



## **Terms and Conditions of Use of Digitised Theses from Trinity College Library Dublin**

### **Copyright statement**

All material supplied by Trinity College Library is protected by copyright (under the Copyright and Related Rights Act, 2000 as amended) and other relevant Intellectual Property Rights. By accessing and using a Digitised Thesis from Trinity College Library you acknowledge that all Intellectual Property Rights in any Works supplied are the sole and exclusive property of the copyright and/or other IPR holder. Specific copyright holders may not be explicitly identified. Use of materials from other sources within a thesis should not be construed as a claim over them.

A non-exclusive, non-transferable licence is hereby granted to those using or reproducing, in whole or in part, the material for valid purposes, providing the copyright owners are acknowledged using the normal conventions. Where specific permission to use material is required, this is identified and such permission must be sought from the copyright holder or agency cited.

### **Liability statement**

By using a Digitised Thesis, I accept that Trinity College Dublin bears no legal responsibility for the accuracy, legality or comprehensiveness of materials contained within the thesis, and that Trinity College Dublin accepts no liability for indirect, consequential, or incidental, damages or losses arising from use of the thesis for whatever reason. Information located in a thesis may be subject to specific use constraints, details of which may not be explicitly described. It is the responsibility of potential and actual users to be aware of such constraints and to abide by them. By making use of material from a digitised thesis, you accept these copyright and disclaimer provisions. Where it is brought to the attention of Trinity College Library that there may be a breach of copyright or other restraint, it is the policy to withdraw or take down access to a thesis while the issue is being resolved.

### **Access Agreement**

By using a Digitised Thesis from Trinity College Library you are bound by the following Terms & Conditions. Please read them carefully.

I have read and I understand the following statement: All material supplied via a Digitised Thesis from Trinity College Library is protected by copyright and other intellectual property rights, and duplication or sale of all or part of any of a thesis is not permitted, except that material may be duplicated by you for your research use or for educational purposes in electronic or print form providing the copyright owners are acknowledged using the normal conventions. You must obtain permission for any other use. Electronic or print copies may not be offered, whether for sale or otherwise to anyone. This copy has been supplied on the understanding that it is copyright material and that no quotation from the thesis may be published without proper acknowledgement.



Government policy, strategies of negotiation and the politics of protest in early  
seventeenth-century Ireland

A dissertation for the degree of Doctor of Philosophy

2013

Stephen Carroll

Department of History  
University of Dublin, Trinity College



*Thesis 10110*

### **Declaration**

I declare that this thesis has not been submitted as an exercise for a degree at this or any other university and it is entirely my own work. I agree to deposit this thesis in the University's open access institutional repository or allow the library to do so on my behalf, subject to Irish Copyright Legislation and Trinity College Library conditions of use and acknowledgement.



## Government policy, strategies of negotiation and the politics of protest in early seventeenth-century Ireland

The aim of this study is to provide an analysis of the reaction of Irish Catholics to government policy from the accession of James I in 1603 to the arrival of Thomas Wentworth in 1633. During this period the Dublin administration pursued aggressive reforms that aimed to alter the Irish polity in the aftermath of war. A succession of lords deputy and lord justices sought to 'civilise' the kingdom from its former 'barbarity', seeking to secure the country in the interests of New English Protestants. The overarching aim of this reform was to integrate Ireland more fully to practices in England.

The reform efforts of the Dublin government faced considerable resistance from Irish Catholics, who pursued various modes of opposition to hinder or overturn policies designed to subjugate them. Modes of protest included petitioning, legal suits, obstruction, threats of violence and occasional physical confrontation. The administration responded by conciliation or resorting to prerogative justice, using acts of state where acts of parliament proved insufficient. The more the administration relied on prerogative law, the louder and more frequent opposition voices became. The outcomes of these protests are the subject of this thesis.

## Contents

|                                                          |     |
|----------------------------------------------------------|-----|
| Acknowledgements                                         | i   |
| Note on conventions                                      | iii |
| Abbreviations                                            | iv  |
| Illustrations                                            | v   |
| <br>                                                     |     |
| Introduction                                             | 1   |
| <u>Part one</u>                                          |     |
| 1. 1603 revolt                                           | 8   |
| 2. Urban reform                                          | 47  |
| 3. Religious enforcement                                 | 98  |
| 4. Martial law, the ‘graces’ and the ‘petition of right’ | 149 |
| <u>Part two</u>                                          |     |
| 5. Parliament 1613-15                                    | 181 |
| 6. Plantation 1610-22                                    | 198 |
| Conclusion                                               | 242 |
| Bibliography                                             | 245 |

## Acknowledgements

First of all, thanks must go to my supervisor, Robert Armstrong, without whose encouragement and advice I would never have undertaken this project. His influence was there from the inception of this thesis four long years ago and his unending enthusiasm and encouragement thereafter have brought this project to its completion. I am eternally grateful to him for sharing his limitless knowledge of the subject with me and I thank him for his time and most of all his patience.

Research ought not to be a solitary pursuit and I owe a number of debts to far too many people for their help over the years. This help came in the form of generous sharing of research material, the sharing of references, answering queries on alien subject matter and general inspiration through discussion of ideas. Thanks to Sparky Booker, Ciarán Brady, Ruth Canning, Peter Crooks, John Cunningham, Crawford Gribben, Tim Harris, Caitlín Higgins Ní Chinnéide, Kieran Hoare, Stuart Kinsella, Annaleigh Margey, Conor McCann, Brid McGrath, Graeme Murdock, Elaine Murphy, Eoin O'Flynn, Jane Ohlmeyer, Grace O'Keeffe, Seán O'Reilly, Helga Robinson-Hammerstein, Alan Smyth, Scott Spurlock, Clodagh Tait, Ciarán Wallace and John Walter. Special mention goes to Mark Empey and Stephen Hand for numerous discussions over the years on seventeenth-century topics and general chit-chat. Eamon Darcy must be singled out for the enormous amount of guidance he has provided me during the course of my research, for which I am truly grateful.

During the course of this project I have received generous help from archivists and librarians in Ireland and England. Thank you to the staff of Trinity College Manuscripts Department, Early Printed Books, Map Library, Iveagh Hall and to Iris Bedford at the admissions counter. Thanks also to the staff at the National Library of Ireland, the National Archives in Dublin, British Library and National Archives at Kew, university library at University College Dublin, to Kieran Hoare at James Hardiman Library, NUI Galway and to Jason McElligott and the staff at Marsh's Library. Special mention is to be made to Seán Hughes and Mary Higgins, the history librarians at Trinity College Dublin, who went over and above the call of duty to help me. The effort was very much appreciated. Thanks to the staff at the History Department and the School of Histories and Humanities, namely Susan Barry, Debra Birch, Joseph Clarke, Martine Cuypers,

David Ditchburn, Hazel Dodge, Pamela Hilliard, Judy Lee, Alan MacSimoin, Brian McGing, Jenny Scholtz, Roger Stalley and Jill Walsh. Thanks also to Juergen Barkhoff, Catriona Curtis, Jennifer Edmond and Eva Mühlhause at the Long Room Hub for providing me with a home away from home.

I have received financial aid from a number of sources, without which this research could not have been conducted. Thanks first to Trinity College, Dublin for assistance through a studentship. Thanks to the Grace Lawless Lee Fund for covering the cost of a research trip to London. Thanks also to the Irish Legal History Society for twice aiding my research through travel bursaries. Thanks also to Dublin City Council for assistance in the form of a Higher Education Grant. The scheme is no longer available to postgraduate students, a significant loss.

Thanks to a great group of friends, both at Trinity and outside, who have provided me with support, laughs, distraction and friendship over the four years, without which this thesis would likely have never materialised. There are too many people to name and as I risk leaving someone out, I'll have to get to you in person.

Lastly thanks to my family. All of you have put up with me for the past four years and provided me with endless support, for which I am grateful. These thanks are a small token of my gratitude.

### **Note on conventions**

1. All dates are given Old Style with the year taken to begin on 1 January.
2. I use the terms Old English, New English and Gaelic Irish throughout as a convenient shorthand. Old English refers to descendants of the Anglo-Norman conquest and those who arrived after that date up to the reign of Henry VIII. New English are defined as those who arrived in Ireland as administrators or planters subsequently. Gaelic Irish are those who populated the country on the eve of the Anglo-Norman invasion. Such a distinction is fraught with problems, yet it is necessary for the sake of brevity.



## Abbreviations

|                        |                                                                                                                                                                      |
|------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>1622 Commission</i> | <i>The Irish Commission of 1622: an investigation of the Irish administration, 1615-1622, and its consequences, 1623-1624</i> , ed. Victor Treadwell (Dublin, 2006). |
| <i>APC</i>             | <i>Acts of the privy council of England, 1542-1631</i> (46 vols., London, 1890-1964).                                                                                |
| BL                     | British Library                                                                                                                                                      |
| <i>CSPI</i>            | Calendar of State Papers, Ireland                                                                                                                                    |
| NLI                    | National Library of Ireland                                                                                                                                          |
| NUI Galway             | National University of Ireland, Galway                                                                                                                               |
| NUI Maynooth           | National University of Ireland, Maynooth                                                                                                                             |
| <i>PRIA</i>            | Proceedings of the Royal Irish Academy                                                                                                                               |
| TCD                    | University of Dublin, Trinity College                                                                                                                                |
| TNA (UK)               | The National Archives (Kew)                                                                                                                                          |
| UCC                    | University College, Cork                                                                                                                                             |

## Illustrations

|                                                     |    |
|-----------------------------------------------------|----|
| 1. Cork City [c. 1601]                              | 13 |
| 2. Map of 1603 revolt in south Leinster and Munster | 20 |
| 3. Map of the river of Cork                         | 28 |
| 4. Plan of Cork Fort, 1626                          | 94 |
| 5. Plan of Waterford Fort, 1626                     | 95 |
| 6. Plan of Waterford Fort, 1626 (detail)            | 96 |

## Introduction

The aim of this study is to provide an analysis of the reaction of Irish Catholics to government policy from the accession of James I in 1603 to the arrival of Thomas Wentworth in 1633. This period witnessed an attempt by the central administration to pacify the country and place power solely in the hands of Protestants. A succession of lords deputy and lord justices sought to 'civilise' the kingdom from its former 'barbarity', with New English Protestants trusted to lead this effort. A continuity of practice can be detected through the governorship of Sir George Carey, Sir Arthur Chichester, Sir Oliver St John, Henry Cary (first Viscount Falkland) and the lord justices Richard Boyle (first earl of Cork) and Adam Loftus (first Viscount Ely), finally breaking with the assumption of the lord deputyship of Thomas Wentworth in 1633. The overarching aim of this reform was to integrate Ireland more fully to practices in England.

Lord Deputy Charles Blount, Lord Mountjoy recognised the opportunity to reform the kingdom following victory in the Nine Years War. Just a month after the signing of the treaty of Mellifont that ended the conflict, he reflected on his part in 'wrestling with this generation off vipers', noting how their triumph opened the way 'to bringe things to any better pass than they ar allreddy'. With time, and with the right leadership, he believed the country could be perfected from its broken state, though it required someone to 'pollishe what wee have ruff hewn'. He wished this task granted to someone else, but was hopeful of the future as 'thear is no doubt but this kyngdom is now made capable off thatt forme it shall please the kynge to give itt, and in tyme itt may be made no small ornament and addition of honnor and comoditye to the crowne off England'. For his part, he sought to leave the country, seeking only to go to court to 'kiss his Majestys royall hand'.<sup>1</sup> His successors pursued an assertive reformist agenda, aiming to press home the advantage after military victory.

The turbulent nature of the kingdom in late Tudor Ireland prevented the administration from pursuing forceful change that many had long sought. Victory in the Nine Years War and the later flight of the earls provided the central administration with the

---

<sup>1</sup> Lord Deputy Mountjoy to Cecil, 25 April 1603, TNA (UK) SP 63/215/38 (*CSPI 1603-1606*, p. 25).



opportunity to settle Ulster through a grand plantation scheme. Bereft of powerbrokers, and tainted by past involvement in rebellion, Gaelic Irish of the province proved unable to resist crown intrigue, and raised little protest against reform of society in the province. In contrast, the Old English, and Gaelic Irish to an extent, in the rest of the kingdom proved more resistant to government intervention. Government reform efforts in this period focused closely on areas of Old English influence, and more particularly on urban areas. Old English presence in Ireland concentrated in the Pale and in walled towns in Leinster and Munster, with more sparse settlement in Connacht (notably Galway City).

The shape that this reform took centred on policies propounded in Elizabeth's reign. Of primary importance was the completion of the Reformation.<sup>2</sup> The 1560 parliament provided statutory basis for the Reformation, yet the populace, and the clergy themselves, proved resistant to reform.<sup>3</sup> The religious settlement failed to overcome its initial sluggishness, and the conflation of grievances with the government and the established church proved near fatal for the Reformation.<sup>4</sup> King James's reign in Ireland began with turbulence, as a number of Old English towns in south Leinster and Munster openly celebrated mass, removing Protestant preachers and turning churches to their use. Cork and Waterford used this enthusiasm to resist the rule of the presidency of Munster and the lord deputyship, as they prevented crown soldiers from entry within their walls. An analysis of the revolt forms the basis of the first chapter of the first part of this thesis. The 1603 revolt is important for two reasons. Firstly, it highlights in a brief moment the relationship between the Old English, Gaelic Irish and the New English and problems that had arisen in the Elizabethan period. Secondly, it had an important legacy as New English administrators subsequently made reference to the revolt in order to justify their aggressive policies against urban magistrates.

---

<sup>2</sup> For the most recent discussion on the failure of the Reformation in Ireland see James Murray, *Enforcing the English Reformation in Ireland: clerical resistance and political conflict in the diocese of Dublin, 1534-1590* (Cambridge, 2009), pp 1-19.

<sup>3</sup> Henry Jefferies, 'The Irish parliament of 1560: the anglican reforms authorised', *Irish Historical Studies*, vol. 26, no. 102 (Nov., 1988), pp 135-7; Robert Dudley Edwards, chapter 12, 'The Elizabethan religious settlement' in *Church and state in Tudor Ireland: a history of penal laws against Irish Catholics, 1534-1603* (New York, 1972, first pub. 1935), pp 170-91; Murray, *Enforcing the English Reformation in Ireland*, passim.

<sup>4</sup> Ciarán Brady, chapter six 'Reform government and the community of the Pale' and 'Epilogue: reform in crisis: the viceroyalty of Sir John Perrot' in *The chief governors: the rise and fall of reform government in Tudor Ireland, 1536-88* (Cambridge, 1994), pp 209-44, 291-300; Neasa Malone, chapter three 'Opposition politics, the cess and the common law' in 'The social, cultural and intellectual milieu of the Burnell family of Dublin, 1562-1660' (Ph. D. thesis, NUI Maynooth, 2008), pp 100-45.

Chapter two focuses on this attempt to reform Old English towns. Late Elizabethan administrators, particularly Sir George Carew, lord president of Munster, clashed with municipalities, who defended their disruptive stance through their royal charters. With the country now largely pacified, the lord deputy and council set their sights on the over-mighty Old English towns, seeking to reduce their powers. Towns were to be reformed in three key areas: they were to be kept under forceful subjection by military governors, they were to lose their customs exemptions and their chief officers were to be conformable in religious practice. While the government reduced the power of the Old English towns, they contemporaneously established new corporations populated exclusively by Protestants, sustained through administrative beneficence.

Of principal concern to the Dublin government at this time was the need for a renewed Reformation drive. This centred on urban areas, as administrators posited that the conversion of urban magistrates and citizens would break the resistance of the Old English, leading to widespread uniformity of religious practice. Chapter three assesses forms of negotiation and protest used by Irish Catholics to resist the reform drive, focusing closely on legal arguments used to undermine religious enforcement. The 1560 religious settlement provided limited means for the government to enforce conformity, necessitating the use of prerogative law to bring urban areas to the established church. This uneasy foundation for enforcement saw an energetic response by Irish Catholics, who sought to obstruct reform efforts at home while petitioning for their revocation at court. It is the contention of this chapter that the strength of the protest of Irish Catholics led to the need to find an accommodation in the 1620s, leading to the 'graces' of 1628.

While the administration promoted many policies that sought the remodelling of Irish society, they proved unwilling to abandon practices that were more suited to a land of war. Chapter four analyses the role of martial law, which was retained in Ireland as an extraordinary means to suppress lawlessness and quell revolt. In 1628 the administration agreed to refrain from using martial law as part of the 'graces' negotiations. Contemporaneously, the English parliament passed a bill, the 'petition of right', confirming that martial law could be used only during war. This chapter traces the practice of martial law in early Stuart Ireland, demonstrating that the continued use of this extralegal measure signified an essential weakness in the Irish polity. These four



chapters make up part one of this thesis. Part one focuses on central aspects of the attempted reform of the Irish polity and demonstrating how Irish Catholics opposed them over a span of thirty years.

Part two in the thesis focuses more closely on case studies. Chapter five concentrates on parliament of 1613-15, more specifically an election riot in Dublin in 1613. Parliament was an irregularly-summoned body in the Irish polity, though of crucial importance. The Dublin government manipulated elections across the country in order to secure a Protestant majority in the house of commons, to go with their majority in the house of lords. This led to widespread protests at elections and a scuffle within the debating chamber of the house of commons itself. This chapter scrutinises closely on a tumult at a Dublin election, using this case study as a means to analyse the policy of favouring New English men above the traditional Old English elite.

Chapter six focuses on the efforts of Irish Catholics to oppose a number of plantation schemes between the period 1610-22. Administrators viewed plantation as the solution to many of their problems, as it promised to populate the country with a greater number of Protestants. Protestants held all key administrative positions in the kingdom, yet Catholics still held the majority of land and formed a vast majority of the population. Plantation offered a salve to this, as settlers could be enticed to move to Ireland with offers of estates. The administration promoted projects in north Wexford, Longford, Leitrim, Westmeath, King's County and Queen's County between the years 1610-22. Irish Catholics used various tactics to thwart the plantation, aided by the relatively complex process of distribution, but hampered by administrative self-interest, corrupt practices and royal sponsorship. Their efforts to oppose plantation are the subject of this final chapter.

In treating of the ways in which Irish Catholics opposed this reform, this thesis is informed by ideas of popular politics that have influenced much recent writing on Irish and English history. This methodological approach scrutinises large-scale revolt, riots and everyday protests to analyse the tactics used by people to oppose elites.<sup>5</sup> This field

---

<sup>5</sup> Clodagh Tait, 'Disorder and commotion: urban riots and popular protest in Ireland, 1570-1640' in William Sheehan and Maura Cronin (eds), *Riotous assemblies: rebels, riots & revolts in Ireland* (Cork, 2011), pp 22-49; Tim Harris (ed.), *The politics of the excluded, c.1500-1850* (Basingstoke and New York,

of enquiry rejects old notions of the 'unruly mob' to establish agency in crowd behaviour, to use their conduct to demonstrate their political activism. These studies have revealed the sophistication of early modern crowds, casting light on the workings of communities and the role of politics on every member of society. This thesis began as an attempt to write an Irish study of popular protest in a period of relative peace. The difficulties in source material led this thesis to widen its remit to include protest by members of the elite. Research on English topics focus on enclosure riots, food riots and disturbances between non-elites. The almost complete absence of enclosure or food riots and episodic evidence of 'plebeian' action in Ireland led my research to move from a strict study of the non-elites.

In light of the shortcomings in the source material, this thesis widened to incorporate forms of negotiation as well as protest in its treatment of opposition to government policy. In focusing on resistance to administrative action, this thesis excludes treatment of action by Protestant subjects against the administration and omits disputes raised between individuals that are not overtly political in nature. In each case of protest I have had to make a judgment on political agency, separating violence targeted at government policies from lawless behaviour, criminality and murder that occurs in any society.

To date Catholic responses to this aggressive government policy in this period have not received sustained treatment. The early Stuart years are well-served by an excellent body of research, scrutinising all aspects of the Irish polity.<sup>6</sup> This thesis aims to isolate the reform policies and Irish Catholic responses to them, to highlight how people engaged with the administration in a set span of time. In concentrating on the period to Wentworth's deputyship, this thesis avoids becoming part of the historiography of the

---

2001); Tim Harris, *London crowds in the reign of Charles II: propaganda and politics from the Restoration until the exclusion crisis* (Cambridge, 1987); Ethan Shagan, *Popular politics and the English Reformation* (Cambridge, 2003); John Walter, *Crowds and popular politics in early modern England* (Manchester, 2006); Andy Wood, *Riot, rebellion and popular politics in Early Modern England* (Basingstoke, 2002).

<sup>6</sup> See for example, Nicholas Canny, *Making Ireland British, 1580-1650* (Oxford, 2001); idem, *The upstart earl: a study of the social and mental world of Richard Boyle first Earl of Cork, 1566-1643* (Cambridge, 1982); Aidan Clarke, *The Old English in Ireland, 1625-42* (London, 1966); Jon. G. Crawford, *A Star Chamber Court in Ireland: the Court of Castle Chamber, 1571-1641* (Dublin, 2005); David Edwards, *The Ormond lordship in county Kilkenny, 1515-1642: the rise and fall of the Butler family* (Dublin, 2003); Colm Lennon, *The Lords of Dublin in the age of Reformation* (Dublin, 1989); John McCavitt, *Sir Arthur Chichester: lord deputy of Ireland, 1605-16* (Belfast, 1998); Brian Mac Cuarta, *Catholic revival in the north of Ireland, 1603-41* (Dublin, 2007); Victor Treadwell, *Buckingham and Ireland, 1616-28: a study in Anglo-Irish politics* (Dublin, 1998).



causes of the 1641 rebellion. In an effort to locate the origins of this insurrection some studies have neglected to analyse protest in this period in isolation, using evidence of dissatisfaction as part of the inexorable progression to war.<sup>7</sup> This thesis is not intended to provide such answers, instead it focuses on the importance of each area of friction, viewing negotiation and protest outside the prism of future insurrection and the establishment of a rival government at Kilkenny.

In scrutinising the government's policies, this thesis questions how they would be received had they been applied in England. The relationship between Ireland and England was a complex one, with the legal dimension particularly so. Ireland practiced common law based on English precedent, with all judges and lawyers trained in English inns of court. Parliamentary laws differed, however, leading to uncertainty over the legality of actions taken. The administration in Ireland had greater latitude in pursuing policies, as their pre-eminent position left them less open to oversight than officials in England. Distance from centre to periphery often dictates the lenity afforded to governors in any society. Irish administrators had extensive powers granted them in ruling the country, as they could not depend on gaining approval for every action from court in England. It took on average nine days for a letter to pass from Dublin to London, and twelve from London to Dublin, though poor weather in winter could lead to a delay of up to a month.<sup>8</sup> The lords deputy possessed prerogative powers as part of their commissions, granting them considerable authority in ordering the kingdom. In this period, the lord deputy, his council and the courts pursued provocative policies that targeted Irish Catholics, aiming to subjugate them to the crown. This left limited means for redress of grievances in Ireland, as the lord deputy proved unsympathetic to causes raised against policies pursued under his governorship. Irish Catholics encountered great difficulty having their complaints resolved by the Dublin administration, leading

---

<sup>7</sup> In Alan Ford's, "'Force and fear of punishment': Protestants and religious coercion in Ireland, 1603-33" in Elizabethanne Boran and Crawford Gribben (eds.), *Enforcing Reformation in Ireland and Scotland, 1550-1700* (Aldershot, 2006), p. 127, he used a quote by Sir Patrick Barnewall in 1605 protesting against 'mandates' as 'prophetic'. Barnewall warned that 'even now are laid down the foundations of some future rebellion, to which though twenty years be gone, the memory of these extremities may give pretence'. Another example is John McCavitt, who saw Chichester's fear of a revolt in Ulster as an 'uncanny premonition' of 1641. In 1613 Chichester wrote that if settlers failed to build strong defences they 'lye open to the Will of their ill affected Neighbors who undoubtedly would cut many of their Throats and thrust the rest clean out of the Country' if they had the means, *Sir Arthur Chichester*, p. 168.

<sup>8</sup> Michael MacCarthy-Morrogh, 'The English presence in early seventeenth century Munster' in Ciarán Brady and Raymond Gillespie (eds), *Natives and newcomers: the making of Irish colonial society, 1534-1641* (Dublin, 1986), pp 173-4.

them to pursue various modes of protest, ranging petitioning, legal suits, obstruction, threats of violence to occasional physical confrontation. The administration responded by conciliation or resorting to prerogative justice, using acts of state where acts of parliament proved insufficient. The more the administration relied on prerogative law, the louder and more frequent opposition voices became. The outcomes of these protests are the subject of this thesis.



Part one:

## Chapter one: 1603 revolt

On 24 March 1603 at between two and three in the morning Queen Elizabeth died, leaving no designated successor. Secretary of state, Sir Robert Cecil, called the privy council together and named King James VI of Scotland as king of England. Infamously, the news reached Lord Deputy Charles Blount, Lord Mountjoy at Mellifont before his negotiations with Hugh O'Neill, second earl of Tyrone on 30 and 31 March. Mountjoy conducted peace negotiations swiftly before Tyrone became aware that the queen had died. Both then proceeded to Dublin, where on the 5 April, Sir Henry Danvers landed in Dublin from London, bringing official word of the death of Queen Elizabeth and announcing James as king. Within an hour, the magistrates of Dublin and a 'great confluence' of people, gathered at the high cross in the city to proclaim him.<sup>1</sup> The administration drew up proclamations declaring James as monarch and circulated them through crown servants around Ireland, with word reaching Munster and south Leinster by 11 April. Many of these towns delayed their proclamation of James I, using the uncertain interregnum period as a spur to celebrate Catholicism openly and express their independence of the Dublin administration. On the death of Elizabeth, all crown commissions expired, leaving a power vacuum in Munster and Leinster, into which Old English Catholics stepped.

The expiration of crown commissions and hope of change under a new monarch caused great celebration in many Old English urban areas, as they took control over their own affairs in this unique opportunity with the world turned upside-down. This chapter will analyse their grievances prior to the revolt, how they acted during it and their justification for so doing. This critical moment saw urban communities in a liminal state, as their burst of action in April and May 1603 served as a remonstrance against Elizabethan reform and a forceful demonstration of their desire for greater autonomy under James. As it happened, their precipitous action went some way to convincing the king and Irish council of the need to restrict urban liberties and enforce religious conformity. As the revolt took its most audacious and violent form in Cork City, this

---

<sup>1</sup> Lord Deputy Mountjoy and council to English privy council, 6 Apr. 1603, *CSPI 1603-06*, pp 10-11; memoranda, 12 Oct. 1603, *ibid.*, p. 93.

chapter will focus closely on the actions of magistrates and citizens there, setting their experience into the wider one in Ireland during this short interlude. The revolt offered citizens the opportunity to express their grievances against the presidency of Munster and the central administration, providing an insight into who held effective authority in corporation towns once royal commissions were no longer in force.

In the medieval period, Old English cities and towns of Ireland acted as loyal bastions of Englishness on an otherwise Gaelic Irish island. They promoted English language, dress, customs, trading practice and established political structures modelled on English corporate towns. The Old English viewed their role in Ireland as one of the reformer, to bring civility in manners and religion to the Gaelic Irish – drawing on the legacy of the 1155 papal bull *Laudabiliter* and the myth of the conquest of 1169-71. Tensions between town and crown arose periodically, yet while this original mission remained, cities and towns could rely on the monarch to show them favour. The role of the Old English as loyal office-holders came into question during the 1330s as a number of English-born men filled the position of justiciar.<sup>2</sup> This attempt to curtail the power of the Old English continued under the early Tudors. The governorship of Sir Edward Poynings set a precedent for new English administrators and the revolt of Silken Thomas in 1534 demonstrated the dangers of placing the reigns of power in the hands of Old English magnates. The Henrician Reformation represented a greater threat to the position of the Old English, as the reform initiative undermined their role as the original conquerors of Ireland. To accept Protestant reform the Old English had to acknowledge the deficiency of the medieval church that they championed for centuries. To reject reform threatened their role as loyal crown agents in the Reformation of the Gaelic Irish.<sup>3</sup> The debate over why, or when, the Reformation failed belongs elsewhere, yet it is clear that by 1603 it had singularly failed to take root in Old English towns in Ireland.<sup>4</sup> As the bonds of counter-reform strengthened, Old English cities and towns faced scrutiny over their loyalty to the crown. The calls in Elizabeth's reign by James Fitzmaurice Fitzgerald and Hugh O'Neill for a confessional war cemented the link of

---

<sup>2</sup> Seán Duffy, *Ireland in the Middle Ages* (Dublin, 1997), pp 149-50.

<sup>3</sup> John McCafferty, 'Prologue: Ireland's English Reformation' in *The reconstruction of the Church of Ireland: Bishop John Bramhall and the Laudian reforms* (Cambridge, 2007), pp 1-20.

<sup>4</sup> For a discussion of this debate see James Murray, *Enforcing the English Reformation in Ireland: clerical resistance and political conflict in the diocese of Dublin, 1534-1590* (Cambridge, 2009), pp 1-19.



religious divergence with political resistance, further tainting the image of the Old English towns, though the majority rejected this clarion call to arms.

The Nine Years War proved testing for Old English towns as the exceptional war circumstances strained relations between them and the administration. A petition of May 1600 from agents of the city of Cork, John Meade and Edmund Terry, before the English privy council illustrates these points of contention.<sup>5</sup> The presidency of Munster came in for particular criticism, as it acted as the regional representative of the central administration. Among a range of requests and demands relating to the power of the municipal council, the agents put forward issues relating to billeting of soldiers, the defence of the city and over the role of the presidency council of Munster. The response of the English privy council to each article provides a telling insight into the relationship of the municipal council to both the presidency and the London government.

Two points raised by the agents of Cork related to billeting soldiers within the city's franchises. The first called for all captains, officers and soldiers to pay for their 'lodging, candlelight, stables and all which they shall take'.<sup>6</sup> Billeting represented a recurring problem in town and crown relations, even outside of war conditions, as troops tended to be underpaid and unruly, with the burden of housing and feeding them falling to urban householders rather than the treasury. The custom at this point appears to have been that householders would pay for lodging, candlelight and fire, while the troops would use their pay to compensate for food and drink.<sup>7</sup> In practice, however, soldiers received pay irregularly, or not at all, and householders were left frustrated in seeking remuneration for provisions provided. From 1598 on the numbers of soldiers billeted on Cork increased greatly, as the city represented a potential location for a

---

<sup>5</sup> For the petition see *Calendar of the Carew MS, 1589-1600*, ed. J. S. Brewer and William Bullen (London, 1874), pp 393-4 and *Acts of the privy council of England, 1599-1600*, ed. John Roche Dasent (London, 1905), pp 341-7; for details on the agents of the city see, *CSPI 1599-1600*, ed. Ernest George Atkinson (London, 1899), p. 477.

<sup>6</sup> *Acts of the privy council of England, 1599-1600*, pp 345-6.

<sup>7</sup> *Calendar of the Carew MS, 1601-1603*, ed. J. S. Brewer and William Bullen (London, 1870), p. 445; *CSPI 1625-32*, ed. Robert Pentland Mahaffy (London, 1900), p. 498.

Spanish landing, and once crown troops landed in Munster, the city acted as a hub for the campaign at Kinsale.<sup>8</sup>

The second complaint centred on their behaviour, as the city requested that ‘souldyers offending other subjects to be dealt with by the Mayor and other civill magistrates by the due course of her Majesty’s common lawes, and not by their captaines nor in any other marshall course’.<sup>9</sup> Petitioners sought to obtain legal jurisdiction to try soldiers by civil law before the mayor or other civil magistrates, rather than entrusting their discipline to their commanders who were unsympathetic toward complaints of the municipal governments. Soldiers were notoriously difficult to prosecute for misbehaviour within cities, as their ambiguous legal position allowed them to avoid standing trial before the municipal government.<sup>10</sup> The role of disciplining soldiers fell under the purview of martial law, though their captains showed little inclination to use such means against them (see chapter four).

Cork’s agents in London made two demands regarding the defence of the city, relating to the ownership of two brass pieces of ordnance and to the creation of an armed force controlled by the municipality. The agents requested that ‘two brasse peeces’ be formally granted for the use of the municipal government, having been in the city since the reign of Henry VIII. The privy council denied this request, but allowed the pieces ‘to be borrowed at the discrecion of the Lord President’ of Munster.<sup>11</sup> Control over these two pieces of ordnance was a feature in the 1603 revolt, as the municipal government demanded the exchange of two inferior pieces held by them for the brass pieces held by the royal army. The Munster commissioners assented to the request, despite the prior ruling of the privy council, leading to fraught negotiations over their transfer during the revolt.<sup>12</sup> The second demand related to their desire to create an armed force of two hundred men, with the city proposing to pay one part, the crown the other. The privy council flatly denied the request, citing the cost incumbent in such an

---

<sup>8</sup> G. A. Hayes-McCoy, ‘Tudor conquest and counter-Reformation, 1571-1603’ in T. W. Moody, F. X. Martin and F. J. Byrne (eds), *A new history of Ireland 3: early modern Ireland, 1534-1691* (Oxford, 1991), pp 132-4.

<sup>9</sup> *Acts of the privy council of England, 1599-1600*, pp 345-6.

<sup>10</sup> Clodagh Tait, ‘Disorder and commotion: urban riots and popular protest in Ireland, 1570-1640’ in William Sheehan and Maura Cronin (eds), *Riotous assemblies: rebels, riots & revolts in Ireland* (Cork, 2011), pp 40-1.

<sup>11</sup> *Acts of the privy council of England, 1599-1600*, p. 345.

<sup>12</sup> *CSPI 1603-06*, pp 23, 51, 52.



endeavour.<sup>13</sup> The two requests form part of an overall desire on the part of the city to provide for their own defence, rather than relying on the royal garrison. The appeal to control their own arms had practical imperatives, as the city was vulnerable from attack from rebels inland and from a landing from the coast. The issue over defence also tied in to civic independence, as the city received its powers directly of the crown, not from the lord deputy and thus believed it ought to provide its own defence.

The agents of 1600 put forward one key grievance before the English privy council, one that encapsulated the thrust of all the others. The agents asked 'to have the Mayor for the tyme being made one of the Councell of that province', a request that was thought 'inconvenient' by the privy council.<sup>14</sup> This attempt at conciliation with the presidency recognised the shift in power in the area, as the presidency effectively usurped powers anciently granted to corporations. The timing of the petition was key, coming as it did just months after Tyrone's brief campaign in Munster in winter 1599-1600.<sup>15</sup> Tyrone's troops passed within miles of the walls of Cork without facing any harassment from the city, who pleaded their disability.<sup>16</sup> The privy council questioned the timing of their petition, as it appeared opportunistic and sought to use their loyalty as a means to secure concessions from the crown during a period of turmoil.<sup>17</sup> The 1603 revolt acted as a forum for the magistrates of Munster and south Leinster, allowing them to carry out reform that peaceful petitioning had failed to enact.

Other grievances emerged after the 1600 petition concerning defence and problems arising from the introduction of a debased currency in 1601. Correspondence prior to the revolt in Cork suggested some tension between the city and the army over the construction of Elizabeth and Haulbowline Forts in 1602. Following the battle of Kinsale, the government cited key weaknesses in the defence of Ireland, leading to the

---

<sup>13</sup> *Acts of the privy council of England, 1599-1600*, p. 345.

<sup>14</sup> *Ibid.*

<sup>15</sup> *CSPI 1600*, ed. Ernest George Atkinson (London, 1903), pp 17-19; Hayes-McCoy, 'Tudor conquest and counter-Reformation', *NHI*, iii, p. 129.

<sup>16</sup> William Meade to English privy council, 4 Mar. 1600, *CSPI 1600*, pp 18-19; crown forces did meet Tyrone and his allies, with both Tyrone's ally Hugh Maguire and commissioner of Munster Sir Warham St Leger dying in a chance encounter outside Cork's walls, Hayes-McCoy, 'Tudor conquest and counter-Reformation', *NHI*, iii, p. 129; Hugh Maguire and Sir Warham St Leger ([dib.cambridge.org](http://dib.cambridge.org)) (accessed Oct. 2012).

<sup>17</sup> *Acts of the privy council of England, 1599-1600*, pp 343-4; William Lyon, bishop of Cork and Ross, criticised the city magistrates over the affair, claiming the city either colluded with Tyrone or hindered the crown's effort to attack him, William Lyon, bishop of Cork and Ross to Cecil, 5 Mar. 1600, *CSPI 1600*, pp 19-20 and William Lyon, bishop of Cork and Ross to Cecil, [Apr.] 1600, *ibid.*, pp 134-5.

construction of two forts at Cork City, one at Castle Park in Kinsale and one at Galway. These forts aimed to protect the coast in the event of a second Spanish landing. The administration hired Paul Ive, a veteran fortifications expert, to oversee construction of the works. The location of Haulbowline Fort, on an island in the harbour, defended the city from attack from an enemy fleet and it could prevent shipping from reaching the city. A second project, Elizabeth Fort, by the south gate of the city, provided defence further inland. Carew described Elizabeth Fort as a necessary ‘bridle’ on the city, with the fort positioned on a promontory looking over the city (image one).<sup>18</sup>

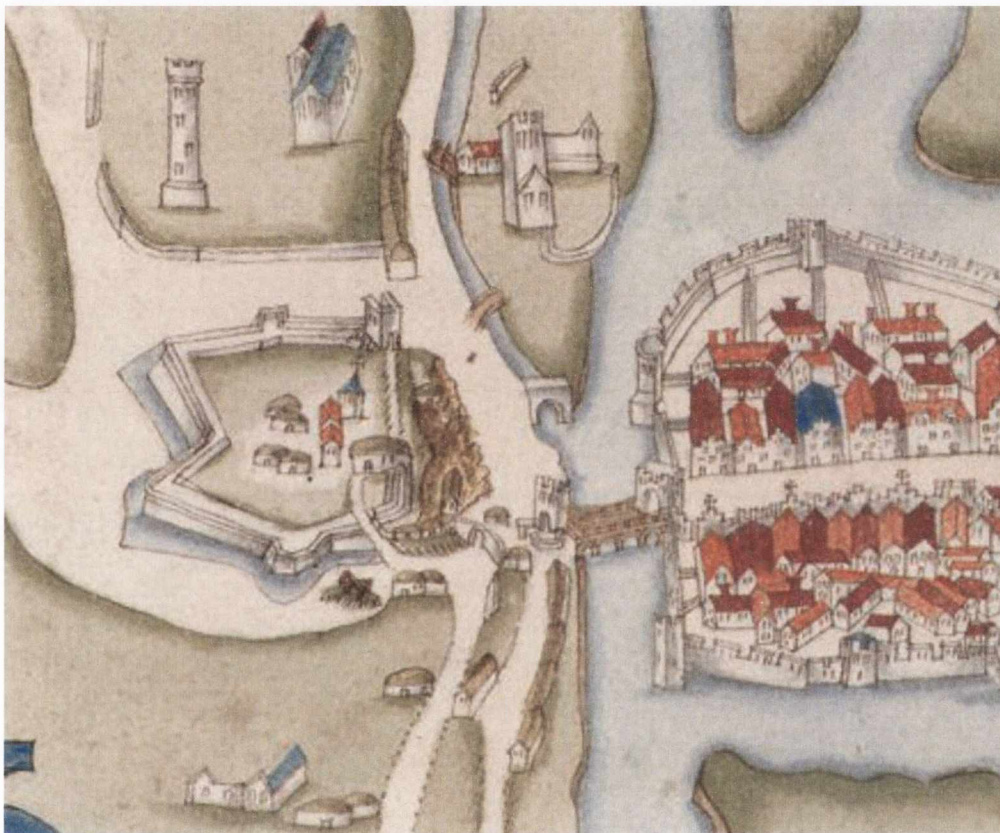


Image one: Detail from ‘Towne of Corke in Ireland’, TCD MS 1209/41, [c. 1601].

With the government chronically short on revenue, Paul Ive used soldiers, citizens and some workmen in the construction of these two forts and on the works at Kinsale. Carew described how Cork citizens aided the construction of Elizabeth Fort ‘even by constraint against their wills’ and declared that the upkeep would be shouldered by the city ‘who shall be tied to maintain it’.<sup>19</sup> Carew boasted that the construction of

---

<sup>18</sup> Carew, *1601-1603*, p. 226.

<sup>19</sup> *Ibid.*, pp 302, 334.



Elizabeth Fort cost nothing to the crown, which ought to have cost £1,500.<sup>20</sup> Paul Ive received £200 remuneration for work on Castle Park in Kinsale, with £400 of remaining costs appearing to have gone unsettled. Plans to charge this to the corporation of Kinsale in exchange for the return of their charter (forfeited by the town to Carew in January 1602) feature in correspondence, yet no evidence of such a payment remains.<sup>21</sup>

The death of Richard Hawett, deputy to the clerk of the works of Elizabeth Fort, Haulbowline and Castle Park, on 7 January 1603 reveals something of the underhand dealings of the government in the matter. Richard Hawett died after an attack within a mile of Cork city by 'three evil traitorous persons'.<sup>22</sup> The reaction of the council at Dublin is unusual, however, as they sought to gather swiftly documents of the deceased lest they should be 'embezzled by any lewd person'. The council sent Samuel Molyneux, clerk of the crown works, to Elizabeth Fort, Haulbowline and Castle Park to collect 'all such books, writings, or other papers that shall concern the receipt and issue of any sum or sums of money so had and defrayed for the said works'.<sup>23</sup> Hawett 'received in his lifetime...three several great sums of money by way of imprests' for his work on the forts and it appears that the government sought to hide these costs, from either the underpaid or unpaid workers, or the London government (as they were told not to use extraordinary pay for forts). Paul Ive's daughter, Margaret, petitioned Viscount Cranbourne in 1606 for payment of arrears due to her (now deceased) father for his work on the three forts, suggesting that he did not pocket these funds.<sup>24</sup> Samuel Molyneux later went on to earn a particularly poor reputation for mismanagement of funds, so it is conceivable that he pocketed money where it ought to have gone to under officers, engineers and labourers.<sup>25</sup> Whom this cover-up was designed to protect we may never know, yet we can be certain that workers from the city of Cork failed to receive remuneration for their labour.

---

<sup>20</sup> Ibid, p. 302.

<sup>21</sup> Carew to Cecil, 14 Jan. 1602, *ibid.*, p. 280; *ibid.*, p. 366.

<sup>22</sup> 'The council at Dublin to Sir George Carew', 24 January 1603, *ibid.*, p. 415. The murder of English men so close to the city is not unusual, as a letter of the bishop of Cork and Ross, William Lyon, had earlier declared that an English man 'dared not to goe a quarter of a myle out of any towne, but he shalbe murthered', William [Lyon], bishop of Cork and Ross, to Sir Robert Cecil, 15 Feb, 1600, TNA (UK) SP 63/207/1, *CSPI 1599-1600*, p. 475.

<sup>23</sup> *Carew, 1601-1603*, p. 415.

<sup>24</sup> *Salisbury Papers*, part XVII, p. 183.

<sup>25</sup> McLaughlin, 'The making of the Irish leviathon', pp 300-1.

One key grievance that precipitated revolt in April 1603 related to problems following the debasement of Irish coin. On 20 May 1601 the government introduced a new debased currency and declared that old Irish harps and English sterling would no longer be accepted. The new coins had 75% less precious metal content than the old harps, allowing the crown to mint a vast number of coins with the minimum outlay of precious metals.<sup>26</sup> This new currency aimed to both stop the flow of English sterling out of England and reduce crown expenditure on royal troops. As a policy, debasement of currency could only be successful if people were willing to accept these new coins at face value. The shoddy quality of the coins, and the fact that they contained such a small quantity of precious metal, ensured that merchants and retailers would only accept them at a significant reduction.<sup>27</sup> Prices soared as retailers effectively dictated the exchange rate and a black market operated that only accepted old harps or English sterling.<sup>28</sup> Many shops shut due to the exchange, as the proclamation forbade the sale of wares for anything other than the new coins. On 22 March 1603, Cork citizens pulled down the proclamation from the market cross in the centre of the city, in an act of defiance that presaged the more widespread revolt on news of the death of Elizabeth.<sup>29</sup> Mountjoy acknowledged the link between the revolt and the standard coin when he wrote that the ‘discontentment of the coin is infinite, and now unsupportable for it is generally refused...[and he]...knows no way to make it current where he goes but the cannon’.<sup>30</sup>

The privations experienced during the Nine Years War brought discontent all over the country, as the policies of the government came in for criticism. Mountjoy outlined grievances he observed in an insightful letter of 25 February 1603. Mountjoy listed the discontents ‘over all the Kingdome’ as

‘the feare of a persecution for Religion, the debasing of the Coyne, (which is grievous unto all sorts), and a dearth and famine, which is already begunne, and must of necessity grow shortly to extremity; the least of which alone, have

<sup>26</sup> Joseph McLaughlin, ‘What base coin wrought: the effects of the Elizabethan debasement in Ireland’ in Hiram Morgan (ed.), *The battle of Kinsale* (Dublin, 2004), pp 193-204.

<sup>27</sup> *Ibid.*; *CSPI 1603-1606*, p. 61, merchants were said to be ‘exceeding gainers by the rates they now sell their wares’, charging ‘five or six for one in the new moneys’ or refuse to accept it; *ibid.*, p. 70.

<sup>28</sup> *CSPI 1603-1606*, p. 70; McLaughlin, ‘What base coin wrought’, pp 193-7; Niall J. Byrne, ‘Jacobean Waterford: religion and politics 1603-25’ (Ph. D. thesis, UCC, 2001), pp 5-9.

<sup>29</sup> Byrne, ‘Jacobean Waterford’, pp 5-9; *Carew 1601-1603*, p. 446.

<sup>30</sup> Mountjoy to Cecil, 25 Apr. 1603, *CSPI 1603-1606*, p. 26.



beene many times sufficient motives to drive the best and most quiet estates into sudden confusion.’

Mountjoy feared that these grievances would ‘keepe all spirits from setling, breed new combinations’ and ‘even stirre the Townes themselves’ into the arms of ‘forraigne aid’.<sup>31</sup> The Dublin government frequently stressed the possibility of a combination of the towns and the Gaelic Irish, as this represented the greatest threat to stability in Ireland. Only Youghal, Kilmallock and Kinsale showed any inclination to support the rebels in the tumultuous years of Elizabeth’s reign, as the vast majority supported crown efforts to put down revolt.<sup>32</sup> The views expressed by those in protest in April and May 1603 are important to analyse, as they allow us to see what drove people to rebel and why at this time. Mountjoy accurately expressed the grievances of those in revolt generally, which is evident through an analysis of the actions of protestors. While Mountjoy portrayed the general lay of the island, local concerns also played a role.

Mountjoy’s letter revealed his belief that the Old English did not want the war to end; such was their fear of post-war alterations. He argued that the ‘Nobility, Townes and English-Irish, are for the most part as weary of the warre as any’ but are unwilling to have it ended ‘for feare that uppon a peace, will ensue a severe Reformation in Religion’.<sup>33</sup> While the war continued, the government pursued a cautious stance in religious affairs, as they feared a coercive approach could push the Old English into the arms of Tyrone and the Spanish. The administration attempted to press the aldermen of Dublin to attend church in January 1603, an incident that served as a harbinger for the later enforcement campaign under Chichester (chapter three). Cities also feared a challenge to their chartered liberties, which had come under scrutiny in the 1590s from government officials obstructed by the powers of the towns.<sup>34</sup> While some trepidation existed over their fate in a post-war Ireland, the crippling effect of billeting and the dearth of resources caused by war are likely to have convinced the majority of the need for peace.

---

<sup>31</sup> Fynes Moryson, *An itinerary containing his ten yeeres travell through....Germany, Bohmerland....and Ireland* (4 vols., Glasgow, 1907-08.), iii, pp 274-5.

<sup>32</sup> Tait, ‘Disorder and commotion’, p. 28.

<sup>33</sup> Moryson, *An itinerary*, iii, pp 274-5; see also Graham Kew (ed.), *The Irish sections of Fynes Moryson’s unpublished Itinerary* (Dublin, 1998), p. 52.

<sup>34</sup> *CSPI 1592-96*, p. 10.

Writing years after the event, the Catholic soldier and author Philip O'Sullivan Beare criticised the timing of the revolt, coming as it did a couple of weeks after the surrender of Tyrone at Mellifont. He bemoaned their dallying, writing that had they done it before, 'when the Irish chiefs and entire Catholic part were flourishing, the English would have been driven out of the whole realm'.<sup>35</sup> The Old English towns, however, completely rejected Tyrone's professed cause and it is unlikely they would have risen had he remained out in rebellion. While Tyrone stayed out, the Old English towns remained passive, as any hint of sympathy for the rebels would have resulted in severe punishment. Contemporaries, both within and without the administration, recognised the impact of the end of the Nine Years War. Protestant commentators lauded the defeat of Tyrone and effused over the impact that this would have on the future of the administration of Ireland. The victory represented a second conquest, with a new mythology created to reflect this. Sir John Davies, Fynes Moryson and Sir Henry Docwra remarked on the importance of this victory and the ways to consolidate the military superiority, or how to 'pollishe what wee have ruff hewn' as Mountjoy wrote.<sup>36</sup> The 1603 revolt encapsulates the anxiety felt by the Old English and provides a unique insight into how citizens viewed their world at this important period of transition. Once the queen died all commissions were void, allowing a view into who held true power in towns and cities – was it the lord deputy, the presidency, the municipal council or the clergy?

While both Cork's agents in 1600 and Mountjoy cited individual points of concern in the country, all of the grievances outlined formed part of a greater overriding issue – the threat of civic liberties by a centralising administration. During the revolt, citizens took control over churches, celebrated mass in public, armed themselves and rejected the power of commissioners of Munster and other crown officials. All of these actions grew out of dissatisfaction with the reduced independence of municipal liberties and anger toward the influence of the presidency of Munster and the lord deputyship. Contemporary accounts differ on their treatment of the origins of the revolt, with some viewing the revolt as a means to challenge specific grievances, others seeing the protest as part of a larger issue. Mountjoy stressed the inherent differences between the revolt

---

<sup>35</sup> Philip O'Sullivan-Beare, *Ireland under Elizabeth: chapter towards a history of Ireland in the reign of Elizabeth Being a portion of the history of Catholic Ireland by Don Philip O'Sullivan Bear*, trans. Matthew J. Byrne (Dublin, 1903), p. 178.

<sup>36</sup> Mountjoy to Cecil, 25 April 1603, TNA (UK) SP 63/215/38 (*CSPI 1603-1606*, p. 25).



in Limerick, where he wrote that ‘we do not hear of any great disorder but in their erection and frequenting of the mass’, and Cork who were ‘in as high rebellion as can be’.<sup>37</sup> Sir Geoffrey Fenton, secretary of state, doubted the sincerity of the spiritual facet of the revolt, writing that the ‘barbarous insolencies of the towns are made by them affairs of religion; but they really are a quarrel of state’.<sup>38</sup> Sir Charles Wilmot, governor of Cork, saw spiritual and temporal causes fuse in Cork, where citizens fought for their religion ‘which they all solemnly vowed by sacrament to maintain with their lives and to bury themselves within their walls if they might not have it’.<sup>39</sup> An important article by James Murray and Ciarán Brady stressed the importance of not separating political and religious action. They showed how the lord deputy, Sir Henry Sidney, saw religious and political reform as part of the one initiative, and in his actions, he pursued both.<sup>40</sup> Likewise, in the urban areas of Munster and Leinster, it is important to view the actions of magistrates and citizens in secular and spiritual affairs as part of the same. In taking the munition storehouse or in reconsecrating churches, citizens essentially promoted the same cause, that of civic liberty.

The advertisement of the death of Queen Elizabeth, on 11 April, served as the spark for the revolt, as urban communities came together to celebrate their Catholic faith and reinforce their civic bonds. Mountjoy sent Sir George Thornton to Cork and Sir Richard Aylward to Waterford to notify the cities of the death of the queen and to deliver the proclamation of James as king. The refusal of both to do so marks the start of the revolt. A broad pattern of action is discernible across the region, as news spread of how different communities reacted to the monarch’s passing. Priests, sometimes accompanied by magistrates, led large crowds to principal churches within cities and towns and took possession of them. After entering the Cathedral Church of the Holy Trinity in Waterford, James White, vicar apostolic of Waterford and Lismore, described it as ‘a pigstye, a receptacle of filth and impurities’ that needed to be ‘cleansed’. White

<sup>37</sup> Ibid., pp. 35, 36, 54; Moryson, *An itinerary*, iii, p. 342; *CSPI 1603-1606*, p. 36.

<sup>38</sup> *CSPI, 1603-1606*, p. 47; commentators similarly downplayed the confessional element of Tyrone’s rebellion, as a letter from the Bishops of Dublin and Meath described the late rebellion as displaying the ‘pretence of holy and catholic religion’, while really being fought ‘upon private discontents’, *CSPI, 1603-1606*, p. 58; Fynes Moryson reported that Robert Devereaux, second earl of Essex, told Tyrone that ‘thou carest as little for religion as my horse’, Moryson, *An itinerary*, ii, p. 75.

<sup>39</sup> Ibid., p. 48.

<sup>40</sup> Ciarán Brady and James Murray, ‘Sir Henry Sidney and the Reformation in Ireland’, in Crawford Gribben and Elizabethanne Boran (eds), *Enforcing Reformation in Ireland and Scotland* (2006), pp 14–39.



detailed how, before entering this church, he performed the 'rite of lustration', a ceremonial act designed to sanctify the building before entry.<sup>41</sup> This 'cleansing' involved erecting new altars, blotting out the Ten Commandments and painting over them and removing bibles and books of common prayer.<sup>42</sup> In terming the church as a 'pigsty' and a 'recepticle of filth', White justified his decision to seize it for the Catholic Church, while condemning its upkeep under the Protestant clergy.

With this process completed, the priest typically led the entire town to celebrate mass within, with large crowds in attendance. In a number of towns the priest exacted an oath of the citizens to defend the Catholic faith. Commissioners in Cork reported that 'the whole towne have made an association' and that they 'receeeded the Sacrament to spend theire lyves and estates in defence of this theire profession'.<sup>43</sup> Mountjoy recorded the words of an oath administered by White in Waterford. At first, the oath declared that 'they should be true to the Pope, and maintain the Romish religion with their goods and their lives', yet they changed this to 'be true to God and the King, to maintain the Catholic religion with their goods and life', reflecting the Old English adage to be both 'firm Catholics' and 'loyal subjects'.<sup>44</sup> White recorded that this 'solemn oath they confirmed by kissing the crucifix'.<sup>45</sup> Large public processions further strengthened the link of civic unity and Catholicism, as a priest, with the crucifix held aloft, led magistrates and citizens in a perambulation of the walls. The involvement of the magistrates in some of the towns is important as it gave legitimacy to the actions of the priests and citizens. In the tradition of early modern protest in Ireland, the active participation of members of the magistrate usually ensured that none would face punishment, as the municipal council had legal jurisdiction over their own citizens.<sup>46</sup>

---

<sup>41</sup> James White, 'The Irish Catholics after the Death of Queen Elizabeth' in *Duffy's Irish Magazine* (Nov. 1848), p. 272. James White, or Doctor White, was vicar apostolic of Waterford and Lismore at this time. He acted as a leading figure during the revolt and remained in Ireland until late September 1603, when he fled Ireland for Bordeaux, and on to Rome. The tract quoted is dedicated to Pope Clement VIII in a letter of 25 July 1604.

<sup>42</sup> Fynes Moryson, *A history of Ireland from the year 1599 to 1603* (2 vols., Dublin, 1735), ii, pp 317, 322; White, 'The Irish Catholics after the death of Queen Elizabeth', p. 272; Farmer, *Chronicles of Ireland*, p. 530; *CSPI 1603-06*, pp 19-20, 34.

<sup>43</sup> *Lismore papers*, vi, pp 56-7

<sup>44</sup> *CSPI 1603-06*, p. 34; Alan Ford, "'Firm Catholics" or "loyal subjects"? Religious and political allegiance in early seventeenth-century Ireland' in David George Boyce, Robert Eccleshall and Vincent Geoghegan (eds), *Political discourse in seventeenth- and eighteenth-century Ireland* (Basingstoke and New York, 2001), pp 1-31; on this oath, see also White, 'The Irish Catholics after the Death of Queen Elizabeth', p. 274.

<sup>45</sup> White, 'The Irish Catholics after the Death of Queen Elizabeth', p. 274.

<sup>46</sup> Tait, 'Disorder and commotion', pp 39-43.

These acts not only reinforced the bonds of civic unity within a town, they created a common feeling across the region as a number of towns acted in this way. According to White, after word of his deeds spread, ‘messengers and deputations’ from other towns and cities flocked to Waterford ‘begging [him] to go and reconcile their desecrated churches’.<sup>47</sup> White personally consecrated churches in Waterford, Clonmel, Kilkenny, Ross and the monastery of St Dominic in Cashel, and invested others with the faculties to do so in other towns.<sup>48</sup> It appears the spark for the reconsecration of churches came from Waterford, yet one account blamed the ‘insolencies of Cork [who] have infected all the neighbouring cities’.<sup>49</sup>

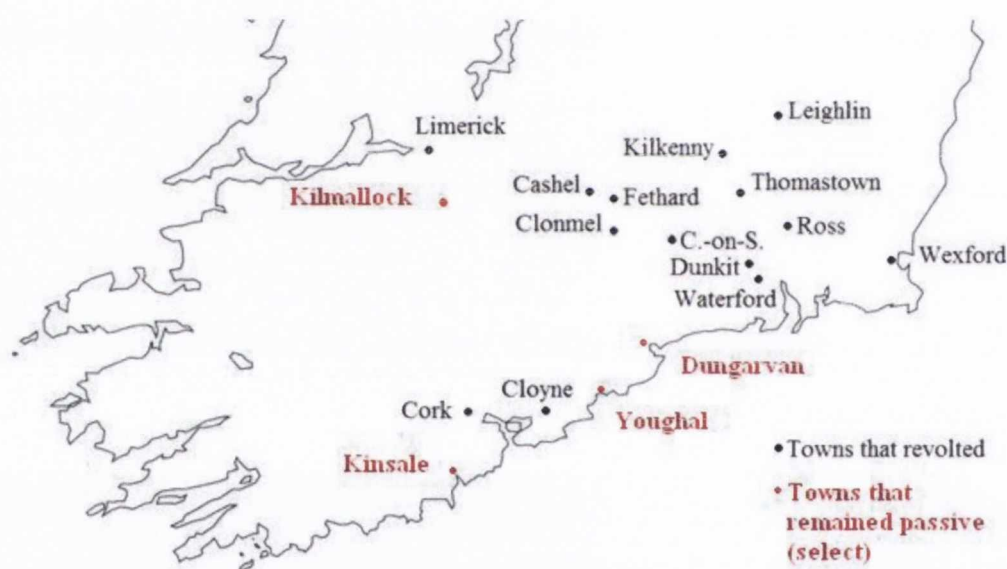


Image two: Map of the spread of the 1603 revolt.

A remarkable letter, of 11 April 1603, survives, in which the magistrates of Cork asked the mayor of Waterford how they responded to the order to proclaim the new king.<sup>50</sup> The Dublin government feared such conspiring between Old English towns, as their precarious position relied on the continued loyalty of corporate towns, Old English

<sup>47</sup> White, ‘The Irish Catholics after the Death of Queen Elizabeth’, pp 271-2.

<sup>48</sup> Ibid., pp 273-4.

<sup>49</sup> *CSPI 1603-06*, pp 22, 50-1, the municipality in Cork were reported to have trusted the belief of the municipality of Waterford above that of the ‘certificate of the Lord Deputy and Council’, *ibid*, pp 50-1.

<sup>50</sup> Ibid., pp 15-16.



lords and gentlemen of the Pale. The disaffection of such a large body of Old English towns represented a new departure, as previously the administration dealt with errant towns such as Youghal, Kilmallock or Kinsale in isolation after their collusion (or alleged collusion) with rebels during Elizabeth's reign. None of these three towns revolted in 1603, though their neighbours rose almost in unison (see image two), presumably due to a fear of repressive government action if they had done. By common action, or forming a 'general combination', as a number of government commentators termed it, towns aimed to avoid crown punishment. Commissioner of the Munster presidency, Richard Boyle, recognised this, writing that the citizens of Cork: 'now only hope to escape by drawing all other corporations to be equally culpable with them; so that the King must either punish all, or pardon all; whereas, if they only had been faulty, it had been easy for his Majesty to make them an example'.<sup>51</sup> By combining, cities and towns demonstrated their ability to organise in the face of a perceived threat, providing the government with a reminder of the danger of pursuing policies that alienated this important body in the polity.

This drive to create a united civic community did so at the expense of the small Protestant populations within them. In reconsecrating churches, crowds used a degree of force in order to wrest control from the resident Protestant clergy. Protestant commentators reported that people 'entered by force into the churches' by either 'breaking church doors' or by 'forcibly depriving' the sextons of their keys.<sup>52</sup> Public acts of regeneration within the community, such as oath-taking, the celebration of mass and processions disrupted the harmony of Protestant and Catholic relations in the south of Ireland. White claimed that he cautioned against 'tumult and disorder' and forbade 'any person to carry arms, or injure, or insult or assail in any manner any of those who professed a different faith', yet crowds did not heed this advice, if he indeed did urge calm.<sup>53</sup> In Waterford, a Captain Patrick Strange entered into the house of the chancellor of the Cathedral Church of the Holy Trinity and 'brought forth the all the bybles and Bookes of Comon Prayer and other dewinitie bookes and made a fiar at the crosse in the churche yeard whearin he burned all those bookes to ashes'.<sup>54</sup>

---

<sup>51</sup> Ibid., p. 23.

<sup>52</sup> Sir Nicholas Walsh to Cecil, 16 Apr. 1603, *CSPI 1603-06*, p. 19; Chichester and council to English privy council, 4 May 1603, *ibid.*, p. 34.

<sup>53</sup> White, 'The Irish Catholics after the Death of Queen Elizabeth', p. 272.

<sup>54</sup> Farmer, 'Chronicles of Ireland', p. 530.



Similarly, in Cashel, in one of the most violent incidents, a priest, 'commanding all the People', tied a Protestant goldsmith to a tree, 'threatening to burn him and his heretical Books'. The crowd subsequently set fire to some of the books while he was 'in continual Fear to be burned' himself. The incident ended when a townsman admonished the priest and released the goldsmith 'after he had stood so bound to a Tree some six Hours'.<sup>55</sup> The desire to remove all signs of Protestantism in the town necessitated a certain level of force, as crowds forced entry into churches, broke altars, cleaned images and burned books. The fervour that this renewal of Catholicism brought also caused Protestants to feel intimidated, as crowds targeted them for their profession of a contrary faith and for their association with the Munster presidency and Dublin administration. The large public processions led by priests had a militant edge to them. Richard Boyle detailed one such procession in Cork, where what he termed a 'Sublegate from the Pope and a number of shaven preestes' came to the town, and 'being gethered together, they had the Crosse carried like a Standard before them throughout the streets'.<sup>56</sup> Cork citizen Thomas Fagan reputedly forced a Sir George Herbert to put off his hat and do reverence to the cross, which Fagan carried in procession.<sup>57</sup> Boyle's description of the cross being carried like a standard accorded with James White's account, where he wrote that people walked in procession under the crucifix in the same manner that the crown army marched under the banner of St George.<sup>58</sup>

The 'feare of a persecution of religion' represented one of the key grievances of those who acted in April and May 1603. Under Elizabeth, the practice of Catholicism was forbidden by statute, with attendance at Protestant service compulsory and fines laid out for recusancy. In practice, Elizabeth effectively allowed the private worship of Catholicism in houses and permitted the maintenance of priests. The fear of a post-war change to de facto toleration appears to have pushed many to express their religious fervour openly, as a plea for liberty of conscience under James. A number of Catholic magistrates during the revolt stressed that their open celebration of the mass merely reflected what everyone had been doing for years in private. All fourteen towns that

<sup>55</sup> Moryson, *A history of Ireland*, ii, pp 342-3.

<sup>56</sup> *Lismore papers*, vi, pp 56-7

<sup>57</sup> Smith, *The antient and present state of the county and city of Cork*, ii, p. 94.

<sup>58</sup> White, 'The Irish Catholics after the Death of Queen Elizabeth', pp 296-7.

rose showed a desire to express their religious fervour, to, in the words of James White, 'profess it openly and boldly in the face of man and make it known to the world'.<sup>59</sup> White wrote that the death of the queen 'came like a thunderbolt on all men' and forced people to 'confess their own mortality....and consequently make provision of all things necessary to obtain salvation in the other life'.<sup>60</sup> This open flaunting of the laws established under Elizabeth alerted the Dublin government who feared any overt expression of Catholicism. Mountjoy expressed his concerns repeatedly in letters to the corporate towns of Cork, Waterford, Limerick and Wexford, where he stated that he 'mean[t] not to search into your consciences' but he could not ignore 'the publick Breach of his Majesty's Laws'.<sup>61</sup> The government viewed public and private worship very differently, as public expression flaunted statute legislation against Catholicism and the authority of the administration. The basis of power of the Dublin government increasingly relied upon the steadfast backing of a small cadre of New English Protestants, coupled with compliance by the majority Catholic population.

While internal pressures were an important consideration in the sudden public expression of Catholicism, there were significant outside influences, as the Irish clergy had strong links to the continent and to an active counter-reforming agenda. Thomas O'Connor outlined the structure of the Catholic Church in Ireland in the late 1500s, concluding that the church had drawn compromises, neither totally supportive of the state nor the papacy.<sup>62</sup> O'Connor wrote that by the 1590s, 'the language of the European religious wars was more and more regularly grafted on to local grievances', with the college networks, the Jesuit mission and the passing of men and information between Catholic communities increasing the spread of these ideas.<sup>63</sup> Mountjoy's servant, Humphrey May, drew this connection explicitly during the revolt, writing that towns were 'seduced by the wickedness of popish priests, whose turbulent ends, have set all Christendom on fire'.<sup>64</sup> Waterford had a long history of sending clergy abroad, being termed, somewhat crudely as, 'the sink of all filthy superstition and idolatry', or

---

<sup>59</sup> Ibid., p. 271.

<sup>60</sup> Ibid.

<sup>61</sup> Fynes Moryson, *An itinerary*, iii, p. 323.

<sup>62</sup> Thomas O'Connor, *The Irish Jansenists, 1600-70: religion and politics in Flanders, France, Ireland and Rome* (Dublin, 2008), p. 27.

<sup>63</sup> Ibid, p. 32.

<sup>64</sup> *CSPI 1603-1606*, p. 42.



more affectionately, as *Parva Roma* meaning 'Little Rome'.<sup>65</sup> Some of the chief actors in Cork and Waterford during the revolt either had, or went on to have, strong connections with Catholicism on the continent. Lieutenant Christopher Murray of Cork previously served the Catholic League in France, the recorder of Cork, William Meade, became a pensioner in Spain after his flight from Ireland and the vicar apostolic of Waterford and Lismore James White was in Rome by July 1604 to advertise the Pope of the fate of Catholics in Ireland.<sup>66</sup> Mountjoy feared continental connections, as he declared that 'iff they have donn this with no intelligence with Spayne thear is no great danger in the matter'.<sup>67</sup> Mountjoy feared a military connection with Spain more than religious interaction, yet recognised that the two could bleed together creating a significant threat to the recently-won conquest.

While a broad narrative of the revolt can be detected, each town experienced the revolt differently, owing to a variation in internal and external pressures. To understand how these pressures influenced the nature of protest, Cork will be isolated as a case study. Sources for the revolt in Cork are relatively rich, as the presidency commissioners wrote frequent reports to Dublin administrators of the progress of the tumult, and a post-revolt enquiry analysed in detail the actions taken by the magistracy and its citizens.

While the actions in Cork descended into open conflict between citizens and crown soldiers, initially the city used two non-violent means – prevarication and negotiation. The first signs of protest in Cork date to 22 March when the municipal government refused entry to Wilmot's troops and the citizens pulled down a proclamation on coinage. The next recorded incident came on 11 April when a group of commissioners brought directions from the lord deputy declaring James as king. Rather than proclaiming the new king immediately, the mayor and recorder insisted on discussing it with the rest of the municipal council in the tholsel court. They requested thirty minutes to discuss the issue and asked the presidency delegation to wait for their answer at the high cross. After their failure to meet this deadline, the government delegation sent

<sup>65</sup> Quote by William Lyon, bishop of Cork and Ross in 1596, as cited in Walton, 'Church, crown and corporation in Waterford', pp 189, 190.

<sup>66</sup> *Lismore papers*, ed. A.B. Grosart (10 vols., London, 1886-8), vi, second series, p. 63; John McCavitt, *Sir Arthur Chichester: lord deputy of Ireland, 1605-16* (Belfast, 1998), pp 181-2; White, 'The Irish Catholics after the Death of Queen Elizabeth', pp 270-1.

<sup>67</sup> Mountjoy to Cecil, 25 Apr. 1603, TNA (UK) SP 63/215/38 (*CSPI 1603-1606*, p. 25).



Captain Flower to the tholsel court to receive their answer. When he did not return, the delegation sent Richard Boyle. The municipal council repeatedly rebuffed messengers sent by the delegation until at last, on the fifth attempt, the municipal council spoke with Boyle, Justice Comerford, Captain Morgan and John Walley, while the remainder of the delegation spent time 'walking up and down' at the high cross.<sup>68</sup> After over two hours of delaying the presidential officers, the municipal council refused to proclaim the king and denied the presidency's request to do so themselves in the town.

They used a range of arguments to support their decision, from a supposed clause in their charter, to uncertainty over who the true heir to the English crown was and finally that they required time to mark the king's accession with the appropriate solemnity.<sup>69</sup> The Protestant commentator William Farmer argued that both Cork and Limerick showed 'no great haste' in proclaiming the king 'till they shold see what the cittie of Waterforde wold doe, for they meant to do the like'.<sup>70</sup> The mayor and recorder of Cork used these tactics to demonstrate that the presidency had no jurisdiction within their liberties and that the municipal council would make these decisions, not outside authorities. The municipality repeated these tedious delaying tactics during the revolt in a dispute over the passing of victuals from within the city walls to the army without. The mayor, the water bailiff and the captain of the watch all appear to have been in collusion to ensure that Hugh Powell, minister of the victuals, would not be able to find the keys to open the water gates to let boats pass to Haulbowline or to Wilmot's camp outside the city.<sup>71</sup> Non-cooperation of this kind halted the ordinary working of the commissioners and the ministers of the victuals within the city without resorting to violence or open intimidation.

The council kept lines of communication open with the presidency and the lord deputyship, however, as they attempted to come to an accommodation with outside authorities. The council kept in touch with the presidency through Sir George Thornton, who remained within the city until 28 April, and Sir Charles Wilmot, who remained outside the city walls at Shandon Castle. The city council kept in correspondence with

---

<sup>68</sup> *Lismore papers*, vi, pp. 43-9; *CSPI 1603-06*, p. 51

<sup>69</sup> *Calendar of the Carew manuscripts preserved in the archiepiscopal library at Lambeth, 1515-1624*, eds. J.S. Brewer and W. Bullen (6 vols., London, 1873), vi, p. 8; *Lismore papers*, vi, pp 47, 48.

<sup>70</sup> Farmer, 'Chronicles of Ireland', p. 531.

<sup>71</sup> *Lismore papers*, vi, pp 68-9.

Mountjoy throughout, as they attempted to justify their actions, while he tried to persuade the city to cease the public celebration of mass and lay down their arms. The presidency and the municipal council remained in close contact concerning major points of contention in the city, such as ownership of Skiddies Castle, which housed munitions and victuals belonging to the presidency. The city used the release of victuals as a bargaining chip with the presidency, demanding the return of their brass ordnance in return for victuals. The store remained within the franchises of the city, yet the officers who managed it were employed by the crown army. This led to tensions within the city, as presidency officers struggled to maintain control over the store in the face of municipal aggression.

Mountjoy himself did not know who had power over the store, as a letter to Wilmot revealed. Mountjoy wrote that 'If your Munition and Victuals be in the Power of the Town I know not what to say', before he advised Wilmot to remove what he could from the city.<sup>72</sup> Just prior to the capture of Skiddies Castle by the city, a Thomas Fagan tried to persuade the clerk of the munitions, Michael Hughes, to willingly submit to the city, arguing that 'it were as good for him to serve that city as it were to serve any other'.<sup>73</sup> The city similarly tried to persuade Mountjoy into allowing them to take control over Haulbowline Fort. They sent their former mayor, John Meade (brother to recorder William), to Dublin to negotiate on behalf of the city and to advertise the Dublin government of the abuses aimed towards their corporation.<sup>74</sup> As of 24 March, the as-yet unfinished fort had no constable and the mayor of Cork offered to undertake its 'safe keeping' and pay for its upkeep.<sup>75</sup> Mountjoy's reply of 25 April rejected this plea. He wrote that he found the city 'so little able to govern the Inhabitants of [their] Town in due Obedience to his Majesty and his Laws' and rejected their offer until he 'shall see a better Reformation of these your Proceedings'. He compared the recent actions of the citizens of Cork with the 'true Integrity and forward Resolution of the King's Soldiers', who were 'fitter than you to have Places of so great trust committed to their Guard and Custody'.<sup>76</sup> The wording of this letter epitomises one of the key grievances of Old English corporations in early modern Ireland; as the state centralised, power in the

---

<sup>72</sup> Moryson, *A history of Ireland*, ii, p. 328.

<sup>73</sup> *CSPI 1603-06*, p. 51.

<sup>74</sup> *Ibid.*, p. 28.

<sup>75</sup> *Ibid.*, p. 28; Moryson, *A history of Ireland*, ii, pp 321, 333.

<sup>76</sup> Moryson, *A history of Ireland*, ii, p. 333.



localities percolated down through presidency councils and garrisons, limiting the central role that corporate towns once held.

Presidency commissioners responded in kind, as they employed non-violent means where possible. The army remained outside the city walls for the entire period of the conflict, preferring to besiege the city rather than risk storming it. Wilmot managed troops outside the walls, in the suburbs, while Thornton negotiated for a settlement within the walls. Inside the walls, the municipal government held sway, the army holding total control outside. The mayor and recorder of Cork complained of Wilmot's tactics, as he surrounded the city with troops in response to their refusal to allow troops to enter the city in groups larger than six.<sup>77</sup> In reaction to the refusal of the municipality to allow victuals to leave the city, the army in turn blockaded the entry of goods to the city by using Haulbowline Fort.<sup>78</sup> The fort lay at a narrow section of the Lee estuary, restricting the passage of shipping to and from the city (see image three). On 29 April, the commissioners 'made stay of two pynnances at the fforte of halebowlinge, laden with wyne & other commodities belonging to merchants within that towne' and informed the mayor that they had done so. They offered to allow shipping to pass only if the mayor would 'suffer them to have the Kinges victualls and municons in stoare there oute of the City'.<sup>79</sup> This tactic demonstrated the effectiveness of obstruction as a form of defence and it illustrated the power that Haulbowline Fort, and garrisons in general, could hold over corporate towns. By controlling Haulbowline, the army could effectively punish the city for disloyalty, whereas previously chartered towns held virtual autonomy from the lord deputy and the Dublin government.

---

<sup>77</sup> Report of Sir George Thornton, Gerald Comerford, Sir Dominick Sarsfield and Richard Boyle in 'A brief declaration of some part of the treasons, offences and misdemeanours committed in Cork', 14 May 1603, *CSPI 1603-06*, p. 53.

<sup>78</sup> *Lismore papers*, vi, p. 63.

<sup>79</sup> *Ibid.*



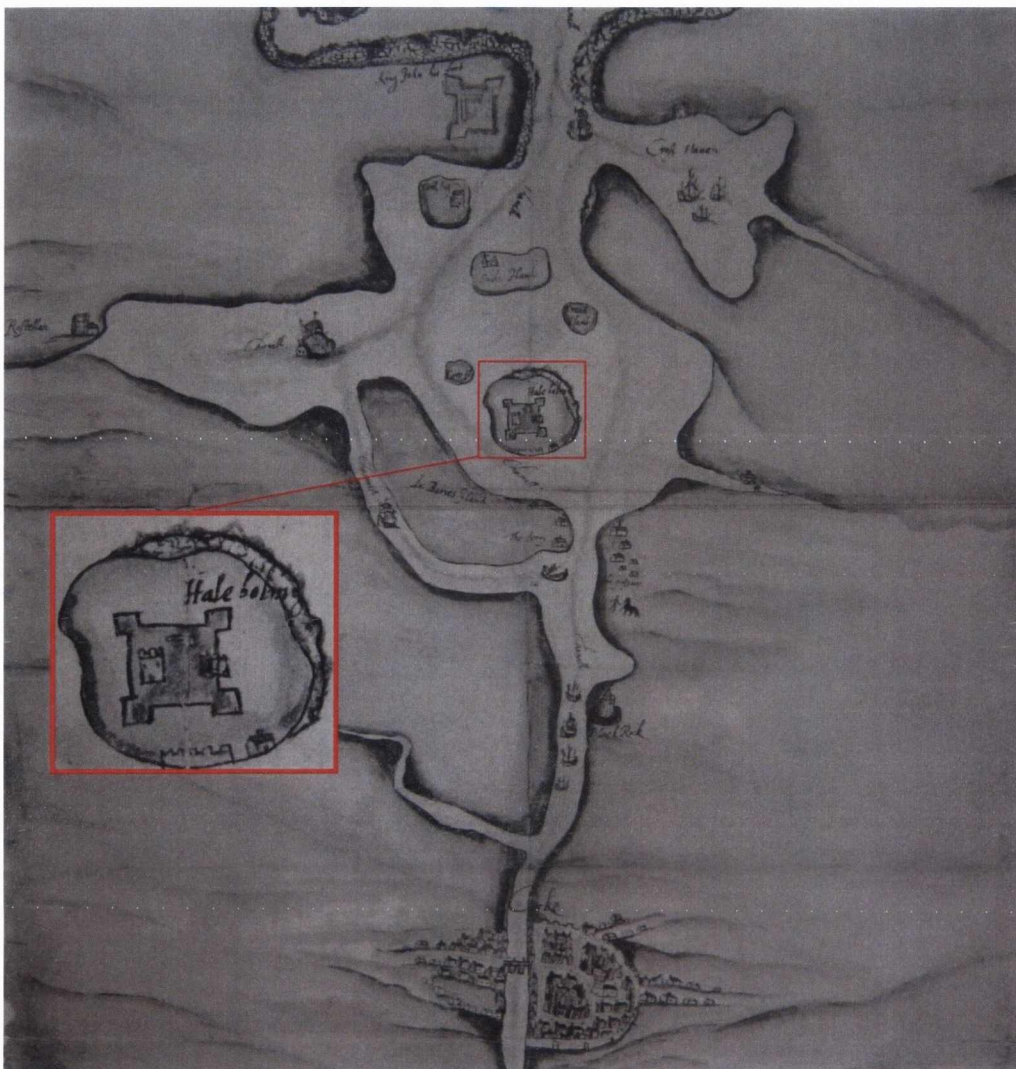


Image three: ‘The Mapp of ye River of Corke with the 2 fforts of Kinge John and Haleboleing’, [c. 1625], from G. A. Hayes-McCoy (ed.), *Ulster and other Irish maps, c. 1600* (Dublin, 1964), image xxi.

The announcement of the queen’s death of 11 April rendered commissions of the presidency council void. From this period until 23 April, the commissioners Sir Charles Wilmot, Sir George Thornton, Richard Boyle and chief justice William Saxey operated without official sanction. The commissioners in Munster had recent experience of attempting to carry out their duties without commissions. The president of Munster, Sir George Carew, left the province in late March 1603 without outlining the powers of his commissioners, weakening their position in disputes with municipal councils. On 22 March, Wilmot pleaded to the lord deputy to renew their commissions, writing that ‘otherwise we shall be but constables in a mayor[’s] town, obeyed by the vulgar, but

contemned by the better sort'.<sup>80</sup> Their new commissions arrived on 24 March, though these proved short-lived, as they again expired on 11 April when word reached Cork of the queen's death.<sup>81</sup> Without their commissions, neither Wilmot nor Thornton appear to have exhibited any great power over citizens, though government officials and army employees continued to obey their orders. The municipal council ruled over the citizenry and exhibited a measure of control over their actions throughout. From the outset of the dispute, the recorder William Meade, displayed a confrontational approach to the commissioners, in both word and deed.

On 11 April, as seven leading commissioners testified, Meade declared that though he would not break out, there were many in the town that were ready to do so.<sup>82</sup> On the same day, the city had 'drawn into armes'<sup>83</sup>, and by the 19 April, reports declared that Catholics of the town began 'to abuse thenglishe and to offer hourelie matter of quarrell'.<sup>84</sup> By the 24 April, tensions within the town forced the lord presidents' wife, Lady Joyce Carew, to leave the city for Shandon Castle, just outside the city walls.<sup>85</sup> By this point, Sir George Thornton received his commission from the lord deputy and a minimal amount of traffic could pass in and out of the town. The renewal of his authority, however, did not calm tensions within the city, as this uneasy peace broken irrecoverably on 28 April.

Conflict flared up over who controlled the store of victuals and munitions in Skiddies Castle, with correspondence divided over how this dispute escalated to open conflict between soldier and citizen. Mayor Thomas Sarsfield claimed that Sir Charles Wilmot (fresh from receiving a renewal of his commission), 'Complotted the surprisall of this Cittie by possessinge of Skddys Castle within the same', forcing the city into finally taking the contents of the store into their own possession.<sup>86</sup> On 28 April a group of citizens, led by Lieutenant Murroghe and Thomas Fagan stormed Skiddies Castle and

---

<sup>80</sup> Wilmot to Mountjoy, 22 Mar. 1603, *Carew 1601-03*, p. 445; Sir George Thornton pleaded on 12 Apr. for a renewal of their commissions, writing that 'we may not contynewe here inferior to the Maior of Corcke as he nowe vaunteth we are', Thornton's narrative on the revolt in Cork, *Lismore papers*, vi, p. 53.

<sup>81</sup> Wilmot and Thornton to Carew, 24 Mar. 1603, *CSPI 1603-06*, p. 2.

<sup>82</sup> *CSPI 1603-1606*, p. 51.

<sup>83</sup> *Lismore papers*, vi, p. 48, confirmed on p. 53.

<sup>84</sup> *Ibid.*, vi, p. 57.

<sup>85</sup> *CSPI 1603-1606*, p. 43, the exact date of her departure is not clear, but she had certainly left by 24 Apr. at the latest.

<sup>86</sup> Mayor Thomas Sarsfield to Cecil, 26 May 1603, TNA (UK) SP 63/215/66 (*CSPI 1603-06*, p. 56).



distributed a 'great part' of the munitions amongst the citizens.<sup>87</sup> John Walley, a clerk of the presidency council, testified that 'a sudden uproar arose in the town and their priests noised a report abroad that the town was betrayed by Sir Charles Wilmot, putting a guard into Skiddies Castle, there the munition was placed; and so incited the townsmen to arms'.<sup>88</sup> Wilmot and Thornton found the magistrate and the clergy equally culpable, omitting any mention of a rumour that Wilmot planned to take the castle. They wrote that the city council, 'without any occasion or Cullor or excuse', gathered together the town to possess themselves of the castle, with the Catholic clergy among them, 'crying Arme Arme'.<sup>89</sup> An order of 28 April from Wilmot directed that Thornton leave the city partly due to intimidation but partly due to his inability to remove munition from the city.<sup>90</sup> This order to remove Thornton may have sparked citizens into a panic and to seize control of the storehouse before the commissioners emptied it of munitions.

The ousted clerk of the store, Michael Hughes, emphasised the role of the recorder, William Meade, in the action against Skiddies Castle. He reported that at the door of the castle Meade:

'striking himself on the breast, made a solemn and public oath, that if the mayor would not take the charge of the King's stores of munition and victuals, and the keys of them, into his hands and keeping, he would presently forsake the city and never come amongst them again; and that done, he turned to the commonalty, who made a great shout, openly applauding such his advice'.<sup>91</sup>

With the commissioners largely ignored within the city during the revolt, William Meade took centre stage, leading citizens to reject the proclamation of James, reconsecrate churches and to take Skiddies Castle.<sup>92</sup> Sir George Carey termed him 'the greatest stirrer and animator of this business'.<sup>93</sup> His brother, John, represented the city in Dublin, presenting their case before the lord deputy. William Meade took on a leading

---

<sup>87</sup> Report of Allen Apsley and Michael Hughes in 'A brief declaration of some part of the treasons, offences and misdemeanours committed in Cork', 14 May 1603, *CSPI 1603-06*, p. 52.

<sup>88</sup> *CSPI 1603-06*, p. 43.

<sup>89</sup> *Lismore papers*, vi, p. 62.

<sup>90</sup> Order of Wilmot, William Lyon, bishop of Cork and Ross and Sir Richard Percy, 28 Apr. 1603, *The council book for the province of Munster c.1599-1649*, ed. Margaret Curtis Clayton (Dublin, 2008), p. 101.

<sup>91</sup> *CSPI 1603-06*, p. 52.

<sup>92</sup> On Meade accompanying priests to church, see *ibid.*, p. 53.

<sup>93</sup> Sir George Carey to Cecil, 9 May 1603, *ibid.*, p. 49.



role in the city following the expiration of commissions of the Munster presidency, using his local influence to direct affairs during the power vacuum. Even after receiving their commissions on 23 April, Wilmot and Thornton could not regain their effective authority in the city, in contrast to the enhanced position that Meade commanded.

On 1 May 800 citizens, 'as well without arms as with arms', surprised and demolished Elizabeth Fort to the south of the city.<sup>94</sup> Once again, the city used the defence that this attack pre-empted a supposed plot of Wilmot's to move troops to the fort, 'whence they might annoy the citizens issuing at the south port of the city'.<sup>95</sup> To counter this attack on the king's fort, Wilmot crossed a ford near Gille Abbey with three hundred men. Citizens scattered upon a volley of shot and fled into the south gate of the city. A group of forty crown soldiers pursued the retreating townsmen to the city walls, though the pursuit stopped at the gate 'with some loss on both sides'.<sup>96</sup> The mayor, Thomas Sarsfield, claimed to have advocated restraint, as he 'went forth twice in person to withdraw [the citizens] into the towne', while deputy clerk of Munster council, John Walley, wrote that Wilmot 'gave command that no soldier upon pain of death should shoot against the town'.<sup>97</sup> Through correspondence with Carew, Mountjoy and Cecil, both groups in this engagement stressed their innocence in the marked escalation of the dispute.

While Thomas Sarsfield sought to protect his reputation with Mountjoy as a loyal subject, the recorder, William Meade, stridently defended the actions of the citizens before the clerk of Munster, Richard Boyle. Meade defended the attack on Elizabeth Fort, claiming that 'it was the act of the whole corporation, and done advisedly', as the fort had been 'raised with the sweat of their brows' and 'had cost the Queen nothing'. Meade concluded by declaring that he hoped not 'to see one stone of it should be above another'.<sup>98</sup> Thomas Sarsfield added that 'the worst that could come of it were to build another fort, which they were well able to do'.<sup>99</sup> In taking control of Skiddies Castle

---

<sup>94</sup> *Carew 1603-23*, pp 9-10; *CSPI 1603-06*, p. 120.

<sup>95</sup> *CSPI 1603-06*, p. 56.

<sup>96</sup> John Walley to Carew, *ibid.*, p. 44; William Farmer reported the deaths of two crown soldiers during the conflict, Zacharie Title and William Hoddier, with Meade being blamed for ordering their deaths, Farmer, 'Chronicles of Ireland', p. 534.

<sup>97</sup> Mayor Thomas Sarsfield to Cecil, 26 May 1603, *CSPI 1603-06*, p. 56; John Walley to Carew, 5 May 1603, *ibid.*, p. 44.

<sup>98</sup> *Ibid.*, p. 53.

<sup>99</sup> *Ibid.*

and in destroying Elizabeth Fort, the citizens escalated the conflict, so much so that one anonymous commentator declared that 'Now it was open war on all sides'.<sup>100</sup>

The taking of the king's store and the destruction of Elizabeth Fort were sparks for an escalation of the revolt, with skirmishes on the walls and intimidation of English inhabitants following. John Walley recorded that the townsmen 'thence played so hotly upon the companies that Sir Charles manned all the abbeys at both ends of the town, and thence beat them on the walls so that they were not able to maintain their fight'. He went on to write that 'Every day since there has been an action, sometimes playing on Shandon, sometimes on the Bishop's house'.<sup>101</sup> The city used artillery to fire on Shandon Castle, killing a preacher, Mr. Sucliffe.<sup>102</sup> Military action on the walls mirrored tensions within them, as the citizens banished all Englishmen from the city who would not join with them.<sup>103</sup> It is clear that at least two English citizens (John Nicholas, a brewer and John Clarke, a tanner), joined the side of the municipal government against the army, though we cannot ascertain if these were Catholic or Protestant.<sup>104</sup>

Mayor Sarsfield claimed that Wilmot called for all English to leave the town with their goods, leading to 'fear and suspicion in the townsmen', as they thought that Wilmot intended to empty the town of Protestants in advance of a sacking by the army.<sup>105</sup> English citizens within the city were subjected to increased intimidation and violence, as the municipal council ordered the collection of available arms in the city for use against the army. Commissary of the victuals, Allen Apsley reported that 'By direction of the Maier my Armes, Capten Cootes, Mr. Hides and all the Englishe in the towne were taken awaye; for which they serched all corners in our howses'.<sup>106</sup> Wilmot and Thornton noted that strong guards were placed at the doors of all the English, with the whole city in arms. The English feared a 'massacre' owing the 'Townsmens

---

<sup>100</sup> *Carew 1603-1623*, pp 9-10.

<sup>101</sup> John Walley to Carew, 5 May 1603, *CSPI 1603-06*, p. 44.

<sup>102</sup> Sir Charles Wilmot to Carew, 7 May 1603, TNA (UK) SP 63/215/58 (*ibid.*, pp 47-9); *ibid.*, pp 47-9; *Lismore papers*, vi, p. 60.

<sup>103</sup> *Lismore papers*, vi, p. 61.

<sup>104</sup> See Smith, *The antient and present state of the county and city of Cork*, p. 95 and *Carew 1603-1623*, p. 10.

<sup>105</sup> *CSPI 1603-06*, p. 56; In a letter of 28 Apr., Mountjoy advocated the withdrawal of the English of the town, followed by the investing of the walls by up to 1,000 troops, Moryson, *A history of Ireland*, ii, p. 329.

<sup>106</sup> *Lismore papers*, vi, p. 71.



threatenings'.<sup>107</sup> The town put itself on a war footing, led by the mayor, who, reports stated, 'left of his Roabes of peace, his gowne and white staffe and betooke him to his truncheon'.<sup>108</sup> On 3 May, the council of Cork met and named William Terry and Phillip fitz Nicholas Goold to be captains of 100 troops each, to be cessed and fed by the city's inhabitants.<sup>109</sup> The city drafted men between the ages of twelve and twenty-four, in a drastic militarisation of the citizenry.<sup>110</sup>

As it transpired, the municipality did not use this citizen army, as they submitted to the lord deputy upon his arrival at Shandon on 10 May, without quarrel or shot. Whether through the capture of churches, the public celebration of mass or overtly martial means, corporate towns expressed a common grievance – the defence of civic and spiritual liberties. As James Murray has demonstrated, corporate towns in Ireland viewed their role as a missionary one, to civilise the Gaelic Irish in both manners and religious practice.<sup>111</sup> The civic pride of the corporate towns remained bound entirely with their attachment to Catholicism and the actions of the towns during the revolt, where magistrates participated in the reconsecration of churches and Catholic clergy in the defence of the city of Cork reflects this.<sup>112</sup> The presence of Wilmot's troops outside the walls likely exacerbated tensions between presidency and city, leading to more violent scenes there than in other cities and towns. Treasurer-at-wars, Sir George Carey, reported that the municipality in Waterford 'were in arms, had maintained their ordnance, kept great watches on their gates, and were exceedingly inquisitive of him what he had put into the fort of Duncannon'.<sup>113</sup> In expressing civil and religious grievances as one, corporate towns renewed their bond to a particular tradition of Catholicism – that of the Anglo-Norman Catholic tradition dating back to *Laudabiliter*.<sup>114</sup> For the Dublin government, the episode confirmed their fears of the powerful hold of Catholicism on the population, validating their policy of excluding

---

<sup>107</sup> Ibid., vi, p. 63.

<sup>108</sup> Ibid., vi, p. 71.

<sup>109</sup> Ibid., vi, pp 65, 71. Only one hundred men were cessed, counter to the agreement made.

<sup>110</sup> Ibid., vi, p. 71.

<sup>111</sup> James Murray, *Enforcing the English Reformation in Ireland: clerical resistance and political conflict in the Diocese of Dublin, 1534-1590* (Cambridge, 2009), pp 28-41.

<sup>112</sup> CSPI 1603-06, p. 43.

<sup>113</sup> Ibid., Sir George Carey to Cecil, 4 May 1603, p. 37.

<sup>114</sup> For an argument on the enduring link of Catholicism and civic liberties in the 1640s and 1650s see Micheál Ó Siochrú, 'Civil autonomy and military power in early modern Ireland' in *Journal of early modern history*, 2011, vol. 15, issue 1/2, pp 31-57.



non-conformists from central and municipal governments that characterised the subsequent years.

Whilst the commissioners at Shandon Castle concentrated on containing forces within Cork, the lord deputy prepared his troops to pacify all the Munster and Leinster towns. On 27 April, Mountjoy led an army of 2,000 men south from Dublin, through the towns of Leighlin, Waterford, Cork, Limerick and Cashel, receiving their submissions and those of neighbouring towns through delegations.<sup>115</sup> The pacification of the town of Cashel on 20 May 1603 ended the brief revolt of the towns of Munster and Leinster. In correspondence prior to this expedition, Mountjoy stated that he would be 'forced against [his] Will to use his Majesty's Sword and Power to suppress' towns, yet when faced with opposition he displayed a markedly diplomatic stance.<sup>116</sup> This politic approach included a two-night stay outside the walls of Waterford, in which he held disputations with civil and clerical leaders representing the city. Mountjoy stated the purpose of his 'speedy Repair unto those Parts' was to 'establish his Majesty's Laws' in corporate towns, who he felt had 'prescribed Laws' unto themselves.<sup>117</sup> The corporate towns, however, did not universally accept this position, as they provided a number of justifications for their actions. James White reported that a delegation of civic officers from Waterford City asked 'to have their case submitted to a legal investigation', a demonstration that he believed their actions to be legitimate.<sup>118</sup> Through correspondence and records of conversations with government officials, a picture of the defence used by the corporate towns is discernible, ranging from precedents in statute law to more tenuous legal justifications.

The principal legal defence used by the municipal council of Waterford rested on their chartered privileges. King John granted their first charter, with a number of charters subsequently confirming and, indeed, enlarging the powers of the council. These privileges enjoyed by the city clashed with those of the lord deputyship and, latterly,

---

<sup>115</sup> Opinion differs over the size of the force that Mountjoy brought south. He quotes a number of 5,000 initially, then reports that the force was 2,000-strong. A muster of 26 and 27 April records 1,963 soldiers, *CSPI, 1603-06*, p. 25; for 1,400 see Richard Bagwell, *Ireland under the Stuarts and during the Interregnum*, [vol.] 1 : 1603-1642 (3 vols., London, 1909-16), i., p. 3; for 5,000 see Aidan Clarke, 'Pacification, plantation, and the catholic question, 1603-23' in *NHI*, iii, p. 189.

<sup>116</sup> Moryson, *A history of Ireland*, ii, p. 324.

<sup>117</sup> *Ibid.*, p. 320.

<sup>118</sup> White, 'The Irish Catholics after the Death of Queen Elizabeth', p. 274.

with the presidency of Munster. In 1569, during the rebellion of James Fitzmaurice, Waterford refused to raise troops for Lord Deputy Henry Sidney, who criticised them for 'disputing their liberties with the queen's prerogative, and sent me no aid at all, a matter that no city or town refused'.<sup>119</sup> In 1592, a commission into the Munster plantation looked into the charters of Waterford, Limerick, Kinsale, Cork and Clonmel, finding that 'their franchises are verrey lardge, and their liberties for the most p[a]rt greater then they are in most citties in England'.<sup>120</sup> An anonymous tract written to Mountjoy in 1600 termed the charter liberties 'most intollerable'.<sup>121</sup>

In discussions between Mountjoy and a delegation from the city of Waterford in May 1603, civic officials cited their charter liberties to deny the lord deputy, and his army, entrance to the city. The delegation stipulated that the lord deputy 'would enter their city with no greater number than they themselves would allow, to which effect they showed a clause, extracted out of an ancient charter granted by King John'.<sup>122</sup> In referencing the charter, the delegation argued 'that the Deputy without their consent should not bring into their town any English rebels or Irish enemies, nor any other disorderly company'.<sup>123</sup> The mayor of Cork, Thomas Sarsfield, spelled this out, when he wrote that they opposed the entry of Wilmot's troops on the grounds that 'many of the soldiers under his command (except a very few) are mere Irish...[and] would upon this alteration ransack this city, divide amongst them the houses therein, and dispose the townsmen's wives and goods at their pleasures'.<sup>124</sup> This line of argument may have had legal grounds behind it, yet the implication that it drew brought opprobrium on the city. Clodagh Tait showed how the magistrates of Limerick displayed considerable opposition to the billeting of Irish troops, preferring to billet English or Welsh.<sup>125</sup> The crown army may have been made up with as many as one third Irish, yet the implication that Mountjoy's troops were in some way untrustworthy brought heavy criticism upon Waterford.<sup>126</sup> Mountjoy countered when he replied 'that he would not bring in any

<sup>119</sup> As quoted in Walton, 'Church, crown and corporation in Waterford', p. 184.

<sup>120</sup> Commissioners' report from Munster, TNA (UK) SP 63/167/35 (*CSPI 1592-1596*, p. 10).

<sup>121</sup> As quoted in Anthony Sheehan, 'The recusancy revolt of 1603: a reinterpretation' in *Archivium Hibernicum* 38 (1983), p. 6.

<sup>122</sup> *CSPI 1603-06*, p. 33.

<sup>123</sup> *Ibid.*, p. 40.

<sup>124</sup> *Ibid.*, pp 55-6.

<sup>125</sup> Tait, 'Broken heads and trampled hats', pp 97, 100-01.

<sup>126</sup> Bagwell, *Ireland under the Stuarts*, p. 3; 'The companies are grown exceedingly weak of English', *CSPI 1603-06*, p. 26.



English rebels or Irish enemies, but that army which had suppressed both the rebels and enemies to the Crown of England'.<sup>127</sup>

Mountjoy challenged the Waterford delegation's defence based on their chartered liberties, citing his authority over them through his position as lord deputy. The exact words that Mountjoy spoke in his exchange vary depending on sources consulted, yet the essence remains the same. Mountjoy's private secretary, Fynes Moryson, wrote that he 'vowed to cutt king *Johns charter* (as not grauntable to such preiudice of his Successors) with king *James* his Sword, and to sowe salt vppon the soyle of their destroyed Citty, if they obeyed him not, and with much disputation and power hardly drewe them from their ridiculous Plea of the said Charter'.<sup>128</sup> Humphrey May, writing on 5 May 1603, reported that he declared 'he would oppose King James his patent made unto him against King John's charter granted to them', representing a more diplomatic tone than that recorded by Fynes Moryson.<sup>129</sup> Mountjoy displayed remarkable calm in these negotiations, as he had a strong military backing yet refrained from using it. He entertained four separate delegations at the military camp outside the walls, over two days, as civil and religious leaders in the city sought to sue terms to ensure the army did not enter the city and that safe conduct be guaranteed to leading clerics.<sup>130</sup> He agreed to a disputation with James White, where the two debated whether Catholics could be loyal subjects or not and whether force was justifiable against a prince.<sup>131</sup>

Similarly, the municipal officers in Cork stood upon their chartered rights during the revolt. The council cited their charter to; oppose the proclaiming of the king, block the entry of royal troops, tear down Elizabeth Fort and justify the denial of aid for Haulbowline Fort. The presidential officers of Munster tried to make the case for proclaiming the king, yet they reported that the 'mayor and his brethren did not deny the reasons, but alleged the privilege of their charter, which gave them leave, for the more assurance, to defer it' for an indeterminate number of days.<sup>132</sup> The municipality argued that 'a respite of some 3 or 4 days would breed no great prejudice to the service thereof' and that 'there was no words in the Lord Deputys and Councells letters

---

<sup>127</sup> *CSPI 1603-06*, pp 33, 40.

<sup>128</sup> *The Irish sections of Fynes Moryson's unpublished Itinerary*, p. 53.

<sup>129</sup> Sir Humphrey May to [Cecil], 5 May 1603, *CSPI 1603-06*, p. 40.

<sup>130</sup> *Ibid.*, pp 39-42.

<sup>131</sup> *Ibid.*; Ford, "Firm Catholics" or "loyal subjects"?, pp 1-31.

<sup>132</sup> A brief relation of the rebellion of the city of Cork, undated, *Carew 1603-1623*, p. 8.



requiring any great haste'.<sup>133</sup> They stressed caution in the declaration of a new monarch based on their past actions. The city of Cork declared the imposter Perkin Warbeck as king during his time in Ireland in 1491-2. They argued that a short delay in proclaiming James as king was advisable in the matter.<sup>134</sup> They further argued that they would not allow Thornton to proclaim the king 'within their liberties', forcing the Munster delegation to proclaim the king upon a hill outside the town.<sup>135</sup> In denying the army entry to the city, the mayor cited the city's liberties, as he stated 'that he doubted whether the Commissioners has any authority to command the city or not, saying that never any governor before them ever did place any by any such warrant'. When countered that Carew had done so, the mayor replied 'that my Lord President did govern them more peremptorily than ever did any before him'.<sup>136</sup> In refusing entry to the troops, the city reminded the presidency of their ultimate jurisdiction within their walls – that billeting was not a right of the presidency but granted solely at the consent of the municipal government. Through infrequent denials of billeting, like that of 1599, the city eased the short-term burden that provisioning troops brought, but also challenged the developing precedent. Mayor Sarsfield later wrote that the city opposed the authority of the presidency, not the king or the lord deputy, an argument borne out by their entreaties to Dublin and London during the revolt and their welcoming of Mountjoy into the city without debate.<sup>137</sup>

Finally, on their attack on Elizabeth and Haulbowline Forts, the city cited their privileges as outlined in their charters. Both the mayor and recorder of Cork argued that as Elizabeth and Haulbowline Forts were within their franchises, they could act as they wished, including taking them by force. The recorder, William Meade, argued that the 'fort of Haleboling being a needless work, is within our franchises, and was built without our consent by the President' in his justification for obstructing its relief.<sup>138</sup> The town's liberties extended three miles at most, and Haulbowline lay six miles from the city, proving their arguments unfounded. In using their charters to defend their

---

<sup>133</sup> *Lismore papers*, vi, p. 48.

<sup>134</sup> *Carew 1603-23*, p. 8. It must be noted that only one account mentions the argument regarding Perkin Warbeck, so it is not likely to have been a key justification.

<sup>135</sup> *Ibid.*, p. 8; Moryson, *An itinerary*, iii, p. 318.

<sup>136</sup> *CSPI 1603-06*, p. 2. Meade told the commissioners that 'unless they would draw the army clean out of the liberties and franchises, they should have out of the king's store neither victuals nor munition', *ibid.*, p. 53.

<sup>137</sup> Thomas Sarsfield, mayor of Cork, to Cecil, 26 May 1603, *CSPI 1603-06*, p. 56.

<sup>138</sup> *Ibid.*, p. 52.

behaviour, Cork and Waterford city brought further attention to the great rights bestowed on them, creating a rod for their backs. In the aftermath of the revolt, most government officials urged the curtailment of these privileges, both as a punishment and a means to prevent a reoccurrence of their actions.<sup>139</sup>

Catholic clergy and civil magistrates similarly used legal principles in the defence of their use of churches for the celebration of mass. James White defended the reconsecration of churches, arguing that they were 'the property of Catholics by hereditary right'.<sup>140</sup> The public celebration of mass had been outlawed in the 1560 with the acts of uniformity and supremacy, yet Catholics in 1603 argued that this had fallen into disuse, with the queen granting *de facto* toleration. The sovereign of Wexford downplayed the public celebration of mass, writing that as 'the people here had such great liberty of conscience long before the death of our late Sovereign Queen Elizabeth, they expect no less gracious favour and liberty from their most excellent and Sovereign Lord the King that now is'. He argued that mass had always been said in private in the late queen's time and the priests, and their abodes, 'have been well known to the Lord Bishop of this diocese' though never punished. Furthermore, he saw no great offence in this, believing that this 'will in no way be hurtful to His Highness or to the state or good government of this his realm'.<sup>141</sup>

The strongest legal justification put forward by protestors relied upon the expiry of commissions. Initially, the absence of Lord President Carew caused problems of authority in Munster, and latterly the queen's death rendered all royal commissions void. The correspondence of Wilmot and Thornton from 22 March displayed a frustration at their lack of power in the region, as the municipal officers of Cork refused to recognise their authority.<sup>142</sup> The commissioners were again left without authority on the queen's death, as each new monarch needed to confirm officers in their positions. Both the government and the cities and towns recognised this legal vacuum, with the city of Cork seeking to exploit this to the fullest. Mayor Sarsfield refused to grant victuals to Wilmot's troops on the grounds that the 'commissioners authority did cease

---

<sup>139</sup> Ibid., pp 44-5, 46-7, 66-7.

<sup>140</sup> White, 'The Irish Catholics after the Death of Queen Elizabeth', p. 271.

<sup>141</sup> *CSPI 1603-1606*, p. 29.

<sup>142</sup> Ibid., p. 1.



by the death of our late Sovereign, and ours continuing'.<sup>143</sup> Thornton acknowledged this, writing that 'her Majestys death hath given end to all aucthoritie for the government of this province'.<sup>144</sup> The frustration of the commissioners is palpable, as they pleaded to Mountjoy to 'speedily to re-establish by new Letters Pattents the Magistrates Authority, because the ceasing thereof by the Queen's Death had especially emboldened these Citizens to be thus insolent'.<sup>145</sup> Similarly in Waterford, the judge Sir Nicholas Walsh acknowledged he had no power over the municipality, as he required 'a renewing of patents of them that bear office, and a new swearing of such as have place on the council' before he could act.<sup>146</sup> In defending the actions of the citizens of Kilkenny, their sovereign, Sir Richard Sheath, argued that 'after the death of the Queen, they thought it not against the law to profess their religion publicly till the King's coronation, and until his pleasure to restrain them should be signified unto them by some public edict'.<sup>147</sup>

In England and Wales the death of Queen Elizabeth caused similar panic among crown officers. The lord president of Wales, Lord Zouche, wrote to secretary of state, Robert Cecil on 30 March requesting directions on how to proceed. He asked for confirmation as to 'what state' he remained in Wales, with his 'commission out of force'. He reported that the 'Papists' were 'strengthening themselves by all means they may' and called for armour and munition to be sent to aid him against potential unrest.<sup>148</sup> Trouble erupted on the borders of Scotland and England as inhabitants of the west march argued that the law was in abeyance until the new king was crowned, in trouble that became known as the 'busy week'.<sup>149</sup> Outbreaks of violence in an interregnum period were not unusual, they were even expected, yet the Old English towns appear to have made more of it than most, extending the period of uncertainty into a 'busy month'.

---

<sup>143</sup> Ibid., p. 55.

<sup>144</sup> *Lismore*, vi, p. 55.

<sup>145</sup> Moryson, *An itinerary*, iii, p. 318: For more on commissioners recognising the lack of authority see *Lismore papers*, vi, pp. 48-9, 52, 55.

<sup>146</sup> *CSPI 1603-06*, p. 19.

<sup>147</sup> Ibid., p. 39.

<sup>148</sup> Edward, Lord Zouche to Sir Robert Cecil, 30 Mar. 1603, *Calendar of the Cecil Papers in Hatfield House, Volume 15: 1603* (London, 1930), p. 17.

<sup>149</sup> Diana Newton, 'The impact of James I's accession on the north-east of England', ([hull.ac.uk](http://hull.ac.uk)) (accessed Oct. 2012); for a comparison of the Irish and English experiences see Kieran Hoare and Andrew Sargent, 'Resistance to the union of the crowns: the north of England and the recusancy revolt of 1603' in Lud'a Klusáková, Martin Moll Jaroslav Ira, Aladin Lagueche, Eva Kalivodova and Andrew Sargent (eds), *Crossing frontiers, resisting identities* (Pisa, 2010), pp 137-156.



One of the most popular defences used by citizens for their behaviour was the belief that the new king was Catholic. As quoted above, the sovereign of Kilkenny thought it acceptable to profess religion publicly until the king contradicted it, though most other towns explicitly noted the king's personal profession of Catholicism, not simply his tolerant stance. The mayor of Wexford, Francis Bryan, wrote that the king 'by common judgment of all men here, few excepted, is thought to be Catholic' and the commissioners in Cork reported that citizens 'did not know but that the King was of their religion'.<sup>150</sup> Though he recorded his thoughts a year after the event, James White best articulated the thought process of Catholics in Ireland regarding the king's religious persuasion. White wrote that he 'knew nothing certain of the king's religion, but that he was a Catholic, reared in the faith of his mother and ancestors (whose creed, it is to be presumed, children embrace)'.<sup>151</sup> Mountjoy wrote a series of letters in April to the magistrates of Cork, Wexford, Waterford and Limerick urging them to desist from their claim that James was a Catholic. Yet, on the 19 April, Mountjoy displayed his own concerns, outlined in a letter to the English secretary of state, Sir Robert Cecil. Mountjoy asked 'to know fully His Majesty's pleasure how far he shall proceed with them [the Old English towns], if they continue obstinate; though he presumes that his pleasure is to tolerate no public exercise of that religion', demonstrating a hint of uncertainty.<sup>152</sup>

This uncertainty was not peculiar to Ireland, as some in England believed the new king to be either Catholic himself, or to be sympathetic to Catholicism. Katharine Gawan, a noblewoman from Oxfordshire, said 'We had a late Queene and she was a blodye Queene... and now we have a Kinge who ys of our religion and will restore us to our rightes'. She marked the occasion of his coronation by expending 'many charges in bonfires and otherwise to shew her joy at his coming'.<sup>153</sup> On his procession to London, James was met by a priest named Hill, who presented him with a petition pleading for full revocation of penal laws. Later, the king received a petition by 'The Lay Catholics of England' that requested freedom of religion, if not in public churches then privately in houses.<sup>154</sup> English puritans similarly put forward their case for preferment, as the

---

<sup>150</sup> *CSPI 1603-06*, p. 29; *Carew 1603-1623*, p. 9.

<sup>151</sup> White, 'The Irish Catholics after the Death of Queen Elizabeth', p. 274.

<sup>152</sup> *CSPI 1603-06*, p. 20.

<sup>153</sup> As quoted in Patrick McGrath, *Papists and puritans under Elizabeth I* (London, 1967), p. 339.

<sup>154</sup> *Ibid.*, chapter twelve, 'Epilogue: the Hampton court conference and the gunpowder plot', pp 339-73.

Elizabethan religious settlement created groups on the margins that sought an alteration under a new monarch. James's religious beliefs remained shrouded in uncertainty, son of a Catholic martyr but raised by zealous Presbyterian reformers, and his actions as king of Scotland similarly raised queries, as he proved tolerant of Catholic lords such as George Gordon, first marquis of Huntly.<sup>155</sup>

A number of commentators in Ireland analysed the manner in which townspeople marked the proclamation of the king. The sovereigns and priests of the towns wrote of the celebration of his accession. The sovereign of Wexford noted the 'joyful proclamation' of the king, the mayor of Cork related how it was revered 'with all joy and triumph' and White reported that in Waterford, 'Cannons were fired, bonfires lighted, money liberally distributed among the people, and the prisons on the palatinate liberties of the most illustrious the Earl of Ormond were thrown open, as a sign of exultation and joy'.<sup>156</sup> These professions of 'joy and triumph' by the populace do not mirror the actions of the magistrates of Cork and Waterford, who obstructed the proclamation of the king, citing a number of legal precedents. If the magistrates truly believed the king to be Catholic, why did they not 'profess it openly and boldly in the face of man and make it known to the world'? Instead, the magistrates chose to use this occasion to challenge the presidency officials who pressed them to proclaim the new king immediately. Mountjoy recognised the intent of the towns when he wrote that, 'They would fain excuse or mitigate this their attempt, as being only meant to declare their religion to His Majesty and the world in that time between two reigns, at which interval they suppose it to have been lawful or at least less dangerous'.<sup>157</sup>

The leading role that magistrates in Cork and Waterford took in delaying the proclamation of the king serve as a counter to a last justification made by them from unrest in their cities in April and May. Magistrates of many cities and towns blamed 'the multitude' for the revolt and pleaded their helplessness to oppose them. The sovereign of Wexford claimed he was unable to stop the occupation of churches 'by reason of the multitude', while the sovereign of Kilkenny remarked on 'the heady

---

<sup>155</sup> Ruth Grant, 'The Brig o' Dee Affair, the sixth earl of Huntly and the politics of the Counter-Reformation', Julian Goodare and Michael Lynch (eds), *The reign of James VI* (East Linton, Scotland, 2000), pp 93-109.

<sup>156</sup> *CSPI 1603-06*, pp 29, 55; White, 'The Irish Catholics after the Death of Queen Elizabeth', p. 272; for a dissenting opinion on the celebrations in Cork see, *Carew 1603-1623*, p. 9.

<sup>157</sup> *CSPI 1603-06*, p. 20.



violence of the common people'.<sup>158</sup> Commenting on unrest in Waterford, Humphrey May noted 'the disability of the mayor and the rest of the officers of the city to bridle the insolent fury of the commonalty'.<sup>159</sup> The city council of Waterford blamed the priests, and in 1620, the Waterford cleric, Patrick Comerford noted that 'two or three yong men' led the rejection of the proclamation of James, absolving the magistrates and the clergy.<sup>160</sup> Mountjoy used the arguments of the city of Waterford against them in a symbolic form of punishment. He left 150 troops in a strong castle and delivered one of the keys to the ports to the army captain. May reported that he justified this to them 'because they had confessed they were too weak-handed to keep under awe and obedience their unruly multitude'.<sup>161</sup>

The mayor of Cork, Thomas Sarsfield, similarly blamed the 'multitude', and as a number of correspondents spent time close to the mayor, his position is easier to gauge than most. The commissioners questioned him closely concerning the unloading of a boat, the John of Bristowe, destined for Kinsale with munition and powder from the king's store. Sarsfield argued that it was 'the act of the Corporalty, whose wilfull humours he had no power to restrayne', later going on to claim that 'he was like the Slavische Ducke of venic [who] could not rule the multitude'.<sup>162</sup> Mountjoy supported Sarsfield's claim to incapacity, and he stated as such in a letter to him, writing that, 'I find you so little able to govern the Inhabitants of your Town in due Obedience to his Majesty and his Laws, and so easily seduced by your priests and Friers'.<sup>163</sup> The commissioners' correspondence, and interrogations following the revolt, lay blame principally on William Meade.

Early in the revolt, during discussions over whether to proclaim the king, Meade is reputed to have interrupted Sarsfield's reply to the commissioners 'hardly admitting the

---

<sup>158</sup> CSPI 1603-06, pp 29, 39.

<sup>159</sup> White, 'The Irish Catholics after the Death of Queen Elizabeth', p. 272.

<sup>159</sup> CSPI 1603-06, p. 40.

<sup>160</sup> *The Great Parchment Book of Waterford: Liber Antiquissimus Civitatis Waterfordiae*, ed. Niall J. Byrne (Dublin, 2007), p. 210; Patrick Comerford, *Inquisition of a sermon* (Waterford, 1644), pp 18-19.

<sup>161</sup> CSPI 1603-06, pp 41-2.

<sup>162</sup> *Lismore papers*, vi, pp 62, 69; CSPI 1603-06, p. 45.

<sup>163</sup> Moryson, *An itinerary*, iii, p. 333.



maior to end his Speche'.<sup>164</sup> During these negotiations, after Richard Boyle warned of the dangers of the stance of the city, Meade replied saying that 'although he would not break out, there were many that were ready to break out'.<sup>165</sup> As noted above, at the scene in front of Skiddies Castle, Meade is reported to have said, while 'striking himself on the breast', that if there mayor would not take hold of the stores of munitions and victuals he would leave the town.<sup>166</sup> The report continued, pertinently, that 'he turned himself to the commonalty' who made a 'great shout' and took control of the castle, led by Lieutenant Christopher Murray and Thomas Fagan.

The central role played by William Meade in the revolt caught the attention of Mountjoy and justices following the close of hostilities. Throughout his procession in Leinster and Munster, Mountjoy held a lenient course on transgressors as he saw no great danger in the matter and was keen to return to Dublin and take his leave for court. In Waterford, after protracted negotiations with delegations, the mayor Robert Walsh, and ancient citizen, Nicholas Wise, opened the gates of the city, delivering the civic sword and all the keys to Mountjoy as a sign of their allegiance.<sup>167</sup> Mountjoy held over 'two or three' citizens in prison, to be tried for traitorous words spoken against the king. One of these was John Fagan, who urged citizens to fight for the king of Spain, declaring that they should have no Scottish man reign over them.<sup>168</sup> Initially charged with treason and threatened with execution, Fagan received a pardon from the lord deputy on the pleadings of the mayor, aldermen and 'earnest petitions and tears of sundrie ancient matrones and gentlewomen'.<sup>169</sup> At Cork, Mountjoy held a tougher line, holding a sessions where he heard cases of treason levelled against some of the citizens. This resulted in the execution of Lieutenant Christopher Murray and two unnamed others by martial law.<sup>170</sup> The recorder, William Meade, was bound over to be tried before a jury trial, 'for that he was a gentleman of lands' and thus could not be executed summarily by martial law (chapter four).<sup>171</sup>

---

<sup>164</sup> *Lismore papers*, vi, p. 44; see also *CSPI 1603-06*, p. 2, where mayor influenced 'by the advice of John Meade'. This is likely an error on the part of the commissioners, they likely meant William, not John, Meade.

<sup>165</sup> *CSPI 1603-06*, p. 51; see also *Lismore papers*, vi, pp 44-5.

<sup>166</sup> *CSPI 1603-06*, p. 52.

<sup>167</sup> Farmer, 'Chronicles of Ireland', p. 532.

<sup>168</sup> *CSPI 1603-06*, p. 42; Farmer, 'Chronicles of Ireland', p. 532.

<sup>169</sup> Farmer, 'Chronicles of Ireland', p. 532.

<sup>170</sup> *Ibid.*, p. 533.

<sup>171</sup> *Ibid.*

During the sessions, Mountjoy took extensive evidence against Meade, interviewing all the leading presidency officials. They stressed his central importance in the revolt, as he led opposition to the declaration of James, accompanied priests to take churches, directed the capture of the store of munition, withheld victuals and munitions from the army, commanded citizens to demolish Elizabeth Fort, attacked crown soldiers and rejected James as king.<sup>172</sup> The administration decided to make an example of Meade and presented an in-depth indictment against him at a sessions in Youghal in June 1603. Sir Nicholas Walsh, chief justice of the common pleas, encountered great difficulty in passing the bill of indictment against him, owing to great popularity and ‘affections to the people’ of Cork. The new lord deputy, Sir George Carey, and his council doubted whether a jury would find against him and proposed sending him to England to stand trial there.<sup>173</sup> The trial went ahead in Youghal, in December 1603, before a special sessions held before chief commissioners of Munster, Sir Charles Wilmot and Sir George Thornton and chief justice of the province, Gerald Comerford. The jury found him innocent on the charge of high treason and Meade was acquitted.<sup>174</sup> The administration pursued the twelve jurors through the court of castle chamber on 15 June 1604 for their return of a ‘false verdict’ and ‘manifest and wylfull periury’ against the king.<sup>175</sup> The jurors defended themselves saying that ‘in their pryvate Conscience knew that the sayd Myagh [Meade] had no intent to Comytt any treason’.<sup>176</sup> This stance earned the foreman a fine of 1,000 marks and a fine of £500 apiece for the other eleven.<sup>177</sup>

The power exhibited by Meade in Cork, or James White in Waterford and surrounding cities and towns, in a power vacuum are a demonstration of the alienation of the Old English from the central government. Magistrates, clergy and freemen in urban areas exploited the circumstances of Elizabeth’s death to air their grievances against the Dublin government and the provincial presidency. The expiration of commissions to

---

<sup>172</sup> *CSPI 1603-06*, pp 50-4.

<sup>173</sup> Lord Deputy Carey and council to English privy council, 2 July 1603, *ibid.*, pp 65-6.

<sup>174</sup> Farmer, ‘Chronicles of Ireland’, pp 533-4; *CSPI 1603-06*, pp 119-22.

<sup>175</sup> Farmer, ‘Chronicles of Ireland’, pp 534-5; *CSPI 1603-06*, pp 119-22; ‘The entry book of orders and decrees of the court of castle chamber, 1571-1621’ in Appendix I of Jon G. Crawford (ed.), *A star chamber court in Ireland: the court of castle chamber, 1571-1641* (Dublin, 2005), pp 480-1.

<sup>176</sup> *Court of castle chamber*, p. 481.

<sup>177</sup> *Ibid.*



royal officers and the hope of change under a new monarch led towns across this area to rise up and press for a reclamation of their churches, civic buildings such as the storehouse in Cork and to reject the entry of crown soldiers who had oppressed the country through billeting. During the revolt, the magistrates of Cork, Waterford and Wexford defended their actions in correspondence with Mountjoy, where they pressed for liberty of conscience and Cork petitioned to have charge of the fort of Haulbowline.<sup>178</sup> The call for a 'liberty of conscience' persisted, as rumours abounded that James was to grant toleration in his kingdoms.<sup>179</sup> To press their claim, Catholics from June 1603 gathered collection money to send agents to London to petition James for the same.<sup>180</sup> The magistrates of Kilkenny were so confident that the king would grant toleration that they continued to worship openly and kept a sessions house for use by a friar to hold masses.<sup>181</sup>

The revolt arose out of a number of grievances of cities and towns that had built up over years, with the death of the queen and the brief interregnum period serving as an opportunity for them to do so. The end of the Nine Years War just weeks previously also granted them a degree of licence to protest against the administration, as any act of disloyalty during war would have brought a more severe punishment upon them. Crowd action typically sought means of avoiding punishment where possible, with the unique circumstances in April 1603 proving attractive to magistrates who long sought to express their corporate independence and celebrate mass publicly. Citizens bonded together by oaths, by unity of action and by a common connection across the region, as Old English cities and towns united in opposing the presidency and the old Elizabethan religious course.

This precipitous action caused panic amongst presidency officers, who bemoaned the weakness of their authority and frantically sought confirmation of their powers. Mountjoy acted calmly throughout, recognising that the revolt could not seriously challenge his authority, particularly as the treaty of Mellifont freed up troops from Ulster for use in his southern campaign. Mountjoy acted leniently against the towns, as he sought the speedy resolution of the affair in order to travel to London to serve the

---

<sup>178</sup> *CSPI 1603-06*, pp 27-9.

<sup>179</sup> *Ibid.*, p. 69.

<sup>180</sup> *Ibid.*, p. 66.

<sup>181</sup> *Ibid.*, pp 67-8.



new king. Those that remained in Ireland, however, saw the revolt as proof of the inherent disloyalty of the Old English towns. Administrators recognised the importance of these towns and believed that their reformation was necessary to bring civility in manners and religion to the whole kingdom. Thereafter, the Dublin administration and the Munster presidency targeted Old English corporate towns, seeking their reform before attempting to extend it to other areas. In the immediate aftermath of the revolt, many administrators pressed for the erection of citadels at key towns, in order to pacify them and secure them from future Spanish intrigue. The Old English replied through negotiation, obstruction, legal suits, petitioning and physical confrontation.

## Chapter two: Urban reform

The period from the end of the Nine Years War to the arrival of Lord Deputy Wentworth in 1633 proved to be one of great change in the urban landscape of Ireland. As in other early modern states, prolonged periods of peace and stable government allowed the central administration to expand and increase its authority over other independent powers. In Scotland, the long reign of James VI witnessed an alteration in the relationship between central authority and the burghs, as the burghs lost many of their ancient rights to a resurgent crown intent on maximising profit and increasing its reach into all areas of the kingdom.<sup>1</sup> In Ireland, the close of war and the accession of James can be viewed as a threshold in the fate of a particular kind of urbanity – the Old English city, town and borough. The Old English had largely remained loyal to the crown in the war against Tyrone and his confederacy, turning a deaf ear to his clarion call for a religious war against the excommunicate Elizabeth. Whilst the Old English aided the government where they could, they ended the war with their reputations tarnished. The Old English community broadly faced accusations of collusion with rebels or were criticised for their relatively passive response to the government call to arms. In cities and towns, merchants faced accusations of trading with rebels and their magistrates castigated for acts of violence against soldiers billeted on them.<sup>2</sup> Their response to the rebellion looked more like self-preservation than a committed desire to reduce the northern earls to complete subjugation to the crown. The Old English facilitated the eventual surrender of Tyrone, yet the government refused to treat them as fellow victors and would not forget who had sacrificed themselves most in the privations of war.

The thorny issue over the place of the Old English in the victory over Tyrone is illustrated in an angry exchange between Chichester and Sir Patrick Barnewall at the council table in Dublin Castle in 1605, paraphrased by Sir John Davies in

---

<sup>1</sup> Michael Lynch, 'The crown and the burghs, 1500-1625' in Michael Lynch (ed.) *The early modern town in Scotland* (London, 1987), pp 55-75.

<sup>2</sup> Clodagh Tait, 'Broken heads and trampled hats: rioting in Limerick in 1599' in *Limerick: history and society* (Dublin, 2009), pp 91-111; Galway citizens were similarly criticised for an attack on soldiers in 1580 during the Desmond rebellion, Clodagh Tait, 'Disorder and commotion: urban riots and popular protest in Ireland, 1570-1640' in William Sheehan and Maura Cronin (eds), *Riotous assemblies: rebels, riots & revolts in Ireland* (Cork, 2011), pp 30-1.

correspondence with Robert Cecil, earl of Salisbury.<sup>3</sup> In criticising the recent religious enforcement campaign, Barnewall argued that ‘wee must endure this as we have endured many other things’. Chichester demanded clarification of this statement, asking what ‘you’ have endured. Barnewall replied that ‘wee have endured ... the miseries of the late warr, & other calamities besides’. Chichester replied caustically, asking rhetorically ‘you endured the misery of the late warr?’, continuing, ‘no Sir, wee have endured the miserie of the warr, wee have lost our blood & our frends & have indeed endured extreme miseries to suppress the late Rebellion whereof your priests for whom you make peticon, & your wicked relligion was the principall cause’.<sup>4</sup> None of Davies, Chichester or Barnewall defined what they meant by ‘you’ and ‘wee’ and there was some disagreement over terminology. In their correspondence, Chichester and Davies treated the kingdom as being split between New English Protestant and Catholic Irish. Barnewall and the Old English stressed their ‘Englishness’, differentiating themselves from the Gaelic Irish who they fought in the Nine Years War.<sup>5</sup>

The reputations of the Old English maritime towns suffered worse than their gentry fellows, as towns had fewer means at their disposal to aid the crown in the defeat of rebel forces. The citizens of Galway were lauded for their stout defence against the rebels in 1597, yet were later criticised for the clashes with crown soldiers due to arguments over billeting and composition payments.<sup>6</sup> Urban centres provided the government where possible with loans, munitions or artillery and acting as safe retreating or landing points for crown soldiers. The duplicitous actions of merchants, seeking profit through the sale of arms to rebels at extravagant mark-ups, and tensions raised between soldiers and citizens built resentment, exhibited most explosively in the 1603 revolt. Tudor monarchs had moved to reduce the celebrated powers of the Old English towns previously, with the presidency system a lasting feature of this reform initiative. The presidencies created alternative seats of justice in Connacht and Munster, where previously Old English lords and towns would have served the needs of the

---

<sup>3</sup> Davies to Salisbury, [undated, likely December 1605], TNA (UK) SP 63/217/94 (*CSPI 1603-06*, p. 372).

<sup>4</sup> Ibid.

<sup>5</sup> One could of course be New English and Catholic, Old English or Gaelic Irish and Protestant, yet these groupings formed a small minority and were thus largely omitted in any treatment on the state of the kingdom, see David Edwards, ‘A haven of popery: English Catholic migration to Ireland in the age of plantations’ in *The origins of sectarianism in early modern Ireland* (Cambridge, 2005), pp 95-127.

<sup>6</sup> M. D. O’Sullivan, ‘The fortification of Galway in the sixteenth and early seventeenth centuries’ in *Journal of the Galway Archaeological and Historical Society* 16 (1934-5), pp 16-19.



crown. The 1603 revolt demonstrated the tensions that this caused, as the magistrates of Old English towns struck out against their jurisdiction in a moment of opportunism.

The Dublin administration saw the actions of the Old English towns in 1603 as significant marks of disloyalty and their policies in the following decades aimed to extend the power of the central administration at their expense. This was by no means an innovative strategy, as Tudor governors had attempted the same in a desire to rescind liberties granted when the central administration was weak. The immediate need to pacify the country led to a clash of interests with towns, as they jealously protected their ancient privileges as guardians of their hinterlands, while the crown aimed to secure the coast independent of their jurisdiction. The administration's attempt to establish governors and forts on Old English towns is analysed in section one of this chapter.

Once the administration was relatively satisfied with its military preparedness, they set about reforming the finances of the state. The administration relied too heavily on treasure from England, with the average revenue raised within the country in 1603-08 representing just 26 per cent of total money spent.<sup>7</sup> This would have represented at least 14.6 per cent of English state expenditure.<sup>8</sup> The appropriation of customs rights granted to Old English towns over centuries represented a means of increasing revenue in an attempt to redress the vast shortfall. These customs were granted in a number of forms, from patents, chartered rights and acts of parliament, leading to difficult negotiations and legal proceedings to wrestle these privileges back. To the administration, Old English towns no longer provided the services on which they had won these rights, and they were keen to secure customs in the crown's interest. The second section of this chapter scrutinises the response of Old English towns to this threat to their customs.

The third section of this chapter concentrates on both the renewal of charters to Old English towns and the contemporaneous establishment of new towns, established exclusively for New English Protestants. The language that charters used allow us to analyse the self-perception of Old English towns in this period, as they sought to stress their role as loyal crown supporters. While Old English towns saw the reduction in their

---

<sup>7</sup> Calculation made using figures provided in 'Appendix C' of Joseph M. McLaughlin, 'The making of the Irish leviathan, 1603-1625: statebuilding in Ireland during the reign of James VI and I' (Ph. D. thesis, NUI, Galway, 1999), p. 129.

<sup>8</sup> Ibid., p. 131.

privileges, the crown granted generous terms to new towns that were established in the Protestant interest. Towns such as Derry, Newborough in Wexford and Bandonbridge in County Cork received charters and support from the central administration that Old English towns craved.

Cities and towns were further affected in this period by the religious enforcement campaign, particularly the tendering of the oath of supremacy, which caused great disruption in the ordinary running of municipal government (see also chapter three). Each urban area reacted in a different manner to the challenge presented, most opting for some form of compromise by selecting conformable candidates. The 1610s proved to be troubling years for Old English towns, with the huge disruptions clearly evident in their council books, as they struggled to adapt to reform promoted by the central administration. Most towns reacted passively to the government's confrontational policy, opting to resist through non-violent means. State officials frequently referenced the 1603 revolt when commenting on the loyalty of Old English towns and it is likely that the relative absence of violent protest in towns during this period was informed by memory of the revolt. The fourth section of this chapter analyses the various responses of Old English towns to this challenge.

Violent protest did occur, infrequently, such as in 1613 in Dublin over a parliamentary election (chapter five) and religious enforcement periodically brought physical confrontations (chapter three).<sup>9</sup> The central administration's plan to reform Old English towns caused citizens of Cork to violently attack soldiers in April 1626. A key part of the government's centralising policy rested on its martial strength in the periphery, with governors placed in forts in key locations around the kingdom. The re-building of Elizabeth Fort in Cork contributed to tension in the city, breaking out into a violent confrontation outside the city walls, reminiscent of the 1603 revolt. The last section of this chapter relates to the actions of the citizens during this riot.

The overall government scheme caused a crisis of urbanity, as Old English towns fought hard to retain their ancient rights, while witnessing the creation of new towns and boroughs, who received generous charters in a period where theirs were being

---

<sup>9</sup> Tait, 'Disorder and commotion', pp 22-49.



counteracted. Each town reacted differently to the challenges posed, from petitioning at court, legal suits, political manoeuvring, conciliation, seditious speech and riotous protest.

## I

The treaty of Mellifont and Tyrone's submission in late March 1603 brought to an end the Nine Years War and was lauded as the completion of the conquest of Ireland by the crown. The royal presence in Ireland retained a distinctly martial disposition, as the Dublin administration kept a strong military presence throughout the kingdom, particularly in Ulster, in order to stabilise the country after years of upheaval. This involved the retention of a great number of soldiers, placed in garrisons and billeted on towns throughout the country, in marked contrast to the rest of the king's dominions, where standing forces were never a feature of peacetime politics.<sup>10</sup> The Nine Years War proved the weakness of Old English towns to protect themselves from rebels at home or from foreign troops and the 1603 revolt demonstrated to the Dublin administration their inherent untrustworthiness in the future reform of the state in Ireland. To protect the newly subjugated kingdom, the administration placed governors over important port towns, housed in forts in harbours or in strategic locations overlooking towns. The placement of these forts impinged on the liberties of ancient Old English towns, yet the actions of citizens and magistrates during the 1603 revolt made them careful not to arouse the suspicion of the crown or Dublin administration through forceful protests. The 1603 revolt broke out due to frustrations over the religious policy of the government, over coin debasement and over tensions with martial forces, yet their overzealous resistance in this moment proved a chastening experience, as they were aware of the limited patience that the crown and Dublin government would show toward any future protests.

The placing of governors in particular aroused the ire of urban areas, who viewed the peacetime appointment of military personnel in threatening positions outside their walls as a slight on their reputation and a breach of their ancient liberties. The chief justice of Munster, Sir William Saxey, presented a particularly severe strand in government

---

<sup>10</sup> Though the crown maintained a strong martial presence in the Low Countries after assuming responsibility for the cautionary towns in 1585, Joseph McLaughlin, 'What base coin wrought: the effects of the Elizabethan debasement in Ireland' in Hiram Morgan (ed.), *The battle of Kinsale* (Dublin, 2004), p. 194.



thinking, when he urged the bridling of towns to ensure the future stability of the country. In a letter to Viscount Cranbourne, in late 1604 or early 1605, he voiced his opposition to the powers of Old English towns and called for their reformation. He advocated the alienation of Irish from all public offices, calling on the precedent of Charles the Great in the eighth century, who, having conquered Lombardy, 'toke from them all magistracy, to thend themight settle a firme peace, and cutt off[f] their rebellious humor'.<sup>11</sup> He advised this course particularly for towns who had recently showed their 'backwardnes in religion & inward hatred of his highnes supremacy & English government'. Saxey urged the appointment of governors over important coastal towns, who would hold the keys of the gates and control the habiliments of war in the king's interest, with municipal governments to be responsible for their pay. He also invoked biblical precedent, terming the Irish as Syrians and Philistines who ought to be governed by King David.<sup>12</sup> Saxey's letter, and those of later commentators on the Nine Years War, clearly feted the role of the New English in the conquest of Ireland, with the Old English excluded from the narrative of the conquest, being viewed as essentially defective parts of the polity, in need of close martial supervision.

In standing down the wartime force, the administration kept a number of officers in pay, granting them new roles rather than losing their experience through discharge. Thirteen colonels were to be discharged of their positions, as they were no longer required during peacetime. Most of these retained the same pay of ten shillings per day as seneschals, warders or governors.<sup>13</sup> These military governors were placed in a ring of garrisons across Ulster, in vulnerable passes of the midlands, at strategic locations and important coastal towns. The traditional role of governorships or seneschalships had been to open up areas previously inaccessible to government officers in order to protect the crown's interests. The Old English cities and towns of Galway, Kinsale, Limerick, Ross, Waterford and Wexford, all had governors placed over them early in James's reign.<sup>14</sup> Cork City did not have one as the presidency of Munster largely operated out of the city, though it retained a quasi-itinerant presence. Correspondence from government

---

<sup>11</sup> Saxey to Cranbourne, 'A discovery of the decayed state of the kingdom of Ireland, and of means to repower the same', [undated, must be between 20 Aug 1604 and 4 May 1605, when Sir Robert Cecil held the title of Viscount Cranbourne], TNA (UK) SP 63/216/59 (*CSPI 1603-06*, pp. 221-2).

<sup>12</sup> *Ibid.*

<sup>13</sup> *CSPI 1603-06*, pp 185, 251-2, 257, 259.

<sup>14</sup> *Ibid.*, p. 185, 251-2; *A repertory of the Inrolments*, vol. 1, part 2, pp 78, 201-02.

officials explicitly stated that these governors were to be used to 'bridle' the towns and cities, closely associating their religious disaffection with political disloyalty.<sup>15</sup>

The patent granted to Sir Richard Percy for the governorship of Kinsale and Ross, and the lands in between, is instructive in analysing the reasons why towns were jealous of them. Percy was charged with 'reduceing the inhabitants of the townes and countries...to civill and good order, according to the lawes and statutes used in the english pale of Ireland'. Furthermore, he was granted equal rights to the inhabitants of the towns or country by patent, regardless of the process of enfranchisement practiced by towns. After confirming his martial law powers, the patent closed declaring that 'this pattent be not expounded to lymitt the authoritie of the president of Munster'.<sup>16</sup> The governor, through patent, received powers that infringed on the power of urban magistracy, a demonstration of the increasing primacy of military governors above municipal rights.<sup>17</sup> All governors were to retain martial law powers that they exercised during war, receiving their renewed commissions in February 1605 (chapter four).<sup>18</sup> Governors had a range of powers granted to them, acting as agents of the government tasked with overseeing the actions of Old English towns. In a 4 July 1605 proclamation banishing priests (chapter three), governors were specifically mentioned as agents of the government in the apprehension of clergy.<sup>19</sup> Governors were also charged with supervision of traffic coming in and out of harbours, with permission to search ships for traitors, priests and munitions. In 1614, in describing the fort at Galway, Sir Oliver St John praised its location, 'both for commanding the town and for giving annoyance or favour to such ships as shall rove there'.<sup>20</sup> Urban magistrates resented this interference greatly, as their frequent stop and seizures affected trade and infringed on their rights over their own harbours.<sup>21</sup>

---

<sup>15</sup> Sir Richard Morrison to Salisbury, 20 Feb. 1607, *CSPI 1606-08*, p. 117; Chichester to English privy council, 18 Apr. 1607, *ibid.*, p. 139; English privy council to Chichester, 27 Sept. 1607, *ibid.*, pp 287-8.

<sup>16</sup> *A repertory of the Inrolments*, vol. 1, part 1, pp 261-2.

<sup>17</sup> Lords president already held the right to act within the franchises of towns, see appointment of Thomond, 17 Mar. 1615, *Council book of Munster*, p. 251.

<sup>18</sup> Proclamation of Lord Deputy Carey and council, 20 Feb. 1604, *CSPI 1603-06*, p. 259.

<sup>19</sup> *CSPI 1603-06*, p. 308.

<sup>20</sup> A description of Connacht by Sir Oliver St John in the year 1614, *Carew 1603-23*, p. 296.

<sup>21</sup> Chichester and council to English privy council, 21 Jan. 1607, *CSPI 1606-08*, p. 83; English privy council to Chichester and council, 12 Apr. 1608, *CSPI 1606-08*, p. 472.



Magistrates of Waterford frequently clashed with Sir Richard Morrison, employed as governor over Waterford and Wexford, and with the governors of Duncannon Fort, which commanded their harbour. Their problems began in the aftermath of the 1603 revolt, as Mountjoy placed keys in the command of Morrison after the submission of the city. Mountjoy wrote that he delivered the keys of one port to Morrison and the rest he delivered up to the mayor. Later evidence showed that Morrison had charge of the keys of a gate to the city and to the fort.<sup>22</sup> It is possible that Mountjoy's directions for the return of the keys of the gates were never carried through, retained by Morrison as a means to hold the city in awe. (Richard Boyle acted in a similar manner with the charter, seal, standard and mace of Kinsale, forfeited to Carew in January 1602.<sup>23</sup> Boyle held on to them until summer 1603, after the English privy council had directed for their return in December 1602.<sup>24</sup>) In February 1604, Lord Deputy George Carey wrote to Morrison regarding his illegal cessing on Waterford.<sup>25</sup> Carey castigated Morrison for charging for the cessing of horse boys on the city, not a standard practice in peace and for underpaying the city for the cess of his horsemen.<sup>26</sup> The following year, the city offered to relieve the crown of the burden of paying the soldiers, if they could command them. Both Chichester and Sir Richard Morrison declined the offer, judging the position to be of too great import to be devolved to the urban magistrates.<sup>27</sup> This mirrored Cork's offer to raise their own troops in a petition of 1600 and their plans during the 1603 revolt to employ 200 men to protect the town (chapter one). The issue did not disappear, however, as the perennial problem of cessing soldiers and the danger that these disgruntled troops could cause forced the central administration into considering these pleas. Morrison had to answer charges more frequently from 1609, as lack of pay forced him to cess soldiers on the townsmen, who raised their objections with the lord deputy and the English privy council through petitions.<sup>28</sup> The city retained agents in London for much of this period owing to the outstanding customs negotiations

---

<sup>22</sup> Humphrey May to [Cecil], 5 May 1603, *CSPI 1603-06*, pp 41-2; Farmer, 'Chronicles of Ireland', p. 532.

<sup>23</sup> Carew to Cecil, 14 Jan. 1602, *CSPI 1601-03*, p. 280

<sup>24</sup> Carew to Cecil, 9 Sept. 1602, *ibid.*, p. 337; *A repertory of the Inrolments*, vol. 1, part 1, p. 33; *Council book of Munster*, pp 337-8.

<sup>25</sup> Lord Deputy George Carey to Sir Richard Morrison, 2 Feb. 1604, *Council book of Munster*, pp 359-60.

<sup>26</sup> *Ibid.*

<sup>27</sup> Chichester to earl of Devonshire, 10 Feb. 1606, *CSPI 1603-06*, p. 400.

<sup>28</sup> English privy council to Chichester, 8 Apr. 1609, *CSPI 1608-10*, p. 190; Morrison to Chichester, 14 May 1610, *CSPI 1608-10*, pp 446-7.



(discussed below), providing them with a platform to air these grievances before the privy council.

In May 1610, Morrison once again had to defend himself, as he was forced to explain his cess of presidency troops on the city for one whole month, after the city raised complaint against his illegal quartering. Morrison could provide no reason other than the delayed payment of his entertainment.<sup>29</sup> In June 1611, the magistrates won an important concession, as Morrison was directed to give over the keys to the gates and the fort to the magistrates, in return the city agreed to lodge 100 soldiers within their walls, as formerly they had done.<sup>30</sup> The following year the mayor of Waterford, Sir Richard Aylward, received harsh punishment over a letter he wrote to the city's agent in London criticising Morrison. On 5 May 1612, Aylward wrote to the city's agent Nicholas Maddane in London, to the 'great defamacion both of his person and government'.<sup>31</sup> Aylward's letter has not survived, yet it likely related to Morrison's cess of the presidency's troops on the city. Chichester handed down a severe penalty to the mayor, ordering that the £200 maintenance money he received from the city be spent on buying lands within the city, the profits of which were to support the costs of a trained minister.<sup>32</sup> Aylward is atypical of the kind of magistrate that the administration targeted, as he had conformed during Queen Elizabeth's reign. In 1603 he carried the proclamation of James into Waterford City to be published and in 1606, Davies described him as a '*bona fide*' convert.<sup>33</sup> In his defence, Aylward blamed his fellow aldermen for pressing him to write to their agent criticising Morrison, an excuse that Chichester and the council later accepted.<sup>34</sup> The retention of governors, seneschals and warders placed a strain on the limited resources of the treasury, and the governors of Munster appear to have been low priority officials, receiving their pay late or not at all, forcing martial commanders to quarter their troops on neighbouring towns and cities.<sup>35</sup>

---

<sup>29</sup> Morrison to Chichester, 14 May 1610, *CSPI 1608-10*, pp 446-7.

<sup>30</sup> Chichester to Morrison, 3 June 1611, *Council book of Munster*, pp 364-5.

<sup>31</sup> Chichester and council to English privy council, 25 Jun. 1612, *Council book of Munster*, pp 273-4.

<sup>32</sup> Chichester and council to [unknown], 25 Jun. 1612, *Council book of Munster*, pp 273-4; Chichester to Lord President Danvers, 2 July 1612, *Council book of Munster*, p. 275.

<sup>33</sup> 'Observations made by Davies', 4 May 1606, TNA (UK) SP 63/218/53 (*CSPI 1603-06*, p. 466).

<sup>34</sup> Upon his full submission and acknowledgement of fault, Aylward received a full remission of his fine, Lord Deputy Carey and council to [unknown], 2 Dec. 1604, *Council book of Munster*, p. 275.

<sup>35</sup> A letter of 3 June 1606 noted that Sir Richard Percy of Kinsale, Sir Richard Morrison of Waterford and Wexford and Sir Charles Wilmot of Kerry were the only governors left out of the 1 April establishment, *CSPI 1603-06*, p. 493.

The government's stance toward reform of Old English towns can be best viewed in their discussions over the construction of citadels to watch over the chief cities and towns of Munster and Connacht. These citadels were to be strong fortifications, commanding positions over Old English towns, akin to those provided by the early Norman castles of Limerick and Dublin or Elizabeth Fort in Cork. With little vantage on the coast (unlike the island forts at Castle Park in Kinsale and Haulbowline Fort in Cork, or Duncannon in Waterford), these citadels explicitly acted as restraints over towns. Calls for the building of citadels over Waterford and Cork began before the 1603 revolt had come to a close, as both the commissioner for Munster, Sir George Thornton, and secretary of state, Sir Geoffrey Fenton, agreed on the need to 'bridle' not only Cork and Waterford, but all the chief cities.<sup>36</sup> Officials continually pleaded for funds to begin work on citadels, with a letter from Chichester to the privy council in April 1607 a demonstration of his view on Old English towns. Well-placed citadels, he wrote, would act as a 'strength & defence' to towns and their hinterland when occasion came to protect them and also as a 'bridle' on them should they become 'ill affected' to the crown.<sup>37</sup> Furthermore, they would act as points of refuge for 'good subjectes' during times of insurrection, and their role as defensive bulwarks would promote 'somanie civile plantacons, where non is'.<sup>38</sup> Chichester further pressed the need for citadels by casting doubt on the loyalty of these towns, questioning whether they would defend the crown's interest in times of alteration. Chichester felt that they would never be 'cured of their disease, so longe as they drinke of the poison of Rome'. He advised the construction of citadels at Waterford, Cork, Limerick and Galway and called for the first three to aid in the charge of their citadels owing to their disloyal behaviour during the 1603 revolt.<sup>39</sup>

Administrative attention, both in London and Dublin, on the security of forts waxed and waned depending on the political exigencies of the time. The September 1607 flight of the earls brought renewed interest in fortifications, as the Dublin administration pressed for funds to strengthen coastal defences. These fortifications were to protect the country's main harbours in lieu of an invasion by a combined force of exiled Irish and

---

<sup>36</sup> Thornton to Carew, 6 May 1603, *CSPI 1603-06*, p. 45; Fenton to Cecil, 7 May 1603, *ibid.*, pp 46-7.

<sup>37</sup> Chichester to English privy council, 18 Apr. 1607, TNA (UK) SP 63/221/38 (*CSPI 1606-08*, pp 139-40).

<sup>38</sup> *Ibid.*

<sup>39</sup> *Ibid.*



Spanish troops. In April 1608, the English privy council wrote that forts ought to be built solely for protecting coasts against foreign invasion, and not to act as bridles on cities and towns.<sup>40</sup> Municipal councils themselves could do little to oppose the construction of these forts, as the lord presidents and the lord deputy regarded them as essential. Municipal agents in London received some attention on these matters, yet the English privy council regarded the defence of Ireland's coasts as part of the remit of the lord deputy, deferring largely to him in such matters. The greatest hindrance to plans came through the financial constraints placed on the government. When money did come, in 1608, it was used to repair half-complete works undertaken late in Elizabeth's reign, rather than new works.<sup>41</sup> Both Cork and Kinsale citizens had previously been engaged upon to help in the construction of forts by their cities, yet thereafter this practice did not continue, as professional masons and paid workmen or soldiers provided labour.

Debate over the construction of fortifications, particularly citadels, to watch over cities and towns, are a means to view the administration's attitude toward Old English towns and their fears over their loyalty. The language used by those propounding these schemes is revealing, as administrators frequently associated the need for citadels with the political and religious disaffection of Old English towns. In June 1607, Sir Richard Morrison advocated putting the £7,000 worth of uncollected recusancy fines toward the construction of citadels.<sup>42</sup> The use of citadels to watch over towns formed part of a wider strategy from the administration to hold a monopoly of the martial means in the kingdom. In contrast to England, Ireland had remained a heavily-armed polity up to the Nine Years War, with army captains and martial service rendered as part of land tenure. The administration aimed to reduce the martial means in the country, both Old English and Gaelic Irish, to restrain their ability to wage war in the future. On 20 February 1605, Chichester and the council issued a proclamation restricting the carrying of arms by private citizens to those on horseback.<sup>43</sup> On 10 March 1606, the government issued a

---

<sup>40</sup> English privy council to Chichester and council, 12 Apr. 1608, *CSPI 1606-08*, pp 471-2.

<sup>41</sup> McLaughlin, 'The making of the Irish leviathan', pp 291-302; O'Sullivan, 'The fortification of Galway in the sixteenth and early seventeenth centuries', pp 28-32.

<sup>42</sup> Morrison to Salisbury, 25 Jun. 1607, *CSPI 1606-08*, p. 199.

<sup>43</sup> Proclamation of Chichester and council against carrying arms, 20 Feb. 1605, TNA (UK) SP 63/217/8 (*CSPI 1603-06*, p. 259).



proclamation that enabled them to control the spread of arms, as it banned the importation of gunpowder, ammunition and fire-arms into the country without licence.<sup>44</sup>

In October 1609, Sir Robert Jacob, justice of assize, reported the government's reaction to the construction of a strong fort, with a harbour, by an O'Flagherty, south-west of Galway.<sup>45</sup> Asked why he built the fort, O'Flagherty replied he did so as a safe house where he might have protection against his enemies. Upon complaint from the Dublin government, he voluntarily agreed to raze the fort to the ground, rather than risk causing offence. Jacob wrote that had he not done so he would have ordered soldiers to have done so himself, rather than have a well-manned, strong fort in such a location.<sup>46</sup> In contrast, the servitor Sir Thomas Roper, was congratulated in 1622 for his construction of a fort at Crookhaven, armed with ordnance for the defence of its harbour.<sup>47</sup> The administration did not oppose private construction of fortified positions, *per se*, it depended entirely on context; Roper had a track history of serving the crown in war, had developed a successful textile business in Dublin and was trusted to act in the crown's interest, unlike O'Flagherty. After victory in the Nine Years War, the administration sought to hold a virtual monopoly on martial means, particularly modern weaponry, forcing everyone to rely on crown troops for their defence. The Old English were not exempt from this ruling, having to petition the government to buy arms or artillery for their own protection. The success or failure of this policy is difficult to gauge, as correspondence in this period reported both the abundance and absence of weaponry in Ireland. In 1608-09, many in government wrote that the Ulster Irish would revolt if they had the arms to do so.<sup>48</sup> In a similar vein, Lord Wilmot wrote in 1630 that if the Spanish were to land, they would have to drill and arm the Irish.<sup>49</sup> Evidence for the Irish storing arms in bogs, woods and waters is also a constant feature and must act as a counterpoint to accounts of reduced martial means.<sup>50</sup>

---

<sup>44</sup> Proclamation against gunpowder, 10 Mar. 1606, *ibid*, pp 437-8.

<sup>45</sup> Sir Robert Jacob to Salisbury, 18 Oct. 1609, *CSPI 1608-10*, p. 299.

<sup>46</sup> *Ibid*.

<sup>47</sup> Commissioners in Ireland to Buckingham, 5 Jul. 1622, *CSPI 1615-25*, p. 361.

<sup>48</sup> Chichester to English privy council, 4 May 1608, *CSPI 1606-08*, p. 499; Lord Chancellor Loftus to Salisbury, 7 Aug. 1608, *CSPI 1608-10*, p. 18; Sir Robert Jacob to Salisbury, 15 Apr. 1609, *CSPI 1608-10*, p. 190.

<sup>49</sup> Lord Wilmot to Lord Dorchester, 6 Dec. 1630, *CSPI 1625-32*, p. 588.

<sup>50</sup> John Crosse's information, 19 Feb. 1608, *CSPI 1606-08*, p. 420; Chichester to English privy council, 31 Oct. 1609, *CSPI 1608-10*, p. 304; King James to Chichester, 17 Feb. 1613, *CSPI 1611-14*, p. 324; Additions upon a second examination of Teage O'Lennan taken by Thomas Phillips, 12 Apr. 1615, *CSPI 1615-25*, p. 44.

## II

Old English cities and towns received generous charters over the centuries, guaranteeing them the right to self-government and reserving to them the profits of customs exacted in their ports. In return, the Old English used these customs to maintain their walls and provide for their own defence, supplying the crown with loyal enclaves in an otherwise Gaelic-dominated land. By the start of James's reign, the administration became distrustful of urban centres, choosing to watch over their actions rather than using them as the loyal eyes of the crown outside Dublin. Their weak showing in the Nine Years War did nothing to further their case for preferment, nor did their behaviour in the 1603 revolt. If cities and towns could no longer be trusted to defend themselves adequately, coupled with their increasing religious disaffection, the crown saw little need to continue to offer them exemptions from customs.

The administration investigated the possibility of increasing the crown's customs from an early stage and found the collection to be in disarray. The administration had collected a fraction of what was owed, towns had grand exemptions that robbed the crown of potential revenue and of the money raised, half of it was unaccounted for.<sup>51</sup> After a long and crippling war, the crown could no longer continue to subsidise the Irish government to the same extent. Writing in 1607, James declared his intention to create a customs farm in Ireland, as had been the practice in England and Scotland, demonstrating that the resuscitation of the Irish customs fell in line with policy elsewhere in his three kingdoms.<sup>52</sup> The treatment of some of the Old English towns in these protracted negotiations, however, showed the crown's willingness to bend legal principles in this respect. On the controversial issue of religious enforcement, the Old English towns relied on the king's favour to mitigate the severity of his councillors in Ireland (chapter three), yet on the question of customs they found him largely in agreement with his officers in Ireland and ultimately had to acquiesce in the crown's plans.

Old English towns resented the attempt to wrestle customs revenues from them and opted for litigation when the challenge came for the resumption of customs for the

---

<sup>51</sup> Victor Treadwell, 'The establishment of the farm of the Irish Customs 1603-13' in *The English Historical Review*, 93, no. 368 (Jul., 1978), pp 585-8.

<sup>52</sup> King James to Chichester, 10 Feb. 1607, *CSPI 1606-08*, p. 105.



crown. In July 1607, Davies, having viewed their legal case, criticised the ‘over-liberall charters’ of the Munster and Leinster cities and towns that had detained customs from the crown for 200 years. He found their legal argument ‘feebly defended’ and predicted findings for the crown during the next legal term.<sup>53</sup> Despite interruptions caused by the flight of the earls that September and the revolt of O’Doherty the following April, the crown and administration pressed ahead with their plans. In June 1608, Davies and two agents for each port were summoned to London to negotiate deals.<sup>54</sup> Discussion over the renewal of their charters had been suspended from August 1607, as the extension of non-trade related liberties were proffered as inducements for towns to sign off on their customs rights. These discussions were not legally-binding, and failed to provide the result the crown sought. The perpetual poundage act of 1500 specifically exempted the towns of Dublin, Drogheda and Waterford and a subsequent charter in Galway exempted them from the charge. Cork and Waterford were exempt from the great custom, Limerick and Youghal holding exemptions from the petty custom.<sup>55</sup>

The form that these discussions took opened the door to compromises for municipal corporations who opted to relinquish their customs exemptions in exchange for other rights. In discussions over new charters that ran contemporaneously, a number of towns secured an extension of rights on a number of issues. Towns such as Galway, Youghal and Limerick secured beneficial admiralty rights; Galway city also became a distinct county; Waterford won the right to hold their own assize courts; Youghal retained the right to keep petty customs for the repair of their walls; Kilkenny won city status and outstanding customs arrears and their recusancy fines were waived.<sup>56</sup>

During negotiations, Dublin agents were noted for their professionalism in the orderly return of their previous customs receipts and their agent, Sir Richard Bolton, was noted for his conformity and armed with a recommendation from the lord deputy.<sup>57</sup> An official informant from Waterford, Patrick Strange, informed Sir Julius Caesar, chancellor of the English exchequer, that except for Bolton, all the rest of the agents were in league with Jesuits and other priests and had learned from them a ‘good store of

---

<sup>53</sup> Davies to Salisbury, 1 Jul. 1607, TNA (UK) SP 63/222/95 (*CSPI 1606-08*, p. 213).

<sup>54</sup> Treadwell, ‘The establishment of the farm of the Irish Customs’, pp 590-1.

<sup>55</sup> *Ibid.*, pp 589-92.

<sup>56</sup> *A repertory of the inolments*, vol.i, part 2, p. 699; Treadwell, ‘The establishment of the farm of the Irish Customs’, pp 593-4.

<sup>57</sup> Treadwell, ‘The establishment of the farm of the Irish Customs’, p. 587; *CSPI 1608-10*, p. 70.



equivocation'.<sup>58</sup> The earl of Clanricard described the chief negotiator of Athenry as a 'notorious knave and a lunatic fellow' whose agency costs accounted for half the annual profits of the town – which he used for his own private ends.<sup>59</sup> Chichester in his correspondence drew a close link between the 'pride' of the priests and their desire for liberty of conscience and the obdurate stance taken by the towns in their negotiations at court.<sup>60</sup> Dublin's choice of agents and their carriage during negotiations, ultimately, mattered little, as all cities and towns were to be brought into the customs house, irrespective of their behaviour at court. The issue of the collection of the customs was a high political one, discussed in Whitehall between well-placed courtiers keen on profiting from the establishment of the farm and a king who took over a much-depleted exchequer and lived a lifestyle that did little to ease his financial burdens. The machinations of the municipal corporations and the legal arguments propounded were of little weight in this matter, as the dye had been cast long before agents reached England – Whitehall simply needed their acquiescence, by any means possible.

Negotiations struck up again in 1611, with the administration holding a hard line in discussions. The crown's agent in Ireland, Robert Cogan, reported that he enlisted muscle in the form of the sergeant-at-arms in negotiations with the agents of New Ross, who claimed the same exemptions as Waterford citizens. Their protest evaporated on the threat of being brought to Dublin and their recorder swiftly assented to the agent's demands.<sup>61</sup> Making up four fifths of all overseas trade in Ireland, the ports of Drogheda, Dublin, Waterford and Galway represented a significant obstacle in the establishment of a customs farm. These towns gained such a prominent position due to their customs exemptions, particularly on poundage, as the farm would be worthless if they remained outside. Furthermore, foreign goods exported through England to Ireland would also be exempt from payment of any customs to the king, representing a huge problem to prospective farmers. In the absence of cooperation from the four towns, in October 1611, the administration resorted to prerogative powers and imposed a duty equivalent to poundage on all the cities and towns of Dublin, Drogheda, Waterford and Galway.<sup>62</sup> This underhand exaction at once removed the privileges of the towns – disregarding

---

<sup>58</sup> Treadwell, 'The establishment of the farm of the Irish Customs, p. 593.

<sup>59</sup> *CSPI 1606-08*, pp 204-05.

<sup>60</sup> Chichester to Salisbury, 10 Mar. 1610, *CSPI 1608-10*, pp 399-400.

<sup>61</sup> Treadwell, 'The establishment of the farm of the Irish Customs, p. 598.

<sup>62</sup> *Ibid.*

both statute law and their charters – allowing the crown to auction the farm of the Irish customs in 1613 for £6,000 per annum.<sup>63</sup> In 1612, the mayor of Dublin made a belated offer to lease the city's customs at the current yearly rate. The plan received little support, however, and the crown leased the right to a syndicate of prominent courtiers.<sup>64</sup> Old English towns were helpless to oppose this exaction and were victims of the king's prerogative powers, unlike their experience on religious conformity where the king came to their aid against the moves of the lord deputy and the lords president (chapter three). The administration intended to later pass a revocation of the 1500 poundage act in parliament of 1613-15, but the commons rejected it and they had to fall back on prerogative powers to continue to exact it (chapter five).<sup>65</sup>

### III

During negotiations on urban customs rights, the crown renewed and enlarged their privileges through the granting of new charters. This was an important phase for Old English towns, as the relationship of town and crown was undergoing a profound change. As the text of charters were largely penned by the municipalities themselves – with some additions by crown officials – they offer an insight into the self-perception of Old English towns. The smaller corporations stressed their usefulness to the crown, with Athlone's charter declaring its geographic importance, as the 'towne is the only thoroughfare or passage out of the englishe pale into the province of Connaght', or New Ross, which stressed its role as a convenient port for trade and traffic.<sup>66</sup> Many also noted their weakness, as Gawran, Kilkenny, Limerick, Athboy, Dungarvan and Clonmel pleaded for favour owing to the ravages of Tyrone's rebellion or through subsequent plague or fire in the town.<sup>67</sup> All focused on their loyalty to the crown, both anciently and more recently in the Nine Years War, and the older towns concentrated on their origin as English colonies. Kilkenny's 1608 grant charted their origin from 'an ancient colony from England', which had 'rendered very many lawdable services to the crown' since then. These services included 'retaining the english laws, tongue and manners, when the whole circumjacent country was altogether lapsed into irish

---

<sup>63</sup> Ibid., p. 600.

<sup>64</sup> Ibid., pp 599-600.

<sup>65</sup> Victor Treadwell, 'The House of Lords in the Irish Parliament of 1613-1615' in *The English Historical Review*, vol. 80, no. 314 (Jan., 1965), pp 97-8.

<sup>66</sup> *A repertory of the inolments*, vol.i, part 2, pp 302, 577.

<sup>67</sup> Ibid., pp 458, 479, 668, 680, 713; 'Charter of Clonmel' in William P. Burke, *History of Clonmel* (Waterford, 1907), p. 218.



barbarism'.<sup>68</sup> While the citizens of Clonmel saw themselves as 'beginning from the ancient Birth of England, having and enjoying English Laws Habitts and Manners', the Dublin administration and, to an extent, the crown and council in England, saw these towns as Irish. As the exchange between Chichester and Barnewall treated above demonstrated, the Dublin administration viewed all 'native' inhabitants of the island as one, whereas the Old English stressed their differentiation from the Gaelic Irish. Their charters reflected their perception of themselves as loyal crown servants on the island, reinforced over centuries through opposition to crown enemies and reinforced by way of chartered municipal liberties.

While Old English towns negotiated with the Dublin and London governments on their customs, their charters and ultimately their role in the future of Stuart Ireland, the administration planned for the establishment of many new towns. Favour was to be granted to enterprising Englishmen and servitors who had been given special privileges over former abbey lands, military outposts and small villages. The Ulster plantation project initially aimed to create twenty-five towns, to act in the government's interest in both martial and civil affairs. Ulster had traditionally been an area of relatively sparse urban settlement, even by Irish standards, yet the period prior to the official plantation project had witnessed an effort to amend this. Grants were given to small settlements on former ecclesiastic sites (Coleraine and Newry) and military outposts (Belfast, Carrickfergus, Derry and Enniskillen) in an attempt to promote commercial endeavours, encourage plantation and stabilise former unruly areas. An example of this is the 11 July 1604 charter of incorporation of Derry, which termed it 'a place very convenient and fit to be made both a town of war and a town of merchandise'.<sup>69</sup> Many of the sites chosen were meagrely populated and displayed few signs of urbanity, with their charters and the liberties granted as an enticement to growth.

Outside Ulster, the crown encouraged the establishment of new towns, as rewards to loyal men and to encourage the settling of New English in Ireland. The establishment of the town of Newborough as part of the Wexford plantation is an example of this new kind of town. Its purpose mirrors that of the grant to Derry in 1604. In times of trouble the town would provide lodging and relief to soldiers, it could be used to store

---

<sup>68</sup> *A repertory of the inrolments*, vol. i, p. 479.

<sup>69</sup> John McGurk, *Sir Henry Docwra, 1564-1631: Derry's second founder* (Dublin, 2006), p. 233.



munitions, victuals, powder and weapons; in times of peace it would nourish tradesmen and artificers, allow the assembly of officers of the country at sessions and public consultations.<sup>70</sup> To cover costs of the establishment of the town, the privy council proposed that the whole country bear the charge, both undertakers and natives, to be built within seven years, with 200 acres of land to support the costs of the corporation.<sup>71</sup>

The town of Bandonbridge in county Cork had different origins (a grant in 1588 to Phane Beecher as part of the Munster plantation), yet it aimed to provide a similar role to the state.<sup>72</sup> Originating as a grant to the Beecher family, the town came under the control of a Captain William Newce who became its first portrief on its incorporation in 1613 and gradually it came under the influence of Richard Boyle.<sup>73</sup> Like Newborough, the hinterland were expected to help to support the development of the town. In November 1611, Chichester and the Irish council assented to a tax of five shillings per ploughland upon the whole province of Munster, payable in two years, for the erection of a town wall, a sessions house, a gaol, a market house and a dwelling place for the lord president.<sup>74</sup> Chichester and the council directed a letter to all the lords and gentlemen of the province, praising the establishment of the town and calling for their financial support of it, resting on the 'good will and inclynation of all good patriottes and faiethfull subiects' in furthering the project.<sup>75</sup> Sir Richard Morrison voiced his support for the endeavour and praised the establishment of the town as it would provide 'a settled and certaine place where to repaire unto the governor fynde much content compared with former tymes'.<sup>76</sup> Morrison's letter, directed to the 'undertakers' of the province, noted their support of the project, and implied that only New English settlers were asked to pay for the works. The Bandonbridge project revealed the changing nature of urbanity in Ireland in this brief period, as letters promoting the scheme noted its separateness from the Old English towns in the area. It received praise for the comfort that will be found there 'compared with former tymes', implying the disloyalty or hostile reception received by justices and the presidency in other Munster towns.<sup>77</sup>

---

<sup>70</sup> 14 Jan. 1618, *Acts of the privy council, 1617-18*, pp 12-13.

<sup>71</sup> *Ibid.*, p. 13; *1622 Commission*, p. 648.

<sup>72</sup> George Bennett, *The history of Bandon, and the principal towns in the West Riding of County Cork* (Cork, 1869), pp 6-7.

<sup>73</sup> On Newce as portrief see, *ibid.*, p. 44; Cork gained sole control of the town in 1625, *ibid.*, p. 62.

<sup>74</sup> *Council book of Munster*, pp 200-01.

<sup>75</sup> *Ibid.*, p. 201.

<sup>76</sup> Morrison to undertakers of province, 16 Dec. 1611, *Council book of Munster*, p. 202.

<sup>77</sup> *Council book of Munster*, p. 202.

The insertion of a loyal town such as Bandonbridge, in an area well served with urban settlements, is a telling indictment on how the government viewed the Old English towns and their place in the kingdom.

#### IV

The plan to increase the number of towns in Ireland was shaped to a large degree by the religious disaffection of the current Old English towns. The charter for Derry in 1604 rewarded its patron, Sir Henry Docwra, for populating the area with ‘a colony of civil and obedient people’.<sup>78</sup> The term ‘civil’ here is important, as the idea of what it meant to be civil, or loyal in this period was going through a rapid change. In the renewal and incorporation of Old English towns, the term civil is absent; it appears not to have been an important part of the Old English lexicon, as state paper references to ‘civil’, ‘civility’ and ‘civilisation’ come primarily from the pen of New English administrators, with only a handful of exceptions.<sup>79</sup> While Kilkenny’s charter referenced its role as champion of Englishness over ‘irish barbarism’, the notion of civility is missing. The difference in terminology is but a small point in the larger split of Old English and New English, evident in the experience of urbanity in this period. For the Old English, to term the country, in the seventeenth century, as ‘uncivil’ would be to neglect an anglicisation process that they had been engaged in for centuries. Late Tudor monarchs followed a reform process largely independent of the Old English community and thus by the early seventeenth century their view of the kingdom, and their vision for its future had diverged. Parliamentary acts aimed to reduce the racial differences in Ireland, with the 1541 act for the kingly title and the 1569 attainder of Shane O’Neill eliminating legal differences between Old English and Gaelic Irish.<sup>80</sup> In the 1613-15 parliament, chapters five and six ordered the further elimination of legal differences

---

<sup>78</sup> Ibid., p. 234.

<sup>79</sup> Exceptions include Richard Hadsor, A discourse presented to the king’s majesty touching Ireland, *CSPI 1603-06*, p. 231; other references by the Old English that I have discovered are either direct quotes from proclamations or refer to the ‘civil’ government or ‘civil’ laws, as opposed to ecclesiastic government or canon laws; Patrick Comerford, *Inquisition of a sermon* (Waterford, 1644), p. 29. There is also one Gaelic Irish example that I have found, petition of Donogh O’Brien, earl of Thomond, [Dec.] 1600, *CSPI 1600*, p. 115.

<sup>80</sup> Ciarán Brady, ‘The attainder of Shane O’Neill, Sir Henry Sidney and the problems of Tudor state-building in Ireland’ in Ciarán Brady and Jane H. Ohlmeyer (eds), *British interventions in early modern Ireland* (Cambridge, 2005), pp 28-48; James F. Lydon, ‘Nation and race in medieval Ireland’ in *Concepts of national identity in the middle ages* (Leeds, 1995), pp. 103-24.



between Gaelic Irish and Old English and those that prejudiced Scots (chapter five).<sup>81</sup> While these acts aimed to reduce differences, the crown's moves against non-conformity under Elizabeth and James created a new form of exclusion – based on religious practice.

These new towns encapsulated this change, as many of them specifically called for English men to fill positions as officers and more broadly called for English settlers to populate them. The charters of Derry and Coleraine detailed this exclusion, outlining that all officers were to take the oath of allegiance and the oath of office.<sup>82</sup> The oath of allegiance had no legal basis in Ireland and could only be exacted in England (chapter three). As the officers of Derry City were also to rule over the county, the mayor, sheriffs and six aldermen were to be the justices of the peace, and were directed to take the oath of supremacy, as they were legally obliged to do under the 1560 act.<sup>83</sup> The office of recorder is specifically mentioned as being reserved for an Englishman. Plantation conditions to undertakers restricted the leasing of town land to Irish, yet Robert J. Hunter concluded that this likely extended to the leasing of houses in plantation towns.<sup>84</sup> Similarly, George Bennett's history of Bandonbridge stressed the importance of keeping the town free of Irish inhabitants, with the first enactments of the municipality forbidding the presence of Catholics within the town.<sup>85</sup> Furthermore, in 1633, Richard Boyle, earl of Cork stated that 'no popish recusant or unconforming novelist' lived in the town.<sup>86</sup> Nicholas Canny countered Cork's depiction of the town as free of Irish, writing that both his model towns of Tallow and Bandonbridge were known to house some Irish.<sup>87</sup> Cork's claim that the town was absent of any 'unconforming novelist' also belies the reputation of these areas for puritanical practices.<sup>88</sup>

---

<sup>81</sup> 'An act of repeale of diverse statutes concerning the natives of this kingdom of Ireland', 12 James I, c. 5; 'An act for repeale of one statute made against bringing in of Scotts, retayning of them, and marrying with them', 12 James I, c. 6.

<sup>82</sup> Theodore William Moody, *The Londonderry plantation 1609-1640: the city of London and the plantation in Ulster* (Belfast, 1939), p. 124.

<sup>83</sup> *Ibid.*, pp 124-5.

<sup>84</sup> Robert J. Hunter, 'Ulster plantation towns, 1609-41' in David Harkness and Mary O'Dowd (eds.) *The town in Ireland* (Belfast, 1981), pp 61-2.

<sup>85</sup> Bennett, *The history of Bandon*, pp 14, 44.

<sup>86</sup> *Ibid.*, p. 93.

<sup>87</sup> Nicholas Canny, *The upstart earl: a study of the social and mental world of Richard Boyle first earl of Cork, 1566-1643* (Cambridge, 1982), pp 126, 194, fn. 11.

<sup>88</sup> On Boyle and puritanism see *ibid.*, chapter three, 'The mental world of Richard Boyle', pp 19-40.



These moves to create new model towns aimed to entice New English settlers to Ireland, granting them favourable terms and aiding their early development. As the administration planned the settling of New English towns, it attempted to bring conformity in existing towns, with mixed results. The following chapter outlines the use of the oath of supremacy in the enforcement drive, sketching the impact that this had on urban government. The first phase, led by Chichester and Brouncker, caused great disruption in towns, with large scale imprisonment of aldermen and sizeable fines levied. The scheme only began to make headway in Munster toward late 1606, with large numbers in church and a few conformist mayors. By April 1607, the scheme stalled, and by late 1607, the commissioners of the presidency of Munster reported that non-conformist mayors were returned anew.<sup>89</sup> Dublin, Cork and Waterford magistrates faced continual pressure during this period, causing significant disruption in the ordering of civic governance.

In the rest of the kingdom, the tendering of the oath of supremacy became an infrequent requirement, until religious enforcement efforts redoubled from 1611. Thereafter, the administration kept up pressure on enforcement of the oath of supremacy on mayors, sheriffs or bailiffs and the town's recorder, causing huge disruption. Each major city or town dealt with the challenge in different ways, some coping more effectively than others. This section will analyse the reaction of towns from 1611 to 1625, demonstrating how the towns of Dublin, Youghal, Galway, Cork and Waterford responded to the religious tests. These towns have been chosen largely based on the richness of their surviving primary records, a methodological problem, yet a necessary one due to the nature of extant records. The omission of Drogheda, Kilkenny, Kinsale and Wexford, while regrettable, is unavoidable. The geographic spread is also skewed toward Munster, yet this reflects the pattern of urban growth in the kingdom.

As the most carefully watched and most consistently coerced city, the magistrates of Dublin had to cooperate with the administration to ensure some level of stability in urban government. The council largely continued to elect mayors as anciently prescribed, according to seniority on the bench of aldermen, whether willing to conform or not, resulting in large fines and imprisonment. In this manner, between 1603 and

---

<sup>89</sup> Thomond to English privy council, 11 Dec. 1607, TNA (UK) SP 63/222/190, *CSPI 1606-08*, p. 356.

1625 eight mayors were deposed for refusing to take the oath of supremacy.<sup>90</sup> Many others avoided this fate as the aldermancy adapted to these upheavals, opting to elect those willing to perform the duty and accept the oath, rather than keeping strictly to the order of precedence. In this manner, John Brice served in 1604-05, five years ahead of his time; Sir James Carroll served in 1612-13 in place of his recusant father Thomas Carroll; Richard Forster became mayor the following term many years before his time.<sup>91</sup> These arrangements aimed to minimise disruption and limit friction between the central government and the city magistrates.

Council minutes indicate that these decisions came from within the closed chambers of the aldermancy council, as a number of petitions from the common council complain of their in-house decisions and the abuse of the order of succession. In October 1606, the assembly agreed to a commons petition that called for all deputy aldermen, constables and other officers to be granted to freemen only.<sup>92</sup> The call to employ only freemen of the city likely came in the wake of the appointment of men like Sir Richard Bolton, elected recorder of the city in Michaelmas 1605 before gaining his freedom in January 1606.<sup>93</sup> In three October assemblies, in 1609, 1614 and 1615, the commons petitioned for the correction of irregularities in the succession to the mayoralty and aldermancy and the advertising of their elections in public. In 1614, they complained that decisions had been taken the previous year at a private meeting in then mayor Sir James Carroll's house and the following year the commons called on the regular succession to the mayoralty after Richard Browne began his second successive term.<sup>94</sup>

The oligarchic 'lords' of Dublin acted in this manner to try limit the disturbance that frequent depositions of officers caused in the running of the city. Dublin had a majority Catholic population, with a sizeable Protestant minority and many men willing to conform publicly for office, while suspected of practising Catholic rites privately or harbouring Catholic clergy.<sup>95</sup> The common council fought on these occasions to

---

<sup>90</sup> Using Appendix II in Colm Lennon, *The lords of Dublin in the age of Reformation* (Dublin, 1989), pp 223-76.

<sup>91</sup> *Ibid.*, pp 234, 236-7, 252, 260.

<sup>92</sup> John Thomas Gilbert, *Calendar of the ancient records of Dublin* (5 vols, Dublin, 1889-95), ii, p. 467.

<sup>93</sup> *Ibid.*, pp 454, 458.

<sup>94</sup> *Ibid.*, pp 525-6, *CARD*, iii, pp 51-3, 60.

<sup>95</sup> Sir James Carroll and Richard Browne were rumoured to secretly support Catholic clergy, while publicly conforming, Lennon, *Lords of Dublin*, pp 236-7.



preserve the ancient laws of the city, which would have led to a greater number of Catholics being forced to undertake the office and suffer heavy punishment. In October 1607, the commons petitioned the assembly requiring that more prominent citizens ought attend the mayor, in their gowns, every Sunday at church service.<sup>96</sup> The aldermancy remained in the control of Catholics in the city, with fourteen of the twenty-four in 1622 refusing to attend church, with some conformists likely worshipping by Catholic rites privately.<sup>97</sup> While it was not unusual for city councils to engage in power struggles between oligarchy and commons, the nature of the petitions in this case reveals that some in the common council sought to upset the backroom negotiations that the council engaged in during these turbulent years.<sup>98</sup> Colm Lennon noted that state correspondence frequently revealed that many on the commons of Dublin attended divine service, whereas those of the elite largely stayed away.<sup>99</sup> Protestants almost certainly remained in the minority on the common council (see chapter five where the commons twice elected Catholic members for parliament), yet their petitions challenged the supremacy of the oligarchy, trying to ensure a more open process of election and one more in tune with previous practice. Their motivations in this are unclear, as the inner dealings of the aldermancy worked to limit the damage to those who refused to conform, while rewarding those who agreed to conform and take office through increasing pay for the mayor's entertainments for the year. Gaining office had its perks, yet it remained a burden to those who accepted it as the costs incurred during the mayoralty year were burdensome and the time spent on official business interrupted in the private enterprise that the candidate would have engaged in.

Election to the shrievalty suffered similarly, as the oath of supremacy caused a number of depositions in the period. By 1603, the nomination of one sheriff remained the preserve of the mayor, the other being elected by the aldermancy.<sup>100</sup> The heavy workload of sheriffs necessitated splitting their tasks, with the oath of supremacy adding a new dimension to an old problem. In January 1609, Peter Dermot, a member of the commons, alleged that for the past five years the city retained two kinds of

---

<sup>96</sup> *CARD*, ii, p. 485.

<sup>97</sup> *1622 Commission*, p. 293.

<sup>98</sup> On disputes between oligarchy and commons in England see Phil Withington, chapter four, 'Citizens and subjects', *The politics of commonwealth: citizens and freemen in early modern England* (Cambridge, 2005), pp 51-84.

<sup>99</sup> Lennon, *Lords of Dublin*, p. 188.

<sup>100</sup> Lennon, *Lords of Dublin*, pp 55-8.



sheriffs, one conforming man who accompanied the mayor to church, 'but a cipher' for the more powerful, non-conforming man.<sup>101</sup> His allegation earned him a fine of ten pounds sterling.<sup>102</sup> Evidence of those serving the shrievalty in this period casts doubt on aspects of Dermot's allegation, as records for some years indicate that both sheriffs had been tendered the oath of supremacy, such as the year 1606-07 where no fewer than six men were elected, finally resting with the Protestant John Lany and the conformist Thomas Purcell.<sup>103</sup> The accusation does reveal the inner workings of the council and the means employed to attempt to placate the government whilst also limiting changes in their traditional proceedings. In a similar vein, the city selected their recorder, Richard Bolton, to act as agent in London, receiving praise for their choice, unlike many other towns who sent Jesuit-influenced men. With significant numbers of both Catholics and Protestants in the city, and being under scrutiny from the reformist lord deputy and council, the Dublin magistrates had to find means to manage their affairs under severe tests.

The magistrates at Youghal appear to have taken a different route in accommodating themselves to the Dublin administration. In the first period of enforcement under the lord president, Sir Henry Brouncker, the town faced the deposition of their mayors and bailiffs and widespread fines under the act of uniformity (chapter three). The townsmen resorted in great numbers to church in late 1606, with 600 said to have attended in November, to Brouncker's delight.<sup>104</sup> Their agents negotiated a generous deal with the government in customs discussions, securing the right to keep petty customs, to be used solely for the repair of their walls.<sup>105</sup> The town came under the influence of Sir Richard Boyle during these years, greatly changing their political trajectory, in contrast to their Old English neighbours. From 1611 to 1615 the town leadership again suffered, with leading candidates in these years deposed for refusal of the oath of supremacy. In 1615, the mayor and both bailiffs were deposed for their refusal, with these depositions appearing to mark a change in the town. The following year, Sir Richard Boyle, now titled Lord Cork, Baron of Youghal, put forward their case to be a staple town.<sup>106</sup>

---

<sup>101</sup> 24 Jan. 1609, 'Minute book of the corporation of Dublin, known as the "Friday Book", 1567-1611', ed. Henry F. Berry, *PRIA.*, vol. 30, section C, (1913), p. 512; Lennon, *Lords of Dublin*, pp 58, 188-9.

<sup>102</sup> "Friday Book", p. 510.

<sup>103</sup> *Ibid.*, p. 505,

<sup>104</sup> Brouncker to Salisbury, 19 Nov. 1606, *CSPI 1606-08*, p. 26

<sup>105</sup> *A repertory of the Inrolments*, vol. 1, part 2, pp 700-01.

<sup>106</sup> Caulfield, *The council book of Youghal*, p. 44.

Thereafter, Lord Cork acted as an agent for the city, voicing their grievances and answering government concerns about the town, including fielding questions from the lord deputy about their weak defences.<sup>107</sup>

Major changes in the ordering of the town came on 17 April 1618, when its magistrates effectively ordered for its future conformity with the established church. In July 1615, Chichester wrote to the vice president of Munster, and, among other directives concerning the conformity of the magistrates, ordered that the two churchwardens of each town must be Protestants.<sup>108</sup> The municipalities ignored this directive and continued to appoint Catholics to these positions (see chapter three). Upon directions from the vicar general of the diocese of Cloyne, the town agreed to return conformable men only to the positions of churchwarden, proctor or sideman.<sup>109</sup> The mayor, recorder, bailiffs, or any two of them, were to nominate one churchwarden and a sideman, the warden of the college of Youghal to elect the other. As part of their duty, one churchwarden, one constable and one sideman, by turns, were to go into the town during divine service and note all those who failed to attend. These were to be punished on the spot or to be reported to the mayor. Those that neglected to attend were to be fined five shillings, for use of the church. These officers were also to send to the marshal any found drinking in alehouses or taverns, or those serving them, during divine service.<sup>110</sup>

The town faced fewer problems thereafter, with Richard Boyle, earl of Cork, as advocate, with their conformity ensuring stability. The town did not wholly conform, however, as the bailiff Morrishe Mansfield refused the oath of supremacy before the lord president in April 1624.<sup>111</sup> This stands as something of an aberration, however, as the elite appear to have largely conformed by this time. In answering a directive for the building of a fort at Youghal, in February 1628, the mayor, Edward Stout and the town council, wrote that the fort was unnecessary, for many reasons, one of which was because ‘for the most part we and all English conformable to his Majesty’s laws, as well ecclesiastical as civil, and for the natives amongst us they are such affection, good

---

<sup>107</sup> Ibid., p. 46.

<sup>108</sup> Chichester to vice president of Munster, 28 Dec. 1614, *Council book of Munster*, p. 208.

<sup>109</sup> *The council book of Youghal*, pp 52-3.

<sup>110</sup> Ibid., p. 53.

<sup>111</sup> Ibid., p. 96.



proof hath been had'.<sup>112</sup> Again, in October 1626, Henry Cary, first Viscount Falkland reported that Youghal was the only town in Munster to elect conformable men to the urban magistracy.<sup>113</sup> The influence of the earl of Cork and their acceptance of religious reform appears to have aided their growth, with little interruption in the succession of chief officers after 1615. The protection offered by the earl of Cork aided the town in the continued collection of petty custom, even through investigations into how this money was spent, including evading the 1622 commissioners.<sup>114</sup> In throwing their lot in with the earl of Cork and in conforming, Youghal evaded the fate of other Munster towns who acted independently and continued to worship by Catholic rites.

The cities of Galway and Cork managed to retain some semblance of continuity during this period, as their leading families retained their ancient hold on the city magistrate through the enforcement campaign. As Anthony Sheehan has shown, the city magistrates of Cork and Galway continued to be dominated by the same family names as had done in the sixteenth century. In Galway, fifteen families appear on a list of the mayoralty from its first charter in 1484-1654, with only one exception; whereas in Cork, only twelve family names appear on the mayoralty list from 1558-1625.<sup>115</sup> While the patronymic names did not change, their outward religious affiliation did, as both municipal governments found men willing to conform to hold office. Chapter three analyses the case of Patrick Tirry, mayor of Cork, who faced ostracism for conforming, despite being part of an ancient family of the town. In the phase of enforcement in Lord Danvers term as lord president (1607-15), people appeared to be more open to the selection of conformist men, recognising the necessity of providing acceptable men to continue the ordinary business of the council.

In Galway, the one exception to the long succession of ancient tribesmen to the mayoralty was the 1612 election of the governor of St Augustine's Fort, Sir Thomas Rotherham. Becoming free of the city on 2 October 1611, Rotherham represented a great change for the city, rising to the mayoralty soon after becoming free and before he

---

<sup>112</sup> Ibid., p. 137.

<sup>113</sup> Falkland to English privy council, 15 Oct. 1626, *CSPI 1625-32*, pp 162-3.

<sup>114</sup> *Council book of Youghal*, pp 50, 57, 65-6, 88, 168.

<sup>115</sup> Anthony Sheehan, -'Irish towns in a period of change, 1558-1625' in Ciarán Brady and Raymond Gillespie (eds) *Natives and newcomers: the making of Irish colonial society, 1534-1641* (Dublin, 1986), pp 100-01.



had served as sheriff.<sup>116</sup> The election of an outsider such as Rotherham aimed to avoid the kind of disturbance experienced the previous year, as the prominent alderman, Valentine Blake, served only forty-six days in office, his term cut short through the tendering of the oath of supremacy.<sup>117</sup> Blake stepped aside for, the presumably conformist, Richard Martin, to the mayoralty, to serve his second term in office. Blake appears to have used his brief period in office to advantage, as he passed a series of statutes from 29 September to 13 November 1611.<sup>118</sup> Statutes were passed by the general assembly on Monday 30 September, Wednesday 2, Saturday 12, Monday 14, Thursday 31 October and Friday 8 November. He was deposed on Wednesday 13 November after he refused to take the oath of supremacy tendered to him by the vice president of Connacht, Sir Oliver St John.<sup>119</sup> The range and frequency of these meetings was extraordinary. Most deerhundred courts in municipalities met on an arranged day, convened about every three months. In this case, the assembly met on various days, passing much legislation. The extant records supply no acts passed by Blake's replacement, Richard Martin, though he served from 13 November 1611 to 29 September 1612.

The content of the legislation passed by Blake is also significant, as he used this time to re-order the finances and power alignment in the city. The acts reduced the power of the mayor, placing restraints on his ability to tax citizens and controlling his independent action. One act rendered void all orders, acts or statutes made by the mayor, unless he received the assent of at least six aldermen and six of the general council.<sup>120</sup> This act further restricted the mayor's ability to 'intermeddle' with the raising of subsidies and the taxing of merchants for 'safe conduct' in the ports.<sup>121</sup> Another act rescinded all previous payments and commissions made by the city, except payments to the mayor, recorder and town clerks.<sup>122</sup> The general assembly similarly restricted the power of the recorder, denying him the right to nominate a deputy in his absence, without the consent of the mayor, aldermen and freemen and ordering him to 'bahave himselfe justlie and

---

<sup>116</sup> 'Archives of the town of Galway' in *Historical Manuscript Commission*, Tenth Report, Appendix part v, p. 464.

<sup>117</sup> *Ibid.*, p. 463.

<sup>118</sup> *Ibid.*, pp 463-6.

<sup>119</sup> *Ibid.*

<sup>120</sup> *Ibid.*, p. 463.

<sup>121</sup> *Ibid.*, pp 463-4.

<sup>122</sup> *Ibid.*, p. 466.

truly towards the said Corporation'.<sup>123</sup> The importance of restrictions on the mayor and recorder at this juncture are key, as the mayor (and the aldermen and freemen who assented to these statutes), felt the need to secure the town against any future difficulties with these leading positions in the city. The fact that the mayor and recorder were to be conformable men played an important role in this reform, as the city foresaw the need to elect outsiders to their most important offices, or internal men who they did not wholly trust. Restrictions against the power of the mayor in areas of finance was not unusual, as in many urban governments the mayor sought to exploit his position in an attempt to augment his pay.

Galway's actions during the mayoralty of Sir Thomas Rotherham, are unusual, however, as this outsider, a military governor placed to 'bridle' the actions of the city, was afforded all the dignities expected of a mayor and, indeed, passed further motions that restricted the actions of the mayoralty. Statutes passed in his term ensured the financial probity of the mayor and secured the fidelity of all future mayors, as they were obliged to accept an onerous bond on assuming office. The mayor was not to 'intermeddle with the subsidie or other revenues of this Corporation' and was not to gain at the expense of merchants, as they had done previously, in the trade of wine and other commodities.<sup>124</sup> Future mayors would also have to enter into bonds of £1,000 sterling, with two sureties from among the citizens, promising 'not to doe any act or actes, without the consent of the Corporation, which may any way tend to the prejudice and damage of the said Corporation and the generall good of the same'.<sup>125</sup> There is no extant information that any mayors entered into this bond, but it clearly operated as a means to wrestle power from the mayoralty in favour of the aldermancy and common council of freemen. Unlike the raft of statutes enacted under Blake's mayoralty, these acts are not signed off by the mayor (Rotherham), though they do state that they were passed with the consent of the 'Mayor, Common Councill, Burgesses and Comonaltie', implying his assent, if not authorship, of the acts.<sup>126</sup>

The attitude of the council toward their first, and only, 'foreign' mayor in this period can be gauged by the entry of his name into the council book. The ornamentation of his

---

<sup>123</sup> Ibid., 465.

<sup>124</sup> Ibid., p. 467.

<sup>125</sup> Ibid.

<sup>126</sup> Ibid., p. 466.



name into the records is markedly more elaborate than those of previous years, and of some of those in the immediately succeeding years, implying some level of support within the council, who either employed a new scribe for this year or allowed him to employ his own.<sup>127</sup> Rotherham had the means to employ a scribe of his own, as the mayoral pay increased from £12 per annum to £100 that year.<sup>128</sup> That he continued to represent the town as an alderman after his mayoralty year, high on the list of precedence, is also telling. Thereafter the accounts are sparse, particularly for 1613-15. In 1616, the mayor and one sheriff were fined for refusing to serve, with little controversy from then until 1633. The council continued to check the power of the mayor in financial affairs, restricting their ability to dispense land or offices during their mayoralty. Accounts were to be assessed by the incoming mayor, who was charged to investigate the actions of his predecessor immediately upon gaining office.<sup>129</sup>

The magistrates at Cork experienced greater problems than those of Galway, as the city struggled to maintain stability, particularly financially, during these years. The mayor continued to be chosen from an elite group of families and there was to be no repeat of the ostracism of Patrick Tirry (chapter three), yet the council complained of the need to elevate unfit men to office, many years before they ought to have served. In 1609, the council decreed that the most ancient men ought to be made mayors and sheriffs for the city.<sup>130</sup> On 29 October 1610, the mayor and council passed another ordinance ensuring that all those to serve as mayor must have first served as sheriff for the city.<sup>131</sup> This ordinance restored the ancient practice of the council, which had recently been corrupted by the election of mayor's sons and heirs, 'being of tender years' to the mayoralty.<sup>132</sup> The council did not abide by their own ordinance, however, as George Tirry served in 1615 without having served as bailiff or sheriff of the city.<sup>133</sup> There are a few references to depositions due to failure to take the oath of supremacy – in 1616 two avoided serving as sheriffs, in 1622 one paid £200 not to serve as mayor, and again

---

<sup>127</sup> 'Galway Corporation Books, Liber A, 1485-1709', James Hardiman Library, ref. LA1, fo. 129 (available in NLI microfilm, pos. 399-400).

<sup>128</sup> M. D. O'Sullivan, *Old Galway: the history of a Norman colony in Ireland* (Cambridge, 1942), with a new introduction by William J. Horgan, p. 359.

<sup>129</sup> 'Archives of the town of Galway', pp 471-2.

<sup>130</sup> *The council book of the corporation of the city of Cork*, ed. R. Caulfield (Guilford, 1879), p. 5.

<sup>131</sup> *Ibid.*, pp 22-3.

<sup>132</sup> *Ibid.*, p. 22.

<sup>133</sup> *Ibid.*, p. 59.

in 1623 two avoided the office of sheriff.<sup>134</sup> In their ordinance of 1610 to elect only the worthiest man to the mayoralty, and only those who had served as sheriff, they added the proviso that this rule would be of no force if the man chosen as mayor was 'well studied in the laws'.<sup>135</sup> This proviso tied into Cork's greatest problem during this period – the costs of raising money for agents to travel to Dublin and London to defend their customs and chartered rights. A mayor well-studied in the laws could save the city legal fees and provide expertise advice.

In the years 1608-32, the city of Cork paid for fifteen separate agencies to Dublin (sixteen including sending of members to the 1613-15 parliament), five to London among many others to attend assizes, quarter sessions and the itinerant presidency court of Munster.<sup>136</sup> The costs incurred are difficult to calculate and are changeable, but the rate for agency to Dublin averaged at 6 shillings per day, 10 shillings per day to London. The straitened circumstances of the city by the late 1620s resulted in the reduction of the daily rate to Dublin to 5 shillings per day, and to London of 6 shillings, 8 pence per day.<sup>137</sup> Agents to Dublin typically charged between £15-30 per trip, those to London varied widely, yet the city could expect to have to raise between £140 to £400.<sup>138</sup> These agencies aimed to safeguard customs rights, protect and renew their charter, defend charges of *quo warranto* at the exchequer court in Dublin, defend their rights to land in the city and to plea for a reduction in their fee farm rent.<sup>139</sup> The costs proved a huge burden on the city, and the council had to take extraordinary measures throughout the period to meet costs incurred by their agents. Revenue-generating initiatives included farming of the prisage on wines,<sup>140</sup> mortgaging civic property and shop premises,<sup>141</sup> granting citizenship and positions on the council to outsiders for a fee<sup>142</sup> and new levies of customs at the city and marine gates.<sup>143</sup> The almost perpetual defence of their rights left the city destitute, as they struggled to pay their officers,

---

<sup>134</sup> Ibid., pp 65, 98, 106.

<sup>135</sup> Ibid., p. 24.

<sup>136</sup> Ibid., pp 8, 12, 14, 16, 25, 26, 46, 51, 74-5, 76-7, 78, 80, 81, 82, 83, 84, 86, 88, 91-2, 100, 103, 130, 136, 147, 154, 162.

<sup>137</sup> Ibid., pp 136, 147.

<sup>138</sup> Ibid., pp 8, 12, 14, 16, 25, 26, 46, 51, 74-5, 76-7, 78, 80, 81, 82, 83, 84, 86, 88, 91-2, 100, 103, 130, 136, 147, 154, 162.

<sup>139</sup> On their fee farm rent see *Cal. Carew 1600-23*, pp 385-6

<sup>140</sup> *Council book of Cork*, pp 8, 37, 38, 103.

<sup>141</sup> Ibid., pp 75, 133.

<sup>142</sup> Ibid., pp 133, 150, 158-9.

<sup>143</sup> Ibid., pp 74, 75, 76-7, 89, 92, 93.



maintain their walls, convert thatch roofs to slate (1,500 houses were burned in 1622) or upgrade their wooden bridges to stone.<sup>144</sup> The reduction in the customs appears to have had a great impact on the city, as their reduced revenue impacted on their ability to maintain their charges, and the continued challenging of their rights to remaining customs forced them to undertake extraordinary measures to try to protect and enlarge their privileges.

Unlike their Munster neighbours, the magistrates of Waterford appear not to have been able to accommodate themselves to the central administration on the issue of conformable officers – resulting in the loss their charter and liberties in 1618. The city had faced huge disruption during Brouncker's period as lord president, as in the mayoralty year 1606-07 four successive mayoral candidates, and their sheriffs, were deposed for refusing the oath of supremacy. Threatened with the loss of their charters, the city chose the Protestant Sir Richard Aylward to serve out the rest of the term from May to September 1607, even though he had served as mayor for the term 1605-06. The city continued to face disruption in their choice of officers, with mayoral and shrieval candidates in 1608-09, 1610-11, 1611-12, 1612-13 and 1613-14 all deposed for refusing the oath of supremacy.<sup>145</sup> Again, in 1614-15, three mayors and three sets of sheriffs were deposed. The year 1615-16 witnessed the greatest upheaval, as four successive mayors and their sheriffs were deposed.<sup>146</sup> The city then put forward the candidature of a John Joy, a Scottish man long resident in the city. The government refused his candidacy 'because he was an Alien', as he had been born before James ascended the throne, rendering him an *ante-nati*, and therefore unfit to serve in office.<sup>147</sup> The city's reluctance to provide conformable candidates until this point likely angered the central administration and there is evidence to show that the government sought a confrontation on the issue. The city further drew attention to their religious affections in 1615, with a public funeral held for Sir Nicholas Walsh, justice of the common pleas and one of the few Old English men on the privy council. In his retirement he reconciled himself to the Catholic Church and the city marked his death with a full public funeral, including a

---

<sup>144</sup> Ibid., pp 44-5, 73-4, 86, 89, 92, 93, 102.

<sup>145</sup> *The Great Parchment Book of Waterford: Liber Antiquissimus Civitatis Waterfordiae*, ed. Niall J. Byrne (Dublin, 2007), pp 218-20.

<sup>146</sup> Ibid., pp 220-3

<sup>147</sup> Niall J. Byrne, 'Jacobean Waterford: Religion and Politics 1603-25' (Ph. D. thesis, UCC, 2001), p. 151; Comerford, *Inquisition of a sermon*, p. 21.

funeral parade through the city, with municipal officers and ecclesiastical dignitaries in attendance, in their robes of office.<sup>148</sup>

On 30 September 1612, James wrote a letter criticising the actions of Old English towns in Ireland. To 1612, he noted his 'grace and lenitie' toward the towns, forgiving their actions in 1603 on his accession, confirming their charters and extending their liberties and privileges.<sup>149</sup> Despite these favours, he wrote, towns denied the 'Royall authoritie' when their officers refused to swear the oath of royal supremacy. By these means towns were left without magistrates, causing disorder in their government and discrediting them before the king. He specifically noted the actions of Waterford, in their recent dispute with Sir Richard Morrison. James further criticised the practice of selecting peers, judges, Irish councillors or strangers as their chief officer, as he sought the return of local men. James criticised those inhabitants who could be found to take the oath of supremacy, regarding them as 'poor univertie' men 'unable to susteyne the Chardge and Dignitie of the place'. To reform these practices, James called on the presidency to intervene, advising his officers to 'make seisure of their liberties' and to 'appoint other governors over such Citties and townes as shall so offend'.<sup>150</sup> James reiterated these commands in a letter to Chichester on 5 June 1614.<sup>151</sup> Chichester then directed the vice president of Munster, Sir Richard Morrison, to pursue towns, by *quo warranto* proceedings if necessary, to ensure suitable candidates were elected.<sup>152</sup> In Chichester's grant to Donogh O'Brien, fourth earl of Thomond and lord presidency of Munster, he pointedly directed that the president held the power to try the owners of liberties and seize them in the king's hands if he should find them in default.<sup>153</sup> Directives in 1614 and 1615 to the vice president and then the lord president of Munster outlining their power to seize the liberties of towns is key, as in no previous instructions did the lord deputy or the king feel it necessary to detail this particular role as being a function of the office.<sup>154</sup>

---

<sup>148</sup> Ibid., pp 125-6.

<sup>149</sup> King James to lord president of Munster, 30 Sept. 1612, *Council book of Munster*, pp 275-7.

<sup>150</sup> Ibid.

<sup>151</sup> 'Instructions from James to Chichester', 5 June 1614, *CSPI 1611-14*, p. 484.

<sup>152</sup> Chichester to St John, 20 Aug. 1614, *Council book of Munster*, pp 206-7.

<sup>153</sup> Chichester's instructions for the lord president and council of Munster, 20 May 1615, *Council book of Munster*, p. 251.

<sup>154</sup> For other instructions, ranging from 1600-1624, that fail to mention this directive see, *Council book of Munster*, pp 178-85, 186-90, 238, 239, 316-27, 328-9, 369-87 and 460-3.



The central and provincial governments appeared ready to set themselves up for a collision with the municipal governments of Munster, with Waterford standing out amongst others for their obstinacy. In the 1616-17 term, the city appeared ready to compromise on the choice of their leading officers, as they elected the conformist Sir Richard Aylward as mayor on 28 October 1616. The state rejected him based on his 'old age and impotencie'.<sup>155</sup> Their replacement candidate, Maurice Power of Adamstowne (elected 3 December 1616), was also rejected, though extant records provide no reason for this, his name suggests he resided far from the city, east of New Ross in county Wexford.<sup>156</sup> On 31 December 1616, the new lord deputy, Sir Oliver St John assessed the scene in Waterford, writing that it 'contained divers monsters, without mayor, or recorder, or any forme of government'. He informed secretary Ralph Winwood that he intended 'the speedy proceeding against that corporation by seisure of their libertyes', which he felt would serve as an example to others.<sup>157</sup> On 1 April 1617, the city found suitable officers in Walter Cleere as mayor and Zabulon Berricke and William Philips as sheriffs. Cleere travelled to Dublin to take the oath of supremacy and was accepted as mayor for the remainder of the term, with the issue of acceptable officers to resurface in September 1617.

At Michaelmas, the city elected Adam Bryver as mayor and John Murty and Thomas Burghes as sheriffs.<sup>158</sup> For the central government, this last election of nonconforming officers represented a breaking point, leading to legal proceedings against the city, deeming their magistracy vacant and thus open to seizure. The president and council of Munster, supported by the lord deputy and the English privy council, charged the city with leaving its government vacant, with the failure to carry out its expected legal functions and with the continual refusal of its officers to swear supremacy. The protracted legal case, including correspondence back and forth from England, dragged on through the winter of 1617-18, until finally on 2 March 1618, the lord president and

---

<sup>155</sup> Comerford, *Inquisition of a sermon*, p. 21.

<sup>156</sup> Ibid.

<sup>157</sup> Byrne, 'Jacobean Waterford', p. 152; Lord Deputy St John to Sir Ralph Winwood, 31 Dec. 1616, TNA (UK) SP 63/234/30a (*CSPI 1615-25*, p. 142). St John's claim that the government had no government at this time is not entirely accurate, as Comerford wrote that the sheriffs governed the city and county at this time, though he does not report their names, Comerford, *Inquisition of a sermon*, p. 22 quoted in Byrne, 'Jacobean Waterford', p. 151.

<sup>158</sup> Comerford, *Inquisition of a sermon*, p. 22.

chief justice Sir William Jones seized the franchises and liberties of the city, taking up all the charters, ceremonial swords and other trappings of their once vaunted rights.<sup>159</sup>

With the magistracy disbanded, the president of Munster appointed a large group of commissioners to run the city, in addition to the close supervision of the presidency and the placing of extra troops on the city to act as 'a good bridle upon the Inhabitants'.<sup>160</sup> The thirty-five commissioners were made up of citizens of Waterford, both Catholic and Protestant, and were to supply all the ordinary positions in the city bar mayor, sheriffs, recorder and town clerk, which were left vacant.<sup>161</sup> As the liberties were taken into the king's hands, the crown profited from the rents of the city, with income of between £300-330 annually entered into the exchequer.<sup>162</sup> The city pressed both the Dublin administration and the crown for the restitution of their liberties, yet the Dublin administration rejected their pleadings, and advised the crown to do likewise, as they deemed the citizens unwilling to conform.

In November 1618, the English privy council wrote to the lord deputy and council relaying the king's wishes on the future of Waterford. The king advised sending 'some honest English marchantes that are Protestantes, to remove their families and dwellinges from Bristoll or other porte of England to inhabite in that towne' and to fill the positions on the magistracy until the 'natives conforme themselves'.<sup>163</sup> They further advised setting aside land adjoining the town for the English to build upon, if they so chose.<sup>164</sup> In February 1619, Lord Deputy St John wrote a short letter to the lord president of Munster, Thomond, enquiring about the state of the city. He first asked were there any men conformable in religion fit to supply magistracy in the city. He then directed the lord president to discover whether there were fit houses with room in them 'for forreners to Dwell in' or ground on which they could build upon. He requested a list of 'Discrete and able men and conformable in Religion' in the province or the

---

<sup>159</sup> Byrne, 'Jacobean Waterford', p. 167.

<sup>160</sup> *Ibid.*, pp 168-9.

<sup>161</sup> *Ibid.*

<sup>162</sup> The 1622 commissioners recorded a median total of £330 10s 0d between 1620-1, *1622 Commission*, p. 344; in 1624 Falkland found it to be £300 annually, Falkland propositions to King James concerning lands in Waterford, 12 Nov. 1624 (*CSPI 1615-25*, pp 543-4).

<sup>163</sup> English privy council to St John and council, 30 Nov. 1618, *APC 1617-19*, p. 322.

<sup>164</sup> *Ibid.*



kingdom, presumably as candidates to supply the magistracy of the town.<sup>165</sup> The Dublin and London administrations continued corresponding on the issue, with a plan floated in August 1619 for the sending over of thirty English merchant families of ‘good temper and condicon, not violent or turbulent, but such as may be fitt to take Government upon them’.<sup>166</sup> These families were to bring with them a stock of £1,000 or £500 at the least.<sup>167</sup> On 29 December 1619, the English privy council wrote to the mayor and aldermen of the city of Bristol asking them to find suitable families to send to Waterford.<sup>168</sup> The following month the mayor and aldermen of Bristol responded to the request and reported that they had advertised the opportunity to companies in the city yet found no one willing to move to Waterford.<sup>169</sup>

The symbolism of this request is hugely important, as it captures the changing nature of the Old English in Ireland. The lord deputy and council’s letter to the privy council of 4 August 1619 on the plan to plant English men in Waterford is revealing, as it acknowledged that the ‘Consequence thereof will be greate’ and that ‘it will be a worke of glory to his Majesty’ such as his royal progenitors in former ages enjoyed. The letter specifically evoked the memory of previous ‘Plantacons’ that ‘remaine in great fame’ in Ireland, with names of Anglo-Norman planters still extant in the best cities and towns, who must acknowledge that their ‘first civillitie’ and ‘prosperitie’ originated in England.<sup>170</sup> The evocation of plantations and the idea of a mixed population in the cities and towns represented a distinct threat to the Old English, as they formed separate communities, walled and defended them from the incursions of Gaelic Irish over centuries. Their internal laws, and those of the parliaments they held, reinforced the difference of English and Irish, with prejudices built up over centuries.<sup>171</sup>

To propose a new plantation in the city, with a new charter, clearly broke from the past and cast doubt on the loyalty of all Old English towns. The invitation of Bristol men to

---

<sup>165</sup> Instructions from St John to Lord President Thomond concerning Waterford, 23 Feb. 1619, *Council book of Munster*, p. 239.

<sup>166</sup> St John and council to English privy council, 4 Aug. 1619, TNA (UK) SP 63/235/35 (*CSPI 1615-25*, p. 257).

<sup>167</sup> *Ibid.*

<sup>168</sup> English privy council to mayor and aldermen of Bristol, 29 Dec. 1619, *APC 1619-21*, p. 99.

<sup>169</sup> Mayor and aldermen of Bristol to English privy council, 31 Jan. 1620, *CSPI 1615-25*, p. 273.

<sup>170</sup> St John and council to English privy council, 4 Aug. 1619, TNA (UK) SP 63/235/35 (*CSPI 1615-25*, p. 257).

<sup>171</sup> Though the Kingship of Ireland Act, the attainder of Shane O’Neill and legislation in 1613-15 superseded these previous acts.

provide the city with settlers is particularly significant, as Waterford was originally planted by Bristol citizens, received its first charter based on 'the law of Bristol' and retained close trading links to the city.<sup>172</sup> Waterford's 1609 charter made reference to Bristol's rights, with one passage declaring that the city ought to enjoy the custom of murage 'as well and entirely as the burgesses of the town of Bristol have'.<sup>173</sup> 'The law of Bristol' served as the template from which all early Anglo-Norman towns received their powers, a legacy acknowledged by Waterford down to the seventeenth century. The plan ultimately came to nothing, as Bristol citizens proved unenthusiastic about the prospect of moving over, yet the affair provides an insight into the attitude of the king, privy council and the Dublin administration toward nonconforming cities and towns in Ireland. They viewed urban centres as unlikely to reform, would not countenance their continued recalcitrance and saw plantation as a solution. Plantation had previously been used to reform lordships of former rebels or bring civility to Gaelic territories, never before had the Old English been subject to plantation during peace.

Throughout this period, leading men of Waterford pleaded for the return of their liberties, sending solicitations to Dublin and London. The Dublin administration viewed their conformity as a precondition for the return of their liberties, a guarantee that government correspondents believed they were unwilling to make. The privy council appeared more likely to oblige the former citizens, as early as October 1619 they discussed plans for reincorporating the city, with an altered charter to reduce some of the more unpalatable clauses in their former grants.<sup>174</sup> This early move to redraft their charters came to nothing, as the administration in London, and particularly Dublin, continued their exemplary punishment of the city while pursuing means to plant English merchants to form a conforming magistracy. In October 1624, Lord Deputy Falkland wrote to the king regarding Waterford lands and the rental income coming to the exchequer.<sup>175</sup> He reported the constant entreaties from Waterford for the restitution of their ancient rights and relayed an offer their agents made for the return of the chartered liberties. Falkland revealed they made an offer of a 'fyne or Ransome' of £1,000

---

<sup>172</sup> On 'the law of Bristol' see Goddard Henry Orpen, *Ireland under the Normans, 1169-1333* (Dublin, 2005 edition, with an introduction by Seán Duffy, first pub. 1911), p. 276. Thank to Grace O'Keeffe for alerting me to the significance of 'the law of Bristol'.

<sup>173</sup> *A repertory of the Inrolments*, vol. 1, part 2, p. 649.

<sup>174</sup> English privy council to St John and council, 10 October 1619, *APC 1619-21*, p. 39.

<sup>175</sup> Falkland to King James, 29 Oct. 1624, *CSPI 1615-25*, pp 543-4.



sterling, which he strongly urged the privy council to reject.<sup>176</sup> He criticised their 'obstinacy' and 'Inconformity' and sought to rein in the power of corporation towns, as per the findings of the 1622 commissioners, rather than preserve them.<sup>177</sup> The city remained disenfranchised to 26 May 1626, when Charles I granted them a new charter, reportedly costing the city £3,000 sterling for the privilege.<sup>178</sup> The choice of the Catholic James Woodlock as mayor reflected the changing policy toward enforcement in 1626, yet it demonstrated that courtly links could continue to be exploited by the Old English as coin overcame conformity.

## V

The reaction of the Old English throughout this period had been one defined largely by their peaceful resistance to the government. The memory of the 1603 revolt likely acted as a restraint on the actions of cities and towns, restricting their protests to petitions, forms of cooperation and obstruction. On 17 April 1626, Cork citizens attacked a group of workmen and soldiers outside their city walls, in an act reminiscent of 1603. Citizens attacked them as they were working on the construction of a citadel designed to watch over the city and ensure it remained loyal to the crown. Chichester and many others within the administration long petitioned for the construction of citadels over the chief towns of Munster and Connacht, yet financial restrictions caused these to be abandoned in favour of simple repairs to existing fortifications. In 1608–11, Sir Josias Bodley made repairs at Waterford (Duncannon Fort), Cork (at Haulbowline Fort, on an island in the harbour), Kinsale (at Castle Park, in the harbour), Limerick Castle and at Galway (St Augustine's Fort outside the walls). In 1614, Chichester received word from the king that fortifications, particularly citadels, could be constructed to act as checks on the power of the chief towns in Ireland. This pet project of Chichester's failed to go beyond the design stage, however, as funding for the works never materialised.<sup>179</sup> The next round of building began in 1625, on the very real threat of a Spanish invasion. This time, the crown agreed to provide necessary funds for a fresh round of building,

---

<sup>176</sup> Falkland propositions to King James concerning lands in Waterford, 12 Nov. 1624 (ibid., pp 543–4).

<sup>177</sup> Ibid. The 1622 Commissioners noted the inconveniency of the large privileges granted to corporation towns.

<sup>178</sup> Patrick C. Power, *History of Waterford City and County* (Cork, 1990), p. 68; Byrne, 'Jacobean Waterford', p. 200; Charles Smith, *The Antient and Present State of the County and City of Waterford* (Dublin, 1746), p. 147.

<sup>179</sup> McCavitt, John, *Sir Arthur Chichester: lord deputy of Ireland, 1605–1616* (Belfast, 1998), p. 195.

including citadels at Waterford (at St Patrick's Gate), Cork (old site of Elizabeth Fort) and Galway (new fort to west gate of city).

The placing of citadels at Waterford and Cork is significant and reflected the government's concern about their inherent untrustworthiness. In 1603, both cities had acted violently against agents of the state, with the citizens of Cork standing out for their destruction of Elizabeth Fort to the south of the city. Administrative correspondence in this period frequently made reference to their disloyalty, clearly evident in Waterford through the removal of their liberties. In November 1613, Chichester wrote, in a letter to the English privy council, that he believed, in the event of an 'invasion or home insurrection' that neither city would receive the king's army within their walls. Whether they would 'receive the Enemy' or not he was uncertain.<sup>180</sup> He cited their behaviour in 1603 as evidence of their disloyalty.<sup>181</sup> In November 1621, in assessing where best to place munition in Ireland, Lord Carew advised placing it in Dublin, Carrickfergus or Derry, as the only secure locations in the country.<sup>182</sup> In dismissing Cork as an option, Carew cited their actions 'uppon the death of Queen Elizabeth: where the magazin of Munitions was seased uppon by the Townsmen, and converted aganst her forces'.<sup>183</sup> Again in 1625, Lord Deputy Falkland proceeded with caution in plotting the construction of citadels at Waterford and Cork, owing to recent history.<sup>184</sup> He urged vigilance in the manner of proceeding to build citadels at the two sites, mindful of the danger of disorder that could break out if the cities discovered that in building citadels the administration sought 'to putt Bridles in theyre Mouthes'.<sup>185</sup> He pointed to the example of Cork in 1603, 'the not to bee forgotten violence' on the death of the queen, where 'they fell furiously uppon, & pulled downe to the Grounde' the new fort to the south of the city.<sup>186</sup> Falkland's watchfulness is more remarkable in that he arrived in Ireland just four years previously, indicating that the memory of Cork's actions lived long in the chambers and halls of Dublin Castle.

---

<sup>180</sup> Chichester to English privy council, 15 Nov. 1613, 'Letter book of Sir Arthur Chichester, 1612-14', ed. R. D. Edwards in *Analecta Hibernica*, no. 8 (1938), p. 142.

<sup>181</sup> Ibid.

<sup>182</sup> Munitions for Ireland with Lord Carew's advice, 14 Nov. 1621, TNA (UK) SP 63/236/28 (*CSPI 1615-25*, p. 340).

<sup>183</sup> Ibid.

<sup>184</sup> Falkland to English privy council, 10 Mar. 1625, TNA (UK) SP 63/239/33 (ibid., pp 569-70).

<sup>185</sup> Ibid.

<sup>186</sup> Ibid.



Such was his concern with the potential for a repeat performance, Falkland outlined his plan to begin construction at both sites clandestinely so as not to arouse suspicion. He thought it 'the surest & the safest course' to advertise publicly that he intended on enlarging Duncannon Fort at Waterford and repairing Haulbowline Fort at Cork, projects that would be 'free from exception and suspition' within the towns, before beginning work on the two citadels as St Patrick's Gate in Waterford and on the old Elizabeth Fort in Cork.<sup>187</sup> The ruse would give time for preparations to be made while Falkland awaited the placing of additional companies on each city during the period of construction.<sup>188</sup>

To protect the engineers and workmen, Falkland advised placing '3 or 400 more' troops on Cork city, a vast number of soldiers that, if carried through, would have put the city under a heavy burden.<sup>189</sup> Cork represented an important site for the crown in the Spanish war, as it housed, against Carew's advice, a great deal of munition – eighty barrels of powder in November 1625 – necessitating further strengthening of its guard.<sup>190</sup> By April 1626, the city either housed or provided pay for four companies of troops; the land captains Sir Barnaby Brien and Captain Edward Thynne; and two companies under Ensign Ayres and William Gilbert, recently returned naval commanders from the failed assault on Cadiz.<sup>191</sup> Veterans of the Cadiz debacle landed in Ireland in December 1625, many of whom may have suffered from disease and sickness.<sup>192</sup> On 30 January 1626, the city of Cork agreed to the extraordinary levy of £350 to pay soldiers, rather than billeting them on the city.<sup>193</sup> On 21 April, four days after a revolt in the city, the president of Munster issued a receipt to the mayor of Cork for £500 borrowed for the relief of land officers and soldiers, a further demonstration of

<sup>187</sup> Ibid.

<sup>188</sup> Ibid.

<sup>189</sup> Ibid.

<sup>190</sup> Council of war for Ireland to English privy council, 6 July 1625, *CSPI 1615-25*, p. 512; Falkland to English privy council, 29 Nov. 1625, *CSPI 1625-32*, pp 52-3.

<sup>191</sup> List of captains, lieutenants and ensigns for Ireland, 10 Jan. 1625, *CSPI 1615-25*, p. 556; Examinations of divers persons taken before Richard Boyle, bishop of Cork and Sir Randall Clayton, 20 and 21 April 1626, *CSPI 1625-32*, pp 112-5, 119-21; *Council book of Munster*, p. 118; *The voyage to Cadiz in 1625: being a journal written by John Glanville, Secretary to the Lord Admiral of the Fleet (Sir E. Cecil), afterward Sir John Glanville, Speaker of the Parliament, &c; never before printed: from Sir John Eliot's mss. at Port Eliot* (London, 1883), ed. with introduction and notes by Alexander B. Grosart, pp 122-3.

<sup>192</sup> Fleet soldiers at Cork are not referenced anywhere as suffering from sickness, though those at Galway were and those returning to England were noted as so, Aidan Clarke, 'Army and politics in Ireland, 1625-30' in *Studia Hibernica*, 4 (1964), pp 35-6.

<sup>193</sup> *Council book of Cork*, p. 125.

the large costs of the soldiers and the incapacity of the treasury to meet them.<sup>194</sup> This £500 formed part of a gratuity of £3,000 raised by the gentry of Munster, in imitation of a similar levy raised by the Pale.<sup>195</sup> No exact figure can be put on the number of troops in the city, or dependent on it for support, yet both the city and the treasurer-at-war had great difficulty in supplying food and lodging for soldiers and pay for officers during this period.

The want of soldiers affected construction of fortifications on the old site of Elizabeth Fort. The overseers of the fortifications, Sir Thomas Rotherham (former mayor of Galway) and Nicholas Pynnar, reported in April 1625 that the citizens of Cork had built houses and a lime kiln on the grounds of Elizabeth Fort, despite it being crown land.<sup>196</sup> Building of the fort progressed slowly and in August that year all the labourers were dismissed for want of pay, which was said to 'make the Irish daunce the Morris daunce'.<sup>197</sup> Later that month, Pynnar reported the antagonism showed toward the work, writing that 'wee are soe contemned both here [Waterford] and att Corke that they sayeth ffortes wilbe built over the shoulder, and some of them doe offer to laye £500. to 200 that they will never be built, for they have divers examples of the like'.<sup>198</sup> The earl of Cork later wrote that the works were suspended through winter, causing 'much harme and detriment' to the structures. He reported that while the fort stood idle and deteriorated in winter 'the ill affected Papists reioyced and insulted strongly, that those workes were neglected and given over for want of moneyes'.<sup>199</sup> Evidence of the faltering progress of the citadels clearly caused optimism to some in Cork and Waterford, who had witnessed episodic interest in fortifications previously and expected the like again. On 17 April 1626, the citizens of Cork used a perceived slight on a gentleman of the city to act out against workmen and soldiers outside the fort.

On Monday 17 April 1626, at between five and six in the evening, Edmund Sarsfield, gentleman of Cork and seven fellow citizens, predominantly merchants, were returning

---

<sup>194</sup> President of Munster's receipt to mayor of Cork, 21 Apr. 1626, *CSPI 1625-32*, p. 116.

<sup>195</sup> Clarke, 'Army and politics in Ireland', p. 35.

<sup>196</sup> Part of a letter from Rotherham and Pynnar to Falkland, 11 Apr. 1625, *CSPI 1625-32*, pp 3-4.

<sup>197</sup> Extract from a letter of Thomas Bate [Bates?] of Cork to Sir William Hull, 17 Aug. 1625, TNA (UK) SP 63/241/110 (*CSPI 1625-32*, p. 31).

<sup>198</sup> Extract of a letter from Pynnar, recipient unknown [likely in Dublin as letter took four days to be received], 25 Aug. 1625, TNA (UK) SP 63/241/133 (*CSPI 1625-32*, p. 33).

<sup>199</sup> Lord Cork to Falkland, 8 May 1626, TNA (UK) SP 63/242/304a (*CSPI 1625-32*, p. 119).



northward to the city from a common green, when he engaged in an argument with Robert King, a soldier in Sir Barnaby Brien's foot company and a workman on the fort.<sup>200</sup> Sarsfield asked King about earth that had been cast on the road in the construction of the rampart of the fort. King defended the displacing of soil and the two engaged in a heated argument. King struck Sarsfield's companion John Haly with a stick or cudgel, to which Sarsfield responded by casting a stone at King, felling him. Workmen and soldiers from the fort, including Ensign Ayres, heard the commotion and came to the road. Ayres may then have struck one or both of Haly and Sarsfield. The gentlemen of the city fled, most toward the south gate of the city, while Sarsfield took refuge in a brogue-makers house. Workmen and soldiers pursued Sarsfield to the brogue-makers, though none offered him any violence. The head engineer of the fort, Captain Frederick, hearing of Sarsfield's whereabouts, carried him from the reach of workmen and soldiers, leaving him in a Serjeant Gilbert's stable, used to scour the king's arms. A multitude of citizens, on discovering where Sarsfield was, came to the stable and forcibly entered it, violently assaulting those charged to watch over him. Sarsfield escaped out the back door during the confusion and fled to the city.

Meanwhile, rumours of the struggle on the road between Sarsfield, Haly and King reached the south bridge of the city, with a cry being raised following rumours of Sarsfield's death. A large group of citizens, and some soldiers from the city, approached the scene of the dispute, with citizens greatly outnumbering workmen and soldiers. Stones were thrown, predominantly citizens attacking workmen and soldiers, who fled to the nearest refuge they could find or to their lodgings. The tumult continued in the south suburbs, as citizens assaulted safe houses found by workmen and soldiers. One soldier who returned to his lodgings to fetch his sword was set upon by a sergeant of the city with his mace and beaten unconscious. He was then carried into the city, beaten and stripped and threatened with hanging for allegedly killing Sarsfield, though he escaped further violence by the intervention of the mayor of the city. Captain Thynne heard the cry from a mile away and made toward his lodgings, meeting many soldiers fleeing in the opposite direction, reporting on the loss of the fort and the death of all its guard. Upon witnessing injured soldiers at the fort he proceeded to the city and held a

---

<sup>200</sup> The following passages can be found in a collection in the state papers, examinations of divers persons taken before the Richard Boyle, bishop of Cork and Sir Randall Clayton, 20 and 21 April 1626, TNA (UK) SP 63/242/37 (*CSPI 1625-32*, pp 112-5).

contentious meeting with the mayor. After the meeting he gathered his troops to the fort and held it until eight the next morning, until a relieving company took over the guard. The riot thus ended, with no loss of life and no shots fired, though some received severe blows and property had been damaged in the affray. Its importance lies in the details drawn out in the lord president's examinations of the affray, twenty-two in all, revealing the relationship between soldiers and citizens and their competing roles in the region.<sup>201</sup>

The riot originated from a verbal dispute between Edmund Sarsfield, gentleman of Cork, John Haly, a merchant and Robert King, a soldier and a worker on the fort. Robert King was sent to fetch a barrow that had been blocking the road, when the group of gentlemen passed. A workman, Benjamin Troke declared that he asked King to fetch the barrow, implying King was not in a position of authority on the site.<sup>202</sup> Sarsfield asked King about earth that had blocked the road, reportedly asking about the earth being on 'his ground' or on 'his land', indicating that he claimed some ownership of the land as a citizen and gentleman of the city.<sup>203</sup> King replied brusquely, declaring that he who put it there would remove it and asked what business of Sarsfield's was it if it lay there. King testified that Sarsfield replied that whoever 'first occasioned the building of that fforte, was a Roague, and so were all that appertained to it'. Haly told King to go back to tanning hides and 'stealing of Merchants hydes' as he had formerly done.<sup>204</sup> King challenged Haly 'to beware that he should say no more then he could justify' and is reported to have called Sarsfield a 'foole or a knave', initiating an exchange on social hierarchy.<sup>205</sup> Haly stoutly defended Sarsfield's honour, saying to King that he did not know of whom he was speaking, declaring that Sarsfield 'was a Gent, and not to be compared to him'.<sup>206</sup> King countered that 'he was as good a man as he or any of his name'.<sup>207</sup> At that point, a physical confrontation broke out, as King struck Haly and in retaliation Sarsfield threw a stone at King. The heated debate demonstrates the anger shown toward the repair of the fort, and those working on it, as the riot began over the

---

<sup>201</sup> Ibid.

<sup>202</sup> Examination of Benjamin Troke (soldier), TNA (UK) SP 63/242/37.

<sup>203</sup> Examinations of Robert King and John Twigg (both soldiers), TNA (UK) SP 63/242/37.

<sup>204</sup> Examinations of Robert King and Benjamin Troke (both soldiers), TNA (UK) SP 63/242/37.

<sup>205</sup> Examination of Robert King, TNA (UK) SP 63/242/37; examination of John Haly, TNA (UK) SP 63/242/37.

<sup>206</sup> Examination of John Verdon fitz Henry of Cork, merchant, TNA (UK) SP 63/242/37.

<sup>207</sup> Examination of Robert King, TNA (UK) SP 63/242/37.



spilling of earth on the ground. The spilled earth is unlikely to have caused any great impediment to the gentlemen of the city, rather this act served as a means to relieve built-up tensions.

The citizens who arrived after the dispute similarly showed their antagonism toward the building of the fort and willed it to be taken down, as it had been in April 1603. The testimony of John Hickes, soldier and shoemaker in the city, and his wife, Grace, noted the particular anger of a Stephen Gold fitz Piers toward Captain Frederick, the head engineer of the fort, and toward the fort itself.<sup>208</sup> As the stone-throwing broke out, John Hickes witnessed Gold speak to an Irishman nearby and saw Gold 'pointing at Captain Frederick, and saying This is the Captain of the Forte, Kill him'. Both John and Grace Hickes later saw Gold, testifying that he did 'encourage some Irishmen to pull downe the fforte; saying he would be the first to put his hand to it, and to pull it downe as fast as it was builded up'. The language used is strikingly similar to that in 1603, where on breaking down the fort, the mayor, Thomas Sarsfield, declared that 'the worst that could come of it were to build another fort, which they were well able to do'.<sup>209</sup> John Hickes further revealed that a fellow soldier, John Roseman, had been offered 'beere and Tobacco' by Gold 'to say nothing against him'.<sup>210</sup> The examinations taken, before the bishop of Cork and Ross and Sir Randall Clayton, clerk of the council of Munster, simply recorded actions of 'English' and 'Irish' men, with no differentiation between Gaelic Irish and Old English. It is tempting to cast Gold as a prominent Old English man, keen to provoke Gaelic Irishmen, of a lower social standing than him, into action against the fort and its engineer, while remaining aloof himself. His alleged attempt to bribe a potential witness fits closely to this depiction of Gold as a willing inciter of violence, but unwilling participant.

During the tumult, both Gaelic Irish and Old English names appeared among those throwing stones and attacking soldiers, suggestive of a mixed population within the city walls and the suburbs. Those prominent in the revolt were among the lower levels of society and tended to be of Gaelic Irish origins, such as Donogh O Moylane, a stable hand; William Martle, a young merchant's servant; Donell McTeige, son of a smith;

---

<sup>208</sup> Examinations of John and Grace Hickes, TNA (UK) SP 63/242/37.

<sup>209</sup> *CSPI 1603-06*, p. 53, see chapter one.

<sup>210</sup> Examinations of John and Grace Hickes, TNA (UK) SP 63/242/37.

John oge Browne, son of a mason; Shane O'Cullynane, servant and Joan oge, wife to the messenger William Begg. Some prominent men appeared in accounts, notably one of the two mace-bearers of the city, John Galway, who used his mace to beat the soldier Lewis Gold across the head, rendering him unconscious.<sup>211</sup> Those taking examinations showed a clear interest in the actions of John Fitzgerald, an Old English man serving in Captain Thynne's foot company. His name is absent on the first day of examinations, yet it appeared in the accounts of five examinants on the second day, after Robert King reported that he saw him, with his sword in his left arm, and stones in his right, flinging them, though he could not identify Fitzgerald's target.<sup>212</sup> Thereafter the examiners pointedly asked those interviewed for further information on his actions, presumably to gather a clear case against him. The account of the soldier, Thomas Norton confirmed this interest, as his record revealed that he was asked directly whether or not he saw John Fitzgerald during the tumult. He said he did not, but he had overheard an exchange that he had had a month before the revolt.<sup>213</sup> Norton reported an exchange between Fitzgerald and a 'native' as a group of fleet soldiers passed. Norton was also in the company of a John Mendam, gentleman. The 'native' said that 'there is but a few heere', to which Fitzgerald replied in Irish, 'what should be doe with more'. The first responded 'They are very poore'. Fitzgerald replied 'yea they are a company of poore tag-rag-Roagues, or rascalls'. Both Norton and Mendam understood the exchange and asked Fitzgerald to explain himself, who did not deny it but deflected the line of questioning.<sup>214</sup>

The examinations recorded many threats and insults that were traded in the riot, giving an insight into the relationship of citizens and soldiers and, indeed, English and Irish. Sarsfield's exchange with King revealed that he thought little of the man and disregarded his authority as a worker on the fort. Sarsfield and Haly noted his lowly position as a tanner and a supposed thief of merchant's goods. John Fitzgerald labelled his fellow soldiers as 'poore tag-rag-Roagues', noting both their low-born status in society and their impoverishment. The soldier Roger Downton deposed that Joan oge, after the tumult had quietened down, called the soldiers 'Roagues and the like' in

---

<sup>211</sup> Examination of Lewis Gold, TNA (UK) SP 63/242/37.

<sup>212</sup> Examination of Robert King, TNA (UK) SP 63/242/37.

<sup>213</sup> Examination of Thomas Norton, TNA (UK) SP 63/242/37.

<sup>214</sup> Ibid.



English and ‘that they were all worse then devills’.<sup>215</sup> In a similar jibe, a young servant said that the soldiers and the rest were ‘base trayterous Roagues, and they would fiddle them worse then ever they had bin before’.<sup>216</sup> Those absent from the riot were among the most brash in their use of language, as they lamented that the opportunity had not been taken to inflict more damage on the soldiers. The following evening, a glover, William Morgan was overheard by a soldier saying that ‘if he had bin there the night before, he would have taught the English Cow-boys newly come over, how to have abused the Maior’.<sup>217</sup> On the evening of the 17 April, after the riot had been appeased, a labourer Teige O Callaigg enquired about the dispute on the street. Upon being told it related to soldiers who had wronged Sarsfield, he enquired ‘why had they not killed them all?’ The deponent, an Elizabeth Webb, wife of a blacksmith of the city, responded by pulling him by the beard and demanding ‘what would yow have them all killed?’ O Callaigg answered ‘that it was no matter; for if they were not all now killed, there would a day come for them’.<sup>218</sup>

The riot offered an opportunity for some in the city to express their anger at the building of the fort and toward the billeting of soldiers, antagonisms that may have festered for some time. From the examinations we can deduce that two foot companies, those of Thynne and Barnaby Brien were lodged in and around the town, with some of the soldiers evidently working in the city, as some are listed as both soldiers and by profession, or were within the city walls at the time of the riot. Falkland noted the previous November that in garrison towns, soldiers could compensate for late pay by borrowing or working for food.<sup>219</sup> There is no evidence from any fleet soldiers, only reference to the superiors Ensign Ayres and Sergeant Gilbert. Thomas Norton, who overheard John Fitzgerald, a month before, call the soldiers a ‘poore tag-rag-Roagues or rascalls’, reported this as a group of fleet soldiers passed, whose captain he did not know the name of. This suggests that fleet soldiers were present in the town but briefly, in a miserable state, and soon left.<sup>220</sup> In contrast, both citizen and soldier deponents

---

<sup>215</sup> Examination of Robert Downton, TNA (UK) SP 63/242/37.

<sup>216</sup> Examination of Robert Hayes, TNA (UK) SP 63/242/37.

<sup>217</sup> Examination of Benjamin Troke, TNA (UK) SP 63/242/37.

<sup>218</sup> Examination of Elizabeth Webb, TNA (UK) SP 63/242/37.

<sup>219</sup> Falkland to English privy council, 29 Nov. 1625, *CSPI 1625-32*, p. 53; Clarke, ‘Army and politics in Ireland’, p. 30.

<sup>220</sup> Examination of Thomas Norton, TNA (UK) SP 63/242/37.

could accurately name their counterparts, their occupations, where in the city they lived and their father's occupation, implying that they lived at close quarters.

The examinations also reveal aid provided by citizens to soldiers under attack during the riot, demonstrating a divergence of opinion toward the soldiers or the methods employed. Captain Frederick intervened at the start of the riot to make Sarsfield safe from the soldiers, removing him to a stables and placing a watch over him. The mayor Edmund Martell rescued Lewis Gold, who had been beaten and stripped by the mace-bearer and citizens. Elizabeth Webb twice intervened in attacks on soldiers, enquiring of a Donell McTeige why he attacked a soldier and 'told him it was very unmercifully done that there should be so many of them against one man'. After the tumult, as related above, she pulled the beard of Teige O Callaigg and castigated him for saying that he wished they had killed all the soldiers.<sup>221</sup> The most daring defence of soldiers during the riot belongs to the inn-keeper, Thomas Wright, who welcomed three soldiers into his house to escape from an assault. The house then came under attack, as the windows were smashed and stones thrown inside, endangering his wife and children who had to hide under beds, behind doors and in the chimney. His wife received a severe blow across the head from a stone and, four days later, was still being visited by the midwife, 'being in extreame danger to dye thereby'.<sup>222</sup>

Unlike in 1603, however, citizens did little lasting damage, as the fort remained in military hands throughout and no damage to the structure is recorded. The complete absence of any modern weaponry is interesting in this revolt, signifying the success of the government's initiative to reduce private or municipal ownership of arms. The level of violence remained relatively low during the revolt, with only occasional mention of cudgels or swords, though the use of a mace and stones proved to leave their mark. In 1603, the revolt spurred the government into placing greater numbers of troops on the city short-term, with the long-term plan to build a citadel to bridle the town. The straitened circumstances in 1626, with the real prospect of a Spanish landing, provoked the earl of Cork to action, as he used his initiative and poured money into the completion of the citadels at Cork and Waterford (for which he sought repayment from the crown). The riot went a long way toward convincing him of the need for a strong

---

<sup>221</sup> Examination of Elizabeth Webb, TNA (UK) SP 63/242/37.

<sup>222</sup> Examination of Thomas Wright, TNA (UK) SP 63/242/37.



fortification on the city, despite the costs involved. His letter of 8 May 1626 detailed how he planned to pawn all his ‘vessell and plate’ in order to furnish £500 toward the works.<sup>223</sup> Another letter of 14 July detailed his outlay of £20 sterling a week on the works at Cork.<sup>224</sup> By 1 September the fort was still incomplete, though Falkland described it as ‘somewhat tenable’ at that stage.<sup>225</sup> The condition for soldiers in the city had not improved, with the city having to provide for four companies during the summer of 1626. In October, the commissioner for Munster, Sir Richard Aldworth, had to quell a mutiny among fleet soldiers over lack of pay and clothing, after they entered the mayor William Hore’s house and assaulted him and his sword-bearer (chapter four).<sup>226</sup>

The year closed with Pynnar’s report on the works undertaken at Cork and Waterford.<sup>227</sup> The two projects together cost £4,460. Pynnar described in detail the dimensions of the forts, the material used, the buildings within it and the work yet to be complete on it. He concluded his account of works on the fort at Cork by writing that he left ‘x peeeces mounted towards the Cytty’, including these in his plan of the fort (image four).<sup>228</sup> He made the like arrangement in Waterford, making carriages for ‘4 peeeces of ordinance and mounted them upon this mount which over looked the towne, and comandeth it’. In Waterford, he reported that he had ‘taken into the fort 3 castells belonging to the towne walled’ (images five and six), one as a store house for munition, one to keep provisions and the third to lodge officers.<sup>229</sup>

---

<sup>223</sup> Earl of Cork to Falkland, 8 May 1626, TNA (UK) SP 63/242/304a (*CSPI 1625-32*, p. 119).

<sup>224</sup> Earl of Cork to Falkland, 18 Jun. 1626, *ibid.*, p. 141.

<sup>225</sup> Falkland to English privy council, 4 Sept. 1626, TNA (UK) SP 63/243/431 (*ibid.*, p. 154).

<sup>226</sup> Abstract of a letter from Sir Richard Aldworth, to Falkland, 17 Oct. 1626, *ibid.*, p. 169.

<sup>227</sup> Captain Pynnar to council of war in England, 26 Dec. 1626, TNA (UK) SP 63/243/513 (*ibid.*, pp 182-3).

<sup>228</sup> *Ibid.*

<sup>229</sup> *Ibid.*

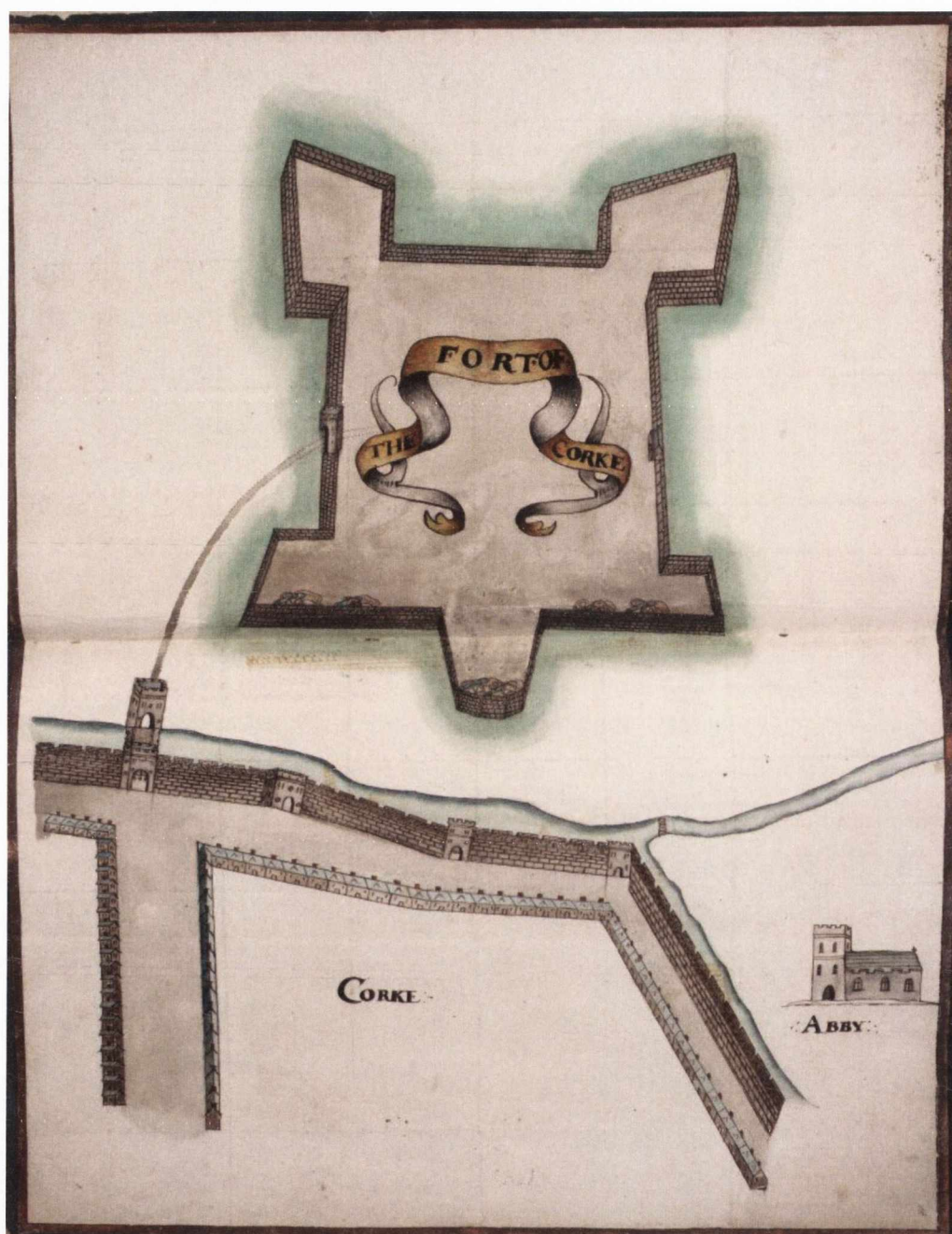


Image four: Nicholas Pynnar's plan of Cork Fort, 1626, BL MS 24200.



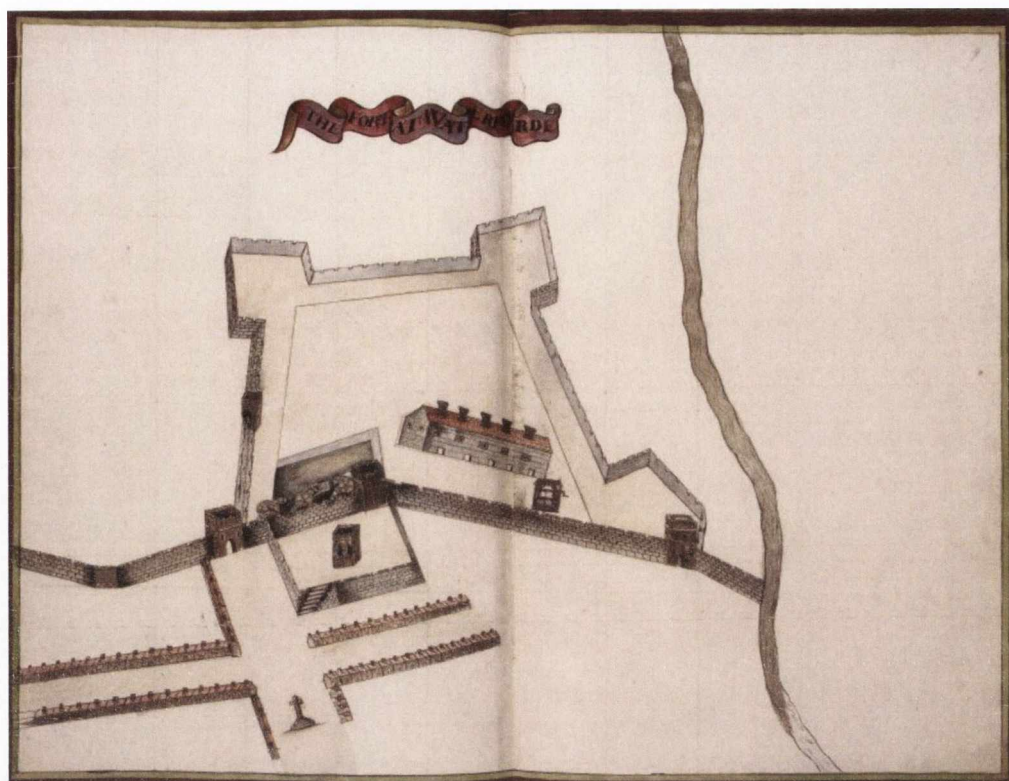


Image five: Nicholas Pynnar's plan of Waterford Fort, 1626, BL MS 24200.

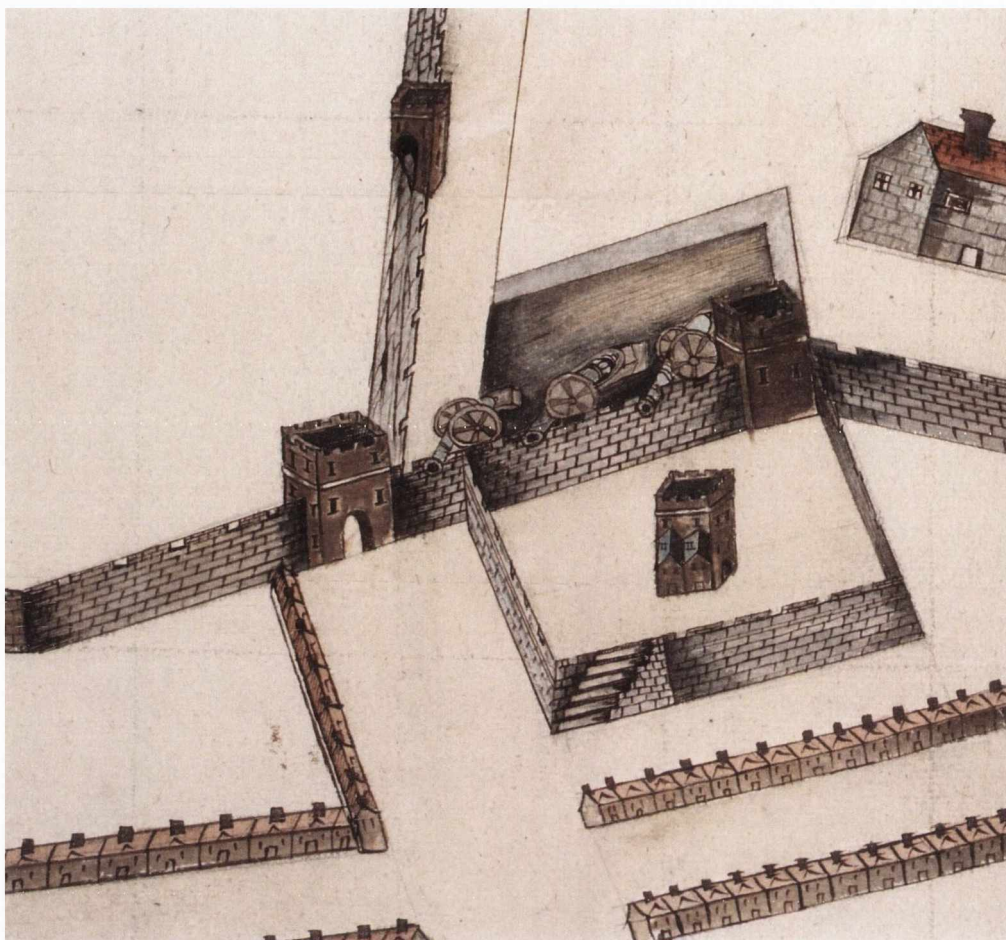


Image six: Nicholas Pynnar's plan of Waterford Fort (detail).

Pynnar's drawings of both forts (images four, five and six), with all the artillery pointed squarely on the city, clearly demonstrate one of the main functions of these forts – to keep the two cities in awe to the crown and to keep martial means the purview of the crown army, not the municipality. The building of citadels at Waterford and Cork represented the final realisation of plans advocated by Thornton, Fenton, Saxey and Chichester, who sought the 'bridling' of these towns to ensure pacification in the kingdom. The establishment of forts on Old English towns formed part of a wider scheme to reduce the power of towns, who held 'over-liberall charters' and who could no longer be relied upon to serve in the crown's best interests. As with religious enforcement (chapter three), Old English towns could expect to receive a more favourable audience at court in London rather than before the lord deputy and council in Dublin. Unlike the enforcement campaign, however, the crown proved unenthusiastic about protecting them from the Dublin administration's reform of the kingdom. The pacification of the country, the increasing of the customs revenue, the establishment of



New English towns and the construction of forts along the coast had the support of the king and council. The use of the oath of supremacy formed an important part of both religious enforcement and urban reform, with James largely supportive of its use until the opening of Spanish negotiations. This policy had parliamentary approval through the act of supremacy and it was deemed unlikely to provoke violent unrest in Ireland, unlike elements of enforcement that targeted levels below the elite.

The experience of towns demonstrate clearly the difficult position faced by the Old English, struggling to maintain their profession of Catholicism while holding on to their traditional powers. The revolt of many Old English towns in 1603 showed the impotency of their position, as their powers had waned over the years and their traction with the crown reduced. The resurgence of the crown's interest in Ireland, borne through a long, expensive war against Tyrone, reaped its rewards, as its governors held the kingdom in thrall like never before. The Dublin administration used their newly won position to institute changes in the polity to strengthen the central administration's power for the future. The Old English struggled badly to maintain their liberties under the strain, losing their ability to provide their own self-defence or choose their own officers. Political considerations in the 1620s forced the administration to loosen its insistence on tendering the oath of supremacy and the straitened financial conditions forced the administration into engaging the Old English over the raising of a subsidy, leading to the 'graces' of 1628.<sup>230</sup> The royal marriage talks and the war with Spain brought the Old English to the negotiation table from 1626, yet they also hastened the building of citadels at Cork and Waterford, further diminishing their power. The 'graces' discussions were entered with enthusiasm by the Old English towns, as they used this moment to demonstrate their inherent loyalty to the crown, to show that they were pulling in the same direction as the crown and Dublin administration. The ultimate reneging of the 'graces' proved an important breaking point in the relationship of town and crown, not fatally so, yet it contributed to the alienation of the Old English from Dublin Castle, leading to a gradual association with their co-religionists, the Gaelic Irish, who had represented a *bête noir* for the Old English for centuries.

---

<sup>230</sup> Aidan Clarke, *The Graces, 1625-41* (Dundalk, 1968).

### Chapter three: Religious enforcement

The surrender of Tyrone at Mellifont signalled the end of the Nine Years War and opened the way for a more forceful religious policy. The Dublin administration had halted many calls for strict enforcement of religious practice while military engagements continued, deeming it too risky and liable to provoke the hitherto loyal Old English into joining Tyrone's call for a religious war. The 1603 revolt further demonstrated to the government the need for reform, as the central administration became convinced that one could not remain Catholic and loyal.<sup>1</sup> Lord Deputy Mountjoy kept religious reformers in check during his governorship, as he approached enforcement with more caution than his fellow office-holders. Leading civil and religious members of the administration who ruled Ireland on his departure did not hold such scruples. Successive governorships of Sir George Carey, Sir Arthur Chichester, Sir Oliver St John, Viscount Falkland and the lord justices Richard Boyle (first earl of Cork) and Adam Loftus (first Viscount Ely) supported a renewed Reformation drive, using similar methods to achieve their desired aims. Enforcement relied on legal strictures against non-attendance at divine service, the banishment of Catholic clergy and on tendering the oath of supremacy on state officers, utilising both statutory and prerogative law. Catholic opposition to enforcement focused on close interpretation of the 1560 acts of supremacy and uniformity, on challenging the administration's use of prerogative law and on resisting their application through obstruction. In using legal arguments, obstruction and popular forms of protest, Catholics halted the progress of the Protestant Reformation drive and eventually provoked the administration into seeking an accommodation in the 1620s. Research on the 'graces' to date largely neglects the role played by resistance to enforcement in bringing about the need for a grand accommodation, focusing more on plantation and the not insignificant international dimension in the heady early days of Caroline Ireland.<sup>2</sup> The arguments

---

<sup>1</sup> Alan Ford, "'Firm Catholics" or "loyal subjects"? Religious and political allegiance in early seventeenth-century Ireland' in David George Boyce, Robert Eccleshall and Vincent Geoghegan (eds), *Political discourse in seventeenth- and eighteenth-century Ireland* (Basingstoke and New York, 2001), pp 1-31.

<sup>2</sup> Aidan Clarke, *The Old English in Ireland, 1625-42*, pp 28-59; idem, 'Selling royal favours, 1624-32' in T. W. Moody, F. X. Martin, F. J. Byrne (eds), *A new history of Ireland 3: early modern Ireland, 1534-1691* (Oxford, 1991), pp 233-42; Victor Treadwell, chapter seven, section v, 'Towards the graces and the Petition of Right', *Buckingham and Ireland, 1616-28: a study in Anglo-Irish politics* (Dublin, 1998), pp 277-93.



used by Catholic opponents and the effect this had on enforcement will be the focus of this chapter.

The first layman challenged under this renewed enforcement policy was the elected mayor of Dublin, John Shelton.<sup>3</sup> In autumn 1604, he took the oath of office before the outgoing mayor and the aldermen of Dublin, and not the chief baron of the exchequer, according to custom.<sup>4</sup> Many Irish councillors and judges left Dublin prior to this owing to a plague that ravaged the city. Lord Deputy George Carey established a commission of the chief baron and lord chancellor to tender the oath of supremacy to Shelton, an oath that Sir John Davies insisted 'all his predecessors had yielded to take'.<sup>5</sup> Priests in the city lauded the mayor, presenting him as 'the only champion of the Catholique religion' for his avoidance or initial rejection of the oath of supremacy, stoking tensions between the tholsel and the castle.<sup>6</sup> Shelton deflected this first commission with a request for time to consider taking the oath, time he spent in discussion with Doctor Luke Challoner, vice-provost of Trinity College, and the Jesuit Christopher Holywood.

At the rearranged date, Shelton decided to challenge the legal intricacies of the oath rather swear it as expected. Davies's report stated that Shelton questioned the legality of the oath of supremacy as outlined in the 1560 act, as it referred to the 'Queen' as supreme governor of all peoples, and thus expired at her death.<sup>7</sup> In this Shelton appears to have been ill informed as the portion of the act relating to the oath includes the phrase 'her heirs and successors' on two occasions.<sup>8</sup> Neither he nor Davies had accurate knowledge of the language of the act, as Shelton backed down after it was explained that by the word 'queen' the act meant the 'politicke roiall body'.<sup>9</sup> His second complaint was of a broader nature, as he declared that he would acknowledge the king's role as governor in temporal and spiritual affairs, but not in all causes – an attempt at a

---

<sup>3</sup> Lord President of Munster, Sir Henry Brouncker banished clergy under renewed enforcement measures in autumn 1604, see below.

<sup>4</sup> Colm Lennon, *The Lords of Dublin in the age of Reformation* (Dublin, 1989), p. 176.

<sup>5</sup> *Ibid.*; Sir John Davies to Cecil, 8 Dec. 1604, *CSPI 1603-06*, p. 213.

<sup>6</sup> Davies to Cecil, 8 Dec. 1604, TNA (UK) SP 63/216/54 (*CSPI 1603-06*, pp 212-14).

<sup>7</sup> Lennon, *Lords of Dublin*, p. 176: *CSPI 1603-06*, p. 213.

<sup>8</sup> *The statutes at large passed in the parliaments held in Ireland*, i, p. 279; for more on the printing of Elizabethan acts of parliament and their dissemination see David B. Quinn, 'Government printing and the publication of the Irish statutes in the sixteenth century' in *PRIA*, section C, 49 (1943/1944), pp 55-76.

<sup>9</sup> Davies to Cecil, 8 Dec. 1604, TNA (UK) SP 63/216/149 (*CSPI 1603-06*, pp 212-14).

compromise between his split loyalty to crown and papacy. For his failure to take the oath the commission excluded him from the mayoralty, fined him £300 sterling and imprisoned him until they received payment.<sup>10</sup>

Reformers used the oath of supremacy widely in 1606 against mayors, recorders and sheriffs of cities and towns, removing many for their refusal to swear it. The president of Munster, Sir Henry Brouncker, deposed almost all the mayors of Munster in autumn 1606. In Waterford, he deposed five mayors in rapid succession until they chose a conformable man.<sup>11</sup> Cork similarly returned a conformable mayor after Brouncker had deposed their first choice.<sup>12</sup> The oath was not restricted to mayors and sovereigns alone, as sheriffs and recorders of towns, justices of the peace, county sheriffs and judges were also tendered the oath in this period. The most high profile deposition in this enforcement scheme involved the highly-respected second justice of the king's bench, Sir John Everard. Described in state correspondence as 'grave and honest', 'very honest and sufficient' and a 'discreet and upright gentleman', Everard nevertheless lost his position for his refusal to swear the oath.<sup>13</sup>

Reformers targeted local governors and crown officers for both practical and tactical reasons. In practical terms, office-holders could be coerced through the tendering of the oath of supremacy, on the statute books since 1560. In insisting on tendering the oath, reformers simply revived existing enforcement measures rather than creating new ones, which was less likely to cause controversy. The enforcement of conformity in cities and towns also formed a central point in the tactics of reformers. Officials in both Dublin Castle and Whitehall agreed on the principal that the Reformation of the elite of cities and towns, Dublin in particular, would lead to a general resort to church.<sup>14</sup> Soldier,

---

<sup>10</sup> Lennon, *Lords of Dublin*, pp 176-7.

<sup>11</sup> John McCavitt, *Sir Arthur Chichester: lord deputy of Ireland 1605-1616* (Belfast, 1998), p. 121; 'A copy of a letter by Brouncker', 12 Sept. 1606, *CSPI 1603-06*, p. 550.

<sup>12</sup> 'Certain fines imposed by Brouncker returned into the Exchequer' enrolled in Easter term 1607, *CSPI 1606-08*, p. cvi.

<sup>13</sup> It took eighteenth months for them to finally remove him, partly to let him consider his position and partly due to a shortage of judges, *CSPI 1603-06*, pp 299, 332, 401, 430; *CSPI 1606-08*, pp 44, 90, 188.

<sup>14</sup> Chichester cited the importance of Dublin, writing that it was the 'lantern of this whole kingdom' and that 'the eyes & expectation of all the rest are earnestly fastened' on it, Chichester and council to the English privy council, 5 Dec. 1605, TNA (UK) SP 63/217/95 (*CSPI 1603-06*, p. 355); Davies wrote that the 'all the Eies of the Kingdome ar turned uppon' enforcement in Dublin and that 'the people of other parts wilbee much lead & transported on[e] way or tother by the example of this place', Davies to Salisbury, undated, TNA (UK) SP 63/217/94 (*CSPI 1603-06*, p. 370); the English privy council agreed



settler, servant to Brouncker and sometime poet, Parr Lane argued that as urban areas had helped conquer the country for the crown, they ought to be the agents of religious change.<sup>15</sup> A document attributed to his master, Brouncker, argued that once the towns had been converted to the 'true religion', the 'sparks will fly abroad' bringing the kingdom to conformity, much like how the Reformation had spread in 'Germany, France and the Low Countries'.<sup>16</sup> In the main, Catholics refused to swear the oath and were removed from office, imprisoned and fined. Where possible, towns put forward Protestant candidates as mayor upon the deposition of their first choice, yet many towns either had no suitable candidates or chose to proceed without a mayor in the face of government pressure.

Tendering the oath had its limitations, however, as it could only be employed against office-holders. A 4 July 1605 proclamation by James provided the spark for reform of conscience long sought after by reformers. In Munster, enforcement began a little earlier, as Lord President Brouncker had ordered the banishment of priests in August 1604 using his prerogative power.<sup>17</sup> The 1605 proclamation called for compulsory attendance at church service 'according to the tennour and intent of our said Lawes and Statutes, upon the paines and penalties contained therein'.<sup>18</sup> It called on all to 'abide soberly and orderly' and remain for the entire service, as laid out in the statute. Previously, officials directed to attend the lord deputy to church had taken to attending upon him up to the church doors and no further, considering this a fulfilment of their duty. Of the non-elite, many who did enter would stop their ears with cotton wool so as not to hear the words, or played raucous games while the preacher spoke, or other acts displaying irreverence towards the service.<sup>19</sup> Authorities in Dublin read the proclamation in early October, as did the lord president in Cork; the lord president of

---

with the choice of the chief men of cities, calling for the most boastful to be punished, English privy council to Chichester, 24 Jan. 1606, *CSPI 1603-06*, p. 389.

<sup>15</sup> Alan Ford, 'Parr Lane, "News from the holy ile"', *PRLA*, section C, 99 (1999), p. 154.

<sup>16</sup> 'Concerning Reformation of religion in Ireland', undated, *CSPI 1603-06*, p. 543.

<sup>17</sup> Two versions of this proclamation exists, 14 Aug. 1604, Carte MS 61. p. 137 (*CSPI 1603-06*, pp 190-1) and 18 Aug. 1604, BL, Harleian MS 697, f. 180v. (*Council book of Munster*, pp 416-17).

<sup>18</sup> 'Proclamation against Catholic clergy and for enforcement of church attendance', 4 July 1605, TNA (UK) SP 63/217/49 (*CSPI 1603-06*, p. 301); Dublin printers sent out two sets of proclamations, the first run featured an immaterial misprint, forcing a second run on 24 Oct.

<sup>19</sup> Graham Kew (ed.), *The Irish sections of Fynes Moryson's unpublished Itinerary* (Dublin, 1998), p. 52.

Connacht published it at the market place in Galway.<sup>20</sup> The proclamation, and repeated entreaties by administrators in Dublin, Cork and Galway, proved ineffectual, as people largely refrained from attending established church services.

Reformers next targeted the elite of towns and cities. They sent letters or mandates to named individuals demanding conformity, as used in an aborted reform programme in January 1603.<sup>21</sup> The 4 July proclamation called on the use of statutory legislation to punish those who were absent from divine service, yet the penalties outlined in the 1560 act of uniformity were of limited efficacy against the wealthy. The fine of twelve pence for non-attendance every Sunday and holy day (there were twenty-seven approved holy days in the Elizabethan calendar) proved a paltry sum.<sup>22</sup> In proceeding with the mandates, the Dublin administration relied on the 'tennour and intent' of the anti-recusancy legislation passed in 1560, rather than on the strictures outlined therein. On Wednesday 6 and 13 November, leading citizens in Dublin received mandates to their homes calling for their attendance at their parish church or chapel the following Sunday.<sup>23</sup> On 22 November, nine citizens answered charges at the court of castle chamber for their recusancy, receiving fines ranging from £50-100, depending on their ability to pay.<sup>24</sup> On 27 November, a further five were prosecuted at the court of castle chamber, receiving the like penalty. All those charged were imprisoned during the lord deputy's pleasure and could not hold office until they resorted to church and agreed to take the oath of supremacy. The presidents of Munster and Connacht proceeded similarly through their presidency courts through all four legal terms in 1606. The court of castle chamber prosecuted leading citizens in Hilary, Easter and Trinity terms 1606, remained idle in Michaelmas 1606 and Hilary 1607, returning in Easter term 1607 to prosecute seven Drogheda citizens.<sup>25</sup>

---

<sup>20</sup> Chichester and council to English privy council, 5 Oct. 1605, *CSPI 1603-06*, p. 332; *Council book of Munster*, p. 428; 'Certain fines imposed by the vice-president of Connaught, Robert Remington, 23 Mar. 1606, Exchequer remembrance roll, printed in *CSPI 1606-08*, p. xcvi.

<sup>21</sup> In Jan. 1603, while Mountjoy was on circuit in Connacht and Ulster, Dublin aldermen were given directions to attend church service or face fine and imprisonment. Mountjoy called off this nascent enforcement programme on his return, *CSPI 1601-03*, pp 556-7, 562-3, 569; *Carew 1601-03*, pp 428, 432-3.

<sup>22</sup> David Cressy, *Bonfires & bells: national memory and the Protestant calendar in Elizabethan and Stuart England* (Stroud, 2004).

<sup>23</sup> Court of castle chamber case against Dublin citizens, 22 Nov. 1605, *Court of castle chamber*, p. 486.

<sup>24</sup> *Ibid.*

<sup>25</sup> *Ibid.*, pp 484-90.



The court of castle chamber and the presidency courts prosecuted leading citizens as the mandates appear to have proved largely ineffectual at drawing conformity. Evidence of apostasy is difficult to gauge, as records concentrated more on those who refused to abide by mandates rather than those who obeyed them. On 5 December, the Irish council reported that four aldermen, who previously refused to attend church, attended common prayer, presumably after receiving mandates calling on them to do so.<sup>26</sup> Those charged before the court of castle chamber proved intractable, as Davies noted that of twenty censured, only one subsequently agreed to resort to church.<sup>27</sup>

Brouncker initially had little success in bringing conformity in Munster, yet by Michaelmas term 1606 a number of leading citizens were brought to heel.<sup>28</sup> Those charged and fined in the court of castle chamber or presidency court could do little to escape punishment. Those who agreed to pay their fines, or made agreements to do so, were released from prison. The majority appear to have refused to pay fines and remained in prison for their recalcitrance.<sup>29</sup> Some of those prosecuted in Dublin aimed to use legal manipulations to avoid payment. The charge sheets against those prosecuted at the court of castle chamber and at the presidency courts of Munster read that the fines imposed were to be taken against their 'bodyes, Landes, goods and Chattels', resulting in the breaking open of houses by sheriffs to requisition goods to the value of their fines.<sup>30</sup> On 7 February 1606, the court of castle chamber prosecuted nine Dublin citizens – five of whom had been fined in mandates proceedings – for attempting to disguise their wealth against those instructed to take goods in lieu of fines at the council table.<sup>31</sup> Those prosecuted allegedly forged deeds backdating property conveyance to family members and friends (some of whom were conformist members of the aldermancy) in order to avoid financial ruin during their imprisonment.<sup>32</sup> The ecclesiastical commission of the Elizabethan period had a reputation for heavy-

---

<sup>26</sup> Chichester and council to English privy council, 5 Dec. 1605, *CSPI 1603-06*, p. 355.

<sup>27</sup> 'Observations made by Davies', 4 May 1606, *CSPI 1603-06*, p. 467.

<sup>28</sup> Brouncker to English privy council, 18 Nov. 1606, *CSPI 1606-08*, p. 25.

<sup>29</sup> Davies's observations made after a journey in Munster, 4 May 1606, *CSPI 1603-06*, p. 467; McCavitt, *Sir Arthur Chichester*, pp 118-21.

<sup>30</sup> *Court of castle chamber*, p. 487.

<sup>31</sup> *Ibid.*, p. 488. This was a relatively common practice at the time, in 1607 the executed traitor John Bourke was said to have conveyed land before he revolted, *CSPI 1606-08*, p. 112. Similarly, in the plantation scheme in the midlands, those to lose their land frequently conveyed their property to larger, trusted neighbours, prior to surveying in order to have them re-conveyed after the completion of the plantation (see chapter six).

<sup>32</sup> *Ibid.*

handedness and corruption, as fines levied frequently overmatched the crimes committed. The manner of the use of the court of castle chamber and the presidency courts mimicked those of the ecclesiastical commission, earning a reputation as an agency for financial gain rather than religious conformity.<sup>33</sup>

A simple method of avoiding mandates fines involved being absent from the town while the commissioners visited. There is no record that Dublin citizens used this method, likely because the commissioners themselves lived within or just outside the city, rendering evasion a more difficult tactic. In Drogheda in Hilary Term 1607, the commissioners remained 'five or six weeks' in the town, pressing hard on conformity. Correspondence reported that some leading citizens chose to leave in the expectation of receiving mandates. Realising that many of the chief citizens of the town had absented themselves, Chichester ordered their return, eventually drawing great numbers to Protestant service.<sup>34</sup> In Munster, Chichester reported that many merchants, fearing Brouncker's severity, chose to 'give over their trades, and betooke themselves into the country'. They openly confessed that they would rather abandon their trade than have Brouncker receive the benefit of their customs duties and they would 'incurre any infliction of the law... rather then he should gaine any glorie or comendacon in the worke which he intended'.<sup>35</sup> In fleeing from Drogheda, citizens sought to avoid punitive fines arising from mandates and a subsequent court appearance; in Munster some were willing to lose profits from their trade in order to spite the president, who alienated leading citizens of urban Munster through his overzealous pursuance of enforcement.

Reluctant conformity and evasion were not the only responses to the proceedings of the reformers, as the Old English gentry and lawyers also provided a robust legal attack on the enforcement campaign. On 8 December 1605, Lords Gormanston, Trimlestone, Killeen and Howth, wrote to English secretary of state, Robert Cecil, the earl of Salisbury pleading for penal laws to be 'restrained', or if not, for the 'plain letter of the law' to stand.<sup>36</sup> The 4 July proclamation, sent from England to Ireland, called on the employment of the 'Lawes and Statutes' of the realm against recusants to draw people

---

<sup>33</sup> For criticisms of the ecclesiastical commission see, *CSPI 1603-06*, pp 497, 526, 547-8; 'The King's instructions to Chichester', 28 Jan. 1608, *CSPI 1606-08*, p. 97.

<sup>34</sup> McCavitt, *Sir Arthur Chichester*, p. 122.

<sup>35</sup> Chichester to English privy council, 4 Aug. 1607, TNA (UK) SP 63/222/112 (*CSPI 1606-08*, p. 246).

<sup>36</sup> 'Lord Gormanston and other nobles to Salisbury, 8 Dec. 1605, *CSPI 1603-06*, pp 365-6.



to conformity. Prints of the proclamation in Ireland included extra text, presumably added by the Dublin government, warning people of punishment for those who contravened his majesty's 'Comaundementes, proclamacons and prerogative'.<sup>37</sup> The Catholic lords' letter labelled the punishments meted out in the court of castle chamber as greater than 'the laws did appoint' or indeed greater than they imagined the king intended. They lambasted the use of the court of castle chamber as a 'spiritual consistory', as its remit traditionally covered only cases of 'outrageous contempt or heinous riot'.<sup>38</sup>

Of particular concern to the lords was the use of these means where statute law pronounced, namely the 1560 act of uniformity. They criticised the precedent this set, writing that 'If these courses may hold, in vain laws were made'.<sup>39</sup> The petition focused on the weakest part of the reformers' programme – reliance on the prerogative of a king who largely supported a moderate course of enforcement.<sup>40</sup> The crown and council supported Reformation, urging a moderate course, without giving explicit instructions on how this ought to be achieved. Once the Dublin administration followed a course, authorities in London were fain to contradict it, lest this should provoke Catholics into believing in a broad toleration (as previously in the 1603 revolt). The first reaction from Whitehall on the matter arrived in late February 1606 in the form of a private letter from the English privy council to Chichester. The council called for a 'temperate course', urging the lord deputy to proceed on a path between 'yielding any hope of tolleracion of their superstition; nor startling the multitude with any generall, or rigorous Compulsion'.<sup>41</sup> The council advocated a policy of gentle enforcement against the leading citizens, through 'all meanes of admonition persuacon and instruction' before using the force of the law, yet refrained from calling an end to the course in motion, an example of mixed messages that came to dominate discussion on enforcement in the early seventeenth century. Clearly, the council found fault in the methods employed, yet recognised that any abatement in the course designated could stifle the reform effort.<sup>42</sup>

---

<sup>37</sup> *Court of castle chamber*, p. 486.

<sup>38</sup> 'Lord Gormanston and other nobles to Salisbury, 8 Dec. 1605, *CSPI 1603-06*, pp 365-6.

<sup>39</sup> *Ibid.*

<sup>40</sup> Michael Questier, 'The politics of religious conformity and the accession of James I', *Historical Research*, vol. 71, no. 174 (Feb., 1998), pp 24-5.

<sup>41</sup> English privy council to Chichester, 24 Jan. 1606, Philadelphia Papers, TNA (UK) 31/8/199, f. 36 (*CSPI 1603-06*, p. 389).

<sup>42</sup> *Ibid.*

The enforcement drive not only called for attendance at divine service, it also ordered the banishment of Catholic clergy. The 4 July proclamation called for the banishment of all Catholic clergy who refused to conform to the state religion, relying on an interpretation of the 1393 act of *Praemunire* (which prohibited the maintenance of papal jurisdiction) and the 1560 acts of supremacy and uniformity.<sup>43</sup> In Ulster and Connacht, reformers appear to have had a degree of success, as a number of clergymen conformed at once to the established church.<sup>44</sup> In areas of Old English influence they had less success, as Jesuits and continentally-trained priests and friars ensured that few strayed from allegiance to the Pope. The proclamation served as a warning to the clergy, pushing them into hiding and ensuring their circumspection in ministering to the people. State correspondence revealed the limited success of banishment outside Ulster, as the populace, particularly nobles and urban-dwellers, provided a safe haven for clergy. The bishop of Cork and Ross, William Lyon, reported the futility of the anti-clerical drive in his diocese in March 1607. He noted the open practice of Catholicism and the widespread support of clergy, in abbeys and in the homes of nobles. Coercive measures against leading priests resulted in their flight, for a time, yet others came in their place and the chief clerics remained underground until a later opportune time came.<sup>45</sup>

Catholic clergy largely appear to have operated unmolested across the kingdom, as both civil and spiritual authorities proved unwilling or unable to apprehend them. Catholic residents prevented their capture by rising up in support of them once authorities moved toward apprehension. In Limerick, in late 1604, a party violently rescued a priest who had been arrested upon a warrant of the president of Munster.<sup>46</sup> In October 1606, a John

---

<sup>43</sup> On the 1393 *Praemunire* act and its interpretation by later legists, see W. T. Waugh, 'The great statute of praemunire' in *The English Historical Review*, 37, no. 146 (Apr. 1922), pp 173-205; 2 Eliz. C. 1 and C. 2., *The statutes at large passed in the parliaments held in Ireland*, i, pp 275-290.

<sup>44</sup> Forty clergymen in Connacht are reported to have taken the oath of supremacy in early 1606, 'Observations made by Davies', 4 May 1606, *CSPI 1603-06*, p. 468; on the conforming of clergy in Carrickfergus, Davies to Salisbury, undated, *CSPI 1603-06*, pp 371-2; on general conversion of priests, Chichester and council to English privy council, 23 Apr. 1606, *CSPI 1603-06*, p. 448; Brian Mac Cuarta, *Catholic revival in the north of Ireland, 1603-41* (Dublin, 2007), pp 43-9.

<sup>45</sup> William, bishop of Cork and Ross to Chichester, Mar. 1607, *CSPI 1606-08*, p. 133; a letter to Henry Fitzsimon in 1607 recorded extensive harassment of priests, including the illegal employment of martial law against them, letter from Ireland to Henry Fitzsimon, 1 May 1607, *Words of comfort...letters from a cell....and diary of the Bohemia war of 1620*, ed. Edmund Hogan (Dublin, 1881), pp 64-5, see chapter four for use of martial law on clergymen.

<sup>46</sup> Davies to Cecil, 7 Dec. 1604, *CSPI 1603-06*, p. 214.



Bourke defended a priest within his castle and struck out at a party sent from the lord president to speak with him regarding his harbouring of the cleric.<sup>47</sup> The lord deputy and council noted their reticence in apprehending priests, as experience found that in moving against known priests, ‘both men & women will not sticke to rescue the partie’.<sup>48</sup> Chichester predicted such difficulties from the outset, writing on 2 October 1605 that he anticipated that only English people would aid the government in banishing priests.<sup>49</sup> The English privy council recognised the explosive reaction that such action could provoke and urged Chichester to only prosecute priests where it was convenient; not to make a curious and particular search for them.<sup>50</sup> Authorities had royal sanction and statute legislation behind them in their drive to banish Catholic clergy, yet local resistance proved decisive as the government failed to separate Irish people from Catholic clergy.

Where the act of supremacy and mandates proceedings aimed to bring the elite to conformity, the 1560 act of uniformity served the needs of reformers against the non-elite. Urban centres once again featured prominently, as reformers believed their example would influence the hinterland. Reformers also noted their reluctance to prosecute recusancy in areas where no preaching minister operated or where the churches were ruined; corporate towns had been the focus of evangelising efforts and thus were equipped with a basic ministry, unlike rural areas.<sup>51</sup> The 1560 act of uniformity, and its twelve pence per Sunday and holy day fine, acted as the means of compulsion. Prosecution of the act fell to church courts, justices of the peace, sheriffs and justices of assize (for which the greatest evidence survives). The act proved relatively successful in drawing people to Protestant service, as the punitive twelve pence fine acted as a powerful inducement to all but the wealthy members of towns. Reformers’ letters and assize circuit reports recorded notable successes in Leinster, in the urban centres of Dublin, Drogheda, Gowran and Naas and in King’s County and Queen’s County; the towns of Derry and Carrickfergus largely conformed; by late 1606 Brouncker noted success in Waterford, Dungarvan, Youghal, Cork, Rosscarbery and

---

<sup>47</sup> McCavitt, *Sir Arthur Chichester*, p. 128 citing Fitzsimon, *Words of comfort*, p. 148 and *CSPI 1606-08*, pp 101-04.

<sup>48</sup> Chichester and council to English privy council, 27 Oct. 1607, TNA (UK) SP 63/222/205 (*CSPI 1606-08*, p. 310); see also *CSPI 1603-06*, pp 550-1 and *CSPI 1608-10*, p. 399.

<sup>49</sup> Chichester to Salisbury, 2 Oct. 1605, *CSPI 1603-06*, p. 325.

<sup>50</sup> English privy council to Chichester, 24 Jan. 1606, *CSPI 1603-06*, p. 390.

<sup>51</sup> ‘Observations made by Davies’, 4 May 1606, *CSPI 1603-06*, pp 466-7.

Limerick.<sup>52</sup> Davies wrote that the act of uniformity raised little objection among the populace, as it was a 'positive law', the burden was seen not to be heavy and because the fines were directed toward charitable uses, unlike the mandate, with half reserved for charitable causes and half to the king's coffers.<sup>53</sup> He remarked that authorities proved more successful on the 'meaner sort' than the elite, as the leading citizens formed closer bonds with Catholic clergy through patronage – moving him to question the policy of targeting the better sort as an effective means of bringing conformity.<sup>54</sup>

Reports of large congregations resorting to church across the country owe much to the close supervision and use of compulsion by civil and religious authorities. The administration admitted as much, hoping that once inside church, learned ministers could convince people to return of their own accord. For reformers, these encouraging displays proved transitory – as church attendance dropped once coercion ceased. The considerable gains made by Brouncker in Munster relied on heavy-handed means, with large fines, imprisonment, search for priests and forced entry to homes a feature of his enforcement drive. Chichester related his part in Brouncker's noted success, declaring how he showed a 'deafe eare' to complaints from Munster concerning the lord president's activities.<sup>55</sup> The lord deputy's selective reporting prevented Whitehall from learning of the actions of the lord president and allowed him to act with relative impunity.

While many resorted generally to church in some towns, however temporarily, some towns outright rejected the call for conformity and received large fines in the presidency courts. Many continued their recusancy in the expectation of a relaxation of coercion in the near future, recognising that all previous efforts at compulsion ended within a short space of time. Many resisted paying fines levied, so much so that by

---

<sup>52</sup> Davies to Salisbury, 5 Oct. 1605, *CSPI 1603-06*, p. 334; Chichester and council to English privy council, 5 Dec. 1605, *CSPI 1603-06*, p. 356; Davies to Salisbury, 8 Dec. 1605, *CSPI 1603-06*, p. 371-2; 'Observations made by Davies', 4 May 1606, *CSPI 1603-06*, pp 463-76; Ford, 'Reforming the holy isle: Parr Lane and the conversion of the Irish' in T.C. Barnard, Daibhi O Croinin and Katherine Simms (eds), *A miracle of learning: studies in manuscripts and Irish learning, Essays in honour of William O'Sullivan* (Aldershot, 1998), p. 150; Davies to Salisbury, 30 Mar. 1607, *CSPI 1606-08*, p. 131; Letter of Brouncker to anon, 12 Sept. 1606, *CSPI 1603-06*, p. 550; Brouncker to English privy council, 18 Nov. 1606, *CSPI 1606-08*, p. 25; Brouncker to Salisbury, 19 Nov. 1606, *CSPI 1606-08*, p. 26; Bishop of Cork and Ross to Chichester, March 1607, *CSPI 1606-08*, p. 132.

<sup>53</sup> Davies to Salisbury, 4 May 1606, *CSPI 1603-06*, pp 465-6.

<sup>54</sup> Ibid.

<sup>55</sup> Chichester to Salisbury, 1 Dec. 1606, TNA (UK) SP 63/219/147 (*CSPI 1606-08*, p. 43).



August 1607, Chichester reported £7,000 in unpaid fines in the province of Munster alone.<sup>56</sup> Many who chose to pay their fines either found accommodations with officials for a drastic diminution (up to as much as a two-thirds reduction) or redirected their fines to civic works (rather than for the benefit of church buildings they had no intention of entering). In 1606, the city of Cork successfully petitioned for the £60 raised from the recent presentment of recusants to be directed towards the building of a hospital.<sup>57</sup> Similarly, the town of Clonmel petitioned, in 1609, for their reduced fine of £22 to aid in the construction of a new bridge across the river Noir.<sup>58</sup> These local accommodations proved towns could negotiate on the use of recusancy fines, as municipal authorities had traditionally held total control over fines levied within their liberties. This reversion of fines to municipal councils had previously rendered the act meaningless, yet the authority of the presidency courts handed initiative for enforcement back to the state.

The non-elite had means at their disposal to oppose the act of uniformity that operated outside of legal strictures and tactics used by the elite. As Thomas O'Connor wrote, Catholics opposed reform attempts through their attachment to the church and their simultaneous rejection of the established service. O'Connor cited recusancy, support of traditional clergy, shunning of Protestant schools (and consequent support of continental seminaries) and the rejection of tithes for Protestant clergymen as weapons of the non-elite.<sup>59</sup> A number of additions can be made to this list. An important factor in the failure of Irish Catholics to reform was the pressure placed on municipal officers, individuals and clergymen to remain within the Catholic Church. The widespread ostracism of converts likely acted as a powerful influence on people. The mayor of Cork in 1606-07, Patrick Tirry, suffered for his decision to accept the oath of supremacy and attend divine service.<sup>60</sup> The previous mayor, William Sarsfield, refused to yield the marks of office to him and it took a great deal of effort for Tirry to receive the insignia necessary to wield power. Cork citizens subsequently refused to accompany

---

<sup>56</sup> Chichester to English privy council, 4 Aug. 1607, *CSPI 1606-08*, pp 247-8.

<sup>57</sup> Davies' report on Munster circuit, 4 May 1606, *CSPI 1603-06*, p. 469.

<sup>58</sup> *Council book of Munster*, p. 162.

<sup>59</sup> Thomas O'Connor, *The Irish Jansenists, 1600-70: religion and politics in Flanders, France, Ireland and Rome* (Dublin, 2008), p. 28.

<sup>60</sup> 'Certain fines imposed by Brouncker returned into the Exchequer', enrolled into the Exchequer in Easter term 1607, *CSPI 1606-08*, p. cvii.

Tirry to church or attend upon him at council meetings.<sup>61</sup> In 1610, Tirry wrote to Salisbury seeking to enter into his personal service. He detailed how he was ‘maligned and hated’ by his kinsmen, neighbours and citizens, both inside and outside the city, and felt unable to ‘inhabit or dwell amongst them’ as a result.<sup>62</sup>

Popular pressure on conformists also afflicted attempts made by Sir John Dowdall to bring his tenants to conformity in 1606. His tenants resorted to church, they said, until their neighbours in Youghal chided them, after which they ‘durst come no more’.<sup>63</sup> Chichester and the council reported this practice more generally, finding that those who went to church were ‘everie where derided, scorned, & oppressed by the multitude, to their great discouragement, & the scandall of all good men’.<sup>64</sup> Brouncker believed this to be a widespread practice hindering the spread of Protestantism. He wrote that people were glad of forced church attendance, as this allowed them to attend church freely, whereas before the ‘disfavour and discountenancing’ of neighbours and kinfolk prevented them from doing so. People saw how converts were ‘all maligned and deadly hated as devils and hell-hounds if they come once to church’, forcing many to refrain against their better judgment, he argued. Brouncker blamed the influence of the clergy and women for this. Catholic wives, he wrote, ‘will neither eat nor lie with their husbands if they be excommunicated for heretics’, such was the influence of the clergy on the women of Ireland.<sup>65</sup> In February 1613, Chichester noted how some towns, in need of conformable officers, invited freemen back into the city who they had ‘long since compelled by their oppressions and hard usage (being of Religion) to remove their dwellings farr from them into the Country’.<sup>66</sup> This demonstrated clearly the very real threats faced by Protestants (and former Catholics who chose to conform) to retain their posts on the council. In Dublin, relations between Catholic and Protestant appear to have been more harmonious, most likely due to the higher numbers of Protestants and the acceptance that to prosper an accommodation between members was necessary.<sup>67</sup>

---

<sup>61</sup> Ibid.

<sup>62</sup> Patrick Tirry to Salisbury, 25 Oct. 1610, *CSPI 1608-10*, pp 518-19.

<sup>63</sup> Concerning Reformation in Ireland, undated, *CSPI 1603-06*, p. 544.

<sup>64</sup> Chichester and council to English privy council, 27 Oct. 1607, TNA (UK) SP 63/222/205 (*CSPI 1606-08*, p. 310).

<sup>65</sup> [Brouncker], ‘Concerning Reformation of religion in Ireland, *CSPI 1603-06*, p. 544.

<sup>66</sup> Chichester and council to English privy council, 10 Feb. 1613, ‘Letter book of Sir Arthur Chichester’, p. 80.

<sup>67</sup> On relations in Dublin see Lennon, chapter six ‘Recusancy and the defence of privilege, 1597-1613’ in *Lords of Dublin*, pp 166-205.



The conflation of converts as ‘devils and hell-hounds’ was also reflected in the reputation of the lord president, Brouncker, who was seen as particularly deserving of a gruesome death for his actions against Catholics. The manner of his death, tales reported, reflected divine retribution for the manner in which he lived his life.<sup>68</sup> Myriad reports of his gruesome end circulated even years after his death. These colourful accounts recorded that he ‘was stricken by a frightful disease; he soon became insane, his neck swelled, his tongue protruded to a great length, his eyes rolled about in despair’ before his eventual demise. Catholics recounted his apparent boast during life that he ‘never enjoyed better health than since he began to ‘persecute the papists and their superstitious priests’.<sup>69</sup> Divine retribution formed an important part of folk memory across the country, as the deaths of the Protestant bishops Andrew Knox of Raphoe and Brute Babington of Derry were to bear out. According to the legend, the two bishops conferred with one another concerning the destruction of a popular wooden statue of the Virgin Mary in autumn 1611, deciding to destroy the relic to signify the destruction of the old superstitious ways and herald the new. Knox directed his servants to carry out the act, putting the statue on a large fire in the centre of Coleraine. Catholics spread rumours of the deaths of both Babington and Knox shortly after, demonstrating clearly the error of their actions. The fact that only Babington died in the weeks after (and not both him and Knox as the tales related) did not deter the rumour mongers, as the story endured for another decade, as Philip O’Sullivan Beare retold the legend.<sup>70</sup> Clodagh Tait wrote that such cautionary tales endured in Ireland, as they demonstrated the moral superiority of Catholicism over Protestantism.<sup>71</sup>

While popular rejection of converts and folk tales undermined the reform programme in the medium to long term, other means were employed to try end enforcement rather than obstruct it. One such reaction came in the form of a petition presented to Chichester in early November 1605.<sup>72</sup> The petitioners defended their right to private

---

<sup>68</sup> Clodagh Tait, ‘Reporting the violent death of persecutors in early modern Ireland’ in David Edwards, Pádraig Lenihan and Clodagh Tait (eds), *Age of Atrocity: violent death in early modern Ireland, 1547-1680* (Dublin, 2007), pp 144-6.

<sup>69</sup> Ibid.

<sup>70</sup> Mac Cuarta, *Catholic revival in the north of Ireland*, pp 39-40.

<sup>71</sup> Tait, ‘Reporting the violent deaths of persecutors’, p. 152.

<sup>72</sup> ‘A petition to the lord deputy by the nobility and gentry of the English Pale’, [November 1605], *CSPI 1603-06*, pp 362-5. The calendar of State Papers incorrectly attributes this petition to December 1605. Chichester wrote that the petition was framed at the same time as the Gunpowder Plot was hatched and

worship of religion, dismissing fears that they had become disaffected from the civil government. Annexed to the petition were 219 signatures from the nobility and gentry of the counties of Dublin, Louth, Meath, Westmeath and Kildare.<sup>73</sup> The petition acknowledged the legality of the proceedings against Catholics, yet called for the king to intervene on their behalf.<sup>74</sup> Shortly thereafter, a small group of Pale gentlemen drafted a petition to Salisbury criticising the legal right of the mandates proceedings against the Dublin elite (as outlined above).<sup>75</sup>

Sir Patrick Barnewall came to represent opposition to enforcement and he sought an audience in Whitehall in order to press Salisbury to end them. Barnewall criticised the coercive measures used against aldermen and leading citizens, the legal justification of the mandates and called more broadly for an end to all means of religious compulsion. He exhorted Salisbury to act lest the 'unusuall courses of proseedinge' should lay down 'the fundation of some future Rebellyon To which, though twenty years hense begon, out of never so wiked & undutifull dispositicon, the memorie of these extremities may give pretense'.<sup>76</sup> The Pale petitioners placed their hope in Barnewall, trusting that he would persuade the king and council into permitting liberty of conscience. A 1603 delegation had failed in this endeavour, and the recent gunpowder plot discovery on 5 November served to further distance the king from an accommodation with Catholics, Irish or English.<sup>77</sup>

Barnewall, Gormanston and other prominent petitioners were imprisoned or confined to their homes by the lord deputy for their undutiful carriage in negotiations at the council table.<sup>78</sup> Barnewall delayed his passage to England due to financial constraints, as he had to foot the bill for his travel and stay in London.<sup>79</sup> Chichester acknowledged his incapacity in a number of letters, yet balked at the solution decided on to resolve his financial difficulties. Barnewall planned to cover his costs through a national collection.

---

that he received it prior to the 22 November meeting at the court of castle chamber, *CSPI 1603-06*, pp 358, 359.

<sup>73</sup> Davies termed it a 'giant-like' petition, Davies to Salisbury, undated, *CSPI 1603-06*, p. 371.

<sup>74</sup> 'A petition to the lord deputy by the nobility and gentry of the English Pale', [November 1605], *CSPI 1603-06*, p. 362.

<sup>75</sup> Lord Gormanston and other noblemen of the English Pale to Salisbury, 8 Dec. 1605, *ibid.*, pp 365-6.

<sup>76</sup> Barnewall to Salisbury, 16 Dec. 1606, TNA (UK) SP 63/217/96 (*ibid.*, pp 374-5).

<sup>77</sup> Lord Deputy Carey and council to English privy council, 2 July 1603, *ibid.*, pp 66-7.

<sup>78</sup> McCavitt, *Sir Arthur Chichester*, p. 117.

<sup>79</sup> Chichester to Salisbury, 29 Mar. 1606, *CSPI 1603-06*, p. 438.



Barnewall saw his agency as a defence of the public cause of religion and that thus his costs should be borne by the country.<sup>80</sup> The central government saw his summons to London as a punishment for his contempt during negotiations with the lord deputy at the council table. Chichester's sources reported that Barnewall sought the vast sum of £1,200 (almost certainly an exaggeration) for his expenses and travel and that he would represent civil as well as spiritual matters.<sup>81</sup> Catholic clergymen were to the forefront of this collection, as they were employed to gather money in the towns and countryside. A priest captured in Waterford in February 1607 revealed to the authorities the role played by the clergy in this collection. James White, the vicar-general of Waterford and principal agitator in the 1603 revolt, nominated four priests to collect money within the city. The city of Waterford raised £32 in support of Barnewall's travel costs.<sup>82</sup>

Private delegations such as these undermined the lord deputy and his government and served to disrupt the enforcement campaign. The Dublin administration bemoaned the lofty reputation that Barnewall had among the people, noting that all eyes on the country were upon him.<sup>83</sup> The heavy involvement of the Catholic clergy, the key role of an alternative episcopal structure and the involvement of even the meanest sort in this action discomfited Dublin Castle. Barnewall wrote to London of the 'universall distast' of the kingdom against the administration owing to religious coercion, while Catholics in Ireland cast him as the only salve for the country.<sup>84</sup> Davies voiced his disapproval of Barnewall's agency in London, worrying that this 'principall champion of recusants' could 'procure a stay, if not a reversall' of the enforcement policy. He believed Barnewall to be 'crazed' and claimed that he had conformed under Essex – accusing him of being 'more ambitious & popular, than religious'.<sup>85</sup>

Popular he was and his long delay in London served to enhance his reputation among Catholics. Chichester frequently wrote to Salisbury requesting that Barnewall be punished for his impertinence and even sought to send over Sir Oliver St John and Sir Richard Cooke to bear witness to his expected dressing down at court, so that they

---

<sup>80</sup> Chichester and council to English privy council, 23 Apr. 1606, *CSPI 1603-06*, p. 447.

<sup>81</sup> *Ibid.*

<sup>82</sup> *Ibid.*, p. 447; *CSPI 1606-08*, pp 41, 42-3, 117.

<sup>83</sup> Chichester and council to English privy council, 23 Apr. 1606, *CSPI 1603-06*, pp 445-50.

<sup>84</sup> Barnewall to Salisbury, 11 Mar. 1606, TNA (UK) SP 63/218/32 (*ibid.*, p. 438).

<sup>85</sup> Davies to Salisbury, 4 May 1606, TNA (UK) SP 63/218/52 (*ibid.*, p. 463).

could report events truthfully on his return.<sup>86</sup> In April 1606, Chichester reported that Catholics expected Barnewall to return triumphant, with a toleration of religion and papers calling for the recall of Brouncker and the chief justice of the exchequer, Sir James Ley (who Barnewall cited as the architect of the mandates scheme).<sup>87</sup> In December 1606, Chichester urged Salisbury to reprove Barnewall swiftly, as most men in Ireland believed him to be ‘an agent for tolleration’, with some spreading word that Barnewall would return home with the king’s grace and be created ‘a councillor of this state’.<sup>88</sup> This rumour that Barnewall would be created a councillor of state drew on the desire for Irish-born men to be chosen to high office, to make the kingdom more representative of its population. This request featured in an agency of Cork in 1600 (chapter one) where they pleaded for their mayor to be made a councillor of the presidency court of Munster, an attempt at a reconciliation with a body that urban magistrates had grown to loathe.

Barnewall’s absence affected the enforcement policy most strongly in Leinster as Chichester sought confirmation of the legality of mandates before proceeding to a fresh round of prosecutions. In July, upon hearing of Barnewall’s imprisonment in the Tower of London, he ordered court of castle chamber proceedings to resume.<sup>89</sup> Chichester’s confidence in the enforcement scheme wavered thereafter owing to Barnewall’s lengthy stay in London, leading to the suspension of court of castle chamber moves against Catholics in Michaelmas term 1606 and Hilary term 1607. Davies reported that they suspended enforcement until they discovered the outcome of Barnewall’s case against Chief Justice Ley.<sup>90</sup> Ley had to provide a written defence of his actions to officials in Whitehall on the prerogative proceedings against recusants. Chichester refused to allow Ley to appear in London in person as it would be viewed as a dressing-down to the chief justice.<sup>91</sup> Brouncker’s enforcement drive continued unabated, as he ignored the pending legal case against Ley. He used the presidency court as Ley used the court of castle chamber, yet Whitehall heard little of his endeavours, save his own reports and

---

<sup>86</sup> Remembrances for Chichester, 1 Dec. 1606, *CSPI 1603-06*, p. 488.

<sup>87</sup> On rumours of Ley and Brouncker’s recall see *ibid.*, p. 451. On Barnewall’s complaints against Ley and Chichester’s defence of his chief justice, see *ibid.*, pp 373-4, 398, 411, 414-15, 418, 452, 483, 509 and *CSPI 1606-08*, p. 41.

<sup>88</sup> Chichester to Salisbury, 1 Dec. 1606, TNA (UK) SP 63/219/147 (*CSPI 1606-08*, pp 42-3).

<sup>89</sup> *CSPI 1603-06*, p. 510.

<sup>90</sup> Davies to Salisbury, 5 Dec. 1606, TNA (UK) SP 63/219/148 (*CSPI 1606-08*, p. 44).

<sup>91</sup> *Ibid.*



the censored ones penned by Chichester. In late December, the privy council gave a boost to both Brouncker and Chichester by giving their support to their Reformation scheme and in affirming the legality of mandates.<sup>92</sup> Enforcement continued again in early 1607, with a long period of activity in Drogheda to bring conformity. In March 1607, Barnewall returned, yet refused the English privy council's orders to submit to the lord deputy and denied that he had submitted before the court in England. Chichester lambasted his carriage since his return and sought permission to reprimand him for his 'vayneglorie', 'popularitie' and show of force by travelling in, what Chichester viewed, a large retinue of supporters.<sup>93</sup>

Barnewall failed to return with the positive news that many had hoped for, this had to wait until the following month, in the form of two letters from the English privy council, one to Brouncker (11 April) and one to Chichester and the Chancellor, Adam Loftus (12 April).<sup>94</sup> A copy of the letter to Brouncker was enclosed in their second letter. In these letters the English privy council outlined their opposition to enforcement in stronger terms than previously. The letters began by declaring that they had nothing to add from their former letters (31 December 1606) that found mandates lawful and that declared their support of enforcement. The tenor of the letters thereafter belie this positive opening, however, as they questioned the legality of the policy and called for moderation in religious affairs. They advised Chichester and Loftus to pursue an enforcement policy 'without too much straining of the laws of the kingdom', advising a moderate approach without the recourse to violent means.<sup>95</sup> In their letter to Brouncker, who they marked for particular criticism, they called for an end to the 'extraordinary rigor and severitie' in religion and questioned the use of legal means 'not usuall in times past, nor warranted by the lawes of that kingdome'.<sup>96</sup> They urged the punishment of contemptuous behaviour and seditious disobedience, yet called on the ordinary legal course for mere recusancy or the secret exercise of religion.<sup>97</sup>

---

<sup>92</sup> English privy council to Brouncker, 23 Dec. 1606, *CSPI 1606-08*, pp 46-7; English privy council to Chichester and council, 31 Dec. 1606, *CSPI 1606-08*, pp 49-50.

<sup>93</sup> Chichester to Salisbury, 28 Mar. 1607, TNA (UK) SP 63/221/34 (*CSPI 1606-08*, p. 130).

<sup>94</sup> English privy council to Brouncker, 11 April 1607, Philadelphia Papers, TNA (UK) 31/8/199, f. 85 (*CSPI 1606-08*, pp 138-9); English privy council to Chichester and Chancellor Adam Loftus, 12 April 1607, Philadelphia Papers, TNA (UK) 31/8/199, f. 86 (*CSPI 1606-08*, pp 137-8).

<sup>95</sup> English privy council to Chichester and Chancellor Adam Loftus, 12 April 1607, Philadelphia Papers, TNA (UK) 31/8/199, f. 86.

<sup>96</sup> English privy council to Brouncker, 11 April 1607, Philadelphia Papers, TNA (UK) 31/8/199, f. 85.

<sup>97</sup> Ibid.

This about-turn from the privy council was provoked, they wrote, from a petition (since lost) from the city of Cork, which described the violent measures taken by the lord president against them. This included imprisoning of leading citizens, forced entry of houses, taking of goods and keeping wives and children from receiving relief. The privy council wrote that they ‘can not believe that it is so’, demonstrating surprise at the actions of reformers in Munster, even though the 8 December 1605 letter from Pale Lords Gormanston, Trimlestone, Killeen and Howth to Salisbury detailed the same such actions seventeen months earlier in Dublin. The Pale lords had complained that ‘theire houses and doores are broken upp, their wives and poore famelies distressed and terrefied wth divers other extremities, which were to[o] longe to recyte’.<sup>98</sup>

The April 1607 letters mark the beginning of the end of mandates proceedings, as soon after the lord president and lord deputy abandoned the use of letters of compulsion calling for individuals to attend church service. Despite the strong rebuke of practices used, the lord deputy continued to the prosecution of one last batch of citizens from Drogheda in the court of castle chamber on 29 April, six days after they had received these letters. The English privy council sought not to undermine their lord president or lord deputy, so they called for a phasing out of enforcement at their discretion, lest people see the cessation as a reflection on the leadership of the lord deputy or lord president and on the wider policy of religious reform.<sup>99</sup> In describing the impact of the Cork petition, the privy council noted that they ‘do verie hardlie and spareingly give any credite to complaints or informacons against those that are in place of authoritie’ and when they were forced to correct these errors of misgovernment or imperfection, they are ‘not apte to make it so visible to the world’.<sup>100</sup> Chichester’s punishment of three Drogheda citizens and Brouncker’s continued collection of fines after the arrival of the privy council’s letters is evidence that they acknowledged the privy council’s directives yet projected an unchanged policy to the kingdom.

Crucially, the English privy council added an adage to their advice, writing that ‘the same rule and measure, serveth not fitly herein for that kingdom [Ireland] and this’

<sup>98</sup> Pale lords to Salisbury, 8 Dec. 1605, TNA (UK) SP 63/217/90 (*CSPI 1603-06*, p. 366).

<sup>99</sup> Chichester offered to give up his post over the affair in April 1606, McCavitt, *Sir Arthur Chichester*, p. 118.

<sup>100</sup> English privy council to Chichester and Chancellor Adam Loftus, 12 April 1607, Philadelphia Papers, TNA (UK) 31/8/199, f. 86 (*CSPI 1606-08*, pp 137-8).



[England], urging the lord president to use his 'discretion' in this matter.<sup>101</sup> The call for greater moderation in Ireland than in England is a complete reversal of the usual advice in matters of state, where Irish governors could act with a degree of severity that would never be accepted in England (see chapters two, four and six). The issue of religious enforcement represented an anomaly in the three kingdoms, as a tiny Protestant minority attempted to coerce a majority Catholic population to conformity. The laws, the English privy council declared, ought not to be prosecuted to the full, as it could cause civil disobedience that could overawe the central administration.<sup>102</sup>

The historiography does not record the important role played by the legal complaints made by Barnewall and others in their objection to the enforcement policy. Hans Pawlisch's work concentrated closely on the role played by Davies in the enforcement programme, concluding his treatment of the mandates scheme by demonstrating the adroit manner in which Davies defeated the arguments raised by the Pale petitioners. Pawlisch showed how Davies used pre-Reformation precedent to justify both the use of mandates where statute law existed and the long history of anti-papal measures in the Irish and English parliaments. In contrast to the image Chichester painted of Barnewall's return, Pawlisch saw his return as a 'humiliation' and argued that the English privy council supported the policy of mandates, yet rejected its usage by Brouncker.<sup>103</sup> This interpretation ignores the fact that mandates as a form of compulsion ended in April 1607 shortly after the arrival of the English privy council's letters and defends the role of Davies to too great a degree. In April, the privy council appeared to have rejected the legal basis on which mandates rested, despite their acknowledgement the previous December that they were lawful.<sup>104</sup> The council likely fought hard to defend the king's prerogative in December 1606, yet backtracked on learning about how the lord deputy, and the lord president of Munster in particular, had been using it. To dismiss the mandates as illegal would be to restrain the independence of the Irish council, and more broadly to limit the king's prerogative. The privy council's

---

<sup>101</sup> English privy council to Brouncker, 11 April 1607, Philadelphia Papers, TNA (UK) 31/8/199/f. 85 (*CSPI 1606-08*, pp 138-9); English privy council to Chichester and Chancellor Adam Loftus, 12 April 1607, Philadelphia Papers, TNA (UK) 31/8/199/f. 86, (*CSPI 1606-08*, pp 137-8).

<sup>102</sup> English privy council to Chichester and Chancellor Adam Loftus, 12 April 1607, Philadelphia Papers, TNA (UK) 31/8/199/f. 86, (*CSPI 1606-08*, pp 137-8).

<sup>103</sup> Hans S. Pawlisch, *Sir John Davies and the conquest of Ireland: a study in legal imperialism* (Cambridge, 1985), p. 115.

<sup>104</sup> English privy council to Chichester and council, 31 Dec. 1606, *CSPI 1606-08*, pp 49-50.

pronouncement in April 1607 that mandates were a 'straining' of the laws and that it was not 'warranted by law' demonstrate strong reservations, stuck between defending the rights of Irish people as crown subjects whilst also defending the royal prerogative as wielded by the Irish council and the Munster presidency.<sup>105</sup>

Jon Crawford argued as much in his study of the court of castle chamber, criticising Pawlisch's interpretation of the English privy council's view on mandates. Both Crawford and John McCavitt argued that the mandates were called off in a privy council letter of 28 July 1607.<sup>106</sup> The privy council wrote this letter in light of Chichester's advertisement of the uncovering of a conspiracy involving the earl of Howth, Lord Delvin, the northern earls and Spain.<sup>107</sup> Before news of this conspiracy reached London, the privy council again wrote to Chichester (21 July) urging moderation in religious affairs, repeating their argument of April that he should refrain from using 'extreame rigor' in enforcement, particularly in dealing with towns, who had remained loyal to the crown.<sup>108</sup> The letter of 28 July added little to their previous statements, as it called for them to follow 'discreete, and temperate courses', particularly in light of the conspiracy, noting it 'being alwaies one good rule in State to carrie all the proceedings so, as all men may not be made afraid at one tyme'.<sup>109</sup> In dating the end of the mandates campaign to April 1607, not July, it is my contention that the privy council found the means used to be extraordinary and not warrantable by law. The privy council sought not to dictate policy to Chichester and his council on enforcement, yet the Cork petition forced them into expressing their doubts in the methods used, particularly in Munster. The Howth conspiracy further pushed the council into urging a temperate course, yet their advice remained constant from April to July.

The central and provincial administrations continued to prosecute an enforcement policy, even after the setback, yet had to rely on statute legislation to pursue it. In

---

<sup>105</sup> On the role of the Irish council and the prerogative powers of the governor in mid-seventeenth-century Ireland see Aidan Clarke, 'Patrick Darcy and the constitutional relationship between Ireland and Britain' in Jane H. Ohlmeyer (ed.), *Political thought in seventeenth-century Ireland* (Cambridge, 2000), pp 35-55.

<sup>106</sup> Crawford, *Court of castle chamber*, pp 209-10; McCavitt, *Sir Arthur Chichester*, p. 124.

<sup>107</sup> Chichester to Salisbury, 19 July 1607, *CSPI 1606-08*, pp 226-7.

<sup>108</sup> English privy council to Chichester, 21 July 1607, Philadelphia Papers, TNA (UK) 31/8/199/f. 86 (*CSPI 1606-08*, pp 230-1).

<sup>109</sup> English privy council to Chichester, 28 July 1607 (incorrectly cited as 22 July 1607 in state papers), Philadelphia Papers, TNA (UK) 31/8/199/f. 93 (*CSPI 1606-08*, pp 231-2).



August 1607, Davies tried Waterford citizens under the act of uniformity, a policy continued beyond the mandates proceedings.<sup>110</sup> The act of uniformity continued to serve the use of reformers in bringing people below the elite to conformity. The revolt of Cahir O'Doherty in 1608 also saw the execution of a number of Catholic clergymen by martial law, a process used frequently in the Tudor period against clerics.<sup>111</sup> The outbreak of revolt in this case offered an opportunity for reformers to take action against clergymen outside the normal legal parameters. Many reformers sought to use martial law against priests to speed up prosecutions and act as a warning to others to leave the country (see chapter four).<sup>112</sup> From 1610, reformers placed their hopes of bringing a lasting change through the use of fresh parliamentary measures against Catholics. The introduction of new means were floated in the 1585-6 parliament and again in 1605 on discussions over the calling of parliament.<sup>113</sup> Plans for the coming Jacobean parliament began early, as Catholics and Protestants realised the importance that it could have in future enforcement (see chapter five). While debates raged over the possibility of new penal legislation, Catholics and the central administration battled over the use of existing acts, as opponents of enforcement challenged its legal foundation and undermined its implementation.

The Dublin municipality continued to feel the force of the reformers' zeal, as prospective mayors had to take the oath of supremacy, as they had done since 1604. In Michaelmas 1607, both Edmund Purcell and Thomas Plunkett refused the oath of supremacy, leaving Nicholas Barran to take office. The following year, John Cusack stood in for Robert Kennedy, who refused to swear. All three who refused received censure through heavy fines, imprisonment and, for Edmund Purcell, disenfranchisement.<sup>114</sup> This strict enforcement in Dublin was not replicated in all Munster towns, as the new president of Munster, Sir Henry Danvers, opted not to employ too severe a course of religious reform, though magistrates in Waterford and Cork appear to have been deposed. In December 1607, Danvers reported the refusal of all mayors and officers in the province in a postscript to a letter to the English privy

---

<sup>110</sup> Davies to Salisbury, 7 Aug. 1607, *CSPI 1606-08*, p. 250.

<sup>111</sup> Mac Cuarta, *Catholic revival in the north of Ireland*, p. 88.

<sup>112</sup> Chichester to English privy council, 4 May 1608, TNA (UK) SP 63/224/92 (*CSPI 1606-08*, pp 500-01).

<sup>113</sup> Victor Treadwell, 'Sir John Perrot and the Irish parliament of 1585-6' in *PRLA*, section C, 85 (1985), pp 259-308.

<sup>114</sup> Lennon, *Lords of Dublin*, p. 183.

council. Interestingly, he wrote that he tendered the ‘othe of supremacy and allegiance’ to the officials, not just the oath of supremacy, as traditionally offered.<sup>115</sup> In refusing the oath, the municipal councils acted as they had traditionally done, with the conformity of Patrick Tirry and Sir Richard Aylward representing exceptions to the rule. After Brouncker’s death in June 1607, officials and citizens returned to attending mass and forborne to attend divine service. In October 1607, Chichester reported that the principal men of the cities, towns and the country had bound together, by their own oath, in support of an unnamed cause, likely relating to joint support of municipal or religious rights.<sup>116</sup> The combining of Munster towns and country in this fashion is reminiscent of their actions in 1603, when municipal officers, with the aid of James White and Catholic clergy, bound their fates together in the face of government opposition. The use of a counter oath of association served to strengthen the resolve of a group numerically in the vast majority, yet who lacked the same authority as the presidency or lord deputyship. In combining through an oath the populations of the urban and rural areas hoped to create a united front in any future confrontation with the administration.

The central administration and the provincial presidencies eased their punishment of non-conforming municipal officers for a few years, partly due to the instability caused by the September 1607 flight of the earls of Tyrone and Tirconnell, and partly due to the renegotiation of charters and customs negotiations that dominated the agenda of the Old English towns from 1608 to 1610 (chapter two). The prospect of an upcoming parliament, however, brought a change to this lenient approach, as reformers focused anew on the refusal of corporate officers to swear an oath of supremacy to the king.<sup>117</sup> In February 1611 royal printers published a proclamation declaring that university graduates, ‘teachers of children’ and councillors at law were all required to take the oath.<sup>118</sup> In August 1611, the English privy council assented to the pursuance of a ‘moderate’ course of enforcement using the oath of supremacy.<sup>119</sup> The presidency of Munster sent letters to all the corporate towns of the province advertising them of the

<sup>115</sup> Sir Henry Danvers to English privy council, 11 Dec. 1607, TNA (UK) SP 63/222/190 (*CSPI 1606-08*, p. 356).

<sup>116</sup> Chichester to Salisbury, 9 Oct. 1607, *CSPI 1606-08*, p. 302.

<sup>117</sup> English privy council to Chichester, 20 Aug. 1611, *CSPI 1611-14*, pp 96-7.

<sup>118</sup> Act relating to the oath of supremacy, [11 Feb.] 1611, TNA (UK) SP 63/231/10a (*CSPI 1611-14*, p. 12).

<sup>119</sup> *Ibid.*



king's decision, and calling on them to choose conforming officers, be they mayors or sovereigns, sheriffs or bailiffs, or recorders.<sup>120</sup> Once again, Munster towns failed to comply.

Chichester and a majority on the Irish council sought conformable municipal governments in the hope that they would cow cities and towns into choosing Protestant members of parliament. In November 1612 Chichester called two from every city and one from every borough to the council table to inform them of the king's decision to tender the oath of supremacy on officers. Chichester was disappointed in this investigation, finding that towns either refused to conform to these directions, or 'in a temporizing fashion', elected non-citizens from the hinterland who had conformed to the state religion. Some among these officers, Chichester wrote, were former members of the municipality long since removed from the city owing to their profession of the Protestant faith.<sup>121</sup> The bringing in of former citizens ostracised from the community demonstrated the weakness of the position of the municipal councils, who had to choose conformable men in order to continue the ordinary business of their corporations.

Similarly, reformers sought to tender the oath of supremacy on county sheriffs. The 1560 act laid out its use in this manner, particularly important at this time, as sheriffs acted as returning officers in parliamentary elections. This policy found some success, as Chichester reported in April 1613 that sheriffs were 'generally conformable this year'.<sup>122</sup> In pressing for conformable men in towns and counties, Dublin Castle laid itself open to charges of maladministration, as the men chosen to replace non-conformists were frequently of ignoble background or were non-residents. The Dublin government acknowledged the same in a commission of 1613, where they discovered that many sheriffs had no freehold in the counties in which they served as they found it hard to find suitable Protestant candidates.<sup>123</sup> A rumour also spread prior to parliamentary elections that those returned would have to take the oath of supremacy –

---

<sup>120</sup> *Council book of Munster*, pp 73-5.

<sup>121</sup> Chichester and council to English privy council, 10 Feb. 1613, 'Letter book of Sir Arthur Chichester', p. 80.

<sup>122</sup> Chichester to English privy council, 11 April 1613, *ibid.*, p. 95.

<sup>123</sup> Brid McGrath, 'The membership of the Irish House of Commons, 1613-1615' (M. Litt thesis, TCD, 1986), pp 27-8, citing *Irish Patent Rolls of James I* (Dublin, 1966), p. 398.

with those who refused likely to have to pay large fines.<sup>124</sup> As it happened, the oath was not employed against M.P.s, a move with no legal foundation. Means of enforcement employed in these instances demonstrated the power of religious tests and how they could be manipulated to retain administrative power in the hands of the few. In this case, religious tests were rumoured to be used against a representative assembly that was widely expected to pass further acts against Catholicism.

Chichester and other leading officials in Dublin toyed with the idea of tendering the oath of allegiance – recently passed in the English parliament – that had proved divisive among English Catholics. Administrators and judges toiled over the legality of using this oath in Ireland over a prolonged period. Discussions about tendering it in Ireland were first mooted in May 1609, when Chichester appeared ready to use it on the recorder of Waterford, but had a change of heart.<sup>125</sup> Debates over its use occur with regularity throughout this period, even after an October 1613 decision by English jurists that it could not legally be tendered in Ireland.<sup>126</sup>

The question of whether English acts of parliament had force in Ireland vexed administrators for many years, as it related to the complex constitutional relationship between Ireland and England.<sup>127</sup> James's motivation in creating a new oath is under dispute: either he wanted to create a less severe loyalty test to include more in a broad centre or he devised the oath in order to create a schism in English Catholicism.<sup>128</sup> Many English Catholics chose to accept the oath upon taking office, even though the papacy ruled against it.<sup>129</sup> The temptation to use the oath in Ireland was strong, as it offered a less strict test on those seeking office, making central government posts

---

<sup>124</sup> Sir George Carew's remembrances touching parliament, [October 1611], *Carew 1600-23*, p. 146; McGrath, 'The membership of the Irish House of Commons', p. 26.

<sup>125</sup> Chichester wrote that the recorder was to take the oath 'of allegiance and supremacy to His Majesty' but scored the line out, Chichester to Davies, 13 May 1609, *CSPI 1608-10*, p. 456.

<sup>126</sup> Chichester to Davies, 13 May 1609, *CSPI 1608-10*, p. 456; Henry Hobart and Francis Bacon on 'Obligation of the Irish to take the Oath of Allegiance in Ireland and England respectively', 12 Oct. 1613, *CSPI 1611-14*, p. 424; *CSPI 1615-25*, pp 144, 322, 488, 538; in the 'graces' negotiations, Clarke noted the appearance of a new oath of allegiance, one that Catholics could take without compromising on doctrine, *Old English in Ireland*, pp 32-3, 37, 48, 52, 57-9.

<sup>127</sup> Clarke, 'Patrick Darcy and the constitutional relationship between Ireland and Britain', pp 35-55.

<sup>128</sup> On the oath of allegiance in England see, John J. LaRocca, "'Who can't pray with me, can't love me': toleration and the early Jacobean recusancy policy' in *The Journal of British Studies*, 23, no. 2 (Spring, 1984), pp 22-36; Michael C. Questier, 'Loyalty, religion and state power in early modern England: English Romanism and the Jacobean oath of allegiance' in *The Historical Journal*, vol. 40, no. 2 (Jun., 1997), pp 311-29.

<sup>129</sup> LaRocca, "'Who can't pray with me, can't love me'", p. 22.



accessible to Old English Catholics who until the recent past had dominated political affairs. The exiled Jesuit, Henry Fitzsimon countered the idea that the oath of allegiance was of a more 'temperate' style than the oath of supremacy, as he adjudged both to be one and the same.<sup>130</sup> The oath of supremacy proved a significant obstacle in the smooth running of the country, as it excluded the vast majority of the population. Aldermen were loath to assent to it and many towns simply could not find suitable men willing to take it. A less onerous oath may have elicited a different response, allowing municipal councils and commissioners of the peace to come from the traditional elite. Bills propounded in late 1611 included a provision to pass a new loyalty oath on those attaining office in Ireland, a demonstration of the government's will to find an alternative to the oath of supremacy.<sup>131</sup> Catholics hoped that parliament could be used by revoke all previously passed penal measures, rather than tweaking or extending existing acts.

The heavy pressure exerted against the urban elite was replicated against ordinary citizens, as enforcement made use of the act of uniformity in a renewed drive for conformity. On 13 July 1611, Dublin printers republished the 1605 proclamation banishing priests and calling for attendance at church service according to the laws of the realm. The republished proclamation included an addendum condemning the relief of Jesuits and other priests, the reluctance of juries to indict fellow Catholics and the failure of local commissioners of the peace on conformity issues.<sup>132</sup> The republication of the proclamation signalled the end of a period of relative inactivity in religious enforcement and augured in a fresh reform drive. Catholic clergymen and lawyers devised means of opposing religious enforcement, causing considerable disruption to those employed to carry it through.

In 1611, the former recorder of Cork, William Meade, drafted a letter of advice for Catholics of Munster on ways of opposing the act of uniformity.<sup>133</sup> Meade's advice laid out in detail the manner in which those prosecuted against ought to respond to government officials, concentrating closely on the language of the act. Firstly, and

<sup>130</sup> Fitzsimon, *Words of comfort*, pp 34-41.

<sup>131</sup> Propositions touching his Majesty's royal person and government, undated, 1600-23, p. 160.

<sup>132</sup> Proclamation against priests and calling for conformity in religion, 13 July 1611, Carew MS 629, no folio number available (*Carew 1600-23*, p. 74); *CSPI 1611-14*, p. 83.

<sup>133</sup> [William Meade], 'Advice to Catholics in Munster', BL Cottonian MS, Titus B.X. fo. 292a or TCD MS 567, fo. 45v.-48v.

simply, Meade referenced the clause in the act exempting people from attending church service who had a 'lawfull or reasonable excuse to be absent', arguing that Catholics always had a 'reasonable cause' to be absent from church, as to attend was against their 'faithe, religion & conscience'.<sup>134</sup> Secondly, Meade argued that the act became void with the death of Queen Elizabeth, as previously argued by John Shelton, the one-time mayor of Dublin. Meade advised his readers to oppose the act as it neglected to mention that it stood for all her 'heyres & successors' as was normal practice. As shown above, the act did include the term 'heyres & successors' on two occasions. Meade likely penned this advice from Spain, where he became a pensioner of King Philip III (probably from 1605 on), and likely had no access to the exact text of the Elizabethan statutes.<sup>135</sup> His use of the term 'reasonable cause' to be absent from church rather than the term 'reasonable excuse' laid out in the original text shows that he is not likely to have had access to a faithful transcription of the acts. His argument concerning the absence of the term 'heires & successors' could be an inadvertent omission owing to ignorance of the act, possibly coupled with popular rumours concerning the act, yet it could also have been an intentional elision, designed to deceive local officials who had little knowledge of the exact text of the acts. The government reprinted the original text as part of their enforcement drive, yet appear to have made errors themselves in the process, as one set of proclamations in October 1605 had to be reset and reprinted owing to a 'materyall varyance' between the printed copies and the original roll.<sup>136</sup>

Meade outlined practical means to oppose the act by giving advice on how churchwardens ought to conduct themselves and how the community ought to ensure the continued presence of Catholics as churchwardens in their parishes. Meade urged communities to elect their own churchwardens – never to allow the government to make their choice for them, as it had done in Dublin. He argued that the example of Dublin 'were noe President for us', advising Catholics of Munster to continue the custom of the kingdom where parishes chose their own churchwardens. Furthermore, Meade called on churchwardens to adhere strictly to the act, which stipulated that fines be used within the parish for poor relief.<sup>137</sup> Pale petitioners in 1613 made a similar

<sup>134</sup> Meade, 'Advice to Catholics in Munster', BL Cottonian MS, Titus B.X. fo. 292a.

<sup>135</sup> 'The names of the fugitives of Munster and of the Jesuits and priests that remain', undated (likely 1605), *CSPI 1603-06*, p. 380.

<sup>136</sup> Court of castle chamber case of 22 Nov. 1605, Appendix One, *Court of castle chamber*, pp 485-6.

<sup>137</sup> Meade, 'Advice to Catholics in Munster', fo. 292a.



argument, questioning whether the clerks of the crown benefitted from the raising of these fines, and not the poor.<sup>138</sup> Meade outlined the clause that ordered fines to be taken of 'goods, lands, and tenements' of offenders, deducing that this excluded the propertyless – wives, children and servants. Meade's advice acted as a response to the contemporary execution of the act, as the government breached rules set down in the 1560 act.<sup>139</sup> In 1607, Davies detailed how they had prosecuted the act of uniformity against women, children and servants of Drogheda, in an attempt to draw every member of the community to church.<sup>140</sup>

Meade also advised the use of a loophole to try to exempt oneself from punishment. He pointed out that those that 'have made deedes of theyr good & infeoffed theyr Lands may frustrate these forfeitures as having neyther goods, nor lands'.<sup>141</sup> This tactic of hiding ones assets to avoid fines mimicked the failed attempt of Dublin merchants in winter 1605-06 to escape their court of castle chamber fines. Ministers had become the ordinary means of making presentments before sessions, not churchwardens, and fines were directed for charitable uses and good works, rather than poor relief. The towns of Cork and Clonmel, it is to be remembered, used their fines for the construction of a hospital and bridge, respectively. In detailing that fines raised belonged to the parish, Meade challenged the increasing movement of money out of their parishes toward neighbouring ones and from Catholics to Protestants. In 1613, Pale petitioners complained that recusancy fines were not used for poor relief, as they ought. Chichester argued that fines were reserved for charitable uses, and not the poor, as the poor were 'not fitt to receive the same, being Recusants'.<sup>142</sup> The absence of poor Protestants in Dublin (for it was in Dublin that the fines were principally raised at this time), so Chichester's argument followed, led the administration to breach the act of uniformity and direct fines toward charitable uses.<sup>143</sup> The redirection of these fines would undergo a drastic change over the following years, as the administration saw the potential for revenue generation through the twelve pence fine, though it contravened statute law.

---

<sup>138</sup> Crawford, *Court of castle chamber*, p. 304, quoting from 'Chichester's answers to the recusants' complaints, 1613, *CSPI 1611-14*, p. 304.

<sup>139</sup> Meade, 'Advice to Catholics in Munster', fo. 292a.

<sup>140</sup> Davies to Salisbury, 30 Mar. 1607, *CSPI 1606-08*, p. 131; from 1618, women were officially included in fines, Clarke, 'Pacification, plantation and the Catholic question, 1603-23' in *NHI*, iii, p. 224.

<sup>141</sup> Meade, 'Advice to Catholics in Munster', fo. 292a.

<sup>142</sup> 'Chichester's answers to the recusants' complaints', [1613], TNA (UK) SP 63/232/15 (*CSPI 1611-14*, p. 380).

<sup>143</sup> *Ibid.*

Similarly, Meade laid out a procedure for juries to follow at general sessions. He called on all jurors to perform their duty willingly up to the point when they were called to present recusants. In such circumstances, he urged jurors to refuse to act and to declare that they could not make decisions on spiritual matters, which lay outside their compass. As sessions were public events, Meade devised a plan to disrupt proceedings against Catholics once the court moved against them. All nobles, knights, justices and officers permitted to sit at the bench, he advised, ought to assist in the sessions until the commissioners dealt in spiritual matters, or until they left for church, at which point, all Catholics were to 'suddenly rise from the Bench & leave' in a grand gesture to the judges to demonstrate that lay men ought not to act on spiritual matters.<sup>144</sup> In absenting in this fashion, Catholics would frustrate the courts in their ordinary prosecution of recusants, creating a fissure in local communities, damaging the reputation of the court system. The operation of the ordinary assize circuits were a source of great pride to the administration, as they demonstrated the zenith of English rule in Ireland and showed that martial means had been left behind. The disruption of the ordinary course of justice in this way would bring dishonour to the courts, in turn damaging the anglicising endeavour of English rule in Ireland.

In enforcing the act of uniformity, reformers faced a formidable obstacle in the shape of recalcitrant juries. Meade himself had been a benefactor of the jury trial system, as his popularity and the cause of religion proved persuasive in his trial for treason in 1603 (chapter one). In punishing jurors at the court of castle chamber for finding Meade innocent, the judges cited three Elizabethan cases, where jurors were fined and imprisoned for false acquittals.<sup>145</sup> Time and again the government bemoaned the reluctance of juries to indict their kin and judges had to employ circuitous means to press home convictions. In November 1606, Davies reported that he had to threaten a Wexford jury with court of castle chamber proceedings in order to indict recusants.<sup>146</sup> The 1611 proclamation banishing priests made special mention of juries and their practice of not indicting people based on religious background.<sup>147</sup> From 1612, the

---

<sup>144</sup> Meade, 'Advice to Catholics in Munster', fo. 292a.

<sup>145</sup> A brief of the case against jurors in the trial of William Meade, [undated], *CSPI 1603-06*, p. 122.

<sup>146</sup> Davies to Salisbury, 12 Nov. 1606, *CSPI 1606-08*, p. 16.

<sup>147</sup> Proclamation against priests and calling for conformity in religion, 13 July 1611, Carew MS 629, no folio number available (*Carew 1600-23*, p. 74); *CSPI 1611-14*, p. 83.



government brought juries before the court of castle chamber for their refusal to present recusants – as outlined in the advice given by Meade. In their trials, jurors either gave ‘vayne & idle excuses’ or, the bolder among them, declared that ‘yt was against their Conscience’ to present recusants.<sup>148</sup> For this jurors paid heavily, with fines ranging from £3 15s sterling for the most minor offender, to £200 sterling for the most wilful, the amount depending on the perceived culpability of the individual and their financial means.<sup>149</sup>

Catholic vicar apostolic of Ossory, David Rothe argued that jurors were willing to make this sacrifice as they were more afraid of crossing their priests than their judges.<sup>150</sup> He lauded the positive role of priests in Ireland, who commanded people better than the magistrates or ‘any armed forces’. He wrote that people were more terrified from committing crime ‘by the censure of the priests, then by the sentence of the judges; yea and more to feare the excommunication of the Churche, then the Banishment of the Kinge’.<sup>151</sup> Here, Rothe described how people feared excommunication by priests for crimes, yet there is evidence elsewhere that priests could excommunicate for collusion with religious reformers. An anonymous letter came to the hands of the chief justice, Sir James Ley, in 1607, that outlined how Catholics jurors who presented recusants in court were to be excommunicated.<sup>152</sup>

The principal basis on which enforcement rested lay in the statutes passed in the Elizabethan parliament of 1560. Rumours in the 1610s spread about the possible impropriety of the Dublin administration in facilitating the passing of these penal measures in a parliament dominated by the Catholic Old English. David Rothe recorded a range of conspiracy theories relating to the passing of the Elizabethan penal laws, including a strong exhortation to pass acts by the lord deputy, Thomas Radcliffe, third earl of Sussex, and the alleged ‘worldly dealings’ of the speaker, James Stanihurst, who may have misrepresented the consequences of passing the Elizabethan settlement.<sup>153</sup> In discrediting the Elizabethan acts, contemporaries hoped to stoke popular discontent

---

<sup>148</sup> Crawford, *Court of castle chamber*, pp 510-11, 515-16, 517, 520, 522, 523.

<sup>149</sup> Ibid., pp 510-11, 515-16, 517, 518, 519-20, 521-2, 523, 525.

<sup>150</sup> Rothe, *Analecta*, f. 42r.

<sup>151</sup> Ibid.

<sup>152</sup> Anonymous letter with Sir James Ley’s signature, 26 Mar. 1607, TCD MS 567, fo. 44r.

<sup>153</sup> Henry Jefferies, ‘The Irish parliament of 1560: the anglican reforms authorised’, *Irish Historical Studies*, 26, no. 102 (Nov., 1988), pp135-7.

against them in advance of parliament. Both reformers and the Catholic ‘party’ pored over details of previous parliaments in the run up to 1613, becoming acquainted with a process beyond the memory of most. Davies studied the papers of previous parliaments and spent seven months in England on matters of procedure, while the Catholic ‘party’ held discussions with Henry Burnell, a lawyer and member of the 1585-6 parliament.<sup>154</sup> The coming parliament offered an opportunity to redirect the penal code; for the Catholic ‘party’ they hoped to revoke the Elizabethan penal measures; for the government, they sought an extension of measures against Catholic clergy and their relievers, English Catholics in Ireland, foreign training of Catholics and a possible oath of allegiance for office-holders.<sup>155</sup>

A key aspect of the enforcement policy involved driving a wedge between the Catholic clergy and those who harboured them. The 13 July 1611 proclamation calling for compulsory church attendance also directed the banishment of Jesuits and other priests in an attempt to remove a key obstacle to Reformation in religion. This reissue represented a moderate form of enforcement against a formidable challenge to the success of the Protestant service. The constant flow of clergy to Ireland provided Catholic services to all and infused the political climate with counter-reform ideas. The Dublin administration railed against the threat posed by the Catholic clergy, blaming them for alienating the kingdom from crown and government. To some in the administration, the clergy corrupted the kingdom through the spread of counter-reform ideas, sowed the seeds of rebellion through their sermons and gathered up all the disposable wealth in the country through their exactions. One in-depth report into the fees exacted by clergy put their annual cost as high as £543,645 15 shillings 8 pence sterling, an almost certainly inflated figure.<sup>156</sup> These exactions stand in stark contrast to the decayed state of the finances of the established church, which attempted to win back benefices that had long since fallen into lay hands. The administration jealously cast their eyes askance at the Catholic clergy who were variously described as a ‘plague’ on

---

<sup>154</sup> Clarke, ‘Pacification, plantation and the Catholic question, 1603-23’ in *NHI*, iii, p. 212.

<sup>155</sup> On the Catholic desire to repeal the penal code see Rothe, *Analecta*, f. 31v; the titles of certain acts thought fit to be propounded at the next Irish parliament, *Carew 1600-23*, p. 154; Propositions touching his Majesty’s royal person and government, [undated], *Carew 1600-23*, p. 160.

<sup>156</sup> Raymond Gillespie, ‘Catholic religious practices and payments in seventeenth-century Ireland’ in *Archivium Hibernicum*, vol. 47 (1993), pp 3-10.



the country, acting 'like bees' on the people, devouring like 'woolves' or 'Caterpillars' who stripped the country bare through their myriad charges.<sup>157</sup>

The signature event in the renewal of coercion against the Catholic clergy occurred in February 1612 with the execution of the Catholic bishop of Down, Conor O'Devany and a priest Patrick O'Loughran. In prosecuting treason charges against the two clerics, the Dublin administration acted upon directives from the English privy council. On 20 August 1611, just a month after the publication of the banishment of Catholic clergy, the privy council urged the judges of Ireland to consider using pre-Reformation treason laws against Catholic clergymen.<sup>158</sup> The privy council advised judges 'that if there may bee anie prooffe made that they soe seduce his Majesty subjects, and doe prepare them to rebellion, and sedition that advantage may be taken against them by the Stat of 25<sup>th</sup> of Edward the 3<sup>rd</sup> which declareth such offence to be treason'.<sup>159</sup> In advancing the use of the treason act, the council advised the Irish administration to prosecute Catholic clergy as ordinary citizens. Legislation such as the *Praemunire* acts were open to the administration to punish Catholic clergy for their exercise of foreign jurisdiction, yet the council preferred to punish clergy as ordinary subjects.

Both O'Devany and O'Loughran were prisoners in Dublin at the time and provided the government with suitable exemplars of their new strict policy. Trumped-up treason charges (based on their supposed support for the earl of Tyrone) were levelled against both men and they were found guilty before a trial of eleven Protestant English men and one Irish Catholic.<sup>160</sup> Both were publicly brought through the streets and hanged at George's Hill before a large crowd. To the dismay of the government, these men were lauded as martyrs for the Catholic cause, with both Gaelic Irish and Old English present in large numbers at their execution. The executions proved to be a great public event, with crowds rushing the gallows to collect body parts, soak up their blood in fabric or

---

<sup>157</sup> Ford, 'Reforming the holy isle', p. 142; 'Intelligences for Her Majesty's services in Leinster', 3 July 1600, *CSPI 1600*, p. 295; Brouncker to English privy council, 10 Feb. 1607, TNA (UK) SP 63/221/15 (*CSPI 1606-08*, p. 101); Briefs of remembrances from Chichester to Lord Danvers, 8 Aug. 1609, TNA (UK) SP 63/227/114 (*CSPI 1608-10*, p. 269).

<sup>158</sup> English privy council to Chichester, 20 Aug. 1611, TNA (UK) SP 31/8/200, f. 87 (*CSPI 1611-14*, pp 96-7).

<sup>159</sup> Ibid.

<sup>160</sup> Clodagh Tait, 'Adored for saints: Catholic martyrdom in Ireland c.1560-1655' in *Journal of Early Modern History*, 5:2 (2001), p. 141.

collect splinters of the gallows for the slower among the relic-hunters.<sup>161</sup> The presence and support of wealthy Old English men for two Gaelic Irish clergymen found guilty of association with the declared rebel Tyrone demonstrated a departure of sorts for the city, as the cause of religion in this case triumphed centuries-old animosity between the two.<sup>162</sup> Through these executions, the administration sought to deter the action of Catholic clerics and force a wedge between them and their relievers. The open public support of O'Devany and O'Loughran served only to create martyrs of these clerics, with the embellished tales of their ordeals being swiftly added to an already rich martyrology in Ireland and on the continent.<sup>163</sup> In executing the clerics, the government further alienated themselves from the Catholic population and intensified confessional strife.

For their part the populace of Ireland appeared as willing as ever to support the clergy, in spite of threats against those discovered doing so. The Old English towns of the Pale and Munster, and the houses of the nobility continued to represent the most popular areas for priests to find accommodation and security, yet there is evidence that some were permeating into Gaelic Irish areas. Ordinary citizens crop up in the records protecting clergymen from arrest or rescuing them after their apprehension.<sup>164</sup> It was said of O'Devany that, on being apprehended, he opted to go willingly and suffer prison and death rather than allow his supporters to forcibly free him, as his noble patron would suffer in the aftermath of such daring-do.<sup>165</sup> Reports of the time detail the names of priests, where they lived and the families they associated with, yet little action was taken against the bulk of these.<sup>166</sup> The central administration likely sought to avoid a public confrontation on the issue, as their prosecution of public order offences required the assent of local communities. Municipal councils were governed by Catholics, reluctant conformists or Protestants in a minority position – rendering them unsuitable

<sup>161</sup> Ibid., pp 141-3; Eugene Flanagan, chapter five “‘A Stain to thy country’: Irish identity, Protestant doctrine and the cult of Bishop Conor O'Devaney, in A Catholic Conference (1612)’ in idem, ‘Captain Barnaby Rich (1542-1617): Protestant witness in Reformation Ireland’ (Ph. D thesis, TCD, 1996), pp 185-215; Kieran Devlin, ‘Conor O'Devany O.F.M. and Patrick O'Loughran’ in Patrick J. Corish (ed.) *The Irish martyrs* (Dublin, 2005), pp 107-37.

<sup>162</sup> John McCafferty, ‘Prologue: Ireland's English Reformation’ in *The reconstruction of the Church of Ireland: Bishop John Bramhall and the Laudian reforms* (Cambridge, 2007), pp 14-15.

<sup>163</sup> On the danger of creating martyrs see Tait, ‘Adored for saints’, pp 128-59.

<sup>164</sup> On preventing arrest see Fitzsimon, *Words of comfort*, pp 120, 156, 148.

<sup>165</sup> Kieran Devlin, ‘The capture of Conor O'Devany, martyr’ in *Clogher Record*, vol. 14, no. 3 (1993), pp 125-6.

<sup>166</sup> ‘The names of sundrie priests and friers w.thin some dioces, and connties of Ireland’, 1613, TCD MS 567, fo. 32r.- 42r.



agents of enforcement. The presidencies of Munster and Connacht traditionally undertook this kind of work, with provost marshals and justices of the court usual candidates for the job. The presidencies had an uneasy relationship with towns, as they ruled largely by recently-won prerogative powers from the corporations – any spark could bring the issue over jurisdiction to the fore in an unnecessary confrontation. The coming parliament represented an opportunity to resolve this intransigence through tougher measures against relievers, possibly incorporating a punishment such as the £20 a month fine levied in England against those who harboured Catholic clerics.<sup>167</sup>

Reformers viewed parliament as a means to resolve problems in the extant anti-Catholic legislation. The main business of parliament related to the confirmation of the James's right to the crown, the attainder of the earls of Tyrone and Tirconnell, the acceptance of the Ulster plantation and the passing of a subsidy for the king – yet the religious issue dominated the political climate as both sides saw it a potential watershed moment. As Aidan Clarke demonstrated, the government initially promoted a conservative set of bills in early 1611 in expectation of a Catholic majority in the commons.<sup>168</sup> After Sir George Carew's commission in summer 1611 noted tactics for securing a Protestant majority, a more severe course on enforcement was propounded. In November 1612, the policy altered once again, as bills included punishments for English Catholics by English law, the abolition of training children in Catholic schools and a provision to banish priests, yet neglected to mention the introduction of the oath of allegiance or any measures to punish those who harboured priests.<sup>169</sup> While the bills appear to have been moderated by the opening of parliament in 1613, this did not prevent the abandonment of the first session due to Catholic fears of significant penal legislation being passed. Catholic M.P.s challenged the legality of the return of many M.P.s and refused to take part in the session until the issue was rectified. The administration decided against continuing parliament without the Catholic M.P.s, proroguing it before any business began (chapter five). The decision to abandon the session in the absence of Catholic

---

<sup>167</sup> Davies pleaded for the use of the £20 fine in 1605, Davies to Salisbury, [1605], *CSPI 1603-06*, p. 370; Propositions touching his Majesty's royal person and government, [undated, likely 1611], *Carew 1600-23*, p. 160.

<sup>168</sup> Clarke, 'Pacification, plantation and the Catholic question, 1603-23' in *NHI*, iii, pp 211-12.

<sup>169</sup> *Ibid.*, p. 212.

M.P.s is significant, as it was believed that decisions taken by a rump parliament would be difficult to enforce without major disturbances.<sup>170</sup>

The breakdown of the first session sparked a series of petitions from Catholic M.P.s to the Dublin and London administrations. To resolve the intractable problems between the two sides, delegations of Catholics left for court in London in June 1613. As previously, these delegations used funding on the country to support their travel and lodging while away. Towns raised money for their own representatives to travel to London, while a broader, national collection operated fund-raising initiatives across the kingdom.<sup>171</sup> The Dublin administration outlawed this collection, declaring that they feared it would be used for means other than the sending of delegates.<sup>172</sup> A well-funded delegation would grant their cause more time at court and give room for manoeuvre with the king. Furthermore, a larger party would be more difficult to intimidate at court. The administration suspected a vast collection for the delegates, yet soon discovered their figures to be grossly inflated. A collection in Limerick raised £80 where the administration had expected a total of £500.<sup>173</sup> By providing money for Catholic agents in England, the collection engaged a broad base of the population in the proceedings of parliament, not just the elite.

The king and council treated the delegates in a severe manner at court and reproved them for their actions. As before, Chichester resented their going over and the king supported his deputy by granting delegates little time before him at court. James declared 'that though he should reioyce they would conforme themselves to his Religion, yet he would not force them to forsake their owne', phrasing that led to not a little confusion by those who came away from court.<sup>174</sup> Clarke interpreted this to mean that he agreed with disabilities placed on those who would not conform, yet refused to sanction forced attendance at church service.<sup>175</sup> A group of delegates came away from the discussions believing, or claiming to believe, that James desired not to force

---

<sup>170</sup> On need for consensus in parliamentary acts see McGrath, 'The membership of the Irish house of commons', p. 14.

<sup>171</sup> *CSPI 1611-14*, pp 427, 431.

<sup>172</sup> Chichester to English privy council, 3 Aug. 1613, 'Letter book of Sir Arthur Chichester', p. 118.

<sup>173</sup> *Ibid.*, p. 119.

<sup>174</sup> Clarke, 'Pacification, plantation and the Catholic question, 1603-23', *NHI*, iii, p. 190, quoting from 'Letter of intelligence to the King of [Spain], undated, TNA (UK) SP 63/215/124 (*CSPI 1611-14*, p. 542).

<sup>175</sup> *Ibid.*



consciences, that he wished for toleration. The Venetian ambassador remarked that the Irish delegation who met James 'are already satisfied, for such is the benignity of the King that whosoever speaks to him is sure to be graciously received and go away quite happy'.<sup>176</sup> While friendly in person, he had a reputation for saying one thing and acting in quite the opposite manner.<sup>177</sup> Upon returning, Sir James Gough spread word through the towns of Dungarvan and Clonmel of the king's desire for toleration before he met with Chichester to discuss his meetings with the king.<sup>178</sup> In late January 1614 King James wrote up a list of delegates that Chichester was to send to court to hear the findings of a 1613 commission into alleged electoral fraud and other grievances raised by Pale petitioners.<sup>179</sup> Unbeknownst to the delegates, the king invited Chichester to travel over separately, to ensure that rumours did not undermine him as before. Discussions initially favoured the lord deputy and the king granted him the power to enforce a strict Reformation policy – based on existing statute law. The delegation remained at court as Chichester returned to Ireland, armed with a proclamation declaring the king's support of him and his policies – that this proclamation was necessary is a significant barometer of the political climate and the loss of face for the lord deputy.<sup>180</sup>

This royal endorsement allowed Chichester to pursue a vigorous Reformation policy in late 1614, even as parliament sat. Parliament did not pass any fresh penal measures, representing a minor victory for the Catholic M.P.s. Rothe summed up the feeling of Catholics at the conclusion of parliament, disappointed that the Elizabethan acts had not been repealed, yet 'exceedingly glad, that their old grievances were not augmented with new Additions'.<sup>181</sup> Through the rejection of some Protestant M.P.s and absenteeism on the government side, Catholics appear to have held a slender majority in the commons in the second and third sessions of parliament.<sup>182</sup> Even without further

---

<sup>176</sup> McLaughlin, 'The making of the Irish leviathan', p. 297, fn. 100.

<sup>177</sup> Ibid., quoting Maurice Lee, Jr., *Great Britain's Solomon: James VI and I in his three kingdoms* (Urbana, Illinois, 1990), p. 263

<sup>178</sup> Chichester to Davies, 20 Nov. 1613, *CSPI 1611-14*, pp 456-7; Robert Jacob to earl of Northampton, 30 Nov. 1613, *CSPI 1611-14*, p. 457; King James to Lord Deputy Chichester, 4 Jan. 1614, *CSPI 1611-14*, pp 462-3; Sir James Gough's speech to Chichester, [Jan 1614], *CSPI 1611-14*, pp 545-6; Sir James Gough's discourse', [Jan. 1614], *CSPI 1611-14*, pp 546-7; Sir James Gough's recantation and submission, 31 Jan. 1614, *CSPI 1611-14*, p. 548.

<sup>179</sup> McCavitt, *Sir Arthur Chichester*, p. 191.

<sup>180</sup> Ibid., pp 191-2.

<sup>181</sup> Rothe, *Analecta*, f. 31v.

<sup>182</sup> Clarke, 'Pacification, plantation and the Catholic question, 1603-23', *NHI.*, iii, pp 215-18.

acts of parliament, Chichester held a strong hand as the king gave him a mandate to pursue a strict enforcement policy. In October 1615, amid discussions of a possible fourth parliamentary session, James advised Chichester to dissolve parliament rather than risk another session for the sake of anti-Catholic legislation that could be pursued 'in a course of prerogative, either by Act of Council or by Proclamation'.<sup>183</sup>

Without fresh parliamentary sanction for enforcement, Chichester – and Oliver St John, Falkland and the lords justice Richard Boyle, earl of Cork and Adam Loftus after him – pursued reform rigorously through the Elizabethan statutes. On 31 May 1614, Chichester again published a proclamation banishing clergy from the kingdom. Once again the order fell on deaf ears, as support for the clergy continued. In Cork, the mayor and sheriffs refused two warrants sent from the commissioners of Munster to assist in reading the proclamation.<sup>184</sup> This obstructionary tactic angered the central administration who ordered an audience with the officers.<sup>185</sup> This tactic is reminiscent of the failure to proclaim James as king in April and May 1603 and of previous refusals to read proclamations on the banishment of clergy. In 1605, Father O'Kearney reported that Catholic aldermen around the country refused to read the proclamation, and absented themselves during its reading.<sup>186</sup> At Cashel, one reported that the proclamation, posted on the court house, was besmeared with cow dung; another wrote that girls and boys of the town had it pulled down during the night.<sup>187</sup> In 1629, a similar proclamation was read in Drogheda by a drunken sailor, another means of demonstrating ill reverence toward central government edicts.<sup>188</sup>

The lord deputy also punished Dermot O'Brien, fifth baron of Inchiquin for his continued support of Catholic clergy. In 1615, Inchiquin was fined £500 and

---

<sup>183</sup> Crawford, *Court of castle chamber*, p. 308.

<sup>184</sup> Sir Oliver St John to Sir Ralph Winwood, 3 Sept. 1614, *CSPI 1611-14*, pp 501-02.

<sup>185</sup> *Ibid.*

<sup>186</sup> Fitzsimon, *Words of comfort*, p. 124.

<sup>187</sup> *Ibid.*, pp 124-5.

<sup>188</sup> Mark Empey, "'We are not yet safe, for they threaten us with more violence': a study of the Cook Street riot, 1629" in William Sheehan and Maura Cronin (eds), *Riotous assemblies: rebels, riots & revolts in Ireland* (Cork, 2011), p. 67; Clodagh Tait, 'Riots, rescues and "grene bowes": Catholic popular protest in Ireland, 1570-1640' in Robert Armstrong and Tadhg Ó hAnnracháin (eds), *Insular christianity: alternative models of the church in Britain and Ireland, c. 1570-c. 1700* (Manchester, 2013), p. 82; Raymond Gillespie, 'Negotiating order in early modern Ireland' in Michael J. Braddick and John Walter (eds), *Negotiating power in early modern society: order, hierarchy and subordination in Britain and Ireland* (Cambridge, 2001), p. 203.



imprisoned for relieving the Jesuit Nicholas Nugent.<sup>189</sup> This punishment was akin to that meted out to the Anthony Maria Browne, second Viscount Montague in England in 1610, who had to pay an exemplary £10,000 fine for his continued support of Catholic clergymen.<sup>190</sup> While the Old English towns and nobility appear to have reacted as they traditionally had done – with a determined, yet peaceful resistance – some Catholics in Ulster responded to strict enforcement and the spread of Protestant church structure with violence. Brian Mac Cuarta charted the outbreak of violence from late 1614 and 1615 across the archdiocese of Armagh. Increased competition for resources was an important factor in the disturbances, with Catholic clergy blamed for inciting violence. Two ministers were killed in late 1614, a third lost a servant who defended him against assailants – leading to Protestant clergy reportedly travelling with protection thereafter, fearful of assault. Former Catholic priests and lay converts appear to have been marked out for attack.<sup>191</sup>

Enforcement again focused closely on Old English towns from late 1614 until 1616, as the oath of supremacy and the court of castle chamber were tools used against non-conforming municipal officials. In May and June 1616, the central government and the presidency of Munster pursued municipal councils and brought officers of twelve cities, towns and corporations before the court of castle chamber for their refusal of the oath of supremacy.<sup>192</sup> The government had set on a strict enforcement of corporate towns, reissuing Brouncker's threat to remove their corporate liberties for their failure to provide conformist officials. For their part, municipal officers appear to have completely rejected the notion of conforming to the oath and attended court of castle chamber cases intent on accepting punishment meted down. The harsh measures brought money from fines to the government, yet signally failed to provide the conformist councils they sought.

The king's assent to the full use of the Elizabethan enforcement measures in 1614-16 gave Chichester (and later St John ) the backing required to bring about the reform long

---

<sup>189</sup> The fine is described as £500 Irish in the state papers and £100 Irish in the court of castle chamber records, *CSPI 1615-25*, pp 122-3; *Court of castle chamber*, p. 524; Rothe, *Analecta*, f. 14r.

<sup>190</sup> Michael Questier, *Catholicism and community in early modern England: politics, aristocratic patronage and religion, c. 1550-1640* (Cambridge, 2006), pp 356-61.

<sup>191</sup> Mac Cuarta, *Catholic revival in the north of Ireland*, pp 52, 56-7.

<sup>192</sup> 'Appendix one: the entry book of orders and decrees of the court of castle chamber, 1571-1621' in *Court of castle chamber*, pp 525-9.

sought after. This enforcement included the banishment of priests, compulsory church attendance and tendering the oath of supremacy to municipal councils, lawyers, justices of the peace, sheriffs, wards suing livery and judges. The Catholic elite largely rejected the oath of supremacy and people failed to attend church in great numbers for a significant period of time, blunting reform efforts. The punitive measures fostered resentment in those areas targeted and weakened local government through the selection of conformable men only. The failure of the Protestant ministry to penetrate into many parts of the country meant the government could only target areas with a resident Protestant cleric. Where service was offered, ministers largely spoke in English, alienating the vast majority from attending. The policy of implementing a strictly 'English' Reformation policy in Ireland, coupled with an Anglicisation drive, hindered the potential success that it might have had among the Gaelic Irish.<sup>193</sup> Persecution of cities and towns through the removal of elected officials, fines and imprisonments, hindered their regular functions. The 1622 commissioners found that this disruption caused an interruption in trade in affected corporate towns, impeding their growth.<sup>194</sup> Elizabethan statutes proved inadequate as soon as they had passed in parliament, and their resurrection and enforcement in the Jacobean period followed a similar fate. The parliament of 1613-15 failed to find a solution on the religious issue, with the problem kicked down the road for later governors. In the following period, the strength of the Catholic episcopal church and the legal opposition offered by Catholic petitioners and lawyers further undermined the legal case for enforcement, partially accounting for its abandonment in the 1620s amidst a crisis of confidence and a turbulent political climate during the 'Spanish Match' negotiations and the march to war.

The reform programme faced its most difficult period during the 1620s as directions from Whitehall interrupted the enforcement drive, leading to what Aidan Clarke described as 'a decade of improvisation'.<sup>195</sup> The international dimension caused frequent changes in policy, preventing a concerted enforcement programme and allowing the Catholic Church to set down roots, leading to further alienation from the established church. Reformers contended with oft-changing directives from London, yet

---

<sup>193</sup> McCafferty, 'Ireland's English Reformation', pp 1-20.

<sup>194</sup> *1622 Commission*, p. 278.

<sup>195</sup> Clarke, 'Pacification, plantation and the Catholic question, 1603-23', *NHI*, iii, p. 232.



also faced significant opposition at home from Catholics who undermined the legal basis on which it relied. Catholics opposed the continued use of the oath of supremacy on officers, protected Catholic clergy from harassment under banishment orders and led an energetic campaign against the exaction of recusancy fines. These attacks on the legality and practical application of the penal code significantly undermined their efficacy and in time bled into the need to find an accommodation with Catholics through the granting of toleration in return for the raising of extra-parliamentary subsidies.

Parliament failed to provide new legislation to pursue enforcement as reformers had hoped, yet the expansion of the oath of supremacy to include lawyers and justices of the peace strengthened the hand of the administration against Catholics, while the king's assent to the use of coercive tactics in spring 1614 granted them mandate to implement fully coercive tactics. The period 1616-21 witnessed the widespread use of the oath of supremacy on municipal councils, causing significant disruption in the operation of urban affairs.<sup>196</sup> Waterford stood out among other towns for their resistance to the oath of supremacy, resulting in the forfeiture of their charter in 1619 (chapter two). The oath proved similarly disruptive on justices of the peace, sheriffs and lawyers. Commissioners on the 1621 enquiry and the 1622 commission discovered inconsistency in tendering the oath, however, as it was deemed necessary to retain Catholics in some areas or under certain circumstances. The commission ordered the chancellor to decide when the oath ought to be used on justices of the peace, as the commission ruled that some chief Catholic men were a necessity for keeping the peace in certain localities.<sup>197</sup> Similarly, the commission were open to the employment of Catholic sheriffs in some areas of the kingdom, depending on the county, leaving the final decision to the king.<sup>198</sup>

Commissioners discovered great difficulties in the disbarring of non-conforming lawyers from practising in court. Francis Aungier, first Baron Longford, reported that on assize circuits, judges ignored the requirement of swearing the supremacy out of necessity, as none but recusant lawyers could be found to plead cases.<sup>199</sup> Of greater worry to the administration was an increasing trend of people away from formal court

---

<sup>196</sup> *Ibid.*, p. 224.

<sup>197</sup> *1622 Commission*, p. 170.

<sup>198</sup> *Ibid.* pp 170, 252.

<sup>199</sup> *Ibid.* p. 173.

proceedings owing to the disbarring of Catholic lawyers and justices of the peace. Irish officials found that cases normally held in court were now performed privately by Catholic lawyers, disrupting the ordinary course of justice and depriving the courts of casual revenues.<sup>200</sup> Furthermore, where before Catholic lawyers carried themselves carefully, rarely giving advice prejudicial to the crown, now they advised people to challenge the administration on issues such as crown title to land, wardships and other confrontational policies expounded by the Dublin administration.<sup>201</sup> The operation of an alternative court system within Ireland represented a grave threat to the central administration, robbing it of its justice system and challenging its right to govern. Crucially, the commission found that the practice of tendering the oath of supremacy on lawyers had no legal basis, as the 1560 act called only on officeholders and municipal officials to take the oath, with no mention of lawyers.<sup>202</sup> The widespread rejection of the oath undermined the enforcement drive, as it required some level of acceptance, as the smooth running of the country required local men to run commissions of the peace.

The 'decade of improvisation' caused great confusion in the administration, as the lord deputy and the provincial presidents could not decide when to apply the oath. Directives from Whitehall oscillated according to the progress in diplomatic relations with Spain (and later France), weakening the resolve of reformers. Financial difficulties also bled into religious issues, as the deposition of municipal officers proved a boon for the exchequer. In 1625, lord deputy Henry Cary, first Viscount Falkland, wrote to English secretary of state, Edward Conway, on the issue of the oath of supremacy, offering to tender the oath in order to gain money for the army after the expected refusal by a number of towns.<sup>203</sup> This request in itself encapsulates the weakness in the use of the oath, as the lord deputy treated it as a means to provide financial assistance to the government, no longer arguing that it could act as an agent for genuine religious change. The severe nature of the oath, calling for the complete rejection of the Pope's authority in Ireland, proved too strict a test for municipal councils and it thus proved unsuitable for the purpose intended – bringing Catholics to conformity of religious practice. The obstinacy of those presented with the oath brought this about, eventually forcing the administration into seeking an accommodation with Catholics.

---

<sup>200</sup> Ibid, pp 18-19.

<sup>201</sup> Ibid.

<sup>202</sup> Ibid, p. 251.

<sup>203</sup> Falkland to Conway, 23 Aug. 1625, *CSPI 1625-32*, p. 31.



While the process for prosecuting crown officials was relatively straight-forward, punishing Catholic clergy proved more difficult. At the outset, the Dublin administration proved unable to prevent the transport of Irish students to foreign seminaries, as the ports remained largely unsupervised, allowing for a steady traffic of students out to seminaries and back in as trained clergymen. The administration proved unsuccessful in preventing the training at home of Catholic clergymen also, as some schools out of the reach of officials operated for the creation of an alternative church in Ireland. Coercion against Catholic clergy yielded some success, as the executions of O'Devany and O'Loughran forced the church to take precautions and operate more secretly. Henry Fitzsimon and David Rothe described the dangers experienced by clergymen in Ireland, forced into hiding and fearful of being caught by provost marshals or other government officials.<sup>204</sup> Despite these dangers, in 1618 the curia deemed the church in Ireland ready for a full diocesan structure, no longer would it hold the status of a missionary church.<sup>205</sup>

The administration proved unable to stop the flourishing of the Catholic Church, as a full diocesan church sprouted even as the established one toiled to set down roots across the country. There were no more set piece trials, such as that in 1612, yet infrequently the administration arrested and imprisoned clergymen and brought them for questioning. The secrecy, foreign training and political motives of the clergymen frightened the administration, as priests became involved in every facet of political life in Ireland, taking centre stage in protests. In a murder investigation of a Mr. Pont, a Protestant minister and justice of the peace, the administration sought the torture of a Catholic priest, Cale O'Connelly, as he admitted knowledge of the incident gleaned through his role as confessor to those who knew of the murder.<sup>206</sup>

The administration resented the bond of the clergy to the populace as the trust placed in priests undermined their power. This was no more evident than in attempts to prosecute Jesuits and other priests. Numerous records survive of the names of priests and what towns they found hospitality, clearly demonstrating that the administration knew where

---

<sup>204</sup> Fitzsimon, *Words of comfort*, pp 64-5; Rothe, *Analecta*, f. 11r.-11v., 14r.

<sup>205</sup> Mac Cuarta, *Catholic revival in the north of Ireland*, p. 76.

<sup>206</sup> *CSPI 1625-32*, p. 40.

to discover them. Despite this, the administration proved largely unsuccessful in procuring successful suits against clergymen. The process of capturing and securing their imprisonment proved immensely difficult, as local populations proved resistant to the administration and caused their forcible release on a number of occasions. Juries also proved recalcitrant in prosecuting priests, as they refused to present them. The laws in force against priests proved part of the problem, as Rothe pointed out, they relied on a mix of statute and prerogative law. The trials of O'Devany and O'Loughran relied on an overwhelming English majority on the jury and the charge of treason against them. Treason proved tricky to prove, yet the alternative was not much more attractive. *Praemunire* legislation of Richard II was viewed as applicable in such circumstances, yet the government failed to employ it. The Elizabethan statutes further enhanced the hand against priests, yet they similarly proved inadequate for use in trials. Both statute laws and the practice of local enforcement proved unable to prosecute Catholic clergy, allowing for the continued flow of trained clergy into the country. The 'Spanish match', and later 'graces', negotiations pushed the government into a lenient response to the growth of a Catholic Church, leading to the spread of priests across the kingdom. Numbers grew to such an extent that in the late 1620s disputes between seculars, regulars and the lay over church fees came before lay courts presided over by sheriffs and assize court judges.<sup>207</sup> Legal restraints and local protection of the clergy thwarted reform efforts, leading to the establishment of a strong Catholic Church structure by the close of this 'decade of improvisation'.

The changing political climate also affected the imposition of recusancy fines. The fine of twelve pence per Sunday and holy day proved a huge potential funding source to the administration; particularly necessary following the reduction in treasure from London from 1618 on.<sup>208</sup> In three sessions in Dublin, from 15 July 1617 to 14 April 1618, presentments of recusants totalled £2,505 4s 0d – a huge projected take.<sup>209</sup> In 1618, discussions took place over farming the fine for £10,000 annually. Sir Francis Annesley criticised the proposal, writing that if fully exacted it could raise a 'far greater sum than £100,000 by the year'.<sup>210</sup> From 1617 to May 1622 the archbishop of Armagh,

<sup>207</sup> Mac Cuarta, *Catholic revival in the north of Ireland*, pp 120-3.

<sup>208</sup> McLaughlin, 'The making of the Irish leviathan', p. 144.

<sup>209</sup> John Meagher, 'Presentments of recusants in Dublin, 1617-1618' in *Reportium Novum*, vol. 11, no. 2 (Dublin, 1960), pp 269-273.

<sup>210</sup> Sir Francis Annesley to Sir Thomas Lake, 17 Feb. 1618, *CSPI 1615-25*, p. 185.



Christopher Hampton performed the role of almoner, with all fines at the disbursal of the church. From 1622, fines reverted to the lord deputy. The vast potential for the fine led to its abuse, as the church, and then crown officials, knowingly breached the terms of the 1560 act. Catholic opponents of the fine focused closely on legal arguments, in doing so they forced the administration to consider an accommodation to replace the imperfect collection of the fines.

A key difficulty with the fine related to whom it targeted. As noted above, during the mandates campaign, fines were ineffective on the elite, as they proved too small a fine to force consciences. The 'middling sort' appeared to have found means to avoid the fines, with the 1622 commissioners finding that they escaped harsher penalties through bribery of parsons and other officials.<sup>211</sup> The poorer sort bore the brunt of the fines, as they had fewer means to oppose it than their social betters. A twelve pence per Sunday and holy day fine amounted to £2 6s per year (besides fees for officials), a huge burden on people who already had to pay rent to their landlord, tithes to the established church and fees to the Catholic clergy. Those unable to pay the charge faced excommunication and outlawry – the 1622 commissioners found 40,000 people punished in this manner.<sup>212</sup> The 1622 commission wrote that these people either went to prison, forfeiting all their possessions, where they perished; or they fled to the woods and sought a living through robbery, as the opportunity served.<sup>213</sup> The vast number thus labelled suggests a wide range in not only recusancy, but also in non-payment of fines. In 1618, negotiations for a 'Spanish match' struck up, leading to a huge increase in recusancy, with attendance at state churches in 1622 said to have dropped by 90% from its highest level.<sup>214</sup> Another serious problem in relying on the fine related to the obvious shortfall that would occur in the event of mass conformity. There is a sense that many in the administration wished recusant numbers to remain high, as this group represented what John Meagher termed a 'permanent possibility of exploitation'.<sup>215</sup> Similarly, religious tests such as the oath of supremacy kept power in the hands of the administration and their client group.

---

<sup>211</sup> *1622 Commission*, p. 256.

<sup>212</sup> Treadwell, *Buckingham and Ireland*, p. 222.

<sup>213</sup> *1622 Commission*, p. 16.

<sup>214</sup> *Ibid.*, p. 218.

<sup>215</sup> Meagher, 'Presentments of recusants in Dublin, 1617-1618', p. 270.

William Meade's 1611 advice to Catholics of Munster pointed up a key weakness in the collection of recusancy fines, as the 1560 act clearly called on churchwardens to levy the fines within their own parish.<sup>216</sup> Catholics appear to have been successful in holding this position, as records demonstrate that churchwardens rarely presented recusants before the courts. Instead, the minister of the parish, or a neighbouring one, presented lists of recusants at quarter sessions. Churchwardens were adjudged to be unfit for this purpose owing to their base level in society and, as practicing Catholics, they typically refused to present lists to justices.<sup>217</sup> The use of ministers in this capacity proved unsuitable. In the first place, the act specifically called on churchwardens. Secondly, in presenting recusants at court ministers drew further ire from a community angered by their evangelising efforts at the expense of the Catholic Church and the financial burdens that two church establishments had on the community.<sup>218</sup> From May 1622 fines reverted to the lord deputy, not the primate, creating further confusion over the raising of a regular tax based on church attendance. While ministers presented recusants at quarter sessions, bishop's court and archdeacon's court, the task of collecting fines fell to sheriffs, their bailiffs and justices of the peace.<sup>219</sup> The regular practice of raising fines left 10% to the collector, yet remaining evidence points to a great degree of corruption by the commissioners of the peace. Catholic commissioners obviously had a conflict of interest regarding raising recusancy fines, though it appears that some did engage in levying them.<sup>220</sup> Conforming commissioners gained a reputation for charging large fees, at times as much as the fine itself, and were known to accept bribes in exchange for dropping charges.<sup>221</sup>

Once collected, the act of uniformity stipulated that the money go 'to the use of the poore of the same paroch'.<sup>222</sup> Up to 1622, fines reverted to the primate of the Church of Ireland, contributing toward minister's pay, charity and civil projects. The low numbers of Protestant clergy in Ireland meant that ministers held multiple benefices, ensuring that fines raised did not stay within the parish. Catholic petitioners called for the

<sup>216</sup> Meade, 'Advice to Catholics in Munster', fo. 292a.

<sup>217</sup> Report to the King James by the 1621 commissioners, [12 June] 1621, *CSPI 1615-25*, p. 329.

<sup>218</sup> In 1607, William Lyon, bishop of Cork, wrote that ministers were not loved by their neighbours, due to their profession and doctrine, as people were compelled to hear them, *CSPI 1606-08*, p. 132.

<sup>219</sup> MacCuarta, *Catholic revival in the north of Ireland*, p. 60.

<sup>220</sup> *Ibid.*, pp 60-1.

<sup>221</sup> On fees of sheriffs' clerks, see *1622 commission*, p. 7.

<sup>222</sup> 2 Eliz. C. 2., *The statutes at large passed in the parliaments held in Ireland*, i, p. 287.



retention of fines within the parish and demanded that they go toward all the poor of the parish, not simply conformists, as had been the practice. Archbishop of Armagh, Christopher Hampton, offered an accommodation to recusants of his archdiocese, forgoing the charge of twelve pence for three years in return for assistance in repairing churches.<sup>223</sup> Similarly, Lord Chichester charged £500 per annum in county Monaghan to go towards church-building, promising not to enforce the act in return. The 1622 commissioner, Richard Hadsor, criticised the agreement, writing that 'the churches of that shire I am told be not yet up, but the moneys are levied duly'.<sup>224</sup>

A June 1621 enquiry advised the recall of the primate's patent to recusancy fines, and in May 1622 the lord deputy took charge of the collection of fines, reserving £1,000 annually to the primate as compensation for his loss.<sup>225</sup> While the records of the collection by the primate are not extant, the primate reported a collection of between £500-£1000 per annum.<sup>226</sup> In the hands of the lord deputy, the recusancy fines took on a more important role. As officials proposed ways of exploiting their vast potential to raise revenue, its function as an agent of Reformation took on a secondary role. Disputes within government circles and among the 1622 commissioners focused more on the method of collection rather than on its legality. The potential revenue from the collection represented a key source of income to a government heavily in debt after years of reduced funding from England. The 'Spanish match' negotiations between Prince Charles and the Infanta of Spain caused a disruption to this collection, as a coercive enforcement policy could derail tense diplomatic talks. By December 1623, these negotiations broke down and James again called for the resumption of fines. On 21 January 1624, Lord Deputy Falkland issued a proclamation calling for conformity in religion and the banishment of all Catholic clergy.<sup>227</sup> French marriage negotiations scuppered its implementation, as in February the privy council called off this latest reform drive, instructing Falkland to 'deal graciously with the Roman Catholics'.<sup>228</sup>

---

<sup>223</sup> 1622 commission, p. 21.

<sup>224</sup> McLaughlin, 'The making of the Irish leviathon', p. 190, quoting Richard Hadsor, *Advertisements for Ireland being a description of the state of Ireland in the reign of James I contained in a manuscript in the library of Trinity College Dublin*, ed. George O'Brien (Dublin, 1923), p. 16.

<sup>225</sup> Treadwell, *Buckingham and Ireland*, p. 222.

<sup>226</sup> McLaughlin, 'The making of the Irish leviathon', p. 190.

<sup>227</sup> 'A proclamation for the Banishment of Jesuites and Priests, &c.', 21 Jan. 1624, TNA (UK) SP 63/238/11a (CSPI 1615-25, p. 459).

<sup>228</sup> English privy council to Falkland, 17 Feb. 1624, CSPI 1615-25, p. 464.

The march to war with Spain brought the recusancy issue back on the agenda. In 1621, the archbishop of Armagh, Christopher Hampton criticised the reversion of fines to the lord deputy, in expectation that fines would come to supplement rising army pay.<sup>229</sup> The potential income arising from this fine was investigated in the heady days of 1625, as the crown desperately sourced financial aid in any manner it could and the Irish administration had to share in this burden. Local arrangements that had been found on recusancy fines tended to benefit sheriffs, their bailiffs and clerks, ministers and the church – not the central administration. The increasing burden of army pay on the state forced the hand of the lord deputy. The 1622 commissioner, Sir Nathaniel Rich had questioned whether recusancy fines might be used for the army and concluded that as ‘the only danger of the realm grows by recusants that as long as they will be so, they may pay yearly somewhat toward the defence of the realm’.<sup>230</sup> While Rich did not represent all of the commissioners in this opinion, the prospect of fines paying for the army had proved attractive to the administration for a number of years.<sup>231</sup> The previous collection of recusancy fines had been uneven, corrupt and of little benefit to the church or the state coffers. In granting fines to the lord deputy, the king handed him a great potential source of funding, though difficult to exploit. Local arrangements that had agreed to compound this fine for a set payment were replicated on a grand scale in negotiations between the Old English and the Dublin and London governments in the mid-1620s, as both sides recognised the strength of the Catholic Church and the difficulties posed in turning the potential of the recusancy fines into ready money. This process began with delegations and negotiations in the mid-1620s and ended with the ‘graces’ of May 1628.

The desire of Catholics to transform a tacit toleration into a permanent arrangement and the London government’s desperate need to raise large funds from Ireland drove the two into negotiations in the mid-1620s. The breakdown in relations between England and Spain, and subsequently France, led to the need to raise army numbers in Ireland. Irish Catholics favoured the raising of trained bands to meet this need, yet London, and particularly the administration in Dublin, were reluctant to put arms in the possession of

---

<sup>229</sup> McLaughlin, ‘The making of the Irish leviathon’, p. 191.

<sup>230</sup> Sir Nathaniel Rich’s notes, *1622 commission*, p. 151.

<sup>231</sup> Alan Ford, “‘Force and fear of punishment’: Protestants and religious coercion in Ireland, 1603-33” in Elizabethanne Boran and Crawford Gribben (eds), *Enforcing Reformation in Ireland and Scotland, 1550-1700* (Aldershot, 2006), p. 121.



Irish Catholics. Irish Protestants had raised the notion of using recusancy fines to meet the costs of raising troop numbers, yet this proved unpalatable to Catholics. Catholic opposition to the act of uniformity resulted in its underuse by the central administration, as it never became a regular source of funding as in England, or as hoped by many members of the Dublin government. Catholics had for years raised the prospect of paying a subsidy in return for significant change in the penal code: Rothe cited the example of the emperor of Turkey, who allowed a measure of toleration in return for a money payment.<sup>232</sup> Protestant bishops proved resistant to such endeavours, criticising the grant of toleration for money, as this was 'to set religion to sale'.<sup>233</sup> Agents from the Old English represented a number of different issues, with an end to enforcement a key part of their agenda.

Richard Nugent, first earl of Westmeath came to represent all manner of causes associated with the Old English in the 1620s through his connections to leading Pale families and agency in London. He had a marked card, in that his father, Christopher Nugent, Lord Delvin, died in 1602 in prison on treason charges relating to his dealings with the earl of Tyrone, and, in 1607, he faced similar charges for his part in a conspiracy involving the earl of Tirconnell and Christopher St Lawrence, ninth baron Howth. He fled prison and lived as a fugitive for four months in 1607, before receiving a pardon in 1608.<sup>234</sup> He frequently acted as an agent for the Old English, travelling to London in 1613 as part of the Catholic opposition to Chichester, and again, in 1620, he travelled as part of a delegation to London to present to the king a petition relating to civil affairs in the country.<sup>235</sup> In late 1623, he and Sir William Talbot are recorded as being the authors of a petition to London to raise grievances before the king. As before, this delegation aimed to defray costs through the raising of a contribution levied on the country. Gentlemen were to collect funds of £10 upon every earl, £7 10 shillings upon viscounts, £6 13 shillings 4 pence upon barons, £6 upon baronets, £5 upon knights, £2 upon esquires, 20 shillings landed gentlemen and 10 shillings upon freeholders, besides additions made freely.<sup>236</sup> Falkland feared the collection of this money and the secrecy

---

<sup>232</sup> Rothe, *Analecta*, f. 44 v.

<sup>233</sup> Judgment of the archbishops and bishops of Ireland concerning toleration of Popish religion by public protestation, May 1627, *CSPI 1625-32*, p. 239.

<sup>234</sup> Richard Nugent, Dictionary of Irish Biography ([dib.cambridge.org](http://dib.cambridge.org)) (accessed Oct. 2012).

<sup>235</sup> King James to Lord Deputy St John, 18 May 1620, *CSPI 1615-25*, p. 282.

<sup>236</sup> 'Instruments of Irish Lords and others for a General Contribution', undated yet enclosed in letter of 14 Dec. 1623, *CSPI 1615-25*, pp 440-3.

surrounding the delegation. He reported to the secretary of state, Conway, that the priests exacted an oath of secrecy of the people and that the sum to be raised, £50,000, would be made for ill uses at a time when the Dublin and London governments were desperately short of revenue.<sup>237</sup>

Meetings and delegations such as those raised by the Old English represented a threat to the lord deputy. Chichester had reacted with trepidation during prolonged talks at court between Sir Patrick Barnewall and the privy council; similarly, Falkland reacted with panic at the secret meetings of the Old English in the mid-1620s, with Westmeath acting as a focus point for all manner of grievances. Hopes pinned to him especially, even though he shared responsibility with Sir John Bath, Thomas Luttrell and Sir William Talbot, among others. Falkland termed Westmeath 'the principle person of consequence in this country' and criticised his raising of grievances where he believed none existed.<sup>238</sup> Westmeath's popular appeal further frightened the administration, as rumours spread that the governance of Ireland was to be altered. In 1623, Falkland reported that people expected Ireland to be run by commissioners, not deputies; in March 1624 he recorded that people saw Westmeath as the future lord deputy; or worse, that he was to be the king of Ireland. Falkland interrogated a Thomas Lestrangle and a Humfrey Welsh for spreading rumours of the coronation of Westmeath as king of Ireland, demonstrating the severity with which he viewed this implication.<sup>239</sup> The appeal of Westmeath as king received popular currency owing to the alienation of people from the Dublin government and the belief that the king had not done enough to protect them. In 1593, the court of castle chamber ordered the punishment of a Nicholas White for publishing a prophecy that O'Donnell should be king of Ireland and that an old crown of the kings of Ireland remained in Rome.<sup>240</sup> The enduring appeal of an alternative Catholic leader in Ireland, a king or a lord deputy, remained due to the unpopular civil policy of the government but more particularly the harsh enforcement measures that kept Catholics from the top positions in government.

The 'graces' negotiations aimed to find relief for a number of grievances against the government, many relating to the extensive penal code that restricted access to

---

<sup>237</sup> Ibid., p. 442.

<sup>238</sup> Ibid., p. 475.

<sup>239</sup> Ibid., p. 477.

<sup>240</sup> *Court of castle chamber*, p. 473.



government and established pecuniary measures against Catholics. In September 1626, the first proposals, or 'matters of grace and bounty', called for the suspension of recusancy fines and the removal of religious tests for office. A backlash among Irish Protestants caused a moderation in plans for toleration, and these measures were removed by the time the 'graces' were accepted in May 1628. Catholic agents accepted the changed terms, yet hoped for an end to penal measures in a proposed parliament of November 1628. The lord deputy had to abandon plans for parliament due to a breach in the terms of Poyning's Law and showed little enthusiasm in summoning it thereafter.<sup>241</sup> In April 1629 he published a proclamation banishing all regular clergy from the country. This order forced a breach from a tacit toleration of clergy and private worship that had existed more or less since 1622, as reformers suspended enforcement during a series of negotiations, domestically and internationally. On St Stephens' Day 1629, the lord justices, Richard Boyle, earl of Cork and the chancellor Adam Loftus, Viscount Ely ordered the closing down of Catholic services in Dublin.<sup>242</sup> In attempting to apprehend friars, congregations of men and women pelted stones at soldiers and pursued them out of the church. Aldermen were said to have allowed this to continue, as people opposed the closure of mass houses.<sup>243</sup> Religious services continued elsewhere in the kingdom unabated until in 1632 when the administration again considered using the act of uniformity to draw people to church.

The failure of the 1585-6 and 1613-15 parliaments to pass anti-Catholic legislation left reformers in Ireland with an imperfect set of measures by which to enforce conformity. Irish opposition to the extension of prerogative law into this area caused Chichester's government to abandon mandates proceedings that aimed to reform the country from the top down. Reformers pursued enforcement measures intermittently as international political considerations were taken into account, weakening the programme of enforcement and emboldening the resolve of opponents. Reformers reverted to the use of the Elizabethan statutes, bringing temporary results in the form of higher church attendance, yet failing to draw any significant permanent change in conformity. Catholic opponents made use of a variety of legal arguments against the use of coercion, limiting its efficacy. Appeals to London proved particularly fruitful, as

---

<sup>241</sup> Clarke, *Old English in Ireland*, pp 55-9.

<sup>242</sup> Empey, "'We are not yet safe'", pp 64-79.

<sup>243</sup> Ibid.

petitioners reported the actions of reformers and raised the prospect that a general alienation of all Catholics could drive the kingdom to rebellion and into the arms of the king of Spain. The appeal to London exposed the weakness of the enforcement drive, as the king and his council persistently asserted their opposition to too strict a policy in religion. Local opposition also caused disruption in enforcement, as few attended church services, fines were difficult to levy, towns resisted the oath of supremacy and people generally harboured priests, in spite of proclamations banishing the practice.

International affairs, the failure of the Elizabethan statutes to bring about change and crippling crown finances brought the London government into discussions with Catholics for a toleration. The outcry among the Protestant population of Ireland effectively scuppered these attempts, as a watered-down programme was accepted by Catholic agents in 1628. The failure of Catholic agents to secure these measures through parliamentary means further weakened their gains, as the administration outmanoeuvred the Old English leadership, to the point that in late 1629 they forcibly shut down Catholic masses in Dublin. The Dublin government, run in the Protestant interest, became disconnected from the old colonial elite, as a number of causes, principally religious toleration and a suspension of plantation, dominated the agenda. The divergence of opinion pushed the Old English into a closer association with the Gaelic Irish and forced the Protestant elite into an increasingly minority position. With the central administration intent on pressing conformity, an opposition group separated themselves, worshipping under a different church, organising themselves politically, occasionally practising under an alternative court system and even murmurings of establishing an alternative monarch. Oaths of secrecy, private masses and a shared experience of persecution bound Catholics together against the established church, and in turn, the Dublin administration. For most, an appeal to London represented the best chance of receiving an equitable hearing, as grievances increasingly found themselves decided at court, the Dublin administration's power waned – raising important constitutional issues for the kingdom.



## Chapter four: Martial law, the ‘graces’ and the ‘petition of right’

In May and June 1628 Charles I granted a set of concessions to members of the English parliament and an Irish delegation in London. In return for these concessions, the English parliament granted five subsidies, the Irish delegation three, to ease the crown’s financial difficulties brought on by war with Spain and France.<sup>1</sup> In both the English statute, the ‘petition of right’, and the Irish agreement, known as the ‘graces’, the crown acknowledged that martial law ought only to be used in time of war.<sup>2</sup> The English parliament debated fully the role of martial law in the commons and found its use during peace to be illegal. The fifty-one ‘matters of grace and bounty’ for Ireland guaranteed by the crown failed to receive statutory sanction, as the Irish parliament planned for 1628 failed to convene. Without this legislative sanction, many of the ‘graces’ were contravened in the following years, including the ban on using martial law during peace.<sup>3</sup>

The continued employment of martial law in Ireland demonstrated vulnerability in the conquest of 1603, as legal measures found suitable only in war were practiced routinely. In many areas of government policy, the administration aimed to reform the Irish polity, with drastic changes across society to bring it in line with English practice. In military affairs, however, the Irish administration proved reluctant to reform, with a standing army, garrisons, provost marshals and the extraordinary legal measure of martial law an ever-present feature in the Irish polity. This chapter will analyse the role of martial law in early Stuart Ireland, demonstrating how its use differed from practice in England and the significance of the administration’s decision to pursue trial by martial law after the ‘graces’ forbade it and the English parliament found it to be legal

---

<sup>1</sup> Lindsay Boynton, ‘Martial law and the petition of right’ in *English Historical Review*, 79 (1964), pp 255-84;

J.V. Capua, ‘The early history of martial law in England from the fourteenth century to the petition of right’, *Cambridge Law Journal*, 36 (1), April 1977, pp 152-73; Paul Christianson, ‘Arguments on billeting and martial law in the parliament of 1628’, *Historical Journal*, 37, no. 3 (1994), p. 556; John Guy ‘The origins of the petition of right reconsidered’, *Historical Journal*, 25, no. 2 (1982), pp 289-312; Aidan Clarke, *The Graces, 1625-41* (Dundalk, 1968), passim; idem, chapters two and three, *The Old English in Ireland, 1625-42* (London, 1966), pp 28-59; Victor Treadwell, chapter seven, section v, ‘Towards the graces and the petition of right’, *Buckingham and Ireland, 1616-28: a study in Anglo-Irish politics* (Dublin, 1998), pp 277-93.

<sup>2</sup> Number 33, ‘Appendix II’, Aidan Clarke, *The Old English in Ireland, 1625-42* (London, 1966), p. 249; VII-IX, ‘The petition of right’ in Samuel Rawson Gardiner (ed.), *The constitutional documents of the Puritan revolution, 1625-1660* (third ed., rev. Oxford, 1906), pp 66-70.

<sup>3</sup> Clarke, *Old English in Ireland*, pp 57-9.

only during war. This chapter will first analyse commissions of martial law to demonstrate the powers held by those granted patents. This is followed by a treatment of those targeted by commissions. Next this chapter examines complaints raised against martial law, culminating in the 'graces' which found martial law to be applicable only in war. The administration's reliance on martial law led to an almost immediate breach of this 'grace', as extraordinary legal means were used as commonplace in Ireland, whereas in England martial law was used sparingly, and not at all after the passing of the 'petition of right'. This demonstrates a weakness in the common law in Ireland. Lastly, this chapter will review a renewed debate on martial law in the parliament of 1640-1 in Ireland, which found its use to be illegally prosecuted during peace.

First instituted as a means of enforcing military discipline, martial law evolved over time to incorporate a broad range of usages, receiving increased powers through royal prerogative. In his campaigns in Wales and Scotland in the late thirteenth century, Edward I of England extended the use of martial law to include those convicted of treason. Succeeding monarchs retained this privilege through precedent, yet most preferred to prosecute rebels by commissions of 'oyer and terminer', a process within the common law.<sup>4</sup> Up to the reign of Edward VI martial law only operated in wartime conditions, while the king's banner remained unfurled upon the field. In appointing over twenty lords lieutenant in 1551 Edward VI set a new precedent as these officers were issued with martial law commissions while the country remained in peace. Provost marshals were appointed under the lords lieutenant, armed with martial law commissions to put down rebellion should it break out.<sup>5</sup>

The turbulent reign of Queen Mary saw both an expansion of the powers of martial law and a willingness to act on the precedent set by Edward I and Edward VI. In 1556 Mary sanctioned the first use of martial law on civilians when she gave authorisation to the marshal of the Irish army to execute any 'ydle person or vaccabonde'.<sup>6</sup> The proclamation set out exactly the process by which martial law ought to be carried out, with a derivation of these powers existing in the seventeenth century. Mary further extended these powers in 1557 in England, with the execution of Robert Cockerell by

---

<sup>4</sup> Capua, 'The early history of martial law in England', pp 153-61.

<sup>5</sup> Ibid., pp 160-2.

<sup>6</sup> Ibid., p. 164; *The manuscripts of Charles Haliday, Esq., of Dublin: Acts of the Privy Council in Ireland, 1556-1571* (London, 1897), pp 20-1.



martial law, believed to have been due to his opposition to her religious policy.<sup>7</sup> The following year saw the threat of sedition added to a lengthening list of usages of martial law, as anyone in England found in possession of 'wicked and seditious books...shall be reputed and taken for a rebel, and shall without delay be executed for that offence by order of the martial law'.<sup>8</sup> Building on the precedent set in Ireland in 1556, the city of London invoked martial law powers against citizens in 1570 and again in 1595. The appointment in 1570 of a 'Marshal' to clear the city of vagabonds, rogues and maimed soldiers represented the first attempt at civic control of the city in a time of peace. Actions such as the 1595 appointment of a provost marshal to apprehend and punish rioting servants and apprentices 'upon the gallows' has led Lindsay Boynton to argue that by the 1590s the use of martial law on undisciplined soldiers 'was being increasingly superseded by the hitherto secondary function of dealing with civilians'.<sup>9</sup>

In examining the history of martial law in England historians stress the importance of the precedent set by a succession of monarchs, with the numbers of those killed relatively low. The 1556 proclamation left the use of martial law in both countries to the 'discreatyon' of commissioners, with many in England opting against its use.<sup>10</sup> Historians of Tudor Ireland, however, record in detail the actions of martial law commissioners, with many commissioners using their powers extensively, displaying brutality and a desire to take possession of goods or secure bribes where possible.<sup>11</sup> The turbulent nature of Irish society in the period offered an opportunity to martial men to enrich themselves and set up their own interest groups in the localities in which they were stationed. Armed with martial law commissions captains were effectively granted

---

<sup>7</sup> Capua, 'The early history of martial law in England', p. 164.

<sup>8</sup> Ibid., p. 166.

<sup>9</sup> Lindsay Boynton, 'The Tudor provost-marshal' in *The English Historical Review*, 77, no. 304 (Jul., 1962), pp 452-3.

<sup>10</sup> *Acts of the Privy Council in Ireland, 1556-1571*, p.20; Boynton, 'Martial law and the petition of right', p. 267.

<sup>11</sup> On martial law in Tudor Ireland see Ciarán Brady, 'The captain's games: army and society in Elizabethan Ireland' in Thomas Bartlett and Keith Jeffery (eds), *A military history of Ireland* (Cambridge, 1996), pp 136-59; Nicholas Canny, chapter two 'The English presence in Spenser's Ireland' *Making Ireland British, 1580-1650* (Oxford, 2001), pp 59-120; David Edwards, 'Beyond Reform: Martial Law and the Tudor Reconquest of Ireland', *History Ireland*, 5/2 (1997), pp 16-21; idem, 'Ideology and experience: Spenser's *View* and martial law in Ireland', in Hiram Morgan (ed.), *Political ideology in Ireland, 1541-1641* (Dublin, 1999), pp 127-57; idem., Steven G. Ellis, *Ireland in the age of the Tudors 1447-1603: English expansion and the end of Gaelic rule* (London and New York, 1998); Rory Rapple, *Martial Power and Elizabethan political culture: military men in England and Ireland, 1558-1594* (Cambridge, 2009); Rory Rapple, 'Taking up office in Elizabethan Connacht: the case of Sir Richard Bingham' in *The English Historical Review*, 123, no. 501 (2008), pp 277-99.

free reign to act, their 'discreatyon' being relied upon to pacify outlying regions. The reliance on the 'discreatyon' of martial commissioners led to a divergence of use in the two kingdoms, as English officers in Ireland acted without restraint against rebels and vagrants, while their counterparts in England proceeded cautiously.

The treaty of Mellifont represented a turning point in the course of early modern Irish history in many ways, with the victory of the forces under Mountjoy over Tyrone and Tirconnell finally bringing an end to the endemic violence of the late Elizabethan period. The administration in Dublin treated this victory as the final 'conquest' of the island, yet the continued military presence belied this claim. The wartime force of between 16-20,000 men disbanded gradually, with many former captains retained as governors and seneschals in order to guarantee the island's pacification (chapter two). James I sanctioned the use of martial law in peacetime, as on 12 April 1603 Mountjoy received a patent issuing him with martial powers and the authority to issue patents to as many officers as he felt expedient to carry out these orders.<sup>12</sup> Later exponents of the 'conquest' of Ireland in 1603 cited the important place of the court system and the power of the king's writ, which for the first time in its history extended to all corners of the island. Despite the achievement of the assize court system, martial law commissions continued to be issued throughout the period. On 20 February 1605, Chichester and the council recalled all commissions of martial law, though the number of exceptions made in the proclamation signified the continued reliance on extraordinary legal means. The proclamation cited twenty-one named exceptions and guaranteed that commissions would remain for all high sheriffs and provost marshals who held them.<sup>13</sup> On the same day, Chichester and the council issued a second proclamation restricting those on horseback from carrying more than one sword, rapier or dagger, and banning all those on foot from carrying any arms – crown officers and soldiers excepted.<sup>14</sup> The proclamations aimed to bring to a close the violence of the Tudor period, placing a monopoly on military instruments in crown forces. The following February, Chichester proposed that army captains due to be discharged be employed as provost marshals, one

---

<sup>12</sup> J.C. Erck, *A repertory of the inrolments on the patent rolls of chancery in Ireland, commencing with the reign of James I* (Dublin, 1846), pt 1, p. 18.

<sup>13</sup> Proclamation of Chichester and council revoking martial law commissions, 20 Feb. 1605, TNA (UK) SP 63/217/7 (CSPI 1603-06, p. 259).

<sup>14</sup> Proclamation of Chichester and council against carrying arms, 20 Feb. 1605, TNA (UK) SP 63/217/8 (ibid., p. 259).



per shire, to clear areas 'pestered with thieves and Idle personnes'.<sup>15</sup> The signing of peace terms at Mellifont did not spell the end for the army in Ireland, as a small standing force remained; stationed in garrisons across the country, charged to defend the coasts, put down violent disturbances and occasionally act as tax collectors.<sup>16</sup>

Patents issued to martial law commissioners reveal much about the authority placed in them, with commissions disclosing how martial law ought to operate. Each commission detailed the sphere of influence granted to each military officer, outlining where their powers lay. What emerges from a study of these patents is that in some areas there are significant levels of overlapping authority. In Munster in 1605 the lord president, the provincial provost marshal, the earl of Thomond, and the governors of Waterford City, Kinsale and Kerry all held commissions of martial law.<sup>17</sup> This caused great difficulty. In 1606, the provost marshal John Downing killed a retainer of the earl of Thomond leading to a fractious trial before the assizes.<sup>18</sup> Similarly the multitude of commissioners in Ulster caused disruption for the earls of Tyrone and Tirconnell, as they were subject to close scrutiny and intimidation and their tenants were victims of summary execution by martial law commissioners operating on their property.<sup>19</sup>

Where a military officer received their position in Ireland could also influence whether or not they were granted a commission of martial law. In June 1603, after being issued his commission as seneschal of Breny and Kells in north Leinster, Sir Garret Moore was empowered to apprehend and imprison any malefactors, yet could not punish them with loss of life unless they resisted through an armed struggle.<sup>20</sup> In October 1604, in being granted the position of seneschal and chief ruler in O'Birnes country in Wicklow,

---

<sup>15</sup> Chichester to Devonshire, 26 Feb. 1606, TNA (UK) SP 63/218/18 (*CSPI 1603-06*, p. 408); similar plans are outlined in Chichester to Salisbury, 10 May 1606, *ibid.*, p. 481; Chichester to English privy council, 3 Jun. 1606, *ibid.*, p. 493.

<sup>16</sup> *CSPI 1611-14*, p. 414; [Richard Hadsor], *Advertisements for Ireland being a description of the state of Ireland in the reign of James I contained in a manuscript in the library of Trinity College Dublin*, ed. George O'Brien (Dublin, 1923), p. 51.

<sup>17</sup> *The council book for the province of Munster c.1599-1649*, ed. Margaret Curtis Clayton (Dublin, 2008), p. 419.

<sup>18</sup> David Edwards, 'Two fools and a martial law commissioner: cultural conflict at the Limerick assize of 1606' in Edwards (ed.), *Regions and Rulers, 1100-1650: essays for Kenneth Nicholls* (Dublin, 2004), pp 237-65.

<sup>19</sup> David Edwards, 'The plight of the earls: Tyrone and Tyrconnell's "Grievances" and Crown coercion in Ulster, 1603-7' in Thomas O'Connor and Mary Ann Lyons (eds) *The Ulster earls and baroque Europe: refashioning Irish identities, 1600-1800* (Dublin, 2010), pp 53-76.

<sup>20</sup> J.C. Erck, *A repertory of the inolments on the patent rolls of chancery in Ireland, commencing with the reign of James I* (Dublin, 1846), pt 1, p. 74.

Sir Henry Harrington and William Harrington were granted the power to execute by martial law any malefactors or idle persons remaining in their dominion after twenty days' warning had elapsed.<sup>21</sup> The seneschalship in Wicklow was clearly deemed precarious enough to warrant summary powers, with the 'rude' people living there gaining a reputation as rebels and outlaws.<sup>22</sup>

Commissions in the late Tudor period were issued with great frequency, either as a function of their office or a short-term commission, which could be as short as one or two nights' duration.<sup>23</sup> Patents issued in the Stuart period were primarily of long duration granted to a more select body of officers. Patentees were given powers 'during pleasure', 'during good behaviour' or to 'hold for life', with life terms generally granted to the more distinguished officers.<sup>24</sup> Commissioners held their patents permanently or semi-permanently, to be used when required. An exception to this is the commission Chichester issued to Sir Niall Garbh O'Donnell in 1608. Chichester granted him martial law powers on request, in the expectation that he would use his own men and local knowledge to suppress the rebellion of Cahir O'Doherty.<sup>25</sup> Chichester's letter was to act as his commission and it is likely that these powers were intended to act for the duration of the conflict only.<sup>26</sup> This exception apart, commissions tended to remain in force for a number of years, as the administration sought to retain a loyal body of military officers, with extraordinary powers, in strategic locations to keep the peace and act as a restraint on highway robbery and petty crime.

A number of different officials were charged with keeping the peace in Ireland, with a wide range of powers being granted according to their position within a hierarchy. According to Richard Bolton's 1638 manual *A justice of the peace for Ireland*, a private man, present before an affray, may 'stay the Affrayors, and to part them, and to put them in sunder, but may not hurt them, if they resist him, for that he is but a private man'. The justice of the peace or constable 'in such cases is armed with a more large authoritie' and 'If the Affrayors will not depart, but shall draw weapon, or give any blow, the Constable may command assistance of others for the pacifying of the Affray,

---

<sup>21</sup> Ibid., p. 86.

<sup>22</sup> CSPI 1606-08, pp 14-16.

<sup>23</sup> Rapple, *Martial power and Elizabethan political culture*, pp 184, 241

<sup>24</sup> Erck, *A repertory*, pt. 1, pp. 126, 192, 255, 261, 262, 277, pt. 2, p. 380.

<sup>25</sup> Chichester to Sir Niall Garbh O'Donnell, [1608], CSPI 1606-08, pp 513-14.

<sup>26</sup> Ibid.



and may justifie the hurting of them, if they make resistance'. The constable faced restrictions in their power to arrest suspects and in certain circumstances had to put them in stocks until the justice of the peace arrived to arrest them.<sup>27</sup> These directions outlined the process of prosecuting suspects within the common law, with parish constables, justices of the peace and town mayors all excluded from martial law commissions in Ireland.

Bolton's set guidelines advocated a strict non-violent procedure to follow in the apprehension of malefactors, a process that those charged with keeping the peace in the early years of James's reign are unlikely to have pursued. A number of patents issuing martial law powers directed officers to 'prosecute and suppress any those Rebell & rebelles with fyer, and sword'. Armed with such powers the commissioner could levy the king's subjects and use 'the kinges Maiestes Ordynance and greate Artyllery' to 'batter ruine and overthrowe...any Castle fforte Pyle or howse' held against them.<sup>28</sup> The placement of this direction within patents is unnecessary, as all commissioners of the peace were expected to use all force necessary in the suppression of rebels.<sup>29</sup> The prevalence of low-level violence in Ireland required the employment of legal measures more akin to war circumstances, with officers, and gentry alike, expected to use any means at their disposal in suppressing rebellious action. The distinction in powers related to procedure *after* the apprehension of malefactors, as only those with martial law commissions had licence to try them outside of the civil law courts. The use of the term 'fire and sword' in Ireland is distinct to its formal use in Scotland, where 'commissions of fire and sword' were issued to clan chiefs ordering the suppression of neighbouring clans, legitimating state-sponsored feuding in an attempt to end local conflict.<sup>30</sup>

Those granted martial law commissions fell into a hierarchy, with the lord deputy, the two lords president, the marshal of the army, at least three provincial provost marshals, seneschals, governors and constables of forts receiving summary powers. The operation

---

<sup>27</sup> Richard Bolton, *A iustice of peace for Ireland* (Dublin, 1638), p. 20.

<sup>28</sup> *Council book of Munster*, p. 181.

<sup>29</sup> *Ibid.*, pp 181, 319, 372; note the above case of Sir Garrett Moore who could not execute by martial law but could punish them with loss of life if they resisted through an armed struggle.

<sup>30</sup> Allan I. Macinnes, 'Slaughter under trust: clan massacres and British state formation' in Mark Levein and Penny Roberts (eds) *The massacre in history* (Oxford and New York, 1999), pp 127-9. Thank to Scott Spurlock for alerting me to this reference.

of martial law fell principally to provost marshals, with one in each province, the earl marshal in Leinster, a provost marshal in Ulster and two operating under the lord presidents in Munster and Connacht. The number of provost marshals fluctuated greatly in the period, augmenting the provision of one per province, reflecting the necessity of their use and political expediency.

Ostensibly operating strictly within their geographic limits, in practice provost marshals acted as necessity arose, with their ability to mobilise quickly central to their continued employment in maintaining peace.<sup>31</sup> In early 1627 Sir Charles Coote, professedly employed as deputy president of Connacht, suppressed violent action in King's County, Queen's County, Cavan, Monaghan and Longford.<sup>32</sup> Similarly, Sir William Windsor, a crown officer in Londonderry and Tyrone, put down revolt in Antrim, Down and Armagh.<sup>33</sup> With provost marshals commanding a troop of horse, the need to execute rebels with summary execution enabled them to keep pace with small groups of rebels who would otherwise disappear into their places of strength such as woods, fastnesses and bogs. Originating in the disciplining of the military on the field, martial law developed out of necessity and in order to speed up legal process, to act swiftly or in straitened circumstances, where, in Sir Thomas Smith words, 'neither the time nor place suffer the tarriance of pleading'.<sup>34</sup> In Ireland, provost marshals and those holding commissions used martial law to expedite legal process against malcontents, acting with little restraint.

Martial commissioners were restrained in one respect, in that their patents outlawed prosecuting those who held property. The proscription outlined in the 1556 proclamation that the 'auctorytie shall not extende to any gentelman or freholder that may dispende xx. s[hillings] lande by the yeare' remained in the seventeenth century, preventing martial commissioners from executing propertied men.<sup>35</sup> The value of the land and goods of suspects varied slightly with some recording the property qualification to be £5 of freehold and goods to the value of £10 or £5 of freehold and

---

<sup>31</sup> In Apr. 1618, St John reported to the English privy council that he employed itinerant provosts marshal to quell an upsurge in lawlessness, St John to English privy council, 18 April 1615, *CSPI 1615-25*, p. 38.

<sup>32</sup> Falkland to English privy council, 22 Mar. 1627, *CSPI 1625-32*, p. 220.

<sup>33</sup> Lord deputy Falkland and Council to English privy council, 3 July 1627, *ibid.*, p. 248.

<sup>34</sup> Capua, 'The early history of martial law in England', p. 153.

<sup>35</sup> *Acts of the Privy Council in Ireland, 1556-1571*, p. 21.



goods to the value of £40.<sup>36</sup> The most frequently cited amount defined the qualification to be 40 shillings of freehold and goods to the value of £10 – with this last value accepted by historians.<sup>37</sup> Holding land worth 40 shillings a year marked a man out, as this threshold also granted him the right to vote in county elections and sit on juries – separating him from the rest of the ‘multitude’.

In 1603, following the revolt in Cork, Lord Deputy Mountjoy held a sessions to punish those involved, executing a ‘Captine Murrey’ and two others, while the recorder of the town, William Meade, ‘was reserved to be tried by arainement and an orderlie proceeding by lawe in a courte of sessions for that he was a gentleman of lands’ (chapter one).<sup>38</sup> Chichester and the Irish council echoed this in 1613, writing that ‘it is to be understood that a provost marshal cannot execute by martial law any offender who is worth 10 pounds in goods or has 40 shillings in freehold’.<sup>39</sup> This proscription was retained even in the difficult circumstances of the 1641 rebellion, where the lord president of Munster, Sir William St Leger refrained from executing those who held land. He later wrote that ‘albeit I make no difficulty to hang the common sort by common law, yet freeholders I am told by those that better understand the lawes would thereby save their landes’. The government in Dublin admitted to the killing of ‘some notable offenders’ in suppression the rebellion, though in the main resolved to ‘forbear it towards men of any estate’.<sup>40</sup>

The decision to bring propertied men to trial rather than execute summarily lay in the desire to secure good title to land. Through arrest, arraignment and trial before the common law courts, any future royal grantee to the lands of rebels would gain secure title. Trial and execution by martial law left no written court record that the grantee could use as security against any rival claimant or descendants of the convicted party.<sup>41</sup>

---

<sup>36</sup> *Council book of Munster*, pp 181, 319, 372.

<sup>37</sup> *Ibid*, p. 247, *CSPI 1611-14*, p. 415; Rapple, *Martial Power and Elizabethan political culture*, p. 240.

<sup>38</sup> William Farmer, ‘William Farmer’s Chronicles of Ireland from 1594 to 1613’, ed. C. Litton Falkiner, *The English Historical Review*, 22, no. 87 (July 1907), p. 533.

<sup>39</sup> *CSPI 1611-14*, p. 415.

<sup>40</sup> As quoted in Robert Armstrong, *Protestant war: the ‘British’ of Ireland and the wars of the three kingdoms* (Manchester, 2005), pp 21-22.

<sup>41</sup> On the use of martial law on men of property in England see J. V. Capua, ‘The early history of martial law in England from the fourteenth century to the petition of right’ in *Cambridge Law Journal*, 36 (1), April 1977, pp. 156-7.

Those typically executed by martial law were members of the lower sort, variously described as ‘vagrants’, ‘thieves’, ‘woodkerne’, ‘rogues’ and ‘rebels’, with English administrators in Ireland appearing to use the terms almost interchangeably. In January 1603 the lord president of Munster, Sir George Carew, was charged ‘to exercise by Marshall Law in and throughout the whole province of Mounster all Idle men sturdie beggers vagabonds harpers Rymers [and] barders’ who failed to show ‘A Letter or bill under his Lord or masters hand to testifie whose servant he is’.<sup>42</sup> Passports signed by respected men in the community were a requirement, as they allowed provost marshals to separate those in employment from those living off the country. The frequent reports of the scarcity of food and the spreading of plague likely increased the numbers of ‘masterless men’.<sup>43</sup> Paths and roads were further populated with rambling soldiers, who, in April 1604, were commanded ‘uppon paine of death’ not lay spoil to the areas around their garrison, with many being found ‘stragling upp and Downe the Contry’ harassing the native population.<sup>44</sup>

Attention from commissioners focused on a wide grouping of vagrants and former soldiers in the service of Gaelic lords, conveniently labelled ‘woodkern’ in state correspondence, who were vilified for their perceived barbarous lifestyle. The image of woodkern drew on a long tradition amongst English in Ireland, who saw the Gaelic Irish as barbarous. Commentators such as Geraldus Cambrensis, John Derricke and Edmund Spenser depicted the Gaelic Irish as backward, with frequent use of animal imagery to describe their primitive, inhumane nature.<sup>45</sup> Official correspondence repeated the same arguments, with the perceived threat of woodkern couched in animalistic terminology. Woodkern secreted in ‘lurking places’,<sup>46</sup> were said to be ‘infesting’<sup>47</sup> the plantations and are frequently included alongside animals in reports, with the planting of Londonderry said to have civilised an area previously ‘occupied by woodkern and wild beasts’.<sup>48</sup> Lord Deputy Oliver St John expressed the difficulty of drawing them from their ‘haunts’ late in the year ‘when the nights grew longer and

---

<sup>42</sup> *Council book of Munster*, p. 306.

<sup>43</sup> *CSPI 1603-06*, pp 183, 208.

<sup>44</sup> *Ibid*, pp 410-411

<sup>45</sup> Richard McCabe, chapter three ‘Salvage nacion’, *Spenser’s monstrous regiment: Elizabethan Ireland and the poetics of difference* (Oxford, 2002).

<sup>46</sup> *CSPI 1603-06*, p. 323.

<sup>47</sup> *CSPI 1615-25*, p. 146.

<sup>48</sup> *CSPI 1633-47*, p. 195.



winter came on'.<sup>49</sup> Correspondence frequently referenced fears of the Irish rising up and against their New English landlords and bringing about the 'cutting of throats'.<sup>50</sup>

A study of the reaction of administrators in England to crowd action of the 'common sort' is key in setting these descriptions in a wider context. The 'common sort' were viewed as 'that unruly animal' who threatened to upset the order of things when gathered in a multitude. Animal imagery featured, with the rebels in Kett's rebellion of 1549 termed 'brute beastes' or 'wild beasts', while in 1537 in Norfolk rebels were 'hunted like dogs'. Collective action of this sort could threaten the normal order and authorities feared that the 'vulgar' sort would rise up at any moment and bring about the 'cutting of throats'.<sup>51</sup> A. L. Beier's study of masterless men showed that authorities in England viewed vagrancy in the same light as those in Ireland, with provost marshals holding martial law powers in the service of their duty.<sup>52</sup> A 1616 proclamation ordered the appointment of provost marshals around London to round up masterless men and execute any who resisted upon the gallows.<sup>53</sup> Administrators in both kingdoms feared the footloose masses, viewing their idleness as essentially unresponsive to reform.<sup>54</sup> Other threatened uses of martial law in England appeared in 1604 with James's order to use martial law against those found poaching in the royal forests and in 1607 with rioters targeted.<sup>55</sup> Although powers in both territories remained the same, the practice did not. Authorities in England were slow to carry out such threats, however, and martial law was rarely, if ever, carried out on citizens under James. The importance of these extensions, for English legists, lay in the precedent it set.

---

<sup>49</sup> *CSPI 1615-25*, p. 262.

<sup>50</sup> *CSPI 1603-06*, p. 473; *CSPI 1606-08*, p. 528; *CSPI 1608-10*, p. 526; *CSPI 1611-14*, pp 229, 313, 355; *1625-32*, pp 295, 688.

<sup>51</sup> Andy Wood, *Riot, rebellion and popular politics in early modern England* (Basingstoke, 2002), pp 53, 65, 70, 122, 127, 182.

<sup>52</sup> A. L. Beier, *Masterless men: the vagrancy problem in England 1560-1640* (London, 1985, reprinted 1987), p. 152.

<sup>53</sup> *Ibid.*

<sup>54</sup> In 1619, St John wrote that Ireland had never been free of idle people and viewed this as unlikely to change, as when one was cut off, another rose in their stead, St John to English privy council, 29 Sept. 1619, *CSPI 1615-25*, p. 262.

<sup>55</sup> Boynton, 'Martial law and the petition of right', p. 280; Stephen J. Stearns, 'Military Disorder and Martial Law in Early Stuart England' in Buchanan Sharp and Mark Charles Fissel (eds), *Law and authority in early modern England: essays presented to Thomas Garden Barnes* (Newark, 2007), p. 170, fn. 75. It is interesting to note here the strictness with which James treated poaching, treating it as severe enough to warrant summary execution. Martial law represented an extraordinary measure, to be used under exceptional circumstances, though the powers expanded according to royal prerogative. In this manner, Mary extended its use to include seditious books, viewing religious disaffection as a rebellious action. James's known love of hunting clearly motivated him to extend the extraordinary punishment to this arena.

In Ireland, however, governors made use of this precedent, using the discretion placed in them to execute summarily rebels and vagrants. The treaty of Mellifont ended the war between Tyrone and the crown forces, yet it failed to eradicate low-level violence across the kingdom. The weakness of Gaelic lordships and the disbanding of their military forces left many former swordmen bereft of employment, leaving groups of lightly armed men loose on the country, with no legal means of supporting themselves. The crippling economic state of the country further exacerbated the problem, as poverty forced many to put themselves on the population, through vagrancy or banditry.<sup>56</sup> Latterly, recusancy fines and outlawries for non-payment were blamed for forcing some to abandon their small holdings and take to the woods.<sup>57</sup> The administration lacked the means to resolve the problem, though they attempted to do so through schemes to forcibly remove swordmen and place them in Swedish or Polish service or by putting people to work.<sup>58</sup> The watchword here was 'idleness', seen as the vice of Ireland – Richard Boyle, earl of Cork, termed it as 'the very nationall disease of this Island' – that led to widespread lawlessness and robbery.<sup>59</sup>

Large-scale plans such as transportation of swordmen or public work schemes failed to reconcile the problem, with the administration quick to rely on the use of martial and common law to clear the country of such malcontents.<sup>60</sup> Frequent references to the use of both summary execution by provost marshals and the employment of commissions of 'oyer and terminer' in the execution of rebels and vagrants can be found in state

<sup>56</sup> CSPI 1603-06, pp 111, 178, 181, 469-70, 563, CSPI 1608-10, p. 474; CSPI 1625-32, p. 517.

<sup>57</sup> Report of the 1621 commissioners to King James, [12 June] 1621, CSPI 1615-25, p. 329; 1622 Commission, p. 16, see chapter three.

<sup>58</sup> On plans to put 'idle' to work or to send to serve abroad, see CSPI 1603-06, pp 176-7, 239, 298, 417, 481; CSPI 1608-10, pp 143, 178, 238, 263-4, 271, 281, 287, 290, 304, 416, 458, 496; CSPI 1611-14, pp 479-80; CSPI 1615-25, pp 262-3; CSPI 1625-32, pp 222, 558, 590, 611, 615.

<sup>59</sup> Earl of Cork to Lord Dorchester, 18 May 1631, TNA (UK) SP 63/252/58 (CSPI 1625-32, p. 611); in October 1618, Donogh O'Brien, fourth earl of Thomond, wrote that idleness was the true ground of all mischief and disorders in the country, advising that recusancy fines be directed to build houses of correction and stocks to put people to work, Thomond to English privy council, 28 October 1618, *Cal. Carew, 1600-24*, p. 377; Sir Thomas More's *Utopia* similarly found that economic problems bred crime, Beier, *Masterless men*, p. 149; Richard Hadsor termed 'idleness and sluggishness' the 'root of all vice and mischief', [Richard Hadsor], *Advertisements for Ireland being a description of the state of Ireland in the reign of James I contained in a manuscript in the library of Trinity College Dublin*, ed. George O'Brien (Dublin, 1923), p. 32.

<sup>60</sup> The earl of Cork established two houses of correction on his lands, earl of Cork to Lord Dorchester, 18 May 1631, CSPI 1625-32, p. 611.



correspondence. Provost marshals continued to be employed in this capacity with regularity until 1606, with commissions dropping off after that period.<sup>61</sup>

Executions by martial law fluctuated greatly at this time, with spikes during periods of social unrest. The early years, as related above, featured the widespread use of martial law, with another dramatic increase during O'Doherty's revolt and its aftermath in 1608. The late 1610s and late 1620s similarly witnessed a notable increase in executions by martial and common law. In 1614, the king granted Chichester the right to create as many provost marshals as he saw fit in order to disarm 'idle and suspicious' people in the kingdom.<sup>62</sup> The following March, Chichester wrote of the rapid proliferation of 'cruell murthers, Robberies and outrages' in the past six months. He wrote that he did his 'best to discover their plotts, and to frustrate them, but without more heelp I shalbe soone wearied in a tempest', declaring the need to use force, 'when commands, lawe, and proclamtations are of no use without the sword to make them obeyed'.<sup>63</sup> The following years saw an increase in provost marshals, an escalation of violence and reports of mass executions, by martial and common law. Reports state numbers killed; in 1617 Revelyn McConor O'Neale was killed, along with forty of his men; in January 1619 Sir Henry Bealing received pay through concordatum for 'bringing to execution upwards of fourscore rebels'; in June 1619 Lord Deputy Oliver St John reported the killing of twenty men in Tyrone, 'slain or executed by martial law'.<sup>64</sup> By September, St John reported that three hundred people had been killed in three years, by various legal mechanisms, as the administration failed to differentiate between those killed in action, by martial law or by common law trials by jury.<sup>65</sup>

One group seemingly omitted from prosecution by martial law were those originally intended to fall under its remit – crown soldiers. Though found to be 'stragling upp and Downe the Contry' in the early Jacobean years, there are no recorded cases of soldiers executed by martial law, despite considerable evidence of their misbehaviour. The build up of troops from the end of James's reign witnessed outrages by soldiers, as tensions rose between civilian communities and an under-funded army. Lack of treasure from

---

<sup>61</sup> David Edwards argues that this came as a direct result of the trial of Downing, see Edwards, 'Two fools and a martial law commissioner', pp 259-60.

<sup>62</sup> King James to Chichester, 5 June 1614, TNA (UK) SP 63/232/7 (*CSPI 1611-14*, p. 482).

<sup>63</sup> Chichester to Sir Ralph Winwood, 18 Mar. 1615, TNA (UK) SP 63/233/10 (*CSPI 1615-25*, p. 20).

<sup>64</sup> *CSPI 1615-25*, pp 146, 246, 250.

<sup>65</sup> St John to English privy council, 29 Sept. 1619, *CSPI 1615-25*, p. 262.

London meant that the government was forced to break composition agreements with provinces that previously exempted them from billeting. The double charge on towns and the countryside caused strife between soldier and civilian, leading to outbreaks of violence. By January 1626 Lord Deputy Falkland warned the English privy council of a possible 'civil war' if the troops were not paid.<sup>66</sup> Around the country troops and civilians clashed, various companies of troops mutinied and towns refused to pay for the soldiers placed upon them. The army were later termed nothing 'but an eating army' as the majority of troops saw no action, remaining in Ireland to defend against a possible Spanish landing or awaiting shipping abroad in a future campaign against Spain.<sup>67</sup>

As related in chapter two, in April 1626 troops and citizens in Cork clashed over the building of a fort and over billeting on the city.<sup>68</sup> In September, the governor of Galway Fort, and former mayor, Sir Thomas Rotherham, asked for permission to use martial law on soldiers as they were pillaging the local area of cattle and poultry, attacking any that offered resistance.<sup>69</sup> By 17 October soldiers housed in Cork threatened to mutiny after an assault on the mayor of the city. The city in turn threatened to eject the soldiers, complaining that the town were £1,000 Irish harps in arrears and that the burden of billeting fell unevenly on them. The commissioner for the government of Munster, and provincial provost marshal, Sir Richard Aldworth, wrote that he found the ringleader and examined him with the intention of punishing him.<sup>70</sup> Upon confiscation of his arms, the ringleader pleaded with Aldworth, who responded by freeing the man. Aldworth forgave the rebellious action of the soldiers, citing their poor provision, writing that if he executed in this instance then a precedent would be set and 'very many must be hanged'.<sup>71</sup>

---

<sup>66</sup> Ibid, p. 86.

<sup>67</sup> Earl of Cork to Dorchester, 3 Feb. 1630, TNA (UK) SP 63/250/23 (*CSPI 1625-32*, p. 513).

<sup>68</sup> Ibid, pp 113-5.

<sup>69</sup> Ibid, p. 155.

<sup>70</sup> Margaret P. Curtis, 'Provincial government and administration in Jacobean Munster', i, (Ph. D. thesis, UCC, 2006), p. 117; *CSPI 1625-32*, p. 169.

<sup>71</sup> Abstract of a letter from Sir Richard Aldworth to Falkland, 17 Oct. 1626, TNA (UK) SP 63/243/483a (*CSPI 1625-32*, p. 169).



In a 2 June 1625 proclamation calling for order in the army, twenty-two of forty-six named offences specifically pressed for those found guilty to suffer 'on pain of death'.<sup>72</sup> The leniency offered to the soldiers in Cork followed English practice, where it was viewed as tyrannical to execute a man by martial law where pay or provisions were not forthcoming.<sup>73</sup> Proclamations of martial law and, more vividly, the erection of gallows in the centre of a town, acted as a threat to errant soldiers, yet ultimately military officers acknowledged the helplessness of soldiers left unpaid or refused hospitality.<sup>74</sup> In his analysis of martial law in the 1620s, Lindsay Boynton found only 'a handful' of recorded cases of soldiers being executed, though the parliamentarians Sir Edward Coke and Sir John Eliot spoke of many executions.<sup>75</sup> In the main, English officials pressed for permission to use martial law, proclaimed their intention to use it, yet tried to avoid carrying through on these threats except in extenuating circumstances. The reluctance to execute soldiers in Ireland showed uncharacteristic restraint, as martial commissioners displayed little compunction in hanging vagrants or woodkern, candidly stating the numbers killed in correspondence or in bills drawn up for their pay.

There could be a number of reasons for the absence of recorded cases of soldiers executed. It is possible that some were executed but that no written record survives or had ever been made up of it, as martial law trials were conducted without clerks. It is also plausible that military commanders may have executed soldiers but failed to report them, as it implied a lack of control in their companies. Lastly, as the Irish council was made up of a majority of military men – in 1631 James Ussher, archbishop of Armagh, complained of the 'multitude of swordmen' on the council – it is possible they failed to use summary measures out of compassion for soldiers.<sup>76</sup> In England, pressure to punish soldiers came largely from civilians, who protested against their behaviour through their local government or through gentry patrons.<sup>77</sup> In Ireland, municipal governments and the lords and gentry had less traction with the Dublin administration, who may have ignored pleas from civilian authorities to restrain the exactions of errant troops.

---

<sup>72</sup> A proclamation containing the laws and orders of war, for the good conduct of the service of Ireland, 2 Jun. 1625, *The council book of Youghal*, pp 109-14.

<sup>73</sup> Stearns, 'Military Disorder and Martial Law in Early Stuart England', p. 114.

<sup>74</sup> *Ibid.*, p. 119; Boynton, 'Martial law and the petition of right', p. 259.

<sup>75</sup> Boynton, 'Martial law and the petition of right', p. 277.

<sup>76</sup> James Ussher, archbishop of Armagh to William Laud, bishop of London, 8 Nov. 1631, TNA (UK) SP 63/252/133 (*CSPI 1625-32*, p. 633).

<sup>77</sup> Christianson, 'Arguments on billeting and martial law in the parliament of 1628', p. 556.

Administrators recognised the opportunity for abuse of martial law, particularly in the hands of provost marshals, yet continued to sanction their use. In recalling a number of martial commissions in February 1605 Chichester acknowledged that they were liable to corruption, noting that some 'have rather abused the same, to the advancement of their private ends'.<sup>78</sup> For Irish Catholics, the office of provost marshal represented another facet of a state administration that monopolised civil and military power in the hands of English Protestants, with central authority increasingly percolating from the lord deputy down to Protestant place-holders, by-passing the traditional Irish Catholic elite.<sup>79</sup> The proscription against using martial law against men of property was clearly understood at this time, yet the reluctance of lords deputy to severely punish those who contravened it demonstrated complicity at the top of government. In two articles, David Edwards showed the protection offered to two errant provost marshals by the administration. In April 1606, Captain John Downing killed two 'idiot fools', one a retainer of the earl of Thomond, and faced trial at the assize courts. The president of Munster, Sir Henry Brouncker, manipulated the court process and secured the release of his subordinate officer, though Downing subsequently lost his pension and position in local government.<sup>80</sup> Another provost marshal, Captain Edmund Ellis, in May 1606, raped an eleven year-old girl on lands of Rory O'Donnell, first earl of Tirconnell.<sup>81</sup> Tirconnell pursued Ellis by common law, securing a guilty verdict for him at the Donegal county court and receiving an assurance from Lord Deputy Chichester that he would not be pardoned. Chichester reneged on this promise, pardoning Ellis and retaining him in service in Donegal.<sup>82</sup> Eleven years later, Ellis received a second pardon, though the details of the case remain obscure. Lord Deputy Oliver St John granted his pardon, though acknowledged that 'in strictness of law he may be questioned for the execution of offenders by martial law', a clear demonstration that authorities granted considerable latitude in cases involving English officers and

---

<sup>78</sup> Revocation of martial law commissions, 20 Feb. 1605, *Council book of Munster*, p. 419; Revocation of martial law commissions, 20 Feb. 1605, TNA (UK) SP 63/217/7 (CSPI 1603-06, p. 259).

<sup>79</sup> Although the Gaelic Irish Protestant, Donogh O'Brien, fourth earl of Thomond, held a commission throughout the period and rose to the position of lord president of Munster in 1615, Edwards, 'Two fools and a martial law commissioner', p. 248.

<sup>80</sup> *Ibid.*, pp 237-62.

<sup>81</sup> David Edwards, 'The plight of the earls: Tyrone and Tyrconnell's 'Grievances' and crown coercion in Ulster, 1603-7' in Thomas O'Connor and Mary Ann Lyons (eds) *The Ulster earls and baroque Europe: refashioning Irish identities, 1600-1800* (Dublin, 2010), pp 53-76.

<sup>82</sup> *Ibid.*



soldiers.<sup>83</sup> Edwards viewed the protection of provost marshals as part of a sinister state policy, arguing that the execution of Gaelic Irish entertainers, by 'ethnocentric laws', embodied 'English cultural imperialism in Ireland'.<sup>84</sup>

The only person successfully indicted for their illegal use of their martial law commissions was Hugh O'Neill, second earl of Tyrone. Indictment proceedings for treason brought against him in December 1607 focused on two main points – that he had assumed the outlawed title of 'O'Neill' and that he had killed or ordered to be killed, nineteen people 'of that valew as his aurtority to execute Marshall law did not extend'.<sup>85</sup> The earl had been issued with a martial commission just five months after his submission at Mellifont, using it in 1605 and 1606 against local enemies that had previously sided against him during the war.<sup>86</sup> Though keen to drum up charges against the earl that would bring a conviction, these charges show that in an extreme case the breaching of the property qualification was deemed treasonous.

Reliance on the extralegal operation of martial law brought criticism, as those with commissions could act with relative impunity. In August 1613 Pale petitioners complained of the use of martial law during peace. They criticised the 'intollerable chardge and trouble of the subiecte' caused by those with martial powers, questioning their employment during peace when 'every offendor should be tryed by the lawes of the Realme, wherby Justice may have his due course'. Furthermore, they protested against the power granted to 'private men', 'whoe upon malice or corruption may take awaye a mans life without tryall'.<sup>87</sup> Chichester defended his use of provost marshals, arguing that summary execution was a necessary function of their commissions. He wrote that in the past six years provost marshals had only executed three offenders, excepting pirates, within Leinster. Chichester's reaction to this passivity was to reprove his officers, 'knowing that it proceeds from their negligence in not executing their offices according to the trust reposed in them, not from the reformation of the idle

---

<sup>83</sup> St John to Sir John Davies, *HMC Report on the manuscripts of the late Reginald Rawdon Hastings*, Esq. vol. IV, ed. Francis Bickley (London, 1947), p. 48.

<sup>84</sup> Edwards, 'Two fools and a martial law commissioner', p. 246; Raymond Gillespie, *Conspiracy: Ulster plots and plotters in 1615*, (Belfast, 1987), pp 19-20.

<sup>85</sup> Sir John Davies to Salisbury, 6 Jan. 1608, TNA (UK) SP 63/223/2 (CSPI 1606-08, pp. 343, 391-2).

<sup>86</sup> Erck, *A repertory*, pt 1, p. 26; Edwards, 'The plight of the earls', p. 70.

<sup>87</sup> Answer of Chichester to a petition of Pale gents, [August 1613], TNA (UK) SP 63/232/16 (CSPI 1611-14, p. 415).

Rogues, Rhymers, and wanderers, (which are indeed the oppressors of the people, and not the Soldier) but of those they complain not, for that they doe but after the Custom of the Country'.<sup>88</sup> For Chichester, martial law served as a weapon to combat a group within Irish society that he felt could not be reformed. The low number of those executed signified neglect on the part of the provost martial, not success at controlling lawlessness or combating vagrancy.

Chichester further criticised the Pale petition, writing that it was 'needles[s]', as the property qualification exempted Pale gentlemen from the sharp end of this law.<sup>89</sup> For Chichester, the Pale gentlemen ought not to meddle in this area, as it did not concern them as their status as property owners exempted them from punishment. The English historian, J.V. Capua argued that martial law continued as a function of law enforcement partly because its summary measures targeted the lower sort.<sup>90</sup> Those affected by it held little status in society and common lawyers saw no incentive to question the crown's use of its prerogative powers on the subject.<sup>91</sup> The fear of the lower orders rising up likely fed into this, as the better sort in society lived in fear that the unruly 'multitude' could violently challenge their social betters.

In October 1620, Redmond Barry of Lisnagriffin, County Cork, petitioned the English privy council about the oppressions of sheriffs and provost marshals in Connacht and Munster. Barry's criticism repeated the arguments of the Pale petitioners in 1613, a demonstration that Chichester failed to act on the oppression of minor officers. Barry condemned the actions of the followers and servants of provost marshals, who put themselves at the charge of the country 'upon any pretence of service'. Barry petitioned that they 'maye not be suffered to take meate & money extorciously of his Maty subjects' in this manner.<sup>92</sup> The English privy council referred the petition to five Irish judges, whose report failed to provide a defence of the minor officials. The judges wrote that their 'experience of the demeanours of those officers in that Contrye doth cause us to thinke yt is necessary to afford the poore people reliefe'. On their circuits over the years, they heard many complaints concerning the followers of provost

---

<sup>88</sup> Ibid.

<sup>89</sup> Ibid.

<sup>90</sup> Capua, 'The early history of martial law in England', p. 169.

<sup>91</sup> Ibid.

<sup>92</sup> Petition of Redmond Barry to English privy council, Oct. 1620, TNA (UK) SP 63.235/33 (*CSPI 1615-25*, p. 301).



marshals, indicting some of them for their 'oppressions'.<sup>93</sup> Their report stood in stark contrast to Chichester's, as they pointedly provided the 'poore people reliefe', where Chichester saw the Pale petitioners' complaint as 'needles[s]'.

The actions of provost marshals did not escape the attention of the 1622 commissioners either, who recorded breaches of conduct, giving details where state correspondence remains relatively silent. One report found that the 'provost marshal with their companies do eftsoons extremely charge the country by cess and booking of all the poor people without necessity but falls out to be chargeable and hurtful to the commonwealth'. Sir Nathaniel Rich's journal notes taken while working on the 1622 commission recorded further complaints, more akin to the kinds of exactions expected of provost marshals in the sixteenth century. He reported that:

'Sir William Jones says that the provost marshal will protect a man and then carry him up and down with him and tell him he will hang him at the next tree if he will not accuse such or such a party. For instance given by my lord of Westmeath, that a protected man accused an honest man that had sixty cows. This man was condemned and executed, his goods forfeit, and then the accuser immediately went out into rebellion.'<sup>94</sup>

The 1622 commissioners discovered another serious discrepancy in the legal process of martial law in Ireland, a breach that overstepped the complicity reported in the cases of Captain John Downing and Moses Hill for transgressing the property qualification. Upon perusal of the letter of instruction to the earl of Thomond, the commissioners noted the exceptional powers granted to lords president.<sup>95</sup> The commissioners believed that 'the liberty given unto the president for executing the martial law to be somewhat too large', citing instruction thirteen in Thomond's patent.<sup>96</sup> Instruction thirteen outlined the proscription against using martial law on propertied men, as discussed above. The directions ordered that, under exceptional circumstances, concerning the 'preservacion of the peace and of his Maiestes goode subiectes, the said Lord President may execut the Marshall law upon any person or persons though of greater value of

---

<sup>93</sup> Report of the judges, Sir Henry Winch, Sir John Denham, Sir James Ley, Sir John Davies and Sir William Jones to English privy council, 14 Nov. 1620, TNA (UK) SP 63/235/35a (*CSPI 1615-25*, p. 301).

<sup>94</sup> *1622 Commission*, pp 100-1, 166-7.

<sup>95</sup> *Ibid.*, proceedings of 21 May 1622, p. 96.

<sup>96</sup> *Ibid.*, their citation of article 13 indicates that they viewed Thomond's patent, not previous ones.

landes or goodes then is above expressed'.<sup>97</sup> Two of his three predecessors in office, Sir George Carew (1600) and Lord Danvers (1609) received the same exemption, as detailed in their instructions for office.<sup>98</sup> On 2 March 1627 Sir William St Leger became president of Munster, being granted 'all authorities, privileges, immunities, jurisdictions, pre-eminences, and precedence thereunto in anywise appertaining, in as large, ample and beneficial manner' as his predecessors.<sup>99</sup> In granting the same powers as his predecessors, Sir William St Leger ought to have had power to execute any person, under exceptional circumstances, irrespective of their property holding. As noted above, however, St Leger forbore from using martial law on men of property in 1641, as he wrote that 'those that better understand the lawes' directed that it ought not be used thus. St Leger's restraint here is atypical for the period, as martial commissioners acted with relative impunity, safe in the knowledge that the lord deputy could pardon them for transgressions.

Complaints arose again upon a fresh outbreak of violence in the Ulster counties of Antrim, Down, Armagh, Cavan and Monaghan, the midland counties of Longford, King's County, Queen's County and Wicklow in early 1627. To quell this violence Lord Deputy Falkland felt compelled to send provost marshals and soldiers into action.<sup>100</sup> As previously, provost marshals used a mixture of killing rebels in the field and executions by martial and common law.<sup>101</sup> In his correspondence, Falkland expressed his view that the severity of the outbreaks led him to think that there was 'noe likelyhoode of the ordinary power to prevaile', necessitating the use of martial law. Accordingly, he sent Sir Charles Coote to the midlands, granting him 'a large Marshall Commission, and extraordinary trust'. When time came to put down an outbreak in Down and Antrim, Falkland sent Sir William Windsor with a 'large authoritie' in the prosecution of rebels.<sup>102</sup> In placing trust in martial commissioners, Falkland wrote that he found 'by experience the Comon lawe deluded by the subtiltie of this people, whoe

<sup>97</sup> 'Instructions for the lord president of Mounster [Donogh O'Brien, fourth earl of Thomond]', 20 May 1615, *Council book of Munster*, p. 247

<sup>98</sup> *Ibid.*, pp 319, 372, Sir Henry Brouncker (1604) and Sir Edward Villiers's (1625) instructions are absent from the council book; King James to Falkland, 2 Mar. 1627, *CSPI 1625-32*, p. 212.

<sup>99</sup> King James to Falkland and Chancellor, 2 Mar. 1627, *Calendar of the patent and close rolls of chancery in Ireland, of the reign of Charles the first, first to eighth year, inclusive* (Dublin, 1863), ed. James Morrin, pp 196-7.

<sup>100</sup> *CSPI 1625-32*, pp 217-18, 220, 243, 248, 296, 298.

<sup>101</sup> *CSPI 1625-32*, pp 248, 243, 296.

<sup>102</sup> Falkland and council to English privy council, 22 Mar. 1627, TNA (UK) SP 63/244/618 (*CSPI 1625-32*, p. 220).



will not finde a bill of Indictment be the evidence never soe pregnant, nor fearing the penaltie of the Starr Chamber', where recalcitrant juries had to answer for their misdemeanours.<sup>103</sup>

Falkland's language in this letter displayed an awareness of the extraordinary nature of employing martial law, seeking assurance from London of the rectitude of his actions. The use of provost marshals aroused comment, with a Paul O'Neill of Creggan, County Armagh, writing to a priest in Louvain of the oppressions of the soldiers and provost marshals. He complained that they cessed themselves on the country, bringing in 'all the woodekearnes', using their 'false information' to implicate others, and ordering the hanging of 'as many as are accused with marchall lawe'.<sup>104</sup> O'Neill's report affirmed that of the 1622 commissioners cited above, where provost marshals used convicted felons to indict innocent victims.

The actions of the provost marshals in 1627 attracted the attention of more prominent men than Paul O'Neill, however, as martial law formed part of the 'graces' negotiations in London in early 1628. Although absent from petitions and negotiations of the 'graces' until as late as March 1628, provision was made during talks in London to restrain the actions of provost marshals and ban the use of summary execution by martial law.<sup>105</sup> 'Grace' number thirty-three restricted the number of provost marshals to one per province, removed their right to cress on the country and withheld their right to execute summarily, with common law trials to replace previous measures.<sup>106</sup> The final version differed from a petition in May 1628, which called for the appointment of provost marshals only 'in case of real necessity' and restricted the candidature to those 'of good estate and quality who do not oppress the subjects'.<sup>107</sup> Although the delegation

---

<sup>103</sup> Ibid.

<sup>104</sup> Paul O'Neill to Father Robert Chamberlain at Louvain, 21 June 1627, TNA (UK) SP 63/245/3 (*CSPI* 1625-32, p. 243).

<sup>105</sup> Sir John Bath's memorial to [Falkland], undated, *CSPI* 1647-60 & *Addenda* 1616-1660, pp 100-01; Matters of grace and bounty to be rendered to Ireland, 22 Sept. 1626, *CSPI* 1625-32, pp 156-8; Answer of the knights, gentlemen, and burgesses of Ireland to the royal proposal for raising 5,000 foot and 500 horse in Ireland, 19 Apr. 1627, *ibid.*, p. 225; Falkland and council to English privy council, 3 May 1627, *ibid.*, p. 231; diary of the proceedings of the 'great assembly' concerning the maintenance of 5,000 foot and 500 horse 1626-7, 26 June 1627, *ibid.*, pp 244-6; the humble petition of your majesties subjects, appointed agents to prefer certain humble requests and petitions to your highness, in the behalf of your kingdom of Ireland, 20 Mar. 1628, ed. J. Rushworth, *Historical collections of private passages of state, 1618-1648* (6 vols, London, 1682-1701), ii, pp 17-18.

<sup>106</sup> Clarke, 'Appendix II: The Graces', *Old English in Ireland*, p. 249.

<sup>107</sup> Certain humble requests on behalf of the subjects of Ireland, 24 May 1628, *CSPI* 1625-32, p. 335.

failed to oust the current method of choosing provost marshals, they ensured a reduction in their number and secured the removal of summary executions during peace.

The English parliament extracted from the king a similar concession, outlined in the 'petition of right'. The commons debated fully the legal status of martial law, finally deciding that it ought to be used only during war. The recent practice of using martial law to regulate the army at home was found to be contrary to statute law, owing its extension to the king's prerogative law. The English parliament of 1628 resisted the expansion of the king's prerogative, fearing the advent of arbitrary rule. The 'petition of right' invoked Magna Carta, guaranteeing the primacy of the 'laws and statutes' of the realm over prerogative justice.<sup>108</sup>

Violent action continued throughout the negotiation of the 'graces' and the 'petition of right', causing confusion for governors as to how they ought to proceed.<sup>109</sup> On 30 June 1628, Falkland wrote of his trouble in suppressing rebellious action, noting that he previously 'kept the Country in peace, by cropping Offendours in the Budd when the meanes were alltogether in [his] owne hands: But now they are tyed, by the late Instrucons which the Agents have brought over'.<sup>110</sup> Four days later he again wrote to Lord Conway, reporting the upsurge in violence in Ulster since the death of Sir William Windsor, some rising, he believed, as 'his absence is taken for an opportunity'. Falkland expressed his frustration with the limits placed on him by the 'grace' prohibiting martial law executions, writing that he had directions to pursue malefactors 'by the course of the Comon Lawe, untill they be growen unto a heade'. Falkland requested clarification on this point, asking 'what Numbers they must amounte unto before they be accompted a heade fytt for the Marshall Comission to be authorized to suppress them'.<sup>111</sup> In a reversal of fortunes, Falkland asked Lord Gormanston, one of the Irish delegates in London, about what constituted a head. Gormanston replied that 100 men upon the field constituted a 'head', and that in this case, the crown could counter this with a force of 200 men.<sup>112</sup> The intricacies of what constituted a 'head' are absent in the text of the 'graces', though it is possible that the Irish delegation

---

<sup>108</sup> 3 Chas I, c. 1 [Eng.] (1627).

<sup>109</sup> *CSPI 1625-32*, pp 328, 352.

<sup>110</sup> Falkland to Lord Conway, 30 June 1628, TNA (UK) SP 63/246/84 (*CSPI 1625-32*, p. 355).

<sup>111</sup> Falkland to Lord Conway, 3 July 1628, TNA (UK) SP 63/247/2 (*CSPI 1625-32*, p. 356).

<sup>112</sup> *Ibid.*



questioned the Dublin government's definition of wartime conditions while in London. Administrators in the period were quick to define low-level lawless behaviour as 'rebellion' or 'open war', conditions that permitted the use of martial law. In holding the administration to a strict definition of 'a head', Pale delegates sought to restrict the government's tendency toward viewing the country as essentially lawless.<sup>113</sup> That Falkland requested martial commissions one month after the passing of the 'graces' signified how central this extraordinary legal measure had become in Ireland.

That summer violent action broke out in Roscommon and Galway, with a particularly audacious assault on five soldiers in Clare, and a plot discovered in Wicklow.<sup>114</sup> Lords and army officials pursued rebels by means of the common law, securing a number of executions, though facing difficulties in the shape of 'faccious Juryes' who 'robbed his Majestie of his Justice'.<sup>115</sup> On 20 July 1626, Falkland received word back from Lord Conway, who consulted the king on the late troubles and the means available to Falkland to suppress them. The king, somewhat ambiguously, declared that the 'graces' in no way 'shorten [his] power' to quell rebellious action or deal with emergencies. Charles saw the limitation of one provost marshal per province to be sufficient, and advisable, for the 'better accompt may be taken of the Justice done in that way of Martiall law, then when the absolute power shall lye in soe manie hands and bee the more subjecte to misgovernment, or abuse'. Charles continued, granting Falkland the authority to appoint soldiers with 'such Comissions and directions' as he saw fit upon the breaking of a rebellion or the appearance of a notorious 'heade' of rebels.<sup>116</sup>

This letter appeared to open the way for the use of martial law again. This uncertainty was cleared up on 18 September, when the king sanctioned its use. Charles supported Falkland's judgement in suppressing rebels, writing that 'the safetie of the State is the supreame lawe' and calling the lord deputy and council to secure the state, 'without thinkinge to cast anie ill events upon the construccon of an Article [of the graces]'.<sup>117</sup> Thereafter calls for the return of provost marshals grew, as their removal was viewed as

---

<sup>113</sup> Surviving common law court records were similarly quick to use such terms, 'Ulster roll of gaol delivery, 1613-1618', *Ulster Journal of Archaeology*, ser. 1, vol. I, pp 260-70 (1853), ser. 1, vol. II (1854), pp 25-8.

<sup>114</sup> *CSPI* 1625-32, pp 371, 376, 381-2.

<sup>115</sup> Dominick Viscount Kilmallock to Falkland, 9 Aug. 1628, TNA (UK) SP 63/247/51 (*ibid.*, p. 376).

<sup>116</sup> Conway to Falkland, 20 Jul. 1626, TNA (UK) SP 63/247/21 (*ibid.*, p. 366).

<sup>117</sup> Conway to Falkland, 18 Sept. 1628, TNA (UK) SP 63/247/87 (*ibid.*, p. 387).

partly at fault for the increase in the ‘insolence’ of rebels and the failure to keep rebels in prison until trial exacerbated the problem.<sup>118</sup> By May 1629, Falkland had issued a new proclamation banishing priests and Jesuits from Ireland and reported that he had returned to his ‘old wayes for reduceing the Country to settled quiett’ – namely summary executions under martial law commissions.<sup>119</sup>

Falkland reported in this letter that he pacified disorders in Tipperary by the ‘severity’ of the judges on circuit, and the appearance of the provost marshal amongst them who ‘is the Minister of the greatest Terror’.<sup>120</sup> In his study of early Jacobean assize circuits, John McCavitt argued that Chichester used the same tactics, sending provost marshals to the same areas as the assize court judges.<sup>121</sup> In prosecuting rebels, provost marshals used a mix of summary execution and trial by common law. In 1619, in reporting the suppression of violence in Ulster and southern Leinster, St John detailed the ‘executions of some of them by provost marshalls’ while others ‘have been sent to the gaoles to receive their tryalls by Lawe’.<sup>122</sup> Provost marshals operated dual functions, as their summary powers granted them authority to execute summarily, though they also apprehended suspects, imprisoned them and held them over until itinerant justices could pass judgement on them. The frequent cooperation of judges and provost marshals is interesting, as the common and martial jurisdictions ought to operate independently, and there is abundant evidence to show the two to be in stark opposition to each other.

The foremost legal official in Ireland during this period, Sir John Davies, proudly exalted on the success of the common law system that he helped to establish fully in Ireland, occasionally coming into conflict with military men who favoured more forceful measures. Davies lauded the ‘conquest’ of Ireland in 1603, writing that henceforth ‘the streams of the public justice were derived into every part of the kingdom, and the benefit and protection of the law of England communicated to all, as well Irish as English, without distinction or respect of persons’.<sup>123</sup> Access became open

---

<sup>118</sup> King James to Chichester, with apostils to questions by Chichester, 11 Mar. 1611, *CSPI 1611-14*, p. 255; *CSPI 1625-32*, pp 431, 436.

<sup>119</sup> Falkland to Dorchester, 2 May 1629, TNA (UK) SP 63/248/71 (*CSPI 1625-32*, p. 450).

<sup>120</sup> *Ibid.*

<sup>121</sup> McCavitt, ““Goodly planets in their several spheares””, p. 255.

<sup>122</sup> St John to English privy council, 29 Sept. 1619, TNA (UK) SP 63/235/40 (*CSPI 1615-25*, p. 262).

<sup>123</sup> Sir John Davies, *A discovery of the true causes why Ireland was never entirely subdued* (1612), ed. J.P. Myers (Washington D.C., 1988), p. 215.



to all to file suits with the central law courts in Dublin, attend bi-annual assize circuits or avail of local presidential or manorial courts, ending official connivance of Brehon law. Evidence from assize court circuits showed that the Irish were keen to bring forward cases, recognising the protection that could be offered by the English legal system, particularly relating to land tenure.<sup>124</sup>

The continued exercising of martial law essentially exposed the impotence of the common law, with correspondence showing that martial men felt more coercive measures were necessary. In 1615, in prosecuting rebels, Chichester wrote that ‘commands, law, and proclamations are of no use without the sword to make them obeyed’, stating outright his preference for forcible means above the regular course of common law.<sup>125</sup> St John continued this forceful policy, overseeing the execution of hundreds of rebels in the late 1610s.<sup>126</sup> As demonstrated above, Falkland similarly favoured a heavy-handed approach, demanding martial law powers in the prosecution of rebels.

In their attitude to the removal of priests and Jesuits, both Chichester and Falkland revealed their essentially military outlook, disregarding the ordinary course of law. In 1608, Chichester wrote ‘that though the comon law doth not warrant the drawinge of the sworde against them [priests and Jesuits] yett is it necessarie to offende or transgresse against the law in sum thinges, if wee will maintaine justice in great matters, or in the wholl’.<sup>127</sup> In a similar vein, Falkland and his council decried the growth of ‘that pretended Religion’ during peace, where the administration, being ‘tied to law’ could not halt it until it had grown unto the ‘present libertie’. Wartime exigencies had prevented the growth of Catholicism previously, as ‘the Militarie partie being for the greatest part Protestants did in free violence make spoile of all Priests’. Falkland and his council pleaded for arms and munition, declaring that they well knew ‘that a sword in hand is an essentiall affront to a purposed attempt’ against the actions of Catholic

---

<sup>124</sup> Mary O’Dowd, ‘Gaelic economy and society’, in Ciarán Brady and Raymond Gillespie (eds), *Natives and newcomers: essays on the making of Irish colonial society, 1534-1641* (Dublin, 1990), p. 142.

<sup>125</sup> *CSPI 1615-25*, p. 20.

<sup>126</sup> *Ibid.*, p. 262.

<sup>127</sup> Chichester to English privy council, 4 May 1608, TNA (UK) SP 63/224/92 (*CSPI 1606-08*, pp 500-01), Chichester returned to the need to use extraordinary means against priests in Chichester to George Montgomery, bishop of Derry and Clogher, 6 Feb. 1609, *CSPI 1608-10*, p. 147, Chichester to Danvers, 8 Aug. 1609, *ibid.*, p. 269 and Chichester to Salisbury, 11 May 1611, *ibid.*, p. 445.

clergy.<sup>128</sup> In Munster, Lord President Brouncker stated that he proclaimed the banishment of priests, with those remaining, and their relievers, subject to prosecution by martial law.<sup>129</sup> A letter to Henry Fitzsimon in May 1607 confirmed the use of martial law on priests, where troopers scoured the roads and private dwellings in search of them, despite it being against the laws of Ireland.<sup>130</sup>

The lords deputy propounded such policies out of a consideration of the ‘the safetie of the State’, which Charles declared to be ‘the supream lawe’.<sup>131</sup> Martial law was an omnipresent feature of the governing of Ireland, its use exceeding its remit as an extraordinary tool of state. In the 1603 revolt the administration relied on martial law to execute three Cork citizens (chapter one); in pressing for the banishment of priests administrators fell back on summary execution due to the unreliability of jury trials (chapter three); and in the aftermath of the 1613 election riot the administration threatened the merchant Nicholas Stevens with its use for attempting to ring the tholsel bell (chapter five). English civil lawyers argued that the ‘law of state’ allowed breaches of the common law under exceptional circumstances.<sup>132</sup> The pervasive nature of violence in Ireland required the administration to take heavy-handed measures on a frequent basis, relying on the ‘law of state’ as a defence of their actions. The common law system, as extolled by judges such as Davies had some crucial deficiencies, namely the difficulty in keeping suspects in prison and in securing their guilty verdicts before ‘factious juries’.<sup>133</sup> The 1607 indictments of the earls of Tyrone and Tirconnell represent a high point for the judicial system, with mixed juries of local Protestants and Catholics finding treason charges against both earls, with Davies exultant in reporting the details of these proceedings.<sup>134</sup> Juxtapose this trial to that of Sir Niall Garbh O’Donnell in 1609 where even the blatant manipulation of the jury could not secure the guilty verdict that the judges desired, with the indictment being withdrawn upon

---

<sup>128</sup> Falkland and council to English privy council, 2 April 1629, TNA (UK) SP 63/248/55 (*CSPI* 1625-32, p. 445).

<sup>129</sup> *Council book of Munster*, pp 427-8.

<sup>130</sup> Letter from Ireland to Henry Fitzsimon, 1 May 1607, *Words of comfort to persecuted Catholics, written in exile, anno 1607...*, ed. Edmund Hogan (Dublin, 1881), pp 64-5.

<sup>131</sup> Parr Lane echoed the same sentiment, writing of the kern, ‘were their no act to bound them in with awe/ yet publicke saftie is the supream lawe’, Alan Ford, ‘Parr Lane, “News from the holy ile”’, *PRIA*, section C, 99 (1999), p. 132.

<sup>132</sup> Christianson, ‘Arguments on billeting and martial law in the parliament of 1628’, p. 554.

<sup>133</sup> *CSPI* 1611-14, pp 254.

<sup>134</sup> *CSPI* 1606-08, pp 389-93.



expectation of an innocent verdict.<sup>135</sup> Davies later wrote that the only way to secure his conviction would be to move his trial to Middlesex in England or to wait until a colony of English and Scottish was established in the area.<sup>136</sup>

The dilemma of recalcitrant juries constantly appeared in the records, causing considerable aggravation for the administration in the prosecution of justice. In 1603, a strong case against the recorder of Cork, William Meade floundered due to his popularity and the refusal of a County Cork jury to convict him (chapter one). In 1610, chief justice Humphrey Winch complained that he found none 'fit to be trusted' as jurors in Monaghan due to the influence of the McMahons.<sup>137</sup> In 1612, in response to a number of attacks on planters in Armagh, Chichester authorised the use of martial law on suspects, as there were reports of offenders escaping prison before their arraignment and trial.<sup>138</sup> The 1622 commissioners similarly remarked that 'the partiality of jurors we find to be a great impediment to the ordinary course of justice, which we conceive to be occasioned chiefly by their obstinancy and inconformity in religion'.<sup>139</sup> As detailed above, Falkland employed the use of provost marshals in 1627 due to the partiality of jurors 'who will not find a bill of indictment be the evidence ever so pregnant'.<sup>140</sup>

Proponents of the common law in Ireland such as Davies and Sir Richard Bolton faced great difficulty in keeping a martially-dominated privy council and lord deputyship to act within accepted boundaries. In the 1606 trial of John Downing, Davies and Thomond pressed hard for a conviction for his execution of two 'idiot fools'. Downing's superior, Sir Henry Brouncker, defended him resolutely and forced the suspension of the trial by walking out before its conclusion.<sup>141</sup> This direct confrontation of the two jurisdictions is rare, as both military men and common lawyers attempted to form a united front in the reformation of the country. Though a succession of lords deputy petitioned for more coercive means to be made available to them, they acknowledged the restrictions of the common law system and, in the main, heeded them. As mentioned above, St Leger refrained from using martial law on freeholders,

---

<sup>135</sup> Ibid, pp 222-225; see also McCavitt, "'Goodly planets in their several spheares'", p. 261.

<sup>136</sup> *CSPI 1608-10*, p. 235.

<sup>137</sup> *CSPI 1608-10*, p. 389.

<sup>138</sup> *CSPI 1611-14*, pp 254-5.

<sup>139</sup> *1622 Commission*, p. 95.

<sup>140</sup> *CSPI 1625-33*, p. 220.

<sup>141</sup> Edwards, 'Two fools and a martial law commissioner', p. 256.

noting the counsel of 'those that better understand the lawes', proof that common law practices were maintained even under considerable strain.

Conflict between the martial and the legal spheres clashed in contemporary political treatises, with the legacy of the 'conquest' of Ireland fought out in print. In his *A discovery of the true causes why Ireland was never entirely subdued* Davies argued that there was 'a perpetual war between the nations [English and Irish], which continued four hundred and odd years, and would have lasted to the world's end had not been broken and conquered by the sword, and since the beginning of His Majesty's reign had not been protected and governed by the law'.<sup>142</sup> While not claiming credit for the conquest, Davies placed great importance in the role of the legists, who were to secure the conquest after the army had completed their part in the war with Tyrone. Fynes Moryson, Mountjoy's former Irish secretary, sought to defend the reputation of the martial forces, with legal officials 'scarce mentioning with honour the sword that made way to them'.<sup>143</sup> Historians continue this debate, as Hans Pawlisch concentrated closely on the part played by Davies in the post-war period, whereas John McCavitt and Joseph McLaughlin stressed the importance of Chichester in shaping the political landscape after Mellifont.<sup>144</sup>

The confrontation between the two sides continued beyond the lord deputyship of Sir Thomas Wentworth and through to the 1640s. It is aptly elucidated by Captain William Tucker, an agent for English adventurers on a short visit to Ireland. In a journal entry for 27 January 1643, he recorded a dispute in the Irish privy council between Lord Chancellor Richard Bolton and General John Lambert over the fate of a prisoner, writing:

'This day, there was also in question a murderer that lay in the gaole. The Lord Lambert sayd he would release him because none appeared to accuse him. To which the Lord Chancellor replied, turne the murderer to the Common Law, and he knew whoe would finde out evidence sufficient. But this was denyed also, saying he

---

<sup>142</sup> Davies, *A discovery of the true causes why Ireland was never entirely subdued*, p. 133.

<sup>143</sup> McCavitt, *Sir Arthur Chichester*, p. 109.

<sup>144</sup> Hans S. Pawlisch, *Sir John Davies and the conquest of Ireland: a study in legal imperialism* (Cambridge, 1985); McCavitt, "'Goodly planets in their several spheres'", pp 248-78; John McCavitt, *Sir Arthur Chichester: lord deputy of Ireland, 1605-16* (Belfast, 1998), p. 88; Joseph M. McLaughlin, 'The making of the Irish leviathan, 1603-1625: statebuilding in Ireland during the reign of James VI and I' (Ph. D. thesis, NUI, Galway, 1999), pp 60-9.



would not deliver him from the power of the Marshall's Courte, and so it appeareth the two swords clash, one against the other. The Marshall power would willingly bring all within their power, which my hopes are they shall not. But this is the misery, the Martialist would fayne have the soveraigne power in all things'.<sup>145</sup>

The abandonment of the 1628 parliament and the failure of the 1634-5 parliament to secure the 'graces' ensured the continued primacy of the 'Martialist' in Ireland. Debate arose again in the 1640-1 parliament, with a determined group of Catholic parliamentarians challenging the right to use martial law during peace. The circumstances surrounding these grievances represented a perfect storm for the Dublin administration, with a resolute parliamentary opposition, a large, underfunded and discontented army and a lord lieutenant under increased scrutiny. While the English parliament in 1628 had passed the 'petition of right' restricting the use of martial law, the 'graces' had failed to receive parliamentary sanction, with a reinvigorated Irish parliament keen to remedy this legal anomaly.

A petition of 19 February 1641 by Viscount Gormanstown and Viscount Sarsfield to King Charles elucidated the growing frustration with the government of Wentworth and his treatment of the Irish.<sup>146</sup> Many of the complaints levelled against Wentworth are applicable to his predecessors. The lords criticised Wentworth's arbitrary rule, encapsulated in his view that as Ireland had been conquered it ought to receive laws as from a conqueror.<sup>147</sup> This conquest theory, based on Roman law and extolled by Davies, justified the removal of Brehon law and its replacement with English common law. Petitioners complained of the subversion of their liberties, noting Wentworth's use of martial jurisdiction on peers in Ireland.<sup>148</sup> Wentworth defended his actions, arguing that Ireland had never been governed by the same laws as England, nor 'ruled by common lawes' as there were 'greate differences between the customes and the Statutes of the severall Kingdomes and in Martiall Lawe and the Lawes of the Councell

---

<sup>145</sup> 'Journal of Captain William Tucker, while in Ireland as Agent for English Adventurers for Irish lands, from 3 November 1642 to 18 February 1642-3' in John T. Gilbert (ed.) *History of the Irish Confederation and the war in Ireland, 1641-1643* (Dublin 1882), vol. II, p. 186.

<sup>146</sup> Viscount Gormanstown and Viscount Sarsfield of Kilmallock to King Charles, 19 Feb. 1641, *CSPI* 1633-47, pp 262-3.

<sup>147</sup> Ibid.

<sup>148</sup> Ibid.

board'.<sup>149</sup> A parliamentary committee further debated the use of martial law on rebels, calling for intervention from the king, resulting in the decision of the lords justice to suspend exercising martial law on troops while parliament sat.<sup>150</sup> In July, Charles granted the right of provost marshals to exercise martial law over the army, though he conceded that he would not allow it to be used against proclaimed rebels, who were to be tried by the ordinary course of law.<sup>151</sup>

On 9 June a combination of the commons and lords of the Irish parliament set out a list of grievances levelled against the Irish administration. The list was put before Irish judges, who were to make legal decisions on each, with one questioning the legality of the use of martial law in peace. The judges' reply found 'no ordinary rule of law by which the subjects of this kingdom are made subject to martial law in time of peace', finding that this originated from royal prerogative powers 'for suppressing of sudden and great indolencies and insurrections, among armies, or multitudes of armed men lawfully or unlawfully convened together'.<sup>152</sup> The answer of the judges in this query showed that martial law held a different legal status in Ireland from 1628, with the Dublin government showing a willingness to use the arbitrary power through prerogative means even after the English parliament had outlawed its use. This showed a divergence from the earlier practice where Irish martial commissioners simply acted on their 'discreatyon' in a different manner to their English counterparts.

The decision of the Irish judges in this matter demonstrated that the laws of Ireland and England were consistent up to 1628, when the English parliament found them to be illegal, whereas the 'graces' failed to become statute law. Studies of English history prove that authorities in England had similar views of the lower sort to administrators in Ireland and possessed the same laws to prosecute them, counter to Edwards's assertion that officials in Ireland used 'ethnocentric' laws in Ireland to attack Gaelic people and Gaelic customs.<sup>153</sup> English authorities could use martial law on vagrants and soldiers,

---

<sup>149</sup> Hugh Kearney, *Strafford in Ireland, 1633-41: a study in absolutism* (Cambridge, second ed., 1989), pp xv-xvi.

<sup>150</sup> *CSPI 1633-47*, pp 270, 294.

<sup>151</sup> *CSPI 1633-47*, pp 279, 319.

<sup>152</sup> 'Patrick Darcy, An Argument' ed. C.E.J. Caldicott in *Camden Miscellany XXXI*, vol. 44 (London, 1992), pp 233, 247, 289-90.

<sup>153</sup> Edwards, 'Two fools and a martial law commissioner', p. 246.



yet opted instead to use the ordinary course of common law.<sup>154</sup> The only exception to the parity of legal sanction in the two jurisdictions were the instructions granted to lords president of Munster. The 1622 commissioners raised their objection to their exemption from the property qualification, deeming it 'somewhat too large'.

The application of martial law, however, differed markedly in the two kingdoms, with officers in Ireland availing of their discretionary power to quell rebellious action. The 'petition of right' concentrated exclusively on the use of martial law on soldiers and 'other dissolute persons joining with them', as its previous application on vagrants had fallen into disuse.<sup>155</sup> Martial commissioners were also selected in a different manner. In England, commissions were granted to prominent nobles or gentlemen as part of their authority as lords lieutenant or deputy lieutenants and, in times of necessity, military commanders or mayors. In Ireland, commissions came almost exclusively to army officers, chosen for their experience in war not for their respect within the community. The Pale petition of 1613 requested that prominent men be chosen who would not abuse their position by placing troops on households. Martial commissions fell predominantly to Protestants, feeding into the administration's policy of monopolising arms in Protestant hands and in excluding Catholics from public office.

The invulnerable position of the military in Ireland, years after the end of war, caused complaint as the administration proved unwilling to prosecute transgressors of their commissions and failed to execute a single soldier during the period. Martial law fell within the remit of the king's prerogative power, which aroused great complaint in England in 1628 as 'commonwealth men' challenged the untrammelled role of prerogative power. Irishmen, both Old English and Gaelic Irish, had less reason to contradict the king's prerogative, as the king offered respite from arbitrary rule from Dublin Castle.<sup>156</sup> The success of the 'petition of right' where the 'graces' failed revealed the weak position of the Irish, who had little forum to air their grievances. The English parliament pressed hard to secure concessions, granting their five subsidies only after the 'petition of right' was entered onto the statutes. The Irish delegation stressed their loyalty to the crown and entrusted him to guarantee the 'graces', paying

---

<sup>154</sup> Though within the bounds of common law, gaol deliveries carried out by assize court judges proved to be a ruthless process, as they emptied prisons through execution after trial by jury.

<sup>155</sup> Boynton, 'Martial law and the petition of right', p. 68.

<sup>156</sup> Treadwell, *Buckingham and Ireland*, pp 283-4.

subsidies on the promise that a future parliament would sanction them. Their desire to retain the king's faith prevented them from withholding further payment of the subsidies as the Dublin government contravened a number of the 'graces'.<sup>157</sup> The application of martial law after the passing of the 'graces' signified the victory of the 'Martialist' over the common law and demonstrated the limit of the 'conquest' of 1603, as its continued use implied a vulnerability in the body politic as the kingdom relied on extraordinary measures long after the signing of peace terms.

---

<sup>157</sup> Clarke, *The Old English in Ireland*, pp 54-9.



Part two:

#### Chapter five: Parliament 1613-15

On 18 May 1613, parliament met for the first time in twenty-seven years. It spanned three sessions across three years and would not convene again until 1634. Negotiations on a session in 1605 had been abandoned early in the process and plans for meeting in November 1628 were scuppered due to problems with Poynings' law and a lack of commitment by the administration to enshrine the 'graces' on the statutes (chapter four). While not a regular function of the governance of the kingdom, parliament represented a vitally important role, as a grand council representative of the major powers, charged to pass laws for the better ordering of the country. Consent was key; any acts passed in acrimony were likely to be difficult to enforce, necessitating a kind of high political brinksmanship absent in most other areas of the administration. The speaker of the house in 1613-15, Sir John Davies, spoke of the universal nature of the assembly, as 'all the inhabitants of the kingdom, English of birth, English of blood, the new British colony, and the old Irish natives, do meet together to make laws for the common good of themselves and their posterities'.<sup>1</sup> An Old English Catholic expounded on the absolute centrality of the institution, writing that 'a parliament is in the nature of a principle which a man must believe in, without dispute or question'.<sup>2</sup> These two statements came in the wake of a turbulent opening to the first session, abandoned before the handling of any business. Davies lauded the parliament as being the first truly representative body of the kingdom, as it included members for each county. Catholic members walked out on the first day, complaining of the manipulation of the assembly in the government interest. As parliament was charged to make laws for 'posterity' and be accepted 'without dispute or question', Catholic members opted to abandon the session rather than remain and partake in the passing of acts against their interests. Upon leaving the chambers, Catholics declared that the Protestants 'should sit

---

<sup>1</sup> Jane H. Ohlmeyer, *Making Ireland English: the Irish aristocracy in the seventeenth century* (London, 2012), p. 233, quoting Sir John Davies, *Historical Tracts* (London, 1786), p. 309.

<sup>2</sup> Ohlmeyer, *Making Ireland English*, p. 233; Brian Jackson (ed.), 'A Document on the Parliament of 1613 from St. Isidore's College, Rome', *Analecta Hibernica*, 33 (1986), p. 50.

there and make laws for themself's, for they would not joyne with them in any', a demonstration of the absolute requirement of consent in the passage of parliament.<sup>3</sup>

The state of the kingdom of Ireland had changed greatly since the previous parliament of 1585-6 and a deal of business had built up over the years. Ten years after the accession of the first Stuart monarch, James's title to Ireland had not been confirmed by statute. This is particularly striking considering the difficulties experienced by the administration in April 1603 in proclaiming his kingship in south Leinster and Munster. The administration had other important business to conduct in parliament, such as the attainder of the earls of Tyrone and Tirconnell, the revocation of anti-Gaelic and anti-Scottish laws and the revocation of the 1500 act of poundage (deemed necessary to confirm the surrender of customs privileges of Waterford, Dublin, Drogheda and Galway). The administration further planned legislation banishing Catholic clerics and the passing of an oath of allegiance along the lines of the recently-passed English act. This programme of bills required delicate handling as it could spark widespread protest and the alienation of the Old English from the crown and Dublin administration. Many of these measures received official sanction through the central law courts or by prerogative powers, yet assent by statute law represented the strongest legal sanction for the actions of the administration. The government were loathe to summon parliament, however, as it opened up the floor to a range of grievances, which were likely to arouse comment in London.

For the Old English, and indeed, some Gaelic Irish, parliament granted an opportunity to raise objections against an increasingly self-serving government interest. Commenting on the 1585-6 parliament, Victor Treadwell wrote that it offered the natives of Ireland some protection from 'an otherwise disturbingly arbitrary government'.<sup>4</sup> The circumstances for Old English and Gaelic Irish were very different in 1613, yet the essence of his analysis remains true. By 1613, the Old English had become almost completely excluded from the central government, as it became the preserve of English men, newly arrived or descended from Tudor officials. The position of the Gaelic Irish was weaker still, with the power of independent lordships

---

<sup>3</sup> Bríd McGrath, 'The membership of the Irish House of Commons, 1613-1615' (M. Litt thesis, TCD, 1986), p. 14.

<sup>4</sup> Victor Treadwell, 'Sir John Perrot and the Irish parliament of 1585-6' in *PRIA*, section C, 85 (1985), p. 259.



considerably reduced through war, confiscation, flight and plantation. Religious divisions were even more marked than ethnic, as only a handful of Catholics held key administrative positions. The Irish council had one openly Catholic member, Richard Bourke, fourth earl of Clanricard, who attended sparingly due to his residence in England. Some conformist Old English held important positions, notably the judges Sir Nicholas Walsh and Dominick Sarsfield. Suspicion surrounded those Old English on the Irish council, as some doubted the conviction of their apostasy and questioned their loyalty to the crown. In the 1580s, the lord deputy, Sir John Perrot faced queries over his alliance with the Old English councillors Luke Dillon and Sir Nicholas White, including suspicions from the queen herself.<sup>5</sup> In 1604, chief justice of Munster, William Saxey, called for the removal of all Irish from the administration, central or provincial, as he feared that 'by color of such authority they have oportunytee to betray thecounsell of that state'.<sup>6</sup>

Reservations such as these prevented the elevation of most to the highest office, with parliament representing a means for Old English, and some Gaelic Irish, to give a forum to express their political voice. In excluding Irish Catholics from top official positions, the administration failed to represent those with land-holding in the country. Kevin McKenny, using Books of Survey and Distribution in Ireland, estimates that Catholics held 69% of profitable land in 1641, while Protestants held just 31%.<sup>7</sup> Catholics aimed to ensure that the disparity in representation on the Irish council would not be replicated in the house of commons.

On 20 November 1610 Lord Deputy Chichester called leading lords, knights and gentlemen to Dublin and announced his intention to call parliament the following year. By 4 December the city council of Dublin had set up a subcommittee to 'consider what is meet to be provided in Parliament for the good of the city'.<sup>8</sup> Its four Catholic and four Protestant aldermen and Protestant mayor would find common ground on a number of

---

<sup>5</sup> Treadwell, 'Sir John Perrot and the Irish parliament of 1585-6', p. 303.

<sup>6</sup> Saxey to Cranbourne, 'A discovery of the decayed state of King Jamesdom of Ireland, and of means to repower the same', [undated, must be between 20 Aug 1604 and 4 May 1605, when Sir Robert Cecil held that title of Viscount Cranbourne], TNA (UK) SP 63/216/59 (*CSPI 1603-06*, p. 220).

<sup>7</sup> Kevin McKenny, 'The restoration land settlement in Ireland: a statistical interpretation' in Coleman A. Dennehy (ed.), *Restoration Ireland: always settling and never settled* (Aldershot, Hampshire, 2008), pp 35-52.

<sup>8</sup> Colm Lennon, *The Lords of Dublin in the age of Reformation* (Dublin, 1989), p. 199.

points, but the confessional divide must have caused some dissension in the council. The government initially detailed their objectives for the coming parliament in expectation that Catholics would outnumber Protestants in the commons.<sup>9</sup> Sir George Carew's visit to Ireland in 1611, however, outlined bluntly the ways to ensure a Protestant majority in the commons.<sup>10</sup> Bríd McGrath divided these measures into three categories: controlling the selection of mayors and sheriffs (who acted as returning officers), arranging for the return of specific government supporters and the creation of new boroughs.<sup>11</sup> In his report, Carew compiled a list of every county, town and borough and the likely returns for each.<sup>12</sup> The lead up to the parliament was fraught as both the administration and Catholic communities organised to attempt to secure the election of like-minded candidates.

While municipal governments like Dublin arranged for the drawing up of plans for parliament, the administration consulted sparingly with interested parties in drawing up bills, as the attorney-general, Sir John Davies, handled a great deal of the business for the forthcoming parliament. Six Catholic lords from the Pale petitioned the king in November 1612 about their fears, which broadly represented the feelings of Catholic elites at the time. They protested against the lack of consultation on bills for the coming parliament and expressed their fear that a majority Protestant assembly would pass 'extreme penal laws' against them. The 1 February 1612 executions of the bishop Conor O'Devany and priest Patrick O'Loughran heightened fears of an extension of the penal code (chapter three). They also condemned 'the deposing of so many magistrates in the cities and boroughs of this kingdom, for not swearing the oath of supremacy in spiritual and ecclesiastical causes'.<sup>13</sup> This defence of the rights of the cities and boroughs showed a unity of purpose among Catholics prior to parliament, forging links that would be used in later conflicts between the Catholic 'party' and the Dublin government. A look at the abstracts of bills intended for the parliament confirmed these fears, as they outlined plans to revoke the 1500 act exempting certain towns from

<sup>9</sup> Aidan Clarke, 'Plantation and the catholic question, 1603-23' in T. W. Moody, F. X. Martin and F. J. Byrne (eds) *A new history of Ireland 3: early modern Ireland, 1534-1691* (Oxford, 1991), p. 211.

<sup>10</sup> 'Motives of importance for holding a parliament in Ireland', [undated], *Calendar of the Carew manuscripts preserved in the archiepiscopal library at Lambeth*, (London, 1873), vol. VI, 1603-1623, pp. 164-70.

<sup>11</sup> McGrath, 'The membership of the Irish House of Commons', p. 26.

<sup>12</sup> 'Motives of importance for holding a parliament in Ireland', [undated], *Carew 1600-23*, pp 168-70.

<sup>13</sup> A letter of six Pale lords to King James, 25 Nov. 1612, *Desiderata curiosa Hibernica; or, a select collection of State Papers*, ed. [John Lodge], (Dublin, 1772), Vol. I, pp. 158-160.



poundage and included a measure to banish priests. Another bill 'authorising Commissioners to give the oath of Allegiance unto all the subjects of Ireland' had the potential to become a penal measure to restrict Catholics' access to political office.<sup>14</sup> Correspondence in the lead-up to the elections showed the fractured nature of society. On 14 April 1613 Chichester wrote that the 'contrary faction are now in consultation daily, with their Lawyers Jesuits and Seminary Priests' working out how to 'make their party Strong and to give impediments unto the designs in hand...suspecting some hard Laws to be conceived and carried against them by the greater Number of Voices' on the government side.<sup>15</sup>

With a gulf emerging between government supporters and a 'contrary faction', the securing of a majority of voices in parliament became of great importance. The field of electoral politics in this period was far from an exact science, however, as there was no definitive set of rules or precedents to follow. Both Irish and English returning officers followed local practice, which differed from county to county, town to town and borough to borough. Returning officers followed the precedent prevailing in the area, yet also had to be mindful of the influence of a powerful local lord or member of the elite who could be expected to exert his influence to secure the return of members for parliament. The influence of the elite had a considerable impact on the choice of those returned, as the principle of a majority of voices securing an election did not necessarily apply. Irish practice followed English precedence, for which we have a great deal more evidence on contested elections. In two election disputes – Worcestershire in 1605 and Yorkshire in 1625 – the 'quality' of the voters for each candidate was examined rather than which side carried the majority.<sup>16</sup> At Helston in Cornwall the majority was deemed to be whichever side the mayor was on.<sup>17</sup> Majority rule predicated that each voice counted equally, yet this principle violated all social norms by which people lived at the time by according equal power to a gent and a labourer.<sup>18</sup> In studying English procedure, Mark Kishlansky noted the rarity of contests prior to 1640, as communities

---

<sup>14</sup> An abstract of acts brought over by Sir Henry Winch and Sir John Davies, undated, TNA (UK) SP 63/232/12 (*CSPI 1611-14*, pp 249-50).

<sup>15</sup> Chichester to English privy council, 11 Apr. 1613, 'Letter book of Sir Arthur Chichester, 1612-14', ed. R. D. Edwards in *Analecta Hibernica*, no. 8 (1938), pp. 95-6.

<sup>16</sup> Derek Hirst, *Representative of the people? voters and voting in England under the early Stuarts* (Cambridge, 1975), p. 14.

<sup>17</sup> Mark Kishlansky, *Parliamentary selection: social and political choice in early modern England* (Cambridge, 1986), p. 56.

<sup>18</sup> *Ibid.*, p. 61.

sought consensus candidates in order to avoid the kind of turmoil that came with disputed elections. When they did emerge, 'contests grew from conflict within the elite'.<sup>19</sup> In Ireland this could be more appropriately be termed conflicts *between* the elites because the elections in 1569 and 1585 witnessed what Treadwell terms a 'country party' emerging to challenge candidates put forward by the Dublin government.<sup>20</sup>

Both the administration and the Catholic 'faction' were resolute in their desire to secure a majority in the commons, relying on election procedures that rested on more than simple numeric supremacy, to choose candidates to meet at an assembly that required consensus not majority rule.<sup>21</sup> The high stakes and the flawed process led to contests across the country, resulting in outbreaks of violence and breaching of the peace. Reflecting upon the elections of 1613, the Protestant commentator William Farmer declared that:

'many hollow-hearted papists were produced for knights of the shire and burgesses of the parliament, and amongst all other[s] many of the citizens of Dublin, who were always accounted the patrons of loyalty...and paragons of obedience to the kings of England, were now found to be possessed with other spirits'.<sup>22</sup>

Farmer questioned the loyalty of Irishmen because of their choice of Catholic candidates for parliament, but he cited the citizens of Dublin in particular, as they had remained loyal subjects until 1613, when they instigated a tumult in the tholsel court of the city council. The fracas arose from a number of grievances, which reached a tipping point in the tense atmosphere prior to parliament. Catholics on the city council had experienced the silencing of their political voice, a challenge to their religious beliefs and the loss of customs privileges. They saw the rise of a new Protestant elite taking on responsibilities traditionally reserved for them. This alienation pushed them into an alliance with an emerging Catholic interest in the country as a whole. This chapter will assess the increased radicalisation of the Old English community in response to the government's manipulation of its procedures. It will analyse the means used to thwart

---

<sup>19</sup> Kishlansky, *Parliamentary selection*, p. 229.

<sup>20</sup> Victor Treadwell, 'The Irish parliament of 1569-71' in *PRIA*, section C, 65 (1966), p. 86 and Treadwell, 'Sir John Perrot and the Irish parliament of 1585-6', pp 260-3.

<sup>21</sup> Kishlansky, *Parliamentary selection*, p. 17.

<sup>22</sup> William Farmer, 'Chronicles of Ireland, 1594-1613', ed. C. Litton Falkiner, *English Historical Review*, 20 (1907), p. 546.



elements of the government's parliamentary agenda, concluding with an assessment of their success or failure in doing so.

Under these difficult conditions the sheriffs of Dublin held the election on 20 April 1613 in the tholsel court. It passed off without incident, as the sheriffs made indentures for two Catholic aldermen, Francis Taylor and Thomas Allen, with no details of whether there had been any rival candidates or a tally taken. Upon hearing the result, the Protestant mayor, Sir James Carroll, declared the returns to be unlawful because the election had been held while he was out of the city, at the county election at Kilmainham. Whether or not the mayor of Dublin had authority in this regard is a question worth investigating, with a variety of explanations emerging from the records. A petition delivered to the king from Catholic agents in May 1613 showed they regarded the sheriffs as the rightful returning officers.<sup>23</sup> The solicitor-general of Ireland, Sir Robert Jacob, reported that the sheriffs usurped the mayor's right to hold the election.<sup>24</sup> William Farmer wrote that the mayor and sheriffs received the warrant for the election,<sup>25</sup> while a commissioners' report into election fraud in November 1613 recorded that the sheriffs received the warrant on 1 April and next day granted this authority to the mayor.<sup>26</sup>

The dispute was likely exacerbated by the weak position of the mayor. Sir James Carroll had been elected as an alderman only weeks before he rose to the mayoralty in place of his father, alderman Thomas Carroll, who would not take the oath of supremacy.<sup>27</sup> The position of mayor traditionally fell to the most senior alderman yet to serve, a custom severely disrupted by the policies of Chichester's government (chapters two and three). Sir James Carroll's willingness to conform, and his close alliance to the lord deputy, had brought him wealth, recognition and power, yet this may have alienated him from Catholic aldermen.<sup>28</sup> The sheriffs John Francton and Edmond Cullon were both Protestants, but their acceptance of the results of the first election

---

<sup>23</sup> Petition by Pale gents to King James, [May] 1613, TNA (UK) SP 63/232/12, (*CSPI 1611-14*, p. 362).

<sup>24</sup> Sir Robert Jacob to the lord [blank], 26 May 1613, Carte MS 62, f. 132 (*CSPI 1611-14*, p. 350).

<sup>25</sup> Farmer, 'Chronicles of Ireland', p. 546.

<sup>26</sup> Commission to examine the abuses in parliament and country, 12 Nov. 1613, *CSPI 1611-14*, p. 441.

<sup>27</sup> *Calendar of the ancient records of Dublin, in the possession of the municipal corporation*, ed. J.T. Gilbert (4 vols, Dublin, 1889-95), iii, p. 28.

<sup>28</sup> John McCavitt, *Sir Arthur Chichester: lord deputy of Ireland, 1605-16* (Belfast, 1998), p. 67; Lennon, *Lords of Dublin*, p. 199, 'Letter book of Sir Arthur Chichester, 1612-14', p. 19.

showed that they had closer ties to the Catholic-dominated city council than to their Protestant mayor. The commissioners' report found that the city council promised during the election to 'save the sheriffs harmless', meaning they would shoulder the blame should the election come under scrutiny.<sup>29</sup>

In his description of the election, Jacob called Francis Taylor and Thomas Allen 'Two of the most Spanish and seditious Schismatics in all the city'. He ascribed their return in part to the 'Counsel of [William] Talbott & [Sir Patrick] Barnewall the Lawyers' and saw this election as part of a desire among Catholics to choose 'men long since agreed upon & appointed by the priests for those places, which indeed are for the most part the very firebrands of sedition, the most open and apparent enemies to the state, and the principal opposers against the present government'.<sup>30</sup> Francis Taylor remained a loyal citizen and possessed the ideal attributes for a representative of the city: he had not been prosecuted for recusancy, had been treasurer and attorney-general of the city and had served as mayor. His absence from mandates proceedings may owe much to the conformity of his son, James Taylor, who served as sheriff from 1605-6. Thomas Allen was sheriff in 1608-9 and had close ties to the leading Dublin families, a well-connected man likely chosen for his religious conviction.<sup>31</sup> The government had other ideas for the return of candidates, as Carew's 1611 investigation attests. For the city of Dublin he expected the return of two Protestants, the recorder, Sir Richard Bolton, and an unnamed alderman. As the offices of sheriff, recorder and mayor all had to subscribe to the oath of supremacy; Carew doubtless thought they would use their influence in the elections.<sup>32</sup>

Having voided the returns of 20 April, Mayor Carroll called for a fresh election to be held at the tholsel court at four o'clock on the morning of the 21 April.<sup>33</sup> Elections at the time were normally held between eight and nine in the morning, though some held in 1613 deviated slightly from this prescription.<sup>34</sup> The calling of snap elections, delaying tactics and the movement of venue were all means used by returning officers

---

<sup>29</sup> Commission to examine the abuses in parliament and country, 12 Nov. 1613, *CSPI 1611-14*, p. 441; McGrath, 'The membership of the Irish House of Commons', p. 42.

<sup>30</sup> Sir Robert Jacob to the lord [blank], 26 May 1613, Carte MS 62, f. 132 (*CSPI 1611-14*, p. 350).

<sup>31</sup> Lennon, *Lords of Dublin*, pp 201-2.

<sup>32</sup> 'Motives of importance for holding a parliament in Ireland', [undated], *Carew 1600-23*, p. 169.

<sup>33</sup> Petition by Pale gents to King James, [May] 1613, TNA (UK) SP 63/232/12 (*CSPI 1611-14*, p. 362).

<sup>34</sup> McGrath, 'The membership of the Irish House of Commons, 1613-1615', p. 21.



to favour their preferred candidates. The Catholic members of the city council may have used similarly underhand tactics when they held the first election in the mayor's absence. The unusual time did not deter aldermen or free citizens, who attended the tholsel court in numbers. Considering that the majority of free citizens likely to attend were Catholic, who would once again find in favour of their candidates, the mayor invited all male inhabitants of the city to the tholsel court to take part in the election. It can be assumed that Mayor Carroll invited men that he knew would represent his political and religious convictions. Inviting non-freemen into the tholsel court to take part in the election caused outrage among the sheriffs and aldermen, who 'commanded all those that were not freemen to depart'.<sup>35</sup> A later petition by Catholic agents of May 1613 complaining about the conduct of the mayor related of the presence of 'diverse men that were not free of the city with [their] serving men'.<sup>36</sup> By contrast, Farmer's commentary on the dispute described the division as one between 'English' (meaning English Protestant) and 'Irish' (meaning Irish Catholic), neglecting to mention the debate over free and non-freemen of the city. In presenting the dispute as solely religious in nature, Farmer misrepresented the reservations of the Catholic citizenry.<sup>37</sup>

Mayor Carroll made use here of the uncertainty of electoral politics, as the franchise of Dublin was not clearly defined. The aldermen and sheriffs felt that only those who were freemen of the city could choose candidates for parliament, whereas the mayor defended his right to extend this privilege to all inhabitants. The freemen believed the mayor, by opening up the franchise, had violated their privileges. In taking the civic oath, they had accepted a trade-off between a freeman's onerous tasks and his right to certain exemptions and self-governance.<sup>38</sup> The freemen in the tholsel court reacted angrily to this supposed infringement of their ancient liberties. Farmer reported that 'those of the recusant faction would not suffer any Englishman or any other to speak but such as they knew to be recusants', and 'being the greatest number, quickly thrust all the English men with violence out of the doors'.<sup>39</sup>

<sup>35</sup> Sir Robert Jacob to the lord [blank], 26 May 1613, Carte MS 62, f. 132 (*CSPI 1611-14*, p. 350).

<sup>36</sup> Petition by Pale gents to King James, [May] 1613, TNA (UK) SP 63/232/12 (*CSPI 1611-14*, p. 362).

<sup>37</sup> Farmer, 'Chronicles of Ireland', p. 546.

<sup>38</sup> Jonathan Barry, 'Civility and civic culture in early modern England: the meanings of urban freedom' in Peter Burke, Brian Harrison and Paul Slack (eds), *Civil histories: essays presented to Sir Keith Thomas* (Oxford, 2000), pp 186-9, 194.

<sup>39</sup> Farmer, 'Chronicles of Ireland', p. 546.

Jacob reported that the sheriffs and aldermen debated with the mayor over the presence of non-freemen within the tholsel and threatened to remove them from the election. They then 'required the mayor to either be silent and suffer them to proceed as they would, or else presently to depart'. Upon his refusal to do so 'the whole house of the conspirators fell in an uproar, some of the Aldermen shaking their fists at the mayor reviling and threatening him...crying pull out those Protestants by the ears'. In this mêlée a cry went out to 'Ring the Tholsel bell, and gather the young men and apprentices together, that they may pluck them out by the ears'.<sup>40</sup> It was said that a former sheriff and city merchant, Nicholas Stevens, 'would have rung the alarum with the tholsel bell if he could have found the key'.<sup>41</sup> The ringing of bells in the early modern period held different connotations depending on context, yet ringing the tholsel bell at four in the morning surely signified a call to arms. During the Nine Years War the city council organised the defence of the city walls, with an 'alarum or sudden cry' being the call for each ward to arm itself and to repair to its assigned post.<sup>42</sup> Jacob reported that the ringing of the tholsel bell was 'never done but of purpose to draw the people in Arms, when there [was] any sudden commotion or Insurrection in the City'.<sup>43</sup>

This 'great tumult and mutiny' lasted 'for the space of a quarter of an Hour' whereupon, having failed to ring the tholsel bell, the crowd 'made such a loud confused Noise, that drove great numbers of people about the House, ready to put in execution whatsoever should be directed unto them by those of their faction'.<sup>44</sup> Attention focused on the mayor: some 'offered to lay hand upon the Kings sword that was before the mayor but the mayor in this hurly burly took the sword in his own hand and went to the Lord Deputy to complain'.<sup>45</sup> The sword represented the mayor's authority as bestowed on him by the lord deputy. Attempting to wrest the sword from the mayor was a symbolic challenge to his authority but also a physical threat to his means of defence. Though largely decorative, the king's sword was used by Mayor Thomas Barbie in 1531 to quell a riot between soldiers and apprentices.<sup>46</sup>

<sup>40</sup> Sir Robert Jacob to the lord [blank], 26 May 1613, Carte MS 62, f. 132 (*CSPI 1611-14*, p. 350).

<sup>41</sup> Farmer, 'Chronicles of Ireland', p. 546.

<sup>42</sup> Articles agreed upon by the mayor and his brethren to be performed according to the effects of a direction from the council dated 19 May 1600, *Calendar of the ancient records of Dublin*, ii, p. 534.

<sup>43</sup> Sir Robert Jacob to the lord [blank], 26 May 1613, Carte MS 62, f. 133 (*CSPI 1611-14*, p. 350).

<sup>44</sup> *Ibid.*

<sup>45</sup> Farmer, 'Chronicles of Ireland', p. 546.

<sup>46</sup> Claude Blair and Ida Delamer, 'The Dublin civic swords' in *PRLA*, section C, 88 (1988), p. 130.



Although this affray spilled over into violence against the non-freemen of the crowd, the level of force employed was low and the assaults were symbolic gestures, causing little physical harm or destruction of property. In removing the non-freemen from the assembly place, the crowd was defending its privilege as freemen to meet and return its own candidates to parliament, physically excluding those with no stake in the running of the city council. In calling for the ringing of the tholsel bell, citizens sought to draw attention to the violation of their ancient privileges, intending to rally the city to their cause. Finally, the attempted confiscation of the mayoral sword represented a desire to remove the regalia of power bestowed on the mayor by the lord deputy. The fact that the mayor 'gave forth of the House, and then went to the Lord deputy to advertise him of this tumultuous and rebellious disorder' further shows the loss of authority of the mayor, who fled his tholsel court to seek protection from his patron, Chichester.<sup>47</sup>

In the aftermath of this disorder, Chichester 'sent for the Ringleaders of this unlawfull assembly, & openly explaining the matter, bound over the sheriffs to answer their misdemeanors in the Star chamber', owing to their 'choosing the burgesses before the mayor came home'. Afterwards '6 or 7' aldermen were committed to the castle and '12 or 14 others were afterwards committed to other prisons'. For his attempt to ring the tholsel bell Nicholas Stevens received exemplary punishment, being committed to the castle with the aldermen and 'threatened to be executed by Marshall Lawe as a Traitor'.<sup>48</sup> The 31 May petition of Catholic agents criticised the harsh treatment of Stevens 'who was continually kept in fetters & at length warning was sent to him to provide himself for death'.<sup>49</sup> According to Jacob, the accused 'were delivered of their imprisonment within 5 or 6 days after, and are now as Jolly as ever they were'.<sup>50</sup>

Six days after the failed second election at the tholsel court, a third and final election was held at Hoggen Green to the east of the city, outside the city walls. It is likely that the prisoners were kept six days rather than five so that the election could be held while the leading aldermen were in prison. Moving the election from the tholsel building clearly showed the lord deputy distrusted the city council's ability to hold an election; an outdoor site, away from the cramped tholsel court, presumably ensured a more

---

<sup>47</sup> Sir Robert Jacob to the lord [blank], 26 May 1613, Carte MS 62, f. 132v. (*CSPI 1611-14*, p. 350).

<sup>48</sup> *Ibid.*; Farmer, 'Chronicles of Ireland', p. 546.

<sup>49</sup> Petition by Pale gents to King James, [May] 1613, TNA (UK) SP 63/232/12 (*CSPI 1611-14*, p. 362).

<sup>50</sup> Sir Robert Jacob to the lord [blank], 26 May 1613, Carte MS 62, f. 132v. (*CSPI 1611-14*, p. 350).

settled selection process with less chance for disorder. The Catholic ‘party’ present ‘ceased not still to uphold and maintain their former election of Alderman Taylor, and Alderman Allen’, whereas the Protestant ‘party’ chose Richard Bolton and Richard Barry. Those present called for their preferred candidates aloud in a process called the ‘voice’. Uncertain which party held the majority, the mayor ‘willed them to sever themselves’, in a process known as the ‘view’. Catholic petitioners later complained that the mayor failed to use the ‘poll’ as a final means of deciding the election, even though, in their eyes, ‘the far greater number appeared to be for Taylor and Allen’.<sup>51</sup> The commissioners’ report of November 1613 found that the mayor ordered the two sides to divide and upon seeing the two separated found for Bolton and Barry, without needing to conduct a poll. The report found that the two sheriffs and thirteen others believed Bolton and Barry carried the majority, while fifteen others, among them aldermen, deposed that in their opinion Taylor and Allen held a majority.<sup>52</sup> The position of the two sheriffs in this final election is interesting, as they found for Bolton and Barry. Both had received a ‘heavy check’ following their return of Taylor and Allen in the first election, and had sided with the aldermen in the call to remove the non-freemen from the tholsel court.<sup>53</sup> Neither Jacob nor Farmer cited Richard Barry by name in their accounts, possibly owing to his relative low status among the aldermen. Sir Richard Bolton, however, had represented the city in the customs negotiations and held the role of recorder, a position that had produced an M.P. for the city in the four previous parliaments.<sup>54</sup> The commissioners’ report found fifteen had voted for both sides, with Bolton and Barry eventually going on to sit in parliament. The siding of the sheriffs for Bolton and Barry may have swayed the commissioners, as they carried the better quality of voters than the Catholic candidates.

Contests broke out in other constituencies, as conforming returning officers encountered considerable resistance in their attempt to secure seats for government-sanctioned candidates. A later petition of Catholic gentlemen of the Pale cited thirteen constituencies, besides Dublin, where they believed returning officers acted in a

---

<sup>51</sup> Petition by Pale gents to King James, [May] 1613, TNA (UK) SP 63/232/12 (*CSPI 1611-14*, p. 362).

<sup>52</sup> Commission to examine the abuses in parliament and country, 12 Nov. 1613, *CSPI 1611-14*, p. 441.

<sup>53</sup> Farmer, ‘Chronicles of Ireland’, p. 546, Carte MS 62, f. 132.

<sup>54</sup> Lennon, *Lords of Dublin*, p. 59.



fraudulent manner.<sup>55</sup> Complaints concentrated on the changing of location and time for the election, the use of violence in preventing Catholic freeholders from taking part and the overlooking of Catholic majorities. In a few cases Catholic burgesses competed with their own bailiffs or portrieves and in some constituencies two competing meetings took place – a clear demonstration of difficulties arising over contested authority in Ireland.<sup>56</sup>

Catholic peers and gentlemen appear to have come to parliament with a prior intent to block its progress, in the knowledge that they would be outnumbered in both the upper and lower houses.<sup>57</sup> Catholic peers petitioned Chichester the day before both houses were due to meet, with a list of grievances. They complained about the lack of consultation on bills, on the creation of new boroughs (some after the summons of parliament), the return of members with no local stake in the community, the fraudulent actions of sheriffs and the intimidation offered to Catholics by the presence of armed men within the city.<sup>58</sup> Championing these causes, they refused to attend parliament on the 18 May.<sup>59</sup> Catholics in the commons did take part, albeit briefly and infamously.

The first order of business was to elect a speaker. The government had long put forward the candidacy of Sir John Davies, whereas Catholics voiced their support of the deposed former second justice of the king's bench, Sir John Everard. Unlike in the Dublin elections, a poll was taken to determine whether Davies or Everard carried the vote. Those voting for Davies departed the chamber to enable a tally to be made. On their return to the commons' chamber, Catholic M.P.s had placed Everard in the speaker's chair, even though their side carried a minority. Davies was placed on top of Everard in the chair, leading the Catholic 'party' to depart the chambers after a scuffle. They protested against the presence of newly returned Protestants who were returned in constituencies created just prior to parliament and the corrupt practices of returning officers in the elections.<sup>60</sup> They outlined these grievances in several petitions to the king

---

<sup>55</sup> Petition by Pale gents to King James, [May] 1613, TNA (UK) SP 63/232/12 (*CSPI 1611-14*, pp 359-64).

<sup>56</sup> *Ibid.*, pp 362-3.

<sup>57</sup> Clarke, 'Pacification, plantation, and the catholic question, 1603-23', pp 214-15.

<sup>58</sup> Petition of Catholic lords of Ireland to Chichester, 17 May 1613, *CSPI 1611-14*, pp 342-3.

<sup>59</sup> Clarke, 'Pacification, plantation, and the catholic question, 1603-23', p. 214.

<sup>60</sup> Petition of Catholic knights, citizens and burgesses to Chichester, 21 May, *CSPI 1611-14*, pp 347-8; Petition of Catholic lords to Chichester, [21 May 1613], *ibid.*, pp 348-9; Petition of Catholic M.P.s to Chichester, 26 May 1613, *ibid.*, pp 349-50; Dr. T. Ryves to Sir Daniel Dunn, 29 May 1613, *ibid.*, pp 354-

and council. The English privy council were unmoved by an early petition put before them in late May. They wrote that 'many of the excepcons which they take, are such as may as well be made to the proceedings here, upon any assembly of Parlament', finding that for 'every point there is a redie and just answeare'. They assented to the sending of a delegation for the 'better satisfaccon' of the petitioners only, rather than a concern to investigate the actions of the Dublin administration.<sup>61</sup>

Later petitions detailed exactly their grievances, such as that to the king of 31 May 1613. The petition recorded alleged fraudulent practices and unfair returns of M.P.s across fourteen constituencies.<sup>62</sup> Pale agents recounted how sheriffs used deception in the calling of the election, nominated non-resident government men, used force to keep certain members out of the election chambers and rejected Catholic majorities.<sup>63</sup> The king responded by establishing a committee to investigate the allegations, placing Chichester at its head.<sup>64</sup> Unsurprisingly, the committee found fault in the complaints raised and largely dismissed them, acknowledging fraud in only two of the fourteen cases.<sup>65</sup>

The first session of parliament collapsed after the refusal of Catholics of both houses to attend and it took sixteen months of negotiation to bring both sides to an agreement to reconvene. Discussions over the rights and wrongs of the Dublin administration's actions took place in London, as Catholic agents and Dublin Castle officers (including Chichester's brief visit to court in Spring 1614) sat in talks with James and his councillors. During these negotiations James questioned the loyalty of Catholics in Ireland, terming them but 'half-subjects', with their soul belonging to Rome and their body divided between him and the king of Spain.<sup>66</sup> In defining Irish Catholics thusly, James repeated his condemnation of English Catholics, who he had termed 'half-

---

5; John McCavitt, 'An unspeakable parliamentary fracas: the Irish house of commons, 1613', *Analecta Hibernica*, 37, (1998), pp 223-35.

<sup>61</sup> English privy council to Chichester, 31 May 1613, Philadelphia Papers, TNA (UK) 31/8/200/f. 136 (CSPI 1611-14, pp 357-8).

<sup>62</sup> Petition by Pale gents to King James, [May] 1613, TNA (UK) SP 63/232/12 (CSPI 1611-14, pp 359-64).

<sup>63</sup> Ibid.

<sup>64</sup> Clarke, 'Pacification, plantation, and the catholic question, 1603-23', p. 215.

<sup>65</sup> Commission to examine the abuses in parliament and country, 12 Nov. 1613, CSPI 1611-14, pp 436-43.

<sup>66</sup> Clarke, 'Pacification, plantation, and the catholic question, 1603-23', p. 217; McCavitt, *Sir Arthur Chichester*, p. 190.



subjects' eight years previously, and who received harsher treatment under English statute law.<sup>67</sup> The administration agreed to drop proposed anti-Catholic legislation and removed representatives from eleven boroughs.<sup>68</sup> In exchange, Catholic agents agreed to attend parliament and acknowledged the king's right to create boroughs as he so chose. The second session passed a few acts without any undue controversy and the commons defeated a bill for the revocation of the poundage act.<sup>69</sup> Poynings' Act constrained the administration's ability to pass legislation swiftly, as London had to assent to any bills before they passed through parliament. A delay in the return of a subsidy bill from London forced the administration to prorogue parliament in late November 1614.<sup>70</sup>

The third session would prove to be a difficult one for the administration, as their wafer-thin majority in the commons disappeared due to large numbers of absentees among Protestants.<sup>71</sup> Catholics had more to lose through parliament, necessitating their close attendance. Previous bills had passed with a broad consensus, yet the passage of the subsidy bill was expected to be more difficult, as Catholic members sought concessions for its smooth ratification. Chief among these concessions was the proposed relaxation of penal measures.<sup>72</sup> Catholic hopes for revocation of proposed penal legislation received an unexpected setback in the shape of an unravelling conspiracy among Gaelic Irish and Scots in Ulster. Conspirators planned the capture of newly built forts and plantation towns in Ulster and the seizing of Tyrone's son, Con O'Neill, from the castle of Charlemount, in lieu of the return of the great earl at the head of an army.<sup>73</sup> Chichester used this to his advantage, using the conspiracy as leverage against Catholic members who were expected to hinder the passing of the subsidy.<sup>74</sup> For Catholic parliamentarians to resist the passing of the subsidy, or to insist on incentives to do so, could be seen as an act of disloyalty in a time of crisis. Similarly,

<sup>67</sup> John J. LaRocca S.J., "'Who can't pray with me, can't love me': toleration and the early Jacobean recusancy policy', *Journal of British Studies*, 23, no. 2, (Spring, 1984), p. 31; John Morrill, 'The causes of the popery laws: paradoxes and inevitabilities' in John Bergin et al (eds), *New perspectives on the penal laws* (Dublin, 2011), pp 55-73.

<sup>68</sup> McCavitt, *Sir Arthur Chichester*, pp 184-97; Clarke, *A new history of Ireland*, pp 214-17; McGrath, 'The membership of the Irish house of commons', p. 20.

<sup>69</sup> Victor Treadwell, 'The House of Lords in the Irish Parliament of 1613-1615' in *The English Historical Review*, vol. 80, no. 314 (Jan., 1965), pp 97-8.

<sup>70</sup> Clarke, 'Pacification, plantation, and the catholic question, 1603-23', pp 217-18.

<sup>71</sup> McCavitt, *Sir Arthur Chichester*, pp 199-200.

<sup>72</sup> Ibid., pp 200-202; Clarke, 'Pacification, plantation, and the catholic question, 1603-23', pp 218-19.

<sup>73</sup> Raymond Gillespie, *Conspiracy: Ulster plots and plotters in 1615* (Belfast, 1987), pp 5, 15.

<sup>74</sup> Ibid., pp 5-10; McCavitt, *Sir Arthur Chichester*, pp 201-04.

opposition to the government in the parliament of 1569-71 had been severely dampened by the outbreak of violence in Leinster by Butlers and in Munster by the rebellion of Fitzmaurice.<sup>75</sup> To pass the bill without getting guarantees on their grievances was to surrender their advantage, leading to a likely dissolution. John Sutton, a Catholic M.P. for Kildare, in 1615 famously summarised the position, writing 'Little said, soon amended/ A subsidy passed, parliament ended'.<sup>76</sup>

The rise to prominence of men like Richard Bolton, Richard Barry and Sir James Carroll shows the threat that the Catholic elite faced following the Nine Years War, as their loyalty continued to be questioned by the Dublin government. The privileges that the city had enjoyed were rapidly being taken away, with the city council in 1613 being led by a rising Protestant elite, previously exempt freemen paying customs duties to English courtiers and their liberty of conscience being challenged, where before authorities had allowed tacit tolerance of Catholicism. Chichester's government exacerbated confessional division, with the Catholic elite in Dublin increasingly finding common cause with the Catholic lords of the Pale and other port towns. In a short period the Catholic elite in Dublin had been transformed from 'patrons of loyalty' and 'paragons of obedience' to members of a 'contrary faction', with the tumult in the tholsel epitomising their increased radicalisation.

The change in attitude toward Dublin citizens is important in a wider consideration of the alienation of the Old English from the central administration. The actions of the Catholic members of the city council in April 1613 represents in a microcosm the pattern established in other Old English communities, where they fought hard to retain their political voice. In returning to parliament in October 1614, Catholic peers and gentlemen accepted the king's right to create new boroughs, ensuring that future parliaments would hold Protestant majorities – further weakening the role of the Old English in Ireland.<sup>77</sup> In many ways the Irish parliament was a weaker institution than that of England. The infrequency of its summoning, the ability of the administration to manage it and the ultimate oversight by the crown through Poynings' Act limited its

---

<sup>75</sup> Treadwell, 'The Irish parliament of 1569-71', p. 75.

<sup>76</sup> *Commons Journals, Ireland*, I, p. 50.

<sup>77</sup> Clarke termed the creation of new boroughs, and their reluctant acceptance by the Old English, as nothing less than a 'political revolution', Clarke, 'Pacification, plantation, and the catholic question, 1603-23', p. 216.



independence of action. Dublin Castle learned to work without it, as the administration made moves on poundage and against Catholicism irrespective of parliamentary sanction, falling on their prerogative powers. One of the key acts, the attainder of Tyrone and Tirconnell, aimed to ratify fully the confiscation of land for an Ulster plantation project long since established. The Old English attempted to use parliament as a means to overturn policies propounded by a new cadre of New English administrators, or at least call them to account for their actions. While James granted the Irish delegation considerable time at court, he ultimately supported his lord deputy and the wider Irish reform project set to disinherit the Old English of their position in the kingdom.

## Chapter six: Plantation 1610-1622

From 1610 to 1622, the Dublin administration pursued an aggressive land policy that aimed to pacify areas of north Wexford and the midlands through plantation. Lord Deputy Chichester outlined his view for the plantations in late June 1610, seeing such schemes as means of ‘breakinge the faction of great men in this kingdome, and the withdrawinge of the peoples dependencie from them’.<sup>1</sup> The Dublin administration had recently undertaken a grand project in Ulster after crown forces had effectively put Gaelic lordship in the province under subjugation. Chichester determined that this policy, ‘next to religion in which wee prevayle not’, was ‘the most sure foundation for Reformation, and a settled peace’, which made him ‘studious to finde out the meanes and apt to laye hand on everie occasion that presents it selfe for that service’.<sup>2</sup> This occasion presented itself in early 1610 in the form of a vast confiscation of lands in north Wexford.

Chichester charted the history of English settlement in Wexford to justify the need for a drastic Reformation of the county. He traced the alienation of lands once ‘possessed by Cyvell and industrious people’ from the Norman conquest, but which had since come to Gaelic Irish hands. This occurred due to discord caused by the ‘War of the Roses’ in the late fifteenth century, when English settlers departed, whereupon ‘the Irish crept into the woodes and stronge parts of the same, and did so prevayle that they extirped the remaynder of the English, and possessed themselves of that part which they have heelde ever sythens’. Chichester claimed that his intention in the impending plantation was to intercede on behalf of the ‘poore people’ who had been ‘miserably oppressed’ at the hands of the kin groups of the Kinselaghies, Murroghes, MacDamoses and MacVadocks who took possession of these lands. At first he allowed poor people to surrender their lands to the king under the commission of defective titles, yet reversed this policy upon discovery of ‘a better tytle for the kinge’ than that held by ‘those Intruders’.<sup>3</sup> A 1615 inquisition into lands in Longford, Leitrim, Westmeath, King’s and Queen’s Counties

---

<sup>1</sup> Chichester to Salisbury, 27 June 1610, TNA (UK) SP 63/229/108 (*CSPI 1608-10*, pp 470-4).

<sup>2</sup> Ibid.

<sup>3</sup> Ibid.



used similar justifications, relying on crown title dating back to the Norman conquest and grants to the de Lacy's.<sup>4</sup>

In a second letter, of 13 December, Chichester warned that 'the work will feel some opposition' from both Old English and Gaelic Irish and outlined how best to cope with these challenges. He expressed confidence in the foundation for plantation, declaring that 'they have now made the title so apparent' that Salisbury ought to 'prevent the purposes of such as seek to pass part of it upon the commission of defective titles'. He informed Salisbury that 'certain agents from the natives' were preparing to embark for England to present a legal defence of their land in the face of the recently-discovered crown title. To head off these complaints, he urged Salisbury to 'move the king' to grant powers to the servitor Sir Lawrence Esmond and king's surveyor Sir Edward Fisher, to plant the area to further 'His Majesty's profit and the country's settlement without noise or clamour'. He advised favouring those 'of honest and civil behaviour', yet also advocated finding land for those of the natives 'as are powerful to do harm, if they be thereto incensed through neglect and discontent', demonstrating a fear that the project could incite violent resistance. Chichester concluded by requesting favour, bolder proclaiming himself as 'the soundest patriot and profoundest counsellor of the King and of the commonwealth'.<sup>5</sup>

These letters served as a portent of resistance that followed, as a number of Old English and Gaelic Irish protested against this initiative. This chapter charts the various means used to oppose this project. Firstly, it will analyse the limited means open for negotiation within the scheme, necessitating an explanation into the process of finding title, survey, allocation and confiscation. Next, this chapter will track the forms of negotiated opposition to the scheme, focusing largely on the sending of agents to the court in London, but including parliamentary petitions and the raising of objections with royal commissions (such as those sent to Ireland in 1613, 1618 and 1622). Finally, this chapter will analyse forms of non-negotiation, from legal suits, obstruction and delays to seditious speech, threats and acts of violence. In so doing, this chapter will investigate the relationship between centre and periphery, and the means by which

---

<sup>4</sup> 'An Inquisition into the Kings title to the Counties of Longford Letrim &c.', undated (following the king's letters of 12 April 1615), Carew MS 617, pp 99-109 (*Carew 1600-23*, p. 313).

<sup>5</sup> Chichester to Salisbury, 13 Dec. 1610, TNA (UK) SP 63/229/143; CSPI 1608-10, p. 531.

subjects could challenge government policy. This chapter will focus on the reaction of Old English and Gaelic Irish to projects following the grand scheme in Ulster. The later projects witnessed a range of forms of protest not experienced in Ulster, as those targeted in the Wexford and midlands schemes stressed their legal right to their land and provided a strong and variegated response to plantation commissioners. The historiography on native reaction to the Ulster plantation is rich, with many recent treatments of the limited protest raised against it.<sup>6</sup>

In order to open negotiations within the scheme, inhabitants had to accept first the king's title above their own claims through the surrender of their lands to commissioners. Only those in possession of valid patents under English law were exempt, a minority group among freeholders. Unlike the three previous plantation projects in King's County and Queen's County (established in 1556 by Queen Mary and King Philip), Munster (1586 under Elizabeth) and Ulster (from 1609 under James), these schemes were not based on wholesale confiscations, rather they resembled a more punitive form of surrender and regrant.<sup>7</sup> The Wexford and midlands plantation projects relied on the weakness in title held by the Gaelic Irish and on an investigation into ancient grants from the crown. In this regard, the scheme in Wexford served as a test case for future projects, as the means employed acted as a new departure in land policy.

In a legal dispute between Sir Richard Masterson and Donall 'Spainneach' Cavanagh in Easter term 1610, the exchequer court in Dublin found that neither held right to land in north Wexford, but that almost the entire region passed to the crown. An inquiry into the king's title at the exchequer court in December 1611 confirmed their earlier ruling. Title came to the crown based on a submission by Art McMurrough and other Irish lords of Leinster to Thomas, earl of Nottingham, lord deputy of Ireland on 7 January

---

<sup>6</sup> See for example, Jonathan Bardon, chapter ten, "'Not a more discontented people in Christendom': the native Irish and the plantation", *The plantation of Ulster* (2011), pp 190-208; Nicholas Canny, chapter seven, 'Plantation and its politics: the Irish responses', *Making Ireland British, 1580-1650* (Oxford, 2001), pp 402-60; T. W. Moody, 'The treatment of the native population under the scheme for the plantation in Ulster', *Irish Historical Studies*, vol. 1, no. 1 (Mar., 1938), pp 59-63; John McCavitt, chapter nine, 'Chichester and the plantations, 1610-11', *Sir Arthur Chichester: lord deputy of Ireland, 1605-1616* (Belfast, 1998), pp 149-61; Raymond Gillespie, *Conspiracy: Ulster plots and plotters in 1615*, (Belfast, 1987), *passim*; Marc Caball, 'Responses to transformation: Gaelic poets and the plantation of Ulster' in Éamonn Ó Ciardha and Micheál Ó Siochrú (eds), *The plantation of Ulster: ideology and practice* (Manchester, 2012), pp 176-197.

<sup>7</sup> For the argument that the plantation of Cavan resembled surrender and regrant, see Ciarán Brady, 'The end of the O'Reilly lordship, 1584-1610' in David Edwards (ed.), *Regions and rulers in Ireland, 1100-1650: essays for Kenneth Nicholls* (Dublin, 2004), pp 174-200.



1395. This submission relinquished all their lands in Leinster to the king, in return for the right to enjoy all lands taken by force against the king's enemies in Ireland. On the 28 April of that year, the king granted the lands between the Blackwater and Slaney rivers in county Wexford to Sir John Beaumont and his heirs. Through descent, the lands came to a Francis Viscount Lovell of Titmarsh, attainted of treason by the first English parliament of Henry VII in 1485-6 for serving under Richard III during the civil war.<sup>8</sup> Through this attainder, the crown regained possession of these lands, and could pass them as they pleased. The solicitor-general, Sir Robert Jacob, wrote that 'Besides that title', the crown's legal claim to north Wexford came via the Act of Resumption, passed in Henry VII's parliament of 1494-5. Citing the act, he wrote that 'all the grannts made by Kinge Henry 7 or any of his progenitors since the last yeare [*recte* day] of Kinge Edward 2 [20 January 1327] are resumed and made voyde, and all the lands reinvested in the Crowne'.<sup>9</sup> As the grant to Sir John Beaumont fell between these dates, the king could lay claim to the territory, notwithstanding the later attainder of Francis Lovell.

Jacob's conclusion that it was better to provide many origins for the king's title rather than one resurfaced in the discovery of crown title in the midlands. An inquisition of lands held before a jury in summer 1615 displayed a bewildering array of legal justifications to provide title for plantations in Longford, Leitrim, and the lands of the Gaelic septs in Ely O'Carroll, Fercal (O'Molloy's country), Delvin McCoghlan (McCoghlan's country), Killcourcy (Fox's country), Iregan (O'Doyne's country) and Clancolman (O'Melaghlin's country) in King's County, Queen's County and Westmeath. The discovery of crown title deriving from grants made following the Anglo-Norman invasion were invoked in the inquisition into Longford and Leitrim. Longford (formerly 'Annaly'), formed part of a grant by King Henry II to Walter de Lacy and his heirs, who populated it with English inhabitants and constructed castles

---

<sup>8</sup> Francis Lovell, Oxford Dictionary of National Biography (oxforddnb.com) (accessed Oct. 2012); a second argument putting forth a claim to crown title is cited in an undated and unsigned letter addressed 'Per Robert Jacob 1611'. This claim first described how the crown came to the lands through Art McMorrough, but then continues, stating that 'the king has another [claim] to those lands' through the Act of Resumption. The King's title to the lands of the O'Kinselagh and the O'Morroughs, etc. in Co. Wexford, 1611, *Carew 1600-23*, pp 251-2

<sup>9</sup> Sir Robert Jacob, 1611, 'The kings title vnto the lands of the okinselagh and the Omorroughes &c: in the Conntie of wexford', *Carew MS 617*, pp. 110-112 (*Carew 1600-1623*, pp 251-2); for the text of the Act of Resumption see Agnes Conway, *Henry VII's relations with Scotland and Ireland 1485-1498, with a chapter by Edmund Curtis* (Cambridge, 1932), pp 204-05.

for its defence. In the reign of King Edward I the O'Farrell's 'Made warre uppo[n] the Englishe and did kill and banishe the Englishe out of the said Contrey, brake down there Castles, and razed their fortes', whereupon the English 'absented themselves, or returned into England, leavinge there possessions to the Irish Enemye'. Similarly, Leitrim (formerly 'Brestry') represented part of King John's grant to Walter de Lacy, until the O'Rourke's banished the English in the manner of the O'Farrell's in Longford.<sup>10</sup>

Following the banishing of the English from Leitrim, the O'Rourke's held onto the territory, 'injoying the Contrie, accordinge to the Irish Custome of Tanestrie and Gavell-kinde'.<sup>11</sup> The custom of what English commentators termed 'tanistry' involved succession to the chieftry of a clan by the 'eldest and worthiest' among the males of four generations of a sept. The practice of partible inheritance among sons (legitimate or otherwise) formed the basis of what English legists termed the 'custom in nature of gavelkind'.<sup>12</sup> These rather flexible forms of land inheritance continued in Gaelic and Gaelicised areas of Ireland up to the conquest in 1603, when the king's writ passed throughout the country, and English forms of land tenure began to replace Irish forms. The right to succeed by tanistry (1606) and gavelkind (1608) were found void in law by English judges in extra-judicial proceedings.<sup>13</sup> The invalidation of Gaelic forms of land inheritance in this manner mimicked the practice of English administrators over centuries in Ireland, where military triumphs were followed by strong legislation aimed at anglicising the country. Where James's judges outlawed tanistry and gavelkind, Richard II passed the act against absentees (1394) and Henry VII (and his new administrator Sir Edward Poynings) had the act of resumption. The act against absentees stipulated that all who possessed lands, rents or offices must be resident – upon pain of forfeiture of two thirds of their profits, an act that could be used against any lord anciently granted land in Ireland but who later had abandoned them.<sup>14</sup> This act (and subsequent re-enactions by Edward IV and Henry VIII) formed part of the

---

<sup>10</sup> 'An Inquisition into the Kings title to the Counties of Longford Letrim &c.', undated (following the king's letters of 12 April 1615), Carew MS 617, pp 99-109 (*Carew 1600-23*, p. 313).

<sup>11</sup> *Ibid.*

<sup>12</sup> Kenneth Nicholls, *Gaelic and Gaelicized Ireland in the Middle Ages* (Dublin, 2003), pp 27-32, 64-73.

<sup>13</sup> *Ibid.*, p. 30; Hans S. Pawlisch, *Sir John Davies and the conquest of Ireland: a study in legal imperialism* (Cambridge, 1985), pp 10, 46, 79.

<sup>14</sup> Thomas Sturge Moore, *The history of Ireland*, (2 vols., Paris, 1840), ii, p. 230; Sir John Davies, *A Discovery of the True Causes Why Ireland Was Never Entirely Subdued...until his Majesty's Happy Reign* (London, 1612), p. 42.



inquisition into the lands of Longford, where the territories formerly held by the earl of Shrewsbury were deemed forfeit to the crown.<sup>15</sup>

While the 1615 inquisition into crown title outlined legal principles behind the plantations in the midlands, corroboration elsewhere in state correspondence and petitions are notably absent. Evidence for the origin of the crown's title to parts of northern Wexford from the surrender of Art McMurrough and subsequent royal grant to Sir John Beaumont survives in seven different accounts from the period (from proponents and opponents to the scheme), clearly demonstrating the success of the government's efforts to disseminate this information.<sup>16</sup> It is likely that the intense scrutiny of the Wexford scheme forced a rethink in strategy, as subsequent schemes focused less on justifying the crown's title and more on securing voluntary submissions from native inhabitants in return for secure title. Sir Francis Blundell's review (as part of the 1622 Commission) into the Jacobean plantations is revealing in this regard. In commenting on the title found for Longford and Ely O'Carroll (in King's County), Blundell wrote that 'the title his majesty had to these I was never made acquainted with but the natives and ancient inhabitants did submit themselves to a plantation and in that all questions are ended'.<sup>17</sup> The reliance on voluntary surrender of title to the king marked these plantation schemes out from previous projects, where the crown gained title through attainder. In this manner they mimicked previous schemes such as the surrender of land under defective title or the Tudor scheme of surrender and regrant – though these Jacobean schemes involved the subtraction of a portion for the crown in exchange for secure title.

Acceptance of the king's title formed a dividing line between those who negotiated within the plantation and those who negotiated outside the scheme. Those who accepted the king's title in Wexford and the midlands counties had to agree on up to six

---

<sup>15</sup> 'An Inquisition into the Kings title to the Counties of Longford Letrim &c.', undated (following the king's letters of 12 April 1615), Carew MS 617, pp. 99-109 (*Carew 1600-23*, p. 313).

<sup>16</sup> Chichester to Salisbury, 27 June 1610, *CSPI 1608-10*, pp 471-2; Henry Walsh's petition to the king, 5 Dec. 1611, *CSPI 1611-14*, p. 175, 'The King's title to the lands of the O'Kinselaghies and the O'Moroughes, etc. in Co. Wexford', no author or date, *Carew 1600-23*, pp 251-2; Findings of the Commission to Examine the abuses in parliament and country, 12 Nov. 1613, *CSPI 1611-14*, pp 451-2, David Rothe, *Analecta Sacra*, ff. 69r.; 'Petition of Redmond McDamore and others', May 1616, *CSPI 1615-25*, p. 125; 'A review of the six plantations in Ireland, signed by Sir Francis Blundell', undated, likely late 1621, *1622 Commission*, p. 44.

<sup>17</sup> Sir Francis Blundell, late 1621, 'A review of the six plantations in Ireland' in *1622 Commission*, p. 44.

conditions as part of the scheme. Firstly, commissioners set aside proportions from the plantation for glebe land to endow Protestant churches and land to set up a school, fort and a corporation town. Next, the lands of freeholders were reduced by a quarter (or by half in Leitrim). Those who refused to submit to either of these stipulations were to be subject to a deduction of one third of their lands. Next, holdings of less than 60 acres were confiscate. Those with between 60-100 acres could receive grants at the discretion of commissioners. Those with over 100 acres were to be re-granted their lands. Crucially, these totals were calculated *after* lands had been deducted for glebe lands and civil projects. The following step involved the restructuring of the plantation area, leading to transplantation of habitants, as part of an attempt to ensure future pacification of former Gaelic Irish strongholds.<sup>18</sup> Next, grantees had to pay the administrative costs accrued by the commissioners in the survey and distribution of lands. Lastly, grantees were to pay an annual rent to the crown and, in certain circumstances, to pay rent to those they owed charges to prior to plantation.

In ordering the Wexford scheme, the king authorised Chichester to re-grant lands to 'such of them as he shall think fit' with 'such quantities of land and at such rents and upon such conditions as he shall think fit'.<sup>19</sup> This full backing, replicated in subsequent schemes, granted Chichester, through his commissioners, power to settle the county how he pleased – leaving room for manoeuvre. Each step in this process opened an opportunity for native inhabitants to attempt to negotiate better terms from commissioners, to alleviate the severity of the scheme. Some obligations proved more controversial than others, eliciting greater complaint. The following section will address the relative success and failure of these negotiations with plantation commissioners.

The first stage in the plantation process involved setting aside lands for the Protestant ministry and for civil projects, such as schools, forts and a corporation town. These enterprises were to further the civilising initiative promised by architects of plantation, with the Reformation of the natives in religion, education, economic practice and manners of paramount importance. In reordering landholding in plantation areas, commissioners chose land for churches and civil projects first and may well have

---

<sup>18</sup> On transplantation as a means of security, see *Carew 1600-23*, pp 212-13, 368; CSPI 1611-14, pp 493-4, 312-13.

<sup>19</sup> King James to Chichester, 7 May 1611, CSPI 1611-14, p. 48.



chosen prime locations for these enterprises. The commissioners faced no objection to these deductions in Wexford, Leitrim or Longford, yet a number of major landholders in the midlands refused to sanction such subtractions from their lands. Following the full submission of Leitrim freeholders, prior to Christmas 1620, the commissioners sent for inhabitants of the lesser territories of Leinster, the O'Doynes of Iregan, O'Molloy's of Fercal, MacCoghlans of Delvin MacCoghlan, O'Melaghlans of Clancolman and the Foxs of Moncragan, all within Westmeath, King's and Queen's counties.<sup>20</sup> The chiefs of these septs and other minor landlords arrived in Dublin from 6 January 1621 on and insisted on negotiating with the administration, rather than offering their full submission. Brasill Fox, 'an inferior chieftain' and other unnamed inhabitants, submitted, yet the majority held out, led by Sir John McCoghlan, angering commissioners.<sup>21</sup> During these negotiations, the chieftains offered to submit their lands at the deduction of a fourth for the plantation, yet refused to a subtraction for glebes and civil projects. This emerged as the key sticking point in negotiations; chieftains termed this 'their only grievance'. The administration cited the strength of the lords in these areas as the reason for their recalcitrance, noting the contrast with Wexford, which 'had no chieftains at all...Longford had none then in being...the pretending chieftain of Ely O'Carroll was in England at the time of the submission, and the pretender to Leytrim was likewise in England'. They bemoaned the influence of the local powerbrokers, acknowledging that 'where those lords are, there is no submission, and where they are not, the people freely submitted'. These plantation schemes, as noted above, aimed at the 'breakinge the faction of great men', yet these 'great men' had to be overcome first to usher in these changes.<sup>22</sup>

Lord Deputy Oliver St John, Viscount Grandison, and the council decided to punish the chieftains for their obstinacy by insisting on the deduction of a third, rather than a fourth, of their lands for British settlers, if they did not submit in full.<sup>23</sup> The king assented to this policy, noting that he was 'offended' at their obstinacy and that they

<sup>20</sup> 201 freeholders turned up who 'readily and freely set their hands to an instrument of submission', St John to English privy council, 31 Dec. 1620, *CSPI 1615-25*, p. 310.

<sup>21</sup> Lord Deputy St John and council to English privy council, 6 Feb. 1621, *CSPI 1615-25*, pp 313-14.

<sup>22</sup> *Ibid.*; in Ulster in December 1610, Chichester wrote that the 'gentlemen of the North' accepted small proportions gladly due to the 'death of Henry O'Neale' and after word came of 'Tyrone's blindness', news that Chichester 'has not spared to spread amongst them', Chichester to Salisbury, 12 Dec. 1610, *CSPI 1608-10*, p. 530. Rumours of Tyrone's blindness are almost certainly untrue, as Micheline Kerney Walsh demonstrated in 'Destruction by peace': *Hugh O'Neill after Kinsale* (Armagh, 1986), pp 138-41.

<sup>23</sup> St John and council to English privy council, 6 Feb. 1621, *CSPI 1615-25*, p. 315.

were 'utterly unworthy of those favours he intended to them in the securing of those parts'. He agreed with the deduction of a third of their lands but gave the lord deputy the power to 'extend his mercy to such as shall hereafter submit'.<sup>24</sup> Labelled as the 'most eminent' among those lords who refused to submit, Sir John McCoghlan serves as an example of how the commissioners could discriminate, and the limits of negotiation from within the scheme. A powerful lord, and veteran soldier in the crown's service in the Nine Years War, McCoghlan had an exemplary record, resulting in his knighthood and grant, in 1610, for the right to hold an annual fair at Banagher and a weekly market at Cloghan in the King's County.<sup>25</sup> For his refusal to accept a deduction for glebe land and civil projects, the commissioners confiscated greater than one third of his lands and took possession of his fort at Banagher for the use of the army.<sup>26</sup> In the redistribution of his lands at Cloghan, and requisitioning of his fort at Banagher, McCoghlan lost the right to hold his annual fair and weekly market, as he no longer possessed the land on which he held them. Furthermore, he lost a great asset when the commissioners chose his site at Banagher as the location of a new fort. The lord deputy and council praised the site 'because it stands upon the river Shannon where it is fordable, and upon a chief highway leading into Connaght' and stood 'conveniently to strengthen as well the countries now to be planted as others not yet well civilized'.<sup>27</sup> A property of this kind could command a high price, as evidenced by the earl of Clanricard's 1618 purchase of Athleague Castle (on the Shannon River) in County Roscommon for £1,800. Clanricard opted to mortgage other properties to raise funds for this acquisition rather than see it fall into the hands of a rival.<sup>28</sup> In 1624, Sir Arthur Blundell completed work at Banagher at what became known as 'Falkland's Fort'.<sup>29</sup> McCoghlan's plight demonstrated the limitations of a stand against commissioners, as he suffered a far greater deduction than he ought through his objections.

The acknowledgment of the lord deputy's discretion in the allocation of land is important, as plantation commissioners had great powers bestowed on them, through

<sup>24</sup> James to St John, Viscount Grandison, 17 May 1621, *CSPI 1615-25*, p. 324.

<sup>25</sup> *CSPI 1608-10*, p. 527.

<sup>26</sup> *1622 Commission*, pp 146, 147-8;

<sup>27</sup> Lord deputy and council to English privy council, 8 Aug. 1621, *CSPI 1615-25*, p. 333.

<sup>28</sup> Bernadette Cunningham, 'From warlords to landlords: political and social change in Galway, 1540-1640' in G. Moran, R. Gillespie and W. Nolan (eds), *Galway: history & society* (Dublin, 1996), p 117-19.

<sup>29</sup> Falkland and Council to English privy council, 30 Oct. 1624, *CSPI 1615-25*, p. 541.



royal letters, to use their judgment in the distribution of lands. Commissioners were expected to assess the character of each claimant, to favour 'those inclinable to civility', rendering any notion of a simple mathematical survey with exact deductions defunct.<sup>30</sup> The second step in the scheme involved the subtraction of a quarter of the lands of inhabitants. The deduction of a fourth of lands allowed a proportion for British settlers, in the expectation that they would pacify the area and bring civil manners to their neighbours. While pre-plantation surveys (termed surveys by the 'great office') have not survived for any of the counties, extant sources reveal that commissioners did not deduct exactly one quarter from each freeholder.<sup>31</sup> Rules stipulated that all those who submitted freely, within the given time, were to lose one quarter of their lands, whereas those who refused to submit could lose up to a third, at the lord deputy's discretion. The plantation of Leitrim represents an anomaly, in that one-half of the lands held by freeholders went to British settlers, owing to the need to provide funds for the maintenance of members of the O'Rourke sept.

Despite the clear direction that those who submitted ought to lose only a fourth of their land, besides proportions for glebes and civil projects, architects of plantation were quick to breach these stipulations. A 1618 report by Sir George Carew and three fellow lords demonstrated an acceptance of deductions at fractions greater than one fourth. In setting out the size of proportions, the commissioners' report advised that in 'planting of the natives...none of the better sort shall have more than a fourth taken from them'. They reiterated this direction, writing that 'every ancient possessor who shall be now made a freeholder shall part with at least a fourth part of the lands he formerly possessed' notwithstanding deductions. The 'best gentlemen and chiefs of several septs' were to find favour in order that 'the clamours of the multitude may be restrained'.<sup>32</sup> This same principle applied in Wexford, where a Daniell O'Connor lost almost his entire estate in the plantation. The 1622 commissioners received a petition from him alleging that he lost '1,700 acres of profitable land in Ballakeene and was imprisoned in the castle of Wexford and in the marshalsey of Dublin by the space of a year and a

---

<sup>30</sup> St John and council to English privy council, 6 Dec. 1620, *CSPI 1615-25*, p. 303, the letter continues, writing that commissioners ought to grant larger proportions to 'the better and most understanding of the natives' as an example to the 'inferior sort...to embrace the plantation' who had formerly resisted it.

<sup>31</sup> Records of the holdings of some Wexford freeholders before 1613 and after are cited in *CSPI 1611-14*, pp 452-3.

<sup>32</sup> 'The lords' commissioners' report to his majesty concerning the plantation of Longford and Ely O'Carroll', 1618, *Carew 1600-23*, p. 378

half'. To compensate for the loss of these 1,700 acres 'that he was possessed and so found by the great office presentment of Ballena', he received '400 acres of barren land'. He explained that he suffered these indignities 'for that he would not submit himself to yield that a greater proportion of his lands than the fourth part thereof should be planted'.<sup>33</sup> While Daniell O'Connor lost his estates through the failure of his negotiation with commissioners, many lost great proportions through acceptance of the conditions. A November 1613 investigation into the Wexford scheme found that 'many of the natives who formerly agreed to plantation now absolutely dislike it, and complain that the proportions assigned to them are not so many acres as they are rated to them'.<sup>34</sup> The directions for the plantation of Longford, the case of Daniell O'Connor and the findings of the 1613 commission demonstrate the power of the commissioners and the ultimate helplessness of inhabitants, who had little choice but to accept whatever proportion commissioners allotted to them.

The discretionary power held by commissioners featured as an important aspect in negotiations over the protection of holdings of 60-100 acres, the third phase in plantation schemes. Plantation conditions stipulated that after deductions for glebe land and public works, those freeholders found to hold less than 60 acres were to forfeit their freehold interest. Those with 60-100 acres could retain their lands, at the discretion of the plantation commissioners. Those with above 100 were to retain their holdings. The removal of freeholders with below sixty acres arose from a belief that this was the minimum landholding that one family could subsist on. In removing their holdings, commissioners aimed to reduce the 'multitude of small freeholders beggars' of the country.<sup>35</sup>

A letter of December 1620 from Lord Deputy Oliver St John to the English privy council outlined how commissioners made their decisions on who should retain their holdings. Following a presentation of a petition to Dublin by former Wexford freeholders, the letter detailed the landholding of the principal petitioners to justify the commissioners' decision to deprive them of all of their holdings. A Donald McNir held

---

<sup>33</sup> 'A schedule of complaints made to commissioners concerning loss of lands in the plantations', May 1622, *1622 Commission*, p. 697.

<sup>34</sup> 'Commission to report the abuses in parliament and country', 12 Nov. 1613, *CSPI 1611-14*, p. 454.

<sup>35</sup> Ciarán Brady, 'The end of the O'Reilly lordship, 1584-1610', p. 190; *CSPI 1611-14*, p. 52; the eradication of small freeholders of between 80-100 acres was later described as being 'not good for themselves', St John and council to English privy council, 6 Dec. 1620, *CSPI 1615-25*, p. 303.



120 acres in two villages prior to the plantation, which reduced to 85 acres following deductions for British settlers, glebe lands and civil projects and in lieu of chief rents owed to Masterson and Walter Synott. In holding 85 acres, Donald McInir's fate fell to the discretion of the commissioners, who decided to confiscate his lands. The report noted that he 'being obstinate' and the fact that three of his brothers received land in the plantation mitigated against him, as they refrained from granting land 'to so many of one sept'.<sup>36</sup> The same letter detailed a second case, of a Creen McCahir Cavanagh, who held 33 acres in two villages prior to plantation. After deductions this reduced to 23 acres, comfortably below the threshold. Despite this, Chichester decided 'as he had many children', to offer him a village of 54 acres in freehold. Creen McCahir Cavanagh refused this overture, likely owing to the location or quality of this village, and thus he received nothing in the division.<sup>37</sup>

The 1622 commission demonstrated that many individuals with fewer than 60 acres of freehold retained their estates. 13 of 148 native freeholders in Wexford retained holdings below the threshold, 5 of 171 in Leitrim, 2 of 20 in Kilcoursy, 1 of 151 in Longford, 1 of 45 in Ely O'Carroll, but none in Iregan, Fercall, Delvin MacCoghlan or Clancolman.<sup>38</sup> While these surveys do not give justifications as to why some retained their holdings and why others did not, two key pieces of evidence from the 1622 commission provide such information. A May 1622 schedule of complaints from natives of the later plantations and a petition of 20 June 1622 from two Longford natives, Lysnagh O'Ferrall and William O'Ferrall to the commissioners, reveal corruption in the survey and distribution of lands.<sup>39</sup> In Longford, in particular, a number of named individuals increased their lands from nothing or just one cartron (within the threshold, a cartron was deemed to be what one family could subsist on) to a generous proportion. There are up to a dozen such examples where natives increased land from a holding of half a cartron or less to up to 'four good cartrons'.<sup>40</sup> In one case, a Rossa alias Ries O Ferrall increased his lands from 30 acres to 120 acres.<sup>41</sup> In many instances, petitioners detailed the close links of those that gained to the commissioners themselves, suggesting impropriety in the survey and distribution of estates. In this

---

<sup>36</sup> *CSPI 1615-25*, p. 306.

<sup>37</sup> *Ibid.*

<sup>38</sup> *1622 Commission*, pp 643-88.

<sup>39</sup> *Ibid.*, pp 693-700; 661-9.

<sup>40</sup> Cartron sizes differed widely, in much the same manner as a ploughland, or a poll.

<sup>41</sup> *1622 Commission*, p. 668.

manner, a Robert Dillon, 'one of the aforesaid committees for the county of Longford', increased his holding of 'one demi-cartron of land' to 'four large, good cartrons' among other 'parcels of land' he received elsewhere in the county.<sup>42</sup> The second petition, of May 1622, detailed huge losses of inhabitants in the plantation who ought to have retained freehold interest judging by the acres cited in the report. Forty-six case studies are cited, ranging from losses of 60 acres to up to 1,700. In all cases, petitioners cited the number of acres they were found in possession of by the 'great office', records that have since been lost for all counties.<sup>43</sup>

The offers of estates to Donald McNir and Creen McCahir Cavanagh of Wexford demonstrate that the lord deputy and commissioners were willing to negotiate terms on a case by case basis in the settling of the plantations. The loss of surveys by the 'great office' prevents a detailed analysis of the distribution of lands, yet surviving records prove that personal gain motivated some commissioners. Creative surveying, particularly in the midlands, allowed commissioners to rate undertakers' land at a small fraction of what land they held, while dispossessing native inhabitants who ought to have retained their holdings. The 1622 commissioners found that 'under colour of fractions, which was all under 100 acres [should lose their lands], the natives have been much wronged' as what was 'made a fraction in a natives' hand was given to [an]other [man] for 2 or 300 acres'.<sup>44</sup>

Richard Hadsor, one of the commissioners in 1622, heavily criticised the 'gross abuses and frauds of the under-surveyor and deputy-escheators in their duty to the king', terming the offices of surveyor and escheator to be 'of greater consequence than all places of that realm'.<sup>45</sup> He criticised the practice of under-surveying land of undertakers, as this had to be made up through depriving both native inhabitants and the king's revenue.<sup>46</sup> Corruption occurred on a grand scale during distribution, as many gained land where they ought not. Many non-residents and minor freeholders gained greatly, particularly those close to commissioners. Many non-resident Old English Palesmen received grants of land 'by favour or otherwise' in the distribution, led by the

---

<sup>42</sup> Ibid, p. 661.

<sup>43</sup> Ibid., pp 693-700; *The O Doyne (Ó Duinn) Manuscript*, ed. Kenneth Nicholls (Dublin, 1983), pp x-xi, fn. 9 and xiii, fn. 13.

<sup>44</sup> *1622 Commission*, p. 732.

<sup>45</sup> [Hadsor, Richard], *Advertisements for Ireland*, ed. George O'Brien (Dublin, 1923), p. 46.

<sup>46</sup> Ibid, pp 12-14.



commissioners themselves, who increased their lands markedly.<sup>47</sup> Those without connections in the plantation commission, who were neither 'learned in the laws' nor wealthy enough to 'best purchase the favour', found negotiation to protect their 'fractions' impossible.<sup>48</sup>

The fourth step in the plantation scheme proved to be particularly problematic for commissioners, as it involved the transplantation of native inhabitants. The plantation aimed to bring pacification to former restless territories through the parachuting in of British settlers. A similar project, on a smaller scale, occurred in the 1570s in Wicklow, where Sir Henry Harrington received a large grant in Shilelagh woods, in the heart of the O'Byrne and O'Toole lands. As seneschal of the O'Byrne and O'Toole counties, Harrington operated as a check on their activities, yet also exploited the terrain for the high quality timber.<sup>49</sup> As in the Ulster project, policy-makers were divided on how best to ensure pacification through plantation. Some argued that proportions ought to be granted to settlers in the mountainous terrain, the 'widest parts' of the county, in order to bring pacification of the kind Sir Henry Harrington's grant hoped he would for Wicklow. In Wexford, these 'wildest parts' lay to the west, on the border with Carlow; in Longford, they lay to the west, toward the counties of Leitrim, Cavan and Roscommon, away from the Pale.<sup>50</sup> Others believed that settler and native inhabitant ought to be mixed in order to promote an anglicising process and to better satisfy undertakers with estates on more profitable, lowland territory.<sup>51</sup> Furthermore, a commissioners' report of 1618 found that this mixing of native and settler would 'sooner civilise the people and keep them from their private meetings'.<sup>52</sup> In the distribution of lands, commissioners had power to confiscate land of freeholders and satisfy them with land elsewhere in the county. This allowed commissioners to best engineer the county, to secure a mix of planter and native that they believed would breed 'civility' and pacify former Gaelic strongholds.

---

<sup>47</sup> *1622 Commission*, p. 667.

<sup>48</sup> *Ibid.*, p. 665; Hadsor, *Advertisements for Ireland*, p. 14.

<sup>49</sup> Rolf Loeber, 'Settler's utilisation of the natural resources' in Ken Hannigan and William Nolan (eds), *Wicklow: history & society: interdisciplinary essays on the history of an Irish county* (Dublin, 1994), p. 274.

<sup>50</sup> *CSPI 1615-25*, p. 230.

<sup>51</sup> *Ibid.*, p. 334; *1622 Commission*, pp 157-8, 162, 608-9, 730-1; *APC 1616-17*, p. 334.

<sup>52</sup> *CSPI 1615-25*, p. 230; *Carew 1600-23*, p. 378.

The loss of the pre-plantation land surveys make an analysis of how many people were transplanted very difficult, yet enough evidence survives to suggest that many were successful in remaining on their land, as freeholders or lessees. The above-mentioned cases of Creen McCahir Cavanagh and Daniell O'Connor showed that commissioners were willing to offer land to some if they agreed to move from their former estates. Richard Hadsor discovered that in Wexford, undertakers and the 'richer of the civiler sort of the natives' received grants on fertile lowland soil, whereas 'the ruder sort who most needed Reformation' were placed in the 'mountains and fastnesses of the country', contrary to plantation designs for the county. Hadsor implied corruption at the heart of this alteration in policy, as those 'best able to purchase the favour' received the best land.<sup>53</sup> Rolf Loeber's study of the lost architecture of the Wexford plantation bears this out. He demonstrated that castle-building by British planters survives throughout the plantation, rather than solely in the mountainous west. While the commissioners held ultimate power over granting of freehold tenure, they faced great difficulty in removing the current occupiers, many of whom wished to remain as lessees on their land. Commissioners were loath to permit the recently dispossessed from renting land of British settlers, owing to the potential for violent confrontation. In Longford, commissioners ordered that dispossessed freeholders could not lease land 'where he makes any claim or title or whereof he was formerly possessed' unless the lesser agreed to the same.<sup>54</sup>

Discussions on transplantation at the time elicited an emotive reaction from inhabitants, as the forcible removal of people from their habitations caused great controversy. In 1613, Chichester criticised the exaggeration of Wexford petitioners who complained against the 'dispossessing and pityfull usage of 60000 Soul's supposed to be turned out of their Antient dwellings and freehoulds, forsooth, and forced to lye upon the ground'.<sup>55</sup> The Catholic vicar apostolic of Ossory, David Rothe provided a counter narrative. In typically expressive rhetoric, he wrote that Irish people could not be transplanted, 'beeinge fastned to theire owne native soyle', that they would were 'more willing to starve in theire owne bottommes and dreggs then most daynteley to feast, and banquet, in a foraigne land'. He continued, arguing that they will 'feight for theire

<sup>53</sup> [Hadsor], *Advertisements for Ireland*, p. 14.

<sup>54</sup> *1622 Commission*, p. 660.

<sup>55</sup> Chichester to Humphrey May, 13 Sept. 1613, 'Letter book of Sir Arthur Chichester, 1612-14', ed. R. D. Edwards in *Analecta Hibernica*, no. 8 (1938), p. 128.



religion, and for their livings, and rather choose to be buried in their own blood, by the Sepulchers of their ancestors then as exiles from their own native Country, in some strange lande and unhospitable coaste to be buried'.<sup>56</sup>

A similarly emotive reaction featured in a list of grievances presented to the 1622 commissioners by the Longford natives, William O'Ferrall and Lysnagh O'Ferrall. These petitioners recorded the impact that transplantation had on 'ne James mc william offeraill of clonyard and donogh mc gerott offeraill of Cuillagh'. While citing just two examples, the petitioners wrote that many more had similar experiences but that they limited their sample to just two for sake of 'brevitie'. On their 'death beds' these men 'weare in such a takinge, that they by earnest perswassion caused som of ther famili and friends to bringe them out of ther said beds to have abroad the last sight of the hills & filds they lost in ye said plantacon every one of them dinge instatlie after'.<sup>57</sup> Despite the sensationalist sentiment expressed by petitioners, in practice the commissioners had great trouble removing inhabitants. From the outset, planters in possession of patents received injunctions out of the chancery court granting them permission to remove natives from their land. The frequency with which these seizures were granted suggests that they were ineffective in removing the current dwellers.<sup>58</sup> The almost complete absence of British settlers on plantation estates meant that undertakers required the continued residence of Irish hands to cultivate the land and pay rents. For many Irish inhabitants negotiation was not necessary, as their presence was essential in the successful management of estates. These later plantation schemes involved a great transfer of land ownership, yet the occupation of the land remained relatively stable.<sup>59</sup> Ulster undertakers had the same problem in ordering their lands, as the plantation scheme forbade the settling of Irish tenants on their land, yet the absence of British tenants, and the higher rent offered by Irish tenants ensured their retention.<sup>60</sup>

---

<sup>56</sup> Rothe, *Analecta Sacra*, f. 70v.

<sup>57</sup> 'A memorial and true information to their honours of part of the grievances and the destruction done upon the most part of the poor natives and inhabitants of the county of Longford', signed by William and Lysnagh O'Ferrall, subscribed by Richard Hadsor, 20 June 1622, TCD MS 672, f. 159r; 1622 *Commission*, p. 666; in 1610 Chichester wrote that 'the word of removing and transplanting being to the natives as welcome as the sentence of death', *CSPI 1608-10*, p. 479.

<sup>58</sup> Seizures were ordered for Wexford in June 1611, Feb. 1612, May 1613, Michaelmas 1615 and March 1616; *CSPI 1611-14*, pp. 450, 452, 454; *CSPI 165-25*, pp 125-6.

<sup>59</sup> A similar pattern can be found in Ulster, Bardon, *The plantation of Ulster*, p. 195.

<sup>60</sup> Moody, 'The treatment of the native population under the scheme for the plantation in Ulster', pp 59-63.

A fifth requirement of plantation involved covering the costs incurred by surveyors. Plantation rules specified that all charges and expenses laid out in the scheme, both in England and Ireland, such as ‘attending the King’s pleasure, finding out records [and] making several surveys of the lands’ were to be paid by native and undertaker alike.<sup>61</sup> A petition from Longford inhabitants revealed the burden imposed on natives by the surveyors and their retinue. The ‘eight or nine surveyors’ remained on their land for three months, accompanied by thirty six soldiers, their horses and four horse boys for every surveyor. Inhabitants had to provide meat, drink and lodging, and eight pence sterling a day in money for each soldier, notwithstanding the charges the administration paid to surveyors during this time.<sup>62</sup>

In Longford, these same commissioners, ‘contrary to his majesty’s instructions’, received lands themselves in the plantation, to the anger of inhabitants.<sup>63</sup> Though the commissioners in Longford received great reward for their services in land (detailed below), inhabitants appear not to have shirked from their responsibility to pay their costs. Some Wexford freeholders, however, refused to foot the considerable costs built up by commissioners. The king declared that he did ‘not intend to be at any charge in giving away his lands’ as these would be borne by grantees. The king’s directions set a fine of £100 on every 1,000 acres on ‘natives’ and £100 fine on every 1,500 acres for undertakers, on top of building requirements set in their patents. Chichester responded to these stipulations by questioning the ability of Irish to pay their fine, owing to their ‘small store of money’. Instead he suggested they pay double rent instead of the fine.<sup>64</sup> In 1613 Walter Synott, Patrick Peppard and Art McDermott, acting on behalf of the Wexford freeholders, refused to pay the costs incurred by the commissioners, yet offered to pay the same rent and fulfil the same building requirements as undertakers.<sup>65</sup> Complaints against costs grounded their arguments on a desire for parity with undertakers, despite the fact that these fines went to surveyors and legists who profited in the plantation by means other than entertainment money.<sup>66</sup>

---

<sup>61</sup> *Carew 1600-23*, pp 212, 380; *CSPI 1611-14*, p. 136

<sup>62</sup> *1622 Commission*, p. 662.

<sup>63</sup> *Ibid.*, p. 661.

<sup>64</sup> *CSPI 1611-14*, pp 312-14.

<sup>65</sup> Commission to examine the abuses in parliament and country, 12 November 1613, *ibid.*, p. 455.

<sup>66</sup> The king wished that ‘those who were employed in the late trial at law’ be recompensed through these fines, *ibid.*, p. 312.



Similarly, inhabitants cooperated fully in the acceptance of rents payable to the crown on their new proportions, the sixth and final condition of the plantation. These payments, of between 1 ½ and 3 pence per acre annually, did not cause complaint from those patentees who received grants in the plantation. Complaints are conspicuous by their absence, as Irish grantees were happy to pay crown rent in return for secure title to their lands. In 1611 during the initial stages of the Wexford plantation, the petitioner Henry Walsh offered to increase crown rent in a bid to convince the king to honour their defective title and abandon the plantation scheme.<sup>67</sup> Walsh recognised the weakness of the position of inhabitants in Wexford, the majority of whom held no patent and were keen to acquire re-grants of their land when faced with speculators, and indeed judges, who queried the legality of Gaelic forms of inheritance.<sup>68</sup> The strict rules imposed and hard stance taken by plantation commissioners left little opportunity for negotiation for natives, however strong their case. The punishment of a loss of a third of freeholds acted as a deterrent to those intent on negotiating terms rather than offering a full, voluntary surrender of their lands with no assurances. Even those who entered willingly into the project soon became dissatisfied through inaccurate surveys and unequal distribution performed by corrupt plantation commissioners. Underhand negotiations during the survey of land proved very successful for some inhabitants, many of whom managed to retain their holdings intact, or enlarge them, 'by favour or otherwise', leading to resentment among those who complied without demur.

Many freeholders rejected the foundation on which the plantation projects were based, namely the resumption to the crown of vast swathes of Wexford and the midlands based on ancient grants. Those who chose to challenge the king's title had to negotiate outside of the scheme, as the acceptance of the crown's right was a precondition for entering into terms with plantation commissioners. As the first to be subject to this type of plantation, Wexford freeholders proved the most energetic opponents of it, and provided a stern test for the administration through their petitioning. In advancing the plantation of Wexford, Chichester had to void agreements made to freeholders under the commission of defective title. As early as December 1611, Chichester warned the privy council that 'the work will feel some opposition' and that he expected 'certain

---

<sup>67</sup> *CSPI 1611-14*, p. 177.

<sup>68</sup> Similarly, in the 1620s upon rumour of a plantation in Connaght, the lord president reported that he received offers to increase the composition rent from £2,600 to £5,000 per annum, 'Lord president of Connaght, Charles Wilmot to Falkland', undated, BL Add. MS 11033, p. 45.

agents from the natives' to appear at court to oppose the project. From the outset, the project in Wexford faced intense scrutiny from inhabitants, who sent petitions to court in London in an attempt to force the administration to abandon the scheme and honour their grants from the commission of defective title. First proclaimed on 6 June 1606, the commission of defective titles aimed to provide secure tenure under English law to freeholders who held land by Gaelic forms of inheritance. In this manner, the king hoped 'his people should receive contentment' while his 'coffers some augmentation', through the payment of a fine on the regrant of their lands.<sup>69</sup> This commission had the potential to provide secure tenure to all possessors of land in Ireland, to the disappointment of speculators who profited greatly on the discovery of concealed crown title. The scheme faced difficulties early on, as Irish landholders appear to have been reluctant to come forward to surrender their lands to the crown, suspicious of the motives of commissioners. Irish landowners preferred to hold silently on to their insecure tenure, rather than publicly declaring their title defective. Reflecting on the failure of the commission years later, David Rothe interpreted the thought process of those who surrendered their lands prior to the discovery of the king's title in Wexford. Rothe wrote that many 'yelded up theire titles' in order to 'purchase the security of theire owne possessions', though with 'unwilling myndes, and somewhat afayrd lest under the green grasse might secretly lurke some serpent'.<sup>70</sup> Wexford petitioners put forward their case based closely on their prior surrender under the commission of defective title, arguing that these agreements ought to be honoured.

An Old English inhabitant and lawyer of Wexford, Henry Walsh, presented the first such petition before court in London in December 1611. Walsh petitioned on his own behalf, as well as on behalf of Gaelic Irish inhabitants of Wexford: Art McDermot Kavanagh, Redmond McDamore, Richard McVadock and Donall 'Spanniagh' Kavanagh.<sup>71</sup> The petition detailed the interaction between inhabitants and the lord deputy and council, showing how the administration moved from working with inhabitants to resolve their defective title to revoking all patents in favour of plantation. On the 8 February 1610, the lord deputy and a designated commission granted lands by

---

<sup>69</sup> 'Proclamation touching Defective Titles', 15 July 1606, Carew MS 629, p. 137 (*Carew 1600-23*, p. 12); King James to Chichester, 27 June 1605, Philadelphia Papers TNA (UK) 31/8/201, pp 132-3 (*CSPI 1603-06*, p. 299).

<sup>70</sup> Rothe, *Analecta*, f.68r.

<sup>71</sup> For records on the land held by these men see *CSPI 1611-14*, pp 452-4; *1622 Commission*, pp 644-8.



act of council to Wexford inhabitants, under free and common socage tenure to replace the old, insecure title held under Gaelic custom. The final phase of this project, the issuance of letters patent, faced delays as the administration discovered crown title to the lands.<sup>72</sup>

As noted above, in Easter term 1610, the exchequer court found title for the crown arising from a legal dispute between Sir Richard Masterson and Donall ‘Spainneach’ Cavanagh. This discovery set the wheels of plantation in motion, necessitating the suspension of letters patent under the commission of defective title. The settlement of Wexford remained in flux until 7 May 1611, when the king (ignorant of the prior surrenders under the commission of defective title) granted powers to Chichester to carry out a plantation scheme in Wexford, Carlow and Wicklow.<sup>73</sup> Henry Walsh’s petition described the chain of events that followed. Plantation commissioners Sir Edward Fisher and Sir Lawrence Esmond ‘obtained Lettres Pattents of the Peticoners Lands’ and came ‘into the Country with Survayors, Escheators and other officers to seize the same’. The petitioners reported that they did ‘threaten and terrifie the poore Inhabitants thereof affirming that if they will not submitt themselves, that they should be driven out of their Lands’.<sup>74</sup> A letter from the English privy council reported that Esmond and Fisher forced inhabitants to pay a fine of five pounds per ploughland during the survey of the county, presumably in lieu of costs incurred.<sup>75</sup> Henry Walsh’s petition included a striking invocation to the king and his privy council, pleading that ‘yf his highnes or your Lordshipps do not speedilie releeve their distressed and miserable estates’ then they did not know ‘what to do or how to dispose of themselves’.<sup>76</sup> This emotive supplication to the king revealed their doubt at receiving a just resolution in Ireland, opting instead to seek satisfaction at court. This tied into a long tradition whereby those with grievances appealed to the crown, as both a benevolent advocate and a higher court of appeal.

---

<sup>72</sup> ‘Petition of the Kinselaghs and other Irish Wexford freeholders’, 5 Dec. 1611, TNA (UK) SP 63/231/98 (*CSPI 1611-14*, p. 175).

<sup>73</sup> King James to Chichester, 7 May 1611, *CSPI 1611-14*, p. 48.

<sup>74</sup> ‘Petition of the Kinselaghs and other Irish Wexford freeholders’, 5 Dec. 1611, TNA (UK), SP 63/231/98 (*CSPI 1611-14*, p. 175).

<sup>75</sup> English privy council to Chichester, 25 July 1612, *CSPI 1611-14*, p. 278, a ploughland is taken to equal fifty acres, a fine of £5 per ploughland corresponds to a £100 fine per 1,000 acres, which is the standard rate for costs.

<sup>76</sup> ‘Petition of the Kinselaghs and other Irish Wexford freeholders’, 5 Dec. 1611, TNA (UK) SP 63/231/98 (*CSPI 1611-14*, p. 175).

Walsh's suit had the desired effect, as a commission for Irish causes in London found in favour of the petitioners. In choosing not to honour the surrenders by defective title, the commissioners found that the Dublin administration failed to keep to their own act of council and breached 'His Majesty's gracious favour extended to all other subjects' through the defective title scheme.<sup>77</sup> Furthermore, in reneging on the original scheme, 'advantage [was] taken of their surrenders to their own disherison'.<sup>78</sup> It was this fear of declaring faulty title that ensured only some inhabitants of Wexford engaged with the commission of defective titles. On 21 January 1612, acting on the findings of the commission, the king revoked his former letter of 7 July 1611 that acted as a warrant to proceed to a plantation.<sup>79</sup>

This reversal of the plantation project acted only to suspend plans, as Chichester reacted quickly to this setback and persuaded the king and privy council to reconsider their revocation of his Wexford scheme. Chichester did so through correspondence with leading politicians in London and by the persuasive means of his attorney general, Sir John Davies. The specifics of Chichester's case against Walsh have not survived, yet Chichester described Walsh's suit as being made 'by falsehood' and based 'upon misinformation'.<sup>80</sup> The king supported this assertion and overturned his decision in favour of the petitioners, labelling their former case as 'full of false and cautelous surmises'. James ordered Henry Walsh to appear before the council in Dublin to prove his allegations against the lord deputy.<sup>81</sup> This letter, of 22 March 1612, ordered Chichester to proceed with the plantation, based upon a fresh survey, so soon after he had revoked his former warrant.

This decision launched a new wave of petitions from Wexford, as a host of freeholders came forward to plead for their defective titles to be honoured. In July Walter Synott came before court in London, in August Thomas Hoare followed and the following summer saw Art McDermot Cavenagh and Patrick Peppard in London putting forward similar suits.<sup>82</sup> The prospect of a plantation featured prominently in a list of grievances presented to the king in May 1613 following the collapse of the first session of

---

<sup>77</sup> Ibid., p. 176.

<sup>78</sup> Ibid., p. 177.

<sup>79</sup> King James to Chichester, 21 Jan. 1612, *ibid.*, p. 234.

<sup>80</sup> Ibid., p. 252.

<sup>81</sup> Ibid., p. 261.

<sup>82</sup> Ibid., p. 278, *Hastings MS*, iv, pp 6-7; 'Letter book of Sir Arthur Chichester', p. 124.



parliament (chapter five).<sup>83</sup> Chichester resented the process of appealing above his head and used all means available to counteract their claims, pleading for favour in proceeding to plantation. In a series of letters, to Sir John Davies in London, the Archbishop of Canterbury, the Lord Chancellor Thomas Egerton, Baron Ellesmere, the courtier Humphrey May, William Cecil, second earl of Salisbury and several letters to the English privy council, Chichester outlined his case and sought firm assurances of support for his Wexford scheme.<sup>84</sup> Chichester revealed in these letters the difficulties he faced in getting the Wexford project started and the damage that this did to his honour. In August 1612, he wrote that the petitions of Hoare and Synott had led the English privy council and the king to question his honesty. In January 1613, he thanked the lord chancellor, Ellesmere for his support in the Wexford scheme, writing that it had received ‘many crosses and oppositions’ and that ‘the discovery of his Majestys title and the prosecution of the business hath bin both painfull and chargeable unto’ him. In February, he revealed he had ‘bin so scandalized lately’ in planning the Wexford plantation that he ‘dare not confidently advise what is most commodious & needfull for the King and his service’ in the laying out of schemes in Leitrim and beyond.<sup>85</sup>

The stream of petitioners to London represented a real threat to Chichester’s authority as it gave a platform to complainants outside of his immediate control. Throughout his lord deputyship he appealed to authorities in London not to entertain such suits. In December 1605, Chichester and the council urged the English privy council not to give an audience to a petition from gentlemen of the Pale, writing that ‘this would much countenance the doings of the State in Ireland’.<sup>86</sup> On 5 August 1613, upon hearing of the suit of Art McDermott Cavanaghe, Synott and Peppard, Chichester railed against their attendance at court, pointing to the danger of their tarrying in London, as it left many in expectation of an alteration in policy. He urged instead for the English privy council ‘to dismiss them from thence with their short and finall reproofe for their so

---

<sup>83</sup> Commission to examine the abuses in parliament and country, 12 Nov. 1613, *CSPI, 1611-14*, pp 437-8, 449-55; Walter Synott sat in parliament as an M.P. to replace the deceased James Furlong, McCavitt, *Sir Arthur Chichester*, p. 166.

<sup>84</sup> *Hastings MS*, iv, pp 6-7; ‘Letter book of Sir Arthur Chichester’, pp 57, 73, 89, 90, 124, 126, 128; *CSPI 1611-14*, p. 408.

<sup>85</sup> Chichester to Davies, 14 Aug. 1612, *Hastings MS*, iv, pp 6-7; Chichester to Ellesmere, 3 January 1613, ‘Letter book of Sir Arthur Chichester’, p. 73, Chichester to Humphrey May, 20 Feb. 1613, *ibid.*, p. 90.

<sup>86</sup> *CSPI 1603-06*, p. 357.

great importunity and obstinacy'. Lastly, he asked the lords 'to send them away to receive punishment for their unjust clamoring'.<sup>87</sup>

Later that month, Chichester lost patience with the long continuance of petitioners in London and voiced his anxiety of 'malicious allegations' made against him at court, where he had limited means of defending his position. He wrote that he had foreseen the difficulties contingent in such a project, yet believed that 'reform of religion and planting of the country would work much permanent good' offsetting the 'unpopularity and grievous complaint' that it generated. He pronounced complaints from Wexford as 'forged and untrue' and advised that if they separated 'these traducers apart from each other and require particulars of their charges' that their arguments would falter. He stridently defended the king's right to land in Wexford by declaring that 'the King has not a fairer title to any land in England than to those into which these buggares have intruded'.<sup>88</sup> Chichester clearly had grown tired of his helpless position, as he had to wait impatiently in Dublin while opponents of the plantation project attempted to persuade the king to overturn it. Chichester wrote of his surprise at the vehement opposition faced in the Wexford project, noting that the Ulster plantation passed with less trouble, 'who are forty times more numerous and have had harder measure'.<sup>89</sup> The Old English Protestant lawyer, Richard Hadsor, similarly criticised the practice of pursuing suits before the privy council in London that had been previously tried in Ireland. He termed it 'a strange precedent' that 'did much to the dishonour of the State and disability of the acts and authority of the Courts of Justice there [in Ireland], who have full power to try, judge and determine all matters and suits of that kingdom'.<sup>90</sup> The entangled nature of Irish politics and the constitutional relationship between Ireland and England proved troubling for the lord deputy, with his authority effectively in doubt every time an agent appealed above him at court.

In bringing forward suits in London, petitioners left themselves vulnerable. Firstly, the costs incurred were significant, as a successful petition could take months to come to resolution. A useful barometer of the burden incumbent in such petitioning is the experience of Cork City's agents to London, who cost the municipality between £140

---

<sup>87</sup> Chichester to English privy council, 5 Aug. 1613, 'Letter book of Sir Arthur Chichester', pp. 123-4.

<sup>88</sup> Chichester to English privy council, 14 Aug. 1613, *CSPI 1611-14*, p. 408.

<sup>89</sup> Ibid.

<sup>90</sup> Hadsor, *Advertisements for Ireland*, p. 39.



and £400 for each trip (chapter two).<sup>91</sup> Secondly, a petitioner, successful or otherwise, could expect to experience persecution in their future interactions with authorities in Dublin. The king and the privy council frequently wrote on behalf of petitioners, stating directly that they ought not to be maltreated on their return. In January 1612, the king demanded of Chichester that Henry Walsh ‘be not prejudiced’ on his return to Ireland and in August 1613 the privy council asked that the petitioners Art McDermott, Walter Synott and Patrick Peppard be heard and examined ‘without restraint’.<sup>92</sup>

Petitioners faced a further danger in setting forth suits in London, as their harsh speeches, dishonest proceedings or future failure to comply with agreements made at court could lead to sanction. Walter Synott appeared, as both a landowner and agent for other gentlemen, in London in July 1612 to petition the king to have defective titles acknowledged. His petition initially found favour, as the privy council wrote to Chichester to ensure the suspension of corrupt practises of plantation commissioners.<sup>93</sup> By 10 February 1613, Chichester sent a *fiant* for the pardon of Synott to the English privy council, though no reference is made to the particulars of the crime.<sup>94</sup> Six months later Synott, Art McDermott and Patrick Peppard returned to Ireland with the privy council’s blessing. By 18 March 1614, however, a warrant from the privy council to the keeper of the Marshalsea secured Synott’s release from prison, again on unspecified offences.<sup>95</sup> In spring of the following year, the privy council urged Chichester to imprison Synott for failing to honour his submission (made at court) to agree to ‘whatever His Majesty or this board should set down touching the plantation in question’.<sup>96</sup> Walter Synott petitioned from a position of strength as he held great tracts of land in Wexford and held a patent that entitled him to £20 annually from inhabitants in the county. It is likely that this confidence impelled him to take an assertive stance in negotiations, leading to his repeated stints in prison.<sup>97</sup>

---

<sup>91</sup> *Council book of Cork*, pp 8, 12, 14, 16, 25, 26, 46, 51, 74-5, 76-7, 78, 80, 81, 82, 83, 84, 86, 88, 91-2, 100, 103, 130, 136, 147, 154, 162.

<sup>92</sup> *CSPI 1611-14*, pp 235, 413: the Commissioners for Irish Causes directed that Henry Walsh ‘be no wise troubled by the patentees nor any others upon his return into Ireland for prosecuting this business in his own and the rest of the petitioners’ behalf’, *ibid.*, p. 176.

<sup>93</sup> English privy council to Chichester, 25 July 1612, *CSPI 1611-14*, p. 278.

<sup>94</sup> Chichester to English privy council, 10 Feb. 1613, *CSPI 1611-14*, p. 322.

<sup>95</sup> 18 March 1614, *APC 1613-14*, p. 382.

<sup>96</sup> English privy council to Chichester, 28 Mar. 1615, *CSPI 1615-25*, p. 28.

<sup>97</sup> *CSPI 1611-14*, p. 449.

Petitioners from lower on the social scale appear to have experienced harder measure from the Dublin administration. From July 1618 to December 1620, after the plantation in Wexford had been largely settled, Patrick O'Doran petitioned for the re-grant of his estate in Wexford and encouraged others to make the like complaint. On 20 July 1620, Doran was accused of calling Irish people to London to 'exclaim to His Majesty and their Lordships against the plantation of Wexford'. On the back of this accusation, he spent five months in the Bridewell prison.<sup>98</sup> The O'Doran family were leading Brehon lawyers of the Pale, and Patrick took on the role as an agitator for lesser landholders dispossessed in the plantation. Late in 1620, O'Doran and others, once released from prison, urged two hundred petitioners from Wexford to travel to Dublin to put forth their cases to have their lands returned to them. The lord deputy, Oliver St John, and his council reacted angrily to this latest petition and had all two hundred imprisoned for their 'insolent and undutiful behaviour' and in order to 'terrify others from the like attempt'. The deputy and council criticised the timing of these petitions, coming after the settlement of the county and from 'such as these three years past have never opened their mouth or pretended the least grievance'. The administration saw this as a desperate attempt to secure their lands, in the vain hope that 'if they did but show themselves in numbers they should have land given them'.<sup>99</sup>

Their status as small landholders, with a history as 'voluntary rebels in the last rebellion' stood against them as the administration portrayed them as the 'poorest and basest septs of all Leinster' and such of the 'Irishry' who brought war against the English and who were 'overthrowers of the old plantation'.<sup>100</sup> The Dublin administration had full backing from London in this matter, and the lord deputy thanked the privy council for their support in 'restraining some of them to send to Virginia'. St John then urged that 'if any more of them trouble the King or their Lordships', he urged them to 'send them after their countrymen' to the new colonies.<sup>101</sup> This passing reference to the sending of petitioners to Virginia cannot be verified by supporting

<sup>98</sup> *CSPI 1615-25*, p. 206; Sir Francis Blundell to English privy council, 20 July 1620, *CSPI 1615-25*, p. 293, *APC 1619-21*, pp 255, 318.

<sup>99</sup> St John and council to English privy council, 6 Dec. 1620, *CSPI 1615-25*, p. 304.

<sup>100</sup> On the O'Doran's as Brehon lawyers see Jon G. Crawford, *A Court of castle chamber in Ireland: the court of castle chamber, 1571-1641* (Dublin, 2005), p. 54; *CSPI 1615-25*, pp 303-05, Nicholls, *Gaelic and Gaelicized Ireland*, p. 56.

<sup>101</sup> *CSPI 1615-25*, p. 306.



evidence, yet the fact that both the Dublin and London authorities felt this an appropriate punishment for petitioners is significant.

The constant delays, re-surveys and stream of petitioners to London likely caused optimism among Longford inhabitants who sought to spoil the lord deputy's intentions of planting the county. The much-delayed Wexford project dampened enthusiasm for further projects, as the lord deputy's reputation was tarnished, and energy much exhausted, by years of back and forth between the king, his council, the Dublin administration and inhabitants. The project for Longford faced delay until 1615, when an inquisition in the midlands found title for the crown.<sup>102</sup> Inhabitants of Longford had recent experience of petitioning in London, as a long-standing land dispute brought suit and counter-suit at court between members of several O'Farrell septs, the heirs of Sir Nicholas Malby, Sir Francis Shaen and Lord Delvin. In order to defend the interests of the O'Farrell's and the other inhabitants of the county, the O'Farrell's dispatched an agent to London. In May 1610, a letter from the chief of the septs of the O'Farrell's to Salisbury outlined the difficulties faced in pursuit of their interests. They complained that two letters of attorney granted by them to their agent were deemed 'insufficient' and urged for greater haste in their case as their 'agent may be driven to stay no longer there, they being very unable to supply his wants', having remained at court already for seven months.<sup>103</sup> When plans for the plantation of Longford began to take shape, the O'Farrell's took a different tack from those of Wexford in setting forth their case. The different circumstances in the county are partly to explain for this, yet they likely learned from the experience of advocates for Wexford.

In late 1615, Longford natives drew up a list of reasons why the king ought to call off the plantation scheme, based on three principles: the king's honour, profit and service. The petition outlined fifteen justifications on why the crown ought to abandon the project, rather than the overriding concentration on defective title advocated by Wexford petitioners. In pursuing a policy of plantation, the king's honour, the petition read, would be discredited on account that: his claim to title was weak, it broke the terms of composition, the inhabitants had received several assurances relating to land security and that it could break the terms of a patent held by the young O'Farrell Boy.

---

<sup>102</sup> Carew MS 617, pp 99-109 (*Carew 1600-23*, p. 313).

<sup>103</sup> *CSPI 1608-10*, p. 449.

This rhetoric appealed to the king's duty to protect his subjects, arguing that the foundation of plantation lay in unjust means. David Rothe argued similarly in 1616, writing that though much good could come of plantation the faulty means by which the crown came to the lands would do more harm than good. Rothe disputed the use of 'evill, that good may ensewe therby', as this signified that 'all respect of Justice is set apart, then all regard of equity, of right, and of honestie is banished, then the bares of lawes are unlocked... [and] wee shall degenerat into the customes of bruit beasts'.<sup>104</sup>

Next, Longford petitioners cited the economic advantage to the king of cancelling the proposed project, as they outlined the greater profits that would come to the exchequer through composition rent rather than through plantation. By their calculations, through plantation and the satisfaction of former rents, the crown would increase their revenue by £100, whereas, through grants to natives, the crown's revenues would increase by £300 per annum. This mimicked the petition of Henry Walsh of Wexford who proposed better terms than the planters were to pay. Lastly, petitioners appealed to the king's duty of service to the natives and the damage it could cause to his reputation. In a forceful manner, they argued that in favouring servitors over natives, the king would 'loseth the love and hearts of many of his poor subjects', which would lead them to become 'desperate' and in danger to 'commit all manner of villanies'. They preyed on the insecurities of the kingdom, and the unsettled state of the king's revenue, by stating that in pressing ahead with this policy the king risked making those of the west as discontented as those of the north. They contended that 'the eyes of all that nation [were] fixed upon this business...that for the most part have been good subjects' and that thus the king ought to proceed cautiously lest he create a broad opposition in the kingdom.<sup>105</sup>

To pursue their case before the king and council, a group of inhabitants of Longford secured the services of an Edward Dowdall of Athboy, County Meath. Only fragmentary evidence exists for Edward Dowdall, allowing only a sketch of his career to be constructed. Admitted to Gray's Inns on 2 November 1599, Dowdall appeared as an executor, along with the prominent Old English Protestant lawyer, Richard Hadsor,

---

<sup>104</sup> Rothe, *Analecta*, f. 67r.

<sup>105</sup> *CSPI 1615-25*, pp 108-111.



of the will of Gerald Fitzgerald, fourteenth earl of Kildare, in 1612.<sup>106</sup> On 28 May 1616, as an agent for the inhabitants of Longford and Leitrim, he presented their 'free and voluntary' submission to plantation terms at court. His role as advocate was confirmed by the English privy council the following month, where they recorded him as 'pretending himself an agent for the rest of the countys of Longforde and Letreim that were absent'. This letter reported that the agents were dismissed from any further attendance at court and instructed to repair to Ireland 'to live at home in peace'.<sup>107</sup> From this point, no further petitions came to court in London from Longford or Leitrim, as inhabitants either accepted terms or chose other means of opposition. In April 1620 Edward Dowdall secured himself a role as a plantation commissioner for Longford, charged to reconcile controversies between undertakers and natives.<sup>108</sup> His integrity thereafter comes into question, as he appears as a grantee in a list of grievances drawn up by the 1622 commissioners against abuses in the Longford plantation. A complaint was levelled against an Edward Dowdall, 'learned in the laws and one of the said committees of the said county', who received 'upwards of 1,000 acres of land' in Longford after allocation, where before he had 'no lands by purchase or inheritance'.<sup>109</sup> It would appear he used his April 1620 appointment as a commissioner to allot lands in Longford to himself, as did many Old English Pale gentlemen. A Hugh McEnlowe alleged that he lost all his lands, an estimated 140 acres, in the plantation of Longford, with these lands now in the possession of Edward Dowdall, Shane O Ferrall, Edmond Ferrall and a fellow commissioner, Edmond Nugent, leaving him but a tenant, on a lease of part of these lands for one year.<sup>110</sup>

Negotiation as a means of protest against the plantation had its limitations. Those who attempted to negotiate within the scheme found commissioners to be uncompromising, as the surveyors and escheators were guided by self-interest and favoured their own client group. Underhand dealings with plantation commissioners found success, as a

<sup>106</sup> Donal F Cregan, 'Irish Catholic admissions to the English Inns of Court, 1558-1625', *Irish Jurist*, 18 (1983), p. 108; *APC 1613-14*, p. 65.

<sup>107</sup> *APC 1615-16*, pp 560, 628.

<sup>108</sup> *Irish patent rolls of James I: facsimile of the Irish record commission's calendar prepared prior to 1830*, ed. M. C. Griffith (Dublin, 1966), p. 469; *1622 Commission*, p. 650.

<sup>109</sup> *1622 Commission*, p. 665. The survey undertaken by the commissioners recorded him as having 718 profitable acres in Longford, the rest could well have been made up in unprofitable lands, see *1622 Commission*, p. 659.

<sup>110</sup> 'A schedule of complaints made to commissioners concerning loss of lands in the plantations', May 1622, *1622 Commission*, p. 696.

number of inhabitants limited their exposure to confiscations through these means. Lists of grievances drawn up in 1622 recorded gains by unworthy men, account for the losses of Irish inhabitants and recite the names of those who subsequently occupied their lands (unjustly in their eyes). In Wexford, those who gained at the hands of complainants were primarily Old English residents in the county, such as the petitioners Walter Synott and Patrick Peppard. Also noted are office-holders such as Sir Lawrence Esmond and Sir Francis Annesley, who both acted as plantation commissioners. In Longford, various members of the O'Farrell's and Old English families predominate. Of particular interest here are the large numbers of non-resident Old English names, including ten of the twelve commissioners appointed to allot lands in the county. Of these ten, seven are specifically mentioned by inhabitants as having used their positions for their own advancement (including Edward Dowdall and Edmond Nugent). In King's County and Leitrim, rival resident families feature, alongside prominent officials, including Viscount Grandison, Sir Charles Coote and Sir William Parsons.<sup>111</sup>

The list of benefactors from these plantations reads as a who's who of peers from England, office-holders within the administration in Dublin or plantation commissioners employed to settle disputes. In this light, it is not difficult to see why petitioners appear to have had little success in their negotiation with plantation commissioners, the Dublin administration, or indeed, the court in London. The persistence of petitions from Wexford may have limited the severity of confiscations for those involved, yet from the list of grievances we can see that some, particularly Daniel O'Connor who claimed to have lost 1,700 acres, lost greatly in the plantation of the county. Petitioners had to contend with an increasingly isolated administration in Dublin, who began to rely on New English Protestants to a great degree, and for whom a policy of plantation represented a means to civilise the country whilst enriching themselves and their client group. Administrators in Dublin saw plantation as a key policy in the reform of Ireland and convinced authorities in London of the same. Correspondence from London increasingly backed the decisions taken by the lord deputy, Chichester, as their instructions began to parrot those put forward from Dublin. From the *volte face* in March 1612, when the English Privy council re-issued

---

<sup>111</sup> 1622 Commission, pp 655-9, 661-9, 693-700.



commissions for plantation in Wexford on, authorities in London appeared set to pursue plantation despite doubts over the king's title and the methods employed.

In March 1618, the English privy council wrote to Lord Deputy Oliver St John reassuring him about the future of plantation projects in the face of opposition from Irish petitioners. They restored confidence in the lord deputy by writing that he 'shall not neede to doubte that the complaynt of any discontented person there is able to do to you the least harme either in good opinion of his Majestie, or of this Boord, thereby to disturbe the businesse already so well settled, knowing that no worke of this nature can bee altogether free from clamour'.<sup>112</sup> In February 1620, the king gave his support to St John regarding future plantations, writing that he 'having found by experience that plantations in that kingdom are the only ordinary means to reduce the people to civility and religion'.<sup>113</sup> These strong letters of support to the lord deputy demonstrated the uphill task faced by those who attempted to overturn plans for plantation, or simply spare their own lands from the surveyors' chain.<sup>114</sup>

In the absence of scope for a negotiated settlement, some chose to challenge the plantation through confrontational tactics. The softest form of confrontation employed involved legal obstruction or suits before relevant authorities. Of course, petitioning campaigns in London used legal principles at their heart and thus can be viewed as negotiation or opposition, as lawyers frequently presented the cases of Irish inhabitants. As these discussions took place behind closed doors it is difficult to assess the success or failure of their endeavours. It would appear that the first delegation, led by the Pale lawyer Henry Walsh, had some success, as his clients emerged from the plantation scheme without great loss of land. The petition of 1620 by Patrick O'Doran on behalf of a group of small Wexford landowners ended in acrimony, as did that of Edward Dowdall, where Longford complainants cited his extraordinary gains at their expense.

The level of vitriol directed toward Pale lawyers by members of the Dublin administration suggests they acted as a check on plantation initiatives activities. In 1611, in collecting submissions for the plantation, the commissioners for Wexford, Sir

---

<sup>112</sup> 'At the court of Whitehall, 29 March 1618, *APC 1617-19*, p. 89.

<sup>113</sup> King James to St John, 26 February 1620, *CSPI 1615-25*, p. 275.

<sup>114</sup> On the methods used in measuring plantation land see J. H. Andrews, *Plantation Acres: an historical study of the Irish land surveyor and his maps* (Omagh, Co. Tyrone, 1985), p. 57.

Lawrence Esmond and Sir Edward Fisher, complained of the low number of submissions, writing that 'so would all the rest have done had not certain lawyers (who would never be seen) distracted them for their own private interest'.<sup>115</sup> In 1621, a report by Irish officials on the state of Ireland criticised the behaviour of lawyers, terming them the 'most malicious advisers and perverse practicers against your majesty's title to lands'.<sup>116</sup> Contemporaneously, Pale lawyers increased tension between Catholic parliamentarians and government, earning the approbation of the solicitor-general, Sir Robert Jacob, who wrote that 'the Irish lawyers do more hard than the priests' in hampering legislation put forward by the administration.<sup>117</sup> It is no coincidence that the trouble stirred by Catholic lawyers in this period persuaded the London government, in October 1613, to agree to their debarment from practice in Ireland.<sup>118</sup> Their debarment did not stop them from providing essential advice to Catholic petitioners, as related clearly in the petition of Redmond McDamore and other freeholders in May 1616. The petitioners complained that Esmond and Fisher procured a commission to inquire into Wexford lands 'suddenly in term time' when they were 'destitute of counsel'.<sup>119</sup>

Conversely, Irish commentators also criticised the work of lawyers and judges, both Irish and English, as they manipulated laws to their advantage. Complaints from Longford before the 1622 commissioners turned on the actions of the Pale lawyers Edward Dowdall and Edmond Nugent who were 'learned in the laws' and who received land without justification in the plantation.<sup>120</sup> Hadsor repeated this criticism, finding that 'certain Irish gentlemen' appointed as plantation commissioners 'gained great proportions to themselves and deceived the natives thereof'.<sup>121</sup> Rothe condemned the actions of the 'sollicitor and attorney at the lawe' whose 'cunninge enquireinge into titles' augured in a series of surveys to dispossess Irish in favour of government officials. This 'rout of Lawers' acted alongside Chichester's 'Bencheres, and Commissiners [and] publique notaries' to coerce Irish people to yield up their titles for

<sup>115</sup> 'An estimate report made by Esmond and Fisher into the King's title in Wexford', undated, *Carew 1600-23*, p. 213.

<sup>116</sup> Report of Irish officials on the state of Ireland, 16 June 1621, *1622 Commission*, p. 19.

<sup>117</sup> *CSPI 1611-14*, p. 350.

<sup>118</sup> McCavitt, *Sir Arthur Chichester*, p. 188.

<sup>119</sup> Petition of Redmond McDamore and other freeholders, May 1616, *CSPI 1615-25*, p. 125.

<sup>120</sup> *1622 Commission*, p. 665.

<sup>121</sup> 'Propositions concerning the Reformation of the plantations of Wexford, Longford, Leitrim etc.', undated, *1622 Commission*, p. 743.



the king.<sup>122</sup> Evidently, lawyers and judges infuriated both administrator and landowner alike, as the influence of the courts proved of critical importance in finding title and in the allocation of land.

Jury trials summoned during the plantation process provided a means by which locals could challenge the legal principles used to find crown title. As mentioned above, the move toward plantation in Wexford originated out of a case before the exchequer court between Sir Richard Masterson and Donall 'Spaineach' Kavanagh in 1610. The jury found the north of the county for the crown, setting in motion the wheels of surveys and confiscation. In July 1611, the sheriff of Wexford received a seizure out of chancery to take possession of lands on behalf of new patentees. In August 1611, a jury drew up a list of the fifty-seven principal freeholders of the county for the commissioners, Esmond and Fisher. In order to proceed to plantation, commissioners required a jury to inquire into the ancient title and pass it for the crown. On 26 November the commissioners held an inquiry before a jury at Wexford. Eight days later, the jury passed a verdict of *ignoramus*, rejecting the king's title. The commissioners refused to accept the decision and instead brought the jurors to Dublin to try the case at the exchequer court. Five jurors refused to pass title, even after intimidation, whereas eleven agreed. The five were removed and two new jurors empanelled, who found for the king. Those five who were removed were imprisoned in the Marshalsea and fined thirty pounds English sterling before the court of castle chamber. According to the castle chamber report, the five jurors refused to find the title as 'their Conscience would not suffer them to Joine with the rest uppon the evidence given them to fynde for his majestie'.<sup>123</sup>

In summer 1615, commissioners for the plantations of the midlands held a similar inquiry before an Irish jury. The jury found the king's title to Longford, Leitrim, Fercal (O'Molloy's country), Delvin McCoghlan (McCoghlan's country), Killcourcy (Fox's country), Iregan (O'Doyne's country) and Clancolman (O'Melaghlin's country), yet failed to find title to Ely O'Carroll, Glinmalery (O'Dempsie's country) and Moycassell (McGeoghegan's country). The jury could not decide on the title to the king for Ely

---

<sup>122</sup> Rothe, *Analecta*, ff 65v., 67v.

<sup>123</sup> *CSPI 1611-14*, p. 450-1; Crawford, *Court of castle chamber*, p. 509; Petition of Redmond McDamore and others, May 1616, *CSPI 1615-25*, p. 125.

O'Carroll, writing that 'whether this Contrie ought to be his Majesties, the Jurye leave it to the Judgment of the lawe'.<sup>124</sup> Unlike the Wexford case, where the administration coerced and manipulated the jury system until they found the judgement they sought, the decision of this 1615 trial stood, as planned plantation in Glinmalery and Moycassell did not proceed. As seen in other areas of the government reform programme, the administration took a hard line on juries who failed to return acceptable results, with coercion and the subjugation of the law used in the most prominent cases. The management of the jury in Wexford stands alongside the corruption of legal trials of John Downing in 1606 and the trial of Neale Garve O'Donnell in 1608 (chapter four).

The 'Judgment of the lawe' offered very little respite for Irish Catholic interests, as the courts were central to the administration in their effort to find title. Referring to legal opposition to the Ulster plantation, F.W. Harris wrote that 'recourse to law as a means of thwarting the plantation would avail the native inhabitants little because the law was being utilised as a device to produce it'.<sup>125</sup> This assessment applies also to plantations that followed, as the central courts of chancery and exchequer were key in finding the king's title and for issuing seizures in favour of grantees.<sup>126</sup> Correspondence from the king and privy council demonstrated the weak legal position Irish inhabitants found themselves in resisting plantation commissioners. Their directions stipulated that those inhabitants who refused to submit willingly their lands to the commissioners would be 'left to the law'. The English privy council wrote that the result of this would be that 'every man should stand on the strength of his own patent and the rest of the lands for which there was no patent should be divided and passed by patent to those of British birth'.<sup>127</sup> Seen in this light, the English privy council cast the plantation commissioners as agents for moderation in the country who offered favourable terms to the inhabitants against a much greater threat.

The theory that victory in the Nine Years War meant that Ireland had been fully conquered emerged in this debate, with the land viewed as a 'virgin territory' and ripe

---

<sup>124</sup> 'An Inquisition into the Kings title to the Counties of Longford Letrim &c.', undated (following King James's letters of 12 April 1615), Carew MS 617, pp 99-109 (*Carew 1600-23*, p. 313).

<sup>125</sup> F. W. Harris, 'The rebellion of Sir Cahir O'Doherty and its legal aftermath' in *Irish Jurist*, ns, 15:2 (1980), p. 317.

<sup>126</sup> On seizures see *CSPI 1615-25*, p. 306.

<sup>127</sup> *Carew 1600-23*, p. 299; *CSPI 1615-25*, p. 28.



for plantation. The plantation commissioner, Sir William Parsons, argued as much in May 1622. He wrote that the king ‘must first make a people and then give them laws’ and went on to declare that ‘their manner of holding land [was] not according to any law, and the patents made by queen Elizabeth to the Irish do declare that the Irish have no title’.<sup>128</sup> Very few held land by secure English tenure, with the outlawing of title held by gavelkind and tanistry rendering vast swathes of the country open to speculation. In finding title in Wexford and midlands through centuries-old grants, the administration set a precedent that threatened the majority of landowners in the kingdom. Rothe noted the weakness of the law to defend the rights of Irish landholders, writing that the poor Irish feared the machinations of the Dublin government ‘lest they should bee constrained to seeke their right by lawe which they hold; and which they have receaved from the hands of their ancestors perchance with none other handwryting then what is written in their foreheads, out of their fathers, and grandfathers successyon’.<sup>129</sup>

The limited means available to the Irish are evident from the weakness of their strict legal defence, as uncertainty over legal principles and consensus among administrators and lawmakers stacked odds against Irish complainants. Sir William Parsons stated explicitly that the legal principles employed to confiscate land in Ireland would not be accepted in England. He admitted that ‘I must say it might be thought unfit to take such a course in England or another country governed by any certain law, but the case much differs in England: though some be ill yet the people generally are sound in the root’. He continued, writing that ‘In Ireland they reject laws and have – many times in several ages, whole counties and whole provinces at once – renounced their obedience, little weighing the king’s expense of millions in a season to make them quiet’.<sup>130</sup> This conquest right theory, advocated by prominent legists such as Davies, gave the administration licence to promote policy in Ireland that English courts would find illegal. The plantation projects in Wexford and the midlands relied on practices that were inadmissible in England, yet the unique circumstances of the reform programme in Ireland rendered them necessary. In England, the failed ‘great contract’ of 1610 attempted to lay down in law the principle that sixty years’ possession of land, without

---

<sup>128</sup> Reasons for the plantations in Ireland by William Parsons, 16 May 1622, *1622 Commission*, p. 762.

<sup>129</sup> Rothe, *Analecta*, f. 66r.

<sup>130</sup> Reasons for the plantations in Ireland by William Parsons, 16 May 1622, *1622 Commission*, p. 762.

the king claiming his right, represented secure tenure by law.<sup>131</sup> In Ireland, commissions of inquiry found titles that had been 'long slept' up to three hundred years without claim. Plantation commissioners rejected the principle that long possession of land exempted landholders from investigation, as they argued that the Irish gained this land through the expulsion of English grantees from the crown.<sup>132</sup> These investigations into lands using ancient title caused alarm across Ireland as they left many landowners vulnerable, leading to a reaction in 1628, where article twenty-four of the 'graces' enshrined the principle that sixty years of uninterrupted possession granted the holder legal title to the land.<sup>133</sup>

In the absence of means to oppose the plantation through negotiation or through legal challenges, some opted to use obstruction to slow the process. The drawn-out petition procedure caused considerable delays for plantation commissioners, yet there is little evidence to show this to have been the aim, rather it was a by-product of their ultimate objective to overturn such schemes. Lord Carew believed delay was their intention, writing in 1618 that the plantation of the midlands 'in expectation is most to be doubted, being a usual Irish policy (when they have purpose to give impediment to any good design) to raise a combustion, hoping by winning time to frustrate the intention'.<sup>134</sup> Some evidence of obstruction can be seen, as Irish landholders aimed to delay plantation commissioners in the hope to frustrate their plans. In his analysis on the plantation of Munster in the late 1580s, Nicholas Canny found that locals used misinformation, forgeries and false oaths when engaging with those investigating Desmond exactions in order to obstruct the process and weaken the resolve of commissioners. Their tactics had the desired effect, as undertakers were wary of the uncertainty caused by their actions and some chose to abandon their proposed settlement.<sup>135</sup>

Those who opposed Jacobean plantations appear not to have used such tactics to the same extent, yet some degree of obstruction can be discerned. One landholder who

---

<sup>131</sup> Possession of Estates for Sixty Years, sufficient Title against the King and His Successors, 'House of Lords Journal Volume 2: 26 June 1610', *Journal of the House of Lords, volume 2: 1578-1614* (1767-1830), p. 660.

<sup>132</sup> Sir Francis Annesley to Cranfield, 26 Jun. 1622, *1622 Commission*, p. 214.

<sup>133</sup> Aidan Clarke, 'Appendix II: The "Graces"' in *The Old English in Ireland, 1625-42* (London, 1966), p. 245.

<sup>134</sup> *Carew 1600-23*, p. 387.

<sup>135</sup> Canny, *Making Ireland British*, p. 140.



employed such tactics was Sir John McCoghlan. He failed to appear before the Irish council on his first summons in late 1620.<sup>136</sup> Upon the second summons, on 6 January 1621, he (at the head of a group of minor lords of the midlands), came before the council and refused to submit voluntarily to the plantation. The report on their discussions revealed that in their meeting, the Irish delegation opposed the commission on a number of points. Negotiations began slowly as the delegation from the midlands spent 'many days in delusive dallying, and asking to see His Majesty's instructions'. The delegation may have been wise to investigate fully what they were submitting to, as the lord deputy and council later acknowledged that they hid details of the project from the delegation. They wrote privately that they 'showed them so much as required their submission; but declined to show them the rest until they had submitted'.<sup>137</sup> Next, delegates 'grieved at the measurement [of their lands] as too exact and not equal', to which the council retorted that they had performed the survey with the assistance of the lords. Lastly, the delegation opposed the deduction for glebes, schools, forts and corporation town (as outlined above). The council rejected these arguments as 'pretences', as 'their main labour is underhand to oppose the coming of British among them'. Their stance in early 1621 stood in contrast to their previous submissions in London, which raised the suspicions of the lord deputy and council. The lord deputy and council surmised that their change of stance may have been due to the 'news of the foreign affairs' or that 'they expect by some clamour to give a stop in England'.<sup>138</sup>

Another method used to delay proceedings related to the late date of harvest in Ireland. A letter of 8 November 1619, reported delays in the plantation of Longford, partly due to the 'want of a sufficient number of the principal commissioners' but 'specially because the chief men of those parts were finishing their harvest, which in this country is seldom done until Allhowllontide [1 November]'.<sup>139</sup> As stated above regarding transplantation, the Dublin administration were nervous of removing people from their lands, as large-scale displacement could lead to revolt. The refusal to surrender land until after harvest may well have been a simple delaying method used to put off the commissioners in the hope for changed circumstances. The cycle of harvest played an important role in considerations on transplantation. In August 1610, an interim

---

<sup>136</sup> *CSPI 1615-25*, p. 333.

<sup>137</sup> St John and council to English privy council, 6 Feb. 1621, *CSPI 1615-25*, p. 313.

<sup>138</sup> *Ibid.*, pp 313-15.

<sup>139</sup> St John and council to English privy council, 8 Nov. 1619, *CSPI 1615-25*, p. 266.

agreement in Ulster allowed Catholic tenants to remain on undertaker land until May Day 1611, on the payment of rent.<sup>140</sup> By October 1611, Chichester reported that 'natives of Ulster' were required to depart 'at Allhallowtide next'.<sup>141</sup> These dates came and went with little change in their circumstances, largely owing to the impossibility of finding land elsewhere for these tenants, and their continued need to work the land for British undertakers.<sup>142</sup> The delaying tactics employed during the plantation of Wexford and the midlands appears not to have had the kind of success noted for Munster in the 1580s. Commissioners became exasperated by constant setbacks, though their desire to proceed trumped any difficulties encountered.

Opposition to commissioners also included more forceful tactics, with seditious speech and threats forming an important part of protests against plantation. From the outset, Chichester acknowledged the need to satisfy those natives 'as are powerful to do harm, if they be thereto incensed through neglect and discontent', a consideration opponents of the scheme aimed to exploit.<sup>143</sup> Upon their return from London, Henry Walsh and Thomas Hoare attempted to stoke up the inhabitants of Wexford. A letter of 16 April 1613 from the King to Chichester, reported that they 'assumed great boldnes and at severall publique meetinges (purposely assembled) have endeavoured seditiously to stirr upp the Inhabitants of those Countries to withstand and oppose the justnesse of our Tytle'. The king ordered the 'exemplarie punishment' of Walsh and Hoare to discourage others from challenging the king's laws in this manner.<sup>144</sup> Another petitioner from Wexford, Walter Synott, faced punishment for a similar crime. In March 1615, the English privy council ordered his imprisonment for 'shameless falsehood' as he 'mis-reported his [Chichester's] speeches to his countrymen with an ill purpose' and for turning his back on his submission to the council concerning the plantation in Wexford.<sup>145</sup> Having failed in their peaceful suits at court, both petitioners radicalised their approaches on their return, using public speeches to rouse local support and disregard the authority of the lord deputy and the king. The disappointment of their

---

<sup>140</sup> Clarke, 'Pacification, plantation, and the Catholic question, 1603-23' in T.W. Moody, F.X. Martin, F.J. Byrne (eds) *A new history of Ireland*, iii: *Early modern Ireland, 1534-1691* (Oxford, 1991), p. 203.

<sup>141</sup> *CSPI 1611-14*, p. 145.

<sup>142</sup> See also, Moody, 'The treatment of the native population under the scheme for the plantation in Ulster', pp 59-63.

<sup>143</sup> Chichester to Salisbury, 13 December 1610, TNA (UK) SP 63/229/143; *CSPI 1608-10*, p. 531.

<sup>144</sup> King James to Chichester, 16 April 1613, Philadelphia Papers, TNA (UK) 31/8/202, p. 61 (*CSPI 1611-14*, pp 337-8).

<sup>145</sup> *CSPI 1615-25*, p. 28.



agency in London pushed them both to turn to the country, to organise locally, as the recorder of Cork did in 1603 (chapter one), or James Gough did on his return from court in 1614 (chapter three).

Proponents of reform lived in fear that their policies could provoke a violent and broad-based response from the country, carefully managing their actions to minimise the potential for a 'general revolt'. The 1615 letter from Longford inhabitants to the king played upon such worries. They tapped into a fear of creating 'desperate' people in Ireland who saw violence as the only means available to oppose the government.<sup>146</sup> A union of Gaelic Irish and Old English was of particular concern, as without foreign assistance, the administration largely believed the Gaelic Irish threat to have been extinguished. While plantation projects focused more on areas of Gaelic Irish dominance, some Old English were affected, and importantly, the precedent set caused anxiety amongst all those with insecure tenure in Ireland, Gaelic Irish and Old English alike.

Plantation did provoke localised violent responses, as in the case of James Redmond of Templeshannon, Co. Wexford, who threatened Sir Francis Blundell in June 1620. Redmond came to Blundell's house in London upon a Sunday morning and asked for some money to drink. After Blundell, his landlord, agreed to this request, Redmond declared that 'he would then drinck it, and goe into Ireland; and then hee would first burne his owne house, and then hee would helpe to burne' Blundell's. Blundell blamed Patrick O'Doran for stirring up this trouble by persuading petitioners to bring their suits in London and had both men imprisoned for seditious speech.<sup>147</sup> While this incident could be attributed to an over-fondness for drink, a loose tongue and everyday friction between landlord and tenant, the threat of violence represented a real danger to the administration, who tried to satisfy natives to some degree in their dealings. The threat that some would be 'left to the law' demonstrated that confiscations were but a fraction of what, strictly legally, the crown was entitled. The desire to mitigate the severity of the legal right in the crown is akin to the crown's right to recusancy fines. In February 1618, Sir Francis Annesley declared that 'if that penalty were exactly taken upon all who are

---

<sup>146</sup> *CSPI 1615-25*, pp 110-11.

<sup>147</sup> Note from Blundell to English privy council, 20 Jul. 1620, TNA (UK) SP 63/235/22 (*CSPI 1615-25*, p. 293); *ibid.*, pp 304, 313; *APC 1619-21*, pp 255, 318.

liable to it by law, it would amount to a far greater sum than 100,000*l.* by the year', yet he warned that if this were collected he feared that 'desire of gain would transport them beyond moderation, and thereby hazard a general revolt'.<sup>148</sup> The fear of a general revolt dictated many of the policies of the Dublin administration as they shifted between an ambitious reform initiative and cautious dealings with those who could resist them.

The threat on Sir Francis Blundell's house in July 1620 was oddly prescient, as a letter of 6 December reported that such an action had occurred against undertakers in the Wexford plantation. The lord deputy and council drew an explicit link between the petitioners Patrick O'Doran and James Redmond and a violent assault on the lands of the absentee undertakers William Marwood and Sir James Carroll, former mayor of Dublin. They wrote that the petitioners were 'set on work by Popish priests and other ill-disposed neighbours out of a desire to raise sedition and rebellion'. Proof of this came when Morris McEdmond Cavanagh, 'a bastard of that ever rebellious race of the Cavenaghes'

'with a crew of wicked rogues gathered out of the bordering parts, entered into the plantation, surprised Sir James Carroll and Mr. Marwood's houses, murdered their servants, burned their towns, and committed many outrages in those parts, in all likelihood upon a conspiracy among themselves to disturb the settlement of those countries'.

Most of the perpetrators were soon discovered and were subsequently 'slain, or executed by law'.<sup>149</sup> The administration's response to this attack is interesting, as they appear not to have viewed it as particularly dangerous. The language used in the letter implied that this incident occurred some time before its composition. By the time of writing, the perpetrators had been found and killed. Furthermore, the lord deputy related this incident half-way through a letter detailing the state of the plantation and the failure to provide 'Mr. Marwood's' full name implied that the incident did not arouse significant comment in Dublin Castle.

Actions of this kind were fairly typical at this time. Prior to this attack, the administration had quelled similar risings in 'Low Leinster', where they had never been 'quite free from some that have kept the woods and executed sundry mischiefs'. They

---

<sup>148</sup> Sir Francis Annesley to English privy council, 22 Feb. 1618, *CSPI 1615-25*, p. 185.

<sup>149</sup> Lord Deputy and Council to English privy council, 6 Dec. 1620, *CSPI 1615-25*, p. 304.



attributed this to the preponderance of 'younger sons of gentlemen who have no means of living, and will not work'. Travelling in groups of between ten and twenty men, they posed no great threat yet were difficult to track down in woods, bogs and mountainous areas. St John reported, in September 1619, that three hundred had been killed in the country in the past three years in action or through trial before martial or assize courts (chapter four).<sup>150</sup> The attacks prior to those on Marwood and Carroll, though described as 'near the plantation of Wexford', were not directly said to have targeted settlers. A previous rising of 'disorderly persons' in spring 1619, was attributed to preparations 'in Spain to invade this kingdom' and the spreading of this news by priests.<sup>151</sup> In assessing the violent reaction to plantation, a separation must be made between acts of criminality and acts against the plantation more specifically. This task is made all the more difficult as the rise in woodkern activity may have arisen from displacement created by plantation.

Those within the Dublin administration expected the Irish, particularly Gaelic Irish, to react to plantation with violence. The areas chosen for plantation were traditional territories of Gaelic Irish strength, and had reputations for lawlessness. In 1611, Sir Oliver St John labelled O'Rourke's country in Leitrim as 'very wild, and apt to stir', populated by those who 'take pleasure to declare themselves in troublesome and disorderly times' and in 1612, Chichester described Wexford as 'a corner from whence rebellions have taken their beginnings, and is still a den for all manner of offenders'.<sup>152</sup> Plantations were designed to bring a settled peace to former troublesome areas through the placement of British settlers in the mountains and fastnesses. Chichester recognised that a balance was necessary in the administration of the country, as too forceful an approach could risk the alienation of the whole kingdom. The English privy council spelled this out in 1607 following the revelation of the Howth conspiracy and concerning the administration's severe enforcement campaign. They urged a moderate policy, declaring that 'it is always our good rule of state not to make all afraid at once'.<sup>153</sup>

---

<sup>150</sup> *CSPI 1615-25*, p. 262.

<sup>151</sup> *CSPI 1615-25*, p. 250.

<sup>152</sup> *CSPI 1611-14*, pp 47, 252.

<sup>153</sup> English privy council to Chichester, 28 July 1607 (incorrectly cited as 22 July 1607 in state papers), Philadelphia Papers, TNA (UK) 31/8/199/f. 93 (*CSPI 1606-08*, pp 231-2).

In advance of the plantations, the Dublin administration ensured that the Old English remained largely onside. A schedule of complaints by 'the nobility and gentry' of Ireland on 29 May 1622 encapsulated Old English sentiment at the time. The schedule voiced the traditional Old English position, being 'descended by English race, whose ancestors were strenuous actors in the conquest'. It touched upon the plight of the 'ancient Irish' who lost through plantation, though their sympathy focused on those 'not branded with marks of undutifullness in times of true probation'. The petition made known the 'multitude of petty freeholders' who lost estates in the plantation and warned that 'inconveniences may issue through their discontent'.<sup>154</sup> The petitioners recounted their long history of loyalty to the crown, declaring that the 'ancient plantation established upon the conquest hath fixed a deep and firm roots for growth and life of government of this kingdom' and that they had proved their 'invincible proof of their faithful obedience' through 'loss of life and effusion of blood'. The petition called on the 1622 commissioners to intercede on their behalf with the king to ensure that their surrenders upon defective title be honoured, that the 'warrants may be enjoyed by the possessors without further questioning'.<sup>155</sup> The reanimation of the 'ancient plantation' in this petition harked back to a former era, where the Old English position formed a central role in the administration of the country. The reluctance to criticise the plantations and the focus on defending title that could feature in future schemes demonstrates that the petitioners were worried more about the precedent set by these plantations than by the loss of their estates. In 1627, the Archbishop of Armagh, James Ussher, spoke about the fear of rebellion and declared that 'the descendants of the old English settlers, who held the lands from the Crown, might safely be counted on against a foreign invader, as they proved trustworthy in the last war'.<sup>156</sup>

While Dublin administrators were content to 'lose the hearts' of some of the natives in the pursuance of their plantation projects, some formerly loyal subjects found themselves on the wrong side of commissioners. Sir John McCoghlan was one loser in Irish history, as he challenged commissioners from a position of strength and quickly discovered his lands to be much reduced as a result. McCoghlan found favour at the start of the Stuart period owing to his loyal service for the crown during the Nine Years

---

<sup>154</sup> *1622 Commission*, p. 102.

<sup>155</sup> *Ibid.*, p. 103.

<sup>156</sup> 'The effect of the Lord Primate's speech at the General Assembly', 30 April 1627, *CSPI 1625-32*, p. 229.



War, resulting in his administrative favour in the form of a knighthood and a grant of a fair and market.<sup>157</sup> In 1613, he was selected by Catholics in a disputed election in King's County, though ultimately unsuccessful in his bid to sit at parliament. The 1615 inquisition found that he held his land 'by the Custome of Tanestrie' leaving him vulnerable to speculation of title formerly held by the crown. In August 1620, he departed for court with a letter of recommendation from the lord deputy and council owing to 'his fidelity during the time of the late rebellion'.<sup>158</sup> Two months later the king directed Lord Deputy St John to settle the territory of Delvin McCoghlan to the contentment of Sir John McCoghlan.<sup>159</sup>

Bolstered by these letters of commendation, he entered talks the following February with confidence and led negotiations with the lord deputy and commissioners for the midland chieftains. McCoghlan overplayed his hand badly as the negotiations turned against him and the commissioners chose to deduct one third of his lands and to take possession of his fort at Banagher. The 1622 commissioners were enthusiastic supporters of his particular case, having received a petition from him and heard from his wife in person. She detailed how they lost their right to hold a fair at Banagher and a market at Cloghan due to the reordering of his estate. The commissioners concluded that he 'had wrong to lose his lands' as he held some by purchase and others by letters patent, and furthermore he was found to have lost 'much more than a third' of his lands in the deduction. They noted his 'valour and fidelity' in fighting for the crown against rebels and hoped his case represented an anomaly in an otherwise 'great work'.<sup>160</sup>

Despite the accounts of his former fidelity, on 8 March 1623, Lord Deputy Falkland wrote to the English privy council informing them of his imprisonment. McCoghlan had captured the castle of an undertaker that had belonged to him prior to plantation.<sup>161</sup> No details survive of the length of time he served in prison, the name of the castle or of the undertaker in question. His reputation fell further in 1628 when a James Tobin implicated him in a supposed conspiracy led by Viscount Thurles in 1619. Tobin recounted that McCoghlan had promised to provide 'arms for 120 or 140 men' to

---

<sup>157</sup> *CSPI 1608-10*, p. 527.

<sup>158</sup> St John and council to English privy council, 25 Aug. 1620, *CSPI 1615-25*, p. 295.

<sup>159</sup> *CSPI 1611-14*, pp 361, 440; *CSPI 1615-25*, p. 299.

<sup>160</sup> *1622 Commission*, pp 110, 147.

<sup>161</sup> *CSPI 1615-25*, p. 403.

Thurles in his rebellion against the state.<sup>162</sup> Tobin repeated the claim in 1630, this time writing that McCoghlan and his son had promised to ‘furnish 150 men at one day’s warning’ for Thurles’s cause.<sup>163</sup> In 1619, McCoghlan had reason to be nervous about the impending plantation project, yet this anxiety ought not to have been strong enough to push him to such desperate measures. Whether true or not, these rumours persisted and in 1632 his transformation from loyal soldier to potential enemy of the state was complete, as he was listed as a ‘discontented man’ who ‘should be watched’.<sup>164</sup>

The absence of significant violent protest is striking. The areas chosen for plantation were territories where the English administration had previously held little influence, populated by the sorts of people the government expected to rise up. Groups of woodkern were said to have been made up of the younger sons of Irish families and this project ought to have created more ‘idle’ men to join in such action. The Dublin administration – itself manned by younger sons of English gentry families – managed the projects well, choosing to plant on lands where the incumbent lord was particularly weak. Where protest took place, it took the form of negotiation, in the main, as inhabitants cooperated with the commissioners to protect their estates or took their cases to London. Appeals to London raised complex constitutional issues for the legal and civil establishment in Dublin, as it essentially subordinated their authority to those in London. Richard Hadsor, as member of the 1622 commission, recognised the corruption in the Dublin administration and defended those wronged, yet criticised those who sought satisfaction of their grievances at court.

The actions of the Old English during these plantations demonstrated that their goals remained different from those of the Gaelic Irish. The Old English were relatively untouched by the vast confiscations across these six counties and some used the plantation as a means to increase their estates. Canny wrote that the experience of the plantations of the early seventeenth century helped fuse Old English and Gaelic Irish goals and bring them closer together. He cited the Old English lawyers who helped defend Gaelic Irish freeholders threatened by insolvency or plantation.<sup>165</sup> The experience of the Gaelic Irish from Longford differed markedly from this contention, as

---

<sup>162</sup> *CSPI 1625-32*, pp 390-1.

<sup>163</sup> *CSPI 1625-32*, p. 506.

<sup>164</sup> *Ibid*, p. 690.

<sup>165</sup> Canny, *Making Ireland British*, pp 411-12.



numerous members of the Old English of the Pale increased their holdings at the expense of the Gaelic Irish. If any fusion occurred it is more likely that the fear of further plantation caused this, as the Old English became better organised in expectation of a grand plantation of Connaught. While acknowledging the weakness of the title used to bring these plantations, and recognising that British settlers were not likely to improve their lands, both the Dublin and London administrations were insistent on continuing the policy of plantation. In 1621, the lord deputy and council termed plantation 'the only way to reduce this people without blood or chargeable war', acknowledging the primacy of this policy in their reform plans.<sup>166</sup> In resisting plantations in this period, native inhabitants fought an uphill battle, as the governments in Dublin and London saw it as an inexpensive method of pacifying the country whilst augmenting revenue streams. The 'ancient plantation' no longer carried the same potency, as the 'late war' and 'new conquest' brought a change of focus for 'English' expansion in Ireland.

---

<sup>166</sup> St John and council, 6 Feb. 1621, *CSPI 1615-25*, p. 315.

## Conclusion

Negotiation and protest from Irish Catholics proved effective at exposing the weak legal position of government policies. Administrators attempted to reorder Irish society without recourse to Irish acts of parliament, precedents based on sound common law principles or on methods that would find approval in England. They relied on a loose definition of canon law (most famously expounded by Sir John Davies), and on acts of state propounded by an isolated council in Dublin Castle. Through these means the government sought to rule without consent, using their invulnerable position to overcome objection. Grievances directed toward central law courts or the deputy and council against reform objectives received short shrift, as the lord deputy carefully controlled the polity to promote the interests of the few. He acknowledged to the English privy council that he gave a 'deafe eare' to complaints against the lord president of Munster, Sir Henry Brouncker, a telling example of the lack of oversight of the actions of Irish administrators.<sup>1</sup>

Irish complainants had better chance of seeking redress of grievances by placing themselves at the feet of the king, as many did in the period. This could yield effective results, such as the petition of Cork citizens in winter 1606-07 that forced the cessation of mandates proceedings in April 1607 or the several Pale delegations in 1614 that secured the removal of some of the more recently-created parliamentary boroughs. Suits at court were costly and required persistence to secure results, such as the experience of Wexford petitioners in the early 1610s, who made repeated entreaties to the king to have their land tenures protected. The city of Cork impoverished themselves through suits in Dublin and London in defence of their liberties. More often the London government defended the actions of the deputy and council of Ireland, supporting their policies and castigating petitioners for undermining their government. After receiving a petition from Cork regarding serious breaches of the law, the privy council began their letter to Chichester and Chancellor Adam Loftus writing that they 'do verie hardlie and spareingly give any credite to complaints or informacons against those that are in place of authoritie'.<sup>2</sup> Even after discovering gross corruption in the administration in Ireland

---

<sup>1</sup> Chichester to Salisbury, 1 Dec. 1606, TNA (UK) SP 63/219/147 (*CSPI 1606-08*, p. 43).

<sup>2</sup> English privy council to Chichester and Chancellor Adam Loftus, 12 April 1607, Philadelphia Papers, TNA (UK) 31/8/199, f. 86 (*CSPI 1606-08*, pp 137-8).



through his position on the 1622 commission, the Old English Protestant lawyer, Richard Hadsor criticised the practice of petitioners bringing suits to the council table in England after judgements had passed against them in Irish courts. He termed it a 'strange precedent' that 'did much to the dishonour of the State and disability of the acts and authority of the Courts of Justice'. Petitioning exposed the unusual constitutional relationship between the two kingdoms, as he believed the two court systems operated in isolation, with the crown the supreme head over both systems.<sup>3</sup>

For many Irish petitioners, nothing but an appeal to the king would suffice. Complainants encountered considerable resistance to their suits and sought an arbiter to restrain the actions of an isolated central administration in Dublin. In 1611, 1613, 1621 and 1622 the crown sent commissions to Ireland to survey the state of the country, hear grievances and propose remedies. The first was headed by former lord president of Munster, Sir George Carew; the second by sitting lord deputy, Sir Arthur Chichester; that of 1621 included ten Irish councillors among eleven commissioners; and the commission of 1622 included both the outgoing and incoming lords deputy, Oliver St John, Viscount Grandison and Henry Cary, Viscount Falkland respectively.<sup>4</sup> Packed with current and former Irish officials, these commissioners proved reluctant to denounce the Irish administration, and when they did, blame fell on advisers to the lord deputy.

Despite the considerable obstacles, Irish petitioners did prove successful in defeating some policies through legal manoeuvres, notably through their failure to sanction bills in the parliament of 1613-15. This pushed the administration to rely further on prerogative means, ruling by *diktat* rather than consensus or within the bounds of common law. Irish petitioners proved unable to create a stir in England with their complaints, however, as there was little appetite to defend the rights of Irish subjects. The government knowingly pursued policies that would prove unpalatable in England. The plantation commissioner, Sir William Parsons voiced this most memorably in his defence of recent plantations of Wexford and the midlands. He wrote that: 'I must say it

---

<sup>3</sup> Hadsor, *Advertisements for Ireland*, p. 39.

<sup>4</sup> Aidan Clarke, 'Plantation and the catholic question, 1603-23' in T. W. Moody, F. X. Martin, F. J. Byrne (eds) *A new history of Ireland; Early modern Ireland, 1534-1691* (Oxford, 1991), pp 211, 215; Victor Treadwell, *Buckingham and Ireland, 1616-28: a study in Anglo-Irish politics* (Dublin, 1998), pp 165-6; idem., *The Irish Commission of 1622: an investigation of the Irish administration, 1615-1622, and its consequences, 1623-1624*, ed. Victor Treadwell (Dublin, 2006), pp xxxi-xxxix.

might be thought unfit to take such a course in England or another country governed by any certain law, but the case much differs in England: though some be ill yet the people generally are sound in the root'.<sup>5</sup> Most within the administration appeared content to rule in this manner, with the most perceptible dissension between lawyers and military men on the continued use of martial law and between ecclesiasts and the army on proposals to grant toleration in return for a subsidy. Lords deputy enjoyed considerable prerogative powers, and required them to pursue policies where statute and common law restricted them. Thomas Wentworth continued the practice of using prerogative justice, ruling in what some view as an 'absolutist' manner. His overreliance on prerogative power and his policies as lord deputy led to his impeachment by the house of commons, leading to his execution on 12 May 1641. It is telling, however, that his impeachment relied in the main on objections to his use of prerogative law against Protestant members of the administration and against planters, not for his treatment of Irish Catholics.<sup>6</sup>

The king and the privy council's support to the Irish administration proved vital, as Irish Catholic petitioners proved unable to have their grievances resolved. The 'graces' negotiations produced what petitioners hoped would terminate the reformist policies, yet the administration soon returned to their former practices, breaching many of the 'graces' within six months of their passing. This caused huge disappointment among Irish Catholics, who sought a salve to the long continuance of administrative reform. Exasperated by years of aggressive and confrontational policies, Irish Catholics hoped for a drastic alteration in direction; the lord deputyship of Thomas Wentworth offered such a change and Irish Catholics looked to his appointment with optimism.<sup>7</sup>

---

<sup>5</sup> Reasons for the plantations in Ireland by William Parsons, 16 May 1622, *1622 Commission*, p. 762.

<sup>6</sup> Hugh F. Kearney, chapter fourteen, 'The impeachment of Wentworth', *Strafford in Ireland, 1633-41: a study in absolutism* (second ed., Manchester, 1989), pp 199-208.

<sup>7</sup> *Ibid.*, pp 32-44.



## **Bibliography**

### **1. Manuscript**

*Dublin, National Library of Ireland*

MS 643: Analecta of David Rothe.

MS 16,085: notebook of Edmund Sexton.

*Dublin, Trinity College Library*

MS 567: Papers Relating to Roman Catholics in Ireland (circa 1610).

MS 672: 1622 Commission papers.

*Galway, University College, Galway*

Book A: Galway corporation records.

*Lambeth Palace Library*

Carew MS 596-638.

*London, British Library*

Additional MS: 4756: 1622 Commission reports, royal warrants.

Cottonian MS: Titus B. X.

Harleian MS 697: Munster council book.

*London, Public Records Office*

S.P. 63: State Papers Ireland, Elizabeth I, James I and Charles I.

PRO 31/8/199-202: Transcripts of the Philadelphia Papers.

*Oxford, Bodleian Library*

Laudian MS 612

### **2. Printed primary**

*Acts of the privy council of England, 1542-1631* (46 vols., London, 1890-1964).

- 'Archives of the town of Galway', ed. John T. Gilbert, in *Historical Manuscript Commission*, report 10, appendix V (1885), 380-520.
- 'Attitudes to religious and temporal authority in Cork in 1600: a document from Laud MS 612', ed. Anthony Sheehan, *Analecta Hibernica* 21 (1984), 61-68.
- 'Auncient regulations at Waterford for the election of mayors and officials' in *Historical Manuscript Commission*, report 10, appendix V (1885), 265-339.
- Blenerhasset, Thomas, *A direction for the plantation in Ulster* (London, 1610).
- Bolton, Richard, *A iustice of peace for Ireland* (Dublin, 1638).
- The statutes of Ireland* (Dublin, 1621).
- 'Archbishop Bulkeley's visitation of Dublin, 1630', ed. Miles.V. Ronan in *Archivium Hibernicum* 8 (1941), 56-98.
- Borlase, Edmund, *The reduction of Ireland to the crown of England* (London, 1675).
- Calendar of the ancient records of Dublin, in the possession of the municipal corporation*, ed. John T. Gilbert (15 vols., Dublin, 1889-1922).
- Calendar of the Carew manuscripts preserved in the archiepiscopal library at Lambeth, 1515-1624*, eds J.S. Brewer and W. Bullen (6 vols., London, 1873).
- Calendar of the Clarendon State Papers preserved in Bodleian Library*, ed. O. Ogle (et al), (5 vols., Oxford, 1870-1970).
- Calendar of material relating to Ireland from the High Court of Admiralty examinations, 1534-1641*, ed. J.C. Appleby (Dublin, 1992).
- Calendar of the patent and close rolls of chancery in Ireland, 1514-1633*, ed. J. Morrin (3 vols., Dublin, 1861-3).
- Calendar of state papers, Venetian: 1603-1642*, eds H.F. Brown and A.B. Hinds (16 vols, London, 1900-25).
- 'Catholic religious practices and payments in seventeenth-century Ireland', ed. Raymond Gillespie, *Archivium Hibernicum*, vol. 47 (1993), pp 3-10.
- Chamberlain, John, *The letters of John Chamberlain*, ed. Norman Egbert McClure (Philadelphia, 1939).
- Chichester, Sir Arthur, 'Letter book of Sir Arthur Chichester, 1612-14', ed. R. D. Edwards in *Analecta Hibernica*, no. 8 (1938), 3-177.
- 'Clanricard letters: letters and papers 1605-1673, preserved in the National Library of Ireland manuscript 3111', ed. Bernadette Cunningham, *Journal of the Galway Archaeological and Historical Society*, 48 (1996), 162-208.
- Comerford, Patrick, *Inquisition of a sermon* (Waterford, 1644).



*The council book for the province of Munster c.1599-1649*, ed. Margaret Curtis Clayton (Dublin, 2008).

*The council book of the corporation of the city of Cork*, ed. R. Caulfield (Guilford, 1879).

*The council book of the corporation of Kinsale*, ed. R. Caulfield (Guilford, 1879).

*The council book of the corporation of Youghal*, ed. R. Caulfield (Guilford, 1876).

Darcy, P., *An argument delivered...by the express order of the House of Commons in the parliament of Ireland, 9 Junii, 1641*, (Dublin, 1764).

Darcy, P., or Bolton, R., 'A declaration setting forth how and by what means the laws of England from time to time came to be of force in Ireland', ed. Walter Harris, *Hibernica* (2 vols., Dublin, 1770).

Davies, Sir John, *A Discovery of the True Causes Why Ireland Was Never Entirely Subdued...until his Majesty's Happy Reign* (London, 1612).

–*The question concerning impositions...*(London, 1656; reprinted 1876).

–*A report of cases and matters in law resolved and abridged in the king's courts in Ireland* (Dublin, 1972).

De Renzy, Sir Matthew, 'Matthew de Renzy's letters on Irish affairs 1613-1620' ed. Brian Mac Cuarta S. J. in *Analecta Hibernica*, 34 (1987), 107-182.

–'Mathew de Renzy's letters on Irish affairs, 1612-1620' in Brian MacCuarta S. J. (ed.), *Analecta Hibernica*, 34 (1987), 107-82.

'A document concerning the Irish Privy Council's policy towards Catholicism (1629)', ed. Brian Mac Cuarta S. J., in *Archivium Hibernicum*, 62 (2009), 150-3.

'A Document on the Parliament of 1613 from St. Isodore's College, Rome', ed. Brian Jackson, *Analecta Hibernica*, 33 (1986), 49-58.

'The entry book of orders and decrees of the court of castle chamber, 1571-1621' in Appendix I of Jon G. Crawford, *A Star Chamber Court in Ireland: the Court of Castle Chamber, 1571-1641* (Dublin, 2005), 421-556.

Farmer, William, 'William Farmer's Chronicles of Ireland from 1594 to 1613', ed. C. Litton Falkiner in *The English Historical Review*, vol. 22, no. 87 (July 1907), 104-130, 527-552.

Fitzsimon, Henry, *Words of comfort...letters from a cell....and diary of the Bohemia war of 1620*, ed. Edmund Hogan (Dublin, 1881).

*Five seventeenth-century poems*, ed. Cecile O'Rahilly, (Dublin, 1952).

‘Richard Hadsor’s “Discourse” on the Irish State’, ed. Joseph McLaughlin, *Irish Historical Studies*, 30 (1997), 305-53.

[Hadsor, Richard], *Advertisements for Ireland*, ed. George O’Brien (Dublin, 1923).

Historical Manuscripts Commission:

*Calendar of Manuscripts of the...marquess of Salisbury...preserved at Hatfield House* (24 vols., London, 1883-1976).

*Calendar of the State Papers relating to Ireland, 1509-1670* (24 vols., London, 1860-1912).

*Report on Franciscan manuscripts preserved at the Convent, Merchant’s Quay, Dublin*, (London, 1906).

*Report on the manuscripts of the late Reginald Rawdon Hastings, Esq., of the Manor house, Ashby de la Zouche* (4 vols., London, 1928-47).

*Report on the manuscripts of the marquess of Downshire preserved at Easthampstead Park, Berks.* (6 vols., London, 1924-40).

*Ibernia Ignatiana: seu Ibernorum Societas Jesu patrum monumenta collecta*, ed. Edmund Hogan (Dublin, 1880).

*Inquisitionum in officio rotulorum cancellariæ Hiberniæ asservatarum, repertorium* (2 vols., Dublin, 1826-29).

*The Irish Commission of 1622: an investigation of the Irish administration, 1615-1622, and its consequences, 1623-1624*, ed. Victor Treadwell (Dublin, 2006).

Irish Manuscripts Commission:

*The Great Parchment Book of Waterford: Liber Antiquissimus Civitatis Waterfordiæ* (Dublin, 2007), ed. Niall J. Byrne.

*The O Doyne (Ó Duinn) Manuscript*, ed. Kenneth Nicholls, (Dublin, 1983).

*Irish Patent Rolls, James I* (Dublin, 1830).

*Journals of the house of commons of the kingdom of Ireland (1613-1791)* (28 vols., Dublin, 1796).

‘Leitrim plantation papers, 1620-22’, ed. Brian Mac Cuarta SJ, in *Breifne: Journal of Cumann Seanchais Breifne*, vol. ix, no. 35 (1999), 114-139.

*Liber primus Kilkenniensis*, ed. and trans. Jocelyn Otway-Ruthven (Kilkenny, 1961).

*Lismore papers*, ed. A.B. Grosart (10 vols., London, 1886-8).

Lodge, J. (ed.), *Desiderata curiosa Hibernica* (2 vols., Dublin, 1770).

Mackenzie, Sir George, *The laws and customes of Scotland, in matters criminal: Wherein is to be seen how the civil law, and customes of Scotland the laws and customs*



*of other nations do agree with, and supply ours. By Sir George Mackenzie of Rosebaugh* (Edinburgh, 1678).

*The minute book of the Corporation of Clonmel, 1608-1649*, ed. Bríd McGrath (Dublin, 2006).

‘Minute book of the corporation of Dublin, known as the “Friday Book”, 1567-1611’, ed. Henry F. Berry, *Proceedings of the Royal Irish Academy*, vol. xxx, Section C, (1913), 477-514.

Moryson, Fynes, *A history of Ireland from the year 1599 to 1603* (2 vols., Dublin, 1735).

– *The Irish sections of Fynes Moryson's unpublished Itinerary*, ed. Graham Kew (Dublin, 1998).

– *An itinerary containing his ten yeeres travell through....Germany, Bohmerland....and Ireland* (4 vols., Glasgow, 1907-08)

O’Clery, Michael et al (eds), *Annals of the Kingdom of Ireland: from the earliest times to the year 1616*, intro. Kenneth Nicholls (8 vols., Dublin, 1990).

O’Sullivan Beare, Philip, *Historiae catholicae Iberniae compendium* (Lisbon, 1621), ed. Matthew Kelly (Dublin, 1850).

– *Ireland under Elizabeth being a portion of the history of catholic Ireland by Don Philip O’Sullivan*, ed. M.J. Byrne (Dublin, 1903).

Phillips, Thomas, *Londonderry and the London companies, 1609-1629: being a survey and other documents submitted to King Charles I* (Belfast, 1928).

‘Presentments of recusants in Dublin, 1617-1618’ in John Meagher (ed.), *Reportium Novum*, 11, no. 2 (Dublin, 1960), 269-73.

*A repertory of the inrolments on the patent rolls of Chancery in Ireland*, ed. John Caillard Erck (Dublin, 1846),

Riche, Barnaby, *A New Description of Ireland* (London, 1610).

– *The Irish hubbub...* (London, 1619).

Rothe, David, *Analecta sacra, nova, et mira, de rebus Catholicorum in Hibernia*, transcribed Stephen Hand in ‘Appendix: the transcritpion of “The Analecta of David Rothe”, N.L.I., MS, 643’ in ‘A critical commentary and transcription of a contemporary English language manuscript of David Rothe’s *Analecta Sacra et Mira* (1616)’, (M.Litt thesis, TCD, 2012), 117-359.

‘Some Documents on Irish Law and Custom in the Sixteenth Century’, ed. Kenneth Nicholls, *Analecta Hibernica*, No.26, pp.105-129.

*The statutes at large passed in the parliaments held in Ireland* (21 vols., Dublin, 1786).

Tucker, William, 'Journal of Captain William Tucker, while in Ireland as Agent for English Adventurers for Irish lands, from 3 November 1642 to 18 February 1642-3', ed. John T. Gilbert, *History of the Irish Confederation and the war in Ireland, 1641-1643* (7 vols., Dublin 1882).

'Two seventeenth-century proclamations against the Catholic clergy', ed. Corish, P.J., *Archivium Hibernicum*, 39 (1984), 53-7.

White, James, 'The Irish Catholics after the Death of Queen Elizabeth', *Duffy's Irish Magazine* (Nov. 1848), 270-5; (Dec. 1848), 296-302.

### 3. Monographs and edited collections

Andrews, J.H., *Plantation acres: an historical study of the Irish land surveyor and his maps* (Belfast, 1985).

Armstrong, Robert and Tadhg Ó hAnnracháin (eds), *Community in early modern Ireland* (Dublin, 2006).

Armstrong, Robert, *Protestant war: the 'British' of Ireland and the wars of the three kingdoms* (Manchester and New York, 2005).

Bagwell, Richard, *Ireland under the Stuarts and during the Interregnum*, [vol.] 1 : 1603-1642 (3 vols., London, 1909-16).

Ball, F. Elrington, *The judges in Ireland, 1221-1921* (London, 1926).

Bardon, Jonathan, *The plantation of Ulster* (2011).

Barnard, Toby Christopher and Jane Fenlon (eds), *The Dukes of Ormonde, 1610-1745* (Woodbridge, 2000).

Barry, Jonathan and Christopher Brooks (eds), *The middling sort of people: culture, society, and politics in England, 1550-1800* (Basingstoke, 1994).

Barry, Jonathan, *The Tudor and Stuart town, 1530-1688: a reader in English urban history* (Harlow, 1990).

Beier, A.L., *Masterless men: the vagrancy problem in England 1560-1640* (London, 1985).

Beik, William, *Urban protest in seventeenth-century France: the culture of retribution* (Cambridge, 1997).

Bennett, George, *The history of Bandon, and the principal towns in the West Riding of County Cork* (Cork, 1869).



- Bhreathnach, Edel, Joseph MacMahon and John McCafferty (eds), *The Irish Franciscans, 1534-1990* (Dublin, 2009).
- Boran, Elizabethanne and Crawford Gribben (eds), *Enforcing Reformation in Ireland and Scotland, 1550-1700* (Aldershot, 2006).
- Borsay, Peter and Lindsay Proudfoot (eds), *Provincial towns in early modern England and Ireland: change, convergence and divergence* (Oxford, 2002).
- Bossy, John, *The English Catholic community, 1570-1850* (London, 1976).
- Bowen, Lloyd, *The politics of the principality: Wales, c. 1603-1642* (Cardiff, 2007).
- Boynton, Lindsay, *The Elizabethan militia, 1558-1638* (London, 1967).
- Braddick, Michael J. and John Walter (eds), *Negotiating power in early modern society: order, hierarchy, and subordination in Britain and Ireland* (New York and Cambridge, 2001).
- Brady, Ciarán and Jane H. Ohlmeyer, (eds), *British interventions in early modern Ireland* (Cambridge, 2005).
- Brady, Ciarán, *The chief governors: the rise and fall of reform government in Tudor Ireland, 1536-88* (Cambridge, 1994).
- Brady, Ciarán (ed.), *Interpreting Irish history: the debate on historical revisionism 1938-1994* (Blackrock, Co. Dublin, 1994).
- Brady, Ciarán and Raymond Gillespie, (eds), *Natives and newcomers: the making of Irish colonial society, 1534-1641* (Dublin, 1986).
- Canny, Nicholas, *Making Ireland British, 1580-1650* (Oxford, 2001).
- The upstart earl: a study of the social and mental world of Richard Boyle first Earl of Cork, 1566-1643* (Cambridge, 1982).
- Cheney, C. R. (ed.), *A handbook of dates for students of English history* (Cambridge, 2000).
- Clarke, Aidan, *The Old English in Ireland, 1625-42* (London, 1966).
- The Graces, 1625-41* (Dundalk, 1968)
- Connolly, Sean J., *Contested island: Ireland 1460-1630* (Oxford, 2007).
- Divided kingdom: Ireland, 1630-1800* (Oxford, 2008).
- Kingdoms united? Great Britain and Ireland since 1500: integration and diversity* (Dublin, 1998).
- Corteguera, Luis, *For the Common Good: Popular Politics in Barcelona 1580-1640* (New York, 2002).

Costello, Kevin, *The law of habeas corpus in Ireland: history, scope of review, and practice under article 40.4.2 of the Irish constitution* (Dublin, 2006).

Crawford, Jon. G., *Anglicising the government of Ireland: the Irish privy council and the expansion of Tudor rule, 1556-1578* (Blackrock, Co. Dublin, 1993).

—*A Star Chamber Court in Ireland: the Court of Castle Chamber, 1571-1641* (Dublin, 2005).

Cressy, David, *Bonfires & bells: national memory and the Protestant calendar in Elizabethan and Stuart England* (second ed., Stroud, Gloucestershire, 2004).

Cunningham, Bernadette, *The world of Geoffrey Keating: history, myth and religion in seventeenth-century Ireland* (Dublin, 2000).

Cunningham, John, *Conquest and land in Ireland: the transplantation to Connacht, 1649-1680* (2011).

Darnton, Robert, *The great cat massacre and othe episodes in French cultural history* (New York, 1985).

Dionne, Craig and Steve Mentz (eds), *Rogues and early modern English culture* (Ann Arbor, Michigan, 2004).

Donovan, Brian C. and David Edwards, *British sources for Irish history, 1485-1641: a guide to manuscripts in local, regional and specialised repositories in England, Scotland and Wales* (Dublin, 1997).

Dudley Edwards, Robert, *Church and state in Tudor Ireland: a history of penal laws against Irish Catholics, 1534-1603* (New York, 1972, first pub. 1935).

Duffy, Patrick J., David Edwards and Elizabeth Fitzpatrick (eds), *Gaelic Ireland, c.1250-c.1650: land, lordship and settlement* (Dublin, 2001).

Ellis, Steven, *Ireland in the age of the Tudors, 1447-1603* (London, 1998).

Greer, D.S. and Norma M. Dawson, *Mysteries and solutions in Irish legal history: Irish Legal History Society discourses and other papers, 1996-1999* (Dublin, 2001).

Edwards, David, *The Ormond lordship in county Kilkenny, 1515-1642: the rise and fall of the Butler family* (Dublin, 2003).

Edwards, David (ed.), *Regions and rulers in Ireland, 1100-1650: essays for Kenneth Nicholls* (Dublin, 2004).

Edwards, David, Pádraig Lenihan and Clodagh Tait (eds), *Age of Atrocity: violent death in early modern Ireland, 1547-1680* (Dublin, 2007).

Ellis, Steven G., *Ireland in the age of the Tudors 1447-1603: English expansion and the end of Gaelic rule* (London, 1998).



- Fitzpatrick, Brendan, *Seventeenth-century Ireland: the war of religions* (Dublin, 1988).
- Ford, Alan, *The Protestant Reformation in Ireland, 1590-1641* (Dublin, 1997).
- Ford, Alan and John McCafferty, (eds), *The origins of sectarianism in early modern Ireland* (Cambridge, 2005).
- Ford, Alan, James McGuire and Kenneth Milne (eds), *As by law established: the Church of Ireland since the Reformation* (Dublin, 1995).
- Fox, Adam, *Oral and literate culture in England, 1500-1700* (Oxford, 2002).
- Fox, Adam and Daniel Woolf (eds), *The spoken word: oral culture in Britain, 1500-1850* (Manchester, 2002).
- Gale, Peter, *An inquiry into the ancient corporate system of Ireland* (London, 1834).
- Gillespie, Raymond, *Conspiracy: Ulster plots and plotters in 1615* (Belfast, 1987).
- Devoted people: belief and religion in early modern Ireland* (Manchester, 1997).
- Seventeenth-century Ireland: making Ireland modern* (Dublin, 2006).
- Goodare, Julian and Michael Lynch (eds), *The reign of James VI* (East Linton, Scotland, 2000).
- Griffiths, Paul, Adam Fox and Steve Hindle (eds), *The experience of authority in early modern England* (Basingstoke, 1996), 249-85.
- Hannigan, Ken and William Nolan (eds), *Wicklow: history & society: interdisciplinary essays on the history of an Irish county* (Dublin, 1994).
- Harkness, David and Mary O'Dowd (eds) *The town in Ireland* (Belfast, 1981).
- Harris, Tim (ed.), *The politics of the excluded, c. 1500-1850* (Basingstoke and New York, 2001).
- Harris, Tim, *London crowds in the reign of Charles II : propaganda and politics from the Restoration until the exclusion crisis* (Cambridge, 1987).
- Hayes-McCoy, G.A., *Ulster and other Irish maps c. 1600* (Dublin, 1964).
- Hill, George, *An historical account of the Plantation in Ulster at the commencement of the seventeenth century, 1608-1620* (Belfast, 1877).
- Hindle, Steve, *The state and social change in early modern England, c.1550-1640* (Basingstoke, 2000).
- Hirst, Derek, *The representative of the people?: voters and voting in England under the early Stuarts* (Cambridge, 1975).
- Hore, P. H., *History of the town and county of Wexford* (6 vols., London, 1906).
- Hunter, R. J., *The plantation in Ulster in Strabane barony, Co. Tyrone, c. 1600-41* (Londonderry, 1982).

- Jeffries, Henry A., *The Irish church and the Tudor Reformations* (Dublin, 2010).
- Kearney, H. F., *Strafford in Ireland, 1633-41: a study in absolutism* (second ed., Manchester, 1989).
- Kelly, W.P. and John R. Young, *Scotland and the Ulster Plantations: explorations in the British settlements of Stuart Ireland* (Dublin, 2009).
- Kerrigan, Paul M., *Castles and fortifications in Ireland 1485-1945* (Cork, 1995).
- Kishlansky, Mark, *A monarchy transformed: Britain 1603-1714* (London, 1997, first pub. 1996).
- Parliamentary selection: social and political choice in early modern England* (Cambridge, 1986).
- Lenihan, Maurice, *Limerick: its history and antiquities* (Dublin, 1866).
- Lenihan, Padraig, *Consolidating conquest: Ireland 1603-1727* (Harlow, 2008).
- Conquest and resistance: war in seventeenth-century Ireland* (Leiden, 2001).
- Lennon, Colm, *The Lords of Dublin in the age of Reformation* (Dublin, 1989).
- Sixteenth-century Ireland: the incomplete conquest* (second ed., Dublin, 2005).
- Loeber, Rolf, *The geography and practice of English colonisation in Ireland, 1534-1609* (Athlone, 1991).
- Lyttleton, James and Colin Rynne (eds), *Plantation Ireland: settlement and material culture, c.1550-c.1700* (Dublin, 2009).
- MacCarthy-Morrogh, Michael, *The Munster plantation: English migration to Southern Ireland 1583-1641* (Oxford, 1986).
- McCavitt, John, *The flight of the earls* (Dublin, 2002).
- Sir Arthur Chichester: lord deputy of Ireland, 1605-16* (Belfast, 1998).
- Mac Cuarta, Brian, *Catholic revival in the north of Ireland, 1603-41* (Dublin, 2007).
- Mac Cuarta, Brian (ed.), *Reshaping Ireland, 1550-1700: colonization and its consequences, essays presented to Nicholas Canny* (Dublin, 2011).
- MacNiocaill, Gearóid, *Na Buirgéisí* (2 vols., Dublin, 1964).
- McGowan-Doyle, Valerie, *The book of Howth: the Elizabethan re-conquest of Ireland and the old English* (Cork, 2011).
- McGurk, John, *Sir Henry Docwra, 1564-1631: Derry's second founder* (Dublin, 2006).
- The Elizabethan conquest of Ireland: the 1590s crisis* (Manchester, 1997).
- Moody, Theodore William, *The Londonderry plantation 1609-1640: the city of London and the plantation in Ulster* (Belfast, 1939).



- Moran, P. F., *History of the catholic archbishops of Dublin since the Reformation, volume 1* (Dublin, 1964).
- Morgan, Hiram (ed.), *Political ideology in Ireland, 1541-1641* (Dublin, 1999).
- Morgan, Hiram, *Tyrone's Rebellion: the outbreak of the Nine Years War in Tudor Ireland* (London, 1993).
- Murphy, Eileen and William Roulston (eds), *Fermanagh: history & society: interdisciplinary essays on the history of an Irish county* (Dublin, 2004).
- Murray, James, *Enforcing the English Reformation in Ireland: clerical resistance and political conflict in the Diocese of Dublin, 1534-1590* (Cambridge, 2009).
- National Library of Ireland, *Manuscript sources for the history of Irish civilization. First supplement, 1965-1975: compiled in the National Library of Ireland* (3 vols., Boston, Massachusetts, 1979), original work compiled by R. J. Hayes, 1965.
- Nicholls, K. W., *Gaelic and Gaelicized Ireland in the middle ages* (Dublin, 1972).
- Nolan, William, Liam Ronayne and Mairead Dunlevy (eds), *Donegal: history & society: interdisciplinary essays on the history of an Irish county* (Dublin, 1995).
- O'Brien, Gerard (ed.) and William Nolan (series ed.), *Derry and Londonderry: history & society: interdisciplinary essays on the history of an Irish county* (Dublin, 1999).
- Ó Ciardha, Éamonn and Micheál Ó Siochrú (eds), *The plantation of Ulster: ideology and practice* (Manchester, 2012).
- O'Connor, Thomas, *The Irish Jansenists, 1600-70: religion and politics in Flanders, France, Ireland and Rome* (Dublin, 2008).
- O'Connor, Thomas (ed.), *The Irish in Europe, 1580-1815* (Dublin, 2001).
- O'Connor, Thomas and Mary Ann Lyons (eds), *The Ulster earls and baroque Europe: refashioning Irish identities, 1600-1800* (Dublin, 2010).
- O'Donnell, Terence, *Franciscan Abbey of Multyfarnham* (Multyfarnham, 1951).
- O'Dowd, Mary, *A history of women in Ireland, 1500-1800* (Harlow, 2005).
- Power, politics and land: Sligo, 1562-1688* (Belfast, 1991).
- O'Halpin, Eunan, Robert Armstrong and Jane Ohlmeyer, *Intelligence, statecraft and international power: papers read before the 27th Irish Conference of Historians held at Trinity College, Dublin, 19-21 May 2005* (Dublin, 2006).
- Ohlmeyer, Jane H., *Civil war and restoration in the three Stuart Kingdoms: the career of Randal MacDonnell, Marquis of Antrim, 1609-1683* (Dublin, 2001).
- Making Ireland English: The Irish Aristocracy in the Seventeenth Century* (London, 2012).

- Ohlmeier, Jane H. (ed.), *Political Thought in Seventeenth-Century Ireland* (Cambridge, 2000).
- Ohlmeier, Jane H. and Eamonn O Ciardha (eds), *The Irish Statute Staple books, 1596-1687* (Dublin, 1998).
- Orpen, Goddard Henry, *Ireland under the Normans, 1169-1333* (first published 1911, Dublin, 2005).
- Ó Siochrú, Micheál, *Confederate Ireland 1642-1649: a constitutional and political analysis* (Dublin, 1999).
- Ó Siochrú, Micheál (ed.), *Kingdoms in crisis: Ireland in the 1640s: essays in honour of Dónal Cregan* (Dublin, 2001).
- Owen, G. Dyfnallt, *Wales in the reign of James I* (Suffolk, 1988).
- Pawlish, Hans S., *Sir John Davies and the conquest of Ireland: a study in legal imperialism* (Cambridge, 1985).
- Perceval-Maxwell, Michael, *The Scottish migration to Ulster in the reign of James I* (London, 1972).
- Potterton, Michael, *Medieval Trim: history and archaeology* (Dublin, 2005).
- Potterton, Michael and Thomas Herron (eds), *Dublin and the Pale in the Renaissance, c. 1540-1660* (Dublin, 2011).
- Power, Patrick C., *History of Waterford City and County* (Cork, 1990).
- Questier, Michael C., *Catholicism and community in early modern England: politics, aristocratic patronage and religion, c. 1550-1640* (Cambridge, 2006).
- Rapple, Rory, *Martial power and Elizabethan Political Culture: Military Men in England and Ireland, 1558-1594* (Cambridge, 2009).
- Reid, Rachel R., *The king's council in the north* (second ed., East Ardsley, Wakefield, 1975).
- Rudé, George, *The crowd in history: a study of popular disturbances in France and England, 1730-1848* (London, 1981, first pub. 1964).
- Ruff, Julius Ralph, *Violence in early modern Europe, 1500-1800* (Cambridge, 2001).
- Scott, Brendan, *Cavan, 1609-1653: plantation, war and religion* (Dublin, 2007).
- Scott, Brendan (ed.), *Culture and society in early modern Breifne/Cavan* (Dublin, 2009).
- Scott, James C., *Weapons of the weak: everyday forms of peasant resistance* (London, 1985).
- Shagan, Ethan, *Popular politics and the English Reformation* (Cambridge, 2003).



Smith, Charles, *The Ancient and Present State of the County and City of Waterford* (first pub. Dublin, 1746, Cork edition 1969).

–*The antient and present state of the county and city of Cork* (Dublin, 1750).

Smyth, William J., *Map-making, landscapes and memory: a geography of colonial and early modern Ireland, c.1530-1750* (Cork, 2006).

Tait, Clodagh, *Death, burial and commemoration in Ireland, 1550-1650* (Basingstoke, 2002).

Tilly, Charles, *The politics of collective violence* (Cambridge, 2003).

Treadwell, Victor, *Buckingham and Ireland, 1616-28: a study in Anglo-Irish politics* (Dublin, 1998).

Underdown, David, *Fire from heaven: life in an English town in the seventeenth century* (London, 2003).

Walsh, Micheline Kerney, “*Destruction by peace*”: *Hugh O’Neill after Kinsale* (Armagh, 1986).

Walter, John, *Crowds and popular politics in early modern England* (Manchester, 2006).

–*Understanding popular violence in the English Revolution: the Colchester plunderers* (Cambridge, 1999).

Whelan, Kevin (ed.) and William Nolan (associate ed.), *Wexford: history & society: interdisciplinary essays on the history of an Irish county* (Dublin, 1987).

Williams, Penry, *The Council in the Marches of Wales under Elizabeth I* (Cardiff, 1958).

Withington, Phil, *The politics of commonwealth: citizens and freemen in early modern England* (Cambridge, 2005).

Wood, Andy, *The 1549 rebellions and the making of early modern England* (Cambridge, 2007).

–*Riot, rebellion and popular politics in Early Modern England* (Basingstoke, 2002).

Youngs, Frederic A, Jr, *The proclamations of the Tudor queens* (Cambridge, 1976).

#### 4. Articles

Appleby, John C., and Mary O’Dowd, ‘Cahir O’Doherty and the *Dove* of Cartemyne, 1603-4: a sidelight on Gaelic admiralty jurisdiction’ in *Irish Jurist* ns, 21:2 (1986), 290-99.

Barry, Jonathan, 'Civility and civic culture in early modern England: the meanings of urban freedom' in Peter Burke, Brian Howard Harrison and Paul Slack (eds), *Civil histories: essays presented to Sir Keith Thomas* (Oxford, 2000), 181-96.

—'Literacy and literature in popular culture : reading and writing in historical perspective' in Tim Harris (ed.), *Popular culture in England, c.1500-1850* (Basingstoke, 1995), 69-94, 232-41.

—'Provincial town culture, 1640-1680: urbane or civic?' in J.H. Pittock and Andrew Wear (eds), *Interpretation and cultural history* (Basingstoke, 1990), 198-234.

Berry, Henry Fitzpatrick, 'History of the religious guild of St Anne' in *Proceedings of the Royal Irish Academy*, xlv, C (1939), 41-81.

Borsay, Peter and Lindsay Proudfoot, 'The English and Irish urban experience, 1500-1800: change, convergence and divergence' in Peter Borsay and Lindsay Proudfoot (eds), *Provincial towns in early modern England and Ireland* (Oxford, 2002), 1-28.

Boynton, Lindsay, 'Martial law and the Petition of Right' in *English Historical Review*, 79 (1964), 255-84.

—'The Tudor Provost-Marshal' in *The English Historical Review*, 77, no. 304 (Jul., 1962), 437-55.

Braddick, Michael J., and John Walter, 'Introduction. Grids of power: order, hierarchy and subordination in early modern society' in Michael J. Braddick and John Walter (eds), *Negotiating power in early modern society: order, hierarchy and subordination in Britain and Ireland* (Cambridge, 2001), 1-42.

Bradshaw, Brendan, 'The invention of the Irish: was the Ulster Rising really a bolt from the blue?', *Times Literary Supplement* (14 October, 1994), 8-10.

Brady, Ciarán, 'The attainder of Shane O'Neill, Sir Henry Sidney and the problems of Tudor state-building in Ireland' in Ciarán Brady and Jane H. Ohlmeyer (eds), *British interventions in early modern Ireland* (Cambridge, 2005), 28-48.

—'The captain's games : army and society in Elizabethan Ireland' in Thomas Bartlett and Keith Jeffery (eds), *A military history of Ireland* (Cambridge, 1996), 136-59.

—'Conservative subversives: the community of the Pale and the Dublin administration, 1556-86' in *Radicals, rebels and establishments, papers read before the Irish Conference of Historians, Maynooth 16-19 June 1983*, ed. P. J. Corish (Belfast, 1985), 11-32.



-The end of the O'Reilly lordship, 1584-1610' in David Edwards (ed.), *Regions and rulers in Ireland, 1100-1650: essays for Kenneth Nicholls* (Dublin, 2004), 174-200.

- Brady, Ciarán and James Murray, 'Sir Henry Sidney and the Reformation in Ireland', in Crawford Gribben and Elizabethanne Boran (eds), *Enforcing Reformation in Ireland and Scotland* (2006), 14-39.

- 'Comparable histories? Tudor reform in Wales and Ireland' in Steven G. Ellis and Sarah Barber (eds), *Conquest and union: fashioning a British state, 1485-1725* (London, 1995), 64-86.

Butlin, R. A., 'Irish towns in the sixteenth and seventeenth centuries' in R. A. Butlin (ed.), *The development of the Irish town* (London and Totowa, New Jersey, 1977), 61-100.

Caball, Marc, 'Providence and exile in early seventeenth-century Ireland' in *Irish Historical Studies*, xxix, no. 114 (Nov. 1994), 174-188.

- 'Responses to transformation: Gaelic poets and the plantation of Ulster' in Éamonn Ó Ciardha and Micheál Ó Siochrú (eds), *The plantation of Ulster: ideology and practice* (Manchester, 2012), 176-97.

Canny, Nicholas, 'The attempted anglicization of Ireland in the seventeenth century: an exemplar of "British history"' in R.G. Asch (ed.), *Three nations- a common history? England, Scotland, Ireland and British history, c. 1600-1920* (Bochum, 1993), 49-82.

- 'Religion, politics and the Irish Rising of 1641', *Religion and Rebellion: Historical Studies XX* (Dublin, 1997), 40-68.

- 'Writing early modern history : Ireland, Britain, and the wider world' in *Historical Journal*, 46:3 (2003), 723-48.

Capua, J. V., 'The early history of martial law in England from the fourteenth century to the Petition of Right' in *Cambridge Law Journal*, 36 (1), April 1977, 152-73.

Carey, Vincent, "'What pen can paint or tears atone?': Mountjoy's scorched earth campaign' in Hiram Morgan (ed.), *The battle of Kinsale* (Dublin, 2004), 205-16.

Casway, Jerrold, 'The last lords of Leitrim: the sons of Sir Teige O'Rourke' in *Breifne*, 7, no. 26 (1988), 556-74.

Christianson, Paul, 'Arguments on billeting and martial law in the parliament of 1628', *The Historical Journal*, vol. 37, no. 3 (Sept., 1994), 539-67.

Clarke, Aidan, 'Army and politics in Ireland, 1625-30' in *Studia Hibernica*, 4 (1964), 28-53.

- 'The history of Poynings' law, 1615-41' in *Irish Historical Studies*, xviii, no. 70 (Sept. 1972), 207-22.
- 'Patrick Darcy and the constitutional relationship between Ireland and Britain' in Jane H. Ohlmeyer (ed.), *Political thought in seventeenth-century Ireland* (Cambridge, 2000), 35-55.
- 'Pacification, plantation, and the Catholic question, 1603-23' in T. W. Moody, F. X. Martin and F. J. Byrne (eds), *A new history of Ireland, 3: Early modern Ireland, 1534-1691* (Oxford, 1991).
- Cregan, Donal F., 'Irish Catholic admissions to the English Inns of Court, 1558-1625', *Irish Jurist*, 18 (1983), 344-59.
- 'Irish recusant lawyers in politics in the reign of James I', *Irish Jurist*, 5 (1970), 306-20.
- Cunningham, Bernadette, 'From warlords to landlords: political and social change in Galway, 1540-1640', in G. Moran, R. Gillespie and W. Nolan (eds), *Galway: history & society* (Dublin, 1996), 97-129.
- Daly, M. E., 'Irish urban history: a survey' in *Urban History Yearbook* (Leicester, 1986), 61-72.
- Davis, Natalie Zemon, 'The rites of violence: religious riot in sixteenth-century France' in *Past & Present*, no. 59 (May, 1973), 51-91.
- Devlin, Kieran, 'The beatified martyrs of Ireland (7): Conor O'Devany, O.F.M., Bishop of Down and Conor, Patrick O'Loughran, priest' in *Irish Theological Quarterly*, vol. 65, no. 3, autumn 2000, 265-293
- Duignan, Aoife, 'The implications of Thomas Wentworth's proposals for a plantation of Connacht and the provincial old English' in *The history review: journal of the UCD history society*, 12 (2001), 20-9.
- Edwards, David, 'Beyond reform: martial law and the Tudor reconquest of Ireland', *History Ireland*, 5/2 (1997), 16-21.
- 'Collaboration without Anglicisation: the MacGiollapadraig lordship and Tudor reform' in Patrick J. Duffy, David Edwards and Elizabeth Fitzpatrick (eds), *Gaelic Ireland, c.1250-c.1650: land, lordship and settlement* (Dublin, 2001), 77-96.
- 'A haven of popery: English Catholic migration to Ireland in the age of plantations' in *The origins of sectarianism in early modern Ireland* (Cambridge, 2005), 95-127.
- 'Ideology and experience: Spenser's *View* and martial law in Ireland', in Hiram Morgan (ed.), *Political ideology in Ireland, 1541-1641* (Dublin, 1999), 127-57.



- ‘Legacy of defeat: the reduction of Gaelic Ireland after Kinsale’ in Hiram Morgan (ed.), *The battle of Kinsale* (Bray, 2004), 279-300.
- ‘The poisoned chalice: the Ormond inheritance, sectarian division and the emergence of James Butler, 1614-1642’ in Toby Christopher Barnard and Jane Fenlon (eds), *The Dukes of Ormonde, 1610-1745* (Woodbridge, 2000), 55-82.
- ‘The plight of the earls: Tyrone and Tyrconnell’s “Grievances” and Crown coercion in Ulster, 1603-7’ in Thomas O’Connor and Mary Ann Lyons (eds), *The Ulster earls and baroque Europe: refashioning Irish identities, 1600-1800* (Dublin, 2010), 53-76.
- ‘Two fools and a martial law commissioner: cultural conflict at the Limerick assize of 1606’ in David Edwards (ed.) *Regions and Rulers, 1100-1650: essays for Kenneth Nicholls* (Dublin, 2004), 237-65.
- ‘In Tyrone’s shadow: Feagh McHugh O’Byrne, forgotten leader of the Nine Years War’ in Conor O’Brien (ed.), *Feagh McHugh O’Byrne: the Wicklow firebrand. A volume of quatercentennial essays* (Rathdrum, County Wicklow, 1998), 212-48.
- Edwards, R. Dudley, ‘Church and state in the Ireland of Michel O Cleirigh, 1626-41’ in *Measgra I gCuimhne Mhichil Ui Chleirigh* (Dublin, 1944), 1-20.
- Feerick, J., ‘Spencer, race and Ire-land’ in *English Literary Renaissance*, Winter 2002, Vol. 32, Issue 1, 85-117.
- Flanagan, Eugene, ‘The anatomy of Jacobean Ireland: Captain Barnaby Rich, Sir John Davies and the failure of reform, 1609-22’ in Morgan, Hiram (ed.), *Political ideology in Ireland, 1541-1641* (Dublin, 1999), 158-180.
- Ford, Alan, ‘1603-1641’ in Kenneth Milne (ed.), *A Church of Ireland bibliography* (Dublin, 2005), 11-18.
- “‘Firm Catholics” or “loyal subjects””? Religious and political allegiance in early seventeenth-century Ireland’ in David George Boyce, Robert Eccleshall and Vincent Geoghegan (eds), *Political discourse in seventeenth- and eighteenth-century Ireland* (Basingstoke, 2001), 1-31.
- “Force and fear of punishment”: Protestants and religious coercion in Ireland, 1603-33’ in Elizabethanne Boran and Crawford Gribben (eds), *Enforcing Reformation in Ireland and Scotland, 1550-1700* (Aldershot, 2006), 91-130.
- ‘Living together, living apart: sectarianism in early modern Ireland’ in Alan Ford and John McCafferty (eds), *The origins of sectarianism in early modern Ireland* (Cambridge, 2005), 1-23.
- Parr Lane, “News from the holy ile”, *PRIA*, Section C, 99 (1999), 115-56.

–‘Reforming the holy ile: Parr Lane and the converison of the Irish’ in T.C. Barnard, Daibhi O Croinin and Katherine Simms (eds), *A miracle of learning: studies in manuscripts and Irish learning, Essays in honour of William O’Sullivan* (Aldershot, 1998), 137-63.

Gillespie, Raymond, ‘Negotiating order in early modern Ireland’ in Michael J. Braddick and John Walter (eds), *Negotiating power in early modern society: order, hierarchy and subordination in Britain and Ireland* (Cambridge, 2001), 188-205.

Graham, B. J., ‘The towns of medieval Ireland’ in R. A. Butlin (ed.), *The development of the Irish town* (London and Totowa, New Jersey, 1977), 28-60.

Harris, F.W., ‘The commission of 1609: legal aspects’ *Studia Hibernica* 20 (1982 for 1980) 31-55.

–‘Matters relating to the indictments of the fugitive earls and their principal adherents’, *Irish Jurist*, ns, 18:2 (1983) 344-59.

–‘The rebellion of Sir Cahir O’Doherty and its legal aftermath’ in *Irish Jurist*, ns, 15:2 (1980) 298-325.

Harris, Tim, ‘London Crowds and the Revolution of 1688’ in Eveline Cruickshanks (ed.), *By force or by default? The revolution of 1688-1689* (Edinburgh, 1989).

–‘The parties and the people: the press, the crowd and politics "out-of-doors" in Restoration England’ in Lionel K. J. Glassey (ed.), *The reigns of Charles II and James VII & II, 1660-1689* (Basingstoke, 1997), 125-51.

–‘Politics, religion and community in later Stuart Ireland’ in Robert Armstrong and Tadhg Ó hAnnracháin (eds), *Community in early modern Ireland* (Dublin, 2006), 51-68.

–‘The problem of "popular political culture" in seventeenth-century London’ in *History of European Ideas*, 10:1 (1989), 43-58.

–‘Understanding popular politics in Restoration Britain’ in Alan Craig Houston and Steven C. A. Pincus (eds), *A nation transformed: England after the Restoration* (Cambridge, 2001), 125-53.

Heal, Felicity, ‘Mediating the word: language and dialects in the British and Irish Reformations’ in *Journal of Ecclesiastical History*, 56:2 (2005), 261-86.

Herrup, Cynthia, ‘Law and morality in seventeenth-century England’ in *Past & Present*, 106 (1985), 102-23.

Hindle, Steve, ‘Crime and popular protest’ in Barry Coward (ed.), *A companion to Stuart Britain* (Oxford, 2003), 130-47.



Hoare, Kieran and Andrew Sargent, 'Resistance to the union of the crowns: the north of England and the recusancy revolt of 1603' in Lud'a Klusáková, Martin Moll Jaroslav Ira, Aladin Lagueche, Eva Kalivodova and Andrew Sargent (eds), *Crossing frontiers, resisting identities* (Pisa, 2010), 137-156.

Holdsworth, William Searle, 'Martial law historically considered' in *Law Quarterly Review* 18 (1902), 117-32.

Hunter, Robert J., 'Sir William Cole, the town of Enniskillen and plantation county Fermanagh' in Eileen Murphy and William Roulston (eds), *Fermanagh: history & society: interdisciplinary essays on the history of an Irish county* (Dublin, 2004), 105-145.

—'Ulster plantation towns, 1609-41' in David Harkness and Mary O'Dowd (eds) *The town in Ireland* (Belfast, 1981), 55-80.

Jackson, Brian, 'The construction of argument: Henry Fitzsimon, John Rider and religious controversy in Dublin, 1599-1614', in Ciarán Brady and Jane H. Ohlmeyer (eds) *British interventions in early modern Ireland* (Cambridge, 2005), 97-115.

—'Sectarianism: division and dissent in Irish Catholicism' in Alan Ford and John McCafferty (eds), *The origins of sectarianism in early modern Ireland*, (Cambridge, 2005), 203-15.

Jeffries, Henry, 'The Irish parliament of 1560: the anglican reforms authorised', *Irish Historical Studies*, vol. 26, no. 102 (Nov. 1988), 128-41.

Keane, Ronan, '"The will of the general": martial law in Ireland, 1535-1924' in *Irish Jurist* 25-27 (1990-92), 150-80.

Kearney, Hugh F., 'The Court of Wards and liveries in Ireland, 1622-24' *PRIA*, section C, 57 (1955), 29-68.

Kenny, Colum, 'The exclusion of Catholics from the legal profession in Ireland, 1537-1829' in *Irish Historical Studies*, 25, no. 100 (1987), 337-57.

LaRocca, John J., S. J., "'Who can't pray with me, can't love me": toleration and the early Jacobean recusancy policy', *Journal of British Studies*, 23, no. 2, (Spring, 1984), 22-36.

Lennon, Colm, 'Political thought of Irish Counter-Reformation churchmen: the testimony of the "Analecta" of Bishop David Rothe', in Hiram Morgan (ed.), *Political ideology in Ireland, 1541-1641* (Dublin, 1999), 181-202.

—'The beatified martyrs of Ireland (8): Francis Taylor' in *Irish Theological Quarterly*, vol. 65, no. 4, winter 2000, 353-361.

Loeber, Rolf, 'Settlers' utilisation of the natural resources' in Ken Hannigan and William Nolan (eds), *Wicklow: history & society: interdisciplinary essays on the history of an Irish county* (Dublin, 1994), 267-304.

Lydon, James F., 'Nation and race in medieval Ireland' in *Concepts of national identity in the middle ages* (Leeds, 1995), 103-24.

Lynch, Michael, 'The crown and the burghs, 1500-1625' in Michael Lynch (ed.) *The early modern town in Scotland* (London, 1987), 55-75.

McCavitt, John, "'Goodly planets in their several spheares": the establishment of the assize circuits in early seventeenth century Ireland', *Irish Jurist* 24 (1989), 248-78.

-'Lord Deputy Chichester and the English government's "mandates policy" in Ireland, 1605-1607' in *Recusant History*, 20 (1991), 320-35.

MacCuarta, Brian, 'The plantation of Leitrim, 1620-41' in *Irish Historical Studies* 32, no. 127 (2001), 297-320.

-'A planter's interaction with Gaelic culture: Sir Matthew de Renzy, 1577-1634' in *Irish Economic and Social History* 20 (1993), 1-18.

-'A settler's land disputes in a Gaelic lordship: Matthew De Renzy in Delvin Mac Coghlan, 1613-18' in *Studia Hibernica* 30 (1998-99), 63-88.

Macinnes, Allan I., 'Slaughter under trust: clan massacres and British state formation' in Mark Levein and Penny Roberts (eds) *The massacre in history* (Oxford and New York, 1999), 127-48.

McCarthy, Mark, 'Geographical change in an early modern town: urban growth, economy and cultural politics in Cork, 1600-1641'. in *Journal of the Cork Historical and Archaeological Society*, 106 (2001), 53 -78.

MacCarthy-Morrogh, Michael, 'The English presence in early seventeenth-century Munster' in Ciarán Brady and Raymond Gillespie (eds), *Natives and Newcomers: The Making of Irish Colonial Society, 1534-1641* (Dublin, 1986), 171-190.

Kevin McKenny, 'The restoration land settlement in Ireland: a statistical interpretation' in Coleman A. Dennehy (ed.), *Restoration Ireland: always settling and never settled* (Aldershot, Hampshire, 2008), 35-52.

McLaughlin, Joseph, 'What base coin wrought: the effects of the Elizabethan debasement in Ireland' in Hiram Morgan (ed.), *The battle of Kinsale* (Dublin, 2004), 193-204.

Moody, T. W., 'The Irish Parliament under Elizabeth and James I' in *PRIA*, no. 45, section C (1939), 41-81.



Morgan, Hiram, 'Extradition and treason-trial of a Gaelic lord: the case of Brian O'Rourke' in *Irish Jurist*, 22 (1987), 285-301.

– "Faith and Fatherland" in sixteenth-century Ireland', *History Ireland*, 3/2 (1995), 16-20.

Morrill, John, 'The causes of the popery laws: paradoxes and inevitabilities' in John Bergin et al (eds), *New perspectives on the penal laws* (Dublin, 2011), 55-73.

Newton, Diana, 'The impact of James I's accession on the north-east of England' in "Renaissance Forum", (2004) (hull.ac.uk) (accessed October 2012).

Nicholls, Kenneth W., 'Land, law and society in sixteenth-century Ireland', *O'Donnell Lecture Series*, National University of Ireland, 1976, 3-26.

Ó hAnnracháin, Tadhg, 'A typical anomaly? the success of the Irish counter-Reformation' in Judith Devlin and Howard B. Clarke (eds), *European encounters: essays in memory of Albert Lovett* (Dublin, 2003), 78-94.

O'Connor, Thomas, 'Custom, authority, tolerance in Irish political thought: David Rothe's *Analecta sacra et mira* (1616)' in *Irish Theological Quarterly*, 65, no. 2 (2000}), 133-156.

Ó Domhnaill, Seán, 'Sir Niall Garbh O'Donnell and the Rebellion of Sir Cahir O'Doherty' in *Irish Historical Studies*, Vol. 3, No. 9 (Mar., 1942), 34-8.

O'Dowd, Mary, 'Gaelic economy and society' in Ciarán Brady and Raymond Gillespie (eds), *Natives and newcomers: the making of Irish colonial society, 1534-1641* (Dublin, 1986),

120-47.

– 'Irish concealed lands papers' in the Hastings manuscripts in the Huntington Library, San Marino, California' in *Analecta Hibernica*, 31 (1984), 69-176.

Ohlmeyer, Jane, 'The statute staple in early modern Ireland: compiling a historical database' in *History Ireland* (Winter 1998), 36-40.

– 'Irish recusant lawyers during the reign of Charles I' in Micheál Ó Siochrú (ed.), *Kingdoms in crisis: Ireland in the 1640s. Essays in honour of Donal Crógan* (Dublin, 2001), 63-89.

Ó Siochrú, Micheál, 'Atrocity, Codes of Conduct and the Irish in the British Civil Wars 1641-1653' in *Past & Present* 195 (2007), 55-86.

– 'Catholic confederates and the constitutional relationship between Ireland and England, 1641-1649' in Ciarán Brady and Jane H. Ohlmeyer (eds), *British interventions in early modern Ireland* (Cambridge, 2005), 207-29.

- ‘Civil autonomy and military power in early modern Ireland’ in *Journal of early modern history*, 2011, 15, issue 1/2, 31-57.
- O’Sullivan, M. D., ‘The fortification of Galway in the sixteenth and early seventeenth centuries’ in *Journal of the Galway Archaeological and Historical Society*, 16 (1934-5).
- Pawlsch, Hans S., ‘Sir John Davies, the ancient constitution, and civil law’ in *The Historical Journal*, 23, 3 (1980), 689-702.
- Perreault, Melanie, “‘To Fear and to Love Us’: intercultural violence in the English Atlantic’ in *Journal of World History*, 17:1 (2006), 71-93.
- Prim, John G. A., ‘The market cross of Kilkenny’ in *Transactions of the Kilkenny Archaeological Society for the year 1853* (Dublin, 1853), 219-230.
- Quinn, David B., ‘Government printing and the publication of the Irish statutes in the sixteenth century’ in *PRIA*, section C, vol. 49 (1943/1944), 45-129.
- Ranger, T. O., ‘Richard Boyle and the making of an Irish fortune, 1588-1641’ in *Irish Historical Studies*, 10 (1957), 257-97.
- ‘Strafford in Ireland: a revaluation’ in *Past & Present* 19 (1961), 26-45.
- Rapple, Rory, ‘Taking Up Office in Elizabethan Connacht : The Case of Sir Richard Bingham’ in *The English Historical Review*, 123, no. 501 (2008), 277-99.
- Roberts, Penny, ‘Royal authority and justice during the French religious wars’, *Past and Present*, 184 (2004), 3-32.
- ‘Urban conflict and royal authority: popular revolts in sixteenth-century Troyes’, *Urban History*, 34 (2007), 189-207.
- Ronan, Rev. Myles V., ‘Religious life in old Dublin’ in *Dublin Historical Record*, Vol. 2, No. 3 (Mar., 1940), 106-11.
- Roulston, William, ‘The evolution of the Abercorn estate in north west Ulster, 1610-1703’ in *Familia*, 15 (1999), 54-67.
- ‘The Scots in plantation Cavan, 1610-42’ in Brendan Scott (ed.), *Culture and society in early modern Breifne/Cavan* (Dublin, 2009), 121-46.
- ‘The Ulster plantation in the manor of Dunnalong, 1610-70’ in Charles Dillon, Henry A. Jeffries and William Nolan (eds), *Tyrone: history and society* (Dublin, 2000), 267-90.
- Rutledge, V. L. ‘Court-castle faction and the Irish viceroyalty: the appointment of Oliver St John as Lord Deputy of Ireland in 1616’ in *Irish Historical Studies*, 26, no. 103 (1989), 233-49.



Seneschal de la Roche, Roberta, 'Collective violence as social control' in *Sociological Forum* 11 (1996), 97-128.

Sheehan, Anthony, 'Irish revenues and English subventions, 1559-1622' in *PRIA*, section C, vol. 90, (1990), 35-65.

—'Irish towns in a period of change, 1558-1625' in Ciarán Brady and Raymond Gillespie (eds) *Natives and newcomers: the making of Irish colonial society, 1534-1641* (Dublin, 1986).

—'Official reaction to native land claims in the plantation of Munster' in *Irish Historical Studies*, 22, no. 92, (1983), 297-318.

—'The recusancy revolt of 1603: a reinterpretation' in *Archivium Hibernicum* xxxviii (1983), 3-13.

Smyth, William J., 'Exploring the social and cultural topographies of sixteenth and seventeenth century County Dublin' in F. H. A. Aalen and Kevin Whelan (eds), *Dublin, city and county: from prehistory to present: studies in honour of J.H. Andrews* (Dublin, 1992), 121-180.

—'Ireland a colony: settlement implication of the revolution in military-administrative, urban and ecclesiastical structures c.1550 to c.1730' in Terence B. Barry (ed.), *A history of settlement in Ireland* (London, 1999), 158-86.

Stearns, Stephen J., 'Conscription and English society in the 1620s' in *Journal of British Studies*, 11, no. 2 (1972), 1-23.

—'Military disorder and martial law in early Stuart England' in Buchanan Sharp and Mark Charles Fissel (eds), *Law and authority in early modern England: essays presented to Thomas Garden Barnes* (Newark, 2007), 106-35.

Tait, Clodagh, 'Adored for saints: Catholic martyrdom in Ireland c.1560-1655' in *Journal of Early Modern History*, 5:2 (2001), 128-59.

—'Broken heads and trampled hats: rioting in Limerick in 1599' in *Limerick: history and society* (Dublin, 2009), 91-111.

—'Colonising memory: manipulations of death, burial and commemoration in the career of Richard Boyle, first earl of Cork (1566-1643)' in *Proceedings of the Royal Irish Academy*, section C 101:4 (2001), 107-34.

—'Disorder and commotion: urban riots and popular protest in Ireland, 1570-1640' in William Sheehan and Maura Cronin (eds), *Riotous assemblies: rebels, riots & revolts in Ireland* (Cork, 2011), 22-49.

- “The just vengeance of God”: reporting the violent deaths of persecutors in early modern Ireland’ in David Edwards, Pádraig Lenihan and Clodagh Tait (eds), *Age of Atrocity: violent death in early modern Ireland, 1547-1680* (Dublin, 2007), 130-153.
- “As legacie upon my soule”: the wills of the Irish Catholic community, c.1550-c.1660’ in Robert Armstrong and Tadhg Ó hAnnracháin (eds), *Community in Early Modern Ireland* (Dublin, 2006), 179-198.
- ‘Riots, rescues and “grene bowes”: Catholic popular protest in Ireland, 1570-1640’ in Robert Armstrong and Tadhg Ó hAnnracháin (eds), *Insular christianity: alternative models of the church in Britain and Ireland, c. 1570-c. 1700* (Manchester, 2013), 67-87.
- Tait, Clodagh, David Edwards and Pádraig Lenihan, ‘Early modern Ireland: a history of violence’ in David Edwards, Pádraig Lenihan and Clodagh Tait (eds), *Age of atrocity: violence and political conflict in early modern Ireland* (Dublin, 2007), 9-33.
- Treadwell, Victor, ‘The House of Lords in the Irish Parliament of 1613-1615’ in *The English Historical Review*, vol. 80, no. 314 (Jan., 1965), 92-107.
- ‘The Irish court of wards under James I’ in *Irish Historical Studies*, 12:45 (1960-1), 1-27.
- ‘The Irish parliament of 1569-71’ in *Proceedings of the Royal Irish Academy*, section C, 65 (1966), 55-89.
- ‘The establishment of the farm of the Irish customs, 1603-13’ in *English Historical Review*, 93:368 (1978), 580-602.
- ‘New light on Richard Hadsor. I: Richard Hadsor and the authorship of “Advertisements for Ireland”, 1622/3’, *Irish Historical Studies*, 30 (1997), 305-36.
- ‘Sir John Perrot and the Irish parliament of 1585-6’ in *Proceedings of the Royal Irish Academy*, section C, 85 (1985), 259-308.
- Trevor-Roper, Hugh Redwald, ‘The General Crisis of the Seventeenth Century’ in *Past & Present* 16 (1959), 31-64.
- Walter, John, ‘Confessional politics in pre-Civil War Essex: prayer books, profanations, and petitions’ in *Historical Journal* 44:3 (2001), 677-701.
- ‘Faces in the crowd: Gender and age in the early modern English crowd’ in Helen Berry and Elizabeth A. Foyster (eds), *The family in early modern England* (Cambridge, 2007), 96-125.
- ‘Gesturing at Authority: Deciphering the Gestural Code of Early Modern England’ in Michael J. Braddick, (ed.), *The politics of gesture: historical perspectives* (Oxford and New York, 2009), 96-127.



–‘Politicising the popular? The “tradition of riot” and popular political culture in the English Revolution’ in Nicholas Tyacke (ed.), *The English Revolution c. 1590-1720: politics, religion and communities* (Manchester, 2007), 95-110.

–“‘The Pooremans Joy and the Gentlemans Plague’: A Lincolnshire Libel and the Politics of Sedition in Early Modern England’ in *Past & Present*, 203 (2009), 29-67.

–‘Public transcripts, popular agency and the politics of subsistence in early modern England’ in Michael J. Braddick and John Walter (eds), *Negotiating power in early modern society: order, hierarchy and subordination in Britain and Ireland* (Cambridge, 2001), 123-48.

–‘A “rising of the people”? The Oxfordshire rising of 1596’ in *Past & Present* 107 (1985), 90-143.

Whyte, I. D., ‘Scottish and Irish urbanisation in the seventeenth and eighteenth centuries: a comparative perspective’ in S. J. Connolly, R. A. Houston and R. J. Morris (eds), *Conflict, identity and economic development* (Preston, 1995), 114-28.

Wood, Andy, ‘Collective Violence, Social drama and Rituals of Rebellion in Late Medieval and Early modern England’ in Stuart Carroll (ed.), *Cultures of violence: interpersonal violence in historical perspective* (Basingstoke, 2007), 99-116.

–‘Custom, identity and resistance: English free miners and their law, c.1550-1800’ in Paul Griffiths, Adam Fox and Steve Hindle (eds), *The experience of authority in early modern England* (Basingstoke, 1996), 249-85.

–“‘Poore men woll speke one daye”: plebeian languages of deference and defiance in England, c.1520-1640’ in Tim Harris (ed.), *The politics of the excluded, c.1500-1850* (Basingstoke and New York, 2001), 67-98.

Wood, Herbert, ‘The Court of Castle Chamber of Star Chamber of Ireland’ in *Proceedings of the Royal Irish Academy*, Section C, Vol. 32, (1914-16), 152-70.

## 5. Unpublished work

Byrne, Niall J., ‘Jacobean Waterford: Religion and Politics 1603-25’ (Ph. D. thesis, UCC, 2001).

- Curtis, Margaret P., 'Provincial government and administration in Jacobean Munster', (Ph. D. thesis, UCC, 2006).
- Devlin, Eoin, 'Fynes Moryson and his Itinerary' (M. Litt thesis, TCD, 2006).
- Flanagan, Eugene, 'Captain Barnaby Rich (1542-1617): protestant witness in Reformation Ireland' (Ph. D thesis, TCD, 1996).
- Hunter, R.J., 'The Ulster Plantation in the counties of Armagh and Cavan, 1608-41' (M. Litt. thesis, TCD, 1968).
- Kennedy, D.J., 'The presidency of Munster to 1625' (M.A. thesis, UCC, 1973).
- Malone, Neasa, 'The social, cultural and intellectual milieu of the Burnell family of Dublin, 1562-1660' (Ph. D. thesis, NUI Maynooth, 2008).
- McGrath, Brid, 'The membership of the Irish house of commons, 1613-1615' (M. Litt thesis, TCD, 1986).
- McLaughlin, Joseph M., 'The making of the Irish leviathan, 1603-1625: statebuilding in Ireland during the reign of James VI and I' (Ph. D. thesis, NUI, Galway, 1999).
- O Ciardha, Eamonn, 'Woodkerne, tories and rapparees in Ulster and North Connaught in the seventeenth century' (M.A. thesis, UCD, 1991).
- Sheehan, Anthony, 'Provincial grievance and national revolt: Munster in the nine years war' (M.A. thesis, TCD, 1981).

## 6. Websites

- Bibliography of British and Irish History ([brepolis.net](http://brepolis.net)).
- CELT ([ucc.ie/celt](http://ucc.ie/celt)).
- Dictionary of Irish Biography ([dib.cambridge.org](http://dib.cambridge.org)).
- JSTOR ([jstor.org](http://jstor.org)).
- Oxford Dictionary of National Biography ([oxforddnb.com](http://oxforddnb.com)).
- State Papers Online ([gale.cengage.co.uk/state-papers-online](http://gale.cengage.co.uk/state-papers-online)).