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COLONIAL NATIONALISM IN IRELAND, 1692-1725:  
FROM COMMON LAW TO NATURAL RIGHT.

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Submitted for the degree of Ph.D.  
to Trinity College, Dublin,  
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DECLARATION

I declare that this thesis has not been submitted to any other university and that it is all my own work.



ABBREVIATIONS

|                          |   |
|--------------------------|---|
| B.L. Add. MS             | British Library, additional manuscripts                       |
| Cal. S.P. (dom.)         | Calendar of State Papers (domestic series)                    |
| C.J. [Eng.]              | Journals of the House of Commons (England)                    |
| C.J.I.                   | Journals of the House of Commons of the<br>Kingdom of Ireland |
| Econ. Hist. Rev.         | Economic History Review                                       |
| E.H.R.                   | English Historical Review                                     |
| Hist. Jnl.               | Historical Journal  |
| H.M.C.                   | Historical Manuscripts Commission                             |
| Hist. Stud.              | Historical Studies  |
| Irish Econ. & Soc. Hist. | Irish Economic and Social History                             |
| I.H.S.                   | Irish Historical Studies                                      |
| L.J. [Eng.]              | Journals of the House of Lords (England)                      |
| L.J.I.                   | Journals of the House of Lords (Ireland)                      |
| N.L.I.                   | National Library of Ireland                                   |
| P.R.O.                   | Public Record Office, London                                  |
| P.R.O.I.                 | Public Record Office of Ireland                               |
| P.R.O.N.I.               | Public Record Office of Northern Ireland                      |
| T.C.D.                   | Trinity College, Dublin                                       |

## INTRODUCTION

This introduction is intended to give a general background to the thesis. It has been divided into four sections which deal with (i) a definition of the term colonial nationalism (ii) a general political and social survey of the period in Ireland (iii) an historiographical review and (iv) an outline of the thesis.

### (i) Colonial nationalism

The phrase 'colonial nationalism' has been used in this thesis to describe the constitutional theories put forward by the Anglican community in Ireland between the years 1692-1725. 'Colonial nationalism' is used to denote the general framework of political thought within which particular ideas were developed and discussed. 'Colonial nationalism' is, therefore, a broad term but it has a precise meaning.

The word nationalism in this context should be taken to mean the aspiration to self-government within a specified country, that is, as it was understood in the later seventeenth and early eighteenth centuries. It does not carry the connotations of nineteenth century romantic nationalism, with its emphasis on linguistic and ethnic considerations and a belief in the spirit of a nation. Nationalism, as used in this thesis, stands for an attachment to the political indep-

endence of one's country. In the case of Ireland, it meant a belief in a separate Kingdom with an ancient and independent parliament subject only to the English sovereign, and that in his capacity as King of Ireland. Given this definition of nationalism, it is still important to apply a qualification when discussing the beliefs of the eighteenth century Anglicans in Ireland.

J.G. Simms was the first to use the term colonial nationalism to describe the political theories of the eighteenth century Irish colonists. Simms qualified the word nationalism as a description of their theories because the Irish colonists sought self-government under the British Crown.<sup>1</sup> But the British ancestry of the Anglicans had further effects on their political thought than an attachment to the Crown. English political theories of the seventeenth century provided much of the basis for what the Anglicans developed in Ireland, particularly in the area of Common Law rights and the independence of parliament. The qualifying epithet colonial, is also necessary because their British roots limited the degree to which the Anglican colonists could develop certain of their political beliefs with regard to Ireland. The Anglicans denied that Ireland was in any sense a colony while seeing themselves as the descendants of colonists. Their position as men whose

forebears came from England had an influence on the extent to which the colonists could press their claim to self-government and imposed certain limits on their political thinking. Thus, the colonial and the national were sometimes at odds with each other and this was of importance to the development of political thinking in eighteenth century Ireland.

The reason for concentrating on the views of the Anglican colonists is that after 1691 they formed the body politic in Ireland. As the sole group in power they were forced to legitimate their exercise of that power. It was the experience of defending their constitution which developed the colonists' political theories.

The aim of this thesis is to analyse the colonists' constitutional assertions as they appeared in the late seventeenth and early eighteenth centuries and to argue that the changing attitudes during these years form a watershed in Irish constitutional thought.

In the 1690's and early 1700's the colonists used arguments based on precedent derived from Common Law to justify their exercise of power in Ireland subject only to the English monarch and excluding both Roman Catholics

and Dissenters from participation in government. The main threat to the colonists' control over government in Ireland was the more assertive parliament at Westminster and it was against that, rather than against the Catholics or Dissenters, that the colonists directed their defence of self-government. In 1720, however, the Westminster parliament passed a Declaratory Act which stated that the Kingdom of Ireland and the Dublin parliament were subordinate to the British Crown and parliament. This Act over-rode the Common Law rights which were used by the colonists in support of the arguments for Ireland's independence.

The English, and from 1707 the British, parliament had legislated for Ireland prior to the Declaratory Act of 1720 but these laws had been dismissed by the colonists as an aberration or a temporary expedient. The all-encompassing nature of the Declaratory Act allowed no such rationalisations and after 1720 the colonists gradually moved towards a new line of defence against the British parliament - that of Natural Right.

William Molyneux, who had done most to elaborate the role of Common Law in relation to Irish rights, had also introduced in 1698, the political theories of his friend John

Locke. Following the passing of the Declaratory Act, certain of the colonists, most notably Jonathan Swift, took up Locke's theory of men's Natural Right to self-government and applied it to Ireland.

This shift in the theoretical justification of self-government had the logical consequence of including the Catholics and Dissenters in government as of Natural Right. In this way the idea that men had a right to consent to the laws by which they were governed, simply by virtue of being men joined in society, became part of Irish political thinking. Thus, the concept of Natural Right which was later interpreted as supporting representative government first appeared in Ireland in the late seventeenth century and became the dominant theme in the colonists' appeal for self-government in the 1720's.

(ii) Political and Social Survey

In political terms, Ireland was neither an independent state nor a colony. Ireland's constitutional status vis a vis England was not always clear and changed considerably in practice during the period 1692 - 1725 as the relationship between Crown and parliament in Britain was redrawn. Following the 1688 Glorious Revolution in England, Westminster acquired new powers at the expense of the monarchy. This trend is reflected in Anglo-Irish relations and in the

English, and later British, parliament's handling of Irish affairs.

Britain ruled Ireland through an executive consisting of the Viceroy (Lord Lieutenant or Lord Deputy), the Lords Justices who deputised for the Viceroy in his absence and the Irish Privy Council. The Viceroy had extensive powers limited only, in certain instances, by the requirement to consult the Irish Privy Council. In practice, however, the executive's powers were restricted by the need to placate the Irish parliament, which could reject government bills and in particular its money bills.

Although ruled through an English appointed executive, Ireland had certain marks of independence. It carried the title of Kingdom, it had a long established parliament, a convocation and courts similar to those in England. Of these the parliament was nominally the central institution of government and its position is indicative of the reality of constitutional relations between Ireland and Britain in the late seventeenth and early eighteenth centuries.

The Dublin parliament was modelled on that of Westminster but its legislative powers had been restricted by the fifteenth century Irish Act known as Poyning's Law. Under

Poyning's Law the Irish parliament was denied any initiative in legislation, and could only pass or reject, and not amend, laws drawn up for it by the English Privy Council. However, during the late seventeenth century the Irish Commons began to circumvent the restrictions of Poyning's Law by initiating legislation in the form of 'heads' of bills.

Heads of Bills were draft laws which followed the same procedure as ordinary bills in the houses of parliament. Once passed, however, the heads could be amended or rejected by the Irish and English Privy Councils before being returned to the Dublin parliament. The development of this procedure and disputes over its use were central to the governing of Ireland during the eighteenth century.

With more frequent sessions of parliament in Ireland after 1692 and a continued need for finance on the part of the British government, the Irish parliament became the centre of political life. Parliamentary practice gave the Irish M.P.s a sense of cohesion and a greater understanding of parliamentary tactics. The emergence of a more assertive Irish parliament led to two related trends. One was that the executive put more effort into managing the parliament, the other was that the Irish parliament developed distinct political groupings.



The Viceroy and Lord Justices, began to plan ahead of a session in order to ensure the passage of government bills. This involved taking soundings of colonial opinion and lobbying groups before the session opened. The Irish M.P.s formed divisions which reflected their political principles, the lure of patronage, or a mixture of both. In the 1690s the parliamentary groupings in Dublin divided along Court/Country lines. During Queen Anne's reign the groups took on Whig or Tory complexion, while under George I it reverted to a Court/Country divide. These divisions were not always clear and did not involve all members, furthermore the groupings could be dispelled by the emergence of an issue which touched what they felt to be the 'national interest'. The divisions were also complicated by personal ties and allegiances to particular parliamentary leaders.

There were other developments in early eighteenth century Ireland which form a backdrop to constitutional thought. Printing had been carried on fitfully in Dublin since the sixteenth century but became prominent in the social and intellectual life of the early eighteenth century. In the 1690s most works printed in Dublin were short, mainly sermons and parliamentary notices. Books were

a rarity. In 1697-98, however, with discussions over a woollen bill printers began to produce tracts of political interest. This trend became established in 1713-14 with the rise of party disputes, and many pamphlets and broadsheets were printed in 1721 on the bank project and in 1723-25 on Wood's Halfpence. Newspapers also became more common in the early decades of the eighteenth century and were soon being produced daily<sup>2</sup>.

These printed works were forming and reflecting public opinion, or at least colonial opinion. What constitutes public opinion is difficult to define but certain broad developments can be discerned. Public opinion became more outspoken over the period 1692-1725. In 1698 there was little comment outside parliament on the Bishop of Derry's law suit, while in 1719 a case with similar constitutional implications, *Sherlock v. Annesley*, caused public consternation and led a number of authors into print on the subject. Similarly there was a marked difference between the public response to the 1699 Woollen Act and the riotous behaviour sparked off by Wood's Halfpence in 1723-25.

Another notable trend which influenced political life between 1692 and 1725 was a shift in the colonists' sense of identity. In the 1690's they referred to themselves as the

'Protestants of Ireland' or sometimes the 'English of this Kingdon', whereas by the 1720's they formed the 'Irish interest' and commonly wrote of themselves as the 'Irish gentlemen' or 'Irish clergy'. This trend was not clear cut and ambiguities remained, something of which may be seen in the remark by Alan Brodrick in 1712, that should he move to England:

"I shall be thought, and perhaps told, that I am (what of all things I least chuse to be) an Irishman<sup>3</sup>."

That the colonists should have distinguished themselves from the Catholic Irish is hardly surprising, but twenty years of opposition to the British parliament led them to identify more with Ireland than with Britain.

### (iii) Historiographical Review

Grattan's oft quoted phrase "Spirit of Swift, Spirit of Molyneux, your genius has prevailed", has come to be used as a catchphrase by historians to describe the political atmosphere of late seventeenth and early eighteenth century Ireland and the basis for events in the 1780's. However, few have looked at what precisely Swift and Molyneux contributed to late eighteenth century political thought, and none have considered the difference between what Molyneux wrote and Swift's writings.

In fact the first half of the eighteenth century

has long been seen only as an introduction to events later in that century. This emphasis on the later eighteenth century can be seen at a glance in the works of Froude and Lecky. Nevertheless, it is worth considering what has been written on early eighteenth century constitutional issues.

J.A. Froude's The English in Ireland in the Eighteenth Century (1872) is primarily concerned with religious and social rather than constitutional issues. Molyneux's Case of Ireland gets only a brief mention with no discussion of its content or effect. Froude did focus on Swift's Drapier's Letters but more for their social and economic elements and their appeal to public opinion than to the constitutional issues raised. Where these were considered it was to cast Swift as the originator of colonial opposition to British government on the grounds of dual monarchy. There is no mention of Swift's debt to Molyneux or reference to his use of Natural Right.<sup>4</sup>

W.E.H. Lecky's A History of Ireland in the Eighteenth Century (1892) gave more space to Molyneux, but Lecky saw the Case of Ireland as putting forward only historical arguments for Ireland's independence. Swift

was again seen as the source for later claims to Irish independence: "The seed that he had sown sank deeply and germinated hereafter". However, Lecky did not go on to consider what kind of seed Swift had sown.<sup>5</sup>

More recently Molyneux has been given more attention by historians. In Revolutionary Ireland and its Settlement (1911) R.H. Murray described the effect of Molyneux's Case thus:

"Its real importance is difficult to overestimate, for it has formed the armoury from which successive generations of advocates of Irish self-government from the days of Lucas to the days of Parnell have taken down and polished their weapons of war".<sup>6</sup>

But like most writers Murray saw Molyneux's Case as dealing solely with historical and legal precedents, a line followed by J.G.S. McNeill in his Constitutional history of Ireland (1917).<sup>7</sup>

American historians have shown some interest in Molyneux's Case because of its relevance to the debates of the American colonists before the War of Independence. Again they looked only at the historical and legal precedents. C.H. McIlwain (1923) believed Molyneux's precedents to be inconclusive and R.L. Schuyler (1929) believed them to be wrong. A recent legal history of Ireland by

A.G. Donaldson (1957) limited the discussion of Molyneux's Case to the same point of how valid Molyneux's legal precedents were. McILwain rightly saw the 1720 Declaratory Act as a rebuff to Molyneux's precedents, but none of the authors looking at the legal issues addressed the question of why Molyneux's Case continued to be of importance after 1720.<sup>8</sup>

Molyneux's Case has been seen as having a wider theoretical basis. In The Making of Modern Ireland (1966), J.C. Beckett remarked that the "protestant nationalism" of the 1690's resulted from Ireland's legislative subordination to English interests and that the Irish Protestants claim to equality with Englishmen was based on the law of nature and Common Law. However, Beckett did not distinguish between these two theories and saw them as running from the 1640's to 1724 and beyond, undisturbed by events such as the 1720 Declaratory Act.<sup>9</sup>

In Ireland in the Empire, 1688-1770 (1973), F.G. James also placed Molyneux's Case in the tradition of constitutional thought going back to the Catholic Confederates of the 1640's. But unlike Beckett, James saw the Case as a series of somewhat tenuous legal and historical arguments, although he considered it an "epoch making" book. James did

not consider either the element of Natural Right in the Case or the influence of this theory on Swift's writings in the 1720's. Two recent works have pointed to the influence of Natural Right on Molyneux, J.P. Kenyon in Revolution Principles : the politics of Party, 1689-1720 (1978), and E.M. Johnston in Ireland in the eighteenth century (1974) but it was not within the scope of either work to elaborate on the point.<sup>10</sup>

Caroline Robbins' book The eighteenth century commonwealthman (1959) emphasised the importance of Natural Right in Molyneux's Case and places Swift within that tradition. However Robbins is wrong in seeing these views as stemming from an attachment to Whig ideals, rather than as an element in the Irish colonists' arguments for independence from the predominantly Whig governments of the time.<sup>11</sup>

J.G. Simms 'William Molyneux of Dublin' (1982), distinguished the two strands which make up the Case: Common Law precedents and Natural Right. However, the biography did not consider the contribution of the Case to Irish constitutional debates after Molyneux's death in 1698.<sup>12</sup>

A recent article by Michael Ryder on 'The Bank of

Ireland 1721: Land, Credit and dependency' analyses the considerable influence of English country ideology on the Irish bank debates of 1721.<sup>13</sup> However, Ryder also follows the tradition of seeing Molyneux's Case as merely a set of legalistic arguments cut off from current English political debate. This narrow definition of the theory of legislative independence and his failure to take account of the negative impact of the Declaratory Act leads Ryder to conclude that constitutional independency was not evident in the 1721 debates.

With so little secondary material on this period, much of the political background to the years 1692-1725 has been provided by three theses. James McGuire's thesis 'Politics, Opinion, and the Irish Constitution, '1688-1707' (1968) covers the political and constitutional issues of the 1690's and early 1700's. The thesis highlights the difficulties the colonists had in establishing a political legitimacy in the years after the Williamite victory. David Hayton's thesis 'Ireland and the English Ministers, 1707-1716', (1975) is a study of administrative and political structures in early eighteenth century Ireland in particular the attempts of the British ministers to control the Irish parliament and the development of a party structure among the Irish M.P.s. Joseph Griffin's thesis, 'Parliamentary Politics in



Ireland during the reign of George I' (1977) concentrates on the development of parliamentary politics by the colonists, and the British ministers' attempts to exert control over parliamentary affairs.

(iv) Outline of the thesis

This thesis is concerned with charting the development of colonial nationalism in Ireland during the formative years of the Anglo-Irish ascendancy. With the Williamite victory in 1691, the Anglo-Irish colonists began to feel more secure in their control of Ireland. However, the colonists felt no such security against the encroachments of English government and they became increasingly involved in justifying their right to self-government in Ireland. The colonists were led to elaborate on earlier theories of Ireland's independence as an ancient Kingdom with its own parliament and their right to partake of that independence. A series of political clashes between the colonists and the more assertive post-revolution English parliament meant that the colonists had to return frequently in the late seventeenth and early eighteenth centuries to the espousal of Ireland's rights. In doing so the colonists extended the earlier theories of Ireland's independence and even altered the basis on which they claimed the right to self-government.

Common Law was the source from which the colonists drew their arguments for independence. Common Law, that is the appeal to past events in the form of precedents as a justification for present actions, had become well established in the political thought of seventeenth century Ireland. It was indigenous to England but had been adapted by those of Norman and later English descent to cover Irish history and Irish legal and judicial precedents. Thus, in the early seventeenth century the English jurist and legal historian, Sir John Davies, applied it to Irish law and he depicted Irish history since 1172 as the gradual unfolding of rule by Common Law. In the 1640's Patrick Darcy, a Catholic lawyer of Norman descent, defended the Irish parliament's independence against the Viceroy and, soon after, against the English parliament by reference to Common Law rights.

The same reliance is clear in the work of Sir William Domville, the Attorney General of Ireland, writing in 1660. Domville recounted the particular legal and judicial precedents favouring Ireland's independence but was unusual in placing a greater emphasis on the rights accruing to Ireland by virtue of its pre-Norman cultural superiority. The predominantly "Old English" Jacobite parliament of 1689 forced similar acknowledgements of Ireland's independ-

ent status from James II, though he stopped short of repealing Poynings' Law, which gave the English Privy Council the right to initiate Irish legislation. In 1695, the Protestant colonists abrogated the acts of the Jacobite parliament. But at the same time as denying the validity of the Jacobite acts, the colonists were expressing similar views on Ireland's constitutional status.

During the first Williamite parliament in Ireland, M.P.s claimed the right, on historical grounds, to initiate all money bills, while the ancient status of the parliament was underlined by the publication of the Modus Tenendi Parliamenta in Hibernia, the supposed charter of Henry II granting a parliament to Ireland. The colonists' assertiveness on the money bills and other issues concerning the government of Ireland forced the Lord Lieutenant to an early prorogation.

English political considerations were to influence purely Irish concerns throughout this period and began with the arrangements made for the 1695 parliament. The financial restrictions placed on the King by the English parliament made Ireland a necessary source of finance. Certain of the Irish M.P.s agreed to support the government's appeal for funds in return for government office, consultation over the form of the

money bills, and a greater say in other Irish legislation. The issue of the sole right was therefore resolved, at least temporarily, in 1695, but the way in which it was handled by the government caused others of the colonists to delve further into parliamentary precedent in order to discover what exactly the rights of the Irish parliament were.

The need to appeal to past rights became more pressing in 1698 as the prospect of an English bill to prohibit the export of Irish woollens and the English Lords' acceptance of an Irish case on appeal, threatened to undermine the legislative and judicial functions of the Irish parliament. These issues were largely responsible for the writing and publication in 1698 of a comprehensive defence of Ireland's Common Law rights - William Molyneux's The Case of Ireland's being bound by acts of parliament in England, Stated.

For the colonists, Common Law represented rights from time immemorial as enshrined in the Magna Charta, but chiefly the rights to representation in government, and government according to past practice. Molyneux's Case claimed these rights for Ireland principally on two grounds: the colonists' right to Common Law as descendants of Englishmen and the extension of the Magna Charta to

Ireland by Henry III. The basis of the claim to representation was, however, extended by Molyneux to include that of Natural Right, which he had taken from the work of his friend and correspondent, John Locke. This was the first use of Natural Right in an Irish political work, although it was clearly of secondary importance to Molyneux and was to remain a novelty in Irish political argument until the 1720 s.

There was less direct conflict between the colonists and the English government during Queen Anne's reign, 1702-1714. This was due to more careful management to avoid constitutional issues on the part of the Viceroy and also to the greater involvement in party politics of the Irish Parliament. The rise of party factions, of Whig and Tory, however, meant that Ireland's historical rights still had a frequent airing in the Irish parliament; as each party, when in opposition, used it against government bills. This helped to keep current the historical and legal precedents put forward by Molyneux.

A more serious rift occurred in 1719 as a result of the Sherlock v. Annesley case. In 1717 the Irish Lords had found in favour of Sherlock, however, Annesley took an

appeal to the English Lords who then reversed the decision of their Irish counterparts in 1719. The Irish Lords refused to implement the English Lords' decision and the English Lords responded by drawing up what was to be the 1720 Declaratory Act. The passing of this act had as much to do with English as with Irish politics. In 1719 the English Lords were, with the help of the current chief ministers, Sunderland and Stanhope, trying to bolster their power against the House of Commons, and the Declaratory Act became an element in this design, though it passed in the English Commons because of an overriding belief that Ireland was dependent upon the English parliament. For Ireland, the Declaratory Act was to have momentous consequences. In terms of political theory it undermined the colonists' possible resort to Common Law by providing an unquestionable precedent for asserting Ireland's political dependence on Britain.

The form of colonial nationalism had therefore to change in the early 1720 s. Following the Declaratory Act the colonists began to consider all questions, whether political or economic, in the light of their subordination to Westminster. Colonial nationalism also became popular among colonists generally, not merely among the parliamentarians. Both points can be seen in the debates in 1721 over a national bank. A number of Irish gentlemen felt a bank

with substantial resources would help the declining economy. With the promise of a royal charter the Lord Lieutenant introduced the scheme into the Irish parliament for ratification. However, the scheme was eventually rejected after much debate within and without parliament on the grounds that the colonists, being politically dependent on England, could not ultimately control the fate of their bank.

The hostility to English government reappeared in the Wood's Halfpence affair, 1723-25. The colonists' rejection of Wood's coins elicited a great enthusiasm for colonial nationalism. This episode is of particular importance not just for the level of hostility to English government but also because it saw the first espousal of Irish independence entirely on the grounds of Natural Right. In Jonathan Swift's Drapier's Letters the old appeal to precedent was ridiculed and in its place Swift asserted the colonists' Natural Right to be represented in the making of their laws. Thus, colonial nationalism in the 1720's established the framework for political debate throughout the eighteenth century in Ireland.

CHAPTER I: THE IRISH COLONISTS' OPPOSITION TO ENGLISH  
GOVERNMENT, 1692 - 1698

During the 1690s the Irish colonists came increasingly into conflict with the English ministers and parliament over the administration of Irish affairs. The colonists' opposition began with complaints about the ministers' conduct in Ireland in the immediate aftermath of the Jacobite war, when the Lords Justices, Charles Porter and Thomas Coningsby, were accused of being too tolerant towards the Catholics. The colonists also asserted that the Lords Justices were making personal gains from the forfeited estates. These charges were brought up and investigated in the first post-war Irish parliament in 1692 and spilled over into the first session of the following parliament in 1695. The careful management of this second parliament by the new Lord Deputy, Capel, only served to heighten the colonists' belief that the English ministers who came to Ireland were primarily concerned to promote their personal political and financial interests, at the expense of the needs of colonial Ireland. This suspicion of ministerial intentions, and the growing awareness that English policy did not always coincide with what the colonists saw as their interests, made the



Irish Commons and Lords more critical of legislation coming over from the English Privy Council.

The distrust of ministers developed into direct conflict in 1698, when moves at Westminster threatened to undermine the legislative and judicial functions of the Irish parliament. The English Commons debates on a bill to prohibit the export of Irish woollens, and the English Lords' acceptance of a judicial appeal from Ireland, in effect disregarded the colonists' claim to have a parliament equal to and independent of Westminster. The principle cause of the colonists' dissatisfaction with the English Ministers in Ireland was their desire to exercise more control over the administration of Irish affairs.

There were two principal reasons for the emergence of a determined pressure to secure self-government in the 1690s. The first was the historical heritage of political self-sufficiency which had been typical of colonists in Ireland back to the 12th century. There was an awareness among the colonists that Ireland constituted a separate kingdom which had for centuries been administered, if somewhat erratically, through its own parliament. Ireland's historical independence was not alluded to by the colonists during the Jacobite campaign, though it had a continuity in the claims of the 1689 Jacobite parliament. But the appeal for self-government reappeared among the Protestant colonists soon after James' defeat in 1691.

The second reason for the colonists' more strident claims to self-government resulted from the changes in English government

following the Glorious Revolution of 1688. In England the Act of Settlement by which William and Mary acceded to the throne laid the foundation for an increasingly powerful role in government by the English parliament, and particularly the English House of Commons. The 1694 Triennial Act, which secured frequent parliaments in England throughout the 1690s, did not apply to Ireland, but the King's considerable financial needs were not fully met by the English parliament and this forced William to call three sessions in two parliaments between 1692 and 1698. During these sessions of parliament in Ireland, the colonists developed their parliamentary skills and asserted some control over the form of money bills and general legislation relating to Ireland. In 1698, however, the colonists found that they had no control over Irish legislation passed at Westminster.

From the first Williamite parliament in 1692, the colonists had resorted to history in defence of their much disputed 'sole right' to initiate money bills. But the colonists' sense of certain historical rights increased over the decade, as they sought to exercise some control over the English ministers here, and was to be the basis of their claim to self-government in 1698. Faced with the English parliament's assertion of superior legislative and judicial powers, the colonists looked more closely at their historical rights and searched Irish records for precedents which would support their claims. Thus, for reasons of historical awareness and recent experience, the Irish colonists were drawn in the 1690s to elaborate on the grounds for their right to the government of Irish affairs.

With the Williamite victory, the Irish colonists' recriminations against Catholics, muted under James II, attained a height of bitterness. Sermons dwelt on Catholic treachery, the alliance with France and the slaughter of Protestants. William King, who was elevated to the bishopric of Derry in 1690, recounted Jacobite atrocities against Irish Protestants at length in his book The State of the Protestants of Ireland under the Late King James' Government (1691). Two themes reoccur in these works: that the Catholics were inveterate rebels against English laws and that they were the natural supporters of arbitrary government, as William King put it, "...they espoused and promoted an absolute and despotick Power in the King,... They reckoned and called everyone a Whig and Rebel, that talked of any other Law than the King's Pleasure."<sup>1</sup>

Nevertheless, the colonists felt some need to justify their rejection of James II. In particular the Church of Ireland clergymen felt it necessary to explain their abandonment of passive obedience. The most common factor credited with effecting the changeover of monarchy was divine providence; William got a rare mention. Thus in November 1690, William King exhorted his congregation to "own the whole of our Deliverance to be a work of God, and ascribe it intirely to him, without assuming any part of it to ourselves... Twas manifestly God, rather than the people, set our King and Queen on the Throne," and even the whiggish Anthony Dopping, Bishop of Meath, attributed the restoration of the colonists' liberty and property to the "wonderful work of Providence."<sup>2</sup>

The colonists did provide some less providential explanations of their shift in allegiance from James to William. The two principal arguments in this line were that James had abdicated government by acting outside the law and that the imperative of self-preservation forced the colonists to withdraw support from James. Much of Bishop King's lengthy State of the Protestants was a narrative of Catholic misdeeds under Tyrconnel, but the aim of his narrative was to give force to the argument that James had thereby abdicated government and compelled the colonists to oppose him. Less space was given over to a justification of their acceptance of William; Bishop King remarked that William had a right to intervene in Ireland because he was also threatened by James, but the more usual justification was that the King of England was ipso facto King of Ireland, so that having gained the throne of England, William was automatically King here.<sup>3</sup> The colonists were not much concerned about the constitutional debates which surrounded William's accession in England. William's acceptance of the English throne, whether by conquest, consent or through Mary, may have divided the English politicians, but the colonists' main concern was that he had replaced James. This meant that the colonists were little involved in the Revolution Settlement, and were not a party to the new relationship between King and parliament which had been initiated in England.<sup>4</sup>

The colonists did, however, have clear views on the kind of government they expected from William. Something of these views can be seen in their diatribes against Jacobite government, for in condemning absolute monarchy, the colonists implicitly defined the constitutional monarchy they wanted in its place.

William King was not slow to recall "with what Passion and Zeal /{the Catholics'}/ whole Party here, used to enlarge on the praises of an Absolute government; how impatient they were to hear any one name to them, the Laws, the Liberty of the Subjects, or a Commonwealth."<sup>5</sup> Bishop King took rule by law and the liberty of the subject to be the hallmarks of limited monarchy, his reference to a commonwealth being meant in a general sense. It was a view of government which implied some consultation with those being governed, and as such, it led the colonists, once relieved of the Jacobite threat, to take a critical view of the seemingly unfettered government of the Lords Justices in Ireland.

The colonists' opposition to the Lords Justices, Porter and Coningsby, arose over the question of the treatment of the Irish Catholics. The first division of interests between the colonists and the English government became apparent during the negotiations for a settlement to end the war in 1691. The Lords Justices were inclined to grant some concessions to those Catholics still under arms in Limerick and Galway, so that a speedy conclusion to the Irish campaign would free William's regiments to fight on the Continent. The Irish colonists had a more restricted viewpoint and wanted to see Catholics entirely defeated. Power to make a treaty, however, lay in the hands of the Lords Justices, who concluded their negotiations with the remainder of the Jacobite army in the Articles of Limerick, in October 1691. The Articles, although offering certain safeguards to the Catholics who surrendered under arms, put an end to the Catholic cause in Ireland. The colonists, however, chose to see the Articles as a betrayal. Even one of the more tolerant colonists, James

Bonnel, the Accountant General of Ireland, saw Catholic survival and Protestant security as incompatible: "Tis plain the Irish are in much better condition than we hoped they would be in the end of this war and by consequence the conditions of the Prot/es-tant/s is so much worse."<sup>6</sup>

Further division between the colonists and the English ministers developed over the related question of the forfeited estates. It was not clear what sum of money could be realised from the sale of these estates, but it was assumed to be substantial, and what divided opinion was how the money should be used. The colonists wanted to use this resource to rebuild the Irish economy after the devastation of the war. In England there was further division; William was determined to retain the estates in his personal gift, whereas the English parliament wanted the sale of the estates to reimburse them for the loss of "English blood and treasure." The forfeitures were to remain a bone of contention between the King and English parliament throughout the 1690s, but what both sides agreed was that England and not Ireland should profit from their disposal.<sup>7</sup>

The Lords Justices of Ireland became aware of colonial antagonism towards them as the signatories of the Articles and the administrators of the forfeited estates, and they began to feel that the colonists' castigations against the Catholics reflected also on them. In November 1691 Coningsby and Porter informed Lord Nottingham, the Secretary of State, that the colonists' anti-pathy towards the Catholics was putting difficulties in the way of the government,

...as well from the violence and prejudice which the common people have contracted against them from the ill treatment they received from the Irish dureing the late rebellion as from the heates of those of better quality who ought to understand their Majesties and the interest of the countrey better.<sup>8</sup>

Representing those of "better quality" to the Lords Justices was undoubtedly Anthony Dopping, who had preached a sermon before them a few days earlier in thanksgiving for the reduction of the kingdom. Dopping's rather stereotyped offering, comparing the colonists in Jacobite Ireland with the Israelites in Egypt, and which recounted the many bloody rebellions by the Catholics in Ireland, was reported by the Lords Justices as the "uttering of bitter invectives against the... Irish." On the Lords Justices' advice Dopping was removed from the Privy Council for this sermon, although similar sermons the previous year evoked no such comments from the ministers.<sup>9</sup>

With the advent of an Irish parliament in 1692 the division between the English ministers and the Irish colonists became more apparent. The Articles of Limerick which were to be ratified by an Irish parliament were shelved because of colonial hostility, but a parliament was still necessary to boost William's ailing finances. Henry Sidney, who had been appointed Lord Lieutenant, was optimistic that the colonists' fear of the Catholics would make them amenable to granting supplies "for the Common Safety," however the colonists had greater aims for their parliament.<sup>10</sup>

The sermon delivered to the House of Commons by Edward Walkington during the parliamentary session gave some indication

of the colonists' views and particularly those which were to be adopted by the Commons. Walkington dwelt on the misdeeds of the Catholics whose aim, he concluded, was "no less than to extirpate our Whole Race," but he also defined what he felt to be the role of their parliament:

We have all the blessings of other Governments, without any of their Mischiefs or Inconveniencies: The Kingly Power Securing us against Faction and the Authority of our Representatives in Parliament, securing us from the Encroachments of an Arbitrary Prerogative, which makes our Lives, our Liberties, our Estates and our Religion too, our own; so fully our own, that they can't be touch'd, but pursuant to those Laws to which we our selves have given our consents.<sup>11</sup>

The Lord Lieutenant and his ministers attended a different service with the House of Lords, in which the sermon was confined to the subject of Catholic tyranny and divine deliverance, and Lord Sydney remained confident that the colonists would happily contribute for "the King's service and their own security."<sup>12</sup>

In a long address, the Commons reflected the anti-Catholic sentiments of the sermons, but they had early moved on to more immediate considerations, specifically their complaints about the handling of the forfeitures and general tolerance of the Catholics. The Commons could not openly assail the Articles of Limerick which directly involved the King, but they claimed that those administering the country, by which they meant Coningsby and Porter, had returned lands to Catholics not included under the Articles, had allowed Catholics to enlist in the army and had misused the money gained from the forfeitures. Early in the session a committee was set up to investigate these charges.<sup>13</sup>



The colonists' wish to establish a strong Protestant interest again in Ireland did not end with recriminations against Catholics and the English ministers; it also surfaced in a positive attempt to guarantee more control over the administration of Ireland through their parliament. The colonists took for granted the right to be represented in the Irish parliament; they did not yet question the extent of the parliament's powers or define the nature of its relationship to Westminster. However, they were aware of being heirs to an ancient institution, a fact underlined by the publication in 1692 of the Modus Tenendi Parliamenta in Hibernia, said to be taken from a 14th century exemplification of a grant by Henry II to hold parliaments in Ireland. The Modus was published by Anthony Dopping along with the Rules and Customs which by long and constant practice have obtained the Name of Orders of the House. By Observation, and out of the Journal Books from the time of Edward 6.<sup>14</sup> The preface to the Modus, which was written by Dopping, used fairly involved historical and philological arguments to establish the authenticity of the grant. The details of these points were not known by the colonists, but the tenor of Dopping's argument, that Ireland had an ancient and independent parliament, was a widely held belief.

The most notable opposition in the 1692 session arose over the question of money bills, and the grounds for the Commons opposition to the government's money bills showed both their feeling for the historical rights of the Irish parliament and their determination to exert some control over Irish affairs. At the start of the session Sydney placed two money bills before the Irish Commons, one for Additional Duties and Excise, and the other

granting duties for one year. After taking these into consideration, the Commons resolved that it "was and is the sole and undoubted Right of the Commons to prepare Heads of Bills for raising money." The bill granting duties was rejected and that for Excise passed only when qualified by the assertion of their "sole right," and "in view of the King's great need." The men responsible for running this opposition were styled by Lord Chancellor Porter as "leading lawyers," but this was not true of any of the key figures - Alan and Thomas Brodrick, James Sloane, Robert Molesworth, Sir Francis Brewster, Philip Savage, and John Osborne. Only Osborne, as Prime Serjeant, had anything like an important legal post; what these men did have in common were their whiggish principles and their involvement in the key parliamentary committees. Their assertion of the sole right appeared at first to be a purely constitutional point; it was consistent with the spirit of the Modus, which implied an equality of powers with the English parliament, but the claim had little historical basis. The Commons realised that to assent a sole right to initiate any bill was contrary to Poynings' Law, which gave the initiative in Irish legislation to the English Privy Council, but the colonists argued that they were dealing only in Heads of bills, to which Poynings' Law did not apply. Alan Brodrick went so far as to reject Poynings' Law altogether, as "never calculated for times when Englishmen were at the helm, and no man sate in either house of Irish extraction or the Popish religion." Yet despite these references to constitutional theory, the colonists appear to have supported their case primarily on practical rather than historical grounds.<sup>15</sup>

The Irish MPs put forward the view that they knew what area could most easily afford a tax, and that an indigenous bill would facilitate its collection and remittance. They were in the process of drawing up such heads when prorogued. The Commons were keenly aware of the importance of retaining some control over financial affairs, as Alan Brodrick remarked, "...the King no doubt wants as much money as we can give but the way to supply those wants best is to let us judge where we can spare it; what can bear a tax and what cannot." It is likely that they were conscious of the contest which emerged in the English Parliament of 1690 for control of the purse; many of the colonists had only recently returned from there, and those leading the opposition were connected with men of both parties in the English Commons. The kernel of this debate was reflected in Alan Brodrick's statement: "...we know that in the best reigns Good Laws are bought and we are willing to be sure of something for our money which never will be while the Council board transmits us money bills which will be sure to come at the beginning of the sessions." The 'something' the colonists wanted, were laws ensuring the Protestant settlement, and they were no longer confident that the ministers would produce such laws. George Tollet advised that they should give "at a time when his Matie is press'd for money," but admitted that "it is contrived that if you give, you must be beggar'd, and ruin'd if you do not," and in notes drawn up for a letter on this Parliament, Bishop King concluded "that all did not amount to a settlement or to answer the expectations of the Kingdom." <sup>16</sup> Thwarted in his bid to obtain supplies, Sydney prorogued the Parliament after only one month's sitting.

Sydney blamed the assertion of the sole right for the failure of the session, and he upbraided the Commons for it in his closing speech, though his proroguing the parliament was almost certainly precipitated by the threat that the former Lords Justices would be named as having embezzled sums from the forfeited estates. Those organising the opposition on the sole right gave a different impression when, soon after the close of the session, they took their complaints to London. Lord Bellamont and Colonel Hamilton, who appear to have been most forward in bringing the affair before the English parliament, made no mention of the sole right, but threatened to have Porter and Coningsby impeached for mismanagement of the forfeitures and embezzlement of army pay.<sup>17</sup> Those who had been running the opposition in the Irish Commons stressed the same points in London; as one unsympathetic observer wrote,

I suppose you have long ere this heard the Noyse into Ireland lately made here by Slone Brewster & ~~two~~ or 3 more Insignificant fops about the Prorogation of the Irish Parliament, when I came to town all places rang ding dong of it, & that his Excellency encouraged the Papists only and had disobliged all the Protestants of Ireland.<sup>18</sup>

Specifically Brewster and the others charged that Ireland had been further ruined by the free quartering of soldiers, by letting the forfeited estates below their true value, by allowing "Irish Papists" into the army and by reversing the outlawries and treason of several not within the Articles of Limerick. Naturally these were better points for the colonists to put forward in the English Parliament, but only one of them even included the sole right in their list of complaints, and they expressed little interest in this constitutional issue among themselves.<sup>19</sup>

In an effort to divert attention from these issues, Sydney and other members of the Dublin administration concentrated on promoting the view of colonial implacability on the sole right. It was a view taken up in England and interpreted as a bid for independence. This caused a deterioration in Anglo-Irish relations, the English ministers seeing the colonists as ready to throw off the dominion of England and the colonists believing themselves misrepresented in London. Charles Porter wrote of the colonists as "a Race of ungratefull murmuring and dissatisfied People of very little integrity never to be satisfied with any Government or Governors." They were dissatisfied with the governors, but the allegation of seeking independence was false. Alan Brodrick complained that it was one of Ireland's misfortunes to be represented in England by "those who wish to have it seen in an ill light" for "it is to be feared the characters they give have taken too deep [an] impression, when any of them are so handy to affirm that it is our desire and resolution to act independent of England" which was in his eyes a "malicious imputation." The solution to this problem, the colonists felt, was to have their own resident agents in London. The ministers who did represent them had assumed by this time not only the mantle of arbitrary government from their association with the Catholics but also the appearance of being personally corrupt. The colonists still felt a strong attachment to England and were inclined to blame the ministers for their lack of control over domestic legislation; their hope was that "if Parliaments may not sit here we may by a certain number to be elected here be represented in the house of Commons in England, which many of us heartily wish."<sup>20</sup>

With Sydney's removal the following September, William appointed Henry, Lord Capel, Sir Cyril Wyche and William Duncombe as Lords Justices. They were to decide whether fresh elections would produce a more amenable Commons. The Lords Justices were divided on the issue: Capel favoured the summoning of a new parliament; Wyche and Duncombe remained uncertain. Behind this division was a difference of allegiance. Wyche and Duncombe were associated with the previous administration and wished to see Sydney's opposition to the sole right vindicated. Capel was, if anything, antagonistic to Sydney and the former Lords Justices; he had been working on an accommodation with the colonists but insisted that he needed greater powers to ensure a good session of Parliament. Capel gradually became the dominant member among the Lords Justices, his rise reflecting the ascendancy of the Whigs in England, particularly Shrewsbury and Sunderland, with whom Capel was connected. Shrewsbury convinced William III that Capel's more positive attitude was the correct one, and Capel was appointed Lord Deputy of Ireland in May 1695.<sup>21</sup>

Capel had been made Lord Deputy on the undertaking to King William that he could arrange a peaceful parliament which would grant substantial supplies without insisting on the sole right to initiate all money bills. Capel could assure the King of this because he believed that the sole right was not an insuperable obstacle and that leading members of the Irish Commons could be brought into government service.

The sole right had been blown up as an issue by Lord Sydney in London. The claim to a sole right had been asserted by a majority in the Commons, but to some extent this had been the result of persuasive speeches and good parliamentary management by those leading the opposition to the government. What Capel

realised was that the sole right was a claim for some control over government by the colonists and that this particular issue was open to compromise. Among those who led the commons opposition in 1692 were Thomas and Alan Brodrick, and since his arrival in Ireland in 1693, Capel had established close ties with the Brodricks, who had shown themselves adept in parliamentary management and who held whiggish principles similar to Capel's own political views.<sup>22</sup>

Given sole responsibility for the government of Ireland in 1695, Capel came to a more specific agreement with the Brodricks, who undertook to accept government money bills and to manage the Commons generally for Capel in return for promotion to important government offices and or influence over legislation for the better security and recovery of the colony. This was the first occasion of such an agreement between the executive and a group within the Irish Commons, whom Lord Chancellor Porter dubbed "undertakers." It was an arrangement which was to strengthen the colonists' influence and control over the administration of Irish affairs.<sup>23</sup>

During the summer of 1695, Capel took advantage of his new position as Lord Deputy and made many changes in the higher civil and judicial posts. Alan Brodrick made the considerable jump from Third Serjeant at Law to Solicitor General, and others followed suit. With the opening of parliament in ~~September~~<sup>August</sup> 1695, Capel's compromise arrangement for the sole right was outlined. In his opening address Capel informed the parliament that one Excise Bill for a small sum would be sent from England and that

the major part of the government's needs could be made up by an Irish money bill. Wyche and Duncombe had earlier considered such an expedient for getting around the sole right, but rejected it as "almost defeating the principle." However, the colonists felt that Capel's plan would put an end to the sole right, and as the Brodricks had been in the forefront of the 1692 opposition, many of the Irish MPs believed that they were now misleading Capel and would reject the government's money bill. Despite these opinions Capel's approach was vindicated when the Excise Bill passed without any qualifications and against only a few negatives.<sup>24</sup>

The session went on to pass a large number of bills, mostly concerned with restraining the Catholics and securing the Protestants. Thus Alan Brodrick could argue that his position in both the 1692 and the 1695 parliaments had been consistent:

In short the session is over, the King has had the money given him which he demanded, his sole right is either asserted or given up to him, which were the terms on which the Parliament was to sit: the Country hath had such laws passed as they have long wanted and wished for.<sup>25</sup>

In this way the sole right was given up in 1695 yet the argument for colonial control over government which lay behind it was successful because the colonists were acknowledged as having some power over the purse and a consultative right on Irish legislation.

However, the monopoly of important posts caused consternation among those outside the Brodricks' circle. During the debate on the Excise Bill, James Sloane blasted Robert Rochford and Thomas Brodrick "for quitting their countries interest, by



taking to be the King's servants... but got few behind him."<sup>26</sup> The principle was probably less important than the fact that Sloane and Brewster had failed to share in the spoils of office. But this exercise of patronage also caused reflections among the less political members of parliament; many of what were termed the "country gentlemen"<sup>26a</sup> regretted their earlier insistence on the sole right, but the apparently venal concerns behind the Brodrick's change of heart led them to take a more cynical view of government, as the Bishop of Kildare surmised,

... all hands are caballing, caressing and taking all the fair and foul courses that can be taken to undermine the sole undoubted right which of itselfe would have faln by being forsaken by its supporters which now it is supposed as they have bin managed, will prove fresh accidental supports to it.<sup>27</sup>

The sole right was not revived but the government was undoubtedly lessened in many eyes, an attitude compounded by the other notable business of this Parliament, the impeachment of the Lord Chancellor, Sir Charles Porter.

Like the sole right, this followed on from the 1692 Parliament. The earlier complaints about the mismanagement of the forfeitures and the favouring of Catholics had never been properly resolved. In the 1695 Parliament, Porter took the brunt of the charges as the only member of the previous administration still resident in Ireland. It was assumed to be part of the agreement between Capel and the Brodricks that the Lord Deputy would not intervene in any impeachment proceedings. It was soon evident, however, that Capel was as intent as they, if not more so, on prosecuting Porter. Capel had excluded

Porter to such a degree that he was seen as a mere cypher in the administration. Capel's attitude is clear from his remark that he worked "as well with the Lord Chancellor as one could with a Jacobite." Great management was used to muster a majority in the Commons against Porter but in the end the articles of impeachment were rejected by a narrow majority. Counter accusations by Porter against Capel's secretary, Aldworth, were also rejected, indicating that a majority of the Commons were keen to steer a moderate course. The defeat of the charges against Porter prompted reflections about the unsuccessful result of Capel's attempt to direct the Parliament, and the level of management used led to a suspicion that all government measures had a partisan motive.<sup>28</sup>

In the session of 1695, Capel had dealt with the main problems arising out of the previous Parliament, but as Wyche and Duncombe had predicted it was bought at a dear price and would have future consequences. Porter commented with a certain pique but some insight that "the alterations of...officers and placing the particular persons in their room affords much occasion of censure. It is looked on as unusual to remove those who [have] asserted the King's rights and to place others therein who had been the most active opposers has raised up so many others who think this a way to preferment."<sup>29</sup> It was not the patronage which was novel but the extent of it that aroused the censure of some and set an example for others. And the rewards of office looked even more lucrative and reprehensible because it was believed that the undertakers had also been promised a share in the forfeited estates. A more damning criticism was that the removes had been unnecessary and that a "broomstick" could have managed it as well. Porter was naturally

most vociferous in these assertions, but they are confirmed by the negligible opposition to the Excise Bill and the loss of the impeachments; the Country Gentlemen wanted laws to settle the Kingdom but were not prepared to countenance partisan measures. The choice of the Brodricks also seems to have worked against the government, their "insolent carriage" and "malicious hot tempers" probably saved Porter from being turned out of office. <sup>30</sup> Capel's handling of the session also evoked some wider reflections on the governing of Ireland. The Bishop of Derry, William King, had been against the insistence on the sole right in 1692 but felt that the Commons had now lost more:

I do not however look on [the sole right] as a trifle but as things were then the king's favour wou'd have don us more good than the sole right and I doubt now we shall loose both... we shall have time to give mony, I believe, but little else. England doth not intend we shou'd do ourselves good and will look to it, lest we shou'd. there will no act pass to establish the English interest here effectually, for that wou'd make us considerable. <sup>31</sup>

King did not see such patronage as of use in settling the Kingdom but was probably unusual in extending his disillusionment to a more general theory of England's neglecting the Irish Protestants. Yet this parliamentary management had apparently heightened some awareness of their constitutional position,

...for ...there is nothing now talked of but Presidents [sic] out of History's and laws, fundamental rights and Privilidges are in every body's mouth that have slept in this Kingdome for two hundred year, and the General sense is to insist upon itt [i.e. the sole right] when there is the least occasion given. <sup>32</sup>

The party divisions which had developed during the 1695 session of the Irish parliament were thrown into disarray by Capel's death in June 1696. Although Capel had designated two Lords Justices, Viscount Blessington and Brigadier Wollesley, to run the government until a successor could be named by the Crown, Porter, as Lord Chancellor, assumed power on foot of an old statute. The Crown accepted this but also appointed Lords Mount-rath and Drogheda to the commission. Porter's death soon after in December 1696 led to further changes in Ireland, where Lords Winchester and Galway became the new Lords Justices. Porter's death had come as a relief to the English administration, and as neither Winchester nor Galway were immediately involved in Ireland, the Secretary of State, Lord Shrewsbury, determined to fill the Chancellorship with someone who might undo the knot of party in Ireland which he believed had been created by Porter. Shrewsbury suggested John Methuen for the office of Lord Chancellor.<sup>33</sup>

Methuen was identified with a Court rather than a party interest, having for some years been ambassador to Portugal. On arriving in Ireland in June 1697, he was relieved to find that Lord Capel's friends were favourable to him and that Sir Charles Porter's supporters were quiet, "finding no head to support their faction." He looked forward to an easy session of Parliament, again required for financial reasons, but found that once seated in July 1697, the members were quickly embroiled in violent measures. In this session the split was more along Court/Country lines, the radical whigs led by Savage allying with the late Lord Chancellor's friends, in an effort to unseat the Brodricks. The opposition hoped to oust both Alan and Thomas Brodrick from the influential committees of elections and ways and means, replacing

them with Savage and Molesworth. The Brodricks, however, proved the better managers and retained their positions, and thereafter it was claimed that "Mr. Brodrick acted the part of Prime Minister."<sup>34</sup> In supporting the Brodricks, Methuen reinforced the Court and Country division in the Commons, although he enlarged the Court by bringing certain of the opposition members, like Molesworth and Brewster, into its ambit. By these means the Government gained the supplies it wanted, and the opposition's successful activity was confined to more peripheral issues such as the condemnation of John Toland's deist tract Christianity Not Mysterious (1696). This was an anti-government move because in the popular mind Methuen was associated with Toland; Bishop King believed he had come over as Methuen's secretary, so although the Brodricks tried to avert the book's censure, the Commons resolved that it should 35 be burned by the common hangman and that Toland should be prosecuted. However, the loss of this and similar debates did not greatly undermine Methuen's position; a more important assault came, unexpectedly, from the House of Lords.

Any opposition in the Lords had a greater impact than that of the Commons. The Lords were less likely to obstruct the government merely in order to secure particular bills, but their opposition was more deeply rooted and could not be deflected so easily into party and patronage politics. Early in this session the Lords displayed a more critical attitude to government bills than they had shown in earlier sessions by objecting to the Bill for the confirmation of Outlawries and Attainders. The main objection was that it was badly drawn and could conceivably lead to men being attainted after death. It was suggested by the Lords that the bill's aims should be clarified as confirming the

attainders of the former Catholic landowners. What surprised the government was that this demonstrated remarkable restraint on an anti Catholic bill.<sup>36</sup>

More surprising still was the body of opposition which formed against the confirmation of the Articles of Limerick. Under increasing pressure from this Catholic allies in Europe, William III had the Articles transmitted to the Irish Parliament for this session, though without the disputed missing clause. They passed in the Commons in this form but met with considerable opposition in the Lords. The clause in question had the effect of encompassing many more Catholics under the Articles, so the Lords were arguing in favour of Catholic rights. They protested that the title of the bill did not conform with its content, and felt this did not consist with the King's honour and implied he had been imposed on by the ministers in this point. Some of those opposing the bill were friends of Lord Coningsby, whose honour, as a signatory of the Articles, was impugned by the acceptance of the altered version; of these Drogheda and Mountalexander had opposed the Articles at the Privy Council but were outvoted by Methuen who rallied a majority. Drogheda also led the opposition in the Lords but the other chief opponents of it were the Bishops, who had no attachment to the signatories. Heading this group was the Bishop of Derry, who had condemned Coningsby's and Sydney's conciliatory treatment of the Catholics in 1690, but who now felt that with the Articles as they stood, the Catholics were worse off than before the ratification. He further believed that the present English ministers supported the measure as a way of increasing the pool of forfeitures from which they were being rewarded. Although the Articles were passed by a majority in the Lords, the dissent caused consternation in England. The Bishops were seen as the leaders of the opposition even though there were

an equal number of temporal Lords against it. This probably stemmed from the fact that all of the Bishops were Crown appointees, many having been appointed by William, and were expected to support government bills.

Shrewsbury, the Secretary of State, wrote that "Nothing is more surprising to me than to see a House of Parliament in Ireland make difficulty on a Bill because it is not favourable enough to Papists; and that the Bish[ops] should appear in the head of this opposition is wonderful to the last degree." He resolved to remedy this in time by promoting only those that were "good," with more caution than previously.

Similar arguments of over-weening ministerial powers were used by members of the Irish Lords against a bill for the security of the King's person, and in this case the opposition formed the majority. An Act for the Greater Security of the King's person had been passed in England following the attempt to assassinate William III. The Irish Commons followed the English lead and in August 1697 they drew up heads of a bill similar to that passed at Westminster. The heads were dispatched to the English Privy Council, where they were altered so that the Irish <sup>bill</sup> could not be interpreted as a re-enactment of the English Act. The amended bill was passed by the Irish Commons 92 votes to 68 but it floundered in the Lords.

When investigating Molyneux's Case of Ireland the following year, the English Commons committee used the heads of a bill 'for the greater security' as an example of the general tendency among the colonists to be independent of England. This may have been the intent of some Commons members in drawing up the heads but the amended bill passed by a fair majority. The Lords opposing the bill had strong arguments but they nowhere mention Molyneux's claim that an English Act did not cover

Ireland unless it was specifically stated to do so.<sup>37a</sup> The Lords' rejection of the bill stemmed from a different element in the colonists' attempts to exercise control over Irish government - a fear of the Dublin based ministers' powers.

In 1697 the English ministers saw the rejection as evidence of Jacobite sympathies. Such charges were vigorously denied in Ireland, the Earl of Abercorn citing the recently enacted penal legislation in their defence. In a similar vein the Bishop of Derry vindicated the votes of the dissenting Bishops to the Archbishop of Canterbury thus, "My Lord, we have hardly any Jacobites among the Protestants in Ireland; and yet I can assure your Grace, that this bill as it was drawn, did disgust most of them," as a persecution "upon mere conscience."<sup>38</sup>

The main objection to the Act appears to have been a suspicion of the methods and motives of the Ministers. Methuen's manner of supporting the bill was seen as a use of "all the indirect practices that man could be guilty of, for compassing his owne Ends." It was felt that this Act would greatly increase the powers of the Dublin government, for Bishop King the "one unanswerable argument against that Bill... was its reposing such a great trust in the Chief Governour of this Kingdom... which no man that wished well to its liberty can ever allow." Not everyone who objected to the Act was so selflessly solicitous of the Catholics' welfare; Lord Drogheda claimed that it could ruin Protestant landlords, most of them having a largely Catholic tenantry.<sup>39</sup> But even this was a view surprisingly tolerant of the Catholics.



As well as portraying the ministers as seeking greater personal power, there was again the implication that they sought to increase the extent of the forfeitures. Bishop King put it in characteristically dramatic terms, "The Irish went wild before King James [I] allowed them to come under the benefit of the laws. The Security of the Kings Person Act would have put them totally out again; that then the Governors may not want means to rob them as formerly." Ironically, considering their mild treatment of the Catholics, the bills granting Irish forfeited estates to Coningsby and Sydney (now Lord Romney) which came up in this session, appear to have sharpened the impression of ministerial avarice.<sup>40</sup>

Methuen acknowledged the power given to the Dublin administration by the bill for the Greater Security of the King's Person, but he failed to understand why "the English Protestants should think this dangerous to Ireland," and in England, the problems encountered in the Irish Lords were dwelt on in an effort to embarrass Methuen, although he himself exaggerated the Lords' opposition seeing it as a claim of independence. At the start of the session he had written that the Irish Parliament was "fond of imitating England in all matters of prerogative, and very uneasy under a strict dependence on England."<sup>41</sup> Later he reaffirmed this view remarking that the Commons were

... possessed with a desire of imitating an English Parliament, and not only treat of England as upon an equal foot, but treat the Crown in the same manner, as appears by their pretences to the Sole Right, Habeas Corpus Bill, votes against the Army, and above all their uneasiness under Poynings' Law; and although the several parties differ amongst themselves, yet they agree in desiring to be independent of England, and believing themselves so in Right... The House of Lords carry all these points higher than the Commons, and beside pretend to an entire judicature and an intolerable use of their privilege. 42

As certain of the bishops were seen as leading the opposition among the Peers, and they were least involved in party groups, their dissent in particular was explained as a tendency to independence. The most outspoken of these was undoubtedly Bishop King; he cast suspicion on the motives of the ministers and urged the colonists to an awareness and defence of their parliament's rights, but never countenanced a separation from the English Crown. Bishop King's reaction to Winchester's speech proroguing the 1697 session, in which the Lord Justice ventured a mild rebuke to the Parliament for rejecting the government bills, is a fairly typical example of his defence of the Irish parliament: he decried the speech as a "breach of the liberty of Parliament... for our freedom of voting is a fundamental of our constitution;" he maintained that "all... we desire is a negative to such laws as the Council here and in England offer us, and if our use of that negative sometimes be looked on as a designe of independence it is the same that has always been used and I hope ever will be." 43 Bishop King was certainly advanced in his constitutional opinions but for a substantial group in the Lords, the fear of a Catholic revival was receding in the face of arbitrary and grasping ministers. The belief that government ministers were acting for party or personal interests was leading others of the colonists to question bills and their effect on the colonial interest, and to look more closely at their historical rights.

Two issues soon forced the colonists to a wider reflection on the relationship with England: firstly, the threat of an English bill to prohibit the export of Irish woolens, and, secondly, the removal of an Irish legal dispute between the Bishop of Derry and the Londonderry Society to the jurisdiction of the

English Lords. The prospect of restrictions on their woollen trade served in particular to highlight the colonists' feeling of constituting an interest separate from England. As the Anglican colonists were heavily involved in producing wool, they believed that a prohibition which favoured the English woollen trade was a deadly blow to their survival in Ireland. Both the question of a woollen bill and the Bishop of Derry's case had the further effect of forcing the colonists to question their constitutional relationship with England. Feeling themselves to be, as Methuen had remarked, on an equal foot with the parliament of England, these two apparently separate issues had the effect of undermining the Irish parliament's claim to equal powers with that of England. An English woollen act would leave little doubt about the subordinate legislative status of the Irish Commons and by accepting an Irish case the English Lords clearly assumed a superior judicial role.

Of the two cases, it was the English debates on the Irish woollen trade, between 1697 and 1699, which evoked most response from the colonists. A woollen industry had been developing in Ireland since the 1660s, and had intermittently been decried as competition against the English woollen trade. Complaints about the Irish woollens were voiced strongly by those involved in the English wool during 1695-7 because of a depression in the industry. At the start of this campaign, the Bristol merchant, John Cary, published his Essay on the State of England. In this, Cary set out in mercantilist terms the nature of English trade, and he concluded that Irish trade was out of line with general English interests. England's staple had always been wool and Cary argued that the Irish woollen industry should be given up and

the colonists' energies diverted into producing linen which would not compete with English manufactures. As part of this campaign a bill was introduced into the English Commons in 1697 to restrict the export of Irish woollens, but it did not gather enough support to pass into law. It did, however, make the Irish colonists aware of the threat to their woollen manufacture and the King instructed the newly formed Board of Trade to look into the problem. The Board began to investigate means for fostering an Irish linen trade while Lord Chancellor Methuen tried to convince the colonists that an Irish woollen bill drawn up and passed by their own parliament might avert any English measures. Thus in the autumn 1697 session of the Irish parliament heads for woollen and linen bills were drawn up, however neither passed, the linen bill being found inadequate by the Board of Trade to whom it was referred and the woollen bill being left aside by the colonists.<sup>44</sup>

The question arose again in the next parliamentary session in England, where it was taken up by the Commons opposition led by Sir Edward Seymour, who introduced a harsher measure against Irish woollens early in 1698. With this move Irish affairs became involved in the heightening of a triangular struggle for power between the Commons, the depleted and defensive Junto Whigs and King William. The Junto were fighting to retain the key ministries while William, having concluded the first peace since his accession to the English throne, was concerned to retain his army. The Woollen Bill formed part of the opposition's attack on William, in which they were joined by the Junto, and in particular by Somers, to curb William's, and extend their own control over financial matters. Methuen, who was the colonists' only official

voice in Westminster, contributed to their problems by being increasingly closely associated with William. Despite Methuen's assiduity, Seymour's Woollen Bill was passed by the Commons in February, so Methuen transferred his efforts to the Lords, where, with the backing of Marlborough, Rochester and Godolphin, he had the Bill deferred.<sup>45</sup>

Although attention was focused on these parliamentary events, this new phase in the campaign to restrict the Irish woollen trade also saw the production of pamphlet literature from both the English and the Irish sides. The first pamphlet in the series, and the one to which the others form either a reply, or if in agreement, merely an addendum, was A Letter from a Gentleman in the Country to a Member of the House of Commons; in Reference to the Votes of the 14th instant, (1697) probably written by John Toland at the instigation of the country, or opposition group of the English Commons. The Letter to a Gentleman is clearly a polemic aimed at the woollen debates, although it is laid out as a general consideration of English trade. Toland claimed that of all countries Ireland was the most dangerous rival to England, because it had better natural resources, fishing, wood, and cheap labour and commodities which facilitated its expanding woollen industry. These points were put in emotive terms and couched in a reminder to his English audience of the recent cost of relieving the colonists while at the same time stating that the Protestants had little to do with trade which, he claimed, was run by the Catholics. Toland would deny Ireland all commerce which interfered with English trade; he wanted the English parliament to legislate to restrict the colonists and like Cary would only allow them to

develop a linen trade. The same points were made in other English pamphlets, though less emotively, over the following years, principally that wool was England's main commodity, that the Irish could produce it more cheaply and could therefore compete advantageously in foreign markets. It was usually remarked that Ireland had been saved for the colonists by England, and that if they ceased producing wool they could turn to linen.<sup>46</sup>

A direct reply to Toland's Letter came soon after in An Answer to a Letter from a Gentleman in the Country to a Member of the House of Commons: on the votes of the 14th instant relating to the Trade of Ireland (1698), probably by Sir Francis Brewster who had recently been advising the Board of Trade on the problem of the Irish woollen trade. His main argument against the Letter to A Gentleman was that Irish commerce amounted to little, "not to the value of one East-India ship's cargoe," and that France and Holland were more threatening rivals. He denied that there was any shipping or fishing carried on here or that the other commodities cited by the author of the Letter could constitute competition for English trade. Brewster admitted to the production of wool but contended that even that could hardly provide for the home market, and far from being in the hands of the Catholics, the woollen industry was the mainstay of the Anglican colonists.<sup>47</sup> Another reply much cited by the colonists was Some Thoughts on the Bill, Depending before the Right Honourable the House of Lords for prohibiting the exportation of the Woollen Manufactures of Ireland to Foreign Parts. This author's principle contention was that England gained from a prosperous Ireland because of all the money the colonists spent there. He disputed Toland's point that countries with cheap labour thrive, and cited Sir

Josiah Child as holding the contrary view. The author concluded that it was "a hard lesson to spend years on something that may be dashed if it conflicts with England."<sup>48</sup>

The Letter to a Gentleman had also brought up the constitutional aspect to the woollens debate, by arguing that England should not only legislate on matters which related to Irish trade but that the colonists should not even be allowed parliaments to regulate their internal affairs:

But that which I think the most inaccountable of all is, that we suffer them to hold Parliaments, settle Estates, pass Attainders, Regulate our Trade, Pardon their own Rebellions, that we have paid for. This could be done by nothing but Irish Assurance, nor endured by any but English Conquerors, for so I hope they will yet allow us to be.<sup>49</sup>

This drastic solution to the problem of Ireland's trade competing with England was clearly Toland's revenge for the Irish parliament's condemnation of his book, Christianity Not Mysterious, the previous year; as Bishop King saw it: "Mr Tollon has Reason to be angry at the Irish parliament which made the Kingdom too hot to hold him."<sup>50</sup> The English parliament did not consider Toland's solution to its difficulties with Irish trade, but the proposal for an English woollen bill which would legislate directly for Ireland, and the English Lords' acceptance of an Irish legal case, had the effect of disregarding the independence which the colonists believed gave substance to their parliament.

The dual threat to the colonists' legislative and judicial powers, and Toland's provocative Letter, were the immediate cause

of a detailed constitutional defence of the Irish parliament by William Molyneux. Molyneux's The Case of Ireland's being bound by Acts of Parliament in England, Stated is a seminal work of colonial nationalism and was to be the colonists' resort in times of conflict with Britain throughout the following century. In the Case of Ireland Molyneux cited many legal and historical precedents in support of the Irish parliament's independence; it was a lengthy and somewhat prolix account of Ireland's constitutional rights, but it reflected the views held in more general terms by the colonists.<sup>51</sup>

Two themes recurred in the colonists' discussions of their political rights; that they were entitled to the liberties of Englishmen, and that Ireland was heir to certain historical rights. As the descendants of Englishmen, the colonists felt entitled to rule by constitutional monarchy which they largely defined as the right to consultation through their representatives on all laws made, the kind of balance of power between King and subject and involvement in legislation which had been outlined by Edward Walkington in his sermon to the Irish Commons in 1692. The colonists also felt entitled to the historical rights of an independent kingdom and parliament. Thus Francis Brewster, in his reply to Toland's pamphlet, wrote,

Sir, if you never read History, and so are ignorant how the Crown of England came first to be Entituled to Ireland, then it is great Assurance in you to talk of the Constitution of a Kingdom you know nothing of: if you have Read, you must know there was a Compact that they should hold Parliaments, with the same Priviledges as Eng-  
land.<sup>52</sup>



Brewster was also concerned to refute Toland's claim that England had a conqueror's powers over Ireland and that they retained their right to constitutional monarchy:

You end your Paragraph with an invective saying, You hope the House will make them Remember they were Conquered. I remember to have seen a Book in this Reign, by Order of Parliament, Burn'd by the Common-Hangman, for Asserting that Conquering Doctrine. It is by our Laws, that all the Monarchs of England, and amongst the rest, His present Majesty is declared to be King of Ireland, de Jure, when King of England, de facto.<sup>53</sup>

Brewster went on to insist that the "British of Ireland" had fought with William against James and so could not be conquered and that if Toland's view of their right was taken, no Englishman would remain in Ireland.

Bishop King voiced similar opinions after reading Toland's Letter from a Gentleman, of the colonists' right to representation in government:

As to /Toland's/ point that we should be governed by the English Parliament, we would like it very well provided we be allowed our representatives in the English Parliament. I hope the English who came into Ireland and extended English dominion did not thereby forfeit the liberty of Englishmen, ie being governed by laws to which they have given their consent.<sup>54</sup>

King described being governed without such consent as the essence of slavery:

...for my part I value nothing /that/ can be taken from me without my consent, or that I hold by the arbitrary pleasure of another

and therefore if I can be taxed and bound by laws to which I am no party, I shall reckon myself as much a slave as one of the grand seignours Mules.<sup>55</sup>

In countering Toland's assertions Bishop King had described the colonists' right to representation in government as a right of Englishmen, however elsewhere he placed more emphasis on the colonists' historical rights.

That Ireland was an ancient and independent Kingdom was a belief generally held by the colonists, and the historical source of its independent status was usually credited to Henry II. In particular Henry II was said to have extended English Common Law to Ireland and to have established a separate parliament here. Common Law was often described as embodied in the Magna Charta, thus Bishop King described his principle for government as "no other than the Magna Charta," which he believed "establisheth the liberty of the subject and that it fundamentally consists in the choosing our own representatives and to be governed by laws of our own choosing." The establishment of an Irish parliament was seen as reinforcing the grant of Common Law. The Irish parliament was believed by the colonists to have co-equal powers with Westminster, "the parlement of Ireland was founded on the modell of England and that after the English form was fixed and presented," its powers having been diminished only by acts such as Poyning's Law which were agreed to in the Irish parliament. This picture of Ireland's historical rights formed the background for more detailed justifications of the powers vested in the Irish Lords and Commons, in particular legal and judicial precedents were being dug out in 1698 as a defence against an English

woollen bill and a judgement by the English Lords on an Irish legal case.<sup>56</sup>

In the Case of Ireland, William Molyneux produced many such precedents in favour of Ireland's independence but he admitted that certain recent English acts had bound Ireland, though not "rightfully."<sup>57</sup> Bishop King was not willing to admit that even recent acts had ever bound Ireland. The acts being referred to were the Restoration trading acts and Bishop King found reasons to claim that none of these had taken effect in Ireland, for instance the Tobacco Act: he argued that,

...notwithstanding /the Act/, some gentlemen planted Tobacco in Connaught and desisted not out of any apprehension of the English Act against it which the lawyers then said did not bind, but because the seasons proved so wet in Ireland that they could not save it.

Bishop King did allow that England could enforce general trade regulations, but he stated that in this the colonists were no more subordinate than the French and Dutch who also had to observe such acts in an English port.<sup>58</sup> Naturally, therefore, the proposed woollen bill which would restrict the production and exportation of Irish woollens was unacceptable to the Bishop.

Bishop King was even more concerned to defend the Irish parliament's judicial functions, in the light of his litigation with the Londonderry Society. Early on in this dispute it was clear that bishop King was<sup>59</sup> searching the legal records for precedents relating to his case. King was confident that none could be found which allowed the English House of Lords any jurisdiction in Irish cases:

I am glad the Lords in England have fallen into the method in which I find them as to my business and if the matter depend on precedents, as I think it will, we have precedents... as farr as we have Journals and a constant claim of the like Jurisdiction of the parlement here and the parlement in England challenges, and how can it be otherwise Since the same King of England that granted the benefit of the Common Law of England to the Subjects of Ireland, granted likewise the benefit of parlements and a modus tenendi parliamentum.<sup>60</sup>

King did find one case which had gone across to England in 1673, but he dismissed that as having occurred during a long interval of parliaments and "occasioned by the iniquity of the government."<sup>61</sup>

King's optimism was misplaced, for in 1699 the English Lords found for the Londonderry Society and therefore reversed the decision of the Irish Lords which had confirmed the Bishop in possession of certain lands and fisheries in his diocese. During the ~~same~~ <sup>following</sup> session the English Commons finally saw their bill prohibiting the export of Irish woollens entered on the statute book. Despite Methuen's best efforts, and the reluctant passing of a woollen bill in Ireland early in 1699, the colonists had lost the opportunity of expanding their woollen industry and had experienced the loss of legislative and judicial independence.

What the colonists had gained over the 1690s was some insight into the changing relationship between King and parlia-

ment in England, and its effect on Ireland. They had also come to identify their economic interest as distinct from that of England, and had greatly elaborated on the grounds for Ireland's political and constitutional rights as a country separate from England though united to the English monarch.

The colonists' resort to historical rights had begun because they were dissatisfied with the English ministers' tolerant treatment of the Catholics and because they wanted to exert some control over Irish legislation, particularly the money bills. It was in this light that Anthony Dopping published the text of the Irish Modus and the 1692 parliament claimed an historical sole right to initiate Heads of money bills.

The search into legal records continued during the 1690s, and the colonists found sources for claiming an independent Kingdom and parliament against the incursions of the more assertive post revolution English parliament. What the colonists were chiefly claiming were the Common Law rights of Englishmen granted to Ireland by Henry II's extension of the Magna Charta, and the historic independence of the Irish parliament attested to by the Modus and subsequent legal records. This appeal to the past was to be set out comprehensively in Molyneux's Case of Ireland.

CHAPTER II: THE CASE OF IRELAND, STATED

While Bishop King was informing his correspondents that his case against the Londonderry Society was the cause of the gentlemen of Ireland, his friend, the scientist and MP for Dublin University, William Molyneux, was pursuing this line of thought in a book on Ireland's right to judicial and legislative independence. Molyneux's The Case of Irelands being bound by Acts of Parliament in England, Stated was written in the early months of 1698 and published in April, just after the deferral of the bill to prohibit the exportation of Irish woollens and while the appellate jurisdiction of the Irish Lords was being debated at Westminster. The Case of Ireland was written in response to these particular issues, but its immediate impact and subsequent importance stemmed from the nature of the book as a general defence of Ireland's right to self-government.

Molyneux's aim in writing The Case was to justify the Irish colonists' right to representation in government; nowhere was it an espousal of complete independence but of legislative and judicial sovereignty within Ireland and under the English King.

Molyneux began by defining his project fairly narrowly:

The Subject therefore of our present Disquisition shall be, How far the Parliament of England may think it Reasonable to intermeddle with the Affairs of Ireland, and Bind us up by Laws made in their House.<sup>1</sup>

However, in delineating the powers of the English parliament Molyneux was brought to elaborate on Irish rights as well as English limitations.

The Case of Ireland was to have an impact on Irish political thought beyond the particular constitutional concerns of the 1690s, because it dealt with Anglo-Irish relations as a whole. It was widely popular among the Irish colonists throughout the 18th century and had been reprinted in nine editions by 1782, at each point of political conflict between the colonists and the English government.<sup>2</sup> In part, the success of the Case stemmed from its reliance on a consensus of political beliefs held by the 17th and 18th century colonists, that Ireland was a distinct kingdom with an independent parliament. These views were reflected in the behaviour of the Irish parliament in the 1690s and set out in political works written earlier in the 17th century. But the survival of the Case can also be attributed to its exhaustive treatment of those current beliefs, at the same time as extending the terms of the argument by employing more recent English political theories. As Henry Dodwell, once Molyneux's tutor at Trinity College observed in a letter to Dr. John Madden written some two years after the first publication of the Case:

I return you my hearty thanks for your MS. in defence of our Irish liberties. I perceive it was written after the X<sup>th</sup> of K. Charles I before any invasions thought of that were made by Engl. Parliaments... However, I find our friend Mr. Molyneux has exceedingly improved his author and added many excellent things not observed by him.<sup>3</sup>

The theoretical basis of The Case of Ireland was an amalgam of Common Law and Natural Right, though Molyneux's chief reliance was on Common Law. In a strictly legal sense Common Law denoted the unwritten law of England, based on ancient and general usage which had been embodied in the judicial commentaries and reports of cases. However, Common Law had developed a wider political application, forming what has been termed the "Common Law mind," and as such it provided the framework for most of the debates between royalists and parliamentarians in later 17th century England. Although seen as indigenous to England, Common Law had also come to form the basis of political thought in Ireland.<sup>4</sup>

The hallmark of this wider use of Common Law was an appeal to the past as arbiter of the present. The practice of Common Law in political argument, therefore, involved the use of historical and legal as well as judicial sources. Recourse to such sources provides much of the content of the Case, which is largely a collection of legal and historical precedents relating to Ireland's constitutional status since the 12th century. Molyneux drew further on Common Law than its method, for his attitude to political issues was shaped by it. The origins of Common Law were ill-defined; it was often described as the "ancient constitution"



which existed since "time immemorial." However, the distinguishing feature of Common Law for its 17th century adherents was clear; it provided the balance between subject and ruler. The grounds for this belief came from the nature of Common Law as something established only with the consent of the community, as Sir John Davies expressed it in his Primer Report of 1628:

Customary Lawe is the most perfect, and most excellent and without comparison the best, to make and preserve a Commonwealth, for the written lawes which are made eyther by the edicts of Princes, or by Counsells of estate, are imposed upon the Subject before any Triall or Probation made whether the same be fit and agreeable to the nature and disposition of the people, ...But a custome doth never become a law to bind the people untill it hath been tried time out of mind... /The Common Law/ gives harmony to the parts, it preserves the royal prerogative and the liberty of the subject.<sup>5</sup>

Views on Common Law were changing during the 17th century, and it was a loose enough concept to allow men of widely differing political views to argue within its framework, but the idea that it formed an old established and balanced constitution, and the consequent reverence for historical precedents were to persist well into the 18th century and beyond. Thus Molyneux's Case strives to prove that history, statutes and acts justified Ireland's claim to be a separate kingdom with an independent parliament, but also that it was entitled to representation in the making of their laws because that preserved the balance of power between Crown and subject, a balance which would be upset by the intervention of the English parliament in Irish affairs.

The one novel, though not original, element in Molyneux's argument was his introduction of the concept of Natural Right, which he adapted to cover Ireland, from John Locke's Two Treatises of Government (1690). Locke's political ideas were formed against a background of Common Law, from which there is a clear influence. However, Locke's political theory could offer an entirely separate justification for the ordering of society, that of Natural Right. When Molyneux was writing the Case, an appeal to Natural Right was rare in English, and unknown in Irish political works. Molyneux's reliance on arguments of Natural Right was, however, subordinate to his use of Common Law; in fact he appears to have seen no real distinction in their premises and merely employed them where most expedient to a particular point. Natural Right was not set up as an alternative defence of the colonists' claims for limited independence, but was used by Molyneux to reinforce an argument already made by reference to Common Law rights. Nevertheless, Molyneux's reading of the Two Treatises was more perceptive than many contemporary English commentators, and it provided the Irish colonists with a new dimension to the argument for self-government.<sup>6</sup>

In a general sense The Case reflected political beliefs held by the Irish colonists of Ireland's being a separate kingdom with a parliament equal in powers to that of Westminster, although owing allegiance to the King of England as their sovereign. Yet despite these beliefs, and the anger generated among the colonists at the threat to their woollens, and to a lesser extent, their Lords' jurisdiction, Molyneux's The Case of Ireland... Stated is the only Irish pamphlet or book published in William III's reign

which attempted to define Anglo-Irish constitutional relations. One of the reasons for this was that publishing in Dublin in the 1690s was in its infancy; the small output of indigenous literature was more often a religious treatise or sermon, the few political pamphlets being confined to discussion of a particular parliamentary session or bill. Molyneux's Case was therefore rare in being one of the few political works to originate in Dublin as well as being exceptional in the range of its subject matter. The absence of other political works and the content of Molyneux's book make the genesis of the Case particularly interesting.<sup>7</sup>

In writing the Case Molyneux could draw on works written earlier in the 17th century which had questioned the authority of the English parliament to legislate for Ireland. In 1641 a number of Irish MPs became perturbed at what they saw as an increasingly arbitrary use of power by the executive in the hands of the Lord Lieutenant, and they drew up a series of queries on Ireland's constitutional position. Although aimed at curbing executive power, the queries were put forward in terms of Ireland's right to be ruled according to Common Law:

In as much as the Subjects of this Kingdome are free, loyall, and dutifull Subjects to his most Excellent Majesty their naturall Liege Lord and King; And to be governed only by the Common Lawes of England, & Statutes of force in this Kingdome, in the same and forme as his Majesties Subjects of the Kingdome of England.<sup>8</sup>

Following an evasive answer from the Irish judges, one of the chief authors of the queries, a young Catholic lawyer named Patrick Darcy, composed a more forthright defence of Irish

rights in an Argument delivered by him by the expresse order of the h. of Commons in the Parliament of Ireland, 9 Junii 1641, printed in 1643. In this work, Darcy asserted that their right to Common Law was beyond all argument, for it was a "foundation layd 460. yeares past... a stately building... erected by the providence and industrie of all ensuing times and ages." However, Darcy went on to recount the extension of Common Law to Ireland by Henry II as attested by historians such as Mathew Paris and Sir John Davies.<sup>9</sup>

The reason for claiming a right to Common Law at this time was to restrain the Lord Lieutenant from acting outside the area of past practice. However, Darcy was soon using this kind of defence directly against the English parliament. In 1643 Darcy wrote A Declaration setting forth how and by what means the Laws and statutes of England, from time to time came to be of force in Ireland, which was the "defence of our Irish libertyes" to which Henry Dodwell later referred. It was not published until 1770, although the MS was clearly in circulation.

The Declaration was written in response to the English parliament's Adventurers Act of 1642 which bound Ireland. The Common Law right which Darcy emphasised in this work was therefore the right to consent in legislation:

The Land of Ireland had a Parliament... as in England, and by the same Parliament doth make laws and change laws, and [the People of that land] are not bound by the statutes of England, because they have not therein Knights of Parliament.<sup>10</sup>

Darcy went on to show how direct legislation from England was also inconsistent with Ireland's status as a distinct kingdom, and that it was against past practice. Darcy maintained that the source of Ireland's constitutional rights was royal power; Henry II had conquered Ireland, but, as a Christian King should, he ruled the Irish according to their own laws until they consented to be ruled according to the Common Law of England. Ireland was set further apart from any English rule when Henry granted Ireland to his son John. Thus, Darcy concluded that Ireland could be bound by English acts which were declaratory of Common Law but not by introductory laws or statutes.

Against the English parliament's recent assumption of legislative power, Darcy argued that it made the Irish parliament superfluous, which could hardly have been the intention of its founder, and that such a dual sovereignty made following the laws both inconvenient and confusing. He also denied the English parliament any judicial superiority for the same reasons, with the exception of writs of error from the King's Bench here, which could be referred across to England because of the King's presence there. After citing many historical, legal and judicial sources in favour of his contentions, Darcy concluded:

So now it is evident, that Ireland is a free and distinct Kingdom of itself, the government whereof, is as political, and regal, as the Kingdom of England is, and the King's Majesty is Supream Head of the body politick of Ireland and that the Parliament of England hath no more jurisdiction in Ireland than it hath in Scotland.<sup>11</sup>

Some twenty years later, in the more peaceful atmosphere of Restoration Ireland, the Attorney General, Sir William Domville, turned his attention to the same issue of England's legislating for Ireland. Domville's Disquisition touching that great Question Whether an Act of Parliament made in England shall binde ye Kingdom and people of Ireland without theire Allowance and Acceptance of such Act in the Kingdome of Ireland (1660) was written to reassert the position of the Irish parliament and its relationship with the King after the hiatus of the Interregnum. Like Darcy, Domville displayed a strong adherence to the idea that Ireland, having been granted Common Law, should be ruled according to that, and he cited many legal and judicial precedents in support of this contention. However, he favoured that element in Common Law which placed most emphasis on historical sources:

In holding of this Question I conceive it necessary first to consult the Historians, and Writers of Elder Times, and then with the Resolutions and Authority of those who have lately Written of the Municipall Lawes of both Kingdomes: for as this latter affords us Variety of Opinions, so the former will Yield us much Light to Discover the truth, the Reasons, the Antiquities of those Opinions; Innovations in the fundamentalls of Government are as Dangerous as in Matters of Religion; the one Subverts the Civil, the other the Ecclesiasticall State, and wee Cannot have a better Plea against Noveltyes in both then /the/ Prescription... from the beginning it was not soe.<sup>12</sup>

Domville maintained that Henry II had not conquered Ireland but had merely accepted the submission of Normans and Irish alike. To be secure in the right to Common Law as granted

by Henry II, Domville had to prove that Ireland had not previously come under English domination, and in doing so he elaborated on Ireland's historical rights as an independent kingdom:

Reading the Histories of Ancient times wee shall Clearly finde That England could have no Jurisdiction over the Kingdome of Ireland, for that Ireland is a more Antient, Separate and Distinct Kingdome, having never been Subject to the Roman Yoke.<sup>13</sup>

So that, when Ireland came under the English Crown it adorned it "with Titles of no less Splendour than Antiquity." It was a title to independence enhanced for Domville by Ireland's scholarly culture:

...ffor the English Saxons resorted from all parts into Ireland as to a Mart of all good Litterature, and from thence it may seem (saith the learned Cambden) That our forefathers the Ancient English first learned the Manner of fframing theire Letters.<sup>14</sup>

The argument from antiquity was not eclipsed by the coming of the Normans but Ireland's historical status was seen by Domville as augmenting their rights under Common Law, to run their own affairs independent of the English parliament. Nor did the submission to Henry II give any pretence to such superiority for

...this subjection was made unto the King of England, and not unto the Kingdome, or people of England, unto the King alone and not unto the King and the 2 Houses of Parliament in England... neither was it ever in the Minde or Intention of the Nobility and Clergy in Ireland... to prostrate themselves and theire

Posterity's their Lives and fortunes to the  
Lords and Commons of England.<sup>15</sup>

That Henry II also saw it in these terms, Domville felt was clear from his calling a parliament in Ireland, a move confirmed by the subsequent grant of a Modus to the Irish parliament. Ireland's independence was further underlined by Henry II's gift of it to his son John, who confirmed the grant of Common Law.

Ireland could, therefore, be bound by English laws declaratory of Common Law, but not by introductory laws. In support of this point, Domville cited judicial precedents, in particular Calvin's Case, which reported in favour of the right to consent in legislation, and he pointed to the act 10 Hen. IV, which stated that English acts did not bind Ireland unless passed here. So, although Domville emphasised Ireland's historical rights, he was concerned to prove that no subsequent English acts or cases diminished its independence.<sup>16</sup>

Neither Darcy's Declaration nor Domville's Disquisition had been printed, but the views expressed in them were current among the colonists, albeit in a more diluted form, in the 1690s. The argument for the sole right was principally one of parliamentary precedent, and the publication of the Modus was an example of the belief in historical rights. But of the colonists then, Molyneux was perhaps best equipped to produce a detailed study of Ireland's constitutional rights; he was probably familiar with the Declaration as it was circulating among his colleagues, and he had come into possession of the drafts of Domville's Disquisition. Besides this there was much in his character and experience which made Molyneux particularly well suited to the task.



The Molyneux family came to Ireland during the reign of Elizabeth I. Among them was William's great-grandfather, Sir Thomas Molyneux, who became Chancellor of the Irish Exchequer. The family continued to prosper here and William, who was born in 1656, followed the common educational path of the Anglo-Irish gentry, of a degree at Trinity College, Dublin, followed by some years' study of law at the Middle Temple in London. Molyneux showed little enthusiasm for the classical texts which formed the bulk of the Trinity syllabus, but he seems to have found the study of law more congenial and clearly began collecting in London what was to be a large collection of legal texts.<sup>17</sup> Molyneux's real interest however was in science, which he concentrated on after his return to Dublin in 1678. In this pursuit he was greatly attracted to the Baconian New Science, with its emphasis on the empirical; Molyneux compared scientific studies to the "scholastick learning" of Trinity by remarking that ancient learning consists

...Rather in disputes, and verbose empty stuff, then in curious discovery of nature's actions... But leaving these conjectures, I come to that which is evident to the senses; and experimental philosophy ought to go no further.<sup>18</sup>

Molyneux's enthusiasm for science coincided with that of other Dublin gentlemen, and he began to organise meetings at which they could discuss their scientific experiments, and this forum for their research was soon formally established as the Dublin Philosophical Society in 1683. William Petty was elected the Society's first president and Molyneux its first secretary. These meetings brought Molyneux into contact with the Lord Lieutenant, the Duke of Ormonde, through whom he obtained his

first government post, jointly with William Robinson, as Surveyor General of his Majesty's buildings and works and chief engineer. The Society also gave him a platform for his scientific research which he wrote up in two books, the Sciothericum Telescopium (1686) and the Dioptrica Nova (1692).

In the years immediately after the Jacobite War, Molyneux became more directly involved in the politics of colonial Ireland. He was chosen to represent Dublin University in the Parliaments of 1692 and 1695-98. In 1692 he was also appointed one of the commissioners of the forfeitures, though he resigned this post the following year. Molyneux's resignation as a Commissioner has been interpreted by one biographer as "declining to act in a commission which engaged him in invidious work." However, it is clear that he resigned for the stated reason of ill-health rather than an objection to the handling of the forfeitures. Molyneux was not engaged in the political struggles of the Irish Commons; he does not appear to have supported the claim for a sole right in 1692 and was not involved in the party groupings of the 1695 session. He was, however, included in parliamentary committees and was appointed one of the masters in chancery in 1695, probably because of his legal training.<sup>19</sup>

There were still more particular reasons why Molyneux should have applied his experience in publication and politics to the production of a work on Ireland's constitutional rights. In 1678 Molyneux had married Lucy Domville, the Attorney General's daughter, and at some point had acquired her father's manuscript of the Disquisition. He was also related through his wife to Anthony Dopping, who published the Modus

Tenendi in 1692 with an introduction which Molyneux was to use in his Case of Ireland.<sup>20</sup> In Bishop King, Molyneux had a friend who was a keen advocate of Irish rights and with whom he had clearly debated many of the points which appear in the Case.

A more recent friendship, but one of profound influence on Molyneux, was with the philosopher and political theorist, John Locke. Molyneux had long admired Locke's work and a laudatory reference to that author in his dedication of the Dioptrica Nova led Locke to initiate a correspondence. In the many letters which followed between the two men over the coming six years, they touched on matters of philosophy, politics, education and other more personal concerns. Molyneux even advised Locke on his revisions of the Essay Concerning Humane Understanding and Locke used Molyneux as a source of information on the Irish woollen trade and on the possibility of developing Irish linen for his reports to the Board of Trade. Molyneux did not discuss the Case with Locke until after its publication, but the influence of Locke's ideas in the content is considerable. Molyneux admitted that Locke also influenced his decision to write such a defence, "the Incomparable Author of the Treatise etc. has moved me to put pen to paper and Commit some thoughts of mine on that subject to the Pres." It was, therefore, the mixture of Molyneux's experience, attitudes and friendships which combined to give him the sources for the Case and the moral imperative to publish it.<sup>21</sup>

The threat to the legislative and judicial standing of the Irish parliament posed by Seymour's Woollen Bill and the English Lords' acceptance of an appeal on the Bishop of Derry's case provided the particular reasons for Molyneux's setting to work

on the sources he had to hand. However, in the preface to the Case, Molyneux denied any such motivation:

I Have nothing to Offer in this Preface,  
more than to Let the Reader Know, how  
Unconcern'd I am in any of those Parti-  
cular Inducements, which might seem at  
this Juncture to have Occasion'd the  
following Discourse.<sup>22</sup>

He went on to inform the reader that he had no personal stake in wool or the forfeitures, and did not mind whether the Bishop of Derry recovered his land. Yet not far into the Case, Molyneux admitted in a different context that he had undertaken this discourse because "the present Juncture of Affairs, when the Business of Ireland is under the Consideration of both Houses of the English Parliament, seems to require this from some Person," and he informed Locke, when it was first published, that he hoped the Case might "overtake the Proceedings at Westminster."<sup>23</sup>

The importance of these issues as a spur to his writing the Case is clear, but his denial in the preface is not disingenuous, for he wanted to emphasise that he had no personal stake in the points at issue, and that he was writing out of public interest. The idea of working for public rather than private interest was one much vaunted at the time; it was a principle of Locke's working life and it was a view he shared with Molyneux. What is interesting in Molyneux's attempts to highlight the public spiritedness of his enterprise was that it was confined to Ireland; a definition of public interest which Locke and the English authors of replies to the Case firmly denied.<sup>24</sup>

The Case is set out as a series of six queries to which Molyneux supplied multiple answers, rather than following a single line of defence. The first of these queries was "How Ireland became a Kingdom Annex'd to the Crown of England." Through the medieval historians Giraldus Cambrensis, Hoveden, Paris and Brampton, Molyneux recounted the expedition of the Norman adventurers under Strongbow to Ireland and the subsequent arrival of Henry II. The point of recounting these narratives (copied from Domville's Disquisition) was to emphasise the voluntary nature of the submission to Henry by both the Normans and the Irish.<sup>25</sup>

The medieval authorities had satisfied Domville on this point but Molyneux went into more detail in his second query which was "whether Ireland might properly be said to be conquered by Henry II or any of his successors. The reason for what was to be an exhaustive discussion of conquest related to current English debates on the rights of conquest, in particular whether William I or William of Orange could claim such a right, and to the charge made by Toland in his Letter to a Gentleman that Ireland was a conquered country, and as such was entitled to no rights or parliament. Although he was using earlier Irish works, Molyneux was aware of the recent political debates in England, particularly those put forward by the English Commons for increased parliamentary powers, and he frequently makes use of the English parliament's claims to certain rights in order to establish the same right for Ireland. In this way the Case takes advantage of arguments from the English Revolution Settlement.<sup>26</sup>

Molyneux began his discussion of conquest by defining it as "an Acquisition of a Kingdom by Force of Arms, to which, Force likewise has been Opposed." Having already shown that neither side in Ireland used force, Molyneux considered other possible grounds for asserting a conquest. He admitted that Henry II had styled himself "conquestor et dominus Hiberniae," but he argued that title itself gave no right:

I know Conquestus signifies a peaceable Acquisition, as well as an Hostile Subjugating of an Enemy. Vid. Spelman's Glos. And in this sense William the First is call'd the Conqueror... But I believe the People of England would take it very ill to be thought a Conquer'd Nation, in the sense that some impose it on Ireland: And yet we find the same Reason in one Case, as in t'other, if the Argument from the King's Stile of Conquestor prevail. Nay, England may be said much more properly to be Conquer'd by William the First, than Ireland by Henry the Second: For we all know with what Violence and Opposition from Harrold K. William obtain'd the Kingdom.<sup>27</sup>

Another possible claim for conquest was the evidence of some Irish opposition to the first Norman soldiers. Molyneux countered this argument by pointing out that this opposition occurred before the submission of both groups to Henry II, and therefore did not constitute an opposition to the King. Nor did any later rebellions give title of conquest for "If every Suppression of a Rebellion may be call'd a Conquest I know not what Country will be excepted," and Molyneux again used England as the specific example for this.<sup>28</sup>

Continuing on the subject of conquest Molyneux directed his third query to the proof that even had Ireland been conquered there were few rights accruing to conquest "from the Law of Nature and Reason." Molyneux divided this discussion into two parts, the rights of "Just" and "Unjust" conquest. The distinction between the two forms of conquest is not clearly drawn; the unjust conqueror is termed an aggressor who "all Men" would agree has no right to what he gains, and even the just conqueror, who is described as one that has "Right on his side to Attack a Nation in an Hostile manner," has only limited powers over the conquered nation. The just conqueror gains some power over those who oppose him, but none over those who conquer with him. Thus if the native Irish had fought Henry II, this still gave him no power over the Normans. Molyneux sought to reinforce this point by claiming, clearly disingenuously, that the native Irish were by then almost extinct anyway:

Now 'tis manifest that the great Body of the present People of Ireland, are the Progeny of the English and Britains, that from time to time have come over into this Kingdom; and there remains but a meer handful of the Antient Irish at this day; I may say not one in a thousand: So that if I, or any body else, claim the like Freedoms with the Natural Born Subjects of England, as being Descended from them, it will be impossible to prove the Contrary.<sup>29</sup>

Returning to the question of the conquerors' rights over the vanquished, Molyneux agreed that such a conqueror would have power over the lives of his opponents but not over their descendants. The conqueror would also have a right to their estates,

but only that part of the estates which would cover the cost of waging the war. Molyneux admitted that this was not the practice of conquerors, but he stressed that he was here considering the rights not the realities of conquest. To strengthen the validity of this form of argument he concluded this query by referring the reader to "an Incomparable Treatise concerning the True Original, Extent and End of Civil Government, Chap. 16... by my Excellent Friend, JOHN LOCKE, Esq." for further discussion on the rights of conquest.<sup>30</sup>

Having laid aside the historical arguments against conquest in order to discuss rights against conquest under Natural Law and by descent from Englishmen, Molyneux now shelved these arguments also and in his fourth query he considered how far an absolute conqueror would be bound by his own grants:

But granting that all we have said in this Matter is Wrong, and granting that a Conqueror, whether Just or Unjust, obtains an Absolute Arbitrary Dominion... Let us next Enquire whether Concessions granted by such a Victorious Hero, do not bound the Exorbitancy of his Power, and whether he be not Obliged strictly to Observe these Grants.<sup>31</sup>

On the proposition that a monarch was bound to adhere to his own grants Molyneux contended that "no Man of Common Sense or Justice, will Deny it; None that has ever Consider'd the Law of Nature and Nations, can possibly hesitate on this matter." His principal concern was, therefore, to detail the historical proofs of such grants to Ireland.<sup>32</sup>



The three grants which Molyneux saw as securing Ireland's independence from arbitrary monarchical power, let alone any claim by the English parliament, were the entitlement to be ruled according to the Common Law of England, the establishment of an independent parliament and title as a separate kingdom. All three were grants of Henry II. The first of these grants was of Common Law; Molyneux wrote:

We are told by Matth. Paris, Historiographer to Hen. III that Henry the Second, a little before he left Ireland, in a Publick Assembly and Council of the Irish at Lismore, did cause the Irish to Receive, and swear to be Govern'd by the Laws of England.<sup>33</sup>

Molyneux argued that being governed by English laws did not bring Ireland to any degree under the English parliament, but rather it entitled the Irish to certain liberties, chiefly, for this discussion, the right to representation in their laws. Molyneux again defended the point not just by quoting historical sources, but also by putting in a context of the current debates in England;

Can any Concession in the World be more plain and free than this? We have heard of late much Talk in England of an Original Compact between the King and People of England;  
I am sure 'tis not possible to shew a more fair Original Compact between a King and People, than this between Henry the Second, and the People of Ireland, That they should Enjoy the like Liberties and Immunities, and be govern'd by the same Mild Laws, both Civil and Ecclesiastical, as the People of England.<sup>34</sup>

Henry II also granted the Irish a parliament equal in powers to that of England. The main source for this claim was

the exemplification of the Modus which had been published by Anthony Dopping in 1692. The Irish Modus was the same as that granted to the English by William I, only altered where necessary to cover Ireland. Here also, Molyneux made his claim on the basis of a comparison with current English practice. There was some doubt, as Dopping had pointed out, about the authenticity of the Modus. Molyneux admitted that Prynne and Selden rejected the antiquity of the Irish Modus, but they also rejected the historical claims of the English Modus. To counterbalance the judgement of these antiquarians Molyneux invoked the verdict of the jurist Coke who vouched for the antiquity of both Modi. Besides the Modus itself, Molyneux quoted the accounts of Giraldus Cambrensis, who had accompanied Henry II to Ireland, and the slightly later historians, Hoveden and Brampton, as evidence of councils being held of all the nobles and clergy in Ireland as early as Henry II's reign.<sup>35</sup>

The third grant which separated Ireland from England was Henry II's donation of Ireland to his son John. This, Molyneux argued, confirmed Ireland as a distinct kingdom, which was not absorbed into the English crown when John became King, but remained separate united only to the King's person. And he maintained that the distinction was upheld by John and Henry III, who confirmed Ireland in its right to a parliament and extended to it the written embodiment of the Common Law, the Magna Charta.<sup>36</sup>

Common Law formed the basis of the constitution but it could be overridden on particular points by statutes and acts which had been accepted for long enough to form a precedent.

In his fifth query, therefore, Molyneux attempted to prove that there were no legal or judicial precedents giving England a legislative power over Ireland, and that, on the contrary, there were specific laws denying any such power. Molyneux asserted that no English laws had directly bound Ireland until recent times, and these the colonists disputed. He admitted that many laws had been lost, but he still felt there was more than sufficient evidence for the Irish claim to legislative independence. There were positive precedents for this view; two laws, the 10 Hen. IV and the 29 Hen. VI, stated that only laws allowed and published in Ireland could be binding here.<sup>37</sup>

It was agreed by Molyneux that there were certain exceptions to this rule; laws declaratory of Common Law and specific categories of law did not have to be ratified by the Irish parliament, because there was a prior consent to such legislation. But these aside, England did not legislate directly for Ireland, and the colonists had many extant examples of Westminster laws sent over for ratification in Dublin. There had in the past been some debate as to whether English acts naming Ireland were law here or not. Molyneux noted that this had been put by Chief Justice Hussey in Henry VII's reign and more recently by Coke but against such a conclusion he argued that many acts had been passed in Dublin which could have simply named Ireland if that was a sufficient measure, and Molyneux cited acts which did name Ireland and yet were passed by the Irish parliament. Three acts in particular were used in favour of the argument that the English parliament could bind Ireland in this way; the 14 Hen. III, the 17 Ed. I and the 2 Hen. VI. The first of these Molyneux dismissed as

following Common Law; the second, he maintained, was an ordinance of the King and Privy Council, not a parliamentary act; the third, a Staple Act, he had to admit had been enforced in Ireland by an English ruling under Chief Justice Hussey in the Merchants of Waterford Case. Molyneux tried to minimise this precedent by asserting that initially, in Hussey's absence, a majority of the English judges were disposed towards the view that it could not bind Ireland simply by naming it, but on Hussey's return, they swung to the contrary opinion. Molyneux felt compelled to add to the legalistic ~~explanation~~ <sup>objection</sup>, that the judgement was against the rights of free-born men.<sup>38</sup>

A final category of English statutes, which Molyneux acknowledged as being of force in Ireland, were passed while Ireland had representatives in England, during times when holding a parliament in Ireland was extremely difficult. Molyneux extended this point to remark that if they had permanent representatives in England, they would happily accept English acts, a comment which coincided with his appeal for representative government, but which tended to diminish the force of his earlier arguments, which placed an emphasis on the colonists' historical right to an independent kingdom and parliament.<sup>39</sup>

Having made the best case he could for the lack of precedents where England legislated directly for Ireland and pointing out the numerous English acts which were also passed in Ireland, Molyneux had to deal with the problem of the recent English acts which in practice were of force in Ireland. The earliest of these acts was the Adventurers Act of 1642, but this was later repealed. The principal examples of such acts came from the reign of Charles II;

no notice was taken of acts made by the Commonwealth for as Molyneux remarked, nothing done in Cromwell's time could form a precedent. Molyneux claimed that the direct legislation from Westminster since 1660 did not form a precedent because the colonists disputed them. Molyneux argued, unlike Bishop King, that the Tobacco, Cattle, Navigation and Woollen Acts of Charles II's reign bound Ireland because the colonists did not transgress them, but he added that they were nevertheless not "rightful".

Under William and Mary there were also examples of direct legislation. Certain of these laws were enacted during the Jacobite war when no colonial parliament was possible, and were accepted as laws which would be passed in the next Irish parliament. Molyneux argued further that laws, such as the Act for the Security of Protestants and the Act for Abrogating the Oaths of Supremacy, were accepted from England by the colonists because they were to their advantage, and that this formed no precedent as it was a principle both of Common Law and Natural Law that no right is gained from the imposition of a law which is agreeable to those subject to it. Besides these points Molyneux again invoked the rather tenuous argument that the colonists had consented to these laws through their many representatives in London at the time.<sup>40</sup>

This concluded the discussion of the legal precedents, but that on case law was no less involved. Molyneux's main concern was to vindicate the colonists' judicial rights against Coke's judgements given earlier in the century. In Calvin's Case (1609), Coke had confirmed that Ireland was a distinct kingdom with a separate parliament, but he stated that conquest had subsequently

given England power over it. To this Molyneux replied that no lawyer could bind a nation without its consent and that the assertion that Ireland was subordinate to England was inconsistent with the title of Kingdom and the existence of an Irish parliament. In certain earlier cases English judges had confirmed that Ireland was a separate Kingdom; for instance in Pilkington's Case (1442), the English judges had agreed that Ireland had the right to approve all English laws, before those laws could be binding here. In the Prior of Llanthony's Case (1427), a judicial appeal from Ireland was not taken up in England. Molyneux used these particular cases to show occasions on which Ireland's legislative and judicial independence had been recognised in England, but he also drew attention to a legal precedent, the Act of Faculties (28 Hen. VIII), which supported his point in its declaration that Ireland was "...subject to no man's Laws but the King."<sup>41</sup>

Molyneux's response to his sixth query was a summary of all that had gone before. He reiterated that England had no claim over Ireland either by purchase or by conquest. There was no grounds for purchase because the war to defeat James II had been in England's interest, and the cost would soon be reimbursed through grants from the Irish parliament. Nor was there any right to claim a conquest which was against "Reason or Record." It was against record, or precedent, because of "the Original Compact before hinted," and against reason and consent, as found in the works of Hooker, Grotius, Pufendorf and Locke.<sup>42</sup>

Thus Molyneux's Case is a more complicated set of arguments than those proposed by Domville. Molyneux does quote directly from the Disquisition, particularly in the first half of the Case,

and altogether, quotes and paraphrases of Domville's work make up almost one third of the text in the Case. However, Molyneux's exposition of Ireland's rights under Common Law went beyond the sources employed by Domville and ignored Domville's reference to a pre-Norman cultural superiority. Molyneux was content to rely largely on the Disquisition for the opinions of medieval historians, but he provided his own additions to these, and he greatly extended the arguments from legal and judicial precedents which had been more cursorily dealt with by Domville.

Molyneux's use of Common Law was not, therefore, merely derivative. Molyneux displayed a first hand knowledge of sources such as Cambrensis' Hibernia Expugnata and the more recent publications by 17th century English antiquarians like Spelman and Selden. On the historical claims of the Modus Tenendi Parliamenta in Hibernia, Molyneux combined the quotes from Coke and Mathew Paris provided by Domville with his own from Prynne, Selden and the recent edition of the Modus with an introduction by Anthony Dopping. Similarly he consulted the yearbooks for a list of statutes confirming Ireland's legislative independence and the named reports for further evidence on relevant judicial decisions. As well as this, Molyneux updated the arguments from precedent to cover the years 1660 to 1698.

Clearly Molyneux saw the argument from Common Law as of prime importance to his proposition, but his frequent recourse to Natural Right attests Locke's influence on his political thought, and marks Molyneux out as one of the first authors to use Locke as his principal source on Natural Rights. None of

the other colonists appear to have been aware of Locke's political theories, with the exception of the non-juror, Charles Leslie. Nor was the Two Treatises of Government as widely read or acclaimed in England as was once thought; when it was mentioned there, it was more often with reference to the First Treatise, whereas Molyneux drew almost entirely on the Second.<sup>43</sup>

The first of Locke's Treatises was a refutation, of absolute government, patriarchalism and divine right as expounded by Sir Robert Filmer in the 1620s. The Second Treatise, An Essay Concerning the True Original, Extent, and End of Civil-Government was a discussion of how men come together in society through God-given reason, rather than as something explicitly divinely ordained. The scope of Locke's discussion is necessarily wide, but one of the key concepts is an original contract whereby men who are inherently free and equal, join in society and accept certain limitations on their liberty in exchange for the security of agreed laws and government. But contract theory was not what Molyneux went to Locke's Two Treatises for; he did assert an "original compact," but this was explicitly an historical occasion for the agreement by the Normans and Irish to be governed according to Common Law. Molyneux was aware of Locke's argument of an original contract, but his use of Locke was principally to support the arguments against conquest, and those in favour of legislative representation. The discussion of just and unjust conquest was acknowledged by Molyneux as originating in Chapter 16 of the Second Treatise, and his references to representation and consent to legislation as Natural Rights occur throughout the Case.<sup>44</sup> Thus, Molyneux's appeal to Locke was selective, and



was secondary because even conquest and consent were first established by him as Common Law rights. Another reason why Locke's ideas assumed this secondary role, and why Molyneux largely ignores the Lockian original contract, was that he did not see the Second Treatise as a distinct and self-contained political philosophy. . Locke came from within the Common Law tradition and much in his political work has similarities to, and roots in, that tradition. But Locke's theories differed significantly in being universal and non-historical; thus he could be interpreted as arguing <sup>not</sup> for the rights of Englishmen as established in the Saxon Ancient Constitution, but for the inherent rights of mankind. Molyneux did not see the distinction; he used Common Law and Natural Rights interchangeably, and at one point, he combined both in the same sentence:

Here we have a free Grant of all the Liberties of England to the People of Ireland. But we know the Liberties of Englishmen are Founded on that Universal Law of Nature, that ought to prevail throughout the whole World, of being Govern'd only by such Laws to which they give their own Consent by their Representatives in Parliament.<sup>45</sup>

Where Molyneux was advanced was in using the Second Treatise in the first place, and if he does not fully appreciate the extent of Locke's theories on government, it was not well understood by many of Locke's English contemporaries, and even by his friends. The inclusion of Lockian Natural Right, however, was ultimately to be of great importance in the continued use of the Case by the Irish colonists; for what Locke unintentionally provided for the colonists was a second line of defence which could stand without recourse to precedent.

According to Molyneux, The Case was "done in hast" and he admitted to Locke that "were it again under my Hands, I could considerably amend and add to it." Molyneux does not say in what ways he might have altered it, but some idea of the direction his changes might have taken can be seen from the manuscript drafts which still exist of The Case. The two drafts still extant are a holograph and a fair copy, almost certainly the printer's copy, with emendations most of which are in Molyneux's hand. The first alterations of note in the final version of The Case were of the title which originally stood as "An Humble Remonstrance To the Parliam<sup>t</sup>. of England In Relation to Ireland," and the completion date at the end of the preface, which was antedated from 26 March to 8 February 1697/8. The original title may have seemed to Molyneux too directly an appeal to the English parliament, and the final title is directed more widely, though it is certainly more assertive. The change of date was probably also to distance the book from events at Westminster, in particular the discussions of the Bishop of Derry's case, which had begun in the English Lords on the 8th of February. Molyneux made three substantial deletions from the printer's copy. The first of these was a paragraph which asserted on historical grounds that Scotland had in ancient times paid homage to the Kings of England. This point weakened the argument made elsewhere in The Case that Ireland could claim a like independence with Scotland. The second deletion was a paragraph thanking the English for their help, money, arms and laws in the recent war, and the third was of a paragraph which could have been considered offensive to King William. Molyneux also made more minor changes; one which recurred was the deletion of "British" from the phrase "British Protestants of Ireland."<sup>46</sup>

Molyneux's additions to the final text were more numerous. Besides the insertion of sentences, there were seven major additions, one running to almost two pages. Among the subjects covered in these were the equal validity of the English and Irish Modi, that the Magna Charta was extended to Ireland by Henry III some eight years before he confirmed it in England, the contention that ancient Irish laws denied any legislative superiority to the English parliament, a long insertion on the Natural Right to consent in the legislative process, as had been so stridently asserted for themselves by the English Commons since 1688, and another mention that what Scotland claimed Ireland was also entitled to.<sup>47</sup>

Thus in his deletions and addenda, Molyneux was largely strengthening the arguments in The Case, cutting out points which might be construed as weakening his claims, such as the suggestion that Scotland might not have been always independent and that the colonists had even gratefully accepted English laws, and his cancelling out the word "British" in describing the colonists as the "British Protestants of Ireland," had the effect of distancing them from England while retaining an identity distinct from the Catholic Irish. In the insertions Molyneux reinforced and extended the general arguments of The Case, and it is clear that he continued to give most thought to their Common Law rights, for although the interpolation on Natural Right is of considerable importance to the argument for consent, it is the only Lockian addition.

Molyneux's Case was written with an eye to an English rather than a colonial audience, and it was in England that it provoked

an immediate response being censured by the English Commons and eliciting three printed replies. Molyneux had gone to some effort to distribute The Case to friends in England, presumably in the hope of convincing MPs there that an attack on Irish constitutional rights would undermine the arguments for English parliamentary rights. Molyneux was successful in bringing it to the attention of English politicians, but far from convincing them of Ireland's right to independence, they treated the Case as a proof of intended rebellion. That Ireland should act as an independent country was hardly in England's interest, as then perceived, and Molyneux had not put his argument in diplomatic terms; he had jibed at the liberties claimed by the English Commons and by invoking the word "conquest," Molyneux placed The Case within the current ideological debates in England. Two points in particular incensed those who replied to The Case: Molyneux's suggestion that in the Revolution Settlement the English Commons had increased, rather than merely reasserted, its powers; and his pointed aside that William I could be said to have conquered England. Both of these points supported royalist propositions, though Molyneux himself was clearly against any theory of unbridled monarchy; he was using the arguments against the English parliamentarians which he knew them to hold in an English, though not in an Irish, context. Considering the themes in The Case, it is hardly surprising that all three of the writers who published replies to Molyneux's Case were Whig sympathisers.<sup>48</sup>

Molyneux's Case also became involved in the personal as well as party politics of the English Commons. As the book had been published while John Methuen was Lord Chancellor of Ireland, it

was brought up in the English Commons as part of a campaign to embarrass Methuen and question his ability to direct Irish affairs. The Case was also used to reinforce the picture of Ireland drawn by those who favoured the English woollen bill, as a place which could not be left to legislate for itself. In an effort to avert sanctions against the book and its author, Methuen brought forward the discussion of The Case and attempted to pass the book off as the work of an ill-informed rather than disaffected individual, not representative of most colonists. The English Commons were not convinced; they appointed a committee to examine The Case, to enquire into the author and to discover what proceedings of late in Ireland might have occasioned the book.

The following month, June 1698, the Commons committee reported to the House that several passages in The Case "tended to disown and deny" the authority of the English parliament over Ireland. A majority of the extracts quoted from The Case by the committee related to Molyneux's assertions that the English parliament had no right on precedent to legislate for Ireland, and that England could more easily be deemed a conquered country than Ireland. Other paragraphs reproduced for censure were those claiming the right to Common Law as granted by Henry II and his sons, the freedoms of Englishmen by virtue of their descent, subjection only to the King, the comparison with Scotland as an independent nation and the proposal that the colonists be allowed to send representatives to Westminster. Thus the committee took exception to all of the principal points being made in The Case.<sup>49</sup>

On hearing the report of the committee, the Commons passed a resolution stating that The Case was of dangerous consequence to the crown and people of England by denying Ireland's subordination to the imperial crown of England, and that the author had been encouraged to write and publish the book because of the behaviour of the Irish parliament in its previous session. The Commons then addressed the King on the matter stressing that the publication of The Case and objections of the Irish Commons to the Security of the King's Person Act constituted an attempt by some of the colonists to "shake off their subjection to and dependence on England."<sup>50</sup>

The points censured by the Commons committee were also those taken up by the authors of the pamphlet replies to The Case. The most lengthy of these replies was by William Atwood, a Whig pamphleteer. Atwood's The History and Reasons of the dependency of Ireland upon the Imperial Crown of the Kingdom of England (1698) was from the first presented as a defence of the Whig position in England as much as a refutation of Molyneux's Case. The History and Reasons was dedicated to the English House of Commons which Atwood saw himself as defending from "Dr. Brady, and other Advocates for Despotick Power," who have asserted "that King's may as well set [the English Commons] aside." As a lawyer versed in early English documents, and the author of several books on English law and government, Atwood was well suited to the task of disputing Molyneux's precedents. Atwood's primary concern was to deny Molyneux's assertion that William I had conquered England. In The History and Reasons he contended that the English barons had offered William I the throne, and that the continuity in their

laws after 1066 proved that consent rather than conquest formed the basis of William I's accession to the throne of England. On the conquest of Ireland Atwood agreed that Henry II was not really a conqueror, but claimed he was reasserting the earlier conquest of King Arthur which gave Henry a conqueror's powers over Ireland. Atwood further asserted that Henry II would have had these powers anyway by virtue of the Papal license granted to him to subdue the Irish and reform the church here. Moving on from conquest Atwood disputed the powers which Molyneux attributed to the Irish parliament because he interpreted "Crown" as meaning the King in parliament, and many of his criticisms of The Case stemmed from this definition. Thus, the Irish submission to Henry II was also a submission to the English parliament, and the granting of Common Law was the gift of King and Parliament. To see the English parliament as having co-equal powers with the King in the 12th century was anachronistic, but it was a view commonly held at the time, particularly by the Whigs in England. Thus Molyneux's historically accurate reference to the early Irish parliaments as closer to councils was taken up by Atwood as proof of its inferior status.<sup>51</sup>

Atwood made more damaging criticisms of The Case when he was not trying to defend the English Commons; he pointed to the dilemma of justifying colonial land-holding while denying a proper conquest:

...let the English in Ireland look to it, how to justify those Possessions which they enjoy, by the help of the Crown and Kingdom of England: and if their Consciences are squeamish, let them renounce their Right to the Lands of the Natives; but let them not bring in to question the Right of Engl. to all Foreign Plantations.<sup>52</sup>

He brought up the Triennial Act as an example of the superior position of the English parliament, for in Ireland the parliament was called and dissolved at the King's will. Atwood also highlighted the contradictory nature of Molyneux's statements that the King of England was ipso facto King of Ireland, and that the Irish Parliament had to ratify English acts of succession. Atwood dealt only briefly with Molyneux's use of Lockian Natural Rights; he derided Molyneux's appeal for liberty as an inherent right, as seeking "...a total exemption from all Laws and Government, except such as Adam had a right to in the state of Nature," and rejected the plea for representation as a natural right, because all Englishmen were not in Parliament and yet were bound to the laws by the original consent of their forefathers, answers which display a rather superficial understanding of Locke's Two Treatises.<sup>53</sup>

A less scholarly reply to The Case was an anonymous pamphlet entitled An Answer to Mr. Molyneux his Case of Ireland's being bound by Acts of Parliament in England, Stated... refuted by Reasons from his own Arguments and Authorities (1698), now identified as the work of Samuel Clement, a London merchant.<sup>54</sup> It is in many ways a more interesting work than Atwood's The History and Reasons because it reflected general English attitudes towards Ireland. Like Molyneux and Atwood, Clement was working within the framework of legal precedents and an appeal to the past: "The Right and Reason of Things ever were, and ever must Continue to be the same," but unlike Molyneux, Clement used them in defence of what he saw as a higher law - that of the Empire. Clement proposed that it was the extension of Common Law to Ireland which brought it into the British Empire; thus when



Molyneux claimed to write The Case out of public principle rather than personal interest, Clement invoked the Empire, "'Tis yet but a Private Principle to become an Advocate for a part against the Whole," This formed the basis of Clement's criticisms of The Case, although he was willing to allow those Common Law Rights claimed by Molyneux for Ireland, it was always made subordinate to the overall interest of the Empire; the "generous English Constitution" allowed Ireland the right to regulate its own affairs:

This I speak of such Laws which regard the administration of Commutative Justice, regulating their own particular Affairs, or raising Taxes. But there is yet a higher kind of Law inherent in the Constitution, whether it may be call'd the Law of Parliaments, or the Common-Law,... that of Empire... [and] England must be allowed to be the head of this Empire, from whence all its Members derive their Being.<sup>55</sup>

By virtue of the Empire he justified the colonists' loss of representation: "If a Man go abroad, and stay many years out of his own Countrey, shall he not be bound by the Laws made by the Community in his absence;" to regain this right he could return to England and vote there. Thus an Englishman's right to representation was predicated on his residence in England.<sup>56</sup>

The centre of the Empire, the English Crown, was for Clement, as for Atwood, the King and parliament of England. Clement maintained that the English King's powers had always been that of a figurehead, for "...we do not believe that what we enjoy at this day have been gain'd or Extorted from the Ancient Authority or Just prerogatives of the Crown, but that they are due to us from

the first Constitution and Time immemorial." This definition of the Crown not only made Ireland subordinate to the English Parliament but also challenged Molyneux's contention that Ireland had a separate sovereignty. According to Clement Ireland was never annexed to the King alone; Henry II made an expedition to Ireland as a representative of the Crown and on taxes granted by the English parliament. Nor was Ireland separated by the donation to John, for it was a gift of the King and parliament assembled at Oxford and was not a sovereign right but a feudal title, Lord of Ireland. Clement agreed with Molyneux that Henry II did not forcibly conquer Ireland but drew the very different conclusion that he had gained the submission of the Irish and Normans because his power was so dreadful and that the Irish submitted entirely to the government of England, "...which hath always been esteem'd as one of the greatest Signs of a Conquest."<sup>57</sup> Clement argued that Ireland was further confirmed as subject to England by the recent Williamite victory, in which English arms and money had saved the colonists from being dispossessed by the Jacobites. Clement highlighted a weakness in Molyneux's defence of Ireland's historical rights by applying it to the Irish people as a whole. For Clement claimed that Molyneux had given the colonists no stronger title to powers as a separate kingdom than what was granted originally to the Irish and Old English; and as the Anglo-Irish colonists were not descended from either they were not entitled to their rights and privileges, though these had been lost by the Catholics, both native and settler in their many rebellions.<sup>58</sup>

Another pamphlet written to rebut The Case was John Cary's A Vindication of the Parliament of England, in answer

to a book written by William Molyneux (1698). Cary was a Bristol merchant and author of An Essay on the State of England (1695) a tract which advocated, among other things, the regulation of Irish woollens so that they would not compete with the sale of English wool abroad. This work was, as its title suggests, primarily a defence of the English Commons; it was dedicated to John, Lord Somers, "because you have always asserted the Rights and Powers of Parliament," though Somers was clearly not a defender of the Irish parliament.<sup>59</sup> Like the other Whig replies, Cary defined crown as King in parliament; Ireland's submission to the English King was a submission to the English parliament. Cary admitted that Ireland had long had its own Parliament, "...but I am apt to think that your [Molyneux's] mistake arises from this, that you Build too much on the Name, not considering the Power that Parliament Legally hath." As proof of the inferior status of the Irish parliament he quoted English laws which he claimed had been accepted in Ireland over the previous 500 years. Cary's argument is predicated on seeing the colonists as entitled to English liberties and subject to English laws, and yet one of the foremost of these English liberties was the right to legislative representation which the colonists did not always have. To this he answered, "I see no Power you had to cast [English laws] off, except you will at the same time say, you are not English-Men, which I hope you will not; but I find you are like froward Children, who will not eat their Bread and Butter unless it be  
60  
Sugar'd."

In terms of justifying their stand, neither Molyneux nor the authors of the replies to The Case could be said to have

shown more convincing precedents. Both sides purported to argue on grounds of what was for the general good, yet each defined the general good in terms which suited their own particular interest. The replies were written largely as a defence of the English Commons, and their definition of Empire reflected the predominant mercantile interest there, while Molyneux fitted his argument to the needs of the Anglo-Irish colonists. The replies to The Case do, however, highlight certain important features and inconsistencies in Molyneux's argument.

Ultimately Molyneux was positing three grounds for the colonists' right to self-government: the rights of the kingdom and parliament of Ireland, the rights of Englishmen and Natural Right. The replies were aimed largely at the first of these, the rights of the Irish kingdom and parliament. It was on this point that both sides produced scores of precedents, and these precedents, taken as they were, out of historical context, could be used to support almost any contention. Even so, Molyneux made a strong case for the proposition that Ireland had for centuries been treated as a separate country, and had often been acknowledged to be independent of the English parliament. The authors of the English replies showed a much greater tendency to anachronism in attempting to show that Ireland had, as early as the 12th century, been subject to their parliament.

A more telling criticism of Ireland's historical rights, which was brought up by the English authors writing in 1698, was that Molyneux was attaching to the Anglo-Irish rights which had been conferred on the Gaelic Irish and Normans by Henry II. Molyneux had clearly recognised that this was a difficulty in his

argument, hence his attempt to reduce drastically the number of Gaelic Irish still surviving. This was not, however, an insurmountable problem as Molyneux was claiming more the rights of the institutions of kingdom and parliament, which were to a considerable extent the rights then conferred on whoever ruled in the kingdom and parliament.

Molyneux was on firmer ground when arguing for the rights of Englishmen, in particular the entitlement to representation. Here, Molyneux could claim those rights which the English Commons had been defending so strongly since 1688. Against this point the English replies could only suggest that Englishmen were disenfranchised by going abroad, and that transporting their representatives to Westminster would be inconvenient.

Natural Right is less important to Molyneux and hardly considered by those replying to The Case. Molyneux's selective use of Locke's theories, and the general unfamiliarity with his work, account for the lack of attention to this aspect of The Case. Yet of all the theories put forward by Molyneux, that of Natural Right could have provided his opponents with a strong argument against Molyneux's exclusion of the Catholics and Dissenters from representation in government. On the other hand, if fully understood, Natural Right would also have undermined the claims to superiority which the English authors made for the English parliament.

CHAPTER III: POLITICS AND THE CONSTITUTION IN  
IRELAND DURING THE REIGN OF QUEEN ANNE, 1702-1714

The issues raised in William Molyneux's Case of Ireland continued to be debated by the colonists during Anne's reign. Certain points of emphasis changed but the constitutional debates centered on colonial control and security, whether it was with reference to parliamentary independence or a possible Anglo-Irish union. The form of the constitutional debates also echoed Molyneux; the colonists continuing to argue in terms of the historical and legal precedents which formed the basis of the Case.

Many of the early eighteenth century constitutional debates reflected those made current in William's Irish parliaments. The effects of the 1700 Resumption Act stemmed directly from events in the 1690's and brought up the familiar questions of the colonists' control of their property and whether they were subject to legislation passed at Westminster. All of Anne's parliamentary sessions in Ireland saw debates on the form of money bills. Little reference was made to the 'sole right' but the frequent sessions of parliament between 1703-14, gave the colonists an increasing control in practice over the amount and

duration of money bills.

These issues reflected events in the 1690's but the most prominent constitutional debate of Anne's reign, on a union, had been little considered under William. The impetus to this debate was the proposed Anglo-Scottish union being considered in the early years of Anne's reign. Molyneux's Case was re-printed to coincide with the Irish debates but it provided little guidance on this issue. The colonists had two main reasons for seeking a union, fear of the Scottish and Ulster Presbyterians should the Anglo-Scottish union go through and a desire for a more defined constitutional relationship with England. The colonists were divided in their wish for a union but the general feeling was favourable, and addresses for a union became a common feature of the parliamentary sessions in Ireland during the first decade of the eighteenth century. These requests for a union were consonant with seeking legislative and judicial independence because the aim of both was to provide the colonists with full representation in their government. However, the Crown chose not to respond to these appeals for a union and the colonists were thrown back on a defence of Ireland's rights.

Issues of legislative or judicial independence

arose in almost all of the sessions of parliament in Ireland under Anne. Independence was argued for by reference to precedents and by this method the various opposition groups in the Dublin parliament could carry votes against the government if the issue had a constitutional dimension. In this way the government lost a money bill in 1709 and a tillage bill in 1711. Judicial independence was asserted similarly in 1703-4 and 1710. Thus, the claim of parliamentary sovereignty in Ireland was not lost sight of in Anne's reign though it must be seen in the light of the disturbed political climate.

Anne's reign is noted for the extremes of party politics which developed at Westminster. The Dublin parliament saw a similar division into party groups<sup>1</sup>. This did not alter the basis or form of the colonists' constitutional beliefs but it effected the use made of constitutional grievances.

Party politics had two contrary effects on the voicing of parliamentary independence. On the one hand it deflected attention away from constitutional grievances because political debate centered on party issues in Dublin and party politics in England made the succession of alternating Whig and Tory Lords Lieutenant more careful to avoid any Irish constitutional dispute,



particularly judicial appeals, from reaching Westminster. On the other hand, however, the colonists' constitutional complaints were used successfully by the Irish Whig and Tory parliamentary leaders when in opposition, to rally the non-party members in votes against government bills. The interaction of constitutional issues and party politics had the effect, therefore, of keeping current the ideas found in Molyneux's Case whilst preventing any direct constitutional conflict with the English, and later British, parliament under Anne.

The colonists had sufficient constitutional quarrels with England at the start of Anne's reign to make the calling of a parliament look hazardous. Trade was in sharp decline, a circumstance the colonists attributed to the restriction of their woollen trade, though this was in fact one of the more minor reasons for the slump. The revaluation of the Irish coin in 1701/2 had greater consequences for trade and for land prices, but the colonists could attribute these effects to English legislation, in particular the Woollen Act and the 1700 Act of Resumption<sup>2</sup>. There was little the colonists could do about the woollen industry after the 1699 Act save complain, but the laboured enquiries of the forfeitures commissioners meant that the resumption was still a burning question

when Anne ascended the throne.

The distribution of the estates forfeited by the Irish Jacobites had long been a contentious issue. In Ireland the colonists had complained that the estates had been sequestered by the English ministers and in some cases had been left in the hands of their Jacobite owners. In England the debate was whether the King or parliament should have had the gift of these lands. The question reemerged at Westminster in 1697 following the conclusion of the Nine Years War and in 1698 the English Commons resolved to bring in a bill abrogating the King's grants of Irish forfeited estates.

The English Commons planned to use the money made on a re-sale of the Irish estates to pay the costs of the Irish War. Before passing a bill they appointed seven commissioners to investigate the use and value of the forfeited estates. The commissioners were divided in their conclusions but a majority report was read to the English House of Commons in 1699 and it confirmed the claims of the Commons that the estates had been mismanaged, that the catholics had been favoured and that the lands were worth a considerable sum<sup>3</sup>. The Resumption Act passed in 1700 was drawn up following the commissioners report and formed part of the contest for power between William III and the Commons at

Westminster.

The Resumption Act established a board of trustees to administer the re-sale of the forfeited estates. The trustees began their work in 1700 but difficulties in administering the re-sale, which never realised anything like the estimated value, meant that their work continued well into 1703. The protracted work of the commissioners gave certain of the colonists time to conduct a campaign against the resumptions. The Resumption Act affected the colonists in two ways: firstly, it undermined their security of property, since much of the grantees' land had been sold to the colonists; secondly, it was another example of an English act legislating for Ireland.

Among the purchasers of land granted to Williamite courtiers in Ireland were Alan Brodrick and William Connolly and the campaign against the Resumptions owed much to them. Brodrick and Connolly were the principal parliamentary managers in Ireland but in the absence of a parliament, they issued, in December 1701, what became known as the 'National Address' and circulated it for signatures throughout the counties and boroughs of Ireland. The address did not get an enormous support among the colonists mainly because it was seen as benefitting only those who had purchased forfeited

lands. The address was coldly received in England but it did lead the Commons to allow a larger sum for compensating the purchasers. The address itself was a fairly tame document stressing that the Resumption was a blow to the protestant interest in Ireland. It made no mention of legislative independence<sup>4</sup>. The letters and pamphlets written at the time, however, show a less measured tone.

Alan Brodrick wrote that following the "Trustee Act", "No honest man in the Kingdom can say he is master of a foot of estate"<sup>5</sup>. A pamphlet said to be by St. John Brodrick echoed that sentiment and linked it to the constitutional issue of the colonists legislative powers:

The property of the subjects of Ireland, tho not much valued and regarded by some people, is as dear as theirs is to the happier Men whose lot is fallen to them in England, and they wish for nothing more than to be subject to the same laws as Englishmen 6.

The same pamphlet also remarked "but unhappy Ireland is to be bound by a law made by persons never chosen to represent her"<sup>7</sup>.

The forfeitures had been disposed of by June 1703, but the Resumptions Act remained, like the 1699 Woollen Act, a reminder of a colonial sense of grievance in being subject to English legislation. In 1704 both

were still being complained about as Sir Richard Cox, then Lord Chancellor of Ireland,<sup>8</sup> related

...all [in Ireland] labour under great poverty, occasioned chiefly by the English Acts of Woolen Manufacture and Resumption, [and] that it is a very Popular Theme that 'tis the greatest form of slavery to be governed by laws made without our Representatives<sup>8</sup>.

With Anne's accession to the throne in 1702, financial considerations led the government to consider summoning a parliament in Ireland. Early in 1703 the Lords Justices, Lord Mountalexander and Thomas Keightley, took soundings among the colonists on whether a parliament should be called. The Lords Justices reported that the general view was against it "because of the poverty of the Kingdom". Alan Brodrick, the Solicitor General, who was among those consulted, even suggested that if a parliament was to be held, the Irish parliament should be allowed to draw up its own money bill "as the country might be expected to be out of humour for giving money". Brodrick was taken to mean that he would revive the issue of the 'sole right', however his own explanation was that a debate on a money bill would be embarrassing to the government because of Ireland's recent harsh treatment. The Lords Justices concluded that a new parliament was unlikely to grant the necessary supplies and a parliament was postponed<sup>9</sup>

In March 1703, the Duke of Ormonde was appointed Lord Lieutenant of Ireland. In May, the Queen decided to take the risk of a difficult parliamentary session in order to obtain supplies to make up the short-fall in the Dublin governments' revenues<sup>10</sup>. Ormonde opened the parliament in September 1703 and the Commons responded with a warm address to the Queen pledging their loyalty and, just to dispel aspersions cast against them in England, they declared Ireland to be

...justly and rightfully depending upon, and belonging, and for ever united to [the Crown], and that it never entered into our thoughts to wish the contrary; the happiness of this Kingdom entirely depending on a steady duty paid to the Crown of England<sup>11</sup>.

The address must have relieved Ormonde who saw his objective as getting sufficient supplies from the Commons and avoiding a recurrence of the constitutional issues. Soon afterwards, however, a representation drawn up on Ireland's poverty and the constitution stressed the Commons' dissatisfaction:

[It is] no groundless discontent... we are unanimous in upholding your title... yet so it is, that the Constitution of this your Kingdom of Ireland, hath been of late greatly shaken; the Lives Liberties and Estates of the subjects thereof being called in question and tryed in a Manner wholly unknown to our Ancestors<sup>12</sup>.

Behind this address was the early formation of an opposition group in the Commons. This group continued to point out constitutional grievances but their opposition also began to take on a party character.

Ormonde had adopted a non-partisan line on appointments, continuing the whig Alan Brodrick as Solicitor General, and proposing him as Speaker to the House of Commons. Brodrick accepted the post but then turned to lead the Commons opposition group. Brodrick had apparently sold out to the government in 1695 when he undertook to manage the Commons for Capel, but Capel had also shared Brodricks' whiggish attitudes. During 1703-5 it became clear that Brodrick was willing to risk his governmental offices in order to oppose the tory Duke of Ormonde.

In the first session of the new parliament, September 1703 to March 1704, the government put through two separate one year supply bills. The bills passed though against considerable opposition because of arguments put forward during the debates on the money bills of Ireland's great poverty, and the "grievance" of being subject to English legislation. Alan Brodrick was the leader of this opposition and in his speech as Speaker at the close of the session he reiterated the complaints about the "distress of the Kingdom".<sup>13</sup> One observer explained Brodricks's behaviour thus:

...perceiving a propensity in many persons to express their discontents, occasioned by the present fall of Rents, and the Losses they had sustained by the English Act

concerning the disposition of the Irish forfeitures, believed he had a marvellous opportunity put into his hands by working on these dispositions of the people, both to evidence his own power and to put difficulties upon a Government to which no obligation on their part could reconcile him.

Alan Brodrick was, therefore, making use of the constitutional grievances to bolster his position as a whig leader in the Commons. In the second session, February-June 1705, Brodrick again assumed the offensive arguing that only one year's supply, and not the requested two, should be granted, anything else being "unparliamentary,"<sup>15</sup> as it would relieve the government of having to call frequent parliaments. In the event Ormonde mustered a majority for the two year's supply,<sup>16</sup> but the principle of party opposition by use of constitutional issues had been established by Brodrick.

The opposition of the whig members to the government also emerged over the question of religious tolerance. In the 1703-4 session, the Commons had drawn up the Heads of a bill to Prevent the Further Growth of Popery. Essentially, the bill was to consolidate the penal code and ensure its better enforcement. It marked a shift away from the colonists' immediate religious fears expressed in the 1690's penal laws against Catholic clergy, to more long term economic security by



restricting Catholic land ownership. It was a bill close to the heart of most colonists but when it returned from England in February 1704 a Sacramental Test clause had been appended which had the effect of excluding Dissenters from the army, the militia and government and municipal posts. The Brodricks and other members of the Commons with whiggish sympathies believed the clause had been attached to the Popery act by the predominantly Tory administration in London to have the whole bill defeated. The general feeling of the House was, however, to restrict both Catholics and Dissenters, and the amended bill passed with a large majority.<sup>17</sup>

The Irish House of Lords had not acquired a strong party character; they spent Ormonde's viceroyalty again trying to vindicate their claim to be the final judicial body for Irish cases. In 1695 the Irish House of Lords had granted the Earl of Meath title, on appeal, to certain lands. The unsuccessful claimant to these lands, Lord Ward, had proceeded to take an appeal to the House of Lords at Westminster. In 1699 the English Lords over-ruled the Irish Lords' judgement and awarded title to Lord Ward. The Earl of Meath then drew up a counter-petition which came before the Irish Lords in 1703.

In November 1703 the Irish Lords ordered that the

1699 resolution of the English Lords be read to the House. The Irish Peers then resolved to grant relief to the Earl of Meath and to vindicate the 'honour, jurisdiction and priveleges' of their House. Ormonde feared a recurrence of the constitutional debates which arose from the Bishop of Derry's case in 1698. The Lord Lieutenant therefore obtained a life pension for the Earl and Countess of Meath in an attempt to have Meath withdraw his counter-petition. While this was being negotiated the Irish Lords voted to put the Earl of Meath in possession of the disputed lands in February 1704. Ormonde was left to hope that Nottingham, could divert the English Lords from any further action on this case at their next sitting. The English Lords did in fact reiterate their original judgement but took no action to enforce it.<sup>18</sup> Thus, the one substantial constitutional issue of Ormonde's parliament was contained, though it left the Irish Lords with the impression of having gained their point.

The Irish parliament continued to debate the extent of their legislative and judicial independence throughout Anne's reign, but neither issue developed to the level of conflict which had arisen in the late 1690s. Instead the chief area of constitutional debate was the possibility of a union with England. Thus, during the period of Ormonde's, and after him Pembroke's

viceroyalty (1703-Dec. 1708), the colonists shifted the focus of their constitutional aspirations from self-government to union. The two aims were not entirely inconsistent, as a union would guarantee both the link with the Crown and the legislative representation which had formed the principal elements of the colonists' appeal for limited independence. The only experience of an Anglo-Irish union had been Cromwell's Protectorate, which was not considered an auspicious example. The possible benefits of a union, however, had a continuing attraction for the English colonists in Ireland. It had been put forward during the Restoration as a means of combining and strengthening Anglo-Irish trade, and it was proposed by many colonists soon after the Boyne as a means of reducing their military isolation, and constitutionally ambiguous relationship with England. In 1691, James Bonnell, the Attorney General, declared that a union would be:

....better for the good of this Kingdom than a Parliament here... [as] this alone would take the Kingdom out of the hands of the Irish and would take away all jealousy of it from the English, since it would seem then but to be a part of themselves as much as Wales<sup>9</sup>.

Molyneux's Case of Ireland was reprinted during these debates, in 1706, but it offered only one mention of union, even if a favourable one<sup>20</sup>. The tenor of

The Case could be read as supporting a union, as a means to legislative representation, but much else in Molyneux's book was at odds with this as a constitutional solution, and the colonists reflected this ambiguity in the discussions which took place in the first decade of the eighteenth century.

The consideration of a union arose more persistently in Anne's reign because of the mooted Anglo-Scottish union. Two things spurred the colonists' interest in a union, a desire to have a more defined constitutional status and a fear that should the Anglo-Scottish union go through, they would suffer greater competition in trade abroad and a more assertive Presbyterian population at home. The Irish parliament therefore set out to promote an Anglo-Irish union. In 1703 the Irish Commons addressed the Queen, outlining their economic distress and political insecurity, concluding that:

We cannot despair of your Majesty's goodness being extended towards us in such prudent and gracious Methods as may afford us Relief, according to the Exigency of our Condition, and by restoring us to a full enjoyment of our Constitution, or by promoting a more firm, and strict Union with your<sup>21</sup> Majesty's subjects of England.

The Lords were more direct in their appeal:

And, as we are sensible that our Preservation is owing to our being united to the Crown of England, so we are convinced it would tend to our further Security and Happiness, to have a more comprehensive and entire Union with that Kingdom.<sup>22</sup>

The colonists were clearly enthusiastic about the prospect of a union, addresses continuing from boroughs and parliament until 1709<sup>23</sup>.

Behind the formal language of the parliamentary address however, were two quite distinct views on the desirability of a union. One line of thought was expressed by Sir Richard Cox. Following the views put forward earlier by James Bonnell, Cox saw a union as preferable to an Irish parliament because it would unite all Englishmen. He argued that a union would obviate any rivalry of interests and would halt the colonists' tendency towards independence:

There is no remedy so proper for both Kingdoms as to some sort of union which would conduce to enrich and strengthen England and establish the English interest here, and make it prosper, for in that case all<sup>24</sup> the British would be Good Englishmen.

Quite a different line was taken by Archbishop King, In the 1690's King had expressed an uncritical support for union with England: "I am glad that some of the great

men in England are inclinable to promote the union of Ireland with England, 'tis assuredly the only means to make both flourish effectually. "<sup>25</sup> After 1698 his attitude was somewhat soured:

I have had a hint that there is some design to unite Ireland to England and truly considering the Breach made on our Jurisdiction and the little ability or dexterity we have to help ourselves, how our parliaments are clogged and hampered by our own laws, and over-turned by the invasion of our priveleges, I do not see but it may be better for us than as is at present<sup>26</sup>.

Richard Cox saw colonial and English interests as essentially synonymous, interests which would only be separate if artificially divided by the imposition of trade restrictions on Ireland in which case the colonists, being Englishmen, would be forced to return to the Motherland. If granted a union, however, he saw the colonists' interests as merging with those of their fellow Englishmen in the Westminster parliament<sup>27</sup>. For Archbishop King there was no such essential synonymity of interests; he envisaged the Irish colonists in Westminster as a difficult group of men putting the case for Ireland. Archbishop King was pessimistic about their possible effectiveness, because the Irish representatives would always be a minority: "...as to the number of representatives, the design is chiefly to represent our case in parliament rather than our persons or to vote for us, for what can our number signify?"<sup>28</sup>

For King, therefore, a union would be a questionable solution to the colonists' claim for legislative representation. In this King's attitudes had come to mirror those put forward by William Molyneux in The Case of Ireland, where an independent parliament was the principal assertion and union was only fleetingly referred to as one means of providing legislative representation.

What united colonists of these two different attitudes on the question of a union, besides a wish for representation, was the problem of their security. The colonists frequently reminded the English government that their defence was also England's because they preserved Ireland from being a Catholic and therefore hostile neighbour. In his An Essay Towards a Union of Ireland with England (1703), Henry Maxwell elaborated on this point in an effort to tempt England into such an alliance. Maxwell believed that the differences of opinion over Ireland's legislative and judicial powers concealed what was in fact a common British interest. He offered the English government three options in running Ireland; they could hold Ireland by force with a standing army, allow the colonists the free exercise of their constitution, or unite the two nations. Maxwell outlined

the difficulties inherent in the first two options, a standing army and the use of arbitrary power could by example and extension undermine England's own constitution, while allowing the colonists greater political freedom would encourage a colonial interest and incur jealousy in England. But Maxwell did not just put union forward as the only safe alternative, he dedicated most of the pamphlet to the task of convincing England that its trade would flourish, as would Ireland's, in the marriage of Irish cheap labour and raw materials with English shipping.<sup>29</sup> The task he felt was to underline the natural common interest between the two countries "...the most effectual way to make any Constitution firm and lasting is to make it the visible Interest of the whole Body of the People to preserve it"<sup>30</sup>. Finally, under this scheme there would be a greater security against the common threat of Catholics.

The colonists' interests in a union increased in Anne's reign because of the proposals for an Anglo-Scottish union, the prospect of which gave even greater impetus to the colonists' wish to unite their trade and security with England. It was feared by the colonists that their trade with England would be further restricted and that they would receive less attention from the government if the Anglo-Scottish union went through. Archbishop King was not slow to enunciate these



fears:

...as to the union with Scotland, nobody here can say for or against it, because we are strangers to the nature of it, but if Scotland have any concern by it in the legislature of England we surely have reason to apprehend the consequences, you know how the Parliament of England of late have assumed a legislative power over us. If the Scots are [in it], not only will England make laws for us but the Scots too... which shall double our slavery. For I have no other notion of slavery, but to be subject to lawgivers that have a different interest than the People that are to be governed by them<sup>31</sup>.

As England had taken their woollens, Scotland would soon take the linens.

Objections to Scotland also involved the question of security and it was on this point that the colonists tried to dissuade England from looking North. Scotland was realised to be the weak point in England's military defences against possible Jacobite invasion. This and a greater security for the Hanoverian succession were the main reasons why England was prepared to grant Scotland liberal religious and economic terms in the union. The Irish colonists made frequent reference to the Scottish taint of Jacobitism in an effort to sway England's favour in their own direction. But this method of argument was self-defeating, as Swift pointed out in a short tract bemoaning the Anglo-Scottish union, it was she who threatened most that gained the prize, Ireland remaining the eponymous Injured lady.<sup>32</sup> At the same

time Swift could not help using the argument himself,

I cannot but have some pity for this deluded man [England] to cast himself away on an Infamous Creature [Scotland], who, whatever she pretendeth, I can prove, would at this very minute rather be a whore to a certain Great Man, that shall be nameless, if she might have her will <sup>33</sup>.

The colonists, in particular churchmen like King and Swift, had the further complaint that the proposed Anglo-Scottish union would leave Presbyterianism as the established Church of Scotland. The Church of Ireland clergymen were vociferously anti-Presbyterian, and critical of its non-episcopal structure and of its lax marriage laws. That the allegorical mould chosen by Swift to ridicule the Anglo-Scottish union in the Injured Lady revolved around courtship and marriage implies that the religious element in the settlement angered him most, though the tract also proved a useful vehicle for expressing grievances as to Ireland's constitution and trade <sup>34</sup>. Swift's poem on the union was given over entirely to pouring scorn on the religious terms of the agreement, which he compared to Sir William Petty's ill-fated double-bottomed boats:

Whoever yet a Union saw  
Of kingdoms without Faith or law  
Henceforth let no Statesman dare,  
A Kingdom to a ship compare  
Lest he should call our Commonweal,  
A Vessel with a double Keel:  
Which just like ours, new rigg'd and man'd <sup>35</sup>  
and got about a league from land.

But the religious objections also had a direct political significance for the colonists. The settlement of the Presbytery in Scotland and Episcopacy in England caused another problem for the Anglo-Irish by giving encouragement to the Presbyterians in Ulster, who would, it was now felt, increase their efforts to have the Sacramental Test repealed <sup>36</sup>.

Faced with the fait accompli of the Anglo-Scottish union in March 1707, the colonists shifted their line of argument away from attacking Scotland and instead promoted the idea of a greater union which would include Ireland. After congratulating the Queen on the union, the Irish Commons appealed for "a yet more comprehensive union," and in 1709 both Houses of the Irish parliament addressed Queen Anne to be included in the new union <sup>37</sup>. Such pleas, however, were little considered in England; only once, in 1707, did the Queen reply to these addresses seeking a union, and then it was only a vague promise to unite all her subjects <sup>38</sup>.

The colonists had shown considerable enthusiasm for a closer relationship with England. There was some doubt about the actual power they might exercise at Westminster, but even then it was felt to be better than no representation. Because most of the colonists still

felt themselves to be English, they realised the dangers of an increasing separation of interests if Ireland continued to compete, however little, with English trade. Their consequent disappointment in having their appeals for a union largely ignored, and the preferential treatment accorded to Scotland, led ultimately to that very feeling of separateness which they wanted to avoid. In the meantime, however, the colonists were drawn even more into English politics with the clear formation of party politics in the Dublin parliament.

Since 1703, Marlborough, as Captain General of the Forces, and Godolphin, as Lord Treasurer, had been directing English government for Anne, using a mixture of Tories and Whigs to support Marlborough's campaign in the War of the Spanish Succession. Both men favoured a moderate Tory government, but the election of 1705 turned the electoral balance in the Whigs' favour. Failure by the High Tories in the previous three parliamentary sessions to pass an Occasional Conformity Bill penalising the Dissenters, and the unsettled succession question, had strengthened the Whig position. Marlborough and Godolphin accommodated themselves to the Whig recovery in order to continue the war. The negotiations for a union with Scotland and the consequent attention to the succession, gave the Whigs

Greater influence and even led to a temporary resurgence of the extreme whig Junto, between, 1707 and 1710. As part of their new strategy the Junto sought to have Thomas Wharton appointed Lord Lieutenant but Anne chose the more moderate Earl of Pembroke. A year later Wharton was to be appointed Viceroy but only after the threatened resignation of Marlborough and Godolphin and the even greater whig majority gained in the 1708 election.

The implications of these changes for Ireland were clear; in 1707 Alan Brodrick was appointed Attorney General and his faction was seen as undertaking for the government. Richard Cox warned that, although the Brodricks could get support by "personating as Patriots" when in opposition, they would lose support in the commons when they turned courtiers <sup>39</sup>. Alan Brodrick's elevation was accompanied by Cox's removal as Lord Chancellor. Such changes in office were coming to be determined by party affiliation, as Archbishop King remarked:

Yesterday Chief Baron Freeman was sworn Chancellor and today as speaker [of the Lords] and acted as such. My Lord Primate [Lindsay] and Sir Richard Cox have both bin a little indisposed but I do not believe their quitting their places did in any way affect them, I know of no well grounded expression against Sir Richard, and look on him as a meer sacrifice to peace <sup>40</sup>.

The Brodricks' position in government was based on party

connections but also on managing the parliament , this time not just to pass the supply bill but also to effect some relief from legal disabilities for the Dissenters.

Pembroke's speech opening Parliament in July 1707 stressed the government's wish for unanimity among Protestants, but in the end the government made no attempt to repeal the Test. The excise bill was passed, though with some opposition, because contrary to Cox's predictions the Commons had a natural Whig majority. The limit of the Commons' Whiggish sympathies, however, was apparent from its reluctance to pursue the question of the Test. George Dodington, Pembroke's Chief Secretary, found the attitude of the Irish Commons incomprehensible, he could only conclude that they were 'High Flyers,' "...you would hardly believe there should be such a creature as an Irish Protestant Jacobite and yet 'tis most certain there are a great many such Monsters." Dodington felt that a fresh election and "a sincere espousal by the government" in favour of repeal could alter attitudes here <sup>41</sup>. It was not a Jacobite inclination on the part of the Irish Commons which deterred the government from proposing a repeal of the Test, but the obvious reluctance of their Whig allies. Even Alan Brodrick admitted that: "I was against the test being tacked to the popery bill which was done to lose that bill, yet now it is passed I see such

difficulties in repealing it that I should not advise it"<sup>42</sup>. Brodrick did in fact continue to seek ways of securing some toleration for the Dissenters, but it is clear he was aware that many of his supporters would have deserted him on this issue<sup>43</sup>. The Irish Whigs were hardly to be labelled Jacobites but they retained an intolerance of the Presbyterians which marked them out from their English counterparts.

In November 1708, Pembroke was advanced to the post of Lord High Admiral, following the death of the Prince of Denmark, and was replaced in Ireland by the most radical of the Junto Whigs, Thomas Wharton. This move encouraged the Irish Presbyterians to lobby support in England for a bill to repeal the Sacramental Test in the next session of the Irish Parliament. It also had the effect of raising the hostility of the more High Church Irish M.P.s as Wharton was known to be particularly sympathetic to the Dissenters. Wharton's inaugural speech, as Lord Lieutenant in May 1709, exhorted the colonists as Protestants to "a perfect union and friendship among yourselves" and reminded them of the numerical strength of the Catholics<sup>44</sup>. However, like his predecessor he decided not to risk the session over repeal. The Chief Secretary, Joseph Addison, explained to the Earl of Sunderland that they should have a quiet session as the Lord Lieutenant has "broken all parties;"

and that "his Excellency takes care to avoid anything which looks towards repealing the Test Act, which would immediately set all things aflame,"<sup>45</sup>. It seems that Wharton continued to hope for a chance to repeal the Test later by tacking it on to a new Popery bill or perhaps by quieting the fears of the Tories and bringing it in at a new parliamentary session; but if he did, it was to be a vain hope<sup>46</sup>. If this intolerance of the Dissenters dissuaded the government from acting on repeal, it had its counterpart in the anti-Catholicism which passed an unamended Popery bill consolidating the earlier penal laws<sup>47</sup>.

The 1709 session of parliament under Wharton was notable for the rise of the Irish High Church or Tory party. In the Commons they kept up a hostility towards any government soundings on the Test and opposed the money bills to embarrass the government undertakers. The Tories had also been formed by the events of Convocation, which had been summoned at each parliamentary session since the beginning of Anne's reign. The lower house of Convocation was particularly anti-Presbyterian and in 1709 went as far as they could towards attacking Wharton who was known to want a repeal of the Test Act. It accused the government of sympathising with the Dissenters by allowing a Presbyterian minister to settle in Drogheda, and they threatened to condemn a theological



work by Ralph Lambert, Wharton's chaplain. These debates gave support to those opposing Wharton in parliament.

The Tory opposition group in the Irish Commons became better organised in the 1709 session and it concentrated its efforts on the money bills. Samuel Dopping, who was considered leader of the opposition, did not speak directly against the government's one year supply bill, instead he suggested that it might be supplemented by government funds, to carry the Establishment for two and a quarter years, but his proposal was not taken up. The Lord Lieutenant then requested an extra supply to maintain fortresses and purchase arms for Ireland and when the Commons were drawing up Heads to this effect, another opposition member, Sir William Parsons, proposed that a clause be written into the Heads directing the use of this money exclusively for Irish arsenals and arms. At first his suggestion was not taken up, but later a proviso to that effect was written into the preamble of the finalised Heads. When the bill returned from England in July, that part of the preamble specifying the use to be made of the money had been altered <sup>49</sup>.

The opposition mounted a campaign against the altered bill. Addison believed these men were "ambitious of copying after some Gentleman in the English House of

Commons with regard to the freedom and independence from all Parties" <sup>50</sup>. But their arguments against the altered money bill were nationalist not Country. The opposition argued that money voted in Ireland should be spent here, that the Irish parliament always retained the right to reject bills, and implied that to amend a money bill was contrary to their constitutional rights. John Perceval, a moderate Tory, voted to reject the bill because the exclusion of the preamble made him suspect that the money would not have been used in Ireland. Furthermore, he argued,

... 'tis pretty well known how our Constitution had been dropping for many years, so that indeed there is no man can well tell us what it is, but thus much every man owns, that we may exert against any Bill that shall come back alter'd to our dislike <sup>51</sup>.

Those leading the opposition wanted the committee to examine precisely what alterations had been made in the bill. William Connolly objected that this move was "dilatatory and unprecedented", and the Clerk of the House was ordered to bring all previous money bills and heads of money bills before the House. Addison reported that:

"Those for the government brought several precedents to show that an alteration in Money bills was no new thing, and insisted on Poinings Act for the legality of it. Those against it argued that all the precedents produced by their Antagonists, had passed the House through inadvertency, and without any Debate upon them, and that the only way to hinder Poinings Act from doing all the mischief it was capable of, was to exert the power of altering a Bill, especially if it

related to money" 52.

Connolly and Broderick attempted to strengthen the government's case further by arguing that the essential intent of the bill had not been altered and that opposition to the money bill might provoke the British government into taxing them and harming Irish trade, points hardly likely to appeal to the Commons. The argument, however, had centered on the use of precedent, and on this the opposition were clearly weak. Of the contending members, only Dopping moved away from a reliance on precedent:

Mr Dopping finding his friends so hard set by precedents would not put the issue of their cause upon that point, but told the House his opinion was that no precedents how often soever repeated, were binding, if they were not reasonable in themselves 54.

Whatever the merit of the various arguments, the commons objected to the alteration of the money bill and rejected it by a large majority, 147 votes to 59.

The Lords were by this session becoming increasingly involved in the conflict of party; they supported the opposition in the Commons and, by virtue of the Lords' heavy concentration of bishops, were intimately involved in the conflicts of Convocation. But the major issue of the session in the Lords was the non-party question of their jurisdictional rights. This problem had arisen yet again as a result of litigation

between the government and the tobacco merchants. The merchants lost a plea against taxation in the Irish Court of Exchequer but had the decision reversed on appeal to the Irish Lords. Fears that the government might remove the case to the English Lords revived the question of the independence of the Irish Parliament. Lord Mountalexander led the debate on this proposing that they re-read their resolutions on the 1704 Earl of Meath's case, which had been a de facto success for the Irish Lords<sup>55</sup>. Addison reported that

The case of the Earl of Meath in the last reign is often talked of in this country but with a secret kind of Triumph.... There is indeed a great reluctancy in all sorts of people here to the having it thought that they are a Conquered and dependent kingdom<sup>56</sup>.

Wharton decided not to pursue the case, for, as Addison remarked, if the Lord Lieutenant took the case to England he would be of little further use to her Majesty in Dublin. Wharton's final session as Lord Lieutenant the following summer was less contentious, but by then the political manoeuvres of Robert Harley at Court had already excited the expectation of a change in Ireland, and following the Tory electoral victory in England, the Duke of Ormonde was reinstated as Lord Lieutenant of Ireland in October 1710.

Under Ormonde's second viceroyalty the now established changeover of government officers put the Brodricks back in

opposition. On opening the parliament in 1711 Ormonde found a ferment of party activity, with the Tories leading the contest. In the Commons, the Irish Tories drew attention to their changed fortune by denying any continuity with the previous administration. They constantly denounced Wharton's management of the country and particularly his favouring the Dissenters. As part of the campaign an address was drawn up thanking the Queen for "restoring Ireland to the British nation". The Whigs tried, during the debate on this address, to substitute the phrase "support and maintain" for "restore", but were defeated<sup>57</sup>. With the help of the Tories Ormonde was successful in getting a two year supply bill through the House, although he later lost a government corn or tillage, bill.

Despite being in a minority on a party issue, the Brodricks were able to rally support against the tillage bill. The Commons had drawn up Heads of a tillage bill, however, on its return to the Irish parliament it was found that the bill reserved powers for the Dublin government to prohibit on all the export of corn as they saw fit. Brodrick and Molesworth led the opposition to the bill. They argued that the bill contained clauses "prejudicial to the interests of the Country", because of the powers it allowed to the Lord Lieutenant and Irish Privy Council. Those opposing the bill also argued that the Crown had no

prerogative to hinder the export of corn except in extreme emergencies. However, the main complaint was that it made the colonists subject to the Dublin executive, and constitutional grievances were invoked to support this point. John Perceval reported the opposition as arguing,

...that we groaned sufficiently under the Shackles of Poynings Law which subjects us to the Council Board in England, and that being sensible of a mangled and torn constitution, we ought not to make our condition worse, by still subjecting ourselves to the pleasure of the Board<sup>58</sup> in Ireland, so apt to strain their power .

The opposition's case was accepted in this instance and the bill was rejected 109 votes to 105<sup>59</sup>.

The Lords acquired a more pronounced party structure in the 1711 session. One aspect of this was a dispute with the Commons. The conflict between the two Houses arose over a request for a grant by Trinity College for a new library. In 1709 Trinity had petitioned for a grant of 5,000 towards the cost of the library; and Dopping, then in opposition, introduced a motion seeking a bounty from the Queen for this purpose. The motion was sure to pass but Brodricks had managed to append a clause specifying that the grant be given to Trinity in recognition of the

...steady Adherence of the Provost and Fellows of the said College to the late happy Revolution, her present Majesty's Government, and the succession in the Protestant Line as by Law established [and] for the Encouragement of good Literature and sound Revolution Principles".<sup>60</sup>

An explicit dig at the supposed Jacobite sympathies of the College authorities. In 1711 the Irish House of Lords took issue with the wording of this appeal; they objected that the phrase "Revolution Principles", "...justified the execrable murder of K. Charles I," and that the Commons did not make it clear that this referred only to the recent Williamite revolution. The Commons felt themselves maligned and replied with a further address to the Queen on this misrepresentation. They did admit that they were not entirely happy about the reasons specified for the grant in the first address, and clarified that by "Revolution Principles" they meant the preservation of their lives, liberty and property <sup>61</sup>. These party disputes within and between the two Houses of Parliament made its management difficult but were minor compared with the growing extra-parliamentary party disputes.

A principal platform for the expression of party divisions at this time were the Dublin mayoralty elections. These elections had a considerable political significance because no general election had been held since 1703. The Mayor was elected annually from among the aldermen and it was usual that the most senior man be elected; the choice then had to be ratified by the Irish Privy Council. The City of Dublin Council had a Whig

majority which felt sufficiently confident during Wharton's viceroyalty to bypass Robert Constantine, the most senior alderman, because they suspected him of Tory sympathies. A complaint to the Privy Council was shrugged aside by Wharton, who confirmed the "honest man" elected to the post<sup>62</sup>. In 1711 Constantine again appealed to the government and the case was taken up by the new Lord Chancellor, Sir Constantine Phipps. The dispute began on the straightforward question of seniority but the party motives involved quickly turned it into a series of more complicated issues. Central to these was the question of whether the office of Mayor was elective or successive. Constantine took his stand on an ancient bye-law specifying descent of office to the most senior alderman, and he claimed further that the outgoing Mayor had the right by precedent, to nominate three candidates from whom the aldermen must elect one. The political objections to Constantine soon, also, by virtue of his stand on seniority, a conflict between the generations, the younger members of the Council soon being foremost in the ensuing disputes. And with the vetoing of the Mayoralty elections in 1711, the Privy Council ran against the Whig principle of independent corporations<sup>63</sup>

In 1711, after seven successive elections of



Mayors, all of whom were rejected by the Privy Council, a compromise was reached whereby Robert Constantine resigned and a government appointee, Ralph Gore, was elected with two Whig Sherriffs. Alan Brodrick saw this as a victory for the Whigs,

Gore gives all assurances of doing good things, is really an honest man though a little too high: but I think the City have carried their point that the magistracy is elective and not successive and Constantine shall not be Mayor by [the] help of his N[ame]sake.

Whereas Edward Southwell, the Secretary of State for Ireland, felt Constantine's resignation "preserved the government's point about seniority"<sup>64</sup>.

The principle of whether the Mayor be decided upon by succession or election had not been resolved, and it re-emerged in 1713 as the Queen moved from a reliance on Robert Harley, now Earl of Oxford, towards the high Tory Bolingbroke and the more extreme Tories. Events in England, however, were by then less important to the Dublin Aldermen whose conflict with the Privy Council had assumed a dynamic of its own. In April 1713 the Aldermen elected Stoyte, a young radical Whig, as Mayor, but he was rejected by the Council at the behest of the Lord Chancellor. Phipps then came up with the idea of having the incumbent Lord Mayor held over for a year and gained legal sanction for this move. Writing to England, Phipps represented the actions of the

Aldermen as purely political, that is whiggish, and he was supported in his efforts against them by Bolingbroke<sup>65</sup>. In the midst of the debates Ormonde was replaced as Lord Lieutenant by the moderate Duke of Shrewsbury, in September 1713. On his arrival in Dublin, Shrewsbury found both sides equally obstinate and having devised a compromise which Phipps would accept he found that the Lord Chancellor no longer supported the measure when agreed to by the aldermen. Shrewsbury then saw Phipps as the chief stumbling-block in this affair: "...the Lord Chancellor... seems to think nothing so valuable as the carrying this dispute against the City, by which he makes himself popular with the Lords of this Council, puffed up with the same conceit."<sup>66</sup> The Privy Council was not entirely in Phipps' pocket; a small group led by Archbishop King supported the Aldermen and presumably thereby hardened attitudes in the Council. The polarisation on this question was so complete that it was not finally resolved until after the Hanoverian succession, when the principle of election was upheld<sup>67</sup>.

If the City of Dublin affair followed the changes of party fortunes between 1709 and 1714, the election of 1713 showed party antagonisms at a height. The level of conflict was partly due to the extremes of party division in England and the importance placed on

Irish events by English ministers, but it was also due to the entrenched attitudes of the party men in Ireland. With the peace of Utrecht and commercial treaties with France, many of the Tories who had supported Harley gave support to the Whigs as the impending succession became their primary concern. The moderate Tories were further estranged from the government in the summer of 1713 as ill health removed Harley from Court and left Anne to the counsels of Henry St. John, Lord Bolingbroke. With the advent of elections in England, it was decided to call one in Ireland as well, in the hope of establishing a Tory majority in the Commons. The delicate balance of Whig and Tory in England gave the possible outcome of the Irish election an unwonted importance at Westminster and made both parties here more determined to gain a majority. There were indigenous spurs to action as well, in the Dublin dispute, the behaviour of Phipps as Lord Chancellor, and the prospect of government office

68 .

The election of 1713 was, one of the most violent occasions the colonists had yet experienced. A week before the election a gathering to honour William III's birthday at the Tholsel ended in a riot when some Tories, including a servant of Phipp's, objected to a whiggish speech. At the election itself there were further incidents; in Dublin city the crowd at one poll

claimed that its siting favoured one party against the other and a riot ensued in which one man was killed. The Lord Lieutenant was forced to the expedient of two separate locations for the election<sup>69</sup>. The speculation immediately after the election was that the Tories had won but it soon became apparent that the Whigs would have a majority, leaving Ireland out of step with events in England where the Tories had been victorious. The session of parliament which followed this election was to last just under a month and was given over to party conflict<sup>70</sup>.

Shrewbury's opening speech advised calm and unity, but to no avail. There was a contest for the Speakership for the first time in a century, with the government candidate, Richard Levinge, being defeated by Alan Brodrick. Shrewsbury began the session with a money bill; on presenting this Alan Brodrick took the occasion to attack the government's, and by intimation Phipps', handling of the mayoralty dispute. The Whigs then opposed the money bill making it clear that it would pass only if Phipps were removed. In its address to the Queen requesting his removal the Commons cited against him the fomenting of parties and the refusal to prosecute the printer Edward Lloyd for publishing a Jacobite work, the Memoirs of the Chevalier de St George<sup>71</sup>. The campaign against Phipps reinforced the

division between the Lords and Commons, the Lords sending a counter-petition to the Queen in Phipps' favour. As Bolingbroke still supported Phipps, Shrewsbury despaired of managing the parliament and prorogued it, having gained only three months' supply. In the recess Shrewsbury attempted to get an undertaking of better behaviour from the leaders of the Commons but it came to nothing. The following months until Anne's death in August 1714, saw this height of party activity carried outside parliament, the Whigs knowing themselves to be a majority and Bolingbroke being determined that Ireland must proceed "on the same foot" with England<sup>72</sup>. Yet the following year the pitch of party fever had died out almost completely, after the accession of George I established the Whigs in government.

The rise of party politics in Ireland under Anne created an atmosphere of political ferment in parliament and outside it. Certain elements of this political ferment were to remain following the decline in party politics after 1714. Within the Irish parliament opposition to the government by one group or another had become a set pattern. Outside parliament a wider public had become involved in political life as occasions ranging from mayoralty elections to plays had taken on an importance for the discussion of current political events. The dissemination of political

opinions through broadsheets and pamphlets had also become established. Thus, party politics had created an audience and more opportunities for political dissent to be voiced which was to affect the development of colonial nationalism over the coming decade.

The emphasis in Anne's reign was, therefore, on party, but it was not the only element in political motivation. For running through the debates of these sessions was the recurring theme of colonial independence. The question of Ireland's historical rights continued to be debated for a number of different reasons. It came up during the six years 1703-9, when an Anglo-Irish union was canvassed by colonists. The wish for a union had much to do with their wish to be represented in all legislation for Ireland. A union would also recognise an equality between Britain and Ireland which the colonists felt was otherwise threatened by the actions of the British Parliament. Molyneux's Case of Ireland was reprinted in 1706 during these discussions and so the arguments for both union and historical independence continued to be available to the colonists. By 1709 it was clear that no union would be forthcoming and reliance could only be put on independence under the Crown.

The Lords were reminded of their jurisdictional claims in the 1704 Meath case and the 1709 tobacco merchants' case, though both were kept from becoming constitutional issues along the lines of the Bishop of Derry's case in 1698-9, because for reasons of party politics the Lords Lieutenant felt it better to avoid any such conflict. Debates in the Irish House of Commons also kept constitutional claims to the forefront of colonial politics, even if they were being used to score party points. In the 1703-4 and the 1704-5 sessions of parliament, the Whig, Alan Brodrick, and others set up in opposition to Ormonde over the question of money bills. In both sessions this opposition group argued against granting supplies for more than one year, because of the country's poverty due to English legislation and because the government needed to be tied to annual parliaments.

In 1709 the Tory opposition followed the Whig's earlier example by trying to ensure that the supply would be spent on Ireland. The alteration of this bill in England gave the opposition a reason for a full scale debate on England's power over Irish legislation with the result that the altered bill was rejected. In 1711 Alan Brodrick, again in opposition, was able to defeat the government's corn bill by arguing that it was against the country's interest to give the English

ministers any greater power here.

In all these debates on Ireland's constitutional rights the colonists argued by reference to precedents from Common Law. However cynical the party leaders were in using such arguments, their speeches kept them current and clearly attracted the votes of the more moderate members. These conflicts with the Dublin executive never developed so far that the colonists had to look beyond the old reliance on precedent. Only on one occasion, the debate on the money bill in 1709, did the opposition find their arguments countered by other precedents produced by those colonists then supporting the government. At this point the leader of the opposition was drawn to argue against alteration of bills as 'unreasonable'. In all other cases, precedents reflecting those used in Molyneux's Case were sufficient for the colonists. George Berkeley, later Bishop of Cloyne, was an exception to this rule, for in considering the relationship between Crown and subject in 1709, he directed John Perceval to Locke's Two Treatises, 73 but this was not yet a source taken up by the colonists.



CHAPTER IV: POLITICS AND IDENTITY - THE CONSOLIDATION OF  
COLONIAL NATIONALISM, 1714 - 1720

The period 1714 - 20 was a decisive one for the development of colonial nationalism in Ireland. Two elements mark it out as an important phase in the colonists' pursuit of self-government: a shift in the theoretical argument for independence and the growth of a distinctive colonial identity.

Party conflict died down fairly quickly with the accession of George I and the ascendance of the Whigs. The Irish election of 1715 confirmed the dominance of the Whigs in the Commons and the English ministers hoped to have a more compliant parliament in Dublin. Such hopes were dispelled, however, when a split among the Irish Whigs established an opposition group which could, with Tory support, successfully oppose or delay government bills. In effect it was a return to Court and Country politics, with the opposition using arguments of the national interest. Thus, the colonists continued to retain some control over finance and legislation, and the English ministers had to negotiate compromises in order to manage the session.

The predominantly Tory House of Lords was even less willing to come into government measures, and with the re-emergence of the jurisdiction question in 1717, the English ministers continued to face opposition in the Lords. Since the 1690s the issue of the Lords' jurisdiction, of whether the Irish Lords formed the final court of appeal in Irish cases, had been forcing the colonists to define their judicial rights with regard to Britain. Conflict arose again in 1717 with the *Sherlock v. Annesley* case, and led to the resolution of this issue with the Declaratory Act of 1720 which asserted Britain's judicial superiority. The revival of this debate led the colonists to delve again into Common Law, to defend their jurisdiction and restate their claim that Ireland was independent subject only to the British monarch. Molyneux's Case of Ireland was reprinted twice, in 1719 and again in 1720, and was being widely read. But the arguments in the Case were not being rediscovered for the colonists had been continuously referring to such arguments in the intervening years since its first publication in 1698. Those closely involved in defending the Lords' jurisdiction went further than Molyneux's Case by examining for themselves the sources for judicial precedents. With the passing of the Declaratory Act, however, the colonists began to realise that resorting to precedent was redundant, and they had to look again at the basis of their arguments for the right to self-government.

Between 1714 and 1720, the political conflict with Britain was given a social dimension in the development of a more defined colonial identity. In the early 1690s, the colonists had most frequently referred to themselves as the Protestants of Ireland

or the Englishmen of this country. Their clashes with the British government, however, had eroded their identification with England. The ambiguity of their sense of identity was made explicit during the debates on a possible Anglo-Irish union early in the Eighteenth century. The feeling of not being English was enunciated by Alan Brodrick in 1712: "...If I remove to England... I shall be thought...(what of all things I would least chuse to be) an Irishman."<sup>1</sup> But the distinction between the Anglo-Irish and the English was greatly increased in the years after the Hanoverian succession because the British ministers adopted a policy of appointing Englishmen to important posts, ecclesiastical, judicial and military, in Ireland. Such a policy had been adopted before but was more effective over these years due to continued Whig government from England.

There was an important interaction between identity and politics. Thus, the first four judges appointed in the new reign came from England, and three of these were to be of critical importance in turning the clash over jurisdiction in 1717 into a major constitutional conflict. This interaction of identity and politics is more clearly seen in the results of the appointment of English clerics to Irish sees. The incumbent Bishops began to refer to themselves as the Irish interest in opposition to the new Englishmen. This distinction was not merely a reaction to their own loss of promotion and patronage but was accentuated by political divisions between the two groups, the Englishmen voting invariably with the government against the Irish bishops, who were frequently in opposition. In the three sessions 1715 - 19, the most contentious issues in the House of Lords were the proposed repeal of the Sacramental Test and the dispute over the Lords'

jurisdiction, and on both of these issues the English bishops voted with the government and all the Irish bishops against.

The defense of Ireland's political rights had cut the colonists off from England and the imposition of Englishmen who stood out against Ireland's independence strengthened the colonists' sense of identity as Irish, and this in turn increased their determination to pursue self-government.

By late 1715 the Whigs were firmly established in power in Britain. The Irish Whigs hoped to monopolize government offices and their expectations were largely to be fulfilled. The radical Whig, Robert Molesworth, who was close to the new English ministers, outlined the proposed policy of appointments in Ireland to Archbishop King:

...'tis resolved we shall have a thorough reformation, and 'twill be our own faults if we make not a right use of it... Mr. Brodrick will be our Lord Chancellor and we shall have such a set of Privy Councillors and Judges (these last almost entirely new) as your Grace and all good people could wish for; there will be a great change in all subordinate civil employments and bishopricks filled with such worthy men as the Archbishop of Canterbury's recommendation and<sub>2</sub> your Grace's approbation shall determine upon.

Lord Sunderland, the new Lieutenant, informed King that appointments would be made by reference to the Dublin Mayoralty dispute:

His Majesty has been further pleased to dissolve the old Privy Council and to constitute a new one, in which all the persons that have acted irregularly in the great affair of the City of Dublin are left out and several others of the greatest<sub>3</sub> note and fortune in the Kingdom put in.

What Lord Sunderland did not relate to King was that he felt the appointment of Englishmen would be even better for the King's service.

With the policy of appointing Whigs, the English ministers hoped to ensure the easy management of Irish affairs. A compliant Irish parliament, however, continued to elude the ministers at Whitehall. Soon after the start of the session, in November 1715, opposition arose in the Commons. The Tories objected to the government's money bill by reviving the old controversy of the sole right. The denuded Tory benches could hardly have expected much support and yet, the Lords Justices, Grafton and Galway, reported that "...this being a very popular subject [the Tory, Henry Singleton] was seconded by some of the young members who are otherwise not ill affected," but it was dropped in debate.<sup>5</sup> The Tory opposition had recovered some ground in the Commons on this issue because of a more ominous development for the government's strategy - a split among the Whigs.

The cause of this division was precisely that patronage which the government thought fit to dispense in favour of the Irish Whigs. The problem, as the Chief Secretary, Charles Delafaye, realised, was that too many people had expectations for, "having voted against Phipps, they all expect recompense."<sup>6</sup> In addition to the problem of patronage there was the old rivalry between William Conolly and the Brodricks which came to the fore during the 1715 - 16 session. Both Conolly and St. John Brodrick, who had taken his father's place as the family's leader in the Commons, gained important parliamentary offices, though Conolly had the edge in being elected Speaker. Conolly had the further advantage of being closely associated with Delafaye, who directed much government patronage and this had the effect of alienating the Brodricks and their allies.

St. John Brodrick had given covert support to the Tories in their opposition to the government's money bill. By December, however, he began to lead the opposition to the government and was reported to be "forming a Country Party."<sup>7</sup> The occasion for Brodrick's opposition was the Lords Justices' appeal for extra funds. A supply bill was to take its rise in the Irish Commons so no objections could be made by reference to the sole right. Brodrick did not argue against giving the government further supplies (which would have been difficult given the recent Jacobite Rising in Scotland), but he questioned the government's subsequent use of money granted by the Irish parliament. During the debates on the money bill St. John Brodrick attacked the English ministers' habit of granting pensions with money from the Irish Establishment. The Chief Secretary, Delafaye, reported:

The popular arguments used against it are, That when once they give a new Fund it becomes perpetual. That if our Treasury overflows you in England draw away the money by King's letters for Bounty's and Pensions. That of those many are given to undeserving people, to persons who live out of this Kingdom so that the little money we can get, whom you deprive of all means of trading abroad, is drawn off to England.<sup>8</sup>

Thus, the opposition were again using the argument of Ireland's interest. Brodrick was successful in restricting the government's use of money granted for Half-pay officers, and he managed to tack a clause to the supply bill taxing absentees and pensioners.<sup>9</sup>

The government obtained its extra funds but Brodrick continued to pursue the question of pensions and the Commons agreed to draw up and examine a list of all those currently in receipt of pensions. The prospect of such an investigation was an

embarrassment to the Dublin executive and Delafaye was eventually brought to suggest that,

...would it not be better then to avoid cautiously all stumbling Blocks of offence, and by retrenching some ungracious Pensions, by declaring no more shall be put on and by giving them some favourite bills or other popular acts, to put them into a good humour, as to get them to acquiesce in our keeping up the present number of troops.<sup>10</sup>

Brodrick's opposition had therefore not decreased the money granted to the government but he had restricted the use to be made of it. The Dublin executive realised that where the argument of the national interest could be used, such as on the question of pensions, even the government's undertakers would have to vote with the opposition, or be of no use in the future.<sup>11</sup>

The Jacobite rising in Scotland had undoubtedly encouraged the Irish Commons to provide extra funds for the government. The Scottish rising did not, however, induce the Commons to support the government's policy of allowing greater toleration to the Dissenters. Heads of a bill for the further security of his Majesty's person were drawn up in the Commons before the Christmas recess. In January, William Conolly and others of the government's supporters argued for a clause to be tacked to these Heads, exempting the Presbyterians from the Test Act for commissions in the militia and army. The proposal was objected to by St. John Brodrick and the Tory members because it was perpetual and they managed to limit the exemption for commissions in the army to ten years. The Heads of this bill passed a first reading in May 1716 but it was then postponed and dropped with the end of the session. On this issue, the Irish Whigs were still disinclined to support the views of their English counterparts.<sup>12</sup>

Having done what they could to secure a Whig Commons, the English ministers had turned their attention to the Tory-dominated House of Lords. Some readjustment had been made by the creation of eleven Whig peers in 1715. Robert Molesworth believed that,

...all our difficulty in Ireland will be to have a good House of Lords. You know what an odd set of men commonly attends there, and I can<sup>13</sup> think of no speedy way of mending it.

Molesworth was undoubtedly thinking of the bishops, who were usually Tory-inclined, and frequently formed a majority in the House, being more active attenders than the temporal Peers. Little arose to test the political composition of the Lords in the 1715 - 16 session. There were debates on the Heads of a bill for the further security of his Majesty's person, but on the issue of toleration, the whiggish bishops like King and Synge were at one with the Tories. The appointment of Englishmen to Irish bishoprics, which was later to alter the ecclesiastical consensus on this issue, had not yet proceeded far enough to give the government much support in these debates.<sup>14</sup>

The problem for the government in providing a compliant House of Lords clearly lay in managing the bishops. By chance, a large number of episcopal vacancies occurred between 1714 -20, and this allowed the government to appoint many whig bishops. The continuity of Whig government in England gave this policy an impact lost in the political changes of Queen Anne's reign. Furthermore, the government's policy was to appoint English Whigs, and this had a striking effect on the House of Lords where political affiliation soon came to be defined as being in the Irish or English interest rather than as Whig and Tory.<sup>15</sup> Englishmen were being appointed in other areas but the episcopal



appointments were more important to the development of the colonists' identity, and in sharpening the distinction between them and those newly arrived from England, because of the political dimension. The English bishops in the Irish Lords voted consistently for all government bills and this was felt by the colonists to pose a threat even greater than the immediate loss of employment.

The objection of the Irish clergy to the appointment of Englishmen was clearly rooted in self-interest. It was felt that the Church of Ireland would show a decrease in ordinands and that standards at Trinity College Dublin would decline leaving the Church with ill-educated candidates. It was an unease reflected in the views of the gentry; Alan Brodrick decided against sending his son to Trinity at this time because he felt that

...whoever proposes to come to anything considerable hereafter must make England the theatre he resolves to appear on... /for some/ of real merit fare like our best Clergymen and never rise by attending their cures.<sup>16</sup>

Not only were the English clerics seen as displacing deserving Irishmen but the colonists believed the Church would suffer because of the grasping nature of those appointed from England. That the English appointees were granted some of the most profitable Irish Sees reinforced the colonists' belief that the English bishops were largely motivated by greed. Archbishop King, who had hoped to dictate many appointments, was particularly vocal against the English clerics. As well as accusing them of avarice, King implied that they were the heretics of the Church of England, sent over to relieve Canterbury of their charge. <sup>17</sup>

The translation of William Nicolson, Bishop of Carlisle, to Derry in 1718 became something of a cause célèbre among the Irish bishops and is a useful guide to the truths and errors of the colonists' case. Nicolson was unfortunate in being the fifth Englishman appointed to an Irish bishopric in four years and even more unfortunate that he should be sent to Archbishop King's old See of Derry. As an active and reforming Bishop of Derry, King had transformed a See which was isolated and in a strongly Presbyterian area. King had continued to take an interest in Derry after his promotion to Dublin but the three succeeding incumbents, two of them Englishmen, did not live up to his expectations.<sup>18</sup>

The appointment of Nicolson, therefore, seemed to him a final blow and caused him to attack Archbishop Wake for the general trend of appointing Englishmen, in the particular case of Nicolson:

Since the Person nominated for the Bishoprick of Derry is so very useful to your Grace, I have been thinking of a way, by which your Grace may have the benefit of his Assistance, without hurting his wife or family. I do consider that a man may govern a Country Diocese in Ireland as well if he live in London as in Dublin; that he will have so many and strong precedents to justify him on the Practice... and so without any Trouble, or giving himself pain of visiting a miserable country he may get above two thousand pounds per annum.<sup>19</sup>

In a later more composed mood King admitted that Nicolson was well suited to the post but he stuck to the remaining, and more justified, argument that it could have been as well supplied by someone from Ireland, and that the interest of the Kingdom should come before that of an individual, however worthy.

Archbishop King became the leader of the Irish interest in the House of Lords, showing little regard for the English Bishops whom he referred to as "foreigners." His animosity was equalled on the other side by John Evans, the Leader of the English interest, who had been translated from Bangor to Meath in 1715. Evans encouraged the government to appoint Englishmen in Ireland and countered King by referring to the colonists as the "natives." Bishop Evans was convinced that the colonists were quite separate from the English interest, and that their opposition to the government was a means "to steal us into an independence."<sup>20</sup>

The objections of the Irish bishops to the appointment of English clerics had initially arisen from self-interest but as Bishop Evans surmised it assumed a political dimension when it became clear that the English bishops always voted with the government. It was this aspect of the clerical appointments which also interested the other colonists. Few of the Anglo-Irish gentry showed much concern for the welfare of the Church of Ireland but the English bishops were seen as threatening the colonial interest by virtue of their voting habits in the Lords. Edward Synge, Archbishop of Tuam, outlined the political aspect of the new appointments to Archbishop Wake of Canterbury:

His Majesty no doubt, may from Time to Time supply the vacancies of the Bishops Bench with Persons from England. But if such Persons (as they one by one come in) shall be found to oppose what both Lords and Commons are... uni-  
versally persuaded to be the Right of the Kingdom, they will have but an uneasy Time of it; And the consequence I fear will be a General Dissatisfaction<sup>21</sup> throughout the Kingdom.

Two issues which arose during the 1717 and 1719 sessions of the Irish parliament made Synge's supposition correct. The Lords' jurisdiction and the repeal of the Test Act featured as the most contentious issues of the two sessions, and on both the English bishops voted with the government. In 1717, the English bishops and Alan Brodrick, the Lord Chancellor, were almost the sole dissentients in a vote on the *Sherlock v Annesley* case which resurrected the question of whether the Irish Lords were the final court of appeal in Irish cases. When this came up in 1719, the English bishops and the Lord Chancellor were again the chief objectors. The repeal of the Test Act was only sounded out in 1717 but was pressed by the government in 1719. During that session the government managed to put through a limited repeal with the assistance of Evans and his supporters.<sup>22</sup> The colonists' identity was, therefore, more clearly delineated by the political distinction between an Irish and English interest, which the behaviour of the English bishops in the Irish Lords emphasised.

In appointing Englishmen to Irish bishoprics, the British government hoped to produce a Whig majority in the Irish House of Lords. Internal divisions in the government, however, delayed their testing this policy in 1717. In the spring of 1717 animosities between two rival groups within the English Whig ministry came to a head, the immediate reasons being the King's foreign policy and the ubiquity of his German advisers at the English Court. James Stanhope and Lord Sunderland, who had supported George I in his European alliances, remained in office while Lord Townshend and Robert Walpole withdrew from their posts in

government. This move had two direct implications for Ireland; first, the government were keen to ensure an uncontentious session here and, second, because Walpole was voting with the Tories, they had to postpone any alteration of the penal legislation against Dissenters.

The resignation of Townshend and Walpole from government led to various ministerial changes. Townshend, recently made Viceroy of Ireland, was replaced by the Duke of Bolton, while Joseph Addison took over as Chief Secretary in Ireland. Both Bolton and Addison were on friendly terms with the Brodrick family and so the relative advantages of being close to the Castle were now transferred from William Conolly to the Brodricks, who worked hard to manage the following session of parliament.

During the 1717 session two issues, the Test Act and the Lords' jurisdiction (which were later to embroil the 1719 session), arose but were contained by the efforts of the Lord Chancellor. Brodrick advised the ministers in England to adopt two strategies for Ireland; the first was to avoid bringing in any toleration for the Dissenters and the second was to reduce the Establishment, particularly with regard to pensions, the issue which his son had pursued from the opposition benches in the previous session. Bolton's address opening the Parliament demonstrated that he was following Alan Brodrick's advice. Although seeking supplies to reduce the national debt, Bolton pointed to recent cuts in the military list and pensions, and for once no reference was made to easing the dissenting Protestants. The tactic proved successful in producing supplies and having a quiet session in the Commons, but managing the House of Lords proved more difficult.

The vexed question of whether the Irish Lords formed the final resort for Irish cases recurred in 1717 with the Sherlock v Annesley case. Alan Brodrick was convinced that Maurice Annesley had been encouraged to appeal to the British Lords by those who wanted to upset the government in Ireland, and that Hester Sherlock had been "spirited up" to prosecute her appeal in the Irish Lords for the same reason. Brodrick's opposition to the case was primarily political, because he saw the case as disrupting his parliament. On legal grounds he felt both Houses of Lords claimed too much for themselves. Few of the colonists had his reservations about the extent of the Irish Lords' jurisdiction, and despite Brodrick's attempts as Lord Chancellor to avoid bringing the case up, the Irish Lords voted "...to support its Honour, Jurisdiction and Privileges [and to grant] Hester Sherlock effectual Relief."<sup>24</sup> The Lords were almost unanimous in this, as Brodrick reported to Addison, "...there was the same spirit in the Lords of every bench without distinction between Whigs and Tories... so fond is human nature of power;"<sup>25</sup> that the whig King and the tory Lindsay were prominent in this defence confirmed his point. The Lords' stand was for the colonial interest, a point clarified by the almost single dissent of the English Bishops on this issue.

In September 1717, the Lords defended their resolution in favour of Mrs. Sherlock, by citing the 1704 Meath case. The success of this recent case did not deter them from bringing up all the earlier judicial precedents which came to hand. The debates on the Sherlock case also led the Lords to outline Ireland's right under Common Law to legislative and judicial independence.<sup>26</sup> In an attempt to dissuade the Lords from coming to a resolution,

Alan Brodrick argued that as Ireland was bound by English laws, the English parliament had a right to interpret them. This evoked the reply, particularly from Archbishop Lindsay of Armagh, that as King John had ruled here without any subordination to his father, Ireland was independent and should never in the first place have been subject to English laws.<sup>27</sup> Most of the discussions were conducted along these lines; however, at one point the weakness inherent in such a reliance on precedents became apparent. During one debate, Lord Abercorn, one of the principal advocates of the Irish Lords' judicial rights, argued that superior judicial powers implied superior legislative powers and "that if laws were made without their representatives they were slaves." When confronted by the argument that Britain did in fact make laws for Ireland, Abercorn was forced to denounce "the unreasonableness of such laws binding them," rather than that it was against precedent for them to do so.<sup>28</sup> The debate was resolved for the meantime by confirming Mrs. Sherlock in possession of the disputed lands.

The 1719 session was to be a momentous one for the colonists, the politics of Westminster unleashing those problems which the ministers had sought to contain in Ireland during 1717. By 1719, the Sunderland/Stanhope ministry had turned from the pursuit of foreign alliances to a detailed plan for securing their power base in the British parliament. The most important aspects of this plan were: the South Sea scheme to reduce the national debt, the granting of relief to the Dissenters, the loosening of the Established Church's hold over the Universities, the extension of the Septennial Act, and a Peerage Bill which would restrict further creations to the House of Lords. The approach to Ireland

was now as an element in the overall plan, rather than a side-show to be kept peaceful. Of this plan it was toleration for the Dissenters and the Peerage bill which were to affect Ireland directly, and both were being promoted by the able and ambitious new Secretary of State, James Craggs.

Early in the 1718 - 19 session at Westminster the ministry attempted to bring in a comprehensive repeal of penal legislation affecting the Dissenters. Some of their own members, however, deserted the government on this question and only the Occasional Conformity and Schism Acts were taken off the statute books. Instead of dropping the issue, the ministers urged the Lord Lieutenant Bolton to push for toleration during the Irish parliamentary session, despite all the previous resistance in Dublin to any such weakening of the Church of Ireland.

There was no reason to suppose that the Irish Commons had altered its attitude on toleration. When opening the 1719 session in Ireland Bolton pleaded for a good union between all Protestants because of the Jacobite invasion of Britain, but this had previously only had a limited effect and St. John Brodrick, who would have supported some toleration when in power, was once again in opposition. Bolton realised that a full repeal of the Test Act could not be attempted and the government's bill was dropped in favour of more restrictive measures drawn up by the Irish Commons. These Heads were eventually accepted by the Irish Commons, because the ministry was so intent on some measure of relief; however it granted little more than the freedom from prosecution which simply legalised a toleration the Dissenters already enjoyed. Even this



meagre concession was strenuously fought in the Lords, and the Commons bill ultimately passed in the Upper House only because the English bishops, somewhat reluctantly, swung their votes behind it.<sup>29</sup>

The argument used by the government to promote some measure of toleration was emigration for it had become evident that the Presbyterians were going to America in considerable numbers. The government claimed that this was the result of religious discrimination and caused a weakening of the Protestant interest. The leaders of the Irish and English bishops, King and Evans, felt it incumbent on them to defend the Church from the implied attack, and both blamed the landlords for increasing the rents which allowed Catholics, who "bid higher and live cheaper," to displace Protestants.<sup>30</sup> The Presbyterians themselves blamed religious intolerance; what they wanted was a complete toleration and the repeal of the Sacramental Test, to which end they had been lobbying the English ministers since the accession of George I. By taking the stand they did on this issue, the government may have felt they were easing the Presbyterians' lot, honouring a Whig principle and, perhaps more to the point, embarrassing Walpole and the opposition, who had defeated the government's attempts to bring in a comprehensive toleration bill in Britain. But by pushing toleration in Ireland, the government created even greater divisions between themselves and the colonists, and by accepting a compromise bill, evoked little gratitude from the Presbyterians. In retaliation for the Toleration Act certain Lords rallied a majority to reject the ministry's Popery bill, which again served to mark out the English bishops who supported the government.<sup>31</sup>

The Irish Lords' defence of their judicial rights in the 1719 session was to have more serious repercussions for Anglo-Irish relations than the divisions occasioned by the Toleration Act. The refusal of the British Lords to recognise the right of the Irish Peers to exercise final jurisdiction here went back to the Bishop of Derry's case in 1698. In that instance the English Lords had been able to enforce their order in favour of the Society but they failed to pursue the Meath case in 1704. Furthermore, the government's avoidance of a dispute which might have involved an appeal to England in 1711 gave the Irish parliament some assurance of having vindicated its right to be considered the final court of appeal for all Irish cases.<sup>32</sup>

This essentially constitutional issue had arisen again in 1717 when the Irish Lords' judgement on the Sherlock v Annesley case was sent as an appeal to the English Lords. The dispute was over the title to certain lands in Kildare which had been allowed to Maurice Annesley by the Irish Court of the Exchequer but were granted to Mrs. Sherlock on her appeal to the Irish Lords. Annesley then lodged a counter appeal with the English Lords on two grounds: that the Irish House of Lords had no power to hear appeals from the Court of Exchequer and that if they did, he was still petitioning against their decree in this case. The English Lords accepted the appeal in June 1717 and ordered the Irish Barons of the Exchequer to put Annesley in possession of the disputed lands at least for the duration of the appeal. The Irish Peers had responded by confirming their verdict in favour of Sherlock the following October, and supported by this, the High Sheriff of Kildare, Alexander Burrowes, refused

to enforce the Barons' injunction. The English Lords again ordered the Barons to put Annesley into possession and when this failed, ordered that Burrowes be taken into custody. More importantly for the constitutional ramifications of the case, they declared the earlier judgement of the Irish Lords to be coram non judice.<sup>33</sup> By this time the dispute revolved around three separate issues: the practical question of who had title to the Kildare lands, and the judicial and constitutional questions of whether the Irish Lords had a right to accept Exchequer appeals and whether the English House formed a superior court of jurisdiction. It was to all of these issues, but principally the last point, that the Irish Lords turned their attention when the Parliament reconvened in June 1719.

Archbishop King introduced the case in the 1719 session by bringing in the petition of Alexander Burrowes, seeking relief from the fines imposed on him by the Barons for failing to execute their orders in Kildare. A Lords' committee was formed to investigate the matter, chaired by John Stearne, Bishop of Clogher, but run largely by Archbishops King and Synge. The point at issue was why the Barons had chosen to follow a decree of the English Lords against the prior judgement of the Irish House. The Chief Baron, John Gilbert, was unequivocal in his reply: "I am not answerable to the Lords of Ireland but the Lords of Great Britain," though his colleagues, Barons Pocklington and St. Leger, were less assured and felt themselves to be in "an unhappy position between the two Houses."<sup>34</sup> The committee's principal charge against the Barons was that they had disregarded the oath of office in which they pledged their

support for the royal prerogative and the powers of the Chief Governor and Council of Ireland. As the committee held that only the King, and not the British parliament, had any right to intervene in Irish jurisdiction, they ruled that the Barons had broken their oath in the Sherlock case. Besides the oath, the Lords' committee did make the more practical objection that the Barons had acted on a defective order which did not state exactly which lands Annesley was to repossess.<sup>35</sup>

It was the intrusion of the British parliament rather than any slight to the royal prerogative which most worried the colonists. A contemporary pamphleteer criticised the Barons chiefly for having given in to the British Lords:

...the Lord Chief Baron answered the charges by saying that the British House of Lords is a great and powerful body and not to be trifled with. But when a question is asked of a Judge the answer should be that the law gives such a power. What appears from his answer is that he is unwilling to disoblige the English Peers. They have yielded<sup>36</sup> to supposed might rather than right.

The answer given by Gilbert may have been calculated to upset the Lords but the committee gave him little chance to defend his belief that the British Lords had the superior claim, as Bishop Nicolson reported it:

What seemed most offensive in the management of this cause, was that the Bishop of Clogher was in the chair, and the Archbishops of Dublin and Tuam appeared most warm in the prosecution... after the witnesses were examined the Lord Chief Baron was allowed to make his reply. He confessed the charge: But beginning to give his reasons for his ready obedience to the British House, he was stopped by a good number of Lords, who cautioned him against any Defence of the British Jurisdiction, inconsistent with<sup>37</sup> the Dernier Resort in this House.

The impression thus given to Nicolson was that the arrest of the Barons as "betrayers of his Majesties prerogative and the undoubted ancient rights and privileges of this House and the rights to liberties of the Subjects of this Kingdom,"<sup>38</sup> was a foregone conclusion.

From the start the examination of the Barons had a wider audience than the Lords, because it was argued in terms of the national interest. By this means the Commons and colonists generally became involved in an issue which might otherwise have been confined to the Lords. The Commons threatened to impeach the Lord Chief Baron for his part in the proceedings and the mob were seen to follow the Archbishop of Dublin's lead. The wider relevance of the case was remarked on by the Bishop of Meath, "...[you cannot] conceive how far their prejudices run, the Oldman [King] has a wonderful influence over them all especially where Country is concerned."<sup>39</sup>

In justification of the unusual proceedings the Lords' committee proposed that a representation be drawn up to be delivered to the King. The Representation, which was completed in October 1719, forms the most comprehensive defence of the Irish Lords' claim to judicial powers independent of the British parliament. The drafting committee was chaired by Archbishop King who, with the help of Edward Synge and Robert Molesworth, set the tone of the piece. In it they reiterated the claim that Ireland was a distinct Kingdom subject only to the monarch, and outlined the entirely separate powers of their parliament as granted to Ireland by Henry II which, they argued, included the

Lords' judicial powers. They argued that no statute laws until 1699 gave the British parliament any judicial power over them, except for two which passed under James II. Of the recent examples of the British Lords exercising jurisdiction here, they argued that the Irish Lords had protested against the Bishop of Derry's case and were in the end successful in the Meath case. Regarding the litigation between Annesley and Sherlock their arguments centred on the Barons' failure to protect the King's prerogative and the particular points brought up against the Barons during the earlier investigation.<sup>40</sup>

The representation was firm in its claim to judicial independence, though its tone was reserved. The debates on the representation, however, showed a greater stridency. Archbishops King and Synge stressed the constitutional restrictions under which they laboured:

Tuam... maintained the charge of [the Barons'] Endeavours to blow up all the foundations of Irish rights, liberties and properties. Dublin was more brave. He stood to his old doctrine of Independency; and strenuously avowed that no acts made by a Parliament of Great Britain signified more than by-laws...<sup>41</sup> unless confirmed by our own two Houses.

Economic ills were also brought up, Bishop Nicolson reported on a later occasion that:

Our debates began with popular Harangues and complaints of the daily increase of our Burthens, and the Oppressions of our English Neighbours who were continually sending hither a set of hungry folks<sup>42</sup> to eat up the Bread of the Natives.

In a draft of a speech to the Irish Lords, Robert Molesworth challenged the British parliament's claim that Ireland was a

conquered country, and re-asserted Ireland's right to Common Law:

Conquest, in the sense that our antiquaries and our best books take it in, is a subjection to laws and the result of compact; from which nothing can release us but the legislative power, which first enacted them, and now, though we are positively and without provocation determined by some not to be so much as a Court of Pye Powder, and that by whom? Not by His Majesty, to whose crown we own we are indissolubly annexed, and to whom we apply ourselves for relief,<sup>43</sup> but by our own elder brethren.

The colonists held firm to the belief that their compact had been with Henry II as King; it was only his successor who could, with them, break the agreement.

The questioning of the Irish Lords' juridical rights, although apparently confined to a particular case, had revived the complaints which the colonists harboured against the English government. The English bishops were convinced that the controversy caused by the Sherlock case was another attempt to make Ireland entirely independent of England. This impression was confirmed for them by the reprinting of Molyneux's Case of Ireland in 1719 and again in 1720. Molesworth's speech which ridiculed conquest and portrayed the British Lords as merely "elder brethren" reflected the arguments of the Case. Further, the book was, by Bishop Nicolson's account, having a popular effect:

...a seditious spirit is arisen... which is daily animating the populace to assert their Irish liberties, exempt from the Dominion of Foreigners. Mr. Molyneux's book, burnt by the English House of Commons in 1698, is reprinted here, and in everybody's hands.<sup>44</sup>

The immediate use of the book was to defend the Lords' jurisdiction: "...talk about the orders of the House in the matter of Jurisdiction is most extravagantly hot and Molyneux's book

on that subject is their Gospel;" but the Case was also being used in the more general arguments on Anglo-Irish constitutional relations for which purpose, the Bishop of Meath related, "[it] passes among them as altogether unanswerable."<sup>45</sup>

Once again the colonists were using Molyneux's Case to support their claim to Common Law. The colonists reiterated the distinct and equal standing of the Dublin and Westminster parliaments:

Now although Ireland is both a poor and an annexed Kingdom yet still it is a Kingdom modelled according to the Constitution of England, and within itself... has all the Courts, Powers and Jurisdictions which belong to the Kingdom of England.<sup>46</sup>

The basis of this equality was Ireland's allegiance to the Crown alone:

All the rights and privileges we claim are derived from the Crown, and from the original Contract between the kings of England and people of Ireland, we have their Charters to shew for our Parlements and Judicatures as full and express as the Magna Charta of England, if we claim or use more then they grant us, the Crown from whom we derive them may stop us, but we claim nothing from the Lords of England, nor have they any power over us, every step they make that way is an usurpation on the Right of the Crown as well as over us.<sup>47</sup>

Within this framework the most oft cited establishment of these rights was the separation of the Crowns of England and Ireland under King John.<sup>48</sup> The Bishop of Meath reported, soon after the first reprint of the Case, that "they [the Irish Lords] roundly affirm (among many other things) that the K [in] gdom is as Distinct Free and independent as Scotland even was before the Union,"<sup>49</sup> a point also made by Molyneux.<sup>50</sup> The colonists,



therefore, still clung to precedents though not only those so voluminously quoted by Molyneux. At this time Archbishop King searched through the Irish parliamentary rolls in an effort to provide more judicial precedents in their favour.

Although Archbishop King continued to rely on this form of argument, he began to realise that no matter how many or good precedents he produced it might have little effect on the British parliament,

...tis very hard we should be bound by Laws made by legislators so extremely ignorant of our circumstances and constitution and yet that is not the worst, their malice seems equall to their ignorance... We are taking out the many precedents of Judicature that remain in our Rolls here, but I am afraid they will come too late, and besides, I do not find that there is any doubt of our Right but those on your side have the Power and as principles of many men stand at present, that is the only 51 Right.

The old reliance on precedents was as strong as in 1698 but it was becoming more apparent in 1719 that the King's powers in England were no longer what the colonists had assumed them to be. Archbishop King protested about this to Robert Molesworth, whom he knew to be within the Court circle:

I understand it is alleged the Crown is too weak to protect us in this case, tho' we have right and I find by your Lordship that his Majesty is of opinion that he must break off with his Parliament of Great Britain if he attempt to screen us but he will weaken the Crown even more by this. 52

The reassertion of Irish colonial rights in relation to Great Britain led the Englishmen appointed as Bishops in Ireland and the government to predict rebellion. The Bishop of Meath in particular liked to

portray the country as entirely disaffected,

... 'tis hardly possible for anyone (on your side) to conceive the generall, unaccountable aversion those people (tho lately come from England and Scotland) have to the English name... for depend upon it (if I know anything of them) they dayly endeavour (gradually) to fling off their dependence without regard to the mischievous consequences of so wild an attempt in short they mortally hate you all<sup>53</sup> and this is the point they are driving at.

Others of the English interest were more aware of the limitations on the colonists' field of action; Baron Pocklington believed that "...whatever happens [they will not] forget their duty and true interest so much as to run "into rebellion,"<sup>54</sup> The English interest group showed little understanding of what Archbishop King and the Irish interest were putting forward. Knowing as they did the considerable powers the British parliament had gained over the royal prerogative, the theory of a dual-monarchy made little impression on the Englishmen here. One of the more recent arrivals in Ireland, Francis Hutchinson, Bishop of Down and Connor, misconstrued the colonists' unease so far as to suggest that

... [Ireland's] security lies in being subject to the King of England, governing, not without his English Parliament but by it, and that if we should have a Lord Lieutenant that should oppress us we have the English Parliament to complain to... but I cannot say they like this doctrine at present. <sup>55</sup>

For the colonists, however, it was precisely the exercise of parliamentary rather than royal or viceregal power which they disputed. The rise of the British parliament's powers had for some time been increasing the strains which had always existed in Anglo-Irish relations. The changed forces at work in this had long been evident in England, but only emerged in Ireland as a result of the Sherlock case. What alterations this might make

necessary was unclear, but the unsettled state of relations was in need of some resolution. It was Bishop Evans of Meath who suggested that the colonists' "independency" could only be tempered if "...a bill were passed to fix us on Just Foundations."<sup>56</sup>

The Stanhope/Sunderland ministry needed little prompting to take up the challenge of bringing Ireland into a more established dependence on the British parliament, though the question of Ireland did not arise (as the colonists had predicted) immediately the British parliament reconvened in November 1719, as the government was more involved in lobbying members to support their Peerage bill. This bill was a central part of the ministry's plan to retain control over the British House of Lords, however, their attempt to rush it through the Commons early in the session, before all the Country members came up to Westminster, failed. Added to the established opposition, the Peerage bill was disliked by many Whigs not usually attached to Robert Walpole and this contributed to the government's defeat. The ministry was not daunted by the increased opposition and merely set the bill aside in anticipation of some weakening of the opposition majority. It was into this atmosphere that the question of the Irish Lords' jurisdiction was propelled into the British Commons in January 1720.<sup>57</sup>

Initially the issue had been confined to the British House of Lords, however, it soon became apparent that if they were to establish their authority over the Irish House of Lords they would need legislation and thus the question of the Irish Lords' jurisdiction became part of the complex web of British parliamentary politics. The colonists were quick enough to see the connection,

"...it seems the [British Lords] are very angry and having been baffled in their Peerage bill are resolved to try their power on us." The Irish Lords assumed the British Peers would look to the King for support. They were inclined towards this belief because of their own attachment to the theory of dual-monarchy which gave the King considerable powers over Ireland, and because of the obvious rift at that time between the Lords and the Commons following the defeat of the peerage bill. Robert Molesworth had been in England much of the previous year addressing the ministry on Ireland's behalf and he had been reassuring the colonists that the British Lords would take no further interest in the Sherlock case.<sup>58</sup> As Molesworth was supporting Sunderland on the Peerage bill it seems likely that the ministry had encouraged him in this belief. The loss of the Peerage bill, however, meant that the Lords were keen to assert their power wherever possible. When this became evident, Archbishop King suggested a more formal Irish lobby be established by the Irish Peers in London. The first aim of this Irish committee was to petition the King but this was ineffective and it became clear that the British Lords were looking, not to the Crown but to the Commons to secure a bill against the Irish Lords.<sup>59</sup>

Why the ministry, who were running this issue in the Lords, wanted legislation resulted from the delicate balance of power which had been reached between the ministry and the Commons opposition when parliament reassembled after the Christmas recess. If the ministry could secure a bill against Ireland it might tip the balance in their favour. The point was that a bill limiting the Irish Lords could be the testing ground for a modified

Peerage bill, as the intent of both bills was to strengthen the powers of the English Lords. The colonists saw the threat of legislation as a slight to the royal prerogative but, as they were aware of the current friction between Lords and Commons, they put their hope in rejection by the Lower House. The split between the Lords and the Commons was a reflection of the division between the King and his ministers on the one side and the Prince and the Walpolite opposition on the other. Relations between George I and the Prince had been strained since 1716, and deteriorated in 1719 with the ministry's attempt to bring in a range of new domestic bills. Chief among these was the Peerage bill which would have limited the Prince's power on becoming King to elevate his supporters to the Lords. The Irish colonists hoped that this dissension would secure them against what they called the "Irish Peerage bill."

The English Lords expected an unsympathetic hearing in the Commons and with this in mind drafted a bill which went further than circumscribing the Irish Lords' jurisdiction, by declaring Ireland's legislative dependence - an idea long cherished by the English Commons. Moreover, the bill justified its general nature by a preamble which claimed that the colonists were on the point of seceding from Great Britain. Such a claim went far beyond the actual nature and extent of colonial nationalism, but it was a belief which was common in England and had been given credence by the reports of the Bishops recently appointed to Ireland. It seems likely, however, that the ministry, far from fearing colonial separatism, saw this line of argument as a means of passing the Declaratory bill through the Commons. John Perceval, who was

resident in London, guessed the intention of this move:

...I am at a loss what can be resolved on, since the Lords are resolved to carry their point by Act of Parliament. In my life I never knew persons so ignorant and so positive as they show themselves here against us, and there are some who have much to answer for that scandalous and malicious report which is here universally spread, that the subjects of Ireland have a design to set up for themselves. This idle imagination strongly affirmed is to be the great argument for inducing the Commons to pass the projected Bill. <sup>60</sup>

Thomas Brodrick, who like his brother Alan was against the Irish Lords' claims, was of the same opinion:

I foresaw a good deal of difficulty in framing it so as to get it through the Commons, and that is what has occasioned the false suggestion of a general tendency to independency, which will be swallowed here by them from whom some on your side expect assistance. For those who chiefly oppose the Ministry in other things, were the only advocates against your linnen. <sup>61</sup>

The reference to Irish linen, which was again under consideration in the British Commons, shows the bearing of other issues in forming the Commons' attitude to Ireland, and James Craggs, the undertaker for the Ministry in the Commons, utilised all of them in lobbying a majority for the House of Lords' Declaratory Bill.

The debates on the bill were brief, but the various speeches confirmed the colonists' belief that the bill was caught up in Westminster politics. When one M.P., Grey Neville, argued for the dependency of Ireland he was answered by Sir Richard Steele who put the bill down to the growing exercise of power by the British Lords. Another M.P. pointed to the same fear of the British Lords' power, but he argued that "taking away this pretended power of appeals may in time pave the way to deprive the Lords of Great Britain of it." This sort of argument left the

colonists with the impression, as John Perceval put it, that "...of those few who voted for us [in the Commons], not many... were moved by a regard for Ireland." However, the rights of the Irish case were considered. John Hungerford cited precedents from the reign of Edward III to support Ireland's claim to equal parliamentary powers, and reminded the M.P.s that even Poyning's Law was passed in Ireland. In reply to this Philip York argued that the subjects of Ireland had to be considered in two respects: the native Irish who were a conquered people and the colonists who were subject to the laws of their mother country. On the charters of Edward III, York stated that these could not make Ireland independent as no King could alienate part of his kingdom.<sup>62</sup>

A majority of the M.P.s were clearly convinced that Ireland was a dependent kingdom, though they were divided on the preamble which claimed the colonists were intent on complete separation from Britain. Robert Molesworth decided not to argue for the Irish Lords' jurisdiction on this occasion, but he attacked the "false" imputation of the preamble, and on this point the bill was committed for further consideration. In committee the charge of independency was dropped, and the amended bill passed, 119 votes to 44, on the 26th of March 1720.<sup>63</sup> There was a general agreement among the British M.P.s as to Ireland's dependence, so it did not prove the tool for the opposition which the ministry and the House of Lords had feared.

The original preamble to the Declaratory Act caused consternation among the colonists but was correctly seen by them as

the more irritating but less important part of the bill. For the colonists, the amendment made little difference, "[The Lords] are to have the favour of being hang'd not in a rope, but in a Silken String."<sup>64</sup> The assertion in the Declaratory Act that the superior power of jurisdiction and legislation resided in the British parliament undermined the foundations of the Irish Parliament's resort to precedents to support its independence, and denied any constitutional position to the Irish parliament under Common Law. The colonists were aware of the implications of what they termed the "enslaving act;" Lord Abercorn confided to John Perceval, "...now if the said Bill should really passe, which God forbid; your Lordship cannot but be sensible, that our just national Civil Rights, cannot escape the being more or less shattered."<sup>65</sup> With the passing of the Declaratory Act, Archbishop King maintained there was a "...universal disaffection of all people thro' the whole Kingdom." Certainly the distaste for all things English increased and found vent in petty slights against those of the English interest. An instance of this was the refusal to give Lord Chief Baron Gilbert any lodging while on his circuit in Longford. But it was clear that the colonists would need more than this to re-establish their constitutional arguments for self-government.<sup>66</sup>

There were two principal pamphlet replies to the claims of the British House of Lords. The first of these was Reasons offered to the house of Commons why the bill sent down to them from the house of Lords entitled An act for the better securing the dependency of the Kingdom of Ireland upon the crown of Great Britain should not pass into Law by John Toland; which was



published anonymously shortly before the Declaratory bill was sent down to the Commons. Toland's earlier denunciation by the Irish parliament was unlikely to have converted him into its defender, but he had long been employed in England as a political hack writer, most notably for Robert Harley, and was probably approached, in this case by Robert Molesworth, to write a justification of the Irish Peers' claims.<sup>67</sup> Toland's Reasons is stronger on style than on content; he defended the historical rights of the Irish parliament, extolled the virtues of a balanced constitution "which had lasted above 500 years" and made considerable play on the theme of the overbearing and arbitrary powers being sought by the English Lords (a point closer to his own concerns and principles). He put forward no new theories for Ireland's constitutional position, although the pamphlet made sufficient impact to be cited during the English Commons debates as evidence of the colonists' wish to be independent.<sup>68</sup>

The second major pamphlet on this theme was Jonathan Swift's A proposal for the universal use of Irish manufacture;... utterly rejecting and renouncing everything wearable that comes from England. Written sometime in the spring of 1720, the Proposal accepted the loss of constitutional status as a fait accompli, and offered a new line of attack against Great Britain. At heart, many of the colonists' complaints against England were economic and it was to these that Swift directed his Proposal. It had long been argued that England gained millions each year from Ireland because she was provided with cheap raw materials and a market for the finished goods. The colonists could do little about the assumption of greater powers over them by the British

parliament but they could improve their position, Swift argued, by the simple expedient of using only goods of Irish manufacture. The main threat in the Proposal is economic, but Swift also used it to express a wider dissatisfaction with English rule. He linked the economic and political grievances in the fable of Pallas and Arachne:

The Goddess had heard of one Arachne a young Virgin, very famous for Spinning and weaving: They both met on a tryal of skill; and Pallas finding herself almost equalled in her own art, stung with rage and envy, knockt her rival down, turned her into a spyder, enjoining her to spin and weave for ever, out of her own bowels, and in a very narrow compass. I confess that from a boy I always pitied poor Arachne, and could never heartily love the Goddess, on Account of so cruel and unjust a sentence: which, however, is fully executed upon us by England, with further additions of rigor and severity. For the greatest part of our bowels and vitals is extracted, without allowing us the liberty of spinning and weaving them.<sup>69</sup>

This analogy of the Woollen Act as a national disemboweling, and England's assumption of legislative power over Ireland was one which particularly enraged the English interest here, and together with Swift's exhortation that as

...Oppression makes a wise man mad; therefore, consequently speaking, the reason why some men are not mad, is because they are not wise. However, it were to be wished that oppression would, in time, teach a little wisdom to fools. 70

These passages were used to arraign the printer and caused the Dublin government to make great, though fruitless, efforts to discover the author. The Proposal clearly caused the English interest here great annoyance, but even Swift's rhetoric did not provide any workable solution to the colonists' wish for self-government.

In the meantime the colonists, as the Bishop of Meath informed Wake, "...continue still to search parliament and other records and threaten heartily."<sup>71</sup>

In the five years 1715-20, the colonists had developed a negative identity. They were not Englishmen, they were opposed to English goods and English bishops being transported here, but they were only beginning to define themselves as Irishmen. It was nonetheless a sharp distinction though it surprised the English who found the colonial sense of identity difficult to grasp. The Declaratory Act highlighted the division, the Bishop of Derry wrote that

...the rage of our gentlemen (whose fathers and grand-fathers were true-born English and Scots) discover on the Commons passing the Independency bill... is not to be described.<sup>72</sup>

Nicolson, and in a similar comment, Henry Downes, show their disbelief that the colonists could, in a few generations, have become anything other than Englishmen. However, the colonists saw the distinction and equated themselves more with their fellow colonists in America who were more successfully pursuing a struggle for "public liberty" at this time.<sup>73</sup> Their identity was as colonists, and was derived principally from the concept of a national interest. It was tied to the defence of Ireland as a political entity which could claim for itself a national interest; identity and the constitution were, therefore, interrelated. The attack on these during this period resulted in the greater assertion of both, and as identity could not be legislated for, the constitution drew most of the colonists' attention.

In their defence of the constitution, the colonists resorted to precedents; to the Modus, to King John and any subsequent statutes they could unearth. Molyneux was reprinted, and consulted as an irrefutable justification of the assertion that Ireland was an historically independent kingdom, which had been recognised as such by England until recent times. The influence of Molyneux's Case of Ireland is clear in the writings of the leaders of Irish colonial nationalism - Molesworth, King and Synge. But it was also the pervasive attitude among those colonists usually less involved in Ireland's defence, like Perceval and Abercorn in the Lords, and the leaders of the Commons groups, all of whom expressed constitutional beliefs drawn from Molyneux's Case. The use of precedents was established in Ireland centuries before Molyneux, but the particular set of fairly complex legal, judicial and historical arguments found in the Case, were the immediate source for the expression of colonial nationalism in the early Eighteenth century.

The Declaratory Act, however, was a denial of these precedents making the Irish Parliament subject to Westminster. It was in effect an overriding precedent and as such had to be accepted by the colonists, some of whom were still searching parliamentary records, but the finality of the Act was clear to most. An alternative did exist for the colonists and that was to move outside the realm of precedents. Since Molyneux's Case had put forward the theory that political freedoms are based on Natural Rights, the colonists had had an alternative but it rarely was used. But a shift towards Natural Rights as a basis to justify Irish liberties is discernible immediately after the Declaratory Act. Edward

Synge of Tuam had earlier argued at length from the rights conferred on Ireland by historical and legal precedent but by August 1720 he had discarded this line of defence:

I must, until better convinc'd be of opinion, that it was my duty to concur, as I did, in all the determinations of our House touching that whole affair: Nor will the votes or Acts of any assembly in the world make me think I have done wrong, except they are supported by Law or Reason to which my ears<sup>74</sup> shall always be open.

It was a manner of thought which the colonists were, after 1720, to find increasingly attractive.

CHAPTER V: THE REJECTION OF A NATIONAL BANK IN IRELAND, 1721

The Dublin Government was clearly aware of the colonists' anger following the passing of the Declaratory Act. Such a harsh measure should have been an indication of the British government's resolve to rule Ireland without consulting the colonists and with little regard to their historical claims; but such a resolve was hardly evident in 1721. As the Declaratory Act was equally the product of Westminster politics, the British government then prepared to soften the consequences of this Act, which denied any real political power to the colonists. Anglo-Irish grumblings were also audible in London, and as the British Ministers feared another disruptive parliament in Ireland, they decided to try conciliation, involving the colonists more in government and consulting them on measures for the forthcoming parliament.

This more conciliatory attitude gained a positive, if grudging, response from Archbishop King and his colleagues. Their promises of good behaviour in the coming session, however, did not deter King and Synge from voicing criticisms before the opening of parliament and harking back to the loss of jurisdiction during

it. However, there was little the colonists could do to offset the Declaratory Act and Archbishop King's attempts to revive the issue elicited little more than a quiet agreement. This did not mean that colonial nationalism had been stifled, it merely appeared in a different context, where the colonists' opinions could still have some effect. The forum of their debate on colonial independence was the project to establish a bank in Dublin, which a group of colonists, headed by Lord Abercorn, had successfully negotiated with the government over 1720. The new Lord Lieutenant, the Duke of Grafton, offered the scheme to the Irish parliament for its approval, as part of the British government's attempt to appease the colonists and reconcile them to their subordinate political status. The promise of a royal charter for a joint stock bank in Ireland was intended as a gesture of good will, but became the main cause of controversy in the 1721 parliament. To the British government's surprise, many of the colonists opposed the setting up of a bank, and although there was also a considerable group in favour of the project, the debate raged so high as to defeat the government's hope of an easy session.

The bank project forms a somewhat curious episode in the development of colonial nationalism; it was not a constitutional issue, as were all the recent debates, nor was it merely a revival of the economic arguments against dependence on England which arose in 1697-98, for it involved no external legislation. In this case, the British were offering to support a scheme which was intended to foster Ireland's trade and economy. Yet the bank was ultimately rejected, a point which has often baffled later commentators on the period. It is clear that a secure bank could

have been a great financial aid to the Irish economy at the time, and historians have attributed colonial opposition to the fears excited by the collapse of the South Sea venture in 1720, and an obstinate pursuit of independency.<sup>1</sup> But this was to underestimate the importance of the economic theories then current among the colonists, which shaped the protagonists' arguments both for and against the bank proposal.

The principal reason put forward by Abercorn and his colleagues for a bank was the scarcity of coin in Ireland. This was felt to be both a symptom and cause of the continued decline in trade and manufactures. The proponents of the bank took as their model the 1694 Bank of England charter, and acknowledged their debt to the English mercantilists who had written on trade and credit in the latter half of the seventeenth century.

Drawing on the work of later 17th century English writers, the proponents saw the paucity of coin as fundamental in explaining Ireland's ailing economy. Specie was seen as a finite commodity which increased or decreased in line with a country's trade balance. Thus, those who favoured the establishment of a bank believed that a paper credit, covered by proper securities, could lower interest rates and cause sufficient monetary circulation to boost trading activities. An upturn in trade which altered the balance of trade in Ireland's favour would provide the stimulus for growth in manufacturing and increase employment.

The colonists who objected to the bank project agreed that the shortage of specie hampered trade but they saw the solution to



Ireland's economic plight in different terms. What the antagonists prescribed was a more frugal lifestyle, which would alter the balance of trade by a reduction in foreign imports. Those against the bank had broader concerns than the economic interests of its proponents. The antagonists drew on the stock of English Country ideology, which placed the bank proposal in a political and social, as well as economic, context.<sup>2</sup>

In this, the antagonists reflected the arguments of the English country gentlemen at the time of the establishment of the Bank of England. The opponents of the Irish bank project drew attention to the possible political influence such an institution might come to exert, to the detriment of parliament and the landed interest, which they saw as constituting the natural political order and political stability. These men had a conservative view of money, which they saw as intangible and insecure; true wealth resided in the visible asset of land. There was also the implication that dealing in money encouraged greed and corruption, which would undermine the social and political fabric of society. They doubted that the bank could enhance their economic position or that of the country.

Running through both sets of arguments, for and against a bank, was a concern about Ireland's lack of political independence. It was commonly held that banks flourished best in independent nations, particularly republics, which could regulate the bank's activities to promote that nation's prosperity. The examples usually cited were Holland, Genoa, Venice and Hamburg. More recently, the Bank of England and Bank of Scotland formed precedents of banks flourishing under constitutional monarchy, but the

colonists on both sides of this debate felt less assured that a dependent nation could control a bank.

The issue of dependence, of Ireland's constitutional status, was therefore woven into the arguments on the bank. In this instance, the colonists did not resort to legal or historical precedent, because they were not relevant to a debate which involved no imposition of power by Britain, but principally because the colonists recognised that the Declaratory Act rendered all such arguments void. What the colonists were debating was, given their dependence on Britain, what were the prospects for a national bank. Those in favour of a bank offered little reassurance that the bank would remain within the colonists' control, and could only suggest that the possible benefits outweighed the risk. Those opposed to the bank on other grounds put Ireland's dependence forward as the unanswerable argument against the proposed benefits of a "well regulated bank." Without ultimate legislative control the colonists could not guarantee that the bank would work in the national, that is to say Ireland's, interest.

The Irish bank proposal was modelled on the Bank of England charter, and although the circumstances in which the Irish project was conceived were quite different, the debates were to follow a similar pattern. The Bank of England had been established as a means for financing William III in the increasingly expensive Continental war, which was far from Ireland's position in the 1720s. But the ideas expressed by the protagonists in England were brought to the later Irish debate.

The Bank of England's proposers took Holland as their ideal of a flourishing economy and claimed that its banking facilities were instrumental in this. Trade could only improve in England, they contended, with better financial provision for its merchants. The prospective bankers also promised to discharge a part of the national debt. However, the English country M.P.s were convinced that the bank would make the merchants indispensable to the Crown at the expense of the landed interest, and that it would render parliament redundant. The country gentlemen lost the vote on the bank, but during the bill's progress through the English Commons, two clauses were adopted which had the effect of prohibiting loans to the Crown unless sanctioned by parliament, and of preventing the bank from trading.<sup>3</sup>

The debates in Scotland the following year reflect more closely the concerns of the Irish bank projectors. The Scottish bank was proposed as a means of revitalising Scotland's trade and supplying a paper credit for the deficiency of coin. It was objected that paper currency would displace what was left of their coin and that the bank directors alone would profit, but the bank bill was passed by the Scottish parliament as on balance a useful project.<sup>4</sup>

The Irish economy in the early 1720s provided a similarly depressed setting to Scotland in the mid 1690s. The rapid economic recovery of the 1690s, which had followed the devastation of the Williamite campaign in Ireland, had not continued into the 18th century. Irish trade was on a slow but faltering incline upwards but showed a marked decline in the years immediately

preceding 1721. In part, this was due to decline in trade with Europe, particularly France, which was weakened by the collapse of John Law's Mississippi scheme and a quarantine due to plague. But other factors in the decline were indigenous to Ireland; absentees, poor internal transport, a rise in land prices and a slow adjustment to the decline in the woollen trade. These general economic features were exacerbated in the early 1720s by a scarcity of coin.

This scarcity resulted mainly from an unfavourable balance of payments because of rents to absentee landlords and the official rating of gold and silver. The loss of coin was recognised by the colonists as a cause for concern, Bishop Nicolson of Derry noted that,

...the Darkness will yet thicken. Our Trade, of all Kinds, is at a stand, in so much as that our most eminent merchants who us'd to pay bills of 1000  $\text{\textit{l}}$ . at sight, are hardly able to raise 100  $\text{\textit{l}}$ . in so many Days. Spindles of yarn (our daily Bread) are fallen from Half a Crown to 15<sup>d</sup> and everything else in proportion. Our best Beef (as good as I ever eat in England) is sold under three farthings a pound. And all this, not from any extraordinary Plenty of commodities, but from a perfect dearth of money.<sup>5</sup>

It was this lack of coin which led various of the colonists to think of supplying the deficiency through a bank.

Banks and paper credit were of fairly recent and limited establishment in Ireland, originating among the merchants who transacted business abroad by means of notes of exchange. By the early eighteenth century a number of these businesses had moved more towards banking than trade, principally in Dublin and Cork,

and were often run by the Huguenot immigrants who still had family ties on the Continent. These were small private banks, often unstable and with little capital, and their notes circulated without any legal controls or restrictions. Such banks did not greatly ease circulation as their notes were of limited use and their collapse was quite a common occurrence. The first act in Ireland for the regulation of banks was passed in 1709; it gave creditors some hold over the estate of the deceased or defaulting banker and attests to both the growth of banking and its attendant problems. The fluctuating fortunes of the private banks made some of the colonists wary of paper credit, but the obvious success of such ventures as the La Touche bank encouraged others to think of establishing a stable corporate bank, somewhat along the lines of the Bank of England established in 1694 and the Bank of Scotland, 1695.<sup>6</sup>

In 1720 two distinct groups of Irish gentlemen petitioned the King for a charter to set up a bank to relieve the scarcity of coin in the Kingdom. The first of these was drawn up by Lord Abercorn, Viscount Boyle, Sir Ralph Gore and others. Their petition was transmitted to the King by the Lord Lieutenant, the Duke of Bolton, in May 1720. The appointment of a new Lord Lieutenant, the Duke of Grafton, in June 1720, led to renewed efforts by the petitioners to promote the scheme. A group of Irish gentlemen in London, led by John Perceval, became involved in lobbying Grafton's approval for the scheme. A second petition, however, also made its way to Grafton in the summer of 1720. This plan, for a bank with capital of £1,000,000, was put forward by Lord Forbes and Brabston Ponsonby, and included an undertaking

that their bank if established, would discharge £50,000 of the Irish national debt. In a letter to Abercorn in August 1720, Grafton intimated that he and his associates should also consider including "something to the benefit of the government."<sup>7</sup>

Both proposals were submitted to the Irish Lords Justices, Lord Midleton and William Conolly, in September 1720 for their consideration. Midleton and Conolly reported in January 1721 that of the two proposals they preferred Abercorn's, because it did not involve itself with the national debt, which the Lords Justices saw as strictly within the sphere of parliament. Grafton later concurred with this decision. Ponsonby and Forbes withdrew their petition and the successful party finalised the details of their bank proposal. The bank was to have a capital of £500,000, £100,000 in cash and the remainder in securities. It was to lend money at 5% and was to be run by a board of fourteen directors, elected from among the larger shareholders by all of the subscribers. Certain safeguards were written into the proposals, limiting the stock of any one subscriber to £4,000 and stating that the bank could only issue notes to the value of its capital. With certain alterations, these proposals were incorporated into a royal charter in July 1721.<sup>8</sup>

The charter was granted, however, with certain conditions, chiefly that a bank bill must first pass in the Irish parliament. The English treasury had been consulted on the drafting of the charter, and they had advised the King that adherence to the charter and the avoidance of various frauds could only be secured by an act of parliament. Some of the men responsible for the

proposals had gone to London in Spring 1721 to have a voice in these negotiations and had asked Walpole, as First Lord of the Treasury, not to insist on the parliamentary qualification because they felt it would greatly delay matters and jeopardize the plan.<sup>9</sup> The Treasury, however, felt an act was necessary and it is likely that Walpole specified an act of the Irish parliament in order to ease Grafton's position in Dublin where the government feared a strong reaction to the Declaratory Act when parliament reassembled. The bank proposal, therefore, became part of Grafton's effort to placate the colonists for the coming session of parliament, because he believed it to be a widely popular scheme. Other measures were taken by Grafton to conciliate the colonists; he tried to deflect attention from the loss of jurisdiction and to consult leading figures, particularly of the Irish interest, on proposed legislation.<sup>10</sup>

Some of the colonists' antagonism towards the British government had lessened by September 1721. The ministers chiefly responsible for the Declaratory Act were no longer in power. Sunderland had been forced to retire because of the collapse of the South Sea Company; Stanhope and James Craggs had died.<sup>11</sup> They were replaced by Walpole, who was appointed Chancellor of the Exchequer and First Lord of the Treasury in April 1721, and Lord Townshend, who became Secretary of State. Walpole had voted for the Declaratory Act but he was not directly associated with it by the colonists. The new Lord Lieutenant, the Duke of Grafton, was seen as representing the new political order, and he took advantage of this position to make approaches to the Irish interest in Dublin.

Grafton received some kind of undertaking of good behaviour for the coming session from King and Synge. However, the policy of conciliation was only moderately successful; King continued to use his position in the Church to remonstrate with the government for the "enslaving act." Archbishop King also attempted to disturb the start of the parliamentary session in September 1721 by objecting to "gratuitous compliments" in the first address of the Lords to the King, because of the King's failure "to answer our claim of rights in the last session."<sup>12</sup> King elicited little support for his belligerent stand, not because the colonists were made easy by the recent efforts of the ministers but because they saw no useful way of pursuing their claims at this time. John Perceval's sentiments on the subject probably reflect the colonists' feeling that they must be mindful of their lost rights and bring them up at a better time:

I think if we do anything with too much warmth, they will do worse to us. The injury should occasion a strong resentment but a legislature must act with prudence. I do not mean that we should not in a becoming manner assert our Judicature and so lay the foundation for reclaiming it at a better juncture.<sup>13</sup> . . . but we should not refuse to do business.

While the Lords were avoiding further debate on the loss of juridicial powers the Commons were directing their energies towards a consideration of the bank proposal. The granting of a royal charter featured prominently in the Lord Lieutenant's inaugural speech:

As an instance of his Majesty's readiness to contribute all in his Power to so desirable an End [i.e., restoring Ireland to a flourishing condition], he has been graciously pleased,



upon the Application of several considerable Persons of this Kingdom, to direct that a Commission be passed under the Great Seal of Ireland for receiving voluntary subscriptions in order to establish a Bank.<sup>14</sup>

In their reply to Grafton's address the Commons thanked him for considering means to promote the Nation's prosperity and remarked particularly on,

...his Majesty's great Goodness in leaving it to the Wisdom of his Parliament to consider what Advantages the publick may receive by [the] erecting thereof [a bank] and in what Manner it may be settled, so as to be beneficial to the Kingdom.

The reception of the scheme seemed favourable, and though it was not greeted with an unqualified expression of gratitude it was expected to pass as all the "speaking men" were said to be for it.<sup>15</sup>

However, forebodings about the possible ill consequences of a bank were being expressed by members not considered "speaking men" or leaders of parliamentary opinion. An early attempt was made to have the bank proposal dropped without deliberation, but this was rejected by a large majority. On the 26th of September, a committee of the whole House sat to consider the proposal and on the 29th of September they made the apparently favourable report that "the establishing of a publick Bank upon a solid and good Foundation, under proper Regulations and Restrictions, will greatly contribute to the restoring of Credit, and Support of Trade and Manufactures of this Kingdom."<sup>16</sup> The committee were seen to be sanctioning a bank and those who were doubtful about the project felt they had lost the point. However, when the Heads of a bill to establish the bank were introduced on the 14th of October, the

deep division of opinion on this question became more apparent. Bishop Nicolson, who was present in Commons that day, recounted that:

...the Undertakers and Subscribers seem'd to be pretty much on the Reserve; not doubting but the first Paragraph (which only enacted that a well regulated Bank would be of Service to the Kingdom) would pass with little or no Opposition. They therefore contented themselves with observing the grand Advantages which Venice, Genoa and Amsterdam had gain'd by such Expedients; and that we had thence Encouragement to hope for the like success; that some of the wisest Heads in the Kingdom had been laid together in modelling this National Fund: and that his Majesty had approved of the Design by allowing a Royal Charter to be drawn up pursuant to the Memorial of the Petitioners. This is the sum of the little that was said by the Advocates of the Bill.<sup>17</sup>

Following the success of their resolution on the 29th of September the proponents of the bank assumed a similar success when it came to be debated, while those opposing the establishment of a bank had been formulating more precise objections. The opposition argued that the bank scheme had been devised at the height of the South Sea Company's success, that it had been planned in secrecy outside Ireland, and that the directors would make the only profit. On a more specific level they objected that the bank bill did not limit the bank's capital to £500,000.<sup>18</sup>

Further to the charge of personal venality and deliberate falsification which the opposition made against the managers of the Bank project, they argued that political circumstances were against such an institution being controlled in Ireland. Nicolson relates that:

...in answer to the Argument drawn from the success of Bankers in Italy and the Low Countries; it was said, that Commerce was upon quite another Bottom here, than in those free and independent Common-wealths; That we neither have, nor shall ever be suffered to have any rich Traffic abroad; in which case alone a national Bank could be of any publick Benefit. The Projectors were desired to remember the Adventurers of Darien. Those Undertakers had a Charter, which was judg'd to be irrevokable. And yet (as soon as Merchants in London grow jealous of them, and gave in Remonstrances against them) King William sent such Proclamations into the West Indies, as quickly dissolv'd that Corporation.<sup>19</sup>

A secure foundation could not, therefore, be claimed for the bank.

The first paragraph of the Heads for a bank bill were rejected 102 votes to 94, and the second paragraph by a similar margin. The committee asked leave to sit again the following week, but on a vote it was put off for two months until December. The fortunes of the bank bill were now reversed and the postponement was interpreted as the end of the matter.<sup>20</sup>

An interesting feature of the opposition in the Commons was that the lead was not taken either by William Conolly or the Brodricks. Conolly had undertaken to support Grafton's measures, but was not in the forefront of the bank debates. St. John Brodrick, the Brodrick's leader in the Commons, far from opposing the government's offer, was reported to have "spoken violently" in favour of the bank.<sup>21</sup> The considerable<sup>21</sup> opposition is not, therefore, attributable to the usual Commons' rivalries, but to a real concern among the members for Ireland's economic future.

Despite the vote of the 14th of October, the bank's supporters continued to push their case. Outside parliament they continued to take subscriptions and in the Commons they took advantage of a temporary majority to confirm their right to carry on taking subscriptions and to pass a vote of thanks to the former Lords Justices, Middleton and Conolly, for their report on the bank. Middleton, who was by then openly opposing the bank, sent a somewhat embarrassed reply, while Conolly's was non-committal.<sup>22</sup>

The continuation of the bank project led the House of Lords to bring the proposal forward for consideration. Before the question of the bank was tabled in the Lords it was clear that the usual division of Irish and English interests did not hold on this issue. Bishop Nicolson was uneasy about the scheme for "where so many have lately perished in the South Sea, few amongst us have any great stomach for this." Archbishop King showed his usual suspicion of anything which appeared to have been hatched in England; moreover he believed, like Swift, that the proposals allowed too much trust to be laid on the directors' good behaviour, an optimistic view of human nature which neither of the clerics had much faith in. Typical of their attitude is the conversation King relates where

...Dean Swift offered to lay me five Guineys this morning the bill would pass, for a good natural reason to be sure; which was no other than it was for private advantage and publick mischief.

Bishop Evans of Meath took a similar view but with a characteristic eye on "independency," "...whenever fixed, I believe it [the bank] may overstep in influence any Chief Governor and might prove the next step to independency." The last point was

an outcome less feared by the colonists but the apprehension that the directors might gain political power was more widely felt.<sup>23</sup>

In November the Lords resolved to take the bank proposal into consideration. Besides Lord Abercorn, a number of the Lords were subscribers and as such were keen to defend the plan. In the Lords, however, it was the opponents who took the offensive; having brought the debate into the House they echoed many of the points made in the Commons. On financial grounds it was felt to be insecure, it would allow stock-jobbing and that it would be the means for the little coin left in the Kingdom to be taken out and replaced with paper credit. It was seen as politically unwise because as "power follows money" those running the bank would gain "power too great for the Kingdom."<sup>24</sup>

Abercorn countered these criticisms by reminding the House of the oaths limiting the power of the directors, their election by a large number of the subscribers and that the capital was fixed and could not be divided or taken off. He proposed that trade would increase, particularly linen, which might be brought to three or four times its present output. Abercorn concluded by warning the opposers that rejection of the scheme would be flying in the face of the King, a threat unwittingly reminding those against the bank that it had been pursued in England to leave them no choice. But on the 8th of November, a majority of the Lords voted to reject the proposal, and passed a resolution stating that the

...erecting of a Bank in this Kingdom,  
or incorporating any Number of Persons  
into a Body Politick for the management and

Government of such Bank, may, in the present circumstances, be prejudicial and of extreme ill consequence to this Kingdom.<sup>25</sup>

Seven Lords dissented and registered their opposition with the following reasons: that the decision had been reached too hastily; that on sufficient securities a bank would increase manufactures, employment and the circulation of specie; that the strongest objections to the bank could be removed by good legislation and that the Lord Lieutenant and King both thought it a wise project. It was an admission that firm legislation was needed to secure the project but it was precisely their lack of ultimate control in this area which worried those opposed to the bank project.<sup>26</sup> All of these points were made with more force and at greater length outside the parliament, where the bank controversy produced the largest number of Irish pamphlets and broadsheets to date on a single subject.

Public opinion was as divided as parliamentary opinion. It was also felt, on balance, to have a majority against the bank.<sup>27</sup> Anything which related to the economy, particularly at a time when trade was depressed, naturally produced a strong reaction from the merchants, traders and landed gentry. It was an issue closer to their immediate interests than any of the recent constitutional debates, although it also took its lead from the parliamentary discussions. Interest in the subject was considerable and a large number of pamphlets and broadsheets were published between mid-October and early December covering all aspects of the bank proposal, some running to second editions during this short period.<sup>28</sup>

The most notable exchange of pamphlets on the bank was between two Irish M.P.s, Henry Maxwell and his uncle, Hercules Rowley. Maxwell, one of the subscribers to the bank, had earlier taken to print on economic and trading matters in his Essay Towards an Union of Ireland with England (1703), in which he expounded the considerable economic advantages to both England and Ireland of co-operation in trade, and urged the colonists to develop the linen industry as a commodity which would not arouse England's jealousy. In the Essay, Maxwell had outlined what he felt to be the natural unity of interest between England and Ireland, particularly with regard to economic matters. The Essay was a consideration of Ireland's economy as part of a wider British economy.<sup>29</sup> Maxwell's pamphlets on the bank in 1721, however, are concerned only with the Irish economy in competition with other nations, including England. His concern to establish a national bank was put purely in terms of its advantage to Ireland's trade and manufactures.

The establishment of a bank was envisaged by its promoters as more than a means of increasing the circulation of money in Ireland. It was seen as part of a wider economic strategy to restore Ireland's prosperity. Central to their arguments was the belief that money, that is metallic currency, was a limited commodity which could only be increased by creating a better balance of trade. Irish exports had, therefore, to be increased and in this the proposed bank would play a pivotal role. For the bank would not only provide cash to facilitate trade but by lending at a lower rate of interest than was usual in Ireland, it would encourage a more entrepreneurial spirit among the merchants.

In his two pamphlets, Reasons offered for erecting a Bank in Ireland; in a letter to Hercules Rowley and Mr. Maxwell's Second Letter to Mr. Rowley; wherein the objections against the bank are answered, Henry Maxwell drew on the works of the English mercantilists, chiefly Josiah Child and William Petty. Like the earlier writers, Maxwell saw money as a limited resource: "Money may not only be considered as the measure of every other commodity, but it may be considered itself, in the Nature of a commodity."<sup>30</sup> This commodity could only be increased he argued by altering the balance of trade:

Neither a Bank, nor Bankers, as such, can either bring in, or carry out our Species, for that depends entirely on the Ballance of our Trade being in our Favour, or against us.<sup>31</sup>

The real point of the bank was to lower the rate of interest for traders. This was generally acknowledged to be the key to economic success, as another of the bank's supporters wrote:

For, of what Service low Interest is to a Nation, we may see in Mr. Maxwell's Letter. The incomparable Sir Josiah Child has plainly shewed in his Discourse on Trade, that the Hollanders have by these Means been able to supplant England in several Branches of her Commerce, and they outmatch us with greater Ease and Proportion, as our Interest is higher than that of England.<sup>32</sup>

However, low interest would not only encourage trade and provide an influx of specie, but it would also allow the development of manufactures and provide employment for the poor. In order to maintain the favourable balance of trade the colonists would have to forego certain luxuries, but the eventual advantages to the nation would offset the loss.



The bank supporters liked to portray their project as in the public interest, particularly when compared with the uncertainties of private banks:

All private Charities are limited by the Inclinations, or at least by the Abilities of private Men, and can only reach to some Particulars: But the Charity of a Law, that reduces Interest, is Universal in its Influences, I mean as to that Nation, where the Law takes Place, and, in the most literal Sense, it Feeds the Hungry, Cloaths the Naked, and Relieves the Oppressed.<sup>33</sup>

The supporters were also at pains to dissociate their project from speculative ventures such as the South Sea Company. In this, they argued there was no parallel because the bank would be founded on secure assets. They preferred to cite the examples of the other national banks in England, Scotland and Holland. They recognised that there was disquiet about paper currency but attempted to dispel fears by pointing to the conditions in the charter which tied them to issuing paper only up to the amount of their capital.<sup>34</sup>

The bank's opponents picked up most of these points in their pamphlets, as they had done in parliament. But essentially, they were arguing from different premises. The themes which dictated their opposition to the bank were not so much economic as political and social. They show more concern about the landed interest being displaced in parliament by wealthy merchants and a fear that the bank would spread corruption in society.

Hercules Rowley's first reply to Maxwell, An Answer to a book intituled Reasons offered for erecting a bank in Ireland, in a letter to Henry Maxwell Esq., exemplified this line of thought. Rowley agreed that prosperity resulted from a surplus of exports

over imports, and that a good circulation of money and easy credit were necessary to trade. He even agreed that paper currency would serve the purpose, though this was a point denied by the other opponents of the bank:

I am satisfy'd our Trade and Manufactures cannot be carried on, without either a sufficiency of Money... or Credit; and I think a good and secure Paper-Credit, would be very beneficial to the Trade and Manufactures of this Island, and could that, or any other method (safe to our Liberties) be found out, that could remove the great difficulties we lie under as to Trade, by reason of the Scarcity of Money, and encourage our Manufactures whereby the Hands of our Poor would be employ'd, and consequently they better maintain'd, there is not any one could come more readily into it, than I would.<sup>35</sup>

However, Rowley disputed both the means of achieving a better economy, as outlined by Maxwell, and the ends of the bank directors.

Rowley argued that a low rate of interest was desirable but that Maxwell was confusing cause for effect.<sup>36</sup> It was not a low interest rate which brought prosperity but prosperity which lowered the rate of interest. He was anyway dubious that a single bank could effect a change in the general rate of interest. At best, therefore, the bank could only provide loans at low interest to a limited few. He believed the lower interest would only be of use to the directors and their friends.<sup>37</sup>

Underlying Rowley's economic objections was a fear that the new bank would cause a decline in the influence of the landed gentry:

I think it is agreed - on all Hands, that in a few Years the intended Bank ...will be entirely in the Hands of the Traders of the City of Dublin, at least they will have the entire Management of it; (few of whom have any real Stake or Estate in the

Country) which will greatly encrease the Interest and Power of the moneyed Men in this Kingdom, and make them bear a much greater Sway than the landed Men possibly can: What, pray, will be the Consequence of this? Why, a Land-Tax. <sup>38</sup>

There was a belief that power followed money and the opponents of the bank feared that it would come to influence parliament. Francis Annesley wrote from London that "...a Bank there will be your legislators, your Masters, and all the Kingdom slaves to the Directors." Thus, the opponents saw the merchants as a sectional interest while the landed interest was for them synonymous with the public interest. This was not merely the view of those who held land, for money from trade was seen as giving no tangible stake in the country which land so obviously did. <sup>39</sup>

Rowley's argument against the bank was not just negative. He provided what he believed to be the answer to Ireland's depressed economy - frugality. For Rowley the cause of Ireland's unfavourable balance of trade was the importation of luxuries. This, he felt, would only increase if the bank were established, and would therefore be of little use to the country. His advice was that "...if we turn frugal, industrious, and study a little more the Good of our Country, and the employment of our Poor we shall grow rich without a Bank." <sup>40</sup> The colonists could, in this way, have prosperity without the risk of a bank.

Others of the bank's opponents took a more caustic view of human nature and the corrupting influence of money. One historian of Irish banking concluded that the most popularly accessible pamphlets, those by Swift and friends, were simply frivolous

attempts to embarrass the Whig government and had the effect of inciting public opinion against a potentially beneficial institution. It has been more recently argued, however, that Swift's writings against the bank were, if anything, only peripherally a swipe at the Whigs and instead mark the beginning of Swift's concern for Irish affairs.<sup>41</sup> Further, Swift's views were far from frivolous and reflected his own, and probably the most common, perception of money held by the colonists. Money created from or invested in real property was seen as superior to mobile property in terms of security and also in moral terms; the trade of stock-jobbing, with which they associated the bank, being seen as tantamount to usury. These economic views which set the tone of Rowley's pamphlets were the main theme in Swift, though in a more satiric guise.

The earliest hint of a bank project led Swift to warn against it at the end of the Universal Use, where he mocks it for the monstrous sums proposed to float it: "...and the Jest will be still the better, if it be true, as judicious Persons have assured me, that one Half of this money will be real, and the other Half altogether imaginary."<sup>42</sup> The illusory nature of money, and particularly of paper notes, forms the central argument in Swift's pamphlets on the bank. Characterising it as the Wonderful Wonder of Wonders and the Wonder of all Wonders, its production is likened to a set of magical tricks, shining but without substance, which is "very inconsistent, improbable and un-natural." The corrupting power of money is also a frequent theme in Swift, and he used the occasion to ridicule the ambivalence in the attitudes of the landed gentry to it,

...the fairest ladies will not refuse to lend their hands to assist him [i.e., money]: For although they are ashamed to have him seen in their company, or even so much as to hear him named; yet it is well known, that he is one of their constant Followers. <sup>43</sup>

The very strength of the human desire for wealth (a feature which was not absent from Swift's own make-up) made him the more suspicious of the intentions of the bank directors and subscribers.

The pamphlets on the proposed bank therefore reflected economic attitudes in England of the 1690s. There was a belief that a lower rate of interest would stimulate trade and the economy generally. But there was also an attachment to land as the only real security and a conservatism about dealing in money. Where the Irish debates on a bank departed from those conducted earlier in England and Scotland, was in the inclusion of the question of political dependence. At the time of the establishment of the Bank of England it was suggested that banks operated most successfully under Republican government rather than a constitutional monarchy. Ireland's dependent status made it seem even less likely to provide the right political setting for a prosperous bank.

Both the proponents and the antagonists of the bank proposal argued within the framework of legislative dependence. The question at issue was not whether they should be dependent or not, but simply how the existence of the Declaratory Act might effect the working of a national bank. Both sides considered dependence a drawback, but they differed on the extent of the liability. Those in favour of the bank argued that although dependence would reduce their profits from the bank, it was

nevertheless worth undertaking. Those against the bank saw Ireland's dependence on England as an insurmountable obstacle to establishing a secure bank.

Henry Maxwell began his first pamphlet, Reasons offered, by answering one of the principal objections to the bank expressed in the Commons' debates:

One Consideration I must offer to you previous to my Reasons is, that the Circumstances of Ireland, by reason of her Dependance, are such, that she cannot always obtain those Advantages she aims at, when she would, nor in the Manner she desires; yet I have constantly observ'd, that we have thought it our Wisdom, rather to take a Part, rather than refuse the Whole.<sup>44</sup>

He agreed that any bank must be settled on sound foundations and well regulated to restore trade and credit. Maxwell held that the project under discussion did offer such securities and suggested that if the Commons wanted to compare safeguards they might consult the charter of the Bank of England.

Maxwell admitted that economic rules governing the effects of a lowered interest rate "holds strongest in Independent Nations, where stock acquired continues among them, and is not drained out:

But as to Ireland, that is Dependant of England, it is certain, that as it extends its Trade, and improves and increases its Manufactures, its Drains to England will be greater... [this] will not be to the loss or Hurt of Ireland, but to its Advantage; or in other words, Ireland will encrease in wealth more under that Encrease of Drain... For that Encrease of Drain can only be in Proportion to our Encrease of Wealth, and in that case both Nations will gain.<sup>45</sup>

In this, Maxwell has strayed away from the original problem of how a dependent country can properly control its interest rate, and has moved on to answer yet another problem of dependence, how

to increase their trade without arousing the hostility of the English merchants.

The main thrust of Rowley's reply was to highlight the uncertainties of political dependence, a fact of life which Maxwell had contended they must accept and work within. In An Answer to a book entitled Reasons offered, Rowley elaborated on the problems consequent on their subordination to Great Britain. The point of the bank project was to provide, subject to firm legislation, a stable source of credit to aid monetary circulation but this was vitiated, Rowley felt, by the fact that the colonists did not have ultimate control over legislation:

As Ireland is a dependant Kingdom and can neither make Laws, nor repeal them, when it pleases, without the consent of other People, not so much interested in the welfare of this Country... we ought to be very cautious .

A suspicion of English motives also underlies his caution:

...for if in the process of time, we should find it ever so Disadvantageous and Ruinous, yet if it either increases the Power, or tends to the Profit of those who have the Negative on us, we must bear the Burthen, and perhaps with an Additional Weight, which we never consented to.<sup>46</sup>

Besides lacking legislative control there was the problem of exciting the jealousy of the English merchants as Ireland became more prosperous. The opponents believed they would suffer the same fate as the Darien Company. Rowley feared they might suffer more,

...if [the bank] happens to impoverish us, and drain our little Substance into Great Britain, then indeed, we may be sure of a continuation; which makes that

saying most true that England must be  
sharers in the Profit, but Ireland alone  
bear the loss.

And following from their economic demise he postulated a total loss of their "little remains of liberty."<sup>47</sup>

In his reply to Rowley, Maxwell tried to put the question of dependence aside, arguing that "...England does not want the Assistance of a Bank, either to cramp our Trade, or increase our Dependance, when she thinks fit to do so... so that a Bank in this Respect makes us neither better nor worse."<sup>48</sup> However, Maxwell had stated in his Reasons offered that a bank could not function successfully if men were enslaved and could not enjoy security of property. In the second answer to Rowley, he was therefore at pains to define Ireland's dependence as something which still allowed security of property despite the limitations of their political control:

Now it is plain that by Slavery here, I mean that absolute Power by which a King may without any Consent, and without Law, seize private Men's properties, or a Publick Bank, and convert them to his own use... But tho' we in Ireland are bound by Laws to which we never gave consent, yet we are far from being slaves, in this sense, and hope we always shall be.<sup>49</sup>

When brought to define the limits of their dependence, therefore, Maxwell had to admit an uncertainty in the realm of legislative power which belied the possibility of a bank being set up on "solid and good Foundation." Maxwell contented himself on this point, though no doubt also confirmed the fears of his opponents, by remarking that in "Dependent Countries we ought never to refuse the present offered Good, for Fear it may never be offered again."<sup>50</sup>



Rowley's second letter, rushed to print the day before the Commons were due to reconsider the bank proposals, recalled British jealousy of Irish trade. The argument again centred on their lack of control over such a venture "...where a miscarriage must have the most dreadful consequences, and be so entirely ruinous to this poor, cramped and dependent Kingdom, we cannot be too cautious."<sup>51</sup>

The acceptance or rejection of the bank proposals, however, depended not on popular opinion but on the vote in the House of Commons. On the 9th of December a committee of the Whole House sat again to consider the bank and rejected it by 150 to 80 votes on the grounds that no "safe foundation" could be found for its establishment. There was by this time little surprise in Ireland at the outcome of the vote, though some wonder was expressed at the move to opposition taken by precisely those speaking men, Conolly, St. John Brodrick and Ralph Gore, who had earlier led the debate for its acceptance, though Conolly did not in the end shift his vote. The Lords followed this up with a resolution to stop its members continuing to take subscriptions and when the parliament reconvened in January the issue was dead. However, even then Grafton did not preside over the easy session he had hoped for as divisions arose over the alteration of certain bills in Council. This opposition seems to have been run by Henry Maxwell, perhaps in some pique at the loss of the bank bill, but it had little effect, because no supply bill was at issue. Alan Brodrick, however, reflected that this opposition would compound the belief in England that the colonists were bent on independence, rejecting a bank they had first sought and then opposing Poyning's

The proposed establishment of a bank in Ireland was primarily an economic issue. Thus, the usual political divide of Irish and English interest did not prevail, and outspoken colonial nationalists like King and Molesworth found themselves on opposite sides of the debate.<sup>53</sup> Nevertheless, the conflict over the bank provides an insight into the position of colonial nationalism immediately after the passing of the Declaratory Act.

The bank debates show that the colonists had accepted the Declaratory Act de facto, if not de jure. This had the effect of cutting them off from a major part of the historical and legal tradition which asserted Ireland's independence. The question of Ireland's dependence came up frequently in the pamphlets and even in the parliamentary debates on the bank but the colonists abandoned a use of precedent as an assertion of rights but highlighted the problem resulting from their political dependence. This was easy enough to do on an issue which involved no direct attack on Ireland's constitution but it was a break from a political tradition which referred to legal and historical precedents on every possible occasion.

The theoretical position of colonial nationalism in 1721 was, therefore, a negative one of voicing complaints about imposed power rather than an assertion of rights against that power. But this is to overlook perhaps the most important point to arise from the bank debates, namely, that colonial nationalism, the concern for Ireland's constitutional status vis à vis England, had come to colour an essentially economic debate. The colonists, whether for or against the bank, were worried about their lack of legislative sovereignty. Certain of them, like John Perceval, changed from seeing the bank as economically desirable to withdrawing their subscription and voting against the bill because of the political uncertainties.

Not many of those originally in favour of the bank changed their vote, but the moderate men who did not take part in the initial debate in parliament, were clearly moved by the political as well as the economic arguments to vote for the bank's final defeat.

CHAPTER VI: WOOD'S HALFPENCE AND THE DRAPIER'S LETTERS

The conflict between the Irish colonists and the British government from 1723 to 1725, known as the Wood's halfpence affair, has long been seen as a critical point in Anglo-Irish relations. The dispute concerned the grant of a patent to William Wood, an English ironmonger and mine owner, to coin some £108,000 of copper halfpence and farthings for Ireland. The colonists stated opposition to the patent centred on their economic objections to the scheme, as well as on the development of considerable animus against Wood himself. The dispute has, however, been interpreted as a constitutional issue: namely, the colonists wishing to control the production of Irish currency as one part of the aspiration to self-government. Wood's halfpence has thus been cited as the high-point of colonial opposition to British government and as the model and beginning of the later eighteenth century Patriot movement.<sup>1</sup>

However, some doubt has been cast on this interpretation.<sup>2</sup> It has been argued that the opposition to Wood's coin was in fact economic; that the colonists feared their trade and finances would be ruined by an inundation of base halfpences and farthings, and

it is clear that the bulk of contemporary pamphlets elaborated on the economic rather than the political implications of the grant. Only Swift's Drapier's Letters form an exception to this rule, and it is not surprising that those writing on Swift in particular have continued to argue that the opposition to Wood's halfpence, although related to economic forebodings, was rooted in the colonists' wish for self-government and for recognition of the historical rights of their Kingdom. Certainly, Swift's writings on the subject became increasingly political and constitutional, and writing on the Drapier's Letters, Herbert Davis attributed to these views a wide currency:

There can be no doubt that it was a sense of being thus completely subordinated and dependent (that is following the Declaratory Act), both economically and politically that was the real source of the violence and bitterness of the opposition to Wood's coinage.<sup>3</sup>

But there remain difficulties in attributing a constitutional motive to the colonial population generally.

Most of the plethora of pamphlets and broadsheets written against Wood's halfpence concentrated on the supposed economic effects of the patent; they claimed that the number of coins to be struck was far greater than any possible need for a low denomination coinage in the Kingdom, that it would encourage counterfeiting and that it left the colonists no control over the quantity or quality of the coins made by Wood at Bristol. The authors of these works usually included a complaint about the lack of consultation in drawing up the patent, but this hardly turned it into a constitutional conflict.

There were, however, several compelling reasons why the colonists would wish to argue their case against the patent on economic rather than political grounds. Their greatest difficulty in opposing the coins was that patents were in the King's gift. As the colonists' earlier claims of an autonomous parliament relied heavily on the theory of a dual-monarchy, for them to dispute the patent on political grounds now was to question the royal prerogative which they claimed had established their parliament in the first instance. The colonists' objections to the patent were further removed from the constitutional realm because of the involvement of the Brodricks whose party political aims and whose attachment to Lord Carteret, an opponent of Walpole's, led them to oppose the patent in order to embarrass the Lord Lieutenant, the Duke of Grafton. The Brodricks also took an economic line on the patent; Alan Brodrick realised that to attack it on political grounds could be construed as an attack on the King, besides which Alan had shown himself to be ambivalent about the colonists' constitutional pretensions. Yet another, and probably the most important, bar to a political line of argument was the recent Declaratory Act which had defined the Irish Parliament as subordinate to Westminster, thereby creating a more recent and far reaching precedent against the colonists' constitutional claims, than any defence they could now produce.

These circumstances tended to bring the colonists' economic fears to the fore, which were in themselves a cause for real concern. Nevertheless, the conflict over Wood's halfpence was in origin and extent fundamentally a constitutional issue. For in the first instance the murmurings against the patent occurred

because the colonists felt enough distrust of a scheme drawn up in England, granted to an Englishman and to be executed in Bristol, not to accept it as, say any English county would have accepted new coinage struck in London. What the colonists were questioning, by and large, were the economic implications of the patent, but the impulse to so question it could only have arisen among people who felt sufficiently politically alienated to distrust anything coming from Britain. They could not therefore accept any promises of a strict enforcement of restrictions on the type and quality of the coins to be minted.

Questioning the patent was also the response of people who felt they had a separate interest to defend, and that their prosperity or ruin was of little concern to England. This was acknowledged in Britain by the fact that Ireland had a separate coinage for precious metals, although much to the colonists' chagrin, their coin had a lower intrinsic value than that coined for Britain. The constitutional position of Ireland thus caused the initial questioning of the patent, and carried the opposition to a high pitch, because no economic compromises could quell the political suspicions. In this sense alone the Wood's halfpence episode is a striking example of the level of colonial nationalism in early eighteenth century Ireland, but it was also the occasion of innovation in their claim for limited self-government.

It is undoubted that Swift was an important figure in this dispute. He wrote pamphlets of brilliant polemic which castigated Wood, warned the colonists of the threat to their livelihoods if they accepted the coins, and discussed the affair in political

terms which other writers avoided. Swift has always been acknowledged as a strong influence in fuelling the colonists' opposition to the coins and in reminding them of their constitutional grievances. It has been assumed that Swift was reiterating the usual constitutional arguments made by the colonists prior to the Declaratory Act and in particular those put forward by Molyneux in The Case of Ireland, Stated. But what Swift was developing, particularly in the fourth Drapier's Letter, was essentially a new line on their constitutional rights.

Swift was extracting arguments from Molyneux's Case but he only drew on the claims of Natural Right, not of precedent. The distinction was not seen by contemporaries; it had not even been realised by Molyneux. Henry Downes, Bishop of Elphin, wrote of the fourth Drapier's Letter that "...notwithstanding the late Declaratory Act, it claims we are no more dependent on England than England is upon us."<sup>4</sup> Bishop Downes was right in seeing the Declaratory Act as a barrier to the colonists' claims to an independent parliament; what he did not realise was that Swift had thrown over the rights accruing from historical and legal precedent, which had been the major source for Molyneux's book, and had taken over, and extended, the claims the colonists might make according to Locke's theory of Natural Right. It was a shift of ground made necessary by the Declaratory Act but which had important implications for colonial nationalism; with this theoretical shift their right to self-government was being moved from the institution of parliament to the people themselves. Thus Wood's halfpence, the most extended and widespread conflict between the Anglo-Irish colonists and the British government since the



reassertion of Protestant government in 1691, was also the point at which colonial nationalism took a radical step away from the traditional arguments justifying Ireland's right to independence, and adopted instead the theory of Natural Right.

The occasion of conflict began with the granting of the patent, an act which was indisputably part of the royal prerogative. But the manner in which this particular patent was drawn up, the person to whom it was granted and the number of coins it sanctioned, caused resentment among the Anglo-Irish colonists. Previous patents had been decided with some reference to the Irish Privy Council; they were generally granted to an Irishman or an English politician with some record of service in Ireland, and were for a far smaller total sum. The 1722 patent, however, was arranged entirely in England, and was bestowed on William Wood, a man who had no previous connection with Ireland, and who, it was rumoured, had gained the patent in face of competition by bribing one of the King's mistresses, the Duchess of Kendal, with £10,000. Suspicions about events surrounding the grant increased in Ireland when it was heard that Wood was to be allowed coin £108,000 worth of halfpences and farthings over the coming fourteen years, a sum which they computed to be about a quarter of the country's existing metallic currency.

The indenture for the patent specifying the amount of coin and time allowed for its production was issued on the 12th of July 1722. A month later Wood was granted a licence to pursue his business in Bristol where he had acquired premises, from where he could more easily ship the coins to Ireland. None of this was officially related to the colonists, but through informal

channels they soon had a fairly clear idea of the exact terms of the patent and their reaction to it was hostile.

In letters to Lord Grafton and his secretary, Edward Hopkins, hardly a month after the patent had been granted, Archbishop King outlined what were to be the main economic objections of the colonists to the scheme, at a time when he could not have known the details of the patent. His objections were that Wood's coins would encourage counterfeiting, that as the patentee was undoubtedly a government favourite he would have no concern for the Kingdom and would not have to confine himself to the agreed sum. King also adverted to the more political complaint that the colonists had not been consulted in this affair, and, he further claimed there was no real shortage of change and that if it were needed, it should be coined in Ireland. By the 1720s, Archbishop King was quick to condemn anything coming from England, but in this case his fears were shared by others. Shortly after King's letter, Hopkins received one from the Commissioners of the Irish Revenue who echoed King's complaints that it would encourage the production of false coin, that there was in fact no need for copper coinage, and that "...such a Patent will be highly Prejudicial to the Trade and Welfare of this Kingdom, and more particularly to his Majesty's Revenue, which we have formerly found by Experience to have suffered very much by too great a Quantity of the like small base Coin."<sup>5</sup>

The grant of a patent to Wood brought up the question of establishing a mint in Ireland. No coin was struck in Ireland; its brass and copper coins were made under licence to the King

in England, and for gold and silver the colonists relied on an assortment of English and Continental coins. The colonists had long sought to have a mint in Ireland, and had petitioned the Crown to this effect on many occasions. The scarcity of coin in the 1720s led the colonists to consider once again the advantages of being able to produce their own coin. This made the imposition of Wood's halfpence a source of greater annoyance, and the colonists' past experience of English base coins minted for Ireland did little to increase their confidence in the prospective coinage. A deep suspicion of the quality of base coins can be seen in Swift and one of his biographers attributed much of his fiscal conservatism to the "alchemical transformations" of the coins which had been struck for Ireland from the time of the Restoration.<sup>6</sup>

By Summer 1723, when Wood's coins began to arrive in Ireland, the colonists' hostility had become more active, and they refused to accept any of his coins in payment. Archbishop King seems to have been the first to suggest a boycott; in September 1722 he wrote to Francis Annesley,

...we have only one remedy, that is not to receive any coin, no one is obliged to take them according to the patent unless willing, if landlords or even a few of them refuse to take them it will break the neck of the project.

One of the principal reasons why the colonists were alarmed by the patent was the amount of coins it sanctioned. They believed that £108,000 worth of brass and copper was vastly beyond any possible need for small change and that the sheer quantity of Wood's coins would unbalance their already ailing economy and lead to a flight of gold and silver money. This large sum also meant, they argued,

that any deficiency in the intrinsic value would be multiplied into a great loss of real value when these coins were exchanged for others.<sup>7</sup>

An early pamphlet, Ireland's Consternation In the loosing of Two Hundred Thousand Pound of their Gold and Silver for Brass Money. Set forth by an Artificer in Metals And a Citizen of Dublin. Shewing the fatal Consequences of Coining in another Kingdom Three Hundred Tun Weight of Copper Half-Pence amounting to the Damage of Two Hundred Thousand Pounds Sterl: to this Nation, and the Continuance of the same for Fourteen Years, published in mid August 1723, brought all of the economic points together. The argument was not so unreasonable in this pamphlet as might appear from the title, which predicted a loss twice that of the sum to be coined under the patent. For the reputed author, James Maculla, contended that between the counterfeiters and the low intrinsic value of Wood's coin, all of Ireland's precious metal coinage would leave the country and be replaced by base coin:

...its supposed all the Clippers and Counterfit Coiners in this Kingdom are or will be at Work making that Money... and that this Nation will be over-run therewith, if the publick are not on their Guard in the Taking such Coin... who before the sitting of the House [of parliament] may have parted with all their Gold and Silver in Exchange for such Halfpence, on Account of the great Praemiums given or allowed by their Factorers for the circulation thereof.<sup>8</sup>

Thus, Maculla warned the colonists against accepting any of Wood's coin in the first instance.

It was a point of view which quickly gained acceptance. When the Duke of Grafton arrived in Dublin on the 13th of August 1723, to open the new session of parliament, he had to admit to

Walpole that even those who supported them in all else would not defend these coins, and that Ireland's Consternation, which put the patent in the worst light, was seen by many of their friends as "unanswerable" in some of its objections. Walpole's reaction to this information was to express surprise; he replied that the pamphlet was clearly false because it claimed Ireland would lose more than the patent was worth, and in a later letter, he justified the lower intrinsic value as taking account of the patentee's extra transportation costs. Walpole concluded, characteristically, that as there were no real economic grounds for complaint the colonists' opposition must be the creation of his political opponents.<sup>9</sup>

Soon after the opening of the parliamentary session in late August 1723, Grafton was faced in the Commons with a resolution to debate the patent. Grafton's immediate reaction was to deny that he had a copy of the patent for the Commons to consult, which only served to excite wilder speculations about the actual terms of the document and greatly diminished the Lord Lieutenant's standing. Grafton's position was further weakened when his secretary, Edward Hopkins, produced copies of the patent and other relevant papers just two days later. Grafton's inconsistency in handling this in the Commons, and his failure to rebut the charges being made against Wood's coins, led Walpole to doubt his capabilities and dub him a "fair weather pilot."<sup>10</sup>

The House of Lords offered no better prospect of support. There the opposition to the government began on a constitutional note with Lords Abercorn and Molesworth, and Archbishops King and Synge objecting to the words "a happy constitution," as a reference to Ireland in the Lords' first address of the session

to the King. Of their speeches on this occasion the Bishop of Meath wrote,

...I never heard louder things said in my life on any occasion, viz, that we had no constitution, being under oppressions, tyranny and wt. not, affirming we should never be right till Poynings Law etc. were abrogated.

However, on a division, the motion to expunge the words was lost.<sup>11</sup>

Thus far, the opposition was ineffectual, but Grafton still felt threatened, particularly by Archbishop King, whom he described as:

...of as uncommon a mixture as most people I know. He is very indiscreet in his actions and expressions, pretty ungovernable, and has some wild notions, which sometimes make him impracticable in business, and he is to a ridiculous extravagance, National. Upon some points (of which the jurisdiction of the House of Lords is a principal one) he<sup>12</sup> loses both his temper and his reason.

Grafton was right to be wary of King for the Archbishop went on to gather support more successfully on his next point of opposition, Wood's patent.

Before this occurred the patent had become a major issue in the Commons, where the members were being "inflamed" by St. John Brodrick's speeches against it. The Commons ordered those tradesmen who had been involved in importing Wood's coin to come before them, investigated the terms of earlier patents and sent samples of the coins then in Ireland to William Maple, a Dublin chemist, for an assay.<sup>13</sup> The report of the Commons committee which had been appointed to investigate the coins was read on the 23rd of September, and it confirmed the colonists' worst fears. The report's main findings were that the patent had been acquired by misrepresentation, and that the coins already being circulated showed different impressions and weights. The report concluded

that the coins would be "prejudicial to his Majesty's revenue, destructive of the Trade and commerce of this Nation, and of the most dangerous consequence to the rights and properties of the subject." The whole House then addressed the King to withdraw the patent in view of these findings, and added a request that the King direct the Irish Commissioners of the Revenue not to receive Wood's coin.<sup>14</sup>

Members of the Lords met with the Commons the following day, 24th September, and were granted temporary custody of the papers concerning the patent. These were debated in the House of Lords on the 26th of September and they agreed to resolutions similar to those of the Commons, though in their address to the King they omitted any reference to the patent having been gained by fraudulent means.<sup>15</sup>

Walpole was inclined to blame the commotion on Grafton's ineptitude, and the political manoeuvrings of the Brodricks in Ireland and of Lord Carteret in London. Writing to Grafton in September 1723, Walpole sought to remind him where his own interest lay and to warn him against the belief that by "compounding for" the patent and carrying all other business he could count the session a success. Grafton was left in no doubt that his position rested on smoothing the way for the acceptance of Wood's coins. But even if he had wanted to avoid the question of the patent in order to succeed in other areas during the session, the Irish M.P.s left Grafton no such choice. The Commons delayed the supply and all other business until they received some satisfaction on the issue of the coins. In order to forward the supplies,

Walpole decided that the King should send a conciliatory reply to the Commons, something general, not allowing any of their claims, but enough to quiet the session. The King's answer, which was read to the parliament in December, stated that,

...if there have been Abuses committed by the Patentee, His Majesty will give the necessary Orders for inquiring into, and punishing those Abuses... and will do every thing that is in his Power for the satisfaction of his People.

This was not quite what the colonists had hoped for, but it was enough to give Grafton some respite.<sup>16</sup>

Grafton's task was not made easier by William Wood who entered the debate in person in October 1723 in order to refute the Irish Common's claim that he had gained the patent by fraud.<sup>17</sup> The implication behind Wood's reply to the charge was that his connections in England were such that he could pass the coins by force if necessary. This intervention made his person a focus for the colonists' complaints. Swift, who excelled in the art of personal invective, proclaimed Wood to be "a mean ordinary Man, a hardware Dealer," who was cheating the nation. Denigrating Wood, however, did not greatly add to the colonists' case unless linked to political argument; thus, Wood's personal interest was characterised as being set above the good of a Kingdom. This theme of an individual's interest being preferred to the national interest is one which was taken up by many of the pamphleteers, and was given credence by Wood's own response to the opposition.<sup>18</sup>

By February 1724, when Swift was writing the first of his Drapier's Letters, the King's intentions as to the patent were



still unclear and Swift felt the colonists needed encouragement to continue the boycott. The main thrust of Swift's Letter to the Shop-Keepers, Tradesmen, Farmers, and Common-People of Ireland, concerning the Brass Half-Pence coined by Mr. Woods with a design to have them pass in this Kingdom, other than castigating Wood, was therefore to go over the ground laid by Maculla and others, depicting the hardships people would suffer by accepting the coins. Swift drew a sharper picture than any of the previous writers. What he conveyed, without recourse to economics or figures, was the losses which would effect all of the colonists.

For suppose you go to an Ale-House with that base money, and the Landlord gives you a Quart for Four of these HALF-PENCE, what must the Victualler do? His Brewer will not be paid in that Coin, or if the Brewer should be such a Fool, the Farmers will not take it from them for their Bere, because they are bound by their leases to pay their Rents in Good and Lawful Money of England, which this is not, nor of Ireland neither, and the Squire their Landlord will never be so bewitched to take such Trash for his Land; so that it must certainly stop somewhere or other, and wherever it stops it is<sup>19</sup> the same Thing, and we are all undone.

In these simple terms Swift was conveying the web of economic relations which made the individual's interest also the national interest. In the first Drapier's Letter Swift also contributed greatly to the campaign against accepting Wood's coins by extending the grounds on which the colonists could refuse them.

It had already been pointed out that the patent did not oblige any man to take these coins in payment. Swift further contended that the King had no power to enforce the acceptance of any coins but gold and silver:

But your great Comfort is, that, as his Majesty's Patent doth not oblige you to take this Money, so the Laws have not given the Crown a Power of forcing the Subjects to take .

what Money the King pleases: For then by the same Reason we might be bound to take Pebble-stones, or Cockle-shells, or stamped leather for Current Coin.

In support of this claim Swift quoted statutes from Coke's Institutes which declared gold and silver to be the only "lawful" money which the King could make current.<sup>20</sup>

The boycott continued and in early Spring 1724 there was some conviction in Anglo-Irish circles that the patent might be rescinded. However, the English government had no such plans and instead appointed Sir Isaac Newton, Master of the Mint, to assay a sample of Wood's coins. The colonists immediately raised objections to this; chiefly that as their parliament was not in session no-one could be authorised to go over as a witness for the findings of the Irish Commons, and even Edward Southwell, Secretary of State for Ireland who had been summoned to attend the assay in London, believed, like those in Ireland, that "this avails little, for first there will only be good copper produced and allow 'tis good. Yet the uncontrollableness of the quantity and the under value is that which frightens the people." Newton held the assay, and his report issued on the 27th of April stated that the coins were often above the weight required by the Patent, when taken in parcels together:

...also, that both Halfpence and Farthings, when heated red hot, spread thin under the Hammer without Cracking,... But altho the Copper was very good, and the Money one piece with another was full weight, yet the single pieces were not so equally coined, in the weight, as they should have been.

This was a fairly favourable verdict, but as Wood had chosen which coins to submit to the assay the colonists "felt no comfort" in

its judgement, although it satisfied the British government. At the same time Walpole removed Lord Grafton and replaced him with Lord Carteret as a further element in his plans to weaken the colonists' opposition. Carteret's appointment, however, increased the ferment, and speculation grew as to likelihood of the patent's being either dropped or more strictly enforced.<sup>21</sup>

Such speculation was diminished by the English Privy Council's Report in relation to Mr. Wood's halfpence and farthings, issued on the 24th of July 1724, which found in Wood's favour. This report was considered to be the official reply to the addresses of the Irish parliament and a fulfilment of the King's promise to "look into any abuses of the patent and to do all in his power for the satisfaction of his People." In the report much was made of the fact that the Anglo-Irish had been unable or unwilling to send over any witnesses to the assay in order to justify their objections, nevertheless it went on to consider their complaints. The report rejected the charge that the patent had been gained by fraudulent means and it pointed out that Wood's application was one of several made to the King "by sundry Persons, well acquainted and conversant with the Affairs of Ireland, setting forth the great want of small Money and Change in all the Common or lower Parts of Traffick." Wood's petition was said to be the most suitable one of those submitted to the King. Furthermore, the King and his advisers had imposed considerable restrictions on Wood in the patent itself.<sup>22</sup>

The report concluded that the only possible grounds for complaint might be that the colonists were not consulted, however,

the Privy Council reminded them that they had no right to consultation in such a case as the granting of patents to coin were a "just and reasonable exercise" of the royal prerogative. On a more conciliatory note the report informed the colonists that Wood had agreed to periodic checks being made of his coins, and that they were taking him up on his earlier offer to reduce the sum he would coin to £40,000, for the "interest and Accommodation of his [the King's] subjects of Ireland." In return for this the Commissioners of the Irish Revenue were to revoke any orders they might have made against the acceptance of Wood's coins.<sup>23</sup>

Within weeks of each other the report and the orders to the commissioners arrived in Dublin. To the colonists the report was seen not as giving them satisfaction but as a threat to enforce the coins. For the report still left their main arguments against the coins unanswered - that they had no control over Wood while he was in England and that they could not keep any real check on how much he was coining. Their distrust of the coins and suspicion that the English government did not have their interest at heart was confirmed for them by the proviso in the directions given to the commissioners of the revenue that they should not accept more than  $5\frac{1}{2}$  pence worth of Wood's coin in any one payment. The commissioners of the revenue also felt that this somehow justified their earlier objections.<sup>24</sup>

Far from easing the situation, therefore, the report served to increase the level of opposition to the coins. In September 1724 a large procession made its way around Dublin carrying an effigy of Wood to be burnt. The following month it was much the

same; Bishop Nicolson described how,

...by degrees we are now come into a general conflagration, all our pedlars /and/ petit merchants are confederating into solemn leagues and covenants against it, ...the frenzy is epidemical throughout the Kingdom.

Such demonstrations and confederations against Wood's coins were not the result of any planned opposition, such as orders from the Commissioners of the Revenue or the political aims of the Brodricks, as was thought in England, but owed much to the stream of pamphlets vilifying Wood and encouraging the boycott. Baron Pocklington, one of the more perceptive members of the English interest here, realised that this was the case; in August 1724 he informed the Archbishop of Canterbury that "the great arousal of the mob here is because of the pamphlets on Wood's halfpence."<sup>25</sup> And in the new year when the cause appeared to have been won, a correspondent of John Perceval unhesitatingly attributed the success to the efforts of the pamphleteers:

The drapier's letters are said to be by Swift, The Reasons showing the Necessity etc. was written by Mr. Bindon, who is confined in the Marshalsea for debt and the Justification of the Conduct etc. is said to be by Dr. Peacock a physician. Whoever have been the Authors, the People here are highly obliged to them, for tis most certain twas these pamphlets which entirely obstructed those halfpence which otherwise would certainly have come amongst us, but most certainly there is not one man in Ireland will take one of them.<sup>26</sup>

Later interest in Swift has tended to highlight his role in this affair, but to contemporaries other pamphleteers were also important in expressing the economic fears of the colonists. Certain themes recur in the pamphlets and broadsheets written on Wood's halfpence, but underlying all of the arguments against

Wood's halfpence was the belief that a coin's worth was determined by intrinsic value not face value. A principal objection to the coins was, therefore, the belief that, they were debased and could easily be counterfeited. The colonists also felt they had no security as to the actual amount Wood would coin while the operation was carried on out of their jurisdiction in Bristol. On economic grounds alone the colonists were unable to see any possible compromise:

You give us some little hopes that we shall not be quite undone by the halfpence, tho' the Patent should not be totally suppress, but I believe it must be total or not at all, for while he has the power to utter 516,000 publickly, he will certainly utter 6 times as many privately, and no possibility of being detected: and as to the tryal at the Pix, there is no doubt he had the proof made on his best sort, of which he had six different ones still lighter and lighter as was proved in Parliament. <sup>27</sup>

These uncertainties were based, however, on a suspicion of all things carried out in England where the colonists believed no check would be kept on a project concerning Ireland. It was Swift who had the ability to make apparent not only the economic pitfalls of accepting Wood's coin but the political implications of the attempts to pass the coins off on an unwilling population.

There is no doubt that even before the appearance of the very influential fourth Drapier's Letter, Swift had contributed greatly in style and ideas to the opposition. The second and third of the Drapier's Letters were published in August 1724, and were intended as replies to both the assay and the Privy Council Report. In the first of these pamphlets, A Letter to Mr. Harding the Printer, upon Occasion of a paragraph in his Newspaper of Aug. 1st. Relating to Mr. Wood's Half-Pence, Swift

reiterated his earlier criticisms of Wood's coins and again exhorted the colonists to combine in refusing the halfpence. But Swift went on to consider the April assay and to ridicule it and Wood's subsequent proposal that he reduce the coining to £40,000. In characteristic style Swift adopted a metaphor to undermine the findings of the assay:

...if I were to buy an hundred Sheep, and the Grazier should bring me one single Weather, fat and well fleeced by way of Pattern, and expect the same Price round for the whole hundred, without suffering me to see them before he was paid, or giving me good security to restore my Money for those that were Lean, or Shorn, or Scabby; I would be none of his Customer. I have heard of a Man who had a Mind to sell his House, and therefore carried a Piece of Brick in his Pocket, which he shewed as a Pattern to encourage Purchasers: And this is directly the Case in Point with Mr. Wood's Assay.<sup>28</sup>

Wood's offer to reduce the number of coins was dismissed by Swift as still excessive. He did not deny the need for some small change (he calculated the need to be for about £10,000), but clearly he felt even this would be too much of Wood's coin. Swift's real aim was that the necessary money should be struck in an Irish mint under the colonists' supervision. Swift also rejected the other main element of Wood's compromise proposal, which was that no-one should be obliged to take more than  $5\frac{1}{2}$  pence of his coin in any single payment. Swift damned this suggestion as "treason," as following the proofs of his first Drapier's Letter, even the King could not oblige the colonists to accept one halfpence in any payment.<sup>29</sup>

The third Drapier's Letter dealt specifically with the Report of the Privy Council. In content, Some Observations upon

a paper called the Report of the Committee of the Most Honourable the Privy Council in England, relating to Wood's Half-pence moved more towards a discussion of the constitutional issues of the whole affair. To a considerable extent this was necessary because the English Privy Council had sanctioned the coins and Swift had to reject not only Wood but also the opinion of the Westminster government. To do this Swift dropped the mantle of the Drapier and took on the persona of the Irish parliament. He began by stating that the report of the Privy Council was biased, prejudging the issue by calling the "united Sense of both Houses of Parliament in Ireland, an UNIVERSAL CLAMOUR." In political terms he defended their right to reject the patent primarily on the grounds of no consultation. One assumption behind Swift's argument here is that Ireland is a separate Kingdom connected to Britain only through the Crown.<sup>30</sup> No amount of consultation in England could, therefore, alter the justice of the colonists' complaint.

The colonists had some case in claiming the right to consultation on Irish affairs; as Swift argued,

I do not understand that Poining's Act deprived us of our Liberty, but only changed the Manner of passing Laws here... But waving all Controversies relating to the Legislature; no Person was ever yet so bold as to affirm that the People of Ireland have not the same Title to the Benefits of Common Law, with the rest of his Majesty's Subjects; and, therefore, whatever Liberties or Privileges the People of England enjoy <sup>31</sup> by COMMON LAW, we of Ireland have the same.

The argument was somewhat flawed in this particular instance because the right to coin was in the King's gift and Common Law did not, by definition, extend the rule of consultation into areas of



royal prerogative. Swift was aware of the inconsistency here and extended the argument by remarking that it was the King's prerogative to coin: "But I have heard 'very wise men say that the King's Prerogative is bounded and limited by the Good and Welfare of his People."<sup>32</sup>

The English Privy Council's report had argued within the framework of Common Law, stating that his...

...Majesty's Royal Predecessors have exercised this undoubted Prerogative of granting to private Persons the Power and Privilege of coining Copper Half-Pence and Farthings for the Kingdom of Ireland, was proved to this Committee by several Precedents of such Patents granted to private Persons by King Charles II and King James II,

and that "the Precedents are many, wherein cases of great Importance to Ireland, ...have been issued under the Royal Sign Manual, without any previous Reference, or Advice of your Officers of Ireland."

Swift replied in the same manner; he maintained that in the last three hundred years he could find no patents passed to make copper coins for Ireland until the reign of Charles II, and the two such patents had both been passed in the Irish parliament.<sup>33</sup> But

although Swift wrote at some length on precedents his attitude towards this form of argument is distinctly sceptical:

...there is nothing hath perplexed me more than this Doctrine of Precedents. If a Jobb is to be done, and, upon searching Records, you find it hath been done before, there will not want a Lawyer to justify the Legality of it, by producing his Precedents; without ever considering the Motives and Circumstances that first introduced them; ...And I have been told by Persons eminent in the Law, that the worst Actions which human Nature is capable<sup>34</sup> of, may be justified by the same Doctrine.

Swift used precedents, therefore, only to counter those in the report; his own argument had other supports. When pressed on the question of the King's prerogative, Swift had given an equal importance to the concept of the peoples' "good and welfare."<sup>35</sup> And on the question of consultation, having dealt with the precedents, he based the colonists' right to be consulted by the King on reason and justice:

Therefore to lay aside the Point of Law, I would only put the Question, whether in Reason and Justice it would not have been proper, in an Affair upon which the Welfare of the Kingdom depends, that the said Kingdom should have received timely Notice; and the Matter not be carried on between the Patentee and the Officers of the CROWN, who were to be the only Gainers by it. 36

In 1720 not long after the passing of the Declaratory Act, Archbishop Synge of Tuam had expressed similar sentiments with regard to being governed by reference to reason and justice. However since that time Synge, King, Abercorn, Molesworth, Perceval and others of the colonists, who had frequently asserted the legitimacy of Anglo-Irish independence, had offered little in their defence. The colonists still complained of being subject to the British parliament; they acknowledged the Declaratory Act though they did not accept it as right. They did not produce precedents to deny what was law but considered their constitution destroyed by it. In January 1724, Archbishop Synge outlined the colonists' constitutional position thus:

The Dependence of this Kingdom on that of Great Britain consists chiefly in these Two things; First, that He who is King of Great Britain, is ipso facto King of Ireland. And secondly that Nothing can here be proposed in Parliament to be passed into a Law, but what has passed the Privy Council there,... But if this Dependence has been made use of as a Pretence, beyond what was

ever originally intended by it, to oppress us; Shall our struggling against the Opression be taxed as a struggling against the Dependence?<sup>37</sup>

Synge still saw the colonists' dependence on Britain as limited. However, he admitted that they had nevertheless to acquiesce in the new situation of the Declaratory Act: "...since the knot /of our constitution/ was thus cut, which we /thought/ could never be untyed, we have quietly submitted."<sup>38</sup> Swift was to carry the colonists' constitutional theory beyond quiet submission.

In Some Observations Swift had gone beyond his own earlier pamphlets, and those of the other writers, rejecting not just Wood and his coin but also the power of the English Privy Council to override the opinion of the Irish parliament on the subject. With the increase in colonial opposition, Swift wrote and published in October 1724, the Letter to the Whole People of Ireland, and in this he concentrated on the constitutional implications of the conflict. The guise of the Drapier, however, as a non-political figure, necessitated the discovery of some new threat to justify yet another letter, and such a predominantly political one. What the Drapier invoked was again William Wood; but now he could move onto a political plain in order to refute Wood's recent statements claiming that Ireland was ripe for rebellion, that the colonists intended to break their dependency on the British Crown and that the opposition was being organised by the "Papists."<sup>39</sup> There was also the news that the Lord Lieutenant was to come over in October, an unprecedented occurrence when no parliament was due to sit. It was a common fear that Lord Carteret's arrival was to herald some

attempt to enforce the circulation of Wood's coins..

Swift's own motives in writing the Letter to the Whole People stemmed less from a wish to vindicate the loyalty of the colonists to the Crown or as preemptive strike against possible moves by Carteret, so much as from his own sense of colonial independence and a wish to build on the success of his earlier letters. There was also the irresistible temptation for Swift to show an old English acquaintance, Lord Carteret, that although he had been dropped from government circles in London, he could command support and protection in Ireland. The fourth Drapier's Letter was thus published to coincide with Carteret's arrival in Dublin on October 22nd.

The Letter to the Whole People caused an immediate stir. The Lord Chancellor, Alan Brodrick, whose opposition to the coins had been less vociferous since the appointment of his ally Lord Carteret, believed the fourth Letter to be the ideas of Archbishop King,<sup>40</sup> but the sentiments expressed in the pamphlet are certainly Swift's own, although it reflects generally the opinions of King, Synge and others of the colonists who upheld the right of an independent Irish parliament. The political intent of the fourth Letter is made clear from the first paragraph:

I find that Cordials must be frequently applied to weak Constitutions, Political as well as Natural. A People long used to Hardships, lose by Degrees the very Notions of Liberty; they look upon themselves as creatures at Mercy; and that all Impositions laid on them by a stronger Hand, are, in the Phrase of the Report, legal and obligatory.<sup>41</sup>

Swift was defending Irish political rights against the implied mere force of the English Privy Council.

Having again vilified Wood, Swift went on to discuss the limitations of the royal prerogative. He reiterated the point that

...the King hath a Prerogative to coin Money, without Consent of Parliament: But he cannot compel the Subject to take that Money, except it be Sterling, Gold or Silver; because, herein he is limited by law.<sup>42</sup>

In this, Swift was refuting Wood's claim that the colonists were disputing the King's prerogative.

But the aim of the fourth Letter was to assert the colonists' constitutional rights rather than defend their opposition to Wood's coin. Swift continued to adopt a cynical line on precedents, although he included an historical precedent for the withdrawal of an unpopular patent and a legal precedent which asserted Ireland's status as a Kingdom.<sup>43</sup> Swift did, however, undermine any resort to precedent by introducing a more critical approach to historical events. Combining his attack on the King's prerogative with an attack on precedent he wrote:

Some Princes have, indeed, extended their Prerogative further than the Law allowed them: Wherein, however, the Lawyers of succeeding Ages, as fond as they are of Precedents, have never dared to justify them. But, to say the Truth, it is only of late Times that Prerogative hath been fixed and ascertained. For, Whoever reads the Histories of England, will find that some former Kings, and those none of the worst, have, upon several Occasions, ventured to control the Laws, with very little Ceremony or Scruple.<sup>44</sup>

Swift extended his assertion of Ireland's political rights beyond the question of the King's prerogative by going back to the claims made by Molyneux. Swift's debt to Molyneux is not

immediately apparent, as he put no reliance on precedent and ridiculed Molyneux's chief source for Irish records, Bermingham Tower, as a place "where all the Records... are not worth Half a Crown, either for Curiosity or Use." And yet it was Swift's reference to Molyneux which was particularly marked out as "highly seditious" by Alan Brodrick and by Lord Carteret.<sup>45</sup> Alan Brodrick recounted how the whole debate over Ireland's constitutional status began with the Bishop of Derry's case and was revived by the Sherlock case. The Lord Chancellor recalled how he had opposed the Irish Lords' claims on the Sherlock case with legal argument but,

...this was an objection which could no way be so fully answered as by resorting to Mr Molyneux's notion, that they in England could not bind Ireland by any act made there; which is one great position of our pamphlet [fourth Letter].<sup>46</sup>

He was right in seeing Molyneux's influence as important, for although Swift did not share Molyneux's belief in precedents he did take up the other strand of Molyneux's argument in the Case of Ireland - that of Natural Rights.

Like Molyneux, Swift liked to claim rights on a comparison with England, "...by the laws of GOD, of NATURE, of NATIONS, and of your own Country, you are and ought to be as FREE a People as your Brethren in England," and Ireland could not be said to be dependent, when there was no "Ground of Law, Reason or common Sense" and "the best of them are only our Fellow-Subjects and not our Masters." This was not an appeal to Common Law, or the rights of Englishmen, but was an appeal to Natural Right, which Molyneux, after Locke, had termed the rights "of the whole Race of Adam."<sup>47</sup>

It was the appeals to government by Reason rather than by the King's prerogative or precedent which were remarked upon in the fourth Letter, as Bishop Nicolson, wrote;

Our Spiritual Draper... This gallant Patriot asserts, in Words at Length, that Ireland no more depends on England, than England does upon Ireland: That they who assert the contrary, talk without any Ground of Law, Reason, or common sense: That the Parliaments of England have sometimes assumed a Power of binding this Kingdom by Laws enacted there; But this has been opposed by invincible Arguments from Truth, Justice and Reason. 48

Molyneux's use of Locke had been selective, and Swift was selective of Molyneux. Where the first author had used Natural Right to defend the concept of representation in government and to dispute the assertion of a conquest of Ireland, Swift was concerned only with the issue of representation:

It is true, indeed, that within the Memory of Man, the Parliaments of England have sometimes assumed the Power of binding this Kingdom, by Laws enacted there; wherein they were, at first, openly opposed (as far as Truth, Reason and Justice are capable of opposing) by the famous Mr. Molineaux, an English Gentleman born here; as well as by several of the greatest Patriots, and best Whigs in England: but the Love and Torrent of Power prevailed. Indeed, the Arguments on both Sides were invincible. For in Reason, all Government without the Consent of the Governed, is the very Definition of Slavery: But, in fact, Eleven Men well armed, will certainly subdue one Single Man in his Shirt.<sup>49</sup>

This last point about the force of arms is strongly reminiscent of a similar argument in the Case where Molyneux asserts: "If a Villain with a Pistol at my Brest, makes me convey my Estate to him, no one will say that this gives him any Right."<sup>50</sup> It was

consent, therefore, and not power which defined the constitutional rights of a Kingdom. Swift was putting forward a small part of Lockean Natural Right in the fourth Letter, but it was sufficient to deny the English parliament any part in Irish affairs despite the Declaratory Act. Wood's coins could not, therefore, be forced on the colonists with any pretence to right, because their consent had not been sought.

On a theoretical level Swift was using a non-historical and universal defence of constitutional rights. On a particular level the question arises for whom was Swift speaking and asserting these rights. His exhortations to liberty imply he would not wish slavery on any men. Yet it is clear that in an Irish context Swift was speaking for the colonists not the "Papists" whom he discounts at the beginning of the pamphlet. More than even the specific references to reason and nature, the tenor of the fourth Letter pleads for a universal liberty, but Swift does not face the implications of this theory on the colonists' relationship with the Catholics and Dissenters. Swift writes of his "Countrymen" but means the colonists, the "true English People of Ireland," and this gives the fourth Letter an underlying inconsistency which was not resolved until later in the eighteenth century.<sup>51</sup>

Lord Carteret could not allow this pamphlet, which was in its second edition two days after the first had been produced, to pass freely. He immediately summoned a Privy Council to initiate a prosecution against the printer, to issue a proclamation against the pamphlet and to offer a reward for the discovery of the author. The Privy Council proved unwilling to censure the



entire pamphlet and Carteret had to be content with a proclamation against "several Seditious and Scandalous Paragraphs." The fourth Drapier's Letter contained much general criticism of Wood, of English appointments to Ireland and a considerable number of the digressive metaphors which characterise Swift's work, but the five paragraphs marked out as seditious were those concerning Ireland's dependence on the Crown, the English parliament and the mention of Molyneux. A majority of the Privy Council were then willing to sign the proclamation although Archbishop King, Bishop Bolton of Elphin, Dr. Coghill and Lord Allen still refused to sign it.<sup>52</sup>

Following this, the printer, John Harding, was taken into custody on November 7th and a grand jury was called up in order to indict him, but as no firm evidence could be produced against him they never sat. The possibility that Harding might be tried prompted Swift to write some Seasonable Advice to the Grand-Jury, concerning the Bill preparing against the Printer of the preceding Letter, not so much to defend Harding, as to justify the Drapier. Carteret was so incensed at this attempt to interfere with the law that he set about having it presented by a grand jury. The jury proved obstinate, however, and refused to make a presentment. The Lord Chief Justice, Lord Whitshed, sent them back to reconsider but to no avail; he then discharged them and ordered a new grand jury to be called. The legality of this action was questionable and was followed by the publication of an extract quoting a resolution of the English Lords in 1680 which declared the dismissal of a grand jury before the end of a term to be illegal. It certainly increased public resentment, and the new grand jury appeared no more willing to present Seasonable Advice, despite

the ill conceived attempt by Whitshed to move them by a speech on the absurdities of the notion of independency. When Whitshed requested their presentment, they offered him one in which they confirmed their rejection of Wood's coins and made no statement against the pamphlet.<sup>53</sup>

Walpole's reaction to the continued opposition in Ireland and the failure of the Privy Council's report had been to order Carteret to Dublin to sort it out. But the new Lord Lieutenant was hardly in a better position to resolve the issue, as even the Brodricks' support did not extend to Wood's halfpence. Carteret's more diplomatic style did not change the situation and the level of opposition was made clear by the failure to get an indictment from a Dublin grand jury. Walpole hoped for some positive return from the appointment of the English Whig bishop, Hugh Boulter, to the Primacy of Ireland in August 1724. Boulter was put in to strengthen the English interest on the Irish bench of bishops, but even he was unable to see a way past the boycott of Wood's coins:

...all people here are against the coin.  
Our pamphlets and the discourses of  
some people of weight, run very much upon  
the independency of this Kingdom and  
in our present state that is a very  
popular notion.

His opinion of the affair soon coincided with Carteret's, who felt that there was no compromise acceptable to the colonists and that the patent must be withdrawn.<sup>54</sup>

Speculation about the patent continued, though the colonists felt sure they had won, and in August 1725 the patent was officially rescinded. The surrender had been forced on the government because of the coming session of parliament, but having been through so

much the colonists did not accept it quietly. In the Lords, Archbishop King managed to pass an amendment in the address of thanks to the King, appending the words "great wisdom" to the phrase thanking the King for his goodness and condescension in putting an end to the patent. In a later vote in the House of Lords, King's amendment was removed but Swift gave King an unofficial victory by publishing a broadsheet called Wisdom's Defeat, which gave the sentiment an even wider audience.

All that was left to the British government was the power to compensate Wood, under an assumed name, on the Irish establishment.<sup>55</sup>

In retrospect the most striking thing about the Wood's Halfpence episode in Ireland is the unity of the colonists in their rejection of the coins. It was a unity both of economic self-interest, but it also displays clearly the general adherence to the political principle of the colonists' right to an independent parliament. Before 1723, clashes with the English government had chiefly concerned parliamentary circles in Ireland. But a growth in the number of pamphlets over the period 1723-25 attests to a ready market. And the general agreement of the colonial population with the ideas expressed before then by people like King and Molesworth was apparent in the refusal of the Dublin grand juries to indict either the political paragraphs of the fourth Drapier's Letter or Seasonable Advice, and the support expressed in the tradesmen's petitions. It was this unity which gave the colonists their victory over the powers at Westminster.

The success shows how widespread the ideas of colonial nationalism had become. The justification for self-government

had been greatly undermined by the Declaratory Act and since 1720 men like King and Synge had made few constitutional pronouncements. From a theoretical point of view, therefore, it is Swift's contribution to their grounds for self-government which makes the Drapier's Letters of real importance. However, by shifting the justification of their right to an independent parliament from the historical rights of that institution to the innate rights of mankind, Swift was strengthening the colonists' case against England, but severely weakening their reasons for excluding Irish Catholics and Dissenters from government. For it was easier to argue that a particular group of men could forfeit their rights to be involved in an institution; it was less simple to exclude their descendants from a "Natural Right."

### CONCLUSION

Between 1692 and 1725 the Anglo-Irish colonists can be seen to have constructed a fairly elaborate theoretical system to legitimate their exclusive exercise of political power in Ireland. The colonists had sought first to justify their exclusion of the Irish Catholics following the victory of the Williamite forces here. They then turned to defending their political rights against the English ministers and parliament. In terms of simple power there was no reason why the colonists should justify their defeat of the Catholics or attempt to assert themselves against the superior might of England. But the need to establish legitimacy seemed to override the realities of brute force, even more as the decline in the theory of divine right put the onus of political legitimacy on those ruling through parliament. The English parliament was as concerned to maintain its legitimacy by showing it had the right, and not merely the power, to rule Ireland. It was the need to establish rights which animated Molyneux to write the Case of Ireland and Swift the Drapier's Letters.

In 1690 the colonists defended their abandonment of allegiance to James II and the exclusion of the Catholics and Dissenters from political life on the grounds of divine intervention and self-preservation. From 1692, they were drawn to elaborate a different set of theories to justify their right to rule Ireland independent of the English parliament. The colonists did not take over the arguments used to justify the revolution settlement in England but extended the traditional historical case of being an independent Kingdom subject only to the English monarch.

The principle concern in the colonists' defence of the right to self-government between 1692 and 1725, was to assert the right to representation in government. This was done by highlighting the historical, legal and judicial precedents which supported the contention that Ireland was an ancient and independent Kingdom with a long established parliament.

The publication of the Modus Tenendi Parliamenta in Hibernia, and the resolutions of the Irish Commons on money bills in 1692, reflect attachment to historical justifications of political rights. In 1695 the colonists were successful in gaining some control over the form of money bills and other Irish legislation, but the means for doing this had sent others of the colonists back to the parliamentary rolls to establish, by precedent rather than patronage, the powers of the Irish parliament.

The threat to the Irish parliament's legislative and judicial powers in 1698 led the colonists to delve further into historical records to defend the independence of their parliament.

This threat also resulted in the publication of Molyneux's Case of Ireland, which was a multi-layered defence of colonial rule in Ireland, though also chiefly resorting to historical and legal precedent.

Molyneux based the colonists' right to representation on Common Law, as the descendant of Englishmen and because Henry II had extended Common Law to Ireland and had established an independent parliament here. With the publication of the Case in 1698 the colonists had a work which brought together current beliefs and became the source for Anglo-Irish legitimacy over the coming century. The Case was referred back to and republished because it provided a store of precedents and could be interpreted to suit a number of different arguments for Ireland's independence.

Thus, the Case was reprinted in 1706 when representation was being considered in the light of a possible Anglo-Irish union. Even though Molyneux only provided a fleeting reference to union, the Case clearly contributed to the colonists' understanding of representation in government.

The Case was again reprinted in 1719 and 1720 because of the Sherlock v. Annesley case which threatened the Irish parliament's judicial independence although arguments reminiscent of those in the Case ran through the political debates of the intervening years. For instance, at the start of the Sherlock case in 1717, the debates in the Irish Lords produced references to the Modus, the separation of Ireland and England under King John and the precedents of earlier judicial cases, points all made in Molyneux's Case.

The Declaratory Act of 1720, however, undermined the appeal to precedents. This act stated that the Irish parliament was subordinate to the English Crown, that is to the English King and parliament. As such it provided an unquestionable precedent in itself. Unlike earlier precedents of a superior English power, like the 1699 Woollen Act and the 1698 Bishop of Derry's case, the Declaratory Act did not merely imply a dependence of Ireland but spelled it out. This forced the colonists to look for new arguments for the legitimacy of their exercise of power and for representative government.

Molyneux's Case was again the source because it had included references to men's Natural Right to self-government. This was a view rarely expounded by the colonists before 1720, though it had sometimes come to light. In 1709 the Tory opposition group in the Irish Commons argued against a government money bill because it had been altered in England. When the Whigs, who were in that session undertaking for the government, produced earlier precedents for the passing of altered money bills, the Tories fell back on the argument that precedents which were unreasonable had no validity in themselves. In 1717 Lord Abercorn argued against the judicial and legislative superiority of the British parliament on grounds of precedent but when faced with stronger precedents against his case he fell back on the unreasonableness of English laws binding Ireland.

Following the Declaratory Act the colonists began to elaborate on what they meant by 'unreasonable.' In 1720 Archbishop Synge recorded his belief that precedent counted for little unless it



coincided with law and reason. It was during the Wood's Half-pence affair that Swift set out what the colonists' rights were under law and reason in the Drapier's Letters. Swift put forward the view that unless men were slaves they had a Natural Right to representation in their government. Thus, a secondary, though novel, argument in Molyneux's Case had become the primary argument for colonial self-government after 1720.

There was, however, a difficulty in this argument for the colonists. Whereas precedent claimed rights for the descendants of Englishmen or the institution of parliament, Natural Right as taken from Locke by Molyneux, and used by Swift, was logically the right of all men. In this dilemma was the seed of later eighteenth century nationalism which looked to include all men, but it was a conclusion not faced by the colonists in the 1720s.

Footnotes: Introduction

1. J.G. Simms, Colonial Nationalism 1698-1776, p.9
2. E.R. McC. Dix, Catalogue of early Dublin-printed books, 1601-1700; H.R. Wagner, Irish economics: 1700-1783, a bibliography with notes;  
D. Wing, Short title catalogue....1641-1700;  
L.W. Hanson, Contemporary printed sources from British and Irish economic history 1701-1750;  
R. Munter, The history of the Irish Newspaper.  
passim.
3. Alan Brodrick and Thomas Brodrick, 1 Nov. 1712  
(Midleton Mss 1248/3, f. 91)
4. J.A. Froude, The English in Ireland in the Eighteenth Century, I, 269, 534.
5. W.E.H. Lecky, Ireland in the Eighteenth Century, I, 443, 458,
6. R. H. Murray, Revolutionary Ireland and its settlement, p.327.

7. J.G.S. McNeill, The Constitutional and parliamentary history of Ireland till the Union, P, 71.
  
8. C.H. McIlwain, The American Revolution: a constitutional interpretation, p. 50;  
R. L. Schuyler, Parliament and the British Empire, p. 85; A.G. Donaldson, Some comparative aspects of Irish Law, p.p 47-48.
  
9. J.C. Beckett, The Making of Modern Ireland, pp. 156, 157, 166.
  
10. F.G. James, Ireland in the Empire, 1688-1770, pp. 37, 108-9; J.P. Kenyon, Revolution Principles: the Politics of party, pp. 18-19; E.M. Johnston, Ireland in the Eighteenth Century, p.61.
  
- 11 C. Robbins, The Eighteenth Century Commonwealth-man, pp. 66, 140.
  
- 12 J.G. Simms, William Molyneux of Dublin, ch.VIII.
  
13. M. Ryder, 'The Bank of Ireland, 1721: Land, Credit and Dependency,' Hist. Jnl., XXV, 557-582.

FOOTNOTES: CHAPTER I

1. A. Dopping, Bp. of Meath, Sermon preached at St. Patrick's Church, Dublin, 26 Oct. 1690 (T.C.D. MS 1688/1, p. 439); W. King, The State of the Protestants of Ireland under the late King James' Government, p. 34.
2. A. Dopping, speech to those awaiting King William at Dublin, 7 July 1690, W. Scott ed., Somers Tracts IX, 461; W. King, Sermon preached at St. Patrick's Church, Dublin, 16 Nov 1690. Being the day of Thanksgiving for the Preservation of His Majesties Person, his good success in our Deliverance, and his Safe and Happy Return into England, pp. 22-23; A. Dopping, Sermon preached at St. Patrick's Church, Dublin, 26 Oct. 1690 (T.C.D. MS 1688/1, p. 438).
3. W. King, The State of the Protestants, pp. 6-11.
4. Few of the Protestant colonists disputed William's accession; of the clergy, who were bound by oath to uphold the hereditary monarchy, only one bishop, William Sheridan of Derry, and a few of the minor clergy became non-jurors, R. Mant, History of the Church of Ireland, II, 37-41.
5. W. King, Sermon preached at St. Patrick's Church, 16 Nov. 1690, p. 12.
6. J. G. Simms, 'Williamite peace tactics, 1690-1,' I.H.S., VIII, 303-323; [James Bonnell] to R. Harley, 3 Nov. 1691, H.M.C. Portland MSS, III, 479.
7. [E. Harley] to R. Harley, 24 Oct. 1691, H.M.C. Portland MSS, III, 478; \_\_\_\_\_ George to [R. Southwell], 31 May 1690 (N.L.I. MS 13, 653).
8. Lords Justices to Ld. Nottingham, 30 Nov. 1691, H.M.C. Finch MSS, III, 304.

9. A. Dopping, Sermon preached at Christ Church Cathedral, 26 Nov. 1691 (T.C.D. MS 1688/2, pp 77-132); Cal. S.P. (dom.) 1691-2, p.28; Lords Justices to Ld. Nottingham, 30 Nov. 1691, H.M.C. Finch MSS, III, 304.
10. J.G. Simms, The Williamite Confiscation in Ireland, 1690-1703, ch. 4; C.J.I., II, 11.
11. E. Walkington, Sermon preached at St. Andrews Church, Dublin, 23 Oct 1692, pp 9-10, 12.
12. E. Wetenhall, Sermon preached 23 Oct. 1692 before his Excellency the Lord Lieutenant and the Lords Spiritual and Temporal at Christ Church setting forth the duties of the Irish Protestants arising from the Irish Rebellion of 1641 and the Irish Tyranny of 1688, passim; R. Mant, History of the Church of Ireland, II, 54; C.J.I., II, 11.
13. C.J.I., II, 26, 16, 18; An Account of the Sessions of Parliament in Ireland, 1692, p. 3; Bp Burnet's History of His own time, IV, 208.
14. Bp. Dopping clearly published the Modus Tenendi Parliament and the Rules and Customs before the 1692 parliament, his preface begins: "The news of an approaching Parliament in this Kingdom has invited me to the publication of this Antient Record." The Rules and Customs were drawn up by Henry Scobell, Clerk of the English Commons, and first published for the English House of Commons in 1656. 1692 was the first publication of the Rules in Ireland.
15. C.J.I., II, 28; C. Porter to Ld. Coningsby, 23 Nov. 1692 (P.R.O.N.I., D. 638/18/3); the legal posts are detailed in R. Lascelles ed., Liber Munerum Publicorum Hiberniae, I, pt, ii; J.I. McGuire, 'The Irish Parliament of 1692,' T. Bartlett and D. Hayton eds., Penal Age and Golden Era: Essays in Irish History, 1690-1800, p. 13; Alan Brodrick to St. John Brodrick, 26 June 1693 (Midleton MSS 1248/1, f. 262).
16. Alan Brodrick to St. John Brodrick, 26 June 1693 (Midleton MSS 1248/1, f. 261 v); J.I. McGuire, op.cit., p. 14; C. Roberts, 'The Constitutional significance of the financial settlement of 1690,' Hist Jnl. 20 (1977), pp. 59-76, --->

16. Alan Brodrick to St. John Brodrick, 26 June 1693 (Midleton MSS 1248/1, f. 262); G. Tollett to Bp. King, 18 Oct. 1692 (T.C.D. Lyons MS 240); Bp. King's notes on the 1692 parliament (T.C.D. Lyons MS 264 a); C.J.I. II, 35-36; J.I. McGuire, op. cit., p. 21-22;
17. R. Harley to E. Harley, 17 Nov. 1692, H.M.C. Portland MSS III, 507; Nottingham to Coningsby, 24 June 1693 (P.R.O.N.I., D. 638/9/7); H.M.C. Portland VIII, 35, 37; R. H[arley] to E. Harley, 24 June 1693, Bellamont to R. Harley, 1 Sept. [1693], H.M.C. Portland MSS III 534, 542.
18. Dean J. Richards to Sir Cyril Wyche, 8 Jan [16]92/3 (P.R.O.I. MS 1A/41/70A, f. 65).
19. Cal. S.P. (dom.), 1693, p. 55; H. Horwitz ed., The Parliamentary Diary of Narcissus Luttrell, 1691-1693, pp 438, 447; H.M.C. Hse of Lds. MSS 1692-3, 369-372; Sydney to Nottingham, 17 Mar. 1693, Cal. S.P. (dom.) 1693, p. 69.
20. Luttrell Diary, p. 438; John Hely to Ld. Coningsby, 13 Feb. 1693 (P.R.O.N.I., D. 638/1/4); Porter to Coningsby, 8 June 1693; (P.R.O.N.I., D. 638/18/8); Alan Brodrick to St. John Brodrick, 26 June 1693 (Midleton MSS 1248/1, ff. 261, 262).
21. The division on whether to call a parliament in Ireland reflected the political divide of the Lords Justices, Capel was a Whig, Wyche and Duncombe were attached to the Tories; [Capel] to [Trenchard], 14 July [16]94, H.M.C. Bucc. & Queens., II, pt. i, 99-101; Shrewsbury to King William, 24 July - 3 Aug. 1694, W. Coxe, The Private and Original Correspondence of Charles Talbot, Duke of Shrewsbury, pp. 59-60; Capel to Shrewsbury, 8 Aug. [1694], same to same, [Dec. 1694], H.M.C. Bucc. & Queens MSS, II, pt. i, 114, 168-169; Shrewsbury to Portland, 10-20 Aug. 1694, same to same, 27 July - 6 Aug. 1694, Coxe, Shrewsbury. pp. 65, 62.
22. Capel to King William, 27 July 1693, Cal. S.P. (dom.), 1693, p.237; Alan Brodrick to Thomas Brodrick, 5 May 1694 (Midleton MSS 1248/1, f. 268).

23. Shrewsbury had suggested this kind of pre-parliamentary management to Capel, 25 Oct. 1694, H.M.C. Bucc. & Queens. MSS, II, pt. i, 152; Bp. Burnet saw Capel's manoeuvres as backing the colonists against the Irish "without any nice regard to justice or equity," and that he was being run by the colonists because he was too eager to gain applause, Bp. Burnet's History of His Own Time, IV, 277; Porter to Sir W. Trumbull, 3 July 1695, H.M.C. Downshire MSS, I, pt. i, 492; D. Hayton, 'The Beginnings of the Undertaker System,' T. Bartlett and D. Hayton eds., Penal Age and Golden Era, pp. 40-41.

24. C.J.I. , II, 44; Lords Justices to Nottingham, 9 Sept. 1693, Cal. S.P. (dom.), 1693, pp. 319, 320; Porter to Coningsby 15 Jan. 1694 (P.R.O.N.I., D. 368/18/8); Bp. King to J. Bonnell, 5 Apr. 1695 (T.C.D. Lyons MS 416a); Capel to Shrewsbury, 6 Sept. 1695, [same] to [same], 7 Oct. 1695 (P.R.O.N.I., T.2807/7, T.2807/12); C.J.I. , II, 52.

25. Alan Brodrick to St. John Brodrick, 17 Dec 1695 (Midleton MSS 1248/1, f. 279); two bills which answered certain of the colonists' complaints were passed immediately after the Excise bill, one to prevent foreign education and the other to prohibit Catholics from entering the army, C.J.I. , II, 53.

26. Capel to Shrewsbury, 28 Aug. 1695 (P.R.O.N.I., T.2807/5).

26a Bp. of Kildare [Moreton] to C. Wyche; 29 Oct. 1695 (P.R.O.I., MS 1A/41/70a, f. 138); Porter to Coningsby, 1 Nov. 1695 (P.R.O.N.I. D638/12/58).

27 Bp. of Kildare [Moreton] to C. Wyche; 20 July 1695 (P.R.O.I., MS 1A/41/70a, f. 134).

28. William III had pardoned Coningsby and Porter for any possible misdemeanours committed while Lords Justices in Ireland, but this had not answered the charges made by the colonists, H.M.C. Portland MSS, VIII, 37; J. F[reke] to R. Harley, 5 Oct. 1695, H.M.C. Portland MSS, III, 570; C. Porter to Trumbull, 31 Oct. 1695, H.M.C. Downshire MSS, I, Pt ii, 575-576; Porter to Coningsby, 8 Oct 1695, same to same, 24 Oct 1695 (P.R.O.N.I., D. 638/18/15, 54); C.J.I. , II, 109; [Capel] to [Shrewsbury], 7 Oct, 1695 (P.R.O.N.I., T. 2807/12); List of those voting for and against Porter (T.C.D. MS 1179, ff. 37-39).

29. Porter to Trumbull, 8 July 1695, H.M.C. Downshire MSS, I, pt. i, 498.

30. \_\_\_\_\_ to Coningsby, [25 Oct.] 1695 (P.R.O.N.I., D. 638/29); Porter to Coningsby, 21 Nov. 1695 (P.R.O.N.I., D. 638/18/59); Ld. Drogheda to Coningsby, 11 Oct. 1697 (P.R.O.N.I., D. 638/167/12).

31. Bp. King to J. Bonnell, 28 June 1695 (T.C.D. Lyons MS 445).

32. \_\_\_\_\_ to Coningsby, [25 Oct.] 1675 (P.R.O.N.I., D. 638/29).

33. Ld. Blessington & Br. Wolsley to [J. Vernon], 2 June 1696, Shrewsbury to King William, 23 June 1696, Cal. S.P. (dom.), 1696, pp. 210-211, 239; Shrewsbury to Somers, 24 Dec. - 3 Jan. 1696/7, Coxe, Shrewsbury, p. 451; P.H. Kelly, 'The Irish Woollen Export Prohibition Act of 1699: Kearney Re-visited,' Irish Econ. & Soc. Hist., vii (1980), 32.

34. Ld. Chancellor Methuen to [Somers], 26 June 1697 (P.R.O.N.I., T. 2807/16); Methuen to Somers, 24 Nov. 1697 (P.R.O.N.I., T. 2807/23); T. Southwell to Coningsby, 29 July 1697 (P.R.O.N.I., D. 638/30/2); Methuen to Coningsby, 3 Aug. 1697 (B.L. Add. MS57861, f. 34); T. Southwell to Coningsby, 5 Aug. 1697 (P.R.O.N.I., D. 638/30/3); J. Hely to Coningsby, 23 Oct. 1697 (P.R.O.N.I., D. 638/1/19).

35. A. Lucas to Wyche, 22 Ap. 1697 (P.R.O.I., MS 1A/41/70 A, f. 143); [Sir R. Cox] to \_\_\_\_\_, 14 Sept. 1697, H.M.C. Portland MSS, III, 586; C.J.I., II, 190.

36. L.J.I. I, 613-614; Ld. Drogheda to Coningsby, 31 Aug. 1697 (P.R.O.N.I., D. 638/167/9); W. Robinson to Coningsby, 31 Aug. 1697 (P.R.O.N.I., D. 638/166/15 A-B).

37. J.G. Simms, The Williamite Confiscation, ch. 5; J. Hely to Coningsby, 2 [Aug.] 169[7], (P.R.O.N.I., D. 638/1/10); Bp. King to Bp. of Waterford [Foy], 5 Oct. 1697 (T.C.D. MS 750/1, p. 97); Bp. of Waterford to King, 27 Sept. 1697 (T.C.D. Lyons MS 540); Winchester to Shrewsbury, 23 Sept. 1697, Methuen to Shrewsbury, 8 Oct. 1697, H.M.C. Bucc. & Queens. MSS, II, pt. ii, 557,



562; Shrewsbury to [Methuen], 20 Oct. 1697; Shrewsbury to Galway, 20 Oct. 1697, H.M.C. Bucc. & Queens MSS. II, pt. ii, 567, 565; L.J.I. , I, 635-6.

37a. The rejection of this bill was to be the principal piece of evidence for colonial disaffection used by the English Commons' committee which investigated Molyneux's The Case of Ireland's being bound by Acts of Parliament in England, Stated, the following year, see ch. 2, p. 71; J.I. McGuire 'Politics, Opinion and the Irish Constitution,' pp. 135-6, 150.

38. Methuen to Somers, 24 Nov. 1697 (P.R.O.N.I., T. 2807/23); Galway to Shrewsbury, 27 Nov. 1697, H.M.C. Bucc. & Queens MSS. II, pt. ii, 582; Abercorn to Arran, 14 Dec. 1697, H.M.C. Hamilton Supp. MSS. p. 141; Bp. King to Ap. of Canterbury [Tennison], 30 Nov 1697 (T.C.D. MS 750/1, p. 136).

39. L.J.I. , I, 664; Abercorn to Arran, 14 Dec. 1697, H.M.C. Hamilton Supp. MSS. p. 140; Bp. King to Bp. of Sarum [Burnet] 29 Jan 1697/8 (T.C.D. MS 750/1, p. 165); King to Canterbury, 30 Nov. 1697 (T.C.D. MS 750/1, p. 136); Drogheda to Coningsby, 2 Dec. 1697 (P.R.O.N.I., D. 638/167/13).

40. King to Bp. of Sarum, 29 Jan. 1697/8 (T.C.D. MS 750/1, p. 166); King to Ld Clifford, 4 Dec. 1697 (T.C.D. MS 750/1, p. 138).

41. Methuen to Somers, 24 Nov. 1697 (P.R.O.N.I., T. 2807/23); Methuen to R. Harley, 27 Sept. 1697, H.M.C. Portland MSS. III, 588.

42. Methuen to Shrewsbury, 3 Feb. 1697/8, H.M.C. Bucc. & Queens MSS. II, pt. i, 600.

43. L.J.I. , I, 678; King to R. Southwell, 4 Dec. 1697, same to same, 21 Dec. 1697 (T.C.D. MS 750/1, pp. 141, 149).

44. H.F. Kearney, 'The Political Background to English Mercantilism, 1695-1700,' Econ. Hist. Rev. , 2nd ser., XI (1959), 484-96; P.H. Kelly, 'The Irish Wollen Export Prohibition Act of 1699: Kearney Re-visited,' Irish Econ. & Soc. Hist. , vii (1980), 22-43; Shrewsbury to Galway, 30 Aug. 1697, H.M.C. Bucc. ---> (note cont.)

& Queens MSS, II, pt. ii, 543; Somers to Galway, 26 Oct. 1697, same to same, 19 Nov. 1697 (B.L. Add. MS 61653, ff. 9v, 11).

45. Methuen to Galway, 15 Jan. 1697/8, same to same, 18 Jan. 1697/8, same to same, 6 May 1698 (B.L. Add. MS 61653, ff. 37v-38, 22, 72).

46. Bp. King to R. Southwell, 6 Jan. 1697/8 (B.L. Egerton MS 917, f. 151); P.H. Kelly, 'The Irish Woollen Act,' note 45; [J. Toland] A Letter from a Gentleman in the Country, pp. 2, 3.

47. F. B[rewster], An Answer to a Letter from a Gentleman in the Country, pp. 5, 7.

48. This pamphlet has recently been attributed to Francis Annesley, P.H. Kelly, op. cit., note 47; Some Thoughts on the Bill Depending, pp. 3-4, 12, 15.

49. [J. Toland] A Letter from a Gentleman in the Country, p. 3.

50. Bp. King to R. Southwell, 6 Jan. 1697/8 (B.L. Egerton MS 917, f. 152 v).

51. For analysis of Molyneux's Case of Ireland see ch. 2.

52. F. B[rewster], An Answer to a Letter from a Gentleman, pp. 7-8.

53. Ibid., pp. 8-9.

54. Bp. King to R. Southwell, 6 Jan. 1697/8 (B.L. Egerton MS 917, f. 153).

55. Bp. King to Bp. of Killaloo [Lindsay], 13 May 1698 (T.C.D. MS 750/1, pp. 229-230); King used the same phrase in 1690 about being subject to the Catholics, State of the Protestants, p. 224.

56. King to R. Southwell, 21 Dec. 1697, same to Bp. of Sarum, 29 Jan. 1697/8 (T.C.D. MS 750/1, pp. 149, 167); R. Southwell to King, 26 Ap. 1699 (T.C.D. Lyons MS' 605).
57. W. Molyneux, The Case of Ireland, pp. 85-95.
58. King to F. Annesley, 16 Apr. 1698 (T.C.D. MS 750/1, pp. 211-212).
59. King to Bp. of Kildare [Moreton] 25 Oct. 1697 (T.C.D. MS 750/1, p. 113).
60. King to Bp. of Killaloo, 18 Jan. 1697/8 (T.C.D. MS 750/1, p. 161).
61. King to F. Annesley, 16 Apr. 1698 (T.C.D. MS 750/1, p. 212).

FOOTNOTES: CHAPTER II

1. W. Molyneux, The Case of Ireland's Being Bound by Acts of Parliament in England, Stated, p. 25.

2. It is the timing as much as the number of reprints which attests the importance of Molyneux's Case to Anglo-Irish constitutional politics throughout the eighteenth century: 1706 (London), 1719 (London & Dublin), 1720 (London), 1725 (Dublin), 1749 (Dublin), 1770 (London), 1773 (Dublin), 1776 (Belfast), 1782 (Dublin).

3. Henry Dodwell to Dr. John Madden, 7 Dec. 1700 (T.C.D. Lyons MS 741).

4. J.G.A. Pocock, The Antient Constitution and the Feudal Law, passim.

5. Sir John Davies, Le Primer Report des Cases & Matters en ley Resolues & adiudges en les Courts del Rey en Ireland, pref.

6. The concept of Natural Right was known in seventeenth century England, and could be pleaded in English courts, however, Lockian Natural Right was not widely used or understood in the 1690s in England, M.P. Thompson, 'The Reception of Locke's Two Treatises of Government, 1690 - 1705,' Political Studies, XXIV (1976), 184-191; J.P. Kenyon, Revolution Principles: the politics of party, 1689-1720, pp. 18-19.

7. E.R. M<sup>C</sup>C. Dix, Catalogue of Dublin Printed Books, 1601-1700, pt. 4, pp. 238-308.

8. Patrick Darcy An Argument delivered by Patrick Darcy, Esquire; by the Expresse order of the House of Commons in the Parliament of Ireland, 9 Junii, 1641, pp. 3-4.

9. [P. Darcy], ibid., p. 45, p. 68.

10. [P. Darcy], A Declaration setting forth How, and by what means the Laws and Statutes of England, from Time to Time, came to be in force in Ireland, p. 7.

11. [P. Darcy], ibid., pp. 17, 18, 19.

12. William Domville, A Disquisition touching that great Question whether an Act of Parliament made in England shall binde the Kingdome and people of Ireland without their Allowance and Acceptance of such Act in the Kingdome of Ireland. (T.C.D. MS 890, f. 46).

13. Domville, A Disquisition, (T.C.D. MS 890, f. 47 v).

14. Domville, A Disquisition, (T.C.D. MS 890, f. 49 v).

15. Domville, A Disquisition, (T.C.D. MS 890, ff. 50-50v).

16. Domville, A Disquisition, (T.C.D. MS 890, f. 56).

17. J.G. Simms, William Molyneux of Dublin; A life of the seventeenth-century political writer and scientist, chs. 1, 2; Birch, Bernard and Lockman eds. A general dictionary, VII, 602; Biographia Britannica, V, 3123; A Catalogue of the Library of the Honourable Samuel Molyneux Deceased; In the 1690s Irish trainee barristers had to take at least part of their course at an English Inn of Court.

18. K.T. Hoppen, The Common Scientist in the Seventeenth Century: a study of the Dublin Philosophical Society, 1683 - 1708, pp. 75-76; J.G. Simms, William Molyneux, pp. 51-52.

19. Birch, op. cit., 611; Molyneux was first appointed a commissioner of the forfeitures in Nov. 1692, and re-appointed in Feb. 1693, he resigned in May 1693, Cal. S.P. (dom), 1692, p. 241, 1693 pp. 45-46, 128; Molyneux was appointed a Master in Chancery in Nov. 1695, Munerum Publicorum Hiberniae I, pt. ii, 22; J.G. Simms, William Molyneux, pp. 91-93.

20. It is likely that Molyneux acquired the MSS of the Disquisition from Dopping with the exemplification of the Modus, The Case of Ireland, p. 44.
21. W. Molyneux, Dioptrica Nova, dedication; P.H. Kelly, 'Locke and Molyneux: the anatomy of a friendship,' Hermathena, CXXVI (1979), 38-54; E.S. de Beer ed. , The Correspondence of John Locke, IV, 479-480.
22. W. Molyneux, The Case of Ireland, pref.
23. Molyneux was one of Bp. King's legal advisers, J.G. Simms, William Molyneux of Dublin, p. 104; Molyneux, The Case of Ireland, pref., p. 24; Locke's Corr. VI, 376.
24. P.H. Kelly, 'Locke and Molyneux,' 44.
25. The Case of Ireland, p. 25.
26. The Case of Ireland, p. 30; for Toland's Letter see ch. 1; M. Goldje, 'Edmund Bohun and ius gentium in the Revolution Debate 1689-1693,' Hist. Jnl., XX, (1977), 569-586.
27. The Case of Ireland, pp. 30, 31.
28. Ibid., p. 33.
29. Ibid., pp. 33, 34, 35.
30. Ibid., pp. 38, 39.
31. Ibid., p. 39.
32. Ibid., p. 39.
33. Ibid., p. 40.
34. Ibid., p. 46.

35. Ibid., pp. 41, 43, 45.
36. Ibid., pp. 45, 50-51.
37. Ibid., pp. 62, 65, 63.
38. Ibid., pp. 66, 68-69, 73-74, 77-80.
39. Ibid., p. 84; Bp. King shows a similar willingness to embrace a union, when discussing Toland's Letter, (B.L. Egerton MS 917, f. 153); ironically the favourable comments on a union by Molyneux were among the passages marked out for censure by the English Commons committee in 1698, C.J. (Eng.), XII, 325.
40. The Case of Ireland, pp. 85, 86, 88, 70, 91-93, 94; the acts of Cromwell's Commonwealth were in any case made void under the Restoration. The non-juror Charles Leslie wrote specifically against the colonists' acceptance of the English acts establishing William and Mary, as a legal precedent which undid all of Molyneux's earlier arguments against the imposition of English laws on Ireland; [C. Leslie], Considerations of importance to Ireland, passim.
41. The Case of Ireland, pp. 95-99, 101-111.
42. Ibid., pp. 111-112, 115, 119.
43. [Charles Leslie], Considerations of Importance to Ireland: in a letter to a member of parliament there upon occasion of Mr. Molyneux's book, intituled The Case of Ireland's being bound by acts of parliament in England, stated, p. 4, Leslie was the only Irish author to reply to Molyneux's Case; M.P. Thompson, 'The Reception of Locke's Two Treatises,' 184, 189.
44. The Case of Ireland, pp. 24, 33-39, 46.
45. The Case of Ireland, p. 52.

46. Molyneux to Locke, 19 Apr. 1698, Locke's Corr., VI, 377; (T.C.D. MS 890); P.H. Kelly, 'The MS of the Printer's copy of William Molyneux's The Case of Ireland Stated,' Long Room, XVI, (1980), 6-13; (T.C.D. MS 890, ff. 161, 160, 206 v, 207, 222, 225-225v).
47. (T.C.D. MS 890, ff. 177-177v, 196v-197, 223-224, 243v).
48. Toland implied that the Anglo-Irish colonists supported absolute monarchy, A Letter to a Gentleman, p. 2, and this, with the charge of conquest, was what Molyneux sought to deny. There was one tory reply to the Case written in 1698 by Charles Davenant, C. Whitworth ed., The Political and Commercial Works of Charles D'Avenant, II, 240-248.
49. Methuen to Galway, 21 May 1698, same to same, 24 May, 1698, same to same, 2 June 1698, same to same, 7 June 1698 (B.L. Add. MS 61653 ff. 76v-77, 78v, 81-82, 84v-85); Cal S.P. (dom.), 1698, pp. 261-2; C.J. (Eng.), XII, 281, 324-6; J. Courthope, 'Committee Minutebook of the House of Commons [England], 1697-9,' Camden Miscellany, XX, (1953), pt. 2, 47-48, 50-51.
50. C.J. (Eng.), XII, 331, 337; Cobbetts Parliamentary History, V, 1181.
51. W. Atwood, The History and Reasons of the dependency of Ireland upon the Imperial Crown of the Kingdom of England, Rectifying Mr. Molineux's State of the Case of Ireland's being bound by Acts of Parliament in England, dedication ii, pp. 45-46, 13, 29, 92-93, 111, 150-151.
52. Ibid., pp. 197-8.
53. Ibid., pp. 202, 76-81, 3-4, 196.
54. J.G. Simms, Colonial Nationalism, 1698-1776, p. 45.



55. [Simon Clement], An Answer to Mr Molyneux his Case of Ireland's being bound by Acts of Parliament in England, Stated: And his dangerous notion of Ireland's being under no subordination to the parliamentary authority of England refuted by reasoning from his own Arguments and Authorities, pp. 19, 11, 71-72.
56. Ibid., p. 66.
57. Ibid., pp. 17-18, 43, 22.
58. Ibid., pref.
59. John Cary, A Vindication of the Parliament of England, in answer to a book written by William Molyneux of Dublin, Esq., intituled, The Case of Ireland's being bound by acts of Parliament in England, stated, dedication; Somers had political and family connections in the West Country, Cary was a member of his political circle and a correspondent of Locke's.
60. Ibid., pp. 1, 3, 4, 26, 43, 98.

FOOTNOTES: CHAPTER 3

1. A detailed study of party politics in Ireland is contained in D. Hayton, 'Ireland and the English Ministers, 1707-1716' (Oxford Univ. D. Phil. thesis, 1975).
2. L. M. Cullen, An Economic history of Ireland since 1660, pp.39-43;
3. J. G. Simms, The Williamite Confiscation, Chs. 9 and 10.
4. Alan Brodrick to St. John Brodrick, 15 Dec. 1701, same to same, 7 Jan. 1701/2 (Midleton MSS 1248/2, ff. 43, 49v); R. Southwell to King, 12 Feb. 1701/2 (T.C.D. Lyons MS 876); J.G. Simms The Williamite Confiscation, ch. 11.
5. Alan Brodrick to Thomas Brodrick, 13 May 1701, (Midleton MSS 1248/2, f.20).
6. [St John Brodrick] Short Remarks upon the Late Act of Resumption of the Irish forfeitures, and upon the manner of putting that Act in execution, p11.
7. Ibid. pp.3-4; J. I. McGuire, 'Politics, Opinion

and the Irish Constitution, 1688-1707', p.163.

8. Sir R. Cox to Nottingham, 13 Feb. 1704, Cal. S.P. (dom.), 1703-4, II, 53.

9. Lords Justices to Ld. Lieutenant [Rochester], 30 Jan. 1703, Cal. S.P. (dom.), 1702-3, I, 563; Alan Brodrick to St. John Brodrick, 4 June 1703 (Midleton MSS 1248/2, f.99).

10. Nottingham to Ormonde, 18 May 1703, Cal. S.P. (dom.), 1702 3, I, 722.

11. C.J.I., II, 322.

12. C.J.I., II, 342; Cal. S.P. (dom.), 1703-4, II, 156.

13. C.J.I., II, 414.

14. — to Sir E. Southwell (B.L. Add. MS 9715, f. 60.).

15. E. Southwell to Charles Hedges, 1 Mar. 1704/5, same to — 1 Mar. 1704/5 (P.R.O., S.P. 63/365, ff. 101, 103).

16. C.J.I., II, 435; G. Dodington to [Sunderland], 8 July 1707 (B.L. Add MS 61633).

17. Alan Brodrick to Thomas Brodrick, 10 Feb. 1703/4,  
Thomas Brodrick to Alan Brodrick, 24 Feb. 1703/4  
(Midleton MSS 1248/2, ff. 123, 129); J.G. Simms, 'The  
making of a penal law, 1703-4', I.H.S., XII, 105-118;  
Edward Southwell to Nottingham, 26 Feb. 1704 (P.R.O.,  
S.P. 63/364, f.77); Alan Brodrick to Thomas Brodrick,  
13 Jan. 1708/9 (Midleton MSS 1248/2, f. 350v.).

18. L.J.I., II, 28, 36, 52-53; Ormonde to  
[Nottingham], 7. Dec. 1703, Nottingham to the Lord  
Treasurer, 23 Dec. 1703, Nottingham to Ormonde, 25 Dec.  
1703, Ormonde to [Nottingham] 3 Jan. 1704, Edward  
Southwell to Nottingham, 10 Jan. 1704, Nottingham to E.  
Southwell, 15 Jan. 1704, E. Southwell to Nottingham, 26  
Jan. 1704, Sir R. Cox to Nottingham, 13 Feb. 1704,  
Nottingham to E. Southwell, 9 Mar. 1704 Cal. S.P.,  
dom., 1703-4, II, 226-7, 241, 243, 287, 485, 491-3,  
499, 509, 531, 566; Addison to Godolphin, 30 June 1709,  
Addison Corr. p.161.

19. [James Bonnell] to Robert Harley, 3 Nov. 1691,  
H.M.C. Portland MSS, III, 480.

20. W. Molyneux, The Case of Ireland, p.84; see  
also ch. 2, p.61.

21. C.J.I., II, 342.
22. L.J.I., II, 8.
23. C.J.I., II, 342, 494, 576; L.J.I., II, 8, 161, 247; Ap. King to F. Annesley, 2 May 1707, (T.C.D. MS. 750/3, p.111).
24. Sir R. Cox to Nottigham, 13 Feb. - 1 Mar. 1703/4 (P.R.O., S.P. 63/364, f. 57).
25. Bp. King to Sir R. Southwell, 19 July 1697 (T.C.D. MS 750/1, p.79).
26. Bp. King to Francis Annesley, 12 Feb. 1701/2 (T.C.D. MS 750/2, pp. 106-107).
27. Sir R. Cox to [R Harley?], 28 Oct. 1699, H.M.C. Portland MSS, III, 610.
28. Bp. King to the Bp. of Clogher [Ashe], 11 Feb. 1701/2 (T.C.D. MS 750/2, p. 104).
29. H. Maxwell, An Essay Towards a Union, p.8, 21-22; Ap. King had made a similar point earlier though he implied that English trade was sustained by its

exploitation of cheap Irish raw materials, King to Southwell, 6 Jan. 1697/8 (B.L. Egerton MS 917, f. 157v).

30. H. Maxwell, An Essay, p.17.

31. Ap. King to F Annesley, 17 Sept. 1706 (T.C.D. MS 750/3/2, p.51).

32. J. Swift, The Story of the Injured Lady, H. Davis ed., Swift's Works IX, x; the pamphlet was not published until 1746 but was written in the Spring of 1707; Ap. King used a very similar metaphor in discussing the union at this time, King to Annesley, 2 May 1707 (T.C.D. MS 750/3/2, p.111-112).

33. Davis, ed., Swift's Works, IX, 8.

34. Ibid., 3-12.

35. H. Davis ed., Swifts Poetical Works, pp. 66-67; the fate of Petty's boats is described in T. Hoppen, The Common Scientist, pp. 17-18.

36. Ap. King to E. Southwell, 30 Nov. 1706 (T.C.D. MS 750/3/2, p.67).

37. C.J.I., II, 494, 576; L.J.I. II, 161, 247.

38. C.J.I., II, 514.
39. R. Cox to E. Southwell, 22 Apr. 1707 (B.L. Add. MS 38155, f.20).
40. Ap. King to E. Southwell, 1 July 1707 (T.C.D. MS 750/3/2, p.134).
41. The money bill was for 1 3/4 years because the Whigs had objected so strenuously in the previous session to giving money for 2 years, Dodington to [Sunderland] , 2 Aug. 1707, (B.L. Add. MS 61633); same to    14 Aug. 1707, same to E. Hopkins, 28 Aug. 1707 (P.R.O., S.P. 63/366, ff. 83v, 87v).
42. A. Brodrick to T. Brodrick, 13 Jan. 1708/9, (Midleton MSS 1248/2, f. 350v).
43. Swift to King, 15 Apr. 1708, H. Williams ed., The Correspondence of Jonathan Swift, I, 79-80; [E. Southwell?] to John Perceval, 4. Aug. 1707 (B.L. Add. MS 47025, f.78); in this session the Commons also rejected a Popery bill which had been altered in England, to the embarrassment of the Whig administration, Dodington to Coningsby, 18 Oct. 1707 (B.L. Add. MS 57861, f. 86).

44. King to Swift, 20 Nov. 1708, Swift's Corr. I, 111-112; C.J.I., II, 576.
45. Addison to C. Spencer [Sunderland], 5 May 1709, same to C. Montagu [Halifax], 7 May 1709, W. Graham, ed., The Letters of Joseph Addison, pp.134, 134-5.
46. Wharton certainly planned some measure of toleration, Wharton to Sunderland, 5 May 1709 (B.L. Add. MS 61634); Wharton to Coningsby [7 May?] 1709, (B.L. Add. MS 57861, f.107); Conningsby to Wharton, 21 May 1709 (P.R.O.N.I., T. 1135/11).
47. C.J.I., II, 608-9.
48. Archdeacon W. Perceval to J. Perceval, 7 July 1709, same to same, 14 July 1709 (B.L. Add. MS 47025, ff. 126, 127); Addison to Somers, 26 May 1709, Addison Corr., p. 143; L. Landa, Swift and the Church of Ireland, p.60.
49. On this occasion Dopping appears not to have arranged the form their opposition should take with the other Tories, Addison to Godolphin, 21 May 1709, Addison Corr., p. 141; C.J.I., II, 604.
50. Addison to Godolphin, 2 Aug. 1709, Addison Corr., p.169.



51. John Perceval to 20 Aug. 1709 (B.L. Add. MS 47025, f.132); D Hayton ed., 'An Irish parliamentary diary from the reign of Queen Anne', Analecta Hibernica, 30 (1982), pp. 102-3.
52. Addison to Godolphin, 12 Aug. 1709, Addison Corr., 176-7.
53. Ibid, pp. 176-7.
54. Addison to Godolphin, 10 Aug. 1709, Addison Corr. p.174.
55. Addison to Godolphin, 18. Aug. 1709, same to same, 23 Aug. 1709, Addison Corr., pp. 180-81, 181-182.
56. Addison to Godolphin, 30 June 1709, Addison Corr., p.161.
57. C.J.I., II, 697; [E. Southwell] to [Dartmouth], 15 July 1711 (P.R.O., S.P. 63/367, f.102).
58. Egmont Diary 1711-1715 (B.L. Add. MS 47087, f. 10).
59. Ap. King to Swift, 27 Oct. 1711, Swift Corr. I, 263-64; C.J.I., II, 723-4.

60. C.J.I., II, 596; Addison to Sunderland, 3 June 1709, Addison Corr., p.147.
61. L.J.I., II, 414; C.J.I., II, 714.
62. Addison to Godolphin, 14 May 1709, Addison Corr., pp. 138-9; R. Freeman to Somers, 12 May 1709 (P.R.O.N.I., T. 2807/45).
63. Ormonde to Dartmouth, 20 July 1711, [Southwell] to [Dartmouth?], 4 Oct. 1711 (P.R.O., S.P. 63/367, ff. 110, 208-9v); R. Molesworth to [Oxford], 1 Sept. 1711, H.M.C. Portland MSS, V, 82.
64. C.J.I., II, appendix cclxxviii; A. Brodrick to T. Brodrick, 9 Oct. 1711 (Midleton MSS 1248/3, f. 57); E. Southwell to Dartmouth, 4 Oct. 1711 (P.R.O., S.P. 63/367, f. 212).
65. Lords Justices to E. Southwell, 25 Apr. 1713 (P.R.O., S.P. 63/369, f. 195); Ld. Chancellor Phipps to W. Bromley, 5 Dec. 1713, H.M.C. Portland MSS, V. 370.
66. Shrewsbury to [Oxford], 3 Nov. 1713, H.M.C. Bath MSS, I, 242; R Molesworth to his wife, 23 Sept. 1713,

H.M.C. Var. Coll., VIII, 263-4; Shrewsbury to Bolingbroke, 5 Jan. 1713/14 (T.C.D. MS 2022, f.67).

67. King had supported the aldermen from the start of the dispute, on the grounds that as the Archbishop of Dublin he was obliged to be for the city, King to Swift, 15 May 1711, Swift Corr., I, 233; Lords Justices to Stanhope, 12 Oct. 1714 (P.R.O., S.P. 63/371, f.99); R. Molesworth to King, 2 Sept. 1714 (T.C.D. Lyons MS 1510).

68. D. Hayton, 'The Crisis in Ireland and the Disintegration of Queen Anne's Last Ministry,' I.H.S., XXII (1980-1), 193-215.

69. St. John Brodrick to T. Brodrick, 7 Nov. 1713 (Middleton MSS 1248/3, ff. 131-2); Egmont Diary, 5. Nov. 1713 (B.L. Add. MS 47807, f.47); to 7 Nov. 1713, Stanley to Bolingbroke, 17 Nov. 1713 (P.R.O., S.P. 63/369, ff. 119, 111-2); as elections were still conducted by a hand vote factions could easily come to blows, hence Shrewsbury's expedient of two locations.

70. Bolingbroke to Stanley, 17 Nov. 1713 (T.C.D. MS 2021, f. 19); Ap. King to F Annesley, 14 Nov. 1713 (T.C.D. MS 750/4/1, pp.222-4); J.G. Simms, 'The Irish Parliament of 1713,' Hist. Stud. IV, ed. G.A.

Hayes-McCoy, 89-92.

71. C.J.I., II, 744; votes on the speakership were 131 to 127, Stanley to Bolingbroke, 17 Nov. 1713 (P.R.O., S.P. 63/369, f.112). C.J.I., II, 774, 770.

72. L.J.I. II, 437; Ld. Abercorn to E. Southwell, 5 Jan. 1713/4 (P.R.O.N.I., T. 2541/1K/1); Shrewsbury to Bolingbroke, 5 Jan. 1713/14 (T.C.D. MS 2022, f. 67); Swift to King, 31 Dec. 1713, Swift Corr., I, 425.

73. G. Berkeley to John Perceval, 21 Oct. 1709 (B.L. Add MS 47025, f. 139).

FOOTNOTES: CHAPTER IV

1. Alan Brodrick to Thomas Brodrick, 1 Nov. 1712 (Midleton MSS 1248/3, f. 91).
2. R. Molesworth to Ap. King, 28 Sept. 1714 (T.C.D. Lyons MS 1524).
3. Sunderland to Ap. King, 1 Oct. 1714, C.S. King, A Great Archbishop of Dublin: William King D.D., p. 174.
4. Sunderland to Ld. Ch. of Great Britain [Cowper], 14 May 1715 (B.L. Add. MS 61652, f. 282).
5. Galway and Grafton to Stanhope, 23 Nov. 1715 (P.R.O., S.P. 63/373, f. 256).
6. Delafaye to \_\_\_\_\_, 19 Apr. 1716 (P.R.O., S.P. 63/374, f. 215).
7. Delafaye to \_\_\_\_\_, 6 Dec. 1715, same to \_\_\_\_\_, 17 Dec. 1715 (P.R.O., S.P. 63/373, ff. 296, 336); John Perceval to \_\_\_\_\_, 15 Dec. 1715 (B.L. Add. MS 47088, f. 33).
8. Delafaye to \_\_\_\_\_, 6 Dec. 1715 (P.R.O., S.P. 63/373, f. 296).
9. C.J.I., III, 41, 45, 53; Statutes at Large passed in the Parliaments held in Ireland, IV, 320.
10. Delafaye to \_\_\_\_\_, 19 Apr. 1716 (P.R.O., S.P. 63/374, f. 215).
11. Lords Justices to \_\_\_\_\_, 17 May 1716 (P.R.O., S.P. 63/374, ff. 225-6); The address did not in the end include anything on pensions presumably because of the government's assurances, C.J.I., III, 100-101.

12. C.J.I., III, 35, 41; Delafaye to Jean de Robethon, 28 Jan. 1716 (B.L. Stowe MS 228, f. 225 v); C.J.I., III, 95.
13. R. Molesworth to Ap. King, 28 Sept. 1714 (T.C.D. Lyons MS 1524).
14. \_\_\_\_\_ to R. Molesworth, 27 Mar. 1716 (P.R.O., S.P. 63/374, f. 185);
15. Of fourteen appointments between Dec. 1714 and 1720, seven went to English clerics and five to Church of Ireland men, with two internal promotions, one to each group, H. Cotton, Fasti Ecclesiae Hiberniae, The succession of prelates and members of cathedral bodies in Ireland, passim.
16. A. Brodrick to T. Brodrick, 27 July 1717 (Midleton MSS 1248/4, f. 53).
17. Ap. King to S. Molyneux, 2 May 1716 (T.C.D. MS 2533, p. 221-3); King to M. Coghill, 9 Feb. 1716/17 (T.C.D. MS 750/11/2, p. 80); King to Wake, 10 May 1718 (Gilbert MS 28, pp. 278-282), early in 1718 there was a rumour circulating among the colonists that Benjamin Hoadly was to be appointed to an Irish See.
18. Ap. King to Ap Wake, 3 Mar. 1717/18, same to same, 10 May 1718 (Gilbert MS 28, pp. 267-8, 278-82); J.C. Beckett, 'William King's administration of the diocese of Derry, 1691-1703, I.H.S., IV, 164-180; R. Mant, Church of Ireland, II, 781.
19. Ap. King to Ap. Wake, 25 Mar. 1718 (Gilbert MS 28, pp. 273-4).
20. Ap. King to Ap. Wake, 12 Apr. 1718 (Gilbert MS 28, pp. 275-6); Bp. Nicolson to Wake, 9 July 1719 (Gilbert MS 27, p. 225); Bp. Evans to Wake, 21 Jan. 1717/18, same to same, 2 July 1719 (N.L.I. micro. p. 6999, from Wake MSS Christ Church College, Oxford); Bp. Evans to Robethon, 15 June 1716 (B.L. Stowe MS 228, f. 293v).

21. Ap. Synge to Wake, 30 Sept. 1717 (Gilbert MS 28, p. 83).
22. C. Dering to J. Perceval, 27 Sept. 1717 (B.L. Add. MS 47028, f. 203); L.J.I., II, 660; Ld. Bolton to J. Craggs, 7 May 1719 (Bolton MSS, Bolton Hall, Yorkshire, D/63), I would like to thank Dr. David Hayton for copies of these Letters; in July 1719 the bishops all agreed to oppose the limited toleration bill, but when it came to a vote the English bishops supported the government bill, Nicolson to Wake, 2 July 1719 (N.L.I. micro. p. 6999); King to Annesley, 10 Nov. 1719 (T.C.D. MS 750/5, p. 200); L.J.I., II, 663.
23. Midleton [A Brodrick] to [T. Brodrick], 26 Apr. 1717, same to same, 25 May 1717 (Midleton MSS 1248/4, ff. 13, 31; C.J.I., III, 119).
24. Midleton to [J. Addison], 30 Aug. 1717, same to same, 3 Sept. 1717 (Midleton MSS 1248/4, ff. 62, 64v); L.J.I., II, 559.
25. Midleton to J. Addison, 3 Oct. 1717 (Midleton MSS 1248/4, f. 75).
26. Ap. Synge to Wake, 30 Sept. 1717, same to same, 1 Nov. 1717 (Gilbert MS 28, pp. 82-88, 100); King to Wake, 6 Feb. 1717/18 (T.C.D. MS 750/11/3, pp. 78-80); L.J.I., II, 559.
27. Ld. Justice Caulfield to \_\_\_\_\_, Oct. 1717 (P.R.O., S.P. 63/375, ff. 194-195).
28. Midleton to [J. Addison], 9 Sept. 1717 (Midleton MSS 1248/4, f. 69A).
29. C.J.I., III, 184; \_\_\_\_\_ to Ld. Coningsby, 16 July 1719 (B.L. Add. MS 57862, f. 32); Ld. Bolton to \_\_\_\_\_, 27 June 1719 (P.R.O., S.P. 63/377, f. 234); C. Upton to [Bolton], 30 July 1719 (Bolton MS D/73); Ap. King to Dr. Charlett, 7 Jan. 1719/20 (Bodleian MS Ballard 8, f. 56).

30. King to Wake, 2 June 1719, A Great Archbishop, p. 301; Bp. Evans to Wake, 25 Oct. 1718 (N.L.I. micro. p. 6999).
31. Bp. Evans to Wake, 6 Nov. 1719 (N.L.I. micro. p. 6999); King to E. Southwell, 12 Nov. 1719 (N.L.I. MS 2056); Bp. Nicolson to Wake, 30 Nov. 1719 (Gilbert MS 27, pp. 245-6); J.C. Beckett, Protestant Dissent in Ireland, 1687-1780, p. 75.
32. See ch. 1, pp. 36-37; ch. 3, pp. 89, 103.
33. L.J. (Eng.), XX, 493, 495, 599; L.J. (Eng.), XXI, 54-5, 59; Chancery appeals went direct to the Lords, Exchequer appeals went to the Exchequer Chamber, but Exchequer had a 'Chancery Side' and it was not clear to where these appeals lay. Both the 1698 Bishop of Derry's case and the Annesley case were chancery matters in the Exchequer, however, the principle concern of the English Lords was to establish that they, and not the Irish Lords, were the correct body to deal with such appeals.
34. L.J.I., II, 610; Bp. Nicolson to Wake, 11 July 1719 (Gilbert MS 27, p. 226); [Ld Ferrard?] to Ld. Coningsby, 16 July 1719 (B.L. Add. MS 57861, f. 182); Chief Baron Gilbert to [Bolton], 30 Apr. 1719 (Bolton MS D/57); Baron Pocklington to Wake, 16 June 1719, same to same, 11 July 1719 (N.L.I. micro. p. 6999).
35. L.J.I., II, 626; Ap. King to E. Southwell, 29 July 1719 (T.C.D. MS 750/5, pp. 187-189; Bp. Nicolson to Wake, 18 July 1719 (Gilbert MS 27, p. 231).
36. [Anon.], A Second Letter to a Gentleman of the Long Robe in Great-Britain: wherein some of the late illegal proceedings of the Barons of the Exchequer in the Kingdom of Ireland, are plainly and impartially set forth, p. 15.
37. Bp. Nicolson to Wake, 14 July 1719 (Gilbert MS 27, p. 228).
38. L.J.I., II, 627.



39. Bp. Nicolson to Wake, 6 Oct. 1719, same to same, 31 Oct. 1719 (Gilbert MS 27, pp. 242, 243); Bp. Evans to Wake, May 1719 (N.L.I. micro. p. 6999).
40. L.J.I., II, 655-660; Baron Pocklington to Wake, 10 Oct. 1719 (N.L.I. micro. p. 6999).
41. Bp. Nicolson to Wake, 6 Oct. 1719 (Gilbert MS 27, p. 341-2).
42. Nicolson to Wake, 17 Jan. 1719/20 (Gilbert MS 27, p. 251).
43. R. Molesworth, draft speech, this is not dated but was clearly written for the Irish Lords in defence of the Representation and was most likely given during the debates on the Representation in Oct. 1719, when Molesworth was in Dublin, H.M.C. Var. Coll., VIII, 284; Bp. Nicolson to Wake, 2 Oct. 1719 (Gilbert MS 27, p. 239).
44. Bp. Nicolson to Wake, 1 Sept. 1719 (Gilbert MS 27, p. 238); This is the first reference to the Case's having been burnt by the English Commons in 1698, though Bp. Godwin of Kilmore says much the same the following week, Godwin to Wake, 12 Sept. 1719 (N.L.I. micro. 6999). The Case was not ordered to be burnt but was merely censured in 1698. Nicolson, therefore, appears to be the originator of this legend which was important to the subsequent reputation of the Case.
45. Bp. Evans to Wake, 19 Mar. 1718/19, same to same, 9 Aug. 1719 (N.L.I. micro. p. 6999); There were two reprints of the Case, one in 1719, another in 1720, Evans to Wake, 7 July 1720, Evans to Wake, 30 Dec. 1720 (N.L.I. micro. p. 6999); it is likely that Evans' first reference to the importance of Molyneux's Case was written before the 1719 reprint; Caroline Robbins has identified the Maxwell mentioned by Evans as reprinting the Case at this time as John Maxwell, brother of Henry Maxwell, C. Robbins, The Eighteenth-Century Commonwealth Man, p. 147.

46. Ap. Synge to Wake, 17 Dec. 1719 (Gilbert MS 28, p. 140).
47. Ap. King to J. Perceval, 25 Jan., 1719/20 (T.C.D. MS 750/6, pp. 14-15).
48. [Anon.], A Letter from a Member of the House of Commons of Ireland to a Gentleman of the Long Robe in Great-Britain: containing an answer to some objections made against the Judicatory Power of the Parliament of Ireland. To which is added, the Late Duke of Leeds Reasons for protesting against a vote made in the H. of Lords in England, which declared a certain Tryal before the House of Lords in Ireland to be Coram non Judice, p. 4;  
Bp. Nicolson to Wake, 2 Oct. 1719 (Gilbert MS 27, p. 339);  
Bp. Evans to Wake, 15 Nov. 1720 (N.L.I. micro. p. 6999).
49. Bp. Evans to Wake, 29 Sept. 1719 (N.L.I. micro. p. 6999).
50. W. Molyneux, The Case of Ireland, p. 57; the same point was made earlier still by Darcy, ch. 2, p. 46; see also Molyneux's deletion to strengthen this point, ch. 2, p. 67.
51. Ap. King to J. Perceval, 23 Feb. 1719/20 (B.L. Add. MS 47029, f. 19).
52. Ap. King to R. Molesworth, 23 Feb. 1719/20 (T.C.D. MS 750/6, p. 37).
53. Bp. Evans to Wake, Mar. 1718/19 (N.L.I. micro. p. 6999).
54. Pocklington to Wake, 13 Sept. 1719 (N.L.I. micro p. 6999).
55. Bp. Hutchinson [Down & Connor] to Wake, June 1721 (N.L.I. micro. p. 6999).
56. Bp. Evans to Wake, 9 Aug. 1719 (N.L.I. micro. p. 6999).
57. Ap. King to E. Southwell, 8 Jan. 1719/20 (T.C.D. MS 750/5, pp. 242-4).

58. Ap. King to E. Southwell, 18 Dec. 1719, same to Ld. Fitzwilliam, 25 Jan. 1719/20 (T.C.D. MS 750/5, pp. 231-232, 750/6, pp. 9-10); Midleton to [T. Brodrick], 11 Dec. 1719 (Midleton MSS 1248/4, ff. 186-186v); Nicolson to Wake, 11 July 1719 (Gilbert MS 27, p. 226).
59. J. Perceval to Ap. King, 6 Feb. 1719/20 (B.L. Add. MS 47029, f. 9v); King to E. Southwell, 25 Jan. 1719/20 (T.C.D. MS 750/6, p. 11).
60. J. Perceval to King, 6 Feb. 1719/20 (B.L. Add. MS 47029, f. 9v).
61. T. Brodrick to [Midleton], 14 Feb. 1719/20 (Midleton MSS 1248/4, f. 222).
62. J. Perceval to C. Dering, 5 Mar. 1719/20, J. Perceval to Ld. Tullamore, 7 Aug. 1721 (B.L. Add. MS 47029, ff. 22-3, 67v); Parliamentary Debates, VII, 268; Bp. Downes to Bp. Nicolson, 22 Mar. 1719/20, J. Nichols ed., Letters on various subjects literary, political and ecclesiastical, to and from W. Nicolson, 1683-1727, I, 514.
63. C.J. (Eng.), XIX, 293, 320, 321; T. Brodrick to Midleton, 10 Mar. 1719/20 (Midleton MSS 1248/4, f. 232).
64. J. Perceval to C. Dering, 5 Mar. 1719/20 (B.L. Add. MS 47029, f. 22).
65. Ld. Abercorn to J. Perceval, 18 Feb. 1719/20 (B.L. Add. MS 47029, f. 16v).
66. Ap. King to R. Molesworth, 10 May 1720 (T.C.D. 750/6, p. 75); Pocklington to Wake, 7 Apr, 1720 (N.L.I. micro. p. 6999).

67. This pamphlet appeared in two London editions in 1720: Reasons offered to the house of Commons why the bill sent down to them from the house of Lords entitled an act for the better securing the dependency of the Kingdom of Ireland upon the crown of Great Britain should not pass into Law, and An Act for the Better securing the Dependency of Ireland Upon the Crown of Great Britain, To which is added, J—n T—d, Esq. His Reasons why the bill for the better securing the Dependency of Ireland should not pass. It is possible that Robert Molesworth engaged Toland to write for Ireland, he was certainly involved in some negotiations for Toland to write a pamphlet on Irish rights in September 1720, Ap. King to R. Molesworth, 10 Sept. 1720, same to same, 29 Sept. 1720 (T.C.D. MS 750/6, pp. 117-8, 124), these comments may refer to the second edition of the Reasons offered.

68. Reasons offered, pp. 20, 23, 25; J. Perceval to C. Dering, 5 Mar. 1719/20 (B.L. Add. MS 47029, f. 22).

69. H. Davis ed. , Swift's Works, IX, 18.

70. Ibid., 18.

71. Swift to A. Pope, 10 Jan, 1721, Swift Corr., II, 367-8; it was these two passages which were most remarked on, Nicolson to Wake, 9 June 1720 (Gilbert MS 27, p. 264) and Evans to Wake, 11 June 1720 (N.L.I. micro. p. 6999); Pocklington to Wake, 4 June 1720; Evans to Wake, 13 Feb. 1720/21 (N.L.I. micro p. 6999).

72. Nicolson to Wake, 3 Apr. 1720 (Gilbert MS 27, p. 257).

73. Bp. Downes [Killala] to Nicolson, 20 Feb. 1719/20, Nicolson Corr., I, 509; J. Perceval to W. Byrd, 15 Oct. 1720 (B.L. Add. MS 47029, f. 40).

74. Ap. Synge to Wake, 15 Aug. 1720 (Gilbert MS 28, p. 152).

FOOTNOTES: CHAPTER V

1. W. Lawson, The History of Banking, pp. 350, 353;  
F.G. Hall, The Bank of Ireland, 1783-1946, pp. 16, 21.
  
2. M. Ryder, 'The Bank of Ireland, 1721: Land, Credit and Dependency,' Hist. Jnl., XXV, 558, 581. Ryder shows the importance of English Country ideology to the bank debates but harms the argument by overstatement. In his introduction, Ryder observes that the bank issue has in the past usually been interpreted as an example of the colonists' drive for legislative independence. He argues that there is "no evidence" for these conclusions and that the entire debate can be explained as reflecting English Country attitudes. This dismissal of a role for colonial nationalism stems from a misinterpretation of legislative independence as a "narrowly Irish tradition" of legal arguments. However, what Ryder terms "the Molyneux tradition" had its roots in English Common Law and used legal precedents only as a means for expressing an adherence to the concepts of limited government and consultation on laws — ideas central to, and much discussed during, the bank debates.
  
3. J. Clapham, The Bank of England, a history,

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pp. 2, 10, 17; W. Lawson, History of Banking, pp.66-68;  
G. Clark, The Later Stuarts, 1660-1714, pp. 176-7.

4. C.A. Malcolm, The bank of Scotland, 1695-1945, p. 15; W. Lawson The history of banking... of England, Ireland and Scotland, pp. 349-353; S.G. Checkland, Scottish banking, a history, 1695-1973, p. 17.
5. Bp. Nicolson to Ap. Wake, 6 Dec. 1720 (Gilbert MS 27, p. 270).
6. F.G. Hall, The bank of Ireland, pp. 3, 5, 16; M. Cullen, An economic history of Ireland since 1660, pp. 72-73; L.M. Cullen, Anglo-Irish trade, pp. 187-196.
7. Ld. Abercorn and others to the Lord Lieutenant, [n.d.] (N.L.I. MS 2256, p. 7); C.J.I., III, appendix cci; Managers of the projected bank to John Percival, 2 June 1720 (B.L. Add. MS 47029, f. 33v); C.J.I., III, appendix ccii; Grafton to Abercorn, 6 Aug. 1720 (N.L.I. MS 2256, p. 21).
8. C.J.I., III, appendix cci, ccii; F.G. Hall, Bank of Ireland pp. 16, 18.

9. C.J.I., III, appendix cciii; M. Ward to J. Irwin, 30 May 1721, Hall op. cit., p. 373.
10. Ap. King to Ld. Townshend, 18 Nov. 1721 (T.C.D. MS 750/7, pp. 34-5); Ld. Middleton to Thomas Brodrick, 14 Oct. 1721 (Middleton MSS 1248/5, f. 97); J. Griffin, 'Parliamentary Politics in Ireland,' N.U.I. M.A. thesis 1977, ch. 4.
11. Ap. King to Col. Flower, 7 Mar. 1720/21 (T.C.D. MS 750/6, p. 203). Sunderland resigned as First Lord of the Treasury in April 1721 but retained control of the secret service until his death in April 1722.
12. King to Clogher [Stearne], 12 May 1720 (T.C.D. MS 750/6, p. 77); Nicolson to Wake, 14 Sept. 1721 (Gilbert MS 27, p. 292); L.J.I., II, 688; Meath to Wake, 12 Sept. 1721 (N.L.I. micro. p. 6999).
13. John Perceval to Ld. Tullamore, 7 Aug. 1721 (B.L. Add. MS 47029, f. 67v).
14. C.J.I., III, 247.
15. C.J.I., III, 250: King to Clogher, 5 Oct. 1721 (T.C.D.

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MS 750/7, p. 6).

16. Nicolson to Wake, 25 Sept. 1721 (Gilbert MS 27, p. 294); C.J.I., III, 258; Nicolson to Wake, 14 Oct. 1721 (Gilbert MS 27, p. 297); King to Bp. of Ferns [Hort], 17 Oct. 1721 (T.C.D. MS 750/7/3, p. 11).
17. Nicolson to Wake, 21 Oct. 1721 (Gilbert MS 27, pp. 300-301).
18. Nicolson to Wake, 21 Oct. 1721 (Gilbert MS 27, p. 301); Thomas Brodrick to Middleton, 31 Oct. 1721 (Middleton MSS 1248/5, ff. 103-4).
19. Nicolson to Wake, 21 Oct. 1721 (Gilbert MS 27, p. 301).
20. C.J.I., III, 267-8; Middleton to Thomas Brodrick, 14 Oct. 1721 (Middleton MSS 1248/5, f. 97); Nicolson to Wake, 14 Oct. 1721 (Gilbert MS 27, p. 297).
21. Kilmore [Godwin] to Wake, 28 June 1721 (N.L.I. micro. p. 6999); Sir R. Levinge to E. Southwell, 25 Sept. 1721, Jottings of the Levinge family, p. 65.



22. \_\_\_\_\_ to J. Perceval, 14 Nov. 1721 (B.L. Add. MS 47029, f. 87v); King to Gen. Gorge, 26 Oct. 1721 (T.C.D. MS 750/7, p. 17-18); C.J.I., III, 283, 284; King to E. Southwell, 21 Nov. 1721 (N.L.I. micro. p. 6999).
23. Nicolson to Wake, 15 Aug. 1721 (Gilbert MS 27, p. 290); King to Clogher, 5 Oct. 1721 (T.C.D. MS 750/7, p. 6); Meath to Wake, 29 Sept. 1721 (N.L.I. micro. p. 6999).
24. L.J.I., II, 710; Midleton to Thomas Brodrick, 6 Nov 1721 (Midleton MSS 1248/5, f. 109); Ld. Midleton's notes on the Lords debates (Midleton MSS 1248/5, ff. 113, 115-6).
25. (Midleton MSS 1248/5, f. 113); L.J.I., II, 712.
26. L.J.I., II, 713.
27. Meath to Wake, 10 Oct. 1721 (N.L.I. micro. p. 6999).
28. H.R. Wagner, Irish economics 1700-1783: a bibliography with notes, pp. 5-14; L.W. Hanson, Contemporary printed sources for British and Irish economic history,

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1701-1750, pp. 324-326.

29. For Maxwell's Essay see ch. 3, pp. 93-4.
30. Henry Maxwell, Reasons offer'd for erecting a bank in Ireland; in a letter to Hercules Rowley, Esq., p.49.
31. Ibid., p. 60.
32. Remarks on Mr. Maxwell's and Mr. Rowley's Letters: Setting forth the advantages of a bank and lumbards in Ireland. In a letter to a friend, p. 13.
33. Maxwell, Reasons offer'd, p. 12.
34. Remarks on Mr. Maxwell's and Mr. Rowley's Letters, p. 4; [Francis Hutchinson] A Letter to the gentlemen of the landed interest in Ireland, relating to a bank, pp. 3, 8.
35. Hercules Rowley, An answer to a book intitl'd Reasons offer'd for erecting a bank in Ireland, In a letter to Henry Maxwell Esq., pp. 18-19.
36. Ibid., p. 19.

37. Ibid., pp. 20-21.
38. Ibid., p. 38.
39. F. Annesley to Ap. King, 21 Oct. 1721 (T.C.D. Lyons MS 1993); Meath to Wake, 16 Oct. 1721 (N.L.I. micro. p. 6999); Rowley, An answer to a book, pp. 16, 33, 37; Ap. King to Gen. Gorge, 7 Mar. 1720/1 (T.C.D. MS 750/6, pp. 204-5); A Letter to a member of parliament touching the late intended bank, p. 5; Objections against the general bank in Ireland as it stands now circumstanciated, whether it do's or do's not receive a parliamentary sanction, in answer to a Letter sent from a gentleman in the City to his friend in the country, p. 2.
40. Rowley, An answer to a book, p. 27.
41. Hall, bank of Ireland, pp. 21, 28; O.W. Ferguson, Swift and Ireland, p. 80. More recently still, Michael Ryder has argued that Swift's part in the bank debates has been overestimated because two of the pamphlets attributed to Swift cannot be certainly identified as his. Yet there is still much material, in letters, pamphlets and poems by Swift on the bank;

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and at a later point in his article Ryder agrees that Swift had an influence and probably even a direct hand in Rowley's important first tract. M. Ryder op. cit., pp. 558 and 571.

42. Swift's Works, IX, 22, 'real' and 'imaginary' are technical terms for current cash and money of account.
43. Swift's Works, IX, 281, 283; Irvin Ehrenpreis, Swift: the man, his works and the age, I, 16.
44. Maxwell, Reasons offer'd, p. 4.
45. Ibid., pp. 17-18.
46. Rowley, An answer to a book, pp. 4-5.
47. Ibid., p. 6.
48. Henry Maxwell, Mr. Maxwell's second letter to Mr. Rowley; wherein the objections against the bank are answer'd, p. 9.
49. Ibid., p. 18.

50. Ibid., p. 24.
51. Hercules Rowley, An answer to Mr. Maxwell's second letter to Mr. Rowley, concerning the bank, p.11.
52. C.J.I., III, 289; J. Griffin, 'parliamentary politics in Ireland,' ch. 4; L.J.I., II, 720; R. Levinge to E. Southwell, 6 Jan. 1721/22, Levinge Jottings, p. 83; Midleton to [Thomas Brodrick], 5 Jan. 1721/22 (Midleton MSS 1248/5, f. 166); Nicolson to Wake, 6 Jan. 1721/22 (Gilbert MS 27, p. 272); R. Levinge to E. Southwell, 19 Nov. 1721, Levinge Jottings, p. 78.
53. Ld. Ferrard to R. Molesworth, 26 Aug. 1721, H.M.C. Var. Coll., VIII, 320.

FOOTNOTES: CHAPTER VI

1. W.E.H. Lecky, A history of Ireland in the eighteenth century, I, 458; W.M. Mason, The history and antiquities of the collegiate and cathedral church of St. Patrick's, pp. 346-7; J.A. Froude, The English in Ireland in the eighteenth century, I, 530.
2. A Goodwin, 'Wood's Halfpence,' E.H.R., LI (1936), 647-74. Goodwin is correct in pointing out the importance of economic factors in this dispute but misconstrues the arguments of colonial nationalism so far as to claim that Ap. King was not in favour of legislative independence; see also O.W. Ferguson, Swift and Ireland, p. 120.
3. Swift's works, X (1935), x.
4. Bp. Downes to Nicolson, 22 Oct. 1724, Nicolson corr., I, 586.
5. Ap. King to Grafton, 10 July 1722, same to E. Hopkins, 21 July 1722 (T.C.D. MS 750/7, pp. 159<sup>a</sup>, 166-70); Commissioners of the Revenue [Ireland] to E. Hopkins, 7 Aug. 1722 (P.R.O., S.P. 63/380, f. 110).
6. Petitions for a mint in Ireland, 1692, 1700 & 1701 (P.R.O. (Kew) MINT 12/6); Petitions for a mint in 1693 (B.L. Add. MS 4761); Ehrenpreis, Swift, I, 16-17.
7. King to F. Annesley, 3 Sept. 1722 (T.C.D. MS 750/7, p. 209); M. Coghill to E. Southwell, 31 Jan. 1722/23 (B.L. Add. MS 21, 122, f. 7).
8. [J. Maculla], Ireland's Consternation in the loosing two hundred thousand pound of their gold and silver for brass money, p. 4.

9. Grafton to [Walpole], 22 Aug. [1723] (P.R.O., S.P. 63/381, ff. 3-4); Walpole to Grafton, 31 Aug. 1723, Coxe ed., Memoirs of the Life and Administration of Sir Robt. Walpole, II, 348-9.
10. C.J.I., III, 317, 319, 320; Midleton to \_\_\_\_\_, 16 Sept. 1723 (P.R.O., S.P. 63/381, ff. 1-2); [Midleton] to Alan Brodrick [son], 12 Sept. 1723 (Midleton MSS 1248/5, f. 310); same to same, 18 Sept. 1723 (Midleton MSS 1248/5, f. 313); Walpole to Townshend, 26 Oct. - 6 Nov., Coxe, Walpole, II, 286.
11. Meath to Wake, 7 Sept. 1723 (N.L.I. micro. p. 7000); Bp. of Ferns [Hort] to Wake, 26 Sept. 1723 (N.L.I. micro. p. 7000) L.J.I., II, 740.
12. Grafton to Walpole, 19 Dec. 1723, Coxe, Walpole, II, 352-358.
13. Grafton to [Walpole], 14 Sept. 1723 (P.R.O., S.P. 63/381, f. 122); C.J.I., III, 319; \_\_\_\_\_ to J. Perceval, 22 Sept. 1723 (B.L. Add. MS 47030, f. 17).
14. C.J.I., III, 323, 325.
15. L.J.I., II, 749, 750.
16. Walpole to Townshend, 1-12 Oct. 1723, Coxe, Walpole, II, 276; Walpole to \_\_\_\_\_, 26 Oct. 1723 (P.R.O., S.P. 63/381, f. 11); Walpole to Townshend, 11-23 Oct. 1723, Coxe, Walpole, II, 279; C.J.I., III, 367.
17. O.W. Ferguson, Swift, pp. 94-95; Swift's Works, X (1936), xv-xvi.
18. Swift's Works, X, 4,5.
19. Ibid., 6.

20. Ibid., 8.

21. J. Perceval to \_\_\_\_\_, 8 Dec. 1723 (B.L. Add. MS 47030, f. 45); King to E. Southwell, 23 Mar. 1723/4 (N.L.I. MS 2056); Southwell to King, 24 Apr. 1724 (T.C.D. Lyons MS 2087); Swift's Works, X, 187; Philip to John Perceval, 15 Aug. 1724 (B.L. Add. MS 47030, f. 82v).

22. Swift's Works, X, 192-3, 198-9; A recent study of Wood's coins makes a favourable evaluation of his Irish coins, P. Nelson, The Coinage of William Wood, p. 3.

23. Swift's Works, X, 198, 202-3, 201.

24. E. Southwell to King, 30 Apr. 1724 (T.C.D. Lyons MS 2091); Commissioners of the Revenue [England] to J. Forth, 18 Aug. 1724 (N.L.I. MS 16,007, f. 137).

25. M. Coghill to E. Southwell, 7 Sept. 1724 (B.L. Add. MS 21, 122, f. 17v); G. Berkeley to J. Perceval, 9 Sept. 1724 (B.L. Add. MS 47030, f. 95); Nicolson to Wake, 2 Oct. 1724 (Gilbert MS 27, p. 379); Pocklington to Wake, 24 Aug. 1724 (N.L.I. micro. p. 7000).

26. \_\_\_\_\_ to John Perceval, 12 Jan. 1724/5 (B.L. Add. MS 47030, f. 66v).

27. Philip to John Perceval, 26 May 1724 [B.L. Add. MS 47030, f. 66v].

28. Swift's Works, X, 17.

29. Ibid., 16, 17.

30. Ibid., 30.

31. Ibid., 39.



32. Ibid., 34.
33. Ibid., 196, 199.
34. Ibid., 40.
35. Ibid., 34.
36. Ibid., 36.
37. Synge to Wake, 3 Jan. 1723/4 (Gilbert MS 27, p. 195).
38. Synge to Wake, 3 Jan. 1723/4 (Gilbert MS 27, p. 196).
39. Swift's Works, X, 53.
40. Middleton to Thomas Brodrick, 7 Nov. 1724, Coxe, Walpole, II, 400; L.J.I. II, 764.
41. Swift's Works, X, 53.
42. Ibid., 54.
43. Ibid., 55, 62.
44. Ibid., 54-55.
45. Ibid., 58; Middleton to Thomas Brodrick, 31 Oct. 1724, Coxe, Walpole, II, 396; marked copy of the fourth Letter by Carteret (P.R.O., S.P. 63/384, ff. 142-152); Marmaduke Coghill reported that of the censured paragraphs, the Lord Lieutenant took particular exception to Swift's reference to Molyneux's book during the discussion at the Privy Council, Coghill to Southwell, 31 Oct. 1724 (B.L. Add. MS 21, 122, f. 20).
46. Middleton to Thomas Brodrick, 31 Oct. 1724, Coxe, Walpole, II, 398.

47. Swift's Works, X, 63, 62, 55; Molyneux, The Case of Ireland, p. 24; Swift makes an explicit reference to this in the fifth letter: "I had long been conversing with the Writings of your Lordship [Molesworth], Mr. Locke, Mr. Molineaux, Colonel Sidney, and other dangerous authors who talk of Liberty as a Blessing, to which the whole Race of Mankind hath an Original Title; whereof nothing but unlawful Force can divest them;", Swift's Works, X, 86.
48. Nicolson to Wake, 30 Oct. 1724 (Gilbert MS 27, p. 355).
49. Swift's Works, X, 62-3.
50. Molyneux, The Case of Ireland, p. 34; Molyneux's phrase would appear to be a paraphrase of Locke, Laslett ed., Two Treatises, p. 403.
51. Swift's Works, X, 54, 62, 63, 67.
52. Carteret to Newcastle, 28 Oct. 1724 (P.R.O., S.P. 63/384, ff. 159-164); marked copy by Carteret (P.R.O., S.P. 63/384, ff. 142-52).
53. Philip to John Perceval, 24 Nov. 1724 (B.L. Add. MS 47030, f. 112); Swift's Works, X, 69-71; King to Southwell, 6 Mar. 1724/5 (N.L.I. MS 2056).
54. Newcastle to Carteret, 3 Dec. 1724 (P.R.O., S.P. 63/384, f. 210); Ap. Hugh Boulter to Newcastle, 3 Dec. 1724, Letters written by his excellency Hugh Boulter D.D. Lord Primate of all Ireland, I, 3.
55. Boulter to Newcastle, 21 Sept. 1725, Boulter corr., I, 34-5; L.J.I. II, 809, 812; King to Southwell, 2 Oct. 1725 (N.L.I. MS 2056).

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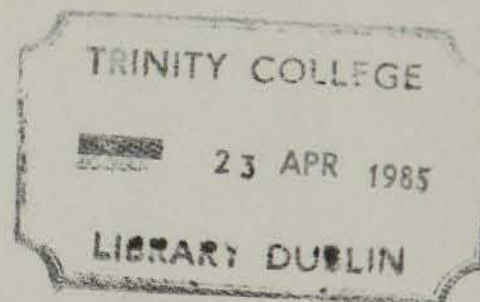
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