

## **The Structure of Politics in Theory and Practice: The Lordship of Ireland,**

**c.1210–1541**

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Among the many casuistries uttered at the Council of Constance – the general council of the Church that assembled between 1414 and 1418 to bring a negotiated conclusion to the Great Schism – was a startling claim concerning Ireland. The spokesman for the English nation, Thomas Polton dean of York, declared that it was well known that the world was divided into three parts, Asia, Africa and Europe; and that Europe was itself divided into four kingdoms, of which the first was Rome, the second Constantinople, the third Ireland (whose rule had since been ‘translated’ to the English) and the fourth Spain. By virtue of this, he claimed, ‘it is apparent that the king of England and his kingdom are among the most eminent and ancient kings and kingdoms of all Europe, which prerogative the kingdom of France is not said to obtain’.<sup>1</sup> Polton’s assertion was as opportunistic as it was tendentious, but it directs our attention to the central problematic with which this essay is concerned. What became of the ‘kingdom of Ireland’ after its translation to the English?

This may seem, at first glance, to be a *non sequitur*. From the accession of King John in 1199, the English royal style included a new territorial title: ‘lord of Ireland’ (L. *dominus Hibernie*). This was a potent, claim-making term – one that came to be understood as enhancing or augmenting the regality of English kingship itself, rather as Polton was to suggest at Constance.<sup>2</sup> Whatever shuffling occurred of the other elements in the royal style, *dominus Hibernie* remained a constant until a new great seal of England was engraved for Henry VIII after 1541 reflecting the change to *rex Hibernie* consequent upon the Act for the

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<sup>1</sup> *Magnum Oecumenicum Constantiense Concilium* [...], ed. H. von der Hardt. 6 vols. (Frankfurt and Leipzig, 1692-1700), iv, 91.

<sup>2</sup> *PROME*, Parliament of Richard II: Feb. 1388, item C (F. *en augmentation de lour nouns et de lour roialte*).

Kingly Title, passed by the Irish parliament in June 1541. The continuity in the royal style between 1199 and 1541 was, however, a patina overlaying deep structural change. Ireland was conquered by England in the late twelfth century at the very time when the institution of the monarchy under the Plantagenets was moving from 'law-based kingship' towards 'polity-based kingship'.<sup>3</sup> This development had far-reaching implications for the structuring of politics in Ireland, conceptually and institutionally. Ireland was not normally described as a 'kingdom' in the later Middle Ages, but many of the attributes of institutional growth and solidarity associated with a 'regnal' polity are to be found in its political development, especially at the level of assumptions and expectations. This presents us with something of a paradox. Even at its height, c.1300, English power in medieval Ireland was decentralized and dispersed. By the mid-fourteenth century, under the combined pressures of economic and demographic collapse and a Gaelic resurgence, 'the dispersal of authority was beginning to give way to its decomposition'.<sup>4</sup> All-the-more important, then, to explore how expectations of the king's public authority grew, and the pleas for remedy and intervention grew ever shriller, even as the capacity (or desire) of the Crown to effect far-reaching change became more limited.

English Ireland may not have been set apart entirely from political developments in late-medieval Europe, but neither were its politics without their own distinctive flavour. Two of the most familiar structural features of Irish politics in the centuries after the English invasion are the island's status as a lordship separate from, but dependent upon, the English Crown; and the division of the island into two peoples. Historians seek to understand and

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<sup>3</sup> E. H. Kantorowicz, *The King's Two Bodies: A Study in Medieval Political Theology* (new edn, Princeton University Press, 1997), chs. 4–5.

<sup>4</sup> S. Reynolds, *Kingdoms and Communities in Western Europe, 900–1300* (2nd edn, Oxford University Press, 1997), 254, 262; Frame, *Ireland and Britain*, quotation at 234.

explain dependency and division by describing Ireland as a classic colonial situation. The problem with the colonial paradigm is not that it is wrong, but that, by itself, it explains too much and too little. What is most interesting about Ireland as a specimen of European political ideas in action is that the characteristics of dependency and division sat awkwardly – indeed, sat *increasingly* awkwardly – in the evolving thought-world of late-medieval Europe. This was the era when the 'state' was emerging as something more than an idea and was beginning to coalesce with conceptions of nationhood. As Andrea Ruddick has shown, the kingdom of England was being conceptualized in the late Middle Ages as a defined physical space that supplied the homeland of a distinct people.<sup>5</sup> How, then, was one to define the status of those of the king's English lieges who resided outside the realm yet claimed the liberties of freeborn Englishmen as their birth right? Since the king could not perform his office in person, how much of his sovereign authority devolved upon his representative in Ireland, who took an oath of office based upon the coronation oath? What were the king's duties, whether of care or correction, towards the native inhabitants of Ireland whom the settlers had displaced and disenfranchised? And finally – a question prior to all of these – by what right did the monarch of England claim to rule Ireland in the first place?

To most of these questions, there are no ready-made answers. Historians are just beginning to appreciate the sophistication and vibrancy of English political culture in the Lordship.<sup>6</sup> There is a distinguished, if somewhat austere, historiography of the institutions

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<sup>5</sup> A. Ruddick, *English Identity and Political Culture in the Fourteenth Century* (Cambridge University Press, 2013).

<sup>6</sup> K. Kerby-Fulton and S. Justice, 'Reformist Intellectual Culture in the English and Irish Civil Service: The *Modus Tenendi Parliamentum* and its Literary Relations', *Traditio*, 53 (1998), 149-202; R. Frame, 'English Political Culture in Later Medieval Ireland', *The History Review*, 13 (2002), 1-11; R. Frame, 'Exporting State and Nation: Being English in Medieval Ireland', in L. Scales and O. Zimmer (eds.), *Power and the Nation in European History* (Cambridge University Press, 2005), 143-65; E. Matthew, 'Henry V and the Proposal for an Irish Crusade', in B. Smith (ed.), *Ireland and the English World in the Late Middle Ages: Essays in Honour of*

English royal government in Ireland; but almost no aspect of the conceptual framework of English *governance* (L. *gubernaculum*) is at present well understood. The tasks of identifying the political languages or 'discourses' through which ideas were expressed; of mapping the semantic range of keywords that recur within and across those vocabularies; of probing what people thought they were doing with the language they deployed in specific political contexts; of examining how principles constrained or potentiated the political actors who invoked them; and of tracing the conceptual shifts that keywords underwent as they were redefined through 'negotiation' between crown and community, were refreshed from Europe by new conceptions of legitimate authority, and were given new significance by the changing social environment they were taken to signify – these constitute a research agenda that has scarcely been identified for late-medieval Ireland, much less begun.<sup>7</sup>

The source materials for this subject are surprisingly abundant, although many of the finest truffles have to be sniffed out in ground that may seem unpromising. Late-medieval Ireland is particularly well endowed with administrative documents of complaint. In the past, these *gravamina* were dismissed as 'wearisome and sordid' in their details, 'devoid of the enlivening interest of the great conflicts of political principle'.<sup>8</sup> In fact, the literature of complaint is suffused with appeals to political principle. Few, no doubt, and least of all the targets of their mud-slinging, found the complainants altogether sincere; but their sincerity is,

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*Robin Frame* (Houndmills; Palgrave Macmillan, 2009), 161-75.; P. Crooks, 'Representation and Dissent: "Parliamentarianism" and the Structure of Politics in Colonial Ireland c.1370-1420', *EHR*, 125 (2010), 1-34.

<sup>7</sup> This paragraph is influenced by several approaches to the history of language and ideas. See esp. J. G. A. Pocock, *Politics, Language and Time: Essays on Political Thought and History* (Chicago University Press, 1989), esp. ch. 1; J. G. A. Pocock, *Political Thought and History: Essays on Theory and Method* (Cambridge University Press, 2009), esp. ch. 5; M. Richter, *The History of Political and Social Concepts: A Critical Introduction* (Oxford University Press, 1994). For the political 'languages' through which ideas were expressed in late-medieval Europe, see A. Black, *Political Thought in Europe, 1250-1450* (Cambridge University Press, 1992), 7-11.

<sup>8</sup> M. C. Griffith, 'The Talbot–Ormond Struggle for Control of the Anglo-Irish government, 1414-17', *IHS*, 2 (1940-1), 376.

in a sense, besides the point.<sup>9</sup> The literature of complaint can be read against the grain not only to demonstrate the expectations of the good ruler and the boundaries outside which the government could not stray, but also to provide a more satisfying explanation of political activity itself. Of still greater interest is the multiplicity of documents – statutes and ordinances, petitions and bills, articles of instruction and full-blown treatises – that address England's Irish problem. Taken together these texts can be thought of as constituting a specific genre of political writing: the literature of remedy.<sup>10</sup> Read as a genre, the literature of remedy shows a clear line of development leading to the much-studied reform treatises that appear under the early Tudors. Their didactic intent and impact is clear from the mysterious Pandarus, author of the later fifteenth century text *Salus Populi* ('Health of the People'), whose remedies for Ireland's disease provided the basis for the famous early Tudor text, 'The State of Ireland and Plans for its Reformation' (1515):

Let no man wonder on these conclusions,  
For when he hears the said instructions,  
If he thereof have no disdain.  
What now is wonder then shall be made plain.<sup>11</sup>

To develop these ideas in a relatively short space, I want to think in terms of two long-term *structures* – a term I use to refer to the institutional and ideational frameworks through which politics were transacted. The first is monarchical – centred on the normally-

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<sup>9</sup> Q. Skinner, 'Some Problems in the Analysis of Political Thought and Action', in J. Tully (ed.), *Meaning and Context: Quentin Skinner and his Critics* (Oxford University Press, 1988), 97-118; Q. Skinner, *Visions of Politics I: Regarding Method* (Cambridge University Press, 2002), esp. ch. 8.

<sup>10</sup> For 'remedy' as a contemporary term, see *Statutes of the Realm*, i, 357 (L. *remedium opportunum*); *Parls. & councils*, no. 16 (F. [si] *remedie ne les soient le plus enhast envoiétz*).

<sup>11</sup> TCD MS 842, f. 34 ; TCD MS 581, f. 31r. I am grateful to Michael Bennett for bringing this tract to my attention. Here and elsewhere in this chapter, quotations from original texts in Middle English have been modernized. For brief further comment, see C. Maginn and S. G. Ellis, *The Tudor Discovery of Ireland* (Dublin; Four Courts Press, 2015), 137, 139.

absent figure of the king and the implications of the growing public authority of the English Crown. The second is communitarian – organized around ideas of counsel and representation, corporation and resistance. These two sets of ideas were not in direct opposition, but developed in interaction with each other – a trend that John Watts has described in a European context as a ‘double-layered pattern of evolution’.<sup>12</sup> The story should not, therefore, be unfurled as the triumph of one set of ideas over the other. It is more helpful to think of a common fund of unsyncretized political ideas that was rich and generative, and to which political actors could appeal in various ways depending on immediate needs and wider contingencies. This approach may help account for the seemingly cyclical nature of medieval Anglo-Irish interactions and confrontations. It also suggests that there was no real contradiction in the attitude of English settlers who lobbied the king to project the harsher aspect of royal authority outwards towards the native population, even while vigorously resisting royal demands to support the military effort from their own resources.

### **The English Crown and the Land of Ireland**

The nomenclature of the Lordship of Ireland took some time to stabilize during the first half-century of English involvement in Ireland. In letters sent to Ireland in 1204, King John refers to ‘all our land and our power’ in Ireland (L. *per totam terram nostram et potestatem nostram*).<sup>13</sup> This phrase, ‘the land of Ireland’, was to become the official designation for Ireland in the English chancery for the rest of the Middle Ages, although the term ‘lordship of Ireland’ was also found on the lips of contemporaries.<sup>14</sup> In John’s reign, however, Ireland

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<sup>12</sup> J. Watts, *The Making of Polities: Europe 1300–1500* (Cambridge University Press, 2009), 123–4.

<sup>13</sup> *Rot. Litt. Pat.*, 47 (trans. *Stat. Ire. John–Hen. V*, 3). See also *Rot. Litt. Pat.*, 80, for letters of 1207 referring to the expulsion of robbers from the king’s ‘land of Ireland’ (L. *terra Hibernie*).

<sup>14</sup> See, e.g., *Three Prose Versions of the Secreta Secretorum*, ed. R. Steele. EETS. (London, 1898), 186 (‘lordshupe of Irland’); *PROME*, Parliament of June 1467, item 8 (‘the reames of Englonnd and Fraunce, and

was also referred to as a kingdom (*regnum*), notably in 1210 in the register of writs that accompanied the king's order that the common law of England should be observed in 'in our kingdom of Ireland'.<sup>15</sup> Likewise, it was the 'whole kingdom of Ireland' that John surrendered to Pope Innocent III in 1213; and it was to the 'kingdom of Ireland' that the 1216 issue of *Magna Carta* was sent for observance in 1217, where it became the fundamental law of the land.<sup>16</sup> The principle that Ireland should be governed by English law was frequently reiterated in the reign of Henry III, notably in letters of 1246, which state that 'for the common profit of the land of Ireland, and for the *unity* of the king's lands ... all laws and customs that are observed in the kingdom of England should be observed in Ireland'.<sup>17</sup> This reference to the 'unity' of the king's lands was an assertion of the principle of legal uniformity, not an intimation of formal territorial union. Ireland still lay firmly outside the bounds of the kingdom of England, and two centuries later this was still widely understood at all social levels in England. The English shipmen who intercepted and murdered the duke of Suffolk in 1450 are said to have referred to 'another person, then outside the realm' (Richard duke of York, then the king's lieutenant in Ireland) whom they planned to bring into England and make king; and the ballad of *The Bearward and the Bear* concludes with a prayer to 'bring home [that is, return to England from Ireland] the Master of this Game, the Duke of

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lordship of Irlond'); 'The Voyage of Sir Richard Edgecombe', in W. Harris (ed.), *Hibernica, or, some antient Pieces relating to Ireland*. 2 vols. (Dublin, 1747, 1750), i, 75.

<sup>15</sup> For an edition of the Irish register 'HIB', see *Early Registers of Writs*, ed. E. de Haas and G. D. G. Hall. Selden Society (London, 1970), 1. See also *Rot. Chart.*, 99; P. Brand, 'Ireland and the Literature of the Early Common Law', in P. Brand *The Making of the Common Law* (London; Hambledon Press, 1992), ch. 19.

<sup>16</sup> The text of the surrender refers twice to the kingdom of Ireland, but John is styled 'by grace of God king of England, lord of Ireland, duke of Normandy and Aquitaine, count of Anjou': *EHD*, iii, 308; *Patent Rolls ... 1216–25*, 31 (L. *volumus quod ... libertatibus regno nostro Anglie a patre nostro et nobis concessis, de gracia nostra et dono in regno nostro Hibernie gaudeatis*); calendared in *CDI 1171–1251*, 115, no. 759.

<sup>17</sup> The translation in *Stat. Ire. John–Hen. V*, 35, is 'unity of the king's dominions', but the Latin is clearly *pro ... unitate terrarum Regis: Foedera* [O], i, 266.

York ... Richard by name'.<sup>18</sup> As a land outside the realm, Ireland was a place to which undesirables could be banished, as was the case with Richard II's judges condemned to exile in Ireland in 1388, although Piers Gaveston's sentence of exile in 1311 stated explicitly that he should be exiled from 'the whole lordship of our lord the king overseas', including Ireland.<sup>19</sup>

What served to lock the realms of Ireland and England in an embrace that was to last more than eight centuries was an abstraction: the idea of 'the Crown' as an impersonal institution distinct from the king. Under the influence of the Roman law concept of the *fisc*, legal theorists began to refer to the Crown as a bundle of perpetual rights, powers, land titles and wealth that were available to the king but which should be preserved intact for his successor. This conception of the Crown drew strength from the canonistic idea of inalienability, which held that the preservation of the *fisc* was an aspect of the public good.<sup>20</sup> The change in emphasis is clear in the case of Ireland. In the second preface to his *Expugnatio Hibernica*, Gerald of Wales refers to the kingdom of Ireland being 'explicitly subject to the English crown ... as if it were by a perpetual indenture and indissoluble bond'; but he also hinted that Ireland might be used to raise one of John's sons to the dignity of king.

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<sup>18</sup> R. Virgoe, 'The Death of William de la Pole, Duke of Suffolk', *BJRL*, 47 (1964-5), 501 (*L. tunc extra regnum*); C. Kingsford, *English Historical Literature in the Fifteenth Century* (Oxford University Press, 1913), 247.

<sup>19</sup> *The St Albans Chronicle: The Chronica Maiora of Thomas Walsingham*, i: 1376–1394, ed. J. Taylor, W. R. Childs and L. Watkiss (Oxford University Press, 2003), 852; S. B. Chrimes and A. L. Brown (eds), *Select Documents of English Constitutional History, 1307–1485* (London; Adam & Charles Black, 1961), 15 (trans. *EHD*, iii, 533). The wording of the latter record (*F. hors du royaume Dengleterre, Descoce, Dirlande, et de Gales, come de tote la seignurie nostre seignur le roi dela la mer come de cea*) offers a rare example of 'realm' being used to refer to England and the king's other dominions, including Ireland, collectively.

<sup>20</sup> J. Dunbabin, 'Government', in J. H. Burns (ed.), *The Cambridge History of Medieval Political Thought, c.350-c.1450* (Cambridge University Press, 1988), 498-9; G. L. Harriss, *King, Parliament and Public Finance in Medieval England to 1369* (Oxford University Press, 1975), 144; E. H. Kantorowicz, 'Inalienability: A Note on Canonical Practice and the English Coronation Oath in the Thirteenth Century', *Speculum*, 29 (1954), 488-502.

Fifty years later, a clear conceptual shift was in evidence in the charter of 1254 by which Henry III created for the Lord Edward a large *apanage*, including 'all the land of Ireland' (L. *totam terram hiberniam*). The grant included the proviso that the lands 'shall never be separated from the crown of England ..., but shall remain wholly to the kings of England in perpetuity'.<sup>21</sup>

By 1254, Ireland was being treated as an inseparable member of the English Crown. Inalienable, then; and, as a consequence, a matter of public concern to the burgeoning 'community of the realm' of England. Twice during the fourteenth century, Ireland was dragged to the centre of political controversy by the domestic enemies of the English monarch. In 1311 the Lords Ordainers charged that the Crown was 'in many respects reduced and dismembered' and that the king's lands of Gascony, Ireland and Scotland were on the point of being lost. Again, in 1388, the enemies of Richard II known as the Lords Appellant claimed, without stretching the truth too far, that 'the great lordship and land of Ireland are and have been from time immemorial parcel of the crown of England and the people of that land of Ireland for all the time aforesaid have been lieges immediate to our lord the king and his progenitors'. That claim arose from their accusation that Richard II had planned to grant Ireland away as a *kingdom* to his favourite Robert de Vere, 'to the diminution of the honourable style of the king our lord aforesaid and in open disherison of his crown of the realm of England and full destruction of the loyal lieges of the king our lord and the said land of Ireland'.<sup>22</sup>

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<sup>21</sup> *Expugnatio*, 262, 264; L. *Ita tamen quod predictae terre et castra omnia nunquam separentur a corona ... set integre remaneant regibus Anglie in perpetuum* (*Foedera*, i, 270; calendared in *CDI 1252-84*, no. 326). See J. Lydon, 'Ireland and the English Crown, 1171-1541', in P. Crooks (ed.), *Government, War and Society in Medieval Ireland: Essays by Edmund Curtis, A.J. Otway-Ruthven and James Lydon* (Dublin; Four Courts Press, 2008), 66–7. See also letters patent 1292 reciting a charter of the Lord Edward (Harris, *Hibernica*, part 2, 61-2; calendared in *C. Chart. R. 1257-1300*, 416-17; *CDI 1285-92*, no. 1051).

<sup>22</sup> *EHD*, iii, 527; *The Westminster Chronicle, 1381-1394*, ed. L. C. Hector and B. F. Harvey (Oxford University Press, 1982), 246-9; *PROME*, Richard II: Parliament of Feb. 1388, part 2, 'Appeal of treason', article 11.

The accusation that Richard II intended to elevate Ireland to the status of a kingdom was inaccurate in a narrow sense. The titles that Richard II had created for de Vere were, first, 'marquis of Dublin' (1385) and then 'duke of Ireland' (1386). But the rumours that Ireland might be filleted off to create a separate kingdom did not go away, and after the Lancastrian revolution of 1399, Richard II was forced to renounce the 'kingdoms of England, France, Ireland and Scotland'.<sup>23</sup> A few decades later the author of the *Libelle of English Policy* (c.1436) pointed out that there was no other land in all Christendom comparable to Ireland in terms of size or potential wealth whose ruler went by the title, *dominus*; and, in 1460, the Irish parliament bolstered its famous claim to legislative autonomy with a clause that explicitly claimed the near-equivalence of a 'realm' and a 'land' (F. *Reaume ou terre*).<sup>24</sup> Rumblings of regality continued to make themselves heard in the fifteenth century. In 1468, the seventh earl of Desmond was accused of plotting to make himself king of Ireland (a charge levelled at the 'rebellious' first earl of Desmond 150 years earlier).<sup>25</sup> The distinctions of the royal style were sometimes blundered or blurred, as in the letters issued by Edward of York shortly after his victory at Wakefield (1460) but before his inauguration in which he styles himself 'by the grace of God of Englande, Fraunce and Irlande vray and just heire' – a phrase that hinted at a triple monarchy with Ireland as the junior partner.<sup>26</sup> Taken together, these crumbs of evidence, which suggest that Ireland's status as a 'regnal polity' had not been altogether forgotten, must provide some background to what was otherwise an extraordinary

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<sup>23</sup> *The Chronicle of Adam Usk, 1377-1421*, ed. C. Given-Wilson (Oxford University Press, 1997), 76-7; *Chronicles of the Revolution, 1397-1400: The Reign of Richard II*, ed. C. Given-Wilson (Manchester University Press, 1993), 163.

<sup>24</sup> *The Libelle of Englyshe Polycye. A Poem on the Use of Sea-Power 1436*, ed. G. Warner (Oxford University Press, 1926), lines 740-4; *Stat. Ire. Hen. VI*, 644-5.

<sup>25</sup> *Stat. Ire., 1-12 Edw. IV*, 572-3.

<sup>26</sup> M. C. Maxwell-Lyte, *A History of Eton College, 1440-1884* (London; Macmillan, 1889), 39. In the general Resumption of 1463, Henry VI was described as 'by reason of his crown ... late in deed and not by right king of England, Ireland, Wales and their marches' (*PROME*, Edward IV: Parliament of April 1463, item 39).

innovation in 1487 when the pretender Lambert Simnel was crowned in Dublin as 'Edward VI' and issued letters patent with the style 'by the grace of God, king of England, France and Ireland' (*L. dei gratia rex Anglie, Francie et hibernie*).<sup>27</sup>

None of this should be taken to suggest that what the king enjoyed in Ireland was anything less than a plenitude of power. Granted, the question was raised in 1329 before the king's council in England as to whether the royal prerogative was in any way diminished by virtue of the fact that 'our lord the king is named "lord of Ireland" and not "king"'; but the interrogative was surely met with a firm 'no'. The title 'lord of Ireland' provided a model for Edward III to follow in his negotiations with the French at the end of the first act of the Hundred Years War. By the terms of the treaty of Calais (1360), Edward III was recognized as holding an enlarged duchy of Aquitaine in full sovereignty. To reflect this claim, the king hastily commissioned a new great seal with the legend: 'king of England, lord of Ireland and Aquitaine'.<sup>28</sup> The title 'lord' – here covering Ireland *and* Aquitaine – heralded the king's untrammelled authority.

The powers enjoyed by the English king as lord of Ireland are more frequently assumed than specified, so the charter of 1385 creating the marquisate of Dublin is useful in laying bare the theoretical undergirding of the king's powers as they were conceived in the late fourteenth century.<sup>29</sup> To endow this new creation, Richard bestowed on the new marquis his 'land and lordship of Ireland' (*terra et dominium Hibernie*) with all its appurtenances, services and 'mixed and pure *imperium*'. The three keywords here are *terra*, *dominium* and *imperium*. What ideological work did these words perform? In one sense, the designation 'land of Ireland' was a conventional means of subordinating Ireland to the overarching

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<sup>27</sup> NLI D 1855 (available to view on CIRCLE, Patent Roll 2 Henry VII, no. 7).

<sup>28</sup> Sayles, *Affairs*, 146 (F. *qe nostre seigneur le roi est nome seigneur Dirlaunde e nient roy*); W. M. Ormrod, *Edward III* (New Haven and London, 2012), 410, 605-6.

<sup>29</sup> *CPR 1385-9*, 115.

lordship of the kingdom of England, rather as Scotland was relegated to the status of a land or lordship during the conquest of Edward I. But the word had a deeper signification. David Carpenter has recently shown how the 'elemental land' functioned as a political idea in the most politically-charged clauses of Magna Carta – for instance, the promise in *cap.* 39 not to proceed against freemen except by the lawful judgement of peers or by the 'law of the *land*'. Here, 'land' referred to the 'an entity conterminous with the kingdom but separate and in a way older than it'.<sup>30</sup> In the case of Ireland, 'land' could be used to denote an entity distinct from and in some respects *prior* to the superior authority expressed by the word *dominium*. As we shall see, it was precisely this sense of the land-as-community that was current in Ireland by the fifteenth century; and the potent phrase 'law of the land' appeared in the 'Song on the Times', a Middle Hiberno-English poem from the Kildare manuscript (BL MS Harley 913) datable to the second quarter of the fourteenth century. Employing the device of an animal fable, the poem presents a dismal view of the perversion of royal justice the evil of 'covetousness' (MHE. *coueitise*), which harms not just the individual, but the land as a whole, which (we are told) has become 'false and wicked' (MHE. *Fals and liþer is this lond*).<sup>31</sup>

The second keyword, *dominium*, is among the most familiar and vexing in the political vocabulary of the European Middle Ages. As a technical term in Roman law, *dominium* referred to total ownership of property, with related jurisdiction. Its potency is

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<sup>30</sup> R. R. Davies, *The First English Empire: Power and Identities in the British Isles, 1093–1343* (Oxford University Press, 2000), 27; Ruddick, *English Identity*, 220; D. Carpenter, *Magna Carta* (London; Penguin, 2015), 246-7. For later references to the 'land' of England, see the Ordinances of 1311 (*EHD*, iii, 529); and for the use of the phrase 'commonalty of this *land*' (meaning England) in the reign of Edward IV, see S. B. Chrimes, *English Constitutional Ideas in the Fifteenth Century* (Cambridge University Press, 1936), 132.

<sup>31</sup> *Poems from BL MS Harley MS 913: 'The Kildare Manuscript'*, ed. T. Turville-Petre. EETS, o.s. 345. (Oxford University Press, 2015), no. 33, lines 9, 17, 144, 149. On *covetise*, see J. Watts, *Henry VI and the Politics of Kingship* (Cambridge University Press, 1996), 41-3.

perhaps better conveyed by translating it as 'dominion' rather than as 'lordship'. As an element of his *dominium*, the king also exercised *imperium* within Ireland as one of the attributes of his legitimate authority. The recovery of Roman law in the eleventh century had introduced *imperium* as a technical term into the vocabulary of English law and kingship. Arising from the ideas of the Roman jurist Ulpian (d. 228), *imperium* came to be classified as both 'pure' (*imperium merum*), referring to the power to punish the wicked by the sword, and 'mixed' (*imperium mixtum*), referring to the additional power of adjudication.<sup>32</sup> Taken together, what this cluster of terms asserted was paramount authority recognizing no temporal superior – in a word, sovereignty.

It was a supreme authority re-affirmed by the increasingly elevated style of address employed by petitioners seeking the king's grace. In the composite monarchies of the early modern era, the principle of *aeque principaliter* ('equally important') guaranteed that the monarch ruled in each of his dominions by the local territorial title, respecting the estates, laws and customs of the territory in question.<sup>33</sup> It is an indicator of the tightly-meshed nature of the composite monarchy of the Plantagenets that this was not the form of union that existed between Ireland and England in the later Middle Ages. When English residents of Ireland sought the king's grace, they addressed him as their *king*, and the phrase 'sovereign lord' referred to his status as monarch, not his title as 'lord of Ireland'. In 1421, for instance, the 'poor humble lieges of your land of Ireland' petitioned Henry V addressing him as 'our most excellent and most sovereign liege lord'; and in 1428 the humble lieges of Ireland addressed their 'sovereign and gracious liege lord' referring to his 'high and royal majesty,

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<sup>32</sup> J. H. Burns, *Lordship, Kingship, and Empire: The Idea of Monarchy, 1400–1525* (Oxford University Press, 1992), ch. 2; F. Maiolo, *Medieval Sovereignty: Marsilius of Padua and Bartolus of Saxoferrato* (Delft; Eburon Academic, 2007), 153.

<sup>33</sup> J. H. Elliott, 'A Europe of Composite Monarchies', *Past and Present*, 137 (1992), 52.

with all manner of humility and obeisance'.<sup>34</sup> It was with this same elevated language of obedience that Richard II received the submissions of the Irish chiefs in 1395 during his expedition to Ireland. The texts of the submissions record the chiefs' promises of humble obedience in the most abject terms. Richard II is described as 'your eminence, whose magnificent deeds redound through the whole world', and the submissions advert to his 'many realms' and 'world-famed honour'.<sup>35</sup> Perhaps most significant of all is the frequency and consistency with which the submissions and letters of Richard II employ the terms 'prince' (L. *princeps*) and 'majesty' (L. *maiestas*) to describe the king of England – terms derived from Roman law and reeking of all the pretensions of imperial overrule.<sup>36</sup> The development is all-the-more striking given that the language of majesty was comparatively rare in England itself, even in the late 1390s when Richard II's style of kingship was at its most autocratic. Evidently Ireland was a stage on which English kingship could give voice to full-throated rhetorical excess. But, even within Ireland, it was a rhetoric that only served within certain contexts. The smack of 'regal' lordship was primarily for the native Irish; the cossetting of 'political' lordship was a privilege claimed for themselves by the English of Ireland.<sup>37</sup>

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<sup>34</sup> *Stat. Ire. John-Henry V*, 563; *Facsimiles of National Manuscripts of Ireland* [...], ed. J. T. Gilbert. 4 pts in 5 vols (Dublin, 1874–84), iii, plate 39 (available via CIRCLE, Close Roll 7 Henry VI, no. 9). The style was unusually ornate for the second decade of the fifteenth century: G. Dodd, 'Kingship, Parliament and the Court: The Emergence of "High Style" in Petitions to the English Crown, c. 1350–1405', *EHR*, 129 (2014), 542–3.

<sup>35</sup> N. Saul, 'Richard II and the Vocabulary of Kingship', *EHR*, 110 (1995), 868; E. Curtis, *Richard II in Ireland, 1394–5, and the Submissions of the Irish Chiefs* (Oxford University Press, 1927), 183, 206, 219.

<sup>36</sup> *Maiestas* occurs in 5 submissions and 16 letters addressed to the king: Curtis, *Richard II in Ireland*, instruments VII, XIV, XVI; letters 1, 4–16, 19, 21. Richard II is addressed as *princeps* in 6 submissions (*ibid.*, instruments XI, XIV, XVI, XX, XXXII, XXXIV).

<sup>37</sup> Dodd, 'Kingship, Parliament and the Court', 523, shows that of 127 common petitions addressed to Richard II in England during the 1390s, only seven employ the term 'majesty'. The distinction between 'regal' and 'political' styles of kingship is based on Fortescue's famous discussion of *dominium regale* and *dominium*

## The King's Subjects in Ireland and their Liberties

A rather less imperious image of English royalty was commissioned by Henry III for Dublin castle in 1243. The king ordered the construction of a great hall, 120 feet in length and 80 feet in breadth, to be finished in the style of the hall at Canterbury. At the end of the hall above a dais, a mural was to be painted showing the king and his queen, Eleanor of Provence, with their baronage. As a visual expression of English royalty, this mural depicting the king sitting among his subjects – rather than seated in majesty with sword and sceptre, or in equestrian mode astride a warhorse, as he was depicted on the obverse and reverse of the great seal of England – was unusual to the point of being unique.<sup>38</sup> It was, perhaps, prompted by the need for a show of solidarity between king and magnates in Ireland after the murder of Richard Marshal in County Kildare in 1234, which constituted a gross breach of the expectations of royal justice and mercy. What is particularly striking in light of later developments is the narrowness of the baronial community represented. Already in the reign of King John, it is possible to detect an emergent solidarity being attributed to the king's barons and faithful subjects who were described as being *of* Ireland, rather than merely in Ireland. The idea of community is also discernible in the phrase 'all the magnates of Ireland (L. *universi magnates Hibernie*), who declared their loyalty in life or death to King John in 1213.'<sup>39</sup> The signatories to this letter represented an elite group of twenty-seven barons. By the end of the thirteenth century, the political scene looked very different. The assemblies at which the king's

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*politicum et regale*: J. H. Burns, 'Fortescue and the Political Theory of *Dominium*', *Historical Journal*, 28 (1985), 777-97.

<sup>38</sup> J. T. Gilbert, *A History of the Viceroys of Ireland* (Dublin; James Duffy, 1865), 514; J. Watts, 'Looking for the State in Later Medieval England', in P. Coss and M. Keen (eds.), *Heraldry, Pageantry and Social Display in Medieval England* (Woodbridge; Boydell Press, 2002), 251-2.

<sup>39</sup> *Stat. Ire. John-Hen.* V, 4; H. G. Richardson and G. O. Sayles, *The Irish Parliament in the Middle Ages* (Philadelphia; University of Pennsylvania Press, 1952), appendix 1, pp 286–7 (calendared *CDI 1171-51*, no. 448).

representatives sought the counsel of his subjects, settled their disputes and provided redress of their grievance, were becoming a formal mechanism of government embracing a broader group of subjects. From 1264, if not earlier, these assemblies were being termed 'parliaments' in Ireland, and by the 1290s parliament included elected representatives of the boroughs and shires as well as the prelates and magnates who received their personal summons by writ. This collectivity of individuals and groups was soon found describing itself as the 'community of the land of Ireland'.<sup>40</sup>

Behind this commonplace lay a whole complex of political ideas arising from developments in England. Notable among them was the linkage between taxation and consent that had been enunciated in Magna Carta (1215) and given added force by the doctrine that what concerned all must be approved by all (L. *Quod omnes tangit, ab omnibus approbatur*), which had become a standard means by which the members of communal or corporate institutions explained their process of collective decision making – above all in the arena through which the 'community of the realm' found representation, in parliament. It would be a mistake, however, to think of English Ireland as a passive recipient of these ideas. There is ample evidence that the creators and consumers of constitutional and political writing were widespread among the political elites of the lordship.<sup>41</sup> The few surviving codices of Irish ecclesiastical institutions show a close interest in constitutional and legal matters. In Dublin, the Augustinian Canons at Holy Trinity (Christ Church) had in their library a codex known as

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<sup>40</sup> For the language of 'community', J. Lydon, 'Parliament and the Community of Ireland', in J. Lydon (ed.), *Law and Disorder in Thirteenth-Century Ireland: The Dublin Parliament of 1297* (Dublin; Four Courts Press 1997), 125-38; J. Lydon, 'William of Windsor and the Irish Parliament', in Crooks (ed.), *Government, War and Society*, 90-105. For references to 'the king and his people in Ireland', see Griffith, 'Talbot–Ormond Struggle', 395, 397.

<sup>41</sup> M. Wilks, 'Corporation and Representation in the *Defensor Pacis*', *Studia Gratiana*, 15 (1972), 253. The two surviving library lists for medieval Ireland receive analysis in A. Byrne, 'The Earls of Kildare and their Books at the End of the Middle Ages', *The Library*, 14 (2013), 129-53; C. Ó Clabaigh, *The Franciscans in Ireland, 1400-1534* (Dublin; Four Courts Press, 2002), appendix 1.

the *Liber Niger*, a compendium of historical, legal and constitutional material, the nucleus of which was an English lawyer's collection of statutes beginning with a 1215 version of Magna Carta, which has been annotated in a hand of the late thirteenth-century. A codex from the Cistercian house of St Mary's, Dublin (TCD MS 11500), comprised not only historical and mythological material with an Arthurian and Giraldian emphasis, but also a series of constitutional documents including texts of the draft ordinances of 1310 and the letters patent issued as a prelude to the Ordinances of 1311.<sup>42</sup> Ireland also boasts its share of political treatises and literary works, adapted to suit Irish circumstances both in terms of their content and their exploitation. Whether expressed in English constitutional language or in the moralizing and hortatory modes more typical of advice literature, the ideas found in these sources tend to be laden with communitarian assumptions about the proper operation of political society and English governance. The exception that proves the rule is the royalist tract *De Quadripartita Regis Specie*. This appears to have been composed by a clerk in the Irish administration, describing himself as 'the smallest coin in the king's treasure in Ireland'. The treatise places special stress on the virtues of obedience, a view that would have found favour with Richard II in the late 1390s. This was exceptional. The general expectation of government was that it would work with the community. *Rex datur propter regnum, non regnum propter regem*, ran the chiasmus of Thomas Aquinas, putting forward a theory of mixed monarchy at the end of the thirteenth century: 'Kings are given for the sake of the kingdom, not the kingdom for the sake of the king'.<sup>43</sup>

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<sup>42</sup> Representative Church Body Library, MS C.6. II, ff. 162v–165; TCD MS 11500, f. 118r. A facsimile reproduction is available in B. Meehan, 'A Fourteenth-Century Historical Compilation from St Mary's Cistercian Abbey, Dublin', in S. Duffy (ed.), *Medieval Dublin XV* (Dublin, 2016). The text is a copy of the articles that appear in the *Annales Londoniensis*, reprinted in Chrimes and Brown (eds.), *Select Documents*, 8–9.

<sup>43</sup> *Four English Political Tracts of the Middle Ages*, ed. J-P. Genet. Camden Series (London, 1977); and see the important review by W. C. Jordan in *Speculum*, 54 (1979). The Angelic Doctor's phrase is cited by Sir John

The chief locus of royal power in Ireland, and consequently the chief focus of discontent, was the representative of the king himself. This officer went by many titles, the most common of which in the thirteenth century was 'justiciar' (L. *justiciarius*). A more prestigious title 'lieutenant' (L. *locum tenens*) first occurs in the fourteenth century; and, by the later fifteenth, lieutenants normally nominated deputies, giving rise to the title 'lord deputy' familiar in the early Tudor era. None of these various titles is as usefully descriptive of the function of the office as the convenient catch-all, 'chief governor' (F. *principal gouverneur de la terre*). The governor discharged, in person or by deputy, the duty of the royal office itself to provide for the *governance* of Ireland.<sup>44</sup> In its origins the term 'governor' (L. *gubernator*) referred to the helmsman whose task was to guide or steer (L. *gubernare*) a ship: so it was that, for Aquinas, 'to govern is to guide that which is governed to its appointed end'. That appointed end was the common good – or, more specifically, the 'common profit' (L. *communis utilitas*) that would arise from the moral goodness of the ruler.<sup>45</sup> The language of 'common profit' had become increasingly prominent in English political discourse during the thirteenth century, and it was also deployed by the king's chancery in Ireland, for instance in the summons of the Kilkenny parliament of 1310 for 'the common profit of the King and of the people of his land of Ireland' (F. *a commun profit du Roy e du pople de sa terre*

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Fortescue (*De Laudibus Legum Angliae*, c. 37): *On the Laws and Governance of England* by Sir John Fortescue, ed. S. Lockwood (Cambridge University Press, 1997), 53.

<sup>44</sup> *Parls. & Councils*, no. 67. The generic term 'governor' occurs also in *Parliamentary Texts of the Later Middle Ages*, ed. N. Pronay and J. Taylor (Oxford University Press, 1980), 145. The articles of instruction to Sir Gilbert Debenham (1474) refer to 'lieutenants and their deputies who had the *governance* of the same land before this time': D. Bryan, *Gerald FitzGerald, the Great Earl of Kildare, 1456-1513* (Dublin; Phoenix Publishing, 1933), 19 (emphasis added). The English parliament praised Richard II for his 'sage and supreme governance' (F. *sage et haute governance*) since his arrival in Ireland: Curtis, *Richard II in Ireland*, letter 16.

<sup>45</sup> Lockwood (ed.), *On the Laws and Governance of England*, xix; W. M. Ormrod, "'Common Profit" and "The Profit of the King and Kingdom": Parliament and the Development of Political Language in England, 1250-1450', *Viator*, 46 (2015), 224; M. S. Kempshall, *The Common Good in Late Medieval Political Thought* (Oxford University Press, 1999), ch. 2.

*Dyrlande*). This formula clearly links the king's interests and those of the communities he ultimately represented, from the land of Ireland down to the local level of the shire. The 1357 Westminster ordinances for the state of Ireland were said to have been promulgated for 'the public profit' (*L. pro utilitate publica*); and, at a local level, we find the term employed again in a run-of-the-mill commission of the peace for county Wexford in 1375 that instructed the bishop of Ferns, as supervisor of the local keepers of the peace, to do all that was necessary 'for the king's comfort and the common profit of the king's faithful people' (*L. pro commodo nostro, et communi utilitate fidelis populi nostri*).<sup>46</sup> This set of interlinked ideas is apparent in an encomium from the Irish parliament sent to Edward IV in 1463 in support of the lord deputy, Thomas earl of Desmond, who is described, in a nice use of the metaphor of the governor-as-helmsman, as 'guiding and ruling' the land. Desmond is praised not only for his labour, manhood and strength, but also his wit, rule, wisdom and 'pollitique' – this last term suggesting his possession of the cardinal virtue of Prudence – that had brought about the peace and tranquillity of the land. By way of contrast, the evils that were understood to flow from covetousness and private interest are frequently rehearsed in grievance-laden petitions and inquisitions into ministerial misconduct. The chief governor Sir William Windsor was accused in 1378 of soliciting from the king a grant of the government of Ireland for his own profit and that of his troops, who would live upon the king's lieges for their sustenance: this, it was said, would harm not only the king's interests but also the king's faithful people of Ireland.<sup>47</sup>

The public nature of the chief governor's office was made manifest in the ritual that accompanied his taking of office, which remained symbolic affair even in the increasingly bureaucratized world of late-medieval English government. The chief governor was

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<sup>46</sup> *Stat. Ire., John-Hen. V*, 262-3; *Statutes of the Realm*, i, 357; CIRCLE, Patent Roll 49 Edward III, no. 278.

<sup>47</sup> I. D. Thornley, *England under the Yorkists, 1460-1485: Illustrated from Contemporary Sources* (London; Longmans, 1920), 253-5; TNA E 368/157 (Hilary, *Recorda*), m. 24.

appointed by royal letters patent that specified the extent of his competence and his term of office. To that extent, he was the king's man in Dublin. But, upon arriving in Ireland, the governor's patent was read out and he was bound through an oath, solemnly taken before the king's council in Ireland. The rolls of the Irish chancery frequently record the exact date and place of the governor's disembarkation in Ireland (a point of importance when the patent specified that his powers took effect at his first landing). The political community of the lordship had at their disposal a counter-argument, one that lent a contractarian flavour to the relationship between governor and governed. The Irish version of the parliamentary treatise, *Modus tenendi parliamentum*, makes a twofold claim: first, that the oath is taken by the governor in the presence of the chancellor, council *and the people*; and, second, that it was only upon taking the oath that the governor was invested with the power granted to him 'and not before' (*L. sed non ante*).<sup>48</sup> By either interpretation, the oath-taking must have been a solemn occasion. The oath was modelled closely on the questions put to the king at his coronation. The coronation *ordo* was well known in Ireland. Indeed, it was the annals of the Dublin Dominican that the long-lost coronation oath of Edward I was recently rediscovered, with its triplex promise to keep the peace to the clergy and people, to do justice in mercy and in truth.<sup>49</sup> At Edward II's coronation in 1308 a fourth question was put to the king, requiring him to promise to uphold the 'laws and rightful customs which the community of the realm shall have chosen'. It was a modified version of this oath – with the promise that 'I shall hold and guard the right laws and customs that *the people of the land of Ireland* have chosen to be kept' – that Lord Portlester used in 1462 when taking office as lord deputy. Nor were these simply constitutional niceties divorced from political realities or the prescriptions of policy. The preamble to the Westminster ordinances for the state of Ireland of 1357, which

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<sup>48</sup> Pronay and Taylor (eds.), *Parliamentary Texts*, 145.

<sup>49</sup> B. Williams, 'The Lost Coronation Oath of King Edward I: Rediscovered in a Dublin Manuscript', in S. Duffy (ed.), *Medieval Dublin IX* (Dublin: Four Courts Press, 2009), 84-90.

represented a considerable concession by Edward III to anti-ministerial feeling in Ireland, contain an echo of promises of the coronation oath in their admission that 'laws and *approved* customs' have not been observed through default of good rule (*L. ob defectum boni regiminis*) and that the affairs of the king and the land have been carried out unprofitably (*L. inutilitater*).<sup>50</sup>

It is perfectly clear that some chief governors strained against the contractarian assumptions of this framework of ideas. The clash of ideals could hardly be better illustrated than by the arrest in 1418 of Sir Christopher Preston, Lord Gormanston, and the earl of Kildare during a moment of high tension with the abrasive lieutenant, Sir John Talbot. On Preston's person at the time of his arrest was found a scroll of parchment containing copies of the Irish *Modus Tenendi Parliamentum*, as well as the English version of the coronation oath and its Irish counterpart.<sup>51</sup> Other governors actively cultivated the image of the good ruler. This was the subject of the treatise entitled the *Governance of Princes*, produced in 1422 at the commission of James Butler, fourth earl of Ormond (d. 1452). It was a translation, studded with Irish *exempla*, of the *Secreta Secretorum* – a 'mirror for princes' that was believed to contain the advice that Alexander the Great received from his tutor, Aristotle. The *Secreta* was an especially popular text in Ireland, having been translated in the late thirteenth-century into French by Geoffrey of Waterford before being translated again, over a century later, into English.<sup>52</sup> The opening pages address Ormond directly as 'lieutenant of our lord,

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<sup>50</sup> Gilbert, *Viceroy*, 485; CIRCLE, Patent Roll 1 Edward IV, no. 60. For the 1308 English coronation oath, see Chrimes and Brown (eds.), *Select Documents*, 4-5 (*EHD*, iii, 525); *Statutes of the Realm*, i, 357.

<sup>51</sup> P. Crooks, 'The Background to the Arrest of the Fifth Earl of Kildare and Sir Christopher Preston in 1418: A Missing Membrane', *Analecta Hibernica*, 40 (2007), 8-9; Huntington Library (San Marino, California), MS E.L. 1699, whence CIRCLE, Patent Roll 6 Henry V, no. 15.

<sup>52</sup> Steele (ed.), *Three Prose Versions*, 121–248; J. Ferster, *Fictions of Advice: The Literature and Politics of Counsel in Late Medieval England* (Philadelphia; University of Pennsylvania Press, 1996), ch. 4. J. Monfrin, 'Sur les sources du *Secret des Secrets* de Jefroi de Waterford et Servais Copale', *Mélanges de linguistique romane et de philologie médiévale offerts à M. Maurice Delbouille*. 2 vols. (Gembloux, 1964), ii, 509-30.

King Henry the Fifth in Ireland', clearly counting him among the 'emperors, kings and other governors of chivalry' who might benefit from its advice concerning the cardinal virtues of Prudence, Justice, Temperance and Fortitude. A key argument of the *Governance* is that 'chivalry' is maintained not only by deeds of arms, but by wisdom and by help of laws. Casting back into Irish history as presented by Gerald of Wales, Yonge discovers in the figure of Diarmaid Mac Murchada, 'prince of Leinster', the perfect foil for the good ruler. Mac Murchada is presented as a cruel and intolerable tyrant who oppressed the great lords of the land and so brought about his own subjection and that of his people. Yonge follows this with a rogues' gallery of unjust rulers, from Emperor Nero to King Richard II.

The normative expectation of the English community in Ireland was that they should be ruled by English law and enjoy the liberties of the king's English subjects. But Robin Frame has detected a subtle but significant terminological shift from the late 1370s, as the English residents of Ireland began to refer with growing insistence and assurance to 'the liberties of Ireland' as opposed to the liberties of the 'king's [English] subjects in Ireland'. The change was formalized by the proceedings of Irish parliaments, which from 1402 opened with a general confirmation of the liberties and franchises of the land of Ireland.<sup>53</sup> Quite what these liberties were was probably ill-defined even at the time, but their foundation stone in Ireland, as in England, was Magna Carta. It was of the great charter in the constitutional and political struggles of England in the thirteenth century that J. C. Holt stated that it had become 'a shibboleth'.<sup>54</sup> Exported to Ireland in 1217, Magna Carta became a shibboleth in something closer to its original, biblical sense. The liberties of Magna Carta were *English* liberties. They served to define the English settlers *against* the native Irish population. By the late thirteenth century, if not earlier, persons deemed to be 'of Irish birth and blood'

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<sup>53</sup> Frame, 'Exporting State and Nation', 163 n. 55; Frame, 'English Political Culture', 8; *Stat. Ire. John-Hen. V*, 504-5.

<sup>54</sup> J. C. Holt, *Magna Carta* (3rd edn, Cambridge University Press, 2015), 348.

commonly found it necessary to purchase from the crown an individual charter of English liberty if they wished to be 'free and quit of all Irish servitude' (L. *ab omni servitute Hibernicali liberati et quieti*).<sup>55</sup> Magna Carta's role as a totem of English liberty in Ireland was overtaken in the later fourteenth century by the Statute of Kilkenny (1366), which notoriously prohibited marriages and other forms of social and cultural interaction between English and Irish. The manuscript evidence for the Statute of Kilkenny is problematic (there are no surviving fourteenth-century manuscripts), but there are indications that in its original form its first clause repeated the opening clause of the 1351 ordinances that confirmed the liberties of Holy Church and 'all the articles contained in the Great Charter of the King'. Certainly, in 1410, Magna Carta and the Statute of Kilkenny were confirmed in the same act of the Irish parliament. Magna Carta thus came to be folded into the Statute of Kilkenny to create a new set of exclusionary liberties, now described with increasing regularity as the 'liberties of the land of Ireland'.<sup>56</sup>

The most audacious statement of the 'ancient' liberties of Ireland was the declaration by an Irish parliament held at Drogheda before Richard, duke of York (d. 1460), that 'the land of Ireland is, and at all times has been, corporate of itself [F. *corporate de luy mesme*], by the ancient laws and customs used in the same'. Bundled into this assertion were a number of other expedients, notably the claim that Ireland was not bound by English statute unless the Irish parliament had first specifically ratified them.<sup>57</sup> The validity of that claim has been

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<sup>55</sup> NLI MS 3, f. 33, whence CIRCLE, Patent Roll 32 Edward III, no. 43. For thirteenth-century developments, see R. Frame, 'Ireland after 1169: Barriers to Acculturation on an "English" Edge', in K. J. Stringer and A. Jotischky (eds.), *Norman Expansion: Connections, Continuities and Contrasts* (Farnham; Ashgate, 2013), 115–41.

<sup>56</sup> *Stat. Ire. John-Hen. V*, 376–7, 520.

<sup>57</sup> *Stat. Ire. Hen. VI*, 644–5; A. Cosgrove, 'Parliament and the Anglo-Irish Community: The Declaration of 1460', in A. Cosgrove and J. I. McGuire (eds.), *Parliament and Community: Historical Studies XIV* (Belfast; Appletree Press, 1983), 25–41.

the subject of much debate. Less attention has been paid to the language of incorporation that the declaration of 1460 used in staking its claim to legislative independence through an appeal to the collective memory of ancient rights. The attempt to conceptualize Ireland as a 'body politic' drew upon one of the most commonly-encountered metaphors used to comprehend and explain the proper ordering of political society in the late Middle Ages. Within a short few years Sir John Fortescue was to refer to England as an *corpus mysticum* ('mystical body'), a term transposed from its original theological context to the case of undying political communities.<sup>58</sup> It was a key contribution of juristic thought to stress that the corporation (however described) was both a 'plurality of individuals and an abstract unitary entity perceptible only by the intellect'.<sup>59</sup>

While the language of incorporation was in 1460 still a comparatively recent arrival in English law, the underlying ideas had an older pedigree, expressed through many of the terms we have already encountered, notably *populus, universitas, communitas*.<sup>60</sup> One of the most potent of these terms in contemporary use was *res publica*. The narrative of the Alice Kyteler sorcery trial – which is so evocative of the world of litigiousness, pragmatic literacy and local government in Ireland in the first quarter of the fourteenth century – refers to royal officers as *ministri reipublicae* ('ministers of the state'), and also to the *majores reipublicae rectores* ('senior officers of the state') who sought to impede the work of the witch-hunter, Richard

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<sup>58</sup> C. J. Nederman, 'Body Politics: The Diversification of Organic Metaphors in the Later Middle Ages', *Pensiero Politico Medievale*, 2 (2004), 59-87; Lockwood (ed.), *On the Laws and Governance of England*, 20; Kantorowicz, *King's Two Bodies*, 223-5.

<sup>59</sup> J. Canning, *A History of Medieval Political Thought, 300-1400* (London; Routledge, 1996), 172; J. Canning, 'Law, Sovereignty and Corporation Theory', in Burns (ed.), *Cambridge History of Medieval Political Thought*, 472.

<sup>60</sup> S. Reynolds, 'The History of the Idea of Incorporation or Legal Personality: A Case of Fallacious Teleology', in S. Reynolds, *Ideas and Solidarities of the Medieval Laity: England and Western Europe* (Farnham; Ashgate, 1995), 1-20.

Ledrede, bishop of Ossory.<sup>61</sup> More frequently *res publica* is encountered in the documents affording the language of the 'common good' and refers to the collective interest (or 'common weal', as it would be termed in the vernacular of the fifteenth century) of those within the polity, rather than to the polity itself (the 'commonwealth' of the early sixteenth century).<sup>62</sup> The very fact that this language of public authority, familiar from English government discourse, was current in Ireland is significant in itself. Even more so is the fact that this same language provided the king's subjects in Ireland – or those who claimed to speak on their behalf – with the means to describe and legitimate for themselves a separate field of political identification: the land of Ireland. Indeed, by the fifteenth century, the term 'land' was being used metonymically to refer to the collective interests of the king's lieges, as in the phrase 'the common profit of the land' in the credentials for Michael Tregury, archbishop of Dublin, who was elected as a messenger to travel to the England. It was a small step from this to employ the metaphor of the 'body politic', as when in 1476 the lord deputy William Sherwood, bishop of Meath, was 'desired by the *entire body* of this said land' (F. *par le entier corps dicest di terre*) to travel before the king in England 'for the public good and relief of this land.'<sup>63</sup> It was this corporate identity that was soon to achieve visual

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<sup>61</sup> *A Contemporary Narrative of the Proceedings against Dame Alice Kyteler Prosecuted for Sorcery in 1324*, ed. T. Wright. Camden Society, o.s. 24 (London, 1843), 13, 21, 25, 26, 35; *The Sorcery Trial of Alice Kyteler: a Contemporary Account (1324)*, ed. L. S. Davidson and J. O. Ward, trans. G. Ward (Binghamton NY; Pegasus Press, 1993), 44, 51, 55, 56, 66.

<sup>62</sup> See, e.g., letters of 1386 that refer both to the public good and common profit (L. *rem publicam et utilitatem communem*): CIRCLE, Patent Roll 10 Richard II, no. 200. For the conceptual shift in English usage after 1450, see J. Watts, "'Commonweal' and 'Commonwealth': England's Monarchical Republic in the Making, c.1450–c.1530", in A. Gamberini, J-P. Genet and A. Zorzi (eds.), *The Languages of Political Society* (Rome; Viella, 2011), 147–63.

<sup>63</sup> *Stat. Henry VI*, 316–17 (F. *le commune profit de cest terre*); *COD 1413–1509*, 146 (L. *pro comodo et utilitate terre predictae*); *Stat. Ire. 12–22 Edw. IV*, 464–5.

expression in the device of the three crowns – the badge of Ireland –, which appears on coins issued by the Dublin mint in the reign of Richard III.<sup>64</sup>

### **The English Claim to Ireland**

The claim that Ireland was 'corporate of itself' represents the apotheosis of one strand in Ireland's development as a 'regnal' polity. It was, however, only one possible use of the metaphor of the body politic. A second usage, which had an older pedigree, was the idea that Ireland was a 'member', in the sense of a limb, of the English Crown, which was itself commonly understood to symbolize England's status as a *corpus mysticum*. It was with this sense of the body politic in mind that Sir Gilbert Debenham was instructed to remind Edward IV in 1474 that 'as of very right the realm of England is bound to the defence of Ireland by reason that it is one of the members of his most noble crown and the eldest member thereof'.<sup>65</sup>

The plea to the king to protect the interests of the Crown with military intervention – 'as a noble and gracious prince is bound to do to his lieges', runs the petition from the great council at Kilkenny in 1360 that led to the expedition of Lionel of Antwerp – was one of the most persistent refrains in the 'literature of remedy' produced in the fourteenth and fifteenth centuries. The overarching purpose of this material was to seek the 'reformation' of Ireland, a term that implied the restoration of the country through renewed military effort to what was

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<sup>64</sup> M. Dolley, 'Coinage to 1534', in *NHI*, ii, 824; D. W. Dykes, 'The Anglo-Irish Coinage and the Ancient Arms of Ireland', *JRSAI*, 96 (1966), 111–20; M. Dolley, 'Tre Kronor – Trí Choróin: A Note on the Date of the "Three-Crown" Coinage of Ireland', *Särtryck ur Numismatiska Meddelanden*, 30 (1965), 103–12.

<sup>65</sup> The organic metaphor is explicit in the Statute of Rhuddlan (1284), which describes Wales as being 'annexed and united ... to the crown of the said realm [of England], as a member of the same body': *The Statutes of Wales*, ed. I. Bowen (London; T. F. Unwin, 1908), 2; Bryan, *Great Earl*, 22.

perceived to be its pristine condition when it was securely governed by English laws.<sup>66</sup> The most articulate spokesman for intervention in the first half of the fifteenth century was the author of the *Libelle of English Policy*, who urged the king to make a 'final conquest' to bring all the land under his obeisance.

And all this world *Dominus* of name  
Should have the ground obeisant, wild and tame,  
That name and people together might accord,  
And all the ground be subject to the lord.<sup>67</sup>

The *Libelle* affirms the standard position that the king's *dominium* embraced the whole island of Ireland and should command the allegiance or obedience of all the island's population.<sup>68</sup> But he also acknowledged frankly that the reality was very different. The reach of English government in Ireland far exceeded its grasp. The contrast between the securely-ruled ground and what lay beyond was cast in Manichean terms as a social chasm separating the 'wild' from the 'tame'. In other documents, the difference was expressed as a contrast between two forms of governance: 'the abominable conditions and inhuman manners of the Irish enemies of our sovereign lord the King' as against the 'the honourable conduct and orderly government of his English subjects.'<sup>69</sup>

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<sup>66</sup> For 'reformation' in this sense, see *Stat. Ire. Hen. VI*, 356 (F. *sinon plus hasty remedy soit ewe hors de Engleterre pur la reformacioun dicelle*).

<sup>67</sup> Warner (ed.), *Libelle*, 38.

<sup>68</sup> The phrasing of the Westminster ordinances (1357) is unusual in referring to 'the people through almost all of Ireland subject to the king' (L. *populus quasi per totam hiberniam nobis subjectus*), but this is a comment on the quality of royal government (L. *regimen*) in these areas, not a concession that the remainder of the island fell outside the king's lordship (*Statutes of the Realm*, i, 358).

<sup>69</sup> *Stat. Ire. 1-12 Edw. IV*, 611.

The failure to extend 'orderly government' across the island was a public embarrassment, one that attracted comment – and some gloating – from England's rivals in Christendom. The Chronicle of Saint Denys reported in 1399 that Richard II, 'who thought of himself as one of the most powerful of western kings, was irritated because that part of Ireland which had submitted to him had now rebelled against him'.<sup>70</sup> As well he might, because the incapacity to discharge the obligations that were attendant upon lordship served to undermine the claim to rightful possession itself. Within a few years the representatives of French nation at the Council of Constance were taunting their English counterparts that although England might claim that although Ireland had forty-eight dioceses, only two were obedient to the king of England.<sup>71</sup> The gross inaccuracy of the figures would hardly have detracted from the purpose of the argument, which was to defeat the wildly-exaggerated claims to legitimate authority claimed by England's kings. The parallel with debates over the extent of imperial jurisdiction in the late-medieval West is striking. The Romans had claimed to be lords of all the world, but Nicholas of Cusa (d. 1464) came to the conclusion that the emperor is 'lord only over those who are actually subject to him and ... of that part of the world over which he exercises *effective* authority'.<sup>72</sup> This was, in fact, only one of a number of possible angles of critique of the England's *dominium* in Ireland. Another approach, famously marshalled in the Irish *Remonstrance* (1316), was to admit (as was prudent in a letter intended for the pope) of the possible legitimacy of the English conquest based on the supposed papal donation of *Laudabiliter*, but to proceed to argue that the holders of *dominium* had since defaulted on their duties to abide by the terms of the supposed their

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<sup>70</sup> Given-Wilson (ed.), *Chronicles of the Revolution*, 110; J. Canning, *Ideas of Power in the Late Middle Ages, 1296–1417* (Cambridge University Press, 2011).

<sup>71</sup> A. Gwynn, 'Ireland and the English Nation at the Council of Constance', *PRIA*, 45 C (1940), 199 n. 55; J. H. Mundy and K. M. Woody (eds.), *The Council of Constance: The Unification of the Church*, trans. L. R. Loomis (New York and London; Columbia University Press, 1961), 322.

<sup>72</sup> *Nicholas of Cusa: The Catholic Concordance*, trans. P. Sigmund (Cambridge University Press, 1991), 237.

grant.<sup>73</sup> Still another rhetorical front could be opened by accusing the English of straightforward usurpation: a line of scholastic thought, arising from Augustine's parable about the emperor and the pirate, maintained that 'subjects have no duty to obey any regime that held its power not by right but by usurpation, or commands what is wrong'.<sup>74</sup>

The response from the propagandists on the English side was to generate a layered argument that could silence all objections. One avenue of apologetics that was tried but soon abandoned was the doctrine of conquest-right. 'Conquest' – with all its modern connotations of forceful military expropriation of another territory and its people – was certainly the standard term used to describe the English taking of Ireland in the later Middle Ages, as in 1454 when a letter to the duke of York stated that 'this land of Ireland was never at the point finally to be destroyed since the conquest of this land, as it is now'; and the articles of 1474 which, in requesting a royal expedition, claimed that the 'recovery' of the land would be easier than at the time of 'the first conquest thereof was obtained'.<sup>75</sup> By the Roman law of conquest, the victor could legitimately impose an entirely new legal and governmental dispensation upon the conquered peoples. The doctrine was known to the twelfth-century fabulist, Geoffrey of Monmouth, whose *History of the Kings of Britain* depicts the rule of the empire of King Arthur as being justified on the basis of conquest-right. Gerald of Wales later included two references to conquest snipped from the pages of Geoffrey of Monmouth and pasted into the *Expugnatio Hibernica*: the subjugation of Ireland by Gurguntius; and the conquest of King Arthur. Gerald's 'Five-fold right' of the kings of England to Ireland became

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<sup>73</sup> J. Muldoon, 'The Remonstrance of the Irish Princes and the Canon Law Theory of the Just War', *American Journal of Legal History*, 22 (1978), 321.

<sup>74</sup> C. J. Nederman and K. Langdon Forhan (eds.), *Medieval Political Theory: A Reader. The Quest for the Body Politic, 1100-1400* (London; Routledge, 1993), 136 (Aquinas, *Summa Theologiae*).

<sup>75</sup> *Original Letters Illustrative of English History*, ed. H. Ellis. 2nd ser., 4 vols. (London; S. & J. Bentley, 1827), i, 118; Bryan, 'Great Earl', 20. See also Steele (ed.), *Three Prose Versions*, 182 ('the conquest by king Henry the Second in Ireland'), 183-4; *The English Conquest of Ireland [...]*, ed. F. J. Furnivall. EETS (London, 1896), 186-7 ('Master Gerald tells no further of the conquest').

a foundational text, but the idea that conquest could establish a just title was one that grated against other ideas of power, notably that empires being founded upon force were illegitimate.<sup>76</sup>

When, in the late thirteenth century, an English author set out a new 'Declaration' of the English title to Ireland, he undertook two important re-workings of Gerald's text. The central concern was to airbrush out of history the military conquest of Ireland. In its place a new story was pushed into the foreground of a voluntary grant by Strongbow to Henry II of Dublin and Waterford and all other Irish lands that he held by rightful inheritance. The second change was more subtle, but its implications ran deep. The author of the 'Declaration' repeated that the title of the English king arose from his succession to King Arthur (here rehearsing Gerald of Wales), but he omitted any reference to the Arthurian conquest. Instead, he emphasized that the submission of the Irish princes to Arthur had been spontaneous and voluntary.<sup>77</sup> The cumulative effect of elision and prolepsis was to create an argument from prescription. The English held Ireland not by conquest, nor even by papal donation (though *Laudabiliter* still served in the overall argument as the *coup de grâce*), but by a right existing since time immemorial. This proved to be a durable argument, one that came to be much prized by the colonists. A cluster of Middle-Hiberno English texts from the first part of the fifteenth century develop the ideas still further in the vernacular. James Yonge included an elaborated version of English title to Ireland, which now stresses the spontaneous nature of

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<sup>76</sup> D. Sutherland, 'Conquest and Law', *Studia Gratiana*, 15 (1972), 45-7; Canning, *Ideas of Power*, 77-8.

<sup>77</sup> Cambridge University Library, MS Ii.iv.5, ff. 79-81, ed. J. R. S. Phillips, 'Three Thirteenth-Century Declarations of English Rule: Over Aquitaine, Ireland and Wales', in Smith (ed.), *Ireland and the English World in the Late Middle Ages*, 20-43; for analysis, see W. Ullman, 'On the Influence of Geoffrey of Monmouth in English History', in C. Bauer, L. Böhm and M. Müller (eds.), *Speculum Historale: Geschichte in Spiegel von Geschichtsschreibung und Geschichtsdeutung Johannes Spörl dargebracht* (Friburg, 1965), 270-1.

the submission to Henry II, as is clear (he says) because 'the chronicles make no mention of any chivalry or war done by the king all the time that he was in Ireland'.<sup>78</sup>

To appreciate fully what is at stake in Yonge's argument, it is necessary to compare his insistence on the absence of 'chivalry', or feats of arms, at the time of the first coming of the English to Ireland with the strong advocacy of chivalry that Yonge provides elsewhere in his tract. Famously, Yonge urges Ormond to raise out the false Irish enemy by the root – the original meaning of the term 'eradication'.<sup>79</sup> The degree of emphasis he placed on martial prowess is quite unusual for a princely 'mirror'. It may in part have been urged by the fact that military activity in Ireland was a thankless task compared to the renown to be won in arms in France. As he assured his patron, the fourth earl of Ormond:

The fourth cause why this noble earl should not have vainglory of this aforesaid prowess is the little thanks that he had of those who should have best rewarded and commended him.

But the glorification of violence and conquest was part of a wider trend associated with English chivalry more generally. That zealous advocate of the crusade, Philippe de Mézières (d. 1405) – no pacifist he! – was scornful of the English obsession with territorial conquest within Christendom, 'drunk as you are with pride and stirred up by stories of Lancelot and Gawain and worldly valour'. It is a martial image that also occurs in the Gaelic poetry fashioned for the lords of English Ireland by their Irish bards, who ornamented their battle-rolls with apologues recalling the feats of Arthur and his knights, as well as the heroes of the Irish kingly cycles.<sup>80</sup>

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<sup>78</sup> Steele (ed.), *Three Prose Versions*, 184-5.

<sup>79</sup> Steele (ed.), *Three Prose Versions*, 164.

<sup>80</sup> De Mézières quote is in M. Keen, 'Chivalry and English Kingship in the Later Middle Ages', in C. Given-Wilson, A. Kettle and L. Scales (eds.), *War, Government and Aristocracy in the British Isles, c.1150-1500*

The interlacing of the language of ethnicity with the language of enmity in contemporary documents is significant in explaining how such constant warfare could be justified. Roman law made a distinction between lawful enemies in arms (*L. hostes*) and private or internal enemies of the state (*L. inimici*). It was a distinction that was respected for much of the early and high Middle Ages through the institution of 'mortal' or 'capital' enmity, which provided a legitimate means of prosecuting a grievance through private vendetta.<sup>81</sup> With very few exceptions, the Latin documentation from the late Middle Ages refer to Irish enemies as *inimici hibernici*. The precise valence of the term is difficult to determine. By the late Middle Ages, the language of enmity was blurring because of the growing public authority of the crown. The king's private enemies were also *ipso facto* enemies of the state. In 1311, for instance, Piers Gaveston was declared to be the 'manifest enemy of the king and his people'.<sup>82</sup> But the idea of mortal enmity was certainly not unknown in late-medieval Ireland. It is found, for instance, in the English vernacular document that refers to 'the wild Irishry, being mortal and natural enemies to the kings of England and English dominion'.<sup>83</sup> Matters were further complicated by the use of written bonds or indentures to define relations between the English king and individual chiefs. The lords who broke those bonds could be charged with 'treasonous' behaviour and suffer the full rigours of royal justice. The dilemma is apparent in a letter written by Niall Óg Ó Néill to Richard II in 1395 which expresses his concern about the implications of his submission: 'For it is openly foretold that after your departure my lord the Earl of Ulster [Roger Mortimer, earl

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(Woodbridge; Boydell and Brewer, 2008), 262. *Aithdioghluim Dána*, ed. L. McKenna. ITS. 2 vols. (Dublin, 1939 [text], 1940 [trans.]), no. 36; *Poems on Marcher Lords*, ed. A. O'Sullivan and P. Ó Riain. ITS (Dublin, 1987) 28-33.

<sup>81</sup> R. Bartlett, '*Mortal Enmities*': *The Legal Aspect of Hostility in the Middle Ages* (T. Jones Pierce Lecture, Aberystwyth, 1998).

<sup>82</sup> Chrimes and Brown (eds), *Select Documents*, 15 (F. *apert enemy le roi et de son poeple*).

<sup>83</sup> *Stat. Ire. Ric. III-Hen. VIII*, 166. See also *SP, Henry VIII*, ii, part 3, 481 ('Iryshe men, our natural enmyes').

of March] will wage bitter war against me, and if I make no resistance he will crush me without pity ... on the other hand, if I resist him my rivals will say that I have become rebel and traitor to your Majesty, which, God be witness, I never intend to be'. It is no coincidence that when, in 1421, the Irish parliament sent messengers to appeal to Henry V to launch a crusade in Ireland, among the arguments they presented concerning the king's title to Ireland was an additional line item: the oaths of allegiance the Irish chiefs had sworn to Richard II, and since broken.<sup>84</sup> This was not the first time that elements within the colony had sought to legitimate the waging of war against the Irish by employing the language of the crusade.<sup>85</sup> This is a useful indication of the theoretical rules of engagement. One thing that the Irish 'enemies' were not being accorded was recognition as lawful enemies in arms. The warfare prosecuted against the native chiefs was not a *bellum hostile* between princes; it was closer to *guerre mortelle*, in which no quarter might be given.<sup>86</sup> The language of enmity served, then, a double purpose in demonstrating the necessity for the prosecution of sustained warfare against the native population, while also proving its just cause.

## Conclusion

'This men may well understand', wrote a fifteenth-century author in Ireland as if stating a self-evident truth, 'that both by ancient right and by new, the kings of England ought to have

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<sup>84</sup> R. Frame, 'Two Kings in Leinster: The Crown and the MicMhurchadha in the Fourteenth Century', in T. B. Barry, R. Frame, and K. Simms (eds.), *Colony and Frontier in Medieval Ireland: Essays Presented to J.F. Lydon* (London; Hambledon Press, 1995), 167-8; Curtis, *Richard II in Ireland*, letter 13; Matthew, 'Henry V and the Proposal for an Irish Crusade'.

<sup>85</sup> For a petition of the late 1320s, see *Il Registro di Andrea Sapiti, Procutore alla Curia Avigonese*, ed. B. Bombi (Rome, 2007), part 1, no. XI, 103-5; J. A. Watt, 'Negotiations between Edward II and John XXII Concerning Ireland', *IHS*, 10 (1956), 18-20.

<sup>86</sup> R. C. Stacey, 'The Age of Chivalry', in M. Howard, G. J. Andreopoulos and M. R. Shulman (eds.), *The Laws of War: Constraints on Warfare in the Western World* (New Haven; Yale University Press, 1994), 27-39; M. Keen, *The Laws of War in the Late Middle Ages* (London; Routledge and Kegan Paul, 1965). The idea of *guerre mortelle* or 'mortale werre' was current in fifteenth-century Ireland (*Stat. Ire. Hen. VI*, 360, 524).

the lordship of Ireland.’<sup>87</sup> The argument I have been seeking advance is that, on the contrary, the Lordship of Ireland was not a datum. It was both a living idea and an evolving political framework. As a living idea, it represented an assertion of legitimate authority that required active defence, both intellectually and instrumentally. As a political framework, it provided the king’s ‘faithful English lieges of Ireland’ with a separate field of identification for their political interests. For the native population, the Lordship was, by turns, exclusionary and invasive – extruding the Irish from the ranks of its lay political society and then intruding itself again into the politics of Gaelic Ireland in reaction to pleas from the colonists to vindicate the king’s title and the ‘reformation’ of the land.

In 1541 the medieval Lordship of Ireland was, in effect, superseded. The lord deputy, Sir Anthony St Leger, wrote to Henry VIII to inform him that the Irish parliament had enacted that the king of England should ‘worthelye have a nother [*sic*] Imperiall Crowne’. This was the ‘crown of this realm of Ireland’ referred to in the Act for the Kingly Title of June 1541. The English monarch was now to be invested as ‘king of Ireland’, a title that would replace ‘lord of Ireland’ in the royal style.<sup>88</sup> The Act has been understood as an attempt to establish the effective sovereignty of the English monarch across the whole island of Ireland and its peoples, whether of Gaelic and English descent. But, in light of the evidence presented in this chapter, the pressing question must be: why should this have been thought necessary? What medieval English king, in his capacity as *dominus Hibernie*, claimed anything less than full sovereignty in temporals within his lordship of Ireland? The

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<sup>87</sup> And þis men may vndirestand þat goyth [both] by olde right and by neve, þe kynges of Englon o3t to hawe þe lordscheppe of Ireland’: *Die Kildare Gedichte: die ältesten mittelenglischen Denkmäler in Anglo-Irischer Überlieferung*, ed. W. Heuser (Bonn; P. Hanstein, 1904), 222 (edition of Bodl., MS Laud 526).

<sup>88</sup> *SP, Henry VIII*, iii, part 3, 305. Interestingly, the order of precedence within the royal style for writs issued in Ireland, as described to Henry VIII in 1541, promotes Ireland to second, and relegates France to third, place: ‘Henry thEight, King of Inglande, Irelande, and of Fraunce, Defendor of the Faythe, and in Erthe Supreme Hed of the Church of Inglande and Irelande’ (*SP, Henry VIII*, iii, part 3, 308).

Act itself is quite clear that the kings of England, as 'lords in this land of Ireland ... [held] all manner of kingly jurisdiction, power, pre-eminences, and authority royal, belonging or appertaining to the royal estate and majesty of a King'. It was (so the framers of the Act found it prudent to explain) the monarchs' *lack of naming* as kings of Ireland according to their 'true and just title, style and name', and not any deficiency in the substance of the king's lordship of Ireland, that had caused 'great occasion' amongst his Irish subjects. Both in terms of the content of its ideas and the form in which they are expressed, the Act for the Kingly Title dresses up age-old ideas in a new idiom while smuggling in innovations under the skirts of ancient custom. The Lordship of Ireland, long-since imagined to be a 'regnal' polity, is now dignified with its own imperial crown; but this Irish 'imperial crown' remains clumsily attached to the 'imperial crown' of England.<sup>89</sup> By this reading, the Act neatly expresses, but does not resolve, the tension in political structure that this chapter sought to survey. Yet it is surely the novel implications of the Act that are the most striking. Conceptions of political authority, in Ireland as in England, altered markedly from the later fifteenth century. One precipitant of change was the trauma of the Wars of the Roses. A second was the growth of neo-classicist rhetoric and ideas, which emboldened and empowered those specialist administrators who sought to enforce obedience to the monarch.<sup>90</sup> The execution of Thomas earl of Desmond in 1468 by that humanistic book-collector and impaler of men, Sir John Tiptoft, was a harbinger of what the conjuncture of these trends might betoken for the older structure of politics in Ireland.

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<sup>89</sup> *Statutes at Large, Ireland*, i, 176 ('united and knit to the imperial crown of the realm of England').

<sup>90</sup> Watts, "Commonweal" and "Commonwealth".