

Select Document: the Case of Robert Ayleway esq^r, late Comptroller of the Artillery in Ireland, 1692¹

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ABSTRACT. *This article examines a petition drawn up by Robert Ayleway, an official within the Irish fiscal-military state in 1692, in connection with charges of corruption and incompetence during the Williamite Wars (1689–91). Ayleway’s petition, and his wider career, demonstrate that he was part of a process of English and Irish state formation that had begun well before 1688, driven by informal patronage networks as much as by formal bureaucratic developments, creating an entrenched interest group of officials that nevertheless came into conflict after 1689 with new officers, many of them foreign, who came to Ireland in William III’s train. Both sides suspected the loyalty of the other, but the petition reveals that Ayleway saw himself, with some justice, as a competent and loyal official who had used his private means to serve the public in a way that had also advanced his own private interests, suggesting something of the ethos of officials within the new Irish (and English) fiscal-military state.*

Only recently has it even been suggested that eighteenth-century Ireland possessed a fiscal-military state comparable in scope, if not in scale, to its English counterpart. Irish government and society during the period of the ‘Protestant Ascendancy’ (roughly 1692 to 1801) seemed to lack the complex bureaucratic institutions for raising revenue and deploying force that were created in England during the late seventeenth century, and, as a colonial outpost of British power, domestic Irish fiscal-military structures seemed a contradiction in terms.² However, Charles Ivar McGrath’s recent study of

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² Thomas Bartlett, ‘From Irish state to British Empire: reflections on state building in Ireland, 1690–1830’ in *Études Irlandaises*, xx, no. 1 (1995), pp 23–37. For summaries of the British fiscal-military state formation, see John Brewer, *The sinews of power: war,*

financial and military institutions in Ireland after 1692 shows that these had a concrete existence, and he argues that they mainly arose organically from within existing Irish society, which possessed ‘a public credit system suited to its own economic, political and social abilities, its particular peculiar circumstances and its unique place in the emerging empire’.³ Patrick Walsh has demonstrated the existence of a professional revenue service after 1691 that closely resembled the contemporary English excise service, itself presented by John Brewer and others as an eighteenth-century archetype for a ‘modern’ fiscal-military state structure.⁴ Other studies have stressed the extensive reach of such structures, which penetrated deeply into both national and provincial society.⁵ Yet the focus remains largely on the fiscal rather than military side, and most of these works take no account of developments before 1692, even though historians of English state formation have emphasised that the process was in train since the 1660s, if not before.⁶ Much therefore remains to be done, to delineate the formal institutional outlines of Irish state structures and the attitudes and outlooks of the officials who staffed them, as well as the wider tensions and strains that arose from the intrusion of new or amplified state structures into early modern Irish society, and the disruptive effects of the Williamite Wars within Irish society between 1689 and 1691.

Among these institutions was the Irish Ordnance Office, based in Dublin Castle and managed by the Irish Board of Ordnance, which designed, built and repaired domestic fortifications (though not barracks), manned and maintained its artillery, and stored the arms and ammunition received from England to be issued to Irish regiments. The select document presented here, held as MS 420 in the National Library of Ireland, sheds some important light upon the Irish Ordnance Office between 1681 and 1691, during a crucial transitional phase. Entitled ‘The Case of Robert Ayleway Esq^r, Late Comptroller of the Artillery in Ireland’ and probably drafted by Ayleway at some point in 1692, it is a petition of some twenty pages detailing his prosecution for corruption and misconduct during the Williamite Wars in Ireland between 1689 and 1691. Serving as comptroller of the Williamite artillery train in Ireland, he was arrested in October 1690 at the malicious and self-interested instigation, he claimed, of several other officers in the army. The court martial assembled to judge his case in 1691 was postponed several times, and was then dissolved, and the charges dropped, without a verdict ever

money and the English state, 1688–1783 (London, 1989) and Roger Morriss, *The foundations of British maritime ascendancy: resources, logistics and the state, 1755–1815* (Cambridge, 2010).

³ Charles Ivar McGrath, *Ireland and empire, 1692–1770* (London, 2012), p. 110.

⁴ Patrick Walsh, ‘The fiscal state in Ireland, 1691–1769’ in *Hist. Jn.*, lvi (2013), pp 629–56.

⁵ A. P. W. Malcolmson, *Nathaniel Clements: government and the governing elite in Ireland, 1725–75* (Dublin, 2005); Patrick Walsh, *The making of the Irish Protestant ascendancy: the life of William Conolly, 1662–1729* (Woodbridge, 2010); D. A. Fleming, *Politics and provincial people: Sligo and Limerick, 1691–1761* (Manchester, 2010).

⁶ Although see Charles Ivar McGrath, ‘The Irish experience of “financial revolution”, 1660–1760’, in Charles McGrath and Christopher Fauske (eds), *Money, power and print: interdisciplinary studies on the financial revolution in the British Isles* (Newark, DE, 2008), pp 157–88. State formation in England before 1688 is discussed in Michael Braddick, *State formation in early modern England, c.1550–1700* (Cambridge, 2000).

having been reached. The ‘Case’ appears to have been drafted by Ayleway in 1692 as a final effort to secure justice and clear his name. Having served as an important fiscal-military official in Ireland during the 1680s, his petition provides important insights into the ethos and culture of this administrative elite during this period. When seen in the context of Ayleway’s wider career, he emerges as a competent and public-spirited official who nevertheless saw no contradiction between his private interests and those of the state. However, after 1689 his record brought him into conflict with many of the new officials who arrived with the Williamite army, suspected his loyalty, had different views of the public service, and appear to have used the trial as an excuse to lever him out of office.

The format and language of the petition suggest that it was intended for wider circulation, possibly as a printed document, though there is no trace that this ever occurred. Its subsequent history is unclear, but by the nineteenth century it had become part of the Phillips Collection (no. 12156), was subsequently sold at auction, and is reproduced here by kind permission of its current holders, the National Library of Ireland. The spelling and grammar have not been altered, although some quirks of punctuation have been corrected for greater clarity, and words inserted in square brackets where the close binding of the pages renders the original text unclear.

I

Robert Ayleway – his surname was also spelt Aylway, Alloway or Aileway – first appears in November 1669, when he notified the English House of Lords, upon oath, that a suit had been lodged against a domestic servant of Richard Byron, second Lord Byron, a royalist peer from Westmoreland, in breach of his parliamentary privilege.⁷ Judging from probate records in the National Archives of the United Kingdom, the family came from the region around Gloucestershire and Somerset in south-west England, and how or why he knew Byron is therefore unclear. Ayleway does not appear to have attended university or the Inns of Court, but when he married Elizabeth Clayton, daughter of John Clayton, a former parliamentarian and recorder of Leeds with connections in northern England, he too was described as being of the Inner Temple, suggesting some sort of legal connection.⁸ Eight years later, he carried several petitions to Charles II and the Dutch ambassador concerning a long-standing legal case about goods seized by the Dutch from an English merchant.⁹ Perhaps this caught the eye of the privy council, since in 1678 he was appointed auditor-general of Virginia, a post within the patronage of the council’s Committee of Trade and Plantations and, in effect, a sinecure executed by deputy.¹⁰ The appointment was subsequently contested by the

⁷ *Lords’ jn.*, xii, 264.

⁸ John Hodgson, *A history of Northumberland, in three parts* (7 vols, Newcastle-upon-Tyne, 1820–58), pt. ii, vol. iii, 419–20. For Clayton, see Basil Henning (ed.), *History of Parliament: the House of Commons, 1660–1690* (3 vols, London, 1983), ii, 83–4.

⁹ *A brief remonstrance of the grand grievances and oppressions suffered by Sir William Courten and Sir Paul Pyndar, knts., deceased* (London, 1670), pp 17–18; John C. Appleby, ‘Courten, Sir William (c.1568–1636)’, in *Oxford D.N.B.*

¹⁰ J. M. Sosin, *English America and the Revolution of 1688: royal administration and the structure of provincial government* (Lincoln, NE, 1982), pp 34, 269.

local Virginian elite, who alleged that the post was actually in the gift of the governor, and the spat was only finally resolved in Ayleway's favour in 1689.

By this point, though, he had long since left England for Ireland, travelling to Dublin in 1679 on behalf of George Legge, later first Baron Dartmouth.¹¹ As lieutenant general of the Ordnance between 1679 and 1682, and then master-general until 1689, Legge was the departmental head of the English Ordnance Office, which provided arms, ammunition and artillery to military and naval forces in England, oversaw the care and maintenance of its fortresses, and supervised its smaller counterpart in Ireland.¹² Besides acting in the trusted and demanding role of estate steward or land agent for Legge's estates in Ireland, and those of another tory grandee, Theophilus Hastings, seventh earl of Huntingdon, it appears that Ayleway's primary role was to act as the agent and representative for English interests in the reform of the Irish Ordnance Office during this period.¹³ Between 1681 and 1688 the Ordnance Office in England, like many other fiscal-military institutions, underwent a process of administrative renewal in which Legge was particularly active, and which was also eventually extended to the Irish office.¹⁴

Thus, in 1682 the post of Clerk of the Ordnance was created there, probably to bring the Irish office more closely into line with its English counterpart, and Ayleway was appointed to this post, making him responsible for all secretarial and administrative matters and the disbursement of stores.¹⁵ New sets of instructions were issued three years later, modelled on those drawn up by Dartmouth in 1683 for the English Ordnance Office, testifying to an ongoing and proactive process of administrative harmonisation.¹⁶ These instructions hived off the disbursement of stores to a new Clerk of the Deliveries, bringing the office further into alignment with the English pattern, though since Ayleway held both of these new posts the institutional changes were apparently symbolic

¹¹ H.M.C., *The manuscripts of the earl of Dartmouth* (3 vols, London, 1887–96), i, 120 [hereafter *H.M.C. Dartmouth*]; Ayleway to Legge, 2 Oct. 1680, 29 Jan. 1681; Ayleway to Grahame, 17 Dec. 1680, 1 Jan. & 19 Feb. 1681 (Staffordshire Record Office [hereafter Staffs. R.O.], D(W)1778/II/586, 606, 610, 618, 622). For Dartmouth, see J. D. Davies, 'Legge, George, first Baron Dartmouth (c.1647–91)', in *Oxford D.N.B.*

¹² There is no study on the Irish Ordnance Office for this period, though there are scattered mentions in H. C. Tomlinson, *Guns and government: the Ordnance Office under the later Stuarts* (London, 1979), pp 20–2, 66, 139, 148, 189.

¹³ For Huntingdon, see Henry E. Huntington Library, San Marino, California [hereafter H.L.], Hastings MSS, HA353–360 and Catherine F. Patterson, 'Hastings, Theophilus, seventh earl of Huntingdon (1650–1701)', in *Oxford D.N.B.* For the nature of estate management in Ireland, see Toby Barnard, *A new anatomy of Ireland: the Irish Protestants, 1649–1770* (London, 2003), pp 208–38.

¹⁴ Tomlinson, *Guns and government*, pp 16–17, 58–60.

¹⁵ Warrant for creation of office of Clerk of the Ordnance in Ireland, 25 Oct. 1682, *Cal. S. P. dom.*, 1682, p. 501. Provincial officials known as clerks of the ordnance and stores had existed since 1666: see 'Establishment and list containing all the payments to be made for military affairs in Ireland', 1 Apr. 1666, *Cal. S. P. Ire.*, 1666–9, p. 70; and 'Draft for an establishment of His Majesty's Train of Artillery in Ireland', c. Mar. 1661/2, *Cal. S. P. Ire.*, 1669–70, p. 425; *Ormonde MSS*, i, 282; ii, 235, 284; *H.M.C. rep.* 10, v, 26.

¹⁶ 'Instructions for the Government of our Office of the Ordnance in Ireland', c.1685 (N.L.I., MS 3558). For the English instructions, see Tomlinson, *Guns and government*, pp 16–17 and 'Rules, Orders and Instructions for the future Government of the Office of the Ordnance' (B.L., Stowe MS 442).

rather than substantive.¹⁷ He appears to have been both active and diligent, collaborating with William Robinson, the surveyor-general and storekeeper of the Ordnance in Ireland, in a definitive survey of Irish fortifications in 1686.¹⁸ By 1688 he was therefore a senior and experienced official within the Irish fiscal-military establishment, with powerful patrons in England, supervising a process of institutional reform intended to impose the apparatus of bureaucratic government upon Ireland, even if its underlying operation continued to rely on the informal networks of patronage and influence that stretched across the British Isles in this period.

Yet there was a fundamental difference between these developments and those that were to occur after 1692. McGrath has argued that state formation under the Protestant Ascendancy arose out of domestic politics and interests, mediated through and endorsed by the Irish Parliament and the Anglo-Irish elites. By contrast, the changes of the 1680s were apparently imposed upon Irish Ordnance structures from outside, by English diktat, through the dispatch of English personnel to Ireland. This resembled the experience of the Irish Treasury between 1660 and 1685, which was gradually and permanently subordinated by 1685 to the political and financial control of the English Treasury, and English interests, in contrast to the relative autonomy it had exercised during the 1660s and 1670s.¹⁹ Although the Irish army remained independent, it was thoroughly overhauled after 1686 and placed more directly under the control of the lord lieutenant, who was himself by this point increasingly subject to English direction.²⁰ Similar efforts were made between 1679 and 1688 to bring English colonies in the West Indies and North America under closer central control, and it seems fair to treat all of these examples as manifestations of the wider process of state formation that was already in train by the 1670s but was pushed into a much higher gear by the ‘tory reaction’ in England after the end of the Exclusion Crisis in 1681.²¹

The events of James II’s reign, both in England and Ireland, beginning with the effort to restore Catholicism by ‘absolutist’ means in 1686 and ending with armed invasion by William of Orange in November 1688, eventually brought a halt to this process. Under James II’s lord deputy, Richard Talbot, first earl of Tyrconnell, Ireland initially remained quiet, though large segments of the Protestant community either hunkered down or fled.²² Ayleway did one, then the other. He claimed in the ‘Case’ that he had considered it ‘very necessary for those of his principles to unite for the support and advancement of the public

¹⁷ *Ormonde MSS*, ii, 310; Domville to Lord Justices of Ireland, c. June 1685 (Bodl., Carte MS 167, f. 34); warrant granting place of Clerk of the Ordnance in Ireland, 8 June 1685, *Cal. S. P. dom., 1685*, p. 186.

¹⁸ *Ormonde MSS*, i, 358; ii, 309–10. For Robinson, see Rolf Loeber, ‘Robinson, Sir William (c. 1643–1712)’, in *Oxford D.N.B.*

¹⁹ The process is traced in Sean Egan, ‘Finance and the government of Ireland, 1660–85’ (Ph.D. thesis, Trinity College Dublin, 2 vols, 1983).

²⁰ See Egan, ‘Finance’, and John Childs, *The army, James II, and the Glorious Revolution* (Manchester, 1980), pp 56–79.

²¹ Aaron Graham, *Corruption, party politics and state formation in Britain, 1702–13* (Oxford, forthcoming), ch. 7. For North America and the West Indies, see Robert M. Bliss, *Revolution and Empire: English politics and the American colonies in the seventeenth century* (Manchester, 1990), pp 182–247.

²² J. G. Simms, *Jacobite Ireland 1685–91* (London, 1969), pp 32–57; S. J. Connolly, *Divided kingdom: Ireland, 1630–1800* (Oxford, 2008), pp 174–80.

cause' by surrendering his office, and, along with other Protestant officers, he accordingly resigned in January 1689, leaving Ireland the following month.²³ Francis Aungier, first earl of Longford, recommended Ayleway to his patron James Butler, the second duke of Ormond, as 'an honest gentleman', and in May 1689 Ayleway applied directly to William, now king of England, Scotland and Ireland, who recommended him to the Committee of Trade and Plantations as 'a suffering person from Ireland, and one very fit to be employed' in the West Indies.²⁴ Events clearly intervened, since in June he was appointed commissary to the Train of Artillery in Ireland by William's German general, Frederick Herman de Schomberg, first duke of Schomberg, now the master-general of the Ordnance in England and commander-in-chief of the Williamite expeditionary force being assembled to reconquer Ireland.²⁵ Six months later, and in recognition of his good conduct on this expedition, he was also appointed comptroller of the Train, and occupied this post until being arrested on charges of corruption, malfeasance and treason in October 1690.

II

The Select Document contains Ayleway's response to these charges, in which he offers proofs of his innocence and lays the blame for faults on others. How far he glossed over his actions is difficult to judge, especially since some problems experienced by the train in Ireland undoubtedly were the fault of the English Ordnance Office.²⁶ Yet the bulk of the surviving evidence suggests that the general charges of incompetence and corruption were unfair, and that the 'Case' presents a reasonably accurate picture of events in Ireland between 1689 and 1691, at least as Ayleway saw them. It also suggests that the Williamite war effort was held back in part by mutual suspicion and rivalry between established officials such as Ayleway, and new military and civilian officials who had often not collaborated with the Jacobite regime between 1685 and 1688, and suspected the loyalty of those who had.

In general, Ayleway appears to have been perceived as a competent officer. Schomberg's letters to William III complained about most of his officials but reserved particular praise for Ayleway, who was 'the only good officer we have' ('le seul bon officier que nous y avons'), although in April 1690 he wrote that Ayleway had not seen any campaigning in 1689 and was 'somewhat slow' ('un peu lent').²⁷ A series of letters that Ayleway sent to the Board of Ordnance in London between September 1689 and September 1690 support this impression. For example, Ayleway was later blamed for the shortage of supply wagons in the spring of 1690, as the Williamite army marched south towards Dublin and their decisive victory at the Battle of the Boyne. Yet this was largely outside his control. Schomberg complained in April 1690 that

²³ Patrick Melvin (ed.), 'Letters of Lord Longford and others on Irish affairs, 1685–1702' in *Analecta Hibernica*, xxxii (1985), pp 55, 60.

²⁴ 'Proceedings upon the petition of Mr Ayleway for employment in the West Indies', 3 May 1689, *Cal. S. P. dom.*, 1689–90, p. 87.

²⁵ *Cal. treas. bks.*, ix, 1082, 1533. For details of the Irish train, see Tomlinson, *Guns and government*, p. 147.

²⁶ Tomlinson, *Guns and government*, pp 143, 147, 162.

²⁷ Schomberg to William III, 26 Dec. 1689, 10 Feb. & 26 Apr. 1690, *Cal. S. P. dom.*, 1689–90, pp 368, 452, 566.

entirely new wagons were needed, the ones brought over the previous year being now unusable ‘either by their unwieldy clumsiness or by being made of rotten or shaken timber, they must be laid aside, so that all will be at a stand without them’, and Ayleway himself wrote to the Ordnance Board that ‘the ways here are very rough and destructive of our carriages’.²⁸ According to the army chaplain George Warter Story, several wagons were diverted to transport bread to the troops.²⁹ Ayleway further reported to the Board in July 1690 that the artillery train was heavily overloaded when it entered the field, and that the thirty guns and four howitzers were ‘too many for our horses and men, and so I told the Duke often but it was H[is] M[ajesty]’s pleasure to have it so’, suggesting that Schomberg and William ignored advice that the transport was inadequate.³⁰ Another charge brought against him at the court martial were delays in shipping the artillery train from Carrickfergus to Carlingford Bay, which Ayleway blamed on others failing to transmit clear sailing orders to the transport ships in June 1690. Given that Story recorded an identical accident that occurred in November 1689, it is possible that he reproduced a garbled version of this incident.³¹

Ayleway was also proactive in addressing this problem of transportation. At the outset of the campaign in April 1690 he wrote to London to ask for at least sixty or eighty new wagons, with tarpaulins and spare axletrees, to supplement the stockpile of axletrees, spokes and other spare equipment he had already laid up at Carrickfergus in January for this purpose.³² The following month he complained again to the Board that the supplies sent from England did not contain sufficient spare carriages, drudge- or block-wagons, spare wheels or tools, but that he had spent his time making several ammunition limbers, as well as 100 light carrs or wagons more suited for the Irish roads.³³ He also repeatedly recommended to Schomberg the employment of oxen – ‘they draw [?swift] and steady and so I [find] them better for the great mortars and guns than horses’ – but Schomberg rejected these suggestions.³⁴ Frustrated, Ayleway promised that ‘I will [upon] my own account buy some to show His Grace the usefulness of them and I hope he will be prevailed upon to [make] use of them’, and in August 1690 the army did indeed finally hire a large number of draught oxen for the wagons, along with nearly 130 confiscated from Jacobite supporters.³⁵ The following year 600 oxen were used for the

²⁸ Ordnance Office, Miscellaneous Entry Books and Papers: letters from Ireland, 1689–90; Schomberg to Ordnance Board [hereafter O.B.], 5 Apr. 1690, Ayleway to O.B., 3 May 1690 (T.N.A., WO55/1794, fos. 69r, 100r).

²⁹ George Story, *A true and impartial history of the most material occurrences in the Kingdom of Ireland during the two last years* (London, 1691), pp 15, 42–3.

³⁰ Ayleway to O.B., 2 July 1690 (T.N.A., WO55/1794, fo. 154r).

³¹ Story, *True and impartial history*, p. 43.

³² Ayleway to O.B., 13 Jan 1690; Ayleway to ‘George’ [prob. George Barnard, wagon-master-general], 14 Apr. 1690 (T.N.A., WO55/1794, fos. 15v, 86r).

³³ Ayleway to O.B., 3 May 1690; Schomberg to O.B., 19 May 1690 (Ibid., fos. 100r, 101r, 127r).

³⁴ Ayleway to O.B., 13 Jan 1690, 9 Feb 1690; ‘A state of the condition of the carters, boys and horses belonging to the train’, [n.d., but c. Jan 1690], (Ibid., fos. 15r–v, 21r–v, 27r).

³⁵ Ayleway to O.B., 13 Jan 1690 (Ibid., fo. 15v); order to High Sheriff of Co. Tipperary, 16 Aug. 1690 (B.L., Add. MS 38146, fo. 27v); ‘An abstract of cash received by the several collectors of the revenue for forfeited goods’, [n.d. but c. Christmas 1692]

artillery train besieging Athlone, and 160 were acquired to carry bullets, tools and grenades to the army at Mullingar, suggesting that Ayleway's advice was well-grounded.³⁶

Ayleway was also charged at the court martial with providing inadequate amounts of bedding and tents at the army encampment at Dundalk in 1689, of leaving behind vital entrenching equipment on the march south to Dublin in 1690, of delivering the wrong calibre of cannon balls and mortar rounds, and of otherwise cheating the state through poor mustering and the embezzlement of supplies. Far less evidence survives that can confirm or dispel these allegations. He claimed that he got hold of eight tons of lead at Waterford to supply a deficiency in the ammunition stores, though no evidence survives to confirm this, only a letter he wrote to the Board of Ordnance in England asking that further stocks of lead be sent.³⁷ It was actually the Clerk of the Stores for Ireland, Hugh Rowley, who purchased over two tons of lead for ammunition, and William Robinson was ordered in August 1690 to 'procure all the lead possible to be got either out of public or private houses in or about Waterford or Carrick for the making of musket bullets [...] you can't get too much of this commodity, there being a great deal wanting'.³⁸ Ayleway may indeed also have failed to take regular musters of the train, a further charge, but Schomberg's secretary James de Cardonnel commented to the Board in December 1689 on the difficulties he himself had experienced with this, the train being quartered piecemeal across the north of Ireland at Belfast and Carrickfergus with the sick hospitalised at Carlow and Hillsborough.³⁹ Thus most surviving sources suggest that Ayleway was a competent and active officer, who merited Schomberg's trust, and that the accusations made against him were not consistent with his wider contributions to the Williamite war effort.

The letters to the Ordnance Board in England also suggest that Ayleway used his experience and expertise to make a number of other unspectacular but important contributions not mentioned in the 'Case'. There were, for instance, serious shortages of weapons in 1689 with which to equip the Irish regiments raised for Williamite service. Although there had been some 3,421 muskets in Ireland in December 1688, with 1,200 carbines and 3,479 unmounted musket barrels, many of these had been taken to outfit the Jacobite armies.⁴⁰ Schomberg complained from Dundalk in 1689 that the officers of the English regiments took little care of their men's weapons, that those sent from the

(B.L., Add. MS 4761, fo. 10v); warrant to Capt. Chidley Coote, 29 Aug. 1690 (Worcester College, Oxford [hereafter Worc. College], Clarke MS 7/4, fo. 65).

³⁶ Kevin Danaher (ed.), *The Danish force in Ireland, 1690–1691* (I.M.C., Dublin, 1962), p. 99; Coningsby to Ginkel, 21 Mar. 1691 (T.C.D., Clarke papers, MS 749). All dates are given in 'old style' (i.e. Julian rather than Gregorian calendar), with the year beginning on 1 January.

³⁷ Ayleway to O.B., 16 Aug. 1690 (T.N.A., WO55/1794, fo. 184r).

³⁸ 'Account presented to the Honourable the Commissioners of the Ordnance by Hugh Rowley Esq., Storekeeper of the Ordnance, of his receipts and disbursements' [n.d. but c. Sept. 1691] (P.R.O.N.I, D642/A/1/2-3); warrant, 21 Aug. 1690 (Worc. College, Clarke MS 7/4, fo. 64r); Coningsby to Robinson, 14 Aug. 1690 (P.R.O.N.I., D638/166/2).

³⁹ Cardonnel to O.B., 5 Dec. 1689 (T.N.A., WO55/1794, fos. 7r-v); Tomlinson, *Guns and government*, pp 226, 228.

⁴⁰ 'An account of arms fixt [sic] and musket barrels remaining in Ireland, 30 December 1688' (B.L., Add. MS 34773, fo. 5r).

Ordnance Office were inadequate, and that the agents for the local regiments raised at Enniskillen had been forced to purchase arms in Scotland at their own expense.⁴¹ The repair and refitting of arms was therefore a priority, and early in 1690 the English Ordnance Office accordingly dispatched the gunmaker John Hartwell to Ireland with a team of gunsmiths to repair the weapons, who arrived, after some delays, at Carrickfergus in April.⁴² Hartwell immediately wrote to Ayleway and the Ordnance Board that there was a serious shortage of seasoned wood for making stocks, and that oil was necessary but likewise unobtainable.⁴³ Both were eventually issued, but after some delays, which Ayleway blamed on the difficulties in unloading the Ordnance ships which had arrived in Belfast with the supplies.

Several months later Ayleway was of more immediate use, once Hartwell began to complain to the Board that his men's salaries were unpaid, that 'they mutter and grumble and say it is small encouragement for them to work without meat, drink and money' and that since the death of Schomberg at the Battle of the Boyne in June 'I have none to aid me, according to your orders, neither do I know who to go to for instructions'.⁴⁴ Ayleway lent his assistance, pressing the Board for Hartwell to be paid and advancing the gunsmiths £30 out of his own pocket, which they later noted had kept them from starving.⁴⁵ Six months earlier he had, 'by my interest, got a little for the paymaster [of the train] upon His Grace's bills [of exchange], or else we would not have subsisted'. There was a severe financial shortage around this time – Ayleway had noted in March that 'our army [is] in a good condition as to health, but as poor as church mice' – and his intervention therefore appears to have been well-timed.⁴⁶ A petition presented to the English House of Commons in February 1703 also stated that in October 1689 Ayleway had furnished the horses of the artillery train with corn worth £417 out of his own pocket, which was 'a great service and advantage to the public at the time'.⁴⁷ Ayleway therefore appears to have merited the good opinion that the Ordnance Board declared they had of him in July 1690.⁴⁸

⁴¹ Schomberg to William III, 8 Oct., 10 Dec., 26 Dec. 1689; 16 Jan., 14 Feb., 17 Feb. 1690, *Cal. S. P. dom., 1689–90*, pp 288, 352, 368, 411, 462, 465.

⁴² Letter to Ordnance Board, 31 Jan. 1690 (T.N.A., PC6/2, fo. 162v); Hartwell to O.B., 3 Apr., 14 Apr. 1690; petition of Gunsmiths at Carrickfergus, 29 July 1690 (T.N.A., WO55/1794, fos. 65r, 84r–85r, 168r). Hartwell had served in the Ordnance Office since at least 1684: *Cal. treas. bks*, vii, 1297.

⁴³ Hartwell to O.B., 14 Apr., 30 May, 26 June, 1 Aug. 1690; Ayleway to O.B., 17 Apr., 14 June 1690 (T.N.A., WO55/1794, ff 85r, 88r, 137r, 149r, 151r, 172r).

⁴⁴ Hartwell to O.B., 26 June, 23 July, 26 July, 1 Aug., 9 Aug. 1690; petitions of gunsmiths at Carrickfergus, 29 July, 27 Aug. 1690; petition of [?]lockmakers at Carrickfergus, 8 Aug. 1690; Hubbold to O.B., 16 Aug. 1690 (Ibid., ff 151r–v, 160r, 164r, 168r, 172r, 176r, 178r, 181r, 188r).

⁴⁵ Ayleway to O.B., 24 Aug., 10 Sept. 1690; Hartwell to O.B., 13 Sept. 1690, [undated], 20 Sept. 1690; petition of gunmakers at Carrickfergus, 24 Sept. 1690 (Ibid., ff 187r, 190r, 192r, 194r–v, 198r); Coningsby to Clarke, 5 Sept., 28 Sept. 1690; Ayleway to Clarke, 20 Sept. 1690 (T.C.D., Clarke papers, MS 749).

⁴⁶ Schomberg to O.B., 13 Jan., 6 Mar. 1690; Ayleway to O.B., 22 Mar. 1690 (T.N.A., WO55/1794, fos. 16r, 44r, 56r). For the financial situation at the Ordnance Office in England, see Tomlinson, *Guns and government*, pp 190–2.

⁴⁷ *Commons' jn.*, xiv, 168–9.

⁴⁸ Ayleway to O.B., 6 July, 26 July 1690 (T.N.A., WO55/1794, fos. 156v, 162r).

Arrested and imprisoned in September 1690 upon accusations of corruption and wilful negligence, his chief accusers were Dutch officers John Wijnand van Goor and Willem Meesters, colonel and comptroller respectively of the Dutch artillery train, and experienced soldiers who had been brought over to Ireland by William III.⁴⁹ After many delays a court martial was convened in April 1691 by Goddard van Ginkel, by then the commander-in-chief of the Williamite army in Ireland, and because most of the key witnesses for the prosecution were absent Ayleway claimed in the 'Case' that he was able to mount an effective defence. Yet, just as the court seemed on the verge of acquitting him, it was dissolved by Ginkel, and Ayleway was returned to confinement. Although released from custody in November 1691, the charges remained, and Ayleway therefore petitioned the king for a further court martial and for the payment of £1,037 16s. 5d. that he was still owed by the state.⁵⁰ The 'Case', as noted above, was probably drawn up in connection with these appeals.

There is no evidence that the retrial Ayleway wanted was ever granted, but nearly eight months later he received two payments of £1,176 and £718 to discharge several arrears, and acquired several forfeited estates in Co. Louth to offset some £672 that he was still owed.⁵¹ This perhaps reflected his new leverage in the 1692 and 1695 parliaments as M.P. for Dunleer in Co. Louth, the Legge family's pocket borough, and Ayleway continued to act in their interest for the remainder of his life.⁵² As well as handling the sale of land worth nearly £4,300 to the bishop of Meath in 1698, he supervised the other Irish interests of the family, including a long-running legal case over their lands in Co. Galway, writing to Dartmouth's widow with some concern in November 1695 of measures he had proposed 'out of the great concern and zeal I have for the good of my deceased Lord's children'. Ayleway also exploited the obligations and reciprocities of patronage and clientage for his own ends, writing to Dartmouth's son, the first earl of Dartmouth, in March 1702 to ask him to intercede with the earl of Rochester, lord lieutenant of Ireland, to help recover some of the £672 still owing to him.⁵³ Finally, he nursed his grievances to the last, noting to Dartmouth in one of his last letters on 25 March 1702 that 'I believe Your Lordship has heard how I have been used by the Dutch, and that all my employments were taken away by them, and given to Dutchmen'.⁵⁴ Considering matters were now ripe for redress, he thought of applying for them again with Dartmouth's help, particularly the office of clerk of the Ordnance, which Dartmouth's father had got for him twenty years before.

Time ran out, though, before any of this could be effected, and Ayleway died at some point shortly after October 1702.⁵⁵ His will noted that he now

⁴⁹ Tomlinson, *Guns and government*, pp 49, 60.

⁵⁰ 'Proceedings upon the petition of Robert Ayleway', 2 Feb. 1692, *Cal. S.P. dom., 1691-2*, p. 122; *Cal. treas. bks*, ix, 1533.

⁵¹ *Cal. treas. bks*, ix, 1884, 1901; xi, 403, 415.

⁵² E. M. Johnston-Liik, *History of the Irish Parliament, 1692-1800: commons, constituencies and states* (6 vols, Belfast, 2002), ii, 294; iii, 120; Ayleway to Lady Dartmouth, 23 Nov. 1695 (Staffs. R.O., D(W)1778/I/i/1818).

⁵³ Ayleway to Dartmouth, 18 Apr. & 21 Dec. 1701, 25 Mar. 1702 (Staffs. R.O., D(W)1778/I/ii/32, 39, 40).

⁵⁴ Ayleway to Dartmouth, 25 Mar. 1702 (Staffs. R.O., D(W)1778/I/ii/40).

⁵⁵ Copy of will of Robert Ayleway of Mount Rawdon, Co. Meath, 1701 (P.R.O.N.I., D3618/H/1/1.); Lady Rawdon to Sir Arthur Brodrick, prob. c.1701 (H.L., Hastings MS,

lived at Mount Rawdon in Co. Meath, on lands that he had leased from the estate of Sir Arthur Rawdon, an Irish tory grandee during the 1680s, and disposed of about £320 in gifts and annuities of £210 per year, including an annuity of £100 per year to his wife Elizabeth, although he warned ungraciously that it would be reduced to £30 ‘if my said wife shall be so foolish as to marry again, she being now of great age’. One of his executors was his friend John Clayton, rector of St Michan’s in Dublin and later dean of Kildare, who was presumably a relative of his wife, and had previously served as commissary for the Church of England in Virginia.⁵⁶ Clayton and the other executors subsequently found, though, that Ayleway had ‘died mightily in debt and confusion’, owing at least £150 to the Legge family, and even ten years later Ayleway’s nephew was forced to admit that the debt was unlikely to be paid until his aunt died and her annuity could be liquidated.⁵⁷

III

Ayleway’s petition of 1692 demonstrates how an ongoing process of Irish fiscal-military state formation was interrupted by the events of 1688, and how new tensions emerged out of this disjuncture. His position had always reflected the power of his patrons, and as they fell, so they dragged him down with them. Legge, now Baron Dartmouth, was stripped of his offices after the Glorious Revolution in November 1688, and then imprisoned early in 1691 in the Tower of London on suspicion of Jacobite loyalties, where he died later that year. Schomberg’s death at the Battle of the Boyne in June 1690 removed another important patron. Ayleway wrote to the Ordnance Board the following month with news of rumours that Sir Henry Goodricke would be promoted from lieutenant-general to master-general,

which you may believe did not a little revive me, for I am so vain as to think he will be my friend and see me righted, for Col Goor is very absolute and I stand but as a cipher and how I shall be disposed of I cannot tell. He and his people has all things in their hands, and I perceive they drive at regimenting the Train and I believe it will be done. I lost my fortune with my good Duke and shall sink unless you bo[u]ly me up.⁵⁸

The Board promised in return to ‘do him any good offices’ they could, but with Schomberg gone their power likewise appears to have waned, leaving him powerless against his accusers.⁵⁹ Indeed, the attack appears to have been embedded within a wider framework of political and personal allegiances and

HA 15699). For Rawdon see David Hayton, *The Anglo-Irish experience, 1680–1730: religion, identity and patriotism* (Woodbridge, 2012), pp 178–80, 189.

⁵⁶ For Clayton’s time in Virginia, see Edward L. Bond, ‘John Clayton (1656 or 1657–1725’, *Dictionary of Virginia Biography* (3 vols, Richmond, 1998–2006), iii, 285–6. Jacqueline Hill also notes that Clayton was ‘too much inclined to the Tory view to be properly impartial’: Hill, *From patriots to unionists: Dublin civic politics and Irish protestant patriotism, 1660–1840* (Oxford, 1997), p. 74.

⁵⁷ North to Dartmouth, 23 Sept. 1703, Coleman to Dartmouth, 5 Mar. 1713 (Staffs. R.O., D(W)1778/1/ii/59, 362).

⁵⁸ Ayleway to O.B., 26 July, 28 July 1690 (T.N.A., WO55/1794, fos. 162r–v, 166r).

⁵⁹ Ayleway to O.B., 6 July, 26 July 1690 (*Ibid.*, fos. 156v, 162r).

prejudices, which pitched a new group of military officials against the former Irish fiscal-military establishment, a proto-Tory ‘old guard’ who had served the Crown’s state-building project in the 1680s and whose loyalty was therefore suspect.

One element was professional tension and cultural prejudice between van Goor and Meesters on the one hand and Ayleway on the other, who certainly had no hesitation blaming his tribulations upon ‘envious humours of some few Dutchmen, who thought Mr Ayleway a check on them’. They appear to have allied with Jacob Richards, the first engineer of the British artillery train, who had fallen out with Ayleway in December 1689 over the post of comptroller to the train, protesting to the Board that Ayleway had been appointed over his head. This, he thought, was ‘a little severe’, and he went on to press his own claims with ‘a favourable account of my capacity and how far the Comptrollership is my due’.⁶⁰ He subsequently complained that had he been in England he could have secured the post – ‘I find my forwardness upon [this] expedition has of late been very prejudicial to me’ – and concluded that although honour and preference meant more to him than material gain, ‘if I receive not the reward which I find is my due I cannot much longer (upon that foundation) serve with contentment’.⁶¹ Although Richards was an official in the English Ordnance Office, having been appointed third engineer in 1685, he had spent the past few years overseas as part of his professional education and thus was probably not part of the ‘old guard’ who had dominated the Ordnance Office during its period of administrative consolidation.⁶² Conspiracy and intrigue therefore overlapped with public service, as new officials competed for places opened up by the conquest of Ireland, and exploited shifts within informal patronage networks to root out those whose loyalty to the Williamite cause already appeared suspect.

Ayleway also fell out with James de Cardonnel, who was Schomberg’s secretary and a Huguenot with no prior military service.⁶³ Indeed, Ayleway wrote to the Board of Ordnance in 1689 that ‘Mr Cardonnel abuses me, he having dealt ill by me in other things’, and accused him of intercepting correspondence and behaving ‘more like a madman than a secretary’, while Cardonnel himself complained that Ayleway ‘took no more notice of [me] than if I had spoke to him from a footman’.⁶⁴ A final opponent was Bartholomew van Homrigh, one of the ‘three Inquisitors’ who examined his case in November 1690, and whom, he complained, was ‘a known enemy of Ayleway ... appointed to rake up what might be gathered from persons and papers to be formed into an accusation against him’. Possibly they had fallen out over the part that van Homrigh, a Dutch merchant and an early supporter of the Dissenting interest, had played in the surrender of the city of Dublin’s charter in 1687, part of the attack on ‘English’ liberties and the established religion in Ireland that eventually persuaded Ayleway to resign his post.⁶⁵

⁶⁰ Richards to O.B., 16 Feb. 1690 (Ibid., fo. 36r). For Richards, see F. J. Hebbert, ‘Richards, Jacob (bap. 1664, d. 1701)’, in *Oxford D.N.B.*

⁶¹ Richards to O.B., 17 Mar. 1690 (T.N.A., WO55/1795, fo. 54r).

⁶² Hebbert, ‘Richards, Jacob’.

⁶³ Tomlinson, *Guns and government*, pp 226, 228.

⁶⁴ Cardonnel to Middleton, 6 Dec. 1689; Ayleway to O.B., 27 Jan., 9 Feb., 3 Mar. 1690; Cardonnel to O.B., 30 Jan. 1690 (T.N.A., WO55/1794, fos. 9r, 23v, 25r, 27v, 48v).

⁶⁵ Simms, *Jacobite Ireland*, p. 35; Tim Harris, *Revolution: the great crisis of the British monarchy 1685–1720* (London, 2006), pp 134–5; Hill, *From patriots to unionists*, pp 58–61.

Thus, most of the parties opposing him were foreigners who had not been closely involved in the regime during the period of state formation and consolidation between 1681 and 1688, and were not embedded within the tory patronage networks that had sustained it during this period.

By the same token, Ayleway received a great deal of informal assistance from established crown servants who had served successive regimes faithfully between 1681 and 1688, even after James II's campaigns in England and Ireland began to raise their hackles. During the court martial in April 1691 he seems to have been treated sympathetically by the president, Colonel Percy Kirke, another former servant of James II, who confirmed to the court that it had not been Ayleway's fault that grenades were lacking at Carrick.⁶⁶ John Hartwell the gunsmith testified at the court martial that there had been no lack of iron at Carrickfergus, thereby refuting charges of negligence. While Hartwell may have been perfectly sincere, Ayleway had not only assisted Hartwell's gunsmiths but also lobbied the Board in July 1690 to get him appointed armourer to the Irish Ordnance Office, promising 'my utmost interest to assist Mr Hartwell to get the employment he desires, and I do not doubt but we shall succeed [in] it'.⁶⁷ Another supporter was William Robinson, who had worked alongside Ayleway at the Irish Ordnance Office since 1679. In January 1691 he wrote to George Clarke, Ginkel's military secretary, to remind him of Ayleway's plight and to support his request for a speedy trial.⁶⁸ Ayleway in turn seems to have omitted to mention in the 'Case' that Robinson was one of the three Inquisitors who had examined him, probably to shield his ally from his criticisms.

Finally, Ayleway received a degree of support from Israel Feilding, second secretary to the lord justices of Ireland and informal aide to George Clarke. Feilding wrote to Clarke in August 1691 to urge the payment of arrears owed to Ayleway, provided he was not already in debt to the Crown: 'I assure myself', Feilding said, '[that] doing him justice need not be recommended to you'.⁶⁹ This generous act occurred only days before Ayleway was granted leave by the lords justices to join Arthur Forbes, first earl of Granard on his military expedition to Sligo, and Feilding may well have been involved in this. A number of links connected him with other members of the 'old guard'. His uncle, Basil Feilding, was election agent in Carlisle to the leading tory politician Sir Christopher Musgrave, the lieutenant-general of the Ordnance between 1682 and 1687 and thus Legge's deputy in England.⁷⁰ Feilding himself was named one of the commissioners of the Irish Ordnance Office in April 1690, and his fellow commissioner was Francis Cuffe, who had been lieutenant of the Ordnance in Ireland alongside Ayleway in the 1680s. During this time, Feilding had himself been an agent in England to the family of James Butler,

⁶⁶ For Kirke, see Piers Wauchope, 'Kirke, Percy (d. 1691)', in *Oxford D.N.B.*

⁶⁷ Ayleway to O.B., 24 Aug. 1690 (T.N.A., WO55/1794, fo. 187r); *Cal. treas bks*, vii, 1297. See also the warrants in the letter book of the Master of the Ordnance, 1692–5 (N.L.I., MS 23417).

⁶⁸ Robinson to Clarke, 13 Jan. 1691 (T.C.D., MS 749).

⁶⁹ Feilding to Clarke, 21 Aug. 1691 (*ibid.*).

⁷⁰ Aaron Graham, 'Partisan politics and the British fiscal-military state, 1689–1713' (D.Phil. thesis, University of Oxford, 2012), pp 64, 77, 89. I am currently preparing a study of state structures in England and Ireland between 1689 and 1691 that will examine these connections in greater detail.

first duke of Ormond and the lord lieutenant of Ireland, who was also a patron of, among others, Francis Cuffe and his family, the earls of Longford, who had recommended both Feilding and Ayleway to Ormond in 1689.⁷¹ An inveterate place-seeker, Feilding also hoped to be appointed storekeeper of the Ordnance in Ireland, and may have desired Ayleway's support and remaining influence in his unsuccessful applications for this post.⁷²

Robert Ayleway's experience between 1690 and 1692 therefore hints at a series of deep rifts between those who had served under James II before 1688 and those who were now arriving in Ireland with the Williamite expeditionary force. The latter appear to have been profoundly suspicious of the loyalty, commitment and competence of those who had remained in the Crown's service throughout the 1680s. Ayleway, part of this 'old guard', resented the arrival of new officials who knew little of Irish conditions, did not respect local experience, suspected his own loyalty, and even now sought to turn the war to their own advantage. Schomberg and Ginkell therefore had the difficult tasks of managing and balancing these competing interests, especially at moments of confrontation, and Ginkell's prevarication.

IV

Given Ayleway's own background, including his close connections with conspicuously tory grandees in England before 1688, and with Irish tories in the 1690s, and the evidence that the 'Case' provides for the strong sense of overlap between public service, English liberties and loyalty to the Church of England, it also hints at the conditions underlying the gradual growth of an Irish tory party between 1692 and 1716.⁷³ The main importance of the Case, though, is the insight it offers into the intellectual assumptions of an important official within the developing Irish (and British) fiscal-military state before 1688, and the languages in which these could be expressed. No doubt Ayleway shaped his text with an eye to wider circulation, if not wholesale publication, but his rhetorical style makes it quite clear that he expected certain points about Englishness, English rights and laws and the nature and rewards of public service, to resonate with his audience. The 'Case' therefore represents one potential set of attitudes towards the fiscal-military states of England and Ireland at this key moment of administrative evolution and elaboration, though further work will be necessary to establish how representative his ideas were.

A strong streak of xenophobia is, perhaps understandably, particularly prominent. Ayleway contrasts his standing as 'an Englishman and a true son of the English Church' with 'the envious humours of some few Dutchmen', who persecute him for their own private, selfish ends. Allied with this is the conceptualisation of law and liberty as the inalienable inheritance of free-born Englishmen, 'entitled by their birth, and by the established laws of the kingdom to the equal distribution of justice'. In his concluding section, Ayleway again appeals against the 'new forms of Judicature, not supported by

⁷¹ Melvin, 'Letters', pp 60, 74.

⁷² Feilding to Clarke, 6 July 1691 (T.C.D., MS 749).

⁷³ David Hayton, *Ruling Ireland, 1685–1742: politics, politicians and parties* (Woodbridge, 2004), pp 58, 92–5.

any laws amongst us', used by foreigners to restrain the liberty of Englishmen and deprive them of their property. Indeed, in some respects Ayleway's petition contains an incipient critique of the Glorious Revolution as an event that had undermined the rule of law in England and Ireland. Yet the religious dimension cannot be understated, nor separated from these constitutional concerns. Ayleway noted that he was a 'true son of the English Church' and had conducted himself 'as a trusty servant, honest man, and Protestant ought to do'. He emphasised his zeal for his country and religion, and claimed that it was his principles that had led him to resign his post in 1688. He objected to how Tyrconnell had trampled on English liberties in Ireland to break open the state to Irish Catholics, and he therefore supported William III as the 'protector and preserver of laws and liberties in their proper course and channel', both because English liberties were important in themselves and because they assured the protection of the Protestant religion.

Even more interesting is Ayleway's discussion of government, which was created, he argued, for the defence of individual liberty and property. The state rested upon two supports, namely law and patronage. Those 'rotten branches' that impeded the growth and perfection of the flourishing tree of government had to be pruned or cut off entirely, and, to this end, it was necessary that the state enforce amongst its servants the laws established 'by the wisdom of our forefathers' for their regulation, 'since government cannot be supported and subsisted but by its own rules and methods'. The alternative was for matters to become 'confused and out of their proper channel', as exemplified by the abuses to which Ayleway felt he had been subjected, and which he had therefore resolved to set before the public not only for his own benefit but for the wider protection of the commonwealth. Left unchecked, he argued, such abuses threatened its survival, and he compared England's laws to the banks and dykes of Holland, where a single breach risked flooding the entire country. Thus even the smallest infringement of an Englishman's liberties and privilege risked undermining the entire superstructure of the English constitution by allowing authority to be exercised unchecked, leaving government like a spider's web, 'that hold flies fast but let bigger and stronger creatures pass through'.

Yet, Ayleway contended, the proper operation of patronage was also necessary, enabling ministers 'to support and nourish the root of government by cherishing those branches that contribute to the well-being of it'. Although men should set public service above personal concerns, 'for that all private interests are but so many rivelets flowing from the great fountain of the ... government', the duty of the state was to encourage and support those officials who could lend it most service. While the law restrained misconduct, patronage rewarded good conduct and encouraged others to do the same. Ayleway even argued, with no apparent embarrassment, that it was established practice 'to encourage such as deserve well in the public affair with rewards rather exceeding their merits, the end to invite and induce others to the service of the Government'. Thus his own rewards were necessary, and for the public good, since they encouraged others to excel. The creation of formal state structures in Britain and Ireland during the 1680s therefore marched in step with the private benefits and rewards that those who occupied them could enjoy. As Walsh and McGrath have shown though, the difference after 1692 was that such structures would emerge largely from within the Anglo-Irish elite, rather than being imposed upon them from outside through English agents such as Ayleway.

National Library of Ireland MS 420: ‘Case of Robert Ayleway esqr, late Comptroller of the Artillery in Ireland’, 1692

[f. 1] The many hardships put on the said Robert Ayleway requires the publishing his Case, with the circumstances of it, and the rather for that his cheifest pledges, in this world, are and were at stake (vizt) his reputation, fortune and Liberty, the Darlings of mankind and the true objects of all humane Laws. It is therefore to be admitted proper and just, to vindicate them from the difficulty of oppression under which they seem to groane, and to file off the rust by that meanes contracted, by shewing to the world the particulars of the accusation against him, and of what testimony’s were give for his justification. And in regard his integrity and Capacity are the two things endeavour’d to be blemished by the proceedings against him, it may not seem improper to introduce this discourse in brief with this Character (vizt) that hee is an Englishman, and a true son of the English Church, and as such all his Life lived and behav’d himself, and gave many testimony’s both att home and in foraigne partes of his love & Zeale to both his Countrey and Religion.

That after spending a considerable time in the publick service Hee was by his late Majesty King Charles the 2d (about fourteene yeares since) Constituted Auditor-Gen^l of Virginia for life and afterwards (to witt) in October 168[1] was by [lett]res Patent made Clerke of the Ordnance in Ireland, and the place of Clerke of the Delivery’s joyn’d with it, In which Employ^{mt} he continued severall years, and in all respects demean’d himselfe as a trusty servant, honest man, and Protestant ought to doe.

That in the yeare 1688 the said Mr Ayleway considering it was very necessary for those of his principles to unite for the support and advancement of the public Cause, hee therefore determin’d to adhere to his present Mat^y’s Interest,⁷⁴ as the Protector and preserver of Law’s and Liberty in their proper Course and Channell. To Effect which hee apply’d himself, to the late Lord Tyrconnell⁷⁵ then in the Government of Ireland, and gave up to him the [lett]res Patents of his Employments, and by his Example, in that respect, influenced several others to doe the like; after which the Eyes of that Government was upon him, lookeing on him as disaffected and dangerous, and to be able as well as willing to thwart and prejudice their intended designes, by discovering their power and stores. Resolutions were therefore take to restrain his Liberty, to the end, by that or severer courses to putt it out of his power to doe the late King’s party harme. But Mr Ayleway used all early and speedy measures to free himselfe from soe great a danger, and did with much difficulty Escape out of Ireland into England in the month of February 1689 where on his arrival hee offer’d his service to his present Mat^y.

⁷⁴ William III and II (1650–1702), prince of Orange and, from 1689, king of England, Scotland and Ireland. William had landed in England on 5 November, suggesting that Ayleway resigned his patent at some point between mid-November and the end of January. Unless noted otherwise, all subsequent biographies are based on the *Oxford D.N.B.*

⁷⁵ Richard Talbot, first earl of Tyrconnell (1630–91), lord deputy of Ireland (Jan. 1687–Mar. 1689), who pursued a policy of catholicisation during his tenure as lord deputy.

By this short and true acc^t it appears that Mr Ayleway was conversant with the Affaire of the Ordnance, That hee gave sufficient demonstration of his Zeale and truth to the present Government by [f. 2] quitting his then employment and the reasonable expectations of other advancements, forsaking all his fortune and substance, w^{ch} lay in Ireland, hazarding his Life in a very great measure, and stripping his family of subsistence, which renders him deserving of impartial justice in preserving his reputation, life, Liberty and property, all which were by the subsequent proceedings (but without ground) question'd.

That M^r Ayleway becoming knowne to the most renown'd Gen^{ll} his Grace the late Duke Schonberg⁷⁶, was about the 20th of June 1689 by him appointed Commissary of the Trayne of Artillery then design'd for Ireland, and haveing behaved himselfe in that station to his graces satisfaction, the said Duke thought him fitt to succeed Capt Clarke⁷⁷ in the Office of Comptroll^r, In which hee continued remarkably in his said Graces favour, soe long as hee lived and the world allows that his said Grace was intirely in the English Interest and a competent Judge, what persons were fitt to be employ'd to support it.

That about the 14th of June 1690, one M^r Goor⁷⁸ a Dutchman arriv'd at Belfast with the Character of Coll^{ll} of the said Train of Artillery, and one M^r Meesters⁷⁹ another of that Countrey with the Character of Comptroll^r of the Dutch that belong'd to the said Train, and they were no sooner entered upon their Comands, but they both consulted of measures to supplant M^r Ayleway and by that meanes to procure to themselves the intire mannagem^t of the Train (but could not effect their ends till after the death of Duke Schonberg) to the doing whereof all Engines were putt to worke, and an arrow was made of every crooked stick to impeach him; and since truth and sincerity could not have warranted so groundles a proceeding, false and scandalous aspersions were privately laid against him, before Gen^{ll} Ginckell⁸⁰ to induce his believing M^r Ayleway unfitt for the station hee possess'd, and the said Gen^{ll} giving early Credit to what was offer'd to the disadvantage of M^r Ayleway, Did on the 2^d of October 1690 (without further Examination or Enquiry, but the Information so by him rec[eive]d from the said Aylewayes prosecutors) Order Mr Ayleway to be confin'd, and on the 5th of the same month all his Bookes and papers were Seized on and examin'd privately by such as accus'd him, and not any of Mr Ayleway's friends admitted to be present on persuall thereof,

⁷⁶ Frederick Herman de Schomberg, first duke of Schomberg (1615–90), master-general of the (English) Ordnance Office (1689–90) and commander-in-chief (1689–90) of the Williamite forces in Ireland.

⁷⁷ Captain Edward Clarke (d. 1689), comptroller of the Artillery Train in Ireland (1689): Charles Dalton, *English army lists and commission registers, 1661–1714* (6 vols., London, 1892–1904), iii, 40.

⁷⁸ John Wynant Goor (d. 1704), Dutch soldier and colonel of the Artillery Train in Ireland (1690–1) and the Low Countries (1692–4): Dalton, *Army lists*, iii, 184, 185n, 233, 301.

⁷⁹ William Meester, Dutch soldier and comptroller of the Artillery Train in Ireland (1690–1) and the Low Countries (1692): Dalton, *Army lists*, iii 184, 186n, 301.

⁸⁰ Godard van Reede-Ginckel, second Baron van Reede and first earl of Athlone (1644–1703), Dutch general and commander-in-chief (1690–1) of the Williamite Forces in Ireland.

tho' hee petition'd for that liberty.⁸¹ But the matters contain'd in his papers, not affording sufficient matter for his ruine, Three Inquisitors (a thing new in these Kingdomes) to witt one Vanhomrigh⁸² a known Enemy of Ayleway, and one Coll^l Venner⁸³, and some third person⁸⁴ were appointed to rake up what might be gather'd from persons and papers to be form'd into an accusation against him⁸⁵; which three persons being very vigilant in discharging the confidence putt in them, Issued many Summons and Examin'd such on Oath (without legall Authority to Administer any such) by whose testimony they expected any discovery, and were lead by their Industry soe farr as to draw the Depositions to that advantage, that diverse of the witnesses (finding them untrue and inconsistent) refus'd to signe them. Those proceedings were deem'd cruell and severe by many, first in restraining a man's Liberty without any previous prooffe Contrary to Magna Charta, and the fundamental Laws of the Kingdom. Secondly seizing on his Vouchers and papers without which hee could not justify himselfe in any thing. Thirdly his Enemyes possessing themselves of [f. 3] his papers, and no friend admitted to be present on persuall, by which meanes hee might be depriv'd of his most materiall Evidences, and [?ett] might be putt among them that might import his ruine, ffourthly appoint a new Judicature by Inquisitors, which was an encouragement to any person, [?quovis jure quâ vesue Injuriâ]⁸⁶ to Charge him. Fifthly by the unwarrantable proceedings of those Inquisitors, by Administering illegal Oathes and wresting the truth by drawing Depositions, contrary to the words and meaning of such as were Examin'd, and that, that is yett more severe is, That M^f Ayleway thus depriv'd of his Liberty, and (as much as in his Enemyes lay) of his reputation too, His Tryall is deferr'd and delay'd, by which the privilege given to the

⁸¹ The last warrant directed to Ayleway was dated 23 September, and on 10 October he was already under arrest, writing to Clarke to request a speedy trial. He appears to have remained in the field until November, when Robinson wrote to Clarke asking that Ayleway be moved to Dublin: order to Robert Ayleway, comptroller of the Artillery, 23 Sept. 1690 (Worc. College, Clarke MS 7/4, fo. 91); Robinson to Clarke, 7 Oct. 1690; Ayleway to Clarke, 14 Oct. 1690 (T.C.D., MS 749).

⁸² Bartholomew van Homrigh (d. 1703), a Dutch merchant settled in Dublin since the 1680s. commissary-general of Stores and Provisions (1690–9) to the Williamite Forces (jointly with William Robinson), and commissioner of Revenue (1690–1703), Irish M.P. (1692–5) and lord mayor of Dublin (1697): Graham, 'Partisan politics' pp.60, 76–83.

⁸³ Lieutenant-Colonel Samuel Venner, lt.-col. of Sir Edward Dering's Regiment of Foot (Jan. 1690) and col. (June 1691), and governor of Royal Hospital Kilmainham (1690–1): Dalton *Army lists*, iii, 152n; Eric Gruber von Arni, *Hospital care and the British standing army, 1660–1714* (London, 2006), pp 66, 69, 70, 83.

⁸⁴ William Robinson (c.1643–1712), surveyor-general (1671–1700) and clerk of the Ordnance (1671–85) in Ireland. He left Ireland in 1685 but returned in 1689 as joint comptroller-general of Provisions (1689–90) with Israel Feilding, and joint commissary-general of Provisions (1690–2) with Bartholomew van Homrigh, then held a number of offices, including deputy vice-treasurer (1693–1703) to Thomas Coningsby.

⁸⁵ Ginkell issued his order on 11 November, giving the 'inquisitors' full power to send for papers or witnesses that might shed any light on the matter, although they were not empowered to place witnesses under oath. The third member was William Robinson: order of Ginkel for court martial, 27 Nov. 1690 (Worc. College, Clarke MS 7/4, fo. 140).

⁸⁶ 'Through force of law by which way harm is done'. I am grateful to Prof. Josh Getzler for suggesting this translation.

greatest Criminalls of Justifying and clearing themselves by a fair hearing is not allow'd him, the *celeris justicia* appointed by the great Charter is not regarded; Hee therefore thus greiv'd and as advis'd by many, oppress'd. Hee thereupon prefered several Petitions, both to the then Lords Justices of Ireland, and to the said Generall, praying that his papers might be restor'd him, a Charge drawne up against him, and a Court martiall appointed to try him, yet receiv'd not any answer to any of them, which obliged him to apply himselfe by Petition to his Mat^y in the month of Dec^r 1690, the prayer whereof was in the words following (to witt) Your Pet^r humbly prayeth your Mat^y to Order him, his Charge, his papers and a Tryall so that, if guilty to be made an example, if Innocent to be restor'd to your Mat^y's favour &c. His Mat^y thereupon (according to his wonted Clemency and Justice) granted the prayer of the Petition, and his pleasure therein was ordered to be signified to the Lords Justices, by the Right Hon^{ble} the then Lord Sydney⁸⁷ which was accordingly done by His Lo^{pp}'s [jett]re of the 27th day of the same moneth, upon which some of M^r Ayleway's Bookes and papers were return'd to him, and other materiall writeings were detained from him and severall collections hee had made not relating to the Charge laid against him were Copied.⁸⁸

The said M^r Ayleway haveing obtain'd his Mat^y's said Order for an immediate Tryall, hee expected that a period would be putt in a short time to his troubles, whereby hee might obtaine an Enlargem^t from his Captivity, and be restor'd to the good name and reputation hee always had until blemished by the dark Clouds wrongfully heap'd upon him. But missing of the expected expedition hee Peteitioned the then lords Justices and Gen^{ll} that a Charge should be drawn against him, and a Court martiall appointed according to his Mat^y's Orders, But M^r Ayleway could not have a Charge, until the 18th of February 1690, nor an Order for a Court Martiall, from the Gen^{ll} until the 12th of March following, by which his Excellency appointed but 9 Feild officers whereas there ought to have been 12, by reason of which defect Major-Gen^{ll} Kirke⁸⁹ then President refus'd to hold a Court, and thereupon M^r Ayleway was constrain'd to make fresh applications and obtained an Order bearing date the 18th day of the same month, whereby the Gen^{ll} doth name all the Assistants [f. 4] among whom were named some persons which could not attend by reason whereof the said last Order proved likewise ineffectuall⁹⁰; which obliged M^r Ayleway to make further applications for an effectuall Order, all which delay'd the said M^r Ayleway's Tryall until the 13th of Aprill 1691 att which time and not before a Court Martiall sate, whereof the

⁸⁷ Henry Sidney (1641–1704), first viscount Sydney (from 1689) and first earl of Romney (from 1694). A noted whig politician, he was appointed lord justice of Ireland (1690) with Coningsby, then secretary of state for the Northern Department (1690–2), and later served as lord lieutenant of Ireland (1692–3) and master-general of the Ordnance (1693–1704).

⁸⁸ No copy survives of Ayleway's petition, but William III's instructions to Sydney can be found in Sydney to Lord Justices of Ireland, 27 Dec. 1690, *Cal. S.P. dom., 1690–1*, p. 196.

⁸⁹ Major-General Percy Kirke (d. 1691), an experienced soldier, who raised the siege of Londonderry by Jacobite forces in 1689, then served as one of the three major-generals in the Williamite army until ordered to the Low Countries in April 1691.

⁹⁰ Ginkell issued the warrant for the court martial to Sir John Topham on 18 March 1691 (Worc. College, Clarke MS 7/4, fo. 285r).

Hon^{ble} Major Generall Kirke was president, Coll^{ll} Woolsey⁹¹, Coll^{ll} John Fooks⁹², Coll^{ll} Goor, Lieu^t Coll^{ll} Boyle⁹³, Lieu^t Coll^{ll} Wise⁹⁴, Lieu^t Coll^{ll} Peirce⁹⁵, Marquess de Rada⁹⁶, Lieu^t Collonell Brazier⁹⁷, Major Allen⁹⁸, Major Noble⁹⁹, Major Colt¹⁰⁰ and Major Newton¹⁰¹ were assistants, all sworne. What the Charge was against Ayleway and what defence hee made therein, will fully appeare by what follows, which is a true Copy of the proceedings of the Court in that respect, and obtained with great difficulty, For the Judge Advocate¹⁰² refused to give Copy's thereof till my Lord Sydney came to the Government and declar'd hee durst not doe it.

Information being given by their Mat^y's' Advocate Gen^{ll} against Robert Ayleway Esq^r, Commissary of the Stores and Comptroll^r to the Train of Artillery that the said M^r Ayleway being in their Mat^y's service and pay, many Errors and miscarriages were frequently comitted in the management of the said Office whereby their Mat^y's service was sometimes greatly retarded and often utterly lost, as the following articles might more fully appeare, and the said Ayleway having opened his answer the Court proceeded to the Examination of witnesses on the several articles aforesaid.

Article 1st That their Mat^y's officers and artificers of the Train of Artillery did greatly suffer att the Camp of Dundalke for want of Tents and Bedding, of which great stores were sent from the Tower of London. On Examination of witnesses on the said article itt did appeared by the testimony of a great number of wittnesses belonging to the

⁹¹ Col. William Woolsey (?1640–97), colonel of the regiment of Inniskilling Horse (1689): *Oxford D.N.B.* and Dalton, *Army lists*, iii, 27n.

⁹² Col. John Foulkes (d. 1693), of Foulke's Regiment of Foot (Sept. 1689) and governor of Dublin (1690–1): Dalton, *Army lists*, iii, 62, 283.

⁹³ Lt.-Col. Henry Boyle (d. 1694), of the duke of Schomberg's Regiment of Horse (1689–94) and cornet and major of the 2nd Troop of Life Guards: Dalton, *Army lists*, iii, 13, 17n, 24, 175, 176n.

⁹⁴ Lt.-Col. Richard Wise, of Langston's Regiment of Horse: Dalton, *Army lists*, iii, 295.

⁹⁵ Lt.-Col. Edward Pearce, of Sir Henry Belayse's Regt of Foot (1690–5): Dalton, *Army lists*, iii, 110.

⁹⁶ Lt. Col. Henry de Caumont, marquess de Rada, Huguenot soldier and Lt.-col. of Philip Babbington's (and after April 1691, the prince of Hesse-Darmstadt's) Regiment of Foot: Dalton, *Army lists*, iii, 4–5.

⁹⁷ Lt.-Col. Kilner Brazier (d. 1725), Irish soldier and (brevet), Lt.-col. of Gustavus Hamilton's Regiment of Foot: Dalton, *Army lists*, iii, 65.

⁹⁸ Maj. Thomas Allen, of Viscount Lisburne's Regt of Foot, raised in 1689 from Protestant supporters in Ireland. Lt.-col. of Lord Mountjoy's Regt of Foot (1701): Dalton, *Army lists*, iii, 75, 115, 167.

⁹⁹ Maj. Arthur Noble, of Col. Thomas St. John's Regt of Foot: Dalton, *Army lists*, iii, 209.

¹⁰⁰ Maj. Colt (d. 1691), of Col. Richard Brewer's Regt of Foot: Dalton, *Army lists*, iii, 109, 218.

¹⁰¹ Maj. John Newton, of Lord Cutt's Regt of Foot, later Lt.-col. (1694): Dalton, *Army lists*, iii, 166, 167n.

¹⁰² Sir John Topham (d. 1698), master of Chancery in Ireland, and advocate-general of His Majesty's Forces in Ireland (1689–98): Dalton, *Army lists*, iii, 99, 101n.

said Train then in the Camp, that they did not hear of any one officer that complain'd for want of Tents, there being but 20 bedds sent for the use of the sick in the said Train which were made use of on such occasions. The Examination of Coll^{ll} Jacob Richards¹⁰³ being allowed to be read, hee being in England and on which the article of the Information was grounded being only on hear-say.

- 2^d and 3^d Which relates to the want of Carriages for the quantity of Match to be carry'd to Loughbrickland, and of ammunition to the Boyne, by reason of want of waggons appointed for that service and employ'd to other uses, whereby their Mat^y's service did greatly suffer, It did on examination of the whole matter appeare, that the Generall having adjusted the quantity of ammunition of Powder, Ball and Match, that was to attend the army; And M^r Ayleway, the Commissary of the Stores, having undertaken to carry the same quantity soe adjusted, and having att that time 745 Train horses under his Command, a great part of which horses and waggons, the Gen^{ll} afterwards, when they were ready, ordered to be made use of, for his owne baggage, several waggons and horses for several regiments, and p[ar]ticularly the L^d Lisburne, Lord Geo. Hamilton's, and Coll^{ll} Brewers, one only waggon being prov'd to be [f. 5] made use of for Carrying suttlers goods from Belfast to Hillsborough, which discovery being made by the Assistant¹⁰⁴ of the waggon Ma^r Gen^{ll}, hee discharged the same, and it was prov'd to be done by the allowance of one Stannus,¹⁰⁵ Assistant to the Purveyor without the knowledge or consent of M^r Ayleway.
- 4th Being that the said miners Tooles and Instruments were left att Loughbrickland and on their march, On debate of the whole matter itt appeared to be for want of Carriage as aforesaid.
- 5th Which relates to the want of Canon Ball att the Seige of Lymerrick and that shells were brought thither, and the mortars and several necessary's were left behind. It did appeare to the Court that the Commissary M^r Meesters that was left att Carrickfergus, who had the charge of the stores there, and when M^r Ayleway was Commanded on the

¹⁰³ Lt-Col. Jacob Richards (1664–1701), third engineer to the Ordnance Office (1684–1701) and chief engineer of the artillery train in Ireland (1690–1).

¹⁰⁴ William Barnard, deputy waggon master (1691): Dalton, *Army lists*, iii, 184.

¹⁰⁵ William Stannus/Stannes (d. 1718) of Carlingford, Co. Louth, deputy-purveyor to the Train of Artillery (1690–1). See Goor to Richards, 19 Nov. 1690; Goor to Stannus, 2 Feb. 1691 (N.L.I., MS 11427); A. E. Vicars (ed.), *Index to the prerogative wills of Ireland, 1536–1810* (Dublin, 1897), p. 437.

march for the Boyne, likewise had the care of shipping the said mortars, Canon Ball and which were accordingly shipp'd and arriv'd att Dublin in August last And the same being to be reshipp'd for Waterford in order to the Seige of Lymerick, The mortars and Cannon Ball were left in Dublin and the shells shipp'd for Waterford, which was not done by any order or neglect of the said M^r Ayleway who was then att Lymerick, but by the order of the Commissary that shipped them from Carrickfergus.

- 6th The last which relates to the Train, that there were not regular Musters kept of the officers and horses, and that Iron was sold out of the stores when the armourers wanted it for their worke att Carrickfergus. On examination of the said Article, the said M^r Ayleway produced two Muster Rolls taken before the Gen^l in May last of the said Offic^{rs} and horses. And confess'd that 3 Tunn of Iron, was sold by the allowance of the Gen^l which was taken at Charlamount, the said M^r Ayleway pretending it was a perquisitt belonging to the said Train, but since placed the money to the King's acco^t as by the testimony of Capt South¹⁰⁶ one of the Com^{rs} of Accounts did appeare; and upon debate and arguing the whole matter, It was the opinion of the Court-Martiall that the officers of Comptroll^r and Commisary aforesaid, were Employments wholly inconsistent and incompetent in one p[er]son; but the same ought not to be attributed as a Crime to M^r Ayleway. And likewise were of opinion that M^r Ayleway was not guilty of any misdemeanour or miscarriages in any of the said Articles in the said Information mentioned, by what appear'd att that time, And ordered that M^r Ayleway should deliver in the account of the Train's horses and how they were disposed of, and adjourn'd till the next day att nine fo the clock att the same place.

The 14th of Aprill 1691 the Court being satt as aforesaid the President demanded of M^r Ayleway an account of the horses in his Charge att the time when the army marched from Hillsborough which he delivered to the Court and is as followeth [f. 6]

To his Grace Duke Schonberg	75	Horses sent by Ordrs to others	
To the Lord Geo Hamilton	10		
To Coll Gustavus Hamilton	5	To Coll Brewer	10
At Belfast 55 wth Count Schonberg	65	To Ld Lisburne	5

¹⁰⁶ Unknown, but possibly Lt. Henry South (1694) of Sir John Coulthorpe's Regiment of Foot: Dalton, *Army lists*, iii, 388.

At Newry 10 unservicable 27	37		15
Stolin att Drumully 3 dead 8	11		
	203		
The same of those xxx that march'd out with us from Hilsborough as by the above acco ^{ts}			218
	Taken from		745
Memorand[um] on the 24 th of June past			
sent from Loughbrickland for ten boates	34	Remaines	527

And having Compared the same with that taken by the right Hon^{ble} the Lord Justice Cunningsby¹⁰⁷ att Atherdee they did not much differ, And then the said M^r Ayleway being demanded whether the number of horses aforesaid were not sufficient to draw all the ammunition and stores agreed by the Gen^{ll} to be carried, The said Ayleway allow'd the same to be sufficient and being further demanded why Collers, harnes, horseshoes, and many other less necessary things were Carryed, and musq^t ball was left behind; Hee replied that it was impossible for the Train to march without some of those materialls, whereas two waggons were design'd for to carry Collers, Harness &c One only Carriage was employ'd, and that there was not any one Carriage employ'd but what was laden with necessary's for the said Trayne. And a great number of Wittnesses being examined what the particulars were that were soe carryed, and on debate of the whole matter the Court were of opinion that the said Carryages were not misemploy'd by the said Ayleway by what then appear'd, And ordered the further debate of the matter till next day att nine of the clock in the same place.

The 15th of Aprill 1691 the Court being satt as aforesaid the matter against M^r Ayleway comeing under debate, In regard M^r Meesters, Coll^{ll} Richards and severall other material wittnesses were in England who could make the Cause very cleare if present¹⁰⁸; and in regard his Exc^{ie} Lieut Gen^{ll} Ginckell will be in this City in a day or two, with whom the President was desired to advise withall and communicate the whole proceedings to his Exc^{ie}, The Court therefore thought fitt to adjourne and accordingly was adjourn'd till Saturday 18th Aprill Instant

The 18th of Aprill 1691 the Court being to meet that hour the following Order was sent whereby the same was dissolv'd.

¹⁰⁷ Thomas Coningsby, first earl of Coningsby (1657–1729), Whig politician, joint receiver- and paymaster-general of Ireland (1690–2) and lord justice (1690–2), and later vice-treasurer (1692–1710).

¹⁰⁸ Richards wrote to Clarke and Ginkel from Dublin on 4 November that Meesters was sick, that Goor had yet to arrive, and that he himself was required back in London, since 'there is now nobody but myself that knows the affairs in England relating to the artillery': Richards to Clarke, 4 Nov. 1690; Richards to de Ginkel, 4 Nov. 1690 (T.C.D., MS 749). Robinson also complained in January 1691 that 'we have gone as far in Ayleway's business as we can go until Col Goor comes to town': Robinson to Clarke, 13 Jan. 1691 (T.C.D., MS 749).

Whereas by vertue of an Order bearing date the 18th of March last past you were impower'd and directed to sumon a Court-Martial wherein Major Gen^l Kirke was to preside, to enquire into the mannagemt and miscarriages of Rob^t Ayleway Esq^r Comptroller of the Train of Artillery and Commissary of the Stores of Warr: which I understand hath accordingly mett, and by adjournment is yett in being; But being since inform'd and assured the Charge against M^r [f. 7] Ayleway hath not been fully prov'd, thro absence of severall material witnesses and other avocations in other business, Contrary to expectations and other defects. Wee therefore require you to signifie to the said Court that they forthwith remitt to me the minutes and whole proceedings thereof in Order to a more full tryall of the meritts of this Cause hereafter; And after remanding the said M^r Ayleway into his former restraint, that the President please to breake up and dissolve the Court-Martial aforesaid, For all which this shall be a sufficient warrant. Given att the head Quarters att Dublin the 18th of Aprill 1691 Bar: de Ginckell

To Sir John Topham Judge Advocate of their Mat^ys fforces in this Kingdom

By which said last recited Order M^r Ayleway's Confinem^t and afflictions are continued and all the former proceedings are become and made null on a bare pretence without Oath, that M^r Meesters, Collonell Richards and others could make good the Charge; whereas Meesters & Richards were the cheife accusers, against M^r Ayleway, and both a considerable time in Ireland after his Confinement, and might have given Evidence against him, if any thing materiall they had to offer. And the said Richards being sworne on the Tyrall of the first article, his testimony was deem'd frivolous and had he any thing more material to testify, it were strange that when Examined hee did not recollect himselfe; and it is not to be doubted, but their Inclinations led them rather to ruine then favour Ayleway, they being the promoters of the mischeifs heap'd upon him, and therefore improbably they would parte the Kingdome 'ere they had given in Depositions against him, had they any thing materiall to make. And the rather for that M^r Ayleway understanding that Meesters and Richards designed for England, and fearing that some pretence might be made in their absence to give him further delay, hee Petic[i]oned the Lords Justices that they should stay in the Kingdome untill after his Tryall, which was not comply'd with, and yett on the Suggestions of their absence his miseryes are continued. And as for the words (and others) in the Order it is but a groundless p[re]tence and admitting the allegation true, Yet is seemes without president to dissolve the Court after entertaining the Cause and proceeding thereon, and Examining every article, untill finall Judgement were given, That particuler being opposite to the proceedings of all Judicatures, and of very great inconveniency, and introduces a most dangerous practice. For that no man once accus'd, tho' never soe innocent, can be acquit'd if after Tryall the whole proceedings by nullified on a groundless pretence or suggestion which, if of any weight, should have been offer'd before the Tryall, and had the same been a a good ground for delay after the Tryal, it could not reasonably operate more, than by a suspension of the proceedings by adjournment untill that impediment had been remov'd; Then the suggestion of the witnesses absence, was made to an improper Judge, the Court-Martiall [f. 8] being appointed to

that matter, and being possess'd of the Cause, was the proper Course of giving the rule in any business before them; But as this case is a stranger to the proceedings on a suggestion, which had the same been true, yet might be of no effect for ought hee knew, Concludes and layes aside a Cause not then properly before him. But considering that if Ayleway were acquitt, hee must be restored to his Employments The securest way then of settleing such as obtain'd the same was to prevent it. Then is is to be further noted that Ayleway was Confin'd the 2^d of October 1690 and from that time till the first day of his Tryall, which was the 13th of Aprill 1691 was near seven months, which was a sufficient time to prepare wittnesses, when it must be expected the Cause would be determin'd there being many Petititon's to that end in that time preferr'd – And the rather for y^t all that time the three Inquisitors, continu'd a fix'd & undiscontinued Jurisdiction to dive into all Corners, and pick up all scraps to impeach Ayleway Yet the pretended materiall Evidences, absent att the time of the Tryall, but in the Countrey for several months during that Confinement conversant with the said Inquisitors, and even the managers & accusers themselves; yet in all that time, Meesters his Examination's not taken, nor M^r Ayleway tried before his departure; and the others Evidence then absent was taken and given in Evidence on the Tryall but ruled frivolously. And if their Evidence had been deem'd requisite or of any Effect to criminate Ayleway, it is not reasonable to conclude that the Court and Tryall had been appointed dureing their absence – All which deduced the impartiall to Judge that the said dissolveing Order was ill grounded and that the Gen^{ll} was misinformed when hee granted it. That M^r Ayleway was thereby much oppressed and deprived of his Liberty, and of his employm^{ts} and his Credit blemished without foundation or bottom, Then the several oppressions put upon him by the insinuations and contrivances of Goor Meesters and other his Enemies.¹⁰⁹ And further it is to be observ'd that the said Suggestion whereon the said Order was grounded was made by Coll^{ll} Goor, M^r Ayleway's known persecutor and one of his Judges. So that a forraigner is not only Judge of the Life and Liberty of an Englishman, but likewise manager and accuser; a method seldome used in proceedings, against Free born subjects of England Intitled by their birth, and by the Established Laws of the Kingdom to the equal distribution of Justice.

Now matters standing as above and Mr Ayleway's restraint continued it is expedient to give the Reader a review of the hereinbefore recited Charge against him, by which it will be further sufficiently evinced, that the pretence of want of wittnesses is a sham and contrivance.

- 1st And first it is to be observ'd that the minutes taken on Ayleway's Triall and herein before sett forth were taken much to M^r Ayleway's disadvantage and are inconsistent in some perticulars with the Information Exhibited. The preamble whereof is, that by reason of M^r Ayleway's holding places Inconsistent, his Mat^y's service was neglected &c (which incompetency is [f. 9] Ommitted in the Minutes taken and mention'd in the last article) and then proceeds to the first Article (vizt) That their Mat^y's Officers and Artificers of

¹⁰⁹ On 30 April 1691, for example, Edward Pain(e) replaced him as clerk of the Ordnance in Ireland: see Warrant appointing Edward Pain as clerk of the Ordnance in Ireland, 30 Apr. 1691, *Cal. S.P. dom., 1690–1*, p. 352.

the Train did greatly suffer for want of Tents and Bedding, of which there were great stores, and particularly when Encamp'd at Dundalke in the months of Sept^r and Octo^r 1689, so that the Charge as by the Information laid, is that those Officers and soldiers suffer'd &c by reason of the incompetency of the places, which occasion'd a neglect. Whereas in truth, when Encamp'd at Dundalke, M^r Clarke the Comptroller was living and M^r Ayleway was then only Commissary of the Train and consequently the neglect cannot be attributed to his having inconsistent places, before he had those places the Office of Comptroller being not granted to him untill after M^r Clarke's Death, and yet the offence by that means occasion[ed] is alleadg'd to be Comitted in his lifetime; In which particular the Charge is more inconsistent than the Employments were. Then the Offence as laid in the Information amounts not to a Crime, It being not sett forth that hee acted contrary to Orders; for tho the Offic^r had suffered for want of Tents etc it was no fault in Ayleway, having then three superior Offic^{rs} in the place, without whose Ord^r hee could not have given any.

But the Acts of the Court clears this point by declaring that it did appeare by the testimony of a great many witnesses that were Conversant with the Army all along, that they did not hear of any one offic^r that complain'd, and the Charge is not prov'd by any Evidence, nor any Examin'd to it, but Richards, which is grounded on hearsay, Nor could the other pretended material witness (Meesters) have said anything to this article, the suppos'd omission being above six months 'ere hee came into Ireland.

2^d and 3^d Then as for the 2^d and 3^d Article which alleadges that for want of Care in Loading ammunition, Match was omitted, whereby their Mat^y's army was retarded att Loughbrickland 24 hour's. And that the Army wanted amunition, and particularly Ball in their March to the Boyne, and when Encamp'd there, diverse of the waggons appointed for that Service being employ'd for other uses, as lent to Suttlers and private p[er]sons, whereby his Mat^y's army and service did greatly Suffer.

To which two articles united in one by the Court, M^r Ayleway has given sufficient prooffe that fully satisfied the Court, and was accordingly by them so declar'd, That there was not one Carriage lent by him to any private person w^tsoever, nor is there any proof pretended to be against him to that particular. And as to the other parte of the Charge, those that tooke the minutes, seem to leave it in doubt whether the proportion of Match and Ball, adjusted by the Gen^{ll} was carryed or not, whereas there was full proof made to the Court, And in particular by one Bloomendall a Dutchman produc'd on behalf of the King, That that proportion was carryed and was in Loughbrickland 'ere the army march'd from thence, [f. 10] and was from thence

Carried along. There was indeed some Ball left behind att Loughbrickland, but not of the adjustment, but of that, that was delivered to the Dutch, over and above the adjustment they ignorantly having overloaded the horses, to ease and remedy which (by Coll Goor's Orders) they lighted their Tumbrills att Loughbrickland, This was prov'd in Court and not deny'd by Coll^{ll} Goor then present, and the overplus was then all unnecessary, the proportion appointed by the Gen^{ll} being sufficient so that it appearing by the testimony's produc'd, both for and against M^r Ayleway that hee was innocent of the Charge sett forth in those two Articles. It could not therefore be pretended that there were witnesses to prove the contrary of what was soe admitted as evident.

4th The 4th Article sett's forth that a waggon containing the miners tooles and Instruments was left att Loughbrickland, which was greatly wanted when att the Seige of Lymerick, nor was it removed to Dublin till the Seige was rais'd.

As to this Article it is allow'd that the miners tooles were left behind for want of Carriage, but not by Ayleway's but by Coll Goor's orders, all which was proved on the Tryall by the aforenam'd Bloomendall; and it further appear'd to the Court by the testimony of the Capt of the Miners, and of a smith employ'd to make the Tooles, that Ayleway fearing the want of the Tooles so left behind, supply'd the same by causing as many Tooles to be made (in the march to Limerick att Carloe) as the Capt of the Miners deem'd sufficient, yet all this is omitted by the minutes taken, so that there could be no pretence for further evidence as to this Article to prove a matter soe confessed and avoided.

For some reasons herein after sett forth the 6th article comes to be dismiss'd before the fifth.

6th That no regular musters of the Train officers and Horses were made and kept by the said Ayleway, but that the stores were frequently (and p[ar]ticularly Iron) Imbezzi'd, dispos'd of, and sold either by the Comand or connivance of the said Ayleway, under pretence of subsistence without any order, when att the same time the Armorers att Carrickfergus were hindred in their work for want thereof.

Here the minutes allow that the Muster Rolls produced dispos'd the part of the article concerning irregular musters, But the minutes say nothing of Cap^t Hartwell chief armorers Evidence, who testify'd to the Court that hee had no want of Iron att Carrickfergus nor did his men there want work, that M^r Ayleway had imbezzi'd Iron there was no offer of prooffe and his accounts are since his Tryall pass'd.

Art. 5 That when att the seige of Lymerick for want of Canon Ball the said Seige was forc'd to be rais'd, shells being brought

thither instead of Ball, nor were the mortars handshells, sandbags and canvas, Ordered to be shipp'd off att Carrickfergus for Dublin in order to be sent to the Seige, everr brought from thence till after the army was decamp'd.

[f. 11] This Charge is very great and heavy and therefore requires to be the better clear'd, which cannot be more effectually done than demonstrating that all the matters sett forth in this article were solely the miscarriage of Meesters, the chief Engine against Ayleway in this heavy and oppressive persecution, all which will appeare evidently by the following p[ar]ticular.

And to shew this, even the minutes of the Court herein before noted (tho short in several p[ar]ticulars) sett forth that it appear'd to the Court the Commissary M^r Meesters left att Carrickfergus, and had the charge of the stores, and likewise had the care of shipping the said Mortars Canon Balls etc And which were accordingly shipped and arrived att Dublin in Aug^t last, and the same being directed to be reshipp'd for Waterford in order to the Seige of Lymerick, the mortars and Canon ball were kept in Dublin and the shells shipp'd for Waterford, and all done by the orders of Meesters and not by any default of M^r Aylewayes.

All which being thus made evident to the Court they declar'd their admiration wherefore Ayleway was prosecuted and Meesters spar'd, and yet that was omitted in the minutes; for reasons, which seem by the [?]connexion] of matters apparent, since the speedy dissolution of the Court seems to manifest the grounds of that omission. And the truth of matters is, that since the Dutch became concern'd in the Train, there were diverse notorious miscarriages, and to cleare the nocent the innocent must be accus'd, and since the accusation was not like to hold, it was thought more safe by the guilty rather to leave the matter still in suspense, than that M^r Ayleway should be released by a judgement, that so nearly troubled and reflected on M^r Meesters.

It will not therefore be thought impertinent to sett forth the p[ar]ticulars in reference to the Dutch manngement of the Train, sinceth it must be the more certain way of distinguishing the innocent from the nocent. On which point the weight and burthen of this whole Case stands. Which is as followeth.

About the 18th of June 1690 Coll Goor and Meesters began to Officiate, and on the 22th of the same month his Mat^y made the following Ord^r

William R.

Our will and pleasure is that the Ma^{rs} of our several Transport ships mentioned in the List hereunto annexed, follow such directions as they shall receive from our trusty and well beloved Coll Goor Coll of our Artillery in Order to the Carrying our ammunitiion, artillery and appur-tuances thereunto belonging to Carlingford, Given att our Camp near Loughbrickland this 22th day of June 1690 in the second yeare of our raighe

By His Mat^y's command Geo. Clarke

To the Ma^{rs} of the Transport ships above mentioned

[f. 12] This Ord^r was sent to the Ma^{rs} of the ships, by the hands of a poore Lighterman, without any manner of directions from Goor; whose directions they were by the order to observe, and thereupon the Ma^{rs} apply'd themselves

to Meesters, who sent the King's Order back by an Express to Goor for directions which was never return'd, and the following order was made the 26th day of the same month.

William R.

Our will and pleasure is that immediately upon sight of this our Order you sett sail for Carlingford with the ships on which our Artillery and ammunition is on board, altho you have no convoy along with you, And this our second Order you are to obey as you will answer the contrary att your perill, Given att our Camp near Loughbrickland the 26th day of June 1690 in the second year of our raigne.

By His Mat^y's Command Geo Clarke¹¹⁰

To the Capt and Ma^{rs} of the ship's for Transporting
our artillery & ammunicion in the Lough of Carrickfergus

Upon which the ma^{rs} immediatley sett sail; all this was sworne before Dudley Loftus¹¹¹, Ma^r in Chancery, by Ralph Heeley, Benjamin Master and John Weston, three ma^{rs} of those Transport Shipp's.

But now it was nois'd about the Camp, and in all probability the King was made to believe soe (as appears by wording the 2^d order) that the Ma^{rs} of the ships were disaffected and refus'd to obey his first order, under pretence that they had no Convoy, when there was no more in it, than Goores omission of directions. Now had the wind come about in the mean time and kept the ship's in harbour? what condition would the army have been in.

After the storeships arriv'd in Dublin Harbour, there was an apprehension that some french ships were design'd for that Harbour, whereupon the stores were confusedly thrown on shoare, and to put them in Order and settle a store in Dublin, Meesters was sent thither the 16 of July 1690, and whilst hee was in Dublin, And Ayleway with the Army on their March to the Seige of Limerick, Meesters did shipp off the stores of warr for that Seige, And ship't shells instead of Balls, which appears prov'd before the Court Martiall to Article the 5th And as an additionall proof thereof And that the proportions Meesters sent were very ridiculous. And that hee had sent Carcasses and shells for the 18 inch mortar, and forgot to send the Mortar, take this following affid^t

Wee whose names are hereunto subscribed, being ma^{rs} of two of the artillery ship's that sail'd from Dublin on the 5th of August last with stores of warr for Waterford, doe make oath, that the Granado shells of 9 inches $\frac{3}{4}$ diameter amounting in number to 763 and the Granado shells [f. 13] of 7 inches $\frac{3}{4}$ amounting in number to 80 as by receipts may appeare, being all that were sent of those kinds from Waterford, out of the said two vessells for the service of the seige of Lymerick in the said month of August were so sent away by the order of M^r Overtradt, one of the Dutch Commissary's of the Artillery, who came to us from time to time, and brought fireworkers along with him to see it effectually done,

¹¹⁰ George Clarke (1661–1736), Tory politician and administrator; secretary at War for Ireland (1690–2) and chief secretary for Ireland (1690–2), then joint-secretary at War in England (1692–1702).

¹¹¹ Dudley Loftus (1618–92), master of Chancery in Ireland (1655–95).

the rest of the Artillery ship's which were there during that time, having no such shell's on board; And saith that it was by the Order of M^r Meesters the Dutch Comptroll^r of the Artillery, that the Artillery ships which were there (being 10 in number including the 6 dutch Train ships) had brought thither such stores of warr, as they had on board them from Dublin, amongst which were Carcasses and shells for the 18 inch mortar, but the 18 inch Mortar was left behind att Dublin, And saith that M^r Ayleway, Compt^r of the Artillery never gave them any Order or directions concerning the said shells or the sailing any of the Train Ships thither, But doe remember that the said M^r Ayleway asked them, who sent those ship's and stores to Waterford, and to have heard him say often, that hee admir'd that the mortars were not alsoe brought along with the shells, That they^{had} no flints in any of the ships, and but a very small quantity of musquett shott, and other stores, and that hee was much concern'd that the proportion which they brought was soe ill suited.

jurat ambo cor[am] me 9^o die Januar 169^o/1

John Percey

Nicholas Gillam

Dud: Loftus

When these stores arriv'd att Waterford, Ayleway was sent from Limerick thither to receive them, and was very industrious to supply the defects of the proportion, hee gott lead att Waterford and cast 8 Tunn of Musq^t Ball, hee procur'd deales, Canvas for sandbag's and other necessary's, hee dispatched an Express immediately to Dublin for flints to be sent to the Camp forthwith upon Horses which was done accordingly; It was say'd that Meesters declar'd that hee sent all the Canon Ball in the stores of Dublin, the proportion he sent for Eight 24 pound^{rs} Gunns was 1900 Ball and for 4 Culverin 2014 Ball; now every body knows, that at a seige 24 pound^{rs} were of more use then the Culverins and yet for 8 of them but 1900 ball and for 4 other 2014 Ball. Att this rate were the rest of his proportions. But that there was more Ball in the stores, and that he knew it, Read this following affid^t

I Richard Orpen¹¹², Clerk of the Stores of warr doe make Oath that 7000 Ball for 24 poundrs and 4500 Ball for Culverin were in the stores att Dublin, and on board the artillery ships in the Harbour of Dublin when the amunition and stores were sent from thence to Waterford for the service of Lymerrick in tenn ship's by M^r Meesters the Dutch Comptroller on the 1st and [f. 14] fifth dayes of August and that I gave the said Meesters an account thereof, and of all the rest of the stores in Dublin, a week before the said Mr Meesters ordered the said ships to sail to Waterford, and further deposeth that the 18 Inch Mortar with the Carriage compleat was upon the Key att Dublin att the same time, and was Landed there by Order of the said Mr Meesters

Jur[at] cor[am] me 7^o die Maii 1691 Dud: Loftus

Ri: Orpen

¹¹² Richard Orpen (1652–1716). Sir William Petty's estate agent in Co. Kerry, and clerk of the Ordnance (1691): Barnard, *New anatomy* pp 211, 235; order to Richard Orpen, 25 May. 1691 (Worc. College, Clarke MS 7/8).

There is further to be observ'd on this affid^t that Meesters knew the 18 inch Mortar was in Dublin, when the Carcasses and shells for it were sent, and therefore hee has no Plea for himselfe but meer negligence.

When Meesters had dismiss'd these Transport ship's from Dublin hee himselfe march'd for Lymerick with 8 eighteen pound^{rs}, six Tinn boates, and what proportion of stores hee thought fitt, with a guard of 80 horse and 20 ffoot, besides the People belonging to the Train. On the 11th of August Coll Echlin¹¹³ with 140 Dragoones, mett him att Cullen about 18 miles short of Lymerick, and inform'd him that Sarsfield¹¹⁴ was abroad with a party and advis'd him to stay there all night, To draw up his Gunns and stores in the Court of the Castle, and hee would bee their Guard that night; Meesters accepted not the Coll^l's service, But march'd on a mile beyond the Castle of Cullen, where hee Encamp'd in so severe a place that Experience'd soldiers say, that had they been upon their Guard, and their Gunns drawn up, and loaded with partridge shott, they might have defended themselves against five times the number that came against them till relief could have come; But such was their wonderfull Care, after the Coll^l's caution, they were all surpriz'd, taken asleep in their Beds their Horses att Grass and very quietly knock'd in the head, Except carefull Meesters, who crept into a Ditch in a potato Garden, as hee himselfe relates it, and except some, who were taken Prisoners, and a few others who made hard shift to Escape, whilst the Enemy were destroying those things they could not carry off. The allar'm came to Coll Echlin who was diligently upon his Guard att his horsehead, Hee imediately mounted, attacked the reare, who were posted advantageously to secure Sarsfield's retreat, kill'd many of them, Beat them from their post and possess'd himselfe thereof, And notwithstanding all Sarsfield's endeav^{rs}, hee preserv'd his post and forc'd the Enemy to quitt all the Prisoners and Plunder they had taken.

Att Carrick in the March towards Lymerick the Dutch Offic^{rs} of the Artillery detach'd (without takeing notice of Ayleway) some Gunns and stores to march against Waterford, and coming before the Towne, Maj^r Gen^l Kirke having the Comand, Ordered Handgranadoes to be delivered out, but being told there was none, required the reason thereof from Aylway who acquainted him that hee was not made acquainted with what [f. 15] they brought, but that there were enough att Carrick, and if they were not brought, it was not his fault, which upon Examination hee found to be true, And after in open Court upon Ayleway's Tryall related this passage tho no mention thereof in the minutes.

That att the opening of the then next Campaigne, the Army made a long halt att Mullengarr, and 'twas generally say'd and believed their halt was occasion'd by the want of Tinn boates, when there were at that time Eleaven Tinn boates in Dublin never in service, with all their Carriages and furniture by them. This being discover'd and making a great noise, there came out an advertizement in the Dublin Intelligence of the 7th of July 1691, That the said Tinn boates were all along w^{thin} the knowledge of the Train, but being made

¹¹³ Lt.-Col. Robert Echlin (c.1657– by 1724), of (his uncle) Sir Albert Coynnyngham's regiment of Iniskilling Dragoones.

¹¹⁴ Patrick Sarsfield, first earl of Lucan (d. 1693) and Jacobite general. His raid on the Williamite artillery train at Ballyneety near Cullen in Co. Tipperary on 12 August destroyed the gunpowder and stores intended for the first siege of Limerick in 1690, forcing William III to raise the siege three weeks later.

useless last year were putt up etc. But how true this is may easily be judg'd, for it is well knowne that Duke Schonberg brought with him from England 20 Tinn boates with their Carriages and furniture, not one of them during the whole warr to the time of the army's forementioned halt att Mullengarr, being any way's prejudiced or impair'd, Except the 6 Boates which march'd with Meesters to Cullen, and those by Ayleway's Care were repair'd and made serviceable att Waterford, afterwards sent from thence by sea to Dublin, and the same six boates with 3 others march'd with the army to Mullengarr, so that the other 11 were never used yet left behind att Dublin.

There were several affid^{ts} made by Credible witnesses of several other negligent or ignorant miscarriages of these men which for brevity sake are here omitted.

When Ireland was reduc'd, these Dutch Command^{ts} never sumon'd the people of the Train to discharge them of the King's service, But their Country men were paid off all their arreares, and had a months pay given them besides, and were Carryed with them for England for the service in Flanders, whilst most of the English were left behind not knowing whether they were in the King's service or not, and to this day cannot gett their arreares. For the payma^r is permitted to goe for and continue in England, and when these poor people petition in Ireland, they are told nothing can be done till their acco^{ts} are stated, when they repair to England, and apply themselves to the payma^r to make up their accounts, they are answered, that hee cannot make them up there because his papers are in Ireland. When they tell the payma^r that they heard he had rec^d four months pay for them, hee ownes it, But sayes hee paid some, and the rest Meesters drew out of his hands, a little before hee went for Flanders. Thus a great many who serv'd all the warr well, and were in good Condition when they Entered into the service, are now with the widdows and Children of others that were kill'd in the service, starving in Ireland, of which necessity, barbarous advantage it taken, their arrears bought for a trifle, by some who know what they buy, and perhaps were the only [f. 16] Cause of that necessity, through a prospect of buying. Thus is the King deceiv'd and the Loyall subjects oppress'd.

Now to returne to Ayleway and see how hee spends the remainder of his Confinement, which was as follow's; After other Petitions the 20th of May 1691 hee apply'd himselfe to the Gen^l and pray'd that his Exc^y would determine whether hee was discharg'd from the King's service or not, if not, to be posted in his Employ, and if hee was, to have an Order for the payment of his arreares; but this mett with no answer. The 23th of June in the said yeare, hee prayed His Exc^y to doe something for his releife, to order him his arreares or some parte thereof, and to give him leave to attend his Exc^y as a Volunteer that Campaigne. The same Petition was again sent the 1st of August 1691; but hee rec'd no manner of answer; And his private affair's lying all this while neglected, by reason of his Confinem^t and his health much impaired, Hee petitioned the Lords Justices to grant him Licence to repair into the Countrey for one month, upon which follow'd this Ord^r.

By The Lords Justices of Ireland

Cha: Porter¹¹⁵

Tho: Cunningsby

¹¹⁵ Charles Porter (1631–96), Tory politician and lord chancellor of Ireland (1686–7, 1689–96), as well as lord justice (1690–2) with Thomas Coningsby.

Upon humble suit made unto us by Robt Ayleway Esq^r Wee are pleas'd to grant him Licence for one month to repair into the Countrey, about his own Concernes without prejudice to his Baile on his Mat^y's acco^t. Whereof all their Mat^y's officers whom it may concerne are to take notice and suffer the said M^r Ayleway to goe into the Countrey for the time above mentioned accordingly for which this shall be a warrant, given att their Mat^y's Castle of Dublin the 22th of August 1691
 Jutu By the L^d's Justices Commands Israell Feilding¹¹⁶

Now this month that was allow'd him for his private affairs hee spent the greatest parte thereof with the Earle of Granard¹¹⁷ in his Expedition ag^t Sligoe, and then return'd to his Confinem^t. But before this Ord^r came to his hands hee had rec^d the following authority.

By the Lords Justices of Ireland

Cha. Porter

Tho: Cunningsby

There are to Authorize and impower Rob^t Ayleway Esq^r to give Protection in the County of Leitrim to such Raparees and others who are desirious to come under their Mat^y's obedience, and shall deliver up their armes, Take the Oath of fidelity and allegiance to their Mat^y's, and give good security for their future peaceable demeanor towards their Mat^y's Government and to assure them [f. 17] in our names of a Pardon for all Crimes and Offences, murther only excepted, and likewise to protect such persons as shall come in with their stock of Cattle and other goods. Given att their Mat^y's Castle of Dublin the 4th day of August 1691

By the Lords Justices Comand

I. Feilding

Which authority I hope will be allow'd an Evidence that the L^d's Justices did not think Ayleway an Enemy to the present Governm^t nor the accusations against him true, and what proves it yet further, is, That when the Gen^{ll} and other offic^{ts} were return'd from the Campaigne to Dublin a Petition was p[re]ferr'd by him in the words following.

To the Right Hon^{ble} the Lords Justices his Exc^{ie} the Baron de Ginckell and the R^t Hon^{ble} the other officers assembled in Councell.

The prayer whereof was in termes thus.

Your Pet^f humbly prays that the Advocate Gen^{ll} may be oblig'd to give him Copyes of all the Orders and proceedings att his Tryall, and that if his Exc^{ie} apprehends your Pet^f not sufficiently acquitted of the Crimes Charg'd on him by that Tryal, That another Court-Martiall may be speedily appointed for his further Tryal, Or that hee may be dischar'd from his Confinem^t restor'd to the Execution of his place as Compt^f and ordered his pay as other offic^{ts} of the Train have had.

¹¹⁶ Israel Feilding (d. 1723). See above.

¹¹⁷ Arthur Forbes, first earl of Granard (1623–95), Scottish politician and commander-in-chief of the Irish army (1670–86). He joined William III early in 1689 and was placed in command of a detachment of 5,000 men in 1690 for the successful expedition to capture Sligo in western Ireland.

To w^{ch} Peticion hee rece^d no no answer. But another Court Martiall being pressed for by the said Ayleway's applycacon, Att last in Nov^r 1691 the Genⁿ released the prisoner, Ordering him only £100 in parte of his arreares without any further satisfaction to him, He being released after a Confinem^t of above 13 month (vizt) from the 2^d of October 1690 to the 12th of No^r 1691 by the Genⁿ only, But not acquitted by the final sentence of a Court martiall nor clear'd to his King of the Crimes hee stood Charg'd withal. And thereupon Ayleway repair'd for England, and humbly Peticioned his Mat^y for another Court Martial, his arreares etc; His Mat^y referr'd the matter to the Baron D'Ginckell as by the subseq^t Ord^r appears &c.¹¹⁸

Att the Court att Whitehall 2^d of Feb: 169^{1/2}

His Mat^y is graciously pleased to refer this Petition to his Exc^{ie} the Baron D'Ginckell to examine the allegations therein contain'd and to certifie what is due and in arreare to him for his Pay or otherwise, and to make a report thereof together with his opinion what may be fit for his Mat^y to doe therein, whereupon his Mat^y will declare his further pleasure.

Sydney

Upon which his Exc^{ie} Reports

In obedience to your Mat^y's Comands signified by my Lord Sydney I have Examined the annex'd Petition of Robert Ayleway Esq^r who was suspended and Confin'd for severall offences alledged to be Comitted by him in the Execuc^{on} of his office of Comptroller and Storekeep[er] of your Mat^y's Train of Artillery in Ireland, according as he setts forth in his Petition; Att last hee had a Tryall before a [f. 18] Court Martiall held in Dublin for that purpose, but upon Information that some of the witnesses were then in England, and others obliged to goe into the feild, the Court was dissolv'd before they proceeded to Judgement. It is humbly laid before his Mat^y, whether the said M^r Ayleway shall have another tryall as hee desires, or you will graciously please to acquitt him, of what he stood accused and receive him into your favour which is humbly submitted this 21st day of February 169^{1/2}

Athlone¹¹⁹

But here is to be not^d that notwithstanding Ayleway's frequent application hee could not gett this report but a day or two before the King's departure for Flanders, when his Mat^y was in a hurry of other business. And Ayleway has yet receiv'd no reliefe thereupon.

Then as to the Opinion of the Court Martial after the discussion of the last Article that the Offices of Comptroll^r and Comissary were incompatible M^r Ayleway thinks himselfe very free from blame or imputation in that respect, The same Court having att the same instant, declar'd that it was no Crime or fault in him, and truly it should be rather deem'd a Credit to M^r Ayleway than

¹¹⁸ The petition is mentioned in 'Proceedings upon the petition of Robert Ayleway', 2 Feb. 1692, *Cal. S.P. dom., 1691-2*, p. 122. It was subsequently referred on 8 February to Charles Fox, joint vice-treasurer of Ireland (with Coningsby), to report on whether £1,188 was indeed owed to Ayleway as he claimed: *Cal. treas. bks*, ix, 1533.

¹¹⁹ Ginkel had been ennobled as earl of Athlone in January 1692.

an offence, In the heat of warr & service to discharge the Office of such Employments sufficiently without fault, miscarriage or giving ground for any just complaint against him. And his acting's being no other then what was done by the power, directions and Comand of his Gen^l, what hee did in pursuance of such, cannot be imputed a Crime to him, And it is to be observ'd that tho M^r Meesters the material witness against him, and his accuser att the same time, that hee prosecutes Ayleway for holding Inconsistent Employm^{ts} did himselfe actually officiate in the several places following (vizt) Comptroll^r of the Train of Artillery; Comissioner of the Office of the Ordnance, Comptroll^r of the Bridgeboates, or some such office or place relateing to them, Payma^r of the Dutch belonging to the Artillery, and storekeeper of the Office of the Ordnance in England, the advantage of which Employments amounts to at least £2500 p[er] annu[m]. Yet the Inconsistency of all those places (all in themselves much more incompatible than those held by M^r Ayleway) was never Charg'd as a fault in him tho many great and notorious miscarriages were in the discharge thereof, soe that M^r Meesters might be well compar'd to the Glutton, that spitt in the pottage, to the end none else should eat of it, that hee may preserve all for himselfe.

Upon this whole matter it may be Collected how severely M^r Ayleway was used and handled, by the envious and malicious prosecutions of such who Comitted the Crimes themselves wherewith he was charg'd, And how far those Gentlemen were lead by their Ambitions and coveteous principles, in striking att the Life Liberty and property of an honest subject without other ground or reason, than the Expectation of reaping some advantage or satisfac^{con} by his ruine and fall, And without the least Colour of truth in what was [f. 19] alleadg'd against him, as may appeare by the whole tract of the forgoeing proceedings.

It was the Golden Rule of our forefathers to Encourage such as deserve well in the publick affair, with rewards rather exceeding their merritts, the end to invite and induce others to the service of the Government. So that advancements and rewards were the great nourishers & encouragers [of] virtue, and in effect two pillars that much contribute to the support of the great Burthen and weight of Civill Government. For tho in right reason, the publick affaire is more to be regarded by every p[ar]ticular, than any private advantage, for that all private Interests are but soe many Riveletts flowing from the great fountain of the Establish'd Lawes, and Constitution of the Government, and that failing, those must fall of Course, Yet since every Comonwealth was originally Instituted for the preservation of every one in his particular Property and Liberty, by an universall Law, regarding every individuall, It was deem'd Politick (since liberty and property is the Comon and particular Darling) to support and nourish the Root of Governm^t by cherishing those branches that contribute to the well being of it. On the other side since Government cannot be supported and subsisted, but by it's owne rules and methods, there is nothing more to be regarded, than the keeping of every subordinate within the Limits and rules of those Constitutions Established for them: And that by pruning and cutting off Rotton branches that impede the growth and p[er]fection of the flourishing Tree of Civill Government. So that as in the one Case those that deserve well are wel rewarded to encourage others to doe good, In the other Case the delinquents are severely punished.

Since those Rules seem to be the Bases of a well Govern'd City, by [?everting] them, things become confus'd and out of their proper Channell.

Therefore it was thought of advantage to the publick, to Comit the Case of M^r Ayleway to the press, for that it touches the public, tho him more particularly, And to the end that the readers and such as are Intitled to the protection of the Law's of England, might by p[er]usal of it find out and discover a great attempt made (in this particuler Case) to violate the Established Laws. And finding the Cause better able to cure y^e Distemper either by takeing Care that the Comitters of such notorious Offences be punished, to the end to prevent the like proceedings for the future, By deterring others from violating those Constitutions that preserve our Lives and Temporall beings, And to the intent that some redress might be proscib'd for M^r Ayleway, by meanes of some friendly application for him: So that the well doer may be rewarded, and the Delinquents punished, All which is the Intent of our gracious sovereign and hap[p]y Government.

The Laws of England are like the Banks of Holland, the least break on any of the Banks if not early repair'd will become an Inlett to [f. 20] Overflow the whole Countrey; And so it is if Breaches and Violations on the Laws be not speedily repair'd the Nocent are encouraged to enlarge the Breach and so by degrees overpower and merge those rules hitherto preserv'd and made for us by the wisdom of our forefathers, And they then will serve only as spiders webbs, that hold flies fast but let bigger and stronger Creatures pass through; The unchastis'd are, as if not tyed or bound by the Law's, and consequently may Lord att their pleasure over the just.

In this Case here is Liberty restrain'd, and Honest man depriv'd of his property, new formes of Judicature, not supported by any Law's among us, Introduc'd, Vice encouraged by M^r Ayleway's prosecuto^{rs} and virtue overcast with the darke Clouds of p[er]section and prejudice, And all this to gratify the Envious Humours of some few Dutchmen, who thought M^r Ayleway a Check on them, And to effect their designe of removeing him have by their intreigues and devices, rendred frustrate his [?sacred] Mat^ys positive and gracious Orders, granted on M^r Ayleway's Petition, Whereas had the same been observ'd according to his Mat^y's intent, M^r Ayleway had been fully releived; And it is not at all doubted, But that his sacred Mat^y will, in this Case (according to his wonted Clemency and Justice in releiving the oppress'd) Punish the Offend^{rs}, after due Examination of the Charge against him.