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Charles Ivar McGrath

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## **English Ministers, Irish Politicians, and the Making of a Parliamentary Settlement in Ireland, 1692-5\***

At the conclusion of the Irish war of 1689-91, the new Williamite government faced the arduous task of trying to bring about a settlement of a devastated and divided country. Government finances were in a critical state, with rapidly escalating pay arrears and drastically reduced income. At the same time, the minority Irish Protestant community, although on the victorious side in the war, viewed its future with trepidation. The Articles of Limerick, which had brought the war to a close, were, as far as many Protestants were concerned, too lenient towards a treasonous Catholic population, a factor that contributed to a belief within Irish Protestant circles that their position in Ireland remained insecure, despite the Williamite military victory.<sup>1</sup>

In October 1692 the all-Protestant Irish Parliament was summoned with a view to bringing about a settlement of Ireland in the Protestant interest. Instead of legislating for such a settlement, however, the Irish House of Commons endeavoured to assert what they believed to be their constitutional right, by claiming to have the ‘sole and undoubted right’ to initiate, and control, supply legislation. In light of this so-called ‘sole right’ claim, the Lord Lieutenant, the English Whig, Henry, Viscount Sidney,

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<sup>1</sup> C. I. McGrath, *The Making of the Eighteenth-Century Irish Constitution: Government, Parliament*

brought the session to an abrupt conclusion after only four weeks.<sup>2</sup> In short time it became apparent to both the Irish executive and the political nation that as long as the ‘sole right’ issue remained unresolved, a further meeting of the Irish Parliament, and with it the hoped-for settlement of Ireland in the Protestant interest, remained improbable.

It is the aim of this article to address the question of how the political impasse of 1692 was resolved, by examination of the negotiations that took place between the English and Irish governments and Irish politicians on the ‘sole right’ issue during 1693-5, and the extent to which the emerging Whig predominance in English government from 1693 onwards provided the necessary political will, and ideology, for facilitating such negotiations. These negotiations eventually enabled the respective parties to move from a position of entrenched opposition to one of working compromise. The 1695 compromise in turn facilitated a legislative resolution to the Irish government’s financial difficulties, enabled the Irish Protestant political nation to place their nascent ascendancy over the Catholic Irish upon a more secure footing, and ultimately heralded the advent of regular parliamentary sessions in Ireland. Prior to the 1690s, and excluding the Jacobite Parliament of 1689, only four Parliaments had met in Ireland in the seventeenth century, the last being in 1661-6. However, from 1695 onwards the Irish Parliament began meeting on a regular basis, and for most of the eighteenth century settled into a timetable of biennial sessions. Therein, the 1695 compromise was the first stage in the evolution of a new constitutional relationship between the executive and legislature in eighteenth-

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*and the Revenue, 1692-1714* (Dublin, 2000), pp. 15-17, 49-55.

<sup>2</sup> J. I. McGuire, ‘The Irish Parliament of 1692’, in Thomas Bartlett and D. W. Hayton (eds), *Penal Era and Golden Age. Essays in Irish History, 1690-1800* (Belfast, 1979), pp. 1-27; McGrath, *Irish Constitution*, pp. 73-89.

century Ireland.<sup>3</sup>

The cornerstone of the Irish constitution in the sixteenth and seventeenth centuries was an Irish Act of 1495, known as Poyning's Law. In accordance with that law, before an Irish Parliament could be summoned the Irish executive was required to certify, for consideration by the English monarch and Privy Council, the proper 'causes and considerations' for calling Parliament, inclusive of all proposed legislation. Such of the 'causes, considerations, and acts' as were 'affirmed by the King and his Council to be good and expedient' were then returned to Ireland with the monarch's licence under the Great Seal of England to summon an Irish Parliament.<sup>4</sup> Thus, whenever an Irish Parliament assembled, the whole body of legislation to be considered during a given session had already been prepared by the executive, and could only be accepted, without amendment, or rejected. Parliament had no initiative in preparing legislation. In the 1550s Poyning's Law was amended so as to allow the Irish executive, during the time that Parliament was sitting, to draft and transmit to England any further legislation deemed to be necessary, the need for which had not been apparent prior to the commencement of the session. Such further draft legislation was thereafter proceeded upon in keeping with the normal process dictated by Poyning's Law.<sup>5</sup>

The primary intention of Poyning's Law was that it should enable the English

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<sup>3</sup> McGrath, *Irish Constitution*; D. W. Hayton, 'Introduction: The Long Apprenticeship', *Parliamentary History*, xx (2001), pp. 8, 23-5; C. I. McGrath, 'Parliamentary Additional Supply: The Development and Use of Regular Short-Term Taxation in the Irish Parliament, 1692-1716', *ibid.*, pp. 27-54.

<sup>4</sup> *The Statutes at Large Passed in the Parliaments Held in Ireland* (Dublin, 1763-1801 [hereafter *Stat. Ire.*]), i, 44.

<sup>5</sup> *Stat. Ire.*, i, 246-8.

Crown and government to curb the independent tendencies of native Irish viceroys, and make the Irish executive subordinate to, and dependent upon, the English government. For the same reasons, Poyning's Law was also long considered by the Irish political community as a safeguard against corrupt and arbitrary government by the Irish executive. However, the utilization in the first half of the seventeenth century of Poyning's Law as a means to reduce the Irish Parliament to little more than a cipher for English Crown policy, in particular during the government of Thomas Wentworth in the 1630s, resulted in a change of attitude within the Irish political community, and the identification of Poyning's Law as their main constitutional grievance.<sup>6</sup>

At the same time, a degree of parliamentary legislative initiative began to develop on the basis of the 1550s amendment to Poyning's Law. At first Parliament presented petitions or requests to the executive desiring that certain bills be drafted by the Irish Privy Council. This initiative was continued by various means, culminating in the 1660s in the 'heads of bills' procedure. Heads of bills differed from ordinary bills in the form of address in the title, and in the procedure for their enactment. Both the Lords and Commons, independent of each other, could draft heads and send them to the Irish Council desiring that they be drawn up in the form of a standard bill, which, if the

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<sup>6</sup> For Poyning's Law, see D. B. Quinn, 'The Early Interpretation of Poyning's Law, 1494-1534', *Irish Historical Studies* [hereafter *IHS*], ii (1940-1), pp. 241-54; R. D. Edwards and T. W. Moody, 'The History of Poyning's Law: Part I, 1494-1615', *IHS*, ii (1940-1), pp. 415-24; Aidan Clarke, 'The History of Poyning's Law, 1615-41', *IHS*, xviii (1972-3), pp. 207-22; J. G. Swift MacNeill, *The Constitutional and Parliamentary History of Ireland till the Union* (Dublin, 1917), pp. 15-23; N. L. York, *Neither Kingdom nor Nation: The Irish Quest for Constitutional Rights, 1698-1800* (Washington, D.C., 1994), pp. 10-12; Micheál Ó Siochrú, *Confederate Ireland 1642-1649: A Constitutional and Political Analysis* (Dublin, 1999), pp. 57-60; McGrath, *Irish Constitution*, pp. 19-22.

Council saw fit, was then transmitted to England, where it could be amended, postponed, respited or returned. If returned, the bill went through both Houses in accordance with the normal procedure under Poyning's Law.<sup>7</sup>

The various restrictions imposed upon the Irish Parliament by Poyning's Law were made even more unpalatable to the political community by the concurrent assumption by the English Parliament of a right to legislate for Ireland. Thus the Irish constitution at the time of the 'Glorious Revolution' was one in which the Irish Parliament was, in theory at least, subordinate to both the English and Irish executives and the English legislature.<sup>8</sup> Yet at the same time, the 1689-91 war had demonstrated that the fate of Protestant Ireland was inextricably tied to the fate of Protestant England.<sup>9</sup> Therefore it might not have been considered unreasonable for Williamite government officials to think that Protestant Ireland's dependence upon the English connexion would result in a Parliament that was compliant with the wishes of government and accepting

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<sup>7</sup> R. E. Burns, *Irish Parliamentary Politics in the Eighteenth Century* (2 vols., Washington D.C., 1989-90), i, pp. 5-6; F. G. James, *Ireland in the Empire, 1688-1770* (London, 1973), pp. 11-12; D. J. Englefield, *The Printed Records of the Parliament of Ireland, 1613-1800* (London, 1978), pp. 13-14; J. L. McCracken, *The Irish Parliament in the Eighteenth Century* (Dundalk, 1971), pp. 14-15; Fergus O'Donoghue, 'Parliament in Ireland under Charles II' (U[niversity] C[ollege] D[ublin], MA thesis, 1970), pp. 57-8, 99-100; McGuire, 'Irish Parliament', pp. 20-1; MacNeill, *Constitutional History*, pp. 26-7.

<sup>8</sup> MacNeill, *Constitutional History*, pp. 1-14; York, *Neither Kingdom nor Nation*, pp. 9, 13-17; McGrath, *Irish Constitution*, p. 18; Burns, *Parliamentary Politics*, i, pp. 5-10; McGuire, 'Irish Parliament', pp. 1-3.

<sup>9</sup> C. I. McGrath, 'Securing the Protestant Interest: The Origins and Purpose of the Penal Laws of 1695', *IHS*, xxx (1996-7), pp. 28-30; Daniel Szechi and D. W. Hayton, 'John Bull's other Kingdoms: The Government of Scotland and Ireland', in Clyve Jones (ed.), *Britain in the First Age of Party, 1680-1750* (London, 1987), p. 264.

of its subordinate status.

A number of factors, however, ensured that in actual fact the Revolution and ensuing war in Ireland proved to be the catalysts for the development of a significant dichotomy between what Williamite government officials on the one hand, and Irish Protestants on the other, were to consider to be reasonable behaviour on the part of an Irish Parliament. A large number of Irish Protestants in exile in England in 1688-90 had experienced first-hand the constitutional developments at Westminster, and it would appear that a significant number of them returned to Ireland imbued with the rhetoric of that constitutional 'Revolution', as well as a sense of identification with the personalities and ideology of the English Whig party.<sup>10</sup> At the same time, during 1690-2 a great degree of discontent developed within the Irish Protestant community over the activities of senior Williamite government officials in Ireland. The source of grievance varied: suspected corruption in the revenue service; suspected embezzlement and mismanagement of the Jacobite forfeitures; the free quartering of the army; and the favour shown in general by government to Irish Catholics, and in particular in the Articles of Limerick. The potential for these grievances to cause problems in an Irish Parliament did not go unnoticed, in particular by the two men most likely to find themselves in the firing line: the English Tory and Irish Lord Chancellor, Sir Charles Porter, and the English Whig and Irish Receiver- and Paymaster-General, Thomas Coningsby, who together had headed the Irish government as Lords Justices in 1690-2,

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<sup>10</sup> B[ritish] L[ibrary], Add. MS 27382, ff. 3-6, A Discourse on Ireland by Sir William Temple, 1695. On the impact of the Glorious Revolution upon Irish Protestant political thought, see S. J. Connolly, 'The Glorious Revolution in Irish Protestant Thinking', and id., 'Precedent and Principle: The Patriots and their Critics', in id. (ed.), *Political Ideas in Eighteenth-Century Ireland* (Dublin, 2000), pp. 27-63, 130-58.



and had signed the Articles of Limerick on behalf of William III.<sup>11</sup> Viscount Sidney himself was also a possible target, having served as a Lords Justice in 1690.<sup>12</sup>

Yet despite the various grievances of the Irish Protestant community in 1690-2, William III and his English ministers chose, for a variety of reasons, to allow ‘government by consensus’ to hold sway in Ireland.<sup>13</sup> The reality was that the main concerns of the English executive were to ensure that England did not have to subsidize Irish government from 1692 onwards, and that financial supplies, which would meet the growing costs of running the country, were provided by the Irish Parliament.<sup>14</sup> At the same time, a number of Irish politicians chose to utilize the general sense of grievance within the Protestant community as the impetus for embarking upon a course of action aimed at reinterpreting certain aspects of the Anglo-Irish constitutional framework, at a time when such constitutional frameworks were being reinterpreted elsewhere, not only in England, but also in Scotland, and, to a lesser extent, in the American colonies.<sup>15</sup> In

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<sup>11</sup> McGrath, *Irish Constitution*, pp. 74-5.

<sup>12</sup> McGuire, ‘Irish Parliament’, pp. 10-11.

<sup>13</sup> D. W. Hayton, ‘Constitutional experiments and political expediency, 1689-1725’, in S. G. Ellis and Sarah Barber (ed.), *Conquest and Union: Fashioning a British State, 1485-1725* (London, 1995), pp. 280-4. See also *Calendar of State Papers, Domestic* [hereafter *Cal. SP Dom.*], 1691-2, pp. 65-70; McGuire, ‘Irish Parliament’, pp. 2-6; McGrath, *Irish Constitution*, pp. 74-8.

<sup>14</sup> McGuire, ‘Irish Parliament’, pp. 2-3; McGrath, *Irish Constitution*, chs. 2-3; Hayton, ‘Long Apprenticeship’, pp. 8-10.

<sup>15</sup> J. D. Mackie, *A History of Scotland* (London, 1991), pp. 244-5, 253-4; R. S. Dunn, ‘The Glorious Revolution and America’, in Nicholas Canny (ed.), *The Origins of Empire: British Overseas Enterprise to the Close of the Seventeenth Century. The Oxford History of the British Empire* (5 vols., Oxford, 1998), i, pp. 460-5.

Ireland the main focus was to be upon the constitutional limitations placed upon the Irish Parliament by Poyning's Law, and the interrelated issue of the Crown's prerogative in initiating legislation in that assembly.

The first public opportunity for Irish politicians to pursue this new political agenda occurred with the summoning of Parliament in October 1692. At that time the terms Whig and Tory had not yet been applied to Irish politics, nor were they apt for describing the divisions within the 1692 Parliament.<sup>16</sup> Although the anti-Catholic sentiment and constitutional claims in favour of Parliament in 1692 bore a close resemblance to the politics of the English Whig party, the sense of common grievance over issues such as the Articles of Limerick and the corrupt activities of leading government officials was responsible for the fact that Irish MPs were able to transcend narrow party-political ideologies and to unite in opposition to the government, or Court, party. Thus, while leading advocates of the 'sole right' claim were eventually to become central figures in both the Whig and Tory parties that came to the forefront of Irish politics under Queen Anne, in 1692 the Whig sentiments of the likes of the brothers Alan and Thomas Brodrick, or the Tory views of the likes of Robert Rochfort, were submerged within a broad opposition grouping, described at the time as a 'Country'

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<sup>16</sup> On the use of the terms Whig and Tory in Irish politics, see D. W. Hayton, 'Ireland and the English Ministers 1707-16. A Study in the Formulation and Working of Government Policy in the Early Eighteenth Century' (Oxford, D.Phil thesis, 1975), pp. 103-48; id., 'The Beginnings of the "Undertaker System"', in Bartlett and Hayton (eds), *Penal Era*, pp. 32-54; Wouter Troost, 'William III and the Treaty of Limerick (1691-7). A Study in his Irish Policy' (Leiden, published PhD thesis, 1983); C. I. McGrath, 'Securing the Protestant Interest: Policy, Politics and Parliament in Ireland in the Aftermath of the Glorious Revolution, 1690-1695' (UCD, MA thesis, 1991), chs. 4-5.

party.<sup>17</sup>

The 1692 Commons had signalled at an early stage that they were willing to meet the government's financial needs. However, the House's resolutions of 27 October, that it was their right to resolve on the ways and means and their 'sole and undoubted right' to prepare the heads of bills for supply (a phrase, and concept, that seems to have been adapted from a resolution of the English House of Commons in 1678), demonstrated that the opposition would not accept a situation in which they did not have a say in the raising of supply. Following the 'sole right' resolutions, the Commons agreed to pass, due to the exigencies of affairs, the first of two government supply bills, for a one-year additional inland excise, but rejected the second bill because it had not originated in the Lower House.<sup>18</sup>

While the 1692 session proved difficult for the executive in many areas, as the opposition mounted a general attack on the government and its legislative programme, the actions of the Commons in relation to supply were of much greater significance in the long term than the rejection of the rest of the government's legislative programme or the attempts to bring to account a number of leading government officials suspected of corruption. The 'sole right' resolutions, and the stated reasons for the rejection of the government's second supply bill, represented a direct attack upon the constitutional

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<sup>17</sup> BL, Add. MS 27382, ff. 3-6, A Discourse on Ireland by Sir William Temple, 1695; McGrath, *Irish Constitution*, pp. 86, 160-1; McGuire, 'Irish Parliament', pp. 14-15; Rev. Dr. Ezekiel Burridge, *A Short View of the Present State of Ireland - with Regard Particularly to the Difficulties a Chief Governor Will Meet with There in Holding a Parliament* (1708), p. 16.

<sup>18</sup> *The Journals of the House of Commons of the Kingdom of Ireland* (first edition, 11 vols., Dublin, 1753-63 [hereafter *CJI*]), ii, 614-15; J. P. Kenyon (ed.), *The Stuart Constitution 1603-1688: Documents and Commentary* (Cambridge, 1966), p. 419; McGrath, *Irish Constitution*, pp. 84-6.

relationship with England. In his closing speech, Sidney specified that the untimely conclusion to the session had been precipitated by the resolutions relating to supply bills, which were contrary to Poynings' Law and 'continued practice ever since', and that a prorogation was necessitated by his obligation 'to assert their Majesties' prerogative and the rights of the Crown of England'.<sup>19</sup> Thus, although government officials could always be protected or jettisoned according to need, and in time another Parliament might be persuaded to pass the various non-supply bills rejected in 1692, all such considerations would remain irrelevant as long as the constitutional crisis arising from the 'sole right' claim remained unresolved.

Despite the views Sidney had expressed about Poynings' Law and the Crown's prerogative in his closing speech, in the last days of 1692 he maintained a misguided belief that he could still oversee a successful session in the near future. He also believed that a confrontational policy, by which the executive would face down the 1692 opposition on all fronts, was the best method for achieving such a success. His immediate concern was to prevent any further agitation on the question of government corruption, a policy that saw him exacerbate an already fraught situation by his negative reaction to a petition from four Irish MPs and 'sole right' advocates, Sir Robert King, Sir Arthur Rawdon, Sir Arthur Langford and Francis Annesley, who wished to travel to England to make a representation on the state of Irish affairs. At the same time, he dismissed the Irish Prime Serjeant, John Osborne, the Third Serjeant, Alan Brodrick, and Rawdon (who was governor of County Down), from their respective offices,

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<sup>19</sup> National Library of Ireland, MS 16943, O'Hara Papers, T2812/22/1, pp. 8-9, Parliamentary notebook of Charles O'Hara, the younger, [1782]; *CJI*, ii, 627-30; *Cal. SP Dom. 1695 and Addenda*, p. 215.

because of the leading part each had played in the parliamentary opposition.<sup>20</sup>

By January 1693, however, Sidney had begun to acknowledge that the ‘sole right’ was the real obstacle in the way of convening another session, though, as before, he advocated taking a hard-line approach on the issue. He believed that William III should himself take the lead in clarifying the government’s position, on the understanding that that position was the same as Sidney himself had propounded at the close of the 1692 session. At the same time, he referred the ‘sole right’ claim to the senior Irish judges for a legal opinion.<sup>21</sup> The judges, after analysis of Poynings’ Law and former parliamentary precedents, submitted findings supportive of Sidney’s interpretation.<sup>22</sup> Their impartiality was questionable, however, as all senior judges who were not already knights were made so following the submission of their findings.<sup>23</sup> On 20 February Sidney transmitted his concurrence with the judges’ report to the English Secretary of State, Daniel Finch, Earl of Nottingham, but also for the first time expressed doubts about the likelihood of finding a solution to the impasse that existed

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<sup>20</sup> BL, Harleian MS 4892, ff. 181-2, Information given to the English House of Commons, 24 Feb. 1693; S[urrey] H[istory] C[entre] (Woking), Midleton Papers, Brodrick MSS, 1248/1/259-60, Alan Brodrick to [St John Brodrick], 6 May 1693; Edward Berwick (ed.), *Rawdon Papers* (London, 1819), pp. 374-5; McGuire, ‘Irish Parliament’, pp. 23-4; McGrath, ‘Politics and Parliament’, pp. 118-22.

<sup>21</sup> *Cal. SP Dom. 1693*, pp. 28, 32-3; T. J. Kiernan, *A History of the Financial Administration of Ireland to 1817* (London, 1930), p. 119.

<sup>22</sup> BL, Harleian MS 6274, ff. 123-38, and Add. MS 9715, ff. 8-14, Opinion of the Irish judges on the ‘sole right’, 14 Feb. 1693; *Cal. SP Dom. 1693*, pp. 35, 38.

<sup>23</sup> T[rinity] C[ollege] D[ublin], Archbishop King’s Correspondence (Lyons Collection), MSS 1995-2008, f. 264a, Plan for a letter about the 1692 Parliament; McGuire, ‘Irish Parliament’, pp. 24-5.

over the 'sole right'.<sup>24</sup>

Despite Sidney's growing realization that the 'sole right' was of greater constitutional significance than had at first been realized, in early 1693 there was a general assumption that the Irish Parliament would reconvene in the near future, given that the Parliament summoned in 1692 had not as yet been dissolved, and instead continued to be prorogued, by proclamation, for short periods. Sidney himself was involved in the usual preparations for another session, transmitting bills to the English Council, including three supply bills.<sup>25</sup> However, the transmission of the supply bills so soon after the end of the 1692 session further incited the opposition, as it seemed that their 'sole right' resolutions were to be totally ignored. Francis Annesley considered the executive's actions to be proof that 'we must be treated as formerly', given that the implication of the transmission of the supply bills was that the executive (in keeping with the government's policy in 1692) were intent upon presenting a full legislative programme for supply to any future session of Parliament. Annesley believed that the English and Irish executives' decision to adhere to former practice on this point had been 'occasioned by some officious persons' who had given false assurances to leading English ministers that the majority of Irish MPs 'were sensible of their mistake in the late vote of the sole right, and if they might have an opportunity to meet again together, they would act otherwise'.<sup>26</sup>

At the same time, Sidney's growing doubts about finding a solution to the 'sole right' question were influencing his advice to England. On 28 February he told

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<sup>24</sup> *Cal. SP Dom. 1693*, p. 38.

<sup>25</sup> *Ibid.*, p. 22.

<sup>26</sup> Berwick, *Rawdon Papers*, pp. 374-5.

Nottingham that if the present session of the English Parliament should continue much longer, thereby preventing those Irish MPs who were in England in the King's service from returning to Ireland in the near future, a further prorogation of the Irish Parliament would be advisable.<sup>27</sup> Sidney's anxiety grew greater when the opportunistic adoption of Irish grievances by the English Whig opposition prompted detailed investigations into Irish affairs in both Houses of the English Parliament. The investigations, which included the hearing of evidence from Irish MPs and 'sole right' advocates such as Annesley, Sir Francis Brewster and James Sloane, resulted in addresses from both Houses to the King requesting the redress of the abuses and mismanagement in Irish government.<sup>28</sup> Back in Ireland, Sidney noted that the actions of the English Parliament had further encouraged the 1692 opposition, and again advised that William III should make clear his views on the 'sole right'.<sup>29</sup>

Sidney's concern, coupled with the English Parliament's investigations, eventually had an effect in England. In March 1693 the King ordered Sidney to prorogue the Irish Parliament for another two months, and at the same time ordered the senior English judges to give their opinion on the 'sole right', in order to add weight to the earlier opinion of the Irish judges.<sup>30</sup> By May it was clear to Sidney that he would not

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<sup>27</sup> *Cal. SP Dom. 1693*, p. 51.

<sup>28</sup> BL, Harleian MS 4892, ff. 127-90, Information given to the English House of Commons, 24 Feb. 1693; *Cal. SP Dom. 1693*, pp. 55-6; McGuire, 'Irish Parliament', pp. 25-6; Henry Horwitz, *Parliament, Policy and Politics in the Reign of William III* (Manchester, 1977), p. 111; McGrath, *Irish Constitution*, pp. 91-2.

<sup>29</sup> *Cal. SP Dom. 1693*, p. 69.

<sup>30</sup> *Cal. SP Dom. 1693*, p. 71; W. N. Osborough, 'Letters to Ireland: Professional Enlightenment from the English Bench', *The Irish Jurist*, xxxi (1996), pp. 236-7.

be able to preside over a successful parliamentary session, in particular because the government's continuing attacks upon the Commons' stance had only served to strengthen the opposition's resolve to adhere to their 'sole right' claim.<sup>31</sup> He therefore advised against Parliament being reconvened.<sup>32</sup> In June the political impasse was reinforced by the English judges' concurrence with the Irish judges, and the issuing of the King's order for the dissolution of the 1692 Parliament.<sup>33</sup>

However, the summer of 1693 also witnessed the first moves towards resolving the question of the 'sole right'. In July, following several months of rumours to that effect, Sidney was replaced by three Lords Justices: the English Whig, Henry, Lord Capell, and the less party-orientated English government servants, Sir Cyril Wyche and William Duncombe. All three men seemed acceptable to the Irish Protestant political nation. Capell possessed the most obvious appeal for the Whig-inclined members of the 1692 opposition, not just because his Whig credentials went back as far as the Exclusion Crisis, but also because he was the younger brother of the well-remembered Arthur Capell, Earl of Essex, who had served as Lord Lieutenant in Ireland in the 1670s and had died in the Tower of London following the Rye House Plot in 1683. Wyche, although having served as secretary to Sidney in 1692-3, was considered to be a reliable administrator and man of learning who had also served as secretary to both Essex and that other Restoration favourite, the Duke of Ormonde, during their lord lieutenancies in the 1670s and 1680s. Duncombe had no previous association with Ireland, a fact which

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<sup>31</sup> *Cal. SP Dom. 1693*, p. 121; SHC, Midleton Papers, 1248/1/259-60, Alan Brodrick to [St John Brodrick], 6 May 1693; McGuire, 'Irish Parliament', p. 26.

<sup>32</sup> *Cal. SP Dom. 1693*, p. 121.

<sup>33</sup> SHC, Midleton Papers, 1248/1/261-2, Alan Brodrick to St John Brodrick, 26 June 1693; *Cal. SP Dom. 1693*, p. 191; Burns, *Parliamentary Politics*, i, p. 7.



in itself made him acceptable to many.<sup>34</sup>

While the appointment of three men to govern in Ireland who were acceptable to the majority of the Protestant political nation represented an important step in the right direction, the slowly changing face of English government during the spring and summer of 1693 was of greater significance. Although William III's shift from a 'mixed' or 'balanced' ministry to a more complete reliance upon the English Whig Junto of Sir John Somers, Thomas Wharton, Charles Montagu and Edward Russell (complemented by the Whig Secretaries of State Sir John Trenchard and Charles Talbot, Earl of Shrewsbury) occurred gradually over a period from spring 1693 to spring 1694, the first steps in that direction were concurrent with the alteration in the Irish government in July 1693.<sup>35</sup> This increasing reliance upon the Whig Junto in English government was in time to be reflected in Irish politics through the ascendancy of Capell within Irish government in late 1694 and early 1695, and the related rapprochement between the executive and the leading members of the 1692 opposition. Throughout this whole process, the role of the royal favourite, Willem Bentinck, Earl of Portland, was, although less obvious, most certainly significant. Portland was father-in-law to Capell's nephew, Algernon Capell, Earl of Essex, who in turn was a Gentleman of the Bedchamber and served with William III in all his military campaigns. As an Irish Revenue Commissioner was to put it in late 1694, when fearing that he was to be removed from office, 'our danger is in my L[or]d C[apell]'s alliance, and interest by his

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<sup>34</sup> McGrath, *Irish Constitution*, pp. 92-3.

<sup>35</sup> Horwitz, *Parliament, Policy and Politics*, ch. 6; B. W. Hill, *The Growth of Parliamentary Parties, 1689-1714* (London, 1976), ch. 2; Craig Rose, *England in the 1690s: Revolution, Religion and War* (Oxford, 1999), pp. 85-93.

nephew, with my L[or]d Portland'.<sup>36</sup>

However, such considerations were not pertinent in July 1693. The 1692 Parliament had been dissolved in June 1693, and the initial plan was that the newly-appointed Lords Justices would summon another in August.<sup>37</sup> By the time the Lords Justices arrived in Ireland in late July, however, William III had decided not to call Parliament until the spring of 1694. It was hoped that the delay would give the Lords Justices time to take account of the situation in Ireland, and for tempers to cool within the Irish political nation.<sup>38</sup> Yet at the same time, the King ordered the Lords Justices to prepare a government legislative programme (in accordance with Poyning's Law and the Crown's prerogative in initiating legislation) in order to satisfy Irish politicians that a Parliament would be called at some point in the future, and also in order to allow for such a Parliament to be convened at will, since the government's legislative programme, which constituted the proper causes and considerations for summoning Parliament, would be ready well in advance.<sup>39</sup>

The Lords Justices chose to tread a careful path in the execution of these instructions. Although they had been ordered to prepare various bills for transmission to England, they decided first to investigate privately the repercussions of such action, and at the same time informed Nottingham that whatever opinions or doubts they might express on the subject should remain confidential, so as not to create any unnecessary

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<sup>36</sup> B.L., Evelyn MS 78301 [unbound], John Evelyn, the younger, to John Evelyn, 15 Nov. 1694. Evelyn retained his position as Commissioner until his death in 1699.

<sup>37</sup> *CJI*, ii, 630; *Cal. SP Dom. 1693*, pp. 187-9.

<sup>38</sup> Troost, 'Treaty of Limerick', 90.

<sup>39</sup> *Cal. SP Dom. 1693*, pp. 234, 276; Bodl., Carte MS 170, f. 4, Lords Justices to Nottingham, 19 Aug. 1693.

discontent.<sup>40</sup> Their doubts were primarily over the policy to be pursued in relation to the ‘sole right’ claim. Their initial instructions had included directions that the first bill they were to prepare was for a one-year additional inland excise on the same basis as that imposed in the 1692 government Supply Act. The Lords Justices ‘suppose[d]’ that the said bill was intended for presentation to Parliament ‘in affirmation’ of the Crown’s prerogative in initiating supply bills, and that the only probable objection to the bill in Parliament would relate to that prerogative. However, they pointed out that the one-year additional inland excise bill would only raise a small amount of money. The implication was that if that bill was intended on its own to constitute the whole of the government’s legislative programme for supply, in practice the right to draft the much more substantial body of supply legislation that would be required to provide for the large sum needed to cover the government’s expenditure would be conceded to the Irish Parliament. The Lords Justices thus felt that to present only one such government supply bill to Parliament would be ‘rather to give up the [Crown’s] right than to assert it’. Moreover, they were concerned that in such circumstances the Irish Parliament would be encouraged to try for further encroachments upon the Crown’s prerogative, ‘and this, too, only upon expectation of an indifferent sum and at a time when this sum is absolutely necessary for the peace and safety of the nation as for the ease of the government’.<sup>41</sup>

The Lords Justices’ suggested solution to these various concerns was that they be instructed to prepare more than one supply bill. At the same time, they pointed out that even within the confines of Poynings’ Law the Irish Parliament retained the right to a

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<sup>40</sup> *Cal. SP Dom. 1693*, p. 319.

<sup>41</sup> *Ibid.*, p. 320.

negative voice. Therefore, rejection of a government supply bill for reasons other than the 'sole right' would not automatically represent a challenge to the Crown's prerogative. Even if a government bill was rejected on the grounds of the 'sole right', the Parliament, if allowed to continue sitting, would probably still vote the necessary supplies by means of heads of bills drafted in the Commons. Alternatively, the Commons could be allowed from the outset to give the money in whichever way they liked. This in itself would be an outright acknowledgment of the 'sole right', and therefore it had to be considered whether the supplies would thus be purchased 'at too dear a rate, and at such a one as may draw ill consequences after it'.<sup>42</sup>

Whitehall's response was to instruct the Lords Justices to continue exercising caution in their proceedings. Therein, although they were now instructed to prepare 'as many money bills or other matters relative to the good of the kingdom' as they judged necessary, and to communicate them to England, they were to do so in a private manner, without the official concurrence of the Irish Privy Council, and without adhering to any of the normal procedures dictated by Poyning's Law. In keeping with these instructions, the Lords Justices prepared in private and transmitted to England drafts of two more supply bills, as a means of presenting a strong statement in support of the Crown's prerogative as and when a Parliament might convene.<sup>43</sup>

It was apparent that Whitehall was not prepared at this stage to accept that the passing of a token government bill for one year's additional inland excise could be conceived as sufficient recognition of the Crown's prerogative in initiating supply legislation. The official explanation from Whitehall was that it had never been intended

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<sup>42</sup> Ibid., p. 320.

<sup>43</sup> Ibid., pp. 332, 356-7, 367, 378.

to present only one government supply bill to Parliament, and that the Lords Justices' initial instructions had only been 'for expedition', owing to the original, short-lived intention to summon another Irish Parliament in late 1693.<sup>44</sup> In truth, it was probable that there were few (if any) government officials in England who truly understood the intricacies of Poynings' Law, the Crown's prerogative in initiating legislation, and the 'sole right' claim. It was also obvious from the correspondence emanating from London that the issue of a government supply bill or bills in a future Irish Parliament had not been fully considered prior to the issuing of instructions to the Lords Justices.

It was evident, however, that even at this early stage in the new Irish government, the issue of the one-year additional inland excise bill was a potential source of division between the Lords Justices. In August 1693 Lord Chancellor Porter informed Vice-Treasurer Coningsby that 'some of our [chief] governors' were of the opinion (which in Porter's view was a 'great error') that 'continuing the excise' would be 'sufficient to assert their Majesties' right'.<sup>45</sup> In time it was to become evident that such an opinion was held by Capell, in opposition to the views expressed by Wyche and Duncombe.

Yet in late 1693 and early 1694 any potential discord between the Lords Justices remained undisclosed. Instead, their evident circumspection and diplomacy had begun to pay dividends for them with regard to the public perception of their government. In January Wyche was informed that the Lords Justices' activities thus far were being well-

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<sup>44</sup> Ibid., p. 332.

<sup>45</sup> P[ublic] R[ecord] O[ffice] [of] N[orthern] I[reland], De Ros MSS, D638/18/16, Porter to Coningsby, 24 Aug. 1693. Coningsby had been appointed Irish Vice-Treasurer and Treasurer at War in December 1692.

received in England, and that it was pleasing to ‘all sober and wise men’ to see ‘that none that were my Lord Sidney’s friends are looked upon’ by the new government. As for the Lords Justices themselves, ‘truly you have all a good character here’.<sup>46</sup>

At the same time, the leading members of the 1692 opposition had begun to reappraise the situation in light of their increasing awareness of the need for a settlement of fiscal and security questions in Ireland, and on account of the recent alteration within the Irish government and the ongoing alterations within the English ministry. At the forefront of this reappraisal were several individuals of whiggish sentiment, in particular Alan and Thomas Brodrick and their father, St John Brodrick. Not surprisingly, they focused their attention upon Capell, whose whiggish political beliefs they shared. On 5 May 1694 Alan wrote to Thomas on the subject of whether an Irish Parliament was ‘indispensably necessary’. Thomas, who was in London at that time, had informed Alan that it appeared that any future meeting of the Irish Parliament was dependent upon the Commons relinquishing their ‘sole right’ claim and receiving a government supply bill. While still insisting that it was the ‘just right of the Commons to prepare heads of money bills’, Alan felt that the ‘sole right’ claim would be dropped, but that such action depended ‘on the disposition of the Court in England, and the laws that will be offered us to pass which may be some equivalent to this great concession of ours, for so I take it to be’. He also pointed out that the financial supplies that would be required by the government could only be provided by ‘greatly pressing the poor country; yet good laws will be an equivalent [and] be a good exchange for our money and for ought I know our sole right’. These ‘good laws’ were to be an important part of yielding the ‘sole right’

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<sup>46</sup> N[ational] A[rchives] [of] I[reland], Wyche Papers, 1/1/103, Sir William Russell to Wyche, 23 Jan. 1694.

claim. Alan Brodrick made it clear that if it were the case that they were expected to vote supplies and pass ‘three or four insignificant Acts and then go home’, as had happened in 1692, the most likely outcome would be renewed conflict, another early prorogation, and an overall worsening of the situation. Brodrick felt he could not advise that a Parliament be called until ‘I have some tolerable assurance [of] what we may hope for’ by way of legislation.<sup>47</sup>

It was evident that the ‘sole right’ claim would not be relinquished cheaply, but that the leading Irish opposition politicians were prepared to compromise on the question, on the condition that Parliament was allowed to pass legislation which, from their perspective, would achieve a settlement of Ireland in the English and Protestant interest. It was also apparent that Alan Brodrick felt that the legislation to be presented to Parliament needed to be discussed before any official steps were taken for summoning a Parliament. The implication was that there should be some sort of negotiation with the executive, in order to reach a working compromise. It was probable that some private discussions had already taken place, given that the Brodrick family were already alluding to the possibility of a compromise which would involve the presentation of a single government supply bill to Parliament. However, that this idea had gained some currency among the opposition leaders also suggested that the Lords Justices had begun to act independently of each other in their dealings with the political nation. In August 1693 Lord Chancellor Porter had hinted that the question of whether or not the government’s one-year additional inland excise bill would be sufficient for asserting the Crown’s prerogative of initiating supply legislation represented a potential point of

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<sup>47</sup> SHC, Midleton Papers, 1248/1/268-9, Alan Brodrick to Thomas Brodrick, 5 May 1694.

conflict among the Lords Justices.<sup>48</sup> Now it appeared that in May 1694 one of the Justices, independent of his two colleagues, had begun endeavouring to negotiate a compromise on the basis that one government supply bill would indeed be sufficient recognition. This view was given further weight by Alan Brodrick, who, without mentioning names and in rather cryptic fashion, implied to Thomas that a degree of understanding already existed with at least one of the Justices: ‘of the three Lords Justices or two of them, I have no reason to doubt but that there is at least a quorum of them sincerely friends to the true interest of this kingdom, the British Protestant interest’.<sup>49</sup>

It was not long before the full extent of the split among the Lords Justices became apparent when, in July 1694, they divided in opinion over the advisability of summoning a new Parliament, with Capell taking an opposite view to Wyche and Duncombe. The Justices had divided on the same lines once before, over the recommendation of a suitable successor to the archbishop of Dublin, Francis Marsh, on which occasion Capell had opposed Wyche’s and Duncombe’s candidate, the bishop of Kildare, William Moreton.<sup>50</sup> In April 1694 Capell had informed Shrewsbury, the most recent addition, as Secretary of State, to the Whig ministry in England, that if it were true that Moreton, who was a man of strong Tory sympathies, was designated as the next archbishop, the best way to serve the King would be ‘by putting a stop to it, for there cannot be a more dangerous man to frustrate the ends I am sure I aim at, which is, to

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<sup>48</sup> PRONI, De Ros MSS, D638/18/16, Porter to Coningsby, 24 Aug. 1693.

<sup>49</sup> SHC, Midleton Papers, 1248/1/268-9, Alan Brodrick to Thomas Brodrick, 5 May 1694.

<sup>50</sup> Martin O’Gorman, ‘Church in State: The Church of Ireland Bishops in Politics and Parliament 1690-1700’ (UCD, MA thesis, 1985), pp. 41-4; Troost, ‘Treaty of Limerick’, pp. 87-90.



heal all parts in order to a fuller strength amongst ourselves, to oppose our common enemy'. Capell's opinion may not have been wholly valid, and was most probably coloured primarily by his aversion, as a staunch English Whig, to the promotion of a man of Tory sympathies. It was more significant, however, that Moreton's known connexions with the former Lord Lieutenant, Sidney, and with Porter and Coningsby, identified him with the old order of courtiers, and that therefore Wyche and Duncombe appeared to be gravitating towards the old Court party, a fact which would not have pleased the likes of the Brodricks.<sup>51</sup> Capell's fears that the politically important archbishopric of Dublin might be given to a man who could disrupt any attempts at an accommodation between the executive and legislature appeared to have been recognized in England. The eventual choice of Narcissus Marsh, considered to be a safe moderate, ensured that public controversy over the appointment was avoided.<sup>52</sup>

The division between the Lords Justices over the summoning of Parliament was of greater significance. In April 1694 it was proposed in the English Council that before making any decision on the calling of Parliament, the Lords Justices should give their opinion whether the Commons would maintain their 'sole right' claim.<sup>53</sup> The Lords Justices eventually sent their separate replies in mid-July. However, Capell had known in advance what the views of the English government would be. Before the transmission to England of the Lords Justices' divided opinions, Shrewsbury had informed Capell that the English ministry was in favour of the convening of an Irish Parliament, and that in English Whig circles it was believed that the arguments against

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<sup>51</sup> H[istorical] M[anuscripts] C[ommission], *Buccluch MSS*, ii, 62; HMC, *Finch MSS*, iii, 304-5; Troost, 'Treaty of Limerick', p. 88.

<sup>52</sup> HMC, *Buccluch MSS*, ii, 63; O'Gorman, 'Church in State', p. 43; Troost, 'Treaty of Limerick', p. 89.

summoning an Irish Parliament were only put forward by 'those who are most apprehensive of the consequences of that assembly as to their own private interest, or who have an aversion in principle to frequent Parliaments'.<sup>54</sup>

It was not surprising therefore that Capell followed a similar line of argument, and even of phraseology, when submitting his opinion to the English government in July. He suggested that some people, 'who either [do] not know, or do not wish the good of the government', had 'too industriously' spread rumours that there would be no more Irish Parliaments. He also pointed out that although some Irish Privy Councillors and judges argued that a Parliament would still insist on the 'sole right' claim, they provided no evidence to back their argument, which made him 'apt to believe' (in almost the same words as Shrewsbury) that such Councillors and judges were in truth more concerned about 'the consequence of such an assembly as to their own private interest'. Thus he advised that an Irish Parliament be called, on the premiss that there was a great need for legislation which would secure the English and Protestant interest in Ireland: 'such as are bills, for disarming Irish Papists, for preventing them from keeping horses above five pound[s] value ... for restraining foreign education; for taking tories'. As for the 'sole right' claim, he stated that he had 'conversed with all sorts of people, and with many of the angry gentlemen of the last House of Commons ... and they all tell me they will not differ with their Majesties'. Having talked with many 'eminent lawyers and leading men', he readily believed they desired a 'good settlement' in Parliament: '[It is] therefore their interest not to differ with the King, and interest can never lie'.<sup>55</sup> As was evident from his expressed opinion, Capell had already been well-informed by the 1692

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<sup>53</sup> HMC, *Buccleuch MSS*, ii, 63.

<sup>54</sup> *Ibid.*, 82.

<sup>55</sup> *Ibid.*, 99-101.

opposition of what was required in order to bring about a successful compromise on the 'sole right'.

Wyche and Duncombe, on the other hand, were surprised that Capell was 'sanguine enough' to believe that the chief assertors of the 'sole right' would give up their claim. Like Capell, they acknowledged that there were 'good reasons' for a Parliament to be summoned, particularly the 'great want of money to carry on their Majesties' service', while they also claimed to have entered into discussions with many people on the subject of the 'sole right'. Yet their reading of the situation was that the 1692 opposition were still firmly entrenched in their views. Having enumerated several other potential problems, including the raising of the question of English legislation binding Ireland, they concluded that government business would not meet with success in an Irish Parliament.<sup>56</sup> However, Wyche's and Duncombe's views received little countenance in England. The two men had already been fighting an uphill battle in the face of Capell's Whig background and his support from the English Whig Junto. Ultimately, Wyche's and Duncombe's failure to deliver the opinion that the English Privy Council wanted to hear sealed their fate.<sup>57</sup>

The division of the Lords Justices marked the beginning of an overt push by elements of the English ministry, supported by leading Irish politicians, for Capell to be made sole governor and to oversee an Irish Parliament. As early as April 1694, Capell had begun to think in terms of a settlement of Ireland as something he aimed at achieving himself, without Wyche and Duncombe. At the same time Shrewsbury had expressed the view that a successful Parliament could be managed by Capell on his own,

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<sup>56</sup> BL, Add. MS 21136, ff. 25-6, Wyche and Duncombe to Trenchard, 14 July 1694.

<sup>57</sup> *Cal. SP Dom. 1694-5*, p. 235; McGrath, 'Politics and Parliament', pp. 138-46.

owing to his 'prudence and popularity'.<sup>58</sup> The differences between the Lords Justices turned such general thoughts into a more concerted effort to secure the chief governorship for Capell alone. On 24 July Shrewsbury advised William III that Wyche and Duncombe, if left to 'conduct' a Parliament, would, given their opinion that it would be unsuccessful, 'have address enough to order it so as infallibly to make good their advice'.<sup>59</sup> Three days later Shrewsbury again suggested to the King, through Portland, that Wyche and Duncombe would endeavour to render a Parliament unsuccessful and, by insinuation, that Capell, who was supposedly 'liked and beloved by all parties', could ensure success on his own. However, Portland expressed what was most probably William III's view, that although 'it is said, that my Lord Capell is more beloved than could have been expected: but his health is bad, that I think he will not live long'.<sup>60</sup>

It was evident that Capell needed to consolidate the support he had in England, primarily by pursuing his negotiations with the leading members of the Irish political nation, and, in turn, creating his own Court party out of the 1692 opposition. Even before Capell was certain that his opinions on a Parliament had been well-received in England, he had written to Shrewsbury in order to emphasize that the only way to ensure a successful parliamentary session was by convincing the Irish political nation

that there is a real intention in the government to do them good. Some of them are so free as to tell me they will trust me in this particular; that is, they say they are assured that your Grace, and such other of the present Ministers

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<sup>58</sup> HMC, *Bucleuch MSS*, ii, 62-3.

<sup>59</sup> *Cal. SP Dom. 1694-5*, p. 236.

<sup>60</sup> William Coxe (ed.), *Private and Original Correspondence of Charles Talbot, Duke of Shrewsbury, with King William, the Leaders of the Whig Party, and other Distinguished Statesmen* (London, 1821), pp. 62, 64-5.

that I shall apply to, will really concern themselves to do this poor country  
all the good they can reasonably expect.<sup>61</sup>

Thus, when Shrewsbury informed Capell that his views had been well-received in England, but that a Parliament could not meet until at least the spring of 1695, he earnestly recommended that Capell use his interest in the meantime ‘to unite the divisions, that we may in time give the King so good a prospect of that session that it may not fail at least then to be held’.<sup>62</sup>

Already confident in his calculation of the temper of the Irish political nation, at the end of July 1694 Capell wrote directly to the King, to assure him that his affairs in Ireland would not be interrupted by the raising of the ‘sole right’ claim in a future Parliament. The leading men in Ireland had given assurances not to revive the ‘sole right’, and, more important, had promised to provide for the government’s financial deficit.<sup>63</sup> At the same time, he reassured Shrewsbury that he would continue to apply his influence towards ending divisions in Ireland, and, in order to justify his claim that ‘the country desires to forget what is past, and settle the kingdom upon the next meeting of Parliament’, he transmitted to Shrewsbury two letters, the first from ‘a prudent person, whose sentiments I desired to have touching the last Parliament and calling another’, and the second ‘out of Munster from a leading person there, and in Parliament for the sole right’.<sup>64</sup>

The first letter was from Colonel George Philips, who had been an MP in the

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<sup>61</sup> HMC, *Buccleuch MSS*, ii, 103.

<sup>62</sup> *Ibid.*, 106.

<sup>63</sup> PRO, State Papers, Domestic, King William’s Chest, 8/14/29, Capell to William III, 27 July [1694]; *Cal. SP Dom. 1693*, p. 237. This letter is calendared under the wrong year.

<sup>64</sup> HMC, *Buccleuch MSS*, ii, 114-15.

1692 Parliament, but was not a ‘sole right’ supporter.<sup>65</sup> Philips believed the conflict between the executive and Commons in 1692 had not been fermented by the ‘major or wiser part’ of the House, but he suggested that it had been the executive’s uncompromising position from the outset that had caused the problem, for although many of the members were ‘learned, judicious and well-principled’ men, they were ‘fermented into a little frowardness, being crossed at their first sitting in that choice [?of Speaker], which they conceived to be their inherent right to determine’. Yet it was Philip’s belief that the time since elapsed had ensured that ‘the minds of men will be better composed, and disposition to passion and stiffness be wholly stifled’. He therefore recommended that a Parliament be called, as there were a great many ‘epidemical grievances that need to be cured’: ‘[w]e want many beneficial laws relating to religion, peace, and our secular interest, in which England is beforehand with us ... [and we] have no coercive laws against Papists, nor punitive’.<sup>66</sup>

The second letter acted as a balance to the first, as it came from one of the promoters of the ‘sole right’, Sir St John Brodrick, father of Alan and Thomas. Just as Alan had pointed out in May 1694 that the exigencies of the situation in Ireland demanded a compromise between the executive and legislature,<sup>67</sup> so his father expounded the same ideas a few months later. St John had written to Capell on 5 August explaining how opinion stood in several parts of Ireland in relation to the meeting of a Parliament:

I have had an opportunity of discoursing most of the gentlemen of this

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<sup>65</sup> McGrath, *Irish Constitution*, p. 95.

<sup>66</sup> HMC, *Buccleuch MSS*, ii, 104-5.

<sup>67</sup> SHC, Midleton Papers, 1248/1/268-9, Alan Brodrick to Thomas Brodrick, 5 May 1694.

County [Cork], and several of the Counties of Limerick and Kerry, and in my way down took as many as possibly I could, and have not met one single man of another mind than what your Lordship desires; and I dare answer for it, they will not fail your expectations.

However, support for the government had a price, though it was evident that these points had already been discussed with Capell, as St John did not need to refer to any measures deemed necessary to be introduced: he simply pointed out that all the gentlemen he had spoken to were

generally desirous of having those previous things done before the meeting of a Parliament, which I mentioned to your Lordship; several very honest men being jealous of a Parliament's being called only in order to give money; and this I am very confident is spread abroad by our enemies in order to startle and render them dissatisfied.<sup>68</sup>

Further evidence of a negotiated compromise arose in October, when another 'sole right' supporter, John Reading, informed Sir Arthur Rawdon that he had been in consultation with four like-minded men as to whether they should 'waive our sole right at this juncture, or have no Parliament'. As Reading pointed out, William III would only call a Parliament when he had 'a fair prospect' that the Commons would receive a government supply bill: 'for the King is by those about him so fully possessed that it is a branch of his prerogative, and is so jealous of losing the least flower thereof (having declared the Crown shall be no worse for his wearing [it])'. However, it was not necessary that the Commons pass the bill. They could reject it 'for any ... reason' other than the 'sole right'. Reading and his friends were in favour of receiving a government

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<sup>68</sup> HMC, *Buccleuch MSS*, ii, 110-11.

supply bill, in part because of the ‘many grievances’ they could expect to be redressed thereafter in Parliament, and in part because of the assurances they had that a body of ‘good’ legislation had already been prepared for transmission to Ireland, and that they would be allowed time to draft such other legislation ‘as we ourselves think necessary’. However, Reading was most particularly swayed by the fact that ‘I find all the courtiers, Lord Sidney’s, Lord Coningsby’s, and Lord Chancellor’s party, earnestly bent for sticking to ... the sole right, and I always suspect anything that comes from my enemy’.<sup>69</sup>

It was clear that the 1692 opposition were not prepared to drop the ‘sole right’ on the basis of a vague promise from the executive to provide a legislative programme acceptable to the Irish political nation. They would not accept a session like that of 1692, which they believed had been convened only in order to give money. They wanted the executive to prepare an acceptable legislative programme before the Parliament was summoned, and to act upon those measures requested by the political nation. At the same time, the suggestion that there was a group of people who were trying to disrupt an arrangement between the executive and legislature was consistent with the suspicions, both in England and Ireland, of the existence of certain individuals whose private interests were better suited if Parliament did not convene. In May 1694 Alan Brodrick had warned his brother Thomas of ‘too powerful enemies’ in England who would try to wreck the plans for convening an Irish Parliament.<sup>70</sup> Such unsubstantiated fears tended to throw suspicion on the courtiers of 1692 and their associates, not least Wyche and Duncombe.

During the autumn of 1694 Capell continued to press for the summoning of an

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<sup>69</sup> Berwick, *Rawdon Papers*, pp. 380-1.

<sup>70</sup> SHC, Midleton Papers, 1248/1/268-9, Alan Brodrick to Thomas Brodrick, 5 May 1694.



Irish Parliament, and to promise success. In October he asked Portland to approach the King once again, and dispatched a letter to Shrewsbury on the same theme. The letter to Shrewsbury was delivered by Thomas Brodrick, whom Capell recommended as being ‘best able of any man I know to give your Grace a faithful account of [this] kingdom, and of the true interest thereof’.<sup>71</sup> It was clear that Capell had grown confident of the success of his negotiations with the Brodricks in particular, and the 1692 opposition in general.

The meeting between Shrewsbury and Brodrick heralded the beginning of the next stage deemed necessary for ensuring a successful compromise between the executive and legislature. The discussions confirmed for Shrewsbury that calling a Parliament was not of itself enough to settle Ireland, ‘but that some steps must be made before, without which that Parliament will not answer the ends it is called for, nor the kingdom afterwards receive that benefit which might be expected if a more thorough reformation were made’.<sup>72</sup>

Capell soon clarified what such a ‘thorough reformation’ would entail. On 5 November he sent Shrewsbury a detailed exposition on the alterations in government which he felt to be necessary before Parliament was summoned. The main focus of attention fell on the Privy Council and judiciary. Lord Chancellor Porter was felt to have too great a ‘superintendancy’ over the judges, many of whom Capell represented as being professionally inadequate. Of all the senior judges, Capell felt he could only safely rely upon the opinion of the Lord Chief Justice of the Common Pleas, Sir Richard Pyne, and a Baron of the Exchequer, Henry Echlin. Capell argued that the replacement

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<sup>71</sup> HMC, *Bucclench MSS*, ii, 114, 150; *Cal. SP Dom. 1694-5*, p. 235.

<sup>72</sup> HMC, *Bucclench MSS*, ii, 152.

of the Lord Chief Baron, Sir John Hely, and one of the puisne judges would bring new credit to the courts, and that the example would serve to make the other judges more diligent. The posts of Attorney-General and Solicitor-General also came under scrutiny. The Attorney-General, Sir John Temple, was said to be always absent, so that all the work fell on the Solicitor-General (and Court-nominated Speaker in 1692), Sir Richard Levinge. This in turn made Levinge 'dilatory and disobliging'. Capell argued for replacing Temple, as it was essential to have the Attorney-General and Solicitor-General present in Ireland at the same time; these two officials were 'the two great springs that move the government', and upon whose opinion and integrity 'the chief governors are safe'. As to the Privy Council, the presence of five judges on the Board was not the norm: 'formerly the three chief judges only' were Privy Councillors. Capell also felt that the interests of the King and people would be better served if 'some gentlemen of good estates', such as Sir Robert King and Sir Christopher Wandesford, were appointed to the Council. Likewise if one or two of the army's general officers were appointed, their advice would make it easier to decide how to deal with, and suppress, tories, rapparees, and other such outlaws.

As for individuals to fill the potential vacancies in government offices, Capell recommended Alan Brodrick, Robert Rochfort, Nehemiah Donnellan and Robert Doyne as the most suitable candidates. He also emphasized that their appointment would assist the government's efforts in Parliament.<sup>73</sup> It was evident that the suggested alterations were part of the negotiated compromise, in that the individuals to be brought into office had also been leading members of the 1692 opposition. At the same time, it was not surprising that the main focus of attention fell on the Privy Council and judiciary, given

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<sup>73</sup> Ibid., 159-61.

that Capell had earlier expressed the view that certain leading Councillors and judges, out of 'private interest', were opposed to an Irish Parliament being summoned.<sup>74</sup> The focusing of attention on the judges in particular, who had been out of favour with the 1692 opposition ever since they had given their opinion in support of Sidney's stance against the 'sole right' claim, was evidence of the true motivation behind the suggested alterations.<sup>75</sup> The singling out of Pyne and Echlin for praise by Capell was best explained by Lord Chancellor Porter, who noted at that time that although some judges still supported the supposed resolution of the King to maintain his prerogative against the 'sole right' claim, others had begun to give 'underhand encouragement' to the idea of a compromise settlement.<sup>76</sup> Presumably, Pyne and Echlin had ensured their retention in office by promoting the compromise agreement on the 'sole right'.

Although the kind of trafficking in government offices being proposed by Capell had little precedent in Ireland, it had already become accepted policy in Williamite England.<sup>77</sup> At the same time, although both the 1692 Country opposition and Capell's Court party in 1695 included a mixture of future Irish Tories and Whigs, the overall impression of the negotiated alterations in government in 1694-5 was that of a compromise political solution dictated by a two-party system on a par with that already in existence in England.

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<sup>74</sup> Ibid., 100.

<sup>75</sup> BL, Harleian MS 6274, ff. 123-38, and Add. MS 9715, ff. 8-14, Opinion of the Irish judges on the 'sole right', 14 Feb. 1693; *Cal. SP Dom. 1693*, p. 121.

<sup>76</sup> PRONI, De Ros MSS, D638/18/28, Porter to Coningsby, 13 Nov. 1694.

<sup>77</sup> E. L. Ellis, 'William III and the Politicians', in Geoffrey Holmes (ed.), *Britain After the Glorious Revolution 1688-1714* (London, 1969), pp. 115-33; McGuire, 'Irish Parliament', pp. 14-15; Hayton, 'Undertaker System', pp. 42-4; id., 'English Ministers', pp. 179-86.

Having opened the arguments for the introduction into the Irish executive of leading ‘sole right’ supporters, in November 1694 Capell sought to offer reassurance to Whitehall as to the fundamental principle behind his negotiations in Ireland. In all his discussions with the 1692 opposition, he had ‘ever had a due regard to assert the rights of the Crown’, and had informed them in no uncertain terms that ‘they must not insist upon the “sole right”, but pass one money bill at least, that had its rise from the Council’.<sup>78</sup> Thereby, Capell identified himself as the member of the commission of Lords Justices who had from the outset advocated that the government’s one-year additional inland excise bill was a sufficient ‘proper cause and consideration’, in keeping with Poyning’s Law, for summoning Parliament, and was also sufficient for asserting the Crown’s prerogative in initiating supply legislation.<sup>79</sup>

Thus by late 1694 the details of the negotiated compromise were beginning to fall into place. Capell had already dismissed unsubstantiated rumours that the Crown was to give up its prerogative in initiating supply legislation. At least one government supply bill (which was to be a copy of the 1692 Additional Inland Excise Act), drafted and transmitted in accordance with Poyning’s Law, was to be passed by the Irish Parliament in recognition of the Crown’s prerogative.<sup>80</sup> In passing the government bill, the Commons would officially forgo their ‘sole right’ claim. However, the 1692 Excise Act was a one-year imposition, estimated at raising about £20,000, which would do little to alleviate the government’s financial crisis. In reality, once the Commons had given this token recognition to the Crown’s prerogative (and to the related aspect of Poyning’s

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<sup>78</sup> HMC, *Bucclench MSS*, ii, 161.

<sup>79</sup> PRONI, De Ros MSS, D638/18/16, Porter to Coningsby, 24 Aug. 1693.

<sup>80</sup> HMC, *Bucclench MSS*, ii, 156, 159, 161.

Law), the Lower House would have to be allowed to assess the further financial needs of the government, to decide the ways and means of raising the required revenue, and to prepare the legislation, as heads of bills, for providing that additional income for the government. If, as appeared likely, the Commons chose to provide such additional income for a finite period, then the Lower House would gain a great degree of control over the public purse-strings and, as long as government expenditure remained in excess of the hereditary revenue, Parliament would have to be convened on a regular basis. Hence, the 1692 opposition's acquiescence on the 'sole right' was to be purchased at the expense of the executive's autonomy in financial matters and, in a wider context, was to be responsible for Parliament becoming a permanent fixture as a central, and essential, part of the governmental system. Yet the executive would also benefit from a settlement which provided the extra income required to pay the civil and military establishments, while the Irish Protestant community would have a greater sense of security, owing to the presence, and maintenance, of a large military force.<sup>81</sup>

The other aspect of the compromise that had been settled at this stage was the requirement that the government present to the Irish Parliament a body of legislation designed to facilitate the settlement of Ireland in the Protestant interest. The most significant part of this government legislative programme, which had already been specified by Capell in July 1694, was to be penal legislation against Catholics.<sup>82</sup>

Although in theory this aspect of the compromise might be considered a concession on the part of the executive towards an anti-Catholic majority of the Protestant political

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<sup>81</sup> C.I. McGrath, 'The Irish Revenue System: Government and Administration, 1689-1702' (Univ. of London, PhD thesis, 1997), pp. 3-7, 63-88.

<sup>82</sup> HMC, *Buccluch MSS*, ii, 99-101.

nation, in truth nothing had been conceded by either side in this phase of the negotiations: the measures contained in the two penal laws which were passed in the 1695 Parliament had already been part of a consistent and constant government policy towards Catholics from 1690 onwards.<sup>83</sup> The two aspects of the compromise that remained to be resolved, and which would complete the deal, were the introduction of leading members of the 1692 opposition into senior government offices, and the appointment of a chief governor to oversee Parliament.

The desired changes in government were not a foregone conclusion. Shrewsbury had to press the King on the issue, though by May 1695 he was able to inform Capell that William III had signed the warrants ‘for all the removes according to your list’.<sup>84</sup> In fact, the changes as finally implemented were more extensive than originally projected by Capell in late 1694. Sir Arthur Rawdon, Sir Christopher Wandesford, Sir Robert King, Thomas Brodrick and Robert Doyne all became Privy Councillors. Of these men, Wandesford, Brodrick, Rawdon and King had been prominent amongst the 1692 opposition. Robert Rochfort became Attorney-General and Alan Brodrick became Solicitor-General, both having been instrumental in, and central to, the passage of the ‘sole right’ resolutions in 1692. Sir Richard Pyne became Lord Chief Justice of the King’s Bench in place of Sir Richard Reynell, while in the Exchequer Doyne became Lord Chief Baron in place of Sir John Hely, who was translated to be Lord Chief Justice of the Common Pleas, while the Prime Serjeant, Nehemiah Donnellan, became an Exchequer Baron. Sir Richard Cox and Sir John

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<sup>83</sup> McGrath, ‘Penal Laws’, pp. 25-46.

<sup>84</sup> HMC, *Bucleuch MSS*, ii, 165, 167; *Cal. SP Dom. 1694-5*, pp. 461-2, 472, 481; Coxe, *Private and Original*, p. 84.

Jeffreyson, the two Justices of the Common Pleas, were both removed from the Privy Council, officially on the grounds ‘that the three chief judges only shall be of the Council, according to former precedent’.<sup>85</sup> In reality, it was certain that Cox, at any rate, was not in favour with Capell.<sup>86</sup>

These alterations were aimed at strengthening Capell’s prospective Court party, which was being moulded from the 1692 opposition. The purpose of the alterations was most clearly demonstrated in the 1695 House of Commons, where the new Attorney-General and Solicitor-General took centre-stage as the managers of government business, with the former also elected Speaker. In a wider context, the changes in the judiciary were important in relation to the preparation of legislation, the presentation of favourable legal opinions to the government, and the role of the judges in the House of Lords. As for the Privy Council, it was not unusual for new Councillors to be appointed whenever a new chief governor was installed, and it was standard policy to place supporters of the government on the Council.<sup>87</sup> Yet it was also unusual for anyone to be removed, as the accepted norm was that opposition MPs, if already Privy Councillors, would forgo their right of attendance at the Board.<sup>88</sup>

The necessary precondition for bringing about the reformation in government offices had been the appointment of Capell as sole governor. Yet, as with the alterations within the government offices, this had not been a foregone conclusion in late 1694 and early 1695, despite the fact that Capell’s presence in Ireland was essential if the

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<sup>85</sup> *Cal. SP Dom. 1694-5*, pp. 372, 469, 472; McGrath, *Irish Constitution*, p. 50.

<sup>86</sup> HMC, *Bucleuch MSS*, ii, 160.

<sup>87</sup> *Cal. SP Dom. 1693*, pp. 23, 35, 43, 55, 88, 417; *Cal. SP Dom. 1694-5*, pp. 1, 276, 345, 414.

<sup>88</sup> Hayton, ‘English Ministers’, pp. 43-4.

negotiated compromise was to work.<sup>89</sup> Although Shrewsbury and Portland had been pressing the King on this point since the division of the Lords Justices in July 1694, William III had hesitated about making a decision, in part because of Capell's ill-health, but also because the King did not particularly like him.<sup>90</sup> However, Capell, with Shrewsbury's backing, continued to press for leave 'to own the calling of a Parliament'.<sup>91</sup> As it became more evident that the negotiated compromise depended upon Capell being sole governor, his position strengthened.

Sir William Temple, writing in 1695, was convinced that Capell's appointment as sole governor was an integral part of the negotiated compromise.<sup>92</sup> The evidence suggests he was right. In December 1694, in a letter to Sir Arthur Rawdon, Dr Christopher Jenny recorded that Capell had let it be known that it was William III's intention to remove Wyche and Duncombe from the commission of Lords Justices, and then to summon an Irish Parliament. Jenny presumed that Capell would be appointed Lord Lieutenant (in the event he was to be made sole governor with the less prestigious title of Lord Deputy). However, Capell had also emphasized to Jenny that representations had been made to the King which had implied that Capell was too ill to govern on his own, and that he should be joined with another Lord Justice. Although these representations had not yet borne fruit, Capell wanted leading Irish politicians such as Rawdon to know that 'should there be a check upon his measures again', such as would occur if another Lord Justice was appointed, 'he cannot think his stay here of any

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<sup>89</sup> BL, Add. MS 27382, ff. 3-6, A Discourse on Ireland by Sir William Temple, 1695; HMC, *Bucclench MSS*, ii, 182-3.

<sup>90</sup> Coxe, *Private and Original*, p. 65; Ellis, 'William III', p. 122.

<sup>91</sup> HMC, *Bucclench MSS*, ii, 150, 152-4, 158.

<sup>92</sup> BL, Add. MS 27382, ff. 3-6, A Discourse on Ireland by Sir William Temple, 1695.



service at all'. Jenny had taken it upon himself to assure Capell that as far as the political nation was concerned, or at least the core of the 1692 opposition, the best hope for a successful settlement was under his sole governorship: they trusted him alone to remove 'all difficulties that formerly have or otherwise might occur' upon the convening of Parliament. In yet another adroit political move, Capell requested, through Jenny, that Rawdon make known the opinion on this matter of the men for whom he could speak.<sup>93</sup>

At the same time, Capell laid the case before Shrewsbury. The rumour of Wyche's and Duncombe's pending removal and of the plan to appoint another Lord Justice had been spread around Ireland, and 'has occasioned many gentlemen to tell me that though they [were] contented to waive the "sole right", yet they did it in hopes of a lasting settlement, and good laws, which they expect from me, in whom they have a confidence'. But if he were only to be kept on as part of a new commission of Lords Justices, those same Irish gentlemen 'did not think it reasonable I should expect they should continue in the compliance I had brought them to', as they supposedly feared that if Capell were joined with another Lord Justice, he would be unable 'to make the returns they assured themselves of'. Similarly, these Irish politicians had spent a long time in discussions with Capell, and had grown confident of the relationship. The appointment of a new Lord Justice would undermine the understanding already reached, as the political nation would feel unable to confide in the new man, 'till they had good experience of his inclinations'. Capell excused his directness on the grounds that he was almost certain of success if left alone in the government,

having this reason for my presumption: that it is the interest of the people

here to have a settlement in Parliament ... make[s] me persuade myself they

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<sup>93</sup> Berwick, *Rawdon Papers*, pp. 397-9.

will not by an unreasonable obstinacy (after having given their words) disoblige the King, which may deprive them of that settlement so essential to their own present and future happiness.<sup>94</sup>

Although in the early months of 1695 the ‘general discourse’ in Ireland was about the various potential candidates for the chief governor’s office, by 7 March William III had made up his mind, and by 4 May all rumours were put aside when he declared that Capell was to be Lord Deputy. At the same time, the English Lords Justices were directed to ensure that an Irish Parliament met under Capell’s governorship as soon as possible.<sup>95</sup> On 20 May orders were issued for Capell to prepare a government legislative programme for transmission to England, in keeping with the normal procedure under Poyning’s Law.<sup>96</sup> Capell acted promptly, the government’s bills were sent to England and returned to Ireland by mid-July, and the proclamation for a Parliament to meet on 27 August 1695 was issued on 17 July.<sup>97</sup>

It was not surprising that a number of leading political figures expressed doubts about various aspects of the negotiated compromise. Following their removal from office, Wyche and Duncombe had a meeting with the English Lords Justices at which they argued that the government’s one-year additional inland excise bill was not a sufficient assertion of the Crown’s prerogative in initiating supply legislation. They pointed out that the bill would raise only a meagre sum, and that, as in 1692, it would

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<sup>94</sup> HMC, *Buccleuch MSS*, ii, 168-9.

<sup>95</sup> PRONI, De Ros MSS, D638/18/18-20, Porter to Coningsby, 15 Jan., 7, 23 Feb. 1695; NAI, Wyche Papers, 1/1/129, W. Ball to Wyche, 4 May 1695; HMC, *Buccleuch MSS*, ii, 182-3; *Cal. SP Dom. 1694-5*, pp. 460, 468.

<sup>96</sup> *Cal. SP Dom. 1694-5*, pp. 473-4.

<sup>97</sup> *Cal. SP Dom. 1694-5*, p. 480; HMC, *Buccleuch MSS*, ii, 193; *Cal. SP Dom. 1695 and Add.*, pp. 17, 19.

probably be protested against in the Commons.<sup>98</sup> However, the English Privy Council had already decided that the one-year additional inland excise bill was ‘sufficient to assert the right of sending money bills; Poyning’s Act does not exclude the Parliament from proposing the methods of laying the taxes, provided it is not pretended to as a sole right, and thereby to exclude the King’.<sup>99</sup>

Doubts of a different nature came from Lord Chancellor Porter. It was evident that Porter, who was much disliked by the leading figures among the 1692 opposition and ideologically at odds with Capell, had been excluded from any active participation in the negotiations of 1694-5. As late as November 1694 he was still assuming that the government would present more than one supply bill to any future Irish Parliament, and that the Commons would only pass the bill for a one-year additional excise, on the grounds that their reasons for passing it in 1692 would suffice again, and therefore not impinge upon the ‘sole right’ claim. All other supply bills, he believed, would receive one reading and thereafter be rejected without any reason being given in the journals, ‘and this they will have to be understood is pursuant to their former votes’, so that ‘it shall be always understood to be rejected upon the former reason standing in their books the last session’.<sup>100</sup> His continued exclusion from the negotiations was evident in January 1695, when he noted that he had been told, presumably by a third party, that Capell ‘has undertaken that the Commons will yield the point of the sole right’. Yet Porter doubted if Capell could truly rely upon the promises of the 1692 opposition, though he had finally come to realise that the intention was to present only one

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<sup>98</sup> *Cal. SP Dom. 1695 and Add.*, pp. 4-5.

<sup>99</sup> *Cal. SP Dom. 1694-5*, p. 513.

<sup>100</sup> PRONI, De Ros MSS, D638/18/28, Porter to Coningsby, 13 Nov. 1694.

government supply bill to Parliament.<sup>101</sup>

By early summer, once the details of the negotiations were out in the open, Porter went so far as to voice his agreement with the compromise over the government supply bill. In his opinion Irish MPs were best placed to ‘know the means of raising’ taxation in Ireland ‘with the least inequality or inconveniency’, and, while not having the ‘sole right’ to prepare supply legislation, they certainly had a right to prepare heads of supply bills. However, he felt that the recent appointment of leading members of the 1692 opposition to senior government offices would not have the desired effect, as it would be difficult for these men (described by Porter as Capell’s ‘undertakers’) to persuade the Commons to pass the government’s additional inland excise bill. Porter believed that the bill would meet with opposition, which would re-ignite the question of the ‘sole right’ and place Capell’s parliamentary managers in an untenable position.<sup>102</sup> However, by the end of July Porter had come to accept that ‘the gentlemen generally seem willing to pass the money bill sent over without questioning the King’s right to send them’.<sup>103</sup>

The bishop of Derry, William King, also expressed doubts about the compromise, despite having been supportive of the stance taken by the opposition in 1692. King was wary of the new ‘expedient’, given that in the aftermath of the 1692 Parliament he had urged the acceptance of a similar compromise agreement, and for his troubles had been verbally attacked by members of the 1692 opposition, who had alleged that his preferment to bishop had made him a courtier. In a rather disingenuous

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<sup>101</sup> *Ibid.*, D638/18/18, 20, Porter to Coningsby, 15 Jan., 23 Feb. 1695.

<sup>102</sup> HMC, *Downshire MSS*, i, 492-3, 497-8, 509.

<sup>103</sup> *Cal. SP Dom. 1695 and Add.*, p. 26.

manner, King stated that he almost believed those earlier allegations against him, ‘since that motive [preferment]’ had made the leaders of the 1692 opposition enter into a compromise agreement with the government, and therein become courtiers themselves. Though he agreed in theory with the compromise, he feared that the Parliament would ‘have time to give money’, but little time thereafter for anything else.<sup>104</sup>

Despite the doubts expressed by Porter, Wyche, Duncombe, and King, the negotiated compromise over the ‘sole right’ was directly responsible for the success of the Parliament convened in 1695. On the eve of that Parliament, as far as a financial settlement in Ireland was concerned, practical circumstances were worse than they had been in 1692. However, the 1695 Parliament was to be a turning point for the Protestant nation: it placed the Williamite reign in Ireland on firmer ground; it initiated the establishment of a Protestant ascendancy over the Catholic Irish; and it set a precedent for regular parliamentary sessions. In many ways the 1695 parliamentary session was to be one of the most important and influential sessions, not only for William III’s reign, but also for the greater part of the eighteenth century.<sup>105</sup>

Capell’s opening speech on 27 August 1695 was symbolic of the compromise. The most important, and conciliatory, aspect was Capell’s direct appeal for supply to the House of Commons. In so doing he acknowledged the right of the Commons to consider the ‘ways and means’ of raising money and to prepare the heads of supply bills.

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<sup>104</sup> TCD, Archbishop King’s Correspondence (Lyons Collection), MSS 1995-2008, f. 445, Bishop King to James Bonnell, 28 June 1695.

<sup>105</sup> McGrath, *Irish Constitution*, pp. 49-62, ch. 3; id., ‘Revenue System’, 88, 325; id., ‘Penal Laws’, 25-46; McCracken, *Irish Parliament*, pp. 5-6; Englefield, *Printed Records*, p. 2; Hayton, ‘English Ministers’, pp. 90-1; Patrick McNally, ‘Patronage and Politics in Ireland 1714-1727’ (Queen’s University Belfast, PhD thesis, 1993), p. 18.

However, he also made clear that the government's acknowledgement of the rights of the Commons in relation to supply legislation was on the condition that the House first accepted the Crown's one-year additional inland excise bill.<sup>106</sup> The government's acknowledgment in the speech from the throne of the Commons' role in raising supply and the request that the Commons exercise their right to prepare heads of supply bills were both unprecedented. The Commons in turn adhered to their side of the compromise, passing the government's one-year additional inland excise bill, and thereafter preparing heads of bills for raising the remainder of the supply requested by the government. Difficulties did arise, most notably over the involvement of Capell's leading parliamentary managers in the failed attempt to impeach Lord Chancellor Porter in the Commons, but as far as the Irish executive and the English ministry were concerned, the session was a notable success because of the negotiated compromise.<sup>107</sup>

At the heart of that success were several leading English Whigs and government ministers. The fact that the negotiation of the compromise had occurred during a time of emerging Whig predominance in English government and politics would suggest that to a great extent the unknown precondition to facilitating a compromise had been an increase in Whig influence in government. Certainly from mid-1693 onwards the Whigs in the English ministry (in particular Shrewsbury and Capell) had played a central role in facilitating the eventual compromise in 1695. At the same time, these men had helped to bring to prominence a number of Irish Protestant politicians (in particular Alan and Thomas Brodrick and Robert Rochfort) who in the following decades were to play a

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<sup>106</sup> *CJI*, ii, 643-4; James, *Ireland in Empire*, pp. 34-5.

<sup>107</sup> McGrath, *Irish Constitution*, pp. 100-17; Patrick McNally, *Parties, Patriots and Undertakers: Parliamentary Politics in Early Hanoverian Ireland* (Dublin, 1997), pp. 39-41.

central role in their own right in reshaping early eighteenth-century Irish government and Parliament in the light of the new constitutional and political reality which had arisen out of the Glorious Revolution and the events of 1688-91.

In the remaining two sessions of Parliament in Williamite Ireland, in 1697 and 1698-9, the constitutional crisis caused by the 'sole right' in 1692 was not repeated, despite some confusion on the part of the government over the aspects of the compromise relating to the government supply bill. Thereafter, whenever a new Irish Parliament was summoned, which, excluding the short-lived Parliament of 1713-14, only occurred following the accession of a new monarch, the central aspects of the compromise were adhered to by the executive and legislature.<sup>108</sup> Of course, as the eighteenth century unfolded, new parliamentary practices were adopted and developed, while at times difficulties still arose in the relationship between the executive and legislature, as the focus of the Irish Protestant political nation shifted to other grievances, such as the Westminster Parliament's assumption of a right to legislate for Ireland, the amending, altering, respiting and postponing of the Irish Parliament's heads of bills by the Irish and English Privy Councils, and the absence of an active role for the Irish Parliament in relation to government expenditure. However, despite such developments and conflicts, the central aspects of the 1695 compromise survived as the basis for a *modus operandi* for the British and Irish executives and the Irish legislature until the passing of the Octennial Act in 1768. The passing of that Act put a new strain upon the relationship between the executive and legislature, as it meant that the presentation of a

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<sup>108</sup> C. I. McGrath, 'Central Aspects of the Eighteenth-Century Constitutional Framework in Ireland: The Government Supply bill and Biennial Parliamentary Sessions, 1715-82', *Eighteenth-Century Ireland*, xvi (2001), pp. 9-34; id., *Irish Constitution*.

government supply bill in the first session of a new Parliament would become a much more regular event, and a more probable point of conflict, than it had been since the 1690s. That point of conflict arrived almost immediately, with the rejection of the government's supply bill in the new Parliament in 1769, an action which in turn led to a new compromise on the government bill in 1776 before Legislative Independence in 1782 finally put an end to the need for compromises of the nature of that which had been negotiated in 1693-5.<sup>109</sup>

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<sup>109</sup> McGrath, 'Constitutional Framework', pp. 9-34; McNally, *Parties, Patriots and Undertakers*; Eoin Magennis, *The Irish Political System, 1740-1765: The Golden Age of the Undertakers* (Dublin, 2000); Burns, *Parliamentary Politics*; Declan O'Donovan, 'The Money Bill Dispute of 1753', in Bartlett and Hayton (eds), *Penal Era*, pp. 55-87; Thomas Bartlett, 'The Irish House of Commons' Rejection of the "Privy Council" Money Bill in 1769: A Re-assessment', *Studia Hibernica*, xix (1979), pp. 63-77.