

## Erskine May, Vol. III, Chapter XVI, pp. 299-311

### Ireland to 1779

[299] WE have seen liberty steadily advancing, in every form, and under every aspect, throughout our political and religious institutions. And nowhere has its advance been more conspicuous than in Ireland. In that country, the English laws and constitution had been established as if in mockery. For ages its people were ruled, by a conquering and privileged race, as aliens and outlaws. Their lands were wrested from them: their rights trampled under foot: their blood and their religion proscribed.

### Condition of Ireland in 1760

Before George III. commenced his reign, the dawn of better days was brightening the horizon; yet, what was then the political condition of his Irish subjects? They were governed by a Parliament, whence every [300]Catholic was excluded. The House of Lords was composed of prelates of the Protestant church, and of nobles of the same faith,—owners of boroughs, patrons of corporations, masters of the representation, and in close alliance with the Castle. The House of Commons assumed to represent the country: but the elective franchise,—narrow and illusory in other respects,—was wholly denied to five-sixths of the people,(1)—on account of their religion. Every vice of the English representative system was exaggerated in Ireland. Nomination boroughs had been more freely created by the crown: in towns, the members were returned by patrons or close corporations: in counties, by great proprietors. In an assembly of 300, twenty-five lords of the soil alone returned no less than 116 members. A comparatively small number of patrons returned a majority; and, acting in concert, were able to dictate their own terms to the government. So well were their influence and tactics recognised, that they were known as the 'Parliamentary undertakers.' Theirs was not an ambition to be satisfied with political power and [301] ascendancy: they claimed more tangible rewards,—titles, offices, pensions,—for themselves, their relatives and dependents. Self-interest and corruption were all but universal, in the entire scheme of parliamentary government. Two-thirds of the House of Commons, on whom the government generally relied, were attached to its interest by offices, pensions, or promises of preferment. Patrons and nominees alike exacted favours; and in five-and-twenty years, the Irish pension list was trebled. Places and pensions, the price of parliamentary services, were publicly bought and sold in the market. But these rewards, however lavishly bestowed, failed to satisfy the more needy and prodigal, whose fidelity was purchased from time to time with hard cash. Parliamentary corruption was a recognised instrument of government: no one was ashamed of it. Even the Speaker, whose office should have raised him above the low intrigues and sordid interests of faction, was mainly relied upon for the management of the House of Commons. And this corrupt and servile assembly, once intrusted with power, might continue to abuse it for an indefinite period. If not subservient to the crown, it was dissolved: but, however neglectful of the rights and interests of the people, it was firmly installed as [302] their master. The law made no provision for its expiration, save on the demise of the crown itself.

Such being the legislature, to whom the rights of the people were intrusted,—the executive power was necessarily in the hands of those who corruptly wielded its authority. The lord-lieutenant, selected from English nobles of the highest rank, was generally superior to the petty objects of local politicians: but he was in the hands of a cabinet consisting of men of the dominant faction,—intent upon continuing their own power,—and ministering to the ambition and insatiable greed of their own families and adherents. Surrounded by intrigues and

troubles, he escaped as much as possible from the intolerable thralldom of a residence in Ireland; and, in his absence, three men governed the country absolutely, as lords justices. Contending among themselves for influence and patronage, they agreed in maintaining the domination of a narrow oligarchy, and the settled policy of Protestant ascendancy. As if to mark the principles of such a rule, the primate bore the foremost place in the administration of affairs.(2)

The proscription of Catholics at once insured the power, and ministered to the cupidity of the ruling party. Every judge, every magistrate, every officer,—civil, military and corporate,—was a [303] Churchman. No Catholic could practise the law, or serve upon a jury. The administration of justice, as well as political power, was monopolised by Protestants. A small junto distributed among their select band of followers all the honours and patronage of the state. Every road to ambition was closed against Catholics,—the bar, the bench, the army, the senate, and the magistracy. And Protestant nonconformists, scarcely inferior in numbers to churchmen, fared little better than Catholics. They were, indeed, admitted to a place in the legislature, but they were excluded, by a Test Act, from every civil office, from the army, and from corporations, and, even where the law failed to disqualify them, they might look in vain for promotion to a clique who discerned merit in none but churchmen. Such were the rights and liberties of the Irish people; and such the character and policy of their rulers.

### **Subordination to England**

And while the internal polity of Ireland was exclusive, illiberal, and corrupt, the country, in its relations to England, still bore the marks of a conquered province. The Parliament was not a free legislature, with ample jurisdiction in making laws and voting taxes. By one of 'Poynings' Acts,'(3) in the reign of Henry VII., the Irish Parliament was not summoned until the Acts it was called upon to pass had already been approved and certified, under the great seal, in England. Such Acts it might discuss and reject, but could not amend. This restriction, however, was afterwards relaxed; and laws were certified in the [304] same manner, after the opening of Parliament.(4) Parliament could say 'aye' or 'no' to the edicts of the crown: but could originate nothing itself. Even money bills were transmitted to the Commons in the same imperial form. Soon after the revolution, the Commons had vainly contended for the privilege of originating grants to the crown, like their English prototypes: but their presumption was rebuked by the chief governor, and the claim pronounced unfounded by the judges of both countries. The rejection of a money bill was also visited with rebuke and protest.(5)

The Irish Parliament, however, released itself from this close thralldom by a procedure more consonant with English usage, and less openly obnoxious to their independence. Heads of bills were prepared by either House, and submitted to the Privy Council in Ireland, by whom they were transmitted to the king, or withheld at their pleasure. If approved by His Majesty, with or without amendments, they were returned to the House in which they had been proposed, where they were read three times, but could not be amended. The crown, however, relinquished no part of its prerogative; and money bills continued to be transmitted from the Privy Council, and were accepted by the Commons.(6)

[305] These restrictions were marks of the dependence of the legislature upon the crown: other laws and customs proclaimed its subordination to the Parliament of England. That imperial senate asserted and exercised the right of passing laws 'to bind the people and kingdom of Ireland;' and in the sixth of George I. passed an Act explicitly affirming this right, in derogation of the legislative authority of the national council sitting in Dublin.(7) Its judicature was equally overborne. The appellate jurisdiction of the Irish House of Lords was first adjudged to be subordinate to that of the highest court of appeal in England, and then expressly superseded and annulled by a statute of the English Parliament.(8) The legislature of Ireland was that of a British dependency. Whether such a Parliament were free or not, may have little concerned the true interests of the people of Ireland, who owed it nothing but

bondage: but the national pride was stung by a sense of inferiority and dependence.

The subordination of Ireland was further testified in another form, at once galling to her pride, and injurious to her prosperity. To satisfy the jealous instincts of English traders, her commerce had been crippled with intolerable prohibitions and restraints. The export of her produce [306] and manufactures to England was nearly interdicted; all direct trade with foreign countries and British possessions prohibited. Every device of protective and prohibitory duties had been resorted to, for insuring a monopoly to English commerce and manufactures. Ireland was impoverished, that English traders should be enriched.(9)

Such were the laws and government of Ireland when George III. succeeded to its crown; and for many years afterwards. Already a 'patriot' party had arisen to expose the wrongs of their country, and advocate her claims to equality: but hitherto their efforts had been vain. A new era, however, was now about to open; and a century of remedial legislation to be commenced, for repairing the evils of past misgovernment.

### **Reforms of the 1760s—the Octennial Parliament**

One of the first improvements in the administration of Ireland was a more constant residence of the lord-lieutenant. The mischievous rule of the lords justices was thus abated, and even the influence of the Parliamentary undertakers impaired: but the viceroy was still fettered by his exclusive cabinet.

Attempts were made so early as 1761 to obtain a septennial Act for Ireland, which resulted in the passing of an octennial bill, in 1768.(10) [307] Without popular rights of election, this new law was no great security for freedom, but it disturbed, early in the reign of a young king, the indefinite lease of power, hitherto enjoyed by a corrupt confederacy; while discussion and popular sentiments were beginning to exercise greater influence over the legislature.

A new Parliament was called, after the passing of the Act, in which the country party gained ground. The government vainly attempted to supplant the undertakers in the management of the Commons, and were soon brought into conflict with that assembly. The Commons rejected a money bill, 'because it did not take its rise in that House;' and in order to prove that they had no desire to withhold supplies from the crown, they made a more liberal provision than had been demanded. The lord-lieutenant, however, Lord Townshend, marked his displeasure at this proceeding, by proroguing Parliament as soon as the supplies were voted; and protesting against the vote and resolution of the Commons, as a violation of the law, and an invasion of the just rights of the crown.(11) So grave was this difference, that the lord-lieutenant suspended the further sitting of [308] Parliament, by repeated prorogations, for fourteen months,(12)—a proceeding which did not escape severe animadversion in the English Parliament. Parliament, when at length reassembled, proved not more tractable than before. In December, 1771, the Commons rejected a money bill because it had been altered in England; and again in 1773, pursued the same course, for the like reason, in regard to two other money bills. In 1775, having consented to the withdrawal of four thousand troops from the Irish establishment, it refused to allow them to be replaced by Protestant troops from England,—a resolution which evinced the growing spirit of national independence. And in the same year, having agreed upon the heads of two money bills,(13) which were returned by the British cabinet with amendments, they resented this interference by rejecting the bills and initiating others, not without public inconvenience and loss to the revenue. This first octennial Parliament exhibited other signs of an intractable temper, and was dissolved in 1776. Nor did government venture to meet the new Parliament for nearly eighteen months.(14)

### **Condition of the People**

[309] In the meantime, causes superior to the acts of a government, the efforts of patriots, and the combinations of parties, were rapidly advancing the independence of Ireland. The

American colonies had resented restrictions upon their trade, and the imposition of taxes by the mother country,—and were now in revolt against the rule of England. Who could fail to detect the parallel between the cases of Ireland and America? The patriots accepted it as an encouragement, and their rulers as a warning. The painful condition of the people was also betraying the consequences of a selfish and illiberal policy. The population had increased with astonishing fecundity. Their cheap and ready food, the potato,—and their simple wants, below the standard of civilised life,—removed all restraints upon the multiplication of a vigorous and hardy race. Wars, famine, and emigration had failed to arrest their progress: but misgovernment had deprived them of the means of employment. Their country was rich in all the gifts of God,—fertile, abounding with rivers and harbours, and adapted alike for agriculture, manufactures, and commerce. But her agriculture was ruined by absentee landlords, negligent and unskilful tenants, half-civilised cottiers; and by restraints upon the free export of her produce. Her manufactures and commerce,—the natural resources of a growing population,—were crushed by the jealousy of English rivals. To the [310] ordinary restraints upon her industry was added, in 1776, an embargo on the export of provisions. And while the industry of the people was repressed by bad laws, it was burthened by the profusion and venality of a corrupt government. What could be expected in such a country, but a wretched, ignorant, and turbulent peasantry, and agrarian outrage? These evils were aggravated by the pressure of the American war, followed by hostilities with France. The English ministers and Parliament were awakened by the dangers which threatened the state, to the condition of the sister country; and England's peril became Ireland's opportunity.

### **Commercial Restrictions Removed**

Encouragement had already been given to the Irish fisheries in 1775; and in 1778, Lord Nugent, supported by Mr. Burke, and favoured by Lord North, obtained from the Parliament of England a partial relaxation of the restrictions upon Irish trade. The legislature was prepared to make far more liberal concessions: but, overborne by the clamours of English traders, withheld the most important, which statesmen of all parties concurred in pronouncing to be just.<sup>(15)</sup> The Irish, confirmed in the justice of their cause by these opinions, resented the undue influence of their jealous rivals; and believed that commercial freedom was only to be won by national equality.

[311] The distresses and failing revenue of Ireland again attracted the attention of the British Parliament, in the ensuing session. England undertook the payment of the troops on the Irish establishment serving abroad; and relieved some branches of her industry: <sup>(16)</sup> but still denied substantial freedom to her commerce. Meanwhile, the Irish were inflamed by stirring oratory, by continued suffering, and by the successes of the Americans in a like cause. Disappointed in their expectations of relief from the British Parliament, they formed associations for the exclusion of British commodities, and the encouragement of native manufactures.

### **Footnotes.**

1. Primate Boulter admitted that there were five Catholics to one Protestant in the reign of George II.—Plowden's Hist., i. 269, 271; Grattan's Life, i. 64.
2. On the accession of George III., the lords justices were the primate, Dr. Stone, Lord Shannon, a former speaker, and Mr. Ponsonby, then holding the office of Speaker.
3. 10 Henry VII. c. 4 (Irish).
4. 3 and 4 Philip and Mary, c. 4 (Irish).
5. In 1692.
6. In 1760 a Bill was so transmitted and passed.
7. 10 Henry VII. c. 22 (Irish); Statute 6 Geo. I. c. 6.
8. 6 Geo. I. c. 6.
9. 32 Charles II. c. 2, prohibited the export of cattle, sheep, and live stock; 10 and 11

Will. III. c. 10, interdicted the export of wool; and other statutes imposed similar restraints.

10. This difference between the law of the two countries was introduced to prevent the confusion of a general election, on both sides of the Channel, at the same time.—Walpole's Mem., iii. 155.
11. The lord-lieutenant, not contented with this speech on the prorogation, further entered a separate protest in the Lords' Journal.—Commons' Journal (Ireland), viii. 323; Debates of Parliament of Ireland, ix. 181.
12. From Dec. 26th, 1769, till Feb. 26th, 1771.
13. Viz. a Bill for additional duties on beer, tobacco, etc.; and another, imposing stamp duties.
14. The old Parliament was prorogued in June 1776, and afterwards dissolved: the new Parliament did not meet till October 14th, 1777.—Com. Journ.; ix, 289, etc. Plowden's Hist., i. 441.
15. Parl. Hist., xix. 1100-1126 . Plowden's Hist., i. 459-466; 18 Geo. III. c. 45 (flax seed); c. 55 (Irish shipping); Adolphus' Hist., ii.551-554; Grattan's Life, i.330.
16. E.g. hemp and tobacco.—19 Geo. III. c. 37, 83.

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