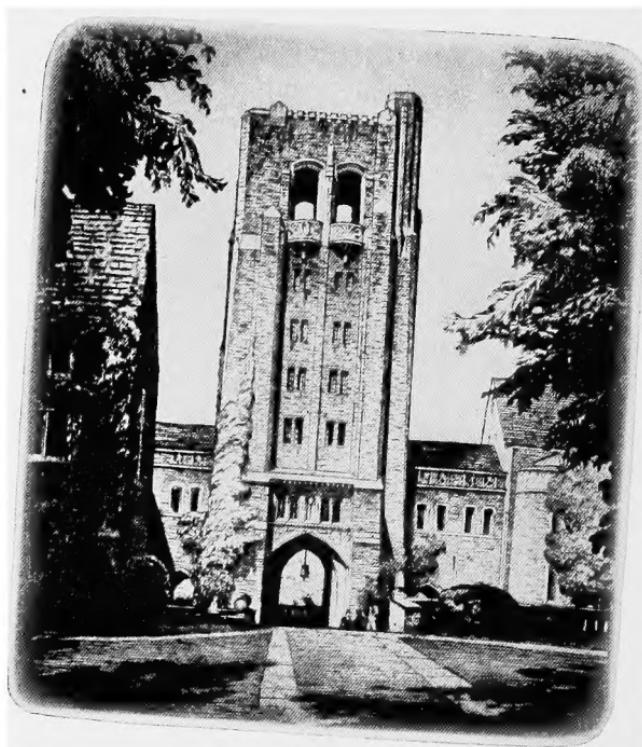




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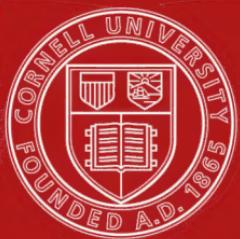
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THE LORD CHANCELLORS
AND
KEEPERS OF THE GREAT SEAL
OF
IRELAND.

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THE
LIVES
OF
THE LORD CHANCELLORS
AND
KEEPERS OF THE GREAT SEAL
OF
IRELAND,
FROM THE EARLIEST TIMES TO THE REIGN OF
QUEEN VICTORIA.

BY
J. RODERICK O'FLANAGAN, M.R.I.A.
BARRISTER-AT-LAW:

AUTHOR OF 'RECOLLECTIONS OF THE IRISH BAR' 'THE BAR LIFE OF O'CONNELL' ETC.

IN TWO VOLUMES.

VOL. I.

LONDON :
LONGMANS, GREEN, AND CO.
1870.

TO THE

RIGHT HONOURABLE

LORD O'HAGAN,

LORD HIGH CHANCELLOR OF IRELAND,

THESE LIVES OF HIS PREDECESSORS

IN THE HIGHEST JUDICIAL STATION OF HIS NATIVE LAND

ARE

BY PERMISSION

Most Respectfully Inscribed.

PREFACE.

A QUARTER OF A CENTURY has elapsed since I commenced writing ‘The Lives of the Lord Chancellors of Ireland.’ I had been but a short time called to the Bar, and my avocations did not prevent me from engaging in this work. I had read with great pleasure the first series of Lord Campbell’s ‘Lives of the Lord Chancellors of England,’ published in 1845, and was desirous of compiling a similar work in reference to the Lord Chancellors and Keepers of the Great Seal of Ireland.

The office of Lord Chancellor has existed in this country for many centuries; able and distinguished men many of these Chancellors were, and they exercised great influence upon the destinies of the kingdom. I felt anxious to render my work useful to the statesman as well as to the professional reader, and as, from the want of contemporary reports, the legal materials for the Lives of the early Chancellors were very meagre, I tried to make these memoirs interesting by narrating some of the stirring historic events in which they took part.

I had made considerable progress in my work when I was startled by the intelligence that a rival was in the field—a rival whose claims I could neither

contest nor compete with — who had been himself a **LORD CHANCELLOR OF IRELAND**—**JOHN LORD CAMPBELL**. I lost no time in writing to him to ascertain the truth of this report, and, if it was as reported, I offered to place my collection at his Lordship's service. He replied at once:—

STRATHEDEN HOUSE: *November 14, 1846.*

SIR,—I am much obliged to you for your polite communication. I am going on collecting materials for the Irish Chancellors, but I would not, at present, avail myself of the assistance which you are so good as to offer me.

I have the honour to be,

Your obedient faithful Servant,
CAMPBELL.

J. R. O'Flanagan, Esq.

The attention of his Lordship was shortly afterwards directed to other subjects, and his death having taken place without any indication of his having prepared the meditated work upon the Irish Chancellors, I resumed my labours. I applied to the present Lord Campbell, and to his accomplished sister, stating the offer I had made as a claim to any materials which the late noble Lord might have prepared, and I received from both most polite replies. They caused search to be made for any papers relating to Ireland, but without effect. The Honourable Miss Campbell wrote thus:—

‘After finishing the English Chancellors, and before beginning the Chief Justices, he certainly had it in his mind to turn to Ireland for the subject of his next biographical work, and I think he collected some books, and read up the subject, but, as far as I am aware, he wrote nothing. The field is therefore perfectly open to you, and I hope that a very successful book may be the result of your labours.’

I accordingly applied myself resolutely to my task, and spared no exertion to make my work worthy of its subject. It is divided into two volumes. The first contains the Lives of the Lord Chancellors from the earliest I could trace to Sir Constantine Phipps. The concluding volume will, I expect, prove far more interesting to legal readers, and terminates with the career of a great Irishman — Lord Chancellor Lord Plunket. I have received most valuable assistance from the Right Honourable William Brodrick, the present Lord Midleton, for the biography of his distinguished ancestor. I also beg to express my sincere thanks to my respected friends, Messrs. Labarte and Haverty, the learned and most attentive principal and assistant librarians of the Queen's Inns ; also to the officers of the Public Record Office, Dublin, particularly William M. Hennessy, Esq. M.R.I.A. I derived much aid from works placed at my service by the Honourable Judge Flanagan, and Ralph S. Cusack, Esq., Clerk of the Hanaper ; and the publications of Sir Bernard Burke, Ulster King-of-Arms, Evelyn P. Shirley, Esq., John T. Gilbert, Esq., the Reverend Dr. Moran, the Reverend John O'Hanlon, Dr. R. Madden, and the Calendars of Chancery Rolls, so carefully executed by my friend Mr. Morrin, under the truly valuable Commission of the accomplished Master of the Rolls of England — Lord Romilly. My thanks are peculiarly due to William Griffith, Esq. of the English Bar, Author of the admirable 'Institutes of the High Court of Chancery in England,' a work which contains a clear and concise history of the practice and procedure of

the Court, with the best practical references. Not only did he make useful suggestions while my work was in preparation, but caused searches to be made in the books of the various Inns of Court for dates of admission and calls to the Bar.

My thanks are also due to my accomplished friend William John Fitzpatrick, Esq., J.P., well known for his interesting biographical works. He placed a mass of materials at my service, which has proved extremely valuable towards the memoir of Lord Plunket.

In endeavouring to render my work suitable for the general reader, I have introduced matters which, in strictness, may be regarded as unsuited to a work of this nature. I wished to relieve the tedium of dry reading by incidents of historical or familiar interest. I hope my object will suffice for my excuse.

18 SUMMER HILL, DUBLIN :

September 1, 1870.

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LIVES
OF THE
LORD CHANCELLORS OF IRELAND.

INTRODUCTION.

OF THE LEGAL TRIBUNALS OF THE IRISH, PREVIOUS TO THE INTRODUCTION OF ENGLISH LAWS, WITH THE APPOINTMENT AND DUTIES OF LORD CHANCELLOR IN THAT COUNTRY.

BEFORE we proceed to narrate the Lives of the Lord Chancellors and Keepers of the Great Seal of Ireland, it may be instructive and entertaining to glance briefly at the legal tribunals and customs of the ancient Irish, previous to the arrival of the English.

Cormac MacArt, monarch of Ireland, A.D. 227, was distinguished for his devotion to literature and his success in the government of his kingdom. He is said to have regained his ancestral throne by his intellectual powers. A usurper, named MacCon, having defeated King Art, father of Cormac, in the battle of Magh Mucruimhé, near Athenry, seized the crown of the *Ard-Righ*,¹ and became chief monarch of Ireland. For some time after the death of his father, the young prince, like Alfred of England, had to remain in concealment among his friends in the province of Connaught, while the grievous taxes and oppressive rule of the usurper were daily making the people anxious for his fall. Cormac's friends pressed his rights to the throne, and, when matters were sufficiently

Legal tribunals of the ancient Irish.

Cormac MacArt, A.D. 227.

Defeat of King Art.

MacCon seizes the crown.

The usurper unpopular.

¹ Chief king.

Prince
Cormac at
Tara.

matured, the young Prince repaired to Tara, where the King held his Court. Cormac found the Ard-Righ sitting in the Judgment-seat, with the chiefs and rulers of the nation gathered around, listening to the decrees of their sovereign Judge. The case then at hearing was deemed of much importance ; in fact, a kind of State trial. Some sheep, the property of a poor widow, whose whole wealth they constituted, had strayed from a field at Tara, and, yearning for better browsing, trespassed on the Queen's lawn, and eat of the grass thereof. Being captured in the very act, they were impounded, and the Queen demanded justice for the injury she sustained by this trespass, *quare clausum fregit*. The King declared that 'the beasts were forfeited ;' but young Cormac came forward, and boldly declared the judgment unjust ; 'for, as the sheep had only eaten the *fleece* of the land, it was only their own *fleece* that should be forfeited.'

Case of
trespass,
quare
clausum
fregit.

The deci-
sion of the
King pro-
nounced
unjust by
Cormac.

Cormac's
sentence
approved
of.

The King
orders his
arrest.

The
usurper
dethroned.
Cormac
called to
the throne,
A.D. 227.

Collects
the Brehon
Code.

Bardic
description

This decision struck the assemblage as most just ; and even MacCon proclaimed, 'This is the judgment of a King.' At this moment he recognised the features of the Prince, and commanded his arrest. The people formed a living rampart round their rightful Sovereign, the guards of the palace declared for Cormac, and the power of the Usurper was at an end. He was banished, and Cormac ascended the throne of Tara, A.D. 227.

When firmly established on the throne, he felt the necessity of governing the Kingdom by just and well-considered laws. He collected and arranged that code which was administered by the *Brehons* or Judges, until the English introduced their laws, and which obtained for centuries after the arrival of the English, among the Irish who dwelt outside the pale. King MacArt's appearance and dress, as described by the bards, were splendid, though considerable allowance must be made for poetical license and courtly flattery.

' His hair was slightly curled, and of golden colour ; a scarlet shield with engraved devices, and golden hooks,

¹ This equitable decision was worthy of the *Woolsack*.

and clasps of silver ; a white folding purple cloak on him, of King Cormac, with a gem-set gold brooch over his breast ; a gold torque around his neck ; a white collared shirt, embroidered with gold, upon him ; a girdle with golden buckles, studded with precious stones, around him ; two golden net-work sandals, with golden buckles upon him ; two spears with golden sockets, and many red bronze rivets, in his hand ; while he stood in the full glow of beauty, without defect or blemish. You would think it was a shower of pearls that were set in his mouth ; his lips were rubies ; his symmetrical body was as white as snow ; his cheek was like the mountain ash-berry ; his eyes were like the sloe ; his brows and eye-lashes were like the sheen of a blue-black lance.¹

Cormac also collected the chronicles of Ireland into one book, called the 'Saltair of Tara.' This contained the tribute the Kings of Ireland were entitled to receive from the Provincial Kings ; and the rents and dues payable to the Provincial Kings from their subjects, likewise to the nobles from their vassals. In it were accurately described the boundaries of Ireland from shore to shore, from the provinces to the cantred, from the cantred to the townland, from the townland to the traighedh of land.²

It is most probable the ancient Brehon code underwent revision when Christianity introduced new modes of procedure and a kindlier feeling amongst the Irish. Indeed the 'Annals of the Four Masters' record this fact, and the *Seanchus Mor* was sometimes called *Cain Phadraig*--Patrick Law or Tribute. We must not dwell too long upon these Ancient Laws, now in the course of translation and publication. The most noticeable feature was the compensation for murder and other offences by the *Eric*, which is forbidden in Holy Writ--'You shall not take money of him that is guilty of blood, but he shall die forth-

Compensation by Eric.

¹ O'Curry's Lectures, p. 45. This translation is from the Book of Ballymote, quoting the *Uachonghail*.

² Four Masters, p. 117. These are denominations of land in Ireland.

with.¹ This law of Eric kept its place in the Brehon code long after Ireland was rescued from Paganism.

Tanaistry. By the law of Tanaistry the eldest son succeeded to the Chieftainship on the death of his father, unless labouring under some bodily or mental infirmity, or crime. The eldest son being thus presumptive heir, was called *tanaiste*, or second in rank, and had a separate establishment as such.²

Gavel-kind. Landed property was equally divided amongst the males by the ancient Celtic Law, called *gavail kinne*, gavelkind. If there was no male issue, females were allowed an estate for life. The tanaist always obtained the mansion-house with his portion, having to sustain the dignity of the family.

Tribe land held in common. The state of society being patriarchal and pastoral, the land belonging to each sept was held in common, every member having a right of pasturage and his share of the tillage-land commensurate with the number of his cattle. The tribe being, so to speak, one family, the claims of each individual was subordinate to the general interest of the tribe. Thus the demesne lands were assigned to the Chief, next to the Tanist or Chief elect, the Brehons or Judges, the bards or doctors. Although tributes or rents were payable, and metals—gold and silver—existed from an early period, cattle was the usual equivalent, instead of coin in Ireland, as in other nations of antiquity. Cattle constituted the medium of exchange and barter in England as late as the eleventh century. Selden mentions that ‘pounds and shillings were not abundant in England in 1004, but paid in truck and cattle.’

Cattle chiefly the mode of payment. Fosterage. A peculiar custom among the ancient Irish was fosterage.³ Every member of the nobility was bound by law to send his sons to foster—brought up with one of the family of his tribe. There was a regular fosterage fee, payable while the child was with his foster-parents. There was a

¹ Numbers xxxv. 31.

² This is still retained in the Scottish title of *Master*, given to the eldest son of a peer.

³ Vide *Seanchus Mor*, vol. ii.

doctor's fee, proportionate to the rank of the patient and nature of the malady. No fees were payable unless a cure were effected. The dress of the ladies was regulated by their rank, and its value was described by that of so many cows.

The ancient laws of Ireland are now preparing for publication, under the direction of a commission, authorised by Parliament for that purpose. This Commission has commenced its labours very properly with the *Seanchus Mor*, as the oldest and most important work relating to the ancient laws of Ireland. The *Seanchus Mor* was so much reverenced in olden time, that the Brehons, or Judges, were not allowed to abrogate any portion of it. The preface to 'The Law of Distress'¹ gives an interesting account of this digest of the Brehon laws, the time when composed, the occasion on which it was compiled, and names of its authors. The progress of colonization throughout Ireland, the establishment of circuits, and the extension of English language and laws, caused the Brehon code to fall into disuse about the year 1600. The ancient Irish employed many modes of determining guilt or innocence by ordeal, *Judicium Dei*. Many of these very singular customs deserve a brief notice. That which is best known was called *Moran's Collar*, of which there are some strange traditions related. If a guilty person put this collar round his neck, it compressed until he was choked. On the contrary, if innocent, the collar fell to the wearer's waist. Another was called *Tal Moctha*. This was the bronze axe of Moctha, a carpenter. The mode of trial was by heating the metal portion in a fire made of blackthorn, then the tongue of the accused was to be rubbed to the hot weapon. It burned the guilty, and the innocent remained unhurt. The *Crannchur*, or casting of lots, was used in various forms. In one, the bard or poet recited a poetical incantation over the one lot for the King, and one for the accused. Then the lots were drawn, when, if the accused

Doctors' fee not payable unless a cure was effected.

Publication of Brehon Commission.
Seanchus Mor.

Decline of Brehon laws.

Trials by ordeal.

Moran's collar.

Tal Moctha.

Crannchur.

¹ *Seanchus Mor*, vol. i.

The
branch of
Sen
MacAige.
Ordeal by
water.

was guilty, the lot adhered to his hand ; if innocent, he drew it forth without any lot sticking to his fingers. The Charmed Branch of Sen MacAige was used in deciding guilt or innocence. This consisted of three portions, or lots, put into water. The mode of ordeal here mentioned agrees with that practised by the Jews and other Eastern nations, as is recorded in the 2nd book of Kings (vi. 5). The ordeal by water was used by the Irish thus : Three lots were put in the water. The Prince's lot, the Ollamh's lot, and the lot of the litigant. If the litigant was guilty, his lot went to the bottom ; but if he was innocent, it floated on the top. This mode of ordeal by water is contrary to the commonly received application of this custom in Germany, France, and England. In these countries the ordeal was employed upon persons suspected *in propria persona*. With a rope fastened round the body, he or she (for, alas ! the gentler sex were often the victims of popular suspicion) was cast into a running stream, and if the body sank it was deemed a proof of innocence, and the accused was *sometimes* taken out alive ; while, on the contrary, if it floated, it was proof of guilt, as though the holy element—the pure stream—was supposed to reject the criminal.

Trelia
Mothair.

Another ordeal by lot was called *Trelia Mothair* (Three Stones of Blackness) ; a pan was filled with *dubh-rota* (black-rye), coal, or other black stuff, and three stones imbedded—one white, one black, and one speckled. The accused then thrust his hand into the pan, and drew forth a stone. The black was indicative of guilt, the white of innocence, the piebald somewhat like the Scotch verdict of 'Not proven'—left the case doubtful, and neither acquitted or condemned. It appears somewhat strange that among so warlike a nation as the Irish, the ordeal by battle does not appear to have been used. In the valuable paper on the forms of ordeal anciently practised in Ireland, read before the Royal Irish Academy by the learned Celtic scholar, William M. Hennessy, and published in the 'Proceedings of the Academy,'¹ no mention is made of this

Ordeal by
battle not
used by
the Irish.

¹ *Proceedings of the Royal Irish Academy*, vol. x. p. 34.

ordeal, which was common among other European nations. We shall find, however, that it was introduced by the Anglo-Normans, and, unhappily, survives to this day in the sanguinary duel, though the practice is daily becoming obsolete.

Although the English settlement in Ireland may be considered to date from A.D. 1172, it was long before English legal institutions embraced the entire kingdom. In that year Henry II. landed at Waterford, proceeded thence to Lismore, whereof the Bishop, Christian O'Conarchy, was Papal Legate for Ireland. Henry ordered a castle to be erected at Lismore,¹ and marched through Leinster to Dublin, where he arrived on November 11. A spacious hall of woodwork was prepared for his reception on the ground on which the south side of Dame Street now stands, and here he kept in great state the Christmas of that year. By his policy and representations, Henry induced the Irish Bishops and Clergy to convene a synod at Cashel, in which several of the Anglo-Normans, Lay and Churchmen, took part, and letters were procured from the Irish Bishops declaring Henry their sovereign lord. Before returning to England Henry planned his mode of governing Ireland by the Anglo-Norman rule. Then probably was prepared the ordinance known as the Statute of Henry Fitz-Empress, which provided 'that in the event of any Viceroy or Chief Governor for Ireland vacating office by death or otherwise, the principal nobles and officials of the Anglo-Norman colony there should be empowered to elect a successor, to exercise full Viceregal power and authority, until the King's instruction had been received.' In the list of the first Anglo-Norman officials of Ireland, we find no mention of a Chancellor. The high officers there named are: Lord Marshal, Lord Constable, Seneschal, Chief Butler, and Royal Standard Bearer. The first title of legal import was that of *Capitalis Justiciarius*, Chief Justiciary, a title used both in England and Normandy, and conferred on

English Settle-
ment in
Ireland.

Progress
of Henry
II.

The King
spends
Christmas
in Dublin.

Synod of
Cashel.

Irish
Bishops
acknow-
ledge
Henry II.
their sove-
reign lord.
Statute of
Henry
Fitz-Em-
press.

State offi-
cials.

Capitalis
Justicia-
rius.

¹ Now the picturesque seat of the Duke of Devonshire.

the highest official who, in the King's absence, was intrusted with the whole civil and military administration. The Justiciary, or Viceroy, of Ireland was required to give hostages for his fidelity, and was directed to take the advice of the Lords of the colony, as Privy Councillors.

Hostages.

English Law confined to certain families.

The colonists and such of the Irish as dwelt within the pale and acknowledged the English authority, were regarded as subjects entitled to the protection of English law, but all the Irish who dwelt outside the pale, not being recognised as subjects, were styled 'Irish enemies.' Instances occur in which certain septs of the Irish were, by special grants, enfranchised and entitled to the benefit of the English laws. On the Plea Roll of the 3rd of Edward II. all the septs or bloods 'qui gaudeant lege Anglicana quoad brevia portanda,' are named—viz., O'Neil de Ultonia, O'Molaghlin de Midia, O'Connogher de Connacia, O'Brien de Thotmonia, et MacMurrogh de Lagenia.¹

Accession of Henry III. A.D. 1216.

General amnesty.

Magna Charta extended to Ireland. Chancellor appointed.

On the death of King John, A.D. 1216, he was succeeded on the throne by his eldest son, Henry III. The first correspondence of the new sovereign with Ireland was of a conciliatory nature. A general amnesty was granted, and a royal letter to Hugh de Lasci prayed him to forget and forgive any oppressions he had suffered from the Government of England, and to return to his allegiance. The provisions of *Magna Charta*, that charter of freedom, won by the mailed barons and mitred prelates of England, was extended to Ireland, and we find the office of Chancellor established henceforth.

In the reign of King Henry III., John's son and suc-

¹ On Plea Roll of Edward III. we find—Simon Neal brought trespass against William Newlagh. Defendant pleaded that Plaintiff 'est Hibernicus et non de quinque sanguinibus, de les O'Nees de Ulton.' Plaintiff replied, 'quod ipse est de quinque sanguinibus, viz. de les O'Neles de Ulton, qui per concessionem progenitorum Domini Regis, libertatibus Anglicis gaudere debent et utuntur, et pro liberis hominibus reputantur.' The defendant traversed this, and, on issue joined, the finding was for the plaintiff, who had judgment and damages. Several cases to the same purport are met with in the Plea Rolls. Vide Morrin's Calendar, Patent, and Close Rolls, Chancery Ir. vol. ii. preface xxxix.

cessor, we find the office of Chancellor of Ireland mentioned for the first time in Mr. Smyth's 'Chronicle of the Law Officers of Ireland.'¹ John de Worchley is named as Chancellor, with the date of his appointment, 1219, 3rd Henry III. Lord Campbell, in his 'Lives of the Lord Chancellors of England,' declines engaging in the controversy attending the definitions of the word Chancellor. Some deriving the word *Cancellarius*, from *cancelling* the King's letter patent when contrary to law; others because he sat behind a lattice, called in Latin *cancellus*, to avoid the pressure of the suitors. In the earliest times the Chancellor was required by his office to hear and determine petitions addressed to the King; and, in progress of time, these petitions, instead of being addressed to the King, were addressed to the Chancellor. He is the highest legal functionary in the realm, per traditionem magni sigilli per dominam regem, and by taking the oaths. The Lord Chancellor of Ireland ranks in the roll of precedence in Ireland next after the Archbishop of Armagh, if a Peer; if not, the Archbishop of Dublin has precedence, but he ranks before the other great Officers of State, Judges and Peers.

In Ireland, the office of Chancellor was, and indeed still is, an office of great political importance. He was always the chief civil officer employed by the Sovereign to draw up his commands in a formal manner, and authenticate them with the Great Seal, placed in his custody. As the laws introduced into Ireland by the early English colonists were those of England, the practice of the two countries was similar. By the writ of 6th John it was the manifest intention of that monarch that the benefit of all the laws of England should be extended to the Irish generally, as well as the English, though abundant proofs exist that such wise intentions were frustrated by the Viceroy and nobles, who, for their own purposes, preferred to keep the natives beyond the benefits of English laws.

The early Chancellors, Judges, and Lawyers were English.

First
Chancel-
lor,
A.D. 1219.

Definition
of Chan-
cellor.

Custody of
the Great
Seal.

Chancel-
lor's prece-
dence.

Political
importance
of office.

English
Laws in-
troduced
by King
John.

¹ Smyth's Law Officers, 1.

Chancellors,
Judges,
and Law-
yers Eng-
lish, and
Ecclesias-
ties.

by birth and professional training. Learned men were those Chancellors, for the most part Prelates of highly cultivated minds, attached to the land of their birth, while exercising important sway over the destinies of Ireland. The influence of the Clergy in these days over temporal as well as spiritual affairs, was naturally great. Possessed of all the learning of these times, they were the chief counsellors of the Sovereign, as well as the advisers of the subjects. By right of office the Chancellors were Speakers of the House of Peers, paramount in the Council Chamber. They were called on to frame laws for the legislature, and decide the rights of the subject from the bench. Through their acquaintance with Civil Law, no small share of Roman jurisprudence mingled with laws of England, and helped to mould the equitable jurisdiction of the High Court of Chancery.

The Courts
held in
Dublin
Castle.

Account of
the Castle.

The Courts of Law were originally held in Dublin Castle. Here was combined every adjunct suited for the protection and convenience of its inmates. It was at once a palace, a fortress, a court of justice, and a prison. The palace of the Viceroy, with fortifications for his defence, Courts of Justice as well for the adjudication of civil rights, for the trial of offenders, and a prison for evil doers. There was also a chapel under the patronage of St. Thomas of Canterbury, and two chaplains assigned; each received an annual salary of fifty shillings, with two shillings for wax.¹ There was also a mill, called the King Mill. Around the Castle, for the most part, was a moat, called the Castlegripe, while on the massive walls were bastions, and gate towers, the narrow entrances being defended by portcullises, and iron-barred doors; a drawbridge on the southern side of Castle-street admitted communication with the city.

The hostages or pledges, which the Viceroys in early days obtained from the Anglo-Norman Lords, and chiefs of native clans, as securities for their due observance of the compacts entered into, as also for their allegiance to the English

¹ Probably for altar-lights.

Government, were usually lodged in the Castle of Dublin. Here also, at first, were held the Courts of Justice, wherein the Chancellor, and other Judges sent from England, administered the English laws to the Anglo-Normans settled in Ireland, as also to such of the natives as were entitled to the protection of English law.

The Exchequer, for some time the Court most frequented, was established early. This Court received and disbursed the Crown revenues which accrued from the royal estates, rents of towns, fines, customs, treasure-trove, and other casual profits. The simple method of computation then in use was by counters placed in rows upon the squares of the chequered cloth covering the table; and squared rods notched at the corners, styled tallies, were employed as vouchers.¹ In the manuscript Red Book of the Exchequer is a picture of that court in Dublin in the 14th Century. It represents six persons, probably official, at the top, to the right three suitors, opposite them three Judges, beneath the Sheriff. A crier to the right is adjourning the Court by the label, 'A demaine.' The official to the left, supposed to be Second Remembrancer, holds a parchment inscribed, 'Preceptum fuit Vice-comiti, per breve hujus Scaccarii.' The Chief Remembrancer, pen in hand, holds an Exchequer roll, commencing, 'Memorandum quod x^o die Maij,' &c.; while the Clerk of the Pipe prepares a writ, placed on his left knee. To the extreme left the Marshal of the Exchequer appears with a document, on which is written, 'Exiit breve Vice-comiti.' One of the Judges is represented as saying, 'Soient forfez.' Another, 'Voyr dire.' On the cheque-covered table we see the Red Book, a bag with rolls and counters. The suitors are also addressing the court. One with outstretched arm says, 'Oy de brie;' another, 'Chalange;' while the third, girt with a sword and laced boots, utters the words, 'Soit oughte.'

The salary of Lord Chancellor was anciently 40*l.* a year, exclusive of fees and perquisites. He had to maintain a

The Ex-
chequer.

This Court
in 14th
Century.

¹ Gilbert's Viceroy, p. 118.

Salary of
Lord
Chancel-
lor.

Gradual
increase of
salary.

special body-guard of six men-at-arms and six archers, fully equipped, for the protection of the Great Seal intrusted to his custody. The salary afterwards was increased. Roger Utlagh, in 1335, had 160 marks a year; Laurence Merbury, in 1407, had 6s. 8d. a day; Archbishop Cranley, in 1415, 10s. a day; Sir Richard Read, in 1546, 300 marks; these sums were besides fees. The value of such payments may be estimated from the prices of cattle, &c., in the Anglo-Norman colony in Ireland:—Cows from 5s. to 13s. 4d. each; heifers, 3s. 4d. to 5s.; sheep, 8d. to 1s.; horses, 13s. 4d. to 40s.; pigs, 1s. 6d. to 2s.; salmon, 6d. each. From the year 1598 the salary attached to this high office has largely and progressively augmented, thus: ¹—

	£ s. d.		£ s. d.
In 1598 . . .	415 6 8	In 1802, pension	4,000 0 0
„ 1629 . . .	415 17 8	Present salary .	8,000 0 0 ²
„ 1666 . . .	1,000 0 0	With retiring	
„ 1709 . . .	2,000 0 0	pension .	4,000 0 0 ³
„ 1727 . . .	2,500 0 0		

Chancery
the *officina
justitiae*.
grants.

The office of Chancellor, as we have seen, was instituted in Ireland as early as the reign of Henry III. The Chancery was the *officina justitiae* whence writs, or letters, issued in the King's name on a statement of facts by the aggrieved party. Remedial writs were directed to the Judges.

Royal
grants.

Keeper of
the Great
Seal, and
the King's
Consci-
ence.

Royal grants of dignities, offices, and lands passed through the Chancery, and were framed and authenticated by the Chancellor. The art of writing being little known in early times, when it was almost wholly confined to the Churchmen, seals were much used, and the King's writs and grants were sealed by the Chancellor, to whom, as the responsible officer, the King intrusted the custody of his seal, called the *Great Seal*. He was almost always a Clergyman in those times, generally a dignitary, and called the 'Keeper of the King's Conscience,' which I have no doubt was often a sinecure office. As time rolled on, and

¹ Vide Ware's work, vol. ii. p. 99.

² 2 & 3 Wm. IV. c. 116.

³ 40 Geo. III. c. 69.

the jurisdiction of the Courts were better defined, the Court of King's Bench was considered the proper tribunal to take cognizance of all matters of criminal law; the Common Pleas, the court for civil suits. The Exchequer entertained the cases of the King's revenue. The Chancery was divided into the Hanaper, or Hamper, in which writs were kept, and the Petty-bag side, where the records peculiar to the Court of Chancery were stored. There was also a Law Court where the validity of Royal Grants and other matters were tried by *scire facias*. But the peculiar jurisdiction of the Court of Chancery is its equitable jurisdiction, established most fully by the ingrafting of uses and trusts of real property. It has likewise important jurisdiction in cases of bankruptcy, lunacy, and custody of infants, and we can well suppose the Chancellor must have possessed a very general store of professional knowledge in former times to have administered the law in the Court of Chancery with credit.¹

The Chancellor has sole jurisdiction to issue writs of *ne exeat regno* under the Great Seal, which, as it affects personal liberty, is always issued with great care and caution. The duties and elections of Coroners are under the control of the Lord Chancellor, and on a proper case being shown he may remove the Coroner from his office.

The appellate jurisdiction of the Chancery is very great.

¹ I have examined the Calendars of Proceedings in Chancery in the reigns of Henry VIII. and Elizabeth, published from the originals in the Tower, in order to see the nature of the suits instituted about this time, and the following are among the pleadings printed:—

- ‘For an injunction to stay proceedings at law.’
- ‘To compel the defendant as feoffee in trust to make an estate to the plaintiff and his heirs in certain lands and tenements.’
- ‘To be relieved from an unjust demand made by the defendant, who is the keeper of a tavern to which plaintiff had visited; and praying a writ of *certiorari*.’
- ‘For discovery of deeds alleged to be in the defendant's possession.’
- ‘To set aside a deed obtained by fraud, and an injunction to stay proceedings.’

These, and similar records, show suits and pleadings have since varied but little.

Hanaper
and Petty
bag.

*Scire
facias.*

Equitable
jurisdi-
ction.

Writ of
*ne exeat
regno.*

Control of
Coroners.

Appellate
jurisdi-
ction.

The Lord Chancellor and Lord Justice of Appeal review the decisions of the Vice-Chancellor, the Master of the Rolls, the Judges of the Landed Estates Court, and the Court of Bankruptcy and Insolvency.

Custody
of idiots
and lunatics.

By statute 17 Edw. II. c. 9 the rents and profits of idiots and lunatics are given to the Crown, which has caused the Lord Chancellor to be invested with jurisdiction in all lunacy matters.¹

Speaker of
the Irish
House of
Lords.

When the Irish Parliament existed, the Chancellor was *ex officio* Speaker of the House of Lords, and not necessarily raised to the Peerage; but, if a commoner, he could not vote or act as a Member of the House. On the trial of Peers for treason or felony in the House of Lords his functions of Speaker were placed in abeyance, and a High Steward (usually the Lord Chancellor when a peer and a layman) was specially appointed by the Crown. As the early Chancellors were usually Bishops or other ecclesiastics, and therefore could not meddle in matters of blood, this appointment was necessary.² Yet we constantly find them holding Commissions of Assize, which must have required them to pass sentence of death. The High Steward is styled 'Your Grace,' and the formalities of a trial in the House of Lords are very solemn, as we shall see in the course of our Memoirs.³

Appoints
and re-
moves Ma-
gistrates.

The very responsible duty, and in Ireland one of the most important connected with the office of Lord Chancellor, is the appointment and removal of Justices of the Peace throughout the kingdom. This is usually on the recommendation of the Lords Lieutenant of each county, but may be at the discretion of the Lord Chancellor.

There is considerable patronage attached to the office,

¹ Vide form of warrant to Lord Chancellor of Ireland under the sign manual, giving jurisdiction in cases of idiots and lunatics, Lord Campbell's *Lives of the Chancellors of England*, vol. i. p. 14.

² Lord Campbell's *Chancellors of England*, vol. i. p. 17.

³ The last trial by the Peers of Ireland was that of Robert, 2nd Earl of Kingston, for shooting Colonel Fitzgerald. This was in 1799, and the case, which I give very fully, is one of the most romantic ever disclosed to the world.

and at one period some Church patronage existed which it was thought might prove embarrassing in the event, which now exists, of the Lord Chancellor of Ireland being a Roman Catholic, but this patronage was found to have ceased. The Lord Chancellor of Ireland is also *ex officio* member of various boards, and from his high station is regarded as a person of the highest consequence in the kingdom.

The dress of the Lord Chancellor of Ireland has undergone considerable alteration in the progress of time. The dress of a certain age, it has been shrewdly observed, has features of its own no less distinct than its laws, manners, and customs, and, as the character is affected by outward circumstance as much as the physical type is affected by climate, no one can question its importance. There is no doubt that the eyes of the multitude always are the readiest avenues for informing their minds, and impressions received through the visual organs exercise no small influence upon mankind. The ancient dress of a Chancellor, as related by Matthew Paris, was 'Tunica viridi foemina indutus, capam habens ejusdem coloris peplum in capite muliebre portans.' That is, 'a green tunic of a woman, with a cape of the same colour, and a woman's hood for his head.' This was by no means so striking as the Lord Chancellor's splendid State robes at present.

The title is Lord High Chancellor of Ireland. There is a wider distinction between the Chancellor, and Keeper of the Great Seal, of Ireland than in England. In this country we have patents of the two offices granted to the same person by express words—Lord Keeper first and then as Chancellor. The Lord Keeper has no power of hearing causes unless specifically conferred. Thus, in 1385, Thomas de Everdon was nominated Keeper of the Seals, in the absence of the Chancellor, with power to hear causes; and, in 1558, Hugh Curwin was constituted Lord Keeper when another patent gave him authority to hear and determine pleas proper to the Court. The office has frequently been executed by a deputy or Vice-Chancellor, but this power of delegation was either contained

Title.
Keeper of
the Great
Seal.

in the patent or authorised by special Act of Parliament as in Act 25th Henry VII. (1446), when Sir John Talbot was authorised to constitute a deputy with power to do all things belonging to the said office, which was not to expire by the presence of the Chancellor.

In the Chancellor's absence Commissioners appointed.

When the exigencies of State or private business calls the Lord Chancellor out of Ireland the practice is to appoint Lords Commissioners of the Great Seal, who act in his absence. Sometimes the Commission enables them to keep the Seal, while others are appointed Commissioners for hearing and determining causes in Chancery, and they have full power to act as Lord Chancellor.

Description of the present Great Seal.

The Great Seal has on the obverse the Queen seated upon the throne crowned, bearing the ball and sceptre, with Justice on one side and Religion on the other. On the lower portion are the royal arms; a rich border surrounds the seal. On the reverse is the Queen on horseback, the horse fully caparisoned, with a plume of ostrich feathers floating from the headstall, led by a page bare-headed. On the rest for the equestrian figure is a harp surrounded by shamrocks, and around the margin of the seal are the words, each divided from the other by a rose and rose leaves,

VICTORIA DEI GRATIA BRITANNIARUM
REGINA FIDEI DEFENSOR.

Tenure of office.

The tenure is during pleasure, and determined by delivery of the Great Seal when the Chancellor or Lord Keeper takes his oath of office. We shall find in the progress of our work grants of the office to individuals for life and sometimes during good behaviour. At present the functions of the Chancellor partake so much of a political character that his office determines with the administration of which he is a member. It is also determined by the death of the Sovereign.

Use of the Great Seal.

This Seal being the *clavis regni* emblem of regal authority is only used for special purposes, and entitles documents sealed therewith to be regarded as of authority

in the highest degree. By statute,¹ to counterfeit the Great Seal is treason; and when Chancellor De Balscot used the Great Seal of De Vere, Duke of Ireland, the favourite of Richard II., after his removal from office, he received (A.D. 1388) a smart reprimand from the King, who ordered the said Seal to be broken in the presence of the Council, and its fragments weighed and delivered into the Treasury.²

I now proceed to relate the ‘Lives of the Chancellors of Ireland’ as fully as my researches enable me to do.

¹ 25 Edw. III.

² *Vide post*, Life of Alexander de Balscot, Chancellor.

CHAPTER I.

OF THE LORD CHANCELLORS OF IRELAND FROM THE REIGN OF
HENRY III. TO THE REIGN OF EDWARD II.

CHAP.
I.

Early Irish
Records.

Difficulty
of tracing
early
Chancel-
lors of Ire-
land.

Stephen
Ridell.
A.D. 1186.
John de
Worckley,
Chancellor.
Ralph de
Neville,
Chancellor
of Ireland.
A.D. 1233.

THE early Irish Records are very defective. Many were burned in the Castle of Trim and in St. Mary's Abbey; others were carried out of the country, and are met with in the State Paper Office, the Rolls' Chapel, Record Office, and British Museum, in London; others are at Oxford. Several cities on the Continent possess valuable Irish documents, while many are stored in private houses, which the recent Commission will no doubt render available. We must not, therefore, feel surprise at the difficulty I have had to encounter in tracing the first Chancellors. Future biographers will not be in my destitute position. The admirably arranged Public Record Office of Ireland, at the Four Courts, Dublin, with its courteous and highly efficient staff, affords ready access to all searchers for antiquarian, legal, and historic lore. I could only discover the name STEPHEN RIDELL, Chancellor in 1186, and the date of the patent appointing JOHN DE WORCKLEY, Chancellor of Ireland.¹ Lord Campbell, in his 'Lives of the Lord Chancellors of England,' mentions that a pluralist dignitary of the Church, RALPH DE NEVILLE, Chancellor of England and Bishop of Chichester, in the time of Henry III., was so bent on engrossing the highest civil and ecclesiastical dignities, that he obtained from the King a grant of the Chancellorship of Ireland, to hold during the life of the Chancellor, with all the appurtenances, liberties, and free customs to the said Chancellorship of Ireland belonging.²

¹ A.D. 1219, Pat. 3 Hen. III.

² Lord Campbell's Lives of the Lord Chancellors of England, vol. i. p. 129. His Lordship adds: 'I believe this is the only instance of the office of Chancellor of England and Chancellor of Ireland being held by the same individual.'

It does not appear that Chancellor De Neville ever set foot in Ireland, for he discharged his functions by deputy. The King sent a writ-patent, dated at Gloucester, May 21, in the eighteenth year of his reign, to Maurice Fitzgerald, his Justiciary of Ireland, reciting the said grant of the Chancellorship, and ordering that Geoffrey de Turville, Archdeacon of Dublin, be admitted Vice-Chancellor, the Chancellor having deputed him thereto. If the deputy discharged his duties in Ireland as well as the principal in England, the suitors had no reason to complain. Matthew Paris speaks of him as one who long irreproachably discharged his official functions, who was speedy and impartial in administering justice to all, especially to the poor.¹

When DE NEVILLE ceased to hold the seal of Ireland, GEOFFREY DE TURVILLE was appointed Chancellor; and several other names appear upon the list in Mr. Smyth's work: ALAN DE SANCTAFIDE,² ROBERT LUTTREL,³ then GEOFFREY DE TURVILLE,⁴ RALPH, Bishop of NORWICH,⁵ WILLIAM WELWOOD,⁶ and FROMOND LE BRUN,⁷ who was Pope's Chaplain, and an official of considerable influence during these unsettled days in Ireland.

While matters stood thus in Ireland the power and authority of the Chancellor rose high in England. Toward the close of the reign of King Henry III. the office of Chief Justiciary fell into disuse. The *Aula Regia* was divided into the Courts of King's Bench, Common Pleas, and Exchequer. The Chancellor, as first magistrate under the Crown, became head of the law.

On the death of the Archbishop of Dublin, Fulk de Saundford, May 6, 1271, King Henry III. granted a license for the election of his successor, whereon the Prior and Convent of the Holy Trinity elected William de

CHAP.
I.

Henry III. appoints a Deputy Chancellor for Ireland. Geoffrey de Turville.

Names of Chancellors.

Fromond Le Brun.

Dignity of the Chancellor in England.

Contested election for the Archdeaconry of Dublin.

¹ Mat. Par. p. 312.² Pat. 1235, 19 Hen. III.³ Pat. 1238, 21 Hen. III.⁴ 1237, 22 Hen. III.⁵ 1237.⁶ November 4, 1245, 36 Henry III.⁷ 1259, 49 Hen. III. The ancient family of Browne of Moyne is said to have descended from a common ancestry with the Chancellor.

CHAP.
I.

la Corner, Pope's Chaplain, and King's Counsellor, while, on the same day, July 29, 1271, the Dean and Chapter of St. Patrick's, made choice of **FROMOND LE BRUN**; also Pope's Chaplain, and then Lord Chancellor of Ireland. This caused a tedious controversy between the respective electors, which lasted until 1279, when the Pope annulled both appointments.¹ **FROMOND LE BRUN** held the office of Chancellor of Ireland until his death in 1283, when the Great Seal was intrusted to **WALTER DE FULBURN**,² who retained it for five years. After him it went to **WILLIAM LE BUERLACO**.³

Thomas
Cantock,
Chancel-
lor,
A.D. 1292.

The next Chancellor was **THOMAS CANTOCK**, Bishop of Emly, appointed Lord Chancellor of Ireland in 1292. The name of this prelate occurs in our list of Chancellors, but scant materials can be traced for a memoir of his life.

Bishop of
Emly,
A.D. 1306.

Sir James Ware mentions him among the Bishops of Emly,⁴ and states he was a native of England. Having been ordained, he obtained preferment in the Archdiocese of Cashel, as Canon of Emly, and Prebendary of Mollagymon, and, in consequence of his learning in the laws, he was appointed Chancellor of the Diocese. Being elected to the See of Emly, he obtained the Royal Assent, on September 4, 1306, and the Chancellorship of Ireland. He must have been popular, for we have it recorded, that, on his consecration in that year, in Christ Church, Dublin, great numbers of the Nobility, Clergy, and others attended. He showed a due sense of the compliment by feasting them with a magnificence unheard of in those times.

Great feast
given by a
Chancel-
lor.

Records
burnt in
St. Mary's
Abbey.

Edward I.
the Eng-
lish Justi-
nian.

While the Bishop of Emly was Chancellor, a circumstance took place which showed the records were not then as carefully preserved as they are in our time; a fire broke out in St. Mary's Abbey, which consumed a number. The throne of England was now occupied by King Edward I. who, from the attention paid to the law in his time, has been called the English Justinian. In 1275 was passed the Statute of Westminster the First, in fifty-one

¹ D'Alton's Archbishops of Dublin, p. 103.

² 1288, 16 Edw. I.

² 1283, 2 Edw. I.

⁴ Ware's Bishops, p. 496.

chapters, which was more a *code* than an Act of Parliament.¹ Then, in succession, came the Statute of Gloucester, the Statute of Mortmain, that of Westminster the Second, that of Winchester, that of Circumspecte agatis, of Quo Warranto, and Quia Erruptores. Nor was Ireland omitted in these law reforms. The English Chancellor, Burnel, caused the Statute *Ordinatio pro Statu Hiberniae*² to be passed, introducing English laws into Ireland, for the protection of the natives from the rapacity of English officials, the spirit of which was speedily forgotten and the principle long denied to the Irish nation.

In the time of Lord Chancellor CANTOCK we find the first attempt to introduce the study of English law into Ireland. For this purpose an Irish Inn of Court was established called Collet's Inn, outside the walls of the City, where Exchequer Street and South Great George Street now stand.³ It does not seem to have had any success. The narrow boundary of English rule, hemmed in by the jurisdiction of the Palatines and of Irish Chiefs, who owned no allegiance, and submitted to no English law, made the practice of the King's Bench and Common Pleas very trifling. The Chancery was merely open for official business, and had then no equitable jurisdiction, while matters of revenue made the Exchequer a Court of great importance, and kept the Barons in full work.

The Chancellor died on February 3, 1308. The Great Seal was then in custody of Master John Cantock, at Dublin, and of Master Henry de Ruggeley, and remained so until the Saturday next after the Feast of the Purification of the Blessed Virgin. On this day the Custodees delivered the Seal to the Treasurer and Barons of the Exchequer, Dublin, by precept from the Treasurer and Privy Council. The Seal was then deposited in the Treasury, under the seals of the said Henry de Ruggeley,

¹ Lord Campbell's *Lives of the Chancellors of England*, vol. i. p. 104.

² 17 Edw. I. This statute contains eight chapters. This very important statute shows the Irish Court of Chancery was then established.

³ Duhigg's *History of the King's Inn*, p. 28.

CHAP.
I.

Excellent
Statutes
passed.

Ordinatio
pro statu
Hiberniae.

Attempt
to intro-
duce the
study of
English
Law.
Temp.
Edward I.

Collett's
Inn.

Little busi-
ness in
Irish Law
Courts.

No equi-
table juris-
diction in
Chancery.

Exchequer
kept busy.
Death of
Lord
Chancellor
in 1308.

The Great
Seal.

Great Seal
deposited
in the
Treasury.

CHAP.
I.

Master Walter de Islep, and Hugh Canon, to be kept there until the arrival of Piers Gaveston, Earl of Cornwall, Viceroy of Ireland. On his arrival he delivered the Seal to **WALTER DE THORNBURY**, who continued Chancellor but a short time, and was succeeded by **ADAM DE WODINGTON**, Chancellor in 1294, and **RICHARD DE BERESFORD**, Chancellor in 1307. On the death of Dr. Lech, Archbishop of Dublin, on August 10, 1313, **ALEXANDER DE BICKNOR**, Prebendary of Maynooth, was proposed as his successor, in opposition to **WALTER DE THORNBURY**, Chanter of St. Patrick's, and Chancellor of Ireland. The Chancellor seems to have had most votes, but, on his voyage to France, where the Pope then held his Court, he was overtaken by a furious tempest, and sad to relate, the vessel in which he took passage was wrecked, and he, with one hundred and thirty-six fellow-creatures perished; whereon, adds the historian, 'as if heaven had promulgated its judgment, De Bicknor's election was no longer opposed.'¹

Walter de
Thorn-
bury,
Chancel-
lor.The Chan-
cellor
elected
Arch-
bishop of
Dublin,
1313.The
Chancellor
drowned.William
Fitz-John,
Chancel-
lor.Bishop of
Ossory.Contest for
the Arch-
bishoprick
of Cashel.Three
rivals in
the field.

WILLIAM FITZ-JOHN, formerly a Canon of the Cathedral of Kilkenny, was the next Chancellor. He was held in such esteem by his fellow Canons that, on the death of Michael of Exeter, Bishop of Ossory in 1302, they elected him as his successor, and he was consecrated, with the consent of King Edward II. Ware says, by some mischance, he missed seizin of the temporalities of his See, and was forced to another writ, dated May 9, 1303. He administered the affairs of this diocese for about thirteen years, when a contest arose respecting the Archbishoprick of Cashel, which, I regret to find, was by no means an unusual circumstance in those times. The Dean and majority of the Canons assembled at Kilmallock elected John MacCorwell, Bishop of Cork, to the Archdiocese, others of the Canons collected in the Cathedral at Cashel and voted for Thomas, Archdeacon of that See. When the King was informed of this conflict, he thought to provide for a nominee of his own, a Franciscan friar named Geoffry de Ailham, but the Pope resolved to have nothing to say

¹ D'Alton's Archbishops of Dublin, p. 123.

to any of these ecclesiastics, and appointed William Bishop of Ossory. The King could not, and did not hesitate to confirm this selection, for this prelate was well known to his majesty for a great number of good qualities. His appointment to the Archdiocese of Cashel was confirmed April 1, 1317.

CHAP.
I.The Pope
appoints
the Arch-
bishop.

He took his share in the Government of Ireland; having been nominated deputy to the Viceroy Roger Mortimer, Earl of March, in 1318, and Lord Chancellor in that year.¹ The state of society, the tone and temper of the governors and the governed, when one claimed every species of arbitrary power over the other, arising from assumed superiority of race and the might of conquest, may be gleaned from occasional reference to Acts of the Irish Parliaments. Thus we find, that, in the reign of Edward II., it was the custom of men of might, the haughty nobles of the Pale, to sally forth from their well-defended castles, and with hawk and hound, and guard of soldiers, proceed in any direction their sport led. They speedily took possession of any farmer's house that promised good cheer, and made it their own for as long a period as they liked to stay. We may be sure the soldiers imitated the conduct of the knights and nobles. Soon empty hen-coops, bare haggards, and often ruined hearths, bore sad evidence of these predatory visitations. At length the Legislature was induced to interfere, and an Act of the 3rd

Chancellor
A.D. 1318.Conduct to
natives.

Edward II. recites, 'That inasmuch as merchants and the common people of this land are much impoverished and oppressed by the prizes² of great lords of this land, which take what they will throughout the country without paying anything, or agreeing with the owners for the same. And forasmuch as they will also sojourn and lodge at their pleasure with the good people of the country against their wills, to destroy and impoverish them, it is agreed and assented that no such prizes be henceforth made without ready payment and agreement, and that none shall harbour and sojourn at the house of any other by

Parlia-
ment in-
terferes.¹ 1318, 12 Edw. II.² From *prendre*, to take.

CHAP.

I.

such malice. And if any shall do the same, such prizes and such destructions shall be held for open robbery, and the King shall have the suit thereof, if *others dare not sue.*¹

Reputation of Chancellor.

His poverty.

Custos of Ireland.

His death.

Roger Utlagh Lord Chancellor, 1321.

Viceroy in 1327.

Chancellor FITZ-JOHN was reputed powerful, wealthy and venerable, both among the people and clergy, but his wealth seems apocryphal, for about six years before his death King Edward II. recommended him to the Pope as an object of compassion, and on January 20, 1320, wrote to his holiness very movingly in his behalf to procure release from instalments for the payment of some debts, due by his See to the Court of Rome. The letter stated as the cause of the Archbishop's poverty the serious devastations committed on him by Edward Bruce and the Scots who invaded Ireland, which were so great that 'from the time of his restitution of the temporalities until the date of the epistle he had not received the least profits out of his See, but was obliged to run in debt with his neighbours and friends even for necessaries, and to live only in hopes of a more plentiful income.' He was appointed Custos for Ireland, and allotted as his fee at the rate of 500*l.* per annum, but this gleam of prosperity was transient, for he only held office some months. He died in 1326.

ROGER UTLAGH, Prior of Kilmainham, a man of great learning and ability, was appointed Lord Chancellor of Ireland in 1321. As the Priors of Kilmainham sat as Barons in the Colonial Parliament, Utlagh quickly displayed his talents for statesmanship, and was rewarded with the custody of the Great Seal. He did not foresee the trials he would have to undergo as the penalty for his greatness. He combined the high offices of Lord Chancellor and Prior, and discharged the duties for several years. In 1327 he was elected Lord Deputy of

¹ The words I have put in italics show how dangerous it was to bring forward a legal claim against the men in power. Probably any hint to shorten a visit of this kind would elicit the same indignant reply, related of an Irish soldier, who, when billeted in a house situated in a proclaimed district, being expostulated with for the havoc he committed in the larder, made a bitter response, 'You mean scoundrel, am I not here *for your protection?*'

Ireland, and sworn into office on April 6. While holding this high place the case of Dame Alice Kyteler threw the country into commotion. CHAP.
I.

This remarkable case demands notice. Dame Alice Kyteler had been four times married to men of wealth. Case of
Dame Alice
Kyteler. Her first husband was named Utlagh, and she bore him a son, William Utlagh, who followed the employment of a merchant, and had money dealings with several of the chief nobles of the colony. The Sheriff of Kilkenny, by direction of the Seneschal of that liberty, Fulke de la Freegne, broke into Utlagh's house at night with an armed force, dug up and carried off with other moneys the sum of three thousand pounds, which was privately concealed by Utlagh and held in trust for his relative Adam le Blund, of Callan. Alice, his mother, appears to have been in partnership with her son, and not over nice in her modes of accumulating wealth. She is reported to have sought to increase her store by the refuse and sweeping of the ' Fair Citie on the Nore ' where there is

Air without fog,
Fire without smoke,
Water without mud,
And the streets paved with marble.

She also reaped a harvest by dealing in witchcraft, for the crop of credulity was then very prevalent in all countries. Alice dealt
in witch-
craft. She told fortunes, compounded charms, and love potions. Sorcery was always denounced in strong terms by the Catholic Church, and in the Decretals of Pope John XXII. declared heresy, in the punishment of which the secular courts were enjoined to assist the ecclesiastical. Heresy.

Unfortunately for Dame Alice, she did not cause her spells to bring happiness to her domestic hearth. She was accused by her own children and cited before the Bishop of Ossory, Dr. De Ledrede, on most revolting charges—to wit, that she caused the death of former husbands, having bewitched them to bequeath all their property to her favourite son William, leaving the rest of Charges of
witchcraft.

CHAP.

I.

the family in poverty. Even the husband then living joined in the information, and stated 'that she had by her spells reduced him to an attenuated condition, and caused his hair and nails to drop off; that having snatched from her the key of a chest, he found therein a bag full of necromantic compounds, which he transmitted to the Bishop.' A solemn inquisition was held before the Bishop on these charges, and the decision was 'that there existed in Kilkenny several heretical necromancers, including Dame Alice and six of her companions, who produced love, hatred, pain, disease, and death, by powders and charms; that, at evening prayer time between complin and curfew, Dame Alice swept the streets to the residence of her son, saying with conjurations, "May all the luck of Kilkenny come to this house," and finally, that she committed the care of all her treasure to her familiar demon, Fitz-Art, who assumed at will the form of a cat, or of a large black hairy dog, appearing at other times as a triple negro, with two ferocious black companions, larger and taller than himself, each flourishing an iron rod.'

Dame Alice
pays a fine.

Dame Alice compounded for the offence imputed to her by paying a considerable sum of money, and pledged herself to renounce all sorcery and witchcraft. She was not long free from trouble. Again accused, Bishop Ledrede sought the aid of the secular power and applied to the Lord Chancellor, who, at the time was Roger Utlagh, Prior of the Hospitallers at Kilmainham. He required the Chancellor to arrest and imprison this Kilkenny sorceress and her accomplices, including her son William Utlagh, who it is stated was cousin to the Chancellor.¹ The Chancellor, not so credulous as others, or willing to befriend his relations, sought to dissuade the Bishop from this fresh prosecution, and was seconded by Arnold le Poer, Seneschal of Carlow and Kilkenny, and chief Judge of the district. The Bishop then cited her to appear before his Court, when she failed to appear, but, we are informed, was defended by counsel sent by the

The Bishop
applies to
the Chancellor
to arrest her.Chancellor
declines.She is
cited
by the
Bishop.

¹ Gilbert's Viceroys of Ireland, p. 156.

Chancellor. Being found guilty, sentence of excommunication was pronounced against her, and a summons then issued requiring her son, William Utlagh, to attend before the Bishop. Before the day fixed for the trial, the Bishop was himself arrested by Arnold Le Poer, who dispatched a sergeant and armed troop to capture him. The place and time of his capture showed utter disregard for religion in the person of the Bishop, for he was taken into custody at the door of the Church of Kells, when on a Lenten visitation to his clergy. By this act Le Poer incurred excommunication, and the outraged Prelate placed the diocese of Ossory under an interdict, closing the churches, and refusing the rites of the church, except in cases of urgent necessity. At the expiration of eighteen days' imprisonment the Bishop was liberated ; he then caused notices to be posted on all public places within his diocese, summoning Dame Alice and her son again to his Court. In the meantime two writs of summons were served on the Bishop, one from the Court of Chancery, requiring him under a penalty of a thousand pounds to appear in person before the Viceroy, who was no other than Utlagh the Lord Chancellor, for having laid an interdict upon the diocese of Ossory. The other from the Metropolitan Court of the Archdiocese of Dublin, to attend before Archbishop De Bicknor, and answer the complaint of Arnold Le Poer. The Bishop sought to excuse himself from obeying these writs, on the ground 'he could not make the journey to Dublin without passing through the district of which Le Poer was Seneschal, and he feared to go thither,' but this was not deemed sufficient excuse, so the Archbishop annulled his interdict. After Easter in 1324, the Bishop applied for liberty to address the assemblage in the public Court House of Kilkenny, when the Seneschal sat as Judge, and the nobles, knights and burgesses were present. The application, as might have been expected, was peremptorily refused, notwithstanding which, the Bishop in his robes, attended by the chief ecclesiastical personage of his diocese, entered the

CHAP.
I.
Excommunicated.
The Bishop taken prisoner.

The Diocese under an Interdict.

The Bishop summoned before the Viceroy and Archbishop of Dublin.

Proceedings of the Bishop.

CHAP. I. court. An attempt was made to bar their progress, but they proceeded, and the Bishop, in a voice of authority, called on the Seneschal and the officials to attend to a matter concerning their faith. The Seneschal ordered him to leave the Court, and using strong language replied to the Bishop's request to put the law in force against heretics—‘ Seek your remedy in the King's Court, for our Court shall in no way support your jurisdiction in this matter.’

Dame Alice again summoned.

Escapes.

Her son imprisoned.

An accomplice burnt.

The Chancellor threatened.

Chancellor meets the charge.

Dame Alice, meantime, appealed to the Archbishop of Dublin, but does not appear to have succeeded in establishing her innocence, for a writ issued, commanding her to appear, on a given day, at Kilkenny to answer for her relapse into heresy. Before Ledrede could cause her arrest, she prudently effected her escape into England, and never again returned to Ireland. A public bonfire was made in the ‘ faire citie’ of the powders, ointments, philtres, and necromantic articles found in Dame Alice's house. William Utlagh, her son, was imprisoned in Kilkenny Castle for two months, and one wretched woman, who confessed herself a necromancer, and to have dealt with demons, was consigned to the flames at Kilkenny in the presence of a great concourse of people.¹

Bishop Ledrede wished to turn the tables upon the Chancellor whom he, Ledrede, accused for the part he had taken in these proceedings and favouring heresies, stated he would denounce them to the Pope, who he declared would bring down the Keys of St. Peter upon his head, with such effect, ‘ that the noise should be heard, not only throughout England and Ireland, but resound from the Irish shore to the Grecian Sea.’ Utlagh, being not only Lord Chancellor but Viceroy, and Prior of Kilmainham, insisted on the fullest investigation into the part he took in

¹ The belief in witchcraft crops up through the legal annals of England. In the reign of Queen Anne, when the literary productions of Dryden and Pope, Addison and Steele, Swift and Arbuthnot were enlightening the intellect of their contemporaries, a wealthy farmer, named Hicks, accused his wife and daughter, nine years old, of bewitching him. They were tried in July, 1716, found guilty, and executed.

the matter, and obtained leave from the Council to clear himself from the imputations of the Bishop of Ossory. Proclamations were made for three days, inviting any who had charges to prefer against the Viceroy to attend. Commissioners were appointed to examine the witnesses ; these were William Rodyard, Dean of St. Patrick's, Dublin, the Abbots of St. Thomas and St. Mary, the Prior of Christ Church, Mr. Elias Lawless, and Mr. Peter Milleby.¹

CHAP.
I.

Commiss-
ioners.

During the investigation the witnesses were examined separately, and it does not appear any proof was given in support of the charge against the Chancellor, each witness made oath 'he was orthodox, a zealous champion of the faith, and ready to defend it with his life.' On the Report of the Commission, Utlagh was solemnly acquitted, and, as was usual on such occasions, he entertained the public at a sumptuous banquet.

Chancellor
acquitted.

This malicious attempt to blast the Chancellor's reputation as a judge and ecclesiastic, so signally failed, that it increased his reputation. It was, perhaps, a wholesome lesson to show, that those who stand high, have many blasts to shake them, and it is always well to have a clear conscience in the hour of trial.²

Having ceased to hold the Great Seal, Utlagh continued to fulfil his duties as Prior, and improved the revenues of the Priory by his prudence and courage. Though the lands of the Priory were encompassed by the Irish tribes, the Knights Hospitallers, being men-at-arms, valiantly defended them. Headed by the sturdy

Utlagh
defends
the Pale.

¹ History of the Royal Hospital, by Rev. N. Burton, p. 87.

² Utlagh's liberality to Walter de Islep shows the method of living of the Chancellor while Prior of Kilmainham. This Walter was Lord Treasurer of Ireland, and was granted by the Chancellor entertainment for himself, two armigers, or upper servants, a chamberlain, and another servant, five boys and five horses. The said Walter to sit at the right hand of the Prior, at his own table, thereby to be more commodiously served, as well in eating as drinking. That he should eat as often as he pleased, together with his chaplain, esquires, and two other servants ; have white loaves and the best ale, and beef, mutton, and pork, raw or drest at his option, with roast meat, and soup.—Archdall's *Mon. Hib.* p. 233.

CHAP.
I.
Prior, the brethren defeated many incursions of O'Byrnes and O'Tooles from the Wicklow glens. Yet it was not always possible to protect the Marches of the Pale from these marauding bands. The O'Tooles made a raid upon the summer palace of the Archbishop of Dublin, at Tallaght, carried off 300 sheep, and slaughtered the Archbishop's servants. At length Utlagh yielded to the inevitable destroyer, and, full of years and honours, died A.D. 1340.¹

Death of
Ex-Chan-
cellor.

Ancient
Statutes.

At the first Parliament held in Ireland, 9th Edward II., five Acts of Parliament show the fruits of the labours of the Colonial Legislators. The people were then much harassed by exactions, and three of the Acts relate to relieving them from oppression. Two to providing proper remedies in the King's Courts of law, which then began to assume judicial functions.

¹ Burtons's Royal Hospital, p. 89.

CHAPTER II.

LIFE OF LORD CHANCELLOR DE BICKNOR.

THERE appears some uncertainty as to the time the Great Seal of Ireland was intrusted to Alexander De Bicknor. In Sir James Ware's *Synoptical Table of Lord Chancellors of Ireland*, I find he is named Lord Chancellor in 1325,¹ and in Mr. Gilbert's work on the *Viceroy*, he appears also as of the time of Edward II.² I, therefore, include them among the Lord Chancellors of this reign.

De Bicknor was descended from an English family who reached distinction in the reign of King Edward I., and he was a great favourite with King Edward II.

In January 1314, on the melancholy death of Chancellor Thornbury, he set sail for Lyons. He was recommended by the King to Pope John XXI. as a man of profound judgment, high morality, deep learning, strict integrity, and the greatest circumspection in spiritual and temporal affairs. These special recommendations would have secured the Pope's confirmation of his election to the See of Dublin; but the King changed his mind about the appointment, and gave sufficient reason for delaying it, that the Pope yielded, and De Bicknor remained to advise and assist the King in State affairs. On May 27, 1314, Edward II. named him in a commission with Raymond Subirani, and Andrew Sapiti, to negotiate certain matters relating to his foreign dominions with the Cardinals then attending the Pope at Avignon. When the business was concluded (and we may judge its intricacy by De Bicknor's having to correspond with no fewer than twenty-four

CHAP.
II.Uncer-
tainty
when De
Bicknor
was Lord
Chancel-
lor.His
family.His good
qualities.Employed
by King
Edward IICorre-
sponds with
twenty-
four Car-
dinals.¹ *Antiquities of Ireland*, by Sir J. Ware, vol. i.² Gilbert's *Viceroy*, p. 120.

CHAP.
II.
Appoint-
ment of
Arch-
bishop of
Dublin
confirmed.
Arrival in
Dublin.
De Bick-
nor sum-
moned to a
Parlia-
ment at
Lincoln.

Cardinals), he was confirmed in his appointment to the See of Dublin by Pope John XXI., and complimented on his 'great learning and conspicuous birth.' He was consecrated at Avignon on July 22, 1317.

Archbishop De Bicknor did not reach Ireland until Oct. 9, 1318, when he was sworn in Lord Justice and received by the clergy and laity with great warmth. On the 18th of November following he was summoned with the prelates and nobles to attend a Parliament at Lincoln, 'but,' says the Lords' Committee on the Peerage, 'on what ground the writ to the Archbishop of Dublin was issued the Committee have not discovered.' It might possibly have been in right of the manor of Penkeriz in England, conferred upon De Loundres and his successors.¹ In Lord Coke's chapter on Ireland² he states: 'Sometimes the King of England called his nobles of Ireland to come to his Parliament of England, and by special words the Parliament of England may bind the subjects of Ireland. He gives an entry on the Parliament Roll reciting the form of writ by which the Irish Peers were summoned to Westminster.'³

The King
applies for
aid against
the Scots.

In the first year of his appointment King Edward II., who was engaged in the war against Bruce and the Scots, applied for help, and, in order to enable the Archbishop to assist him, granted to his Grace the liberty of acquiring lands, tenements, and advowsons in Ireland to the value of 200*l.* yearly, exempting such as were held in fee of the Crown, to hold to him and his successors for ever. Application was made to him by Pope John XXII. to pronounce sentence of excommunication against the Bruces—Robert, King of Scotland, and his brother Edward—if they did not make satisfaction and restitution for the ravages, murders, robberies, and burning of churches committed throughout the kingdom of Ireland by their adherents.⁴ The invasion of Ireland by Edward Bruce, brother of Robert King of Scotland, forms a curious episode of Irish history of which

¹ D'Alton's Archbishops of Dublin, p. 125.

² Coke's Institutes.

³ Fourth Institutes, p. 350.

⁴ Rymer's *Fœdera*.

I have written a full account, but it is foreign to my present work.¹

There were very loose notions of practice in the law Courts of the colony for many years. This is hardly a matter for much surprise. In tempore Edward II., 1320, the inhabitants of the pale petitioned 'That inasmuch as the law is badly kept, for want of wise Justices, the King do order that in his Common Bench there be men knowing the law.'² And it was by no means unusual to avoid giving a decision until time was given to ascertain what the law was upon the point in England. At this period the Judges held their offices at the pleasure of the Crown, and were nominees of the nobles who had influence—they were partisans, corrupt, ignorant, solicitous only to please their patrons and enrich themselves.

CHAP.
II.
The state
of the
Irish
Bench.

The habit of peculation crept early into use among the officials in Ireland. This was perhaps owing to the very inadequate stipends allowed to officers requiring much larger sums for their support. In the time of Edward I. the Chancellor, Chief Justice of the King's Bench, and Treasurer, received only 40*l.* a year with fees and perquisites. In this reign Nicholas Le Clerc, Treasurer for the King in Ireland, was charged by the clergy of Tuam with appropriating a quantity of Church property, including rich silk vestments, a Bible, missal, and a silver gilt bowl. This was a heinous charge against an ecclesiastic. He was found guilty, imprisoned for defalcation in his public accounts, and his effects lay and clerical seized by the royal bailiffs.

But this is not the worst. The Chancellor-Archbishop of Dublin, Alexander de Bicknor, was obliged to throw himself on the clemency of Edward II., and to acknowledge that he had falsified his accounts by the introduction of counterfeited writs and acquittances.³

Anxious that the natives of Dublin should be brought

¹ Vide Chapter VI., History of Dundalk, by D'Alton and O'Flanagan, p. 46.

² Rot. Parl. vol. i. p. 386.

³ Gilbert's Viceroy's of Ireland, p. 120.

CHAP.
II.Founder of
the First
University
in Dublin.The
ancient
Irish
famed for
their
schools.Difficulties
of the un-
dertaking.

under the civilising influence of University education, Archbishop de Bicknor laboured to effect this object in A.D. 1320. He was aware of the great schools of Ireland in days long past—of the saints and sages who sprang from those schools. He was as an ecclesiastic familiar with the writings and teachings of Aidan, and Gallus, Adamnan, and Columba, Johannis Scotus Erigena, and others famed for their knowledge. ‘That so early as the eighth century,’ says Mosheim, ‘the Hibernians were lovers of learning, and distinguished themselves in those times of ignorance by the culture of the sciences beyond all other European nations, travelling through the most distant lands to improve and communicate their knowledge, is a fact with which I have been long acquainted; but that these Hibernians were the first teachers of the scholastic theology in Europe, and so early as the eighth century illustrated the doctrines of religion by the principles of philosophy I learned but lately from the testimony of Benedict Abbot of Armaine.’¹ He felt something ought to be done to revive the past glories of Irish literature, and sought to make the portion of the country occupied by the English the site of a University. It was a bold proposal undoubtedly, only to be accomplished with great difficulty, and it required no small courage to attempt such a work at that period. A University usually is provided by schools or educational establishments, to which it seems as a natural result or completion; but these do not seem to have had existence in the colony, and the learning then existing was chiefly supplied by Oxford. And as De Bicknor thought of Oxford he felt with a late gifted author² that even side by side with eternal Rome the Alma Mater of Oxford may be fitly named for producing a deep, a lasting, and peculiar impression. De Bicknor wished by the side of the Anna Liffey to raise aloft the standard of education, such as gained for Ireland her reputation in the days of old. He looked with the

¹ Mosheim, Cent. VIII. Part 2, Chap. III.² Hecker.

prophetic vision of one in our own day¹ ‘who loves this dear country with the devotion of a son, though not native of our soil, for a more central position than Oxford has—for a city less inland than that sanctuary, and a country closer on the highway of the seas. He looked towards a land both old and young—old in its Christianity, young in the promise of its future; a nation which received grace before the Saxon came to Britain, and which has never quenched it—a Church which comprehends in its history the rise and fall of Canterbury and York, which Augustine and Paulinus found. He contemplated a people which have had a long night and will have an inevitable day. The capital of that hopeful land, seated in a beautiful bay and near a romantic region, and remembering what activity and energy, perseverance and patient toil did for Athens with its rocky, barren, and sterile soil, its shallow streams, purposed to combat all difficulties, and saw again in his hopeful glance a flourishing University; whither, as of old, students were flocking from all quarters of the globe, all speaking one tongue, all owning one faith, all eager for one large true wisdom; and thence, when their stay was over, going back again to carry peace to men of good will over all the earth.’² Having laid the matter before Pope John XXII., his Holiness approved of the undertaking, and the rules for the University were as follows: ³—

‘In the name of God. Amen. We, Alexander de Bicknor, by the Divine permission Archbishop of Dublin, do will, grant, and ordain, with the consent of our Chapter of the Blessed Trinity, and St. Patrick’s in Dublin, to the Masters and Scholars of the University of Dublin, that the Masters Regent of the said University may elect a Chancellor, a Doctor of Divinity, or the Canon Law. So that if in either of our churches of the Blessed Trinity, or St. Patrick’s in the said place, any have obtained that degree

CHAP.
II.Reasons
for select-
ing Dublin.The Pope
approves.Rules for
the Uni-
versity.Election of
Chancel-
lor.¹ John Henry Newman, D.D.² The Catholic University Gazette, p. 24. Dublin: 1854.³ Antiquities of Ireland, by Sir James Ware, p. 37.

CHAP.
II.

in either of the said faculties, he shall by the same persons be chosen Chancellor before all others. And if, which God forbid, any division happen in the election, that then the election shall be carried by the votes of the major part. Upon the resignation or decease of the Chancellor of the said University, another shall be elected within fifteen days, and shall be presented to us, or our successors, or in our absence to our Vicars, and in the vacancy of the See to the Guardian of the Spirituals, to obtain confirmation. Moreover, we ordain that the Proctors actually regent, when there are many regent Masters, be elected in like manner as aforesaid. And that the said Proctors, when the University is without a Chancellor, shall supply his place. And if the election of the Chancellor be not made within fifteen days, that then the jurisdiction shall devolve to the official of the Court of Dublin, the See being full, or in the vacancy of the See to the Guardian of the Spirituals, till the Chancellor be elected and confirmed.

His jurisdiction.

‘ We grant, likewise, that the Lord Chancellor shall have spiritual jurisdiction over the Masters and Scholars, where they are plaintiff and defendant, and over their servants ; and shall have approbation and reprobation of the Wills and Testaments of the Masters and Scholars, and their servants ; and shall have the disposition of their goods if they die intestate. Yet, so that the fines and mulcts imposed for their delinquencies, and the profits arising from them, or from any other cause, shall be laid up in a chest, to be converted to the common benefit of the University, according to the disposition of the Chancellor and Masters ; and that the Proctor shall have two keys of the chest, and a third shall be in the keeping of some other whom the Chancellor shall name ; and the Proctor shall, twice a year, give an account to the Chancellor and Regent Masters or their deputies. And if the said Chancellor shall think fit to substitute any person or persons in his office, we by these presents give him power ; and if appeal shall be made from such his commissioners, it shall be first

Power to
appoint a
deputy.

made to the said Chancellor and Regent, who shall by themselves or others take cognizance of the cause; and if an appeal be made a second time, it shall be to us, or the official of our court. Moreover, Bachelors that are to be made in whatever faculty shall be presented to the said Chancellor and Regent Masters, &c.

CHAP.
II.
Appeals.

‘ Dublin, 10th February, in the year of our Lord 1320.’

With the usual enthusiasm of an earnest man, the Archbishop carried his project into some degree of completion. William Rodiant, Dean of St. Patrick’s, a doctor of canon law, was elected first Chancellor, and degrees of Doctor of Divinity conferred on several clergymen. A series of lectures in Divinity was instituted, and a fund for the maintenance of scholars was provided; but these funds failed, and the constant contention of which, alas, our domestic annals, offer such abundant proof, prevented the success of the project, and the University thus founded dwindled and decayed.

The pro-
ject carried
into effect.

In A.D. 1323, affairs of State called the Archbishop to the councils of his Sovereign. He went as Ambassador to France, deputed by the Parliament of England, having for his associate Edmund Earl of Kent, younger brother of Edward II., but their negotiation proved fruitless. He was again employed with the Earl of Kent and William Weston, LL.D., to reform the State and government of the Duchy of Aquitaine, and also to negotiate the marriage of the King’s eldest son, afterwards King Edward III., with the daughter of the King of Arragon.¹

De Bick-
nor Am-
bassador.

Having been in some measure instrumental in causing the surrender of the town and castle of La Royale, in Aquitaine, when besieged by the French; and also charging the King’s Chamberlain, Hugh De Spenser, with treason, the Archbishop incurred the King’s displeasure, and he determined to have him banished. Not wishing to act personally against so exalted a dignitary of the Church, King Edward applied to the Pope, and by letter, dated May 28th, 1325, made a formal complaint to his Holiness

Incurs the
King’s dis-
pleasure.

Complains
to the
Pope.

¹ Rymer’s *Fœdera*, vol. ii. p. 573

CHAP.
II.
No notice
taken
of this
complaint.

of the Archbishop's offence. He besought the Pope to banish this prelate from his kingdom and dominions, and have another Archbishop appointed in his place. However, the conduct of the King showed the Archbishop had reason for his imputation against De Spenser, and no action was taken upon the King's letter of complaint.

Prince
Edward
Regent.

Lord
Chancel-
lor.
The King
takes re-
venge.

On the contrary, in the following year, 1326, the Archbishop was one of the prelates and barons of England assembled at Bristol when Prince Edward was constituted Regent, while the King was absent, in company with Hugh De Spenser the younger, and other enemies of the State.¹ About this period he was intrusted with the Great Seal of Ireland. The King was determined to have some revenge on the Archbishop, so he sequestered the profits of the Archdiocese of Dublin, and applied the revenues to maintaining troops engaged in the Irish wars. The pretext was, that the Archbishop had incurred arrears to the Crown, while acting as treasurer. The Pope appointed him, in 1330, to collect the Pontifical tax, instructing him to exempt therefrom all benefices not exceeding six marks yearly.

Prece-
dency.

When Richard Ledrede, Bishop of Ossory, who took proceedings against Dame Alice Kyteler, was taken prisoner, his assailants took refuge in the Archdiocese of Dublin, where it is believed they were afforded protection from the just wrath of the Bishop of Ossory. On Bishop Ledrede visiting France, De Bicknor seized the profits of his See, and the Pope was obliged to interdict his metropolitical power during his life.² He had numerous contentions with his brother prelates. In 1337, when the Parliament convened by Sir John Charlton, Lord Justice, assembled at St. Mary's Abbey, he prevented the Archbishop of Armagh carrying his crozier erect before him. There had been for a long period questions of precedence between the Archbishops of Dublin and Armagh. In this year he was empowered by commission to treat with the

¹ Rymer's *Fœdera*, vol. ii. p. 600.

² Wadding's *Annals*, vol. viii. p. 419.

Bishop of Meath, and other well-affected dignitaries, respecting the affairs of Meath—to establish a militia for preserving the peace of that county, and apprehending all traitors and their abettors.¹

CHAP.
II.

In July 1339, the Archbishop was directed to put his fortress at Castle Keven in a state of defence, and as he was well acquainted with the state of Ireland—that difficulty for English Statesmen at all times—his presence was requested before the King's Council in London to enlighten them thereupon. What the nature of his testimony was does not appear.

Summoned
to Eng-
land.

The state of his accounts, when treasurer, had not been satisfactory, and accusations of a very harsh character appear to have been made, for when he obtained the formal pardon from the Crown in 1347, it uses strong language, such as releasing him 'for sundry false writs and acquittances which he had put into his treasurer's accounts in deceit of the King.' It was, however, very much the custom for officials in those days (and, indeed, in later times), when they considered their services not sufficiently remunerated by their official salary to help themselves. Such conduct was, of course, deserving of censure, and the higher in rank the culprit, the more guilty he should be regarded.

Pardon.

At a Synod over which he presided in Dublin, the Acts of which are preserved,² many excellent ecclesiastical regulations were promulgated. Such as beneficed clergy should not be bailiffs or seneschals of laymen. Monks not to be executors except under certain regulations; that the property of testators, or intestates, should be fairly distributed. He exhorted all to loyalty and peace. The last year of De Bicknor's life was disturbed by the inroad of a very renowned prelate, Archbishop Fitz Ralph, who was determined to assert the primatial rights of his See, Armagh, over that of Dublin. He was fortified by the authority of the King, and entered Dublin with the crozier erect before him, lodged in the city for three days,

Regula-
tions at a
Synod.

Primatial
rights.

¹ Rot. Tur. Berming.

² Wilkins' *Concilia*, vol. ii.

CHAP.
II. and openly proclaimed the privileges of his province, and the Bulls of his primacy.

This prelatic raid must have been very galling to the aged Archbishop of Dublin, especially when Fitz Ralph insisted on asserting his right before the Lord Justice, as also the Prior of Kilmainham, and such other peers as were then in town, but they, evidently, wished to get rid of their troublesome visitor, and he was sent back to Drogheda.¹

Death of
De Bick-
nor.

His cha-
racter.

His desire
to encour-
age in-
dustry.

Ancient
Statutes.

On July 14, 1349, Archbishop de Bicknor died. He had administered the government of Ireland for a considerable period, and the See of Dublin for thirty-two years, and was in no way inferior to any of his predecessors either in point of wisdom or learning.² He deserves to be remembered with gratitude for his efforts towards the establishment of a University in Dublin, and also he was a strenuous advocate for the employment of the people. One very remarkable discourse of his attracted much observation. He preached in Christ Church against sloth and idleness, and of the mischiefs arising from the stragglers and beggars that infested the streets of Dublin. He inveighed warmly against everyone who would not exercise some trade or calling every day. His sermon had the effect of inducing the Mayor of Dublin to exert his authority for the spread of industry throughout the city. He would not suffer an idle person to beg within his liberties, but only those who spun and knitted as they went to and fro, which kind of exercise even the begging Friars were obliged to imitate.³

The earliest mention of a Parliament in Ireland by name is to be found in the great Roll of the Pipe of 10^o to 12^o Edward I. On the close roll, 13^o Edward I. m. 5. is the following memorandum:—‘ Quod die Veneris in festo exaltationes sanctae crucis anno regni Edward 13^o, apud Wynton, liberata fuerunt Rogero Bretan, clero venerabilis patris, Stephani, Waterfordiensis Episcopi,

¹ D'Alton's Lives of the Archbishops of Dublin, p. 133.

² Sir James Ware. ³ Mason's St. Patrick's Cathedral, p. 135.

tunc justiciarii Hiberniae, quidam statuta, per regem et consilium suum edita et provisa; viz. statutum Westm. I., statutum post coronationem regis editum, et statutum Glouc., et statutum pro mercatoribus factum, et statutum Westm. II. in Parlamento regis paschae, anno praedicto, provisum et factum in Hibernia deferenda et ibidem proclamanda et observanda.'

CHAP.
II.

The first are declared to be statutes enacted by the King and his Council. The latter in the King's Parliament, that is, the King's Court of Justice, which were transmitted to Ireland to be observed there as law.

Much information relative to the publication of Irish legislative proceedings is contained in the Red Book of the Exchequer, which contains a mandate from Edward II. to his Chancellor of Ireland, Stephen Riddel, in 1318, to have the statutes of Lincoln and York enrolled, exemplified, and sent to all the King's Courts, and every county of the land; and commanding the officers of these Courts to cause the same to be published and observed.¹ When statutes were passed by the early Parliaments, transcripts of them were immediately sent for the guidance of the Judges and their officers. They were also directed to be read, published, and firmly maintained, by the Mayor and bailiffs of Dublin.²

Red book
of Exche-
quer.

The contents of the Red Book of the Exchequer is thus summarised:—‘ Statutum Dublin 11^o Henry IV.; Statutum Westmonaster.; Sheriffs, Justices of Peace, Treasurers and Escheators’ oaths of office; Writ for the observance of the stat. 3^o Ric. II., De Absentibus: Writ 4^o Ric. II. De Absentibus: Writ 7^o Edward III., relative to Customs: Articles of grievances sent to the King with the King’s answer, tempore Edward III. Statute 2 Westmonaster.: Brev de pardonatione debitorum Domini Regis 41^o Edw. III. Le Statut fair encontr les Admirals 13^o & 15^o Ric. II. Some Latin verses, and four causes assigned quare sancta crux adoratur: Ordinances of Kilkenny 3^o

¹ Red Book of the Exchequer, Dublin.

² Morrin’s Pat. and Close Rolls, Chanc. Ir. vol. ii. preface, p. xlvi.

CHAP.
II.

Edw. II., the four first chapters wanting: Ordinationes in Parl. Dublin 13^o Edw. II.: Le Serement des Collectours: Statutum in Parl. Dublin 11 Henry IV.: Bone Estatut pour le Peuple, and a drawing of the Court of Exchequer.'

Red book
continued.

Statutes of Lincoln and York, with a writ for their observance: Averment encinte protection, 10^o Henry IV., an ancient calendar, the twelve months complete. Some sacred writings; Latin verses; Qui jurat super librum tria facet, primo: Allowance to the Master of the Mint in England, pro operag' et Monetag'; and a memorandum quod W. de Wymundham misit 24 picias cuneorum in Hibernia pro moneta ibidem facienda: Proclamation for decrying false money—27^o Edwd. III.; Oath of Justice; De Juramento Vice Comitum et Ballivorum, and a writ of levari to the Sheriff of Dublin for the King's debts; 11^o Edward I. The Great Charter of Ireland 1^o Henry III.: Latin verses: Terms of agreement with the King by Walter de Lacy, pro habenda terra sua in Hibernia; Writ for the observance of certain ordinances: Writ of Edward IV. to the Treasurer and Barons, with the tenor of an Act of Parliament made at Naas, 13^o Henry VI., to discharge the Sheriffs of old debts; Statute of Rutland Edw. I. Serement des Viscomtes, Mairis, et Bailiffs Stat. I. West. Stat. Gloucestir; Ancient tables of calculation; Writ of Privilege for Clerks of Exchequer; Statutum de anno 38^o, Chap. 2, 2^o H.: Kings of England from William the Conqueror; Four writs de Capitali Banco; Oaths of allegiance, supremacy; Lists of Officials, Officers of Exchequer, Oaths of Commissioners of Appeals.

CHAPTER III.

OF THE CHANCELLORS FROM THE REIGN OF EDWARD II. TO THE DEATH
OF CHANCELLOR DE WICKFORD.

SEVERAL names appear in the list of Chancellors during the reigns of the Edwards II. and III., but few have left more than their names. We find JOHN L'ARCHER,¹ JOHN MORICE,² JOHN FROWYK,³ JOHN DE BOTHBY,⁴ WILLIAM TANY,⁵ JOHN KIPPOCH,⁶ who held the Seal, but few materials for a memoir of any until we come to a very wise and learned Judge, a Chancellor who presided in his Court with great ability, and afforded an excellent example to the judicial functionaries of his time. This was ROBERT DE WICKFORD, CHAP.
III. Archbishop of Dublin, to whom the Great Seal was intrusted in 1377. This distinguished Prelate was descended from the ancient family of De Wickfords, of Wickford Hall, in Essex. He was born about the year 1330, and displayed much ability during his student days. He graduated in the University of Oxford, and became one of the Fellows of Merton College. Having obtained the degree of Doctor of Civil and Canon Laws, he devoted himself to the Church, and was advanced to the dignity of Archdeacon of Winchester. His learning and varied accomplishments recommended him to the notice of King Edward III., who required a skilful and trustworthy ambassador to send abroad, and selected the Archdeacon de Wickford to carry out his views with reference to Continental States. In 1370, he was commissioned by the

Names of
Chancel-
lors of
whom
little is
known.

Robert de
Wickford,
Chancel-
lor.

His family.

Graduate
of Oxford.

Archdeac-
on of
Winches-
ter.

¹ Prior of St. John of Jerusalem. Patent in 1343.

² Patent West. 1346. ³ Prior of St. John. Patent 1357.

⁴ Pat. 1371. ⁵ Prior of St. John of Jerusalem. Patent 1374.

⁶ Justice of the Common Pleas. He was appointed Lord Keeper during the absence of William Tany, Chancellor, in England. Patent 1375.

CHAP. III. King to treat with Wenceslaus, Duke of Brabant, respecting the pay and allowances to be granted to that prince and his army during the wars in which he served the King. In the following year De Wickford received a commission as ambassador with others to the Earl of Flanders.¹ Edward III. was ever ready to avail himself of the abilities of his talented subjects, and about this period was engaged in building Windsor Castle, the design having been furnished by a Chancellor of England, the famous William of Wickham.

Treaty with Duke of Brabant. Constable of Bourdeaux. Judge of Appeal Court. Prosecuted while absent. Fined.

De Wickford's rank in the Church and his character for abstruse learning were not deemed inconsistent with military duty, for we find him, in 1373, Constable of the Castle of Bourdeaux, and treating with Peter, King of Arragon, for a league, offensive and defensive. In the month of April of that year De Wickford was joined in commission with Thomas Felton, Seneschal of Aquitaine, to take possession of that principality on behalf of the King's eldest son, Prince Edward, to whom it had been granted for life. De Wickford was also empowered to hear appeals in the Courts of that province, but he was not allowed to discharge his judicial office for any length of time, as the King had other employment for him.

It is not a little singular that in a suit against himself, in which Ivo Beauston was prosecutor, concerning a right to a prisoner, heard before Sir Guy de Bryan and Edmund Mortimer, Earl of March, the King's Judges in Aquitaine, he was treated with little consideration, if not injustice. Without citation, or other legal process necessary for the proper conviction of an offender, especially one absent on the King's business, and the Appellate Judge, he was adjudged guilty, ordered to pay and render 7,625 francs, 200 marks of silver, two good coursers, and one hackney. It is possible the Judges had some antipathy to the learned Canonist, and revenged themselves thus by summarily disposing of the case, but they did not long enjoy their triumph. De Wickford appealed to the King and

¹ Rymer's *Fœdera* :

Council in England, and Edward III. at once directed a mandatory writ at the prayer of the appellant, whom he honours with the title of his 'beloved Clerk,' bearing date June 26, 1375, commanding Thomas Felton, Seneschal of Aquitaine, William de Elmham, Seneschal of Gascony, and Richard Rotour, Constable of Bourdeaux, to supersede the said judgment, and citing Ivo Beauston to appear before the King and Council at Westminster, the day after the Purification following, then to abide such decree as the King and Council should make in the premises. I could not find if the case proceeded further.

Thomas Minot, Archbishop of Dublin, died in London in the year 1375, whereon the Prior and Convent of the Holy Trinity of Dublin, and the Dean and Chapter of St. Patrick's Cathedral of that city, applied to the King for his Royal license to enable them to choose a Bishop in place of the deceased Prelate. This was speedily granted, when, probably assisted by an intimation from the Throne, their choice fell upon the King's 'beloved Clerk,' which was ratified by a provision from his Holiness Pope Gregory IX., dated Avignon, October 12, 1375.

Before the close of this year the new Archbishop of Dublin was consecrated, and immediately summoned to take part in a Parliament assembled at Dublin. His heart must have been heavy with the woes of his patron, King Edward III., then watching by the deathbed of his son, the Prince of Wales, illustrious for every virtue, and from his earliest youth, till the hour he expired, unstained by any blemish.¹ There are but scanty records of these early Parliaments, yet that such were held appears from many works, to which I refer the reader desirous to investigate this subject.²

During the reign of Edward III. the power of the English in Ireland was in perpetual danger. In proof of this I may quote a mandate addressed, in 1355, by the King

CHAP.
III.

Sentence
reversed
by com-
mand.

Elected
Arch-
bishop of
Dublin,
1375.

State of
Ireland.

¹ Hume's History of England, vol. iii. p. 100.

² 2 Rich. III. c. 8. Essay on Parliaments in Ireland, by Mason, p. 3. Whiteside's Irish Parliaments, Part I. p. 17.

CHAP.
III.Mandate
from Ed-
ward III.
to the Earl
of Kildare.

to Maurice Fitz Thomas, fourth Earl of Kildare, one of the noblemen most respected in the country, complaining of that nobleman not more effectually repressing incursions on the marches or boundary dividing the English territory from that held by the native Irish. The King wrote thus reprovingly :—‘ Although you know of these invasions, destructions, or dangers, and have been often urged by us to defend these marches jointly with others, you have neither sped thither, nor sent that force of men which you were most strongly bound to have done for the honour of an Earl, and for the safety of these lordships, castles, lands, and tenements which, given and granted to your grandfather by our grandfather, have thus descended to you. Since you neither endeavour to prevent the perils, ruin, and destruction threatening these parts, in consequence of your neglect, nor attend to the orders of ourselves, or our Council, we shall no longer be trifled with ; and now ordain that you, in your proper person, with five other mounted men-at-arms, twelve mounted hobilers, forty archers, and other foot-soldiers in good array, shall be at Rathmore, on Monday next, after the Octave of the Holy Trinity, or on the Tuesday following, at the farthest, to maintain a guard there, at your own costs, for the defence of your lands and of those parts. Therefore, on your allegiance, and on pain of forfeiting both your body and all your lands, held from us in the County of Kildare, we command you to perform and continue in this service, with our other subjects, against the enemies as occasion may require ; otherwise the confiscation shall be enforced against you.’

Difficulty
of travel-
ling.

Considerable difficulty was encountered by the Anglo-Normans planted in distant parts of the country, in making their way to Dublin to attend Parliament, or for business or pleasure, partly arising from having to traverse districts occupied by the hostile Irish, and partly from advantage being taken of their absence, by the old proprietors, to regain the possessions of which they were

deprived. The high legal officials were usually English Ecclesiastics.

CHAP.
III.

The Chancellor was allowed as guard for his personal safety, and for that of the Great Seal, which he held in custody, six men-at-arms, and twelve mounted archers. The King's Treasurer had a like number, and they usually formed the retinue when they rode beyond the suburbs of towns, or escorted the Viceroy from place to place.

Chanc-
lor's
guard.

Among the incidents of this reign, I may mention a pilgrimage, performed by Maletesto Ungaro, Lord of Rimini and other territories, renowned for his intrepidity, learning, and piety, to the Purgatory of St. Patrick's in Lough Derg.¹

St. Pa-
trick's
Purgatory.

The temporalities of the Archdiocese of Dublin had been committed, on the death of Archbishop Minot to Stephen, Bishop of Meath, and it was some months before the new prelate obtained the writ of restitution. Having got into possession, Easter 1376, his grace was unpleasantly reminded that he was possessed of attachable property in Ireland. A clerk in England named Thomas, who had obtained a judgment against him for 10*l.* previous to his elevation to the Archbishopric, made affidavit that 'the defendant lived in Ireland and had goods and lands there, and that the sheriff made return to a former writ, that he had neither lands or goods in Eng-

A writ
against the
Arch-
bishop of
Dublin.

¹ This is certified by King Edward III., as follows: 'Whereas Maletesto Ungaro of Rimini, a nobleman and knight, hath presented himself before us, and declared that, travelling from his own country, he had, with many bodily toils, visited the Purgatory of St. Patrick, in our land of Ireland, and for the space of a day and a night, as is the custom, remained therein enclosed, and now earnestly beseeches us that for the confirmation of the truth thereof, we should grant him our royal letters: We, therefore, considering the dangers and perils of his pilgrimage, and although the assertion of such a noble might on this suffice, yet we are further certified thereof by letters from our trusty and beloved Almarie de St. Amand, knight, Justiciary of Ireland, and from the Prior and Convent of the said Purgatory, and others of great credit, as also by clear evidence, that the said nobleman hath duly and courageously performed his pilgrimage: We have, consequently, thought worthy to give favourably unto him our royal authority concerning the same, to the end there may be no doubt made of the premised, we have granted unto him these our letters under our royal seal.'

CHAP.
III.
land, whereupon he was ordered a writ of *fieri facias* empowering the sheriff of Dublin to levy the amount of said judgment off the lands and chattels of the Archbishop within his bailwick.¹

Chancellor
of Ireland.

Toward the close of 1376,² the Archbishop was appointed Chancellor of Ireland, and, in the ensuing year, 1377, received a mandatory writ to alter the Great Seal, the ill-fated King Richard II., then only eleven years of age, having succeeded the chivalrous and strong-minded Edward III. The King's guardians sent Sir Nicholas Dagworth to scrutinise the conduct of the officials in Ireland, and with a view to economy, issued an order to the Chancellor, to change the circumscription on both sides of the Great Seal in his custody, by having the name of Edward removed, and that of Richard substituted for it.³

The Archbishop was awarded, at this time, a liberate of 20*l.* from the treasury, for his expenses attending a Great Council at Tristedermot, also the Parliament held there, which continued for four weeks.

Absentees
from Par-
liament
fined.

Case of the
Bishop of
Emly,
Temp.
Edward
III.

Absentees summoned to Parliament were fined. On the Memoranda Roll, 9^o Edward III., the Bishop of Emly not having attended pursuant to his summons, was fined. He petitioned, praying to be excused, and by inquisition it was proved, 'that, on the vigil of the Nativity, as the Bishop was riding towards the church, his palfrey stumbled and threw him to the earth, whereby he was grievously wounded, and had three of his ribs broken; in consequence, during the whole session, he lay so sick that his life was despaired of, and without peril of his body he could not approach the Parliament.' Whereupon the King, in consideration of the Bishop's misfortune, and wishing to show him special grace, ordered him to be exonerated and discharged from the fine.⁴

The Archbishop was summoned to attend a Parliament at Castledermot, in the County Kildare, where now

¹ D'Alton's Archbishops of Dublin, p. 141.

² Rot. Cl., 1 Ric. II. f. R. 2. ³ Gilbert's Viceroy, p. 243.

⁴ Morrin's Calendar Pat. and Close Rolls, Chan. Ir. vol. ii. p. xlvi.

humble cabins and mean dwellings contrast painfully with ruins of stately castles and magnificent ecclesiastical remains. It was, anciently, a place of great importance, and largely endowed by the powerful Geraldines of Kildare. A Franciscan Monastery was erected here in 1302 by Thomas Lord Offaly, and the town was enlivened by the holding of several Parliaments. The hospitality of the Monks, and other Clergy, must have been pretty well tested during the sessions, for hotel accommodation had not then extensively prevailed, and the members sought the shelter of the religious houses of the town.

CHAP.
III.

De Wickford, in 1378, had an amplification and confirmation of the Manor of Swords to him and his successors, and, in 1380, all its possessions were conveyed, as D'Alton remarks,¹ 'by one of these little slips of parchment which formerly conveyed whole baronies, while the smallest estates of modern times require a pile of skins for their transmission.'

The Chancellor, in these primitive days, had very extensive jurisdiction, and a proportionate sphere of duty. Beside presiding in the Court of Chancery, attending Parliament, and assisting the Lord Deputy with his advice; ministering to the wants of his diocese, and the important functions of an Archbishop or Bishop, he presided as Judge of Assize, and disposed of the business civil and criminal. The absence of the Chancellor in England, in 1380, caused the assizes which were to be holden before him to lapse. On his return his services were put in requisition to raise money. He was directed, by royal letter, to appoint collectors of a clerical subsidy for the service of the State. He was also summoned to attend a Parliament at Dublin, with proxies for his Dean and Chapter.

Duties of
Irish Ec-
clesiastical
Chancel-
lors.

The absence of legal records at this time prevents me from giving any detailed account of the state of legal procedure which was in use at this period. In England the practice, which was afterwards constantly used in Ireland,

Assizes
lapsed by
Chancel-
lor's ab-
sence.
Collecting
a subsidy.

¹ Archbishop of Dublin, p. 145.

CHAP. of impeaching Lord Chancellors commenced,¹ and the
III. troubles of the unfortunate King Richard II. occupied a large share of attention.

In 1387, De Wickford obtained a confirmation of the right of holding a fair at Swords to the See of Dublin, and also a grant of half a cantred of the Abbey of Glendalough lying next the Castle of Ballymore, and, in 1389, he was one of the Commissioners named to assess the Clergy and Commons of the County of Dublin for the subsidy they had granted. His health became much impaired as he grew old, and trusting his native air and the society of friends in his beloved England would tend to restore him, the Chancellor Archbishop obtained a year's leave of absence early in 1390, and put the Great Seal in Commission. He lingered over the summer, but there was no amendment in his health, and his death took place in England on August 29, 1390.

Health fails.

Great Seal in commission.

Dies.

Street begg-

ing. Among the useful acts he performed, one was suppressing street begging, of which an ancient Registry of St. Patrick's Cathedral has the following record:—‘After the burning of St. Patrick's Church, sixty straggling and idle fellows were taken up and obliged to assist in repairing the church and rebuilding the steeple, who, when the work was over, returned to their old trade of begging, but were banished out of the diocese in 1376 by Archbishop de Wickford.’²

In the book of Obits of Christ Church, it is recorded that this Archbishop released to that cathedral an annual payment of five marks, which his predecessors had received for proxies, and, in return, a yearly commemoration was appointed for him there, with an office of nine lessons.³ In the time of King Edward III. the Norman French began to be disused in the Courts of Law, and English to be substituted. The English language, also, was now used for the first time in Parliament. The *vivā voce* discussions were in English, but the assent, or dissent

¹ Lord Campbell's Lives of the Lord Chancellors of England, vol. i. p. 239.

² D'Alton's Archbishops of Dublin, p. 141.

³ *Id.* p. 146.

of Bills, was then, and indeed, to some extent, still is, in the language of the Plantagenets.

CHAP.
III.

During the latter part of the reign of King Edward III., the feuds of the English by descent, and English by birth, reached such a height, that the King ordered the Viceroy and Lord Chancellor to interfere, and prevent these dissensions weakening the English power in Ireland. He gave them authority to punish by fine and imprisonment for two years all English subjects, born in England or Ireland, who, within his Irish territories, should use contumelious language towards each other, or engage in quarrels or strife among themselves.¹

Dissen-
sions in
Ireland.

An incident occurred about this time which reminds us of what we read of in Indian warfare. It was related by Henry Crystède, a Norman protégé of the Earl of Ormond, to Sir John Froissart:—‘I,’ said Crystède, ‘know the language of the Irish as well as I do French and English, for, from my youth, I was educated amongst them, and the Earl of Ormond kept me with him out of affection for my good horsemanship. It happened that this Earl was sent with three hundred lances and one thousand archers to make war on the frontier of the Irish; for the English had kept up a constant warfare against them in hopes of bringing them under their subjection. The Earl of Ormond, whose lands bordered on his opponents, had, that day, mounted me on one of his best and fleetest coursers, and I rode by his side. The Irish having formed an ambuscade to surprise the English, advanced from it, commencing to cast and throw their darts, but were so sharply attacked by the archers, whose arrows they could not withstand, for they were not armed against them, that they soon retreated. The Earl pursued, and I, being well mounted, kept close by him. It chanced that in the pursuit my horse took fright, and ran away with me, in spite of all my efforts, into the midst of the enemy. My friends could never overtake me; and, in passing through the Irish, one of them, by a

Crystède's
narration.

¹ Gilbert's Viceroys, p. 221.

CHAP.
III. great feat of agility, leaped on the back of my horse, and held me tight with both his arms, but did me no harm with lance or knife. Turning my horse, he rode with me for more than two hours, till we reached a large bush in a very retired spot, where he found his companions, who had retreated thither from the English. He seemed much rejoiced to have made me his prisoner, and carried me to his house, which was strong, and in a town, surrounded by wooden palisades and still water: the name of this town was Herpelipin. The gentleman who had taken me was called Brin Costerec, a very handsome man. Brin kept me with him seven years, and gave me his daughter in marriage, by whom I have two girls.

‘I will now tell you how I obtained my liberty. It happened in the seventh year of my captivity that one of their kings, Art MacMurragh, King of Leinster, raised an army against Lionel, Duke of Clarence, son to King Edward of England, and both armies met near the city of Leinster. In the battle that followed many were slain and taken on both sides, but the English gaining the day, the Irish were forced to retreat, and the King of Leinster escaped. The father of my wife was made prisoner under the banner of the Duke of Clarence; and as Brin Costerec was mounted on my horse, which was remembered to have belonged to the Earl of Ormond, it was first known that I was alive, that he had honourably entertained me at his house in Herpelipin, and given me his daughter in marriage. The Duke of Clarence, Sir William de Windsor, and all of our party were well pleased to hear this news, and he was offered his liberty on condition that he gave me mine, and sent me to the English army with my wife and children; but when he found no other terms would be accepted he agreed to them, provided my eldest daughter remained with him. I returned to England with my wife and youngest daughter, and fixed my residence at Bristol. My two children are married; the one established in Ireland has three boys and two girls, and her sister four sons and two daughters. The Irish language is as familiar

to me as English, for I have always spoken it with my wife, and introduce it among my children as much as I can.¹

CHAP.
III.

This romantic story is very interesting, and highly creditable to all concerned. It shows the kindly feelings of the Irish, the attachment between the captor and the captive. The natural desire of Brin Costeric not to lose all his family in retaining one of his grand-daughters displays these heart-yearning which denote the love of our kind.

The adoption by vast numbers of the English colonists of the Irish language, dress, and customs, caused a series of ordinances to be passed at a Parliament in Kilkenny under the presidency of the Duke of Clarence, in the spring of 1367. It declares, 'that many of the English of Ireland, discarding the English tongue, manners, style of riding, laws, and usages, lived and governed themselves according to the mode, fashion, and language of the Irish enemies; and also made divers marriages and alliances between themselves and the Irish enemies, whereby the said lands, and the liege people thereof, the English language, the allegiance due to their lord the King of England, and the English laws there, were put in subjection and decayed, and the Irish enemies exalted and raised up contrary to reason.'

The English adopt Irish names and customs.

Statute of Kilkenny, A.D. 1367.

This Statute of Kilkenny prohibited alliance by marriage, gossipred, fostering of children between English and Irish, under penalty of treason; also selling to the Irish horses, armour, or victuals, under a like penalty. All Englishmen or Irish living among them were to use the English language, be called by English names, follow the English customs, and not ride otherwise than in saddles, according to the English manner. If ecclesiastics, dwelling amongst the English, did not use the English language, the profits of their benefices were to be seized by their superiors, but they had respite to learn the English language.

As may readily be supposed from this, the laws of

¹ Froissart's Chronicle, Buchon, 1835.

CHAP.
III.

English laws neglected.
No Irish admitted into any benefice.
The bards denounced.
English not to hold parleys without license.
Irish sports prohibited.
Soldiers for defences.

England were little observed outside Dublin, and the statute provided that the English should not be governed, in the determination of these disputes, by Brehon law. A very stringent clause prohibited the natives from being admitted to the Ministry, that no Irishman should be admitted into any Cathedral, collegiate Church, or benefice, by promotion, collation, or presentation, and that religious houses should not receive Irishmen into their profession. The bards or minstrels, who were often welcome visitors to amuse the nobles and their retainers in days when the use of letters, reading and writing were accomplishments by no means general, when newspapers were unknown, when books existed only in manuscript, and were therefore scarce, were proscribed under severe penalties. The English should not admit, or make gifts, to Irish musicians, storytellers, or rimmers, who might be spies or agents. Dwellers on the borders should have legal permission to hold parleys or make treaties with hostile Irish. English subjects should not make war upon each other, nor bring Irish to their aid for such purpose. The amusements most familiar with the Irish, and which they practise to this day, were hurling with a ball and staff curved at the end, called a hurley, and throwing the discus or quoit. These were prohibited. ‘The common people dwelling on the borders should not use the plays called hurlings and quoitings, which had caused evils and maims, but accustom themselves to draw bows, and cast lances, and other gentlemanlike sports, whereby the Irish enemies might be better checked.’

For defence, there should be appointed in every county four of the most substantial men as Wardens of the Peace, with power to assess the inhabitants for providing horsemen-at-arms, hobilers, and foot-soldiers, who were to be reviewed by them from month to month. That Constables of Castles, with the exception of the Constable of the King’s Chief Castle in Ireland at Dublin, should not take from any prisoner a fee of more than fivepence; and that they should not use cruelties for the purpose of extortion.

Against violators of these and other enactments made regarding the internal government of the colony, very severe penalties, ranging from forfeiture of property, and imprisonment, to death, were decreed.

CHAP.
III.

The office of Chancellor was not unattended with considerable personal risk in these wild days. Owing to attacks, the King's officers petitioned for the removal of the Exchequer from the strong castle of Carlow, where it was exposed to danger, to Dublin.

To bring the mutinous De Birminghams to terms, a parley was arranged, which met in Kildare, at which the Chancellor, THOMAS DE BUREL, Prior of the Hospitallers, John Fitz Richard, Sheriff of Meath, Sir Robert Tirell, Baron of Castleknock, took part. Good faith was broken by the De Birminghams, who captured the high contracting parties, holding all to ransom except the Chancellor, whom they refused to liberate upon any terms, holding him for the purpose of exchange for James de Birmingham, then heavily ironed as a traitor in Dublin Castle. As we have no record of any lengthened imprisonment of the Chancellor, we may presume these terms were agreed to.

Danger of
the Lord
Chancellor
of Ireland.

Sir Robert Preston, who had been Chief Baron in the reign of Edward III., assigned his spacious mansion to his legal brethren. They called their inn 'Preston's Inn,' as a compliment to the generous donor. Here the Judges and Barristers occupied chambers for many years, but I do not find any effort was made to establish a Law School, and Irish students were compelled to enter an English inn when they desired to adopt the law as their profession; but they had a right to practise, at their option, in either England or Ireland.

Preston's
Inn.

CHAPTER IV.

OF THE LORD CHANCELLORS OF IRELAND DURING THE REIGN OF
KING RICHARD II.

CHAP. IV. JOHN COLTON, Dean of St. Patrick's Cathedral, was appointed Lord Chancellor of Ireland in 1379. He was born in Torrington, Norfolk, and educated for the Church. When ordained, he became Chaplain to William Bateman, Bishop of Norwich, and his attainments were such, that in 1348 he became first Master of Gonville Hall (now Caius College), Cambridge. In 1348, Colton took his degree of Doctor of Canon Law. Having remained for some years in Cambridge University, he obtained preferment, and was Prebendary of Bugthorp, in the Archdiocese of York. In 1373, he accepted the onerous office of Treasurer of Ireland and Dean of St. Patrick's, as successor to Dean Bromley. The Great Seal of Ireland was intrusted to his custody in 1379, and his duties appear as much military as civil or ecclesiastical. On the Viceroy, Earl of March, undertaking a progress to Munster in 1380, he was attended by the Lord Chancellor, who had for his guard, besides his personal attendants and clerks, four men-at-arms armed at all points, and eight archers on horseback, for whom he received an allowance of twelve pence a day for each man-at-arms, and sixpence for each archer. This journey was a melancholy one. The Lord Lieutenant died on December 26th, at the house of the Dominicans, at Cork. Next morning, the feast of St. John, the Chancellor and John Keppok, Justice of the King's Bench, sent letters to the Bishop of Ossory, Treasurer of Ireland, to James le Boteller, Earl of Ormond, and Gerald Fitz Morice, Earl of Desmond, to signify the

John Colton, Lord Chancellor.
Birth and education.
Prebendary of Bugthorp.
Dean of St. Patrick, Dublin.
Lord Chancellor.
Retinue.
Death of the Lord Lieutenant.
Chancellor and Peers proceed to elect a Lord Justice.

death of the Lord Lieutenant, and requiring their presence to elect a Lord Justice in his place. On the assembling of the Peers and others of the Council, this office was offered to the Earls of Ormond and Desmond, but declined by those noblemen, who assigned as their reason, 'that they had sufficient occupation in defending their territories.' It was then offered to the Chancellor, who at first refused the honour, but at length accepted it, on condition that the Earls of Ormond and Desmond and the other Peers and Prelates then present assisted him in the discharge of his duty, and that in the next Parliament he might be exonerated from the charge. He was sworn into office, and letters patent passed the Great Seal on January 20th following constituting him Lord Justice, with a salary of 500*l.* per annum.¹ This salary was increased in a very complimentary manner by the King, who ordered him ten shillings a-day in addition, in consequence of his singular virtues and great hospitality. I mention this for the especial attention of Chancellors, and I hope the hint will not be lost.

The patent to Dean Colton being revoked, WILLIAM TANY, Prior of St. John, was again sworn in Lord Chancellor. On February 13, 1382, John Orrewell, the King's Serjeant-at-law, came to Kilkenny, and in the chamber and presence of Alexander, Bishop of Ossory, Treasurer of Ireland, and other persons, produced letters patent under the Great Seal of England to Friar William Tany, constituting him Chancellor of Ireland, who gratefully accepted the same, and was sworn in by the Bishop of Ossory.²

William Tany having relinquished the Great Seal, it was given to ALEXANDER DE BALSCOT, Bishop of Ossory, in 1385, who continued Lord Chancellor for three years. This eminent ecclesiastical Chancellor's real name was Petit, but he is called De Balscot from the place of his birth in Oxford, as was usual at this period. He was a Canon of the Cathedral of Kilkenny, and held in such

CHAP.
IV.

Chancellor accepts the office on conditions.

Salary increased.
Advantage of the Chancellor being hospitable.

William Tany re-appointed.

Alexander De Balscot Chancellor.

His family name.

Canon of Kilkenny.

¹ Memorandum on Roll 5th Ric. II.

² Smyth's Law Officers of Ireland, p. 6.

CHAP.
IV.Bishop of
Ossory in
1397.

Treasurer.

Treasurer
and Lord
Chancel-
lor.Ireland
torn by
dissen-
sions.Chancellor
and Arch-
bishop of
Dublin
repair to
the King.

repute for his great learning and wisdom that he was elected to succeed John of Tatenale as Bishop of Ossory in 1371, which was confirmed by Pope Gregory XI. The state of affairs in England at this period was critical, and the clouds lowering in the horizon soon extended over Ireland. All the glories of Edward's long reign were speedily obliterated by the faults and follies of his successor, and it was with sad forebodings Bishop de Balscot cast the weight of his character and talents into the scale of the State officials in Ireland. He was too able a man not to hold a high office under the Crown, and accordingly was selected in 1376 for the responsible office of Treasurer of Ireland. As this post required much precaution for the safety of the treasure, a guard of six men-at-arms and twelve archers, paid out of the Exchequer, were assigned to Bishop de Balscot while he continued Treasurer. This shows the insecurity of the country at this period when the property or persons of the King's officers were not safe without a military guard. In the reign of King Richard II. he was also continued Lord High Treasurer, and appointed Lord Chancellor of Ireland.¹ The jurisdiction of the Court of Chancery was then very extensive. When any injury resulted to a subject by the act of the King or his officers, a petition of right was allowed by the Lord Chancellor. Relief was also had against judgments of the Courts of Law, and in cases of fraud, accident, or breach of trust.²

It was a time of extreme peril; the duration of English rule in Ireland was threatened by internal dissensions and external foes. The rival houses of Ormond and Desmond were at war within, while Spanish and Scotch pirates plundered from without. In this emergency a Council was assembled at Kilkenny, where it was resolved, 'That the Archbishop of Dublin and the Chancellor should hasten to Richard II., and assure him of the danger then existing. They were directed to impress upon the King

¹ In 1377-1385 and 1394; also temp. Hen. IV. in 1400.

² Lord Campbell's Lives of the Lord Chancellors of England, vol. i. p. 271.

the urgent necessity of his visiting Ireland in person. Should they be unable to induce the King to cross over to Ireland, they were instructed to implore his Majesty to send one of his most powerful nobles to protect his Irish dominions from impending ruin.' The King was reluctant to leave England, which had manifested a disposition to rebellion the previous year; but he nominated to the Viceroyalty his favourite, Robert de Vere, Earl of Oxford; and the English Parliament, being anxious to get rid of him, voted him a liberal sum, viz. thirty thousand marks, with two years' pay for five hundred men-at-arms, and a thousand archers, on condition of his proceeding at once.

CHAP.
IV.

He was invested with almost regal authority over Ireland; empowered to issue writs in his own name, to appoint or displace the Chancellor,¹ Treasurer, Privy Council, and officials; to nominate his own Deputy, and pardon treason and felonies. He was created Marquis of Dublin—a higher title than previously existed in Ireland, and unknown in England;—authorised to coin gold and silver, to use his *Great Seal* instead of the King's; and, in place of the English banner, to substitute his own—displaying three golden crowns on an azure ground, with a silver border. From April 19, 1386, when he was granted the land and dominion of Ireland, all letters patent, and public documents connected with State affairs, were executed in the name of Robert, Marquis of Dublin, Earl of Oxford, and Chamberlain of England.

De Vere
Viceroy.Liberality
to get rid
of him.Continued
authority.The first
Marquis.His
Great Seal.Letters
patent.Sir John
De Stanley
Deputy.

He did not repair to Ireland as quickly as had been expected, but sent thither, as his Deputy, Sir John de Stanley, who landed at Dalkey, on August 30, 1386. His appointment by letters patent under De Vere's Great Seal, was read in the Great Hall of Dublin Castle, in the presence of the Chancellor, the Earl of Kildare, and Royal officers. He was empowered to pardon treasons and felonies as representative of the Marquis of Dublin, in

¹ The Viceroys usually had power to appoint to all offices except those of Chancellor, Master of the Rolls, Treasurer-at-War, Marshall, Treasurer, Justices of either Bench, and Master of the Ordnance.

CHAP.
IV.

whose name, conjointly with that of the King, the legal business was transacted. Recognizances were taken, admitting persons to the peace of the King and the Marquis of Dublin.¹

Duke of
Ireland.

In October, 1386, De Vere, with the consent of the Parliament of England, was advanced to the rank of Duke of Ireland, and received a new patent, conferring upon him additional powers—relieving him from any rent until he had conquered Ireland, and authorising him to hold all Crown estates which he might recover by the sword. It is believed that the weak and infatuated Richard intended to make his favourite King of Ireland, and applied for the Pope's sanction. The King and De Vere went to Wales in 1387, when the English Lords resolved to humble the pride of the favourite, and demanded his removal from the Council. Discontent had reached such a height that several of the English nobility were in revolt. The King, to gain time, deferred his reply until the meeting of Parliament; and De Vere, having, by virtue of Royal Commission, raised an army in Wales, marched to support the King against the combined Peers, but was defeated by the Earl of Derby, near Oxford, and with difficulty escaped by plunging into the Isis.²

Exiled
Judges.

Ireland was selected as the place of exile for the five Judicial personages, who, in the Council at Nottingham, had certified that the King was above the laws, could eject Commissioners appointed by Parliament, and annul Acts which he considered prejudicial to himself. They were banished in 1388, to the following cities,—Sir Robert Belknap, Chief Justice of the King's Bench in England, was sent to Drogheda; Sir Roger Fulthorpe and William Burgh, Justices of the King's Bench, to Dublin; Sir John Carey, Chief Baron of the Exchequer, and John Sokton, the King's Sergeant, to Waterford; the King's Confessor,

¹ Gilbert's Viceroy, p. 254.

² De Vere, Duke of Ireland, died in poverty and exile at Louvain, having been gored by a wild boar, while hunting in the forest of Ardennes.—Gilbert's Viceroy, p. 256.

Dr. Rushok, Bishop of Salisbury, who was accused of having urged the Judges to this course, was banished to Cork. There was abundant provision made for the support of the exiles. Annual pensions ranging from forty to twenty pounds, were allocated—these were considerable sums in those days. Each was allowed two English servants, but none were privileged to roam above three leagues outside the places assigned for their residence.¹

CHAP.
IV.Provision
for their
support.

The Bishop had costly episcopal attire, one of his forfeited mitres produced 333*l.*² As the blame fell chiefly upon him, he seems to have been treated with more harshness than the others. He was only allowed to bear into exile forty marks, his bed, raiment, a prayer-book, and two servants. He was limited to a radius of two leagues outside the City of Cork, and denied a pension, but was permitted to accept alms from anyone generous enough to give. Even this was not to exceed forty marks annually for his support. He died in exile, and was buried in Cork. Prior John Gray provided a marble coffin for the remains of the King's Confessor. He was reimbursed by King Richard; also for the money he kindly expended in supporting the servants of the banished Bishop.

The Bishop
hardly
dealt with.Dies in
Cork.

From 1387 to 1388, the Government of Ireland was chiefly administered by the Lord Chancellor. De BALSCOT, wishing to please the King, and thinking he had his warrant, used the Seal of De Vere; and, when he took the field, unfurled the standard of that once powerful favourite. He little foresaw the consequences of doing so.

Chancellor
uses the
Seal of De
Vere.

On May 4, 1388, King Richard II. wrote a very severe letter³ to this Prelate, for thus acting.

Repri-
mand from
King
Richard II.

¹ After a lapse of nine years they were allowed to return, and practise, without remark.

² Gilbert's Viceroy, p. 258.

³ Rym. tom. vii. p. 577. De Sigillando cum Sigillo Regis in Terra Hiberniæ: 'Rex, Venerabili in Christo Patri, Episcopo Middensi, in Terra Nostra Hiberniæ, Salutem.

'Quia datum est Nobis intelligi quod vos Sigillo Roberto de Veer (nuper Ducis Hiberniæ) sub nomine Marchionis Dubliniæ, cui nuper Dominium et Regimen Terræ predictæ concessimus:

'Qui omnia Dominia, Maneria, Terras, Tenementa, Bona, et Catella sua

CHAP.
IV.
Richard
Plunkett
Lord
Chancellor,
The
Plunketts.

The misconduct of De Balscot was visited with the loss of the Great Seal, which was intrusted in 1388 to a very eminent man, RICHARD PLUNKETT, Lord Chancellor of Ireland.

Few names hold more prominent place in Irish legal annals than Plunkett. We shall find many opportunities of mentioning it in the progress of these Lives. It is said to have Danish origin, but was familiar in Ireland at a very remote period, when the family mansion was at Beaulieu, 'the handsome place' now called Bewley, in the County of Meath. It has high rank in the Peerage of Ireland — honoured with the titles of Fingal, Louth Dunsany, and Plunket.

Birth and
career.
In Parlia-
ment, A.D.
1374.
Chief
Justice.

Richard Plunkett was born about the year 1350. He was destined for the legal profession, in which he obtained great distinction, and had summons to Parliament by writ in 1374. Having distinguished himself in the senate and at the Bar, he was elevated to the high rank of Chief Justice of the King's Bench. This was not his highest

in presenti Parlamento nostro, ratione Judicii versus cundem Robertum ibidem redditum, erga Nos forisfecit postquam vobis notoriè, ut dicitur, innotescbat:

'In consignatione quam plurium Cartarum, Literarum Patentium et Brevisum, Statutum et Regimen ejusdem Terræ concernentium, erronicè usi fuistis:

'Ac Vexilla et Penuncillos ejusdem Roberti, contra aggressus et invasiones hostium et rebellium nostrorum Hibernicorum, similiter erigi, levari, et displicari fecistis in nostri dedecus et vituperium manifesta:

'Nos,

'Nolentes talia incommoda, in nostri et Regiæ Dignitatis nostræ derogationem palam et expressè redundantia, ulterius tollerare:

'Vobis, sub sacramento fidelitatis vestræ, nobis præstito, Injungimus et Mandamus quod, Sigillo, Vexillis et Penuncillis præfati Roberti, in dicta terra habitis, et pro tempore usitatis sine dilatatione ammotis penitus et deletis, omnia et singula, commodum nostrum et rempublicam in terra predicta concernentia; et pro sano regimine ejusdem terræ necessaria et oportuna, Sigillo nostro, quo per antea inibi utebamur, quod in Thesauraria nostra ibidem existit, quotiens necesse fuerit, et Vobis videbitur expedire, justè et debitè de cætero consignari, Nostraque Vexilla et Penuncellos, contra hujusmodi hostes et rebellles nostros, in defensione terræ illius, similiter erigi et displicari faciat in forma predicta, quousque aliud a Nobis habueritis in Mandatis; et hoc nullatenus omittatis.

'Teste Regr, apud Westmonasterium, quarto die Aprilis.

Per Concilium.'

appointment, for I find that in 1388, 12th Richard II., he was appointed Lord Chancellor. He continued in office until succeeded by Archbishop NORTHALIS.

CHAP.
IV.

Lord
Chancel-
lor, 1388.
King
Richard II.
in Ireland.

On October 12, 1394, King Richard II. landed at Waterford, accompanied by Thomas de Arundel, Lord Chancellor of England,¹ the Duke of Gloucester, the Earls of March, Nottingham, and Rutland, with four thousand squires and thirty thousand archers. Richard was then twenty-eight years old, of middle height, with hair of a light yellowish colour, a rosy, round face, and presence indicating neither strength nor dignity. He usually was splendidly attired, as was the custom of the day; one of his coats so ornamented with precious stones as to be estimated at 30,000 marks. With this large army he expected to conquer Ireland, and subdue the dissensions which prevailed in that country; but, from the nature of the land and the mode of warfare of its inhabitants, he failed to effect his purpose. After two months of toil, and ineffectual efforts to engage the Irish troops,² who dissolved like mist, and lurked like wild foxes among mountains, woods, and bogs, Richard drew his forces towards Dublin, where he passed the Christmas of 1394.

His per-
sonal ap-
pearance,

Unable to
engage
Irish
troops.

At this period RICHARD NORTHALIS, Archbishop of

Richard
Northalis
Chancel-
lor.

¹ Lord Campbell's Lives of the Lord Chancellors of England, vol. i. p. 297.

² There were several gradations in Irish troops, which are set forth by an historian (Stanyhurst) whose account must be taken with considerable qualification:—

' The Irish observe divers degrees, according to which each man is regarded: the basest sort among them are little young wags, called *Daltins*; these are lackeys, and are serviceable to the grooms or horseboys, who are a degree above the *Daltins*. Of the third degree is the *Kern*, who is an ordinary soldier, using for weapon his sword and target, and sometimes his piece, being commonly so good marksman, as they will come within a score yards of a great castle. *Kern* signifyeth, as noblemen of great judgment informed me, a spawn of hell, because they are taken for no better than *rakehills*, or the devil's blackguards. The fourth degree is the *Gallooghllass*, using a kind of pollard for his weapon. These men are commonly wayward rather by profession than by nature, grim of countenance, tall of stature, big of limb, burley of body, well and strongly timbered, chiefly feeding on beef, pork, and butter. The fifth degree is to be an *horseman*, which is the chiefeſt next the *Lord* and *Captain*; these *horsemen*, when they have no stay of their own, go and range from house to house, like errant Knights of the Round Table, and they never dismount until they ride into the hall, and as far as the table.'

Daltin's
horseboys.
Kern.

Gallooghl-
lass.

Horseman.

CHAP.
IV.A native
of London.

A Carmelite Friar.

Becomes
Bishop of
Ossory.Appoint-
ment of
Justices of
the Peace.

Dublin, filled the office of Lord Chancellor of Ireland. He had received the Great Seal during the preceding year, 1393, and appears to have been well suited to his exalted position. The career of this Prelate was very varied. He was a citizen of famous London town, son of an opulent merchant, who had been Lord Mayor. It was, no doubt, a great change from the life within sound of Bow bells, and the rich banquets of the Alderman of London town, to the matin's chime and strict discipline of a Carmelite convent; but the call to a religious life, which has induced so many to exchange ease and opulence for fasting and prayer, caused Richard Northalis to forego the steaming turtle and savoury haunch for the spare diet of the Carmelite friars. His career in the convent was marked by rigid observance of the rules of his Order; and soon his reputation for learning, preaching, and sanctity extended beyond the precincts of his abode. The state of religion in Ireland, and the propriety of strengthening the English rule in that country, caused King Richard II. to exert himself for the preferment of the Rev. Richard Northalis in that realm; and, in 1386, he was appointed Bishop of Ossory.

A very eminent Prelate then held the Great Seal of England, William of Wickham. In his time occurred the first instance of a Parliamentary impeachment. It was also about this period the arduous and delicate duty of appointing Justices of the Peace devolved on the Lord Chancellors. A class of officials exercising the most important functions in their locality, yet, in Ireland, in former days, too often the instruments of party or sectarian feeling. Happily the more kindly spirit of toleration which now prevails, and the wholesome censorship of a vigilant and honest press, renders the painful task of removing or reproving an unpaid official of high station a matter of rare occurrence to a Lord Chancellor; and, it only occurs when the offender endangers the due administration of justice, which knows no party, and respects all creeds.

About the year 1390 the misgovernment of Ireland reached such a height, that a Commission was appointed by the King to enquire into the corruptions and frauds of the officers there; to examine into and report all losses and abuses in the government of the kingdom, with power to examine all Peers, Prelates, and such persons as could give information in the premises; and, in particular, to report how, and on what security, Nigel O'Neill was enlarged; to enquire also into the numbers at which Sir John Stanley, Lord Deputy, had kept his retinue at his last arrival in Ireland; whether he had performed the covenants in his indentures of government, and how many archers and men-at-arms he transported with him into England. The Commissioners were also to ascertain the value of the revenues of Ireland while the said justice administered the government there, and how much thereof he applied to his own use. The best proof of the estimate King Richard II. entertained of the trustworthiness and ability of the Bishop of Ossory, was appointing him the Commissioner for this searching enquiry. He was likewise directed to supervise and examine into the Rolls and Records of the Exchequer, and other Courts of Dublin,¹

CHAP.
IV.Abuses of
the Irish
Govern-
ment.Northalis
commis-
sion.Records
officers.

¹ The Patent Rolls in Chancery, Ireland, commence in the reign of Edward I. and are continued to the present time. They are called patent from being open to the inspection of all. They contain enrolments of grants in fee, or perpetuity, for lives and years, of Crown lands, abbey lands, and escheated lands; patents of creations of honour; grants of charters of incorporation and liberties; grants of offices, denization, ferries, and fisheries; patents for inventions and specifications; licenses and pardons of alienation; presentations; promotions to bishoprics and deaneries; special licenses; grants of wardships; Commissions; inquisitions *post mortem* and on attainder; orders of Council; depositions of witnesses *in perpetuam rei memoriam*; deeds; conveyances; grants *in custodiam*; grants of manors and all their appurtenances, and of fairs and markets; surrenders of lands and offices to the Crown; summonses to Parliament; bonds; obligations; replevins; pardons; letters of attorney; licenses for officers to treat with the Irish; treaties; Papal Bulls; proclamations; letters of protection; writs of *amoveas manus* of possessions taken by the Crown; writs of *ouster le main*; King's letters; wills; commissions for the survey, appointment and erection of counties; for remedy of defective titles; for the appointment of Justices and Commissioners, as well civil as

Patent
Rolls in
Chancery,
Ireland.
Contents.

CHAP.
IV.

Ambassador to the Pope.

Bishop Northalis in Rome.

and to report the behaviour of the officers. All Prelates, Peers, and other subjects, were commanded to aid and assist the King's Commissioner, who, it must be allowed, stood in need of much help while discharging this multifarious and difficult task. The King was so satisfied with the manner in which Bishop Northalis executed this Commission, that he appointed him Ambassador to Boniface IX. in 1391.

The appointment of Bishop Northalis as Ambassador to the Pope was peculiarly gratifying to one of his disposition and piety. He delighted in Rome, the capital of the Catholic world, wherein he found congregated not only all that is most valued in the eyes of the pious pilgrim, but all that can most interest the lover of classical literature, antiquities, and the Fine Arts.

He passed many happy days in the Eternal City, inspecting with the eyes of faith and true devotion its countless wonders, or in the subterranean vaults, where rest the bodies of the Holy Apostles; in devout visits to the relics, the Holy Cross, the Scala Sancta, the pillar where our Lord was scourged, the Colosseum, the Catacombs, the churches of saints and martyrs who loved God more than they feared man. He thought often to how much of Rome might these words be applicable, 'Nullam esse ibi vel minimam soli partem quæ sacro martyrem sanguine non esset imbuta et consecrata.'

military; for the conversion of lands held by the Irish custom of Tanistry into the English custom of tenure, &c.

Close
Rolls.
Statute
Rolls.

The Close Rolls, so called because they contained writs sealed and directed to the officer by whom alone they were opened. The oldest is of the 20th Edward II., but they are not carried down regularly. The Statute Rolls comprise public and private Statutes passed in the Irish Parliament. They include the reigns of Henry VI., Edward IV., Richard III., Henry VII., Henry VIII., Philip and Mary, Elizabeth, and James I. From thence to 1715, public and private Acts were promiscuously enrolled on the same series of Rolls, and an imperfect Calendar was at times made of both Acts, but from 1715 to 1800, when the Irish Parliament ceased, the private Acts were enrolled separately, and a regular index made excluding the public Acts. The Statute Rolls prior to 10th Henry VII., are in Norman-French, then the language of the Court; but from the time of Edward III., the *vivæ voce* proceedings in Parliament were in the English tongue.

Having returned to Britain, Bishop Northalis, in 1393, received the Seals as Lord Chancellor of Ireland.¹ In that year the Viceroyalty was intrusted to the King's uncle, Thomas Plantagenet, Duke of Gloucester; but the King, having suspected him of designs to subvert his authority, speedily revoked this appointment, and announced his intention to visit this part of his dominions in person. Great preparations were accordingly made, but the intended visit had to be postponed in consequence of the death of Queen Anne, in June, 1394. It was only postponed a short time, for on the 2nd of October his Majesty landed at Waterford, accompanied by many nobles.

CHAP.
IV.
Lord
Chancel-
lor, A.D.
1393.

Death of
the Queen.

On the 1st of February, 1395, the King wrote to his uncle, the Duke of York, whom he left Regent in England, informing him he had issued writs, summoning a parliament in Dublin after the following Easter. That King Richard had tolerably accurate notions of the state of Ireland may be surmised from this letter, wherein he states, 'In our land of Ireland there are three kinds of people—wild Irish, our enemies; Irish rebels; and obedient English. To us, and to our Council here, it appears that the Irish rebels have rebelled in consequence of the injustice and grievances practised towards them, for which they have been afforded no redress; and that if not wisely treated, and given hope of grace, they will most likely ally themselves with our enemies.'²

Richard
II. de-
scribes the
state of
Ireland.

Finding the task of reducing Ireland by force impossible, Richard tried what could be done by policy, and, laying aside the hostile banner of England, quartered with leopards and fleurs-de-lis, he displayed a flag with a golden cross on an azure ground, surrounded by five silver birds, said to have been the cognizance of his patron saint,

The King
lays aside
the sword.

¹ Pat. May 29, 1393. B. I., 17 Ric. II., f. No. 54.

² This letter shows how the root of Irish discontent, from the first, lay in '*injustice practised and redress withheld*', and bears out the assertion of Junius several centuries later: 'Uniformly have the people of Ireland been plundered and oppressed.' Happily, we live in better days, when Ireland and the Irish are treated with the same justice as the other subjects and dominions of our Sovereign Lady the Queen.

CHAP.
IV. Edward the Confessor. This Saxon King had married Edith, sister to Driella, wife of Donogh O'Brien, King of Munster; and his memory was held in reverence by the Irish, so they were pleased with this demonstration of respect paid by the King to one whom they looked on kindly.

Four
Kings
knighted.

The result of negotiations (in which Henry Crystède, already named, was of great use as an interpreter) was, that O'Neill, O'Connor, McMurrrough, and O'Brien, styled the Four Kings of Ireland, were induced to receive knighthood at the hands of King Richard, who, after the ceremony, feasted them at his own table. The Privy Council of England were not pleased at Richard having admitted these powerful chiefs to grace without payment of fines, which would, they contended, have helped to defray the expense of the expedition, and the government of Ireland, which was felt very burthensome by the English rate-payers. This was a narrow view of a great question, and the general feeling was in favour of the wise policy of the King, who was considered, in bringing the Irish princes to become his subjects, to have conquered the greater part of the kingdom.

Richard's
policy.

Roger De
Mortimer
Viceroy.

His de-
scent.

Personal
qualities.

Richard, having succeeded in effecting by peaceful means what he failed to achieve by sterner methods, when returning to England intrusted the Irish Government to his cousin Roger de Mortimer, who was next in succession to the English throne. He also represented the great houses of Marechal, De Lasci, De Braose, and De Joinville, who acquired immense territories in Ireland, with the titles of Earl of Ulster, Lord of Connaught, Trim, Leix, and Ossory. Roger, the Viceroy, possessed personal qualities very fitting for a Commander-in-Chief, at a time when sharp swords were often found more convincing arguments than words. He was good at both—an accomplished knight at tournament or in battle-field, a ready and eloquent speaker, of a handsome presence and affable demeanour.

He had a mild and pleasant look,
A cheerful smile and aspect bland;
His very voice and manner spoke
The generous heart and open hand.

CHAP.
IV.

Although De Mortimer stood so near the King by Sir William Le Scrope.
blood and rank, he was not left sole charge of the kingdom. A very distinguished nobleman, who stood high in Richard's esteem, shared the responsibility. This was Sir William le Scroop, or Scrope, the Royal Chamberlain, who was nominated Justiciary for Leinster, Munster, and Uriel or Louth.¹ He had risen to very high rank, and

¹ While Roger de Mortimer was Viceroy for Ulster, Connaught, and Meath William le Scrope, the Royal Chamberlain, was nominated Justiciary for Leinster, Munster, and Uriel or Louth. The enrolment on the Patent Roll of England, 20 Richard II., pt. i. m. 16, is as follows:—

De Locum-tenente terre Regis Hibernie constituto.—Rex omnibus at quos, &c. salutem: Licet per literas nostras constituerimus delectum ac fidelem consanguineum nostrum Rogerum de Mortuo Mari, comitem Marchie et Ultonie, Locum nostrum tenentem in partibus Ultonie, Connacie et Midie, in terra nostra Hibernie, usque ad festum Pasche proximum futurum; et per alias literas nostras patentes constituerimus dilectum et fidelem nostrum Willielmum Lescrop, Camerarium nostrum Hibernie, Justiciarum nostrum in partibus Lagenie, Momonie et Urielis, similiter usque at terminum predictum, prout in literis nostris predictis plenius continetur. Volumus tamen, et intencionis nostrae existit, quod omnia et singula carte, litere patentes et brevia nostra, cujuscunque nature existant, que nomine et stilo nostris sub magno sigillo nostro terre nostre predicte, in absencia nostra, durante termino predicto, transire contigerit, sub solo testimonio predicti comitis ut Locum nostrum tenentis, in terra nostra Hibernie, sub ipsis verbis: Teste Rogero de Mortuo Mari, Comite Marchie et Ultonie, Locum nostrum tenente in terra nostra Hibernie, de tempore in tempus sigillentur et consignentur, ac si et adeo plene sicut temporibus Loca-tenentium tocius terre predicta ante hec tempora fieri consuevit; solida potestate eidem Willielmo ut Justiciario nostro in dictis partibus Lagenie, Momonie et Urielis, per nos attributa non obstante. Et hoc omnibus quorum interest innotescimus per presentes. In cuius, &c. Teste Rege, apud Westmonasterium, xxvj. die Septembris. Per ipsum Regem.

On the Patent Roll of Ireland, 18 Rich. II. m. 25 is an order bearing date November 18, 1395, for the payment of Sir William le Scrope as Constable of Dublin Castle.*

The Earldom of Wilts was conferred on Sir William le Scrope by Letters Patent in 1397. The limitation was to him and to his heirs male. The patent was attested by the Dukes of Lancaster and York, Princes of the blood, Le Scrope Earl of Wilts.

* Gilbert's Viceroys of Ireland, p. 559.

CHAP.
IV.Entreaty
of Lady
Le Scrope.

filled several important offices in a most able and satisfactory manner. Le Scrope had been Governor of Cherbourg, Seneschal of Aquitaine, Justice of North Wales, and one of the Ambassadors who had arranged the contract of marriage between Richard of England with Isabel of France. His conduct, at first, in Ireland appears to have been harsh and oppressive towards the English under his control. Probably he discovered they, in their turn, were too exacting and extortionate towards the native Irish, and wished them to feel the severity of their practices. At the earnest entreaty of his wife¹ he changed the objectionable practices, accomplished her wishes, recovered the good opinion he was in danger of losing, and the result was, he 'enriched the country, continued a plentiful house, granted so charitably and discreetly remission of fines, remedies for persons endangered to the King, pardons of lands and lives, that his name was never uttered among them without many blessings and prayers.'²

Chancellor
Arch-
bishop of
Dublin.

Having been for nine years Bishop of Ossory, on the death of Archbishop Waldby, in 1376, Dr. Northalis was promoted to the Archdiocese of Dublin. While in this high station he obtained for himself and his successor the

and by the Earl of Northumberland, one of the most powerful nobles of England. Le Scrope was recognised as Earl of Wiltshire. *Rot. Parl.* iii. and in *Statute Book*, 21 Rich. II.

When Simon Thomas Scrope, Esq., of Danby, Bedale, Yorkshire, in 1866, claimed the title, he showed clearly he was heir male of William Earl of Wilts, and claimed the peerage. His claim was referred to a Parliamentary Committee of the Lords; but, unfortunately, only one Law Lord lived through the time the case was pending, and though the case seemed free from any difficulty as to the descent of the claimant, the claim was resisted on two grounds: 1st, that the patent was invalid; 2nd, attainder might be inferred. A very able article in the *Law Mag. and Review*, No. liv. pp. 228 to 264, discusses the grounds on which the claim was for the present rejected, and concludes: 'The adverse opinion proceeded upon most manifest errors of law and fact, and it is a relief to know that it is not final, and must be reversed.'

¹ William le Scrope married a daughter of Sir Maurice Russell. After the death of the Earl, his widow married, 1st, Thomas de la Rennie; 2nd, Stephen Hoghfeld, Esq.

² *Gilbert's Viceroy of Ireland*, pp. 276, 277.

more high-sounding than important privilege of the Admiralty of Dalkey.¹

Lord Chancelor Northalis died in Dublin, on the 20th July, 1397, and was buried in the Cathedral.

At this time the invention of the writ of subpoena brought about a great change in Courts of Equity. The addition to the old clause *Quibusdam artis de causis*, was, *Et hoc sub pena centum librarum nullatenus omittas.*² But the penalty was never sought for. If the party neglected to appear, he was guilty of contempt of court, and compulsory proceedings instituted against him.³

¹ D'Alton's History of the County of Dublin, p. 129. Dalkey is a little island, chiefly rocks, forming the southern point of the Bay of Dublin, and nearly opposite the promontory of Howth. The harbour was formerly used on state occasions for landing Viceroys. The island is only five hundred yards long by three hundred broad, so its extent is not very considerable. Great amusement was formerly taken by the citizens of Dublin in the coronation of the king of Dalkey, a mock monarch annually appointed by the mirth-loving citizens, when the royal barge received a salute of twenty-one guns, and a band played 'God save the King,' who, usually a merry monarch, was surrounded with his courtiers decked out in stars and orders. The monarch's style runs thus:—'His facetious Majesty Stephen the First, King of Dalkey, Emperor of the Muglins, Defender of his own Faith, and respector of all others, Sovereign of the Illustrious Order of the Lobster and Perriwinkle.' I hope the Chancellor's revenues from the Admiralty was more profitable than those of one of the courtiers of the King, who bore the euphonious title of Duke of Muglins, Chief Commissioner of the Revenue. His perquisite was permission to import ten thousand hogsheads duty free—of *salt water*.

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IV.

Death of
Lord
Chancellor
Northalis.

Admiralty
of Dalkey.

² Rot. Pat. 38 Edw. III., Pt. i. m. 15.

³ By the recent Chancery (Ireland) Act, 1867, which establishes to a great extent uniformity of practice and procedure in the Chancery Courts of England and Ireland, the writ of subpoena to appear to and answer bills of complaint is abolished. Service on the defendant of the printed Bill and endorsement has henceforth the same effect as the old writ of subpoena, and, in case of default of appearance, entitles the plaintiff to the like remedies as hitherto in case of service of the subpoena.

CHAPTER V.

LIFE OF LORD CHANCELLOR CRANLEY.

CHAP.
V.
Birth.
A Carmelite friar.
Career at Oxford.
Archbishop of Dublin.
Favours bestowed by Richard II.
Colonisation.

THIS distinguished Chancellor was of English birth, born in the year 1387, and rose high in fame and fortune in Ireland. Like his immediate predecessor, Chancellor NOR-THALIS, he took the vows of the Carmelite Order. He was a diligent student and graduated as Doctor of Divinity in Oxford University, where he became a Fellow of Merton College, warden of New College, and Chancellor of the University of Oxford.¹ We have, I regret to state, no further account of him prior to his consecration as Archbishop of Dublin, which took place on the death of Archbishop Northalis in 1397, but he did not enter into his diocese until October 1398, when he accompanied Thomas Holland, Duke of Surrey, appointed Lord Deputy of the Kingdom. This nobleman was one of Richard II.'s favourites, whom he raised from the Earldom of Kent to the Dukedom of Surrey, he also enriched the Duke with part of the lands of the Earl of Warwick, and created him Marshal of England. Articles of agreement made to him by the King show an intention on the part of Richard II. to colonise the wasted border lands of Ireland with English settlers. It was covenanted that, during the Duke's Viceroyalty, he should have out of every parish in England, at the cost of the King, a married couple to dwell on the wasted border lands of the settlement in Ireland.² As it does not appear the Viceroyalty of the Duke was of long duration (for he was beheaded by Henry IV.), and the kingdom was much disturbed by wars, it is not probable

¹ D'Alton's Lives of the Archbishops of Dublin, p. 151.

² Gilbert's Viceroy of Ireland, p. 279.

any attempt was made to carry this project into execu-
tion.

CHAP.
V.

Dr. CRANLEY was first appointed Lord Chancellor of Ireland in 1401.¹ He was one of the council assigned to Thomas of Lancaster, son of King Henry IV., appointed Lord Deputy for Ireland in the twelfth year of his age, and needed wise heads to direct him in the conduct of State affairs. The Chancellor had previously been employed abroad, he had letters of protection when leaving Ireland for the Continent on the King's business, and in the following year he received a commission licensing him to treat with the Irish. This was requisite, otherwise anyone doing so without a commission would be guilty of violating the Statute of Kilkenny. Being in a bad state of health in 1402, Thomas de Everdon, keeper of the Rolls, was appointed his deputy during his absence.²

Lord
Chancel-
lor.

License to
treat with
the Irish.

Although the Statute of Kilkenny was intended to prevent any intercourse, social or commercial, between the English colonists and the native Irish, its provisions were soon found more hurtful to the former than to the latter. Accordingly we find constant applications to the English officials for permission to do acts, notwithstanding express prohibition contained in the Statute of Kilkenny. Thus, license to trade with, and make purchases from, the Irish, to send children to be reared and fostered among them, that Irish minstrels should be allowed to sojourn with them, that parleys might be held, &c., all these showed the inutility of that enactment.

At the death of Richard II., and the accession of Henry IV. to the throne, the English government rule in Ireland was narrowed to four counties, viz.—Dublin, Meath, Kildare and Louth, and the rest of the country was almost entirely under the rule of the Irish chiefs. In their districts the Brehon code decided all disputed questions, obedience to the judgments of the Brehons was strictly required and enforced, and the habits and mode of living

English
rule in
Ireland.

¹ Pat. August 23, 1401.

² November 9, 1402.

CHAP.

V.

Relations
of the Irish
and the
Continent.

of the Irish chiefs was observed even by the English who dwelt among them. The state of life amongst the aborigines of the country was much more civilised and refined than is generally supposed. Their close proximity to Scotland, their constant visits to the Continent, either to perform pilgrimages, so common in these days, or to visit foreign countries to exchange civilities with strangers, or for commercial pursuits, made them a part of the great European family. This relation was strengthened and quickened by their connection with Rome, the chief seat of the head of the Catholic Church, and Irish priests or students for the Church were constantly passing to and fro from France, Spain and Italy. We read in the 'Annals of the Four Masters,' pilgrimages to Rome were of quite as frequent occurrence in these days as an Italian tour now, and many chiefs of Irish Clans passed their last days in the Eternal city.

Rapacity
of English
officials.

Meanwhile the state of the English settlement had not caused the Irish to prefer the rule of the stranger to that of their own country. The rapacity and insolence of English officials tended more to repel any desire to come under their jurisdiction, than cause exertion to be placed under its control. Many of the judges, and law officers, were sent hither because they failed to obtain practice in England, or had bought their offices and farmed them to others, who only sought to make profit of them. Commissions of oyer and terminer were constantly held, and when rapacious men acted in the name of the King, they took advantage of the constant warfare to set up claims for the Crown. They made money by holding prisoners to ransom, baffled the pleas of rival claimants, appropriated the rents as for the use of the State, and spent them as they liked. Men of rank and station, ecclesiastic or lay, who had become obnoxious to the officers of the Crown, were often cast into prison until they were ransomed by large sums. The troops employed to protect were often more oppressive than those against whom their aid was sought. They required the house-

Oppression
of the
people.

holders on whom they were billeted to pay them weekly money, under the name of coygnes, and they took, without payment, provisions for themselves and their horses under the name of livery.¹

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V.

With a view of remedying this state of affairs, King Henry IV., in 1401, appointed his second son, Thomas of Lancaster, High Steward of England, Viceroy of Ireland, to receive all the profits of the Crown arising out of Ireland for the use of himself and his officials. The Prince landed at Blowyk (Bullock), near Dalkey, about ten miles from Dublin, on Sunday, November 13, 1402, and on his arrival in Dublin, his Commission was delivered into Chancery for enrolment.

Thomas of
Lancaster
Viceroy.

A council consisting of Dr. Thomas Cranley, Archbishop of Dublin, Lord Chancellor of Ireland, Laurence Merbury the King's Treasurer, Edmond Noon, Antonie St. Quintyn, and Janico D'Artois, were assigned to assist the young Viceroy in the government of the kingdom. D'Artois had considerable experience in Irish affairs, having been in the Viceregal Court of the Duke of Surrey. He was a devoted follower of the ill-fated King Richard II., and was imprisoned at Chester by the adherents of the Duke of Lancaster for wearing the White Hart, Richard's favourite badge. The state of the Irish Exchequer was at this period very low, and it would seem the credit of the State not very high. Lord Chancellor Cranley, in a memorial to King Henry IV. from the Council at Le Naas, wrote as follows:—

Council to
assist the
Viceroy.

‘With heavy hearts we testify anew to your Highness that our Lord, your son, is so destitute of money that he has not a penny in the world, nor can borrow a single penny, because all his jewels and his plate that he can spare of those which he must of necessity keep are pledged and be in pawn. Also his soldiers have departed

The Chan-
cellor's
letter to
Henry IV.
Poverty of
the Vice-
regal
Court.

¹ This word is still retained in places where horses are kept under the name of 'livery' stables; the difference being, in former times no money was paid for the keep of the horse, in later days no horse is kept without payment of money.

CHAP. V. from him, and the people of his household are on the point of leaving, and, however much they might wish to remain, it is not in our Lord's power to keep together, with a view to his aid, twenty or a dozen persons with me, your humble suppliant (Archbishop of Dublin), and your humble liege Janico, who has paid for your use his very all, but we will render our entire duty to him so long as we shall live, as we are bound by our sovereign obligation to you. And the country is so weakened and impoverished by the long non-payment as well in the time of our Lord, your son, as in the time of the other Lieutenants before him, that the same land can no longer bear such charge, as they affirm, and on this account have they importuned me. In good faith, our most Sovereign Lord, it is marvellous that they have borne such a charge so long. Wherefore we entreat with all the humility and fulness that we may, that you will please to ordain speedy remedy of these said dangers and inconveniences, and to hold us excused also, if any peril or disaster (which may God avert), befall our Lord, your son, by the said causes. For the more full declaring of these matters to your Highness, three or two of us should have come to your high presence; but such is the great danger on this side that not one of us dare depart from the person of our Lord.'

Sir Laurence Merbury Lord Chancellor.

This shows a very sad state of affairs in Ireland, and I do not find the King took any active steps to remedy the evils. No doubt the hard living and constant worry to which he was exposed did not agree with Dr. Cranley, for we find the Most Reverend Archbishop and Lord Chancellor took ill in 1403, and was thereby disabled from discharging his judicial functions. It was therefore necessary to appoint a deputy, and the Master of the Rolls, Sir LAURENCE MERBURY, was selected to act in that capacity.

Patrick Barrett Lord Chancellor 1410.

He had the seals until he was succeeded by PATRICK BARRETT, Bishop of Ferns, who had the custody of the Great Seal in 1410, and held it for two years, having been appointed Lord Chancellor.

The office was next filled by THOMAS LE BOTELLER, Lord

Keeper, 1412. He was descended from the great House of Ormond, the chief of which is hereditary Chief Butler of Ireland. The family of Le Boteller, anglicised Butler, is of Norman extraction, but settled in Ireland since the days of Henry II. The name appears originally Fitzwalter, and Theobald Fitzwalter was brother to Hubert, Archbishop of Canterbury, who, in the reign of King John, held the Great Seal of England as Lord Chancellor. While this Prelate held the rank of Chief Justiciary in the reign of Richard Cœur de Lion, the monks of Canterbury complained to the Pope, that contrary to the Canons of the Church, their Archbishop, as Justiciary, was a Judge in causes of blood, and being engaged in secular affairs, neglected his diocese. This caused a remonstrance from the Pope, who required the King to remove the Archbishop from all lay appointments, and for the future not to admit him, or any priest, into any secular office.¹

As the Lord Chancellor was the 'Keeper of the King's Conscience,' most likely the Archbishop regarded it as not wholly a secular office. The keeping of John's must have been a sinecure, for he does not seem to have had any.

The members of this family soon showed such distinguishing qualities as lifted them to high places, and in every age and reign, from the days of Henry II. until now, we find the Butlers holding posts of dignity and emolument in Ireland. Our space compels a brief notice of those connected with the administration of the law.

Theobald, who first assumed the surname of De Boteller in 1221, was Lord Justice of Ireland in 1227. He had the able assistance of Ranulf de Glanville in forming regulations for the Irish Government, and though the English laws were limited in operation, were observed throughout the colony. Edmond, his descendant, was knighted in London in 1309. In 1312, he was named Lord Deputy, and administered the Irish Government as Lord Justice. He was created Earl of Carrick. In a

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V.

Thomas Le
Boteller
Lord
Keeper.
The family
of Boteller.

¹ Lord Campbell's Lives of the Lord Chancellors of England, vol. i. p. 118.

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V.

Parliament held in 1310, were passed some excellent laws for the protection of the people and the peace of the country. The practice of members being paid originated in England about 1312,¹ and soon was adopted in Ireland, where it continued for a long period.

James, the second Earl of Ormond, styled *par excellence* the Noble Earl, great-grandson of King Edward I., was Lord Justice of Ireland, 1359–60, as was also his son. James, the third Earl, was father of Thomas the Lord Keeper. This nobleman purchased in 1391 the stately Castle of Kilkenny, commandingly situated on the river Nore, from the heirs of Hugh de le Spencer, Earl of Gloucester. This feudal pile was erected in the commencement of the thirteenth century, and has been occupied for centuries as the principal residence of the illustrious House of Ormond.² John, the sixth Earl of Ormond, was so accomplished and well-bred, that King Edward IV. is reported to have said, ‘if good-breeding and liberal qualities were lost in the world they might all be found in the Earl of Ormond.’

The history of Ireland bears constant evidence of the deeds of the Butlers, long the rivals of the Geraldines, but my space does not warrant referring further save to the individual pertinent to this work.

THOMAS LE BOTELLER was appointed Keeper of the Great

¹ Lord Campbell's *Lives of the Lord Chancellors of England*, vol. i. p. 181.

² Among the attractions of the noble castle of the Marquis of Ormond at Kilkenny, is a fine collection of historic portraits. They may be best described by the poet:—

All the past is bright before me by the magic of the painter,
From the stirring times of Henry to the gloomy Second James,
And the splendour of the present pales before it, and grows fainter,
As I see the men who ruled us, and the old historic names.

And the Tudors and Plantagenets are with me in their glory,
And the men whom Vandyke painted, when ill-fated Charles held sway,
The great men whose names live in our stirring ballad story,
Who are looking from the canvas on the people of to-day.

And there's winsome Mary Stuart, and though fatal shade of sinning
Rests upon the fairest flow'ret that the White Rose gave to earth,
I would keep my youth's allegiance, and believe that one so winning
Was as pure as she was lovely, and as noble as her birth.

Kilkenny
Castle.

Seal of Ireland in 1412. At this time indeed the office was more political than judicial. He was more occupied by military than either political or judicial affairs. The Lord Deputy being obliged to go into the Counties of Dublin, Meath, Louth, and Kildare, and Carlow, for the good government and safety of those parts, to resist English rebels and Irish enemies, and Patrick, Bishop of Ferns, not being able to leave that diocese, without manifest hazard of the destruction of the inhabitants, it was agreed by instrument, dated at Kilkenny, May 4, 1412, that Robert Sutton, Keeper of the Rolls, be appointed Deputy Chancellor.

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V.

Thomas Le Boteller was called *Baccach*, which signifies a lame or crippled person, and was the illegitimate son of James, third Earl of Ormond, both which blemishes, I should think, would have prevented him receiving holy orders; yet he was Prior of the celebrated monastery of Kilmainham, originally possessed by the Knights Templars. This priory, on the suppression of the order of Templars, in 1312, was granted to the Knights of St. John, and as we have seen, furnished more than one Chancellor to our list of the holders of the Irish Great Seal. The Prior Le Boteller is described as a man of tried courage, and possessed considerable administrative abilities. He was Chief Governor of Ireland, Deputy to Thomas, Duke of Lancaster, and careful of the rights of the Church, for a Bill in Parliament containing these words:—‘This Bill requireth, that letters patent, obtained by Abbots and Priors, for discharge of their benefices, from contributing to the salaries of the Proctors in Parliament, may be repealed, and that the same Abbots and Proctors shall be henceforth contributory.’ Having passed the Parliament, when brought to the Deputy for assent, the Prior Le Boteller then Deputy, answered:—‘The Governor will be advised,’ consequently the Bill was thrown out.¹

Career of
Thomas
Le Botel-
ler.

Prior of
Kilmaint-
ham.

Lord
Deputy.

The Lives of the Chancellors of Ireland during the

¹ Harris Collect.

CHAP.
V.

earlier reigns, indeed to Queen Elizabeth's time, offer more matter for description of campaigns by the sword than the operation of law. When Henry IV. passed away in the Jerusalem Chamber of the Palace at Westminster, and when Henry V. ascended the throne, his thoughts were directed more to military exploits than civil government. Le Boteller resigned the Great Seal of Ireland to Archbishop Cranley on the death of King Henry IV. in 1413, and desirous of sharing the campaign with the young King, passed into France at the head of 1,600 men. He died in Normandy on August 10, 1419.¹

Le Boteller resigns the Great Seal.

Death, 1419.

Cranley reappointed.

Lord Chancellor sends a Deputy to hold Assizes.

Lord Justice.

The Lord Chancellor writes poetry.

Sir John Talbot Viceroy.

We accordingly find Archbishop CRANLEY again Chancellor. He had been compelled to resign it, as we have seen, from ill-health. In 1413 the time of the Lord Chancellor was again so occupied by State affairs that he was obliged to send a deputy to hold the Assizes in his absence, and John Birmingham, second Justice of the Chief Bench, was assigned for this duty.

At the close of the year the Archbishop was constituted Lord Justice of Ireland, and, according to the testimony of Leland, the antiquary, was a poet, for he wrote, says Leland, 'a neat epistle to the King, in elegant verse, consisting of 106 lines, which I read with great pleasure, and was at the pains of treasuring up in my memory.' This epistle was an answer to some complaints made against the Lord Justice by persons who felt aggrieved by his administration.²

The condition of the settlement requiring an active warrior for the Government rather than a peace-loving Prelate, Sir John Talbot was appointed in 1413. Sir John Talbot proved an energetic Viceroy. He speedily brought O'More chieftain of Leix to subjection. He opened up the country. By his marriage with Maud Neville he became Lord Furnival. On the departure of Lord Furnival for England in 1415, that distinguished statesman and

¹ Archdal, *Mon. Hib.* p. 239.

² Gilbert's *Viceroy's of Ireland*, p. 303. I have not been able to find any copy of the poem.

warrior had so high an opinion of the prudence and ability of the Chancellor-Archbishop, that he made him Deputy, being empowered to do so by his Commission.¹ The Chancellor diligently discharged the trust confided to him, which was a most critical one. The English settlement being then torn by dissensions within and encompassed by enemies without. The peace of England was supposed to be endangered by itinerant ecclesiastics from Ireland, which caused the Parliament of England to order 'for quietness and peace within that kingdom, and for the increase and filling of the land of Ireland, that all Irishmen and Irish mendicant clerics, called "chamber-deacons," should by a fixed day be voided from the realm, upon pain of losing their goods, and being imprisoned during the royal pleasure.' From this penal clause was excepted 'graduates in schools, serjeants and apprentices of the law, professed religious persons, merchants of good name and their apprentices, dwelling at the time in England, and all holding office in Ireland, were ordered to proceed thither for defence of the land.'

CHAP.
V.Chancel-
lor.Lord
Deputy.Irishmen
ordered
out of
England.Excep-
tions.

At this period intercourse between the Irish cities was kept up by sea, or through defiles and passes, occupied by an envenomed and oppressed foe, with whom the legislation of the state forbade coalition or friendship. The acquired portion of inland country was erected into English palatinates, whose chieftains preferred independent dominion to the salutary restraints of the law. There were no circuits outside the pale for centuries after the introduction of the English law into Ireland, and the Chancellor's jurisdiction was very limited. Superior Courts alone offered any encouragement or reward to barristers or solicitors, and of these there were but few, while within each precinct local jurisdictions determined civil causes, and martial law, guided by palatines or tanists, formed the criminal code. The spirit and process of English law was then confined to the Capital and a narrow portion of the pale. A staff of legal functionaries, judges, and law

The
country
inaccessi-
ble.Palatine
Courts.English
Law con-
fined to
Dublin.¹ Rot. Claus. in Canc. Hib.

CHAP.
V.
Legal pro-
fession in
Ireland.
Equitable
jurisdi-
ction of
Chancery.

Irish Law
Students.

Remon-
strance.

Sir Lau-
rence Mer-
bury
Chancel-
lor.

Cranley
deputed to

officers, had been regularly kept up, and courts constantly held which employed the few barristers, who expected after a practice more laborious than lucrative to attain judicial eminence. The surrounding palatines, or Irish chieftains, rendered the active duties of the Common Bench, or Common Pleas very trifling; the equitable jurisdiction of Chancery, which was well-defined in England, had, as I have stated, no extensive subject in Ireland to operate on, and such of the inhabitants as desired to prepare themselves by legal skill for professional eminence were obliged to resort to the English Inns of Court, where the law was cultivated in great perfection.¹ When vigorous steps were taken to cause the Irish in England to return home, Irish law students, who resorted to England for their studies, though expressly excepted by the Act, were denied admission to the Inns of Court.

The obstructions placed in the way of Irish law students called for the interference of the Irish legislature. 'Your lieges show that they are governed and ruled by your laws used in the realm of England, to acquire a knowledge of which laws, and to be well informed therein, your lieges have sent able persons of English blood, born in your land, to the Inns of Court, where from the time of the conquests of your land, they have ever been received until lately. The Governors and Company of the Inns have refused, and would not receive these persons into the Inns as they had been accustomed to do. Therefore, may it please your gracious Lordship to consider this matter and ordain due remedy, that your laws may continue and not be forgotten in the land.'²

The Great Seal of Ireland appears to have been again entrusted to Sir Laurence Merbury, considerable complaints having arisen against Sir John Talbot, for misconduct during his Viceroyalty. At a Parliament held in 1417, Archbishop Cranley was deputed to proceed to England,

¹ Morrin's Calendar of Patent and Close Rolls, Chancery, Ireland, vol. ii. preface xxxii.

² 9^o Henry V. Vide also Rot. Claus. Hib. 7^o Henry VI.

with a memorial to the King on the state of Ireland. When the document had been transcribed, the Chancellor, Sir Laurence Merbury, who perhaps felt that he was subjected to censure in this document, refused to authenticate it by affixing the Great Seal. This made matters worse, and a formal complaint was made to the King, who was requested to oblige the Chancellor to account for his conduct. The Viceroy was accused of practising excessive extortions and oppression on both lay and ecclesiastical persons, whose property he unjustly seized—that he paid no respect to Irish lords, and afforded protection neither to saint nor sanctuary. In those days men in authority derived considerable profit from the ransom of prisoners, and Talbot made many captives with this object. Among them was Donough, son and successor of Art MacMurragh, King of Leinster, whom he sent to the Tower of London, with the royal license to take for his own profit the highest ransom he could obtain for his freedom.

CHAP.
V.
lay com-
plaints
before the
King.

But the end was drawing nigh. Toward the close of April 1417, the venerable Archbishop and Ex-Chancellor crossed the channel separating Ireland from England, and died at Farringdon, on May 25, at the ripe age of fourscore years, and not more full of years than honours. His remains rest in Oxford—in the New College, of which he was first warden. A monument was erected to his memory—a fair stone, adorned with brass plates, bearing the figure of a Bishop clothed in his vestments, over which the armorials of the See of Dublin are placed, with his own; beneath is a suitable inscription. Marleburgh describes Dr. Cranley as ‘liberal, fond of alms deeds, a profound clerk, and doctor of divinity, an excellent preacher, a great builder, and improver of all such places as fell under his care. He was fair, magnificent, of a sanguine complexion, and tall of stature, so that in his time, it might be said to him: “Thou art fair beyond the children of men; grace is diffused through thy lips because of thy eloquence.”’ Leland informs us of his high reputation

Death of
Ex-Chan-
cellor
Cranley.

Character
and ap-
pearance.

CHAP.
V.
for his wit and pen, and his capacity for business was fully proved by his incessant employments under the three successive monarchs. Had any reports of the decisions he made as Lord Chancellor reached me, I should have great pleasure in mentioning his qualities as a judge. The holders of the Great Seal of Ireland in succession to Archbishop Cranley were WILLIAM FITZ THOMAS, Prior of Kilmainham, and WILLIAM YONGE, Archdeacon of Meath—each held office for but one year, so we pass on to the career of a member of a most illustrious family, whose memoir I give at considerable length.

William
Fitz Tho-
mas Lord
Chancellor
1421.

William
Yonge
Lord
Chancel-
lor, 1422.

CHAPTER VI.

LIFE OF LORD CHANCELLOR TALBOT FROM HIS BIRTH TO HIS REFUSAL
TO SURRENDER THE GREAT SEAL IN 1432.

THE infant son of Henry V. became King of England and Lord of Ireland in 1422. The Talbot influence was then very great in both countries. Sir John Talbot, Lord Furnival, was high in favour with those in power, and his brother Richard was Archbishop of Dublin, then confined to natives of England. A statute of the English Parliament (the last over which Cardinal Beaufort presided in the reign of Henry V., A.D. 1417) shows the hostility with which the English, at that time, regarded the natives of Ireland. It enacts ‘that none of the Irish nation be elected an Archbishop, Bishop, Abbot, or Prior; and whoever promoted such to these ecclesiastical preferments, or brought any such Irish rebels to Parliaments, Councils, or other assemblies among the English, should have all their temporal estates seized into the King’s hands, till they had paid the fines due for such offence.’

Archbishop Talbot was descended from a house no less remarkable in the field than in the senate. The name of Talbot has ever been distinguished in the annals of England and Ireland, and the subject of my present memoir was a worthy scion of the noble stock. Richard was brother to John Talbot, the renowned warrior whom King Henry VI. advanced in honours for his martial deeds in France, and who embodied the triple title of Earl of Shrewsbury, Waterford, and Wexford.¹ When he had completed

CHAP.
VI.Accession
of King
Henry VI.Richard
Talbot
Lord
Chancel-
lor.Family of
Talbot.

¹ On the death of his elder brother, Gilbert Talbot, in 1417, and that of his only child, Ankaretta, in 1422, Sir John Talbot became Lord of Wexford.—Gilbert’s *Viceroy*, p. 315. And in 1447 had a grant of the Earldom of Waterford. He was also Earl of Shrewsbury.

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VI.

his education as a divinity student, the young priest was not long unemployed.

Richard Talbot ordained, loses the Primacy.

Archbishop of Dublin.

Deputy to Sir John Talbot.

Ordinance of Henry II.

In 1407, the Rev. Richard Talbot was collated to the Precentorship of Hereford, and in 1416, on the death of Archbishop Fleming, the vacant mitre of Armagh and Primacy was designed for him, but it appears that, having neglected to expedite his confirmation within the allotted time, another ecclesiastic, Dr. Swain, became Primate in his place. The disappointment to Dr. Talbot was not destined to be of long duration. In the following year, 1417, he was appointed Archbishop of Dublin, and this time he did not lose the mitre by apathy. His consecration during the year is duly recorded in the White Book of Christchurch.¹

In 1419, the Archbishop was appointed deputy to his brother, Sir John Talbot, Viceroy of Ireland, who had procured leave of absence from Ireland. He was soon called on to act severely against some of the chief nobles of the colony, and he arrested, at Slane, Sir Christopher Preston, Lord of Gormanstown, the Earl of Kildare, and Sir John Bellew, for holding illegal communication with the Prior of Kilmainham.

In Preston's possession was found a parchment roll, on which was engrossed an ordinance of Henry II. prescribing the mode of holding Parliaments in Ireland.² This document was in the same year produced before the Lord Deputy and Council at Trim, and a copy of it ordered to

¹ Compiled in the sixteenth century, by Thomas Fitch, sub-prior.

² The date at which Parliaments were held in Ireland is still a moot point. In the 'Life and Death of the Irish Parliament,' by the Right Hon. James Whiteside, now Lord Chief Justice of the Queen's Bench, that able lawyer states, 'no Parliament was held for one hundred and forty years in Ireland;' but he rests this statement entirely on the authority of Sir John Davies and Lord Coke; while the *Essay on Irish Parliaments*, by Dr. Monck Mason, argues that, 'many of the assertions contained in the celebrated speech of Sir John Davies are contradicted by recorded facts. It is therefore a document upon which no historian should rely.' Dr. Mason also says, 'The *Modus Tenendi Parliamenta in Hibernia* was sent over to Ireland by Henry II., as a direction for the regulation of Parliaments there; that the original roll of the Irish *Modus* was seen by Lord Coke, who gives full credit to the earliest antiquity assigned to it.'—Mason's *Essay on the Parliaments of Ireland*, p. 6.

be made, and attested with the Great Seal of Ireland. It is stated the authenticity of the roll found in Preston's hands has been questioned, but the official copy and exemplification of it was subsequently accepted as an authority on the subject of which it treats.¹

CHAP.
VI.

I find a mode of deciding causes by sharper weapons than are contained in the arsenal of the Courts, was in use in Ireland. In 1420, a judicial combat, or trial by ^{Judicial} combat. wager of battle, was fought at Waterford, between two cousins of the Earl of Ormond, who presided as Judge on this occasion. It was a bloody duel, for one of the combatants was slain, and the other carried wounded to Kilkenny.² This mode of ordeal was not in use among the ancient Irish, but was introduced by the Anglo-Normans, and remained in force until the beginning of the present century, when it was abolished by Act of Parliament.

As a curious instance of the insecurity of these times I may relate that, Adam Veldon, Chief Clerk of the Court of Chancery, petitioned for the King's aid, as, in a certain hosting made by the O'Connors and De Berminghams, upon the liege subjects in the country, he was taken prisoner and detained until, to his utter ruin, he was forced to pay ten pounds of silver for his ransom.³ We cannot be surprised, in a colonial parliament held before John, the fourth Earl of Ormond, as Viceroy, the usual statement of grievances was agreed upon to be laid before the King; setting forth that the land was for the most part wasted by Irish enemies and English rebels, and by the extortions, oppressions, and non-payments of divers lieutenants, their deputies, and other great persons. That 'by default of the due execution of your Highness's laws your land is descended to so great a decline that it will never be relieved, and your enemies and rebels chastised without your most sovereign and gracious presence within

Chief
Clerk
taken pri-
soner.

Anglo
Irish
grievances.

Invitation
for a Royal
visit.

¹ Gilbert's Viceroys of Ireland, p. 311.

² Ibid.

³ Ibid. 312.

CHAP.
VI.Duties per-
formed by
deputy.

your said land, as it appears to your poor lieges: but the same your land and your lieges there, in a short time will be utterly lost and for ever destroyed, which God forbid.' They complained of misappropriation of the royal revenues—that landholders, artificers, and labourers were daily departing for England in great numbers, by which the husbandry of the land was much injured; that the offices of the Exchequer were held by illiterate persons, who knew not how to write, and performed their duties by deputy, some holding several appointments in the same Court, and extorting heavy fees from the suitors in order to pay high rents to their principals. It appears that there was, at this time, considerable unwillingness displayed by the Governors of the English Inns of Courts to admit students from Ireland, which made another item in this long list of grievances, and they prayed the Governors and Companies of the Inns of Court might be ordered to receive persons of good and gentle birth of the English of Ireland. The memorial concluded with the following strange petition:—

Singular
request to
Henry VI.

‘ Your lieges show, to your most high and Royal Majesty, that whereas, at the first coming of your most noble predecessor, King Richard II., to this land, most of the great chieftains of the Irish nation, that is to say, MacMurragh, O'Neill, O'Brien of Thomond, O'Conner of Connaught, and divers other Irish, most humbly, and of their free will, submitted and became liegemen to him and his heirs, Kings of England, for themselves, their children, kindred, and people for ever, and at that time did then liege homage; and also, for greater surety they bound themselves, of their own free will, by divers instruments, as appears in various forms, to the most Holy Father the Pope, and his successors, for the firmly keeping their allegiance, the which instruments remain in your Treasury of England, as your lieges suppose; but since that time the said persons openly became outlaws, and rebels, and wasted and destroyed your lieges, against the form promised. Your lieges, therefore, pray that you

will write to and inform our Most Holy Father the Pope, by your most gracious letters, the matters and things aforesaid, with these circumstances, that a crusade be made against the Irish enemies, for the relief and salvation of the land, and of your lieges in that behalf, and in perpetual destruction of these enemies, by the aid of God.'¹

CHAP.
VI.

The Pope
requested
to au-
thorise
a crusade
against the
Irish.

We do not learn how this humane and pious project was received by his Most Gracious Majesty, then an infant of a few years old, or if he entreated his Most Holy Father to decree a crusade against the wild Irish, for the annals of the time make no further mention of it. I insert it as a curious historical document, throwing light upon the feelings with which the natives were, for a long time, regarded by the English.

In 1423, Archbishop Talbot was appointed Lord Justice, and, in the same year, Lord Chancellor of Ireland.² In 1424, he was awarded, for his services to the State, a grant of the revenues of the estates of Matthew St. John, deceased, which had devolved upon the King by reason of the minority of the heir, William St. John, together with the marriage of said ward, and so from heir to heir, until some one should attain age, and obtain livery of said estates.

Talbot
Lord Jus-
tice and
Lord
Chancel-
lor.

In the previous year, 1423, Edmond de Mortimer, who had loyally served King Henry IV. in his wars in England and France, was nominated Viceroy of Ireland, with an annual allowance of five thousand marks. As such Viceroy, he executed letters patent at Ludlow Castle, appointing Edward Dantsey, Bishop of Meath, his deputy in Ireland. This document was produced to the acting Governor, Archbishop Talbot, in the convent of the Franciscans at Drogheda; but he, as Lord Justice and Chancellor, declined to recognise the appointment, which he considered was illegal, and, on consulting the council,

The Chan-
cellor
declines to
recognise
a Lord
Deputy.

¹ Gilbert's Viceroys of Ireland, pp. 313, 314.

² Pat. West., May 19, 1423. Sworn July 13, in his palace at St. Sepulchre, before the Privy Council.

CHAP.
VI.Proceed-
ings there-
upon.The Chan-
cellor
yields.Death of
Lord Lieu-
tenant.Chancellor
prevented
going cir-
cuit.

they also doubted the power of the Viceroy to appoint a deputy under his private Seal. A writ was then obtained from Westminster, produced by Sir Thomas Stynt, directing Dantsey to be admitted, whereupon the Lord Justice Chancellor, fortified by the advice of the Judges held he was not legally appointed, but for the public service, and for peace' sake, the Chancellor resigned his office of Lord Justice in favour of the Bishop of Meath. The Viceroy himself arrived in Ireland in 1424, and entered into friendly relations with many of the native chiefs, but his mission of good will was not destined to be of long duration, he died of the plague in January 1425, and Sir John Talbot, the brother of the Lord Chancellor, became Viceroy.

A great struggle was going on in England at this period, to limit the jurisdiction of the Court of Chancery. It was waged, at one time, during the reign of Henry V., when a petition was presented by the House of Commons to the King, praying 'that no causes should be drawn thither which might be determined in the Courts of Common Law.'¹ It was revived in the reign of Henry VI., and if the prayer of the petition was complied with the country would have lost the benefit derived from the equitable interference.² The reply left the Chancellor uncontrolled jurisdiction in cases of Equity.

The Chancellor had a Commission of Justice and guardian of the peace of the county of Dublin with various powers. These occupied his attention, and, in the ensuing year, prevented his going Circuit whereon he assigned the Chief Justice, Bray; and second Justice of Ireland, Roger Hawkenshawe, to hold the assizes in his stead, without the Great Seal, saving, however, the fees of said Seal.³ In 1426, he reduced the proxies that were previously paid by the Prior and Convent of the Holy Trinity to the Archbishop of Dublin from five marks to two and a half, which concession was ratified by a Bull of

¹ Lord Campbell's Lives of the Lord Chancellors of England, vol. i. p. 322.

² Ibid. p. 331.

³ Rot. in Canc. Hib.

Pope Eugene. As the charges of defending the borders of the pale around Dublin from the incursions of the Wicklow Irish were very burthensome, the Archbishop had a grant of 40*l.* from the Treasury for paying men-at-arms, and archers, horse and foot.¹ In April 1426, Talbot was removed from office, and WILLIAM FITZ THOMAS appointed Lord Chancellor.² The Great Seal having been held by him for a short time, only three months, his patent was revoked and SIR RICHARD FITZ EUSTACE appointed Lord Chancellor.³

CHAP.
VI.

William
Fitz Tho-
mas Chan-
cellor.

SirRichard
Fitz
Eustace
Lord
Chancel-
lor.

The Archbishop was speedily reappointed Chancellor. Fitz Eustace was only a month or two Keeper of the Great Seal when his appointment was revoked and Talbot again nominated.⁴ A Parliament was held at Dublin in 1429 before Sir John Sutton, fourth Baron of Dudley, who had borne the royal standard at the funeral of Henry V. The chief object of former Parliaments appears to complain of the Irish Government, but this was an exception, for this Parliament despatched Henry Fortesque, Chief Justice of the King's Bench, and Sir Thomas Strange, to England, with a memorial under the Great Seal to be presented to the King. They represented the inroads of the Irish in every part, but against these enemies the Viceroy manfully and diligently warred; burned and destroyed their corn and houses, broke their castles, cut their woods and passes, made great slaughter and much impoverished them; so that the lieges stood in good rest from the malice of their foes, and that their persons, corn, houses, and goods, were well protected. They besought the King to thank the Lieutenant, 'as he right well deserved, thus causing him to have the more courage to continue his good and diligent labours. They begged he might have hasty remittance of his allowance, to enable him to pay the people. That, before this time, the land hath stood in great likeliness of injury by often changing, and the mis-

A Parlia-
ment.

Beneficent
Viceroy.

Remittan-
ces re-
quested.

¹ D'Alton's Lives of the Archbishops of Dublin, p. 155.

² Patent, April 25, 1426.

³ Patent, Sept. 10, 1426.

⁴ Patent, October 23, 1426. Sworn in January 12, 1427.

CHAP.
VI.Com-
plaint to
be dis-
regarded.Students
to be ad-
mitted to
English
Inns of
Court.A counter-
statement
forwarded.Parlia-
mentary
Certif-
icates.

governance of the Lieutenant and their Deputies,' adding:—' We beseech you that while we stand well, such change be not made hereafter, for fear of peril of losing the lands as it has been of late.' That as false accusations, and reports, had been lately made to the King and Council in England respecting the Irish State officials, the Parliament prayed such reports, which caused great hinderances, and heaviness, might not be received, but that these propagators should be obliged to find sufficient surety to abide by their statements, which should be examined by the Parliament, or Great Council in Ireland, and the result certified thence under the Great Seal. They complained, that divers clerics, merchants, and other honest persons of the King's land in Ireland, had been robbed, beaten, and imprisoned while travelling from Chester to Coventry, Oxford, and London, and they requested that the liege people might be admitted to study in the Inns of Court, in England, as in former times, for that, otherwise, after the death of the existing lawyers, none would be found in Ireland acquainted with the laws of England.

A counter-statement was sent to the King anonymously, without the knowledge of the Viceroy or the Council. It asserted the disasters which had befallen the land, were the fruit of the misconduct of the nobles, and gentry, who incited the Irish and disloyal English to perpetrate burnings and other enormities, and refused to march with the Viceroy against the enemies, though summoned by royal writs. The suggestion of not changing the Viceroy, they declared an illegal effort to circumscribe the power of the Crown, and that the settlement was never in so precarious condition as at that time. It was contended, the sole prerogative of the King was to deal with complaints against Viceroys, and, as for parliamentary certificates of their conduct, no reliance could be placed on such certificates, because the nobles and great men of the settlement filled the Parliament with their own nominees, who had little regard for the welfare of Monarch or subject.

That while the Earl of Ormond deserved thanks for some service, he was then pursuing courses destructive to the English, that hasty payment to the Viceroy was then impossible, in consequence of the many subsidies and loans which had already been contributed by the lieges.

CHAP.
VI.

The receipt of two such contradictory memorials must have been extremely perplexing to the King of England. He transmitted a copy of the latter to Sir John Sutton, his Viceroy, and that nobleman endeavoured to ascertain from whom these complaints emanated. Sir John produced these articles before the Chancellor, and other members of the Council at Drogheda, in April 1429, and they being read, the Chancellor asked the members, individually, 'whether they were cognisant of or participators in the compilation and transmission of the documents?' Each returned a negative answer, the Chancellor was interrogated in turn by the Viceroy, and he, too, replied, he 'had no knowledge of the document.' Sir John Sutton then directed the enrolment of the whole affair, and sent a copy of the enrolment to the King, with a declaration, that his Council in Ireland repudiated any attempt to deceive his Highness.

The contention between Chancellors and other magnates was not confined to Ireland. The rivalry between the English Chancellor, Cardinal Beaufort, and Humphry Duke of Gloucester, the Protector, created serious riots in London in October 1425, and articles of impeachment were exhibited by the Duke against the Chancellor.¹

Whether Archbishop Talbot considered the Primate, Dr. Swain, had supplanted him, in respect to the See of Armagh I cannot say, but a very hostile feeling prevailed between the Archbishop of Dublin and the Primate of all Ireland.

In D'Alton's Memoir of Dr. Talbot, we read:—'In 1429, John Swain, Archbishop of Armagh, having been summoned to appear in a Parliament held in the province

The
counter-
statement
sent to the
Viceroy.

The
Chancellor
and Coun-
cil repudi-
ate it.

Ill feeling
between
the Arch-
bishops.

¹ Lord Campbell's Chancellors of England, vol. i. p. 336.

CHAP.
VI.

of Leinster, made return that he could not personally attend without violation of his oath, taken at his consecration, to defend the rights of the See, and that he was impeded by the contradiction and rebellion of the Archbishop and Clergy of Dublin, on the articles of bearing his Cross, and asserting his Primate Jurisdiction in the Province of Leinster.¹

Question
of prece-
dence.

For many years a question of precedence was in dispute between the Prelates of Armagh and Dublin, which, however, was ultimately decided in favour of Armagh.

Serious
charge
against
Talbot.

A more serious charge, however, at least one involving more penal consequences to the Chancellor Archbishop, was made in this year. Talbot had a Royal mandate, reciting, that the King was led to understand that divers of his Irish subjects, arrayed in arms, held unlawful meetings, and traversed the country from place to place, causing injury to the King, and his liege subjects, all which evil doings the Archbishop of Dublin was alleged to aid and abet; he was therefore commanded forthwith to put a stop to such meetings, and without fail to appear before the King and Privy Council at an early day, to answer such matters as might be charged against him.²

Reluctant
to resign.

It is hardly within my province to trace the ecclesiastical changes which the Archbishop promoted, and which are duly recorded in D'Alton's work.³ He was about being superseded, but evidently was reluctant to part with the office of Lord Chancellor. It is related that, in 1432, Thomas Chase, who had been appointed his successor, presented his letters patent in the presence of Sir Christopher Plunkett, the Lord Deputy, in the Chapter room of the house of the Dominicans, and required the Archbishop to deliver up the Great Seal, the Archbishop took exception to the letters patent, which he contended,

¹ D'Alton's Lives of the Archbishops of Dublin.

² Ibid. p. 155.

³ Ibid. pp. 155-6-7.

Refuses
the Great
Seal
to his suc-
cessor.

did not sufficiently substantiate such an intention, and CHAP.
declined giving the same, but consigned the Seal to the VI.
custody of the Lord Deputy, until the King's will should Remains
be better ascertained, and Talbot was allowed to remain Chancel-
Chancellor.

CHAPTER VII.

LIFE OF LORD CHANCELLOR TALBOT CONTINUED.

CHAP.
VII.The state
of Ireland.

At this time (1435) the state of Ireland caused the Privy Council of Ireland to address the King. Their address was presented by the Viceroy, Sir Thomas Stanley, who was then proceeding to England to seek payment for the arrears of his pay, due by the Crown. The limits within which the English laws were acknowledged may be judged from the document :—

English
rule con-
fined to
narrow
limits.

‘First, that it please our Sovereign Lord graciously to consider how this land of Ireland is well nigh destroyed and inhabited with his enemies and rebels, in so much that there is not left in the nether parts of the counties of Dublin, Meath, Louth, and Kildare, that join together, out of subjection of the said enemies and rebels, scarcely thirty miles in length and twenty miles in breadth, as a man may surely ride or go, in the said counties, to answer to the King’s writs and to his commandments.’

Viceroy
solicits the
King’s pre-
sence in
Ireland.

The memorial then describes the outer parts of the said land to be so destroyed and oppressed with enemies and rebels, that the few liege people dwelling in them be not sufficient to victual the cities of Waterford, Cork, and Limerick, nor the walled towns, whereby the said cities and walled towns are on the point to be famished. They propose to the King a remedy which has not often been tried for Irish discontents, ‘That they, without displeasure of him, much desire his presence at this time into his land, the which would be a principal remedy of all the mischiefs and matters aforesaid, and sovereign comfort of his people, and final rebuke of their enemies, that God grant them to see in haste.’

They attributed the decline of the remote parts of the country, 'because during thirty years past the Lieutenants and other Governors only made visits for a sudden journey or a hosting, and made no residence among the people there, to punish the rebels by the King's laws.'

They made also a good suggestion, 'That the King should ordain that the Admiral of England should, in summer season, visit the Coasts of Ireland, to protect the merchants from the Scots, Bretons, and Spaniards, who came hither with their ships stuffed with men of war, in great numbers, seizing the merchants of Ireland, Wales, and England, and holding them to ransom.'¹

During the absence of Sir Thomas Stanley, in 1436, the Government of Ireland was intrusted to the care of Archbishop Talbot, who was repeatedly appointed Lord Justice in the absence of the Lord Deputy, when the exigencies of State recalled that high functionary to England.

This most urgent remonstrance was unheeded, and affairs in the English colony grew from bad to worse. At a Parliament held in Dublin in 1441, before the Earl of Ormond, acting as Deputy to Sir Leon de Welles, sixth Baron of Welles, Archbishop Talbot and John White, Abbot of St. Mary's, Dublin, were delegated to request King Henry VI. to provide regular pay for the troops; that in ordinary cases persons should not be summoned from Ireland to England; that the Government of Ireland should be committed to 'some mighty English lord; and that the privilege of creating temporal Peers, of which there were but few, might be conferred upon the Viceroy for the time being.'

This last request, however, the King peremptorily declined, stating he would reserve to himself the creation of Peers; and that the names of eligible persons should be certified to him.

The Archbishop, who is stated to have been the rival of the Earl of Ormond, took advantage of this opportunity to inform King Henry of the necessity of removing Ormond from the Government of Ireland. He said:—

¹ Gilbert's Viceroy of Ireland, p. 333.

CHAP.
VII.

Short visits of Lord Lieutenants.

Cruisers required.

Talbot
Lord
Justice in
1436.

Talbot
deputed by
Parliament
to King
Henry VI.

Creation
of Peers.

This re-
fused by
the King.

CHAP.
VII.Ex-chan-
cellor
Talbot's
speech.Reasons
for prefer-
ring an
English
Viceroy.Qualifica-
tions for
Lord Lieu-
tenant.The Earl
of Ormond.

‘ Please your Highness,

‘ If it had been seen good and profitable for you, and for your land, to have had the Earl of Ormond your Lieutenant, he should be named at the Parliament; giving you to understand that they all, both Lords Spiritual and Temporal, and Commons there assembled, considered in their wisdom that it was most expedient to your Sovereign Lord to have for your Lieutenant there a Lord of the birth of this your noble realm (of England) to whom your people show more favour, and obey, than to any man of that (Irish) land's birth. For men of this realm keep better justice, execute your laws, and favour more your common people, and ever have done before this time, better than ever did any man of that land, or ever is like to do. And, please your Highness to consider how it behoveth, that he that should be your Lieutenant there, be a mighty courageous and laborious man, to keep the field, and to make resistance against your enemies, in comfort and support of your true liege people there, and none of these be seen nor found in the Earl, for both he is aged, unwieldy, and unlusty to labour, for he hath, for lack of labour, lost in substance all his castles, towns, and lordships, that he had within your land; wherefore, it is not likely that he should conquer, nor get any grounds to you, Sovereign Lord, that hath thus lost his own. Moreover, please you to know, that at divers Parliaments, when the Earl hath had rule there, he hath ordained and made Irishmen, and grooms, and pages of his household, Knights of the Shire, the which would not in anywise assent to good rule, nor to do anything that should profit and avail to you, Sovereign Lord; and also hath suffered divers Lords, Spiritual and Temporal, to absent them from Parliament, therefore taking of them great fines, to his singular avail there, as the profit should be yours. At the departure of Lord Welles, the substance of the Gentles and Commons desired that the Earl should in nowise be his Deputy, because of great rigour and breaking of peace, and this they dread him to do, like as he has done before;

whereupon, at last, he was bound by indentures tripartite, to keep the peace and be of good rule during the time that he was Deputy to the said Lieutenant.'

CHAP.
VII.

Having mentioned the names of preceding Viceroys—Lord Welles, Lord Dudley, and Sir Thomas Stanley, who, with Thorndon, the Treasurer, and other State officials, could, if summoned, give evidence of the Earl's misgovernment; the Ex-chancellor concluded: 'Also, please your Highness, the premises considered, to discharge the Earl of the office of Lieutenant, and to direct a Commission to certain Commissioners, to enquire within your land of the matter comprised in the articles, and of the rule and governance that the Earl hath been of in the time that he hath stood Lieutenant there, heretofore over the which is rehearsed above, and thereupon to certify you by writing, under your Great Seal, of that which they find by such inquisition, and so you may have clear knowledge, whether it be for your profit and avail, for the ease and welfare of your land, that the Earl be your Lieutenant there or not. And the Earl must be discharged before that the said inquisition be taken, for he hath so rigorously treated your poor people of your land before this time, that they dare not say the truth while that he standeth your Lieutenant there.'

Asks for a
Commis-
sion.

The
Deputy to
be first
removed,

These representations had not power to cause the Earl loss of favour with the King, for we find him appointed Lieutenant in 1442; but, in the August of that year, he was summoned to attend the Privy Council in London, so we may fairly conclude the complaint produced some effect. The Treasurer, Giles Thorndon, was required to state, on oath, who were the fittest, most indifferent, and impartial persons in Ireland, to be employed as Government officials, which he did according to his judgment. The result of the inquiry showed both the Earl of Ormond and his accusers merited censure. The Earl's profits as Viceroy were much diminished, and both he and the Archbishop were lectured by the Council. The account of a careful Irish historian relates that having been summoned

Both
Viceroy
and Arch-
bishop
lectured.

CHAP.
VII.All in the
wrong.

to attend 'to hear what should be said unto them,' the Treasurer declared, 'That, for some time past, justice could not be obtained by the subjects in Ireland, in any matter affecting the interests of the Earl of Ormond and his followers on one part, or those of Sir John Talbot and his brother, the Archbishop, on the other; but that discord, partiality, and division prevailed both in the King's Council and all his Courts there.'¹

The Council, in very explicit terms, informed both the Viceroy and Archbishop, that their dissension was the cause of the divisions and troubles to the liege people of Ireland, and the King was determined such discord should cease.

Evils of
changes
of Lord
Lieu-
tenant.The
Judges.Expendi-
ture.Absentee
tax.Thomas
Chase
Lord Chan-
cellor,
20th
Henry VI.

According to the evidence of Thorndon, the constant changes of Governors had an injurious effect upon legal proceedings. He stated that the Officers of the Exchequer, and other Courts, dared not proceed to recover the King's debts, from dread of being ejected from office at every change of Governor. That the Chief Baron of the Exchequer ought to be a sufficient learned man of law, and that he, as well as other legal officers, should discharge their duties personally, as great injuries had been caused by appointing deputies. That large annuities and pardons for debts had been illegally granted by the Governors, and that the annual expenses of the Viceroy and his officers exceeded all the revenues of Ireland for that year by 1,456*l.* He called attention to the ordinance 'that men born in Ireland should go home, and live in the same land, or else pay to the King a certain sum of money.'

At this period the Office of Lord Chancellor was filled by THOMAS CHASE, whose patent bears date 20 Henry VI. This was the same who, ten years before, had been appointed to succeed the Archbishop, but he then refused to admit the sufficiency of Chase's appointment, and delivered the Seal to the Lord Deputy instead.

In 1443, on the death of the Archbishop of Armagh, the

¹ Gilbert's Viceroys, p. 341.

Dean and Chapter of that See, so far from resenting the various efforts which Archbishop Talbot had made to lord it over them in the matter of the Primacy, elected him Archbishop, but on his declining that dignity it was conferred upon John Mey. Probably he felt reluctant to leave the Capital, where he appears to have been highly esteemed, and in 1445, he was, for the fourth time, Lord Deputy of Ireland; and in 1447, strange to relate, deputy to the Viceroy, Earl of Ormond. This nobleman was mistaken if he imagined he could keep the Archbishop quiet by appointing him deputy, for we find he then composed a work, intitled 'De abusū regiminis Jacobi Comitis Ormoniæ, dum esset locumtenens Hiberniæ.' The Lord Treasurer, Giles Thorndon, also wielded a pen against the Viceroy, and Thomas Fitz Thomas, Prior of Kilmainham, probably under the influence of the Archbishop and Lord Treasurer, went to England to accuse him of high treason.

These were days when men might legally fight duels, and wager of battle offered by Thomas Fitz Thomas, Prior of Kilmainham, was accepted by Ormond. The lists were prepared at Smithfield, London, the usual theatre of such rencontres, and the combatants prepared for the struggle. The Earl was placed in charge of the Duke of Exeter, Constable of the Tower. He was sworn to appear when summoned before the Council, and not to go more than forty miles outside London, except he wished to perform a pilgrimage to the shrine of St. Thomas à Becket, at Canterbury, who was claimed by the house of Ormond as the family saint. His lordship was subsequently allowed to lodge near Smithfield for his breathing and ease against the day of battle.¹

If the description given of the Earl the year before by the Ex-chancellor was correct, 'that he was aged, unwieldy, and unlusty to labour,'² he could not have proved

CHAP.
VII.Talbot
elected
Arch-
bishop of
Armagh.
Declines.Writes on
the abuses
of the
Viceroy.Ormond
accused of
High
Treason.Wager of
battle.

¹ Vide Letter of Jordan, Bishop of Cloyne and Cork. *Ware*, p. 323.

² This statement must have been untrue, or at least exaggerated. This nobleman, called the 'White Earl,' was a distinguished knight, also a proficient in the laws of heraldry and chivalry, and much attached to learning. At his request King Henry V. appointed a King-at-arms for Ireland.

CHAP.
VII.The Prior
trains for
the combat.

a very formidable foe. The valiant Prior, in the meantime, was in the training of Giles Thorndon, the Treasurer, another bitter enemy of the Earl, and was equipped with armour and provided with attendants at the King's expense. As his previous life gave him no opportunity of practising the use of arms, he had now to take lessons; and one Philip Trehere, who practised the uncongenial pursuits of fishmonger and professed swordsman, was also, at the royal cost, employed to instruct the Prior in 'certain points of arms.'

The day
fixed.

On the appointed day Smithfield was a scene of bustle, for the whole tide of population of famous London town was flowing in that direction. The news that a wager of battle was to be decided in the presence of the King, the combatants being two Irishmen, one an Earl, the other a Prior, no doubt lent an additional interest to the coming event. Though the display of deeds of arms was much more common then than now, and combats of knights, either singly or in the grand spectacle of the tournament, were of frequent occurrence, there was something so novel in the present combat, that everyone, high or low, from gentle knights to humble burgess, crowded the lists. All at Smithfield was in due order, the inclosure prepared for the conflict was levelled and smoothed with care, fenced from the pressure of the expectant crowd, and a throne erected for the King, with seats in his vicinity for the nobles and other persons of distinction.

The hour
had come,
but not the
men.The
Church
forbids
the fight.

The hour named for the combat had come, but no monarch sat as President on the vacant throne; no knights; no heralds made proclamation; no one appeared in the lists. Men looked at one another enquiringly, and speculated on the absence of the chief performers in the expected tragedy. At length a solitary herald appeared to announce 'that Holy Church would not permit the scandal of one of her Ministers using carnal weapon to destroy his Christian brother, and *there would be no passage of arms.*' The disappointment was very great, and having given vent to their injured feelings, the crowd dispersed.

The ecclesiastical authorities, struck with the improprieties of a Churchman fighting a duel, induced the King to withdraw his sanction and to take the decision of their differences into his own hands. Upon investigation, Henry acquitted the Earl, declared that the charges originated in envy and malice, and issued letters patent setting forth that 'the Earl was faithful in his allegiance, meritorious in his services, whole and unspotted in his fame, that none should on pain of royal indignation revive the accusations, or reproach his conduct; and that his arraigners were men of no credit, nor should their testimony be admitted in any case.' Seeing that Archbishop Talbot, then Lord Deputy, was one of those who were most active in reproaching the conduct of the Earl, this was a smart rebuke to him, and was followed by the Royal mandate, commanding him to attest officially writs declaring the innocence of Ormond, and send them for public proclamation to the cities and towns of Ireland.¹

The fate of the bellicose Prior may be a warning to sacerdotal combatants. He was deprived of his office of Prior of Kilmainham by the Visitor-General of the Hospitallers, not on account of his martial propensities, but for allowing the buildings of this beautiful Priory to become dilapidated through avarice. He did not expend sufficient money to prevent decay. He appears to have been a most unscrupulous man. His successor represented to Parliament that when deposed, Fitz Thomas broke open the box in which the official seal of the Priory was kept, took it away, and therewith sealed several grants, which were of course illegal and void.

The power of the State was then constantly fluctuating between the rival houses of Ormond and Talbot—one year in the hands of one party, the next in the other. In 1446, Sir John Talbot, then Earl of Shrewsbury (brother of the Archbishop) in his seventy-third year, was again appointed Viceroy of Ireland. He was accompanied by a body of English troops, and soon was actively employed in pro-

CHAP.
VII.The King
arbitrates.Talbot
tacitly re-
buked.The fate of
the war-
like Prior.His mis-
conduct.Sir John
Talbot
again
Viceroy.

¹ Gilbert's Viceroys, p. 347.

CHAP.
VII.Shaving
Statute.Use of gilt
horse trap-
pings
restricted.Death of
Arch-
bishop
Talbot.

Buried.

tecting the borders of the colony from the inroads of the Irish. In 1447, Talbot was granted the Earldom of Waterford and Barony of Dungarvan. In this year was held the Parliament at Trim, wherein was enacted the statute, 'that those who would be taken for Englishmen should not wear a beard upon the upper lip; that the said lip should be shaved once at least in every two weeks, and that offenders therein should be treated as Irish enemies.' An Act was also passed restraining display in horse accoutrements. 'No man,' says the statute, 'shall be so hardy henceforth as to use any gilt bridles, peytrells, or any other gilt harness, in no place, in said land, except knights and prelates of Holy Church.'

On the retirement of Sir John Talbot from the Vice-royalty, in 1447, the Archbishop was again appointed Governor, and distinguished himself by his efforts to keep the colony free from English rebels and Irish enemies.

The days of Archbishop Talbot were drawing to a close during the summer of 1449. He had worn the mitre of Dublin for the long period of thirty-two years, and filled the exalted station of Lord Chancellor of Ireland for a considerable time. He had borne no small share of the yoke of Irish government, and was Privy Councillor during the reigns of Henry V. and VI. But all is vanity, and no titles or dignities could avert the death stroke when the hour which awaits all mortals arrived. He died on the 15th August, 1449, and was buried in St. Patrick's Cathedral. A marble monument with his figure in brass, mitre on head and crozier in hand, was raised in his honour with a suitable inscription.

CHAPTER VIII.

OF THE CHANCELLORS OF IRELAND DURING THE WARS
OF THE ROSES.

THE Wars of the Roses, which deluged England with the blood of the noblest and bravest of her sons, involved Ireland to a very considerable extent. Henry VI. nominated successive Chancellors for Ireland since the time CHAP.
VIII.
Archbishop Talbot held the Seals. Master THOMAS CHASE¹ was appointed Lord Chancellor in 1441. He held office for five years, and was succeeded by an ecclesiastic named RICHARD WOGAN² in 1446, who held the Seal when Richard Duke of York became Viceroy of Ireland; William Chevers was his deputy or Vice-Chancellor. Ireland has had so little of the sunshine of Royal favour, and the career of the Duke of York as Viceroy was so exceedingly creditable to his memory, I very willingly devote more space to the life of his son, the Earl of Rutland, infant Chancellor of Ireland (who, of course, was Chancellor only in name), than otherwise I would feel justified in doing.

EDMUND PLANTAGENET, Earl of Rutland, Lord Chancellor of Ireland, descended paternally from Edward of Langley, youngest son of King Edward II. He was born at Rouen in the year 1443, and besides his English, had an Irish title—Earl of Cork. His father was Richard Duke of York; and his mother, Lady Cecilia Neville, daughter of Ralph Neville, Earl of Westmoreland. From this lady's extreme beauty she was generally called ‘the Rose of Raby,’ and two of her sons ascended to the throne under the titles of Edward IV. and Richard III.

In 1449, Richard Duke of York was appointed Viceroy

The Wars
of the
Roses.

Successive
Chancel-
lors.

Edmund
Plantage-
net Lord
Chancel-
lor.

Born in
Rouen,
in 1443.

¹ Pat. 1441, Rot. Cl. 20 Henry VI. C. R. 24.

² Pat. 1446.

CHAP.
VIII.Duke of
York
Viceroy,
A.D. 1449.Peaceful
relations.Duke of
Clarence
born.

Sponsors.

The Duke
beloved.Discontent
at the
Duke's
absence.

of Ireland, and, accompanied by the Duchess and his children, landed at Howth (for many centuries the chief port of Dublin) on the 14th of July of that year. He gave early indications of a better policy towards the Irish than was usually observed. Instead of attacking the native chiefs, as was the usual practice of lately appointed deputies to show their activity, the Duke employed the arts of peace, and soon contracted most friendly relations with Maginnis of Iveagh, MacMahon of Farney, Mac-Artan, O'Reilly, and other Irish noblemen. He brought the turbulent Wicklow clan of O'Byrne to subjection. This chief engaged to permit the laws of England to be observed in his district; that he, his wife, and family should wear the English dress and learn the English language. The reputation for gentle ruling which the Duke gained, in a short time caused the popular belief 'that the wildest Irishman in Ireland would, before twelve months, be sworn English.' On the birth of his son, George of York, Duke of Clarence, in Dublin Castle, on October 12, 1449, the policy of the Viceroy was manifested; for, knowing the tie of gossipred was regarded as very binding in Ireland, he procured the chiefs of the rival families—Geraldine of Desmond and Butler of Ormond—to be the sponsors at the font.

This politic and propitiatory conduct of the Duke of York succeeded in endearing himself and his family, not only to the English in Ireland, but also to the natives, ever grateful for kindness. Meantime the great party who regarded him as their head in England were dissatisfied at his absence, and looked on his protracted stay in Ireland as though it were an exile, if not banishment. The surrender of Caen to the French, despite the remonstrance of the Governor of that town, Sir Davy Hall, who was appointed by its English owner, the Duke of York, also much displeased the Yorkists. The rebellion of Jack Cade, and more especially the nonpayment of the vice-regal allowance, caused very serious embarrassment to the Lord Lieutenant of Ireland. Some English rebels and

Irish enemies taking advantage of the state of affairs, and the few men at the Viceroy's disposal, attacked his Meath estates, burned Rathmore and some adjacent villages, and caused him to send an urgent letter to the King as well as to his brother-in-law, the Earl of Salisbury, requesting prompt assistance. In this letter he says, 'I write at this time unto the King's Highness, and beseech his good grace for to hasten my payment for this land, according to his letters of warrant, and late directed unto the Treasurer of England, to the intent I may wage men in sufficient number, for to resist the malice of the same enemies, and punish them in such wise, that other which would do the same, for lack of resistance in time, may take example; for doubtless, but if my payment be not had in haste, for to have men of war in defence and safeguard of this land, my power cannot stretch to keep it in the King's obeisance. And very necessity will compel me to come into England to live there upon my poor livelihood, for I had liever be dead than any inconvenience should fall thereunto in my default; for it shall never be chronicled, nor remain in scripture by the grace of God, that Ireland was lost by my negligence. Therefore I beseech you, right worshipful brother, that you will hold to your hands instantly, that any payment may be had at this time in eschewing all inconveniences, for I have example in other places, more pity it is for to dread shame, and for to acquit my truth unto the King's Highness as my duty is.'¹

I cannot say what answer was given to this pressing letter, but infer no money was forwarded, for the Duke declared 'that, for lack of payment of his wages, he was compelled to sell much of his substance, to pledge his plate and great jewels, and borrow from most of his friends.' He returned to England in 1450, and found that country torn by civil broils. He left as his deputy in Ireland Sir James Butler, eldest son of the Earl of Ormond. He was not long absent; on the breaking up of the Yorkist camp at Ludlow, in Shropshire, the Duke,

CHAP.
VIII.

His urgent
letter to
the Earl of
Salisbury.

Compelled
to raise
money.

¹ Hollinshed's Chron. Ir., vol. vi. p. 267.

CHAP.
VIII.

accompanied by his son and Chancellor, Edmund Earl of Rutland, sailed from Wales for Ireland, where he was enthusiastically received by the chiefs of the Geraldines, the Earls of Kildare and Desmond, who expressed their joy at his arrival again in Ireland. His coming also rejoiced the Anglo-Irish of his lordship of Meath, 'whose hearts,' says the historian, 'he had exceedingly tied unto him.' While the Lancastrian party were pillaging and destroying the Yorkists in England, the Irish Parliament formally upheld the authority of the Duke as Viceroy, and established a Mint in his castle at Trim. They likewise ratified the appointment of his son Edmund as Chancellor of Ireland.

Appoint-
ment of
Chancellor
ratified by
Parlia-
ment.The Irish
Parlia-
ment as-
serts inde-
pendence.Subjects in
Ireland.Appeals of
treason.

At this period the Irish Parliament first asserted its independence. Mr. Gilbert, in his History of the Viceroys of Ireland,¹ states: 'Stimulated by the presence and position of the Duke, the Parliament publicly enunciated the independence of the legislature in Ireland, and affirmed rights which had hitherto been suffered to lie in abeyance owing to the relations of the colonists with England. Having asserted the right of the King's subjects in Ireland to their own coinage, distinct from that of England, the Parliament formally declared, that as Normandy and Guienne, when under the obedience of England, were separate from its laws and statutes, so also in Ireland, though under the obedience of the same realm, was nevertheless separate from its laws and statutes, except such as were by the Lords Spiritual and Temporal and Commons of Ireland, freely admitted and accepted in their Parliaments and Great Councils.'² In further vindication of independent rights, the Parliament declared, that according to ancient prescription, the King's subjects in Ireland were not bound to answer writs except those under the Great Seal of Ireland; and that any officer attempting to put decrees from England into force in Ireland, should incur forfeiture of all his Irish property, and be fined one thousand marks.

It was also ordained, that every appeal of treason in

¹ Page 369.² Rot. Stat. Hib. 38 Hen. VI.

Ireland should be determined solely in the Court of the Constable and Marshal of Ireland ; that death should be inflicted on those who groundlessly accused others of treason there ; and that no pardon should avail in such cases. This Parliament also enacted that, while the Duke of York, as Lieutenant, resided in Ireland, any man who, directly or indirectly, sought to compass his death, or to provoke rebellion or disobedience towards him, should stand attainted of high treason against the King's person.

CHAP.
VIII.The Duke
of York
to be
respected
as King.

This stringent enactment was rigidly enforced. The Lancastrian party, then in the ascendant, wished to remove the Chancellor's father from the Viceroyalty of Ireland, and resolved to make him a prisoner. They despatched a squire of the Earl of Ormond, named Overy, with a writ for the Duke's apprehension, on the grounds of his being an attainted traitor in open rebellion against the King, and illegally claiming to be his Viceroy in Ireland. They little counted on the fate in store for their messenger. Overy was himself made prisoner, tried under the recent penal statute, found guilty of high treason, and suffered the ignominious death of a traitor. He was hanged, drawn, and quartered.

Attempt to
arrest the
Duke.Fatal con-
sequences
of this
attempt.

This attempt against the person of the Viceroy being signally defeated, an effort was next made to create an Irish party hostile to him, and as the Geraldines sided with the White Rose of York, the powerful influence of the House of Ormond was enlisted on behalf of the Lancastrians. The King, Henry VI., was induced to write letters, under his Privy Seal, to various Irish chiefs, who were usually ranked as Irish enemies, and these letters were forwarded to the Duke of York ; but all was of no avail, the Duke, as stated by Hall,¹ ' got him such love and favour of the country and the inhabitants, that their sincere love and friendly affection could never be separated from him and his lineage.' Poets, as well as prose writers, attested the success of his Irish administration. In the 'Mirrour for Magistrates'² he is made to state :—

Effort to
create a
hostile
party.

Its failure.

¹ Union of Two Noble Houses, 1548.² Vol. ii. p. 189.

‘I twice bare rule in Normandy and France,
And last Lieutenant in Ireland, where my hart
Found remedy for every kind of smart;
For through the love my doings there did breed,
I had their helpe at all times in my neede.’

The Duke and his son, the Lord Chancellor, attracted to their side the powerful nobles of the Geraldine party, which, as I have already observed, caused the Ormond party, their hereditary opponents, to side with the opponents of the White Rose. The Earls of Kildare and Desmond, the heads of the Fitz Geralds, with the Prestons, and Barnewalls, secured to the Duke the Government of Ireland despite the power of the potent Butlers, the influence of the Crown and Parliament of England.

Visit of
the Earl of
Warwick.

Meanwhile the Duke’s eldest son, afterwards Edward IV., and his nephew, Richard Earl of Warwick, held possession of Calais. Thence occurred Lord Warwick’s hasty visit to Ireland narrated by Samuel Daniel:—¹

Where shipping and provisions Warwick takes
For Ireland, with his chieftain to confer;
And within thirty days this voyage makes,
And back returns ere known to have been there:
So that the heavens, the sea, the wind partakes
With him, as if they of his faction were;
Or that his spirit and valour were combined
With destiny, t’effect what he designed.

Capture of
the King.

The fortunes of the Yorkists were again in the ascendant. They defeated the King’s forces at Northampton, made King Henry prisoner, and obtained possession of London. This news was quickly communicated to the Viceroy of Ireland, who, accompanied by the Lord Chancellor, started for England, leaving the Earl of Kildare his deputy. On his arrival in London he was received with enthusiasm, solemnly proclaimed heir to the Crown, and Protector of the realm. Alas! the Protector soon stood in need of protection. Within a month he was besieged in his Castle of Sandal, near Wakefield, by Queen Margaret at the head of a powerful army, superior by four

The
Viceroy
and Lord
Chancellor
leave Ire-
land.

The Duke
Protector.

Besieged
by Queen
Margaret.

¹ Poetical works of S. Daniel, Lond. 1718, vol. ii. p. 231.

to one to the forces of the Duke. Notwithstanding this immense majority, the Duke of York was resolved to try the fortune of battle, but Sir Davy Hall, his old comrade in arms, his faithful servant and counsellor, tried to dissuade him. He advised the Duke to have a little patience, for succour would swiftly come, that Prince Edward with his March men and the Welsh troops were on the road towards him. Yet the impetuous Duke would not be counselled, but replied with much vehemence, ‘Ah, Davy! Davy! hast thou loved me so long, and now wouldest have me dishonoured. Thou never saw me keep fortress when I was Regent in Normandy, when the Dauphin himself, with his puissance, came to besiege me, but like a man, and not like a bird included in a cage, I issued and fought with mine enemies to their loss, ever, I thank God, and to mine honour. If I have not kept myself within walls for fear of a great and strong Prince, nor hid my face from any man living, wouldest thou that I, for dread of a scolding woman, should incarcerate myself and shut my gates; then all men might of me wonder, and all creatures might of me report dishonour, a woman hath made me a dastard, whom no man ever to this day could yet prove a coward. My mind is rather to die with honour than to live with shame. Their great number shall not appal my spirits, but encourage them; for surely I think that I have there as many friends as enemies, which, at joining, will either fly or take my part. Therefore advance my banner in the name of God and St. George, for surely I will fight with them, though I should fight alone.’¹

This valorous speech was more indicative of the chivalry of a knight-errant than the wisdom of a prudent general. For five thousand men to leave a strong fortress and engage twenty thousand on the open plain, could only be regarded as the height of rashness. Besides Sir Davy Hall, the Earl of Salisbury and other prudent counsellors advised the Duke to remain in the fortress until his son, who was levying forces on the borders of Wales, would

CHAP.
VIII.

Heroic
speech of
the Duke.

Urged to
wait for
succour.

¹ Hollinshed, p. 674. Rymer, vol. x. pp. 647, 650.

CHAP.
VIII.

His troops
resolve to
die with
him.

The battle,
1460.

The
Chancellor
fights by
his father's
side.

The Duke
killed and
beheaded.

The Chan-
cellor
taken
prisoner.

Vengeance
of Lord
Clifford.

advance to his assistance.¹ All was urged in vain, the Duke vowed he would fight, though he should fight alone, and with heavy hearts the gallant little band resolved to perish with him. There was, indeed, the chance which he had glanced at in his speech of numbering friends in Queen Margaret's camp, who, in the hour of need, would either join him or draw away from the battle. On the eve of Christmas, December 24, 1460, the Duke's army marched out of the castle and offered the Lancastrians battle. By the side of the Duke fought his second son, the young Chancellor of Ireland, whose years had not past their teens, but who, under a fair and almost effeminate appearance, carried a brave and intrepid spirit. The forces of the Queen resolved to annihilate their audacious foes, and soon the Duke found how little reason he had to hope of finding friends in the camp of Queen Margaret. The historian Hume says,² 'the great inequality of numbers was sufficient alone to decide the victory, but the Queen, by sending a detachment, who fell on the back of the Duke's army, rendered her advantage still more certain and undisputed. The Duke himself was killed in the action; and when his body was found among the slain the head was cut off by Margaret's orders and fixed on the gates of York, with a paper crown upon it, in derision of his pretended title.'

The fate of the young Chancellor was soon over. Urged by his tutor, a priest named Robert Aspell, he was no sooner aware that the field was lost than he sought safety by flight. Their movements were intercepted by the Lancastrians, and Lord Clifford made him prisoner, but did not then know his rank. Struck with the richness of his armour and equipment, Lord Clifford demanded his name. 'Save him,' implored the Chaplain; 'for he is the Prince's son, and peradventure may do you good hereafter.'

This was an impolitic appeal, for it denoted hopes of the House of York being again in the ascendant, which the Lancastrians, flushed with recent victory, regarded as

¹ Hume's History of England, vol. iii. p. 304.

² Ibid.

impossible. The ruthless noble swore a solemn oath :—
 ‘Thy father,’ said he, ‘slew mine; and so will I do thee and all thy kin;’ and with these words he rushed on the hapless youth, and drove his dagger to the hilt in his heart. Thus fell, at the early age of seventeen, Edmund Plantagenet, Earl of Rutland, Lord Chancellor of Ireland.

CHAP.
VIII.

The Chancellor slain.

While these deplorable events were taking place, the duties of Chancellor of Ireland were performed by deputy, and that deputy was Edmund Goldhall, or Ouldhall, who is named in the *Liber Munerum Publicorum Hiberniae* as Chancellor, in 1451.¹ He is enumerated among the Bishops of Meath,² and was brother of Sir William Ouldhall, Chamberlain to Richard Duke of York, who probably recommended him as the most eligible person to be Vice-Chancellor to the Duke’s son. He held the Great Seal for three years, and was succeeded, in 1454, by SIR JOHN TALBOT, son and heir of John Earl of Shrewsbury, and nephew of the Chancellor Talbot, whose ‘Life’ I have so fully given. Sir John held the Seal for six years, until 1460, when JOHN DYNHAM, Esq., had the Great Seal. This Chancellor appointed Sir Robert Preston, Lord Gormanston, his Deputy Chancellor.

Goldhall
Chancellor.Probable
Deputy.Sir John
Talbot
Lord
Chancellor,
1454.John Dyn-
ham Lord
Chancel-
lor, 1460.

This arrangement did not long endure. The following year the King sent a *præcipe*, dated at Bristol, 1461, to Thomas Fitz Morice, Earl of Kildare; Sir Robert Preston, Sir Christopher St. Lawrence; Sir Rowland Fitz Eustace, Sir Nicholas Barnewall, Chief Justice of the King’s Bench; Sir Robert Dowedale, Chief Justice of the Common Pleas; Sir Thomas Plunkett, and others, his liege people, signifying them that he sent over for Ireland a new Great Seal, by SIR WILLIAM WELLES, Knight, Lord Chancellor of Ireland, and enjoining them to obey the said Chancellor, whom he had sworn into office before himself in Chancery, at Westminster, and to make use of that Seal, and

Sir
William
Welles
Lord
Chancel-
lor, 1461.A new
Great Seal.Chancellor
sworn in at
Westmin-
ster.

¹ Part ii. p. 202. This is the date assigned for the appointment of the young Earl of Rutland.

² Ware’s *Bishops*.

CHAP.
VIII.

no other. And that all grants under any other Seal, from the first day of his reign, should be vacated and of no force, which, by the tenor of this writ or *præcipe*, be cancelled.¹ This Sir William was son of Lionel Lord Welles, and had his appointment for life confirmed by Act of Parliament;² but he only held it one year, when he was succeeded by a nobleman whose career is very tragical, JOHN TIPTOFT, Earl of Worcester, Lord Chancellor of Ireland.

John Tiptoft, Earl of Worcester, Lord Chancellor.

The ancestor of John Tiptoft, or Tibetot, Earl of Worcester, had claims upon the manors of Inchiquin and Youghal, part of the extensive territories of the Fitz Geralds of Desmond. He was of illustrious descent, nearly related to King Edward IV., and possessed of ample fortune, was well fitted to occupy a high place in the public gaze. How he fulfilled the promise of his youth we learn as we proceed.

Graduated at Oxford.

The University destined to mature the capacity of the future Chancellor of Ireland, was Oxford; and the classic College of Baliol is associated with his name. The place whence he derived his title, in the humorous lay of the 'Oxford Commemoration,' is described as not far distant from the celebrated University. In the words of the lively writer—

From legendary Christchurch,
Where booms the far-famed bell,
Reared by the hand of Wolsey,
But when I cannot tell;
From classic quads of Baliol,
Whence third-floor men descry,
The smoky roofs of Worcester
Fringing the western sky,

the young Earl received stores of knowledge.

Effects of his Latin Oration on Pope Pius II.

The youthful student was no idle one: this may be inferred from the incident recorded, that while on his travels to Jerusalem, having visited the Holy Father in Rome (the Pope was then the learned *Æneas Silvius*, Pius II.), he delivered a Latin oration of such pathos that he moved

¹ Lib. Munerum Pub. Hib., Part ii. p. 203.

² Edward IV.

the Pope to tears. The Earl's reputation for learning caused him to be regarded as the most accomplished English nobleman of his day.

When he became an adherent of the House of York, his talents were sure to put him into high offices. He was accordingly appointed Justice of North Wales, Treasurer and Constable of England, Chancellor during life for Ireland, and Steward of the King's Household. The impossibility of one man filling so many offices, unless by deputy, is apparent, so, as in duty bound, I follow his fortunes in Ireland, of which he was nominally Chancellor.

He landed at Howth, in 1467, escorted by a strong military force. Beside the offices I have enumerated, he was Deputy-Governor of Ireland, under the Duke of Clarence, then Viceroy. Shortly after his arrival he assembled a Parliament, and this legislative body proceeded at once to attaint the Earls of Kildare and Desmond, also Edward Plunkett, for treason. This was a most ungrateful return for the support which those noblemen had given the York party. The grounds for their impeachment were ostensibly alliances and fosterage with the King's Irish enemies. Other breaches of the statute of Kilkenny were also charged in furnishing the said enemies with horses and armour, and supporting them against the loyal subjects of the King. The penalties of the statute were pressed most severely against the Earl of Desmond; his estates were declared confiscated, and, on February 14, 1467, the Earl, by the command of the Earl of Worcester, was beheaded at Drogheda. The real cause of this severity is probably that given by tradition. Desmond was greatly beloved by King Edward IV. on account of his prowess in the field, and for having fought no less than nine battles against the Lancastrians. The King listened with attention to his counsels, and asked his advice as to his future conduct on the throne. The Earl strongly recommended his Majesty's strengthening his position by an alliance with a foreign princess; and when the King disclosed his marriage with the widow

CHAP.
VIII.

His learn-
ing.

Appoint-
ments.

Chancellor
of Ireland,
A.D. 1467.

Deputy to
the Duke
of Clar-
ence.

Heads of
the Geral-
dines at-
tainted.

Earl of
Desmond
beheaded,
1467.

King Ed-
ward IV.
and the
Earl.

Desmond's
advice to
the King.

CHAP.
VIII.

of Sir John Grey, of Groby, Desmond replied, 'that he might obtain a divorce.' The King refused to adopt this course, but on an occasion of some connubial dissension with the Queen, imprudently communicated to her the advice he had received; saying to her Majesty, 'her pride would be humbled, had he taken the advice of his cousin of Desmond.' Woe betide the man who comes between husband and wife. The beautiful Queen Elizabeth took these words to heart, and when their little quarrel was made up exerted those fascinations which secured her the Crown, and which the amorous King was unable to resist, to learn the exact words Desmond used. The consequence was fatal to the Earl. The Queen enlisted the services of Worcester in her design to be revenged on this unfortunate Lord. At her instigation, Worcester was sent to supplant Desmond as Deputy for Ireland; and by assembling the Parliament at Drogheda, remote from the province of Munster, the portion of Ireland in which Desmond's power and influence lay, caused him to be attainted and executed. Irish historians describe Desmond as excelling in personal grace and intellect most men of his time. At the period of his execution he was but forty-two years of age, and no praise bestowed on him exceeded his merits. They added that Erin suffered deeply by his death, the sorrow and affliction for which was felt equally by strangers and Gaels.¹

Character
of Des-
mond.

The Tre-
surer ar-
aigned
before the
Chancel-
lor.

Mutual jealousy and great dissensions existed among the State officials of the English settlement while the Earl of Worcester was Lord Chancellor. The Treasurer, Sir Roland Fitz Eustace, Baron of Portlester, whose daughter was married to the Earl of Kildare, was arraigned before the Lord Chancellor by Sir John Gilbert. The accusation against him was treason, in inciting the

¹ Gilbert's Viceroy of Ireland, p. 387. Richard III. wrote of the Earl of Desmond's fate, seventeen years after it occurred, 'That he had been extortiously slain and murdered by colour of laws, within Ireland, by certain persons, then having the government and rule there, against all manhood, reason, and good conscience.'—*Ibid.*

Earl of Desmond to assume the rank of Sovereign in Ireland, undertaking that he and all the land would prefer him to Edward IV. Fitz Eustace indignantly denied the charge, and expressed his willingness to appear to any indictment preferred against him. This bold denial by Lord Portlester, in the opinion of many, proved the falsehood of the accusation, and instead of bringing the charge to trial and sustaining it, Gilbert fled out of the reach of the injured noble. He joined the Irish who were at war with the Deputy, and had the tables turned on himself, being attainted a traitor by the very Parliament which acquitted Lord Portlester from his false impeachment.

The peerage of Baron of Ratoath, in the county of Meath, was conferred on Robert Bold, for his services to the King and his father, the Duke of York, at the recommendation of the Chancellor, Earl of Worcester.¹ He was assigned twenty marks yearly out of that manor, to be held by the service of one goshawk.

During the sitting of Parliament, convened by the Chancellor, a very important though rather crotchety point was settled, 'Whether the Lieutenant, or Viceroy, vacated his office by passing from Ireland to any of the small islands on or near the coast?' The Parliament ordained, 'that if a Viceroy, or his Deputy, went into any island near Ireland, and returned, such passage should not render the office vacant, but that the Viceregal authority should still stand in full force and effect.'

The Island of Lambay, then uninhabited, was given by Parliament to the Chancellor, on consideration of his erecting thereon a fort, to prevent the Bretons, Spaniards, French, and Scots landing, and harbouring there, and making it a rendezvous when they issued forth to plunder the liege merchants passing the eastern coast of Ireland.

The English settlement was sorely pressed by the infuriated adherents of the late Earl of Desmond, who marched from the south to avenge his death, and by the

CHAP.
VIII.The Treas-
urer
declares
his inno-
cence.His
accuser
attainted.The Chan-
cellor re-
commends
the crea-
tion of a
Peer.Order of
Parlia-
ment
respecting
the Vice-
roy.Lambay
granted to
the Chan-
cellor.The
English
settlement.

¹ Gilbert's Viceroys of Ireland, p. 388.

CHAP.
VIII.Drogheda
rewarded.Lord
Chancellor
and the
Earl of
Kildare.Earl of
Worcester
appointed
Viceroy,
A.D. 1470.A conspi-
racy.Tried be-
fore the
Ex-chan-
cellor of
Ireland.

ravages of the O'Reillys and other potent chiefs from the north. The townspeople of Drogheda did such effectual service in plundering and burning the mansion and monastery of the O'Reilly sept, that the Chancellor obtained for the Mayor the privilege of having a sword borne before him, as is the custom of the Lord Mayor of London; likewise a pension of 20*l.* out of the municipal rent to the Crown, for the maintenance of the dignity of that magistrate. The desperate state to which the colony was reduced, caused the Chancellor to recommend that the Earl of Kildare should be taken into Royal favour, provided he obtained proper bail for his future loyalty. Accordingly, on the Archbishop of Dublin and others entering into recognizance to the amount of a thousand marks, a Parliament held before Worcester, in 1468, ratified the pardon of the Earl of Kildare, and restored his estates. He joined the Earl and Countess of Worcester in re-establishing a perpetual chauncry to celebrate Divine service at the altar of St. Catherine the Virgin, in the church of St. Secundinus, or Sechnall,¹ at Dunshaughlin, in Meath, to the honour of God and the Blessed Virgin.

The Earl of Worcester left Ireland late in 1468, and the Duke of Clarence, having been discharged from the Viceroyalty by Royal Proclamation, dated at York, March 23, 1470, the Earl was appointed in his place. He did not, however, personally discharge the duties, but nominated Edward Dudley as his deputy. It would have been better for the Earl's reputation that he had. The Duke of Clarence and the Earl of Warwick having conspired against Edward IV., fled from England to France, and Lord Scales captured many of their adherents. King Edward, on his arrival at Southampton, found a number of Lord Scale's prisoners there, and ordered them for speedy trial before the Ex-chancellor of Ireland, the Earl of Worcester. As a matter of course they were found guilty of high

¹ This Saint is called a native saint; but the learned Irish writer, W. M. Hennessy, M.R.I.A., remarks, that as he is said to have been St. Patrick's nephew, he therefore was not a native of Ireland.

treason, and sentenced to death. Not content with the customary barbarities sanctioned as punishment for the highest crime known to the laws of England—by Worcester's sentence twenty gentlemen and yeomen were ordered to be hanged, drawn, quartered, and beheaded, and then suspended by the legs, and their heads impaled on sharp pointed stakes. For these atrocities Worcester was named, and rightly, if they be true, *the butcher of England.*

CHAP.
VIII.

On the restoration of Henry VI. in 1470, the power of the Lancastrian was once more regained, and, we can easily suppose, considerable anxiety was felt to ascertain the whereabouts of 'the Butcher.' There was a heavy score against him which could only be paid by himself in person, and the broad realm of England was searched to requite the perpetrator of such cruelty as had been imputed to him. He dared not show himself in city or town, castle or hamlet sheltered him not; the most vigilant watch was kept at every port and creek so that he should not escape by sea, and yet he could not be found ! The last days of this intellectually gifted nobleman must have been miserable. Perfectly aware of the avidity with which his life was sought, he yet clung to the hope of escape, until another turn of Fortune's changing wheel might restore his friends to power. Afraid to trust himself near the abodes of men, he fled to the lair of the wild beast, and the haunt of the wild fowl. Here he was sought and found. The Earl of Worcester was captured by a party of his deadly enemies, who found him concealed by the branches of a lofty tree in Havering Forest. With exultation and savage glee they consigned him to the gloomy dungeon of the Tower.

The
butcher of
England.

Henry VI.
restored,
A.D. 1470.

The
butcher
sought for.

Caught in
a tree.

Seldom was a more desponding prisoner confined within these stern old walls. Since the days of William the Norman it had been a State prison, though, originally, a fortified residence for Kings desirous of having a wide ditch and deep moat between them and their subjects. Here in dejection and pining for freedom, the once

A prisoner
in the
Tower.

CHAP.
VIII.

His trial
and sen-
tence.

Caxton's
panegyric
on the
Earl.

powerful Earl of Worcester spent the last sad hours of life. Here he was speedily tried, and it so happened that the President at his trial was John Vere, Earl of Oxford, whose father had been sentenced and executed in the same place four years previously, when Worcester was the Judge. It was Lord Oxford's turn now, and he took the verdict of guilty, and sentenced the Earl of Worcester to be beheaded on Tower hill.

We may hope the interval between Worcester's sentence and his execution was well employed. He had seen enough of the mutability of earthly things to turn his thoughts on heaven, and if we can credit the accounts which have reached us, his last hours were piously spent. Caxton, the father of English printers, in his edition, in 1481, of Worcester's translation of 'Tullius his book of Friendship,' relates, that the Earl 'flowered in virtue and cunning,' that 'none was like unto him among the Lords of the temporality in science and moral virtue.' 'Oh! good blessed Lord,' exclaims the mourning Caxton, 'what great loss was it of that noble and virtuous and well-disposed Lord, and what worship had he in Rome, in the presence of our Holy Father the Pope, and so in all other places unto his death, every man there might learn to die and take his death patiently, wherein I hope and doubt not but that God received his soul into His everlasting bliss, for as I am informed he right advisedly ordained all his things, as well for his last will of worldly goods¹ as to his soul's health, and patiently and holily without grudging in charity, before that he departed out of this world. I beseech Almighty God to have mercy on his soul, and pray all them that shall hear or read this little treatise, much virtuous of friendship, in likewise of your charity to remember his soul among your prayers.'

His pos-
sessions in
Ireland
given to
the Earl of
Kildare.

The Irish chroniclers would hardly endorse Caxton's eulogy. They attributed the fate of Worcester to his

¹ Honest William Caxton was, no doubt, better acquainted with type than law. The penalty of treason causing forfeiture, left nothing for disposal by will.

cruelty in causing the Earl of Desmond to be beheaded. They asserted that the Ex-chancellor's remains were quartered. The Irish Parliament decreed all his possessions in Ireland should be given to the Earl of Kildare, in compensation of his long imprisonment, and other injuries sustained at the hands of Worcester. Lambay Island which had been granted to him was restored to the Archbishop of Dublin.

CHAPTER IX.

OF THE LORD CHANCELLORS OF IRELAND DURING THE
WARS OF THE ROSES—CONTINUED.CHAP.
IX.Ireland
much dis-
turbed.Thomas,
seventh
Earl of
Kildare,
Lord
Chancel-
lor.Maynooth
Castle.Kildare
Deputy.

THE state of Ireland during the Wars of the Roses was little adapted to allow Courts of Justice to hear causes. The short and stern appeal to the sword was the rule, and any other mode of arbitration the exception. The attainder of the Earls of Kildare and Desmond, with the execution of the latter, caused infinite mischief, and made the Government of the English colony impossible, unless the powerful nobles of the House of Kildare could be induced to forgive the injuries committed against them. This house was then represented by Thomas the seventh Earl of Kildare, who, having filled the office of Lord Chancellor of Ireland, fairly claims to be noticed by me at some length, although I have no judicial account to render respecting him. John, sixth Earl of Kildare, strengthened and improved Maynooth Castle, which for more than a century had been the principal residence of the Leinster branch of the powerful Geraldines. It was regarded as one of the largest and richest Earl's houses in Ireland. This nobleman had married Margaret de la Herne, by whom he had an only son, Thomas, who on the death of Earl John, in 1427, became seventh Earl of Kildare. When Richard Duke of York became Viceroy of Ireland, in 1449, he gained the affections of the Irish by his mild and paternal government, and enlisted the support of the Geraldines to the standard of the White Rose. In 1454, the Duke appointed the Earl of Kildare his Deputy, and again in 1456. While in this responsible office he held several Parliaments at Dublin and Naas. We have seen in my memoir of Lord Chancellor, the Earl of Rutland, the

enmity which disturbed the kingdom at this eventful period. In 1459, an engagement took place between the Anglo-Norman forces, under the command of the Earl of Kildare, and the Irish troops of O'Connor Faly, in which the latter suffered a great defeat.¹ And indeed the war of the rival Roses was as fiercely maintained in Ireland as in the more immediate scene of strife.

The policy of ruling without favouring either of the rival houses of Boteller, or Butler, and Geraldine, or Fitz Gerald was strictly observed by the Duke of York. He did his best, while he was Viceroy, so to deport himself, as to win the general love of all subjects. We have already mentioned that when his son, George Duke of Clarence, was born, in the Castle of Dublin, the Duke seized the opportunity of connecting by the tie of godfathers to the Earls of Kildare and Ormond, who stood godfathers to the infant Prince.²

The necessity of providing a substitute in the place of the Duke of York was removed by the council electing the Earl of Kildare Lord Justice. This election was confirmed by Edward IV., 1461, when the reappointed Lord Justice took the oaths in great state in Christ Church, Dublin, before the assembled Parliament and Privy Council. The office of Lord Chancellor is confirmed by the King usually during pleasure, but has been occasionally confined to a stated period. The custody of the Great Seal of Ireland was given to the Earl by Parliament in January 1463. He was named Chancellor for life, with a salary of 40*l.* per annum, and ten shillings per diem. This appointment was confirmed by Statute XII. Edward IV.

The beautiful Franciscan Abbey at Adare, county Limerick, was founded by this munificent Lord Chancellor and his wife, Lady Joan Fitz Gerald, in 1464. They built the church and gave it two chalices of silver, and the great bell, which cost 10*l.* The chapel of the abbey is now the parish church of Adare. Close beside is Adare Manor,

CHAP.
IX.

Policy of
the Duke
of York.

The rival
Earls God-
fathers.

Earl of
Kildare
Lord
Justice.

Lord
Chancellor
of Ireland
for life.

The Chan-
cellor
builds the
Abbey of
Adare.

¹ Annals of Four Masters.

² Earls of Kildare, by the Marquis of Kildare, Addenda 8.

CHAP.
IX.Implicated
with the
Earl of
Desmond.Restored
to Royal
favour.Attainder
reversed.Appointed
Lord Jus-
tice.The Geral-
dine's cast.The Earl's
justice.The angry
man's
speech.

the splendid mansion of one of Irelands most gifted and deservedly esteemed noblemen, the Earl of Dunraven.

The Earl of Kildare, as already noticed, was included with his brother-in-law, the Earl of Desmond, in the impeachment which ended in the death of the latter, during the Viceroyalty of the Earl of Worcester. Such was the unscrupulous conduct of the party then in power, that most likely the same tragical fate was intended for both heads of the Geraldines. The Earl of Kildare was imprisoned, and he was by no means disposed to abide the result of a trial which ended so fatally for his noble kinsman. To the mortification of his enemies, he escaped from prison and managed to get to England, where he had an interview with the King, when the result was most favourable. His assistance was essential to the English interest, and he was again taken into the royal favour; the Act of Attainder passed against him in a Parliament held in Drogheda, 1476, 'for alliance, fosterage and alterage with the King's Irish enemies' was repealed by the same Parliament, and he was in the same year appointed Lord Justice. The description of Ireland by Hollinshed contains the following anecdote of this nobleman: ¹—

'Within a mile of Castledermot is there a place marked with two hillocks, which is named the Geraldine, his throw or cast, the length of which in verie deed is wonderful. The occasion proceeded of this. One of the Geraldine's prede an enemy of his. The Earl of Kildare, having intelligence thereof, suppressing affection of kindred, and moved by zeal of justice, pursued him with a great troope of horsemen, as the other was bringing of the prede homeward. The Geraldine having notice given him that the Earl was in hotte pursuite, being nettled that his kinsman would seeme to rescue the prede of his deadlie foe, for as he was in such frittingwise, frieing in his grease, he brake out in these cholericke words, "and doth my cousin Kildare pursue me indeed? Now, in good faith, whereas he seemeth to be a suppressor of his kindred,

¹ Chronicles, p. 17.

and an upholder of my mortal enemie, I would wish him no more harm than that this dart were as far in his bodie as it shall stick forthwith in the ground." And therewithat giving the spurs to his horse, he hurled his dart so farre as he abashed, with the length thereof, as well his companie as his posteritie. The Geraldine was not farre from thense when the Earl, with his band, made hot foot after, and dogging still the track of the predours, he came to the place where the dart was hurled, when one pickthank or other led the Earl to understand of the Geraldine, his wild speeches there delivered. And to enhanse the offense, he showed him how farre he hurled his dart, when he wished it to be pitched in his lordship's bodie. The Earl, astonished thereof, said, "Now, in good sooth, my cousin in behaving so courageously is worthy to have the prede set free. And, for my part, I purpose not so much to stomach his cholericke wish as to embrace his valiant prowess," and therewith commanded the retreat to be blown and recalled back.'

The Earl's
mild reply.

The 'Annals of the Four Masters' relate that, in 1471, this Earl, with the people of Meath, made an incursion into Farney, county of Monaghan, and committed great depredations on the MacMahons.

Raid on
Farney.

In the year 1471, the Earl of Kildare again was appointed Lord Deputy, having been Lord Justice since 1467. He held a Parliament at Drogheda and in Naas in 1472. In this latter a measure was passed, which shows the anxiety to improve the practice of the Anglo-Irish in archery. This Act compelled merchants to import from England bows and arrows to the value of 20s. for every 20*l.* of other goods.

English
bows.

In 1473, he was confirmed in the office of Lord Chancellor for life by Act of Parliament. The usual tenure of the office was during pleasure, and this is the tenure at present; but the pleasure is not that merely of the Sovereign, as the words might imply, but depends on the Ministry, of which the Lord Chancellor is a Member, retaining office.

Confirmed
Chancellor
for life.

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IX.

Removed
from office
of Lord
Deputy,
1475.

Commiss-
sion to
settle Irish
quarrels.

Bishop
Sherwood
deputed to
England,
but refuses
to leave
the field.

The
brother-
hood of
St. George.

In 1475, the Earl was dismissed from his office of Lord Deputy, and William Sherwood, Bishop of Meath, who was his most virulent enemy, was appointed in his place. This caused great joy to the Ormond faction, and soon the feud between the Geraldines and Butlers broke out afresh.

In the hope of settling the differences and dissensions which then prevailed, Edward IV. issued a Commission to Edward Connisburgh, Archbishop of Armagh, to hear and determine all controversies, suits, and debates depending between the great men or Peers of Ireland. A section of the Colonial Parliament requested Bishop Sherwood to repair to England, and solicit the good offices of the King and his brother, the Viceroy, Duke of Clarence, 'for the public weal, and relief of the country.'

The Bishop, however, declined the mission. He gave rather a singular reason for a minister of peace, 'That he was so occupied in the field with hostings (marshalling of troops), that he could not for a time, without damage to the English district, quit the camp, even to meet the Parliament.'

At length, however, he did undertake the journey, and, no sooner was his back turned, than, as he probably anticipated, enemies set to work to traduce and accuse him. On his departure to England, charges were forwarded thither against him, but this was so constantly done that little notice was taken of these accusations.

The Earl of Kildare showed a disposition to serve the English interest by every means in his power. Among the efforts he made for the maintenance of English rule in Ireland, was the establishment of the military organisation, called the 'Brotherhood of St. George.' This Order consisted of thirteen persons of the highest rank within the pale—that is, the counties of Dublin, Kildare, Meath, and Louth. The forces were 200 men, of whom 120 were mounted archers, and forty horsemen, with forty pages. The archers' pay was sixpence a day, the horsemen's five-pence, with four marks per diem.¹ Their duty was to

¹ The Earls of Kildare, p. 41.

defend the pale from English rebels and Irish enemies. The officers met annually on St. George's Day, in Dublin, when they elected their captain. These thirteen officers and 200 men constituted the standing army, supported by the Government for the preservation of Ireland. The Earl's eldest son, Gerald, was the first Knight elected Captain.

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IX.

The standing army.

Great hostilities prevailed between English officials in Ireland and the Anglo-Irish. Parliament declared the goods of John Cornwalshe, the Chief Baron of the Exchequer, forfeited, for his intemperate and abusive language to the Earl of Kildare, Lord Deputy, at the Council Table, and for having tried to stir up the citizens of Dublin to insurrection. The Chief Baron subsequently asserted before the Council and Parliament, that Sir Robert Bold, Baron of Ratoath, then delegate to England, had imposed upon them by forged documents purporting to be writs under the King's Privy Seal, respecting the Liberty of Meath. This naturally excited great popular indignation against Baron Bold, and the Chief Baron resolved to have him put out of the way. He inspired the Mayor of Dublin with the belief in the truth of his assertions; and, accompanied by that civic dignitary, and a great concourse of the excited citizens, the Chief Baron assailed Lord Ratoath, and would have caused a vacancy in the Peerage,

Chief
Baron
punished.

but for the intervention of the Lord Deputy.¹

The Chief
Baron
heads a
popular
tumult.

Escape of
Lord
Ratoath.

Thomas Earl of Kildare, died on March 25, 1477, leaving besides his Countess, who survived until 1486, four sons and two daughters. He was buried in the Monastery of All Hallows, near Dublin, with his father, the Sixth Earl.

Again, several names appear in the list of Lord Chancellors of Ireland, of whom nothing for a memoir can be traced.

Names of
Chancel-
lors.

¹ No wonder this pugnacious Chief Baron met with an untimely fate. Whilst at supper in his house at Baggotrath, near Dublin, he was attacked by an armed party, led on by William Fitz William, of Dundrum, and before help reached him the Chief Baron was killed.

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IX.

ROBERT ALLANSTOWN,¹ Sir WILLIAM DUDLEY,² ROBERT FITZ EUSTACE, and JOHN TAXTON³ GILBERT DE VENHAM.⁴

Sir Roland
Fitz Eus-
tace Chan-
cellor.

The family
of Eustace.

At length we reach the historic name of Sir ROLAND FITZ EUSTACE, Lord Portlester, appointed Lord Chancellor of Ireland in 1474.

The family of Eustace, or Fitz Eustace, was a branch of the wide-spread Geraldines, claiming descent from Maurice Fitz Gerald, to whom Henry II. granted the Barony of Le Naas. They were early settled in the district around Kilcullen, Co. Kildare, and, in A.D. 1200, possessed the title of Baron of Castlemartin. They had castles at Kilcullen, Castlemartin, Portlester, and Harristown; and, we find they filled high offices of State. In 1454, the Viceroy, Richard Duke of York, appointed Edmund Fitz Eustace his Deputy. Again, in 1462, on the accession of Edward IV. to the throne, George Duke of Clarence being Viceroy, appointed Sir Roland Fitz-Eustace his Deputy. Sir Roland was suspected of partiality or traitorous acts in reference to the assumption of kingly authority by the Earl of Desmond, when John Tiptoft, Earl of Worcester, was Viceroy. An attempt was made to substantiate this.

Sir Roland
arraigned.

On the execution of the Earl of Desmond, Sir Roland was arraigned before the Viceroy, by Sir John Gilbert, for having incited the Earl of Desmond to assume the Kingship of Ireland, and with engaging that he and all the land would accept him in preference to Edward IV.

Fitz Eustace indignantly denied the charge, and a day was named for Gilbert to bring forward his proofs, but he failed; and, fearing the consequences of his false accusation, he withdrew beyond reach of Fitz Eustace's just anger, and joined Thady O'Connor, in making war on the Deputy. He was consequently attainted as a traitor by the very Parliament from which Fitz Eustace was acquitted of the alleged treason.

His wife.

Sir Roland, created Lord Portlester, was married to

¹ Patent. A.D. 1468, 8 Edw. IV.

² Pat. 1469, 9 Edw. IV.

³ Office granted to them jointly, and to the survivor of them. Confirmed by Act of Parliament, April 10, 1472. 12 Edw. IV. ⁴ A.D. 1474. 14 Edw. IV.

Margaret, daughter of Janico D'Artois, by whom he had issue two daughters. The elder of his daughters, Allison, married Gerald, the eighth Earl of Kildare, one of the most distinguished of that illustrious family. His other daughter, Maud, married first Thomas Marward, Baron of Skrine, and, after his decease, Sir John Plunkett, Knight, of Bewley.

CHAP.
IX.His
daughters.

Sir Roland Fitz Eustace was appointed Treasurer of Ireland, an office which he held for many years. He received the additional dignity of the Custody of the Great Seal in A.D. 1474, when his son-in-law, the Earl of Kildare, was Deputy to the Duke of Clarence.

Treasurer
of Ireland.Lord Chan-
cellor.

During the administration of Fitz Eustace as Lord Treasurer, the Parliament voted an annual grant of 180*s.* from the issues of Court and Hanaper, and 20*s.* from the profits of the Master of the Mint, to pay for repairs to Dublin Castle, where the Law Courts were then held. They stood in need of repairs, being described in the Act of 1462 as 'ruinous and like to fall, to the great dishonour of the King.'

Grants for
repairs.Courts in
a ruinous
state.

We may judge that Boards of Works were as dilatory then as in later days, for, by an Act passed thirteen years afterwards, 15 Edward IV., we learn these pressing repairs had never been executed, the money set apart for them having been diverted to other purposes. Some money was expended in keeping the Courts from tumbling on the heads of the Judges and practitioners, and entered in the Miscellaneous Roll for the years 1476-7.

While charges were being investigated respecting the Treasurer's accounts, he was suspended from acting. These failing in proof, in 1480, Sir Roland was reinstated in his Office of Treasurer, but the King transferred the Chancellorship from him, and named William Sherwood, Bishop of Meath, to that high office. The Ex-Chancellor did not give up the Great Seal. A royal precept was then issued to compose the great dissension arising from conflicting Parliaments, and the demeanour to be observed by the great Officers in their respective offices.¹ The Treasurer's duty is thus set forth. 'Here folowyth the Kyng's com-

Treasurer
but not
Chancel-
lor.William
Sherwood
Chancel-
lor.Royal
precept.Duty of
Treasurer.¹ Brit. Mus. MSS. Tit., b. xi.

CHAP. IX. maundments and pleasure to be showed unto Sir Rouland Eustace, Knyght, whom his Highnesse haith deputed to be Tresorer of his lande of Ireland:—

‘ Furst, the said Sir Rouland shall well and trewly behave hym in the occupying of his office, and justly and righteussly exerceze it, as well betwix the Kyng and his subjects, as betwix the Kyng’s subjects. Item, he shall not assent nor agre to the hurt, dammage, or disherityng the Kyng of his landes, revenues, rights regalie, or prerogatifis, but in all that in hym is he shall uphold, mayntene, encrese, and avaunce them. Item, that the same Sir Rouland remitte and forget all malice and evill will, that he haith borne and barith, unto the Bishop of Mythe (Sherwood), Bermingham, the Justice, and all others the Kyng’s subjects, within y^e said land. For the Kyng’s Highnesse hath commanded them, in a semblable wise to do toward hym. Also, the Kyng wol that he delivere his Gret Sele beying in his kepyng, unto the said Bishop of Mythe, whom he hath deputed and made his Chancellor of his said land of Ireland.’

The detention of the Great Seal by Sir Roland from the newly-appointed Chancellor, was a great hindrance to public business, and caused much inconvenience.

Sad state of affairs.

— the Chancellor and Chief Justice of the King’s Bench requiring the interposition of the King to keep them quiet, while the Irish so pressed upon the narrow limits of the English settlements that the statute requiring cities and boroughs to be represented by inhabitants of the same, was obliged to be repealed upon the express ground that representatives could not be expected to encounter, on their journeys to Parliament, the great perils incident from the King’s Irish enemies, and English rebels; for ‘ it is openly known how great and frequent mischiefs have been done on the ways, both in the South, North, East, and West parts, by reason whereof they may not send proctors, knights, nor burgesses.’

Objections to travel to Parliament.

Great disobedience was displayed by men in authority at this period. No sooner was the Duke of Suffolk named Viceroy, than his appointment was superseded by nomination of the King's infant son, George, and that of Henry Lord Grey as his Deputy. Grey landed in Ireland in 1478, with a guard of 300 archers and men-at-arms. He had need of them, for the Earl of Kildare was selected Viceroy by the Irish Privy Council, and would not acknowledge Lord Grey as Deputy, whose appointment was under Privy Seal. The Ex-chancellor, Lord Portlester, Kildare's father-in-law, on the same ground declined to surrender the Great Seal of Ireland; and James Keating, Prior of Kilmainham, Constable of Dublin Castle, refused point blank to admit Lord Grey. He garrisoned the fortress, broke down the drawbridge, and defied the Deputy and his men-at-arms to gain admittance. For some time both parties exercised the functions of Government. The Earl of Kildare summoned a Parliament, which met in June 1478, at Naas, in his own district, which voted him a subsidy. Lord Grey procured the King's writ, commanding Kildare to desist from acting as Deputy. The Mayor of Dublin was also directed to make proclamation 'that no subsidy should be paid to the Earl;' and, in a Parliament held by Lord Grey, at Trim, the proceedings of Kildare's Parliament were annulled. The statutes and ordinances were ordered to be cancelled by the Judges and officials, and all persons having any rolls of this 'pretended Parliament,' were ordered to deliver them up under penalty of felony.

The King authorised Lord Grey to have a new Great Seal for Ireland made, and to 'damn, annul, and suspend' that in the hands of Sir Roland Fitz Eustace, should the latter disobey his commands, absent himself, or withhold the Seal in his custody. The Parliament enacted, that, as it was apparent that Sir Roland Fitz Eustace purposely absented himself, and retained the Great Seal contrary to the King's will, all patents, writs, and documents issued

CHAP.
IX.Rival
Viceroy.Rival
Chancel-
lors.Rival Par-
liaments.A new
Great Seal.

CHAP.
IX.

under it, should be void, until it came to the hands of the Deputy.

Deputy to appoint a keeper of old Seal.

Thomas Archbold, Master of King Edward's Mints in Ireland, was authorised to engrave a new Great Seal, as near the other as may be in the pattern and fabric, with the difference of a rose in every part. This the Parliament decreed to be authorised, confirmed, reputed, taken, and obeyed in every respect, as the Great Seal of the King of England for Ireland, until the other had been restored to the Deputy, who was empowered to appoint its Keeper during pleasure.

Fitz Eustace, being thus suspended in his Office of Chancellor, Parliament also repudiated his acts as Treasurer, and ordained that Exchequer tallies or assignments should not be legal, unless assigned and endorsed by the Lieutenant or Deputy. They also decreed that, if Friar James Keating, the warlike Prior of Kilmainham, did not at once, repair the drawbridge of Dublin Castle, his office should be void, and the Deputy might appoint a Guardian or Keeper of the Priory of Kilmainham, until the Grand Master of Rhodes, or the Prior of St. John's of London, should make a nomination.

Prior of Kilmainham.

Ex-chancellor Fitz Eustace dies.

Monument in Kilcullen.

Costume in Ireland, Temp. 1496.

Sir Roland Fitz Eustace, Lord Portlester, died December 19, 1496, and no less than two monuments were erected in his honour. One to the memory of him and his wife in New Abbey, Kilcullen, which they founded in 1460. Reclining on the covering slab were the figures of Lord and Lady Portlester. The knight in plate mail with his vizor raised, Lady Portlester in the costume of the time.¹ On her head she wears the cap called a cornet, bound by a fillet or frontlet of gold or silver lace wrought with the needle in no inelegant pattern. This fillet is tied behind, from which depend long lappets, or rather a kind of veil, which occasionally could be drawn over. On her bosom is a cross of pearls. Her gown is of that species called a kirtle, made to fit close with robings, and made fast by a girdle

¹ This account of the Eustace monument, with a very beautiful illustration I possess, in the *Anthologia Hibernica*, vol. iii. p. 255.

studded with pearl roses. The skirts are plaited in large and thick folds, and trimmed at the bottom with a flounce. CHAP.
IX.
Her shoes are neat and in the present fashion.¹

¹ The writer of the above description in A.D. 1760 calls attention to the circumstance that the kirtle was an English, not an Irish, habit, nor did the Irish ever wear it. The Irish ladies wore the *gunna*, or gown, which was a long loose robe, without sleeves, and we remember Moore's lines—

O my Norah's gown for me,
Floating loose as mountain breezes.

Round the outer edge of the lid of the tomb, and surrounding the figures, was chiseled, in church text, of Gothic character, the inscription, 'Orate pro anima Rolandi Fitz Eustace de Portlester, qui hoc mo: construxit et fundavit, et qui ob: die Decemb. 19, A.D. 1496, etiam pro anima Margaretae uxoris suæ.'

The lower portion of the monument was also ably sculptured. On one side were three figures in compartment. In the centre a keener, or mourner, in the costume of the Irish female peasant. On her head is the cabbin or keeven, and on her neck and shoulders the shawl or cladlock; her petticoat is also flounced; but she has neither a boddice nor kirtle. Over all, even her head, she wears the Irish fallang or mantle, called also the brattling or Connaught cloak. The other figures represent two heralds, in the crown, sword, tunic and cloak of their office; also on their heads is the coif worn at funerals. Other figures were along the opposite side, but too much defaced to be defined. A monk in the habit of his order, was at one end, and shields of armorial bearings, surmounted by a rising sun near the corners—perhaps typifying the Resurrection.

In the old church of St. Audoen, in the Corn-market, Dublin, there is another similar monument to Lord Portlester. He built the chapel of the Blessed Virgin, when he was Lord Deputy. The recumbent figures of Lord and Lady Portlester on this tomb, now beneath the tower of St. Audoens, are in good preservation, and very interesting specimens of the costume of the knights and ladies of the fifteenth century. They closely resemble those on the tomb in Kilcullen already described.

The following inscription runs round the margin: 'Orate pro anima Rolandi Fitz Eustace de Portlester, qui hunc locum sine capellum dedit in honorem beatæ Virginis, etiam pro anima Margaritæ uxoris suæ et pro animabus omnium fidelium defunctorum.'

It was the cross from the roof of this church which, with singular taste, a prebendary named Cobbe took down, and placed instead a boar's head with a crown. This was sufficient to provoke, if not to justify, the epigram—

Christ's cross from Christ's Church cursed Cobbe hath plucked down,
And placed in its stead what he worships—the crown.
Avenging the cause of the Gadarine people,
This miscreant hath placed a swine's head on the steeple;
By this intimating to all who pass by,
That his hearers are swine,—and his church but a sty.*

* Gilbert's History of Dublin, vol. i. p. 285.

CHAP.
IX.

Bishop Sherwood,
Lord Chancellor.

Bishop of Meath.

Feuds with the Earl of Desmond.

Both complain to the King.

The Earl for a time triumphant.

Sherwood Chanceller.

Precept of Edward IV.

Conduct of Chanceller, &c.

Sittings of Chanceller.

In 1480, WILLIAM SHERWOOD, Bishop of Meath, was Lord Chancellor. This able and distinguished prelate had been Bishop of Meath for the long period of twenty-two years. He was consecrated according to the directions of Pope Pius II. in 1460. I have mentioned that unhappy dissensions prevailed between him and Thomas Earl of Kildare; and Ware states a very serious charge against the Bishop, 'that in 1469 nine of the Lord Deputy's (Earl of Desmond's) men were slain in Fingall by the instigation of the Bishop.' He seems on every occasion in which his name appears to have been engaged in feud with some of the race of Fitz Geralds, and the strifes between him and the Earl of Desmond were such, that as their quarrel could not be arranged in Ireland, both went to London to the King, and stated their case, each against the other. Here it would seem the Bishop had the worst of it, as the Earl of Desmond returned to Ireland loaded with royal favour soon to be changed for the headsman's axe. Despite the refusal of Lord Portlester to recognise the Bishop as Chancellor he received the seal and executed the office.

When the royal precept, already referred to, was issued in 1480 by King Edward IV. William Sherwood, Bishop of Meath, was Chancellor, and the precept applies to this high functionary as well as to the treasurer and others. 'The articles followeyng contayne the Kyng's comaundments and plesere how his Chan selere of Ireland, Clerc of the Rolles and the Clerc of the Hanaper ther shall demene theym there in executyng of ther offices. Furste, they and everiche of theres shall well and trewly serve the Kyng and his liege peple of the same land in the doying of ther offices. Item, that they ne none of them shall assent to the hurt damage or alienacione of y^e Kyng's land, revenues, or rights, but they shall endevoir themselfe for the vauncyng and encresyng therof, and lette all theym to the best of their powere that wold attempt the contrary therof.

' Item, that the sead Chaunseler do sete alweyes in suche place and tymes, as the Clerc of the Rolles, the Clerc of

the Hanaper, and other ministeres of ye Chaunsery may be then and their present. CHAP. IX.

‘ Item, that the sead Chaunseler do delyvere to the Clerc of the Rolles all such warrants cummyng to his handes, so that he may keep them as the Kyng’s recordss according to his office.

‘ Item, that the sead Chaunseler sele no pardons under the Kyng’s Grete Sele unto any man upon his provisione from the Court of Rome without the Kyng’s knowledge or consent. Seal no pardons from Rome without order.

‘ Item, that the Chaunseler in person shall in term tyme make his abiding in the place wher the Kyng’s Courts be kept, unlesse ther be a grete and urgent cause by the Depute wyth the advice of the more part of ye Kyng’s Consele it be thought his absence to be allowed.’ Chancellor to abide near the Courts.

Then follow special directions to the Clerks of the Rolls and Hanaper, the latter to receive the fees of the Seal on writs, commissions, and patents, and such fines as shall be made in Chancery, and thereupon pay the Chancellor his fees, wages, and rewards, accustomed, and pay the remainder into the King’s exchequer, and render an account yearly. The stamp duty on writs was then set forth ‘to the intent that noone ignoraunce may be pretendit what fines ben to be made there within the Kyng’s Chaunsery.¹

Bishop Sherwood did not hold the Seal long. He died in Dublin on December 3, 1482, and was buried in the Abbey of St. Peter and Paul, Newtown, near Trim, County Meath. Death of Lord Chancellor.

The office of Clerk of the Hanaper is of old date in Ireland. In this office the writs relating to the suits of the subject, and the return thereon, were anciently kept in *hanaperio*, a hamper; while those relating to the crown were placed in *parva baga*, a little bag; whereon arose the names Hanaper and Petty Bag Offices. Clerk of Hanaper.

¹ Gilbert’s Viceroys of Ireland. Notes to chap. x. p. 594.

CHAPTER X.

OF THE CHANCELLORS OF IRELAND DURING THE REIGN OF
HENRY VII.CHAP.
X.Ireland
during the
reigns of
Edward V.
and Rich-
ard III.

THE reigns of EDWARD V. and RICHARD III. offer few points for remark in the Lives of the Irish Chancellors. The history of those days has little to interest the legal reader. Strifes among the English settlers and conflicts of native chiefs proved a great barrier to civilisation. An able Irish writer thus described this period of our annals. ‘At this time, we read, not only of native clans divided and warring amongst each other; but it is also quite usual to find the same sept, and even members of the same family, arrayed as open and irreconcilable enemies. Factions, such as these, planted the seeds of perennial discord, weakened the natural bonds of kindred or friendship, and produced frequent examples of most pernicious demoralisation; inviting aggression from without, and fostering internal enmities, they served to effect and perpetuate hopeless ruin and national thraldom.’¹

State of
Religion.

The state of Ireland may be inferred from an Act passed in 1484, reciting that divers benefices and advowsons of the Sees, were situated amongst Irish enemies, and as no Englishman could inhabit the said benefices, and divers English clerks who were enabled to have cure of souls, were not expert in the Irish language, and such of them as were, disdained to inhabit amongst the Irish people, and others dared not, by which means divine service was diminished and the cure of souls neglected; it was therefore enacted, that prelates might for two years collate Irish clerks to the said benefices, without any impeach-

¹ Catechism of Irish History, p. 187.

ment from the King. Which privilege it was necessary to renew to the Archbishop of Dublin in 1493.

CHAP.
X.

When such was the state of the Church, it is in vain to look for accounts of the legal tribunals, and the Chancellor, I suspect, was little troubled with equity suits.

A question of much importance was submitted for the consideration of the Irish legal officials. Great doubts existed respecting the proper manner of electing a Lord Justice or Governor of Ireland for the time being, in case of the death or absence of the Viceroy. It was the opinion of some the election should be made by seven members of the Council; others thought it should be by the spiritual and temporal peers, together with the Council, and the most honourable English subjects of the three counties adjoining Dublin. Lord Grey's Parliament undertook to set these conflicting opinions at rest, by enacting that in future, the election of Lord Justice should be by the majority of an assembly composed of the King's Council, the Archbishops of Armagh and Dublin, the Bishops of Meath and Kildare, and all the Parliamentary Lords spiritual and temporal of Dublin, Meath, Louth, and Kildare, specially summoned upon fifteen days' notice to meet for this purpose at Dublin or Drogheda.¹

Election
of Lord
Justice.

Arrange-
ment for
future
elections.

In 1479, on the death of Prince George, Edward IV. conferred the Viceroyalty of Ireland on his second son, Richard Duke of York.

The defeat and death of Richard III. at Bosworth, placed Henry Tudor on the English throne. The Geraldines and indeed, the most powerful Anglo-Irish, were deeply grieved at the fate of a son of their beloved Duke of York, and gave ready credence to the report that the Yorkist heir to the throne, Richard, Earl of Warwick, son of the Duke of Clarence, had escaped from the Tower of London. Shortly afterwards a boy of noble aspect and suitable manners was presented to the Earl of Kildare, and other adherents to the House of York as the heir to the English crown. He was subjected to a strict examination respect-

Death of
Richard
III.

Reported
escape of
Richard
Earl of
Warwick.

The Pre-
tended
heir.

¹ Gilbert's *Viceroy of Ireland*, p. 406.

CHAP.
X.

ing his pretensions, and many questions were asked him about the family from which he represented himself as having descended. He answered all in so satisfactory a manner, that no doubt remained that he was the young Earl of Warwick.

Sir Thomas
Fitz Ge-
rald Lord
Chancel-
lor.Promises
of support.Lambert
Simnel.Ormond
sides with
Henry VII.Aid from
Burgundy.

In 1483, the Great Seal was intrusted to a lay Chancellor,¹ Sir Thomas Fitz Gerald of Laccagh, brother of the Lord Deputy, and he so entirely believed in the truth of the representation made, that he received the youth into his castle, where he was treated with all deference due to royalty. This naturally induced the adherents of the House of Kildare, men of high station in Church and State to wait upon the Earl of Warwick, and they unhesitatingly undertook to aid him with their lives and fortunes. They next sent agents to England and the Low Countries where Margaret, Dowager Duchess of Burgundy, sister of the late Duke of Clarence, aunt of the Earl, possessed great power and influence.

King Henry VII. was soon made aware of these negotiations, and quickly proclaimed 'that the youth in Ireland was a plebeian impostor, named Lambert Simnel.' At the same time a half-idiotic boy was, by royal command, paraded through London as the real Earl of Warwick. This had no effect upon the Irish, who asserted that Henry Tudor sought to delude the English people by the counterfeit Warwick. The portions of Ireland which were ruled by the House of Ormond adhered to the reigning monarch, while the rest of the Anglo-Irish were zealous Yorkists, eager to show their zeal in favour of him they regarded as the youthful Prince. The Duchess of Burgundy declared him her nephew, and provided a force of two thousand men under the command of Martin Swart, a leader of high birth and great military skill. The Earl of Lincoln, Lord Lovel, Sir Henry Bodrigan, John Beaumont, and other English friends of the House of York, accompanied the army of Swart, and reached Dublin in

¹ This is another instance of a Parliamentary grant of the office of Chancellor. Vide Smyth's Law Officers of Ireland, p. 15.

May 1487. Here preparations on a most costly and extensive scale were made for the coronation of the Prince, and all was in readiness by the middle of May. The ceremony took place in Christ Church Cathedral on Whit Sunday, May 24, 1487, when the youth was solemnly crowned as Edward VI. King of England. The great officers of State, the Earl of Kildare, Lord Deputy; Fitz Simon, the Archbishop of Dublin; Sir Thomas Fitz Gerald, the Lord Chancellor; Judges, Privy Counsellors, and others, renounced their allegiance to King Henry VII., and performed the ceremonies of fealty and homage to the young King of England and Lord of Ireland. The Bishop of Meath preached on this occasion a suitable discourse, and the procession from the cathedral to the castle of Dublin passed along streets crowded with enthusiastic subjects of the boy King.

CHAP.
X.Crowned
in Dublin.

War was speedily declared against the usurper, Henry VII. Sir Thomas Fitz Gerald, of Laccagh, resigned his office of Chancellor to grasp the sword instead of the Great Seal intrusted to Lord Portlester. Sir Thomas was evidently more conversant with fields of fight than the contests of the Court of Chancery, and wielded his weapon instead of the mace. He commanded a division of the troops, raised in Ireland, for the expedition to England. The foreign auxiliaries, under Swart, accompanied by the boy King and his Lords, landed in Lancashire on June 4, 1487. Henry was ready to oppose them with a numerous army. They came in sight of their old foes, near the village of Stoke, about a mile from Newark-on-Trent. On June 10, the battle took place, and the Irish troops, though unprovided with armour of defence, fought valiantly with the English and German allies. For three hours the victory was doubtful, and it was not until Swart and the valiant Ex-Chancellor, Fitz Gerald, Lord Lincoln, Plunkett, and the greater number of their forces were slain, to the number of 4,000, that the numerical strength of Henry's army won this hard-fought fight.

Lord
Chancellor
resigns the
Seal for
the sword.Becomes a
general of
division.Battle of
Stoke.Ex-chan-
cellor
slain.

The young King fell into the hands of the conqueror.

CHAP.
X.Fate of
the boy-
king.Alexander
Plunkett,
Lord
Chancel-
lor.The
Plunketts
of Killeen.

He was declared to be the child of Thomas Simnel of Oxford, joiner. His fate is involved in obscurity, some writers state he was made a turnspit in the royal kitchen, others that he was confined in the Tower; but this was his last appearance as a royal puppet.

When Lord Portlester resigned the Seals in 1492, they were next given to ALEXANDER PLUNKETT,¹ who appears, by patent, to have filled the office of Lord Chancellor for some years. The absence of any judicial records prevent my giving an account of his abilities as a Judge. Indeed of this member of the ancient and noble family of Plunkett, I have not been able to obtain much information. The services rendered by Sir Christopher Plunkett, Knight, during the wars of Ireland, procured him the favour of King Henry VI., and he was rewarded with a considerable sum of money. He filled the office of High Sheriff of Meath, and in 1432 was Deputy to Sir Thomas Stanley, Knight, Viceroy of Ireland. Sir Christopher married Joan, only daughter and heiress of Sir Lucas Cusack, Knight, Lord of Killeen, Dunsany, and Geraldston, in the county of Meath, and in her right, Lord of Killeen. His grandson and namesake, Christopher, third Lord of Killeen, married, as his second wife, Elizabeth, daughter of Sir William Wells, Lord Chancellor of Ireland in 1461. From this union the Chancellor, Alexander Plunkett, was sprung. There is a very interesting account of the way in which Thomas Plunkett, third son of Lord Killeen, obtained an heiress for his wife, which I extract from my unpublished work on 'Ancestral Houses.'²

How Sir
Thomas
Plunkett
met the
heiress.

'While a student of law in the Temple, sauntering through the Temple Gardens, on the banks of the Thames, he observed a beautiful young girl washing clothes in the stream. Attracted by her air of dignity, which appeared ill-matched with her mean attire, he directed his steps towards her, taking care that she should not observe him, and, to his surprise, heard her singing in the dear lan-

¹ Patent, June 11, 1494. 7 Hen. VII.

² Ancestral Houses: Killeen Castle, by J. R. O'Flanagan, M.R.I.A.

guage of his native country, the venerable Gaelic of Erin, an Irish song. The words were music to his ear, for unlike the degenerate Irish gentry of our time, he spoke his mother tongue, and the names of localities around his father's historic home gave truthfulness to the statements, of broad lands belonging as of right to her, that lowly yet lovely maiden, who sang by the Thames. The song is thus no less correctly than metrically translated :¹—

MARY CRUYS OF RATHMORE.

Ah, Blessed Mary, hear me sighing,
On this cold stone mean labour plying ;
Yet Rathmore's heiress might I name me,
And broad lands, rich and many, claim me.

Gilstown, Rathbeg, names known from childhood ;
Fair Johnstown, hard by bog and wildwood ;
Ra-tuaffe (Blackwater near it floweth) ;
And Harton, where the white wheat groweth ;

Kilskier, with windows shining brightly ;
Pilltown, where race the coursers sprightly ;
Bulreask, abundant daisies showing,
Full pails and churns each day bestowing.

Thee, Ballycared, too, mem'ry prizes ;
Old Oristown to mind arises ;
Caultown, near bogs, black turf providing ;
Rathcony in its ' Baron ' priding.

The Twelve Poles, Armabregia follow ;
Kilmainham, of the woody hollow ;
Cruisetown with lake by sunbeams greeted ;
Moydorragh gay, 'mid fair woods seated.

Still could I speak of townlands many ;
Three score along the banks of Nanny ;²
Twelve by the Boyne, if it were pleasure
To dwell on lost and plundered treasure.

'The young Irish student of the Temple listened with avidity to the song which floated upwards from the silver Thames. He was aware that eighteen years ago the last Lord of Rathmore, Sir Christopher Cruys, had been done

CHAP.
X.Mary
Cruys of
Rathmore.¹ Rathmore and its Traditions : Dublin University Mag. Sept. 1854.² The River Nanny.The fate of
Sir Chris-
topher
Cruys.

CHAP.
X.Plunkett
and the
heiress.

His fee.

Becomes
Chief
Justice of
Ireland.
Ancestor
of the
Duke of
Wellington.

to death by his wicked kinsmen,—that his helpless widow sought safety in flight, and had since given birth to a daughter, but the kinsmen of the deceased Knight repudiated all claims of mother and child, and no one knew where they lived, or how. And here, down by the reeds of the river was, no doubt, the lost heiress of Rathmore. The singularity of the discovery, as well as the desire to redress wrong, so dear to every just mind, decided young Plunkett on his course. He addressed his fair countrywoman in the language of Erin—at once a passport to her confidence—mentioned his name and lineage—that he was well acquainted with her sad story, and offered to be the assertor of her rights. The young heiress was only too happy to enlist such a champion; she conducted him to their humble abode, and Lady Cruys soon supplied him with the title-deeds and legal proof of the identity of the fair singer, Maria Cruys. In process of time the young Templar was admitted to the bar. He lost no time in taking the necessary ejectment proceedings to recover the Rathmore estates. It was an excellent opportunity for proving his forensic abilities, and they fortunately proved equal to the occasion. He recovered the estates of Rathmore for the rightful owner, and received as his fee the lady and her possessions. He brought his bride in triumph to the ancestral Castle of Killeen, and a memorial of the visit was erected in the demesne—a cross sculptured with figures and inscribed with the names of the successful lawyer and his grateful client—

THOMAS PLUNKETT.

MARIA CRUYS.

He became Sir Thomas Plunkett, Chief Justice of Ireland. The eldest daughter of this marriage, Ismay, married Wellesley of Dungan, county Meath, from which marriage the Dukes of Wellington are descended.

We must now turn our attention to the condition of Ireland and see how it was governed. Almost from the very earliest period in which English rule was exercised

in Ireland, it was administered by the heads of the great Anglo-Norman houses, Fitz Gerald of Kildare and Desmond, Butlers of Ormond, De Burghos of Clanrickarde, De Lacy's, St. Lawrence, and other potent lords, who ruled according as they had power to influence or thwart the Lord Deputy. In return for the assistance they rendered the English Government by their influence with the Parliaments, they stipulated for the filling of offices, for titles, pensions, and preferments, lay and ecclesiastical. This caused them to be named *Undertakers*, and if their demands were considered unfair or impossible for compliance, every influence was used to perplex and baffle the Executive, and force granting of their requests.

CHAP.
X.How the
Govern-
ment was
adminis-
tered in
Ireland.

Matters stood thus for a considerable period until the accession of a wise statesman, King Henry VII., who, when the battle of Bosworth made him truly sovereign of England, took the first opportunity to examine closely into the affairs of Ireland. As in England he found the power of the Crown almost eclipsed by that of the Privy Council, composed of the highest in rank of Church and State, men most distinguished by personal or professional worth; so in Ireland, the power of the Privy Council not having any check from the presence of the Sovereign, often overruled the Deputy and controlled the Parliament. 'To be a member of the Privy Council was an honour that was courted; while to be a member of the Parliament was a burden that was shunned.'¹

Accession
of Henry
VII.

He determined to change this state of affairs; to make the people more free and less dependent on their Lords than they had been. Finding this impossible under the existing laws and customs in Ireland, when the Chief Governor and Council, or the Chief Governor alone, called Parliaments and imposed subsidies, whereby the obedient subjects were weakened and impoverished, and complaints were made by members of both Houses, of the great expense they were forced to incur in travelling to the capital or

His Irish
Policy.

¹ Mason's Essay on Parliaments in Ireland, p. 62.

CHAP.
X.

Sir Edward Poynings
Lord Deputy
Poynings' Parliament at Drogheda.

wherever else the Parliament assembled, the King resolved upon a change. He accordingly sent Sir Edward Poynings,¹ 'a right worthy servitor in war and peace,' to repel Warbeck and meet the Parliament. He landed at Howth on October 13, 1494, and called a Parliament which met at Drogheda, on December 1, 1494. Herein was passed the celebrated Statute X. Henry VII., 'whereby it is enacted that all statutes late made within the realm of England concerning or belonging to the common weal of the same, from henceforth be deemed good and effectual in the law, and such that be accepted, used, and executed within the land of Ireland in all points, at all times requisite, according to the tenor of the same. And if any statute or statutes have been made within the said land heretofore to the contrary, that they and every of them be made void and of none effect in the law.'

By this statute all the fundamental laws of England were transferred to Ireland. This is eulogised by Lord Coke as 'a right profitable Act of Parliament.' The Lord Deputy not content with this desired to go further, and accordingly a law was made, which at once made the Parliament of Ireland dependent on and subject to the King and Council of England. This famous law, known as Poynings' law, enacted 'that no Parliament be holden hereafter in the said land, but at such season as the King's Lieutenant and Counsaile there first do certifie the King under the Great Seale of that land, the causes and consideration and all such Acts as there seemeth should pass in the same Parliament; and such causes, considerations, and Acts affirmed by the King and his Counseile to be good and expedient for that land, and his license thereupon, as well as in affirmation of the said causes and Acts as to summon the said Parliament under his Great Seal of

¹ He was son of Robert Poynings and Elizabeth Paston. Sir Edward was an active supporter of the Tudor dynasty. The King gave him many proofs of his favour. He was a Privy Councillor, a Knight of the Garter, had a command in Flanders, and with Warham, Archbishop of Canterbury, went as Ambassador to the Emperor Maximilian. He was sent to Ireland as Deputy for Prince Henry, afterwards King Henry VIII.

England had and obtained ; that done, a Parliament to be had and holden after the form and effect afore rehearsed ; and if any Parliament be holden in that land hereafter, contrary to the form and provisions aforesaid, it is to be deemed void and of none effect.' 'The effect of this clause,' observes a very eminent Irish lawyer,¹ 'was to place a bridle in the mouth of the Irish Parliament, and subjugate alike the Lord Deputy, the nobles, and the commoners to the will of the King's Council at Dublin and London.'

CHAP.
X.

As for any Parliament which was assembled either before or after the passing of Poynings' law, being the Parliament of the entire nation of Ireland, we may venture to assert it never was so, for to the reign of James I. it was almost entirely confined to the colonists under English rule, and from the time of James I. to the Union in 1800, it was, with few exceptions, elected by Protestants. The inconvenience of this course initiated by Poynings' law was strikingly illustrated by a Bill returned to Ireland, altered in seventy-four places, which had been successively revised by Lord Thurlow when Attorney-General, by Lord Roslyn when Solicitor-General, and by Mr. Macnamara. The Bill so changed was rejected by the Irish House of Commons, so all labour was lost. Owing to the want of a Renewed Revenue Act, from the inevitable delays of transit, the Irish merchants for some time imported duty free ; I dare say they prayed for contrary winds.

Effect of
Poynings'
law.

It was also enacted by this Parliament, that all royal grants made during the previous 168 years be revoked. This placed most of the titles and properties of the nobles at the King's disposal. The ancient war cries² of the great rival houses of Fitz Gerald and Butler, as well as of the ancient Milesian families, were henceforth proscribed under severe penalties, and in lieu thereof men should call on St. George, or the name of the King of England. None

Royal
Grants re-
voked.

War cries.

¹ Vide *Life and Death of the Irish Parliament*, by the Right Hon. James Whiteside, p. 20.

² See note on Irish war cries in Haverty's valuable 'History of Ireland,' p. 339.

CHAP.

X.

Irish to be excluded from office.

Peers to wear robes.

but Englishmen were to be admitted as Priors of Hospitallers in Ireland, or intrusted with the custody of any royal castle there, under a penalty of five pounds for each offence. The Lords spiritual and temporal were enjoined to appear in every Parliament in their robes, as the Lords of England. The reason assigned for this was, 'that during the space of twenty years the English Lords of Ireland had, through penuriousness, done away the said robes, to their own great dishonour, and the rebuke of all the whole land.' Poynings shortly had other duties to perform than those of a legislator. In 1495, he was summoned to Waterford, where Perkin Warbeck had landed. The Deputy signally defeated him, and returned to England in 1496.

During the years 1494-5, HENRY DEAN, Bishop of Bangor, appears to have been Lord Chancellor of Ireland.

In 1496, WALTER FITZ SIMON, who had been for many years Archbishop of Dublin, became Lord Chancellor of Ireland. At this period the equitable jurisdiction of Chancery was making very considerable progress. The doctrine of uses and trusts was settled, and where no action could be maintained at law by the party beneficially entitled in the case of a feoffment to uses for breach of duty, the Chancellor proceeded by subpœna to compel the feoffee to perform a duty binding in conscience.¹

Walter Fitz Simon was a Precentor of St. Patrick's Cathedral, and sat as proxy in the Parliament of 1478. In this year King Edward IV. constituted John De la Pole, Duke of Suffolk, Lieutenant of Ireland for twenty years. The power of the English was then so limited, that the Archbishop of Dublin could not visit those churches and prebends which lay on the borders of the adjacent Irish territories, where the jurisdiction of the Crown of England was not recognised.

The early career of Fitz Simon.

Elected Archbishop of Dublin.

On June 14, 1484, Walter Fitz Simon was elected Archbishop of Dublin, which was ratified by Pope Sextus IV., and on being duly licensed by the King, he was conse-

¹ Saunders on *Uses*, p. 26.

crated in St. Patrick's Cathedral, on September 26, following. This solemnity usually took place in the Convent of the Holy Trinity, or Christchurch, for D'Alton relates :—

‘On the preceding day, the Dean, Chancellor, and Treasurer had solicited the consent of the Prior and Convent of the Holy Trinity that this ceremony should take place in St. Patrick's; but they were refused, in consequence of which, a dispute took place that lasted until the evening,¹ but the ceremony was permitted to be solemnised the following day.

CHAP.
X.Conse-
crated
in St.
Patrick's.

The Archbishop was among the Irish officials who were imposed upon by Lambert Simnel, as I have related already, and he thereby incurred the marked displeasure of King Henry VII. In the year, 1488, the Archbishop of Dublin was among those who were permitted to renew their allegiance and receive pardon through Sir Richard Edgecombe, for having favoured Simnel, while the Lord Deputy, the Earl of Kildare, being regarded more guilty, from his position and authority, had to take the oath with the utmost solemnity. This he did in the church of St. Thomas' Abbey, with his right hand extended over the sacred host. When mass was concluded the Archbishop chanted the Te Deum, which was sung by the choir, and accompanied by the pealing organ, while all the church bells continued to ring.²

Renews
his allegi-
ance.Also the
Earl of
Kildare.The Arch-
bishop
named
Deputy.He endeavours to
reform the
Irish.Younger
sons.The lower
classics.

In 1492, his grace Archbishop Fitz Simon was appointed Deputy to Jasper Duke of Bedford, in place of Gerald Earl of Kildare. This appointment was ratified by the King. He made good use of his authority by endeavouring to excite industrious habits amongst the people, and represented to the King ‘ how idly the younger sons of rich families spent their time; who learned no trade, nor qualified themselves by study for any liberal profession, but lived in a state of dependance on the elder brother, or head of the family, and so became useless to the commonwealth; and, as for the bulk of the common people,

¹ Mason's St. Patrick, p. 139.² Harris's Hibernica, part i. p. 33.

CHAP. X. they lived in sloth and indolence on account of the great plenty of all kinds of provisions that the land naturally produceth, and for this they neglect to labour; that it is a greater charity to find work for them, than to relieve them from door to door; for that one is acceptable to God, profitable to the Commonwealth, and healthful to the body, whereas idleness is the root of all evil.'

Idleness.

Vagrants.

This prudent letter from the Archbishop induced King Henry to issue orders against mendicancy. He caused a Proclamation to be made, 'that none should be suffered to wander about the cities, towns, or boroughs of Ireland, without a certificate from the Mayor, Bailiff, or Seneschal of the places where they were born, by which means every town kept their own poor, and a workhouse was erected in each locality for the paupers to work in. The Archbishop appointed beadle for the purpose of enforcing this regulation, who were to keep watch over the cities, towns, and parishes, to keep beggars out and take up strangers.'

A Parlia-
ment.

In 1493, the Archbishop, while Viceroy, held a Parliament at Dublin, in which all the inquisitions before that time found against him on the instigation of Roland, Lord Portlester, were declared void, while, at the same session, all grants, annuities, leases, &c., made by this prelate were annulled.

Fitz Eustace, who was father-in-law of the Earl of Kildare, was removed from the office of Treasurer, which was conferred on Sir James Ormond, and Fitz Eustace directed to produce and authenticate the accounts of the revenue for forty years, during which time he held the post of Treasurer of the colony.

Fitz Simon
goes to
the King.

The King requiring information respecting Ireland, sent for the Archbishop, and Lord Gormanstown was named Deputy in his absence. He departed for England, and laid before the King a full account of his government of Ireland and the state of the kingdom. We may presume he was very severe upon the doings of the Earl of Kildare, for close on his visit followed the impeachment of that nobleman.

Previous to the Archbishop's departure from Ireland, he delivered his crozier to Richard Skerrit, Prior of Christ Church, to whose custody it appertained. His reception in the Court of the King was befitting a royal favourite, and Stanyhurst relates an instance of his familiarity with his Sovereign. Being present when an oration was made in the King's praise, at its conclusion King Henry asked the Archbishop his opinion of it. 'If it pleaseth your Highness, it pleaseth me,' replied the courtly prelate. 'I can find no fault but that it flatters your Majesty too much.' 'Now in good faith,' said the King, 'our father of Dublin, we were minded to find the same fault ourselves.'

In 1494, the King appointed his son, Henry Duke of York, afterwards Henry VIII., Lord-Lieutenant of Ireland, and, greatly desiring that justice might in all particulars be administered in the right track, and confiding in the allegiance, diligence, integrity, conscience, experience, and learning of Archbishop Fitz Simon, appointed him Lord Chancellor.¹

The equitable jurisdiction of the Court of Chancery may be traced from the time of Richard II., when the practice of referring matters to the Chancellor was in use. The writ of subpœna, to compel an appearance by the defendant, added much power to the authority of the Chancellor, and the formula of 'Bill and Answer' was deemed much more effectual than the petition to be heard *ore tenus*.

It was not, however, until the reign of Henry VII. that the equitable jurisdiction of this Court made its greatest stride. Then it became settled law, that there being a feoffment to uses, the person beneficially entitled could not, on violation of the trust, maintain an action at common law. Thereupon the Chancellors determined they would compel the faithless trustee to perform the duty binding upon his conscience, and, in process of time, the remedy was extended against his heir and assignee, with notice of the trust. But it was not considered equitable to

CHAP.
X.Reception
by Henry
VII.Prince
Henry,
Duke of
York,
afterwards
Henry
VIII.,
Viceroy.
Fitz Simon
Lord
Chancel-
lor.Early
Equitable
Jurisdi-
ction of
Chancery.Writ of
Subpœna.Bill and
answer.
Uses and
trusts.

CHAP.
X.

extend this remedy against a purchaser of the legal estate for valuable consideration without such notice. Equity pleadings soon became as intricate as those of law, and we have some curious specimens on the Rolls of the time of Queen Elizabeth, to which I shall hereafter refer.

Chancellor
holds a
synod.

Although his Court occupied a good share of his time, the Chancellor did not neglect the affairs of the Church. In 1594 he held a provincial synod in the Church of the Holy Trinity, when an annual contribution for seven years was settled by the clergy of the province for the lecturers of the University in St. Patrick's Cathedral.¹

Licence to
build an
hospital.

On May 19, 1497, he granted to John Alleyne, Dean of St. Patrick, licence to build an hospital for the poor, and assigned ground for the purpose in Kevins Street. All the poor therein lodged were required to pray for his soul, as the principal founder, and for the souls of the Dean, his friends, and successors for ever. This hospital was not intended for the indiscriminate poor, but such as were good Catholics, of honest conversation, of the English nation, and chiefly of former settlers in the dioceses of Dublin and Meath, named Allen, Barrett, Begg, Hill, Dillon, and Rogers. Out of these classes the Dean and Chapter of St. Patrick were to have the right of selection without fee or reward.²

He ceases
to be Chan-
cellor.Lord
Deputy.Again
Lord
Chancel-
lor.Dies in
1511.Buried in
St. Pa-
trick's.Irish
Statutes

In 1498 some changes took place among the State officials in Ireland which led to Archbishop Fitz Simon relinquishing the Great Seal to the Bishop of Meath. In 1508 he was appointed Deputy to Gerald Earl of Kildare, and the following year was again Chancellor.³ He was Archbishop of Dublin until his death, which took place at Finglas, near Dublin, on May 14, 1511, having filled the See of Ireland's capital for the long period of twenty-seven years. His remains were brought to St. Patrick's Cathedral, and honourably interred in the nave. Historians characterise this prelate as a man of great gravity and learning.

Among the Acts of the Irish Parliament during the

¹ Allen's Registry, f. 105.

² Mason's St. Patrick, p. 142. ³ Patent, 1509. 1 Hen. VIII.

reign of Henry VII. we find some description of the social state of the kingdom. An Act restraining carrying hawks out of Ireland, enacted ' Whatsoever merchant should take or carry any hawk out of the said land of Ireland should pay for every goshawk, 13s. 4d.; for a tiercel, 6s. 8d.; for a falcon, 10s.'

CHAP.

X.

passed in
the reign
of Henry
VII.

There was a law passed on the representation of the Dean and Chapter of St. Patrick's Cathedral, that the rivers and podells were so stopped up, the close was constantly flooded, for remedy whereof every householder upon the podell was obliged to cleanse and scour the said precincts, within two months after the passing of the Act, upon pain of 20s., to be levied by the Proctor of St. Patrick's. Then came an Act against Provisors to Rome. An Act for the Confirmation of the Statute of Kilkenny.¹ An Act that every subject worth 10*l.* shall have an English bow and a sheaf of arrows. An Act against the use of Irish war cries. This has already been brought before the reader.

I subjoin specimens of the cries or war-shouts of the Irish, and the Anglo-Normans who adopted Irish customs:—

Ancient
Irish war
cries.

That of the O'Neils was, *Lamb dearg abu*—Hurra for the Red Hand.

„ O'Briens—*Lamb laider an uachtor*—The strong hand uppermost.

„ MacSwynys—*Battailah abu*—Hurra for the noble staff.

„ Fitz Geralds of Kildare—*Crom abu*—Hurra for Crom.

„ Fitz Geralds of Desmond—*Sean ait abu*—Hurra for the old place.

„ Bourks of Clanrickarde—*Gal ruadh abu*—Hurra for the red stranger.

„ Fitz Patricks—*Gear laider abu*—Hurra for the sharp and strong.

„ Heffernans—*Chart na suas abu*—Hurra for the right from above.
„ Husseys, Barons of Galtrim—*Coir direach abu*—Hurra for strict justice.

„ Knight of Kerry—*Farre buidhe abu*—Hurra for the yellow men.

¹ Vide excellent observations on the notorious Statute of Kilkenny, and on the misgovernment of Ireland under Anglo-Norman rulers, in the Life of Edward III., by W. Longman, vol. ii. ch. i.

CHAPTER XI.

LORD CHANCELLORS OF IRELAND DURING THE REIGN OF
KING HENRY VIII.CHAP.
XI.English
Laws
limited to
the pale.
Their
operation
extended.Henry
obtains the
Royal
title.William
Rokeby
Lord
Chancel-
lor.His
family.

PREVIOUSLY to the reign of King Henry VIII. the English laws had been limited in operation and partial in execution throughout Ireland. Their influence rarely extended beyond the pale, and they were not always observed even there; while only a few Irish families were considered entitled to the benefits they were supposed to confer. We shall find a considerable change speedily taking place. Chiefs of clans were induced by Henry to become subjects of the English Crown; to attend Parliament; to give up the Brehon code for the laws and Constitution of England, while the title of Lord of Ireland, heretofore borne by him and his ancestors, was exchanged for the more royal title of King. The Superior Courts and the Court of Chancery began to assume more extended jurisdiction, and the common law of England was generally resorted to, instead of the ancient laws of Erin.

Archbishop Fitz Simon having relinquished the Seals in 1498, the King conferred them on WILLIAM ROKEBY, who had a high reputation for learning, piety, and wisdom.

The new Lord Chancellor was descended from an ancient and honourable house, which most probably derived its name from Rokeby in Yorkshire. The practice of individuals taking names from their birth-place was quite common in former times. The family had considerable success in gaining good places in Ireland, for we find the Lord Chancellor's brother, Sir Richard Rokeby, filled the office of Lord Treasurer.

William, born in Yorkshire,¹ was early designed for

¹ Wood's *Athenæ Oxoniensis*, vol. ii. p. 713.

a religious life, and the rudiments of his education are stated to have been acquired at Rotherham, where he was a diligent student. Here he became a good classical scholar, and already gave promise of a distinguished career, by his steady and persevering industry. When sufficiently master of Latin and Greek, William Rokeby was removed to a house for the reception of canonists in Aldgate, London, and he gladly availed himself of a well-stored library which existed in that studious retreat. His familiarity with advanced classic authors enabled him to make a distinguished university career. He graduated at Oxford, became a Doctor of Common Law, and, in 1487, while yet young, he was presented by the monks of Lewes to the rectory of Sandal, near Doncaster. This spot became for many years his constant residence, and to his last hour he appears to have been greatly attached to it. Although the fortunes of a varied career compelled him to reside far from his beloved Sandal, this was the spot to which, at the close of his life, his cherished local recollections turned, and here he resolved, when the living spirit ceased to animate his body, his remains should rest.

After a lapse of ten years from his first preferment, in 1487, he was advanced to the vicarage of Halifax, thence to the bishopric of Meath and high dignity of Lord Chancellor of Ireland.¹ The duties of the Court of Chancery were then beginning to acquire considerable importance in a judicial point of view, and were well discharged by Dr. Rokeby.

On the death of Archbishop Fitz Simon, in 1511, the Pope, Julius II., severed the tie which bound Dr. Rokeby to Meath, and he was appointed successor to Fitz Simon in the Archbishopric of Dublin. King Henry VIII., who succeeded his father, on April 22, 1509, retained the Chancellor in that office,² which was vacated by the demise of the Sovereign. He was well suited to his position, and acted the part of arbitrator as well as judge. His wisdom and moderation brought about the settlement

CHAP.
XI.William intended for the Church.
His education.

University career.

First preferment.

Bishop of Meath.

Lord Chancellor of Ireland.

Archbishop of Dublin.

Accession of Henry VIII.

¹ Pat. 1498. 13 Hen. VII.² 1509. 1 Hen. VIII.

CHAP.
XI. of disputes of long standing between successive Archbishops of Dublin and the Dean and Chapter of St. Patrick's.¹ He seemed in every respect, by learning and legal knowledge, well fitted for the Court of Chancery; and as the chief object of Judges at this period, in England as well as in Ireland, was to enforce penal laws for revenue purposes,² his Court was largely sought, as his decisions were consonant to the dictates of conscience.

Provincial synod. The Seal, having passed in 1513 to Sir WILLIAM COMPTON, was restored to Archbishop Rokeby in 1515, who then held it for many years. In 1518 he convened a provincial synod, which had solely reference to ecclesiastical matters. The canons have been extracted from the red book of the Church of Ossory, and published by Sir Henry Spelman.³ They enjoined due examination of persons from Connaught and Ulster, previous to admission to the priesthood; the payment of tithes, proxies, and burial fees; the discontinuance of *tin* chalices at the celebration of the Mass; the appraisement of the goods of intestates by two valuators appointed by the Bishop; prohibited the disposal of the property of the Church by laymen without the concurrence of the clergy; and the playing at football by the clergymen under the penalty of 3*s.* 4*d.* to the ordinary, and 3*s.* 4*d.* to the repair of the parish church. These regulations show the condition of the Irish churches in remote districts, where we may suppose the clergymen not very learned, and where the use of *tin* chalices denotes the poverty of the Church. In the provinces, at far earlier times, there must have existed considerable wealth and taste in Church adornment, as is evidenced in the relics of Celtic art preserved in the Museum of the Royal Irish Academy, therefore we should not have expected a prohibition against *tin* chalices. Perhaps these humble altar vessels, used for most sacred purposes, were employed in

¹ Mason's St. Patrick, p. 143.

² Lord Campbell's Lives of the Chancellors in England, vol. i. p. 425.

³ Concilia, t. ii. p. 726.

Unclerical sports.

Condition of the Clergy.

very poor districts, in which the poverty of the parish was unable to procure costlier sacramental plate.

CHAP.
XI.

The very high penalty attached to the recreation of football, shows that the taste for ‘muscular christianity’ is of ancient date, and must have been carried to excess to cause its prohibition. I can well understand the necessity of preserving due respect for the minister of the Church by his flock, which must be lessened in the rude shocks of a game of football.

In this year, 1518, the Archbishop confirmed the establishment of a clerical college, founded at Maynooth by Gerald Earl of Kildare, and modelled the rules for its government.¹

Clerical
college at
Maynooth.

In 1520, the old family feuds of the houses of Fitz Geralds of Desmond, and Butlers of Ormond, reached such a height that the Chancellor was dispatched by the Lord Deputy and Council to Waterford, ‘for the pacifying of such discords, debates, and variances, as existed between the Earl of Desmond and Sir Piers Butler.’ The dissensions between these powerful nobles materially weakened the English rule in Ireland. Henry VIII. was well aware

The Fitz
Geralds
and
Butlers.

of this. Writing to his Viceroy on the subject, he says: ‘And right comfortable news it should be unto us to hear and understand of a good concord betwixt them, so that they, being so pacified, might, with their puissances, join and attend personally with and upon you, our Lieutenant, for your better assistance in repressing the temerities of our rebellious Irish enemies.’ The fatal policy, too long practised by England in dealing with Ireland, of arraying race against race, and creed against creed, is disclosed in this document.² ‘Now, at the beginning, political practices may do more good than exploit of war, till such time as the strength of the Irish enemy shall be enfeebled and diminished; as well by getting their captains from them, *as by putting division among them, so that they join not together*.’

King
Henry
to the
Viceroy.

Un-
fortunat-
e policy.

¹ Mason's St. Patrick, p. 144.

² State Papers, temp. Henry VIII., vol. ii. p. 34.

CHAP.
XI.

The Irish Viceroy at this period was an accomplished English nobleman, Thomas Howard, Earl of Surrey, Lord Lieutenant in 1520. The following beautifully written account of his character shows his great qualities: ‘Excellent in arts and arms, a man of learning, a genius, and a hero; of a generous temper, and a refined heart, he united all the gallantry and unbroken spirit of a rude age with the elegance and grace of a polished era. With a splendour of descent, in possession of the highest honours and abundant wealth, he relaxed not his efforts to deserve distinction by his personal worth. Conspicuous in the rough exercises of tilts and tournaments, and commanding armies with skill and bravery in expeditions against the Scots under his father, he found time, when our literature was rude and barbarous, to cultivate his mind with all the exquisite spirit of the models of Greece and Rome; to catch the excellences of the revived muses of Italy, and to produce in his own language compositions which, in simplicity, perspicuity, graceful ornaments, and just and natural thoughts, exhibited a shining contrast to the works of his predecessors, and an example which his successors long attempted in vain to follow.’¹

This accomplished statesman soon found the Irish Government was beset by difficulties; that as only a small portion of the country submitted to English rule, no general system of action could be effected unless the whole country was brought under subjection, and to effect this the available resources of England were insufficient. By his wise and conciliatory policy he served the English interests well during his short stay. He returned to England in 1521, and Piers Butler became Lord Deputy.²

Mortuary
chapel.

The judicial functions of Lord Chancellor Rokeby were limited, and my materials do not enable me to describe their nature. He was declining in health, and finding the end drawing near as the year 1521 was approaching its close, he prepared for his departure hence. He was resolved each of his English preferments should retain portions

¹ Sir Egerton Brydges.² Catechism of Irish History, p. 203.

of his remains. He erected a mortuary chapel at his favourite church of Sandal, which is described as a fabric of singular beauty; the most perfect existing specimen of what the sepulchral chapels of former times used to be.¹ He directed a stone monument, with an inscription to be placed thereon; also that another mortuary chapel should be built under the inspection of his executors and churchwardens at the south side of the Church at Halifax, and that therein a tomb also be erected over his heart and bowels, on which was to be placed his statue, with a similar inscription to that of Sandal. And as he had obtained an indulgence for the parish of Halifax, and the parishes thereunto adjoining, for eating white meats in Lent; he willed that his executors, at their discretion, should solicit for a renewal of the said licence *sub plumbo*, the profit thereof to be employed on a priest to sing at Halifax, in his new chapel, as long as may be, by the advice and discretion of his executors, and the churchwardens; and that a doctor of divinity may have ten pounds to be occupied in preaching, &c. An abstract of his will is given in the 'Athenæ Oxonienses.' He styles himself Archbishop of Dublin, and perpetual Vicar of Halifax; and orders that when dead he should be embowelled, his bowels and heart buried at Halifax, and his body at Sandal. After his death on November 29, 1521, Death. his wishes were carried into effect.²

The words inscribed on his monument at Sandal were: 'Ego Willielmus Dublin, Archiepiscopus, quondam Rector istius Ecclesiæ, credo quod Redemptor meus vivit—qui obiit—cujus animæ propitietur Deus. Amen. And at Halifax: 'Hic jacet Willielmi Rokeby nuper Dublin. Archiepiscopi & Vicarii perpetui istius ecclesiæ, qui credo quod Redemptor meus vivit.'³

Sir NICHOLAS ST. LAWRENCE, Lord Howth, was appointed Lord Chancellor of Ireland, in 1509. History and tradi-

The family
of St.
Lawrence.

¹ D'Alton's Archbishops of Dublin, p. 181.

² Hunter's South Yorkshire, vol. i. p. 200.

³ Athenæ Oxon., vol. ii. p. 717.

CHAP.
XI.

His last
injunction.

CHAP.
XI.Agreement
between
the two
knights.The
bridge of
Evora.

Howth.

Sad plight
of Sir
Amoricus
Tristram.

tion, lays and legends, combine to give the Lords of Howth an abiding place in the annals of Ireland. The original family name was Tristram, and it is related that when the Anglo-Normans invaded Ireland, Sir Amoricus Tristram, with his brother-in-law and companion-in-arms, Sir John De Courcy, arrived at Howth, A.D. 1177. De Courcy received letters patent from Henry II., entitling him, his heirs or assigns, 'to enjoy in Ireland all the land he could conquer with his sword, reserving to the King homage and fealty.' According to tradition, while in Normandy, these two knights entered into a solemn compact, in the Church of Notre Dame, at Rouen, to assist each other in acquiring territory in foreign lands, and to share equally whatever wealth they should acquire by conquest. On reaching Howth, De Courcy was unwell, and was obliged to remain on board ship; so Sir Amoricus disembarked with the troops. They were met on landing by a party of the Irish, who resisted their progress at the bridge of Evora, where the mountain stream falls into the sea. The opposing troops fought on the north side of the promontory, nearly opposite the small island of Ireland's Eye. The battle was long and stoutly maintained on both sides, but went in favour of the invaders; and the King, to reward the valorous knight, allotted him the land of Howth. The tenure was subsequently confirmed by letters patent from King John, which are still extant.¹ After this gallant commencement the two warriors reduced the province of Connaught to subjection; but in 1189, when De Courcy was removed from the Government of Ireland by King Richard I., Sir Amoricus, then in Connaught, being attacked by O'Connor, king of that province, with a large force, while the Norman knight had only two hundred men-at-arms and thirty horse, these latter, seeing the vast disproportion of numbers opposed to them, appeared desirous of seeking safety by flight, Sir Amoricus thus harangued his little army in these heroic words:—

¹ A *fac-simile* was engraved for the Report of the Commission on Public Records, Ireland, appointed by George III.

‘Who will may save his life by flight on horseback, if he can ; but, assuredly, my heart will not suffer me to leave those, my poor friends, in their necessity, with whom I would rather die in honour than live in dispraise. But to all those that will stand this day I can say no more than this ; as our lives shall together depart, so shall my soul accompany with yours to the latter day ; and in doing this, I give you all my most humble thanks, and this day will live and die in the field. And, my worthy fellows and friends, all bear witness with me the latter day, that to God I render and yield my soul, my service to my natural Prince, my heart to my brother,¹ Sir John Courcy, and his wife ; my force, might, pain, and good-will, to my poor friends and fellows here.’ This he spoke kneeling, and kissing the cross of his sword thrust it through his horse, saying, ‘he should never serve against them, with whom he had so truly and so worthily served afore.’²

Then every horseman in his band dismounting, did the same,
And in that company no steed alive was left but twain,
On one there rode De Courcy’s squire who came from Ulster wild,
Upon the other young Oswald sate, Sir Tristram’s only child.

His example followed.

These two were placed on a hill, and alone survived the

Two escape.

slaughter of that disastrous day.

The name of St. Lawrence was acquired by a member of this family having gained a victory at Clontarf, which he attributed to the intercession of St. Lawrence, on whose festival the battle was fought. It has since been retained as the surname of the Lords of Howth. This family, for many generations, have zealously maintained what has been called the English interest in Ireland, and held a high position as Lords of the pale.

Name of St. Lawrence.

Nicholas, the sixteenth Baron of Howth, was the eldest son of Robert, the fifteenth Lord, a nobleman of considerable abilities, who filled several offices connected with the Government of Ireland. He had married Joan, second daughter of Edward Beaufort, Duke of Somerset, by whom he had four sons and two daughters. Of these sons

Parents of the Lord Chancellor.

¹ Brother-in-law, and in arms.

² Burke’s Peerage, title Howth.

CHAP.
XI.

Spirited address to his troops.

CHAP.
XI.His
father's
career.

Exploits.

Lord
Chancel-
lor.

Death.

Nicholas was the eldest, and had excellent opportunities of acquiring habits of business under his father, who, on February 22, 1467, was intrusted with the responsible office of Chancellor of the Green Wax of the Exchequer. Robert Lord Howth was one of the thirteen distinguished nobles who, in the reign of Edward IV., were elected Knights of the Brotherhood of St. George in Ireland, associated to defend the pale. This institution did not last more than about twenty years, as the taxes requisite for the support of the troops became obnoxious, and the organisation failed in the object for which it was founded.

The exploits of Nicholas Lord Howth, as may be supposed, are better known in the military than the legal annals of Ireland. He led the bill-men¹ on foot at the well-named battle of Knocktough (hill of slaughter), in Connaught, fought on August 19, 1504. This is described by the historian as the most bloody battle that stains the Irish annals.² Such was the vehemence and obstinacy of it, that at a great distance from the field might be distinctly heard the violent attack of the martial chiefs; the vehement blows of the champions, the desperate charges of the royal heroes, the voice of the nobles running through the ranks, the clamour of the troops when thrown into confusion.³ The Lord Justice gained the victory, but clearly with great loss. This was rather rough training of Lord Howth as an Equity Judge. His Lordship was appointed Lord Chancellor of Ireland in 1509;⁴ and as we may take it for granted his decrees were just and satisfactory, dismiss him from further detail. As in the case of so many who held the Irish Seals, the legal inquirer can find no trace of his career. Ex-Chancellor Lord Howth died in 1526, and was succeeded by his eldest son (Christopher), by his first wife, daughter of Lord Killeen.

¹ Not men who filed Bills in Chancery, but men armed with weapons so called.

² Taaffe's Ireland, vol. i. p. 310.

³ Annals of Donegal.

⁴ Patent, June 11, 1509. 1 Henry VIII.

The Great Seal of Ireland was again intrusted to the care of an ecclesiastic. This time the selection was of Dr. Hugh Inge, who succeeded Archbishop Rokeby in the See of Dublin, and was made Lord Chancellor of Ireland in 1527,¹ for the term of his life. Hugh Inge was a native of England, born at Shepton Mallet, in Somersetshire. His parents were pious Catholics, who gladly observed the growing excellence of their child. From his boyhood he was destined for the Church, and showed even in early youth, great piety in attending the practices of the Roman Catholic religion. He was educated at the famous school of William of Wickham, Winchester, and probably derived much of his capacity for business from the example of this eminent Prelate, who was Lord Chancellor of England. We are to admire him, says his biographer,² not only for his unrivalled skill in one of the fine arts, but for his extraordinary aptitude in civil business, his equal and benevolent temper, his enlightened munificence, and his devoted love of learning.

Hugh Inge profited by the instruction of Winchester School, and lost no opportunity in fitting himself for his University career. When sufficiently forward in learning he entered Oxford, and devoted much time to study, and qualified himself for the ecclesiastical state. There can be no doubt his career in William of Wickham's school prepared him well for the University, which owed much to the same munificent Prelate who built St. Mary's College. Inge obtained a perpetual Fellowship in New College, Oxford, in 1484, and having gained his degrees with credit, indulged his curiosity to see foreign lands by making a Continental tour.

It is probable he passed some time in Rome, which was much frequented by English ecclesiastics, and the Popes had then a representative at the English Court. On his return to England he was ordained, and the Rev. Hugh Inge commenced climbing the ladder of ecclesiastical

CHAP.
XI.

Hugh Inge,
Lord
Chancellor.
Birth-
place.

Education.

Character
of William
Wickham.

Studies at
Oxford.

Obtains a
Fellow-
ship.

¹ Patent 1527. 19 Hen. VIII.

² Lord Campbell's Lives of the Lord Chancellors of England, vol. i. p. 295.

CHAP.
XI.Prefer-
ments.Roman
mission.

preferment. He was successively Prebendary of East Harptree, Sub-Chanter of the Church of Wells, and Warden of Wapulham, in the Diocese of Lincoln. Richard the Abbot and the Monks of Glastonbury presented him with the Wardenship of Duttyng, in Somersetshire, and he also obtained that of Weston.

When King Henry VII. sent orators to Rome in 1504, the Rev. Hugh Inge was selected to take the renunciation of all prejudicial clauses in the Apostolic Bulls for the translation of Cardinal Hadrian to the Sees of Bath and Wells, and the Cardinal's oath of fealty and allegiance to the King. He did not foresee what changes were at hand, and that in the reign of the young and talented Prince Henry, Duke of York, second son of Henry VII., the relationship between England and Rome would be rudely broken.

Doctor of
Divinity.Bishop of
Meath,
1512.

In April 1511, this divine while absent on the Continent was dignified by the degree of Doctor of Divinity of Oxford. The following year saw him advanced to the Bishopric of Meath in Ireland. While in the See he acquired the esteem and regard of the natives, who had in their Bishop a kind adviser in their difficulties; he was also on good terms with the nobles of the pale, who consulted him frequently respecting the government of the colony.

Arch-
bishop of
Dublin,
1521.

The death of Archbishop Rokeby, in 1521, left the Archdiocese of Dublin vacant, whereupon the Bishop of Meath was deemed worthy to be his successor. Inge is mentioned with great approbation in the chronicles of the time as an honest man, and one who, by many good offices, had got a great share of intimacy and familiarity with the Earl of Kildare, and hath put the country into as good a condition as the Irish would suffer him.¹ The learned writer by connecting the Earl of Kildare and wild Irish seems covertly to imply cause and consequence.

In 1527, Archbishop Inge was appointed to the important office of Lord Chancellor of Ireland, wherein, says

Lord
Chan-
cellor.

¹ Polydore Virgil, Sir James Ware, vol. i. p. 346.

Wood,¹ ‘he was accounted a person of great probity and justice.’ The hearing of causes before the Irish Chancellors was still limited, but the decisions of Archbishop Inge carried great weight. He was well skilled in the Roman civil law, and blessed with good sense, applied the principles of that code so as to gain very great respect as an Equity Judge.

CHAP.
XI.

The Earl of Kildare was one of the great nobles who exercised powerful influence over the destinies of Ireland while Dr. Inge was Lord Chancellor. The Earl filled the highest offices in Ireland, was a man of great boldness and ready wit. When Wolsey, in the height of his power and magnificence, accused him of desiring to reign in Ireland, the Earl spiritedly replied, ‘I would, my Lord, that you and I had changed kingdoms but for one month, I would trust to gather up more crumbs in that space than twice the revenues of my poor Earldom. But you are well and warm. I slumber in a hard cabin, while you sleep on a soft bed of down. I serve under the cope of heaven, when you are served under a canopy. I drink water, while you drink wine out of golden cups. My courser is trained to the field, where your jennet is taught to amble; when you are graced and belorded, and crouched and kneeled unto, then find I small grace with our Irish borderers except I cut them off by the knees.’² Had the Earl of Kildare followed the sage counsels of his friend Archbishop Inge he would have lived a more tranquil life.

The Earl
of Kildare.

Spirited
reply to
Wolsey.

Among many meritorious acts of the Chancellor, I have to relate his expending a very considerable sum of money in repairing the Archiepiscopal palace of St. Sepulchre, which had been suffered to become dilapidated. He caused competent architects to examine it, and with a munificence worthy of Wolsey, completed the work. He appears to have been desirous of identifying the restoration with his name, as we find his shield of arms placed over the door at the entrance from the library.

After presiding over the High Court of Chancery for a

¹ *Athenæ Oxonienses*, vol. ii. p. 732.

² *Cox*, vol. i. p. 219.

CHAP.
XI.
Death.

year, his health broke down, and the physicians could afford no aid. His death occurred in Dublin, on August 3, 1528, and his remains were interred in St. Patrick's Cathedral. His death is stated to have been caused by Sudor Anglicus, and his was the first case which occurred in those countries.¹

Office of
Masters in
Chancery
established
in Ireland.
Duties of
ancient
masters.

The important office of Master in Chancery in Ireland cannot be traced further back than the year 1532, when Cormac Rothe was appointed.² The original duties of the Masters in Chancery consisted in comparing those records and writs that emanated from the Chancery, and examining the State and official documents, which, at this period when knowledge was very limited, and all legal records and pleadings were either in Latin or Norman-French, required considerable ability. Mr. Beasley, in his *Synopsis*, very fairly considers these officials were called *Magisters Cancellarie*, Masters in Chancery, from their superior knowledge over all other clerks that were under them, and Cursitors were forbidden by statute³ to exhibit any writ to the Great Seal before they showed it to the Lord Chancellor, or to one of the Masters in Chancery that commanded them to make it out.

In Ireland, the Masters were occasionally included in the Commission to hear causes.⁴ They became Judicial officers during the reigns of Queen Elizabeth and of her immediate successor, when the practice of referring to

¹ D'Alton's *Archbishops of Dublin*, p. 184.

² The grant is as follows:—‘ Know ye that we of our special grace in the assent of our beloved cousin, Gerald Earl of Kildare, Deputy, and of our right trusty and faithful cousin, Henry Duke of Richmond and Somerset (issuing from our race), our locum tenens of our land and kingdom of Ireland: have given and granted to our beloved Cormac Rothe, Archdeacon of Armagh, the office of one of the Masters in Chancery of our land of Ireland, and him, the said Cormac, in the aforesaid office we constitute: to have and to hold so long as it shall please us and our said Deputy. Receiving into that office yearly the fees of the same office due and accountable. In witness whereof, &c., at Dublin.’—Translated from the Latin Roll, Rolls Patent, 24 & 25 Hen. VIII.—Beasley's *Synopsis*, p. 2.

³ 18 Edw. III.

• Ware's *Antiq.* vol. ii. p. 116.

one of the Masters appears to have existed.¹ In recent times the office was of the greatest importance—a judicial station requiring an Equity lawyer of eminence, and imposing great labour. The duties of the Master were various—to enquire and report upon all cases referred to him under orders by the Lord Chancellor, to audit the annual accounts of guardians, receivers, committees of idiots and lunatics, to tax costs, execute deeds of conveyance to purchasers under decrees, make leases to tenants under the Court of Chancery, grant flats for the enrolment of deeds and powers of attorney, approve of purchases of stock and other securities; to sit in the absence of the Lord Chancellor if required, with one of the Judges, to hear causes; to undertake the guardianship of minors and lunatics. The salary was three thousand pounds per annum. This judicial appointment has recently been abolished by the New Chancery Ireland Act.²

CHAP.
XI.Modern
Masters in
Chancery.

Salary.

Office
abolished.

¹ ‘Corporation of Gowran v. Edmund Blashfield. Upon motion of the Attorney-General, of counsel with the defendant, for inasmuch as nothing was done upon the referment made of this cause, by the consent of both parties, to Mr. Henry Manwaring, one of the Masters of this Court, and Mr. P. Archer, of Kilkenny: therefore it is ordered that both parties shall be ready to attend the said referees upon Wednesday in Whitsun week next, without further delays, and to that end, that the plaintiff and defendant do agree upon their meetings on the lands in controversy. Monday, 8th May, 1620.’—Extracted from the Register Book, High Court of Chancery, E. Dowdall, Registrar.

² 30 & 31 Vict. c. 44, sec. 27, abolishes the office of Master in Ordinary of the Court of Chancery in Ireland, except the office of Receiver Master. The existing Masters to continue in the discharge of their duties until released. One of the Masters has recently been released by the hand of death—an excellent lawyer, a conscientious judge, a humane and amiable man—the Right Honourable Edward Litton.

CHAPTER XII.

LIFE OF LORD CHANCELLOR ARCHBISHOP ALAN.

CHAP.
XII.

John Alan.

From
Oxford to
Cam-
bridge.

Prefer-
ments.

Succeeded
by Eras-
mus.

Selected by
Warham
as his
agent.

JOHN ALAN, or Allen, as the name is more constantly written, was born in the year 1476. He was of English descent, and, as far as I can learn, of a Norfolk family, several members of which subsequently settled in Ireland. Having resolved to enter the Church, he acquired an excellent knowledge of classics, and was a student of Oxford, but, for some reason or other, removed to the sister University of Cambridge, where he took the degree of Bachelor of Laws.

Stirring events followed each other in quick succession, and have found enduring place upon the page of history, while John Alan was preparing for holy orders. The wars which desolated England, the short reigns of Edward V. and Richard III., the victory of Bosworth, which made Henry of Lancaster master of the situation and King, under the title of Henry VII., all occurred before the young priest received his first mission. The Church of Sundrithe, in the Diocese of Kent, witnessed his early ministry at the altar. In 1510, he was collated to Aldington, in the same diocese, in which, on his being promoted to the Deanery of Risenburgh, in 1511, he was succeeded by the celebrated Erasmus.

Dean Alan had an eye for better preferment, and, in 1515, became Rector of South Oxyndon, in Essex. About this time William Warham, Archbishop of Canterbury, had need of an intelligent and able agent at Rome, and selected Dean Alan, who then obtained his degree of Doctor of Laws, for the place. To the intimacy which then grew up, and was very great between Warham and

Alan, we may trace much of the subsequent career of the latter. Warham was a man rough in speech, if we are to judge by his coarse language to the Duchess of Burgundy, when sent by Henry VII. to remonstrate with that Princess for the aid she had given Perkin Warbeck. 'That how, in her later age, she brought forth, within the space of a few years, two detestable monsters, Lambert Simnel and Perkin Warbeck, and being conceived of these two great babes, was not delivered of them in eight or nine months, but in one hundred and eighty months, for both were fifteen years of age, yet she would be brought to bed of them, and show them openlie, not infants, but of age sufficient to do battle with kings.' These taunts, as may be supposed, angered the Duchess to the heart.¹

CHAP.
XII.Warham's
rudeness
to the
Duchess of
Burgundy.

Whether Alan considered the service of a Cardinal preferable to that of the Archbishop I know not, but on his return from Rome he was appointed Chaplain to Cardinal Wolsey, then Archbishop of York, who named him Commissary or Judge of his Legatine Court. Warham had made a very efficient Lord Chancellor of England, with the assistance of the Masters in Chancery, and, in difficult cases, he called in the aid of the common law Judges. He thus kept down arrears and gave general satisfaction.² The Cardinal, in selecting Alan for Judge of the Legatine Court, we may be sure was well aware of the character of the Judge whom he chose. At this period, Wolsey was actively engaged in erecting colleges at Oxford, and also in his native town, Ipswich, and among the sources whence he sought to procure funds for this purpose, was the dissolution of monasteries. He and Warham were not friendly towards each other. Wolsey had received the Cardinal's hat, and his appointment of Legate *à Latere* gave him jurisdiction and precedence over all ecclesiastics in England, which he employed to mortify the Primate. Wolsey was all-powerful with Henry VIII., whom he caused

Chaplain
to Wolsey.Judge of
the Lega-
tine Court.
Warham,
Chancellor
of Eng-
land.Wolsey
erecting
colleges.Wolsey,
Lord
Chan-
cellor of
England.¹ Holinshed, vol. iii. p. 506.² Lord Campbell's Lives of the Chancellors of England, vol. i. p. 423.

CHAP.
XII.Suppres-
sion of
Monas-
ties.

to dismiss Warham from the office of Chancellor, and confer it on himself.¹

The step now taken to enable the Cardinal to continue his works did not please the Primate, who was a friend to the monastic orders. This process of suppressing monasteries was actively promoted by his Chaplain Alan, and as no doubt this suppression was little short of a startling revolution, it caused the originators, as well as all who promoted their project, to be regarded very differently by those who approved or condemned this measure. A very eminent clergyman, when referring to the labours of the monks, who uses very eulogistic terms towards them, thus speaks of them as reclaimers and improvers of the soil:—

‘ The usual indomitable energy of the monks has done much to cover barren spots with cultivation ; but, like an imperfect garment, it only calls attention to the nakedness it would fain conceal. Yet I saw phalanxes of sheaves along the mountain side, and many unpromising spots were fragrant with sweet clover. Almost every Protestant in books, letters, and conversations, is ready with the hack phrases of “lazy monks,” “drones of monasteries,” “fatteners upon the poor,” &c. Yet, if they would only wander up river courses, through sequestered valleys, and on sterile hills, they would see how, under the toiling hand of the monks, green grass and yellow corn encroached upon black heath and unhealthy fen, how lordly and precious woods rose upon unproductive steeps, how waters became a blessing where they had been a curse, irrigating the lands which once they ravaged ; how poor communities were held together by their alms in unhopeful places for years, till the constrained earth yielded her reluctant fruits. If we are to add to this the improvements in husbandry and domestic arts, which we owe to the monks, and the copies of the Holy Scriptures, and other good books, multiplied by their astonishingly indefatigable pens, when printing was not, we surely shall not be so ready with our “drones.”’²

Monks as
agricul-
turists.As trans-
scribers.

¹ Lord Campbell’s Lives of the Chancellors of England, vol. i. p. 450.

² Life and Letters of the Rev. Frederick W. Faber.

Considerations such as these did not deter Cardinal Wolsey or his Legatine Judge, John Alan, and others of the King's Court, from shutting up the monasteries and turning the revenues into cash. It was a project which, according to the remarks of Dr. Godwin, Bishop of Hereford, 'like the gold of Tholouse, brought either destruction or some great calamity on all who touched it.' Two of them fought a duel, one was killed, and the other hanged; A third threw himself headlong into a well; and a fourth, though a rich man, came after to beg his bread; Wolsey was thrown out of the King's favour, and died miserably; and the Pope, who gave his consent to the dissolution, lived to see Rome taken and plundered by the Imperial army, himself and Cardinals made prisoners, and become the sport and mockery of the licentious multitude. Alan's own fate we shall learn in the termination of his life. Wood is very severe with him for his unworthy conduct in the case of the dissolved Priory of Daventry, Northamptonshire.¹

CHAP.
XII.The fate of
the sup-
pressors.

Jealousy prevailed between Alan and Stephen Gardiner,² another of Wolsey's chaplains, and, for the purpose of preventing a continuance of their contentions, which certainly was not creditable to the character of clergymen, Wolsey thought better to part them. He was not unmindful of the services Alan had rendered him in the dissolution of the monasteries, and, on the death of Archbishop Inge, in 1528, despite the opposition of the Earl of Kildare, Wolsey's all-powerful influence in Rome and England procured for Alan, not only the Archbishopric of Dublin, but the Lord Chancellorship of Ireland.³ In 1529, he was confirmed by the Pope in this See, and, in 1530, held a Consistory in Dublin, of which the records remain. He also promulgated rules for regulating his Metropolitan Court in St. Patrick's.⁴

Alan,
Arch-
bishop and
Lord Chan-
cellor.¹ *Athenæ Oxonienses*, vol. ii. p. 742.² Gardiner was Wolsey's confidant. He calls him 'primarium secretissimum consiliorum secretarium, mei dimidium, et quo neminem habes cariorum.' Gardiner was Secretary of State to Henry VIII., Bishop of Winchester, and Lord Chancellor of England. He died in 1555.³ Patent, September 19, 1528. 20 Hen. VIII. ⁴ Mason's *St. Patrick*, p. 146.

CHAP.
XII.Letter
from the
Chancellor
to Lord
Cromwell.Lord
Chancel-
lor's fee in
arrear.Asks for a
prebend.Promises
gifts.

In 1531, the Chancellor Archbishop addressed the following letter to Lord Cromwell. He first mentioned many obligations conferred on him by Cromwell.¹ The Chancellor continues:—‘For the which your gentle manners I give you entire thanks, accordingly, no less now in heart, mouth, and writing, than I trust heretosome, if ever it fortune me to be able in deeds and acts effectually. In accomplishment whereof, and to the intent I may the sooner perform this my said unfeigned promise, I must instantly require you (*necessitas facit licitum quod alias est illicitum*) to move my Sovereign Lord, the King’s good grace, to give unto me a prebend of 100*l.* per annum in commendam, to maintain the state that his highness hath called me unto, being Primate of his Church in Ireland, and Chancellor of the same, without my merits and by obedience against my will truly. And here with us I cannot have the forty mark fee of the Chancellorship, now two years and a half past in arrear, nor yet such money as I laid out upon the King’s letters, as well for ships and mariners’ wages, as for reparation done in the King’s Chancery, also his castle. Sir, afore God I desire none translation, nor any manner of benefice of cure, or yet of dignity, but only (if it might please the King’s highness to have some compassion upon me) a prebend which should cause no murmur of absenty from thence, whereby I might keep a dozen yeomen archers in wages and livery, when I lie in the marches upon the Church lands, to keep me in the King’s service from his Irish enemies and English rebels. So knoweth God, who may send you (when I am out of half my debt) this next year, one hobby, one hawk, and one Limerick mantle, which three things be all the commodities for a gentleman’s pleasure in these partes.’²

From this very pressing appeal I find the Court of Chancery was not in a flourishing condition, either in

¹ Cromwell was another *protégé* of Wolsey. He was son of a fuller, had been a trooper, then a merchant’s clerk, Wolsey’s steward, Member of Parliament, Chancellor of the Exchequer, Lord Chamberlain, and Lord Cromwell.

² State Papers, temp. Henry VIII.

structure or in business. The Chancellor having to expend his own money in needful repairs shows the one, and his small stipend of forty marks having fallen into arrears for two years and a half shows the other; for had there been much business in Court I presume the fee would have been paid.

In 1532, Gerald Earl of Kildare was appointed Deputy to Henry Duke of Richmond, Lord Lieutenant of Ireland. There are many anecdotes told of this Earl. One is, that being brought before Henry and accused of burning a church he admitted the fact, but alleged as excuse, 'that he thought the Archbishop was in it.' On being asked 'who he would select as his counsel to undertake his defence,' he pointed to the King, saying, 'I don't desire to go beyond this good fellow here.' On one of the Lords of the Council saying, 'All Ireland cannot govern this man.' 'Then,' said the King, 'he shall govern all Ireland,' and appointed him Viceroy. As considerable ill-feeling had long subsisted between the Earl and Archbishop Alan, one of the first acts of the Lord Deputy was to displace Alan from the office of Lord Chancellor, and transfer the custody of the Great Seal to George Cromer, Archbishop of Armagh, a man of considerable ability and a devoted friend to the house of Kildare.

There were several discontented men about the castle ready to side with the displaced Chancellor, and several meetings were privately held, the object being to sow feelings of distrust of the Lord Deputy in the breast of the King. Alan from his high rank, great talents, and his recent grievance, naturally took the lead in their meetings, and, in 1533, procured the Privy Council of Ireland to sign a memorial to the King, setting forth the misgovernment of Ireland, and praying redress. This document states 'the great decay of this land, which is so far fallen into misery, and brought into such ruin that neither the English order, tongue, nor habit be used, nor the King's laws obeyed above twenty miles in compass.' It advises 'that all the lords and gentry within the four

CHAP.
XII.

Earl of
Kildare,
Viceroy.
His ready
wit.

Alan re-
moved
from the
Chan-
cellor.

Cromer
appointed.

Alan plots
against the
Viceroy.

Memorial
from the
Privy
Council.

CHAP. shires, Dublin, Kildare, Meath and Uriel (Louth) be compelled to obey the King's laws.¹

XII. It also deplores the mischief arising from the black mail and tributes, which the Irish by violence obtained from the King's subjects. It condemns admitting of natives of Ireland to the government of the country, and also to the constant change of Lords Deputy.²

The negligent manner in which the Records of the country were then kept was severely censured, as likewise the way in which the Exchequer was managed, and the memorial recommended sending thither to the government of Ireland, some loyal subject from the realm of England, whose sole object should be the honour and interest of the Crown, unconnected with Irish factions, and uninfluenced by prepossession or prejudice; a most valuable suggestion well worthy the consideration of those who regard the welfare of the United Kingdom.

Recomm-
ends
English
Viceroys.

The memorial had due effect with Henry VIII. No doubt the animosity of Alan's patron, the potent Cardinal, to the Earl of Kildare was not allowed to cool, and it was rumoured the Deputy would be summoned from Ireland to account for his conduct, if not to answer a most serious bill of indictment. As no standing army had existence, all the great Lords, spiritual and temporal, had to contribute certain numbers of men. Regulations were made in 1534, respecting the number of soldiers to be sent by the Archbishops and other spiritual dignitaries to hostings. The Archbishop of Dublin was rated at twenty able archers or gunners appointed for the war; the Archbishop of Armagh, sixteen ditto.

Kildare
accused
of High
Treason.

The rumour proved well founded, Gerald, ninth Earl of Kildare, was summoned to England by Henry VIII. to answer certain charges of treason against the English rule in Ireland. He was at no loss to guess at whose instigation. He summoned a council at Drogheda, where in the presence of the Lords he nominated his son Thomas Lord Offaly Vice Deputy during his absence. This young

¹ State Papers, temp. Henry VIII.

² Ibid.

nobleman, the 'Silken Thomas'¹ of Irish history, was then only twenty years of age, and of a 'hot and active temper.' Previous to his departure the Earl addressed a very sage discourse to his son, advising him the course which he should pursue, and the advice he ought to take. I give the following extract from this discourse to his son in the presence of the council of Ireland:—

'Wherefore my sonne, consider that it be easy to raze, harde to buylde, and in all your affayrs be schooled by this boorde, that for wisdom is able, and for the entier affection it beareth your house, will be found willing to lesson you with sound and sage advice. For albeit in authoritie you rule them, yet in counsaile they must rule you. My sonne, you know that my late maimes stifleth my talk, otherwise I would have grated longer on this matter, for a good tale may be twice told, and a sound advice eftsoones itirated, taketh the deeper impression in the attentive hearer his mind. But although my fatherly affection requireth my discourse to be longer, yet I trust that your good inclination asketh it to be shorter, and upon that assurance, here, in the presence of this honorably assembly, I delyver you this sword.'²

Shortly after the Earl's departure the young Deputy found those who held high offices in the Government were not pleasant persons to associate with. Many were Alan's creatures and rather desirous to embarrass than assist the Deputy. At a banquet which he gave to the Lords of the Council and the Chief Officers of State, the conversation turning on heraldry, John Alan, Master of the Rolls, a relation of the Archbishop's, said to Lord Offaly, 'My Lord, your house giveth the marmoset, whose propertie is to eate his own tail,' alluding to the Fitz Gerald supporters. The Deputy promptly replied he 'had been fedde by his tail, and should take care that his tail did not eate him.' Another day, happening to be late at the

CHAP.
XII.

Silken
Thomas,
Deputy.

Kildare's
advice to
his son.

The De-
puty and
Council.

¹ So called from silken fringes ornamenting the caparisons of his horse, also floating from the helmets of his attendant knights.

² Holinshed, p. 89.

CHAP.
XII.

Council, the Lord Archbishop Alan petulantly exclaimed, ‘ My Lords, is it not a prettie matter that we all should stay thus long for a boy?’ The Deputy, who, at the moment was coming up stairs and heard the remark, at once replied, ‘ My Lords, I am heartily sorry that you stayed thus long for a boy.’ This put the Archbishop out of countenance. Both the Alans, who were enemies of the Geraldines, were much irritated by these taunts.¹

Kildare
sent to the
Tower.

Proceedings were taken to curtail the power of the Geraldines, and it is extremely probable Archbishop Alan lent them his best aid. When the Earl reached London he was committed to the Tower, and a rumour was spread he was to be beheaded; and that Lord Offaly and his uncles were to be apprehended. Letters were also written by persons in office ‘ howe the Earl of Kildare was already cut shorter, as his issue presently should bee.’

False re-
ports.

‘ One of these letters,’ relates the Marquis of Kildare,² ‘ fell into the hands of a priest, who threw it among other papers, meaning to peruse it at leisure. A gentleman, a retainer of Lord Offaly’s, who lodged with the priest, sought in the morning when he rose for some paper to draw on his straft stockings, and taking this letter, bore it away in the heel of his stocking. At night he found the paper, and on reading it saw that it announced the Earl’s death. He immediately mounted his horse and took the letter to James Delahide, one of Lord Offaly’s principal counsellors, who showed it to Lord Offaly, and, without further inquiry, advised him to rebel openly against the King, as the only means of avenging his father, and saving himself. Lord Offaly being “ rash and headlong, and assuring himself that the knot of all Irelande was twisted under his girdle,” consulted O’Neill, O’Connor, and other friends of his father, who confirmed what Delahide had said, and, in order that he might prosecute the war, delivered to him his father’s “ Manors, Castles,

Lord
Offaly
rebels.Obtains
the sinews
of war.

¹ The Earls of Kildare, by the Marquis of Kildare, p. 129.

² Ibid. p. 130.

garrisons, goods, and substances, of which they had charge, together with a large amount of the King's ordnance and artillery that were in the Castles." ^{CHAP. XII.}

The advice of these fiery chieftains was, however, opposed by wiser heads, the best friends of the Earl of Kildare—Thomas Earl of Desmond,¹ Sir Thomas Eustace, created Lord Baltinglass, Edmund Lord Kerry, James, Lord Slane, the Lord Chancellor Cromer, a singularly able and prudent prelate—one, and all, endeavoured to dissuade the vain and impetuous young nobleman from this mad enterprise. He was not to be diverted from his purpose; with that fatal impetuosity and enthusiasm which, in after years, impelled another of his race to risk *all* for his native land, to peril life and rank, to leave wife and children, to whom he was so justly dear, and join those among whom the paid spy and the hired betrayer ever have their venal place, Lord Offaly unfurled the standard of revolt. It must have been a stirring sight for the citizens of Dublin, when the sun streamed on the narrow streets of the capital of the pale, on the Feast of St. Barnaby, June 11, 1534, to witness the gallant cavalcade of a hundred and forty mail-clad riders, with silken streamers from their helmets, attending as a body guard on the young and noble-looking Lord Offaly, as he rode through Dame's Gate to St. Mary's Abbey,² bent on casting ^{Lord Offaly per- severs.}

Proceeds to St. Mary's Abbey.

¹ Husband of the celebrated Catherine, styled the Old Countess of Desmond, and with good reason. She was daughter of Sir John Fitz Gerald of Decies; born at Dromana (now the seat of Lord Stuart de Decies) in 1464, *tempore* Edward IV. In 1484 she married Thomas Fitzgerald, who, in 1529, became twelfth Earl of Desmond. Though strongly urged by Lord Offaly to join the revolt, he remained quietly at Youghal, and tried to dissuade him, but in vain. The Earl died in 1534, and the widowed Countess, then in her seventieth year, survived for seventy years longer, having lived at her castle of Inchequin until she reached the extraordinary age of one hundred and forty years. Her death was caused by a fall from a tree, into which this lively old lady had climbed to gather nuts. A very interesting account of her is given in Sir Bernard Burke's *Vicissitudes of Families*.

² Dublin at this period was very different from the crowded and well-built city of to-day. The north side, then called Ostman or Oxmantown, consisted of but few streets in the neighbourhood of the church of St. Michans. These, called St. Mary's Lane, Church Street, and Pill Lane, extended to the only

CHAP. a brave defiance in the face of the Lords of the council ;
 XII. loud shouts rose along the crowded streets, for we may be sure that '*Thamaus an Sioda*,' or Silken Thomas as he was usually called, was beloved by the men and adored by the women. On swept the troops, their weapons glittering in the sun, as sword and spear point, steel bit and bridle rein, caught the rays. Having arrived at St. Mary's Abbey, where the council were already assembled, they had not to wait this time for the *boy*. The boy now clad in complete armour, with stern resolve depicted on his eager yet youthful face, strode haughtily to the vacant place at the head of the council board. Scarcely was he seated when his knights also entered in armour, to the astonishment of these members of the council who were not aware of the report then spread. Having commanded silence, Lord Offaly said—‘Howsoever injuriously we be handled, and forced to defend ourself in arms, when neither our service nor our good meaning towards our Prince’s Crown availeth, yet say not hereafter, but that, in this open hostility, which we here profess and proclaim, we have showed ourselves no villains, nor churls, but warriors and gentlemen. This sword of estate is yours and not mine. I received it with an oath, and have used it to your benefit. I should abstain mine honour if I turned the same to your annoyance. Now have I need of mine own sword, which I dare trust. As for the common sword, it flattereth me with a painted scabbard, but hath, indeed, a pestilent edge, already bathed in the Geraldine blood, and now is newly whetted in hope of a further distinction. Therefore save yourselves from us, as from open enemies. I am none of Henry’s Deputie, *I am his foe!* I have more mind to conquer than to govern : to meet him

Henry's
foe.

bridge over the Liffey, opposite Bridge Street, which the passengers entered through Bridge Gate. Walls of considerable height surrounded the south side of what was called the city. Beside the Bridge Gate, there were many other gates—Ormond’s Gate, New Gate, St. Nicholas Gate, Pale Gate, and Dame’s Gate. The tide flowed near the last, and a passage extended from it to the Castle, then defended by flanking towers, and was a place of considerable strength.

The De-
puty takes
his seat.

Speech to
the Coun-
cil.

in the field than to serve him in office. If all the hearts of England and Ireland that have cause thereto would join in this quarrel (as I hope they will) then should he soon aby (as I trust he shall) for his tyranny, for which the age to come may lawfully range him up among the ancient tyrants of most abominable and hateful memory.¹

CHAP.
XII.

So saying he presented the Sword of State (symbol of British rule in Ireland) to the Lord Chancellor; but he, a mild and gentle Prelate, and a sincere friend to the family of Kildare, with tears in his eyes, again tried by a very argumentative speech² to dissuade Lord Offaly from his course. At this moment Nelan, an Irish bard, who accompanied the young Geraldine, commenced chanting, in Irish, an heroic poem in honour of Silken Thomas, reproaching him for tarrying so long. The harp of the minstrel prevailed against the counsels of the sage Chancellor; roused by the rebuke of the poet, turning to the Chancellor, Lord Offaly said:—

Presents
the Sword
of State to
the Lord
Chancel-
lor.Lord
Chancellor
tries to
dissuade
him.

‘ My Lord Chancellor, I came not hither to take advice what I should do, but to give you to understand what I had a mind to do. It is easy for the sound to counsel the sick; but if the sore hath smarteth you as much as it festereth me, you would be percase as impatient as I am. As you would wish me to honour my Prince, so duty willeth me to reverence my father. Wherefore he that will, with such tyranny, execute mine innocent parent, and withal threaten my destruction, I may not, nor will not, hold him for my King. And yet, in truth, he never yet was our King, but our Lord, as his progenitors have been before him. But if it be my hap to miscarry, as you seem to prognosticate, catch that catch may; I will take the market as it riseth, and will choose rather to die with valianthood and liberty than to live under King Henry in bondage and villany.’³

Reply to
the Lord
Chancel-
lor.

On these words he cast the sword on the council table and left the room, accompanied by his knights. He

Throws
down the
sword and
departs.¹ Hollinshed's History of Ireland, p. 78.² Vide post, p. 182.³ Ibid. p. 88.

CHAP.
XII.Application
to the
Mayor of
Dublin.Chief
Baron and
Arch-
bishop fly
to the
Castle.Lord
Offaly and
the House
of Ormond.Arch-
bishop on
board ship.Lands at
Clontarf.Concealed
at Artane.

had no sooner quitted the Chamber, than the Lords of the Council deliberated what was best to be done. They sent a message to the Mayor of Dublin, ordering the arrest of Lord Offaly and his adherents; but this was fruitless, as the Mayor had no power to enable him to effect an affair of such magnitude. Chief Baron Finglass, wrote to Lord Cromwell, Secretary of State, urging him to send some troops to meet the rebels without delay; and, meantime, the Chief Baron, with Archbishop Alan, who knew he could expect no mercy if captured, sought refuge in the Castle of Dublin. Anxious to increase his forces by obtaining co-operation with the troops of the powerful house of Ormond, Lord Offaly sent messages to his cousin, Lord Butler, the Earl of Ormond's son, offering to divide the kingdom with him, if he would unite his aid; but the proposition met with an indignant refusal. Many nobles and chiefs, however, combined with the Geraldines, and the Lord Archbishop, fearing the Castle of Dublin would be taken, determined to make his escape into England. He consulted a confidential servant, named Bartholomew Fitz Gerald, who provided a small vessel, in which the Archbishop embarked, near Dame's Gate on July 11, 1534. The cruel destinies were unpropitious; the Archbishop was baffled; the wind proving contrary, the vessel ran ashore near Clontarf, and the Prelate with his attendants, landed most reluctantly and sought the nearest shelter. They were concealed in a mansion at Artane, the seat of a Mr. Hothe.

In later years I have passed many a happy day in the present Artane, and traced in the demesne of my friend, the late Mathew Callaghan, Esq., the site of the former mansion, where the tragedy I am about to record took place. Whether the sailors proclaimed who was their passenger, or the Geraldine in the Archbishop's service proved false to his trust, or betrayed Archbishop Alan to his liege Lord, I cannot vouch; but a few hours after the Archbishop taking up his abode in Artane, Lord Offaly was

apprised that escape was thus far ineffectual. He at once ordered the Archbishop into custody, and, determined to have his orders promptly executed, he started in company with two of his uncles, Sir James and Oliver Fitz Gerald, escorted by forty soldiers. In the early dawn of a summer morning the band of merciless soldiers entirely surrounded Mr. Hothe's house. Having thus cut off the possibility of escape, Lord Offaly sent two of his escort to bring forth the Archbishop. The Prelate was in bed dreaming, perhaps, he was out of danger, when he was rudely shaken. He was not allowed a moment to dress himself, for in their rude haste, these ruthless men dragged the Prelate almost naked before their leader. Alarmed, as well he might be, by this discourteous and inhuman conduct, the Archbishop fell on his knees before Lord Offaly and 'besought him not to remember former injuries, but to consider his present calamity, and, whatever malice he might bear his person, to respect his calling.'¹

CHAP.
XII.The Arch-
bishop
pursued.The last
appeal.

It would be strange if any Christian could remain unmoved by an appeal thus made. Lord Offaly, struck with pity, desired the Archbishop to be removed, using the Irish words '*beir naim an bodach*' (take away the churl). But his followers mistaking it for an order of summary

Lord
Offaly
orders his
removal.The death
blow.

execution instantly beat out the Archbishop's brains.

Such was the end of Archbishop Alan. Whether his death was intended by Lord Offaly or not is unknown. He himself declared what he meant was, that the Archbishop should be removed in custody; but the prevailing impression on the minds of contemporary writers was, that he was guilty of giving the order which caused the Archbishop's death. It is said when the account of these calamitous acts reached the imprisoned Earl his heart was broken, well knowing the inevitable result. The cold hand of death rescued him from the sharp edge of the headman's axe.

The fury of the King was unbounded, and Henry was not a man to be bearded with impunity; he resolved to

¹ D'Alton's Archbishops of Dublin, p. 195.

CHAP. XII. be revenged for the insult offered by Lord Offaly, and he kept his stern resolve.

Labours of Lord Chancellor Alan. His writings. Lord Chancellor Alan was a careful observer of Irish antiquities, and compiled the 'Liber Niger,' which D'Alton describes as a mine of antiquarian treasures relating to the Archdiocese of Dublin. He also left an account of the state of the churches in his diocese, a work which he calls 'Repertorium Viride.' He wrote 'Epistola de Pallii significatione activâ et passivâ,' and a work entitled 'De consuetudinibus ac statutis in tuitoriis causis observandis.'¹

The fate of the Geraldines.

An heir happily preserved.

The deaths of the Geraldines followed fatally the slaughter of the Archbishop. The young and impetuous Silken Thomas was taken prisoner and beheaded in London on February 3, 1536. Five of his uncles, charged with aiding and abetting his rebellion, expiated their treason on fatal Tyburn; they were hanged and quartered. This noble race was preserved to reach our time through Gerald the younger son of the Earl of Kildare, who was prudently conveyed to Italy, the cradle of the race. The principal part of the estates of his family were restored to the young Earl by King Edward VI. and the ancient honours by Queen Mary. An Act of Parliament passed in the time of Queen Elizabeth freed him from the attainder, and in the person of his Grace the Duke of Leinster, his son, the Marquis of Kildare, and his grandson, Lord Offaly, the family is well represented at present.

¹ *Athenæ Oxon.* vi. 76.

CHAPTER XIII.

LORD CHANCELLORS OF IRELAND DURING THE REIGN OF
HENRY VIII.—CONTINUED.

GEORGE CROMER, Archbishop of Armagh, was appointed Lord Chancellor of Ireland in 1532. Ware describes Dr. Cromer as an ‘Englishman of great gravity, learning, and a sweet disposition.’ I have not been able to ascertain the period of his coming into Ireland, but he succeeded John Kite in the Archdiocese of Armagh. His predecessor Archbishop Kite’s tomb had this quaint *memento mori* :—

CHAP.
XIII.

George
Cromer,
Lord
Chan-
cellor.
His cha-
racter.

For whose soul good pepul of cherite
Prey, as ye would be preyed for ; for thus must ye lie.

Dr. Cromer was appointed Primate in 1522. I hope he did not find the inhabitants of Armagh quite so uncivilised as they were described to a predecessor in the See¹ Octavian de Palatio. I give the Latin and translation :—

Arch-
bishop of
Armagh.

<i>Civitas Armachana,</i>	Armagh is notorious,	Uncompli-
<i>Civitas vana,</i>	For being vain-glorious,	mentary
<i>Absq. bonis moribus ;</i>	The men void of manners, their spouses	description
<i>Mulieres nudæ,</i>	Go naked ; they eat	of Armagh.
<i>Carnes crudæ,</i>	Raw flesh for their meat,	
<i>Pauperitas in ædibus.</i>	And poverty dwells in their houses.	

We have seen when Gerald Earl of Kildare became Viceroy, in 1532, Archbishop Alan was removed from the office of Chancellor of Ireland, and was succeeded by Archbishop Cromer. It was supposed the Earl had a share in causing this change, and it added fuel to the flame long smouldering in the breast of Archbishop Alan, who had been a constant foe to the house of Kildare. Unfor-

Succeeds
Alan as
Lord
Chan-
cellor.

¹ Ware’s Bishops.

CHAP.
XIII.Impru-
dence of
Earl of
Kildare.His con-
duct ac-
counted
for.Memorial
against
him.Kildare
committed
to the
Tower.Conduct
of Lord
Chancel-
lor.

tunately the conduct of Kildare, then Deputy, afforded ample opportunity to impeach him for violating the Statute of Kilkenny, which prohibited alliances with the Irish. He had given two of his daughters in marriage to Irish noblemen. One to O'Connor, Prince of O'Fally, the other to the Chief of the O'Carrolls. He was involved in their wars, and, at the siege of Birr, received a wound in the head, by which his intellect was disordered.¹ His enemies were not slow to represent these matters to the King, and a very strong memorial, setting forth the sad condition of Ireland, was submitted to Henry VIII. He, at once, commanded the Earl to attend before him personally, to answer these charges, and on his reaching London was forthwith committed a prisoner to the Tower.

In the Life of Lord Chancellor Alan I have described, at length, the rebellion of Lord Offaly, and his conduct when surrendering the sword, emblem of power, as Lord Deputy. I have now to relate the part Cromer, then Lord Chancellor, took upon that melancholy occasion. Anxious, if possible, to avert the fate which he foresaw would befall, not only all who engaged in this mad attempt, but every member of the house of Kildare, within reach of the King's vengeance, this mild Prelate took Lord Offaly by the hand, and, while tears rolled down his aged cheeks, besought him to listen to the words he had to say in reply to his address.² This granted, the Chancellor said:—

The Chan-
cellor's
speech.

‘ My Lord, although hatred be commonlie the hand maiden of truth, because we see him that plainlie expresseth his mind, to be for the more part of most men disliked: yet notwithstanding I am so well assured of your Lordship his good inclination towards me, and your Lordship so certaine of mine entire affection towards you, as I am imboldened, notwithstanding this companie of armed men, frelie and franklie to vtter that which by me declared, and by your Lordship followed, will turne

¹ Stuart's History of Armagh, p. 218.² Ante, p. 177.

(God willing) to the availe of you, your friends, allies, and this countrie. I doubt not, my Lord, but you know, that it is wisdom for anie man to looke before he leape, and to sowneth water before his ship hull thereon, and manelie where the matter is of weight, there it behoveth to follow sound, sage, and mature advice. Wherefore, my Lord, sith it is no maigame for a subject to levie an armie against his Prince; it lieth your Lordship in hand to breath longer on the matter, as well by forecasting the hurt whereby you may fall as by revolving the hope wherewith you are fed. What should moove your Lordship to this sudden attempt, I know not. If it be the death of your father, it is as yet but secretlie muttered not manifestlie published. And if I should grant you, that your zele in reuenging your father his execution were in some respect to be commended. Yet reason would you should suspend the reuenge vntill the certeintie were knowne. And were it that the report were true, yet it standeth with the dutie and allegiance of a good subject (from whom I hope in God you mean not to disseuer your selfe) not to spurne and kick against his Prince, but contrariwise, if his souereigne be mightie, to feare him, if he be kind to loue him: if he be vicious to pitie him: if he be a tyrant to bare with him, considering that, in such case, it is better with patience to bow, than with stubbornness to breake. For sacred is the name of a King, and odious is the name of rebellion: the one from heaven deriued, and by God shielded: the other in hell forged, and by the deuil executed, and, therefore, whoso will obserue the course of histories, or weigh the iustice of God in punishing malefactors, shall easilie see, that albeit the sunne shineth for a time on them that are in rebellion: yet such secret beginnings, are, at length, clasped up with sharpe and soure ends.

‘ King Henrie is known to be, in these our dais, so puissant a Prince, and so victorious a worthie, that he is able to conquer forren dominions, and, thinke you, that he cannot defend his owne? He tameth Kings, and iudge

CHAP.
XIII.

The sub-
ject's duty.

The name
of King
sacred.

The power
of Henry
VIII.

CHAP.
XIII.

you that he may not rule his own subiects? Suppose you conquer the land, doo you imagine that he will not recouer it? Therefore, my Lord, flatter not your selfe ouermuch, repose not so great reliance either in your troope of horsemen, or in your band of footmen, or in the multitude of your partakers. What face soueuer they put nowe on the matter, or what success, for a season, they haue yet hereafter, when the King shall send his power into this countrie, you shall see your adherents, like slipper-changelings, plucke in their hornes, and such as were content to bear you up by the chin, as long as you could swim; when they espie you sink, they will, by little and little, shrink from you, and perchance will duck you ouer head and ears. As long as the gale puffeth full in your sailes, doubt not but diuerse will anerre vnto you, and feed on you as crows on carrion: but if anie storm happen to bluster, then will they be sure to leave you post alone, sticking in the mire, or sands, hauing lost helpe when you haue most need. And what will then issue of this? The branches will be pardoned, the root apprehended, your honour distained, your house atteinted, your armes reuersed, your manours razed, your doings examined; at which time God knoweth what a hart-burning it will be, when that with no colour may be denied, which, without shame cannot be confessed. My Lord, I power not out oracles as a soothsaiur, for I am neither a prophet or the sonne of a prophet. But it may be, that I am some frantic Cassandra, being partner of her spirit in foretelling the truth, and partaker of her misfortune in that I am not (when I tell the truth) beleueed of your Lordship, whom God defend from being Priamus.

Appeals to
Lord
Offaly's
birth.

‘ Weigh, therefore, my Lord, the nobilitie of your ancestors, remember your father, his late exhortation, forget not your dutie vnto your Prince, consider the estate of this poore countrie, with what heapes of curses you will be loden, when your soldiours shall rifle the poore subiects, and so far indamage the whole relime, as they

are not yet borne that shall hereafter feele the smart of this vprore.¹ You have not gone so far but you may turn home, the King is mercifull, your offense, as yet, not ouer heinous, cleave to his clemencie, abandon this headlong follie, which I craue in most humble wise of your Lordship, for the love of God, for the dutie you owe your Prince, for the affection you beare the countrie, and for the respect you have to your owne safetie whom God defend from all traiterous and wicked attempts.²

This wise and eloquent speech, was addressed to the young noble in a voice broken by emotion, and, at times, inarticulate from weeping; but it was spoken in vain. The clansmen of Kildare, who could not understand English, put their own construction upon the Chancellor's address. Some said he was preaching a sermon, others that he was reciting a poem in honour of Lord Offaly, and, on this the Irish bard, O'Nelan, resolving not to be outdone in his office, tuned his harp, and commenced the stirring ode to Silken Thomas, which speedily found more sympathy with the young nobleman than the prophetic words³ of the venerable Prelate, and led to the ruinous consequences already fully detailed.

CHAP.
XIII.

Reasons
for sub-
mitting.

The
address
unheeded.

¹ The coincidence has been remarked between this passage of the Chancellor's speech and the lines in the ballad of Chevy Chase:—

To wind the deer, with hound and horn,
Earl Percy took his way,
The child may rue that is unborn
The hunting of that day.

² Hollinshed Chronicles, vol. vi. p. 290.

³ As an instance of the scattered state of the records of Ireland, Mr. Morrin mentions in his valuable Calendar of the Patent and Close Rolls of Chancery, Ireland, vol. ii., that:—‘Numerous records relating to Ireland are now to be found in various repositories in London, where they are lying totally useless. I myself discovered there an interesting and valuable collection of Irish MSS. stowed away in sacks, labelled “*Baga Hiberniæ*,” the contents of which were previously, I believe, unknown. Amongst other interesting original letters, one from “*Silken Thomas*,” whilst a prisoner in the Tower, directed to his servant Brian, entreating him in the most earnest terms, “to procure him some pecuniary assistance, as he was without shoes or hose, living on the bounty of his fellow prisoners.” We may well imagine what a sad plight the chivalrous and proud heir of Kildare must have been in, a prisoner living on the bounty of prisoners. How truly prophetic was the feeling address of the Lord Chancellor, though, like Cassandra's, it was unfortunately *nunquam credita*.’

CHAP.
XIII.

Lord Chancellor refuses to acknowledge the King's supremacy.

Removed from the Chancellorship.

Primate Cromer convenes the Bishops and Clergy.

There comes a change.

Sentence of suspension.

Died
March 16,
1542.

When Henry VIII. resolved to introduce his novel creed into Ireland, he was met by the most persistent opposition from Primate Cromer, who treated the King's supremacy as a detestable and impious attempt to deprive the Sovereign Pontiff of his undoubted right. When the Irish Parliament, like the English, obeyed the King, and acknowledged him 'Head of the Church,' the Primate, persisting in his opposition, was removed from the office of Lord Chancellor, which was given, in 1534, to Sir John Barnewall, Lord Trimlestown. Cromer convened his suffragans, and the chief clergy of the province, exhorted them to suffer no change of Catholic doctrine or practice, and to preserve unsullied the title of Holy Isle, for which Ireland was famed for many centuries. In conjunction with them he pronounced anathema against all who fell away from their allegiance to the Pope, as spiritual head of the Church, or recognised Henry as such.

But after a time a change took place in the zeal of the Archbishop. He was considered waning in his desire to uphold the Catholic faith. Some attributed this to the example of his countrymen in England, who very readily steered the light bark of their faith according to the King's compass. Others believed that personal affection for the King, to whom he owed his mitre, influenced him, and diminished his former ardour. Whatever the cause, Rome was alarmed, and in the consistory of July 13, 1539, a sentence of suspension from all exercise of primatical jurisdiction was promulgated against him, 'till such time as he should purge himself from the suspicion of heresy.' Meanwhile, Dr. Robert Wauchop was appointed apostolic administrator of the See of Armagh.¹ Ex-Chancellor Cromer died March 16th, 1542.

Dr. Stuart, in his History of Armagh, states: 'It is probable that even Primate Cromer himself at last submitted to the authority of the King, and ceased to give any opposition to his measures; for in a curious edict made by the Privy Council, in the year 1541, we find him ap-

¹ Rev. Dr. Moran's Hist. of Archbishops of Dublin, p. 31.

pointed, in conjunction with the Lord of Louth, arbitrator of such controversies as might arise in Ulster, a power which could not be invested in him, if he had not regained the confidence of his Sovereign.¹

CHAP.
XIII.

When Henry VIII. permitted Archbishop Cromer to retain his head for the same offence which cost Sir Thomas More his life, and contented himself with depriving the Primate of the Seals, he delivered them to Lord Trimlestown, who then became Lord Chancellor of Ireland in 1534.

Lord
Trimles-
town
Lord
Chancellor
in 1534.

Le SIEUR DE BARNEVILLE was one of the Norman knights who fought in the ranks of William the Conqueror at the battle of Hastings. When broad lands were to be won by the sword in Ireland, these adventurous warriors found their feats of arms their best inheritance ; and deeds of war were sure to be well rewarded. Ulfraed de Barneville obtained an estate in the beauteous vale of Shanganah, so sweetly described by my gifted friend, D. F. MacCarthy :—

The
ancient
family of
Barneville.

Vale of
Shan-
ganah.

How pleased, how delighted, the rapt eye reposest
On the picture of beauty this valley discloses,
From that margin of silver, whereon the blue water
Doth glance like the eyes of the ocean foam's daughter!
To where, with the red clouds of morning combining,
The tall 'Golden Spears'² o'er the mountains are shining,
With the hue of their heather, as sunlight advances,
Like purple flags furl'd round the staffs of the lances !

Sweetest of vales is the vale of Shanganah !
Greenest of vales is the vale of Shanganah !
No land far away by the calm Susquehannah,
So tranquil and fair as the vale of Shanganah !

When the constant tumults in which the early English colonists were engaged, either with the natives or amongst themselves, had any cessation, the Barnevilles showed other talents besides military. In A.D. 1435, Christopher Barneville, or Barnewall, as the name was then written, of Crickstown, was appointed Chief-Justice of the King's

Legal
offices of
the Barne-
villes, or
Barnwalls.

¹ Stuart's History of Armagh, p. 234.

² The tall mountains, known as the Sugar Loaves, are called more poetically in Irish ' the Golden Spears.'

CHAP.
XIII.

Baron of Trimlestown.

Parents of the Lord Chancellor.

John Barnewall studies law.

Second Justice of the King's Bench in 1509.

Married four times.

His first wife.

Family of Bellew.

Vice-Treasurer.

Treasurer.

Arch-bishop Browne.

His mission.

Bench in Ireland. In 1461, Nicholas Barnewall was Chief-Justice of the Common Pleas, and his brother Robert was created a Peer of Parliament by the title of Baron of Trimlestown. His son Christopher, second Baron, was one of the Irish Peers who, deceived by the pretensions of Lambert Simnel, and believing him to be the scion of the House of York, attended his coronation in Christ Church, Dublin ; but soon after, making submission, received pardon from the King. He married Elizabeth, daughter of Sir Thomas Plunkett, of Rathmore, and was succeeded by his eldest son, the subject of this memoir. John, third Lord Trimlestown, was induced, probably by the distinguished career of his grandfather, Sir Thomas Plunkett, to study law, and became an excellent lawyer. His connection, we may be sure, soon procured him employment, and, in 1509, he became second Justice of the King's Bench in Ireland.

Lord Trimlestown did not marry quite so often as his Royal master, but had more than an average share of the joys of Hymen. He was married four times. He had a son (who succeeded him in the title) by his first wife, Jane, daughter of John Bellew, Esq., of Bellewstown, an ancient race ennobled in the family of Lord Bellew, of Barmeath ; and also with the baronetage, of Mount Bellew. In 1522, Lord Trimlestown was appointed Vice-Treasurer of Ireland, and having acquired considerable reputation as a financier, in two years later was advanced to the very arduous and responsible office of High-Treasurer of Ireland ; and appears while in this office to have taken good care of his own interest. In addition to other tenements and hereditaments, I find that in 1532 he received a fee-farm grant of 136 acres of arable land at Dunleer, to hold as the manor of Trim.

When Henry VIII. made up his mind to assert his spiritual supremacy in 1534, he appointed Dr. Browne, changed from an Augustinian friar into a zealous Protestant, Archbishop of Dublin.¹ He came specially com-

¹ State Pap., Hen. VIII. vol. ii. p. 465.

missioned, 'that it was the Royal will and pleasure of his Majesty that his subjects in Ireland, even as those in England, should obey his commands in spiritual matters as in temporal, and renounce their allegiance to the See of Rome.' Browne was further spurred on by such threats from the King as, 'Let it sink into your remembrance, that we are as able, for the not doing thereof, to remove you again, and put another man of more virtue and honesty into your place, as we were at the beginning to prefer you;' and to do him justice he did his best to obey his Majesty's commands. But the old adage says, 'One man may bring a horse to the water, and fifty will not make him drink.' The Archbishop found, while it was very easy for the King to send him orders from England, it was as easy to make the horse drink against his inclination as to induce the Irish to swallow King Henry's creed. The Archbishop wrote to Lord Cromwell, on December 4, 1535, 'that he had endeavoured, almost to the danger and hazard of his temporal life, to procure the nobility and gentry of this nation to due obedience in owning his Highness their supreme head, as well spiritual as temporal; and do find much opugning therein, especially by his brother Armagh, who hath beene the main oppugner, and so hath withdrawn most of his suffragans and clergy within his See and diocese.'¹

Previously to this time, two spiritual proctors from each diocese had seats in Parliament. It was their special province 'upon such things of learning as should happen in controversy, to declare what was the doctrine agreeable to truth and to the teaching of the Catholic Church.'

When the attempt was made to introduce the Reformation into Ireland by King Henry VIII., these Proctors strenuously resisted the Act of Supremacy. On May 18, 1537, Lords Grey and Brabazon, when informing Lord Cromwell in England of their having caused Parliament to be assembled to meet the English Commissioners,

¹ The Phoenix, Lond. 1707, vol. i. p. 121. See also Life and Death of George Browne, by Robert Ware. This life is contained in the English edition of Sir James Ware's works.

CHAP.
XIII.

Want of
success.

Letter to
Cromwell.

Complains
of the
Ex-Chan-
cellor.

Proctors in
Parlia-
ment.

CHAP.
XIII.Letter to
Lord
Cromwell.Proctors
must be
excluded.Reforming
circuit.

thus alludes to this opposition:—‘The forwardness and obstinacy of the Proctors of the clergy from the beginning of this Parliament, and at this session both of them, the Bishops, and Abbots, hath been such that we think we can do no less than advertise your lordship thereof. Considering their obstinacy, we thought good to prorogue the Parliament for this time, and against the next sessions provide a remedy for them. And therefore, my lord, it were well that some means be devised whereby they may be brought to remember their duties better. Except the means may be found that these Proctors may be put from voice in the Parliament, there shall but few things pass for the King’s profit, for hitherto have they showed themselves in nothing conformable.’¹

Action was at once taken on this letter. An order under the Great Seal of England was transmitted to the Commissioners, declaring ‘that the spiritual Proctors shall have no vote in Parliament,’ and this was quickly endorsed by the Irish legislature.² A novel duty was now undertaken by the Lord Chancellor, who, with the Archbishop and other members of the Council, undertook a *converting circuit*, which jumbled preaching, hanging, law, and religion, varied by feasting and visiting, in a most extraordinary manner. It would prove a very amusing narrative were it not for the tragical events which continually come to light. An extract from the State papers will show how the circuit was conducted:—‘We resorted first to Carlow, where the Lord James Butler kept his Christmas; and there being well entertained, from thence we went to Kilkenny, where we were no less entertained by the Earl of Ormond. There, on New Year’s-day, the Archbishop of Dublin preached the word of God, having very good audience, and published the King’s injunctions, and the King’s translation of the Pater Noster, Ave Maria, the Articles of Faith, and the Ten Comandments, in English—divers papers whereof

¹ State Papers, Henry VIII., vol. ii. p. 437.

² 28 Henry VIII. Ir. chap. xii.

we delivered to the Bishop and other prelates of the diocese, commanding them to do the like throughout their jurisdictions. The Saturday following we repaired to Ross, which town having been heretofore one of the best towns of this land, being also situated in the best place of these parts for subduing the Kavanaghs, is in manners utterly decayed and waste, by reason of the continual war and annoyance of the Kavanaghs, which cannot be helped while the Kavanaghs remain unreformed. Then the morning after, the said Archbishop preached; that night we went to Wexford, where the same Archbishop preached on the Epiphany day, having a great audience and publishing the said injunctions. The Saturday following the Epiphany we came to Waterford, where the Mayor and his brethren during our abode, both well entertained us and used themselves very obediently in conforming themselves to our orders and directions. There, the Sunday, my Lord of Dublin preached, having a very great audience, when also were published the King's injunctions. The day following we kept the Sessions there both for the city and the shire, where was put to execution four felons, accompanied with another, a friar, whom, among the residue, we commanded to be hanged in his habit, and so to remain upon the gallows for a mirror to all his brethren to live truly.¹

This, happily, unique mode of inculcating Christian doctrine, was attended with exactly the consequences that might be expected from it. The people recoiled with horror from a creed that used no better arguments than punishing religious opinions as felony, and hanging their clergy in their habits—*pour encourager les autres*. Whether the good living, or hard work, told upon the constitution of the Chancellor, I know not, but he quickly succumbed to the summons of death, and yielded up his life in 1538.

During the reign of King Henry VIII. there were few Parliaments held in Ireland; yet many useful English statutes were adopted, and the laws of England and Ire-

Lord
Chanc-
cellor's
death,
1538.

¹ State Papers, vol. iii. p. 108.

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XIII.
—
reign of
Henry
VIII.

land were much assimilated. An important Act was passed respecting absentees.¹ Receiving rents through agents was regarded as a crime; and those English noblemen, who by marriage or descent acquired lands in Ireland, on which they never resided, were expected to grant them to persons who would do so. The King's Majesty (for the reformation of the said land, to foresee that the like shall not occur hereafter) with the consent of his Parliament, pronounced *forfeited* the estates of all absentees, and that their right and title was gone.²

¹ 28 Hen. VIII. Ir.

² A construction was put upon this singular statute in the case of the Earl of Shrewsbury, also Earl of Waterford, reported in the 12th part of Lord Cokes' Reports: 'It was resolved by the Judges in England, to whom the question was by the Privy Council referred, that the Irish Act against absentees did not only take away from the Earl of Waterford the possessions which were given to him at the time of his creation but also the dignity itself.' The Court said: 'It was with good reason to take away such dignity by Act of Parliament, and although the said Earl of Shrewsbury be not only of great honour and virtue, but also of great possessions in England, yet it was not the intention of the Act to continue him Earl in Ireland when his possessions were taken from him; but that the King at his pleasure might confer as well the dignity as the possessions to any other, for the defence of the said realm.' In lectures by the Right Hon. James Whiteside (now Lord Chief Justice of the Queen's Bench, Ireland), on the Irish Parliament, he states: 'I ought to mention that the propriety of this decision of Lord Coke and others came before the Lords in 1832, in the case of the Earl of Shrewsbury, claiming as Earl of Waterford, to vote at the election of Representative Peers of Ireland; and it was held, that the dignity of the peerage was not taken away by the Irish Act against absentees; and that the opinion above cited was not binding upon the House of Lords, or any other court of justice.' Life and Death of the Irish Parliaments, part i. p. 41.

Enrolled
decrees of
the reign
of Henry
VIII.

I have examined the enrolled CHANCERY DECREES of this reign, numbering sixty-one, in the public Record Office, Four Courts, Dublin, they are chiefly on bills filed for account—to give parties quiet possession of disputed lands—one or two were somewhat peculiar and might have been tried at law, such the cause of Maurice Eustace and Lord Killyn. Decree directing payment of eight marks in satisfaction of a horse taken by defendant, and an injunction to issue to enforce compliance with the decree. A decree decides a certain wall to be a party wall. Another directs the Archbishop of Dublin to be put in possession of the island called Ireland's Eye.]

CHAPTER XIV.

LIFE OF SIR JOHN ALAN, LORD CHANCELLOR OF IRELAND.

JOHN ALAN, or ALLEN, was a native of England, and has been described of Cowtishale, in the county of Norfolk, gentleman.¹ He was one of a large family; four brothers beside himself having established themselves in Ireland. They acquired considerable stations and high legal appointments, chiefly in connection with the Court of Chancery. It is stated, and I believe with truth, they were cousins of the Chancellor and Archbishop Alan, whose sad fate at the hands of Lord Offaly I have already recorded. From a letter which I insert in this 'Life of Sir John Alan,' I fear it must be concluded that 'Silken Thomas' was not as free from the stain of that deed as his friends would have wished. John Alan devoted himself to the study of law. He was admitted to the bar, and selecting Ireland for the theatre of his forensic operations, quickly obtained practice and place. The office of Master of the Rolls of Ireland was conferred on him by patent, read in the Council Chamber in Dublin Castle, on August² 18, 1534. On August 31, he was sworn in, before the Archbishop of Armagh, Lord Chancellor, and took the oath of office.²

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XIV.Sir John
Alan, Lord
Chanc-
cellor,
1539.
The family
of Alan.John a law
student.Practises
in Ireland.Appointed
Master of
the Rolls.¹ Pat. Roll of Canc. Hib. 29 and 30 Hen. VIII.

² 'Ye swear that ye well and trulie shall serve or Sovraigne Lord the King in the office of the Clerc, Keper, and Master of the Rolles of his Chancery of Ireland, and the rolles, process, records, and muniments of the said Corte ye shall truelie and surelie conserve and kepe or see them to be conserved and kept to y^r power. Ye shall not assent ne procure the disheron ne ppetual hurte of the King to y^r power. Ye shall do no fraude, ne procure non to be don to the hurt of the Kynge's peple, nor in anything that toucheth the keeping of the Great Seale, and faithfully and trulie shall you counsaile the things which touch the King when ye thereto shall be required, and the counsaile that ye know

Oath of the
Master of
the Rolls,
A.D. 1534.

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In the month of February, 1534, Gerald Earl of Kildare went to London, leaving Lord Offaly Viceroy. On May 17, John Alan, then Master of the Rolls, and four of his brothers, all enemies of the Geraldines, wrote to another brother, named Thomas, Warden of Youghal College, who was in London, the following letter:—

‘ Right worshipful brother,—We heartily recommend us unto you, notifying you that my Lord of Desmond¹ marvels greatly at your long tarrying; moreover we certify you of truth, that Thomas Fitz Gerald, the Erle of Kildare, his son, is now with my Lord O’Brien,² and makes all that ever he can to obtain my Lord of Desmond’s good will, and as yet we do our best to keep him from his purpose in that behalf, and shall do, with God’s grace. Moreover the said Thomas hath burned all your cornys that lay in Little Bewerly, and he says wheresoever he meets with you he will slay you (with) his own hands, for because that you hold so soor with the King’s grace, and causeth the Erle of Desmond to buy his fees, also with all your brethren and kinsfolk do stand in jeopardy of their lives for your sake,³ wherefore we counsel you to instruct the King of this promise, and cause his Grace to write a letter to my Lord of Desmond in all haste to take the said traitor, and also to cause my Lord O’Brien to withdraw

touching him shall ye conceal. And if ye know the King’s disinheritance, or his ppetual hurte or fraude in things to be doon, touching the keping of the said Seale, ye shall put y^e lawfull power to redress it and amend it; and if ye cannot do it, ye shall shew it to the King or the Chancelor, or other that may amend it after y^e intent. Ye shall see the patents, writtes, and other proces of the chancerie to be recorded and enrolled by yo^r self or yo^r clerkes, as to yo^r office apperteyneth; ye shall admit no clerke, attorney, or other officer or mynster to serve or mynster in the said corte, but soch as in yo^r conscience ye shall think to be able thereunto; ye shall minister indifferent right and justice to all the King’s peple that shall have to do before you, according to the King’s conscience. And all other things that apperteyneth to yo^r office as Master of the Rolls, ye shall doe and observe, soe God ye helpe, all his saynts, and the holy evangelestes.’ Pat. Roll 25 Hen. VIII.

¹ Thomas twelfth Earl of Desmond, the Warden of Youghal was his officer.

² O’Brien, of Thomond.

³ This letter was written about six weeks before the slaughter of the Archbishop, on July 19, 1534.

his favour from the said Thomas and all other his Lords, for the rather the better; for if you were with us, we put no doubt but we should, with your wisdom and help, displace him and his, and that soon; moreover you send to me for more costs; by my troth, I have lost 300*l.* in the river of — this year; I thank God of all: I send you by this bearer 3*l.* 3*s.* 4*d.*, for I have paid to your priests for their wages at Easter last past 20*l.* 6*s.* 8*d.*, and I have paid to your workmen 12*l.* 3*s.* 2*d.* No more to you at this time, but Jhesus bring you home shortly.

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‘ Written in all haste at Youghyll, in Ireland, the 17th day of May, by your brethren,

‘ RICHARD ALLEN,
‘ ROBERT ALLEN,
‘ MELLSHER ALLEN.

JOHN ALLEN,¹
JASPER ALLEN, and

‘ To his right worshipful brother,
‘ Mr. Thomas Allen,
‘ Warden of the College of Youghyll.’

It was only a few weeks after the date of this letter the rebellion of Thomas Lord Offaly startled the kingdom, and, like the insurrection of that ill-fated enthusiast, who much resembled the impetuous young noble, Robert Emmet, commenced with the slaughter of a high dignitary, in one case the Archbishop of Dublin, in the other the Lord Chief Justice of the Court of King’s Bench.²

The rebellion of Thomas Lord Offaly.

I find it was not deemed *infra dig.* for his Honour to be a clerk in Parliament. The entry in the Patent Rolls of 1534-6, recite—‘ Appointment of John Allen, Vice-Chancellor or Master of the Rolls of Chancery, to the office of clerk of the Parliament, with a salary of 2*s.* a day during the parliamentary session.’ By letters patent on December 1, 1538, he had a grant of the site, circuit and lands of the late monastery of St. Wulstans, the manor of Donagh-

Clerk in Parliament.

Grant to Sir John Alan.

¹ Proceedings Kilkenny Arch. Soc. vol. ii. N. S. p. 336.

² Lord Kilwarden, murdered in 1803.

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XIV.

cumper, and other denominations of land in the county of Kildare for ever, by the service of one knight's fee, rent 10*l.* Both in England and Ireland the lands of the suppressed religious houses became the prey of those who did King Henry's will. At this time, Audley, Chancellor of England, in consideration of the bad law laid down by him on the trials of Fisher, Sir Thomas More, Queen Anna Boleyn, Courtnay, and Pole, obtained the Priory of the Trinity, near Aldgate, in addition to the Garter, and other marks of royal favour.¹

Lord
Keeper.

When Sir John Barnewall, Lord Trimlestown, died in 1538, JOHN ALAN, Master of the Rolls, was appointed Keeper of the Seal, and on his resigning the office of Master of the Rolls, was succeeded by Sir Thomas Cusack, of Cussington, knight. In the following year, A.D. 1539, Alan was granted the office of Chancellor of Ireland.² Directions were given to the Under Treasurer respecting the allowances to be made to him for exercising the office of Chancellor, with such 'issues and profits, as the Bishop of Ferns, the Archbishop of Dublin, or Roland Eustace enjoyed, and for this purpose to make search among the records of the treasury, by which the perfect truth thereof may be made known. Signed, THOMAS CROMWELL.'³ Lord Cromwell, though apparently in high favour, having a seat in Parliament above the Archbishop of Canterbury, as Vicar-General, was hastening to his fall. Leave of absence being granted to the Lord Chancellor to repair to the King's presence, Sir Thomas Cusack, Master of the Rolls, was intrusted with the custody of the Great Seal in his absence. The King probably wished to preserve some uniformity in the religious doctrines he prescribed for the Reformed Churches of England and Ireland.

Sir Thomas
Cusack.
Intrusted
with the
Great Seal.Chancellor
not a Ma-
gistrate
ex officio.

By letters patent of 32 & 33 Henry VIII., it appears the Chancellor was not *ex officio* a magistrate, for it appoints

¹ Vide Lord Campbell's Chancellors, vol. i. p. 611.

² Pat. Roll in Canc. Hib. 30, Henry VIII.

³ Ib. Patent to hold during pleasure with custody of the Great Seal and power to examine and determine all causes and suits according to the law and custom of Ireland.

John Alan, Chancellor, with others to be Justices of the Peace for the county of Meath.

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King Henry was now taking very bold measures to assert the Royal supremacy in Church and State; and woe betide the unhappy layman or ecclesiastic who dared to resist his might. On June 7, 1539, 'the bloody Bill of Six Arbiters' was carried through the House of Lords in three days, and obliged, under the most penal consequences, the doctrines of the Catholic Church to be rigidly observed. In the Commons it passed through the various stages with equal rapidity. The expulsion of twenty-seven mitred Abbots and Priors from Parliament hastened the downfall of the monasteries, and showed a strange way of upholding the Church. To enable the despotic King to dispense with Parliaments altogether, the English Chancellor, Audley, procured an Act to be passed, whereby the King's proclamation, having the assent of the Privy Council, was to have the force and effect of an Act of Parliament.¹

In 1539-40, a Royal Commission issued to George Archbishop of Dublin, John Alan, Chancellor, and William Brabazon, Vice Treasurer, appointing them to act as deputy to Thomas Lord Cromwell, Keeper of the Privy Seal, whom the King had constituted his Vicar-General and Vicegerent in ecclesiastical matters.

Deputies
to Vicar-
General.

The Chancellor soon had plenty of work in reference to Church matters. In the April of the same year, he, with the Archbishop of Dublin (Brown), the Vice Treasurer, Robert Cowley, Master of the Rolls, and Thomas Cusack, Esq., were named Commissioners for the purpose stated therein. This sets forth in terms more forcible than polite, 'that from information of trustworthy persons, it being manifestly apparent that the monasteries, abbies, priories, and other places of religious or regulars in Ireland are, at present, in such a state, that in them the praise of God and the welfare of man are next to nothing regarded, the regulars and others dwelling there being so addicted, partly to their own superstitious ceremonies,

Suppres-
sion of
religious
houses.

¹ 31 Hen. VIII. c. 28.

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partly to the pernicious worship of idols, and to the pestiferous doctrines of the Roman Pontiff, that unless an effectual remedy be promptly provided, not only the weak lower order, but the whole Irish people may be speedily infected to their total destruction by the example of these persons. To prevent, therefore, the longer continuance of such religious men and nuns in so damnable a state, the King (having resolved to resume into his hands all the monasteries and religious houses, for *their better reformation*, to remove from them the religious men and women, and to cause them to return to some honest mode of living, and to true religion) directs the Commissioners to signify this his intention to the heads of the religious houses; to receive their resignations and surrenders willingly tendered; to grant to those tendering it liberty of exchanging their habit, and of accepting benefices under the King's authority; to apprehend and punish such as adhere to the usurped authority of the Romish Pontiff, and contumaciously refuse to surrender their houses; to take charge for the King's use of the possession of these houses, and assign competent pensions to those persons who willingly surrender.¹ We may well conceive the state of alarm, which the promulgation of the edict caused among the monks and nuns of Ireland. They were to be torn from the houses in which they served God and His poor, and Henry VIII. was to take them into his royal care *for their better reformation!!* This pious monarch, so tender of the souls of the religious men and women, was engaged at that moment breaking the solemn vows with which he had wedded Anne of Cleves, merely because he did not like her High Dutch face; and he married the Lady Catherine Howard, whom he speedily beheaded.

Sir An-
thon-
Seynt-
leger
Viceroy.

A change in the Viceroyalty was made at this time, and the office of Deputy of Ireland conferred on Sir Anthony Seyntleger, knight, one of the gentlemen of the King's Privy Chamber. On July 25, 1541, the new Viceroy took the oath of office in the Cathedral of the Holy Trinity,

¹ Morrin's Calendar of Pat. and Close Rolls, vol. i. p. 55.

Dublin, before the Lord Chancellor and the Lords of the Council. He thereby pledged himself faithfully to maintain and defend the law of God and the Christian faith, to observe the usages, rights, ceremonies, and liberties of Holy Church ; to give faithful counsel to the King's people, and keep the King's counsel.¹ It was a task requiring no small courage to undertake the Irish Government at this period. Lord Leonard Grey, who had been recently Viceroy, was tried on several charges preferred against him for maladministration in Ireland ; among them, that he had secretly aided the Geraldines, their allies and Irish chiefs hostile to the English interests ; and after the rebellion of Silken Thomas, had allowed young Gerald, the Earl of Kildare's son, to escape to Rome. The trial ended in conviction, and the usual sentence of Henry VIII. cost Lord Grey his head on Tower Hill, A.D. 1541.²

While Sir John Alan was Lord Chancellor, a step towards legal education in Ireland was taken. Patrick Barnewall, King's Sergeant, in a letter to Cromwell, suggested the propriety of establishing in Dublin an Inn of Chancery, that is, a house wherein, as Fortescue observes, ' the students are, for the most part, young men, learning the first elements of the law, and becoming good proficients, weth that there should be a house of Chancery here, where such as were towarde the lawe, and other yonge therein, whence as they grow up they are taken to the greater hostels, which are called the Inns of Court.' In this letter Barnewall says, ' Yf your lordchippe thoght fyt gentlemen might be together ; I reckon hyt wold doe moche good, as I have declared ere now unto your lordchippe, and in especyall for the incresse of Englishe tongue, habits, and ordyr, and allesoo to the mene as such as hath or shal be at study in England, shold have the bettyr in remembrans ther laryng, for defaut whereof now in effect, we doe forgyte moche of that lytyll laryng that we atteyned there.'³

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Legal
education
in Ireland,
Letter
to Lord
Cromwell
respecting
an Inn of
Chancery.

¹ Pat. Roll in Canc. Hib. Temp. Hen. VIII.

² Catechism of Irish Hist. p. 219.

³ State Papers, II. 571.

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XIV.

This letter was written at the right time. The suppression of monasteries placed at the disposal of the Crown the once splendid structure of the Dominicans, or Friars Preachers, and this Abbey of St. Saviour was well adapted to serve for the future Inns of Court. A petition in support of the letter was addressed to the Privy Council of England in these words:—

Petition
from the
Irish
judges and
lawyers.
The judges
separated.

Import-
ance to
students.

The house
of Black-
friars.

‘ Our humble duties remembered to your most discreet wisdoms,— Please it the same to be advertised, that whereas we, our soveraine Lord the King’s Majestie’s Judges and learned Counsaill of this Realm of Ireland and others lerned in his Highnes’ lawes, and such as hath presedet us in our romhis before this tyme hathe been searved in terme tyme, in several merchantes’ howsis within the citie of Dublin, at borde and lodging ; so that whensoever anything was to be done by the said Judges and Counsaill and others lerned for the setting forthe of our said soverain Lorde’s causes, and other to our charges commytted, tyme was lost ere we coulde assemble ourselves together, to consult upon every such thing, therefor we, pryncypaly considering our humble and boundyn duties unto our said soveraine Lord, the comenwelthe of this realme, and also the bringing up of gentlemen’s sonnes within this realme, in the English tong, habits, and maners, thoght it mete to be in our house toghir at bord and lodging, in terme tyme, for the causes aforesaid, and for the same intent and purpose we toke the late suppressed house of Blakfriers, in the South Barbis of the said citie, and kept commons ther the last two yeris termely. And considering our said terme and faithful unfamed purpose in our judgementes and understanding to be bothe to the honor and profit of our said soveraine Lord, the comenwelthe of this realme, and th’encres of virtue, we mooste humble beseeche your discreet wisdoms to be so good unto us as to be a meane unto our said soveraine Lord, that we may have the said house and the landes thereunto belonging, which is surveyed at the yerly valer of alevyn (eleven) marks sterlinc, or therabout, whiche is not able to maintaine th continuall repara-

cions thereof, after such like sorte and facion as shall please his Majestie to depart with unto us, and to name the said house as the same shall be thought good by his Majestie, for we doe call the same now the King's Inn— and for the furder declaracyon of our myndes in this behalfe, it may please your discreet wisdome to give credens to Master Dowdall, bearer hereof, who can relate the same at large. And thus we commit your discreet wisdome to the tuicion of God with continuall encrees of honour.

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XIV.The King's
Inn

‘Fro the Kinge's citie of Dublin, 29th of August (1541),
‘Your ORATORS, &c.,

‘To the Kinge's most Honorable Counseille in England.’

The same year the King demised to John Alan, Chancellor, Sir Gerald Aylmer, Justice, Sir Thomas Luttrell, Justice, Patrick White, Baron, Patrick Barnewall, King's Sergeant, Robert Dillon, King's Attorney, and Walter Cowley, and to the other Professors of the Law, the Monastery of the Friars Preachers, declaring this house of Chancery ancillary to the Inns of Court in England. From some cause or other Sir John Alan did not give satisfaction to the Viceroy, Sir Anthony St.-Leger, who made such representations to his disfavour that he was deprived of the Great Seal. This seems to have mortified Alan extremely, because, thereby, he was not only deprived of a post of great honour, but his very means of existence were taken, as the comfortable retiring allowance of later days¹ was not then granted to Ex-Chancellors: It is, however, only fair to state that, whatever could be done to alleviate the loss was done on this occasion, as we shall presently find.

When the Great Seal was received from Alan, it was immediately given to SIR RICHARD READE. There appear from the records considerable indulgences were granted at this time to Ex-Chancellor Alan. In a letter from the Lord Protector Somerset and the Lords of the Council in

Lease to
Lord
Chancellor
and
others.Alan de-
prived of
the Chan-
cellorship,
No retiring
pension.Some com-
pensation
for loss of
office.Succeeded
by Sir
Richard
Reade.
Indul-
gences to
Ex-Chan-
cellor.

¹ Four thousand pounds per annum is the allowance to ex-Lord Chancellors of Ireland.

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England, when the young King Edward ascended the throne, addressed to Sir Anthony St. Leger, Lord Deputy, and the Council in Ireland, Master Alan was to have ‘restoration of all his leases, offices, goods, and chattels, notwithstanding the surrender of his office of Chancellor, with liberty to convey his goods without search or seizure into England ; that he shall have the Constableship of Maynooth, with the arrears of the fee, and the rest of his offices, the farm of Kyle, and all his farms, leases, and things, notwithstanding his absence ; and that at all times, when he shall think fit he may, either by his wife or servants, transfer from Ireland all his moveable goods without any search or restraint, as they would be lothe he should have cause to make further suit.’¹

Reade's
appointment
confirmed

Sir Richard Reade was appointed Lord Chancellor and Lord Keeper by Henry VIII.; but his patent having determined by the death of that King, a new one was issued by Edward VI., confirming his appointment. The surname of this Chancellor is derived from the Saxon word *red* or *reed*, which shows its Saxon origin.² During the time Sir Richard held the Great Seal, there was little business in the Equity Courts. The anxiety respecting a threatened invasion by the partisans of Gerald, the young Earl of Kildare, kept the inhabitants of the maritime towns on the alert, while his allies in the country burned and plundered Ballymore-Eustace on the Liffey, and other towns. The O'Mores and O'Connors Faly joined in the insurrection, and the Deputy St. Leger was defeated in trying to reduce them to submission. He returned with superior force ; and, with great destruction to life and property, the authority of Government was successfully vindicated and established.³

Queen Mary's
letter.

Queen Mary held Ex-Chancellor Alan in much esteem, as appears by the following letter, written in 1553, entitled ‘The Queen to the Lord Deputy and the Chancellor :— ‘Having licensed our trusty servant, Sir John Allen,

¹ Pat. Roll in Canc. Hib. Hen. VIII.

² Burke's Peerage.

³ Catechism of Irish Hist. p. 223.

late Chancellor of that our realm, to repair hither, and demore or return at his pleasure; and, considering the trusty functions which he had, for a great time there, both under our father and brother, and his long experience and travail in public affairs, we judge him worthy such trust, as he is meet always to remain one of the Privy Council; and, in respect of his infirmities and age, we mind not that he should be compelled to go to any hosting or journies, but when he conveniently may; and, as we signified our contention unto you, that upon surrender of his leases not yet expired, you should make a new lease to him for twenty-one years. That same be made notwithstanding difficulties.¹

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Retained
a Privy
Councillor.

Alan's account of words charged to be spoken by the Viceroy, Sir Anthony St. Leger, against the Protestant religion, is curious, and not creditable to the then Archbishop of Dublin. Having received letters from the Council of England of the coming of Lord Cobham, with an army, and that all due preparations should be made against their arrival, Alan went to Kilmainham to apprise St. Leger, the Deputy, of this event; St. Leger, with others of the Council, being in a room called St. John's Chamber, drew Sir John Alan aside to the great window, and enquired the cause of his coming. Alan informed him; and, in order to uphold the authority of the Deputy, asked him for his Commission to certain persons, who would provide all things requisite. He did so, he informs us, for the Deputy's sake, rather than do so by virtue of the authority contained in the letters. The Deputy, aware of his kind motive, promised compliance. The conversation then turning upon a French invasion, St. Leger enquired of Sir John Alan, as a man of knowledge in Irish affairs, 'what the French expected?' Alan replied, 'They expected to persuade the Irish to have Ireland united with the Crown of France.' 'That were a vain device,' replied St. Leger, 'for the Irish would be no longer subject to them than they pleased themselves, but would be as

Alan's
account of
conversa-
tion with
the Viceroy
St. Leger.

¹ Pat. Rolls in Canc. Hib. temp. 1 and 2, Philip and Mary.

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wavering with them as with the English.' Alan observed, ' If they could banish the English and keep the seaports, the French would be content.' The Deputy then said, ' The King of France is in the flower of his youth; and, if the Emperor were gone, he aspires to be Lord of Christendom; and, knowing there was no impediment but the King of England, would try so to occupy the English troops in Scotland and Ireland, that he should find no hindrance elsewhere.' After having remarked on 'the coldness of the Emperor towards England,' Alan said ' he never could hear of any cause, except offence at the Church of England.' To this St. Leger answered, ' It was no great marvel that he should be offended therein, for, in that matter, among themselves, they disagreed, and that every man of experience must know, that if the French came to Ireland, they would have more friends among the Irish, for religion's cause than for their own; and, so God help me, for my own part, when the Lords of the Council sent me to further matters of religion here, I had much rather they sent me to Spain, or any other seat of war; and I told my Lords no less.'

After this they went to dinner, and, not having a clerk at hand, Alan made out the requisite Commission, which the Deputy signed; after this he bade St. Leger farewell.

On returning to Dublin, Alan spent the evening with the Dean of Christchurch, with whom he met the Archbishop of Dublin, and Mr. Basnet, late Dean of St. Patrick's, and, after supper, the news of the day and the expected French invasion were spoken of. The conversation then turned on the faults of the Viceroy, and the Archbishop said, ' he was but a dissembler in religion, and was never willing to have it set further here.' On this Alan stated, ' he was not far amiss there, for that day his Lordship had confessed as much to him.' ' Did he,' replied the Archbishop; ' I prae you to remember that.' Some time after, Alan was informed, the Archbishop stated the Deputy delared to Alan, ' that if the Lords of the Council had let matters rest as King Henry VIII. left

Spends the evening with Dean of Christchurch.

The Archbishop's opinion of the Viceroy.

Words attributed to Alan.

them, and had not sought to alter the religion of the people, there would have been no rebellion in Ireland ; and he, the Archbishop, would produce Sir John Alan to prove this. Alan at once stated, ‘that although he considered the Lord Deputy had done him great injury, by taking from him honour, estimation, and means of subsistence, so that if he followed the natural desire for revenge he might suffer, and the usage he sustained would not make him an indifferent witness. Yet, for all that, *he would tell no lie* to harm him, therefore the Archbishop would not be able to prove his case by his (Alan’s) evidence.’

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The Archbishop having been sent for by the Lords of the Council of England, to substantiate his charges against St. Leger, sent for Sir John Alan, bade him remember the conversation related above, and the words ‘*If the Lords of the Council had left matters as King Henry VIII. left them, &c.*’ Alan replied, ‘that besides his not being an indifferent witness against St. Leger, he remembered no such words spoken by him.’ The Archbishop insisted he had told him so in the presence of the Dean of Christchurch and Mr. Basnet ; whereupon Alan referred to these clergymen, and both concurred with him —‘they did not hear him say, as the Archbishop alleged.’

Arch-
bishop
tries to
sustain the
charge.

The Archbishop sent the Bishop of Kildare to induce Sir John Alan ‘to write down the words used by the Viceroy,’ and he replied, ‘he would do nothing of the kind’—I suppose, regarding the conversation as confidential. ‘So, my Lord,’ said he, ‘that albeit I love his little toe better than all Mr. St. Leger’s body, yet I will do nothing against truth, nor that which shall not be decent for one that hath been placed as I have been. Therefore, if it shall please my Lords of the Council to command my Lord Deputy to examine me on oath, I will truly declare what Mr. St. Leger said to me in Kilmainham.’¹

Alan cor-
roborated.

Conduct
of the ex-
Chan-
cellor.

¹ Deposition of Sir John Alan touching certain words laid by the Archbishop of Dublin to Sir A. St. Leger’s charge.—Shirley’s Original Letters, 65.

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The
Viceroy
removed.
Reinstated
by Queen
Mary.

Death of
Sir John
Alan

Sir Anthony St. Leger was, however, removed through the influence of the party then bent on establishing the Protestant religion in Ireland. This, of course, was a strong recommendation of him to Queen Mary, who on her accession restored him to his post, and gave him instructions to restore the Catholic rites.¹ This was in 1553; but he did not remain in office more than three years, having been superseded by Lord Fitzwalter, afterwards Earl of Sussex, in May 1556; and this year Ex-Chancellor Alan died. Judging from his conduct with reference to the forbearance he had used towards the Viceroy, St. Leger, he appears to have had a high sense of honour and regard for truth very commendable.

¹ Shirley's Original Letters, 75.

CHAPTER XV.

LIFE OF SIR THOMAS CUSACK TO THE DEATH OF
KING HENRY VIII.

THE family of Cusack is of great antiquity. Sir Bernard Burke, in his valuable Dictionary of 'Landed Gentry,' traces them from the Sieurs de Cusac, an illustrious race in Guienne, whence they passed with the Norman chivalry who conquered under William on the plains of Hastings.¹ Hence they accompanied John into Ireland. In the same careful work, another, and more national descent is given. That the race have sprung from Olioll Ollum, King of Munster, A.D. 234, who was ancestor of Isog, head of the Clanna Isog, or Cusack, of Clare, where they held large territories as a sept of the Macnamaras.

A brief glance at the high offices filled by members of this family, sufficiently attest the repute in which they were held. Geoffrey de Cusack, Lord of Killeen, was summoned to the first Irish parliament A.D. 1295. A descendant of this nobleman, named Joan, married Sir Christopher Plunkett, and, being an heiress, brought Killeen Castle, County Meath, as portion of her estate to her husband. It has since been the family residence of the Earls of Fingall, and gives the title of Viscount to the eldest son of that nobleman. In 1309, Walter de Cusack was summoned to the Parliament of Kilkenny,

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Family of
Cusack.

¹ They bear for their crest a mermaid, holding in the dexter hand a sword, in the sinister a sceptre. The motto is a pious one: *Ave Maria plene gratia*. A second motto is also indicative of religious faith: *En Dieu est mon espoir*. This last motto, when taken in conjunction with the fact that this family obtained place and power in Ireland immediately after the settlement of the Anglo-Norman here, inclines me to the opinion of the French, in preference to the Irish origin.

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XV.The deeds
of arms.

and, a little later, Sir John Cusack, Lord of Beaupeyr and Gerardstown, in the County of Meath, had also summons to Parliament. Nor was it alone for wisdom in the councils of the nation the Cusacks were distinguished. They were famed for deeds of arms. On the invasion by the Scots, when Edward Bruce, fired by the victory gained by his brother Robert over the English at Bannockburn, sought in Ireland a fresh field for his prowess, and, united with the Northern Irish, spread the crimson tide of war over Erin, he advanced to the walls of Dublin, and struck such terror into the breasts of the citizens that they set fire to the suburbs, burning their Cathedral in their haste,—the representative of the family of Cusack was ready to oppose him. This was John Cusack, second Lord of Gerardstown, who, with his brothers and men-at-arms, hastened to the field. They joined the troops led on by Sir John Bermingham against the Scots, who had retired to the friendly shelter of the Ulster hills. The opposing forces met near Dundalk, and a desperate conflict ensued. It was long and bloody; the troops were well matched, and fought with equal bravery, but an English Knight, named Maupas, encountered the Scottish leader in single combat, and gained a victory at the cost of his life, for his body was discovered lying over the corpse of his valiant foe. The death of Bruce terminated the engagement, and the Lord of Gerardstown, with his brothers Walter and Simon, were knighted on the field as a reward for their distinguished valour.¹

Estates
acquired by
marriages.

Sir Geoffrey Cusack married the daughter and heiress of Adam Petit, who brought him the Manors of Cloney and Gonock, in frank marriage. A grandson of Sir Geoffrey, named John, married the daughter and heiress of Robert Cosyne of Cosyneston (now Cussington), who thus added this property to the other possessions of the Cusacks. From this marriage lineally descended John Cusack of Cussington, who married Alison, daughter of William Wellesley, of Dangan, and Mary, daughter of

¹ History of Dundalk by D'Alton and O'Flanagan, c. vi.

Sir Thomas Plunkett, of Rathmore. The Wellesleys, or Wesleys, first came to Ireland in 1172; the founder of the Irish branch having filled the honourable office of standard-bearer to Henry II., which, probably, entitles them to bear the standard in the crest. They obtained various grants of land in Meath and Kildare in consideration of military services, and were soon recognised among the magnates of the land. William de Wellesley sat in the Irish Parliament in A.D. 1330 as Baron of Novagh, and Sir Richard de Wellesley was Sheriff of Kildare in A.D. 1418. They, like the Cusacks, had success in the matrimonial line, for, by the marriage of Sir Richard Wellesley with Johanna, daughter of Sir Nicholas de Castlemartin, he obtained the manors of Dangan and Mornington. From them descended Alison, wife of John Cusack, of Cussington. This marriage was blessed with increase; and, about the year 1490, Thomas Cusack, the subject of my present memoir, was born. The absence of any detailed account of this great man, who filled so large a space in public estimation, renders it impossible for me to give any very precise narrative of his earlier years. It is quite true, however, that his parents resolved he should not incur the reproach conveyed in the representation of the then Archbishop of Dublin, Walter Fitz Simon, to King Henry VII., who deplored the state of young Irishmen—spending their time in idleness, disdaining trade, neglecting to qualify themselves for any learned profession, but depending entirely on the eldest son or head of the family, became useless to the public. The condition of the lower orders was not much better. Indeed, as the organisation of society is so closely connected that one class is, to a great degree, the reflex of others, when we find habits of unthrift and improvidence in the superior, we generally remark the like disposition in those of inferior rank.

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XV.Birth of
Thomas
Cusack.Young
Irishmen
in the
time of
Henry VII.

The mansion house of John Cusack being situate in the County Meath, there passed the youth of his children. Meath, signifying a flat country, is named from its almost

County
Meath.

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uniformly level surface. Here no mountains stretch their sheltering arms to embrace the plains. No lofty peaks tower to the clouds, few highlands break the expanse of fertile champagne country. It is full of historic memories.

Tara.

Here on the hill of Tara stood the Teamor (Great House) where the national convention was held, when Ireland was governed by her native Kings. It was here St. Patrick first promulgated the Christian doctrine, and, after the advent of the English, King Henry II. granted the ancient kingdom of Meath to one of his principal warriors, Hugh de Lacy. Situated within the limits of the Pale and adjoining Dublin—it soon boasted a numerous band of resident nobles and gentlemen, and castles of Nangle's, Phepoes, Missetts, De Bathes, and De Gernons, are extant in the walls of Surlogstown, Dunmoe, Athlumney, Slane, and Athcarne.

Monastic
schools.

In this district, consecrated by the piety of St. Patrick and his successors, there arose many abodes of religious men; and at Duleek, Navan, Scryne, Slane, and other towns, monasteries were established. Here the pious monks diffused the blessing of religious teaching to the inhabitants, and, labouring in their scriptorium, transcribed those classic works which, but for their protection, would have been lost to us. 'Had not these retreats,' observes the eloquent historian Macaulay, 'been scattered among the huts of a miserable peasantry and the castles of a ferocious aristocracy, European society would have consisted merely of beasts of burden and beasts of prey. The Church has been many times likened to the Ark which we read of in the book of Genesis, but never was the resemblance more complete than during those dark times when alone it rode, amid the gloom and the tempest, over that deluge in which all that remained of ancient power and ancient wisdom lay ingulfed.' To the neighbouring school of Duleek, most probably, Thomas Cusack owed the seeds of learning first implanted in his breast, and from those revered lips of the monks he learned the languages of Greece and Rome. Duleek, in the vicinity of his paternal mansion, had long gained a well-merited name

School of
Duleek.

for sanctity. It derived its name, signifying 'A house of stone,' from a church said to be built by St. Patrick. Here the zealous St. Kinnian presided, but located near the coast; its reputation for holiness was no protection from the marauding Northmen, and it was often plundered. When Thomas Cusack resolved to study law he had to repair to England, for I cannot find there was any recourse to Preston's Inn, and am disposed to concur in the remarks of an able Irish solicitor, Mr. Littledale, who observes, 'This kingdom at an early period of English rule, seems to have been particularly unfortunate in the want of legal education even of the highest of its law officers, for we find that, in 1320, (14 Edw. II.) the liege people of Ireland petitioned Parliament "That inasmuch as the law is badly kept for want of wise justices, the King do order that in his Common Bench *there be men knowing the law.*"¹ It cannot have been the case that Preston's Inn was kept up in the time of Henry VIII., for we find from the State Papers extant of that time, that the Judges and members of the Bar in term times lodged with merchants in the city of Dublin, so that I am inclined to think Preston's Inn must have fallen into ruin.'²

When young Cusack entered as a student at law, either here or in England, the students at this period were divided into three classes.³ 'First, mootmen, which are those that argue readers' cases in the Houses of Chancery, both in terms and grand vacations, but of these, after eight years' study, or thereabouts, are chosen utter Barristers; but of the latter, Barristers, after they have been of that degree twelve years at least, are chosen Benchers, or Antients: of which one that is of the puisne sort reads yearly in summer vacation, and one of the Antients that hath formerly read, reads in Lent vacation, and is called a Double Reader; it being commonly betwixt his first and second reading about nine or ten years; out of which

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Want of
legal edu-
cation in
Ireland.

Law
students
and Bar-
risters.

¹ Rot. Parl. I. 386.

² Littledale, On Legal Education in Ireland.

³ Coke's Reports (A.D. 1628), Preface, p. 2.

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Double Readers the King makes choice of his Attorney and Solicitor-General, &c., and of these readers are Serjeants chosen, and out of them the King electeth two or three, as he pleaseth, to be his serjeants; and out of them are the judges chosen.'

Irish law
students
not ad-
mitted to
English
Inns.

Shortly before this time when young Cusack was preparing for his law studies, the kindly feelings towards students from Ireland which now exists was not established. Some of the Inns of Court in England would not receive Irish students. In 1414 a statute enacted in not very complimentary terms—‘That for the quietness and tranquillity of England, and for the increase and maintenance of Ireland, all Irish, and Irish mendicant clerks called Deacons should quit the kingdom by a certain time, on pain of life and limb, except graduates in the schools, and serjeants and apprentices of the law, and those who had inheritances in England, and religious persons. Lincoln’s Inn passed a rule in the 16 Henry VI. that Irishmen should not be admitted into their society.’¹ This conduct produced results so disastrous that the Privy Council in Ireland addressed the following remonstrance to the English Council. ‘And where dyverse gentlemen of this realm mynding to study the causes in the Innes of Courte in England, be by the resolutions of the said Innes restranyed from the same, so that in the Myddle Temple ys suffered to be none, we shall moste hartily beseche your Lordshipes, that, considering the cyvilite that this Realm ys now towarde, so as ther ys like to resorte thither from hens, for the purpose aforesaid, more students than did hitherto, and for that by the lawes by them in the said Innes lerned and to be lerned, the cyvilitie and good order of this Realme ys moche mayntayned, and like to be more, to move the Kynges Highnes that all gentlemen of that countrey repairing to any Inne of Courte their to study the lawes may be admytted as other the King’s subjects be.’

This reasonable proposition was favourably received, and the King replied ‘that he had taken order with his

¹ Rot. Parl. IV. 13, *in dorso*.

Council,' and 'that all our subgiettes of that our realme resorting hither to study our lawes shal be as free in all the Innes of Courte as our subgiettes of this realme be.'¹ Lincoln's Inn submitted, and set apart a chamber called the 'Dove house' (rather a sentimental name for an Inn of Court, where few of those very *innocent* creatures could find rest), for Irish students, thence called the Irishman's chamber. So we may conclude Master Thomas Cusack consorted with the doves in the Irishman's chamber.

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The King
corrects
this.
Dove
house.

In early times, I doubt not, this compulsory attendance in London was productive of great advantage to the Irish law students, however questionable the necessity for its observance now. The order and method observed in the course of procedure at Westminster Hall, the decorum and respect prevalent in the Courts, the able men who presided on the Bench and practised at the Bar, must have impressed itself strongly on the minds of the students, and given an influence to their conduct, a decorous tone and demeanour greatly beneficial during their career at the Irish Bar. Now that all these can be acquired in the precincts of our Four Courts, Dublin, I may be permitted to question the necessity for our students continuing to resort to English Inns. Our laws differ in some respects from the English, and therefore the time of Irish law students would, I humbly conceive, be more usefully employed in the chambers of an Irish barrister than an English one. The attention of the Irish Benchers has already been usefully and beneficially engaged in providing lectures, and it is likely many important changes with respect to the status of the Bar will result from adopting the English practice of electing Benchers now sought.

Law
students in
London.

Advan-
tages now
in Dublin.

Law was always justly regarded as a noble science, and with young Cusack the prompting of ambition, and a desire for distinction, induced him cheerfully to undergo the probationary training requisite for the call to the Bar. In the retirement in which his youth was passed, he was enabled to cultivate his mind and lay in a store of varied

Learning
of Thomas
Cusack.

¹ State Papers, III. 417, 430.

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knowledge, the foundation of his future eminence. From the hands of the pious teachers of Duleek he received the writings of philosophers whose fame is fresh after three thousand years, and by their aid he mastered those priceless volumes which have come down through ages of antiquity, at once a memorial of the taste and industry of the laborious monks who preserved and perpetuated them. Imbued with skill in logic and scholastic reasoning, he was enabled readily to apprehend the abstract reasons on which all laws are founded, and soon the works of Justinian, Bracton, and Fleta, the Tenures of Littleton, the Treatises of Glanville, and other legal authors then extant were familiar to him. The young student reached London and entered his name at one of the English Inns, and pursued his studies with diligence and care. There was much in the appearance of London in 1515 to interest the youth. Henry VIII. was then not above thirty years old, and extremely fond of all kinds of manly sports which were carried on in public. He was very expert in arms; and the stately jousts, the frequent hunting parties, his playing at tennis, his processions to and from Richmond and Greenwich, attended with the utmost magnificence, must have dazzled and delighted the beholders. These were the palmy days of the renowned Wolsey, Cardinal Archbishop of York, Lord Chancellor of England, whose retinue was little inferior to that of his Royal master. Cloth of gold, palfreys with housings embroidered in gold, triumphal cars with musicians and singers, lutes, harps, and viols, giants, dwarfs, and jesters, were continually met. But, intent on acquiring the requisite learning of his profession, Mr. Cusack was far better employed in mastering the Entries and Year books, and copying the precedents then in use, than attending many shows or parties of pleasure. Having kept the requisite terms previous to his admission to the Bar, he was duly admitted, and soon acquired the character of an able lawyer.

Court of
Henry
VIII.Wolsey
Chancellor
of Eng-
land.Cusack
called to
the Bar.Rebellion
of Silken
Thomas.

For some time after Mr. Cusack commenced to practise, the rebellion of Silken Thomas, as Lord Offaly was popu-

larly called, prevented the due administration of the law. During this distracting event, men's minds could hardly have much thought of the peaceful pursuits of industry, and the professional reputation of Mr. Cusack must have been well established, for immediately on the promotion of Gerald Aylmer, who was appointed Chief Baron from the Bench of the Common Pleas, Mr. Cusack was appointed Justice in his room, and at this time also filled the office of Chancellor of the Exchequer. He was regarded as a truly practical man, carefully discriminating between truth and falsehood, and for his minutely examining every fact, as if upon it the whole case depended. He was also remarkable, in times of great danger, for his prudence and moderation on the judicial bench, and held in great respect. What contributed much to his popularity was, because he so respected the customs, the feelings, nay, the very prejudices and traditions of the Irish, and, however they dissented from his views or judgments, they always respected his motives, and gave him credit for uprightness in the discharge of his duties. In private life he was essentially domestic, with simple tastes and inexpensive habits. When he sought out a wife to share his advancing fortunes, he married a kinswoman, Joan Hussey. Her family was of Anglo-Norman descent, came over with Strongbow, and formed an alliance with the founder of the Ormond race; Sir Hugh Hussey having married the sister of Theobald Fitz Walter, in the reign of Henry II. When Meath became a palatinate, Peers were named, having a local rank, and, in 1347, Sir John Hussey, Knight, Baron of Galtrim, was summoned to Parliament. In the reign of Henry VIII., an Act of Parliament in 1534 recognised Nicholas Hussey as Baron of Galtrim,¹ and from this marriage of Thomas Cusack with Joan Hussey was issue a son named Robert. The marriage, however, was not a happy one, causes arose which darkened the sunshine of the young couple and

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XV.Cusack a
Judge of
the Com-
mon Pleas,
and Chan-
cellor of
the Ex-
chequer.His ju-
dicial
character.Private
life.First mar-
riage.The family
of Hussey.

¹ Patent, May 24, 1535.

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extinguished the fire of love. A separation was resolved upon, and they were divorced.

Divorced.

Second
wife.

Family of
D'Arcy.

Undeterred by the ill-success of his first marital venture, Thomas Cusack resolved to try a second, and sought to strengthen his family interest by a prudent connection. He did not delay in fixing his choice, and married Maud, daughter of Sir George D'Arcy, Treasurer of Ireland. Sir Bernard Burke, in his 'Landed Gentry,' considers this family as the most eminent established in England by the Norman Conquest, and amongst the peerages of past times. As proof, this eminent genealogist reckons two baronies in abeyance, one forfeited barony, and three extinct baronies, all of which had been conferred upon the family of D'Arcy besides the earldom of Holderness. This house had large possessions in this country, especially in Westmeath, where the D'Arcys of Plattin have been recognised for centuries as among the most respected families in that county.

This union appears to have been productive of that domestic felicity which the previous one failed to afford. One son and seven daughters were the issue, and the state of distress to which the country was reduced at this period does not appear to have cast its shadow upon the mansion of Cussington. While Dublin was beset by hostile bands, so closely that the inhabitants were afraid to venture without the walls on the southern side, no apprehension was felt by the Judge or his family. We learn how towns and villages were glad to purchase that security which the State was unable to grant by money paid to some Irish chieftain, and many a haughty English noble was forced to procure peace for himself and his dependants by yielding *black mail* to the Celts of the district. The terror of the English was aroused, and kept excited by the marauding Irish, who used to descend from the fastnesses by night, and, crossing the Liffey close to the capital, would traverse Fingal, then the granary of Dublin, making prey of flocks and herds, and escape ere the return of day.

Matters of State, and especially the state of the Church,

soon brought Judge Cusack prominently before the public. Efforts were made to induce the Irish nobility to give up the Brehon laws, which diverted the order of succession by Tanisty, and accept in lieu thereof hereditary peerages. From a mistaken policy, the benefits of English law were for centuries denied to the *mere* Irish, and when the mischief of this was proved, a change was desired, and the Privy Council and Courts of Law took cognisance and entertained most willingly the suits of all Irish who submitted their differences to the decision of the Judges. These learned functionaries were clearly of opinion that Ireland could never be under due government until the bonds which linked the aborigines to the customs of their fore-fathers and the regulations of the Brehon code were severed, and in their place were substituted the wise maxims and sound rules of the common laws of England. The zeal and energy which Judge Cusack displayed in these reforms procured him the honour of knighthood, and, in the Parliament of 1541, Sir Thomas Cusack was elected Speaker.

Cusack
elected
Speaker.

The esteem in which he was held at this time appears in a letter, dated May 17, 1540, written by Sir William Brereton, Lord Justice of Ireland, to the Earl of Essex.¹

‘And to certifie your good Lordship, as I am bounden, of all tho that doo the Kynges Highnes good servis, emongs whom, at this tyme, I do commend to your good Lordship Sir Thomas Cusack, for faithfull, diligent, and paynfull service, as well in Councill gyving, as other the Kyng’s affairs, to his powre and farr above, since my commynge here and afore (as it is said), is no less worthy than to have your lordship’s thankes, for I doe not perceyve him to doo it for any profit, but only for the Kynges honor, and your lordships.’

Letter
from Sir
William
Brereton
to Earl
of Essex.

In such times there was, I fear, very little morality among public men, and assuredly in Ireland it could not be found. Handed over, like India in later days, to the care of Viceroys, whose government was, at most, of brief

¹ State Papers, Hen. VIII., vol. ii. p. 205.

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XV.Lord
Grey's
Parlia-
ment.Letter
from Arch-
bishop to
Henry
VIII.

duration, there was but one idea pervading the minds of those in power, viz., to make the most of it, and accordingly each chief Governor and his needy followers seized with avidity every thing that fell in their way. The law for dissolving monasteries was attended with disastrous results, not alone to the pious inmates, but to the poor, for whose benefit and relief the resources of the monks were so lavishly expended. When brought into operation in Ireland, it afforded a fine opportunity for providing means to satiate the avarice of hungry Peers and courtiers, and Ireland, having been prepared for obedience by a martial circuit of the Lord Deputy, Lord Leonard Grey, a Parliament met in 1537, which evinced great alacrity in obeying the will of Henry VIII. It declared the King supreme head of the Church of Ireland, the provisions made in England for payment of first fruits to the King were adopted, and he was invested, not only with the first fruits of bishoprics, and other secular promotions in the Church of Ireland, but with those of religious houses. The authority of the Bishop of Rome was solemnly renounced, the oath of supremacy enjoined under pain of high treason. Thirteen religious establishments were suppressed, and their possessions vested in the Crown. Hitherto the style of the Sovereign was Lord of Ireland, but, at a meeting of the Privy Council, it was thought advisable to recommend his Majesty to alter the title, and, accordingly, Browne, then Archbishop of Dublin, addressed a letter recommending 'that if it may so stand with your Majesty's pleasure, that it were good that your Majesty were from henceforth called King of Ireland; whereunto we think that in effect all the nobility and other inhabitants of this land, would agree, and we think that they of the Irishry would more gladly obey your Highness by the name of King of this your land, than by the name of Lord thereof; having had heretofore a foolish opinion among them, that the Bishop of Rome should be King of the same. For extirpating whereof, we think it meet under your Highness's pardon, that by authority of Parliament

it should be ordained, that your Majesty, your heirs and successors, should be named Kings of this land, which, nevertheless, we remit to your excellent wisdom.'¹

A Parliament was accordingly summoned in 1541, when Sir Thomas Cusack was chosen Speaker of the Commons. He was likewise a Member of the Privy Council of Ireland. I cannot say for what place he sat in Parliament, although I have carefully examined the Lists as given in the 'Liber Munerum Publicorum Hiberniæ.' In a later year (1559) he was returned a Member for Athenry. Great ceremonies attended the opening of this Parliament. The Houses met on Corpus Christi Thursday. After hearing Mass, the Lord Deputy was escorted by the Lord Chancellor, the Archbishop, the Bishops, and Members of the Privy Council, the Judges and a numerous retinue of guards. In the procession rode the Earls of Ormond and Desmond, the Lords Barry, Roche, Fitz Maurice, and Bermingham; and the despatch of the Lord Deputy (St. Leger) to the King, says: 'All were present at the said Mass, the most present in their robes, rode in procession in such sort, as the like thereof hath not been seen here of many years. And the Friday following being assembled at the place of Parliament accustomed, the Commons presented unto us their Speaker, one Sir Thomas Cusack, a man that right painfully hath served your Majesty at all times, who made a right solemn proposition, in giving such laud and praise to your Majesty, as justly and most worthily your Majesty hath merited, as well for the extirpation of the usurped power of the Bishop of Rome out of this your realm, who had, of many years, been a great robber and destroyer of the same, as also for your innumerable benefits showed unto your realms and subjects of the same, which proposition was right well and prudently answered by your highness's Chancellor here.'² As there were several Irish Lords present, MacGillaPhadrig, chieftain of Ossory; the O'Bryans, the MacCrathy Mor, the O'Reilly, and others,

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Cusack
again
Speaker.

Letter
from Lord
Deputy
to the
King.

¹ State Papers, Temp. Hen. VIII.

² Sir John Alan was Chancellor.

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to whom the learned speeches of Sir Thomas Cusack and the Chancellor were unintelligible, because *they knew no English*, the Lord Deputy informs us, ‘both the effect of the proposition and answer was briefly and prudently declared in the Irish tongue to the said Lords by the mouth of the Earl of Ormonde, greatly to their contentation.’

Lords and
Commons
in separate
houses.

The matter of title having been formally announced, the Speaker and Members of the Commons withdrew to their own House,¹ when the Lords proceeded to pass the Bill, changing the King’s title, which was read in English and then in Irish. It was unanimously agreed to, and being read three times in the Lords was committed to the Commons, who were equally ready to agree to its passing. Next day, Saturday, it was again read in ‘plain’² Parliament, before the Lords and Commons, before it received the assent of the Lord Deputy. There were great public rejoicings on this occasion in Dublin, ‘bonfires, wyne sette in the streetis, greate feastinges in their howses, with a goodly sort of gunnes.’ Theatricals, too, increased the merriment. ‘The Nine worthies—viz., Hector, Alexander the Great, Julius Cæsar, Joshua, David, Judas Mac-cabæus, King Arthur, Charlemagne, and Godfrey of Bouillon.’ Tournaments, the favourite pastime of knights and nobles, gave opportunities for expert tilters to win favour in the eyes of the ladies by their martial deeds. Sir James Ware sums up the whole in these words: ‘Epulas, comedas, et certamina ludicra quæ sequebantur, quid attinet dicere.’

Monas-
teries sup-
pressed.

This Parliament formally suppressed the monasteries and other religious houses in Ireland, but this Act was only obeyed in the Pale, for there alone the laws of England obtained, and the English rulers of the land could enforce submission. The abbeys and monastic institutions in other parts of the kingdom remained in the hands of the religious communities until the Plantation of Ulster, in the reign of King James I. When Sir Thomas

¹ The houses were separate at this period.² Probably for *plain, full*.

Cusack found the Order for the Dissolution of Monasteries placed several eligible estates at the disposal of the Irish Government, he was desirous to profit by the opportunity, and take his share of the good things. He had only to give a hint, and his wishes were readily complied with. The Lord Deputy and Council were anxious that such services as Sir Thomas rendered should be rewarded, and they addressed the King, in his behalf, as follows:—‘ That it wolde please your Majestie, at this our humble ptycyon, to be so good and gracious Lord unto Sir Thomas Cusack, as, having respect to his honest service donne to your Majestie, both in this Parlament and otherwise, as well as to give hym your most gracious thanks for the same, as otherwise to consider hym as to your Highness shall be thought convenyent, whereby he shall be encouraged to proceed in your Grace’s servis as he is bounden to do. His especyall suite to your Majestie is, to have the prefermente of the Nonnery of Lismolyn, which he hath nowe in farm of your Highnes, being nigh to his house very commodious for him, yf it might stande with your Highnes pleasure to prefer hym to the same by purchase or otherwise.’¹ This request was promptly granted, and Sir Thomas Cusack had a grant of the Abbey of Lismullen, founded in 1240 by Alicia, sister of Richard Bishop of Meath, but neither antiquity, or purity, or learning, or charity, availed against the policy of Henry and his Ministers.

Wherever the houses of religion were suppressed a sad change took place in the neighbourhood. The poor had no refuge; the wearied in body, or in mind, were deprived of the pious retreats, where in meditation and prayer, their spirits could find rest. The devoted inmates were added to the number of alms-seekers, and those who had been the liberal dispensers of charity were doomed to solicit food for themselves. When the monasteries were suppressed, no means likely to succeed were taken to supply religious teaching instead of that heretofore given.

CHAP.
XV.Cusack
takes
care
of himself.Applica-
tion in
his behalf.Request
granted.Effects of
the disso-
lution.

¹ State Papers, Temp. Hen. VIII., p. 315.

CHAP. XV. Sir Thomas Cusack pointed out strongly the necessity which existed for the maintenance of divine service, without which no King could expect good subjects. The Parliament, whereof he was Speaker, made provision, indeed, for the erection of vicarages into parish churches, and endowing them; but the Act proved abortive, because the Irish language was almost wholly used by the people, and there was no use in nominating English-speaking divines, while no Irish clergyman would own the King's supremacy in spiritual affairs.

Cusack's devise.

In the year 1541, Sir Thomas addressed a long letter to the Council of England. He called it 'Cusack's Devise to your Most Noble and Honorable Wisedomes, concerning such giftes as the King's Maiestie shall make to Irishmen of the lande and countrie which now they have, and to give them names of honour, and upon what conditions they shall have the same, and their rights to have the land by gift.'

Wise advice.

He advises that the natives should be treated as subjects, not enemies—the law of primogeniture established instead of gavelkind—that in place of the Brehon code, whereby the inferior in rank could not recover in a suit against his Lord, the people should be accepted as liege subjects and entitled to the benefit of the King's laws.¹

Master of the Rolls.

On the promotion of Sir JOHN ALAN to the office of Lord Chancellor, Sir Thomas Cusack was appointed Master of the Rolls.² He had custody of all records of the Court of Chancery, with power to hear suits and occasionally execute special Commissions.

Surrender of St. Patrick's Cathedral.

Sir Thomas Cusack continued to fill the office of Master of the Rolls in Ireland to the death of Henry VIII. Previous to his decease, that monarch resolved that St. Patrick's Cathedral should share the fate of so many kindred edifices, and he sent letters patent to Sir Anthony St. Leger, Lord Deputy; Sir Richard Reade, Lord Chancellor, and others, empowering them to receive, in the

¹ State Papers, Hen. VIII., vol. iii. p. 326.

² Patent dated June 10, 1542, 34 Hen. VIII.

Chapter-house of St. Patrick's, from the Dean and Chapter, a surrender of the Church, and all its possessions.¹ This was promptly yielded; but Dean Bassenet took special care, before complying, to make good terms for himself, so as not to retire empty-handed. He managed to secure for his own benefit, and that of members of his family, a considerable portion of the possessions of the deanery. One of the grants made to his brother, falling, subsequently, into the hands of Dean Swift, his sarcastic successor in the deanery recorded on the back of the deed, his indignation at the perfidious conduct of his predecessor. 'This Bassenet was related to the scoundrel of the same name, who surrendered the Deanery to that Beast, Henry the VIII.'²

CHAP.
XV.

Dean
Swift's en-
dowment.

Sir Anthony St. Leger, who, for some time, filled the arduous office of Lord Deputy of Ireland, was a man of great administrative capacity, and seems to have well understood the attachment the people of Ireland bore to the Catholic faith. He changed, altogether, the line of conduct pursued by the English rulers to the native chiefs, and which tended far more to alienate and disgust than conciliate and please. So kindred a spirit soon formed a very great friendship with Sir Thomas Cusack.

The high opinion which the Irish Chieftains entertained of the Lord Deputy St. Leger, may be seen from the following letter written by Sir Thomas Cusack to Sir Thomas Paget, Chief Secretary of State:³—

'Right honorable and my singular good Master, after all due and most hartie commendacions, with lyk thankes for your honorable goodnes and gentlenes to me extended, as yet undeserved, which I wyll have in remembrance during my lyffe. Pleased the same to be advertysed that, wheare I have wryten to my Lord Chauncelor of the State and quyetnes of this Realme, which thankes be to God, is now verified in such sorte, as men wyll purchase

Cusack's
letter to
Paget.

¹ Hist. of St. Patrick's Cathedral by Mason, p. 150.

² Mason's Hist. of St. Patrick's Cathedral, p. 150, *in note*.

³ State Papers, Hen. VIII., Ireland, vol. iii. p. 563.

CHAP.
XV.Deputy's
departure.Results of
kindness.

small homstie that wyll aver the contrary. For at my Lord Deputies departing herefrom, he sent as well for the Erles of Desmounde, Tomounde, and Tyrone, the Lord of Upper Osserie, Oconnor, Omolmoy, the Kerroules and MacGoghecan, with dyverse other Iryshe Lordes, as also for all the Englyshe Lordes of this Realme; and they assembling togyther in Dublin, I coulde not perceive non of bettre conformitie than those Iryshe lordes, promissing to helpe to see the country deffended as nead shall requyre from tyme to tyme, to the uttermost of ther powers, till the retourne of my Lord Deputie; weeping and lamenting his departing, giving his Lordship comendacion and prayer, in thanking God of his commyng emonges them; ascrybing, that if such trouth and gentylnes had been shewed to them by the governours and rulers that were before his tyme, they had been refourmed as well then as nowe: and being so miche in dyspayre of his retourne they lament therefor his departing; the more, because they found him so good and just in his proceedinges, who never toke of them nothing, but would give apparaile, and plate to them, and to his power woulde not suffre wrong to be doun to them, whereby they fealet both welth and greyetnes. So that, thankes be to God, those, which woulde not be brought undre subjeccion with 10 thousande men, cometh to Dublin with a lettre, which is no smale comforte to every faithfull hart to see. Fynally, this lande was never by our remembraunce, in so good case, be nothing lyke, for honest obeydience; and after that cometh the proffyte to the Kinge's Majestie, if their contynew in the quyetnes they be in at this instant. Therefore it were great pittie, that the thing so well framed shoulde tourne to any other kynde, by th occasion of sedicious practis; and that his honorable proceedinges should be dysparaged, through the yll reaporte of malycious hartes, which wyll not tell trouth, although they knowyt to be trew, as well as I. I assure your good Mastership, that ther never lefte Ireland one that hath the prayers of pore people more than he hath; trusting

to God that he shall prosper accordingly. Pyttie it were, that the occacioners of our inquyetnes here shoulde not be known, that such punyshment mought ensue, as others should therby feare to attempte the lyke; for tyll then men wyll be more busy than neadeth. Thus I am bold to encomber you with my rude lettre, which I trust you will accept and take in good parte. So beseeching Almightye God long to preserve your honourable Good Mastership in long lyffe with all fellicite.

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XV.

‘ Your Right Honorable good Masterships

‘ to command,

(Signed) ‘ THOMAS CUSAKE.

‘ To the Right Honorable and his Singular good Master
Sir Thomas Patched, Knight, Chief Secretary unto
the King’s Most Excellent Majestie.

‘ From Dublin the 28th of March, Anno 1545.’

This letter was evidently intended to refute the reports of negligence and misconduct, and hostility to the Reformation, then made to the Government of England against St. Leger, by Browne, Archbishop of Dublin. It would seem from the letter that the author of these reports was not then known, but they were soon found to have originated with Browne, who preferred a variety of charges against him.¹

Object of
the letter.

¹ *Vide ante*, p. 205.

CHAPTER XVI.

LIFE OF LORD CHANCELLOR CUSACK—CONCLUDED.

CHAP.
XVI.Accession
of King
Edward
VI.Commission
re-
spec-
ting
St. Pa-
trick's
Cathedral.

ON the accession of King Edward VI., Sir THOMAS CUSACK, Knight, Master of the Rolls, was one of the Commissioners named in the King's letters patent, to dispose of St. Patrick's Cathedral and its appendages. The other Commissioners were the Lord Deputy, Lord Chancellor, Sir John Alan, the Vice-treasurer, the Chief Justice of the Common Pleas, and the Chief Baron. Among various matters to be enquired into was the following:—‘And, as touchinge the dysposition of the said Cathedrall Church of Saint Patrykes, oure minde and pleasure ys, that our said Commissioners shall appoint and sorte one part, or portion thereof, for the ministracion of our lawes, and other our Courtes, then to be holden and kepte as to there discretyons shall be thought meate and sufficient for the same.’

Courts
held in St.
Patrick's.

This was resolved upon, and, in 1548,¹ the Judges sat in the Cathedral during the sittings in and out of Term, and the Courts were held therein until its restoration.

Sir Thomas
Cusack,
Lord
Chancel-
lor, 1551.

On the removal of Lord Chancellor Reade, King Edward VI. by warrant under the Privy Seal, dated at Windsor, August 5, 1551, ‘having been well informed of the wisdom, learning, good experience, and grave behaviour of Sir Thomas Cusack, appointed him Lord Chancellor.’ Sir Thomas had, on a former occasion of the absence of the Lord Chancellor, been intrusted with the custody of the Great Seal.²

Insuffi-
cient
salary.

The stipend of the Chancellor was insufficient to maintain the dignity of so high and important an official.

¹ Dyer's Report.² Windsor, August 5, 1551.

In looking over the patents of several, I find various sums allowed in addition. The ordinary mode of payment was to grant a certain sum, usually 100 marks sterling out of the customs of boroughs, Dublin, Drogheda, and Dundalk; and if this was too inconsiderable, then a larger grant was given. Thus Sir John Alan, besides 100 marks, received 6s. 8d. sterling a day; and when Sir Thomas Cusack was appointed Chancellor, 'in consideration' of his diligent, faithful, and chargeable service, his Majesty added 100*l.* a-year to his present allowance, to begin at Christmas next, and directed the Treasurer, by letters dated at Westminster, November 23, 1551, to pay the same.

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About this time there was an effort made to place the Irish records in security. The state in which they were kept and the necessity for their removal, is fully shown in the order made by the Lord Deputy, Sir James Crofte, and Council of Ireland, on November 11, 1551:—

Custody
of the
Records.Order for
safe keep-
ing of
public
records,
A.D. 1551.

'Whereas on being informed by the Lord Chancellor (Cusack) and Master of the Rolls (P. Barnewall) that there is no place certain or convenient for the safe guard of the King's Majesty's records and muniments of his Highnesses' Chancery of this his Grace's realm of Ireland other than the Tower within his Majesty's Castle of Dublin, which is both ruinous and far distant from the late Cathedral Church of St. Patrick's, where his Highness's Courts be now kept, which is not a place meet for the daily resort of his Majesty's officers, and others his Grace's subjects, having charge or occasion to have the order, sight or copies of any of them as shall appertain, through which the losses of the said records and muniments, besides other inconveniences, have and may well ensue; and for that the late library of the said late Cathedral Church is a meet and sure place for the safe-guard and custody of said records and muniments near unto said Courts, whereunto his Majesty's said officers having charge, and others his Highness's subjects, upon honest occasion, may, from time to time, conveniently

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XVI.

resort; we order and appoint that the said late library be the place for the safe keeping of such of the said records and muniments as shall be kept out of the said tower of his Highness's said Castle of Dublin; and all such of the said records and muniments as shall be out of the said tower shall be put and safely kept in the said library; and that you, the Clerk of the Hanaper of his Majesty's Chancery for the time being, shall provide and foresee that presses, or stages, chests, windows, doors, locks, and other necessaries shall be provided, furnished, and made, as well in and for said library as the said tower of the Castle, for the safegard, sure keeping, and good ordering of the said records and muniments from time to time. And this our order, with your account of your disbursements about the same, upon your account of revenues and profits coming and growing of his Highness's said Hanaper, to be made before the Barons of his Grace's Exchequer of this said realm, shall be your sufficient warrant and discharge in that behalf.'

Cusack
Lord
Justice.

By letter dated from Westminster, November 7, 1552, King Edward VI. appointed Lord Chancellor Cusack and Sir Gerald Aylmer, Chief Justice of the King's Bench, to supply and jointly occupy the place of Lord Justice in the Government of Ireland during the absence of Sir James Crofte, the Lord Deputy.¹ They were elected accordingly, and letters patent made out, sealed, and delivered to them under the Great Seal, and then took the oath prescribed.²

¹ Pat. Roll in Canc. Hib. Temp. Edw. VI.

² Oath of office taken by Lord Justice: 'Ye shall swere that ye shall faithfullie and trulie to your power serve our Soverayne Lord the King in the rowlme and authoritie of Lord Justice and Governor of this his Grace's realm, Ireland, and in especiallie ye shall maintain and defende the lawes of God and the Christian faith; and as farre as the King's laws do or shall permit the usages, rites, ceremonies, and libertieis of hoolie Church; and ye shall likewise to your power not oonelie keepe the King's peas among his peple, but also meyntane the King's officers and ministers in the execution and admynistration of justice, and defende the King's garysons, castels, dominions, people, and subjects of the same realme, and repress the King's rebells and enemyes. Ye shall not consent to the damage or disherison of the King, his heirs, ne successors; neyther ye shall not suffre the rightes of the crown to be destroyed

Matters pending for decision before the Chancellor were not always questions of law or equity. In 1553 a suit was depending, wherein Shane O'Ferrall, Faghery McTeige O'Ferrall, and Hubert McTerras, contended for the captainship and rule of the country of Mysoreone; which having been submitted to the decision of Thomas Cusack, Chancellor, and Gerald Aylmer, Chief Justice, they decided

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Captain-
ship of a
country.

in any waie, but ye shall let it to your power; and if ye can not let the same, ye shall certifie the King clearly and expressedlie thereof; further ye shall give your true and faithful counsall for the King's profite and the King's counsail ye shall conceale and keepe, and all other things for the preservation of this his realm of Ireland, and the pease among his people, and execution of justice according to his Grace's laws, usages and customs of the realm, ye shall perform and do to your power. So God you helpe, all Saints and Holy Evangelistes.'

We have the amount paid to Lords Justices from the following record: 1552.

' Whereas upon the departure of Sir James Crofte, Lord Deputy, into England, it pleased our Lord, Edward VI., by His Grace's letters patent, to appoint Sir Thomas Cusack, Chancellor, and Sir Gerald Aylmer, Chief Justice of His Grace's Bench, to be Lords Justices, and to have the charge and government of the realm; by virtue whereof, and upon the election of the Lords and nobility, according to ancient custom, they were sworn the 4th of December in the sixth year of Edward VI., wherein they continued to the 19th of November last, being the first year of our most gracious Sovereign Lady Mary the First; and forasmuch as our Sovereign Lady tendering their travail and service, and minding to recompense these charges sustained in that behalf, by Her Grace's letters, hither directed, dated 14th December last, willed us to appoint such allowance to the same Justices as we should think meet; whereupon, pondering as well Her Majesty's pleasure as the travail, care, and pains of the said Sir Thomas Cusack, besides the extreme charges sustained by him, for which, as appeared by divers evident circumstances, he is much indebted to sundry persons, who lent him several sums of money for his furniture, in the said office; and as it also appeared unto us that others here, in the same room and office, heretofore, were allowed one hundred marks monthly, their burthen not being then so onerous and chargeable; it is condescended and agreed by us, the Lord Deputy and Council, that the same Sir Thomas should have, by way of reward and in recompense towards his charges, which were little in comparison of his other pains, the sum of 200*l.* sterling; and for that also it appeareth by declaration of such money as Sir Thomas in the said office laid out in rewards and recompense of service done by divers gentlemen and captains of this country, and sithens his departure that he has defrayed to His Majesty's use the sum of 1,076*l.*—grant him the same.'

By this, the money was divided, 200*l.* for Mr. Justice Aylmer, and 1,076*l.* for Sir Thomas Cusack, Lord Chancellor.¹

Salary of
Lord
Justice,
100 marks
monthly.

¹ Pat. Rot. in Canc. Hib. 1 Mary.

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that Shane O'Ferrall, as well on account of his dignity as by the ancient custom of the country, should be captain and governor, together with 'Callaghe and Clomalle,' by the name of O'Ferrall Buy, in as ample a manner as his ancestors enjoyed that dignity. This decision was confirmed by the Lord Deputy and Council.¹

Decrees
in Chan-
cery, temp.
Edw. VI.

During the short reign of Edward VI. there are not above fifty-two decisions of the Court of Chancery enrolled, but more might have been made. The suits then instituted were chiefly for obtaining quiet possession of land and premises, bills to perpetuate testimony, and for account.

Mary
Queen.

Amnesty.

On the coronation of Queen Mary, the following clause was inserted in her Majesty's instructions for Ireland : — ' And whereas we have given and openly published the day of our coronation to our good and loving subjects of England our free and general pardon, our pleasure is that you, our Deputy and Council, shall give in our name the like general pardon to all our loving subjects of Ireland, to the intent that they whom we account our natural subjects, no less than our subjects of England, may taste also of our clemency, and thereby be the more moved to acknowledge their duties towards us, which pardon we will shall be free and take effect without payment of any money.²

' Dated at Westminster, October 4th, 1553.'

St. Leger
again
Deputy.

On Sunday, November 10, in the first year of Queen Mary, Sir Anthony St. Leger, once more Lord Deputy of Ireland, took the oath of office in the Cathedral of Holy Trinity, before Sir Thomas Cusack, Lord Chancellor, who swore him duly to execute the office of Deputy, so long as he should continue therein, by letters patent of the Queen; which letters were then, according to custom, read aloud and delivered to the Lord Deputy.³ We may be well assured he was welcome to the Chancellor and the Irish nation, who remembered the kind rule of the Viceroy during his former residence in the country.

¹ Pat. Roll in Canc. Hib. Temp. 1 Mary 1553.

² Ibid.

³ Ibid.

In 1553, King Philip and Queen Mary addressed a letter to the Lord Deputy, Sir Thomas Cusack, Chancellor, and the Council of Ireland, desiring them 'for the glory of God and advancement of his service and true worde, to review and restore the Cathedral Church and Chapter of St. Patrick to its pristine state. To make out letters patent of presentation to the several persons named in their Majesties warrant.'

During the reign of Philip and Mary, I find about a hundred decrees of the Court of Chancery in Ireland enrolled. The subject-matter of these suits presents nothing very peculiar, being for rights withheld or wrongs committed, and redress was sought in the Court of Equity in preference to the Courts of Common Law. Bills praying account:—for injunctions; to perpetuate testimony; complaints for breaches of trust; and similar causes of action, form the basis for the Chancellor's decrees.

I find from a patent under the Privy Seal, dated at Westminster, December 14, 1553, in the reign of Queen Mary, that Sir Thomas Cusack again filled the office of Lord Justice. His conduct must have been discreet to please all parties; and, as evidence of the tact with which he trimmed his sails in the tempestuous sea that surged in his time, I give the following tribute from Queen Mary, dated Westminster, December 14, 1553:—

'We have received advertisement and good report from our Deputy, and others in our Council of that realm, of your good behaviour, industry, and diligent service exhibited unto us, and our dear brother King Edward VI. (whose soul God pardon), as well in your own office as supplying the room of our Deputy during the absence of the same, for which we yield unto you our right hearty thanks; and like as we have noted sufficient of your good perseveration and continuance, so shall ye find us, your good Lady, mindful and inclined to regard you and your said service, to your comfort; letting you wit, that at this present, by our letters addressed to our Lord Deputy, we

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XVI.

St. Pa-
trick.

Decrees in
Chancery,
Ireland,
enrolled.
Temp.
Phil. and
Mary.

Letter
from
Queen
Mary to
the Lord
Chancellor.

¹ Pat. Roll in Cane. Hib. Temp. 1 Mary.

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have given order that, by his discretion and the rest, ye shall be reasonably considered for your entertainment in respect of your travel and charge sustained in our service, not doubting but our said Deputy will ensure our pleasure therein as appertaineth.'

Cusack
prevents
reversal
of grants.

It was very well for those who profited by the dissolution of monasteries, and held grants of the Church lands from Henry VIII. and his son, that Sir Thomas Cusack was Lord Chancellor. Had that office been filled by one less capable of maintaining firmness amid the mutations of religions, politics, and laws, these grants would have been of little avail to secure these properties. But throughout the reign of Queen Mary there was no attempt made to disturb the existing state of things. Even the grant of the Dominican monastery, to be used as the King's Inns, was respected, though the friars of this order were then, as now, in the highest repute for their piety and learning. The country was progressing in general prosperity. Professional talent was in great demand. Commercial enterprise and energy were developed, and manufacturing skill employed. The attention of various eminent men was directed to remove the disabilities which pressed upon the natives of the country, for as yet the greater part of Ireland was denied the advantages of the English Constitution. Patrick Finglass, who was Chief Baron of the Exchequer in the time of Henry VIII., and, in 1534, made Chief Justice of the King's Bench, wrote a treatise on the causes of the calamities of Ireland, which he called 'A Breviate of the Getting of Ireland, and of the Decay of the same.' Sir William D'Arcy also, a man of wisdom and virtue, who did great service to the English interest in Ireland, wrote on the same subject; and Sir Thomas Cusack addressed to the Duke of Northumberland a long epistle on the state of this kingdom, dated May 8, 1552.

Condition
of the
colony.

Chief
Baron
Finglass.

In Holinshed's Chronicle is a graphic account of the civic festivities which were kept up in Dublin in the year 1554. It affords so complete a picture of the habits of

the age, that I give the account as in the old chronicle. It certainly speaks well of the flourishing condition of the Mayor, who could afford to keep this state so expensively : — ‘The hospitalitie of the Maior,¹ and the Sheriffes for the year being, is so large and bountifull, that soothlie (London fore priced) very few such officers under the crowne of Englande keepe so great a port (state), none, I am sure, greater. The maior over the number of officers that take their dailie repast at his table, keepeth for his year in manor open house. And albeit, in terme time, his house is frequented as well of the nobilitie as of other potentates of great calling, yet his ordinarie is so good, that a verie few set feasts are provided for them. They

CHAP.
XVI.Dublin,
A.D. 1554.

¹ In the year 1554 Patrick Sarsfield was Mayor. Of Norman extraction originally, the Sarsfield, or Scarcefield, as the name is sometimes written, were among the early English colonists in Ireland, and soon rose to the highest civic dignities, filling the office of Mayor of Dublin in the years 1531, 1554, and 1566. The renowned Sarsfield, Earl of Lucan, was descended from this stock, and the liberal manner in which his namesake filled the civic chair may be judged from the dialogue given in the work from which I have already quoted.

Hospitality of Patrick Sarsfield, Mayor of Dublin.

One of his friends towards the close of his year of office asking what he thought all his expenses for that year amounted to, received the following reply.

‘Trulie James,’ quoth Maister Scarsfield, ‘I take between me and God, when I entered into mine office, the last saint Hierome his day (which is the morrow of Michaelmasse, on which daie the Maior taketh his oth before the Chiefe baron, at the excheker, within the Castell of Dublin), I had three barnes well stored and thwackt with corne, and I assured my selfe, that anie one of these three had been sufficient to have stored mine house with bread, ale, and beere for this yeare. And now, God and good companie be thanked, I stand in doubt whether I shall rub out my maioraltie with my third barne, which is well nigh with my yeare ended. And yet nothing smiteth me so much at the heart, as that the knot of good fellowes that you see here (he ment the serjeants and officers) are readie to fit from me and make their next yeares abode with the next maior. And certas I am so much wedded to good fellowship, as if I could mainteine mine house to my contentation with defraieng of five hundred pounds yearelle; I would make humble sute to the citizens, to be their officer these three years to come.’—Holinshed’s Chronicle, vol. vi. p. 100.

His cellar was as much resorted to as his barns. During his years he spent ‘twentie tuns of claret wine, over and above white wine, sacke, malmseie, muscadell,’ &c. In these times, so different from ours, hospitality in Dublin was on a generous scale. The habits of the people, especially their hours of rising, were very dissimilar. Men and women! rose at five o’clock! breakfasted when they rose, and dined at ten or twelve, supped at six and went to rest at nine.

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that spend least in their maioraltie (as those of credit, yea and such as bare the office have informed me), make an ordinarie account of five hundred pounds for their viand and diet that yeare, which is no small summe to be bestowed in housekeeping, namlie when wittles are so good, cheape, and the presents of friends diverse and sundrie.'

Hospital-
ity of
the Lord
Chancellor.

A jovial
Lord
Mayor

The Chancellor was not behind the fashion of the age, his buttery and cellars were well stocked, and his good cheer allured many guests. The worthy Mayor, Sarsfield, was once expostulated with by some close-fisted miser, for his 'lavishing and outrageous expenses,' as they termed it. He replied, 'Tush, my maisters, take not the matter so hot: whoso commeth to my table, and hath no need of my meat, I know he cometh for the good will he beareth me; and therefore I am beholding to thanke him for his companie: if he resort for need, how maie I bestow my goods better than in relieving the poor? If you had perceived me so far behind hand as that I had been like to have brought haddocke to paddocke, I would patientlie permit you both largelie to controll me and friendlie to reprove me. But so long as I cut so large things of my owne leather, as that I am not yet come to my buckle, and during the time I keepe myself so farre afloate as that I have as much water as my ship draweth, I prae pardon to be liberal in spending, sith God of his goodnesse is gratioust in sending.'¹

I find mention made of Robert and Walter Cusack as keeping great state; 'but indeed,' adds the old writer, 'the greater part of the citie is generallie addicted to such ordinarie and standing houses, as it would make a man muse which waie they are able to beare it out, but onlie by the goodnesse of God, which is the upholder and furtherer of hospitalitie.' The zeal and care which the citizens of Dublin now manifest for the poor, is the continuation of the ancient alms hourly extended to the distressed. On each Wednesday and Friday there were 'fair-

Charity of
the citi-
zens.

¹ Holinshed's Chronicle, vol. vi.

like markets' held ; shambles well stored with meat, and markets with corn. The poor debtors and other prisoners were kept in Newgate and the Castle ; these were constantly relieved by the citizens, who also attended to the sick in the hospitals and beggars in the streets. Any document which throws light upon the manners and customs of this remote age is deserving of being preserved and made known.

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I have now traced the life of Sir Thomas Cusack through the various stages of his career, from his first judicial appointment of Justice of the Court of Common Pleas, then Master of the Rolls, to that of Lord Chancellor, and also Lord Justice ; in all which high stations he was one on whom the English Government could always rely. The Great Seal was held by Sir William Fitz William, as Lord Keeper, for a few months, in 1555, when it was delivered to Archbishop Curwen, who held it sometimes by patent as Lord Keeper, and sometimes as Chancellor, for twelve years.¹

Although Sir Thomas Cusack does not appear to have taken a very active part in the Irish Government after he ceased to be Chancellor, we find his name occasionally in commissions for gaol delivery in various parts of Ireland ;² also for the government of the English Pale (Dublin, Meath, Kildare, Louth and West Meath), during the absence of the Lord-Lieutenant. That he possessed the confidence of Queen Elizabeth's Government, and was also trusted by the Irish, may be inferred from letters patent for the restitution of Shane O'Neil, son of Con, late Earl of Tyrone, to her Majesty's favour, stating this was at the intercession of Sir Thomas Cusack.³

Commission for
gaol de-
livery.

Shane
O'Neil.

In the treaty between the Earl of Desmond and Queen Elizabeth, the Earl was 'bound to repair to Dublin in the company of Sir Thomas Cusack, and there remain until he shall have license to depart for his own country.'

Treaty
with the
Earl of
Desmond.

¹ In the order of his highest judicial appointment Sir Thomas Cusack much resembled the late distinguished Irish Lord Chancellor, Francis Blackburne, obit. 1866.

² Pat. Roll in Cane. Hib. 2 Eliz.

³ 3rd Eliz. Id. 6 Eliz.

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Some of the conditions and stipulations of this treaty display the state of the country at this time, A.D. 1568.¹

Death of
Ex-Chan-
cellor
Cusack.

Sir Thomas did not meddle much in the troubled times which Ireland witnessed during the reign of Queen Elizabeth, and was gratified at seeing his place on the judicial bench taken by his son, Robert Cusack, Chief Baron of the Exchequer. He died at his country-seat, in the county of Meath, in 1571, and was buried at Tryvett, or Trevett, near Dunshaughlin, where in ancient times there was a monastery and a considerable town, now dwindled to a small hamlet.

NOTE.

The name of Cusack has since been an honoured one in the legal records of Ireland. In the year 1671 Adam Cusack was Chief Justice of Connaught, and afterwards a Judge of the Common Pleas. Sir Michael Cusack-Smith, Master of the Rolls in Ireland from 1801 to 1806. His son, Sir William Cusack Smith, Bart., was Baron of the Exchequer, whose son, the late Right Hon. Thomas Berry Cusack Smith, likewise filled the high judicial office of Master of the Rolls

^a That all Irish laws called Brehon laws should be abolished within those shires; and the Earl and the Lords should be bound in penalties for the performance of this condition. And as no small enormities occur by the continual recourse of idle men of lewd demeanor called rhymers, bards, and dice players, called carroghes,* who under pretence of their travail, bring privy intelligence between the malefactors inhabiting these shires, to the great destruction of all true subjects, care should be taken that none of these sects, nor other evil persons, be suffered to travel within these rules, and that proclamation be made, that whosoever should maintain any such idle men within these territories, should pay such fines as the President or Commissioners should think fit. And as those rhymers, by their ditties and rhymes, made for divers Lords and gentlemen in Ireland, in commendation and high praise of extorsion, rebellion, rape, rapine and other injustice, encourage these Lords rather to follow those vices than to abandon them, and for the making of such rhymes rewards are given by the gentlemen; for the abolition of so heinous an abuse, order should be taken with the said Earl, the Lords and gentlemen, that henceforth they do not give any manner of reward for any such lewd rhymes, under pain of forfeiting double the sum they should so pay, and that the rhymers should be fined according to the discretion of the Commissioners.^b

^a There is amongst them Carroghes that play cards all the year round and make it their only occupation.—Camp. Ir. 1809.

^b Pat. Roll in Cane. Hib. 6 Eliz.

for twenty years, from 1846 to 1866. A talented and justly respected member of the House of Cusack, Ralph Smith Cusack, Esq., Barrister, is the courteous and attentive Clerk of the Crown and Hanaper in Ireland. Another member of the family of Cusack must not be forgotten, Mary Frances Cusack, a nun in the St. Clare Convent, Kenmare; author of several excellent works, one of them the 'Illustrated History of Ireland.' In a highly complimentary poem addressed to this lady by D. F. MacCarthy, our most popular poet, he thus refers to this valuable work :—

Here is Clontarf's 'ware trampled' strand;
 Here the Milesian chieftains' land;
 Here flashes out O'Neill's red Hand;
 Here fought the famed Red Hugh;
 Here, loving man and fearing God,
 In green Tyrone O'Hagan trod,
 Like him who now doth bear the rod,¹
 The upright and the true.

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¹ The Chancellor's mace, now borne before the Right Hon. LORD O'HAGAN, Lord Chancellor of Ireland. His talented sister Mary is Superioress of the St. Clare Convent, Kenmare, in which Miss Cusack is one of the nuns.

CHAPTER XVII.

LIFE OF LORD CHANCELLOR ARCHBISHOP CURWEN.

CHAP.
XVII.Family of
Curwen, or
Curran.Resolves
to get on.

THE family whence HUGH CURWEN, Archbishop of Dublin, and Lord Chancellor of Ireland, descended, is of considerable antiquity in Westmoreland. The name was written Culwen by Sir Christopher de Culwen, High Sheriff of Cumberland, ancestor of the subject of this memoir ; the name was also often written Corran and Curran, and the famous Irish advocate, John Philpot Curran, Master of the Rolls in Ireland in 1806, was of the Westmoreland race, a member of which settled in Newmarket, county of Cork. Hugh was born in 1505, and early intended for an ecclesiastical career. He received an excellent education, and determined that his worldly prosperity should not be obstructed by any scruples of conscience, a principle, or rather a want of principle, which regulated his future life. Acting on the example of the Vicar of Bray, when he was ordained, in the days of bluff Harry VIII., the ambitious youth resolved to wear his creed according to the rather varying fashions of the ruling powers. His character was well defined by Strype, who called him ‘a complier in all reigns.’¹

He gave a very notable proof of his zeal, if not his discretion, by taking the side of Henry VIII. when the royal polygamist, tired of Catherine of Aragon, desired to wed her Maid of Honour—Anna Boleyn. The amorous King must have been deeply incensed, when, on attending mass at Greenwich, in 1533, the preacher, a Franciscan friar named Peto, very devout, but not very wise, fulminated from the pulpit the words of the prophet—‘ Even where

Peto's
sermon at
Greenwich
in A.D.
1533.¹ Lib. Mun. Hib. part i. p. 37.

the dogs licked the blood of Naboth, even there shall the dogs lick thy blood, also, O King,' and, in the progress of his discourse, had the temerity to say, 'I am that Micheas, whom thou wilt hate because I must tell thee truly that this marriage is unlawful, and I know I shall eat the bread of affliction, and drink the water of sorrow, yet because the Lord hath put it in my mouth I must speak it.'

This bold discourse could not be allowed to pass unnoticed. In order to get him out of the way of the enraged King, Peto was ordered to attend a provincial council at Canterbury, and the courtiers of Henry resolved to select a more discreet preacher for the Chapel Royal in future. The choice fell upon the Reverend Hugh Curwen, who at once perceived this was a meet opportunity for ingratiating himself in the good opinion of the King. He determined to use strong language in reference to the audacious Peto. He was the more inclined to do this, because he was aware the superior of the Franciscans, supposing a storm was about to burst on the courageous brother, had sent him out of the way. Accordingly, the following Sunday, Curwen mounted the pulpit, and did not hesitate in the King's presence to use the language addressed to criminals of the deepest dye; when referring to the reverend denoucer of the monarch, he called Peto a 'slanderer, a rebel, and a traitor,' adding 'that no subject should speak so audaciously to princes.' Having commended the King's marriage, he concluded, 'I speak to thee Peto, who makest thyself Micheas, that thou mayst speak evil of Kings, but now thou art not to be found, having fled for fear and shame, as being unable to answer my arguments.'

The preacher paused triumphant. He had not left the pulpit before a full-toned voice from the rood-loft came loud and resonant over the heads of the astonished congregation, and in those words sounded a brave defiance to the boasting orator. 'Good Sir, you know that Father Peto, as he was commanded, is now gone to a provincial council holden at Canterbury, and has not fled for fear of

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Peto out
of the
King's
way.

Curwen
preaches
before the
King.

Attack on
the absent
Peto.

Unex-
pected
reply.

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you, for to-morrow he will return again. In the meantime I am here as another Micheas, and will lay down my life to prove all these things true, which he hath taught out of the Holy Scriptures ; and to this combat I challenge thee, before God and all equal judges, even thee Curwen, I say, who art one of the four hundred prophets, unto whom the spirit of lying is entered, and seekest by adultery to establish succession, betraying the King into endless perdition ; more for thine own vain glory and hope of promotion than for the discharge of thy clogged conscience and the King's salvation.' The King in a rage commanded the speaker to be silent. He proved to be another friar, named Elstow, and he, with Peto, were arrested. When brought before the Privy Council, the Earl of Essex told them 'their conduct was so outrageous they deserved to be put in a sack, and thrown into the Thames.' Whereupon Elstow gravely replied—' Threaten these things to rich and dainty folk, who are clothed in purple, fare deliciously, and have their chief hope in this world, for we esteem them not, but are joyful that in the discharge of our duties, we are driven hence ; and with thanks to God, we know that the way to heaven is as short by water as by land, and therefore we care not which way we go.'¹

The King
commands
silence.The friars
before the
Council.Supports
the Royal
Supre-
macy.Dean of
Hereford.Changes
with the
Sovereign.

But Curwen went further than defying Peto. He preached publicly in favour of the Royal Supremacy.² He was made a Doctor of Divinity and soon obtained ecclesiastical preferment. We find the Rev. Hugh Curwen was Dean of Hereford in 1541. On the accession of Queen Mary a new light broke upon the pliable conscience of the Dean of Hereford. He was no longer the champion of Royal Supremacy, but so orthodox a Papist, that the easily deluded Queen nominated him one of her chaplains. His zeal and devotion for the religion to which Mary clung

¹ Ellis's Original Letters Illustrative of English History, ii. 41, 42. Edin. Review, January 1825. History of Archbishops of Dublin by Rev. Dr. Moran, pp. 43-5.

² Strype's Life of Parker, vol. i. p. 508.

deserved the first mitre that appeared worth his acceptance, and accordingly he was appointed Archbishop of Dublin. The letter, under the privy signet to the Dean and Chapter of Christ Church, for his election, dated July 18, in the first and second year of Queen Mary's reign, is preserved in the Chapter House, with her autograph at the top—'Mary y^e Queen.' He was not consecrated, however, until September 8, following. This ceremony took place in St. Paul's Cathedral, London, and four days afterwards Curwen received from the Queen the appointment of Lord Chancellor of Ireland.

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XVII.Arch-
bishop of
Dublin.Lord
Chan-
cellor of
Ireland.

Hugh Corren, so written in his patent, was appointed Patent. Lord Chancellor of Ireland, September 13, 1554, 2nd and 3rd Philip and Mary. To hold during pleasure, and receive such fees as his two immediate predecessors, John Allen and Richard Rede, received, payable out of the great and small customs of tonnage and poundage in the ports of Dublin, Drogheda and Dundalk; or if the customs be not sufficient, out of the other revenues in the hands of the Treasurer, with power to keep the Great Seal of the office of Chancellor, and of sealing therewith all writs of common justice and other charters, writs, commissions, letters, offices, tenements or hereditaments. He was then sworn into office.¹

In the Queen's letter to the Dean and Chapter of Christ

The
Queen's
letter.Oath of
office of
Lord
Chan-
cellor.

¹ The oath taken by the Chancellor before the Lord Deputy and Council of Ireland for the due execution of his office was this: 'Ye shall swear, that you shall be faithfull and true Counsaillour to our most deare Sovereign Lorde the Kinge, and our most deare Sovereign Lady the Queene's Majesty, their heirs and successors, Kings of England, France, and Ireland, and shall faithfully, truly, and uprightly demeane yourself in the room of Lord Chancellor of the realm of Ireland, as well towards their Majestys, their heirs and successors, as towards their Highnesses subjects and all others that shall have to do before you; you shall maintain, execute, and keep the laws, ordinances, and rights of our Mother, the Holy Church, in all their points and articles, and the laws ordinances and most godly statutes of this realme, agreeable and consonant to the same; you shall administer justice indifferently to all persons, refusing no man thereof; you shall also do all other things that appertaineth to the office of Lord Chancellor and Counsaillour to the uppermost of your power; soe helpe you God, all Saints, and by this book.'—Pat. Rot. in Cane. Hib. Temp. Philip and Mary.

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Church she requests them to receive the Archbishop honourably and with due respect, as he was repairing to reside on the cure of his bishopric, which now, of long time, hath been destitute of a Catholic bishop, as also to occupy the office of our High Chancellor of that our realm.¹ A notice of his first sermon in Dublin is most complimentary—‘The Archbishop of Dublin did preach his first sermon that he read in this land the Sunday after St. Andrew, in Christ Church, Dublin, and did set forth the Word of God in his sermon sincerely and after such a sort, that those men, who be learned and unlearned, both do give him as high praise as I have heard given to any one man, so that those men who favour the word of God are very glad of him, and prayeth for him so to continue.’²

In the month of November 1556, the Queen wrote to the Lord Deputy, Thomas Earl of Sussex, commanding him to repair to England ‘to open to her Majesty the state of Ireland, and receive her resolution and instructions concerning its weal and commodity; for the transaction of his own affairs and setting things in good order.’ During the absence of the Earl of Sussex, the Chancellor and Sir Henry Sydney, Vice Treasurer, were appointed Lords Justices. The Viceroy sailed on the night of Sunday, December 4, and the Lords Justices were sworn in next day in the Cathedral of St. Patrick before the Privy Council, where they took the oath ‘to maintain and defend the laws of God and the Christian faith, and, as far as their Majesties’ laws do and shall permit it, the usages, rites, ceremonies and liberties of holie Church.’³

The Chancellor Lord Justice.

Curwen restores emblems of Catholic piety.

Firmly resolved to ingratiate himself yet more with the ruling powers, in 1556 the zealous Chancellor Archbishop of Dublin set to work to restore the ancient ritual in all its splendour. One of his first acts was to replace in Christ Church the marble statue of our Saviour, which the

¹ Harleian MSS. vol. v.² D’Alton’s Archbishops of Dublin, p. 237.³ Pat. Rot. in Canc. Hib. Temp. Philip and Mary.

Protestant Prelate, Dr. Browne, caused to be removed. He also convened a provincial synod in Dublin, which was necessary in consequence of the alterations of Divine worship, made by his predecessor.¹ At this synod many laws were enacted, regarding the administration of the Sacraments of the Catholic Church, and the restoration of Catholic ceremonies, which were generally abolished by Archbishop Browne. A very notable occasion for showing the Queen the judicious selection she had made of her Chancellor occurred this year at the inauguration of the new Viceroy, which, to the great annoyance of those who retained the Protestant creed, was solemnised with great splendour. In the annals we read how the Earl of Sussex was appointed Viceroy, and proceeded to St. Patrick's Cathedral in great state, accompanied by the high officials and Privy Council. He was received at the principal entrance by the Chancellor Archbishop under a canopy of state. The Prelate and attendant priests were clad in rich vestments. The Viceroy, kneeling, had incense, and having kissed the sacred symbol of redemption, received the benediction from the Archbishop. He then proceeded to his place at the high altar, while the *Te Deum* was sung by the choir. Having made an offering of a piece of gold, his Excellency dined with the Archbishop.² The new Lord Deputy had strict injunction to annul the anti-Catholic and penal Acts of the preceding reign, and the first article required of him and the council, was, 'by their example, and all good means possible, to advance the honour of God, and the Catholic faith.' Indeed the previous Viceroy, Sir Anthony St. Leger, was supposed to have incurred the Queen's severe displeasure, by some satirical verses he composed, attacking the church of which she was a member.³

The Irish Parliament assembled in Dublin on June 1,

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XVII.

Earl of
Sussex
Viceroy.

Received
by the
Chancellor
Arch-
bishop.

Directed
to restore
the Ca-
tholic
religion.

Supposed
cause of
St. Leger's
removal.

Irish Par-
liament.

¹ Loftier's MS. March Library.

² Mason's St. Patrick's Cathedral, p. 163.

³ It is curious to find he incurred the censure of Henry VIII. for indifference to the progress of the Protestant Church in Ireland and of Queen Mary for ridiculing the Catholic Faith.

CHAP.
XVII.Acts
against
the Papacy
repealed.Important
Proviso
respecting
Church
lands.Toleration
of Irish
Roman
Catholics.

1557, received with great ceremony the Papal Bull of Paul IV., transmitted through Cardinal Pole, which was read by Archbishop Curwen. This Parliament repealed all the statutes passed since the twentieth year of King Henry VIII. against the See Apostolical of Rome, and declared that the title of Supreme Head of the Church was not justly attributable to any King or civil governor. An Act passed, which regulated ecclesiastical matters and restored the rectories, glebe lands, and other spiritual emoluments which had been seized by the Crown, with a very important proviso, 'That this Act should not extend to, or affect in any way, such grants of ecclesiastical property as had been made by the Crown to private individuals, or to any public or civil corporation.'

In a short time the ancient Catholic faith was fully restored in Ireland; and Catholic historians can proudly record, without one single case of persecution against those who professed Protestant doctrines. Nay, such was the state of toleration in Ireland that many English families, friends to the Reformation, fled thither for protection.¹

Leland, in his 'History of Ireland,' relates an amusing story, showing that the persecution of the Protestants, which was confined to England, very nearly extended to Ireland. The anecdote is, that Cole, Dean of St. Paul's, was sent into Ireland armed with a commission to take proceedings against heretics with vigour. While halting at Chester, he showed this Commission at the inn, in the presence of the landlady. She had some Protestant relatives, who had fled to Ireland for refuge, as many others had done. Resolved to baulk the design, she managed to abstract the Commission from the box in which it was placed, substituting a pack of cards in its stead. The unconscious messenger sailed for the verdant shore, appeared before the Privy Council, and stated the Queen's views. When he produced his box, and the pack of cards

¹ Leland's Hist. of Ireland, book iii. chap. viii. Hist. of Civil Wars in Ireland, vol. i. p. 169. 1st Lib. Mun. Hib. Reign of Queen Mary, p. 38. Rev. Dr. Moran's Hist. of Archbishops of Dublin, p. 55.

fluttered on the table, instead of the Royal Commission; we can imagine the blank dismay of the Council, and the horror of the Dean. Queen Mary died before any steps were taken to renew the Commission.

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A descendant of Sir Thomas More had a lease of land in Louth. Among the Letters Patent of Queen Mary, is one to the Lord Deputy and Council, requiring them to make to Thomas Eiston and Alice his wife, late wife of Germayne Gardiner, put to death, and daughter of Elizabeth Dauntesy, one of the daughters of Sir Thomas More, also put to death, a lease under seal, in reversion, of the farms of Ratoath and Haggorde, in the County of Louth, for the term of forty years after existing lease.¹

Queen Mary died November 17, 1558, leaving a memory of which her conduct at the commencement of her reign did not give such sad promise. No Irish Parliament met for many years: none at all during the reign of King Edward VI. But the important enactment, that, in every prosecution for high treason, there must be two credible witnesses to every overt act, was held to be requisite in Ireland.² At length, after an interval of thirteen years, Queen Mary summoned a Parliament in Ireland, in which the anti-Popery statutes of her father, Henry VIII. were repealed, and the Catholic religion restored; but these laws were themselves repealed in the ensuing reign.

Death of
Queen
Mary.

The condition of Ireland at the time of the accession of Queen Elizabeth was extremely critical. Not only were the native Irish more averse than ever to English government, but most of the Anglo-Norman families, who, by intermarriages and other ties, were allied to the Irish, had actually become *Hibernes ipse Hiberniones*, and appeared disposed to prefer foreign rather than English rule. The policy pursued during the reign of Queen Elizabeth was to counteract this state of things; and, the immense tracts of land, which constant insurrection

Ireland
at the
accession
of Queen
Elizabeth.

Her policy.

¹ Pat. Roll in Cane. Hib. 2 and 3 Philip and Mary.

² The English Stats. are 1 Edw. VI. c. 12; 5 & 6 Edw. VI. c. 11.

CHAP.
XVII.Prohibi-
tion
against
marrying
Irishmen.Family
feuds.Litigation
prevalent.The Queen
reports her
accession.Sidney
Lord
Justice
Curwen
Lord
Keeper.
Re-ap-
pointed
Chan-
cellor.

placed in her hands, by the attainder and forfeiture of the possessors, enabled her to introduce crowds of English-born subjects into Ireland. She not only required them to be English by birth, but clauses were introduced into their patents that, 'in case daughters succeeded to their grants, such daughters should be bestowed in marriage to noe persons but to such only as be of English birth for two descents, successively to followe.'¹ It also happened that considerable division prevailed among the Irish chiefs, the junior, and often illegitimate, branches, of a family consenting to do homage to the Queen, and, in return, receiving support and recognition from the Queen's Viceroy, and thus virtually ousting the elected chief. Instead of a Government of peace, such as might have been hoped for, war and martial law extensively prevailed. The Courts of Law were, however, kept in full operation. The boundaries of Church lands, claims in respect thereto, conflicting demands respecting Abbey lands, confiscations of estates for rebellion, afforded extensive fields for litigation. The contradictory claims set up by rival grantees, by rival patentees—some claiming existing, others reversionary, interests—afforded ample pretexts for appeals to Courts of Law and the Chancery. The time of Judges and practitioners was fully employed in professional duties, arranging the conflicting rights of complaining natives, rapacious courtiers, and intriguing adventurers.

Queen Elizabeth commenced her reign November 17, 1558. She wrote to the Lord Deputy and Council of Ireland, notifying the death of Queen Mary on that day, and commanding proclamation of her accession to the throne to be published in all convenient places. The Council immediately proceeded to elect Sir Henry Sidney Lord Justice, and HUGH CURWEN, Archbishop of Dublin, was appointed Keeper of the Great Seal.² His reappointment as Chancellor was not made out until the following June,³ when he received a new Patent, with a new Great

¹ Rot. Mun. 24° 25° 26° Eliz. ² Pat. Rot. on Cane. Hib. 1 Eliz. ³ Ibid.

Seal.¹ We do not find that the perquisite of the old Great Seal, usually granted to the Chancellor on a change of Seals, was formally bestowed upon him, but, from his reputation for appropriating to his own use and benefit everything of value which came in his way, I may assume that he kept this to himself.

CHAP.
XVII.A new
Great Seal.

The accession of Queen Elizabeth must have been a trying time for State officials. The temper of that potentate was known to be hasty; and any attempt to trifle with, or disobey her commands, was sure to call down the royal wrath. The Chancellor-Archbishop of Dublin was a wily politician, and accommodated himself so well to the changes of the times, that he held his place, and soon became as great in favour with the Protestant Elizabeth as he had hitherto been with the Catholic Mary. He lost no time in effacing all the symbols of Catholicity with which he had recently adorned the cathedral and parish churches. Statues, pious pictures, and beautiful frescoes were removed, and orders given to paint the walls of St. Patrick's; and, instead of pictures, to place passages of Scripture thereon. Like orders were issued respecting alterations in Christ Church.

The Chan-
cellor in
favour.Catholic
symbols
removed.

Although the Chancellor manifested such zeal in the cause of the Reformation, he was regarded with suspicion by his brethren; and this caused injurious reports of him to reach the Queen. Aware of this, he was desirous of leaving Ireland; and, to attain this end, in 1564, he wrote to Queen Elizabeth:—

Curwen
disliked by
the Irish
bishops.Desires to
leave
Ireland.

‘It maie please yo^r most excellent maiestie, wheare information hath been given to yo^r maiestie, that by reason of my great age I am insufficient, and not legable to serve yo^r Grace in th’ office of Chancillo^r of this Realm, and to accomplish the mynisterie belonging to Th’ archbusshop heare, I acknowledge that having served yo^r highnes, and the Queene your sister, eight years and a half in th’ office and function of Chauncello^r of this

Letter to
the Queen,
A.D. 1564.

¹ Borlase Reduction of Ireland. 121.

CHAP.
XVII.Solicts an
English
Seeor a
pension.

Realm, and Archbusshop of Dublin, by travaylles in the office gotten in my later yeares, sickness, and not age, that maketh me the lesse hable to continewe my servise in theis places as my hart desireth, I am bould humblie to beseech yo^r maiestie to disburden me of theis charges, and to bestowe upon me some busshoppricke in England at yo^r pleas^r, to spend the rest of my life in the svice of God, and of yo^r maiestie, in that vocaōñ, in continuance of the good name which I trust hitherto I haue had and deserved, wheare I trust I shuld recouar better health than I haue had in this Realm.

‘And yf yo^r maiestie can not pñtlie bestowe upon me a busshopprick, then to graunt to me by pencōn, or outhers psciall promotion, to the yearelie value of my busshoppricke heare, of which value this bearer, being my naturall brother, can informe yo^r grace, thereby to kepe my ould servauntes, which long haue taken paines w^t me, and continewe som part of the hospitalitie which hitherto I haue ever kept, sith I had ecclesiasticall promotion, untill yt shall please yo^r highnes to bestowe some souch busshoppricke upon me.

‘And yf yo^r maiestie meaneth not to bestow such a lyving upon me, than I humblie besech youe to dispose Th’ office of Chauncello^r upon such parson as yo^r maiestie shall thinke meete, and to pñmitt me to continewe Archbushopp here, and to giue me some pençon or outhers leyving in comendā to suplie the small value of my said archbusshopprick, w^{ch} was well helped by the ffee of the office of Chauncello^r; in respect of the true service that I haue w^tout corruption don unto yo^r maiestie and the Quene yo^r sister in thois offices; that thereby the evill disposed have no cause to conceave or report that for my evill desertes, or lack of due service in them, I was thought worthy to lose them; and especiallie Th’ archbusshopprick, the leaving whereof, and not receiving a nother, shall ingender sclaunder against me, that I was deprived yf obteigning any of theis my pore suites at yo^r maiestie’s

handes, I shall dispose my-sealf to serve God and yo^r maiestie to the uttermost of my power and calling.

‘ I feare much, lest yo^r hignes upon sinister information have conceaveed some misliking towardes me and my doings, which greveth me more than any worldlee matter, and therefore I humblie besech yo^r maiestie to will my Lord Lievetenant, or the Commissioners, to inquier and certifie my doings to yo^r maiestie, wherein I trust yo^r maiestie shall understand my dutie, doinge with out corruption, and my travayll in furthuring all yo^r proceedings belonging to my function, and so referring my sealf holie, and my cause to yo^r highnes onlie, alwaies contented to be ordred as shall please the same, I shall daylie praie to God to send yo^r grace a long and prosperous raigne over us, a good health, with victorie against all yo^r enemyiss.

‘ Yor Grac’ is most humble subject,

‘ Daylie orator and pore chapplen,

‘ H. DIBLEN, Canc.¹

‘ At Dublin the third of April 1564.

‘ To the Quene’s most excellent maiestie
his most graciouse souvaigne ladie.’

At the same period his Grace wrote to Sir William Cecil, then principal Secretary of State, the following equally characteristic letter :²—

‘ My humble comendacoñs p̄mised unto yo^r right honor-
able M^rshipp, wheare my especiall good Lord, the Lord
Lieutenant of this Realm, hath shewed me in the Quene’s
behaulfe her maiestie’s pleas^r to be, that I should be per-
swaded in respect of myne age to sue to be exonerated
both of my Archbusshopprick and Th’office of Chauncellor,
and to take a pencoñ of Four hundred poundes. It maie
please yo^r hono^r to understand I have more neade of an
augmentacoñ to my poor lyviñg, than to have it di-
nished; ffor sith I have served here in this Realm, I have
yearelie spend the hole revenues of my Archbusshopprick

Letter to
Cecil.

Dissa-
tisfied
with his
pension.

Nothing
saved.

¹ Original Letters, edited by Shirley, p. 142.

² Id. p. 145.

CHAP.
XVII.

Fears the
Queen is
prejudiced
against
him.

Refers to
the Viceroy
for a cha-
racter.

CHAP.
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His age.

Prefers a
bishoprick.

and the fee of Chauncello^r everie penye, I have served her highnes and her Noble Sister in this Realm the space of eight yeares and a haulf, and have done them true service, I trust, and the same without anie kind of corruption, howe so ever I have bene reported; and have stand in the futherance of her Maiestie's proceedings to the best of my power, so that they have taken the better successe by my means, as my singular good L. the Lord Lieutenant knoweth; and touching the giving up of these two romes, al though I am not of so great age as to be utterlie unable to serve in them, and so gladly would, being three years under the age of threescore; yet yf her pleas^r so be, I will gladdie give them up unto her handes. In respect whereof my most humble suite unto her Maistee shalbe, that in the lew of them yt maie please the same to give me such a beesshopprick in England, as shall stand wt her pleass^r; ffor in leving this that I have and not receeving another I shall run into the sclauder that I am put from this, and deprived for evill deserving, which I take God to record I have not deserved but in both thoffices rather as I thinke, thankes, than to lose anything; and wheare [as I feare] I have been untrulie reported to her highnes, most humblie I beeseech yo^r hono^r to move her said highnes to will my L.-Lievetenant or her highnes' Commissioners to inquire of my doings in both the said offices, and citifee her grace the truth, ffor nothing so much greveth me as to thinke yt her said grace shall have an evill opinion in me; yf yt be not her maestie's pleas^r to give me a beesshopprick in England, then I must humblie beeseech her maistie to pmit me to kepe this still that I have, and in respect of *th'exilitie* thereof [which was increased and helped by the fee of Chancellor] to give me some pencoñ or anuïtee in augmentaeoñ thereof such as her grace shall think meete in respect of the poor service I have done: Unless it maie please her highnes of her most gracious bountie to give me a pencoñ or other promotion in England, of as good yearlie value as my said Archbushoppricke is, otherwise I shall be constrainyd to put awaie

many of my pore servaundes which be Englishmen, and have taken paynes wt me here all the tyme of my being in Ireland ; and for that sith the first time I had any lyving I have alwaie kept pore hospitallite which I would be loth to give up in my latter daies ; I humblie besech her maistie yf I shalbe put to a pencoñ, that the same or a part thereof, maie stand in ecclesiastical fruietes, by reason whereof I maie continuue pore hospitallitie ; Thus I am bound to writ my whole mynd unto y^r hono^r offering mysealff in all things to be ordred as shalbe her highnes most gracieuse pleass^r. Most humble beesechyng yo^r good M^rshipp, not to be offended with this my rude bouldness thus trubbling yo^r hono^r, having nothing deserved toward youe, but being utterlie unaquaynted, and anmited thereunto by the comfortable report made by all men of yo^r goodness in fauorable hearing of pore suters. Beseeching the same to proffer this my simple sute with my fers to her maistie, procuring the knowledge of her pleass^r thereon to this bearer, which is my naturall brother, whom yt maie please youe to permit to repayer unto your hono^r from tyme to tyme to know yo^r pleass^r herein. Thus I humblie take my leave of yo^r hono^r, wishing the same good health, long lif, with increase of much hono^r. At Dublin the third of Aprill 1564.

‘ yor dailie orator, alwais to command,
‘ H. DUBLIN, Canc.

‘ To the right honourable Sir William Cicill,
Knight principall Secretarie to the
Quenes Maiestie.’

The state of Ireland was much disturbed at this time. The Viceroy, Earl of Sussex, led an army from Dublin, and routed and defeated the formidable Irish chieftain, Shane O’Niell, near Dundalk, with considerable loss. A Proclamation issued against priests and friars assembling in Dublin, and a tax was levied upon any inhabitants who absented themselves from Protestant houses of worship.

Meanwhile the position of the Lord Chancellor grew

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more unpleasant every day. Even in his Courts he observed a growing want of respect paid to him; and, though from his position in Church and State a high official, he was seldom consulted upon any subject.

Another letter from the Chancellor is given in Mr. Shirley's interesting collection.¹ It is addressed to William Herbert, Earl of Pembroke, one of the Lords of the Privy Council, to whom Queen Elizabeth particularly intrusted the settlement of the Reformation. The occasion for addressing Lord Pembroke appears in this letter.

Letter to
the Earl of
Pembroke.Opposes a
University
in Ireland.

' After my humble comendacons, wheare in my last lres I was suter to yo^r hono^r to be good unto Sainct Patrickes Church here, which church yt is reported that the Quene's Maiestie myndeth to alter and to convert the prebendes thereof unto a Univsitle, my pore request at this tyme is, to desier yo^r good L. yf ye here any such thinge toward, to helpe to staie the same Church in the state that nowe yt is in, the notion of the chaunge cometh of certen greedye ps ons which hathe repaired out of this Realm to the Court, w^{ch} loke more for theyre owne gaine than any profitte to the country, thincking at the dissolving thereof to have the prebendes to fearme at a low prye as divers of them have made theyre boast here. My veraie good L. in this Realm of Irland a Univsitle wilbe but of small profytt, for here be no promotions to bestowe upon clerkes when they be learned, which is requisitt of necessitie, and an Univesitie heare weare unprofitable, for the Irish enemyes, under collo^r of study, would send their ffrendes hither, who would learne the secretts of the country and advtyse them thereof, so that the Irish rebels should by them knowe the prvitie of the English pale, whereof we are lyke to growe noe small hurt, and besides theis the prebends beproch churches, having cure of soules, and therefore needfull to be bestowed upon auncient meñ, and not amongst young scollars, the hole proffet of them

¹ Original Letters, edited by P. E. Shirley, Esq., a valuable work which entitles the respected editor to gratitude from historians of the Reformation.

standeth in Tythes, w^tout any temporal land, w^{ch} nowe corne being extremelie deare, be some what worth, but yf the price of corne shal fall, they would be of to smale a value to healp any number of scollars, moreoū the chaung of the Church would be a destruction to Th'archbussopp heare, who hath not one benefice w^tin the English pale to bestowe upon learned men, but onlie the Prebendes of St. Patricke's which be in number not past xxijij., so that yf they be altered, he shall not be hable to have one learned man to preach Gode's word in his diocess, and wheare the Deanry being nowe void, and they prohibited to elect them a newe Deane according to the ordnance of that Church. It maie please yo^r hono^r to be a sutor for them to her highnes to license them to proceed to the election of a newe Deane, whearein ye shall doe a meritorrouse deade to godward, and bind the pore company of that Church, and we and all o^r successors to be yo^r dailie orators. Thus being bould to trouble yo^r hono^r w^t my pore suites I humblie take my leave comitting yo^r good L. to almighty God, who long preserve the same in health, with increase of much hono^r.

‘at Dublin the xxist of June, 1564,

‘H. DIBLIN, Canc.

‘To the righte honorable and my veriae
good L. Therle of Pembrouke geue thies.’

In June 1566, Nicholas Narbon was appointed to the office of Ulster, principal Herald and King-of-Arms, with a fee of forty marks a year.¹

¹ Contemporaneously with his appointment a warrant issued to ‘all noble estates and gentlemen,’ as well spiritual as temporal, authorising the King-of-Arms to make a visitation, and oversee their arms, as was customary in England; and that they should show their devices, conusances, and arms to him, and if any default should be found in their coats-of-arms, standards, banners, pennons, or counsances, or other tokens of nobility and honour, contrary to the laudable usage of the realm, they should be reformed in such like manner as to the law of arms appertain; to correct all false armoury, and all such as, without his consent, presume to bear arms or sign of nobility, except they be honourably descended of blood and name from their ancestors; to register the descents and marriages of all nobles and gentlemen of the realm, and to inform

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The
prebends.

Ulster
King-of-
arms.

King-of-
Arms make
visitation.

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Curwen
not a
shining
light.

Charges.

The Chancellor devoted himself with great assiduity to the functions of his office, and as he had studied the Roman civil law with great industry, made a very able Equity Judge. From the estimation in which he was held by his brother prelates, we may easily perceive he was not regarded as a shining light of the Reformation. Dr. Loftus, Archbishop of Armagh, writing to the Primate of all England, his Grace of Canterbury, reminded him how his Grace had promised to aid him (Loftus) in all Church causes in Ireland, especially for removing the Archbishop of Dublin. That he was a known enemy, labouring under open crimes, which, states Loftus, in somewhat enigmatical earnestness, ‘though he shamed not to do, I am almost ashamed to mention.’¹

The consciousness that he was not trusted, as indeed from the repeated proofs he had given of the unsettled notions he entertained of religion, is not surprising, embittered his life. He repeatedly cited proofs of his regard for the Crown, ‘that no man of his coat² had been more devoted,’ as indeed from the repeated number of times he had turned it to suit the change of the Court creed, we may readily admit. He must have rejoiced when the Queen signified her intention of granting his prayer of removing him from Dublin to Oxford, in the year 1566, and at that time his health was very indifferent, as appears from his letter to Sir William Cecil:—

A second
letter to
Cecil.

‘ My humble comendačens premised unto yo^r right hono^rable mastershippe, whear yt hath pleased the quene’s most excellent Maiestie to signyffie her most graciouse pleasure hyther to bestowe upon me the bushoppericke of Oxford, considering my sicknes and inhabillitee heare longer to srve, I am so bould upon yo^r said good m^rshippe,

all those who, at funerals, wear gowns, hoods, or tippets, above their estate or degree, also to see that no painter, graver, goldsmith, or other artificer, make or devise any new arms, or devices other than used by antiquity, without the authority of the Ulster; and all parties were directed to obey him in the execution of his duty.’—Morrin’s *Calendar Pat. and Close Rolls Chanc. Ir.*

¹ Strype’s Life of Parker, i. p. 221.

all though I have not desřed any thing of yo^r hono^r for the goodness that I have heretofor found in yo^u to desyr yo^r said hono^rable M^rshipp to move her Maiestie that yt might stand with her graciouse pleasure that I myght come hence befer the winter next; for I am heare in the winter so sick, and lycke wise weke, as heartofore I have ben scant hable to pass yt over with liffe, and very glad wold I be if it might stand with her graceouse pleasur to come awaye in such tyme as I myght paid fire for winter, and haye for my horsses; moreoū, yt should be well done of her Highnes, after my going away hence, to appoint another Archbeesshoppe with sped; for yf the See stand vacant, much of the lands wil be pilfered awaye by Irish-meñ, and the howses spoylled, which nowe I leave in good estate. Thus am I bould to truble yo^r hono^r with my rude suttes, not hable to recompense the same with any thing save my prayer, which yo^r hono^r shall be assured of during my lif, as knoweth God, who long presve yo^r honorable M^rshippe in good health, and increase yo^r hono^r.

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XVII.Wishes to
leave be-
fore winter.Suggests
another
Arch-
bishop.

‘At Dublin the xxist of Maii, 1566,
‘yo^r hono^r at commandment,
‘H. DIBLIN, Canc.¹

‘To the right Honorable Sir William Sissill,
Knight, principal Secretary to the Queen’s
Ma^{tie}, be this gueven with speid.’

The Queen’s principal Secretary of State must have been heartily tired of the Archbishop’s ‘little suttes’ which showed the great activity of the Most Reverend Prelate in looking after his personal comforts. But if the Secretary supposed he was done with him, after the letter just quoted, he was a trifle mistaken. The next post brought him the following, in which the prelate solicits ‘the last half year’s rent of the See of Oxford.’ This time he has the modesty not to ask himself, but has influence enough to induce Sir Henry Sydney, Lord Deputy of Ireland, to ask for him. This letter is also to Cecil:

Impor-
tunate
suitor.

¹ Shirley’s Original Letters, p. 248.

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XVII.The
Viceroy's
letter to
Cecil.Asks for
the half
year's rent.
The Vice-
roy recom-
mends.

‘S^r, after my most hartee comendaçens, the Arche Bishop of Dublin, (who imputeth all his good happe of his revocation to my Lord of Leicester and you, as by whose mediation he hath received comfort and favo^r from the Queen's Ma^ty,) hath been verie earnest with me to recomende unto you his desier to be disburdenid forthwth of his office here, alleadgynge his infirmity of the pallsey, and thereby his dishability to travell towards winter, adding to this, his desire of speedy departur hence, an humble sute to be relieved and recompensed for his long service wth the last half yere's rent of the Bishopricke of Oxfordre. I have weied his requests meet to receive my comendaçon, the one being necessary for her Ma^ts Service, if any other Chauncello^r were sufficient for the place might forthwth be appointed, the other honorable for her Highness to graunt, wherein his long continued faithful service should receive a contented recompense, both such I laie befor you, desiring yo^r accustomid favo^r to pswade this his honest ptticion.

‘And so I bid yo most hartely fare well, from Kyllmainham, the xxij of May, 1566,

‘Your assured freynd to comand,

‘H. SYDNEY.’

This graceful letter from the accomplished Lord Deputy must have been very consoling to the veteran courtier, who, in the words of some of his brother prelates, was called ‘an old unprofitable workman,’ a ‘disguised dissembler,’ to be numbered among ‘the dumb dogs who neither teach nor feed any save themselves.’¹

Harsh
comments
on Curwen.

His death.

His health began rapidly to fail under the infirmities of sickness, notwithstanding his translation to Oxford. He did not live long in this See, for we learn he died at Swinbroch, near Burford, in October 1568. He was buried in the parish church of Burford on November 1, 1568.

The character of Curwen as an ecclesiastic and politician is so apparent from his life that I am spared further notice

¹ Shirley's Original Letters, p. 201, 226.

of one, who, had he lived a century later, might fairly be regarded a *trimmer*. I must, however, mention some of the legal changes of his time. His experience as an Equity Judge helped to mould the Court of Chancery in Ireland upon the English model, and there the equitable jurisdiction was greatly extended. The process of the Court to compel the defendant's appearance, and carry decrees into effect, was materially assisted by the process of sequestration and commissions of rebellion, which rendered persons as well as property amenable to process of equity, as well as of Courts of Law. Power of granting costs, of directing issues to be tried before common law Judges, each obtaining their assistance in cases with which they were more familiar than the Chancellor, was also gaining ground. The office of Master in Chancery was now assuming increased importance, and 'References' increased, which enabled the Chancellor to save himself trouble, and often proved advantageous to the suitors. Bills of discovery, and to perpetuate testimony in cases of disputed legitimacy, were very prevalent in Ireland at this time.

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Legal
changes
in the time
of Lord
Chanceller
Curwen.

In the comprehensive Institutes of the Court of Chancery, recently published by Mr. Griffith, of Crown Office Row, Temple, the state of the law regarding the mercantile classes, at this time, is shortly but clearly stated. By 34 and 35 Henry VIII., c. 4, commissions against Bankrupts issued out of Chancery.

CHAPTER XVIII.

LIFE OF LORD CHANCELLOR WESTON.

CHAP.
XVIII.Doctor
Weston.Norman
descent.Parentage
of Robert
Weston.Two sons
study law.Richard,
Reader of
the Middle
Temple.Robert, a
Fellow of
Oxford.Principal
of Broad-
gate Hall.Deputy
professor
of civil
law.

WHEN Archbishop Curwen resigned the Irish Seals, in 1567, the Queen selected as his successor DOCTOR WESTON, Dean of Arches, a very different character ; for I find few who led more pious or amiable lives than the individual whose career I have now to relate, Robert Weston. The genealogy of this family, Mr. Foss states¹ in his most valuable repertory of legal biography, ‘The Judges of England,’ is traced as high as Rainaldus de Baliole, in Normandy. He became Lord of Weston, Berton, Broton and Newton in Staffordshire, in the reign of the Conqueror. Robert, the future Lord Chancellor of Ireland, had noble blood in his veins ; he was third son of John Weston of Lichfield, by Cicily, sister of Ralph Nevile, Earl of Westmoreland.

The tastes of two of the sons of this marriage was for the legal profession, in which both acquired great distinction. Richard, the second, entered the Middle Temple, where he arrived at the rank of Reader in 1554.² Robert, the third son, was educated at All Souls’ College, Oxford, and so distinguished himself, that he became one of the Fellows. He applied himself to the study of civil law, and his proficiency gained him his Bachelor’s degree in 1537. He was appointed principal of Broadgate Hall, and fulfilled the duties of that station until 1549. At the same time he was deputy professor of civil law at Oxford to assist the venerable Professor W. John Storie, who had been appointed by Henry VIII. In 1556 he was admitted to

¹ Vol. v. p. 543.

² He was successively Solicitor-General, Queen’s-Serjeant, and a Justice of the Common Pleas in England, ib. 544.

the degree of D.C.L., being the only doctor of this faculty who was licensed that year. There was such a scarcity of Doctors of the civil law in the University of Oxford at this period that a dispensation was issued allowing that an inceptor might undergo the place of Doctor.¹ In 1559, Dr. Weston was appointed by Queen Elizabeth one of the Commissioners for administering the oaths prescribed by the Act of Uniformity to be taken by ecclesiastics,² and, at the same period he was consulted with reference to the propriety of the Queen's Commission granted on December 6, 1559, for confirming Dr. Parker as Archbishop of Canterbury. He was named Dean of the Arches during the same year, and also one of the Commissioners empowered to examine into and determine all controversies between the subjects of the Crown of England and those of Philip King of Spain.³ The time of the Lord Deputy of Ireland, Sir Henry Sidney, being greatly occupied by the protracted and incessant wars of the chieftains of Ireland, North and South, he required the assistance of a more learned Chancellor than of late held the Seals, and became a suitor to the Queen for such a man, to aid him by his advice, as well as for knowledge of the law. Her Majesty complied by sending over the Dean of Arches, who arrived at Dublin in July, and was sworn into office on August 8, 1567.⁴

We can readily suppose the state of Ireland at this time, so different to the order and tranquillity of England, afforded plenty of work for the new Lord Chancellor. Luckily the Court accompt had been kept pretty free from arrears. Weston speedily was a favourite. 'The Chancellor,' says Hooker, 'was a noteable and singular man, by profession a lawyer, but in life a divine, a man so bent to the execution of justice, and so severe therein, that he by no means would be seduced, or averted from the same; and so much good in the end ensued from his upright, diligent and dutiful service, as that the whole realm found

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Commiss-
sioner.

Dean of
Arches.

His high
character.

¹ Mason's St. Patrick, p. 168.

² Rymer, vol. xv. p. 547.

³ Ibid. p. 639.

⁴ Mason's St. Patrick, p. 169.

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themselves most happy and blessed to have him serve among them.'¹

Lord
Justice.

The Queen having summoned the Lord Deputy to return to England, by letters dated August 12, 1567, directed the Chancellor and Sir William Fitz William, Vice-Treasurer, to be appointed Lords Justices,² to administer the government in the Viceroy's absence. They were very competent men—one being very learned, the other very wise, and possessed of great experience in the affairs of the kingdom. As Hooker quaintly says, 'Both being very well-minded to do her Majesty service, did most lovingly and brotherly agree therein, each one advising and advertising the other according to the several gifts which God had bestowed on them, by which means they passed their government very well and quietly, to the great contentation of her Majesty, the commendation of themselves, and the common peace of the country.'³

Success in
the Go-
vernment.A Parlia-
ment.Chan-
cellor's
peach.

The Viceroy, Sir Henry Sydney, having returned to his government in Ireland, summoned a Parliament, which met January 17, 1568, in the Parliament House, Dublin, and the Viceroy having taken his seat, the Lord Chancellor addressed the Lords and Commons in very eloquent speech, declaring what the law was, the great effect and value thereof, and how the common society of men was thereby maintained. He next commented on the vigilant care of the Queen over the interests of her subjects. That she caused Parliament to be assembled, in order that, by their advice, she might be able to frame such laws as would tend to the honour of God, the preservation of her Majesty's person and Crown, and the safety of the Com-

¹ Holinshed's Chronicle, vol. vi. p. 336.

² The Queen's letter thus continues:—'And that done, and our realm put in order, and especial regard being had to the keeping in order of the late recovered countries in Ulster, we are pleased that you (the Deputy) shall return hither unto us, that you may be so instructed for conference with us in all manner of causes of that realm at your coming, as your abode here be not longer than shall be necessary, whereof more regard would be had by you, because we mean not to make any full conclusion of the keeping of any Parliament there until your coming.'

³ Holinshed's Chronicle, vol. vi. p. 559.

monwealth. He then addressed the members of the House of Commons, whom he desired to assemble in their own House and elect a Speaker.

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XVIII.

Some interesting particulars of Queen Elizabeth's Irish Parliaments deserve place here. One shows the early hours of legislators. During a debate, an honourable Member rose to continue the discussion, but the time and day were so far spent above the ordinary hour, being well near *two* of the clock *in the afternoon*, that the Speaker and the Court rose up and departed. At this time the members were paid—Knights of Shires received 13s. 4d. a-day; representatives of cities, 10s.; of boroughs, 3s. 4d. Contention sprang up amongst the honourable Members, and the Judges were called on to interfere, notwithstanding which a considerable delay ensued before any business was done. The orders and rules which regulated Parliaments in England were adopted. In these rules there is not any form of oath prescribed to prevent Roman Catholics or Dissenters sitting in Parliament.¹

Early
hours.Payment
of mem-
bers.Parlia-
mentary
regula-
tions.

During the winter of 1572, and the ensuing spring, the Chancellor was much indisposed; but he attended his court pretty regularly, though it was painfully apparent that his health sadly failed, and he was no longer able to attend to affairs of State. In him the Viceroy lost a faithful counsellor,² and one of his chief supporters. He died during the month of May, his death being deeply lamented. A contemporary writing in language very eulogistic of the deceased Chancellor, thus relates the sad event:—‘It hath pleased God to call out of this miserable life Doctor Weston, Lord Chancellor. A man in his time most godlie, upright, and virtuous, and such a one as that place was not possessed of the like in many currents of years. In his life he was most virtuous and godlie; in matters of council most sound and perfect; in justice most upright and uncorrupted; in hospitalitie very bountie and liberal; in manners and conversation most courteous and gentle;

Fatal
illness.

His death.

His cha-
racter.

¹ Irish Parliaments, by the Right Hon. James Whiteside, pt. i. p. 47.

² Mason's History of St. Patrick, p. 171.

CHAP.
XVIII.Exhorta-
tion to his
household.Last ad-
vice to the
Council.Monu-
ment.Irish Acts
passed.

faithful to his Prince, firm to his friend, and courteous to all men ; and as was his life, so was his death, who a little time before the same called his household, and gave them such godlie instructions as to their callings appertained ; then he set his private things in order, and he spent all the time that he had in praiers and exhortations.

‘ At last, feeling a declination towards, he appointed a general communion to be had of his household and friends in his chamber, unto which all the Council came and were partakers ; and then, these actions finished, he gave a most godlie exhortation to the Council, persuading them to be zealous and virtuous in God’s true religion ; then to be mindful of their duties to her Majesty ; and lastly, remembering their callings and estate, and the great charge of the Government laid upon them, and committed unto them, that they would be valiant, careful, and studious to perform the same, as might be to the glorie of God, honor to the Queen, and benefit to the whole realme ; which points he handled so godlie, learnedly, and effectually, that he made their tears to trill and their hearts to be heavy. This done, he bade them farewell, and not long after, he being fervent in his prayers, he died most godlie, virtuously, and Christian like.’¹

His remains were interred in St. Patrick’s Cathedral, Dublin, and his effigy, in a recumbent posture, arrayed in his State robes, occupies an arch in the upper part of the monument erected by his grandson, the Earl of Cork. An inscription to his memory is placed beneath the figure. There are few finer characters among the Irish Chancellors than Weston, and I wish my memoir of this amiable and excellent man was fuller ; but I have collected all respecting him my industry enabled me to discover, and I have not spared any pains.

Amongst the laws passed in Ireland during this reign was one for the punishment of perjury ; another for the establishment of free schools in each diocese. The Statute against Fraudulent Conveyances, though enacted in England, was not extended to Ireland until a subsequent period.

¹ Holinshed’s Chronicle, vol. vi. p. 373.

CHAPTER XIX.

LIFE OF LORD CHANCELLOR LOFTUS, FROM HIS BIRTH TO THE FOUNDATION OF THE UNIVERSITY OF DUBLIN.

As Weston was a very different Chancellor from his predecessor, the versatile and avaricious Curwen, so his successor, ADAM LOFTUS, the celebrated Archbishop of Dublin, differed in many respects from both. He resembled them also in some points—Weston in his great business habits; Curwen in his unscrupulous conduct and insatiable avarice. Loftus had much more power than any of his predecessors, and though he mainly used it for personal aggrandisement, in one important matter he merits the thanks of men of letters—he established the University of Dublin. This distinguished prelate was born at Swineshead, in Yorkshire, in 1534. From an early age he showed great abilities, and, destined for the Church, entered, though somewhat later than usual, as a student the University of Cambridge. It was his fortune to have been called upon to take part in a public exhibition while at College, in the presence of Queen Elizabeth, and his graceful elocution, in addition to his comely person,

CHAP.
XIX.Loftus a
contrast to
Weston.

Touched the stout heart of England's Queen,
Though French or Spaniard could not trouble it.

Noticed
by Queen
Elizabeth.

It requires no great stretch of imagination to fancy the scene which shaped the boy's future destiny. It was a busy day in the University city. Studious-looking men, whose pale thoughtful faces told of many midnight vigils, and whose strained eyeballs told of severe study, wandered about in cap and gown; the curious gaze, as though the sight of the every-day world around was strange and novel to them. A busy day in the grave city, where the

The Queen
at Cam-
bridge.

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XIX.

Sovereign Lady of the realm, attended by the pageantry which Elizabeth so much loved, made her Royal progress through the streets, turning the thoughts of the students from their books to shows and gay revelry. In the examination which ensued, Adam Loftus bore a very distinguished part, and the Queen sought him out from his fellow students. With that quick insight into character, which was proved by her notice of Raleigh, Spenser, and others, she enquired into the circumstances of the young student, and encouraged him by her commendations. She bade him persevere in his studies, and promised to reward his proficiency. Her Royal favour no doubt was a spur to his ambition, and Adam Loftus resolved that one day his name should be known and honoured beyond the walls of Cambridge.

When ordained, he sought a field for his ministry; Ireland was, at this time, a theatre where adventurous spirits sought renown by intellectual pursuits as well as martial prowess, and hither he turned his steps.

The Rev. Adam Loftus came to Ireland about the year 1559 as chaplain to Alexander Craike, then appointed Bishop of Kildare. This conscientious Prelate wrote on April 30 in that year to Lord Robert Dudeley, 'that he could not preach to the people, nor could the people understand him,' and desired to be released from his bishopric. He states that his chaplain, 'Mr. Lofthouse (Adam Loftus) who lately came over with him, was his only help in setting forth God's word.' On August 5 following, the poor Bishop wrote to Cecil 'that he was in the Marshalsea for his first-fruits,' and imploring his intercession with the Lord Chancellor for a pardon. He had to undergo a lengthened incarceration. On October 26 he again wrote, complaining that he received no answer to his petition desiring to be discharged of the first-fruits, which was promised to be remitted before he left London, and praying to be disburthened of his bishopric, as he could not understand the Irish language.¹

Enquires
about
Loftus.Promises
to reward
his
industry.Loftus in
Ireland.Perplexity
of an
English
Bishop.

¹ Morrin's Cal. Pat. and Close Rolls, vol. i. p. 435.

While Thomas Ratcliff, Earl of Sussex, continued in the Viceroyalty of Ireland, the Reverend Adam Loftus was appointed his chaplain. During this time a Parliament was held in Dublin, by which the greater number of the Acts passed in Queen Mary's Parliament were repealed. Seventy-six members were returned, writs having been issued for the counties of Dublin, Louth, Kildare, Meath, Westmeath, Carlow, Kilkenny, Wexford, Waterford, and Tipperary, and for certain towns where the English interest felt secure of being represented. It passed several Statutes for the establishment of the Protestant religion in Ireland. The care of Loftus' Royal patroness was not remiss. In 1561, we find him appointed by Letters Patent to the rectory of Painstow in the Diocese of Meath. Further preferment was close at hand. Archbishop Dowdall's death in the following year left the Primacy vacant, and the Rector of Painstow, at the early age of twenty-eight, was nominated to the Archbishopric of Armagh. It is stated that, through him, the Irish Protestant Bishops derive their succession, 'for he was consecrated by Curwen, who had been consecrated in England according to the forms of the Roman Pontifical in the third year of Queen Mary.'¹ At this period the Chancellor, Archbishop Curwen, found the business of his Court exceedingly arduous. The recent rapid advance in equitable jurisdiction caused by the Statute of Wills and the Statute of Uses, was beginning to tell upon a constitution never very robust, and the number of important suits respecting the suppressed monasteries was swelling the arrear in the cause list. His health was greatly broken, and it was doubtful if he could continue to preside in the Court of Chancery, from which he was most anxious to be released.

The revenues of Irish Sees were then unlike what they grew to be in after years. The license to hold other preferments, to supplement their incomes, had to be frequently given to the Bishops. Thus in 1564, Archbishop Loftus

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A Parlia-
ment.

Prefer-
ment.

Arch-
bishop of
Armagh in
1562.

Succession
of Irish
Protestant
Bishops.

Increase of
business in
the Court
of Chan-
cery.

¹ Ware's Bishops, p. 34.

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Licensed
to hold
Deanery
of St.
Patrick's.

Excom-
municates
a Catholic
chieftain.

Exchanges
Armagh
for Dublin.

Resigns
the
Deanery
to Lord
Chancellor
Weston.

Queen
Elizabeth's
epistolary
style.

received Queen Elizabeth's license to hold the Deanery of St. Patrick, to which he had been elected, together with the Primacy; his Archbishopric being a place of great charge, in name and title only to be esteemed, without any worldly endowment resulting from it.¹

Although the State had ceased to hold communion with Rome, in the opinion of ecclesiastics, the censures of the Church ought to produce terror, for when, in 1566, the Irish chieftain, O'Neill, ravaged the Primateal city and the Cathedral of Armagh, Primate Loftus fulminated the thunders of excommunication against him, not only by himself but by the clergy of his diocese. As, however, O'Neill held fast by the Catholic faith, he utterly and ostentatiously disregarded these Protestant denunciations.²

At the close of this year, the degree of Doctor of Divinity was conferred on the Archbishop by the University of Cambridge, and the Primateal See of Armagh was exchanged by him on August 8, 1567, for that of Dublin, then deemed more valuable.

The Queen required him to resign the Deanery of St. Patrick in favour of Dr. Weston, whom her Majesty appointed Lord Chancellor of Ireland, which he did accordingly, though, we can readily believe, nothing but the peremptory command of Elizabeth Regina would have caused him to do so, as he derived very considerable profits from the Deanery. No doubt Archbishop Loftus had in mind the letter—short if not sweet—addressed by the Tudor Queen to a brother Prelate, which contained a memorable threat.³

‘Proud Prelate,—I understand you are backward in complying with your agreement; but I would have you to know that I who made you what you are can unmake you, and if you do not forthwith fulfil your engagement, by—I will unfrock you.

‘Yours, as you demean yourself,

‘ELIZABETH.’

¹ Rot. in Canc. Hib.

² Ware's Elizabeth, c. 9.

³ Letter to Bishop Cox. Vide London Society, vol. ix. p. 560.

By no means anxious to be favoured with a like specimen of the Queen's epistolary style, Loftus with alacrity yielded the Deanery to Lord Chancellor Weston.

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National education.

National education in Ireland was a favourite project with the Archbishop, and it was probably owing to his exertions an Act was passed in 1570, directing that free schools should be kept in the principal town of every diocese, at the cost of each diocese, the ordinary of each to pay one-third of the master's salary, and the remainder to be contributed, in due proportions, by parsons, vicars, prebendaries, &c.

Dr. Loftus was by no means content with the revenues of his See. He made such representation of its poverty to the Queen, that, in May 1572, she granted him a dispensation to hold, with his Archbishopric, any sinecures he might obtain, not exceeding 100*l.* a-year in value; a license of which he very fully availed himself.¹

Sinecures.

On the lamented death of Lord Chancellor Weston in the year 1573, Archbishop Loftus succeeded him as Lord Chancellor of Ireland. Some persons might have supposed the possession of two such important dignities as the Archbishopric of Dublin and the Lord Chancellorship would have contented any man, but they failed to satisfy Adam Loftus. Harris relates that, 'beside his promotion in the Church, and his public employments in the State, he grasped at everything that became void, either for himself or family; insomuch that the Dean and Chapter of Christ Church were so wearied with his importunities that, on August 28, 1578, upon granting him some request, they obliged him to promise "not to petition or become a suitor to them for any advowson, of any prebend or living, nor for any lease of any benefice."'

Lord
Chanc-
cellor.

When Sir John Perrot was Deputy, he had opportunity to see and discretion to mourn the mischievous policy by which the inhabitants of Ireland wasted their energies and means in injuring each other by internal feuds, instead of uniting to advance the common weal. Mr.

The Chan-
cellor
Arch-
bishop.

Promise.

Policy of
Sir John
Perrot.

¹ D'Alton's Archbishops of Dublin, p. 242.

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Taylor well observes,¹ ‘Being a man of vigorous benevolence, he made great exertions to ameliorate the condition of the people, and hoped, by the removal of unwise distinctions, to give Ireland a common feeling with a nation to which she had not been yet more politically allied. As England was rapidly rising from comparative rudeness into commercial wealth, and that state of information which foreruns a graceful prosperity, he justly concluded that mere Acts of Parliament could never produce a sincere coalition between two countries in different stages of mental progression, or rather while one was invigorated and the other repressed. It was necessary, for the real union of both, that there should be a sympathy of habits, and a *perception of mutual interests.*’

The Viceroy’s idea was to erect institutions, wherein learned men might raise the intellectual standard of the people, and diffuse through all classes the benignant influences of education. He also was anxious to provide better Courts for the legal profession. With this view he wrote to the then Lord Treasurer of England, ‘That whereas there is no place for the Courts of Law, save only an old hall in the Castle of Dublin, *dangerously placed over the munition of powder*, that the Cathedral of St. Patrick, being spacious and large, would sufficiently serve for all the several Courts, and there being a want of a storehouse for grain, and other provisions, and no fit place for it, whereby the waste in victualling is the greater, that the Canon’s house environing the Church might aptly serve for an Inn of Court, *to bestow the Judges and lawyers in*, in exchange for which their Inns of Court, lying commodiously over the river, and hard by the bridge for loading and unloading, might aptly serve for a storehouse and granary. That there being two Cathedrals in Dublin, this being dedicated to St. Patrick, and the other to the name of Christ, that St. Patrick’s was in more super-

St. Patrick's Cathedral.

The Canon's house.

¹ History of the University of Dublin, by Taylor, p. 3. It is singular that it is only in our day, after a lapse of nearly three centuries, statesmen are carrying out the policy of Sir John Perrot.

stitious reputation than the other, and therefore ought to be dissolved.' As the revenues of St. Patrick's Cathedral were very large, he suggested their application to educational purposes, and to found two Universities in Dublin. He then stated the revenues at 4,000 marks, which would serve to lay the foundation of *two* Universities and a couple of Colleges. Six masters for each, and a hundred scholars to be instructed in learning, civility, and loyalty. This project was strenuously resisted by Archbishop Loftus, on the plea that it was an attempt to misappropriate the Church revenues; but it was generally believed the real motive which influenced him was to prevent alienations he had himself made, when Dean of St. Patrick's, from being discovered. In Sir John Perrot's Life¹ it is stated the Archbishop 'was interested in the livings of St. Patrick by large leases and other estates thereof granted, either to hymselfe, his children, or kinsmen, for which reason the Lord Chancellor did, by all means, withstand the alienation of that livinge, and being otherwise a man of high spirit, accustomed to bear sway on that Government, grew into contradiction, and from contradiction into contention with the Lord Deputie, who, on the other side, brooking no such opposition, it grewe into some heart-burning and heate betwixt them.'

The want of cordiality between Sir John Perrot and the Lord Chancellor was highly prejudicial to Ireland. Seldom had a more efficient ruler been placed in Dublin Castle than Perrot. He was a statesman, wise in counsel, just in policy, and conciliatory in manner. He was a soldier, fit to command, prudent to order, and swift to execute. Connaught and Ulster were the scene of his military operations, and he divided the latter province with the counties of Armagh, Monaghan, Tyrone, Coleraine, Donegal, Fermanagh, and Cavan. Sheriffs, coroners, and Commissioners of the Peace, were appointed to these districts. He called a Parliament in 1585, which was probably the first ever assembled to which the name of a

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versities.The pro-
ject re-
sisted by
the Chan-
cellor.Motives
imputed to
the Chan-
cellor.Content-
tion of
Viceroy
and Lord
Chan-
cellor.Character
of Sir John
Perrot.Calls an
Irish Par-
liament.

¹ London: 1728, p. 242.

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Parliament of Ireland might justly apply. However we may endeavour to assert the antiquity of Parliaments in Ireland from a period shortly after the arrival of the English, we must admit that for centuries the constituent Members only represented the four *obedient shires*, as they were called, of Dublin, Louth, Meath, and Kildare, until the reign of Queen Elizabeth, when, in addition to noblemen and commoners of English descent, Irish chiefs, and heads of septs, were also in attendance. It is curious to find one of the measures designed by this Irish Parliament was the repeal of Poyning's Act, which was suggested by the Deputy, to enable the Parliament to pass such laws as were requisite, without the circumlocution inseparable from Poyning's Act. The Lord Chancellor, and other Anglo-Irish Peers, opposed this, and got up such a strong party that it was rejected on the third reading.¹

Finding his measures constantly thwarted, the Deputy procured his recall. His enemies caused him to be imprisoned for misgovernment, and he was called on to answer for his conduct

The accusations against the Viceroy were for high treason, but the evidence was of a trivial character. He was blunt of speech, and when excited used expressions which the Chancellor Archbishop and others at enmity with him considered tantamount to denying the authority of the Queen.

The prosecution was conducted by Sir John Puckering, Queen's Serjeant,² a very zealous Crown lawyer, who, aware of the weak case against the prisoner, tried to convince the jury of the guilty intentions which the words disclosed: 'For the original of his treasons proceeded from the imagination of his heart, which imagination was in itself high treason, albeit the prisoner proceeded not to any overt act; and the heart being possessed with the abundance of his traitorous imagination, and not being

¹ Rev. J. O'Hanlon's Catechism of Irish History, p. 270.

² This rank, analogous to that of Prime Serjeant in Ireland, put the holder over the Attorney and Solicitor-General. For a report of the trial see State Trials, vol. i. p. 1300.

Attempt
to repeal
Poyning's
Act.

Opposed
by the
Lord
Chancellor.

The trial
of Sir John
Perrot.

able to contain itself, burst forth in vile and traitorous speeches, for *Ex abundantia cordis os loquitur*.¹

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The evidence mainly consisted of ebullitions of temper when the Lord Deputy was at the Council table. At one time he said, in reference to a letter from the Queen which he did not approve of, 'Stick not so much on the Queen's letters of commandment, for she may command what she will, but we will do what we list.' Another time he said, 'This fiddling woman troubles me out of measure; it is not safe for her Majesty to break such sour bread to her servants.' In reply to the charge, that he moved to suppress the Cathedral of St. Patrick's, Dublin, he declared, 'that the Archbishop of Dublin was his mortal enemy, and the reason why he was moved to suppress the said Cathedral Church was to have a University founded thereon; but he was opposed by the said Archbishop because he and his children received by the said Cathedral 800 marks a-year.'

The case being closed, Serjeant Puckering, as leading counsel for the Crown, again addressed the jury and 'prayed them to consider well of that which had been said, and willed them to go together.' This so excited the prisoner that he called aloud in passionate entreaty on the jury to remember 'and have a conscience in the matter, and that his blood would be required at their hands.' The jury then retired, and for three quarters of an hour the brave Sir John Perrot, the Court, and auditory were in suspense awaiting the verdict. Many predicted it would be the ominous word, 'guilty.'²

The dread sentence was passed upon Sir John Perrot, but he was not executed. The Queen was touched with compassion, and, on reading the report of the trial, remembered the rescript of the Emperor Theodosius, which, she said, should rule this case: 'If any person speak ill of the Emperor through a foolish rashness or inadvertency, it is to be despised; if out of madness, it deserves pity; if from malice, it calls for mercy.'³

Noble
conduct of
Queen
Elizabeth.

¹ State Tr. 1318.

² Id. 1326.

³ Lord Campbell's Lives of the Chancellors, vol. ii. p. 168.

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Her clemency did not avail the ex-Viceroy, for he died shortly after.

The Queen approves of the University.

Elizabeth did not lose sight of the University project, and Loftus was shrewd enough to know he could do nothing more pleasing to the Queen than realise the idea of Sir John Perrot at the least possible expense to himself. He accordingly fixed his eye on the ancient and decaying Monastery of All Saints as a fit site for the University, and which might be readily obtained.

Site selected.

The Monastery of All Hallows.

This ancient Monastery of All Saints, or All Hallows, had long been a fountain of piety and charity to the neighbourhood of Dublin. It was founded in 1168 by Dermot, son of Murchart, and endowed with broad lands and rich offerings by successive benefactors. Blessed by St. Lawrence O'Toole, fostered by Henry Fitz Empress—native saint and foreign sinner continued to protect the pious inmates. Miles De Cogan, one of Strongbow's warrior chiefs, shared with the monks the lands he won at the sword's point; other Norman Barons added valuable possessions in return for prayers offered for their souls' health; and, for four centuries, the monks of the House lived in peace, going about their Master's business. Hourly the chime of bells pealed some work of devotion. Matins and lauds, prime and vesper—the Mass for the living, the Requiem for the dead—and daily a liberal dole awaited the poor at the postern gate.

The Prior in Parliament.

Not without some occasional show and parade lived the brethren. During the sitting of the Parliament of the Pale, the Prior rode forth to assist at the Colonial Legislature, amid the homage of burghers, on whom he bestowed his blessing as he passed through the streets. Again, in days of festival, the gorgeous procession, attended by the pomp of the Catholic ritual, with incense burning and tapers alight, impressed the rude spectators with awe and reverence for the Supreme Being to whom such tributes were paid. Then the Abbey lands were well tilled, no rude violence was displayed by the monks towards their tenants, and repaid with the assassin's bullet. They were

Monks as landlords.

Christian churchmen, devoted to their creed, having no families to enrich, no temporal dignity to sustain, at the expense of their vassals. When not employed in prayer and confessional, they visited the sick, gave alms to the poor, illuminated manuscripts with artistic skill, copied the Holy Scriptures, and preserved for posterity those works of Pagan erudition popularly called classical literature.

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In the days of Henry VIII. learning and sanctity was of no avail when hid beneath the cowl of the monk or the veil of the nun. Irish Abbots and Priors, dismayed by the ruthless measures taken to suppress the Abbeys in England, yielded to force what they were powerless to protect. Walter Handcocke, the last Prior of All Hallows, made formal surrender of the House on November 16, 1538, and the Priory, with all its endowments, was granted to the Corporation of Dublin. The buildings, tenantless and uncared for, soon became mere ruins, affording a precarious shelter for cattle grazing upon Hoggin Green; and this was the site selected by Archbishop Loftus for the Dublin University.

Prior surrenders to the King.
All Hallows granted to the Corporation.

Having proceeded so far, the Chancellor-Archbishop's next step was to interest the citizens of Dublin in the completion of his project. He caused a meeting to be convened at the Tholsel, and addressed the Mayor, Citizens, and Common Council, in a speech in which he detailed his plans, stating the Queen's earnest wish to found a University in Dublin, and the result was most satisfactory. The mayor and corporation complied with his request to grant the proposed site, and labourers were forthwith employed in clearing the place for the University building.

Chancellor addresses the Corporation of Dublin.

His success.

Henry Ussher, Archdeacon of Dublin,¹ with Lucas Chaloner, were sent by Loftus to the Queen to petition for a charter. This prayer, with a readiness which ought to serve as a precedent in modern times, was at once granted; and, by a warrant of December 29, 1591, a license was

Deputation to the Queen.
Charter readily granted.

¹ Ussher was afterwards Archbishop of Armagh and Primate of all Ireland. Uncle to the celebrated James Ussher.

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ordered to pass the Seals for the grant of the Abbey and the foundation of the college. The charter was dated the following year.¹

The Chancellor first Provost.

By this charter, Adam Loftus, Doctor of Divinity, Archbishop of Dublin, and Lord Chancellor of Ireland, was named first Provost of the College of the Holy and Undivided Trinity, founded by Queen Elizabeth, near Dublin.

Letter from the Lord Deputy.

The monopolising spirit which preserved the principal emoluments of the College exclusively to Protestants for several hundred years, was not the intention of the original founders. When the Lord Deputy (Fitz William)² addressed the gentry of Ireland for the purpose of raising funds for building halls and other necessary expenses of the institution, he applied to *all*, irrespective of creed, and besought 'any contribution, whether in money, lands, or anie other chattels, whereby their benevolence may be shewed to the putting forward of so notable and excellent a purpose as this will prove to the benefit of the *whole countrey*, whereby knowledge, learning, and civilitie may be increased to the banishing of barbarisme, tumults, and disordered lyving from among them, whereby their children, and children's children, especially those that be poore (as it were in an orphan's hospital freely) maie have their learning and education given them with much more ease and lesser charges than in other Universities they can obtain it.'

The Act of Uniformity in England.

True that, in the Act of Uniformity, passed in England the second year of the reign of Queen Elizabeth, the Oath of Supremacy imposed on all who took degrees in any University, would, if extended to Ireland, preclude Roman Catholics taking degrees; but this Act did not extend to Ireland, and it was smuggled through the Irish Parliament in the following manner. Mr. Stanyhurst, of Corduff, then Speaker of the Irish House of Commons, being in the Protestant interest, privately assembled *on a day when the House was not to sit*, a few such members as he knew to be favourers of that interest; and, conse-

¹ 34 Eliz. A.D. 1592.

² Heron's History of the University of Dublin, p. 21.

Smuggled through the Irish Parliament.

quently, in the absence of all those who, he believed, would have opposed it, carried the measure through the House. But these absent members, having understood what passed at that secret convention, did soon after, in a full and regular meeting of Parliament, enter their protests against it; upon which the Lord Lieutenant assured many of them, in particular with protestations and 'oaths, that the penalties of that Statute should never be inflicted,' which they, too easily believing, suffered it to remain as it was.¹ Notwithstanding the efforts of the Archbishop, and the patronage of the Queen, the first few years of the University's existence were far from flourishing. Students were few, owing to the general ignorance of the English language throughout the country, and the heads of the College being strangers to the soil. The Fellows did not pull well together; and, owing to the disturbed state of the kingdom the College lands, lying in remote districts, proved very unproductive and unprofitable. This, however, was but of brief duration.

Having kept the high places and emoluments of the fellowships and scholarships exclusively Protestant² for about two centuries and a half, a declaration is now made by the heads of the University, expressing their willingness to abolish religious tests. It is thought this may have the effect of preventing a Charter being sought for by the Catholics of Ireland, who have been long in hopes of obtaining one for the Catholic University.

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The Uni-
versity at
its com-
mence-
ment.

¹ *Analecta Sacra*, p. 431. O'Connell's *Ireland and the Irish*, p. 141.

² The charter of King Charles I., however, removed any doubts as to the institution being exclusively Protestant.

CHAPTER XX.

LIFE OF LORD CHANCELLOR ARCHBISHOP LOFTUS—CONCLUDED.

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XX.Edmund
Spenser a
Clerk in
Chancery.Secretary
to the
Viceroy.Defeat of
the Eng-
lish.

At this period, filling the lucrative, but, I imagine, not very congenial office of Clerk of Decrees and Recognisances in the Court of Chancery of Ireland, was Edmund Spenser, the poet. He had published, before leaving London, an exquisite pastoral poem, which won him the friendship of a great and good man, Sir Philip Sidney. Spenser was also known to Sir Philip's uncle, another great but not good man, the Earl of Leicester, who befriended the poet; and, when Lord Grey of Wilton, was sent as Viceroy to Ireland, in 1580 (to shorten the wars by an effectual prosecution), he made Spenser his Secretary, on the recommendation of Lord Leicester. I suppose then as now, the Secretary to the Lord Lieutenant had a very considerable share in the Irish Administration. In our days we have heard of Secretaries to the Viceroy who were Viceroys *over* him; and, it is probable, Leicester imbued the new Secretary for Ireland with his notions of 'shortening the war' by extirpation, for that was the project of pacification Spenser recommended.

The first essay in arms of the Viceroy was not fortunate to the English. He imprudently entered the Wicklow defile, known as Glenmalure,¹ and, when encompassed by hills, found to his cost that he was in the midst of enemies. A volley of musketry threw his army into confusion, and the O'Toole's and O'Byrne's, with the Eustaces of Baltinglass, and other disaffected Anglo-Irish, turned the con-

¹ The river that flows through this vale, called by Spenser the 'baleful Oure,' has been fully identified by my friend P. W. Joyce, Esq., M.R.I.A., as the Avonbeg, which, at its confluence with the Avonmore, forms the 'Meeting of the Waters,' in the lovely vale of Ovoca.

fusion into a rout. Eight hundred killed, including several officers of rank, and the loss of baggage and other stores, were the result of Lord Grey's rash expedition.

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XX.Heavy
loss.

This ignominious defeat, which, it is said, was witnessed by Spenser, and is referred to by him in the fifth book of the 'Faery Queen,' rankled in the breast of both Viceroy and Secretary. The most vigorous measures were pressed on against the natives, until, in the fearful words of the Secretary, 'neither man, woman, nor child was spared.' The fertile province of Munster presented a scene of ruin and desolation. Famine followed the fiery track of war, and Spenser, if he had any feelings of humanity, could hardly congratulate himself upon the success of his share in Irish administration.

The war
of exter-
mination.

On the attainder of the Earl of Desmond, his vast estates were divided amongst English adventurers. Raleigh had an immense tract in Cork and Waterford; Sir Arthur Hyde a fair slice in the lovely Valley of the Munster Blackwater, in which Castle Hyde was long the residence of his descendants; but, through the process of the Landed Estates' Court, has now passed into other hands;¹ while Spenser got three thousand acres, also in the County of Cork, with the then picturesque Castle of Kilcolman, in which he resided for some years. Here he spent his time in poetic composition, and wrote also very merciless 'Views of the State of Ireland.' Occasionally his seclusion was enlivened by the presence of friends. Sir Walter Raleigh visited him while at Kilcolman; and it lends additional interest to the portions of the castle yet standing, owing to the fostering care of a valued friend,² to think these two great and gifted men here sojourned. Both enjoyed the world's fame; and their melancholy fate teaches the impressive lesson, how fleeting are the joys of this life. When the rebellion of the Earl of Tyrone broke

The estates
of Earl of
Desmond
granted
away.Kilcolman
Castle.Visited by
Raleigh.

¹ Castle Hyde, County Cork, is now the residence of John R. H. W. Becher, Esq., who married Lady Emily Hare, daughter of the late and sister of the present Earl of Listowel.

² John Harold Barry, Esq., J.P., on whose estate Kilcolman stands.

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XX.Spenser's
sad fate.The Chan-
cellor
accused.Commis-
sion issued.

out, Spenser's Castle was set in flames, and he, with his wife and some of his children, barely escaped, while one perished in the conflagration. He died a few years after in poverty in London. The end of Raleigh was also tragical—he perished on the scaffold.

I now return from Spenser and Raleigh to the more prosaic Life of Lord Chancellor Loftus. Words, imputing corrupt conduct, having been uttered against the Lord Chancellor, a Commission issued to Robert Gardiner, Serjeant-at-law, Chief Justice of the Chief Place, and Robert Dillon, Chief Justice of the Common Bench, to inquire into the matter, as the Chancellor determined to prosecute and examine witnesses, *ad perpetuam rei memoriam*, on behalf of Adam, Archbishop of Dublin and Chancellor.¹

¹ The following interrogatories were put:—‘ Do you know Kellam Shrawley, of London, skinner? When did you hear him pronounce and declare any infamous or slanderous speeches against the Archbishop of Dublin, either touching his person or his behaviour in any judicial or other office he holdeth or exerciseth for Her Majesty? If you did hear such infamous speeches, then, when, where, upon what occasion, and who was present?’^a

Depositions taken on May 23, before the Commissioners set forth, John Tyrrell deposes that about the 1st of August last, upon a conference had between him and Kellam Shrawley, the latter stated ‘ that the Lord Chancellor had offered him great injustice in staying one Richard Wilcocks, his man, being bound to shipboard, because he would not deliver a bond wherein one Reynoldes of Dublin, merchant, stood bound to Shrawley;’ to which deponent answered, ‘ You say not well, for my Lord Chancellor is a good Justice.’ Unto which Shrawley replied, ‘ My Lord was unfit to be a Judge, and was a corrupt and partial judge; and, by reason of his alliance, none could have justice there but such as himself pleased, by reason of the marrying of his daughters;’ and further said, ‘ What was he before he was Chancellor but a jack and a knave, and, setting his Chancellorship aside, his man was as honest a man as he; and that he would prefer a Bill to the Council in England showing his injustice.’ These words were spoken in London, at the shop door of deponent, in Cheapside, at the sign of the Fox.

Mathew Handcock, of Dublin, merchant, stated he heard Shrawley affirm ‘ that by reason of my Lord Chancellor’s alliance in Ireland, no Londoner could have justice.’

Christopher Challoner deposes he heard Shrawley say ‘ the Lord Chancellor of Ireland did offer to his man, Wilcocks, great injustice; that he was a corrupt Judge, and that his man was honester than the Chancellor, setting his authority aside; and that by bribes he did maintain his daughters in their bravery.’ And further, that by means of alliance, by marrying his daughters with gen-

How far Shrawley was able to justify his attack upon the judicial conduct of the Lord Chancellor does not appear, but I fear the charge was not wholly unfounded, for he was soon in another scrape. The Queen wrote to the Lord Deputy, on September 2, 1583, the following letter:—‘We have been informed, that our Chancellor, in a variance between our servant Williams and one Colclough, married to the Chancellor’s daughter, upon a supposed contempt in great extremitie and chollor, comytted our servant to the Marshalsea, a noysom place, repleat with sundry prisoners, and detained him there by the space of twelve days, with comaundment that he should not goe abroad with his keeper, and that at a time when the employment of his service for us was thought to be most needful; and in the end, our Chancellor’s allegations being heard before our Deputy and Council, his witnesses examined, who could not prove any one point, notwithstanding the Chancellor very earnestly required the continuance of his imprisonment, and in his own house, yea in open assemblies in our Courts of Record of Exchequer and Chancery, and before our Deputy and Council there, did not forbear to use him with hard speeches and sondry disgraces. We do not a little marvayle that a man of the good justice, wisdom, and temperence expected in a man supplying his place, should so much forget himself, and so long, as to use our servant and officer¹ so severely, reproachfully, and unadvisedly: to which abuses we, minding to give redress, and willing to understand our officer’s misdemeanor (as well yt concerneth us to doe), our pleasure is, that you, our Deputy and Council, shall receive the particulars of them from our servant, and that the Chancellor shall directly and

lemen in Ireland, no Londoner could have justice at his hands; that he was a corrupt man, and so he would prove him.

(Signed)

‘R. GARDNER.

‘ROBERT DILLON.’

—Morrin’s *Calendar Pat. and Close Rolls, Ir.* vol. ii. p. 124.

¹ Williams was Clerk of the Cheque and Muster Master to the Queen.

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XX.

Fresh
charge.
The Queen
writes to
the Lord
Deputy.

Lord Chan-
cellor re-
buked.

CHAP.
XX.The Chancellor to
answer.

particularly, under his own hand, thereunto make answer ; and the truth of each pointe being by you duly examined, you shall again to us certify, unless our servant be in credit restored, and by our Chancellor theretofore satisfied. And further, our pleasure is that our servant and officer henceforth be better respected than to receive any such disgrace, but rather to be supported in our service and all his honest causes, a thing not impertinent for our better service. Oatland, Sept. 20, 29°.¹

While these discreditable matters were casting odium on the Chancellor of Ireland, a very upright Judge presided over the same Court in England. This was Lord Chancellor Bromley, of whom the noble and learned author of the ‘Lives of the Lord Chancellors of England’ says— ‘Bromley is not celebrated as a great Jurist, or as one of those who laid the foundation of our system of Equity ; but while he held the Great Seal I find no trace of any complaint against him as a Judge, either on the ground of corruption, or usurpation or delay, and we may be sure if there had been abuse there would not have been silence.’²

I have now, with regret, to darken still more the shadows which rest upon the life of Lord Chancellor Loftus.

Case of
the Roman
Catholic
Arch-
bishop of
Cashel.

The case of Dr. O’Hurley, Catholic Archbishop of Cashel, is peculiarly striking. He was one of the most distinguished men of his time. Had been a professor of philosophy in Louvain,³ and subsequently filled the Chair of Canon Law at Rheims. When in Rome he gained the esteem of the Pope, Gregory XIII., who, in 1580, appointed him Archbishop of Cashel. To a dignified appearance and deportment he united mild unassuming manners. When, in 1583, persecution raged against the Irish Catholics, the Archbishop of Cashel sought refuge in the house of a friend, the Castle of Slane, County Meath.

It chanced, however, that one of the Judges, Robert

¹ Pat. Roll, 30 Eliz.

² Lord Campbell’s Lives of the Chancellors, vol. ii. p. 122.

³ Rev. Dr. Moran’s Archbishops of Dublin, p. 135.

Dillon,¹ came on a visit to the Castle, and during dinner, at which a number of persons of the reformed creed were present, the conversation turned upon Papists, and the most revolting charges were preferred against the Catholic faith. The Archbishop, who was also at the table, though wishing to retain his disguise, could not listen to these absurd and untrue allegations without a word in defence of his faith. He accordingly refuted the charges, with so much grace, eloquence, and learning that he filled the whole company with reverence and surprise.

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The Judge at once suspected he was some eminent Catholic priest, specially sent to this country to stay the progress of the Reformation, and on his return to Dublin informed the Lords Justices of the circumstance. Archbishop Loftus, Lord Chancellor, and Sir Henry Wollop, then Lords Justices, were at once on the alert. The culprit's arrest was immediately decided on, and a force was sent to Slane Castle to effect that object; but Archbishop O'Hurley fearing this, sought safety by flight, and had gone to Carrick-on-Suir. He was followed and taken. When brought to Dublin he was asked, 'Are you a priest?' He replied, 'I am, and an Archbishop.' This was an admission of guilt in those days, and he was conveyed to a loathsome prison, and kept in chains until the following year, when he was again brought before the Lords Justices. They sought, first by gentle means and persuasion, to induce him to subscribe to the Oath of Supremacy, and renounce the spiritual supremacy of the Pope; they promised him, if he complied, not only pardon for the past, but rewards for the future. Dr. O'Hurley replied, 'that no temporal reward would induce him to give up the Catholic Church, the Vicar of Christ, and the true faith.'

The Judge
an in-
former.

Arrest.

The Arch-
bishop's
firm faith.

He was then fearfully tortured, his execution ordered, and, lest there should be public excitement, he was led forth in the early dawn to die. On Friday, May 6, 1584,

Tortured
and exe-
cuted.

¹ He is named in O'Sullivan's History, p. 124, Chancellor, but this is a mistake; Robert Dillon, of Riverston, County Westmeath, was not Lord Chancellor. He was Chief Justice of the Court of Common Pleas.

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he was hanged on Osmantown Green, and his remains interred in the churchyard of St. Kevin.¹

Lord Chancellor's plan of making the Irish Protestants.

Lord Chancellor Loftus showed a very persecuting spirit, which was, unhappily, the prevailing spirit of this time. Writing to Lord Burghley on the general decay of the Protestant religion, he recommended putting the Ecclesiastical Commission in force, 'for this people are poor, and fear to be fined; if liberty be left to myself and such Commissioners as are well affected in religion, to imprison and fine all such as are obstinate and disobedient, and if they persist, to send them into England for example's sake, I have no doubt but, within a short time, they will be reduced to good conformity.'²

Frequently Lord Justice.

Between his duties as Judge in the Court of Chancery, looking after his Archdiocese, making Protestants of Papists, and attending to his family, Adam Loftus had plenty to do. He frequently administered the Irish Government as Lord Justice during the temporary absence of the Viceroy. He held this important trust in 1597, and again in 1599, on the memorable occasion when the once-favoured Earl of Essex left Ireland without leave, and startled the Queen by presenting himself before her in her dressing-chamber, before she had completed her toilet.

Essex rebuked by the Queen, Assistant Councillor.

We know what a warm reception he got. At the close of the year, the Archbishop was named one of the Assistant Councillors to the Lord President of Munster, and, in 1603, had pardon of intrusion and alienation in reference to numerous grants he acquired of the manors and estates of Rathfarnham, Ballintryer, Newtown, Stagonil, Timothan, Old Court, Kilclogan, Wexford, Hooke, Painsstown, Le Naas, &c.³ The latter years of this Prelate were for the most part spent in amassing riches by accumulating estates. Fortunately for him, he was not required by the Government, as in former years by the Chapter of St.

Obtains numerous manors.

¹ For a full account of this martyrdom, see 'History of Catholic Archbishops of Dublin,' by Rev. Dr. Moran, vol. i. p. 135.

² State Paper Office, Temp. Eliz.

³ Rot. in Canc. Hib.

Patrick's, to pledge himself 'not to ask for more.' His cry was ever, 'Give ! give !'

His daughters made great marriages. Anne, the second daughter, married Sir Henry Colley, of Castle Carbury, and from that union the late Marquis Wellesley and Arthur Duke of Wellington have descended. But honours and lordships, mitre and mace, were soon to lose their possessor. The three score years and ten, after which we are told comes travail and sorrow, had been passed. The Chancellor survived the Royal Lady who had shown him such favour by two years, and the powers of life were drawing to a close. He expired at the Palace of St. Sepulchre on April 5, 1605. His death took place forty-two years after his consecration, the greater number of which were passed as Archbishop of Dublin. He was buried in St. Patrick's Cathedral, at the right side of the monument of his former associate in the office of Lord Justice, the Earl of Cork.

LADY
COLLEY.

Death and
burial in
April,
1605.

In his time religious disputes and persecutions so greatly occupied the time of public men, we have little to relate of the Archbishop as a Chancellor. But from his talents and capacity we may presume he did the business of suitors with despatch, and, when unbiassed, with ability and equity. The complaints made against him must, of course, detract from his merit, but they do not appear to have proved prejudicial, for, to the time of her death, he retained the favour and confidence of his early patroness, Queen Elizabeth.

HIS CHA-
RACTER AS
CHAN-
CELLOR.

The proceedings of the Court of Chancery in Ireland were now assuming something of arrangement. The Decrees of the Court preserved, commence in the 24th Henry VIII. There is a chasm in the series, from 1643 to 1655, when the business of the Court of Chancery, as well as of the other Courts of Justice in Ireland, was suspended by the unhappy civil war then prevailing. Thence, until the Restoration of King Charles II., there are rolls of the Decrees and Adjudications of the Commissioners for the administration of justice in Ireland.

DECREES OF
CHANCERY
FROM 24
HEN. VIII.

CHAP.
XX.

Decrees
respecting
Acts of
Settle-
ment.

Duties of
Master of
the Rolls,
tempore
Queen
Elizabeth.

To sit in
Chancery.

Custody of
the Rolls.

Appoint-
ment of
Edward
Fitz-
Symon,
Esq.,
Serjeant-
at-Law.

The Decrees of the Commissioners appointed for executing the Acts of Settlement and Explanation are separately preserved, in very good condition. As some notice of the duties of the Master of the Rolls may be interesting to legal readers, I give an account of them, also specimens of the Practice and Pleadings in Chancery, depositions, and the encouragement for English barristers to practise in Ireland, which are curious and worth preserving; they serve to display the state of the legal profession in Ireland during the days of Queen Elizabeth.

The duties of the Master of the Rolls in Queen Elizabeth's time were disclosed by a warrant appointing Edward Fitz Symon Master of the Rolls. It runs thus, 'Whereas Nicholas White, Master of the Rolls, is, for abusing and non-using of his office, sequestrated to do therein until our gracious pleasure be known to the contrary; and for that there is none in the mean time to sit in our High Court of Chancery, to hear, decide, order and determine causes between party and party, and otherwise to continue that Court as hath been accustomed, and to have the keeping and custody of the Rolls, records, files, books, and other writings of the Court, whereby those that have need of the sight of them may have recourse for copies, and such like furtherance of their causes as to justice appertains; we have thought good, by the advice and consent of our right trusty and well-beloved Counsellor, Sir Henry Sidney, Knight of our Order of the Garter, Lord President of our Marches of Wales, and Lord Deputy General of Ireland, to give and grant, like as we do hereby give and grant, full power and authority to our well-beloved Edward Fitz Symon, Esq., our Serjeant-at-Law, not only to sit in our High Court of Chancery, and there hear, decide, order, decree, and determine such cause and causes as depend in the said Court, or hereafter shall be brought in suit in the said Court, and to do, execute, proceed, and set forth, all and every other thing and things in the Court in as large and ample a manner as the said Nicholas White, Master of the Rolls, or any other before him in that office, might and

ought to have done in the said Court of Chancery, which perteyneth to the keeping of the Master of the Rolls' Office; to have, hold, use, occupy, and exercise, the said office of setting, hearing, ordering, decreeing, and determining causes, as aforesaid, and the keeping of the rolls, documents, records, files, books, writings, and other the premises unto the said Edward, until our pleasure be further known touching the said Master of the Rolls. April 20, 20 of Elizabeth.¹

CHAP.
XX.

Tenure.

The Chancery practice seems to have been well settled at this time. In a suit in which William Birt, of Drogheda, was plaintiff, and Patrick Bathe, of Ruthleigh, county Meath, defendant, the pleadings are much as in our time.²

Chancery
practice.

¹ Morrin's *Calendar Pat.* and *Close Rolls Chan. Ir.* vol. ii. p. 269.

² The Bill stated plaintiff's title to certain lands, and prayed to be continued in quiet possession, which he alleged he could not enjoy without instituting a suit at Common Law for each disturbance and trespass, where he stated he could not have an indifferent trial, in consequence of the great alliance, friendship, and connection of the defendant in the country. The defendant's answer denied the plaintiff's statement of title. The plaintiff replied. The defendant rejoined. The plaintiff sur-replied. Issue being joined, a Commission was directed to examine witnesses, and the cause coming on for hearing, it was adjudged and decreed by the Lord Chancellor and Court that the suit shall be dismissed; that the defendant and his heirs shall have the pasture in controversy until the plaintiff shall recover same by order of the Court or by the course of the Common Law; and that the defendant shall have his costs against the plaintiff, in consequence of the wrongful vexation of the plaintiff, 5*l.* Given at Her Majesty's Castle of Dublin, November 20, 1593.

Equity
pleadings,Decretal
order.

Ad. DUBLIN, CANC.

—Morrin's *Calendar Patent and Close Rolls in Chancery, Ir.* vol. ii. p. 330.

The technicality and clearness of reasoning of Counsel is well shown in the following:—Cormack MacCartie complained in Her Majesty's Court of Chancery that he was to be impeached by colour of an office (inquisition) taken before the Bishop of Cork, and William Saxy, Chief Justice of the province of Munster, at Cork, on the 20th of November, in the 37th year of her Majesty's reign, whereby it was presented that King Edward III. gave and granted to John Lombard and his heirs the Castle of Guynes, near Cloghroe, with other lands of which those in the possession of the said Cormack were said to be parcel; to which office the Counsel of Cormack objected divers imperfections and objections of insufficiency: first, for in the title and style of the office, which was part of the substance and essential part of the office, it was said that the Bishop of Cork, and Saxy, Chief Justice, did inquire (as by inquisition appeareth) 'by virtue of the writ of the Lady the Queen,' whereas no writ ought to have been directed, but to such as were officers, sheriffs, escheaters, or coroners, and not to any Judge—authority being properly given to Judges, not by writ but by Commission;—also the thing annexed

Cause
against
finding on
inquisitionAuthority
of Judges.

CHAP.
XX.

Strong inducements were held out to entice English lawyers to settle in Ireland. Ralfe Rookby was directed

Inducements for English barristers to practise in Ireland.

to the inquisition not being a writ but a Commission, they took the inquisition without authority, and so *coram non judice*; also if it had been intended as a Commission, yet was it but to inquire in *crociis et marchiis cancellarie Domine Regine* as well liberties as without, for the word 'ejusdem,' being a relative, ought to have related to the last antecedent, and so be limited to inquire in *crociis et marchiis cancellarie*, within which limits the county of Cork or the land inquired of was not, and so void; further, they did not name themselves 'Commissioners,' and they said that the writ was directed to them, whereas the Commissioners showed it was directed to them 'and others'; and the Commission not being returnable, it was objected that the Commission came into Court without warrant, not coming by certiorari or other means; it was further objected that the words '*pro salvo custode*' were not words of condition, but rather of consideration, and if they had been words of condition, yet the seisin of King Edward III. not being found, or the seisin of Lombard, the patentee, but rather the contrary, for it appeared by the inquisition that the MacCarties were 'time out of mind' seized of the castle and lands, which 'time out of mind,' being no other than time of prescription, the time of prescription extending before the time of Edward VI., it was gathered that they were, at the time of the patent, before and after, seized, and so could not be impeached by the condition, if it had been a condition; all which being moved by the counsel of Cormack, and a day being given to consider the exceptions, and all parties being called into Chancery on a day prefixed, before Sir Robert Gardiner, Chief Justice of the Bench; Sir Robert Dillon, Chief Justice of the Common Pleas; Sir Robert Napper, Chief Baron of the Exchequer, being called on to assist the Chancellor and Court, and the matter being fully debated, and the argument of all parties heard and considered, it was resolved by the Court that the office (inquisition) was imperfect and insufficient to entitle Her Majesty to the lands comprised therein; and it was therefore ordered by the Lord Chancellor that the inquisition and Commission should be considered void, frustrate, and to no effect. Given at Her Majesty's Castle of Dublin, May 24, 1596, and in the 38th year of Her Majesty's reign.

(Signed) A. DUBLIN, CANC.

—Morrin's *Calendar Patent and Close Rolls in Chancery, Ir.*, vol. ii. p. 381.

Interro-
gatories.

As a specimen of the pleadings of the period, I give the following:—The charter of the guild of St. James the Apostle (Cork) having the seal broken, interrogatories were directed touching the said charter: viz., Whether the charter produced in Chancery, enclosed in a box, with the seal detached, had ever been properly sealed? What quantity of the seal had been seen upon the label of the charter? How was the seal broken; and at what time?

Depositions of witnesses taken in Chancery in reply to the above interrogatories, on November 28, 1565:—

Denis Neile states 'that he saw the charter sealed with the Great Seal; the same year that Mr. Tirrell was married to Margaret Fitz Symon, one Walter Browne was Master, and having the box, wherein the charter was enclosed, in a woman's house by the cuckold's post, he and deponent went into the house, and calling for the box, Walter said that the woman had taken some of the droppings of the "pricketts" that remained in the box, and the woman with

by a clause in a letter of Queen Elizabeth, on Patent Roll of the twelfth of her reign, 'to have one month's entertainment, to commence from his arrival in Ireland; and an allowance for his residence to practice his profession of the law.' He accepted the offer and was soon provided with a place. The Queen sent over Sir Edward Fitton (ancestor of Sir Alexander Fitton, Lord Gawsworth, Lord Chancellor of Ireland in 1689), to be Lord President of Connaught, at a salary of 133*l.* 6*s.* 8*d.* a-year, and Ralfe Rookby was nominated Chief-Justice of that province. The salary was modest for a Chief-Justice—100*l.* a-year—and as no doubt Irish customs and practices were unknown to Chief-Justice Rookby, the Lord-Deputy was directed to select a suitable man of Ireland, learned in the laws, and with a knowledge of the Irish tongue, to be assistant to the said Justice. If he was not so assisted, I can well imagine the perplexity of the lately-arrived Judge when called on to decide whether lands were rightly subject to 'coin and livery, toll, cuttings, reliefs, refections, kernitie, cosherie, cuddy, gellatynny, gillection,' and other Irish exactions.

Some extracts from a will of the time of Queen Elizabeth must close my legal specimens of this reign:—'William Nathaniel Dillon, of Dublin, gentleman. He bequeathes his soul unto the hands of Almighty God, his maker, and to his Sonne, Jesus Christ, his Saviour and Redeemer, and to all the glorious compayne of Saynts in Heaven, and his body to be buried in Christ's Church, or any other place where God and his executors should think good.' He then proceeds to dispose of his property, and does not forget the needy. 'To four poor houses in Dublin, 20*s.*, equally to be delivered, and out of those poor-houses, six men and six women to have gowns of frieze and their dinner at his funeral. To Alice, his wife, the profits of all his leases and lands during the minority of

her hand striking the charter, supposing it to have been a book, broke the seal with such violence that part of it flew into deponent's bosom.'—Morrin's *Calendar*, vol. i. p. 491.

CHAP.
XX.Sir
Edward
Fitton.Rookby
Chief
Justice.His as-
sistant to
know
Irish.Irish
exactions.A will of
the time of
Elizabeth.

CHAP.
XX.

his children, his basin and ewer of silver, parcel gilte, his nest of tunnes, and great salt silver double gilte, and the rest of his plate, as jewels not already disposed of. To Patrick Fox a satin doublet, a pair of velvet hose, his best cloke, faste with velvet and a mourning cloke. To every of his men a mourning cloke. March 15, according to the computation of the Church of England, 1593, 36th of Elizabeth.¹

¹ Morrin's Calendar Pat. and Close Rolls Chancery, Ireland, vol. ii. p. 620.

CHAPTER XXI.

LIFE OF SIR WILLIAM GERARD, LORD CHANCELLOR OF IRELAND.

SIR WILLIAM GERARD, Dean of St. Patrick's, Dublin, received the Great Seal of Ireland in the year 1576.¹ The Gerards are very distinguished in legal annals. Lord Chancellor Gerard was grandson of William Gerard, of Ince, in Lancashire, sprung from the same family as the Gerards of Bryn, who claim a common ancestry with the Dukes of Leinster, in Ireland, and the Earls of Plymouth, in England. The Gerards of Bryn are now represented by Sir Robert T. Gerard, Bart., of Garswood Hall, Warrington. His family have always remained steadfast to the Catholic faith, while the ancestors of the Chancellor embraced the reformed creed. William, the future Chancellor of Ireland, was son of James Gerard and Margaret, daughter of John Holcroft, of Holcroft. Like Chancellor Weston, he had a brother on the English Bench, Sir Gilbert Gerard, Master of the Rolls; ² thus it not unfrequently appears that several members of the same family occupied seats on the bench of England and Ireland contemporaneously. It is most probable that the zeal which Gilbert Gerard displayed in support of Princess Elizabeth,³ caused her, when Queen, to lose no opportunity of advancing such members of his family as displayed capacity for business. William Gerard arrived in Ireland on June 16, 1576, as Dean of St. Patrick's and Lord Chancellor. His

CHAP.
XXI.William
Gerard
Lord
Chancellor.The family
of Gerard.

Parentage.

His
brother
Master
of the Rolls
of Eng-
land.Zeal in the
cause of
Elizabeth.Lord
Chancellor
of
Ireland.¹ Mason's St. Patrick's Cathedral, p. 172.² Foss's Judges of England, vol. v. p. 491.³ In the time of Queen Mary, when the Princess Elizabeth was questioned at the Council table, Gilbert Gerard was permitted to plead there on her behalf, and performed his part so well as that he suffered imprisonment for the same in the Tower,—Dugdale, *Baron.* vol. ii. p. 417.

CHAP.
XXI.Asserts
the Queen's
right to
raise taxes.Deputa-
tion.Her Ma-
jesty im-
prisons the
deputa-
tion.Also the
petitioners.Chancellor
sent into
England.The Queen
praises the
Chan-
cellor.

first measure was not likely to make him popular ; he was speedily engaged in litigation with the Lords of the Pale, who maintained they ought not to be assessed to pay taxes by proclamation of the Council, but by Act of Parliament, according to the custom and constitution. The Chancellor asserted the Royal prerogative, contending the demand made for cess was a branch of such right of the Queen, and had been exercised since the time of Edward III. ; that necessity and self-preservation required it. The Lords of the Pale were not contented with this reasoning, but laid the case before her Majesty, and sent a deputation of three lawyers to London to support their cause. A voluminous memorial was presented by this deputation, signed by the chief Lords and gentlemen of the Pale, in the name of all the inhabitants. The Queen referred the matter to her Privy Council ; and, after due discussion, her characteristic decision was, 'that the impost originated in times beyond the memory of man, and of course ought not to have been questioned.' Then, as a punishment for the petitioners resisting the Royal prerogative, she sent the agents, first to the Fleet Prison and afterwards to the Tower ; and ordered the Lord Deputy to do the same with the petitioners in Ireland, who were accordingly committed to the Castle of Dublin. On finding how little their opposition availed against the imperious will of Queen Elizabeth, they were only too glad to compound for their liberty by paying the tax.¹

The Chancellor was soon impressed with the difficulty of governing a country where jealousy and the desire to lower individuals of mark in the public esteem was so common. In September, 1577, he was sent to London by Lord-Deputy Sidney and the Council of Ireland, to answer accusations preferred against the Deputy and his administration. During his absence, Ex-Chancellor Loftus held the Seal. Gerard's mission was completely successful. The Queen highly approved of the course taken, and in her letter to the Viceroy she speaks in high terms of Lord

¹ Cox, vol. i. p. 349. Holinshed's Chronicle, vol. vi. p. 589.

Chancellor Gerard, gave him liberty to export yarn,¹ and requested the Deputy, Sir Henry Sidney, not to leave the Government until his arrival.

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XXI.

Shortly after the Chancellor's return, Sir Henry Sidney took shipping at the Wood Quay, Dublin, delivering the Sword of State to the Chancellor, with whom it remained until transferred to Sir William Drury, Lord President of Munster, whom he swore into office as Lord Justice.²

Sir William Drury had but a short tenure of office. Through zeal for the Queen's service he undertook more labour than his constitution could endure. In order to set good example, he underwent privations unknown to Viceroys—such as living in camp like a private soldier—and, no wonder, his health gave way. In the Autumn of 1570, he was taken very sick at Waterford; and, feeling his death near, he sent for Lord Chancellor Gerard and Lady Thane, his wife, who attended him at Waterford. He was perfectly conscious, and having given full instructions to the Lord Chancellor respecting the Government, he tried to console his wife, so soon to be a widow. In two days after her arrival death parted them. His body was embalmed, brought to Dublin, where it lay in state several days, and was interred by the Queen's command in St. Patrick's Cathedral. A monument was erected, but faithless to its charge, is no longer traceable.³

To Drury succeeded Sir William Pelham, who, on receiving the Sword of State as Lord Justice, in the presence chamber of the Castle, made the first use of it by conferring knighthood on the Chancellor. This was done in consideration of his good services, in causes of the Council table, and in token of Her Majesty's approbation of the same.⁴ It was also decided that the Lord Chancellor should pass into England, with letters of advertisement to Her Majesty and Council of the State of Ireland, and the proceedings taken by the Lord Justice against the rebels.

Sir Wil-
liam Drury
Lord Jus-
tice.

Illness of
Sir Wil-
liam
Drury.
Sends for
the Chan-
cellor and
his wife.

Death of
Sir Wil-
liam.

Pelham
Lord Jus-
tice.
The Chan-
cellor
knighted.

¹ Chancellors still, sometimes, deal in yarns.

² Cox, vol. i. p. 353.

³ Mason's History of St. Patrick's Cathedral, p. 173.

⁴ Holinshed's Chronicle, vol. vi. p. 421.

CHAP.
XXI.

Sir William Gerard was also instructed to utter by speech what was to be advertised and answered upon Her Majesty's demands and Councils.

Commission.

Ordered
rest.Chancellor
returns to
England.Dies in
1581.Officials
not to be
changed.

In 1580, the Lord Chancellor was called on to take his share in the troublesome work of settling the disputes on the subject of religion. He was appointed Commissioner for Ecclesiastical Cases in Ireland; and the labour and anxiety he suffered in endeavouring to reconcile conflicting claims soon severely told upon his health. Having had a medical opinion to the effect that he needed both change of scene and rest from his heavy judicial labours, he reported the advice of his physicians to England, and had promptly the Queen's letter of license for leaving Ireland, dated August 8. He accordingly returned to England, and hoped his native air would restore him; but it was not possible to avert the final blow. Sir William Gerard died at Chester in the Spring of 1581; and, on May 1, he was buried in St. Werburgh's Church, in that ancient city.¹

An important improvement was effected about this time, which shows that the Queen exercised considerable watchfulness over Irish State officials. Writing from the Manor of Richmond on March 11, 1582, to the Lords Justices, Archbishop Loftus and Sir Henry Wallop, she forbids the removal of any public officer on the occasion of the change or alteration of the Chief Governor; 'for it had been found that they abused their offices by making private gain for the time, without respect to the due discharge of these places, expecting every day to be removed.'² She especially forbids the removal of the following officials—Nathaniel Dillon, Clerk of the Council; Thomas Masterson, Constable of Ferns; Thomas Plunkett, Searcher and Comptroller of Dublin and Drogheda; Richard Colman, Chief Remembrancer of the Exchequer; and Thomas Browne, Keeper of the Gaol in the Castle of Trim.

The Viceroy's held office for a short time on an average.

¹ Mason's History of St. Patrick's Cathedral, p. 174.

² Morrin's Calendar Pat. and Close Rolls Chan. Ir. vol. ii. p. 39.

In the few years following the invasion of Strongbow, between 1172 and 1200, Ireland had no fewer than *seventeen* Chief Governors. In the thirteenth century, they numbered *forty-six*; in the fourteenth, *ninety-three*; in the fifteenth *eighty-five*; in the sixteenth, *seventy-six*; in the seventeenth, *seventy-nine*; in the eighteenth, *ninety-four*.

CHAP.
XXI.Number of
Viceroy.

While such a constant succession of Chief Governors continued, there could be little sympathy between the Governors and the governed. The former had no time to become acquainted with the people over whom they ruled; and, taking their views of the country from those who were their official coadjutors, often antagonistic in race, in creed, and political action to the Irish, were naturally biassed by them. Thus the Viceroy was often beset by toadies and sycophants, who, like Mr. Isaac Corry, 'thanked God they had a country to sell.' Then sometimes the officials were counteracted by each other; and, in our own time, a Viceroy, Chancellor, and Attorney-General were said to have been opposed in political action to the Chief and Under-Secretary, and Law Adviser.

Law officers appear to have been treated with great consideration by Queen Elizabeth. In a letter to Sir Henry Sidney, Lord Deputy, in 1578, she nominates Thomas Snag, Attorney-General for Ireland, Her Majesty observing 'that the public service had been not a little hindered through the default and insufficiency of the officers of the law previously appointed; for redress whereof Her Majesty thought that a person well-chosen in England, might be sent over to exercise the office of Attorney-General; and, therefore, she made choice of Snag, being sufficiently persuaded of his learning and judgment in the law, wherein he had been a long practiser as a Counsellor, and grants him an extraordinary pension of 100*l.* year, in addition to the official fees incident to his office, and wages of two horsemen, and their footmen, according to the ordinary entertainment; and, for as much as for an infirmity taken by an extreme cold, he hath once

Attorney-
General.

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XXI.

in the year used his body to the baynes (baths) in England, the continuance whereof was requisite to his health, Her Majesty requests he shall have license to repair to England once a year, for six weeks, at such time of vacation as may best agree with his cure, and be least hindrance to the public service.'—Oreland, *September 13, 19th Eliz.*¹

Solicitor-General.

The office of Solicitor-General, also claimed attention.—The Lords of the Council in England wrote to Sir John Perrott, Lord Deputy, relating to the appointment of Roger Wilbraham to the office of Solicitor-General, and informing him that, 'as the fee appointed for that place was very inadequate to answer the charge incident thereof, and, seeing that Her Majesty, by reason of other great charges that she was at, could not be induced to increase or supply the same out of her own coffers, they thought it proper earnestly to pray and require his Lordship to give order that the Solicitor should have the allowance of four dead pays, out of such bands as could most conveniently spare it, whereof we eftsoone require you that there be no default; and so we bid you heartily farewell. Postscript.—Our meaning is, that the said Master Solicitor's entertainment should be made as good as that of the Attorney-General there, either by dead pays or otherwise, as hath been ordered for the Attorney.'²—Greenwich, *February 12, 1585.*³

Court of
Chancery
during the
reign of
Queen
Elizabeth.

The best idea of the judicial labours which the various Chancellors of Ireland were called upon to discharge in the Court of Chancery during the reign of Queen Elizabeth, may be found from examining the decrees of the Court. There are no less than 780 decrees enrolled; and,

¹ Morrin's Calendar Pat. and Close Rolls Chan. Ir. vol. ii. p. 11.

² Ibid. p. 108.

³ There was a difference between the allowance to the Attorney-General and Solicitor-General in England at this period. The former receiving a fee of 61*l.*, with 20*l.* as a Justice of Assize; the latter having a fee of 50*l.* It is strange to find the Attorney-General entitled to an allowance as Judge of Assize. In Ireland he could not be thus employed because he directs all criminal prosecutions.

when we bear in mind that many of these causes took several days to hear, what with motions, arguments, and adjournments, we find the Chancellors had no sinecure. I have already given specimens of pleadings, so shall not occupy the reader further on this point.

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CHAPTER XXII.

LIFE OF THOMAS JONES, ARCHBISHOP OF DUBLIN AND LORD
CHANCELLOR OF IRELAND.CHAP.
XXII.Thomas
Jones, Lord
Chanc-
cellor.

His family.

Master of
Arts of
Cam-
bridge.Married in
Ireland.Chancellor
and Dean
of St. Pa-
trick's.

THIS eminent individual was a native of Lancashire, younger son of Henry Jones, Esq., of Middleton, in that county, whose elder son, Sir Roger¹ Jones, Alderman of London, was knighted at Whitehall. Thomas, whose career I am about to trace, was born about the year 1550. He received an excellent education, which was completed at Christchurch College, Cambridge, where he graduated as Master of Arts. He was destined for the Church; and, when he received holy orders, he made his way to Ireland, where he married Margaret, daughter of Adam Purdon, Esq., of Lurgan Race, in the county of Louth, widow of John Douglas. This was a judicious choice, for Mrs. Jones was sister to the wife of Archbishop Loftus, and that dispenser of patronage soon held forth no empty hand to his sister-in-law's husband.

The first preferment of the Rev. Thomas Jones was the Chancellorship of St. Patrick's Cathedral. He subsequently was elected Dean in 1581, and combined with his chapter to make some of those disgraceful demises of the property of the Church (as of the Manor of Coolmine for eighty-one years to Mr. Allen, of Allenscourt), which Dean Swift has so severely censured.²

¹ There seems some doubt as to the name. Lodge's 'Peerages of Ireland' states it Roger, and so do other works, but I think Sir Bernard Burke gives the correct one.

² The endorsement on the original lease by Dean Swift is as follows:—'A lease of Colemine made by that rascal Dean Jones, and the knaves or fools of his Chapter, to one John Allen, for eighty-one years, to commence at the expiration of a lease for eighty-one years, made in 1585; so that there was a

The merits of Dean Jones for a mitre were soon made apparent to Queen Elizabeth. He was recommended as a person well qualified for a bishopric by his learning, wisdom, and other virtuous qualities. This led to his appointment to the See of Meath in 1584, when the Queen wrote from Westminster to the Lords Justices to make out such writings for his election and consecration; also for the restitution of the temporalities of Meath Diocese as were necessary.

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Recom-
mended for
a mitre.
Bishop of
Meath,
A.D. 1584.

On May 12, in that year, he was consecrated in St. Patrick's Church, and, shortly after, called to be of the Privy Council. This was done by Sir John Perrot, Lord Deputy, at the special instance of the Queen.

A Privy
Council-
lor.

When the venerable Archbishop Loftus departed this life in 1605, King James I. of England pronounced emphatically in favour of Doctor Jones for the vacant mitre of the Metropolitan: 'Whereas, since the death of the late Archbishop, we have given an order for the supply of that See, because of same being a place so eminent within that kingdom; we took time to advise of a meet person for it; we have since, upon conference with divers of our Council, found none more fit for the present time than the Bishop of Meath, in regard of his long experience in that kingdom, both in the ecclesiastical state as Bishop, and in the civil affairs as a Chancellor,¹ wherefore we have made choice of him, and we are further pleased that he shall hold in commendam a prebend, which now he hath in possession, which he will nominate unto you.' He accordingly held the prebendary of Castleknock, and the rectory of Trim, in conjunction with the Archdiocese of Dublin. In the same year, 1605, he was appointed Lord Chancellor of Ireland.

James I.,
opinion of
him.

Arch-
bishop of
Dublin.

Lord
Chan-
cellor.

lease for 161 years of 253 acres, within three miles of Dublin, for 2*l.* per annum, now worth, 150*l.* Vide also D'Alton's Lives of the Archbishops of Dublin, p. 251.

¹ As I find no patent for his appointment before 1605, I presume the King here refers to his experience as a Commissioner in Chancery and Keeper of the Great Seal, which had been made to him and others on the death of Lord Chancellor Loftus.

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At this period King James I. was endeavouring to bring Ireland into complete subjection by his favourite scheme, the Plantation of Ulster. He also did a great deal to forward the then rising University of Dublin, and was solicitous to allow Irish law-students the great advantages of legal education in Ireland.

Council of Prelates,
A.D. 1611.

In 1611 Jones, with the other Archbishops and Bishops of the Protestant Church, held a Council in Dublin for the regulation of their dioceses, 'to prevent sectarianism and to extirpate Popery.' The following year he attended the opening of Parliament, which assembled in great state, there. Then was the Lord Deputy with his Peers and magnates in their robes—the Prelates in their lawn, Barry Viscount Buttevant bearing the Sword of State—and the Earl of Thomond, with the Cap of Maintenance. The Lord Deputy on horseback, in a rich robe of purple velvet, a present from the King, and the cortége attended by guards, and trumpeters, proceeded in state from the Castle of Dublin to the Cathedral of St. Patrick's, where divine service was celebrated, and a sermon preached by the Right Rev. Christopher Hampton, D.D., Archbishop of Armagh and Primate of all Ireland.

State pro-
cession.

Such of the Peers as adhered to the Catholic faith, although they paid the Lord Deputy the compliment of attending him to the church door, remained outside during the service, and, on the Lord Deputy and the other state officials reappearing, took their places in the procession and returned to the Castle. On arriving at the Castle they all assembled in the Parliament House, where the Viceroy presided in a chair of state. The Lord Chancellor and other Peers, spiritual and temporal, having taken their seats, according to their degree, the Lord Chancellor made a grave and worthy speech concerning many great and important causes of estate there to be debated upon for the good of the kingdom and for the commonworth thereof.¹

Lord
Chanc-
cellor's
speech.

¹ The ceremony of opening Parliament in Dublin was a very imposing one. Soldiers lined the streets, an escort of cavalry attended the Viceregal cortége,

The Parliamentary history of Ireland may be said to date from the time of Lord Chancellor Jones, in the reign

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bands played, and trumpets sounded. On reaching the Parliament House the Viceroy repaired to his robing-room, put on royal robes, and, attended by two Earls, one bearing the sword of state, the other the cap of maintenance, and three noblemen's sons acting as train-bearers, he proceeded to the House of Lords, when, after a bow to the vacant throne, he took his seat in a chair of state beneath the canopy. Until the Viceroy was seated, the peers, spiritual and temporal, stood in their robes uncovered; on his being seated, they also took their seats.

Procedure
of the
Irish Par-
liament.

The mode of giving the Royal Assent to Bills was thus:—The Lord Chancellor, kneeling, conferred with the Viceroy, and then, standing on the right of the chair of state, commanded the Usher of the Black Rod to acquaint the House of Commons it was His Excellency's pleasure they should attend him immediately in the House of Lords. The Commons, headed by their Speaker, having obeyed the summons, were conducted to the Bar, when the Speaker, after a speech, read the titles of the Bills ready for the Royal Assent. The Bills were then delivered, at the Bar, by the Speaker to the Clerk of the Parliament, who brought them to the table, when the Clerk of the Crown, having read the titles, the Clerk of the Parliaments pronounced the Royal Assent severally in these words:—In case of supplies or other Bills concerning revenue—‘Le Roy remercie ses bons sujets, accepte leur benevolence et ainsi le veut.’ When the Bills were not money Bills, the words of assent were: ‘Le Roy le veut,’ or, ‘Soit fait comme il est désiré.’ His Excellency then withdrew in the same state as he proceeded thither, and the Commons, having returned to their House, the Lords unrobed, after which they adjourned.

Royal
assent.

Meetings between the Houses of Lords and Commons were thus arranged:—When the Commons sought a conference, they sent their Usher to inform the Lords, who, after finishing any business on which they were occupied, sent for the Commons, who, on entering the House of Lords, stood at the lower end of the chamber. The Lord Chancellor, with any other Peers who pleased, then rose and went to the middle of the Bar, where the leader of the committee, and his fellow members stood. Having bowed thrice, he delivered his message to the Chancellor, who, thereon, returned to his place, and the Commons having retired, he stated what the message was for their Lordships' consideration. The matter being discussed and decision arrived at, the Lords sent for the Commons, who, on re-entering, made their obeisances to the Peers, and the answer of the Lords was given by the Lord Chancellor from his seat on the Woolsack. The Usher of the Black Rod waited outside the Bar, and spoke there when occasion required him. The Serjeant-at-Arms was also outside the Bar, in an adjoining apartment, and entered only when summoned. None were allowed to be present at debates in the House of Lords but sons of Peers, and persons required to be in attendance under very severe penalties. At conferences with the Commons, none but members of the committee were allowed to speak, and when any matter that had been committed was reported, the Lords of the Committee stood uncovered. Great care was taken to keep the streets as free as possible from noise or obstruction during the sessions. The constables and messengers of Parliament were ordered to prohibit hackney-coachmen from coming to the door of the House; and the Lord Mayor, by

Confe-
rences be-
tween the
Lords and
Commons.

Usher of
the Black
Rod and
Serjeant-
at-Arms.

Debates in
the Lords.

Confer-
ence with
the Com-
mons.

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Parliaments in Ireland during the reign of James I.

Ludicrous scramble for the chair.

Offensive Acts repealed.

Natives of Scotland.

Causes under the Irish Great Seal.

Street regulations.

of James I. The Journals of the House of Commons commence May 18, 1613. At that period a very violent contest took place for the Speakership, the Catholic party supported Sir John Everard with 101 votes; the Protestants, Sir John Davies, Attorney-General, with 125 votes. There was a scuffle as to which was elected, and, it is said, one honourable member sat upon the other in the chair. Sir John Davies succeeded in retaining the seat. He read a long speech to the Lord Deputy, and referred to the Acts of former Irish Parliaments. He was supported with all the Chancellor's influence. No Parliament had been held for twenty seven-years before the 5th James I. A number of old Statutes offensive to the Irish people were repealed on this intelligible ground, 'That all the natives and inhabitants of this kingdom, without difference and distinction, were taken with his Majesty's gracious protection, and do now live under one law, as dutiful subjects of our Sovereign Lord the King, by reason whereof, a perfect agreement is and ought to be settled between all his Majesty's subjects in this realm.'

The King had that watchful regard to the interests of his own countrymen which, I think, forms one of the best traits of Scottish character. I wish the Irish would imitate them. An Act was repealed against bringing over Scots, retaining them, and marrying with them. In Lord Coke's Reports we find, in reference to Parliaments of Ireland, the following resolution:—'That the causes and Acts transmitted hither, under the Great Seal of Ireland, ought to be kept here in the Chancery of England, and not to be remanded. Second, if they be affirmed, they ought to be transcribed under the Great Seal, and returned into Ireland; and all that which passes the Great Seal ought to be enrolled here in Chancery. Third, if the Acts

proclamation, forbade all drivers of carts, cars, and drays to pass, repass, or go through the streets in front of the Houses from 11 A.M. to 5 P.M., during the sitting of Parliament, in order to prevent stoppages and obstructions to people resorting thither.*

* Desid. Curios. Hib. vol. i. p. 166.

sent over be in any part altered or changed here, the Acts so altered or changed ought forthwith to be returned under the Great Seal of England; but the transcripts under the Great Seal of Ireland, which remain in the Chancery here, shall not be amended, but the amendment shall be under the Great Seal of England, so as returned into Ireland without any signification or certification of their allowance by that in Ireland; so that the *amendments* and *alterations* made here in England, and all the Acts which are affirmed or altered, are returned under the Great Seal of England.'

While the Great Lord Chief Justice of England was mindful of Ireland, his greater contemporary, Lord Chancellor Lord Bacon, was also considering how the position of the fertile yet impoverished land could be improved. On New Year's day, 1606, Bacon presented to King James I. 'A discourse touching the Plantation of Ireland,' saying, 'I assure myself that England, Scotland, and Ireland, *well united*, is such a trefoil¹ as no Prince, except yourself, who are the worthiest, weareth in his crown.' He recommends liberality and kindness, and speaks with just appreciation of the natural gifts of the soil and of the people:—'This desolate and neglected country is blessed with almost all the dowries of nature—with rivers, havens, woods, quarries, good soil, temperate climate, and a race and generation of men, valiant, hard, and active, as it is not easy to find such confluence of commodities—if the hand of man did join with the hand of nature; but they are severed.' The conclusion is no less true than sad: 'the harp of Ireland is not strung or attuned to concord.'

Lord
Bacon's
eulogy on
Ireland
and the
Irish.

The wise and liberal sentiments of the Lord Chancellor of England were unhappily not shared by the Lord Chancellor of Ireland. The obstinacy with which the natives clung to the faith of their forefathers made the Chancellor regard them with rooted aversion. Unfortunately I have many more proofs of this than of his conduct as an Equity Judge.

¹ This shows the shamrock was then the national emblem.

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His remarks on the condition of the Deaneries of Omurrough and Wicklow, in 1614, show the small progress of the Reformation in Ireland. 'I confess there is but a slender account yielded of these two last deaneries, which lie in places remote. I humbly pray my true excuse may be considered, which is, that I cannot possibly get curates to supply the service of these churches; the rectories are inappropriate, and the farmers cannot be drawn to yield any competent means to a minister for serving the cure; besides, if we could get means, we cannot possibly get ministers, for the natives of this kingdom being generally addicted to Popery, do train up their children in superstition and idolatry; so soon as they come of age they send them beyond the seas, from whence they return either priests, Jesuits, or seminaries, enemies to the religion established, and pernicious members to the State. Such English ministers and preachers, as come hither out of England, we do take them upon credit, and many times they prove of a dissolute life, which doth much hurt. I do humbly desire a small supply of ministers, and I will have an especial care of their placing in the best manner I can.'¹

State of
the Church.

Sad ac-
count of
the Pa-
pists,

and of the
English
ministers.

Conduct
of the
Arch-
bishop to-
wards the
Catholics.

The Chan-
cellor's son
made a
Peer.

This is but sorry tribute to the clergy of the Reformed Church. While the Archbishop was thus bewailing the state of his diocese he was treating with unrelenting vigour such members of the Roman Catholic Church as fell beneath his authority. He excommunicated eight members of that persuasion for recusancy, and they were imprisoned. They were released by the indulgence of Parliament, but not with the consent of the Archbishop, for he thundered anew his excommunication, and sent them again back to prison.² The Lord Chancellor was able to push into notice those who had claims upon his care. He had an only son named Roger. This son acquired high rank; first knighthood, then a peerage, as Baron Jones of Navan, and Viscount Ranelagh. He

¹ D'Alton's Archbishops of Dublin, p. 256.

² Curry, Hist. Rev. Dub. Ed. p. 86.

married first Frances, daughter of Garret Moore, Viscount Drogheda, and secondly Catherine, daughter of Sir Edward Longueville, Bart.¹

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In 1617, the Corporation of Dublin procured an order from the Privy Council against certain inhabitants of the liberties of St. Patrick's, who sold goods without license from the Mayor and Commons. This order was passed in the absence of Archbishop Jones, who, on his return, had it suspended, on showing it was a direct encroachment on the privileges of the Dean and Chapter of St. Patrick's, and the Mayor and Commons concealed this fact from the Members of the Council. We are able to ascertain the expense of supporting a student in Trinity College, Dublin, at this period, when the Archbishop had a grant from the Crown of the wardship of Patrick, son and heir of William Bermingham, then late of Corballis, at a certain annual rent, retaining thereout 7*l.* 9*s.* 6*d.* for his maintenance and education in religion and habits in Trinity College, Dublin, from the twelfth to the eighteenth year of his age.

Protects
the privi-
leges of
St. Pa-
trick's.

Grant of
wardship.

The duties of the Lord Chancellor were not very onerous at this period. The practice of the Court was settled by his predecessor, the rules generally known and observed, and such orders as he made, steadily adhered to. The decisions of the time have, from the want of contemporary reporters, unfortunately not reached us, but the high reputation which the Chancellor bore in his Court for wisdom and good sense make me disposed to regard him as a Judge whose decrees gave satisfaction to the Bar and the public.

The Chan-
cellor as
an Equity
Judge.

The cathedral of Christchurch had been greatly in need of repairs, and Archbishop Jones caused them to be made. He also restored the steeple, and placed three weather-cocks thereon. By the preservation of the venerable Black Book of Christchurch, we learn this church was originally built by Anliff, the Danish Prince of Dublin, about the year 1038. King Henry II. made many grants to this church, and Richard Earl Strongbow was interred

¹ The present Viscount Ranelagh is his descendant.

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here. Several relics, including a staff covered with gold and precious stones, called the Staff of Jesus, which it was alleged had belonged to St. Patrick, were preserved here. In 1559, a Parliament began to be held in this church in a room called the Common House, probably the House of Commons. On April 2, 1562, the roof and part of the body of the church fell to the ground, whereby the ancient monument of Earl Strongbow was broken. The fracture is visible.

Death in
1619..

The Chancellor's health very suddenly gave way; he died at the Palace of St. Sepulchres, on April 16, 1619, having governed the See of Dublin for thirteen years, and presided in the Court of Chancery for the same period.

Burial in
St. Pa-
trick's
Cathedral.

He was interred beside the remains of his wife in St. Patrick's Church, near the Communion-table, where a handsome monument was erected to his memory. It bears this inscription:—

Monument
and epi-
taph.

Thomas Jones, Archiepiscopus Dublin.
Primas et Metropolitanus Hibernie,
Ejusdem Cancellarius, necnon bis e Justitiariis unus.
Obit Decimo Aprilis, anno reperatae salutis humanæ
1619.

Sir John
Davies.

In noticing the progress of the legal profession in the various reigns, we must not omit the name of one eminent lawyer, though not among the Irish Lord Chancellors, Sir John Davies. It is related of him that having been guilty of assault and battery on a fellow student of law, in the Middle Temple, in 1598, he was expelled from that society. He then sought to earn a reputation in literature, and published a very able poem, in 1599, entitled 'Nosce te ipsum.' He also wrote 'Orchestra, a poem on the Art of Dancing,' an accomplishment held in great favour among the lawyers of that time:—

When grave Lord Keepers led the brawls,
And Seals and Maces danced before them.

Having the success of Sir Christopher Hatton¹ before his eyes, Davies probably hoped to reach the same rank by

¹ Lord Chancellor of England in 1587.

the same means. He also sought to recommend himself to Queen Elizabeth by fulsome flattery, which, I suspect, was common enough in her reign, judging from the poems of Spenser—the effusions of Raleigh—Shakspeare—and others less celebrated authors. He addressed twenty-six acrostics to her Majesty's name, *Elizabetha Regina*, and these tender lines are said to have been graciously received. Through the influence of the English Chancellor, Lord Ellesmere, Mr. Davies was admitted to the Bar, and elected Member of Parliament in 1601.¹ On the accession of James I. he was noted for Government employment, for, whatever may have been the faults and follies of the Scottish King, he had the redeeming virtue of rewarding talent. ' *Nosce Te ipsum*' so pleased him, he appointed the author Solicitor-General for Ireland in 1603. Davies received the honour of knighthood, and became Attorney-General in 1606.

Sir John Davies may fairly be regarded as the earliest legal writer in Ireland. His treatise ' *A Discoverie of the True Causes why Ireland was never entirely Subdued, nor brought under obedience of the Crown of England, untill the beginning of His Majestie's happie Raigne,*' was published in A.D. 1612. It displays considerable knowledge of the ancient laws of the Irish, which show the industry and habits of observation of the writer. He also compiled and printed, in 1615, *Reports of Cases adjudged in the King's Courts in Ireland*.² The cases reported peculiar to Ireland are—the case of Mixed Money; the case of Tanistry, decided in the King's Bench; of the County Palatine of Wexford, in the Exchequer; the cases of Profits; of Customs payable for Merchandises; of the Dean and Chapter of Ferns; of Legitimation, and Bastardy, in the Court of Castle Chamber; of a Commenda, in the Common Pleas, and a Premunire. They contain many curious points of interest relative to the laws, history, and antiquities of Ireland.

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Pays
court to
Queen
Elizabeth.

James I.
encourages
men of
talent.

Davies,
Solicitor
and At-
torney-
General.

Davies the
first legal
writer on
Ireland.
True
causes why
Ireland
was never
subdued.

Publishes
Law Re-
ports,
1615.

¹ He represented Corfe Castle.

² English translation published in Dublin, 1762.

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Wood
Quay,
favourite
residence
of Irish
Judges.

Davies
returns to
England.

Appointed
Lord Chief
Justice,
and dies.

The Irish
Law
Courts re-
moved to
Chichester
House.

State of
the King's
Inns,
Dublin.

Order re-
specting
the King's
Inns in
1607.

While in Dublin Sir John Davies resided in the Wood Quay, a favourite locality for members of the legal profession. Here, also, lived Sir Jerome Alexander, one of the Judges of the Common Pleas; James Donnellan, also Judge of the same Court; Sir Adam Loftus, Lord Chancellor; Sir Faithful Fortescue and William Samback, King's Serjeant. Davies left Ireland for his native country in the year 1616. After his return to England he discharged the duties of Justice of Assize, and sat in the English House of Commons as Member for Newcastle-under-Lyne in the Parliament of 1621. He was actually nominated Lord Chief Justice of England, and had purchased his Judge's robes, when he died quite suddenly on December 7, 1626.¹

During the Michaelmas Terms of 1605, and two ensuing terms, the Courts of Law were held in a large building erected in a garden in the east suburbs of Dublin, by Sir George Carew, President of Munster, and Lord Treasurer of Ireland. It was designed for an hospital, and is described as a large mansion, with a gate-house, a garden, and plantation, and was first called Carew or Carye's Hospital; but, becoming the property of Sir Arthur Chichester, acquired the name of Chichester House, by which it was best known.²

This removal to Chichester House was absolutely necessary, for at this period the King's Inns of Dublin were sadly out of repair, so much so that, in 1585, Sir John Perrot proposed to make a granary of them, and remove the Law Courts to St. Patrick's Cathedral.³ At the King's Inns the Court of Chancery was held in the Friar's Hall, the Exchequer in the Dormitory, the Common Pleas in the north end of the Dormitory, and the King's Bench in Sir Robert Dillon's Chamber. On June 24, 1607, the Society of King's Inns ordered 'that, forasmuch as the present restauration of the Society of the King's Inns doth

¹ Imp. Diet. Univ. Biog. vol. ii. p. 37.

² Gilbert's History of Dublin, vol. iii. p. 60.

³ Harris's Ware, vol. ii. p. 13.

require an admission of the practisers, officers, attorneys, and others of the several Courts, whose auncientye is not yet sufficiently known, it is therefore this day ordered that the admittances shall be received and entered in the book of admittances, as they shall appear and desire the same.'

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Mr. Littledale in his pamphlet on the 'King's Inns'¹ Comments on this order. remarks:—'This order was an attempt to obtain, by means of the Lord Deputy, what the King had refused, viz., the organisation of an independent Inn of Court. The Judges, who were the lessees of the Inns, had full power to make the officers and attorneys do as they chose, and the admission of the Lord Deputy to Membership was a bait thrown out to barristers, who were already members of an Inn of Court, to enrol themselves in an Inn of Chancery.'

The attention of the Attorney-General, Sir John Davies, who was a member of the King's Inns, was directed to the want of a proper building for the purpose of legal education in Ireland, and the result of his activity was to grant to the Judges the Dominican Abbey to hold to them 'that the justices and professors of the Common Law in the said Kingdom of Ireland shall have and may possess all and singular the premises for a common hall for ever.'

The taste for dancing already noticed was regarded a necessary accomplishment for a lawyer in those days. The King ordered that none but gentlemen of descent should be admitted to the Inns of Court, and, in the seventh year of his reign, under barristers of Lincoln's Inn were, by decimation, put out of Commons, because they refused to dance before the Judges on Candlemas-day, and were told if they repeated this offence, they would be fined or disbarred.

In reference to barristers dancing, I give the following from the Memoranda Roll of 9 Henry VIII., which

Penalty on
barristers
refusing
to dance.Irish bar-
risters
learning
to dance.

¹ Littledale, on the King's Inns and Legal Education in Ireland.

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describes the studies and habits of Irish law students in the reign of Edward IV. 'I, Thomas Netterville, the Kynge's attorne, was with Sir Willym Darcy, of Plattone, on Monday next before the feast of the Nativity (9 Henry VIII. 1517), and ther, among oþyr cowyunts, inquired of him whether he knew John Bermingham and Nicholas Tryers or not, and what age or stature the said Nicholas was of; the which Sir William shewed me, that he and his cosyn, Sir Thomas Kent, being lurning their tenours and *Natura Brevium*¹ with Mr. Street at Dovelyng (Dublin), was tabelyd at Hugh Talbots, the said Hugh then dwelling where John Dillon now dwellyth, and that Ffyllip Bermingham, then Chief Justice of the King's Bench, att that time dwelled there, as Ann White dwelleth now, having one John Harper in his service, unto which said John Harper the said Sir William and Sir Thomas, with other their companyons, on holydays resorted to learne to harpe and to daunce, at the said Justice's place, where was there John Bermingham; and Sir William and Sir Thomas so being there in dwelling, was sent for to the marriage of Nicholas and Luttrell's doghter to Luttrell's town, where they accompanied by divers of Dublin went, at which tyme Nicholas was as tall a man as ever he was, and the best and strongest archer then at that marriage, and at the least, so the said Sir Willyum remembrans, there was forty good bowes there; and after Sir Willym, his father fell sick, and sent for him home; but here he raght (ere he rode) home his father died, the Newyere's Day next before the death of Edward IV.'²

First call
to Irish
Bar.

For a considerable period the right of calling gentlemen to the Bar did not exist in Ireland, but English barristers were obliged to become members of the King's Inn before they could practise in Ireland. The earliest

¹ Littleton's Tenures, and Fitz Herbert's *Natura Brevium*, were the class-books of law students in former days.

² Morrin's Calendar Pat. and Close Rolls Chancery, Ireland, Preface, xxviii.

instance I find of a gentleman called to the Irish Bar was a King's Inn student, who was called to the Irish Bar in 11 James I., but it was not in the usual way, by the Lord Chancellor, but by Royal letter. This was William Hilton, of Dublin.¹

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¹ He was Treasurer of the King's Inn in 1640, and afterwards in 1644, Baron of the Exchequer, and Justice of the Common Pleas.

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XXIII.
Important
period of
Irish
history.

Adam
grand ne-
phew of
Lord
Chancellor
Arch-
bishop
Loftus; son
of Serjeant
Loftus.
His edu-
cation.

Judge of
the Martial
Court.

Com-
mission to
execute
Martial
Law,
A.D. 1597.

THE term comprised in the life of Lord Chancellor Adam Lord Loftus of Ely may be considered of the utmost interest in the history of Ireland. During this period occurred the flight of the Earls of Tyrone and Tyrconnel, by which the Province of Ulster was at the disposal of the Crown, and enabled King James I. to plant his countryman on the confiscated lands of the exiled Irish chiefs. The province was formed into counties, tanistry and gavel-kind abolished, the Brehon laws set aside, and the country brought under the laws and constitutions of England. Lord Loftus was Chancellor under James I. and Charles I. While Falkland and Strafford were Viceroys, he had no enviable hold of the Seals.

Adam Loftus was grandnephew and namesake of Archbishop Loftus, for many years his predecessor on the Bench of the High Court of Chancery. He was second son of Robert Loftus, Serjeant-at-Law, and was early intended for the legal profession. He was educated in Trinity College, Dublin, of which his great uncle was Provost, and obtained the degree of LL.D. His reputation for ability in his profession soon obtained him practice, and, as was only natural, the patronage of his relative the Lord Chancellor procured him a place. He was appointed Judge of the Martial Court in 1597.¹

¹ The Commission to execute Martial Law, issued by Queen Elizabeth to Adam Loftus, was as follows: * 'Forasmuch as in martial governments as in civil, there must be discipline; and the same is to be accommodated to times, occasions, and countries, and accordingly, statutes, laws, and ordinances, are to be made and published, and being so, then to be executed, for otherwise they become fruitless, dead, and contemptible escripts. We have, therefore,

* Morrin's Calendar Pat. and Close Rolls, Chanc. Ir. vol. ii.

On the accession of King James I. to the throne of Great Britain and Ireland, he wrote from Holyrood on March 29, 1603. To the Lord Chancellor and Council of Ireland :—‘Albeyt we douhte not ye are sufficintye certfyed of our being proclaymed the onely lawful heire of the crowne of England, France, and Ireland, lykeas we have notifyed the Lord Deputye; yet we would not omitt to render you hartye thankes, if ye have given the lyke prooфе of your affection to our service by proclaiming our authortyе.’ He then confirms them in their offices, with power to do and decree whatever they might have done by virtue of the jurisdiction granted to them.¹

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The valuable office of a Master in Chancery falling vacant the following year, was given to the young Judge by the advice of our Deputy General, set down and published divers ordinances and orders for the better government of all marshall men, and for the restraining of such insolences and extortions as have heretofore been exercised by some of them upon our good subjects, especially of the English Pale, which as our garden, on our account is to be preserved and freed from all noysome weedes, spoyls, and disorders,^a and that these ordinances and laws are to be orderlie and judiciallie examined and determined, and therefore executed accordingly; know ye, that we, of our special gracie, with the consent of our Lord Deputy, and in respect of the good sufficiency and dexterity well known to us to be in our trusty and well-beloved Adam Loftus, Master of Arts, and Bachelor of the Civil Laws, for his good knowledge of the civil law, his other good parts and carriadge of himself, and for the better preventing and punishing of the said disorders and offences, do give and grant to him, the said Adam Loftus, the office and Judge of our Marshall Court, in and throughout the whole realm of Ireland, with full powor and authority to hear, determine, examine and judge, all manner of offences, and the offenders of them, and every of them, against the statutes, laws, and ordinances made, or to be made or otherwise; in as ample a manner, and in like nature, jurisdiction, and course, as any Judge of our Marshal Court in England, or in any of our dominions might or ought to do, by virtue of any grant heretofore made to any judge or judges, concerning the punishment of such offenders, either by fine or imprisonment, loss of life, or other corporal punishment according to the nature and quality of the offence; to hold by his sufficient Deputy, during good behaviour; and in consideration of the pains, travail, and expense which the said Adam shall be at, in the exercise of his office, as well by his attendance upon our Deputy in camp, as in giving judgment and sentences against the offenders, upon complaint to be made by any of our subjects, in breach and violation of the laws and ordinances, we grant to the said Adam Loftus a pension, or daily pay or stipend of six shillings and eight pence, with such other fees and emoluments as appertain to the office.—Dublin, Sept. 17th 39°.

Appointed
Master in
Chancery.
Knighted.

¹ Erck. Pat. Roll, Chanc. Ir. vol. i. p. 17.

^a This is very like the style of Edmund Spenser, the poet.

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XXIII.Lord
Keeper,
A.D. 1603.The Plan-
tation of
Ulster by
James I.

of the Marshal Court, and, on the accession of James VI. of Scotland to the throne of England, which he occupied as King James I., Master Loftus received the honour of knighthood. Honours now began to follow in rapid succession. In 1603, Sir Adam Loftus was made Keeper of the Great Seal, when the failing health of his great uncle rendered him unable to fulfil the functions of Lord Chancellor.

The darling project of James I. was the Plantation of Ulster. He was greatly disappointed that those to whom he allotted large tracts of land made slow progress in colonisation, having, after a lapse of some years, either done nothing at all, or so little that the work seemed to perish under their hands than be advanced by them ; some having begun to build and not planted, others planted and not built, and all of them in general retaining the Irish still in their hands, the avoiding of which was the fundamental reason of the plantation designed by the King. He wrote to the Viceroy, Lord Chichester, threatening to resume the lands, and either to dispose of them for the benefit of the Crown, or regrant them to more active undertakers, and as he wished all the original planters to have notice of his intention, commanded the Deputy to give such notice, in order that they should be aware, if they failed in their duties by August twelve months, he would carry out his threat. By way of showing the determination with which he was prepared to act, he wrote, with his own hand, on the letter this postscript :—

‘ My Lord,—In this service I expect that zeal and uprightness from you, that you will spare no flesh, English or Scottish, for no man’s private worth is able to counterbalance the perpetual safety of a kingdom, which this plantation, being well accomplished, will procure.’¹

This produced some effect, and James resolved to introduce changes into the legal procedure of the country.

The desire of the House of Stuart to establish tribunals for the administration of the law more under the influence of the Crown than the ordinary tribunals of the country

Courts of
Star
Chamber,
and Wards.

¹ Morrin’s Calendar Pat. and Close Rolls, Chanc. Ir. p. 628.

led to the establishment of the Star Chamber¹ and Court of Wards.

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The Lord Chancellor, or Lord Keeper, a Bishop, a temporal Lord, and the two Chief Justices constituted the Court; other Peers and Judges sometimes sat with them. The mode of procedure was by Bill of Complaint on parchment signed by Counsel, showing a case within the jurisdiction of the Court; thereupon the Clerk of the Court made out a warrant, under seal, summoning the offenders to answer the matter alleged. A record was taken of the defendant's appearance, the defendant answered on oath, and if interrogatories were lodged within three days, defendant should answer; or, on plaintiff's application, attachment issued. When issue was joined, the Court proceeded to order and judgment, and the party convicted was sentenced to be fined, or imprisoned, according to the offence. Costs followed the judgment.¹

The Court of Wards was instituted in Ireland by James I. He alleged as the reason for its establishment his care for the good and welfare of his subjects, and for preventing the great inconveniences which might happen in Ireland, if the children of noblemen and gentlemen, who should be in ward, should be deprived of good breeding and education, religion and learning, and that their

Court of
wards.

¹ The Court of Star Chamber was established by James I. immediately after his accession. He considered it necessary for the peculiar state of Ireland to have this court. Its province was 'finding and punishing unlawful maintenances, imbraceries, confederacies, alliances, false bondings, and taking of money by the common jurors of that realm, and by untrue demeanings of sheriffs in making of panels, and other untrue returns, and by riots, routs, unlawful assemblies, forcible entries, and other like hateful disorders, by which the policy and good rule of that realm was well nigh subverted, and on enquiring little or nothing done for punishing these inconveniences, but there ensued great increase of murders, forgeries, and unsurities of the subjects, and loss of their lands and goods, to the great hindrance of the King and displeasure of God;' for remedy whereon King James I., by Special Commission, and letters patent dated Hampton Court, the 10th of August, 1st of his reign, appointed a Court in Dublin Castle, called the Castle Chamber, or Star Chamber, where the causes were heard and determined as authorised by Statute of 3^o Henry VII.

¹ Erck's Repertory of Pat. Roll in Chan. Ireland, p. 38.

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possessions, during their minority, should be preserved in protection from all waste. He also had in view the augmentation of his royal revenue, and named members of his Privy Council Commissioners. There was a considerable number of officials in this Court. The Master, or principal judicial officer, with the keeping of the Seal, had a salary of 300*l.* per annum; also the First Attorney and second judicial officer; First Surveyor and third judicial officer to hold during pleasure. The appointment of these officers was vested in the Crown, and the patronage enabled the King to provide lucrative places for those who, in return, did their best to please him.

Member
for the
King's
County.

Lord Chan-
cellor,
1619.

SIR ADAM LOFTUS was named of Council to the Earl of Thomond, Lord President of Munster, and represented the King's County in the House of Commons. He was shortly afterwards called into his Majesty's Privy Council, and on May 13, 1619, became Lord High Chancellor of Ireland.

The Irish Courts had not the immediate superintendence of the pedantic King, like the English. We read in a very interesting work,¹ that King James I., on being told by Sir Edward Coke, 'that it was not competent for the King to decide questions of law,' replied, 'he thought the law was founded upon reason, and he and others had reason as well as the judges.' To this Coke answered, 'That true it was, that God had endowed his Majesty with excellent science, but his Majesty was not learned in the law of his realm; they are not to be decided by natural reason, but by artificial reason and judgment of law; that the law was the golden mete-wand and measure to try the causes of the subjects; and which protected his Majesty in safety and peace.' The King, greatly offended, said, 'that then he should be under the law, which was treason to affirm.' Wherewith Coke replied, 'Bracton saith, "Quod rex non debet esse sub homine sed sub Deo et lege."'²

I find ample proof that the Chancellor's conduct was at

¹ Foss, Judges of England, vol. vi. p. 1.

² 12 Coke, Rep. 65.

first most gratifying to King James I., who created him Lord Loftus of Ely. Lodge's 'Peerage of Ireland'¹ recites: 'Among others of our best deserving subjects in that kingdom, we have, for many years together, taken especial notice of the faithful and industrious services performed, in many kinds, by our right trusty and well-beloved Sir A. Loftus, Knight, our Chancellor of that our realm; and in a gracious consideration of his merits, we are pleased out of our goodness and favourable respect of him, to look beyond himself, and to add to that eminent office of Chancellor, which we have bestowed upon him, such a title of honour as may descend upon his posterity for his sake; that thereby his virtues may be recorded to future ages, so long as there shall remain an heir male of his house.' The Privy Seal is dated at Westminster, April 23, 1622, and the patent, May 10, same year. His lordship had married Sarah Barlow, widow of Richard Meredyth, Bishop of Leighlen, and had four sons and two daughters.

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XXIII.Viscount
Loftus of
Ely.High es-
timate of
him by
King
James I.

Married.

His
children.

During the reign of James I., there prevailed considerable dissensions between the Courts of Common Law and Equity as to the jurisdiction of the Courts of Equity over the judgments of the Courts of Law. The violent conduct of the great Common Law lawyer and Chief Justice, Sir Edward Coke, brought about his dismissal, and the Court of Chancery had its functions established.² The number of decrees of the Court of Chancery in Ireland enrolled during the reign of King James I. is 312.

Court of
Chancery
decrees in
Ireland
enrolled
temp.
James I.

The income of the Chancellor was increased by the representation to the King that the profit of his place was so small he was in much need of assistance, and the King directed Sir Thomas Blundell, Vice-Treasurer and Receiver-General, to allow the Chancellor the fee of 6s. 8d. a day, granted to him by letters patent for the execution of Judge Marshall's place, together with a pension of 9s. a day, both subject to some abatement.³ The allowance to the

Income
of Chan-
cellor
increased.¹ Vol. vii. p. 247.² Foss, Judges of England, vol. vi. p. 4.³ Morrin's Calendar Pat. and Close Rolls, Chanc. Ir. vol. iii. p. 11.

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Lord Chancellor and Keeper of the Great Seal was for wages, duties, robes, and liveries of himself and the Masters of Chancery. He had a special allowance for his attendance at the Star Chamber, but in some instances I fear the emoluments of the office were increased by means not quite regular, as we shall find elsewhere.

Inaugurating the
Lord
Deputy.
A.D. 1622.

The Lord Chancellor has always taken a very important part in the State ceremonials, as appears from the following account of the inauguration of Lord Falkland given in the Harleian Manuscripts :—‘ On Friday, September 6, 1622, Sir Henry Carye, Knight, Lord Viscount Falkland, late Comptroller of the Privie Counsell in England, and now Lord Deputie of Ireland, landed at Hoathe late in the evening, wherefor that nyghte he was entertayned by the Lord of Hoathe. And on Saturday, in the afternoone, Sir Adam Loftus, Knight, Lord Viscount Loftus of Elye, Lord Chancellor of Ireland, and Sir Richard Wingfield, Knight, Lord Viscount Powerscourt, and Marshall of Ireland, Lord Justices of this Kingdom of Ireland, being attended with divers of the nobilitie and Privie Counsell of this kingdome, mett said Lord Falkland within midway between Dublin and Hoathe, and so they came together to the Castle of Dublin. And upon Sunday morning, being September 8, the Lord Justices and Counsell met together in the Counsell Chambre in the Castle, and the Lord Chancellor, leaving the rest of the Counsell in the chambre, being attended by Francis Edgeworth, Clerke of the Crowne of the Chancerye, with the roll of the Lord Deputie’s oathe, went into the withdrawing chambre, to acquaint the Lord Falkland with the same. And (after a short conference between them) the Lord Chancellor returned into the Counsell Chambre again, from whence the Lord Justices, with all the Counsell, having the King’s sword borne before them by Sir Charles Coote, Knight and Baronett, one of his Maiestie’s Privie Counsell, repaired unto the cathedrall Church of the Holie Trinitie in Dublin, commonly called Christ Church, where, being seated in their seates, and his Maiestie’s sword being left before them; all the Counsell,

together with the gentlemen pensioners, attendants, returned back to the Castle, from whence the Lord Falkland, being by them attended, and accompanied with the Lord Viscount Wilmott of Athlone riding by his side, they came all together to Christ Church, and being their seated in their usual seates, Doctor Usher, Lord Bishop of Meath, made a learned sermon,¹ and the sermon being ended, the Lord Justices came down from their seats, the sword being borne before them, and the Lord Falkland following them to the Communion-table, when the Lord Justices being sett in two chairs provided for them, the said Lord Falkland delivered unto the Lord Chancellor's hands, his Maiestie's two patentes under the Greate Seale of England for the authoritie and place of his Maiestie's Deputie-Generall of this realme of Ireland, which the Lord Chancellor delivered to the hand of Francis Edgeworth, Clerke of the Crown aforesaide (the Master of the Rolls being absent), to be publiquely read. After the reading whereof the Lord Chancellor ministered unto the said Lord Viscount Falkland as well the oathe of his Maiestie's supremacy as the oathe of the said place and room of Lord Deputie-Generall, both of which he received upon his knees. Which being done, the said Lord Viscount Falkland delivered unto the said Lord Justices a lettere from his Maiestie, sealed with his Maiestie's privie signett, and the same being by them opened and publiquely read by Sir Dudley Norton, Knight, Principall Secretary of Estate, did impart his Maiestie's pleasure unto the Lord Justices for the acceptance of his said Deputie, and delivering unto him his Highnesses sword. Whereupon they joyfully taking the sword, delivered it to the Lord Deputye, who presently, upon his receiving thereof, conferred the honor of knighthood upon Mr. Cary Lambert (second son of the Lord Lambert deceased), and then delivered the sword unto the Lord Caulfield, Baron

¹ He selected for his text 'He beareth not the sword in vain ;' Romans xiii. His language was so violent, and excited such apprehension in the minds of the Roman Catholics of Ireland of religious persecution, that he was censured by the Primate.

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XXIII.
Precedence
of Lords
Justices
of Ireland.

of Charlemont, to be by him carried that day. And so they departed from Christ's Church in solemnitie of estate; the Lord Justices taking place for that day, next the Lord Deputie before anie other of the Lords, according to the ancient custome.¹ Serjeants-at-Arms were appointed to attend the House.²

Lord Chancellor Lord Loftus discharged his duties of Chancellor without any complaint during the latter years of the reign of King James I., who was carried off by ague in the spring of 1625.

The year 1625 witnessed the death of James I., and immediately his son, the hapless Charles I., was proclaimed King. He continued Lord Falkland Viceroy, and Lord Loftus Lord Chancellor of Ireland.

Case for
the Star
Chamber.

During the Viceroyalty of Lord Falkland, in 1626, the King ordered the Counsel for the Crown to inform against Sir Pierse Crosby in the Court of Castle's Chambers for exhibiting a scandalous petition to the King in the name of Sir Edward Blaunchville, Knight, without the said Blaunchville's authority or knowledge, reflecting upon the Lord Deputy. The petition complains 'that the Lord Deputy granted away Blaunchville's lands while he was under trial for his life. Blaunchville having declared himself innocent of any such charge, the King ordered Sir Pierse Crosby to be proceeded against "ore tenus," or otherwise, as the cause shall require, and so that such due punishment be inflicted upon him, as his fault in justice shall deserve, that men may beware how they presume

¹ Harleian MSS.

Serjeants-
at-Arms.

² 'The appointment of William and George Peisley to the office of Sergeant-at-Arms, to attend at all times when required, but more especially to attend the Speaker of the House of Commons in every Parliament to be held in the Kingdom, with a fee of 20*l.* a-year, to hold for life. The patent recites that in ancient times there was but one Serjeant to attend to the State, who did sometimes wait upon the Deputy, or Chief Governor, and sometimes upon the Lord Chancellor, so as there was no Sergeant-at-Arms to attend the Speaker of the Commons, and to perform other services in the House in any Parliament to be holdin in the Kingdom according to the manner of England.—Dublin, August 23, 1628.'^a

^a Morrin's Calendar Pat. and Close Rolls, Chanc. Ir. Temp. Charles I. 329.

hereafter, to exhibit false matters against you, our principal Minister there, with purpose to wound your reputation, or break the good opinion we deservedly hold of you.'¹

The next person complained against was the Lord Chancellor, very shortly after the King's accession to the throne.

It must have been most unpleasant for the Lord Chancellor to find his conduct as a Judge impeached, as appears by this letter from the King :—

‘ *The King to Lord Viscount Loftus, Chancellor.*’

‘ Right trusty and well-beloved cousin and Counsellor, we greet you well—Whereas we have received an humble petition of Henry Wright and Richard Blacknall, showing that divers controversies are arisen between the Earl of Cork² and the petitioners, which controversies are depending before you in our Court of Chancery there ; forasmuch as the petitioners do allege that the potency of the Earl is such as it is not for them to contest with him in law, fearing to be worn out with long and tedious suits ; we, taking gracious consideration of the poor estate of the petitioners, and of their great disability to contend with so rich and powerful an adversary, have thought fit to recommend them and their cause to your good care, requiring you speedily to give them a hearing in our Court, touching the matters in difference between them and the Earl, and to put an end thereunto with all possible expedition, that the poor men may have no great source of complaint : Westminster, September 18, 1626.’³

The following year the King required the Chancellor to attend him in London, and ‘ directed Lord Falkland, Lord Deputy, to notify the same, and to command him to deliver into the Viceroy's hands the Great Seal ; then to entrust the Seals to Commissioners, any four of the Privy Council,

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Com-
plaints
against
the Chan-
cellor.

Letter
from King
Charles I.

Lord
Chancellor
to attend
the King,

¹ Morrin's Calendar Pat. and Close Roll, Chanc. Ir. vol. iii. p. 148.

² The Earl of Cork was nearly related to the Chancellor.

³ Morrin's Calendar Pat. and Close Rolls, Chanc. Ir. Charles I., p. 159. Vide also for another complaint the same vol. p. 213.

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two or more being resident in Dublin ; then by Commission to empower Lord Aungier, Master of the Rolls, one of the second Justices of the King's Bench, one of the second Justices of the Common Pleas, one of the second Barons of the Exchequer, and all the Masters in Chancery in Ordinary, and to any three or more of them whereof the Lord Aungier be always one to hear and determine causes in Chancery : Westminster, May 12, 1627.¹

Commiss-
sioners of
the Great
Seal.Of Chan-
cery.

The Commissioners of the Great Seal were the Lord Primate, Lord Dockwoa, Sir William Parsons, and Sir Adam Loftus. While those named to determine causes in Chancery, to punish all contempts and sign all judgments or decrees, were Lord Aungier, Sir Christopher Sibthorp, John Philpott, Sir Laurence Parsons, Henry Mainwaring, and Thomas Cary.²

Fresh com-
plaints.

Considerable dissension prevailed between Lord Loftus and the Deputy, Lord Falkland, who was very unwilling to allow the Chancellor to treat the suitors as he was in the habit of doing. All remonstrances of the Viceroy were disregarded, and an open rupture threatened to disturb the Government. Complaints against the Lord Chancellor had been sent to the King, backed with the sanction of Viscount Falkland. Lord Loftus was charged with undutiful behaviour towards the King in not raising money for the royal service, and especially in improperly acting as Lord Chancellor, and in not showing due respect to the Viceroy. These accusations were of too serious a nature to be lightly treated ; therefore the Chancellor was compelled to repair to London, where, before the Privy Council, the King examined the truth of these charges, and weighed the varying allegations made on both sides. The decision of his Majesty was that the Chancellor 'showed his innocence and justified his proceedings.' The King wrote to the Deputy, desiring that on the Chancellor's arrival in Dublin the Great Seal should be returned to him, and his Lordship be fully restored to the free execution of his office.

Recalled
to London.
Clears his
innocency.The Great
Seal to be
restored.

¹ Morrin's Calendar Pat. and Close Rolls, Temp. Charles I., p. 199.

² Ib. p. 200.

The Chancellor was also commanded to carry himself more respectfully to the Viceroy, and that he in return would receive all due respect from that high personage, so that all former scandals may be avoided.¹

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By a subsequent letter from the King to Lord Falkland authorising a license to be made out for the Chancellor's absence from Ireland, either on the King's business or his own, leaving the Great Seal with the former Commissioners, his Majesty writes—

' And whereas he (the Chancellor) complaineth that he hath suffered much by causeless clamours, and false charges laid against him, whereof as he hath cleared himself here to the satisfaction of us and our Council, so he desires his honour and justice may be vindicated there by a legal prosecution of those that have so wronged him; we, being tender of the reputation of our good officers and servants, and knowing it to be our part to give them protection and punish false aspersions against them, do hold it very just and fit that all those who have preferred any scandalous and false information or charges against our Chancellor, for his carriage in the execution of his office, be proceeded against in our Court of Castle Chamber, and punished according to the demerits as by law is provided.²—Southwick, August 16th, 1629.'

Accusers
to be tried
in the Star
Chamber.

But these accusations were constantly cropping up. Another impeachment of the Chancellor's judicial integrity is shown in a letter addressed by the King to the Chancellor himself and the Earl of Cork, when Lords Justices. Referring to litigation subsisting between the Earl of Ormond and Sir Thomas Butler respecting the Manor of Cloghrenan, the proceedings were directed to be heard and determined by the two Chief Justices, Chief Baron, Master of the Rolls, Second Justice of the King's Bench, and third Baron of the Exchequer, being the fittest persons to settle these controversies, by reason of their equal interest in both parties, leaving out the Chancellor in regard to some

Another
complaint.

¹ Morrin's Calendar Pat. and Close Rolls, Chanc. Ir. Charles I. p. 384.

² Id. p. 464.

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XXIII. relations he had to the parties to the cause in question.¹
Westminster, April 18, 1632.

The corruption which in England notoriously pervaded almost every department of the State in the reign of James I. took some time before it crossed the Channel, but I fear it did at length extend to Ireland, climbed the bench of justice, and sullied the judicial robe. The proceedings against Lord Chancellor Bacon show that bribery was common, though dignified with the title of presents and New-year's gifts.²

Went-
worth
Lord
Deputy.

Letter from
the Lord
Chan-
cellor.

No sooner was the rumour confirmed that Sir Thomas Wentworth was to be the King's Viceroy in Ireland than the Lord Chancellor wrote him a congratulatory letter as follows:—

‘ Right Honorable and my very good Lord,—It is now signified hither that his Majesty hath declared your Lordship for his Deputy of this Kingdom, which hath long waited for the Guidance of so noble a personage, the Fame of whose Virtues and able Parts is not limited within that Kingdom, but hath hither outrun your own Presence, and the Report of your coming into this Government, which, as well in Respect of the Good of this People and his Majesty's Service, as for my own Particular, I have just cause heartily to desire may long continue in so worthy hands.

‘ I acknowledge the unmerited Respects lately received from your Lordship, upon occasion of some Affairs there mentioned touching me, which the Lord Mountnorris acquainted me with; and I humbly beseech your Lordship to make Account that you shall find me always ready to apply my utmost Endeavours to deserve the Increase of your Lordship's good opinion; and though the displeasure of the former here begat me many troubles and such Adversaries as yet cease not to pursue me without cause, yet I never gave him other occasion than the sincere discharge of my duties required, as your Lordship will hereafter

¹ Morrin's Calendar Pat. and Close Rolls, Ir. Temp. Charles I. p. 652.

² Foss's Judges of England, vol. vi. p. 3.

better understand at your Arrival here, which I heartily
wish may be as safe as it shall be welcome unto

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‘Your Lordship’s faithful and humble Servant,

‘AD LOFTUS, Canc.

‘Jan. 27, 1631.’

This rather fulsome epistle was not likely to impress Lord Wentworth very highly with the self-respect and integrity of the writer. As, however, he was aware the Chancellor had many enemies, and was desirous of supporting so exalted an official, the Deputy did his best to uphold him against those who tried to injure him, as appears by the next letter.

Receives support from Lord Deputy.

‘The Lord Chancellor of Ireland to the Lord Deputy.—Right Honourable and my very good Lord,—Having received two Letters from your Lordship, the one of the 18th, the other of the 28th February, I make humbly bold to represent these few Lines in answer of both. In the first, your Lordship hath been pleased to express your care that the complaints against me there, since your being of the Irish Committee, should be kept intire, without my Prejudice, till I might be heard. For which honourable and just Favour I shall ever dedicate myself to your Lordship’s service; I have found by true and dear experience your Lordship’s opinion to be most certain and infallible, “that where His Majesty’s Ministers in eminent Places are not preserved in Honour and reverence, but under-valued, there his affairs must certainly suffer in them.” This hath been my case for many years past, occasioned through the dissonant affections of the Chief Governor and some others of the State, who never accorded more in any one thing, than in work that might tend to my Prejudice and Diminution. From hence have sprung private searches and scrutinies into all my Words and Actions, secret and underhand Detractions, and sometimes more open and plain Disrespects, daily endeavours to irritate and stir up clamours and complaints, some exhibited here, others to the Lords there. The Answers to all which have not taken up a little of the

Another Letter to Lord Wentworth.

Ministers to be respected.

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Time which I might have better employed in his Majesty's service. The Root from whence all these injurious Branches take Life, and receive Abetment and encouragement remains there, and not altogether here, for if here only, I could either avoid them or in some measure procure my own Redress; but being there, I find no other sanctuary to fly unto, but the tribunal of his Majesty's Royal and Free Justice, which hitherto hath acquitted and set me free from all Aspersions that Malice could cast upon one. And now that your Lordship hath been pleased to yield me this Protection, I shall rest in Peace without care of any evil Intentions. . . . Thus acknowledging myself to be infinitely bound unto your Lordship for your manifold Favours, I take leave and remain your Lordship's Wholly to be Commanded,

‘AD LOFTUS, Canc.

‘March 16, 1631.’

The Chancellor petitions for increased allowance.

The unpleasant position of the Chancellor formed a good ground for additional pecuniary compensation, which Adam Lord Loftus was not likely to forego. I find that in 1636 the Lord Chancellor presented a petition to the King, praying some additional recompense for his services, which caused the following despatch to be addressed to the Lord Deputy:—

The King to the Lord Deputy, A.D. 1636.

Chancellor presented with 3,000*l.*

‘Charles Rex.—Right trusty and right well-beloved Cousin and Councillor,—We greet you well. We have taken notice of that which came in a despatch of yours not long since to our Secretary, with reference to a report touching a Petition presented unto us on behalf of our right trusty, and right well beloved Cousin and Councillor, Adam Viscount Loftus of Ely, our Chancellor of Ireland, for some reward in respect of his long services to our Crown, and are therefore pleased in Testimony of our gracious acceptance of his good and faithful services, as well to our dear father of happy memory as to ourself, and for his future encouragement, to bestow upon him the sum of three thousand pounds. [The warrant then shows how it is to be raised.]

‘ Given under our signet at Rafford Abbey, the 7th day of August, in the twelfth year of our reign 1636.

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‘ By his Majesty’s Command,

‘ JOHN COKE.’

It was very fortunate for the Lord Chancellor that the Royal bounty was so promptly extended, for the feelings of the powerful Viceroy towards him, shortly afterwards, were so changed that, I venture to say, if the money was not thus readily given, Lord Wentworth would have caused it to be withheld. The displeasure of the Viceroy I find followed on the nomination, by the Lord Chancellor, of a barrister named Alexander, in a Commission as Judge of Assize.¹

Feelings
of the
Viceroy
changed.

In the Earl of Strafford’s letters, published by the Rev. Dr. Knowler,² we find some sharp letters passed from the Lord Deputy to the Lord Chancellor in respect to this matter. The first is from the Chancellor, and states the cause of his Excellency’s rebuke. It is entitled ‘The Lord Chancellor to the Lord Deputy.’

‘ May it please your Lordship,

‘ Upon Monday last I received letters from Baron Lowther, signifying the death of Serjeant Catlin, and acquainting me that upon his first notice thereof he repaired to Trim, in his own person, and, understanding that the County of Meath was the last county of the Session, he, of purpose, adjourned the same, until the Monday fortnight next after; and, in the interim, returned the old Commission unto me, wherein he and the Serjeant were joined, and desired the renewing of that Commission to himself, and such other as should add unto him. Where-

Letter
from the
Lord
Chancellor
to the Lord
Deputy.

¹ The arrangement of Judges of Assize is usually according to rank by the Judges themselves, who select their circuits. The Chiefs are entitled to the lightest, if they prefer them; and when a Judge is sick, or prevented from going his circuits, the selection of deputy is with the Lord Chancellor, who generally gives precedence to the Serjeants, if available. In this case the selection was not for the Serjeants, which placed the Chancellor under the censure of the Viceroy.

² The Earl of Strafford’s letters and despatches from the originals in the possession of his great grandson, Thomas Earl of Malton, by William Knowler, LL.D., Rector of Irthingborough, vol. ii. p. 67.

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Reasons
for nomi-
nating Mr.
Alexander.

upon, after some pause, I could think of no other for that last despatch than Mr. Alexander, who dwelt in that country, and near the place where the Commission was to be executed ; all other Judges and the King's Counsel being otherwise employed by your Lordship's commandment. So I presently issued a new Commission unto these two, to perform that service. And if any error or mistake hath been in the nominating the last of these, it may time enough be altered, if your Lordship so command. This being all which your Lordship by your letters is pleased to require of me concerning this particular, I humbly take leave, and remain ready to do your Lordship's service.

‘AD LOFTUS, Canc.

‘April 13, 1637.’

This letter indicates that it was with some doubt of his wisdom in the selection the Chancellor inserted the name of Mr. Alexander, and was required by the Lord Deputy to state how he came to include this barrister's name in the Commission, passing over the Serjeants. The reply of the Viceroy is short, and not very sweet, for the perusal of the Chancellor.

The Lord Deputy's Answer.

Reply of
the Lord
Deputy.

Recom-
mends
Serjeant
Eustace.

‘My Lord,

‘To appoint so young a man as Mr. Alexander to such a charge, as is the being Judge of Assize, and delivering so great a goal as is now at Trim, I did not judge it to stand either with honour or the good of a service so highly importing His Majesty and the public peace of the kingdom. And, therefore, I shall rather advise your Lordship to design Mr. Serjeant Eustace for that work, not being otherwise employed in His Majesty's service, but that he may well be spared so much time as the despatch of that service will borrow from him ; and so I remain ready to do your Lordship's service.

‘WENTWORTH.

‘Naas, April 14, 1637.’

It is no wonder the Lord Chancellor felt hurt at such a rebuke. The head of the law, and, supposed to be best acquainted with the members of the profession, to be accused of appointing a young man, not competent to discharge the important duty committed to him, was the most severe censure that could be passed upon his conduct; and that the Viceroy should himself designate the proper person to be appointed must have been most galling. He was, however, not willing to allow the Lord Deputy to dictate to him without some show of resistance, while not daring to disobey his mandate.

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XXIII.Causes for
the Lord
Chan-
cellor feel-
ing hurt.*The Lord Chancellor's Reply.*

‘ May it please your Lordship,

‘ I shall, as speedily as may be, direct a Warrant to His reply. the Clerk of the Hanaper to renew the Commission for the Assizes in the County of Meath, and present it to the Seal with a blank; and, when it comes, I will insert Mr. Serjeant Eustace therein, or some other fit person; for, Serjeant Eustace, I fear, is not provided with such necessities as that journey will require. If there were no other difference between him and Mr. Alexander but matter of years, sure Mr. Alexander is the elder man; but in this and all other things, I shall comply with your Lordship’s commandment, and so remain,

‘ Your Lordship’s,
‘ in all due services to be commanded,
‘ **AD LOFTUS, Canc.**

Mr. Ser-
jeant
Eustace.

‘ April 14, 1637.’

This letter of the Chancellor’s touched the high spirit of Wentworth. The sly taunt at his Excellency’s objecting to Mr. Alexander’s youth, and nominating in his place a younger man, roused the haughty blood of one of the proudest men of his age, and called forth a crushing retort. It fell as follows:—

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Deputy's
answer.Qualifica-
tions of
Serjeant
Eustace.*The Lord Deputy's Answer.*

‘My Lord,

‘Indeed I am not able to resolve your Lordship, whether Mr. Serjeant Eustace or Mr. Alexander be the elder man; only I know the one is the King's Serjeant, and the other is not; which enables him, or at least qualifies him, to be trusted as a Judge of Assize before the other; and know I do, too, that to those who know them both, the Serjeant is held as able in his own profession. Besides (but that I am not apt unnecessarily to touch personally upon any), something I could have mentioned in Mr. Alexander's particular which doth not render him altogether fit for such an employment. In fine, I hold places of that honour and trust, as are Judges of Assize, not decently communicable with every ordinary Counsellor-at-Law, and that I am very confident that Mr. Serjeant Eustace is well provided with all the necessaries requisite for that journey and employment; to wit, with learning and integrity; for, as concerning the rest, his journey to Trim is not so far, or his stay there like to be so long, as that he shall need to overburden his horse¹ with the weight of his sumpter or other carriage. And so not doubting but that your Lordship will have that regard to the honour and good of His Majesty's service that ever best becomes us all.

‘I remain,

‘Your Lordship's very affectionate friend,

‘WENTWORTH.

‘Naas: April 15, 1637.’

Unplea-
sant rela-
tions.

As no further correspondence is published, it is fair to infer that the Lord Chancellor did not reply to this letter from his ‘*very affectionate friend*.’ The terms of this last rankled in his mind; and the next letter to which I direct my reader's attention shows the relations of the Lord Chancellor and the Government were on a most unpleasant footing. In fact, the Chancellor's conduct in his Court had caused grave complaints to be made to the

¹ Judges of Assize travel differently now.

King. Mr. Secretary Coke wrote thus to the Lord Deputy :—

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XXIII.

‘ Right Honourable.

‘ It displeaseth His Majesty very much, that the Lord Chancellor, so great and ancient a Judge, and who best understandeth how to make perfect answers, should now by three imperfect answers to your Lordship¹ and the Council Board show disrespect to justice, and so much dishonour both to your Lordship and the State. For prevention, therefore, of further publick scandal to the Government by so eminent an example of contempt, His Majesty thinketh fit and requireth your Lordship (if he persist in disobeying the orders of your Lordship and the Lords) to take the Seals from him, and then to proceed with such compulsory means as law and justice do require. And yet His Majesty, calling to mind his Lordship’s former services, and considering his old age, is graciously pleased, if he conform himself by answering more perfectly, and by obeying and performing the decree that shall be made thereupon, then your Lordship may restore the Seals to him, which, if he continue in his contempt, will be otherwise disposed of.

‘ Your Lordship’s
‘ Most humble and obedient Servant,
‘ JOHN COKE.

‘ Whitehall: April 25, 1637.’

The manner in which the Lord Chancellor received these friendly admonitions was not calculated to make his further tenure of the Great Seal more protracted. On January 15, 1639, his successor was appointed in terms strongly condemnatory of the Chancellor’s conduct.

‘ Whereas, upon a full and deliberate hearing before us and our Council of several of the misdemeanours and irregularities charged against the Viscount Loftus of Ely, our Chancellor of Ireland, he hath been by Ourself and our

Letter
from Mr.
Secretary
Coke to
the Lord
Deputy.

Lord
Chan-
cellor’s
imperfect
answers.

The Seal
to be taken.

Chancellor
removed,
A.D. 1639.

Sentence
of depriv-
ation.

¹ Evidently concerning some memorials which the Lord Deputy required to have answered by the Chancellor.

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said Council, declared unfit to hold that place any longer; and, forasmuch as it is most fitting that our justice, in a place of so great eminency, should be administered to our subjects in that kingdom by a person both of approved integrity and judgment, we have resolved to confer that place of Chancellor upon our right trusty and well-beloved Counsellor, Sir Richard Bolton, Knight, now Chief Baron of our Court of Exchequer there, of whose integrity, abilities, and faithfulness, both in our service, and in the execution of the place which he now holds, you have given us so good testimony; we, therefore, direct you to pass patent to him accordingly, &c. And our will and pleasure is, that you cause our Great Seal of that our kingdom, formerly sequestered by our directions in the hands of certain Commissioners, to be received from them and delivered to the said Sir Richard Bolton, with that ceremony in such cases usual.¹

Sir
Richard
Bolton
appointed.Lord
Loftus
resides at
Monas-
terevan.His estate
given to
Lord
Drogheda.

After the summary proceeding which deprived Lord Loftus of his office, the noble Ex-Chancellor retired to his beautiful seat, now called Moore Abbey, at Monasterevan, where, in ancient times, a famous bell was kept, said to have belonged to St. Emhan;² and, on solemn trials, it was sworn upon by the litigants. At the time of the suppression of monasteries in Ireland, Monasterevan was granted to George Lord Audley, from whom the Chancellor, Lord Loftus, purchased it. Here he resided; and, on the marriage of his daughter Alice with Charles, Second Viscount Drogheda, Lord Loftus settled Monasterevan upon the young couple, which brought this property into the Moore family, when it acquired the name of Moore Abbey.³

¹ 15, 11^a pars. R. 11. Pat. Dublin, January 15, 1639.

² Hence Monaster Emhan or Evan.

³ To show how little reliance can be placed on tradition, I may cite an extract from the account of this fine mansion, in a work of generally correct information. ‘Adam Loftus, Viscount Ely, held the Court of Chancery during the rebellion of 1641 in the great hall of the monastery yet in being, lined with fine Irish oak.’—*Anthol. Hib.* vol. ii. p. 114. Lord Ely was removed from the Chancellorship two years previously, so he never held any court in the house.

At this time the horizon of Irish politics, seldom bright, was lowering and overcast. Lord Wentworth had, in obedience to the King's command, returned to England, where he received the Garter and Earldom of Strafford. There the Irish Parliament, hostile to the King and his favourite, appointed a Committee to lay their grievances before the King. They were gladly welcomed by the English malcontents, eager to put both King and Minister to death. Strafford was summoned to London, and forthwith committed a prisoner to the Tower. During his absence the King desired to make the Earl of Ormond Viceroy, but was compelled by the Committee to nominate two Puritans, Sir John Borlase and Sir William Parsons, Lords Justices. The Committee pressed on the impeachment of the Earl of Strafford, and the Irish House of Commons impeached Sir Richard Bolton, Chancellor, the Chief Baron, and other high personages.

At the breaking out of the Civil War in 1641, a proclamation was issued by Sir William Parsons and Sir John Borlase, the Lords Justices and Privy Council, reciting 'That there is a discovery made by us, the Lords Justices and Council, of a most disloyal and detestable conspiracy, intended by some evil-affected Irish Papists, against the lives of us the Lords Justices and Council and many others of His Majesty's faithful subjects universally throughout this kingdom, and requiring all to stand on their guard, and shew their faith and Loyalty.' This was signed, amongst other of the Privy Council, by Adam Loftus. It called forth a speedy remonstrance from the Catholic Lords of the Pale; for, by the words 'Irish Papists,' there being no distinction, they might doubt themselves involved; to remedy which error the Lords Justices and Council, being *tender*¹ lest these noblemen might take umbrage at this expression, published and proclaimed 'That by the words Irish Papists they intended only such of the old *meer Irish* in the province of

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Strafford
in the
Tower.

Lord
Chancellor
Bolton and
others im-
peached.

Proclama-
tion.

Catholic
Lords of-
fended.

Proclama-
tion
amended.

¹ Vide Borlase, *Irish Rebellion*, p. 22.

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Ulster, as had plotted that treason, and none of the old English of the Pale.'

The struggle between the Confederate forces and those of the Protestant party soon involved the property of the Ex-Chancellor, as well as of others who shared his principles, in ruin and destruction. It is stated that before February 5, 1642, he lost to the value of 8,330*l.* and 2,106*l.* a-year.

Death of
Lord
Loftus.

Having left Ireland, fearing the consequences of his being taken prisoner, he resided at Middleham, in Yorkshire, where he died, and is buried in the church of Corkham.¹

Sir Chris-
topher
Wandes-
ford.

Among those who were advanced to places of dignity by Wentworth, while Viceroy of Ireland, was Sir Christopher Wandesford, whom, at Wentworth's instigation, King Charles I. appointed Master of the Rolls in Ireland. He was distinguished for his knowledge of the laws of England, and was one of the eight managers of the impeachment of the Duke of Buckingham. In 1633, he was offered the post of Ambassador to the Court of Spain, but preferred accompanying his dear friend Wentworth into Ireland. He resolved to attach himself to the country, for he bought a fine mansion in Dublin, extending from Dame Street to the Liffey, with orchards and gardens, and a fine view of the port from Ringsend. He also built the Rolls Office at his own cost, a stately brick building, three stories high, containing a large muniment-room, the walls of which were panelled with presses of oak, containing compartments for the records of each King's reign, and the year legibly marked, so as to be easy of

¹ Lodge's Peerage of Ireland, vol. viii. p. 247.—The title now borne by the Loftus' family is Marquis of Ely. Charles Tottenham, Esq., M.P. for the borough of New Ross, in the Irish Parliament, was grandfather of the first Marquis of Ely. He was popularly called 'Tottenham in his boots,' braving the agony of gout, and bad roads, while riding post haste from his seat in Wexford to Dublin, when the question, 'whether the surplus money in the Irish treasury should be kept in Ireland or transmitted to England.' As the Irish members attended Parliament in full dress, Tottenham, who was hardly in time to give the majority in favour of Ireland, had no time for dressing, and turning the scale for the country, earned the name of 'Tottenham in his boots.'

reference. Offices for clerks, and rooms for the convenience of business were also provided. He set up a table of fees for public inspection; and a table of penalties consequent upon the transgressions of these orders was annexed.

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He purchased an estate in the County Kildare, where he completed a book of instructions to his son, which bears date 5th Oct., 1636. This property was sold to the Earl of Strafford.

Sir Christopher Wandesford also purchased the ancient inheritance of the O'Brenan's in the County of Kilkenny, and here he encouraged Irish trade and manufactures, by erecting a cotton-mill and working a colliery. He received from King Charles I. the title of Baron Mowbray and Viscount Castlecomer. He died in 1640, it is said, of grief for the sad fate of his early and lifelong friend, the Earl of Strafford.

Before taking leave of this unfortunate Minister for the present, I subjoin an extract from the present Chief Justice Whiteside's Lectures on the Irish Parliaments, which contain a brief notice of the strides made in Irish prosperity while he was Chief Governor: 'Ireland, under the strong Government of Strafford, was tranquil and prosperous, as she was under Harry VIII. Her commerce increased vastly; her manufacture of linen, under the auspices of Strafford began, grew, and flourished; her revenue was large, she paid her debts, and yet her exchequer was full. We must admit that as a ruler he was suited to his time, and equal to his work, and that Ireland emerging from confusion and rebellion could not have been entrusted to firmer hands.'¹

Ireland
under
Strafford's
Viceroy-
alty.

¹ Life and Death of the Irish Parliament, pt. i. p. 62.

CHAPTER XXIV.

LIFE OF SIR RICHARD BOLTON, KNIGHT, LORD CHANCELLOR OF
IRELAND.CHAP.
XXIV.Sir
Richard
Bolton.
Born in
Stafford-
shire.Great men
in his time.

SIR RICHARD BOLTON was a native of England, born in Staffordshire towards the close of Queen Elizabeth's reign. At this eventful period the intellectual world made great strides, not only in literature, but in law, not merely in *belles lettres* but black letters. Great names were and are familiar to the student. Shakespeare and Spenser gained renown in literature ; Coke, Bacon, Ellesmere, and other able lawyers won fame in the legal annals of their native land. These men were the architects of their own fortune, and, no doubt, their success fired the mind of young Richard Bolton and made him apply himself to the study of the law. Having been called to the Bar, he resolved to try his fortune in Ireland, and the result proved the sageness of his plans.

He had been a diligent and attentive student, and the paucity of legal works, relating to Ireland, struck him at once. Here, then, was an opening to introduce him to the profession in Ireland, so he resolved to make himself known as a legal author. He selected for his first work, the Statutes of Ireland. 'The History of the Statutes' is the most correct guide to the social and political condition of a country.¹

Publishes
the Irish
Statutes.

In the year 1621, Mr. Bolton published 'The Statutes of Ireland,' beginning the third year of King Edward II., and continuing to the 11th James I., which he examined with the Parliament Rolls. In the dedication of this volume to the Lord Deputy, the Right Honourable Sir Oliver St. John, he says, 'Considering that many good

¹ Whiteside's Lectures on the Irish Parliament, p. 29.

Statute laws, of force in this kingdom, were never hitherto imprinted, and (upon search), finding that, for want of imprinting many others were perished and lost in these troublesome and miserable times of rebellion, which hath been in this kingdom, and finding also, by experience, that the printed books of these Statutes, which were formerly printed, are so few, that there be not sufficient to furnish only the practisers and Judges; so as both the common people, and some of the professors of the law, yea the Judges themselves, did want the ordinary means to attain the knowledge of the Statute laws, and were constrained very often to have recourse to the Parliament Roll. And finding also, by daily experience, that Justices of the Peace, sheriffs, constables, and other officers, fall short in the execution of their offices, to the great detriment of the commonwealth, I resolved to peruse all the Parliament Rolls which are extant, and to extract such Statute laws as were general, or concerned the general good, which I did accordingly; and after your Lordship's perusal, they were again perused by the Chief Judges and Master of the Rolls, and by them allowed to be imprinted, together with so many of the Statutes formerly imprinted not repealed. Howbeit some few of those Statutes, formerly printed, are by the alterations of the times grown out of use—especially those concerning Marchers—and those distinguishing between English and Irish, and persons amenable and not amenable to the law, are by implication, and good construction of 33 Hen. VIII., 3 & 4 Phil. & M. and 11 Eliz. fully repealed. For now Irish are no enemies, but subjects, with the full benefit of the laws: and all Ireland is divided into counties, and the King's writ doth now run¹ into all parts thereof, so as now every man is amenable to the law, and may be punished for every offence by the ordinary course of justice. Yet the Judges and Master of the Rolls thought fit that these Statutes, which had been formerly

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XXIV.Reasons
for under-
taking this
work.Obsolete
Statutes.Irish no
longer
enemies.Old Sta-
tutes of
use.

¹ Previously it was humorously said, 'In remote parts of Ireland the King's writ never ran, except when it ran away.'

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printed and were not expressly repealed, should be printed again, lest matters of moment were omitted, and though these Statutes were obsolete, they may well serve for an historical use, whereby the judicious reader may partly observe the state of the Church and Commonwealth in those times.' The work was well received, and gained the learned compiler a high reputation, which recommended him for official rank.

He is
knighted.

Bolton's legal ability was not confined to writing treatises. He was regarded as an excellent lawyer, and received the honour of knighthood. He rose rapidly in his profession, for once attornies feel confident their business will be well done, they push the rising Counsel rapidly forward. On the revival of the Court of Wards, 1 Charles I., the offer of First Attorney of that Court was granted to Sir Richard Bolton.¹ A higher place was shortly added. On the death of Sir John Blennerhassut, Chief Baron of the Exchequer, he was nominated his successor, and, by the same letters patent, appointed a Member of the Privy Council of Ireland.² The Master of the Court of Wards, Sir William Parsons, felt reluctant to part with so efficient a colleague, and made such representation to the Government of the assistance he received from Sir Richard for raising the Crown revenues in that Court, and in despatching affairs then depending there, and the loss which must be sustained by his removal before the tenures and revenue were better settled, that the King, by letters patent, licensed him to hold both offices.³

To retain
his office
in the
Court of
Wards.

The relations between Lord Chancellor Loftus and the Government had long been of an unpleasant nature. Complaints prevalent against the Chancellor while Lord Falkland was Viceroy had been renewed repeatedly during the time Lord Wentworth held office, and as no amount of remonstrance effected any change in the Chancellor, there remained only the alternative of his removal from the Bench. This was ultimately effected, as we have seen, in terms the reverse of complimentary to the out-

Lord
Chancellor
Loftus at
variance
with suc-
cessive
Viceroy's.

¹ Morrin's Calendar Pat. and Close Rolls, Chanc. Ir. vol. iii. p. 3.

² Id. p. 25.

³ Id. p. 26.

going Chancellor. His Lordship, however, remained of the Privy Council, was secure in the possession of a large fortune and a title, no small consolation to a discarded Judge. On the removal of Lord Loftus, in January 1639, Sir Richard Bolton was appointed Lord Chancellor of Ireland.

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XXIV.Bolton
Lord
Chan-
cellor.

At this time the salary of the Lord Chancellor received a very considerable increase. The King, considering the great trusts and weighty employments incident to the office, and the great charges and expenses which the Chancellor must necessarily undergo for the decent and honourable support of the dignity of this post, and the acceptable services done by Sir Richard to the King, and the late King James, as also of the smallness of the standing fee and perquisites belonging to the office, for his better support gave him 500*l.* a-year, during his continuance in that office.¹ No doubt the disgraceful state of affairs which existed in England induced the King to make some effort to prevent wholesale trading in offices in Ireland. We read that when the Mastership of the Rolls was vacant in England, Sir Charles Caesar applied to Archbishop Laud for advice and assistance about the vacancy, who said that, 'as things then stood, the place was not like to go without more money than he thought any wise man would give for it.' Sir Charles paid 15,000*l.* for the office with a loan of 2,000*l.* to the King; but Charles I. had some compunction, and returned 3,000*l.*, paid by Doctor Back on the death of Sir Charles Caesar.²

Addition
of 500*l.*
a year.

The new Lord Chancellor discovered he was to undergo some of the annoyances and troubles that made the wool-sack to his predecessor as stinging as a bed of thistles. He was obliged, from the nature of his position, to bear some share of the odium which sprang from the measures of the Lord Deputy, Wentworth, afterwards Earl of Strafford. This steadfast friend, but unfortunate adviser, of

Unpopu-
larity of
the Vice-
roy.¹ Privy Seal, West, July 15, and Patent, Dublin, August 26, 1640.² Foss's Judges of England, vol. vi. p. 208.

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Charles I. was alike unpopular with the nobles and humbler classes in Ireland. His haughty bearing rendered him arrogant to the one and insolent to the other. He resolved to gain the Province of Connaught for distribution among his partisans, and to plant it as James I. had planted Ulster, and with this object a Commission of Enquiry into defective titles was issued. He expected that this project would sweep away the old Catholic proprietors; but the Sheriff of Galway did not pack a jury who would find for the Crown. The baffled Deputy was enraged; he fined both sheriff and jury as his revenge. The decision of Judges at this period, when they acted with subserviency to the Crown, was regarded, as, no doubt it often was, contrary to law, and the Commons resolved on impeaching the Chancellor and other Judges and Privy Councillors, supposed to be aiders and abettors of the arrogant Vice-roy. This was the pretext, but another motive also actuated them—a desire to prevent the Lord Chancellor and others giving evidence in favour of the Lord Deputy, then imprisoned by the English Parliament.

Impeachment of Lord Chancellor, A.D. 1640.

Articles of Impeachment of the House of Commons of Ireland against the Lord Chancellor, Sir Richard Bolton, Knight; John, Lord Bishop of Derry; Sir Gerard Lowther, Knight, Lord Chief Justice of the Common Pleas; and Sir George Ratcliffe, Knight, were prepared by order of the House, dated February 27, 1640. The Committee appointed to prepare these charges numbered no less than forty-four members, and the list undoubtedly contains names well known in the profession of the law.

On March 5 they had the Articles prepared in the following order:—

Articles:
1. For conspiracy to subvert the laws.

‘First that they, the said Sir Richard Bolton, Knight (with the others as above), intending the destruction of the Commonwealth of the realm, have traitorously confederated and conspired together to subvert the fundamental laws and government of this kingdom; and, in pursuance thereof, they, and every of them, have traitorously contrived, introduced, and exercised an arbitrary and tyran-

Commission for enquiry into defective titles.

The Galway jury.

nical government against Law throughout this kingdom, by the countenance and assistance of Thomas, Earl of Strafford, then chief Governor of this kingdom.

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‘Secondly, that they and every of them, the said Sir Richard Bolton, Knight, Lord Chancellor of Ireland, (and the others,) have traitorously assumed to themselves, and every of them, Royal Power over the Goods, Persons, Lands, and Liberties of his Majesty’s subjects of this Realm ; and likewise have maliciously, perfidiously, and traitorously given, declared, pronounced, and published many false, unjust, and erroneous Opinions, Judgments, Sentences, and Decrees, in extrajudicial manner, against Law ; and have propitiated, practised, and done many other traitorous and unlawful Acts and things, whereby as well divers Mutinies, Seditions, and Rebellions have been raised, as also many thousands of his Majesty’s Liege People of the Kingdom have been ruined in their Goods, Lands, Liberties, and Lives ; and many of them being of good Quality and Reputation, have been utterly defamed by Pillory, mutilation of Members, and other infamous punishments ; by Means whereof his Majesty and the Kingdom have been deprived of their services in Juries and other public employments, and the general Trade and Traffick of this Island, for the most part, destroyed, and his Majesty highly damnified in his Customs and other Revenues.

2. Assum-
ing royal
power.

‘Thirdly, that they, the said Sir Richard Bolton, Knight, Lord Chancellor of Ireland (and the others), and every of them, the better to preserve themselves, and the said Earl of Strafford, in these and other traitorous courses, have laboured to subvert the rights of Parliament, and the ancient courses of Parliamentary Proceeding ; all which offences were contrived, committed, perpetrated, and done at such times as the said Sir Richard Bolton, Sir Gerard Lowther, and Sir George Radcliffe, Knights, were Privy Councillors of State, within this Kingdom, and against their, and every of their, oaths of the same ; and at such time as the said Sir Richard Bolton, Knight, was Lord

3. For
trying to
subvert
Parlia-
ment.

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Chancellor of Ireland, or Lord Chief Baron of the Court of Exchequer, within this Kingdom, and Sir G. Lowther, Chief Justice, and John Lord Bishop was Bishop of Derry, contrary to their and every of their Allegiance and oaths.

4. Im-peached for high treason.

‘Fourthly, for which the said Knights, Citizens, and Burgesses do impeach the said Sir Richard Bolton, Lord Chancellor (and the others), and every of them, of High Treason against our Sovereign Lord the King, his cause and dignity.’¹

While these proceedings were impending, it appears to have been the opinion of the Irish House of Commons that the Lord Bishop of Derry would give them the slip, for on May 21, 1641, a message was sent to the Lords, ‘that it is the desire of this House that they would be pleased in regard the Lord Bishop of Derry lyeth so near the water, to appoint his Lordship a more secure lodging.’²

Delay in the Courts.

There was considerable vexation and delay amongst the legal profession, resulting from these proceedings. The Court of Chancery could not sit without its Chancellor; nor the Court of Common Pleas without the Chief Justice; nor the Star Chamber without both.

The King's letter.

While the proceedings were pressed forward in the Commons, the Lords Justices and Council did everything to create delay, and we cannot but be amused at the entry in the Journals of the Commons of Ireland, when the Speaker and Members returned from the Council Board, and reported to the House the Lord Justices ‘had reminded

Impeach-
ment
abandoned

them of the King’s letter concerning precedents to be found out for the right of judicature in the Parliament of Ireland, that another thing was concerning *Tobacco*.³ At length, on July 10, 1641, the Lords Justices desired ‘that the House would forbear proceeding of the Lord Chancellor and the Lord Lowther upon the impeachment; that they were advertised from England about judicature in capital cases; that they would forbear examining wit-

¹ Com. Jour. Ir. vol. i. p. 198.

² Id. p. 210.

³ Id. p. 239.

nesses in that behalf.¹ These high judicial personages, unwilling so great a cloud should rest on their reputation as was implied by these grave charges, presented a petition to the House upon the subject with a view of clearing their characters, whereon, after debate, it was fully resolved 'that the House should proceed no further upon the said Articles of Accusation against the said Lord Chancellor and Lord Chief Justice;'² and thus terminated an attempt to bring obloquy upon these two exalted Judges.

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The Chancellor and Chief Justice require their characters to be cleared.

The Chancellor sought consolation for the sufferings he underwent in the pleasures of literary employment. The want of some manual for the assistance of Justices of the Peace in Ireland was much felt, and with the view of supplying that deficiency, Sir Richard prepared a work, 'A Justice of the Peace for Ireland,' consisting of two books. The first declaring the exercise of that office by one or more Justices of the Peace out of Sessions; the second, setting forth the form of proceedings in Sessions—the matter to be enquired into—with precedents annexed.³

Bolton compiles 'The Justice of the Peace for Ireland.'

I believe that once a man gets a taste for writing, it grows upon him, and he can no more resist its influence than the tree the expansive powers of spring and summer. The leaves must come, the boughs must grow, the trunk expand, the author write. Amid the conflict of civil wars and contending parties, sufficient to distract any but the most diligent writer, Sir Richard Bolton was penning his law works patiently and perseveringly. In addition to those already mentioned, he wrote 'Rules for a Grand Juror, or Articles given in Charge to and Enquired of by the General Quarter Sessions of the Peace.'⁴

Rules for a Grand Juror.

In the reign of Charles I. the dignity of the Coif⁵ was

Coif granted to the Judges.

¹ Commons' Journal, Ir. vol. i. p. 253.

² Id. p. 298.

³ Published in Dublin in 1678 and in 1683, folio.

⁴ Dublin, 1681, 4to.

⁵ It is a mistake to suppose, as has been the case, that the black patch in the crown of the serjeant's bar wig, is the Coif; the Coif is a circular piece of white lawn, lying beneath the black cloth or silk. The ancient Coif was made

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granted to the Irish Judges. The patent states that, 'Taking into our princely consideration the state of our Judges and Serjeants-at-Law, both in England and Ireland, and how much it concerns us to countenance and encourage them in their several employments and places, particularly calling to mind the many great and effectual services performed by many of our Judges in that our realm of Ireland. We are graciously pleased to signify unto you our Royal pleasure to advance them all, both Judges and Serjeants, in that our realm, unto the state and degree of Serjeants of the Coif; in the same sort, quality, and degree, as, time out of mind, hath been used in this our realm of England for all our Judges of our Courts of King's Bench, Common Pleas, and sundry of our Barons of the Court of Exchequer, and Serjeants-at-Law; to the end therefore the said Judges of both our Benches, and also our Barons of our Exchequer, and our Serjeants-at-Law, in our Kingdom of Ireland, may be dignified with the like state and degree of Serjeants-at-Law and of the Coif, as our Judges and Serjeants-at-Law here in England are. We do hereby authorize and require you to cause several writs to be framed and made in our Courts of Chancery, under our Great Seal, to be

Writs
under
Great Seal.

directed to such of our several Judges and Serjeants there respectively as are not already of the Coif, thereby commanding and enjoining every of them, at the several days therein respectively to be appointed, to ordain and prepare themselves to take upon them the state and degree of Serjeants-at-Law, and that they do, after their said several writs returned, together with the Coif, take upon them the very same form and fashion of robes, habits, and other ornaments, as are used here by our Judges in England, according to the several degrees and places in Court.'¹

Irish
Judges to
wear robes,
&c., as
English.

of white silk or lawn, and covered the Serjeant's skull, to which it was fastened by strings tied beneath the chin. Over the white, the Serjeant wore a black Coif cap, still preserved in the black cap, which the judge assumes when passing sentence of death. Common-law Judges in the seventeenth century wore the Coif and cap, which were exchanged for wigs in the days of the Restoration.

¹ Westminster, Oct. 7, 1639. 15 Charles I. 2^o pars fac., R. 56.

During the years from 1641 to the arrival of Cromwell there was little law business transacted. The country was desolated by internecine strife.

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Sir Richard Bolton was Lord Chancellor in 1641, when, on October 26 in that year, Conor Maguire, Baron of Enniskillen was arrested in Cook Street, Dublin, a narrow and poor street running parallel to the Liffey.¹

Arrest of
Lord En-
niskillen,
A.D. 1651.

In the reign of King James I. the Dean's house of Christ Church was devoted to the use of the Judges for holding the Courts of Law. They were held, previously, in the Castle of Dublin, but this being found inconvenient, the precinct or close of Christ Church was selected as

Tempore
James I.

¹ On the 2nd of November the following informations were made before the Lord Chancellor and Sir Gerard Lowther, Knight, Chief Justice of the Common Pleas:—‘Charles Kinselogh of Dublin sayth, that about six o'clock on Saturday morning he heard a knocking at his door, and when opened, there came in a servant of the Lord Maguire's, who asked for good ale, and as he had none, sent examinant's boy for some, when the boy returned, he told examinant that ten thousand Scots were drawing near the town.’ Whereupon the servant said, ‘That the gates were shut, and he could not come to my Lord his horses.’ Then this examinant asked, ‘If the Lord Maguire was up?’ and was told he was, that he the servant had left him at his lodgings at Nevill's house in Castle Street, about to rise. Having called at his Lordship's, and not finding him within, he traced him to one Kearnan, a tailor's, in Cook Street, who worked for him, and found his Lordship lying on a bed in a cock-loft, with an old *caddwe* wrapped about him. His Lordship told examinant that his life, and goods, and all he had, were in examinant's hands, and desired him, if possible, to remove him secretly out of that house. They then planned a disguise, and his Lordship desired examinant to walk abroad and hear what news there was, so he left and locked the door.

Informa-
tions.

While he had been away, John Woodlock, one of the sheriffs of Dublin city, with some others, were on the search for Lord Maguire, and having traced him also to the tailor's in Cook Street, found a number of swords, petronels, pistols, and skeins, which the tailor declared he knew nothing of, or how they came into his house. These being shown to the Lords Justices and Council of Ireland, they commanded a close search, and his Lordship was found where Kinselogh had left him, in the cock-loft with a cloak wrapped round him. This nobleman with several other influential Irishmen, including Roger O'More, Sir James Dillon, MacMahon, Plunkett, Hugh Byrne, and Philip Brady, devoted Royalists, finding the measures which Charles the First intended for the redress of Irish grievances thwarted by the Lords Justices, resolved to seize them and the Castle of Dublin. For this purpose two hundred men were to hold themselves in readiness within the walls of Dublin on an appointed day, and a general revolt was to take place throughout the provinces. A spy, as usual, was among the conspirators, the project was disclosed to the Lords Justices, and Lord Maguire and MacMahon were arrested.

Lord
Maguire
concealed
in a loft
in Cook
Street.

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Trial of
Sir Phelim
O'Neill in
Irish
Chancery
Court.

more central, being situate in the heart of the city. The Dean's house was let to the Irish Government by the Dean and Chapter on moderate terms—ten pounds a year.

The Court of Chancery was occasionally used for trying other than Equity suits. In A.D. 1652, Sir Phelim O'Neill was tried in the Chancery Court, where the Judges sat, and were directed what questions they should allow by a Committee, who placed themselves in an adjoining room, called the Chancery Chamber. A communication was kept up between this Committee and the Judges by means of a messenger, who went constantly between them, relating to the Committee all proceedings that passed in the Court, and bringing their instructions to the Judges on every occasion, speaking to them through a square hole in the wall.

There is a good deal of uncertainty as to the later days of the Ex-Chancellor Bolton. He probably returned to his native country, for Ireland under the sway of Cromwell could have no charm for him. His death is alleged to have taken place about the year 1650.¹

Death of
Sir
Richard
Bolton.
Decrees in
Chancery
during the
reign of
Charles I.

During the reign of Charles I. the Court of Chancery in Ireland was in full work. I find the number of decrees enrolled is seven hundred and twenty-six, and as there were several appeals from the decisions of Lord Loftus, the duties of Judge and counsel must have been pretty severe.

¹ 2 Ware, p. 53.

CHAPTER XXV.

CUSTODY OF THE GREAT SEAL DURING THE COMMONWEALTH.

IN July, 1654, Oliver Cromwell had reached very nearly the summit of his ambition. He was King in all but the name. He was Protector of Great Britain and Ireland, styled 'His Highness,' and surrounded by the insignia of sovereign power. When opening Parliament, on September 3, 1654, he proceeded to Westminster in a state coach, with an escort of Life Guards, attended by the high officers of State, in their carriages, with the three Commissioners of the Great Seal of the Commonwealth of England, Whitelock, Lisle, and Widdrington. This Seal had, on one side, the map of England, Ireland, Jersey, and Guernsey, with the Arms of England and Ireland, and the inscription, 'The Great Seal of England, 1648.' On the other side, the interior of the House of Commons, the Speaker in the chair, with the inscription, 'In the first year of Freedom, by God's blessing restored, 1648.' Having thus changed the Great Seal, and the title of the Keeper in England, the Lord Protector turned his attention to Ireland, and appointed three Commissioners of the Great Seal of Ireland, RICHARD PEPYS, Chief Justice of the Upper Bench; ¹ Sir GERARD LOWTHER, Chief Justice of the Common Bench; and MILES CORBET, Chief Baron of the Exchequer; but they held the Seals only one year. The letter, under the Privy Seal, directed to Fleetwood, then Lord Deputy, notifying their appointment, is dated from Whitehall, June 14, 1655. It informs the Deputy 'that three Commissioners of the Great Seal of Ireland, shall have power to rule and manage the business of the

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XXV.Cromwell,
Lord Pro-
tector.The Great
Seal of the
Common-
wealth.Commis-
sioners
appointed
by Oliver
Cromwell,
A.D. 1655.

¹ During the Commonwealth, to suit the Republican notions, the title of the *King's* Bench was the *Upper* Bench.

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Powers
and duties.

Chancery within that dominion, as the Chancellor or Keeper of the Great Seal there in times past, and shall so continue until otherwise ordered. That the Deputy, on receipt of the Great Seal, sent him by Sir John Temple, Knight, Master of the Rolls of Ireland, should deliver it to the said Commissioners.'

Although not of the high rank of Chancellors, these Commissioners of the Great Seal properly come within the scope of this work, so as to have their lives recorded in its pages.

Chief Com-
missioner
Pepys.

THE CHIEF COMMISSIONER, RICHARD PEPYS, was an excellent Judge. The family of Pepys in England, like that of Plunkett in Ireland, has given distinguished members to every branch of the legal profession. As Mr. Foss well observes, 'In the family of Pepys is illustrated every gradation of legal rank, from Reader of an Inn of Court to Lord High Chancellor of England.'

Parentage.

Richard was son of John Pepys, of Cottenham, in Cambridgeshire, whence the learned occupant of the English woolsack in our day took his title of Lord Cottenham. Richard's mother was Elizabeth Bendish, daughter of John Bendish, of Steeple

His uncle.

Bumpstead, in Essex. An uncle, named Talbot Pepys, was Reader at the Middle Temple in 1623; and it is very likely that from him young Richard acquired his taste for law and desire to become a barrister. Whatever influenced him, he entered his name at the Middle Temple as law-student; and, in process of time, succeeded his uncle in the

A law
student.

post of Reader in the autumn of 1640. A few years later he was elected Treasurer of the Society. He is named in Styles' Reports as Counsel in cases therein reported, and reached the degree of the Coif in 1654. Shortly after, Sergeant Pepys was appointed a Judge of Assize through the Midland Counties, and in the following May became

Reader in
1640, and
treasurer.

a Baron of the Exchequer in England. His seat on the English Bench was of short duration. In less than twelve months he was called to preside as Chief Justice of the Upper Bench in Ireland; and for some period was the sole Judge of his Court. He lived in times of great party and

Baron of
the Ex-
chequer in
England.

Chief
Justice in
Ireland.

¹ Foss's *Judges of England*, vol. vi. p. 467.

political dissension, and it is much to his credit that no taint of calumny sullies his name. His appointment as Chief Commissioner of the Great Seal of Ireland is thus noticed in Mr. Smyth's *Legal History of Ireland*:¹—

‘ We do not hear of Pepys as a judicial bloodhound, soliciting the properties of convicted criminals; let us therefore presume him reasonably innocent, and transfer some respect to the father of Samuel Pepys, Secretary to the Admiralty.’² This was the writer of the egotistical yet valuable diary.

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Chief Com-
missioner
of the
Great Seal.

His son,
Samuel
Pepys.

SIR GERARD LOWTHER, SECOND COMMISSIONER OF THE GREAT SEAL, Chief Justice of the Common Pleas, is stated to have been a very unprincipled man. He was a native of England, and acquired the rank of Serjeant-at-Law. Having been appointed Chief Justice of the Common Pleas in Ireland by Charles I., he was sworn of the Privy Council, and the King thought so highly of his judgment he addressed him by letter as follows, in 1643:—‘ Whereas we have special reason to use your advice in matters which very much import our kingdom of Ireland; our will and command is, that upon receipt of these, our letters, you prepare your self to repair to attend our further pleasure here, at such time as you shall receive directions from our Justices there to that purpose; and thereof you shall not fail as you tender the good of our service, and the

Sir Gerard
Lowther,
second
Commiss-
sioner.
A Serjeant-
at-Law.
Chief Jus-
tice of the
Common
Pleas and
Privy
Councillor.
Consulted
by Charles
I.

¹ Smyth's *Law Officers of Ireland*. *Legal History*, p. 291.

² Chief Justice Pepys died in 1658. His death occasioned some difficulty, for he was the sole Judge of his Court, and if no Judge was appointed before the Term, then close at hand, great public inconvenience must ensue. Many causes, civil and criminal, were depending; there could be no prosecutions in the Upper Bench, and no Judge could be appointed without a patent or warrant from Oliver Cromwell, then Protector: in this dilemma the matter was referred to the Lord Chancellor Steele. He consulted Chief Justice Lowther; Chief Baron Corbet; Sir John Temple, Master of the Rolls; Sir Robert Meredith, Chancellor of the Exchequer; Mr. Justice Donellan, the Attorney and Solicitor-General; and Mr. Loftus; who were unanimously of opinion, that, upon the grounds of unavoidable necessity, such as then existed, and to prevent failure of justice, the Lord Lieutenant might sign a warrant for passing a patent to some one person during pleasure, and until his Highness's pleasure be further known to supply the place of puisne Judge of that Court. This was acted on, and William Basil, Attorney-General, was appointed. His patent for Westminster is dated July 24th, 1658.

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restoring that poor kingdom to some degree of happiness.
Given at our Court at Oxford, October 17, 1643.'

Chief Justice of the Common Pleas under Cromwell. Impeached with the Chancellor. Acquired large property. Miles Corbet third Commissioner.

Admitted to the bar. In arms against the King.

Favourably noticed by Cromwell.

Employed in Ireland.

Commission.

Lowther continued in his office of Chief Justice of the Common Pleas during Cromwell's Protectorate, and, as we have seen, was included by the Irish House of Commons in their impeachment with Lord Chancellor Bolton and others. 'He acquired,' says Smyth, 'a large landed property by steering with unprincipled craft through the boisterous ocean of contemporary troubles, and, dying without issue, left it to relatives or friends.'¹

MILES CORBET, THE THIRD COMMISSIONER OF THE GREAT SEAL, was a man after Cromwell's own heart. Resolute, bold, and of iron will, he united those qualities which had made the brewer of Huntingdon Protector of three kingdoms. Corbet was of a respectable family of Norfolk, and having studied law at Lincoln's Inn, was regularly admitted to the profession; but, from some cause or other, abandoned its practice, and taking up arms against the King reversed the old motto, '*Cedant arma togæ*.' Here his courage and skill obtained him distinction which the Courts of Westminster failed to confer. Cromwell's keen insight into character made him conscious that Corbet was a man whose services and talents it would be well to secure, and whose entire freedom from any scruples of respect for Royalty, made him a fitting colleague for those republicans who were resolved to bring Charles I. to the scaffold. He was accordingly appointed one of the Judges on the King's trial, and on the day sentence of death was pronounced, he signed the warrant for the King's execution. Ireland was a wide field for the labours of Corbet. It has been, unfortunately, too often the experimental ground for politicians of all kinds. Hither Corbet came, and found repose from military duties in the more profitable position of Commissioner for Civil Affairs. When the ruthless work of confiscation and distributing of the estates of Irish Catholics, which the Cromwellian settlement caused, had been arranged, Corbet claimed as the

¹ Smyth's *Law Officers of Ireland*, p. 292.

reward for his services to be made Chief Baron of the Irish Court of Exchequer, which was complied with.

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A project was then started by Fleetwood, Deputy for Ireland in 1655, when the Four Courts were about being re-established, that two courts—the Chancery and Upper Bench—would be sufficient for the country, and that all causes hitherto tried in the Common Pleas could be heard in the latter. The necessity for the Exchequer did not enter into his mind. ‘The lock of the Common Law and the key of the Treasury (to use Lord Coke’s phrase) were to be buried by his fiat,’ and for supplying the courts that were to do the Irish legal work, he offered to provide Judges. Luckily for the patronage of the profession, and for the furtherance of justice, his advice was not taken, and his design was neglected.

Claims to
be Chief
Baron.
Fleet-
wood’s
project.

Corbet became Chief Baron. He held this important office for some years, and acquired a large fortune. The stately Castle of Cloghleagh, the seat of Condon, a powerful Munster chief, with a large tract of fine land, between the rivers Funcheon and Ariglin, situate in a beautiful district of the county of Cork, including the present town of Kilworth, was divided between the Lord-Deputy Fleetwood and Chief Baron Corbet.¹ Dissensions existed between these two. Constantly warring on political grounds, they could not agree in civil matters, and had a dispute about the name of this newly-acquired property. The Deputy wished to change the Irish name, Cloghleagh, into Kilworth,² a place near Leicester, where Fleetwood was born. Corbet preferred the old appellation to the new, but was obliged to yield, and thus the Munster town has a Leicestershire name. The King’s Restoration, A.D. 1660, made any portion of the dominions of Charles II. dangerous ground for the regicides. Corbet, along with Colonels Okey and Barkstead, took shipping for Holland,

Corbet
becomes
Chief
Baron.

Cloghleagh
divided
between
Fleetwood
and Corbet.

Dispute
about the
name.
Fleetwood.
has his
way.

Corbet
taken
prisoner.

¹ Cloghleagh Castle forms a striking feature in Moor Park demesne, seat of the Earl of Mount Cashel.

² Kilworth, County Cork, is the birth place of another Chief Baron, who essentially differs from Chief Baron Corbet, Right Hon. David R. Pigot, appointed Chief Baron of the Exchequer in Ireland, A.D. 1816.

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where the three were seized at Delft, by Sir George Downing, the King's resident, under a warrant from the States General.

Sentenced
to death.

Having undergone most cruel treatment, being shut up in a damp dungeon, heavily ironed, they were taken on board a British frigate, and on their arrival in London, were committed to the Tower. On April 16, 1662, they were conveyed by water to the King's Bench Bar, at Westminster, to receive sentence of death, having been already attainted by Act of Parliament for compassing the death of King Charles I. After evidence given of their identity, and their own confession, they were sentenced to be executed.¹

The last
sad inter-
view.

The last interview between Corbet and his family was very affecting. When the messengers of death were come for him, he was hastening away without taking leave of his wife, which induced some one to say, 'Will you not speak to your wife before you go?' 'Oh, yes;' said he, and then turning back saluted her, committing and commanding her to the Lord, he bid her farewell. But she clinging to him cried out, 'Oh, my dear husband! my precious husband! What a husband I shall now lose! Whom I have not prized as I ought, and might have done! Oh, what will become of me!' At which, although tears were ready to start from his eyes, yet he conquered himself, and taking his wife by the hand, said, 'Oh, my dear wife, shall we part in a shower? Be contented, God will be a husband and a father to thee and thine;' and so, kissing her, turned to his son Miles, whom he took by the hand, and blessed also, and then hastened away, desiring a friend to stay with his wife and son to comfort them.

He sustained his sad end with courage. A friend told him endeavours were used to get his body for burial. 'What care I,' he replied, 'what becomes of my body, when I am dead? Let them do what they will with it; I bless God my soul is safe!' ² So died Miles Corbet.

¹ State Trials, vol. v. p. 131. Vide also 1 Levin's Rep. p. 66. Keling's Rep. p. 13.

² Ibid., p. 1318.

The Great Seal did not long remain in the custody of the Lords Commissioners. In 1656, the Lord Protector nominated WILLIAM STEELE, Chief Baron of the Court of Exchequer in England, Lord Chancellor of Ireland, and this left the three Chiefs of the Irish Courts of Upper Bench, Common Pleas, and Exchequer, free to attend to the duties of their respective Courts. From the paucity of Judges this was, indeed, quite necessary.

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XXV.William
Steele,
Lord
Chan-
cellor,
A.D. 1656.

WILLIAM STEELE, LORD CHANCELLOR of Ireland, was descended from a respectable race. The Steeles were a Cheshire family, long seated at a Moated Grange, named Giddy Hall, near Sandbach. It must not be presumed that the name of the family-seat had any reference to the character of its occupants, or if so, the career of the Lord Chancellor of Ireland forms a very strong refutation, for the term 'giddy' had no application to him. Richard Steele, father of the future Chancellor of Ireland, resided for some time in the vicinity of London, for the books of Gray's Inn record that William Steele, eldest son of Richard Steele, of Finchley, in Middlesex, was admitted a member of that society, June 13, 1631, and was called to the Bar, June 23, 1637. He was fortunate in quickly getting into good general practice, for, within six years from commencing his legal career, he was a candidate for the office of Judge of the Sheriff's Court in London; an appointment of considerable importance. He had, however, a formidable rival in John Bradshaw, afterwards President of the High Court of Justice for the trial of King Charles I.

William
called to
the bar,
A.D. 1637.Candidate
for Judge
of Sheriff's
Court.

Bradshaw was the favourite candidate of the Corporation in whose gift the appointment lay. The Aldermen and Common Council supported him in preference to Steele, and the latter was defeated. Though not successful in this instance, his friends in the city resolved not to abandon him, and, in 1647, when the prosecution was entered upon against Captain Bailey for his abortive effort to rescue Charles I. from the Isle of Wight, its conduct was intrusted to him. In this case, as in most

Bradshaw
preferred.Steele
prosecutes
Captain
Bailey.

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XXV.Expects
Recorder-
ship of
London.Attorney-
General.Is absent
from the
King's
trial.

His excuse.

Recovery
after the
King's
execution.

others at this period, there was little chance for the accused, conviction quickly followed after indictment. Steele displayed so much ability, zeal, and skill, in this prosecution, that it attracted the notice of Parliament, and if, as was expected, Mr. Glynne, Recorder of London, had resigned that office, then Steele was to have been his successor. Again he was disappointed, for Mr. Glynne did not vacate the Recordership, and a new employment was found for the expectant Recorder; the Commons appointed him Attorney-General of the Commonwealth to conduct the case then pending against the King.

This was an office no one would like to discharge who could avoid it, and we find that, when the Court sat on January 18, 1649, to make arrangements for the King's trial, the Attorney-General was said 'to be so unwell, as not to be able to attend, nor likely to be able.'

Fearing his illness might be attributed to his unwillingness to conduct a case touching the life of his Sovereign, he sent a message that he no way declined the service, out of any disaffection to it; but professed himself to be so clear in the business, that, if it should please God to restore him, he should manifest his good affection to the cause.¹ He thus cast upon the Solicitor-General (Cook) the conduct of this momentous case. Whitelock also took good care to avoid sharing in the trial. He and Sir Thomas Widdrington were sent for by the Committee for preparing the charges against the King, and both having opposed it, resolved to keep out of the way. Whitelock's coach was at the door in which they went to his country-seat, and remained there until the sad tragedy was finished.

Notwithstanding Steele's inability to appear in the trial of King Charles I., a few days after the execution of that ill-fated monarch, Mr. Steele was able to appear in the High Court of Justice, on the prosecution of the Duke of Hamilton.² The trial took place before the High Court

¹ Foss's Judges of England, vol. vi. p. 490.

² State Trials, vol. iv. pp. 1155, 1167.

of Justice on February 9, 1649, and both Mr. Steele and Mr. Cook, the Counsel for the people of England, conducted the prosecution for high treason, in making war and fighting against the forces of the Parliament. The Duke pleaded: 1. That he was employed by command of the Parliament and supreme authority of the Kingdom of Scotland, for such ends as were good and justifiable. 2. That he was born in Scotland, before the naturalisation of his father in England. 3. That he rendered himself prisoner upon capitulation, and articles, with those who had Major-General Lambert's commission, and by them he was a prisoner of war, and his life and personal safety was secured by the articles. The argument of Mr. Steele is given at great length in the State Trials, and the prisoner, being found guilty, was executed on March 9, 1649.

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On August 25, 1649, Serjeant Glynne resigned the Recordership of London, and Mr. Steele was elected this time. He had served the Commons well, and, in order to mark their sense of his conduct, they caused him to be the successor of Serjeant Glynne, with the privilege of pleading within the Bar, and freed him from his reading at his Inn of Court.¹ His knowledge of legal procedure was considerable, and he was one of the committee named in January 1652, to consider 'of the delays, the charges, and the irregularities in the proceedings of the law.' In May 1654, a commission issued for the trial of the brother of the Portuguese Ambassador for murder. He was then Serjeant Steele, having obtained the Coif and was appointed Commissioner. This case, which is very interesting, arose out of a discussion at the New Exchange, Strand, London, where three of the Portuguese Ambassador's family, his brother being one, talking in French, were overheard by Colonel Gerhard, who told them very civilly, they did not represent the stories quite correctly. One of them gave him the lie, a conflict ensued in which Colonel Gerhard was stabbed to death. This led to further tumult, and a question of international law arose out of

Elected
Recorder
A.D. 1649.Member of
committee
on Law
Reform.Obtained
the Coif
in 1654.

¹ Whitelocke, pp. 394, 420. Ibid. pp. 520, 590.

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it, which made the trial a very important one. Cromwell ordered the brother of the Ambassador, Don Pontaleon Sa, with two other Portuguese, to be tried for murder before Commissions of Oyer and Terminer in the Upper Bench. The prisoner was a very distinguished diplomatist, and pleaded 'he was not only the Ambassador's brother, but had a commission to be Ambassador in his brother's absence,' he also pleaded ignorance in the laws of England, being of a foreign country, and desired to have counsel assigned. The Court told him 'they were of counsel equal to him as to the Commonwealth.' On hearing the witnesses the prisoner was found guilty, and, after a reprieve, beheaded on Tower Hill.¹

Chief
Baron
Wilde dis-
liked by
Cromwell.

The appointment of Serjeant Wilde as Chief Baron of the English Court of Exchequer, which had been made by the Parliament, October 12, 1648, was not confirmed by Oliver Cromwell when he became Lord Protector in December 1653. From one of those strange caprices which actuated this remarkable man, he took an inveterate dislike to Chief Baron Wilde, and, without assigning any cause, but the *sic volo sic jubeo*, dismissed him summarily from the Exchequer Bench, and placed William Steele as Chief Baron in his place. Wilde poured his complaints into the ears of his friends, who, however, were powerless to turn aside the iron will of England's stern Protector. The Ex-Chief Baron recalled his services, how, in his speeches, while one of the managers for the impeachment of Archbishop Laud, he endeavoured to bring him in guilty of treason.² Now he procured the conviction of Captain John Bailey, at Winchester, for his devotion to the King, and other like services to the Com-

¹ State Trials, vol. v. p. 475.

Wilde
wittily
rebuked.

² It was Wilde, whose violent haranguing on this trial unsupported by evidence, called forth the rebuke from Mr. Herne, counsel for the Archbishop, 'that none of the charges preferred amounted to treason.' Serjeant Wilde: 'That may be so, taken singly, but we do maintain, that all the bishop's misdemeanors, taken together, do by accumulation, make many great treasons.' To this Mr. Herne wittily replied, 'I crave your mercy, good Mr. Serjeant, I never understood before this time that two hundred black rabbits would make a black horse.'—Foss's *Judges of England*, vol. vi. p. 520.

monwealth. In a letter dated July 12, 1654, he wrote to Whitelocke complaining ' how ungratefully he had been treated, after his services ; ' who, in reply, said, ' it was a usual reward at that time, and that he had tried to move the Protector in his behalf, but to no effect.'

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XXV.Reply of
White-
lock.

Steele did not long continue Chief Baron of the English Court of Exchequer. His appointment was dated on May 28, 1655, and on August 26, 1656, he was promoted to the Lord Chancellorship of Ireland. The writ of Privy Seal, dated at Westminster, runs thus : ' Oliver, Lord Protector of the Commonwealth of England, Scotland, and Ireland and the Dominion thereunto belonging. To all to whom these presents shall come, and especially to the people of and belonging to this Commonwealth within our Dominion of Ireland, greeting, know ye, that we, looking upon it as our duty to provide for the due administration of justice unto the people of this Commonwealth, and for well maintaining public affairs under us by appointing persons of learning, wealth, and efficiency, and of approved integrity, unto places of public trust and judicature, and we having had very much experience of the great wisdom, judgment, and discretion, of our right trusty and well-beloved William Steele, Chief Baron of our Exchequer in England, have assigned, constituted and appointed him and do appoint him to be Chancellor and Keeper of our Great Seal in Ireland.'¹

Lord
Chan-
cellor of
Ireland,
A.D. 1656.
Appoint-
ment.

It may be remarked that the wording of this appointment is truly regal, and goes to prove in my mind that Oliver was bent on taking his place among the sovereigns of England, if he was allowed to wear the Crown. The Chancellor was nominated one of Cromwell's House of Lords on December 10, 1657; and, on the accession of Richard Cromwell, continued in his office as Lord Chancellor of Ireland.

Continued
by Richard
Cromwell.

Fleetwood named Steele in October 1659 one of the Committee of Safety, but he refused to co-operate with that body, assigning as his reason that Parliament was the only judge as to the future establishment.

¹ Lib. Mun. Pub. Hib. vol. i. pt. ii. p. 16.

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Henry
Cromwell,
Deputy of
Ireland.

Death of
Oliver
Cromwell,
1658.

Restora-
tion of
Charles II.

Royalists
disap-
pointed.

Conduct of
Cromwell's
officials
after the
Restora-
tion.

Disgrace-
ful be-
haviour
of Steele.

In 1655, Henry Cromwell, son of Oliver, received a commission from his father as Deputy of Ireland. His naturally mild and amiable disposition, the reverse of his stern father's, led him to desire just and lenient measures in the discharge of his official duties. Yet the intolerant spirit of the age obliged him to execute the laws then in force. Oliver Cromwell died on September 3, 1658, and his son Richard's feeble hands could not retain the reins of Government, which Oliver held easily. A party of Royalists met in Dublin, and acting in concert with friends of the exiled Charles, resolved on his Restoration. They seized upon the Castle of Dublin, and Limerick, Clonmel, Drogheda, Carlow, and other chief towns proclaimed King Charles II. He landed in England amidst the enthusiastic joy of the nation, and Ireland echoed shouts of gladness. The Catholic Royalists expected to be restored to their ancestral estates of which the Cromwellian settlement had deprived them. They little foresaw that the first session of the Irish Parliament would take steps to make the settlement binding, and the Act of Explanation would strengthen the arrangement.

At the time of the Restoration of Charles II. the policy of all the political members of the Commonwealth seems to have been to make the best terms for themselves as they could, at the expense of their late colleagues. Steele is related to have secured his personal safety, and made his peace with the Government, by betraying the secrets of Henry Cromwell to Clarendon and Ormond; and, what is worse, by giving up his former colleague in the prosecution of the King, the Solicitor-General, Cook.¹ Cook had been rewarded for zeal in the service of the Commonwealth (by the patronage of Ireton, when Lord President of Munster) with the appointment of Judge of that province and grants of lands in the county of Cork.² On the accession of Charles II., the wisdom of Steele, on having

¹ Foss's Judges of England, vol. vi. p. 492. In fact, he threw the Solicitor-General into his place, by absenting himself under the plea of illness.

² A castle, called Castle Cook, still frowns over the river Ariglen.

absented himself at the time of the trial, was manifested by Cook's apprehension, trial, and execution.

The character of the Ex-Chancellor, who died about the year 1670, has been variously estimated. He is described as haughty and insolent by those who disliked him; prudent and cautious, learned and able, by those who esteemed him. He had married the widow of Michael Harvey, younger brother of the celebrated Dr. William Harvey, whom the curator of an anatomical museum once sagaciously described as 'the inventor of the circulation of the blood.'

On examining the enrolled Decrees of Chancery during the Commonwealth, I find a very fair share of business transacted. Both the Commissioners and Chancellor Steele had plenty to do, and the number of decrees pronounced amounts to three hundred and ninety-four. The suits were of an ordinary character, bills for account—to compel trustees to execute trusts—to perpetuate testimony, and such causes.

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XXV.

Dies.
His cha-
racter.

Business
of the
Court of
Chancery
during the
Common-
wealth.

CHAPTER XXVI.

LIFE OF SIR MAURICE EUSTACE, LORD CHANCELLOR OF IRELAND.

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Lord
Chan-
cellor of
this family.Eustace
Lord Bal-
tinglas.Engaged
at Glen-
malure.Lord Bal-
tinglas
attainted.The family
of Harris-
town.Estate
passes to
William
Eustace.

MANY centuries elapsed, and many generations of the house of Eustace had gone to their rest in the family burial place, Kilcullen, since the former Chancellor of this name—Sir Rowland Fitz Eustace Lord Portlester—held the Great Seal of Ireland in 1474. During that period a branch had, in the fifteenth century, acquired the title of Lord Baltinglas; but on the attempt to molest the O'Tooles, the clansmen of Eustace Lord Baltinglas joined the Wicklow Irish, and aided in routing the forces of Lord Deputy Grey, already narrated, in the defile of Glenmalure.

Numbers of the Viceroy's force, the best and bravest, were slain, and he retreated to Dublin with a damaged military reputation, and covered with disgrace.¹ This success cost Lord Baltinglas his title and estates. He was attainted, and the estates of himself and his adherents were, in 1605, granted to Sir Henry Harrington, Knight, 'in regard that he had been a very good, ancient, and long servitor in the late wars and rebellions in Ireland.'² The branch of Eustace, settled at Castlemarten and Harristown, held their ground, for we find the descendant of Sir Edward Fitz Eustace, of Castlemarten, who died about the year 1440, ennobled under the title of Lord of Kilcullen, in possession of the ancient family residence of Harristown, county Kildare. On the death of Sir Richard Eustace, Knight, of Harristown, without issue male, this estate devolved on William Fitz-John Eustace of Castlemarten, father of the subject of this memoir.

¹ Catechism of Irish History, by Rev. J. O'Hanlon, p. 263.

² King James, Army List, p. 719.

MAURICE EUSTACE was born at his father's seat Castle-marten, about the year 1590. He was old enough to remember the last years of Queen Elizabeth and the accession of James I. He must have shared the feelings of enthusiasm with which James was regarded in Ireland, and remembered how very delusive were the hopes then entertained. The Irish regarded him as, in many respects, their rightful sovereign, descended from Edward Bruce, who was crowned King of Ireland at Dundalk, A.D. 1315. They also thought that the son of the pious Catholic, Mary Queen of Scots, would have tender regard to those who professed the faith which had comforted his mother in her long and rigorous imprisonments, and made her execution more a release than a punishment. As Maurice was to practise the legal profession, he devoted himself very assiduously to the study of the law. He received the best education his native country then afforded, was a graduate of the recently chartered University of Dublin, and therein attained a remarkable degree of learning, for he gained a Fellowship in Trinity College, Dublin, in 1619. Having duly kept the requisite terms, and eaten of the allotted legal dinners at his Inn of Court, Maurice Eustace was called to the bar. A grant to him, by letters patent, enable me to mention that he was admitted to the practice of the law by the Benchers of Lincoln's Inn. The grant is 'of lands to Maurice Eustace utter barrister of Lincoln's Inn, a native of Ireland, and his heirs, in consideration of the services of John Eustace his father.'¹ The lands mentioned in the grant are Harristown, and some other denominations, which may have been part of the forfeited lands; and Maurice Eustace had sufficient interest to obtain a grant of them, whereby he acquired a new title, freed from any question of attainder. He soon established a high legal reputation in Ireland, and his knowledge of every department of law was considerable. He was a very clear-headed man and lost no opportunity

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XXVI.Maurice
Eustace,
born about
1590.Accession
of James I.Maurice
designed
for the law.Fellow of
Trinity
College,
Dublin,
1619.A barrister
of Lin-
coln's Inn.Legal at-
tainments.

¹ This appears to be a mistake. His father's name was William Fitz-John Eustace.

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of advancing his own interests, so that he stood well with the antagonistic parties into which it is the sad destiny of Ireland to be perpetually divided.

Serjeant.

Favour-
ably
noticed by
Lord
Went-
worth.
Judge of
Assize.Speaker
in 1639.

The natural result of confidence in legal talents followed—briefs came pouring into the lawyer's study. Mr. Eustace soon acquired very extensive practice and obtained the rank of Serjeant-at-Law. His capacity for business, his great and varied learning and integrity, recommended him most strongly to the Deputy—Lord Wentworth; a man whose favour was not lightly won. The estimate this imperious Viceroy formed of Serjeant Eustace has been already mentioned in the reprimand he gave Lord Chancellor Lord Loftus for passing over the Serjeant and nominating a Mr. Alexander a Judge of Assizes in 1637, when Mr. Serjeant Catlin died on circuit.¹

In 1639, the Irish House of Commons elected Mr. Serjeant Eustace their speaker, 'being a wise, learned, and discreet man of great integrity.' On March 20th, the Speaker, with other members of the Commons, being sent for, attended at the bar of the House of Lords, where the Lord Lieutenant sat in state. The usual formalities having been gone through, the learned speaker was determined to display the great stores of his mind by delivering an address which is remarkable for the bombastic and inflated style peculiar to that pedantic period.

As a specimen of the Serjeant's oratory I give it place:²
His speech. 'Welcome, most worthy Lord, to the new birth of this our Parliament; this is the voice of the House of Commons, and I am sure it is the voice of the whole assembly; it is besides *vox Populi* abroad, and I make no doubt but it is *vox Dei*; for otherwise, how could your Lordship have had such an auspicious passage, considering how the winds blew, but that the prayers and strong wishes of the Royal Assembly prevailed against the winds, to waft your Lordship over to us, and that at such a time, wherein your Lordship may say, *In tempore veni*, &c. I hope it will prove

¹ Ante, p. 323.² Commons' Journal, Ireland, vol. i. p. 134.

so to me, the most humble of your Lordship's servants, for I have appealed from the House of Commons unto your Lordship's impartial justice, and all the grounds of my appeal is shortly this :—

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‘The Knights, Citizens, and Burgesses here assembled, by his Majesty's Most Royal License, to consult about the great and mighty affairs of this kingdom, not observing, as it seemeth, that *cujuscumque potissima pars est principium*, have, upon their first entrance into this great work, made choice of me, the most unworthy amongst them, to be their Speaker.

‘It hath been heretofore the most constant use in all times, that those, who for their great parts were accounted like gods amongst men, were always chosen for this place, and, like the golden apple which fell from heaven, it had a *detur digniori* upon it ; but those worthiest are all passed over, and they have stooped upon me, the lowest shrub in this great *Libanon* ; for which cause I do, in all humbleness, appeal unto your Lordship for justice, and do humbly pray that your Lordship will be pleased, in your great wisdom, and in favour of the great service now in hand, to give directions unto them to proceed unto a more worthy choice.’ This application not being acceded to, the speaker continued :—

‘May it please your Lordship, this gracious encouragement hath put new life and spirit into me, and methinks I do hear, to my great comfort, a divine whisper within me of that speech which God used to Moses, when he was unwilling to be their speaker, “*who hath made man's mouth, or who maketh the dumb, or the deaf, or the seeing, or the blind, have not I, the Lord?*”

Resembles
Moses.

‘Now, therefore, O my Lord, be thou my mouth, as Thou didst promise to be with *Moses*, and teach me what I shall say, that so my mouth may speak of wisdom, and the meditation of my heart may be of understanding, and Thou that hast the hearts of all men in Thy hands, as the rivers of waters, so guide and direct this Great Council, which is now summoned and called together *ad tractandum de*

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arduis negotiis regni, that all of us may be of one mind in all such things which may concern Thy glory, the honour of our King, the safety of ourselves, and the good of our country, and all this royal assembly here present say Amen. And now that I have taken my rise from God, according to the old rule observed amongst the very heathen, *a Jove principium*, give me leave, before I leave this mount, to contemplate the glory which I see, a glory far surpassing that which was to be seen in the Roman senate-house when it was in the greatest glory.'

Compares
the Vice-
roy to one
of the
Greek
Sagas.

He then proceeds to pass in review the constituent branches of the legislature. It is very quaint and not without merit:—‘For, in the first place, methinks I see your Lordship, like another Solon or Lycurgus, studying the good of this your country. Your country let me now call it, and I beseech your Lordship to account it so, seeing God hath exceedingly blessed your Lordship with a kind of blessing since your first entrance thereunto, and that we hope your Lordship will have a numerous posterity amongst us, and let it be your Lordship’s greatest ambition to say *hic ames dici pater atque princeps*, and let that of the twelve tables be most supreme in your Lordship’s thoughts, *salus hujus populi suprema lex esto*.

Spiritual
Peers.

‘Next in order I see placed the glorious lights of our Church, the Most Reverend Archbishops and Bishops, who show us the true *via lactea* which leadeth unto heaven.

‘When your Lordship came first amongst us, the most of these lights did but burn dim, and many of them were like to be extinguished for want of oyle in their lamps; but your Lordship’s first care was, that their lamps, as next fit, should be trimmed and replenished, and that these lights, which show us the way to heaven, should be placed in golden candlesticks, and so the thief which wasted the candle was taken away.

‘I cannot think this to be the least cause of your Lordship’s great success in all your undertakings; for I have it from the mouth of Truth, “*Those which honour me I will honour, and they that despise me shall be lightly esteemed.*”

And this is the method which his Lordship, in my poor observation, hath hitherto kept in the course of his government, “*to give unto God the things which are God’s, and unto Cæsar the things which are Cæsar’s.*” Witness the great increase of revenue which hath come into God’s house and into the Exchequer by your Lordship’s means; in both which, though many of your Lordship’s predecessors have done worthily, yet your Lordship doth surmount them all; let all who can deny it.

‘ Next unto these in order, I do with much joy behold the nobles of our land, like many sparkling stars, shining in this our firmament; and all of them *gladiis succinati*, ready in their order, like so many stars, to fight against *Sisera*, if there were occasion; amongst which, I may say of your Lordship as was said of Julius Cæsar:—

— Micas inter omnes
— velut inter ignes
Luna minores.

‘ The time was, and that not very long since, when a man might espy in the horizon, which is now so clear and serene, some like blazing stars, or rather fiery comets, breathing nothing but ruin and destruction to their country; others, like wandering stars, following irregular motions; and some like falling stars, leaving the station wherein they were placed. But these, my Lords, are so fixed in their proper orbs, and move so naturally in the sphere of loyalty and obedience, following our *Charles Wayne*, that you may as well pluck a star out of the fixed firmament as throw any of these from their loyalty and obedience.

‘ Next unto these, I do with joy behold the Chief Judges of the land, attended by his Majesty’s learned Council, and ready to untye any *Gordian knot* which shall be proposed unto them. The rest of the Judges are, at this time, dispersed in several parts of the kingdom, like painful bees, labouring in their several places to bring honey to the bee-hive of the Commonwealth, and to increase it.

‘ The time was, and not very long since, when the Judges

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Temporal
Peers.

Chief
Judges and
King’s
Counsel.

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of our land were, as it were, impaled within the English Pale, and went no further; but now their circuit is, like the sun, from one end of the kingdom unto the other, and there is no place where their voice and sound is not heard. The Brehon law, with her two brats of *Tanistry* and *Irish gavelkind*, like the child of the bond-woman, are cast out as spurious, and every man desireth and rejoiceth that the Common law, which is the child of the freewoman, should reign over them. Let not, O God, this sceptre depart from our *Judah*, nor such law-givers from between her feet, until Shiloh come again!

Brehon laws abandoned.

The Com-
mons.

‘And, in this survey, let me not pass over in silence the knights, citizens, and burgesses, without whom these superior bodies, which we have all this time admired, can no more move than the natural body can walk without feet; for take these away, or do but strain the veins and sinews, by which they are tied together, and this goodly frame, which we see like antient Rome, *ruit mole sua*; for these are *carda rerum*, the very hinge upon which all business here below doth move; and, therefore, most excellent Lord, as I said before, *salus populi suprema lex esto*; for then *decies repetita placebit*.’

State of
Ireland.

Having at considerable length referred to the condition of many European nations, this rather prosy speaker contrasted the then peaceful state of Ireland with the days ‘when there was nothing heard but the rattling noise of the drum and trumpet, the neighing of horses, looking after lost masters, the shrieks of the wounded and slain.’ ‘Now every man doth sit in safety at home, under his own roof, our swords are turned into plow-shares, and we have wholly forgotten the use of war.

Jam fides, et pax, et honor, pudorque
Priscus, et neglecta redire virtus
Audet; apparetque beata pleno
Copia cornu.’

He next referred to the writs which formerly compelled the Irish nobles to attend the king in ‘Westmonasterum ad tractandum cum proceribus hujus Regni de statu

Hibernæ,' he contended that, by Poyning's Act, providing that Bills which are to be passed here shall be first transmitted into England, and, when approved, these are to be sent hither, with power to reject or receive them. He said, 'Thus England is become an handmaid to her weaker sister, and that power and freedom are given unto us, that England cannot make laws at this day, to bind our estates without our consent; a very great and high honour, and so to be accounted.' He wound up his long, and rather tiresome harangue by the usual formula of asking freedom of speech, and the other privileges of Parliament.¹

The important office of Master of the Rolls was granted to Mr. Serjeant Eustace in 1644, and he discharged the duties with efficiency and attention.

The Speaker's cattle were not respected by the troops. In 1647, Sir Maurice Eustace made an unintelligible statement, which, in the margin of its journals, is stated, 'Complaint of the Speaker.' It is so incomprehensible, that, but for the order of the House, there could be no inference drawn from it. I transcribe it as printed in the journal: ²—

'Mr. Speaker,—That little fortune in Kildare is lost; and that was left I brought to Irishtowne, and from other of this House, and by the gallantry of an officer of the horse, that Lieutenant Harman may command those soldiers.'—*Sic orig.*

It is ordered 'that Lieutenant Harman do cause the troops under his command, who took the cattle from Clontarffe belonging unto Sir Maurice Eustace, Knight, Speaker of this House, under pretence of contribution, do forthwith bring them back, and leave them at the same place from whence they were taken; whereof he or they do not fail.'

The Speaker was in some trouble about words imputed to him, as conniving at Papists sitting in Parliament. The words were, 'You need not put him to his oath. I

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Poyning's
Act.

Usual
privileges.

Master of
the Rolls.

Speaker's
cattle
taken.

¹ Commons' Journals of Ireland, vol. i. p. 134.

² Ibid. p. 369.

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wish we had more of them.' Simon Luttrell was the person alluded to.

Words
after
dinner.

It appearing that the words were spoken at dinner, and a reference to some wager, the House considered the matter should drop; and Captain Schoute, who was the person stating 'that a Papist sat in the House,' should be reconciled to the Speaker, whereon the following edifying scene took place.¹

'Memorandum.—That Mr. Speaker would give good example; that he did call for Captain Schoute, who came to the chair, and shook hands together.'

Eulogies
on the
Speaker.

When the Session was over, a marked compliment attests the sense entertained of the services of Sir Maurice Eustace as Speaker. 'The House, understanding that there is a resolution to prorogue the Parliament for some long time, and not knowing when they shall meet again, did take into their consideration the many good services performed by Sir Maurice Eustace, Knight, their Speaker, unto the House, his singular affections to the English nation, and public services, his earnest endeavours for the advancement of the Protestant religion, the inveterate hatred and malice of the detestable rebels, many ways declared and acted against him, and the great expense which he hath been formerly at, for the honour and service of the House, and having at the present no better way of requital than to convey the memory thereof to posterity, do think fit, in manifestation of their high esteem thereof, to declare, and do hereby declare the same to be such, as in all times ought to be remembered for his advantage, and do therefore order that this be entered amongst the Acts and Orders of this House.'

It is not my province, and certainly could afford me neither profit nor pleasure, to recount the terrible civil war of this dreadful period, from 1641 to 1652. That there were fearful massacres on both sides cannot be denied; and, whether that of Island Magee preceded that of Lisburn, or the slaughter of Lisburn provoked that of

¹ Com. Jour. Ir. vol. i. p. 373.

² Ibid. p. 374.

Island Magee, is now matter of little moment. Good men of all parties must lament these blots upon national history ; and, I make no doubt, it is best to forget them. The results of the civil war had, however, a very disastrous effect upon the beaten party. It placed almost unlimited power in the hands of the conquerors, who used it in exterminating, under the sanction of Acts of Parliament, those spared by the sword. The horrors of the transplanting have recently been graphically described, and the subject has been fully and fearlessly exposed.¹

I pass on gladly to brighter days. Even in the midst of the conflict of contending parties some gleams of sunshine beamed forth. The state of the North of Ireland in 1655, is cleverly described in the following charge delivered to the Grand Jury at the Quarter Sessions held at Londonderry, on January 21, in that year :²—

State of
Ireland,
1655.

‘ Gentlemen,

‘ In obedience to this command, and in pursuance of the trust reposed in us by this Commission, which you have heard, we are thus publickly and openly assembled here this day—a day which, to us, is a calm after a tempest ; a sunshine after a fog ; a time of peace and tranquillity after the horror and confusion of an intestine war, and the distraction of an unsettled Commonwealth. It were but a loss of time and labour to descant on the present state of things, or to cast into the balance the advantages and emoluments of a peaceable and orderly Government, with the spoils, rapines, and innumerable calamities of a rebellious and domestic war. You all that are now partakers of the benefit of the one, can give a more ample and judicious account, having a more distinct remembrance, and some of you a woeful experience, of the effects of the other. Religion, the mother of Peace ; Plenty, the daughter ; and Law, the guardian—how often, how long have they been obscured, estranged, and ravished

Charge at
Munster
sessions.

c

¹ The Cromwellian Settlement by Prendergast. 2nd edn. Longmans : 1870.

² From papers of Sir John Henry Butler (of the Ormond family), published in Anthol. Hib. vol. i. p. 413.

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XXVI. from us ; and, in their stead, Heresy had misguided us, Famine devoured us, and the lawless arbitrary humours of evil men undone us ! — but now, through the great goodness of God, and the prudent care of him that governs us, we begin to recover from our miseries, and to return to our pristine establishment. Religion is presented to us in so many shapes, and preached to us by so many mouths of all sorts, that, unless we be blind and deaf, we cannot miss it. Plenty was never more generally, more sensibly known to this nation. The windows of heaven are largely opened, and the fertile womb of the earth hath prodigally delivered her burthen, to our comfort and refreshment ; insomuch that I might well say (but that Latin is forbidden) there is a cornucopia among you.

Laws speak again. ‘ The laws, which the loud clamour of war had so long silenced, do now speak aloud in our ears, the Courts are re-erected, and the law books are thrown open before us, and being translated into our mother tongue, we can now, without relying on the weak crutches of human learning, pry into those secrets which were hidden from our fore-fathers, and speak our minds in plain English. A ready instance and confirmation hereof is our free and unmolested meeting here this day ; where, according to the several articles empowering us to sit here, I will briefly inform such as know not, and put in mind such as know already, their duty and business in this place.’

Offences. He then detailed the usual business at Quarter Sessions. The offences were as follows. They show very lax morality of the people. ‘ You are impartially to present all such as are guilty of—

- ‘ 1. Profaning the Sabbath by keeping fairs or markets, by manual labour, by plays, haunting taverns and alehouses.
- ‘ 2. Cursers and common swearers.
- ‘ 3. Common turbulent drunkards.
- ‘ 4. Common adulterers.
- ‘ 5. Fornicators.
- ‘ 6. Keepers of common gaming-houses, and common gamesters.

- ‘7. Alehouse keepers that keep disorder in their houses.
- ‘8. Plowing by the tail.
- ‘9. Pulling the wool of living sheep.
- ‘10. Burning of corn in the straw.
- ‘11. Selling of wine, ale, or any other liquor, in any town franchised, by measure not sealed.
- ‘12. Cosherers and idle wanderers.’

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The learned chairman thus concludes :—

‘I have now only one thing to mind you of, as a general caution to you in presentments, that, in those you make you set down, to a certainty of the person presented, with the time and place, with the manner of the fact; otherwise let the matter be what it will, for which you do present any man, the presentment may become void and of no effect, for defect in the manner of making it and setting it down will make it void.

‘Now, gentlemen, proceed to your business; and let your skill and better judgment supply in your presentments, whatsoever defects you have discovered in the charge and in the deliverer of it, whom my brethren have desired to perform this task, though being the least able, and only a probationer in this place.’

The Restoration of the House of Stuart, in 1660, was The Re-
storation.

They had fought bravely for the father of Charles II., and incurred the heavy weight of Cromwell’s anger; therefore they expected to have their estates restored, and rewards for past services in recompense for recent sorrows. To their surprise and indignation they found little assurance of these expectations being fulfilled. Determined enemies—Coote, created Earl of Mountrath, and the Earl of Orrery were named Lord Justices;—with them was joined SIR MAURICE EUSTACE, who was appointed Lord Chancellor, and many of the most violent adherents of the stern Protector were allowed to fill the highest offices. On the Restoration, a new Great Seal was engraved for Ireland. In England the Royalists were sufficient to assert their superiority, and the Cromwellians, who got possession of the estates of the

Cromwel-
lians in
office.
Sir Maurice
Eustace,
Lord
Chan-
cellor.
New Great
Seal.

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Cavaliers, had to restore them at once ; it was otherwise in Ireland. The Lords Justices reported that the English troops were very numerous in Ireland, well-armed and masters of all the cities and strongholds, so that it would be dangerous to provoke them. In this state of affairs the first Parliament for the space of twenty years was summoned. They assembled at Chichester House on May 8, 1661. The building contained at that time a large chamber, which was the House of Lords, two committee-rooms for their use, a robing-room, a stairhead-room, a chamber wainscoted at the foot of the stairs. The Commons' assembly-room, two committee-rooms for the use of members of the House of Commons, the Speaker's chambers, two rooms for the Serjeant-at-Arms, three rooms for clerks. A gatehouse next the street, with several rooms and a spacious garden, containing a large banqueting-house.

Although Sir Maurice Eustace was then Lord Chancellor, as he was at this time one of the Lords Justices, I find John Bramhall, the Archbishop of Armagh, and Primate of all Ireland, was appointed Speaker of the House of Lords by royal Commission. He accordingly sat on the woolsack, the Lords Justices, Sir Maurice Eustace, Roger Boyle, Earl of Orrery, and Charles Coote, Earl of Mountrath, having seats elevated above the other peers, and a canopy or cloth of state over their heads. Lord Baltinglas bore the Sword of State, Viscount Montgomery the Cap of Maintenance, and the Earl of Kildare the robe.

I find in this Parliament only one Roman Catholic member, and he, with an Anabaptist, were both returned for Tuam. This formed a subject of congratulation in the Speaker's (Sir Audley Mervyns) address to the Lords Justices : 'I may warrantably say, since Ireland was happy under an English Government, there was never so choice a collection of Protestant fruit that ever grew within the walls of the Commons House. Your Lordships have piped in your summons to this Parliament, and the Irish have danced. How many have voted for and signed to the

Chichester
House,
in 1661.House of
Lords.

Commons.

Lord
Chancellor also
Lord
Justice.
Primate as
Speaker.

His ad-
dress.

returns of Protestant elections? So that we may hope for, as we pray, that Japheth may be persuaded to dwell in the tent of Shem.'¹

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XXVI.

Sir William Temple,² Sir James Wane,³ Sir William Petty,⁴ and D. Dudley Loftus, sat in this Parliament.⁵

One of the first Acts of the reign of Charles II. was that for the Settlement of Ireland. Three classes were to be provided for. Firstly, the Irish Catholics, who had been dispossessed of their lands. Secondly, Cromwell's soldiers, who had been allotted Irish lands in lieu of arrears of pay. Thirdly, officers who had served the King before 1649, and whose arrears were unpaid. It provided that the soldiers and adventurers should be settled on the lands possessed by them, and their properties secured to them and their heirs. The officers, termed the '49 men, were to receive houses, estates and securities in corporate towns, and in addition, a large sum of money, although many of them had fought against King Charles I. The claims of the Irish Catholics were postponed until those in possession of their estates were fully repaid their advances, or money due for arrears of pay.

Act of Set-
tlement.Three
classes to
be pro-
vided for.

Soldiers,

Officers,

and Irish
Catholics.

While the Act of Settlement was in progress through

¹ Gilbert's History of Dublin, vol. iii. p. 60.

² Ancestor of the late Lord Palmerston.

³ The learned antiquary.

⁴ Ancestor of the Marquis of Lansdowne.

⁵ The Irish members were paid from an early date. In the writ of summons of Edward III., when James Botller was Justiciary of Ireland, the King enjoins that rationabilis expenses be paid. In the year 1613, the fees payable to Members were: Knights of the Shire, 13s. 4d. a-day; citizens, 10s.; and for burgesses, 6s. 8d. a-day. In November 1614, an attempt to reduce these sums was made. On this the House ordered that every Knight be allowed but 6s. 8d., every citizen 5s., and every burgess 3s. 4d., but when any special agreement was made, the sum so agreed on was to be paid.

Payment
of mem-
bers.

The Commons afterwards returned to the former rates, until 1665, when it was reported that inconveniences had arisen in collecting the wages of Members, and that no warrants should issue for any wages due from September 27, 1662. This practice was found to be so much abused by the perpetration of frauds and improper appropriation of the funds—Lords and gentry who had private Bills before the House, or who had other personal occasions to attend Parliament, though not Members, often obtained payment as though they were, which caused the payment of Members to be altogether abolished shortly after the time of the Restoration.

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XXVI.Conflicting
claims.Letter
from the
Duke of
Ormond to
Lord
Chancellor.

the Parliament of England, the Government was greatly embarrassed by conflicting claims. The Duke of Ormond, writing in 1662 to Lord Chancellor Eustace, states this very clearly:¹ 'You will receive from other hands, who are more at leisure than I am, an account how, where, and for what reason, the Bill is at a stand for near a fortnight. I confess I am not able to see through the end of a settlement. For if the adventurers and soldiers must be satisfied to the extent of what they suppose intended for them by the Declaration, and if all that accepted, and constantly adhered, to the peace of 1648 must be restored, as the same Declaration seems also to intend, and was partly declared to be intended at the last debate, there must be new discoveries made of a new *Ireland*, for the old will not serve to satisfy these engagements. It remains then to determine which party must suffer in default of means to satisfy all; or whether both must be proportionably losers.'

Conduct of
Lords
Justices.Their
agents.

The course taken by the Lords Justices, the Earls of Mountrath and Orrery, was to bribe all who would support the cause of the adventurers and soldiers. They raised privately about 30,000*l.*, and employed as agents to further their views Dr. Boyle, the right Reverend Bishop of Cork, afterwards Lord Chancellor of Ireland for twenty years, Lord Kingston, and Mr. Pigot, Master of the Wards. These agents spared no pains to urge on the English Members that the adventurers and soldiers were in possession, with power and strength to hold the lands, and had the title of the Acts of 17 and 18 Charles I., also the King's Breda Declaration, on the faith of which they advanced the King's Restoration. On the other hand, the Irish acted so imprudently that they alienated the Duke of Ormond, who was disposed to befriend them, and whose knowledge of Ireland during the recent troubles would have given great weight to his suggestions. In another letter to the Lord Chancellor, the Duke says: 'We are in the heat of our debates upon the great Bill, and I fear the liberty allowed

¹ Carte's Ormond, vol. ii. p. 240.

the Irish to speak for themselves will turn to their prejudice, by the unskilful use they make of it in justifying themselves, instructing the King and his Council in what is good for them, and recriminating of others.'¹

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One of the most active, and, if his own statement could be credited, influential, agents for the Irish was Colonel Richard Talbot, youngest son of Sir William Talbot, a lawyer² and a man of good parts, who by his prudence and management had acquired a large estate, which he left to his eldest son, Sir Robert Talbot. When the King declared 'he would have the English interest established in Ireland,' the unfortunate Irish Catholics knew they were to be the sufferers, and, imagining the Duke of Ormond had not befriended them as he ought, were extremely angry.

Colonel
Richard
Talbot.

Colonel Talbot expostulated roughly with the Duke, and told him his mind in such strong language, that his Grace felt it looked like a challenge, and waiting on the King, desired 'to know if it was his Majesty's pleasure that at this time of day he should put off his doublet to fight duels with Dick Talbot.' The King feeling the slight put on the Duke was undeserved, had Colonel Talbot committed to the Tower, whence he was released upon making an apology.³ We may suppose this imprisonment made a deep impression on the ambitious Talbot, and when he was subsequently of equal rank with the Duke of Ormond, he was urgent in obtaining the repeal of the obnoxious Act of Settlement.

Talbot
committed
to the
Tower.

In order to strengthen the King and the English Parliament in supporting the cause of the adventurers and soldiers against the Irish Catholic proprietary, the agents of the English party spread a report of an intended Irish rebellion, founded upon meetings of the Irish Catholics for the performance of religious ceremonies at a jubilee. The Lord Chancellor was well persuaded of the injustice, and the mischief which was likely to flow from this misrepresentation. He saw through the design of those who

False
reports of
rebellion.

¹ Carte's Ormond, vol. ii. p. 233.

² Ibid. p. 233.

³ Ibid. 236.

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XXVI.Insulting
conduct of
two Lords
Justices.

spread the report, and resolved to counteract it as far as he could. He directed the Judges in their Circuits to cause the matter to be enquired into by the grand juries of the several counties through which they passed. The reports of the Judges—the findings of the juries, were decisive of the falsehood of this report. There was general tranquillity—calm everywhere; no preparations for a rising, or any reason to apprehend one. Yet the Lords Justices or at least Lords Orrery and Mountrath, stated that it would be destructive to the English interest to admit the Irish to settle and trade in corporate towns, or to allow Roman Catholic lawyers to practise in their profession, both which had been allowed by his Majesty's letters. The Earl of Mountrath also seconded a motion in the Irish House of Peers, moved by Lord Conway, 'That the Irish Catholic Peers should be removed out of the House, and some course taken by the Lords Justices to exclude them from sitting.' This motion was strongly resisted by the Lord Chancellor, and rejected with indignation.¹ Meantime the Act of Settlement was the law of the land, and the Catholics discovered that their claims were postponed until those adventurers and soldiers, whom the power of Cromwell had placed in their ancestral estates, should be compensated.

The King's promise. True the King had promised while in exile that their just rights should be respected, and Ormond had expressly renewed this promise for the King before he left for Breda; nay more, Charles told his Parliament, on his Restoration, that 'he expected they would have a care of his honour and of the promise he had made.' These most solemn engagements were so regularly violated when Irish affairs were concerned, that nothing else could have been expected.² In order to allay any rising fears on the part of the anti-Irish settlers that they would be disturbed in their recently acquired estates, the Duke of Ormond, in a letter to the Speaker of the Irish House of

¹ Carte's Ormond, vol. ii. p. 232.² Illustrated History of Ireland, p. 521.

Commons, dated March 9, 1662, informs him, ‘that the support and security of the true Protestant English interest was the earnest desire of his Majesty, and the assiduous endeavour of his servants would clearly appear, when it should be considered, how the Council and Parliament were composed ; and withal if it be remembered of whom the army consisted ; who were in judicature in the King’s Courts ; who were appointed by his Majesty for executing the Act of Settlement ; and who were in magistracy in the towns and counties ; in which trusts is founded the security, interest, and preference of a people.’¹

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Ormond’s
letter.

Although a Court of Claims sat in Dublin to try the claims of those Irish who were ejected during the Commonwealth, and the framer of the Act took care few claimants could be benefited thereby, yet the Puritan faction was alarmed. They devised a plan for seizing the castle and raising a rebellion. Some members of the House of Commons, several officers of the army, and Puritan ministers combined under the leadership of a man named Blood. The castle was to have been seized on May 21, 1663. The Duke of Ormond, then Lord Lieutenant, had information in time to prevent the execution of the plot.

Court of
Claims.

A number of the conspirators were seized, of whom four were hanged. This put an end to the conspiracy, which was of a nature likely to have been very formidable. Disbanded soldiers of the Cromwellian army intended to place Ludlow at their head. The King and House of Lords were to be abolished, and instead of Bishops, a ‘sober and painful ministry’ were to preside over matters of religion. Seven members of Parliament were among the conspirators ; they were ignominiously expelled, and the prisons of Dublin were crowded with traitors.

Puritan
conspiracy.

Ormond was recalled to England to assist in preparing a new Act. This was called the ‘Act of Explanation.’ It provided that Protestants should be guaranteed possession of their estates, and that only such Catholics as were declared ‘innocent’ should be entitled to claim any lands.

The plot
betrayed.

Members
expelled

The Act
of Expla-
nation.

¹ Com. Jour. vol. ii. p. 299.

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XXVI.Disap-
pointment
of the Irish
Catholics.

Owing to this proviso, three thousand persons were excluded from any chance of recovering their estates, which they beheld, with bitterness and sorrow, transferred to soldiers and adventurers who had been their foes in the war when they fought for the King. While these men were left to starvation and beggary, the Acts of Settlement and Explanation rankled in their hearts ; and we can hardly feel much surprise, bearing this chapter of Irish history in our memory, how within a few years, these Irish Catholic gentlemen struggled to obtain the repeal of those measures which, in their eyes, were but legalised injustice.

The Chan-
cellor
resigns
office.The Chan-
cellor at
his country
seat, Har-
ristown.

Sir Maurice Eustace continued Chancellor until failing health obliged him to relinquish the Great Seal to Archbishop Boyle, who was appointed his successor.

The Ex-Lord Chancellor took great delight in his country seat of Harristown, and by his taste for the picturesque, so aided the natural beauties of the locality, that Harristown was regarded the handsomest seat in that part of Ireland. The house was spacious and commodious, supplied with convenient and well-placed offices. A lofty terrace commanded a lovely prospect in which wood and water combined to delight the eye and please the mind. On a transparent lake the stately swan and smaller aquatic fowls floated, while a miniature ship, perfectly rigged, sufficiently large for a pleasure yacht, attracted attention from its complete proportions. The neighbouring woods were well stocked with game, and the grounds laid out with exquisite taste and kept neat and trim. Stately avenues, bowers impervious to the sun, broad alleys of noble trees met the eye in every direction, while fruit and flower gardens displayed the skill of the florist and horticulturist.

Death of
Ex-Chan-
cellor.
His will.

Sir Maurice Eustace died in 1665, having by will, made that year, bequeathed his chief estates in Kildare, Dublin, and Wicklow, together with the Abbey of Cong, in the county of Mayo, and its appurtenances, severally to his nephews, Sir John and Sir Maurice Eustace, in tail male.

He also devised to the Provost and Board of Trinity College, Dublin, a rent charge of 20*l. per annum*, chargeable on the great house built by him in Dame Street,¹ for the maintenance of an Hebrew lecturer.

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With a desire to rest among his kindred, he directed his remains to be interred in the old family vault at Castle-martin. However, for what motive does not appear, this request was not complied with, for he was buried in St. Patrick's Cathedral.² While Sir Maurice Eustace was Chancellor there was a fair share of business in the Court, and his great talents as a lawyer enabled him to dispose of the business satisfactorily to the suitors and the profession.

A good
Chan-
cellor.

¹ King James, Irish Army List by D'Alton, p. 720. Probably where Eustace Street now stands.

² Ibid. p. 720.

CHAPTER XXVII.

LORD CHANCELLOR BOYLE, ARCHBISHOP OF ARMAGH.

CHAP.
XXVII.

The family
of Boyle.
Career of
Richard ;
the
Great Earl
of Cork.

Early life.

Seeks his
fortune in
Ireland.

What he
started
with.

THE family of Boyle in Ireland owe their fame and fortune to one of the most remarkable personages in history, Richard Boyle, Earl of Cork, who, though not a Chancellor, claims a lengthened notice in my pages. He was born at Canterbury on October 3, 1566. His father died when he was but ten years old, and he tells us: ‘After the decease of my father and mother, I being the second son of a younger brother, having been a scholar in Bennett’s College, Cambridge, and a student in the Middle Temple, London, finding my means unable to support me to study the laws in the Inns of Court, put myself into the service of Sir Richard Manwood, Knight, Lord Chief Baron of his Majesty’s Court of Exchequer, whom I served as one of his clerks; and perceiving that the employment would not raise a fortune, I resolved to travel into foreign lands, and to gain learning and knowledge and experience abroad in the world. And it pleased the Almighty, by his divine Providence,¹ to take me, I may justly say, by the hand and lead me into Ireland, where I happily arrived in Dublin, on the Midsummer Eve, the 23rd day of June, 1588.’

It is interesting to know the stock-in-trade necessary for an adventurous youth, gaining lordships and manors to the value of a hundred thousand a-year. Richard Boyle was twenty-two years of age, and on that Midsummer Eve, when he walked the streets of Dublin ‘all my wealth then was 27*l.* 3*s.* in money, with two tokens which my mother had given me—viz., a diamond ring,

¹ The motto over the gateway of the Castle of Lismore is, ‘God’s Providence be mine Inheritance.’

which I have ever since and still do wear, and a bracelet of gold worth about ten pounds; a taffety doublet, cut with and upon taffety, a pair of black velvet breeches, laced, a new Milan fustian suit, laced and cut upon taffety, two cloaks, competent linen, and necessaries, with my rapier and dagger.'

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With his skill in turning every circumstance to profit, he soon acquired considerable property, and likewise considerable envy. He says:—‘ When God had blessed me with a reasonable fortune and estate, Sir Henry Wallop; Sir Robert Gardiner, Chief Justice of the King’s Bench; Sir Robert Dillon, Chief Justice of the Common Pleas; and Sir Richard Bingham, Chief Commissioner of Connaught, being displeased for some purchases I made in that province, they all joined together by their lies, complaining against me to Queen Elizabeth, expressing that I came over without any estate, and that I make so many purchases as it was not possible to do without some foreign prince’s purse to supply me with money. That I had acquired divers Castles and Abbeys upon the sea-side, fit to entertain and receive Spaniards. That I kept in my Abbeys fraternities, and convents of friars in their habits, who said mass continually, and that I was suspected in my religion; with divers other malicious suggestions.’

Complaints against him.

At this period the Desmond rebellion broke out, and all his lands were wasted. Boyle contrived to reach London, and betook himself to his former chamber in the Middle Temple, intending to renew his legal studies till the rebellion was suppressed. But he must tell his own story:—‘ Robert Earl of Essex was designed for the Government of this Kingdom (Ireland), unto whose service I was recommended by Mr. Anthony Bacon, whereupon his Lordship very nobly received me, and used me with favour and grace, in employing me in issuing out his patents and commissions for the Government of Ireland; already Sir Henry Wallop, treasurer, having notice, and being conscious in his own heart, that I had sundry papers and collections of Michael Kettlewell, his late

Recommended to Essex.

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XXVII.Com-
plaints
renewed.Taken
prisoner.Examined
before the
Queen.The
Queen's
judgment
in his
favour.

under treasurer, which might discover a great deal of wrong and abuse, done to the Queen in his late accounts, and suspecting, if I were countenanced by the Earl of Essex, that I would bring those things to light, which might much prejudice or ruin his reputation or estate, although I vow to God, until I was provoked, I had no thought of it; yet he, utterly to suppress me, renewed his former complaints against me to the Queen's Majesty. Whereupon, by her Majesty's special directions, I was suddenly attacked, and conveyed close prisoner to the Gate-house, all my papers seized and searched, and although nothing could appear to my prejudice, yet my close restraint was continued, till the Earl of Essex was gone to Ireland; two months afterwards, with much suit, I obtained the favour of her sacred Majesty, to be present at my answers, when I so fully answered and cleared all their objections, and delivered such full and evident justifications for my own acquittal, as it pleased the Queen to use these words, "By G—'s death, these are but inventions against the young man, and all his sufferings are but for being able to do us service, and these complaints urged to forestal him therein. But we find him a man fit to be employed by ourselves, and we will employ him in our service, and Wallop and his adherents shall know that it shall not be in the power of any of them to wrong him, neither shall Wallop be any longer our Treasurer." Thereupon she directed her speech to the Lords of the Council then present, and commanded them presently to give her the names of six men, out of which she might choose one to be Treasurer of Ireland. Her election falling on Sir George Carew of Cookington. And then the Queen arose from the Council, and gave orders, not only for my present enlargement, but also for discharging all my charges and fees during my restraint, and gave me her royal hand to kiss, which I did heartily, humbly thanking God for that deliverance.'

Truly Richard Boyle might have applied to himself the lines of the great contemporary dramatist:—

Lo, even that which mischief meant most harm,
Shall in the hour of trial prove most goodly—
Evil shall back upon itself recoil.

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Richard Boyle first married Mrs. Jane Apsley, who brought him landed property worth 500*l.* a-year. She died at Mallow, in the county of Cork, on December 14, 1599, and was interred in Butteraut Church. He remained four years a widower, when he married secondly, on July 25, 1603, Catherine, only daughter of Sir Geoffry Fenton, principal Secretary of State, and a Privy Councillor. This, he takes care to tell us, was not a mercenary marriage. ‘I never demanded any marriage portion, neither promise of any, it not being in my consideration, yet her father, after my marriage, gave me 1,000*l.* in gold with her; but that gift of his daughter unto me, I must ever thankfully acknowledge as the crown of all my blessings, for she was a most religious, virtuous, loving, and obedient wife unto me all the days of her life, and the happy mother of all my hopeful children, whom with their posterity I praise God to bless.’

His first
marriage.

Second
marriage.

On the occasion of his second marriage Richard Boyle was knighted, and, by the patronage of Sir George Carew, Lord President of Munster, he was appointed Clerk of the Council for that province.¹ He was sent with dispatches to Queen Elizabeth, to announce the success of her Majesty’s forces at Kinsale, and used such expedition in his journey that he left the Lord President at Shandon Castle, Cork, on Monday morning, and next day, Tuesday, delivered his packet, and supped with Sir Robert Cecil, principal Secretary of State, at his house in the Strand. At seven in the morning Cecil presented Sir Richard Boyle to Queen Elizabeth in her bedchamber, who remembered him, calling him by his name, and giving him her hand to kiss. She said she was glad he was the happy man to bring her first news of that glorious victory.

Bears dis-
patches to
the Queen.

¹ Commission dated November 16, 1602. Salary 20*l.* per annum with large fees of office.

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XXVII.

Purchases
the estate
of Sir
Walter
Raleigh.

On his return to Cork, Sir George Carew proposed that Boyle should purchase the estates granted by the Crown to Sir Walter Raleigh, which were then unprofitable. He also wrote to Sir Walter, urging him to sell these lands, then untenanted and of no value to him, and to Sir Robert Cecil, requesting that wily statesman to advise Raleigh to sell these lands to Sir Richard Boyle. The result was, property consisting of forty thousand acres, lying along the lovely valley of the Blackwater, in Munster, was purchased by Boyle for a thousand crowns.¹

Letter to
Raleigh's
son.

¹ This sale was questioned after the execution of Raleigh. In Gibson's History of Cork, vol. ii. p. 31, is the following letter from the Earl written January 16, 1631, from Dublin, to Sir Walter's son :—

' Honourable Sir,—I received letters from you of November 11, 1630, whereunto I made you a present answer, and in these my letters did represent unto you the infinite trouble and charge that your lady-mother and yourself did undeservedly, without any just grounds, by unnecessary suits, draw upon me when I was in England, which I shall not thoroughly recover these many years. I also tendered to your consideration how I purchased your father's lands, when they were utterly waste and yielded him no profit.

' The sum that he and I agreed upon was really paid, whereof I paid him in ready gold a thousand crowns sterling, after his attainder, when he was a prisoner in the Tower. Which debt of mine to him, being forfeited to His Majesty, I made choice (out of my love to him) rather to supply him with all in his extremity than to accept a composition tendered to me by Sir John Ramsay, after Earl of Holderness, who, for five hundred marks in ready money, offered to procure me a discharge, under the broad seal for the debt, yet in regard your father made it appear unto me, that he hoped, so he might be supplied with the thousand crowns, that it would do him more good than a thousand pounds would have done him before he fell into his troubles, and much avail towards the procuring of his enlargement, which my affection guided me to make choice of, although it constrained me to tarry two months in London, and to sue out a release to the King for the money, under the Great Seal, at my own charge, which the fees, with my own stay in London for no other cause, was very expensive and burdensome unto me, it standing me in no less than two hundred pounds sterling.

' Again, upon my purchase from your father, he entered into bonds to me of six thousand crowns, which I have extant under his hand and seal, to free the land, as well from all arrears due to the Queen which amounted to about one thousand marks, as from all other charges and encumbrances made by him, before he conveyed the lands to me. And I am confident, if Her Majesty's death and his own troubles had not happened, he would have cleared all these arrears, according to his undertaking, which afterwards I was enforced to discharge, as also to pay (as I can make it evidently appear) other two thousand seven hundred and odd pounds for freeing the lands from such former estates and encumbrances as your father hath made them liable and subject unto, contrary to his covenant and bond, upon either of which I could have no remedy against him by reason of his attainder.'

The purchase cost the Earl of Cork more money than he ever paid to the unfortunate Sir Walter Raleigh. On the lands near Youghal, and close beside this historic town of which I have narrated the chief events,¹ stood the College of Youghal, a religious foundation of the Fitz Geralds of

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Youghal
College.

The letter further recites various sums given to Sir Walter and for his use. 'And the very day that he took shipping from Cork, on his last fatal voyage, he did me the honour to dine with me at Sir Randall Clayton's house. Where he called unto him the Lord Barry, the Lord Roche, his son Watt Raleigh, Captain Whitney, and divers others; and taking his son by the hand told them all that I had kept continual house for three months together for himself and his company, and that I had supplied him with several provisions for victualling of his ships, and with three hundred and fifty crowns in ready money, and also supplied most of his captains in his fleet with money, and that now I would needs press upon him a hundred pounds in French crowns, which I have no need of nor will not take. He again took his son by the hand, and said unto him, "Watt, you see how nobly my Lord Boyle hath entertained and supplied me and my friends, and therefore I charge you upon my blessing, if it please God that you outlive me and return, that *you never question the Lord Boyle for anything that I have sold him, for I do lay my curse upon my wife and children if they ever question any of the purchases his Lordship hath made of me*; for if he had not bought my Irish land of me, by my fall it would have come to the Crown, and then one Scot or other would have begged it, from whom neither I nor mine would have had anything for it, nor such courtesies as I now have received." I accompanied him on shipboard and at my departure he reviewed the favours I had done him, and this was the last time that I saw his face.

'Sir, for conclusion I am well satisfied by very learned counsel, and I think you are of the same opinion, that neither yourself or your mother can either by law or equity recover anything from me, *yet nevertheless, if you will both join in perfecting such a release as my counsel shall draw up, and I send unto you, and that without any condition I will make it appear unto you that I honour and respect those that your noble deceased father hath left behind him; or if you rather desire to make your pretended right, either in law or equity, to appear before two indifferent and understanding lawyers that are men of learning and integrity, and that you likewise make it evident unto them what strength and addition of title, or any act your mother and you can do, that may tend to the bettering of your estate, I am very likely to be induced upon notice from you of the lawyer you will choose, to nominate and join another unto him to hear and determine your pretences. And so praying you to believe that I have not been so ill-bred to neglect the answering of any noble gentleman's letters as I esteem you to be. I wish your lady-mother and yourself all happiness, so take leave.*

'Yours, Sir, to command,
'R. CORKE.'

¹ Historical and Picturesque Guide to the Blackwater in Munster, by J. R. O'Flanagan: Lond. 1844.

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Desmond. It possessed about 600*l.* a-year endowments; and in 1597, Nathaniel Baxter, then Warden of the College, was bound under penalty of a thousand marks to resign the place to Queen Elizabeth in forty days. Before this time expired Baxter assigned the College and the livings to Sir Thomas Norris, then Lord President of Munster. He transferred it to William Jones of Youghal, as trustee for Sir Walter Raleigh. Jones parted with his interest to Sir George Carew, who conveyed the same to Sir Richard Boyle. On the attainer of Raleigh, Boyle paid a thousand pounds to King James I., and obtained a patent, in 1604, for all Sir Walter Raleigh's lands in Ireland, this College being on them; but Sir James Fullarton had obtained, in the previous year, 1603, a grant of concealed Church lands, which entitled him to claim the endowed lands of Youghal College, so that Boyle had to purchase afresh from Fullarton. Boyle not being quite satisfied as to the validity of his title to these College lands, thought it well to have a kinsman Warden, and accordingly applied to Sir George Carew, that his relative, Doctor Boyle, be made Warden, which was acceded to. The Reverend Dr. Boyle, when Warden of the College, conveyed the revenues shortly after the marriage of his kinsman, Sir Richard, with the daughter of Sir Geoffrey Fenton, as a jointure for the lady. The indenture bears date April 8, 1605, and sets forth the College and all the edifices, lands, parsonages, rectories, and vicarages, in more than one diocese, with all their advowsons and patronages, to hold in fee farm for ever, at a rent of twenty marks yearly.¹

The Bishop of Waterford, Dr. Atherton, took proceedings against the Earl of Cork for the recovery of Ardmore, Lismore, and other lands belonging to the Church, which, under the purchase from Sir Walter Raleigh, the Earl got into his possession. We learn from Ryland² his lordship compounded for the lands of the See of Waterford, by giving back Ardmore to the Church, but Bishop Atherton

Case of
Bishop
Atherton.¹ Gibson's History of Cork, vol. ii. p. 38.² History of Waterford.

sueing for the remainder, and being well qualified by his talents and spirit to go through with the suit, fell, as there is too much reason to think, a sacrifice to that litigation,¹ when he suffered for a pretended crime of a secret nature, made felony in that Parliament upon the testimony of a single witness, that deserved no credit, and who in his information pretended that the crime had been sometime before committed upon himself. The Bishop, during all the time of his most exemplary preparation for death, and even at the moment of his execution, is stated to have absolutely denied the fact, and the fellow who swore against him when he came to be executed himself, some time after, confessed at the gallows the falsehood of his accusation.²

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We have seen in the memoir of Lord Chancellor Lord Loftus, that, on the departure of Lord Falkland, Lord Deputy in 1629, the Lord Chancellor and Earl of Cork were Lords Justices. While in office, we are informed, 'several Popish houses were seized in Dublin for the King's use.' This is not quite correct, for Lord Cork contrived to become the possessor of a goodly mansion which has given the name to the hill on which it stood, close to Dublin Castle, and is called Cork Hill at this day. Lord Wentworth became Viceroy in 1631, and received the Sword of State from the Lords Justices. Both pretended great joy at his coming; we have read the fulsome letters of Loftus; the Earl of Cork was equally adulatory. In a letter addressed by him to the Lord Treasurer of England, the Earl writes—

The Earl
of Cork,
Lord
Justice.

Lord
Went-
worth,
Lord
Deputy.

' Right Honorable and my Singular Good Lord,—

Letter
to the Lord
Treasurer.

' I gladly understand that his Majesty, in his high wisdom, hath made choice of the Lord Viscount Wentworth to be Lord Deputy General of Ireland, of whose nobleness, wisdom, and plentiful estate I heard much when

¹ When Dr. Ryland in his History of Waterford was suggesting a serious imputation upon the character of the Earl of Cork he should have given some evidence of the Earl's complicity, if there was any, instead of recording what probably was only the whisper of his enemies.

² Ware's Bishops.

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I was at Court, whereof reports hath made an addition from thence, since he was designed for this Government, which I shall with all alacrity yield up to him, as I am confident in general tranquillity, having a full heart, full of comfort, in that a nobleman of his abilities and reputation, with so full and absolute power, shall govern us.'¹

As in the case of the Lord Chancellor, this comfort to the heart of the Earl was not destined to last long. The first dispute was about the tomb which the Earl erected in the choir of St. Patrick's Cathedral, an immense pile of sculpture with a background of black marble, showing sixteen figures painted and gilt. This monument the

Dispute
about the
Cork mo-
nument.

Lord Deputy resolved to pull down, and the Earl, writing to Sir William Beecher on March 20, 1633, says—‘I'd rather have my hand cut off.’ Both the Earl and the Viceroy appealed to Laud, Archbishop of Canterbury, who clearly thought the place selected by the Earl highly objectionable. In a letter to the Lord Primate, who was a friend of the Earl's, Laud wrote:—‘The information here was, that his Lordship had got up his monument at the end of the choir, just in the place where the altar or communion-table stood, a place most unfit for such a purpose, and not offered, for aught I know, to be taken by any King in Christendom, and therefore most unfit for a subject.’ Laud was willing to temporise. His plan was characteristic of the time. ‘The monument,’ he suggests, ‘may stand, if screened off from the choir. I can hardly believe the Earl had good counsel to put it there.’² The Earl carried his point; the monument was not removed;³ but Wentworth was not a man to be conquered with impunity. Next year the Earl was summoned to appear before the Viceroy in the Court of Castle Chamber. Here

Laud's
proposal.The Earl
in the
Castle
Chamber.

the Attorney-General, Sir Richard Reeves, preferred charges against him for the illegal possession of the

¹ Gibson's History of Cork, vol. ii. p. 41.

² Ibid. p. 44.

³ It has been placed in another part of the church during the recent restoration by the munificence of Sir Benjamin Guinness.

College and revenues of Youghal. His cousin, the Ex-Warden, then Bishop of Cork, and the Bishop of Waterford were likewise charged with aiding and assisting the Earl of Cork in the illegal possession of this property. The Earl played the game of delay, and, not having the deeds and documents relating to the Youghal property at his house at Dublin, pleaded his privilege, 'it being Parliament time.' The case was postponed to the ensuing term. Then he produced his patents and leases; Lord Wentworth adjourned the case, and sent a message to the Earl that 'if he consented to abide by his award, he would prove the best friend he ever had.'

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Lord Cork agreed, and we can imagine his consternation when the Viceroy's decision was 'that he should be fined fifteen thousand pounds for the rents and profits of the Youghal College property, and surrender all the advowsons and patronage—everything except the College-house and a few fields near the town.' The Earl did not meet with much sympathy on this occasion. Some persons positively rejoiced at his being compelled to disgorge so large a share of his suddenly-acquired wealth. Archbishop Laud wrote a congratulatory letter, in rather coarse style, to the Deputy, dated November 15, 1633. It was as follows:—

A heavy
fine.

' My Lord,—

' I did not take you to be so good a physician as you are for the truth; a great many Church cormorants have fed so full upon it that they are fallen into a fever, and for that no physic is better than a vomit, if it be given in time, and therefore you have taken a very judicious course to administer one so early to my Lord Cork. I hope it will do him good, though, perchance, he thinks not so, for if the fever hang long about him or the rest, it will certainly shake either of their estates to pieces. Go on, my Lord, I must needs say this is *thorough*, indeed, and so is your physic, too, and that is *thorough*.'¹ The Irish

Laud's
letter.

¹ Lord Macaulay says that Wentworth was the first to use this word *thorough*. The word occurs in Spenser's View of the State of Ireland. We may conclude from Laud's play upon the word it was a favourite term with the Viceroy. Note to Gibson's Cork, vol. ii. p. 46.

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XXVII.Strafford
in danger.The King's
promise.Strafford
in the
Tower.Irish Par-
liament
assist in
his prose-
cution.Earl of
Cork a
witness.Twenty-
eight
Articles.Case of
Lord
Mount-
norris.

Viceroy soon had other work to occupy his attention than making Irish cormorants disgorge their plunder. The Long Parliament commenced sitting, and the combined wrath of three nations fell upon the devoted head of Thomas Wentworth, Earl of Strafford. I must confine myself to the share Ireland had in laying his haughty head on the block. He was summoned from Ireland by Charles I., and, aware of his unpopularity in England, was reluctant to go to London, but the King pledged himself 'that not a hair of his head would be touched.' Repairing to the Court, the Viceroy was at once impeached by the House of Commons, ordered into custody, and committed to the Tower. A Committee of thirteen was intrusted with the office of sustaining the charges against him. These members of the House of Commons, joined to a Committee of the Lords, were invested with authority to examine all witnesses, to call for every paper, and to use any means of scrutiny into any part of the Earl's behaviour and conduct.¹ The Irish Houses of Parliament were only too glad to have the opportunity of assisting in the downfall of the haughty Viceroy. Sir John Clotworthy and others gave all their attention to carry on the prosecution, and the Earl of Cork was perhaps no reluctant witness of his maladministration, though he would fain have us believe he preferred not being examined. He says, 'Though I was prejudiced in no less than 40,000*l.* and 2,000 marks a year,² I put off my examination for six weeks.' The Earl says, 'he was so reserved in his answers, that no matter of treason could by them be fixed upon the Earl of Strafford.'³ But there was matter enough; the articles of impeachment numbered twenty-eight, and referred to his conduct as President of the Council of York, as Lieutenant of Ireland, as Councillor or Commander in England. The case of Lord Mountnorris was adduced

¹ Clarendon, vol. i. p. 192.² This was not a small estimate for a very subordinate portion of the vast territory he bought from Raleigh for a thousand crowns!³ Gibson's History of Cork, vol. ii. p. 46.

as a flagrant proof of his arrogant, unconstitutional, and unjust conduct while Viceroy of Ireland. It was this—

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During a dinner-party at the Lord Chancellor Loftus's, it was stated that Annesley, one of the Lord Deputy's attendants, brother of Lord Mountnorris, in moving a stool had sorely hurt his master's foot, who was at that time afflicted with the gout. 'Perhaps,' said Lord Mountnorris, who was among the guests, 'it was done in revenge of that public affront which my Lord Deputy formerly put upon him, *but he has a brother who would not have taken such a revenge.*'

These words were reported by some mischief-makers to the Viceroy, who, on pretence, or perhaps real alarm lest the suggestion might prompt Annesley to avenge himself in another manner, ordered Lord Mountnorris, an officer in the army, to be tried for mutiny and sedition against his General.¹ The Court-Martial, consisting of the chief officers then quartered in Ireland, appear to have taken an extreme view of the guilt of the accused, for they found the offence capital, and sentenced him to be beheaded.

Court
MartiaL.

Lord Strafford, in reply to this article of impeachment against him, defended himself by saying 'that the sentence of the Court Martial was the unanimous decision of the Court, not of the Lord Deputy. That he spoke not to any member of the Court, nor voted in the trial, but sat uncovered as a party, and immediately withdrew, not, by his presence, to influence their decision. That when he was acquainted with the sentence he thought it iniquitous, and did not keep Lord Mountnorris a moment in suspense with regard to his fate, but instantly told him "he would sooner lose his right hand than execute such a sentence," and at once procured his Majesty's free pardon for that nobleman.'² Hume, in noticing this case, says, 'These excuses alleviate the guilt; but there still remains enough to prove that the mind of the Deputy, though great and

¹ The Viceroy is styled Lord Lieutenant General and General Governor of Ireland.

² Lord Mountnorris lived to A.D. 1660.

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firm, had been not a little debauched by the riot of absolute power and uncontrolled authority.'¹

True reason for the impeachment of Lord Chancellor Bolton and others.

We now learn the true reason for the impeachment of Lord Chancellor Bolton, Chief Justice Lowther, and Bramhall, Bishop of Derry. It was the Irish House of Commons playing their part of the programme to bring Strafford and his master to the block; 'it prevented these persons who were best acquainted with Strafford's counsels giving evidence in his favour before the English Parliament.'²

Strafford's trial.

The trial of Lord Strafford must have been a solemn one. It took place in Westminster Hall, in the presence of the Lords and Commons—the one as accusers, the other as Judges. Besides the chair of State, a close gallery was prepared for the King and Queen, who attended during the whole trial. We may be sure both felt the most intense interest in every stage of the State trial. When Whitelock, who was elected chairman of the committee appointed to draw up the impeachment, refused to have anything to do with an article charging the Earl 'with the design of bringing over the army from Ireland for the purpose of reducing England to subjection,' on the intelligible ground, 'that it was not honourable for the House of Commons to proceed upon an article whereof they could not make a clear proof,' the management of this charge was entrusted to Sir Walter Earle. He made such a wretched hand of it that the Queen, enquiring his name, said, 'that water-dog did bark, but not bite; but the rest did bite close.'³ This shows how well she judged the progress of the case. Strafford bears testimony to the ability and fair spirit with which some of the counsel for the prosecution acted. 'Glynne and Maynard,' he said, 'used him like advocates, but Palmer and Whitelock⁴ like gentlemen, and yet left out nothing that was material to be urged against him.' The defence of Strafford won the following tributes from two great lawyers and orators of

¹ History of England, vol. vii. p. 300.

² Ibid. p. 297.

³ Hume, History of England, vol. vii. p. 297.

⁴ Lord Campbell's Lives of the Chancellors of England, vol. iii. p. 22.

His opinion of the Counsel against him.

different times and nations. Whitelock said, 'Certainly never any man acted such a part on such a theatre with more wisdom, constancy, and eloquence, with greater reason, judgment, and temper, and with better grace in all his words and gestures, than this great and excellent person did; and he moved the hearts of his auditors, some few excepted, to remorse and pity.'¹

Lord Chief Justice Whiteside's words are corroborative of this opinion:—'Never did mortal man speak for another as did Strafford for himself, for his dignities, his life.' The records of human eloquence contain no finer lesson. It is impossible to read his immortal defence without being touched even to tears. By the law of treason he was not guilty; a special law of attainder was enacted for his ruin, and a precedent set, too bad to follow. His enemies argued, with some plausibility, that if an offender should be proscribed who violated a particular law, ought not the great offender to be punished who violated the spirit of all law? The Peers of England, to their disgrace, convicted him. The King deserted him at the last moment. He walked heroically to the scaffold, placed his head composedly on the block, repeating, as he did so, 'Put not your faith in Princes.' Another Chief Governor of Ireland executed for his crimes as Governor.²

Lord Cork's diary contains the following entry of this event:—'This day the Earl of Strafford was beheaded. No man died more universally hated, or less lamented by the people.' The Earl of Cork did not long survive the Viceroy. He died in Youghal in 1643. Borlase says, 'He was a person for his abilities and knowledge in affairs of the world eminently observable, inasmuch as, though he was no Peer of England, yet he was admitted to sit in the house of Lords UPON THE WOOLSACK, *ut consiliarius*.' This clearly entitles this remarkable man to a place in these pages, and I trust I have not taken up more space than his career, so full of incident and interest, warranted.

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Whitelock's tribute to his eloquent defence.

Lord Chief Justice Whiteside eulogises Strafford's speech.

Earl of Cork's diary.

Death of Lord Cork.

Allowed to sit on the Woolsack.

¹ Whitelock's Memoirs, 44.

² Life and Death of the Irish Parliaments, Part I. p. 63.

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XXVII.Michael's
father.Michael
born in
A.D. 1609.Takes
degrees in
Oxford and
Dublin.His first
living.Dean of
Cloyne,Chaplain
General.

MICHAEL BOYLE, the future Lord Chancellor of Ireland, was nephew of the Earl. He might truly be said to have been 'to the mitre born.' He was son of Richard Boyle, mentioned in the foregoing narrative as Warden of Youghal College; who, on the death of his brother, John Boyle, Bishop of Cork, Cloyne, and Ross, in 1620, was, through the interest of Richard styled the Great Earl of Cork, appointed to succeed John as bishop of this diocese. He was subsequently, on May 30, 1638, translated to the Archiepiscopal See of Tuam. He died in 1644, having issue by Martha, daughter of Richard Wright, of Catherine Hill, Surrey, two sons and nine daughters. His sons were Michael, afterwards Lord Chancellor of Ireland, and successively Bishop of Cork, Cloyne, and Ross, and Archbishop of Dublin and of Armagh, born in 1609, and Colonel Richard Boyle, killed at Drogheda, A.D. 1649, in the indiscriminate massacre ordered by Cromwell after he had gained possession of the town.

The youth of Michael was spent chiefly in Munster, while his father resided in Cork, and being designed for the Church, in which his uncle, the Earl, possessed immense patronage, received a very excellent education.

In 1637, Michael Boyle, the Earl's nephew, graduated as Master of Arts in Oxford, and subsequently took the degree of Doctor of Divinity in the University of Dublin. He was not long in the subordinate rank of curate. Shortly after he was ordained, July 22, 1637, he was presented to the living of Clonriest, in the county of Cork. But a rectory was not sufficient for a divine so highly connected as the Reverend Michael Boyle, D.D. He aspired to a position of greater dignity, and soon obtained it. In 1640 he was made Dean of Cloyne, in the diocese of Cork, and on the breaking out of the civil war in the following year, received, in addition, the lucrative office of Chaplain-General to the Army of Munster, with the allowance of twenty shillings a day. He had an excellent opportunity of witnessing and sharing in most of the important events which took place. The Irish, under Sir

Phelim O'Neill, were 30,000 strong, and soon overcame several of the northern counties. The English possessed the cities and towns, which shortly gave them the command of the rural districts; and when they gained the power of the sword, they used it with relentless sway.

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Affairs of
Ireland.

In 1644, Dean Boyle used his influence with Lord Castlehaven, who commanded the Irish army in Munster, to spare Doneraile, a pretty town in the northern part of the county of Cork, the seat of the St. Leger family (Viscount Doneraile), and which acquires interest for all lovers of literature from its proximity to Kilcolman Castle, Spenser's Irish residence.¹ When Lord Castlehaven made his rendezvous at Clonmel, he writes, 'Thither came Dean Boyle, who was then married to my Lord Inchiquin's sister; his business was to persuade me to spare Done-raile, and other houses and castles not tenable. I answered that I desired it as much as he, though hitherto they had annoyed the country equally as if they had been strong; I told him, in short, I had orders to take all I could, and such as I thought not fit to garrison to destroy. Yet, if he pleased to cause the garrisons to be drawn out, and by letters from the owners to put them into my hands, I would appoint some few men unto them, with commanders in whom I most confided, and would make it my business to intercede to the Council to preserve them. The Dean and I parted good friends; but whether he could prevail or no with my Lord Inchiquin, or the owners, I know not; but I heard no more from him.'²

Negotiates
for Done-
raile.

The northern Irish were inspirited by the valour, and guided by the counsels, of the famous Owen Roe O'Neil, whose death was the most signal loss his army could sustain. The history of the Confederation of Kilkenny; and the government of Ireland by the Marquis of Ormond; Cromwell's ruthless rule; and the Restoration of Charles II., are deeply interesting, but foreign to these memoirs.

Important
events.

¹ It has another claim upon me, as the Rector is a dear and valued friend, and an able literary colleague in the pages of the Dublin University Magazine.

² Castlehaven Memoirs.

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Bishop of
Cork in
1660.

Sinecures.

Watches
the Act of
Settle-
ment.

Compli-
mented by
the Irish
House of
Lords.

In 1660, Dean Boyle, with eleven other clergymen, were consecrated together as Bishops in St. Patrick's Cathedral. He obtained the united Sees of Cork, Cloyne, and Ross. He also was admitted a member of the Privy Council of Ireland. 'Not content,' says D'Alton,¹ 'with the aforesaid three bishoprics, he held possession of six parishes in the western portion of his diocese, as sinecures, under colour he could not get clergymen to serve them, in consequence of which he received a very severe reproof from his relative, Roger Earl of Orrery, Lord President of Munster.'

But a mission was at this period intrusted to the Bishop of Cork, which obliterated any pain from the wound inflicted by his cousin's censure. He had been made a Privy Councillor, and was selected by the Irish Lords Justices to repair to England, in order to watch the progress of the Act of Settlement, which vitally concerned the Protestant interest in Ireland. Having a thorough knowledge of the State of the Protestants, and, no doubt, a very eager desire that no influence should diminish their powers, or impair the fortunes which they had acquired by the overthrow of the Catholic proprietors during the civil war and the Commonwealth, and having great Parliamentary influence by his connexions and friends, he executed his trust to the entire satisfaction of the party he represented. The following proceedings in the House of Lords, Ireland, under date of Saturday, May 24, 1662, shows the sense that House entertained of the Bishop's success:—'It is ordered by the Lords Spiritual and Temporal in the present Parliament assembled, that the memorial of thanks to the Lord Bishop of Cork for his services performed in England, be entered in the journals of this house, *in hec verba*.

'Upon a report made this day by the Lord Viscount Conway, and the Lord Viscount Massareene, unto this House, of the ample, clear, and undoubted testimonies which his Majesty's Lords Justices of Ireland have received

¹ Lives of the Archbishops of Dublin, p. 281.

of the great and eminent services performed, both to his Majesty and this kingdom, by the Right Reverend Father in God, Michael Boyle, Lord Bishop of Cork, in the late trust he was employed about in England, concerning the Bill for the Settlement of Ireland, which hath been eminently carried on and managed by his presence, virtue, and indefatigable endeavours. It is ordered that the said Lord Bishop, for his effectual endeavours in accomplishing that service which was committed unto him by the Lords Justices and Council, in reference to the good and settlement of this Kingdom, be entered in the journal book of this House, together with the Lords Justices' recommendation, to remain to posterity as a mark of honour and testimony of the gratitude of the House to the said Lord Bishop of Cork.¹

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In 1663, Dr. Boyle was translated from the Province of Munster to Leinster, on being appointed Archbishop of Dublin. At head quarters, with great political influence, he was not likely to let any opportunity escape of enriching the See; and the Patent Rolls in Chancery bear witness of his activity. By the Act of Settlement he had further confirmation of the lands of his See, together with an augmentation of so much of the forfeited lands as increased the total amount of the income of the Dioceses of Dublin and Glendalough, over and above certain manors and several lands, to the yearly value of 2,000*l.*, which he subsequently further increased.

Arch-
bishop of
Dublin,
A.D. 1663.

He repaired and beautified the archiepiscopal palace of St. Sepulchre. To enable him to defray the expense of his removal from Cork to Dublin, and to put the palace in good repair, King Charles II. presented him with 1,000*l.*, payable out of the profits of the estates of the persons mentioned in the Act of Settlement, who purchased decrees and lands in Connaught and Clare, in the right of persons transplanted, but whose estates were confirmed to them. He had large grants decreed to him by the Act he was so instrumental in passing.

Receives
1,000*l.*
from the
King.

In 1663, on the death of Sir Maurice Eustace, Arch-

¹ Law Jour. Ir. vol. i. p. 302.Lord Chan-
cellor,
A.D. 1663.

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bishop Boyle received the high office of Lord Chancellor of Ireland, and appears to have discharged the judicial functions with due dignity, ability, and integrity. I subjoin to this memoir a notice of the orders in Chancery used and framed for the convenience of suitors of his Court, and, in many points, the same procedure which is now in force was then practised. It may be interesting to the practitioner to find how little change 200 years have made in the High Court of Chancery in Ireland. Indeed, the principal alterations have been made by the legislation of the last few years, which tend to relieve the Lord Chancellor of much responsibility, and lead to the elucidation of facts by oral examination.

Translated to Armagh. In 1678, the Chancellor was again translated from the See of Dublin to the Primacy of Armagh. He had thus worn the mitre in the three Provinces—of Munster, Leinster, and Ulster.

Royal Hospital, Kilmainham.

In 1679, an Order in Council was made, to which the Royal Hospital of Kilmainham owes its existence. It directed that sixpence in the pound be deducted out of the pay of the Irish army, then numbering 7,000 men, and that the amount should be issued and employed towards the building and settling an Hospital for Irish pensioners. And, for the speedy execution of His Majesty's said directions, the Lord Lieutenant, Marquis of Ormond, did accordingly order that Michael Lord Archbishop of Armagh, the Lord Chancellor of Ireland, John Lord Archbishop of Dublin, Richard Earl of Arran, Sir Charles Meredith, Chancellor of His Majesty's Exchequer, Sir Robert Booth, Lord Chief Justice of the King's Bench, and many others, any three of them to be a standing Committee, to send for artists and workmen, and treat with them for building the said Hospital. A sum of 23,579*l.* was then raised and expended, and the Royal Hospital has been since an Asylum in Ireland for brave old soldiers, natives of Ireland.¹

Lord Chancellor and others appointed a committee.

¹ Attempts to abolish this institution have been made from time to time. In 1833, again in 1852—and in 1870, there were indications which caused apprehension the meditated injustice was not abandoned.

While Lord Chancellor Boyle was presiding over the Court of Chancery in Ireland, a great equity lawyer filled the analogous position in England—Heneage Finch, Earl of Nottingham. Like all the Irish Chancellors whose lives I have so imperfectly traced, this great Judge has suffered from the want of reporters; and, though there have been, for many centuries, some contemporary reporters, good, bad, and indifferent in England, unfortunately, until within the last hundred years, we had no attempt whatever to publish regular reports in Ireland.

No, doubt, as has been well observed,¹ ‘much inconvenience does arise from the multiplicity and copiousness of reports in modern times; but, we ought to recollect the great advantage we derive from full and accurate statements of all that passes in our Courts of Justice, whereby Judges, speaking to the nation, are constantly on their good behaviour; and, while what is trivial soon sinks from notice, that which is important is imperishably preserved.’ The noble and learned author of ‘The Lives of the English Chancellors’ laments the want of better reports than those miserably executed ones which gave the judgments of Lord Chancellor Nottingham, containing defective narratives of facts, hardly any statement of counsels’ points, or cases relied on, and no reasons for the Judge’s decision; merely an abstract of the Decree with the words, ‘The Court ordered;’ the ‘Court directed;’ or the ‘Court allowed.’ I wish I had even so much to assist me. I have not been able, hitherto, to trace a single reported case of any Court in Ireland, save the few contained in Sir John Davies’ little volume already mentioned. The appended rules and orders indicate the practice and pleadings, tempore Lord Chancellor Boyle, the same as in England; and, as by implication almost every subject of litigation could be clothed with a trust, the object of the Lord Chancellor was to see how far the case was one warranting the proper interposition of a Court of Equity. The

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Reports of
judicial
decisions.

Defective
Equity
Reports in
England.

No Re-
ports in
Ireland
until re-
cent times.

Equitable
jurisdi-
ction

¹ Vide Lord Campbell’s Lives of the Chancellors of England, vol. iii. p. 415.

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The Statute of Frauds.

Accession of King James II. His declaration in Council.

Hopes of the Irish Catholics.

Court of Chancery fairly administered assets on the principle that the executor or administrator who held the property of the deceased, was a trustee, bound to pay debts and legacies, and to apply the surplus according to the will, or, in case of intestacy, pursuant to the Statute of Distributions.¹ By the then recent English Statute of Frauds,² trust estates in fee simple were made legal assets. This Statute has been considered the most important and useful Act ever passed by the legislature, and regulates to a great extent every transaction we engage in.

On the death of Charles II., February 6, 1684-5, James Duke of York was proclaimed King. His Declaration in Council, of his 'determination to preserve the Government both in Church and State, as by law established ; to defend the monarchy, never to depart from the just rights and prerogatives of the Crown, or invade any man's property ; to defend the nation, and go as far as any man in preserving it in all its just rights and liberties,' was received with unbounded applause.³ In Ireland his accession opened prospects of happiness and tranquillity to the Catholics ; and, as he was bound to the Irish by strong ties of gratitude and interest, being himself a Catholic, they expected repose after long sufferings. The Viceroy of Ireland, the Earl of Clarendon, was kindly disposed ; a devoted adherent of the House of Stuart ; and, though I have no doubt his knowledge of the arbitrary love of power of that shortsighted race made him fear the promises of King James would not be very well kept, he tried to cheer up the spirits of the Irish Protestants, which, from the moment James II. mounted the throne, had fallen very low. No Protestant felt secure of any office held at the will of the Sovereign ; and, as the Chancellor was not only a Protestant, but an Archbishop, he justly considered the odds were against his holding on.

The first intimation the Viceroy received of the King's

¹ *Adair v. Shaw*, 1 Scho. and Lefr., p. 262.

² 29 Car. II. c. 3, s. 10. The Irish Act corresponding to the English is 7 Will. iii. c. 12.

³ *Fox, James II.*, p. 75.

intention to relieve the octogenarian Chancellor-Archbishop from the fatigues of his judicial office, was in a letter from Lord Sunderland to the Viceroy, dated February 25, 1685-6. In his reply, the Viceroy says, 'While I am writing, I receive yours of the 25th post, and, at the same time, my Lord Presidents, I confess they did surprise me, as to the laying aside the Chancellor; but it is resolved, and so no reply must be made to it. No doubt he will have heard it from other hands, for several letters mention it. I believe the Marquis of Athol will be troubled at this change, and with reason; for his cause, which has been for many years depending, both here and in Scotland, and has taken up thirteen entire days in hearing it pleaded on both sides since the term, was finished on Saturday last; and yesterday the Judges, who assisted, went their circuits. My Lord Chancellor had appointed the beginning of next term to give judgment; and, it is thought, it will go for my Lord Athol; and now I doubt it must all begin anew.'

On receiving direction to inform the Lord Chancellor, the King desired *to give him his ease*,¹ the Lord Lieutenant communicated the news to the Lord Chancellor, with every kind expression which could gild the bitter pill. His Grace received the intelligence with great submission, and without showing the least surprise or dissatisfaction. No doubt the unpleasant report that he was to be removed had previously reached him. He told his 'Excellency he had thought of requesting permission to resign the Great Seal, but was restrained by the idea that it would not have looked well in him to have quitted the service while the King appeared to be in any difficulties. That he made it the whole business of his life to serve the Crown, and would continue to do so though he were only a private curate, and that he most cheerfully acquiesced in his Majesty's good pleasure. That he would be extremely mortified if he thought the King was, in any way, dissatisfied with him, because he had received many favours from his

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Removal
of the old
Chancellor.

Submits
with cheer-
fulness.

¹ A polite way of turning a man out.

CHAP. XXVII. Majesty, and never found he was the least under the King's displeasure.'

In the following April reports that the Archbishop would have, as his successor, Sir Charles Porter, reached Dublin, and, as he was known to be a good staunch Protestant, the hopes of the Irish Protestants again revived.

King James II. having decided on removing the Archbishop from the office of Lord Chancellor of Ireland, appointed Sir Charles Porter in his place; and, although Porter was sworn in, and intrusted with the Great Seal as Lord Chancellor, the Lord Lieutenant, Earl of Clarendon, was so tenacious of not slighting Archbishop Boyle, that in writing to him, after the swearing in of his successor, on April 17, 1686, he continues to address him as Lord Chancellor.¹

Letter from the Vice-roy.

' I gave your Lordship the trouble of a long letter so lately that I needed not to have given you any now, but only to give you an account, that on Thursday, my Lord Chancellor Porter arrived. As soon as I read the King's letters, I immediately directed his patent to be prepared; and yesterday he was sworn, and I delivered him the Seal at Council; so that he is now in full possession of his office; and this morning he keeps the first Seal in order to the term, which begins on Wednesday here, as it does in England. And as for the rest I suppose he will give your Lordship an account himself. I have no more to add at present, but that I am with great respect,

' My Lord,

' Your Lordship's

' Most faithful and most humble servant,

' CLARENDON, C.P.S.'

Attends King James's Irish Parliament.

Great age.

The Archbishop of Armagh was one of the Spiritual Peers who attended King James II.'s Irish Parliament in Dublin, in 1689, but does not appear to have taken part in the debates.

The Ex-Chancellor reached the patriarchal age of ninety-

¹ State Letters, vol. i. p. 154.

two years, in 1702, when he died. He had outlived most of his faculties, sight and hearing, mind and memory, all were gone, which is charitably supposed to have caused him to leave so little to the poor. His charitable bequests being but twenty shillings each to twenty poor men of the Parish of St. Patrick's, and as much to ten of the Parish of St. Michan's. Well may Sir James Ware express surprise at his will. He states the Ex-Chancellor died very rich, and, in earlier years, was of a disposition both liberal and public-spirited. He gave in his lifetime 200*l.* towards erecting a new gate-house to the College of Dublin, and joined in a contribution of 100*l.* to the University with Thomas, Bishop of Ossory, and Dr. Jeremy Hall, towards buying books for the library.¹

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XXVII.
Death.

Left but
little in
charity.

Chancellor-Archbishop Boyle was the last of the long roll of ecclesiastical Chancellors whose memoirs I have placed before the reader. He had considerable knowledge of the law and practice of his court, and the orders promulgated by him, to which I shall presently advert, were well framed. He was buried by torchlight in St. Patrick's Cathedral, under the altar, without any pomp. Stuart in his history of Armagh² says, 'Dr. Boyle seems to have been at once rapacious in the attainment of wealth, and liberal and public-spirited in its expenditure.' In my opinion the evidence is far greater to sustain the former than the latter allegation, save where his family or self-interest was concerned. He founded the town of Blessington, in the county of Wicklow, where he erected a splendid country-seat, with a private chapel, also a parish church. The title of Viscount Blessington was, in consequence, conferred on his son, Morough Boyle. Lord Blessington erected a monument to his father's memory in the church of Blessington, crowned with a mitre, and beneath are the arms of the see of Armagh. Upon black marble was the following inscription:—

Last of the
Ecclesiastic-
al Chanc-
llors.

Buried in
St. Pa-
trick's.

Monument
in Bles-
sington
Church.

Michael Boyle S.T.D. Archiepisco-
pus Armachonus, totius Hibernie
Primas et Metropolitanus, summus

Michael Boyle, D.D., Archbishop of
Armagh, Primate and Metropolitan of
all Ireland, Lord High Chancellor of

¹ Ware's Bishops.

² Page 389.

CHAP.
XXVII.
673.
Orders in
Chancery
by Lord
Chancellor
Boyle.

Subpœna.

Writs.

In 1673, ‘A collection of such of the Orders heretofore used in Chancery, with such alterations and additions thereunto as Michael Lord Archbishop of Dublin, Lord Chancellor of Ireland, hath thought fit at present to ordain and publish for reforming of several abuses in the said courts, preventing multiplicity of suites, motions, and unnecessary charges to the suitors, and for their more expeditious and certain course of relief,’ was published in Dublin, printed by Benjamin Toke, printer to the King’s Most Excellent Majesty. These orders have reference to the practice of the Court. The first order provided, ‘That no subpœna be made returnable immediate, unless the party against whom it is to issue be at the time of the service thereof in the city or suburbs of Dublin, or within ten miles distance from the same; and that no subpoena to answer be made returnable in vacation time, but within fifteen days before or after the term.’ The clerk of the Hanaper was required to enter all writs, and whatever passed the Seal, in a book to be kept at the office for

Regni, per viginti annos Cancellerius; ejusdemque sæpius justitiarius. Inter plurima sua de ecclesia et Republica merita, Ecclesiam hanc Beatæ Mariæ de Blessington, cum Cemeterio (ad Dei gloriam, decentem cultus Divini administrationem, et hujus Parochiæ solatium et usum) propriis sumptibus fundavit, erexit, et lagenis, calicibus, patinis argenteis, cæteroque supellectile mensam sacram et Ecclesiam instruxit, addito etiam campanile elegante, cum sex harmonicis campanis, Hæc omnia vicesima quarta Augusti, Anno millesimo sex centesimo octuagesimo tertio Deo et Religioni solemniter dedicavit. Ut perpetuum sit piæ hujus munificentæ Monumen- tum, Lapis hic inscribitur memorialis per Filium ejus Morough Vicecomitem Blessington. Abi et fac tu similiter.

the Kingdom for twenty years, and often Lord Justice of the same. Among many other his merits to the Church and Commonwealth, he founded and erected (at his own expense) this Church of Blessington, dedicated to the Blessed Virgin, together with the Churchyard, to the glory of God, the decent administration of Divine Worship, and the comfort and use of this parish. He also furnished the Communion-table and Church with silver Flagons, Cups, and Patins, and other Ornaments; and added to the Church an elegant Steeple with a Ring of six musical Bells. All these things he solemnly dedicated to God and Religion on the 24th day of August, MVCLXXXIII. His son, Morough, Viscount Blessington, hath caused this Memorial to be inscribed on this stone as a Monument for ever of his pious munificence. Go and do thou likewise.

public use. Provision was made for substitution of service. 'For the filing of Bills; for Attachments; that Counsel be careful that no pleadings contain needless repetitions, or matter scandalous,' and if so, 'both the parties and Counsel on whose side and under whose hand it passeth shall pay good costs to the party injured, and such Counsel shall receive the reproof of the Court, and the crime will be adjudged more gross, if it shall appear that such pleading passed his hand without a deliberate perusal.'

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XXVII.
Pleadings.

That answers ought regularly to be positive, without Answers. saying, 'It is as to remembrance or belief,' if it be said to be done within seven years. That if a hearing be prayed Hearing. upon bill and answer, the answer must be admitted to be true in all points, and no other evidence admitted unless it be a matter of record. If the Court shall not give a decree, the bill to stand dismissed with costs, or the plaintiff, if he desire it, allowed to reply, paying fifty shillings costs. Orders referring to Demurrs follow next; also respecting Pleas, Replications, Rejoinders, Dismissing bill for want of prosecution, examination of witnesses, &c. The Six Clerks, formerly the examinators of the Court, were Six clerks. required by Order XXVI. 'to take care they employ under them in their office none but persons of known integrity and ability, who shall take an oath not to deliver or make known directly or indirectly to the adverse party, or any other (save the deponent who comes to be examined), any of the interrogatories delivered to be examined upon any examination taken or remaining in his office,' under severe penalties therein stated. 'The mode of exhibiting interrogatories, credibility of witnesses, &c., Exhibits. to be subject to the advice of the Master of the Rowles, or, in his absence, of a Master of the Court. The Carriage of Commissions, Processes of Contempt, Writs of Scire-Facias, and other processes to be made into the county where the party is resident, and if not to be found there, the same may issue with any county where estate lyeth. Punishment

CHAP. XXVII. for Contempt of Court and Injunctions are fully provided for by Orders 44, 45, 46, 47, 48, and 49.'

Masters in Chancery.

The Master's Reports were regulated by Orders 50, 51, and 52, which direct, 'The Masters are to be circumspect and wary on giving oaths, that they be reverently and knowingly taken, and are therefore to administer the same themselves to the party, and where they discern him rash or ignorant, to give him some consonable admonition of his oath, and be sure he understandeth the matter contained in affidavit.'

Suing in forma Pauperis.

Counsel and Attorneys.

Mode of sueing and defending *In forma Pauperis* was regulated by Orders 53, 54, 55, and 56. By Order 57 'Counsellors and Attorneys are to make motions proper for themselves, and after a cause is settled (hearing Counsel on both sides) no new motion is to be made to cross it, except it be upon new matter, and when any motion is made, the last order is always to be produced, and any order obtained without producing the last order, to be void, and the costs occasioned by the neglect to be paid by the party aggrieved.'

Decretal Orders.

Number of decrees enrolled.

Decretal Orders were to be entered after ten days from the date of order pronounced, Order 58. Motion days, seal days, hearings, &c., were also definitely provided for. Notwithstanding the ability of the Lord Chancellors of Charles II's. reign, I only find two hundred and fifteen decrees of that period enrolled.

CHAPTER XXVIII.

LIFE OF LORD CHANCELLOR PORTER FROM HIS BIRTH TILL HIS
REMOVAL BY KING JAMES II.

IT was the lot of Lord Chancellor PORTER to hold the Great Seal of Ireland during a very eventful period. Of his early career I have not been able to find much trace, but he was born in England about the year 1640, and his family held such a position in society as made him well and favourably known to the chief political leaders of the time. These circumstances are plain from the State letters of the Earl of Clarendon. Charles Porter was descended from an ancient and respectable family in Cumberland, and he was a law-student when the inauguration of Serjeants was celebrated by feasts, at which the Lord Chancellor, the Lords of the Council, with other noblemen were present; when the Judges and old Serjeants in their scarlet robes emulated the crimson gowns of the Lord Mayor and Aldermen of London, who also attended. Mr. Porter was admitted a law-student to the Middle Temple October 25, 1656, and called to the Bar in 1660, when Mr. Foss deplores 'the absurd use of an unknown tongue was renewed and continued to be employed for seventy years longer.'¹ Some time after Mr. Porter was called to the bar, a singular robbery disturbed the repose of Westminster Hall. In 1677, the Lord Chancellor's mace and two privy purses were stolen out of the Chancellor's (Lord Nottingham's) house. The robbers missed the Great Seal, as his Lordship had it under his pillow. Five of the gang concerned in this audacious outrage were convicted, and one of them, named Sadlier, was hanged at Tyburn.² At

CHAP.
XVIII.Porter, an
English-
man, born
in 1640.A law
student.Robbery
at the
Chanc-
cellors in
London.¹ Stat. 12 Car. II. c. 3, 4; 4 Geo. II. c. 26; 5 Geo. II.² Foss's Judges of England.

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this period the barristers must have been used to early rising, for the Courts opened at eight o'clock in the morning and sat until noon. Mr. Porter was a very hard-working man, and soon was in good practice. Lord Nottingham, an admirable equity lawyer, held the Great Seal, and some of the most beneficial enactments of the legislature were the result of the law reforms then made in Parliament. The 'Statute of Distributions,'¹ for disposing most justly of personal property in cases where no disposition was made by will. The 'Statute of Frauds'² for regulating contracts and forms of making wills³ were among the most valuable Statutes passed. Also the Second Magna Charta of English freedom, under which personal liberty has received an amount of protection beyond what inhabitants of Continental nations can boast, and which, alas ! has been so often suspended in Ireland, 'The Habeas Corpus Act.' There were also improvements going on *pari passu* in the juridical system, the appellate jurisdiction of the House of Lords was established in appeals from Courts of Equity as well as of Courts of Law. This was not settled without considerable difficulty, as I will now relate :—

Some time after Mr. Porter was recognised as an able lawyer, occurred those famous cases in England which made as great a stir among the legal circles of England as *Sherlock v. Annesley*³ did afterwards in Ireland. Sir Nicholas Crispe and others *versus* Delmahoy, M.P., was one of them, and the question involved was, the right of the House of Lords to hear appeals from courts of equity. The jurisdiction in cases at common law was unquestioned, for writs of error had been brought from judgments in the law courts for centuries, but appeals in equity were unusual, and the right of them was questioned. In the appeal of Dr. Shirley *v.* Sir John Fagg, a member of the House of Commons, the Commons resolved 'That the proceedings

Question
of the right
of the
House of
Lords to
hear Ap-
peals from
Courts of
Equity.

¹ 22 & 23 Car. II. c. 10, Eng.; 7 Will. III. c. 6, Ir.

² 29 Car. II. c. 3, Eng.; 7 Will. III. c. 12, Ir.

³ Post.

thereupon was a breach of the undoubted rights and privileges of the House of Commons, and the House desired there might be no further proceedings in that cause before their Lordships.' While the controversy was raging with violence between the Houses, a report was made to the Commons, April 19, 1675, respecting an appeal brought by Crispe and Crispe, against the decree in Chancery, wherein Mr. Dalmahoy, M.P., was recited to be one of the petitioners, and certain Counsel were subsequently reported as having been ordered by the House of Lords to open and manage the said cause on behalf of Sir Nicholas Crispe.

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The Counsel named were, Sir John Churchill, Serjeant Peck, Serjeant Pemberton,¹ and Mr. Porter. The danger of prosecuting the appeal, in the then temper of the House of Commons, being represented by the petition of the appellant to the House of Lords, the Lords ordered, 'That the appellants, their Counsel, agents or solicitors, or others employed in prosecuting the said appeal before their House, be privileged until the appeal was determined by their Lordships. And all persons whatsoever were prohibited from arresting or imprisoning any of them.' Mr. Porter and other counsel, on the order of the House of Lords, having argued the case at the bar, were respectively summoned by the Speaker of the House of Commons to attend and 'give an account to the House of their appearing at the bar of the House of Lords in the prosecution of an appeal in which Mr. Dalmahoy, a member of the House of Commons, was concerned, in manifest breach of the order of the said House, and for giving up, as much as in them lay, the rights and privileges of the Commons of England.'

Appellants' counsel, &c., privileged by order of the Lords.

Summoned to attend the House of Commons.

Mr. Porter and his colleagues excused themselves by stating 'they had no notice of the order of the House, but what they heard in casual conversation; that because Mr. Dalmahoy, a member of Parliament, was a party, they,

Their excuse.

¹ Afterwards Chief Justice, first of the King's Bench then of the Common Pleas, Westminster.

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repeatedly refused to appear as counsel or to accept their fees, but they were assigned counsel, and ordered to attend at their peril. That then attending, and Mr. Dalmahoy having pleaded in the Lords House, and not insisting on his privilege, they conceived they might safely appear as counsel, without invading the rights or privileges of the House of Commons, which they never intended, and submitted themselves to the pleasure of the House if they had misbehaved themselves.' Being ordered to withdraw, the question was put, 'That they be taken into the custody of the Serjeant-at-Arms attending this house.'¹

Mr. Porter
and others
in custody.

The House divided—for the yeas, 154; noes, 146. Mr. Charles Porter and the others were then ordered to be taken into custody of the Serjeant, for breach of privilege of the House.

When the House of Lords was aware of what had occurred, they appointed the Lord Privy Seal, the Earl of Bridgewater, the Earl of Shaftesbury, and the Lord Holles to draw up an order in this extraordinary case, which was done by the Lord Privy Seal. It recited the imprisonment of the Counsel for doing their duty at the Lordship bar, and 'judging it to be a great indignity to the King's Majesty in this his highest Court of judicature in this kingdom, and an unexampled usurpation and breach of privilege against the whole House of Peers, and tending to the subversion of the Government, and a transcendent breach of the liberties of the subject, which is not to be impeached but by process of law,' ordered the Usher of the Black Rod to repair to the prison where Mr. Charles Porter, counsellor-at-law, and the others were detained in custody, and demand their delivery without fees; and the said Usher was empowered to call all persons necessary to his

Indignation
of the
Lords.

The Usher
of the
Black Rod.

¹ During the debate on this motion some ladies were in the gallery peeping over the gentlemen's shoulders. The Speaker seeing them called out, 'What boroughs do these ladies serve for?' To which Mr. William Coventry replied, 'The Speaker's.' Sir Thomas Littleton said, 'The Speaker might mistake them for gentlemen with fine sleeves, dressed like ladies.' Says the Speaker, 'I am sure I saw petticoats.'—4 Cobb, *Parl. Hist.* 732.

assistance, and to make return the following morning by eight of the clock to this House.¹

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By the report of the Usher of the Black Rod it appeared, that only Sir John Churchill was in the custody of the Serjeant-at-Arms, and the Usher took him from the Serjeant. The latter functionary, in reply to the inquiry of the House of Commons respecting the other counsel, stated 'that he was by force prevented from arresting them, and they had escaped.' On which it was resolved 'he had betrayed his trust, should be committed to the Tower, and an address presented to the King to appoint another Serjeant-at-Arms.'

The
Serjeant-
at-Arms.

The Commons resolved not to yield, so, being apprised that Mr. Porter and the other members of the Bar were attending in the discharge of their professional duties in Westminster Hall, they ordered the Serjeant-at-Arms to go with his mace into Westminster Hall, and take the learned counsel into custody. We can well imagine the scene which the quiet Court of Chancery presented on that bright June morning, A.D. 1675, when the argument

The Ser-
jeant
ordered to
arrest the
Counsel.

.. which Mr. Porter was addressing to the Master of the Rolls and two Masters in Chancery, sitting for the Chancellor, was abruptly cut short by the Serjeant of the House of Commons telling him 'he must consider himself in custody, and accompany him to the House of Commons.' Mr. Porter refused, stating 'he was under the protection of the House of Lords;' but the Serjeant replied, 'If he did not go quietly, he should, however unwilling, be compelled to use force.' Mr. Porter then acquiesced, asking leave 'to finish his argument.' This the Serjeant could not permit. The Serjeant also laid his hand on Sir John Churchill, who was within the bar before the Master of the Rolls. Sir John read the protection of the Lords, which he also contended was sufficient, but the Serjeant

Mr. Porter
arrested.

¹ The order was addressed, 'To the Gentleman Usher of the Black Rod attending this House, his deputy and deputies, and to all mayors, sheriffs, bailiffs, constables, and other His Majesty's officers and loving subjects, who are for aiding and assisting in the execution hereof.'—6 *State Trials*, 1148.

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held not. He then applied to his Honour the Master of the Rolls for protection, who declined to interfere ; but stated ' he was very sorry to see that he was so carried away in the face of that Court, where his Majesty was always taken to be personally present.' The Serjeant subsequently brought his prisoners—namely, Serjeant Peck, Serjeant Pemberton, Sir John Churchill, and Mr. Porter by water, through Sir John Collin's garden, to the Tower, and left them in custody of Sir John Robinson, Lieutenant of the Tower.

The prisoners sent to the Tower.

The Usher of the Black Rod tries to obtain their release.

When these proceedings were detailed in the House of Lords, by Lord Lovelace and others, their Lordships ordered the arrest of Serjeant Topham for taking the learned Counsel into custody, and directed the Usher of the Black Rod to demand their release. The Usher, accordingly, took boat, and on going up stairs in the Tower to the apartments of the Lieutenant, he found that officer with his legal captives. Then taking his Black Rod in one hand and the Lords' warrants in the other, the Usher commanded him, 'in the name of the Lords Spiritual and Temporal in Parliament assembled, to deliver up the prisoners.'

But the Lords Spiritual and Temporal did not obtain compliance with this demand. The Lieutenant replied, 'That they were committed by order of the Commons, and that he could not release them without their order ; and if the Lords did commit any to him, he could not release them without their Lordships' order.'¹

The Lords presented an address to the King, requesting his Majesty to remove the Lieutenant. This, however, the King refused, and made a speech complaining of the quarrels of the two Houses, which obliged him first to prorogue, then to dissolve the Parliament. This put an end to the imprisonment of Mr. Porter and the other Counsel. The affair had the effect of bringing the imprisoned Counsel into notice, and making them objects of sympathy with their brethren of the Bar. Several of

The Lieutenant refuses.

The King prorogues Parliament.

¹ State Trials, vol. vi. p. 1160.

them quickly rose to high positions. Serjeant Pemberton became Chief Justice of the King's Bench, and Mr. Porter, who was knighted, Lord Chancellor of Ireland. The state of parties in England and Ireland on the death of Charles II. and accession of his brother, under the title of James II. (one of the most unfit men to whom the liberty of any people could be intrusted), will be considered in my next Chancellor's life. I therefore refrain from alluding to the subject here.

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The selection of Sir CHARLES PORTER to succeed Archbishop Boyle, Lord Chancellor of Ireland for twenty years, was made by James II. in January 1685-6. At this time the Irish Viceroy was the Earl of Clarendon, eldest son of Hyde, Earl of Clarendon, Lord Chancellor of England. The Viceroy was born in 1638, and, in his seventeenth year, he was employed by his father in writing State letters in cipher upon the King's business. While thus engaged he was so discreet as well as faithful, that nothing ever was discovered by him. In 1660, he married Theodosia, daughter of Lord Capel, and was appointed Lord Chamberlain to Catherine, Queen of Charles II. His attachment to the Duke of York brought him into Court favour, and he was made a Privy Councillor in 1680. On the accession of King James II. to the throne, in February 1684-5, he was appointed Lord Privy Seal, and in the December of that year constituted Lord Lieutenant of Ireland. While filling this important, and at the period most trying office, he corresponded very frequently with the King, the Lord

Mr. Porter
selected
as Irish
Chan-
cellor,
A.D. 1685.

Treasurer Rochester, his brother, and the Prime Minister, the Earl of Sunderland.¹ These letters throw a great light upon the events of that period, and show how earnest was the desire of James II. to allow his Irish Roman Catholic subjects a full and free participation in the offices and emoluments of the Government. They had been for so long a period habitually excluded from Court rights, that his attempts to do this was resented as an

Earl of
Clarendon
Lord Lieu-
tenant.

His letter
from Ire-
land.

¹ These letters are published, together with the Diary for the years 1687-8-9 to 1690. Dublin, MDCCLXV.

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injustice to the Protestants ; and no Protestant writer of that, or indeed any subsequent, time can forgive the King for acts which, thank God, in our day do not challenge remark. Whether he would have acted more prudently had he lived in the present time, is difficult to surmise ; but the Irish Roman Catholics at least must remember him with gratitude.

The Lord Lieutenant acquainted with the new Chancellor.

In referring to the rumour which reached Dublin, of Sir Charles Porter succeeding Archbishop Boyle as Lord Chancellor of Ireland, the Earl of Clarendon, in a letter to his brother, the Lord Treasurer,¹ says :—‘ You and I know him, and his talent every way ; therefore I will say nothing of him but this, that he will be mistaken if he thinks to make his fortune by the employment. The King’s allowance upon the establishment is 1,000*l.* per annum ; and the office does not bring in besides above six or at most seven hundred a-year, which is no great wealth for a man who has but a very small estate of his own, considering the figure he ought to make. The Primate lives as nobly, and as much like a gentleman throughout, as ever I knew any man in my life. But the change is resolved, and there is an end.’ It is plain the Viceroy was averse to the proposed change, and was very unwilling that his venerable friend, the Primate, should be deprived of the office he filled with ability and purity for so many years.

The in-
come of
the Irish
Chan-
cellor,
A.D. 1686.

Arrival of
Lord
Chancellor
in Ireland.

The rumour as to the change in the Irish Chancellorship proved well-founded, the octogenarian Boyle yielded up the Seal, and in the month of April, 1686, Sir Charles Porter arrived as Lord Chancellor of Ireland. When the news was communicated to the Lord Lieutenant, the Earl of Clarendon, that the yacht, with the Lord Chancellor on board, was moored at Dunleary,² his Excellency immediately sent his coach to convey him to the Castle, which was done so promptly that he arrived by ten o’clock A.M.

¹ Earl of Rochester.

² The port is close to the town now known by the royal designation of Kingstown, from whence King George IV. took his departure from Ireland A.D. 1821.

He was the bearer of the usual letters from the King—one constituting him Lord Chancellor, the other to the Ex-Chancellor, Archbishop Boyle, directing him to hand the Great Seal to the Lord Lieutenant.

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The patent for the Chancellor's appointment being ready, his Excellency convened the Privy Council for three o'clock, at which Sir Charles took the oath, and had the Seal delivered to him by the Lord Lieutenant. He received much hospitable attention from Lord Clarendon, and his statement that 'the King was resolved not to have the Acts of Settlement shaken,' gave the Protestants of Ireland great satisfaction and peace of mind. To the Viceroy himself this was welcome news. He evidently had misgivings on the subject; when writing to the Lord Treasurer of England, Lord Clarendon says:—'This declaration does me good; for now all the discourse of the town is—"You see, my Lord Lieutenant told us true, and the King will have the Acts of Settlement preserved, notwithstanding what the Irish talk of their interest at Court." My Lord Chancellor has said to these, who have asked him, whether there should be any alteration of the Judges (which, he told me, had been very many) that he knows nothing of it; that he had heard it spoken of in England, but that it was not resolved on; and he did believe there was some stop in it: and yet, he told me, he had been assured here that Mr. Nugent had made his robes; to which I said nothing, but smiled. But it is very true when I writ to my Lord President of the reports here, and named Mr. Nugent in that letter, he had then actually made his robes; if the word may be taken of the draper, who sold the cloth, and of the taylor, who made them. There are those here who have been so inquisitive as to inform themselves thus narrowly.'¹

Receives
the Great
Seal.Confirms
the state-
ment that
the Acts of
Settlement
will be
main-
tained.Rumours
of judicial
changes in
Ireland.

Reports were in circulation for some time that several of the Irish Judges had incurred the King's enmity, and at a period when the term of office was *during pleasure*;

¹ Clarendon's State Letters, vol. i. p. 149. I fear the inquisitive people were not confined to the seventeenth century.

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XXVIII.

Lord Clarendon's estimate of Judge Johnson.

this portended a change. Judge Johnson was one of those mentioned. He is praised by the then Lord Lieutenant,¹ and with apparent reason :—‘ I am very sorry he is under the King’s displeasure ; as I shall be for any man who falls under that great unhappiness. He came into Ireland with my Lord Chief Justice Smith, when he first came hither, one of the Commissioners of the Court of Claims ; and under his favour and countenance he grew up. He is the eldest Judge in this kingdom, having sat for sixteen years on the bench. Whatever faults he may be guilty of, I dare say disloyalty was never yet laid to his charge.’ ‘ As for other Judges here, whom his Majesty is displeased with, my Lord President has named to me Sir Richard Reynells and Sir Standish Harstowne. For the first I can say nothing knowingly, but what all the world knows, that he is a very able man. He came over hither a young man, five or six years before the King’s restoration. He has got a very good estate purely by his practice in the law before he was a Judge. He is of the Council, as much with the Irish as the English, and so he will again, when he is out, in all probability. In his station as a Judge no man can carry the prerogative higher than he does, no man can make greater professions of duty and loyalty to the King. As for Sir Standish Harstowne, I can say nothing but from my own observation of his behaviour in the place he is as a Baron of the Exchequer ; where the King is more immediately concerned than in any other Court, and he certainly understands the business there perfectly well, and, by all that appears to me, does his duty very well.’

Neither the Viceroy nor the Lord Chancellor approved of the changes which the King resolved to make among the Irish Judges. Especially promoting Mr. Nugent, whom the Lord Lieutenant considered a man very unfit for the judicial bench. The Chancellor being so recently arrived was desirous of ascertaining the estimate his Excellency had formed of this barrister, and inquired, ‘ Was

Of Sir Richard Reynells.

Of Sir Standish Harstowne.

Of Mr. Nugent.

¹ Clarendon’s State Letters, vol. i. p. 139.

his Lordship acquainted with him ?' His Excellency replied, 'Very slightly ; that he had been only a few times with him on ordinary business.' When the Chancellor observed, 'He is a very silly fellow, and grows very troublesome.' The Lord Lieutenant had a better opinion of Mr. Daly, who was raised to the Common Pleas Bench on the removal of Judge Johnson. Writing to the Lord Treasurer, he says :—' Mr. Daly seems a sober man ; he has the character of one of the best lawyers of that (the Catholic) party, there being, in truth, but three above or equal to him—Nangle, Garret Dillon, and Stephen Rice. He is reputed a modest man ; he is perfect Irish, of old Irish race ; he is very bigoted and national, and yet all he is worth in the world is of his own acquiring, and but little. He was bred a clerk to Patrick Darcy, a man famously known by all who knew anything of the late wars in this kingdom.'¹

The changes contemplated were made—Sir Richard Reynell was displaced from the King's Bench, and Thomas Nugent, King's Counsel, succeeded.² He was speedily promoted, for, in the January following, Sir William Davy was removed from the Chief Justiceship of the King's Bench and Nugent put into his place ; while Sir Bryan O'Neill, Bart., succeeded Nugent as Puisne Judge. In the Common Pleas Judge Johnson made way for Denis Daly. In swearing the new Judges, who were Catholics, the Oath of Supremacy was dispensed with by the King's letter. This occasioned some disquietude to the Viceroy, who, fearing it might be charged against him as a breach of the law, desired that the King's letter should be entered at the Signet Office, at Whitehall, as his warrant for so acting.³

On receiving the news of the proposed change, the Viceroy sent for Sir Richard Reynell, who at once waited on the Lord Lieutenant ; and the account of the interview is so creditable to the Ex-Judge that I cannot omit it. When the Viceroy informed him of the King's pleasure

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XXVIII.Of Mr.
Justice
Daly.Changes
in the Irish
Bench.Oath of
Supremacy
dispensed
with.How Sir
Richard
Reynell
bore dis-
missal.¹ Clarendon's State Letters, vol. i. p. 162.² Patent, Dublin, April 23, 1686.³ State Letters, vol. i. p. 163.

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he replied, 'That he very cheerfully submitted, and should always do so whatever determination his Majesty might make concerning him. He said his religion and his profession had taught him loyalty to the King, and he practised it ever since he was in a capacity for doing so, and if he knew what was most acceptable to the King, he would show his duty by doing it.' He then asked, 'If he might return to his practice?' The Viceroy replied, 'He knew nothing to the contrary, and that his Majesty did not concern himself what his subjects did or what callings they betook themselves to, as long as they behaved themselves dutifully.'¹

Character
of Sir
Charles
Porter.

Sir Charles Porter, says Smyth,² 'was a loyal gentleman of agreeable and social manners, but equally destitute of legal talents or private fortune. The former defect it was thought must render him subject to the management of Popish Judges, and the latter necessity insure his acquiescence in the most criminal measures; his integrity, however, proved superior to personal distress, and once more made him a poor and private man.' But I must not anticipate events. The King resolved to supply him with a modest income, by ordering him a pension of 1,500*l.* a-year, the place of Chancellor being not worth, *viis et modis* 500*l.* per annum, and a man must live in a handsome way, or else he will hear of it. The Chancellor took Sir John Cole's house in the Strand, at 100*l.* a-year. This sum was considered high for a house near Dublin.³ The business of the Court was sufficient to show the Chancellor a better judge than he got credit for, and he was courteous and social with the members of the Irish bar.

King
James
pensions
the Chan-
cellor.

Disquiet
regarding
the Act of
Settle-
ment.

Notwithstanding the assurances that the Act of Settlement would not be disturbed, it was so generally known to have been obtained by such glaring injustice, and worked so much suffering to the loyal and staunch Irish Catholics, who were steady supporters of the house of Stuart, that

¹ Clarendon's State Letters, vol. i. p. 164.

² Law Officers of Ireland.

³ Clarendon's State Letters, vol. i. p. 170.

the new possessors of the estates of the Irish nobility and gentry were anything but easy in their minds. The Earl of Clarendon strongly advised the English Government to issue a Commission for settling the Irish estates. He urged 'that this, more than anything else that can be thought of, would settle the minds of the kingdom, and raise a very considerable sum of money.' 'This,' he stated, 'was the opinion of not only English, but Irish Catholics; for all men of that religion who have estates, are either confirmed in their old possessions or in their new acquisitions by the Act of Settlement, and they are as much afraid of a breach upon these Acts as the new-interested English, and would give anything to be secured.' The Lord Chancellor was of the same opinion, and consulted several of the most eminent men at the Irish bar, who regarded it as the best means of quieting the distrust which existed. They added, *it will not please all*, for 'there are some of both parties who will not like it; but they would not like any settlement.'¹

The Lord Chancellor was not above asking places for his relatives. The promotion of Mr. Rice placed the office of Counsel to the Revenue in the gift of the Lord Lieutenant, on which the Chancellor asked it for his brother, but was refused, as his Excellency and the Lord Treasurer had already notified that Mr. Pyne should be appointed to the vacancy. The Chancellor then said, 'He would have done; but Mr. Pyne was a bad man, and a very great Whig.' Let us hope the terms are not synonymous.

When the subject of the New Commission of Grace was discussed between the Lord Lieutenant and Chief Justice Keating, the latter strongly recommended that the Commissioners should have no salaries.² 'If the Judges were employed,' he said, 'they had good salaries from the King, and were bound to do him all the service they could; and, if salaries were allowed, there would be many pretenders for the salaries only, and some might get in who did not

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Lord Clarendon's advice.

Lord
Chancellor
agrees
with the
Viceroy.

The Chan-
cellor
refused a
place for
his brother.

Reasons
why Com-
missioners
should
have no
salaries.

¹ Clarendon's State Letters, vol. i. p. 177.

² Ibid. p. 195.

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understand the business.'¹ The names of Roman Catholics selected as Members of the Privy Council caused considerable sensation in Dublin Castle. The new Judges were Catholic, as was also Mr. Richard Nagle, or Nangle, as the Lord Lieutenant writes the name. This gentleman was a very eminent member of the Irish bar. Writing to the Lord Treasurer, his Excellency thus alludes to these new appointments, 'The truth is, between you and me, it is a very ridiculous thing to make a puisne Judge of every bench of the Privy Council, and was never done but in Sir R. Reynell's case, because of his great ability, and being put by from being Lord Chief Justice. The poor men are almost out of countenance to accept it (Judge Nugent excepted, who is indeed a very troublesome impudent creature), and think it will bring envy on them, when it was not needed. I may add, that the making of so many Privy Councillors is an additional charge upon the revenue, for every Councillor has the impost of a certain quantity of wine every year, which, though it be no great matter, yet, according to the old saying, "every little makes a mickle."'²

The name of Mr. Nagle being inserted in the list of those gentlemen to be sworn of the Privy Council of Ireland, called for a remonstrance from the Lord Lieutenant to the Lord President in England. His Excellency admitted him to be 'a very learned and an honest man, but he was a practising barrister, and it was not etiquette for such to be of the Council. It will not look well that a man who has the honour to be of the King's Privy Council should be crowding at the bar of the Courts of Justice bareheaded, and his bag in his hand. I have not heard it was ever yet done, but to Sir Francis Bacon, when he was Attorney-General,³ and to satisfy his ambition, by the credit he had with the Duke of Buckingham, or rather by importunity, he was

Practising
barristers
ought not
to be Privy
Councillors.

¹ Clarendon's State Letters, vol. i. p. 225.

² Ibid. p. 230.

³ The Attorney-General for Ireland is now always a member of the Privy Council.

made a Privy Councillor; but he never appeared afterwards in Westminster Hall unless the King's business required him.¹

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How different was the conduct of Mr. Nagle to that of Sir Francis Bacon! When Mr. Nagle was informed of the designed honour he expressed surprise, and told his Excellency 'he wondered his friends would move in his behalf without first consulting himself, and to leave his practice would be his ruin.' He added, 'that to appear at the bar, after being of the Council, would be *undecent* even for the King's service.'² He therefore requested his Excellency not to take any notice of him, that he was not ambitious, and preferred to be let alone. His practice brought him a larger income than a Chief Justiceship, and he had a great charge of children, for whom he was bound in conscience to provide. That he was fully as ready and as willing to serve the King in his present station as in any rank.³

Mr. Nagle prefers profit to the honour proposed.

His reasons for declining.

King James II. informed the Lord Lieutenant of his decision that his Irish Roman Catholic subjects should be admitted into all offices hitherto exclusively filled by Protestants, such as Members of Corporations, Justices of the Peace, and High Sheriffs. His Excellency made pretence of taking the advice on this subject of the Judges, but this was mere evasion; and matters not going on to the satisfaction of the Roman Catholics of Ireland, Richard Talbot, then Earl of Tyrconnel, who may be regarded as the most urgent that the Catholics should, as the King directed, have equal privileges with their fellow-subjects, called on his Excellency to enquire the cause of the delay. His language, as reported, reads coarse and offensive, which indeed corresponds with his general character. He told the Lord Lieutenant 'the Sheriffs made were generally rogues, and old Cromwellians; but he (Lord Tyrconnel) had excused him to the King, because that the Viceroy, a

Roman Catholics eligible for offices.

Remonstrance of Tyrconnel.

¹ Vide Lord Campbell's Lives of the Lord Chancellors of England, vol. ii.

p. 348.

² Bacon was of a different opinion, *Ibid.* p. 349.

³ Clarendon's State Letters, vol. i. p. 234.

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XXVIII.High
Sheriffs.Course
taken by
the Chan-
cellor.

stranger to Ireland, could not know people himself, and was advised by the late Chancellor.' To this Lord Clarendon replied, 'It was true he did not know many himself, and was advised by the late Chancellor, as he should always be by whoever the King put in that station, but that he was not wholly influenced by the Chancellor, as he had enquired from other worthy men, Catholics as well as Protestants, and the Sheriffs he appointed were as good a set of men as had been chosen these dozen years.' Whereupon Lord Tyrconnel swore, 'By —, I believe it, for there has not been an honest man Sheriff in Ireland these twenty years.' 'That is hard censure,' replied his Excellency, 'but it is not my business to find out the faults of twenty years past.'

While this dialogue was going on, Lord Chancellor Porter joined them. Tyrconnel enquired, 'What was doing about the Justices of the Peace?' 'My Lord,' replied the Chancellor, 'my Lord Lieutenant has showed me the King's letter, and I am taking the best method I can for the speedy obeying of it. I have spoken to three Roman Catholic Judges, and to others of quality of that religion, to furnish me with the names of honest men in the several counties fit for the employment, and the thing shall be done as it ought to be; and if your Lordship will give me any names, you will oblige me.' 'By —,' said his Lordship, 'I see you will be a great while about it.' 'My Lord,' says the Lord Chancellor, 'the King knows I never was slack in his service, and he shall not find me guilty of that fault.'¹

Payment
of Roman
Catholic
Bishops by
the Crown.

There appears to have been some intention entertained by the Crown at this time, of paying the Roman Catholic Prelates. In a letter from Dublin Castle, dated June 12, 1686, the Viceroy informed the Lord Treasurer, 'that on Thursday, June 10, the Roman Catholic Primate was with me. He asked me whether I had received orders from the King for the paying any money to him. I told him no. He said he had sometime hence a letter from the

¹ Clarendon's State Letters, vol. i. p. 254.

King, declaring that he would make certain allowances to the Roman Catholic Archbishops and Bishops, and that they were all to be paid to him, and he was to distribute the money according to his Majesty's directions. I told him I had not yet received any orders concerning him.'¹

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The subject of the Commission of Grace occupied the attention of the Irish Executive, and, when the Lord Chancellor and Mr. Nagle dined at the Castle towards the close of July 1686, a long conversation took place between the Lord Lieutenant and these two guests. Mr. Nagle did not enter so warmly into the project as the others. He said 'Lord Tyrconnel told him of it, and bid him prepare something in writing respecting it, but he could not believe a Commission would be useful, or that it would bring in very considerable sums of money. That whatever was to be done, either for confirming the present settlements, or for the relief of such of the old proprietors as ought to be relieved, would be done best by Parliament; he thought it yet too soon to call a Parliament. The Acts ought to be first agreed on, which would take time; so many interests should be felt, and there were so many difficulties in the way, he could not put anything into writing, though Lord Tyrconnel was in great haste.'²

The pro-
posed Com-
mission of
Grace.

Adverse
opinion of
Mr. Nagle
respecting
it.

The Lord Chancellor was thought by the Roman Catholics to be rather remiss in carrying out the King's wishes respecting appointing members of their creed to offices. Major-General Macarty, a great friend of Lord Tyrconnel's, and an Irish barrister, Mr. Nihill, recently made King's Counsel, called on the Lord Chancellor, and, in the course of conversation, the General (who seems to have been a very free-spoken person), told him 'that he, the Lord Chancellor, had extremely disappointed them (the Irish) in the expectation they at first had of him.'

A free
parley
with the
Lord
Chancellor.

The Chancellor asked 'Wherein he had deceived them? That he was a frank man, and would discourse very freely with him, if he would come to particulars.'

¹ 'This money was subsequently paid.'—Clarendon's State Letters, vol. i. p. 256.

² Ibid. p. 332.

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‘Why then,’ said the General, ‘we did expect you should have done all that the King commanded without any hesitation.’

‘So I have,’ said the Chancellor; ‘there is no one command I have received from the King which I have not obeyed; and I will ever do so. I may, perchance, make some representation to the King sometimes contrary to what he has directed, as I have leave to do; but, if the King orders his former commands to be, notwithstanding, pursued, they shall be obeyed with all possible readiness and cheerfulness.’

‘You are very scrupulous,’ said Macarty, ‘in admitting Roman Catholics to be Justices of the Peace, though the King has directed, by his letter, that they should be admitted; you refused our Primate’s brother and several others for no reason but because they had no estates.’

The Chancellor vindicates his conduct.

‘My Lord Lieutenant,’ said the Chancellor, ‘gave me the King’s commands as soon as he received them, and I as presently put them in execution; that is, I immediately spoke to the three new Judges, and all the other Roman Catholics who are in the King’s service, and others whom I knew, to furnish me with the names of men proper for that employment. There were several lists given to me for most counties, and I admitted all whom any of the King’s Counsel, or any other person of worth, fit to be credited, could answer for upon their own knowledge; and as for the others, for whom they would not answer, I informed myself of them, and found they were men of no estates, many of them criminals, not fit to be put into the King’s Commission. As for your Primate’s brother, he is a poor country fellow, lives upon six pounds a-year, which he rents of Sir Michael Cole, and has nothing else in the world. After all this,’ said he, ‘if you think fit for the King’s service to name such a man upon the bench, he shall be made a Justice of the Peace.’

‘No, in good faith,’ said Macarty, ‘I do not think it fit, but you make difficulty in putting ill men out of Commission, except they are proved to be rogues by some notorious

villany they have committed, which will be hard for us to prove.'

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'Sir,' replied the Chancellor, 'it is not enough to say, in the general, "such a man is a rogue;" the best of men may be so blasted. But if any man tells me, "such a man is an ill man upon my own experience, that he did this and that at such a time;" without further proof I will put all such men out of commission.'¹

Whereupon Macarty named one or two, and gave such good reason why they were unfit to remain in the Commission, but could not say for what counties they were appointed, on which the Chancellor said, 'Send me a note of them to-morrow, and I will put them out.' This ready acquiescence of the Chancellor quite pleased the General. 'Faith, my Lord,' said he, 'I think you are a very honest gentleman, but they say you have taken ten thousand pounds of the Whigs; and there are thoughts of having you sent home.'

General
Macarty's
opinion of
the Chan-
cellor.

'Sir,' replied the Chancellor, proudly, 'I thank God I am above bribes, and I flatter myself that the King has a better opinion of me, than to believe any such thing till he sees it proved. I can safely take my oath that, directly or indirectly, I have not had a penny since I came hither (more than the King's allowance), but 156*l.* from the profits of the place; I had been told, indeed, my Lord Tyrconnel reported the Whigs had given me ten thousand pounds. When next I see Lord Tyrconnel, I shall desire him to give me an account of this, for such aspersions are not to be borne.'

The Chan-
cellor
refutes the
charge of
bribery.

Mr. Nihill said, 'Lord Tyrconnel sometimes reported things which light people tell him, without enquiring or considering, and if he takes a pique to a man, never leaves him till he ruins him if he can.'

The Chancellor replied, 'If that be the humour of Lord Tyrconnel, it is an ill one, and I will be more on my guard with him. I should regret being called home, if it should be with the King's displeasure, otherwise I shall be always

¹ He evidently meant the statement should come upon undoubted authority.

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ready to be disposed of, as his Majesty pleaseth.' This was reported by the Chancellor to the Lord Lieutenant next morning.¹

Mr. Nagle
and Lord
Tyrconnel
leave for
England.

Lord Lieu-
tenant's
letter to
the King.

The departure of Mr. Nagle, with Lord Tyrconnel, to England, alarmed the Irish Protestants exceedingly. They guessed some mischief was brewing against them, and, knowing well how Lord Tyrconnel spoke of them, for he never minced his words or concealed his thoughts, trembled for their recently acquired properties. The Lord Lieutenant, in a letter addressed to King James II. on August 14, 1686, states, 'The fears of the Anglo-Irish are excited; 1st, by the changes made in the army, of substituting Roman Catholics for Protestants; 2ndly, by the statement of the Irish, that there was no rebellion in 1641,² and that grants made were void, the old proprietors having forbid the tenants paying rents to the present landlords; 3rdly, the Roman Catholic Clergy in several places forbidding people to pay tithes to the Protestant ministers.' He then says, 'Your Majesty's gracious resolutions to preserve the Acts of Settlement did satisfy all people, even the Catholics, who had a mind to thrive, and to have the country settled, till some men, who are in places of trust, by their actions and words were thought to know more of your Majesty's mind than I do.' He wishes to inform the King it is a mistake to suppose 'that the gross of the English in this kingdom are fanatics of Cromwell's brood, and the offspring of those who served in the rebellion against your sacred father. There are very few of the original soldiers and adventurers now left, or of their descendants; of the latter not twenty families, and no great number of the former. But the generality of these two great interests sold their lots, many of them to honest men who, upon the King's Restoration, brought with them out of England to lay out here that little which remained of their fortunes, after their families were ruined for their

Irish Pro-
testants
not Crom-
wellians.

¹ Clarendon's State Letters, vol. i. p. 335.

² That of course meant no rebellion on their part. They always maintained they fought for the King in the Civil War.

loyalty. Of these men, and of those called the '49 interest, who were by all accounted loyal, and of old English planters in Queen Elizabeth's time, does the bulk of the English interests and inhabitants consist ; these men carry on six parts in seven of the trade of this kingdom. They are of the Church of England by constant practice, and not to a late going to church only ; and I must further say that, in my life, I never met with people fuller of duty to your Majesty, nor more desirous of opportunities to manifest their loyalty.'¹

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If any representations could influence the King in favour of these men, it would have been this earnest and impressive appeal.

Serious changes were pending, and both Lord Clarendon and the Chancellor were regarded as obstacles. They were marked for removal, and Roman Catholics were to succeed.

Changes pending.

In Lord Clarendon's Diary, with the date of January 11, 1687, we learn the fate of the Lord Chancellor. The entry of the Lord Lieutenant is this,—‘In the morning I went to see my Lord Chancellor. He showed me a letter he had received from Sir Patrick Trant, which took notice to him of Mr. Fitton's coming to succeed him, at which Sir Patrick seemed much troubled, but said it could not be helped, and Lord Tyrconnel was dissatisfied with him, Sir Charles Porter. All the Papist party themselves seem surprised at these changes ; they were troubled to lose Sir Charles Porter, who had carried himself with great applause, and discharged the office of Chancellor to the general satisfaction of all men.’²

Letter to the Lord Chancellor announcing his removal.

Not long after this entry, Lord Tyrconnel returned to Dublin. He brought with him the King's letter to Lord Clarendon, desiring him to deliver the Sword to Lord Tyrconnel, within a week after his arrival. Next day, July 9, Lord Tyrconnel waited on his Excellency at the Castle, accompanied by Sir Alexander Fitton, whom he

Character of Porter as Lord Chancellor.

Arrival of Lord Tyrconnel and Sir A. Fitton.

¹ Clarendon's State Letters, vol. i. p. 355-6.

² Ibid. vol. ii. p. 160.

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The
changes
effected.

introduced, saying the King had sent him over, but without stating for what purpose. His Excellency said he would give Lord Tyrconnel the Sword on Saturday, which he did accordingly ; and Sir **ALEXANDER FITTON** succeeded Sir Charles Porter as Lord Chancellor of Ireland. In consequence of the reappointment of Sir Charles Porter in 1690, I postpone the life of Sir Alexander Fitton until after Lord Chancellor PORTER's death.

CHAPTER XXIX.

CONTINUATION OF THE LIFE OF LORD CHANCELLOR PORTER FROM HIS APPOINTMENT BY KING WILLIAM III. TILL HIS DEATH.

SIR CHARLES PORTER returned to practice at the English Bar during the interval between his losing the Great Seal of Ireland in 1686, and regaining it in 1690. Lord Clarendon, in his Diary, January 1689, says : 'I was at the Temple with Mr. Roger North and Sir Charles Porter, who were the only two honest lawyers I ever met with.' This last remark is not very complimentary to the profession to which the writer's father belonged. It must have been a great relief to a lover of peace, and of studious research, like Porter, to rest for a time in the congenial cloisters of the Temple, far from the anxieties, cares, and worry, of a Lord Chancellor during this turbulent period of Irish politics.

After an interval of about three years, he was, once more, summoned from his quiet chambers to hold the Irish Seal. Within that brief space what important events occurred ! A dynasty had fallen ; the country he had left witnessed a short pageant of a King occupying Dublin Castle, holding a Parliament in the capital of his remaining kingdom, two others having very properly signified their disinclination longer to acknowledge his sway, and he very readily took the hint.

While in Dublin, James II. managed matters better. He felt his power and used it, by giving to his Catholic subjects, at least, the reality of Royal rule. The Irish Parliament only sat for a few months, and subsequent events rendered its Acts nugatory. Then came the tug of war—the gallant defence of the 'prentice boys of Londonderry—the memorable Battle of the Boyne, where

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XXIX.Sir C.
Porter
in the
Temple.Again
appointed
Lord Chan-
cellor of
Ireland.

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XXIX.

Williamite
and Jaco-
bite war
in Ireland.

Articles of
Limerick.
Sir C.
Porter
Lord Chan-
cellor and
Coningsby
Lords
Justices.

Arrival of
the Lords
Justices.

Articles
signed.

the limpid waters of the bright river were tainted with the crimson tide, flowing equally from Jacobite and Williamite veins. Then the conflicts of Athlone, the hotly-contested field of Aughrim, the sieges of Limerick ; and it was for the purpose of assisting in negotiating the Articles of Capitulation of this historic city that King William III. summoned Sir Charles Porter from the smoke-stained quadrangles of the Temple to assume his former position in the Emerald Isle. He was associated as Lord Justice with Mr. Coningsby¹ on his arrival in Dublin towards the close of September 1689.

At nine o'clock in the evening of October 1, 1691, Sir Charles Porter, Lord Chancellor, and Thomas Coningsby, Esq., Lords Justices, arrived at the camp of the Commander-in-Chief of the English army to sign the Articles on which Limerick was to be delivered up. On the 2nd, at two o'clock, the Irish Generals, Sarsfield, Wauchop, and other contracting parties on the part of the Irish, proceeded to Ginckle's camp, where they discussed the respective articles *seriatim*. On the 3rd, the Irish officers dined with the Duke of Wurtemburg, when the Articles were interchangeably signed. The first, relating to the surrender of the city, was signed by the respective Generals ; and the others, defining the privileges granted to the Irish, were signed by Sir Charles Porter, Thomas Coningsby, and Baron De Ginckel. On the part of the British Government, these were afterwards ratified by their Majesties' Letters Patent under the Great Seal of England.² As these famous Articles have been the subject of much controversy, I give these relating to the

¹ Thomas Coningsby accompanied King William III. into Ireland, and was close to the King when, on the eve of the Battle of the Boyne, he was wounded in the shoulder by the earth thrown up by a cannon ball aimed at him. Coningsby was the first to staunch the wound with his handkerchief. On the departure of the King, he was constituted Lord Justice with the Lord Chancellor, and subsequently raised to the peerage as Baron Coningsby of Clansbrassil. In the reign of Queen Anne he was Vice-Treasurer and Paymaster of the Forces in Ireland. In 1719 he was advanced to the dignity of Earl of Coningsby, and died May 1, 1729.

² History of Limerick, by Lenehan, p. 269.

privileges granted to the Irish (or supposed to be secured thereby) in detail :—

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‘ Articles agreed upon the third day of October 1691, by the Right Honourable Sir Charles Porter, Knight, and Thomas Coningsby, Esq., Lords Justices of Ireland, and His Excellency Baron De Ginckle, Lieutenant-General, and Commander-in-Chief of the English Army, on the one part; and the Right Honourable Patrick Earl of Lucan, Percy Viscount Galmoy, Colonel Nic Purcell, Colonel Dillon, and Colonel John Browne, on the other side. On the behalf of the Irish inhabitants in the city and county of Limerick, the counties of Clare, Cork, Kerry, Sligo, and Mayo, in consideration of the surrender of the city of Limerick, and other agreements made between the said Lieutenant-General Ginckle, the Governor of the city of Limerick, and the Generals of the Irish army, bearing date with these presents for the surrender of the said city and the submission of the said army. It is agreed, that,

Articles of
Limerick.

‘ I. The Roman Catholics of this kingdom shall enjoy such privileges in the exercise of their religion, as are consistent with the laws of Ireland; or as they did enjoy in the reign of King Charles II.; and their Majesties, as soon as their affairs will permit them to summon a Parliament in this kingdom, will endeavour to procure the said Roman Catholics such further security in that particular as may preserve them from any disturbance upon the account of their said religion.

I. Roman
Catholics
to enjoy
same
privi-
leges as
in reign of
Charles II.

‘ II. All the inhabitants or residents of Limerick, or any other garrison now in possession of the Irish, and all officers and soldiers, now in arms, under any commission of King James, or those authorised by him to grant the same, in the several counties of Limerick, Clare, Kerry, Cork, and Mayo, or any of them; and all the commissioned officers in their Majesties’ quarters, that belong to the Irish regiments, now in being, that are treated with, and who are not prisoners of war, or have taken protection, and who shall return and submit to their Majesties’ obedience; and their and every of their heirs shall hold,

II. All per-
sons in this
Article to
enjoy their
estates.

CHAP.
XXIX.
Goods and
chattels.

To prac-
tice their
profes-
sions.

Oath of
allegiance.

III. Mer-
chants out
of the
Kingdom
entitled.

possess, and enjoy all and every of their estates of free-hold and inheritance ; and all the rights, titles and interests, privileges and immunities, which they, and every or any of them held, enjoyed, or were rightfully and lawfully entitled to, in the reign of King Charles II., and shall be put in possession, by order of the Government, of such of them as are in the King's hands, or the hands of his tenants, without being put to any suit or trouble therein ; and all such estates shall be free and discharged from all arrears of Crown rents, and other public charges, incurred and become due since Michaelmas 1688 to the day of the date hereof : and all persons comprehended in this article shall have, hold and enjoy all their goods and chattels, real and personal, to them or any of them belonging, and remaining either in their own hands, or the hands of any persons whatsoever, in trust for or for the use of them, or any of them : and all and every the said persons, of what profession, trade or calling soever they be, shall and may use, exercise and practise their several and respective professions, trades and callings, as freely as they did use, exercise, and enjoy the same in the reign of King Charles II., provided that nothing in this article contained be construed to extend to, or restore any forfeited person now out of the kingdom, except what are hereafter comprised ; provided also that no person whatever shall have or enjoy the benefit of this article that shall neglect or refuse to take the oath of allegiance ¹ made by Act of Parliament in England, in the first year of the reign of their present Majesties, when thereunto required.

‘ III. All merchants or reputed merchants of the city of Limerick, or of any other garrison now possessed by the Irish, or of any town or place in the counties of Clare or Kerry, who are absent beyond the seas, that have not borne arms since their Majesties declaration in February 1688, shall have the benefit of the second Article, in

¹ ‘ I, A. B., do sincerely promise and swear, that I will be faithful, and bear true allegiance to their Majesties King William and Queen Mary. So help me God.’

the same manner as if they were present, provided such merchant and reputed merchants do repair into this kingdom, within the space of eight months from the date hereof.

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‘ IV. Preserves to certain officers the benefit of the IV. Officers.
Second Article upon certain conditions.

‘ V. Grants a general pardon to all persons comprised V. Pardon.
in Second and Third Articles.

‘ VI. Provides that no person or persons comprised in VI. Saved
the foregoing Articles, shall be sued, molested, or im-
pleaded at the suit of any party for any trespass, or any
arms, chattels, &c. by them taken during the war, or for
any rents, &c. by them received, or any waste committed.
This article to be mutual and reciprocal on both sides.

‘ VII. Allows to noblemen and gentlemen comprised in VII. Arms.
Second and Third Articles the use of arms.

‘ VIII. The inhabitants and residents of Limerick and VIII. Re-
other garrisons to be permitted to remove their goods, move-
&c. without search or dues, and to have six weeks' time
allowed for removal.

‘ IX. The oath to be administered to Roman Catholics IX. Oath.
shall be the oath aforesaid, and no other.

‘ X. Persons breaking these Articles to lose the benefit X. Breach
of same. of Articles.

‘ XI. The Lords Justices to protect all persons compro- XI. Pro-
hended in these Articles for the space of eight months. tection.

‘ XII. The Lords Justices undertake that their Majes- XII. To be
ties will ratify the Articles within eight months, and confirmed
endeavour that same shall be confirmed by Parliament. within
eight months.

‘ XIII. Frees Lord Lucan from engagements as to the XIII. Lord
debts of Colonel John Brown. Lucan.

‘ These articles were signed by

‘ SGRAVENMORE, CHAS. PORTER,

‘ H. MACCAY, THO. CONINGSBY,

‘ T. TALMASH, BAR. DE GINCKLE.’

When the articles were signed, it was discovered that after the words, Limerick, Clare, Kerry, Cork, Mayo, or

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Clause
omitted
confirmed
by Letters
Patent.

any of them, in the second Article, an important clause, which had been agreed upon, was omitted, viz., 'And all such as are under their protection in the said counties.' Thereupon the Lords Justices, who were aware the clause was agreed upon and inserted in the draft of the Articles, caused the King by Letters Patent to ratify and confirm the omitted words.

Military
Articles.

Besides the foregoing, there were also military articles agreed upon between the respective generals, by virtue of which forty thousand of the Irish troops sailed for the French coast, and were formed into the regiments of the Irish Brigade and paid by the French King; they were the men who changed the fortune of war against England at Fontenoy.¹ The Irish, who submitted on the faith of the Articles of Limerick, soon found they had little to reward their confidence. 'Justices of the peace, sheriffs, and other magistrates, presuming on their power in the country, did, in an illegal manner, dispossess several of their Majesties' subjects, not only of their goods and chattels, but of their lands and tenements, to the great disturbance of the peace of the kingdom, subversion of the law, and reproach of their Majesties' Government.'²

Conduct of
magis-
trates in
violation
of the
Treaty.

The Lord
Chancellor
and others
Lords
Justices.

Distracted
state of
Ireland.

Sir Charles Porter had been nominated Lord Justice, together with Ceningsby and Lord Sydney, subsequently Lord Lieutenant, and the Chancellor applied himself to forward the good government of a country torn by dissensions and bleeding from the wounds inflicted during the recent war. It was no easy matter to preserve order among the state of things which then prevailed. On one side were the adherents of King William III., flushed and triumphant with recent victory, and determined to fence themselves behind a rampart of law, which would prove for ever an impassable barrier to the beaten party. On the other side was the great bulk of the people, who had clung to the cause of James II. with the fervour of their creed and race, who by the terms of the Treaty of Limerick, were to enjoy civil and religious freedom; but the

¹ Vide O'Callaghan's Irish Brigades, p. 350. ² Harris's Life of William III.

violation of the treaty left them at the mercy of men who only wanted a pretext for extirpating them. Nor was this pretext long wanting. Scattered bands of the Jacobite army, hordes of Irish who had hoped to obtain employment as camp-followers, but who had no desire to serve in the Irish Brigades on the Continent, and preferred to wander in gangs at home, seeking a precarious subsistence on plunder from those who had been in the Williamite service, were constantly swooping upon the outlying houses of the Cromwellian or Williamite adherents. Their predatory habits, their lairs and retreats among pathless hills, the shelter of bogs, the houseless wilds, made it impossible to guard against their coming, or to arrest their flight. Like eagles swooping upon their prey, they fell upon a convoy of military with provision, or a well-stored house, and the work of death and devastation was prompt and sure. If rescue was attempted, no trace of the banditti could be found. Not a clue could be discovered of the formidable array of a few minutes before, and the trooper might weary himself in search of the Rapperee, who lay, crouched like a hare in the neighbouring bog, or plunged in the stream with his mouth and nostrils above the surface.¹ The Lord Chancellor felt the importance of upholding the authority of the law in such a state of affairs. He procured competent Judges—men of character and knowledge of the law—and tried as far as possible to give the Irish people the protection of the law, and thus induce confidence in the administration of justice.

The counties most peaceful were intrusted to the care of Lords Lieutenant, who had several Deputy Lieutenants to share the responsibility of the internal management. Strong measures for repressing outrage were needed, and arms were placed in the charge of militia officers, to be used for the protection of life and property against the enemies of both. The Privy Council was composed entirely of those who had manifested the utmost zeal in the cause of King William. Seventeen Justices were appointed

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The Rapparees.

Lord Chancellor endeavours to gain confidence in the legal tribunals.

County Lieutenants and Deputies.

Privy Council.

¹ Dr. Curry's Civil Wars of Ireland, vol. ii. chap. viii.

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to try prisoners at assizes in various counties, and active steps were taken to allay the disturbing elements which prevailed throughout the land.

Office of
Commiss-
sioners of
Forfeitures
abolished.

Perhaps one of the measures which tended most to induce the Catholic people to assist in the re-establishment of law and order was the abolition of the office of Commissioners of Forfeiture, who had shamefully abused their trust.¹

Lord
Sydney
calls a
Parlia-
ment.
Roman
Catholics
excluded.

At length it was deemed necessary to summon a Parliament, and Lord Sydney issued writs for a Parliament to meet in Dublin. The Roman Catholics being excluded from sitting in Parliament by the Act of the English Parliament of 1691, the Irish Parliament which assembled in Chichester House, A.D. 1692, was exclusively Protestant. Henry Viscount Sydney received at the Castle the Lord Chancellor, who wore his state robes, the Archbishops and Bishops in their lawn, the Judges in their judicial robes, the members of the Privy Council, Masters in Chancery, Peers, and several members of the House of Commons, who attended his Excellency's progress to open Parliament. It was a great spectacle for the citizens of Dublin, and as such sights are not now seen in the Irish capital I introduce an account here:—

Progress
to open the
Session.

First came the State trumpets and kettledrums, the pages and yeomen, the Gentlemen-at-Large, three Pursuivants, the Chaplains, Serjeants-at-Arms, Gentlemen-Ushers, and King-at-Arms. Then followed his Excellency the Lord Lieutenant, with an escort of Horse Guards, in his State coach and six, followed by the coaches and six of the nobility and members of the House of Commons; the route from the Castle to Chichester House, where the Parliament sat, was lined with infantry. On the arrival of his Excellency, he proceeded to his robing room, and then the business of the session commenced. The following ceremonies took place. The Bishop of Kildare, being the premier Bishop, read prayers; the Lord Chancellor and the rest of the Lords, the Archbishops, and Bishops took the

¹ Harris's William III. p. 294.

oaths,¹ and subsequently the declaration,² and then the inferior officers of the House. The Lord Chancellor being informed there were several Lords who desired to take their seats and be introduced to the House, appointed two of the eldest Peers (Lords Ely and Massereene) to bring them in; accordingly there were introduced the Lord Longford, Lord Blessington, Lord Shelburne, and the Lord Coningsby, one by one, preceded by the Ulster King-of-Arms and the Usher of the Black Rod; each as he came in delivered his patent and writ of summons on his knees to the Speaker, which he caused to be read by one of the clerks; and his claim being allowed, he was desired to take his seat.

When the House assembled, notice was given to the Viceroy, who entered in great state. Before him marched his gentlemen, two holding white staves, the Usher of the Black Rod, Cork and Athlone Heralds, Lord Donegal bearing the Cap of Maintenance, and the Earl of Meath the Sword of State. His Excellency wore his robes, the train borne by three noblemen's sons, those of the Earl of Drogheda, Lord Clifford, and Lord Santry.

On his Excellency being seated on the throne, the Lord Chancellor standing on his right hand, ordered the Usher of the Black Rod to go to the House of Commons, and acquaint them that his Excellency commanded their attendance at the bar of the House of Lords. After they obeyed the summons, his Excellency addressed them in the speech

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Introduction of
Peers.

Entry of
the Lord
Lieut-
tenant.

The Com-
mons
attend.

¹ The oath ran thus: 'I, A. B. do swear that I do from my heart abhor, detest, and abjure, as impious and heretical, that damnable doctrine and position, that Princes excommunicated or deprived by the Pope, or by any authority of the See of Rome, may be deposed or murdered by their subjects, or any person whatsoever. And I do declare that no foreign Prince, person, Prelate, state, or potentate, hath or ought to have, any jurisdiction, power, superiority, pre-eminence, or authority, ecclesiastical or spiritual, within the realm.'

² The Declaration against Transubstantiation was couched in the most offensive language possible to the most sacred tenets of the Catholic Church, the belief of the Divine Presence in the Eucharist. It, as well as the foregoing oath, was imposed by Stat. 3 and 4 William and Mary c. 2, in violation of the ninth Article of the Treaty of Limerick. They are no longer a disgrace to the Statute Book.

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The Com-
mons elect
a Speaker.

Sir
Richard
Levinge,
Solicitor-
General,
Speaker.

from the throne, and then the Lord Chancellor directed them to return and elect their Speaker. His Excellency then retired to his robing-room, and the Lord Chancellor adjourned the House to Friday at ten o'clock, when the Commons were to present their Speaker to the Vice-roy. The House of Commons on their return from the Lords proceeded to choose their Speaker, and a right honourable member proposed Sir Richard Levinge, who was then Solicitor-General, for that high and important office. The motion being approved of, the question was put by the clerk by direction of the House, whereon it was resolved 'that Sir Richard Levinge, Knight,¹ their Majesties' Solicitor-General, be Speaker of this House.' Mr. Speaker was then conducted to the chair and placed therein, by two of the members, his proposer and seconder. Then the Speaker returned thanks to the House for the honour conferred on him, excusing his inability for so great an undertaking and trust, promising, nevertheless, his utmost endeavour to serve their Majesties and this country, and hoped this House would assist and support him therein.²

The Speaker being seated, the last Act of Parliament passed by the Parliament in England in the third year of their Majesties' reign, for abrogating the Oath of Supremacy in Ireland and appointing other oaths, was read. After which, the swearing in of members proceeded; the House then adjourned until Friday morning, October 10, at eight o'clock, when they were to meet in order to present their Speaker to the Lord Lieutenant, according to his Excellency's command.

The Parliament having assembled on October 10, 1692, accompanied Sir Richard Levinge as their Speaker to the House of Lords, where, on being presented to his Excellency, the Speaker said :

¹ He was created a Baronet in 1704, Attorney-General in 1711, and Lord Chief Justice of the Common Pleas in 1720. He was ancestor of the present estimable and popular Sir Richard Levinge, Bart. of Knockdrin Castle, County Westmeath.

² Com. Jour. Ir. vol. ii. p. 9.

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speech.

‘ May it please your Excellency,—

‘ The Commons of Ireland, in obedience to their Majesties’ writs of summons, and, according to the course of Parliament, have met together in their House, and have done me the honour to choose me the Speaker. I was infinitely the more surprised, because I could turn my eyes no way in that honourable House without seeing many of its worthy members, who, in all respects, are much better qualified for the service of the House; and when I reflect how great quickness, memory, judgment, courage, and experience are necessary to the well-filling of that chair, I blush and tremble with the sense of my imperfections, and since I would be much rather wanting to my own advancement by declining it with modesty than rashly execute it to the public detriment, I beseech your Excellency, with all tender regard to the Commons, to direct them to return back to their House and make another choice of a fitter person to supply the chair.’

To this the Lord Chancellor replied :—

‘ Mr. Speaker,—For such I must now call you, the experience his Excellency has of your abilities, and the great inclination you have shown, while you were in England, for the interest of this country, are qualifications which sufficiently recommend you for this service; and though his Excellency does not disapprove of your modesty in excusing and disabling yourself, yet he does easily distinguish between that and your real ability, and commands me to let you know that though there are many other worthy and learned members in the House of Commons, yet he is of opinion they could not have made a better choice than they have done, and therefore does fully approve of you for their Speaker, and require you to attend their service accordingly.’¹ The Speaker then thanked His Excellency and asked for the usual privileges of the Commons, which being granted, the proceedings of the sessions commenced. A notice of the short comings of this Parliament, which refused to pass some of the bills sent from England, may be

The Lord
Chancellor's
reply.

¹ Com. Jour. Ir. vol. ii. p. 10.

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judged from the speech of the Lord Lieutenant, proroguing the houses on Thursday, November 8, 1692, less than a month from their assembling.

Lord Lieutenant's speech on the prorogation, A.D. 1692.

‘ My Lords and Gentlemen,—Upon the opening of this session I did acquaint you with the motions which induced their Majesties to call this Parliament, which were no other than what entirely regarded a happy settlement of this kingdom, upon such foundations as might not only secure the peace, but bring you into a prosperous and flourishing condition.

Complains of the House.

‘ I am sorry I cannot say there has been such a progress made by you, gentlemen of the House of Commons, towards these ends, as their Majesties had just reason to expect; and I am the more troubled that you, who have so many and so great obligations to be loyal and dutifully affected to their Majesties, should so far mistake yourselves as to entrench upon their Majesties’ prerogative, and the rights of the Crown of England, as you did on October 27 last, when, by a declaratory note, you affirmed, that it is the sole and undoubted right of the Commons of Ireland to propose heads of bills for raising money; and also again, on the 28th of the same month, when you rejected a bill sent over in the usual form, intituled “ An Act for granting to their Majesties certain duties for one year,” you voted that it should be entered in your journals, that the reason why the said bill was rejected was, that the same had not its rise in your House. These votes of yours being contrary to the Statutes 10th Henry VII. and the 3rd & 4th Philip and Mary, and the continued practice ever since, I find myself obliged to assert their Majesties’ prerogative, and the rights of the crown of England, in these particulars in such a manner as may be most public and permanent; and therefore I do here, in full Parliament, make my public protest against these votes, and the entries of them in the journal of the House of Commons,

Commons of Ireland assert their rights to originate money bills.

Votes contrary to Acts.

Protests against the votes.

which protest I require the clerk of this House to read, and afterwards to enter it in the journals of this House, that it may remain as a vindication of their Majesties’ pre-

rogative and the right of the Crown of England, in these particulars, to future ages.' The Lord Lieutenant then handed to the Lord Chancellor his protestation, which Sir Charles Porter delivered to the clerk of the House, who read it aloud; Sir Charles then, at his Excellency's request, addressed the members:—

'My Lords and Gentlemen,—His Excellency having been acquainted that both Houses intended severally to present some heads upon which they desired bills to be prepared of such as his Excellency and the Council should approve of, commands me to acquaint you that he will take them into his consideration, and that against the meeting of the Parliament, after this intended prorogation, such of them as shall be found requisite shall be in readiness to be brought into Parliament.' The Lord Chancellor then prorogued the Parliament until April 6 next year, which it was again prorogued and before meeting dissolved. Thus, notwithstanding all the professions of loyalty to the Throne, very serious differences soon widened into a breach between the King's Deputy in Ireland and the Irish Parliament. The necessity of furnishing the supplies to meet the debts of the Irish Government—the great arrears of pay to civil and military officers—had been one of the Lord Lieutenant's chief reasons for summoning Parliament, and, as usual, bills were to be submitted to the Privy Council of England, pursuant to Poyning's Law. But a spirit of independence had arisen among the Irish members, that now displayed itself in a very marked manner, and when two money bills came over, certified by the Privy Council in England, the Irish members refused to pass them, asserting 'their right to originate all bills involving supplies of money, the same as the English House of Commons.' Despite the efforts of the Government, the Irish Parliament adhered to their determination, and rejected one of the bills, which so incensed the Lord Lieutenant, that, after two adjournments he dissolved the Parliament on September 5, 1693.

A struggle for power had been going on for a long time Struggle

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Lord Chan-
cellor's
address.

Parliament
prorogued
and dis-
solved.

Reason of
the Vice-
roy's anger.

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menced,
A.D. 1576.Offer of
the Com-
mons.Scorning
reply.Lord Lieu-
tenant
consults
the English
Judges.Com-
plaints
against
the Lord
Lieutenant.His
offences.

with more or less vigour between the Viceroy as representing the Executive Government, and the Irish Parliament. It dated from 1576, when the then Lord Deputy, Sir Henry Sidney,¹ asserted the right of raising taxes by royal prerogative, without the sanction of the legislature.² Since then the Irish House of Commons jealously resisted the least infringement on its privileges, and looked with no patient eye upon any interference by the Parliament of England in their legislative functions. Willing, however, to show respect to the throne, they intimated to the Lord Lieutenant a desire to lay before William and Mary their reasons for their conduct. The answer to this application shows how much their conduct incensed the Lord Lieutenant. 'They are at liberty,' he scornfully replied, 'to beg their Majesties' pardon for their seditious and riotous assemblies.'

He had previously to this discourteous answer taken the opinion of the Judges of England, who, having regard to Poyning's Law, condemned the conduct of the Irish Parliament. It would appear also that he had incurred the anger of the Protestant ascendency party by endeavouring faithfully to carry out the provisions of the Treaty of Limerick, and allowed the army to be recruited by Catholics. Upon the establishment of King William and Queen Mary on the throne, such of King James's soldiers as submitted to the new dynasty did not feel any reluctance to serve beneath the banner of England. These matters formed the ground of complaint exhibited against the Viceroy by Sir Francis Brewster, Sir William Gore, Sir John Macgil, Lieutenant Stafford, Mr. Stone, and Mr. Kerne. They were examined at the Bar of the House, their complaints considered so justifiable as to merit the attention of both Houses. Each House then prepared and presented an address to the Throne. They denounced abuses attending grants of forfeited estates, con-

¹ A curious coincidence in the name. For full particulars of the case, *temp. Queen Elizabeth*, vide Life of Lord Chancellor Gerard, ante, p. 290.

² Moore's History of Ireland, vol. iv. p. 74.

tended that protection afforded to the Irish Catholics was injurious to the Protestant interest; that a Mayor had been imposed upon the city of Dublin for two years successively,¹ contrary to the ancient privileges and charter; that persons accused of murder were executed without proof; that the army was recruited with Irish Papists who had been in open rebellion; that additions were made to the Articles of Limerick after the capitulation was signed, and the place surrendered.²

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The usual answer was given, 'that due attention would be paid to all remonstrances from their Majesties' faithful Lords and Commons,' but for some time no steps were taken in the matter. William's sagacity, and, perhaps, the advice of the Lord Chancellor of Ireland, prevented his visiting on the Lord Lieutenant or Lords Athlone and Coningsby, who are also implicated, the vengeance of the Irish Protestant party. He doubtless, felt, that some show of observance of the Treaty of Limerick was necessary, for to this he was pledged.

The usual
answer
given.

The condition of Ireland was such that the King at length was forced to show due regard to the remonstrances, and Lord Sydney was recalled. It is very probable that nobleman was desirous of this. He would, I believe, have afforded protection to the Catholic population, but he was powerless against the adherents of King William, who regarded the liberty to crush the Papists as a right they had won at the sword's point, and, on July 3, 1693, Lord Sydney left Ireland. Previously to his departure, Coningsby and the Lord Chancellor had been accused of flagrant acts of oppression in Ireland. They were impeached in the English House of Commons by the Earl of Bellamont, but after an examination of the Articles exhibited against them, the Commons, who were at the devotion of the Government, declared that, considering

The King
recalls
Lord
Sydney.Lord Chan-
cellor and
Coningsby
impeached.

¹ The Lord Mayor of Dublin, Sir William Carroll, Knt., M.D., had been in this position, 1868-9, without any complaint from any quarter.

² Smollet's History of England, vol. i. p. 173.

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the state of affairs in Ireland, they did not think them fit grounds for an impeachment.¹

The
articles
scouted.

Lord Capel
Lord
Justice.

Before Lord Sydney's departure, Henry Lord Capel, a younger brother of Arthur Capel, Earl of Essex, who had been Lord Lieutenant in 1672, was appointed Lord Justice. This was a species of probation sometimes adopted to see what kind of a Lord Lieutenant the Lord Justice would make.

His policy.

Whether it was originally designed that Capel should pass through this intermediate grade on his way to the higher dignity, does not appear; but his qualifications for office in the eyes of the English Ministry might be summed up in this one, that he was ready to waive all inconvenient scruples in order to form, concentrate, and control a party strong enough to command a majority in the Council and in the House of Parliament, devoted to what was called the English interest in Ireland, that is, the principle of extreme encouragement of the Protestants by legislative and all other means, and of equally emphatic discouragement of the Catholic religion, interest, and population, throughout the kingdom. In justice to the King, it ought to be added, that neither in the withdrawal of the one functionary, nor in the appointment of the other, did he follow his own unbiassed inclination. But usually at a distance from the seat of Government his object, as Burnet remarks, too palpably was, 'so to balance factions as to neutralise any opposition powerful enough to embarrass his foreign policy.'

Strength-
ened by a
party in
Ireland.

This disposition of the Viceroy soon gathered a band of kindred spirits around him. In the words of the writer already quoted,² 'Capel had no difficulty in finding a party as unscrupulous as himself. His game was theirs —he played for power, they for lands and houses. The great point with the latter was to strain, and, if necessary, to distort the Articles of Limerick, so as to throw as much property as possible into the hands of the Crown by

¹ Smollet's History of England, vol. i. p. 205.

² Dublin University Magazine, vol. xlvi. p. 725.

confiscation, for the purpose of being made the subject of fresh grants, in which they hoped to share.'

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This conduct of the Lords Justices was exceedingly distasteful to the Lord Chancellor, who, jealous of the honour of England, and the true interests of the King, was desirous of supporting the Treaty of Limerick in its integrity. But the state of the exchequer was such that honest courses were forced to yield to the stern dictates of poverty. The army and civil servants were clamorous for their pay, which was lamentably in arrear, and to secure the co-operation of the Irish Parliament, to raise the necessary supplies, the rigidity of the Articles of Limerick should be relaxed in favour of Protestants, and to this the Lord Capel felt strongly inclined. We find preserved amongst the Southwell MSS. ample proof of the adverse notions which prevailed at this date (1694) in the Irish Executive; they threw such clear light upon the policy dictated by prudence and by faction that I give them in full. The first is from the Lords Justices, Sir Cyril Wich and William Duncombe, who were associated with Lord Capel as Lords Justices; the other is from the Lord Capel alone, both are addressed to the English Secretary of State:—

The Chancellor
desires to
adhere to
the Treaty
of Lime-
rick.

Necessity
of sacri-
ficing the
Articles to
the Irish
Protes-
tants in
Parlia-
ment.

‘ To Mr. Secretary Trenchard.

‘ Dublin Castle, July 14, —94.

‘ Sir,—In the beginning of May, we received yours of April 24, in which, amongst other things, you signify his Majesty’s commands to us, that we should send him our opinion, whether we think it convenient that a Parliament should be called here, and at what time, and particularly in relation to the sole right claimed by the late House of Commons of beginning money-bills in their House; and in order thereto, you sent us, by their Majesties’ command, a copy of the opinion of the Judges in England in that matter, which their Majesties thought fitt wee should communicate to such Gentlemen here, and in such manner as we should believe most advisable.

Letters
from two
of the
Lords
Justices.

As to
whether a
Parlia-
ment
should be
called.

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‘ There are so good reasons for the sitting of a Parliament, from the great want of money to carry on their Majesties’ service, and of some laws necessary for the good of the country, that we neither presume to trouble their Majesties anew with what they are so well apprized of, nor dare we advise that a Parliament should not meet. But if it be reasonable that the inclination of the most of those who are likely to compose the House of Commons, in relation to their adhering to or quitting the pretence to the said right, should have any influence upon the resolution which is to be taken in this matter, it is necessary that we should faithfully acquaint their Majesties with what we believe will be the event of the meeting, and our reasons for it.

Steps to
ascertain
the views
of Parlia-
ment.

‘ We communicated the copy of the Judges’ opinion in Council, which we conceived the most popular reckoning that they would (and we desired them to do so), communicate it to their friends round the country. And though it be not so long a time since, as that we can yet be able to give an account of what influence it may have had upon men’s minds ; yet, when we consider that this opinion of those learned gentlemen (though not coming authentically to their hands till now), yet has been heard of, and read by all who are desirous of information of this kind very long since, we are afraid that the bare acquainting men now afresh with what they knew so well before can have but little new effect towards the change of their judgments. Foreseeing that it would be of considerable use to us to know how those who are like to be chosen stood affected in this point, we have all along made it our care, as cautiously and undiscernedly as we could, to enter into these thoughts and resolutions. We have severally discussed with some of the gentlemen themselves, we have consulted some of the Judges who have opportunities in their circuits of conference about these as well as other matters, and whom we desired to inform themselves thereabouts ; we have advised with many others who can very well judge of the tempers of those with whom they often

converse in severall parts of the Kingdom, and we cannot in duty but inform their Majesties that we generally find men as stiff as ever; and as resolved, if not to pursue the point and maintain it, yet not to retract and give it up. Some few here and there think it had been better that the question had not been started, and would be glad it might now be quiett and undecided; these are, therefore, willing enough that the Parliament should not meet, that they might neither pay money, nor be put upon the necessity of declaring themselves either way, and so either lose their party by owning and retracting their error, or obstruct the publique service by persisting; but the greater number, as we conceive, resolve positively to go forwards, and are earnest for a Parliament, that they may have a second opportunity of renewing, and, as they thinke, riveting their claim. Nay, we gather from what now and then falls from some of them, that they aime, not only att the immediate consequence of this right (if it be one), the having no bills sent them, which any way bring a charge upon the people, but at the endeavour of having many of the laws, which will deserve a great deal of consideration before they passe. Some speak of putting in hard for the Habeas Corpus Act, and yet would have it exclusive to all Papists; some think it necessary that the Bill of Rights should be made a law here too, though it declares (among other things) a standing army in time of peace, without which this country cannot subsist (nor ever has) to lie against law. And there are some, too, who would have a Generall Act, in imitation of that in Henry VII.'s time, to make all the laws of England, made since that time, laws of the Kingdome; and some doe not stick to say in express terms that a law made in England does not bind Ireland, tho' made with that intent. But we never yett met with more than two gentlemen who believed that the House would part with their pretence to the sole right, one of whom is a nobleman, and so not to sit there, and the other a man that was against it before.

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Some
maintain
the inde-
pendence
of Ireland.

Laws for
Ireland.

Only two
in favour
of the
claim by
England.

‘ Their Majesties will, from hence, see how farr (in our

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XXIX.

Lord
Capel of
a different
opinion.

opinion at least) the House, when it meets, will be from letting goe their hold. And yet we perceive that my Lord Capell is sanguine enough to believe that the chiefe asserters to this right are ashamed of it, and will certainly give it over; and has told us as much, as we have likewise told him our thoughts. We hope that he has taken his measures better than we have done, for it is evident that one of us is mistaken; and we should be heartily glad to find (since it would be for their Majesties' service) that time would show that we are so.

‘One of the likeliest ways that we know of to make gentlemen thro’ly consider what they are to doe, is to let them understand plainly that the Crown will not part with this right; which we suppose was one of the chief ends of sending ye paper above spoken of hither, to be communicated, that all well-meaning men might have time to advise whether it will be worth their while to insist so zealously upon a point, and so much to their prejudice, which they are sure not to gain. And yet, we find (but cannot tell by what means it comes about) that a great many have expectations that their Majesties will give way, and hope by perseverence to bring it about. As long as there is any ground for this opinion, they will certainly be very tenacious, and therefore we pray to know whether we ought not to goe on as hitherto we have done, in declaring positively to those who are concerned, as occasion offers, that their Majesties will not give up this prerogative, which is undoubtedly theirs.

‘We have not been hasty in giving our thoughts on this question, as well because it is a matter of great moment, and required great deliberation, and sedate recollection, as because we do not see if their Majesties should resolve upon calling a Parliament how it can well meet till after the next Session in England. The bills for money which were, according to command, sent over in paper long since, are not yet returned, and when they are, they must passe all the forms of the Council here, which is not like to be at this time of the yeare, before they can be ingrossed to

Circum-
locution.

be sent into England under the Seale. And yet all this must be done, and they must be returned back again before the meeting of the Parliament, because it seems to be a necessary justification of their Majesties' right to begin with bills for money.

' We have fully and plainly, as their Majesties' service requires, told you our thoughts and our fears, and shall, with all the prudence and diligence which we are masters of, obey what commands are sent us.

' We are, &c.

' Yo^r most humble Servants,

' CYRIL WICH.

' W. DUNCOMBE.'

The letter of Capel is quite opposite in the views it expresses from the foregoing. It shows how completely he was the mouth-piece of the Protestant ascendency party, and hints that the conduct of the Chancellor was opposed to the interests of the Crown. As it throws much light upon the state of parties in Ireland, and the difficulty of the Lord Chancellor acting with a man of Capel's unscrupulous character, I give it in full :—

' To Mr. Secretary Trenchard.

' Sr,—

' Dublin Castle: July 14, 1694.

' My indisposition hath for some time hindered me from giving an answer to yours of April 15, concerning calling a Parliament here, and, of late, my desire to joine with the other Lords Justices in a representation thereof; but finding they have not the same sentiments in this matter with myself, I think it my duty humbly to offer my own poor opinion, upon this occasion, which so nearly concerns the King's affairs.

' That there is a necessity for calling a Parliament no one can doubt who will consider the want we have of money. There is an arreare of 180,000*l.* to the civil and military lists, grown due since the beginning of the Establishment, January 1691. The General Officers of the

Letter
from Lord
Capel.

Other
Lords
Justices
disagree.

Necessity
for calling
a Parlia-
ment.

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XXIX.Charges in
excess of
revenue.

Army, the officers of the Ordnance, and the Governors of the several forts and garrisons, with many others, unpaid. There are likewise very considerable debts owing from the Crown not comprehended in the Establishment, which ought to be satisfied, nor is there any prospect when our condition will mend, the charge on the Establishment exceeding the produce of the growing revenue, by a modest computation, at least 60,000*l.* per annum.

‘ The several garrisons and forts of this kingdom are out of repair, and must also be furnished with stores and other provisions of War.

‘ An Act should likewise pass for settling the militia, which is now almost quite laid aside, and will, with great difficulty, be called together again. Great heats and disputes have lately arisen between the Governor and the Deputy-Governor of the County of Dublin, and the Colonels and other officers of the militia, about the raising thereof, and the opinion of the lawyers, produced to us on that matter, which has set them at a distance among themselves, and will, I fear, be of ill example to the rest of the counties. Besides, there is no legal course, at present, to be taken with the Irish to compel them to contribute to the charge thereof; so that the Kingdom is not in a fit posture of defence; and, should the enemy land with a small force of men upon any part of the western coast, we should find great difficulty to suppress them; and the Irish (who were never more insolent in these parts than now) will be ready upon any opportunity to joine with them.

Defence-
less state
of the
coasts.Acts for
the Eng-
lish and
Protestant
interests.

‘ Some temporary laws expired the last Parliament, which being of great benefit to the people, ought to be revived. And we want other good laws, which, after so great a revolution, ought to be enacted for strengthening and securing the English and Protestant interest; such as are bills for disarming Irish Papists, for prohibiting them from keeping horses above five pounds value, or thirteen hands and a half high; for restraining foreign education; for taking of Tories; for observing particular holidays and no

other; for the settling of civil bills, &c. Many private bills are also wanting for the benefit of particular subjects. An Act of Parliament is also wanted for the rebuilding and repairing of churches, most of the parishes in this Kingdom either having no churches at all, or, if any, out of repair, and not fit to celebrate Divine service in, which causes many to depart from our Communion. And thus their separation may be partly imputed, in a great measure, to the non-residence of the clergy, and a total failure of their duty in a very great many parts of the Kingdom.

‘The meeting of a Parliament will also have this good effect, it will assure their Majesties’ Protestant subjects of their affection to them, and of their care for their preservation, notwithstanding the reports (as if there would be no more Parliaments in Ireland) which some have of late too industriously spread about, who either do not know, or do not wish, the good of the Government.

‘The argument used against meeting of a Parliament here, I find, is the probability of their reviving old quarrels, and that they will fall again to their former heats about the Articles of Limerick, and their sole right of originating money-bills, which should they insist upon, it would make a greater breach than exists already, and prejudice their own and their Majesties’ interest.

‘For my own part, I have made it my business, ever since my coming hither, to inquire into this matter. I have conversed with all sorts of people, and with many of the angry gentlemen of the late House of Commons, upon this subject, and they all tell me they will not differ with their Majesties; and tho’ no man can be sure what a Parliament will, or will not, do when they come together, yet I am really of opinion that all heats will be laid aside, and that another Parliament will meet in a temper and resolutions to do their Majesties and their country all the service that can be expected from good Englishmen and Protestants, and will contribute to their utmost towards the support of the Government, being sensible they have

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XXIX.

Arguments:
against the
Parlia-
ment.

His
opinion in
favour.

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been burthensome enough already to England, and cannot reasonably expect any further supplies from thence.

Self interest.
‘This is the language and disposition of all the eminent lawyers and leading men I discourse with, upon this occasion, and I am verily persuaded they tell me their minds, and the truth ; for t’will be infinite advantage to them to have a good settlement in Parliament. Another rupture with their Majesties would utterly undo them, and leave the country untenanted, and unimproved ; ’tis therefore their interest not to differ with the King, and interest can never ly ; and, for this reason, I am the more confirmed in my beliefe that they will doe well, and answer the ends for which they are call’d.

Some of a different opinion.

‘I must needs confess that some of the members of the Privy Councill and Judges are of another opinion, and have told me, should a Parliament be called, they will stand to their former vote, of having the sole power of Money Bills, but they do not instance in any particular persons, and therefore I am apt to believe they are apprehensive of the consequence of such an assembly, as to their own private interest. I am loath to think they are afraid of a good agreement between their Majesties and their people.

The Articles of Limerick.

‘As for confirming the Articles of Limerick and Galway, I find the first and the sixth Articles may meet with some opposition. The first, if confirmed, they say, establishes the Popish religion, which cannot be digested by any Protestant ; and, for the sixth, they who object against it say they would readily agree that when any goods, horses, cattell, money, &c., are taken in pursuance of any military or civil orders for the use of the publique, the persons so seizing should be pardoned ; but when any person acted without authority, and converted the goods to his own private advantage, he ought to be answerable to the party injured ; and this is also an objection against passing an Act of Indemnity for all trespasses done during the war. But even in this case they tell me they will have a due regard to the King’s honour and word, and I

hope will be prevailed with to pass an Act for a generall
oblivion.

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‘I have here, with all sincerity and truth for their Majesties’ service, according to the best of my judgment, delivered my opinion concerning a Parliament in Ireland, and with all humility submit the same to their Majesties’ most gracious consideration.

‘I am, Sir,
‘Your most faithfull, humble Servant,

‘CAPEL.’

It is plain from these two documents, so essentially differing in opinion, that there were hostile parties in the Irish Government. The Lord Chancellor and two of the Lords Justices were for maintaining the Treaty of Limerick, while Lord Capel and his adherents desired revocation in order to possess power over the beaten Catholics. He strongly urged the King to remove Sir Charles Porter from the office of Lord Chancellor, and Sir Richard Cox from his seat on the Judicial Bench. Though the King would not do so in the summary way suggested, he did not positively refuse, and on May 10, 1695, signed twelve letters containing changes in the Irish Executive for future use. These were intrusted to Lord Capel, who was appointed Lord Deputy of Ireland. Shortly after the return of the Lord Deputy, on May 27, he dismissed Sir Richard Cox from the Privy Council. Sir Robert Southwell condoled with him in the words—*Bona agere, et mala pati, regium est.*

Division
in the Irish
Govern-
ment.

Capel was now Lord Paramount, and determinded to have matters all his own way. Writs issued for assembling a new Parliament, which met on August 27, 1695, and from the very outset displayed a very tractable spirit.

In the address of thanks for his Excellency’s speech, the members state:—‘We take leave to assure your Excellency that we will avoid all heats and animosities in our debates, and apply ourselves to what shall be agreeable to his Majesty’s expectation, and for the service of the publick by supplying the deficiency of the revenue, &c.’¹

Viceroy
recom-
mended
the re-
moval of
the Lord
Chanc-
cellor.

Parliament
meet.

Passive
obedience.

¹ Com. Jour. vol. ii. p. 46.

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XXIX.

Attack on
the Lord
Chancellor.

1. Excessive fees.

2. Using
power
above the
law.

3. Illegal
imprison-
ment.

4. For un-
justly
removing
Usher.

5. Making
improper
men Jus-
tices of the
Peace.

Porter was soon the object of attack. Robert Rochfort, Attorney-General, was elected Speaker, and he was hostile to the Chancellor. Action was soon taken against Sir Charles Porter. About a month after the assemblage of Parliament, on September 30, 1695, Colonel Ponsonby presented to the House of Commons the following Articles, charging high crimes and misdemeanours against him, which were received and read:—

‘ 1st. That the said Sir Charles Porter, since his Majesty’s happy accession to the Crown, contrary to his Oath, Office, and Duty as Chancellor, and in manifest breach of the Trusts reposed in him, hath by himself, his Agents, or Servants, corruptly and illegally exacted and taken from his Majesty’s subjects new and excessive Fees, contrary to the Laws and Customs of this Realm, and to the evil example of other Ministers and Officers, and to the great oppression of the subjects.

‘ 2nd. That the said Sir Charles Porter, in his Office and Place of Lord Chancellor, hath used and exercised a Power above and against Law, and to the subversion of the fundamental Laws and established Government of this Realm, extending such his Power at his meer Will and Pleasure, without any reasonable or warrantable cause over the Persons and Estates of his Majesty’s subjects of this Kingdom.

‘ 3rd. For imprisoning illegally one Elnathan Lun, until the said Lun enlarged one Packer, indebted to said Lun and partner, whereby the said debt of 1,200*l.* was lost. The said Lun being forced to enlarge Packer to procure his own release.

‘ 4th. For illegally removing Thomas Tilson from his office of Usher in the Court of Chancery.

‘ 5th. That the said Sir Charles Porter, being disaffected to his Majesty’s Government, and a great Favourer of the late King James, his Adherents, and the Irish Papists, put into Commission, and continues several persons in the Commission of the Peace who have been active in the late King’s Service against his Majesty, and are unfit

persons to be in Commission, some of them having imbrued their hands in Protestant Blood, and others indicted and outlawed for High Treason committed against his Majesty; and the said Sir Charles Porter had sufficient knowlege of the aforesaid matter relating to the said Justices of the Peace.

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‘6th. That the said Sir Charles Porter, contrary to his Oath, Office, and Duty, hath notoriously favoured the Irish Papists against Protestants, in causes depending before him, by using great Delays in favour of the Irish Papists, and not giving such Judgments as the cases required when the same were ripe for Judgment, as appears by the case of Bart and Carthy, the case between Sir Arthur Gore and the Lord Dillon, the case between Kelly and Grolier, and the case between Robert Twigg, Plaintiff, Henry Ball, Robert Ball, and Richard Yates, Defendants, and several other cases of like nature, contrary to Magna Charta; and the said Sir Charles Porter hath showed such favour, as well to Irish Papists, that have not claimed any benefit from any Articles, as to others, who have not been adjudged within any Articles.

6. For
favouring
Papists
against
Protes-
tants.

‘7th. That the said Sir Charles Porter, contrary to his said Oath, Office, and Duty, hath acted partially, arbitrarily, and illegally in causes before him between Parties, particularly by releasing George Philips, Esq., when in execution at the suit of Morris Bartley, and by committing the Sub-Sheriff and Bailiffs of the High Sheriff of the County of Dublin, for taking the said George Philips in execution.’¹

7. For
acting
partially.

On October 5, a motion was made in the House that the articles against Sir Charles Porter, Knight, Lord High Chancellor of Ireland, contained matters of impeachment. The previous question being demanded, the House divided—94 voting for, and 116 against—on which the debate was adjourned. At a later day it was ordered, that witnesses in support of the articles, as also against the allegations contained therein, should be sworn before

On motion
the House
divided.

¹ Com. Jour. vol. ii. p. 76.

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Witnesses
in the
Commons.
Attend-
ance of
Peers in
the House
of Com-
mons.

Reasons
for the
Peers' re-
fusal.

The Com-
mons
persevere.

the Lord Chief Justice and the Lord Chief Baron. When sworn they were to be examined in the House.

The principal promoters of the articles having required the attendance of his Grace the Archbishop of Dublin, the Earl of Meath, the Earl of Longford, Lord Massareene, the Bishops of Clonfert and Waterford, in the House of Commons, to give their testimony on oath for the articles, a conference took place and reported ‘that their Lordships could not comply with the desire of the House of Commons, by giving to the Lords mentioned in their message leave to go down to that House—*First*, Because it is not parliamentary for the House of Commons to examine any Person upon Oath. *Secondly*, That the House of Peers, being a Court of Judicature, and Judges of all Impeachments brought from the House of Commons, will examine such of their Peers as the Commons shall desire, if any Impeachment shall be brought before their Lordships, according to the usual methods of Parliaments.’

But the Commons were not satisfied with this answer. They appointed a Committee to search for precedents, and, on October 25, 1695, the Solicitor-General reported ‘that the House of Commons are, and always will be, desirous to preserve a good correspondence with the House of Peers, and in order to it will decline anything that may be an intrenchment on their Lordships’ Judicature or right, yet are not satisfied with the Reasons afforded by their Lordships at a conference on October 21:—

‘1st. Because the House of Commons do conceive that what is desired in their Message to their Lordships will be no intrenchment on the judicature of the House of Peers, the same being for the information and satisfaction of the House of Commons only; which they conceive to be no Parliamentary Trial, but in order to prepare for such Trial before their Lordships.

‘2nd. Because it is Parliamentary for the House of Commons to receive Evidence of Witnesses who have been sworn, of which there are several precedents.’

Upon conference with the Lords, they resolved to adhere to their resolution, while the House of Commons insisted upon theirs, and there is no knowing what the result of this difference of opinion might have been had it been carried much further; but, on October 25, the Lord Chancellor attended the House of Commons, and as the Journals inform us, 'the Lord Chancellor being admitted with the purse, a chair being placed for him on the right hand, within the bar, he laid down the purse and his hat, and at the back of the chair, uncovered, was heard what he could say on the articles exhibited against him.'¹

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XXIX.Both
Houses
decline to
give way.Lord Chan-
cellor
defends
himself in
the House
of Com-
mons.

Unfortunately we have no record of his speech in defending himself on this occasion, but it was signally successful, for on the question being put, 'That what Sir Charles Porter, Lord Chancellor of Ireland, said to the House in relation to the matters contained in the articles exhibited against him, is satisfactory to the House without any proof,' the House divided, and the affirmation was carried by 121 for, to 77 against, the motion. The result was the rejection of the articles, and the witnesses summoned were discharged from further attendance.²

Question.

Impeach-
ment
abandoned.

The night Sir Charles Porter triumphed over his enemies, by the House of Commons rejecting the charges against him, he was proceeding homewards in his coach, through the narrow street then as now called Essex Street, which runs parallel with the quay along the Liffey—it was named after the Lord Deputy's brother, Arthur Capel, Earl of Essex—and entered the city by the Essex Gate. At this period it formed the chief communication between Chichester House, where the Parliament assembled, and Chancery Lane, in which the Chancellor and many other Judges resided, being near the Four Courts in Christ Church Lane.

Nocturnal
adventure
of the
Lord Chan-
cellor.

As the unwieldy coach of that period lumbered along the ill-paved street, which was utterly dark, for no public

¹ Com. Jour. Ir. vol. ii. p. 108.² Ibid. p. 120.

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lights were used at the period,¹ and owing to the lateness of the hour most of the inhabitants were in bed, the Chancellor's coachman tried to pass another carriage immediately in front. This was the coach of Rochfort, Speaker of the House of Commons and Attorney-General, a violent enemy of the Lord Chancellor. A stray glare of light happening to fall upon the Chancellor's equipage as the two vehicles were nearly in collision, the Speaker instantly called aloud for the Chancellor's coachman to keep back. This peremptory mandate being either unheard or unheeded, the Speaker, in his robes, darted from his coach, and disregarding danger and dirt, seized hold of the reins of the Chancellor's horses, and brought them on their haunches. With a petulance and littleness unworthy such an occasion, he ordered his mace to be produced from his coach, and thrust it before the Chancellor's coachman, declaring, 'That he would be run down by no man, and would justify what he did.'

Unseemly
conduct
of Mr.
Speaker.The
Speaker
flourishes
his mace.

The Lord Chancellor, with wise discretion, took no personal part in this street rencontre. He made no attempt to drag his mace through the mire, and was content to allow the Speaker's carriage precedence while their route lay in the same direction.²

Some idea may be formed of the inflammable materials of which the Parliament of Ireland was then composed by the fact, that this paltry squabble was deemed of sufficient importance to be brought before Parliament. The Lord Chancellor complained to the Lords of what he thought a personal affront. The Lords sent the statement to the Commons, requesting an answer, which they returned to the effect that, 'as the matter was purely accidental, it could not be looked on as designed affront to their Lordships in the person of their Speaker.'³

Lord Chan-
cellor
complains.

But these matters show there could be no common cordiality between those men to whom the Irish Government was intrusted. The Lord Chancellor, Sir Richard Cox,

¹ The Statute for lighting the streets of Dublin was not then passed. Its date is 9 William III. c. 17.

² Dub. Univ. Mag. vol. xlvi. p. 734.

³ Lords' Jour. Ir. vol. i. p. 500.

Sir Cyril Wich and Duncombe were advocates for observing the Articles of Limerick, and treating the Catholics with justice and moderation, while the more powerful party, of which the Lord Deputy Capel was the head, resolved to crush the Papists, and the way in which they were sustained in their measures by the Irish Parliament may be judged by the preamble of the Act which ratified (?) the Articles of Limerick :¹—

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'That the said Articles, or so much of them as may consist with the welfare of your Majesty's subjects of this kingdom, may be confirmed,' &c.

Preamble
to Stat.
9 Wm. III.
c. 2.

The utmost severity was shown to the great bulk of the Irish people, who were so cooped and caged within legislative disabilities, it was hoped they would be forced either to a renunciation of their religion, or to an abandonment of their country.² Acts were passed restraining foreign education, disarming Papists, banishing Popish clergy, preventing Papists from being solicitors or intermarrying with Protestants. The Papist was the '*enemy*,' and so termed, whether he desired to be friend or not.³ The Lord Chancellor was powerless to resist this line of conduct, but when an effort was made to prolong the power of those who wrought such cruelty, he resisted with success.

Lord Chan-
cellor
powerless
to protect
the Ca-
tholics.

Lord Capel had been in failing health, as appears by his letter above quoted, and his illness grew as time rolled on. During the spring of 1696 he removed to Chapelizod, a village close to Dublin, where was situated the 'King's House,' a mansion purchased from the Eustace family by Charles II., the ruins of which are still standing. This formed the summer residence of the Irish Viceroys before the Vice-regal lodge in the Phoenix Park was devoted to their use. When the Lord Deputy's malady showed symptoms of danger, the party who acted with him feared that his death would terminate their reign of power unless they obtained the appointment of some of their number as Lords Justices. To effect this Brigadier Wolseley and

The Lord
Lieutenant
in decli-
ning
health.

¹ 9 Wm. III. c. 2. ² Dublin University Mag. vol. xlvi. p. 734. ³ Ib. p. 735.

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Attempt to
create
Lords
Justices.
Forcible
posse-
sion of the
signet.

Requires
the Great
Seal to be
affixed.

The Chan-
cellor
refuses
without
authority.

Death of
the
Viceroy.

Mr. Stone, repaired to the House of Sir Richard Cox, who, at this time, was in England, and not finding his clerk, from whom they expected to procure the Signet, which was in Sir Richard Cox's keeping, they broke open Cox's chamber door, ransacked his desk and papers, until they found the Signet, which they affixed to a warrant authorising the preparation of a patent for Lords Justices. They spurred hard for Chapelizod, and finding the Viceroy still alive, though dying, they prepared a patent constituting Morrogh, Viscount Blessington, and William Walseley, Esq., Master of the Ordnance, Lords Justices during his Majesty's pleasure, or until the Lord Deputy should regain his health. This patent was dated May 16, but still one more matter was needed to give it validity—the Great Seal must be affixed, and this was in the possession of the Lord Chancellor. Could he be induced to seal it? They resolved to try, and, on the morning of the 17th, a summons, as from the Lord Deputy, brought the Chancellor to Chapelizod. Here the confederates were assembled, and placed the patent, ready for completion, before the cautious Lord Chancellor. He knew his men and their object, and refused to yield to their request without express directions from the Lord Deputy, whom he desired to see. This they dare not refuse; but the dying man, possibly bethought him of the harsh conduct he pursued towards the Chancellor, for he was supposed to have been privy to the fabrication of the charges made in Parliament, and wasted by sickness was indisposed to any exertion. What the Chancellor foresaw took place. The interview was declined; and Sir Charles Porter peremptorily refused to affix the Great Seal to the patent, without the express authority of the Lord Deputy.

A meeting of the chief Judges, the Attorney and Solicitor General, and some of the Council was held at Chapelizod, to consider what action should be taken in the matter, but the Chancellor was immovable, and in a few days the Lord Deputy was no more.¹

¹ Dublin University Magazine, vol. xlvi. p. 737.

The Lord-Lieutenant died, May 30, 1696, and on the assembling of Parliament, on Saturday, June 27, Sir John Hely, Knight, Lord Chief Justice of the Common Pleas, acquainted the Lords that the Lord Chancellor, late Speaker of the House of Lords, being advanced to the high station of Lord Justice, and General Governor of the Kingdom, his Majesty named him Sir John Hely, by commission, Speaker of the Lords. He was ordered to have liberty to go circuit without the mace, and, on the motion of Lord Charlemont, it was ordered that this House, with its Speaker, do attend his Excellency Sir Charles Porter, Knight, Lord Justice and General Governor of Ireland, at three of the clock this afternoon, and congratulate him on his late happy accession to the Government of this kingdom.¹ He does not appear to have remained long Chief Governor, for he died suddenly of a fit of apoplexy, when left alone in his house in Dublin, on June 15, 1697. He was succeeded by JOHN METHUEN, Esq., as Lord Chancellor of Ireland. His death was lamented by King William III. Sir Robert Southwell thus mentions the King's opinion of the late Lord Chancellor when writing to Sir Richard Cox:—‘His Majesty is sorry for the loss of a good Chancellor; and thinks the root of all the animosity against him was for little else than his supporting the Articles of Limerick; so that it looks probable his Majesty will have good thoughts of those who, on this account, proved his friends.’

Sir Richard Cox wrote a poem on the Chancellor's death, but I have not been able to find any trace of it. William Molyneaux, Member for the University of Dublin, published his celebrated work, ‘The Case of Ireland being bound by Acts of Parliament in England Stated.’ He contended that by a declaratory Irish Statute of 29 Henry VI., the re-enactment of Acts passed in England was necessary to give them force in Ireland. This work, printed in 1698, was considered to prove the constitutional independence of Ireland, and was regarded as of

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XXIX.Sir Charles
Porter
named
Lord
Justice.Chief
Justice
Hely,
Speaker
of the
Lords.
Congratula-
tion of
Sir Charles
Porter.Sudden
death of
the Lord
Chan-
cellor.
Regret of
King
William
III.Moly-
neaux's
‘Case of
Ireland
Stated.’

¹ Lords' Journals, vol. i. p. 588.

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dangerous tendency to the Crown and Parliament of England. The House of Commons at Westminster appointed a committee to examine the work. Upon the report, the House, in a body, presented an address to William III., representing the dangerous attempts of some of his subjects in Ireland to shake off the subjection and dependence upon England; manifested not only from the bold and pernicious assertions in the book called 'The Case of Ireland,' but more fully and authentically by votes and proceedings in the Commons of Ireland. These had, during their last Session, transmitted an Act for the better security of his Majesty's person and Government, whereby an English Act of Parliament was pretended to be re-enacted, with alterations obligatory on the Courts of Justice, and the Great Seal of England. The English Commons, therefore, besought his Majesty to give effectual orders for preventing any such encroachments for the future by punishing those who were guilty; that he would take care to see the laws which direct and restrain the Parliament of Ireland punctually observed, and discourage every thing which might have a tendency to lessen the dependence of Ireland upon England.

This remonstrance was graciously received, and the King promised compliance.¹ Mr. Whiteside pleasantly comments upon these proceedings:—'The ponderous foxhunters of the Lower House were indignant with a treatise they could not answer; and, finding the case of Ireland well stated they ordered the essay to be burned by the hands of the common hangman! A severer punishment awaits certain pamphleteers of the present day; their essays are not burned, but they are never read.'²

¹ Smollet's History of England, vol. i. p. 317.

² Life and Death of the Irish Parliament, part I. p. 66.

CHAPTER XXX.

LIFE OF LORD CHANCELLOR SIR ALEXANDER FITTON, LORD GAWSWORTH.

SOME men have a reputation so blackened by odious imputations as to require no small amount of courage to refer to them. Men whose career is described as a constant mounting up the ladder of vice—whose perverse nature defied the cultivation of a single seed of virtue. Sir Alexander Fitton was one of these scapegoats. Successive historians have piled such misdeeds upon him, that it almost deters me from attempting to see if the fiend is really as black as he is painted; but with patience and perseverance I have satisfied myself that party prejudice originated or embellished most of the original accusations; and a want of care, or possibly unwillingness to discover the real facts, caused later writers to assume the truth of the previous statement. I may not be able to remove the stains altogether. When a reputation has been rotting under repulsive reproaches for two centuries, the task of clearing away the crust is no light one; but I think I shall prove that religious and political animosity supplied the darker tints with which King James's Chancellor has hitherto been coloured.

Hume in his History of England¹ thus refers to him:—
 ‘But what afforded the most alarming prospect was the countenance and increase of the violent and precipitate conduct of affairs in Ireland. Tyrconnel was now vested with full authority; and carried over with him as Chancellor, one Fitton, a man who was taken from a gaol, and who had been convicted of forgery and other crimes, but who compensated for all his enormities by his headlong

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XXX.Odious re-
putation
of Sir
Alexander
Fitton.Effects of
party
spirit.Hume's
account.¹ Vol. x. p. 41.

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zeal for the Catholic religion. He was even heard to say from the bench, that the Protestants were all rogues, and that there was not one among forty thousand that was not a traitor, a rebel, and a villain.'

Lord
Macaulay
exceeds
Hume.

Macaulay, who evidently adopts Hume's description, tries to blacken the character of the Irish Chancellor yet more.¹ 'A *pettifogger*, named Alexander Fitton, who had been detected in forgery, who had been fined for misconduct by the House of Lords at Westminster, who had been many years in prison, and who was equally deficient in legal knowledge and in the natural good sense and acuteness by which the want of legal knowledge has sometimes been supplied, was Lord Chancellor. His single merit was that he had apostatised from the Protestant religion; and this merit was thought sufficient to work out even the stain of his Saxon extraction. He soon proved himself worthy of the confidence of his patrons. On the bench of justice he declared that there was not one heretic in forty thousand who was not a villain. He often, after hearing a cause in which the interests of his Church were concerned, postponed his decision, for the purpose, as he avowed, of consulting his spiritual director—a Spanish priest.'²

Arch-
bishop
King.

Hume's account is obviously taken from Archbishop King's 'State of the Protestants of Ireland during King James's Government,' and this work is expressly quoted by Macaulay. It is only necessary to state that the writer was Dr. William King, Protestant Archbishop of Dublin in 1689, distinguished for his hatred of Catholicity, and thoroughly convinced he was doing a meritorious act in vilifying the men and measures by which King James sought to restore the people of Ireland to their natural position in their native land. As Hume called the Chancellor, '*One Fitton*,' I infer he considered him of mean and unknown family; and as Macaulay designates him *a pettifogger*—which means a petty, small-rate lawyer—and both would have their readers believe he himself had

¹ Macaulay's History of England, vol. iii. p. 129.

² *Ibid.* p. 130.

been a forger, and convicted of crimes and misdemeanours entitling him to a place in the Newgate Calendar, I think it but just to give a detailed account of his family, and the strange events which led to his actual imprisonment, whereby it will be seen that the 'pettifogger,' 'One Fitton,' was lineally descended from one of the most aristocratic county families in Cheshire; and there is some doubt whether he was chargeable with the guilt which has been so unsparingly imputed to him. Sir Alexander Fitton, Lord Gawsorth, was descended from the ancient family of Fitton, of Gawsorth, who had been settled in Chester since the time of Richard II. By an inquisition in that King's reign, 'Thomas Fitton, of Gawsorth, was found to hold in his desmesne, as of fee, the manor and advowson of Gawsorth, in socage, without any service, value per annum, 20*l.*; also a forestship in Macclesfield; and lands in Pownall, Norcliffe, Chorleagh, and Lythe—juxta Honbridge; and, by courtesy, in right of his wife, Margaret Leigh, half the manor of Betchton, and lands in Lostock Graham.'

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Family of
Fitton.

The Fittons were a knightly race; during the reigns of several monarchs they took no small share in the affairs of State. In the reign of Queen Elizabeth, Sir Edward Fitton, of Gawsorth, Knight, was sent into Ireland by the Queen to serve as first Lord President of the Province of Connaught; and landed in this kingdom on Ascension-day, 1569. He continued Lord President of the Council for the province of Connaught until March, 1572, when he returned to England; but his services were again needed in Ireland, and he returned the following March as Treasurer and Receiver-General of the Kingdom. He died in Ireland, leaving no less than fifteen children; and his eldest son, also named Sir Edward, became Lord President of Munster. Edward appears to have been a family name, for I find no less than four Sir Edward's in succession. The family was advanced in dignity in 1617, a baronetcy being conferred upon Sir Edward Fitton, whose son took the King's side in the war of the Commonwealth,

Connection
with Ire-
land.

Baronet,
1617.

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XXX.Ancient
seat of
Gawsw-
orth.

and died shortly after the taking of Bristol in A.D. 1643. The old hall of Gawsworth, near the village of that name, lies about three miles south-west of Macclesfield, on the road to Creighton, immediately west of the church, and consisted of three sides of a quadrangle, built of timber and plaster, low on two sides, but higher on the south, where there appears to have been a gallery at the top. There are traces of beauty in the grounds. On the side nearest to the church, a long and lofty terrace stretched a considerable distance, affording extensive prospects, terminating in a platform hollowed in the centre, where, it is related, the Fittons used to exercise themselves in wrestling and other athletic sports. There may be also traced deserted pleasure grounds, and large old-fashioned fish-ponds, so overgrown with sedge and reeds as no longer to reflect the venerable and luxuriant trees growing around.

Modern
Hall.

In the modern hall of Gawsworth, belonging to Lord Harrington, hangs a portrait of Francis Fitton, with the arms of Fitton and Neville in a lozenge under an Earl's coronet. The edge of the frame bears the following inscription:—‘Francis Fyton married w^t Katherine Countis of Northu’br. dowger, 3^o 1588, eldest of the doughters and co-heiress of Joh’ Neville, K^t. lord Latymer, being thyrd sone of Edw. Fyton, of Gawsworth, K^t (who married Mary y^e younger doughter and co-heir of Sir Virgitt Harbutell in Northu’br., Kn. and Elenor, her elder sister, maried w^t St. Tho. Percy, Kn. afterwards ataynted, being father by her to Tho. and Henry Percy, Knts., and both in their tyrns earls of Northu’br. and restored by Queen Mary), brother to Edward Fyton, Kn. Lord President of Connaught, and threserer of Ireland, and sone and heir to the aforesayd Edward, which threserer and his wife dicessed in Irelande, and lye boathe buried in St. Patric’s Church in Dublin.’

Over the entrance door to the old hall is carved the coat of arms of Fitton, with sixteen quarterings, a good proof of the alliances of this ancient family. The motto

in a garter alludes to the names, FIT ONVS LEVE. Beneath
is inscribed :—

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Hæc sculptura facta fuit apud
villam Calviæ in Hibernia per
Richardum Rany, Edwardo Fyton
militi primo d'no presidenti totius
provinciæ Conatiaæ et Thomoniæ
anno D'ni 1570.

In the grounds is a monument to Mr. Samuel Johnson, author of a play which had a long run at a London Theatre. The various accomplishments of Samuel Johnson are recorded on his monument :—

Mr. Samuel
Johnson's
epitaph.

Stay thou whom chance directs or ease persuades,
To seek the quiet of these sylvan shades,
Here undisturbed, and hid from vulgar eyes,
A wit, musician, poet, player lies,
A dancing-master, too, in grace he shone,
And all the arts of op'ræ were his own ;
In comedy well-skilled, he drew Lord Flame,
Acted the part, and gained himself the name ;
Averse to strife, how oft he'd gravely say
These peaceful groves should shade his breathless clay
That when he rose again, laid here alone,
No friend and he should quarrel for a bone ;
Thinking that were some old lame gossip nigh,
She possibly might take his leg or thigh.¹

In the church, a picturesque building of fine architecture, grey with creeping lichens and sheltered by majestic trees, are various tombs recording the fame of the Fittons, of Gawsworth.

The
Church.

Alexander Fitton, the subject of this memoir, was son and heir of William Fitton, of Aronee, in Ireland, and Eva, daughter of Sir Edward Trevor of Brinkynalt. This William Fitton was next male kinsman to the possessor of Gawsworth, Sir Edward Fitton, who, in 1641, resolved to restore the ancient entail of the Gawsworth estates, and settled the same by indenture, dated November 9, 17 Car., on William Fitton, with remainder to his sons. This is said to have been confirmed by deed poll, dated April 3, 18 Car., executed by Sir Edward Fitton.

Parents of
Alexander
Fitton.

¹ Ormerod's Cheshire, vol. iii. p. 294.

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XXX.Legal pro-
ceedings
on the
death of
Sir E.
Fitton.Marriage
of Alex-
ander
Fitton.Lord
Brandon's
claim.Saying of
Sir E.
Fitton.

Litigation.

Allegation
of forgery.Issue
directed.

Sir Edward died at Bristol in 1643. Lady Fitton, his widow, held Gawsworth for her jointure, and the sisters of Sir Edward having entered into occupation of some of the estates, William Fitton took legal proceedings against them and recovered possession. On the death of Lady Fitton he became possessed of Gawsworth. Alexander became a law-student of the Inner Temple in 1655, and was called to the bar, 12th May, 1662. He married the daughter of Mr. Jolliffe, of Cofton, county of Worcester, with whom I presume he had a fortune, for, shortly after, the sum of money for which the Fitton estates were mortgaged was paid off, and Mr. Fitton became possessed of the whole.

Charles Gerard, Lord Brandon, claimed these estates in right of his mother, who was sister to the late Sir Edward Fitton, though it was stated that Sir Edward, when importuned to leave her his estates, replied, 'he would rather settle his estate upon Ned Fitton, the bonny beggar¹ (a man who kept beggars from his gates) than any of his sister's children.' After many bickerings and personal quarrels between Lord Brandon and Alexander Fitton, a will was brought forward, nineteen years after Sir Edward's death, giving the estates to Lord Brandon. Then the case occupied the Courts of Law and Equity.

Alexander Fitton relied upon the deeds—the settlement and confirmation; the Gerard party contended the later deed was not genuine. Alexander Fitton insisted that it was, and in his opinion, and in that of his Counsel learned in the law, the confirmation by deed poll put it out of Sir Edward's power to make a will, even if that produced was genuine, but he denied its authenticity. A commission then issued to try this, under which the signature to the deed poll was proved to have been subscribed by Sir Edward at Congleton, after which Dobson, Lord Brandon's solicitor said, 'one Abraham Granger (then a prisoner in the gate-house) had confessed he forged Sir Edward's name to the deed.' An issue was directed by

¹ Bonny or bony beggar—a provincial term for a parish beadle.

the Court of Chancery to try the genuineness of this deed, and its validity was sworn to by Mr. Richard Davenport, Mr. Edward Barwick, and the dying deposition of Mr. Thomas Smallwood. To meet which, and sustain the allegation of forgery, was the evidence of Granger, Gifford, Wheeler, Colonel Ralph Ashton, Captain Holland, and others, some of whom stated they heard Mr. Fitton confess that Granger had forged a deed for him, for which he had 40*l.* It was also urged as a proof of fabrication, that Mr. Fitton could not prove when he had this deed, or who engrossed it, or that it had not been mentioned at the former trials, or at Mr. Fitton's marriage, nor could the witnesses then remember when it was executed. The jury found against the deed.

The Gerard party are stated to have acted in a very riotous manner after their victory. Process was sued out of the Crown office against the witnesses for the deed, commanding them to appear in the King's Bench, to answer the information of perjury, and Barwick was committed to Macclesfield prison.

Then Granger, conscience-stricken, declared his prevarication in a written document, stating that he had not forged the deed; that this document was signed in the presence of twelve or thirteen gentlemen.¹ It appears that, after this statement of the due attestation of this document had come to the ears of Lord Brandon, the House of Lords regarding it, probably, as an imputation upon the noble Lord, censured Mr. Fitton and those of the witnesses in the manner following: viz. 'They ordered that Alexander Fitton should be fined 500*l.*, and committed to the King's Bench prison, until he should produce Granger, and find sureties for good behaviour during life, and the witnesses were committed to the Fleet during the King's pleasure, and before enlargement, to find sureties,' &c.² Ormerod, in his valuable history of the County of Cheshire, observes: 'It is not improbable that Alexander Fitton, who, in the first instance, gained rightful possession under an

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Finding
against
the deed.

Fitton's
witnesses
prosecuted.
Granger
declares
the deed
valid.

House of
Lords
interferes.

Alexander
Fitton
fined and
impris-
oned.

Ormerod's
observa-
tion.

¹ Ormerod's Cheshire, vol. iii. p. 259.

² Ibid.

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acknowledged settlement, was driven headlong into unpremeditated guilt by the production of a revocation by will, which Lord Brandon had so long concealed. Having lost his own fortune in the prosecution of his claims, he remained in gaol until taken out by James II. to be made Chancellor of Ireland, when he was knighted, and subsequently created Lord Gawsorth after the abdication of James II.'

This is the fabric upon which the alleged guilt of Sir Alexander Fitton is based.

I have now to deal with his conduct as Lord Chancellor in Ireland. When Lord Tyrconnel was appointed Lord Lieutenant in February, 1686, he was accompanied thither by Sir Alexander Fitton. The Lord Chancellor had married Anne (daughter of Thomas Joliffe, of Worcestershire) who died in the following year and was buried in St. Patrick's Cathedral, Dublin, under the monument of her husband's ancestor, Sir Edward Fytton, there erected.¹

Fitton,
Lord Chan-
cellor of
Ireland,
A.D. 1687.
Baron
Gaws-
worth.

No ex-
pression of
dissatis-
faction
from the
Bench or
Bar.

A prece-
dent for
this course.

Sir Alexander was created Chancellor of Ireland A.D. 1687, and raised to the peerage by the title of Baron Gawsorth, to him and his heirs male for ever.² As to his special qualities for the office, I am not able to vouch. He certainly had opportunities of observing the procedure of many of the Courts in the protracted litigation connected with his property, but of the extent to which he profited history is silent. Very able men practised in the Irish Court of Chancery at that time; and I think the absence of any expression of dissatisfaction from the Irish Bar, or the Irish Bench, affords some grounds to believe he was not incompetent for the high office to which the favour of his Sovereign, if not his own merits, had raised him.

Archbishop King would have taken good care to inform us had any meetings of the Bar been held, and resolutions passed, that they would not practise before the new Chancellor. A precedent for this course was not wanting, the English Bar did so in the case of Sir Christopher Hatton,³

Funeral entry in Birmingham Tower.

D'Alton's King James's Irish Army List, p. 869.

² Lord Campbell's Lives of the Lord Chancellors of England, vol. ii. p. 147.

but nothing of the kind is stated in the case of Lord Chancellor Fitton. The Irish Judges were men of high honour and professional skill, and, though holding office during pleasure, they would assuredly have in some way manifested disapprobation of him had they considered the Bench degraded by the presence of a criminal pettifogger; but they did not. There were able men at the Irish Bar, as we have seen; and the business must have been considerable when Mr. Nagle's fees alone exceeded the salary of the Chief Justice. Neither have complaints of suitors been recorded in the pages of any contemporary, and we know from experience how glibly they would assert 'that no sane man entered the Lord Chancellor's Court as a litigant without being prepared to appeal from his decision;' that 'all costs incurred, all the time wasted in obtaining his decree might as well be bestowed on a judgment by "head or tails."' That 'in his Court no one felt sure what the Chancellor would do, as the decision of one day would be different the next.' True, indeed, Archbishop King says, 'the Lord Chancellor could not understand the merits of any difficult cause, and, therefore, never failed to give sentence according to his inclination, having no other rule to guide him;' and he instances cases in which the Chancellor refused the guardianship of a child to a Protestant mother, but gave it to the Popish relatives, by which it is perfectly plain the father was a Catholic, and, as such, no doubt desired the child should be brought up in his own religion, which the Archbishop looked on as 'against the positive words of law.' He also complains that the Chancellor overruled both the practice of the Courts and the laws of the land, declaring in open Court 'that no law could bind his conscience, that the Chancery was above all laws.'¹ Dr.

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XXX.

No com-
plaint
from the
suitors.

Arch-
bishop
King the
chief com-
plainant.

¹ This was the universally adopted notion of Chancellors at this time. Lord Campbell praises Lord Nottingham for differing from the general practice. 'His' (Lord Nottingham's) 'great object continued to be, to redeem equity from the disgrace of being supposed to depend upon the individual opinion or caprice of the Lord Chancellor.'—Lord Campbell's Lives of the Lord Chancellors of England, vol. iii. p. 417.

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XXX.Duhigg's
character
of Dr.
Stafford.

King also states, 'that after hearing a cause between a Protestant and a Papist, before he gave a decree he would have the opinion of a Popish priest—his chaplain, educated in Spain, and furnished with distinctions to satisfy his conscience how far he should do justice to the Protestants.' This was the learned and loyal Dr. Stafford, who was an eminent Doctor of the Civil Law, a Master in Chancery, who has been thus highly praised by the historian of the King's Inns—Mr. Duhigg, Assistant Barrister for the County of Wexford and Librarian to the Honourable Society of King's Inns:—'On November 15, 1687, a Chaplain of ancient family and unexceptionable personal character was elected (Chaplain to the King's Inns) by the ruling party; he was also a learned divine and distinguished doctor of both laws. The Government and country showed an equal discernment by suitable promotions. A Mastership in Chancery, the Deanery of Christchurch, and a seat in Parliament were his rewards. On February 5 following, Doctor Stafford was invited to the Bench table, and it was ordered that chambers should be provided for him.'¹

The career of this learned individual showed with what ardour the adherents of the House of Stuart upheld the fortunes of that unlucky race. When the country was the scene of war, and the tide of battle rolled furiously on, the Reverend Dr. Stafford became Chaplain to the Royal Regiment of Foot, and followed the standard of James to the field of Aughrim. He was zealous and intrepid. He roused the drooping hearts of the Irish, and cheered the courage of the troops. Armed with the symbol of man's redemption, he passed from rank to rank, amid the shock of battle, and exhorted the forces of James to strive boldly for their native land, their religion, and the property of which they were despoiled. A ball struck the gallant Master in Chancery, and next to the fall of St. Ruth was the loss sustained in the death of the brave Chaplain of the King's Inns.²

¹ Duhigg's King's Inns, p. 232.

² Ibid.

Sir Theobald Butler was one of the most eminent leaders of the Irish Bar at this period. An anecdote is related of him which shows his partiality for the bottle and almost identifies him with

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XXX.Anecdote
of Sir
Theobald
Butler.

Sir Toby Fillpot, as thirsty a soul,
As e'er cracked a bottle or plenished a bowl,
When boozing at night 'twas his pride to excel,
And amongst jolly topers he bore off the bell.

Whatever excuse might be offered for ‘boozing at night,’ there can be none for boozing in the morning, and this, as the story goes, Sir Toby occasionally did. A very heavy argument coming on before Lord Chancellor Fitton, Mr. Nagle, the solicitor for Sir Toby’s client, entered into a stipulation with that eminent Counsel, that ‘he would not drink a drop of wine while the cause was at hearing.’ Sir Toby pledged his honour to observe the compact. The learned counsel acquitted himself, as he usually did, most creditably, and the bargain reached the ears of the Lord Chancellor. One day when alone with Sir Theobald, he asked ‘if it was true?’ ‘Perfectly true, my Lord, I did not *drink* a drop of wine.’ A peculiar emphasis on the word *drink* made the Lord Chancellor suspect there was more than met the ear, so he insinuated ‘that Sir Theobald practised a ruse upon the unsuspecting solicitor.’

‘Well, as your Lordship has guessed right, I’ll tell you what I did,’ answered the wily Sir Theobald; ‘my promise was, *not to drink a drop of wine*, but as I required some stimulant for a speech, as you know, of four hours, I procured a basin into which I poured two bottles of claret, I then got two hot rolls of bread, sopped them in the claret, and *ate them*.’ ‘I see,’ replied the Chancellor laughing, ‘in truth, Sir Theobald, you deserve to be Master of the Rolls.’

It is said that James II. employed his Irish Judges in diplomatic missions, and in England they were received with derision, and nicknamed ‘The Potato Ambassadors.’

The potato
Ambas-
sadors.

Of the Chief Judges who, at this period, presided in the Irish Courts of Justice, we have a good account. In

Irish Chief
Justices

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XXX.

these judicial decisions no authenticated act of cruelty or corruption remains on record. The three powerful Judges, Nugent, Lord Riverstown, Rice, and Daly, remained within the kingdom, in possession of large properties, and, armed in conscious innocence, set their personal or political enemies at defiance. Two of the Judges were Protestants, who had survived the revolution—even one of them was continued in office by King William. But the great ornament of the Irish Bench at this time was John Keating, Chief Justice of the Common Pleas; a great magistrate who, in a slippery or stormy period, exercised official station with mild manners and untainted integrity. This great man was calm, patient, and humane in the trial of prisoners; clear, laborious, and consistent in the discussion of civil suits; faithful to his King and country in the indulgence of political principle, and attached to God in the exercise of Christianity. Thus persecuting Protestants charged him with being a concealed Papist, whilst furious Roman Catholics were confounded at his firm attachment to the established religion. Connected with no party and dignifying office by despising its tenure, he equally resisted the interested views of Clarendon and Tyrconnel. Is it not certain some protest would have been made by these eminent Judges, had Sir Alexander Fitton been, in truth, the unworthy person whom Protestant historians have described?

Their ac-
quiescence
of the
Chancellor.Election
of Irish
Roman
Catholics.

Great allowance must be made for the violence of political writers during this and the succeeding reigns. That the Irish Roman Catholics, plundered and oppressed in the previous century, despoiled of their properties during the time of Cromwell, and looking on the Act of Settlement as obtained by fraud, and a base return for the sacrifices they had made towards the Restoration of the Stuart dynasty, should look on James II. as their Deliverer from the bondage in which they were kept was natural. They expected to be placed in those situations of power and emolument from which they had been de-

barred by the Act of Queen Elizabeth, which directed
 'that all civil and military officials, lay and clerical,
 should take the Oath of Supremacy.' James II., who was
 an avowed Roman Catholic, was desirous of showing how
 much he felt the sufferings of the Irish on account of their
 constancy to the creed of their forefathers.

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Roman Catholics were commissioned to the army, to
 the Bench—Catholic gentlemen were named High Sheriffs
 in counties; the Corporations, hitherto exclusively Pro-
 testant, were now almost as exclusively Catholic, and the
 local magistracy, who so lately scorned to allow a Papist
 to set beside them, found, to their dismay, they were out-
 numbered by the members of the hated creed. No wonder
 alarm and dismay fell upon the whole Protestant popula-
 tion of Ireland. They, who had been accustomed to look
 upon the Papists as the helots of the land, only fit to be
 hewers of wood or drawers of water, now found all those
 high offices and places of dignity, which had been heir-
 looms in Protestant hands, were grasped greedily, and
 clutched firmly by the favourites of the Court. What if
 the children of the Roman Catholic nobility and gentry,
 plundered by the Cromwellian Settlement, should have
 their exile in Connaught ended, or return from abroad,
 and demand their Restoration! Could the Act of Set-
 tlement be repealed? It was stated that when King
 James II. sent Lord Clarendon to Ireland in 1685, the
 Viceroy declared that the King would preserve the Acts

Their pro-
motion to
high
offices.

of Settlement and Explanation, and the Lord Lieutenant
 instructed the Judges to declare this as the Magna Charta
 of Ireland. Would this be adhered to? Soon it was
 found it would not. The first intimation of an intention
 to break this law was a letter written by Sir Richard
 Nagle, Attorney-General for Ireland, one of the most
 eminent lawyers of the day, who, whilst in England,
 pointed out inaccuracies and imperfections in those Acts,
 and their great injustice. This was termed the Coventry
 Letter. Then, when the Earl of Tyrconnel, was appointed
 Lord Lieutenant, on his Proclamation, issued February 21,

Rumours
 of the in-
 tention to
 repeal the
 Act of Set-
 tlement.

CHAP.
XXX.

1686, he promised to defend the laws, liberties, and established religion, but upon debate at the Privy Council, the Acts of Settlement and Explanation were omitted, and Tyrconnel so wrought upon the mind of the King, that he consented to the repeal of the Acts.

Effect upon
the Pro-
testants of
Ireland.

This was a blow at the whole Protestant landowners of the kingdom, and had its irresistible consequence. It alienated the affections of the entire Protestant population from the King and his Government, and before the faithless monarch fled from England, the Ulster nobles and gentry were preparing for civil war.

James II. quitted England on December 23, 1688, and sought shelter at the Court of Louis XIV., who, in compassion to his fallen state, and hoping by his means to check the increasing power of his adversary, William of Nassau, offered him a French army to assert his rights. Among the few magnanimous deeds or words related of the fugitive King is his reply to this offer: 'No Sire, I will recover my dominions by the aid of my own subjects, or perish in the attempt.' He was soon at the head of such Irish troops as were in the service of France, numbering about 1,200, and with a strong armament sailed for Ireland from Brest.

Royal
progress
of James
II.

The progress of King James II., from his landing at Kinsale to his triumphal entry into Dublin, is little known. I am, therefore, induced to describe it here. On his landing, March 12, 1688-9, he was welcomed with shouts and acclamations, bonfires blazed, and windows gleamed with light. He proceeded next day to Cork, and remained at Major-General MacCarthys, where he was joined by Lord Tyrconnel. He continued at Cork from March 13 to 20, during which time the city kept high festival in his honour. On Wednesday, March 20, he took his departure from Cork for Dublin, and lay that night at the Earl of Cork's Castle at Lismore. It was on this occasion his royal nerves were shaken by being suddenly asked to look from the window of the tower which overhangs the Blackwater, and he started back in affright on

seeing the sheer depth of the rock on which the Castle is built.¹ From Lismore he made the next day's journey to Clonmell. On Friday he rested at the Duke of Ormond's Castle at Kilkenny, and on Saturday made a short visit *en passant* to Sir Maurice Eustace's fine seat of Harris-town, near Kilcullen Bridge. All along his Majesty's route was one continuous demonstration of loyalty.² On Saturday, March 24, about noon, he entered the Irish metropolis. The streets, from James's Gate to the Castle, were lined by the regular troops, and, at the entrance to this portion of the city, called the Liberties, there was a stage, hung with tapestry, whereon were two harpers playing. Here a number of Roman Catholic ecclesiastics, in their vestments, met the King, and forty young ladies, clothed in white, preceded him to the Castle, scattering flowers upon his path. The houses along the streets through which the Royal progress lay, displayed great demonstrations of loyalty. Banners waved from roofs and parapets, tapestry fluttered in the breeze, and even the humblest dwelling showed a desire to welcome the Catholic King. At the bounds of the city, the Lord Mayor and Corporation, with the officers of various guilds, in their robes; Ulster King of Arms, with the heralds and pursuivants, in tabards and uniforms, swelled the cortége. Having received the Sword of State, his Majesty handed it to Lord Tyrconnel, who bore it before the King through the city. The Lord Mayor also presented the City Sword and Keys, and the Recorder of Dublin, Prime Serjeant Dillon, read the Address of the Corporation. A line of coaches-and-six, belonging to the Irish nobility, was followed by a guard of honour, numbering two hundred Irish cavalry; then followed the Grand Prior, Fitz James the Duke of Berwick's brother, the State trumpets and drums, with twenty gentlemen-at-large. The

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XXX.

Arrival in
Dublin.

His recep-
tion.

¹ O'Flanagan's Guide to the Blackwater in Munster, p. 50.

² At Carlow he received the same tender demonstrations his grandson Charles Edward did in Scotland; in '45, when the Jacobite ladies contended for his kisses.—Vide Dublin Magazine, p. 106, 1843.

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XXX.
Appearance and
dress of
the King.

King, preceded by Lord Tyrconnel, bearing the Sword of State, rode a spirited charger; he wore a suit of plain cinnamon-coloured cloth, and a black slouching hat; a George being over his shoulder, with a blue ribbon. He was escorted by the Duke of Berwick, Lord Granard, Lords Powis and Melford on his right, with their hats on. Close behind rode a troop of dragoons; then a number of Peers and gentlemen, more guards and attendants; then coaches of Peers and gentlemen, amongst them the Judges, who wore their robes, closed the procession.

Startling
incident.

A startling incident occurred while the King was riding along in this order. One Flemming, a Scotchman, rushed through the crowd in Skinner's Row, flung his hat high in the air, and cried aloud, 'Let the King live for ever!' Then catching his Majesty's hand, fervently kissed it, and ran capering after his hat.¹ As the procession proceeded, the favourite tune played was 'The King enjoys his own again,' and the shout, 'God save the King!' was not disturbed by a dissentient voice. As he approached the Castle, the Roman Catholic Primate, and several other bishops, and members of various religious orders, met him. The first act of the King, on dismounting, was to kneel and receive the blessing from the Roman Catholic Primate.

Te Deum.

Thus, in triumph and splendour, James II. entered Dublin. When he rested a brief space, he repaired to the Castle Chapel, where a Te Deum was sung for his happy arrival. Then a grand banquet followed in the new banqueting hall, which Tyrconnel had built.

Proclama-
tion for a
Parlia-
ment.
Number
of Lords
and Com-
mons.

Next day, a proclamation issued for assembling a Parliament in Dublin on May 7. No Catholic Bishops were summoned, though among the Spiritual Peers were six Protestant Bishops, including the Primate of the Protestant Church. One Duke, ten Earls, sixteen Viscounts, and twenty-one Barons, with the six Bishops, constituted King James's House of Lords. The Commons returned 224² Members.

¹ Dublin Magazine, p. 106, 1843.

² Vide The Irish Parliament of 1689. Dublin Magazine, p. 113, 1843.

They met at the King's Inns, on May 7, and the King opened Parliament in person. He wore his Royal robes with the Crown. The Commons being summoned, His Majesty delivered the Speech from the throne:—
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XXX.

‘ My Lords and Gentlemen,

King's
speech.

‘ The exemplary loyalty which this nation hath expressed to me at a time when *others of my subjects undutifully misbehaved themselves to me, or so basely deserted me*; and your seconding my Deputy as you did in his firm and resolute asserting my right, in preserving this kingdom for me, and putting it in a posture of defence, made me resolve to come to you, and to venture my life with you in defence of your liberties, and my own right. And to my great satisfaction, I have not only found you ready to serve me, but that your courage has equalled your zeal. I have always been for Liberty of Conscience, and against invading any man's property, having still in my mind, that saying in Holy Writ, *Do as you would be done to, for that is the Law and the Prophets.*

‘ *It was this Liberty of Conscience I gave, which my enemies both abroad and at home dreaded; especially when they saw that I was resolved to have it established by law in all my dominions, and made them set themselves up against me, though for different reasons.* Seeing that if I had once settled it, my people (*in the opinion of the one*) would have been too happy; and I (*in the opinion of the other*) too great.

‘ *This Argument was made use of, to persuade their own people to joyn with them, and too many of my subjects to use me as they have done.* But nothing shall ever persuade me to change my mind as to that; and wheresoever I am the master, I design (God willing) to establish it by law, and have no other test or distinction but that of loyalty.

‘ I expect your concurrence in so Christian a work, and in making laws against prophaneness and all sorts of debauchery.

‘ I shall, also, most readily consent, to the making such

¹ Vide the Irish Parliament of 1689. Dublin Magazine, p. 476, 1843.

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XXX.Reference
to Act of
Settlement.

good and wholesome laws as may be for the general good of the nation, the improvement of trade, and the relieving of such as have been injured by the late Acts of Settlement, as far forth as may be consistent with reason, justice, and the publick good of my people. And as I shall do my part to make you happy and rich, I make no doubt of your assistance, by enabling me to oppose the unjust designs of my enemies, and to make this nation flourish.

‘ And to encourage you the more to it, you know with what ardour, generosity, and kindness, the Most Christian King gave a secure retreat to the Queen, my son, and Myself, when We were forced out of *England*, and came to seek for protection and safety in his dominions; how he embraced my interest, and gave me such supplies of all sorts as enabled me to come to you, which, without his obliging assistance, I could not have done; *this he did*, at a time when he had so many and so considerable enemies to deal with, *and you see still continues to do so*.

‘ I shall conclude as I have begun, and assure you I am as sensible as you can desire, of the signal loyalty you have expressed to me, and shall make it my chief study, as it always has been, to make you and all my subjects happy.’¹

At the conclusion of the King’s Speech, the Lord Chancellor, Lord Gawsorth, directed the Members of the House of Commons to retire and elect their Speaker. They obeyed and chose Sir Richard Nagle, with whose abilities and character we are already familiar. I must add a short notice of this ornament of the Irish Bar.

Sir Richard
Nagle
Speaker.

¹ This speech corresponds with that given by Lesley, and James’s own memoirs. It is stated to be printed from an authentic manuscript, printed and sold by E. Rider, Dublin, 1740. The Acts of this Parliament were printed and sold at his Majesty’s printing house, Ormond Quay, and at the College Arms in Castle Street, 1689. Great pains were subsequently taken to destroy the original editions of these Acts. They were burnt in the Castle Chamber, and 500*l.* penalty imposed on persons retaining copies. One only is said to be in existence—the Act for raising 20,000*l.* a month, in the King’s Inns Library. Vide the ‘ Statutes of 1689 ’ in the Dublin Magazine, p. 29, 1843.

Richard Nagle was born on the banks of the Munster Blackwater, and, it is said, the old Castle of Carrignacunna (now the property of Mr. Foot) was the home of his childhood. King says he was educated among the Jesuits, and designed for a clergyman, but, afterwards, studied law, and arrived at great perfection. We have seen, in the 'Life of Sir Charles Porter,' that he declined the honour of being a Privy Councillor rather than give up his practice at the Bar, and Tyrconnel rightly considered him a proper person to advise the King upon the affairs of Ireland, when he brought him to England in 1686. Nagle's reputation was so justly high, that this selection on the part of Tyrconnel was regarded with dismay by parties interested in maintaining the Act of Settlement intact. It is recorded that 'on being informed of Nagle's arrival in London, they were so transported with rage, that they had him immediately sent out of the city.' Upon this Nagle wrote his celebrated letter from Coventry.¹

In this letter, dated Coventry, October 26, 1786, he shows the reasons which induced the passing of the Acts of Settlement and Explanation, that it was for their religion the estates of the Irish Catholics were sequestered, and the hardship of allowing these Acts to remain unrepealed. He was at once regarded as the ablest man of his party, received the honour of knighthood, and was made Attorney-General in 1687.² Duhigg³ bears the following high testimony to his character. 'James's Attorney-General, Sir Richard Nagle, dignified that situation by exchanging its usual character for that of a stern, inflexible patriot. He carried measures similar to those of 1782, and thus paid homage to the excellence of English law by transferring its full and complete enjoyment to his

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XXX.

Account
of Sir R.
Nagle.

¹ The Irish Parliament of 1689. Dublin Magazine, p. 119, 1843.

² The Nagles of Anakissy, near Mallow, County Cork, now represented by my talented friend and kinsman, David A. Nagle, Esq., Town Councillor of Cork, is a branch of the family from which Sir Richard Nagle traced descent.

³ History of the King's Inns, p. 236.

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XXX.

countrymen.' On the arrival of James II. in 1688-9, Sir Richard Nagle was made Secretary of State, but this could not have been for some time, as he was undoubtedly Speaker of the House of Commons during the short Session, commencing May 7, 1689, and ending on July 20, of the same eventful year.

As the proceedings of this Parliament were subsequently declared null and void, and the Acts passed were burned and of no effect, it is only as historical events I refer to them. They show how fully men of all creeds and classes recognised James as their lawful Sovereign, and how blindly attached were the Irish to a race which so little deserved such devotion.

The Lords who sat in King James II.'s Irish Parliament at Dublin, May 7, 1689 to November 12, were —

Peers who sat in King James's Parliament.

Sir Alexander Fitton, Lord Baron of Gawsworth, Lord Chancellor;
Dr. Michael Boyle, Lord Archbishop of Armagh, Primate of all Ireland;
Richard Talbot, Duke of Tyrconnel.

EARLS.

Nugent Earl of Westmeath.
MacDonel " Antrim.
Barry " Barrymore.
Lambert " Cavan.
MacCarthy " Clancarty.
Power " Tyrone.
Aungier " Longford.
Forbes " Granard.
Dougan " Limerick.

VISCOUNTS.

Preston Viscount Gormanston.
Butler " Mountgarett.
Dillon " Costello and Gallen.

Nelterville " Dowth.
Magennis " Iveagh.
Sarsfield " Kilmallock.
Bourke " Mayo.
Dempsey " Glannamlier.
Brien " Clare.
Butler " Galmoy.
Barnewall " Kingsland.
Parsons " Rosse.
Bourke " Galway.
Brown " Kenmare.
Cheevers " Mount Leinster.

BISHOPS.		
A. Dopping	Bishop of Meath.	
T. Otway	" Ossory and Kilkenny.	
E. Wetenhall	" Cork and Ross.	
S. Digby	" Limerick and Ardfert.	
BARONS.		
Bermingham	Baron of Athenry.	
Courcy	" Kinsale.	
Fitz Maurice	" Kerry.	
Fleming	" Slane.	
St. Laurence	" Howth.	
Barnewall	" Trimblestown.	
Plunkett	" Dunsany.	
Butler	" Dunboye.	
Fitz Patrick	" Upper Ossory.	
Plunkett	" Louth.	
Bourk	" Castle Connell.	
Butler	" Caher.	
Bourke	" Brittas.	
Blaney	" Monaghan.	
Malone	" Glenmalure.	
Maguire	" Enniskillen.	
Hamilton	" Strabane.	
Bellew	" Duleek.	
Bourke	" Bophin.	
Nugent	" Riverstown.	

There was, also, a very national House of Commons assembled. The names of the Members, as given in Archbishop King's work, and in the Appendix to Plowden, are unmistakably Irish, with the exception of three—Francis Plowden and Dr. Stafford, returned for the borough of Bannow; and Luke Dormer, Member for New Ross. The Members, with six exceptions, are supposed to have been all Roman Catholics, and Plowden states—‘were probably the fairest representation of the people of Ireland that ever were sent to any Parliament in that country.’¹

The Roman Catholics now beheld the long-coveted opportunity of regaining possession of their forfeited estates. Many Members of the House of Commons remembered their ancestral homes, from which they had been ruthlessly expelled by the troopers of Cromwell, or the merciless undertakers, who, for some inconsiderable sum, had become master of the broad lands in which the forefathers of the Members dwelt. Several were of families whose afflicted mothers, despairing fathers, and weeping sisters had been transplanted to the wastes of Clare, or the rock-bound coasts of Connaught, and were ready to grasp at the chance of again looking upon the pleasant fields in which they had played in their youth, the forest glades through which they had hunted in more mature years, and of ejecting in turn those who forcibly, with the word of God on their lips, but the sword in their hands, offered the choice of ‘Hell or Connaught’ to the Irish Papist. These were, no doubt, the motives which made the now dominant party demand from the King the repeal of the Acts of Settlement and Explanation. The King could not, for, if unwilling, he was unable to refuse their demand. Accordingly a Bill was prepared, reciting ‘the sacrifices which the Roman Catholics of Ireland had made for the Royal authority; how the usurper, Oliver Cromwell, seized and sequestered their estates, and gave them to his soldiers and adherents; that two Acts of Parliament passed here,

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XXX.

The House
of Com-
mons.

Nearly all
Roman
Catholic.
Opinion
of Plowden
the his-
torian.

Roman
Catholics
desire to
regain
their plun-
dered
homes.

Bill to
repeal the
Acts of
Settle-
ment.

¹ Hist. Review, vol. i. Appendix, p. 138.

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XXX.

one intituled “An Act for the better execution of his Majesty’s gracious declaration for the Settlement of the Kingdom of Ireland, and satisfaction of the several interests of adventurers, soldiers, and others his subjects there ;” the other Act, intituled “An Act for Explaining of some doubts arising upon an Act intituled an Act for the better execution of his Majesty’s gracious declaration for the settlement of his Kingdom of Ireland, and satisfaction of the several interests of adventurers, soldiers, and others his subjects there ; and for making some alteration of, and additions unto, the said Act for the more speedily and effectual settlement of the Kingdom ;” by which many of the said Catholic subjects were ousted out of their ancient inheritances, without being as much as heard, and some were distributed amongst Cromwell’s soldiers and others, who, in justice, could not have the least pretence, contrary to the peace made in 1648, and contrary to justice and natural equity. Be it enacted by the King’s most excellent Majesty, with the consent of the Lords Spiritual and Temporal, and the Commons in this present Parliament assembled, and by the authority of the same, that the said two several Acts, &c., be and are hereby repealed.²

Compensa-
tion.Lord Chan-
cellor to
appoint
Commis-
sioners.Dismay of
the set-
tlers.

The Act, which was a very comprehensive one,¹ provided compensation for innocent purchasers, or incumbrancers, out of the estates of rebels, and authorised the Lord Chancellor to appoint Commissioners to inquire and report upon the estates of rebels on August 1, 1688. Such Commissioners to allot and reprise these, who, on petition, shall be entitled to claim reprisal.

We can well imagine the dismay and alarm of the settlers during the progress of this Bill through Parliament. The estates for which their fathers risked life and limb, for which they conquered or intrigued, which many had bought with cash, and from which they had expelled the Irish without the least compunction, were now to be taken

¹ A very full transcript is given in Plowden’s Hist. Review, vol. i. Appendix, p. 171.

from them. They, in their turn, were to be transplanted, and shoots of the old stem were to grow up in the old soil. Such opposition as they best could make, they did. An address to King James on behalf of purchasers, under the Act of Settlement, was prepared by Chief-Justice Keating¹ —a most able document. It was on behalf of purchasers who, 'for great and valuable considerations, have acquired lands and tenements in this kingdom, by laying out, not only their portions and provisions made for them by their parents, but also the whole product of their own industry, and the labour of their youth, together with what could be saved by a frugal management, in order to make some certain provision for old age and their families, in purchasing lands and tenements under the security of divers Acts of Parliament and public declarations from the late King; and all these accompanied by a possession of twenty-five years.' This address showed that by the conduct of Charles I. and Charles II. the Settlement was binding; that the Acts were passed with all the formalities usual in Acts of Parliament in Ireland; viz., framed by the Chief-Governor and Council of Ireland, with the advice of the Judges and his Majesty's Council there; transmitted to England; considered by the Council, before whom Counsel and agents of the Irish pretending to be the proprietors were heard; and the Acts of Settlement, having passed both Houses of Parliament, received the Royal assent, as did in like manner the Act of Explanation.

Dopping, Lord Bishop of Meath, on June 4, 1689, in his place in the Irish House of Lords, delivered a very able and argumentative speech against the Bill for repealing these Acts. He contended this Bill unsettled a formal foundation (upon which this kingdom's peace and flourishing were superstructed), and designs to erect another in its stead, the success whereof is dubious and uncertain. He urged it was unjust to turn men out of their estates without any fault or demerit, to deprive widows of their

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XXX.Address to
King
James.Forma-
lities with
which the
Acts were
passed.The Bishop
of Meath
speaks
against
the Bill.

¹ Archbishop King's State of the Protestants, Appendix, p. 96.

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XXX.

jointures, and children of their portions, whose money had been laid out on the public faith of the nation, declared in two Acts of Parliament, and on the public faith of his Majesty's Royal brother, expressed in his Letters Patent. He showed how delusive was the nature of the reprisals promised by the Bill ; that the repeal was neither for the public or the King's good, that it would not only ruin the kingdom and people, but destroy all public faith, and was inconvenient in point of time.

Bill passed, and received the Royal Assent. Lesley states King James was against the repeal.

Despite all opposition, the Bill passed both Houses, and received the Royal assent. We are told, indeed, and I believe truly, that James was unwilling to pass the measure, and Bishop Lesley states, ' As to his carriage in Ireland, I have heard not a few of the Protestants confess, that they owed their preservation and safety, next under God, to the clemency of King James, who restrained all he could the insolence and outrage of their enemies, of which I can give you some remarkable instances and good vouchers. I appeal to the Earl of Granard whether Duke Powis did not give him thanks from King James for the opposition he made in the House of Lords to the passing of the Act of Attainder, and the Act for the Repeal of the Act of Settlement ; and desired that he, and other Protestant Lords, should use their endeavours to obstruct them. To which the Lord Granard answered, " that they were too few to effect that ; but if the King would not have them pass, his way was to engage some of the Roman Catholic Lords to stop them." ' To which the Duke replied, " that the King durst not let them know that he had a mind to have them stopt. " '

Old proprietors seek to recover their estates,

The representatives of the old inheritors having now the law in their favour, were not slow to act upon it. The process appointed for the Acts of Repeal to be administered by Commissioners was too tedious for the eager claimants. According to Archbishop King,¹ the following device was adopted to get into possession more speedily. Wherever the Protestants had let their lands to Catholic

¹ State of the Protestants, p. 182.

tenants, these tenants forsook the Protestant landlord, and became tenants to the pretended Catholic proprietors. Several Protestants filed bills in Chancery, complaining of this as contrary to the Act, which allowed them to keep possession until May, 1690, which not being yet come, or any Commission being appointed to execute the Act, they moved for injunctions to quiet the possessions; but the Chancellor answered, 'That this did not concern landlords who let their lands, but only such as occupied farms themselves; and that the Parliament had granted that indulgence to them, only that they might have time to dispose of their stocks, which not being the case with those who had tenants, they must go to common law and try their titles.' By this means most of the old proprietors got into their estates.¹

The following were among the Acts passed by the Parliament of Ireland, elected in the reign of James II. A.D. 1689 :—

'An Act declaring that the Parliament of England cannot bind Ireland, and against writs of error and appeals

¹ The notice to quit served on the new proprietor, and also the order to restore possession to the old, were as follows :—

'County Kildare. } By the Lord Lieutenant of the County of Kildare and
'County Kildare. } one of his Majesty's Most Honourable Privy Council.

'Sir,—This is to let you understand that I am authorised to give the proprietor possession of the land of Ballysannan, &c., according to the Act of Parliament; and that you may not be surprised therein I give you this notice,
from, Sir,

'Your loving friend and servant,

'CHARLES WHITE.'

'For John Annesly, Esq.'

SECOND ORDER.

'Whereas Luke Fitz Gerald, Esq., has proved himself before me to be the ancient proprietor of the town and land of Ballysannan, and that his ancestors were possessed of their mansion house there in the year 1641. I do therefore, in pursuance of his Majesty's orders unto me, appoint the under-named persons to give possession of the mansion house there to Luke Fitz Gerald, Esq. And for so doing, this shall be your warrant.

'Given under my hand and seal this 6th day of May 1690, I do hereby appoint Captain W. Archbold or Captain J. Dillon, of Athy, to give possession of the mansion house of Ballysannan.

'CHARLES WHITE.'

'To Luke Fitz Gerald, Esq.'

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XXX.

Speedy
method.

Com-
plaints in
Chancery.

Chancellor
refuses
relief in
Equity.

Abortive
Acts of
James's
Parlia-
ment.

CHAP.
XXX.

to be brought, for removing judgments, decrees, and sentences in Ireland into England.

‘An Act for repealing the Acts of Settlement and Explanation.

‘An Act for taking off all incapacities of the natives of the kingdom.

‘An Act for repealing the Act for keeping and celebrating the 23rd of October, as an anniversary thanksgiving in this kingdom.

‘An Act for Liberty of Conscience, and repealing such Acts and Clauses in any Act of Parliament which are inconsistent with the same.

‘An Act for repealing an Act entitled “An Act for Confirmation of Letters Patent, granted to his Grace, James Duke of Ormond.”

‘An Act for the encouragement of strangers and others to inhabit and plant in the kingdom of Ireland.

‘An Act prohibiting the importation of English, Scotch, or Welsh Coals into this Kingdom.

‘An Act for vesting in his Majesty the Goods of Absentees.

‘An Act for the advance and improvement of Trade, and for the encouragement and increase of Shipping and Navigation.

‘An Act for the attainer of divers rebels, and for preserving the interests of loyal subjects.’

Its legality asserted.

The legality of King James’s Parliament was not without defenders. It was contended the three elements of a legal Parliament, King, Lords, and Commons, existed in it. The Commons were summoned by writs directed to the legal returning officers. In the upper house, the Peers, Spiritual and Temporal, were summoned, and sat in the usual way. The five new creations of Peers were made legally and in order. This was the opinion of Mr. Lynch in his Legal Institutions.

Arguments against it.

On the other side, it was argued that James was no longer King, when he issued the proclamation and writs for assembling the Parliament; that the English Con-

vention Parliament of 1688 gave the Crown to William and Mary; that the moment William became King of England, he was instantly King of Ireland, and then Parliament passed a bill of rights—expelled the late King and his dynasty; limited the crown to Protestants; forbade the King marrying a Roman Catholic, and limited carrying arms to Protestants; abolished the oaths of allegiance and supremacy, substituting the oaths of allegiance and abjuration; gave the crown of England, France, and Ireland to William and Mary, and the administration exclusively to King William III.¹

CHAP.
XXX.
Convention
Parliament
of 1688.

William
and Mary.

The events which followed William's progress to the Boyne are familiar to the readers of Irish history. Tyrconnel accompanied James in his flight to France, and returned to Limerick, where he died suddenly. On his death, the Lord Chancellor, Chief Baron Rice, and Plowden, assumed the office of Lords Justices, but their tenure of office was of brief duration.

Lord Chancellor Fitton was succeeded by Sir CHARLES PORTER as Lord Chancellor in 1691. Fitton was attainted, and it is supposed followed his Royal Master to France, and died there. Whether the conduct of Fitton before he was made Chancellor was criminal or innocent, God only can judge, but His hand fell heavily upon the representatives of the Fittons of Gawsorth. 'In less than half a century the husbands of its two co-heiresses, James Duke of Hamilton and Charles Lord Mohun, were slain by each other in a murderous duel, arising out of a dispute relative to a partition of the Fitton estates; and Gawsorth itself passed into an unlineal hand by a series of alienations complicated beyond example in the annals of this county.'²

Fate of
Lord Chan-
cellor
Fitton.

Of Gaws-
worth.

Though no doubt the troubled reign of James II. was little favourable to steady pursuits, the course of law flowed on uninterruptedly amid the crash of thrones and fall of dynasties. There are nearly a hundred Chan-

Chancery
business
in Ireland
during the
Reign of
James II.

¹ Parliament in Ireland 1689. Dublin Magazine, p. 173, 1843.

² Ormerod's Cheshire, vol. iii. p. 295.

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XXX.

every decrees made during the reign of James II. enrolled. I have looked carefully through those made while Lord Gawsworth held the Seals, but could observe nothing to mark ignorance of his duty, or incapacity to perform it. He confirms reports, dismisses bills, decrees in favour of awards, grants injunctions, with the confidence of an experienced equity judge.

CHAPTER XXXI.

LIFE OF LORD CHANCELLOR METHUEN.

THE Methuens, or Methvens, derive their name from the Barony of Methven, in Perthshire, granted by Malcolm Canmore, King of Scotland, to one of the knights who escorted Queen Margaret from Hungary in 1070. The name and achievements of JOHN METHUEN are much more familiar to the diplomatic than to the legal world ; but as he filled the high office of Lord Chancellor of Ireland for some years, from 1697 to 1701, I give as full an account of him as my diligence enables me. He was eldest son of Mr. Methuen, of Bishop's Canning, Wilts, and destined for the legal profession. Having kept the usual terms, he was called to the bar. After several years of moderate practice, his talents were employed in the diplomatic service, and he was despatched to Portugal as Envoy during the reign of King William III. He was greatly esteemed for his prudence, tact, and general information ; so much so, that when Sir Charles Porter, Lord Chancellor of Ireland, died suddenly in 1696, the high character of the Portuguese Envoy then in London, at once recommended him as a fit and proper person to hold the Irish Great Seal.

In a letter dated December 2, 1696, addressed by Mr. Vernon to the Duke of Shrewsbury, we find the character of Mr. Methuen favourably mentioned.¹ Alluding to the recent death of the Lord Chancellor, the letter continues : 'Mr. Secretary Trumbull came some time after with the accounts he had received of it. So I don't doubt but he is to dispatch the orders that will be requisite either for supplying the commission of justices, or appointing commissioners for the Seal, till the King thinks of a fit person

CHAP.
XXXI.Methuen,
more
known in
diplomacy
than law.A native
of Wilt-
shire.Practised
at the Bar.Envoy in
Portugal.

In London.

Letter to
the Duke
of Shrews-
bury.

¹ Letters of the Reign of William III. vol. i. p. 100.

CHAP.
XXXI.

Qualifica-
tions of
Methuen
for the
office of
Lord Chan-
cellor.

for Chancellor. I have been thinking of it in the meantime, and none occurs to me more fit than Mr. Methuen, as well for his prudence and principles, as his having been bred up in these courts.

¹ I have further considered, that if your Grace should ever go for Ireland, as was once talked of,¹ you would have in this man one that you might entirely depend on, or otherwise you might oblige him in contributing to his advancement to that post, and have the Envoyship of Portugal to dispose of, as once you intended. I was so full of it that I mentioned to my Lord Portland what I thought of this gentleman's deserts, and he spoke as if he had a very good opinion of him. I have since taken some notice of it to Mr. Methuen himself, who apprehends it may be thought too honourable a post for him; but he don't look upon himself as unqualified to discharge it.²

² I thought it worth while for him to try his friends. He thinks himself very well already in my Lord Sunderland's good opinion, and has a friend who can fix him if he be not engaged. He believes, too, my Lord may have favourably thought of him; and I promised him to open the matter to your Grace, believing, if you had not previously entered into any consideration about the disposal of this office, you might wish one so well qualified in it, and if that were your opinion, you would write to my Lord Keeper about it. It will not be judged fit, I suppose, to take any of the Irish lawyers,³ both as to the country and the factions they are divided into, and one to be sent from hence should not be merely chosen for his abilities at the bar; and when Sir Charles Porter was sent, I think he might as little have pretended to it as this gentleman, who to his knowledge in the law has added his experience abroad, and his commendable behaviour in the House of Commons.

No Irish
lawyer
likely to
be ap-
pointed.

¹ The Duke of Shrewsbury was Viceroy but not when Methuen was Chancellor.

² It is related that he aspired to the Chancellorship of England.

³ Very like the modern advertisement ending 'No Irish need apply.'

'But I submit all to what your Grace shall judge of it.'¹

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This able and astute letter put the qualifications of Methuen in so favourable a light, that the Duke of Shrewsbury immediately acted on the suggestion. Lord Somers, then the powerful Lord Chancellor of England, recommended him to the King, who consented; but there was some delay in substituting a successor to carry on the negotiations with Portugal which Methuen had commenced. Sir John Rushout was mentioned, but the King would not agree, and remained undecided with regard to removing Methuen for some time. At first the English Chancellor was rather surprised to find Mr. Methuen soliciting this office, and expressed as much. In an interview he received the Envoy very kindly, told him 'he had been thinking who was proper for his place, but he had not yet mentioned it to any body; there were one or two occurred to him, but he doubted whether they would accept it if it were offered to them. He excused it to him that he could not say he (Methuen) had been in his thoughts, looking upon him as one that had addicted himself another way; but he now promised him that he would take no resolutions without first communicating them to him.' The Chancellor made up his mind, and the result was altogether in favour of the Envoy. The fact of Lord Somers recommending Methuen to the King, shows he considered Methuen well qualified for the office, and he was declared Chancellor of Ireland at a Council held in January, 1696-7.

Before leaving London the diplomatic Chancellor tried to do a service, as was but natural, to his son. He represented that young gentleman as the fittest person to succeed him as Envoy in Portugal; the most capable and acceptable minister that could be sent there. He was young, to be sure—twenty-four years of age,—but a great favourite with the King of Portugal, and a good linguist,

Lord
Chancellor
Somers
approves.

Interview
with Lord
Somers.

Methuen
appointed,
A.D. 1696-
97.

Recom-
mends his
son as
Envoy in
Portugal.

¹ Letters of the Reign of William III. edited by James, vol. i. p. 101.

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speaking French, Spanish, Portuguese, and Italian, with great fluency and exactness.¹

The Lord Chancellor sworn into office.

On June 15, 1697, the Lord Chancellor took the oaths and subscribed the declaration, pursuant to the Act for abrogating the Oath of Supremacy in Ireland. On that day he attended the House of Lords in Ireland as Speaker, and took his seat on the Woolsack.²

The Bishop of Derry's case.

The Lord Bishop of Derry being dissatisfied with an order made by the Lord Chancellor of Ireland, on June 22, in a cause wherein William Lord Bishop of Derry was plaintiff, the Society of the Governor and Assistants, London, for the New Plantation of Ulster, and the Mayor, Commonalty, and Citizens of Londonderry and others were defendants, petitioned the House of Lords of Ireland, praying to have an appeal received and to be relieved against the order.

Protest.

The Lords were willing to grant the prayer of the petition considering they had the right to hear appeals, thereupon the following protest was entered on the Journals of the Lords:—‘We, whose names are under written, do dissent from the last vote, for receiving the Bishop of Derry's Appeal. We think it right not to have been received now, because we conceive that the said Bishop was relievable in the inferior Courts of Justice, and therefore this appeal was not brought regularly before this House.

Career of Sir Paul Methuen.

¹ His future career justified the Chancellor's encomium. He was the celebrated Sir Paul Methuen, he lived much on the Continent and was bred to diplomacy. In 1706, he succeeded the Right Hon. Richard Hill as minister to the Duke of Savoy. In September of that year, when the French were beaten before Turin, he was in attendance on the Duke, and shared his battles and skirmishes. Voltaire, who entertained a warm friendship for him, says that Methuen gave him an account of the battle and the dying words of Marshal Marsin. In the ‘Siècle de Louis XIV,’ Voltaire says, ‘Le chevalier Methuen ambassadeur de l'Angleterre auprès le duc de Savoie, était le plus généreux, le plus franc, et le plus brave homme de son pays qu'on ait jamais employé dans les ambassades. Il avait toujours combattu à côté de ce souverain.’ He was the friend of Pope and Gay, the latter paid him this compliment:—

— ‘Methuen of sincerest mind,
As Arthur brave, as soft as womankind.’

² Lords' Jour. Ir. vol. i. p. 596. His patent is dated March 11, 1697.

‘ That if upon any order of Court appeals be admitted, when such order tends only to the better information of the Judges, everyone who is impatient of such post delay will bring his appeal, and the proceedings of the inferior Courts of Justice will be much interrupted ; and we do not find that this House has received appeals but in cases where judgments or decrees were given, which was not in this case.

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‘ MOUNT ALEXANDER,
‘ LOFTUS,
‘ MASSAREENE.’

Notwithstanding the protest, the case was argued at the Bar on September 22, in the presence of Counsel. It was concerning the possession of some portion of land called Moylenan, in the city of Londonderry ; and upon due consideration, and of the answer of the respondents, and of the proofs made, ‘ the Lords Spiritual and Temporal ordered and adjudged that the orders of June 22, 1697, be reversed, but that the respondents should have liberty to try them both at law.’¹ Some doubts having arisen whether the rights of the Church should be in any way prejudiced by a Bill entitled ‘ An Act for confirming estates and possessions held and enjoyed under the Acts of Settlement and Explanation,’ the matter was referred to the Judges, whose opinion was reported to the House of Lords by Chief Justice Pyne, on October 28, 1698, in these words : ‘ On consideration of the Bill entitled “ An Act for confirming estates and possessions enjoyed under the Act of Settlement and Explanation,” there appears nothing therein to us that does, in anywise, prejudice the rights of the Church.’²

Appeal
heard.

Order of
Lord Chan-
cellor
Methuen
reversed.

Question
referred to
the Judges.

Their
opinion.

The
Bishops
disagree
with the
Judges.

This decision of the Judges did not give consolation to several of the Bishops, who, on the majority of the Peers voting for the Bill, entered a protest : ‘ 1. Because by the Acts several Bishops were to have augmentations which had not been satisfied. 2. Because by the aforesaid Acts

¹ Lords’ Jour. Ir. vol. i. p. 695.

² Ibid. vol. i. p. 696.

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all rights to the Church were saved, and all lands, &c. of which the Church was possessed in 1641 were to be restored, which was not done, and by this Act the Church would be barred from recovering them. 3. Because by the clause for discharging patentees' lands from ancient encumbrances and debts, rent charges payable to Bishops and other Protestants would be discharged. 4. Many Protestants would be barred from recovering lands if the Bill passed. And 5. No saving for the King as in the Acts of Settlement and Explanation.'

This protest was signed by five Irish Bishops.

An Act meeting the wishes of the Bishops was then prepared and passed.

Roman
Catholics
not to be
solicitors.

The Lord Chancellor as Speaker of the Lords had to open the engrossed Bills sent up by the House of Commons in January 1698, entitled 'An Act to prevent Papists being solicitors,' which was speedily passed.¹ Some useful Acts also passed. One against 'Gaming,' another for 'Determining Differences by Arbitration,' another for encouraging 'Planting and Preserving Timber Trees and Woods.'

Methuen
a bad
Chancel-
lor.

As might have been expected from one who, as Lord Chancellor Somers remarked, 'had addicted himself another way,' from his profession, Lord Chancellor Methuen made a bad and dilatory Equity Judge. He was very desirous to do what was right, but was doubtful how to do it, and, afraid of committing grave mistakes, postponed deciding any but the plainest causes. When the cause presented matter for more than one decision, he occasionally made a decree partly for the plaintiff and partly for the defendant, so that he might, if possible, satisfy all parties. The Court of Chancery in his time was grown very costly for suitors; office rules and general orders beset the clients at every step, while the repeated delays occasioned by the absence of the Lord Chancellor in England amounted to a denial of justice. During the eleven years of William III.'s reign, I do not find more than

¹ Lords' Jour. Ir. vol. i. p. 748.

ninety-eight decrees enrolled, though I am quite certain many more must have been pronounced.

Hyde, Earl of Rochester, Lord-Lieutenant of Ireland from 1701 to 1703, is mentioned by Dean Swift in very high praise. He began early to distinguish himself in the public service, and passed through the highest employments of the State in most difficult times, with great credit and unstained honour. His principles of religion and loyalty were instilled into him by his illustrious father and other noble spirits who had exposed their lives and fortunes for Charles I.

Pulcherrima proles,
Magnanimi heroes natis melioribus annis.

His first great action was, like Scipio, to defend his father when oppressed by numbers; and his filial piety was not only rewarded with a long life, but high and distinguished appointments.

The state of parties in Ireland had no attractions either for Lord Rochester or the diplomatist. While Methuen was Lord Chancellor, he was, as I already mentioned, frequently absent,¹ and England was a country he was much happier in than that which might be regarded as the proper sphere of his duties. When an opportunity presented itself of his filling a high position as representative of England at the Court of Portugal, all his old love of the Continent and diplomatic life returned with full force. He gladly accepted the offer made him, and without a sigh, saw the once coveted Great Seal of Ireland transferred to his veteran successor, Sir Richard Cox. He filled the important office of Ambassador at the Court of Lisbon, and was responsible for the Treaty which bears his name.² This Methuen Treaty was so distasteful to the Portuguese, that it is said, when, in 1701, it was

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Small
number of
decrees
enrolled.
Earl of
Rochester
Lord Lieu-
tenant,
1701-3.

Absence of
the Chan-
cellor.

Offered the
appoint-
ment of
Ambas-
sador at
Lisbon.

Methuen
Treaty.

¹ From December 11, 1697, to August 15, 1698; again from January 20, 1700, to July 7, 1701. He returned to England December 1701, and did not again resume his judicial duties in Ireland.

² The Methuen Treaty was for the mutual interchange of port wine and woollen manufactures, and regulated this trade until very recently.

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How King
Pedro II.
treated the
Treaty.

Ex-Chan-
cellor died
at his post,
A.D. 1706.

Duke of
Marl-
borough's
letters.

carried to King Pedro II. for his signature, he vigorously set to and kicked it about the room. It is likewise related the Ambassador himself was so little pleased with his own work, that he privately advised Queen Anne not to ratify it. The Ambassador died at his post in Lisbon in the year 1706. His death was sudden, and his loss much lamented by the politicians of the time. The Duke of Marlborough, writing to Mr. Secretary Harley from the Camp at Helchin, on August 12, 1706, thus refers to him : —‘I had an account from Mr. Secretary Hedges of the sudden death of Mr. Methuen, at Lisbon, when the situation of affairs in Spain seemed most to require his assistance, since we have no account yet of King Charles's approach to Madrid. His timely appearance there would, in all probability, put an end to the war on that side.’¹ In a letter to Mr. Secretary Hedges the Duke alluded to the same subject : ‘I have received the favour of your letter of 26th past, giving an account of the sudden death of Lord Ambassador Methuen, which is very unlucky at this critical juncture, when our affairs in Spain seem much to want his assistance in encouraging the Court of Portugal to continue steady and resolute in pursuing the war, under the difficulties we are like to meet with for want of King Charles's timely appearance at Madrid.’²

The family has since been ennobled, and is now represented by Frederick, second Baron Methuen, married to Anna, daughter of the Reverend John Sandford of Nynehead Somerset, and has issue.

¹ The Marlborough Despatches, vol. iii. p. 78.

² Ibid. vol. iii. p. 79.

CHAPTER XXXII.

LIFE OF LORD CHANCELLOR SIR RICHARD COX, BART., FROM HIS BIRTH
TO HIS APPOINTMENT AS CHIEF JUSTICE OF THE COMMON PLEAS.

MICHAEL Cox, grandfather of the subject of my memoir, was the youngest son of Richard Cox, of Bishop's Cannings, in Wiltshire. He came to Ireland during the reign of James I., when many English and Scotch adventurers settled in that kingdom. He selected a pleasant location on the banks of the river Funcheon, near Kilworth, in the county of Cork. Here he amassed a considerable fortune, 5,000*l.* or 6,000*l.*; but, during the civil war of 1641, he was despoiled of the most part of his substance, and little remained to his family.

In those days, when men's hands constantly grasped the sword, the military profession was sure to be selected by members of every family. Richard, third son of Michael Cox, of Kilworth, became a captain in Major-General Jephson's regiment of horse. He was well qualified for his calling, being strong and valiant, and steadily climbed the ladder of promotion. It was not as easy to obtain pay as rank, for the arrears of Captain Cox's pay amounted to 1,676*l.*

Captain Cox was captivated by the pretty face and black eyes of a widow, Mrs. Batten, daughter of Walter Bird, Esq., thrice Sovereign, and for a long time Recorder of Clonakilty, a large town in the West Riding of the county of Cork. Mr. Bird was a gentleman of highly cultivated tastes, having been a student at Oxford, and an excellent musician, playing well on the bass-viol.

Although Captain Cox possessed some property in the neighbourhood of Kilworth, and was entitled to the tolls of the fairs and markets of the place, which must have

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Sir Richard
Cox.Richard
Cox.Married to
Mrs. Ka-
therine
Batten.

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Bandon-
bridge.

been of some value, he resided at Bandon, or Bandon-bridge, as it was formerly called. This town owed its existence to Richard Boyle, first Earl of Cork, who expended a large sum in making it the rival of Derry, in the north, and in one point may be said to have succeeded. It was exclusively Protestant. In a letter written by him to Mr. Secretary Cook, dated April 13, 1632, the Earl says, 'No popish recusant, or unconforming novelist being admitted to him in all the town.' This probably gave rise to the tradition that an inscription on one of the gates announced—

Jew, Turk, or atheist
May enter here, but not a papist.

Which caused the celebrated Father O'Leary to add—

Who wrote these lines, he wrote them well,
For the same are writ on the gates of hell.

There is no doubt that Catholics were excluded from Bandon, and by way of explanation, we find 'that it was a necessary support for the infant colony, the members of which foresaw that as they were strangers and Protestants, if a Papist took up his quarters amongst them, he only would be encouraged by his neighbours of his own religion (and they were generally of it), and would gradually introduce tradesmen of all sorts of the same, which would overset the scheme of this foundation.'¹

In this town was born Richard Cox, who, ere his eyes were closed in the sleep of death, was to win such high honours as seldom fall to the lot of one man. Knighthood and Baronetage, Judge of the Common Pleas, Military Governor of the County of Cork, Lord Chief Justice of the Common Pleas, and the King's Bench, Lord High Chancellor of Ireland, and several times Lord Justice. He was born on March 25, 1650, but not destined to know either a father's care or a mother's love. The valiant officer and strong soldier fell mortally wounded in July 1652, not by the foeman's sword or on the battle-field, where danger was to be confronted and honour won, but stabbed by the pen-

Richard
Cox, born
March 25,
1650.

¹ *Seasonable Advice*, p. 15.

knife of a brother officer, as they were walking together, apparently on friendly terms. The assassin was a Captain Norton, but the cause for the deed remains unknown.

Mrs. Cox had been most unfortunate in her matrimonial ventures. She was a widow when married to Captain Cox. Her first husband, Captain Thomas Batten, was shot dead at the siege of Dungarvan in 1642, a ball having pierced his forehead, and this second bereavement plunged her into consumption, which made such rapid havoc as to cause her death the following winter. The infant son was left to the care of his grandfather and 'good uncle John Bird'¹ who placed him at school with a kind preceptor named Barry.

Here his diligence and industry indicated literary taste, and when of age to select a profession for the support of his future life, he chose the law, most probably because his uncle was the seneschal of the Manor Court of Bandon. These Manor Courts possessed a very extensive and varied jurisdiction, and the seneschal had highly important functions to discharge. Young Cox served his time to an attorney, and must have been admitted to practice very quickly, for we read of his engaging in the profession in his eighteenth year.² He soon gained a very general knowledge of his business, and extended his practice throughout the west of the county of Cork, until desirous of a larger sphere for his abilities, and feeling he was of the stuff of which good lawyers are made, he determined to get called to the Bar. He accordingly disposed of the property he inherited from his grandfather, near Kilworth, for 150*l.*, and deriving an income from some house-property assigned to his father in Galway, for arrears of pay, which yielded 26*l.* per annum, and having 50*l.* saved from his practice, he accompanied the Earl of Burlington³ to London to keep his law terms.

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His father
assassi-
nated.

Misfor-
tunes of
Mrs. Cox.

Richard at
school.

Selects the
legal pro-
fession.

Practises
as an At-
torney.

Aspires to
the Bar.

¹ Autobiography, p. 3.

² Wills's Lives of Distinguished Irishmen, vol. iv. p. 2.

³ This nobleman distinguished himself early in life. He was knighted at the age of twelve, and, on the restoration of Charles II., was created Earl of Burlington; he succeeded his father as Earl of Cork.

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XXXII.A distin-
guished
student of
Gray's
Inn.Called to
the Bar,
August 9,
1673.Married,
1674.Life at
Clonakilty.

In 1671, Mr. Cox was a student of Gray's Inn, when his unwearied application, acquaintance with legal procedure, acquired by his practice in the Irish local courts, and his superior intelligence, obtained him considerable notice. At the same time he seems not to have been earning any money, for he mentions, 'I was not of full two years' standing, when by great providence, and at the most critical juncture (my money being almost spent), friends were raised up to me, who found means to make me one of the surveyors at Sir Robert Shaftoe's¹ reading.' The reader fell ill two days before he was to perform his part in the Hall, and Mr. Cox was selected by Sir Robert himself to supply the place. He did it so admirably that he was called to the bar of Gray's Inn on August 9, 1673. The Monday before, he argued the 'Reader's case,' on short warning, so much to the satisfaction of a numerous and distinguished legal audience, that Sir Francis Ratcliffe² offered him a hundred a-year and other great advantages if he would settle near him in the north of England. This tempting offer was declined, and Mr. Cox, as he says, 'sequimur quo fata trahunt,' returned to Ireland, landed at Dungarvan, and arrived at Bandon on January 11. He then took an important step, 'by my uncle Bird's advice I married my now wife, Mary Bourne,³ on Thursday, February 26, 1674. She being but fifteen, I not full twenty-four years old; this was the rock I had like to split on, for though she proved a very good wife, yet being disappointed in her portion, which was ill paid by her mother, and by driplets, and from whom I also received some other unkindnesses, I retired into the country and lived at Cloghnakilty for seven years, but very plentifully and pleasantly.'⁴ At Clonakilty he took

¹ Sir Robert Shaftoe, of Whitworth, County Durham, Serjeant-at-Law and Recorder of Newcastle; he died 1705.

² Created Baron of Tyndal, County Northumberland, and Earl of Derwentwater, &c., March 7, 1688; he died 1696.

³ Daughter of John Bourne, Esq., who had a grant of lands in the barony of Carbery, County Cork, in 1667, containing 612 acres. She died June 1, 1715.

⁴ Autobiography. Edited by Richard Caulfield, Esq., B.A., p. 11.

a farm, and sank gradually into that kind of indolence to which persons of intellectual temper are most liable when deprived of their congenial and proper excitement in the atmosphere of ambition or studious conversation.¹ But there were little wrestlers for daily bread whose claims were too clamorous to be silenced, and as he says, 'considering my charge of children, I roused myself from that lethargy and resolved to struggle for a better fortune;' accordingly he removed to Cork, the capital of the province of Munster, where a great deal of local business rewards the competent barrister. Here his legal acquirements procured him the Recordership of Kinsale, and we may judge how fully his talents as a lawyer were employed when he made 500*l.* the first year.

Recorder
of Kinsale.

His zeal for the Protestant religion occasionally outran his discretion. In April 1679 he was chosen chairman of the Quarter Sessions for the County of Cork, held in Bandon when 'With the zeal and sincerity of a good Protestant,' says Harris,² 'he took occasion to expose in his charge the villanies, the cruelties, and the impositions of Popery, with such good spirit and sense that he mightily animated the Protestants, and as highly provoked the Papists. So sensible were the former of the great service done them by this seasonable charge, that in a body they publicly returned thanks for it that day, and one of them said, "That he must expect that the revenge of the Papists, if it ever fell into their power, would be proportioned to his merit with the Protestants;"' Mr. Cox replied, "That he was not in any danger, for he had studied them thoroughly, and therefore would never trust them, nor live under their jurisdiction." While such rancorous feeling was entertained by an educated and intelligent judge, who, as Recorder, had power over the persons and properties of his Majesty's Catholic subjects, we cannot feel surprised at the disunion and disaffection which prevailed throughout the kingdom. The fearful atrocities

Attacks the
Catholics.

Is publicly
thanked.

Deplorable
state of
feeling in
Ireland.

¹ Wills's Lives of Distinguished Irishmen, Cox, vol. iv. p. 7.

² Harris's Life of Cox, p. 208.

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practised upon the native Irish by the soldiers of Elizabeth and the undertakers of James I. led to the attempted retaliation of 1641, and the fate of the old families during the sway of Cromwell was fresh in the memory of their children when Charles II. was restored to the throne. Instead of doing justice to these Catholic noblemen and gentry who had devoted their lives and fortunes to the cause of his father, he allowed the Irish government to remain in the hands of those who hated the religion and the people of Ireland ; and who can feel surprise if they were hated in return ? That kindness begets kindness is a true axiom, and that hatred engenders hatred is equally so ; no wonder then if the Protestants trembled when their misused power was wrested from their hands.

When the failing health of Charles II. warned the Irish ascendency party their reign too was drawing to a close, Cox made up his mind to shun danger. He recollects the fate of the poet Spenser, who having roused the enmity of the Irish, had his castle of Kilcolman burned, and narrowly escaped with his life, while one of his sons was killed during the conflagration.

Accession
of James
II.Cox's flight
to Bristol.Practises
at the
Bristol
Bar.

In 1685 the accession of James II. to the throne of Great Britain and Ireland took place. This event was regarded by Irish Protestants with the greatest consternation, and many fled in affright from the land. Among these panic-stricken refugees was Cox. He relinquished his practice, which was considerable, and removed with his family to Bristol. He preceded them by some months ; the date of his departure for England being April 7, 1687, while his wife and children remained in Cork until the following June. They settled in Bristol, where he found kind friends, and probably many, who like himself left Ireland, selected it as their residence. He was too active in mind, and too straitened in purse, to remain idle. Luckily his profession enabled him to practise in England, and his reputation had preceded him ; so he soon earned an income as a barrister sufficient for the support of his family. He had a wife and five children dependent

upon him, and when he felt those tender fingers plucking at his gown, he was not the man to deny their claims to his best exertions. Nor was his pen idle. It was at this period he compiled the *Hibernia Anglicana*.¹

While sojourning at Bristol Mr. Cox made a most valuable acquaintance, whose friendship mainly caused his advancement in after life—that of Sir Richard Southwell, who at this time resided at King's Weston, near Bristol. This gentleman left an honoured name. Harris speaking of him says, ‘than whom the world could not show a man of more religion, virtue, and wisdom.’ Cox calls him ‘one of the worthyest persons in the world, who has proved the best friend I ever had.’²

Cox was a far-seeing politician. Judging that the English nation had resolved upon dethroning James II., and the chances of the Prince of Orange mounting the throne were very great, he hastened to London and cast the weight of his talents and the influence they commanded into the scale of the Stadtholder. He published a pamphlet urging the necessity of giving the crown to William, and sending relief to the Irish Protestants. It was very successful, and recommended the writer to the future King.

The zeal and ability displayed by Mr. Cox in the cause of the Prince was not left unrewarded. He was offered the post of secretary to the Duke of Schomberg, when that veteran warrior was appointed to the command of

¹ This work, published in London in 1689, is a history of Ireland from the conquest thereof by the English to the period of its publication. It is dedicated to King William and Queen Mary, and, written by a zealous supporter of the Prince of Orange, nearly all the authorities referred to are one-sided, therefore its statements must be received with extreme caution. Those who maintain the early civilisation and learning of the Irish before the invasion will be amused at the following: ‘What I aim at is to show that the Irish did continue in their barbarity, poverty, and ignorance until the English conquest; and that all the improvements themselves or their country received, and their great difference between their manners and conditions now and then, is to be ascribed to the English Government, under which they have lived far happier than ever they did under the tyranny of their own lords.’—Cox’s *Hibernia Anglicana*, Preface.

² Autobiography, p. 12.

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Compiles
*Hibernia
Anglicana*.

Forms the
acquaint-
ance of Sir
Richard
Southwell.

Pamphlet
in support
of the
Prince of
Orange.

Offered
the post
of secretary
to Duke
of Schom-
berg, but
declines.

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to Sir
Robert
Southwell.

the forces against King James in Ireland, but being unacquainted with French, he did not feel at liberty to accept this office. When William determined to conduct the war against his father-in-law in person, and Sir Robert Southwell was appointed Secretary of State to accompany him, Sir Robert had the opportunity of proving his friendship for Mr. Cox. He selected his son, his kinsman, Captain Waller, and Mr. Richard Cox his secretaries, and treated them with equal kindness. They acted as secretaries, but were used as companions, rode in the same coach, lay in the same tent, and had their meals at the same table.¹

It was at this time Mr. Cox's knowledge of Irish affairs and capacity for business were displayed. The secret despatches and greater part of the intelligence were submitted to him, and his readiness and accuracy greatly pleased the Prince, who loved to find those in his service, whether civil or military, competent to the discharge of their duties. The clearness of Mr. Cox's views and his statements, always based upon reliable information, was of such a nature that Sir Robert Southwell trusted him implicitly, and on a momentous occasion, when the fate of the kingdom was at stake, we find he was to be relied on. When the two armies were at length face to face, on the eve of the decisive Battle of the Boyne, the number and strength of the army of King James II. was reported to the Prince of Orange to be far more numerous than Sir Robert Southwell, acting on Mr. Cox's information, stated them to be. An officer lately deserted from the Irish camp, detailed their number and position in so plausible a manner that the Prince was greatly disconcerted, and told Sir Robert 'he was certainly misinformed, for the Irish forces were far more than he imagined.' Sir Robert, in great surprise and some trepidation, imparted the King's fears and the cause to his secretary. Mr. Cox bade him not be the least alarmed, that he had not reported upon any conjecture, but on undoubted authority. 'Let us, sir,' he said, 'test the accuracy of this fellow.' 'How may

Mr. Cox's
correctness
tested.

¹ Autobiography, p. 12.

that be done, Mr. Cox?' asked Sir Robert. 'Let him pass through our camp,' replied Mr. Cox; 'survey it at his leisure, and then, when he has completed his survey, report to his Majesty what he computes the number of our forces to be.'

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This excellent suggestion pleased the King, and was at once acted on. When the Irish deserter made his report, he confidently affirmed the English army to be more than *double* the number William knew they were. He dismissed the deserter with reproof as a 'conceited ill-guesser,' and highly commended the sagacity of Mr. Cox in so cleverly discovering the falsehood of the statement.¹

When the victorious monarch led his troops in triumph to Dublin, the 'King's Declaration' was written at Fинглас by Mr. Cox, and met the thoughts of William so exactly, that he would not alter a word of the draft, declaring, in very complimentary terms, that 'Mr. Cox had exactly hit his own mind.'

Writes the
King's
Declara-
tion.

Further preferment awaited the secretary. On the surrender of Waterford, Mr. Cox was appointed Recorder, but the office appearing to the King inferior to what his services merited, his Majesty, with a consideration which does him credit, desired Sir Robert Southwell to enquire of Mr. Cox 'what employment he desired?' The Bench is naturally the object of every lawyer's ambition, and a seat in the Common Pleas being then vacant, Mr. Cox named this, which was immediately acceded to, and he was sworn in, April 15, 1690. He now hoped for some repose from affairs of State, and, conscious of many imperfections in his *Hibernia Anglicana*, was meditating a new and corrected edition when he was selected, together with Robert Rochfort, Esq., and Sir Richard Pyne, to execute various governmental Commissions. The Commissioners had full power for ordering out and equipping the militia, to examine and report upon the conduct of officers and soldiers in garrison towns, and restore the country, torn and disorganised during the late wars, into order and obedience

Recorder of
Waterford.Second
Justice of
the Com-
mon Pleas,
1690.Commis-
sions.

¹ Harris's Life of Cox, p. 210.

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Thanked
by Lord
Sidney.

to law. They set to work with great diligence at Ardee, Drogheda, Wexford, Waterford, and Cork, and Mr. Justice Cox received a letter from the Viceroy, Lord Sidney, dated at Whitehall, 'acknowledging the great zeal and affection which upon all occasions he had showed for his Majesty's service, and assuring him it would be remembered to his advantage.'

Prevents
the ex-
change of
Lord
Clancarty.

He was the means of preventing Lord Clancarty, a prisoner in the hands of the Government, being exchanged for a Dutch officer, taken by the French. Judge Cox advised the grand jury of the county of Cork to represent his lordship's hostility to the English and Protestant interest, and the little probability of ever seeing an English plantation in the county of Cork if he was returned to his estate. This presentment was laid before the Lords Justices, and by them transmitted to the King, with such support from Lords Sidney and Burlington as induced the King to refuse the exchange, and for this Judge Cox received the thanks of the Protestants of the county. He issued protections to all adherents of the late King James II. who submitted to King William III.

Military
Governor,
1691.

The state of Ireland in 1691 obliged men to fill a variety of offices, though apparently requiring quite opposite qualities. Thus, within half a year from Cox being seated on the Bench of the Common Pleas, we find him appointed Military Governor of Cork. His administration showed great talents for the field of war as well as the courts of justice. He quickly raised and equipped eight regiments of cavalry and three of infantry, which did great execution among the adherents of the House of Stuart, and took about ten thousand pounds worth of their property. Cox states:— 'I tooke no share of it myself, though I might have had the tenth, but in everything I acted the part of a true Englishman, whose heart was in the cause, and in requital, had a very hearty address of thanks from both countries, and received from the Government 150*l.* by concordatum, and from their Majestyes an abatement of half my quit-rent for ever.'¹ He managed the troops under his

¹ Autobiography, p. 13.

command so skilfully as to be able to send 1,000 to the camp of William before Limerick, and to keep a frontier eighty miles long, from Tallow to Sherkin, and did not lose ten men.

While he was Governor of Cork the following letter was addressed by him to Sir James Cotter, of Ballinspurrig, an old acquaintance and a faithful adherent of James II. He was a brigadier-general in the army of King James :—

Cork, July 6, 1691.

‘ SIR,—Upon the score of our former acquaintance, and the civility which you have used to our friends whilst you were Governor here, and since I think myself obliged to let you know that I have both station and inclination to serve you. If it should happen that you throw yourself upon me, without capitulation (for your party is certainly ruined, and will every minute decay), you shall undoubtedly be used as a man of honour; but if you are of this opinion, bring off as many as you can and their arms, because your terms will be so much the better. This will seem odd if you don’t apprehend the case desperate; but because I am sure ‘tis so, therefore you have this friendly advertisement from,

‘ Sir, your very affectionate
‘ Friend and servant,
‘ RICHARD COX.’

This letter reached Sir James, who, not despairing of the situation, made the following friendly reply :—

‘ Sir,—Notwithstanding our former acquaintance, it seems you do not know me. Whatever I might have done with sitting still, when laid aside, in civilities—which for justice’s sake I distributed without distinction—I am now convinced, and will, I doubt not, be in a condition to return your kindness, for really your case is so desperate that you will soon have an occasion for it, and be confident in anything that is just, you find me, Sir,

‘ Your very affectionate friend and servant,
‘ JAMES COTTER.

‘ Give, I pray you, my services to all old acquaintances.’

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Kind letter
to Sir
James
Cotter.

Sir James
Cotter’s
reply.

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Sir Richard Cox was better acquainted with the true state of affairs than his old friend. Sir James sued for his protection, which was readily granted.¹

He continued to act as Governor of Munster until the close of the year 1692, when he received the well-earned honour of knighthood. The ceremony was performed with the Sword of State in the Castle of Dublin, by his Excellency Lord Sidney, who was a steadfast friend, not only during his Viceroyalty, but when the changes of fortune had doomed both to taste the bitterness of ill-requited services.

The versatility of Sir Richard Cox's talents was displayed on April 26, 1693, at a meeting of the Dublin Philosophical Society, held in the Provost's Rooms in Trinity College, when he read a paper entitled 'A Geographical Description of the City and County of Derry, and of the County of Antrim,' before a critical and gratified audience.

Reads a paper before the Philosophical Society.

He bestowed very considerable attention on this important subject, and designed a geographical description of the entire kingdom, of which, however, the above paper is all I can find. It was to have included a natural history of Ireland. Upon reading this valuable essay, he was admitted a Fellow of the Philosophical Society, together with the Most Rev. Dr. Vesey, Archbishop of Tuam, and the Hon. Francis Roberts, younger son of the Earl of Radnor, Lord-Lieutenant of Ireland.² Shortly after this Sir Richard visited London, and was most cordially received. Lord Godolphin, then Premier, told him 'that his services were so considerable that they were bound to do for him what they could.' This polite speech, unlike many ministers' speeches, meant real benefit, and he obtained an abatement of half his quit rent, and the office of Commissioner of Forfeitures, with a salary of 400*l.* per annum.

Visits London.

But Cox little thought this recognition of his services would cause him much obloquy and annoyance. It has,

¹ Gibson's History of Cork, vol. ii. p. 169.

² Harris's Life of Cox, p. 214.

however, served to place his character in the light of an honourable and upright man, a rare character for a politician in those days. He was quite aware that, at the time of the capitulation of Limerick, the Lords Justices, instructed by King William III., were quite prepared to assure the Irish of much more favourable and extensive conditions than they afterwards obtained by the Articles of Limerick. His Majesty's instructions were reduced into a Proclamation, which was afterwards styled, *the Secret Proclamation*, because, though it was printed, it never was published. For the Lords Justices, finding the garrison capitulating on terms better for the English interest, withheld the Proclamation.¹ There was, however, a vast number who considered the measure dealt out by the Treaty of Limerick far too good for the Irish Papists; and the Sunday after the Lords Justices returned to Dublin, the Bishop of Meath, preaching before the Governors at Christ Church, argued, 'that peace ought not to be observed with a people so perfidious; that they kept neither articles nor oaths longer than was for their interest; and that, therefore, these articles, which were intended for a security, would form a snare, and would only enable the rebels to play their pranks again on the first opportunity.'

This monstrous attack was replied to on the following Sunday, by the Bishop of Kildare, who contended 'the public faith should be kept inviolate,' and spoke so kindly of Roman Catholics, that he pleased the King, who removed the name of the Bishop of Meath from the list of Privy Councillors, and put in his place that of the Bishop of Kildare. Yet the public were so divided by those two right reverend opponents, that a third divine attempted to settle the matter in dispute, and Dean Synge discoursed on these words, 'Keep peace with all men, *if it be possible.*' In 1701, Sir Richard Cox became Chief Justice of the Common Pleas.

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The secret
Proclama-
tion.

Bishop of
Meath's
sermon.

Bishop of
Meath
removed
from the
Privy
Council.

¹ Harris's Life of Cox, p. 214.

CHAPTER XXXIII.

CONCLUSION OF THE LIFE OF LORD CHANCELLOR SIR RICHARD COX.

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IN 1701, Sir Richard, as already mentioned, was advanced in judicial dignity as successor to Chief-Justice Hely, who died at Ennis, April 7, 1701, while he, with Sir Richard Cox, were the Judges going the Munster Circuit. On this sad event taking place, Mr. Justice Cox finished the circuit alone. In the following month he was sworn in Lord Chief Justice of the Common Pleas, and member of the Privy Council.

Sworn in
Chief
Justice of
the Com-
mon Pleas,
and Privy
Councillor.His
daughter
married.The Queen
obtains
his advice.

One of his daughters married at this time. The marriage was not fortunate, as recorded in his diary:—‘On the 15th day of June my daughter Mary marryed Mr. Allen Riggs, which had a good prospect, but proved an unfortunate match.’ The Chief Justiceship of the Common Pleas, with the duties of which Sir Richard’s seat as a *puisne* judge made him familiar, was an easy post for him. He records in his autobiography, with much satisfaction, his pleasant circuits round Leinster, Munster, and Connaught; and while holding assizes on the last-named circuit, in the spring of 1702, he received a letter from Daniel Finch, Earl of Nottingham, informing him ‘that Queen Anne,¹ having under her consideration many matters relating to Ireland, in which he might be useful to her service, had commanded him to write that he (Cox) should go to London as soon as conveniently he could, that she might have his advice.’ Accordingly he set sail on the 10th of April, and whilst he attended the Queen his opinion was taken on all matters; but especially, first, as to the most convenient time for the sitting of Parliament;

¹ Queen Anne succeeded William III. March 8, 1702.

second, which manufacture, linen or woollen, would be *most for the interest of England to encourage in Ireland.*

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He recommended, with reference to the first, ‘that the meeting of Parliament should be postponed as long as possible ;’ and, as to the second point, ‘he was clearly of opinion that it was for the interest of England to encourage the woollen manufacturers in Ireland, in the coarse branches of it, which would prevent the wool and the manufacturers from being carried to France, and would not interfere with the manufacturers of England. He thought it the most impolitic step ever taken by England to prohibit the whole exportation of woollen manufactures from Ireland, and showed clearly that a very grave mistake had been committed, which caused Lord Godolphin to declare, “that they were convinced all he said was true ; but they had the strong prejudice of the people to deal with, who looked on the increase of the woollen manufacture in Ireland with so jealous an eye, that they would not listen to the most reasonable arguments in its favour ; and that they compelled the late King and his ministers to comply with their wishes against their own judgments. That nothing could change them but their own sufferings, which could not come so quickly as that he could expect to see the alteration. But whenever they shall feel the mischievous consequences of what they had so rashly done, he ventured to prophesy that they will attribute them to any causes, however improbable, rather than confess the necessity of admitting their brethren in Ireland into any share of their trade, and will try a thousand expedients before they will put into execution the natural, and therefore the only one which can be effectual, and which France would give millions of money to prevent taking place.”’¹ Although the English minister could not follow the advice of Sir Richard, they were sensible of its value, and the Queen presented him with 500*l.* to defray the expenses of his journey in obedience to her request.

Important statement of Lord Godolphin.

During his stay in London there were rumours that

The Queen presents him with 500*l.*

¹ Harris’s Life of Cox, p. 22.

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Sounded as
to his wish
to be made
Lord Chan-
cellor.

Reasons
for his
declining.

Obeyes the
Queen's
wish.

Becomes
Lord Chan-
cellor of
Ireland,
July, 1703.

A Parlia-
ment,
1703.

Compli-
ment of
Arch-
bishop
Vesey.

Lord Chancellor Methuen was about to relinquish the Great Seal of Ireland, and Sir Richard Cox was sounded as to his wishes to be made Lord Chancellor. Having a thorough knowledge of Irish affairs, he was not desirous of exchanging the safe haven of the Common Pleas Bench for the more profitable, but less secure, moorings of the Chancery. He lost his old patron, King William III., who had raised him from an humble station to high office, and whose personal knowledge of his integrity and devotion to his true interest had protected him from the rude attacks of party malignity. His ever zealous and watchful friend, Sir Robert Southwell, was also dead, and the consciousness that the station he then filled was the best for his quiet and ease, made him unwilling to exchange it for an office which he might not retain for a year, through the violence of parties at both sides of the channel. As, however, the Queen was desirous Sir Richard should accept the custody of the Great Seal, when Mr. Methuen resigned the Lord Chancellorship of Ireland to become Ambassador to Portugal, he signified his desire to submit to the will of the Queen, and in July 1703 he was nominated to this high dignity at the Privy Council of England. It was very gratifying to him that every Privy Councillor present, acquainted with Ireland, either having been employed in its government, or natives of the kingdom, or possessed of estates there, expressed their warm approval of the Queen's selection. On August 6th he was sworn into office, and on the 10th of that month writs issued for the assembling of a Parliament in Dublin.¹

Parliament met on December 24, 1703, and although we learn it was a very busy and critical session, and that various attempts were made to confound and expose the Chancellor to ridicule, yet he discharged himself so satisfactorily that Archbishop Vesey, who had sat long in that House, and was universally known to be a competent judge, said, 'That no person in his time guided the de-

¹ Harris's Life of Cox, p. 22.

bates of that House with so much readiness, impartiality, and dignity as Sir Richard Cox.'

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The subjects dealt with in this session were principally dictated by animosity against Roman Catholics. The Lords had no sooner assembled, and the Lord Chancellor, as Speaker, taken his seat on the Woolsack, than the following entry was made in the Lords' Journal:—

‘Ordered, on motion, that the Bill intituled “An Act to prevent Popish Priests from coming into this Kingdom,” be read the first time.’

Anti-Catholic legislation.

The Lord Chancellor procured some salutary laws to be enacted. One for ‘the Recovery of Small Debts in a summary way.’ This Act proved of great benefit to small traders. But No-Popery legislation occupied most of the time of the Irish Parliament. In a bill sent from England, the clause, called ‘The Sacramental Test,’ was inserted, providing ‘that all persons having any office, civil or military (including corporate offices), shall be obliged to take the oaths, and to receive the sacrament, according to the usage of the Church of Ireland, and in default of so doing the office to be void, and whoever shall continue to act in such office, having neglected to qualify himself, shall incur the penalties imposed by the Test Act.’

The Sacra-
mental
test.

On this bill being brought before the Lords, on February 28, 1703, it was ordered, ‘that Counsel appointed to attend at the bar of the house on the petition of Nicholas Lord Viscount Kingsland, Richard Lord Bellew, Colonel John Brown, Colonel Thomas Burke, Colonel Robert Nugent, Captain Arthur French, and other Roman Catholics of Ireland, and persons comprised within the Articles of Limerick and Galway, be heard what they have to offer against the Engrossed Bill sent up by the Commons, entitled, “An Act to prevent the further growth of Popery.”’¹

Ordered
that
Counsel
be heard.

The learned Counsel were Sir Theobald Butler, Richard Malone, and Sir Stephen Rice; the first two in their gowns, the third without a gown, as he appeared not for the petitioners in general, but for himself in his private

¹ *Lords' Jour. Ir.*, vol. ii. p. 73.

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of Sir
Theobald
Butler.

capacity, as one of the aggrieved persons. It is to be observed that these Catholic lawyers were themselves 'protected persons,' within the meaning of the Articles of Limerick; and that they were pleading on that day not only for their clients, but for themselves—for their own liberty to plead in court and to wear their gowns. It was a very remarkable scene; and I insert here part of the argument of Sir Theobald Butler.¹ The speaker opens by quoting the Articles of Limerick; he proceeds:—

‘That since the said Articles were thus under the most solemn ties, and for such valuable considerations granted the petitioners, by nothing less than the General of the Army, the Lords Justices of the Kingdom, the King, Queen, and Parliament, the public faith of the nation was therein concerned, obliged, bound, and engaged, as fully and firmly as was possible for one people to pledge faith to another; that therefore this Parliament could not pass such a bill as that intituled “An Act to prevent the further growth of Popery,” then before the House, into a law, without infringing those Articles, and a manifest breach of the public faith; of which he hoped that House would be no less regardful and tender than their predecessors who made the Act for confirming those Articles had been.

Contends
the Act is
a breach
of the
Articles of
Limerick.

‘That if he proved that the passing that Act was such a manifest breach of those Articles, and consequently of the public faith, he hoped that honourable House would be very tender how they passed the said Bill before them into a law; to the apparent prejudice of the petitioners, and the hazard of bringing upon themselves and posterity such evils, reproach, and infamy, as the doing the like had brought upon other nations and people.

‘Now, that the passing such a Bill as that then before the House to prevent *the further growth of Popery* will be a breach of those Articles, and consequently of the public faith, I prove (said he) by the following argument:—

‘The argument then is, whatever shall be enacted to
It is fully reported in Plowden's Appendix and in Curry's Historical Review.

the prejudice or destroying of any obligation, covenant, or contract, in the most solemn manner, and for the most valuable consideration entered into, is a manifest violation and destruction of every such obligation, covenant, and contract: but the passing that Bill into a law will evidently and absolutely destroy the Articles of Limerick and Galway, to all intents and purposes, and therefore the passing that Bill into a law will be such a breach of those Articles, and consequently of the public faith, plighted for performing those Articles; which remained to be proved.

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‘The major is proved, for that whatever destroys or violates any contract, or obligation, upon the most valuable considerations, most solemnly made and entered into, destroys and violates the end of every such contract or obligation: but the end and design of those Articles was, that all those therein comprised, and every of their heirs, should hold, possess, and enjoy all and every of their estates of freehold and inheritance, and all their rights, titles, and interests, privileges, and immunities, which they and every of them held, enjoyed, or were rightfully entitled to, in the reign of King Charles the Second; or at any time since, by the laws and statutes that were in force in the said reign in this realm: but that the design of this bill was to take away every such right, title, interest, &c., from every father being a Papist, and to make the Popish father, who, by the Articles and laws aforesaid, had an undoubted right either to sell or otherwise at pleasure to dispose of his estate, at any time of his life, as he thought fit, only tenant for life: and consequently disabled from selling, or otherwise disposing thereof, after his son or other heir should become Protestant, though otherwise never so disobedient, profligate, or extravagant: *ergo*, this Act tends to the destroying the end for which those Articles were made, and consequently the breaking of the public faith, plighted for their performance.

‘The minor is proved by the 3rd, 4th, 5th, 6th, 7th, 8th, 9th, 15th, 16th, and 17th clauses of the said Bill, all which

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(said he) I shall consider and speak to, in the order as they are placed in the Bill.

‘ By the first of these clauses (which is the third of the Bill), I that am the Popish father, without committing any crime against the State, or the laws of the land (by which only I ought to be governed), or any other fault; but merely for being of the religion of my forefathers, and that which, till of late years, was the ancient religion of these kingdoms, contrary to the express words of the Second Article of Limerick, and the public faith, plighted as aforesaid for their performance, am deprived of my inheritance, freehold, &c., and of all other advantages which by those Articles and the laws of the land I am entitled to enjoy, equally with every other of my fellow-subjects, whether Protestant or Popish. And though such my estate be even the purchase of my own hard labour and industry, yet I shall not (though my occasions be never so pressing) have liberty (after my eldest son or other heir becomes a Protestant) to sell, mortgage, or otherwise dispose of, or charge it for payment of my debts, or have leave out of my own estate to order portions for my other children; or leave a legacy, though never so small, to my poor father or mother, or other poor relations; but during my own life my estate shall be given to my son or other heir, being a Protestant, though never so undutiful, profligate, extravagant, or otherwise undeserving; and I that am the purchasing father, shall become tenant for life only to my own purchase, inheritance and freehold, which I purchased with my own money; and such my son or other heir, by this Act, shall be at liberty to sell or otherwise at pleasure to dispose of my estate, the sweat of my brows, before my face; and I that am the purchaser, shall not have liberty to raise one farthing upon the estate of my own purchase, either to pay my debts, or portion my daughters (if any I have), or make provisions for my other male children, though never so deserving and dutiful: but my estate, and the issues and profits of it, shall, before my face, be at the disposal

of another, who cannot possibly know how to distinguish between the dutiful and undutiful, deserving and undeserving. Is not this, gentlemen, a hard case? I beseech you, gentlemen, to consider, whether you would not think it so, if the scale was changed, and the case your own, as it is like to be ours, if this Bill pass into a law.

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‘ It is natural for the father to love the child; but we all know that children are but too apt and subject, without any such liberty as that Bill gives, to slight and neglect their duty to their parents; and surely such an Act as this will not be an instrument of restraint, but rather encourage them more to it.

‘ It is but too common with the son who has a prospect of an estate, when once he arrives at the age of one-and-twenty, to think the old father too long in the way between him and it; and how much more will he be subject to it, when by this Act he shall have liberty, before he comes to that age, to compel and force my estate from me, without asking my leave, or being liable to account with me for it, or out of his share thereof, to a moiety of the debts, portions, or other incumbrances, with which the estate might have been charged, before the passing this Act.

‘ Is not this against the laws of God and man; against the rules of reason and justice, by which all men ought to be governed? Is not this the only way in the world to make children become undutiful, and to bring the gray head of the parent to the grave with grief and tears?’

Having concluded his argument against the clauses affecting Catholics, Sir Theobald Butler directed the attention of the House to the evils which the Bill imposed upon Protestant Dissenters.

‘ The 10th, 11th, 12th, 13th, and 14th clauses of this Bill relate to offices and employments which the Papists of Ireland cannot hope for enjoyment of, otherwise than by grace and favour extraordinary: and, therefore, do not so much affect them as the Protestant Dissenters,

The Bill
imposes
disabilities
on Pro-
testant
Dissenters.

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Argument
in favour
of Pro-
testant
Dissenters.

who (if this Bill pass into a law) are equally with the Papists deprived of bearing any office, civil or military, under the Government, to which, by right of birth and the laws of the land, they are as indisputably entitled, as any other their Protestant brethren; and if what the Irish did in the late disorders of this kingdom made them rebels, (which the presence of a king they had before been obliged to own and swear obedience to, give them a reasonable colour of concluding it did not), yet surely the Dissenters did not do anything to make them so; or to deserve worse at the hands of the Government than any other Protestants; but, on the contrary, it is more than probable that if they (I mean the Dissenters) had not put a stop to the career of the Irish army at Enniskillen and Londonderry, the settlement of the Government, both in England and Scotland, might not have proved so easy as it thereby did; for if that army had got to Scotland (as there was nothing at that time to have hindered them, but the bravery of those people, who were mostly Dissenters, and chargeable with no other crimes since; unless their close adhering to, and early appearing for the then Government, and the many faithful services they did their country, were crimes), I say (said he) if they had got to Scotland, when they had boats, barks, and all things else ready for their transportation, and a great many friends there in arms waiting only their coming to join them, it is easy to think what the consequence would have been to both these kingdoms: and these Dissenters then were thought fit for command, both civil and military, and were no less instrumental in contributing to the reducing the kingdom than any other Protestants: and to pass a Bill now to deprive them of their birthrights (for those their good services), would surely be a most unkind return, and the worst reward ever granted to a people so deserving. Whatever the Papists may be supposed to have deserved, the Dissenters certainly stand as clean in the face of the present Government as any other people whatsoever: and if this is all the return they are

like to get, it will be but a slender encouragement, if ever occasion should require, for others to pursue their example.

‘The great charter of Magna Charta provides that no man shall be disseized of his birthright, without committing some crime against the known laws of the land in which he is born or inhabits. And if there was no law in force, in the reign of King Charles II., against these things (as there certainly was not), and if the Roman Catholics of this kingdom have not since forfeited their right to the laws that then were in force (as for certain they have not); then with humble submission, all the aforesaid clauses and matters contained in this Bill, intituled *An Act to prevent the further growth of Popery*, are directly against the plain words and true intent and meaning of the said Articles, and a violation of the public faith and the laws made for their performance; and I therefore hope this honourable House will consider accordingly.’

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Counsel
relied on
Magna
Charta.

I refer briefly to the arguments by which this reasoning was met. It was objected that the Counsel for the Catholics had not demonstrated how and when (since the making of the Articles of Limerick) the Papists of Ireland had addressed the Queen or Government, when all other subjects were so doing; or had otherwise declared their fidelity and obedience to the Queen. Further it was urged, by way of reply, ‘That any right which the Papists pretended to be taken from them by the Bill was in their own power to remedy, *by conforming*, as in prudence they ought to do; and that they ought not to blame any but themselves.’ It was still further argued that the passing of this Bill would not be a breach of the Treaty of Limerick, because the persons therein comprised were only to be put into the same state they were in in the reign of Charles II.; and because in that reign there was no law in force which hindered the passing of *any other law* thought needful for the future safety of the Government: lastly, that the House was of opinion that the passing of this Bill was needful at present for the security of the kingdom; and

Reply to
the argu-
ment.

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that there was not anything in the Articles of Limerick to prohibit them from so doing.

In the argument before the Lords it was admitted on the part of the petitioners, that the legislative power cannot be confined from altering and making such laws as shall be thought necessary, for securing the quiet and safety of the Government; that in time of war or danger, or when there shall be just reason to suspect any ill designs to disturb the public peace, no articles or previous obligations shall tie up the hands of the legislators from providing for its safety, or bind the Government from disarming and securing any who may be reasonably suspected of favouring or corresponding with its enemies, or to be otherwise guilty of ill practices:—‘Or, indeed, to enact any other law,’ said Sir Stephen Rice, ‘that may be absolutely needful for the safety and advantage of the public; such a law cannot be a breach of either of these, or any other like articles. But then such laws ought to be in general, and should not single out, or affect, any one particular part or party of the people, who gave no provocation to any such law, and whose conduct stood hitherto unimpeached, ever since the ratification of the aforesaid Articles of Limerick. To make any law that shall single any particular part of the people out from the rest, and take from them what by right of birth, and all the preceding laws of the land, had been confirmed to and entailed upon them, will be an apparent violation of the original institution of all right, and an ill precedent to any that hereafter might dislike either the present or any other settlement, which should be in their power to alter; the consequence of which is hard to imagine.’

Lord Chancellor sums up.

The Lord Chancellor having then summed up all that offered at the Bar, the House of Lords proceeded to pass the Bill without delay. And it is really remarkable that in neither House did one single Peer or Commoner offer a word of remonstrance against its passage. A few days after, on March 4, 1703, it received the Royal Assent.¹

Duhigg, in his 'History of the King's Inns,'¹ deals very hardly with Sir Richard Cox. He says, 'Ormond had a worthy associate in Sir Richard Cox, who became an interested apostate from Irish Whiggism, and exerted official influence to emulate the courtly system of that day. The corrupt spirit of domestic faction seconded and extended English Toryism. To effectuate this important purpose, the new Chancellor claimed the exclusive patronage of the Queen's Inns. Cox's feelings suggested that the genius of self-interest governs mankind, whereby honour and virtue become victims to that grim idol. He conceived that the legal body would, therefore, anxiously follow and steadily support the distribution of professional favour, fortune, and honour. As no presumption exceeded his arrogance, neither was innocence or insignificance beneath the pressure of his malignity.'

The Session having concluded, his Excellency the Duke of Ormond left for England; whereon, on March 23, 1704, the Lord Chancellor was sworn as Lord Justice of Ireland, together with Hugh Earl of Mount Alexander, and Lieutenant-General Thomas Earl. During their government, in 1704, large drafts of troops went from Ireland to Portugal; and the Lord Chancellor exerted himself so ably to ensure the comfort of the soldiers during their voyage, he received a letter of thanks from the Earl of Galway, Commander of the Forces in Portugal.

The Duke of Ormond resumed his official duties in November 1704, and the advancement of Irish manufactures again engaged the attention of the Lord Chancellor. He procured a measure to be passed, which allowed the Irish linen manufacturers to export their goods directly to the Colonies, then called the Plantations.

In the June following Sir Richard was again Lord Justice, with Lord Cutts, Commander of the Forces; and on June 27, 1705, he records in his autobiography, that the Privy Council dined with him at his house in Palmers-town.

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Duhigg's
character
of Sir
Richard
Cox.

Lord Jus-
tice,
1704.

Letter of
thanks to
the Chan-
cellor.

¹ History of King's Inns, p. 259.

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XXXIII.Palmers-
town
Created a
Baronet in
1706.

Sir Richard resided at Palmerstown¹ during the time he was Lord Chancellor.

In October 1706, the Lord Chancellor was created a Baronet, as a mark of Queen Anne's favour, and in recognition of his great services. But the Ministry were then tottering, and rumours of the Duke of Ormond's being changed as Lord Lieutenant of Ireland were afloat. The conduct pursued towards him made it appear as if the Ministry wished to cause him to resign. Appointments to high offices in Ireland were made without consulting him; and, when the Speaker of the Irish House of Commons repaired to London, where the Lord-Lieutenant then was staying, to present the Address to the Queen on the success of the troops, he was introduced by the Lord Treasurer, instead of the Lord-Lieutenant, by whom of right he should be presented. The Duke accepted the lame excuses of the Lord Treasurer, rather than gratify his enemies by resigning.

Meanwhile, a matter which caused some anxiety to the Lord Chancellor took place in Ireland. On January 26, 1706, his colleague as Lord Justice, Lord Cutts, died suddenly.

The Statute of 33 Henry VIII. required, 'That the Chancellor should issue writs to the King's Councillors in the shires of Dublin, Cork, Kerry, &c., to elect a Governor, upon the avoidance of every the King's Lieutenant, Deputy, or Justice of the Realm, by death, surrender, or

¹ This village, situated on the southern bank of the river Liffey, is said to derive its name from a venerable yew tree of great size, which for centuries cast its sheltering boughs over the grass-grown graves in the old churchyard. The yew tree furnished the emblematic *palm* borne by Roman Catholics on Palm Sunday; but I think it more probable the place was called from some pious *palmer*, who in the time of the crusades endowed the hospital for lepers here, mentioned in Archdall's *Monasticon Hibernicum*. The old church is supposed to be older than the English invasion. It consists of choir and nave connected by a semicircular arch of genuine Irish character. It is identical with that of O'Rourke's tower, at Clonmacnois, the sides incline and the imposts are plain and square. The original doorway is also square-headed like the Irish doors, and situated in the centre of the west gable. Palmerstown House was long the seat of the Temple family ennobled by the title of Viscount Palmerstown. It now is a seat of the Earl of Donoughmore.

departure out of the Realm ; and upon the election, that he should seal Letters Patent, and such person, being sworn, should have the like authority, pre-eminence, and dignity to every purpose and respect, as the King, Lieutenant, or Deputy then next before him used to have, &c., until the King do admit and authorize one to be his Lieutenant or Governor, and until he be sworn as accustomed.'

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The morning after Lord Cutts' decease, the Lord Chancellor met the Privy Council at the Castle of Dublin, and requested their advice as to the course to be taken on the occasion. They expressed a unanimous opinion he should at once issue writs, and proceed to a new election ; and, those more zealous for this course, declared their readiness to elect him sole Governor, as had been done a few years previously, when, on the death of Lord Capel, Sir Charles Porter, then Lord Chancellor, had been elected sole Lord Justice. But Sir Richard Cox felt doubts as to the propriety of this course. He could not, and would not trust men he knew capable of misleading him ; and, in opposition to the Privy Council, declared ' he could not, in the present case, proceed to an election, but must wait the Queen's nomination of New Justices—because, 1st. The

Lord Chancellor
consults
the Privy
Council.
Their ad-
vice.

Statute plainly related to *Head Governor* only, and the Lord-Lieutenant was *Head Governor* ; for the Lords Justices, by their Patent, were to act by his instruction even after his departure. His authority was to continue by an express clause in their Patent ; he signed all commissions of the army, and all orders from the Queen were directed to him. 2nd. There was no *avoidance* of his (the Lord-Lieutenant's) Commission by departure, for he was absent by license, and, therefore, not within the Statute. 3rd. The words '*Until the King authorise a New Governor, and until he be sworn*,' demonstrate that the Statute cannot operate when there is a Governor in being, authorised by the Queen, and sworn already ; and, therefore, he concluded 'that the Government was not *void* but *unsupplied*.' He added, ' That he thought it would be very dangerous, and of evil consequence, if he assumed a power not

Chancellor
differs
from the
Council.

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warranted by the Statute ; but that no detriment could arise from deliberating and considering well what ought to be done ; and since proceeding upon such writs would take up at least a fortnight, and that he might reasonably expect to know her Majesty's pleasure within that time, having sent two expresses for the purpose, there was no reason to be precipitate.' These arguments failed to satisfy the dissentients, and the Lord Chancellor accordingly carefully consulted precedents,—one most in point was that of the Lord Deputy Wandesford, who died on December 3, 1640, when the Lord-Lieutenant, the Earl of Strafford, was a prisoner in the Tower ; and, though he was then in confinement, and the times perilous, they did not proceed to a new election, but used the words, 'that the Government was *unsupplied*.'

The Chancellor referred his reasons and precedents to the Judges and Law Officers, who, with one or two exceptions, agreed 'that the Chancellor ought not to issue writs.'

The Queen, and all the legal authorities in England, held the Chancellor was right, but it obliged the Ministers to remove the Duke of Ormond. A Patent passed February 15, 1706, naming the Primate and Lord Chancellor Lords Justices.

The Chan-
cellor
considered
right.Duke of
Ormond
removed.

On April 10, 1707, the Ministers waited on the Duke of Ormond, and, with many compliments for his past services, informed him the Queen desired to appoint another to relieve him of the charge he had so long administered, and had appointed the Earl of Pembroke in his room. The Lord Chancellor shortly afterwards received the like compliments, and a promise of compensation.

Also the
Lord Chan-
cellor.Freeman
Lord Chan-
cellor.

On June 30, Sir Richard delivered the Great Seal to the Lord-Lieutenant, who handed it to Chief Baron FREEMAN, appointed his successor. Sir Richard would have willingly retired to his estate in the county of Cork, but he was aware his enemies were preparing to attack him, and resolved to meet them face to face. This kept him in Dublin ; and he had not long to wait before the attack was made. The House of Commons was the field selected,

Prece-
dents.Case in
point.

and the first ground of complaint was Sir Richard's omission to elect a Lord Justice on the death of Lord Cutts. The House resolved, '1st. That by the death of Lord Cutts on January 26, 1706, the Kingdom became destitute of a Governor residing in the same until February 15 following. 2nd. That no writ was issued by Sir Richard Cox, Lord Chancellor, for electing a Justice, pursuant to the Statute of 33 Hen. VIII., from January 26 to February 15, 1706, at which time the Primate and Lord Chancellor were constituted Lords Justices under the Great Seal. 3rd. That it was and is the indispensable duty of the Lord Chancellor or Lord Keeper, when the Kingdom is destitute of a Lieutenant, Deputy, or other chief Governor, residing within this Kingdom, immediately to issue writs to summon the Privy Councillors to elect a chief Governor pursuant to the Statute of 33 Hen. VIII.'

As this course was against precedent, and the opinions of the Attorney and Solicitor-Generals of England, and ten of the Judges, and most eminent lawyers of Ireland, Sir Richard lost nothing in reputation by these resolutions of the Commons, and then the subject dropped. He employed his leisure in theological writings. In 1709, he published an 'Address to the Roman Catholics in England,' and wrote 'An Enquiry into Religion, and the use of Reason in reference to it.' When in London, in 1710, engaged about the publication of his works, the Lord Chancellor of Ireland, MR. FREEMAN, was found to be mentally incapacitated for his office, and some Members of the Government observed that Sir Richard Cox should again hold the Irish Great Seal. This was not so arranged, but the Chief Justiceship of the Queen's Bench was offered to, and accepted by him. In this important position he had to exercise all his prudence, for party-spirit ran very high, and there was extreme jealousy of those in authority. Sir Richard Cox was much esteemed by the Duke of Shrewsbury, Lord-Lieutenant at this time, a nobleman of high honour, integrity, and candour.

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Sir
Richard
Cox at-
tacked.

Resolu-
tions of the
Commons.

Writes
religious
books.

Chance of
again ob-
taining the
Chancel-
lorship.
Becomes
Lord Chief
Justice.

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XXXIII.On the
death
of Queen
Anne loses
his place.Serious
charges.Case of
Grimes.Of Haydon
and Erwin.

Of Moore.

By the death of Queen Anne on August 1, 1714, Sir Richard Cox and also Lord Chancellor PHIPPS lost their appointments. Cox retired to his country-seat, where he hoped to enjoy that repose which his years and labours so much needed ; but the malice of his enemies disturbed his quiet. Parliament assembled November 12, 1715, and before long Sir Richard found that a long life passed in the service of his country, and the utmost zeal displayed for the advancement of the Protestant religion, were not sufficient to shield him from the charge of disloyalty to the throne and disregard for the interests of Protestantism. His conduct as a judge was impugned in the case of Mr. Dudley Moore ; also for discharging one James Grimes without trial ; and for not trying William Heydon and Patrick Erwin at Wexford during the Summer Assizes of 1714. But these charges fell to the ground on investigation, and could not be substantiated. Grimes, who was represented as being a dangerous traitor, proved to be a harmless fool. When the cases of Heydon and Erwin were called on at the Assizes of Wexford, where the Chief Justice presided, the Crown Council applied to the Chief Justice to postpone the trial to the next assizes, as the evidence was then insufficient to obtain a conviction, and they expected by that time to have further testimony ; so it being clearly shown that the Crown caused the delay, this also failed. The charge against the Chief Justice respecting his conduct in Moore's case sounded very alarming : 'That the rule made by the Court of Queen's Bench in the case of Dudley Moore, Esq., whereby the Clerk of the Crown was ordered to strike a jury for his trial, was unprecedented, arbitrary, and illegal, and a high invasion of the rights and liberties of the subject of Ireland. That Sir Richard Cox, late Lord Chief Justice of the said Court, by making such rule, acted partially, arbitrarily, illegally, and contrary to his oath and duty as a judge.'

This was a most serious charge to make against one

who had filled such stations, and therefore we must carefully see how it was answered.

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Mr. Moore's case was this:—The Irish Government had forbidden a prologue to be spoken at the Dublin Theatre on November 4, 1712, to the play of 'Tamerlane.' Mr. Moore, accompanied by one or two young gentlemen, in defiance of the Government, repeated the prologue on the stage in disregard of the entreaties and opposition of the actors. There was considerable disturbance on the occasion, and consequently the Government directed a prosecution for a riot against Moore and his associates, and they were accordingly indicted. The Queen, however, commanded a *noli prosequi* against all but Moore. Before proceeding to his trial, the Attorney-General stated 'that the partiality of juries returned by sheriffs appeared lately in many instances, and he moved the Court that their officer be directed to strike an indifferent jury from the book of freeholders, returned by the Sheriff of Dublin, to try this issue between the Queen and the traverser, as was constantly done in like cases in England.' This application was opposed, and after a very able argument, *curia advisam vult*. Before giving judgment the Judges procured certificates as to the practice in England, and finding the practice and opinions of the Judges there in favour of the motion, the Irish Court of Queen's Bench granted the application for the following reasons:—

Motion
of the
Attorney-
General.

Practice in
England.

Judgment
of the
Court,
granting
the motion.

'I. Because the Common Law of England and Ireland is the same, and is preserved in Ireland by the jurisdiction which the Court of Queen's Bench in England hath over that Court in Ireland.

'II. This has been the constant practice of the Queen's Bench in England for one hundred years past. It was done on the trial of the Seven Bishops, and was not complained of in the Bill of Rights.

'III. The Queen's Bench in Ireland has the power to make the rule, being the supreme court of law of the kingdom. And there would be a failure of justice if the

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court did not exercise its power to order what is necessary to obtain fair trials.'

This was a complete answer to the charge of Sir Richard Cox acting illegally and contrary to his oath as a judge. He was also subjected to much obloquy on account of a Report of a Committee of the House of Commons concerning the election of Lord Mayors of Dublin, and the Committee reported 'that Sir Richard Cox, late Lord Chief Justice of Ireland, being a member of the late Privy Council, and present when the Rolls and evidences of the city are produced at the Council Board, and having the perusal of these Rolls, acted partially and corruptly in making the said report, and thereby intended to impose on her late Majesty, and is guilty of high crimes and misdemeanours.

'That it is the opinion of this Committee, removing the Lord Primate and Sir Constantine Phipps from the Government of the kingdom, dissolving the late Privy Council, and displacing the late Judges and Queen's Counsel who signed the said Reports, was a seasonable instance of his Majesty's justice and tender regard for the welfare and happiness of this kingdom.'

Lord
Mayoralty
of Dublin.

The contest respecting the appointment of Lord Mayor of Dublin began in 1709, and is related fully in Harris's edition of Ware.¹ Sir Richard Cox, as well as the other Judge, took no part whatever in this dispute, but the Report of the Attorney-General was referred to a Committee authorised to examine the matter, with power to call the Judges to their assistance, and to send for the books and charters of the city. The advice of the Judges was accordingly obtained. They very minutely investigated the matter from the reign of Henry III., and the Recorder of Dublin was so perfectly satisfied with Sir Richard Cox's conduct, that he stated 'that the Chief Justice intended no more on his part than to preserve the succession in the city, and thereby prevent tumults and disorders usually attending contested elections.' Conscious how little he deserved such treatment from the

Tribute
from the
Recorder
to Chief
Justice
Cox.

¹ Vol. ii. p. 232.

Irish Parliament, made him unwilling tamely to acquiesce in it; accordingly he proposed a statement of his long and important services to the Protestant and English interest in Ireland, and intended to claim an audience and present it to King George I. Before doing so he sought the advice of influential persons at Court, and they, probably considering his advanced age, and that he had had a fair share of places and emoluments during his career, dissuaded him from taking this step. One of them writing to him on November 7, 1716, recommended 'he should now give over all thoughts of public business; because, in truth, any concern about that, or even a compensation for past services, would be vain. For there is so much fresh merit as yet unsatisfied that the old is grown very stale.'¹

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Cox prepares a vindication of his conduct for the King.

Dissuaded from presenting it.

This hint showed that urging his claim would be futile, and with the good sense which guided his course through life, he took it. He lived for the rest of his days in his country place—not in vain repining or listless idleness, but in works of improvement to his estate, in deeds of charity, and in study.

His figure was tall and well-proportioned, his features handsome, his manners pleasing and dignified. He was a staunch Protestant, but is open to the charge of bigotry and intolerance for the opinions he held, and the language he used, towards Roman Catholics and their Creed.

Many of his addresses to the Grand Juries are full of the most monstrous attacks upon the Catholic religion, and the most sacred of its tenets. Thus at the Summer Assizes at Kilkenny, July 1714, he said:—'So there can be no peace with Rome without swallowing all her superstitions and idolatries, and without believing that monstrous doctrine of transubstantiation, which everybody knows to be false, as certainly as he knows anything in the world to be true.'²

Apart from this religious craze he was a very excellent man, and an able judge—better adapted, it would appear,

A good
Equity
Judge.¹ Life of Cox, Ware, vol. ii. p. 250.² Ibid. p. 251.

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for the Court of Chancery than those of Common Law; for as reason is the root of all law, he considered the Equity jurisdiction more consonant with reason than the proceedings in the Law Courts, which he regarded as fettered by precedents and rules of pleading.¹ His decisions in Chancery were usually affirmed on appeal, the best proof of their soundness. Mr. Harris, alluding to the

Kingsland
v.
Barnwall,
in the
English
House of
Lords.

respect paid to the Chancellor's judgments, says:—‘In the great cause between Lady Kingsland and Mr. Barnwell, he gave judgment for the defendant. The lady upon her appeal was supported and favoured by the Minister and the greatest influence in England, yet, after a long hearing, his decree was confirmed unanimously in the fullest House that had been known on such an occasion, to the great honour of the Lords and the Chancellor, the pleasure of his friends, and the mortification of his enemies, who descended so low as to solicit against his decrees, not sparing to hurt his credit and reputation at the expense of the innocent suitors.’² Sir Richard Cox was most exemplary in the various relations of life, as husband, father, master, friend. He was also an admirable *raconteur*, telling anecdotes with great humour, and esteemed a pleasant companion.

Domestic
and social
character.

Dies at his
country-
seat, 1733.

In the retirement of the country and the society of his family, he reached the ripe age of fourscore and three years. He died May 3, 1733, leaving a son who inherited the baronetcy as Sir Richard Cox, one daughter, and several grand-children.

¹ The course of legislation and codification now in progress tends to efface any distinction between the systems of Law and Equity. Vide the able address of Lord Westbury at the Anniversary Meeting of the Juridical Society, London, March 30, 1870.

² Harris's Life of Cox, Ware, vol. ii. p. 251.

CHAPTER XXXIV.

LIFE OF LORD CHANCELLOR FREEMAN.

It is seldom, indeed, that the life of a mere lawyer who has never been much of a politician, whose years were passed in the practice of his profession, has much general interest. Unlike those who have won renown in science, literature, or art, who have distinguished themselves as statesmen, or as warriors, they pass the even tenor of their lives without achieving any lasting fame. The monotonous and almost mechanical routine of Court practice, occupying them during the sittings of the Courts, and all they can expect to win, is the constant repetition of their arguments in the Law or Equity Reports, and the fortunes they acquire by professional labours.

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Lives of
mere
lawyers.

But it is not without value to know what manner of man an eminent lawyer, such as RICHARD FREEMAN was. There is something in the life of every one to instruct by example. We learn what to follow or avoid, what to imitate or to shun, and in proportion as he influenced others, is it important to us.

Birth of
Richard
Freeman.

Richard Freeman was born about the year 1646, and received an excellent education. He was a devoted law-student, and took great pains in preparing himself for his legal career.

Having completed his legal studies, he was called to the Bar of the Middle Temple, and soon was known in Westminster Hall. The precise time of his beginning to practise I have not been able to ascertain, but his reports commence in Michaelmas Term 1670, and show a considerable familiarity with the practice of the Courts. It was not the habit of barristers at this date to confine themselves to the branches of Law and Equity which

Called to
the Bar.

Law Re-
porter,
1670.

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XXXIV. sprang up later. In the preface to the first edition of Freeman's Reports, the editor remarks, 'These cases in Law and Equity were collected by Richard Freeman, heretofore of the Middle Temple, Esq., during the course of his practice of those two laudable and praiseworthy branches of the profession in Westminster Hall. That his merit, industry and genius were great, singular and conspicuous, will not, nay, cannot be denied, especially when it shall be known that his eminent qualities and rare talents introduced him to the friendship and esteem of that truly noble, virtuous, and learned lawyer, statesman, and Privy Councillor the late John Lord Somers, who, in the year 1706, had so high an opinion and just judgment of Mr. Freeman's integrity and abilities as to recommend him to the important office of Lord Chancellor of Ireland, then vacant, at which post he was deservedly placed by his sovereign.'¹

Obtains the friendship of Lord Somers. Recommended for Chancellor.

Mistake as to date of his appointment.

Chief Baron of the Exchequer in Ireland. Maladministration of the revenues of the King's Inns.

The writer of these laudatory remarks is not correct in point of date. The office vacant on the Irish Judicial Bench in 1706, was not that of Lord Chancellor, but Chief Baron of the Exchequer, to which no doubt Mr. Freeman was appointed, mainly by the recommendation of Lord Somers. That great judge was well aware of the industry and legal knowledge of the learned reporter, whose published notes have been often favourably mentioned from the Bench.² On the death of Chief Baron Donnellan in 1706, Richard Freeman was appointed in his place Chief Baron of the Exchequer in Ireland.³

Duhigg, in his History of the King's Inns, makes sad complaint of the way that Institution was then managed, which he attributes to the maladministration of the Chan-

¹ Vide Freeman's Reports, Preface to first edition.

² The Solicitor-General Mitford, afterwards Lord Redesdale, and Lord Chancellor of Ireland, remarked that Mr. Freeman's notes, though of not much reputation, were better than they are supposed to be, that the character they had arose from their being stolen by a servant, and published without the privity of the family. The Lord Chancellor, Lord Loughborough, said, 'They were generally very good,' and Lord Mansfield also mentioned them favourably.

³ Vesey, Jun. p. 580. Vide also *Rex v. Gange*, Cowper's Rep. p. 15.

⁴ Patent dated August 3, 1706, 5 Anne I^a, pars d, R. 60.

cellor Sir Richard Cox. The Steward was displaced, and a minion of the Chancellor's fixed in his room. There were arrears enforced to make funds. *Cost Commons* traces back as far as 1690. Duhigg writes in very unmeasured language: 'What prudent man would not prefer the payment of ten or twelve pounds, rather than encounter the licensed slander of a protected defendant, or the relentless fury of a ruffian armed with ministerial power, and by no means scrupulous in the exercise of it?' Chief Baron Freeman did not preside very long on the Exchequer Bench. The Ministry of Churchill, Godolphin, and Lord Somers caused changes in Ireland. The removal of Sir Richard Cox from the office of Chancellor having been decided on, Chief Baron Freeman was selected to supply his place, and the patent for his appointment bears date June 30, 1707.¹

A curious order was made in the Irish House of Lords, August 28, 1710. Ordered on motion 'that for the future, in all cases of Appeal, neither the appellant or respondent do provide either meat or drink for the Lords.'

Among the laws which were enacted while Freeman was Chancellor were some affecting the trade and manufacture of Ireland. The linen trade was one of the staple manufactures of the country, and zealously guarded by Acts of Parliament. Appeals were allowed in case of murder, notwithstanding the Statute of 10th Henry VII. whereby murder was made high treason.²

Some personal indignity was offered to the Lord Chancellor while acting as Speaker of the House of Lords in Ireland, by a person named Luke Byrne, on August 21, 1710. The House resolved to take notice of it, and on the following day, Wednesday, it was ordered on motion that the Sergeant-at-Arms attending this House do forthwith take into his custody the body of Luke Byrne, for a contempt by him committed against this House in affronting

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Sir Richard Cox removed from the Court of Chancery. Chief Baron Freeman appointed. No refreshment during Appeals.

Affront to the Lord Chancellor, Speaker of the Lords.

¹ 6 Anne I^o, pars f, R. 24.

² Lords' Jour. Ir. vol. ii. p. 360.

CULPRIT
REPRIMANDED
AND DISCHARGED.

the person of the Speaker of this House yesterday; and him, so taken, to bring to the Bar of this House.¹

Luke Byrne was accordingly taken into custody, and not wishing to appear in contempt, presented a petition to the Lords. The petition being read, the culprit was brought into the House, and on his knees, reprimanded at the Bar. Thereon he was ordered to be discharged, first paying the fees due to the several officers attending the House.

REFORM IN
THE KING'S
INNS.

While Freeman was Lord Chancellor, the state of the revenue of the King's Inns was much more carefully looked after than it had been previously. A committee was appointed to take the steward's accounts from his accession to the office, and to report to the society how they find the same at their meetings. This was in 1707. The next important reference we find in connection with the Lord Chancellor was a rule of the King's Inns, dated June 15, 1710, 'that every barrister, six-clerk, or attorney, admitted to practice, be obliged previously to give bonds in twenty pounds, with sufficient sureties to the treasurer for the time being, to perform and observe the rules, orders, and directions of the society.'

'This,' observes Duhigg,² 'closed that Lord Chancellor's connexion with the King's Inns Society and Irish Government.' It is noticeable that in Queen Anne's reign, for the first time, the word Bencher appears.

CHANCELLOR
DERANGED.

To the grief of his friends, and he had many, the vigorous intellect which had distinguished the Chancellor suddenly broke down, and one of the saddest afflictions that can befall suffering humanity, the loss of reason, overwhelmed him. He was obliged to give up that exertion which had been the delight of his life, and relieved the most abstruse legal problem from the appearance of a task—the practice of the law. The account of his illness soon spread, and Sir Richard Cox once more hoped to receive

¹ *Lords' Jour. Ir.* vol. ii. p. 353.

² *History of the King's Inns*, p. 262.

the Great Seal. The Lord Chancellor did not long outlive his reason. He died on November 20, 1710.¹

Of course the Great Seal was at once put in Commission, and the Archbishop of Dublin, Robert Earl of Kildare, and Thomas Keightly were appointed Commissioners. Their patent was dated November 28, 1710, and signed by the Privy Council, and in a short time the Great Seal of Ireland was intrusted to Lord Chancellor Phipps. I regret not being able to present a fuller memoir of Lord Chancellor Freeman; a Chancellor whose early labours have been so beneficial to the profession in preserving the judicial determinations of causes heard before such shining lights as Vaughan, Sir Matthew Hale, Holt, and North. Lord Redesdal, subsequently Lord Chancellor of Ireland, further perpetuated his name and fame by assuming in 1809 the surname and arms of Freeman.

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Death,
A.D. 1710.
Great Seal
in Com-
mission.

Sir Con-
stantine
Phipps
appointed.

¹ Ware's Irish Writers by Harris, p. 226.

CHAPTER XXXV.

LIFE OF LORD CHANCELLOR SIR CONSTANTINE PHIPPS.

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The father
of Sir Con-
stantine
Phipps.
Inventor
of the
Diving
Bell.
Makes
profitable
use of it.

His epi-
taph.

THE father of SIR CONSTANTINE PHIPPS, ancestor of the late Marquis of Normanby,¹ one of the most popular Irish Viceroys, was a distinguished naval officer eminently skilled in mathematics. He was the inventor of the diving-bell, which has done so much to recover treasure lost by shipwreck. It was but just the inventor should turn his discovery to profitable use, and this achievement is thus recorded on the tomb raised to his memory, in the church of St. Mary Woolnoth, London :—

Near this place is interred the body
Of Sir William Phipps, Knt., who in the year
1687, by his great industry, discovered among
The rocks, near the banks of Bahama on
The north side of Hispaniola, a Spanish plate
Ship, which had been under water 44
Years, out of which he took in gold and
Silver to the value of three hundred
Thousand pounds sterling, and with a
Fidelity equal to his conduct, brought it
All to London where it was divided
Between himself and the rest of the adventurers; for
Which great service he was knighted by his
Then Majesty K. James II. and afterwards
By the command of his present Majesty,
And at the request of the principal inhabitants
Of New England, he accepted the government
Of the Massachusetts, in which he continued to
The time of his death; and discharged his trusts
With that zeal for the interest of his country,
And with so little regard to his own private advantage,
That he justly gained the good esteem and affection
Of the greatest and best part of the inhabitants of that
Colony.
He died 18th February, 1694;
And his Lady, to perpetuate his memory,
Hath caused this monument to be erected.

¹ Lodge's Peerage of Ireland, vol. vii. p. 83.

From this just governor and distinguished man the noble line of Phipps has descended, but it is of his son Constantine it is my province to write.

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He was born while his father was distinguishing himself —sustaining the British flag upon the waves—about the year 1650, and, devoting himself to the study of the law, was in due time admitted to its practice. The name of Constantine Phipps appears in the books of the Inner Temple in 1682. He was always industrious, and, though partial to the amusements of young men in his position—yachting, rowing, fishing, and riding—he did not neglect to store his mind with legal lore. He was very well prepared when he commenced to practise his profession, for he acted on the maxim, ‘he who is not a good lawyer before he comes to the bar, will never be a good one after it.’ Though he preferred the Equity business, and was a very good Chancery lawyer, he by no means declined the work of *nisi prius*, and in the King’s Bench, Common Pleas, and Exchequer Mr. Phipps was not unknown. He had powerful friends, and when a barrister shows such talents as secures him abundance of briefs, and his reputation as a lawyer is well established, and he is a useful member of Parliament, politicians prophesy his rise, and the Ministers are sure to fulfil the prediction.

Birth of
Constantine
Phipps.

Mr. Phipps acquired a very distinguished position during Queen Anne’s reign. In 1709, he, being then knighted, was appointed Lord Chancellor of Ireland, and was shortly sworn in Lord Justice. An entry in the King’s Inn Roll recites¹—‘Termino Hilarii, 1710, Memorandum quod Excellentissimus Constantinus Phipps, miles unus Dominorum Justiciariorum hujus regni Hiberniæ, et Dominus Cancellarius ejusdem regni, ad humilem petitionem justiciariorum et aliorum juris peritorum hujus societatis, dignatur de inter socios hujus hospitii connumerari.’

Lord Chan-
cellor of
Ireland,
A.D. 1709.

The Lord Lieutenant of Ireland was Thomas Earl of

Earl of
Wharton,
Lord Lieu-
tenant.

¹ Duhigg’s King’s Inns, p. 263.

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Wharton, a man, according to the account in Dean Swift's works, who was infamous in his life, conversation, and actions. Some notice of one who governed this kingdom while Sir Constantine Phipps was Chancellor will serve to display the conduct of men in power in those days.

His cha-
racter.

Thomas Earl of Wharton, Lord Lieutenant of Ireland, by the force of an excellent constitution defied the effects of vice, either on body or mind. His character was the opposite of what that of a man in authority ought to be, and the instances of his want of truth and sincerity, recorded by Swift, would amuse if they did not disgust. Numerous instances of defrauding the public by peculation are recounted, of which the following is a specimen:¹—

‘That his Excellency can descend to small gains, take this instance: there was 850*l.* ordered by her Majesty to buy new liveries for the State trumpeters, messengers, &c., but with great industry he got them made cheaper by 200*l.*, which he saved out of that sum; and it is reported that the steward got a handsome consideration besides from the undertaker. The Lord Lieutenant has no power to remove or appoint a Solicitor-General without the Queen's letter, it being one of the appointments excepted out of his Commission, yet, because Sir Richard Levinge disengaged him by voting according to his opinion, he removed him, and put in Mr. F—, though he had no Queen's letter for so doing, only a letter from Mr. Secretary Boyle, that her Majesty designed to remove him.’

Removes
the Soli-
citor-
General.Privy
Council of
Ireland.

The Privy Council in Ireland have a great share in the administration, all things being carried on by the consent of the majority, and they sign all orders and proclamations there as well as the Chief Governor. But his Excellency disliked so great a share of power in any one but himself, and, when matters were debated in Council otherwise than he approved, he would stop them and say,

¹ Swift's Character of Thomas Earl of Wharton, in Swift's Works, Hawkesworth's Edition, vol. iii. p. 387.

‘Come, my Lords, I see how your opinions are, and therefore I will take your votes,’ and so he would put an end to the dispute.

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One of his chief favourites was a scandalous clergyman, a constant companion of his pleasures, who appeared publicly with his Excellency, but never in his habit. His Excellency presented this divine to one of the Bishops with the following recommendation: ‘My Lord, M—— is a very honest fellow, and has no fault but that he is a little too immoral.’ He made this man chaplain to his regiment, though he had been so infamous that a Bishop in England refused to admit him to a living he had been presented to, till the patron forced him to it by law.

Unworthy
associate
of the
Viceroy.

His Excellency recommended the Earl of I—— to be one of the Lords Justices in his absence, and was much mortified when he found Lieutenant-General Ingoldsby appointed, without any regard to his recommendation, particularly, because the usual salary of a Lord Justice in the Lord Lieutenant’s absence is 100*l.* per month, and he had bargained with the Earl for 40*l.*

Salary of
Lord
Justice.

These specimens of the Lord Lieutenant’s character must show how ill-suited he was to govern any country, more especially one torn by recent civil war and crushed by partial legislation, as Ireland then was. After a short and mischievous sojourn of little more than two years, Lord Wharton was removed, and James Butler, second Duke of Ormond, again found himself in Dublin Castle, intrusted in the Queen’s name with the chief place in the Government of Ireland.

Lord
Wharton
succeeded
by Duke of
Ormond.

While party-spirit was prevailing in the country, and the Lord Chancellor doing his utmost to allay those bitter feelings from which one of the fairest kingdoms of the earth has ever been the victim, he devoted himself with the utmost diligence to his duties as a judge. He found, indeed, plenty to occupy his time, and endeavoured to correct some of the abuses of that Court, which he considered led to unnecessary expense. He also intimated a

The Chan-
cellor en-
deavours
to reform
abuses in
his Court.

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wish to shorten the process by discouraging repetitions, and refusing costs of motions, exceptions, and pleadings which were prolix or irrelevant. Any alarm which these innovations upon the old system may have excited were speedily allayed by the Chancellor becoming hateful to the dominant party in Ireland, which shortly deprived him of his place.

Chancellor tries to abolish, processions.

Among other reforms which Sir Constantine Phipps tried to establish, was the abolition of the ceremony of walking in procession round the statue of King William III. in College Green.

From the time of its erection in 1701, the anniversary of November 4, 1690 (day of King William's landing in England), had been a day of very natural rejoicing to those who, by the success of his campaign, had become ascendants in Church and State. They had the monopoly of every appointment in both kingdoms, and were not likely to allow the Roman Catholic population to forget their inferior position. The practice hitherto had been to hoist the British flag on Birmingham tower, to fire cannon from the guns in the park, which were responded to by volleys from the different barracks of Dublin, and a regiment paraded in College Green. Then all the bells of the churches were kept ringing, and at noon the Lord Lieutenant held a levee at the Castle, from whence, at 3 p.m., a procession issued forth, composed of the Viceroy, Lord Mayor, Sheriffs, Aldermen, the Lord Chancellor, Judges, Provost of Trinity College, and other civil and military dignitaries, with those nobility and gentry who attended the levee, and all marched between lines of troops along Dame Street and College Green, to Stephen's Green. Having made the circuit of Stephen's Green, they returned, and as they reached the statue in College Green, made three rounds, after which the troops fired three volleys.

How the anniversary of William was kept

Chancellor Lord Justice refuses to march.

As these annual displays provoked animosity between Catholics and Protestants, and were often attended with tumult, Sir Constantine, while Lord Justice, during the reign of Queen Anne, hoped to put an end to them by

refusing to join the procession. But the spirit of the ascendancy party was too strong to suffer this opportunity of showing its strength to collapse so quickly. William Aldrich, then High Sheriff, a violent partisan, took the head of the procession, and, leaving the Lord Justice alone in his glory, had the honour of being the chief actor in the annual show.¹

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XXXV.High
Sheriff
takes the
lead.

The Jacobite party often offered indignities to this unhappy statue. On the night of Sunday, June 25, 1710, the King's face was plastered with mud, and his Majesty deprived of his sword and truncheon. The next day there was a great commotion, and the House of Lords resolved, 'That the Lord Chancellor, as Speaker, do, as from this House, forthwith attend his Excellency, and acquaint him that the Lords, being informed that great indignities were offered last night to the statue of his late Majesty King William of glorious memory, erected on College Green, to show the grateful sense this whole kingdom, and particularly the city of Dublin, have of the great blessings accomplished for them by that glorious Prince, have made this unanimous resolution, that all persons concerned in that barbarous fact are guilty of the greatest insolence, baseness, and ingratitude, and desire his Excellency the Lord Lieutenant may issue a proclamation to discover the authors of this villany, with a reward to the discoverer, that they may be prosecuted and punished accordingly.' The Chancellor, having communicated as directed, the Lord Lieutenant issued a Proclamation, and offered a reward of one hundred pounds for the discovery of the offenders. It was afterwards found that three young men, students of Trinity College, were the perpetrators—that it was done in a frolic. The consequences were serious. The students were expelled from the University, sentenced on November 18, 1710, to six months' imprisonment, to a fine of 100*l.* each, which was however reduced to five shillings.²

Indignities
to the
statue.
Resolution
of the
Lords.Chancellor
obeys the
Lords.The
culprits
expelled
Trinity
College.¹ Gilbert's History of Dublin, vol. iii. p. 42.² Ibid. p. 44.

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Intimacy
of Lord
Chancellor
Phipps
with lite-
rary men.

Sir Constantine was evidently a person of refined tastes, and much esteemed by literary men. Thomas Prior the poet, who was constantly employed by the English Government in negotiations with the Continent, for which purpose his knowledge of foreign languages especially qualified him, writing to Dean Swift, then in Dublin, from Paris, August 1713, says, 'Pray give my service to your Chancellor,' and in the twelve volumes of the Works of the Dean of St. Patrick,¹ are several letters from the Chancellor to Dean Swift.

From these it appears that Swift, who was on very intimate terms with the influential men of the time, was endeavouring to promote the interest of the son of the Lord Chancellor. Whatever was the situation which Dean Swift endeavoured to secure for Mr. Phipps there was some delay in securing the appointment. The Chancellor again wrote:—

‘Dublin, October 24, 1713.

Letter to
Dean
Swift.

‘Dear Sir,—I am indebted to you for your kind letters of the eighth and tenth instant, and I very heartily acknowledge the obligation. That of the eighth gave me a great many melancholy thoughts, when I reflected upon the danger our Constitution is in, by the neglect and supineness of our friends, and the vigilance and unanimity of our enemies; but I hope your Parliament proving so good, will awaken our friends, and unite them more firmly, and make them more active.

‘That part of your letter of the tenth, which related to my son, gave me a great satisfaction, for though your Commissioners here have heard nothing of it, yet I believed Mr. Keightly might bring over full instructions in it, but he is arrived and knows nothing of it, so that whatever good intentions my Lord Treasurer² had in relation to my son, his Lordship has forgotten to give any directions concerning him; for, with him, things are just as they were before you left Dublin. If you will be so

¹ Hawkesworth's Edition.

² Earl of Oxford.

kind to put his Lordship in mind of it, you will be very obliging.

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‘I cannot discharge the part of a friend, if I omit to let you know that your great neighbour at St. Pulcher’s¹ is very angry with you. He accuseth you of going away without taking your leave of him, and intends in a little time to compel you to reside at your deanery. He lays some other things to your charge which you shall know in a little time.

‘We hourly expect my Lord Lieutenant.² The Whigs begin to be sensible they must expect no great countenance from him, and begin to be a little down in the mouth since they find Broderick³ is not to be their Speaker.

‘I am, with very great truth,
‘Your most obedient servant,
‘CON. PHIPPS.’

The Irish House of Commons took active steps for the removal of Sir Constantine Phipps from the Chancellorship. On December 18, 1713, it was resolved ‘That the Lord Chancellor, having represented Edward Lloyd, news writer, who had printed proposals for publishing “Memoirs of the Chevalier de St. George,” a traitorous work, as an object of her Majesty’s mercy, and as not having any evil design in publishing the said libel, in order to obtain a *nolle prosequi* on the indictment against him, acted therein contrary to the Protestant interests of the kingdom.

Resolution
of the
House of
Commons
against the
Lord Chan-
cellor.

‘Resolved—That it appears to this House that the said Sir Constantine Phipps, Lord High Chancellor of Ireland, in a speech by him made on the 16th day of January, 1712, to the Mayor and Aldermen of the city of Dublin, being then one of the Lords Justices of Ireland, did take upon him, by declaring his opinion, to prejudge the merits of the cause then depending between her Majesty and Dudley Moore, Esq., and thereby influence the Aldermen, some of

¹ Dr. King, Archbishop of Dublin.

² Duke of Shrewsbury.

³ Afterwards Lord Chancellor Lord Midleton. He was elected Speaker.

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Address to
the Queen
to remove
him.

whom are constantly returned as jurors in all causes of importance in that city.

‘Resolved—That an humble address be presented to her Majesty, humbly to beseech her Majesty to remove the Right Honourable Sir Constantine Phipps, Knight, Lord High Chancellor of Ireland, from his place of Lord High Chancellor of this kingdom, for the peace and safety of her Protestant subjects of this kingdom.’

An address embodying these resolutions was addressed to the Queen’s Most Excellent Majesty, and on December 21, 1717, Mr. Brodrick the Speaker, with several Knights, Citizens and Burgesses, waited on the Lord Lieutenant at the Castle, with their address, who promised to transmit it by the first opportunity.

Cause of
hostility to
the Lord
Chancellor.

The efforts of the Lord Chancellor to promote the welfare of all her Majesty’s subjects in Ireland, and not the violent Protestant party, was the cause of the complaints to which he was subjected by this portion of the people of Ireland, and it was most gratifying for him to find, that, while the representatives of the ascendancy party in the House of Commons refrained for a moment forging the fetters of the Penal Code wherewith to bind the Catholics, in order to concoct an address to the Queen, praying for his removal, the Peers, Spiritual and Temporal, were presenting an address of directly the opposite tendency.

He is sup-
ported by
the House
of Lords.

Some notion may be conceived of the expressions used towards this high official, at the time when he was Lord Justice, by the lower orders of the populace of Dublin, from the evidence given before the Lords on December 18, 1713, when it was proved that one Richard Nuttal said, ‘That the Lord Chancellor was a canary bird, a villain, and had set this country by the ears, and ought to be hanged.’ Their Lordships directed the Attorney-General to prosecute Nuttal for speaking these words.¹

Slenderous
words
against the
Lord Chan-
cellor.
Attorney-
General
ordered to
prosecute.

The Peers, Spiritual and Temporal, united in their efforts to disconcert the enemies of the Lord Chancellor. Their

¹ Lord’s Jour. Ir. vol. ii. p. 437.

address shows the lengths party spirit went to procure his recall :—

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‘ Most gracious Sovereign,

‘ We, your Majesty’s most dutiful and loyal subjects, the Lords Spiritual and Temporal in Parliament assembled, having taken into our serious consideration the calumnies and reproaches which have been cast upon Sir Constantine Phipps, your Majesty’s Lord High Chancellor of Ireland and Speaker of this House : And having this day had under our examination several groundless aspersions thrown upon him by one Richard Nuttall, whereby he was traduced, even whilst he was one of your Majesty’s Lords Justices, as having been a promoter of all the dissensions which have lately happened in this kingdom, do think ourselves obliged, in justice to that excellent Minister, in all humility to represent unto your Majesty that we do not find, but that, in the several eminent stations in which he hath served your Majesty since his coming into this country, he hath acquitted himself with Honour and Integrity, as becomes a discerning and vigilant Governor ; an equal Administrator of Justice ; a true lover of the Church as by law established ; and a zealous assertor of the Prerogative, in opposition to a factious spirit which hath too much prevailed in this Nation.

‘ We, therefore, most humbly beseech your Majesty that you will not suffer any evil report against him (if any such should reach your Majesty) to make an impression on your royal heart to his disfavour.’¹

On enquiry into the case of Edward Lloyd, which was one of the grounds of complaint made by the House of Commons in their address, the facts as stated in the Lords’ Representation to the Queen, December 24, 1713, appear as follows :—

That Lloyd did, in September 1712, publish a proposal to print the ‘ Memoirs of the Chevalier de St. George,’ and take in subscriptions for the same. When the Lords Justices and Council of Ireland were apprised of this, they

Lords
address to
the Queen
on behalf
of the
Chanc-
cellor.

Case of
E. Lloyd.

¹ Lords’ Jour. Ir. vol. ii. p. 437.

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seized his papers, and thus put a stop to the printing the book. They likewise ordered a prosecution, and a bill of indictment was found against him for treasonable and seditious libel, whereon Lloyd retired into England. While there, he petitioned the then Lord-Lieutenant, Duke of Ormond, setting forth he had no evil design in the publication for which he was indicted, that his poverty rendered him an object of mercy, and that he had given evidence of his zeal in the Queen's service by discovering a most infamous libel against her Majesty, and that he would never offend again. The Duke of Ormond, having referred this Petition to the Lords Justices, their Lordships in Council referred it to the Law Officers, the Attorney and Solicitor-Generals. These officials reported 'that Lloyd, being no further criminal than by intending to print and publish the book, and being in very low circumstances, he might be an object of her Majesty's mercy.'

Whereupon not the Lord-Chancellor alone, but the Lords Justices in Council, wrote to the Duke of Ormond, on May 23, 1713, this result, and his Grace, by his reply, dated June 18, 1713, required the Lords Justices to stay further proceedings on the said indictment, which they did accordingly. The Lords also found, on perusing the speech, which, luckily for himself, the Lord Chancellor had put in writing before he spoke it to the Lord Mayor and Aldermen in Council, on January 16, 1712, that so far from its being contrary to the Protestant interest of this kingdom, it was quite conservative of it. Indeed, the following extracts show, that the Lord Chancellor was as desirous of denying the Roman Catholics the free exercise of their religious ceremonies as Oliver Cromwell himself.

'There is another thing which we recommend to you, which is, the preventing public mass being said, contrary to law, by priests not registered, or that will not take the Abjuration Oath; or are otherwise disabled from officiating.

'We have more than ordinary reason to press this, because we suffer by your neglect. The country, gene-

Recom-
mendation
of the Law
Officers.The Vice-
roy directs
the Lords
Justices
to stay pro-
ceedings.Lord Chan-
cellor's
speech to
the Lord
Mayor.

rally, make the city their pattern ; and, after your example become negligent of their duty in this respect. For, being asked why they permit public mass to be said, their answer is, “ It is done in Dublin, and, as we are informed, by the approbation of the Government, for else it could not be done ; and why should we be more officious than others ? ”

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‘ There are very good laws made to prevent this ; and we have issued a Proclamation for the due execution of these laws, and have charged it in the most pressing terms we could.’¹

The attempt to remove the Lord Chancellor occasioned a great amount of antagonism in Ireland. It was not merely confined to the Parliament. The Commons, addressing the Queen for his removal, the Lords that he might be retained in his office ; but clergy and laity shared in the matter.

Contro-
versy about
the Chan-
cellor.

Swift, in writing to Dr. King, Archbishop of Dublin, states that the Addresses had been sent to the Queen :—

‘ London : December 31, 1713.

‘ My Lord,

‘ Your Grace’s letter, which I received but last post, is of an earlier date to what have since arrived. We have received the address for removing the Chancellor, and the counter addresses from the Lords and Convocation ; and you will know, before this reaches you, our sentiments of them here. I am at a loss what to say on this whole affair. Our Court seems resolved to be very firm in their resolution about Ireland. I think it impossible for the two kingdoms to proceed long upon a different scheme of politics. The controversy with the city I am not master of : it took its rise before I ever concerned myself with the affairs of Ireland, further than to be an instrument of doing some service to the kingdom, for which I have been ill requited. But, my Lord, the question with us here is, whether there was a necessity that the other party should have a majority.

Letter to
Arch-
bishop
King from
Dr. Swift.
Addresses
and counter
addresses.

* * * *

¹ Lords’ Jour. Ir. vol. ii, p. 449.

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‘The address for removing the Chancellor is grounded upon two facts; in the former of which he was only concerned with others; the criminal was poor, and penniless, and a *noli prosequi* was no illegal thing. As to Moore’s business, the Chancellor’s speech on that occasion hath been transmitted hither, and seems to clear him from the imputation of prejudging. Another thing we wonder at is, to find the Commons in their votes approve the sending for the Guards, by whom a man was killed. Such a thing would, they say, look monstrous in England.’¹

The Earl of Anglesey, when writing to Dr. Swift, shows how strong was the feeling of the Lords in favour of the Lord Chancellor:—

‘Dublin, Jan. 16, 1713–14.

‘Mr. Dean,

Letter
from the
Earl of
Anglesey.

‘You judged extremely right of me, that I should, with great pleasure, receive what you tell me, that my endeavours to serve her Majesty, in this kingdom, are agreeable to my Lord Treasurer and the rest of the Ministers.

* * * * *

‘You are very kind, too, in your good offices for Mr. Phipps, because a mark of favour so seasonably as at this time conferred on the Lord Chancellor’s son, will have a much greater influence, and reach farther than his Lordship’s person.

* * * * *

‘I shall trouble you with no compliments, because I hope soon to tell you how much I am, Dear Sir,

‘Yours,

‘ANGLESEY.’²

Grand
Jury of
Cork ad-
dress in
favour of
the Chan-
cellor.

The Lord Chancellor had active friends throughout the country. An Address of the High Sheriff, Justices of the Peace, Clergy, and Grand Jury of the County of Cork, was adopted at the Quarter Sessions held for that county at

¹ Swift’s Works, vol. xii. p. 23.

² William Phipps, Esq., the Lord Chancellor’s only son, married Lady Catherine Annesley, only daughter and heiress of the Earl of Anglesey.

Bandon, July 12, 1713-14, and presented to Queen Anne by Lord Bolingbroke. 'We cannot but with grief and great concern take notice, that the unhappy and fatal dissensions which reigned and were fomented some years past, do yet continue in this kingdom, notwithstanding the indefatigable zeal and application of the Right Honourable Sir Constantine Phipps, Lord High Chancellor, and your other excellent Ministers, to the contrary. We cannot but join with great pleasure and satisfaction your Majesty's most loyal Lords in Parliament, and your faithful clergy in convocation assembled, in their dutiful and humble request to continue your Royal countenance and favours to that great Minister, whose impartial justice, consummate abilities, and unbiassed affection to the constitution in Church and State are equal to those great trusts in which your Majesty's unerring wisdom for the safety and honour of your Majesty's interests and the common good of your people has placed him.'¹

As Parliament was prorogued to Monday, January 18, 1713, and further to August 10, 1714, and the Queen died on August 1, whereby the Parliament was dissolved, I can find no trace of any proceedings upon these Addresses. That the Lord Chancellor had not been removed from his office, or lost nothing of his dignity, may be inferred from the fact that, on the death of the Queen in 1714,² he, with the Archbishop of Armagh, were appointed Lords Justices of Ireland.

He did not long retain office. On the accession of King George I., a change of Government took place, and Sir Constantine Phipps ceased to be Lord Chancellor. He returned to London, and resided in the Temple, but continued to correspond with his friends in Ireland, and took an interest in Irish affairs.

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Parliament prorogued.

Death of Queen Anne.

Chancellor Lord Justice.

¹ Smith's History of Cork, vol. ii. pp. 231, 232.

² The number of Chancery decrees in Ireland enrolled during the reign of Queen Anne bear no proportion to the number pronounced. I could only discover one hundred and three, but this was far short of the decrees actually made.

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XXXV.
Effects of
importing
Chanc-
cellors.

The constant practice of importing Chancellors from England was calculated to act prejudicially upon the enthusiasm of the legal profession in Ireland. For no amount of legal learning, of knowledge in the practice of the Courts in Ireland, constituted a claim to the highest offices in the law. The *noblesse de la robe* was aspired to by the highest families in this kingdom, and the Bar was always regarded as the profession of a gentleman. It was, therefore, a source of discontent that strangers to the country, practitioners of another land, were elevated over the heads of the most eminent Irish lawyers, drawing after them tribes of relations—sons, sons-in-law, nephews, or remote cousins, on whom they bestowed registrarships, clerkships, the offices of secretary, purse and train bearers, and other offices of which they had the patronage, to the prejudice of members of the Bar of Ireland. It was therefore very gratifying that, on the removal of Sir Constantine Phipps, in 1714, King George I. delivered the Great Seal of Ireland to Sir Alan Brodrick, whom he created Lord Midleton.

Phipps
removed,
1714.
Brodrick
appointed.
Ex-Chan-
cellor
returns to
the Eng-
lish Bar.

The Ex-Chancellor, at this period, had no retiring pension, and was of too active habits, and devoted to his profession, to spend his time listlessly or idly. Accordingly he resumed his station at the English Bar, and became a prime favourite with Jacobites and Tories.¹ His legal acquirements were of too high a class not to place him in the foremost rank of legal practitioners, and when he returned to Westminster Hall he had very lucrative business at the Bar. Duhigg states that ‘Phipps seemed to consider official station as still encircling him, and violated professional decorum at the Bar of the House of Lords, for which that august assembly most justly gave the offender a public reprimand.’² But the historian of the King’s Inns uses such strong language in reference to all whom he dislikes, that I am not disposed to place implicit reliance on all his statements.

¹ Duhigg’s History of the King’s Inns, p. 264.

² Ibid. p. 265.

Dean Swift undertook the advocacy of Irish interests, which, hitherto, had been completely subordinate to those of England. One extract from the pamphlet, ‘Proposal for the Universal use of Irish Manufacture,’ will serve as a proof of the advice he gave in this matter:—

‘ I could wish the Parliament had thought fit to have suffered these regulations of *Church* matter, and enlargement of the *prerogative*, until a more convenient time, because they did not appear very pressing, at least to the persons principally concerned; and, instead of these great refinements in *politics* and *divinity*, had *amused* themselves and their committees a little with the *state of the nation*. For example: what if the House of Commons had thought fit to make a resolution *nemine contradicente* against wearing any cloth or stuff in their families, which were not of the growth and manufacture of this kingdom? What if they had extended it so far as utterly to exclude all silks, velvets, calicoes, and the whole *lexicon* of female fopperies, and declared that whoever acted otherwise should be deemed and reputed *an enemy to the nation*? What if they had sent up such a resolution to be agreed to by the House of Lords; and by their own practice and encouragement spread the execution of it in their several counties? What if we should agree to make *burying in woollen a fashion* as our neighbours have made it a *law*? What if the ladies would be content with Irish stuffs for the furniture of their houses, for gowns and petticoats, for themselves and their daughters? Upon the whole, and to crown all the rest, let a firm resolution be taken by *male* and *female* never to appear with one single shred that comes from England; and let all the people say Amen.’

The appearance of this pamphlet, at a time when the Irish manufactures were depressed by the partiality evinced to the trade of England, created immense excitement throughout Ireland. Dean Swift, who was at once regarded as the writer, became the object of popular enthu-

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Swift's
proposal
for the use
of Irish
manufac-
tures.

Rage of
the Go-
vernment.

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A prosecution.
Chief Justice Whitshed.

Arbitrary conduct of the Chief Justice.

Jury find a special verdict.

Swift seeks a Writ of Error.

Letter from Ex-Chancellor Phipps to Dean Swift.

No Writ of Error in criminal case without direction.

siasm. The Duke of Grafton, then Lord-Lieutenant, and the Government, were furious, and a prosecution of the printer was proposed. Whitshed, then Chief Justice of the King's Bench, was a willing tool for any arbitrary proceedings. He was son of Thomas Whitshed, an eminent Irish barrister; was appointed Solicitor-General in 1709, and Chief Justice of the King's Bench in 1714. The Judges of Ireland were dependent on the Government, for they held their offices during pleasure; and Waters, the printer, having been brought to trial before the Chief Justice upon an indictment, this high-handed, arbitrary Judge sent back the Jury nine times in order to coerce them to find the printer guilty. Feeling they were in the power of this Judge, they, at last, made a sort of compromise between their consciences and his inclination, and found a special verdict. The Duke of Grafton, then Lord-Lieutenant, upon mature advice, and instruction from England, instructed the Attorney-General to enter a *noli prosequi*, and the affair was allowed to drop. Pending these proceedings, and while the prosecution was hanging over the head of Waters, the printer, Swift applied to Sir Constantine Phipps to try and have a writ of error, as we find by the following reply from the Ex-Lord Chancellor of Ireland:—

‘Ormond Street: January 14, 1720-21.

‘Sir,

‘Having been a little indisposed, I went at Christmas into the country, which prevented me from sooner acknowledging the favour of your letter. As to Waters’ case,¹ I was informed of it; and the last term I spoke to Mr. Attorney-General² about it; but he told me he could not grant a writ of error in a criminal case, without direction from the King; so that Waters is not like to have much relief from hence, and, therefore, I am glad to have some hopes it will drop in Ireland. I think the Chief Justice should have that regard to his own reputa-

¹ Dean Swift's printer.

² Sir Robert Raymond.

tion to let it go off so ; for I believe the oldest man alive, or any law book, cannot give any instance of such a proceeding. I was informed who was aimed at by the prosecution, which made me very zealous in it ; which I shall be in everything wherein I can be serviceable to that gentleman, for whom no body has a greater esteem than

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His
opinion of
the Chief
Justice.

‘ Your most humble and most obedient servant,

‘ CON. PHIPPS.

‘ To Dr. Swift.’

Sir Constantine Phipps died at his residence in the Middle Temple, on October 9, 1723. He left an only son, William Phipps, who married Lady Catherine Annesley, only daughter and heiress of James, fourth Earl of Anglesey. The grandson of Sir Constantine Phipps, Lord Chancellor of Ireland, was raised to the Peerage in 1767 as Baron Mulgrave, of New Ross, county of Wexford. Henry Phipps became Viscount Normanby and Earl of Mulgrave in 1812 ; and Constantine Henry Phipps, the most popular Viceroy of Ireland from 1835 to 1839, was created Marquis of Normanby in 1838. He married the Honourable Maria Liddell, eldest daughter of Lord Ravensworth, and, dying in 1863, was succeeded by his son George Augustus Constantine Phipps, now second Marquis of Normanby. His Lordship is a Privy Councillor, Captain of the Honourable Corps of Gentlemen-at-Arms ; had been Comptroller of her Majesty’s Household, and Governor of Nova Scotia. His Lordship is married to Laura, daughter of the late Captain Russell, R.N., and has several children.

Death of
Sir Con-
stantine
Phipps,
A.D. 1723.

His de-
scendants.

Dean Swift’s opinion of Sir Constantine Phipps is thus expressed in his vindication of the Lord Carteret, written in 1730, after the death of the Ex-Chancellor. Referring to the persons of merit promoted, while Lord Carteret was Lord-Lieutenant, when mentioning Doctor Patrick Delany,¹ Swift says, ‘ This divine lies under some disadvan-

Dean
Swift’s
posthu-
mous
opinion of
Sir Con-
stantine
Phipps.

¹ Reverend Patrick Delany, D.D., Dean of Down. He was married to Mary Granville, whose entertaining letters have been so ably edited by Lady

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tage ; having in his youth received many civilities from a certain person then in a very high station here, for which reason, I doubt not, the Doctor never drank his confusion since ; and what makes the matter desperate, it is now too late ; unless our *inquisitors* will be content with drinking confusion to his memory. The aforesaid eminent person, who was a judge of all merit, except that of party, distinguished the Doctor among other juniors in our University for his learning, discretion, and good sense.'

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