, have been forced after many vexatious suits to submit and part with their lands for 2 years' purchase. This having been the case of many men here --¹

The following year, after several of them had been issued to Lord Kingston and the earl of Mount-Alexander, Essex again complained of these grants: 'Many others, I hear, are ready. Abundance of men [are] preparing to go into England upon these designs - I wish that - there were an end of these discoveries - '. Essex thought the grants were too easily obtained: 'Each man states his case himself and though there be another party concerned, he is seldom heard, and the letter [i.e. granting the right of discovery] drawn up by the petitioner himself, with any

1. Airy, Essex papers, i, 98.

clause he thinks fit to insert'.¹ Even if the dispossessed catholic was fortunate enough to discover the king's title to concealed land he was not certain of finally obtaining a grant, for the deficient soldiers and adventurers had first claim on any such land. The catholic discoverer had first, therefore, to purchase satisfiable debentures from the soldiers or adventurers, equal in value to that land which he had discovered. He then might claim a grant on the basis of holding unsatisfied debentures.²

Petitions for right of discovery were being submitted right up until the end of Charles's reign. In 1682 a Robert Saunders petitioned for such a right to several thousand acres in Ireland, including over 1,600 acres in Dublin. Saunders proposed to find the royal title to Ballyseorning (837 acres) in Newcastle and Uppercross barony, which had been restored to John Talbot of Belgard; to ninety six acres in Ballymore Eustace (no townland indicated) in Uppercross barony; and to Kilmackeoge (703 acres) in Rathdown half barony, then in the possession of Sir Maurice Eustace.³

Claims to lands which might in future revert to the king were also common. One such claim was submitted in

1. Airy, Essex papers, pp. 200, 203.

2. Russell and Prendergast, Carte manuscripts, p. 88.

3. Cal. treas. bks., vii, 1681-85, pp. 432-4.

1677 by the earl of Rochester, the notorious rake and restoration poet. Rochester had 'discovered' that although John Hollywood had been restored to his estate, he was forty years old, had been married fourteen years and had no children, with little likelihood that he would ever have any. In the event that Hollywood died without male heirs the title to the estate, Rochester claimed, would revert to the king. If he were granted the estate in reversion for 1,000 years, Rochester maintained, 'the tenant in tail possession [after Hollywood's death] could not bar it'.¹

Essex, while protesting about the ill-effects that these petitions were having on the stability of the country, may have himself been partially responsible for the rising apprehension. In his attempt to dissuade the king from granting the Phoenix park to the duchess of Cleveland he searched about for other lands in the country which might serve as a substitute: 'I have already found above 39,000 acres', he said, 'which are in his majesty's dispose'. Apparently the duchess's agents had their eyes on a few doubtful titles in Wicklow, for Essex mentions that he was soon to 'hear the business between my lady Cleveland and Mr. Cook concerning some lands in - Wicklow', a reference, it would seem, to

1. Cal. S.P. Dom., 1677-78, p. 89.

Coke's 5,400 acres in the Fertir.¹ Moreover, the government seems to have had some plan to conduct a thorough investigation into the whole problem of concealed lands, involving the complication of official records. In 1675 Essex informed the king that 'the books for the discovery of concealed lands being now completed and ready to be sent over, much matter will arise upon this subject, to propose to your Majesty in order to the finding out such lands as are fraudently detained ----'.²

By 1678 the disquiet which many proprietors still felt over their land titles led Ormond, then starting his second viceroyalty, to propose a bill for the general and final settlement and security of estates. The scheme was to empower the king by act of parliament to issue a commission for the securing of defective titles on the payment of fines by the people in possession. But the various interested parties - the '49 interest, the duke of York, the nominees who had not yet received full satisfaction - protested that their claims for satisfaction would be forever frustrated if such a commission were to be issued. The result was that the plan was put aside for the moment. In 1684, however, the king was persuaded, partly for the money which the crown would realize, to

1. P.R.O., S.P.Ire., Eliz.-Geo. III, 63/333, p. 124. Essex to Arlington, 13 Sept. 1673.
2. Letters written by Essex in the year 1675, p. 276.

issue a commission without the sanction of parliament, which would have the power to bar the claims of the deficient soldiers, adventurers, unsatisfied nominees, etc.¹ An account of the nature and purpose of the commission was set out in detail in 1684:

For many years after the closing of the Court of Claims, those who had favor in court got commissions of inquiry to look after concealed lands, and in the execution of such commissions there was much vexation and harassing to the subject; however, this rule was still observed, that they who found out such concealed lands thought they were due unto the ends of the Acts, for the Acts [of Settlement and Explanation] had promised satisfaction to all - . And therefore these favourite grantees bought up unsatisfied debentures (- for a song), and so entered as it were regularly by satisfying so much of the public debt. But of late it had been held for law that all the periods of those Acts were expired, and consequently that all concealed or forfeited land to be found was no longer in his Majesty as a royal trustee to the uses of the Acts, but in his own right, and therefore he hath lately issued a commission to free the subject from such vexatious inquiries, and to encourage those possessed under doubtful title to purchase a confirmation - .²

This commission, dated 14 March 1684, and entitled the 'Commission of Grace', recites that the possessors of certain undisposed lands, to which the king was entitled, were being disturbed 'on pretence that their titles are

1. Russell and Prendergast, Carte manuscripts, p. 91.
2. 'Some general (and imperfect) hints of Ireland for about 40 years past, A.D. 1684', quoted by Russell and Prendergast, supra, pp. 91-2.

defective, and by discoveries that have endeavoured to be made thereof, and of commissions of inquiry that have been issued - '1 Instructions for the commissioners appointed to execute the commission were issued in May 1684. Under these instructions all lands in Ireland were to be classified under three heads: first were those which had been held by the same proprietors since 23 October 1641, or who claimed under those who had been in possession on that date; secondly, the lands which were being claimed under the Acts of Settlement and Explanation or by letters patents from the king since the restoration; finally, those lands being held without any title.² The death of Charles in February 1685, however, put a legal end to the commission. James was persuaded, reluctantly, to renew the commission in April 1685, but the new commission was designed to apply only to those claimants who had applied for new patents under the first commission and who had already lodged the

1. Abstracts of grants of lands - under the commission of grace of 36-37 Chas II, and 1-4 Jas II, 1684-88, p. 3. Transcripts of these grants appear in Carte MSS, clxvi. ff. 1-10. Vol. clxvii of the Carte MSS, ff. 1-89, contain what Russell and Prendergast describe as the 'short statement always made by the attorney-general of the purport of the patent, to convey the sense of it to the lord lieutenant and council'. Russell and Prendergast, Carte Manuscripts, p.92. Unfortunately, these short statements by the attorney-general provide little information concerning the origin of the patents which the printed calendar of patents do not already tell us.
2. P.R.O., S.P. Ire., Eliz.-Geo. III, 63/340, p.12.

money required for procurement of their patents. This commission expired after these patents had been issued. Clarendon, who was appointed viceroy in October 1685, urged that another commission, 'in the same manner as the last was which ended by the death of the late king', be established in order to pacify the country. 'The truth is', he said, 'one cannot discourse with any man of fortune, of either old or new interest, upon the affairs of this country, but they run into complaints of the unsettledness of things - if the king would renew the late commission - it would settle the kingdom'.¹ He was informed, however, that James hoped to deal with all Irish problems by calling a parliament.² But by mid-1686 Clarendon had come to the belated realization that the centre of Irish political influence now rested with Richard Talbot (created earl of Tyrconnell in 1685), and that it was not in his (Tyrconnell's) interest to have the commission renewed, since, as it then appeared, Tyrconnell's ultimate aim was the alteration of the entire land settlement of the country.³ 'I am now against a commission', Clarendon wrote in August 1686, 'because [Tyrconnell] and the

1. State letters of Clarendon, i, 94, 195-6.

2. Ibid., p. 332.

3. Ibid., p. 339.

Irish catholics in the king's council - will oppose and obstruct it; which will render a commission ineffectual - ' .¹ The disillusioned Clarendon was replaced by Tyrconnell (as lord deputy) in early 1687. This appointment had the effect of increasing the apprehensions of the protestants, who had already been highly disturbed by the changes made the previous year by Tyrconnell, who had been sent to Ireland as lieutenant-general with powers independent of Clarendon, whereby many important posts in the army, on the bench, and in the administration, were transferred from protestant to catholic hands. It was now generally believed, despite assurances from the king to the contrary, that the entire settlement of the country was about to be altered. The fears of the protestants were substantiated by the activities of such catholics as Bartholomew Russell of Seatown in county Dublin. Russell had been issued a decree of innocence by the first court of claims but had been left to law to recover his estate after the death of Christopher, his father. The estate (524 acres in Dublin) was, meanwhile, granted in custodiam to Michael Boyle, archbishop of Dublin.² Christopher Russell did not die until 1682, but Bartholomew delayed

1. State letters of Clarendon, i, p. 381.

2. See above, p. 216.

submitting his claim to the estate until 1688, 'when the - earl of Tyrconnell was chief governor and Popish judges sat upon the benches, who gave judgement in his favour - the archbishop was dispossessed by the said Bartholomew'.¹

Such events did little to reassure an already nervous protestant population. The protestants had in fact been leaving the country in ever increasing numbers since the accession of James in 1685. Clarendon had reported in June 1686 that one ship had carried 120 protestants out of the country, to Chester, and that 'multitudes are preparing from all parts of the kingdom to be gone as fast as they can get in their debts and dispose of their stocks'.² The exodus continued, stimulated by a rumour that the catholics planned a general massacre of the protestants in late 1688.³ James, meanwhile, having fled to France, finally made his way to Ireland in early 1689. That summer, in Dublin, Tyrconnell's long-cherished dream of bringing down the Act of Settlement was realized. A parliament was called and, with the catholics holding a large majority in both houses, the Act of Repeal was passed, to which James reluctantly

1. Ir. rec. comm. rep. 1821-5, p. 359.

2. State letters of Clarendon, i, 277.

3. Bagwell, Ireland under Stuarts, iii, 188.

assented, by which landed property in the country was by law restored, as far as possible, to the situation as it existed before October 1641. But the battle of the Boyne in 1690 ended any chance that the repeal could be carried into effect, and in 1695 the Williamite parliament invalidated the proceedings of the Jacobite parliament.¹ Orders were given to destroy the record of its proceedings.² The Act of Settlement again became the legal basis upon which land ownership in Ireland rested. It was to remain so until the nineteenth century.

1. 7 Will. III, c. 3.

2. Simms, The Jacobite parliament of 1689, p. 4.

XII. Commercial Land Transactions, 1669-1688

The Books of Survey and Distribution record the ownership of Irish land in 1641 and the land assignments under the restoration settlement, together with the patents issued under the commission of grace of 1684-88 and the sales of lands forfeited in 1688. Except for the few patents issued under the commission of grace they do not indicate the changes of land ownership which occurred in Dublin and Wicklow as a result of commercial transactions between 1669 and 1688. Taken together, all the available sources indicate that such changes occurred on a fairly large scale, especially after the closing of the second court of claims in 1669. With several important exceptions, the general trend during these years, as it had been in the previous century, was one of a continuing process of penetration by the protestants into the proprietorship of Dublin and, to a lesser extent, Wicklow.

Nineteen patents were issued under the commission of grace to proprietors from Dublin, only eight of whom had acquired their lands, in whole or in part, from individuals who had been confirmed in, or restored to, their estates in the county under the restoration settlement,

amounting in all to 2,515 acres. All but 632 acres of this total were acquired from restored catholics. In five of these cases the details concerning the transfer of land are wanting. The most significant of these five changes of ownership involved the important manor of Monkstown (632 acres) in Rathdown half barony, which had been restored to Walter Cheevers in 1666.¹ Sometime between 1666 and 1685 Michael Boyle, archbishop of Dublin, obtained possession of the estate, probably by purchase.² Another 740 acres in the county which had been restored to catholic proprietors were transferred before 1688 to Thomas Witched, Anthony Piercy³ and William Williams, all, presumably, protestants.⁴ More information is forthcoming about the patents issued to the other three proprietors, one of whom was the old Irish catholic Robert Leigh, a descendant of a family of physicians

- to Sir Joshua Allen, the son of an English master-builder
1. Ir. rec. comm. rep., 1821-5, p. 119.
 2. Abstracts of grants under the commission of grace, p. 38.
 3. Piercy may have been the father of Sir Anthony Piercy, lord mayor of Dublin in 1700, and the man described in 1717 as 'Piercy the Trunk-maker, who in the reign of King Charles II sued for, and laid claim to the earldom of Northumberland'. G. Miede, The present state of his majesty's dominions in Ireland, containing an exact description of the same, p. 46. The earldom of Northumberland became extinct with the death of Joceline Percy in 1670. The title was given the following year to George Fitzroy, one of Charles's sons by the duchess of Cleveland. G.E.C. ix, 739-40.
 4. Abstracts of grants, pp. 15-16, 36.

from Connaught. Leigh, who obtained 153 acres in Balruddery barony from the restored Robert Nugent, had spent some time in exile with the royal court during the Interregnum and was later granted extensive lands in county Wexford.¹ He was related by marriage to Sir George Lane² and was acting as land agent for various influential court figures after the restoration.³ He also obtained 180 acres in the same barony from the restored Luke Hussey. Nicholas White of Leixlip sold 146 acres in Newcastle and Uppercross barony to Sir John Percival, who in turn sold the estate in 1666 to Sir William Davis, the recorder of Dublin and later (1681) chief justice of the king's bench.⁴ A far more important sale of land occurred in 1670 when James Woolverton sold his chief seat at Stillorgan (370 acres) in Rathdown half barony, to which he had been restored, to Sir Joshua Allen, the son of an English master-builder who had arrived in Ireland in the early seventeenth century

1. The name Leigh is an Anglicized form of the old Irish O'Lee. Robert Leigh's grandfather was an Irish language interpreter for the government during Elizabeth's reign. H. Hore, 'A chorographical account of the southern part of the county of Wexford, written anno 1684: by Robert Leigh', in R.S.A.I. Jn., ii, 17-21 (1858). E. MacLysaght, Irish families, p. 208.
2. Cal. S.P. Ire., 1666-69, p. 337.
3. See above, pp. 168.
4. Abstracts of grants, p. 39. Ball, Judges in Ireland, i, 339.

and had been employed by Wentworth in building the lord deputy's great mansion at Naas in county Kildare. Joshua was an astute business man, a prominent member of the Dublin city corporation, later elected mayor of the city.¹ Although no patent appears under his name in the published calendar issued under the commission of grace, the Books of Survey and Distribution indicate that Jeremy Donovan, a member of a well-known old Irish family from county Cork and one of the few protestants to sit in the Jacobite parliament of 1689,² obtained such a patent for thirty acres in Rathdown half barony. The thirty acres had been restored to James Woolverton.

The patents issued under the commission of grace will take us no further. It is to the records of the Williamite forfeitures that one must turn for more information concerning conveyances of land after 1669, and in this connection a fuller consideration of the duke of York's estate becomes necessary. Although York was issued patents for 8,012 acres in Dublin under the restoration settlement, it is doubtful if he was ever able to gain effective control over all the lands contained

1. Abstract of grants under the commission of grace, p. 31. T. Sadleir, 'Ladytown and the Allens', in Kildare Arch. Soc. Jn., ix, 61-3 (1918). Cal. anc. rec. Dub., iv, 201.
2. J. G. Simms, The Jacobite parliament of 1689, p. 6.

in the patents. He was issued a patent, for example, for Stevenstown (233 acres) in Balruddery barony, held in 1641 by Elizabeth, the widow of Richard Finglas of Westpanstown.¹ The records of the sales of forfeited lands under the Williamite settlement, however, show York to have had only eight acres in Stevenstown.² It also appears unlikely that York ever obtained possession of Blackhall Farm (ninety eight acres) in the same barony. Blackhall Farm had been leased before 1641 by Patrick Cusack to a Dr. Richard Murphy, and even though the property was included in the duke's grant³ it should be remembered that the commissioners of the second court of claims in 1666 had ordered Murphy restored to the land after the duke's agents had forcibly dispossessed him.⁴ The Books of Survey and Distribution also indicate that York never obtained possession of Hacketstown (fifty eight acres) in Balruddery barony, which had also formed a part of his grant.⁵ Robert Nugent, the heir of the owner in 1641, is shown to be restored by certificate of the court of claims.⁶ York's estate was further eaten away by the grant given to Sir Edward Sutton of some lands which had once formed a part of the estate of Nicholas Eustace.

1. Ir. rec. comm. rep., 1821-5, p. 72.

2. Ibid., p. 375.

3. Ibid., p. 72.

4. See above, p. 209.

5. Ir. rec. comm. rep. 1821-5, p. 72.

6. Books of survey and distribution, p. 85.

Nicholas Eustace had been given a posthumous innocent decree by the first court of claims, but his son James was declared innocent. Most of the estate was given to York,¹ but a saving clause gave Thomas Eustace, the grandson, his right of recovery 'by decree dated 19 August 1663, in remainder in tail, after the deaths of his father James, his mother Elinor and his grandmother Margaret, widow of Nicholas Eustace, to lands in Dalkey, Athgoe, Rathcoole, Clondalkin, Danastown and Correstown', amounting in all to some 636 acres.² Sutton had discovered, however, that Nicholas was still alive when James's decree of innocence was issued. On the basis of this discovery Sutton, in 1669, was given an interest in the estate for the life of James. In 1670 Sutton discovered another 'abuse' in the case; James, it seems, had passed the estate to Thomas after 22 October 1641, which conveyance was automatically illegal, since James was then in rebellion. As a reward for his second discovery Sutton was granted as much of Eustace's estate that was not allotted to York.³ Eventually, Sutton was given 138 acres, including Correstown and a small parcel in Dalkey, which had originally formed a part of York's grant.⁴

1. Ir. rec. comm. rep., 1821-5, pp. 72-3.

2. Ibid., pp. 284-5.

3. Cal. S.P. Ire., 1669-70, pp. 215, 708.

4. Crown rental, c. 1706, i, p. 8.

The evidence suggests that York probably never obtained effective possession over much more than about 6,000 acres in the county. Moreover, by 1688 he had sold, or otherwise disposed of, another 1,340 acres, including most of the remainder of the Eustace estate. Athgoe was in Tyrconnell's hands in 1688 and Danastown was in the possession of Richard Crump.¹ York also disposed of Coldswell (115 acres) in Newcastle and Uppercross barony, which had been James Netterville's property in 1641, to Sir Patrick Trant, a merchant (and a catholic) who had earlier purchased the great Clannalier estate in counties Leix and Offaly from Lord Arlington.² Like many other great proprietors, Trant probably required a smaller estate nearer Dublin city for social or political purposes.

By far the greater amount of land which York disposed of, however, went to his great friend Tyrconnell. York had by 1688 conveyed to Tyrconnell - probably as a gift - some 1,041 acres in the county, including, besides the above-mentioned Athgoe, 281 acres in Newcastle and Uppercross barony and 600 acres in Coolock barony, including the valuable manor of Balgriffin.³ Thus,

1. Ir. rec. comm. rep., 1821-5, pp. 360, 380.

2. Ibid., p. 362. Simms, Williamite confiscation, p. 17.

3. Ir. rec. comm. rep., 1821-5, pp. 380-1, 383.

Balgriffin saw its sixth owner since being forfeited by John Burnell in the previous century.¹

His estate in Dublin had been so depleted that under the Williamite settlement York (now King James) forfeited only 4,531 acres.² In the ninth book accompanying the inquiry commissioners report on Irish forfeitures, made in 1690, the estate is described as comprising 6,373 profitable acres.³ Dr. Simms has pointed out, however, that it was the object of the commissioners to give the English parliament the impression that it would be well worth their while to appropriate the proceeds of the forfeited estates.⁴ With this in mind the commissioners probably reported that the estate consisted of all the lands contained in his patents under the restoration settlement, with the exception of those he had sold or otherwise disposed of prior to 1688. They apparently failed to deduct the lands over which York had never been able to gain effective possession.

The 1,041 acres which he got from York only represented about half of the estate which Tyrconnell acquired in Dublin after the restoration. He also

1. The seventh owner, who purchased the estate under the Williamite settlement, was a John Foster. Simms, supra, p. 185. Ire. rec. comm. rep., 1821-5, p. 383.
2. Simms, Williamite confiscation, p. 179.
3. T.C.D., MS N.1.3., p. 250. According to the Books of survey and distribution York's estate contained about 200 acres of unprofitable land.
4. Simms, supra, p. 176.

obtained 610 acres from Christopher Barnewall, who had been restored, including the manor of Terkenure (440 acres) in Newcastle and Uppercross barony, together with another 170 acres in Balruddery barony. It seems likely that at least part of this transfer of land involved payment for Tyrconnell's services in getting Barnewall restored. Tyrconnell only held Terkenure for a short time, however, and in 1672 he sold the estate for £4,000 to Edward Deane, a brother of colonel Richard Deane, a regicide. The 170 acres in Balruddery were still in Tyrconnell's hands in 1689.¹ In 1688 Tyrconnell was also in possession of Lower Castleknock (285 acres) in Castleknock barony, which had restored to Philip Hore of Kilsaghan.² Here, too, it would seem that Tyrconnell obtained this estate as payment for his aid in arranging the compromise agreement between Hore and Sir George Lane which was arrived at in 1665. In 1688, even after the sale of Terkenure, Tyrconnell still held 1,646 acres, making him one of the greatest proprietors in the county.

Besides Robert Leigh and Tyrconnell, several other catholics acquired lands in Dublin between 1669 and 1688.

1. Ir. rec. comm. rep., 1821-5, pp. 372, 382.

2. Ibid., p. 378.

In 1688 James Hacket held 487 acres in Balruddery and Newcastle and Uppercross baronies, most of which had been restored to Robert Finglas in 1663, and Thomas Sutton held 171 acres in Dainestown in Nethercross barony that had been held in 1641 by Patrick Chilliam.¹ Michael Chamberlain, who had been appointed a judge by James,² was in 1639 in possession of 112 acres in Nethercross barony that had been restored to Thomas Dowde,³ and Edward Sweetman held Abbotstown (132 acres) in Castleknock barony, to which Ignatious Mapus had been restored.⁴ But these acquisitions by the catholics were obtained for the most part from other restored catholics. In the years after 1669 there was still a general movement of land from catholic to protestant hands, so that by 1688 the protestants were in possession of about 3,000 acres in Dublin which they had acquired by commercial or other means from catholics after 1669. Tyrconnell was the only catholic who acquired a large estate in the county after 1669, but the 1,000-odd acres he got from the duke of York could hardly be described as having been obtained from a

1. Ir. rec. comm. rep., 1821-5, pp. 373, 375, 369, 393. The Books of survey and distribution do not enter a name in the restoration column for the Dainestown estate, and there is no record of a Chilliam receiving a decree of innocence.
2. Simms, Williamite confiscation, p.36. Ire.rec.comm.rep., 1821-5, p.363.
3. Ibid., p.379.
4. Ire.rec.comm.rep., 1821-5, p.379.

protestant proprietor.

Not only were the protestants acquiring land in the county outright from the catholics after 1669; they were also buying mortgages on land held by catholics. In 1686 Thomas Domville, the son of attorney-general Sir William Domville, purchased a mortgage on James Talbot's manor of Templeogue in Newcastle and Uppercross barony for £3,000. Then, finding the government under Tyrconnell 'very burdensome and oppressive to the protestants', he fled to England in 1688 with his family, following which Talbot repossessed the estate. Soon after the 'happy rout of the Boyne' Domville returned to Ireland, only to find the manor house, along with the out houses and farm houses, in a state of ruin. After spending £1,000 in repairing the buildings it developed that several other people had claims on the estate for unpaid debts, so that Domville found himself facing a real mortgage of £6,518.13.9d. He claimed that after 1689 the estate did not yield £310 a year.¹

There was of course a certain amount of land trading conducted between protestants. Sir Joshua Allen, for example, obtained 632 acres in Rathdown half barony from the earl of Meath,² and Lord Kingston, sometime after 1669,

1. N.L.I., MS 9382, f. 1^v. Templeogue being forfeited, Domville was given a grant of the estate in 1694 under the Williamite settlement.

2. Commission of grace, p. 31.

assigned his valuable manor of Balmadun (437 acres) in Balruddery barony to Sir William Domville.¹

In county Wicklow, where the protestant interest was already in possession of 81% of the land, changes in ownership after 1669 usually involved the transfer of land from within the protestant interest. This was partially due to the great proportion of land in the county which had been allotted for the satisfaction of the '49 interest. While it seems certain that by 1688 much of the land which had been set out for the '49 interest had been purchased in large blocks by protestant speculators, the actual references to these transactions are rather scarce. Sir Arthur Forbes, one of the trustees for the officers, purchased debentures worth over £700 in Talbotstown barony. The townlands involved included Brittas, Seskin, Knockvarin and Coolemony, amounting in all to 3,985 acres.² The Crown Rental c. 1706 offers some help in this respect, although for

1. Crown rental, c. 1706, i, 66.

2. Lodge, Patents, vii, 558. Forbes was given 1,919 acres in Brittas for debentures worth £612. 5. 8d. and 446 acres in Coolemony for debentures worth £112.16.4d. Seskin amounted to 1,355 acres and Knockvarin 265 acres, but no value of the debentures are entered against these two townlands. It would appear, however, that Forbes paid at least £1,000 for the four townlands. No date appears on the entry, but the sale must have occurred after 1667, when the grant was enrolled for the '49 interest. Ir. rec. comm. rep., 1821-5, p. 167.

the most part it refers to the land as still being held in trust by the same trustees that appear in the Books of Survey and Distribution.¹ The Crown Rental does, however, show that Philip Craddock, who was also a trustee for the '49 interest, and Alexander Hayden, who had been an army officer, in possession of a total of 4,895 acres, mostly in Arklow barony, that had originally been allocated for the satisfaction of the '49 interest.² In one of the patents issued to the '49 interest in 1668 it is noted that 'Alexander Hayden, gentleman - purchased 593 acres - of these - lands'.³ The commission of grace of 1684-88 issued patents to both Craddock and Hayden for these lands, representing two of the nine patents issued under the commission to Wicklow proprietors.⁴ The patent issued to Hayden for 1,052 acres under the commission of grace represented only that land which he acquired from the '49 interest. Reference has already been made to the 492 acres in Newcastle barony he had held in lease from Brian O'Byrne before 1641, from which - despite the fact that he was a protestant - he had been dispossessed under the Cromwellian settlement.⁵ The Crown Rental shows Hayden also in possession of this 492 acres,⁶

1. Crown rental, c. 1706, xx, 13-14.
2. Ibid., 26, 28.
3. Ir. rec. comm. rep., 1821-5, p. 138.
4. Commission of grace, pp. 14, 48.
5. See above, p. 129.
6. Crown rental, c. 1706, xx, 28.

although there is no record of his having received a patent for this land under the restoration settlement. Hayden, however, did receive a decree of innocence from the first court of claims as an 'innocent protestant', with reference to 492 acres in Wicklow.¹ Four of the remaining seven patents issued under the commission of grace were given to protestants. Archbishop Boyle was given one for his estate in Talbotstown barony and George O'Byrne was also issued a patent for his estate in Arklow,² both of whom had been issued patents under the Acts of Settlement. The other two patents were given to Maurice Keating and Anthony Piercy for lands amounting to 1,218 acres in Talbotstown barony that had originally been set out for the satisfaction of the '49 interest.³ Only three patents were issued to catholic proprietors; one to John Dalton, who had been restored under the Acts of Settlement; another to Patrick Allen, whose father had also been restored;⁴ and a third was issued to Nicholas Archbold, presumably a catholic, and related to the family of the same name who had been established in the county for many years prior to 1641. Archbold was given a patent for 1,896 acres in the township of Money in

1. P.R.I., rep. D.K. 19, p. 73.

2. Commission of grace, pp. 5, 14.

3. Ibid., pp. 19, 36.

4. Ibid., pp. 6, 39-40.

Newcastle barony, which had been restored to John Walsh.¹ Presumably Archbold either purchased the land or inherited it through marriage prior to 1684.

The lands allotted to the '49 interest were further reduced in 1671 when Sir Richard Kennedy, the son of Sir Robert, purchased nearly 600 acres adjacent to the estate in Newcastle barony which his father had acquired earlier in the century. Taken together the two parcels gave Kennedy over 3,500 acres in the barony. It was at the same time created into the manor of Newtownmount-kennedy.²

Sir William Talbot's restoration, together with the acquisitions made by Forbes, Hayden, Craddock, Keating, Piercy and Kennedy, had by 1688 reduced the holdings of the '49 interest by over 12,000 acres. The amount of land disposed of by the '49 interest was probably more than 12,000 acres however. A list of freeholders in the county in 1672 contains over twenty names that do not appear in the restoration columns of the Books of Survey and Distribution, though of course freeholders may not have been landowners.³ It is significant, however, that the names of eight of the trustees of the '49 interest appear in the list.

1. Commission of grace, p. 14.

2. P.R.O., S.P. Ire., Eliz.-Geo. III, 63/330, p. 54A.

3. Ainsworth, Reports, ii, 469-71.

XIII. Conclusion

I have already suggested that when dealing with the restoration land settlement it is important to bear in mind that county Dublin was in many ways atypical of the country as a whole. It had for centuries represented the most Anglicized portion of the country, and Dublin city was the strategic hub from which English influence radiated. The city was the axis around which the boundary of the Pale expanded or contracted, depending on the power of the old Irish. Moreover, the county contained a high percentage of arable land. Because the county represented all these things it naturally attracted to it the most powerful and influential old and new English families. Since it offered such advantages it is understandable why, under the Cromwellian settlement, the county was reserved for its own uses by the Commonwealth government. It is also understandable why some of the most influential Cromwellians, including three regicides, were given extensive estates in the county. Ultimately, of course, this worked to the advantage of the dispossessed catholics, since some of the Cromwellians fled their estates at the restoration, leaving them open for immediate repossession by their former owners.

For these reasons the year 1688 found 106 catholic proprietors in possession of 49,164 acres, or 65% of the 75,495 acres which 183 catholic proprietors had held in 1641. Because of the purchases made by protestants after 1669 it is seen that the catholics, despite the acquisitions made by Tyrconnell, held a somewhat smaller proportion of the land in the county in 1688 than was the case in 1669.¹ Nevertheless, by recovering nearly two thirds of the land they had held in 1641 the catholics from Dublin did far better than their co-religionists throughout the whole country, who by 1688 had recovered, on average, only about one third of their old estates.² Of the 106 catholic proprietors in 1688, eight had acquired their estates in the county by commercial or other means after 1669; the others held their estates as a direct result of the restoration settlement. To say that there were 183 catholic proprietors in the county in 1641 and only 106 in 1688 is not meant to suggest that seventy seven of them never recovered an acre of land under the restoration settlement. In a few cases lands which in 1641 had been held by two members of the same family were restored to a single descendant. There were, nevertheless, seventy

1. See above, p. 224.

2. Simms, Williamite confiscation, p. 195.

catholic proprietors, or their descendants, who were still wholly unrestored in 1688. Seventy catholics, or their descendants, were virtually fully restored (some of them lost small bits of land); twenty nine were partially restored; eight had acquired their estates by commercial or other means after 1669. At the same time eighty seven protestant proprietors and King James were in possession of 57,996 acres, an increase of 23,490 acres over what fifty nine of them had held in 1641.

The catholics who were fully restored in 1688 tended to be the more influential landowners. Over half of them held estates of over 300 acres, which was large by seventeenth century Dublin standards. On the other hand, over a third of those who were still wholly unrestored in 1688 had held under 100 acres in 1641. The catholic peers did quite well. Lords Barnewall, Fitzwilliam, Trimleston and Gormanston were fully restored; Netterville was partially restored, but his father had held only seventy five acres in the county in 1641. Only Westmeath, who never regained his 190 acres, was still wholly unrestored, so far as county Dublin is concerned.

It is difficult to estimate the influence which royal letters played in achieving the restoration of various catholics. A spate of such letters were dispatched by the king between 1660 and 1663 which may have provided the necessary influence by which some of the catholics were allowed to have their claims heard in the first court of claims, or indeed they may have influenced the final decisions of the commissioners in individual cases. But without a decree of innocence it was virtually hopeless for a dispossessed catholic (from Dublin or Wicklow at least) to expect to be restored. The only case which constituted a clear exception to this was that involving the invalidation of the earl of Tyrconnell's nocent decree, on orders from the king (with Ormond's support), as expressed in the Act of Explanation.¹ It is true that a few catholics (Patrick Sarsfield, for example) were back in possession of their old estates after 1669 despite the fact that they had received nocent decrees, but this usually involved cases in which the heir of the proprietor who had received the nocent decree had been issued a decree of innocence. In fact, the heirs of six out of the sixteen catholics from Dublin and Wicklow who had received nocent decrees were restored,

1. See above, p. 187.

at least in part, by 1688. In five of these cases the father or grandfather had received a nocent decree, but the son or grandson a decree of innocence.

The value of being named in the Act of Settlement or the Act of Explanation as a proviso-man, ensignman, or nominee was rather questionable. Of the six catholic proprietors from Dublin who had been named as proviso-men in the Act of Settlement, three were fully restored by 1688 - lords Fingal and Dunsany and Sir Richard Bealings; two were partially restored - Lord Netterville and Sir Richard Barnewall; one, the earl of Westmeath, was still wholly unrestored. The nine catholic proprietors from Dublin who had been named as ensignmen in the Act of Settlement fared about as well as the proviso men. John Talbot of Belgard, Nicholas Plunket, Christopher Russell and John Walsh were fully restored; John Harold, Luke Dillon and Sir Luke Bath were completely unrestored; John Talbot of Malahide was partially restored. Of the four nominees from Dublin who were named in the Act of Explanation, only Lord Trimleston was completely restored. Sir Richard Barnewall was ^{partially} ~~fully~~ restored; Lord Westmeath and Sir Luke Dillon were completely unrestored.

The total amount of land restored to the catholics would probably have reached 70% of what they had held in 1641 had it not been for the lands given to the duke of York.

The necessity of providing a vast estate for York acted, in fact, as one of the greatest irritants to a more peaceful and equitable solution to the whole land settlement. While it is true that the creation of York's estate was in many ways a disruptive influence on the Irish land settlement, it is also true that York was himself the centre of one source of political power through which many of the dispossessed catholics achieved restoration. This centre of power revolved around the duke within the catholic party in the royal court. It also included Henrietta-Maria, the queen mother, along with various protestant royalist peers - Berkeley, St. Albans, etc. - who had formed a part of the duke's household in exile. Together with some of the old English catholic gentry such as Richard Talbot, Nicholas Plunket and Sir Richard Bealings, who also formed a part of the duke's exiled household, an effective lobby within the restored royal court was established. Of course the motives which inspired people like Berkeley and St. Albans, and to a lesser extent Richard Talbot, to assume an interest in the Irish land settlement were not (to say the least) always altruistic. They all gained substantial amounts of money or land as a result of their dealings in Irish land. Nevertheless, there is no doubt that this catholic lobby were able to obtain the

restoration, in county Dublin at least, of a considerable number of dispossessed catholic proprietors.

It is clear that Ormond exercised considerable influence on the whole land settlement. He was, after all, the only protestant member of a great and powerful old English catholic family, and there is no doubt that he was inclined to favour, to a great extent, the restoration of the old social order as it existed before 1641. He was certainly directly responsible for the restoration of various catholic proprietors from both Dublin and Wicklow. To a lesser extent the lord chancellor, Sir Maurice Eustace, while he lived (he died in 1665), also maintained some direction over the settlement. He too was the only protestant member of an old English catholic family, and as such appears to have shared Ormond's inclinations.

When a comparison is made between the results of the restoration land settlement in Dublin and Wicklow it is seen that whereas in the former county the catholics were by 1688 in possession of 65% of the land that they had held in 1641, in Wicklow they were back in possession of only 33%. These percentages, however, are somewhat misleading. The situation in the two counties was much different, since in 1641 the catholics in Wicklow held a

much smaller proportion of the land than they did in Dublin. Moreover, only six decrees of innocence were issued to catholic proprietors from Wicklow, and only those given to Sir Richard Bealings, Sir Lawrence Esmond and James Allen involved large estates. Several prominent old English catholics - Peter Wickham, James Cheevers, Walter Cheevers, Edward Walsh - never applied for decrees, and only one old Irish catholic, Dr. Edmund O'Meara, received a decree of innocence. Out of the 128 old Irish catholics who had held land in the county in 1641 only O'Meara, largely through Ormond's influence, was restored. The fact clearly emerges, therefore, that race formed the basis upon which the land settlement in Wicklow was carried out. There was of course no regicides' lands in the county to which the dispossessed catholics might have been restored, but there is no reason to believe, even had there been some available, that the old Irish catholics would have obtained any.

A comparison of the results of the land settlement in the two counties is perhaps best seen in tabular form:¹

1. For fuller particulars concerning proprietorship in both counties see appendices F-I.

County Dublin

	1641		1688	
	<u>Acreage</u>	<u>%</u>	<u>Acreage</u>	<u>%</u>
Catholics	75,495	59	49,164	39
Protestants	34,506	27	53,465	42
Others*	13,501	11	20,873	16
Unidentified	4,400	3	4,400	3

County Wicklow

	1641		1688	
	<u>Acreage</u>	<u>%</u>	<u>Acreage</u>	<u>%</u>
Catholics	99,043	55	33,237	12
Protestants	135,123	48	166,935	59
Others*	25,005	9	58,999	21
Unidentified	23,958	8	23,958	8

It is hard to resist making an analogy between the fate of the old Irish catholic proprietors in Wicklow (and elsewhere in the country) under the restoration land settlement and that of the North American Indians of the

*For an account of this classification see appendices F-I.

American Middle West and South-West in the nineteenth century. Both lost their lands under similar circumstances, over about the same period of time (a century), to exploiters whose activities were sanctioned by governments anxious to extend their jurisdiction. Even the stages in which the two races lost their lands bear comparison. Before losing all their lands to Cromwell the old Irish catholics in Wicklow were pushed from the fertile coastal strip up into the inland, less profitable regions of the county, just as the American Indians were confined to the more arid and unprofitable areas of the Southwest and Middle West. The fate of the old Irish catholic proprietors in Wicklow was sealed by Cromwell in 1653; the restoration land settlement only confirmed that fate, just as the fate of the American Indians was confirmed by the land legislation of the United States congress in the nineteenth century. Henceforth, the old Irish catholic landowners in Wicklow disappear into the cottager class, to remain there for the next two centuries. In the early eighteenth century it was reported that 'the county of Wicklow, formerly a receptacle of Torries and rebels, is now well reduced, inhabited, and improved - ' ¹ It was 'improved' by the

1. A geographical description of Ireland, p. 4.

almost total uprooting of the old Irish catholic proprietorship.

Some contemporaries referred to the Act of Settlement as the 'Magna Carta of Ireland'. It was a hopeful characterization but a form of whistling-in-the-dark, for at no time between 1660 and 1688 did the proprietors of Ireland, especially the Cromwellian proprietors, maintain any substantial faith in the security of their land titles. The smallest alteration, or rumour of alteration, in government policy toward Ireland led to an immediate heightening of anxiety among the land owners. Thirteen years after the restoration Essex wrote that he had 'always found the generality of the English who enjoy their estates upon these new titles could not shake off their apprehensions of losing them again'.¹ In 1686 Clarendon referred to the 'melancholy apprehensions' of the Irish landowners.² The war of 1689-91 only confirmed these apprehensions. The third major change in Irish land ownership during the seventeenth century was about to occur.

1. Essex papers, i, 50.

2. State papers of Clarendon, i, 94.

Appendix A

A Note on Acreage Figures

Petty's Down Survey in general undermeasured the country as a whole by at least 10%. The Books of Survey and Distribution return the land area of seventeenth century Dublin, including the detached barony of Uppercross (now a part of county Kildare), as containing 129,171 acres, whereas in fact it contained about 144,000 acres. Thus, Petty undermeasured the county by about 10%. The same Books of Survey and Distribution enter 9,690 acres in the county as unprofitable, or about 7% of the total land area. It is impossible to ascertain ownership of 4,400 acres of this unprofitable land, most of which appears in several large blocks in Newcastle and Uppercross barony in the mountainous area along the Wicklow border. This land is accounted for in the abstract of land ownership for the county given on pages 351-2 and is allotted in proportion to the profitable land.

A greater undermeasurement occurs in county Wicklow, which the Books of Survey and Distribution return as containing 283,129 acres. In fact, Wicklow contained about 325,000 acres, which meant that Petty undermeasured

The problem is magnified by the difficulty in ascertaining the county by some 13%. No acreage figures are entered in the Books of Survey and Distribution for Shillelagh barony since it was not forfeited, having been held entirely by Lord Strafford. Allowing for a 10% undermeasurement by Petty, the barony contained about 24,000 acres, of which, according to the survey of 1656, mentioned above,¹ some 8,000 acres were unprofitable. Several reasons may account for the greater undermeasurement for Wicklow, the first being the extremely irregular topography of the county, which led Petty's surveyors to undermeasure some of the mountainous areas by as much as 15%. Secondly, many of the acreage figures which are entered in the Books of Survey and Distribution were extracted from the Civil Survey, which, having been arrived at by the method of inquisition, are undermeasured by more than 10%. The problem is not so acute in the case of county Dublin, where a collation of the two sets of figures can be made; but in Wicklow, where virtually all entries for the protestant proprietors in 1641 are based on the missing Civil Survey, conclusions as to acreage figures are by necessity much more tentative.

1. See above, p. 45 (n).

The problem is magnified by the difficulty in ascertaining with any degree of accuracy the proportion of profitable land in the county. Dr. Clarke, who has based his calculations on figures provided by W. H. Hardinge,¹ has suggested, in a 'very rough approximation', that about 83% of the county was profitable, a figure only slightly lower than the proportion of 85% he assigns to county Meath, a much more fertile county.² The figure of 83% for Wicklow corresponds roughly to the ratio as given in the Books of Survey and Distribution, which return only 51,798 acres as unprofitable, or about 18% of the total land area of the county. While this figure seems too low by at least 10%, it would seem best to accept this proportion but to base statistics of proprietorship on 259,171 acres by deducting 23,958 acres - mostly in Ballinecur and Talbotstown baronies - of mountain-top land, against which no landowners are entered in the Books of Survey and Distribution, either in the 1641 or restoration columns.

1. W. H. Hardinge, 'On manuscript mapped and other townland surveys in Ireland of a public character, embracing the Gross, Civil and Down surveys, from 1640 to 1688', in R.I.A. Trans., app., xxiv (1873), 100-04.
2. Clarke, Old English, pp. 235-6.

Appendix BProprietors in county Dublin in 1641I. Catholic Proprietors1. Old English catholic proprietors.

<u>Name</u>	<u>Acreage</u>	<u>Name</u>	<u>Acreage</u>
Archbold, Garret	455	Caddle, John	118
Arthur, Benedict	5	Caddle, Richard	30
Arthur, Robert	200	Carbury, John	405
Aylmer, George	471	Carbury, Richard	86
Aylmer, James	41	Chamberlain, Robert	293
Aylmer, Thomas	86	Cheevers, Walter	1,105
Barnewall, Christopher	503	Chilliam, Christopher	77
Barnewall, James (of Donbroe)	969	Chilliam, Patrick	200
Barnewall, Katherine	371	Clarke, Symon	13
Barnewall, Mathew	767	Clinch, William	7
Barnewall, lord	5,964	Conran, Thomas	640
Barnewall, Patrick	29	Conran, Walter	200
Barnewall, Peter (of Terenure)	1,021	Conran, William	80
Barnewall, Robert	830	Corballis, Robert	81
Barnewall, Sir Richard	127	Cruise, Christopher	1,198
Bath, James	1,175	Cusack, Adam	46
Bath, Margaret	60	Cusack, Patrick	100
Bealings, Sir Henry	1,523	Delahide, Anthony	117
Bealings, Lawrence	673	Delahide, John	171
Begg, John	13	Delahide, Thomas	107
Begg, Mathew	410	Dalton, John	12
Bermingham, James	245	Deane, Nicholas	18
Bermingham, Patrick	508	Denn, John	120
Blackney, George	712	Dillon, James	125
Bowen, John	42	Dillon, Luke	160
Brice, John	181	Dillon, Martin	269
		Dillon, Robert	388
		Dowding, John	170
		Dongan, Edward	417
		Dongan, Sir John	58
		Dunsany, lord	178

<u>Name</u>	<u>Acreage</u>	<u>Name</u>	<u>Acreage</u>
Eustace, Alexander	438	Mapus, Patrick	519
Eustace, Ann	28	Martin, Nicholas	12
Eustace, James	38	Merrion, lord	2,332
Eustace, Nicholas	811	Mills, Ralph	248
Eustace, Oliver	50	Moore, Andrew	8
Eustace, Thomas	464	Moore, Nicholas	20
Fagan, Christopher	2,106	Netterville, James	58
Field,	160	Netterville, lord	72
Fingal, earl of	35	Netterville, Luke	1,231
Finglas, Elizabeth	2,025	Nottingham, Limerick	797
Fitzrory, Robert	472	Nugent, Andrew	296
Fitzsymonds, Marcus	168	Nugent, Christopher	500
Fitzsymonds, Richard	100	Penteny, Richard	99
Fitzsymonds, Thomas	572	Plunket, Christopher	383
Flemming, Thomas	12	Plunket, James	1,389
Font, John	8	Plunket, Mathew	136
Fox, Garret	250	Plunket, Thomas	1
Freene, William	197	Plunket, Walter	451
Gawden, John	232	Plunket, William	345
Goodman, James	459	Preston, Robert	1,241
Goodman, Rowland	30	Purcell, William	142
Gormanston, lord	735	Read, John	42
Gough, Patrick	5	Reynolds, Patrick	60
Gough, William	171	Rochfort, Henry	55
Goulding, Christopher	100	Rowse, John	80
Goulding, Richard	416	Russell, Bartholomew	433
Hacket, George	83	Russell, Christopher	17
Handcock, Christopher	15	Russell, Nicholas	167
Harold, John	703	Russell, Patrick	661
Hollywood, Nicholas	1,973	Sarsfield, William	1,398
Hore, Philip	1,124	Segrave, Henry	901
Humphreys, James	67	Segrave, Richard	106
Hussey, Luke	242	Stokes, George	133
Hussey, Peter	445	Strong, Katherine	218
Jacob, Richard	240	Surlock, Patrick	1,076
Jorden, John	184	Talbot, Adam (of Belgard)	1,114
Kent, Christopher	2	Talbot, Elizabeth	900
King, George	593	Talbot, Henry (of Templeogue)	555
Lock, William	611	Talbot, John (of Robertstown)	411
Luttrell, Symon	2,513	Talbot, John (of Malahide)	1,585
Luttrell, Thomas	72	Talbot, William (of Robertstown)	62
		Taylor, Nicholas	322
		Taylor, Thomas	560
		Trevers, William	1,207
		Trimleston, lord	500

<u>Name</u>	<u>Acreage</u>
Usher, Orlando	78
Usher, Robert	245
Veldon, Christopher	20
Walsh James	697
Walsh James	552
Walsh, John	400
Walsh, Robert	360
Walsh, Theobald	944
Warren, William	553
Westmeath, earl of	190
White, Sir Nicholas	326
Wickomb, Edward	66
Woolverton, Christopher	80
Woolverton, William	917

71,590

2. New English catholic proprietors

Allen, James	427
Allen, Mathew	823
Allen, John	262
Allen, John	488
Books, Thomas	2,000

3. Old Irish catholic proprietors

Connell, John	207
Donnell, David	430
Dowde, Edward	217
Dowde, John	133
Kelly, Luke	23
Kennedy, John	323
Kennedy, Walter	130
Malone, Arthur	93
Meagh, James	349
Total	1,905

<u>Name</u>	<u>Acreage</u>
Yates, Sir Alan	7,940
Yates, Dudley	52
Yates, Nicholas	24
Yates, Robert	475
Yates, Lord	13
Yeats, earl of	476
Yeats, Lord	250
Yeats, Sir Samuel	214
Yeats, Richard	60
Yeats, Sir William	1,760
Yeats, John	7
Yeats, Lady	70
Yeats, John	157
Yeats, Colonel	210
Yeats, Sir George	479
Yeats, Lord	673
Yeats, Sir William	65
Yeats, Morris	69
Yeats, Lord	125
Yeats, Sir James	254
Yeats, Thomas	297
Yeats, Thomas	299
Yeats, Thomas	15
Total	22,521
<u>Old Irish protestant proprietors</u>	
Omond, earl of	1,848
Plunket, Sir William	143
Plunket, Lord	1,731
Plunket, Sir William	756
Total	10,197

II. Protestant proprietors

I. New English protestant proprietors

<u>Name</u>	<u>Acreage</u>	<u>Name</u>	<u>Acreage</u>
Adrian, Hubert	285	Loftus, Sir Adam	7,940
Agard, John	955	Loftus, Dudley	52
Anderson, lady	3	Loftus, Nicholas	55
Bagshaw,		Loftus, Robert	473
Sir Edward	85	Lowther, lord	16
Ball, Robert	55	Meath, earl of	476
Bolton,		Moore, lord	250
Sir Edward	1,471	Moyart, Sir Samuel	214
Brady, Patrick	30	Parsons, Richard	80
Browne,		Parsons, Sir William	1,760
Nicholas	167	Pierce,	7
Buckley, William	594	Pierce, lady	70
Burrowes,		Percival, John	157
Alexander	101	Ponsonby, Colonel	210
Bysse, John	1,188	Radcliffe, Sir George	459
Bysse, Robert	111	Ranelagh, lord	873
Dixon, Sir		Reeves, Sir William	65
Robert	343	Smith, Morris	40
Exham, John	72	Turner, Christopher	125
Foster, Charles	443	Valentia, lord	354
Fyan, Jane	18	Ware, Sir James	897
Gazell, Edmund	100	White, Thomas	299
Grace, James	119	Waterhouse, Thomas	15
Hacket, lady	63		
Harvey, Richard	359		<hr/>
Hooke, Thomas	5		22,621
Hoy, Sir John	999		
Kemp, John	88		
King, John	80		

2. Old English protestant proprietors

Barry, Edward	86	Ormond, earl of	1,248
Barry, William	40	Plunket, Sir	
Cusack, Robert	157	William	143
Howth, lord	5,896	Santry, lord	1,731
Mapus, Ignatius	140	Usher, Sir William	756
			<hr/>
			10,197

3. Old Irish protestant proprietors

<u>Name</u>	<u>Acreage</u>
Donnellan, Sir James	120
Kennedy, Sir Robert	516
Thomond, earl of	1,052

Arthur, James	
Arthur, John	
Aylmer, Thomas	
Barnesall, Christopher	1,402
Barnesall, James (of Broomora)	1,027
Barnesall, James (of Broomora)	
Barnesall, James	
Barnesall, lord	
Barnesall, Sir	
Church lands	10,093
Crown lands	467
Common lands	1,409
Lands held by the city of Dublin	993
Trinity College	539
Total	13,501

III. Other proprietors

Arthur, James	
Arthur, John	
Aylmer, Thomas	
Barnesall, Christopher	1,402
Barnesall, James (of Broomora)	1,027
Barnesall, James (of Broomora)	
Barnesall, James	
Barnesall, lord	
Barnesall, Sir	
Church lands	10,093
Crown lands	467
Common lands	1,409
Lands held by the city of Dublin	993
Trinity College	539
Total	13,501

Arthur, James	
Arthur, John	
Aylmer, Thomas	
Barnesall, Christopher	1,402
Barnesall, James (of Broomora)	1,027
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Arthur, John	
Aylmer, Thomas	
Barnesall, Christopher	1,402
Barnesall, James (of Broomora)	1,027
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Barnesall, James	
Barnesall, lord	
Barnesall, Sir	
Church lands	10,093
Crown lands	467
Common lands	1,409
Lands held by the city of Dublin	993
Trinity College	539
Total	13,501

Arthur, James	
Arthur, John	
Aylmer, Thomas	
Barnesall, Christopher	1,402
Barnesall, James (of Broomora)	1,027
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Barnesall, James	
Barnesall, lord	
Barnesall, Sir	
Church lands	10,093
Crown lands	467
Common lands	1,409
Lands held by the city of Dublin	993
Trinity College	539
Total	13,501

Arthur, James	
Arthur, John	
Aylmer, Thomas	
Barnesall, Christopher	1,402
Barnesall, James (of Broomora)	1,027
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Barnesall, James	
Barnesall, lord	
Barnesall, Sir	
Church lands	10,093
Crown lands	467
Common lands	1,409
Lands held by the city of Dublin	993
Trinity College	539
Total	13,501

Arthur, James	
Arthur, John	
Aylmer, Thomas	
Barnesall, Christopher	1,402
Barnesall, James (of Broomora)	1,027
Barnesall, James (of Broomora)	
Barnesall, James	
Barnesall, lord	
Barnesall, Sir	
Church lands	10,093
Crown lands	467
Common lands	1,409
Lands held by the city of Dublin	993
Trinity College	539
Total	13,501

Arthur, James	
Arthur, John	
Aylmer, Thomas	
Barnesall, Christopher	1,402
Barnesall, James (of Broomora)	1,027
Barnesall, James (of Broomora)	
Barnesall, James	
Barnesall, lord	
Barnesall, Sir	
Church lands	10,093
Crown lands	467
Common lands	1,409
Lands held by the city of Dublin	993
Trinity College	539
Total	13,501

Arthur, James	
Arthur, John	
Aylmer, Thomas	
Barnesall, Christopher	1,402
Barnesall, James (of Broomora)	1,027
Barnesall, James (of Broomora)	
Barnesall, James	
Barnesall, lord	
Barnesall, Sir	
Church lands	10,093
Crown lands	467
Common lands	1,409
Lands held by the city of Dublin	993
Trinity College	539
Total	13,501

Arthur, James	
Arthur, John	
Aylmer, Thomas	
Barnesall, Christopher	1,402
Barnesall, James (of Broomora)	1,027
Barnesall, James (of Broomora)	
Barnesall, James	
Barnesall, lord	
Barnesall, Sir	
Church lands	10,093
Crown lands	467
Common lands	1,409
Lands held by the city of Dublin	993
Trinity College	539
Total	13,501

Arthur, James	
Arthur, John	
Aylmer, Thomas	
Barnesall, Christopher	1,402
Barnesall, James (of Broomora)	1,027
Barnesall, James (of Broomora)	
Barnesall, James	
Barnesall, lord	
Barnesall, Sir	
Church lands	10,093
Crown lands	467
Common lands	1,409
Lands held by the city of Dublin	993
Trinity College	539
Total	13,501

Allen, James	
Allen, Martin	
Allen, Robert	
Angus, Sir John	
Bowling, Philip	
Burrows, lord	
Burrows, Thomas	
Burrows, Walter	
Burrows, Christopher	
Burrows, John	
Burrows, Elizabeth	
Burrows, Mary	
Burrows, Robert	
Burrows, Marcus	
Burrows, lord	
Burrows, Thomas	
Burrows, John	
Burrows, Robert	
Burrows, John	
Burrows, lord	
Burrows, Martin	
Burrows, James	
Burrows, John	
Burrows, Philip	
Burrows, James	
Burrows, John	
Burrows, John	
Burrows, Alice	
Burrows, Thomas	
Burrows, Bartholomew	
Burrows, Patrick	
Burrows, lord	
Burrows, Peter	
Burrows, Richard	
Burrows, Robert	

Appendix CProprietors in county Dublin in 1688I. Catholic proprietors1. Old English catholics

<u>Name</u>	<u>Acreage</u>	<u>Name</u>	<u>Acreage</u>
Archbold, William	50	Dillon, James	177
Arthur, Benedict	228	Dillon, Martin	235
Arthur, John	200	Dillon, Robert	388
Aylmer, Thomas	614	Dongan, Sir John	132
Barnewall, Christopher	1,402	Dowding, Philip	140
Barnewall, James (of Braemore)	1,017	Dunsany, lord	178
Barnewall, James (of Donbroe)	797	Eustace, Thomas	184
Barnewall, Jane	10	Eustace, Walter	852
Barnewall, lord	5,929	Fagan, Christopher	2,038
Barnewall, Sir Richard	44	Fingal, earl of	35
Bealings, Sir Richard	1,730	Finglas, Elizabeth	279
Blackney, William	28	Finglas, Mary	219
Blake, Patrick	36	Fitzrory, Robert	240
Bowen, John	42	Fitzsymonds, Marcus	409
Brice, Richard	181	Fitzwilliam, lord	2,332
Carbury, Nicholas	41	Font, Thomas	8
Carbury, Richard	86	Foster, John	88
Chamberlain, Michael	112	Fox, Garret	250
Cheevers, Walter	473	Glover, John	13
Chilliam, Christopher	72	Gormanston, lord	677
Clarke, Symon	13	Gough, Ignatius	2
Clinch, William	300	Hacket, James	487
Corballis, Robert	81	Hollywood, John	1,673
Crump, Richard	100	Hore, Philip	689
Dalton, John	12	Humphreys, James	67
Denn, John	23	Hussey, Luke	660
Denn, Thomas	120	Jorden, John	184
Denn, William	27	Lock, John	611
Dillon, Ann	166	Luttrell, Alice	235
		Luttrell, Thomas	2,608
		Lynes, Bartholomew	138
		Moore, Patrick	8
		Netterville, lord	35
		Nottingham, Peter	797
		Nugent, Richard	499
		Nugent, Robert	110

<u>Name</u>	<u>Acreage</u>	<u>Name</u>	<u>Acreage</u>
Nugent, Levellian	25	Taylor, Edward	290
Plunket, Ann	400	Taylor, John	322
Plunket, Luke	345	Tirrell, Sir Timothy	4
Plunket, Nicholas	1,569	Trant, Sir Patrick	115
Purcell, John	77	Trimleston, lord	550
Read, John	42	Tyrconnell, earl of	1,646
Rowse, Richard	80	Usher, George	171
Russell, Bartholomew	465	Usher, Robert	253
Russell, Mathew	472	Veldon, Christopher	80
Sarsfield, Patrick	1,398	Walsh, Adam	40
Segrave, John	901	Walsh, John	1,097
Segrave, William	106	Warren, William	553
Shield, Ann	4	White, Sir Nicholas	1,003
Strong, Katherine	218	Woolverton, Christopher	122
Sutton, Thomas	171	Woolverton, James	48
Sweetman, Edward	132		
Talbot, Henry Sir	697		
Talbot, John (of Malahide)	605		
Talbot, John (of Belgard)	1,332		
		Total	46,944

2. Old Irish catholic proprietors

Dowde, Thomas	238	Meagh, John	28
Donnell, Richard	450	Meagh, Mathew	98
Leigh, Robert	342	Murphy, Dr. Richard	98
		Total	1,254

3. New English catholic proprietors

Allen, James	966
Total	966

II. Protestant proprietors

1. New English protestant proprietors

<u>Name</u>	<u>Acreage</u>	<u>Name</u>	<u>Acreage</u>
Adrian, Hubert	285	Hooke, Thomas	5
Agard, John	955	Hoy, Sir John	939
Allen, Sir		Hughes, John	154
Joshua	1,002	Kemp, Joan	88
Anderson, lady	3	Kingston, lord	1,372
Archbold,		Lane, Sir George	740
Richard	75	Loftus, Sir Adam	7,940
Bagshaw, Sir		Loftus, Dudley	52
Edward	85	Loftus, Nicholas	103
Ball, Robert	55	Loftus, Robert	473
Bolton, Sir		Lowther, lord	16
Edward	1,471	Marvin, Sir Audley	1,264
Borr, John	552	Meath, earl of	1,108
Boyle, Archbishop		Moore, lord	250
Michael	632	Moyart, Sir Samuel	214
Browne, Richard	167	Parsons, Sir	
Burroughs,		Richard	2,003
Alexander	101	Percival, John	157
Buckley, William	594	Pierce,	7
Bysse, John	1,816	Pierce, lady	32
Bysse, Robert	111	Piggot, Alexander	246
Cavan, earl of	360	Piercy, Anthony	221
Cork, earl of	120	Ponsonby,	210
Davis, Sir		Radcliffe, Sir George	459
William	146	Ranelagh, lord	1,626
Deane, Edward	440	Rawdon, Sir George	1,063
Dixon, Sir		Smith, Morris	40
William	413	Sutton, Sir Edward	138
Domville, Sir		Staples, Alexander	608
William	951	Tallent, Oliver	60
Exham, John	72	Turner, James	125
Fitzharding, lord	2,071	Vernon, Edward	593
Foster, Richard	443	Ware, Sir James	897
Fyan, Jane	18	Waterhouse, Thomas	15
Gibbons, Thomas	24	Westly, Dr. John	78
Grace, Sir James	122	White, Thomas	159
Hacket, lady	63	Williams, William	180
Harvey, Richard	359	Witched, Thomas	379
Hilton, Robert	200	Wybrant, Peter	20
Holliday, Thomas	100		

Total

37,840

2. Old English protestant proprietors

<u>Name</u>	<u>Acreage</u>	<u>Name</u>	<u>Acreage</u>
Barry, Edward	86	Howth, lord	5,610
Barry, Richard	244	Ormond, duke of	3,576
Barry, William	40	Plunket, Walter	349
Cusack, Robert	157	Santry, lord	1,731
Dillon, Carey	34	Usher, Sir	
Eustace, Sir		William	756
Maurice	703		
		Total	13,286

3. Old Irish protestant proprietors

Donovan, Jeremy	30	Kennedy, Walter	143
Donnellan, Sir		O'Connelly, Owen,	
James	120	children of	657
Duffe, Richard	11	Thomond, earl of	1,052
Kennedy, Sir			
Richard	326	Total	2,339

4. Other proprietors

Church lands	12,643
Crown lands	1,300
Common lands	867
Lands held by	
Dublin city	993
Trinity College	539
King James	4,531
Total	20,873

Appendix DProprietors in county Wicklow in 1641I. Catholic proprietors1. Old English catholic proprietors

<u>Name</u>	<u>Acreage</u>	<u>Name</u>	<u>Acreage</u>
Archbold, Christopher	321	Sexton, Pierce	159
Archbold, James	58	Sexton, Robert	80
Archbold, Tulboyd	376	Talbot, Bernard	702
Archbold, William	75	Talbot, Sir Robert	10,261
Bealings, Sir Henry	1,947	Turner, William	410
Bealings, Sir Richard	973	Walsh, Edmund	41
Cheevers, James	6,619	Walsh, Edward	741
Cheevers, Walter	1,930	Walsh, James	221
Dongan, Peter	454	Walsh, Lucas	1,896
Esmond, Sir Thomas	11,182	Walsh, Richard	680
Eustace, Alexander	257	Walsh, Tibald	276
Eustace, Rowland	73	Wickham, Peter	6,668
Eustace, Walter	31	Woolverton, Francis	491
Netterville, James	580	Woolverton, James	1,035
			<hr/>
		Total	48,537

2. New English catholic proprietors

Allen, Edward	<u>11,671</u>
Total	11,671

II. Protestant proprietors

1. New English protestant proprietors

<u>Name</u>	<u>Acreage</u>	<u>Name</u>	<u>Acreage</u>
Arthur, Edward	231	Meath, earl of	925
Baltinglas, lord	10,954	Parsons, Sir Richard	249
Blood, Thomas	500	Parsons, Sir William	15,980
Boswell, John	812	Pipho, Kimbro	5,680
Chambre, Calcot	11,418	Pue, Robert	303
Coke, Sir John	5,446	Ranelagh, lord	1,414
Graham, William	300	Reeves, Sir William	900
Gwyn, John	400	Summer, William	200
Harrington, Sir Henry	1,080	Wentworth, lord	54,000
Hoy, Sir John	2,893	Wingfield, Sir Edward	9,540
Loftus, Sir Adam	531	Wingfield, Thomas	230
		Total	123,986

2. Old English protestant proprietors

Eustace, Sir Maurice	225
Ormond, earl of	6,479
Usher, Sir William	1,102
Total	7,806

3. Old Irish protestant proprietors

Doyle, John	300
Joyce, John	169
Kennedy, Robert	2,862
Total	3,331

III. Other proprietors

Church lands	25,005
	25,005

Appendix EProprietors in county Wicklow in 1688I. Catholic proprietors1. Old English catholic proprietors

<u>Name</u>	<u>Acreage</u>	<u>Name</u>	<u>Acreage</u>
Archbold, Nicholas	1,897	Luttrell, Thomas	58
Bealings, Sir Richard	2,920	Netterville, Robert	580
Dalton, John	240	Sexton, Thomas	178
Esmond, Sir Lawrence	11,182	Talbot, Bernard	359
Eustace, Rowland	73	Talbot, Sir William	2,000
			<hr/>
			19,487

2. New English catholic proprietors

Allen, James	11,671
Browne, Sir Valentine	115
	<hr/>

11,786

3. Old Irish catholic proprietors

O'Meara, Dr. Edmund	1,964
	<hr/>

1,964

II. Protestant proprietors

1. New English protestant proprietors

<u>Name</u>	<u>Acreage</u>	<u>Name</u>	<u>Acreage</u>
Arthur, Edward	231	Meath, earl of	925
Baltinglas, lord	10,954	Mount-Alexander,	
Blood, Thomas	500	earl of	1,394
Borlace, Sir		Padmore, Sir Arthur	400
John	2,684	Parsons, Sir Richard	17,643
Borr, Begnett	10	Piercy, Anthony	800
Boswell, John	812	Pipho, Kimbro	5,680
Boyle, Archbishop		Power, lord	321
Michael	6,182	Pue, Robert	303
Butler, Sir		Ranelagh, lord	2,481
Francis	355	Reeves, Sir William	900
Chambre, Calcot	11,418	Summer, William	200
Coke, Sir John	5,446	Temple, Sir Henry	139
Cowell, Peter	83	Tichbourne, Sir Henry	443
Craddock,		Wentworth, Sir William	54,000
Philip	3,807	Wingfield, Sir Edward	9,682
Dockwra, lord	200	Wingfield, Thomas	230
Edwards, John	80	Yarner, Dr. Abraham	821
Edwards, Richard	595		
Finch, Henry	656		
Flower, Sir			
William	2,639	Total	154,540
Forbes, Sir			
Arthur	3,985		
Grace, James	200		
Graham, William	300		
Gwyn, John	400		
Halsey, William	240		
Hamilton, Sir			
Hans	427		
Harrington, Sir			
Henry	1,080		
Hayden,			
Alexander	1,052		
Hoy, Sir John	2,893		
Keating, Maurice	418		
Loftus, Sir			
Adam	531		

Abstract of land available in county Dublin in 1691

2. Old English protestant proprietors

<u>Name</u>	<u>Acreage</u>		
Eustace, Sir Maurice	225		1
Ormond, duke of	6,479		2
Usher, Sir William	1,258		2
Total	7,962		

3. Old Irish protestant proprietors

Doyle, John	300		
Joyce, John	169		
Kennedy, Sir Richard	3,567		
O'Byrne, George	397		
Total	4,433		

III. Other proprietors

Church land The '49 interest	25,005 33,994		
Total	58,999		

Appendix F

Abstract of land ownership in county Dublin in 1641

	<u>Acreage</u>	<u>% total land area</u> ¹
Old English catholic proprietors:	71,590	56
Old Irish catholic proprietors:	1,905	2
New English catholic proprietors:	2,000	2
Old English protestant proprietors:	10,197	8
Old Irish protestant proprietors:	1,688	1
New English protestant proprietors:	22,621	17
Others		
(a) Church lands:	10,093	}
(b) Crown lands:	467	
(c) Common lands:	1,409	
(d) Lands held by Dublin city	993	
(e) Trinity College:	539	
Unprofitable land, unidentified ownership:	<u>4,400</u>	3
Total	127,902	
<u>Summary</u>		
	<u>Acreage</u>	<u>% total land area</u>
Catholic proprietors:	75,495	59
Protestant proprietors:	34,506	27
Others:	13,501	11
Unidentified:	<u>4,400</u>	3
Total	<u>127,902</u>	

1. Figures to nearest 1%.

Appendix G

Abstract of land ownership in county Dublin in 1688

	<u>Acreage</u>	<u>% total land area</u>
Old English catholic proprietors:	46,944	37
Old Irish catholic proprietors:	1,254	1
New English catholic proprietors:	966	1
Old English protestant proprietors:	13,286	10
Old Irish protestant proprietors:	2,339	2
New English protestant proprietors:	37,840	30
Others		
(a) Church lands:	12,643)	
(b) Crown lands:	1,300)	
(c) Common lands:	867)	16
(d) Lands held by Dublin city	993)	
(e) Trinity College:	539)	
(f) King James:	4,531)	
Unprofitable land, unidentified ownership:	<u>4,400</u>	3
Total	127,902	

Summary

	<u>Acreage</u>	<u>% total land area</u>
Catholic proprietors:	49,164	39
Protestant proprietors:	53,465	42
Others:	20,873	16
Unidentified:	<u>4,400</u>	3
Total	127,902	

Appendix HAbstract of land ownership in county Wicklow
in 1641

	<u>Acreage</u>	<u>% total land area</u>
Old English catholic proprietors:	48,537	17
Old Irish catholic proprietors:	38,835	14
New English catholic proprietors:	11,671	4
Old English protestant proprietors:	7,806	3
Old Irish protestant proprietors:	3,331	1
New English protestant proprietors:	123,986	44
Others		
(a) Church lands:	25,005	9
Unprofitable mountain land, unidentified ownership	<u>23,958</u>	8
Total:	283,129	

Summary

	<u>Acreage</u>	<u>% total land area</u>
Catholic proprietors:	99,043	35
Protestant proprietors:	135,123	48
Others:	25,005	9
Unidentified:	<u>23,958</u>	8
Total:	283,129	

Appendix I

Abstract of land ownership in county Wicklow in 1688

	<u>Acreage</u>	<u>% total land area</u>
Old English catholic proprietors:	19,487	7
Old Irish catholic proprietors:	1,964	1
New English catholic proprietors:	11,671	4
Old English protestant proprietors:	7,962	3
Old Irish protestant proprietors:	4,433	2
New English protestant proprietors:	154,540	54
Others		
(a) Church lands:	25,005	9
(b) '49 interest:	33,994	12
Unprofitable mountain land, unidentified ownership:	<u>23,958</u>	8
Total:	283,129	

Summary

	<u>Acreage</u>	<u>% total land area</u>
Catholic proprietors:	33,237	12
Protestant proprietors:	166,935	59
Others:	58,999	21
Unidentified:	<u>23,958</u>	8
Total:	283,129	

Appendix J.

The claim submitted to the court of claims on 20 August 1663 by Philip Hore, and his two sons, of Kilsallaghan, county Dublin.¹

Philip Hoare, late of Kilsallaghan, county Dublin, and George Hoare and Mathew Hoare, second and third sons of the said Philip, claim the town and lands of Kilsallaghan, Downmucky, Crostown, Stradbally, Cowleigh, Blackhall, Bewford, the Rath of Killossery, Chappellmidway, Ballyboggane, Rahicastown; 13 houses and gardens and backsides, cum pertinentiis, in Luske, Loghshill or Bullackesland; 2 houses, 2 gardens, 1 park and 1 orchard in New Street, Castleknock; and Irishtown, Castlecorragh, Rickinhead, part of Ballidowd; £12 chief rent in Killmartin; 8d chief rent in Ashtown; a mortgage on Pasterstown.

Denominations in the city and suburbs of Dublin:

5 houses, cum pertinentiis, in St. Mary's Lane; 4 houses, cum pertinentiis, in Fishers Lane; 5 houses, cum pertinentiis, in Pill Lane; 1 house, cum pertinentiis, in Bull Lane; 1 house in Cork Hill or Cork Lane; 1 house in Abbey Green; 1 house in the pavement leading to Young's castle;

1. Armagh MSS, x. 552-3.

1 house, backside, and orchard in St. Bride's Street;
 1 house, cum pertinentiis, in St. Francis Street;
 2 houses in Cork Street; 1 house in High Street.

Land also in the county of Meath:
 Clotterstown, Bulstown and Calestown.

County Wexford:

the manor of Skallrish; Kildown and Carricke, Ballysholane, Crassestown, Craige Sallagh; 2 houses in St. Mary's Lane and Allen's Walls, town of Wexford, all which castles, manors, houses and royalties, etc., are in the possession of Sir George Lane, knight, and his under tenants.

Setting forth that Philip Hoare of Killsallaghan, county Dublin, deceased, the claimant Philip's father, was in his lifetime seized in fee of and in all and singular the premises, and being so seized did by his indenture bearing date 1 April 1630, in pursuance of certain articles of inter-marriage, convey the same to James Bath of Athcarne, county Meath, esquire, and other feoffees, of part of the premises to the use of the said Philip, the feoffor, and Mary, his wife, for their lives; and of the residue of the premises to the use of the said Philip Hoare, the feoffor, for life, the remainder of all and singular the premises to the use of the claimant Philip, son and heir apparent of the said Philip, the feoffor, for life, the remainder after the decease of the said Philip

the younger to the use of the first son lawfully begotten of the said Philip, and the heirs males of the body of such first son; and for want of such issue, the remainder to the second and third sons of the said Philip the younger, and the heirs males of their bodies severally, successively and respectively, with divers other remainders over to the 4th and 5th sons of the said Philip the younger in like manner, with other remainders over, pro ut per deed patet. By virtue whereof and of the statute of uses the said Philip, the feoffor, and Mary, his wife, became seized of the premises, to them limited as aforesaid, and were in possession thereof on 22 October 1641, with the respective remainders over as aforesaid. That the said Philip and Mary, being so seized, about anno 1657 died so seized, after whose decease all and singular the premises remained and came to the claimant Philip for life, who accordingly entered and continued seized of the premises until he was thereout expelled by the late usurpers, which is the claimant Philip's title. The claimants George and Mathew set forth that the claimant Philip had issue Philip, his first son, who is dead without heirs males of his body, and that the claimants George and Mathew are the second and third sons of the said Philip the younger, lawfully begotten,

and so are respectively entitled to the remainder
 so limited to them as aforesaid, and that they,
 being innocents, pray that the same may be decreed
 unto them by this court, is the scope of their claim.

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1. For a fuller account of the
 details of survey and distribution
 of the land in the
 edition of the Survey of the

Bibliography

The method used in the present thesis has been, firstly, to establish a firm statistical foundation for land ownership in counties Dublin and Wicklow in 1641 and under the restoration settlement and, secondly, to fill-out the narrative by describing how the settlement affected various proprietors in both counties. The statistical foundation has been based primarily on the Quit Rent Office set of Books of Survey and Distribution, which record land holdings in Ireland in 1641 and under the restoration settlement, together with the patents issued under the commission of grace of 1684-88.¹ Important use has also been made of the Taylor set of Books of Survey and Distribution, which record land holdings in Ireland only up to 1669. The third set of the Headfort Books of Survey and Distribution has provided information about the allotments of land which various catholic proprietors from Dublin and Wicklow received in Connaught under the Cromwellian settlement. Other important sources

1. For a fuller account of the Quit rent office set of Books of survey and distribution see Dr. R. C. Simington's detailed description in the introduction to the printed edition of the Roscommon book, vol. 1.

used include the abstract of grants issued under the Acts of Settlement and Explanation (Ir. rec. comm. rep., 1821-25, pp. 45-328) and the Civil Survey, A.D. 1654-1656 (vol. vii) for county Dublin, which was a preliminary inquisition, undertaken to provide information for the surveyors who were employed to map the county preparatory to the Cromwellian settlement. The Armagh manuscripts of the records of submissions and evidence in the court of claims for the hearing of innocents has provided valuable information concerning land ownership in both counties, particularly for some of the smaller catholic proprietors. It has also been of great assistance in providing genealogical information. The transcripts made in the eighteenth century by John Lodge, of the records of enrollments of patents in the chancery office, have also proved valuable, especially in dealing with those periods for which there are no published calendars of patents. They were helpful in throwing some light on Wentworth's involved land transactions in Wicklow between 1633-40. Mr. John Ainsworth's reports on manuscripts in private custody also provided numerous references to the land traffic in Wicklow during the reign of Charles I. The only reference, for example, to the grant given to Thomas Blood, the adventurer, of 500 acres in Ballinecur Michael Boyle submitted to the court in 1654 (N.S.I. MS 10, 933).

barony appears in volume five of the reports. These are the chief sources which have been used to establish acreage figures and land ownership in the two counties between 1641 and 1669, together with some of the changes which occurred between 1669 and 1688.

One of the principal sources for the narrative has been the Carte manuscripts in the Bodleian library, Oxford, a collection of documents gathered by Thomas Carte in the early eighteenth century for the purpose of writing his biography of the first duke of Ormond. Particular use has been made of the Ormond papers, forming part of the collection, which Carte took from Kilkenny castle. Volume thirty three has been helpful in illuminating the methods by which various catholic proprietors were able to recover their estates.

The activities of the second court of claims of 1666-69 have always remained obscure, largely because of the assumed absence of any records of its proceedings. Historians have mentioned it, if at all, only in passing. Bagwell, in his History of Ireland Under the Stuarts, does not mention it. The Order Book manuscript of the commissioners of the court (N.L.I., MSS 31), however, has been of considerable value in throwing new light on the activities of the court, as has the claim which Archbishop Michael Boyle submitted to the court in 1666 (N.L.I. MS 10, 933).

Besides the above-mentioned sources, numerous references for the narrative have been extracted from the printed calendar of State Papers and, after 1670, from the State Papers, Ireland, in the Public Record Office, London, together with various parliamentary records and reports, particularly the abstract of the decrees of the court for the trial of innocents (P.R.I., rep. D.K. 19, app. v, pp. 35-87) and the abstracts of grants issued under the commission of grace of 1684-88 (Abstracts of grants of lands - under the commission of grace, 36-37 Chas. II, and 1-4 Jas II). Additional information has been collected from various contemporary pamphlets and correspondence.

A. Ancient Manuscripts and Printed Works.

1. Manuscripts.
2. Records of Parliament in relation to the subject.
3. Publications of the Irish Parliament.
4. Publications of the Historical Commission.
Commission for Grant Material.
5. Other Documentary Material.
6. Pamphlets and Other Contemporary Works.

B. Later Works.

1. General Works.
2. Special Studies.

Synopsis

A. Sources

I. Manuscript material

1. National Library of Ireland, Dublin.
2. Public Record Office of Ireland, Dublin.
3. Public Record Office of England, London.
4. Royal Irish Academy, Dublin.
5. Trinity College, Dublin.
6. British Museum, London.
7. Bodleian Library, Oxford.
8. Armagh Public Library, Northern Ireland.

II. Printed material

1. Record Publications.
2. Records of Parliament in England and Ireland.
3. Publications of the Irish Manuscripts Commission.
4. Publications of the Historical Manuscripts Commission (of Great Britain).
5. Other Documentary Material.
6. Pamphlets and Other Contemporary Writings.

B. Later Works.

1. General Works.
2. Special Studies.

A. Sources

I. Manuscript Material

1. National Library of Ireland, Dublin.

Ainsworth reports on manuscripts in private custody:

- (i) Bath papers;
- (ii) Blood papers;
- (iii) De Robeck papers;
- (iv) Donovan and Gormanston papers;
- (v) Fitzsimon papers;
- (vi) Plunket papers;
- (vii) Meath papers.

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II Printed Material

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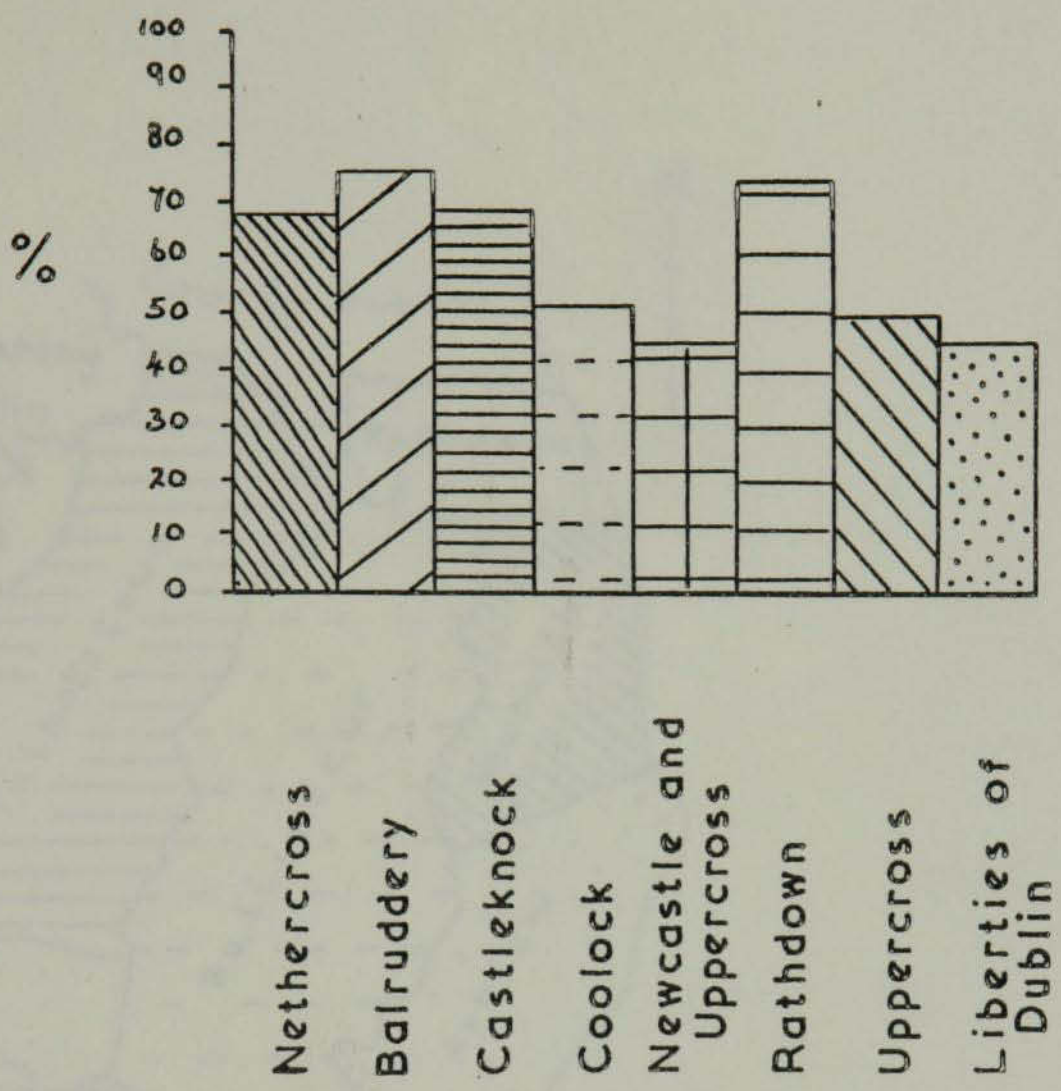
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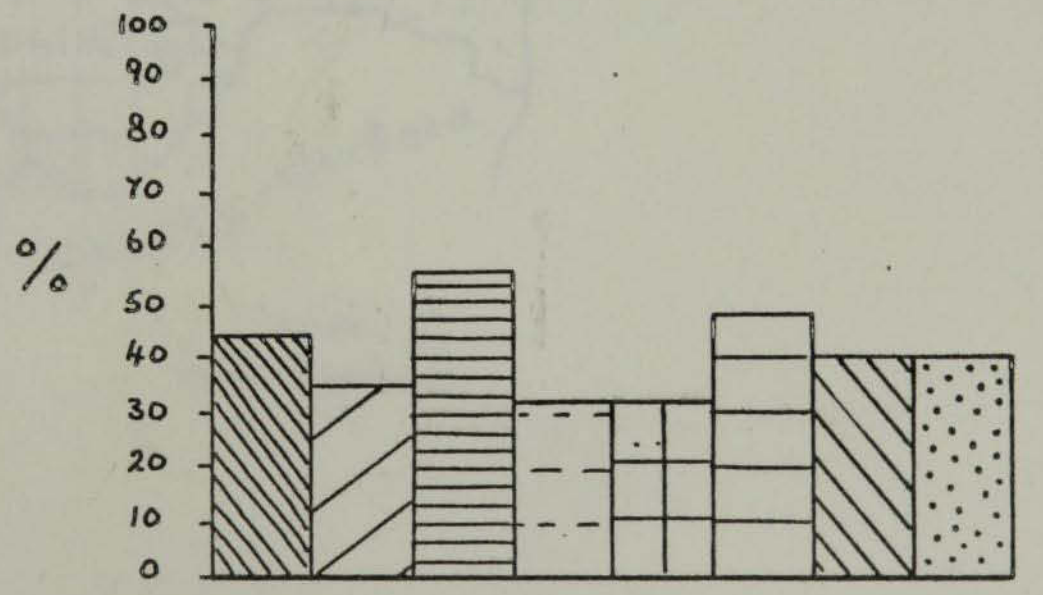
PROPORTION OF LAND HELD BY CATHOLIC PROPRIETORS IN EACH BARONY IN COUNTY DUBLIN IN 1641 AND 1688



PROPORTION OF
CATHOLIC
PARISHES IN
1641

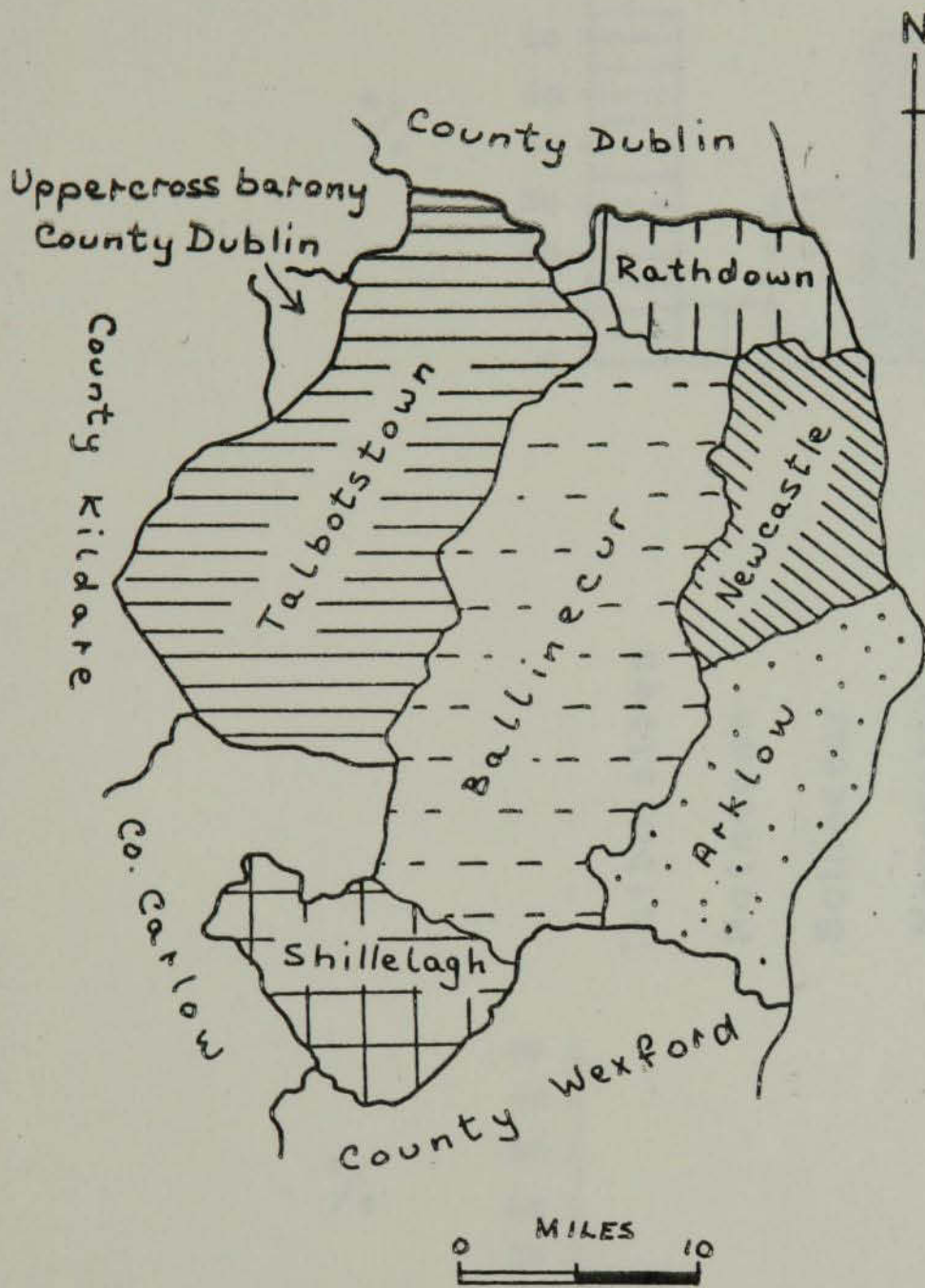


1641

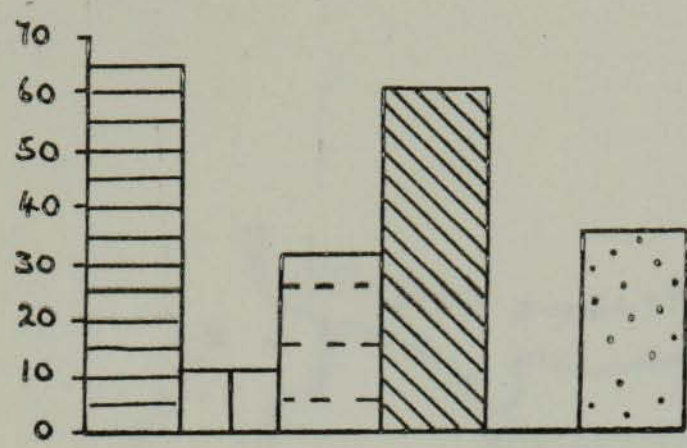


1688

PROPORTION OF LAND HELD BY
CATHOLIC PROPRIETORS IN EACH
BARONY IN COUNTY WICKLOW
IN 1641 AND 1688



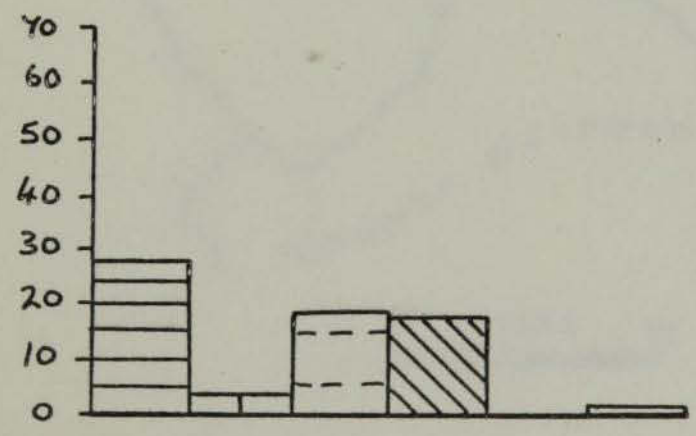
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1641

Talbotstown
Rathdown
Ballinecur
Newcastle
Shillelagh
Arklow

%



1688

THE TERRITORIES OF COUNTY WICKLOW

