THE EIGHTEENTH-CENTURY COMPOSITE STATE

Representative Institutions in Ireland and Europe, 1689–1800

Edited by D. W. Hayton, James Kelly and John Bergin

The Eighteenth-Century Composite State

Also by D. W. Hayton:

HISTORY OF PARLIAMENT 1690–1715: Introductory Survey

RULING IRELAND, 1685–1742: Politics, Politicians and Parties

Also by James Kelly:

HENRY FLOOD: Patriots and Politics in Eighteenth-Century Ireland

POYNINGS' LAW AND THE MAKING OF LAW IN IRELAND, 1660–1800

PRELUDE TO UNION: Anglo-Irish Politics in the 1780s

SIR EDWARD NEWENHAM, 1734–1814: Defender of the Protestant Constitution

SIR RICHARD MUSGRAVE, 1746–1818: Ultra-Protestant Ideologue

THAT DAMN'D THING CALLED HONOUR: Duelling in Ireland, 1570–1860

The Eighteenth-Century Composite State

Representative Institutions in Ireland and Europe, 1689–1800

Edited by

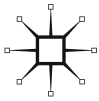
D. W. Hayton
Professor of Early Modern Irish and British History, Queen's University Belfast, UK

James Kelly
Cregan Professor of History, St Patrick's College, Dublin City University, Ireland

and

John Bergin
Research Fellow, School of History and Anthropology, Queen's University Belfast, UK

palgrave
macmillan



Softcover reprint of the hardcover 1st edition 2010 978-0-230-23159-7

First published 2010 by
PALGRAVE MACMILLAN

Palgrave Macmillan in the UK is an imprint of Macmillan Publishers Limited, registered in England, company number 785998, of Houndmills, Basingstoke, Hampshire RG21 6XS.

Palgrave Macmillan in the US is a division of St Martin's Press LLC, 175 Fifth Avenue, New York, NY 10010.

Palgrave Macmillan is the global academic imprint of the above companies and has companies and representatives throughout the world.

ISBN 978-1-349-31202-3 ISBN 978-0-230-27496-9 (eBook)
DOI 10.1057/9780230274969

This book is printed on paper suitable for recycling and made from fully managed and sustained forest sources. Logging, pulping and manufacturing processes are expected to conform to the environmental regulations of the country of origin.

A catalogue record for this book is available from the British Library.

A catalog record for this book is available from the Library of Congress.

10 9 8 7 6 5 4 3 2 1
19 18 17 16 15 14 13 12 11 10

For Bill Doyle and Jack Greene,
who pointed the way

This page intentionally left blank

Contents

List of Figures, Tables and Maps

Figures

Tables

Maps

Acknowledgements

This collection derives from a Wiles Colloquium held at Queen's University, Belfast on 14–15 September 2007. As the title of the colloquium suggests – 'Lawmaking in periphery and centre: Constitutional relations in composite states, 1690–1800' – the intention was, through the process of examining the making of law, to explore the relationship of central government with its subordinate parliaments and estates within the composite monarchies that existed in eighteenth-century Europe. This idea was prompted by an award of funding in 2004 by the Leverhulme Trust to Professors Hayton and Kelly to facilitate the preparation of a database of the legislation presented to the Irish parliament between 1692 and 1800. The resulting Irish Legislation Database, which can be accessed at www.qub.ac.uk/ild/, contains information relating to all legislative proposals, numbering more than 4000, that arose in the Irish parliament and Irish Privy Council and were scrutinised at the English/British council between 1692 and 1800. It is to be hoped that the availability of the database will encourage scrutiny of the nature and operation of the Irish legislature, the legislative output of the Irish parliament, the interaction of the Irish parliament and Irish Privy Council with the English/British Privy Council, and, by extension and implication, the Anglo-Irish constitutional nexus. Although Ireland and England/Great Britain were separate kingdoms, they shared a long and complex history, the same monarch, and, as the Irish statute books attests, common patterns and practices of lawmaking. Some of these links were discussed at the colloquium, but the deliberations moved beyond the Anglo-Irish context in which Irish parliamentary history is conventionally located and sought to place the Irish parliament in its wider European and Atlantic setting. To this end, the participants engaged with the relationship of the metropolitan and provincial estates in France and the Habsburg empire, and the discussions ranged even more widely – a necessary perspective on the relationship of Britain with its transatlantic dependencies in the West Indies and North America being provided by the comments of Jack Greene. The European dimension has been amplified in this collection by the addition of further chapters on Languedoc and Poland-Lithuania.

As with any undertaking of this nature, the intellectual, personal, organisational and institutional debts of the organisers/editors are many. We wish, first, to thank the Leverhulme Trust for the funding that allowed an idea to become a reality, and to permit the recruitment of two exceptional research fellows, John Bergin and Andrew Sneddon, who were responsible for transforming the data in its raw state from the Journals of the Irish Houses of Lords

and Commons to an electronic form that has allowed it to be configured in a manner appropriate to the world wide web, and thus to general access. For guidance, assistance and the many hours of effort that this involved, we wish to express our deep gratitude to Ricky Rankin and Gavin Mitchell of Information Services at Queen's University. We wish also to thank Dr Gerry Slater, then Director of the Public Record Office of Northern Ireland, and Deputy Keeper of the Records of Northern Ireland, for lending the project the Record Office's set of the *Journals of the Irish House of Com*mons, and Ms Deirdre Wildy of Queen's University Library for general support and bibliographical assistance. In respect of the project, thanks are also due to Professor Julian Hoppit, the late Professor Edith Mary Johnston-Liik, Dr Clyve Jones, the late Professor Peter Jupp, Dr Andrew Lyall, Dr Anthony Malcomson, Mr James McGuire, Dr Ian Montgomery, Professor Nial Osborough and Professor Mary O'Dowd.

The colloquium that marked the formal conclusion of the research phase of the project, and that gave rise to this collection, was made possible by the generosity of the Leverhulme Trust and the Wiles Trust, the support of the School of History and Anthropology at Queen's, and the organisational skills of Ms Catherine Boone. We are also very grateful to the chairpersons of the sessions and individual commentators – Dr Toby Barnard, Dr Allan Blackstock, Professor Sean Connolly, Professor William Doyle, Professor Robert Evans, Dr Natasha Glaisyer, Professor Peter Gray, Professor Jack Greene, Ms Joanna Innes, Dr Eoin Magennis, and Dr Stephen Taylor – along with the other participants, whose thoughtful and sometimes forcefully articulated observations on the circulated chapters provided the inspiration as well as the incentive to the editors and contributors to press on with the task of bringing the collection to completion.

For permission to consult and to make use of manuscripts in private possession, the editors and contributors are grateful to the Duke of Abercorn; the Marquess of Anglesey; the Earl of Normanton; the Earl of Roden; the Earl of Shannon; the Lord Hotham; the National Trust; the trustees of the Chatsworth Settlement; and His Grace the Archbishop of Armagh. We also thank the various archivists, librarians, trustees, custodians and copyright holders of collections held in institutional repositories: the Archives Départmentales de l'Aude; the Archives Départmentales de la Côte d'Or; the Archives Départmentales du Gard; the Archives Départmentales de l'Hérault; the Archives Départmentales de la Haute-Garonne; the Archives Nationales, Paris; the Beinecke Library, Yale University; the Bibliothèque Nationale de France, the Keeper of Western Manuscripts, the Bodleian Library; the British Library Board; the Governing Body of Christ Church, Oxford; the Derbyshire Record Office; the Dublin City Library and Archive; the Comptroller of Her Majesty's Stationery Office; the Hungarian National Archives; the Irish Architectural Archive; the National Archives of Ireland; the Director, National Library of Ireland; the National Library of Scotland;

the Deputy Keeper of the Records, Public Record Office of Northern Ireland; the Royal Dublin Society; the Royal Irish Academy; Suffolk Record Office; Surrey History Centre; the Board of Trinity College Dublin and the Warwickshire County Record Office.

It is our hope that the completion of the Irish Legislation Database will renew interest in the work of the eighteenth-century Irish parliament, and that this volume in particular will locate Irish parliamentary history in the wider context of the history of representative institutions in eighteenth-century Europe and in the imperial and colonial possessions of European states. In making the attempt we are aware that we are following in the steps of two distinguished predecessors, who in their different ways pioneered the comparative study of parliaments, estates and assemblies in this period. Jack Greene's work on the constitutional and political relationship of the peripheral territories of Britain's transatlantic empire with its metropolitan core provided one important model for the kind of study attempted here; while Bill Doyle's contribution to what he has himself called 'the new constitutional history' of eighteenth-century France, and Europe more generally, has not only inspired several of the contributors to this book but has also paved the way for the study of pre-Union Ireland in the comparative perspective of the composite states of the *ancien régime*. We were honoured by their presence at the colloquium, and on behalf of all the contributors wish to take the opportunity to return the compliment by dedicating this work to them.

Abbreviations

ADA	Archives Départmentales de l'Aude
ADCO	Archives Départmentales de la Côte d'Or
ADG	Archives Départmentales du Gard
ADH	Archives Départmentales de l'Hérault
ADHG	Archives Départmentales de la Haute-Garonne
AN	Archives Nationales
Add. MS	Additional Manuscript
BL	British Library
BN	Bibliothèque Nationale de France
BNL	*Belfast Newsletter*
Bodl.	Bodleian Library
Cal. HO Papers	*Calendar of Home Office Papers*
Cal. SP, Dom	*Calendar of State Papers, Domestic Series*
CJI	*Journals of the House of Commons of the Kingdom of Ireland* (1st–4th edn)
EHR	*English Historical Review*
FHS	*French Historical Studies*
Hist. Ir. Parl.	E. M. Johnston-Liik, *History of the Irish Parliament, 1692–1800* (6 vols, Belfast, 2002)
HJ	*Historical Journal*
HMC	Historical Manuscripts Commission
IHS	*Irish Historical Studies*
Irish Statutes	*The Statutes at Large Passed in the Parliaments Held in Ireland, 1310–1800* (20 vols, Dublin, 1789–1800)
LJI	*Journals of the House of Lords of the Kingdom of Ireland* (8 vols, Dublin, 1782–1800)
NAI	National Archives of Ireland
NLI	National Library of Ireland
NUI	National University of Ireland
Oxford DNB	H. C. G. Matthew et al. (eds), *Oxford Dictionary of National Biography* (60 vols, Oxford, 2004)

Parl. Reg Ire.	*The Parliamentary Register, or History of the Proceedings and Debates of the House of Commons of Ireland* (17 vols, Dublin, 1782–1801)
PRO	Public Record Office
PRONI	Public Record Office of Northern Ireland
QUB	Queen's University Belfast
RIA	Royal Irish Academy
RIA Proc.	*Proceedings of the Royal Irish Academy*
RO	Record Office
RSAI Jnl Ireland	*Journal of the Royal Society of Antiquaries of Ireland*
SHC	Surrey History Centre, Woking
TCD	Trinity College Dublin
TNA	The National Archives [of the UK]
TRHS	*Transactions of the Royal Historical Society*
UCD	University College Dublin

List of Contributors

John Bergin was employed as Senior Research Fellow with the Irish Legislation Project and is the author of several articles on the making of law in eighteenth-century Ireland. He currently holds the post of research fellow at Queen's University Belfast on an AHRC-funded research project investigating 'Marriage in Ireland, 1660–1925'.

Richard Butterwick is Senior Lecturer in Modern Polish History at the School of Slavonic and East European Studies, University College London. He is the author of *Poland's Last King and English Culture: Stanisław August Poniatowski 1732–1798* (1998) and of many articles and essays on the monarchy, parliament, Enlightenment and Anti-Enlightenment in Poland-Lithuania. He edited *The Polish-Lithuanian Monarchy in European Context, c. 1500–1795* (2001), the proceedings of an earlier Wiles Colloquium, co-edited *Peripheries of the Enlightenment* (2008), and is now preparing a monograph on the Polish Revolution and the Catholic Church, 1788–92.

Neal Garnham is Senior Lecturer in History at the University of Ulster at Coleraine, and President of the Irish Economic and Social History Society. He is the author of numerous articles and essays on eighteenth-century Irish history, and of *The Courts, Crime and the Criminal Law in Ireland, 1692–1760* (1996). He is currently working on a full-length study of the Irish militia in the period 1691–1793.

D. W. Hayton, MRIA, is Professor of Early Modern Irish and British History and Head of the School of History and Anthropology at Queen's University Belfast. He wrote the Introductory Survey for the 1690–1715 volumes of the *History of Parliament*, and a collection of his papers on Irish political history appeared in 2004, entitled *Ruling Ireland, 1685–1742: Politics, Politicians and Parties*.

James Kelly, MRIA, is Head of the History Department at St Patrick's College, Dublin City University. His publications include *Poynings' Law and the Making of Law in Ireland, 1660–1800* (2007); *The Proceedings of the Irish House of Lords* (3 vols, 2008) and *Sir Richard Musgrave, 1746–1818: Ultra-Protestant Ideologue* (2009).

Charles Ivar McGrath is a Lecturer in the School of History and Archives at University College Dublin. He is the author of *The Making of the Eighteenth-Century Irish Constitution: Government, Parliament and the Revenue, 1692–1714* (2000), and co-editor of *Converts and Conversion in Ireland, 1650–1850* (2005) and *Money, Power, and Print: Interdisciplinary Studies on the Financial Revolution in the British Isles* (2008).

Stephen J. Miller is Associate Professor in History at the University of Alabama at Birmingham. In 2008 he published *State and Society in Eighteenth-Century France: A Study of Political Power and Social Revolution in Languedoc*. His next project, for which he has received a grant from the American Philosophical Society, will analyse the French monarchy's efforts to reform its institutions by creating provincial assemblies of landowners in the 1770s and 1780s.

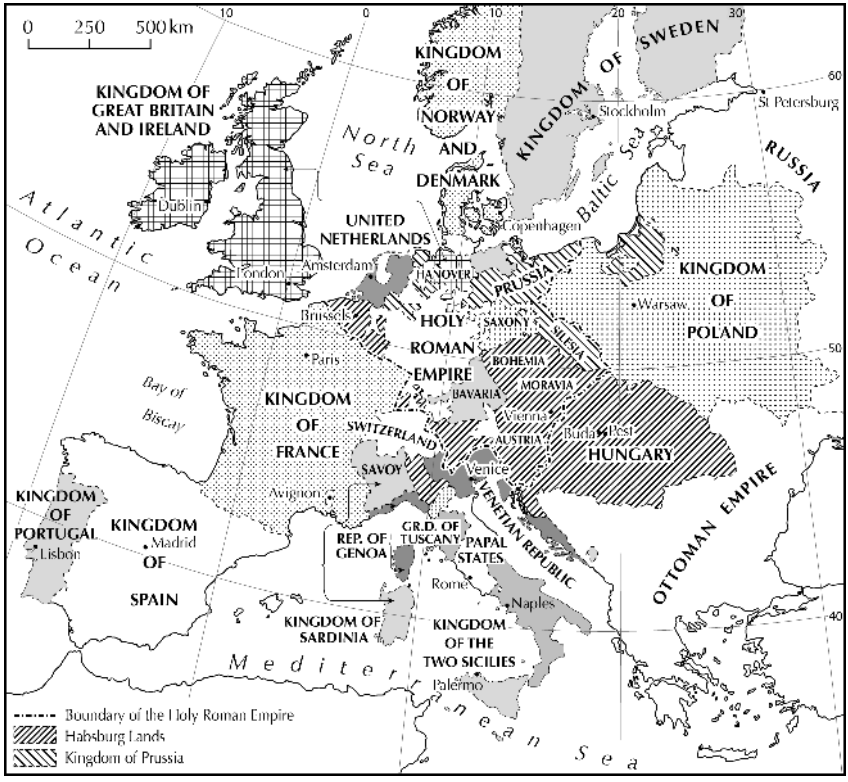
Andrew Sneddon is a Lecturer in History at the University of Ulster. He held a fellowship in the Institute of Irish Studies at Queen's University Belfast in 2007–8, and was previously Research Fellow on the Irish Legislation Project. His monograph, *Witchcraft and Whigs: The Life of Bishop Francis Hutchinson, 1660–1739* was published in 2008.

Julian Swann is Professor of History at Birkbeck, University of London. He is the author of *Politics and the Parlement of Paris, 1754–1774* (1995) and *Provincial Power and Absolute Monarchy: The Estates General of Burgundy, 1661–1790* (2003), and co-editor of *Conspiracies and Conspiracy Theory in Early Modern Europe: From the Waldensians to the French Revolution* (2004).

Orsolya Szakály is a Subject Lecturer in the School of Oriental and African Studies, University of London and also teaches at the London School of Economics. Her doctoral thesis (Budapest, 2003) was on the Hungarian aristocratic 'improver', Miklos, Baron Vay.

Editorial Note

In the transcription of extracts from original sources, capitalisation and punctuation have been silently modernised, thorns and other orthographical archaisms replaced, and material in foreign languages translated. Editorial interpolations are indicated by square brackets and italics. Before 1752 the Julian calendar continued to operate in Britain and Ireland, and dates in that period are therefore presented in Old Style, though with the year taken to begin on 1 January. In continental Europe the Gregorian calendar was in use throughout the period, and dates are always given in New Style. All parliamentary statutes and government proclamations are assumed to be Irish unless otherwise stated. Finally, information on bills and heads of bills in the Irish parliament has been taken from the Irish Legislation Database (ILD) (available at http://www.qub.ac.uk/ild).



Map 1 The major European states, c. 1760

Introduction

The Irish Parliament in European Context: A Representative Institution in a Composite State

D. W. Hayton and James Kelly

The term 'composite state' was coined by H. G. Koenigsberger in 1975 in a published lecture which argued that in Europe in the early modern period 'most states … were composite states'; that is to say territorial agglomerations whose unity was dynastic rather than national, defined as 'more than one country under the sovereignty of one ruler'.[1] The chronological focus of Koenigsberger's lecture, and of those who followed him in discussing the phenomenon of 'composite states'[2] (or 'multiple monarchies', to use another similar formulation[3]) was the sixteenth and seventeenth centuries. In some cases the expansion of state power during the eighteenth century forced a process of integration, but the European *ancien régime* that survived until the French Revolution was still marked by relatively few recognisable nation states. The most extensive dynastic accumulation belonged to the Habsburgs, whose principal possessions were the lands of Austria, Bohemia and Hungary, and whose outlying territories extended from the Netherlands to the Balkans. To the east of the Habsburg dominions could be found the Polish–Lithuanian Commonwealth with its Saxon kings; to the north, Brandenburg–Prussia and its various German properties, the union of Denmark with Norway, and of Sweden with Finland; to the south the Savoyard state of Piedmont-Sardinia, and the joint kingdom of Naples and Sicily; and to the west the multiple monarchy of the Hanoverian rulers of Great Britain and Ireland.

The legislative union of England and Scotland in 1707 had gone some way towards integrating the kingdoms of the Stuarts, but the process was incomplete, and the accession of the House of Hanover in 1714 had added a further complication by uniting the British and Irish Crowns to a German electorate.[4] In particular, the governance of the kingdom of Ireland remained separate in many, though not all, important respects. As was the case with Scotland under the Union, Ireland retained its own church establishment and legal system, both of which followed English models and were staffed in part by Englishmen, who could be transferred across without the need to learn new forms and practices. Unlike the Scots, the Irish also retained intact

their own administrative institutions, again on an English pattern and with some English appointees. The viceroy (usually holding the formal title of lord lieutenant) and those who substituted for him (lords justices) were assisted by a Privy Council and supported by a range of offices – the council secretariat, the various branches of the army establishment, the treasury and exchequer, and the revenue commission – only one of which – the revenue commission – was responsible directly to government at Whitehall. Finally, and most important, a separate Irish parliament not only remained in being until the British–Irish Union of 1800, but actually became more powerful and more effective during the eighteenth century.

The continued existence of such representative institutions was a key element in the form of non-integrative union which produced the typical early modern 'composite state', the union *aeque principaliter*. According to J. H. Elliott:

> The greatest advantage of union *aeque principaliter* was that by ensuring the survival of their customary laws and institutions it made more palatable to the inhabitants the kind of transfer of territory that was inherent in the international dynastic game. No doubt they often felt considerable initial resentment at finding themselves subordinated to a 'foreign' ruler. But a promise to observe traditional laws, customs and practices could mitigate the pains of these dynastic transactions, and help reconcile *élites* to the change of masters. The observance of traditional laws and customs involved in particular the perpetuation of estates and representative institutions.[5]

Where this occurred – and it must be said that respect for local institutions was by no means universal among the 'new monarchies' of early modern Europe – the preservation of representative assemblies by rulers of composite states in the sixteenth and seventeenth centuries had been motivated at least as much by political self-interest as by an inherent respect for constitutional traditions. Much would have depended on the size of the contribution expected from a particular territory to the central needs of the monarchy and the likely disposition of the relevant local assemblies. As Koenigsberger pointed out, where the potential gain from abolishing historic diets or estates in the interests of increased uniformity and efficiency of taxation was relatively small, a simple cost–benefit analysis could convince even the most dynamic monarchies that this was not worth the concomitant risk of alienating a local ruling *élite*.[6]

The balance seems to have shifted, however, in the later seventeenth and eighteenth centuries, with the rise of the so-called fiscal-military state, of which much has been made in recent historical literature.[7] The consolidation of state power through the expansion and professionalisation of armies, the systematising of state finances to support this growing military force, and

the development of an effective civil administrative apparatus to ensure the collection of the revenue needed to pay for both, had inevitable consequences in strengthening the resolve of rulers to limit the powers of representative institutions or to dispense with them entirely, as was the fate of the *cortes* of Catalonia and Aragon under the Bourbons, and the parliaments of Sardinia and Piedmont under the Savoyard monarchy.[8]

Yet despite the vaunted muscularity of these fiscal-military states, many representative institutions did survive into the era of 'enlightened absolutism'.[9] Admittedly some lingered in poor health and were left untouched for the very reason that they were sickly and generally spineless – the Bohemian diet, for example, or the parliament of Sicily (once dubbed the 'ice-cream parliament' because its members were preoccupied with consumption of this confectionery delight at the expense of their proper business): both readily granted subsidies as long as aristocratic privileges were sustained.[10] The Polish-Lithuanian *sejm* became paralysed in the early eighteenth century, though the Saxon monarchy was unable to take advantage of its weakness, and later, as Richard Butterwick's chapter shows, it was revitalised in partnership with the monarchy. A few representative assemblies showed greater vigour. After the death of Charles XII, the Swedish *riksdag* effectively governed without royal interference until party factionalism drove Gustavus III to impose a new constitution in 1772 that divided power over legislation and taxation between the *riksdag* and the king.[11] The provocative refusal of the Hungarian diet in 1765 to increase taxation, as Dr Szakály describes in her chapter, frustrated the Habsburgs sufficiently for it to be prorogued indefinitely. And in the final quarter of the century, in response to a continent-wide political crisis, discontented local *élites* sought to exploit the powers of regional or provincial assemblies as a means of resisting the centralising powers of the monarchy. Even in Sicily the 'ice-cream parliament' proved capable in 1783 of preventing the Marquis Domenico Caracciolo, a viceroy determined on reform, from forcing through changes in the assessment of the subsidy (*donativo*).[12] Sometimes, however, parliaments overreached themselves, with disastrous results; the opposition of the estates of Brabant to the reforms of Emperor Joseph II resulted in his abrupt annulment in 1789 of all provincial privileges.[13]

In respect of the concept of the 'composite state', perhaps the most interesting example of the development of representative institutions is offered by France, at first glance the only major power that does not qualify under Koenigsberger's definition and indeed for some historians the only identifiable unitary 'nation state' in eighteenth-century Europe. But as Bill Doyle, Julian Swann and others have established, local particularism was an important feature of political culture, especially of the nobility. In the *pays d'états*, the provinces in which traditional estates survived – such as Brittany, Burgundy (described here by Julian Swann) or Languedoc (the subject of Stephen Miller's

chapter) – these estates negotiated with the king over levels of taxation in the same way as the Hungarian or Bohemian estates negotiated with the emperor.[14] As formerly independent entities annexed to France, the *pays d'états* could claim the same kind of distinctive origins as the territories of more obviously 'composite states'. Professor Swann observes in his chapter that the inhabitants of the province of Burgundy 'had maintained strong local traditions of self-rule and of cultural and institutional independence from the centre'. This sense of difference might grow into a form of provincial 'patriotism', seen at its most extreme in the construction by antiquarians of the idea of a separate 'Burgundian nation'. Similar sentiments could even be detected in the political communities of the *pays d'élection*, those provinces which formed the core of the historic kingdom of France and did not possess recognisable independent traditions. In Normandy (1759), Dauphiné (1776), Aquitaine (1779), and Franche-Comté (1782) the local judicial bodies, the *parlements*, agitated for the revival of long-defunct and long-forgotten representative institutions, or for the creation of new estates where no historical precedent existed.[15]

In seeking to find a place for the Irish parliament in this complex comparative framework, we have first to answer the question of whether Ireland can indeed properly be viewed in the same light as the aristocratic polities of continental Europe. Debate on this point has been prompted by the application to Irish history of the iconoclastic approach and self-consciously radical interpretation of J. C. D. Clark, whose analysis of English society in the 'long eighteenth century' between the Restoration and the Great Reform Act of 1832 deliberately emphasised those elements in English social and political organisation that most closely resembled the European *ancien régime*, arguing that they remained of primary importance until the English *ancien régime* dissolved rapidly in the 1820s in a 'high political' crisis over Catholic emancipation and electoral reform.[16] Instead of a triumphalist Whig history, in which inexorable progress towards parliamentary democracy was underpinned by industrial revolution and the rise of the middle class to political power, Clark depicted a society in which, even at the end of the eighteenth century, the monarchy remained the focus of authority, political and social leadership resided with the aristocracy, and the established church continued to exercise cultural hegemony.

Clark's 'revisionism' provoked strong reactions among historians of England, not least because of the polemical style of his work and the sharpness of his tone.[17] Although the appearance of such a profound reinterpretation has prompted others to pursue some of its themes, notably in relation to the continuing sacerdotal power and social influence of the monarchy,[18] and the importance of debates over religion and the authority of the established church in the history of political thought,[19] the lasting effect seems to have been to produce a reaffirmation of the exceptionalism of English historical development in this period.[20] Among

Irish historians Clark's arguments also produced a range of highly charged responses, both positive and negative. Viewing eighteenth-century Ireland as an *ancien régime* state, more particularly as part of an *ancien régime* 'composite state', gave a novel slant to some of the principal features of its history, notably the confessional nature of social and political divisions, and the relationship of the Irish landed *élite* to metropolitan society and the metropolitan power. Some of these possibilities have been explored; most notably, perhaps, in S. J. Connolly's powerful revision of orthodox interpretations of the anti-Catholic 'penal laws'. In contrast to previous historians who, taking their cue from Burke, had argued that the Irish 'penal code' was exceptional in its comprehensiveness and severity, Connolly argued that, in this respect at least, eighteenth-century Ireland was not unusual: in most European states of the period the principle was accepted that political rights should be restricted to those professing the established religion. Moreover, the notion that propertyless Catholics were peculiarly disadvantaged by their exclusion from political society ignored the common practice of European states in restricting power to the propertied.[21] In a slightly different way Jacqueline Hill took up some of Clark's arguments to underscore the importance of corporate rights and corporate values in eighteenth-century Ireland.[22] Protestant determination to uphold the legal authority of the established church in spite of the fact that it commanded the allegiance of only a small minority of the population could now be located in a familiar European setting, as an example of the organised defence of corporate privilege. Equally, the continued exclusion of Catholics from municipal governance, explained by hostile critics as the simple effect of religious bigotry, might now be understood as contemporaries would have understood it, as maintaining the chartered rights of borough corporations.

Like Clark's own formulation, these 'revisionist' statements, especially the full-scale reinterpretation of Irish social and political development attempted in Professor Connolly's *Religion, Law and Power: The Making of Protestant Ireland 1660–1760* (1992) aroused strong reactions. Attention focused less on the nature of the eighteenth-century Irish *state*, which is the principal concern of this book, than on the nature of Irish *society* in the period. Some historians were unable to accept the depiction of an *ancien régime* Ireland in which the ascendancy of the Protestant landed gentry was accepted by a deferential populace as part of the natural order of things, the privilege of the established church was a pillar of the constitution, and confessional discrimination no more than an expression of economic realities; they chose to re-emphasise what they saw as the essentially colonial nature of Irish society.[23] The comparative approach thus came to be associated with supposed attempts to deny the brutality and injustice associated with English conquest and land confiscation, and what was taken to be the uniquely vicious nature of the penal laws. The idea of Ireland as an *ancien*

régime society challenged a nationalist narrative of Anglo-Irish relations founded on a belief in natural and irreconcilable antipathies between Irish and English, native and colonist. To self-styled 'post-revisionists' the comparative aspect of the 'revisionist' agenda denied Irish exceptionalism and failed to explain both the sectarian conflict that erupted at the end of the century and the emergence of a movement for constitutional separatism. For all its intrinsic interest, however, this debate over the nature of Irish society in the eighteenth century – whether more characteristic of an *ancien régime* or a colony – is not immediately relevant to our present purposes. It is indeed a red herring, drawing attention away from the questions that need to be asked about the nature of the Irish state, and frustrating rather than advancing possibilities for a productive comparison of Ireland with similar component elements of European 'composite' monarchies, in particular the comparison of the Irish parliament with local or regional estates occupying a similar position at the periphery of complex constitutional systems.

Such a comparison is neither easy nor straightforward, given the unusual nature of governance in the 'composite state' in which Ireland found itself. The peculiar development of the British constitution had made its parliament a partner rather than an instrument of the monarchy. While surviving representative institutions in similar European territories had only to concern themselves with government in the person of the king or a viceroy, the Irish parliament had also to negotiate with, or to circumvent, its counterpart at Westminster, which was able to press interests, especially in economic matters, that were separate from, and might indeed stand in opposition to, the wishes of the Crown and its servants. The best example would be the repeated insistence of the British House of Commons – at the behest of powerful English woollen manufacturing interests – that Irish competition had to be sharply checked, if not destroyed altogether, however eloquently officials might put the case for indulgence to the Irish on grounds of political expediency. Nor was the Anglo-Irish relationship analogous to the situation in countries with multiple tiers of representative institutions, such as Poland, Hungary or France, where smaller, provincial estates could be overruled by a national convocation or Estates-General. In this respect the position of the Irish parliament was closer to that of a colonial assembly, confronted by a parliament representing the metropolitan power, in which it had no formal representation, but which could legislate for Ireland in matters affecting both kingdoms.

The proximity of the Westminster parliament also provided the Irish with a standard of political representation strikingly different from almost all the parliaments of continental Europe. England's 'mixed' constitution was much commented on by contemporaries, whether self-satisfied purveyors of an English 'vulgar Whiggism', or philosophic critics of European absolutism casting envious eyes across the Channel. The essential paradox conveyed in John Brewer's influential *The Sinews of Power* (1989), the work which

popularised the term 'fiscal-military state', was that the strengthening of the British state in the eighteenth century – its rise to international greatness and acquisition of a global empire – occurred alongside the erosion of monarchical sovereignty by a representative assembly which became the most powerful institution of its kind in Europe. The British parliament's control over the financial basis of government institutionalised its presence and enabled an extension of the province of parliamentary legislation to encompass all aspects of social and economic regulation, to an extent unique among contemporary representative assemblies.[24]

The Irish parliament never attained this level of political authority or legislative range, but during its 'long apprenticeship' in the eighteenth century[25] it developed powers and interests beyond those of even the liveliest of European provincial estates. This was a remarkable advance on the situation obtaining before the Glorious Revolution, when there had been no meeting of the Irish parliament since 1666. To adopt Conrad Russell's well-worn phrase, the Irish parliaments called by James I, his son and grandsons, had been 'events': the parliaments summoned by William III and his successors became an 'institution'.[26] As in England, what lay at the root of this fundamental change (which probably deserves to be called a 'constitutional revolution') was money. The Restoration monarchy had benefited from a lifetime grant of 'additional' taxes to supplement the Crown's hereditary revenue, and through a combination of parsimony and good luck (manifested in an upturn in customs revenues as a consequence of a minor trading boom), had been able to live 'of its own'.[27] King William, however, faced a more difficult economic situation, higher expenditure, and an Irish parliament unwilling to write itself out of existence by giving long-term subsidies. Dr McGrath's chapter in this volume describes how, in due course, parliament settled into a pattern of biennial grants of taxation, and how the Crown's dependence on this 'additional' revenue was copper-fastened by the growth of a national debt, minuscule in comparison with Britain's but enough to ensure that no matter how troublesome Irish parliaments might prove, they were indispensable.[28] Of course, British governments could have chosen more radical options – slashing expenditure on the Irish contribution to imperial defence, for example, or even taxing Ireland from Westminster – but the same political calculus operated that Koenigsberger identified as having determined in previous centuries the continuance of local representative institutions in newly formed composite states: the risk of alienating the local political *élite* was greater than the fiscal advantages to be gained from centralisation.

Having emulated Westminster in this respect, the eighteenth-century Irish parliament went on to expand its legislative capacity, in both volume and scope, exploiting the 'heads of bills' procedure already established in the Restoration parliament to circumvent the limitations imposed by the Irish Act of 1494 known as Poynings' Law.[29] As far as legislation was

concerned the critical clause of Poynings' Law was its insistence that bills be prepared not by parliament but by the Irish council. Moreover, before these bills could be presented to the Irish parliament, which would only be able to accept or reject them, without alteration, they were to be inspected at the English (after 1707 British) council, where they might be amended or suppressed. This provision remained in force until the constitutional reforms of 1782, which removed the Irish council from the process of legislation. But it was customarily avoided, in the vast majority of cases, by the practice of preparing in either the Irish House of Lords or Commons (after 1700 increasingly the Commons) 'heads' of bills, identical in every respect to bills proper except for the wording of the preamble. These 'heads' would be discussed in the originating house in the same manner as bills introduced into the British parliament, and sent to the Privy Council to be transformed into bills.

Thus Irish MPs were permitted a degree of initiative that ensured legislation would reflect the concerns of the 'political nation' in Ireland rather than the priorities of government. The downside was the cumbersome nature of the process, which, coupled with the fact that Irish parliamentary sessions were biennial rather than annual, as was the case at Westminster, slowed the production rate of statutes to a fraction of that achieved by the British parliament. A decade-by-decade comparison of acts passed at Westminster and Dublin shows that the best the Irish parliament could do, in the 1780s, was to pass 30.2 per cent of the equivalent number of acts passed in Britain; the worst, 8.5 per cent in the 1750s.[30] Nonetheless, while the comparative figures may be disappointing, this is a comparison with a parliament whose output was far ahead of any other in Europe at the time; and in absolute terms – or in comparison with other legislative bodies – the Irish parliament's record was much more impressive. A total of more than 4000 bills or heads of bills were initiated between 1692 and 1800, of which more than 2000 became law. The fact that Dr Sneddon's chapter can identify approximately 1200 measures in the eighteenth century directed towards economic 'improvement', whether in relation to manufacturing, trade, industry, or infrastructure, and as many as 66 dealing with a single industry – the fisheries – is a sufficient demonstration of the parliament's vitality.

Its legislative record, therefore, brought the Irish parliament increasingly close to the British pattern and set both apart from other representative institutions in *ancien régime* Europe. In a different way, the British Privy Council's supervisory role over Irish bills, which continued even after the partial repeal of Poynings' Law in 1782, and the right asserted (even if rarely exercised) by the Westminster parliament to legislate on Irish affairs, implied a constitutional status similar in essentials to the colonial assemblies of continental North America and the Caribbean islands. However, in other respects – most notably in its essential function of representing the interests of the local

political *élite* – the Irish parliament did resemble peripheral or subordinate assemblies in European composite states. Just as the attempted application to Ireland of some of the defining characteristics of *ancien régime* polities has brought a new understanding of forms of social structure and social conventions, so the comparison of its parliament with other assemblies offers a different perspective on its activities by placing these in a broader context of political and national relationships.[31]

It would be a mistake to expect a direct parallel, since local or provincial parliaments in European 'composite states' themselves varied so much in form and function. Many were not representative in the sense that the parliaments of the British Isles had been representative since the late medieval period, in that they did not require any form of election. The leading nobility and the leading clerical office-holders would automatically be summoned to represent their respective estates. Even those assemblies which included representation for the 'Third Estate', or separately for town-dwellers and peasantry, did not always require a form of election. As for function, only a few were involved in lawmaking, such as the estates of the Austrian Netherlands, the parliament of Sicily, or the Polish *sejm*. Some met for the principal – sometimes the only – purpose of defending corporate privileges against interference from central government; in other words, not to take action, but to prevent action being taken – in practice, as a forum in which proposals that would have entrenched on local privileges could be negotiated, moderated, and refined. In the Austrian lands, the estates existed to provide a particular level of bureaucracy, mainly in relation to tax-gathering: they, rather than the imperial chancery, appointed and monitored key local officials.[32] A final point of differentiation related to the authority enjoyed by particular assemblies and their relationship to other, similar, institutions within the same state. Some were autonomous, representing their own region or province and dealing directly with central government; others, such as the Hungarian dietines or the Polish *sejmiks*, had to negotiate relationships with national institutions, or such as the French estates, were circumscribed by the potential convocation of an estates-general for the entire country.

But despite this immense degree of variation in their composition, their powers and the business they undertook, these local estates did share certain essential characteristics, and certain broad responsibilities. All, or almost all, had a prime concern with finance: they fixed, and in many cases collected, local taxation – the *contributio* in Hungary, the *donativo* in Sicily. They supervised, scrutinised and occasionally challenged the work of local administrators. Some sought to act as a moderating influence on the designs of assertive rulers; others, with greater resolution, resisted attempts to impose reforms that would have eradicated local rights and privileges. Some worked to promote the economic welfare of their region. Above all they represented local communities – the noble and clerical estates, the corporate towns, and sometimes the peasantry – in negotiations and confrontations

with central government, and as traditional institutions served as a focus for local particularism and indeed for a kind of local patriotism. Anchored in a national past, they were able to represent the historic identity of those countries which had historically been added to but not absorbed by the larger composite states of which they now formed a part.

All this was true of the Irish parliament, which also represented the principal orders of society: the aristocracy and the leaders of the established church sitting in the House of Lords; the landed gentry and some urban merchants and professional men in the Commons. The Irish Privy Council, before losing its powers over legislation in 1782, may also be regarded as a government-appointed third house of parliament, similar to those found in some European estates. Interestingly, the Irish House of Commons was probably less representative of the 'Third Estate' than was the British: by the second half of the century a tightening of patronal influence over parliamentary borough constituencies had transformed many into a species of property.[33] In terms of function, provided we ignore the greater legislative productivity of the Irish parliament, it is possible to see significant resemblances between the activities of Irish MPs and their equivalents in continental assemblies. Both assessed the government's financial need and provided for the granting and collection of taxes; scrutinised governmental accounts, and investigated the corruption of office-holders; sought to provide for the defence of the country; modified or thwarted the plans of reforming viceroys; engaged with issues of corporate privilege, especially in relation to the largest corporation of all, the established church; and promoted economic development. Parliament's continuing role in local government in Ireland – granting funds for particular economic purposes, and establishing, through statute, bodies to oversee particular industries or areas of economic activity, funded by taxation – was comparable to that of the estates in, say, Austria or France. And in due course Irish Protestants came to develop a form of 'patriotism' in which parliament was regarded as not only representing but almost embodying a national will. Despite a foundation in English colonial settlement, the members of Ireland's Protestant propertied *élite* maintained, and even enhanced during the eighteenth century, a sense that they had inherited the tradition of the separate medieval lordship of Ireland.[34] The comparisons with Hungarian or Polish 'patriotism' are obvious, and even to the tentative 'patriotism' observed by Julian Swann in Burgundy.

This broader contextualisation offers a new perspective on Irish parliamentary development in the period from the Williamite settlement to the Act of Union. Until relatively recently, studies of the Irish parliament in this period concentrated on two aspects of its history: first, the rise of an ideology of Irish 'patriotism', which focused on great issues of Anglo-Irish governance and constitutional reform, discovered through speeches in set-piece debates in Commons or Lords and, second, the working out of factional conflict between politicians for whom parliament was a vehicle for obtaining and