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THE LORD CHANCELLORS
AND
KEEPERS OF THE GREAT SEAL
OF
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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

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CONTENTS

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CHAPTER XXXVI.

LIFE OF LORD CHANCELLOR BRODRICK, VISCOUNT MIDLETON, FROM HIS BIRTH TILL THE ATTEMPT TO REPEAL THE TEST ACT IN 1717.

The Brodricks, page 1. Sir St. John Brodrick, 1. Midleton, 2. St. John Brodrick's Marriage, 2. Birth of Alan, 3. A Practising Barrister, 3. The Brodricks Attainted, 3. King's Serjeant, 3. Solicitor-General, 3. Member for Cork City, 3. Elected Speaker—His Speech, 3. Lord Chancellor's Speech in approval, 4. The Speaker a Friend to Toleration—Baneful effects of Intolerance, 4. Letter to Earl of Nottingham, 5. Treatment of the Presbyterians, 5. Case, and Opinion of Mr. Brodrick, 5. Loses his Office, 5. Continues Speaker, 6. Attorney-General, 6. Arrival of the Earl of Pembroke, 6. The Viceroy unable to procure the Repeal of the Test Act, 7. Letter from Mr. Doddington, 7. Brodrick's Suggestion, 7. Recall of Earl of Pembroke, 7. Earl of Wharton Lord Lieutenant, 7. Dean Swift supports the Test, 7. Irish Roman Catholics in 1707, 8. Addison—His Deficiency as an Orator, 8. Brodrick Knighted—and Chief Justice, 9. Called to the House of Lords, 9. Thanks from the Commons—and Reply, 9. Removed from Chief Justiceship, 10. Parliament Dissolved, 10. Brodrick M.P. and Speaker, 10. Speech—Duties of the Speaker, 10. His Experience, and Expectations, 11. Accession of George I., 12. Brodrick Lord Chancellor, with a Peerage, 12. Viscount Midleton, 12. Presbyterians endeavour to Repeal the Test, 12. Letter from the Viceroy, 13. Repeal not Advisable—Consulted Lord Chancellor and Speaker, 13. Lord Chancellor and his Son, 14. The Attempt abandoned, 14. The first Sir Robert Peel and his Son, 14.

CHAPTER XXXVII.

LIFE OF LORD CHANCELLOR LORD MIDLETON—CONCLUDED.

Cause of *Sherlock v. Annesley*—Decree, 15. Order by Irish House of Lords Reversed by English House of Lords, 15. Petition to Irish Lords—Call of the House, 16. Resolutions and Report, 16. Order to High Sheriff—Injunction—Refusal by the High Sheriff, 16. The Sheriff Fined, 17. He Petitions the Irish

Lords—Report of the Lords, 17. Injunction by the Barons, 18. Questions put to the Barons, who Decline to Answer, 19. Lords' Resolutions, 19. High Sheriff Commended—the Barons Censured, 20. Duty of the Barons, 20. Lord Chancellor and other Peers Dissent, 20. Majority for the Resolutions, 20. The Barons ordered into Custody, 21. Representation to the King, 21. English Laws, 21. Irish Parliament, 21. Ireland a distinct Dominion, 22. A Grievance to Regard the Irish Parliament Incompetent to Decide Appeals, 22. Removal of Causes and Writs of Error into England, 22. Only two Appeals before and two after the Revolution, 23. Both Parliaments constituted alike, 23. Earl and Countess of Meath, 23. Hardship on Suitors, 23. Charter of Edward III., 24. If Judicature be taken, the Constitution may follow, 24. No power of Lords of Great Britain to enforce decrees in Ireland, 24. Payment to prevent further Application to the Irish Parliament, 24. Discouragement to Protestant Peers, 24. Appeal to the King, 25. Proceedings sent to England, 25. The Lords Commend the Conduct of the Barons, 25. Statute for securing the Dependency of Ireland, 25. Lord Macclesfield, 26. Opinion of Lord Campbell, 26. Wood's Patent, 27. Contract fulfilled, 27. Wood's Imprudence—The Duchess of Kendal, 28. Irish suspect a Job, 28. Character of Lord Chancellor, 28. The Duke of Grafton, 29. Censure on the Lord Chancellor, 29. Discontent at his Absence, 29. The Storm begins, 30. Chancery Returns, 30. Exchequer Chamber and Paper Office Returns, 31. Absence of Lord Chancellor, 31. Examination of the Registrar, 32. Testimony in Favour of Lord Chancellor, 32. Mr. Malone's Evidence, 33. The Lords' Resolution, 33. Determination respecting the Great Seal, 33. The Decision of the Lords causes him to Resign, 34. Succeeded by Lord Chancellor West, 34. His Character as a Judge, 34. Offered Dedication of the Drapier's Letters, but declines the Compliment, 35. A Commissioner of Public Accounts, 35. Thrice married, 36. His son St. John Brodrick, 36. Alan Second Lord Middleton, 36. Death in 1728, 36.

CHAPTER XXXVIII.

LIFE OF LORD CHANCELLOR WEST.

Conjecture as to the Family of Lord Chancellor West, 38. Birth and Education, 38. Marriage with Miss Burnet, 39. Lord Chancellorship of Ireland, 39. Chief Justice Whitshed claims the Great Seal, 39. Mr. West Appointed, 39. Speaker of the House of Lords, 39. Attendance of the Judges, 39. Speech of the Viceroy, 40. Recommends fresh Penal Laws, 41. Case of Mr. Nagle, 41. Order of the Lords against Printing their Proceedings, 41. Offender Reprimanded, 42. The King's Printer Censured, 42. No Popery Laws, 42. Bills of Discovery and Statutes, 42. Trusts, 43. Issues and Affidavits, 43. Decisions of the Lord Chancellor, 43. Constructive Papists and Good Discoverers, 43. Protestant Fidelity, 44. Fatal illness of Lord Chancellor, 44. Regret for his loss, 44. His place to be filled by an Englishman, 44. The King Pensions his Widow, 44. Lord Carteret, 45. Mrs. West's Pension, 45. The Irish Bar, 45. Richard Malone, 46. Dr. Coghill, 46. Ballad of the Bar, 47. The Four Courts in 1730, 49. Ceremony attending the Sitting of the Lord Chancellor, 50.

CHAPTER XXXIX.

LIFE OF LORD CHANCELLOR LORD WYNDHAM.

Sir Wadham Wyndham, 51. Parentage of Thomas Wyndham, 51. Becomes a Law Student, 51. State of the English Bench, 51. Act to Continue Legal Proceedings, 52. The Independence of English Judges Secured, 52. The Bar an open Profession, 52. Lamentation of Sir Henry Chauncy, 52. Wyndham Chief Justice of the Common Pleas, 53. His Appointment as Chancellor pressed by Primate Boulter, 53. Character of Primate Boulter, 54. Mischievous Policy, 54. Lord Chancellor shares the Primate's anti-Irish Views, 55. Duchess of Tyrconnel, 55. Accession of George II. in 1727, 55. Lord Chancellor's Appointment Confirmed, 55. Death of Chief Justice Whitshed, 55. His place to be filled by an Englishman, 56. The Irish Privy Council—a Caution, 56. Reasons why Chief Justice Rogerson should not be Changed, 57. State of Ireland in 1727, 57. The Magistracy, 58. Disagreement among the Lords Justices, 58. Case of Abduction, 59. An Attorney Sentenced to Death, 59. No Room for Mercy, 59. Reprieve, 60. A Point—Lord Chancellor Convenes a Council, 60. Opinion of the Law Officers, 60. The Prisoner Executed, 61. Construction of the Penal Laws, 61. Benchers Refuse to Call John Fitz Gibbon, 61. Ground of Rejection, 61. Lord Chancellor and Chief Justice support the Law Student, 62. He is Called to the Bar, 62. Baron Wyndham of Finglas, 63. A Parliament, 63. Death of the Speaker—and his Successor Elected, 63. Lord Chancellor's Speech to the Speaker, 64. Order respecting the Attendance of a Judge, 64. Change of Viceroy, 65. Irish House of Lords, 65. The Duke of Devonshire, 65. Parliament House Built in A.D. 1739, 66. Trial of an Irish Peer, Lord Santry, in 1739, 66. Misconduct of Lord Santry, 67. Murphy Stabbed, 68. Lord Santry Apprehended, 68. Lord Chancellor High Steward, 68. Procession and Proceedings at the Trial, 69. Prisoner Pleads not Guilty, 70. Found Guilty, and Sentenced to Death, 71. The Bishop of Derry's Account of the Trial, 71. Legal Changes—Resignation of the Lord Chancellor, 72. Lord Wyndham's Character as Chancellor, 72. Charity of Primate Boulter, 72. Death of Lord Wyndham, 73.

CHAPTER XL.

LIFE OF ROBERT JOCELYN, VISCOUNT JOCELYN, LORD CHANCELLOR OF IRELAND.

Family of Jocelyn, 74. Sir Gilbert Jocelyn, 74. John Jocelyn, 74. Epitaph on John Jocelyn, 75. Robert Jocelyn, 75. His Promotion—Serjeant, 75. Solicitor-General, 75. Attorney-General, 76. Lord Chancellor, 76. Encourages Irish Literature—Patron of Walter Harris, 76. Handel's warm Reception in Dublin, A.D. 1741, 77. The Irish Bar, 77. Bar Oratory, 77. A Death-bed Joke, 78. Created Lord Newport, 80. Ceremonial in the House of Lords, 81. Trial of Lord Netterville on a Charge of Murder, 81. Acquittal, 81. Lord Chesterfield Viceroy, 81. Letter to Mr. Prior on Irish Manufactures, 82. Intemperate Habits of the Irish Gentry, 82. Duties of an able Viceroy, 83. Lord Chesterfield's Phœnix, 83. The Dangerous Papist, 83. Lord Chancellor and Viceroy ridicule Rumours of Popish Plots, 83. A Visit to the Dangerous

Papist, 84. Primate Stone, 86. Question whether or no the House of Commons of Ireland could Dispose of Surplus Revenue, 86. Catholics Disqualified from Sitting or Voting, 86. Patrons of Boroughs, 87. Duration of Sessions, 87. Heads of Bill to Dispose of Surplus, 87. Viceroy Declares the Consent of the Crown, 88. Alarm of the House of Commons, 88. Prime-Serjeant Malone, 88. Prime-Serjeant Displaced, 89. Chancellor's First Wife, 89. Second Wife, Lady Rosse, 90. Created Viscount Jocelyn, 90. Death, A.D. 1756, 90.

CHAPTER XLI.

LIFE OF JOHN LORD BOWES, LORD CHANCELLOR OF IRELAND, FROM HIS BIRTH TO THE RUMOURS OF THE FRENCH INVASION IN 1759.

Scanty Materials for a Memoir of Lord Chancellor Bowes, 91. Birth—Native of Surrey, 91. Called to the Bar in England and Ireland, 91. Serjeant, 91. Obtains a Seat in the House of Commons, 91. Solicitor-General in 1730, 92. Attorney-General and Chief Baron—Puisne Barons, 92. Bumper Squire Jones, 93. Remarkable Trial, 93. Romantic Story of James Annesley, Lord Altham, 94. Plaintiff's Counsel, 97. Defendant's Counsel, 98. Defendant denies the Legitimacy of the Plaintiff—The Charge to the Jury, 98. Verdict for the Plaintiff—Writ of Error—and Death of James Annesley, 98. Chief Baron named for Great Seal, 98. Lord Mansfield also Spoken of, 99. Bowes Lord Chancellor, 99. Cause List in Arrear, 99. Decree against Dean of Down, 99. The Dean Declines to Meet the Lord Chancellor, 100. The Lords' Address to the Duke of Bedford, 100. Toleration to Catholics, 101. Registration of Priests, 101. Opposed by the Lord Chancellor, 101. Discussed before Privy Council, 102. The Duke tries to effect Reforms, 102. The Duchess of Bedford, 102. Richard Rigby, the Viceroy's Secretary, 102. A Managing Viceroy, 102. Questions for Answers, 103. Reply of the Speaker, 103. The Attorney-General, 104. The Solicitor-General, 104. Postmaster-General, 104. The Ministry Defeated, 104. Complaints of the Viceroy, 104. Repeal of Poyning's Law Spoken of, 105. Social Habits of the Irish Secretary, 105. Rigby's Reply, 105. The Chancellor and Rigby, 106. Duties as Speaker of the Lords Easy, 106. Contrast presented by the Commons, 106.

CHAPTER XLII.

CONCLUSION OF THE LIFE OF LORD CHANCELLOR LORD BOWES.

Rumours of Invasion, 108. Address from the Catholics, 108. Viceroy States the Necessary Precautions, 109. The Ulster Militia, 109. Fears respecting the Roman Catholics, 109. Vindication of the Catholics by the Protestant Primate, 109. Viceroy's Message to the Irish Parliament, 110. Mr. Pitt's Reply to the Viceroy, 110. Mr. Pitt Condemns the Apathy of Irish Protestants, 110. Rumours of a Union between Great Britain and Ireland, 111. The Secretary and Speaker Address the Crowd, 111. Fears again Excited by Rigby's Motion, 111. Fearful Excitement in Dublin, 111. The Peers Mobbed—Lord Inchiquin, 112. The Lord Chancellor Compelled to take the Oath, 112.

Lord Farnham also Sworn, 113. Disgraceful Conduct in the House of Lords, 113. Narrow Escape of Richard Rigby, 113. Dismay at the Castle, 113. No Riot Act in Ireland, 113. Forbearance of the Troops, 113. Resolutions of the Commons, 114. Lord Mayor and Sheriffs Admonished, 114. The Address from the Lords, 114. The King directs Proceedings against the Civic Authorities, 114. Two Modes Suggested, 114. Objections, 115. Difficulty of Procuring Evidence, 115. Viceroy a material Witness, 115. Lord Chancellor desirous of having the Civic Authorities Punished, 115. Thurot's Invasion, 1760—The Garrison made Prisoners of War—Despatch from General Strode, 116. The Viceroy Blamed, 116. Thurot Evacuates Carrickfergus, 116. Captain Elliott, R.N., Captures the French—Thurot Killed, 116. Debates in the Irish Parliament first Reported, 117. Success of the Irish Abroad, 117. Equity Suits in Ireland, 117. Counsel in Different Courts, 118. Intemperance among the Legal Profession in Former Times, 118. Irish Judges, 119. The King offers an Earldom to Lord Charlemont, 119. The Chancellor's Objection to the Patent, 120. The Earl's Resolve, 120. The Chancellor's Health fails, 120. Makes his Will—and Death, 120. Buried in Christ Church, 121. Appearance and Manners, 121. Rochfort *v.* Earl of Ely, 121. Commission of Lunacy, 121. The Jury find the Earl *sane*, 121. Petition, 121. Judgment of Lord Chancellor Bowes, 121. Unsound Mind means Incapacity, 122. No Curators known to our Law, 122. Suggestions of weakness will not authorise a Commission of Lunacy, 123. Petition Dismissed, 123. Appeal, 123. Distinction between Findings for and against the Crown, 124. Appeal Dismissed, 124.

CHAPTER XLIII.

LIFE OF LORD LIFFORD, LORD CHANCELLOR, FROM HIS BIRTH TO THE ENROLMENT OF THE IRISH VOLUNTEERS.

Birth of James Hewitt, 125. His Father Mayor of Coventry, 125. Thomas Bond, 125. Antiquity of the Coventry Churches, 126. Education and Choice of a Profession, 126. Resolves to be an Attorney, 127. Apprentice to Mr. Bird, 127. Studies for the Bar, and is Called, 127. Marries, 127. Contests Coventry—Defeated—afterwards Elected, 127. Serjeant, 128. A Tiresome Speaker, 128. Offered a Puisne Judgeship, 128. Hesitates to Accept it, 128. Lord Camden guarantees the Irish Chancellorship, 129. A Judge of the Common Pleas, 129. Delay in Appointing a Lord Chancellor, 129. Inconvenience of Committing the Duties of Chancellor to the Judges in rotation, 129. State of the Irish Bar in 1770, 131. Lord Townshend Lord Lieutenant, 132. Differences between English and Irish Equity Practice, 133. Rules and Orders in Chancery, 134. Delays and obstruction to Business in Court, 134. Remedies Suggested, 134. Example of Lord Chancellors in England, 134. Prolixity of Chancery Pleadings, 135. Unnecessary Costs, 135. Courts Condemned, A.D. 1770, 135. Charles Lucas, 135. Henry Grattan in Parliament, 137. Condition of Ireland, 137. Dungannon Resolutions, 137. Gratitude due to Ulster Protestants, 138. Volunteer Movement, 138. The Movement Discouraged by the Government, 138.

CHAPTER XLIV.

LIFE OF LORD CHANCELLOR LORD LIFFORD—CONCLUDED.

Viceroy seeks the Advice of the Lord Chancellor, 139. Recommends a Call on the English Treasury—Irish Trade much Restricted, 139. Grattan's Amendment, 140. Amended Address brought in Triumph to the Castle, 140. Lord Chancellor Opposes Thanks to the Volunteers, 141. Defeats of Government, 141. Electric Speech of Prime-Serjeant Burgh, 141. Lord Chancellor indisposed, 141. In favour of New Taxes, 141. Mr. Grattan's Motion against Taxes Carried, 142. Disasters in America, 142. Catholic Relief Bill, 142. Grattan's Eulogy on Father O'Leary, 142. A Nolle Prosequi, 143. Politics, 143. Appeals, 143. John Scott Attorney-General, 144. His speech, 144. Necessity of immediate Concession, 145. Statute 23 George III. c. 28, 146. Opinions as to the Effects of the Repealing Statute, 146. Alarm at the Conduct of Lord Mansfield, 146. Letter of Explanation of Lord Mansfield's Conduct, 147. Successive Viceroys, 147. A New Order of Architecture, 148. Commission of the Peace to the Sham Squire, 148. Grants by the House of Lords to Lord Lifford, 149. Death of Lord Chancellor, 150. Buried in Christ Church Cathedral, 150. Scott's Opinion of Lord Lifford, 151. Reports of Lord Lifford's Judgments, 152. *Williams v. Hopkins*, 153. *Murray v. Bateman*, 153. Decree Reversed, 153. *White v. Dillon*, 154.

CHAPTER XLV.

LIFE OF LORD CHANCELLOR EARL OF CLARE, FROM HIS BIRTH TO HIS TAKING HIS SEAT IN PARLIAMENT.

John Fitz Gibbon Earl of Clare—his Character, 156. Sympathy for Irish Catholics on the Continent, 156. John Fitz Gibbon a student at the Irish College in Paris, 157. Falls Asleep in Notre Dame, 157. Rings the Great Bell, 157. Liberated with a Reprimand, 157. Professional Gains 100,000*l.*, 158. Sir James Burrows' Testimony, 158. Called to the Irish Bar, 159. Reason for Taking a small Fee, 159. John Fitz Gibbon born in 1749—Indication of Haughtiness, 160. School Days, 160. University Career, 160. Prepares for the Bar, 160. Called to the Bar, 161. Reasons for disbelieving Sir Jonah Barrington's Statement, 161. Extracts from Fee-book, 161. The first Term, 162. Fitz Gibbon's first Fee, 163. Immense Practice, 163. Selects the Munster Circuit, 163. Brethren on the Munster Circuit, 164. Personal Appearance and Manner, 164. Success on his Circuit, 164.

CHAPTER XLVI.

LIFE OF LORD CHANCELLOR EARL OF CLARE—CONTINUED.

College Requisition to support the Declaration, 166. Fitz Gibbon's reply, 166. Difficulty respecting Poyning's Law, 167. Fitz Gibbon's Liberality Exposed, 167. The King recommends a final Adjustment, 167. Talent for Debate, 167. Letter from Lord Northington to C. J. Fox, 168. Mr. Daly's adverse opinion, 169. The Attorney-General's Eulogium on Grattan, 169. Proposal to Increase the Viceroy's Salary, 170. Mr. Flood's Reform Bill, 170. Fitz Gibbon's Speech

against the Volunteers, 171. Resolution against Strangers in the House, 172. His Arrogance, 173. Carries Public Feelings into Private Life, 173. His great Influence, 174. Letter from the Attorney-General to the High Sheriffs, 174. High Sheriff declines to Preside at the Meeting, 175. Courageous Conduct of the Attorney-General, 175. Letter of Thanks from the Viceroy, 175. Thanks from the King, 176. Proceedings against the High Sheriff, 176. Motion relative to Attachment in 1785, 177. Mr. Curran's Speech, and Attorney-General's Reply, 177. Curran's Retort, 177.

CHAPTER XLVII.

LIFE OF LORD CHANCELLOR EARL OF CLARE—CONTINUED.

The Question of Regency, 179. Mr. Pitt's Letter to the Prince of Wales, 180. Restrictions, 181. Edmund Burke writes the Prince's Answer, 181. Reply of the Prince of Wales, 181. Condemns the Plan offered, 182. Observations respecting the King's Property, 183. Conduct of the Irish Parliament in the Regency Question, 184. Attorney-General's Argument, 184. Prefers Union to Separation—Angry Declaration of the Attorney-General, 185. Reply of Mr. Ponsonby, 185. Mr. Curran's Attack on Fitz Gibbon, 186. The Viceroy Refuses to transmit the Address, 187. Letter from Mr. Pelham to Grattan in 1789, 187. Vote of Censure on the Lord Lieutenant, 187. Ill feeling between Parties in Ireland, 188. The Paper styled the 'Round Robin,' 188. Denounced by the Attorney-General, 188. The Attorney-General tries to win over the Opposition, 189. The Opposition Place-holders Dismissed, 189. Letter of Thanks from Mr. Pitt to the Attorney-General, 189. Angry Debate—Attorney-General's violent Speech, 190. Called to Order, 190. Curran's Retort, 191. Duel between the Attorney-General and Curran, 192. Duels between Lawyers, 192.

CHAPTER XLVIII.

LIFE OF THE EARL OF CLARE, LORD CHANCELLOR—CONTINUED.

Shaw's Court—Private Theatricals in 1786—Grand Banquet at the Attorney-General's, 193. Duke of Rutland, Lord Lieutenant, 194. Duchess of Rutland, 194. *Fête* at Celbridge, 194. Disappointed Affection of John Fitz Gibbon, 195. Marriage of the Attorney in 1786—Disturbed State of Ireland in 1787, 196. Buck Whaley, 196. Whaley Mansion now the Catholic University, 196. Obnoxious Clause, 197. Navigation Laws, 197. Ireland Omitted, 197. The Grievance remedied by the Attorney-General, 197. Grattan's Reply, 197. Bill for better Execution of the Laws, 198. Death of the Duke of Rutland, 198. Marquis of Buckingham Viceroy, 198. Death of Lord Chancellor Lord Lifford, 199. Reasons for Selecting an Irish Chancellor, 199. Anxiety to appoint Fitz Gibbon Lord Chancellor, 200. Lord Thurlow Stops the Way, 200. Efforts to obtain Lord Thurlow's Consent, 200. The Power of Female Charms, 201. Letter from Lord Chancellor Thurlow to Lord Chancellor Fitz Gibbon, 201. Lord Chancellor's Secretary, 202.

CHAPTER XLIX.

LIFE OF LORD CHANCELLOR EARL OF CLARE—CONTINUED.

Case of the Dublin Corporation—The Chancellor and the Dog on the Bench, 204. Curran's Loss by the Chancellor's Hostility, 205. Question before the Privy Council, 205. Curran's Attack on the Chancellor, 205. The Lord Chancellor interposes, 206. Curran continues, 207. Just Comments on Unseemly Contests between the Bar and the Bench, 207. Decision in favour of Alderman James, 207. The Whig Club, 208. Baron Power, 208. His Appearance and Manners, 208. Lucrative Office of Usher to the Court of Chancery, 209. Order of Lord Lifford, Lord Chancellor, 209. Interest, 3,000*l.*—Petition to the Chancellor, and Order thereon, 209. Wealth of the Baron, 210. How he spent the Sabbath, 210. How he committed *felo de se*, 210. Irish Parliament in 1793—Recommendation from the King, 211. The Chancellor much Displeased, 211. Anti-Catholic Speech, 211. The Chancellor's severe Rebuke to the Bishop of Killala, 212. Letter from Edmund Burke, 213. Burke's Fears for the Chancellor's Temper, 213. Convention Act, 214. Revolutionary Principles spreading in Ireland, 215. Charge against Messrs. Butler and Bond, 215. Lord Chancellor's Address to the Hon. Mr. Butler, 215. Mr. Butler seeks an Apology or a Meeting, 216. Hamilton Rowan acts as Friend to Mr. Butler, 216. Interview with the Lord Chancellor, 216. John and Henry Sheares, 217. Letter to the Lord Chancellor from Henry Sheares, 218. Private interview between the Chancellor and the Sheares, 219.

CHAPTER L.

LIFE OF LORD CHANCELLOR EARL OF CLARE—CONTINUED.

Effects of the French Revolution in Ireland, 220. Fears of the Lord Chancellor, 220. Feats of Hamilton Rowan, 221. Rowan Prosecuted—Defended by Curran, 221. Extract from Curran's Speech—Eulogy on British Laws, 221. Escape of Hamilton Rowan, 221. Earl Fitz William Viceroy, *a.d.* 1795, 222. Opens Parliament, 222. The Lord Chancellor Opposes the Policy of the Viceroy, 222. Deplorable Results of Opposition, 223. Recall of Earl Fitz William, 223. Arrival of Lord Camden as Viceroy, 223. Unpopularity of the Lord Chancellor—his Life in Danger, 223. Saved by his Sister, 224. Character of Lord Camden, 224. Yeomanry called out, 224. Rebellion stamped out, 224. Visitation of Trinity College, 1798, 224. The Chancellor Explains the Object of the Visitation, 225. The Roll called, 225. Dr. Stokes, 226. The Second Day of the Visitation, 227. Justification of the Chancellor's Conduct by Thomas Moore, 228. Moore's Statement, 229. The humane Sir Ralph Abercromby, 230. Marquis Cornwallis, 231. Kind Conduct of the Chancellor to Lord Edward Fitz Gerald, 231. Leinster House Searched, 232. Lord Edward Fitz Gerald Taken, 232. Lord Chancellor and Lady Louisa Connolly, 233. Anecdote of John Anderson of Fermoy, 233.

CHAPTER LI.

THE KINGSTON TRAGEDY.

Trial of the Earl of Kingston, 242. Address of the Lord High Steward, 243. The Earl pleads Not Guilty, 244. Proceedings when no Evidence appeared to sustain the Indictment, 244. The Noble Prisoner declared Not Guilty, 245.

CHAPTER LII.

LIFE OF LORD CHANCELLOR EARL OF CLARE—CONTINUED.

Arrival of Lord Cornwallis, 246. Speech of the Lord Chancellor, 246. Influence of the Lord Chancellor used against a Political Foe, 247. Barrington asked to Support a Union, and Refuses, 248. Letter from Lord Castlereagh, 249. Barrington's Opinion of the Viceroy and the Chancellor, 249. Caustic Letter from G. N. Reynolds to the Chancellor, 250. Legislative Union between Great Britain and Ireland, 252. Irish Bar opposed to the Union, 252. The Viceroy's Letters to the Duke of Portland, 253. Reply of the Duke of Portland to the Viceroy, 254. Mr. Saurin, 254. Bar Meeting respecting the Union, 255. Mr. Saurin, 255. Mr. St. George Daly, 255. Mr. Thomas Grady, 255. Mr. Gould's spirited Address, 256. Prime-Serjeant Fitz Gerald Votes Against the Union, and loses his Rank, 257. Bar Meeting and Resolve, 257. Conduct of the Bar before the Chancellor, 257. Address of the Lord Chancellor, 257. Embarrassing Conduct of the Lord Chancellor respecting Maynooth, 258. Complaint of the Viceroy, 259. Letter from the Lord Chancellor to the Lord Lieutenant, 259. Effects of the Chancellor's Vote, 259. The Viceroy Repairs the Mischiefs, 260. Lord Cornwallis's Opinion of the Lord Chancellor, 260. Prepares a Statute to Enable the Provost and Fellows of Trinity College to Marry, 260. Chancellor Complains of the Duke of Portland to Lord Castlereagh, 260. How Penalties were Evaded, 261. Marquis Cornwallis to the Duke of Portland, 262. Lord Chancellor brings forward the Act of Union, 262. Grattan's Estimate of this Speech, 263. Lord Cornwallis Forms a Different Opinion, 263. The Opposition Charged with Bribery, 263. Lord Castlereagh's Opinion of the Chancellor's Speech, 263. The Viceroy Complains of the Speaker, 264. Creation of Irish Peers after the Union, 265. Efforts of the Chancellor to Promote the Union, 265. Policy of Lord Cornwallis, 266. Excitement in the Irish House of Commons, 267. Decision of the Speaker, 267. Conversation between Lord Cornwallis and Henry Howard, Esq., 267. Bill Passes and Receives the Royal Assent, 268. Protest of the Peers, 268. The Union Carried against the Sense of the Irish People, 268.

CHAPTER LIII.

LIFE OF THE EARL OF CLARE—CONCLUDED.

The Chancellor proposes Reforms in the Courts, 270. Letter from the Lord Chancellor to Lord Castlereagh, 270. Act relating to the Office of Master of the Rolls, 270. Sale of Offices in Court of Chancery, 271. Proposes to Assimilate the Office of Master of the Rolls in England and Ireland, 271. Suggestion in case the Lord Chancellor of Ireland is called to the House of Lords in England, 271. Lord Chancellor applies for Leave of Absence, 272.

The Master of the Rolls, 272. The Chancellor of Ireland in the British House of Lords, 272. The Speech from the Throne, 272. The Address, 273. Amendment, 273. Lord Clare calls the Earl of Suffolk to Order, 273. Lord Clare's Speech on a Motion for a Call of the House, 273. Attacks the Irish People, 273. Called to Order by the Earl of Suffolk, 274. Rebuked by the Lord Chancellor of England—Earl of Clare's Speech Supporting Martial Law in Ireland, 274. Rebellion Scotched, not Killed, 275. The Bill Passed, 275. Differs with the Lord Chancellor of England, 275. Duties of Lord Chancellor of Ireland, 275. Statute 2nd Henry VIII., 276. Denounces the Roman Catholic Church, 276. Denies Marriage as of Divine Authority, 276. The Chancellors Disagree, 276. Reply of the Lord Chancellor of England to the Lord Chancellor of Ireland, 277. Eulogises the Protestant Clergy, 277. Insists that Marriage is a Divine Ordinance, 277. Letter from Lord Cornwallis to Rev. B. Grisdale, 277. Lord Hardwicke Complains of the Lord Chancellor, 278. Character of Lord Clare in Private Life, 279. His Attention to Business, 280. His Decisions, 280. Letter from the Lord Chancellor shortly before his Death, 281. Lord Clare's Funeral, 282. Disgraceful Conduct of the Mob, 282.

CHAPTER LIV.

LIFE OF LORD REDESDALE, LORD CHANCELLOR.

Lord Redesdale, 284. A Great Equity Judge, 284. Descent of John Mitford, 284. Born in 1748, 285. A Law Student, 285. Called to the Bar, 285. Publishes a Treatise on Equity Pleadings—Tributes of Lord Eldon and Sir Thomas Plumer, 286. Circuit, 286. Enters Parliament, 287. Supports the Petition of Warren Hastings, 288. Bill to Relieve Catholics from Penalties, 288. Question of Abatement of Impeachment by the Dissolution of Parliament, 288. Opposes Fox's Bill respecting Libels, 289. Chancellor of Durham, 289. Solicitor-General, 289. Conducts the Prosecution of Horne Tooke, 289. The Attorney-General's Little Patrimony, 290. Mitford Attorney-General, 291. Speaker, 291. Lord Chancellor of Ireland and Baron Redesdale, 291. Resigns the Speaker's Chair, 292. Sir Jonah Barrington's Account of Lord Redesdale and the Irish Bar, 293. Lord Redesdale Puzzled by a *bon mot*, 294. Lord Redesdale's Opinion of the Irish Bar, 295. Unsettled State of Ireland, 295. Lord Chancellor Recommends Suspending the Habeas Corpus Act, 296. Lord Redesdale's Marriage, 296. The Percevals, 296. Cobbett convicted for Libel, 297. Libel on the Lord Chancellor, 297. The Libel Traced to Judge Johnson, 298. The Judge Tried, 299. The Jury find the Judge Guilty, 299. The Chancellor's Correspondence with the Earl of Fingal, 299. Fox's Remark, 300.

CHAPTER LV.

LIFE OF LORD REDESDALE, LORD CHANCELLOR—CONTINUED.

The Chancellor's Correspondence with Lord Cloncurry, 301. Letter from Mr. Burne to the Chancellor, 301. Reply to Mr. Burne, 302. Lord Cloncurry's Letter to the Lord Chancellor, 303. Mr. Burne to Lord Redesdale, 304. The Viceroy Directs Lord Cloncurry's Name to be inserted in the Commission of the Peace, 305. The Lord Chancellor to Lord Cloncurry, 305. How Lord Cloncurry Acted thereon, 306. Lord Redesdale suddenly Deprived of the Great Seal, 306. Anti-Catholic Prejudices, 306. The Chancellor's Farewell Speech to the Bar, 307. The Attorney-General's Address to the Lord Chancellor, 309.

CHAPTER LVI.

LIFE OF LORD REDESDALE, LORD CHANCELLOR—CONCLUDED.

Lord Redesdale's parting Words, 311. Declines to become again Lord Chancellor of Ireland, 312. Acquires Estates by the death of Mr. Freeman, 312. Hostility of Lord Ellenborough, Chief Justice, 312. Supports a Bill for Vice-Chancellor Courts, 313. Commissioners for Relief of Insolvent Debtors, 313. Death of Lady Redesdale, 313. Supports the Bill for Income Tax, 314. Rumours of the Abolition of the Viceroyalty, and Reasons against it, 314. Secretary Viceroy over him, 314. Qualification for Lord Lieutenant, 315. Difference between England and Ireland, 315. Grand Juries, 315. Constables, 315. Hints for the Government of Ireland, 315. Physical force to be met by political power, 316. Publishes a Pamphlet on the Court of Chancery, 317. Justice in Ireland *temp.* Redesdale, 318. The state of the Church in Ireland, 318. State of the Catholic Church on the Continent, 318. Judgment of Lord Redesdale in the Banbury Peerage case, 319. Detracts from the merits of Lord Coke, 320. Sir Egerton Brydges' Account of Lord Redesdale, 320. Personal Appearance of Lord Redesdale, 321. Death in 1830, 321. His Son a distinguished Member of the House of Lords, 321. Decisions of Lord Redesdale reported by Messrs. Scholes and Lefroy, 321.

CHAPTER LVII.

LIFE OF RIGHT HON. GEORGE PONSONBY, LORD CHANCELLOR.

The Family of Ponsonby, 323. Sir John Ponsonby, 323. Right. Hon. John Ponsonby, 323. Speaker of the Irish House of Commons, 324. Jack Promise, 324. Education of George Ponsonby, 324. Graduate of Cambridge, 324. Called to the Bar, 324. His Habits not Professional, 324. Appointed King's Counsel, 325. Marriage, 325. Duke of Portland recalled, 325. Mr. Ponsonby displaced—succeeded by Mr. Marcus Beresford, 326. Changed Habits, 326. Policy of the Irish Government, 326. Mr. Ponsonby in Opposition, 327. Illness of King George III., 327. The Prince of Wales named Regent in England with limited powers, in Ireland with unlimited, 327. The Viceroy refuses to forward their Address, 328. Vote of Censure, 328. The Deputation graciously received, 328. The King recovers, 328. The Conduct of the Attorney-General, 328. The different Results in Great Britain and Ireland used in support of the Union, 328. Mr. Ponsonby presented by the Chancellor with his Brief Bag, 328. Mr. Ponsonby's Motion for the Impeachment of the Lord Chief Justice, 329. Curran seconds the Motion—the Attorney-General opposes—Mr. Ponsonby's Reply, 329. Mr. Wolfe, 330. Mr. Ponsonby in Favour of Catholic Emancipation and Reform, 330. Earl Fitz William Viceroy, 330. Gratitude of the Irish for expected Favours, 330. Policy of Earl Fitz William unsupported by the Government, 331. Consequence of His Resignation, 331. Mr. Ponsonby an Anti-Unionist, 331. The Coalition Ministry—Mr. Ponsonby Lord Chancellor, 331. The Chancellor secures the Appointment of Curran as Master of the Rolls, 332. Curran dissatisfied, 332. Vindication of Mr. Ponsonby, 332. The Ex-Chancellor in the British House of Commons, 333. Leader of the Opposition, 333. His Talents for Debate, 333. A Law Reformer, 334. Attacked by Paralysis, 334. Death in 1817, 334. Curran and Ponsonby reconciled, 334.

CHAPTER LVIII.

LIFE OF LORD MANNERS, LORD CHANCELLOR OF IRELAND, FROM HIS BIRTH
TILL THE VISIT OF KING GEORGE IV. TO IRELAND.

Lord Manners, 335. High Lineage, 335. Lord George Manners Sutton, 335. Thomas Manners Sutton born, 335. The Charter House, 335. How Henry treated the Prior, 336. Charter House founded by Thomas Sutton, 336. Thomas Manners Sutton at School, 336. Founder's day, 336. A Member of Cambridge University, 337. Student of Lincoln's Inn, 337. Called to the Bar, 338. Obtains a silk gown, 338. Praised by Pitt and Fox, 338. Solicitor-General, and Knighted, 338. Trial of Colonel Despard, 338. Baron of the Exchequer, 339. Lord Chancellor of Ireland, 339. Lord Manners on the Bench, 339. Irish Justices' Justice, 340. The effect of this, 340. The case of Mr. O'Hanlon, 341. Petition to the House of Commons, 342. Reinstated by the Lord Chancellor, 343. Petitioner an impartial Magistrate, 343. Communication from the Lord Chancellor, 344. First Letter to the Lord Chancellor, 345. Second Letter, 346. Declaration of the Attorney-General, 347. The Lord Chancellor's opinion of Orange Associations, 348. The Lord Lieutenant no Jurisdiction in the matter, 349. The case brought before Parliament, 349. Catholics disunited, 350. Richard Sheil's Description of the Catholic Aristocracy, 351. R. L. Sheil, 351. Law Officers—the Attorney-General, 352. Disagreement between the Recollection of the Lord Chancellor and a Lady, 354. The Family of Leeson, 354. Lord Cloncurry obtains a Promise of Support from the Viceroy, 354. Statement of Mrs. Douglas, 355. Letter of Complaint from Lord Cloncurry to the Chancellor, 355. Reply of Lord Manners, 357. Lord Cloncurry writes again, 358. The Chancellor Persists in his Assertion, 359. Earl Talbot complies with the wishes of the Leesons—the King's landing, 360. The King speaks his Thanks, 360.

CHAPTER LIX.

LIFE OF LORD MANNERS, LORD CHANCELLOR—CONCLUDED.

Visit of George IV. to Ireland, 361. George IV. the first English King who visited Ireland in time of Peace, 362. Public Entry, 362. The King's Farewell to Erin, 363. Lord Manners in Stephen's Green, Dublin, 363. Death of first Lady Manners, 363. Second Marriage, 363. His only Child, 364. Resigns the Great Seal in 1827, 364. The Lord Chancellor on the Bench, 364. Reports of his Decisions by Messrs. Ball and Beatty, 365. Lord Manners Refuses to hear Counsel, 366. O'Connell insists on being heard, 366. Annoyed by Captain Rock, 367. Farewell of Lord Manners, 367. Sheil's Description of the Attorney-General, Mr. Joy, 369. The Address from the Bar, 370. The Lord Chancellor's Reply, 371. Comments of Sheil upon the Farewell to Lord Manners, 373. Stackpoole *v.* Stackpoole, 374. Death of Lord Manners, 375. His Descendants, 375.

CHAPTER LX.

LIFE OF SIR ANTHONY HART, LORD CHANCELLOR OF IRELAND.

A West Indian, 376. Called to the Bar, 376. Prefers Equity Practice, 376. Death of Sir John Leach, 376. Legal Witticisms, 376. Compliment to Sir Anthony Hart, 377. King George IV. refuses to Appoint Lord Plunket Lord Chancellor of Ireland, 377. Sir Anthony Hart Lord Chancellor, 378. Reception of the New Chancellor—His Appearance and Demeanour, 379. Chancery Order, 380. Rolls Order, 380. Letter from the Lord Chancellor to the Chancery Officers, 381. Motion by Mr. Saurin, 381. Refers to the Master of the Rolls in England, 382. Origin of the Office of Secretary, 382. Reply of the Lord Chancellor, 383. Resolves to do right, 383. Judgment of the Chancellor, 384. Enquires the Custom of the Court, 384. Resumes his Judgment, 384. Lord Chancellors of Ireland and England co-ordinate, 385. Act of 41 Geo. III. c. 26, 385. Denies the Right of the Master of the Rolls to a Secretary, 386. Lord Chancellor commenting on Orders of Lord Manners, 386. Doubts Power of granting Protection from Arrest, 386. A Royal Prerogative, 387. Orders of Primate Boyle, Lord Chancellor, 387. Equity Pleadings, 387. Protection refused by the Master of the Rolls, 387. Lord Redesdale's Book, 388. Marquis of Anglesey, 388. His Policy described by Moore, 388. The Irish Law Officers, 388. The Duke of Northumberland Viceroy, 389. His literary Secretary, 389. Application to vary a Decree of the Vice-Chancellor of England, 389. Case between Solicitor and Client, 390. Judgment of Sir Anthony Hart, 390. Strange Case affecting the Rights of the Bar, 391. Dialogue between the Magistrate and Counsel, 391. Counsel committed to the Dock, 392. The Penitent discharged, 392. Meeting of the Bar—Memorial to the Lord Chancellor, 392. Lord Chancellor's Letter to Darby O'Grady, Esq., 392. Mr. O'Grady's Reply, 393. Statement of the Magistrates, 394. The Rule of the Court, 394. General Riot, 394. Mr. Croke, 395. Statement, 396. Justify their Course, 396. The Memorial, 396. Caustic Remark upon the Bar, 397. Course adopted by the Chancellor, 398. Action for Libel against the Magistrates, 398. The Great Seal accepted by Lord Plunket, 398. Mr. Saurin's Farewell Address, 398. A touching Scene, 399. Reply of the Lord Chancellor to Mr. Saurin's Address, 400. The Solicitors' Address, 400. The Lord Chancellor's Reply, 400. Legal Changes, 400. Death of Ex-Chancellor Hart, 401. Recollections of the Ex-Chancellor—his Character as a Judge, and Opinion of the Irish Bar, 401. An Attorney's *bon mot*, 402. The Chancellor's Desire to accommodate Suitors, 402.

CHAPTER LXI.

LIFE OF LORD PLUNKET, LORD CHANCELLOR, FROM HIS BIRTH TO HIS CALL TO THE BAR.

Character of Plunket, 403. Doing our Best, 403. Lord Plunket's Ancestors, 404. Rev. Patrick Plunket, 404. Rev. Thomas Plunket—Minister of Enniskillen, 404. Marries Miss Mary Conyngham, 405. Birth of William C. Plunket—Early Training, 405. Anecdotes of Childhood, 406. School Days, 407. Removal from Enniskillen to Dublin, 408. Minister of the Strand Street Congregation, 409. Admitted to the Irish National Party, 409. Death of Rev.

Thomas Plunket, 409. Fund for Widow and Children, 410. Fellow-pupil at School, 410. Plunket's Character as a Boy, 410. Enters Trinity College in 1779, 411. College Historical Society, 411. Centenary Anniversary Dinner, 411. Specimen of an Animated Debate, 412. Effect of Mr. Ball's Speech, 412. Plunket a Member, 413. His Career in the College Historical Society, 413. Takes his Degree in the Dublin University, 414. A Law Student, 414. Peter Burrowes, 414. Lord Thurlow Chancellor of England, 415. Insulted by the Duke of Grafton, 415. The Lord Chancellor's noble Reply, 415. Lord Mansfield, 416. His kind Attention to Law Students, 416. Anecdote of Henry Grattan, 416. Letter to Mr. Knox, 416. Chief Baron Yelverton's Advice, 417. Students in Chambers, 417. Plunket called to the Irish Bar in 1787, 417. Contrast of the Bars of England and Ireland, 417. Whimsical Addresses to Irish Juries, 418. The Monks of the Scrow, 418. Claret the Wine of the Irish Gentry, 420.

CHAPTER LXII.

LIFE OF LORD PLUNKET, CONTINUED, TILL HE BECAME A MEMBER OF THE IRISH PARLIAMENT.

Benefit of a ready-made Reputation, 421. Practice of the Irish Bar general, 421. A few exceptions, 422. English Practice described by Lord Cairns, 422. Mr. Plunket Counsel in Petition against Hon. F. Hutchinson, 423. Selects the North-West Circuit, 426. The Dock of an Irish Court, 427. The Witness with a Doldrum, 431. The Horse-stealer's Resolve, 431. Plunket as a Barrister, 431. Personal appearance, 432. Public Estimate of Mr. Plunket, 433. Lord Castlereagh, 435. Plunket the best Man to Encounter Lord Castlereagh, 435. Overtures from Lord Charlemont, 435. Conversation between Mr. Plunket and Lord Charlemont, 436.

CHAPTER LXIII.

LIFE OF LORD PLUNKET, CONTINUED. FROM HIS TAKING HIS SEAT IN PARLIAMENT TILL HIS FIRST SPEECH AGAINST THE UNION.

Plunket takes his Seat in the Irish House of Commons in 1798, 437. State of the House, 437. Bill to Amend 23 & 24 George III., 438. Enquiry into the cause of Present Discontent opposed by Lord Castlereagh, 438. Mr. Plunket Supports the Motion, 439. Called to Order, 439. Mr. Plunket Explains, 439. The Anti-Union, 440. Plunket's Letter under the Signature of Sheelagh, 440. Prophecy on the effects of the Union in Dublin, 442. Case of the Scottish Union, 444. Arguments against the Irish Union, 444. Lawyers in Parliament, 445. Plunket's first great Speech against the Union, 446. Contrast between Pitt and Lord Castlereagh, 447. Speech against the Union continued, 448.

CHAPTER LXIV.

LIFE OF LORD PLUNKET. FROM THE DEBATE ON THE UNION UNTIL THE PASSING OF THE MEASURE.

The Irish Parliament opened by Marquis Cornwallis in 1800, 450. Exposure of the Means Employed to Carry the Union, 450. Affecting Incident, 453. The Last Meeting of the Irish Parliament, 454. The Speaker Opposed to the Union, 455. Depressed State of the House of Commons, 455. Lord Castlereagh moves the Third Reading of the Bill, 455. The Speaker puts the Question, 455. The Ayes have it, 456. Opinion of Irish Lawyers upon the Union, 456. Saurin's Declaration, 456.

CHAPTER LXV.

LIFE OF LORD PLUNKET—CONTINUED. THE TRIAL OF ROBERT EMMET.

The Effect of the Union on the Anti-Unionists, 457. Plunket attends closely to his Profession, 457. Robert Emmet, 457. The Insurrection Suspected, 458. Murder of Lord Kilwarden, Chief Justice, 459. Trial of Robert Emmet, 459. The Attorney-General's Statement, 459. Mr. MacNally, 460. Lord Norbury, 461. The Attorney-General, 461. Mr. Plunket's Speech to the Jury, 462. Emmet the Life-blood of the Conspiracy, 462. Plan not for Reform, but Separation, 462. Evils of Revolution, 463. Removal of the Parliament, 464. Impossibility of maintaining Order in Case of Revolution, 465. Charge of Lord Norbury, 466. The Jury find the Prisoner Guilty, 466. Touching Oration of Emmet, 466. Lord Norbury, 467. Emmet, 468. Letter from Robert Emmet to the Chief Secretary, 470. Libel on Mr. Plunket in Cobbett's 'Register,' 471. Action for Libel—Damages 400*l.* The Calumny revived—Prosecution against Messrs. Gilbert and Hodges, 472. Affidavit of Mr. Plunket in Reply to the Charges made against him respecting his Conduct to Emmet, 472.

CHAPTER LXVI.

LIFE OF LORD PLUNKET—CONTINUED. FROM THE TRIAL OF EMMET TO THE DEATH OF GRATAN.

Mr. Plunket Solicitor-General, 477. Attorney-General, 477. Letter from Ex-Chancellor Lord Redesdale, 477. Plunket Returned for Medhurst in 1807, 478. His first Speech in the British Parliament, 478. Tribute from Sir James Mackintosh, 479. The King *v.* O'Grady, 479. Bushe's Speech in Defence of Saurin, 479. Eulogium on Plunket, 480. Plunket's Reply to Bushe, 480. Reconciliation between Plunket and Bushe, 482. Latest Reports, 483. Character of Plunket as a Lawyer, 483. Time, 483. Bitter Bob, 483. Course of Legislation against the Catholics, 484. Plunket the great Champion of the Catholics, 485. Speech on Grattan's Motion in 1813, 486. Consistency of Penal Legislation, 487. Violation of the Treaty of Limerick, 488. Debate on the Treaties in 1815, 489. Remarks of Sir Samuel Romilly, 489. The College Election in 1818, 490. Plunket's Canvass of Dr. Sandes, 490. Speech in 1819, 491. Abuse of the Press, 491. Comments on the Speech, 492. Denounced by Earl Grey, 492. Praised by Lord Ward, 493.

CHAPTER LXVII.

LIFE OF LORD PLUNKET. FROM THE DEATH OF GRATTAN TO HIS RE-ELECTION FOR THE UNIVERSITY.

The Last Days of Henry Grattan, 494. Mr. Plunket's Speech when Proposing Mr. Grattan in 1820, 495. A Master in Chancery not a Fit Person to be a Member of Parliament, 496. Letter to Mr. Plunket respecting his Speech, 497. Speech in 1821—Tribute of Lord Dudley, 500. The Liberties of England won by Roman Catholics, 503. Numerical Majority of Roman Catholics over Protestants in Ireland, 505. Mischief of Religious Disqualification, 506. Danger from the Social Position of the Irish People, 507. Recommends Incorporating the Roman Catholics with the State, 508. Estimate of this Speech, 509. Death of Mrs. Plunket, 510. Arrival of the Marquis Wellesley as Viceroy, 510. The Marquis Wellesley in Dublin Castle, 511. The Viceroy Entertained by the Lord Mayor, 512. Speech of Lord Rosse, 512; of Mr. Plunket, 513. Lord Wellesley's Irish Policy, 513. Plunket Attorney-General, 513. Speech at the College Election in 1822, 513. Plunket duly Elected, 515.

CHAPTER LXVIII.

LIFE OF LORD PLUNKET, LORD CHANCELLOR. FROM HIS RE-ELECTION AS MEMBER FOR THE UNIVERSITY TILL THE VISIT OF SIR WALTER SCOTT IN 1825.

Indiscreet Letter from Mr. Saurin, Attorney-General, to Lord Norbury, 516. O'Connell's Estimate of this Letter, 517. Calls on the Attorney-General to Prosecute, 517. Plunket Declines, 517. Outrage on the Viceroy at the Theatre Royal, 518. The Bottle Riot, 518. Trial of the Accused, 518. Plunket's Panegyric on William III., 519. Mr. North's Speech for the Defence, 520. Jury Disagree and are Discharged, 521. Plunket Attacked in Parliament—and Defends Himself, 521. Debate on the Disabilities of Catholic Peers, 521. Mr. Plunket's Speech, 521. Mr. Plunket's Reply to Sir J. Mackintosh on the Alien Act, 525. Speech of Mr. Scarlett, 529. Magisterial Appointments in Ireland, 529. Speech of Mr. Goulburn, 530. Irish Magistrates, 530. Sir Henry Parnell, 531. Profits of an Irish J. P., 531. Mr. Plunket, 532. Grand Jury Appointments Jobs, 533. Benefits conferred on Longford by Lord Forbes, 534. O'Connell's Bolivar Speech, 535. The Attorney-General directed to Prosecute O'Connell, 536. O'Connell Charged with Sedition, 536. The Gentlemen of the Dublin Press, 537. 'Freeman's Journal,' 538. Bills Ignored, 538. Sheil's Speech on Plunket, 539. Plunket's Parliamentary Life, 540. An Old Almanack, 540. Sir Walter Scott's Visit in 1825, 541. Sir Walter Scott's Estimate of Plunket, 542.

CHAPTER LXIX.

LIFE OF LORD PLUNKET. FROM HIS APPOINTMENT AS LORD CHIEF JUSTICE OF THE COMMON PLEAS TILL HIS SPEECH ON LORD WICKLOW'S MOTION IN 1832.

Mr. Canning Prime Minister, 543. George IV. Refuses to Appoint Plunket Lord Chancellor of Ireland, 543. The English Bar Refuse to Allow him to be Master of the Rolls in England, 543. Description of Chief Justice Lord Norbury, 544.

Lord Plunket Chief Justice of the Common Pleas, 545. *Croke v. O'Grady* and *Bevan*, 545. The Lord Chancellor's Difficulty, 545. Mr. Holmes' Argument, 545. The Chief Justice respects the Chancellor's Scruples, 545. Mr. Bennett, K.C., 546. Lord Plunket's Suggestion, 546. Verdict for the Plaintiff, 546. Sir Charles Wetherell, 546. His Vigorous Style, 547. Lord Plunket Lord Chancellor, 548. Appointment of Secretary, 548. Mr. Long retained as Joint-Secretary, 548. The Claim of the Master of the Rolls to Appoint his Secretary renewed, 548. Offer of Lord Chancellor Plunket, 549. Reply of the Master of the Rolls, 549. Not Content with the Chancellor's Offer, 549. Master of the Rolls (Ireland), Bill, 551. Mr. Stanley Opposes the Bill, 551. O'Connell Supports the Master of the Rolls, 552. Duty of Lord Chancellor, 554. Question between the Master of the Rolls and Lord Chancellor, 556. The Office of Master of the Rolls in Ireland, 557. Case of Mr. Curran and Lord Chancellor Ponsonby, 558. Sir William McMahon, 559. Reply of the Attorney-General for England, 560. Attack on the Lord Chancellor by Mr. Dawson, 561. Mr. Stanley rose to Order, 561. The Speaker, 561. Offices held by the Chancellor and his Family, 562. Summary of Lord Plunket's Official Career, 563. Mr. Solicitor-General Crampton's Defence of the Lord Chancellor, 564. Testimony of the Attention of the Chancellor as an Equity Judge—Sir E. B. Sugden, 566. Sir C. Wetherell, 567. A Dormant M.P. Comments on the Lord Chancellor by the Press, 568. Vicarage of Bray, 569. The 'Times,' 570. 'Morning Post,' 571. Bill Introduced by the Chancellor, 572. Reply to the Memorial of the Irish Solicitors, 572. Meeting of the Bar to Consider the Chancellor's Bill, 573. Mr. French, 573. Effects of the Union, 574. Absenteeism, 575. Mr. Brady, 576. Mr. Hickson, 577. Mr. M. O'Connor, 578. Lord Wicklow's Motion in the House of Lords, 578. Reply of the Lord Chancellor, 578. Division of Fees amongst Chancellor's Officers, 579. Statement respecting his Appointment of Secretary, 580. Treasury Minute, 581.

CHAPTER LXX.

LIFE OF LORD PLUNKET—CONTINUED. HIS CAREER AS LORD CHANCELLOR.

Lord Plunket as Lord Chancellor, 583. His reported Decisions, 583. Want of Care in Preparing his Judgments, 584. Case of *Shaw v. Lawless*, 585. Lord Plunket as Appellate Judge, 586. Case of *Stokes v. Heron*, 586. *Coke's Reports*, 587. Observation of Lord Brougham, 587. Reply of Sir Edward Sugden, 587. *Sheehy v. Lord Muskerry*, 587. Case of *Smyth v. Nangle*, 588. Equity Pleadings in Ireland and England, 588. Lord Brougham's Tribute to Irish Equity Pleaders, 589. Case of *Persse v. Persse—De Montmorency v. Devereux*, 590. Lord Cottenham's Remarks on the Bar of Ireland, 591. *Malone v. O'Connor*, 591. Lord Plunket's Order, 592. Appeal—Lord Plunket's Order Reversed, 592. Condition of the Irish Bar, 592. Its Ancient Fame, 592. Modern Habits, 593. Bar Split into Whig and Tory Sections, 593. Disastrous Effects of Division, 593.

CHAPTER LXXI.

LIFE OF LORD PLUNKET, LORD CHANCELLOR, CONTINUED, TILL HIS
RESIGNATION OF THE GREAT SEAL.

The Great Seal given to Lord Campbell, 595. Correspondence respecting Lord Plunket's Resignation, 595. Lord Ebrington Lord-Lieutenant to Lord Plunket—with Extract from Lord Melbourne, 596. Lord Plunket's Reply, 596. Lord Melbourne's Letter to Lord Plunket, 596. Private Letter from Lord Melbourne, 596. Lord Plunket's Frank Answer, 596. The Viceroy Solicits the Chancellor's Resignation, 597. Feelings of the Junior Bar of Ireland, 597. These Feelings shared by the Irish People, 597. Last Day of Sitting, 598. Farewell Address to Lord Plunket Pronounced by Serjeant Greene, 598. Lord Plunket's Reply, 599. Meeting of Requisitionists to Protest against the Appointment of Lord Campbell, 601. Opening Address of the Father of the Bar, 602. The Seniors, 602. Peculiar Nature of the Office of Chancellor, 603. Mr. Hercules Ellis moves the First Resolution, 603. Conduct of the English Bar to Lord Plunket, 603. Like Case like Rule, 604. Mr. J. L. Fitz Gerald, 604. Mr. Torrense McCullagh, 604. Mr. Waller, 605. Mr. W. E. Hudson, 605. Mr. Battersby, 606. While Objecting to the Resolution, Concurs in the Address, 607. Mr. H. G. Curran, 607. Resolution Adopted—Address to the Queen, 608. The Address sent to London, 609. Dissension amongst the Bar, 609. Protest, 610. Observations of Sir Robert Peel on the Removal of Lord Plunket, 612. Letter from Lord Campbell to Lord Plunket, 613. Reply from Lord Plunket, 613. Lord Campbell's Short Hold of the Irish Great Seal, 614.

CHAPTER LXXII.

LIFE OF LORD PLUNKET—CONCLUDED.

Last Years of Lord Plunket, 615. Death of Lord Plunket in 1854—Buried in Mount Jerome Cemetery, 615. Character of Plunket, 615. Epitome of his Career, 616. Lord Plunket's Public Character, 617. *Bon mots* of Plunket, 617. Plunket's Speech Proposing the Health of Bushe, 619. Bushe's Speech in Returning Thanks, 620. Plunket's Speech Proposing the Health of Peter Burrowes, 620.

LIVES
OF THE
LORD CHANCELLORS OF IRELAND.

CHAPTER XXXVI.

LIFE OF LORD CHANCELLOR BRODRICK, VISCOUNT MIDLETON, FROM HIS BIRTH TILL THE ATTEMPT TO REPEAL THE TEST ACT IN 1717.

THE family of Brodrick is of Norman descent, and settled in England during the days of William the Red-haired. Grants of land and high stations were theirs in successive reigns; and, when Charles I. was King, Sir Thomas Brodrick, Knight, had learned sons and accomplished daughters to extend the family name and renown. Alan, the eldest son, received Knighthood on the Restoration of King Charles II.; and, on March 19, 1660, was appointed one of the Commissioners for settling the affairs of Ireland. The favour of the King followed the family into Erin. But a short time elapsed before a Royal grant assigned 'to Sir Alan Brodrick, his heirs and assigns, out of the forfeited lands, the full moiety in value, worth and purchase of 10,759 acres.' The duties of putting the Acts of Settlement and Explanation in force required five Commissioners, one of whom was Sir Alan Brodrick. The brother of Sir Alan, St. John Brodrick, had taken an active part in the Civil Wars of Ireland, which commenced in 1641; and, sharing in the forfeited lands, got for his services, in November 1653, the lands of Ballyanin Garryduffe, East and West Ballyvodicke, West Ballin-

CHAP.
XXXVI.

Sir St.
John Bro-
drick.

CHAP.

XXXVI.

tobride and Coolmore, in the barony of Barrymore, county Cork. In the first Parliament held in Ireland after the Restoration he represented the borough of Kinsale. He received the honour of Knighthood, and had the office of Provost Marshal-General of the Province of Munster, with a standing fee of 4s. 2½*d.* per diem, and a stipend for ten horsemen of 12*d.* sterling a-piece per diem, with all other fees. This appointment was conferred on him for life on May 2, 1661. He also had a special reservation made of his company of foot, as appears by the King's letter—'By orders formerly given by George Duke of Albemarle, L.L., four companies were to be suspended, which the King had confirmed; but, upon the suit of St. John Brodrick, Esq., to be gratified with a command in Ireland, his Majesty for his many loyal services, was pleased to supersede his former resolutions so far as to appoint him to one of the said four companies.'¹ But the most important grants which this gentleman secured, were under the Act of Settlement; and by patent dated January 2, 1670, the castles, towns, and lands of Castleredmond, Corr Abbey, and divers other places in the Baronies of Barrymore, Fermoy, and Orrery, were erected into the manor of Midleton, with power to set apart 800 acres for demesne; to impark 800 more, with the privilege of courts, waifs, estrays, &c. Castleredmond and Corr Abbey being made a free borough and corporation, to extend every way from the middle of the town, 100 acres in the whole, to be named the borough and town of Midleton; to consist of a Sovereign, two bailiffs, and twelve burgesses, to be first named by him, with power to send two burgesses to Parliament; to have two maces borne before the Sovereign; he and his heirs to appoint a recorder, town-clerk, and other officers.

Midleton.

St. John
Brodrick's
marriage.

St. John Brodrick married Alice, daughter of Sir Randal Clayton, of Thelwall, in the county of Chester. The numerous progeny of six sons and six daughters sprung from the union. It is the career of Alan, the

¹ Lodge's Peerage of Ireland, vol. v. p. 162.

second son, I mean to trace. He rose by his great talents to the high rank of Lord Chancellor of Ireland.

CHAP.
XXXVI.

Alan was born about the year 1660, and early displayed remarkable intelligence. It was this probably which led to his being destined for the bar; but whatever cause made him devote his future career to the profession of the law, it was destined to procure him a high position. During the struggles which followed the accession of James II. to the throne, Alan, then a practising barrister, cast his lot with his brother Protestants, and was quickly distinguished for promotion by the victorious William III. Perhaps being attainted, with his brother, by James II.'s Irish Parliament was not a bad recommendation to King William, for no sooner had he places to bestow than he very properly gave them to those who had suffered in his cause. On February 19th, 1690, his Majesty made Mr. Brodrick his Serjeant-at-Law; and, at the same time, by licence, allowed him to be of counsel to the Mayor of Cork. He had large and lucrative practice at the Irish bar, which led to his further promotion; and, on June 6th, 1695, he was appointed Solicitor-General for Ireland. The accession of Queen Anne, June 4, 1702, made no change in his position, for the Queen continued him in his office.

Birth of
Alan.

A prac-
tising
barrister.

The
Brodricks
attainted
by Irish
Parliament
of James
II.

King's
Serjeant.

Solicitor-
General.

The Solicitor-General was returned to Parliament, in the year 1703, for the city of Cork, at the same time when his elder brother, Thomas, was returned, together with Sir John Percival, Baronet, for the county. The Duke of Ormond, then Viceroy, opened Parliament with the usual solemnities; and the Commons being called to attend the House of Lords on September 24, 1703, the Solicitor-General was chosen Speaker. He addressed the Lord-Lieutenant on that occasion, as follows:—

Member
for Cork
city.

Elected
Speaker,
A.D. 1703.
His speech.

‘ May it please your Excellency,

‘ The Commons in Parliament assembled, have in obedience to your Grace's command, proceeded to the choice of a Speaker, and their choice hath terminated in me. If steady loyalty to the Crown, sincere wishes, and

CHAP.
XXXVI.

a hearty inclination, with the utmost diligence to promote the prosperity of her Majesty and this kingdom were sufficient to qualify me for the due discharge of that great trust, I should not think it modest in me, but its opposite vice, to disable myself. For it is in the power, as it is the duty of every man, to be a loyal subject, and a lover of his country; and, I hope I may, without the least imputation of vanity, be permitted (upon this occasion) to affirm that I must forget my present sentiments, and be much altered from what I am, when I cease to be either.’¹

The Lord Chancellor, Sir Richard Cox, standing on the right hand of the Chair of State, thus addressed the Speaker:—

Lord Chan-
cellor's
speech in
approval.

‘Mr. Solicitor,—The knowledge his Grace my Lord-Lieutenant has of you, and the character you have in the world, do fully satisfy his Grace that you are a person fitly qualified for the great trust reposed in you; and therefore his Grace hath readily approved of the choice which the Commons have made of you to be their Speaker.

‘It is a circumstance of great satisfaction to his Grace, that your election was unanimous; for his Grace cannot look upon this good agreement in the beginning, but as a certain presage of a happy conclusion of this Session of Parliament.’

The
Speaker a
friend to
toleration.

The banef-
ful effects
of into-
lerance.

It appears these pleasant prospects were not fully realised. The good understanding did not endure. The Solicitor-General was a friend to toleration, and the rulers of Ireland were advocates of intolerance. So much so, indeed, that, in their hatred of Popery, they made enemies of the Presbyterians by requiring the Sacramental Test, according to the usages of the Church of Ireland, to be

¹ Lodge's Peerage of Ireland, vol. v. p. 164. This version is very different from the abstract contained in the Lords' Journals of Ireland, vol. ii. p. 3, which is as follows:—‘Alan Broderick, Esq., her Majesty's Solicitor-General, makes a speech, mentioning his being chosen by the Commons of Ireland as their Speaker, declaring his own unfitness for that trust and place, requests his Grace that he would be pleased to order the Commons to return to their House and choose a fitter person.’ This, I suspect, was a form usually spoken, and the text is the correct version.

taken by all officials, civil or military. In vain the Roman Catholics argued by Counsel at the bar of the House¹ against this odious enactment, and it was thought so crushing upon them, that, for this sole reason, the Government considered the dissenters had no right to complain. This appears by the following extract of a letter from Sir Edward Southwell, to the Earl of Nottingham, Secretary of State. The letter is dated February 19, 1704:—

CHAP.
XXXVI.

‘When first the news came of the Sacramental Test being added, there was some noise made thereat by the dissenters; and some more busy than others, endeavoured to try what strength there might be in the House to favour the taking it out. But they met so little encouragement, and even these gentlemen were so sensible of the great advantages accruing by the bill for suppressing the Popish interest, that they have almost declined any further talk about it, and I see nothing to interrupt a good conclusion.’²

Letter to
Earl of
Notting-
ham,
Secretary
of State,
A.D. 1704.

The passing of this Act caused infinite disgust to the Presbyterians. In Derry, ten out of twelve aldermen, and fourteen out of twenty-four burgesses were deprived of their respective offices. The Presbyterian ministers at first conceived they could not conscientiously take the Royal Bounty, and a case was laid before the Solicitor-General for his opinion, ‘whether they might, with safety, take the Royal Bounty, if tendered, considering the late Act.’ His opinion, as reported to the synod, was ‘That they might continue to receive it with safety, inasmuch as it did not accrue to them out of any *office or place of trust* bestowed by the Sovereign.’

Treatment
of the
Presby-
terians.

Case for
the opinion
of Mr.
Brodrick.

His
opinion.

It was, however, from the opposition made by the House, of which the Solicitor-General was Speaker, to some bills proposed by the Lord Lieutenant, and which were thereby defeated, Mr. Brodrick was removed from his office of Solicitor-General. He continued Speaker, and had leave to

Loses his
office.

¹ Vide ante, vol. i. p. 514.

² History of the Presbyterian Church in Ireland by Reid and Killen, vol. iii. p. 102.

CHAP.
XXXVI.

Continues
Speaker,
with leave
to practice.

Attorney-
General,
1707.

Viceroy
changed.

Joy of the
Dissenters
at the
arrival of
the Earl of
Pembroke.

His speech,
opening
the Par-
liament,
A.D. 1707.

practice during the recesses of the House,¹ and on June 12, 1707, the Queen recalled him to official duties as her Attorney-General for Ireland. This was probably owing to the Duke of Ormond having been removed from the Vice-royalty. On June 14 a liberal and accomplished nobleman—the Earl of Pembroke—who was known to be a friend of toleration, became Viceroy. ‘The appointment of this nobleman,’ says the Rev. Dr. Killen in his ‘History of the Presbyterian Church in Ireland,’² ‘the well-known friend of toleration was hailed by the Presbyterians as encouraging a hope that the ignominious disqualification created by the Sacramental Test might be abolished. So far as his Excellency and the administration which he represented were concerned this hope would not have been disappointed, as it was one of his instructions to endeavour to effect the repeal, or modification, of this obnoxious and impolitic law.’ The concluding portion of his Excellency’s speech, when he opened the session of the Irish Parliament on July 7, 1707, breathes a fervent desire to benefit all classes and creeds in the kingdom.

‘My Lords and Gentlemen,

‘In order to the attaining and establishing the safety and welfare of this kingdom, I should think myself extremely happy if, during my administration, all matters should be conducted with that temper and prudence as may justly entitle you to the continuance of Her Majesty’s affections. For my own part, though a great honour to serve in this post, I can propose no satisfaction in it without your happiness and prosperity, the which I shall sincerely endeavour to promote; and hope, but chiefly by your assistance, to secure the good of this kingdom, and show, in our several stations, that we are united in our affections to each other, as well as in duty to the best of Queens.’

The good intentions of the Viceroy were not sufficient

¹ Before the rank of King’s Counsel existed, the Speaker, when a practising barrister, had precedence at the bar.—Duhigg’s History of the King’s Inns.

² Vol. iii. p. 119.

to overpower the intolerant spirit of the age. The repeal of the Test being specially given in charge to Lord Pembroke, he soon made efforts to feel his way before he would commit himself to a defeat, and the result is thus stated in a letter, written by his secretary, Mr. Doddington, Member for the borough of Charlemont:—‘As to the other grand affair, I mean the taking off the Sacramental Test, it was impracticable in this House, and will ever be so, as long as this Parliament continues, which is made up of two-thirds as High Churchmen as any in England.’¹

CHAP.
XXXVI.
The Vice-roy unable to procure the repeal of the Test.
Letter from Secretary Doddington.

The Presbyterians of Ulster refused to be enrolled as Militia while the Test stood unrepealed. Alan Brodrick, the Attorney-General and Speaker of the House of Commons, went to England and brought the matter before the Government. As no one knew better the impossibility of effecting anything in the Irish House of Commons that would relieve the Catholics from disability, he proposed that the clause in the Irish Act should be repealed by the English Parliament, as the Oath of Supremacy had been repealed in the previous reign. His views were strengthened by the efforts of the Presbyterians, who employed an Irish barrister, Mr. Stevens, to go to London and second the efforts of the Attorney-General. But the times were not propitious. The English Parliament had but recently been dissolved, the new elections were not over, and no pledge could be obtained that the Ministry would attempt to repeal the obnoxious Test. Lord Pembroke, having been appointed Lord High Admiral in room of Prince George of Denmark, resigned the Viceroyalty of Ireland to the great grief of the Catholics and Presbyterians.

Mr. Brodrick's suggestion.

Recall of the Earl of Pembroke.

This estimable nobleman was succeeded by his opposite in every relation of life—the Earl of Wharton. A new champion also entered the arena, who fought for the maintenance of the Test with a powerful weapon—satire. This was no other than Dean Swift. In his hot zeal against the Presbyterians, he regards them as far more dangerous foes to the

The Earl of Wharton Lord Lieutenant.

Dean Swift supports the Test.

¹ Letter from Mr. George Doddington to Mr. Hopkins, dated August 14, 1707, State Paper Office, London.

CHAP.
XXXVI.

Irish
Roman
Catholics
in 1707.

Established Church than the Papists, as the Catholics were then usually designated. It is rather amusing to read his estimate of their condition in 1707 and contrast it with that in the year 1870. 'We look upon the Papists to be altogether as inconsiderable as the women and children. Their lands are almost entirely taken from them, and they are rendered incapable of purchasing any more; and for the little that remains, provision is made by the late Act against Popery that it will daily crumble away. To promote which, some of the most considerable among them are already turned Protestants, and so, in all probability, will many more. Then the Popish priests are all registered, and without permission (which I hope will not be granted) they can have no successors; so that the Protestant clergy will find it perhaps no difficult matter to bring great numbers over to the Church; and in the mean time the common people, without leaders, without discipline, or natural courage, being little better than hewers of wood and drawers of water, are out of all capacity of doing any mischief if they were ever so well inclined.'¹

Addison
Irish
Secretary.

His de-
ficiency as
an orator.

It was Lord Wharton who brought Joseph Addison to Ireland, and appointed him Secretary of State. He represented the borough of Cavan in the Irish Parliament, in 1709. Though famous as an easy and graceful writer, he could not express himself with any degree of fluency. An anecdote related of him proves this. On a motion before the House, Addison rose, and having said,—'Mr. Speaker, I conceive'—paused, as if frightened by the sound of his own voice. He again commenced—'I conceive, Mr. Speaker'—when he stopped, until roused by cries of 'hear! hear!' When he once more essayed with—'Sir, I conceive.'—Power of further utterance was denied, so he sat down amidst the scarce suppressed laughter of his brother Members, which soon burst forth, when a witty senator said, 'Sir, the honourable gentleman has *conceived three times*, and brought forth *nothing*.'

Mr. Brodrick continued to discharge the duties of

¹ Swift's Works, vol. ix. p. 158.

Attorney-General from June 30, 1707, to 1709, when Sir Richard Pyne, Chief Justice of the Queen's Bench, having died at Ashley in England, Sir Alan Brodrick, for he had been knighted, was appointed his successor. The biographer of the Earl of Wharton claims credit for his Lordship having selected Sir Alan for this important office, and states, 'He obtained that high post for one of the most worthy patriots of that kingdom, as an instance of the care he took of the security of religion and liberty.'

CHAP.
XXXVI.

Brodrick knighted, and Chief Justice of the Queen's Bench.

On being appointed to the seat on the Bench, Sir Alan was called to the Upper House as Lord Chief Justice of the Queen's Bench. He was no longer eligible to sit in the House of Commons, and we cannot feel surprised if the Members of that House, so long the theatre of his labours, witnesses of his services, should present him with some token of their esteem. We find that on May 20, 1709, it was resolved by the House of Commons of Ireland, *nemine contradicente*, 'That the thanks of this House be given to the Right Hon. Alan Broderick, Esq., late Speaker of this House, and now Lord Chief Justice of her Majesty's Court of Queen's Bench, for his faithful and eminent services performed to this House in the Chair, and during the time of his being Speaker; and the Lord Moore and Mr. Serjeant Caulfield were ordered to attend his Lordship, and acquaint him with the vote of thanks of this House.'¹

Called to the House of Lords as Chief Justice.

Thanks of the House of Commons.

To this vote of thanks the Chief Justice replied:—'I am extremely sensible of this great honour done me, as I always have been of the goodness of the House of Commons in supporting me in the discharge of the trust they were pleased to repose in me; and can't sufficiently acknowledge their favour, or express the satisfaction I take, that the witnesses of my behaviour during so many Sessions of Parliament have unanimously approved of it, and given an uncontrollable testimony of my having, in all instances, to the best of my power, done my duty to

Reply to the Commons.

¹ Com. Jour. Ir. vol. ii. p. 644.

CHAP.
XXXVI.

the Crown, the House of Commons, and the kingdom in general.¹

Removed
from the
Chief Jus-
ticeship.

The Commons were not long deprived of his presence. He had been little more than twelve months on the judicial Bench when a change took place in the Ministry, and the incoming party, wishing to provide for Sir Richard Cox, and not disposed to place him again in the Court of Chancery, offered him the Chief Justiceship of the Queen's Bench; Sir Richard having signified his acceptance, the Ministry displaced Brodrick, who, perhaps, was not unwilling to resign the post, for we find that, for some years during which Sir Richard Cox held it, party spirit raged with great violence. The Parliament being dissolved by proclamation on May 6, 1713, and writs issued for new elections, Sir Alan Brodrick was returned for the county of Cork. On November 25 of that year the Lord-Lieutenant, the Duke of Shrewsbury, opened Parliament, and the choice of Speaker falling on their old favourite, Brodrick, he was presented in that capacity to his Excellency. The following was his speech on that occasion:—

Parliament
dissolved,
A.D. 1713.

Brodrick
M.P. for
Cork.

Re-elected
Speaker.

Speech to
the Duke
of Shrews-
bury, Lord
Lieu-
tenant.

‘ May it please your Grace,

‘ The Commons in Parliament assembled, in obedience to your Grace's commands, and according to ancient usage, have proceeded to the choice of one of their Members to preside in their debates as Speaker of their House, and have commanded me to present myself to your Grace as the person whom they have elected to that great and important trust.

Duties of
the
Speaker.

‘ To collect readily the true sense of a numerous assembly, to form the same into questions, in order to their final resolution, and to present their conclusions, declarations, and petitions to your Grace in the best manner, and with full advantage, is part of the duty which that man undertakes who is hardy enough to accept so arduous a province; and the sense I have of my own imperfections and disabilities makes me tremble when I reflect on the difficulties under which learned, experi-

¹ Com. Jour. Ir. vol. ii. p. 647.

enced, and wise men have laboured in the Chair of that House.

CHAP.
XXXVI.

‘But when I consider that my endeavours to serve her Majesty and this kingdom in the Chair of a former Parliament were so acceptable to, and approved by, the whole House of Commons, that they were pleased to express their sense of them by a signal mark of their respect after I had ceased to be a Member of their House; when I consider that out of many gentlemen of great abilities, and knowledge in the laws and methods of Parliament, the Commons have now again judged me capable of filling the Chair to their expectation, I dare not put my own fears and diffidence of myself in balance with their superior judgment.

His former
experience.

‘I delight myself with an agreeable prospect of unanimity in the Parliament, and hope as well as earnestly desire, to see that their warmest contest may be who shall show most zeal and forwardness in expressing their loyalty and duty to her Majesty, their firm adherence to our most excellent Constitution in Church and State, and the most profound respect for your Grace’s person and Government. Such a temper may be reasonably expected under a Chief Governor who, in addition to ancient nobility, greatest offices of honour and trust in the State, and the favour of her most excellent Majesty, is qualified to make us a happy people by a discerning judgment, a consummate wisdom, a mild and gracious disposition and temper of mind, and an inclination to heal the divisions and cure the distractions of this once happy country.’¹

His ex-
pectations
regarding
the Parlia-
ment.

The reply of the Lord Chancellor² was merely intimating the acquiescence of the Lord Lieutenant in the choice of the Commons.

Sir Alan Brodrick continued to show the utmost attention to his duties as Speaker. He appears to have imbibed the most ultra-Protestant fears of the Papists. That a

¹ Com. Jour. Ir. vol. ii. p. 747.

² Sir Constantine Phipps. He had been much disappointed by the election of Brodrick as Speaker.

CHAP.
XXXVI.

strong leaning towards the house of Stuart existed was probably the case, but no demonstration was made in Ireland as in Scotland to justify the cruel code which the Parliament of Ireland enacted against their fellow-countrymen.

Queen Anne's death determined the existing appointments, and Sir Constantine Phipps was no longer Irish Chancellor.

Accession
of George
I.
Brodrick
Lord Chan-
cellor, with
a Peerage.

On the accession of George I. a change of Ministry took place, and one of the first acts of his Majesty's reign was to create by patent, October 1, 1714, Alan Brodrick the Lord Chancellor of Ireland, into which high office he was sworn October 14. He was raised to the Peerage by patent dated April 13, 1715, as Baron Brodrick of Middleton, and on November 12, at the opening of Parliament, on his Majesty's accession, took his seat in the House of Peers.

Created
Viscount
Middleton,
A.D. 1717.

Lord Middleton was repeatedly constituted one of the Lords Justices to administer the government of Ireland during the absence of the Lord Lieutenant. He was advanced in the Peerage by patent dated August 15, 1717, creating him Viscount Middleton.

Presby-
terians
endeavour
to obtain
the repeal
of the Test.

Soon as the Duke of Bolton was appointed to the Viceroyalty of Ireland, the Presbyterians renewed their efforts to obtain a repeal of the Sacramental Test, which, from the liberal policy of the King and his Ministers, they hoped to be able to effect. A draft of a Bill for this object was sent to Ireland by the Government for the consideration of the Lord Lieutenant and Council of Ireland previous to the opening of Parliament. The Viceroy consulted the Lord Chancellor and others of the Council with respect to it, and the result of their opinion is stated in the following extract from his Grace's letter to the Secretary of State in London, which is now published in the 'History of the Presbyterian Church in Ireland:'²

'I have read over and considered the draft of a Bill in

¹ Lords' Jour. Ir. vol. ii. p. 421.

² Vol. iii. p. 216.

favour of the Dissenters, and find it to be an entire repeal of that part of the Act to prevent the further growth of Popery, which requires persons who are to be admitted to offices to receive the Sacrament according to the rites of the Church of Ireland, and that it gives the Protestant Dissenters the like toleration, as I choose to call it, or, as others will term it, establishment, as those of the Episcopal Communion in North Britain enjoy, by virtue of the Act made in the tenth year of the late Queen. You may remember that I told my Lord Sunderland, my Lord Stanhope, and you in February last, when you were discussing the expectations which the Dissenters in Ireland had of something being done in their favour in the Parliament of Great Britain, that if they proposed, or expected, an entire repeal of the Sacramental Test it would be found to be a matter of the greatest difficulty, if not impossible to be obtained; and that it would turn to the dishonour and prejudice of the Government if anything of the nature should be attempted without success. These were my thoughts at that time, and my Lord Chancellor of Ireland (Alan Brodrick) expressed himself to the like effect. I have, since my coming hither, endeavoured to inform myself, by discoursing those in whom I could best confide, and whose judgment may be depended on, whether I had made a just representation of the temper and disposition of the people here in relation to these matters, and find no reason to alter the opinion I have formerly been of, but many to confirm me in it. That it would not be advisable to send over from England a Bill to repeal the Sacramental Test, which I think will not pass here, however recommended or endeavoured to be supported. I have consulted my Lord Chancellor and the Speaker (Mr. Connolly) of the House of Commons, who strongly espouses the Dissenters' interests in the House of Commons, and in whom they entirely rely and have entire confidence, so is best able to judge how far will give satisfaction to the reasonable part of the Dissenters, and what in probability may be obtained here for them. He told me on Saturday last,

CHAP.
XXXVI.

Letter
from the
Viceroy,
Duke of
Bolton.

Not ad-
visable to
attempt to
repeal the
Test Act.
Consulted
the Lord
Chancellor
and
Speaker.

CHAP.
XXXVI.

Lord Chan-
cellor and
his son
opposed in
politics.

The at-
tempt
abandoned.

A similar
case to the
first, Sir
Robert
Peel and
his son.

and as often as I have discoursed him, he was of the same opinion.'

The Government were thwarted in their efforts to relieve the Dissenters, and one of the most prominent members in opposition to toleration was Mr. Brodrick, the Lord Chancellor's eldest son. When the Lord Lieutenant was writing to the Secretary of State, he assured the Secretary that the Chancellor was sincerely in favour of the Government measure, and was doing his best to forward it, but he was unable to induce his son to concur in his views: 'though,' adds Dr. Killen,¹ 'one would think that, if his lordship had been very anxious for its success, he might have persuaded his son to abstain from appearing as one of the responsible promoters of this counter Bill, however zealously he might support it by his vote and interest.'² The result of the opposition was, the Government were forced to abandon this measure, thus showing the Lord Lieutenant had judged rightly of the party who constituted the majority in the Irish Parliament.

¹ History of the Presbyterian Church in Ireland, vol. iii. p. 222.

² The course properly adopted by the Chancellor of not interfering with the freedom of action in his son, was followed in later times, when the first Sir Robert Peel, in 1819, presented a petition signed by many leading merchants of London, praying for the rejection of the Currency Bill introduced by his son on May 24, 1819. In doing so the father said, 'To night I shall have to oppose a very near and dear relation; but while it is my own sentiment that I have a duty to perform, I respect those who do theirs, and who consider that duty to be paramount to all other considerations.' These remarks elicited equally characteristic observations from the son. Alluding to the difficulties he had to meet, 'Among them,' he said, 'is one which it pains me to observe, I mean the necessity I am under of opposing myself to an authority to which I have always bowed from my youth up, and to which I hope I shall always continue to bow with deference. My excuse now is, that I have a great public duty imposed upon me, and that whatever may be my private feelings, from that duty I must not shrink.'—Vide *The Peels of Manchester*, London Society, vol. ix. p. 175.

CHAPTER XXXVII.

LIFE OF LORD CHANCELLOR LORD MIDLETON—CONCLUDED.

A CAUSE which soon grew into national importance came into the House of Lords, while Lord Middleton was Chancellor, *Sherlock v. Annesley*. The appeal before the Lords was presented by Hester Sherlock, widow, against whom a decree was made in the Court of Exchequer on February 24, 1709, in a cause in which the appellant was complainant, and Maurice and John Annesley, Esqs., defendants. The appellant having sworn she was not worth five pounds in any worldly substance over and above the matter in question, was admitted to prosecute her appeal *in formâ pauperis*. On hearing the appeal on June 19, 1716, the House of Lords varied the decree of the Exchequer in many important particulars. They set aside deeds containing agreements, and ordered them to be delivered up to the appellant, and that appellant should have a portion and maintenance. From this judgment of the Irish House of Lords, Maurice Annesley appealed to the English House of Lords, by whom the decree of the Irish Court of Exchequer was confirmed, and an order made to put him into possession of the disputed estate in the county Kildare. Annesley also served Hester Sherlock and her attorney with an order from the right hon. the Lords Spiritual and Temporal in Great Britain, assembled in Parliament, dated June 12, grounded upon the petition and appeal from the decision of the Irish House of Lords, by Maurice Annesley, whereby the decree of the Irish Lords, June 19, 1716, was complained of, and alleged no appeal lies before the House of Lords in Ireland from any decree of the Court of Exchequer in that

CHAP.
XXXVII.Cause of
Sherlock
v.
Annesley.
Decree in
Equity,
Exchequer,
A.D. 1709.Order by
the Irish
House of
Lords
on Appeal,
A.D. 1716.Appeal to
British
House of
Lords, who
confirm the
Exche-
quer's
decree.

CHAP.
XXXVII.

Petition
to Irish
Lords.

Call of
the House.

Resolu-
tions.

Report of
the Com-
mittee.

Order to
High
Sheriff of
Kildare.

Injunction.

Refusal by
the High
Sheriff.

kingdom, The petition of Mrs. Sherlock prayed the Irish Lords to take the premises into their consideration and make order thereon. The Lord Chancellor of Ireland was directed to write circular letters to the Peers who were absent from Parliament, acquainting them that the House required their attendance on the day specified. On September 23, 1717, their Lordships met, when it was resolved:—‘that this House will support its honour, jurisdiction, and privileges, by giving the petitioner, Hester Sherlock, effectual relief, pursuant to what was ordered and adjudged by the House on June 19, 1716.’¹ A Committee of fifteen Peers—ten lay and five spiritual—was then appointed to consider the proper method of relieving the said Hester Sherlock, with power to send for persons, papers, and records, to hear all matters, and report thereon. On the Committee making their report, it appeared that a sum of 1,507*l.* was due to Hester Sherlock, and the lands of Little Rath, &c., in the barony of Naas, county Kildare, chargeable with the payment of the said sum. The Committee reported in their opinion, that the Sheriff of the county Kildare is the proper officer to execute the decrees of this House, by putting Hester Sherlock into possession of those lands till the sum of 1,507*l.* be paid. The Clerk of the House was then directed to prepare an order to the Sheriff, pursuant to the report which was done, stating, “this shall be a sufficient warrant in that behalf.”

This course proved a very unfortunate one for the Sheriff of Kildare. It placed him between two hot fires. He had no sooner complied with the order of the Irish Lords, and put Hester into possession, than he was attacked by the Irish Barons of the Exchequer, who, by injunction, required the Sheriff to restore Annesley to the possession of the lands, and to support and keep him in possession till the further order of the Court, or until the said Annesley be evicted by due course of law. The Sheriff refused to execute the injunction, thinking the Lords were stronger

¹ Lords' Jour. Ir. vol. ii. p. 559.

than the Barons, and that if he complied he committed a breach of the order of the House of Lords, their Lordships' rights and privileges.

CHAP.
XXXVII.

On May 13, 1718, Annesley moved the Court of Exchequer on affidavits, stating, as I have mentioned; thereupon Chief Baron Gilbert, and Barons Pocklington and St. Leger ordered the Sheriff to be fined, and on June 30, 1718, an attachment was directed to the Pursuivant against the Sheriff. The unhappy Sheriff was obliged to abscond, and lie close to avoid arrest, unable to attend to his duties, and put to considerable loss. He petitioned the Lords on June 10, 1719, which was referred to the Lords' Committee for Courts of Justice.

The Sheriff
fined.

He peti-
tions the
Irish
Lords.

On July 27, 1719, the Lords' Committee for Courts of Justice made their report. After detailing the circumstances already mentioned, they report:—'That by the minutes of the Chancery side of the Exchequer, it appears that the Lord Chief Baron of the Exchequer, on February 19, 1717, produced a letter, dated London, February 8, 1717, signed Cowper C.,¹ in which two papers were inclosed, dated February 6, 1717, signed William Cowper, Cler. Parliamen-
tor., directed to the Lord Chief Baron of the Exchequer in Ireland, and the rest of the Barons of the said Court, alleged by the Chief Baron to be orders from the Lords in Great Britain, requiring them to restore Maurice Annesley, Esq., to the possession of the lands he was dispossessed of, pending his appeal in the House of Lords of Great Britain. That thereupon the Chief Baron and other Barons, without motion by counsel or attorney, issued the injunction for restoring Annesley to the Sheriff of Kildare, who refused to execute the said injunction.' The report then details various fines on the Sheriff, that the Chief Baron and other Barons had due notice of the order of the House, that by the minutes of June 13, 1718, it appears that the Chancellor of the Exchequer declared that the order of the House of Lords of England, being only directed to the Barons of

Report
of the
Lords.

¹ Lord Cowper, Lord Chancellor of England, resigned April 15, 1718.—Vide Lord Campbell's Chancellors of England, vol. iv. p. 257.

CHAP.
XXXVII.

that Court, and the order which was made thereon was made as if done by him, and the Treasurer as well as the Barons; and apprehended when the order was not directed to him, or he present when the order was made, he had nothing to do therewith, and did not consent thereto. It was believed this omission in the order was error. The attachment against the Sheriff was then stated with the various other proceedings. 'That on February 4, 1718, the Lord Chief Baron and Mr. Baron Pocklington, upon receipt of orders from the House of Lords, in a letter from the Lord Chancellor of England, dated London, January 27, 1718, signed Parker C.,¹ which came by post, directed to the Lord Chief Baron of the Exchequer in Ireland, and the rest of the Barons of said Court; whereby it was ordered that the Barons should cause Hester Sherlock to account before them upon oath for the rents and profits of the estate in question, which she had made or received since her gaining the possession thereof, by the order of the House of Lords in Ireland, and to pay the same to Maurice Annesley, Esq., but without prejudice in case of appeal. The Barons were further ordered to take effectual steps to put Annesley into possession.' The steps taken were to issue an injunction against Hester Sherlock and the tenants, which it was stated was never served, but all the tenants attorned but one, which put her out, and that tenant was attached for contempt. The report also set forth the oath administered to the Barons of the Exchequer.² The Irish Lords then resolved to examine the Barons *viva voce*.

Injunction
issued by
the Barons.

¹ Thomas Parker, Earl of Macclesfield, was born July 23, 1666, called to the bar May 21, 1691, and returned to Parliament as member for Derby, 1705. He became Chief Justice of the King's Bench in 1714, and, in 1716, was raised to the peerage as Baron Parker of Macclesfield. On the resignation of Lord Chancellor, Lord Cowper, he received the custody of the Great Seal as Lord Chancellor, on May 12, 1718, which he held nearly seven years. Shortly after his resignation in 1725, he was impeached for corruption, found guilty, and fined 30,000*l.* The King (George I.) helped him to pay this sum.—Foss's Judges of England, vol. viii. p. 59.

² 'Ye shall swear, that well and truly ye shall serve the King in the office of Baron of his Exchequer, and that truly ye shall charge and discharge all manner of people as well the poor as the rich; and that for highness nor for

The Lord Chief Baron¹ and the other Barons were asked, ‘Whether they did at any time acquaint the Chief Governor or any of His Majesty’s Privy Council, with the orders they had received from Great Britain in the cause of *Sherlock v. Annesley*.’ Who answered, by the Lord Chief Baron, ‘That if this question was put, he was to criminate himself, he desired to be excused from answering it.’

CHAP.
XXXVII.

Questions
put to the
Barons.

Decline to
answer.

It was then resolved by the House, ‘That the High Sheriff of the County Kildare, Alexander Burrowes, Esq., in not obeying the injunction issued forth of his Majesty’s Court of Exchequer, dated February 22, 1717, had behaved himself with integrity and courage, and with due respect to the orders and resolutions of this House. That the

Lords’ re-
solutions.

riches, nor for hatred, nor for the estate of no manner of person or persons, nor for any good-deed, gift, nor promise of any person, the which is made to you, nor by craft, nor by engine, ye shall let the King’s right, nor none other person’s right, ye shall disturb, let nor respite against the laws of the land, nor the King’s debts ye shall put in respite, when that they may goodly be levied. And that the King’s needs ye shall speed, afore all other. And that for gift, wages, nor good deed, ye shall lean, disturb, nor let the profit and reasonable advantage of the King in the advantage of any other person, nor of yourself. And that nothing ye shall take of any person for to do wrong, or right, or delay, or for to deliver or to delay the people, which that have to do afore you, but as hastily as you may, them goodly to deliver without hurt of the King. And having no regard to any people that might thereof to you be therein, you shall make to be delivered. And whereas ye may know any wrong or prejudice to be done to the King, ye shall put and do all your power and diligence that to redress. And if he may not do it, ye shall tell it to the King, or to them of his Council, which may make relation to the King, if ye may not come to him, to the King’s Majesties Lieutenant, or other Chief Governor or Governors of this realm for the time being. And the King’s Counsel ye shall keep in all things. As God you keep and by the contents of this book.’

¹ Jeffrey Gilbert, Chief Baron of the Exchequer, was born in Kent, October 10, 1674. He was called to the bar June 1698, and his equity reports begin in 1706. In November 1714 he was appointed one of the judges of the Court of King’s Bench in Ireland, and in the following year became Chief Baron of the Irish Court of Exchequer. It is stated he was offered the Lord Chancellorship of Ireland, but declined the honour, and exchanged the chief place on the Irish Exchequer bench to become a puisne Baron of the English Exchequer in May 1722. He was knighted in 1724, and on the resignation by Lord Macclesfield of the Great Seal, he was appointed one of the Commissioners for holding it till the appointment of Lord King as Lord Chancellor in 1725. He then became Chief Baron of the English Exchequer, which he held until his death in 1726.—Foss’s Judges of England, vol. viii. p. 32.

CHAP.
XXXVII.

Conduct
of High
Sheriff
com-
mended.
That of
the Barons
censured.

Duty of
the Barons
when
wrong is
done to
the King.

Dissentient
Peers.

The Lord
Chancellor
dissents.

Majority
of 34 in
support of
the resolu-
tions.

finer imposed on him be taken off, that the Chief Baron and other Barons in the cause of *Sherlock v. Annesley*, as also against the High Sheriff of the County Kildare, had acted in direct violation of the orders and resolutions of this House, in manifest derogation to and diminution of the King's prerogative of finally judging in his High Court of Parliament in Ireland; as also the rights and privileges of this Kingdom, and the Parliament thereof.' The case being adjourned to July 29, it was resolved *nem. con.* 'that it is the duty of the Barons of the Exchequer when there is any wrong or prejudice done to the King, in matters lying before them, to inform the King or the Chief Governor or Governors of this Kingdom, or the Council.' The next resolution was not passed so unanimously. It must have been hotly debated, and though five out of seven of the dissentients were Spiritual and two Temporal Peers, the arguments of one of these two must have caused great weight with a discussion of this nature, no other than the then Lord Chancellor Viscount Middleton.

On the question, 'That the case of *Sherlock and Annesley*, as it lately lay before the Barons of the Exchequer, being matter not only of law but of State, ought to have been laid before the King, the Chief Governor or Governors of this Kingdom, or the Council of the same, it so nearly concerning his Majesty's prerogative, and the interests of the whole Kingdom.' There were seven dissentients, and on the question, 'That the Barons in the same acted contrary to law, and to the established practice of the King's Courts,' the same dissentients are named. As the House consisted of forty-one Peers, of course there were thirty-four in support of the resolution, and the majority proceeded to take strong measures in support of what they regarded as their privileges. They ordered the Serjeant-at-Arms to arrest *Annesley* and his attorney, and keep them in safe custody until further order. They next ordered the Lord Chief Baron, and the other Barons in attendance in the House to withdraw, whereupon they

resolved that Jeffrey Gilbert, Esq., Lord Chief Baron, (and the two other Barons *seriatim*), having taken upon them to put in execution a pretended order from another court, contrary to the final judgment of this High Court of Parliament, in the cause between Sherlock *v.* Annesley, is a betrayal of his Majesty's prerogative, and the undoubted ancient rights and privileges of this House, and of the rights and liberties of the subjects of this Kingdom.' To this the Chancellor and the other Peers named dissented;¹ but as the majority prevailed, they were powerless. It was then ordered that the Chief and other Barons be taken into the custody of the Gentlemen Usher of the Black Rod. This caused another Peer, Viscount Fitz William, to join the dissentients. The Peers then drew up a very elaborate representation to the King. They represented that, by ancient records and Acts of Parliament, it appeared that the King and principal men of Ireland, did, without compulsion, submit to Henry II. as their liege lord, who, at the desire of the Irish, ordained that the laws of England should be enforced and observed in Ireland.²

CHAP.
XXXVII.

The Barons
ordered
into cus-
tody.

Representa-
tion to
the King.

English
laws in
Ireland.

'That by this agreement Ireland obtained the benefit of the English laws and many privileges, particularly that of a distinct Parliament, here as in England, and of having weighty and momentous matters relating to this Kingdom treated of, discussed, and determined in the said Parliament.

An Irish
Parlia-
ment.

'This concession and compact, confirmed by successive Kings, encouraged many English to settle in Ireland, where they were to enjoy the laws and liberties, and live under the same constitution they had formerly done in the Kingdom of England.³ That by this constitution the

¹ The dissentients were:—

JOHN MEATH.

WILLIAM KILDARE.

HENRY KILLALLER AND ACHONRY.

DONERAILE.

TIM. KILMORE AND ARDAGH.

MIDDLETON, CANC.

WILL DERRY.

Lords' Jour. Ir. vol. ii. p. 626.

² Coke 4th Inst. 349. Matt. Paris, Anno 1172, p. 103.

³ Pryn on 4th Inst. p. 287. Anno 31. Edw. III.

CHAP.
XXXVII.

English subjects of this Kingdom were enabled faithfully to perform their duty to the Crown of England, and therefore, insisted upon their being preserved inviolate.

Ireland
a distinct
dominion.

‘That though the imperial Crown of this realm was formerly inseparably annexed to the imperial Crown of England, and is now to that of Great Britain, yet this Kingdom, being of itself a distinct dominion, and no part of the Kingdom of England, none can determine concerning the affairs thereof, unless authorised thereto by the known laws and customs of this Kingdom, or by the express consent of the King.¹

A grievance
to regard
the Irish
Parliament
incompetent
to decide
appeals.

‘That it is an invasion of the prerogative, and a grievance to the loyal subjects of Ireland, that any court of judicature should take upon them to declare that the King cannot determine all controversies between subjects in Ireland, in the Parliament summoned to meet here, or that when they appeal to the King in Parliament here in matters wholly relating to this Kingdom, they bring their cause before an incompetent judicature.

Removal of
causes into
England.

‘That in the removal of causes from this Kingdom into England, such usages have been by slow degrees. At first the judges here being to determine the causes by the Common Law of England, and not knowing well the usages there, applied to Henry III., their King, for information, who gave them an account of what the Common Law and custom in like case was.² And this undoubtedly by the advice of the Justices of the King’s Bench, who then were obliged to attend the King, wherever he should be. And in process of time, when his successors had settled the Court of King’s Bench after another manner, and had forborne to sit there themselves in person, the application formerly to the King was then to the Justices, which gave rise to the custom of removing causes by Writs of Error from the King’s Bench in Ireland to the King’s Bench in England. But from hence to infer Appeals from the

Bringing
Writs of
Error from
Ireland to
England.

¹ Pryn, chap. v. p. 214, Anno 2 Eliz. Coke 4th Inst. p. 349.

² 14 Hen. III. Stat. Hibern. made at West. (*sic*) in Lords’ Jour. Ir. vol. ii. p. 655.

Peers of Ireland to those of England, is a consequence for which there is no manner of ground.

‘That for the practice of appealing from the High Court of Chancery in Ireland to the Lords of Great Britain, we can find but two precedents for such appeals before the Revolution—one in 1670, another in 1679. They happened at a juncture when no Parliament was held, and no opposition could be given. When the Parliament met, after twenty-six years intermission, complaints were heard, writs of error and appeals reserved, and orders made thereon, and their validity never was doubted until 1690, when two appeals from Parliament here were carried before the Lords in England. They declared the cases *coram non judice*, and, without hearing the merits of the causes, reversed the decrees that had been made here. That as the constituent parts of both Parliaments are alike in every particular, either some record, Act of Parliament, or ancient usage, must be shown, to make a difference, and the same jurisdiction lodged in the English must, also, be allowed to the Irish Parliament. And if it be looked on as illegal for any inferior county in Great Britain to act in direct opposition to the orders and decrees of the House of Lords there, the same must be concluded in this kingdom.’

When, in 1703, a Parliament of Ireland restored to the Earl and Countess of Meath the lands they had been dispossessed of by order of the Lords in England, they, nor their heirs, were ever disturbed. The Lords then refer to the case of Sherlock and Annesley, and to various technical objections, which they contended invalidated the proceedings, and thereby that the Baron violated the rules and practice of the Courts.

That if the King is deprived of his power of determining causes here in Parliament, those who are unable to follow them to Britain must submit to whatever wrongs they might suffer. That King Edw. III. was so sensible of the hardships the subjects of this kingdom suffered for want of having a means of reversing erroneous judgments withi-

CHAP.
XXXVII.

Only two appeals from the Court of Chancery of Ireland to England before the Revolution,

And two after.

Both Parliaments constituted alike.

Case of Earl and Countess of Meath.

Hardship on suitors.

CHAP.
XXXVII.

Charter
of Edward
III.

If the
power of
judicature
be taken,
the Con-
stitution
may fol-
low.

Lords of
Great
Britain
have no
power to
enforce
decrees in
Ireland.

Payment
to prevent
further
application
to the Irish
Parlia-
ment.

Discou-
ragement
to Protes-
tant Peers.

the kingdom, that, by charter, dated Augt. 30th, in the 29th of his reign, on the complaints of subjects of Ireland, he commanded all his judges and ministers, before whom any processes should be held, at the prosecution of the parties aggrieved, to return the Rolls of the Record and Processes into the Parliaments to be held in the kingdom of Ireland, and that the Records and Processes should be recited and examined, and the errors (if any should be found in them) duly corrected.¹ They refer to the similarity in the mode of summoning Parliament, and urge, if the power of judicature be taken away by a vote of the English Lords, the same Lords may deprive the people of Ireland of the benefit of their whole constitution.

It is notorious, the Lords of Great Britain have no power of putting the decrees into execution within this kingdom, as is evidenced by their application to the King to cause their decree to be executed by an extraordinary interposition of Royal power. Complying with which would most highly affect the liberties of the loyal subjects of Ireland. That to prevent the appellant from making further application to the Irish Parliament, the King's Deputy Receiver had paid her over 1,800*l.*, which he expected would be refunded by the Government. That these proceedings greatly embarrassed the Parliament of Ireland, disquieted the loyal Protestants, brought Sheriffs and officers of Justice under hardships, by the clashing of different jurisdictions. Then follows this curious passage:—'Nor can we but with grief observe, that, while many of the Peers and Commons who sat in Parliament were *Papists*, their judicature was never questioned. But of late, since only *Protestants* are qualified to have a share in the legislature, their power, and the right of hearing causes in Parliament, hath been denied, to the great

¹ Pryn on 4th Inst. p. 286. Anno 29th Ed. III. It appears from the latter portion of this record that the original power of Parliaments in Ireland, settled by King Henry II., and referred to in the Charter had afterwards been somewhat restrained as to writs of error, but the mandates of later sovereigns which narrowed the original powers of the Irish Parliament, were by this Charter recalled and made void.—Vide Lords' Jour. Ir. vol. ii. p. 658.

discouragement and weakening of the Protestant interest in Ireland.'

They hoped that all these matters would induce the King to justify what they had done for supporting the Prerogative, and the rights and liberties of themselves and fellow-subjects. Again the Lord Chancellor, five Bishops, and Lords Doneraile and Shelburne were dissentients, but the majority had their way, and the proceedings were transmitted to England and brought before the British House of Peers. Then the tables were turned, and the Barons were in the ascendant. The Lords resolved, 'That the Barons of the Court of Exchequer in Ireland, in their proceedings in the cause between Annesley and Sherlock, in obedience to their orders, had acted with courage, according to law, in support of his Majesty's prerogative, and with fidelity to the Crown of Great Britain. That an humble address be presented to his Majesty to confer upon them some mark of his royal favour, as a recompense for the injuries they had received, by being unjustly censured, and illegally imprisoned for doing their duty.'

A further step was taken by the Parliament of England to prevent any similar appeal.

In 1719, was passed the Statute 6th George I. c. 5, intituled, 'An Act for the better securing the dependency of the Kingdom of Ireland upon the Crown of Great Britain.' It declared: I. Whereas, the House of Lords of Ireland having late, against law, assumed to themselves a power and jurisdiction to examine, correct, and amend the judgments and decrees of the Courts of Justice in the Kingdom of Ireland. That the said Kingdom of Ireland hath been, is, and of right ought to be, subordinate unto, and dependent upon, the Imperial Crown of Great Britain, and the Parliament hath power to make laws to bind Ireland. II. And be it further enacted 'That the House of Lords of Ireland have not, nor of right ought to have, any jurisdiction to judge of, affirm, or reverse any judgment, sentence, or decree, given or made in any Court

CHAP.
XXXVII.

Appeal to
the King.

Proceed-
ings sent to
England.

The tables
are turned.
The Lords
commend
the conduct
of the
Barons of
the Ex-
chequer.

Stat.
6 Geo. I.
c. 5., for
securing
the de-
pendency
of Ireland.

CHAP.
XXXVII.

within the said Kingdom, and that all proceedings before the said House of Lords, upon any such judgment, sentence, or decree, are, and are hereby declared to be, utterly null and void to all intents and purposes whatsoever.’

This statute was repealed by 22 Geo. III. c. 53.

Lord Mac-
clesfield
Lord Chan-
cellor of
England.

When we remember that the Chancellor of England at this period was Lord Macclesfield,¹ who, while Lord Chancellor Parker, had upheld the Barons of the Irish Court of Exchequer against the House of Lords of Ireland, we cannot feel surprised at this enactment. It destroyed, at once, the appellate jurisdiction of the Irish Parliament, until brighter days came, when the assumed power fell before the might of a nation determined to be respected.²

Opinion of
Lord
Campbell.

‘Lord Macclesfield laid down doctrine with regard to Ireland,’ observes Lord Campbell,³ ‘that would now raise a rebellion in that country.’ The case to which the Ex-Chancellor of both England and Ireland refers was that of Sir John Fryer *v.* Bernard in Michaelmas Term, 1724,⁴ —a motion for a sequestration against the defendant’s real and personal estate in Ireland; in support of which it was alleged that the plaintiff had in England proceeded to a sequestration, but, that as the defendant had no property anywhere but in Ireland, there was no use in looking for one anywhere else. That a sequestration had been granted in the like case, as in that of Lord Ardglass *v.* Muschamp,⁵ when the Court granted a sequestration into Ireland.

Case of
Fryer
v.
Bernard.

Lord Chancellor Lord Macclesfield said, ‘The plaintiff ought, at least, first to take out a sequestration here, and upon *nulla bona* returned, I will grant a sequestration which shall affect the defendant’s estate in Ireland. The

¹ Thomas Parker. He had been Chief Justice of England and was created Earl of Macclesfield.

² By 23 Geo. III. c. 28. No Appeal or Writ of Error from any Court of Ireland shall for the future be brought into any of the Courts in England. The 39 and 40 Geo. III. c. 67 (Act of Union), article 8 provides for the bringing of Writs of Error and Appeals from Ireland before the House of Lords of the United Kingdom.

³ Lives of Lord Chancellors of England, vol. iv. p. 528.

⁴ 2 Peere Williams, 261.

⁵ Vern. 135.

Courts of Justice here have a superintendent power over those in Ireland; and, therefore, writs of error lie in Banco Regis in England to reverse judgments in Banco Regis in Ireland.¹

CHAP.
XXXVII.

Lord Campbell in a note appended to this case states,— ‘I never could understand how this writ of error could have originated; for, if Ireland were a colony, or a conquered country, the appeal would not have been to the King’s Bench in England, but to the King in Council.’²

Another cause for Irish discontent suddenly arose. In August 1723, when the Duke of Grafton undertook the Viceroyalty, the affair of Wood’s Patent was the popular grievance. In order to supply the admitted deficiency of copper money, tenders were called for, and that of Mr. William Wood, a considerable proprietor and renter of iron works,³ was accepted. A patent was granted, authorising Wood to coin half-pence and farthings, to the value of 108,000*l.* Sir Robert Walpole, the First Lord of the Treasury, took no step in this matter without consulting the great Sir Isaac Newton, who was Master of the Mint. He also required the counsel and advice of the Attorney and Solicitor-General for England, who approved of the proceedings. Sir Isaac Newton having reported that the coins in weight, goodness, and fineness, so far from falling short, exceeded the conditions of the contract, the project did not appear to present any possible grounds for public excitement, much less the popular exasperation created by the Drapier’s Letters. Probably the Drapier would never have had the opportunity of writing his scathing letters, but for the fact that Wood, unluckily

History of
Wood’s
Patent.

Contract
fulfilled.

¹ The learned editor, P. Williams, appends to this note of the case, between brackets, the following, ‘*Sed Quære* to whom the sequestration against the defendant’s estate in Ireland is to be directed, and if it should not be by an order from the Lord Chancellor reciting the proceedings here, and directing the Chancellor of Ireland to issue out a sequestration there for the benefit of the plaintiff and towards satisfaction of her demands.

² Lives of the Lord Chancellors of England, vol. iv. p. 528.

³ Macpherson History of Commerce, vol. iii. p. 114. Swift describes him as a hardware man and a low mechanic.

CHAP.
XXXVII.

Wood's im-
prudence,
The
Duchess
of Kendal.

and imprudently, agreed to pay a bribe to the infamous Duchess of Kendal, for her influence in getting the patent for him.

The Duchess of Kendal was one of George I.'s foreign mistresses. She was a woman of no personal attractions, but the King liked her, and installed her in the English Court. She is described as of a coarse bulky figure, which constituted sufficient attraction for the King.¹ 'To intellect,' adds Lord Mahon, 'she could make still less pretension. Lord Chesterfield, who had married her niece, tells us she was little better than an idiot; and this testimony is confirmed by the curious fact, that one morning, after the death of her royal lover, she fancied that he flew into her window in the form of a raven, and, accordingly, gave the bird a most respectful reception.'²

Takes a
raven for
the defunct
King.

Imbecile as she may have been in the case of the raven, she was no fool when cash was to be had. Her rapacity for getting money for her patronage and recommendation was enormous; and it tells very badly for the Court when such corrupt practices could be exercised in the very household of the Sovereign.

Irish
suspect a
job.

The discovery of Wood having purchased the influence of the Duchess, made the Irish suspect, what, unfortunately, they had had too much experience of—a gross job. The Privy Council of Ireland had not been consulted upon a subject which so nearly concerned the kingdom. Wood, in a braggart and insolent tone, declared 'he had influence to cram his half-pence down the throats of the Irish.'³ He made a mistake in estimating the extent of his influence. The Lord Chancellor, who bore no good will either to the Duke of Grafton or Sir Robert Walpole, did not assist them in allaying the storm. 'The Chancellor had talents,' says Lord Mahon, 'but so high an opinion of them, that he always thought himself neglected and ill-

Character
of Lord
Chan-
cellor.

¹ History of England, by Lord Mahon, vol. i. p. 318.

² Ibid.

³ The storm raised principally by the Drapier Letters, written by Swift, caused a large sum to be given to Wood and the project was abandoned.

used; and, though he could not venture to take part himself against the Court, yet his son, his secretary, his purse-bearer, and other dependents, did so publicly and warmly.¹

CHAP.
XXXVII.

The Duke of Grafton and the Lord Chancellor did not pull well together. The Duke was a nobleman of high honour and probity, but resembled the Chancellor in being proud and imperious, and both were quite conscious of the dignity of their respective offices. The Duke, moreover, was fretful and passionate. By no means deficient in abilities, yet not endowed with sufficient talent to guide the helm of State in a difficult period. Walpole said truly, '*he was a fair weather pilot, that did not know how to act when the first storm arose.*'²

The Duke
of Grafton,

A fair-
weather
pilot.

Lord Middleton having been at the head of affairs as one of the Lords Justices, was not pleased at the disregard shown to him by the Viceroy, and, consequently, was not so obsequious as the Duke expected; for he complained bitterly to the Archbishop of Dublin of what he termed the disrespectful behaviour of the Lord Chancellor; and connived at the passing a vote of censure by the Lords³ upon that learned Judge.

Censure on
the Lord
Chan-
cellor.

This vote of the Lords was thus obtained. The continued absence of Lord Middleton in England, under the plea of ill-health, caused much discontent amongst the Chancery Bar. A good share of the business of Chancery went to the Equity side of the Exchequer, and but few causes were heard by the Commissioners for hearing causes in Chancery during the Chancellor's absence. His friends tried to excuse him by referring to instances of former Chancellors being absentees. Sir Charles Porter and Methuen were instanced, but it was replied 'they were Englishmen, and could not regard Ireland save as a country to which they had no tie.' Then as to the plea of illness, they replied, 'If the Chancellor's health was so bad

Discontent
at the
absence of
the Lord
Chan-
cellor.

¹ History of England by Lord Mahon, vol. ii. p. 93

² Cox's Life of Walpole, vol. i. p. 382.

³ Ibid.

CHAP.
XXXVII.

as not to be restored by an absence of sixteenth months, it was time for him to retire, and let some more active man hold the Great Seal.'

Feeling
respecting
Lord
Midleton.

It has been well remarked that these complaints may have not entirely proceeded from zeal for the public good. Party, or anti-Ministerial motives may have prompted them. The power of the Brodricks was about equal to that of the Boyles in the county of Cork; and Lord Midleton had defeated the nominee of the Duke of Newcastle in the representation of a Sussex borough; these were offences not to be overlooked. The antagonistic feelings which subsisted between the Viceroy and Lord Chancellor also prompted the proceedings in the Irish House of Lords, where, probably, also were many desirous to mark their sense of his Lordship's conduct, while the memorable cause of *Sherlock v. Annesley* was before them.

The storm
begins.

The proceedings soon assumed a definite shape. On December 19, 1723, an order was made in the Irish House of Lords, that the proper officers of the Court of Chancery do, on Saturday morning early, lay before this House an exact account of such Chancellors of this kingdom as, since the Revolution, have at any time during their continuance in that office, been absent out of the kingdom; when they went and returned; also that the Lords' Committee of the whole House appointed to consider the grievances which have of late arisen to this kingdom, by the absence of officers necessary for carrying on the business and justice thereof, do inquire into the reasons and grounds of such absence. And that the officers of Chancery do, on Saturday morning, lay before the House an exact list and account of all causes and other matters depending in that Court, when the present Lord High Chancellor went last into England, and also an account of what causes were undetermined therein at the time of his Lordship's return into this kingdom. Also a list of causes determined by the Commissioners for hearing causes during the Lord Chancellor's absence. A like order was made on the officers of the Exchequer Chamber; on the Clerk of

Chancery
officers to
make
returns.

the Paper Office, for copies of his Majesty's letters relating to the Lord Chancellor's going into England, and constituting Commissioners for custody of the Great Seal, and for hearing and determining causes in his absence. Pursuant to the order, William Cooper, Deputy Registrar of the Court of Chancery, delivered in writing at the Bar of the House, an account of the several Chancellors who had left the kingdom; also the causes determined in the Lord Chancellor's absence, and other returns as directed. Mr. Barrington, Deputy Clerk of the Errors of the Exchequer Chamber, returned a list of Records from the Court of Exchequer, brought by writ of error into the Exchequer Chamber in the reigns of King William, Queen Anne, and King George. Cusack Baldwin, Esq., Deputy Clerk of the Rolls, handed in the Rolls which contained the licenses of absence granted to the Lord Chancellors, the Commissions for the custody of the Great Seal of Ireland, and for hearing causes in Chancery in the absence of the Lord Chancellor. Copies of the King's letters, relating to the Chancellor's going into England and for constituting Commissioners, were also produced.

CHAP.
XXXVII.

Also
officers of
Exchequer
Chamber,
and the
Paper
Office.
Returns as
ordered.

The Lords' Committee reported that the present Lord Chancellor went into Great Britain by license, for the despatching certain private affairs of his own about August 7, 1716, and returned on November 9 ensuing. That he went thither by his Majesty's command to attend the King on November 10, 1718, and returned on April 20, 1719. That he applied to the Lord Lieutenant for a license of absence for the recovery of his health, and, having obtained such a license, in which a command was inserted for his attendance upon the King's person at St. James's, he again went into Great Britain upon June 12, 1723. And the Lord Chancellor, being asked 'If it was not part of his duty to advise the King for his service and the good of his people?' and 'whether he had laid before his Majesty the inconvenience that would attend the King's service and the good of his people by his absence?' answered 'that he had not at that time,' but saith 'that

Various
absences
of Lord
Chancellor
Lord
Midleton.

CHAP.
XXXVII.

his intention of saying he had not laid before his Majesty the inconveniences which would attend the King's service and the good of his people in the question contained meant that he did not, in February 1721, advise the King of any inconveniences that might attend his Majesty and the kingdom by his going out of it at that time, he being in that state of health which necessarily required his going out of the kingdom for the preservation of his life, so as not to admit of a return of his Majesty's further pleasure.' But adds, 'that in August 1722, after he had by the use of the Bath waters, recovered some use of his limbs, he returned to London, and acquainted the Secretary of State with his being able to return to Ireland, and was informed it was the King's pleasure he should continue longer in England, till his Majesty should give further directions, or words to that effect, and his Majesty ordered him a further leave of absence, bearing date October 4, 1722.'

Examina-
tion of
Registrar.

Mr. Cooper, Deputy Registrar of the Court of Chancery, was examined and stated that, during the absence of the Lord Chancellor, 189 causes were ready for hearing in the Court of Chancery; of these 102 were determined by the Commissioners for hearing causes during his Lordship's absence, of which only four were, upon petition, reheard by the Chancellor, and in all these he affirmed the decrees.

That 87 of these 189 were depending at the time of the Lord Chancellor's return, part of which might have been determined in Hilary and Easter Terms. That five causes determined by the Chancellor before his absence had been set down for rehearing, but not reheard until his return.

Testimony
in favour
of Lord
Chan-
cellor.

On the evidence of one of the Six Clerks, it appeared that, by the end of Trinity Term 1723, all the causes ready for hearing were actually heard and determined by the Lord Chancellor, and that, on his Lordship inquiring in open court, 'if there was any cause or motion remaining to be heard,' the answer was 'None,' and that Mr. Gurney 'had been a Six Clerk for twenty-three years, and during all this time, he never remembered greater despatch of business

The Chan-
cellor's
despatch of
business.

than while Lord Midleton was Lord Chancellor.' Richard Malone, Esq., one of the most eminent Chancery barristers of Ireland, on oath deposed, 'that he had not observed more rehearings in the Court since the Lord Chancellor's return than at other times, but rather less, nor did he think more business went to the Chancery of the Exchequer during the Lord Chancellor's absence than used to be at other times, although the attendance of lawyers was greater than usual, because the High Court of Chancery did not sit so often as formerly.'

CHAP.
XXXVII.

Mr. Malone's
evidence.

The Lords' Committee censured the Chancellor by this resolution—

'Resolved—That it is the opinion of this Committee that, through the absence of the Lord High Chancellor, there has been a failure of justice in this kingdom, by the great delay in the High Court of Chancery and in the Exchequer Chamber. The Lord High Treasurer, and Vice-Treasurer, and Master of the Rolls being also absent.'

The Lords'
resolu-
tion

Whilst these proceedings were pending the Chancellor resolved not to gratify his enemies by resigning the Great Seal. He was fortified by the consciousness that while Lord Chancellor he discharged the onerous duties of his station in a manner to merit praise instead of censure. He committed to writing his determination, which I am enabled to place before my readers: ¹—

'1. My resolution is never to make it my own act to lay down, but rather to be laid aside, without any cause given by me, as I have been ill-used without any.

Respecting
the Great
Seal.

'2. Never to decline serving the King while I can be serviceable to him.

'3. Not to make any application to be continued, or to express any willingness to my being so, unless I may do it with honour, which cannot be, in my opinion, till I have reason to think I shall not be so neglected, slighted, and so ill-represented and thanked for my services as I apprehend I have been for some time.

¹ Copied for this work by the Hon. William Brodrick, M.P., eldest son of the Right Hon. and Rev. Lord Midleton.

CHAP.
XXXVII.

‘ 4. I think and know I have served well, and hope whenever it shall be thought for his Majesty’s service to appoint me a successor, that I shall have the happiness of being dismissed like a faithful servant, with some mark of his favour, and not as if I had disgraced him, for my late treatment looks wholly that way.

‘ If I may have reason to believe that I shall find this treatment, I am desirous to continue in that post where his Majesty has been pleased to place me, and will act in it, as I have always done, with zeal for his service and perfect fidelity to his interests; otherwise I neither desire to continue, nor make it my request to be rewarded.

‘ 5. If it might consist with my Lord Lieutenant’s concurrence, I wish to have leave to kiss the King’s hand in England though I were to return ever so soon after.’

The decision of the Lords causes him to resign.

Succeeded by Lord Chancellor West.

His character as a Judge.

But the resolution adopted by the Lords caused a change in his Lordship’s determination. He was not satisfied with the state of affairs in Ireland at this period, and resigned the office which he so ably held for eleven years—from 1714 till 1725. He was succeeded by Lord Chancellor WEST, whose tenure was of brief duration. Lord Midleton’s abilities as an Equity Judge rank very high, and it is much to be regretted that no reports have preserved decisions which were well worthy of remaining as safe beacons for the guidance of the profession he adorned.

Among the tributes paid to Lord Midleton for the part he took against Wood’s Patent, was one from George Faulkner, Dean Swift’s publisher, when preparing the ‘Drapier Letters’ for publication in a volume, he sought permission to dedicate them to Lord Midleton by the following letter:—

‘ To the Right Honourable Lord Viscount Midleton.

‘ MY LORD,—You have so signally interested yourself in asserting the dying liberty of your country, that to offer the following papers to any other, would be the greatest injustice I could possibly be guilty of to your Lordship’s character, which must attend the fame of the greatest

sovereigns that have adorned the British throne through the memoirs of futurity.

CHAP.
XXXVII.

‘But among all the great actions of your Lordship’s life, your late conduct in the affair of the copper half-pence justly demands the nation’s thanks; and in my humble opinion, the Drapier himself would have been entirely silent in that affair had he not had so glorious an example as your Lordship to follow, whose every action testifies to the world that your greatest glory is in being what the the ancient Romans so ardently desired a—‘*pater patriæ.*’

‘I humbly beg pardon for my presumption, and remain with all respect, my Lord,

‘Your Lordship’s most humble

‘and most obedient servant,

‘GEORGE FAULKNER.’

The following endorsement on this letter, which is among the papers of Lord Midleton, kindly copied for me by the Hon. William Brodrick, M.P., shows the fate of the application :—

‘This paper was left at my house in my absence, on September 20, and brought to me by one of my servants while I was at dinner, in the presence of my son, Mr. Wall, and Mr. Stabury. I ordered the servant to tell the man who left it I could not by any means consent to the dedication of the Drapier to me, and if done, would complain of the printer.’

Declines
the com-
pliment.

That the Ex-Chancellor preserved the regard of the Government appears by various employments conferred on him. In June 1725, he was named a Commissioner of public accounts, in conjunction with Sir Ralph Gore, Sir John St. Leger, and others. He also appears to have attended in the Irish House of Lords during the sessions of Parliament. Lord Midleton had a fine country-seat called Ballyannan, very agreeably situated near Cork Harbour. In his park is a small river that takes a subterraneous course, near which is a large romantic cave.¹

Ex-Chan-
cellor a
Commis-
sioner of
Public
Accounts.

¹ Smith’s Hist. County of Cork, vol. i. p. 147.

CHAP.
XXXVII.

Three
times
married.

His son,
St. John
Brodrick.

He was thrice married: first to Catharine, second daughter of Redmond Barry, Esq., of Rathcormack. This lady was of a very ancient and most respectable family in the county of Cork, now worthily represented by James Barry, Esq., of Ballyclough, in that county.

By his marriage with Miss Barry, Lord Midleton had issue: a daughter who died young, and a son, St. John Brodrick, who, in the reign of Queen Anne, represented the borough of Midleton, and afterwards the city of Cork, in the Irish House of Commons. He was also returned for the county of Cork, and married Anne, sister of Trevor Viscount Hillsborough. He died without issue male.

Some time after the death of his first wife, Lord Midleton, then Mr. Brodrick, married again. His second choice fell on Alice, daughter of Sir Peter Courthorpe, of the Little Island, in the county of Cork, to whom he was united in 1695.

Alan,
second
Lord
Midleton.

By this lady he had two sons and a daughter. The elder of the sons named Courthorpe, died in infancy; the younger, Alan, survived him, and became the second Lord Midleton, and the daughter, named after her mother, Alice, married the Rev. John Castlemain, Fellow of All Souls College, Oxford. Alice, the second wife, died in 1703, and is also interred in St. Michan's Church, Dublin. After being thirteen years a widower, his Lordship became again a votary of Hymen. He selected Anne, daughter of Sir John Trevor, Master of the Rolls in England, and widow of Michael Hill, Esq., of Hillsborough. There was no issue of this marriage. The Ex-Chancellor and first Lord Midleton died in 1728, at his country-seat, Ballyannan, county Cork.

Death in
1728.

The present Viscount Midleton is in holy orders, and was Dean of Exeter. He first married Lady Elizabeth Anne Brudenell, and this lady dying without issue, he married, secondly, his cousin, the Hon. Anne Brodrick, and has four sons and a daughter. The legal attainments of this eminent Lord Chancellor of Ireland are fairly represented by two of Lord Midleton's sons, the Hon. William and the Hon.

George Charles Brodrick. The former, his eldest son, is a barrister, called to the bar at Lincoln's Inn in 1855, Master of Arts, Oxford, Deputy Lieutenant, and Justice of the Peace for Surrey, and represents Mid-Surrey in the House of Commons. His next brother, George, also called to the bar, is Master of Arts, Oxford, and Fellow of Merton College.

CHAP.
XXXVII.

CHAPTER XXXVIII.

LIFE OF LORD CHANCELLOR WEST.

CHAP.
XXXVIII.

Conjecture
as to the
family of
Lord Chan-
cellor
West.

I HAVE found considerable difficulty in tracing the life of Lord Chancellor WEST from the many meagre records of him that I have had access to. I believe he was of the family of West of Braywick Lodge, county of Berks. These Wests held a distinguished place in the naval and military annals of the empire. My reason for assigning him to this family arises from a passage referring to Lord Chancellor West in Mr. Smyth's work on the 'Law Officers of Ireland,' wherein he speaks of him as 'a man of considerable legal talent and unexceptionable personal character; whose name has been rendered still more respectable by the classic genius of one relation and the naval merit of another.' Now in the valuable 'Dictionary of the Landed Gentry,' compiled by my friend, Sir Bernard Burke, I find in the account of West of Braywick Lodge, Gilbert West, a poet, who died in 1756, and no less than three Admirals of the family, viz. Temple West, Vice-Admiral of the White and Lord of the Admiralty, his son Thomas, Admiral of the Royal Navy, and the late Sir John West, G.C.B., also an Admiral.

Birth and
education.

RICHARD WEST was born about the year 1670; and, from the high position he subsequently attained, may fairly be stated to have received an excellent education. He was called to the bar in 1697, but does not appear to have attained any great practice. That he moved in a respectable social sphere is evident from the intimacy on which he lived with persons of distinction, and from his having married one of the daughters of the Right Rev. Dr. Burnet, Bishop of Salisbury, a Prelate well known in

the literary world. Richard West also resolved to be known as an author. He wrote some political pamphlets which attracted much notice, and gave him strong claims to Government patronage.

CHAP.
XXXVIII.

His marriage with Miss Burnet.

When Sir Robert Walpole became First Lord of the Treasury, on the resignation of the Earl of Sunderland, April 2, 1721, Mr. West felt secure of a good place. Some years later the high office of Lord Chancellor of Ireland being vacant, Mr. West lost no time in having his pretensions brought under the consideration of his Majesty's Ministers.

Lord Chancellorship of Ireland vacant.

When Lord Midleton relinquished the office of Lord Chancellor of Ireland, in May 1725, the Lord Chief Justice of the Common Pleas in Ireland, Whitshed, pressed his right to the Great Seal with much force. He claimed it on the score of Parliamentary and Judicial services, but the Government dare not elevate to the Speakership of the Irish House of Lords, and the office of Lord High Chancellor of Ireland, a man who was so odious in the kingdom as Chief Justice Whitshed. The Ministry looked out for a successor in England for the vacant place; and Mr. West, the author of some timely pamphlets, was so strongly recommended that he received the appointment.¹ On September 7, 1725, the Irish Parliament met, and the Right Hon.

Chief Justice Whitshed claims the Great Seal.

Mr. West appointed.

Richard West, Esq., Lord High Chancellor of Ireland, took his place as Speaker in the House of Peers, being attended from without the Bar by the Gentleman Usher of the Black Rod, and Ulster King-of-Arms, in his Coat-of-Arms, carried his Lordship's patent, appointing him Lord High Chancellor of Ireland. His writ of summons was read, after which he subscribed the usual Declaration and Oath of Abjuration; and then took his place on the woolsack. In this Session a very useful regulation was made respecting the attendance of the Judges. Previously the attendance of all the Judges upon the Peers was required; it was then ordered that the House should, until

Speaker of the House of Lords, A.D. 1725.

Rule with respect to attendance of the Judges.

¹ Privy Seal, St. James's, May 29, 1725. Patent, Dublin, July 23, 1725. 11th Geo. I. 2 pars. d. R. 48.

CHAP.
XXXVIII.

further order, dispense with the daily attendance of all the Judges; and only two were required to attend the service of the House.¹

Shortly after the Chancellor's arrival in Dublin, the popular excitement respecting Wood's patent, to which I have adverted in the Life of Lord Chancellor Lord Middleton, was allayed. On September 21, 1725, the Viceroy, John Lord Carteret, made a speech to both Houses of Parliament, as follows:—

Speech of
the Vice-
roy.

‘ My Lords and Gentlemen,

‘ I have his Majesty's commands, at the opening of this Session, to acquaint you that an entire end is put to the patent, formerly granted to Mr. Wood, for the coining copper half-pence and farthings for this kingdom, by a full and effectual surrender thereof to his Majesty, an exemplification of which, under the Great Seal of Great Britain, shall be laid before you. So remarkable an instance of his Majesty's royal favour and condescension must fill the hearts of a loyal and obedient people with the highest sense of duty and gratitude. And I doubt not but you will make such suitable returns as may convince the world that you are truly sensible of the happiness you have enjoyed under his Majesty's most mild and gracious Government ever since his accession to the throne of these kingdoms; and that the preservation of all our religious and civil rights must be ever owing, under God, to the support of his Majesty's Government and the succession in his royal House.’²

As at this period the great bulk of the Irish people had no rights, either civil or religious, recognised by law, we cannot but feel amazed at the assumption of this speech, and, lest they should imagine their fidelity to the Catholic religion would pass unnoticed, the following paragraph, offensive and aggressive, denoted the danger of professing that creed:—

‘ You will likewise think of some law which may be

¹ Lords' Jour. Ir. vol. i. p. 805.

² Lords' Jour. Ir. vol. i. p. 808.

proper for the transportation of felons. I likewise recommend it to you, to consider of the best methods for securing us from the mischiefs which may be reasonably apprehended from the numbers of Popish priests and Regulars, which daily increase. As all Protestants of this kingdom can have but one common interest, and have too often fatally experienced that they have the same common enemy, there ought to be the strictest union amongst us, and a good temper and unanimity in your proceedings will not only contribute to the quiet and happiness of the kingdom, but will be the greatest instance you can give of your loyalty and affection to his Majesty's sacred person and Government.'¹

CHAP.
XXXVIII.
Recom-
mends
fresh Penal
Laws.

The time of the Lords, for a considerable portion of this session, was occupied in the case of a complaint against Mr. Joseph Nagle for practising as a Counsel or solicitor, he being a Papist. The evidence, which consisted of various acts of Mr. Nagle, more in the character of an agent for others than on his own responsibility, induced their Lordships to order him to be prosecuted by the Attorney-General for acting as a solicitor, agent, or manager of causes in several of his Majesty's courts, contrary to the several Acts of Parliament made in this Kingdom to prevent Papists being solicitors.'²

House of
Lords
occupied
with the
case of
Mr. Nagle.

The right of printing the proceedings on the Irish Parliament was jealously watched, and any person violating the order of the Lords, 'That no person should print except such as was appointed by the Clerk of the House,' exposed such offender to punishment.

Order of
the Lords
against
printing
their pro-
ceedings.

¹ Lords' Jour. Ir. vol. i. p. 809.

² The importance of excluding Catholics from the profession of attorney was provided for by 7 Geo. II. c. 5, which enacts 'That the laws in force against Popish solicitors have been found ineffectual by reason of the difficulty of convicting such solicitors, and the mischief thereby intended to be remedied still remains, to the great prejudice of the Protestant interest in this Kingdom, for remedy whereof, and for preventing obscure and ignorant persons from practising as attorneys or solicitors, it was enacted that no person should practise without a license, and this was to be obtained on the production of an affidavit of service of apprenticeship to certain classes of persons, including attornies and solicitors in England.'—Lords' Jour. Ir. vol. i. p. 837.

CHAP
XXXVIII.

The
offender
reprimanded.

The King's
printer also
censured.

No Popery
Laws,
9 Wm. III.
c. 28.

Bills of
discovery.

Statute,
1 Anne,
c. 2.
6 Anne,
c. 6.

A complaint being made to the House of Lords that Thomas Hume had printed the foregoing speech of the Lord-Lieutenant, in a paper called 'The Dublin Courant,' contrary to the order of this House and the privilege thereof, Hume was ordered to be taken into custody, which being done he petitioned the House, setting forth 'that he did so in ignorance, expressed his contrition, pleaded poverty and ill-health, and prayed to be enlarged.' He was brought to the bar, and reprimanded by the Lord Chancellor before he was set at liberty.

The King's printer, Mr. Andrew Crooke, also incurred the censure of the House of Lords. He was reprimanded at the bar, 7th March, 1725, for his delay in publishing the public Acts of Parliament, and printing them on bad paper.¹

A peculiar and happily now obsolete source of litigation was introduced into the Irish Courts of Equity by the No Popery laws, and had to be administered by Lord Chancellor West. By Statute 9 William III., c. 28, any Protestant woman, unmarried, having real estate or personal property, either in money, stock, plate, jewels, or other chattels, in law or equity, to the value of 500*l.*, marrying without a certificate that her husband was a Protestant, she and her husband were declared incapable of enjoying such property, and the next Protestant kin should enjoy the same. Bills of Discovery were the means of suing for these statutable estates; various points arising out of this right of filing bills may be seen in Mr. Howard's law books.² By Statute 1st Anne, c. 2, Papists not taking certain oaths were incapable of inheriting estates or purchasing lands. By Statute 6th Anne, c. 6,

¹ Lords' Jour. Ir. vol. i. p. 854.

² Vide Equity side of the Exchequer, vol. ii. p. 243. Bills of Discovery were also filed to discover the contents of documents; they are not in such general use now as before the passing of the Common Law Procedure Amendment Act (Ireland) 1853, sect. 54 of which enacts 'That any party relying on any document in his pleading, shall produce same upon trial or argument, unless its non-production be satisfactorily excused, or in default thereof shall be excluded from the benefit of such document, with power to the judge to make the order therein prescribed.'

Papists could only purchase lands, &c., for a term of thirty-one years.

CHAP.
XXXVIII.

By 8th Anne, c. 3, additional Bills of Discovery were permitted, and any Protestant might prefer one or more bills in Chancery against any person concerned in sales or incumbrances of trust property, held in trust for Papists, to compel such persons to discover and detect such trusts, and answer all matters relating thereto. And all issues in any suit founded on this Act shall be tried by none but known Protestants.

8 Anne,
c. 3.

Trusts.

Issues
directed to
be tried by
Protes-
tants.

Affidavit.

An affidavit was required to be filed with such Bills of Discovery, stating that the plaintiff was a Protestant, and did not file the bill in trust for a Papist, or any person professing the Popish religion.

Lord Chancellor West held that in a suit for a forfeiture, under these penal statutes, 9th William III., and 2nd Anne, c. 6, there must be a conviction before any forfeiture was incurred.¹

Decisions
of the
Chan-
cellor.

In the case of *Leymore v. Bourke*, in Chancery, the Lord Chancellor decided 'That the Protestant who married a Papist was incapable of being a Protestant discoverer; nay more, that this Protestant who marries a Popish wife is a more odious Papist than a real and actual Papist in profession and principle; and that the Acts against the growth of Popery, expressing *every Papist or person professing the Popish religion*, &c., take in and regard *constructive*, as well as *actual*, Papists.'²

Construc-
tive
Papists.

Several of the cases in print show these unhappy laws produced very demoralising effects. For instance, the case of — v. Woodley, where a Protestant, who had become a trustee for a Papist, was himself admitted to be a good discoverer against the estate, on the ground 'that as the trust was illegal, it remained by Statute 8th Anne, c. 2, for the benefit of *any* Protestant discoverer.'³ For-

A Pro-
testant
Trustee
held to be
a good
discoverer.

¹ This was also held in the cases of *Bebe v. O'Neil*, and *Dobbins v. Parcell*, cited in Howard's *Treatise on the Equity Exchequer*.

² Howard's *Equity Exchequer*, vol. i. p. 261.

³ *Ibid.* p. 265.

CHAP.
XXXVIII.Instances
of Pro-
testant
fidelity.Fatal
illness of
Lord Chan-
cellor.Régret
for his loss.His place
to be filled
by an
English-
man.The King
pensions
his widow.

tunately for the credit of human nature, such cases are not very numerous. On the contrary, in many cases, Roman Catholics owe their estates to the friendship and devotion of Protestant friends, who, unlike the case cited, remained faithful to their charge.

Lord Chancellor West's tenure of the Irish Great Seal was of little more than a year's duration. He was taken very unwell in November, 1726, with a feverish cold, which, it was thought, was giving way to medical treatment; but, after twelve days' illness, he died on December 3. Primate Boulter, in a letter to Lord Carteret, thus speaks of the estimable qualities of the deceased Lord Chancellor:—'His death is much lamented here by all; but especially by the lawyers, whose good will and esteem he had entirely gained by his patience, civility, and great abilities. As he was an old friend and acquaintance of mine, I am very much troubled at this loss, as well as I am heartily concerned for the terrible blow it is to his family. I earnestly wish his place may be filled by one that may give the same satisfaction he has given.

'I take it for granted his successor will be an Englishman; but I cannot help suggesting that I am sure it would be of service, and especially against the next session of Parliament, if either the Lord Chief Justice Windham, or Lord Chief Baron Dalton, were advanced to that station, and their vacant places supplied here from England. They have both established a very good character here, and are well skilled in the affairs of Ireland, beyond what a new comer can hope for under a year at least; and I think such a promotion would be encouragement to a person of some worth to come over in one of their places, when they saw it was a step to the highest post in this country.'¹ As the Lord Chancellor's death, so soon after his appointment, left his family slenderly provided for, and he was in debt, Lord Carteret, the Lord-Lieutenant, induced King George I. to settle a pension upon his

¹ Boulter's Letters, vol. i. p. 85.

widow, and it continued to be paid for a great many years.¹

Lord Carteret (Lord Lieutenant of Ireland from 1724 to 1731) was a nobleman of high personal and political character. He was descended from the distinguished families of Carteret and Granville—the latter title so worthily borne in our day by the noble Earl, whose worth is recognised by the esteem alike of Sovereign and subject. The Lord-Lieutenant was educated in the halls of Oxford University; and as Swift, in his usual sarcastic way, narrates, ‘from whence, with a singularity scarce to be justified, he carried away more Greek, Latin, and philosophy, than properly became a person of his rank; indeed, much more of each than most of those who are forced to live by their learning will be at the unnecessary pains to load their minds with.’²

By the death of George I., in June, 1727, the annuity granted to Mrs. West dropped, and great commiseration was felt for her and her daughter. It appeared, by her marriage settlement, the only provision made for her during the life of old Mr. West, father of the late Lord Chancellor, was 250*l.* per annum; and, on his dying intestate, a case was submitted to eminent lawyers, both in England and Ireland, as to her rights. Their opinion was, that neither she nor her daughter would be entitled to any part of old Mr. West’s real or personal estate. It was taken for granted in drawing the settlement, that Mr. West, the father, would die before his son. The event having been different from what was anticipated, caused her friends to exert themselves to have the annuity continued; and as Mrs. West was daughter of Dr. Burnet, Bishop of Salisbury, her friends induced the King to renew the annuity his father, King George I., had settled on Mrs. and Miss West.³

There were many eminent men at the Irish Bar at this period who could ably have supplied the place of the

CHAP.
XXXVIII.

Lord
Carteret
Lord Lieu-
tenant.

Mrs.
West’s
pension.

The Irish
Bar.

¹ Boulter’s Letters, p. 117.

² Swift’s Works, vol. iii. p. 181.

³ Ibid. p. 149.

CHAP.
XXXVIII.

Richard
Malone.

Chancellor, had not the fact of Irish birth then offered an insurmountable barrier. One of the greatest lawyers of his time was Richard Malone, of Baronstown County, Westmeath. He was born in 1674, and while a student in Trinity College, Dublin, stored his mind with the solid learning imparted in that distinguished College, and acquired the facility of public speaking, which made him renowned at the Irish Bar. It was said that he was only rivalled by his own son, Anthony Malone. While a law-student in the Temple, Richard Malone was employed by the Government, through the influence of a friend of his youth, Ruvigny, Lord Galway, as negotiator in Holland, and he acquitted himself so well as to merit the approbation of King William III., who gave him substantial proof of his goodwill.

He was called to the Bar in the year 1700, and soon impressed that quick-witted profession, the attorneys, that he was better versed in the law of the land than most of his contemporaries. The result was he had as much business as he could attend to. I have mentioned him in the life of Lord Chancellor Lord Midleton, to whose conduct as Chancellor he bore favourable testimony.

Dr. Cog-
hill.

Another distinguished Irish practitioner was Dr. Marmaduke Coghill, Judge of the Prerogative Court, who, having to give judgment in a petition for divorce on the ground of cruelty, held 'that moderate chastisement with a slender switch was within the husband's matrimonial privilege.' This decision, it is said, so alarmed a lady to whom he was about to be married, that she instantly broke off the match.¹

I am indebted to an old ballad for an account of the Irish bar at this period, 1725. It runs thus:—

¹ Dr. Coghill died unmarried in 1738. His niece and heiress, Hester, became Countess of Charleville. On her death, this lady's property passed to her cousin, John Cramer, who assumed the name of Coghill, and was created a baronet in 1778. His son, Sir Josiah Coghill, Vice Admiral, married the eldest daughter of Chief Justice Bushe, and their son is the present baronet, who is endowed with great intellectual qualities.

There's Marley,¹ the neat,
 Who in primitive state,
 Was ne'er for a drudge designed, Sir ;
 Your French gibberish² he
 Takes great nonsense to be,
 And is one of your sages refined, Sir.

There's Jocelyn³ next comes,
 Who in very loud hums,
 Which makes him not very concise, Sir ;
 With a finger and thumb
 He strikes one judge dumb,
 Who suspends till he asks his advice, Sir.

There's Prime Serjeant⁴ grand,
 Who puts all to a stand,
 With his jostle and shove to arise, Sir ;
 He lays down the law,
 With as haughty a paw,
 As if he were judge of Assize, Sir.

There's Bowes,⁵ a great beau,
 That here makes a show,
 And thinks all about him are fools, Sir ;
 He winks and he speaks,
 His brief and fee takes,
 And quotes for it English rules, Sir.

There's the rest of the wise,
 That have no way to rise,
 But a short sleeve and seat within table ;
 They stop up the way,
 Tho' they 've nothing to say,
 And are just like the dog in the fable.

¹ Marley occupied a very high position at the Irish Bar, and subsequently on the Irish Bench. He was Chief Baron of the Exchequer, and on the death of Rogerson, Chief Justice of the King's Bench, appointed his successor in 1741.

² Norman French, for centuries the language of law pleadings.

³ Robert Jocelyn, afterwards Lord Newport and Viscount Jocelyn, Lord Chancellor of Ireland. See Life.

⁴ Henry Singleton, afterwards Chief Justice of the Common Pleas and Master of the Rolls.

⁵ John Bowes. He filled every rank of the Bar, Serjeant, Solicitor-General, and Attorney-General, and was successively Chief Baron of the Exchequer and Lord Chancellor. See Life. He first came to Ireland with Lord Chancellor West.

CHAP.
XXXVIII.

There's old Dick Malone,¹
 Tho' in barrister's gown,
 Talks reason and law with a grace, Sir;
 Yet without bar he stays,
 Tho' he's merit to raise;
 But converts ne'er change their first place, Sir,

There's Anthony² too,
 Without father can't do,
 Tho' Knight of the Shire he's chosen;
 For dad takes more pains,
 When his family gains,
 And Toney the pleadings do open.

There's ministers great crack,³
 Who in faith has a knack,
 To puzzle and perplex the matter;
 He'll insist on't for law,
 Without the least flaw,
 Tho' a good cause he ne'er made better.

Then there's Peter Daly,
 Who argues so gayly,
 In sound law and equity's clear, Sir;
 By the court he's not loved,
 Yet he spares not a word,
 For he knows 'tis their duty to hear, Sir.

¹ Richard Malone, already mentioned. He was an able Equity lawyer, called to the Irish Bar in 1700. It may be inferred from the poem that he was not honoured with the silk gown of a King's Counsel, and that he changed his religion.

² Anthony Malone, son of Richard Malone, and Member for the County of Westmeath in the Irish Parliament. He was called to the Irish Bar in 1726, and soon got into great practice. The poet slyly insinuates that the son would not willingly be employed without his father's being retained on the same side, and that Richard Malone worked better while Anthony was his junior. Anthony Malone became Prime Serjeant in 1742, and while Chancellor of the Exchequer, in 1753, disposed of the Court business in such masterly style that there were no appeals from his judgments.

³ This probably refers to Richard Bettesworth, a dull Serjeant, a great supporter of Government, whom Swift has immortalised:—

Now at the Bar see booby Bettesworth,
 While half-a-crown o'er pays his sweats-worth,
 Who knows of law, nor text, nor margent,
 Calls Singleton his brother Serjeant.

There's Carew and Blake,
 There's Corlan the great,
 And Bourke¹ from the Irish line, Sir,
 Now Coke, without doubt,
 Would select these four out,
 To count and levy a fine, Sir.

There's many more lads,
 Who, faith, if their dads
 Did but hear 'em on Popish Acts prate, Sir,
 Talk of 'criminal Papists,'
 As if they were Atheists,
 They would say they were turncoats of State, Sir.

There's the rest of the pack,
 With the gown on their back,
 From one Court to other they wander,
 One biting his nails,
 Or at the judge rails,
 And swear he commits a great blunder.²

The Hall of the old Four Courts in Christ Church Place, Dublin, was oblong, and rather a gallery than a hall, entered from a lane bearing the ominous name of Hell, which was remarked on by an Irish tourist as follows:—
 'This was certainly a very profane and unseemly sobriquet to give to a place that adjoined a Cathedral, whose name was Christ Church; and my young mind, when I first entered there, was struck with its unseemliness. Yes, and more especially when over the arched entrance there was pointed out to me the very image of the devil, carved in oak, and not unlike one of those hideous black figures hung over tobacconists' shops. This locale of *Hell*, and this representation of his Satanic Majesty, were famous in those days even beyond the walls of Dublin. I remember well on returning to my native town, after my first visit to Dublin, being asked by all my playfellows had I been in *Hell*, and had I seen the devil. Its very name

The Four
 Courts in
 1730.

¹ The family of Bourke, or Burke, is always well represented at the Irish Bar. A contemporary Oliver J. Burke, Barrister-at-Law, has recently contributed a series of papers to the Dublin University Magazine, on the 'Chancellors of Ireland,' which display great research and persevering industry.

² The unknown writer of this poem was evidently a member of the Bar, and shows a keen appreciation of the characters he describes.

CHAP. reached Scotland, and Burns, the poet, in his story of
 XXXVIII. "Death and Dr. Hornbook," alludes to it when he says,

But this that I am gaun to tell,
 Which lately on a night befell,
 Is just as true as the Deil's in Hell,
 Or Dublin city.'

In this locality solicitors and barristers had chambers and offices. Advertisements frequently and seriously appeared, 'To be let, furnished, Apartments in Hell. They are well suited for a lawyer.' Here in olden times, the wits and celebrities of the Irish Bar—Prime Serjeant Malone, Philip Tisdall, Sir Toby Butler—cracked their jokes, quaffed their claret, and discussed their points of law, as their successors now do in their clubs and coteries.¹

Passing from the narrow passage leading to the old Four Courts, the suitor entered the long and narrow hall, crowned by an octangular cupola. To the immediate left of the entrance door were the steps leading to the Court of Exchequer, on the right was the Court of Chancery, next was the Common Pleas Court, and opposite to the Exchequer was the Court of King's Bench. On the sitting days of the Lord Chancellor, he was always preceded by his macebearer and tipstuffs; the latter on entering the hall called aloud, '*High Court of Chancery*,' which was repeated by the tipstuffs in the other Courts, upon which the Judges rose, and remained standing until the Lord Chancellor had taken his seat.

Ceremony attending the sitting of the Lord Chancellor.

¹ Gilbert's History of Dublin, vol. i. p. 144.

CHAPTER XXXIX.

LIFE OF LORD CHANCELLOR LORD WYNDHAM.

THOMAS WYNDHAM was descended from a legal house. His grandfather, Sir Wadham Wyndham, Knight, was one of the Judges of the Court of King's Bench at Westminster, whom contemporaries describe as 'a learned and impartial judge.' Siderfin, the Reporter, eulogises his calm and sedate temper on the bench. He sat as Judge for eight years, and was in all respects well qualified for his dignified and important position. Sir Thomas Raymond calls him a good and prudent man; and Hawles, Solicitor-General in the time of William III., says 'he was the second best judge which sat in Westminster Hall since the Restoration.'¹

Thomas, the future Lord Chancellor of Ireland, was third son of John Wyndham, Esq., of Norrington, county Wilts, who married Alice, daughter of Thomas Fownes, Esq. His connections, having had considerable success at the Bar, induced him to devote himself to the study of the law, with a view to his future profession. The business of the Courts in his student days was much interrupted by the disturbed state of England. For some time following the abdication of James II., and before William and Mary were firmly settled on the throne, there was no regular Government. The Lord Chancellor of the late King was a prisoner in the Tower, and his Chief Justice confined in Newgate, while the rest of the Judges were trembling for their own safety. Hilary Term of 1689 was not kept, and, when matters settled into a definite shape, one of the first Acts of the Convention Parliament was

CHAP.
XXXIX.
Sir Wadham
Wyndham,
one of the
Judges of
Banco
Regis.

Parentage
of Thomas
Wyndham.

Becomes
a law
student.

State of
the English
Bench on
the de-
parture of
James II.

¹ Foss's Judges of England, temp. Wm. III.

CHAP.
XXXIX.

Act to
continue
legal pro-
ceedings.

In England
the inde-
pendence
of the
Judges
secured.

The Bar
an open
profession.

Lamenta-
tion of
Sir Henry
Chauncy.

directed to prevent a lapse in legal proceedings by continuing all actions then instituted and pending, and to provide Judges without delay. This Act was passed on April 3, 1689. The Judges appointed by the King opened Easter Term on April 17, and the young law-student found a most beneficial change in the principles and practice of the law. The principles, to be sure, were but more strictly defined, but the practice was much improved. Instead of the Judges of England being dependent upon the will, often the whim, of the Sovereign, they held offices during good behaviour, the words in their patents being *Quamdiu se bene gesserint*,¹ instead of, as formerly, *Durante bene placito*.² Their salaries were ascertained and fixed, and by a great instalment of fixity of tenure, they could only be removed upon the addresses of *both* Houses of Parliament.

The Bar now ceased to be regarded as almost an exclusive profession. This was regretted by Sir Henry Chauncy, an aristocratic Serjeant, who, alluding to the importance of training the nobility and gentry, by professional teaching, to dispense justice, laments, 'But now mechanicks, ambitious of rule and government, often educate their sons in these seminaries of law, whereby they overstock the profession, and make it contemptible, whilst the gentry, not sensible of the mischief they draw upon themselves but also on the nation, prefer them in their business before their own children, whom they bereave of their employment formerly designed for their support; qualifying their servants by the profit of this profession to purchase their estates, and, by this means, make them lords and masters, while they lessen the trade of the kingdom, and cause a scarcity of husbandmen, workmen, artificers, and servants in the nation.'³ Surely it must occur to every Irish reader, that many of the brightest names in the civil and military history of Ireland would have

¹ 12 and 13 Wm. III. c. 2, s. 3.

² This was not extended to Ireland until 1782.

³ Chauncy's History of Hertfordshire, p. 525.

been lost to us if this monopoly existed and the brightest ornaments of the Bench and Bar of England, Ireland, and Scotland would have been unknown. But happily such reasoning was only the outpouring of a querulous mind, and had no weight. Shortly after Mr. Wyndham's admission to the Bar, in 1690, he got into good practice, and his friends were not unmindful of him when a vacancy occurred on the Irish Bench.

The death of Sir Richard Levinge, in 1724, left the Chief Justiceship of the Irish Court of Common Pleas vacant, and Wyndham was appointed his successor.¹ The unexpected death of Lord Chancellor West took place in the latter part of the year 1726. There was considerable doubt as to who the successor of the late Chancellor would be, but Hugh Boulter, then Primate, a man of great talents and ability, who had no less than thirteen times filled the office of Lord Justice of Ireland, lost no time in recommending Chief Justice Wyndham should be promoted to the Seal. The Primate urged the appointment of either Chief Justice Wyndham, or Chief Baron Dalton, on the Duke of Newcastle, on Lord Carteret, then Viceroy, and on Lord Townshend, stating their great reputation, from the able and impartial manner they discharged their duties, and their knowledge of Irish affairs, which was important for the business of Parliament. The Primate states their claims as nearly equal. 'I have,' he writes, 'no other reason for recommending my Lord Chief Justice Wyndham first, but his being the senior of the two. If either of them be thought of for Lord Chancellor, we may soon have the place filled. Your grace will receive what I have said as proceeding not so much from friendship for these gentlemen as a desire most effectually and speedily to promote his Majesty's service here.'² WYNDHAM was preferred, and got the Great Seal as Lord Chancellor of Ireland.³ The character of the Primate, who possessed a

Wyndham appointed Chief Justice of the Common Pleas.

His appointment as Chancellor pressed by Primate Boulter.

¹ Privy Seal, Kensington, Oct. 22, pat. Dublin, Nov. 9, 1724, 11 Geo. I. 1^a par. d. R. 27.

² Primate Boulter's Letters, vol. i. p. 87.

³ Pat. December 21, 1726. 13 Geo. I. 1^a par. d. R. 51.

CHAP.
XXXIX.

Character
of Primate
Boulter.

voice potential in the Irish Government for many years is thus sketched:¹—‘The polite Chesterfield laid down a maxim that it was surprising with how little wisdom a nation could be governed. It may be more surprising to find that a kingdom can be governed without any wisdom whatsoever. Primate Boulter, as the confidential agent of Walpole, ruled Ireland, not in the spirit of a statesman, but in the spirit of a jobber, and of the worst description, an ecclesiastical jobber. His candid letters prove he had a narrow, illiberal mind, little learning, less piety, no generosity, no love for the country he ruled and abused, and no admiration for the genius of her most distinguished sons. He passed his time, not in study or contemplation, but in watching the faces of his brethren on the episcopal bench. If he heard a cough from the Archbishop of Dublin, Dr. King, he immediately informed the Secretary of State in London of the important fact, adding, “There may be occasion for speedily thinking of a successor for him. If it please God to remove him, your Excellency shall have my thoughts by the first opportunity.” And what were these precious thoughts? *Why, that no native should be allowed to fill the place.*’ The short-sighted and mischievous policy of British statesmen at this period was to maintain two factions in Ireland antagonistic to each other, an English and an Irish party. What was the object of this it is now difficult to conjecture, as it prevented all measures being carried for the general welfare of the country. We must remember that the great bulk of the people were altogether ignored because of their religious creed, and the rival parties were exclusively Protestants. This English and Irish interest divided the Church and the Law, as well as the State officials.

Mis-
chievous
policy.

Reluctance of appointing natives of Ireland to any station of dignity and emolument either in Church or State is fully shown in the Primate’s letter written to Lord Carteret on July 18, 1726, on the subject of a

¹ Life and Death of the Irish Parliament, by Right Hon. James Whiteside, pt. I.

successor to Dr. Nicholson, Archbishop of Cashel, who had died of apoplexy. He says:—‘ My Lord Chancellor and I have been computing that if some person be not now brought out from England to the Bench, there will be thirteen *Irish* to nine *English* bishops here, which we think will be a dangerous situation.’¹

CHAP.
XXXIX.

Lord Chancellor shares the Primate's anti-Irish views.

The Lord Chancellor was engaged in 1727 about the affairs of the widow of the Duke of Tyrconnel, King James II.'s favourite, who succeeded Lord Clarendon as the Lord Lieutenant of Ireland. This lady had powerful friends. She was sister of Sarah Duchess of Marlborough, and the Duke of Newcastle wrote to Dr. Boulter, Archbishop of Armagh, to bespeak the Chancellor's interest in her behalf, which he did, we may presume, effectually.

Case of the Duchess of Tyrconnel.

On the death of King George I. in June 1727,² he was succeeded by his son George II., and the declaration by the new King in Council gave great satisfaction to his subjects in Ireland. ‘ They did not doubt,’ says Primate Boulter, ‘ but his Majesty would pursue those wise measures which would make him as great as his father, and his people as easy as they were under him.’³

Accession of George II. in 1727.

Patents were speedily made out to confirm the Lord Chancellor and the other Judges in their offices, as holding during pleasure, they were considered to cease with the life of the Sovereign, and therefore looked anxiously to the results of the change. The assiduity and attention of the Lord Chancellor to his judicial functions earned him the approbation of most competent judges, and he stood very high in professional and public esteem.

Lord Chancellor's appointment confirmed.

On August 20, 1727, Lord Chief Justice Whitshed, who had earned popular indignation by his conduct, especially on the trial of the printer of the Drapier's letters, died, and considerable intriguing took place respecting the

Death of Lord Chief Justice Whitshed.

¹ Boulter's Letters, vol. i. p. 113.

² His Majesty died almost suddenly, at Osnaburgh, the palace of his brother, the Bishop of that diocese, while on his way to Hanover. It is said his death was caused by eating a melon.

³ Boulter's Letters, p. 139.

CHAP.
XXXIX.

His place
to be filled
by an Eng-
lishman.

filling up of the vacant Chief Justiceship. The unfortunate division of the Irish executive fomented party spirit, and English interest was regarded as so antagonistic to Irish interest, that every influence was used to keep it in the ascendant. This is quite manifest from the confidential letters of Primate Boulter to various political leaders. When informing the Viceroy, Lord Carteret, then in England, of the death of the Chief Justice, he says:—
‘I must take this opportunity to press your Excellency that his place may be filled from *England*. I can assure your Lordship we have by experience found the want of two *English* Judges in the Privy Council since the removal of my Lord Chancellor¹ to his present post; and I am confident when there is the least show of an affair between England and Ireland, or when there is need of impartiality between any contending parties that may be before the Council, we shall be in the last distress, if this vacancy be not filled from England. I do not speak this that I want to have the place filled immediately, since I rather think it will be of service to have it kept uncertain who shall succeed, till the approaching session of Parliament is pretty well over.’²

The Irish
Privy
Council.

A caution.

Writing to the Duke of Newcastle, this wily politician says:—‘When anything is transacting in Council that can be thought to be for the advantage of England, or when any persons of consideration here may be offended, the best we can hope for, from a native of this place is, that he will stay away from Council, instead of preventing the King’s service by his presence and debating.

‘I must likewise take the liberty to caution against suffering the present Lord Chief Justice of the King’s Bench³ to remove to the Common Pleas, which was the game played last time to keep off a native from England, and played with success. There will be no difficulty in finding a lawyer of worth in England to come over to the

¹ Lord Chancellor Wyndham had been Chief Justice of the Common Pleas.

² Primate Boulter’s Letters, vol. i. p. 157.

³ Rogerson, formerly Recorder of Dublin.

Common Pleas, which is almost a sinecure, but it was then found, and will again be found, difficult, to get a person of any worth to come over to be Lord Chief Justice of the King's Bench.'

CHAP.
XXXIX.

Rogerson, the Chief of the King's Bench, as the Primate surmised, did apply for the vacant place, and pleaded the case of Chief Justice Whitshed as a precedent for granting it to him, but he had a watchful and adroit opponent in the political Primate, who thus anticipated him, and informed the English ministers:—'I cannot but observe the cases are extremely different; Lord Chief Justice Whitshed had really broken his health by ten or twelve years' service in the King's Bench, and had brought on himself a great storm of malice by his faithfully serving his Majesty in that post. But Chief Justice Rogerson is so far from being worn out in the King's service, that he has not yet once sat in the King's Bench; and as he pleads the late precedent in his favour, I hope care will be taken not to suffer a second precedent, for fear it should by degrees be thought so much the right of a Lord Chief Justice of the King's Bench to remove to the Common Pleas if he thinks fit, that it may be reckoned a hardship to pass him by; and as the post of Chief Justice of the Common Pleas is one of the most easy stations among the Judges here, I hope things will be so managed as to keep it free, at least to be disposed of to some *English* lawyer of worth.'

Reasons
why Chief
Justice
Rogerson
should
not be
changed.

The state of the country in a religious aspect was a source of considerable alarm to the Chancellor and others, who had the support of the English interest at heart. We find Primate Boulter lamenting, 'There are probably in this kingdom five Papists at least to one Protestant. We have incumbents and curates to the number of about 800, whilst there are near 3000 Popish priests of all sorts here.'

State of
Ireland in
1727.

¹ These considerations, coming from so staunch an upholder of the English interest in Ireland, had due weight, and an English barrister, Mr. Reynolds, was appointed Chief Justice of the Common Pleas of Ireland.

² Boulter's Letters, vol. i. p. 169.

CHAP.
XXXIX.

This was in 1727; and instead of the penal code preventing the increase of Catholics, the same reliable authority states, 'in many places the descendants of many of Cromwell's officers and soldiers have gone off to Popery.'¹

The state
of the Ma-
gistracy.

The Lord Chancellor felt hurt, when, in 1728, some changes were made in Trinity College professorships, without consulting him. The difficulty of procuring just and impartial magistrates likewise caused him much anxiety, as the Dissenters complained to the Lords Justices of the oppression to which they were exposed by the Justices of the Peace.² The currency of Ireland was in a very precarious state in 1730; and the Privy Council and Irish House of Commons did not agree in the way to remedy matters. This is plain from the following letter addressed by the Primate, as one of the Lords Justices, to the Lord Carteret, then Viceroy, when in England:—

'Dublin, April 25, 1730.

Disagree-
ment
among the
Lords
Justices.

'My Lord,

'Since your Excellency left us I have done what I could to bring the Council to declare their opinion about the reducing of gold; but, though much the greater part think it is what ought to be done, yet they are so afraid of the House of Commons that I have not been able to bring them to say as much.

'My brother Justices³ are both against the Council giving their opinion in the matter; so that at the Council held to-day on that subject, it was to no purpose to press it. It was almost with difficulty that I got the affair re-committed, in order to draw up a letter to your Excellency with an historical narration of what passed in Council relating to the coin since the year 1711, with particular orders to insist on the resolutions of the Committee in 1729, relating to the gold and silver coins, that the whole may be laid before his Majesty.

'Sir Ralph Gore would fain have the game of last summer played over again, by hearing the merchants and

¹ Boulter's Letters, vol. i. p. 179.

² Ibid. 236.

³ Sir Ralph Gore, Speaker of the Commons, and Lord Chancellor Wyndham.

receiving petitions, but my Lord Chancellor and I am resolved not to permit it.

CHAP.
XXXIX.

‘The Committee are to meet on Monday, and my Lord Chancellor has promised to have a Council and send away these resolutions with a letter by Tuesday’s post.

‘I find by Sir Ralph Gore’s proposal to-day, that the merchants are now, as some of them last year were, for raising foreign silver, though nothing be done about the gold; but, as the whole view of this is to carry on their present gainful trade of importing gold and carrying out silver by the help of foreign silver, now the trade begins to fail for the want of English silver, my Lord Chancellor and I shall take care to prevent any such application from the Council.’¹

In this year an event occurred which gave rise to a curious law point. An attorney named Daniel Kimberly had aided and assisted a Mr. Mead to carry off and marry a young heiress, Miss Reading, without the consent of her parents and guardians, contrary to the form of the statute in such case made and provided. This crime had prevailed to such an extent in Ireland that the executive Government determined to make a signal example of the perpetrators; and, to avoid the penalty, Mr. Mead and Mr. Kimberly made their escape. Mead fled to Holland and Kimberly to London. His retreat being discovered, a warrant was issued for his capture. He was apprehended, brought to Ireland, speedily tried, found guilty, and sentenced to death.

Case of
abduction.

An At-
torney
sentenced
to death.

There was great influence used in order to obtain a commutation of this capital punishment. Petitions were addressed to the Lords Justices, to the Viceroy, and to the King. When these were referred to the Lord Lieutenant, Lord Carteret, he coincided with the Lords Justices, that the crime had grown so common in Ireland, and was so heinous in itself, there was no room for mercy.

No room
for mercy.

While the applications in his behalf were under consideration, Mr. Kimberly, through the influence of Sir

¹ Boulter’s Letters, vol. ii. p. 3.

CHAP.
XXXIX.

A reprieve.

A saving
point.

Lord Chan-
cellor
convenes
a Council.

Opinion of
the Law
Officers.

Ralph Gore, one of the three Lords Justices, procured a reprieve from Wednesday to Saturday, which included the day fixed for his execution. When the fiat came 'that the law must take its course,' the convict raised a point, which he stated was the opinion of his counsel, 'that as the day lapsed, on which he ought to have been executed, pursuant to the sentence of the Court, he could not now be executed till there was a new order of Court made in his case.' This puzzled the Sheriff, who sought the advice of Mr. Justice Bernard and others, who informed him the reprieve did not cancel the sentence, only suspended its execution. The point, however, was much discussed in legal circles, and the Lord Chancellor thought the matter worth considering. Accordingly he issued summonses for a Privy Council to assemble at the Council Chamber, and convened the Judges, the Prime Serjeant,¹ the Solicitor-General, and Mr. Serjeant Bowes, to consider what effect the reprieve had upon the sentence of death. They were inclined to hold that the execution was only deferred, and that the Sheriff might lawfully execute the convict on the day to which he was reprieved; but some of them saying 'they had not thoroughly studied the point, the Lords Justices extended the reprieve, to give ample time for consideration; and at length the Law Officers, the Prime Serjeant (Singleton), the Attorney-General (Marley), Solicitor-General (Jocelyn), and Mr. Bowes, gave their opinions in writing, agreeing "that the convict could be lawfully executed at the expiration of the reprieve, without any new sentence."'

The Lord Chancellor then, with the consent of his brother Lord Justices, intimated 'that since the prerogative was so deeply concerned, that the granting of a reprieve for a few days should not be construed to reprieve a malefactor till the ensuing term, and since such a notion must probably have raised doubts and scruples in the

¹ Prime Serjeant. The rank of the Serjeant-at-Law, or Narratoris Regis, dates in Ireland from A. D. 1326. The Prime Serjeant had precedence of the Attorney and Solicitor-General.

mind of every sheriff in Ireland, whether after any relieve they could, without a new order from the Judge, execute a criminal, would allow no further postponement, and Mr. Kimberly was executed on May 27, 1730.¹

CHAP.
XXXIX.
The
prisoner
executed.

The construction of an Act of Parliament also occasioned the Chancellor and his brother Justices some perplexity. An Act of 7th William III., intituled 'An Act for the better securing of the government by disarming Papists,' when attempted to be enforced by indictment at the Summer Assizes of 1730, for the county of Galway, resulted in an acquittal, although the fact of the accused being a Catholic, and having arms, was indisputable. Yet it was held the Acts only applied to Catholics living, and the arms they had in their possession *at the time the Act passed*. This caused a more stringent measure to be prepared, which prevented a Protestant servant to a Papist having arms, and excluded Catholics from serving on juries in any trials under the new Act.²

Construc-
tion of
Penal
Laws.

While Lord Wyndham was Lord Chancellor, a very insidious attempt was made to prevent an Irish law-student being called to the Irish Bar. This was Mr. John Fitz Gibbon, who, though descended from Roman Catholic parents, had conformed to the religion then established by the State, and thereby most probably hoped to obtain that favour from the ruling powers which his birth and education could not confer. He had been educated in France, and was better versed in law and literature than most of the aspirants for legal distinction.

Refusal
of the
Benchers
of the
King's
Inns to
call John
Fitz Gib-
bon to
the Bar.

The grounds on which the authorities of the King's Inns denied him admission in 1732, were because he had published 'Notes of Cases' decided at the Courts of Westminster³ during his five years' residence in England

Ground
of rejec-
tion.

¹ Primate Boulter's Letters, vol. ii. p. 14.

² Ibid. p. 56.

³ This work is entituled 'The Reports of Several Cases Argued and Adjudged in the Court of King's Bench at Westminster; with some special cases in the Courts of Chancery, Common Pleas, and Exchequer. In the I., II., III., IV., and V. years of his present Majesty King George II., by John Fitz Gibbon, of the Middle Temple, Esq.' It was published in 1732, and displays very great

CHAP.
XXXIX.

Lord Chan-
cellor and
Chief
Justice
support
the law-
student.

He is
called to
the Bar.

preparing for the bar. They display great ability and accuracy, but not having the stamp of official fiat by the Judges, were not recognised as entitled to the weight of authority; though Lord Hardwicke, while regretting their want of authority, admits their accuracy. It was by regarding their publication in the light of a contempt against the Judges of England, that several of the Irish Benchers endeavoured to justify Mr. Fitz Gibbon's exclusion. In vain the Lord Chancellor, cordially supported by Lord Chief Justice Reynolds,¹ resisted this attempt. They concluded that Mr. Fitz Gibbon, having done all that was necessary for a law-student to do, having strictly fulfilled all legal requisites, and the ordinances enjoined by prescription, had a right to be called to the bar.

Finding that the heads of the law were so strongly in favour of the law student's admission, caused a change in the sentiments of those who sought to exclude him; and they finally and silently yielded to the Chancellor and the Chief Justice, and John Fitz Gibbon became a barrister-at-law.

During the summer of 1730, a change of Viceroy's of Ireland took place; Lord Carteret gave place to the Duke of Dorset, father of the celebrated Lord George Sackville.²

knowledge of Common Law and Equity, for the points are stated with great clearness, and the judgments very lucidly and tersely given. The great objection was to their having been published by an unauthorised reporter, without the sanction of the judges, who complained very bitterly of having rank nonsense put into their mouths, and I suspect sent such representations to the Irish benches as nearly demolished Fitz Gibbon's chance of being called to the Irish Bar. It is clear he would not be allowed to practise in England.

¹ James Reynolds was born in 1684, son and heir of James Reynolds of Brimstead, Essex. He was admitted a law-student of Lincoln's Inn, February 1704, and called to the English Bar 1710. He was appointed Chief Justice of the Common Pleas, Ireland, in 1727, and by his professional talents and accomplished manners gained the esteem and affection of all classes in Ireland. He held this office until 1740, when he was removed to the Exchequer in England, where he sat for seven years as one of the Barons. He was succeeded in the Chief Justiceship of the Irish Common Pleas by an able and competent Irish lawyer, Prime Serjeant Singleton.

² The career of this nobleman presents some strange vicissitudes. When Lord George Germain, he incurred the displeasure of his Commander-in-Chief, Ferdinand Prince of Brunswick, for his behaviour at the battle of Minden. He was tried by court-martial and censured, but it was no bar to his political career. He possessed great statesmanlike qualities and filled many important

The Duke was married to Elizabeth, daughter of General Colyear, brother to the Earl of Portmore. If his Grace's political success was equal to that of his social, he must have been a munificent Viceroy. Mary Granville (Mrs. Delany) wrote, 'Yesterday (Oct. 8, 1731) being the anniversary of the King's coronation, we, like loyal subjects, went to the Castle; there was a ball,' which this charming letter-writer well describes.¹

The very excellent manner in which Lord Chancellor Wyndham discharged the duties of his office entitled him to a mark of his Sovereign's favour, and accordingly it was intimated to him that his Majesty was desirous of conferring a peerage upon him. The Chancellor selected the title of Lord Wyndham, of Finglas, and letters patent were issued granting him the rank of Baron, on September 17, 1731.

CHAP.
XXXIX.

Created
Baron
Wyndham,
of Fin-
glas,
A.D. 1731.
A Parlia-
ment.

At the meeting of Parliament on October 5 in that year, Lionel Duke of Dorset opened the session in great state, and made a speech in which the danger of Papists over-running the country, and the illegal exportation of wool, formed the chief topics. When the great oration was concluded, and the House resumed its routine business, the new Peer taking in his hand the Purse, with the Great Seal, retired to the lower end of the House, and having put on his robes as a Baron was then introduced.

Sir Ralph Gore, the Speaker of the House of Commons, having died, on the re-assembling of Parliament, October 4, 1733, the Lord Chancellor, by command of the Viceroy, Duke of Dorset, directed the members of the House of Commons to elect a Speaker in his room, who elected the Right Hon. Henry Boyle. On presenting himself to the Lords the Chancellor addressed him thus:—

Death of
the
Speaker.
His suc-
cessor
elected.

'Mr. Boyle,—His Grace is truly sensible that by the offices in the administration of Government. George, fourth Duke of Dorset, came to an untimely end in Ireland. He was staying on a visit during the winter of 1815 with his stepfather, Charles, Earl of Whitford, then Lord Lieutenant, and while hunting near Ballybrac, about ten miles from Dublin, on February 14, 1815, fell with his horse from a high fence, and the Duke was killed.

¹ Correspondence, vol. i. p. 301.

CHAP.
XXXIX.

Lord Chan-
cellor's
speech
to the
Speaker.

death of the late Speaker his Majesty has been deprived of a most faithful and loyal subject and the country of an able and useful representative.

‘It is a misfortune that the place of Sir Ralph Gore, as a particular member, cannot yet be supplied out of his own family; that the Commons by electing you to succeed him in the Chair, have so well filled that vacancy, that they will perceive no other change than the person of their Speaker, they will still find in that Chair the same inviolable affection to his Majesty’s royal person and Government, the same sincere regard for the real interests of their country, the same application, integrity, and honour, and the same open and universal civility.

‘These amiable qualities, which have strengthened the extensive influence of your family, and often made you the unrivalled favourite of the greatest county in the kingdom, could not fail of recommending you to the unanimous choice of the Commons of Ireland for their Speaker. And though his Grace sets the highest value on your modesty, yet he cannot allow it to be indulged to the prejudice of the public.

‘His Grace therefore confirms the choice of the Commons and approves of you to be their Speaker.’¹

The allusion made by the Chancellor to the native county of the Speaker, and the great influence of the Boyle family in the county of Cork, show considerable tact and knowledge of the country.

There seems to have been some laxity with regard to the attendance of the Judges during the sitting of Parliament. From the attendance of them all, there grew to be the attendance of none, for in the Lords’ Journals, under the date of March 12, 1733, I find the following entry:—

‘It is ordered, by the Lords Spiritual and Temporal in Parliament assembled, that the Lord Chancellor do attend his Grace, the Lord Lieutenant, and acquaint him that it is the desire of this House that his Grace will please to order one of the Judges to stay in town from his circuit,

Order of
the Lords
respecting
the attend-
ance of a
Judge.

¹ Lords’ Jour. Ir. vol. iii. p. 225.

to attend the service of this House.' And on March 12, the Lord Chancellor acquainted the House that in obedience to their order of the 12th instant, he had waited on his Grace, and requested him to comply with the wish of their Lordships, when his Excellency replied:—'I will give directions that the Lord Chief Baron do stay from his circuit to attend the service of the House of Lords.'¹

CHAP.
XXXIX.

In April 1737 the Lord Chancellor and other Lords Justices were informed that the Duke of Dorset was being replaced in the office of Lord Lieutenant, which he held for some years, by the Duke of Devonshire.²

Change of
Viceroys.

The legislation of the Irish Parliament at this period was not of a very exciting or important nature. Turnpike Bills, Game Laws, Fishery Bills, with occasional questions of privilege, addresses to the Throne, and restrictive laws against Papists, constitute the sum-total of Irish legislation. On April 2, 1734, *hodie secunda vice lecta est Billa*, entitled, 'an Act to prevent persons converted from the Popish to the Protestant religion, and married to Popish wives, or educating their children in the Popish religion, from acting as Justices of the Peace.'³ The Bill was committed and quickly reported, read a third time, and passed. A useful measure was introduced by the Earl of Cavan, October 24, 1735: 'That all proceedings in Courts of Justice within this kingdom shall be in the English language.' This Bill received the Royal assent in 1737.

Legisla-
tion in the
Irish
House of
Lords.

As Chichester House, where the Parliament was held, grew dilapidated and dangerous to the members, a Report

¹ Lords' Jour. Ir. vol. iii. p. 273.

² This gave very great satisfaction, for the Duke of Devonshire was very popular. His Grace was the third Duke, and had been Lord Steward of the Household in 1729, and was married to Miss Hoskins, by whom he had several children. Two of his daughters married Ponsonbys, a family very dear to Ireland. Lady Caroline married William, second Earl of Besborough; and Lady Elizabeth, in 1743, married the Right Hon. John Ponsonby, Speaker of the Irish House of Commons. She was mother of William Ponsonby created Lord Ponsonby, of Imokilly, and what more nearly concerns this work, of the Right Hon. George Ponsonby, Lord Chancellor of Ireland.

The Duke
of Devon-
shire.

³ Lords' Jour. Ir. vol. iii. p. 277.

CHAP.
XXXIX.

The Par-
liament
House
built,
A.D. 1739.

was made by a Committee on January 10, 1728, that the erection of a new House was absolutely necessary, and steps were at once taken to carry this Report into execution. The Lord Chancellor, the Right Hon. William Connolly, and Primate Boulter, Lords Justices, with several Peers and Commoners, laid the foundation-stone of the new House on February 3, 1728-9.¹

The works were completed in 1739, under the superintendence of Arthur Dobbs, and the Parliamentary Committee having expressed themselves fully satisfied with the great care and frugality with which he acquitted himself, voted him 250*l*.²

Thomas Malton, an English architect, writing in the last century, fully described this beautiful Senate House.

Trial of
an Irish
Peer in
1739.

We have not had many trials of Peers in the High Court of Parliament of Ireland, therefore I give some particulars of them, and the mode of procedure observed on these solemn occasions.

Henry
Lord
Santry.

Some time after the completion of the Parliament House in College Green, Dublin, in the spring of 1739, Henry, fourth Lord Santry, was tried for the murder of one Laughlin Murphy, at Palmerstown, in the neighbourhood of Dublin. This wild young nobleman belonged to a class of men, who, happily for the present time, have disappeared with other savages. Drinking deeply, obscenity and profligacy, marked the orgies of these roués, and the name of the Hell Fire Club was not badly chosen as the meet resort of those who were doing their best to get a warm reception in the world to come. Then abduction clubs were formed, the members drawing lots for young heiresses to whom they had never spoken, means being

¹ A silver plate was placed in the centre of the stone, thus inscribed:—

Serenissimus et Potentissimus Rex Georgius Secundus, per excellent.
Dominum Johannem, Dominum Carteret et Baron De Hawnes Locum
Tenentem, et per excellent. Dominos Hugonem, Archiep. Armachan.
Thomam Wyndham, Cancell. Guliel. Connolly, Dom. Com. Prolocut.
Justiciarios Generales, Primum hujusce Domus Parliament.

Lapidem posuit, Tertia die Februarii Anno Dom. MDCCXXXVIII.

² Gilbert's History of Dublin, vol. iii. p. 77.

taken to effect an introduction and make a favourable impression; but the great feature consisted in the abduction. If the young lady was a resisting party, and did not see the *fun* of the thing, she was harassed and ill-treated until she consented to become the wife of her abductor, and a degraded clergyman was ready to do his unworthy ministry. The habits of the gentry were very rude. There was no refinement—little education—books on farriery, or the racing calendar, were those most in use in country-houses; and the vices of the town were imitated by the rustic squires. It was the prevalence of these abductions that caused the execution of Kimberly, already mentioned.

This young Lord Santry, with several of his profligate set, were engaged drinking in a *public house*, as places of entertainment somewhat lower than taverns are called in Ireland. The day was a fair day in Palmerstown, a small village about five miles from Dublin. Many persons were about the place, going in and out, and as the fumes of wine mounted into the head of his Lordship, he grew quarrelsome, and the persons who had been drinking with him, finding him in bad humour, showed their sense by leaving him and going away. Lord Santry then vented his anger by abusing a man named Humphreys; and, as at this period men in the rank of gentlemen carried swords, he proceeded from words to inflict blows, and twice attempted to draw his sword on Humphreys, but happily for him was unable to do so. He was in a violent passion, and left the room. On proceeding along a narrow passage leading to the kitchen of the public house, he met Laughlin Murphy, a poor industrious man, who earned a precarious subsistence by carrying parcels and messages between Palmerstown and the neighbourhood. Finding his way impeded by Murphy (for the passage was very narrow), Lord Santry gave Murphy a push, on which the latter retreated to the kitchen. Hither Lord Santry followed him, swearing ‘he would kill any man who spoke.’ Murphy rashly said something, whereon the violent Peer

Misconduct of
Lord
Santry.

CHAP.
XXXIX.

Murphy
stabbed.

was true to his vow, and succeeding this time in baring his sword, plunged it into Murphy, who cried out 'I'm killed!' No attempt was then made to arrest the criminal, who gave the landlord a four-pound piece, but with no direction what to do for the sufferer of his drunken rage.

His death.

Murphy did not die immediately. He lingered from the fair day, August 9, to September 25, on which day he expired in Hammond's Lane, in the city of Dublin.

Lord
Santry ap-
prehended.

Shortly after the death of Murphy, a warrant issued for the apprehension of Lord Santry, and he was speedily arrested and indicted for the murder. A true bill being found against him, a writ of *certiorari* was issued to remove the case from the King's Bench to the House of Lords, that the prisoner might be tried by his Peers; and April 27, 1739, having been fixed for his trial, the preparations for this solemn event commenced as early as six in the morning.

Prepara-
tion for
trial.

The heavy and regular tramp of a regiment of infantry in marching order, disturbed the slumbers of drowsy citizens of Dublin, and the soldiers having taken up their position in College Green, as the clock told seven, a company of battle-axe guards lined the avenues leading to the Parliament House. There was also a strong *posse* of city constables present; and at half-past seven the noble prisoner, who was only twenty-nine years of age, was conveyed in a hackney coach by the High Sheriff of the city of Dublin to the House of Commons, which apartment affording much more space than the Peers' Chamber, was solemnly prepared for the State trial.

Lord Chan-
cellor Lord
High
Steward.

This early conducting the prisoner to the Court may have been proper to avoid publicity, or any popular demonstration for or against him, as it seems unnecessarily early, for it was not until ten o'clock that Lord Wyndham, the Lord Chancellor, to whom the Commission issued, appointing him High Steward, proceeded to the Parliament House from his house in Stephen's Green, in great state. Indeed the pageant merits some detailed account.

On the morning of the trial, the Judges in their scarlet

robes, together with the King-of-Arms, Mr. Hawkins, the Gentleman Usher of the Black Rod, and the Serjeant-at-Arms, repaired to the Lord Chancellor's house in Stephen's Green, to wait on him as Lord High Steward, and escort him to the High Court of Parliament. The King-of-Arms was in his full robes, the Usher of the Black Rod, on this occasion, bore a *white* one, and the Serjeant-at-Arms had the Mace.

CHAP.
XXXIX.

The procession from the Lord Chancellor's house to the equipages drawn up in front of it was a sight worth seeing. Twelve gentlemen marched bareheaded—two and two; then the Serjeant-at-Arms and Seal Bearer, also uncovered—one carrying the Mace, the other the Purse. His Grace the High Steward in his robes, with train-bearers, was supported on the right hand by Ulster King-of-Arms, and on the left by the Usher of the Black Rod, with the white staff of the High Steward; then followed the Chief Justices and other Judges in their robes. In this order also moved the coaches. Those containing the Gentlemen-in-Waiting, three in number, having two horses, while the State carriage, containing the Lord High Steward, Ulster King-of-Arms, and the Seal Bearer inside—the Usher of the Rod, and Mace Bearer outside—was drawn by six horses. The coaches of the Judges followed. When the cavalcade reached College Green, they were met by four other Serjeants, with their maces; and, in the same order as before, they entered the Court, in which the Peers were already seated. A chair of State being prepared for the Lord High Steward, beneath a rich canopy, a step higher than the seats of the other Peers, Lord Wyndham, bowing right and left as he passed the Peers, took his seat. The Purse was laid on a small table near his right, and the Serjeant-at-Arms bore the Mace to the lower end of the table.

Procession
of Lord
High
Steward.

Then the Clerk of the Crown of the King's Bench, and the Clerk of the Crown in Chancery, bearing the King's Commission to the Chancellor to act as Lord High Steward in his hand, made their reverences before his Grace,

Proceed-
ings at
the trial.

CHAP.
XXXIX.

and, approaching him, knelt. The Clerk of the Crown in Chancery, then, on his knee, presented the Commission to his Grace, who handed it to the Clerk of the Crown of the King's Bench; and he, having received it kneeling, they bowed thrice and returned to the table. The Serjeant-at-Arms having called aloud 'Oyer' thrice, the Clerk of the Crown of King's Bench read the Commission, the Lords standing uncovered while it was being read aloud.

The Commission being read, and his Grace bowing to the Peers, who returned the salute, and sitting down again, the King-of-Arms and the Usher of the Black Rod, with three reverences, jointly presented the white staff on their knee to his Grace, who, after a little time, re-delivered the same to the Usher of the Black Rod, to hold during the trial. Then the King-of-Arms returned to the right, and the Usher of the Black Rod, holding the white staff, to the left of his Grace's chair. And proclamation was made of all persons, except Peers, Privy Councillors, and the Judges, to be uncovered. Then proclamation was made that the person or persons to whom any writ or precept had been directed, for the certifying any indictment or record before the Lord High Steward, his Grace, should certify and bring in the same forthwith, according to the tenor of the same writ and precept to them or any of them directed. Whereupon all forms and ceremonies being duly observed :

Prisoner
pleads
Not Guilty.

After this the Peers Triers took their places on the benches on each side, according to their respective degrees. Then the indictment having been read, the Clerk of the Crown asked his Lordship to plead, whereon he pleaded 'not guilty.' He was then asked how he would be tried. He replied, 'By God and my Peers.' Then the Lord Steward gave him a charge to his Peers, and the Attorney-General, Robert Jocelyn, detailed the circumstances as I have narrated them. The defence set up for the noble prisoner was 'that Murphy's death was caused by disease.' But this was so untenable that it was demolished by the able address of Bowes, the Solicitor-General. The Peers

found the prisoner GUILTY, and he was sentenced to death. They, however, unanimously recommended Lord Santry to the mercy of the Crown, which was strongly seconded by the Lord Lieutenant.

CHAP.
XXXIX.

Found guilty, and sentenced to death.

The right reverend Dr. Rendle, Bishop of Derry, wrote the following graphic account of this solemn trial:—
‘Poor Lord Santry was tried on Friday by his Peers. I never beheld a sight so awful and majestic and dreadfully beautiful in my life; and nothing was ever performed with so much solemnity, silence, and dignity before in any country. The finest room in Europe filled with the nobility and gentry of the whole kingdom, and both sexes; the High Steward, every one of the Judges, the Lords the Triers, and the noble prisoner, young and handsome, most decent in his behaviour, and with a becoming fortitude in his speaking, could not but compose the most affecting scene. All were so attentive that silence was not once proclaimed. The King’s Counsel did admirably, but Bowes (the Solicitor-General) had an opportunity to show himself to the highest advantage. I always thought him an admirable speaker, but never imagined him half so great a man as I do at present, though I always loved and esteemed him. He did not use one severe word against the unhappy Lord, nor omitted one severe observation that truth could dictate. I never heard, never read, so perfect a piece of eloquence. Its beauty arose from true simplicity and unaffected ornaments; from the strength and light of his reason, the fairness and candour and good nature of his heart; from the order and disposition of what he said, the elegance and fulness of his expressions, the shortness and propriety of his reflections, the music of his voice, and the gracefulness of his elocution. They were all wonderful indeed, and even those who were concerned and grieved, were charmed with his most masterly performance. But if they did well, I think the Counsel for the prisoner acted detestably. They only prompted him to ask a few treacherous questions, and spoke not one word in his favour, though I have the vanity almost to

Bishop of Derry’s account of the trial.

CHAP.
XXXIX.

think I could have offered a point of law that would have bid him fair to save him. When the twenty-three Peers returned to give their opinion, their countenances astonished the whole House; and all knew from the horror of their eyes and the paleness of their looks, how they were agitated within before they answered the dread question, "Guilty, upon my honour;" and he was so most certainly, according to the law; nor could they perhaps have brought in their dreadful verdict otherwise.'

There was great influence used to obtain a mitigation of sentence in the case of Lord Santry. He was relieved, and ultimately pardoned.

Legal
changes,
A.D. 1739.
Resigna-
tion of the
Lord Chan-
cellor.

In the year 1739 great changes took place on the Irish Bench. On September 7, Lord Wyndham resigned the Great Seal, and ROBERT JOCELYN, then Attorney-General for Ireland, was nominated his successor, and shortly received the title of Lord Newport, John Bowes replacing Jocelyn as Attorney-General.

Lord
Wynd-
ham's
character
as Chan-
cellor.

What was the reason which caused the resignation of the Chancellor does not appear. He had filled this high and important position of Lord Chancellor of Ireland with the confidence and to the satisfaction of all classes for thirteen years, a long time for a Chancellor, and possibly felt the duties, increased by the necessity of attending the House of Lords as Speaker, too much for his failing health. He might not have liked the dictatorial manner of Primate Boulter, who assumed almost the whole government of Ireland during the frequent absence of the Lord Lieutenant. It redounds much to the Prelate's character for generosity, that during this period, 1739-40, when the frost was so unusually severe that the poor were terribly afflicted, his bounty was of the most liberal nature. Every indigent person in the city of Dublin was relieved, chiefly at his cost.¹ The House of Commons expressed their sense of his humane conduct by a public vote of thanks. Had the Primate confined himself to works of piety and charity which were befitting his profession, and left law

Charity
of Primate
Boulter.

¹ Stuart's History of Armagh, p. 428.

to the lawyers, and politics to statesmen, he would not have deserved the harsh criticism which he has received ; but he was so bent on having Ireland for the English, that whenever a vacancy occurred in any office, be it lay or ecclesiastical, he put up at once the notice, 'No Irish need apply.' He seems to have entertained the conviction that any native of Ireland, Protestant or Catholic, was *ipso facto* an enemy to England, or, as he termed it, the *English interest*, and therefore rightly excluded from any position of station or emolument. Such notions most likely were not shared by Lord Chancellor Lord Wyndham, and may have led to his resignation. A very handsome compliment is paid to his memory by the historian of the King's Inns. He says, 'Lord Wyndham resigned, to the regret of every honest or intelligent Irishman, having rendered a name memorable in England for wisdom, public spirit, and eloquence, a subject of grateful regret to the Irish nation. His retreat was also unmarked by pension, place, or reversion. He lived a few years after his ceasing to be Lord Chancellor, and passed his latter days in his native country.'

Lord Wyndham died without issue, November 24, 1745, and with him the title became extinct.

CHAP.
XXXIX.

Death of
Ex-Chan-
cellor
Lord
Wyndham.

CHAPTER XL.

LIFE OF ROBERT JOCELYN, VISCOUNT JOCELYN, LORD CHANCELLOR
OF IRELAND.

CHAP.
XL.

Family of
Jocelyn.

Sir Gilbert
Jocelyn.

THE family of JOCELYN is distinguished for great antiquity, and many of its members have achieved renown in history. When William the Norman planned his expedition to England, and selected the bravest knights of Normandy to share the Saxon spoils, foremost of those who spurred by his side on the red sands of Hastings was Sir Gilbert Jocelyn. Faithful to his friends, William the Conqueror distributed the broad lands and rich lordships of the vanquished Thanes to his companions in arms with no niggard hand, and to Sir Gilbert he assigned the lordships of Sempringham and Tyrrington, in pleasant Lincolnshire. Sir Gilbert had two sons, Gilbert and Geoffry, but the latter (evincing that zeal for the Catholic Church which one noble daughter of the race has so piously displayed in our day, though unable to manifest it to the same extent as Geoffry) abandoned the large possessions which the favour of the monarch granted to his father, and preferred the cloister, there to work out his salvation by serving God in the persons of His poor. Geoffry's devotion to a religious life left his brother sole heir to the estates of their father.

The genealogist and historian will find a full account of the honour and intermarriages of the descendants of Sir Gilbert Jocelyn in the 'Peerage of Ireland,'¹ but my space prevents my giving them here. I must not omit, however, a brief account and notable epitaph of John Jocelyn, third son of Sir Thomas Jocelyn, of Hide Hall,

John
Jocelyn.

¹ Lodge's Peerage of Ireland, edited by Archdall, vol. iii. p. 265.

a Privy Councillor in the reign of Edward VI. John was an eminent antiquary, and Secretary to Archbishop Parker, by whose direction he wrote the book ‘*De Antiquitate Ecclesiæ Britannicæ*,’ published by the Archbishop, and was collated by the Archbishop to the parsonage of Hollingbourne, in Kent. John Jocelyn was a perfect master of the Saxon language, of which he published a dictionary, was a member of Queen’s College, Cambridge, died a very aged man, and lies buried in High Roothing Church, Essex, with this quaint inscription to his memory :—

CHAP.
XL.

John Joceline, Esq.,¹ interred here doth lye,
 Sir Thomas Joceline’s third son, of worthie Memorie.
 Thrice noble was this Gentleman, by Birthe, by learning great,
 Of single, chaste, and godly Life; he has in Heaven a seat.
 He the year fifteen hundred twenty-nine was born,
 Not twenty yeeres old, him Cambridge did with two Degrees adorn.
 King’s College him a Fellow chose *in Anno* forty-nine;
 In learning tryde, worthy he did his mind always incline,
 But others took the Fame and Praise of his deserving wit,
 And his Inventions, as their own, to printing did commit.
 Sixteen hundred and three it grieves all to remember,
 He left this life (Poor’s daily friend) the 28th December.

Epitaph
on John
Jocelyn.

ROBERT JOCELYN, the future Viscount of that name and Lord Chancellor of Ireland, was only son of Thomas, fifth son of Sir Robert Jocelyn, Baronet, and Anne, daughter of Thomas Bray, Esq., of Westminster. He was born about the year 1680, and received an excellent education, which fitted him for any learned profession. His taste having induced him to study law, he applied himself diligently, and when called to the Bar in 1706, family influence and his own abilities soon hastened his promotion at the Irish Bar. On May 28, 1726, Mr. Jocelyn was appointed third Serjeant-at-Law to King George I.,² and he so well sustained the favourable impression entertained of his capacity, that, in the following year, he became Solicitor-General.³ On the accession of George II., in the autumn of 1727, this appointment was confirmed,⁴ and the office

Robert
Jocelyn.

His pro-
motion.

Serjeant.

Solicitor-
General,

¹ I think he ought to have been styled Reverend.

² Pat. March 28, 1726. 12 Geo. I. 2^a pars, f. R. 2.

³ Pat. May 4, 1727. 13 Geo. I. 3^a pars, d. R. 18.

⁴ Pat. October 28, 1727. 1 Geo. II. 2^a pars, d. R. 22.

CHAP.
XL.

and At-
torney-
General.

Lord Chan-
cellor of
Ireland,
A.D. 1739.
His great
attain-
ments.

Encou-
rages Irish
literature.

Patron of
Walter
Harris.

of Attorney-General becoming vacant in 1730, he was promoted to that place, in the room of Thomas Marley, appointed Chief Baron of the Exchequer.¹

In 1739, on the resignation of Lord Wyndham, Lord Chancellor, the Great Seal of Ireland, was at the disposal of the Government. It was speedily entrusted to the Attorney-General.² This appointment gave very general satisfaction, as the new Lord Chancellor was distinguished for great amiability in private life, high public character, eminent literary tastes, and profound legal acquirements.

The Chancellor gave a very excellent proof of his esteem for men of ability by encouraging the study of Irish history and antiquities.³ He assisted Walter Harris, a member of the Irish Bar, but better known by his historical and antiquarian works. This gentleman married a grand-daughter of the learned Irish antiquary, Sir James Ware, and aided by the liberality of the Lord Chancellor, and other lovers of Irish literature, he published in 1739 a handsome folio edition of the 'Lives of the Irish Bishops,' translated from the Latin of Sir James Ware. The success of this work induced Harris to undertake the publication of Ware's 'Antiquities and Irish Writers,' which is one of the most valuable compilations on the subject.⁴ His edition, published in 1747, contains numerous and well-executed engravings of ancient coins, medals, arms, and other antiquities, besides costumes of the various religious orders. He gave faithful representations of canons, nuns, knights templars, monks and friars, in their respective habits. The history of Irish writers in this work is particularly valuable, being most carefully

¹ Pat. October 22, 1730. 4 Geo. II. 3 pars, f. R. 33.

² Pat. September 7, 1739. 13 Geo. II. 1^a pars, d. R. 12.

³ In the patronage of literary and artistic skill, Jocelyn resembled the eminent English Chancellor, Lord Ellesmere, who was the patron of Sir John Davies. Shaftsbury and Bathurst were the friends and promoters of Sir William Jones. Jocelyn's efforts in favour of Walter Harris deserve to be faithfully recorded and mentioned with praise, because they are, as far as I am aware, the only instance of a Lord Chancellor of Ireland encouraging a literary barrister and rewarding his efforts by generous and liberal patronage.

⁴ A fine edition of these works was issued in Dublin in 1764.

compiled, and has been of considerable use to me in the composition of the first series of Lives in this work. It contains the lives and writings of authors born in Ireland, also of those who, though not born here, received their education, or enjoyed preferments or offices, and mentions their respective writings. Harris's 'Hibernica,' collected from manuscripts in Trinity College Library, was printed in 1749, and in the same year appeared his 'Life of King William III.'

CHAP.
XL.

During Handel's visit to Dublin in 1741, the great composer obtained the patronage of the Lord Chancellor, as he mentions in a letter to Charles Jennens, of Gopsall Hall, who had selected the words of the 'Messiah':—

Handel's
warm
reception
in Dublin,
A.D. 1741.

'I opened with the Allegro, Penseroso, and Moderato, and I assure you that the words of the Moderato are vastly admired, the audience being composed (beside the flower of ladies of distinction and other people of the greatest quality) of so many Bishops, Deans, Heads of the College, the most eminent persons in the law, as the Chancellor, Auditor-General, &c., all which are very much taken with the poetry, so that I am desired to perform it again the next term. I cannot sufficiently express the kind treatment I receive here; but the politeness of this generous nation cannot be unknown to you, so I let you judge of the satisfaction I enjoy, passing my time with honour, profit, and pleasure.'

The condition of the Irish Bar in 1740 may be well illustrated by the high eulogium of a contemporary. Treating of the style of oratory best suited for arguments at the Bar, Mr. Howard¹ says:—'It should be strong and expressive, without stiffness or affectation, as short and concise as the nature of the subject will admit of, without being either obscure or ambiguous, and easy and flowing, without one superfluous word. I have seen an advocate² at the Bar in this kingdom, who was a model for that kind of oratory which is alone fit for the Bar, and who, I believe,

The Irish
Bar,
A.D. 1740.

Bar
oratory.

¹ Treatise on the Equity side of the Exchequer in Ireland, Preface, p. viii.

² The Right Hon. Anthony Malone.

CHAP.
XL.

it is allowed, was never exceeded, if ever he was equalled. He had the shortest, clearest, easiest way of expressing his thoughts by the most harmonious arrangement of the best chosen words, both for meaning and sound. He had that knack of familiarly conveying his ideas to every, even the meanest, capacity, that every man who heard him might flatter himself he could speak the same way; but with such perspicuity and strength of reasoning as I never before saw any man possessed of within any degree of him, and it is five hundred to one if ever I do. The adoration (if so I may express it) which was always paid to him, whenever he rose to speak, was more than ever I saw offered to any man except his father.¹ All rose with him as if they would not lose a syllable that fell from his lips. And so it is in the Senate House.

With grave
Aspect he rose, and in his rising seem'd
A pillar of state; deep on his front engraven
Deliberation sat, and public care.

* * * * * *

His look
Drew audience and attention still as night
Or summer's noontide air, while thus he spake.²

‘He was always master of his brief; and never attempted to deceive or impose on any Court. or to insist or persist when he knew his client’s cause was not a just one; nor did he ever use the little arts of chicanery or sophistry, or any trick or cunning in his pleading. His true oratory needed them not, and his candour abhorred them.’

The love of fun and frolic prevalent in Ireland in olden times, and which, I trust, will again enliven the routine in which man’s life is, for the most part, spent, was not diminished by the terrors of the grim destroyer. Richard, first Earl of Rosse, who died in 1741, was a humourist who delighted in practical jokes, and on his death-bed could not resist indulging in his favourite pleasantry. As his life had not been sufficiently edifying to suit the evangelical notions of the Dean of Kilmore, that pious divine wrote

A death-bed joke.

¹ Richard Malone.

² Milton’s Paradise Lost.

him a very strong-worded epistle, reminding him 'of the fearful account he would have to render of his blasphemy, obscenity, gaming, and other iniquities, unless he forthwith repented.' This letter was despatched to the house of the dying Peer,¹ next door to whom lived a very different nobleman, the God-fearing and home-loving Earl of Kildare. The thought of how indignant his virtuous neighbour would be on reading such a letter, which bore no special address save on the envelope, instantly flashed into the frolicsome mind of Lord Rosse, so, carefully re-folding the letter, he put it into a new envelope, and, imitating the Dean's writing, directed and sent it by the Dean's servant to the Earl of Kildare. The Earl having read it with equal surprise and indignation, showed it to the Countess, saying, 'he feared the Dean had lost his senses.' She read the letter again, and, considering the style too earnest for a lunatic, advised her husband to take it to the Archbishop of Dublin. The Earl accordingly went to his Grace and said, 'Pray, my Lord, did you ever hear that I was a profane blasphemer, a profligate liver, an habitual gambler, a rioter—in short, everything that is base and vile?'

'You, my Lord!' replied the Archbishop, 'every one knows you are a pattern of humility, godliness, and virtue.'

'Well, then, my Lord, what satisfaction can I have of a reverend divine who, under his own hand, lays all this to my charge?'

'Surely no man in his senses, who knew your Lordship, would presume to do it; and if a clergyman had been guilty of such an offence, your Lordship would have satisfaction in the Spiritual court.'

The Earl then produced the letter, saying it had been left at his house that morning by the Dean's servant. The Archbishop immediately sent for the Dean to demand an explanation of his writing this uncalled-for letter, and on his obeying the summons, the Archbishop placed the

¹ The Lord Chancellor married his widow.

CHAP.
XL.

Earl in an adjoining room while he conversed with the Dean.

On the entrance of the latter, his Grace produced the letter, and reproached him for having written it. The Dean said 'he was much surprised at his Grace's remarks, for in writing it he had conceived he was doing no more than his duty in trying to rescue a soul from perdition.' The Archbishop said, 'there was nothing to justify such a letter as he held in his hand,' and hinted at unpleasant consequences.

The Dean, quite taken aback, said, 'I have done what was my duty, and am quite ready to abide any result.' He then retired, and the Earl consulted the Chancellor, who advised him to institute proceedings in the Ecclesiastical Court.

Next day the Archbishop again met the Dean, and told him the consequences of writing such a letter might be ruinous, and urged him as a friend, to 'ask the Earl's pardon.'

'Pardon, my Lord,' echoed the Dean, 'why the Earl is dead!'

'Dead!' exclaimed the Archbishop, 'Lord Kildare dead?'

'No, Lord Rosse!'

'Whom did you write the letter to?' inquired the Archbishop.

'The unhappy Lord Rosse.'

The mystery was then explained to Lord Kildare's satisfaction, and showing, in the case of Lord Rosse, the ruling passion strong in death.

His Majesty was pleased to confer on the Lord Chancellor the title of Baron Newport, of Newport, in the County of Tipperary, which is thus recorded in the Lords' Journals under date of November 30, 1743:—

'The Right Hon. Robert Jocelyn, Esq., Lord Chancellor of Ireland, being by Letters Patent dated November 29, in the seventeenth year of the reign of our Sovereign Lord King George II., created Baron Newport, his Lordship taking in his hand the Purse, with the Great Seal, retired

Created
Lord
Newport,
A.D. 1743.

to the lower end of the House, and having there put on his robes, was this day introduced between the Lord Tullamore and the Lord Southwell, also in their robes.

CHAP.
XL.

Ceremonial
in the
House of
Lords.

‘Then his Lordship having at the table taken and subscribed the oaths, and made and subscribed the Declaration pursuant to the Statutes, was conducted to and placed at the lower end of the Barons’ Bench, from which he went to the upper end of the Earls’ Bench and sat there as Lord Chancellor, and then returned to the Woolsack.’¹

The Lord Chancellor had again to assist at the trial of a Peer charged with murder. This time as President. He received the Commission of Lord High Steward during the trial of Nicholas, fifth Viscount Netterville, who was indicted for the murder of Michael Walsh, in the county of Meath. The trial took place in 1743. Very much the same course and ceremonies were observed as during the trial of Lord Santry. The Crown was represented by Prime Serjeant Malone, the Attorney-General (Bowes), and Solicitor-General. As Spiritual Peers were exempt from attending in all matters of blood, leave was given them to withdraw, but owing to the death of the two principal witnesses, whose depositions were rejected in evidence, the prosecution failed, and the Lord High Steward said, ‘The House having heard all the evidence, the question was, whether Nicholas Lord Viscount Netterville is guilty of the felony treason and murder whereof he stands indicted, or not guilty?’ The Peers, *seriatim*, were then called, beginning with the youngest Baron, when stood each in his place, uncovered, and laying his right hand on his breast declared, ‘Lord Netterville not guilty, upon my honour.’ The Lord Steward then broke the white wand and adjourned the House.

Presides
at the trial
of Lord
Netter-
ville,
A.D. 1743.

Charge of
murder.

Acquittal.

The Irish Viceroy, from August 1745 to September 1747, was the celebrated Philip Dormer Stanhope, Earl of Chesterfield, and as the opinions of such a man on Irish affairs are interesting and valuable, I subjoin some of practical utility.² When writing to Mr. Prior, a patriotic

Lord
Chester-
field.
Viceroy.

¹ Lords’ Jour. Ir. vol. iii. p. 547. ² Vide Chesterfield’s Miscellanies, vol. ii. p. 541.

CHAP. Irishman, whom Lord Chesterfield and the Chancellor
 XL. much esteemed, he says:—

‘London, June 14, 1766.

Letter to
 Mr. Prior
 on Irish
 manufact-
 ures.

‘As you are one of the few in Ireland who always think of the public, without any mixture of private interest, I do not doubt that you have already thought of some useful methods of employing the King’s bounty to the Dublin Society. The late additional tax upon glass here, as it must considerably raise the price of glass bottles imported into Ireland, seems to point out the manufacturing them there. Fine writing and printing paper we have often talked of together, and the specimen you gave me before I left Dublin proves that nothing but care and industry is wanting to bring that manufacture to perfection. I am convinced you might supply England with a great deal if you made it, as you could do, both good and cheap. Also starch. These are the sort of jobs that I wish the people of Ireland would attend to, with as much industry and care as they do jobs of a very different nature. These honest arts would solidly increase their fortunes, and improve their estates, upon the only true and permanent foundation, the public good.’

Intempe-
 rate habits
 of the
 Irish
 gentry in
 1746.

In another letter to the same gentleman, the Viceroy remarks upon the intemperance of the Irish gentry of his time, and censures the degrading vice in language which would have endeared him to Father Mathew, while his sentiments in reference to the country would certainly have been applauded by Daniel O’Connell. ‘Five thousand tuns of wine, imported *communibus annis* into Ireland, is a sure proof of the excessive drinking of the gentry there, for the inferior sort of people cannot afford to drink wine, so that these 5000 tuns of wine are chiefly employed in destroying the constitutions, the faculties, and too often the fortunes of those of superior rank, who ought to take care of the others. Were there to be a contest between public cellars and public granaries, which do you think would carry it? I believe you

will allow that a claret board, if there were one, would be much better attended than the linen board, *unless* when flax-seed were to be distributed. I am sensible I shall be reckoned a very shallow politician, for my attention to such *trifling* objects as the improvement of your lands, the extension of your manufactures, and the increase of your trade, which only tend to the advancement of the public; whereas an able Lord Lieutenant ought to employ his thoughts in greater matters. He should think of jobs for favourites, sops for enemies, of managing parties, and engaging Parliaments to vote away their own and their fellow-subjects' liberties and properties. But these great arts of government, I confess, are above me, and people should not go out of their depth. I will modestly be content with wishing Ireland all the good that is possible, and with doing it all the good I can; and so weak am I that I would much rather be distinguished and remembered by the name of the *Irish Lord Lieutenant* than by that of the Lord Lieutenant of Ireland.¹

CHAP.
XL.

Duties of
an able
Viceroy
sarcastically
described.

With all his Lordship's expressions of affection for Ireland, the recollections of his Viceroyalty would have been lost but for two circumstances. He erected the column surmounted by the phoenix, in the Viceregal Park, which tends to give some ground for the misnomer.² The other was from his constantly hearing of dangerous Papists, he declared 'the beautiful Lady Palmer was the only *dangerous Papist* he had met in the entire kingdom.' The Lord Chancellor likewise ridiculed the fears of the credulous Protestants, and joined the Viceroy in turning a deaf ear to all idle rumours. Many were reported. A notorious assertor of Popish plots rushed to the Castle early one morning, and demanded 'to see the Lord-

Lord
Chester-
field's
Phoenix.

The
dangerous
Papist.

Lord Chan-
cellor and
Viceroy
ridicule
rumours
of Popish
plots.

¹ I had been so accustomed to regard Lord Chesterfield as a very superficial courtier and man whose business was pleasure, that these thoughtful and noble sentiments came on me by surprise, and I gladly print them for the benefit of future Viceroys. His keen irony is very happy in describing the duties of an *able* Viceroy, such as unfortunately Ireland was too familiar with.

² The proper name was *Fion-uisge*, clear or fair water, so called from a spring in the grounds near the Zoological Gardens.

CHAP.
XL.

Lieutenant on highly important business.' He was informed 'that his Excellency had not left his bed-chamber,' on which the enquirer went away, saying 'he would return in a couple of hours.' True to his words he called, but alas for the indolence of the representative of Majesty, the same answer met his eager demand. 'I must see the Lord Lieutenant,' said the Irish Squire resolutely.

'Is your business so very urgent, Sir?' enquired one of the aides-de-camp.

'Matter of the greatest public importance,' replied the visitor.

The aide-de-camp obtained permission for the applicant to enter the bed-chamber of the Viceroy, who was still in bed.

'Well, Mr. —, what's stirring now?' demanded the Viceroy.

'All the Papists in Ireland are *up*, my Lord,' replied the alarmist, using a term very significant in Ireland.

'Then it's high time for all the Protestants to be up too,' said his Excellency, looking at his watch; ' 'tis half-past ten; good day, Sir;' and ordering his valet, he very summarily dismissed his morning visitor, whose news of a similar nature, on many previous, equally urgent occasions, was not very reliable.¹

A visit to
the dan-
gerous
Papist.

The eminent Irish barrister and orator, Richard Lalor Shiel, relates an interview he had with the Lady Palmer whom Lord Chesterfield described as the 'only dangerous Papist he ever met in Ireland.' The admiration Lord Chesterfield entertained for her, induced Shiel to seek an introduction to her when upwards of a hundred years of age.

¹ The ingenious way in which Lord Chesterfield won a wager is related in Schelcher's *Life of Handel*. Heidegger, lessee of the Haymarket Theatre in 1734, was said to be the ugliest man of his time. Lord Chesterfield laid a wager it was impossible to find a human being more ugly. The bet was taken, and a hideous old woman produced, and on comparison Heidegger looked the least horrible of the two. As the old woman's backer was pluming himself on winning, Lord Chesterfield said, 'he would not acknowledge his defeat until Heidegger put on the old woman's bonnet.' Thus attired the fortunes of the Earl were retrieved, for Heidegger looked so frightfully ugly, Chesterfield was declared the winner without any dissent.

She then resided, secluded and alone, in small apartments in Henry Street, Dublin, though her means afforded her a house. Over the chimney-piece of her sitting-room was the portrait of the courtly Earl, to whose fine face the artist has done every justice. The Lady was in her bed-chamber when Shiel called, so he had time to examine the picture, said to have been a keepsake from the platonically admiring to the beauty of his Viceregal court. Shiel was conjuring up, in his vivid imagination, the young and lovely lady whose charms had fascinated the intellectual and accomplished nobleman. The Castle, in the days of the Earl and his wife, Melosina de Schulenburg, Countess of Walsingham and Baroness of Aldborough, rose before him, brilliant with the beauties, the beaux, and the statesmen of their day; and he was picturing Lord Chesterfield conducting Lady Palmer through the mazes of a minuet, when the door slowly opened, and, in the midst of a volume of smoke which had opportunely enough filled the room, a weird and withered female grew visible amidst the vapour. She fixed on the startled visitor a wild and sorceress eye, the expression of which was aided by her thin and shrunken form draped in black, her elongated neck, her marked and strongly moulded but emaciated features. She leaned with withered hands, the skin coloured like aged parchment, upon an ivory-headed cane, while, with a smile not free from ghastliness, she enquired the name of her visitor. I can well conceive how difficult it was to recall the lustre of those aged eyes, the brightness of the faded beauty, the graces of that bent and drooping form. When acquainted with the name of her accomplished guest, whose fame was not unknown to her, she grew animated, and something of her pristine charm was restored. Two subjects interested the venerable lady. One was Lord Chesterfield, the other the condition of the Irish. She was a vehement Catholic, and when she spoke with fire and energy on the oppressions her co-religionists suffered,¹ striking her cane violently on the ground,

¹ This was previous to 1829.

CHAP.
XL.

exclaiming, 'Sir, it is not to be borne!' Shiel said 'he was not surprised Lord Chesterfield called her a *dangerous Papist*.'

Primate
Stone.

Associated with the Viceroy and the Lord Chancellor in the Government of Ireland, I must not omit a notice of the Primate.

The mantle of Primate Boulter, the great sustainer of the English interest in Ireland, had fallen upon Primate Stone, who had been translated from the See of Derry to that of Armagh, in the year 1746. It would however be unfair to this latter prelate not to mention a very marked difference in their sentiments; while Boulter excluded every Irishman from office, Stone admitted them without any distinction save the religious test.

He was a man of great abilities and unbounded ambition. He had a very powerful party to support his political views; but had a strong opponent in Mr. Boyle, who, as we have seen, was elected Speaker of the House of Commons. Primate Stone sought pre-eminence from the influence of the Government, while Boyle took the popular side. The great subject of contention between them was, no doubt, a subject of the highest importance to the community: 'Whether the House of Commons of Ireland had, or had not, a right to dispose of the surplus revenues of the country.'

Question whether or no the House of Commons of Ireland could dispose of surplus revenue.

Although the Irish Parliament, in the days of the earlier Georges, had been very persistently 'snubbed,' to use a very significant, though inelegant, expression, by the more powerful Parliament of Great Britain, it occasionally showed the spirit of resistance; and though crushed, was not dead. It was at this period not the Parliament of the Irish nation, but of the Protestant electors. The Roman Catholics were the vast majority of the population, but neither directly nor indirectly had they a share in the legislation. They could not sit as members, or vote for those who could. The borough system extensively prevailed, and was in the hands of a comparatively small party. Of the 300 members of the Irish House of

Members of the House of Commons elected by Protestants. Catholics disqualified from sitting or voting.

Commons, fully 216 were returned for boroughs. Of these, 200 were elected by 100 individuals, and nearly 50 were the nominees of 10.¹ This enabled the Ministry to have a sufficient number under control, either by official ties or by patronage. There was a numerous band of stipendiaries, pensioners for imaginary services, paid of course out of Irish taxes, so that, as was well observed, the country paid annually a considerable sum for stifling the voice of its own representatives. The lucky hirelings were in no dread of being called on by enraged or troublesome constituents, to account for corrupt votes; these happy members might sit all their lives without even once seeing the electors who returned them. They enjoyed a 'fixity of tenure,' disturbed only by a dissolution of the Crown. Answerable only to their own consciences, they were beyond other control; for sometimes thirty years elapsed before they ran the risk of losing their seats. Yet on one subject they were very sensitive, like all other mortals, they kept a tight hold of the purse. They conceived that it was their undoubted right to apply the surplus revenue of Ireland towards Irish purposes, without the consent of the King; and in 1749 prepared as much of a Bill as the Poyning's law enabled them to do—namely, the heads—as follows: 'Whereas on the 25th day of March last a considerable balance remained in the hands of the Vice-Treasurer, or Receiver-General of this kingdom, unapplied, it will be for your Majesty's service, and for the ease of your faithful subjects of this kingdom, that so much thereof as can be conveniently spared should be paid, agreeably to your Majesty's most gracious intentions, in discharge of part of the National Debt.'

This appropriation, which was apparently the proper one, excited the anger of the advocates of prerogative in England, who affirmed 'the Irish House of Commons had no right to apply any part of the unappropriated revenue, nor even to entertain any question of the kind *without the express consent of the Crown.*'

¹ Grattan's Life, by his son.

CHAP.
XL.

Patrons
of Bo-
roughs.

Duration
of Sessions.

Heads of
Bill to
dispose of
surplus.

CHAP.
XL.

Viceroy
declares
the consent
of the
Crown.

In consequence of this, the Viceroy, Duke of Dorset, was commanded to give this consent at the session of Parliament. He stated, 'he was commanded by the King, ever attentive to the ease and happiness of his subjects, to acquaint them his Majesty would consent and recommend to them, that such part of the money then remaining in his treasury as should be thought consistent with the public service, be applied towards the discharge of the National Debt, or such part thereof as they shall think expedient.'

Alarm of
the House
of Com-
mons.

This declaration alarmed the Irish Commons, and called into life all the elements of oratorical power. Hitherto the current of legislation flowed so evenly, and ran in such a narrow groove, that there was little to excite, and excitement is the main-spring of debate. Eloquence must exist in the subject and in the occasion, or it will not be produced in the man; but now enthusiasm glowed in the Irish House of Commons. There were not wanting able speakers. Foremost among them was Prime Sergeant Malone, whose eminence as a barrister I have already mentioned. This gentleman, educated under his father's care, was called to the Irish bar in 1727, and represented the county of Westmeath in the Irish Parliament. He had great practice in the Court of Chancery, and his style of speaking was admirable.¹ Clear as a limpid stream, yet forcible as a mountain torrent, it was so logical that conviction was sure to follow in the train of his argument. Lord Sackville said of him: 'Mr. Malone was a man of the first intellect that country ever produced; the three ablest men I ever heard were Mr. Pitt (the father), Mr. Murray (Lord Mansfield), and Mr. Malone. For a popular assembly, I would choose Mr. Pitt; for a Privy Council, Murray; for twelve wise men, Malone.' 'He is a great sea in a calm,' was another observation applied to him by Gerard Hamilton, a good judge of capable men. 'Ay,' it was replied; 'but had you heard him when he was young you would have said he was a great sea in a

Prime
Sergeant
Malone.

¹ Ante, p. 77.

storm; and like the sea, whether in calm or storm, he was a great production of nature.'

CHAP.
XL.

He was about fifty years of age when the conflict between the ruling powers and the House of Commons broke forth; and with all the vehemence of a patriot, Prime Serjeant Malone advocated the rights of the Commons of Ireland. He was ably supported by the Speaker, and many other Members, while the great majority of the nation applauded their conduct. Whenever the opportunity arose they asserted their rights; but the course taken by the Prime Serjeant was attended with the usual result, loss of Court favour. Whether the Lord Chancellor resisted the proposition of the Government to deprive him of his legal rank, which gave him precedence of the Attorney and Solicitor-General, I know not; but, to the regret of the Bar, and the rage of the people, he was deprived of the office of Prime Serjeant.¹ During the Viceroyalty of the Marquis of Hartington, who had replaced the Duke of Dorset, the state of parties was much unsettled in Ireland. The Chancellor's health was not very good; but he attended Court with regularity, and disposed of his cause list in a satisfactory way.

Prime
Serjeant
displaced.

His Lordship married twice. His first wife was Charlotte Anderson, daughter and co-heiress of Charles Anderson, Esq., of Worcester, by whom he had a son, Robert, his successor.² She died February 23, 1747, and he remained several years a widower. In 1754 his Lordship married again. His second choice was a widow,

Chan-
cellor's
first wife.

¹ In 1757, during the Duke of Bedford's Viceroyalty, Mr. Malone was appointed Chancellor of the Exchequer in Ireland, then a quasi-judicial office, and as he delighted in equity business, sat in Court and did more of the legal work than Chief Baron Willis. It is said there never was an appeal from his judgments; more than can be said of most Chancellors. When he lost this office he returned to the equity practice with a patent of precedence. After the accession of King George III. he supported the Government until the period of his lamented death, May 8, 1776.

² Robert, second Viscount, succeeded his father in 1756. He had previously, in 1752, married Anne, daughter and heiress of James, Earl of Clanbrassil. He held the office of Auditor-General of Ireland, and was created Earl of Roden, of High Roding, in the County Tipperary, September 9, 1771.

CHAP.
 XL.
 Second
 wife, Lady
 Rosse.

Created
 Viscount
 Jocelyn.
 Death,
 A.D. 1756.

Frances, daughter of Thomas Claxton, Esq., and relict of Richard, first Earl of Rosse, the practical joker who could not refrain from jesting on the verge of the grave. She was a lady of considerable personal attractions, and is favourably mentioned by a very competent judge, Mrs. Bushe. Mrs. Delaney (Mary Granville), writing to her sister, Mrs. Dewes, shortly after the wedding, alludes to a heavy equity suit, in which Mr. Delaney was concerned, and which occasioned him much anxiety: 'I think this is a good time to wish our cause to come on, for surely my Lord Chancellor must now be in a very good humour. I had a letter from Mrs. Bushe last post. She says Lady Newport (Lady Rosse that was) looks very handsome.'¹ The marriage did not conduce to longevity in the Chancellor; two years barely elapsed before he died. He had, in the year following his marriage, been created Viscount Jocelyn;² but honours or distinctions of rank and power could not prolong his life. The Lord Chancellor died on October 25, 1756, and was succeeded in his office by the Chief Baron of the Exchequer, Bowes; and in his title and estates by his only son, Robert, from whom the present Earl of Roden is lineally descended.

¹ Correspondence of Mary Granville, vol. iii. p. 312.

² December 6, 1755.

CHAPTER XLI.

LIFE OF JOHN, LORD BOWES, LORD CHANCELLOR OF IRELAND, FROM HIS BIRTH TO THE RUMOURS OF FRENCH INVASION IN 1759.

IN compiling my memoir of Lord Chancellor Lord BOWES, I have to lament the want of any account of his early career. The very short statement in Duhigg's 'History of the King's Inns,' 'that he came to the country in the train of Chancellor West' being nearly all that I can find respecting him. Lord Chancellor West died in 1726, having been but one year in office, when Mr. Bowes was not more than twenty-nine years of age, which would give 1697 as the date of his birth. He was a native of Surrey in England, and possessed powerful friends. He was called to the Bar at the Inner Temple, Trinity Term, 1718. Duhigg says Bowes had two methods of attaining an independent station, each sufficient to insure him success, were he deficient (which was not the case) of legal talents. He was a native of England, and might return thither, where he had a powerful patron in Sir Philip Yorke, then Attorney-General of that kingdom, or under that banner solicit Irish promotion. He preferred remaining in Ireland, and was called to the Irish Bar by the Benchers of the King's Inns, in Michaelmas Term, 1725. He soon obtained considerable practice, and received the rank of Serjeant in 1727.¹

Mr. Bowes was a graceful and fluent speaker. His abilities as a debater recommended him to the Government, and he was elected member of the Irish House of Commons. Duhigg says, 'He was returned to Parliament

CHAP.
XLI.

Scanty materials for a memoir of Lord Chancellor Bowes.

Birth. Native of Surrey. Called to the Bar in England in 1718.

Called to the Irish Bar, Michaelmas Term, 1725.

Serjeant in 1727.

Obtains a seat in the Irish House of Commons.

¹ Patent, May 4, 1727. He became second Serjeant by Patent dated January 18, 1728.

CHAP.
XLI.

without any intercourse with constituents or injury to his purse, Government having given to the borough-monger official compensation. He became a zealous supporter of the administration, and whenever occasion required his advocacy, it was always forthcoming to uphold the Ministerial views. His practice at the Bar was not diminished by his senatorial labours: it was extensive and lucrative, and as at this period the Irish Bar boasted of men second to none in legal acquirements and capacity, it is no small credit to Bowes that he was competent to hold his ground with them. I have already given the very high eulogium on his powers of oratory and judgment as Counsel for the Crown on the prosecution before the Peers of Lord Santry, when Bowes was Solicitor-General,¹ which office he received on the promotion of Jocelyn as Attorney-General in 1730.² Sir Robert Walpole took considerable interest in his advancement, and as Sir Robert was Prime Minister, any recommendation from him was sure to be promptly attended to.

Solicitor-General,
1730.

Attorney-General
in 1739.

On the advancement of Robert Jocelyn from the office of Attorney-General to that of Lord High Chancellor, on September 11, 1739, Bowes became Attorney-General. He did not remain long Law Officer, for when Chief Baron Marley exchanged the chief seat on the Exchequer Bench for that of the Lord Chief Justiceship in 1741, the Attorney-General succeeded him. He had as his puisne Barons Richard Mountney and Arthur Dawson, whose name is well known in Irish convivial circles as the humorous author of 'Bumper, Squire Jones.'³

Puisne
Barons,
Mountney
and Dawson.

¹ Ante, p. 71.

² Privy Seal, Windsor, September 28. Patent, October 23, 1730. 4 Geo. II. pars f. R. 27.

Arthur
Dawson.

³ Arthur Dawson, third Baron of the Court of Exchequer in Ireland, was born in Dublin. His father was Secretary to the Lord Lieutenant in the reign of Queen Anne. The Baron was remarkable for his legal knowledge and convivial habits, which, as Lord Chesterfield remarked, were very prevalent amongst the Irish gentry. One of the most celebrated houses in Ireland for mirth and bacchanalian revelry was Moneyglass, County Leitrim, the seat of Squire Jones popularly called 'Bumper.' Here Carolan, the eminent Irish minstrel, loved to take up his abode, repaying the hospitality he experienced with his enchanting

While Chief Baron Bowes presided on the Exchequer Bench occurred a trial at the Bar in Michaelmas Term 1743, which deserves to receive more than a passing mention.

CHAP.
XLI.

music. He composed, in compliment to his host, the well known plauxty or drinking-song, for which Baron Dawson wrote the words, entitled, 'Bumpers, Squire Jones.' I give a few verses:—

Remark-
able trial
at the Bar,
A.D. 1743.
Bumper,
Squire
Jones.

Ye good fellows all
Who love to be told where there's claret good store;
Attend to the call,
Of one who's ne'er frightened,
But greatly delighted,
With six bottles more:
Be sure you don't pass
The good house, Moneyglass,
Which the jolly red god so peculiarly owns,
'T will well suit your humour,
For pray what would you more
Than mirth, with good claret, and bumpers, Squire Jones?

Having gone through the conditions of 'lovers who pine,' 'poets who write,' 'soldiers so stout,' 'clergy so wise,' he proceeds to his own profession:—

Ye lawyers so just,
Be the cause what it will, who so learnedly plead,
How worthy of trust!
You know black from white,
Yet prefer wrong to right,
As you chance to be fee'd;
Leave musty reports,
And forsake the King's Courts,
Where dulness and discord have set up their thrones;
Burn Salkeld and Ventris,
With all your damned entries,
And away with the claret, a bumper, Squire Jones!

He then despatches the doctors, and winds up with:—

Ye fox hunters eke,
That follow the call of the horn and the hound,
Who your ladies forsake,
Before they're awake,
To beat up the brake
Where the vermin is found:
Leave Piper and Blueman,
Shrill Duchess and Trueman:
No music is found in such dissonant tones,
Would you ravish your ears
With the songs of the spheres,
Hark away to the claret, a bumper, Squire Jones!

CHAP.
XLI.

This was the cause of 'Lessee of ANNESLEY v. EARL OF ANGLESEY.' It is generally believed the incidents of this trial were used by Sir Walter Scott in the construction of 'Guy Mannering,' the names of some of the witnesses appearing as those of characters in the novel. An expression, too, of one of the witnesses for the plaintiff, 'He is the right heir if right might take place;' is likely to have suggested the Bertrand motto, 'Our right makes our might.' The main incidents I have taken from the 'Gentleman's Magazine.'¹

The romantic story of James Annesley, Lord Altham.

A young gentleman named Richard Fitz Gerald, while travelling from Dublin to a friend's house in the County of Wexford, in the year 1715, found himself benighted near Dunmain, the seat of Lord Altham. It was quite customary in those days of good fellowship and hospitality for travellers in such circumstances to knock boldly at the door of the nearest mansion and demand supper and a bed. Mr. Fitz Gerald followed this custom, and soon stood by a good fire, welcomed by Lord Altham, who was in a state of hilarious excitement, which he readily accounted for; on that very evening Lady Altham had made him a father! Their marriage had been childless for many years, and now he had to rejoice in the birth of a son and heir. The guest shared in the joviality which prevailed at Dunmain that night, and, before pursuing his journey next day, was allowed to see the young and welcome heir of the house of Altham, on which occasion he presented a piece of gold to the nurse who held the child. Little could Mr. Fitz Gerald foretell that, after a lapse of twenty-eight years passed in the army of the Queen of Hungary, he would assist in recovering for the babe, whose eyes were yet unused to the light of day, the rank and fortune then apparently his right. The birth of the child did not cement the union between Lord and Lady Altham. Lord Altham, a man of violent passions and irregular life, treated his meek and forbearing wife with such cruelty that a separation ensued. She resided in England, and

¹ July 1840.

his remittances for her support, growing smaller as years rolled on, ceased for a time, which reduced her to starvation of body and imbecility of mind. The luckless fruit of this hapless marriage, young James Annesley, was doomed to be as little cared for as his unhappy mother. Lord Altham entrusted him to the care of a woman of dissolute life, named Juggy or Judith Landy, a dependent on his bounty, who occupied a miserable thatched cabin about half a mile from Dunmain. Here the child of noble birth, heir to the honours and manors around, was brought up. Whatever sins the woman Landy had been guilty of, want of care of her young charge was not alleged against her. She lavished upon the boy most affectionate solicitude; he had endeared himself to her as children often do, and when the boy was removed from her by Lord Altham, she was so unwilling to allow much time to elapse without seeing the child, that the cruel Peer, in his anger, ordered his groom 'to horsewhip and set the dogs on her.'

This vicious Lord removed with his son to Dublin, where Lord Altham devoted himself to a profligate life. He associated with the most worthless of the male, and most degraded of the female, sex. One of the latter, named Gregory, acquired such an ascendancy over the weak and dissipated Lord Altham, that he allowed her to call herself Lady Altham, and she induced him to drive from his presence and home his only child, who thus became an outcast on the Dublin streets.

As the inevitable sequence from Lord Altham's career, his finances were soon at the lowest ebb. The harpies who infested his house were insatiate, and his Lordship borrowed money upon his reversionary interest in the estates of the Earl of Anglesey, to whom he was heir-at-law. As James Annesley, Lord Altham's son, would have proved an important legal impediment to these transactions, he was reported dead. His existence, however, was traced, on which it was then asserted he was the illegitimate son of Lord Altham and Juggy Landy.

The course of life led by Lord Altham does not conduce

CHAP.
XLI.

to longevity. He died in wretched circumstances in 1727, while his little son was but twelve years old. A pauper's burial has few to attend the ceremony, and Lord Altham was a pauper ere he died. Among the few who followed the coffin was a half-naked boy, aged twelve years, around whose delicate limbs an old yellow livery waistcoat hung. This was James Annesley, then Lord Altham.

But the title was usurped. The Hon. Captain Annesley, brother of the deceased Peer, perhaps believing the child was the offspring of some illicit amour of his unworthy brother, assumed the title. When he became satisfied that his nephew, the child, was legitimate, instead of yielding his rank, he sought to get possession of the boy, with a view to put him out of the way. For some time the boy escaped the emissaries of his uncle, owing to the protection of a butcher named Purcell, who took pity on the destitute child. At length he was captured, placed by his uncle's directions on board a vessel bound for America, where he was employed to work in a plantation, and remained in this lowly servitude for thirteen years.

During these years occurred the death of the Earl of Anglesey, on which event that title, with large estates, devolved upon the usurper of the title and rights of Lord Altham.

James Annesley endured great privation while in exile, and made many attempts to escape before he succeeded. We find he escaped at length, and became a sailor on board a British man-of-war. He was identified by some persons on board, and Admiral Vernon, then in command of the West India station, wrote an account of this singular case to the Duke of Newcastle, Prime Minister, and in the meantime supplied the young Lord Altham with clothes and money, and treated him with the respect due to his rank.

The moment the Earl of Anglesey was aware of these events, which threatened to deprive him of his usurped position, he took prompt steps to retain the most eminent Counsel of the Bar in the anticipated legal proceed-

ings against him. When young Lord Altham arrived in Dublin several of the old servants from Dunmain visited him, and knew him at once. Some, in the exuberant feelings to which the Irish nature is prone, cast themselves on their knees, and ‘blessed God they lived to see his lordship come to claim his own.’

It was said the Earl was so much alarmed by the arrival, and recognition, of the young heir, he was desirous of effecting a compromise; and, with a view of residing in France, commenced to study the French language, when an event took place that threatened to rid him of his rival.

Lord Altham, when out shooting in England, accidentally shot a man, and this was an opportunity the Earl tried to turn to account by having Lord Altham prosecuted. The coroner’s jury, however, having found that death was the result of the accidental discharge of Lord Altham’s gun, was a great disappointment to the Earl. He employed an attorney named Gifford, and tried a prosecution against the object of his fears, which ended in the acquittal of Lord Altham, and cost Lord Anglesey a thousand pounds.

These circumstances were commented on in the newspapers of the day, and meeting the eye of Colonel Fitz Gerald, who had grown grey in the service of Hungary, and returned to England full of honour and wealth, he remembered his visit to Dunmain the very day of the boy’s birth, lost no time in seeking an interview, told the young Lord all that we know already, and finished by offering his fortune to restore his young friend’s rights. A skilful and experienced Irish attorney was engaged, an able Bar instructed, and the importance of the issue justified a trial before the full Court of Exchequer, which commenced in the year 1743.

A highly respectable special jury was empanelled for this great trial. The plaintiff had for his counsel Robert Marshall,¹ Second Serjeant; and Philip Tisdall, the Third Serjeant; while for the defendant there appeared the Prime Serjeant, Anthony Malone; the Attorney-General,

Plaintiff’s
counsel.

¹ Afterwards Chief Justice of the King’s Bench.

CHAP. St. George Caulfield; the Solicitor-General, Warden
 XLI. Flood; Eaton Stannard, Recorder of Dublin; and nine
 Defendant's other members of the Irish Bar. The plaintiff substan-
 counsel. tially proved by his witnesses the case above narrated, one
 of the witnesses declaring, 'If right might take place, he
 is the right heir.' The ground of resisting the plaintiff's
 Defendant denies the legitimacy of the Plaintiff.
 claim was chiefly the illegitimacy of James Annesley, whom
 the defendant sought to prove the child of Juggy Landy,
 'a clean, bright girl,' resident on the property, and occa-
 sionally employed in the house of Lord Altham at Dun-
 main. The summing up by Baron Dawson noticed the
 duration of this singular case:—'This is the longest trial
 ever known at the Bar; this is the fifteenth day since
 The charge to the Jury. the trial began; trials at Bar are usually determined in
 one day. There are such contradictions on both sides of
 the question, that it would not be hard to show that several
 witnesses on each side are not to be credited. Several of
 the witnesses on each side not only contradict the wit-
 nesses on the other side, but also, in many instances,
 themselves; and therefore, independent of other things
 proper to be considered, one could not tell where to settle.'
 His lordship then went fully and minutely through the
 various circumstances, and offered such suggestions as
 were warranted. The jury did not delay very long in
 finding a verdict. After a deliberation of about half-an-
 hour, they found for the plaintiff, to the dismay of the
 defendant. The Earl then used all the engines in the
 Verdict for the Plaintiff. armoury of the law to procrastinate giving possession.
 He obtained a writ of error, and the case went on for
 Writ of Error. years, until its further progress was stayed by a decision
 from which there was no appeal. James Annesley died
 Death of James Annesley. in 1759, without having been married, and the Earl con-
 tinued in possession until his death.

When the Lord-Chancellorship of Ireland was at the
 Chief Baron named for Great Seal. disposal of the Government by the death of Lord Chancellor
 Lord Jocelyn, in December 1756, there was considerable
 speculation as to his probable successor. In Ireland popu-
 lar belief generally pointed at Chief Baron Bowes, while

in England Lord Mansfield—Lord Chief Justice—was named.¹ The selection proved the Irish opinion right. Chief Baron BOWES was appointed Lord Chancellor in 1757, and on the assembling of the Irish Parliament, on October 11 in that year, took his seat on the woolsack as Speaker of the House of Lords.

CHAP.
XLI.

Lord Mansfield also spoken of. Bowes Lord Chancellor, A.D. 1757.

The Lord Chancellor continued to discharge the duties as Speaker of the House of Lords without a peerage for some time, but on August 15, 1758, he was created Baron Bowes of Clonlyon, and when the House next sat for the despatch of business in the year 1759, he was introduced to his brother Peers between Barons Mornington and Rusborough in their robes. The usual ceremonies of the Gentleman Usher of the Black Rod, and Ulster in his Coat of Arms, carrying his Lordship's Patent and reading his summons, were gone through, after which he took the oaths, and subscribed the declaration required by the Statutes.

The Cause List of Chancery was left by Lord Jocelyn somewhat in arrear, and on the adage of new brooms sweeping clean, Lord Chancellor Bowes soon reduced the list of causes. As the decision of a Judge is sure not to please all parties, the decree of Lord Chancellor Bowes in a suit instituted against the Rev. Dr. Delany, Dean of Down, was by no means pleasing to that eminent divine. This we gather from these agreeable letters of his high-born and talented wife, *née* Granville, and it went so far, that, when both gentlemen were invited to the same table, the hostess thought it well to apprise the Delanys of the fact, which prevented their meeting. Mrs. Delany wrote an account of this party to her sister, Mrs. Dewes, from Delville, her seat, near Glasnevin, Dublin, on May 12, 1759 :—

Cause List in arrear.

Decree against Dean of Down.

¹ 'Chief Baron Bowes is named for an Irish Chancellor; *here* (in England) they say Lord Mansfield will be the man, if he will accept it.'—Mrs. Delany ('Mary Granville's Letters,' vol. iii. p. 455). I do not think it was offered to Lord Mansfield. He was then Lord Chief Justice of the King's Bench of England, and, according to Lord Campbell, 'was offered the higher dignity of Lord Chancellor of England, but at once rejected the proposal.'—Lives of the Chief Justices, vol. iii. p. 446.

CHAP.
XLI.

The Dean declines to meet the Lord Chancellor.

‘At 2 o’clock a note came from Lady A. Dennys to say, as some of her company might not be quite agreeable to us to be surprised with, she thought it proper to let us know who they were—Lord Shelburne, Lord Kerry, *Lord Chancellor*, &c.¹ I was at a loss at first, but sent her a note to say that D. D. (Dr. Delany) was in the Four Courts, and was apprehensive when he went that it would not be in his power to wait on her, which was really true; and I sent him a note which determined him not to dine at Lady A. Dennys. I went and Sally. An excuse was made to me for not recollecting circumstances, which *might* have made such a meeting *disagreeable to me!* But it was quite easy to me; I had no reluctance in the meeting; “if an excuse was wanted, it was to the persons who had done the injury, as it might *not* be *quite so easy to them.*” This was the answer I made. Lady A. Dennys is a civil, sensible woman, but she must have been in a very absent way when she invited her company. The Chancellor officiously addressed himself to me in conversation; he is in a miserable state of health, with legs bigger considerably at the ankle than at the calf.’

The fact of the Chancellor conversing with Mrs. Delany shows him to have been a true gentleman, willing to show that public duty did not interfere with courtesy to a lady.

At the conclusion of the session of Parliament in 1758, the House of Lords presented through the Lord Chancellor a highly complimentary address to John, Duke of Bedford, then Viceroy,² in which they state:—‘We justly consider

The Lords’ address to the Duke of Bedford.

¹ Note in Lady Llanover’s book—‘John, Lord Bowes, Lord Chancellor of Ireland from 1757 to 1767, who was very much opposed to the Dean during the lawsuit.’

² This nobleman was son of Wriothesley, second Duke of Bedford, and grandson of Lord William Russell, who took so prominent a part in the efforts made to exclude James II. from the British throne. His grandmother was the noble-hearted wife, Lady Rachel Russell, who, when her husband was tried at the Old Bailey for high treason on June 13, 1683, took notes of the evidence to enable him to make his unavailing defence, and wrote on while her tears mingled with the ink. In 1744, John, Duke of Bedford, was appointed First Lord of the Admiralty, and at the breaking out of the rebellion in Scotland raised a regiment for the service of King George II. From 1748 to 1751 he

the appointment of your Grace to the government of Ireland as a most interesting proof of his Majesty's paternal goodness. The principles and virtues inherited by your Grace from your illustrious ancestors had always been the objects of our reverence and admiration; and the vigorous exertion of these virtues by your Grace in important stations—equally to the honour of the Crown and the advantage of the publick—afforded us the most lively presage of happiness in being committed to your Grace's care.'

CHAP.
XLI.

It is very noteworthy that in the viceroyalty of the Duke of Bedford the first dawning of toleration towards the Catholics appears. It is true there were professions in the time of former Lords Lieutenant, especially in that of Lord Chesterfield's; but before the Duke of Bedford accepted the office 'he openly avowed that, were he to accept it, he should not govern on the narrow maxims of intolerance and exclusion which had hitherto prevailed.'¹ These sentiments were so acceptable to the Catholics, that ten days after his appointment was known exhortations to tranquillity and obedience were read from the altars in the Catholic Chapels of Dublin, in which the hope that had been held out by some honourable persons of a mitigation of the penal laws was noticed, and the blessing of Heaven invoked in favour of so generous a design.²

Toleration
to Catho-
lics.

Shortly after his arrival a measure was proposed by Lord Clanbrassil for the registration of Roman Catholic priests. The Primate, Archbishop Stone, and Lord Chancellor Bowes, the Chief Justice, and Chief Baron Willis, opposed it, on the bigoted grounds 'that it would prove a toleration of that religion which it had been the general policy of England and of Ireland to persecute and to depress.' The discussion before the Privy Council was warm and animated; it occupied five hours, and the Lord was one of the principal Secretaries of State. In 1757 he became Lord Lieutenant of Ireland, which he held until 1761. In 1762 he was Minister Plenipotentiary at the Court of France, and died in 1771.

Bill for
Registration
of
Priests.

Opposed
by the
Lord Chan-
cellor.

¹ Correspondence of John, Duke of Bedford, vol. ii.

² Ibid. vol. ii. Introduction, 14.

CHAP.
XLI.

Discussed
before the
Privy
Council.
Duke tries
to effect
reforms.

Lieutenant delivered a very able argument in support of the measure, which, however, was thrown out by fourteen to twelve.

The Duke wished to maintain upright and impartial conduct in the government, and commenced by exacting strict attendance of all officials, especially officers of the army and military chaplains. He also sought to prevent increase of pensions, which at that time absorbed a great portion of the revenue of the kingdom.

The
Duchess of
Bedford.

In his endeavour to acquire popularity he was ably seconded by the Duchess of Bedford.¹ Walpole, in his 'Memoirs,' says, 'The Duchess pleased universally. She had all her life been practising the part of a queen; dignity and dissimulation were natural to her.'² The Irish were charmed with a woman who seemed to depart from her state from mere affability.'

Richard
Rigby, the
Viceroy's
secretary.

But the person who influenced them both, and exerted no small share of power over the affairs of Ireland, was Richard Rigby, the Viceroy's Secretary. He is thus described by his cotemporary: 'Rigby had an advantageous and manly person, recommended by a spirited jollity that was very pleasing, though sometimes roughened into brutality: of most insinuating good breeding when he wished to be agreeable. His passions were turbulent and overbearing, his courage bold and fond of exerting itself; his parts strong and quick, but totally uncultivated; and so much had he trusted to unaffected common sense, that he could never afterwards acquire the necessary temperament of art in his public speaking. He was a man who was seldom loved or hated with moderation; yet he himself, though a violent opponent, was never a bitter enemy.'³

A manag-
ing
Viceroy.

As the task of managing the House of Commons—bent on exercising the prerogative of controlling all supplies, irrespective of the Crown—was a difficult one, the Lord

¹ She was his second wife—Gertrude, daughter of John, first Earl Gower. He married her in 1737. His first wife was Diana, daughter of Earl Sunderland. She died 1735, leaving no child living.

² Not very complimentary to female sovereigns.

³ Walpole's Memoirs, vol. ii. p. 255.

Lieutenant, acting in concert with the Lord Chancellor, resolved to ascertain who was for and against the Ministry. He tells us in his correspondence the course he adopted to ascertain this end:—

CHAP.
XLI.

‘Dublin Castle, November 14, 1757.

‘I sent for the gentlemen whose names are under-written, servants of the Crown, and members of the House of Commons, to insist upon receiving from them, singly, a categorical answer upon the point,—

‘Whether, in case a question of adjournment, in order to prevent the proceeding to-day on the Money Bill, should be proposed in the House, “each would use his utmost endeavours to prevent the carrying such a question?” And,

Questions
for
answers.

‘Whether each will co-operate to the best of his power towards carrying through the Money Bill, in order to its being transmitted to England in time to be passed before the old one expires?’

‘In case my not having sent an answer to the House, whether I would transmit their resolutions of November to his Majesty, should be alleged as a reason for postponing the Money Bill, to show the impropriety of that doctrine; particularly in those who are attached by their employments to the Crown; because the King’s and the public business should not be stopt, and that exceeding confusion brought on which must necessarily attend the loss of a Money Bill, because the Lord Lieutenant has not given the actual promise of transmitting which the Commons desired; for if he shall have done wrong there is a Parliamentary way of proceeding against him, without in the least endangering a bill necessary for the service of his Majesty and the public.’

This attempt to coerce the Government officials to vote in compliance with the Minister’s views, was very embarrassing to these gentlemen. The Speaker, the Right Hon. John Ponsonby, denied ‘having any knowledge of what resolutions would be agreed to by the House of Commons till they were brought into the House; and, as the Speaker of the House, considered it was highly improper

Reply
of the
Speaker.

CHAP.
XLI.

to require from him, as it would be in him to give, any assurance upon a subject which might affect the privilege of the House, which he, as Speaker, was specially bound to maintain.' The Lord Lieutenant then pressed him to engage his friends to support the Government, and not to suffer the Money Bill to be postponed; but he coldly replied, 'he could not influence any honourable members on a point of this sort, who would go with their party according to their own opinions.'¹

The Attorney-
General.

The Solicitor-
General.

Warden Flood, the Attorney-General, was more complaisant.² He gave an absolute promise to support the Government; while the Solicitor-General, Philip Tisdall, was quite the other way, and most explicit in his declaration of insisting to have a positive and simple promise of transmitting before he could give his consent to proceed on the Money Bill. The Viceroy tried all the arts of cajolery and persuasion to induce the Solicitor to alter his determination; he reminded him of his duty to the King, whose servant he was, and exhausted every argument that occurred to him.³ All was in vain: Tisdall was neither to be swayed from what he conceived to be the line of duty by the sunshine of Court favour, or the chillness of Royal wrath. Sir Thomas Prendergast, Postmaster-General, declared 'that should an adjournment be proposed for a week, or a longer time, he would certainly vote against it;' but was not so rigid in his resolution as the Solicitor-General. Most of the subordinate officials, as might have been expected, were too much under control to resist the commands of the Viceroy; but all was of no avail. On the question of postponing the Money Bill the numbers were 85 to 64 against the postponement; so the Government were beaten by a majority of 21. The Viceroy was very angry. He complained 'that persons employed in the Revenue, officers of the army, and, what

Post-
master-
General.

The
Ministry
defeated.

Com-
plaints
of the
Viceroy.

¹ Bedford Correspondence, vol. ii, p. 289.

² He was promoted to the Chief Justiceship of the King's Bench in 1760. His son was the Right Hon. Henry Flood, a very distinguished Irishman.

³ Bedford Correspondence, vol. ii, p. 290.

he regarded still more extraordinary, Commissioners who had reaped the benefit of his Majesty's bounty, voted against the Government.' The Primate was supposed to have prompted this opposition of the House of Commons. The success of this effort to assert the independence of the Irish Parliament induced some bold spirits to meditate an alteration in Poyning's Law.¹

CHAP.
XLI.

Repeal of
Poyning's
Law
spoken of.

As the Government was very anxious to secure a majority in the Irish Parliament, to enable them to carry their measures without conceding the claim of the Irish Parliament, the Duke of Bedford, acting on the advice of the Lord Chancellor, distributed the favours of Government in a manner to aid that result. The love of conviviality and hard drinking, then prevalent in Dublin, was ably sustained by the Lord Lieutenant's Secretary, Rigby, whose banquets, if not so numerous attended as those of our present estimable Chief Secretary,² or so graciously presided over, were pleasant and jovial.

Social
habits of
the Irish
Secretary.

The extent to which Mr. Rigby carried his social habits gave alarm to the more staid members of his party, and occasioned remonstrance from Sir Robert Wilmot;³ to which he replied: 'Now for the drunken story. It is very certain Mr. Pery and I have once dined together since I came to Ireland, and it is as true that we liked one another well enough not to part till near three in the morning, long before which time the company was reduced to a *tête-à-tête*, except one other drunk and asleep in a corner of the room. Who, therefore, has been accurate enough to remember the whole conversation I cannot imagine; but you may assure yourself their ingenuity much exceeds their veracity. I have never heard or seen any symptoms of anger from Kildare,⁴ or Malone,⁵ from

Rigby's
reply.

¹ Bedford Correspondence, vol. ii. p. 297.

² Right Hon. Chichester Fortescue, whose entertainments, presided over by his generous and amiable wife, Frances, Countess Waldegrave, exceeded in splendour and repetition all former festivities at the Chief Secretary's Lodge.

³ Head of the Irish Department in London.

⁴ James, twentieth Earl of Kildare, created Marquis of Kildare by Patent dated March 19, 1761; and Duke of Leinster, Patent, November 26, 1766.

He built Leinster House, Dublin.

⁵ Right Hon. Anthony Malone.

CHAP.
XLI.

that night's jollity till I read it in your letter this morning. We both, I believe, made free with the times, as people in high spirits and in their cups are apt to do; but I really believe, were I to show it to him, Pery would be as much surprised as I am to hear that our fun was made matter for serious discourse or deliberation. I am much obliged to you, Sir Robert, for sending me all these stories; I am as much entertained, and can laugh at them more than those that invent them. I know that a Secretary is lawful game for everybody to fly at; and I should be very sorry to have led so insipid a life as to be suffered to pass unenvied, and consequently uncensured, through that employment. Let me hear from you—the oftener the better; and when from Parliament and closet, from councils and bumpers, I can find time to work, I shall think my time well bestowed to answer you.’¹

The Chancellor and Rigby.

Duties as Speaker of the Lords easy.

Contrast presented by the House of Commons.

The Chancellor got on very smoothly with this jovial official. The Court of Chancery had a great share of business; but this the Chancellor liked, and his duties as Speaker of the House of Lords were comparatively easy. That august assembly rarely numbered thirty Peers, including a dozen Bishops, and their proceedings were of a tame and formal nature. Preparing or receiving addresses, introducing Peers, conferences with the Commons, enlivened by few debates of any importance, was their chief work. This formed a strong contrast to the business of the House of Commons, where stirring action constantly went on. The Chancellor must have congratulated himself on the easy task he had to perform, when Rigby complained, ‘I am kept every day in the House of Commons till six or seven o’clock’² on one nonsensical motion or another. I am railed at by one party for being the mover of all these inflammatory inquiries and the grand incendiary, and the other condemning me for my candour and good humour towards (for they would not have me speak to) any that vote against the Castle.’

¹ Correspondence of the Duke of Bedford, vol. ii. Introduction, p. 23.

² The House met early in the day.

But he bore them good humouredly, and told the Chancellor 'that if he could have a day's cockshooting now and then, he would not mind continuing at his post for years.'

CHAP.
XLI.

The state of affairs in France caused much anxiety to the British Government at this period, and Rumours of a French invasion were prevalent.

CHAPTER XLII.

CONCLUSION OF THE LIFE OF LORD CHANCELLOR LORD BOWES.

CHAP.
XLII.
Rumours
of invasion.

RUMOURS of a French invasion, in A.D. 1759, under the guidance of Conflaus, caused some attention to be paid to the claims of Catholics. Dr. Curry¹ and Mr. O'Connor,² men of learning and high personal character, advocated the cause of their oppressed co-religionists with ability and zeal. Nor were their exertions unaided by kind and sympathising Protestants. Alderman George Faulkner, a Protestant, held out his hand to the prostrate Catholic, recognised him as a fellow Christian and a brother, and endeavoured to raise him to the rank of a subject and a freeman.³

Address
from the
Catholics.

A meeting of Catholics was held in Dublin, and an address prepared by Mr. Charles O'Connor, expressive of their readiness to support his Majesty's Government against all hostile attempts, and of their hopes that means might be devised to render so numerous a body more useful members of the community than they could possibly be under the restraint of penal laws.⁴ It was presented to the Viceroy by Mr. Ponsonby, Speaker of the House of Commons. This direct allusion to the code, and the hope of some relaxation, caused a cold reception to be given to this address.

A French
invasion
threatened.

In the summer of 1759 considerable fears were entertained of the French invasion, and intelligence reached the British Government that Ireland was the place where

¹ John Curry, M.D., an eminent physician of Dublin.

² Charles O'Connor, Esq., of Ballinagar, ancestor of the O'Connor Don, M.P.

³ History of the Irish Catholics, by O'Connor, p. 254.

⁴ Ibid.

the first landing was to be effected. The Lords Clare¹ and Clancarty were to command the expedition. The Viceroy (Duke of Bedford), then in London, attended a meeting of the Ministry, held at Lord Holderness's house, on May 8, and stated that garrisons should be placed in all the large towns for the security of the Protestant inhabitants, which would leave him but 5,000 men to meet the enemy. A resolution was then formed to man the greatest fleet that could be got together, to rendezvous at Torbay, and from thence to stretch over to the French coast, in order to deter or defeat the meditated invasion. As an additional precaution, a strong body of infantry was to be encamped on the Isle of Wight, with transports to be kept ready to convey the troops wherever danger was most urgent. As troops could not be spared from England, the Lords agreed that the King's pleasure should be taken about arming the militia of Ulster, and sending all officers on leave from the Irish establishments to their posts, which the King immediately agreed to.

CHAP.
XLII.

Viceroy states the requisite precautions.

The Ulster Militia.

The Lord Lieutenant at once communicated with the Lords Justices, requiring them to see that everything directed by the English Government was strictly complied with, and the officers not permitted to loiter in Dublin or elsewhere.

Lord Rothes, then Commander of the Forces in Ireland, the Primate, Dr. Stone, and the Speaker of the House of Commons, discussed the state of affairs. As some apprehension existed that the Roman Catholics would join the French, the Primate, in a letter to the Viceroy from Dublin, May 28, 1759, thus refutes the notion:—‘I beg leave to hazard my private opinion to your Grace, that there is little or no danger to be apprehended from them. This is my firm persuasion, and I would risk all I am worth upon it. I do not indeed doubt but if a French army were to land, many single vagabonds would be ready to

Fears respecting the Roman Catholics.

Vindication of the Catholics by the Protestant Primate.

¹ Charles O'Brien, sixth Viscount Clare.—See Lady M. Wortley's Letters, vol. ii. p. 158.

CHAP.
XLII.

take arms with them ; but I am almost confident the Roman Catholics of property, whether landed or moneyed, would not assist, but they would rather fear than wish such an attempt from the French ; and that some of them would even give assistance towards serving his Majesty. I am well acquainted with several of the heads of that people, and I think I know something of their sentiments.’¹

Viceroy's
message
to the Irish
Parliament.

On returning to Ireland, his Grace the Duke of Bedford acquainted both Houses of the Irish Parliament with the necessity of taking measures for the defence of all most dear to them. He urged a timely preparation to resist and frustrate any attempts of the enemy to disturb the quiet and shake the security of this kingdom. The Lord Chancellor, by order of the Lords, presented an address to his Excellency, and there appeared a spirit exerted for the defence of the country highly gratifying to the Lord Lieutenant.

Mr. Pitt's
reply to
the Viceroy.

In the reply of Mr. Secretary Pitt to the despatch of the Duke of Bedford, just referred to, that minister entirely ignores the aid of the Roman Catholics of this kingdom ; nor was he quite confident of the support of the Protestants. He says, ‘As for the zeal of his Majesty's Protestant subjects in that kingdom, no doubt can possibly be entertained of the sincerity of it ; but the almost total inefficiency of that zeal, though ever so real, in a conjuncture like the present, and such an unfortunate incredulity and supineness in consequence of it, after so strong and so frequent warnings of danger, cannot but administer here much just grounds of wonder and concern. The kingdom of Ireland, if it will call forth and exert its resources, is, by its wealth, and by the number and courage of its Protestant subjects, well able to repel and defeat, *proprio motu*, any attempts of the enemy which may happen to be made there ; nor is it prudent for their own sakes, or reasonable in itself, that the Protestant people of Ireland should, in such a critical and decisive conjunc-

Mr. Pitt
condemns
the apathy
of Irish
Protestants.

¹ Correspondence of the Duke of Bedford, vol. ii. p. 380.

ture as the present, withhold their efforts and sit still till a descent be actually made upon them unprepared, trusting that the reinforcements from Great Britain (who may in that moment be herself the object of actual invasion) are at once to be sent to put an end to a war which, by a timely exertion of their own intrinsic strength, might have been totally prevented or at once repelled.'¹

A report having gone abroad in 1759 that the measure of a Union between the kingdoms of Great Britain and Ireland was likely to be brought forward and would pass the Irish Parliament, the population of Dublin evinced their hostility to this proposed annihilation of home legislation in a marked and decided manner. Crowds of excited citizens, chiefly tradesmen, surrounded the avenues leading to the Parliament House, and, in order to cause them to disperse, Mr. Rigby, the Secretary to the Lord Lieutenant (Duke of Bedford) addressed them, and assured them 'there were no grounds for their apprehensions.' The fears of the citizens, however, were not so easily allayed, and the Speaker of the House of Commons, the Right Hon. John Ponsonby, son of the Earl of Bessborough, who was of a family always popular, next came forward, and with better success. Rigby also made a solemn declaration 'that if a Bill of Union was brought in, he would vote against it,' which satisfied the people, and they dispersed. Their suspicion of this measure not being wholly abandoned appeared to receive some confirmation when a motion was made by Mr. Rigby that 'the Lord Lieutenant be enabled to summon a Parliament without the usual interval of forty days, in the event of an invasion or other emergency.' The citizens considered this was a pretext to enable the Government to pass the obnoxious Union Bill before the nation would be in a position effectually to oppose it.

December 3, 1759, found the city in a ferment. Popular excitement is catching; beginning with the lower ranks, it spreads like wildfire, and kindles the masses imme-

Rumour of a Union between Great Britain and Ireland.

The Secretary to the Viceroy and Speaker address the crowd.

Fears again excited by Rigby's motion.

Fearful excitement in Dublin.

¹ Vide Correspondence of the Duke of Bedford, vol. ii. p. 393.

CHAP.
XLII.

The Peers
mobbed.
Lord
Inchiquin.

diately above, and soon the whole is in a blaze. The population flocked from all quarters, again beset the passages of the Houses of Parliament, and, with all the rude violence inseparable from outbursts of public indignation, they seized many of the members, and compelled them to swear 'fidelity to Ireland, and that they should vote against the Union.' Lord Inchiquin was one of the first peers attacked. The mob pulled off his periwig and red ribbon, and when the impediment of his speech prevented his repeating readily the words of the oath tendered to each member, attributing the delay to refusal, some one cried out, 'D—n you, do you hesitate?'

The Lord
Chancellor
compelled
to take the
oath.

When he was recognised as the head of the ancient house of Thomond, another said, 'For shame! he is O'Brien, of the race of Brien Boroihme.' Whereon, with the sudden revulsion of feeling, also a marked feature of popular commotion, his lordship was cheered, and followed by every demonstration of respect. The Bishop of Killala was made to get out of his coach and take the oath. The Lord Chancellor's (Bowe's) carriage was next seen, as he was on his way to the House of Lords, and when he learned the cause of the tumult, and was required to take the oath himself, he was naturally very indignant. Fearing, however, the consequence of refusing the oath tendered by the violent men, who seemed ready to carry out any measure of resentment, the Chancellor acquiesced, and then a singular circumstance occurred. He was compelled to repeat it in the presence of the Lord Chief Justice Caulfield, for some hazy notion prevailed amongst the rabble of the oath not being binding if administered by persons having no authority to impart it, and that it would receive most binding force if the person was sworn in the presence of a person lawfully authorised to administer it. The Lord Chancellor was then allowed to pass into the House. But the commotion did not end there. Lord Farnham,¹ who was entitled to take his place as a Peer on

¹ This was Robert, second Baron, who succeeded to the title on the death of his father August 6, 1759. He was created Viscount in 1761, and Earl of

the death of his father John, Baron Farnham, was taking the customary Peer's oaths when the people burst into the House of Lords and insisted on Lord Farnham taking their oath also. Finding themselves masters of the situation, the mob proceeded to all the lengths that vulgar and debased tastes could suggest. To show their contempt for the House they brought a feeble old woman and seated her on the throne, where like King Artaxemanes in *Bombastes Furioso*, they placed a pipe in her mouth, and insisted on her smoking. They made a sudden irruption into the House of Commons, and were about to make a bonfire of the Journals, when, by way of diversion, they proposed to hang Rigby, who on November 21 previously, had been made Master of the Rolls. Rigby most likely got a hint of these lawless proceedings, and he prudently went into the country, so that when they went to his house with the determination of executing him on a gallows which they prepared for his use, he was not to be found.

CHAP.
XLIII.

Lord
Farnham
also sworn.

Disgraceful conduct
in the
House of
Lords.

Narrow
escape of
Richard
Rigby,
Master of
the Rolls.

The Castle authorities were in dismay. The Lord Lieutenant, the Duke of Bedford, despatched an express to the Lord Mayor, John Tew, requesting him to quell the disturbance. But that functionary, either from the notion he was powerless, or from some other cause, returned for answer 'that he could not act, as there was no Riot Act in Ireland.' Then in hot haste the Privy Council was summoned, and the Commander-in-Chief¹ received instructions from the Lord Lieutenant, as General Governor of the Kingdom, to employ the troops under his command. Trusting to disperse the rioters with as much forbearance as possible, the General ordered a troop of horse to ride among them, and use their sabres only, *not to fire*; but such was the obstinacy of the multitude that, before the peace of the city was restored, no fewer than sixteen lives

Dismay
at the
Castle.

No Riot
Act in
Ireland.

Forbearance of the
troops.

Farnham in 1763. He was twice married, but leaving no issue male on his decease in 1779, the title of Baron only devolved upon his brother Barry, who, however, restored the family honour and died Earl of Farnham in 1800.

¹ General John Leslie, eighth Earl of Rothes, K. T.

CHAP.
XLII.

Resolution
of the
Commons
in conse-
quence of
this
violence.

Lord
Mayor and
Sheriffs
admo-
nished
by the
Speaker.
Address
from the
Lords.

The King
directs
proceeding
against
the civic
authorities.

Two modes
suggested.

had been sacrificed. These outrageous proceedings very naturally aroused the indignation of the Houses. On the day after this disgraceful affair, the Commons passed a resolution declaring 'that the assaulting, insulting, or menacing any Member of their House, on his coming to or from it, or on account of his behaviour in Parliament, was a high infringement of their privileges, a most outrageous and dangerous violation of the rights of Parliament, and a high crime and misdemeanour.' A Committee was named to enquire and report as to the persons implicated in the riot, and to prepare an address to his Excellency to thank him for his energy in causing the dispersion of the rioters, and requesting him to offer a reward for the discovery of the guilty persons or their abettors. The Lord Mayor and Sheriffs of the city were examined at the Bar, and admonished by the Speaker to observe the orders relative to keeping the avenues of the House free and open, and preventing riotous assemblages. An address was also presented, through the Lord Chancellor, from the Lords, thanking the Lord Lieutenant 'for his seasonable interposition in having made use of the most effectual means for dispersing a most dangerous and insolent multitude of persons assembled before the Parliament House, in order most illegally and audaciously to obstruct and insult the members of both Houses of Parliament attending the public service of the nation, in manifest violation of the rights and privileges of Parliament.' The King was most indignant at the gross supineness of the civic authorities of Dublin, and desired 'that an enquiry should take place by the executive to see what course should be taken to punish their wilful and shameful in exertion.' The Viceroy called a meeting of the Law officers, and, under the seal of secrecy, confided to them such portions of the royal wishes as related to the ordering proper legal proceedings against the magistrates of Dublin for not exerting themselves in quelling the riot, according to their duty. Two modes were suggested. By *quo warranto* against the franchisees of the city, or by in-

dicting the Lord Mayor and Sheriffs on personal acts of misdemeanour for non-execution of the trust reposed in them. These modes were open to objections. As to the first, 'that it could not be sustained;' as to the second, 'the law officers declined to give any assurance of its success until evidence of the Lord Mayor and Sheriffs not having done their duty was submitted to their consideration, as upon the nature and strength of that evidence, the success or failure of the prosecution would depend.' They urged the difficulty of procuring sufficient evidence to induce a jury to find them guilty for their conduct during the riot before the Parliament House, and also the impropriety of most of the Privy Council, who were present in the Viceroy's chamber when he offered the aid of troops to the Lord Mayor, which he refused, to appear in a court of justice as evidence against this magistrate. The Duke of Bedford would have been a most material witness, but felt that his station as representative of his Majesty made it impossible for him to appear in Court on this affair.¹

CHAP.
XLII.

Objections to these modes.

Difficulty of procuring evidence.

Viceroy a material witness.

The Lord Chancellor, smarting under the indignity offered, not only to himself personally, but to his high office of Lord Chancellor of Ireland and Speaker of the House of Lords, was very desirous of having the civic functionaries severely punished. But the difficulties which the Attorney and Solicitor-General believed to be insuperable retarded any action against them in the Law Courts, and soon the French invasion engrossed the attention of all classes.

Lord Chancellor desirous of having the civic authorities punished.

On February 20, 1760, a body of French troops under Thurot effected a landing unopposed at Carrickfergus, about ten miles distant from Belfast, the richest town in Ireland. The small force stationed in the barracks of Carrickfergus were surprised; Lieut.-Colonel Jennings and four companies of Major-General Strode's infantry, who then garrisoned Carrickfergus Castle, made as good a defence

Thurot's invasion, 1760.

¹ I have been present when the Earl of Clarendon, then Viceroy, was examined as a witness in Birch's case. The above particulars are chiefly related in the Duke of Bedford's Letters.

CHAP.
XLII.

The gar-
rison made
prisoners
of war.
Despatch
from
General
Strode.

as they could, killing three or four of the enemy, and wounding the French General who was in command of the attacking party. But their ammunition failing, they were made prisoners of war. In repeating this affair to the Duke of Bedford, Major-General Strode acquaints the Viceroy further: ¹ ‘And this morning (February 22, 1760) a flag of truce came into town (Belfast) and made a demand of the several articles undermentioned (stores), to be delivered this day at two o’clock, promising to pay for them, and threatening in case of refusal to burn Carrickfergus, and afterwards to come up and burn this town also: with which demand the gentlemen of Belfast thought it best to comply. About five or six hundred of the country militia came to town to-day, but are very ill provided with arms, and have great scarcity of ammunition,² though I spared them part of what I had.

‘I am informed the French lost about four or five at Carrickfergus, and our people about three or four.’

The
Viceroy
blamed.

The Viceroy was much blamed for allowing this surprise, and not having the militia properly provided with arms and ammunition, for had the enemy landed in greater force, and made a descent upon Belfast, the consequences might have been most disastrous. Mr. Pitt, whose warnings were neglected, had just reason to be indignant. The Duke made every effort to repair former neglect, and Thurot set sail again without delay, taking as prisoners of war along with him the Mayor of Carrickfergus and two other gentlemen. They were not long in captivity. The Duke of Bedford communicated Thurot’s departure to Captain Elliot, of the Royal Navy, brother of Sir Gilbert Elliot, who with some frigates fortunately stationed at Kinsale, County Cork, intercepted the French squadron, and captured it entire, after a brilliant action, in which Thurot lost his life.³ This made some atone-

Thurot
evacuates
Carrick-
fergus.

Captain
Elliot,
R. N., sails
in pursuit.

Captures
the French.
Thurot
killed.

¹ Correspondence of the Duke of Bedford, vol. ii. p. 408.

² This shows Mr. Pitt’s complaint of the supineness of the Irish was not without cause.

³ Bedford Correspondence, vol. ii. p. 411.

ment for what must be considered very culpable negligence.

It was in the time of Lord Chancellor Bowes, in the years 1763 and 1764, the first printed reports of the speeches delivered in the Irish Parliament were published. They can hardly be considered very reliable, as they were given from the recollection of Sir James Caldwell, and few have memories so accurate as to recollect what falls from several speakers on the same, or on different subjects. The chief subjects of the debates were:—Prisoners; the necessity of a standing army in time of peace; addresses to the King; disturbances in the North; residences of the clergy; publication of libels; the duration of Parliaments; and the reporter observes, ‘The debates were carried on with the deepest penetration, the most extensive knowledge, and the most forcible eloquence.’ This was almost superfluous to state, when among the debaters were Sir Richard Cox, Edmund Sexton Pery, Dr. Charles Lucas, Anthony Malone, John Hely Hutchinson, Henry Flood, Philip Tisdall, John Fitz Gibbon, and William Gerard Hamilton. The reporter says, ‘I have visited many nations, and during an absence of many years I came into no kingdom where I did not find natives of Ireland in every station who were preferred to many situations merely upon their merits.’ He declared the debates he heard in College Green ‘would do honour to any age or nation.’

The proverbial tediousness of Chancery suits was thus deplored by an Irish legal writer of this time:¹ ‘There is not any nation upon earth where law suits are so tedious and so expensive as in this poor kingdom, let the right be as unquestionable as it may. In England suits are generally determined in quarter the time they are here, and at one quarter of the expense; but there the Counsel are confined to Courts, and it is a rare thing to see more than three Counsel on a side, unless it be some very extraordinary case; in common ordinary cases seldom more than two. And the Courts there are not pleased at seeing

CHAP.
XLII.

Debates in the Irish Parliament first reported, 1763-4.

Complimentary terms of the Reporter.

Success of Irish abroad.

Equity suits more tedious and expensive in Ireland than in England.

¹ Howard’s Equity Side of the Exchequer, xxx.

CHAP.
XLII.
Counsel in
different
Courts.

many Counsel on a side, and will show it, saying, "They are already possessed of the cause, and desire that nothing more that is not needed may be added." But in this kingdom the practice is for members of the Bar to take business in any branch, and pass from Court to Court as if justice was to be taken by storm.' So our author pathetically says, 'what can the unfortunate suitors do? If they were to employ but two or three Counsel, they may, when a cause comes on in one Court be engaged in another, and this is looked on as sufficient excuse, so that the Courts must be kept in exercise by bringing some of the scattered forces to the engagement until the main body may come in, or the cause may be undone. Then every one must speak in the cause, and so, as they are seldom in the way to hear about what the others have said, repetitions necessarily follow.' Having enumerated the expense to suitors from refreshers, and the enormous length of pleadings, so that the time of the Court is taken up without hearing perhaps one cause of any consequence, to the manifest ruin of suitors, the writer adds: 'By examining the books of hearings and notes for twenty years past, this grievous mischief will appear most evident.' He suggests 'that when affidavits are referred for prolixity and impertinence, and if reported, the attorney who drew it should pay the costs out of his own pocket.¹ So he should in all cases where he puts his client to unnecessary expense, either from a contentious spirit, mistake, or neglect.'

Intemperance
among the
legal profession in
former
times.

The intemperate habits of the time extended to the learned professions, and are censured by the same legal writer,² who says 'he has to mention an evil which he would fain have thrown a veil over, but for the degree of excess to which it was carried in Ireland, and among the legal profession—a profession which requires the coolest head, the clearest intellect a man can possess.' He does not wonder men should be incapable of transacting their

¹ Mr. Howard was himself an Attorney. What if the pleadings were settled by Counsel? Ought the Counsel suffer the loss?

² Gorges E. Howard.

clients' business who filled themselves with strong wines, unless endowed with a capacity such as not one in a thousand is ever blessed with. 'I have had occasion,' he adds, 'to transact business in London several times, and I can affirm that there is no such thing practised there, as for men of business to sit whole evenings over their bottle, in the midst of Term; and I have myself heard several of them say they could not conceive how many of the profession of the law in this kingdom (Ireland) effected any business, for that they seemed there to do nothing but *walk the Courts the whole morning, and devote whole evenings to the bottle.*'

The hints about selecting Judges are very pointed and forcible: 'The people of England have one great advantage in regard to their Judges—they are there seldom taken from the Bar and placed on the Bench on account of their interest or abilities in the House of Commons. The gentlemen of this profession in England are but of small consideration in the House when compared to the country gentlemen, who excel them far, not only in the knowledge of the constitution, but in oratory also. Hence few other but lawyers speak in the House.¹ Now should it ever come to pass (which God forbid) that Judges should be made for no other reason but to take them off (as it is usually termed), in what a wretched condition we should be as to everything in life that is dear to us—our lives, our liberties, and properties! Therefore, it is to be wished we may never want at least one *Englishman* knowing in his profession, and honest withal, a Judge on every Bench.'²

Irish
Judges.

The conduct of Lord Charlemont in suppressing disturbances in the north of Ireland in 1763 having been considered deserving of commendation, King George III. directed the Lord Lieutenant, Earl of Northumberland,

The King offers an Earldom to Lord Charlemont.

¹ This was written in 1759.

² Howard's Exchequer in Ireland, vol. i. xv. Whoever prepared the petition against the learned judge who tried the Waterford Election Petition in 1870, must have been reading Mr. Howard's work.

CHAP.
XLII.

to offer him an earldom. Lord Charlemont expressed to the Lord Lieutenant his gratitude to his Majesty for having overrated any trifling services which, as a good subject, it was his duty to perform to the utmost of his power, but as to the proffered earldom, he begged his Excellency's permission to consider the subject for a day or two. Lord Northumberland suggested 'that the offer of promotion having proceeded directly from the King himself, any declension of such promotion might possibly be construed into disrespect;' on which Lord Charlemont consented, with the understanding 'it was in no wise to be considered as influencing his political conduct.' His patent as Earl had, as usual, been laid before the Lord Chancellor Bowes.¹ In the Preamble it was stated 'that this advancement in rank had been conferred unsolicited in any way whatever.' To this the Chancellor objected, as contrary to all usage, and struck out the words *unsolicited*, &c. Lord Charlemont said, 'that though it was no doubt contrary to precedent, it was exactly consonant to the truth; that he owed his earldom entirely to the benignity of his sovereign, and respect to his Majesty alone prevented him from declining even then the earldom; but that he would, as he had a right to do, annex an engrossed testimonial to his patent, specifying the manner in which it was granted.'

The Patent sent to the Chancellor.

Objection to the preamble as contrary to precedent.

The Earl's resolve.

The Chancellor's health fails.

Makes his will.

Death on July 22, 1767.

We now approach the conclusion of the Lord Chancellor's earthly career; the three-score and ten years had been reached, and illness prostrated the strong frame of the once vigorous Irish Chancellor. He suffered much from repeated attacks of gout, and in the spring of 1767 his physicians were very seriously alarmed about his health. He resolved to lose no time in settling his temporal affairs, and made his will in favour of his two brothers, Samuel Bowes and Ramsay Bowes, Esqrs., of Benfield, County Surrey. He did so in time, as on July 22 in that year Lord Bowes died, and the title of Lord Bowes of Clonlyon disappeared from the peerage. He was interred in the Cathedral of

¹ Hardy's Life of Charlemont, p. 101.

Christ's Church, Dublin, where a handsome monument is erected to his memory.

CHAP.
XLII.

The appearance and manner of Lord Bowes were extremely agreeable. His countenance was oval, with handsome features, and a winning smile. His look inspired confidence and created trust. His voice was clear and resonant, the selection of his words happily chosen, and his delivery that of an accomplished elocutionist. It is to be regretted no more than one decision of this able Judge has reached us. The reason which guided his judgments now must remain unknown. I have only traced one judgment of Lord Bowes. In the cause of *Rochfort v. Earl of Ely*,¹ a petition in 1758 having been presented to Lord Bowes, then Lord Chancellor, by a party claiming under a settlement to set aside certain deeds, fines, and recoveries, executed, levied, and suffered by the Earl of Ely, who was alleged to have been of weak mind, and praying that a Commission be granted to enquire into the capacity of the alleged lunatic. A Commission issued, directed to certain parties therein named, 'to enquire and report whether the respondent, the Earl of Ely, was an idiot or person of unsound mind. The jury, having examined many witnesses, and also the Earl himself, returned a verdict that his Lordship was *not* an idiot, or person of unsound mind.' Whereupon Rochfort presented another petition to the Chancellor, praying 'that this inquisition might be set aside, and that his Lordship would be pleased to examine the Earl personally, or that a new Commission might issue.' On the hearing of this petition the Lord Chancellor, on February 11, 1767, delivered the following judgment:—

Buried in the Cathedral, Christ Church, Dublin. Appearance and manners of Lord Bowes.

Rochfort
v.
Earl of
Ely.

Commission *de lunatico inquirendo*.

The Jury find the Earl *sane*.

Petition for a new Commission.

Judgment of Lord Chancellor Bowes.

'This was a cause of more importance than he ever knew in the Court. The value of the property was very great, but the consequences as to the subject was much greater. No instance was produced to show that a finding in such a case against the Crown had been set aside, and that an

¹ Reported in Wallis's Reports, by Lyne, p. 172. The judgment of Lord Chancellor Bowes I give from Ridgeway's Par. Cases, vol. i. Ap. ii.

CHAP.
XLII.

Unsound mind means incapacity. The Commission for the benefit of the person, not one merely interested in his property.

No Curators known to our law.

attempt to set it aside must make a Judge to whom the application was made well consider the consequences that might attend it. If the words *unsound mind* must have a legal signification, the inquisition having returned Lord Ely of *sound mind*, to send the matter to a further enquiry would be a departure from the legal import of the expression, and to give room for the construction contended for; that by *unsound mind* was not meant a deprivation of the faculties of reason, but a degree of weakness. If that came to be the question a new scene would be opened. If the Crown, by right of the prerogative, could issue Commissions to try whether the party was of sufficient understanding to manage himself and his affairs, it would be very vague and uncertain, and an opening would be given to invade the liberty of the subject and the rights of property. That in this sense “unsound mind” did not relate to a degree of weakness, but incapacity. It was never known that there was an application for such a Commission on account of the interest the petitioner had, which might be affected, but the application was always on behalf of the person, and he thought if there was not this restriction upon the exercise of the prerogative, the whole economy of the law would be overturned. The law had wisely provided against fraud, imposition, and deceit of all kinds, and against those acts that might draw in weak persons to dissipate their property, but it had relation to particular acts, that must stand or fall by their circumstances, and did not proceed on the general principle of prerogative. Every day’s observation presented persons in the possession of property, who might be clearly said not to have a capacity to manage, but that they were a prey for art and fraud, and yet the remedy was not by application to the prerogative, nor did our law know what the civil law admitted of *curators*, which might do very well in a constitution formed like the Roman, calculated for war and grandeur, not for commerce and the changes necessary for a commercial state. The consideration of the interest

of the person in remainder after an estate tail had very little weight with him. He would be sorry to take from an unhappy subject the benefit of that part of the prerogative which was certainly originally calculated for the subject's benefit; but he would be much more sorry to extend the prerogative to other objects than the law had extended it. He must consider the subjects of these kingdoms in a strange light if suggestions of weakness were a foundation for the King to take the person and property of the subject into his hands. He did not know who was to be trusted with the power of issuing such a Commission, nor where the jury, or set of men were, of abilities and properties necessary to determine questions of such a nature—an honest, conscientious man would be frightened at it. Dominion over his own property was the blessing and happiness of a man living in free societies. The law allows alienation by people extremely weak, who are not capable of reasoning, but on a particular thing happening to be then before them, as in case of a man making his will *in extremis*, and as incapable of reading two skins of parchment as an Hebrew Bible, but if he knows the consequence of that act will be a disposing to one he likes, and from one he does not like, that will could not be overturned, and yet there was the greatest incapacity.' His Lordship refused to make any order, and dismissed the Petition.

CHAP.
XLII.

Mere suggestions of weakness will not authorise issuing a Commission of Lunacy.

Petition dismissed.

Perhaps had I whole volumes to select from, I could not have produced a better sample of argumentative reasoning, mingled with noble sentiments and apt illustration, than this solitary specimen of Lord Chancellor Bowes' judgments.

This judgment was appealed from, and brought before the House of Lords in Westminster on February 29, 1768.

It was argued for the appellant Rochfort by Charles Yorke¹ and A. Forrester, and resisted by F. Norton and A. Wedderburne,² on the ground that an application for a

Order of Lord Chancellor appealed against.

¹ Afterwards Lord Chancellor of England.

² Another Chancellor of England.

CHAP. new Commission or *melius inquirendum* was without pre-
 XLII. cedent. The verdict upon inquisitions taken for the
 Distinction Crown, if the writ or Commission be regular, and the
 between findings perfect, is by law traversable by the party, where
 for and the finding is *for the Crown*, but if the finding be *against*
 against the the Crown it is final; because, otherwise, such enquiries
 Crown. might be infinite, and productive of contradiction and
 uncertainty, and therefore no new Commission could in
 this case issue.

Appeal The Lords ordered and adjudged the Appeal should be
 dismissed. dismissed.¹

¹ Rochfort v. Earl of Ely. 1 Brown Par. Cases, p. 450.

CHAPTER XLIII.

LIFE OF LORD LIFFORD, LORD CHANCELLOR, FROM HIS BIRTH TO THE
ENROLMENT OF THE IRISH VOLUNTEERS.

TRULY may the biographer of JAMES HEWITT say, ‘As the man is universally esteemed more praiseworthy who ennobles himself by a series of brilliant actions, than he whose title devolves from a long race of ancestry, without ever by any action of his own deserving it;’ we may respect such a man, and behold such an instance of commendation in Lord Lifford, who, from an attorney’s apprentice, rose to the station of Lord Chancellor of Ireland.

CHAP.
XLIII.

James Hewitt was born in Coventry, in the year 1709. His father, William Hewitt, Mercer and Draper, was unquestionably a man who stood high in the estimation of his fellow-citizens, for he was elected Mayor of the borough. It was no small feather in one’s cap to be the Mayor of Coventry, the ancient city famous through the courage of the Lady Godiva; and in later days for the wealth of its manufacturers of silk and velvet, of which articles of commerce William Hewitt, the Mayor, had great store. He was a worthy successor of Thomas Bond, Mayor of Coventry in 1506, whose thoughtful countenance is to be seen in a portrait, set in a richly-carved frame, placed as it surely ought, within the Institution for ten men, bachelors or widowers, and a matron, residents of Coventry, which embalms his name in association with the most ennobling of all virtues—‘Bond’s Charity.’

Birth of
James
Hewitt.

His father
Mayor of
Coventry.

Successor
of Thomas
Bond,
founder of
Bond’s
Charity.

It was something for a youth of James Hewitt’s intelligence, and love of relics of the past, to feast his eyes, and have his imagination quickened by the sights and scenes around his childhood’s home. Even in our more prosaic days few can traverse the narrow streets of this old historic

CHAP.
XLIII.

Church of
St. Michael
and All
Angels.

town without acting in some measure the part of Peeping Tom, and gazing on beauty—but a beauty of the past—beauty in lime and stone—not living, breathing, moving, animated flesh and blood. The young mind of James Hewitt must have expanded as he gazed on the glorious Church of St. Michael and All Angels, the mellow tints of the stone giving to the pile in the sunlight a halo of antiquity. Then, as he grew older, and could appreciate more fully the beautiful in architecture, he passed much of his time admiring the mighty tower and spire, as it points heavenward, marking the effects of time in softening the angles, shading the hard outlines, and lending a sense of the respect due to age, in the creations of man's art, as in humanity itself.

Antiquity
of the
Coventry
churches.

Some of the old churches of Hewitt's native town have a wonderful longevity. There is the Church of St. Michael's, dating from A.D. 1133, and Trinity from 1269, restored often, of course, but still preserving many of the old lineaments; though, as has been shrewdly remarked, 'the mind at once seizes the point of distinction between these clever and suitable designs—done to order, and done on a pattern—and the fantastic, eloquent carvings in which each man's hand wrought out the fancy, the moral, the satire, or the aspiration which arose in his own soul.' This makes the difference between the old Catholic churches, preserved in their integrity, and those altered to suit the Reformed faith. The former in their stateliness and beauty typify the faith of the founders, where every object is symbolic and suggestive, preaching, as far as sculpture, or painting, or carving may, of man's littleness, his brief time here, and the eternity and immensity of the great Being in whose name, and for whose worship, the Temple was reared.

Education,
and choice
of a pro-
fession.

Young Hewitt was early and carefully instructed in the usual branches of education, and then the Mayor of Coventry desired his son to make choice of some profession which would afford him employment, and, if it pleased God to bless his labours, subsistence in life. Well aware

how necessary it is to have a vocation early, as it gives business habits and keeps young men out of mischief, the worthy Mayor readily seconded his son's wish to be a lawyer. The future Irish Chancellor appears to have first applied himself to the attorney branch of the legal profession; coequal in point of date with that of the Bar. The different orders of practisers enumerated by Fleta are — 'servientes, narratores, attornati et apprenticii.'¹ The choice of a solicitor, in whose office James Hewitt could acquire that professional knowledge and skill which should enable the young attorney to be a safe adviser, competent to discharge his duties to his clients, was soon made. He served as clerk or apprentice to Mr. James Birch, an Attorney of Coventry, who was Receiver-General for the county of Warwick. After some time the young clerk resolved to devote himself to study the law in order to become a barrister; but there can be no doubt the professional training he received while in the attorney's office greatly tended to his success when called to the Bar.

He entered the Middle Temple in Michaelmas Term, 1737, and became a barrister in November 1742. He soon got into practice, and did the best thing to secure his domestic felicity by selecting a wife. He married a daughter of the Reverend Rhys Williams, D.D., Rector of Stapleford Abbots in Essex, Dean of Worcester; and, induced by the desire of pushing his way to legal preferment through the avenues of the House of Commons, contested the representation of his native city in 1754. In this attempt he was unsuccessful, but not disheartened by defeat renewed the contest at the General Election in 1761, and was returned.

We can imagine how elated he was as Member for Coventry, on entering the great hall of St. Mary's, grand and stately, with its gorgeous carvings, and tapestry wrought by fingers which have been dust for centuries. He looked with keener interest at those beautiful windows through which the sun streamed in meridian glory, and

CHAP.
XLIII.

James
Hewitt
resolves to
be an
Attorney.

Apprentice
to Mr.
Bird.

Changes
from the
Attorney's
office to
study for
the Bar.

Enters the
Middle
Temple
in 1737.
Called to
the Bar,
1742.
Marries.

Contests
Coventry,
but was
defeated
in 1754.
Elected in
1761.

¹ Reeve's History of English Law, vol. ii. p. 284.

CHAP.
XLIII.

Serjeant-
at-Law.

Considered
a tiresome
speaker.

Lord
Camden,
Lord Chan-
cellor,
offers him
a Puisne
Judgeship.

Hesitates
to accept
it.

Lord
Camden

saw in the blazon of the Black Prince, and the names of Cressy and Poitiers, incentives to exertion—for he too might win a name. His legal knowledge and practice at the bar had already procured him the dignity of the Coif, for he was King's Serjeant in 1759. He resolved to be no silent Member of the House of Commons. When an attempt was made to get rid of informations, filed *ex officio* by the Attorney-General, the motion of Mr. Nicholas Calvert was seconded by Serjeant Hewitt. The style of his oratory may be surmised by the anecdote that Charles Townshend, on leaving the House while Serjeant Hewitt was pounding away on some dull legal question, was asked 'whether the House was up?' 'No,' he replied very gravely, 'but the Serjeant is.'¹ From this we may infer his speeches were regarded as a bore!

When the Earl of Chatham became Prime Minister, Serjeant Hewitt's great friend, Lord Camden, was made Lord Chancellor of England. Lord Camden was, at the moment the news reached him of his appointment as Chancellor, presiding as Chief Justice of the Common Pleas. Having despatched the business pending before him, he left Court to return home, and, when he reached his house sent at once for Serjeant Hewitt, and said as Sir John Eardly Wilmot would succeed him as Lord Chief Justice, the vacant seat on the King's Bench was intended for him.

Hewitt hesitated to accept this proffered kindness, observing 'that a Parliamentary appointment might be more useful for enabling him to provide for his sons, which must be closed by his accepting a Common-Law Judgeship, as its enforced seclusion from political pursuits or connections forbade any family promotion.' He added 'that Bowes, the Lord Chancellor of Ireland, was upwards of seventy years of age, and if his Lordship's friendship guaranteed that office, the place of puisne Judge would be accepted as an intermediate step to the expected elevation.'

Lord Camden acquiesced in this arrangement, and

¹ Foss, Judges of England, vol. viii. p. 309.

promised him the Irish Chancellorship in the event of its falling vacant while he held the Great Seal of England. Serjeant Hewett was accordingly sworn in as a Judge of the Court of Common Pleas at Westminster, on November 6, 1766. His labours as a Common-Law Judge did not extend more than three terms, and do not require any special notice from me.

On the death of Lord Chancellor Lord Bowes, the delay which took place in appointing his successor gave great dissatisfaction in Ireland. On a resolution being moved in the House of Lords on November 19, 1767, 'That an humble Address be presented to his Majesty, beseeching him of his paternal goodness and regard to the welfare of this kingdom, to appoint a Lord Chancellor, as the vacancy of that high office must obstruct the course of justice in her principal source, and be productive of numberless inconveniences to a loyal, affectionate people,' the previous question having been carried, the following Protest was placed upon the Journals of the House:—

'Dissentient.—1. Because we conceive that, on the present occasion, when delay is the grievance of which we complain, the previous question is peculiarly improper, as it is merely a measure of procrastination.

'That delay in an affair of this nature may be attended with the worst consequences, we conceive, because the execution of the office of Lord High Chancellor by Commission, is a defective execution of it, inasmuch as the Commission being executed by the Common-Law Judges of the land, two at a time, taken each from different Courts, in a weekly rotation, is attended with the following inconveniences:—*First*, that though the inferior Judges were always of equal eminence with one who should be appointed Chancellor in his own person, yet they are not only not conversant with the practice of the Court of Chancery, but habituated to a different practice. *Secondly*, That they cannot fulfil the duties of another Court but by relinquishing their own. *Thirdly*, That in taking away one Judge from a Court is in some circumstances an irreparable loss;

CHAP.
XLIII.
guarantees him the Lord Chancellorship of Ireland. Is sworn in a Judge of the Common Pleas. Delay in appointing a Lord Chancellor.

Inconvenience of committing the duties of Chancellor to the Judges in rotation.

CHAP.
XLIII.

that, at best, but two can remain;¹ that causes of the greatest importance will be deferred till the Bench is full; that even in such causes as are heard by the two Judges that remain, if there be a difference of opinion, there is not a third to decide; and that sickness, or connection with certain causes, may leave the Court with but one Judge, and sometimes without any. *Fourthly*, That long and important causes in Chancery can seldom be decided in a week; and, therefore, the arguments used in one week before one set of Commissioners must be repeated before another set in a subsequent week. That by this endless protraction and expense, persons are discouraged from proceeding; and the more as the Commissioners cannot be expected to decide, inasmuch as reputation is more easily lost than gained in such circumstances, and as the cause would probably be but little advanced by their decision, since the party defeated would always apply to the Chancellor, when appointed, for a rehearing. *Fifthly*, That these inconveniences are aggravated by the state of business in that Court at the time of the late Chancellor's death, whose great abilities had drawn such a redundancy of business into that Court that, notwithstanding his assiduity, a long arrear of causes remains undischarged, that therefore the execution of the office of Lord High Chancellor by Commission is attended with this great evil, that without supplying to effect the Court of Chancery, it dismembers and mutilates all the Courts of Law, and disturbs and obstructs the whole course of justice.

'CHARLEMONT.

'MOUNTMORRIS.'

This well-reasoned and timely protest, put solemnly upon the Journals of the House of Lords, was not without due weight, and soon Lord Lifford was sworn into office. I may glance briefly at the Bar over whom he, a perfect stranger to this kingdom, was sent to preside.

The Irish Bar at this period, 1770, was a curious amalgamation of qualities, good, bad, and indifferent; but the

¹ The Court then consisted of a Chief and two Puisne Judges.

first had by far the largest share. Here men of all classes, of every rank,—from the son of the Peer to the son of the peasant, who was able to send his boy to the Temple, were united by the professional knot. All were free and accepted in the circle but the Papist. Except for him the Irish Bar had no exclusion, and welcomed the humblest-reared, if gifted with talents, as readily as the better-born. ‘The law,’ says Phillips,¹ ‘which in its suitors knows no distinction but that of justice, in its professors acknowledged none except that of merit. In other countries where this glorious profession is degraded into a trade, where cunning supplies the place of intellect, where in Curran’s peculiar phrase, “men begin to measure their depth by their darkness, and fancy themselves profound because they feel they are perplexed;” no idea can be formed of that illustrious body, of the learning that informed, the genius that inspired, and the fire that warmed it, of the wit that relieved its wisdom, and the wisdom that dignified its wit, of the generous emulation that cherished while it contended, of the spotless honour that shone no less in the hereditary spirit of the highly-born than in the native integrity of the more humble aspirant; but, above all, in that lofty and unbending patriotism, that at once won the confidence and enforced the imitation of the country.’ The habits of the Bar, as was to be expected from their position, and the great influence they exercised over the society of Dublin, were closely akin to the habits of the gentry. A love of pleasure which was indulged in at the moment, without a thought of the future, was the universal custom of the Irish gentry. No fear of days of terrible reckoning disturbed their dream when they were sowing the seeds of petitions which were reaped in the Incumbered Estates Court, and deprived their descendants of every acre they once held. The legal profession had its full share of fun and frolic, duelling and dissipation. Wager of battle was of frequent occurrence, and the ‘reports’ of the pistol showed familiarity with its practice.

CHAP.
XLIII.

The state
of the
Irish Bar,
A.D. 1770.

¹ Curran and his contemporaries.

CHAP.
XLIII.
Lord
Townshend
Lord Lieu-
tenant.

‘Lord Townshend’s Viceroyalty,’ says Mr. Hardy,¹ ‘forms a peculiar epoch in the history of Ireland. A gallant soldier, the military associate of Wolfe, frank, convivial, abounding in wit and humour, sometimes more than was consonant with the viceregal dignity; capricious, uncertain, he not unfrequently offended the higher orders.’ Highly sensitive of what was due to the station of Lord Lieutenant, and the importance of maintaining one’s position, the Chancellor took exception to the pranks of the eccentric nobleman, and did all he could to check his exuberant mirth, but the Viceroy supposed he was of an age to know his own business, and resolved to ingratiate himself with the natives after his own fashion. He had heard so much of the hospitality of the Irish, he resolved to show that he too could cultivate this virtue, and gave parties on so liberal a scale, that the allowance then allotted for the office, of sixteen thousand a-year, went but a short way to meet expenses, and ere long the Viceroy contracted debts which left a heavy blister on his estates. One of his Excellency’s pranks is so amusing that I venture to give it a place in my pages.

On a bright May morning, a bashful stranger was seen entering the pretty grounds of the Chief Secretary’s Lodge, Phoenix Park, Dublin, where the Chief Secretary and Lady Clements then resided. Old MacMahon, the house-steward, who was enjoying the fragrance of the summer air, asked him what he wanted. ‘I hear her Ladyship wants a gardener,’ replied the stranger. ‘Have you lived in many places, my man?’ asked MacMahon. ‘A great many,’ returned the stranger; ‘and I am well acquainted with my business in all its branches. Can I see my Lady?’ ‘She was at a Castle ball last night,’ said the steward; ‘this Lord Lieutenant is beating the world before him with his grand parties; and it will be long before she leaves her room; but if you come and sit in my room, you can wait for her, and we can have breakfast.’ The stranger promptly consented, and MacMahon

¹ Life of Lord Charlemont.

helped him liberally to the rare ham, and good tea, and toast, which the house-steward provided for his own proper use and refection. When her Ladyship's bell rung, the steward went to her, and brought word, 'Lady Clements desired to see the gardener.' The stranger accompanied the steward, and entered her Ladyship's room nearly convulsed with laughter, to the surprise of the steward, which was not diminished when he beheld his mistress make a most reverential courtesy, and he discovered, that instead of a horticulturist he had been treating on a footing of perfect equality no other than his Excellency Lord Townshend. The good-natured Viceroy enjoyed the steward's confusion, but was resolved to dissipate it. 'My worthy friend,' he said, 'I am your debtor. When I appeared at the Lodge you thought me a poor stranger seeking for employment, but unlike some of those who are placed in a little brief authority, you received me with the outstretched hand of hospitality and friendship. Such conduct deserves reward; I shall not forget you.' Nor did he. A short time found the son of the steward Ordnance storekeeper in Cork, and this laid the foundation of the future prosperity of the family.¹

The Lord Chancellor laboured hard to discharge his Court duties. He found some differences, though none very formidable, in the procedure of the Irish Courts of Equity from those of England. One arose from the tenure of leases for lives, renewable for ever, which, however, is now much changed, the tenure being turned into fee-farm grants. The equity of redemption under the Ejectment Statutes, the mode of administering assets of deceased persons, and of administering real and personal estate of deceased persons, also present differences which require vigilance and care to deal with correctly: but with the assistance of the able Bar, who have always earned the respect and confidence of the Judges, these

Differences
between
Irish and
English
Equity
practice.

¹ Ireland before the Union, by W. J. Fitzpatrick, Esq., p. 253. According to this work, Sir William MacMahon, Bart., Master of the Rolls in Ireland, was grandson to the hospitable steward.

CHAP.
XLIII.

differences between the practice in Chancery in England and Ireland did not impede the decision of Lord Lifford.

Rules and orders in Chancery published.

A very laborious compiler of works relating to the practice of the Irish Courts of Law and Equity, published some books at this period. His name was G. E. Howard. He dedicated to Lord Lifford, Lord Chancellor, a work entitled 'The Rules and Practice of the High Court of Chancery in Ireland, with the several Statutes relating thereto, and also several adjudged Cases thereon.' If we are to judge of the difficulty of compiling law books at this time by what this author experienced, we must not wonder how few attempted their production.¹

Delay and obstruction to business in Court.

He complains much of the delay in hearing causes,—that Judges and lawyers cannot be in Council, in the Houses of Lords and Commons, and in the Courts, at one and the same time, which he suggests might thus be remedied.

Remedies suggested.

'Suppose, then, that a certain hour for opening the Courts in the morning were resolved on by the Judges, and then to proceed; there are Counsel who want not eminence who would undoubtedly attend them, besides there are several growing young men, and a little time and perseverance would produce a general and proper attendance. I have often heard that Chancellors of England have sat in winter by candle-light in the morning; so they have sat in the evening; and no Judge there would postpone a cause when the suitor was prepared for the trial at the instance of a Counsel, for this only reason, "That he was a member of Parliament, and was to go to the House." The Judge that would do it should instantly pay the suitors their damage.'²

Example of Lord Chancellors in England.

¹ 'There are some gentlemen very knowing in the rules and practice of this Court, but a very few who are pleasingly communicative. I have waited in the halls whole mornings before I could get two or three questions answered to my satisfaction, though it was well known I was about this work, which is not a little disagreeable to a compiler; but in truth, in general, the ignorance of this matter is great, for the thirst of knowledge is small, and I have met with no small portion of envy and unkindness for my former publications, by which I may with safety say, I not only never got a shilling, but lost several thousands of pounds.'

² Howard's Practice of Chancery, Preface, p. xvi.

Having enumerated several instances of hardship to suitors in respect to answering Bills, amending Bills after answer, costs upon a dissent, examination of witnesses, Bills to perpetuate testimony, he adds:—‘I have known ten sheets in a brief of depositions when two might have contained the matter of the whole; and here I cannot avoid mentioning an instance in this way which happened very lately in the Hall of the Courts, as it may be productive of some relief to unfortunate suitors. A gentleman of eminence at the Bar, had three briefs tied together (one in effect) for a motion in a cause in this Court, which seeming a burden to him, led me and some others to inquire about it. They contained 180 sheets of large post paper, so widely written that two might well be included in one, and the gentleman who held it said that six, or eight at most, might have contained the matter of the whole, and on this motion (I think he said) five Counsel were employed, so that at 3s. 4d. a sheet briefing, and 2s. the copy, the agent’s fees for these five briefs came to no less a sum than 120*l.* 13*s.* 4*d.*; then what must the five Counsel have had with their briefs! what fortune could stand it? If the Masters in taxing costs would examine the briefs, and also the copies thereof, and of pleadings and other proceedings, it might prevent in a great measure these most horrid impositions.’¹

CHAP.
XLIII.
Prolixity
of Chan-
cery
pleadings.

Instance
of unne-
cessary
costs.

The notes of cases in this work are chiefly on points of practice, and show that the Court of Chancery was in full work, and took cognizance of a vast variety of litigation.

Considerable sums were expended from time to time in repairs to the Courts, but, about the year 1770, they became so dilapidated and decayed that the Lord Chancellor Lord Lifford and the chief Judges represented them as unfit for use, and Gandon, the celebrated architect, was employed to furnish designs for the Courts which now adorn the Inns Quay of the city of Dublin.

Courts
condemned
about the
year 1770.

One of the chief political characters of this period was Doctor Charles Lucas. He graduated in Trinity College, Dublin, and practised first as an apothecary, then in the

Charles
Lucas,
M.D.

¹ Howard’s Practice of Chancery, Preface, p. xx.

CHAP.
XLIII.

higher grade of physician in Dublin, with much success. He soon entered the political arena, and numbers of his pamphlets are on the shelves of the excellent library in which I now write.¹ He expressed his notions too strongly for his personal safety, and avoided unpleasant consequences by a timely flight to the Continent. When the storm had blown over he returned, was elected a Councillor in the Corporation, and set to work to resist the illegal encroachments of the Aldermen. Here his efforts were so successful that the united votes of his admirers resolved to afford him a wider field for his efforts, and he was invited to stand for the representation of the city of Dublin. He did so, but during the contest became so violent in his language and his printed addresses, he and his printer were ordered to attend before the House of Commons, and a Committee appointed to examine them. The Committee having reported against the addresses, the House declared the Doctor guilty of divers breaches of privilege of the House, and to escape the consequences he again thought discretion the better part of valour, and retired to England, where he resided for some years. A vacancy occurred in the representation of Dublin which caused his return, and, taught moderation by experience, he was not prosecuted, but elected, and soon became a very eloquent and energetic champion of popular rights. On the meeting of Parliament in 1761, he obtained leave to bring in a Bill limiting the duration of the Parliaments to seven years, as in England, but it was not then passed. He procured, however, a measure for the better securing the independence of Members. He adopted the views already noticed of the Irish patriotic party relative to right of the Irish House of Commons on the question of money Bills, and addressed a very able essay on the subject to the then Vice-roy, George Lord Townshend.² He died in 1771.

¹ The Library of the King's Inns, Henrietta Street, Dublin.

² 'The Rights and Privileges of Parliaments asserted upon constitutional principles against the modern anti-constitutional claims of Chief Governors.' Dublin, 1770.

Lord Lifford was Chancellor when the great struggle took place between the Parliaments of Great Britain and Ireland, which resulted in the short-lived independence of the Irish legislature. In December 1775, a young barrister, Henry Grattan, son of the Recorder of Dublin, through the influence of Lord Charlemont, was returned member for the borough of Charlemont, and took his seat in the House. The first step to the relaxation of the Penal Code against the Catholics passed the Irish Parliament in the following year. This enabled them to take land on leases for 999 years, and also to purchase on certain conditions. 'The condition of the country,' says a very competent authority on Irish affairs,¹ 'was then deplorable. Trade was depressed, its shores were undefended, and her army was withdrawn. The policy and maxims of Swift were once more revived, and a spirit of discontent pervaded the nation. England was at war with France and with America, and Ireland was menaced with invasion.' The Government had no troops to spare, and the Volunteer movement commenced. Soon the Minister stood face to face with an armed nation, and the Dungannon meeting was held in Dungannon Church. The temple of the God of Peace was not desecrated by the presence of men armed for the defence of their native land. Colonel Irwin, a gentleman of ancient family and firm loyalty, who united prudence with vigour, presided. Then the Ulster Protestants spoke out as men who felt they had a country. Resolutions were passed to this effect:—'That a citizen by learning the use of arms does not abandon his civil rights;' 'That a claim by any body of men other than the King, Lords, and Commons of Ireland to make laws to bind Ireland is unconstitutional, illegal, and a grievance.' They protested against Poyning's Law, requiring the Privy Council's assent to the Bills submitted to Parliament. 'Resolved that trade should be free;' 'That a perpetual Mutiny Bill was

CHAP.
XLIII.Henry
Grattan
in Parlia-
ment.Condition
of Ireland
in 1775.Dungan-
non
meeting.Resolu-
tions.

¹ Right Hon. James Whiteside, 'Life and Death of the Irish Parliament,' part ii.

CHAP.
XLIII.

unconstitutional, and should be limited from session to session;’ ‘That Judges should be independent;’ ‘That private judgment in matters of religion should be sacred;’ ‘That as men and as Irishmen, as Christians and as Protestants, they rejoiced in the relaxation of the Penal Laws against the Roman Catholics, and conceived the measure fraught with the happiest consequences to the union and prosperity of Ireland.’

Debt of gratitude due to the Ulster Protestants. Progress of the Volunteer movement.

This should ever be remembered by Irishmen. Toleration to the Catholics was declared cause of rejoicing by the Ulster Protestants on February 15, 1782, and on the same day Mr. Gardiner’s Catholic Relief Bill was introduced into Parliament. Other measures in accordance with the wishes of the Volunteers quickly followed. The country was permeated with the Volunteer spirit. Everywhere the tramp of marching men, the peal of the trumpet, the roll of the drum, resounded. Everywhere the glitter of weapons, the variety of uniforms, dazzled the sight. There were embodied and equipped over a hundred thousand men, consisting of cavalry, artillery, and infantry; the artillery numbered 130 cannon.¹ This army was commanded by the Earl of Charlemont, whose devoted loyalty procured him the earldom, as a proof of royal favour. He was not as tolerant in his views towards Catholics as might have been expected from one of so large and accomplished a mind. The national militia was officered by noblemen and gentlemen of the highest rank; but loyal as the institution undoubtedly was, and willing, nay desirous, to keep up that ascendancy of evil so long the bane of Ireland, it was looked on with deep suspicion by the British Government.² In a letter from the Lord Lieutenant, Earl of Buckinghamshire, to Lord Weymouth, in May 1779, this is clearly shown:—‘Discouragement has been given on my part, as far as might be without offence, at a crisis when the arm and good-will of every individual might be wanting for the defence of the State.’

The movement discouraged by the Government.

¹ History of the Volunteers, by McNevin, p. 222.

² History of Dundalk, by D’Alton and O’Flanagan, p. 187.

CHAPTER XLIV.

LIFE OF LORD CHANCELLOR LORD LIFFORD, CONCLUDED.

THE low state of the Irish Exchequer in 1779 occasioned great anxiety to the Irish Executive. Lord Buckingham, then Viceroy, called a meeting of the Privy Council, consisting of the Chancellor, the Speaker of the House of Commons, Attorney-General, and other officials, and desired their opinion on the question, 'Whether it is expedient to convene the Parliament of this kingdom before the usual time, for the purpose of providing a sum of money to answer the immediate exigencies of Government?' These exigencies were to enable the troops to be encamped, and the country put in a proper state of defence, for which no means remained in the Treasury. The officials do not appear to have advised the meeting of Parliament, and, knowing how difficult it would be to raise any considerable sums in Ireland at that period, recommended his Excellency, 'as a measure of the utmost consequence to the security of this kingdom, to endeavour to prevail upon the English Ministry to advance the requisite sum.'¹

Irish trade was much crippled by many English Acts of Parliament, enacted for the purpose of restraining Irish commerce.² An attempt was made to have these Acts repealed by sending a list of them to the then Premier, Lord North, but he did not condescend to notice them in the Speech from the Throne.³ This was the state of affairs when the members of the House of Commons resolved to

CHAP.
XLIV.

Viceroy seeks the advice of the Lord Chancellor and other officials.

Recommend a call upon the English Treasury for money. Irish trade much restricted.

¹ Grattan's Life, by his son, vol. i. p. 376.

² These Acts were chiefly 12 Car. II. c. 18; 15 Car. II. c. 7; 22 Car. II. c. 26; 25 Car. II. c. 22; 7 and 8 Wm. III. c. 2; 4 Geo. II. c. 15; 5 Geo. II. c. 9.

³ Grattan's Life, by his son, vol. i. p. 377.

CHAP.
XLIV.

Mr. Grattan's amendment proposed and supported.

strike a blow for Irish freedom. The history of the times gives a full detail of the patriotic measures, which is too ample for my limited space. An amendment to the Address from the Throne was resolved on, and Mr. Grattan prepared it; but, although a consummate speaker, he was not a ready writer. The address was shown to the Speaker, Mr. Pery, who made some alterations which Grattan at once acquiesced in and adopted. The House met on October 12, and though Mr. Yelverton, on the part of the Government, tried to prevent any amendment, Grattan was resolute to bring his forward. He proposed the amendment, which was seconded by Lord Westport. Mr. Bushe, Mr. Forbes, and Mr. Hussey Burgh spoke in its favour. Mr. Burgh was then Prime Serjeant, but said 'he spoke his own sentiments, and those of the influential body he represented (the College); that he held a place under Government, but owed a duty to his country, and that he would always support her. He would require free trade.' The Government party were beaten, and the amendment carried with only one dissentient.

The members little thought that the motion of Mr. Grattan had been revised by the Speaker. Many of the Government party said 'it was a juvenile composition,' and when the amendment was placed in the Speaker's hands, and he saw his own writing, he could scarcely refrain from laughing. However he kept his countenance, and listened with the utmost gravity to the abuse heaped upon the 'boyish' composition! When the House broke up, Mr. Pery, the Speaker, Grattan, and Daly had a hearty laugh at the incident.¹

The amended Address brought in triumph to the Castle.

The amended address was brought to the Viceroy at the Castle by the entire House. It was a glorious day for Dublin. The Irish Volunteers headed by the Lawyers' Corps, lined the streets, under the command of the Duke of Leinster. They presented arms as the Speaker and members of the Commons passed along, and the cheering was often renewed. The Commons passed a vote of thanks

¹ Grattan's Life, by his son, vol. i. p. 389.

to the Volunteers, 'for their spirited and necessary exertions for the defence of their country;' a similar compliment was paid by the Lords, despite the most strenuous opposition of the Lord Chancellor and Lord Chief Justice Lord Annaly. Though the Chancellor admitted the use of this corps for preserving the internal peace of the country, he spoke at great length on the illegality of raising such a force, and argued against giving them the vote of thanks.

CHAP.
XLIV.

The Lord Chancellor opposes the vote of thanks to the Volunteers.

Considerable excitement followed the success of Mr. Grattan's motion. The Government was beaten in successive divisions. On a motion before the House as a Committee of Supply, 'that the appropriated duties should be granted for six months only'—the numbers were 138 to 100, the Government again in a minority. It was during this debate Prime Serjeant Hussey Burgh made the speech which produced such an electric effect upon his auditors that they rose *en masse* and cheered him again and again.

Defeats of the Government.

Electric speech of Prime-Serjeant Burgh.

'Talk not to me,' he said, 'of peace; Ireland is not in a state of peace; it is smothered war. England has sown her laws like dragon's teeth, and they have sprung up armed men.' This speech cost him his rank of Prime Serjeant.

While the affairs of Ireland were thus critical, the Lord Lieutenant was deprived of the advice and assistance of the Lord Chancellor, who was prevented from attending the deliberations of the Castle officials by his indisposition.¹ As soon as the Chancellor was able to venture forth, he attended the meetings at the Castle, and was present when the opinion of the Government officials was taken as to the right of the Lord Lieutenant to propose and urge new taxes. The Chancellor and many others, including the chief Judges, Attorney and Solicitor-Generals, agreed that the Lord Lieutenant might exercise this right, the only dissentients being Mr. Foster² and Mr. Burton, who thought

The Lord Chancellor indisposed.

In favour of new taxes.

¹ Letter from the Viceroy to Lord Weymouth in 1779. Grattan's Life, by his son, vol. ii. p. 6.

² Foster is an honoured name in the political history of Ireland. He was well acquainted with finance and made an excellent Chancellor of the

CHAP.
XLIV.

Mr. Grattan's
motion
against
taxes car-
ried.

'the not proposing new taxes would conciliate the minds of the people, who were unable to bear them.' The moment this resolution of the Irish Government was known, when the House of Commons met, Mr. Grattan moved, '*that at this time it would be inexpedient to grant new taxes.*' He was opposed by the Crown officials, Sir Richard Heron,¹ the Attorney² and Solicitor-Generals,³ Sir Henry Cavendish, and Mr. Mason, but on the division the question was carried in the affirmative—Ayes, 170; Noes, 49—which showed conclusively the small number on whom the Government could rely.

Disasters
in Ame-
rica.

Catholic
Relief Bill.

Grattan's
eulogy on
Father
O'Leary.

The popular party were not slow in taking advantage of their power to obtain redress from the restrictions under which the independence of Ireland had been long placed. The defeat and capture of Lord Cornwallis' army in America added new strength to the men who legislated with an armed nation at their back. The Roman Catholic Relief Bill, to restore to the people the exercise of their religion, education, marriage, and self-defence, was introduced into the House of Commons by Mr. Gardiner. It was ably supported by many of the foremost politicians of the day. During this debate the name of a remarkable Irish priest was introduced, Father O'Leary. Grattan said he 'could not hear the name of Father O'Leary mentioned without paying him that tribute of acknowledgment so justly due to his merit. At a time that this man lay under the censure of a law, which in his own country made him subject to transportation or death, from religious distinctions, at a time that a prince of his own religion threatened this country with invasion, this respectable character took up his pen unsolicited, and without a motive but that of real patriotism, to urge his own communion to a disposition of peace, and to support the law which had sentenced him to transportation. A man of learning, a philosopher, a Franciscan did the most eminent service to his country in the hour of its greatest danger. He Exchequer in 1784. He was elected Speaker of the Irish House of Commons, as successor to Mr. Pery, in 1785. He was a decided anti-unionist.

¹ Chief Secretary for Ireland.

² John Scott.

³ Hugh Carleton.

brought out a publication that would do honour to the most celebrated name. The whole kingdom must bear witness of its effect, by the reception they gave it. Poor in everything but genius and philosophy, he had no property at stake, no family to fear for; but descending from the contemplation of wisdom, and abandoning the ornaments of fancy, he humanely undertook the task of conveying duty and instruction to the lowest class of the people. If I did not know him to be a Christian clergyman, I should suppose him by his works to be a philosopher of the Augustan age.’¹

CHAP.
XLIV.

Many anecdotes are related of Father O’Leary. One which my legal readers will appreciate is this. While he with Barry Yelverton, then Attorney-General, were on a visit to Lord Kenmare, a stag-hunt at Killarney was given in their honour. Near the close of the run the stag fell exhausted close to where the distinguished visitors were placed. ‘Ah, Yelverton,’ said Father O’Leary, ‘see how naturally the stag comes supplicating you in hopes you’ll enter a *nolle prosequi*.’

A Nolle
prosequi.

The political events which stirred the hearts of the Irish nation were only regarded by the Lord Chancellor as they affected the English interest in Ireland; and, as I shall have another opportunity of referring to the movement, which then went rapidly forward, I pass on to consider the changes affecting the equitable jurisdiction. The expense of prosecuting appeals at Westminster from the decisions of the Irish Courts had been a just subject of complaint to Irish litigants. It was regarded as tantamount to a denial of justice. Many relinquished their rights, unable or unwilling to bear the expenses of an appeal to the English House of Lords. The history of the famous cause of *Sherlock v. Annesley*² was familiar to Irish lawyers and politicians; and the enactment of

Politics.

Appeals.

¹ Grattan’s Life, by his son, vol. ii. p. 199. Two Lives of Father O’Leary have been published. One by my late respected friend the Rev. T. England, the other very recently by Rev. Mr. Buckley, a very able work.

² Vide ante, p. 15.

CHAP.
XLIV.

6th George I., securing the dependency of Ireland upon Great Britain, was regarded as a badge of inferiority not to be longer tolerated.

The question of restoring the appellate jurisdiction was brought before the Irish House of Commons by Mr. Grattan, on April 16, 1782, and supported by a very able Irish barrister, Mr. Fitz Gibbon,¹ who, as Grattan observes, spoke well, and got credit for his speech.² He declared that as the right of making laws for Ireland was in the King, Lords, and Commons of Ireland, this included the final judicature; and he hoped no individual would hereafter appeal from the Courts in Ireland to the British House of Lords. The speech of the Attorney-General was a singular one. His name was John Scott, and his general *sobriquet* was not complimentary—‘copper-faced Jack.’ He and Fitz Gibbon had been marked out by the Chancellor for promotion, but were suspected by the sagacity of Fox, who bade the Viceroy take care he was not strengthening an enemy instead of rewarding a friend. Scott well knew that he was expected to serve the Government at the expense of his country, for when he accepted office from the Chancellor, he made the significant remark, ‘My Lord, you have spoiled a good patriot.’

John
Scott,
Attorney-
General.

But there were times when love of country proved superior to the blandishments of power, and this was one. He said, ‘Events had taken place since the last meeting of Parliament that made it indispensable in him to declare his opinion *now*. The bill proposed by Mr. Yelverton, supported by so many Members of distinguished ability and virtue, which he entirely approved of, had not yet been returned from England. The object of that bill was to secure property, and to confirm other material topics—the subject of the British laws; and, if that bill was returned, there could be no objection to declare that British laws were in future utterly inoperative; and, not being returned, people have thought England insists upon that

Speech of
the At-
torney-
General.

¹ Afterwards Lord Chancellor, Earl of Clare, vide *Life*, post, 156.

² Grattan's *Life*, by his son, vol. ii. p. 257-266.

idle, useless, and pernicious power; he thought it, therefore, better that the object of the British laws should be doomed to destruction, than that his country should be held in even a supposed state of absolute slavery; he therefore did as a lawyer, a faithful servant of the Crown, a well-wisher to both countries, and an honest Irishman; and in the most unqualified, unlimited, and explicit manner declared his opinion that Great Britain had no right whatever to bind this country by any law. If the tenure of his office was to be the supporting opinions and doctrines injurious to the undoubted rights of Ireland, he *held it to be an infamous tenure*; and if the Parliament of Great Britain were determined to be the Lords of Ireland, *he was determined not to be their VILLAIN in contributing to it*. 'I owe,' he said, 'the avowal of these sentiments to Great Britain, to my country, and to myself!'

We can imagine how the Lord Chancellor felt when this violent and resolute speech of his *protégé* was reported to him, and we cannot feel surprise after perusing this emanation from the first law officer of the Crown in Ireland, that the Viceroy, Duke of Portland, one of the most sagacious statesmen of his time, should have urged the most speedy and most liberal concession. At the close of a long letter, marked private and confidential, which his Excellency addressed to Mr. Fox, from Dublin Castle, April 28, 1782, we find these startling words:—'I cannot conclude this letter without expressing my most anxious wishes for a speedy and favourable determination. There is still *an appearance* of Government; but if you delay, or refuse to be liberal, Government cannot exist here in its present form; and the sooner you recal your Lieutenant, and renounce all claim to this country the better. But, on the contrary, if you can bring your minds to concede largely and handsomely, I am persuaded that you may make any use of this people, and of everything they are worth, that you can wish; and in such a moment it will be happy for them that the Government of England

Necessity
of immediate
concession.

CHAP.
XLIV.

shall be in hands that will not take undue advantage of their intoxication.

‘Ever most sincerely yours,

‘PORTLAND.’

Statute
23 Geo.
III. c. 28.

The Ministry and Parliament of England followed the prudent advice of the Viceroy, and the Act of 23 Geo. III. c. 28 was passed to prevent and remove all doubts which had arisen, or ‘might arise,’ as to the right of the British House of Lords to hear Appeals from the Irish Courts. The first section enacted, ‘That the said right claimed by the people of Ireland to be bound only by laws enacted by his Majesty and the Parliament of that kingdom, in all cases whatsoever, and to have all actions and suits at law, or in Equity, which may be instituted in that kingdom, decided by his Majesty’s Courts therein, finally and without appeal from thence, shall be, and it is hereby declared to be established and ascertained for ever, and shall at no time hereafter be questioned or questionable.’

Opinion as
to the
effects of
the
Repealing
Statute.

Some doubts still lurking as to the sufficiency of this Act, Mr. Kenyon, afterwards the celebrated Lord Kenyon, and Mr. John Lee, then Attorney and Solicitor-General in England in 1782, were consulted by Mr. Fox, and united with him in opinion ‘that the simple repeal terminated British jurisdiction in Ireland,’ while the Irish Judges, together with Lords Camden and Erskine, Sir Arthur Pigott, and Sir Samuel Romilly, agreed with Mr. Grattan, Lord Charlemont, and Mr. Fox. Great alarm, was, however, felt in Ireland, when a Writ of Error to the Court of King’s Bench at Westminster, from a judgment of the Court in Ireland, was, notwithstanding the Act recently passed, disposed of by Lord Mansfield. A letter from Lord Mornington¹ to Mr. Grattan calmed much of the anxiety naturally excited by what seemed to be a direct infraction of this Statute. Lord Mornington states ‘the case was, as I understand, entered for hearing before the time of the operation of the Irish Act, and was by some accident delayed until this last term. The reason why it was not

Alarm at
the conduct
of Lord
Mansfield.

¹ Afterwards Marquis of Wellesley, brother of the Duke of Wellington.

dismissed when it came before the Court, subsequently to the operation of the Irish Act, was, that the time had elapsed for pleading against the competency of the Court, as pleadings had already begun upon the matter of the suit. The legal expression, I am told, is, that as these parties had already pleaded in chief, they could not afterwards plead to the writ. Now, at the time the cause was entered, the Irish Act had not passed; and, therefore, the objection to the competency of the Court did not exist at the only period when it could have been admitted consistently with the practice of the Court. I should observe that Lord Mansfield gave no sort of reason for his decision, but decided as a matter of course, without taking any notice of the particularity of the case.¹

CHAP.
XLIV.
Letter of explanation of Lord Mansfield's conduct.

Successive changes of Ministers in England and Viceroy of Ireland found Lord Lifford Chancellor, and left him holding the Great Seal. A long list the Lords Lieutenant make. I enumerate them: (1) Marquis of Townshend,² succeeded by (2) Earl Hartcourt,³ then came (3) the second Earl of Buckinghamshire,⁴ next (4) the fifth Earl of Carlisle,⁵ then (5) the third Duke of Portland,⁶ after him (6) Earl Temple, subsequently the Marquis of Buckingham,⁷ (7) the Earl of Northington,⁸ and (8) the fourth Duke of Rutland,⁹ succeeded by (9) the Marquis of Buckingham,¹⁰ who was thus twice Viceroy of Ireland.

Successive Viceroy.

¹ Grattan's Life, by his son, vol. iii. p. 36.

² George Townshend, first Marquis Townshend, Viceroy—October 14, 1767.

³ Simon Hartcourt, first Earl Hartcourt—November 30, 1772.

⁴ John Hobart, second Earl of Buckinghamshire—January 25, 1777.

⁵ Frederick Howard, fifth Earl of Carlisle—December 23, 1780.

⁶ William Henry Cavendish Bentinck, third Duke of Portland—April 14, 1782.

⁷ George Grenville Nugent Temple, second Earl Temple, and afterwards Marquis of Buckingham—September 15, 1782.

⁸ Robert Henley, Earl of Northington—June 3, 1783.

⁹ Charles Manners, fourth Duke of Rutland—October 24, 1784. He died while Viceroy in October 1787.

¹⁰ The Marquis of Buckingham was a second time Viceroy—December 16 1787.

CHAP.
XLIV.

Many of these noblemen held office for a very short time.

A new
Order of
Archi-
ture.

The Irish Peers employed James Gandon to design some alterations in their House, which were commenced in the time of Lord Chancellor Lord Lifford, in 1785. The portico erected in Westmoreland Street is quite incongruous with the rest of the building—being Corinthian—while the remainder is of the Ionic order of architecture. A tourist, who noticed this variation, asked Gandon, who was visiting the works, what the order of the portico was, as it differed from the front. The architect's witty reply was: 'Sir, the order that you enquire about is a new but very important one, termed the Order of the House of Lords.' The Houses of Parliament struck the Rev. John Wesley in 1787 as far exceeding the old House of Westminster, and the Throne in Dublin far finer than the miserable one for the King in the English House of Lords. 'The House of Commons,' he adds, 'is a noble room, it is an octagon, wainscoted round with Irish oak, which shames all mahogany, and galleried all round for the convenience of the ladies.'

Commis-
sion of the
Peace to
the Sham
Squire.

Owing to corrupt influence, the Chancellor was induced to disgrace the magistracy by the following direction:—

'Let the Commission of the Peace for the County of Dublin be forthwith prepared in the usual form, wherein you are to insert Francis Higgins, of Abbeyland, in said County, Esq., to be of the Peace, with the usual powers, and present the same to pass the Great Seal; and for so doing this shall be your warrant. Dated at Dublin this 10th day of July, 1788.

'LIFFORD.'

This Francis Higgins was a profligate parasite, who, by the most degrading acts, raised himself into wealth and position. Judge Robinson,¹ when sentencing him to

¹ Judge Robinson had been placed on the Bench for his services to the Government by writing some political pamphlets remarkable for their scurrility. He was no lawyer, and his brow-beating manner was well rebuked by the celebrated Curran, who in arguing a motion, dissented from the law as laid down by his Lordship. Their dialogue is thus reported:—

punishment for the perpetration of a base fraud by which he enticed an heiress to marry him, first called him the *Sham Squire*.¹

CHAP.
XLIV.

There was a great outcry, and very properly, at this exercise of the Chancellor's authority. One of the most consistent and honest Dublin newspapers, from its birth until now the intrepid denouncer of wrong and assertor of right—the 'Dublin Evening Post,' thus exposed this scandalous appointment:—'Will not a day of retribution come for all this accumulation of villainy and enormity, at which the blood runs cold? Oh, that we had a Fitz Gibbon Judge! Then would no longer the Newgate felon, the murderer of wretched parents, the betrayer of virgin innocence, *sham* his fate and defy the laws of God and man.'²

Lord Lifford held the Great Seal of Ireland longer than any Chancellor since the time of Edward I.—twenty-two years—and, being in his eightieth year, he had intentions of resigning on a pension. He had amassed a very large fortune, and the emoluments of the office at his time were estimated at 12,000*l.* per annum.

On searching the Lords' Journals during the time Lord Lifford was Lord Chancellor, I found repeated grants of

Grants by
the House
of Lords
of Ireland
to Lord
Lifford.

'I do not find the law so stated in any book in my library,' said Curran.

'Your law library, I suspect, is rather contracted,' replied the Judge in a sneering tone.

This roused Curran, who retorted with readiness.

'My books may be few, but the title-pages give me the writers' names; my shelf is not disgraced by any of such rank absurdity that their very authors are ashamed to own them.'

The Judge petulantly exclaimed, 'If you say another word, Sir, I'll commit you.'

'Then, my Lord,' replied the irrepressible Curran, 'it will be the best thing you'll have committed.'

¹ The fullest account of this man is contained in the 'Sham Squire and the Informers of 1798,' and 'Ireland before the Union,' both works written by W. J. Fitzpatrick, Esq., J.P., and abounding with curious, interesting, and important details of that sad period in Ireland's history.

² 'Dublin Evening Post,' No. 1767. The Sham Squire did not write J.P. after his name for any lengthened period. On November 21, 1791, the Lord Chancellor, Fitz Gibbon, directed a writ of Supersedeas to issue, which erased the name of Francis Higgins from the list of Justices of the Peace.

CHAP. XLIV. large sums of money made to him in addition to his salary and customary allowance as Speaker:—

	£
May 9, 1768	1,000
December 23, 1769	2,000
„ 21, 1771	2,000
February 28, 1774	2,000
December 18, 1775	3,000
„ 22, 1777	3,000
„ 21, 1779	3,000
„ 15, 1781	3,000
„ 15, 1783	3,000
April 4, 1785	3,000
March 13, 1786	3,000
„ 23, 1787	3,000
„ 22, 1788	3,000
	£34,000

These grants are usually stated ‘to mark the sense of the House of the Lord Chancellor’s services and distinguished abilities.’ I do not find these grants voted to Lord Lifford’s successor.

Death of
the Lord
Chan-
cellor.

On April 23, 1789, he felt in such good health, that he gave a sumptuous entertainment to a large party at his house in Sackville Street; but a day or two afterwards he got a severe cold while attending the House of Lords. A malignant sore throat defied the efforts of his physicians, and on April 29, 1789, his Lordship died in Dublin in his eightieth year.

Buried in
Christ
Church
Cathedral.

As we have seen that the early days of Lord Lifford were passed within the shadows of some of the most beautiful specimens of early ecclesiastical architecture in England, so his remains were interred in the beautiful old Cathedral of the Holy Trinity in Dublin, called Christ’s Church. Here, as in the church which at the outset of this memoir I have mentioned, the pointed arch, the lateral aisles, the groined ceilings, bespeak the master-hand of the builders. No way inferior to the grand old churches of Coventry is this fine old memorial of Catholic times in Ireland. According to tradition, St. Patrick said mass in one of the crypts, which is still called the Crypt of St. Patrick. It was afterwards selected by the Danes in Dublin as the

site of their church, and in 1038 Donagh, Bishop of the Danes, built the nave and wings. Here St. Lawrence O'Toole was consecrated Archbishop of Dublin, and during the reign of Edward III. it received great additions. The interior is still in good preservation. The north side of the nave consists of six lofty and nobly-planned arches of the lancet shape, the piers consisting of richly-decorated pillars. With the love of variety, so remarkable in ancient church decoration, we find some of these clustering columns banded in two, others quite plain from base to the capital. The spirit and freedom displayed in the sculptured foliage in some of the columns, as also the sharpness of outline, is wonderful considering the hundreds of years which have elapsed since they were executed. A handsome monument is erected to the memory of Lord Lifford, bearing his titles and appropriate motto—

CHAP.
XLIV.

BE JUST AND FEAR NOT.

In the Diary of Scott¹ he gave some notices of Lord Lifford worth recording here. Under the heading, '*Be always an actor,*' we read—'A man who would establish a great character with the world must be a constant actor; and the best rule to adopt for that purpose is to consider every dress you put on, every time you change cloaks, every change of company or situation, as a new scene in which you have a part to act for praise. Siddons is as great a model as ever I saw on the stage. Mr. Burgh, Ch. Baron, Mr. Pery and L. Lifford the best off the stage. Lord Chatham, Cromwell and Provost Hutchinson were great actors.' Again, 'Never give offence to any man, he will have power to resent. Almost the only thing by way of observation I ever heard Lord Lifford say worth remembering, though he was one of the wisest practitioners with the world I ever knew, was upon the subject of moderation, which is a branch of temper, i.e. dissimulation, of which he was a great master, "For such a government as ours," said he, "there is scarcely any individual

Scott's
opinion of
Lord Chan-
cellor
Lifford.

¹ Chief Justice of the King's Bench, Earl of Clonmel. Vide 'Ireland before the Union,' by W. J. Fitzpatrick, p. 30.

CHAP.
XLIV.

so obscure but may be one time or other sufficiently connected with power to do any man mischief; no man should, therefore, give offence; no man is fit for great affairs who has not a total mastery of his temper." N.B.—Fear was the prudence of his life, caution his shield, and temper his fort.'

Reports
of Lord
Chancellor
Lifford's
judgments.

Lord Lifford is the first Lord Chancellor of Ireland whose judgments have been preserved. Of these many are unpublished, and one volume is printed. This is entitled 'Reports of Select Cases argued and determined in the High Court of Chancery in Ireland, principally in the time of Lord Lifford.' Though these decisions range from 1767 to 1786, they were unknown to the profession until published by the enterprising Irish publishers, Hodges and Smith, in 1839. They had been reported by an experienced member of the Irish Bar, Mr. Wallis, who gave them to Mr. Lyne, also a barrister. This gentleman undertook to condense and prepare them for publication; finding the task troublesome, he presented them to a relative of the Reporter, Mr. Alexander, a member of the English Bar. He also neglecting to publish them, James Lyne, Esq., son of the gentleman of that name already mentioned, procured them from Mr. Alexander, and carefully examined the manuscripts. A large portion related to the construction of the No Popery laws, now, thank God! obsolete. Those published present features of interest and importance. The period was not supposed productive of men capable of close and argumentative reasoning, for it was during the brief but brilliant epoch of Irish independence. These reports contradict this belief. They show a greater degree of legal learning, and acquaintance with, and reference to, the authority of decided cases, than the bar of Ireland at the time got credit for. The men whose fervid eloquence blazed in the Senate at night cooled down in the morning to discuss legal points. The arguments of Counsel and the decisions of the able and distinguished Judge who for over twenty years presided as Lord Chancellor of Ireland are the best monuments of the profession

we could have. As specimens of the way his Lordship disposed of cases, I subjoin a few reported by Mr. Wallis:—

CHAP.
XLIV.

In *Williams v. Hopkins*,¹ decided in 1777, the Lord Chancellor held a devise of real and personal property to testator's unborn child, and in case of its death under age, to be equally divided between the children, male and female, of testator's two married daughters, Letetia Williams and Elenor Hopkins, when they should arrive at their respective ages; the interest of that part to the children of Elenor during such minority to go to her, Elenor's sole use; and in case she should not have children, such share to go to the children of Letetia at the death of the posthumous child. Elenor had no children, and the posthumous child having died, upon Bill filed the Chancellor decreed a moiety of the testator's effects to be for the benefit of Elenor's children, if such she should have, and meantime she should have the interest and produce, and on her death without issue, that moiety to go to her sister's children.

Williams
v.
Hopkins.
Devise to
unborn
child, with
gift over.

In *Murray v. Bateman*, Lady Rosse his wife, and others,² where a tenant for three lives, with covenant for perpetual renewal on payment of a fine within three months from the fall of any life, had not applied for a renewal until the fall of the last life in the lease; upon Bill filed to compel a renewal on refusal to grant same or accept the renewal fines tendered, Lord Chancellor Lifford held, after very full argument, that the plaintiff was entitled to a renewal of

Murray
v.
Bateman.

¹ Wallis, Rep. by Lyne, p. 285. The condition of 'having children' when in the will there was a bequest to the parent, was held satisfied by issue being born, though dying during the parents' life time. Vide *Weakly v. Rugg*, 7 T. R. 322. Also on the same question, *Wall v. Tomlinson*. 16 Ves. 413.

² Wallis, Rep. by Lyne, p. 181. At p. 203 Mr. Wallis says, 'This decree was afterwards reversed by the Lords. Some of the law Lords did not approve of relieving tenants who did not comply with their renewal covenants, and the decision created such alarm in Ireland that they procured the Act 19 and 20 Geo. III. Ir. c. 30, the Tenantry Act, which passed the Lords by the narrow majority of *one*. A note of the argument on the Appeal is reported in 1 Ridg. P. C. 198. Lord Redesdale shows very satisfactorily that the reason why Lord Lifford's judgment in *Murray v. Bateman* was reversed was not upon laches of the tenant but on account of fraud and wilful concealment.—See 2 Scho. and Lef. 687.

Decree
reversed
on appeal.

CHAP.
XLIV.

White
v.
Dillon.

his lease pursuant to the covenant upon payment of renewal fines, according to the septennial calculation.

The rights of married women to dispose of property by will came before the Lord Chancellor, in *White v. Dillon*, decided in 1788.¹ On a separation between husband and wife, a deed was executed conveying the wife's marriage portion, with other property, to trustees, for her sole and separate use, to pay rents, and produce to her, her executors, administrators, and assigns, for her and their separate use. The wife subsequently was allowed an interest in some houses, which were bequeathed to trustees to the sole and separate use of the wife, and to be disposed by her as if sole. By will she left her husband five shillings, and her separate property to her relations. On her executor seeking probate, the husband contested the grant, and therefore submitted to the jurisdiction of the Court; finding the Judge of the Prerogative against him, and in favour of the will, the husband applied to the Lord Chancellor for a writ of prohibition. The case was argued by the Attorney-General, John Scott, for the executor, and Mr. Yelverton for Mr. White, the husband of the deceased lady. In the Chancellor's judgment the law was thus clearly stated: 'A married woman is by her coverture disabled from making a will. She is not *sui juris*, but under the control and power of another; by her marriage she ceases to have any dominion over her former property, which is transferred to the husband by the marriage, and she therefore cannot have a right to dispose of things over which she has not any power. The husband then, having the power over the wife's goods equally with his own (for he may dispose of the chattels and recover her choses in action), may dispose thereof at his pleasure; and when he absolutely assigns them to trustees for the wife, he ceases to have any further dominion over them. After separation, a wife is in many respects *sui juris*, and the separation is a consent and allowance by the husband of the wife's sole acts in consequence of such separation; so that

¹ Wallis, Rep. by Lyne, p. 302.

both reasons against the *feme covert* making a will cease in case of separations. And though any disposition of hers by testament may not be thereby called a will, yet it, in fact, is a will, and operates in every respect as such; and there is no solid difference between a will and a testamentary writing or schedule. Exclusive of this, the party now applying for the Prohibition has fully admitted the jurisdiction of the Ecclesiastical Court, and submitted thereto by allowing the cause to proceed to a final hearing without any objection; ¹ although he must have been earlier apprised of the legal right now insisted on by him, if any he had. ² Prohibition refused. ³

¹ See the law held in *Fettyplace v. Gorges*, 1 Ves. Jun. 46; *Rich v. Cockell*, 9 Ves. 369; *Sturges v. Corp*, 13 Ves. 190.

² For disputing jurisdiction after proceedings. See *Anon*, 1 Vern. 301; 2 T. R. 475.

³ The decisions of Lord Chancellor Lifford in print are contained in the work from which these cases are cited. A very elaborate judgment in *Rochfort v. Lord Ely* is contained in Appendix to *Ridgeways*, P.C. vol. i. p. 528. Also his judgment in same cause, id. p. 551. There are, I am informed by my friend John Adair, Esq., of the Irish Bar, many unpublished and unprinted cases argued before his Lordship in MSS., which were presented by Mr. Adair to the present Lord Lifford.

CHAPTER XLV.

LIFE OF LORD CHANCELLOR EARL OF CLARE, FROM HIS BIRTH TO HIS
TAKING HIS SEAT IN PARLIAMENT.

CHAP.
XLV.
John Fitz
Gibbon,
Earl of
Clare.
His cha-
racter.

WE now reach the most remarkable man who has yet held the Great Seal of Ireland, JOHN FITZ GIBBON, EARL OF CLARE. Though a native of the soil he evinced no *amor patriæ*, and sought his own aggrandisement at the expense of his country. His career displays dauntless courage, the highest intellect, the utmost selfishness, and unrestrained arrogance. While strongly condemning the result of his career, it is impossible not to admire the might of his abilities, and the range of his talents.

Sympathy
for Irish
Catholics
on the
Continent.

The atrocities of the penal code made the people of Ireland objects of sympathy in every Catholic country in Europe. The penal laws, which, as far as legislation could effect, debased the intellect by forbidding education to the Irish Catholics, caused Irish colleges to be endowed and established for their special use on the Continent, and that comprehensive and liberal education which the Parliaments of Britain and Ireland prohibited under severe penalties, was generously afforded to the exiles of Erin in more tolerant lands. By the waters of Tiber, in the City of the Seven Hills—Eternal Rome—the Irish college was thronged with students. In Paris, in St. Omer's, in Louvain, and in Liège, in Salamanca, and in other well-known seats of learning, familiar as household words in the homes of the persecuted Irish—the sons of Erin drank deep of the well of knowledge. Here they acquired the learning necessary for the service of the altar or the practice of medicine, and returned to Ireland clergymen or doctors, ready and willing to save body and soul. Many of the wealthier Irish Catholics endowed these colleges,

and thereby obtained what were termed '*bourses*,' which gave them a claim upon these institutions.

Among the Irish Catholics who obtained the benefit of the instruction and support afforded by the Irish College in Paris, were the sons of a farmer in the county of Limerick, named Fitz Gibbon. One of his sons entered the Church, and was ordained a priest. When the Reverend Mr. Fitz Gibbon returned to the humble paternal roof in his native land, he induced his younger brother John to avail himself of the excellent education to be had in Paris; and he readily consented. Thus, in the year 1724, at the age of sixteen, John Fitz Gibbon was sent to pursue his studies at the Irish College in Paris. As usual for new-comers, he was allowed the first day to take a view of the city. John Fitz Gibbon on this occasion was accompanied by a student as a companion and care-taker, afterwards one of the most eminent physicians in Limerick—Dr. Ankettle. The youths having traversed the metropolis in every direction, stopped at the Cathedral of Notre Dame, in the vicinity of the college; when exhausted with fatigue they sought repose on the benches of the choir, and fell so soundly asleep that they noticed not the closing of the church doors, while they were equally unobserved. It was past midnight when they awoke, and, finding themselves thus immured, they groped about in the dark until they happened to reach the bell-chains, which they vigorously pulled, to the surprise and affright not only of the sexton but of the city at large, having made the great chimes—even the fearful TOCSIN—resound, and spread alarm over the city. They were finally liberated, though not without a sharp reprimand, followed by the severer and more impressive reproof of the President of the College. Often in after life, when these gentlemen had attained a distinguished rank in their respective professions, was this youthful adventure the subject of their conversation and not unpleasing reminiscence.¹ 'Both,' adds my venerable friend, James Roche of Cork, 'were the particular friends

CHAP.
XLV.

John Fitz Gibbon, a student at the Irish College in Paris.

The students fall asleep in Notre Dame.

Ring the great bells.

Liberated with a reprimand.

¹ Essays of an Octogenarian, vol. ii. p. 39.

CHAP.
XLV.His professional
gains
100,000*l.*

of my father; and my grandfather had been the first client who paid Fitz Gibbon a fee, which was the origin of a long subsisting family intercourse. His professional gains exceeded one hundred thousand pounds; a very large sum for that period, and principally acquired as a consulting lawyer; for he had no pretensions to forensic eloquence, like Anthony Malone, Hussey Burgh, and others, his contemporaries.¹ His law reports are interesting even to the general reader, from the incidental family anecdotes which they reveal. I have already mentioned in my life of Lord Chancellor Wyndham, how the publication of these Reports nearly prevented Mr. Fitz Gibbon's call to the Bar.²

¹ My venerable friend was in error here, Hussey Burgh was not a contemporary of John Fitz Gibbon, Sen.

² In a blank page prefixed to Fitz Gibbon's Reports, Sir James Burrow wrote, 'This volume of Reports was published the very next Term after it concludes, viz., in Michaelmas Term, 5 Geo. II., and was then produced in Court, when it was treated with the utmost contempt both by the Bench and Bar. The author of it was an Irish student, who was called to the Bar in either Trinity or Michaelmas Term, 5 Geo. II., and the current report was, that the scheme of publishing this book was to satisfy Walthoe, the bookseller, either for chamber rent or money advanced towards the charges of the author's call to the Bar. Lord Raymond spoke of it at the sittings a few days after, with a great deal of resentment, and threatened that he would take care to see Walthoe punished for the publication of it. But nothing came of it; Mr. Fitz Gibbon went to Ireland immediately on being called. I think Lord Raymond called this performance a libel upon the Bar and the Bench, and said, that it made the Judges, and particularly himself, to talk nonsense by wholesale: '*But I have examined all the King's Bench Cases in it very carefully, and have compared them with my own notes, and find him to have made the Judges talk almost verbatim what I took down myself from their own mouths.* There are, indeed, errors in it, but upon the whole, the cases seem to be clearly stated, the arguments of different Counsel, at different times, clearly, forcibly and yet briefly represented, and the sense of the Court truly delivered. In short, there does not appear any want of accuracy, perspicuity, or judgment.'

Sir James
Burrows'
testimony
of the
accuracy
of these
Reports.

The learned commentator intended to mention a case, but does not give either name or page, which he states is 'extremely well and clearly reported, though argued by two gentlemen who are more remarkable for the knowledge they are masters of than for a facility of conveying it to their auditors, as no one can have omitted to observe, who has ever attempted to take notes of their arguments.'

He strongly disapproved of the production. 'However, after all, nothing certainly can excuse such a hasty unlicensed publication of the performances of a private note-taker without authority or revision.'

* Vide Dublin University Magazine, vol. xxx. p. 672.

The English Judges most probably made such representations to the Irish Benchers as induced several to consider Mr. Fitz Gibbon an objectionable person to be admitted to the Irish Bar; and had not the then Lord Chancellor, Lord Wyndham, and Lord Chief Justice Reynolds, warmly interested themselves in his behalf, John Fitz Gibbon would have had no opportunity of realising the fortune he amassed by his great professional skill. He quickly got into great practice, especially in advising, and what is called chamber business—but went the Munster circuit. Beside his town house, he had a country residence near Donnybrook, a village near Dublin, formerly celebrated for its annual fair—now suppressed.

CHAP.
XLV.
Called to the Irish Bar through the influence of Lord Chancellor and Chief Justice.

Many stories are afloat respecting the avarice and thrift with which the elder Fitz Gibbon amassed his great wealth. He invested portion of his professional gains in land, for he became owner of Mount Shannon, County Limerick.¹ ‘Old Fitz Gibbon,’ says Sir Jonah Barrington,² ‘loved to make money, and in his day it was not the habit for lawyers to spend it. They used to tell a story of him respecting a client who brought his own brief and fee, that he might personally apologise for the smallness of the latter. Fitz Gibbon, on receiving the fee, looked rather discontented.’

“I assure you, Counsellor,” said the client (mournfully), “I am ashamed of its smallness; but in fact it is all I have in the world.”

“Oh! then,” said Fitz Gibbon, “you can do no more; as it is all you have in the world, why I must take it.”

Reason for taking a small fee.

It was at the country house near Donnybrook, in the year 1749, John Fitz Gibbon was born. There was an elder son named Ion, who did not reach manhood. As indications of temper as well as talent in the child presage the man, I may introduce here an anecdote recorded in the work already quoted, ‘Essays of an Octogenarian,’ illustrative of the disposition of the imperious

John Fitz Gibbon born in 1749.

¹ Burke's Peerage. Title, Earl of Clare.

² Personal Sketches, vol. iii. p. 309, in note.

CHAP.
XLV.

Lord Chancellor. Having incurred his father's displeasure for some schoolboy fault, Fitz Gibbon senior sent his elder son to command young John's attendance. The message was authoritative :—

“ “ Your father orders you to go to him ; you must come instantly.”

Indication
of haughti-
ness in the
future
Chan-
cellor.

“ “ *Orders—must!* ” repeated the boy of thirteen. “ Such language suits me not, nor will I stir an inch. *DECRETUM EST!* ” and proudly stamping his foot on the ground remained stationary.

‘ The messenger reported the reply. The old gentleman laughed heartily at this presumptuous burst of haughtiness, and, in a formal note, jocosely requested the honour of an interview with Mr. John Fitz Gibbon, junior, when, after a few words of paternal admonition, no further notice was taken of the matter, and, in Parliamentary phrase, the subject dropped.’¹

School
days.

When young Fitz Gibbon was of age to go to school he was sent to Mr. Ball's, in Great Ship Street, Dublin. He quickly distinguished himself in the acquisition of knowledge, and was considered a good scholar. He knew science and classics well, but he discovered no traits of genius or of taste.² Here he prepared himself well for his university career, which was highly successful. Among his contemporaries were Foster—afterwards Speaker of the House of Commons, and Lord Oriel ; Day—afterwards a Judge—Grattan and Boyd. Grattan and Fitz Gibbon reaped the highest honours of the University of Dublin. He obtained his degree of Bachelor of Arts in 1762, and that of LL.D. *honoris causa* in 1765. He also took a degree at Oxford. The success of the elder Fitz Gibbon naturally caused his son to study for the Bar. He was a hard-working student, and his time, while at the Temple, was not lost or misapplied. His father's diligence spurred him to exertion, and he came to the Irish bar a well-read

University
career.

Prepares
for the
Bar.

¹ Essays of an Octogenarian, vol. ii. p. 36.

² Memoirs of H. Grattan, vol. i. p. 42.

³ Dublin University Catalogue, p. 195.

and accomplished lawyer. Having kept the probationary terms, Mr. Fitz Gibbon was called to the Irish bar on June 19, the first day of Trinity Term, 1772. He was then in his twenty-third year, so he may be said to have started young. Sir Jonah Barrington insinuates that, as a junior at the bar, Fitz Gibbon was idle and dissipated, negligent of business, and, in fact, careless about his profession; but two reasons detract from the credibility to be attached to this statement. One is the slight reliance to be placed on the testimony of the witness when giving evidence against the Earl of Clare. Barrington regarded his Lordship as his personal and political foe, and, for the former, we shall find later on, Sir Jonah had very sufficient cause. The next reason is still stronger in favour of the Chancellor. In an able sketch of the Earl of Clare, contained in the 'Dublin University Magazine' for the year 1847, I find a very important extract from the Chancellor's fee book, which, better than any other document, records how he progressed at the bar. This, I think, most clearly shows Sir Jonah must have been mistaken when he mentioned Fitz Gibbon as negligent and idle while a junior at the bar.

CHAP.
XLV.

Called to the Bar, 1772.
Reasons for disbelieving Sir Jonah Barrington's statement.

The following marks the growth of his practice from the very outset of his professional career. I copy the entries:—

Extracts from the fee book of the Lord Chancellor, Earl of Clare, while a practising barrister.

'I was admitted to the bar on the 19th of June, being the first day of Trinity Term, 1772.

'December 22nd, 1783, I was sworn Attorney-General. To that day I received at the bar 8,973*l.* 6*s.* 3*d.*

	Fees.	£	s.	d.
1772		343	7	0
1773		414	3	5
1774		585	17	8
1775		619	17	1
1776		1,066	19	2
1777		1,633	16	0
1778		1,126	17	9 ¹
Carry forward		5,790	17	1

¹ This term (Hilary 1778) I was prevented from attending the Courts after the second week by my attendance on the College petition.

CHAP.
XLV.

		£	s.	d.
	Brought forward	5,790	17	1
1779	. . . . .	672	17	9 ¹
1780	. . . . .	892	8	0
1781	. . . . .	759	9	9
1782, 1783	. . . . .	859	5	5 ²
1784	. . . . .	4,625	17	0
1785	. . . . .	5,722	15	8
1786	. . . . .	6,702	19	3
1787	. . . . .	7,510	11	3
1788	. . . . .	7,980	0	0
1798, Hilary and Easter		4,395	6	6
		£45,912	8	8

‘From the 19th June, 1772, to June, 1789, I received at the bar 45,912*l.* 8*s.* 8*d.* Of this, 36,939*l.* 3*s.* 11*d.* was received by me in the last five years and a half.

‘1788. N.B.—In this year the Court of Chancery was shut from the first day of Michaelmas Term till the 14th or 15th of December; and for the very few days on which the Chancellor or the Commissioners sat, little or no business was done. In this year but one long cause was heard in the Court of Chancery, which was heard by Lord Chief Justice Carleton;³ and not one long cause was heard in the Exchequer in Michaelmas Term; and one decree to account, and only one long cause in Trinity Term.’

The first
term.

John Fitz Gibbon made in his first term, Trinity, 1772, 94*l.* 14*s.* 9*d.*—a very respectable commencement, which I suspect few who have been called in my time can boast. One very distinguished contemporary of mine, who now

¹ N.B. This year I was prevented appearing in the Courts during the whole of the Easter Term.

² N.B. This year (1783) I did not attend the Courts after the first week in Easter Term, nor during the whole of Trinity Term. To this I add the sum which I received March 1783, and begin a new account from the time I was appointed Attorney-General.

	£	s.	d.
Easter Term, 1783	55	14	9
Hilary Term, 1783	344	18	8
Michaelmas Term, 1782	231	6	9
Eleventh year	632	0	2
Michaelmas Term, 1783	227	5	8
	£859	5	5

³ Chief Justice of the Common Pleas.

adorns the Bench, told me he received twenty-eight guineas his first term, which I thought was doing well, but it was nothing to the large sums he had soon to enter in his fee-book. On the last day for drawing Declarations in term, as we were both leaving the Law Library of the Four Courts, Dublin, about half-past four o'clock in the afternoon, I said: 'I am sure you have had a busy day.' 'Yes,' he replied, 'I have been drawing Declarations since three o'clock this morning.' He must have made fifty guineas in the progress of that day's hard work. The first fee which a young barrister receives he regards with peculiar affection—it is an earnest of the success which he hopes to achieve. Fitz Gibbon's first fee was not the usual guinea, but a substantial one—5*l.* 13*s.* 9*d.* The case was marked 'Farrell *v.* Crosbie.' His last fee was in the cause of Redmond *v.* Carr, in Trinity term, 1789. It was worth receipting, 39*l.* 5*s.* 3*d.*¹

Fitz
Gibbon's
first fee.

In the previous year, 1788, Fitz Gibbon was Counsel in no fewer than one thousand three hundred and sixty-seven cases, but then he was Attorney-General, and a brief was sent him in every Crown case, when he merely decided whether or not to prosecute. The fees were not large, indeed many of them were under three guineas.

Immense
practice.

In some years the fees are thus entered in his book:—

	£	s.	d.
Michaelmas, 1786	1,413	8	1
Trinity, 1786	1,637	17	2
Easter, 1786	1,390	18	6
Hilary, 1786	2,260	15	6
	£6,702	19	3 ²

John Fitz Gibbon naturally selected the Munster Circuit as that he would travel. His father's reputation as a careful and painstaking lawyer was of great use to him; and the large estates of his father were in the neighbourhood of Limerick, one of the Assize towns, which was not without some influence on the legal *status* of the heir.

Selects the
Munster
circuit.

¹ I cannot say how the shillings and pence came to be computed, but suppose the difference between Irish and British currency occasioned it.

² Dublin University Mag. vol. xxx. p. 676.

CHAP.
XLV.

Brethren
on the
Munster
circuit.

The Munster Circuit has always numbered names high in the legal annals of Ireland, and at this period Barry Yelverton,¹ John Philpot Curran,² and Hugh Carleton³ were acknowledged leaders. Into the agreeable companionship of men of enlarged minds, cultivated tastes, and social habits, which endear to my mind the memory of the Munster bar, John Fitz Gibbon was kindly received.

Personal
appear-
ance and
manner.

Fitz Gibbon was soon a great favourite with the discriminating attorneys of the Munster Circuit. Of slender figure, not very robust health, and rather delicate features, he had the haughty air, the imperious glance, and despotic will of a Roman emperor. He was an able and ready advocate, exceedingly painstaking, always master of his case, and these qualifications ensured him abundance of briefs. The solicitors of the circuit towns—Ennis, Limerick, Tralee, and Cork—eagerly sought the rising junior, and contributed in no small degree to his rapid progress at the Bar. Unfortunately, the traditions of the circuits which I have collected⁴ do not go so far back as the last century, but I am able to state that John Fitz Gibbon was regarded from the first as one of the most promising members of the Circuit. Before he was quite four years called, his professional income exceeded a thousand a year; and when we remember that he derived an income of six thousand a year from his father, and was not incited to labour by the sharp spur of necessity, we may be sure it was not mere love of money that made Fitz Gibbon work hard. But there are other spurs beside poverty, and the adage is true, ‘A spur in the head is worth two in the heels.’ Ambition—the thirst of great minds, the greed of

Success on
his circuit.

¹ Mr. Yelverton was called to the Bar in 1764. Attorney-General in 1782, Chief Baron of the Exchequer in Ireland in 1784, with the title of Lord Avonmore, in 1789. He died in August 1805.

² Mr. Curran was called in 1775. Appointed Master of the Rolls in 1806. Retired from the Bench in 1813; died in 1817.

³ Mr. Carleton was a native of Cork, born in 1739, and became Solicitor-General in 1779, he was appointed Lord Chief Justice of the Common Pleas in 1787, and elevated to the peerage as Baron Carleton in 1789. He retired on a pension in 1802, and died in 1826.

⁴ ‘Recollections of the Munster Bar.’ Law Magazine for the year 1858.

power, the lust of dominion was John Fitz Gibbon's spur; ever goading, goading, and urging him onwards and upwards, till he reached the pinnacle of his greatness. How he rose, I proceed to trace. The success of his conduct on the College Election Petition in 1778 strongly recommended him to the electors as a Member for the University, and he was placed in the distinguished position of Member of the Irish Parliament for the University of Dublin in 1780.

CHAP.
XLV.

CHAPTER XLVI.

LIFE OF LORD CHANCELLOR EARL OF CLARE, CONTINUED.

CHAP.
XLVI.College
requisition
to support
the Decla-
ration.

FITZ GIBBON was one of the members of the Dublin University when the electors called on him and on his colleague, Hussey Burgh, to support Mr. Grattan's Declaration of Rights. Burgh's reply forms a strong contrast to that of Fitz Gibbon. Burgh's answer was concise and firm, short and pithy; Fitz Gibbon's more diffuse and argumentative. It ran thus:—

Fitz
Gibbon's
reply.

‘Gentlemen,—I am just now honoured with your instructions, which have been forwarded to me by post. Be assured I shall always feel the utmost satisfaction in receiving the suggestions of that very great and respectable body which I have the honour to represent; and that you shall ever find me ready, to the best of my ability, to vindicate your rights. *I have always been of opinion that the claims of the British Parliament to make laws for this country is a daring usurpation on the rights of a free people, and have uniformly asserted the opinion in public and in private.* When a declaration of the legislative right was moved in the House of Commons, I did oppose it, upon a decided conviction that it was a measure of dangerous tendency, and withal inadequate to the purpose for which it was intended. However, I do, without hesitation, yield my opinion on this subject to yours, and will, whenever such a declaration shall be moved, give it my support. With respect to an explanation of the law of Poyning, I confess the more I consider the subject the more difficult it appears to me. Allow me to remind you that the University did, on a very recent occasion, experience that this law, in its present form, may operate beneficially. A total

repeal of it will, I hope, on consideration, appear to you to be by no means a desirable object. You may rest assured that the best attention I can give the subject shall be exerted; and I trust, and doubt not, that upon a communication with you upon this topic I shall be able to give you full satisfaction.

‘I agree with you most warmly that any advantage which we may derive from reformation must be precarious so long as the Articles of War shall continue to be a permanent and established branch of municipal law, which they certainly are under the present Act for regulating the King’s Army in Ireland. *There is not a doubt in my mind that a perpetual Mutiny Bill lays the foundation of a military despotism in this country; on this principle I will, while I live, make every effort in my power to procure a repeal of it.* The administration of law is certainly an object of the first importance; and therefore I will at all times concur in any measure which can be proposed to make the Judges of the land independent and respectable.

‘I have the honour to be, &c.,

‘JOHN FITZ GIBBON.’

The expressions of liberality underscored in this letter lose much of their force when we learn that the writer, when writing it, was perfectly aware the Duke of Portland, then Viceroy, had been instructed to accede to Mr. Grattan’s demands. On April 16, 1780, the Secretary of State, Mr. Hutchinson, reported to the House he had his Majesty’s commands to express his Royal regret that discontent prevailed amongst his loyal subjects in Ireland upon matters of weight and importance; and ‘his Majesty recommends to this House to take the same into their most serious consideration, in order to seek such a final adjustment as may give mutual satisfaction to his kingdoms of Britain and Ireland.’ A gracious answer was given to this most reassuring message.

Fitz Gibbon’s oratory, though far inferior to that of many of his great contemporaries — Grattan, Hussey Burgh, Yelverton, or Flood, was of no mean order. The

CHAP.
XLVI.

Difficulty
respecting
Poyning’s
law.

Fitz
Gibbon’s
liberality
exposed.

The King
recom-
mends a
final
adjust-
ment.

His talent
for debate.

CHAP.
XLVI.

‘Note-book of an Irish barrister’ informs us¹ ‘it was bold, rapid, and forcible—ministering always to his wants, and rescuing him from difficulties by its quick and apposite application. He had the power of awakening attention, and infusing animation into the dull and flagging debate. When carelessness, or absence of interest, rendered the proceedings of the House stupid, he rushed forward, and by a sharp stroke of personal invective, or a vigorous attack upon the opposition generally, he elicited the applause of his own party, or provoked the indignation of his adversaries, so that the strife was again renewed, and sparks of a divine eloquence were generated in the collision.’

The Nationalists of Ireland carried successively the Declaration of Rights, the Independence of the Judges, and other patriotic measures. Lord Northington was Lord Lieutenant of Ireland in 1783, when Fitz Gibbon was mentioned as a fit person to succeed Yelverton as Attorney-General for Ireland. In a letter dated November 18, 1783, the Viceroy excuses himself to Mr. Fox for recommending this appointment: ‘Many of our friends, you say, have disapproved of the proposed arrangements for Scott and Fitz Gibbon. Are they of this or your side of the water? If on my side, I can contradict it thus far—Grattan was consulted, and was content to act with Fitz Gibbon, and has no objection to Scott being Prime Serjeant. The Attorney-General² likewise approves of Fitz Gibbon. He stands foremost in rank, abilities, and professional knowledge. It is proposed he should take the lead in the House of Commons.’³

The allusion which the Viceroy made to the share Mr. Grattan had in the promotion of one he afterwards found so formidable an enemy to his views on Irish questions is thus mentioned in the ‘Life by his son:’⁴—‘Mr. Grattan was consulted as to this appointment, and in an evil hour

Letter
from Lord
Northington,
Lord Lieuten-
tenant, to
C. J. Fox,
1783.

¹ These able papers are printed through successive volumes of the Metropolitan Magazine, vide vol. xxiv. p. 339.

² Yelverton.

³ Grattan’s Life, vol. iii. p. 200.

⁴ Ibid.

he gave an opinion favourable to Mr. Fitz Gibbon: "*ibi omnis effusus labor.*" Mr. Grattan had known him at college, and when at the Temple. He had been a visitor at his favourite retreat at Sunning Hill, near Windsor; and the support that Mr. Fitz Gibbon gave him on his proposition for restoring the final judicature of Ireland, and his speech on that occasion, had still further increased their acquaintance, and perhaps even their friendship.'

CHAP.
XLVI.

Mr. George Ponsonby was against the appointment; so also was Mr. Daly, who said to some one recommending Fitz Gibbon for his national feelings: '*You are quite mistaken; that little fellow will deceive you all.*'¹

Mr. Daly's
adverse
opinions.

Mr. Henry Grattan complains bitterly of the ingratitude displayed by Mr. Fitz Gibbon towards his father, alleging: 'He left no means untried to blemish the character of his former friend and patron; to beat down his public principles; to counteract every exertion in favour of freedom and of Ireland.' I am therefore bound, as an act of justice to the man thus accused, to disprove the assertion. Within thirty pages of the one containing this charge, I find the following eulogium on Mr. Grattan pronounced by the Attorney-General in a debate in the House of Commons:—

'From the first, I have ever reprobated the idea of appealing to the Volunteers, though I was confident Ireland was in no danger while they followed the counsel of a man whom I am proud to call my most worthy and honourable friend (Mr. Grattan), the man to whom this country owes more than any State ever owed to an individual; the man whose wisdom and virtue directed the happy circumstances of the times, and the spirit of Irishmen to make us a nation. Sir, I say, while the Volunteers continued under his influence, I feared no evil from them; but I apprehend what has since come to pass, that when they should forsake him, designing incendiaries would make them the tools of faction, the instruments of their vile ambition. Let me entreat gentlemen to recollect what

The
Attorney-
General's
eulogium
on Grattan.

¹ Grattan's Life, by his son, vol. iii. p. 200.

CHAP.
XLVI.

has happened. After the 6th George I. had been repealed—after an Irish Mutiny Bill had passed—after the Law of Poyning's had been explained—after the Judges had been rendered independent—at the period when the acclamations of the nation were loudest in praise of the man who had most justly become their idol—at the suggestion of some person everything was changed in a moment, and he was loaded with foul and unmerited calumny, for no other reason but because he ventured to have an opinion of his own, and chose rather to rely on the faith of a brave and generous nation than on the finespun quibble of a special pleader, which ninety-nine men out of every hundred that joined in the chase could not understand; and which they would be as ready to censure, if the same instigation that set them on to vilify the saviour of this country had declared against Renunciation.'¹

Proposal
to increase
the salary
of the
Viceroy.

During the session Mr. Molyneux, who was not a supporter of the Government, and had no communication with the Lord Lieutenant, moved 'that the Viceroy's salary should be increased from 16,000*l.* to 20,000*l.* per annum.' As soon as notice was given of this motion, his Excellency directed the Attorney-General to express his satisfaction at his income, and that he sought no increase. The Attorney-General, however, did not manage the matter in accordance with the Viceroy's directions, and the measure was carried.²

Mr. Flood's
Reform
Bill.

In March, 1784, Mr. Flood brought in his Bill of Parliamentary Reform. Out of the thirty-two counties of Ireland, twenty-six petitioned in favour of it; and when the debate came on, Mr. Fox's prediction was verified, both Mr. Scott and the Attorney-General spoke and voted against it.

The Ministry were resolved to suppress the Irish Volunteers, and when Mr. Flood brought forward his Reform Bill, approved of by the Delegates of the various Volunteer corps which sat in convention in the Round Room of the Rotunda, and appeared in the House of Commons in

¹ Grattan's Life, vol. iii. p. 232.

² Ibid. p. 234.

his Volunteer uniform, to try the issue of the day, the Attorney-General made the following most powerful reply to arguments in support of the Bill:—‘ I did hope that some new proof of the necessity of reform would be urged, and that we should not be entertained with the flights of visionary speculatists, with the vagaries of theory and absurd hypothesis; but we endure all this because the wise men of 1783 cannot reconcile certain abstract ideas of irrational system-mongers in England with the free and happy constitution of this country. I do not oppose the introduction of the Bill, because it is a farrago of nonsense, a compound of constitutional absurdities, and directly contrary to the first response of the great Dungannon oracle. No, I will oppose it because it comes under the mandate of a turbulent military congress. I will undertake to trace it back to its source, and show it is the production of a military congress, assembled in the capital, appearing in military parade and all the mock order of a legislative assembly. Mr. Henry Joy, junior, Secretary of the Volunteers of Belfast, wrote circular letters describing this House—to which he asserts there are but sixty-four persons fairly returned, the rest the offspring of venality—he writes to a number of friends in England, and with their answers, garbled and mutilated to his purpose, Mr. Henry Joy, junior, of Belfast, printer and secretary, proceeded to Dungannon. They then enter into sundry resolutions, and vote that a grand National Convention shall sit in Dublin. The Convention is now assembled, they have been sitting for three weeks, they have printed their resolutions, every man has read them, and I have heard they are the most moderate ever entered into by 50,000 men in arms, with an equal number ready to join them. Gentlemen say it is dangerous to commit the Parliament with the Volunteers. I know the man who does so should answer the crime with his head, but I also know the force of the law is sufficient to crush them to atoms, and as one, I say that I do not think life worth holding at the will of an armed demagogue. If ever there

CHAP.
XLVI.

Fitz
Gibbon's
speech
against
the Irish
Volun-
teers.

CHAP.
XLVI.

was an occasion that called on every man possessing one sentiment of liberty to exert it in defence of the Constitution, it is this. I say emphatically *this*.' The Government party defeated Mr. Flood's motion by an overwhelming majority.¹ After some time the Convention broke up, and the state of the country grew every day more disturbed. A second Reform Bill was introduced by Flood in 1784, and received a second reading, but the array of place-holders and pension-holders in the Irish House of Commons threw it out on a motion for its committal by a majority of seventy-four. The Volunteers degenerated into a disaffected multitude finding no redress from the Parliament of Ireland, and soon the effects of the French Revolution were felt in Ireland.

Resolution
against
strangers
in the
House.

The political proclivities of the Attorney-General soon broke out on another occasion against the Volunteers. A petition was presented by the Leinster Corps, so patriotic, that the nationalists in the gallery loudly applauded, whereon the Attorney-General rushed to the table, and, not content with suggesting to the Speaker that strangers were present, he drew up a resolution, and moved, 'That a gross outrage had been perpetrated by strangers in the gallery, and, therefore, that the Serjeant-at-Arms do, from time to time, take into custody any stranger that he shall see, or be informed to be in the House while any Committee of the whole House, or any Committee of Privileges is sitting, and this order be strictly enforced.' The motion was resisted. Mr. Flood argued, 'That the disorderly conduct of a few individuals should not deprive the people of their constitutional right to be present at the debates of their representatives.' The Government party, however, went to a division, and the Attorney-General carried his motion.

Fitz Gibbon assumed a superiority which was often tamely submitted to. Yet one who has displayed a keen appreciation of his singularly compound character states,

¹ For Flood's Motion 77, against it 157. History of Dundalk by D'Alton and O'Flanagan, p. 197.

this superiority which formed his most striking characteristic resulted less from the greatness than the meanness of his mind; if he was sovereign, he was also slave; he halted at no intrigue or servile condescension to insinuate himself into favour; and such was the hold he obtained, such power did he acquire over the fears or affections of the objects of his past adulation, that both changed places, Fitz Gibbon became the master, the other the dupe and slave.¹

CHAP.
XLVI.
His arro-
gance.

The manner in which he carried his public resentments into private intercourse, and *vice versâ*, is also happily noticed in the truly valuable paper to which I have referred. He had not the judgment to reflect that men may be fierce political opponents in the senate, and yet preserve the social intercourse of life outside, without an infraction of duty or the abandonment of principle, that railery or attacks in the Courts or Parliament ought not to supersede the warmth of private friendship, and that an apology might well be discovered for both in a zealous defence of the native's or a client's interests. How often have I in common with others given and taken words uttered in warmth while engaged in Court, but they were neither meant or received as a cause of enmity. I have seen brothers and brothers-in-law squabble and browbeat each other with an amount of real or assumed irritation that had the appearance of the direst war, but they walked home arm-in-arm to dinner. It was not so with Fitz Gibbon; he could not be argued with, or joked with, without the risk of provocation, and his haughty temper made mountains out of mole-hills. The most trifling word was caught up and twisted into an affront, every little dispute was a cause of hostility, and while his cold and ungenial nature repelled, few regarded him as a friend, but he had no lack of those whom he was disposed to rank as enemies.

Carries
public
feelings
into pri-
vate inter-
course.

The influence which Fitz Gibbon exercised was immense.

¹ The Note Book of an Irish Barrister.—Metropolitan Magazine, vol. xxiv. p. 338.

CHAP.
XLVI.
His great
influence.

‘He was,’ to use the eloquent and truthful language of a valued friend,¹ ‘the pivot on which all the movements of the Castle turned; the centre from which all its schemes and designs radiated; his words were strong as written law with successive administrations. On every question, from the most important to the most trivial, from the commercial proposition to the picketing of a rebel, he was appealed to; nothing was undertaken without his oracular sanction. His will was the law of seven Governments; he ruled in every department with unbounded activity—in the Lords, the Privy Council, and Chancery Court.’

None dared look independently at him; if he did, his fate was sealed; all offices and emoluments were closed against him. The instances of the correctness of this statement are numerous. When the repeated efforts of the Reformers to carry a measure in the House of Commons totally failed, as was to be expected, a good deal of public excitement followed. A meeting was held in Dublin, at which Stephen Reilly, Esq., High Sheriff, presided, and it was then proposed and carried, ‘that Delegates should attend a National Congress.’ Upon this the Attorney-General addressed the following letter—

‘To the High Sheriffs.’

Letter
from the
Attorney-
General to
the High
Sheriffs.

‘GENTLEMEN,—I have read with great surprise a formal summons signed by you, as High Sheriffs of the city of Dublin, calling upon the freeholders and freemen of your bailiwick to meet on Monday next, for the purpose of electing five persons to represent the city of Dublin in National Congress. I must inform you, that in summoning the freeholders and freemen of your bailiwick to meet for such a purpose, you have been guilty of a most outrageous breach of your duty; that if you proceed to hold any such election, you are responsible for it to the laws of your country: and that I shall hold myself bound, as the King’s Attorney-General, to prosecute you in the Court of

¹ The Note Book of an Irish Barrister.—Metropolitan Magazine, vol. xx. p. 338.

King's Bench for your conduct, which I consider to be so highly criminal that I cannot overlook it.

CHAP.
XLVI.

‘I am, Gentlemen,

‘Your very obedient Servant,

‘JOHN FITZ GIBBON.

‘Ely Place, September 10, 1784.’

This was plain speaking on the part of Mr. Attorney, and put the Sheriff, Mr. Reilly, in an awkward position. He had no desire to incur a State prosecution, and when the meeting assembled, which it did in great strength at the time appointed, the High Sheriff read the letter he received from the Attorney-General, and declined to take the chair. We may be certain the letter called forth no small share of popular denunciation, in the midst of which up rose no other than the Attorney-General himself. In the boldest and most undaunted manner, despite the yells and hootings of the uproarious assembly, he defended his letter and his law, and repeated his resolve to prosecute the Sheriff if he dared take the Chair, or hold the meeting. The effect was that the multitude dispersed, and although it was not perhaps a decorous, and certainly was an unseemly position for an Attorney-General to place himself in, I give it as a proof of the fearlessness of the man, and the boldness of the official. This proceeding¹ put an end to the thoughts of a National Congress.

High Sheriff declines to preside at the meeting.

Courageous conduct of the Attorney-General.

The Duke of Rutland, then Viceroy, wrote the following highly complimentary letter to Fitz Gibbon, which showed the sense the Government entertained of this bold step of the Attorney-General:—

‘Phoenix Park, October 1, 1784.

‘Dear Sir,—I wished to have seen you before you had quitted Dublin, to have returned you my most particular thanks for the manly and spirited part you have taken in the support of my Government, and in the assertion of the Constitution of your country.

Letter of thanks from the Viceroy.

‘I should not, however, on that account alone have

¹ Grattan's Life, by his son, vol. iii. p. 209.

CHAP.
XLVI.
Thanks
from the
King.

troubled you with it farther, had I not received in addition the King's commands to express to you his entire approbation of every part of your conduct. No words of mine can add weight to so honourable an encomium, but I assure you that I feel a singular satisfaction in being the instrument of conveying it to you. I must desire you at the same time to consider this letter not merely as a matter of compliment and form, but as dictated by the feelings of one who is most sensibly impressed with the importance of your services and the effects of your exertions, to enable him to persevere in the arduous task which he has undertaken.

'I am, my dear Sir, with great truth, your most obliged and faithful humble servant,

'RUTLAND.¹

'Right Honourable The Attorney-General,
'Mount Shannon,
'Limerick.'

This recognition of his services must have been most gratifying to Fitz Gibbon. That the King should have directed the Viceroy to state how pleased he was had not been anticipated, and already Fitz Gibbon considered his claims to the Great Seal, when the aged hands of Lord Lifford would no longer retain it, could not be questioned or disregarded.

The Attorney-General might have been content with his victory. The High Sheriff did not proceed after the cautionary notice. He supposed he had a right to convene the meeting on requisition, as *committatus* of the county, and in ancient times the Sheriff was more the officer of the people than of the King. To the surprise of all but those who were familiar with the *man*, proceedings were instituted by the Attorney-General against Mr. Reilly, High Sheriff of the City of Dublin. He was proceeded against by attachment as for contempt of the Court of King's Bench for calling an illegal meeting. The Court of King's Bench, presided over by Scott, who had risen to

Proceed-
ings
against
the High
Sheriff.

¹ Dublin Univ. Mag. vol. xxx. p. 680.

the rank of Chief Justice, and the title of Lord Earlsfort,¹ adjudged the Sheriff guilty, and sentenced him to be fined five marks, or imprisoned for a week.² The matter was brought before Parliament, and on February 24, 1784, Lord Charles Fitz Gerald moved, 'That the proceedings of the Court of King's Bench in attaching the Sheriff, and punishing him in a summary way, as for a contempt, was contrary to the principles of the Constitution, as depriving him of his trial by jury, and is a precedent of dangerous tendency.' The motion was seconded by Mr. Brownlow.

CHAP.
XLVI.

Motion
relative to
attachment
in 1785.

The power of attaching the Sheriff for holding a public meeting, assembled pursuant to requisition, caused a very animated debate in the Irish House of Commons.

When Mr. Curran rose to address the House, he observed the Attorney-General, whose conduct was most involved in the issue, indulging, or pretending to indulge, in sleep upon one of the benches. This was at once seized upon as a good text by the orator. 'I hope,' he said, 'I may be allowed to speak to this great question without disturbing the sleep of any right honourable Member; and yet perhaps I ought rather to envy than to blame his tranquillity. I do not feel myself so happily tempered as to be lulled to rest by the storms that shake the land, but if they invite rest to any, that rest ought not to be lavished on the guilty spirit.'³

Mr. Curran's
speech in
the debate.

He then proceeded to argue the question before the Chair, and having concluded, the Attorney-General, who had awakened during part at least of Curran's speech, delivered one of his usual caustic harangues, concluding with the opinion, 'that it was vain for any *puny* babbler with vile calumny to blast the Judges of the land.' Stung by the plain personal allusion, Curran retorted, 'The gentleman has called me *babbler*. I cannot think that this is meant as a disgrace, because in another Parliament, before I had the honour of a seat in this House, and when I was in the gallery, I have heard a young lawyer called

Attorney-
General's
reply.
Curran's
retort.

¹ Afterwards Earl of Clonmel.

² Grattan's Life, vol. iii. p. 213.

³ Curran's Speeches.

CHAP.
XLVI.

babbler—the Attorney-General. I do not indeed recollect that there were sponsors at the baptismal font, nor was there any occasion, as the infant had promised and vowed so many things in his own name. Indeed, Sir, I find it difficult to reply, for I am not accustomed to pronounce a panegyric on myself. I do not well know how to do it; but since I cannot tell the House what I am, I will tell what I am not. I am not a young man whose respect in person and character depends on the importance of my office. I am not a man who thrusts himself into the foreground of a picture which ought to be occupied by a better figure. I am not a man who replies by invective when sinking beneath the weight of argument. I am not a man who denied the necessity of Parliamentary reform at a time when I proved the expediency of it by reviling my own constituents, the parish-clerk, the sexton, and the gravedigger; and if there is any man who can apply what *I am not to himself*, I leave him to think of it in the Committee, and contemplate it when he goes home.'

The Ministry had a majority, the resolution having only 71 for, to 143 against. A resolution was brought forward a few days later by Mr. Flood, 'That the practice of attachment for contempt of court stands in the same ground of law in both kingdoms, and ought not to be extended further in Ireland than in England.' This was also ably argued, but rejected by 120 to 48.

CHAPTER XLVII.

LIFE OF LORD CHANCELLOR EARL OF CLARE, CONTINUED.

I NOW approach the great question which tended for the time to endanger the relations between England and Ireland, and, divested of all the colouring to be given by high-sounding phrases and questions of State policy, it is not very creditable to find how much party spirit, and a desire to hold the reins of Government, were mixed up with the sad affliction which had befallen the King. In 1788 the subjects of the Empire became aware of the melancholy fact that his Majesty King George III. had lost his reason.¹ It was necessary to place him under restraint, and the eminent physicians, Doctors Willis and Warren, with others, attended his Majesty.

CHAP.
XLVII.
The
question of
Regency.

Mr. Pitt, then Prime Minister, felt reluctant to entrust the Prince of Wales, who of course was heir apparent, with a Regency unfettered by conditions. The Prince was supposed to have shown such a predilection for the Whig party, that Pitt, and his colleagues, felt their tenure of office depended upon restricting the power of the Prince Regent, and he and his party spread this notion amongst the people. The Whig party, led by Charles James Fox, and, it is said, advised by Lord Loughborough, then Chief Justice of the Common Pleas, but expecting to be Lord Chancellor under the Regency,² insisted that the Prince should not be restricted, that he had as clear a right to assume the reins of government unfettered as if his Majesty had

¹ He had been afflicted with temporary insanity in 1765, but the fact was concealed from the public.—Lord Campbell's *Lives of the Chancellors of England*, vol. v. p. 581.

² *Life of Grattan*, vol. iii. p. 342.

CHAP.
XLVII.

undergone a natural demise. The Chancellor of England, Lord Thurlow, was in deep perplexity. He did not wish to resign the Great Seal, and he was in this dilemma. If he sided with Pitt he was sure to be displaced by the Prince Regent on the first opportunity; if he went against Pitt, he was not quite sure that he would be allowed to retain office, as Lord Loughborough had strong claims on the Whig party.¹ Lord Thurlow was sounded by the Prince's party, who wished to gain so learned an ally, and his Lordship showed a disposition to encourage the Prince to hold out for unrestrained powers. With a keen eye to his own security, Lord Thurlow required a distinct promise that he should retain the Great Seal in the event of the Regency, and an effort was made to induce Lord Loughborough to forego his claim, and his reply conveys a very strong hint that no reliance whatever was to be placed upon Lord Thurlow, 'I think he will find the key of the backstairs, and with that in his pocket, take any situation that preserves his access, and enables him to hold a line between different parties. In the present moment, however, he has taken a position that puts the command of the House of Lords in his hands.'² The result of the negotiations was, that if Lord Thurlow supported the Prince's party in Parliament he was to retain the Great Seal. Mr. Pitt was too sagacious a Minister, and too familiar with the movements of parties not to be aware of Lord Thurlow's duplicity, and he employed Lord Camden to manage the Regency in the House of Lords.

Mr. Pitt's
letter to
the Prince
of Wales.

Mr. Pitt wrote to the Prince, 'It was the opinion of the Ministry that his Royal Highness should be empowered to exercise the Royal authority in the name and on behalf of his Majesty, during his Majesty's illness, and to do all acts which might be legally done by his Majesty, with

¹ Wedderburn, one of the most eminent advocates of the English Bar, became Solicitor-General in 1771, Attorney-General in 1778, Chief Justice of the Common Pleas in 1780, with the title of Lord Loughborough. In 1793 he became Lord Chancellor, and in 1801 was advanced in the peerage as Earl of Rosslyn. He opposed the repeal of 6 Geo. I. c. 5.

² Lord Campbell's Lives of the Chancellors of England, vol. v. p. 585.

provisions nevertheless, that the care of his Majesty's royal person, and the management of his Majesty's household, and the direction and appointment of the officers and servants therein, should be in the Queen, under such regulations as should be thought necessary. That the power to be exercised by his Royal Highness should not extend to the granting, for any other term than during his Majesty's pleasure, any pension or any office whatever, except such as must by law be granted for life, or during good behaviour, nor to the granting any rank or dignity of the Peerage of this realm to any person except his Majesty's issue, who shall have attained the age of 21.'¹

CHAP.
XLVII.
Restriction.

These were the principal stipulations suggested by the King's Ministers.

Burke is stated to have been employed by the Prince of Wales to write his reply to this letter.² It could not have been entrusted to abler hands, and displays a depth of statesmanship, a range of talent, and just sense of the Prince's position that only was possessed by our great countryman, with whom I am proud to claim consanguinity.³ The Prince's answer was as follows:—

Edmund Burke writes the Prince's answer.

'The Prince of Wales learns from Mr. Pitt, that the proceedings in Parliament are now in a train which enables Mr. Pitt, according to the intimation of his former letter, to communicate to the Prince the outlines of the plan which his Majesty's confidential servants conceive proper to be proposed in the present circumstances. Concerning the steps already taken by Mr. Pitt, the Prince is silent—nothing done by the two Houses of Parliament

Reply of H. R. H. the Prince of Wales.

¹ Grattan's Life, vol. iii. p. 352.

² Ibid. p. 351.

³ Edmund Burke's mother was Miss Nagle, of Monanimy Castle, not far from Castletown Roche, County Cork, a branch of the Nagles of Anikissy, nearly related to me. Monanimy Castle, anciently a preceptory of the Knights of St. John of Jerusalem, is splendidly situated on the picturesque banks of the Munster Blackwater. It was long the residence of the Nagles, and, in the ruined church close by, is their tomb. The castle is a massive square building, and the portion yet habitable is now the seat of Richard Barry, Esq., who is married to my first cousin.

CHAP.
XLVII.

can be a proper subject of his animadversion, but when, previously to any discussion in Parliament, the outlines of a scheme of Government are sent for his consideration, in which it is proposed that he shall be personally and principally concerned, and by which the royal authority and the public welfare may be deeply affected, the Prince would be unjustifiable were he to withhold an explicit declaration of his sentiments, his silence might be construed into a previous approbation of a plan, the accomplishment of which every motive of duty to his father and sovereign, as well as of regard for the public interest, obliges him to consider as injurious to both.

Condemns
the plan
offered.

‘In the state of deep distress in which the Prince and the whole royal family were involved by the heavy calamity which has fallen upon the King, and at a moment when Government, deprived of its chief energy and support, seemed peculiarly to need the cordial and united aid of all descriptions of good subjects, it was not expected by the Prince that a plan should be offered to his consideration, by which Government was to be rendered difficult, if not impracticable, in the hands of any person intended to represent the King’s authority, much less in the hands of his eldest son the heir apparent to his kingdoms, and the person most bound to the maintenance of his Majesty’s just prerogatives and authority, as well as most interested in the happiness, the prosperity, and the glory of his people. . . . He observes only generally on the heads communicated by Mr. Pitt—and states, it is with deep regret the Prince makes the observation, that he sees in the contents of that paper a project for producing weakness, disorder, and insecurity in every branch of the administration of affairs; a project for dividing the royal family from each other; for separating the Court from the State, and thereby disjointing Government from its natural and accustomed support; a scheme disconnecting the authority to command service from the power of animating it by reward, and for allotting to the Prince all the invidious duties of Government, without the means of soften-

Considers
the plan
most ob-
jectionable.

ing them to the people by any one act of grace, favour, or benignity. . . . With regard to the motive and object of the limitations and restrictions proposed, the Prince can have little to observe. No light or information whatever is offered to him by his Majesty's ministers on this point; they have informed him what the powers are which they have to refuse to him, not why they are to be withheld. The Prince, however, holding as he does, that it is an undoubted and fundamental principle of the Constitution, that all the powers and prerogatives of the Crown are vested there as in trust for the benefit of the people, and that they are sacred only as they are necessary to the preservation of that poise and balance of the Constitution which experience has proved to be the true security of the liberty of the subject, must be allowed to observe, that the plea of public utility ought to be strong, manifest, and urgent, which calls for the extinction and suspension of any one of those essential rights in the supreme power, or its representative, or which can justify the Prince in consenting that in his person an experiment shall be made to ascertain with how small a portion of the kingly power the executive Government of this country may be carried on.

CHAP.
XLVII.

* * * * *

‘Upon that part of the plan, which regards the King’s real and personal property, the Prince feels himself compelled to remark, that it was not necessary for Mr. Pitt, nor proper to suggest to the Prince, the restraint he proposed against the Prince’s granting away the King’s real or personal property. The Prince does not conceive that during the King’s life he is by law entitled to make any such grant, and he is sure that he has never shown the smallest inclination to possess any such power; but it remains with Mr. Pitt to consider the eventual interest of the royal family, and to provide a proper and a natural security against the mismanagement of them in others.’¹

Observations
respecting
the King’s
property.

¹ Grattan’s Life, vol. iii. pp. 351, 352, 356.

CHAP.
XLVII.

This reply shows how very repugnant the proposed plan was to the Prince, yet Mr. Pitt's resolutions, when submitted to the British Parliament on January 16, 1789, were, after protracted debates, ultimately carried. A Bill was introduced on February 1, and, after great opposition, passed on the 12th of the month.¹

The conduct of the Irish Parliament on the Regency question.

When the account of his Majesty's illness was communicated to the Irish Parliament by the Viceroy in February, 1789, Mr. Fitz Herbert stated the intention of the Government proposing to make the Prince of Wales Regent by *Bill*. Mr. Ponsonby opposed this as unconstitutional, and Mr. Connolly moved and Mr. Ponsonby seconded the motion, 'That it is the opinion of this Committee, that a humble address be presented to His Royal Highness the Prince of Wales, humbly to request His Royal Highness to take upon himself the government of this realm, during the continuation of his Majesty's present indisposition, and no longer; and under the style and title of Prince Regent of Ireland, in the name of his Majesty, to exercise and administer according to the laws and constitution of this kingdom all regal powers, jurisdiction and prerogatives to the Crown and Government thereof belonging.'²

Question of the Regency.

Here, then, was a marked difference between the English and Irish Parliaments. The English Parliament considered the rights of the Crown and of the people required that the powers of the Regent should be limited—while the Irish Parliament, confiding in the *virtue and integrity* of the Prince of Wales, were for giving him unrestricted powers. During the debates on Mr. Connolly's motion the Attorney-General argued 'that the proposal was contrary to com-

Attorney-General's argument.

¹ Grattan's Life, vol. iii. p. 356.

² According to the observations of Lord Campbell in Lives of the Lord Chancellors of England, vol. v. p. 591, the course taken by the House of Parliament in England in ordering a commission for using the Great Seal, reciting, 'By the King himself, with the advice of the Lords, &c., and Commons, &c.,' was very anomalous, and he implies they should have passed an ordinance by their own authority, without the false assertion 'that it was by a regular Act of legislation to which the King was a party.' This shows the course taken in Ireland was right.

mon and Statute law, and highly criminal.' He maintained 'that the Crowns of England and Ireland are inseparably and indissolubly united, and the Irish Parliament totally independent of the British Parliament.

CHAP.
XLVII.

'The first position is your security—the second is your freedom, and when gentlemen talk any other language than this, they either tend to the separation of the Crowns or the subjugation of your Parliament—they invade either your security or your liberty. Further, the only security of your liberty is your connection with Great Britain; and gentlemen who risk breaking the connection *must make up their minds to a union. God forbid I should ever see that day*; but if ever the day on which a separation shall be attempted may come, I shall not hesitate to embrace a union rather than a separation.'

Prefers
union to
separation.

He then argued upon the condition in which Ireland would be placed in case the Prince did not accept the Regency in England, and contended that the mere presentation of an address conferred no royal authority, which could only be given by Act of Parliament. 'If you wish to compliment the Prince of Wales, guard the imperial rights of the British Crown! He can have no triumph but that of governing a great and happy nation. If you would give him a triumph, guard, then, these rights, and guard the rights of the Crown!'

The Attorney-General also declared 'the address proposed was not only highly improper, but treasonable, and that such was the opinion of the Lord Chancellor, the Chief Justice, and every lawyer whose approbation could give weight to his opinion.'

Angry de-
claration
of the
Attorney-
General.

To this, Mr. Ponsonby replied: 'Whatever respect I have for the right honourable gentleman's talents, I never relied much on his assertions, and as I never myself use assertions for arguments, I hope he will excuse me from believing his.'

Reply of
Mr. Pon-
sonby.

Mr. Curran also made another hostile display against the Attorney-General, for which he afterwards paid so dearly. Referring to the rights of the Commons, Mr.

CHAP.
XLVII.
Mr. Curran's
attack on
Fitz
Gibbon.

Curran said: 'This right is denied, and was called criminal by the right hon. Member (the Attorney-General), but I confide more in that learned Member as a prophet than a lawyer; for the hon. Member premised that he despaired of finding the House coincide in his opinion. The only point that remains is, how these full powers shall be delegated—whether by an address or by an Act. The latter is impossible; we are only two estates; we cannot legislate—we may deliberate—we may declare the incapacity of the King—the right of the Prince; but we can do it only by address. I have heard strange doctrines from the Attorney-General. Did that learned member think that two estates could legislate? He said that impressing the Great Seal of England made an Irish law—that an Act coming to our hands so authenticated was *ipso facto* law. Did the learned member think a third estate was supplied by a creature of the two Houses—by a forging of the constitution—by a phantom that had no interest to guard, no will to consult, no power to reserve? It was more like the language of an Attorney—particular that of an Attorney-General, it was that kind of silly fatuity that, on any other subject, I would leave to be answered by silence and contempt; but when blasphemy was uttered against the Constitution, it would not pass under its insignificance, because the essence should be reprehended, though the doctrine could not make a proselyte.'¹ Mr. Curran continued in much the same strain, and Mr. Grattan also came down heavily upon the Attorney-General, and a large majority carried the address.

Fitz Gibbon held aloof from the parasites and sycophants who bowed before the rising sun. He scorned to kiss the hem of the satrap of Carlton House. An unexpected obstacle to the transmission of the address was then presented. The Lord Lieutenant replied to the deputation, who waited on him with a request to forward it to the Prince of Wales: 'Under the impressions which

¹ Grattan's Life, vol. iii. p. 369.

I feel of my official duty, and of the oaths which I have taken as Chief Governor of Ireland, I am obliged to decline transmitting this address to Great Britain; for I cannot consider myself warranted to lay before the Prince of Wales an address purporting to invest His Royal Highness with power to take upon him the government of the realm, before he shall be enabled by law to do so.'

CHAP.
XLVII.
The Vice-roy refuses to transmit the address.

This reply, which was no doubt advised by the Attorney-General, gave great offence to the Prince's party in Ireland, and, as they constituted a majority of the Houses of Parliament, soon stormy resolutions, condemnatory of the Viceroy's refusal, were passed in the Irish Parliament.¹

The conduct of the Irish nation, speaking through their Parliament, gave great satisfaction to the Prince of Wales. Mr. Pelham,² writing to Grattan from London, February 19, 1789, referring 'to all the tricks and intrigues of Mr. Pitt's faction,' goes on to say, 'I trust that our friends in Ireland, who have done themselves so much honour by their conduct, will not be dispirited by these intrigues. I have not time to express to you how strongly the Prince is affected by the confidence and attachment of the Irish Parliament. I saw him for an instant in Carlton House, and he ordered me to write to you; but I have only time to say, in his own words, "TELL GRATTAN THAT I AM A MOST DETERMINED IRISHMAN."³ The King's recovery on

Letter from Mr. Pelham to Grattan in 1789.

¹ 'That His Excellency the Lord Lieutenant's answer to both Houses of Parliament, requesting him to transmit their Address to His Royal Highness the Prince of Wales, is ill-advised, contains an unwarrantable and unconstitutional censure on the proceedings of both Houses of Parliament, and attempts to question the undoubted rights and privileges of the Lords Spiritual and Temporal, and of the Commons of Ireland.' The Resolution was carried by 115 to 83.

Vote of censure on the Lord Lieutenant.

² Afterwards Lord Chichester.

³ The sentiments of the Prince were not those of King George IV. He could scarcely be prevailed upon to assent to the Catholic Emancipation Act in 1829. A very interesting and important conversation in reference to the Union between Great Britain and Ireland, in which he took the chief part, is published in Curran's Sketches of the Irish Bar, vol. i. p. 87. Should the reception of this work be sufficiently encouraging to justify my undertaking the LIVES OF THE CHIEF JUSTICES OF IRELAND, this conversation will be found in its place in the life of a distinguished Judge and gifted Irishman, CHARLES KENDAL BUSHE.

CHAP.
XLVII.

Ill feeling
between
parties in
Ireland.

March 9th prevented further action being taken on the question of the Regency.

The vote of censure passed by the Irish Parliament on the Marquis of Buckingham made it imperative on him to leave Ireland. There was much antipathy felt by the followers of Pitt to the members of the Opposition, and as the Attorney-General was a leading member of the Pitt party in Ireland, he allowed no opportunity to escape without censuring the conduct of those who differed from the Ministerial policy upon the question of the Regency. When a rumour got abroad that all places and pensions held by the Members of Parliament in opposition, at the pleasure of the Crown, were to be taken from them, and every such man was to be the *victim of his vote*, a solemn document was prepared by Mr. Day, and corrected by Mr. Grattan, which was subscribed by no less than fifty-six noblemen and Members of the House of Commons of the highest ranks, pledging themselves ‘That if any one of the subscribing persons shall, in consequence of his conduct upon that question,¹ or upon the measures necessary to be taken in consequence thereof, be deprived of his office or pension, or shall be made, as has been threatened, “*the victim of his vote*,” we agree we will not accept of such office or pension for ourselves or any other person, and that we will consider such deprivation, dismissal, or the rendering any individual the victim of his vote, as a reprobation of our political conduct an attack upon public principle and the independence of Parliament; and that any administration taking or persevering in any such steps is not entitled to our confidence, and shall not receive our support.’²

The paper
styled the
‘Round
Robin.’

Denounced
by the
Attorney-
General.

When the Attorney-General heard of this document, which was called the *Round Robin*, though the names were not signed in a circle, as Sir Jonah Barrington has erroneously stated, he denounced it in the following severe terms: ‘I have heard reports which I cannot, nor will believe, but which I will mention, to give opportunity for

¹ The Regency.

² Grattan’s *Life*, vol. iii. p. 383.

clearing gentlemen from such vile imputations. I have heard that the spirit of Whiteboyism has found its way into this city, and that injurious and dishonest combinations have taken place. I do not now speak of the combinations of the journeymen pinmakers, who have suffered in Newgate for their offences; I speak of other combinations, which, had they been entered into against a tithe-proctor, the combining parties, by laws of their own making, would be condemned *to be whipped at a cart's tail.*'

CHAP.
XLVII.

This violent outbreak of temper showed how annoyed the Irish executive were against the members of the Opposition who dissented from Pitt's policy on the Regency question. But as these noblemen and gentlemen were proof against censure, the Government resolved to win them by milder courses. They were invited to remain in or return to office, that the past should be buried in oblivion, and the Attorney-General told Mr. Ponsonby 'that the road to professional promotion would be opened to him if he would support the Government.' Deaf to entreaty, as indifferent to censure, the Opposition would not coalesce. The consequences were such as had been anticipated. The Attorney-General was not the man to allow power to remain in hands he could neither coerce nor cajole, and fifteen men of the highest rank, including the Duke of Leinster, the Earl of Shannon, William and George Ponsonby, Charles Francis Sheridan, Denis Bowes Daly, and others were dismissed from places and pensions to the value of 20,000*l.* a-year.¹ The course taken by the Attorney-General on the Regency question, though highly distasteful to the Irish National party, was most gratifying to the English Ministry. Mr. Pitt wrote a letter,² thanking him warmly for the course he pursued:—

The Attorney-General tries to win over the Opposition.

The Opposition place-holders dismissed.

Letter of thanks from Mr. Pitt to the Attorney-General.

'Downing Street, February 23, 1789.

'Dear Sir,—I cannot help troubling you with these few lines to express the strong sense which I am sure every

¹ Grattan's Life, vol. iii. p. 390.

² Dublin University Mag. vol. xxx. p. 682.

CHAP.
XLVII.

true friend to Great Britain and Ireland must entertain of obligation to you in the present critical conjuncture, for the stand you have made in support of these principles, on which the safety of all for centuries so essentially depends. Allow me to add, how happy I feel personally at such a moment in being embarked in the same boat with you, and to assure you that in every circumstance I must entertain a grateful recollection of the support and credit which the cause of our Government has received from your exertions.

‘ I am, with great regards, Dear Sir,

‘ Your obedient and faithful servant,

‘ W. PITT.

‘ Right Hon. J. Fitz Gibbon.’

Angry
debate in
August,
1789.

A very angry debate took place in August 1789, upon Mr. Flood’s resolution, ‘ That Parliament ought not to enter into any engagement to give up the sole and exclusive right to legislate for Ireland, as well externally as commercially and internally.’

Attorney-
General’s
violent
speech.

The Attorney-General resisted this motion in a very violent harangue. He contended Mr. Flood’s resolution was nothing short of an insult to the Parliament of Great Britain. ‘ If Ireland,’ he exclaimed, ‘ seeks to quarrel with Great Britain, she is a besotted nation. Great Britain is not easily aroused, nor easily appeased. Ireland is easily roused, and easily put down ! ’¹

Called to
order.

He was called to order by Mr. Flood, who declared ‘ he never heard more mischievous or more inflammatory language, nor more saucy folly.’

Mr. Foster proposed these words to be taken down, but did not persist in the motion.

The Attorney-General then fiercely attacked Curran, who had previously spoken in the debate :—‘ The politically insane gentleman (Mr. Curran) has asserted much, but he only emitted some effusions of the witticisms of his fancy. His declamation, indeed, was better calculated

¹ Grattan’s Life by his son, vol. iii. p. 267.

for the stage of Saddler's Wells than the floor of a House of Commons. A mountebank, with but one half the honourable gentleman's theatrical talent for rant, would undoubtedly make his fortune. However, I am somewhat surprised he should entertain such a particular asperity against me, as I never did him any favour. But, perhaps, the honourable gentleman imagines he may talk himself into consequence; if so, I should be sorry to obstruct his promotion; he is heartily welcome to attack me. One thing, however, I will assure him, that I hold him in so small a degree of estimation, either as a man or a lawyer, that I shall never hereafter deign to make him any answer.'

CHAP.
XLVII.

Curran was resolved to return some of the abuse he received from the Attorney-General:—'I have been told by the right honourable gentleman,' he said, 'that I have poured forth some effusion of fancy. That is a charge I shall never be able to retort upon him. He has said I am insane. For my part, were I the man who, when all debate had subsided—who, when the Bill had fallen to the ground, and was given up, had risen for the purpose of pronouncing an inflammatory speech against my country, I should be obliged to any friend who would excuse my conduct by attributing it to insanity. Were I a man possessed of so much arrogance as to set up the ideas of my own little head against the opinion of the nation, I would thank the friend who would say, "Heed him not, he is insane;" nay, if I were such a man, I would thank the friend who would send me to Bedlam. If I knew one man who was easily roused and as easily appeased, I would not give his character as that of the whole nation. The right honourable gentleman says he never came here with written speeches. I never suspected him of it; and I believe there is not a gentleman in this House, who, having heard what has fallen from him, will ever suspect him of writing speeches. But I will not pursue him further. I will not combat with a young fencer. When a pass is made at me by a young arm, I will content myself

Curran's
retort.

CHAP.
XLVII.

with warding it off. I will not enter into a conflict in which victory can gain no honour. The right honourable gentleman should have known that on former occasions I was merciful in my resentment.'

These were the days in which the barbarous custom of duelling was very prevalent in Ireland.¹ Fitz Gibbon sent a hostile message to Curran, and a meeting took place. Mr. Ogle was second to the Attorney-General.

Duel between the Attorney-General and Curran.

The duel between the Attorney-General and Mr. Curran was fought near Ball's Bridge, Dublin, a favourite spot for hostile encounters before the Fifteen Acres grew into fashion for such affairs. The conditions were that both combatants might fire when they chose. Curran fired first; and, on returning his fire, Mr. Fitz Gibbon declared himself 'satisfied.' Curran afterwards said, 'I never saw any man whose deliberation was more malignant than Fitz Gibbon's. After I had fired, he took aim at me for at least half a minute; and, on its proving ineffectual, I could not help exclaiming to him, "Mr. Attorney, you certainly were *deliberate enough!*"'²

Duels between lawyers.

¹ Scott, Chief Justice and Earl of Clonmell, fought several duels, as did also Toler, Chief Justice and Earl of Norbury; Metge, a Baron of the Exchequer, fought three duels; Curran, Master of the Rolls, fought three; Fitz Gibbon, Lord Chancellor; Egan, Chairman of the County Dublin; Doyle, a Master in Chancery; Hutchinson, Provost of Trinity College; Sir Jonah Barrington, Judge of the Admiralty; Henry Grattan, and Peter Burrows, fought duels.

² As some contradictions appear respecting the cause of this duel, I have taken pains to trace it, and find the weight of evidence leads to show it originated in the angry debate just referred to, and not, as stated by the late William Henry Curran in his 'Life,' or by Mr. Charles Phillips in his 'Recollections,' earlier in the year. Both these usually accurate authors represent this duel to have arisen from the charge made by Mr. Fitz Gibbon against Curran in the debate on February 24, that he was a 'puny babbler;' Henry Grattan, in the Life of his Father, mentions it as I have stated in the text, and this is strongly corroborated by a letter from the first Lord Plunket, dated August 27, 1789, in which he states the result apparently with some regret; 'Curran and Fitz Gibbon fought, but unluckily they missed each other.'—Life of Lord Plunket, vol. i. p. 46.

CHAPTER XLVIII.

LIFE OF THE EARL OF CLARE, LORD CHANCELLOR, CONTINUED.

ON the north side of Dame Street, Dublin, stood Shaw's Court, containing a spacious dwelling-house. This was occupied in 1756 by the Dublin Society, which had been incorporated by Royal Charter in 1749-50, for promoting husbandry and other useful arts in Ireland. The Society removed from this house to one in Grafton Street in 1767, and a beautiful little theatre was opened in Shaw's Court, in 1786. Many Members of the Irish Parliament were great actors (in public and private), and the first play announced here had to be postponed until the prorogation of Parliament, so many of the performing members belonged to the House. As I have a copy of the bill of the play which was performed, I place M.P. after the name of the *dramatis personæ* entitled to this distinction. The Viceroy, Duke of Rutland, with his Duchess, the Duke of Leinster, and the most fashionable circle of Dublin, witnessed the performance.

CHAP.
XLVIII.
Shaw's
Court.

Private
theatricals
in 1786.

SHAW'S COURT THEATRE.

Monday Evening, May 8, 1786.

'THE FORCE OF LOVE.'

Varanes	Lord Henry Fitz Gerald, M.P.
Leontine	Mr. C. Powel Leslie, M.P.
Atticus	Mr. Cromwell Price, M.P.
Theodosius	Mr. Isaac Corry, M.P.
Delia	Mrs. Price.
Athenais	Mrs. St. Leger.

When the play concluded, the Attorney-General had the honour of receiving the Lord Lieutenant and Duchess of Rutland, the Duke of Leinster, and other members of the

Grand
banquet
at the
Attorney-
General's.

CHAP.
XLVIII.

nobility and gentry to a superb supper at his house in Ely Place. This was a bachelors' fête, and probably the last as such, for I find he was married to Miss Whaley on July 1, following.

The Duke and Duchess of Rutland, the principal guests of the Attorney-General on this occasion, deserve more than a passing notice. The host could hardly have foreseen the powerful influence the fair wife of the Viceroy was destined to have upon his fortunes at a most momentous crisis.

Duke of
Rutland
Lord-Lieu-
tenant.

Charles, Fourth Duke of Rutland, was appointed Lord Lieutenant of Ireland in 1784. He married, when he attained the age of twenty-one, Mary Isabella, youngest daughter of Charles Duke of Beaufort, one of the most fascinating women of her time. The young Duke, for he was Viceroy at thirty—was gay, and, I fear I must add, dissipated. He loved sports and amusements better than business, though we have known Viceroys who, devoted to field sports in due season, had a keen eye for business also. The Court of the Duke was presided over by her Grace with a charm that enhanced its pageantries, and added to its general festivity. She was the theme of poets, and inspired more than one Irishman with admiration that outstepped the formality of Court etiquette. Ministerialist and Oppositionist were alike enchanted by her beauty, and won by her affability. Parties were given for her amusement, and Vanessa's Bower at Celbridge was the scene of a *fête champêtre*, when Sir Hercules Langrishe, attired as a peasant, presented a poem to the Duchess, in which he recalled the loves of Dean Swift and the unhappy Miss Vanhomrigh, under the forged names of Cadenus and Vanessa. The verse of Sir Hercules ran thus:—

Duchess of
Rutland.

Fête at
Celbridge,

Bright Stella here to view the conscious shade
Where wit in time of old with passion play'd;
When lost beneath this consecrated grove,
Cadenus taught Vanessa how to love,
And sweet Vanessa, to reward his flame,
Immortalised this arbour with her name.

But, heavenly messenger, vouchsafe to say,
 Why bend on mortals your resistless sway?
 Why condescend from your exalted sphere
 To spread a formidable glory here?
 Before the lightning of your eyes was seen,
 The girls were pretty and the fields were green;
 The nymphs and swains, to higher bliss unknown,
 Felt equal joys and raptures of their own.
 But now, alas! those nymphs are left forlorn,
 Their beauty slighted and their swains forsworn;
 All bow before you in obeisance meet;
 The soldier¹ lays his laurels at your feet;
 For you the lawyer bends his stubborn knee,
 Forgets his disputation and his fee.²

CHAP.
 XLVIII.

Though of a cold and reserved temperament, Fitz Gibbon appears to have been a victim to the power of the blind god, and a mark for the arrows of Cupid. His enmity against the unfortunate brothers, John and Henry Sheares, is stated to have been the successful rivalry of Henry Sheares, who won the heart and hand of Miss Swete, to whom Fitz Gibbon was deeply attached.³ Fitz Gibbon was perfectly enamoured of the beautiful Duchess, but a more legitimate object of affection soon presented grounds for the rumour that he was an engaged man. His professional income now averaged 7,000*l.* a-year, independently of the large landed property he inherited; and he succeeded in finding a wife in Anne, eldest daughter of Richard Chapel Whaley, Esq., of Whaley Abbey, in the county of Wicklow, to whom he was married on July 1, 1786. Mr. Whaley, like a near namesake of later days, was a furious anti-Catholic, who used the license of power entrusted to the magistracy in the days of rebellion so fatally for the Roman Catholic houses of worship, that he was known by the *sobriquet* of Burn-Chapel Whaley. He

Disappointed affection of John Fitz Gibbon.

Marriage of the Attorney-General in 1786.

¹ The soldier referred to was the Commander-in-Chief, General O'Hara.

² The lawyer was the Attorney-General, whose devotion to the beautiful Duchess was so gratifying to her, that she repaid him with a friendship that blossomed into kind deeds of the greatest benefit to him, as we shall see in due time.

³ United Irishmen, by Dr. R. R. Maddon, vol. ii. 1st Series, p. 26.

CHAP.
XLVIII.

was a humourist in his pleasanter moods, as appears by a versified order on his banker in favour of his wife:—

Mr. Latouche,
Open your pouch,
And give unto my darling,
Five hundred pounds sterling,
For which this will be your bailey,
Signed, *Richard Chapel Whaley*.¹

Disturbed
state of
Ireland in
1787.

In the Irish Parliament of 1787, a Bill was introduced to check outrages in the South of Ireland. The Reverend Arthur O'Leary, of whom I have already made honourable mention, used his trenchant pen to dissuade his unfortunate countrymen from the perpetration of these crimes. Many Members of Parliament, when discussing the Bill, attributed these excesses to the pressure of want and distress, and though the Attorney-General admitted the prevalence of deep misery, he felt it his duty to preserve the peace of the country. 'It was impossible,' he said, 'for human wretchedness to exceed that of the miserable

Buck
Whaley.

¹ A brother of Lady Clare was Buck Whaley, one of the eccentric characters whose freaks are chronicled in the ballads of Dublin towards the close of the last century. He was also called Jerusalem Whaley, having laid a bet he would play ball against the walls of Jerusalem and return to Dublin in a space of time so short as to be then deemed impossible. This was a fine subject for a ballad:—

One morning walking Georges Quay,
A monstrous crowd stopped up the way;
Who came to see a sight so rare,
A sight that made all Dublin stare.

Buck Whaley lacking much some cash,
And being used to cut a dash,
He wagered full ten thousand pound,
He'd visit soon the holy ground.

Whaley
mansion,
now the
Catholic
University.

Whaley won the bet. Another feat was his leaping over a mail coach, which he did, by having the vehicle placed beneath the windows of his house, the splendid 'Whaley mansion' in St. Stephen's Green, Dublin. How mortified Burn-Chapel Whaley and his son-in-law, the Earl of Clare, would be, if they beheld this princely dwelling, with its spacious halls and noble suites of rooms, thronged by the students and professors of the Catholic University, of which it now forms part, presided over by the learned and respected Monsignor Woodlock, D.D., the immediate successor to the first rector, the renowned champion of Catholicity, John Henry Newman, D.D.

peasantry of the Province of Munster, he knew the unhappy peasantry were ground to powder by relentless landlords, and that so far from being able to pay tithes to the Clergy, they had neither food or raiment for themselves.' He marred the measure by a clause, 'that Catholic places of worship should be pulled down and prostrated if any unlawful oath should be tendered, administered, or taken in or adjoining to any Popish Chapel.' The clause was properly omitted, and the Riot Act passed, but the proceeding left an opinion on the mind of the Irish people, injurious to the character, as a Statesman and a legislator, of the Attorney-General.¹ It was on the discussion of the Navigation Act² in the same Session of 1787, the dissension between Grattan and the Attorney-General broke into open hostility. By the Statute 12 Charles II. c. 18., Ireland enjoyed a right to trade with Asia, Africa, and America; but as Ireland was omitted in the subsequent Act, 14 & 15 Charles II., the privilege of foreign trade was denied to Irish merchants, and their commerce, with the colonies, then termed the 'Plantations,' was restricted. Mr. Grattan desired to remedy this state of affairs, and, although he was not able to carry a resolution on the subject, his agitating the grievance induced the Attorney-General to introduce a clause extending the benefits of the Navigation Act to Ireland, but it was done in a subdued tone, as though he was solicitous not to awaken hostility in England.³ The speech of the Attorney-General brought down the following retort from Mr. Grattan:—'He (the Attorney-General) has misstated what I said. Perhaps a very able advocate, as undoubtedly he is, may think misstating a very fair figure of argument. I did not say that the Act of Navigation was the law of Ireland, I gave no opinion; I said some great lawyers doubted; but the people obeyed. I did not say that we had no benefit from the direct

CHAP.
XLVIII.

Obnoxious
clause.

Navigation
Laws.

Ireland
omitted.

The
grievance
remedied
by the
Attorney-
General.

Grattan's
reply.

¹ Grattan's Life, vol. iii. p. 285.

² 12 Car. II. c. 18, and 14 and 15 Car. II.

³ Grattan's Life, vol. iii. p. 292.

CHAP.
XLVIII.

Plantation trade, but I did say that, as yet, we had not any great benefit from it. The right honourable Member has spoken of the English Opposition, much to their disadvantage; he will allow, however, they had one merit, that of making the right honourable Member Attorney-General. He is, however, too high in station, ability, and independence to be the partisan of the party in Government, or any party; but if he has censured the English Opposition, he has censured his own countrymen at least as liberally.¹ Considerable discussion took place in the Irish Parliament on the subject of paying tithes to the Clergy of the Established Church, but as happily the wisdom of modern legislation has put an end to such injustice, I have no desire to recur to unpleasant topics, which separated Irishmen and did not benefit our common Christianity. On March 20, the Attorney-General brought forward a measure for the better execution of the laws. It was a measure which has proved extremely beneficial, though it was looked on with much distrust. It created constables by thousands, and chief constables by hundreds, and provided for thirty-two chairmen of Quarter Sessions, at a salary of 300 a-year.²

Bill for
better
execution
of the laws.

Death of
the Duke
of Rutland.

In the month of October of the year 1787, the beautiful Duchess of Rutland became a widow. A fever to which habits of conviviality added fuel, carried off the Viceroy at the early age of thirty-three. He left an only child, a son, who in after years succeeded to the Lord Lieutenancy of Ireland. The Marquis of Buckingham, who had been Viceroy in 1783, and retired with other Members of the Rockingham Administration, again accepted this responsible office. He had married a Roman Catholic Irish Lady, daughter of Lord Nugent, and was a nobleman of refined tastes, fond of literature, and desirous to benefit Ireland. He rallied many of the trusted leaders of the National party around him, and, as the Marchioness was of the same faith as the great bulk of the nation, much

Marquis of
Buckingham,
Viceroy.

¹ Grattan's Life, vol. iii. p. 293.

² 3,000 sub-constables and 520 chief constables.

confidence was expressed on some benefit being bestowed on the people during his administration. During the Viceroyalty in 1789, the octogenarian Lord Chancellor Lord Lifford died.

CHAP.
XLVIII.
Death of
Lord
Chancellor
Lord
Lifford.

On the death of Lord Lifford in 1789, the chances of his being succeeded by John Fitz Gibbon as Lord Chancellor was regarded with great interest by the Irish Bar. They felt that although Decrees of the Court of Chancery are based upon those principles of equity which are common to all places, yet there are peculiarities in our habits and manners which render an Irish barrister more adapted to preside in our Courts of Justice than a stranger to them. That however deeply versed a barrister may be in legal lore, however familiar with Coke upon Littleton, though he may have Fearne at his fingers' ends, Burton ever present to his memory, and carry an abridgment equal to Viner, or have as deep a knowledge of law and its best remedies as a Chitty, with a knowledge of equity equal to the best lawyers of the age, he ought to possess qualities which books can never impart. He should have a knowledge of the people to whom he is called on to mete out justice. Their habits, passions, prejudices, and local customs, these were familiar to Fitz Gibbon, who had lived among them from his youth, and was capable of dealing readily with every legal question.

Reasons
for select-
ing an
Irishman
as Chan-
cellor.

The claims of Irishmen for Irish offices is deserving consideration. The preference is not one of mere sentiment, but has a much stronger basis than that of justice and policy. The young men of any profession aspire, naturally, to obtain the highest appointments to which application and energy can raise them. It is with this glittering prize before them they submit to difficulties, master every obstacle, and acquire the utmost proficiency, so as to qualify them for the place they hope to win. As often, then, as the Lord Chancellorship of Ireland was bestowed upon a member of the English Bar, whose qualifications in standing, legal knowledge, and efficiency were not superior to many of the Irish Bar, they felt hurt and

CHAP.
XLVIII.

offended, humiliated, and alike deprived of the reward for their industry, and the incentive to exertion. I can only wonder that, while the system of importing Chancellors was so habitually pursued, the Irish Bar maintained its high reputation for learning and ability, and did not become a congregation of idle, spiritless, and incompetent pettifoggers.

Anxiety
to appoint
Fitz
Gibbon
Lord Chan-
cellor.

It was extremely lucky for the Attorney-General that he had established so warm an interest in the breast of the Prime Minister; for, in the month of April following, the death of Lord Lifford took place after a brief illness. This event placed the Irish Great Seal, that valuable prize, in the gift of the Crown. Though the services which the Attorney-General had rendered to the party then in office were unquestionable—although, as I have already stated, the King, as well as successive Viceroys, applauded his conduct—although the Prime Minister of England, in the letter just quoted, states that, ‘*in every circumstance he must entertain a grateful recollection of the support and credit the Government had received from his exertions;*’ it was with the utmost difficulty the appointment was secured for Fitz Gibbon. *Lord Thurlow stopt the way.* He was Lord Chancellor of England, and was resolved that *no Irishman should hold the Great Seal of Ireland.* The Marquis of Buckingham, then Lord Lieutenant, and the Chief Secretary, declared ‘they would not hold their offices if Fitz Gibbon was passed over.’ Pitt was most desirous to reward him for his services; but the Chancellor, a man of morose disposition and dogged temper, held his ground. Major Hobart, afterwards Earl of Buckinghamshire, was deputed by Mr. Pitt to try and win over the inflexible Lord Thurlow. Major Hobart was well qualified for the task, a man of cheerful temper, with an open, prepossessing countenance, an experienced tactician, who gained wonderfully on those with whom he came in contact; but it is said even his skill in diplomacy would have failed had not another, more powerful ally, interfered in favour of Mr. Fitz Gibbon; this was the beautiful

Lord
Thurlow
stops the
way.

Efforts to
obtain
Lord
Thurlow's
consent.

widowed Duchess of Rutland, of whom I have already written in praise. She not only addressed Mr. Pitt, mentioning how high Mr. Fitz Gibbon stood in the opinion of her dear departed husband, but, on learning that Lord Thurlow was the obstacle, she resolved to plead her friend's cause with him. Well may the poet say,—

CHAP.
XLVIII.

The power
of female
charms.

Beauty, she hath been
The bewitching tyrant of the universe,
From her first blush in Eden's verdant bower,
Great wisdom bows before her.

Lord Thurlow had not the heart to resist such pleading, and the consent was obtained. JOHN FITZ GIBBON became Lord Chancellor of Ireland, with the title of Baron Fitz Gibbon, of Lower Connello.¹

Lord Thurlow wrote to Lord Chancellor Fitz Gibbon a kind of half-congratulatory, half-apologetic letter, in these words:—

‘ July 4, 1789.

‘ My dear Lord,—Allow me also to join in congratulating your Lordship on your advancement, which I do as sincerely as if I had contributed to it. The rule which has been observed so long,² evidently sprung out of a principle to which your Lordship gave force and credit, at a moment when too many circumstances contributed to impair it; and your merit to both countries was accordingly enhanced by the assurances which my Lord Lieutenant was authorised to give, that a disappointment would not shake your principles or change your conduct. If it were clear that the precedent of relaxing the rule, out of attention to so much merit, would never be repeated till a similar occasion should offer, the exception would, probably, not hurt the rule. But if it must be repeated, as often as similar merit is *claimed*, probably the exception eats up the rule. While this consideration was depending in the Cabinet, to which I had the honour of being called on that occasion, I thought it inconsistent with that duty

Letter
from Lord
Chancellor
Lord
Thurlow
to Lord
Chancellor
Lord Fitz
Gibbon.

¹ Dublin University Mag. vol. xxx. p. 684.

² Appointing English barristers Lord Chancellors of Ireland.

CHAP.
XLVIII.

to explain myself to any other person; and I flatter myself that your Lordship will accept that as my apology for declining to enter upon that subject sooner. I shall conclude with assuring your Lordship, that whatever may become of the example, I am very happy that his Majesty has in your station so able a minister, whose personal attachment to the King, combining with his public principle, is so likely to maintain the peace and security of his Government for the rest of his reign.

‘I have the honour to be, my dear Lord, with great regard,

‘Your Lordship’s most faithful and obedient Servant,

‘THURLOW.¹

‘To the Lord Chancellor of Ireland, Dublin.’

An instance of the Lord Chancellor’s desire to requite services rendered to him was related to me by a respected member of the Irish Bar:² ‘My grandfather,’ said he, ‘had been of some service to the Chancellor, and when his Lordship received the appointment, the Chancellor visited him. “Dwyer,” said he, “I have often desired to be of service to you, but nothing was in my gift worth your acceptance. My secretaryship is now at your disposal, oblige me by taking it.”’

Lord Chan-
cellor’s
secretary.

The place, then worth some thousands a year, was accepted in the same spirit as it was offered, and held by Mr. Dwyer during the time of Lord Clare and two succeeding Chancellors.³

While Lord Clare was Chancellor, a native of Limerick, who wandered from the banks of the Shannon to those of the Liffey, after watching the progress of an equity cause in the Court of Chancery, and returned to the place whence he came, was asked on his return, ‘How the Chancellor got on as a Judge?’

¹ Dublin Univ. Mag. vol. xxx. p. 685.

² John Adair, Esq.

³ Lord Redesdale and Lord Chancellor Ponsonby.

‘Chancellor, indeed!’ repeated the Garryown boy; ‘’tis he has the asy sate of it. He doesn’t spake a word; but when the Counsellors are done argufying, he leans over the desk, and gives a nod to Jack Dwyer, who tells him what to do. ’Tis Jack Dwyer ought to be Chancellor, *for he makes all the Decrees.*’

CHAPTER XLIX.

LIFE OF LORD CHANCELLOR EARL OF CLARE, CONTINUED.

CHAP.
XLIX.
Case of the
Dublin
Corpora-
tion.

NOT long after the Lord Chancellor attained his much coveted station, occurred an appeal to the Privy Council, which had the effect of exposing him to considerable personal annoyance. It gave his bitter and unrelenting enemy, John Philpot Curran, the opportunity he long thirsted for of meeting the Chancellor outside his own Court, and giving his feelings vent. The circumstances were these:—Alderman James, a Commissioner of Police for Dublin, was a candidate for the Lord Mayor's chair, under Government patronage. He was elected by the Board of Aldermen, but rejected by the Common Council, who preferred Alderman Howison for the office. The approbation of the Privy Council being necessary to confirm the election of Lord Mayor at that time, both parties appealed to the Privy Council in support of their respective claims. The Council assembled at the Castle, the Lord Chancellor was director, though the Lord Lieutenant presided. Dr. Duigenan was Counsel for Alderman James, while Mr. George Ponsonby and Mr. Curran were Counsel for Alderman Howison. As a law argument, Curran's speech is not worth much, but for caustic satire it is unique. The conduct of the Chancellor on the bench was marked by personal rancour to those whom he disliked. Curran had, perhaps, taken no trouble to avert his enmity; and the Chancellor showed his dislike to the advocate in so unmistakable a manner that scarcely any solicitor ever retained him in a Chancery suit. The story is a stale one of his Lordship playing with a favourite Newfoundland dog on the bench, while Curran was addressing an

The Chan-
cellor and
the dog on
the Bench.

elaborate argument; and on his coming to a sudden stop, the Chancellor inquired, 'Why he did not proceed?' 'I thought,' replied the witty Counsel, 'your Lordships might have been in *consultation*.' There is no doubt Curran lost great professional emoluments by the Court of Chancery being closed against him. Writing to Grattan, he states: 'I made no compromise with honour. I had the merit of provoking and despising the personal malice of every man in Ireland who was the known enemy of our country. Without the walls of the Courts of Justice my character was pursued with the most persevering slander, and within those walls, though I was too strong to be beaten down by any judicial malignity, it was not so with my clients; and my consequent losses in professional income have never been estimated at less, as you have heard, than 30,000*l*.' I thought it right to mention these particulars to prepare the reader for the ferocious attack which Curran indulged in on this occasion. The question for discussion on that memorable day, in 1790, at the Castle, was, 'Whether the Sheriffs of Dublin and the Common Council, or the Board of Aldermen, had power to elect the Lord Mayor.' Here was Curran's opportunity, and he resolved to make the most of it. 'In this very Chamber,' he said, 'did a Chancellor¹ and Judges sit, with all the gravity and affected attention to arguments in favour of that liberty and those rights which they conspired to destroy. But to what ends, my Lords, offer arguments to such men? A little peevish mind may be exasperated, but how shall it be corrected by refutation? How fruitless would it have been to represent to that wretched Chancellor that he was betraying those rights he was sworn to maintain; that he was involving a Government in disgrace and a kingdom in panic and consternation; that he was violating every sacred duty and every solemn engagement that binds him to himself, his country, and his God! Alas! my Lords, by what argument could any

CHAP.
XLIX.

Curran's
loss by
the Chan-
cellor's
hostility.

Question
before the
Privy
Council.

Curran's
attack on
the Chan-
cellor.

¹ Under pretence of describing Sir Constantine Phipps, Curran mercilessly lashed the Lord Chancellor Fitz Gibbon.

CHAP.
XLIX.

man hope to reclaim or dissuade a mean, illiberal, and unprincipled minion of authority, induced by his profligacy to undertake, and bound by his avarice and vanity to persevere? He probably would have replied to the most unanswerable arguments by some cant, contumelious and unmeaning apophthegm, delivered with the fretful smile of irritated self-sufficiency and disconcerted arrogance; or even if he could be dragged by his fears to a consideration of the question, by what miracle could the pigmy capacity of a stunted pedant be enlarged for the reception of the subject? To endeavour to approach it would have only removed him to a greater distance than he was before, as a little hand that strives to grasp a mighty globe is thrown back by the reaction of its own efforts to comprehend. It may be given to a Hale or a Hardwicke to discover and retract a mistake. The errors of such men are only specks that arise for a moment on the surface of a splendid luminary—consumed by its heat, or irradiated by its light, they soon disappear; but the perverseness of a mean and narrow intellect are like the excrescences that grow upon a body naturally cold and dark; no fire to waste them, and no ray to enlighten, they assimilate and coalesce with those qualities so congenial to their nature, and acquire an incorrigible permanence in the union with kindred frost and kindred opacity. Nor indeed, my Lords, except when the interests of millions can be affected by the vice or folly of an individual, need it be much regretted that, to things not worthy of being made better, it hath not pleased Providence to afford the privilege of improvement.’

The Lord
Chancellor
interposes

Lord Chancellor.—‘Surely, Mr. Curran, a gentleman of your eminence in your profession must see that the conduct of former Privy Councils has nothing to do with the question before us. The question lies in the narrowest compass,—it is, whether the Commons have a right of arbitrary and capricious rejection, or are obliged to assign a reasonable cause for their disapprobation? to that poin

you have a right to be heard, but I hope you do not mean to *lecture the Council.*'

CHAP.
XLIX.

Curran
continues.

Mr. Curran.—'I mean, my Lords, to speak to the case of my clients, and to avail myself of any defence which I conceive applicable to that case. I am not speaking to a single Judge, to a dry point of law, and on a mere forensic subject. I am addressing a very large auditory, consisting of co-ordinate members, of whom the far greater number is not versed in law. I am aware, my Lords, that truth is to be sought only by slow and painful progress; I know also that error is in its nature flippant and compendious; it hops with airy and fastidious levity over proofs and arguments, and perches on assertion which it calls conclusion.' It was thus that Curran's wrath, nursed through long years, at last found vent. The Chancellor tried to stop him by endeavouring to confine him to the narrow question to be discussed, but it was in vain. Well may the eloquent writer of the 'Note Book'¹ exclaim:—'Such unseemly contests between the Bench and the Bar are highly detrimental to the interests of public justice; the dignity of the one, and the independence of the other, are lessened, and that moral force derivable from Courts of Justice—the glory as well as the safety of a free constitution—loses all its wholesome efficacy; for how could the people look to the laws for support, when they saw them sacrificed in the personal altercations of the Court and the advocate? In England rencontres of this nature are very rare.' Happily, with us, such scenes very seldom occur.

Just comments on unseemly contests between the Bar and the Bench.

The decision of the Privy Council, under the direction of the Lord Chancellor, was in favour of Alderman James. His Lordship said:—'The case must come before the King's Bench, and by the time the Commons had amused themselves there for three or four years, it was probable they would be tired of it, and wish themselves out of the dispute.'²

Decision in favour of Alderman James.

The conduct of the Privy Council, and especially of the Chancellor, was complained of by the popular party in

¹ Note Book of an Irish Barrister.—Metropolitan Magazine, vol. xxv. p. 129.

² Grattan's Life, vol. iv. p. 7.

CHAP.
XLIX.
The Whig
Club.

Ireland. An address was voted to his Majesty, and thanks to Messrs. Ponsonby and Curran, while at the Whig Club, in Dublin, on July 19, 1790, the Duke of Leinster being Chairman, a resolution was proposed by the Earl of Charlemont, seconded by the Earl of Moira, expressing regret at what lately passed respecting the election of a Lord Mayor, and 'that they would co-operate with their fellow-citizens in every legal and constitutional measure to vindicate the laws, and support the rights of the metropolis.'¹ With the Chancellor's habitual petulance, and that irritability which must have been a source of great anxiety and pain to the more reserved ministers, who were unable to restrain his impetuosity, when the Viceroy attended the House of Lords on July 24, 1790, to prorogue the Parliament, his Lordship denounced the Whig Club in most offensive terms. He compared it to a 'porter' club, and such like low and riotous assemblages. He alleged 'its members were persons of the grossest ignorance; that by their late resolution on behalf of the rights of the subject, they discovered as great a perversion of sense as ever distracted the human brain.'

This speech has been printed, and was replied to in an elaborate pamphlet, while it excited, as was natural, a great deal of angry discussion. A public meeting was also held, and the conduct of the Lord Chancellor strongly censured. We now turn from his political career to relate a most tragical event connected with his judicial life.

Baron
Power.

Five years after the appointment of Fitz Gibbon as Lord Chancellor, he had a very unpleasant and indeed painful duty to perform with reference to a brother Judge—one of the Barons of the Court of Exchequer, and, moreover, one who was disposed to be as arrogant as the Chancellor—Baron Power. He had attained his high station with the repute of great learning, but was very eccentric. In appearance he was low and stout, affecting an elegance which Nature denied him, and combining moroseness and rudeness of manner with a desire for ostentatious

His ap-
pearance
and man-
ners.

¹ Grattan's Life, vol. iv. p. 9.

display. He was very rich, and, together with his Judgeship, unfortunately held also the office of Usher to the Court of Chancery. By the usual custom, this office was very lucrative, large sums of money, concerning which Bills were filed, instead of being placed with the Accountant-General to the credit of the cause, were placed with the Usher to abide the result of the decree. Interest derived from these lodgments formed the remuneration of the Usher. A protracted suit, to which the Duke of Chandos and his tenants were parties, had been pending for some years, and the rents under an order of Lord Lifford, when Lord Chancellor, were directed to be invested in Government funds, the principal and interest accruing therefrom to form the fund for whichever party obtained the final decree. The suit at length terminated in favour of the tenants, who were declared entitled to the fund in Court. When they applied to the Usher, however, he was only paying the principal, contending that was all they had a right to receive. As the interest amounted to the large sum of 3,000*l.*, it could hardly be expected the tenants would tamely consent to be deprived of this sum, and accordingly presented a petition to the Lord Chancellor against the Usher. The Lord Chancellor, it is stated,¹ had a great antipathy for Baron Power, and lost no opportunity for displaying his dislike. The present was quite ample occasion to indulge his rancour, for on finding that the order of his predecessor was express, and that the interest should follow the principal, and the withholding it was quite unjust, he made a peremptory order, 'that the Usher should attend in Court, and account for his conduct.' Baron Power, in a communication to the Lord Chancellor, remonstrated against this order. He called the Chancellor's attention to his station as one of the Judges, having a seat on the same bench with the Chancellor in the Exchequer Chamber, and besought him to spare him the indignity of a public reprimand. To this the Lord Chancellor replied, 'that he was not dealing with Baron Power, but with the Usher of

CHAP.
XLIX.

Lucrative
office of
Usher to
the Court
of Chan-
cery.

Order of
Lord
Lifford,
Lord Chan-
cellor.

Interest
amounted
to 3,000*l.*

Petition to
the Chan-
cellor.

Order
thereon.

¹ Gilbert's History of Dublin, vol. iii. p. 290.

CHAP.
XLIX.

his Court,' that he should insist upon the personal attendance of the Usher to explain his conduct, and required his attendance the next morning. He added, in very peremptory terms, 'that no person should hold any office in the Court of Chancery, as long as he presided, who failed to give personal and immediate attendance when directed.'

Wealth of
the Baron.

This mandate struck deep into the heart of the delinquent official. There was no room for evasion, or for much delay. True, the next day was Sunday, when the dreaded explanation could not be given, for the Chancellor did not sit, and, although the sum of three thousand pounds was large, it was nothing in point of fact, as far as payment went, for the Baron had at this time invested for his own use no less than sixty thousand pounds in the funds. But there was the disgrace of seeking to appropriate to himself the property of others, though he might have rested his defence upon the established practice of the office. This preyed so deeply upon the mind of the wretched Baron, that it affected his reason, and he resolved on self-destruction. The Sabbath day came with its solemn quiet; the bells tolled forth their invitation to prayer, churches and chapels held their crowded congregations; but no holy thought soothed the perturbed spirit of the Usher of the Chancery; no regard to the future passed over the mind of Baron Power. If it did, it was rapidly put aside, or buried beneath the sullen and stern resolve of the suicide. At one o'clock all was ready; he had passed the morning in arranging his papers, and made his will. He then ordered his horse, and attended by his servant rode forth to die.

How he
spent the
Sabbath.

How he
committed
felo de se.

When he reached the extremity of the South Wall, he deliberately dismounted, and gave his horse to his groom, with directions to walk the animal to Ringsend, and there await his return. He stood still until he was alone, and then plunged into the packet dock, from whence he never emerged alive. His lifeless body was found next day.

Baron Power resided from the year 1771 to the date of

his untimely death in 1793 in Kildare Street. Leaving no immediate family, his two nephews, most estimable men, succeeded to his property, and the Lord Chancellor had the double satisfaction of destroying a Baron, and recommending a more submissive officer in his place.¹

CHAP.
XLIX.

The Parliament which assembled in Dublin in 1793 heard, for almost the first time, a recommendation from the Viceroy, by command of the King, 'to apply themselves to the consideration of such measures as might be most likely to strengthen and cement a general union of sentiment amongst all classes and descriptions of his Majesty's subjects in support of the established Constitution. With this view his Majesty trusts that the situation of his Majesty's Catholic subjects will engage serious attention, and in the consideration of this subject he relies on the wisdom and liberality of his Parliament.'² The address in the Commons was seconded by Mr. Wesley,³ who expressed himself friendly to the claims of the Catholics. It must have been mortifying, and, considering the position of the Lord Chancellor, very like an affront to him, that he was not made acquainted with the contents of the Speech from the Throne, and that the disposition of the Government towards the Catholics was studiously concealed from him.⁴ The consequence was he felt mortified, and, in the debate on the address in the Lords, condemned a petition recently presented by the Catholics of Ireland to the King, 'as a gross and malignant deception, with which he did not think that any set of men would dare to approach the throne. That the Catholic grievances should be finally settled this Session, but that

Irish Parliament in 1793. Recommendation from the King.

The Chancellor much displeased.

Anti-Catholic speech.

¹ Gilbert's History of Dublin, vol. iii. p. 290.

² Lords' Jour. Ir. vol. vii. p. 75.

³ Afterwards Arthur first Duke of Wellington.

⁴ An extract from a letter written about this time by Lord Loughborough, when Chancellor of England, to Mr. Grattan, shows Lord Clare was one whom it was not thought prudent to consult. 'If the enemies of all the measures which must come into discussion were to be the coadjutors of the conference upon them, I should expect little benefit from it.'—Grattan's Life, vol. iv. p. 109.

CHAP.
XLIX.

if any man looked to the total repeal of the Popery laws, it was an absurd and wicked speculation; that it was impossible a zealous Catholic could support either a Protestant establishment or the connection with Great Britain; that if Ireland made the experiment, the Establishment and the connection would be put to the issue of the sword. He trusted no degree of levity, rashness, or timidity would induce the Parliament of Ireland to yield her best security.¹ When the Bill to modify the oath henceforth to be taken by Catholics went to the Lords, it met with warm support from the Right Rev. Dr. Law, Bishop of Killala,² on whom the Lord Chancellor poured the full vial of his wrath in these scarcely decorous words:—

The Chancellor's severe rebuke of the Bishop of Killala.

‘When principles of anarchy, the rage of innovation, and the epidemical frenzy seem to have reached this House, when inflammatory declamation and ill-advised misstatements come from the reverend Bench and attack the existing Government, I feel it necessary to rise in defence of the Constitution. Before I allude more particularly to the Right Reverend Prelate, I must assume the office of his apologist, and the apologies I shall make for him will be an utter and radical ignorance of the laws and Constitution of the country from whence he came, and the laws and Constitution of the country in which he lives. He (the Lord Chancellor) wished to resist the further innovation, which he foresaw would cause a total separation from England or a union with her, *each to be equally dreaded.*’³ This speech is so contradictory to the subsequent course taken by the Chancellor, when the Union was brought forward, that we must attribute it to his petulance while smarting under the real or supposed

¹ Grattan's Life, vol. iv. p. 86. I have no doubt there are many who would say Lord Clare was right. I trust that the Irish nation, by cordially maintaining the connection with Great Britain, will prove that the Protestant establishment was not a necessary security for the preservation of that connection.

² Dr. Law was brother to Lord Ellenborough, Chief Justice of England.

³ Grattan's Life, vol. iv. p. 87.

slight put upon him by the English Government then in office. The Bill passed, and placed the Catholics in a position of eligibility for employment with their fellow subjects, but precedent was against them, and they were not benefited until many years had elapsed. The intemperate language and conduct of the Chancellor, especially towards the Roman Catholics, who every day were growing more considerable in point of numbers, intelligence, and position, gave great uneasiness to all wise and thoughtful statesmen.¹

CHAP.
XLIX.

It is hard to believe that any man could deliberately desire to plunge a kingdom into anarchy and rebellion, yet that such was the result which flowed from the conduct of the party led by the Chancellor is certainly true. The probability of such disastrous consequences was indicated so early as March 8, 1793, in a letter written by Edmund Burke to Henry Grattan, referring to the Catholic Relief Act, he says,—‘The great object now remaining is to make this measure of concession on the one hand, and of reservation on the other, subservient to the country and the strength of the Empire. The spirit of jobbing in the principal people must, some way or other, be abated, and kept in some degree of moderation. It will then be more easy to get the better of the mutinous spirit which is in the constitution of the lower parts of our compatriots of every description, and now begins to ferment with tenfold force by the leaven of republicanism, which always existed, though without much noise, in the northern parts of the kingdom, but now becomes more evident, and requires no small degree both of force and prudent management.

Letter
from
Edmund
Burke.

‘I confess I tremble for the conduct of the Chancellor, who seems, for a long time past, desirous of putting himself at the head of whatever discontents may arise from

Burke's
fears for
the Chan-
cellor's
temper.

¹ In April 1794, a Roman Catholic merchant of Dublin, Mr. Weldon, presented a petition to the Guild of Merchants, praying his admission. He was rejected by 83 votes to 56, upon the ground of religion, *as no Catholics were ever admitted*.—Grattan's Life, vol. iv. p. 95.

CHAP.
XLIX.

concessions to the Catholics. When things are on the very edge of a precipice, or indeed between two precipices, he appears resolved that they shall be tumbled down one of them. Surely of all virtues, temper more eminently belongs than any other to that *balancing* office; whatever other qualities or talents unite in that noble and learned person who holds the Great Seal, temper does not shine with any remarkable brilliancy.’¹

No doubt the Chancellor conceived the more power was given to the Catholics, the stronger they would be to break down the barriers which so long crippled and confined them from sharing in the offices, emoluments, and privileges monopolised by members of the Established Church; and he also regarded their accession to the privileges of freedom as dangerous to British connection, which will account for the opposition he gave to every measure intended for their relief.

The effect of such language and opinions of the Lord Chancellor was probably not calculated on by him, but it tended much to precipitate the gathering storm. His extreme violence was met by violence, his policy was productive of many societies, which, commencing legally and constitutionally, drifted into anarchy and rebellion. To counteract his Irish Government, the Whig Club was created; to meet his projects, the Northern Whigs blended into the Society of United Irishmen. All those associations, writes Grattan, ‘owed their origin to him as their common parent.’² It may be unfair to charge him with circumstances which he must have deplored, but there is no doubt his conduct is open to grave imputations of having permitted them to ripen into conspiracy.

I have no desire to follow the bloody course of the rebellion of ’98; as on former occasions, I readily draw the pall of oblivion over scenes of strife and carnage which belong to the general history and not to biography.

Convention
Act.

A memorable Act³ was passed in the Irish Parliament of

¹ Grattan's Life, vol. iv. p. 114.

² Grattan's Life, vol. iv. p. 129.

³ 33 Geo. III. c. 29, Ir.

1793 ; this was the Convention Act. It prohibited the election or appointment of unlawful assemblies under pretence of preparing petitions to the King or to the Parliament. The real object of the measure was to prevent public meetings in favour of Parliamentary Reform, and to stigmatise the Catholic Convention. It was brought into the Irish House of Lords by the Lord Chancellor on July 8, and we may judge how languidly it was opposed when it was read three times in four days. It was sent to the Commons, where the opposition was of a sturdier type, but equally fruitless ; it passed without any amendment.¹ The Chancellor was in great anxiety at this time, for he was aware the revolutionary principles then demoralising France were undermining the loyalty of the people of Ireland. He knew that these principles were imbibed not by the lower classes, but by men of fortune and station, and among them was a very remarkable character named Archibald Hamilton Rowan.

CHAP.
XLIX.

Revolutionary principles spreading in Ireland.

A printed paper dated February 24, 1793, entitled ‘the United Irishmen of Dublin ; Hon. Simon Butler, Chairman ; Oliver Bond, Secretary,’ was considered a seditious libel by the House of Lords, and Messrs. Butler and Bond were ordered to attend at the Bar. On attending and admitting the document was printed and published with their authority and consent, the document was voted a scandalous and seditious libel. They were sentenced to be committed to the gaol of Newgate for six months, and pay a fine of five hundred pounds each.² When pronouncing sentence, the Lord Chancellor, addressing Mr. Butler, a member of the Bar, said, ‘he could not plead

Charge against Messrs. Butler and Bond.

Lord Chancellor's address to the Hon. Mr. Butler.

¹ It recites that the election or appointment of assemblies, purporting to represent the people under pretence of petitioning, may be made use of to the violation of the peace, and that such assemblies of persons *elected* are unlawful, and punishable as a high misdemeanor. This Act proved a great obstacle to public meetings, especially in 1812, when several persons were prosecuted for violating it. O'Connell found it an insurmountable barrier, and obliged him to agitate by monster and aggregate meetings. It is not in operation in England, and a special clause to permit delegation in Ireland was inserted into the Irish Church Act.

² Lords' Jour. Ir. vol. vii. p. 121.

CHAP.
XLIX.

ignorance, as his noble birth and his professional rank at the Bar, to both of which he was a *disgrace*, had aggravated his crime.'

Mr. Butler seeks an apology or a meeting.

These words rankled in Mr. Butler's mind; he resolved to call Lord Fitz Gibbon to account, and no sooner was he liberated than he resolved to obtain an apology or a hostile meeting with the Chancellor for the language he had used when passing sentence upon him. He first sought his friend Mr. John Sheares, and requested him to demand from the Chancellor either an apology for his words or the usual satisfaction in such cases. As Mr. Sheares and the Chancellor had recently been in hostility, it was not deemed fitting for Mr. Sheares to undertake this delicate office, and another friend was employed.

Hamilton Rowan acts as friend to Mr. Butler.

This was Archibald Hamilton Rowan, of whom I shall have occasion to speak on his own account, so I confine myself here to the share he took as the friend of the Hon. Simon Butler, as detailed by himself.¹

Interview with the Lord Chancellor.

'I waited on him (Lord Fitz Gibbon), and called to his recollection the words he made use of in passing the sentence of the House of Lords on my friends Messrs. Butler and Bond, and those which he particularly directed to Mr. Butler, which I hoped to be permitted to say it was not his Lordship's intention should be taken personally, and had been made use of unreflectingly. His Lordship said, "that he thought the circumstances of the case called for the expressions he had used; that he never spoke unreflectingly in the situation he filled, and under similar circumstances he would use similar words." I then said, "that in mine and Mr. Butler's opinion the sentence of the Lords did not authorise the words he had used, and if it had occurred between two private gentlemen my course would be plain and easy, but his Lordship's situation of Chancellor embarrassed me." Here I paused. His Lordship said, "I knew his situation and he wished me to recollect it." I then took my leave, saying his Lordship's situation prevented me acting as I would have done with

¹ Autobiography of Hamilton Rowan.

a private gentleman.' The Chancellor, who was of undaunted personal bravery, I think did not like to shield himself by any official position, for he requested his friend Colonel Murray to breakfast with him next morning, and told him the whole affair. The Colonel at once saw the impropriety of any one in the Chancellor's station being held personally responsible for his conduct, and went to Mr. Rowan, with whom he was very intimate, to represent the indiscretion of which he had been guilty.

'A pretty piece of work you have made of it, Hamilton,' said the Colonel, 'taking a challenge to the Chancellor.'

'How came you to know what passed between us?' asked Rowan.

'I breakfasted with Fitz Gibbon this morning, and he told me the whole affair,' answered the Colonel.¹

The Lord Chancellor, in the course of a speech in the House of Lords in July, 1794, said, 'There were in Dublin two persons who were members of the *French Jacobin Club*, and who, he believed, were in the pay of that Society, to foment sedition in the country. One of their names appeared at the head of a printed paper published last month by the UNITED IRISHMEN, to which society they also belonged.'²

¹ This is the only instance I could find of a challenge to a Lord Chancellor.

² There were two brothers named John and Henry Sheares, both members of the Irish Bar, and a full and carefully written memoir of both is contained in vol. iv. of the 'United Irishmen,' by R. R. Madden. This narrative states that when the Chancellor was a young briefless barrister, he paid his addresses to Miss Swete, and had been rejected. She eloped with Henry Sheares. Henry was called to the Bar in 1789, and John had been called the previous year. They were both United Irishmen and deeply implicated in the rebellion. John had always been strongly attached to republican principles, while Henry was humane and the best possible domestic character. A violent letter written by John Sheares, addressed to Lord Clare, designated as 'The Author of Coercion,' caused the suppression and seizure of the 'Press' newspaper. The letter found in type, ready for publication, is given in Dr. Madden's 'United Irishmen,' vol. iv. p. 221. They were betrayed by a pretended friend named Armstrong, and tried in the Court of Common Pleas, Dublin, July 4, 1798. Found guilty of high treason and executed.—Ridgeway's Reports of the Trial of the Sheares, p. 51. Madden's United Irishmen, vol. iv. p. 264.

CHAP.
XLIX.

This speech having been reported in the 'Freeman's Journal' of July 20, 1794, was believed by a barrister, Mr. Henry Sheares, to have been pointed at him. Under this belief, he addressed the following letter to his Lordship:—

Letter to
the Lord
Chancellor
from
Henry
Sheares.

'MY LORD,—Having this day seen in the public prints of yesterday a gross and infamous calumny, which, from the strength of its allusion, I cannot avoid considering as directed against me, I think it incumbent on me to address myself to your Lordship prior to taking any step towards the punishment of its author. I am induced to take this liberty, my Lord, from the circumstance of your Lordship's name having been made use of (falsely I am persuaded) to sanction the malignant falsehood contained in that publication. It is therein asserted, that your Lordship, in the House of Lords, represented me as a member and agent of the *Jacobin Club* in *France*, and employed by them to foment sedition in this country—an assertion which I am bound to believe as ill-founded in regard to your Lordship as I know it to be false in respect to me. Assuring your Lordship of my perfect conviction that such an accusation could never have proceeded from the alleged source, I take the liberty of requesting that your Lordship will authorize me to assert that the publication was unwarranted by anything that fell from your Lordship, and that I may have your Lordship's permission for such legal proceedings against the publisher as may seem advisable.

'I am, my Lord, your Lordship's most obed^t

'Very humble servant,

'HENRY SHEARES.¹

'Baggot Street, July 21, 1793.'

The Chancellor took no notice of this letter. Possibly he felt that were he to be held answerable to every person who chose to apply to himself the hard names he used against disloyal men, he would incur no small amount of

¹ The United Irishmen, by R. R. Madden, vol. vi. N. S. p. 215.

bodily risk. 'The United Irishmen' presented Mr. Sheares with a complimentary address. In his reply he says, 'In contempt and defiance of calumny and oppression, I will devote my life to the great cause for which we first united, confident that, by a firm adherence to the principles of our institution, we shall proportionately effect the welfare and happiness of our native country.'¹

'Here,' remarks Dr. Madden, 'the matter ended, with a great deal of dissatisfaction openly (and perhaps violently) expressed on the part of both brothers; the younger talked of challenging the Chancellor, and the expression is attributed to him, perhaps unjustly, "of seeking him on the woolsack, if he were not to be found elsewhere."' ²

It is highly creditable to Lord Clare that he did not allow these insulting remarks to prevent his dissuading these unfortunate gentlemen from involving themselves in the perils of rebellion. My late truly learned friend James Roche of Cork, the Roscoe of Ireland, in his 'Essays by an Octogenarian,'³ relates: 'Before the outbreak of the insurrection in 1798, during the Assizes of Limerick, Lord Clare desired to have an interview with the two Sheares, to which my father, in the hope of a pacific result, invited them at his house; but it ended, unfortunately, in more intense and exasperated irritation, as was discernible in the young men's flushed features and defiant bearing as they parted. Yet the Chancellor's object was certainly benevolent and conciliatory, but they were intractable. The interview was close and private, still I marked their aspect on leaving the house inflamed and indignant in every lineament. Possibly overtures repugnant to their feelings may have thus excited them.'⁴

Private
interview
between
the Chan-
cellor
and the
Sheares.

¹ The United Irishmen, by R. R. Madden, vol. vi. N. S. p. 219.

² Ibid.

³ Vol. ii. p. 112.

⁴ Dr. Madden does not consider the Chancellor actuated by any kindly feelings towards these hapless brothers.

CHAPTER L.

LIFE OF JOHN EARL OF CLARE, LORD CHANCELLOR, CONTINUED.

CHAP.
L.
Effects of
the French
Revolution
in Ireland.

THE intemperate enthusiasm engendered by the French Revolution spread republican principles throughout the northern parts of Ireland, but for some time they were not shared by any considerable number of the Roman Catholics. 'Their clergy,' observes Grattan, 'always sincerely attached to their religion, were terrified at the excesses and cruelties perpetrated on the pastors of their Church, and at the open profanation of religion displayed in France. Besides this, the Roman Catholics were never republicans; the Presbyterians and the Protestants of the north were more susceptible, both on account of the nature and sturdiness of their politics and their religion.'¹

Fears of
the Lord
Chancel-
lor.

But the fears of the Lord Chancellor, that disaffection and French connection were extensively in operation, was perhaps only natural, for Theobald Wolf Tone, while Secretary to the Catholic Convention, was connected with a body to which the Government was hostile, and the conduct of the executive has been blamed for not proceeding against Tone as well as against Hamilton Rowan.²

The Rowan to whom I have already referred was a man of large fortune and considerable talents. To a figure of the grandest proportions, he united a mind guileless and romantic to a degree almost incredible. It was no surprise to those who knew him that he threw himself heart and soul into the ranks of those who styled themselves 'the Patriots of Ireland.'³ Despite the advocacy of Curran,

¹ Grattan's Life, vol. iv. p. 129.

² Ibid. p. 167.

³ In Lord Cloncurry's 'Personal Recollections,' many amusing facts of Hamilton Rowan are related. 'We made a pedestrian tour through England

Hamilton Rowan was found guilty, and sentenced to a fine of 500*l.* and two years imprisonment.¹

CHAP.
L.

together,' says his Lordship, p. 162, 'and when, as I well remember, his practice at starting from our inn of a wet morning was, to roll himself into the first pool he met, in order that *he might be beforehand with the rain.* He won a race on foot in presence of Marie Antoinette and the French Court, wearing heavy jack boots, while his competitor, an officer of the *Garde de Corps*, was equipped with light shoes and silk stockings.' Mr. Rowan was Secretary to the Society of United Irishmen at Dublin, when established for the purpose of Constitutional reform, and an address, published by Mr. Rowan, though not written by him, calling upon the volunteers to resume their arms for the preservation of the general tranquillity, was prosecuted as a seditious libel. Mr. Curran was selected by Mr. Rowan to conduct his defence, and it was in the course of that remarkable speech, in 1794, every line of which shows its claim to be placed beside the best specimens of ancient or modern oratory, he delivered the finest eulogium upon British law that ever fell from human lips. When commenting upon the part of the publication which proposed complete emancipation to persons of every religious creed, Curran continued, 'I speak in the spirit of the British law, which makes liberty commensurate with, and inseparable from, British soil; which proclaims even to the stranger and the sojourner, the moment he sets his foot upon British earth, that the ground on which he treads is holy, and consecrated by the genius of Universal Emancipation. No matter in what language his doom may have been pronounced, no matter what complexion, incompatible with freedom, an Indian or an African sun may have burnt upon him, no matter in what disastrous battle his liberty may have been cloven down, no matter with what solemnities he may have been devoted upon the altar of slavery, the first moment he touches the sacred soil of Britain, the altar and the god sink together in the dust; his soul walks abroad in her own majesty, his body swells beyond the measure of his chains that burst from around him, and he stands redeemed, regenerated, and disenthralled by the irresistible genius of UNIVERSAL EMANCIPATION!'—Curran's Life, by his son, vol. i. p. 312. Vide also Howell's State Trials for 1794.

Feats of
Hamilton
Rowan.

Rowan
prosecuted.

Defended
by Curran.
Extract
from
Curran's
speech.
Eulogy on
British
laws.

¹ Mr. Fitzpatrick in his popular work, 'Ireland before the Union,' states: 'Rowan had not been long in Newgate when the startling fact reached him that the Government had discovered he had been implicated in high treason, and would proceed against him on that indictment. MacDowel the under gaoler, and his son, ignorant of the coming prosecution for high treason, accompanied their prisoner to his adjacent residence in Dominick Street,* for the nominal purpose of enabling him to sign some legal documents. Rowan was a man of large property, and could afford to pay his way with munificence. The under gaoler stood at the door gloating over a purse of gold which had just been put into his hand, while Rowan entered the back drawing-room, and gliding by a rope into the garden beneath, he entered the stable where he found a horse ready saddled. He escaped to Mr. Sweetman's of Baldoyle. A fishing-boat was procured in which he embarked for France. While coasting off Wexford a revenue cutter bore down on them, threw a paper into the fishing boat and sailed off. The paper was a copy of the Proclamation, dated May 2,

Escape of
Hamilton
Rowan.

* Now occupied by the eminent Irish solicitor John Macnamara Cantwell.

CHAP.
L.
Earl Fitz-
William
Viceroy,
A.D. 1795.

Declares
his policy.

Opens Par-
liament,
A.D. 1795.

The Lord
Chancellor
opposes
the policy
of the
Viceroy.

Fidelity of
the boat-
men.

The Lord Chancellor had to curb his antipathy to a liberal statesman when January 4, 1795, beheld Earl Fitzwilliam Viceroy of Ireland. The Protestant dissenters and Roman Catholics welcomed him with addresses, and his replies to these documents stated: 'In the faithful discharge of my duty to his Majesty, it shall be my study to call to my councils those who are distinguished and known for their wisdom, their integrity, and their talents, and who possess the confidence of his Majesty's people. Assisted by their advice, and availing myself of their support, I trust I shall be able to promote the first wishes of his Majesty's heart, by securing the full and cordial union of all his subjects, as the surest means of securing their happiness.'

The speech from the throne at the opening of the Irish Parliament on January 22, 1795,¹ was to the same import, 'He hoped that Parliament would order everything in the manner best adapted to the occasions of the several orders of men who composed his Majesty's subjects in Ireland.'

The policy of the Lord Lieutenant, unfortunately, was not relished by the Lord Chancellor. The party with whom the latter acted knew, that if the Roman Catholic Relief Bill passed, not only was their power at an end, but those valuable offices, including that of Lord High Chancellor,² would in time be filled by members of the Catholic creed. Lord Fitzwilliam urged the measure in the Cabinet, and arrangements were in progress to forward the Catholic Relief Act when that clique, as Mr. Burke called them, who kept Ireland divided into two hostile camps, proceeded to London to thwart the liberal and conciliatory measure

1794, offering a reward of *One thousand Pounds* for the apprehension of Archibald Hamilton Rowan, with a full description of his appearance, which was very remarkable. The two boatmen, named Sheridan and Murray, no sooner read it than their glances denoted their suspicions to the fugitive. "You are right, boys," he said, "undoubtedly I am Hamilton Rowan, but you are Irishmen." "Never fear," was the hearty reply; "by —— we'll take you safe." I think Sterne's recording angel blotted out the oath, and I hope these brave men prospered.'

¹ Lords' Jour. Ir. 1795.

² Grattan's Life, vol. iv. p. 194.

of the Viceroy. They were powerful, and had influence to pour their tale into the ears of the King. They alarmed him on the score of religion; they represented that concession to the Catholics would injure the Protestant interest, used the old cry 'the Church in danger' for party purposes and selfish ends. I give the result in the words of Mr. Grattan: 'Mr. Pitt abandoned his principles, his promises, and his professions. He first deceived, then he recalled Lord Fitzwilliam, and committed the basest breach of public faith that had occurred since the days of Lord Strafford, and not very dissimilar from it. By so doing, he gave the country over to the United Irishmen, and prepared the way for the Insurrection and the Union. His measures were fatal for British character, and the Irish people henceforth lost all confidence in the British Government.'¹ The recall of Lord Fitzwilliam was deeply resented by that nobleman. He says, in a letter to Mr. Grattan, 'I yesterday called upon Ministers to name their day to make good their charges. Their act was in itself an indictment—it was their duty to proceed with the evidence. They declined, upon the general ground that the removal of a King's servant was not a ground for public discussion; nor was it of necessity that there should be blame anywhere. I enforced my claim, and was backed by Lord Moira, and the Duke of Norfolk.'²

The arrival of Lord Camden as successor of Earl Fitzwilliam, was attended with insurrection and outrage; and those who were suspected of having caused the removal of the popular Viceroy, became objects of popular vengeance. As may have been anticipated, one of the first marked out for attack, was the Lord Chancellor; and his life nearly paid the penalty for the share it was believed he had in Lord Fitzwilliam's recall. He received a blow from a stone on the forehead, which, had it been thrown with more force, would have killed him. The infuriated mob attacked his house; and, had they effected an entrance, and seized him, assuredly they would have

CHAP.

L.

Deplorable
results of
Opposition.

Recall of
Earl Fitz-
william.

Arrival of
Lord
Camden as
Viceroy.

Unpopu-
larity of
the Lord
Chancel-
lor.
His life
in danger,

¹ Grattan's Life, vol. iv. p. 195.

² Ibid. p. 210.

CHAP.
I.Saved by
his sister.

put him to death. Their efforts were baffled by the courage and address of his sister, Mrs. Jeffries, of Blarney Castle, a very remarkable and talented woman. She mingled with the crowd, and, as she was personally unknown to any one, induced them to seek their victim elsewhere. She gave them to understand she knew the place of his concealment, and succeeded in misleading them. Disappointed of their object, they then attacked the Custom House, where Mr. Beresford, First Commissioner of the Revenue, resided.¹

Character
of Lord
Camden.

This was an unfortunate commencement for the Vice-royalty of Lord Camden, a high-minded and amiable nobleman, whose character is thus described: 'His principles were good, but his talent was not eminent; he intended right, but was led wrong; he wished to govern with moderation, but was driven by his Council into most violent proceedings; to the arrogant dictum of Lord Clare he had not a power of resistance; and he yielded to cruelties that his mind must have revolted at.'²

Yeomanry
called out.

By the advice of the Lord Chancellor, the yeomanry was embodied, and other measures of a decisive character to suppress the insurrection, which extensively prevailed, were taken, by which the well-affected became secured. The insurrection speedily extended, and was instantly checked. The misguided prisoners were treated with extreme severity. The conduct of the Chancellor has been thus eulogised:—'Nor was it long before he had reason to perceive that his measures produced the desired effect. The disaffected were everywhere panic-stricken; the invading force became prisoners of war.'

Rebellion
stamped
out.Visitation
in Trinity
College,
Dublin,
1798.

In 1798 the Lord Chancellor, as Vice-Chancellor of the University of Dublin, held a visitation, having Dr. Duigan as his assessor. When seated at the upper end of the dining-hall with the Provost, Senior and Junior Fellows, and Scholars, grouped around, the body of the hall was thronged with graduates and undergraduates, and the

¹ Barrington's Irish Nation, p. 347.² Ibid. p. 349.

officers and porters. Amidst breathless silence the Vice-Chancellor explained the object of the visitation. He said the reports prevalent about the state of the University induced the visitors to enquire whether the disaffection imputed to the College was founded in reality, or was a mere rumour or surmise. His duty, having the high office of superintending the conduct and promoting the welfare of that college, indispensably required him to investigate and suppress any serious disorders. He found great probability had been given to the reports in circulation by a rebellious publication of the independent scholars and students of the University; and it behoved all who heard him to acquit themselves of any concern therein. Such members as acted with want of candour, and refused to exonerate themselves from the treasonable charge made against the University, and which the abominable paper he held in his hand so much warranted, he was determined to remove. In one of those secret societies, the formation of which he knew of in the College, a system of assassination had been recommended, and a proposal made to collect arms. He concluded by declaring his determination to punish severely the encouragers of treason and sedition, and more especially the miscreant authors of that wicked paper, which was not only thrown into every letter-box in College, but was flung at his own head, in his own house, by way of menace and defiance.¹

CHAP.
L.

The Chancellor explains the object of the visitation.

The roll was then called, and as the examination proceeded the interest increased. Each person when called was sworn to discover all matters as to which he should be questioned. There was nothing worthy of note until Dr. Browne, one of the senior fellows, a member of the board, and Member for the College in Parliament, was examined. He had dissented from the sentence of expulsion of two students, of whom it was deemed necessary to make an example to prevent disaffection spreading among the students. He admitted that he had gone from the

The roll called.

¹ Dublin Univ. Mag. vol. xxvii. p. 552.

CHAP. board into the college court, and there declared the vote
 L. he had given. The Vice-Chancellor declared such conduct
 was highly reprehensible; that it promoted a spirit of insubordination and discontent among the students; and, if the board thought proper to expel him for such conduct, he would have confirmed the expulsion.

Dr. Stokes. Dr. Stokes, then a junior fellow, came next. The Vice-Chancellor evidently expected some considerable disclosure from him. He asked him in an emphatic manner if he knew of united societies existing in the College, and appeared much surprised when the short monosyllable, 'No,' was the decisive reply. He was then asked if he knew anything of the authorship of the paper which Lord Clare showed him—again he replied in the negative. He was then asked if he knew anything of secret or illegal societies in the College. To this he replied he did, and then the Vice-Chancellor, with a gleam of satisfaction lighting up his pale intellectual countenance, bade him declare all he knew.

'The only societies of that description which I am aware of,' he answered, 'are Orange Societies, and I know some members of them.'

Never was a man more taken aback than the Earl of Clare; he started, and his face grew red with passion at this unexpected reply. He then proceeded to get Dr. Stokes to account for his connection with politics, which he did with perfect candour. He stated that he had been a member of the Society of United Irishmen before 1792, when their objects were perfectly legitimate, but since that time he was entirely unconnected with them. He had attended in his professional capacity a sick man who was suspected of being implicated in treasonable measures. When the French invasion was reported, he went amongst the Roman Catholic population of Dublin, exhorting them to take up arms against the common foe. 'This, my Lord,' he said, in a tone of offended dignity that won sympathy from every high-spirited gentleman present, 'this was not the conduct of a disaffected man,

nor of one entertaining those principles with which this examination appears to try and connect me !'¹

CHAP.
L.

Lord Clare felt the rebuke, and told Dr. Stokes he had no further questions to ask.

A pupil of Dr. Stokes, Mr. Kerns, and Dr. Graves, with several others, bore generous testimony to the zeal and activity of Dr. Stokes in the cause of loyalty and order. The best answer to Paine's 'Age of Reason' had proceeded from his pen. The Vice-Chancellor stated 'he was happy to find so many respectable and disinterested witnesses standing forward in Dr. Stokes's favour, that he was convinced he was a well-meaning man, but had been led into great indiscretions.'

Several of those who attended objected to take an oath which was conceived in such general terms as required them to answer *all* questions, and the result of the first day was a list of about fifty recusants who were marked for expulsion as contumacious.

On the second day the Vice-Chancellor took a somewhat milder tone. He explained to the assembly 'how derogatory it would be to the character of the University if so large a number of its body appeared to countenance, or be implicated in, a treasonable conspiracy. That this visitation was of a purely domestic character; that the members of the College formed all one family, and any authority exercised was purely parental; that the same oath was administered alike to old and young; to the Provost and Fellows, as to the junior student. That if any person came forward and confessed their errors, without reference to others, and promised to separate themselves altogether from any imprudent and dangerous connections they had formed, the past should be forgiven and forgotten.'

The second
day of the
visitation.

This had the desired effect; many who had been contumacious came forward, and disclosed matters without mentioning names, save in very few instances. There were no less than four committees of United Irishmen in

¹ Dublin Univ. Mag. vol. xxvii. p. 554.

CHAP.
L.
Justifica-
tion of the
Lord Chan-
cellor's
conduct by
Thomas
Moore.

College, the secretaries of which were said to be Robert Emmet, McLoughlin, Flynn, and Corbett, junior.¹

The following justification of the course pursued by the Lord Chancellor is written by an Irishman whose patriotism cannot be questioned—Thomas Moore:—‘Imperious and harsh as then seemed the policy of thus setting up a sort of inquisitorial tribunal, armed with the power of examining witnesses on oath, and in a place devoted to the instruction of youth, I cannot but confess that the facts which came out in the course of the evidence went far towards justifying even this arbitrary proceeding; and to the many who, like myself, were acquainted only with the general views of the Union leaders, without even knowing, except from conjecture, who those leaders were, or what their plans or objects, it was most startling to hear the disclosures which every succeeding witness brought forth.’² He then adverts to the absence of Robert Emmet and the two Corbetts, whose total absence, and the dead silence that followed the calling out of their names, proclaimed how deep had been their share in the treasonable conspiracy inquired into by the visitors.

Dr. Browne made an earnest and deprecatory appeal to the visitors with reference to his case, declaring their condemnation of his conduct would embitter his future life.

Lord Clare expressed his conviction that had Dr. Browne known the entire extent of the revolutionary practices to which some members of the College proceeded, he would have used every effort for their suppression, and not have acted as he admitted he did. That he was satisfied Dr. Browne acted from his total ignorance of the dangerous situation of the University. Browne expressed the utmost contrition for his conduct, and, as my authority states, with a humility little according with the independent spirit he was supposed to possess, humbled himself before the Vice-Chancellor, declaring his deep sorrow for having incurred the censure of the visitors!³

¹ Dublin Univ. Mag. vol. xxvii. p. 555.

² Vol. iv. Moore's Poetical Works. Longman's edition, 1844. Preface, p. xxiii.

³ Dublin Univ. Mag. vol. xxvii. p. 555.

The Vice-Chancellor then adverted to the case of Dr. Stokes ; he expressed satisfaction that the rumour affecting a ruling member of the University had been entirely refuted ; but, as he had been drawn into a communication with persons who were inimical to the Government of the country, he thought it his duty to prevent his becoming a governing member of the University for the space of three years. He expressed his satisfaction at the general good conduct of the youth of the University. He expressed his concern at the duty imposed on him of using severity against the few who had acted with determined obstinacy, or were committed by acts of sedition and treason. He then presented a list of nineteen, for whom he recommended expulsion, which was ratified by the board.

On the second day Moore was examined. I shall let him tell the tale himself:—‘ I am not quite certain whether I received any intimation that I was to be one of those examined, but I rather think some such notice had been conveyed to me ; and at last my awful turn came, and I stood in the presence of the formidable tribunal. There sate with severe look the Vice-Chancellor, and, by his side, the memorable Dr. Duigenan—memorable for his eternal pamphlets against the Catholics. The oath was proffered to me. “ I have an objection, my Lord,” said I, “ to taking this oath.”¹ “ What is your objection ?” he asked sternly. “ I have no fears, my Lord, that anything I might say would criminate myself ; but it might tend to

Moore's
statement.

¹ This, we must remember, was ‘ to disclose all matters as to which the person swearing should be questioned.’ An eye-witness relates : ‘ Among those who first refused to take the oath was Thomas Moore. He was then an undergraduate and had already distinguished himself by early and juvenile indications of his poetical talents. The scene was amusing. The book was presented to him. He shook his head and declined to take it. It was thrust into his right hand. He hastily withdrew the hand, as if he was afraid of its being infected by the touch, and placed it behind his back. It was then presented to his left hand, which he also withdrew, and held behind his back with his right. Still the book was thrust upon him and still he refused, bowing and retreating until stopped by the wall. He afterwards, however, took the oath, modified by the explanation, and acquitted himself of all knowledge of treasonable practices or societies within the college.’—Dublin Univ. Mag. vol. xxvii. p. 555.

CHAP.
L.

involve others, and I despise the character of the person who could be led under any such circumstances, to inform against his associates." This was aimed at some of the revelations of the preceding day. "How old are you, sir?" he then asked. "Between seventeen and eighteen, my Lord." He then turned to his assessor, Duigenan, and exchanged a few words with him, in an under tone. "We cannot," he resumed, again addressing me, "suffer any one to remain in our University, who refuses to take this oath." "I shall then, my Lord," I replied, "take the oath,—still reserving to myself the power of refusing to answer any such questions as I have just described." "We do not sit here to argue with *you*, Sir," he rejoined sharply; upon which I took the oath, and seated myself in the witness chair.'

Having alluded to the proved existence of College United Irish Societies, the Vice-Chancellor asked Moore had he ever belonged to any of them. He replied he had not, and gave a like answer to the questions, had he ever known of any proceeding that took place at them, or any proposal for the purchase of arms and ammunition, or the expediency of assassination. He was *not* asked, as he admits, luckily, 'if he ever was invited to join any of these societies, and by whom?' which he would have declined to answer, and he impressed Lord Clare, evidently, he could disclose nothing; for after a few words with Dr. Duigenan, Lord Clare said to Moore, 'When such are the answers you are able to give, pray what was the cause of your great repugnance to taking the oath?' Moore replied, 'I have already told your Lordship my chief reason; in addition to which, it was the first oath I ever took, and the hesitation was, I think, natural.' He was then dismissed, and warmly congratulated by his fellow-students on the way he acquitted himself.¹

In the spring of 1798, considerable disagreement arose between the Lord Lieutenant and Sir Ralph Abercromby, a humane and able Commander-in-Chief, who refused to

The humane
Sir Ralph
Aber-
cromby.

¹ Moore's Poetical Works, vol. iv. preface, p. xxv. Longman's edition.

sanction the cruel orders of the Viceroy, which he could not dispute. The result was, he threw up the command in disgust, and then efforts were made to induce the Marquis Cornwallis to go to Ireland in the double capacity of Lord Lieutenant and Commander-in-Chief. The first intention of the Marquis was to act in the latter capacity under the then Lord Lieutenant, Earl Camden;¹ but when the Lord Lieutenant wrote to the Duke of Portland, ‘Unless some officer of high rank and estimation is sent immediately, the country will be in the most imminent danger,’ the Ministry pressed Lord Cornwallis to go as Viceroy and Commander-in-Chief,² and he accepted the situation. The state of Ireland was, indeed, most critical; the rebellion was at its full height, and he had at once to act with decision.

CHAP.

L.

Marquis
Cornwallis.

The conduct of the Lord Chancellor with reference to Lord Edward Fitz Gerald, must relieve his memory from the imputations of obduracy and insensibility to all feelings of humanity, often charged against him. He wished, if possible, to save this misguided enthusiast, and, as the Government of which he was a leading official were apprised of every step taken by the United Irishmen, he informed the friends of Lord Edward that his Lordship’s participation in the rebellious movement was known.³ The Chancellor urged them to induce Lord Edward to leave the kingdom, and pledged himself that every port should

Kind
conduct of
the Lord
Chancellor
in relation
to Lord
Edward
Fitz Ger-
rard.

¹ Vide Letter from Earl Camden in the Cornwallis Correspondence, vol. ii. p. 325.

² *Idem*, p. 334.

³ How history repeats the same story! If my readers will refer to the career of Lord Offaly in vol. i. p. 177, they will find a similar instance of advice thrown away. Again, previous to the abortive and rash *émeute* of 1848, I was living on terms of the greatest intimacy with the law adviser of the Castle, and aware that some of my most valued contemporaries and friends at the Irish Bar were seriously involved in the conspiracy then ready for revolt, I obtained a ready permission to apprise them that their most secret plans were known to the Government, and advised them to desist from a course which must prove disastrous to themselves. They expressed their thanks to me, but I perceived from their incredulous looks and confident manner my information was disbelieved, and my advice would not be followed. The result is too well known to need repetition.

CHAP.

L.

Leinster
House
searched.

be open. But the young nobleman was not to be stirred from his fatal purpose—fatal, alas! for himself, and for those most dear to him a pregnant source of sorrow! On the eve of rebellion the paid spy and venal traitor brought an armed band to the house in which the gallant and beloved Lord Edward lay concealed. While the warrant was out for his apprehension there was intense anxiety at Leinster House, and a party of soldiers, commanded by Major O’Kelly, went thither to search. Lady Sarah Napier, aunt to Lord Edward, and mother of Colonel Napier,¹ bears ample testimony to the gentleness with which this search was conducted:—‘They asked Lady Edward very civilly for her papers and Edward’s, and she gave them all. Her apparent distress moved Major O’Kelly to tears, and their whole conduct was proper. I heard from others,’ continues Lady Napier, ‘that upon the papers being carried to the Privy Council, the Chancellor was sent for at the Courts to attend it; that he dashed out in a hurry, and found a mob at the door, who abused him, and he returned the abuse by cursing and swearing like a madman. He met Lord Westmeath, and they went into a shop, and came out with pistols, and the Chancellor thus went on foot to the Council.’

Lord
Edward
taken.

The loved and lamented Lord Edward was betrayed, as so many of his countrymen have been who have sought for the accomplishment of Ireland’s regeneration by the path of insurrection. The name of his betrayer is still unknown, but Murphy’s house, No. 153, Thomas Street, is familiar to most readers of Irish history. Here he was captured on the evening of May 19, 1798, and wounded severely in the right arm, near the shoulder. The pistol wound was the result of the deliberate aim taken by Major Sirr, from his secure position on the stair-top, as his victim was engaged in a deadly struggle with Major Swan and Mr. Ryan.² He was committed to Newgate,

¹ Historian of the Peninsular War.² Madden’s United Irishmen, vol. ii. p. 447.

and soon illness seized him. He became delirious. His brother, Lord Henry, applied to the Chancellor for permission to see his dying brother; Lord Clare replied, stating he was sorry it was impossible to comply with Lord Henry's wishes, and adds, 'If I could explain to you the grounds of this restriction, even you would hardly be induced to condemn it as unnecessarily severe!'¹ This did not deter his aunt, Lady Louisa Connolly, who made several ineffectual efforts to see her dying nephew, to whom, in common with those who were even slightly acquainted with him, she was devotedly attached.² In vain she went from Viceroy to Chief Secretary. Lords Camden and Castlereagh were inexorable; so as a last resource she called late in the evening at the Chancellor's town mansion, in Ely Place, and asked to see his Lordship. The servant informed her Ladyship the Chancellor had a large dinner party, but, moved by her tears, so impressed the urgency of her entreaty for an interview, that the Chancellor received her, and was much moved by the intensity of her grief. She entreated him to grant her an order to see Lord Edward. 'Lady Louisa,' he replied, 'to grant the order you solicit is quite out of the question. We have so decided in Council. But you are a female, and a near relative. I know of no decision which prohibits *my accompanying you.*' He called for his hat, and drove with the afflicted lady to Newgate prison, where he patiently

CHAP.
L.

Lord Chan-
cellor and
Lady
Louisa
Connolly.

¹ Madden's United Irishmen, vol. ii. p. 450.

² I remember hearing an anecdote which shows how Lord Edward's name acted as a talisman to remove every obstacle. The celebrated John Anderson of Fermoy, when engaged in one of his great commercial enterprises, while posting at this time to Dublin, suddenly found his journey cut short by the innkeeper declaring 'he could furnish no post horses.' This was a great disappointment to Mr. Anderson, whose object would be defeated by delay. His accurate knowledge of public affairs in Ireland served him in his need. 'Oh, my dear friend, Lord Edward, can I do nothing to save you!' he cried aloud in a tone of deep grief. 'Ostler, clap four horses to this gentleman's carriage instantly,' was no sooner uttered than obeyed, and the wily banker was never more swiftly driven than on his pretended errand to save the idol of the people.

Anecdote
of John
Anderson
of Fermoy.

CHAP. waited for *three hours* in an outer apartment, while the
L. aunt and nephew were together for the last time on
earth.¹

¹ It is related that a younger brother, Lord Robert Fitz Gerald, was in the diplomatic service of England, and had some time previously offered his brother Edward an asylum in the British Embassy at Copenhagen. With a chivalrous sense of honour characteristic of his noble race, when Lord Edward's sad fate was known, Lord Robert (who deeply mourned his beloved brother) tendered his resignation to King George III. On learning the cause of the resignation, the King, to his credit, refused to accept it, saying, 'a good brother could not be a bad Minister.'—The Earls of Kildare, by the Marquis of Kildare.

CHAPTER LI.

THE KINGSTON TRAGEDY.

THE next important trial, in point of State ceremonial, as well as of public interest, over which the Earl of Clare presided, took place on May 18, 1798, in the Irish House of Lords, the trial of the Earl of Kingston for shooting Colonel Fitz Gerald. I know from my boyhood the scene of the tragic event, my father was intimate with the noble Lord whose father was the perpetrator of this deed. I have a distinct recollection of him, and if there ever was a case of shedding human blood in which the verdict of 'Not Guilty' was the proper one, assuredly that was the case of Robert Earl of Kingston. As no witnesses were produced at the trial, and the case was one of almost romantic interest, truly a tragedy of real life, I may be excused for narrating the facts:—

The family of King, settled in Ireland in the time of Queen Elizabeth, was ennobled in two houses, the Earldom of Kingston, and Viscount Lorton,¹ the family seat of the former being Mitchelstown in the county of Cork, the latter at Rockingham, near Boyle, in the county of Roscommon.

Robert, the second Earl, when Lord Kingsborough, married, in 1769, Caroline, only daughter of Richard Fitz Gerald, Esq., of Mount Ophaly, in the county of Kildare, who was his Lordship's cousin, her mother being daughter and heiress of James, fourth Baron Kingston. By this union the estates of the elder and junior branches of the family were united.

¹ On the demise of James, fifth Earl of Kingston, without issue, the title and estate have now devolved on Viscount Lorton.

CHAP.
LI.

Trial of
the Earl of
Kingston.

CHAP.
LI.

There had been a brother to Lady Kingston whose death, without lawful issue, had made her the heiress; but he left an illegitimate son, named Henry Gerald Fitz Gerald, whose desolate condition excited Lady Kingston's sympathy, and in an evil hour she made him an inmate of her family. A very numerous offspring resulted from this union of Lord and Lady Kingston, six sons and four daughters. They had every advantage their high birth entitled them to, and among their governesses were the celebrated Mary Wolstonecroft, afterwards Mrs. Godwin, and the learned Miss Elizabeth Smith. Of the position of the family during their early youth it is unnecessary to speak. George, the eldest son, whom I remember, married, in 1794, Lady Helena Moore, only daughter of Stephen, first Earl of Mount Cashel. Robert, the second son, entered the army and became Lieutenant-General and Viscount Lorton. Henry also reached high military rank; the Church and the Navy afforded scope for the talents of others, but my immediate concern is with the third daughter, Mary, the hapless heroine of this tragic story.

She was well remembered in my youth as a lovely girl, with striking, if not regular features, a very graceful figure, and remarkably fine hair, which she wore in profusion.

Young Fitz Gerald had, as I mentioned, been reared with the children of Lord Kingsborough. Having a desire to embrace the military career, his wishes were gratified, and through the powerful influence of the family, he soon reached the rank of Colonel. He possessed great personal beauty, was tall and noble in stature, and endowed with great muscular strength. He had every quality to make him a good officer, and won the affections of a very lovely lady whom he married, and with whom he resided in a handsome house at Bishop's Gate on the Thames. Happy would it have been for the peace of all connected with him, if he had not also gained the affections of another lady, the Honourable Mary King, third daughter of his benefactor, Lord Kingsborough. He regarded Colonel

Fitz Gerald in the light of a near relative, and trusted him accordingly. Alas for frail human nature, basely he betrayed that trust!

CHAP.
LI.

The evident liking he evinced for the charming girl did not escape notice, but strangers are often more quick-sighted than those more directly concerned; and even the musicians who formed the band at the balls and fêtes given by Lord Kingsborough, or his friends, at which this hapless pair met, were sensible all was not as it should be; that something more than the respectful attention of a married man to an unmarried and interesting young girl was displayed by Colonel Fitz Gerald; but his relations with the family prevented any suspicion being ever entertained by Lord or Lady Kingsborough.

The fancied security in which they dwelt was rudely broken. A morning came in the summer of 1797 when the sunshine that blazed over their villa near London found no place in their hearts. Birds carolled blithely on blossomed tree and flower-enamelled lawn, but their nestling had flown, they knew not whither. Could that fair flowing river that swept so calmly by their demesne conceal within its liquid depths the lovely form of their darling child? It would seem so, the only trace left of their beloved Mary was a note, blotted as by excitement and blistered by tears, found on her dressing-table, which conveyed the fearful intelligence that she was resolved to destroy herself by throwing herself into the Thames.

We can better imagine than describe what followed the discovery of this letter—the horror of her parents—the dismay of her brothers—the despair of her sisters. The river was dragged; impelled by large rewards search was made in all directions for the body of the luckless suicide, all that her friends ever expected to find, for her shawl and bonnet were picked up on the bank.

Soon, however, a fact was disclosed to Lord Kingsborough which led him to think his child lived. A post-boy from a neighbouring town said he had been employed to drive a gentleman whom he had never seen before to

CHAP.
LI.

London; when approaching the city, the carriage overtook a young lady walking alone. The gentleman asked the young lady, 'if she was bound for town?' She replied, 'Yes.' He then said, 'He would be happy to set her down, if she had no objection.' Whereupon she entered the carriage, and, when they reached London, both went away in company.

Lord Kingsborough suspected this girl was his daughter, and his difficulty now was to discover with whom she eloped. He covered the walls with placards, and the newspapers with advertisements, offering liberal reward for any tidings of his lost child.

One of the most active persons who sympathised with the distressed family in their sorrowing search was Colonel Fitz Gerald. Seldom a day passed without his calling, eager to learn any tidings, and he suggested various courses to unravel this most mysterious disappearance of the Honourable Mary King. One day a gleam of hope of tracing the lost one brightened the hearts of the family. A girl asked to see Lady Kingsborough, and was instantly in her presence. She was the servant of a lodging-house-keeper in Clayton Street, Kennington. 'Some time before (which tallied exactly with Miss King's departure), a gentleman brought a young lady to lodge in the house. The girl had seen the advertisement offering the reward, and noted the circumstance of the missing young lady having such an abundance of hair. That on going into the young lady's bedroom a day or so after seeing this advertisement, she saw the young lodger, with a pair of scissors, ruthlessly cutting away her beautiful hair. This at once made the servant suspect who the young lady, so constantly visited by the handsome gentleman, was, and she lost no time in giving the family notice where the young lady was staying. While Lady Kingsborough was considering what course was best to take, Colonel Fitz Gerald came on his daily visit of enquiry. He was utterly confounded when the servant girl cried out in agitated tones, 'Oh, my Lady! that's the very gentleman, who

brought the young lady to us.' He had not a word to say, but seizing his hat hastily, ran out of the house. The full measure of his ingratitude and perfidy disclosed, his punishment should follow. Lord Kingsborough's second son Robert, afterwards General Lord Lorton, sent him a message by Major Wood of Ashford, and a meeting took place on the morning of Sunday, October 1, 1797, near the Magazine in Hyde Park. Colonel Fitz Gerald's conduct was considered so utterly unworthy the countenance of any gentleman, he failed to get a second, but professed his readiness to meet Colonel King. The parties were placed at ten paces, and such was their excitement that they fired repeatedly without effect.

After the fourth shot, Fitz Gerald said 'he wished to have advice from Major Wood as a friend.'

The Major begged to inform Colonel Fitz Gerald, 'he was no friend of his; but as a friend to humanity, he thought Colonel Fitz Gerald should acknowledge himself the basest of men, and then the affair might cease.'

Colonel Fitz Gerald would only admit he *had acted wrong*, so the duel went on, and each party fired two ineffectual shots more. Colonel Fitz Gerald's ammunition was then expended, and he had the assurance to ask for the use of one of his antagonist's pistols. Major Wood refused to allow this, though his principal requested him to grant it. An adjournment was announced for next day, but the police prevented it by placing both officers under arrest.

Lord Kingsborough lost no time in regaining his unhappy daughter. To place her in safety out of the reach of her betrayer appeared easy. The family seat of the Earl of Kingston is Mitchelstown, in the county of Cork, a place familiar to me from my boyhood, having formed one of the military out-stations in my father's district, and where I have experienced much hospitality from Robert Earl of Kingston, the nephew of the heroine of this sad tale. A noble castle has recently been erected beneath the shadow of the Galtees, and in the old mansion-house,

CHAP.
LI.

a large capacious dwelling, the Honourable Miss King was safely placed. Here, in the seat of her ancestors, surrounded by the retainers of her father and grandfather, it was presumed the presence of her guilty lover would not again try to darken Miss King's path. Vain hope! A servant maid in the pay of Colonel Fitz Gerald, formed part of the lady's suite. Some expressions the servant used in his favour reached other ears than those they were intended for, and she was summarily expelled. In revenge, she communicated the place of Miss King's retreat to Colonel Fitz Gerald.

With a persistence which can only be accounted for by the infatuation of the moth for the candle, which is certain to cause his destruction, this vile man pursued his victim. The hotel at Mitchelstown is situated in the square of the town, not far from the entrance to Lord Kingston's demesne. At the time of our tale, a Mr. Barry, who had lived long in the Kingston family, was the innkeeper. His suspicions were aroused by the strange conduct of a tall, fine-looking man with flowing beard and a profusion of whiskers, who remained in his hotel by day, going forth only by night. In those days the Kilworth mountains in the neighbourhood were celebrated as haunts of robbers, and traditions of the 'White Pedlar,' 'Captain Freney,' and 'the bold Brennan,' are yet rife. Barry suspected his guest was not there for the purposes of business or sporting, the usual pursuits of his customers, and being well aware of the Castle scandal, resolved to mention his suspicious guest and his strange behaviour to Lord Kingsborough. His Lordship was expected to be present at a review of militia and yeomanry encamped at Strawhall, near Fermoy, about ten miles distant, and Barry there met his Lordship. Public duty was quickly discharged that day, and the anxious father drove as hard as horses could carry him to ascertain what bird of prey was swooping upon his wounded dove. He went first to the Castle, his child was there. He went next to the inn, the bird was flown. Whether the departure of Barry in quest of Lord

Kingsborough had alarmed Colonel Fitz Gerald, for he it was who again sought to carry off this weak girl, I cannot say, but he left Mitchelstown that morning, and took up his abode at the inn in Kilworth, only six miles distant.

The post-boy who drove the stranger informed Lord Kingsborough where he left him. His Lordship resolved to ascertain who this mysterious person was, and proceeded at once to Kilworth. It was drawing towards evening when he left Mitchelstown, and an hour or more later when he drew rein before the Kilworth Inn. A few questions elicited the fact that a strange gentleman had come that day from Mitchelstown, and was then in the house. The Kilworth Inn was then kept by Bartholomew Simmons.¹ Under the notion that the stranger was some emissary of Colonel Fitz Gerald's, and not the audacious man in person, Lord Kingsborough despatched a waiter 'with his compliments, requesting an interview.' The waiter speedily returned to inform his Lordship that the bedroom door was locked, and the occupant of the room bade the waiter roughly to begone, and not to admit anyone to him on business at so late an hour. Colonel King, who had joined his father, suggested they should at all events see who this person was, and accompanied by some of the persons employed in the hotel, one of whom, a stable-boy named Roche, was afterwards long in my father's service, they rushed upstairs. Finding the door locked they demanded admittance; it was refused in a voice the unhappy father and brother knew only too well. A violent push burst open the door, and within stood the cause of all their agony, armed with a pistol in each hand. Colonel King dashed forward to seize the betrayer of his sister, when, fearing the death of his son, the outraged father, who also had a pistol in his hand, suddenly fired, and the seducer fell dead on the floor. Lord Kingsborough went with his son to the house of Lord Mountcashel (whose

¹ The grandson of this innkeeper and his namesake, B. Simmons, was a highly-talented friend of mine, for many years a valued contributor, chiefly of poetry, to 'Blackwood's Magazine.'

CHAP.
LI.

daughter was married to his eldest son, George), Moore Park, close by, and as the death of his father shortly after, on November 13, 1797, made him Earl of Kingston, he claimed to be tried by his Peers for the offence imputed to him.

Trial of
the Earl of
Kingston.

On May 18, 1798, the trial came on in the House of Lords, at the spacious and imposing building in Dublin, now the Bank of Ireland. It was presided over by the Earl of Clare, as Lord High Steward. This stately assemblage numbered two Marquises, Waterford and Drogheda; twenty-seven Earls, fourteen Viscounts, three Archbishops, their Graces of Armagh, Cashel, and Tuam; thirteen Bishops, and fourteen Barons.

The proceedings opened by the Ulster King-of-Arms calling over the Peers' roll, commencing with the junior Baron. The place in which the Peers usually sat, though a very fine apartment, handsomely adorned with tapestry, was not spacious enough for this solemn trial, and the circular hall used by the members of the House of Commons was fitted up for the occasion. We can easily suppose what curiosity was felt, not only by the citizens of Dublin, but persons from all parts of the British Empire to whom these facts were known, to witness this solemn pageantry. Two by two the Peers, clad in their robes of ermine and scarlet, marched into the hall, preceded by the Masters in Chancery and the Judges in their robes. In front also walked such of the Peers who being under age could not vote on the trial, and also eldest sons of Peers who could take no part save as spectators. The procession closed with the proud figure of John Earl of Clare, Lord High Steward. After the obeisances usual on such occasions, the King's Commission, appointing the Earl of Clare Lord High Steward, was read aloud, the Peer standing up uncovered. The indictment was then read, and, at the bidding of the Clerk of the Crown, the Serjeant-at-Arms proclaimed:—

‘Oyez, oyez, oyez, Constable of Dublin Castle, bring forth Robert Earl of Kingston, your prisoner, to the bar,

pursuant to the order of the House of Lords. God save the King.'

CHAP.
LI.

Then appeared a group who riveted attention—the Constable and Deputy-Constable of Dublin Castle, with the Earl of Kingston between them, the Deputy-Constable bearing an axe, and, as he was on the Earl's left, the sharp edge was turned from him. The prisoner bowed to the High Steward, and to the Peers at either side; he then knelt at the bar. Upon being told to rise, his Lordship again bowed to the Lord Steward and Peers, who bowed in return. The Earl of Clare, who had his seat on the woolsack, then spoke in his most impressive tone, as follows:—

'Robert Earl of Kingston, you are brought here to answer one of the most serious charges that can be made against any man—the murder of a fellow-subject. The solemnity and awful appearance of this judicature must naturally discompose and embarrass your Lordship. It may therefore not be improper for me to remind your Lordship that you are to be tried by the laws of a free country, framed for the protection of innocence, and the punishment of guilt alone; and it must be a great consolation to you to reflect that you are to receive a trial before the supreme judicature of the nation; that you are to be tried by your Peers, upon whose unbiassed judgment and candour you can have the firmest reliance, more particularly as they are to pass judgment upon you under the solemn and inviolate obligation of their honour.¹ It will also be a consolation to you to know that the benignity of our law has distinguished the crime of homicide into different classes. If it arise from accident, from inevitable necessity, or without malice, it does not fall within the crime of murder; and of these distinctions, warranted by evidence, you will be at liberty to take advantage. Before I conclude, I am commanded by the House to inform your Lordship, and all others who may have

Address of
the Lord
High
Steward.

¹ When Peers are arraigned for any criminal offence it must be before their Peers, who return a verdict not upon oath but upon honour.

CHAP.
LI.

occasion to address the Court during the trial, that the address must be to the Lords in general, and not to any Lord in particular.'

The indictment was again read, and the prisoner was requested to pay particular attention to it. On its conclusion, the Clerk of the Crown put the usual question, 'How say you, Robert Earl of Kingston, are you guilty or not guilty of this murder and felony for which you stand arraigned?'

The Earl
pleads
Not
Guilty.

The Earl replied, 'Not Guilty.' He was then asked, 'Culprit, how will your Lordship be tried?' He answered, 'By God and my Peers.' To which the Clerk of the Crown rejoined, 'May God send you a good deliverance.' The Serjeant-at-Arms then proclaimed:— 'Oyez, oyez, oyez. All manner of persons who will give evidence upon oath before our sovereign Lord the King against Robert Earl of Kingston, the prisoner at the bar, let them come forth, and they shall be heard, for he now stands at the bar upon his deliverance.'

Proceed-
ings
when no
evidence
appeared
to sustain
the indict-
ment.

No witnesses appeared to sustain the indictment. Lord Clare, the High Steward, then addressing his ancient foe, the celebrated John Philpot Curran, who was Counsel for the noble prisoner, asked 'if they were prepared to prove service of notice that the indictment would be tried in the High Court of Parliament?'

Mr Curran.—'Yes, my Lords. I shall produce the witnesses who served notice in due time upon the widow and next of kin of Colonel Fitz Gerald.'

Formal proof was then given, and after the proclamation that 'now was the time for any person who desired to give evidence in support of the charge to come forward' had been again made, with a like result as before, the Lord High Steward put to each Peer, as he called over the roll, beginning with the latest created Baron, 'How say your Lordship, is Robert Earl of Kingston guilty of the murder and felony whereof he stands charged, or not guilty?' Then each Peer standing up, uncovered, laying

his right hand on his heart, replied, 'Not guilty, upon my honour.'

CHAP.
LI.

The roll having been gone through, and a uniform answer from each Peer received, the High Steward briefly informed the Earl that his Lordship had been unanimously acquitted. Whereupon the Earl made three reverences to the Peers and retired.

The noble
prisoner
declared
Not Guilty.

The white staff of the High Steward was then taken by Lord Clare, and broken in two, declaring the Commission dissolved. Thus terminated this strange eventful history, and the last trial in the Irish House of Lords.¹

¹ In Mr. Madden's entertaining work, 'Revelations of the South of Ireland,' from which I have refreshed my recollection of the above singular case, he adds that Miss King was afterwards settled under an assumed name in a respectable family in Wales. Here she was treated with great kindness, and the principal member of the family, a clergyman, liked her society so much that one day she told him, using feigned names, the sad story of her life. He expressed such sympathy for the victim of such a man as she described, that she confessed she was the person. At first he expressed more surprise than pleasure, but feeling 'pity akin to love' he married her, and they lived happily until her death, many years ago.

CHAPTER LII.

LIFE OF JOHN EARL OF CLARE—CONTINUED.

CHAP.
LII.

Arrival of
Lord Corn-
wallis.

ON June 20, 1798, Lord Cornwallis arrived in Dublin; on the 21st Wexford was captured from the insurgents by General Sir John Moore;¹ and on the same day was fought the last engagement of importance, the battle of Vinegar Hill.² The results of these two decisive struggles were so favourable to British arms, that they relieved the Viceroy from much anxiety, and cast a gleam of brightness around the career of his predecessor, which his administration were not a little proud of.

Lord Cornwallis was desirous to stay the flow of blood, and took steps to require commanding officers not to permit the infliction of punishment unauthorised by the orders of a general officer, in pursuance of a sentence of a general court martial.

Speech of
the Lord
Chancellor.

A speech was made by the Lord Chancellor in the Irish House of Lords, June 21, 1798, on moving an address to the King for the effectual efforts of Great Britain in sending various regiments of English militia to serve in Ireland. His Lordship expressed the utmost indignation against those in the British Parliament who endeavoured to justify the Irish rebellion, and to impute it to the conduct of the Irish Parliament and Government, and stated he would refer to the subject on a future day.³

¹ Son of Dr. Moore, author of *Travels in Italy and Zeluco*. This distinguished officer was killed at Coruña, January 16, 1809. The exquisite 'Lines on the burial of Sir John Moore,' beginning 'Not a drum was heard,' were written by a young Irish clergyman, named Wolfe. The MSS. is framed, and on view in the library of the Royal Irish Academy, Dublin.

² Vide *The United Irishmen*, by R. R. Madden, vol. iv. p. 447.

³ *Cornwallis Correspondence*, vol. iv. p. 354.

The state of affairs was very discouraging to an amiable man, whom I conceive the Lord Lieutenant to have been. In a letter to his dear friend Major-General Ross, July 1, 1798, he says, 'The life of a Lord Lieutenant of Ireland comes up to my idea of perfect misery; but, if I can accomplish the great object of consolidating the British Empire, I shall be sufficiently repaid.'¹ He tried to interpose, and, with the full approbation and concurrence of the Lord Chancellor, proclaimed a general pardon throughout the country.² He complained that the principal persons and members of both Houses of Parliament were in general averse to acts of clemency, and most probably they prevented the humane proclamation being issued.

I wish I could state, that after the rebellion had terminated, the Lord Chancellor refrained from any more ebullitions of animosity against the Irish race. But my duty compels me to notice his writings—these were compounded of unmeasured abuse of the Catholic party and their priesthood. Curiously enough he shows how well he was acquainted with the respect paid by the people to their clergy:—'The profound ignorance of the lower order, and general abhorrence of the Protestant religion by the people, qualify them to receive any impressions their priests may make; and, if their minds be divested of veneration for the priest, such is the ignorance and barbarity of the people, they would fall into a state of rude nature. The Popish superstition is not confined to the lower order—it flourishes in full vigour among the higher.' Words like these were little calculated to win the people back to their allegiance—to make them in love with the Constitution of which the Chancellor was a Minister of State.

The 'Personal Sketches' of Sir Jonah Barrington afford a strong proof of the influence Lord Clare exercised to mar the advancement of a political foe. Sir Jonah states:³—'I had an interview with Lord Castlereagh some time after he came into office, at Mr. Cooke's chambers.

Influence of the Lord Chancellor used against a political foe.

¹ Cornwallis Correspondence, vol. iv. p. 356.

² Id. p. 357.

³ Barrington's Personal Sketches, vol. i. p. 329.

CHAP.
LII.

He told me he understood I expected to be the next Solicitor-General, and had applied for the office. I answered that I not only expected as much, but considered myself under all circumstances, *entitled* to that preferment. He and Mr. Cooke both said "Yes;" and recommended me to make "my party good with Lord Clare, who had expressed 'no indisposition' to the appointment." Had I not been supposed of some use to the Government, I do not doubt but Lord Clare would have preferred many other more subservient gentry of my profession. But he knew that although Lord Westmoreland, on leaving Ireland, had made no express stipulation, he had subsequently gone as far as he could with Lord Camden for my promotion. Lord Clare played me off cleverly until, in the month of August 1799, I was sent for in private by the Secretary, Edward Cooke, who had been a particularly confidential friend of mine for several years. Having first enjoined secrecy as to our conference, he told me that a measure of great import had been under consideration in the English Cabinet, and might possibly be acted on; and then proceeding to acquaint me that Lord Clare had made no objection to my promotion, he asked me, in so many words, if I would support the "question of a Union if it should be brought forward?" I was struck as if by a shot! I had no idea of such a thing being now seriously contemplated, although I had often heard of it as a measure suggested in 1763. My mind had never any doubts upon the degrading subject; all thoughts whereof had been considered as banished for ever by the volunteers of 1782. I therefore replied at once, "No, never."

Barrington privately asked if he would support a Union.

Peremptorily refuses.

"You'll think better of it, Barrington," said he.

"No!" rejoined I, emphatically; "I swear, never!" The discussion was then dropped.

'I was determined, however, to know how the matter really stood; and, without touching on the late conversation, desired to be apprised whether they preserved the intention of appointing me Solicitor-General. I received no other answer than the following letter from Lord

Castlereagh, without any explanation; but it was enveloped in a very long one from Mr. Cooke, headed "strictly private;" and therefore, of course, still remaining so:—

CHAP.
LII.

“September 7, 1799.

“My dear Sir,—I am directed by his Excellency the Lord Lieutenant, to assure you that he would be glad to avail himself of any proper opportunity of complying with your wishes; and that he regrets much he is at present so particularly circumstanced with respect to the office of Solicitor-General that he feels it impossible to gratify your desire as to that appointment. I should myself have been very happy had I been able to communicate to you a more favourable result.

Letter
from Lord
Castlereagh.

“Dear Sir, yours very sincerely,

“CASTLEREAGH.”

This, Sir Jonah felt, was putting a civil end to his dreams of promotion, and he had nothing more to do with the Irish Governments. ‘I have,’ he adds, ‘used all forbearance in giving my opinion of Irish Lord Chancellors, except Mr. Ponsonby, whom nobody ever heard me praise as a very great lawyer, but whom everybody has heard me term a just judge and an honest, friendly man. Of Lord Camden, I believe there was no second opinion in the circle wherein I moved. A better man there could not be; but instead of governing he was governed; and, intimately acquainted as I was with every procedure and measure during his administration in Ireland, I do most fully acquit him, individually, of the outrageous, impolitic, and ill-judged measures which distinguished his rule. As to Lord Clare, he was despotic, and the greatest enemy Ireland ever had. His father had been a Roman Catholic, and intended for a priest,¹ but changed his tenets, and became a barrister of great and just celebrity.

Barrington's
opinion
of the
Viceroy.

His opinion
of the
Lord Chan-
cellor.

‘Lord Clare was latterly my most inveterate enemy—

¹ This is not very clear. If so, he changed his mind very soon, and became a law-student and a Protestant.

CHAP.
LII.

the cause shall be no secret ; it arose from a vicious little-ness of mind, scarcely credible, and proves to me that implacability of temper never exists without its attendant faults ; and, although it may be deprecated by cringing, is seldom influenced by feelings of generosity !¹

But by far the most scathing denunciation which the Lord Chancellor, accustomed as he was to such hostile effusions, ever received, was from the late George Nugent Reynolds, Esq., whom his Lordship had removed from the magistracy :¹—

‘ To the Right Honorable John Earl of Clare, Lord High Chancellor of Ireland. ’

‘ My Lord,—With surprise and sorrow I received a letter signed “ J. Dwyer,” informing me that your Lordship was pleased to suspend me in the Commission of the Peace for the counties of Leitrim and Roscommon. I say “ with surprise,” as I am not conscious of any fault to warrant such a proceeding on the part of your Lordship. I add “ with sorrow,” for, low as the appointment is—and low indeed it must be, depending upon the caprice of any individual—yet, as it afforded me the power to protect innocence and counteract tyranny, I part from it with regret. Your Lordship loves not the Constitution with more zeal than I do ; it has been the theme of my continued panegyric ; nor shall the unkind treatment I experienced at your Lordship’s hands tend to democratise my opinions ; quite the reverse ! It is to me an additional proof of my aristocratic creed, “ that there is in men of mean descent an innate ignobility which no titles or honours can eradicate.” It is not, my Lord, in the radiance of the royal sunbeam to give to the mushroom the fragrance of the rose ; and, when we look to a new man for the bland and golden dignity of manners which mark the genuine noblesse, we too often

¹ I have been enabled to insert this caustic letter through the kindness of A. C. Palles, Esq.

find a pinchbeck petulance substituted in its stead. When I waited on your Lordship with a letter from the Governor of the county in which my family resides, with an affected hauteur which ill becomes the man of yesterday, you turned on your heel and refused me an opportunity of justifying my conduct. Had your Lordship, like your father, been destined for the Popish priesthood, you would have had the benefit of a St. Omer's education, and, of consequence, known more decency and more good manners; but probably a giddy head is turned by looking down from a pinnacle to which a fortunate combination of circumstances has raised it. Yet elevated as y^r Lordship is, it never appeared to me that when I heard your Lordship's voice "*an angel spoke.*" Your *tout-ensemble* has rather recalled to my fancy the figure of a sweep, who, climbing through dirt, pops out his sooty-coloured face, and with a shrill tone proclaims his high situation to the world. It has been asserted by your Lordship that I took bail for several persons under the denomination of "defenders," nothing more being specified in the committal, and your Lordship is the most competent judge whether that is sufficient to detain his Majesty's subjects. It has been represented that one of the parties houghed a cow and hung a threatening notice on one of her horns; had he houghed your Lordship, and hung a threatening notice on *one of your* horns, under the same committal I would have acted in the same manner. I cannot dismiss this letter without a comment on the impertinence of your Lordship's servant, but that is easily accounted for by recollecting "that man is an imitative animal;" and perhaps I attribute to impoliteness a conduct which might with more propriety be attributed to fear; but so high is my respect for official situation that though it rained horsewhips, far be it from me to think of laying one of them on the hem of your Lordship's garment.

' I am, my Lord, with sincerity to my
enemies and respect to myself,

' G. N. REYNOLDS.'

CHAP.
LII.

Legislative
union be-
tween
Great
Britain
and Ire-
land.

Scene in
the Court
of Chan-
cery.

The project of a legislative union between Great Britain and Ireland was now deemed the *solatium* for Ireland, and Mr. Pitt found a ready colleague in the Lord Chancellor of Ireland for carrying out this measure. But the people of Ireland generally were quite opposed to it.

The Chancellor used every effort to assuage the wrath of the Bar, and when the requisition for holding the great Bar meeting was being handed round for signature, evinced his anger publicly. Mr. Saurin was very active in promoting this meeting, and the requisition calling it was entrusted to him. He took it into the Court of Chancery to get the names of some of the King's Counsel, who were engaged in causes before the Chancellor. His Lordship, who guessed the purport of Mr. Saurin's mission, grew fidgety on the bench, and, darting an angry glance at Mr. Saurin, petulantly observed, 'It is very wrong, Sir, to come here to interrupt the business of the Court.'

Saurin meekly replied, 'Yes, my Lord, I fully concur with your Lordship; but to this, as to every other rule, there are exceptions. I should not trespass on your Lordship's time, and retard for a moment the business of the Court unless I felt convinced—and I only speak the general sentiment of the Bar—that the dignity and authority of your Lordship's Court will be less impaired, the rights and privileges of the profession more securely established, and the general welfare of the country based on a firm foundation, by resisting a measure fraught with ruin to all. The paper I have just now submitted to my brethren for their signature and approval contains a requisition for a Bar meeting on that momentous subject, and I pray your Lordship to ascribe my conduct, if you look on it with displeasure, to any other feeling than that of the most profound respect for your Lordship and this high Court.' The Chancellor bowed, but watched eagerly the success of the paper, which was promptly signed by six out of seven King's Counsel present.¹

Irish Bar
opposed to
the Union.

The hostility of the greater portion of the Irish Bar to

¹ Note Book of an Irish Barrister.—Metropolitan Magazine, vol. xxv. p. 122.

this measure is also proved fully by the correspondence of the Marquis Cornwallis, from which I give the following extracts. When writing to the Duke of Portland, he says:—

CHAP.
LII.

‘Dublin Castle, Dec. 4, 1798.

‘Lord Carleton was with me on Sunday, and gave his sentiments very decidedly against the measure of Union, and Lord Pery,¹ since my interview with him, has spoken in the same strain to Lord Castlereagh. There will probably be a good deal of violence at the meeting of the lawyers’ corps to-morrow, but the Attorney-General, who is rather of a sanguine turn, thinks he shall make a good battle.’

The Vice-roy’s letters to the Duke of Portland.

The lawyers’ corps were infantry yeomanry, composed of barristers and attorneys, commanded by Mr. Saurin. Previous to the date of his Excellency’s letter, an order for the meeting, to which his Excellency refers, had been issued.

‘November 30, 1798.

‘LAWYERS’ INFANTRY.

‘The corps is ordered to parade Sunday next, at 12 at noon, at the New Court in the new regimentals. A punctual attendance is requested, as business of the utmost importance is to be transacted.

‘Signed: STEWART KING, Adjutant.’

The impropriety of meeting as a military body for discussing politics being strongly dissented from, the parade was postponed, and the attendance of the barristers requested at 3 o’clock on Saturday. Had they met as at first proposed, the Lord Lieutenant resolved to take action. When writing to the Duke of Portland, he states:—

‘December 5, 1798.

‘The Bar have been most forward in their opposition, and have been this day assembled as a corps,² it is under-

¹ Edmond Sexton, Viscount Pery, was elected Speaker of the Irish House of Commons on March 1771, June 1776, and October 1783.

² This, we observe, was not the case.

CHAP.
LII.

stood with an intention of taking up the question. Should that learned body be so intemperate as to set an example to the yeomanry at large, unconstitutional in the extreme, and dangerous to the public safety, I shall feel myself called on, in the outset, to meet this attempt to overawe the King's Government and the Legislature, with decision.'

The announcement of the parade being postponed reached his Excellency before he closed the letter, for he adds,—

'P.S. I am happy to inform your Grace that the good sense of the Bar has prevailed, it being the decided opinion of the majority that any deliberation on the question of political measures was highly criminal. A general Bar meeting is summoned, I understand, for Sunday next.'

That the strong measures which his Excellency was resolved to mete out for the lawyers' corps met the approval of the English Government appears from the letter of the Duke of Portland to Marquis Cornwallis.

'Whitehall, December 12, 1798.

Reply of
the Duke
of Portland
to the
Viceroy.

'My Lord,—

' I cannot close this letter without assuring you, on the part of his Majesty's confidential servants, of their fullest approbation of the conduct you had determined to hold towards the lawyers' corps, had not their good sense very fortunately rendered it unnecessary, a circumstance upon which I very sincerely congratulate you, and concur with you in hoping may be productive of all the good effects you are disposed to expect from it.

'I have the honour, &c.,

'PORTLAND.'

Mr. Saurin.

Mr. Saurin, who commanded the lawyers' corps, was descended from an old Huguenot family, driven from France by the Revocation of the Edict of Nantes. He was born

in the year 1758, and married in 1786 Mary, sister of William, first Marquis of Thomond, and widow of Sir Richard Cox, Bart. He was member for Blessington in the Irish House of Commons, and regarded as one of the ablest lawyers of his time.

CHAP.
LII.

The celebrated Bar Meeting formed the subject of many communications between the Irish Executive and British Government, and deserves to be kept in remembrance. The only details I have been able to discover are contained in a book of a contemporary, who was a decided and persistent opponent to the Union.¹ The meeting was held at the Exhibition Room in William Street, on December 9, 1798, and presided over by Mr. Smith, the Father of the Irish Bar. Among the requisitionists who called the meeting were the following King's Counsel: E. Mayne, W. Saurin, W. C. Plunket, C. Bushe, W. Sankey, B. Burston, J. Barrington, A. M'Cartney, G. O'Ferrall, J. O'Driscoll, J. Lloyd, P. Burrowes, R. Jebb, and H. Joy, Esquires.

Meeting
of the Bar
of Ireland
respecting
the Union.

Mr. Saurin was the first speaker. He does not get much praise from the historian, who says: 'His speech was vapid and his resolution unpointed, but he had great influence in the profession. He was an excellent lawyer, and an amiable pious Christian. He was followed by Captain Spencer, of the barristers' cavalry.' The speakers on the side of the Union are hardly used. 'Mr. St. George Daly, a briefless barrister, was the first supporter of the Union. Of all men he was the most thought of for preferment; but it was wittily observed, "that the Union was the first brief Mr. Daly had ever spoken from." He moved an adjournment.' Mr. Thomas Grady, a protégé of Lord Clare, if the account of Sir Jonah is to be believed, made a most comical harangue: "The Irish are only the rump of an aristocracy. Shall I visit posterity with a system of war, pestilence, and famine? No! no! give me a Union. Unite me to that country where all is peace and order and prosperity. Without a Union we shall see

Mr. Saurin.

Mr. St.
George
Daly.

Mr.
Thomas
Grady.

¹ Sir Jonah Barrington's Rise and Fall of the Irish Nation, p. 384.

CHAP.
LII.

embryo Chief Judges, Attorneys-General in perspective, and *animalcula serjeants*. All the cities of the south and west are on the Atlantic Ocean, between the rest of the world and Great Britain; they are all for it; they must become warehouses; the people are Catholics, and they are all for it.'

Mr. Goold.

His spir-
ited
address.

Mr. Thomas Goold, connected with one of the most respectable families in the County of Cork, made a forcible speech on the other side, of which the following is the peroration:—'There are forty thousand British troops in Ireland, and with forty thousand bayonets at my breast the Minister shall not plant another Sicily in the bosom of the Atlantic. I want not the assistance of divine inspiration to foretell, for I am enabled by the visible and unerring demonstration of nature to assert, that Ireland was destined to be a free and independent nation. Our patent to be a State, not a shire, comes direct from heaven. The Almighty has, in majestic characters, signed the great charter of our independence. The great Creator of the world has given our beloved country the gigantic outlines of a kingdom. The God of nature never intended that Ireland should be a province, and *by — she never shall.*'

Such language was calculated to stir men's passions; a perfect hurricane of applause rewarded the eloquent speaker, and, on the division of the meeting, the votes recorded were as follows:—

Irish barristers opposed to the Union	.	.	166
„ in favour of the Union	.	.	32

Majority 134

All the barristers who voted in the minority were rewarded for their adherence by the Lord Chancellor, some with judgeships of the superior courts, others with county-court judgeships, commissionerships, or pensions.

Prime
Serjeant
Fitz Gerald
votes
against the

The Prime Serjeant, the Right Honourable James Fitz Gerald, M.P., peremptorily refused to vote in favour of the Union. For so doing he was deprived of his place at the Bar, and the office of Prime Serjeant was the first reward Mr.

St. George Daly obtained for his aiding the Lord Chancellor to advance the Union. A meeting of the members of the Bar was held to consider how Mr. Fitz Gerald should be thanked for his vote; 116 attended; and a vote of thanks was passed to Mr. Fitz Gerald 'for his disinterested patriotism,'—never was there a more just and honourable tribute paid to an honest public character.¹

The Bar also resolved 'that the precedence hitherto enjoyed by the Prime Serjeant should be continued to the displaced patriot.'

It was motion day in Chancery, and the Attorney and Solicitor-General having moved, the Chancellor called on Mr. Smith, Father of the Bar, who bowed and said, 'Mr. Saurin had precedence of him;' he then called on Mr. Saurin, who bowed and said 'Mr. Ponsonby had precedence of him.' Mr. Ponsonby, when named, said 'Mr. Curran had precedence;' and Mr. Curran being called on said 'he could not think of moving before Mr. Fitz Gerald, who certainly had precedence of him.' The Chancellor said, 'I see, gentlemen, you have not relinquished this business; it would be better at once for his Majesty's counsel, if they do not choose to conform to the regulations of the Court, to resign their silk gowns than to sit thus in a state of rebellion against their Sovereign.' He then directed all these motions to be struck out, and left the bench.

This conduct of the Irish Bar reminds me of the scene related as having occurred in Westminster Hall during the time of Lord Keeper Guilford, when he was Chief Justice of the Common Pleas, and the Serjeants refused to move before him. 'He got into very bad odour with them for allowing his brother Roger, not of the order of the coif, to make certain motions, which they said belonged exclusively to them. To show their resentment they one day refused to bring forward any business. The Chief Justice in great indignation adjourned the Court, saying "that the following day they would hear common

CHAP.
LII.

Union, and loses his rank.

Bar meeting.

Resolve to yield him precedence as usual.

Conduct of the Bar before the Lord Chancellor.

Address of the Lord Chancellor.

¹ Barrington's Irish Nation, p. 390.

CHAP.
LII.

barristers, or attorneys, or the suitors themselves plead, in spite of the monopoly of the Serjeants, that there might not be a failure of justice." This was like thunder to the Serjeants, and they fell to quarrelling one with another about being the cause of the great evil they had brought upon themselves. In the afternoon they attended the Chief and other Judges of the Court, and in great humility owned their fault, and begged pardon, and they would be careful not to give the like offence for the future. The Chief told them "that the affront was in public, and in the face of the Court, and they must make their recognition there next morning in such manner as the greatness of the offence demanded, and there they should hear what the Court would say to them." Accordingly they did, and the Chief first, and then the rest in order, gave them a formal chiding, with acrimony enough,—all which with dejected faces they were bound to hear. When this discipline was over the Chief pointed to one to move, which he did more like one crying than speaking; and thus ended the comedy, as it was acted in Westminster Hall, called "The Dumb Day."¹

Embar-
rassing
conduct of
the Lord
Chancellor
respecting
Maynooth.

The anti-Catholic bias of the Lord Chancellor often proved a source of serious embarrassment to his colleagues in office. A very remarkable instance of this took place April 11, 1799, when the order of the day for going into Committee on the Bill for supporting the College of Maynooth was read; the Chancellor could not restrain himself from making a violent anti-Catholic speech, in which he stated 'that the object of limiting the amount to 25*l.* a year for each student, was, that they should be from the lowest class of society, and thus the priesthood of Ireland would continue to be taken from the dregs of the people.'²

The effect of this violent harangue was to cause the rejection of the Bill by a majority of 25 to 1. But the Viceroy was in a perfect rage, and in a letter marked

¹ Lord Campbell's *Lives of the Lord Chancellors of England*, vol. iii. p. 452.

² Cornwallis Correspondence, vol. iii. p. 91.

private, complained to the Duke of Portland of the course taken by their mutual friend,—‘Neither myself nor Lord Castlereagh were aware that the Chancellor intended to throw out this Bill, though it was believed he was not a friend to it; and, as his Lordship had taken this step without giving me notice, I thought it my duty to express in writing to his Lordship the embarrassments which his conduct has created.’

CHAP.
LII.

Complaint
of the
Viceroy.

The conduct of the Lord Chancellor not only gave great annoyance to the Irish Executive, but highly offended the Roman Catholics of Ireland. Lord Kenmare, and other leading persons of that creed, expressed themselves strongly on the sectarian and violent language of the indiscreet Chancellor. He tried to excuse himself, and, on April 18, he replied to the letter from the Lord Lieutenant, stating ‘that he considered it essential to public security that there should be a well-regulated academy in Ireland for the education of the Roman Catholics,’ and he assigned his reasons for regarding the Bill in question as insufficient for this purpose. ‘That nothing was further from his desire or intention to cause any serious mischief.’ To this letter the Lord Lieutenant returned an immediate answer, assuring the Lord Chancellor ‘he never charged him with intending serious mischief to the country, but people in general regarded the Chancellor’s vote as ominous of danger to the College of Maynooth, and as indicating that it was to be altogether abolished. That this idea had caused great exultation in many overzealous Protestants.’ The Lord Lieutenant was too well acquainted with the inflamed state of parties in Ireland at that melancholy period, not to be aware the Government of which the Chancellor was a very prominent member would be held responsible for his conduct, though it was altogether unshared and disapproved of; and he therefore suggested ‘the Chancellor would take some opportunity of removing the impression produced by his vote.’¹

Letter
from the
Chancellor
to the
Lord Lieu-
tenant.

Effects of
the Chan-
cellor’s
vote.

By the Chancellor’s throwing out this Bill the College

¹ Cornwallis Correspondence, vol. iii. p. 93.

CHAP.
LII.

The
Viceroy
repairs the
mischief.

would have been left without funds for its support, as according to the rules of Parliament a bill to renew the grant could not then be introduced; but the Lord Lieutenant defrayed the expense on his own authority, relying on the faith of a vote from the Commons to reimburse him.¹

Lord
Cornwallis's
opinion of
Lord
Chancellor
Earl of
Clare.

Lord Clare very favourably impressed the Lord-Lieutenant, Marquis Cornwallis, with the notion of his political honesty. At the same time he did not conceal from the Viceroy his intense fear of the Roman Catholics of Ireland. His Excellency when writing to Mr. Pitt from Dublin Castle in September 1798, thus refers to the Irish Chancellor:—‘The principal people here are so frightened, that they would, I believe, readily consent to a Union, but then it must be a Protestant Union, and even the Chancellor, who is the most right-minded politician in this country, will not hear of the Roman Catholics sitting in the United Parliament.’

Prepares
a Statute
to enable
the Pro-
vost and
Fellows
of Trinity
College to
marry.

While Lord Clare was Vice-Chancellor of the University of Dublin, he prepared a Statute enabling the Provost and Senior Fellows to marry. This was either refused or neglected by the Duke of Portland, and the Vice-Chancellor of the College considered himself badly treated. He was not a man to sit down under an affront, and was in no very tranquil mood, when he wrote the following letter to Lord Castlereagh:²—

‘Ely Place, February 23, 1799.

Chancellor
complains
of the
Duke of
Portland
to Lord
Castlereagh.

‘My dear Lord,—I send you a copy of the Statute for enabling the Provost and Senior Fellows of Trinity College to marry. You will, I hope, agree with me, that if I am to continue Vice-Chancellor of the University of Dublin, and a Visitor of Trinity College, that I have a right to expect from the Duke of Portland an acquiescence in any recommendation I may make of Statutes which relate to

¹ Cornwallis Correspondence, vol. iii. p. 374.

² Idem. vol. ii. p. 414.

the interior economy of the College; and I must repeat that on this subject I feel I have very strong reason to complain of something worse than neglect and inattention on the part of his Grace. This most irksome and unpleasant office has been forced on me by the Duke of Gloucester;¹ and nothing short of a strong sense of duty on my part to the King's brother should have induced me to accept it. I have already had the misfortune of holding repeated visitations of the College, which I can assert with confidence have rescued it from ruin; and I do desire that it may be understood by the Duke of Portland, finally and explicitly, that I will continue to hold the situation of Vice-Chancellor of the University and Visitor of Trinity College, on no other terms than those which I feel I have a right to demand from him, and from every other Minister of the Crown. I seek not to dabble in patronage, but after the labour which I have undergone, and which I must still submit to, in keeping that seminary within any reasonable limit, I do expect that when I apply for any statute for its better government, my application will receive the attention which I feel it has a right to command. I cannot see any good reason why the Duke of Portland should interfere with me on a subject so peculiarly within my province, and which he cannot have the means of understanding.

‘ Yours always very truly,

‘ My dear Lord,

‘ CLARE.’

The Statutes here referred to were for the purpose of permitting the Provost and Senior Fellows of Trinity College to marry. Hitherto they were enjoined celibacy under penalties, which were evaded by designating their wives by their maiden names. Thus an invitation to dinner, &c. would run:—‘ The Reverend Dr. A. and Miss B. request,’ &c.² The imperative mood of the Irish Chan-

How
penalties
were
evaded.

¹ Chancellor of the University.

² Cornwallis Correspondence, vol. iii. p. 68, in note.

CHAP. cellor was backed by the potential voice of the Lord-
 LII. Lieutenant, who thus wrote to the Prime Minister on
 the same subject:—

*Marquis Cornwallis to the Duke of Portland.*¹

‘ Dublin Castle, February 28, 1799.

Marquis
 Cornwallis
 to the
 Duke of
 Portland.

‘ My Lord,—The Earl of Clare, Vice-Chancellor of the University of Dublin, has represented to me that it would be proper a new Statute should be made permitting the Provost and Senior Fellows of Trinity College, Dublin, to marry. I enclose to your Grace, herewith, the draught of a Statute for that purpose, and request you will lay the same before his Majesty, with my humble recommendation that his Majesty will be graciously pleased by his Royal Letter to establish the same as one of the Statutes of the College.

‘ And if his Majesty shall be graciously pleased to consent thereto, I request your Grace will move his Majesty for his Royal Letter, directing Letters Patent to be passed under the Great Seal of this Kingdom, for establishing the said Statute as one of the Statutes of the said College and University.

‘ I have, &c.,

‘ CORNWALLIS.’

This had the desired effect. The Duke of Portland, who, as we have seen, thwarted the Lord Chancellor, gave way, and the measure desired was authorised.

Lord
 Chancellor
 brings
 forward
 the Act
 of Union.

On February 7, 1800, Lord Clare delivered the message in favour of the Legislative Union between Great Britain and Ireland, which was taken into consideration upon the 10th of the month. Lord Clare supported the measure by a speech which, when printed, made a pamphlet of 100 pages. The estimates of this speech are various, as the writers regard the measure. In Grattan’s ‘ Life,’ by his son, it is called ‘ a sort of Irish history, a collection of

¹ Cornwallis Correspondence, vol. iii. p. 71.

her calamities and civil broils, distressing to hear, and delivered with a discreditable purpose, full of misstatement, misrepresentation, and calumny; abusing the Irish, assailing the Catholics, flattering the English, and aspersing the brightest passages of Irish history; he attacked Lord Downshire and Lord Charlemont, and he inveighed against Mr. Grattan, and the party with whom he acted.¹ The Marquis Cornwallis formed a different opinion from the foregoing. Referring to this same speech in a letter to the Duke of Portland, on February 11, the day following its delivery, the Marquis writes, 'I am to state to your Grace that the Chancellor exerted his great abilities in a speech of four hours, which produced the greatest surprise and effect on the Lords and on the audience, which was uncommonly numerous.'

CHAP.
LII.

Grattan's estimate of this speech.

Lord Cornwallis forms a different opinion.

His Lordship was supported by Lord Glentworth, Lord Kilwarden, Lord Carleton, the Archbishop of Cashel, Lord Donaghmore, Lord Longford, and Lord Glandore. The opposers in debate were Lord Charlemont, the Marquis of Downshire, Lord Dillon, Lord Farnham, Lord Powerscourt, and Lord Sunderlin.

In the course of his speech the Chancellor was particularly pointed against the undue means which were used by the Opposition to influence the country, and to intimidate and even to bribe Members of Parliament; and he particularly alluded to the printed letter of Lord Charlemont, Lord Downshire, and Mr. Ponsonby; and, using the public ridicule, he accuses this consular Government of having a consular exchequer.²

The Opposition charged with bribery.

The Government had 75 for, to 26 against, the measure; majority 49.

Lord Castlereagh also coincided with the Lord Lieutenant in praising the Lord Chancellor's speech. When writing to the Duke of Portland on February 11, 1800, from Dublin, he said, 'The debate and division last night

Lord Castlereagh's opinion of the Chancellor's speech.

¹ Life, vol. v. p. 150.

² Cornwallis Correspondence, vol. iii. p. 184. These noblemen denied they had ever bribed.

CHAP.
LII.

in the Lords was everything we could wish it. The Chancellor spoke for four hours with his usual ability, and made Lord Charlemont prove pretty distinctly by his defence to the charge that a consular exchequer did exist for the corruption of Parliament.’¹

The Irish Government then pressed forward the Act of Union with great eagerness, and the Lord Lieutenant felt much displeased at the conduct of the Speaker. In a letter to General Ross, on February 28, 1800, he thus refers to the course taken by the Opposition. ‘The Opposition here still remains united, and seems determined to employ every means to protract the business, whilst we feel the greatest difficulty to call forth any exertion, or even to procure a tolerable attendance from our languid friends. The Speaker plays all the game for them, and counts the house exactly at four, before which time all the opponents take care to withdraw, and will not suffer any man to stir to call in such careless Members as may be in the lobby or porch.’

The
Viceroy
complains
of the
Speaker.

The House of Commons used to sit far into the night, and in March the order of the House was disturbed by a voice from the gallery calling out, ‘Now let the greatest assassin in the House take the Chair.’ These words proceeded from a Mr. Sinclair, a barrister of very democratic principles. He had dined with a friend of the like politics, and having taken more wine than was good for him, he went to the House of Commons resolved to make a speech. He was instantly seized and brought to the bar. He behaved with much violence, and was committed to Newgate. Having reflected on the misconduct of which he was guilty, he addressed a penitent petition to the House, and was discharged from custody on May 13.²

Peerages and titles were put up for sale. Places and pensions were given as the reward for political services. Men of the highest rank, the Duke of Leinster, Mr. Ponsonby, and others who held pensions dependent upon the will of the Crown, were deprived of them because

¹ Cornwallis Correspondence, vol. iii. p. 186.

² *Ib.* p. 211.

they voted contrary to the policy of the Government.¹ The Whig Club was established by the Whig Peers and leading statesmen of that party, and the names of Leinster, Moira, Charlemont, Arran, Ponsonby, Grattan, and Curran, show of what class of men were its members. They organised an effort to stem the tide of corruption, and defend the legislature of Ireland. They knew that the measures conceded in 1782 were doomed to destruction if the Union projected by Mr. Pitt and his colleagues was to proceed. The Club remonstrated against the course taken to fill the House of Commons with the nominees of the Government, but it had very little effect. Public opinion could find no proper utterance, so, secret and concealed conspiracy grew and extended.

When the country appeared ripe for the Union, Lord Cornwallis, then Viceroy, made a tour and visited such towns and villages as were so judiciously managed that an address was prepared for the occasion.

When the Union resolutions were carried to the Lords, on March 22, 1800, the Irish Lords strongly objected to an indiscriminate creation of Irish Peers being vested in the Crown after the Union would ensue. The Lord Chancellor, however, was authorised by the Government to undertake that the Crown should only retain the power of creating *one* Irish Peer for three that should become extinct, until the whole peerage should be reduced to a hundred.² This was accepted by the Irish Lords and produced acquiescence. The efforts of the Chancellor to carry this measure obtained him the most marked thanks from the Viceroy, Lord Cornwallis, who in several letters to the Duke of Portland cordially eulogised the Chancellor's efforts. The prudent and politic conduct of the Viceroy during this critical period, helped the Government extremely. He discountenanced violence from what-

CHAP.
LII.

Creation
of Irish
Peers after
the Union.

Efforts of
the Chan-
cellor to
promote
the Union.

¹ Mr. Ponsonby went further. He reminded the Chancellor of his having said a Union between the two countries was destruction of Ireland. Vide Note Book of an Irish Barrister.—Metropolitan Magazine, vol. xxv. p. 121.

² Cornwallis Correspondence, vol. iii. p. 219.

CHAP.
LII.

Policy of
Lord Corn-
wallis.

ever quarter, and as he had considerable influence with the Lord Chancellor, obliged that very excitable nobleman to keep within due bounds. The Viceroy's large experience of men in office, made him thoroughly to understand—and often cordially to detest—the men with whom he had to deal, and his firmness left them no hope to carry out plans, which, as was happily observed, would have ended in extirpation of the inhabitants, or ruin to the country. 'If his plans,' adds Colonel Maitland, 'be hereafter steadily followed, Ireland will be a jewel; if changed, a thorn in the British Empire. It requires a person to be here only a day or two to be convinced of this; for though the Lord Lieutenant's measures may, some of them, not be popular in themselves, still, from the general opinion entertained of the perfect rectitude of his intention, it is impossible any measure of his can be unpopular, because such has been the fairness of his conduct to every one, that all are convinced whatever he proposes is meant for the public good. The success of the Union is greatly to be attributed to his conduct and not to management.'¹

In full corroboration of this I may state that the Viceroy kept aloof from all those who were violent in their denunciations of the people of Ireland. When writing to his friend, General Ross, he says:—'the Ministers know very little about this country, and they take an interested, violent, and prejudiced party, who call themselves friends to England and to the Protestant interest, for the people of Ireland. If a successor was to be appointed who should, as almost all former Lord Lieutenants have done, throw himself into the hands of this party, no advantage would be derived from the Union. This party, however, must be treated with management and attention, and I have been so fortunate as to retain in a great degree their good-will, and at the same time to have acquired the

¹ Letter from Colonel Maitland to W. Huskisson.—Cornwallis Correspondence, vol. iii. p. 234.

confidence of the Catholics.’¹ The necessity of governing Ireland by alternately playing off one party against the other, which kept up animosity and jealousy, was long the curse of this country.

CHAP.
LII.

Meanwhile the Union measure was not passing so quietly through the House of Commons as its supporters desired. Upon the question being put on June 6, 1800, ‘That this Bill be engrossed,’ a fiery member named O’Donnell moved, ‘that instead of being engrossed it be burnt.’ The Government party resented this as an insult. Mr. Tighe seconded Mr. O’Donnell, and several of the Opposition declared they would insist upon the question being put. The Speaker was puzzled, and appealed to the House ‘whether such a question was proper?’ Whereupon a discussion ensued, the Government members insisting it was most improper, that the motion was an insult, and if any gentleman indecently persisted in pressing it, he incurred a vote of censure. This added to the excitement, the galleries had to be cleared, and the Speaker then declared his opinion. He stated, ‘the point was novel; there was no precedent. He recollected certain questions to which amendments could not be made, as, for instance, a question of adjournment, another, that the order of the day be read. He thought the motion might be made at a proper time, and was not censurable as an insult, but it

Excitement
in the Irish
House of
Commons.

Question
that the
Bill be
burnt.

Decision
of the
Speaker.

¹ Cornwallis Correspondence, vol. iii. p. 237.

NOTE.—In Minutes of a conversation between the Marquis Cornwallis and the late Henry Howard, Esq., of Corby Castle, under date December 11, 1779, I find the following: Dined, Park. After dinner sat by Lord Cornwallis. Addressing him on the subject of the state of Ireland between Catholic and Protestant, I said ‘that I thought, from what I perceived of the state of men’s minds, that the best and most useful part of the Government was to hinder the people from cutting each others’ throats.’ He replied, ‘That, unfortunately, was not what the Government had done here.’ I said, ‘I thought that justice began to be done on that score, which, when I came first, was by no means the case.’ This brought on the subject of Union, which he thought the only remedy and means of doing that, which left to them here, would never be done. I said, ‘With respect to the Catholics, as it appeared to be an object to conciliate them, that they should be an object of Union, that without this the Union was nothing.’ He repeated, ‘Certainly the Union without it is nothing.’—Vide History of Dundalk, by D’Alton and O’Flanagan, p. 215.

Conversa-
tion
between
Lord Corn-
wallis and
Henry
Howard,
Esq.

CHAP.
LII.

could not supersede the question which had been moved,' which he put accordingly.¹

This was one of the last notable passages in the history of the Union. As the Lords were more under Government control the question was speedily passed by them in the following manner :—

Bill passes
the Lords,
and re-
ceives the
Royal
Assent.

The Bill was brought to the House of Lords on June 11, 1800; committed on the 12th by a majority of 76 to 17, and on August 1 received the Royal Assent. On the following day Lord Cornwallis in a Speech from the Throne terminated the existence of the Irish Parliament. We have no record that the pathetic remark of the old Scotch Peer on the like occasion in Edinburgh was repeated in Ireland—'Sae there's an end to the auld sang.' But a protest from a minority of the Peers showed the spirit of the Upper House. The protest, in eleven sections, dated June 13, 1800, concludes thus, 'Because the arguments made use of in favour of the Union,—namely, that the sense of the people of Ireland is in its favour—we know to be untrue, and as the Ministers have declared that they would not press the measure against the sense of the people, and as the people have pronounced decidedly, and under all difficulties, their judgment against it, we have, together with the sense of the country, the authority of the Ministers to enter our protest against the project of Union, against the yoke which it imposes, the dishonour which it inflicts, the disqualification passed upon the Peerage, the stigma thereby branded on the realm, the disproportionate principle of expense it introduces, the means employed to effect it, the discontent it has excited and must continue to excite; against all these and the fatal consequences they may produce we

Protest of
the Peers.

The Union
carried
against the
sense of
the Irish
people.

¹ Cornwallis Correspondence, vol. iii. p. 249. A note to this page gives an instance of a Bill containing penalties having been altered in the House of Lords (London), which the Commons regarded as a breach of privilege; their Speaker, Sir Fletcher Norton, declared 'he would toss the Bill over the table.' The Speaker kept his word, and the members on the floor resolving to do their share, literally kicked the Bill out of the House. Vide also the way in which Pedro, King of Portugal, treated the Methuen Treaty, ante, vol. i. p. 496.

have endeavoured to interpose our votes; and failing, we transmit to after times our names in solemn protest in behalf of the Parliamentary constitution of this realm, the liberty which it secured, the trade which it protected, the connection which it preserved, and the Constitution which it supplied and fortified. This we feel ourselves called upon to do, in support of our characters, our honour, and whatever is left to us worthy to be transmitted to our posterity.

CHAP.
LII.

- | | |
|--|--------------------------|
| ‘ LEINSTER. | ‘ RICHARD, BISHOP OF WA- |
| ‘ ARRAN. | TERFORD AND LISMORE. |
| ‘ MOUNTCASHEL. | ‘ POWERSCOURT. |
| ‘ FARNHAM. | ‘ DE VESCI. |
| ‘ BELMORE. | ‘ CHARLEMONT. |
| ‘ MASSY. | ‘ KINGSTON. |
| ‘ STRANGFORD. | ‘ RIVERSDALE. |
| ‘ GRANARD. | ‘ MEATH. |
| ‘ LUDLOW. | ‘ LISMORE. |
| ‘ MOIRA. | ‘ SUNDERLIN.’ |
| ‘ WILLIAM, BISHOP OF
DOWN AND CONNOR. | |

CHAPTER LIII.

LIFE OF THE EARL OF CLARE—CONCLUDED.

CHAP.
LIII.The Chan-
cellor
proposes
reforms in
the Courts.

THE Chancellor having successfully carried the Union, to the joy of the Government and sorrow of the Irish people, applied his vigorous mind to the duties of his Court. He had long been anxious to remove many of the abuses which custom had sanctioned, but which no usage could justify; and the sale of offices was one glaring evil that required redress. There were several legal changes pending on the passing of the Act of Union, which appeared to the Chancellor a very proper opportunity for carrying out his plans of Law Reform; and, when communicating with the Chief Secretary, Viscount Castlereagh, he thus disclosed his views on the subject:—

The Earl of Clare to Viscount Castlereagh.

(Private.)

‘Ely Place, November 14, 1800.

Letter
from the
Lord Chan-
cellor to
Lord
Castle-
reagh.

‘My dear Lord,—I have seen Sir Michael Smith, and communicated to him the offer which you authorised me to make to him of the Lord Lieutenant’s recommendation to His Majesty to appoint him Master of the Rolls. He is ready to accept the situation on terms which appear to me to be perfectly reasonable. The tenure of his office of a Baron of the Exchequer is during good behaviour, and the annual profits of it, salary and fees included, are little short of three thousand pounds. By an Act passed in Ireland in the reign of Henry VII., the tenure of the office of Master of the Rolls can be during the King’s pleasure

Act relat-
ing to
office of
Master of

only, and from every inquiry which I have been enabled to make, the profits of it do not exceed, on the average, eighteen hundred pounds yearly. There has, however, been a shabby perquisite of the office, arising from an open sale of the situations of six clerks and examiners of the Court of Chancery, which certainly ought to be abolished. Under these circumstances, I feel that if the office of Master of the Rolls is to be placed on a respectable foundation in this country, it ought to be assimilated, as nearly as may be, to that of the Master of the Rolls in England, and if the tenure in that country is permanent, it ought to be made permanent here; so the profits of the office here ought to be made up to the possessor of it (fees included) three thousand pounds annually; and if the tenure is not to be permanent, the King should be empowered to make a concurrent grant to the Master of the Rolls of an annuity equal to that provided by the Act of the late Session for him in case of removal, to take effect only if he should be removed from his office; and if Sir Michael Smith has an assurance that such a regulation will be made when the Imperial Parliament shall meet, I make no doubt he will immediately accept the office on the faith of it. If the Chancellor of Ireland is likely to be called over occasionally to attend Parliament at Westminster, it will be absolutely necessary to the administration of justice here that there should be an efficient Master of the Rolls, which, on the present establishment of the office, no man who is capable of discharging the duties of it will be found to accept it. On the same principle it might be found necessary to have a standing commission for the custody of the Great Seal, in the absence of the Chancellor (with the King's licence), directed to the twelve Judges, or to one of them, and I shall take the liberty to send you the sketch of such a commission, which you will have the goodness to transmit to England. But if there should arise any difficulty there in directing such a Commission, I shall thank you to request, in my name, of his Excellency the Lord Lieutenant, that he will have the goodness

CHAP.
LIII.

the Rolls,
temp.
Hen. 7.
Sale of
offices of
Court of
Chancery.

Proposes to
assimilate
the office
of Master
of the
Rolls in
Ireland to
that of
England.

Sugges-
tions in
case the
Lord Chan-
cellor of
Ireland is
called to
the House
of Lords in
England.

CHAP.
LIII.

Lord
Chancellor
applies for
leave of
absence.

to recommend to his Majesty to grant me leave of absence to go to England, which is essential to my health, to drink the waters of Bath, previous to the meeting of Parliament; and in the event of any objection to a standing commission for the custody of the Seal, that his Majesty will be graciously pleased to order a temporary Commission for the custody of it, directed in the usual form to Lord Kilwarden, Lord Yelverton, and Sir Michael Smith.

‘I have the honour to be, &c.,

‘CLARE.’

The Master
of the
Rolls.

The office of Master of the Rolls of Ireland for a long time had been regarded as a political sinecure, and was, at this time, held jointly by Lord Carysfort and Lord Glandone. The income shared by them, including fees, was about 2,614*l.* a year. This was compensated for, and the arrangement suggested by the Lord Chancellor carried into effect. Sir Michael Smith was appointed Master of the Rolls during good behaviour, with a salary of 3,000*l.*¹

The Chan-
cellor of
Ireland in
the British
House of
Lords.

The Earl of Clare lost no time in taking his seat among the British Peers. The first Session of the first Parliament of the United Kingdom of Great Britain and Ireland, was opened by Royal Commission on Thursday, January 22, 1801. The Deputy Clerk of the Crown in Ireland attended at the bar of the Lords with the roll containing the names of the Peers of that kingdom, who answered and took the usual oaths.² The King delivered in person the Speech from the Throne, on February 2 following, and the chief topic of course was the Union just consummated.

The speech
from the
Throne.

‘This memorable era, distinguished by the accomplishment of a measure calculated to augment and consolidate the strength and resources of the Empire, and to cement closely the interests and affections of my subjects, will, I trust, be equally marked by that vigour, energy, and firm-

¹ By Act of Parliament 43 Geo. III., the office of Master of the Rolls in Ireland became a judicial office.

² Woodfall's Parl. Deb. vol. i. p. 1.

ness which the circumstances of our present situation peculiarly require.’

CHAP.
LIII.

The Address moved by the Duke of Montrose was, as usual, almost an echo of the Speech. It was seconded by the Earl of Lucan in ‘a short and neat address.’ Earl Fitzwilliam moved an amendment for an enquiry into the general state of the nation, which was seconded by the Earl of Suffolk. In the course of the Earl’s speech he was called to order by the Earl of Clare, who ‘begged the noble and learned Lord on the Woolsack¹ to confine every noble lord who took part in the debate strictly to the question. The noble Lord was going into a history which he said he heard from his brother, but which had no analogy to the subject under consideration whatever.’²

The
Address.

Amend-
ment.

Lord Clare
calls the
Earl of
Suffolk to
order.

The Earl explained, and continued his address, but did not forget the interruption.

The irritable temper of Lord Clare was not long in displaying itself in the new, as it so often did in the old, Assembly. When resisting a motion of Lord Radnor for a call of the House, he commenced ‘deprecating the idea of a call, which he contended was so unusual, that there was not a precedent for its having been resorted to, except only in the case of a trial of a Peer. With respect to Catholic Emancipation, before that delicate subject was brought under discussion, he advised noble Lords to make themselves well informed of the nature and character of Ireland, with which they seemed as yet to be but slightly acquainted. A greater heap of combustibles than Ireland consisted of could not be found. Catholic Emancipation had already been found to mean rebellion in that country. In fact, ninety-nine Roman Catholics out of a hundred did not care a single jot about it. Others understood it to mean the abolition of tithes and a more equal division of property. In fact, so various were their opinions and violent their passions, that he could not but deprecate the premature scattering of loose insinuations upon this subject amongst them, and thus rashly and inconsiderately lighting

Lord
Clare’s
speech on
a motion
for a Call
of the
House.

Attacks
the Irish
people.

¹ Lord Eldon,

² Parl. Deb. vol. i. p. 17.

CHAP.
LIII.

Called to
order by
the Earl
of Suffolk.

up a flame which nothing but more torrents of blood could possibly extinguish.’

He was called to order by the Earl of Suffolk, who said ‘the noble Earl appeared to him to be himself doing what he advised others to avoid, and lighting up the very flame he himself deprecated. He, therefore, hoped the noble and learned Lord on the Woolsack would confine the noble Earl to the question.’

The Earl of Clare continuing much in the same strain, was again called to order by the Earl of Suffolk.

Rebuked
by the Lord
Chancellor
of Eng-
land.

The Lord Chancellor then left the Woolsack, and said, ‘he certainly must beg his noble friend to abstain from all allusion to the topic which had been so irregularly introduced, which was a measure of too much magnitude to be discussed partially by shreds and patches; but when the proper time should be arrived for entertaining it in their House, it must be considered in all its bearings and relations, comprehensively, fully, temperately, and dispassionately, and in a manner and with a seriousness proportioned to its great importance.’¹

Earl of
Clare's
speech
supporting
Martial
Law in
Ireland.

But this rebuke had little or no effect upon the Irish Lord Chancellor. He was fresh and ready as ever when, on the third reading of the Bill legalising Martial Law for Ireland, March 23, he rose to support that measure. He said, ‘there were various papers on the table of the House, showing the imperious necessity that called for this Bill;’ and he ordered the clerk to read extracts from reports of the Committees of the Houses of Lords and Commons of the Irish Parliament in 1798, respecting the then state of Ireland, which occupied considerable time; he then said, ‘He was not surprised that a British House of Lords should receive such a Bill with disgust, and that as an Irishman he felt degraded and disgraced, when he found himself obliged to confess that Ireland could not be saved unless such a violation of the constitutional rights of the subject was suffered to receive the sanction of the Legislature. Though rebellion had been overpowered in

¹ Woodfall's Parl. Deb. vol. i. p. 101.

the field, the head remained unbruised and unbroken, "the snake was scotched, not killed." Martial law was indispensable, and could alone give any security to the property, the religion, and the lives of the loyal inhabitants. Happy would he be to see his country restored to order. Happy would he be if he could go to his bed chamber at home without entering an armoury, and could close his eyes without apprehension of having his throat cut before morning, and of seeing his wife and children butchered before his face. He should be unexpressibly happy when he could once more walk or ride out unarmed, for it was a curious fact, that when he was in Ireland his servant brought him his arms, as regularly as he brought him his hat.¹ On the division there were ninety for, to seven against, the Bill. Questions were often discussed before Parliament, in debating which Lord Clare took his share, and appeared in a much better light than displaying a hasty temper or intolerant spirit. When Taylor's Divorce Bill was under consideration, Lord Eldon, the Lord Chancellor of England, proposed to insert a general clause into this private Bill; Lord Clare dissented and argued against this course.² 'If such a clause,' he contended, 'was advisable, or fit to be passed into law, it ought to be made a subject of a general law. Neither could he agree with a Right Reverend Prelate, that the Canons of the Church were part of the Common Law of the land. From the situation he held in Ireland it was his particular duty to expound the Common Law of the land, for the protection of all whose cases came before him; his attention and studies therefore, had been directed to that object, but he had also examined, with diligence and assiduity, into the Ecclesiastical and Statute Law of England, and he would state correctly how the Canons of the Church were con-

CHAP.
LIII.

Rebellion
was
scotched,
not killed.

The Bill
passed.

Differs
with the
Lord Chan-
cellor of
England.

Duties as
Lord Chan-
cellor of
Ireland.

¹ Woodfall's Parl. Deb. vol. i. p. 542.

² When two Peers rose together Lord Radnor said, 'It was the Lord Chancellor's duty to point to the Noble Lord who should speak.' The Chancellor said, 'This lay with the House and not with him.'—Woodfall's Parl. Deb. vol. ii. p. 74.

CHAP.
LIII.

nected with either. The Canons of the Church, before the Reformation, they all knew were the contrivance of the Popish Priests, the children of the See of Rome; at the Reformation, they, in common with all other parts of the Rubric of the Church of Rome, were of course annihilated, subject to one special exception. By order of Henry VIII., a commission was issued to enquire and report what part of the Canons might be adopted without prejudice to the King's prerogative, or injury to the laws and constitution of England. A report was made in favour of adopting some part of them, in particular those that referred to matrimony and other ordinances of the Church, and by 2nd Henry VIII. it was enacted "that the Canons of the Church should be in force to a certain and limited extent;" as much of them, consequently, as were of authority, derived that authority from Statute, and not from the Common Law of England.' His Lordship spoke much of the 'strange corruptions of the Romish Church and the impure practices under it, of the tyrannous authority and domination of the See of Rome, and the gross imposition it laid on the minds of men, contending, amongst other absurd pretensions, for the infallibility of the Church as undeniably arising from the infallibility of the Pope.' He denied the Right Reverend Prelate's assertion that the bond of marriage was *vinculum indissolubile*, and that marriage was of Divine authority.¹

Stat.
2nd Hen. 8.

Denounces
the Roman
Catholic
Church.

Denies
marriage
as of
Divine
authority.
The Chan-
cellors
disagree.

Reply of
the Lord
Chancellor
of England

The Lord High Chancellor of England was not content to allow the Lord High Chancellor of Ireland to dispute his law without a word in his own defence, and also to show he was quite as good and orthodox a Protestant as the Anti-Catholic Irish Earl. Lord Eldon, accordingly, left the Woolsack to speak to the law points mentioned by his noble and learned friend, who, he said, 'though he perhaps pursued his studies and enquiries into the decisions of the Law Courts, and the laws themselves, with better advantage than he had, yet un-

¹ Woodfall's Parl. Deb. vol. ii. p. 77.

doubtedly had not quite so long an experience of both as he possessed.¹ His Lordship said the prejudice which existed at the time of the Reformation, arose from the opinion which prevailed that the Church was arrogant, arbitrary, oppressive, and intolerant, which character had properly belonged to the Romish Church, was easily corrected, and by degrees entirely done away, by the meek and mild manners of the ecclesiastics of the Established Protestant Church, the moderation of their discipline, and the piety of their doctrines and practice. With regard to marriage being a civil contract, it undoubtedly was so; but his noble and learned friend must recollect that it was in the whole view of it, and even in the ritual itself, declared to be a Divine ordinance, and had ever been so considered by the ministers of the Church of England and by all polemical writers.²

CHAP.
LIII.
to the Lord
Chancellor
of Ireland.

Eulogises
the Pro-
testant
clergy.

Insists
that
marriage
is a Divine
ordinance.

I believe there is no doubt the liberal views and lenient measures of Lord Cornwallis hastened his departure from Ireland. That such was his own impression is described in a letter to Reverend B. Grisdale, written May 15, 1801:—

‘To say the truth, I believe the Government was very glad to take me at the first word. In consequence of the triumph in England of that party which I had kept in order here, and of the adoption of a system which will soon renew the horrid scene of bloodshed from which we had nearly emerged, I requested to retire from my situation as soon as it might suit his Majesty’s convenience.

Letter
from Lord
Cornwallis
to Rev. B.
Grisdale.

‘You know me too well to doubt of my being happy at the thoughts of retirement, and you will likewise

¹ John Scott, Earl of Eldon, one of the ablest—if not the most able—Equity Judge who ever sat upon the Woolsack, was born in Love Lane, Newcastle, in 1751, two years *after* the birth of the Earl of Clare. Lord Eldon was called to the Bar February 9, 1776, junior again to Lord Clare—called in Trinity T., 1772, and certainly the English Earl did not get so rapidly into practice as the Lord Chancellor of Ireland, whose fees for the first year were 343*l.* 7*s.* 0*d.*, while John Scott’s whole receipt for the same was half-a-guinea.—Vide for these dates, Foss’s Judges of England, vol. ix. p. 41.

² Woodfall’s Parl. Deb. vol. ii. p. 81.

CHAP.
LIII.

believe that the ungracious circumstances that attend it do not give me much concern, but the reflection of the misery to which a people are doomed who have shown me every mark of gratitude and affection, and the ultimate dangers to which the convulsions in Ireland will expose the British Empire, are a severe alloy to my prospects of future enjoyment.’¹

Lord Cornwallis declined to receive an address from the Roman Catholics of Ireland, which appears to have been a disappointment to that portion of the community.² He left Ireland on May 28, 1801, and was succeeded in the Viceroyalty by the Earl of Hardwicke.

The new Lord-Lieutenant was not long in office before the Lord Chancellor sought to impress his Excellency with the views respecting the Church of Rome, which the Chancellor long entertained. In a letter under date December 21, 1801, his Excellency writes:—

Lord
Hardwicke
complains
of the
Lord Chan-
cellor.

‘When Lord Clare furnishes me with the statement he has promised to make, not only of the origin and intention of the College of Maynooth, but of his opinion upon that and other points connected with the Roman Catholic schools, and controlling the priests by the revival of penal laws, it may, perhaps, be necessary that I should transmit it for the consideration of the Cabinet.’³

It was rather annoying to the Government to find the Irish Chancellor adopting this course at a time when they were anxious to conciliate and soften the hard lot of the Catholics. The Lord Lieutenant adds: ‘Whether Lord Clare has taken the part he has from spleen or dislike to the Government, or from a conviction that it was right to do so, I cannot pretend to determine; but so far I must observe, that his bringing the Maynooth case to public notice at this time, and in this particular manner, is very inconsistent with the concurrence he expressed in our first conversation with the general opinion of the inexpediency

¹ Cornwallis Correspondence, vol. iii. p. 362.

² Vide Letter from Earl of Fingal to T. McKenna, Esq.—Cornwallis Correspondence, vol. iii. p. 354.

³ Ibid. p. 367.

of agitating at the present moment any points connected with the Catholic question. It would be very curious if, after all, Lord Clare should be attempting to acquire popularity with the Catholics at the expense of the Government. He seems to me, with a good deal of cleverness and vivacity, to be very deficient in consistency and precision in his ideas; for at the very moment that he is contending for the policy of a mixed education of lay boys with those intended for the priesthood, he asserts that it is the fixed system of the priests not to suffer such mixed education, and moreover cannot deny the greater probability of the lay scholars, under priestly discipline and with priestly associates, becoming monastic, than of the clerical pupils acquiring from their lay schoolfellows the more liberal habits of those who are not secluded from the world. In considering the policy of this measure, it may be worthy of observation that any such establishment necessarily tends to perpetuate the distinction which, so far as education is concerned, was intended to be done away, by giving an equal admission to Catholic and Protestant pupils at Trinity College, Dublin.¹ Any fears which his Excellency entertained of the Chancellor seeking or desiring to acquire popularity with the Catholics was speedily set at rest by the Parliamentary speeches of the Earl of Clare.

Having had so often occasion to write harshly of Lord Clare in his political aspect, it is gratifying to me to mention him in terms of praise. His friendships are said to have been as sincere and fixed as his enmities, and if so they were enduring. Those who knew him in his domestic circle, and in the privacy of retirement, attest the spontaneous and animated emotions of a latent tenderness, which it seemed his study carefully to conceal. As I have experienced this apparent sternness from one of

Character
of Lord
Clare in
private
life.

¹ Letter marked 'secret and confidential,' written from Phoenix Park, December 21, 1801, by the Earl of Hardwicke, then Lord Lieutenant of Ireland, to Right Hon. Henry Addington, afterwards Lord Sidmouth.—Cornwallis Correspondence, vol. iii. p. 365.

CHAP.
LIII.

whose genuine kindness I have not a doubt, I can well credit the statement respecting Lord Clare; but I think it is a mistake, for no doubt it leaves an unpleasant impression. Why should not men desire to be thought genial and endearing, instead of cold and repelling. Hawthorne, an American writer, relates that when Lord Clare desired to receive the Sacrament, he was in the habit of repairing to a retired village church, in order to escape observation. Why should he not give edification amongst his own circle by attending his usual place of worship?

In matters of pecuniary concern he was strict and punctual. Having always a large income, his hospitality was exercised liberally and splendidly. At a time when a rivalry existed for expensive entertainments, his were distinguished for their profuseness and good taste. He had no desire to hoard, and spent his wealth freely, yet not lavishly. In the funeral sermon preached by Archbishop Magee, he recalled many other good traits of the deceased Lord Chancellor; and amongst the numerous calumnies which a vindictive motive has endeavoured to cast upon the fame of this distinguished person, the tongue of slander has never whispered the imputation of a single act of mercenary meanness.¹

His atten-
tion to
business.

The habits of labour and application to business which he acquired in his school days, remained with Lord Clare through life—they shone conspicuously at the bar, where he never was found unprepared—they accompanied him to the House of Commons, where he was always ready to discuss the question of the day; and he practised them when on the Bench where he sat as Lord Chancellor. He did much to establish equity practice in Ireland on a solid basis; he reformed abuses with no niggard hand, and purged the Court of much that called for reform. Fraud fled before him, for when grasped he punished it with relentless rigour. The decisions of Lord Clare were not regularly reported; but in Ridgeway's Parliamentary Cases, and the Reports of Ridgeway, Lapp, and Schoales, suffi-

His de-
cisions.

¹ Wills's Lives of Celebrated Irishmen, vol. v. p. 476.

cient appears to display his great legal mind, and, I must add, despotic disposition. One of the last letters Lord Clare wrote was addressed to Mr. Griffith, who had wished him to look over a petition which Hamilton Rowan, who had been permitted to return to Europe, had prepared for presentation to the King.¹ The letter shows how much the business of his Court pressed upon the Lord Chancellor :—

CHAP.
LIII.

‘My dear Sir,—The weight of business which presses upon me in the Court of Chancery at this time, renders it impracticable for me to attend to any other subject. I can readily conjecture the object of the petition which you wish to show me, and do not hesitate to say that patience under his most unpleasant situation, for a few months, will be the best policy on the part of Mr. H. Rowan, and whenever a definitive treaty of peace is settled will be the time to petition the Crown; and when that takes place, I should hope that his friends will be enabled to support his petition with effect.

Letter
from the
Lord
Chancellor
shortly
before his
death.

‘I am, dear Sir, &c., &c.,

‘CLARE.’

Mr. Rowan adds: ‘Unfortunately for my affairs, Lord Clare died before the definitive treaty was concluded, and I thus lost, I suppose, a sincere friend, as he had taken up my cause unsolicited and unknown to me.’²

Lord Clare took a very great interest in the family of Mr. Rowan, and while that gentleman was in prison, despite the hostility of the Chancellor to all persons engaged in seditious practices, he no sooner was made aware that Mrs. Rowan was struggling to provide for eight children, than he wrote to her most kindly, and promised to lend his aid to save her husband’s property for her and

¹ Vide Petition printed in Autobiography of Hamilton Rowan, p. 367. It was presented in July 1802.

² Autobiography, p. 369. Mr. Rowan was allowed to plead the royal pardon, and return to Ireland in 1806. He survived until the year 1834, when he expired in his eighty-fourth year.

CHAP.
LIII.

her children. After Mr. Rowan's escape, the Lord Chancellor provided Mrs. Rowan with letters which enabled her to obtain passports and join her husband; and his kindness to the family only ceased with his life.

Lord Clare did not long survive the Union. He expired at his house, in Ely Place, Dublin, after a brief illness, in the month of January 1802, at the age of fifty-four years.

Lord
Clare's
funeral.

The scene, described by an eye-witness, which took place at Lord Clare's funeral, showed the intensity of national hate for the man who, in the opinion of the people, had deeply injured his country. It is strange no attempt seems to have been made to protect the remains of the defunct Chancellor from the rage of the mob. I give an extract, showing such was their infuriated hostility, that no act of violence, however disreputable, was abstained from on that occasion:—

‘In every nation, however uncivilised, there is usually a solemnity attached to death which awes and, as it were, humanises the heart, awakening a kindred feeling in all who contemplate the common lot of humanity. But with an excited mob this impression is not made, death is no atonement for past offences, and the bitter feelings of prejudice and passion pursue the offender even to his grave.’

Disgrace-
ful conduct
of the mob.

The writer then gives a melancholy and saddening description of what occurred:—‘The mob was composed of low roughs, and there was yelling and shrieking, with curses, loud and deep, and ribaldry disgraceful and disgusting. They followed the mournful cortége to St. Peter's Church, and there, neither reverence for the church, or respect for the sight of the coffin and the grave, even for a moment, stayed the undying wrath of the people, who wished to mark their abhorrence of the silent tenant of the richly-covered coffin. With difficulty they were restrained from heaping filth and mud upon the lid which covered the face of the dead. One man, who treasured in his memory the menace attributed to the deceased, “that

he would make the people as tame as domestic cats," vented his revenge by hurling a dead cat on the coffin. The want of decency, and the abominable outrages perpetrated, created, as was natural, indignation and disgust in all but the low perpetrators.'

CHAP.
LIII.

The title of Earl of Clare is extinct. The death of Viscount Fitz Gibbon, only son of the last Earl of Clare, took place during the fatal charge of the Light Brigade at Balaklava, and terminated in the soldier's grave this title better lost than won.

CHAPTER LIV.

LIFE OF LORD REDESDALE, LORD CHANCELLOR OF IRELAND.

CHAP.
LIV.

Lord Redesdale.

A great
Equity
Judge.Descent
of John
Mitford.

It feels like a relief to turn from the turbulent and fretful career of Lord Clare to the calmer and more equable course presented by the life of his successor on the Woolsack of Ireland. LORD REDESDALE, one of the most eminent, and certainly, with the exception of Lord St. Leonards, the most distinguished Equity Judge who ever held the Great Seal of Ireland.¹ He was but a few years Lord Chancellor, and as the violent political and religious animosity against the Catholics, which Lord Clare took no pains to conceal, made him personally hated, so the very same result, from the very same cause, marked the Irish career of his noble and learned successor.

John Mitford, Baron Redesdale, was descended from the ancient family of Mitford, of Mitford Castle, in Northumberland. Robert Mitford was Member for Morpeth in the Convention Parliament, and obtained the Castle of Mitford from Charles II., which still belongs to the representative of the elder branch of the family.² The grandfather of the future Irish Chancellor, William Mitford, Esq., appears to have wandered south, and found a pleasant seat, called Newton House, in the County of Kent. He married Margaret Edwards, daughter of Robert Edwards, Esq., of Wingfield, in Berkshire. From this union was born John Mitford, a member of Lincoln's Inn. He married Philadelphia, daughter of William Reveley, Esq., of Newby Wisk, in Yorkshire. This lady was of

¹ O'Connell declared when examined before Parliament, 'Lord Redesdale was the best Chancellor I ever saw.'

² Lives of Eminent Judges, by Townsend, vol. ii. p. 145.

high descent, being first cousin to Hugh, Duke of Northumberland. Two sons were the issue of this marriage, both destined to attain renown. The elder, William, entered the army, and became Colonel Mitford, but is better known as the historian of Greece. John, the younger son, was Lord Redesdale, Lord High Chancellor of Ireland, and was born August 18, 1748. As a good education was sure to be the best superstructure for any elevation, John was early sent to school. The academy where he and his elder brother received instruction was that of the Rev. Mr. Gilpin, at Cheam, to whom, in after years, Colonel Mitford presented the living of Boldre, in New Forest, then at his disposal.¹ John did not take any University degree, but became a clerk in the Six Clerks' Office of the Court of Chancery in London, having as fellow-clerk Samuel Romilly, afterwards one of the greatest ornaments of the English Bar.² There is every reason to believe that Mr. Mitford gave his son John a taste for the study of the law, having been called to the Bar. He, however, died before the boy had left school, but John's eagerness to follow his father's profession having manifested itself, he was soon a diligent law-student of the Inner Temple, and, after the usual number of dinners were eaten, and the necessary formula gone through, John Mitford was called to the Bar. He resolved to be no idle lawyer, and, considering the best way to display the sound and extensive legal lore with which his mind was stored, resolved to write a law book.

The selection of a subject as an introduction to a profession is no easy task; it will not do to enter into competition with standard works, or rashly select a subject with which the writer is but imperfectly acquainted. Mitford was not the man to make any mistake of that kind. Fresh from the Equity Draughtsman's desk, and familiar with the pleadings, often tedious as a thrice-told

CHAP.
LIV.

John
Mitford
born
August 18,
1748.

A law
student.

Called to
the Bar.

¹ Lives of Eminent Judges, vol. ii. p. 146.

² The second son of Sir Samuel Romilly is the accomplished Lord Romilly, Master of the Rolls of England, to whom all literary men are so much indebted for his labours in the cause of historical literature.

CHAP.
LIV.
Publishes
a Treatise
on Equity
Pleadings.

tale, he published, about the year 1782, 'A Treatise of Pleadings in Suits in the Court of Chancery by English Bill.' This work was so clear in its method, so comprehensive in its arrangements, and so accurate in its details, that it at once stamped the writer as a most able and competent lawyer. The work went through several editions, and in a short time Mr. Mitford was in great practice in the Court of Chancery.

Tributes :
Lord
Eldon.

Sir Thomas
Plumer.

It may perhaps be deemed unnecessary to dwell longer upon the merits of a work which has now such renown, but as it is the only law book I ever could read with positive enjoyment, I must not pass it abruptly. Lord Eldon said 'it was a wonderful effort to collect what is to be deduced from authorities speaking so little that is clear, that the surprise is, not at the difficulty of understanding all he said, but that so much can be understood.' Sir Thomas Plumer, too, in *Cholmondeley v. Clinton*,¹ pays the following high tribute to the Treatise :—'To no authority, living or dead, could reference be had with more propriety for correct information respecting the principles by which Courts of Equity are governed than to one whose knowledge and experience have enabled him, fifty years ago, to reduce the whole subject to a system with such universally acknowledged learning, accuracy, and discrimination, as to have been ever since received by the whole profession as an authoritative standard and guide.

'Viventi tibi præsentés largimur honores.'

Circuit.

Though the business which his reputation as the author of the best book known in Equity pleading was chiefly Equity drafting, Mr. Mitford went on Circuit. This course was, perhaps, not so much with a view to business as to enjoy the society of such men as Jekyll, Pitt, Dallas, and men of that class, and when we look back upon our Circuit days, most of us always find a store of pleasant though sometimes painful reminiscences.

¹ 2 Jac. and W. 151.

For many a lad we loved is dead,
And many a lass grown old.

CHAP.
LIV.

To preserve the memory of these happy days for Mitford and his friends, an annual dinner was partaken at Greenwich, in which those who were politically antagonistic became socially united, and at these reunions, Mitford was a choice spirit; he was highly esteemed for his social humour, gentlemanly conduct, and well-stored mind.

Parliament then, as now, was always regarded as the best road to a barrister's promotion, though not so much employed in England as in Ireland. The Duke of Northumberland was willing to promote the interests of his cousin, and no doubt was proud to assist one of the most rising lawyers of the day. Accordingly, he placed the ducal interest at his service, and in 1788, John Mitford was returned to Parliament for the borough of Beeralston. He had now obtained a silk gown, and was appointed one of the Judges of the General Sessions for the counties of Cardigan, Pembroke, and Carmarthen. This caused him to vacate his seat, but he was re-elected. His speeches in Parliament were chiefly upon topics he was familiar with. Aware that the real source of good speaking is knowledge of the subject under discussion, Mr. Mitford was far too sensible a man to merit the criticism I once heard on a Parliamentary orator, 'He does not know what he means to say when he gets up; he does not know what he says when he is talking; he does not know what he has said when he sits down.'

Enters
Parlia-
ment.

Mr. Mitford's career in Parliament was slow but sure. It is, I think, a mistake for young members to be fond of addressing the House. When so many desire to speak, those only whose speeches have weight and authority from their position, experience, and knowledge, can obtain a hearing, and anyone who does not possess these qualifications is sure to be heard with impatience, if at all. Mitford did not err on this point; at first he spoke very rarely; but as he grew more familiar with the atmosphere of the House of Commons, when subjects arose on which

CHAP.
LIV.

Supports
the Peti-
tion of
Warren
Hastings.

his legal learning gave his voice authority to be heard, he spoke often, and well. He supported the petition of Warren Hastings, when that celebrated individual, whom even now various persons consider to have experienced much unmerited obloquy, presented a petition to the House of Commons complaining of the introduction of irrelevant matter to his prejudice, at the bar of the House of Lords. He reminded the members of the House of Commons that this great case ought to be conducted in such a manner as to reflect credit upon, and do honour to, their branch of the legislature; that especially in this prosecution two things ought to be adhered to, viz., 'Never to bring forward a fact that was matter of calumny to the accused, and never to inflame the passions of those who are to decide as Judges.'

Bill to
relieve
Catholics
from
penalties.

The earliest efforts of Mr. Mitford at legislation appears to show a tolerant mind. On June 23, 1789, he obtained leave to bring in a Bill to relieve, upon certain conditions, and under certain restrictions, persons called *Protesting Catholic Dissenters* from certain penalties and disabilities to which *Papists* or persons professing the Catholic religion are by law subject. He referred to *Burn's Ecclesiastical Law*, in which seventy pages were occupied with penal statutes in force against Catholics. This Bill, seconded by *Windham*, was opposed by *Fox*, on the ground 'that it did not go far enough to be of practical benefit,' but I think it shows an inclination for which he deserves every credit.

Question
of abate-
ment of
impeach-
ments by
dissolution
of Parlia-
ment.

I have observed that Mr. Mitford reserved his speeches in the House chiefly for legal topics or such questions as involved legal principles. In conjunction with other great lawyers, *Scott*, *Erskine*, *Macdonald*, and *Hardinge*, elected for the Parliament at the general election of 1790, he argued in opposition to *Pitt*, *Fox*, *Burke*, *Sheridan*, and other renowned members of the House of Commons that the impeachment of *Warren Hastings* became abated by the dissolution of Parliament. Such was the legal consequence

undoubtedly;¹ and one of the best hits made by King George III. on the Members who contended the impeachment did not abate, was his caustic remark: 'When Pitt and Fox took the same view of any subject and voted together, they were sure to be in the wrong.'²

CHAP.
LIV.

Again on Mr. Fox bringing in a Bill to amend the law of libel, enabling juries to give a general verdict on a general issue in criminal as well as civil cases, Mr. Mitford opposed the motion; he declared that no man could revere more than he did the institution of juries, which he regarded as the bulwark of public and private liberty; but that, at the same time, he thought that the House would do well to pause a little before it resolved to unsettle doctrines of law which had almost uniformly prevailed ever since the Revolution, or to take away that jurisdiction which appeared, from the practice of the Courts ever since that period, to belong to the Judges, not to the jury.' This uniform support of the Government promised him places of honour and emolument. He was appointed Chancellor of Durham, and occupied as such the Episcopal Castle of Durham, an old feudal palace, where the Bishops usually reside. Higher official preferment was soon to claim the time and talents of the Chancellor of Durham. On the promotion of Sir John Scott as Attorney-General in February 1793, Mr. Mitford succeeded him as Solicitor-General, and was re-elected for the fourth time by the burgesses of Beralton, who were constant to him, as he to them. He also received the honour of knighthood, and, on the trial of Horne Tooke, he stated the case for the prosecution.³ In anticipation of the line of defence which he deemed the prisoner might take, and try to induce the jury to believe he had frequently asserted his attachment to the British Constitution,

Opposes
Fox's Bill
respecting
Libels.

Chancellor
of Durham.

Solicitor-
General.

Conducts
the prose-
cution of
Horne
Tooke.

¹ He contended that the House had no power to revive the impeachment, since it was an acknowledged principle of the Constitution that the Parliament should die, and all proceedings then pending were determined with its existence.

² Townsend's Lives of Eminent Judges, vol. ii. p. 150.

³ Ibid. vol. ii. p. 152.

the hereditary Monarchy, and House of Lords, the learned Solicitor thus addressed the jury :—‘ Men, however, frequently profess that which they do not mean. A man may have monarchy on his lips when his heart is far from it. Lord Lovat, for instance, was perpetually protesting his loyalty while he was engaged for a course of years in a deep scheme to overturn that Government to which he professed and avowed such attachment. The language of the French Assembly, in 1791, was noticed by Mr. Paine, by Mr. Barlow, and by others of their eulogists whose works were admired by the prisoner at the bar. Several of the members of that Assembly spoke with the greatest reverence of monarchy until the time arrived when they thought they could overturn it. And there has been a memorable instance that the greatest of traitors may pretend attachment in the moment of the deepest treason. We know that the vilest traitor professed his loyalty while he was contemplating an act of the meanest treachery, and in the completion of that act, cried, “ Hail, Master ! ” and kissed Him.’

The peroration was in these words :—‘ And now, gentlemen of the jury, I have nothing more to offer. I have discharged, God knows, with much pains, the harsh duty imposed upon me. You will now do yours. If your verdict shall discharge the prisoner, I know you will give it with joy ; if the contrary, yet it must be given. The cup, although it may be bitter, must not pass away from you. I have had a duty to perform beyond my strength and my ability, but I have discharged it faithfully and satisfactorily to my conscience.’

As he concluded, a tear unbidden rolled down his cheek. Both the Attorney and Solicitor-General were easily moved to the melting mood. Sir John Scott in his speech referred to some taunts of Horne Tooke in these words, ‘ He could endure anything but an attack on his good name ; it was the little patrimony he had to leave his children, and, with God’s help, he would leave it unimpaired.’ Here his voice faltered, he burst into tears, and,

to the surprise of all in Court, the Solicitor-General wept in chorus. 'Do you know,' exclaimed Tooke, in a loud voice to a friend, 'why Mitford is weeping? He is crying to think of the little patrimony Scott's children are likely to get.'¹

CHAP.
LIV.

In 1799, Sir John Scott was created Lord Eldon, and appointed Lord Chief Justice of the Common Pleas, on which, as a matter of course, Sir John Mitford was Attorney-General. He was then elected for the borough of East Looe in Cornwall, and had attained to so high reputation in the House of Commons, that when Mr. Addington vacated the Speaker's Chair to take the helm of State in succession to the 'Pilot that weathered the Storm,' Sir John Mitford was elected to the important and lucrative post with unanimous consent. This was in February 1801. He was proposed by Lord Hawkesbury; seconded by Mr. J. H. Browne, and supported by Pitt, Martin, and other influential Members. Declining the usual formula of excuses and self-depreciation, he declared 'that he could not suppose any gentleman considered him unqualified for the situation to which his noble friend had proposed that he should be elected.' By giving up his practice at the Bar he made pecuniary sacrifices. 'He, however, entertained hopes he should get some appointment which the labours of his life and the practice of his profession might be supposed to render him most capable of filling.'²

Mitford
Attorney-
General.

Speaker.

He did not long remain away from the profession of his choice. On the death of Fitz Gibbon, Earl of Clare, in 1802, the Great Seal of Ireland was in the gift of the Prime Minister. The Speaker was known to be a most accomplished Equity lawyer, and a thorough-going partisan of the Government, so he became Baron Redesdale, Lord Chancellor of Ireland.

Lord Chan-
cellor of
Ireland and
Baron
Redesdale.

The letter in which he acquainted the House of his resigning the Speakership is thus recorded:—

¹ At this period Sir John Scott had invested 22,000*l.* in the purchase of Eldon, from which he afterwards took his title.

² Townsend's *Eminent Judges*, vol. ii. p. 159.

CHAP.
LIV.

Resigns
the
Speaker's
chair.

‘Palace Yard, February 9, 1802.

‘Sir,—His Majesty having been graciously pleased to signify his intention of appointing me Chancellor of Ireland, it has become my duty to resign the Chair of the House of Commons, which I request you to communicate to the House at their meeting this day. I must entreat you at the same time to express to them in the strongest terms the regret with which I quit the high situation to which their favour has raised me, and my gratitude for their constant and kind assistance and support in my humble efforts to discharge the arduous duties of this important office.

‘I have the honour to be,

‘J. MITFORD.

‘To Mr. Ley.’

When moving for the election of a Speaker in the room of Sir John Mitford, Sir William Grant paid the most marked compliment to the able manner in which he filled the Chair.¹

Lord Redesdale was reluctant to come to Ireland. It broke up his long-accustomed mode of life, sundered him from old friends, and suddenly plunged him among acquaintances whose habits and manners were different from those of the English Bar.² By degrees, he grew first to know and then to esteem the Irish Bar. He lived in Dublin; but, fond of rural scenes, he took a country seat, which he called Redesdale, at Kilmacud, near Stillorgan, where he expended a good deal of money in building and planting.

In Sir Jonah Barrington's ‘Sketches’ we find the following notices of Lord Redesdale, which, as Sir Jonah is not invariably accurate, may not be entirely as given:—
‘Lord Redesdale was much (though unintentionally) annoyed by Mr. Toler³ at one of the first dinners he gave, as

¹ Commons' Journal.

² Vide Townsend's *Eminent Judges*, vol. ii. p. 160.

³ The celebrated Lord Norbury. As he had been raised to the Peerage in 1800, two years before Lord Redesdale's appointment to Ireland, Barrington is in error calling him Mr. Toler.

Lord Chancellor of Ireland, to the Judges and King's Counsel. Having heard that the members of the Irish Bar (of whom he was then quite ignorant) were considered extremely witty, and, being desirous, if possible, to adapt himself to their habits, his Lordship had obviously got together some of his best Bar remarks to repeat to his company, as occasion might offer; and, if he could not be humorous, he determined at least to be entertaining.

CHAP.
LIV.

Sir Jonah Barrington's account of Lord Redesdale and the Irish Bar.

'The first of his Lordship's observations after dinner, was telling us that he had been a Welsh Judge, and had found great difficulty in pronouncing the double consonants which occur in the Welsh proper names. "After much trial," continued his Lordship, "I found that the difficulty was mastered by moving the tongue alternately from one dog-tooth to the other."

'Toler seemed quite delighted with this discovery; and requested to know his Lordship's dentist, "as he had lost one of his dog-teeth, and would immediately get another in place of it." This went off flatly enough. Lord Redesdale's next remark was, that when he was a lad, cock-fighting was the fashion; and that both ladies and gentlemen went full dressed to the cock-pit—the ladies being in hoops.

"I see now, my Lord," said Toler, "it was then the term *cock-a-hoop* was invented." A general laugh now burst forth, which rather discomposed the learned Chancellor. He sat for a while silent, until skating became a subject of conversation, when his Lordship rallied, and with an air of triumph, said, "that in his boyhood all danger was avoided; for, before they began to skate, they always put blown bladders under their arms, and so, if the ice happened to break, they were buoyant and saved." "Ah, my Lord!" said Toler, "that's what we call *bladderam skate* in Ireland."¹

'Lord Redesdale, who did not understand this sort of joking, still acted the courteous host, and by way of making a diversion, addressed Mr. Garrett O'Ferrall, a genuine

¹ A vulgar idiom for *nonsense*.

CHAP.
LIV.

specimen of the sons of the soil—"Mr. Garrett O'Ferrall," said the Chancellor, "I believe you are from the county of Wicklow, where your family have long held considerable property, and are very numerous. I think I was introduced to several during my late tour in that county." "Yes, my Lord," replied O'Ferrall, "*we were very numerous*; but so many of us have been lately hanged for sheep-stealing that the name is getting rather scarce in that county."

According to Barrington's account,¹ 'The impression this Hibernian night's entertainment made on the Chancellor was, "that they were a pleasant though not very comprehensible race; possessing at a dinner-table much more good-fellowship than special pleading; and that he would have a good many of his old notions to get rid of before he could completely cotton to so dissimilar a body." The Bar thought him very able, and he was extremely polite. Chief Justice Downes, and a few more of our high cold sticklers for "decorum," were quite uneasy at this skirmishing.'

Lord Redesdale
puzzled by
a *bon-mot*.

The same lively author gives further notices of Lord Redesdale's mystifications:—"I never saw Lord Redesdale more puzzled than at one of Plunket's best *bon-mots*. A cause was argued in Chancery, wherein the plaintiff prayed that the defendant should be restrained from suing him on certain bills of exchange, as they were nothing but *kites*. "Kites?" exclaimed Lord Redesdale—"Kites, Mr. Plunket? Kites never could amount to the value of these securities! I don't understand the statement at all, Mr. Plunket."

"It is not to be expected that you should, my Lord," answered Plunket. "In England and Ireland kites are quite different things. In England the *wind* raises the *kite*; but in Ireland the *kites* raise the *wind*."

"I do not feel any way better informed yet, Mr. Plunket," said the matter-of-fact Chancellor.

"Well, my Lord, I'll explain the thing without mentioning those birds of prey;" and thereon he explained that in Ireland bills and notes which are not what is

¹ Personal Sketches, vol. i. p. 339.

termed good security, are commonly called kites because they are used to raise money for the mutual accommodation of drawer, acceptor, and indorser—which is termed *raising the wind.*'

CHAP.
LIV.

As we have seen what the Irish Bar thought of the Chancellor, it is only right to learn what the Chancellor thought of his new associates. In a letter he addressed to Lord Eldon May 4, 1802, he says,—‘I have been principally engaged in eating and drinking. To-morrow I sit for the first time. Lord Kilwarden is a sensible man, but I think not strong. Lord Norbury—as you know—the Attorney-General—I like, though he is not high as a lawyer. Mr. O’Grady is a pleasant young man. Mr. Saurin sensible, but, I think, discontented. The rest are not of much importance.’ This was certainly giving no high estimate of the Irish Bar, which comprised many men of great legal and general knowledge—though the greatest, such as Plunket, Bushe, the Pennefathers, and O’Connell, had not then attained any great celebrity.

Lord Redesdale’s opinion of the Irish Bar.

The Irish Bar was too just and discriminating not to value the Judge, though they may have set small store on the man as a social companion. Never had they found an abler Chancellor; and it was a pleasure to sit in his Court to watch the ease and correctness of his work, and the masterly judgments he gave in each case.

The Lord Chancellor of Ireland is the most influential member of the Viceroy’s Cabinet, and as such, has a large share of the responsibility of the Government. The state of the country, therefore, occasioned great anxiety to Lord Redesdale. Though the insurrection of 1798 had been suppressed, we have seen in the time of Lord Clare the embers were yet unquenched, and many of the originators and fomenters of rebellion remained at large. Others who had escaped the meshes of the law, corresponded with their brother-conspirators, and were anxious to renew the strife. Aid from France was confidently expected, and the kingdom was covered with military, amounting, on October 1, 1801, to no less than 60,000 men.

Unsettled state of Ireland.

CHAP.
LIV.

The experiment of trying prisoners confined in the gaols of Wicklow and Kildare for acts committed in connection with the insurrection, by Special Commission, was decidedly approved of by the then Lord Chancellor, the Earl of Clare, who recommended Judge Downes and Judge Chamberlain to preside. The result was most satisfactory. Witnesses gave their evidence fearlessly, juries brought in their verdicts without any evil result, and the winter passed off so as to promise a healthy state.

Lord Chan-
cellor re-
commends
suspending
the Habeas
Corpus
Act.
Lord Re-
desdale's
marriage.

The prospect of the war with France caused such representations to be made as to the state of Ireland, that the Lord Chancellor, who was in London in April, 1803, told Mr. Addington, the Premier, he considered the suspension of the *Habeas Corpus* Act necessary in Ireland on the breaking out of the war. This was not a pleasant state of affairs for a bridal, yet we find that on June 6, 1803, his Lordship married Frances, daughter of John, second Earl of Egmont, and sister of the Right Honourable Spencer Perceval,¹ whose sad fate it was, while Prime Minister of England, to fall by the hand of a maniac assassin.

The unfortunate insurrection of Robert Emmet and his fellow-conspirators ensued in 1803, and the peace of the Chancellor was much broken. He was not allowed to remain long in the tranquil discharge of duties sufficiently onerous. In May, 1804, Cobbett, the proprietor of the

The
Percevals.

¹ The Perceval family have large possessions in Ireland, and the first of the family who settled in this Kingdom was Richard Perceval, who was a law-student at Lincoln's Inn. He incurred his father's displeasure by his dissipated habits and an imprudent marriage, which made the old gentleman declare, 'that as he had ruined himself by his riots, he might recover himself by his wits,' and left him to buffet with fortune. He went to Spain, where he remained four years. On the death of his wife he returned to England, and Lord Burleigh was so impressed with his talents, he employed Mr. Perceval in State affairs. He was thus on the road to fame and fortune. Some letters in cipher taken by an English war ship from a Spanish vessel, were given Mr. Perceval to decipher and translate. They proved to contain the first certain information of the projected invasion by the Spanish Armada. Richard Perceval was at once a favourite of Queen Elizabeth, and received the appointment of Secretary of the Court of Wards in England. After her death he was Registrar of the Court of Wards in Ireland, and left considerable landed property.—Vide Burke's Peerage; title, EGMONT.

‘Political Register,’ was tried and convicted for libelling the Lord Lieutenant (Earl of Hardwicke) and the Lord Chancellor, whom he called ‘a strong-built Chancery pleader from Lincoln’s Inn.’ These libels were signed ‘Juverna,’ and on the letters being given up after conviction, the startling result appeared that they were written by Mr. Justice Johnson, one of the Judges of the Common Pleas in Ireland.¹ In one of these letters ‘Juverna’ drew a powerful contrast between Lord Kenyon and the then Chancellor of Ireland. ‘Had it pleased his Majesty to appoint Lord Kenyon Chancellor over the warm-hearted principality, I can well conceive what, in such a situation, he would have done, and also what he would not have done. From a rare modesty of nature, or from a rare precision of self-knowledge, Lord Kenyon would have acted with reserve and circumspection on his arrival in a country, with the moral qualities of the inhabitants of which, and with their persons, manners, and individual characters and connections, he must have been utterly unacquainted. In such a country, torn with domestic sedition and treason, threatened with foreign invasion, and acting since the Union under an untried Constitution, if Lord Haddington had required that Lord Kenyon should direct a Cambridgeshire Earl² in all his councils, Lord Kenyon would as soon, at the desire of Lord St. Vincent, have undertaken to pilot a line-of-battle ship through the Needles. Particularly the integrity of Lord Kenyon would have shrunk from such an undertaking if a condition had been added to it, that no one nobleman or gentleman who possessed any estate, rank, or connection in the country, should on any account be consulted; his pride would have spurned at the undertaking. It was said of Lord Kenyon that he loved money, if so, he loved his own money only, and not the money of any other man. Lord

CHAP.
LIV.

Cobbett
convicted
for libel in
A.D. 1804.

Libel on
the Lord
Chancellor

¹ In point of fact they were not in Judge Johnson’s handwriting, but in that of his daughter.—Personal Recollections of Lord Cloncurry.

² In a former letter he called the Earl of Hardwicke ‘a very eminent sheep-feeder from Cambridgeshire.’

CHAP.
LIV.

Kenyon, therefore, as Chancellor, never would have made any rule or order, by the effect of which the Secretary of a Master of the Rolls would be deprived of all fees, for the purpose of throwing all those fees into the hands of the Secretary to the Chancellor, the better to enable that Secretary to discharge the pension of some unknown annuitant on his official profits.¹ The professional pride and the inborn honour of Lord Kenyon would never have suffered him to enter into a combination to sap by underhand means the independence of his brethren on the bench. He would never have suffered the Great Seal in his hands to be used for the purpose of garbling the bench, in order to gratify those who might be contented publicly to eulogise the Government which privately they must have despised; nor would he have employed any of his leisure in searching into offices for precedents by which he might harass the domestic arrangements of others whose pride and integrity could not bend to his views; and thus double the vigour of his attack by practising upon the hopes of some, and endeavouring to work upon the fears of others.²

The authorship of the libel traced to Judge Johnson.

This violent attack upon the character of the Chief Minister of the Crown in Ireland next to the Viceroy created great excitement, and that excitement was increased when it was ascertained to have been written by a Judge. A Bill of Indictment having been found against the writer by the Grand Jury at Westminster, Lord Ellenborough, Chief Justice of England, signed a warrant for the apprehension of Judge Johnson, and he was arrested by virtue of 44 George III. at his house at Miltown, near Dublin.

A writ of Habeas Corpus, returnable before the Chief Justice, was argued in the Court of King's Bench, when two of the Judges were for remanding, and one for discharging the prisoner. A new writ of Habeas Corpus, returnable into the Court of Exchequer, was argued there

¹ There was for many years considerable dissatisfaction at the Lord Chancellors of Ireland preventing the Masters of the Rolls appointing a secretary. This will more fully appear in the Lives of Sir Anthony Hart and Lord Plunket.

² State Trials.

for three days, when the majority of the Barons were in support of the conviction, Sir William Cusac-Smith being the only Baron who denied the legality of the proceedings. The Judge was tried at the bar in the King's Bench, Westminster, on November 23, 1805.

CHAP.
LIY.

The Judge
tried.

The then Attorney-General Perceval¹ stated the case very ably. 'He regretted being compelled by his duty, as law officer to the King, to charge a learned Judge with being an anonymous libeller against the Government of his Sovereign—an offence the most foreign that could be imagined from every sentiment of a liberal mind, from every honourable feeling, from every principle which should guide the defendant's high and dignified station.'

The case for the prosecution being proved, so far as handwriting not written in the presence of witnesses can be proved, Mr. Adam and Mr. Garrow, Counsel for Judge Johnson, made the best defence they could by trying to show the witnesses were mistaken, and that the Judge was not the guilty party. The Jury, after a quarter of an hour's deliberation, thought he was, and said so.²

The Jury
find the
Judge
guilty.

While avowing sentiments of toleration, Lord Redesdale was a bitter and unrelenting opponent to Catholic emancipation. He was the avowed supporter of Protestant ascendancy in Church and State. The publication of his correspondence with the Earl of Fingal naturally inflamed the minds of the Irish people against him. This unfortunate letter, written on the occasion of his appointing the Earl of Fingal to the Commission of the Peace, was so offensive to his Lordship, as well as to the clergy of his Church and the Irish people, that Lord Fingal wrote a very severe reply, which soon got into circulation, and showed the imprudence of the Chancellor's letter. It was with reference to this correspondence Fox made the caustic

The Chan-
cellor's
corre-
spondence
with the
Earl of
Fingal.

¹ Lord Redesdale was married to his sister.

² The Judge got off the Bench in 1806, only a few days before the summary displacement of the Chancellor he so bitterly attacked. He obtained a retiring pension of 1,200*l.* a-year, and his younger brother, William Johnson, was appointed a Judge of the Common Pleas in his place.

CHAP.
LIV.
Fox's
remark.

remark, 'The people of Ireland have never been famous for discretion. It must no doubt then have been very gratifying to find that a grave English Chancellor, sent over to them, had been guilty of an indiscretion, to which indeed nothing could be second, for it was of that sort that nothing *simile aut secundum* could exist.'¹

Townsend's Eminent Judges, vol. ii. p. 171.

CHAPTER LV.

LIFE OF LORD REDESDALE, LORD CHANCELLOR—CONTINUED.

LORD REDESDALE had a very troublesome correspondence respecting the magistracy. When Valentine, Lord Cloncurry, returned to Ireland in 1806, he was desirous to become a useful country gentleman, and his Lordship's friend, Mr. Burne, a member of the Bar, and of the rank of King's Counsel, addressed a note to Mr. Dwyer, the Chancellor's secretary, on the subject. No reply reaching him, he wrote to the Lord Chancellor as follows:—¹

CHAP.
LV.The Chan-
cellor's
corre-
spondence
with Lord
Cloncurry.

‘ January 13, 1806.

‘ My Lord,—Not having received any answer to a note which I sent to Mr. Dwyer some time since, I take the liberty of troubling your Lordship with a few lines on the same subject. Lord Cloncurry, who has lately returned to Ireland, informs me that in those parts of the counties of Kildare and Dublin in which his estates are situate, there are at present from various causes but few resident magistrates. He, therefore, thinks that by his becoming a magistrate, he could be useful to the country. But though I have reason to know that he entertains a very high respect for your Lordship's character, yet not having the honour of a personal acquaintance, delicacy has prevented him from addressing your Lordship on the subject, and he has requested that I should apply on his behalf. Permit me to assure your Lordship that I should not interfere were I not convinced that no person is more anxious, and few more interested, than Lord Cloncurry to preserve the peace and good order of the country.

Letter
from Mr.
Burne to
the Chan-
cellor.

‘ I have the honour to be, &c.,

‘ JOHN BURNE.’

¹ Personal Recollections of Lord Cloncurry, p. 222.

CHAP.
LV.
Reply to
Mr. Burne.

To this letter the Lord Chancellor replied to Mr. Burne, referring to 'the person on whose behalf Mr. Burne applied,' the reverse of complimentary; nor, indeed, was the reply couched in very polite terms towards Mr. Burne himself.

'The application as well as the communication made to me through my secretary are in a form so different from that in which applications to insert the names of gentlemen in the Commission of the Peace are commonly made, that if the person on whose behalf you have applied had been wholly unknown to me, I should have thought the mode of application a sufficient reason for declining to comply with it. But having long held the office of Solicitor-General, and afterwards of Attorney-General, in England, when my duty, as a servant of the Crown, compelled me particularly to attend to the conduct of Lord Cloncurry, I feel that I cannot be warranted, upon a mere representation from a gentleman whom (whatever personal respect I may have for him) I cannot consider as entitled by office or situation to recommend persons to be inserted in the Commission of the Peace for the counties of Dublin and Kildare, to insert Lord Cloncurry's name in those Commissions.'

It had been well had the Lord Chancellor finished here. But he did not; he went on—'I am not informed, even by you, that his Lordship feels in any degree differently than he did when his conduct was thought to warrant strong proceedings against him.¹ If no change has taken place in his opinions, I certainly cannot think myself justified in putting any power into his hands. If he has seen (what appeared to me) his errors, the proper application to me, I conceive, would be immediately from himself, with an avowal of the change in his sentiments; and I should then think it my duty to communicate the application to his Excellency before I could venture to act on it. I

¹ He was arrested on April 14, 1799, under the Habeas Corpus Suspension Act. Committed a prisoner to the Tower on May 8, and not discharged until March 1801.—Vide Personal Recollections of Lord Cloncurry, p. 86.

trust that you, Sir, will feel that I mean every personal respect to you, which my duty to his Majesty would warrant me in observing, and I can assure you that it would be my wish to show every respect to Lord Cloncurry consistent with the same duty.

‘ I have the honour, &c.,
‘ REDESDALE.’

CHAP.
LV.

When the contents of this letter was disclosed to Lord Cloncurry, he was greatly annoyed. He wrote to the Lord Chancellor respecting the allusions to his imprisonment.

‘ Lyons, February 17, 1806.

‘ My Lord,—Last Wednesday evening I heard for the first time of the correspondence between your Lordship and my friend Mr. Burne on the subject of the Commission which I desired him to take out for me. I suppose it a matter of course for a Peer to become an acting magistrate when he pleased ; and if respect be no longer due to the Irish peerage, my property in the country made it your duty to comply with my desire, unless I had forfeited my rights by ill conduct, which I believe *you know* I never did.

Lord Cloncurry's letter to the Lord Chancellor.

‘ I think it necessary to state to your Lordship that I have not changed my sentiments, and I hope I never shall ; they are, and always were, loyal and patriotic sentiments, full of abhorrence for the men and the measures which, in '97 and '98, drove the unfortunate people of this country into rebellion, measures for which the Minister was indemnified by Parliament, as well as for his treatment of me—the illegality and inhumanity of which are not, I believe, unknown to your Lordship.’ His Lordship then details at some length the cruel persecutions he underwent, which no wonder could never be effaced from his memory. When the Habeas Corpus Act was restored, and he obtained his liberty, he went abroad for four years. I now take up his letter again :—‘ When I return I find my house plundered by the military, the places containing my title-

CHAP.
LV.

deeds and valuables broken open and left exposed. I waited on the Lord Lieutenant,¹ who ordered the restoration of my property, and showed that goodness of heart and manner which so much endear him to the people of this country. He expressed a wish that I should reside. I said I should, and endeavour, as far as I could, to second his good intentions. I was sincere; I desire my friend to take out the Commission of the Peace, but it is refused. And by whom? By the man who, having no property of his own, is paid to protect that of others; the man who should know what is due to the peerage, to which he has been raised; and the man who, I believe, knows that there never was a shadow of criminality in my conduct.

‘I should feel myself debased by thus entering into explanation with your Lordship, did I not believe that your power is near its end. The reign of bigotry and prejudice is over. I shall remain in my country, from which you would have driven me, and I shall cherish those sentiments you would have me renounce. May your Lordship, in retiring from Ireland, leave no bad blood or party-spirit behind you, and may you leave no person on whom your conduct has made more impression than it could on me. With the consideration due to the high office your Lordship holds, I remain, &c.,

‘CLONCURRY.’²

Mr. Burne also felt it was right to place before Lord Redesdale the share he had in this correspondence. He accordingly addressed the Lord Chancellor as follows:—

Mr. Burne
to Lord
Redesdale.

‘My Lord,—I have had the honour of receiving your Lordship’s letter, in answer to one from me. Nothing could be further from my thoughts, or more repugnant to my feelings, than to adopt any mode of recommendation to your Lordship which could be deemed in the slightest degree disrespectful. For me to recommend persons to

¹ The Earl of Hardwicke.

² Personal Recollections, p. 226.

Commission of the Peace, would be a degree of arrogance and presumption of which I am incapable. I merely meant to communicate to your Lordship the wish of Lord Cloncurry as to the magistracy, without supposing for a moment that the application could derive the slightest aid from the recommendation of such an obscure individual as I am. It is, however, but justice to myself to say, that whatever Lord Cloncurry's offences were, I am unacquainted with them; and that I believe him, at present, to be as strongly attached to the Constitution and tranquillity of the country as any person in it.'¹ The tone of this letter was sufficiently humble and apologetic, and no doubt was received as such by the Lord Chancellor. He, perhaps, hoped to hear no more upon the subject, when he was startled by a command which he could not disobey, namely, from the Lord Lieutenant, who desired him to insert Lord Cloncurry's name in the Commission of the Peace for the counties which the Chancellor had so recently refused him, viz. Dublin and Kildare. It seems that Lord Cloncurry's brother-in-law, the Hon. Sir Francis Burton, had informed the Viceroy of the Chancellor's refusal, and the reasons for it. Upon which Lord Hardwicke immediately said the Chancellor should insert Lord Cloncurry's name as a Magistrate for both counties; that he, the Viceroy, was aware how greatly Lord Cloncurry had suffered by his unjust imprisonment, and would gladly make amends to the utmost of his power. His Excellency stated to Lord Cloncurry that he would feel great pleasure in recommending Lord Cloncurry for a Viscounty. This Lord Cloncurry declined with suitable acknowledgments. The following was shortly afterwards received from the Chancellor:—

‘ Ely Place, Dublin, February 24, 1806.

‘ My Lord,—I have desired instructions with respect to the insertion of your Lordship's name in the Commission of the Peace for the counties of Dublin and Kildare,

CHAP.
LV.

The Viceroy directs Lord Cloncurry's name to be inserted in the Commission of the Peace.

The Lord Chancellor to Lord Cloncurry.

¹ Personal Recollections, p. 227.

CHAP.
LV.

and I have to request that your Lordship will be pleased to apply to Mr. Ponsonby, whom his Majesty has appointed Chancellor of Ireland, and to whom the Great Seal will be delivered as soon as he shall arrive in the country.

‘I have the honour to be, &c.,

‘REDESDALE.¹

‘To Right Hon. Lord Cloncurry.’

How Lord
Cloncurry
acted
thereupon.

I think Lord Cloncurry might have rested content with this compliance by Lord Redesdale, but he did not. He rejected the offer; as he says, ‘I would not receive any favour at the hands of Lord Redesdale.’ He concocted an offensive letter, and, accompanied by a friend, read it to his Lordship. This business added to the national hostility entertained against the outgoing Chancellor, whose sudden departure was hailed with joy by the great majority of the Irish people.

Lord
Redesdale
suddenly
deprived
of the
Great Seal.

When Pitt drove Mr. Addington’s party from the Government, no change took place in the Irish Court of Chancery. Lord Redesdale firmly held the Seal, but on the death of Pitt, when the Coalition Ministry succeeded, GEORGE PONSONBY, son of John Ponsonby, Speaker of the Irish House of Commons, was at once informed that the Great Seal of Ireland waited his acceptance, and he took it. This was to be expected; but we are informed that the nomination of Mr. Ponsonby was accompanied by circumstances very injurious to the feelings of his noble and learned predecessor.² Lord Redesdale had spoken, as well as written, most offensively of the Catholics, and took no pains to conceal his opinions.³ Though his conduct as Chancellor was above suspicion, the Government lost not an hour in offering the office of Chancellor to an Irishman beloved and respected. The displaced nobleman made a feeling, and very natural complaint of

Anti-
Catholic
prejudices.

¹ Personal Recollections, p. 228.

² Annual Register, 1830, p. 476.

³ Townsend’s Eminent Judges, vol. ii. p. 171.

this unseemly haste, when taking his farewell of the Bar.

CHAP.
LV.

On March 4, 1806, Lord Redesdale sat for the last time in the Irish Court of Chancery. As soon as the ordinary duty of the day was concluded, his Lordship thus addressed the Bar:—

The Chan-
cellor's
farewell
speech to
the Bar.

‘I must now take my leave. When I came to this country, I thought I should probably pass the remainder of my days here. With that view I formed an establishment, and I proudly hoped to have lived amongst you and to have died amongst you; but that has not been permitted.

‘To the gentlemen of the Bar I have the greatest obligations. I came amongst them a stranger. I have experienced from them every kindness; and, I must say, that I could not have left a Bar with whom I could have lived in habits of more cordial intercourse.

‘Perhaps I may (on some occasions I am aware that I must) have used expressions which appeared harsh at the moment; but I trust they were only such as were suited to the occasion. My design was not to hurt the feelings of any; and, if I have done so, I am truly sorry for it. I wish to depart in peace and good will with all.

‘To the officers and practitioners of the Court I must say, that though with respect to a very few of the latter I have had occasion to animadvert with some severity, their conduct in general has been highly satisfactory. As to the officers of the Court, they have all, in their several stations, endeavoured to assist me to the utmost of their power; they have materially done so, and I owe them sincere thanks.

‘It would have been my wish to have continued to sit until the gentleman who has been named to succeed me should have arrived. I believe it was his wish also, and I have every reason to think so; and from him I have experienced every degree of politeness and attention. I am sorry that other persons should have thought me unworthy to have been entrusted with the Seal during

CHAP.
LV.

the interval. What can occasion this (which I cannot but consider as a personal insult), I am unable to guess; but I have been informed that a peremptory order has come to the Lord Lieutenant not to suffer a moment to elapse in preventing the Great Seal from longer remaining in my hands. I know not whence this jealousy of me has arisen, or how my continuing to sit in the Court of Chancery (for I could make no other use of the Seal, but under the warrant of his Excellency) could interfere with any views of his Majesty's Ministers.

'I am proudly conscious of having discharged the duties of my station with honesty and integrity to the utmost of my ability. For the office I care not, except so far as it afforded me the opportunity of discharging conscientiously an important public duty. It was unsought for by me; I came here much against my will; I came here from a high situation in England, where I was living amongst my old friends, and in the midst of my family. But I was told that I owed it to public duty and to private friendship to accept the office, and I yielded. I yielded to the solicitations of some of those who have concurred in my removal. This, I own, is what I did not expect, and what I was not prepared to bear.

'But I feel most of all, that so little consideration has been shown for the public business and the interests of the suitors of this Court. You must all know the avocations of those who have been named as Commissioners. The Master of the Rolls has already as much business as he can conveniently discharge; the Lord Chief Justice and the Lord Chief Baron have their several avocations, which must prevent their attendance in the Court of Chancery. I am extremely sorry that a great deal of business will, in consequence, be left undone which ought to have been disposed of before the rising of the Court; but so it has been thought fit.

'And now I have only to say, that in returning to the country from whence I came, I shall be most happy if it should ever be in my power to be of service to Ireland.

Ireland will always have a claim on me. Had I continued in the Commons House of Parliament, I might have been able to do much service; in the other House that power is much lessened, but such as it is this country may ever command it.

‘To this country I have the highest sense of obligation; I do not know that in a single instance I have experienced anything but kindness. I have experienced it from all ranks of people without exception.

‘Under these circumstances, I retire with a firm conviction that you will do me the justice to say that I have discharged my duty with honest and conscientious zeal, to the extent of my abilities; and that, on this head, I have nothing with which to reproach myself.’

This strongly-worded, and most outspoken address, was delivered with an amount of emotional feeling that won the respect and sympathy of all present. No one expected that a nobleman of the Lord Chancellor’s station, and talents, would be so summarily ejected from the Bench. After a brief interchange of words among the members of the inner bar, the highest in rank, the Attorney-General,¹ rose and addressed Lord Redesdale in these words:—

‘Thus called upon, having had an opportunity of communicating with a great majority of the gentlemen of the Bar who have practised in the Court of Chancery while your Lordship has presided, I feel myself authorised to express their sentiments on this occasion.

The
Attorney-
General’s
address to
the Lord
Chancellor.

‘We have a just sense, my Lord, of those endowments which have so eminently qualified you to preside in a Court of Equity.

‘While your impartial attention has secured to the honest suitor the full investigation of his claims, your sagacity and patience have taken away from fraud all hope of impunity and all pretext for complaint.

‘We return your Lordship our thanks for the instruction we have received in attending to the series of

¹ The Right Hon. Standish O’Grady.

CHAP.
LV.

decisions by which, during a period of four years, you have advanced the science we profess.

‘ But most peculiarly, and from our hearts, we beg leave to make our grateful acknowledgments for the uniform courtesy and kindness which we have experienced from you in the discharge of our duty at your Lordship’s Bar.

‘ Under these impressions we take leave of your Lordship. The consciousness of having thus well discharged the duties of an elevated and important situation must render you independent of our praise; we trust, however; that this sincere tribute of esteem and gratitude which is now offered to your Lordship will not be deemed unacceptable.’

CHAPTER LVI.

LIFE OF LORD REDESDALE—CONCLUDED.

LORD REDESDALE took his departure from Ireland with the promise that 'it would make him happy to be of service to Ireland; that this country had a claim on him; and though his opportunity of service was diminished by his being in the House of Lords and not in the House of Commons, such as it was, this country might ever command it.' What his idea of Ireland and its people may be it is not difficult to guess, when, shortly after resuming his place among the Peers, on the presentation by Lord Grenville of a petition from the people of Ireland, who were so long denied all civil rights by their preferring their allegiance to God than violating their consciences for the goods of this world, and praying the Legislature to grant them an equal participation upon equal terms with their fellow-subjects, in the full benefits of the British Laws and Constitution, Lord Redesdale argued, 'such demand was utterly inadmissible.' He contended that 'the maintenance of the Protestant as the established religion of the Government, and the exclusion of the Roman Catholic faith from the Administration of that Government, had become fundamental principles long deemed essential to the preservation of the liberty both religious and political of the country.'

The long habit of thought which associated the Roman Catholic religion with slavery and priestly domination proved an insurmountable obstacle to Lord Redesdale allowing the Irish people to share the civil rights of their fellow-subjects in England and Scotland. He conscientiously believed their admission to those rights incom-

CHAP.
LVI.

Lord Redesdale's parting words.

CHAP.
LVI.

Declines
to become
again Lord
Chancellor
for Ireland.

patible with the peace and prosperity of the Empire, the safety of the Protestants, and the connection of Ireland with Great Britain. Imbued with these inveterate prejudices he was wise in declining the Irish Chancellorship in 1807 which was again offered to him by his brother-in-law, Mr. Spencer Perceval, then Prime Minister. However certain to be well received by the party whose political feelings he shared, Lord Redesdale must have known he was as much disliked by the Catholics as he disliked them, and therefore declined being the rival of Lord Manners for the Great Seal of Ireland.

Acquires
estates by
the death
of Mr.
Freeman.

By the death of W. J. Freeman, Esq., in 1808, a considerable accession of fortune accrued to Lord Redesdale, who, by sign manual on January 28, 1809, took the name and arms of Freeman in addition to those of his own family. It was not to be expected that a man of his great mental activity could remain long idle, and, as was natural, he tried his hand at law reform. Towards the close of the Session of 1809, his Lordship mentioned his intention of bringing in a Bill regulating the law of debtor and creditor, then in an unsatisfactory state in England and Ireland. He advocated the Scotch system, and having, after some delay, brought forward his Insolvent Debtors Bill, laid the foundation of that mercantile code which has now been much simplified by the Bankruptcy Act. The efforts of Lord Redesdale as a Law Reformer met with very great opposition from a quarter where he should have obtained help. Lord Ellenborough, the celebrated Chief Justice of England, protested against going into a committee of inventions, and declared in very offensive terms, 'he would not be a drudge to carry out any new-fangled conundrums.' When Lord Redesdale apologised to the House of Lords, for some inaccuracies in the Report which he had prepared with great patience and assiduity for a Committee appointed to examine the laws relating to debtor and creditor, Lord Ellenborough sneeringly observed, 'that his noble and learned friend might have the same con-

Hostility
of Lord
Ellen-
borough,
Chief
Justice.

solution that was offered to a contrite author, who expressed in his later days great apprehensions lest his writings should do injury to posterity, when his friend bade him be easy, for nobody had ever read or would ever read them.¹ The humane and estimable Sir Samuel Romilly took a different view from the Chief Justice, and strongly approved of the measure brought forward by Lord Redesdale.²

CHAP.
LVI.

His Lordship also was a strong supporter of the Vice-Chancellor's Court Bill, and published a treatise entitled 'Observations occasioned by a Pamphlet entitled Objections to the Project of creating a Vice-Chancellor of England.'³ In 1813 Lord Ellenborough trenched upon his ground by an Insolvent Bill, intended as a substitute for that of Lord Redesdale. This induced him to propose another, and in the discussion he showed with great clearness, the ease with which the objections pointed out in his former enactment might be remedied; that commissioners might be empowered to go circuits, and gaolers of the various towns directed by order from the chief clerk to bring up the prisoners confined for debt whose petitions and schedules being duly filed were ready for adjudication. That an officer called Provisional Assignee in Insolvency, on the filing of the petition, should get possession of the insolvent's effects. That security should be given to make future acquired property available for creditors.

Supports
a Bill for
Vice-Chan-
cellors'
Courts.

Commis-
sions for
Relief of
Insolvent
Debtors.

August 22, 1817, caused mourning in humbler halls than Claremont. Lady Redesdale died on that day, leaving a son, the present Lord Redesdale, and a daughter, Honourable Frances Elizabeth Freeman-Mitford. Another daughter, Catherine, died in 1811.

Death of
Lady Re-
desdale.

On the debates regarding the propriety of continuing

¹ Townsend's Eminent Judges, vol. ii. p. 181.

² Memoirs of Sir Samuel Romilly.

³ When advocating this measure, the benefit of which has been extended to Ireland by the Vice-Chancellor's Court, Lord Redesdale stated, 'That of 270 Appeals and Writs of Error then pending, according to the mode of hearing then practised these causes could not be decided for eleven years.'

CHAP.
LVI.

Supports
the Bill
for the
Income
Tax.

the Income Tax, which had become distasteful after the termination of the Peninsular war, Lord Redesdale argued in support of this impost, which he considered one that ought to be maintained. He took an active part in the Parliamentary discussions of questions relating to internal policy to the time of his death.

In 1821, Lord Redesdale, who never ceased to feel a deep interest in Irish affairs, wrote to Lord Eldon:—

‘Batsford, September 15, 1821.

* * * * *

Rumours
of the abo-
lition of
the Vice-
royalty.

‘It is rumoured that Lord Talbot is to be the last Lord Lieutenant of Ireland. I do not think that Ireland is ripe for such a change.’

* * * * *

Reasons
against
it.

‘If the Court of the Lord Lieutenant were removed, few of the Irish gentlemen who remain in Ireland would continue there. The Court in Dublin also contributes to the civilisation of Ireland, by introducing something of good manners among those who frequent it.’

A short time afterwards he thus wrote to his old friend in reference to the late visit of the King, George IV.:—

‘Batsford, December 19, 1821.

‘The visit (of George IV.) to Ireland I always thought imprudent; and the conduct there very imprudent. It was to me ridiculous to find O’Connell a flaming courtier; and I had no doubt of the sequel. Ministers have fancied that Ireland would do better without a Lord Lieutenant, and some of them have called his office a useless pageant. But under the present circumstances they would govern the colonies as well without governors as they can govern Ireland without that pageant. If the pageant is useless, it is because they make it useless; because they give him a Secretary to thwart him, or to be a Viceroy over him. The office of Lord Lieutenant requires, in my opinion, a considerable portion of ability, sound judgment, discretion,

Secretary
Viceroy
over him.

firmness, good temper, and conciliating manners. Such a Lord Lieutenant ought to be supreme. If Ministers think fit to appoint to such an office a man wholly unqualified for it, they must put him in leading strings, and give him a Secretary with all the qualities which a Lord Lieutenant ought to have ; and, moreover, with a disposition to conceal rather than to display his power over his superior ; to lead, not to command the Lord Lieutenant.

* * * * *

‘In England the machine goes on almost of itself ; and, therefore, a very bad driver may manage it tolerably well. It is not so in Ireland. That country requires great exertion to bring it to a state of order and submission to the law. The whole population, high and low, rich and poor, Catholic and Protestant, must be brought to obedience to law ; all must be taught to look up to the law for protection, and to treat it with reverence. The character of the gentry, as well as of the peasantry, must be changed ; the magistracy must be reformed. There must be no such Sheriff as Sir V. C., whose letter you may remember to have seen in an appeal case in the Lords ; no such Justice of the Peace ; and the principal nobility and gentry must be prevailed upon to act as Justices of the Peace, as they do in England, and to attend the Quarter Sessions. The gentry are ready enough to attend Grand Juries to obtain presentments for their own benefit, but they desert the Quarter Sessions of the Peace. The first act of a constable in arrest must not be to knock down his prisoner ; and many, many reforms must be made which can only be effected by a judicious and able Government *on the spot*. Ireland, in its present state, cannot be governed in England. The final administration may be controlled here, but the general Executive government must be under the immediate control of an Administration on the spot—seeing and knowing accurately and minutely all the exigencies of such a government, the means of effecting changes, which must be operated gradually, by persuasion, by the workings of the minds of the people, and with a prompt

CHAP.
LVI.

Qualifica-
tions for
Lord Lieu-
tenant.

Difference
between
England
and Ire-
land.

Grand
Juries.

Con-
stables.

Hints for
the govern-
ment of
Ireland.

CHAP.
LVI.

and ready hand to control, and instantly to put down every obstacle to the course of reform.

* * * * *

Physical
force to
be met by
political
power.

‘If insubordination compels you to give, how are you to retain by law what you propose to retain, whilst insubordination remains? It can only be by establishing completely the empire of the law that you can retain what the law authorises you to retain. The physical force is with those who will disobey the law; it is only by supplying the defect of physical force by political power, that you can retain men in obedience to law who are disposed to break it, and have the physical force necessary to support them in disobedience.’¹

One of his latest political essays on Irish affairs was addressed to Sir John Sinclair:—‘With respect to Ireland generally, and with respect to the Catholics particularly, the Government has at all times been very ill conducted. As the Attorney-General of James I. said, “Ireland was never fully conquered,” and was never made duly obedient to law. When the constable cries “Stop thief,” the people cry “Stop the constable.” Mr. Pitt, Mr. Fox, and every Minister for the last forty years and more have constantly grossly mismanaged with respect to Ireland. The first great blunder was in Lord Townsend’s Lieutenancy, when, to get rid of the Ponsonbys, and that faction, Lord Townsend set up the Beresfords, and that faction, and handed over Ireland from the former to the latter. The Ponsonbys and their faction, before that time, called themselves the heads of the Protestant interest, and ruled Ireland as they pleased. When deprived of their power, they turned round to the Catholics and became the advocates of emancipation. Had the Lord Lieutenant had the good policy, when he had knocked down the Ponsonby faction, to play the two factions against each other, allowing the Ponsonby faction a fair share of interest and power, they would not have turned Catholics. But, like Satan, they thought it “better to reign in hell than serve

¹ Twiss’s Life of Lord Eldon, vol. ii. p. 443.

in heaven ;” and they have in consequence played the very greatest mischief in Ireland. If I were asked what should now be done, I should say nothing, until Ireland can be made fully obedient to law. If I were told that something must be done, I should deny the must ; but, if the Minister should say, I will do something, but not all, I should say, then you must no longer coquet with the Catholics, but say, this I will do, and no more. Take what I offer or not, as you please. All the Catholics of property would take what was offered, and the priests and agitators would refuse ; and then the question would be whether the Catholics of property or those with no property were to rule ? The whole business as managed by every Government for many years has been a tissue of folly, and Ministers seem never to have collected any wisdom from what has happened. The world at present is enjoying the benefit of the march of intellect, which has been (perhaps truly) called the “ Rogues March.” ’

In 1826, Lord Redesdale published ‘ Considerations suggested by the Report made to his Majesty under a Commission authorising the Commissioners to make certain Inquiries respecting the Court of Chancery.’ It disagreed very much with the Report of the Chancery Commissioners, and clearly proves that the evils which more than sixty years before had been bewailed by an Irish solicitor as rendering business expensive and disastrous in Ireland,¹ made it unmanageable in England. ‘ The briefs, ironically so called, were swollen to an extent which rendered them unfit for use. The speeches of counsel, so let and hindered by the quantity submitted to their perusal, were extended upon the principle of compensating for defect of value by amount. Acts of Parliament were too long, and the speeches thereupon ; also bills and answers, declarations and pleas, deeds of all descriptions, and conveyances were too long, judgments were too long, and so were the reports of them.’

Publishes
a pamphlet
on the
Court of
Chancery.

Thus was Lord Redesdale’s pamphlet commented on by

¹ Vide Mr. Howard’s Treatise, ante, p. 134.

CHAP.
LVI.

the late Lord Brougham, though not avowedly. And he reminds the learned author of the fact that some of his own speeches were not remarkable for brevity. ‘We are sure his Lordship is much too good-natured a man to be angry, if we remind him that long speaking at the Bar is not quite a modern invention. We recollect to have heard of a certain learned Solicitor-General who took eight or nine hours to his share in one trial in 1795.’¹

Justice in
Ireland,
temp. Re-
desdale.

It is often impossible to condense speeches at the Bar when a vast number of facts form the chain of argument. That Lord Redesdale could put statements very pithily his lucid and able judgments fully prove, and specimens of his speeches in Parliament might afford many such instances as the following—‘Referring to the course of administration of the law in Ireland in his time, which, thank God, is no longer a disgrace to the name of justice, he declared he had been connected with that country for the last twenty years, and he was sorry to say that there existed in it two sorts of justice—the one for the *rich* and the other for the *poor*, and both equally ill administered.’²

Lord Redesdale wrote to Lord Eldon respecting the Irish Established Church the following letter:—³

‘Batsford Park, September 6, 1828.

* * * * *

Considers
the state
of the
Church in
Ireland.

‘Catholics and Protestants are now openly preparing for personal contest. If the former should gain the victory, it seems to me absurd to suppose that they will be content without obtaining the Church Establishment. In these foreign countries, where Catholics and Protestants are *said* to live together in unity, the Catholics have their Church Establishment. Such is the case in the Russian and Prussian dominions—in Poland, Silesia, &c. But the Government is supreme over all; they have no Catholic members of Parliament. Catherine of Russia and Frederick

State of
the Ca-
tholic
Church on
the Con-
tinent.

¹ Townsend's Eminent Judges, vol. ii. p. 185.

² Ibid. p. 179.

³ Twiss's Life of Lord Eldon, vol. iii. p. 56.

of Prussia gave the law to all, and suffered no interference of the Court of Rome but under the sanction of their authority. In this country the limit to the power of the Crown does not admit of the same control. It is impossible to put the Catholics and Protestants of Great Britain and Ireland on the same footing with Catholics, Protestants and Greeks in Russian or Prussian Poland, or in Silesia and other countries where both religions have, in separate districts, distinct establishments. There is no resemblance between the state of religion in Great Britain and Ireland and the state of religion in the Russian and Prussian or Austrian dominions, or in the Netherlands, or now in France. The example of these countries is therefore no example to us.

* * * * *

‘In Ireland the Catholic clergy are independent of the laity of their own Church to a degree which never existed in any country, except perhaps the Pope’s temporal dominions; and I believe that even there the clergy are not so wholly independent of the laity as the Catholic clergy of Ireland are independent of the Catholic laity. And even in the patrimony of St. Peter, the clergy are dependent on the *Government* of the country, though that Government is in the hands of ecclesiastics. The Court of Rome is jealous of its temporal power over its immediate subjects, and distinguishes its temporal from its spiritual power, and is not disposed to allow its priests, as such, to interfere with its temporal authority.’

Lord Redesdale, from his judicial character and acknowledged legal ability, was regarded as a high authority on appeal cases before the Lords, and the leading authority on the law of peerages. Yet in the opinion of an excellent lawyer,¹ he sometimes carried his rigid scruples against obsolete claims to an unreasonable excess. When pronouncing judgment in the Banbury Peerage case, he said, ‘This is a question not merely between the Crown and the claimant; it affects every Earl whose patent is of

Judgment
of Lord
Redesdale
in the
Banbury
Peerage
Case.

¹ William M. Townsend, Esq., Recorder of Macclesfield.

CHAP.
LVI.

Detracts
from the
merits of
Lord Coke.

subsequent date to the patent of William, Earl of Banbury. When the petition of Nicolas, the ancestor of the claimant, came under the consideration of the House in 1661, the Committee of Privileges, to which it was referred, instead of reporting whether the claimant was legitimate or illegitimate, came to the extraordinary resolution that he was legitimate in the eye of the law. It may safely be inferred that the expression could only be introduced to show that the law and the fact were at variance. Now what was the law which the Committee followed on this occasion? Not the law of England, for it would have led them to a different conclusion; but a certain law laid down by Lord Coke in his "Commentary on the Institutes." I have a great respect for the memory of Lord Coke, but I am ready to accede to an observation made by some of his contemporaries, that he was too fond of making the law, instead of declaring the law, and of telling untruths to support his opinions. Indeed, an obstinate persistence in any opinion he had embraced was a leading defect in his character. His dispute with Lord Ellesmere furnishes us with a strong instance of his forcing the construction of terms, and making false definitions when it suited his purpose to do so.¹

Sir Egerton
Brydges'
account
of Lord
Redesdale.

Of course it is impossible for a Judge to please both sides, for his object being to do justice, the balance must incline, and the defeated litigant is dissatisfied. When Sir Egerton Brydges' claim to the barony of Sudely was rejected, and the judgment of rejection was pronounced by Lord Redesdale, the disappointed claimant wrote a severe criticism on the Ex-Chancellor's law and outward appearance. He called his Lordship's arguments in the Banbury case unintelligible, full of contradictory sophistries, and suicidal. The noble Lord's personal appearance

¹ Sir Harris Nicolas's Report of the Banbury Peerage Case. The Irish Catholics might say with Sir Harris in reference to Lord Redesdale's remark on Lord Coke's obstinacy:—

'Mutato nomine de te
Fabula narratur.'

was equally caricatured. ‘He was a sallow man with a round face (*vide* Cleopatra),¹ and blunt features, of the middle height, thickly and heavily built, and had a heavy, drawing, tedious manner of speech.’

CHAP.
LVI.

The personal appearance of the noble Lord is much more truthfully described by the angry Baronet than his mental capacity. He was strongly built, and had a round face, but it was pleasant to look upon, bright with good-humoured intelligence, and certainly the reverse of a fat, foolish face, like Sterne’s scullion, which the description and allusion seem to imply. He lived to a ripe age, and when the dread summons came, he died calmly at his seat, Batsford Park, in Gloucestershire, on January 16, 1830, in his eighty-second year.

Personal
appear-
ance of
Lord
Redesdale.

Death in
1830.

Lord Redesdale was succeeded in his honours and estates by his only son, John Thomas, the present Baron Redesdale, born in Ireland during the Chancellorship of his father, September 9, 1805. His Lordship is Chairman of Committees of the House of Lords, and performs his important duties ably and efficiently. He appears to have inherited many of the strong and deep-rooted convictions of his father, which he maintains with ability and consistency.

His son, a
disting-
uished
Member
of the
House
of Lords.

The most appropriate monument to the memory of this great Lord Chancellor is the two volumes of his ‘Judgments,’ reported by Messrs. Scholes and Lefroy² of the Irish Bar. Here the sound legal views of the Chancellor may be read with great advantage, and the judgments have the benefit of being, in many instances, revised by his

Decisions
of Lord
Redesdale,
reported
by Messrs.
Scholes
and Lefroy.

¹ Sir Egerton Brydges, one of the most accomplished writers of his day, is supposed by Mr. Townsend, from whose *Eminent Judges*, vol. ii. p. 189, I take this criticism, to refer to Antony and Cleopatra, act iii. scene 3, where the Egyptian Queen, enquiring of her rival Octavia, wife of Antony, asks:—

‘Bearest thou her face in mind; is’t long or round?’

Messenger. Round even to faultiness.

Cleopatra. For the most part they are foolish that are so.’

² Thomas Lefroy, afterwards Lord Chief Justice of Ireland—‘clarum et venerabile nomen.’ I had the honour of his acquaintance in after life, and received some letters from him not long before his death.

CHAP.
LVI.

Lordship. He was most solicitous to establish the Equitable Jurisprudence of Ireland, while suitable to this country, as closely resembling that of England as it might be, and with this object he assisted the reporters of his Court in every way he could.

These volumes comprise the judgments of Lord Redesdale in all reported cases from Easter Term, 1802, when he sat for the first time as Lord Chancellor of Ireland, until March, 1806, when he ceased to hold the Great Seal. His great knowledge of the principles of equity marked all his judgments relating to questions properly cognisable in the Court of Chancery, as distinguished from a Court of Law, and are highly important. Cases of this class are *Bateman v. Williams*.¹ His decisions on suits founded on the Irish Equity and the Tenantry Act, 19 & 20 Geo. III. c. 30, are also valuable.² In one of these cases—*Griffin v. Griffin*—the Law of Trusts came to be considered, and his Lordship's elaborate judgment, which occupies twenty-six pages of the Reports, discusses and reviews the cases in a very exhaustive manner. Suits for specific execution were also disposed of in masterly style. His judgments in *Lyndsay v. Lynch*,³ *Davis v. Hone*,⁴ *Harnet v. Yielding*,⁵ and *Crofton v. Ormby*,⁶ show how lucidly he treated all such cases. Some of his decisions were appealed from, and some reheard, but the result was to affirm his decrees.

¹ Scho. and Lef. p. 201. *Costigan v. Hastler*, 2 Scho. and Lef. p. 165. *Hamilton v. Royle*, p. 315.

² *Bowles v. Stewart*, 1 Scho. and Lef. p. 209. *Griffin v. Griffin*, *ibid.* 352. *Jackson v. Saunders*, *ibid.* 443.

³ 2 Scho. and Lef. 1.

⁴ *Ibid.* 341.

⁵ *Ibid.* 549.

⁶ *Ibid.* 583.

CHAPTER LVII.

LIFE OF RIGHT HONOURABLE GEORGE PONSONBY,
LORD CHANCELLOR OF IRELAND.

THIS eminent lawyer was descended from the ancient family which derives its origin from Picardy, in France.¹ The Ponsonbys shared in the spoils with which William the Conqueror rewarded those valiant knights whose prowess and knightly deeds won for him the fair realm of England. They settled in Cumberland, and the lordship of Ponsonby gave them their family name. The migration to Ireland dates many centuries later, and few could have foretold the stern Colonel of a cavalry corps, serving under Cromwell, would rear up a race who ardently loved Ireland and the Irish. Yet it was so. Colonel Sir John Ponsonby, Knight, was one of the Commissioners for taking depositions of Protestants in Ireland, and Sheriff of Wicklow and Kildare, in 1654. His descendant, William Ponsonby, was created Baron of Besborough in 1721, and it is the life of his great grandson I am about to trace.

The subject of this memoir was born on March 5, 1755. He was third son of the Right Honourable John Ponsonby (son of the Earl of Besborough and of Lady Elizabeth Cavendish, daughter of William, third Duke of Devonshire). The family of Ponsonby, from its great alliances and the ability of many of its members, grew into a power in Ireland. The Right Honourable John Ponsonby, father of the future Chancellor, himself a very eminent lawyer, was a Member of the Privy Council, Member of Parliament, and no less than six times Lord Justice, commissioned to administer the Government of Ireland during the Lord Lieutenant's absence.

CHAP.
LVII.

The family
of Pon-
sonby.

Sir John
Ponsonby.

Birth.

Right
Hon. John
Ponsonby.

¹ Ryan's Worthies of Ireland, vol. ii. pp. 468, 523.

CHAP.
LVII.Speaker of
the Irish
House of
Commons.

He was elected Speaker of the Irish House of Commons. In 1769, Mr. Ponsonby resigned the office of Speaker, from his determined reluctance to carry the address to Lord Townsend, then Viceroy, which had been agreed to by the House, despite his opposition. This sacrifice of his situation, rather than violate his principles, greatly increased his popularity, and he thenceforward became of more importance than even as Speaker of the House. He exercised an amount of patronage and influence in Irish affairs greater than any Commoner or peer who preceded him.¹ His propensity to please everyone, by refusing no request, gained him the nickname of *Jack Promise*, which did not always imply *performance*.

Jack
Promise.Education
of George
Ponsonby.

George Ponsonby was carefully educated, first at home, under the paternal roof, where his accomplished father took great pains to have his mind stored with suitable learning. Then, when of sufficient age to profit by mixture with other boys, he was sent to a public school, and having laid in a good foundation of science and classics, took his degree in the University of Cambridge, where his distinguished career denoted the excellence of his student life.

Graduate
of Cam-
bridge.
Becomes
a law
student.Called in
1780.His habits
not quite
profes-
sional.

As his father's progress at the Bar had been very successful, it was natural one of his sons should aim at pursuing so honourable and lucrative a profession, and, accordingly, George studied for the Bar. He was called to the Irish Bar in the year 1780, when he was in his twenty-fifth year. The important political events of that and the succeeding years diverted his attention from his profession, for a considerable time elapsed before he evinced that steady application, industry and attendance in the Courts absolutely necessary for the success of a young lawyer. His habits, too, were more those of a country gentleman than the consumer of midnight oil; he loved the sports of the field, the dashing excitement of the chase, the free bound of the hunter, better than the drudgery of the Courts; and for some years, fox-hunting and politics divided his attention and occupied his time.

¹ Ryan's Worthies of Ireland, vol. ii. p. 469.

In our days we should not expect to find a barrister without practice, or even taking the trouble of looking for it, called to the inner Bar in two years after his admission to practice; but when the Duke of Portland became Viceroy in 1782, desirous, most likely, to earn popularity by promoting so influential a man, he directed the Chancellor, Lord Lifford, to notify to Mr. Ponsonby that his Majesty sought him for one of his Counsel, and the place of first Counsel to the Commissioners of Revenue, with a salary of 1,200*l.* a-year, was conferred on him. This office had been held by Mr. Maurice Coppinger, who was displaced to create the vacancy for Mr. Ponsonby. The duties of this office, instituted for guarding the revenue from the frauds of smugglers or illicit distillers, by prosecuting the wrong doers, had no great charms for the young Counsel. He would at any time much rather witness unkennelling a fox, and amuse himself contending for the brush in a hard run, than employ the same time prosecuting smugglers or potent-distillers for breaches of the Excise laws. The duties must have fallen rather heavily on the junior Counsel, when the senior took little trouble to get convictions or verdicts for the Crown.

When about thirty years of age, Mr. Ponsonby married. The object of his choice was of high and ancient lineage, Lady Mary Butler, eldest daughter of Brinsley, second Earl of Lanesborough. The possession of a lucrative office, involving no great interference with the pursuits to which he was most attached, rendered Mr. Ponsonby little anxious about the support of his family; but changes were at hand which came unexpectedly, and materially altered the tenour of his life—changes which, though apparently disastrous at the time, may have led to future advancement.

The change of Ministers in England had the usual disturbing effect upon affairs of Ireland. The Duke of Portland was recalled, and the Marquis of Buckingham replaced him as Lord Lieutenant. This was ominous for the Ponsonbys. The Marquis was a staunch supporter

CHAP.
LVII.

Appointed
King's
Counsel
in 1782,
and
Counsel to
the Com-
missioners
of Revenue.

His mar-
riage.

Duke of
Portland
recalled.

CHAP.
LVII.

Mr. Ponsonby displaced, and succeeded by Mr. Marcus Beresford.

Changed habits.

Policy of the Irish Government.

of the Beresfords, in those days the rivals and opponents of the principles of the Ponsonbys, and one of the members of that house was a young barrister, Mr. Marcus Beresford, who was soon appointed to succeed Mr. Ponsonby as first Counsel to the Excise. He also had a seat in the Irish House of Commons, and was a thorough supporter of the Buckingham policy, as was all the Beresford party. We are so much the creatures of circumstances that we can rarely predict the consequences of events. Had Mr. Ponsonby not been removed from his office as Counsel to the Revenue, he might never have shone at the Bar or in Parliament. Now, however, that he had to work hard to maintain his wife and family, the great powers of his mind were called upon, and soon the result of his unremitting attention to his profession more than atoned for loss of official income. This, of course, was not attained without giving up those sports and recreations of which he was so fond. The greenwood glade, the furze-brake and gorse-covert, were exchanged for a brief-covered study table and the Four Courts; the tuneful cry of hounds and echoing horn of chase, for the prosy argument, or contentious debate; the quick stride of the hunter for the plodding gait of the lawyer; but success lent a zest to the practice of the law, and the rapidly increasing bag, and well-filled fee-book, was some consolation for loss of hounds and horses. The political arena, too, was a place in which Mr. Ponsonby soon distinguished himself. The Marquis of Buckingham, while professing to put an end to the jobbery and corruption which wasted the public money, filled the House of Commons with pensioners of the Government, and prevented the possibility of those measures of reform nowhere more needed than in the Irish Parliament. Whether the intentions of that statesman were honest or dishonest—and so much political profligacy has since been disclosed, it is not easy to say—he soon found it was easier and pleasanter to swim with the current than stop the tide. He was so beset by his rapacious supporters, that he was compared

to Actæon devoured by his own hounds. Instead of resisting further burdens on the public purse of the nation, they were much increased, and Commissionerships and other sinecure appointments were devised, to which persons were appointed who supported the Government, whose chief duty was to draw their salaries from the public purse.

Against this hydra of corruption, Mr. Ponsonby struggled like Hercules. It required, indeed, the power and energy of such a man to strangle the hydra, or cleanse the Augean stable of the Irish House of Commons, but the work was tried. Soon a resolute band of patriots gathered round Mr. Ponsonby, and worked with him. Grattan, Curran, and Forbes were able and zealous coadjutors, and the Viceroy found he raised up a formidable political enemy when he displaced the fox-hunting Counsel to the Board of Excise.

It would be impossible within the limits of this work to enumerate the various measures in which Mr. Ponsonby took part in the Irish House of Commons. One, however, is so important, and showed the desire of the members of the Irish House to act independently of the British House of Commons, I must mention it in some additional detail. His Majesty George III. had been so ill in 1789, that the appointment of a Regent was indispensable. The Prince of Wales, heir apparent to the Throne, was accordingly nominated by the British Ministry and Parliament, but his powers as Regent were restricted. In Ireland it was resolved that the right existed to nominate a fit Regent, with or without limited powers, independent of any reference to the course taken by the British Senate. The Irish Government party, aided by the Attorney-General, FitzGibbon, strongly resisted this, but the Opposition carried their point, and voted in both Houses, Lords and Commons, that his Royal Highness be invited to assume the regency of Ireland unfettered and unclogged by any of the restrictions which had been imposed in England. Mr. Ponsonby took a very prominent part in this matter. A deputation from both Houses of the Irish Parliament waited on the Lord Lieutenant with an address to his

CHAP.
LVII.

Mr. Ponsonby in Opposition.

Illness of King George III. The Prince of Wales named Regent in England, with limited powers.

In Ireland with unlimited.

CHAP.
LVII.

The Vice-roy refuses to forward their Address to the Prince.

A vote of censure passed.

The deputation graciously received.

The King recovers.

The conduct of the Attorney-General.

The different results in Great Britain and Ireland used in support of Legislative Union.

Mr. Ponsonby presented by the Chancellor with his brief bag.

Royal Highness, founded on this vote, which they requested his Excellency to transmit to the Prince. He refused, as this was so directly opposed to the principles of his administration. A vote of censure was passed on him by both Houses of Parliament; and a deputation, consisting of four members of each House, was sent to London with the Address. The Irish ambassadors were most graciously received by his Royal Highness at Carlton House, and honoured with the warmest expression of thanks for the generous attachment manifested towards him by the Parliament of Ireland, but the recovery of the King at that time prevented his Royal Highness from signifying any opinion as to the acceptance of their proposal.¹

It is believed that the zeal and boldness with which the Attorney-General (FitzGibbon) supported the views of the Government during this affair, constituted his strongest claim to the Great Seal, when, in 1789, the death of Lord Lifford left the office of Lord Chancellor of Ireland in the gift of the Ministry.

The different results arrived at by the Parliament of Great Britain and Ireland formed a strong argument in support of the legislative union of both countries, and was strongly pressed by Lord Castlereagh and his followers, as showing that, unless the Union was carried, there was every risk of separation, or such divergence as would render the connection difficult and dangerous.

As Mr. Ponsonby's practice was very much in the Court of Chancery, it was with much pleasure and more surprise that in 1789, on the elevation of the Attorney-General, Mr. FitzGibbon, to the Woolsack, he presented his bag to Mr. Ponsonby, giving an intimation to the solicitors who were accustomed to employ him, that he desired the briefs in future should be sent to Mr. Ponsonby. This was the more gratifying, as Mr. Ponsonby had always taken the opposite side in politics, and it was well known the new Chancellor was an implacable foe. Curran con-

¹ Ryan's Worthies of Ireland, vol. ii. p. 477.

sidered the course of conduct pursued towards him by the Chancellor entailed a loss of no less than 30,000*l*.

Mr. Ponsonby was so convinced the Chief Justice, Lord Clonmel, had acted in gross abuse of his judicial authority, and so oppressively in issuing attachments, that he brought forward a motion for his impeachment at the Bar of the House of Lords. In the course of his argument, he cited a mass of authorities on the subject, and made a powerful case. The motion was seconded by Mr. Curran, who had been Counsel against Magee, and, in referring to the anomalous position in which he then stood, ‘ begged the House would consider him now, not as acting the part of an advocate in a court of law, when he had spoken with his brief in one hand and his fee in the other, but as a member of Parliament, delivering the opinion of a constitutional lawyer, and an honest man ; and he perfectly coincided in the statements and opinions so eloquently expressed, and so ably advanced by his learned friend.’

The motion was resisted by the Ministry ; and the Attorney-General, Mr. Wolfe,¹ urged ‘ that Judges are but men, and liable, even with the best intentions, to human errors and oversights. He suggested that enough had been done by the introduction of the motion to prevent a repetition of the like errors again, and expressed a hope that his learned friend would consent to withdraw a motion calculated to depreciate the judicial station, and to encourage and give triumph to those who set all law and all authority at defiance.’

In reply, Mr. Ponsonby said, ‘ In bringing this question before the House he had done his duty as a Member of Parliament and a supporter of the laws, the Constitution, and the liberties of the subject ; and, therefore, he could not so lightly abandon a measure he had adopted with the coolest determination, and the fullest conviction of its necessity. He should leave it for the House to do its duty,

CHAP.
LVII.

Mr. Ponsonby's Motion for the Impeachment of the Lord Chief Justice. Seconded by Mr. Curran.

The Attorney-General opposes the motion.

Mr. Ponsonby's reply.

¹ The Right Hon. Arthur Wolfe, afterwards Lord Kilwarden, Chief Justice of the King's Bench. This excellent man and humane judge was killed in the streets in Dublin during Emmet's insurrection in 1803.

CHAP.
LVII.

Mr. Wolfe
a good
lawyer, but
a miserable
Attorney-
General.

and dispose of his motion as they pleased; but he should not withdraw it. He acted from no motive of personal feeling towards the noble judge. His learned friend (Mr. Wolfe) he believed to be a good-natured man, and a good lawyer, but he thought him *a most miserable Attorney-General*. If, however, he was content to abandon the defence of his noble friend, the learned Judge, by declining all argument and trusting the decision of this question to the Book of Numbers, be it so. He, Mr. Ponsonby, was quite aware of what would be the issue; he had done his duty. He might, it is true, lose his motion, but Lord Clonmel was *damned for ever*.¹

The Government was then all powerful, and the motion was, as indeed Mr. Ponsonby expected, negatived without a division. But he had gained his end; the noble Lord's judicial character, never very high, was, indeed, sunk for ever.¹

Mr. Ponsonby in favour of Catholic Emancipation and Reform.
Earl Fitzwilliam Viceroy.

In the struggles which the Roman Catholics made to break their fetters, and in the attempts to reform the Irish Parliament, Mr. Ponsonby took the popular side. He was the personal friend of Earl Fitzwilliam; and, when that excellent nobleman was selected to succeed the Earl of Westmoreland as Lord Lieutenant, Mr. Ponsonby hailed his advent as a messenger of peace to Ireland. The new Viceroy arrived, and with joy was welcomed by Mr. Ponsonby. Everything looked well for Ireland; and, as a substantial earnest of the nation's gratitude, and in proof of the advice heretofore given by the Duke of Portland, three millions was voted to England in aid of the war with France. Scarcely had this vote passed both Houses, than the authority of Lord Fitzwilliam to propound liberal measures for Ireland was denied by the British Cabinet. When the subject of Catholic Emancipation was discussed in the Irish Privy Council, it was strenuously opposed by the Protestant Ascendency party in that assembly. Mr. Grattan having represented the danger of exasperating the

Gratitude of the Irish for expected favours.

¹ For curious details of Chief Justice Earl of Clonmel, vide Ireland before the Union, and extracts from the Earl's Diary, by W. J. Fitzpatrick, Esq., J.P.

feelings of the nation by refusing what was so confidently expected, and the possible danger of civil war, he was met by the retort—‘What of that? Suppose the conflict should cost 50,000 lives, it were better so than forfeit the ascendancy of the Protestant interest in Church and State.’¹

CHAP.
LVII.

Earl Fitzwilliam soon found the members of the Cabinet who shared his enlightened views on Irish affairs were in a woeful minority, while the ascendancy nearly carried everything their own way. He felt that he had unwittingly raised hopes destined to be disappointed; and, considering he had himself been grossly deceived, addressed a public letter to the Duke of Portland, and resigned an office ‘he could not retain with honour to himself or advantage to his country.’

Policy of Earl Fitzwilliam unsupported by the Government.

The resignation of the Viceregal authority by Lord Fitzwilliam smote the nation with dismay. His departure was bewailed as a national calamity. He passed, on his way to embark for England, through ranks of sorrowing Irish; and, throughout the city, the shops were closed, mourning was in the streets, in the faces, and in all hearts.

Consequences of his resignation.

The Castle was again the citadel of ascendancy. Lord Camden was the new Viceroy, Mr. Pelham Secretary, Lord Clare Chancellor; and soon rebellion reared its horrid front. The Union was planned, and, among the band of earnest and able men who fought against it unsuccessfully, was George Ponsonby.

Mr. Ponsonby an Anti-Unionist.

The Fox and Grenville Coalition once more placed the Liberals in power; and the Irish Seals, as we have seen, were most rudely plucked from Lord Redesdale. Mr. Ponsonby became Lord Chancellor in 1806. He was very anxious that his friend and colleague in his Parliamentary struggles for the rights of Ireland, John Philpot Curran, should be provided for. He accordingly negotiated the retirement of Sir Michael Smith, Master of the Rolls, which secured Curran’s appointment to that office—worth

The Coalition Ministry.
Mr. Ponsonby Lord Chancellor.

¹ Ryan’s Worthies of Ireland, vol. ii. p. 486.

CHAP.
LVII.

The Chancellor secures the appointment of Curran as Master of the Rolls.

4,000*l.* a-year; but, unfortunately, there were some matters in this arrangement which, instead of cementing the existing friendship, had the effect of causing a long and painful separation between these two.

Alas, they had been friends in youth,
But whisp'ring words can poison truth,
And constancy lives in realms above,
And life is thorny, and youth is vain,
And to be wroth with those we love,
Doth work like madness on the brain.

Mr. Curran dissatisfied with his appointment.

Mr. Curran's son, and most faithful biographer,¹ thus refers to this appointment of his father. 'With this appointment he was dissatisfied at the time, and he never became entirely reconciled to it. It imposed upon his mind a necessity of unaccustomed labour, and unaccustomed restraint, to which opposite habits of so many years did not allow him easily to submit. Whatever may have been its dignity or emolument, it had no political consequence; and therefore, to him, who had acted such a part in the history of his country, it seemed rather like a compensation for former services, than as a means for taking that honourable share to which he felt himself entitled, in an Administration that promised such benefits to Ireland. These sentiments of disgust, in which he perhaps indulged to an unreasonable excess, disturbed the friendship which had so long subsisted between him and the late Mr. George Ponsonby, whom Mr. Curran considered as having, by his acquiescence in his appointment to the Rolls, attended to his nominal interests at the expense of his feelings and his reputation.' In this opinion, however, encouraged by some subsequent circumstances, it is due to the memory of Mr. Ponsonby to state, that Mr. Curran was mistaken. Mr. Ponsonby made no such intentional sacrifice of his friend. He imagined that he was observing, with the strictest honour, the spirit of every former engagement, although it cannot

Vindication of Mr. Ponsonby.

¹ The late William Henry Curran, Esq.

be too much lamented that he should have withheld all explanation on the subject until a mutual alienation had taken place, which no explanation could recall. The impression was never removed from Mr. Curran's mind, that he had, upon this occasion, been unkindly treated; but it is pleasing to observe, that his resentment was softened and finally subdued by the recollection of his former regard and respect.¹

Besides this personal feeling, there was superadded a pecuniary grievance which necessarily did not serve to soothe the wounds of Mr. Curran. Mr. Ridgeway, who was secretary to the Master of the Rolls, with a salary of 500*l.* a-year, was to be provided for. Mr. Ponsonby expected this would have been done by Mr. Curran, and as the latter considered he had a right to appoint his own secretary, would not recognise any claim of Mr. Ridgeway, Mr. Ponsonby paid the salary out of his own pocket.² Lord Chancellor Ponsonby then made a general order in 1806, that the appointment of secretary did not belong to the Master of the Rolls, which was very mortifying to his Honour, but he did not raise any question as to the propriety of this order.³

The Coalition Ministry did not last long, and Lord Manners was appointed Keeper of the Great Seal of Ireland.

Mr. Ponsonby, now ex-Chancellor, with the usual pension of 4,000*l.* a-year, devoted the remainder of his life to politics in the British House of Commons, and, on the death of Mr. Fox, was chosen to lead the Opposition, a proof of the high estimate in which he was regarded as a speaker and statesman. He was a clear and polished speaker, his language choice and forcible, his arrangement logical, and his arguments seldom failed to convince. He was blessed with a most retentive memory,

The ex-Chancellor in the British House of Commons.

Leader of the Opposition.

His talents for debate.

¹ Curran's Life, by his son, vol. ii. p. 243.

² Ryan's Worthies of Ireland, vol. ii. p. 490.

³ The subject was afterwards very fully considered, in the times of Sir Anthony Hart and Lord Plunket.

CHAP.
LVII.

A law
reformer.

which he relied on with certainty, never taking notes of the points he wished to refer to, yet so unfailing were his powers of recollection, that no matter how numerous the previous speakers, he always replied to them in due order. He directed his attention to some measures of law reform. On March 4, 1817, he brought in a Bill to prevent the necessity of renewing certain civil and military commissions on the demise of the Crown. About the same time, he supported Sir John Newport's motion for diminishing fees in Courts of Justice; and when a measure respecting the Welsh Judges was before the House, he contended the functions of a Chief Justice of Chester and Attorney-General were incompatible. This was the closing year of his active and varied life. While at his post in the House of Commons, he was seized with paralysis, which proved fatal. He expired at his house in Curzon Street, Mayfair, London, on July 8th, 1817, and was buried in Kensington churchyard, beside his brother Lord Imokilly.

Attacked
by pa-
ralysis.
Death in
1817.

He left no surviving male issue. His only daughter, Martha, was married to the Honourable Francis A. Prittie, M.P. for Tipperary, second son of Lord Dunally. It is due to the memory of the two illustrious Irishmen, Curran and Ponsonby, to mention that the estrangement I have felt it my duty to relate, was removed before death. During his last illness, Mr. Curran, being in London, became reconciled to his old friend, and, after his lamented death, took every opportunity of recalling his great qualities of head and heart, and the long and faithful services by which the name of Ponsonby is endeared to Ireland.

Curran and
Ponsonby
reconciled.

CHAPTER LVIII.

LIFE OF LORD MANNERS, LORD CHANCELLOR OF IRELAND, FROM HIS BIRTH TILL THE VISIT OF KING GEORGE IV. TO IRELAND.

LORD MANNERS held the Great Seal of Ireland for the space of twenty years. He was an Englishman by birth, education, and sympathy; and politically opposed to the religion and aspirations of the Irish people. Thomas Manners Sutton was descended from the House of Rutland. His father, Lord George Manners, was third son of John, third Duke of Rutland. Lord George assumed the additional name of Sutton on succeeding to the estate of his maternal grandfather, Lord Laxington.

CHAP.
LVIII.
Lord
Manners,
Lord Chan-
cellor.
High
lineage.

By the marriage of Lord George Manners Sutton with Diana, daughter of Thomas Chaplin, of Blankney, in Lincolnshire, Esquire, Lord George had a numerous family, seven sons and six daughters. Two of the sons were destined to occupy high stations. One became Archbishop of Canterbury.¹ The fifth son, Thomas, was the future Lord High Chancellor of Ireland. He was born on the 24th February, 1756, and received the groundwork of his learning at Charter House School.

Lord
George
Manners
Sutton.

Thomas
Manners
Sutton,
born
A.D. 1756.

Some notice of Charter House School may interest my readers. Close to Smithfield, which, in an old map of London, A. D. 1563, I find written Schmyt Fyeld, was the convent of the Carthusians, founded by Sir Walter de Manné, a famous general in the reign of Edward III. It was completed as a priory in 1370, and occupied by monks of the severe order of Carthusians, for one hundred and sixty-four years. When, in 1500, the religious notions of the reigning English monarch made the heads of his

The
Charter
House.

¹ His son Charles was Speaker of the House of Commons from 1817 to 1836, when he retired, and was ennobled by the title of Viscount Canterbury.

CHAP.
LVIII.

How
Henry
treated the
complai-
sant Prior.

subjects rest very insecurely upon their shoulders, Henry VIII. required the Prior, John Howghton, to subscribe a declaration, 'that he, Henry, King of England, Scotland, France, and Ireland, was also head of the Church;' and John Howghton, in the hope the little remnant of his own life would be spared by his compliance, yielded, and subscribed the declaration; but he was signally disappointed, for, on opposing some other demand of this arbitrary monarch, John Howghton was soon after executed.¹ The Priory was shortly afterwards dissolved and sold. Having passed through several hands, it was purchased by a wealthy and charitable citizen of London, Thomas Sutton, for 13,000*l*. He established the present Charter House (supposed to be a corruption of 'Carthusian' house), in the time of James I. The foundation supports a master, a preacher, a head schoolmaster, and second master, with forty-four boys; eighty decayed gentlemen, who had been soldiers or merchants, besides physician, surgeon, registrar, and other officers, and servants of the house. Each decayed gentleman has fourteen pounds a-year, a gown, meat, fire, and lodging. This was the greatest gift in England, either in Protestant or Catholic times, ever bestowed by a single man, except Guy's Hospital.²

Charter
House
founded by
Thomas
Sutton.

Thomas
Manners
Sutton at
school.

It was, probably, from some family connection between this munificent Thomas Sutton and the subject of this memoir, his namesake, that caused young Thomas Sutton to be placed at this school. Like most of the youths who have been educated at Charter House, Thomas Manners Sutton loved the quaint old pile. He longed for the memorable 12th December—the 'founder's day'—when high solemnity was kept in the hall of the Cisterians. Though no friars in 'orders grey' appeared in habit and cowl, there were grey-bearded men—four score—many of them equal in years and in number. They mingled with the young and cheery schoolboys in the chapel, where the founder's tomb, rich in sculpture, with heraldic shields and allegories in high relief, reveals the glories of *Fun-*

Founder's
Day.

¹ Pennant's London, p. 202.

² Ibid. p. 203.

dator Noster; thereupon Sutton's statue is carved, with ruff and band, the long gown of the seventeenth century reaching nearly to his feet. The noble old hall is a fine specimen of Tudor architecture. Hither, on the founder's day, flocked the young and old; many who had been here schoolboys in their youth, now ripening into old age, yet recalling on this day memories of their early days, and familiar faces long since taken from earth, and voices which shall never more be heard. The head gown boy, usually nervous and fidgety, recited a Latin oration in which a panegyric on the departed founder was rolled forth in the language of the masters of the world. This over, the assembly trooped along the old passages, by chambers adorned with grim old portraits; but not without a certain degree of order belonging to this solemn old pile. The stewards of the dinner—no small portion of the day's programme—gravely headed the procession, bearing wands. Then the black-gowned pensioners had their places, contrasting in dress and appearance with the chubby-faced, rosy-cheeked, white-collared boys, who filled the benches. How young Thomas Sutton, and other riotous urchins, cowered beneath the stern eye of the Doctor, who sat in his elevated seat. Then came the Psalms, recording, in the words of Holy Writ, that

'The steps of a good man are ordered by the Lord, and he delighteth in his way.

'Though he fall, he shall not be utterly cast down, for the Lord upholdeth him with his hand.

'I have been young, and now am old, yet have I not seen the righteous forsaken, nor his seed begging their bread.'

From Charter House, young Thomas went to Cambridge University, and was a student of Emmanuel College, where he distinguished himself by his learning and industry. He was placed a fifth wrangler in 1777. Concurrently with his University studies, he was a law student, having entered on his commons at Lincoln's Inn in November 1775.¹

A member
of Cam-
bridge
University.

Student of
Lincoln's
Inn.

¹ Foss's Judges of England, vol. viii. p. 371.

CHAP.
LVIII.

There is not much for narration in the life of a diligent law student. Poring over the text books, copying pleadings, and attending lectures, form the usual routine.

Called to
the Bar.

Manners Sutton was no idle student. He resolved to prepare himself for his profession by diligence and application; and when he was called to the Bar by the Society of Lincoln's Inn, in November 1780, he was well qualified to practise his profession.

Obtains a
silk gown
in 1800.

Although from his connections we might have expected his rapid promotion at the Bar, it was very slow. A period of twenty years elapsed before he got a silk gown. At length, in 1800, his knowledge of equity practice was so considerable, it procured him such a share of business as to entitle him to the honour of being made a King's Counsel, with the appointment of Solicitor-General to the Prince of Wales. This was the step that led to further promotion. In his official capacity he brought before the Parliament of 1802, when he sat for the family borough of Newark, the claim of his Royal Highness to the revenues of the Duchy of Cornwall. Manners Sutton advocated the Prince's claim with such tact and ability, as to please the great political antagonists, Pitt and Fox, who concurred in a tribute of approbation upon his conduct.

His con-
duct in
Parliament
praised by
Pitt and
Fox.

Appointed
Solicitor-
General,
and
knighted.

Trial of
Colonel
Despard
for high
treason.

That the zeal and talent Mr. Sutton then displayed was not displeasing to the King was soon evident, for in the following May, Mr. Addington, then premier, had the pleasure of offering to make him Solicitor-General of England, which he gladly accepted, and, as is usual, was knighted. His station at the Bar now brought him prominently into notice, and the journals of the time mention him with praise. He was Solicitor-General on the trial of Colonel Despard and his accomplices for high treason, before the Special Commission, in February 1803; and the Solicitor-General's conduct on that eventful occasion displays great legal astuteness. Though, as he stated in his address to the jury, he was inexperienced in a Court of this description, his questions on the direct and cross-examination are well put; and his speech in reply to the

defence displays a great knowledge of Crown law. The prisoner was convicted and executed.¹

CHAP.
LVIII.

Sir Thomas Sutton was for some years Recorder of Grantham; and, therefore, had considerable judicial as well as legal experience, when the resignation of Mr. Baron Hotham left a vacancy on the bench of the Court of Exchequer. This was offered to, and accepted by, the Solicitor-General, and on February 4th, 1805, Sir Thomas Manners Sutton became one of the Barons of the Exchequer.

Baron of
the Ex-
chequer in
1805.

He was not destined to remain long a puisne judge. The Ministry of All the Talents was not long lived. The anxiety of the Ministers to do justice to the Catholics of Ireland is supposed to have hastened its downfall, and the Government of Mr. Perceval placed the Great Seal of Ireland for the acceptance of Baron Manners Sutton. Thus he was selected by the Premier, Mr. Perceval, to succeed Mr. Ponsonby as Lord Chancellor of Ireland in April, 1807; and on the 20th of that month was raised to the peerage as Baron Manners of Foston, in Lincolnshire. His character and conduct as Lord Chancellor was favourably contrasted with some of his immediate predecessors. The haughty, petulant, repulsive, and supercilious demeanour of Lord Clare, was compensated for by the rapidity of perception, the acuteness and despatch, of Lord Redesdale. Of Mr. Ponsonby there was not much to challenge remark; but all admitted, that had longer time been allowed him to develop those great qualities which he displayed at the Bar and in Parliament, he would have been an excellent Equity Judge. Lord Manners soon became a favourite with many members of the legal profession. He was attentive, decorous, gentlemanlike, distinguished for his urbanity; not, indeed, deeply read, but evincing ability to understand and judgment to decide. He tried to expe-

Lord Chan-
cellor of
Ireland,
1807.

Lord
Manners
on the
Bench.

¹ Vide Cobbet's State Trials, vol. xxviii. p. 346. For an interesting account of this unfortunate Irish officer, whose widow was generously relieved by an Irish peer, see Recollections of Lord Cloncurry, p. 49.

CHAP.
LVIII.

dite business, and simplify the practice of the Court of Chancery.¹

Irish
Justices'
justice,
temp. Lord
Chancellor
Manners.

The habits and judicial unfitness of the country squires intrusted with the Commission of the Peace during the time Lord Manners was Lord Chancellor, is thus described by a contemporary:—‘To obtain justice or magisterial intervention was a sort of favour and compliment, rather than a right that could be practically enforced; but there remained little good feeling or kindness between those who sought for and those who had the power of granting the favour. If a peasant or a farmer had a complaint to make to a Justice, he might parade for hours—sometimes for days—before his worship’s door before he could gain a hearing; and if his complaint lay against a neighbouring squire or squireen, no summons for the latter could be procured; but perhaps a sealed note inviting his attendance, to be humbly delivered to him by the complainant with his own hands. A distant day was then probably appointed for the hearing, when the defendant was received with friendly courtesy, while the plaintiff was suffered to resume his parade before the door until it suited the convenience of the Justice to call him into the hall. If then his case was so clear, or so feebly opposed, as to necessitate a decree in his favour, the law provided another distant day for the settlement of his claim, allowing no compensation for the three or four days’ time which in all likelihood he had lost in prosecuting the suit.’

The effect
of this.

The effect of such a state of the magisterial bench was very mischievous. It created a suspicion in the mind of the lower orders of the Irish they owed nothing to justice, and they sought to win the favour of the local magistracy by the most slavish submission and cringing demeanour. If a tenant of one of these county magnates was prosecuted, he felt quite easy about the result of his case, for ‘the masther had only to put in a good word for him to

¹ Monthly Panorama, Dublin, 1811, p. 341.

² Personal Recollections of Lord Cloncurry.

the Judge to get him off.' I remember when on the Munster Circuit, a prisoner in the Cork dock, on being asked 'Are you ready for your trial?' replied in the negative; whereon Judge Perrin, who presided, enquired the reason, and the answer was, 'Bekase the Fermoy coach is not in yet, me Lord, an' I expect Captain Collis, the magistrate, in it, to see me justified.'

CHAP.
LVIII.

In remote districts, the favour of a local magistrate was often purchased by most corrupt means, and when a case was to be decided, each party worked every engine to bring influence to his aid; personal application, letters of recommendation, presents of various kinds were given to further or defeat the litigant's case. This state of affairs has happily passed away, and our present estimable Lord Chancellor carefully endeavours to appoint magistrates in whom the people place confidence. The great impediments and discouragements to Catholic magistrates, who were superseded by Lord Manners, at the instigation of political enemies, and denied even the names of their accusers, is fully disclosed in the petition of a superseded magistrate, named O'Hanlon. The petition is thus prefaced in the 'Ulster Register,' November 1816:—

'Differing as we do entirely with Mr. O'Hanlon in his political opinions, which we conceive not to be marked with that decision of character we should have expected, we cannot, however, refuse him our attestation to his merits as a magistrate, administering the laws of his country with firmness, impartiality, and intelligence. The people of the counties of Down and Armagh may now appreciate the value of such a magistrate as Mr. O'Hanlon. The opportunities of comparison have been enjoyed, and we are much mistaken, indeed, if they do not consider the loss they have sustained by his absence from the Bench, to be much greater than they had anticipated.

The case
of Mr.
O'Hanlon,
superseded
by Lord
Manners.

CHAP.
LVIII.

‘ To the Honourable the House of Commons.

*‘ The Petition of Patrick O’Hanlon, of Newry, in the
county of Down, Esq.*

‘ Respectfully sheweth,

Petition to
the House
of Com-
mons.

‘ That, in the year 1806, your Petitioner was nominated of the Commission of the Peace for the counties of Down and Armagh, which two counties join near his residence, and in both of which he then had and hath freehold estate.

‘ That, in the beginning of the year 1808, your Petitioner was served with writs superseding him in said Commissions, without any cause being thereto assigned, or any previous notice given to him thereof.

‘ That, he addressed himself to the then Lord Lieutenant of Ireland, his Grace the Duke of Richmond; and the then Lord Chancellor, the Lord Manners; complaining, in respectful terms, of the injustice of this proceeding toward him, claiming to know the grounds on which it was adopted, and challenging the strictest investigation into his actions and words, to show anything disloyal in the whole course of his life; or anything corrupt, or partial, or irregular in his conduct as a magistrate.

‘ That, the then Chief Secretary (by the splendour of his achievements, now Duke of Wellington) referred him to the Lord Chancellor, to whom your Petitioner made, after a fruitless address by letter, personal application; but his Lordship refused to your Petitioner’s reiterated solicitations any information whatever, why he had been superseded by his Lordship; of what, or by whom, he was accused; and your Petitioner found himself obliged to submit under imputations the most afflicting to him, as a man of honour and a loyal subject.

‘ That, he subsequently received from the Lord Manners a letter, acknowledging his Lordship’s injustice to your Petitioner, of which the following is a copy:—

‘ “ *To P. O’Hanlon, Esq.*

CHAP.
LVIII.

‘ Dublin, April 8, 1808.

‘ “ SIR,—I have great pleasure in being able to inform you, that upon a very full investigation of the circumstances which induced me to remove you from the Commission of the Peace for the county of Armagh, I am satisfied *I have done you injustice* by that act, and that you are entitled to have your name restored. I have accordingly signed a fiat for that purpose; and I am, sir, your obedient humble servant,

Reinstated
by the
Lord Chan-
cellor.

‘ “ MANNERS.”

‘ That, your Petitioner has continued, since that period until the month of February last, to discharge, to the best of his judgment, the duties of a Justice of the Peace for said counties.

‘ That, in the part of Ireland where your Petitioner resides, the habits of the people are industrious, and, generally speaking, amenable to the laws; but many violations of the peace have occasionally arisen during the period for which your Petitioner has been in the Commission, from the hostility of opposed factions, arranging themselves under party distinctions, and assuming different religious designations.

‘ That one of those factions comprehends a very large portion of the Protestant population, from the lowest to the superior ranks of society, and is exclusive of Roman Catholics.

‘ That this association has been opposed by contra associations, under various denominations, amongst the lower orders of the Catholic population.

‘ That your Petitioner, of no illegal association himself, and considering it his duty impartially to administer, so far as depended upon him, the laws, equally to all his Majesty’s subjects, has found himself occasionally obliged to differ with some other magistrates, those chiefly of the county Armagh, who, at Quarter Sessions, on trials of offences emanating from party feelings, appeared to your Petitioner unjustly to favour one particular party, of which

Petitioner
an impar-
tial magis-
trate.

CHAP.
LVIII.

many of those magistrates avow themselves sworn members; and, in the opinion of your Petitioner, partial decisions have, in many instances, been adopted by the majority of the Bench where your Petitioner has been one of the presiding magistrates, and declarations made, tending to perpetuate and aggravate the bad passions of the country—strengthening in one party feelings of vulgar domination and assurance of favour—and in the other, rancorous discontent.

Communi-
cation
from the
Lord Chan-
cellor.

‘That, on the 13th of February last, without any previous intimation, he received from the Lord Manners, a letter, informing him, that in consequence “of a strong remonstrance, complaining of his misconduct as a magistrate,” his Lordship had removed him from the Commission of the Peace for the counties of Down and Armagh.

‘That, having the honour to be known to the Marquis of Downshire, and to the Viscount Castlereagh; the first the premier nobleman of the county of his residence, and the latter one of its representatives in your honourable House, your Petitioner did address himself to those noblemen, stating this second, unprovoked, and undeserved outrage on his feelings and on his character.

Applica-
tion in his
behalf.

‘That the Marquis of Downshire did, in consequence, claim, in behalf of your Petitioner, from the Lord Chancellor Manners, “a communication of the accusation, and an examination into the allegations of misconduct; and, as a matter of right due to every subject, that your Petitioner should not be condemned on an *ex parte* statement; but that the accused should be confronted with the accusers and the accusation; and stating that your Petitioner, whom his Lordship was pleased to call ‘his friend,’ was incapable of any misconduct to call for such a proceeding.” And the Viscount Castlereagh did by letter give your Petitioner to understand, that his Lordship had had a communication with the Lord Manners, to whom his Lordship referred your Petitioner for the information he sought.

‘That your Petitioner did, in consequence, address the following letters to the Lord Manners:—

“MY LORD,—I received, a few days subsequent to its date, the letter in which you were pleased to communicate to me, that ‘in consequence of a strong remonstrance, complaining of my misconduct as a magistrate,’ you had removed me from the Commission of the Peace for the counties of Down and Armagh; but your Lordship has not favoured me with any information as to the allegations with which this remonstrance is supported, nor by whom made. I respectfully claim from your Lordship a knowledge of both, and an opportunity of being confronted with the accusation and its authors. Vague and uncertain reproof has ascribed this ‘remonstrance’ to certain magistrates of the county Armagh, but even report is silent as to any *specific* charge on which it is founded; and, on a review of the whole course of my conduct as a magistrate, I am myself unable to conjecture on what my accusers rely. There is generally a considerable indulgence given (and justly given) to the unintentional mistakes of gentlemen exercising the important and gratuitous duties of the magistracy; but to this indulgence I do not know that I have occasion to lay any claim, much less to seek impunity for any tergiversation. It is eight years since your Lordship ascertained the ‘injustice’ of a secret insinuation, on which a like proceeding was then adopted, as that of which I now respectfully complain. On an examination, where *I was not*, and on a charge of which I am *yet altogether ignorant*, your Lordship found that your ear had been abused by falsehood or by malice. They have again been successful against your Lordship and against me. The result of a scrutiny will be alike favourable to both; it will furnish your Lordship with an opportunity of exercising an honourable magnanimity, and it will again give me the triumph of ascertained innocence. I confidently anticipate those results; it is not possible I should be disappointed, because my conduct as a magistrate has been not alone *pure* but *discreet*, and your Lordship will be just. I forward a letter to your Lordship, with which the Marquis of Downshire has favoured me; and, awaiting

CHAP.
LVIII.

First Letter to the
Lord Chancellor.

CHAP.
LVIII.

the honour of your reply, I remain, my Lord, your most obedient and most humble servant,

“ P. O'HANLON.”

Second
Letter to
the Lord
Chancel-
lor.

“ MY LORD,—I had the honour of addressing your Lordship on the 20th instant, &c., &c. Under the very untoward circumstances in which I found myself placed, I had written to Lord Castlereagh (M.P. for this county) to whom I have been longer, and perhaps better, known than to your Lordship; and I awaited his reply before I had addressed to you any application. His Lordship gave me to understand that he had had a communication with your Lordship on the subject, and he referred me to your Lordship for the information, which it is essential to the justification of my character to obtain. It is not possible, my Lord, that I can rest under the imputations which have been thrown upon me, in the very unusual procedure under which I have been made to suffer. I have applied to your Lordship's justice, and I cannot anticipate a denial of my suit, which is not for *acquittal*, but for *examination*. I know not of what I am accused; I cannot learn it through any channel here, but I find some persons distinguished for the profession of violent party feelings, went about electioneering for signatures to a prayer adverse to me, and addressed to your Lordship. I find many magistrates of the *most* respectable character and situation in life refused to become parties in the application; others, the merchants of Newry, of all sects and parties, have addressed the Lord Lieutenant and your Lordship, bearing testimony to the integrity of my conduct as a magistrate. I have seen this memorial from persons to whom I am best known, and who are of a class of character to whom no bribe or consideration would be an inducement to attest aught in the remotest degree contrary to truth. I own myself proud of such a testimony, so elicited, and from such men. ‘ Were I not supported by it—were I unknown to either Lord Downshire or Lord Castlereagh—were I unknown to the Government of the country—did I stand

singly on my right as a subject of his Majesty, the demand I make could not be refused to me. I claim not to be condemned unheard'—not to be made suffer the consequences of ascertained delinquency on charges unknown to me, and of which, while I claim to be informed of them, I challenge the investigation. Every axiom of our civil polity, every principle of justice, every principle of equity, all the conclusions of your Lordship's legal mind, every honest, every honourable feeling, support me in my application to your Lordship.

“I have the honour to be, my Lord, &c., &c.,

“P. O'HANLON.”

‘That, the Lord Manners, having refused to your Petitioner the examination prayed for in those letters, your Petitioner went up to Dublin to make personal application to his Lordship; and previous to doing so, did wait upon Mr. Saurin, his Majesty's Attorney-General for Ireland, the known confidential adviser of his Lordship. That, in the conversation had with Mr. Attorney-General your Petitioner learned that there was not any specific charge made against him, but that certain magistrates, whose names are concealed from him, but who are, as your Petitioner believes, of the county Armagh, had made a representation against him to the Lord Chancellor. The Attorney-General admitted, that no charge or insinuation of corruption had ever been preferred against him, *but said that your Petitioner, in professing himself favourable to Catholic Emancipation, under any modification whatever, “sought the overthrow of the Government,” and that all those, Vetoists as well as Anti-Vetoists, who promoted that measure (including in this description, by name, some of his Majesty's ministers, many members of your honourable House, and many of the highest political characters in the empire), were alike seeking the overthrow of the Government; and did alike found their arguments upon the principles of French Jacobinism.* He praised the Orange Associations of this country; said that their association and their oath of

Declara-
tion of the
Attorney-
General.

CHAP.
LVIII.

conditional allegiance, were *perfectly* constitutional and perfectly conformable to the principles of the settlement, at the period of the Revolution. That allegiance was only due to the Crown so long as it was Protestant, and upheld the Protestant establishment."

'That your Petitioner, in two interviews with the Lord Chancellor, each of considerable length, represented to his Lordship the state of parties in the neighbourhood of his residence—the participation of *many* magistrates in those local factions, and their public declarations of approbation of them. Your Petitioner stated to his Lordship the particulars of his conversation with the Attorney-General; and his Lordship declared in like manner, but with a politeness suitable to his more polished character, that he considered "The Orange Associations, and their conditional oath of allegiance" *perfectly* "constitutional," and professed himself of a different opinion from some of the Judges who had pronounced them to be illegal. His Lordship declared that he did *not disapprove* of magistrates avowedly Orangemen, sitting as Judges on trials of offences where persons of that Association, as such, *were prosecutors or traversers*. His Lordship was pleased to say, that he had no doubt a considerable part of the objection to your Petitioner arose from feelings of jealousy, under a sense of inferiority in the magistrates who had applied against him—and on your Petitioner saying to his Lordship, "using for the moment, my Lord, the complimentary observation you have made, may I beg to ask, is that a ground for my dismissal?" His Lordship replied, that "he could not answer your Petitioner's argument—that he admitted his conduct towards him to be arbitrary in the extreme," and "altogether *ex parte*;" and finally refused to communicate to your Petitioner not merely the "remonstrance" which his Lordship had stated as having been presented to him, with the names of the parties to it, but even the "remonstrance" without the names. And the utmost concession your Petitioner could obtain from his Lordship, was a promise that he would apply to the

The Lord Chancellor's opinion of Orange Associations.

persons accusing your Petitioner, to point out some specific act of misconduct, in justification of their general alleged charge.

CHAP.
LVIII.

‘At the distance of nearly two months, your Petitioner has in vain applied to his Lordship for the fulfilment of this promise.

‘That your Petitioner, in order to avoid the necessity of a more public appeal, did wait upon his Excellency the Lord Lieutenant, who referred him to Mr. Secretary Gregory, who, after communicating with the Lord Lieutenant, told your Petitioner that his Excellency had no power of control or interference in the matter.

Lord Lieutenant has no jurisdiction in the matter.

‘In those circumstances, your Petitioner comes before your honourable House, for the purpose of vindicating his character from the implied imputation thrown upon it; for the proceedings adopted towards him are always understood to be founded on ascertained incompetency, disloyalty, or corruption; though each and every of those grounds are expressly disavowed by the Lord Chancellor Manners. And for the much more important object, than anything merely personal to your Petitioner could be, of laying before Parliament a statement, by which he seeks respectfully to convey to its wisdom a true representation of the principles and conduct of the persons who exercise the most important and influential offices in the Government of Ireland. The tendency of the declarations made to your Petitioner by the Lord Chancellor and Mr. Attorney-General, are, he humbly submits, too obvious to need comment from your Petitioner; and, as connected with circumstances, some of which are in the knowledge of your Petitioner, others are of public notoriety, and others yet within the inquisitorial power of Parliament, show, as your Petitioner conceives, a system of management, tending to bring the administration of the criminal law into contempt, to degrade the magisterial character, and to perpetuate division and discord amongst the inhabitants of this country.

The case brought before Parliament.

‘To the free and happy Constitution of the United

CHAP.
LVIII.

Kingdom, as established in civil polity and religious worship, the whole tenour of your Petitioner's life bears testimony of his attachment: but he has not felt it his duty to lend himself to the factious feelings of any party; on the contrary, he has sought to allay discontent, and to moderate angry passions. As a magistrate, he has endeavoured to repress all violations of the public peace, and to procure for the Government of his country the affections of the people, established on that best foundation of loyalty, an assurance of an equal and impartial administration of justice. Your Petitioner had contemplated, in the Legislative Union of Great Britain and Ireland, the advantage for Ireland of a removal from the mischievous dominion of her own passions; he has beheld with sorrow the hitherto disappointment of this hope. To Parliament, however inadequate to the task, he has found himself obliged to make this respectful appeal; humbly confident that the wisdom of your honourable House will apply such remedy as public circumstances may demand; and humbly confident of finding, from your wisdom and justice, such protection and redress as the merits of his own case shall appear to deserve. And your Petitioner will pray.

‘PATRICK O’HANLON.¹

‘Dated at Newry, the 7th of June, 1816.’

Catholics
disunited.

At this period, the Catholics of Ireland were much divided. The great mass of the people, led by O’Connell, were pressing their claims with the determination of men smarting from a sense of wrong; while the Catholic aristocracy, frightened alike by the voice of the public speakers at the meeting, and the tone of the Catholic press, kept aloof. They ceased to mingle in meetings where the heat and sweat of the people came ‘twixt the wind and their nobility.’ This conduct brought on them severe animadversions. A young barrister, small in stature, with sallow cheeks, prominent chin, short nose, but eyes that glittered

¹ From the remarks of the ‘Ulster Register’ given above, we may infer Mr. O’Hanlon obtained as little redress from the House of Commons as he did from the Lord Chancellor.

like diamonds, and a tongue that pierced like a two-edged sword, named Richard Sheil, thus referred to these cravens: 'If they appreciated themselves according to their value, they would know that they were the most degraded of their degraded sect; that fortune and rank renders their infamy the more conspicuous, and that all the glorious circumstances of the world by which they are surrounded resembles the misty light which is exhaled from putrefaction. What sort of stuff are they made of? So dead is every spark of honour within their bosoms, that they almost persuade me to believe that the soul is a material thing, and that their existence is ennobled by no higher attribute than that which pervades the brute part of the creation. They are never inspired by a great sentiment. They are kindled with no burning hope. They never mount in a fiery aspiration. They are content to die just as they were born. They encumber the earth; they load for a certain number of years, and then descend into their mingled dust. They crawl through life, bearing the glittering shell of title and opulence in their snail-like progress, and leave nothing but their slime behind. But, thank God, these people are few in number as in nature they are base. Little, indeed, were to be hoped for this unhappy island if such a disposition prevailed among the bulk of its inhabitants. But it is impossible that it should exist. Nature is in arms against it. The grievances which are experienced by the Roman Catholics are too heavy in their pressure and too extensive in their operation not to be deeply and universally felt.'

Sheil was a barrister, called in 1814, and at this period was getting into practice. His appearance in his Bar costume was striking. The horsehair wig covering not only his head but almost his shoulders, the gown fluttering loosely about his slight frame, his voice shrill and somewhat squeaking, like that of Mr. Punch, was of great power and volubility. In Court he had to contend with the able men whose age, rank, and talent gave them practice and fame, but among the juniors he carried away the palm for possessing a mind of the highest order.

CHAP.
LVIII.

Richard
Sheil.
His description
of the
Catholic
aristo-
cracy.

Description
of
R. L.
Sheil.

CHAP.
LVIII.

The Law
Officers in
the time
of Lord
Manners.

In the formation of the Duke of Richmond's Irish Cabinet in 1807, when Lord Manners entered on the duties of Lord Chancellor, Saurin became Attorney-General, and Bushe Solicitor-General. Both had been determined anti-Unionists, but when that measure received the sanction of the Legislature, they prudently resigned themselves to the inevitable, and took office. The kindred feelings possessed by the Chancellor and Saurin towards the Irish Roman Catholics, whom both cordially detested, formed a strong bond between them, and in due time the stronger mind of the Attorney-General entirely led and influenced the weaker intelligence of the Keeper of the Irish Great Seal. In the conversations with Chief Justice Bushe and Mr. W. H. Curran,¹ Bushe said, 'The profession had materially improved in respectability within his recollection. When he first came to it, a class of persons without legal qualification had pushed themselves into business by the mere force of vulgar bustling activity, which would not be tolerated at present. Three persons had greatly contributed to this, Curran (who had ignited the bar), Plunket, and Saurin. The last brought legal knowledge into repute.'

The
Attorney-
General.

The office of Attorney-General, which Saurin held for the extraordinarily long space of fourteen years, gave him great power, and having to a large extent the direction of the Lord Chancellor, he had the entire patronage of the law appointments. The Attorney-General in Ireland is now always a Privy Councillor, and as Saurin was not only a great lawyer, but a great Protestant, he took care every place should be filled by those whose opinions, political and religious, coincided with his own. It is, however, only just to say that so far as he could, he looked for competent men. He would not allow the stream of justice to flow through unworthy channels; and, though he occasionally swerved from the strict line of duty himself, in order to carry out his notions of governing Ireland, he would not allow inferior officials to do so. From his knowledge of Court business and the branch of the great

¹ Sketches of the Irish Bar, vol. i. p. 92.

tree of law, which is peculiarly administered in the Court of Chancery, where he had immense practice, I have no doubt he very materially assisted the Lord Chancellor.

‘Viscount Whitworth having filled with credit the office of Minister Plenipotentiary at various foreign courts, was appointed in 1813 to the Lord Lieutenancy of Ireland; but he had now become old and lazy, and it does not appear that he made any effort to dislodge Mr. Saurin’s usurpation by a resolute assertion of his own authority. Mr. Saurin had sprung from a Huguenot family, who emigrated from Languedoc to escape persecution; and he had imbibed, with his mother’s milk, a lively horror of that Church to which Charles IX. and Catharine de’ Medici belonged. He saw the Catholics of Ireland, during his tenure of office, creeping to power, and with the massacre of St. Bartholomew rankling in his heart, he almost daily drove them back with revengeful activity. Lord Fingall and others having assembled as Catholic delegates, with a view to the redress of grievances, in 1811, they were roughly arrested, and not a few subjected to a harassing prosecution at the hands of Mr. Saurin. Two years later, an ordinary newspaper article appeared in the Catholic organ of the day, reviewing the policy of the Richmond Administration. Mr. Saurin prosecuted the publisher, who was fined 1,000*l.* and imprisoned for two years. When Scully’s memorable ‘Statement of the Penal Laws which aggrieve the Catholics’ appeared, Mr. Saurin sprang at Hugh Fitzpatrick, the publisher, and arraigned him with such violence, that a severe fine and a severer dungeon were the immediate consequences. As quickly as O’Connell would reorganise the Catholic Board or Committee, it was forthwith suppressed or dispersed by order of Mr. Saurin. Orangeism was openly fostered under his régime; and the unhappy people smarted beneath the weight and cruelty of its aggressions.’¹

In Lord Chancellor Manners, who entertained violent

¹ Memoir of Dr. Doyle, R. C. Bishop of Kildare and Leighlin, by W. J. Fitzpatrick, vol. i. p. 258.

CHAP.
LVIII.

ascendency principles, and had received his office from Spencer Perceval in acknowledgment of them, Mr. Saurin found a zealous if not an able colleague. 'Daily,' observes a contemporary writer, 'the business of the Government of Ireland was done by the two legal functionaries of kindred spirits, as they regularly walked down every morning from Stephen's Green to the Four Courts, and returned to their homes after a visit to the Castle every evening, with arms linked and solemn steps, and bended brows, settling affairs of State. All the administrative power of the State was reposed in sworn Orangemen. Both the Chancellor and Mr. Saurin enjoyed enormous patronage and emoluments.'

Disagree-
ment
between
the recol-
lection of
the Lord
Chancellor
and a
Lady.
The family
of Leeson.

A correspondence which resulted in very serious disagreement between the recollection of the Lord Chancellor and a lady of high birth and connections arose out of the following circumstance. Valentine, Lord Cloncurry, had married in 1812 the Hon. Mrs. Leeson, widow of the Hon. Joseph Leeson, and mother of Joseph, late Earl of Milltown. She had two other children of her first marriage, a brother and sister, who, as their father pre-deceased their grandfather, did not inherit the honour of Earl's children. The mother being anxious to obtain the usual grant from the King to allow the younger children the rank they would have held had their father succeeded to the Earldom, Lord Cloncurry mentioned the matter to the Viceroy, Lord Whitworth. His Excellency seemed to think the affair was quite a matter of course, and promised to have Lady Cloncurry's wishes carried out, as he was then going to England. He wrote, however, to Lord Cloncurry informing him that what was sought could not be obtained. Subsequent conversation with the Viceroy elicited the fact that the hitch was caused by Lord Cloncurry's politics. With a view of putting matters to-rights, a lady must needs interfere. She went to Lord Chancellor Manners, as legal guardian of the children, minors, and soon a very pretty quarrel arose. The affidavit of Mrs. Douglas, daughter of Sir Paul Crosbie, Bart., and mother of Lady Cloncurry, states, 'I waited on the Chancellor, accom-

Lord
Cloncurry
obtains
the pro-
mise of
support
from the
Viceroy.

panied by Lady Milltown, who, after introducing me to his Lordship, quitted the room. On my mentioning to him that the Government in England (and showing some documents I brought with me to prove it) were favourably disposed to Lord Milltown's claim for his brother and sister, provided Lord Whitworth approved of it, I therefore waited on him to entreat his influence with his Excellency. He said immediately, "Madam, I can do nothing in the business. Lord Cloncurry is a Catholic emancipator, and an enemy to the Protestant Ascendancy, the most violent opposer of the Government." I replied, "My Lord, the favour is not to Lord Cloncurry, but to Lord Milltown." His answer was, "Lord Milltown is under Lord Cloncurry's protection; and the favour would therefore be granted to him." I said, "I don't believe Lord Cloncurry would give five shillings to accomplish it; on the contrary, it is natural he would dislike to see those children above his own." He replied, "The world are not to know that; the favour would still appear granted to him. The Government would be happy to oblige Lord Milltown, but, living under the protection of Lord Cloncurry, it would be obliging him." I named to him the Thomond family, a collateral succession. He replied, "You forget, Madam, they all got it through Mr. Saurin's interest, who is the strong support of the Protestant Ascendancy, whereas Lord Cloncurry is hostile to us." I then stated the situation I had left Lady Cloncurry in, from illness brought on through anxiety of mind on her hopes being blasted for her children. He said, "When a woman marries to injure her children's prospects in life, she must submit to the consequences."

‘M. E. DOUGLAS.’¹

Lord Cloncurry wrote to the Chancellor thus:—

‘My Lord,—I understand that you have taken a liberty with my name, which I think very unwarrantable and incompatible with that good sense and discretion which

CHAP.
LVIII.
Statement
of Mrs.
Douglas
of her
interview
with the
Chancellor.

Letter of
complaint
from Lord
Cloncurry
to the
Chan-
cellor.

¹ Recollections of Lord Cloncurry, p. 250.

CHAP.
LVIII.

ought to accompany your high station.' Having adverted to the circumstances of his step-children, as related, he continues :—' I was astonished to hear that his Excellency was determined to oppose what he had previously promised to support, and that his opposition rose from hostility to me. This his Excellency has denied under his hand in the most explicit manner; so, too, has Mr. Peel; but your Lordship, in a recent interview with Mrs. Douglas, had the offensive and indiscreet candour to declare that, however favourably you were disposed towards Lord Milltown, yet, he being under my protection, the request could not be granted, nor would you do anything in the business because I was an "emancipator, an enemy to the Protestant Ascendency, and a violent opposer of the Government." And in relation to Lady Cloncurry, you added, "that when a woman marries to injure her children, she must submit to the consequences." Now, my Lord, I forbear to dwell upon the indelicacy of mixing up political prejudices with the duties of your high station; I forbear to enter into any justification of my opinions or principles, but permit me to ask your Lordship where is the justice or equity of making them the ground for counteracting the humble wishes of a young nobleman, who, as a ward of your Court, is peculiarly under your guardianship and protection, and why should you use my name in a manner calculated to excite his prejudices and the prejudices of his family against me, by attributing to me the disappointment of his hopes?

'I am never ashamed to avow my political principles, and do not think them the less respectable for differing from those of your Lordship. I am deeply interested in the prosperity and happiness of my native country, and detest that narrow-minded bigotry which destroys both. If you think you are authorised to punish me for this, you should confine that punishment to myself, and not visit it on an unoffending person. Your hostility to me seems to have commenced from the following circumstances :—Soon after your appointment to the Seals in Ireland, you re-

moved Mr. Wogan Browne, my neighbour and friend, from the magistracy of two counties, leaving him in that of a third, so that you either insulted him gratuitously, or you knowingly left an improper person in the Commission. That he was undeserving such treatment every body who knew him will allow; he was the best magistrate, country gentleman, grand juror, and landlord whose loss we had to deplore for many years. An accomplished scholar, kind-hearted and liberal, he injured a large fortune by a profuse and almost indiscriminating hospitality, which we have not seen since in Kildare.

CHAP.
LVIII.

Tros Tyriusve fuit, nullo discrimine habetur.

His good sense and moderation checked the indignation which such an insult excited in every man of property in the country. The circumstance, however, was alluded to at a county meeting, and I could not help condemning such a proceeding of a stranger, without property in the country, towards such a man as Mr. Browne. To this I attribute your marked hostility to me in every little matter when you have the power to show it; if confined to myself, I should treat it with utter indifference, but when brought to bear on others who happen to be connected with me, I feel myself called upon to remonstrate against such injustice.¹

The Lord Chancellor was extremely indignant at the language of this epistle; he instantly replied to the writer:—

‘Dublin, June 27, 1817.

‘My Lord,—Your letter, which I have this instant read, so far as it relates to Lord Milltown, and to anything I have said or done upon that subject, is in the matter of it so utterly unfounded, and in the manner of it so extremely offensive, that I do not feel it incumbent on me to take any further notice of it than by saying that it is a gross misrepresentation. As to the removal of the late Mr. Wogan Browne from the magistracy, I never, to the best

Reply of
Lord
Manners.

¹ Recollections of Lord Cloncurry, p. 256.

CHAP.
LVIII.

of my recollection, heard, until I read your Lordship's letter, that you had expressed any opinion upon it; and I do assure your Lordship, that your style of writing to me makes me perfectly indifferent to any opinion you may form or express upon my conduct on that or any other occasion.

'Your humble servant,

'MANNERS.'¹

Lord Cloncurry felt that he should take some step to fortify his statements, and accordingly caused Mrs. Douglas to make the affidavit I have already mentioned, a copy of which he forwarded to the Lord Lieutenant, Lord Whitworth, and also a copy to the Lord Chancellor, which he had sent to Lord Manners before receiving the letter of June 27. On reading the Chancellor's letter, Lord Cloncurry wrote to him:—

Lord
Cloncurry
writes
again to
the Chan-
cellor.

'My Lord,—Having left home for some days before the arrival of your Lordship's communication of the 27th ult., I had it only in my power to desire that a copy of Mrs. Douglas's information should be forwarded to you. I hope your Lordship will acknowledge that what she affirms may have excused any hastiness in a person so peculiarly circumstanced as I am; and that as I can safely affirm, that I should be most sorry to give offence to your Lordship or any other person, you will feel I owe it to my character, and to the happiness of my domestic circle, to seek a further explanation, or, if possible, a remedy for what Mrs. Douglas has deposed to.'

The Lord Chancellor was ready to give explanation, but no satisfaction; he was as prompt to answer as Lord Cloncurry to write. He replied:—

'Dublin, July 12, 1817.

'My Lord,—Your Lordship's letter, which I received yesterday, is entitled to an answer from me. I stated in reply to your former letter (which was couched in terms calculated, and I must suppose intended, to irritate and

¹ Recollections of Lord Cloncurry, p. 258.

insult me), that the language imputed to me, in a conversation with Mrs. Douglas, was a gross misrepresentation; and I persist in that assertion, notwithstanding an affidavit made before your Lordship, as a magistrate, by Mrs. Douglas.¹ Your Lordship says that Mrs. Douglas is a most respectable lady. I do not mean to controvert that fact, but I am very sorry she forgot that character, and your Lordship did not remind her of it, when she made the supposed substance of a conversation pressed upon me in my study the subject of an affidavit. If Mrs. Douglas conceived that I had said anything injurious to your feelings or character, she ought to have apprised me of it, and to have given me an opportunity of explaining myself and disabusing her. As to calling you an emancipator and an enemy of the Protestant Ascendency and Government, I profess I never knew, and do not at this moment care, what are your sentiments upon that subject—whether you agree with Lord Liverpool or Lord Castlereagh; but I am perfectly sure I never used any such expressions, and the rest of this garbled conversation is, I am convinced, equally misrepresented. And now, my Lord, I wish you to understand that I am taking this trouble, not to satisfy your Lordship—for I think you have no claim on me whatever, nor to prevent your having recourse to any measure you may think proper—but to complain how abominably I am treated by your Lordship and Mrs. Douglas, by supposing me so disqualified for the situation and office I hold in this country, as to be capable, wantonly and unprovoked, of insulting any gentleman.

‘ I am your Lordship’s humble servant,

‘ MANNERS.’²

This terminated the correspondence, and Lord Cloncurry did not press the subject until the Viceroyalty of

CHAP.
LVIII.
The Lord Chancellor persists in his assertion of the words he used being misrepresented.

Earl Talbot, when Viceroy, has the

¹ Yet the statement of Mrs. Douglas receives strong corroboration from the details of conversation with the Chancellor, contained in the petition of Mr. O’Hanlon.—*Ante*, p. 348.

² Personal Recollections, p. 264.

CHAP.
LVIII.

wishes of
the Leeson
family
complied
with.

The King's
landing.

Earl Talbot in 1817, when the compliment was at once accorded to Mr. and Miss Leeson.

His Majesty George IV. landed at Howth, on Sunday, August 12, and was received with shouts of 'The King, God bless him.' He recognised a famous Irish sportsman and highly-accomplished Irish gentleman, Denis Bowes Daly, with whom he warmly shook hands. But Mr. Daly soon found that while paying loyal respect to his Sovereign a member of the swell-mob had been making free with his watch, which he never saw again. The King then got to the carriage in waiting, and drove to the Viceregal Lodge, Phoenix Park, accompanied by a cavalcade of his Irish subjects. When he reached the Lodge, he thanked the assembled multitude in these words:—

The King
speaks his
thanks.

'This is one of the happiest days of my life. I have long wished to visit you; my heart has always been with the Irish. From the day it first beat I have loved Ireland. This day has shown me that I am loved by my Irish subjects. Rank, station, honours, are nothing, but to feel that I live in the hearts of my Irish subjects is to me exalted happiness. Go and do by me as I shall do by you—drink my health in a bumper; I shall drink all yours in a bumper of good Irish whiskey.'¹

¹ The National Review, p. 9.

CHAPTER LIX.

LIFE OF LORD MANNERS, LORD CHANCELLOR—CONCLUDED.

THERE was great enthusiasm throughout Ireland in general, and Dublin in particular, when in the year of our Lord 1821, King George IV. visited this part of his dominions, which he loved *like his bride*. Since the eventful period when James II. and William III. measured swords on the banks of the Boyne, no monarch had set foot upon our land, and George IV. had in his youthful days evinced a warm sympathy for the Irish people. The consequence was that, from the palace of the peer to the hut of the peasant, the coming of the King was hailed with deep-felt joy. I was then a mere child, but my father posted for our home, more than a hundred miles away, to swell the crowd of loyal subjects bent on giving his Majesty a *cead mille fealthe*. The party divisions which had so long divided Ireland into two hostile camps were laid aside. Sir Abraham Bradley King, the Lord Mayor of the then exclusively Protestant Corporation of Dublin, freely invited Catholics to the civic feasts of the Mansion House, when the room now known as the Round Room was specially built to entertain his Majesty in a fitting manner; while four hundred of the *élite* of the land, Protestant and Catholic, dined together, at Morrison's Hotel, on the anniversary of the King's coronation. If such was the effect of a Royal visit of very brief duration, would it not be politic if these visits did not resemble so closely angels' visits, being both few and far between.

The Lord Chancellor was, from his position and rank, a very prominent personage during the Royal visit; but as he could not divest himself of his dislike to the

CHAP.
LIX.Visit of
George IV.
to Ireland.

CHAP.
LIX.

Catholics, he shunned, as much as he could consistently with respect for his Royal master, coming in contact with members of that creed.

George IV.
the first
English
King
who visited
Ireland in
time of
peace.

It is a noticeable fact that George IV. was the first English sovereign who did not engage in war during his stay in Ireland. Each monarch who previously came to Ireland—Henry II., John, Richard II., James II., and William III.—all witnessed the Irish and English in battle-array, and it was most satisfactory to find that no event occurred during the King's visit in 1821 to disturb the harmony and good fellowship which pervaded every class and creed. No wonder many a bumper was drained in honour of so jovial a monarch. His manner was so captivating, his words so happily chosen, and his allusions so felicitous, he quite charmed all ranks in Ireland. On August 17 he made his public entry into Dublin. The streets were spanned by triumphal arches, banners waved from every house, streamers fluttered in many a window, and bright faces were everywhere. The King wore a gay military uniform with the order and collar of St. Patrick, and a rosette of shamrocks in his hat, that attracted every eye, and won Paddy's soft heart. In Cavendish Row an arch with gates was improvised. Here the Lord Mayor, kneeling with head uncovered, presented the city keys and sword to the King, which were recommitted to his care. Earl Talbot, Lord Lieutenant, then knelt and presented the Sword of State, which the King taking said, 'I receive it, that I may again present it to you, my Talbot.'¹ When the procession reached Sackville Street, the noblest street in his Majesty's dominions, and the enormous size and grandeur of the welcome he met with, could there alone be properly estimated, the King no longer restrained his feelings, which broke forth. 'I want words,' he said to those who thronged around, 'I want words, to tell how my heart responds to the affectionate feelings of this excellent and generous people. I shall love them for ever; they shall ever dwell in my

Public
entry.

¹ The National Review, p. 9.

thoughts and in my heart. I was not prepared for this enthusiastic and affectionate welcome. I thought I knew my Irish subjects, but I find there was much room to know them better. They shall profit by my improved knowledge of them while ever I live. The beauty of the city, and the splendour of its buildings, perfectly surprise me.¹ In a similar spirit of unmixed gratitude and surprise, all the other Royal pageants passed over the Royal mind. O'Connell, at parting, presented the King with a laurel crown, and the King's parting words are worth recording: 'I have never felt sensations of more delight than since I came to Ireland. I cannot expect to feel any superior, nor many equal, until I have the happiness of seeing you again. Whenever an opportunity offers where-in I can serve Ireland, I shall seize on it with eagerness. I am a man of few words. Short adieux are best. God bless you, my friends; God bless you all.' Such was the short and memorable visit of King George IV. to Ireland during the Lord Chancellorship of Lord Manners.

CHAP.
LIX.

The King's
farewell
to Erin.

While Lord Manners held the Great Seal of Ireland, he occupied the spacious mansion, 51 Stephen's Green East, now the Museum of Irish Industry, under the direction of Sir Robert Kane. Here Lord Manners kept great state. 'It was quite a procession,' I am informed by a learned friend, 'when he marched to church on Sundays. He would never take out his horses on Sundays, and always walked to Peter's Church. He was preceded by his ten servants walking two and two, and then came Lord and Lady Manners. He was very charitable, and on every Sunday, both Lord and Lady Manners placed each a pound on the plate.'

Lord
Manners
in Ste-
phen's
Green,
Dublin.

The Lord Chancellor was twice married. His first marriage took place in 1803, when he married Anne, daughter of Sir John Copley, of Sprotborough, in Yorkshire. Lady Manners died in August, 1814. The Lord Chancellor did not remain long a widower. In the following year he was captivated by the charms of a blooming daughter of

Death of
first Lady
Manners.

¹ The National Review, p. 10,

CHAP.
LIX.

Second
marriage.
His son
an only
child.

Tipperary, sister of the Earl of Glengall. His second marriage brought him a son and heir, his only child, born August 17, 1818. As might have been expected, Lord Manners was greatly attached to his only child, and I have heard that, on one occasion, he brought the child to Court and placed the boy beside him on the bench. There was, of course, nothing objectionable in this, but one of the counsel, perhaps Saurin, who was very intimate with the Chancellor, resolved to have a joke out of it. In arguing his case, he addressed the Court as 'My Lords,' and 'Your Lordships,' which induced the solemn Chancellor to look enquiringly, as if needing an explanation. 'I thought, my Lord, the Seal might have been put into Commission,' was the reply to the Chancellor's interrogatory look.

Lord
Chancellor
resigns the
Great Seal
in 1827.

Early in 1827 Lord Chancellor Manners intimated a wish to resign the Great Seal, but owing to some desire on the part of the King he continued as Irish Chancellor until July, when he placed the office he so long filled at the disposal of the Government, and was succeeded by Sir ANTHONY HART.

The Lord
Chancellor
sustains
the dignity
of his
station.

Though Lord Manners did not rank as high in the esteem of the Chancery Bar for the soundness of his Equity decisions as other Irish Lord Chancellors, his demeanour on the Bench was excellent, and well sustained the dignity of his high judicial position. He was courteous and attentive, exhibiting exemplary patience, not interrupting counsel by questions as though wishing to curtail them, or to display his rapid perception of their points, but allowed them to state their case fully and as they wished to place it before the Court. When he did interfere it was done properly, for the purpose of understanding clearly the arguments of Counsel, or to check unnecessary rambling or repetition. He listened with attention while the depositions were being read, and fully heard all that counsel on both sides wished to urge before giving his decision. When the facts were plain, and the law was clear, he disposed of the case readily, and when proper for investigation in the office, referred to the Master

His con-
duct on
the Bench.

to enquire and report, but did not shrink from doing his own share of the work. He was unwilling to allow a heavy arrear to accumulate, and earned the praise of suitors by showing that delays, which are often inevitable from the changes of parties in an Equity suit, and the necessity of having all before the Court to be bound by the decree, did not proceed from any supineness on his part.

CHAP.
LIX.

The reports of Lord Manners' decisions, by Messrs. Ball¹ and Beatty, are familiar to the Irish practitioner, and if they lack the profound learning and lucid arrangement of more recent Chancellors, they show a desire to deal promptly with the causes, and considerable familiarity with decided cases. I am inclined to attribute a great deal of Lord Manners' mistakes to his readiness to dispose of his cases off-hand, for when he took time to consider his decrees he had the advantage of his friendly intimacy with a very eminent member of the Irish Bar, an accomplished Equity lawyer, whose name has already been mentioned in this work—the Right Hon. William Saurin.

Reports
of Lord
Chancellor
Manners'
decisions,
by Messrs.
Ball and
Beatty.

These Reports of Lord Manners' decisions range from the period of his sitting as Lord Chancellor in 1807 to the year 1814, and are contained in two volumes. The legal reader will not find in these judgments the ability, precision, and perfect acquaintance with the principles and pleadings of Equity, which so pre-eminently distinguished the decisions of Lord Redesdale, yet they show great attention to the duties of his high office, and perhaps too great an anxiety to despatch the business of the Court. This is noticed by the editors, who remark: 'The noble Lord whose decisions they have the honour to record, never, after the first year of his holding the Seals, left a single cause undecided, or motion undisposed of, when the Court adjourned at the usual times for the vacation, thus giving to the honest suitor the immediate benefit of his own diligence in prosecuting his cause to a hearing and taking from fraud every hope of advantage from the chance of delay.'

Notwithstanding the character the Lord Chancellor

¹ Thomas Ball was appointed a Master in Chancery in Ireland.

CHAP.
LIX.

Lord
Manners
refuses
to hear
counsel.

O'Connell
insists on
being
heard.

Manners acquired for courtesy and patience, there were exceptions to the general rule. In a suit to which there were several parties, all represented by different counsel, and nearly all had addressed the Court, a young barrister named Richards, who was on the same side with O'Connell, attempted to address the Chancellor on some points which had already been mentioned. His Lordship intimated 'it was of no use, that he had made up his mind, and would hear no more arguments.' Mr. Richards knew that his Lordship's opinion was against him, and pressed his right to be heard. The Chancellor got very testy, and declared, 'He would not hear him.' 'Well, then, my Lord,' said O'Connell, in his deepest and most emphatic tone, 'since your Lordship refuses to hear my learned friend, you will be pleased to hear ME,' and plunging at once into the intricacies of the case, without waiting any expression of assent or dissent from the Chancellor, on went O'Connell discussing, and distinguishing the cases already cited, quoting others that were quite in point for his client, until he secured the attention, and evidently made a very great impression upon the mind of the Lord Chancellor. Every five minutes, as he replied ably to some opponent or opened fresh ground, O'Connell would say, 'Now my Lord, my learned young friend beside me, had your Lordship heard him, would have informed your Lordship in a more impressive and lucid manner than I can hope to do,' &c., until he finished his masterly address. The Lord Chancellor next morning gave judgment in favour of the view contended for by O'Connell, and Mr. Richards was always heard when he held a brief in the Court of Chancery.¹

¹ Mr. Richards became one of the most able Equity lawyers at the Irish Bar, and a most uncompromising advocate. He held the office of Attorney-General, and was for many years one of the Barons of the Exchequer in Ireland. When the Encumbered Estates Court was established, Baron Richards became Chief Commissioner, and to his energy, ability, and legal astuteness, the success of that important tribunal was chiefly owing. It is now termed the 'Landed Estates Court,' and presided over by two most distinguished ornaments of the Irish Bench, the Honourable Judges Lynch and Flanagan.

The Chancellor resented any attempt to interfere with the Church as by law established. When Moore's 'Captain Rock' appeared with the lines:—

CHAP.
LIX.

Lord
Manners
annoyed
with Cap-
tain Rock.

'As long as Popish spade and scythe
Shall dig and cut the Sassanagh's tithe;
And Popish purses pay the tolls
On heaven's road for Sassanagh souls;
So long as millions shall kneel down
To ask of thousands for their own,
While thousands proudly turn away
And to the millions answer "Nay,"
So long the merry reign shall be
Of Captain Rock and his family,'¹

the Lord Chancellor felt annoyed. He happened to meet Charles Greville, to whom he repeated the lines, as well on 'account of their cleverness as what his Lordship called their mischievousness.'²

The change of Government in 1827 caused Lord Manners, with the other members of Lord Liverpool's Administration, to resign office, and considerable speculation ensued as to his successor. At last Sir ANTHONY HART was appointed.

On July 31, 1827, Lord Manners sat for the last time in the Irish Court of Chancery. The Court, as is usual on such occasions, was densely packed. The farewell of Lord Manners has been so pleasantly described by the late Right Hon. Richard Lalor Sheil,³ that I much prefer his account to any I could relate, and I am sure the reader will agree with me. His account is this:—

'On the 31st day of July, in the year of our Lord 1827, Lord Manners, the late Keeper of his Majesty's Irish Conscience, bade the Irish Bar farewell. The scene which took place upon that melancholy occasion deserves to be recorded. It being understood that an address of professional condolence on behalf of the more loyal portion of the Bar was to be pronounced by that tender enunciator

Farewell
of Lord
Manners.

¹ Moore's Captain Rock, p. 157.

² Moore Memories, by Lord John Russell, vol. vi. p. 260.

³ Legal and Political Sketches, vol. i. p. 275.

of pathetic sentiment, the Attorney-General,¹ the Court of Chancery was crowded at an early hour. The junior aristocracy of the Bar, for whom the circuits have few attractions, occupied the body of the Court, while the multitude of King's Counsel, in whom his Majesty scarcely finds a verification of the divine saying of Solomon, were arrayed along the benches, where it is their prerogative to sit, in the enjoyment of that leisure which the public so unfrequently disturb.

'The assembly looked exceedingly dejected and blank. A competition in sorrow appeared to have been got up between the rival admirers of his Lordship, the Pharisees of Leeson Street,² and the Sadducees of the Beefsteak Club.³ "The Saints,"⁴ however, from their habitual longitude of visage, and the natural alliance between their lugubrious devotion and despair, had a decided advantage over the statesmen of revelry and the legislators of song; and it was admitted on all hands that Mr. M'Coskey should yield the palm of condolence to a certain pious Serjeant,⁵ into whom the whole spirit of the prophet Jeremy appeared to have been infused.

'But the person most deserving of attention was Mr. Saurin. Lord Manners had been his intimate associate for twenty years. He had, upon his Lordship's first arrival in Ireland, pre-occupied his mind, he took advantage of his opportunities of access, and having crept like an earwig into his audience, he at last effected a complete lodgment in his mind. Mr. Saurin established a mastery over his faculties, and gave to all his passions the

¹ Right Hon. Henry Joy.

² Leeson Street was at the time the above was written (1828) called Swaddling Bar, from the number of Puritanical barristers residing in it. Boyle has remarked that there is no instance on record of an attorney being a saint; he does not extend the remark to barristers, and if he had done so, Leeson Street would have refuted the assertion.—Note to Legal and Political Sketches, p. 276.

³ This was a musical institution of Dublin, at which the Protestant Ascendancy principles regulated the admission of members. It has long ceased to disturb the harmony of Erin's capital.

⁴ This was the term used to denote Pharisaical devotion in Ireland.

⁵ Mr. Serjeant Lefroy, who was remarkable for a long sad visage.

direction of his own. A very close intimacy grew up between them, which years of intercourse cemented into regard. They were seen every day walking together to the Court, with that easy lounge which indicated the carelessness and equality of friendship.¹ In one instance only had Lord Manners been wanting in fidelity to his companion. He had been commissioned to inform him (at least he was himself six months before apprised of the intended movement) that Mr. Plunket would, in return for his services to the Administration, be raised to the office of Attorney-General for Ireland. Had Mr. Saurin been informed of this determination, he might have acted more wisely than he did, when, in a fit of what his advocates have been pleased to call magnanimity, but which was nothing but a paroxysm of affronted arrogance, he declined the Chief Justiceship of the King's Bench. Lord Wellesley took him at his word, and gave him no opportunity to retrace his steps. He would not, at all events, be taken unawares. Mr. Saurin is not conspicuous for his tendencies to forgiveness, but he pardoned the person in whose favour, of all others, a barrister should make an exception from his vindictive habits. Their intercourse was renewed; and whatever might have been the state of their hearts, their arms continued to be linked together. This intimacy was noticed by the solicitors, and although deprived of his official power, Mr. Saurin retained his business and the importance which attends it; the resignation, therefore, of Lord Manners, to whose Court his occupations were confined, was accounted a personal misfortune to himself.'

Mr. Sheil then humorously describes the Attorney-General, Mr. Joy:—'It would have been a misfortune for

CHAP.
LIX.

Sheil's
description
of the
Attorney-
General,
Mr. Joy.

¹ In the note in Mr. Sheil's *Legal and Political Sketches*, vol. i. p. 277, he says, 'There was some spirited caricaturing in Ireland a quarter (I may add half) of a century ago. It has disappeared, like other arts, more to be regretted. Lord Manners and Mr. Saurin were constant subjects for the comic pencil. They were commonly drawn together and designated the "brothers-in-law."' The now well-conducted comic journal 'Zosimus' has started well, and if conducted on the same harmless and sportive principle will succeed.

CHAP.
LIX.

the lovers of ridicule if any man except Mr. Joy pronounced the Address which was delivered to the departing Chancellor. He is a great master of mockery, and looks a realisation of Goethe's Mephistophiles.¹ Nature has been singularly favourable to him. His short and up-turned nose is admirably calculated to toss his sarcasm off; his piercing and peering eyes gleam and flash in the voluptuousness of malice, and exhibit the keen delight with which he revels in ridicule and luxuriates in derision. His chin is protruded like that of the cynic listening to St. Paul in Raphael's cartoon; his muscles are full of flexibility, and are capable of adapting themselves to every modification of irony.²

There was respectful silence while the Attorney-General, with feeling and emphasis, addressed his Lordship as follows:—

The Address
from the
Bar.

‘As your Lordship is about to retire from that high station which you have filled in this country, and as we see you now for the last time in this Court, where you have presided for more than twenty years, we cannot suffer the occasion to pass without endeavouring to express, though in very inadequate terms, some of those feelings with which we view your departure from amongst us. My brethren have done me the honour of selecting me as their organ to express our common feelings upon the occasion which has assembled us before you. When, my Lord, we consider that during your continuance in office, no fewer than FOUR THOUSAND FOUR HUNDRED AND SIXTY-NINE CAUSES have been decided by you, and that of these decisions only FOURTEEN have been reversed, and SEVEN varied in some particulars; when we advert to your lordship's inflexible rule, never to close your sittings whilst a single cause remained undisposed of, we cannot

¹ This is mere *badinage*. He was a dignified gentleman. A fine statue to his memory, erected by the profession he adorned, is raised to the memory of Chief Baron Joy in the Hall of the Four Courts, Dublin.

² Those of my readers who remember Sheil and Chief Baron Joy, must recollect this description is more true to the personal appearance of Sheil himself than the Chief Baron. At least, such is my recollection.

but admire that distinguished ability, that strict impartiality, and that unremitting assiduity with which you have discharged the various and arduous duties of your office. The anxiety which you have always evinced to elevate our profession, and to cherish in its members that purity of conduct for which they ought to be ever distinguished, has entitled you to our warmest regards, whilst the dignified urbanity and uniform courtesy which have always marked your intercourse with every individual of the Bar, whether in public or in private, have so identified you with our most gratifying recollections, that in losing you we feel that we are deprived, not only of the Judge whom we respect, but the friend whom we love. It would be foreign to the character in which we address you to advert to those amiable qualities which distinguish you in private life, to enlarge on that charity which knows no bounds, or to describe the feelings of the widow and the orphan at your departure; but I may express the sincere sentiments of my brethren who surround me, and assure you that your memory will long remain associated with our kindest feelings, and that your retirement from office cannot and will not efface that affectionate attachment with which you are regarded by us, and which must always make us deeply interested in whatever may concern your Lordship's happiness and welfare.'

CHAP.
LIX.

A murmur of applause followed this address.

When the Lord Chancellor sought to reply, he was deeply and visibly affected. His faltering voice and quivering lips denoted his agitation as he thus spoke:—

'MR. ATTORNEY-GENERAL — I am ill prepared to receive this address from you. Indeed, I do not know what preparation would enable me to answer it in a manner that I could wish, or the Bar has a right to expect from me. Undoubtedly, nothing can be more gratifying to me, nothing more valuable or important in this life, than this testimony to my conduct by those who are most competent to judge of it; and although I must attribute much of what you have said to me to the liberality which I have

he Lord
Chan-
cellor's
reply.

CHAP.
LIX.

uniformly experienced from the profession in Ireland, yet I know your spirit and integrity, as well as that of the Irish Bar too well, to believe that you would be disposed, or that you would be authorised, to address me, if I had been found actuated here by any other motive than an anxiety impartially to administer the justice of this Court, or if you had seen me inattentive to the duties of my office, or idle in the discharge of them; impracticable in argument, or contemptuous of the assistance of the Bar. Indeed, I claim no merit in having felt that sentiment. It is impossible that any Judge sitting here could undervalue those talents which shall render to him the most complicated facts plain and perspicuous, which can accurately discriminate and ably discuss the various principles of a Court of Equity. Indeed, I should think it equally impossible that any Judge, having sat here during the period I have done, could retire from this Court with no other sentiment or feeling but that of a cold respect for the abilities, the knowledge and the eloquence of the Irish Bar, that he had not discovered in their character, that he had not experienced in their conduct to him, that which upon my mind must make a due impression, which nothing during my life can obliterate, and to which my mind will for ever recur with pride and satisfaction, that which alone can make me quit with regret a situation I accepted with reluctance.

‘ If during the period I have sat upon this Bench I adhered too strictly to a principle which I must consider to be of the highest importance to the public and the profession, if I have disappointed or delayed the expectations of any gentleman at the Bar, I lament it. I can assure that gentleman that I have not been actuated by any personal motive or ill-feeling to him, but by a sense of duty imposed on me in the situation in which I am placed, to protect the fair claims of the Bar by resisting to the utmost of my power the interference of Parliamentary or political interest in the advancement of the law.

‘ With respect to my successor in office (whoever he may be) it will fall to his lot to correct some of the mistakes I

may have committed, and to do justice in cases where I have failed. In the discharge of that, as well as every other part of his duty, I am sure he will have the same cordial and able assistance from the Bar which I have experienced—such assistance, indeed, as, notwithstanding what has been so kindly said by you, leaves me little apology or excuse for the errors I may have fallen into.

‘Gentlemen, I take leave of you with every sentiment of respect and esteem, strongly impressed by the recollection of the uninterrupted friendly intercourse which has subsisted between us for upwards of twenty years, proud of the attention which has been uniformly paid to the office during that period, and grateful for the many acts of kindness I have received from the gentlemen of the Bar. I retire from this Court deeply and sincerely interested in the honour and prosperity of the Irish Bar; and permit me to say at parting, it is the honour of the Bar, it is the integrity of the profession, that is one of the best safeguards of us all, of everything that is valuable in the Constitution under which we live.’ His Lordship then bowed and retired. He subsequently received a highly complimentary farewell address from the Lord Mayor and Corporation of Dublin.

Sheil’s comments upon the farewell address from the Bar are amusing, but, coming from the political foe of the Lord Chancellor, must be taken with considerable distrust.

Comments of Sheil upon the farewell to Lord Manners.

‘“We cannot but admire the distinguished ability.” At the word ability it was easy to perceive that Mr. Joy could with difficulty restrain his sense of extravagance from breaking into laughter. It was impossible to look at him without remembering the exhibition which, for twenty years, had made the administration of justice in the Irish Court of Chancery the subject of Lord Redesdale’s laughter, and of John Lord Eldon’s tears. He spoke it with such a force of mockery, that he at once brought to the mind of the spectators that spirit of ignorant self-sufficiency and presumptuous precipitation, with which Lord Manners discharged the business of his Court.

CHAP.
LIX.
Stackpoole
v.
Stackpoole.

‘A hundred cases seemed to rise to his face. Stackpoole v. Stackpoole¹ appeared in the curl of his lip, while Blake and Foster quivered in the merriment of his nostrils; Brossley against the Corporation of Dublin appeared in his twinkling eyes, and REVERSAL seemed to be written in large characters between his brows; ² and his averted eye, and the puffing of his cheeks, exhibited his strong distaste for reasoning, and the horror which he entertained for all inductive thought.

‘It was in frosty weather that his excitability and fretfulness of temperament were particularly conspicuous. He was fond of shooting; and if he was detained by a long argument beyond the usual period which he allowed to the hearing of causes, about Christmas, he broke out into fits and starts of ludicrous irritation. Mr. Plunket used to say that whenever Lord Manners heard the name of Mr. Hitchcock (a gentleman of the Irish Bar of considerable talents) his Lordship used to start, as if it were “Hish! Cock!” that had struck his ear.³

‘The next sarcasm which this unmerciful adulator proceeded to apply, turned on his Lordship’s selection of magistrates. At the utterance of “*strict impartiality*,” the

¹ This case is reported on Appeal in 4 Dow. 209. Administration taken out in 1771. Distribution in part but a sum retained on unfounded pretences. No effectual suit against administrator until 1792, protracted until 1810. Held by the House of Lords, reversing the decrees of the Irish Court of Chancery, that, notwithstanding the lapse of twenty years before effectual suit for account commenced, the administrator was chargeable with full legal interest on assets undistributed, and liable for costs incurred subsequent to the original decree.

² It is due to Lord Manners to state, as appears on reading the address from the Bar, that a very small number of his decisions were reversed. That out of *four thousand four hundred and sixty-nine* decisions, made by the Chancellor, not more than fourteen were reversed, and seven varied. This certainly says more for the propriety of the Lord Chancellor’s decisions than volumes of statement.

³ Sheil says he saw Lord Manners at the Duke of Leinster’s demesne, Carton, sitting among the brambles, of which he was much fonder than the thorny quicksets of the law, in his ‘Chancellor’s hat’ (a head-piece like that of a dignitary of the Church), a green jacket, a scarlet waistcoat, silk breeches, and long black gaiters, which constituted his usual sporting attire.—Legal and Political Sketches, vol. i. p. 283.

smile of Mr. Joy gleamed with a still yellower lustre over his features, and he threw his countenance into so expressive a grimace, that the whole loyal but pauper magistracy of Ireland was brought at once to my view. I beheld a long array of insolvent justices, with their arms out at elbows, who had been honoured, by virtue of their Protestantism, with his Majesty's Commission of the Peace. I did not think it possible for the powers of irony to go beyond this last achievement of the Attorney-General, until he came to talk of his Lordship's unremitting assiduity. It was well known to every man at the Bar, that Lord Manners abhorred his occupation. His irritability in Court was the subject of universal complaint. He seemed to labour under an incapacity of fixing his attention for any continuity of time to any given matter of meditation; and the wriggling of his seat during the admirable argument of Mr. Pennefather proves this.¹

The remainder of Sheil's article is more political than legal. Ex-Chancellor Lord Manners returned to England on his ceasing to hold the Great Seal of Ireland, and resided much at his country seat, Fornham, near Bury St. Edmunds. He attended in his place in the House of Lords during the Session, and survived until the year 1842, when he was succeeded in his title and estates by his only child, John Thomas, second Baron Manners. This nobleman married in 1848 Lydia Sophia, daughter of Captain Daswood, Royal Navy, and, dying in 1864, left four sons and three daughters. The eldest son, John Thomas Manners Sutton, is the present Lord Manners.

Death of
Lord
Manners.]
His des-
cendants.

¹ There were two members of the Bar of this name, brothers, Edward and Richard. Edward rose to the rank of Lord Chief Justice, Richard sat, for over twenty years, one of the ablest Barons of the Exchequer in Ireland.

CHAPTER LX.

LIFE OF SIR ANTHONY HART, LORD CHANCELLOR OF IRELAND.

CHAP.
LX.A West
Indian,
born
A.D. 1754.
Called to
the Bar in
1781.His pre-
ference for
Equity
practice.Death of
Sir John
Leach.Legal
witticisms.

THIS eminent Judge and amiable man was born in the island of St. Kitts, West Indies, A.D. 1754.¹ He was educated in England at Tunbridge, and it is said was for some time an Unitarian preacher. Having fixed upon the profession of the law, he kept his terms, and entered upon its practice in 1781. The order of his mind and his preference for abstract reasoning, instead of the bustle and vivacity attendant upon *nisi prius* trials, and the Common Law arguments resulting therefrom, caused him to devote himself exclusively to Equity practice; and his sound legal knowledge, his clear and able statements, his industrious habits, and affability towards that very important legal body, the solicitors, soon gained him considerable practice. The result of a silk gown came in time, but half a century of hard work in the Courts was performed before Sir Anthony Hart obtained a seat upon the Judicial Bench.

In 1827 the death of Sir John Leach left the Vice-Chancellorship of England at the disposal of the Government. That Judge was more remarkable for the rapidity than the soundness of his decisions, which when contrasted with the slow and sure judgments of Lord Chancellor Eldon, gave rise to many witty remarks. One was that the Chancellor's Court was that of *Oyer sans terminer*, and the Vice-Chancellor's, *Terminer sans oyer*. Another, that 'the tardy justice of the principal was a set-off to the rapid injustice of the subordinate.' Poetry also called attention to the difference of the two Judges.

¹ Foss's Judges of England.

In Equity's high court there are
 Two sad extremes, 'tis clear;
 Excessive slowness strikes us *there*,
 Excessive quickness *here*.
 Their source, 'twixt good and evil, brings
 A difficulty nice;
 The first from Eldon's *virtue* springs,
 The latter from his *Vice*.'

CHAP.
 LX.

In order to bring about a different state of things, the Government wisely selected the most eminent Equity lawyer of his time to succeed Sir John Leach, and accordingly the vacant seat on the Vice-Chancellor's Bench was given to Sir Anthony Hart.

Compliment
 of the Go-
 vernment
 to Sir
 Anthony
 Hart.

In March 1827 Lord Liverpool's Ministry resigned, and George Canning took the helm of State. Lord Plunket naturally expected to succeed Lord Manners as Keeper of the Great Seal and Lord Chancellor of Ireland, but so strong was the bigotry of King George IV. that he refused to allow the champion of the Catholics to become the Keeper of his Irish conscience. Lord Plunket was then offered the appointment of the Master of the Rolls in England, but the following letter,¹ addressed to his friend, Mr. John Lloyd, shows how his appointment was received by the English Bar.

King
 George IV.
 refuses to
 appoint
 Lord
 Plunket,
 Lord
 Chancellor
 of Ireland.

[Private.]

April 20, 1827.

'My dear John,—Many thanks for your most friendly letter. Things have taken a turn, to me very distressing. The result, in short, is I am a Peer, and for the present without office. The Rolls I declined, not being able to reconcile myself to act against the feeling of a great number of the profession against the appointment of an Irishman, or rather an Irish barrister.² Tell my friends not to question me, or to be surprised.

'Yours, &c.,

'John Lloyd, Esq.'

'W. C. PLUNKET.'

¹ Life of Lord Plunket, by his Grandson, vol. ii. p. 246.

² This was the true reason. We have many instances in the present day that natives of Ireland are as free to sit upon any bench in Westminster Hall from the Woolsack downwards, as any native of either England or Scotland.

CHAP.
LX.

From this unpleasant predicament, Lord Plunket was rescued by the compulsory retirement of Lord Norbury, Chief Justice of the Common Pleas, which was instantly conferred upon Lord Plunket.

Sir An-
thony
Hart, Lord
Chancellor
of Ireland.

On the resignation of Lord Manners, the Great Seal of Ireland was offered to and accepted by the Vice-Chancellor of England; and a short time witnessed the arrival in Dublin of another English lawyer to preside over the Irish Bar as Lord High Chancellor.

Before the new Irish Chancellor left London, he had a visit from a memorable Irishman, J. E. Devereux, Esq., who had been tried as one of the Catholic delegates. In a letter addressed to the Right Rev. Dr. Doyle, Bishop of Kildare, Mr. Devereux thus writes from Brooks's:—

‘ October, 1827.

‘ I went this day to pay my compliments to Sir Anthony Hart, upon his appointment to the Lord Chancellorship of Ireland. (He had been my counsel.) He repeated what he had declared upon his nomination, that he would take no part in politics or religion. I, of course, congratulated the country, &c., &c. *Entre nous*, Sir Anthony, in his early day, was an Unitarian preacher at Norwich.

‘ I am, my dear Lord, &c.

‘ J. E. DEVEREUX.’¹

The appointment of Sir ANTHONY HART, as successor to Lord Manners, caused considerable surprise to, and elicited much animadversion from, the Irish Bar. Sir Anthony's appointment was over the head of Lord Plunket, confessedly a great Equity lawyer, and more familiar, of course, with the practice and duties of the Irish Court of Chancery than any barrister, however able, brought over from England, could possibly be. But although there was surprise, and remarks were made on the slight which had been put upon Lord Plunket, there was no action similar to that which deterred Plunket from continuing in the office of Master of the Rolls of England.

¹ *Life of Right Reverend Dr. Doyle*, by W. J. Fitzpatrick, Esq., vol. ii.

On the contrary, although the Bar grumbled at the appointment, they welcomed the Chancellor, and attended his levée in crowds. A legal publication of the period thus described the appearance of the Lord Chancellor:— ‘He seems under 60 years of age, with all the appearance of a hale constitution, and a placidity of temper which doubtless has been cherished by his long absence from all political strife or altercation. His previous professional life, with the exception of the short period when he sat on the Bench as Vice-Chancellor, has been that of a barrister of studious habits and extensive business. His eye, somewhat of the Curran description, is piercing, yet kindly; his features are strong, but not harsh; and his countenance is marked with the mingled traits of deep thought and habitual good humour. He seems to possess in an eminent degree those two great qualities for a Judge, in which so many of our Irish Judges have been so lamentably deficient—*temper and patience*. Of the lofty arrogance; of the imperious superciliousness, that so often accompanies authority; of the insolence of office, of the proud man’s contumely, he has none. His conduct to the Bar is communicative, conversational, accommodating, friendly—and not more friendly to one man than to another. We distinguish more of the brother barrister in him than in most Judges we have observed. His manner of doing business is that of a man perfectly accustomed to it; the subjects seem quite familiar to him, with the exception of the peculiarities of Irish practice; and he discusses the fruits of his own professional experience in a mild easy manner, in a ready flow of plain yet lucid language, and in low yet loud undertones; no single word is lost to any man in Court. We wish the Bar would imitate him in this respect, and he seems to wish it himself.’¹ With such a letter of recommendation, there was little fear to anticipate the Chancellor’s losing the favour of either the Irish Bar or the Irish public, ever ready to appreciate merit such as that of Sir Anthony Hart.

CHAP.
LX.

Reception
of the new
Lord Chan-
cellor.

His ap-
pearance
and de-
meanour.

¹ Irish Law Recorder, vol. i. p. 5.

CHAP.
LX.

Chancery
order.

Immediately on the arrival of Sir Anthony Hart, a serious misunderstanding threatened to obstruct the course of Equity business. On November 7, 1827, the following order was made:—‘Ordered by the Right Hon. the Lord High Chancellor of Ireland, That the Registers of the Court do not receive or file any Petition, unless the same is signed by his Lordship’s Secretary; and the said Secretary is to mark on every Petition the days on which the same is lodged with him.

‘ANTHY. HART, C.’

Rolls
order.

On the following day, November 8, the Master of the Rolls, Sir William McMahon, read an Order in his Court² as follows:—‘The Master of the Rolls directs and orders, for the regulation of the Motions on notice and Petitions to be moved before his Honor at the Rolls Court, that the Six Clerks, after preparing Petitions or Notices for the Rolls Court, shall refer to the documents or proceedings mentioned in the Notice as the ground thereof, and shall express on such Notices or Petitions, that the same are intended to be moved at the Rolls Court, and *shall frame and address the same accordingly*; and that when it shall not appear on the face of the Motion or Petition when the Cause is in Court, that the Six Clerk shall inform himself of the state of the Cause in order to ascertain to his Honor whether the Cause is in Court; and that the Six Clerk, upon whom Notices are served, shall ascertain what parties or clients he is concerned for, to be enabled to admit service of Notice, when the Motion or Petition shall be moved before his Honor the Master of the Rolls.’

When his Honor had done reading the above order, he said, ‘I now appoint Mr. Frederick Shaw my Secretary.’³

¹ Law Recorder, vol. i. p. 5.

² Ibid. p. 6.

³ Now the Right Hon. Sir Frederick Shaw, Bart. This able judge and eminent Irishman is second son of Sir Robert Shaw, Bart. He was born in 1799, married in 1819 to Miss Jocelyn, a granddaughter of the Earl of Roden, and was called to the Irish Bar in 1822. He represented the City of Dublin in 1830–32, and the University of Dublin in 1832–48. He was

This order required that all Petitions intended to be moved in the Rolls should be addressed to his Honor, and not to the Lord Chancellor, but it was understood that the real question raised was, 'whether the Master of the Rolls had a right to appoint his Secretary or not?' The Lord Chancellor at once addressed the officers of his Court by letter:—

CHAP.
LX.

'I have received the papers handed to me by Mr. McKay and Mr. Shaw, respecting the proceedings before his Honor the Master of the Rolls, as to making Orders and Petitions addressed directly to his Honor, instead of being addressed to the Lord Chancellor. I do not understand this as a question of pecuniary claim between the Lord Chancellor and the Master of the Rolls. It would be beneath the dignity of the Court to suffer such a dispute to become the subject of public litigation. I conceive that there is at present no authority under which an Order can be made in the High Court of Chancery in Ireland, upon a Petition addressed personally to the Master of the Rolls; and that I could not legally enforce the execution of any order so made against the person or property of the King's subjects. It is upon this principle only that I give directions to the several officers of the Court that no order should pass upon such a Petition as being sanctioned or authorised by the Lord Chancellor. My order was not intended to impede or impugn any act of his Honor the Master of the Rolls, which in judgment he may deem within the compass of his judicial rights and functions.

Letter from the Lord Chancellor to the officials of the Court of Chancery.

'(Signed) ANTHONY HART, C.

'R. Long, Sec.'

As this was a very unsatisfactory state of affairs, the course taken was, by Mr. Saurin informing the Lord Chancellor, at the sitting of the Court on Monday December 3, 'That he had an application to make on two petitions of a

Motion by Mr. Saurin.

appointed Recorder of Dublin in 1828, a position which he has now held for thirty-two years, and no Judge has ever displayed greater zeal, learning, or precision, than the learned Recorder. He was sworn in as Privy Councillor in 1835, and succeeded his brother as third baronet in 1869.

CHAP.
LX.

Refers to
the right
of the
Master of
the Rolls
in Eng-
land.

Origin of
the office
of Secre-
tary.

very novel and unusual kind. One of Mr. Frederick Shaw, appointed by the Master of the Rolls to the office of Secretary; the other, a suitor in the cause of Hayes and Bogan *v.* Bagnal. The latter stated that the proceedings under an Order of the Master of the Rolls, was impeded by the Chancellor's Order of November 7, and prays an Order to remove such impediment. The Petition of Mr. Shaw prayed that the right of the Master of the Rolls to appoint him his Honor's Secretary might be adjudicated upon.' Mr. Saurin sought to show the order of Lord Chancellor Ponsonby in 1806 should not furnish a precedent for the present case. That the Master of the Rolls in England, and the Lord Chancellor there, have their respective secretaries. They constitute two separate branches, each having a separate, independent, original jurisdiction, but one subordinate to the other. The Registers of the Court of Chancery and of the Rolls Court were the proper persons for taking down all the Orders of their Courts; but when a good deal of business arose at seasons of the year, when they were not sitting, it became necessary for the Judges to have officers personally attending them, constituting part of their household, to be ready at all times to receive Petitions, and to take down the Orders of the Judges on those Petitions. This is what gave rise to the office of Secretary. He is the recognised officer of the Master of the Rolls in England. The Master of the Rolls in Ireland claims the appointment of such an officer, as being a necessary and incidental appendage to his office. The statute 41 Geo. III. restored the judicial part of the office which had been suspended in Ireland.¹

'When Sir Michael Smith was appointed Master of the Rolls of Ireland, statute 41, Geo. III., restored the judicial jurisdiction, as was decided by the cause of Hetherington *v.* Wogan, and Sir Michael appointed a Secretary, whose duties were to receive the petitions of suitors and take down the orders thereon at the times of the year when the Courts were not sitting and Registers in attendance. A claim

¹ Law Recorder, vol. i. p. 68.

was at once made by Mr. Dwyer, Secretary to the Lord Chancellor, Earl of Clare, for compensation for the loss occasioned to him by this appointment by Sir Michael Smith. The claim was laid before the Commissioners of the Legal Compensation Fund, and, under the sanction of the Lord Chancellor, a compensation of 500*l.* a-year was given to Mr. Dwyer, which he enjoyed to the end of his life, comprising many years, during which he was Secretary to Lord Redesdale, while Lord Chancellor.’¹

Saurin concluded by stating, ‘We disclaim any desire to have, and we are most anxious to avoid, any proceeding that may lead to an unpleasant discussion. These are times, my Lord, in which there is a disposition abroad to degrade every high and elevated character in the land. We are most anxious to avoid everything of which any advantage might be taken by those who are so disposed; but we pray that these claims should undergo the consideration of a tribunal competent to consider them, and that we should have an adjudication with respect to them.’

The high tone taken by Mr. Saurin during the latter part of his address was met by a corresponding lofty spirit on the part of the Chancellor. ‘If,’ responded his Lordship, ‘there be any spirit abroad which would lead parties to degrade the high authorities of the country, my opinion is, that that spirit can only be met and counteracted by those who hold such high judicial situations having their motives and their actions exposed to the public. When these motives and that conduct are properly placed before the world, there is no doubt the British public will judge rightly.’ He then alluded to the order of Lord Chancellor Ponsonby, which had been conformed to: ‘If right, it ought to continue in force; if wrong, it was competent for the Court to discharge it; and if he found it unjust, he would do so, and his own order with it. He would form no conclusive opinion until he heard all that could be said on the subject. If his judgment was wrong, it was open to correction and conviction; if mistaken, it will be

Reply of
the Lord
Chan-
cellor.

Chancellor
resolved to
do right.

¹ Law Recorder, vol. i. p. 69.

CHAP.
LX.
Judgment
of the
Lord Chan-
cellor.

corrected by another tribunal.’¹ His Lordship subsequently, after a very full argument by several counsel, confirmed the Order of Lord Chancellor Ponsonby. He said: ‘No analogy whatever existed between the situation of Master of the Rolls in England and in Ireland. In England, the office is held by prescription, and prescription is calculated from the term of the return of Richard I. from the Holy Land. The term prescription is not, as I conceive it, applicable to this country, for the dominion of the King in this country is of a long subsequent date. Patents have been read, granting the office “in as full and ample a manner as the same was held in England;” but unless that grant be recognised in anterior patents, it dies with the life of the person to whom it was granted. No analogy, therefore, in my opinion, exists between the two offices.’

The
Chancellor
enquires
the custom
of the
Court.
Resumes
his judg-
ment.

The Lord Chancellor’s judgment was here interrupted by loud shouts from the Hall of the Four Courts, on the arrival of the Rev. Thomas Maguire, who had a verdict in his favour in the memorable action for seduction which had been brought against him.² When the Lord Chancellor was apprised of the cause of the interruption, he inquired in a tone of much comic gravity, ‘We don’t hurrah for a victory in this Court, do we?’

The Lord Chancellor then resumed his judgment. He adverted to the order of Lord Chancellor Ponsonby in 1806: ‘From that period to the present this order has remained on the book of the Register. I therefore found it incumbent on me, with such an order as a precedent, one made twenty years before and never disputed—one in full force during the period of fourteen years which the present high officer has held the situation of Master of the Rolls, to see my way clearly—to adhere to the practice of the Court, and not lightly contravene its decisions. I did nothing more than repeat the order of Lord Chancellor Ponsonby. In reference to the authorities which have

¹ Law Recorder, vol. i. p. 70.

² Vide The Bar Life of O’Connell.

been produced and relied on from the time of Henry VIII. to the reign of Charles II., there is nothing of legal certainty to be collected from the patents; there is nothing of inherent jurisdiction shown, nor that the Master and Keeper of the Rolls exercised judicial functions. Most of the patents give that power, and the question is, was the authority limited or general? If the power was inherent, or belonging to the office, why was it given expressly to the individuals by these grants? I am not so presumptuous as to suppose that the first law authorities of the land, and advisers of the King, would have continued for two centuries and a half to insert restrictions and powers in patents without cause; nor will I presume them to have been so ignorant as not to know whether the Master of the Rolls had or had not inherently judicial authority; I therefore conclude that they conceived that, if authority had not been expressly given, doubts would have arisen upon this subject. That this authority was sometimes used equitably, and in one, at least, legally, appears.'

CHAP.
LX.

If inherent,
why given?

His Lordship then adverted to the long disuse of any judicial functions by the Master of the Rolls of Ireland previous to the 41 George III., and the proposal to refer the question of law to the Lord Chancellor and Master of the Rolls of England; that the Lord Chancellor of Ireland should defer to the Lord High Chancellor of England, and the Irish Master of the Rolls to the English. 'But,' said his Lordship, 'the CHANCELLOR of that time would have greatly forgotten his station, and derogated from his dignity, had he consented to defer to any set of judges co-ordinate with, and not superior to, himself. Such a mode would have been quite inadmissible. There may be, and there are, other jurisdictions, which seek to extend their power over the King's territories, but this Court should never forget its own dignity, and what is due to itself.' He then referred to the Act of 41 George III. c. 26, enacting 'Whereas it is expedient that the office of Master of the Rolls in Ireland should be *made* a judicial office,' and that the person so appointed should have full power and

Lord Chan-
cellor of
Ireland
co-ordinate
with the
Lord
Chancellor
of Eng-
land.

Act of
41 Geo. III.
c. 26.

CHAP.
 LX.

authority to make orders and decrees, on all matters and cases now depending, or which shall hereafter be depending, in the Courts of Chancery in Ireland.' This, his Lordship considered, made the Master of the Rolls a judicial personage newly created, but he denied that the Master of the Rolls had the appointment of a secretary. His Lordship referred to the Report of the Commissioners appointed to inquire into the fees receivable by the officers of the Court of Chancery, in which there was not one syllable with respect to a secretary to the Master of the Rolls; but the Chancellor's secretary was bound to attend the Chancellor *and Master of the Rolls* during the sitting of the Court of Chancery, and on petitions during the Vacation. He therefore 'made no rule on the petition;' but with due regard to the exigencies of the Master of the Rolls, directed Mr. M'Kay, his assistant-secretary, as also his secretary, to perform the duties belonging to the Rolls Court.¹

Denies the right of Master of the Rolls to a secretary.

Lord Chancellor commenting on orders of Lord Manners.

Lord Chancellor Hart often found himself placed in an invidious position when asked to set aside improper orders made by his predecessor, Lord Manners. He often felt the difficulty. Thus, in the matter of Bell, a bankrupt, he says he 'had great difficulty in respect of an order made by Lord Manners;' 'he did not wish to be captious about orders made before his appointment.'² Again, in *Harrison v. Chichester*, his Lordship said, 'I think Lord Manners' order, so far as it reversed the Rolls' order, was a repeal of the statute.' Mr. Litton said, 'Lord Manners saw it was a case of great oppression.' To which the Lord Chancellor replied, 'I don't think this Court is authorised to repeal an Act of Parliament on the ground of oppression.'³

Doubts the power of the Court to grant protection from arrest.

In the matter of J. Walshe, a petitioner, an application was made on behalf of the petitioner for protection from arrest. The Lord Chancellor considered he had no power to grant it. Many precedents were cited of orders made by Lord Manners, and by Lords Lifford and Clare, but he

¹ Law Recorder, vol. i. p. 114.

² *Ibid.* p. 63.

³ *Idem.*

declined to act on them. He said, 'When I was at the English Bar I never heard of such an application being made. Indeed, I am at a loss to imagine from whence this Court derives authority to grant such a high prerogative writ. Blackstone states that the King hath a special prerogative which is very seldom exercised; that he may, by his writ of protection, privilege a defendant from all personal and real suits for one year at a time, and no longer; but even that was not granted but to a defendant engaged in the King's service out of the realm; and he adds that King William in 1692 granted one to Lord Cutts, which was the last that appears in the books. In the Rules and Orders, I find one by Primate Boyle, Chancellor, limiting the protection to one term, but not stating the Court has authority to grant a protection. It has been stated that Lord Manners observed, on granting a protection, that 'he did not think it could be made available to bring a party disobeying it into contempt for so doing.' Surely, then, it was mischievous to make an order merely *in terrorem*. This Court ought never to make any order but such as it can enforce in case it be disobeyed; it is not consistent with the dignity of the Court to make an order, the execution of which it has no authority to enforce. As I entertain considerable doubts as to the original authority of the Court to grant protection, I cannot grant the application.' His Lordship gave time for an application to the Rolls.¹

The Lord Chancellor endeavoured to shorten Equity pleadings, which, he remarked, were 'too prolix in Ireland.' In the cause of *Blacker v. Phepoe*, a discussion arose as to the reception of documents not in issue in the pleadings, and a rule from Howard's Chancery Practice, of November 24, 1676, was relied on.² His Lordship said,

¹ An application was made to the Master of the Rolls, when one of the Lords Commissioners of the Great Seal, who heard the question fully argued and on principle and authority, refused the application.—*Irish Law Recorder*, vol. i. p. 197.

² 'No evidence shall be admitted on the hearing but what is in the pleadings, unless by leave of the Court before the hearing.'

CHAP.
LX.

A Royal
preroga-
tive.

Orders of
Primate
Boyle,
Lord Chan-
cellor.

Equity
pleadings.

Protection
refused
after argu-
ment by
Master of
the Rolls.

CHAP.
LX.

Recom-
mends
Lord Re-
desdale's
book.

Viceroy
changed.
Marquis
of Angle-
sey.

His policy
described
by Moore.

The Irish
law
officers.

'I beg it to be understood that it is not my opinion that every part of the evidence should be entered upon record. If this was the practice, the pleadings would reach to an interminable length. It would be well if your pleaders would read a little more of Lord Redesdale's book, and conform more to his mode of pleading.'¹

When Sir Anthony Hart was appointed Lord Chancellor of Ireland, the Marquis Wellesley was Lord Lieutenant; by the following year, 1828, a brave and gallant soldier, the Marquis of Anglesey, succeeded Lord Wellesley. His nature, confiding and sincere, his disposition, liberal and generous, it was hoped would render him acceptable to the Irish people, and, individually, he soon became extremely popular; but his policy was of the old stamp—trying to combine the very discordant elements into which Irish society was divided, and his plan of keeping Catholic and Protestant equally in hand was compared by the poet Moore to an equestrian in a circus with a pair of horses:—

So rides along, with canter smooth and pleasant,
That horseman, bold Lord Anglesey, at present.
Papist and Protestant the coursers twain,
That lend their necks to his impartial rein;
And round the ring, each honoured as they go,
With equal pressure for his graceful toe,²
To the old medley tune, half 'Patrick's Day'
And half 'Boyne Water,' take their cantering way;
While Peel, the showman, in the middle cracks
His long-lashed whip, to cheer the doubtful hacks.

The Irish law officers at this period were Messrs. Joy and Doherty, the former Attorney, the latter Solicitor General. As I have already mentioned, Mr. Joy was one of the ablest men at the Irish or any other bar; but he was a strong politician of the Tory camp, and his grave and stern visage presented a very marked contrast to the animated, genial countenance and striking figure of the Solicitor General. While Joy had leading business in the Equity Courts, as well as those of Law, Doherty had seldom

¹ Law Recorder, vol. i. p. 500.

² Moore seems to have forgotten that Lord Anglesey lost a leg at Waterloo.

briefs in Chancery, and was no match for Saurin, Blackburne, Warren, Pennefather, Lefroy, or Litton, who were confessedly the leaders in the Equity Courts. His circuit business gave him a fair share of practice in the Common Law Courts, though here he was far inferior to Holmes, O'Connell, O'Loughlen, Wallace, and others of the men of his time.

CHAP.
LX.

In 1829 Lord Anglesey was succeeded as Viceroy by the DUKE OF NORTHUMBERLAND, who was a very wealthy nobleman, and very generous in his donations to the Dublin charitable institutions. He had for his Chief Secretary, Lord Leveson Gower, better known as Lord Francis Egerton, a very estimable man, of great literary talents, but with no capacity for statecraft. As the Lord Chancellor had no taste for politics, and neither the Viceroy nor Chief Secretary any knowledge of Irish affairs, the business of the Government was left very much to the Law Officers, who put down by proclamation an incipient Repeal Society called 'The Friends of Ireland.' This was one of the many futile attempts to diminish the power of O'Connell—it had the directly contrary effect. While speaking through an association, his power was often diffused and obstructed; while speaking from himself, his earnest eloquence and popularity won and rivetted the attention of the people he addressed. But I must not intrude politics into the life of an able equity judge, for this is the true character of Lord Chancellor Hart.

The Duke
of North-
umberland
Viceroy.

His
literary
Secretary.

In the cause of *Beytagh v. Concannon*,¹ an application was made to the Lord Chancellor to vary a decision between the same parties by the Vice-Chancellor of England. The Lord Chancellor said, 'The tribunal in England has decided what was to be done, and now you want me to overturn that decision. I shall not at present say that your client is wrong, but I shall endeavour to keep *myself* from doing wrong. Suppose a bond creditor was to say, "I don't choose to proceed in Ireland, where a

Applica-
tion to
vary a
decree of
the Vice-
Chancellor
of Eng-
land.

¹ Irish Law Recorder, vol. ii. p. 143

CHAP.
LX.

decree made in 1813 is not further advanced in 1828, and therefore I choose to proceed for it in England." I must read all these orders, and especially that of the Vice-Chancellor of England, the bill you filed in England, the notice of your motion there, and the order of the Vice-Chancellor refusing it. I doubt whether I should have made that order; but I cannot, as Lord Chancellor of Ireland, control it. If the Vice-Chancellor is wrong, I have no authority to correct him.'

Case of
dealing
between
solicitor
and client.

The great principles of equity were applied by his Lordship in a suit wherein the original bill prayed an account of an annuity charged upon certain lands. The consideration for the annuity was very inadequate, and the party to whom it was payable was the solicitor of the grantor, who drew the annuity deed, and no other professional person was consulted. A cross bill prayed the deed might be declared fraudulent and void. The counsel for the attorney, the plaintiff in the original bill, relied on annual payments for twenty-seven years by a party cognisant of his rights, and relied on *Hovenden v. Lord Annesley*,¹ when Lord Redesdale stated: 'It is said that Courts of Equity are not within the Statute of Limitations. This is true in one respect. They are not within the words of the statute, because the words apply to particular legal remedies; but they are within the spirit and meaning of the statute, and have always been so considered.' The rules of dealing between solicitor and client, and the doctrine of construction trusts, were fully discussed. When giving judgment, the Lord Chancellor Hart said: 'It is not considered that if the grantor of this annuity, or his heir-at-law, had come *within* twenty years, that such acquiescence could be insisted on, as disabling him from the assistance of a Court of Equity. The length of time, therefore, exceeding twenty years, is the only argument for the defendant; and if this were a contract, carried into *complete execution* more than twenty years before the institution of the suit, the Court could not, consistently with

Judgment
of Sir
Anthony
Hart.

¹ 2 Scho. and Lef. 630.

its rules, interpose, unless a case was made out of secret fraud, not discovered until within a reasonable period before relief was sought; for the distinction is not to be overlooked, that acquiescence in that case for a period much less than twenty years after the knowledge of the fraud on the part of the complainant, would be sufficient to disqualify him from obtaining the aid of this Court, if such period of acquiescence, coupled with the antecedent period, made together more than twenty years from the origin of the transaction.' But he distinguished the present from such a case, holding, this was not a contract *executed* more than twenty years; that the *yearly repetition* of the payments made the distinction. 'Future payments are not affected by lapse of time, although that shall have the effect of shutting out retrospective relief. In cases of this kind where the fiduciary character almost disqualifies one party from contracting with the other, the Court goes not upon the ground of fraud, but public policy.' He declared the plaintiff in the cross bill should bear the loss he submitted to, but be relieved from future payments, and dismissed the original bill.¹

CHAP.
LX.

A singular case, in which the privileges of the Bar were seriously involved, took place in Ireland whilst Sir Anthony Hart was Lord Chancellor. James Croke, Esq., barrister, was retained as counsel before Darby O'Grady and Michael Bevan, Esqs., magistrates presiding at the Petty Sessions at Bruff, County Limerick, on August 26, 1829, in a civil proceeding to recover penalties under the Act 57 Geo. III. c. 108. The Clerk of the Court, learning Mr. Croke was a barrister, offered to conduct him to the seat usually occupied by professional gentlemen, which it appears Mr. Croke declined. When the case was called, he intimated to the Bench 'that he appeared as Counsel.' Mr. O'Grady said, 'It was a rule established by the Court, that Counsel should not be heard.' Mr. Croke said, 'It was a rule which might be departed from.' Mr. O'Grady then remarked, 'We have made the rule and shall not depart from it.' To this Mr. Croke answered, 'He thought such

Strange case affecting the rights of the Bar.

Dialogue between the Magistrate and Counsel.

¹ Irish Law Recorder, vol. iii. p. 71.

CHAP.
LX.

Counsel
committed
to the
dock.

The peni-
tent
discharged.

Meeting
of the Bar.

Memorial
to the
Lord
Chancel-
lor.

Lord
Chancellor
to Darby
O'Grady,
Esq

a rule was rather unconstitutional.' Mr. Croke's obser-
vation appears to have annoyed Mr. O'Grady, who re-
sponded, 'What signifies what you think?' To this
last remark Mr. Croke retorted, 'That what he (Croke)
thought was of as much consequence as what the magis-
trate thought.' Upon this Mr. O'Grady, in the presence
of his brother Justice, ordered the police to 'take the
Counsellor and commit him to the dock,' which was then
and there promptly done, to the intense disgust of the
Counsellor, who was thus ignominiously detained for forty
minutes. The Bench, then thinking Mr. Croke had been
made to feel the difference between a Justice of the Peace
and a Barrister in their Court, coolly proposed to liberate
him, '*if he made an apology.*' The captive, under pressure,
said, 'That no man had a higher respect for the adminis-
tration of justice than he had, and if he offended he was
sorry for it.' He was then discharged. There was of
course considerable excitement amongst the people attend-
ing Petty Sessions, to whom Mr. Croke and his esteemed
brother, the respected parish priest of the next town
Charleville, were well known, and there was much anxiety
as to the steps the learned Counsel would take to punish
this infringement upon the liberty of the subject and the
privileges of the Bar.

Mr. Croke lost no time in having a meeting of the Bar
called in Dublin, who listened, with pain and surprise, to
the details of this outrageous insult upon a most mild and
unassuming member of their profession, and the result was
a memorial addressed to Sir Anthony Hart, as Lord Chan-
cellor of Ireland, who could take proper steps to remove
these gentlemen, if necessary, from the Magistracy.

The Lord Chancellor wrote to Mr. O'Grady as fol-
lows:—

'Dublin, December 11, 1829.

'SIR,—The memorial I transmit with this letter was sent
to me by the directions of the assembled Bar of Ireland.
The proceedings at the Sessions to which it refers sur-
prised me, when I first heard of them. As the head of

that body to whom his Majesty confided the dispensation of justice to his subjects in this country, it is my duty to inform you that it is the privilege of those subjects to be heard by Counsel in all his Courts, for supporting and defending their civil rights; and the rule last laid down in the Court wherein you preside, precluding that privilege, is illegal, and must be immediately rescinded.

‘ I am, &c.,

‘ ANTHONY HART, C.

‘ Darby O’Grady, Esq.’

To this letter Mr. O’Grady promptly replied :—

‘ Bruff, December 12, 1829.

‘ MY LORD,—I have had the honour, this day, to receive your Lordship’s letter of the 11th inst. enclosing me a memorial sent to your Lordship by the assembled Bar of Ireland, and expressing your Lordship’s surprise at the proceedings at the Sessions, when you first heard of them. Your Lordship’s letter, and the memorial inclosed in it, I shall lay before the Magistrates at the Petty Sessions of Bruff on Wednesday next, which is their weekly day of meeting.

Mr. O’Grady’s reply.

‘ I fear your Lordship has been imposed on in the account of these proceedings, and that the assembled Bar have acted with somewhat too credulous a haste in giving implicit belief to an *ex-parte* statement, made by an individual who naturally wishes to convince others that he has been ill-used, and to persuade so respectable a body as the Bar to make common cause with him; and my surprise is extreme that so very experienced and talented an assembly should have so easily lent themselves to his views, though there are, certainly, some individuals in that body, who ought to be perfectly aware that, although a statement may be very positively asserted, it may nevertheless not be true, and in some instances has been retracted even by the person who made it, and this knowledge ought to have deterred a legal body from coming to any decision on such very questionable grounds without any previous investigation whatever.

CHAP.
LX.

‘Before I send your Lordship any statement of Mr. Croke’s misconduct, and the reasons which induced my brother magistrate, Mr. Bevan, and myself to act towards him as we did, it will be necessary for me to see Mr. Bevan. In the meantime I beg to assure your Lordship that Mr. Croke was committed for a violent riot in the Court, such as rendered absolutely necessary the harsh measures which were adopted towards him.

‘I have the honour to be, &c.,

‘DARBY O’GRADY.

‘To the Right Hon. the Lord Chancellor, &c.’

Statement
of the Ma-
gistrates.

A few days later brought the Chancellor a statement made by the Magistrates, which I give in its entirety, as it puts their case most fully before the reader:—

‘December 16, 1829.

A person
addresses
the Bench.

‘MY LORD,—At a Petty Sessions held at Bruff, on the 26th August last, the undersigned were the presiding Magistrates, and the Court was unusually crowded. A case against the toll-keeper of the fair of Drummin was called on. A person addressed the Bench from the midst of the crowd, under the gallery and at the back of the Court. The Magistrates desired him, if he had anything to say to the case before the Court, to come forward and say it. This person, then, without moving from his place in the crowd, which was pressing on, said he was engaged in this case. The Magistrates told him they could not listen to him, as it was a rule of the Court not to hear professional persons. This person then said the rule ought to be departed from, and was, he thought, unconstitutional. The Magistrates replied it was the rule of the Court, and that what he thought of it could not induce them to depart from it. He then added, that what he thought of it was of as much consequence as what they thought of it. He then became silent, and the case before the Court was proceeding, when the business of the Court was interrupted by a very general riot and disturbance, occasioned by the mob forcing its way into the Court,

The Ma-
gistrates
declare the
rule of
the Court.

A general
riot.

and this person at its head, advancing in a riotous, menacing manner, using abusive and insulting expressions to the Magistrates, and holding up his clenched fist towards them in a threatening attitude. The Magistrates instantly desired the police to put this person in the dock, and he was put in accordingly. He so remained in the dock fifteen or twenty minutes, when on making an ample apology for his misconduct, he was dismissed. Here it may be necessary to remark that this person heard the bench refuse to hear a professional gentleman (stating the rule forbade it), and also that he saw a man committed to the dock for insulting one of the Magistrates, and that both these occurrences took place immediately previous to his first addressing the Court. He therefore knew the rule of the Court, and he was also aware of the offence for which his companion in the dock was committed, and therefore knew he was not a perjurer.

‘The Magistrates had never seen this person before, but after he was some time in the dock they were told his name was Croke, and that he was a barrister. This the Magistrates think it right to state, that neither the rank or profession of any person could have shielded him in a Court where they presided from the punishment due to such gross misconduct.

‘From the unusually thronged state of the Court, from the noise proceeding from the crowd, and from the post in the centre of it taken by Mr. Croke, the Magistrates early apprehended a riot, and their suspicion lighted upon Mr. Croke as its probable leader. There was nothing in Mr. Croke’s appearance or manner to alter this unfavourable impression; his face was partly disguised as if to prevent his being recognised, and from his dress and deportment, and the whole tenour of his conduct, the Magistrates never suspected he was a gentleman, and had considerable doubts whether he was sober. These very unfavourable impressions on the minds of the Magistrates have received strong confirmation from information which has since reached them, and they beg to call your Lord-

CHAP.
LX.

The person threatens with clenched fist. The Magistrates commit him. Makes an apology and is dismissed.

Knew why his companion in the dock was committed.

Mr. Croke an unfavourable specimen of the Bar.

CHAP.
LX.

Stated he
went to
humble the
Magis-
trates.

Not ar-
rested
until he
approached
the Bench.

Justify the
course they
adopted.

Delicacy in
attending
to the
memorial.

ship's attention to the following facts: When Mr. Croke entered the Bruff Petty Sessions House, which is also the Quarter Sessions Court House, he addressed the crowd collected in the hall, in a loud and distinct voice, and told them he was come there to humble the Magistrates, that he would be Assistant-Barrister for that day, and several other such-like observations. The Clerk of the Court, seeing Mr. Croke was a stranger, and hearing he was a barrister, offered to conduct him to the seat set apart for professional persons, which offer Mr. Croke declined. The police did open a passage for Mr. Croke to take his proper station in the Court, which Mr. Croke once more declined doing, and kept his station in the midst of the crowd, at the back of the Court. This place Mr. Croke occupied during his conversation with the Magistrates, nor did he leave it until he began the riot for which he was committed, and he was not arrested in [his scandalous career until he had reached the bench and was proceeding to scramble into it.

‘The Magistrates beg, in conclusion, to assure your Lordship that, from their own observations, backed by the information they have received from others, they are convinced that Mr. Croke came to the Petty Sessions of Bruff, on the 26th August last, with the intention of creating a riot; that he did afterwards create a riot; and that, consistently with the duty they owe to their country, to the administration of the laws entrusted to them, and their own characters as magistrates and gentlemen, the most lenient course they could have pursued towards Mr. Croke was that which they adopted.

‘With respect to reparation, the Magistrates think, from the perusal of this statement, your Lordship will perceive it would be due from Mr. Croke to them, had not that person already atoned for his misconduct by a very full and satisfactory apology.

‘The Magistrates feel great delicacy in making any allusion to the memorial presented by the Assembled Bar of Ireland, and which your Lordship has transmitted to

them. The Magistrates hold the Bar collectively in high esteem ; to many members of that respectable profession they are bound by ties the nearest and dearest ; with great reluctance, therefore, they feel obliged to offer an observation on that very extraordinary document.

‘ It may be doubted whether anybody whatever (and the Bar are no exception) should be allowed to decide on their own privileges ; but when, in the assertion of these privileges, foul imputations are to be cast upon others, there can be no doubt that the greatest caution should mark their proceedings. In the resolutions of the Bar the Magistrates do not see that extreme caution which they should have expected from so august an assembly. The Bar began by taking for granted a statement, the truth of which they do not pretend to have investigated, but in the faith of which they do not hesitate to adjudicate, and accordingly they pronounce sentence on magistrates, over whom they cannot presume to have any control, and finally they call upon your Lordship to carry into execution this well-digested condemnation.

‘ It seems awkward that when lawyers are employed legally and constitutionally to protect and enforce the rights of others, time and money are squandered in lavish profusion, before any conclusion can be arrived at ; but when they undertake their own cause, with a hop, step, and jump, they can clear away every obstacle, pronounce their sentence, and leaving law, justice, and jury far behind, with an unpardonable temerity call upon your Lordship to become their executioner.

‘ We have the honour to be, &c.

‘ DARBY O’GRADY,

‘ MICHAEL BEVAN.’

The Lord Chancellor’s reply to this ‘grave and gay—lively yet severe’ production gave the magistrates to expect the case was not quite free yet from *law, justice, and jury*. His Lordship wrote :—

CHAP.
LX.

Bodies
deciding
on their
own pri-
vileges.

A caustic
remark
upon the
conduct of
the Bar.

Dublin, Dec. 22, 1829.

CHAP.
LX.The course
adopted by
the Chan-
cellor.

‘GENTLEMEN,—The memorial of the Irish Bar which I transmitted to you was sent for the purpose of your making such observations on it as the case might require; for though I had no difficulty in expressing my opinion on the facts as there stated, it was not my intention to exclude any explanation or counter-statement, or to pre-judge a question affecting the magistracy, without affording them an opportunity to vindicate themselves. Your statement to me shall be sent to the adjourned meeting of the Bar, on the same principle that their memorial was communicated to you; and should the difference be found irreconcilable, it must, I fear, be referred to a different jurisdiction from that which the Chancellor exercises.

‘I am, &c.,

‘ANTHONY HART, C.

‘To Darby O’Grady and Michael Bevan, Esqs.’

Action for
libel
against the
Magis-
trates.

The consequence of the variance of the statements, as the Chancellor foresaw, was, that Mr. Croke brought an action for libel against the two magistrates. The libel was the statement in the letter to the Lord Chancellor. The case lasted several days, and Lord Plunket, Chief Justice of the Common Pleas, having delivered a most admirable charge to the jury, they found a verdict for the plaintiff, with 500*l.* damages, and 6*d.* costs.¹

The Great
Seal ac-
cepted
by Lord
Plunket.

On the advent of Earl Grey’s Ministry, and the accession of King William IV., the Great Seal of Ireland was at length placed for the acceptance of Lord Plunket, who readily signified his willingness to take it. When it was generally known that the Lord Chancellor had disposed of the last cause he would adjudicate on as Lord Chancellor of Ireland, Mr. Saurin asked permission to ‘say a word or two, as he understood the Chancellor would not sit again.’ His Lordship bowed assent. Mr. Saurin continued:—‘I should not do justice to your Lordship—I am sure I should not consult the feelings of my brethren in the

Mr. Saurin’s fare-
well
Address to
the Lord
Chancel-
lor, and to
the Bar.¹ Law Recorder, vol. iv. pp. 44, 49.

profession, and I should do violence to my own—if I did not take this opportunity, before your Lordship leaves that seat for the last time, to express, in the first place, my own sincere and unfeigned regret at your Lordship's unexpected removal from it; that I do most sincerely regret it your Lordship will give me credit when I add, that, with the close of your Lordship's judicial career terminates my public professional services in this Court; but what is of much more importance, I am fully authorised to express the sincere regret of the great body of the profession, and particularly of those who have been in the habit of attending this Court, at your Lordship's removal. I am further authorised to express their high sense of the public advantage which has been derived from the impartiality, unwearied diligence, and masterly knowledge of the business and practice of the Court, which distinguished your Lordship's administration of justice here; and I am also desired to convey to your Lordship the sense of the profession and the tribute of their applause for the almost matchless patience which you were pleased to show to every member of the profession, and for that courtesy which characterised your Lordship while presiding in this Court.

‘Having thus expressed these, the sentiments of the profession, suffer me now to offer your Lordship our cordial wishes, that in your retirement, you may enjoy all the happiness this world is capable of affording, and that you may long feel pleasure from the consideration (which is perhaps the best that can be derived from it) that the functions of your high office were discharged with honour to yourself and advantage and satisfaction to all classes of his Majesty's subjects in Ireland.’ There was something very touching in this scene. On the Bench was the veteran Judge, about to leave the scene of his judicial labours, and at the Bar was the veteran Counsel, who, after a professional life of nearly half a century, was also leaving the scene of his honourable toil. In tones broken by deep emotion the Lord Chancellor replied:—

A touching scene.

CHAP.
LX.

The reply
of the Lord
Chancellor
to Mr.
Saurin's
address.

‘Mr. Saurin,—I had given myself some credit for my firmness (here he paused as though overpowered by his feelings) in all the vicissitudes of life, but I find it has quite failed me now. It is not the loss of dignity, nor of office that I consider of the slightest value, but the recollection of the time which I have passed here, and that it has been to me a period of such true social happiness. It is this which makes me feel the greatest reluctance in parting from such enjoyments. It is not, therefore, without the deepest emotion that I now must say, farewell for ever.’ Mr. Josias Dunne, solicitor, then addressed his Lordship :—

The Soli-
citor's
address.

‘MY LORD,—As President of the IRISH LAW SOCIETY, I am directed by the Solicitors of your Lordship's Court to return your Lordship their sincere thanks for the very kind attention they have received from your Lordship since your appointment as Lord High Chancellor of Ireland, and for the accommodation they now enjoy in the Court of Chancery; and I am further directed to state to your Lordship the prompt, able, and obliging manner in which Mr. Long, your Lordship's secretary, has always acted towards our profession in the necessary intercourse they have had with him.’

To this address the Chancellor replied :—

The Lord
Chan-
cellor's
reply.

‘Mr. Dunne,—I am fully sensible of the great skill and integrity of the large majority of the solicitors of this Court, and I trust they have always been treated by me with that respect which was due to their rank, ability, and propriety of conduct. This testimony from so highly respectable a portion of the practitioners is gratifying to me, and I beg they will accept my thanks.’

Legal
changes.

A number of legal changes took place on this event. LORD PLUNKET succeeded Sir Anthony Hart as Lord Chancellor, the Solicitor-General Doherty succeeded Lord Plunket as Lord Chief Justice of the Common Pleas, and the Attorney-General Joy became Lord Chief Baron of the

Exchequer in place of Chief Baron O'Grady, who retired on a Peerage and a pension.¹

CHAP.
LX.

The Whig Government made a curious selection of Law Officers. The Right Hon. Francis Blackburne² was appointed Attorney-General, and Philip Cecil Crampton, K.C.,³ Solicitor-General. Both had strong Tory predilections. As a sop to the Catholic party, the coif, vacant by Serjeant Blackburne's promotion, was conferred on one of the most distinguished members of the Irish Bar, Michael O'Loughlen.⁴

The Ex-Chancellor, Sir Anthony Hart, did not long enjoy his *otium cum dignitate*. He died in December 1831. Few Judges ever presided upon the Irish Chancery Bench who are held in more affectionate remembrance than Sir Anthony Hart. The seniors regarded him almost as a brother barrister; and to the junior members of the Bar, he was more kind and encouraging than any of his immediate predecessors.

Death of Ex-Chancellor Sir A. Hart, 1831. Recollections of the Ex-Chancellor.

It was a treat to be in Court when he presided. He heard the arguments patiently and almost uninterruptedly. When some matter of practice, which was not quite the same as that to which he was accustomed, was disclosed, he sought information from the Bar, and then when his turn came, he showed how nothing material escaped him. His judgments were lucid and most able, delivered in a ready flow of language, clear as a running brook, with a voice low yet strong, so modulated and articulate, that not a word was lost. He was very much pleased with the Irish Bar. When hearing a cause⁵ he said, 'When I feel any leaning against the arguments at the Bar, I throw

His character as a Judge.

His opinion of the Irish Bar.

¹ Viscount Guillamore.

² Afterwards Master of the Rolls, Lord Chief Justice of the Queen's Bench, Lord Justice of Appeals, and twice Lord Chancellor of Ireland. He died in 1867.

³ He was appointed one of the Justices of the King's Bench in 1834. Died in 1846.

⁴ This distinguished lawyer was a Baron of the Exchequer, and appointed Master of the Rolls in 1837. He was created a baronet in 1838. Died in 1842. His eldest son is also an eminent member of the Irish Bar, appointed Sergeant in 1867, and Judge Advocate-General in 1868.

⁵ *Vincent v. Hackett*, 2 Irish Law Recorder, p. 297.

CHAP.
LX.

out every objection I can in order to elicit what I am sure of getting—every possible information to set me right. This rule I adhere to generally, because I am always distrustful of my first impressions in any case, and more especially should this rule influence me in any question arising upon the local law of this country, of which I must necessarily be ignorant, and of which the Bar before me are so competent, and as willing as they are competent, to give me the fullest information.’

An At-
torney's
bon-mot.

Mr. O'Connell having suggested to the Lord Chancellor it would be more profitable for his client *cestui qui trusts* if certain trust-money was invested in landed security, which the deed allowed, instead of the Government funds, then very low, the Chancellor said, ‘He would be glad to increase the interest for Mr. O'Connell's clients if he saw the security was good, but, from all he could learn, the lands of Ireland were more covered with Chancery suits than with corn.’

An Attorney in Court rejoined, in an under-tone, ‘True, Sir Anthony, *and here are the reapers.*’

The Chan-
cellor
desires to
accommo-
date
suitors.

On an application to have a cause set down at the bottom of the list, the Chancellor assented, saying, ‘I shall sit here as long as any Counsel will stop with me. I have no right to say to the plaintiff that he shall not have his cause heard. He has a perfect right to call on the Court to hear it. The defendant's Counsel will lose nothing by giving you reasonable time, for if you are not ready, I shall be obliged to have all the pleadings and proofs read.’ This closes my account of this truly estimable man and eminent Equity Judge.

CHAPTER LXI.

LIFE OF LORD PLUNKET, FROM HIS BIRTH TO HIS CALL TO THE BAR.

AMONG these famous men, distinguished beyond their cotemporaries by the might of their minds, whose genius elevated and ennobled their country, must ever be placed WILLIAM CONYNGHAM PLUNKET. It was well said, 'There are men whose biography is the history of their country; the events of their existence, devoted to public affairs, cannot be separated from the events of the nation; and thus the recorded epochs in the lives of Cromwell, of Monk, of Hampden, of Somers, of Marlborough, of Walpole, of Pitt, of Fox, of Sheridan, of Grattan, of Wellington, of O'CONNELL, are the history of their country in their eras; and, to the roll of men who, for good or evil, have ruled the destinies of these kingdoms, we may add that of WILLIAM CONYNGHAM PLUNKET.'¹

CHAP.
LXI.
Character
of Plunket.

The life I am about to narrate is that of a man whose aim was always to do his best, and assuredly there is great consolation in the consciousness of having done the best. The race is not always to the swift, or the battle to the strong, but it never is to the faint-hearted or the coward. We should lose no opportunity of gaining success, and it may come when least expected. We should try and gain a secure footing at every step, and remember the Spanish proverb—'The stone that is fit for the building will not be left to lie on the road.' Opportunity may present itself unexpectedly, and then the capable man surpasses the idle and incompetent. Even though life may nearly pass, and years creep on before the man of mind soars above the ordinary herd, if he has omitted no legitimate opportunity

Doing our
best.

¹ Dublin Quarterly Review, vol. iv. p. 142.

CHAP.
LXI.

of bettering his lot, he has the proud consciousness of thinking it is not his fault; the sunshine of his reflections is unclouded by no regrets, and he enjoys that self-approbation which neither poverty nor lowly station can deprive him of. The life of such a man I proceed to record, one who combined the highest intellectual gifts with the most unflinching energy and untiring industry—who raised himself by the exertion of his unaided talents, and reached the highest rank without a stain—who left an honoured name upon which distrust never rested. His love for Ireland and his fellow-countrymen was superior to the allurements of place, and to achieve a name among those who served Ireland was the yearning of his noble nature.

Lord
Plunket's
ancestors.

The branch of the wide-spread family of Plunket from whence the subject of my memoir claimed descent took root in the north of Ireland, in the county of Monaghan, and parish of Glennar, early in the eighteenth century.

Rev.
Patrick
Plunket.

The Rev. Patrick Plunket served God, and sought to impress upon those who attended his ministry the sacred truths of the Church wherein he was a zealous minister—the Presbyterian Church of Ireland. He had an only son, who, influenced alike by the example and precept of his reverend sire, was early destined for the sacred calling, and became the Rev. Thomas Plunket.

Rev.
Thomas
Plunket.

He was educated at Glasgow for the Church, and, at the early age of twenty-two, obtained the necessary license to teach the *Word* by the Presbytery of Monaghan. The young and highly-gifted minister soon impressed his brethren and congregation with his talents and piety. A more extended sphere for his services was sought, and his success, as a clergyman, in the chief town of Fermanagh, proved the Synod were right in their choice. In Enniskillen the Rev. Thomas Plunket was greatly esteemed. He found a congenial spirit in a fair daughter of the town washed by beauteous Lough Erne. Mary, daughter of Mr. Redmund Conyngham, a gentleman of respectability and influence in the town, won his affections by her amiability and gentle bearing. She became the minister's wife, and a

Minister
of Ennis-
killen.

family of six sons and two daughters was the fruit of their union—the youngest son was Ireland's future Chancellor.

William Conyngham Plunket was born in Enniskillen on July 1, 1764. The town of Enniskillen, in which the early years of William Conyngham Plunket was spent, is not without fame in Irish annals. It is hard to say how much the sights and scenes on which the infant eyes first open—the impressions this outward world makes upon the virgin page of childhood—influence the future man. History, ballad-poetry, legend, and nursery song, made the name of Enniskillen dear to the fair-haired Willy, and who knows how much the loveliness of the scenery of Lough Erne and the tender smiles of his mother, found an abiding place in his heart. The situation of the town is picturesque, beautiful scenery is round and about it, and what can be more delicious than a boyhood on the shores of Lough Erne, under the pure and tender care of an intellectual mother. In after years, with Plunket, the memory of such days shone through the joys or sorrows of his eventful life. He remembered the time when they roamed together over hills and through fields bright with flowers, listening to the hum of bees, the carol of birds, or sat in an old ruin, or beneath some spreading tree, and he was content to bask in the sunshine of those smiles which made the joy of his young heart. Then his fond mother, as she marked the dawning intelligence of her youngest son, told him the brave deeds which, in days of yore, had been done in Enniskillen. How the great Irish chieftain Maguire had been surprised by the English troops in Queen Elizabeth's time, and his men killed, and his castle taken from him. How the English in their turn were besieged by Maguire's kinsman, O'Donnell, and every one of them slaughtered. That in after-years the Maguires and their tributaries¹ were banished during the

CHAP.
LXI.

Marries
Miss Mary
Conyngham.
Birth of
William
C. Plunket.

Infant
training.

¹ Among the tributaries of Maguire, Prince of Fermanagh, were my ancestors the O'Flanagans, Chiefs of Tura, now the barony of Magheraboy. At the same time, the O'HAGANS of TULLAGHOGE, County Tyrone, were deprived of their territories, which King James granted to Robert Lindesay, of Leith, Chief Harbinger and Comptroller of Artillery in Scotland. The descendant

CHAP.
LXI.

plantation of Ulster, and their broad lands divided among the undertakers of King James I. Then Mrs. Plunket told her son of the gallant stand the Enniskilleners made for their faith, and the King of their choice—William III.—against the despot James II. How, under the brave Governor Gustavus Hamilton, they held the town against a large attacking force, and it became the rendezvous for the Protestants of the north-west of Ulster. How the brave Enniskillen men had done good service in the wars of England, and the British Army had a gallant regiment of cavalry, and another of infantry, culled from the town. The young mind eagerly drunk in, as the young ear listened to, the strain of intelligence, which, in simple language suited to his years, his mother poured forth for the education of the boy. From his earliest years he displayed a more than common intelligence; this may be inferred from two anecdotes of his boyhood, told me by a very intimate friend of the Chancellor's.¹ One may be regarded as foreshowing his reasoning powers, the other the magnanimity of his heart.

Anecdote
of his
childhood.

While yet a very young child, William Plunket was taken out to walk by his aunt Conyngham. They wandered in the direction of Castle Coole, the picturesque and noble demesne of the Earl of Belmore, and strayed so far into its beautiful grounds that Master Willy grew tired, and his aunt had to carry him homeward in her arms. He was no feather to carry, and Miss Conyngham was so tired she willingly accepted the offer of a gentleman, a friend of hers, who met them on their road, and desired to relieve her of the burden. When they reached the dwelling of the Rev. Thomas Plunket, Miss Conyngham desired the child 'to thank the kind gentleman.'

'For what?' demanded the hopeful youth.

of the Patentee is Frederick Lindesay, Esq., a D.L. and J.P. for Tyrone, and much esteemed in the country.

The present distinguished LORD O'HAGAN OF TULLAGHOGE, LORD CHANCELLOR OF IRELAND, has preserved the ancient local name of the race by adopting it as his title when raised to the Peerage of the United Kingdom.

¹ The late Master O'Dwyer.

‘For his trouble and kindness in bringing you home.’

‘Not I, indeed!’ answered Master Willy, ‘tis for you to do that, aunt;’ and, pointing to a coal-porter with a sack of coals on his back, said, ‘Suppose, now, this gentleman carried home those coals, who should thank him but the man he relieved of the load?’

CHAP.
LXI.

Miss Conyngham and her friend admitted the force of this illustration.

The other anecdote Master O’Dwyer told me relates to Plunket’s school days. His first school was kept by an anti-pugilistic master, and boxing was prohibited under the severest penalties. The course of education was calculated to awaken rivalry in intellectual conflicts, and obtaining a certain number of good marks entitled the good scholar to a certificate, which exempted the possessor from punishment—in effect, an amnesty for any offences whatsoever. Plunket obtained the much-coveted certificate, and, while its owner, had a boyish quarrel with a class-fellow, which, despite the ordinance to the contrary, ended in a fight. Black eyes and bloody lips told their own tale, and the dread fiat was spoken—the offenders should be flogged. Plunket took his punishment like a hero, wincing a little, but not a tear or moan escaped him, and then the turn of his fellow-combatant came. Plunket pleaded for his antagonist, urged that he alone was in fault; he forced the boy to fight, made him violate the rule, and he alone should suffer the penalty. All was in vain, the offence was too glaring to be overlooked; the guilty should suffer.

School
days.

‘Here, then,’ cried Plunket, handing his late foe the certificate which exempted the holder from any punishment. ‘I kept this to save you, for now the master can’t touch you.’

‘You are a brave generous lad, Plunket,’ said the Master, ‘I see you will do us credit some of these days; only keep your temper and mind your lessons.’

In the year 1768 an event occurred which most probably was of importance to the future destiny of the family

CHAP.
LXI.
Removal
from En-
niskillen
to Dublin.

of the Rev. Thomas Plunket. He removed from Enniskillen to Dublin. The ties which bound him to Lough Erne side were not lightly sundered; the links which bind the pastor to his flock (so often tested in Ireland by congregations of all creeds), had peculiar strength in the case of the Rev. Mr. Plunket. He had come to Enniskillen new to the ministry. It was here his earnest and eloquent preaching found its way into his hearers' hearts; they were proud of their minister, they honoured him as a man for his upright and exemplary character, while they revered him for practising the piety he inculcated. He lived and taught the whole Christian charity which knows no distinction, and I make no doubt the efforts of his worthy son to raise the prostrate Catholic from the lowly condition in which the chains of penal legislation enslaved him in his native land, were prompted and aroused by the lessons of his father. During Mr. Plunket's residence at Enniskillen he had repeated solicitations to accept other more lucrative preferments, but he could not leave his old friends. The capital of Fermanagh was endeared to him by these associations, which are strong when we are happy. Here he found the wife he loved; here their children—dear pledges of domestic happiness—were born; here his simple wants were supplied; here he had many friends and no foes. But the time for parting was to come; nothing earthly endures for long; this world is a changeful one, and when the Rev. Mr. Plunket was aware that *duty* called him from the place where he was so happy, he hesitated not—promptly, though painfully—to obey the call. His friends, among whom was the strange and gifted Rev. Philip Skelton, curate of Rev. Mr. Madden, of Fintona,¹

¹ It is related that the Rev. Thomas Plunket was fond of arguing with his friend Dr. Skelton, and having discussed doctrinal points without a particle of bitterness or asperity, 'Come, now,' Dr. Plunket would say, 'we have talked enough; let us call in Mary (a little Welsh servant), and state the case to her, and she shall decide who is right.' This proposal being good-humoredly assented to, when the little umpire made her appearance, upon hearing a brief summary of the belief of the disputants, her usual decision was, 'Aweel, aweel, my masters, if you will have my judgment, I do think, that love to God, and love to man, is no fuel for hell-fire.'—Dublin Univ. Mag. vol. xv. p. 258.

while they mourned his loss, approved of his conduct, and we now find him in 1768 colleague of the Rev. Dr. Moody in the ministry of the congregation attending the Presbyterian church of Strand Street, Dublin. While on this mission, his talents as a preacher, his wit and literary ability, his great conversational powers, his political knowledge, and that earnest zeal for civil and religious liberty he bequeathed to his son, was at once a passport to the distinguished circle of patriotic Irish senators then forming their plans in Dublin, which so signally fructified in obtaining Irish independence. The Rev. Thomas Plunket was regarded as an acquisition of great importance to the men of liberal and tolerant views who were resolved that Ireland should be a nation. He was so constant in his attendance at the House of Commons, that his accustomed seat in the Strangers' Gallery was looked upon as reserved for his special use, and called 'Dr. Plunket's stall.'

CHAP.
LXI.

Minister
of the
Strand
Street Con-
gregation.

Admitted
to the
friendship
of the Irish
national
party.

He was the intimate friend of those who sought to raise Ireland from being the ill-treated province she then was, without trade or independence of any kind, her appellate jurisdiction annihilated, her Judges removable at the pleasure of the Crown or the whim of a Minister, her Parliaments lasting for the life of the sovereign, the pension list full, and, as a necessary consequence, the Exchequer empty, the Protestants petted while cajoled, the Catholics insulted while degraded. The just and right-minded of every creed felt humiliated by this state of Ireland, and one of the most stern denouncers of the mischievous policy which, for centuries, had made Ireland the *difficulty* instead of the attached sister, of Great Britain, was the respected minister of Strand Street, the Rev. Thomas Plunket.

Alas for the uncertainty of human life. In the midst of his career of usefulness, despite the tears of his family, the prayers of his flock, the lament of the nation, the stroke of death fell, and the grave received all that was mortal of the Rev. Thomas Plunket. He died in the year 1776.

Death of
the Rev.
Thomas
Plunket.

CHAP.
LXI.

The church to which the Rev. Thomas Plunket belonged was not one in which the clergy accumulated enormous fortunes; none of them left hundreds of thousands of pounds sterling, or large landed estates; indeed, I suspect the day when clergy of any Church can do the like is over, but it never was so in the Presbyterian Church. Rev. Thomas Plunket died poor. He had little to leave his family but the memory of his labours for his country and his fellow-men. They were services not to be forgotten; such claims could not be overlooked. The citizens of Dublin were too spirited, and the congregation of Strand Street Chapel too attached to the memory of their good pastor, not to take care of the widow and the fatherless. They helped the friends who came forward with provident regard, and enabled the children to commence life independently. The writer whose valuable memoir I have so largely drawn from, adds, 'with that honour which ever distinguished Lord Plunket, he, in after life, repaid the sums thus advanced, and when debt pressed upon the public chapel fund of his old friends, he presented them with a sum of over 500*l.* to enable them to discharge their liabilities.'¹

Fund
raised for
the widow
and
children.

William Plunket was sent to a day-school in Dublin, the principal of which was the Rev. Lewis Kerr. Here he became an intimate friend with William Charles Yelverton, a lad about his own age, eldest son of a celebrated Irish lawyer, Barry Yelverton, who was then on the high road to preferment.² It is related that this eminent lawyer greatly encouraged the intimacy between his son and Willy Plunket, often inviting the latter to his house, and examining him as to his proficiency in his studies. A guest at Mr. Yelverton's records 'that young Plunket was a clever, hard-headed boy, very attentive to his books, and very negligent of his person.'³

Fellow-
pupil at
school.

Plunket's
character
as a boy.

I have not been able to ascertain if Plunket remained

¹ Dublin Quar. Rev. vol. iv. p. 144.

² Barry Yelverton was Attorney-General in 1782, and Chief Baron of the Exchequer in 1784. He was created Baron Avonmore in 1795, and advanced in the Peerage as Viscount in 1800.

³ Life by his Grandson, vol. i. p. 30.

at the Rev. Mr. Kerr's school until he entered college. Another of his fellow-pupils was Thomas Addis Emmet, who matriculated in the year 1778, at the early age of fourteen. In the year 1779, Plunket entered Trinity College, Dublin, and took a high place at the entrance examination. In his third year he obtained a scholarship, and this year, 1782, joined the far-famed College Historical Society. This Society, which celebrated its century of existence on May 4, 1870, demands a more than passing mention.¹

CHAP.
LXI.

Enters
Trinity
College in
1779.

The College Historical Society was founded in May, 1770, and the founders comprised many of the gifted men whose genius rocked the cradle of Irish freedom, and hoped to have watched its growth to a vigorous old age; but the College Historical Society has long survived it. Possibly from the same parent stem offshoots as earnest, as eloquent, and less confiding, may achieve the same ends,

College
Historical
Society,
founded
A.D. 1770.

¹ I write on May 19, 1870. The evening of Wednesday, May 4, found a large and distinguished party of members and ex-members of the Historical Society assembled in the dining hall of the College. The chair was worthily filled by the President of the Society, the Right Honourable Sir Joseph Napier, Bart., Ex-Lord Chancellor of Ireland. On his right sat the Provost (Dr. Lloyd), Lord Chief Justice Whiteside, Right Hon. Judge Keogh, Right Hon. Judge FitzGerald, Hon. Judge Lynch, Hon. Judge Harrison, and the Dean of the Chapel Royal. On the left, the Right Hon. H. E. Chatterton, Vice-Chancellor; Master Brooke, Right Hon. Judge Morris, Right Hon. Judge Warren, Isaac Butt, Q.C., C. H. Hemphill, Q.C., D. Heron, Q.C., M.P., John Adair, D. Lynch, jun. &c. Above a hundred and thirty gentlemen, comprising Irishmen of every shade of creed and political colour, from the most glaring orange to the most verdant green, here blended most harmoniously. The usual loyal toasts having been duly honoured, the eloquent chairman proposed, in suitable terms, the 'Representatives of the College Historical Society.' It was the centenary celebration of the founding of the Society. The chairman detailed the historic men it sent forth, and alluded in pathetic terms to the mighty dead, and he dwelt upon the enduring friendships there formed. Judge Keogh responded in a strain of that brilliant and suitable language which, while in Parliament, earned for him the reputation of being one of the best speakers in the House of Commons. The Auditor also, Mr. E. B. Hamilton, a name eminently distinguished in the annals of the Society, ably responded. Chief Justice Whiteside, in his usual happy style, referred to the history of the University, and the benefits her education conferred, when proposing the health of the Provost; who, having replied, there followed speeches from the Vice-Chancellor, Judge Morris, and one whose name is a guarantee for the blending of genius and patriotism—Isaac Butt.

Centenary
anniver-
sary
dinner.

CHAP.
LXI.

and the 'House over the way' again resound with the voices of men trained for debate in the College Historical Society. Barry Yelverton, Grattan, and Curran, who was a scholar in 1770, are supposed to have been the chief promoters of this Society. Like all young institutions, its progress was slow—perhaps its chest was weak; the debates must have been so, if we are to judge from the closing speech of the chairman, Mr. Ball,¹ in 1774.

Specimen
of an
animated
debate.

'One gentleman arises and opens the debate by modestly informing the Society "he has nothing to say, for, indeed, he has not studied the question." Another, on the opposite side, with equal modesty, assures us that "the arguments of his learned and respectable friend who opened the debate carry with them such weight and authority, 'twould be presumption in him to attempt to answer." Well may Cambridge, well may Oxford, boast, and call us their "*silent sister*." Shamefully indolent as we are, the reproaches of these might rouse us; shall they produce wits, and poets, and orators, while the only seminary in Europe for the education of gentlemen, is barren of these fruits? Forbid it, patriotism! that the soil which reared a Burke,² the soil which produced a Hussey Burgh,³ should cease, on a sudden, that fertility from which fame had fondly promised herself to gather for futurity the richest present she ever made it.'

Effect of
Mr. Ball's
speech.

These stirring words sunk deep into the breasts, and quickened the dormant energies, of the youthful members of the College Historical Society. Then a band of intellectual gladiators stepped into the arena, and the plaudits of their prowess yet ring in our ears. Thomas Addis Emmet, and Temple Emmet, brothers of Robert

¹ It is an interesting fact that the present Senior Member of the University is a namesake—probably a relative—of this gentleman, my highly respected and distinguished contemporary, Right Hon. John Thomas Ball; while the Junior Member, Hon. David Plunket, Q.C., is grandson paternally of Plunket, and maternally of Bushe. He has already evinced ability to emulate the renown of his illustrious race.

² Right Hon. Edmund Burke.

³ Right Hon. Chief Baron Hussey Burgh.

Emmet, Theobald Wolfe Tone, Charles Kendal Bushe, Miller, Magee, Burrowes, and Plunket, were among those most applauded. The Irish House of Commons was then in the zenith of its fame, and the student's gown a ready passport to the Strangers' Gallery. Fresh from hearing the fervid oratory of Grattan, Hussey Burgh, Curran, and Flood, the young College students brought within the walls of old Trinity much of the spirit, and some of the style, of the more important debating society they had so recently left.

CHAP.
LXI.

In 1782, William Conyngham Plunket became a member of the College Historical Society. He was proposed by Thomas Addis Emmet,¹ and quickly took a high place in the estimation of his fellow-students. The record before me thus refers to his career, while a member of this society:—'Here, as ever, first in the field, every speech distinguished by that vigorous and logical eloquence which set him so high among the orators of the age. Those who will not yield to his mighty powers of reasoning, clear, strong, irresistible, are scathed and blasted by his withering sarcasm, or shrink back from those flashes of wit that relieve, like the sunbeam on the waters, the rushing torrent of his eloquence. It is said of him, that some of the speeches delivered in the Historical Society fully equalled, in power of reasoning and keenness of satire, anything he afterwards achieved. While he continued in the society, he exerted himself frequently, having received successively medals for oratory and composition, and closed the winter session of 1782 with a speech from the chair, an honour reserved for the best speakers in the society. In the year 1783 he was twice elected President, opened the following session with an address from the chair, and when a favourite member died, he was requested to pronounce an eulogistic address upon his good

Plunket a member.

His career in the College Historical Society.

¹ He was second son of Doctor Emmet, a distinguished physician of Dublin. He was called to the Irish Bar, but, implicated in the rebellion of 1798, was imprisoned in Fort St. George, and emigrated to America in 1804. His career at the American Bar was most successful. He was appointed Attorney-General for the State of New York in 1812. He died in 1827.

CHAP.
LXI.

Takes his degree in the Dublin University. A law student in London.

qualities, which he did so successfully that a special medal was awarded him.¹

Plunket obtained his bachelor's degree in 1784, and temporarily with his university course kept his terms as a law student in the King's Inns. He then entered his name on the books of Lincoln's Inn, London, and resided first at Lambeth and subsequently at Ham Common. A pleasant letter to a friend, the Hon. George Knox, dated July 23, 1785, gives us an insight into his student life. I make a few extracts :—

' I write from Ham Common. The situation is a very tempting one, and might lead a man of an enterprising temper and reduced circumstances into some desperate exertion ; if my courage continues as high, and my purse as low, during the summer as I feel them at present, I must begin to study a course of Crown law in order to preserve my honesty by raising some wholesale apprehensions for my safety.'

' I am at present feeding on the rust of Coke's Reports, and talking metaphysics with the curate. I had, a few days ago, a letter from Burrowes, in which he mentions he had received 60*l.* since he had been called, exclusive of the House of Lords business, which is to come on in a few days, for which he is to receive ten guineas a day.'²

We thus find that Plunket was absorbed in legal studies and preparing seriously and systematically for the Bar. In conning over and studying the year books he found the Puisne Judges addressed as 'Sir,' not 'My Lord.'³ In Plunket's student days, Lord Thurlow was Lord Chancellor

¹ Vide the interesting papers entitled, 'The Historical Society,' *Ir. Quar. Rev.* vol. iv. p. 313.

² Peter Burrowes, the gentleman here referred to, was called to the Bar Easter Term, 1785 ; consequently, must have received 60*l.* in less than four months. He was a highly gifted speaker, and had been a distinguished member of the College Historical Society. A very interesting Memoir has been published by his nephew, W. Burrowes, Esq., and in Whiteside's *Early Sketches*, edited by W. D. Ferguson, Esq., will be found a very graphic sketch of this simple-mannered and intellectual barrister, truly designated the 'Goldsmith of the Bar.'

³ The title of 'Your Lordship' is only properly given to Judges on the Bench. In Mr. Foss's admirable repertory of legal lore, the 'Judges of

of England, and Mr. Plunket could not but regard, with something of reverential awe, the man who administered the stinging rebuke to a peer who brought upon his own head the withering storm of Lord Thurlow's invective. It was a model for Plunket, and he could not forget it. The Duke of Grafton had the temerity to reproach the Chancellor with his plebeian birth (his father, Rev. Thomas Thurlow, was rector of Ashfield, in Suffolk), and his recent admission into the Peerage. The Duke having sat down, the Chancellor rose from the Woolsack, and advanced slowly to the place from which the Chancellor generally addresses the House, then fixing on the Duke a look of lowering indignation,—

CHAP.
LXI.

Lord
Thurlow,
Chancellor
of Eng-
land.

Insulted
by the
Duke of
Grafton.

‘I am amazed,’ he said, in a low tone of voice, ‘at the attack which the noble Duke has made upon me. Yes, my Lords,’ he continued, considerably raising his voice, ‘I am AMAZED at his Grace’s speech. The noble Duke cannot look before him, behind him, or on either side of him, without seeing some noble Peer who owes his seat in this House to his successful exertions in the profession to which I belong. Does he not feel that it is as honourable to owe it to these as to being the accident of an accident? To all these noble Lords the language of the noble Duke is as applicable, and as insulting, as it is to myself. But I don’t fear to stand single and alone. No one venerates the Peerage more than I do; but, my Lords, I must say that the Peerage solicited me, not I the Peerage. Nay, more, I can say, and will say that, as a Peer of Parliament, as Speaker of this right honourable House, as Keeper of the Great Seal, as Guardian of his Majesty’s Conscience, as Lord High Chancellor of England; nay, even in that character alone, in which the noble Duke would think it an affront to be considered, but which character none can deny me, as a MAN, I am at this moment as respectable, I beg

The Lord
Chancel-
lor’s noble
reply.

England,’ he mentions having been, in early days, officially connected with a committee, of which one of the Judges was a member, whom he addressed by the title of ‘My Lord.’ The Judge kindly took him aside, and said to him, ‘I know you wish to be correct; and that you will, therefore, excuse my informing you that I am entitled to that address only while on the Bench.’—Foss, Judges of England, vol. viii. p. 201.

CHAP.
LXI.

leave to add, I am at this time as much respected, as the proudest Peer I now look down upon.'

Lord
Mansfield.

'The effect of this speech,' says Mr. Butler in his Reminiscences, 'both within the walls of Parliament and without, was prodigious. It gave Lord Thurlow an ascendancy in the house no Chancellor ever possessed;' and in the eyes of high-spirited men like Mr. Plunket, made him a special subject of respect and regard. Lord Mansfield was still presiding as the Chief Justice of the King's Bench, when Plunket used to frequent that Court; but old age, and the infirmities attendant upon it, somewhat impaired his Lordship's vigour. An amiable trait of this great Judge must have charmed Plunket. He was particularly attentive to the students who attended his Court, admitting them to sit on the bench with him, and explaining the points that happened to be raised. In his time, the King's Counsel used the same courtesy towards the young aspirants; but after the accession of Lord Kenyon, the practice was discontinued.¹

His kind
attention
to law
students.

Anecdote
of Henry
Grattan in
Windsor
Forest.

Letter to
Mr. Knox.

Mr. Plunket did not neglect to keep up his practice in public speaking, though he had not the ringing cheers of the members of the College Historical Society to reward his bursts of eloquence. He had probably been told how Grattan, while residing near Windsor, used to harangue the assembled oaks, and when once apostrophising an empty gibbet, in a strain of impassioned eloquence, was interrupted by a stranger significantly pointing to the ignominious wood, and asking, 'Pray, how did you get down?' To which the Irish orator promptly answered, 'I perceive, Sir, you have an interest in asking that question.' Plunket, when writing again to his friend Knox, from Ham Common, August 27, 1785, says, 'I once or twice assailed the trees in Richmond Park, and though I did not expect the success of Orpheus (he was an ancient orator who made trees dance after him), was so much disappointed in my solitary exertions that I very soon desisted; a man, you know, can take no pleasure in

¹ Foss, Judges of England, vol. viii. p. 343.

throwing out elegant personalities against himself; and besides, to own the truth to you in confidence, I always found my first arguments so unanswerable that I never could produce a reply.' 'Chief Baron Yelverton has been in town lately, and tells me he thinks it by no means advisable to go into a special pleader's office. Everything requisite for the practical part of the profession, he says, may very easily be picked up without, and he thinks the time would be much better employed in studying its general principles. I asked him, had he heard Burrowes? He said he had, two or three times, and was greatly pleased with him; that he spoke like a man of *knowledge and experience in his profession*, and that there could be no doubt of his getting quickly into business. It certainly is a great proof of Burrowes's strong abilities that he was able to persuade the Court into an opinion of his legal information. I encouraged the notion, and told Yelverton that he had been one of the most studious men in England during his residence here.'¹ This letter shows that Mr. Plunket did not avail himself of the great benefit which I, in common with so many Irish law students, shared, of working in the chambers of a special pleader. It is, of course, very much dependent upon the student himself whether he will profit by the attendance or not. The work is very much left to himself, and while the industrious will work hard, the indolent or dissipated will do nothing. Plunket, however, though he did not study pleading in chambers, evidently studied carefully the general principles of law. He belonged to a studious set, and was greatly surprised by the contrast presented by his future brethren of the Irish Bar to those he left. Mr. Plunket was called to the Irish Bar in Hilary Term, 1787.

It is no wonder, indeed, the young law student, fresh from the staid and formal society of the denizens of Lincoln's Inn, the cold and technical arguments of the Courts of Westminster, should have been struck with the contrast afforded by the vivacity and jocularly which enlivened

CHAP.
LXI.

Chief
Baron
Yelverton
advises
him
against
entering a
pleader's
chambers.

Students
in cham-
bers.

Plunket
called to
the Bar
in 1787.

Contrast
of the Bars
of England
and Ire-
land.

² Life, by his grandson, vol. i. p. 45.

CHAP.
LXI.

procedure in the Dublin Four Courts. The English barrister would deem venturing on a flight of impassioned eloquence while discussing a legal proposition as nothing short of absurdity, while an Irish barrister of this period would not have hesitated to indulge in such disporting. We have instances in which the learned counsel reminded the chief of the Court he was addressing of the banquets which they shared—the friends they lost—the tears they mingled. Those deviations were not rebuked by the Bench; such little episodes were looked on indulgently, for they relieved the tedium of dry law arguments, and were not held of any account in balancing the scales of justice. The effect of displays of eloquence upon Irish jurors was very great, and most amusing instances are upon record of the whimsical addresses of Irish counsel. As for example, one member of the Bar implored the jury not to be influenced ‘*by the dark oblivion of a brow!*’ Another, whose clients had instituted proceedings against a false witness, said, ‘Gentlemen, my clients were not to be bamboozled. They adopted a bold course. They took the bull by the horns, and *indicted him for perjury!*’ Another, anticipating the case of his opponents, electrified the Court and jury with these words: ‘I foresee what they are at. I see the storm, brewing in the distance. I smell a rat; but *I’ll nip it in the bud!*’ Plunket could hardly fail to express his surprise at such oratorical effusions, and found the ascetic life he practised while absorbed in his legal studies in London very different from the life of the ‘Monks of the Screw,’ of whom I am enabled to give an account here. This society was formed by his eminent friend Lord Avonmore, when practising at the Bar in 1779. It was political and convivial, consisting of professed and lay members. The professed were members of the Irish Lords or Commons, members of the Bar, with a proportion of gentlemen belonging to other professions, not exceeding a third of the number. They assembled every Saturday evening during the Law Terms, at a house in Kevin Street, which they called their Convent, and

Whimsical
addresses
to Irish
juries.

The Monks
of the
Screw.

their officers had clerical titles. Thus the Founder was Barry Yelverton, afterwards Lord Chief Baron; the Abbot, William Doyle, Master in Chancery; Prior, John Philpot Curran, Master of the Rolls; Præcentor, Reverend William Day, S.F.F.C.D.; Bursar, Edward Hudson, M.D.; Sacristan, Robert Johnson, afterwards Judge. A list of fifty-six members is given in Curran's *Life*, by his son, vol. i. p. 141. When the brethren met, they usually held a Chapter before Commons, at which the Abbot presided—in his absence, the Prior or senior member. All the monks wore their habit, a black tabinet domino. A short grace, now used in the King's Inns, for Commons, was pronounced before dinner by the præcentor, 'Benedictus benedicat,' and after dinner 'Benedicto benedicatur.' The Charter song, written by the Prior Curran, was as follows:—

When St. Patrick this Order established
 He called us the 'Monks of the Screw';¹
 Good rules he revealed to our Abbot,
 To guide us in what we should do.
 But first he replenished our fountain
 With liquor the best in the sky;
 And he swore on the word of a saint
 That the fountain should never run dry.

Each year when your octaves approach,
 In full chapter convened let me find you,
 And when to the convent you come
 Leave your fav'rite temptation behind you;
 And be not a glass in your convent,
 Unless on a festival, found;
 And, this rule to enforce, I ordain it
 One festival all the year round.

My brethren, be chaste till you're tempted;
 Whilst sober, be grave and discreet;
 And humble your bodies with fasting
 As oft as you've nothing to eat.
 Yet, in honour of fasting, one lean face
 Among you I'll always require:
 If the Abbot should please, he may wear it;*
 If not, let it come to the Prior.

¹ The Abbot, Mr. Doyle, had a remarkably round jolly face; while Curran, the Prior, was lean and thin. The Society gradually grew smaller, and ceased about the year 1795.

CHAP.
LXI.
Claret the
wine of
the Irish
gentry.

The reunions of the Irish gentry witnessed the consumption of large quantities of wine. Claret was the wine commonly enjoyed by these toppers. Port was quite secondary, and the Irish squire who allowed port to circulate after dinner was regarded with suspicion of being Anglicised. The use of white wine was confined to gouty toppers who had received a hint that their potations of claret must cease for a time. It was kept in the house-keeper's room, for cordials, or made into negus by the ladies' maids. The numerous connections of the Irish Roman Catholic gentry in France made French wines and brandies easily attainable, for the 'preventive service' did not then exist, and the smuggler was a rattling, roving blade, well received by every *born* gentleman who behaved as such, and was treated accordingly. Whiskey, of later years the national beverage, was then unknown in the dining-rooms of the higher ranks, being reserved for their pocket-flasks when hunting, fishing, or shooting. It was left to the lower orders, who at this period were not so addicted to intemperance as they afterwards became, which before Father Mathew's crusade against drinking was so general that I heard a highly distinguished engineer officer declare, 'He did not believe in spontaneous combustion, for if it existed the people of Ireland would be off in a blaze.'¹

¹ The recent abolition of the duties on foreign wines has revived the use of claret considerably in Ireland, and it is no doubt a much more wholesome beverage than whiskey-punch. The enormous consumption of beer, however, shows that claret is by no means so popular, and I remember, at a dinner given by a noble lord to his tenantry, who as a great compliment were treated to some superior claret after dinner, one of the bucolic guests disturbed the gravity of the solemn butler by suggesting the propriety of 'letting them have a tumbler of punch, for he did not care to drink any more of the *bad porter*.'

CHAPTER LXII.

LIFE OF LORD PLUNKET, CONTINUED TILL HE BECAME A MEMBER
OF THE IRISH PARLIAMENT.

THE advantage of beginning to practice any profession with a reputation already made ought to be a great incentive to diligence while a student. To find business flow in from the very outset, instead of having weary days and anxious nights of watching and waiting for the brief that never comes, rewards the steady and hardworking law-student. I have one very distinguished friend upon the Bench, who was a truly remarkable instance of this,¹ and Lord Plunket was another. His college career, and the success he achieved in the Historical Society, was a safe indication of his rare talents; while the absence of his strong frame and studious visage from the convivial parties of the Bar was not without a considerable influence upon the sharp-witted attorneys who entrusted their business to him. All young men were not of this plodding temperament. Plunket's progress at the Bar was what his reputation merited. His diligence as a law-student prepared him to argue on such questions as came in his way; and in the Court of Exchequer, where his friend Lord Avonmore was Chief Baron, he soon obtained a considerable amount of business.

His practice, like that of all Irish barristers, was not confined in its range. Common Law, Equity, the Criminal Courts, all were familiar to him. It does not answer for an Irish stuff-gown to decline taking business wherever business is to be had; and few, even of our most distinguished seniors, such as the admirable and highly prized Advocate, who worthily held the first place at the

CHAP.
LXII.

Benefit of
a ready-
made re-
putation.

Practice
of the
Irish Bar
general.

¹ Chief Baron Pigot.

CHAP.
LXII.
A few
exceptions.

Irish Bar in my day, Abraham Brewster,¹ or the highly gifted and deeply read Edward Sullivan,² and some others of their rare and acknowledged ability, could afford to limit themselves to any particular Court or class of professional practice.

English
practice
described
by Lord
Cairns.

We are not, in Ireland, open to the criticism of a competent Judge, the eminent Irishman who has so lately sat upon the English Woolsack, Lord Cairns, who, in discussing the High Court of Justice Bill in the House of Lords, on Friday, April 29, 1870, said, ‘Why is it that a barrister or a solicitor accustomed to the Courts of Equity, if he passes to the other side of Westminster Hall into one of the Courts of Common Law, is as ignorant of its forms and procedure as if he were in the Court of a foreign country? It is not that law and equity are, with rare exceptions, acting upon different principles. The laws of evidence are the same; so, too, are the laws of the construction of written instruments, and the modes of dealing with Acts of Parliament; but from the beginning to the end the forms and technical details are essentially different. In the Court of Chancery, the three Common Law Courts, the Courts of Probate, Divorce, and Admiralty, the proceedings all begin by a different writ, issued from a different office; so that, before any person who has a complaint can make it the subject of a civil proceeding, he must be advised, and pay for that advice, as to what Court to apply for a writ.’

¹ The Right Hon. Abraham Brewster, so long at the head of the Irish Bar, was called in 1819. He became King’s Counsel in 1835, was Solicitor and Attorney-General, and on the accession of Lord Derby to power in 1866 was appointed Lord Justice of Appeal, contrary to the expectation of the profession, who expected to find him holding the Great Seal, then given to Mr. Blackburne. He had not long to wait. The failing health of one of the most remarkable men of the Irish Bar, Lord Chancellor Blackburne, placed the Great Seal at the disposal of the Prime Minister in March 1867, and Mr. Brewster became Lord Chancellor. On the change of Ministry in December 1868 he resigned, and was succeeded as Lord Chancellor by Right Hon. Thomas O’Hagan, now Lord O’Hagan.

² Right Hon. Edward Sullivan, called in 1848, made Queen’s Counsel in 1858, was Sergeant, Solicitor, and Attorney-General, and appointed Master of the Rolls on the lamented death of John Edward Walsh, Master of the Rolls in 1869.

The business of election petitions before Committees of the House of Commons then, and lately again, afforded members of the Irish Bar considerable and emolumentary employment. Mr. Burrowes, who was Plunket's contemporary as a student, and called to the Bar shortly before him, early acquired a high reputation for skill in election law. He, along with Mr. Plunket, Mr. Burston, and Mr. Smith, were retained by Sir Lawrence Parsons, who petitioned against the return of the Honourable Francis Hely Hutchinson as representative of Trinity College. The petition was presented in the early part of 1791, and among the Committee selected to try it were the Hon. Arthur Wellesley—afterwards the victor of a hundred battles, Arthur, Duke of Wellington—and Lord Edward Fitz Gerald, whose sad fate is one of the tragic episodes of Ireland's disastrous history. The petition contained several charges against the Provost, father of the sitting Member, for 'an exercise of undue influence by him, the Provost, as returning officer, with the purpose of interrupting or preventing a free and indifferent election.' Among those voters upon whom it was alleged he had used such undue influence were Dr. Miller and Mr. Magee. The means were these, as stated by Plunket in his speech:—

'Mr. Magee, on obtaining his Fellowship, had applied to the Provost for liberty to solicit a dispensation in order to pursue the profession of a barrister. The Provost required time to consider of it; and, after mature deliberation, refused it, alleging as a reason, that his *sense of duty* prevented him from granting it. Mr. Magee acquiesced, and thought of it no more; but, about three weeks before the election, an offer was sent to him from Lord Donoughmore,¹ of obtaining the very permission which before had been refused, and the allowance of a lay Fellow and other pecuniary advantages, to the amount of about 100*l.* per annum, on the express condition of not voting for Mr. Parsons, to whom he had solemnly promised his support. The offer was instantly rejected.'²

CHAP.
LXII.

Mr. Plunket counsel in the petition against the return of the Hon. F. Hutchinson.

¹ The Provost's eldest son.

² Life, by his grandson, vol. i. p. 53.

CHAP.
LXII.

‘The case of Dr. Miller,’ states Mr. Burrowes, with reference to the Provost’s misapplication of the ‘nominating power,’ will render it quite clear that a trust of the most serious and sacred character, confided to him for the advancement of learning and virtue amongst the rising youth of the land, was perverted and abused in a manner the most dangerous and deadly to the interests and objects of the University.’ Dr. Miller had twice competed for a Fellowship without gaining one. On the second occasion his answering was so admirable as to create a suspicion that in preferring another the senior Fellows were prompted by personal feelings. When he was preparing for a third effort, a Mr. Adair, a tutor in the Provost’s family, and generally reputed his canvassing agent, interrupted Miller in the midst of his literary labours, and promised him not only the influence of the Provost to make his election safe, but copies of the questions to be proposed by the Provost as examiner. The sturdy spirit of the North was roused in the breast of the candidate by this insidious offer. A Fellowship so won would have no value in his eyes. If he did not win it by unremitting labour, hours devoted to patient and persevering toil, by the deliberate preference of the senior Fellows, he would not have it at all—much less by surrendering the free exercise of what he regarded as a sacred trust, the elective franchise, which was to be declared in favour of the Provost’s son. The course taken is thus detailed by the Reverend Doctor himself:—

‘About six weeks before the examination of the year 1789, Mr. Adair, then living in the house of the Provost, came to my chambers in the dark of the evening. I had known his person, but had never before any personal intercourse with him. He introduced himself to me as sent by the Provost, to intimate that he was aware the senior Fellows were hostile to me, and was apprehensive they would be influenced by that feeling in the approaching election, and that he was determined to prevent the great injustice by exercising in my favour his power of nomina-

tion if they should continue to be adverse to me, as he expected. Mr. Adair further informed me that, to facilitate the proposed nomination, the Provost would furnish me with a list of the questions which he was himself to ask in his intended examination of ethics, so that I might be sure of answering well in his course.' The Provost further offered, through Mr. Adair, to have Dr. Miller appointed Professor of Ethics, with a salary of 100*l.* a year. To these proposals the Doctor cautiously replied, fearing to have the influence of the unscrupulous Provost employed against him. At length he received an invitation to dine, on the Sunday preceding the examination, with Lord Donoughmore, the eldest son of the Provost, who had chambers in college, but pleaded the urgency of his preparations as an excuse for absenting himself. The result of the examination was alike honourable to the Board and to Dr. Miller: he was unanimously elected.¹

The Rev. George Miller was examined before the Committee. He proved the corrupt offers, but, as they had not gained the result aimed at, the Committee decided in favour of the sitting Member. Mr. Burrowes made a very powerful appeal for the petition. A curious incident decided the result. The Committee consisted of fourteen members. Seven were in favour of the petition, six for the sitting Member. The Chairman was one of the six. By a curious provision in an Act of Parliament he was empowered to vote for the absent member, which made the numbers equal, and then the Chairman's third

¹ Rev. Dr. Miller, the distinguished author of 'Philosophy of History,' was Vicar General and Principal of the Diocesan Seminary of Armagh. His son, now one of the Judges of the Court of Bankruptcy and Insolvency, inherits the industry and unbending integrity of his respected father. He was called to the Irish Bar in 1835, appointed Queen's Counsel in 1852. He was much celebrated for his knowledge of the law of real property, and had large practice before the Masters in Chancery. He represented the borough of Armagh in the House of Commons, and was named Judge of the Court of Bankruptcy and Insolvency in 1867. His strict rulings where the principles of commercial morality have been violated have gained him the approbation of the Irish mercantile community.

CHAP.
LXII.

vote—the casting-vote—decided the Hon. Francis Hutchinson should retain his seat.

As it was rumoured on the part of Mr. Adair and the Provost that advantage was taken of Mr. Adair's absence to make the statements accusing him, the Rev. Dr. Miller was not the man tamely to remain subject to so gross an imputation. A visitation was called by the Fellows and Vice-Provost Murray to enquire into the conduct of the Provost. As soon as the Rev. George Miller saw Mr. Adair present, he begged leave to interrupt the proceedings, that he might relieve his character from the foul imputation of aspersing an absent man. The occasion was felt to be one fully justifying the interruption, and then and there, to Mr. Adair's face, and with the Provost present, the Rev. George Miller in the self-same words reiterated his testimony before the Committee, excepting the offer of the Professorship, which he forgot. But there was enough for Mr. Adair, who kept a discreet silence. Not so the Provost: he virtuously disowned his agent, and reprobated in the severest terms the man who had acted so vile a part. Poor Adair's fate was sealed. An order was made to erase his name from the roll of the University, where he had been a resident Master of Arts.

Mr.
Plunket
selects the
North-west
Circuit.

The choice of a young barrister's circuit naturally leads him to his native county. An additional motive beside anxiety to obtain professional employment induced Mr. Plunket to select the North-west Circuit. Near Strabane there resided the Member for the County Donegal, Mr. John McCausland, whose eldest son married Mr. Plunket's cousin, Miss Hannah Conyngham. This gentleman's sister Catherine won the heart of young William Plunket, and she had the good sense to value such a prize. She returned his affection, and in 1791, when the young advocate was in his twenty-eighth year, with prospects of steady progress in his profession, the friends of the young lady assented to their union. It was in every way a happy one. A family of five daughters and six sons was the offspring.

Marriage
with Miss
Catherine
McCaus-
land.

Plunket's early triumphs at the Bar were achieved defending prisoners on circuit. I shall describe such displays in better words than my own.

CHAP.
LXII.

'The dock of an Irish Court,' says an anonymous writer who is generally believed to have been Richard L. Sheil, 'is quite a study. From the character of the crimes to be tried, as appearing on the calendar, I expected to find there a collection of the most villainous faces in the community; it was the very reverse. I would even say that, as a general rule, the weightier the charge, the better the physiognomy and more prepossessing the appearance of the accused. An ignoble misdemeanor or sneaking petty larcenist may look his offence pretty accurately; but let the charge amount to a good transportable or capital felony, and ten to one but the prisoner will exhibit a set of features from which a committee of craniologists would never infer a propensity to crime. In fact, an Irish dock, especially after a brisk insurrectionary winter, affords some of the choicest samples of the peasantry of the country—fine, hardy, muscular, healthy-looking beings, with rather a dash of riot about the eyes perhaps, but with honest, open, manly countenances, and sustaining themselves with native courage amid the dangers that beset them; and many of them are in fact either as guiltless as they appear, or their crimes have been committed under circumstances of excitation which, in their own eyes at least, excuse the enormity. * * * * I should say from my own observation, that an Irish gaol is for the most part delivered of remarkably fine children, particularly "the boys," though, from the numbers at a single birth, it would be too much to expect that they should be all found "doing well." In many, the vital question, while in others—and it is for these that one's interest is most raised—the chances of life and death appear so nicely balanced, that the most experienced observer cannot prognosticate the issue. Such, to give an apposite example, was the memorable instance of Larry Cronin.

The Dock
of an
Irish
Court.

'Larry Cronin was a stout, hardy Irish lad of five-and-

CHAP.
LXII.

twenty. He was a five-pound freeholder—paid his rent punctually—voted for his landlord, and against his conscience—seldom missed a mass, a fair, or a wake—loved his neighbour, and hated, and sometimes cudgelled, the tithe-proctor—had a wife and five children; and on the whole passed for one of the most prosperous and well-conducted boys in the barony. All this, however, did not prevent his being given to understand by the clerk of the Crown, that he stood indicted at the Summer Assizes of his native county, for that he, on a certain night, and at a certain place, feloniously and burglariously entered a certain dwelling-house, in search of arms, &c., and stood capitally indicted under the Ellenborough Act, and for a common assault. I was present at his trial, and still retain a vivid recollection of the fortitude and address with which he made his stand against the law; and yet there were objects around him quite sufficient to unnerve the boldest heart—a wife, a sister, and an aged mother; for such I found to be the three females that clung to the side-bars of the dock and awaited, in silent agony, the issue of his fate. But the prisoner, undismayed, appeared almost unconscious of their presence. Every faculty of his soul was on the alert to prove to his friends and the county at large that he was not a man to be hanged without a struggle. He had used the precaution to come down to the dock that morning in his best attire, for he knew that with an Irish jury the next best thing to a general good character is a respectable suit of clothes. It struck me that his new silk handkerchief, so bright and glossy, almost betokened innocence; for who could have gone to the unnecessary expense if he apprehended that its place was so soon to be supplied by the rope? His countenance bore no marks of his previous imprisonment. He was as fresh and healthy, and his eyes as bright, as if he had been all the time out on bail. When his case was called on, instead of shrinking under the general buzz that his appearance excited, or turning pale at the plurality of crimes of which he was arraigned, he manfully looked

danger in the face, and put in action every resource within his reach to avert it. Having despatched a messenger to bring in O'Connell from the other Court, and beckoned to his attorney to approach the dock side, and keep within whispering distance while the jury were swearing, he "looked steadily to his challenges," and manifested no ordinary powers of physiognomy in putting by every juror that had anything of "a dead, dull, hang-dog look." He had even the sagacity, though against the opinion of his attorney, to strike off one country gentleman from his own barony, a friend of his in other respects, who owed him a balance of three pounds. The trial went on after the usual fashion of trials of the kind. Abundance of hard-swearing on the direct, retractions and contradictions on the cross-examinations. The defence was a masterpiece. Three several times the rope seemed irrevocably entwined round poor Larry's neck—as many times the dexterity of O'Connell untied the Gordian knot. From some of the witnesses he extracted that they were unworthy of all credit, being notorious knaves or process-servers; others he inveigled into a metaphysical puzzle touching the prisoner's identity; others he stunned by repeated blows with the butt-end of an Irish joke. For minutes together the Court and juries, galleries and dock, were in a roar. However the law or the facts of the case might turn out, it was clear that the laugh, at least, was all on Larry's side. In this perilous conjuncture, amidst all the rapid alternations of his case—now the prospect of a triumphant return to his home and friends, now the sweet vision abruptly dispelled, and the gibbet and execution staring him in the face—Larry's countenance exhibited a picture of heroic immobility. Once, and once only, when the evidence was rushing in a full tide against him, some signs of mortal trepidation overcast his visage. The blood in his cheeks took fright and fled; a cold perspiration burst from his brow. His lips became glued together. His sister, whose eyes were riveted upon him as she hung from the dock side, extended her arm and applied a piece

CHAP.
LXII.

of orange to his mouth. He accepted the relief without turning aside to see by whose hands the relief had been administered. At this crisis of his courage, a home-thrust from O'Connell floored the witness who had so discomposed his client; the public buzzed their admiration, and Larry was himself again! The case for the Crown having closed, O'Connell announced that he would call no witnesses. Larry's friends pressed hard to have at least one of the *alibis* proved; O'Connell was inflexible, and they reluctantly submitted. The case went to the jury laden with hanging matter, but not without a saving doubt. After long deliberation the doubt prevailed. The jury came out, and the glorious sound of "Not Guilty!" announced to Larry Cronin that he had miraculously escaped the gallows. He bowed with undissembled gratitude to the verdict. He thanked the jury. He thanked "his Lordship's Honour." He thanked O'Connell, shook hands with the gaoler, sprung at a bound over the dock, was caught as he descended in the arms of his friends, and hurried away in triumph to the precincts of the Court. I saw him a few minutes after, as he was paraded through the main street of the town on his return to his barony. The sight was enough to make one almost long to have been on the point of being hanged. The principal figure was Larry himself, advancing with a firm and buoyant step, and occasionally giving a responsive flourish of his cudgel, which he had already assumed, to the cheerings and congratulations amid which he moved along. At his sides were his wife and sister, each of whom held the collar of his coat tightly grasped, and, dragging him to and fro, interrupted his progress every moment, as they threw themselves upon him and gave vent to their feelings in another and another convulsive hug. A few yards in front, his poor mother bustled along in a strange sort of pace between a trot and a canter, and every now and then, discovering that she had shot too far a-head, pirouetted round, and stood in the centre of the street clapping her withered hands and shouting out her ecstasy in native

Irish, until the group came up and again propelled her forward.'

CHAP.
LXII.

Some equally racy specimens of Irish Criminal Courts presented themselves to the members of the North-west Circuit. Plunket's keen insight into character made him promptly alive to the shrewd sense and caustic humour of the peasantry of the counties embraced by the Circuit. A witness who was very ready with his answers on the direct examination was very obtuse when Plunket commenced to cross-examine him. On Plunket taunting him with his change of manner, the witness said 'he couldn't help it: the questions put him in a *doldrum*.'

The witness with a *doldrum*.

'A *doldrum*!' repeated the Judge, Lord Avonmore, Chief Baron; 'what is that? I never heard the word before.'

'Oh, my Lord,' said Plunket, 'it is an affection common enough. It is a confusion of the head, proceeding from a corruption of the heart.'

On another occasion, he defended a horse-stealer with signal success. Another of the fraternity was heard loudly eulogising the successful lawyer, and closed his panegyric by the emphatic declaration, 'I tell you what, boys; if I'm lagged for the next horse I steal, by Jabers I'll have Plunket.'

The horse-stealer's resolve.

Plunket's manner and conduct at the Bar has been thus admirably described:—'Of all the eminent lawyers I have heard,' writes R. L. Sheil,¹ 'he seemed to me to be the most admirably qualified for the department of his profession in which he shines. His mind is at once subtle and comprehensive; his language clear, copious, and condensed; his powers of reasoning are altogether wonderful. Give him the most complicated and doubtful case to support, with an array of apparently hostile decisions to oppose him at every step. The previous discussion of the question has probably satisfied you that the arguments of his antagonists are neither to be answered nor evaded; they have fenced round the rights of their clients with all the great names in equity—Hardwicke, Camden, Thurlow,

Plunket's conduct as a barrister.

¹ Sketches of the Irish Bar.

CHAP.
LXII.

Eldon. Mr. Plunket rises; you are deeply attentive, rather from curiosity to witness a display of hopeless dexterity, than from any uncertainty about the event. He commences by some general undisputed principle of law, that seems perhaps at the first view not to bear the remotest relation to the matter in controversy; but to this he appends another and another, until by a regular series of connected propositions he brings all down to the very point before the Court, and asserts, nay demonstrates, that the Court cannot decide against him without violating one of its most venerated maxims. Nothing can be more masterly than the manner in which all this is done. There is no ostentation of ingenuity and research. Everything is so clear, simple, and familiar that when you are brought to the ultimate result you startle at discovering the consummate skill of the logician, who by wily and imperceptible approaches has gained a vantage-point from which he can descend upon his adversaries, and compel them to abandon a position that was deemed impregnable. But Lords Hardwicke, Thurlow, Camden, &c., are said to be against him. The advocate accordingly proceeds to examine each of these authorities in detail; he analyses their language, by distinctions that seem natural and obvious, but which in reality are most subtle, to show how capable it is of various interpretations; he confronts the construction contended for by conflicting decisions of the same Judges on other and similar occasions; he points out unsuspected anomalies that would arise from adopting the interpretation of his adversaries, and equally unsuspected accordance with general principles that would follow his own. He thus goes on until, by reiterated processes of matchless sagacity, he has either neutralised or absolutely brought over to support himself all the authorities upon which his opponents most firmly relied; and he sits down, leaving the Court if not a convert to his opinion, at least grievously perplexed to detect and explain the fallacy upon which it rests.'

The manner and the man were calculated to impress

very forcibly his arguments upon the person or audience to whom he addressed himself. His features were massive and somewhat rugged in their outline; there was great expanse in the noble brow, capacity and decision in the well-set jaw, and his mouth and lips so clear cut and rigid as though a smile was impossible. His general expression was earnest and solemn—his enemies said unsocial and austere—but if so, it was but the outside, the reflex of a mind absorbed in abstruse problems and in the contemplation of serious subjects. His gestures when speaking were natural yet singular; when heated with his subject, he used to clasp both hands, then unloose, close each separately, and raise them as if impelled by machinery to the height of his head, when he would suddenly lower them rapidly; although unstudied and homely, it was so perfectly in keeping with the style of the argument, forcible and masculine, that it never struck the spectator as being out of place or inelegant.

CHAP.
LXII.

Personal
appearance
and man-
ner.

A very high estimate was formed of the honesty and ability of the unobtrusive barrister. While quietly pursuing his professional avocations in the Four Courts, supporting an intricate real property case in the Law Courts with apt argument and well-remembered cases from the books, or attacking some doubtful exercise of a power in Chancery, amounting to a violation of equity, or arguing on a bill of exception or writ of error before the twelve Judges, the name and fame of William Conyngham Plunket was impressing those who had patronage to bestow. The opinion grew he would be a worthy object on whom to bestow public favour. As yet he had kept aloof from politics, but his sympathies were well known. He was for Ireland and the Irish, and probably the consciousness that, like the Roman patriot, it was as easy to turn the sun from its course as Plunket from the path of virtue, prevented any overtures being made to him by the Government party, as was common at this period. The Opposition, however, felt his worth, and resolved to secure his assistance in Parliament. At the head of this party was

Public
estimate
of Mr.
Plunket.

CHAP.
LXII.

a distinguished nobleman, already familiar to my readers, James Caulfield, Earl of Charlemont. He was the recruiting officer for the Whigs, and ever sought out rising men of talent, marking their progress while at College, and their career at the Bar, to see whether they would prove acquisitions or not. When satisfied of the former, he had a pocket borough, from whence he derived his title, Charlemont, and this was the portal through which the youth of talent entered Parliament. As member of Charlemont, in the year 1775, Henry Grattan gained imperishable renown. He was the chief instrument in gaining Irish independence in 1782, and now Lord Charlemont beheld in Plunket a worthy successor of that great man. Plunket was perhaps in some respects his superior. He was of calm temperament; Grattan was fiery, rapid, and impetuous, true as steel and uncorruptible, but with a nature too confiding, and a temper often irritable. He was constantly getting into angry collision with his best friends, and advantage was taken of this weakness by Lord Castlereagh.

Castlereagh was a man peculiarly suited by nature and trained by education for the work he had to do. The strides which Ireland made in commercial prosperity when legal restrictions were removed, alarmed the English capitalists. Her free trade made her a powerful competitor with them, and, if she was allowed to continue unrestrained, might become a powerful rival; so the fiat went forth, she must be absorbed by a union, and then the British interests, as well as the Irish, would be regulated by the British Cabinet. So said Pitt, and Castlereagh was instructed accordingly. Ireland's political independence likewise was a humiliation to England. Why, it is hard to conceive, except that when differences sprung up, as in the case of the Regency, it tended to some discrepancy.¹ Her judicial independence was, of course, a loss to the English Bar. As long as Irish appeals were heard, argued, and determined by the British House of Lords, the Bar of

¹ Vide Lord Loughborough's Letter, Grattan's Life, vol. iv.

England were sure to derive those fees which otherwise would enrich the Bar of Ireland; but I will not do my brethren of the English Bar the injustice to state this motive weighed with them. The Union, however, was to be carried, and every means by which it could be carried were to be resorted to. The conduct of this was entrusted to Lord Castlereagh. He was a man of consummate cleverness. He had great talents, was a powerful speaker, a ready debater; he was master of cold cutting satire, keen-pointed irony, and unflinching courage. In those days, when duelling was so common a practice, this was indispensable, and no man was readier to encounter his foe in the debate on the floor of the Irish House of Commons, or on the green sod of the Fifteen Acres, than Viscount Castlereagh.

CHAP.
LXII.

Lord
Castlereagh.

It was specially to encounter so formidable an antagonist that Lord Charlemont sought the aid of Plunket in the House. His logical, argumentative powers were fully a match for those of the Minister, and his oratorical displays made Lord Charlemont believe that he was also equal to him in invective, confined within Parliamentary bounds; that he could return scorn for scorn, and that the sneering tone in which the cold-hearted Minister replied to the arguments of the chief Members of the Opposition would be repaid by Plunket with liberal interest. Lord Charlemont accordingly requested an interview with him, and they met at Charlemont House.

Plunket considered the best man to encounter Lord Castlereagh.

As I daily pass and repass that fairly-proportioned mansion, occupying the centre of the north side of Rutland Square, Dublin, my mind recurs to the scenes which took place within those historic walls. It was in the spring of 1798 these two held their parley, and Plunket continued closeted with the Earl for several hours. Their views were in unison on all points but one—that one so important in Mr. Plunket's eyes that he expressed his 'regret that while holding the same political opinions as his Lordship on almost every topic, on one subject they were not of one mind, and he therefore declined to be a

Overtures from Lord Charlemont.

CHAP.
LXII.

nominee of his Lordship's, lest he should be obliged to act against his wishes.'

Conversa-
tion
between
Mr. Plun-
ket and
Lord
Charle-
mont.

Lord Charlemont intimated 'this difficulty might be got over,' and begged another visit. Mr. Plunket has himself stated the result of this visit, which resulted in Lord Charlemont's changing his views with respect to admitting Catholics to the privileges of the Constitution. He confessed to his son that 'Plunket prevailed over his old prejudice.' Mr. Plunket mentions having, in 1798 or 1799, had a conversation with his Lordship on the subject of the Catholic claims, and Parliamentary reform. 'The Earl said that to these two questions he had made two sacrifices—to the latter a borough, and to the former (which he said he considered the more meritorious effort) a prejudice.' His Lordship then went on to state some of the grounds on which originally he had been adverse to the immediate admission of Roman Catholics to the privileges of the Constitution, and also some of the reasonings which had latterly induced a change of his sentiments on the subject. Of these I have not such a precise recollection as would warrant me in an attempt to detail them; but the preliminary observation was so marked and epigrammatic that I can pledge myself for its authenticity.¹ Plunket was then offered and accepted the representation of Charlemont in the Irish Parliament.

¹ Hardy's Life of Lord Charlemont, vol. ii. p. 429.

CHAPTER LXIII.

LIFE OF LORD PLUNKET, LORD CHANCELLOR, CONTINUED. FROM HIS TAKING HIS SEAT IN PARLIAMENT TILL HIS FIRST SPEECH AGAINST THE UNION.

ON February 6, 1798, Plunket took his seat as Member for the borough of Charlemont in the Irish House of Commons. The estimate in which he was regarded by the independent press of Ireland, represented by the 'Dublin Evening Post,' was thus expressed:—'Much hope is entertained of the Parliamentary exertions of Counsellor Plunket; his character at the Bar, for talents as well as legal knowledge, is high; and his political principles are known to be strictly Constitutional. It is, however, to be lamented that he comes into Parliament at a time when the secession of that party which stood in the breach so long, and combated with so much energy, though unhappily with so little success against the *innovators* of the Constitution, leaves little hope that his unsupported efforts can be productive of much effect.'

CHAP.
LXIII.

Takes his
seat in the
Irish
House of
Commons,
1798.

Truly it might be regarded as a forlorn hope to stem the wave of Imperial absorption steadily engulfing the independence of Ireland. The Treasury benches were filled with Members dependent upon the will of the Minister to whom the measure of Union had been entrusted by Mr. Pitt. The questions of Reform or concession to the claims of the Catholic millions had either been abandoned altogether, or postponed until some change might come, bringing a prospect of relief. The Spartan band, who, headed by Grattan, had stood so long in the gap, wearied by the length of the contest and inutility of their efforts, had retired in sullen despair, moaning over the fate they saw was inevitable. The Opposition scarcely mustered thirty, while the Ministerial whip could readily

State of
the House.

¹ Dublin Evening Post, February 8, 1798.

CHAP.
LXIII.

collect one hundred supporters to the division. But of the thirty, Plunket found many were made of sterling stuff. George Ponsonby¹ was a tried and trusty leader, whose skill in debate and distinguished reputation was above the assaults of an unscrupulous Minister. Charles Kendal Bushe, who spoke with the lips of an angel, bore a high place in the ranks of that gallant little band. Knox, member for the College, was a man of talent and character; Sir Lawrence Parsons, a vehement patriot.

Bill to
amend
23 & 24
Geo. III.

Not long after Mr. Plunket became a Member of the House of Commons, a Bill was proposed by the Government, to amend the Act 23 & 24 George III., for 'securing the Liberty of the Press by Preventing Abuses from the Publication of Traitorous, Seditious, False, and Scandalous Libels, by persons unknown.' This measure was notoriously aimed at a newspaper called the 'Press,' the organ of the United Irishmen. It was powerfully written—the articles full of energy and enthusiasm, and it was in this paper that Thomas Moore, the poet, made his first essay in prose composition.

Enquiry
into the
cause of
present
discon-
tent.
Opposed
by Lord
Castle-
reagh.

Although Plunket most strongly reprobated the principles advocated by the 'Press' newspaper, as he conceived the Bill was adapted to restrict the liberty of the press generally, he opposed it.² The Government consented to reduce the amount of security required from the publisher of a newspaper from 1,000*l.* to 500*l.* Plunket also spoke on Sir Lawrence Parsons' motion for an enquiry 'whence the present discontents of this country arose, and what are the most effectual means of allaying the same.' This motion was seconded by Lord Caulfield in a maiden speech, and stoutly opposed by Lord Castlereagh, who contended the United Irishmen were not to be conciliated; that their object was to establish an Irish Republic upon French principles and by means of French assistance; that the excesses of the soldiery were usual in all cases of rebellion, and that the existing laws were amply sufficient to

¹ Afterwards Lord Chancellor, *vide* Life.

² For portions of this speech, see Life by his grandson, vol. i. p. 81.

deal with such offences. Twenty more speakers followed in the same strain. Mr. Plunket, who declared his intention to support the motion, stated, at considerable length, his reasons for doing so, more especially from the obloquy to which those doing so were exposed. He said he felt as strongly as any who opposed the Bill, the utmost detestation for the wicked combination which brought the country into the present deplorable situation. But there were hundreds of thousands who entertained the strongest antipathy to the United Irishmen and their plots; yet, however well inclined to the British Constitution, entertained a very strong dislike to the Government and to their measures. If they see seats in this House bought and sold—if they not only see them bought, but made a retailable commodity in which Government traffics’—

Here Mr. Bagwell rose to order. ‘The language used by the honourable Member was unparliamentary, and ought not to be tolerated.’

‘Sir,’ continued Mr. Plunket, ‘the honourable Member quite mistakes my meaning. I am as confident as the right honourable gentleman I address, that no seat in this House was ever bought or sold. No Member of this House knows this is impossible better than I do. But, Sir, suppose those ignorant and foolish people of whom I have been speaking, were told, among many other equally false and slanderous tales that are every day circulated against our innocent Government, and against this most innocent and immaculate Assembly—suppose they were told that the seats were really bought and sold, and suppose they should be foolish enough to believe the story, what conclusion must they not draw from these premises? The learned Members of this House, who know what is meant by “knowledge of the world” and the usage of Parliament, probably could speak of this practice by a soft name, but these unpolished people would certainly call such a traffic base.’ The Ministers had a large majority of 156 voting against, and only 19 in favour of the enquiry.

Plunket employed his trenchant pen as well as his fluent

CHAP.
LXIII.

Mr. Plunket supports the motion.

Called to order by Mr. Bagwell.

Mr. Plunket explains.

CHAP.
LXIII.
The Anti-
Union.

Plunket's
letter,
under
the sig-
nature of
Sheelagh.

tongue against the impending Union. In concert with Bushe, Grattan, Wallace, Smily, and Goold, he wrote in the 'Anti-Union,' a weekly periodical, started by the party opposing the Government, for the purpose of circulating their arguments against a measure they deemed so disastrous. Prose and poetry, grave argument and droll illustrations, keen irony and stern prophecy were poured forth week after week. I give a specimen of Plunket's humorous style from a number dated Tuesday, January 1, 1799. To understand the humour of the letter, I may inform my readers that Sheelagh is Ireland, sought in marriage by an elderly suitor, John Bull (England), who had previously contracted a marriage with another lady (Scotland). The letter details at more length than my space allows me to insert the various plans and artifices resorted to, in order to forward this marriage on the part of Mr. Bull, with a view of forcing Sheelagh to give her consent. She proceeds: 'But conceive, I beg of you, the ridiculousness of this overture. I to marry Mr. Bull! Mr. Bull, whom in the year 1783, when he was tolerably vigorous, and reasonably wealthy, and well reported, I would have rejected with contempt! Mr. Bull, now that he has had repeated fits of the falling sickness, and that a commission of bankruptcy is ready to issue against him! I could not have believed the proposal serious, if the old gentleman himself had not gravely avowed it. Hear, I beg of you, the inducements which he holds out to me. There is to be no cohabitation, for we are still to continue to live on different sides of the water; no reduction of expense, for our separate establishments are still to be kept up; all my servants to be paid by me, but to take their orders from him; the entire profits of my trade to be subject to his management, and applied in the discharge of his debts; my family estate to be assigned to him, without any settlement being made on me or my issue, or any provision for the event of a separation. He tells me, at the same time, that I am to reap great advantages, the particulars of which he does not think proper to disclose, and that, in

the meantime, I must agree to the match, and that a settlement shall hereafter be drawn up agreeable to his directions and by his lawyers. This, you will say, is rather an extraordinary *carte blanche* from an insolvent gentleman, passed his grand climacteric, to a handsome young woman of good character and easy circumstances. But this is not all; the pride of the negociation is equal to its dishonesty, for though I am beset and assailed in private, and threatened with actual force if I do not consent to this unnatural alliance, yet, in order to save the feelings of the Bull family, and to afford the pretext for an inadequate settlement, I am desired, in despite of all maiden precedent, to make the first public advances, and to supplicate, as a boon, that he will gratify my amorous desires, and condescend to receive me and my appurtenances under his protection. Still one of the principal features of this odious transaction remains to be detailed. Would you believe it, that this old sinner, several years ago, married a lady,¹ who, though of harsh visage and slender fortune, was of honourable parentage and good character, and who is, at this hour, alone, and treated by him with every mark of slight and contumely,² and it is worthy of observation that many of the clauses in the articles, which were very carefully drawn up previously to his marriage with this lady, have been scandalously violated by him.

‘The truth is, I am determined to live and die a maiden, and I now apply to you merely for advice as to what is the most effectual method of protecting myself in that resolution. If the Bulls will not suffer me to live on friendly terms with them, and will still persist in their dishonest practices in my family, I will turn out their

¹ This is the Scottish Union.

² This has been remedied, and indeed Ireland is in some degree jealous of the marked preference given to her favoured sister. A royal residence in Edinburgh, another in the highlands, and the latter always visited every year, affords the Irish more than a sentimental grievance. The consciousness of having our revered sovereign in the midst of us is an object to be desired, even apart from the example she would set to our nobility not to continue absentees, but to spend a portion of their revenues in their native land.

CHAP.
LXIII.

adherents (whom I well know); and in all events I will restore my shop-boy to his original rags and send him to the place whence he came. I will re-establish harmony amongst all those who should naturally be my friends, and if the Bulls attempt to offer me any insolence, I trust I shall be able to repel force by force.

‘ I am, Sir,

‘ Your affectionate but determined

‘ humble Servant,

‘ SHEELAGH.’

Poetry was also enlisted against the Union. The consequences resulting from that measure to the city of Dublin was foretold in the following lines:—

Prophecy
on the
effects of
the Union
in Dublin.

How justly alarmed is each Dublin cit,
That he'll soon be transformed to a clown, Sir,
By the magical touch of that conjuror Pitt,
All the country is coming to town, Sir.
Give Pitt and Dundas and Jenkins a glass,
They will ride on John Bull and make Paddy an ass.
Through Capel Street you may rurally range,
You will scarcely 'cognise it the same, Sir,
Fine turnips will grow at the Royal Exchange,
And choice cabbages all along Dame Street ;
Wild oats in your college won't want to be tilled ;
Fine hemp in the Four Courts shall thrive, Sir,
While muttens your markets will fill as of old,
By St. Patrick they'll graze there alive, Sir.
Says an Alderman, ‘ Corn will grow in your shops,
This Union must work our enslavement ;’
‘ That's true,’ says the Sheriff, ‘ For plenty of *crops*
Already I've seen on the pavement.’
Ye brave loyal Yeomen, dressed gaily in red,
This Minister's place must elate us,
And well may John Bull, when he's *robbed us of bread*,
Call poor Ireland *The Land of Potatoes*.

A shrewd wanderer through many lands, describing Dublin sixty-five years after the Union, bears testimony to the fulfilment of this prophecy¹:—

‘ There is something melancholy about Sackville Street. Ay, and cross Carlisle Bridge, and pass through stately Westmoreland Street into College Green. Look up at

¹ George Augustus Sala, in ‘Belgravia.’

the noble University, and that glorious architectural creation, the Bank of Ireland, the only original building, perhaps, save Guarini's Santo Sudario at Turin, and the Ducal Palace at Venice, in Europe. Walk up Nassau Street or Dawson Street, by Morrison's Hotel, to the lordly Stephen's Green, or push your way through teeming Grafton Street, the Bond Street of Dublin, as Sackville Street is its Regent Street. That glorious Bank of Ireland! As a temple of Mammon, as a shop for the money-changers, it is desecrated and profaned. It was once the Council Chamber for the Lords and Commons of Ireland. They have made the House of Peers into a pay-office; and bills are discounted where once Bills were passed. Those hotels and mercer's shops in Sackville Street and Westmoreland Street were once the mansions of Ireland's nobility. Those enormous houses in Merrion Square and Stephen's Green have become ten times too large for their present occupants. Who inhabits them now? Does anybody sleep in those immense bed-chambers? Are fires ever lit in those vast kitchens? Are guests ever gathered round the social board in those huge dining-rooms? Alas! I am afraid the dinners have gone as much out of date as Sneyd's claret. The windows look dusty; the doorsteps are full of cracks and fissures; *grass grows*, and broken glass and crockery remains undisturbed in the areas. The door plates are tarnished, and there is rust on the wire of the visitor's bell. This faded, bygone, mournful woe is common all over Dublin. Splendid as are the mansions of Sackville Street, they belong evidently to a past age. Shop fronts have been stuck on to their porticoes; but the sutures don't join; the old and the new do not assimilate. Here and there adventurous tradesmen have gone to vast expense in veneering, and gilding, and plate glass; and for cheap clothes and articles of female finery, there may be, and should be necessarily, a lively sale; but it is easy to see that substantial genuine commerce stagnates or has declined. Walk down to the quays, and a comparatively idle river, and a Custom

CHAP.
LXIII.

House, now the *rendezvous* of many public departments, meets your view. The Linen Hall is a barracks; and as I daily proceed through the stately Henrietta Street I perceive its noblest mansions are used as supplemental depots for troops.

(Case of the
Scottish
Union.
Arguments
against
the Union.

It is curious to find that when the Union between England and Scotland was attempted in the reign of King James I., several members of the English House of Commons indulged in the most bitter remarks.¹ The Irish anti-Unionists advocated the maintaining of the Irish Parliament on the great advance of Ireland's prosperity under domestic legislation. Mr. Foster, in his speech on April 11, 1799, quoted the following figures to show how the linen manufacture of Ireland progressed:—

	Yards	Value
Its export was in 1700 . . .	530,838 . . .	£22,750
„ 1783 . . .	16,089,705 . . .	1,069,319
„ 1796 . . .	46,705,319 . . .	3,113,687

That is, eighty-eight times greater as to quantity, and one hundred and thirty-seven times greater as to value, in 1796 than in 1700. The revenue rose from 667,331*l.* in 1760 to 3,445,718*l.* in 1800. Plunket, in referring to this rapid progress, said:—‘Her (Ireland's) resources, her trade, her manufactures thriving beyond the hope or the example

¹ Mr. Fuller said: ‘Suppose one man is owner of two pastures with one hedge to divide them—the one pasture bare, the other fertile and good. A wise owner will not quite pull down the hedge, but make gates to let the cattle in and out at pleasure, otherwise they will rush in in multitudes, and much against their will return. The universal opinion was that in the event of an Union, England would be overrun with Scotsmen.’ Another argument was this: ‘There are tenants of two manors whereof the one hath woods, fisheries, liberties; the other a bare common without profit, only a little turf, or the like. The owner maketh a grant that the tenants of this shall be participants of the profits of the former. This beareth some show of equity, but is plain wrong.’—Parl. Hist. vol. i. p. 1082. A member named Sir Christopher Pigot was so abusive of the Scots that he was committed to the Tower. He was a bold man, and declared, ‘I will speak my conscience without flattery of any creature whatever. The Scots have not suffered above two kings to die in their beds these 200 years. His Majesty hath said that through affection for the English he dwells in England; but I wish he would show his affection for the Scots by going to reside among them, for procul a numine procul a fulmine.’—Id. p. 1097.

of any other country of her extent—within those few years advancing with a rapidity astonishing even to himself, enjoying and acknowledging her prosperity.’ Mr. Jebb¹ wrote in the same strain. ‘In the course of fifteen years, our agriculture, our commerce, and our manufactures have swelled to an amount that the most sanguine friends of Ireland could not have dared to prognosticate.’ The danger of centralisation in drawing off the upper classes to London and pauperising Dublin was powerfully pointed out. There were nearly two hundred Peers and three hundred Members of the House of Commons, with their families and servants, residing in Dublin for the greater part of every year. The constant profit arising from their establishments to the Dublin artisans and manufacturers, and the encouragement to literature and art as well as home manufactures, from the fostering care of the nobility and gentry, all which, it was said, would certainly be lost to Ireland by the projected measure. That while Dublin would be neglected—no places of amusement provided for her humble citizens, the streets of London would be widened, her squares embellished, her bridges built, her museums filled, her fountains replenished, with means supplied by the quit and Crown rents of Ireland.

Plunket’s reputation as a Parliamentary debater fully sustained his character in the Courts. This is very rare. Many of the best men at the Bar were sad failures in the House of Commons. Curran was a notable instance of this. The reason is they are so accustomed to the Court, and, arguing from their well-prepared briefs upon the compulsion of the fee, and the desire to render full justice to their client, have all their thoughts concentrated upon the case they have to make, whereas in Parliament the subjects are usually so general, the ground to be traversed so large, and if in large practice their opportunities for working themselves up upon special subjects so small, they are seldom so well prepared to speak as on strictly professional subjects, and a man always acquits himself in

Lawyers
in Parliam-
ment.

¹ Afterwards Judge Jebb.

CHAP.
LXIII.

proportion as he understands the subject on which he speaks. Plunket never spoke without careful and well-arranged preparation. His vigorous and comprehensive mind, while able to discuss the most apparently minute technical point, was expansive enough to examine the entire of the widest ever broached. Much of his great mental vigour would never have been brought into play had his range of subjects been confined to the Four Courts. The limits of mere professional conflicts could never have elicited the vigour, the loftiness, the keen sarcasm, the killing irony, the statesmanlike views, the bold denunciation of wrong, the generous toleration which found utterance in the debates of the Irish and subsequently of the English House of Commons.

Plunket's
first great
speech
against
the Union.

The great question then agitating the public mind was the meditated Union between Great Britain and Ireland. Lord Castlereagh brought forward the Government arguments in a speech on Lord Tyrone's motion in the Irish House of Commons, in January 1799. The speech, with Plunket's magnificent reply, being already in print,¹ I do not feel at liberty to give more than a short extract, but the entire will well repay perusal.

The keen and cutting sarcasm of Plunket was employed against Lord Castlereagh many times during the debates on the Union. It was used bitterly, and I should say unfeelingly, on this occasion, when Lady Castlereagh was present. She was a very beautiful woman, and they had been married many years without children. The House was thronged by the *élite* of the rank, beauty, and fashion of the Irish capital, and no metropolis in Europe boasted such a galaxy as Dublin before the Union.² When con-

¹ Life, Letters and Speeches of Lord Plunket, vol. i. p. 137.

² I have a work in my possession entitled 'Reminiscences for my Children,' by Mrs. Howard, of Corby Castle, Cumberland, printed for circulation among her family and friends. She accompanied her husband, Captain Howard, and the West York Militia, to Ireland in 1799, and her diary in Ireland continues for twelve months. She mixed in the best circle, and the account there given of the style, elegance, and number of titled persons attending the parties, show, there was more life and spirit displayed in one month in Dublin then, than there is in twelve months now.

trasting the character of Castlereagh with Pitt, Plunket said :—

‘The example of the Prime Minister of England, imitable in its vices, may deceive the noble Lord. The Minister of England has his faults ; he abandoned in his latter years the principles of reform, by professing which he obtained the early confidence of the people of England, and in the whole of his political conduct he has shown himself haughty and intractable ; but it must be admitted that he has shown himself by nature endowed with a towering and transcendent intellect, and that the vastness of his moral resources keeps pace with the magnificence and unboundedness of his projects. I thank God it is much more easy for him to transfer his apostasy and his insolence than his comprehension and sagacity, and I feel the safety of my country in the wretched feebleness of her enemy. I cannot fear that the Constitution which has been formed by the wisdom of ages, and cemented by the blood of patriots and of heroes, is to be smitten to its centre by such a *green and sapless twig* as this.¹ Sir, I confess I did at one time rejoice in the appointment of the noble Lord to the administration of this country. When I perceived that wicked and destructive measures were in agitation, I rejoiced that an *impotent* and incapable instrument was selected for their execution ; but I have ceased to entertain that feeling, because, though I am as well convinced as I am of my own existence that he can never accomplish his measure, I see by woeful experience that he may do infinite mischief in attempting it. Sir, there are no talents too mean—there are no powers too low, for the accomplishment of mischief ; it is the condition of our nature ; it is part of the mysterious and inscrutable dispensation of Providence, that talent, and virtue, and wisdom are necessary for the achievement of great good ;

CHAP.
LXIII.

Contrast
between
Pitt and
Lord
Castle
reagh.

¹ There was terrible force in this allusion. It is also said when Teeling's mother was refused pardon for her son, implicated in the rebellion of 1798, she said to Lord Castlereagh, ‘You cannot comprehend my feelings, my Lord. I remember you have no child.’

CHAP.
LXIII.

but there is no capacity so vile or so wretched as not to be adequate to the perpetration of evil.' Plunket was a good orator, but a bad prophet.

Having continued to argue against the measure with great ability, the orator thus proceeds:—

Plunket's
speech
against
the Union
continued.

'Sir, I thank the administration for this measure. They are, without intending it, putting an end to our dissensions. Through the black cloud which they have collected over us, I see the light breaking in upon this unfortunate country. They have composed our dissensions, not by fomenting the embers of a lingering and subdued rebellion, not by hallooing Protestant against Catholic, and Catholic against Protestant, not by committing the north against the south, not by inconsistent appeals to local or to party prejudices—no! but by the avowal of this atrocious conspiracy against the liberties of Ireland, they have subdued every petty and substantive distinction; they have united every rank and description of men by the pressure of this grand and momentous subject, and I tell them, that they will see every honourable and independent man in Ireland rally round the Constitution, and merge every other consideration in opposition to this ungenerous and odious measure.

'For my part, I will resist it to the last gasp of my existence, and with the last drop of my blood; and, when I feel the hour of my dissolution approaching, I will, like the father of Hannibal, take my children to the altar, and swear them to eternal hostility against the invaders of their country's freedom. Sir, I shall not detain you by pursuing this question through the topics which it so abundantly offers. I should be proud to think my name should be handed down to posterity in the same roll with those disinterested patriots who have successfully resisted the enemies of their country—successfully, I trust it will be. In all events, I have my exceeding great reward. I shall bear in my heart the consciousness of having done my duty; and, in the hour of death I shall not be haunted by the reflection of having basely sold or meanly aban-

doned the liberties of my native land. Can any man who gives his vote this night on the other side lay his hand upon his heart and make the same declaration? I hope so: it will be well for his own peace. The indignation and abhorrence of his countrymen will not accompany him through life, and the curse of his children will not follow him to his grave. I in the most express terms deny the competency of Parliament to do this act. I warn you, do not dare to lay your hands on the Constitution. I tell you that if, circumstanced as you are, you pass this Act, it will be a nullity; and that no man in Ireland will be bound to obey it.'

The speaker was followed by others in the debate, but no speech was equal to this. On the division on Mr. Ponsoby's amendment the Government had the narrow majority of *one*.

CHAPTER LXIV.

LIFE OF LORD CHANCELLOR, LORD PLUNKET—FROM THE DEBATE ON THE UNION UNTIL THE PASSING OF THE MEASURE.

CHAP.
LXIV.

The last
Irish Par-
liament
opened by
Marquis
Cornwallis
in 1800.

ON January 15, 1800, the Irish Parliament was opened by Marquis Cornwallis, with a speech from the throne, containing no reference to the Union. An address was thereupon moved by Lord Loftus, and seconded by Colonel Crosbie. Sir Laurence Parsons then moved as an amendment, ‘that while England and Ireland were firmly united, and while it was the sincere wish of the Irish people they should so continue, it was at the same time their interest and their duty to maintain the local Parliament and independent Constitution of their country as established in 1782.’ There was a most spirited debate on this motion, in the course of which Plunket replied to Dr. Browne, Member for the University, who had been recently converted from being a violent anti-Unionist, to support that measure. The bribery and corruption which were lavishly scattered by the wily Minister were thus powerfully exposed by Plunket:—

Exposure
of the
means em-
ployed by
the Irish
Executive
to carry
the Union.

‘The public will not easily forget that memorable day when the Usher of the Black Rod was stationed within the doors of the Commons, to watch the instant at which the House assembled. The public will not easily forget the indecent precipitation with which the message from the Throne was delivered, without allowing time even for the ordinary vote of thanks to you, Sir, for your conduct in that chair. They will not easily forget, not the absence, but the disgraceful flight of the Minister of the country, to avoid the exposure and the punishment of guilt. When the functions of this House were thus superseded,

his Excellency, for the first time, thought proper to inform them of the resolutions of the British Parliament; and he was further pleased to insinuate that it would be a great satisfaction to him, in his old age, if we would be so good as to adopt this measure of an incorporating Union. I must, for one, beg to be excused from making quite so great a sacrifice, from mere personal civility, to any Lord Lieutenant, however respectable he may be. The independence of a nation, I must own, does not appear to me exactly that kind of a bagatelle which is to be offered, by way of compliment, either to the youth of the noble Lord who honours us by his presence in this House,¹ or the old age of the noble Marquis² who occasionally sheds his setting lustre over the other. To the first I am disposed to say, in the words of Waller,—

I pray thee, gentle boy,
Press me no more for that slight toy;

and to the latter I might apply the language of Lady Constance:—

“That’s a good child; go to its grandam—give grandam kingdom, and its grandam will give it a plum, a cherry, and a fig—there’s a good grandam.”

‘I hope, therefore, Sir, I shall not be thought impolitic if I decline the offer of the Constitution of Ireland either as a garland to adorn the youthful brow of the Secretary, or to be suspended over the pillow of the Viceroy. Thus ended that never-to-be-forgotten session. What has since been done? During the whole interval between the Sessions the same barefaced system of Parliamentary corruption has been pursued—dismissals, promotions, threats, promises. In despite of all this, the Minister feared he could not succeed in Parliament, and he affected to appeal to what he had before despised, the sentiment of the people. When he was confident of a majority, the people were to be heard only through the constitutional medium

¹ Lord Castlereagh.

² Marquis Cornwallis.

CHAP.
LXIV.

of their representatives; when he was driven out of Parliament, the sense of the people became everything. Bribes were promised to the Catholic clergy; bribes were promised to the Presbyterian clergy. I trust they have been generally spurned with the contempt they merited. The noble Lord understands but badly the genius of the religion in which he was educated. You held out hopes to the Catholic body which were never intended to be gratified; regardless of the disappointment, and indignation, and eventual rebellion which you might kindle; regardless of everything, provided the present paltry little object were obtained. In the same breath you held out professions to the Protestant, equally delusive; and having thus prepared the way, the representative of Majesty set out on his mission to court his sovereign, the Majesty of the People. It is painful to dwell upon that disgraceful expedition; no place too obscure to be visited, no rank too low to be courted; no threat too vile to be refrained from; the counties not sought to be legally convened by their sheriffs; no attempt to collect the unbiassed suffrage of the intelligent and independent part of the community; public addresses sought for from petty villages, and private signatures smuggled from public counties—and how procured? By the influence of absentee landlords—not over the affections, but over the terrors of their tenantry; by griping agents and revenue-officers. And after all this mummery had been exhausted; after the lustre of royalty had been tarnished by this vulgar intercourse with the lowest rabble; after every spot had been selected where a paltry address could be procured, and every place avoided where a manly sentiment could be encountered; after abusing the names of the dead, and forging the signatures of the living; after polling the inhabitant of the gaol, and calling out against Parliament the suffrages of those who dare not come in to sign till they got their protections in their pockets; after employing the revenue-officer to threaten the publican that he should be marked as a victim, and the agent to terrify the shivering tenant

with the prospect of his turf-bog being withheld if he did not sign your address; after employing your military commanders, the uncontrolled arbiters of life and death, to hunt the rabble against the constituted authorities; after squeezing the lowest dregs of a population of near five millions, you obtained about five thousand signatures, three-fourths of whom affixed their names in surprise, terror, or total ignorance of the subject; and after all this canvass of the people, and after all this corruption wasted on the Parliament, and after all your boasting that you must carry the measure by a triumphant majority, you dare not announce the subject in the speech from the Throne. You talk of respect for our gracious Sovereign: I ask what can be more gross disrespect than this tampering with the royal name—pledged to the British Parliament to bring the measure before us at the proper opportunity; holding it out to us at the close of the last Session, and not daring to hint it at the beginning of this? Is it not notorious why you do not bring forward the measure now? Because the fruits of your corruption have not yet blossomed; because you did not dare hazard the debate last Session, in order to fill up the vacancies which the places bestowed by you avowedly for this question had occasioned, and because you have employed the interval in the same sordid traffic; and because you have a band of disinterested patriots waiting to come in and complete the enlightened majority who are to vote away the liberties of Ireland.'

It was during this debate the affecting incident occurred of Henry Grattan rising from the bed of sickness to raise his voice against the impending Union. The debate had gone through the long night, and far into the dawn, when Grattan appeared, faint and exhausted by his journey.¹ His wasted form was no sooner descried in the House of Commons than loud cheering welcomed his presence, and his friends rallied round him. Having obtained leave from the Speaker (Foster) to address the House sitting, he

Affecting
incident.

¹ He had come from Tinnahinch, County Wicklow.

CHAP.
LXIV.

delivered one of the most pathetic and argumentative speeches ever uttered. The peroration was in these words :—

‘Yet I do not give up the country. Though she is in a swoon, she is not dead; though in her tomb she lies helpless and motionless, there is upon her lips the spirit of life, and on her cheek the glow of beauty.

Thou art not conquered : beauty’s ensign yet
Is crimson on thy lips and on thy cheek ;
And death’s pale flag is not advanced there.

While a plank of the vessel holds together I will not leave her. Let the courtier present his light sail to the breeze, and carry the bark of his faith with every wind that blows : I will remain anchored here ; with fidelity to the fortunes of my country, faithful to her freedom, faithful to her fall !’

But the power of the Minister was too strong for the patriot bands. They fought the measure inch by inch, and the Speaker lent his best aid, and the forms of the House were used to obstruct a measure fraught with such ruin to Ireland—but in vain. The time for the passing of the Bill was close at hand.

The last
meeting of
the Irish
Parlia-
ment.

The Commons House of Parliament on June 10, 1800, afforded, according to Sir Jonas Barrington, the most melancholy example of a fine independent people betrayed, divided, sold, and as a State annihilated. British clerks and officers were smuggled into her Parliament, to vote away the constitution of a country to which they were strangers, and in which they had neither interest nor connection. They were employed to cancel the royal charter of the Irish nation, guaranteed by the British Government, sanctioned by the British Legislature, and unequivocally confirmed by the words, the signature, and the great seal of their Monarch. The Houses of Parliament were closely invested by the military : no demonstration of popular feeling was permitted. A British regiment, near the entrance, patrolled through the Ionic colonnades. The situation of the Speaker (Foster) on that night was

of the most distressing nature: a sincere and ardent enemy of the measure, he headed its opponents; he resisted it with all the power of his mind, the resources of his experience, his influence, and his eloquence. It was, however, through his voice that it was to be proclaimed and consummated. His only alternative (resignation) would have been unavailing, and could have added nothing to his character. His expressive countenance bespoke the inquietude of his feelings; solicitude was perceptible in every glance, and his embarrassment was obvious in every word he uttered. The galleries were full, but the change was lamentable: they were no longer crowded with those who had been accustomed to witness the eloquence and to animate the debates of that devoted assembly. A monotonous and melancholy murmur ran through the benches, scarcely a word was exchanged amongst the Members, nobody seemed at ease, no cheerfulness was apparent, and the ordinary business for a short time proceeded in the usual manner. At length the expected moment arrived; the order of the day for the third reading of the bill for a Legislative Union between Great Britain and Ireland was moved by Lord Castle-reagh. Unvaried, tame, cold-blooded, the words seemed frozen as they issued from his lips; and, as if a simple citizen of the world, he seemed to have no sensation on the subject. At that moment he had no country — no God, but his ambition; he made his motion, and resumed his seat, with the utmost composure and indifference. Confused murmurs again ran through the House; it was visibly affected; every character in a moment seemed involuntarily rushing to its index — some pale, some flushed, some agitated: there were few countenances to which the heart did not despatch some messenger. Several Members withdrew before the question could be repeated, and an awful momentary silence succeeded their departure. The Speaker rose slowly from that chair which had been the proud source of his honours and of his high character. For a moment he resumed his seat; but the

CHAP.
LXIV.

The
Speaker
opposed to
the Union.

Depressed
state of
the House
of Com-
mons.

Lord
Castle-
reagh
moves the
third
reading of
the Bill.

The
Speaker
puts the
question.

CHAP.
LXIV.

strength of his mind sustained him in his duty, though his struggle was apparent. With that dignity which never failed to signalise his official actions, he held up the Bill for a moment in silence; he looked steadily around him on the last agony of the expiring Parliament; he at length repeated, in an emphatic tone, 'As many as are of opinion that this Bill do pass, say "Aye;" the contrary, say "No."' The affirmative was languid, but indisputable. Another momentary pause ensued. Again his lips seemed to decline their office. At length, with an eye averted from the object which he hated, he proclaimed, with a subdued voice, 'The Ayes have it.' The fatal sentence was now pronounced. For an instant he stood statue-like, then indignantly, and with disgust, flung the Bill upon the table, and sunk into his chair with an exhausted spirit.

The Ayes
have it.

Opinion
of Irish
lawyers
upon the
Union.

The last meeting of the Parliament in College Green was held on Saturday, June 10, 1800; and although the Legislature of Ireland was abolished with English legal formalities, the ablest lawyers, Saurin, Ponsonby, Plunket, Bull, Bushe, Curran, Burrowes, Fitzgerald, A. Moore, and others, maintained, but more as politicians than lawyers, that the Act was a nullity; that the transaction, though fortified by sevenfold form, was radically fraudulent; that all the forms and solemnities of law were but so many badges of the fraud; and that posterity, like a great court of conscience, would pronounce its judgment. Saurin, one of the most eminent Irish lawyers, declared that resistance to the Union would be a struggle against usurpation, and not a resistance against law. 'You,' he said, 'may make the Union binding as a law, but you cannot make it obligatory on conscience. It will be obeyed as long as England is strong; but resistance to it will be, in the abstract, a duty, and the exhibition of that resistance will be a mere question of prudence.'

Saurin's
declara-
tion.

CHAPTER LXV.

LIFE OF LORD PLUNKET, LORD CHANCELLOR.—THE TRIAL OF ROBERT EMMET.

THE passing of the Act of Union was regarded by the anti-Unionists as the death-blow to Ireland's independence. They felt at once like a beaten army, humiliated and depressed. They were turned adrift, as Grattan said, with safe consciences, but with breaking hearts. He retired to his country seat at Tinnahinch, County Wicklow, and only received the visits of a few friends who, like himself, had fought the battle to the last. Plunket was ever most welcome.

CHAP.
LXV.

The effect
of the
Union on
the anti-
Unionists.

As the closing of the Irish Senate House was regarded by Plunket as the extinguishing of his political life, he turned all his thoughts to his profession, and business came as rapidly as he could desire. His days were passed in the Four Courts, and such part of each evening as he could devote from the preparation for the following day he spent in the bosom of his family, who were then growing up. A few years elapsed when the Irish political horizon was again overcast, and the insurrection of Robert Emmet took place in 1803. Of this ill-fated enthusiast it has been truly said, 'There is a certain poetical halo about Emmet which makes many persons of opposite politics compassionate towards his memory. His romantic passion for Miss Curran and his enthusiasm for Ireland has made him a sort of hero with many sentimentalists. The lyre of Moore, and the graceful pen of Washington Irving, have done much to entwine Emmet's name with many tender associations.' Of the idol of his affections, Sarah Curran, Moore thus wrote:—

Plunket
attends
closely to
his pro-
fession.

Robert
Emmet.

CHAP.
LXV.

She is far from the land where her young hero sleeps,
And lovers are round her sighing ;
But coldly she turns from their gaze, and weeps,
For her heart in his grave is lying.

She sings the wild song of her dear native plains,
Every note which he lov'd awaking ;
Ah ! little they think, who delight in her strains,
How the heart of the Minstrel is breaking.

He had liv'd for his love, for his country he died,
They were all that to life had entwin'd him ;
Nor soon shall the tears of his country be dried,
Nor long will his love stay behind him.

This feeling of tenderness towards Emmet makes many forget the actual sentiments which were entertained towards him when he rekindled the flame of civil war, only to forge fresh fetters for his unhappy country.¹

Stripped of the romance with which prose and poetry have encircled him, the same author adds, 'There was more of political energy and masculine power in any ten days of Wolfe Tone's life, than in as many years of Emmet, who was like one of those conventional artists whose works produce no permanent effect from their fatal prettiness. He was a fine inflammatory orator, with much natural talent for eloquence ; but a weaker leader never did more mischief to his party.'²

The in-
surrection
suspected.

He had, however, power to collect the disaffected, and had organised what was undoubtedly a very formidable insurrection, had his plans been carried into execution. An accidental explosion of gunpowder in a house in Dublin caused their project to be suspected, but the Government took no steps to discover the conspiracy.³ On the evening of July 23, the rebellion broke out in Dublin, and Lord Kilwarden, Chief Justice of the King's Bench, who was on his way from his country seat, Newlands, to Dublin, was murdered. The following is an authentic account of this atrocious deed :—'The carriage

¹ Ireland and its Rulers, part iii. p. 134.

² Ibid. in note.

³ The explosion took place on July 18 ; the outbreak of the rebellion was not until July 23.

of Lord Kilwarden had hardly reached that part of Thomas Street which leads to Vicar Street, when it was stopped and attacked. Lord Kilwarden, who was inside with his daughter and his nephew, the Rev. Richard Wolfe, cried out, "It is I, Kilwarden, Chief Justice of the King's Bench." A man, whose name is said to have been Shannon, rushed forward, plunged his pike into his Lordship, crying out, "You are the man I want." A portmanteau was then taken out of the carriage, broken open, and rifled of its contents; then his Lordship, mortally wounded, was dragged out of the carriage, and several additional wounds inflicted on him.¹ The unfortunate young lady was rescued from the carriage, and conducted to an adjoining house, it is said, by Robert Emmet. Then she made her way to the Castle, and told of the brutal murder of her father. When assistance reached him he was found nearly lifeless, but recovered a little on being brought to the watch-house in Vicar Street. His dying words deserve to be recorded here:—"Murder must be punished, but let no man suffer but by the just sentence of the law."

CHAP.
LXV.
Murder of
Lord
Kilwarden,
Chief
Justice.

On August 25 following, Robert Emmet was arrested; and, on September 19, 1803, a Special Commission, at which Chief Justice Lord Norbury, Baron George, and Baron Daly were Judges, tried him for high treason, under the statute 25 Edward III. The Crown was represented by the Attorney-General (Standish O'Grady²), the Solicitor-General (James MacLelland),³ Mr. Plunket, with Messrs. Mayne, Townsend, Ridgeway and O'Grady. Messrs. Ball, Burrowes, and MacNally, were assigned as Counsel for the prisoner. The indictment having been opened, the Attorney-General stated the case against the prisoner. He dwelt upon the magnitude of the crime of high treason, which throws the mass of the people into agitation only to bring the worst and most profligate to the surface. It originates in anarchy, proceeds in bloodshed, and ends in

Trial of
Robert
Emmet.

The
Attorney-
General's
statement.

¹ The United Irishman, by R. R. Madden, vol. iii. N. S. p. 351.

² Afterwards Chief Baron of the Exchequer and Viscount Guillamore.

³ Afterwards a Baron of the Exchequer.

CHAP.
LXV.

cruel and unrelenting despotism. He described the statute of 25 Edward III. c. 3, and the way in which the indictment was framed, and traced the history of Emmet's conspiracy from its inception. 'But the appointed hour arrives—the prisoner puts himself at the head of his motley banditti; the party at this time did not amount to one hundred men, but there is expectation of numerous recruits from the country. He marches out with his pistols on either side, and his sword glittering in the air; the implements of death are distributed amongst his crew. He leads them into Thomas Street, and even there this mighty army does not consist of as many men as have since attended any one of the executions of these unfortunate persons. Upon this fatal evening, the infatuated crew who composed the mob came forward only to fly; and that rebellion which was to have taken the Castle, annihilated the Government, and dethroned the King, fled precipitately in every direction; and I am at a loss to say whether the General led the way or became a follower in the flight.'

The Attorney-General then went through the case, which he was in a position to prove against the prisoner, and the witnesses were called. They clearly sustained the Attorney-General's opening statement as to the purchasing of arms and ammunition, and the prisoner's complicity.

Mr. MacNally. The case having closed on the part of the Crown, *Mr. MacNally* said: My Lord, Mr. Emmet says he does not intend to call any witness or to take up the time of the Court by his Counsel stating any case or making any observations upon the evidence; and therefore I presume the trial is now closed on both sides.

Mr. Plunket. *Mr. Plunket* replied: It is with extreme reluctance that, under such circumstances, and in a case like this, I do not feel myself at liberty to follow the example which has been set me by the Counsel for the prisoner.

Mr. MacNally. *Mr. MacNally*: I beg pardon; I am then to call on the Court to decide a matter of practice. No doubt the Crown is entitled to the last word—that is, a reply; but if

I understand anything of the arrangements of criminal trials it is this. The Counsel for the prosecution states the case; after the evidence given in support of it, the prisoner is called upon to state his case, and, if he does, the Counsel for the prosecution has a right to reply; but I conceive the word *REPLY*, according to its true meaning, is this: observing on what has been urged in answer to the charge; but, if there has been no answer, there can be no reply. I believe the case is new; at least, since the proceedings in treason were regulated by statute, there is no instance where there had not been a defence made by the prisoner's Counsel, and an answer given to the evidence against him; therefore, I say, it is a new case.

CHAP.
LXV.

Lord NORBURY: Were it a matter of any doubt, it would be our duty to have it spoken to; but as there can be no doubt that the Counsel for the Crown have a right to speak to a great body of evidence, and that the Counsel for the prisoner cannot by their silence preclude the Crown from that right, we cannot prevent the reply; if we did, we should introduce a novel practice, which never prevailed in any of the State trials, into many of which for some time past I have looked.

Lord
Norbury.

The *Attorney-General*: My Lord, we feel that stating a case and observing upon evidence are different duties. I have had the burthen upon me of stating the case for the Crown. The prisoner declining to go into any case, wears the impression that the case on the part of the Crown does not require any answer; that is the most charitable way of considering his conduct, and therefore it is at my particular desire that Mr. Plunket rises to address the Court and the Jury upon this occasion.¹

The
Attorney-
General.

¹ Cobbet's State Trials, vol. xxviii. p. 1158. As much obloquy has been cast upon Plunket for his speech on the trial of Robert Emmet, I have given this discussion as reported, to show he was specially requested to speak. Dr. R. R. Madden describes Plunket's speech as 'a vehement, passionate, acrimonious appeal to the jury, against the prisoner.'—Vide *The United Irishman*, vol. iii. N. S. p. 445, and Mr. D. O. Madden calls it 'a splendid philippic against rebels and political incendiaries. It was a brilliant Crown Lawyer's address, and may serve as a model for the speech of an alarmist advocate.'—*Ireland and Her Rulers*, part iii. p. 125.

CHAP.
LXV.

Mr.
Plunket's
speech to
the jury.

His speech was as follows:—

‘My Lords and Gentlemen of the Jury—You need not entertain any apprehension that at this hour of the day I am disposed to take up a great deal of your time, by observing upon the evidence which has been given. In truth, if it were an ordinary case, and if the object of this prosecution did not include some more momentous interests than the mere question of the guilt or innocence of the unfortunate gentleman who stands a prisoner at the Bar, I should have followed the example of his Counsel, and should have declined making any observation upon the evidence. But, Gentlemen, I do feel this to be a case of infinite importance indeed. It is a case important, like all others of this kind, by involving the life of a fellow-subject, but it is doubly and ten-fold important, because from the evidence which has been given in the progress of it, the system of this conspiracy against the laws and constitution of the country has been developed in all its branches; and, in observing upon the conduct of the prisoner at the Bar, and in bringing home the evidence of his guilt, I am bringing home guilt to a person who, I say, is the centre, the life-blood and soul of this atrocious conspiracy.’

Having gone through the evidence, he continues:—

Emmet the
life-blood
of the
conspiracy.

‘Why do I address you, or why should I trespass any longer upon your time or your attention? Because, as I already mentioned, I feel this to be a case of great public expectation, of the very last national importance; and because when I am prosecuting a man in whose veins the life-blood of this conspiracy flowed, I expose to the public eye the utter meanness and insufficiency of its resources. What does it avow itself to be? A plan, not to correct the excesses or reform the abuses of the Government of the country; not to remove any specks of imperfection which might have grown upon the surface of the Constitution, or to restrain the overgrown power of the Crown, or to restore any privilege of Parliament, or to throw any new security around the liberty of the subject; no. But

Plan not
for re-
form, but
separation.

it plainly and boldly avows itself to be a plan to separate Great Britain from Ireland, uproot the monarchy, and establish "a free and independent Republic in Ireland," in its place! To sever the connection between Great Britain and Ireland! Gentlemen, I should feel it a waste of words and of public time, were I addressing you or any persons within the limits of my voice, to talk of the frantic desperation of the plan of any man who speculates upon the dissolution of that Empire, whose glory and whose happiness depends upon its indissoluble connection. But were it practicable to sever the connection, to untie the links which bind us to the British Constitution, and to turn us adrift upon the turbulent ocean of revolution, who could answer for the existence of this country as an independent Power for a year? God and Nature have made the two countries essential to each other; let them cling to each other to the end of time, and their united affection and loyalty will be proof against the machinations of the world.

'But how was this to be done? By establishing a free and independent republic? High-sounding name! I would ask whether the man who used it knew what it meant? I will not ask what may be its benefits, for I know its evils. There is no magic in the name. We have heard of 'free and independent Republics,' and we have since seen the most abject slavery that ever groaned under iron despotism growing out of them. Formerly, Gentlemen of the Jury, we have seen revolutions effected by some great call of the people, ripe for change and unfitted by their habits for ancient forms; but here, from the obscurity of concealment and by the voice of that pigmy authority, self-created and fearing to show itself, but in arms under cover of night, we are called upon to surrender a Constitution which has lasted for a period of one thousand years. Had any body of the people come forward, stating any grievances or announcing them for any change? No; but while the country is at peace, enjoying the blessings of the Constitution, growing rich and happy under it, a few desperate, obscure, contemptible

Evils of
revolu-
tion.

CHAP.
LXV.

adventurers in the trade of revolution form a scheme against the constituted authorities of the land, and by force and violence to overthrow an ancient and venerable Constitution, and to plunge a whole people into the horrors of civil war.'

Having alluded to a projected alliance with the republican party in France, Mr. Plunket proceeds :—

'Gentlemen, so far I have taken up your time with observing upon the nature and extent of the conspiracy, its objects, and means by which they proposed to effectuate them. Let me now call your attention to the pretext by which they seek to support them. They have not stated what particular grievance or oppression is complained of, but they have travelled back into the history of six centuries; they have raked up the ashes of former cruelties and rebellions, and upon the memory of them they call upon the good people of this country to embark into similar troubles; but they forgot to tell the people that, until the infection of new-fangled French principles was introduced, this country was for an hundred years free from the slightest symptom of rebellion, advancing in prosperity of every kind beyond any example, while the former animosities of the country were melting down into a general system of philanthropy and cordial attachment to each other.

Removal
of the Par-
liament.

'Let me allude to another topic. They call for revenge on account of the removal of the Parliament. Those men who in 1793 endeavoured to destroy the Parliament, now call upon the loyal men who opposed its transfer to join them in rebellion, an appeal vain and fruitless. Look around and see with what zeal and loyalty they rallied round the Throne and Constitution of the country. Whatever might have been the differences of opinion heretofore amongst Irishmen upon some points, when armed rebels appear against the laws and public peace, every minor difference is annihilated in the paramount claim of duty to our King and country.'

After referring to, and commenting upon, the edicts

published by the conspirators, Plunket concluded: 'To whom are we called upon to deliver up, with only fourteen days to consider of it, all the advantages we enjoy? Who are they who claim the obedience? The prisoner is the principal. I do not wish to say anything harsh of him—a young man of considerable talents, if used with precaution, and of respectability in society if content to conform himself to its laws. But when he assumes the manner and the tone of a legislator, and calls upon all ranks of the people the instant the Provisional Government proclaims in the abstract a new Government, without specifying what the new laws are to be, or how the people are to be conducted and managed, but that the moment it is announced, the whole constituted authority is to yield to him—it becomes an extravagance bordering on frenzy. This is going beyond the example of all former times.'

He then drew a picture of crimes committed under the names of Liberty and moral good, and the consequences of the country under revolt: 'Let loose the winds of heaven, and what power less than Omnipotent can control? So it is with the rabble; let them loose, and who can control them? In the short space of a quarter of an hour, what a scene of blood and horror was exhibited! I trust that the blood which has been shed upon the streets of Dublin upon that night, and since upon the scaffold, and which hereafter may be shed, will not be visited on the head of the prisoner. It is not for me to say what are the limits to the mercy of God—what a sincere repentance of these crimes may effect; but I do say, that if this unfortunate young gentleman retains any of the seeds of humanity in his heart, or possesses any of those qualities which a virtuous education in a liberal seminary must have planted in his bosom, he will make an atonement to his God and his country, by employing whatever time remains to him in warning his deluded countrymen from persevering in their schemes. Much blood has been shed, and he perhaps

Impossibility of maintaining order in case of revolution.

CHAP.
LXV.

would have been immolated by his followers had he succeeded. They are a bloodthirsty crew, incapable of listening to the voice of reason, and equally incapable of obtaining rational freedom, if it were wanting in this country, as they are of enjoying it. They imbrue their hands in the most sacred blood of the country, and yet they call upon God to prosper their cause, as it is just! But as it is atrocious, wicked, and abominable, I most devoutly invoke that God to confound and overwhelm it.’¹

Charge of
Lord
Norbury.

When Mr. Plunket concluded, Lord Norbury summed up, and Dr. Madden states in reference to the charge: ‘It might in fairness, I will not say to that much injured, but much reprobated man, be stated that his speech was as free from rancour as it was in the nature of things for any speech of Lord Norbury’s to be on a similar occasion.’²

The jury
find the
prisoner
guilty.

The ominous sentence, ‘*Guilty*,’ having been brought in, the Attorney-General prayed sentence.

Mr. MacNally, Counsel for the prisoner, requested the Attorney-General to allow sentence to be deferred until the following day, but the Attorney-General said it was impossible to comply with this request.

The Clerk of the Crown then read the indictment, and stated the verdict found, in the usual form, concluding, ‘What have you, therefore, now to say why judgment of death and execution should not be awarded against you according to law?’

To this formal appeal, Emmet responded in that deathless speech which forms part of our national history.

Replying to the charge of Mr. Plunket, that he was the life-blood of the conspiracy, he said: ‘I have been charged with that importance in the efforts to emancipate my country, as to be considered the key-stone of the combination of Irishmen, or, as it has been termed, the life-blood

Touching
oration of
Emmet.

¹ Cobbet’s State Trials, vol. xxviii. p. 1158–68.

² The United Irishman, by R. R. Madden, vol. iii. N. S. p. 449.

of the conspiracy. You do me honour overmuch; you have given the subaltern all the credit of the superior. There are men concerned in this conspiracy, who are not only superior to me, but even to your own conception of yourself, my Lord; men before the splendour of whose genius and virtues I should bow with respectful deference, and who would not deign to call you friend—who would not disgrace themselves by shaking your blood-stained hand.'

Lord Norbury interrupted.

'What, my Lord, shall you tell me, on my passage to the scaffold, which that tyranny of which you are only the intermediate minister has erected for my death, that I am accountable for all the blood that has been and will be shed in this struggle of the oppressed against the oppressor? Shall you tell me this? and must I be so very a slave as not to repel it?

'I do not fear to approach the Omnipotent Judge to answer for the conduct of my short life; and am I to stand appalled here before a mere remnant of mortality? Let no man dare when I am dead to charge me with dishonour; let no man attain my memory by believing that I could have been engaged in any cause but for my country's liberty and independence. The Proclamation of the Provisional Government speaks my views—no inference can be tortured from it to countenance barbarity or debasement. I would not have submitted to a foreign oppression for the same reason that I would have resisted tyranny at home.'

Lord *Norbury*: 'Mr. Emmet, you have been called upon to show cause, if any you have, why the judgment of the law should not be enforced against you. Instead of showing anything in point of law why judgment should not pass, you have proceeded in a manner the most unbecoming a person in your situation; you have avowed, and endeavoured to vindicate, principles totally subversive of the Government, totally subversive of the tranquillity,

Lord
Norbury.

CHAP.
LXV.

well-being, and happiness of that country which gave you birth—you have broached treason the most abominable.

‘You, Sir, had the honour to be a gentleman by birth, and your father filled a respectable situation under the Government. You had an elder brother, whom death snatched away, and who, when living, was one of the greatest ornaments of the Bar. The laws of his country were the study of his youth, and the study of his maturer life was to cultivate and support them. He left you a proud example to follow, and if he lived he would have given your talents the same virtuous direction as his own, and have taught you to admire and preserve that Constitution for the destruction of which you have conspired with the most profligate and abandoned, and associated yourself with hostlers, bakers, butchers, and such persons, whom you invited to Council when you erected your Provisional Government.’

Emmet.

EMMET: ‘If the spirits of the illustrious dead participate in the concerns of those who were dear to them in this transitory scene, dear shade of my venerated father, look down on your suffering son, and see, has he for one moment deviated from those moral and patriotic principles which you so early instilled into his youthful mind, and for which he has now to offer up his life. My Lord, you are impatient for the sacrifice. The blood which you seek is not congealed by the artificial terrors which surround your victim; it circulates warmly and unruffled through its channels, and in a little time will cry to heaven. Be yet patient! I have but a few words more to say. My ministry is now ended. I am going to my cold and silent grave; my lamp of life is nearly extinguished. I have parted with everything that was dear to me in this life for my country’s cause, and abandoned another idol I adored in my heart, the object of my affections.¹ My race

¹ This was Sarah Curran. Among Moore’s Melodies, two connect the names of Robert Emmet and Sarah Curran; one I have already given: here I present the other, which is also typical of his love for his country.

is run, the grave opens to receive me, and I sink into its bosom. I am ready to die. I have not been allowed to vindicate my character. I have but one request to make at my departure from this world. It is *the charity of its silence*. Let no man write my epitaph; for as no man who knows my motives dares now vindicate them, let not prejudice or ignorance asperse them. Let them rest in obscurity and peace; my memory be left in oblivion, and my tomb remain uninscribed until other times and other men can do justice to my character. When my country takes her place among the nations of the earth, then, and not till then, let my epitaph be written. I have done.'

These were the last words spoken by Emmet in public, and they were spoken in so loud and distinct a tone as to be audible throughout the Court House.¹

Lord Norbury then sentenced him to be executed on the following day, Tuesday, September 20, 1803, which

WHEN HE, WHO ADORES THEE.

When he, who adores thee, has left but the name
Of his faults and his sorrows behind,
Oh! say, wilt thou weep, when they darken the fame
Of a life that for thee was resign'd?
Yes, weep, and however my foes may condemn,
Thy tears shall efface their decree;
For Heaven can witness, though guilty to them,
I have been but too faithful to thee.

With thee were the dreams of my earliest love;
Every thought of my reason was thine;
In my last humble prayer to the Spirit above,
Thy name shall be mingled with mine.
Oh! blest are the lovers and friends who shall live
The days of thy glory to see,
But the next dearest blessing that Heaven can give
Is the pride of thus dying for thee.

¹ For the fullest particulars respecting Robert Emmet, vide *The United Irishmen*, by R. R. Madden, vol. iii. N. S. My respected friend has spared no efforts to render this work accurate and exhaustive of the subject to which it relates.

CHAP.
LXV.

was carried into effect. Moore has embalmed this request of Robert Emmet's in undying verse.

OH! BREATHE NOT HIS NAME.

Oh! breathe not his name, let it sleep in the shade
Where cold and unhonour'd his relics are laid;
Sad, silent, and dark, be the tears that we shed,
As the night-dew that falls on the grass o'er his head.

But the night-dew that falls, though in silence it weeps,
Shall brighten with verdure the grave where he sleeps;
And the tear that we shed, though in secret it rolls,
Shall long keep his memory green in our souls.

The writer in the 'Irish Quarterly Review'¹ states Emmet felt that the Government had treated him neither harshly or cruelly. Upon the morning of his execution, he wrote the following letter to the Right Hon. William Wickham, Chief Secretary to the Lord Lieutenant, Lord Hardwicke:—

Letter
from
Robert
Emmet
to the
Chief
Secretary
for
Ireland.

'Sir,—Had I been permitted to proceed with my vindication, it was my intention not only to have acknowledged the delicacy with which, I feel with gratitude, I have been personally treated; but also to have done the most public justice to the mildness of the present Administration of this country, and at the same time to have acquitted them, as far as rested with me, of any charge of remissness in not having previously detected a conspiracy, which from its closeness I knew it was impossible to have done. I confess that I should have preferred this mode had it been permitted, as it would thereby have enabled me to clear myself from an imputation under which I might in consequence lie, and to have stated why such an *Administration* did not prevent, but under the peculiar circumstances of the country rather accelerated, my determination to make an effort for the overthrow of a *Government* of which I did not think equally high. However, as I have been deprived of that opportunity, I think it right now to make an acknowledgment which justice requires

¹ Vol. iv. p. 155.

of me as a man, and which I do not feel in the least degree derogatory from my decided principles as an Irishman.

‘I am, &c.,

‘H. ROBERT ADDIS EMMET.’

CHAP.
LXV.

This is a manly, generous letter, and considering the circumstances under which it was written must have been extremely gratifying to the Irish Executive. There is no allusion to Plunket's conduct at the trial, which could hardly have been omitted had he acted the base and unworthy part imputed to him. The fact is, he merely discharged the duty imposed on him as Crown Counsel.

Shortly after the prosecution of Emmet, there appeared in Cobbet's ‘Weekly Register’ a stinging attack upon Plunket under the signature of ‘Juverna.’ Alluding to ‘Plunket taking part in the prosecution of a young enthusiast, whose father was his friend,’ the writer said:—‘If any one man could be found of whom a young and unhappy victim of the justly-offended laws of his country had, in the moment of his conviction and sentence, uttered the following apostrophe—“That viper whom my father nourished, he it is whose principles and doctrine now drag me to my grave, he it is who is now brought forward as my prosecutor, and who, by an unheard-of exercise of the Royal prerogative, has wantonly lashed with a speech and evidence the dying son of his former friend, when that dying son had produced no evidence, had made no defence, but, on the contrary, acknowledged the charge, and submitted to his fate”—Lord Kenyon would have turned in horror from such a scene, in which, if guilt were in one part punished, justice in the whole drama was confounded, humanity outraged, and loyalty insulted.’

Libel on
Mr.
Plunket in
Cobbet's
Register.

Plunket resolved to vindicate his character from this libel, and instituted a prosecution against Cobbet, and was awarded damages 400*l*.

Action for
libel,
damages
400*l*.

The action against Cobbet did not deter others attacking

CHAP.
LXV.

The
calumny
revived.
Prosecu-
tion
against
Messrs.
Gilbert
and
Hodges.

Plunket, and after some years he had to commence proceedings against the Irish publishers, Messrs. Gilbert and Hodges of Dublin, for libel contained in a work called 'Sketches of History, Politics, and Manners taken in Dublin and in the North of Ireland.' On searching the Crown Office, Dublin, by the aid of the efficient Clerk of the Crown, James Nagle, Esq., and his painstaking assistant Mr. Maybury, I was furnished with the following orders:—

Copy order
of Hilary
Term,
Jan. 23,
1812.

The King at the Prosecution of
The Right Honourable
William Conyngham Plunket
agst.
Wm. Gilbert & Robert Hodges.

Upon motion of Mr. Burrowes, Col. for the Prosr., and on reading his Afft., and the Affidavit of William James McCausland, It is ordered by the Court that a Criminal Information or Informations be fyled against the Defendants as is desired, unless Cause be shown to the contrary in six days after service of this order.

McCAUSLAND, Attry.

I undertake for costs as usual.

W. T. McCAUSLAND.

Copy order
of Easter
Term,
April 16,
1812.

The King at the Prosn. of
The Right Hon.
Wm. C. Plunket,
agst.
Wm. Gilbert & Robert Hodges.

Upon motion of Mr. Burrowes, Col. for the Prosr., and on reading the order of the 23 day of Jany. last, the Affidavit of Andrew Berne of the service thereof, and the notice of the 9th inst. and an afft. of the

service thereof, and no person appearing on behalf of the Defts. to oppose the motion,

It is ordered by the Court that the said order be and the same is hereby made absolute.

McCAUSLAND.

Affidavit
of Mr.
Plunket
in reply
to the
charges
against
him re-
specting
his conduct
to Emmet.

The following affidavit was also made by Mr. Plunket in reference to this libel:—

'The King at the Prosecution of the Right Hon.
William Conyngham Plunket
against

William Gilbert and Robert Hodges.

'The Right Honourable William Conyngham Plunket, of Stephen's Green, in the city of Dublin, maketh oath and saith, that he hath read in a certain book entitled

“Sketches of History, Politics, and Manners, taken in Dublin and the North of Ireland, in 1810,” the following passage: “Mr. Plunket, the late Attorney-General of Ireland, is an admirable public speaker, either at the Bar or in Parliament. This gentleman, however, was much reprobated for his conduct on the trial of Mr. Emmet for high treason, about seven years ago. Mr. Plunket, who was then only King’s Counsel, conducted the prosecution against this unfortunate young man with a rancour and virulence which shocked and surprised every person acquainted with his obligations to his father and family. Mr. Plunket’s reason for this conduct has never been made known, though it has injured him very much in public estimation. Crown lawyers have always been of the most bloodhound tribe; they seldom lose scent of their prey, either from considerations of gratitude or humanity. We have an instance of this in the prosecution of Lord Essex, on whom the celebrated Bacon, then Attorney-General, lavished every opprobrious term in the English language, though this amiable nobleman had been his greatest benefactor, and constant and unalterable friend.”¹ This deponent saith, he believes himself to be the person designated in the foregoing passage by the name of Mr. Plunket; and, that the object of the said passage is to represent this deponent as having conducted a prosecution for high treason against the late Robert Emmet, with a rancour and virulence so as to shock and surprise the public mind; and, that the passage is further intended to represent this deponent as having violated the dictates of gratitude and honour, by exciting such virulence and rancour against a person from whose father and family this deponent had received considerable obligations.

¹ He compared him to Cain, the first murderer, and to Pisistratus, who doting on the affections of the citizens, and wishing to usurp supreme power, wounded his own body that it might be thought he was in danger. He concluded: ‘And now, my Lord, all you have said or can say in answer to these matters are but shadows, and therefore methinks you had better confess, and not to justify.’—State Trials, vol. i. p. 1350. Lord Campbell’s Lives of the Chancellors of England, vol. iii. p. 308.

CHAP.
LXV.

This deponent saith that the entire of the charges and insinuations against this deponent contained in those passages are untrue. This deponent saith he was personally an utter stranger to the said Robert Emmet, never having, to the knowledge of this deponent, seen him until he was arraigned and on the trial in the Dublin Court, and never having had any intercourse with him of any kind, directly or indirectly; and this deponent saith he never received the slightest or the remotest obligation from the said Robert Emmet, or from the father, or any one individual of the family of the said Robert Emmet. And this deponent saith that the father of the said Robert Emmet was a physician, residing in the city of Dublin. This deponent was not ever on such terms of intimacy or acquaintance with the said Dr. Emmet as to bow to him in the streets; and this deponent never was, to his recollection or belief, in a private company with the said Dr. Emmet, or in a room, in his life, save once, and that, as this deponent believes, upwards of twenty years ago, at the house of the said Dr. Emmet, on the invitation of his son, Thomas Addis Emmet, with whom the deponent had been intimate when in the University of Dublin, and when a student at the Inns of Court, in England; but this deponent saith that, within a very short time after the said Thomas Addis Emmet had been called to the Irish Bar, which was, as deponent saith, some time in May, 1790, all intimacy between him and this deponent had ceased, principally in consequence, as this deponent saith, of a total opposition between the opinions of Thomas Addis Emmet and this deponent on the political affairs of this country, which about that period assumed a form so very important as deeply to affect the private sentiments and character of reflecting persons, insomuch so that, for some years before the arrest and imprisonment of the said Thomas Addis Emmet in the year 1798, there subsisted no sort of intercourse between this deponent and the said Thomas Addis Emmet, save unless what arose from occasionally meeting in the streets or in the Four Courts,

although this deponent was not then fully apprised of the danger in which the said Thomas Addis Emmet was implicated with the party who were engaged in the political pursuits in the country, which ended in so much disaster. This deponent further saith that he did not conduct the trial for high treason against the said Robert Emmet, the same being then conducted by the then Attorney-General.¹ But this deponent admits he was one of the Counsel employed and consulted in the conduct thereof; and this deponent declares that the said trial was conducted with perfect propriety and moderation by the said Attorney-General, and by all the Counsel concerned; and this deponent positively saith that he was not, in the part which he took in the said trial, actuated by any feeling at all partaking of the nature of virulence or rancour; but, on the contrary, this deponent saith he felt sincere compassion for the said Robert Emmet, whom this deponent considered as possessing many high endowments, but who had, as this deponent conceived, sacrificed them and himself to the suggestion of an unregulated enthusiasm, and who had involved in his wild enterprise the fate of many deluded persons of the lower orders of society. This deponent saith he was then of opinion that it would be of some service to the public that this deponent should avail himself of the public opportunity of speaking to the evidence in the said trial, by pointing out the folly and wildness, as well as the wickedness of the treasonable conspiracy which at that time subsisted; and this deponent saith that in the observations which he made on the same trial, this deponent did remark on the unworthy use which the said Robert Emmet had made of his rank in society, and of his high abilities, in endeavouring to dissatisfy the lower orders of labourers and mechanics with their lot in life, and engaging them in schemes of revolution from which they could reap no fruit but disgrace and death; and this deponent did also remark on the danger

¹ Right Hon. Standish O'Grady, afterwards Lord Chief Baron of the Exchequer in Ireland.

CHAP.
LXV.

and ruin to which the said Robert Emmet had exposed his country, by having proposed (as this deponent conceives the fact to be) to call in the assistance of the French. But this deponent saith that he is not conscious of having made use of any expressions on that occasion which were calculated to give unnecessary pain to the said Robert Emmet, or which in any degree departed from the respect which was due to a gentleman in his unfortunate situation. And this deponent begs leave to refer to the Report of the cases of High Treason published in the year 1803, in which, although the report of this deponent's observations to the Jury is very inaccurate as to composition, and was published without any revisal by or communication with the deponent, the substance of the said observations is stated fairly and without suppression. This deponent saith that a libellous statement, similar to that which deponent now complains of, having been made many years ago, in a London periodical print, this deponent did bring an action in England against the publisher thereof, and did, the same time, in 1804, obtain a verdict and damages to the amount of 400*l.*, but which the deponent did not levy; and this deponent saith that the same scandal having been revived and propagated with some industry, this deponent feels that he owes it to his own character to take this public method of disproving on oath the base and unworthy conduct which has been attributed to him, and which this deponent believes is calculated to lower him in the estimation of those who are not acquainted with his character, and sentiments, and habits of life. This deponent saith that he believes a great many copies of the publication above mentioned have been circulated in this city by the publisher; a copy thereof was, on the 14th of this month, sold at the shop of Messrs. Gilbert and Hodges.

'November 23, 1811.'

CHAPTER LXVI.

LIFE OF LORD PLUNKET, LORD CHANCELLOR, CONTINUED—FROM THE TRIAL OF EMMET TO THE DEATH OF GRATTAN.

SHORTLY after the trial of Robert Emmet Mr. Plunket was appointed Solicitor-General for Ireland. The office was a recognition of his zeal in the service of the Government, and when the Administration called ‘All the Talents’ occupied the Cabinet, Plunket became the Irish Attorney-General, while his friend and contemporary Charles Kendal Bushe was appointed Solicitor-General. The want of having the chief law officer for Ireland in Parliament was much felt, and Mr. Wickham and Lord Grenville¹ both pressed him very hard to enter Parliament. He declined, on the score of the injury his professional prospects must receive by even occasional absence. When the Duke of Portland’s Administration assumed the reins of power in 1807, Mr. Plunket was offered the post he lately filled of Attorney-General; but as he could not act with the party then in office, he resigned his place.

A letter from Lord Redesdale, dated Harley Street, May 12, 1807, conveys a deep regret at his resignation. The Ex-Chancellor says, ‘I cannot express to you the regret I feel at your final determination to resign your office. I feared the consequences of your having been prevailed on to take a seat in Parliament, from which it had been my particular wish that the law officers of the Crown in Ireland should be exempted; and when, urged by Mr. Wickham, I had strongly objected to it, as highly injurious to the individual, and tending to make the Bar of Ireland again a field for political interest, and to render promotion the reward for political services, instead of its

CHAP.
LXVI.
Mr. Plunket
Solicitor-
General.
Attorney-
General.

Letter
from ex-
Chancellor
Lord
Redesdale.

¹ Vide Letters in the Life by his grandson, vol. i. p. 222.

CHAP.
LXVI.

being the reward of those professional labours which best qualify men for the highest legal stations.

‘I had flattered myself with the hope that time would have rendered the Irish Bar, removed from political distraction, of the highest repute in the law of the country, to which their studies, as well as their abilities, might be exclusively applied. It is not for us to discuss the propriety of the decisions of those who have led you to form a different decision from that which I had once hoped you might have adopted; though I must confess that when you informed me of your intention to seek the opinion of others, I had very faint hopes that you would be permitted to act as I could have wished.’¹

Plunket hesitated to enter the Imperial Parliament. His friends were impatient, and urged him to do so, for they had no misgivings about his success; at last he consented. He was perhaps unwilling to give up any of his lucrative practice at the Bar. His legal career had been highly successful. When ten years called, and in his thirty-third year of age, he received the silk gown of King’s Counsel. When in his thirty-ninth year he was Solicitor-General, and two years later Attorney-General. The necessity for his advocacy of the claims of his Catholic fellow-countrymen overcame his scruples, and he took his seat in St. Stephen’s for Midhurst in 1807.

His first speech in the British House of Commons was on Mr. Grattan’s motion for Catholic emancipation, and his speech was a masterpiece of reasoning and eloquence. ‘The fire of his magnificent mind,’ said Grattan, ‘was lighted from ancient altars in the delivery of that unrivalled speech. He astonished his hearers by the purity of his language and the logic of his style. It was so different from English notions of Irish eloquence, that they could hardly realise he was a son of the Emerald Isle. The best tribute that could be paid to a speech in the House of Commons was paid to this speech of Plunket’s. He caused several members long opposed to the claims of

Plunket
returned
for
Medhurst
in 1807.
His first
speech
in the
British
Parlia-
ment.

¹ Life of Lord Plunket, by his grandson, vol. i. p. 226.

the Catholics to vote for them, and prevailed on some former supporters who were meditating desertion remaining true to the cause. Sir James Macintosh declared Plunket's had made a deeper impression than any speech delivered since Sheridan's, in 1783, on the charge against Warren Hastings respecting the Begum of Oude. It is, I believe, the only speech which has been known to determine the votes of several individuals. For the honour of Scotch conscience, I am happy to say it was the direct cause of two Scotchmen's conversion. The members of the House of Commons were more influenced by this speech than any other in modern times.' The Parliament which witnessed the first oration of the great Irish orator was dissolved when he was only two months a Member, and from 1807 to 1812 Plunket kept aloof from politics. He attended steadily to his professional pursuits, and had, as he deserved to have, immense practice.

CHAP.
LXVI.

Tribute
from Sir
James
Macintosh.

One of the most remarkable cases in which Plunket was engaged at the Bar was that of the *King v. O'Grady*. This was an information in the nature of a *quo warranto* at the suit of the King against Mr. Waller O'Grady, who had been appointed by his father, Chief Baron O'Grady, to the office of Clerk of the Pleas in the Court of Exchequer. The Crown contested the appointment, alleging the Government, and not the Chief Baron, had the right to make it. A trial at Bar took place in the Court of King's Bench, Dublin, which lasted eight days, when the verdict was for the Crown. It was then removed by writ of error into the Court of Exchequer Chamber, and the arguments of Saurin, Attorney-General, and Bushe, Solicitor-General, for the Crown, were encountered by Serjeant Burton, and Plunket, for O'Grady. The attack at the trial by Plunket on Saurin was felt to be bitter, and called forth a glorious defence by Bushe, in which he thus referred to Plunket's attack:—

The King
v.
O'Grady.

'The weight of the censure which has fallen upon us is increased in proportion to the height from which it has descended. It has come from the Counsel of a Chief Judge

Bushe's
speech in
defence of
Saurin.

CHAP.
LXVI.
Eulogium
on
Plunket.

of the land, from the lips of one of the most illustrious individuals in this country, from a member of the United Parliament, from a man whose inimitable advocacy is but secondary to that high character for integrity and talent which he has established for himself and for our nation, upon whose accents the listening Senate hangs, with whose renown the entire empire resounds. From such a man censure is censure indeed. I call, then, upon him not to stop half way in the discharge of his duty. If we are tyrannical and oppressive, if we have revived and transcended the worst precedents of the worst days of prerogative, I call upon him in the name of justice and of our common country, I call upon him by every obligation which can bind man to impeach us, let him not stop at the charge which he has made in this place: let him follow it up. "Non progredi est regredi:" he must either with shame give up this unjust attack upon the servants of the Crown, or he must follow up his duty as a Member of Parliament, and carry us before the Bar of the Commons.

'Let him do so: we are not afraid; *there*, at least, the judicial determination shall not be upon the hearing of one party. Let him remember that the charge is illegality, Jacobinism, and revolution, and that the crime is disrespect to what he calls the adjudication of the Court of Exchequer! The very neighbourhood of Westminster Hall ought to make him pause. What! state within its precincts that the Court of Exchequer in Ireland had made a solemn determination in a case when one party was not present, and where the other presided! The very walls of Westminster Hall would utter forth a groan at such an insult to the judicial character; the very monuments would deliver up their illustrious dead, and the shades of Mansfield, and of Somers, and of Holt, and of Hale would start from their tombs to rebuke the atrocious imputations.'

Plunket's
reply to
Bushe.

When the case was re-argued Plunket thus replied to Bushe: 'The Solicitor-General says this is not a judicial

act. His words are, "It is alleged that the admission of the defendant is their judicial determination upon the qualification of the officer, and the legality of the appointment. I wrote down the words; I would not trust to my memory, when my memory was called upon to preserve what disgusted my feelings and revolted against my understanding." Such are the words of my learned friend. And then passing upon me some most extravagant compliments, which no man can suppose I would be such an egregious dupe of inordinate vanity to receive as merited, he calls upon me to step over to Westminster Hall, and to desire the House of Commons to decide whether this was a judicial act or not. And if, under the influence of this extravagance of praise, my head were to be so completely turned that I should actually go to St. Stephen's Chapel for the purpose, he then tells me that the very monuments would yield up their illustrious dead, and the shades of Mansfield and of Somers, of Holt and of Hale, would start from their tombs to rebuke the atrocious imputation. If I had been such a madman as to adopt the suggestions of my learned friend, and introduce in such a place the descriptions of a legal point depending in the Court of King's Bench in Ireland, the shades of those illustrious persons, if they had any taste for the truly ridiculous, might have stepped down to amuse themselves by seeing an Irish lawyer performing the part of Malvolio, cross-gartered and in yellow stockings, the victim of egregious vanity and folly. But if they thought fit to deny that the swearing-in of the officer by the Court of Exchequer was a judicial act, I should have prayed in aid the shades of the learned Judges who decided the cases in the Year Book of 9 Edw. IV. p. 6, in Dyer, 149A 150B, and 1 Anderson 152. If these venerable spectres had not availed me, I should have called for the substantial assistance of the Solicitor-General himself, who, after a variety of splendid and figurative language, such as the rich imagery of his fancy supplied, ended at last by admitting it to be a judicial act. All these authorities I should have cited

CHAP.
LXVI.

to the apparitions of Lord Somers, Lord Mansfield, and Lord Hale. But to Lord Holt I would say, "You are the most impudent ghost that ever revisited the glimpses of the moon, for you yourself did in your lifetime the very thing which you now start up to rebuke." My Lords, the Solicitor-General has predicted that my laurels are foredoomed to wither at the root. I do not think I can lay claim to any laurels; and I am conscious that if I ever put forth any leaves, they are already upon the sere. But notwithstanding what has fallen from the Solicitor-General, I believe he would be disposed rather to regret their fall than to rejoice at any untimely blight which stripped them off before their natural decay.'¹ The result of this case, which was fully reported by my lamented friend the late Baron Greene, when at the Bar, was to affirm the decision of the Court below, and gave the appointment to the Crown.

Reconciliation
between
Plunket
and Bushe.

Some estrangement separated for a time Plunket and Bushe. A mutual friend, Sir Philip Crampton, always ready to heal sores, was bent on reuniting the dislocated members of the Irish Bar. He asked Plunket if he would have any objection to come to his house, and meet Bushe at dinner. Plunket replied 'he would be most happy to meet any of Sir Philip's friends.' The hospitable Surgeon-General enquired of Bushe 'if he would meet a few friends at his house, among whom was Plunket.' Bushe had great pleasure in accepting the invitation. The day arrived, and Plunket came early—so early that he was indulging in a game of romps with the juvenile Cramptons when Bushe was announced. Plunket continued his game with the children, but placed his hand behind his back, which Bushe no sooner saw than he grasped it eagerly and pressed it warmly, and the estranged friends were foes no more.

As the English decisions always governed the Irish Courts, the arrival of the latest Reports was always eagerly looked for, more especially before the year 1820,

¹ Plunket's son John, now Lord Plunket, subsequently married a daughter of the then Solicitor-General Bushe.

when Reports of Cases argued and determined in the Courts of Law and Equity in Ireland may be said to have regularly commenced.

CHAP.
LXVI.

‘Are you sure, Mr. Plunket,’ enquired Lord Chancellor Lord Manners, ‘that what you have stated is the law?’

Latest
Reports.

‘It unquestionably was the law half an hour ago,’ replied Plunket, looking at his watch, ‘but as the packet is now due, I’ll not be positive.’

In estimating Plunket’s character as a lawyer we have not to record any very great acquaintance with the old tomes in which the Judges of England laid the foundation of their learning. He trusted rather to general principles than to a knowledge of technical distinctions, but he was well up in the work of the Court. He saw clearly how the case lay, and listened to counsel while shaping the course for their clients, and lost nothing of what was offered on either side. His judgments show great clearness and arrangement. His language was always simple and forcible, full of strength and energy. He was not often beguiled into metaphor, but when he was the illustration was admirable. Commenting on the legal presumption arising from length of possession when the title-deed conferring the estate has been lost, he said, ‘Time is the great destroyer of evidence, but he is also the great protector of titles. He comes with a scythe in one hand to mow down the muniments of our possession, while he holds an hour-glass in the other, from which he incessantly metes out the portions of duration that are to render the muniments no longer necessary.’

Character
of Plunket
as a
lawyer.

Time.

The case in which he made his allusion to time was one in which the College sought to recover the right of presentation to the living of Clonoe. He had for his opponent’s leading counsel Mr. Johnstone, who was known by the *sobriquet* of ‘Bitter Bob.’ This gentleman received a very large fee, and always made a tough battle for his client, especially when, as in the present instance, he had a bad case. His volubility made up for any deficiency of facts, and his vehemence supplied the want of

Bitter Bob.

CHAP.
LXVI.

legal argument. It was often difficult for the most practised listener to discover the relevancy of his speech to the jury. Plunket tried to find the clue to his address, but failing, interposed. He said, 'I beg my learned friend's pardon; but I really cannot see what all this has to say to the issue now before the Court. Give me leave to ask him, and I do so with great respect, does he mean to rely upon prescription? or does he rely upon law?'

Johnstone, completely taken by surprise, and knowing he had not any prescription, hastily replied, 'Oh! most certainly upon law.'

Plunket then quietly said, 'Well, then, Johnstone, where's your law?'

Bitter Bob replied, *sotto voce*, 'I don't know.'

Plunket rejoined, in the same voice, 'It's the first time, Johnstone, I ever heard you say so.'¹

Course of
legislation
against the
Catholics.

The Hon. David Plunket, in the Life of his grandfather, gives a careful sketch of the origin and progress of the penal laws against the Irish Catholics. The appellations used for this class of her Majesty's subjects, he remarks, have been varied. 'From the time of the introduction of the Protestant creed into Ireland (temp. Elizabeth) to that of William III., the words used in the statutes appear to have been "persons in connection with the Church of Rome." In the commencement of the reign of William III. (viz., 1692) the Catholics were expelled the Irish Parliament. A hostile phraseology then appeared; Papists, Popish people, &c., are to be found in all the statutes affecting the Catholics from 7 William III. to 32 George III., inclusive and even later. The masses of the people being hopelessly hostile, the ruling minority determined to guard against the chance of their combining and becoming formidable, by keeping them in a helpless state of poverty and ignorance. This policy was, in fact, the same as that used by the Norman conquerors of England towards the vanquished Anglo-Saxons. The penal code breathed in every clause the spirit of the cur-

¹ Dublin Univ. Mag. vol. xv. p. 262.

few. You might track the Irish Papist through the statute book as you would follow a wounded man through a crowd, by blood.' Mr. Plunket then quotes Hallam: 'To have exterminated the Catholics by the sword, or expelled them, like the Moriscoes of Spain, would have been a little more repugnant to justice and humanity, but incomparably more politic.' Having sketched the attempts made in Parliament to mitigate the penal code, Mr. Plunket notices the more earnest struggles for Catholic Emancipation, and shows how they were met by the ultra-Protestant or Ascendancy party: 'The powerful no-Popery feeling of England was rapidly called out and organised for battle, and in Ireland a fierce and immoderate agitation was carried on by the Roman Catholics, which long supplied their enemies with the only weapon they had before wanted—an argument. Distrust of the Irish Papist was stamped more deeply into the minds of Englishmen, and hatred of the English Protestant was inflamed to the utmost in the hearts of the Irish Roman Catholics. The priest became a recognised champion of his congregation, and used the power he thus obtained unscrupulously. The rancour of sectarian animosity was introduced into the deliberations of Parliament, and Irish grievances became the subject of an odious political traffic. A generation of men passed away from Ireland, their wrongs unredressed, and left to their sons a legacy of hatred and agitation. At last Emancipation, that ought to have been granted as a great measure of justice, and in a spirit of kindly feeling, was wrested from the Government, in an hour of wild excitement and ill-blood, by an exertion of popular violence wholly unconstitutional.'

The 'National Review' observes,—

'In the great contests which distinguished the early part of the century, William Conyngham Plunket towered above all his contemporaries as the mighty champion of the Catholic cause. It is true that he was a firm and consistent Churchman, and that in the strongest possible language he expressed his determination to maintain the

Plunket
the great
champion
of the
Catholics.

CHAP.
LXVI.

Irish Establishment. But this is not incompatible with the fact that he was the advocate of religious equality, and that he abhorred the ascendancy with which the Establishment has been identified, and for the sake of which it is even now strenuously defended. Of course he never thought of obtaining religious equality by means of the voluntary system. All the statesmen of his time considered the union of Church and State, and the subordination of the former to the latter, as a vital part of the Constitution. Plunket would have realised religious equality by levelling up. He would have had "the three denominations" concurrently endowed; and it was probably from him that Mr. Disraeli, in 1844, borrowed the argument about the restoration of the Catholic Church to the status which it occupied in the reign of Charles II. But since Plunket's time public opinion has so completely changed, the spirit of the Church and the spirit of the age are so very different, the conditions of the problem are so materially altered, that he, if he were still alive, could not carry out the eternal principles of justice and equality, by the enforcement of which he thrilled and awed the British Parliament, without adopting the principles embodied in Mr. Gladstone's Resolutions. A few quotations from his speeches will, we think, make this inference clearly inevitable to the mind of every candid reader who bears in mind the caution given by his grandson when he says, "Plunket knew that, before the measure of Catholic Emancipation could be carried, much honest conviction and some dishonest prejudice had to be overcome; he therefore applied himself to calming the fears of the timid, clearing the ideas and answering the arguments of the wrong-headed, and lashing with relentless severity the bigotry of those who obstinately shut their eyes to reason."

Speech on
Grattan's
motion in
1813.

'In the debate on Mr. Grattan's motion, on February 25, 1813, Mr. Plunket made a speech in defence of the Catholic claims full of irresistible argument, drawn from the great principles of policy by which nations must be

governed if the government is legitimate. Referring to the fact that even the wealthy and the intelligent among Roman Catholics were excluded from all power in the State, he said, "When you reject the opulent and the educated, on account of a condition which they have in common with the many, you add the attraction of politics and party to the operation of general and moral causes; and if the principle of exclusion be a religious one, you organise not merely the principles of revolution, but of revolution furious and interminable." The policy of their ancestors, he reminded them—the policy of impoverishing and barbarising the Catholics—was consistent. "The means had a diabolical fitness for their end. * * * * Theirs was a necessity, real or fancied, but a consistent system. We pretend no necessity; we have voluntarily abdicated the means of safety, and we wilfully and uselessly continue the cause of danger. The time to have paused was before we heaved from those sons of earth the mountains which the wisdom or terror of our ancestors had heaped upon them; but we have raised them up and placed them erect. Are we prepared to hurl them down and bury them again? Where is the madman to propose it? Where is the idiot who imagines that they can remain as they are? Do you believe that such a body, possessed of such a station, can submit to contumely and exclusion—that they will stand behind your chair and wait upon you at the public banquet? The less valuable in sordid computation the privilege, the more marked the insult in refusing it, and the more honourable the anxiety for possessing it! In coming forward, therefore, with this claim of honourable ambition, they at once afford you the best pledge of their sincerity, and the most satisfactory evidence of their title. They claim the benefit of the ancient vital principle of the Constitution, that the honours of the State should be open to the talents and to the virtues of all its members. The adversaries of the measure invert the order of all civilised society. They have made the Catholics an aristocracy, and they would treat them

CHAP.
LXVI.

Consist-
ency of
penal
legisla-
tion.

CHAP.
LXVI.

as a mob; they give to the lowest of the rabble, if he is a Protestant, what they refuse to the head of the Peerage if he is a Catholic; and this strange confusion of all social order they dignify with the name of the British Constitution.”

‘Farther on he says, “But before they bow down before this eternal interdict—before they retire from the threshold of the Constitution to the gloom of hopeless and never-ending exclusion, I appeal to every candid mind, are they not entitled to have it proved by arguments, clear as the light of heaven, that this necessity exists? Let it be stated, in some clear and intelligible form, what is this fundamental prop of the Constitution—what is this overwhelming ruin which is to tumble upon us by its removal? Let us meet and close with this argument. But beware, I warn you, of attempting to outlaw the Irish people by an artificial and interested clamour.” Mr. Plunket then proceeded to discuss the Oath of Supremacy and the Declaration against Transubstantiation, and thus referred to the violation of the Treaty of Limerick: “The stipulation in the articles had been not for those in garrison, but that the Roman Catholics of Ireland should enjoy their privileges: for the garrison, they had stipulated for liberty to serve abroad, and to be conveyed accordingly. These victims of mistaken loyalty, when they were about to leave their native land, and with the characteristic generosity and improvidence of their country, to commit themselves with the fortunes of a banished monarch, stipulated not for themselves, but for the country they were about to leave for ever; and the Parliament by cruel mockery enacted, not for the country, but for them, that they should not lose the privileges of—what? Of being barristers-at-law, clerks in Chancery, attorneys, practitioners of law and physics, but that they might freely use the same! Why do I mention these historical facts? Not for the purpose of raking up the embers of ancient animosities, but for the purpose of showing that in restoring the privileges of the Catholics we are performing

Violation
of the
Treaty of
Limerick.

an act of justice, and vindicating the Revolution from the stain of this act of perfidy. Men who have forgotten every circumstance of that great event which connects it with the cause of civil and religious freedom, affect to call this breach of faith and honour one of the sacred principles of the Constitution. It is a miserable perversion of understanding which can forget everything sacred and animating in that glorious struggle, which can fling away as dross the precious attestation which it bears to the just rights of the people, which would bury in eternal oblivion the awful lesson which it has taught to their rulers, but consecrates and embalms the single act of injustice which disgraces it!"

CHAP.
LXVI.

He took part in the debate in the House of Commons upon the treaties entered into with Russia, Austria, and Prussia, on March 25, 1815. An address was moved approving of the treaties. Lord George Cavendish proposed an amendment, disapproving of the compact by which the contracting parties stipulated 'not to lay down their arms until Bonaparte was rendered unable to create disturbance, and to renew his attempts for possessing himself of the supreme power in France.' The address was moved by Lord Castlereagh, and supported by Grattan, Plunket, Lord Milton, and others. The support of the Irish orators is thus noticed in Sir Samuel Romilly's Diary:¹—

Debate
upon the
treaties
in 1815.

'May 25, 1815.—Grattan, Plunket, Lord Milton, and Charles Williams Wynn supported the address, and declared their entire approbation of the war. That Grattan and Plunket should state their reasons for differing from the great majority of those with whom they have concurred in opinion on all public matters for many years back cannot surprise one; but that they should take extraordinary pains, and exert all their eloquence, to show how much their former friends are, in their opinion, in the wrong, is not very easy to be accounted for.' The address was carried, and the amendment rejected by a

Remarks
by Sir
Samuel
Romilly.

¹ Memoirs of Sir Samuel Romilly, vol. iii. p. 172.

CHAP.
LXVI.

majority of 331 against 92. Plunket and Grattan were not the only Oppositionists who changed their views on the same subject. Lord Erskine is also taken to task by Sir Samuel in his Diary. 'Erskine, who has lately accepted a green ribbon from the Regent, voted with the Ministers, but did not speak. One might have expected, however, that he would have explained how it happened that his opinions now were so different from those he entertained during the last war, and which he published in a pamphlet that had great celebrity.'¹

The
College
election of
1818.

Plunket's
canvass of
Dr. Sandes.

In 1818 the friends of Catholic Emancipation were desirous to have the advocacy of Plunket in support of that measure in Parliament. An union had taken place between the party that usually followed the lead of Canning, and those who adopted the views of Lord Grenville, so there was nothing to prevent Plunket supporting the combined Administration. Accordingly he once more offered himself as Member for the University of Dublin. He was opposed by John Wilson Croker, Secretary of the Admiralty, and one of the most brilliant writers of the 'Quarterly Review.' The contest was expected to be a close one. The Reverend Dr. Sandes, late Bishop of Cashel, was then a Fellow of College, and had great influence among the Masters and graduates. His support was likely to decide the election. Plunket called and canvassed him. The Doctor received him somewhat coldly, locked the door, and then stated, 'He was willing and anxious to support him provided he cleared up the feeling which still remained upon his (Dr. Sandes') mind, respecting the part his visitor took during the trial of Robert Emmet.' Plunket stated the circumstances which, in his view, justified the course he had taken, and so fully removed the hostility of Emmet's reverend friend, that he expressed himself satisfied — promised Plunket his vote and interest, which turned the scale in his favour, and he was returned by a majority of five.²

¹ It appears to have gone through thirty-eight editions.

² Irish Quarterly Review, vol. iv. p. 161.

Plunket made a masterly speech on the debate on what was called the Manchester or Peterloo Massacre, in the year 1819. On the introduction of the Seditious Mutiny Prevention Bill, December 13, with reference to the licence of the press, and the abuse of that bulwark of liberty, he thus eloquently spoke:—

‘ Why do I allude to the public press? Because there is, under the same title, another description, a blasphemous, seditious, mischievous press, of which the Members of this House know but little, but which has been unremittingly at work in destroying every honest and good feeling in the heart of man. It is not against the respectable press, but against this under-current, which, setting with great force, is drifting the great mass of the humbler classes of this community into sedition, atheism, and revolution, that the House ought to guard. It is for the consummation of such atrocious objects that this battery is brought to play upon their passions and their ignorance. Do I mean to say that the lower classes of the people have no right to be informed on public transactions? Do I mean to say that the lower orders of the people have no right to enquire into and discuss subjects of a political nature? No such thing. Do I mean to say that they ought not to have the power of expressing their sense of any grievance under which they might think themselves to suffer? Far from it. But when I am willing to allow them the enjoyment of every constitutional privilege which they are entitled to possess, I never can consider that nice discussions on the very frame of the Constitution, or the most essential changes in the institutions and fundamental laws of the country, are calculated for minds of such intelligence and cultivation. They ought rather to be protected from the mischiefs which such a misapplication of their minds must entail. Every capacity is capable of understanding the nature and the extent of the restrictions which Government, from the purport of its institutions, necessarily imposes on the natural freedom of man; but to the task of contemplating the more than

CHAP.
LXVI.
Speech in
1819.

Abuse of
the press.

CHAP.
LXVI.

usurious repayment which in long and various succession is received for that surrender, the generality of persons are not quite so adequate. The penalties of government stand at the threshold, but its benefits are to be traced through a long interval of ages—in the distribution of equal laws, in the control of public wisdom, producing, even through apparent contradiction, the grand harmony of the social system. These I conceive are the subjects which cannot be well discussed by men whose time is chiefly directed to daily labour. It has been wisely said, “a little learning is a dangerous thing.” It is true in literature, in religion, in politics. In literature superficial reading too often forms the babbling critic. In religion the poor man, who, unsettled as to his faith, becomes curious as to his evidences, and who, if he possessed the capacity, and had time and means to extend his enquiries, would in the end mark the moral demonstration which religion unfolds, shaken, but not instructed, becomes a shallow infidel. It is equally so in politics: men who indulge in the perusal of every species of invective against the institutions of their country, who read on the shop-board of all the evils, and do not comprehend the blessings, of the system of government under which they live; these men, the nature of whose employment and whose education disallow them to be statesmen, may, however, learn enough to become turbulent and discontented subjects.’

This speech, which, examined closely, shows great powers of thought and vigour of expression, appears to me to treat the subject very fairly. No doubt it shows how the freedom of the press may prove destructive of that very liberty of which it is at once the best safeguard and the truest champion; and Mr. Plunket shows the persons most likely to be influenced by inflammatory appeals. Those who conducted the violent papers of the day, feeling it pointed out and raised a warning voice against their dangerous teaching, denounced it as supporting the arbitrary powers of the Crown; and Lord Grey, with more virulence than was usual with his dignified bearing

Comments
on the
speech.

Denounced
by Earl
Grey.

and strict regard for truth, characterised it as evincing the zeal of an apostate. It was a great effort, and delighted Canning and his party. Lord Ward thus describes its effect in a letter to the Bishop of Llandaff: 'Plunket's speech in answer to Macintosh was amongst the most perfect replies I ever heard. He assailed the fabric of his adversary, not by an irregular fire, that left parts of it standing, but by a complete rapid process of demolition that did not leave one stone standing on another.'

CHAP.
LXVI.

Praised by
Lord
Ward.

CHAPTER LXVII.

LIFE OF LORD PLUNKET, LORD CHANCELLOR, CONTINUED FROM THE DEATH OF HENRY GRATTAN TO HIS RE-ELECTION FOR THE UNIVERSITY.

CHAP.
LXVII.

The last
days of
Henry
Grattan.

THE failing health of HENRY GRATTAN during the spring of 1820 had caused great anxiety to his friends. He had clung to the cause of Ireland and the Catholic people with desperate fidelity, and, though labouring under fatal illness, left Ireland for the purpose of bringing the Catholic claims once more before the Imperial Parliament. It was with extreme difficulty, while wrestling with death, he could be prevailed upon not to go down to the House; and, with that spirit of charity which befits the Christian, left it as his dying wish to his son not to attack Lord Castlereagh.¹ He left a paper containing his last recommendations—to Ireland not to seek for any connection, except with Great Britain; and to England to repeal the civil and political disabilities against the Catholics. He desired to have added, ‘I die with a love of liberty in my heart, and this declaration in favour of my country in my hand.’ He then said, ‘It will do. I should wish it to be read in the House. Give my love to Plunket: he will do it.’² Thus died Henry Grattan.

Nothing could exceed the deference which Plunket paid to Grattan. He looked up to him always with an air of reverential, almost filial respect; never used the freedom of addressing him familiarly; and when speaking to him would mark his regard by the title ‘Sir.’ A gentleman, Sir James Mackintosh, who met them both at Holland House, said he regarded it as a fine trait in Plunket, the evident respect with which he treated Grattan.³

¹ Life, by his son, vol. v. p. 553.

² It was read when the writ was moved for Dublin.

³ Life of Sir James Mackintosh.

At the election for a member of the University in 1820, Mr. Grattan, the son of the illustrious patriot, was opposed by Master Ellis, one of the Masters in Chancery. Though Mr. Plunket mourned the deceased Mr. Grattan as if he had lost a beloved parent, he did not hesitate to come forward at the call of duty and propose his son as his successor. On presenting himself he received quite an ovation. Cheer after cheer resounded through the hall. Silence being at length obtained, Mr. Plunket said that he rose under the greatest emotion (tears stood in his eyes, and rolled down his cheeks). After some time he proceeded: ‘No man in the assembly,’ he said, ‘would accede more to the character of Mr. Ellis than he did; but when he heard him proposed as a proper person to represent the city, he acknowledged his embarrassment. If he were to act as his feelings dictated, he would only mention the name of Grattan, when myriads of responses would re-echo the name. [Here the Right Honourable gentleman was again so overcome by his feelings that he burst into tears.] He came there to offer his meed to departed patriotism: he would feel it a littleness of party if anything was to interrupt the sad duty he had to perform. He conceived himself now amongst his friends—(loud cheers)—and cursed be the wretch who would endeavour to rekindle the embers of disunion amongst brethren of every class. (Loud cheering.) Anxiously devoted as the late Mr. Grattan was to his country, it was his wish to have union amongst all classes. For the good of his country, capable of the highest flight, he always steered to the pole of affection between every class of his Majesty’s subjects. He (Mr. P.) often appeared before his fellow-citizens, and he could not better perform his duty than to call upon them not to disgrace their city. (Loud cries of “We will not.”) Although he had every respect for Mr. Ellis, he would advise him to retire—(loud cheering)—from a contest where he could have no chance of success; he called upon him to retire, and not suffer the degradation of the city for a moment. [Here the

CHAP.
LXVII.

Mr.
Plunket’s
speech
when
proposing
Mr.
Grattan
in 1820.

CHAP.
LXVII.

Right Hon. gentleman burst into an eloquent strain of oratory, which brought down the most thundering applause.] When he saw his friend, with all the ardour of youth, having all the promise of his father's virtues, his father's talents—if they asked him (Mr. Plunket) what security they had for his Parliamentary conduct, he would put forth his name. The son of the man unequalled in the history of these countries—the man who raised his country from the degradation of a province—that man, who has been honoured by the great, the good, the illustrious, and the brave—he who now lies entombed with those distinguished heroes, statesmen, and patriots who have rendered the most essential and valuable services to their country. He now came to ask, what claims Mr. Ellis had to succeed the illustrious person of whom he had been speaking? He would not ask what he had done to claim that situation; but he would say, if he even had a genius as transcendent as that of the illustrious Grattan—if he had given his country a free trade—nevertheless, Master Ellis would be an unfit person to represent this city; and he therefore called upon the electors of Dublin to reject him. (Cries of “We will, we will.”) As a Master in Chancery he held his office—not, as he stated, for life, but during pleasure; he should be, as he himself had sworn, ten months confined to his business, and, in the evenings, occupied in taxing costs; if so, how, he would demand to know, could he attend, as Mr. Macquay had stated he would, the duties of a Member for Dublin? Is a man, said Mr. Plunket, who must sit from ten till four during Term, and who must be occupied in the evenings in taxing costs, a fit and proper person to represent this city? [Here Mr. Plunket read, from the Report of the Commissioners of Inquiry, Mr. Ellis's duty as a Master in Chancery.] The duty of a Master is not like that of a Judge, who performs his duty on the Bench before the public. He disclaimed any intention of insinuating that Mr. Ellis would not act with strict justice; but if a disappointed suitor in his office, who had voted against him,

A Master of Chancery not a fitting person to be a Member of Parliament.

went out of that office, would it not be likely that he would have prejudices against the Master? The Master should be not only pure, but unsuspected. If he conceived that two months' attendance would be sufficient to enlighten the Legislature, for God's sake let him do so now. He knew that a Master in Chancery might sit in Parliament; but was it ever known that a Master in Chancery stood a contested election? Such a thing would not be tolerated in the sister country; and he would tell those persons who are the promoters of this business, that six months would not pass over their heads until they would rue the day they were born.' He concluded a most eloquent speech by proposing Henry Grattan, Esq., to represent the city. (Unbounded applause, and long-continued cheering.)

Mr. Arthur Guinness, in an eloquent speech, during which he was repeatedly cheered, seconded the nomination.

The High Sheriff put the question, by desiring those who were of opinion that Thomas Ellis, Esq., was a proper person to represent the City of Dublin in Parliament, would hold up their hands. But a few hands were raised, and the shouts of 'No, no,' rent the air. When the question for Mr. Grattan was put, innumerable hands were raised; the greatest cheering and waving of hats ensued, and continued for a considerable length of time.

The language used by the Attorney General in this speech gave great offence to Mr. Ellis's supporters, one of whom addressed an expostulatory letter to him, from which I take a few extracts.

'To the Right Hon. William Plunket.

'Sir,—I was one of many freemen who were excluded from the Court of Hustings on Saturday, by the mob of non-electors that filled all the avenues and approaches to it. I am therefore obliged to take the substance of your extraordinary speech from the newspaper reports, and from the information of many who heard it. I wish I

Letter
from a
freeman
to Mr.
Plunket
respecting
his speech.

CHAP.
LXVII.

could believe that it has been misstated, that I might retain the high opinion I had conceived of your discretion as well as of your talents.

‘Can it be true, that the Member for the University of Dublin—a great constitutional lawyer—has attempted to deter the electors of the city of Dublin from voting for the man of their affections, by a threat of an Act of Parliament which, to operate on the present occasion, must be *ex post facto*, and therefore tyrannical? that he who pronounces disability in one class of subjects to sit in the House of Commons an evil not to be submitted to, though it is yet the law of the land, should in the same breath threaten the Protestant electors with a legislative abridgment of *their* rights—with the infliction on them of a like disability, if they dare to exercise their yet unforfeited franchise according to their consciences? This doctrine may be palatable to the “millions” assembled at D’Arcy’s tavern, and may prevent future mortifying divisions amongst them respecting their choice of a patron; but it is ill calculated to inspire confidence in the Protestant, or induce him to surrender any of the safeguards that remain to him.

‘I have had no opportunity of hearing the sentiments of your constituents on this alarming denunciation; but sure I am that the objection to Mr. Ellis on account of his official duties comes with a peculiarly bad grace from you, who cannot urge it without an implied censure upon that learned body whose representative you are. If, upon the contest with Mr. Croker and you, any elector had stood up to argue that a lawyer in extensive practice, whose mornings and evenings were devoted to preparation for his daily exertions in the Hall—who, from November to July, could not snatch a visit to London, even with the help of steam-packets and flying coaches, without a sacrifice of some client’s interest—how loudly and bitterly would you have complained of the illiberality of the objection! how indignantly would you have repelled the unconstitutional attempt to narrow the privileges of the electors!

and how forcibly would you have urged that the question was one between yourself and your clients, and that your constituents had an undoubted right, if they pleased, to dispense with your every-day attendance in the House, satisfied with occasional displays, once or twice in a Session, in support or in vituperation of the Minister, as the case might be !

‘ There is, Sir, another passage in your speech that calls for more serious notice than the present opportunity admits, and to which I may find it necessary to recur. You will not be at a loss to know what I allude to when I tell you that it sounded like a *threat*—a threat of some most dire calamity, to fall, at no great distance of time, on the head of every supporter of Mr. Ellis. Language of menace had been used in several instances before ; but no gentleman had condescended to resort to this, the basest of all electioneering tricks. The low agents who had practised it were held up to scorn, and the attempt had only served to rouse the honest indignation of virtuous men.

‘ But when such a man as Mr. Plunket, newly invested with a *jus patronatus* (of the extent of which I know nothing), utters words of such import as those ascribed to you, it is incumbent on him, if he regards his character, to explain his meaning. Such explanation the public requires of you, Sir, and in the hope that it will be given I shall not at present enlarge on the subject.

‘ But one thing I will assure you of, that threats, of whatever nature, and from whatever quarter, will not serve the cause of Mr. Grattan amongst the independent and spirited citizens of Dublin. Of this the issue of the first day’s poll may have given you some intimation. You will soon see it confirmed in the triumphant election of Mr. Ellis.

‘ A FREEMAN.’

The return of Mr. Ellis delayed for a time the entrance of Henry Grattan the younger into Parliament. In 1821 the prospects of the friends of Catholic Emancipation brightened, and on February 28 of that year, on Lord Nugent presenting a petition from the Roman Catholics

CHAP.
LXVII.

Speech in
1821.

Tribute of
Lord
Dudley.

of Britain, signed by the Duke of Norfolk and other English Catholic Peers, fourteen baronets, and thousands of laity, Plunket's speech on the Catholic claims was another masterly oration, and excited the warmest admiration. Lord Dudley wrote to the Bishop of Llandaff, 'I wish you had heard Plunket: he had made great speeches before, but in this he far surpassed them all. I have not heard for many years such an astonishing display of talent: his style is quite peculiar; for its gravity and severity I prefer it to all others of which I ever heard a specimen.' The veteran Charles Butler, the great conveyancer, who had heard all the foremost orators, from the great Earl of Chatham to the time when Plunket spoke, declared this speech 'was never surpassed in the British Senate.' The late Sir Robert Peel, after a lapse of twenty-three years, referred to it in words most creditable to Plunket, and no less so to the Minister himself: 'It stands nearly, in point of ability, the highest I ever heard in this House; combining the rarest powers of eloquence with the strongest powers of reasoning.'¹

Mr. Plunket was answering Sir Robert Peel. He proceeds,—

'William III. was obliged to watch, with a jealous eye, the movements of one half of his subjects, whilst he employed the energies of the other. We have it in our power to unite them all by one great act of national justice. If we do not wantonly and obstinately fling away the means which God's providence has placed within our grasp, we may bring the energies of all our people, with one hand and heart, to strike against the common enemy. There is a kind of circular reasoning which seems, at some public meetings, to pass for full proof. They say that this measure invades the Constitution because it endangers the Church; and they say it endangers the Church because it invades the Constitution.

'Is it meant to be argued that the Protestant religion will be deserted unless a temporal bonus is held out to

¹ Irish Quarterly Review, vol. iv. p. 165.

those who adhere to it? Do they mean to recruit for the Establishment by a bounty from the State? The supposition is too abhorrent from the spirit of Christianity and too degrading to the dignity of the Church. Then as to danger—the overthrow of the Protestant Establishment—how is this to be effected? In Parliament or out of Parliament? By force or by legislation? If by force, how does the removal of civil disabilities enable them? Does it not make it much more unlikely that they should make the attempt? And if they should make it, will not the removal of the real grievance deprive them of the co-operation of the moderate and the honest? If the latter, is it really apprehended that the number of members let in would be strong enough to overrule the Protestants, and force a law to pull down the Establishment? Would you have the returns much more favourable to the Catholics than they are at present? If the entire one hundred members were to be Catholics, could such a measure, in the range of human possibility, be successful, or could it seriously enter into the contemplation of any man in his senses? The apprehension, when it undergoes the test of close examination, is perfectly chimerical. These are not the fruits of the wholesome caution of statesmen, but the reveries of disordered brains.’

He thus describes Orangeism :—

‘The Orange societies were another source of the present evils; and in speaking of them the right honourable gentleman, without his usual candour, had perverted, in his absence, the argument of his right honourable friend. The objection to them was, not that they celebrated anniversaries, or that they played particular tunes, but that they were societies exclusively Protestant, bound by an illegal oath to continue their allegiance only so long as the King supported what they termed a Protestant constitution. What steps would not the right honourable gentleman have thought it right to take, had Catholics been so illegally united for the purpose of supporting only a Catholic sovereign? It was no answer to

CHAP.
LXVII.

state that the Orange societies would be punished when their actions were illegal, for their very constitution was a breach of the law, for which they were amenable. It might be true that the evil was less among the higher classes; but among the lower, these associations of Protestants degenerated into the most brutal and offensive assertion of superiority over the whole Catholic body. Another point likewise deserved notice. It would not be denied that of all people the Irish were most subject to the influence of their priesthood, and the first act of a prudent government would have been to establish with that priesthood an amicable connection; yet no attempt of the kind had been made.

‘On the whole view of the case, the only advice he would take upon himself to give ministers was, that they should retrace as exactly as possible the steps they had pursued in the government of Ireland; instead of establishing themselves on the narrow, odious *principle of Protestant exclusion*, which kept alive the spirit of dissension, he earnestly recommended them to adopt measures calculated to *secure the union and happiness of all classes.*’

The constitutional objection is treated as mere trash:—

‘I shall now proceed to the consideration of the question so far as it involves the objection derived from the supposed existence of certain principles of the constitution inconsistent with the claims of the Roman Catholics. I shall endeavour to show that the exclusion of the Roman Catholics from franchise and from office is repugnant to the ascertained principles of our free monarchy; that these principles existed before the Reformation, and were coeval with the first foundation of our constitution; that they were not touched at the Reformation, or at the Revolution, or at either of the Unions; that the restriction or suspension of them grew out of temporary causes; that they were so declared and acknowledged at the time; that when well considered, they afford a confirmation of the principle; that these causes have long since cease to operate; that we have acknowledged it; that we have acted on this

acknowledgment in concerns of the deepest moment; that we have framed a course which, if the acknowledgment be true, is imperfect justice—if false, is absolute folly and rashness; and that if we stop where we are, we are precisely in the situation of exciting every discontent, and organising every mischief which can be generated by a sense of injury, and arming the party aggrieved with all the strength, and all the means of wreaking that resentment which belong to solid and essential power—a situation from which we cannot be relieved by shifts or devices—a situation whose difficulties must every day augment, and, if only put aside, must recur with aggravated pressure; that there is only one mode of dealing with the difficulty; that the part of justice and of safety is the same; that we are called on to try the principle on which we have acted during the entire of the late reigns, and, if we find it a sound one, to carry it to its full extent. By the constitution of England, every liege subject is entitled, not merely to the protection of the laws, but is admissible to all the franchises and all the privileges of the State. For the argument I have now to deal with is this: “That by some principle of the constitution, independent of the positive law, the Roman Catholic is necessarily excluded.” What, then, is this principle of exclusion? Merely this: “That the Roman Catholics acknowledge the spiritual supremacy of the Pope.” Why, then, if independently of the positive law, this acknowledgment deprives them of the privileges which belong to the liege subjects of the realm, the exclusive principle must have been in force before the law. If so, there did not exist in England a liege man entitled to the privileges of the constitution before the time of Henry VIII., for till then all acknowledged the spiritual supremacy of the Pope. Magna Charta was established by outlaws from the State. Those gallant barons, whose descendants have been so feelingly alluded to by my noble friend (Lord Nugent), though they were indeed permitted to achieve, yet were not entitled to share, the liberties of their

The liberties of England won by Roman Catholics.

country. They might not dare to open the great charter which had been won by their hardihood and patriotism. Nay, more, if this principle be true, there is not at this moment a liege subject in any Catholic country in Europe. Sir, such trash as this shocks our common sense, and sets all argument at defiance.

‘I speak in the presence of enlightened constitutional lawyers and statesmen, and I do not fear a contradiction when I assert that the doctrine of exclusion is not to be found in the principles or in the analogies of our constitution, or in the history of our country, or in the opinion of any statesman whose name or memory has reached us. It is at once inconsistent with the subject’s rights and with the King’s prerogatives. Ours is a free monarchy, and it is of the essence of such a government that the King should be entitled to call for the services of all his liege subjects, otherwise it is not a monarchy; and that no class of his subjects should be excluded from the franchise, otherwise it is not a free monarchy.

‘This principle of exclusion, therefore, is equally at war with the prerogative of the Crown and the title of the subject. It wrests the sceptre from the King that it may strike at the liberties of the people, and obtrudes an unconstitutional monopoly on the just rights of both. It is an insolent republican principle, which has more than once been publicly and universally reprobated in this House—the principle of lawless association for the purpose of lawless exclusion—and which promises a conditional allegiance to the monarch, so long only as he shall uphold the arrogant and exclusive claims of one class of his subjects against the inherent rights and privileges of the other.’

He shows that the real danger of the Church lies in the fact that the small minority has dispossessed the great majority:—

‘Sir, the question is unfairly dealt with when it is asked, what security have we for the Protestant Church if we adopt this measure? I answer, every security which you have if you do not adopt it, and a great many more. The

fallacy consists in supposing that we propose to pass from a state of security and ease to an untried scene of difficulty and danger; whereas the danger at this moment exists. The disproportion between the Roman Catholic population and that of the Establishment (I speak of Ireland) is not produced by this measure; the insecurity is in the narrowness of the basis, which neither this nor any other measure can either cause or remove, though it may in some degree remedy it; and it is beyond the reach of human art to provide an adequate remedy in any other way than by making it the interest and duty of this population to abide by and to support the Establishment. Let those who propose not to meddle with this question, but to leave it to tide and time, consider the nature of the dangers as stated on a former occasion by the right honourable member for Oxford, or suggested by him, and every one of which exists at this moment in all its dimensions, without any reference to this measure. I shall endeavour to enumerate them substantially as put forward by him, or as necessarily resulting from the statements made by him. First, the exceeding disproportion of the Roman Catholic to the Protestant population in Ireland. The right honourable member did not, I believe, profess to state it exactly; I myself believe that it is much greater than is generally supposed—certainly more than four to one—but for the purpose of this argument it matters not. Next, this great majority principally contribute to the support of the Establishment to which they do not belong. Besides this, they exclusively support their own clergy. By the principles of their religion they are in direct communication with a foreign potentate, through the medium of their clergy. This communication is uninterrupted and uncontrolled by the State. Though the Roman Catholic clergy possesses a most extensive influence over the passions, opinions, private and political principles and actions of the laity, yet the State neither exercises nor possesses any control over their appointment. The Established religion is not merely that of the small minority, but one

Numerical majority of Roman Catholics over Protestants in Ireland.

CHAP.
LXVII.

Mischief
of religious
disquali-
fication.

which has dispossessed the great majority. This has been effected, not as in England, by a reformation of public opinion, but by an act of State, leaving the necessary consequences, irritation and hostility. This great majority is in the unprecedented situation of being excluded from a great proportion of the franchises, offices, and honours of the State, not on account of any moral or political delinquency, but merely on account of its religion. They are at the same time admitted to the full enjoyment of substantial power, including the command of our fleets and armies. This ejected majority, if they are actuated by the motives by which man is ordinarily actuated, and by the feeling which nature inspires, must have views hostile to the religious establishments of the State. Though they disavow such principles on their oaths, still they must entertain them, and therefore they have been admitted to their present privileges on the faith of oaths which, if they are sincere in their religious opinions, cannot bind them. They are therefore required by the Legislature, and have accordingly stooped, to stain themselves with the odious crimes of hypocrisy and perjury. The liberal feelings of the right honourable gentleman will, no doubt, induce him to say that he does not impute to them the wilfulness of perjury, but that they deceive themselves. Be it so; as to the extent of the danger, it matters not; they are swearing against nature, and their oath affords no security; our danger is as great as if they were admitted without the oath, with this difference, that it is admitted that the oath which they are ready to take cannot, on such a subject, bind them. Being thus incapable of being bound by oaths, they are, at this moment, shut out from what is sought by oaths only. The country in which all these dangers and anomalies exist is separated by nature from that to which it is united by law. It once had an independent existence, within twenty years had an independent legislature, and still has its separate courts of justice and distinct departments of executive government. Now, Sir, mark if these are at all to be considered

as causes of danger. Such is our existing state. An ejected majority of four to one, irritated and hostile, subject to the unbounded influence of a clergy appointed by a foreign potentate, unregulated by the State, placed in a portion of the empire separated by nature, recently and imperfectly united by law—and observe, this hostile majority, not an uneducated rabble, but the leaders now, and all of them, in the natural course of things, growing to be a wealthy, powerful, thriving, prosperous body—actually admitted to everything which constitutes real power to the State; and this on the strength of oaths which cannot bind them without overturning the laws of nature, and at the same time the remaining barriers and bulwarks of the State resting on oaths and on oaths alone!’

CHAP.
LXVII.
Danger
from the
social
position of
the Irish
people.

Finally, Lord Plunket would level up by incorporating the Roman Catholic Church with the State:—

‘The alliance between Church and State is founded on a principle of policy for the security of the State and of all religion within it, and by which all sects are benefited by having the principles of religion incorporated with the State; and therefore to suppose that a man, sincere in his religion, must not wish it to be the established one, argues an equal want of acquaintance with the nature of man and the institutions of society. There is a profound political wisdom in this alliance, and every man who regards the welfare of the State, be his religion what it may, is bound to uphold it; and he would be an absurd sectarian, as well as a wild politician, who, on such motives as are imputed, would engage in the experiment of heaving the Establishment from its centre, and overturning along with it the Constitution of Great Britain. But, Sir, this I *can* read in the book of human nature, that if men are harshly excluded from the privileges of citizens; if the door of the State is closed against them; if they are stopped short in the career of honourable ambition; if they are made an invidious exception to the principle which allows the talents and virtues of every man to rise

CHAP.
LXVII.

to the level, that it may flow in the bed of the Constitution; if they are told that they and their children, to the end of time, *nati natorum et qui nascentur ab illis*, are to be stigmatised as a caste, and to be for ever excluded from honour and station and confidence, I *do* read in the book of human nature that such persons have ground for discontent. And I cannot but admire the persevering cordiality with which men so circumstanced have fought the battles, and shared the dangers, and borne the burdens of their country. But I would disdain to make their patience an argument for their exclusion, nor can I shut my eyes to the danger which may result from its continuance.

Recom-
mends
incorporating
Roman
Catholics
with the
State.

‘ But, Sir, my third proposition, and that to which all others must be secondary and subordinate, is to incorporate the Roman Catholics with the State; so to bind them to the present order of things that their interest shall be our security; to give to the well-affected the reward of his loyalty, to take away from the revolutionist the pretext and the instrument of his treason; to rivet the honest Roman Catholic to the State by every good affection of his nature, by every motive that can affect his heart, by every argument that can convince his reason, by every obligation that can bind his conscience—not by adding the weight of a feather to his power, but by relieving his feelings from everything that is contumelious, insolent, and personal, by abolishing every odious distinction, every affrontful suspicion, every degrading exclusion. What is the remedy of the right honourable gentleman? To leave them as they are. Gracious Heaven! To leave the great body of the Irish people bound by the law of their nature to plot the subversion of the State! I say of the State, because I trust that every man who hears me will say, that to subvert the Protestant Establishment is to subvert the State.

‘ I propose not to take the shackles from his limbs—he is unshackled, free, and strong as we are—but to take the brand from his forehead and the bitterness from his heart, and the sense of debasement from his mind.

‘The plan of the right honourable gentleman is to leave him for ever a marked man and a plotting sectary. Mine is to raise him from exclusion and disability to the consciousness of having the full possession of the highest situation that can be occupied in civilised society; I mean the full participation of the rights, the privileges, and the honours of a free-born British subject. Do not, I conjure you, turn your backs on this proposal of grace, of justice, and of security. Do not drive your Roman Catholic brother from your bar as a sulky and discontented outcast. You have admitted him into the bosom of the State, civil and military; do not in the same breath insult him by saying that he is, and that he ought to be, its enemy.

‘Talk to him of the Protestant Establishment, and he understands you; he bows to it; he sees it engraved in capitals on the front of the political fabric. But if you tell him of Protestant ascendancy or Protestant exclusion, he asks in vain where its title is to be found; he looks in vain for it in the elements of our law or its traditions; in the commentaries of its sage expositors, in the Reformation, the Revolution, or the Union—he sees in it nothing but insult and contumely; and he demands, in the name of the laws and in the spirit of the Constitution, that he may be no longer its victim.’

This masterly effort of Plunket’s oratory was generally supposed to have been the finest speech he ever delivered, and to have surpassed even his speeches on the Union in the Irish House of Commons. He felt probably he had prejudices to combat, as well as sympathies to enlist; and we all know that when the power exists to overcome difficulties, the greater the odds the greater the spirit to attack and overthrow—for courage mounts with the occasion. The fame he had won at home was to be retained abroad—he was bound to prove that he had not been unduly estimated in his native land, and so he resolved to rival, if he could not excel, the splendid efforts of Brougham and Canning; and with a high heart and noble daring he poured forth such a torrent of eloquence that made the

Estimate
of this
speech.

CHAP.
LXVII.

Death of
Mrs. Plun-
ket.

walls of St. Stephen's ring with plaudits again and again renewed.

Alas for the mutability of earthly joys! While Fame was crowning the patriot orator for his success in the House of Commons, and London ringing with his praise, sickness was desolating his hearth and sorrow awaiting his return home. That beloved voice, whose gentle tones made the sweetest music to his ear, and whose smile was in his heart, was to gladden him no more. Before the journey from London to Dublin, though performed with the utmost rapidity attainable in those days, could be accomplished, the cherished partner of thirty years had ceased to live; and when the fond and devoted husband hoped to clasp once more the wife to his heart, the inexorable coffin-lid barred his embrace. I have been told it was a most piteous sight to witness the agony with which the strong man flung himself upon the 'narrow house' which held all that earth claimed of the wife he loved.

But life and life's battle is too full of stirring events to allow Plunket to sink oppressed by private sorrow.

The King's visit succeeded in 1821. This has been already described in my 'Life of Lord Manners,' so I do not dwell on it here. On December 29, 1821, the Marquis Wellesley made his public entry as Lord Lieutenant into Dublin.

Arrival
of the
Marquis
Wellesley
as Viceroy.

At twelve o'clock all the disposable troops in the garrison marched from their respective barracks, and formed a line through the streets, from the Castle to a considerable distance beyond the Circular Road, in order to receive the Marquis Wellesley, who had arrived on the preceding evening at Howth, with all the honours due to the exalted station to which he had been appointed by his Sovereign, and to the character of a nobleman more distinguished for his talents than even for his pre-eminent rank in the nobility of the Empire.

At two o'clock the procession began to enter the city, by Summer Hill, in the following order:—

First, a troop of the 12th Lancers; then the carriages

of the Corporation, followed by a troop of the Horse Police; then a troop of the 7th Hussars; after them came Lord Talbot's carriages, which were followed by the officers of the Staff. The State trumpeters immediately preceded the carriage of the Marquis Wellesley, which was drawn by six horses. It was escorted by a troop of the 7th Hussars—a city sheriff was on each side.

CHAP.
LXVII.

A number of the citizens on horseback followed, many of whom wore light blue or pink silk scarfs; and a long line of the carriages of the nobility and gentry closed the procession.

The Earl of Donoughmore and the Right Hon. William Conyngham Plunket sat in the Marquis of Wellesley's carriage.

The Marquis Wellesley entered the Council Chamber in a Court dress, decorated with a Star of the Order of the Bath; and immediately after his investiture in office, he proceeded to the Audience Room, where he conversed familiarly with many of those noblemen and gentlemen who had attended the procession to the Castle. His Excellency then conferred the honour of knighthood on the Lord Mayor, and his Excellency promised that he should also be made a baronet of the United Kingdom.

The
Marquis
Wellesley
in Dublin
Castle.

At three o'clock the noble Marquis was sworn into office, and the circumstance was announced by a royal salute from the battery in the Park. The 29th Regiment, which was drawn up in College Green, fired three volleys in honour of the occasion.

The joy-bells of the cathedrals rang merry peals the entire day, and signal rockets were occasionally let off from the Castle, which were as often answered by a royal salute from the battery in the Phoenix Park.

Shamrocks were exhibited at the heads of the horses of the noble Marquis's travelling chariot, and the same emblem of his native country was worn in the breast by all his suite.

Not long after the arrival of his Excellency, he was entertained at a civic banquet by the Lord Mayor, which

The Vice-
roy enter-
tained by

CHAP.
LXVII.
the Lord
Mayor.

Speech of
Lord
Rosse.

took place on January 22, 1822. Some of the speeches at the banquet may be interesting, as displaying the political feelings at the time, and the union amongst Irishmen which the then recent visit of King George IV. tended to promote.

Lord Rosse, in a speech of some length, and very eloquently couched, returned thanks on the part of the resident nobility of Ireland. 'I never before,' said his Lordship, 'in the whole course of my life, felt so proud of the name of Irishman, as I have felt since the coming of our most gracious King among us. The beneficial results of his Majesty's visit, which are daily unfolding, and which, in the appointment of a countryman to be our Governor, and such a countryman, are made more manifest, give a new and patriot pride to those who have hitherto had to lament our inconsiderable degree in the scale of national importance. But the visit of our Sovereign, and his appointment of one of the most distinguished Irishmen that have graced the pages of our history, give us a rank amongst ourselves to which we have been, I may say, altogether strangers. I feel warmly the interest of my country, and I now feel those interests advanced by the occurrences which have lately taken place. I opposed the Union, but perhaps I have repented me of my opposition. One of the grounds of my opposition was, the apprehensions I entertained that our nobility and gentry would remove to England; but now I see that those who have absented themselves from their native country are likely to return to it—our King and his delegate offer such inducements to the absentee; their genial, generous, and wise rule will afford such advantages to themselves and their immediate connections here; so many happy circumstances have arisen, so many benefits are about to be shed around us, that prejudices must give way; and this I do confidently affirm, the appointment of an illustrious nobleman, so distinguished, so esteemed, so venerated, will be the means of bringing back to Ireland its non-resident nobility and gentry. This country will every day become more considerable in their eyes;

and they will, feeling themselves as Irishmen more respected, respect Ireland more.'

CHAP.
LXVII.

When the health of Mr. Plunket had been proposed and drunk, he briefly responded in these words:—'After the delightful scene I have witnessed this evening, the burthen it has left on my feelings is too heavy to be discharged by words. The weight presses on my heart. I will not weaken the effect made upon you all by trying the strings already touched by such a master as has made them vibrate this night. I shall only say, I owe you all, I owe my country much; and I feel what I cannot speak for all the kindnesses you have done me.'

Mr. Plunket.

When the Marquis Wellesley was Viceroy, the system of governing Ireland by amalgamating various parties into office was tried. Radicals and Conservatives, Whigs and Tories, found themselves in sometimes uncomfortable juxtaposition. Thus must have felt Mr. Plunket when he was gazetted Attorney-General for Ireland, with Mr. Joy as Solicitor-General. This latter very eminent Irish barrister had been a strong politician of the anti-Catholic school, and, I should have supposed, a very ill-matched colleague of the champion of Roman Catholic Emancipation.

Lord Wellesley's Irish policy.

Plunket Attorney-General.

Mr. Plunket was proposed for election as member for the University of Dublin on February 14, 1822. The Provost presided, attended by Mr. Torrens¹ as assessor, with Mr. Darley as magistrate to administer the oaths.

After the Clerk had made the usual proclamations, the Right Hon. W. C. Plunket was put in nomination, as a fit and proper person to represent the University, by Dr. Phibbs, and seconded by Mr. Leahy, the Senior Scholar; immediately after which, Mr. Plunket rose and addressed the electors nearly as follows:—

'Gentlemen—I rise to present myself before you, for the fourth time, ambitious to have the honour of again representing this University in the Imperial Parliament. On three former occasions I was the successful candidate

Speech at the College Election in 1822.

¹ Afterwards one of the Judges of the Court of Common Pleas.

CHAP.
LXVII.

of your choice; and although the period of my last election had not regularly expired, I am now, for the fourth time, to offer myself to your consideration, in consequence of having, in obedience to the commands of my most gracious Sovereign, accepted the office of his Attorney-General in Ireland. Gentlemen, on former occasions I fully and explicitly declared to you my sentiments and principles; and I should hope that the mere acceptance of office should not be considered as discrediting me to your continued approbation and support, more particularly when I most solemnly assure you that the office was conferred upon me unsolicited on my part, and accepted by me without the compromise of any single principle whatever. I can further assure you, gentlemen, that I shall hold the office no longer than while I feel I can conscientiously discharge the duties of it with advantage to my country. Gentlemen, having mentioned that it was in obedience to the commands of my Sovereign that I accepted office, I cannot refrain from congratulating you on the circumstance of his Majesty's having so lately honoured this University with his sacred presence, and of his having then and since spoken in such terms of approbation of your University, and of its learning, discipline, and morals; and I congratulate you most heartily, gentlemen, in having an assurance of this high character being kept up while you have at the head of the University a person every way so eminently qualified to maintain and support it, and whose presence alone prevents me from passing that eulogium on his merits and character that he so justly merits. May he long continue to preside over you! When I say long, gentlemen, I wish to be understood to mean, so long as is consonant to his own wishes, and until he shall be elevated to a more exalted station. Gentlemen, I shall not detain you longer but to assure you that, should I now again have the good fortune to be the object of your choice, I shall use my best exertions to promote your particular interests, and those of Ireland in general.'

No other candidate having presented himself, and the usual proclamations having been made, the Provost put the question in the usual form. The show of hands being unanimous in favour of Mr. Plunket, he was declared by the Provost duly elected.

CHAP.
LXVII.
Duly
elected.

The anxious scholars and students were waiting outside the hall with a chair, for the purpose of carrying home Mr. Plunket in triumph to his house; but as he had some pressing business in Court, and had also to prepare to leave town in the morning to attend the Special Commission at Cork, he declined the honour intended him. It was, however, with great difficulty and exertion that he was able to extricate himself from the grasp of his young and ardent constituents without submitting to the required ceremony.

CHAPTER LXVIII.

LIFE OF LORD PLUNKET, LORD CHANCELLOR, FROM HIS RE-ELECTION AS MEMBER FOR THE UNIVERSITY IN 1822 TILL THE VISIT OF SIR WALTER SCOTT IN 1825.

CHAP.
LXVIII.

Indiscreet
letter from
Mr. Saurin,
Attorney-
General,
to Chief
Justice
Lord
Norbury.

NOT long after Mr. Plunket was again Attorney-General for Ireland, in 1822, a letter written by his predecessor in that important office, the Right Hon. William Saurin, to Lord Norbury, Chief Justice of the Common Pleas, was accidentally discovered, and so improper was it in its nature, that it was at once forwarded by O'Connell to Plunket, for consideration by him in his official capacity :¹—

‘Dublin Castle, August 9.

‘I transcribe for you a very sensible part of Lord Ross’s letter to me : “As Lord Norbury goes our circuit, and as he is personally acquainted with the gentlemen of our county, a hint to him may be of use. He is in the habit of talking to them individually in his chamber at Philips-town ; and, if he were to impress on them the consequence of the measure, viz. that, however they may think otherwise, the Catholics would, in spite of them, elect Catholic Members (if such were eligible) ; that the Catholic Members would then have the nomination of sheriffs,

¹ The statement of the discovery of this letter is thus given :—‘Lord Norbury had been always remarkable for his frugality. He was in the habit of stuffing papers into old chairs in his study, in order to supply the deficiency of horsehair which the incumbency of eighty years had produced in their bottoms. At last they were sent to a furniture-broker’s, and sold. An individual named Monaghan bought one, and finding it stuffed with papers, drew them out. He had been an attorney’s clerk, and seeing a letter written in the handwriting of Mr. Saurin, with which he was acquainted, found it was addressed by Mr. Saurin, when Attorney-General, to Chief Justice Lord Norbury, when about to preside as Judge of Assize on the Home Circuit.’—Vide Sheil’s Legal and Political Sketches, vol. i. p. 110.

and, in many instances, perhaps of the Judges; and the Protestants would be put in the background, as the Protestants were formerly, I think he would bring the effect of the measure home to themselves, and satisfy them that they could scarcely submit to live in the country if it were passed." So far Lord Ross. But he suggests in another part of his letter that if Protestant gentlemen, who have votes and influence and interest, would give these venal Members to understand that, if they will purchase Catholic votes by betraying their country and its constitution, they shall infallibly lose theirs, it would alter their conduct, though it would neither make them honest nor respectable. If you will judiciously administer a little of this medicine to the King's County and other Members of Parliament that may fall in your way, you will deserve well. Many thanks for your letter, and its good intelligence from Maryborough. Jebb is a most valuable fellow,¹ and of the sort that is most wanted.

'Affectionately and truly yours,

'WILLIAM SAURIN.'

O'Connell considered this letter evidence of a most foul and dangerous crime—the perversion of the administration of justice to political purposes; and contended it was the duty of Mr. Plunket, as Attorney-General, to institute a prosecution. But Plunket refused to take action upon it.² The letter was soon brought before Parliament, and it is stated that Mr. Brougham laid a trap for Mr. (afterwards Sir Robert) Peel; that when Brougham adverted to the letter, he was hopeful Peel would deny its authenticity, which he did, asserting that a man of Saurin's high moral and constitutional principles would never have written it; and, when this was unquestionably proved, then Mr. Peel concluded it was most improper to use such a document; whereupon Brougham, who had been intently watching him, exclaimed, 'I have him,' and called to the recollection of the Home Secretary the foul means adopted

O'Connell's estimate of this letter. Calls on the Attorney-General to prosecute. Plunket declines.

¹ Hon. Judge Jebb.

² Life by his grandson, vol. ii. p. 108.

CHAP.
LXVIII.

to get evidence against the Queen. ‘Since that time,’ writes Sheil, ‘we have heard no more of the violation of all good feeling in the Catholics, when they availed themselves of a document in the handwriting of an Attorney-General, in order to establish the fact, which had been frequently insisted on, that poison had been poured into the highest sources of justice.’¹

Outrage on
the Vice-
roy at the
Theatre
Royal.

Very shortly after this occurred the disgraceful scene at the Theatre Royal, Dublin, when a whiskey-bottle was flung at the Viceroy’s box, and struck within a few feet of the Marquis Wellesley, the Lord Lieutenant. It appeared to have been the result of an organised Orange conspiracy, parties to which occupied the upper gallery, and interrupted the performance by cries of ‘Down with the Popish Government,’ ‘A groan for the Popish Lord Lieutenant,’ and occasionally throwing missiles at his Excellency, one of which I have already indicated, and caused this to be called ‘*The bottle riot.*’ About a dozen persons were apprehended and indicted, but the Grand Jury ignored the bills, whereon Plunket, as Attorney-General, filed *ex-officio* informations against the leaders, and they were tried at the Bar. There was intense excitement respecting this trial, which enlisted all the party feelings so ready to explode in Ireland; and the Orange body felt that they were on their trial. Sheil gives a humorous account of the opening by the Attorney-General:—

The Bottle
Riot.

Trial of
the ac-
cused.

‘It seems fated in this tragi-comic nation, however a public proceeding may terminate, it should not pass away without many a hearty laugh. In the present instance the business of the day opened with a joke. Mr. Plunket rose “to call the attention of the Court to a matter of some importance.” Amid breathless silence he said he had been anxiously waiting the arrival of his colleagues, the Solicitor-General (Joy), and Mr. Serjeant Lefroy; and that after a long search for them in all directions, it had been just discovered that they were both in one of the avenues of the Court, firmly wedged in among the popu-

¹ Legal and Political Sketches, vol. i. p. 113.

lace, with a prospect of immediate suffocation, unless their Lordships would be pleased to interfere in their behalf.' The political feelings of the two learned sufferers were well known to be in unison with those of the men on trial, and there was much mirth at the notion of their writhing in a popular embrace. The Chief Justice Bushe contrived to draw a veil of judicial gravity over the rising smile as he gave the necessary orders.¹

CHAP.
LXVIII.

Plunket's statement of the case for the prosecution was very able, and contained a panegyric on William III. that deserves to be extracted. We must remember when reading it, that amongst the earliest lessons which Plunket learned at Enniskillen, was the history of the conflict in which William III. earned the undying love of the Protestants of Great Britain and Ireland.

'Perhaps there is not to be found in the annals of history a character more truly great than that of William III. Perhaps no person has ever appeared upon the theatre of the world who has conferred more essential or lasting benefits on mankind—on these countries certainly none. When I look at the abstract merits of his character, I contemplate him with admiration and reverence. Lord of a petty principality, destitute of all resources but those which nature had endowed him, regarded with jealousy and envy by those whose battles he fought, thwarted in all his councils, embarrassed in all his movements, deserted in his most critical enterprises, he contrived to mould all those discordant materials, to govern all those warring interests, and merely by the force of his genius, the ascendancy of his integrity, and the unmovable firmness and constancy of his nature, to combine them into an indissoluble alliance against the schemes of despotism and universal domination of the most powerful monarch in Europe, seconded by the ablest generals, at the head of the bravest and best disciplined armies in the world, and wielding without check or control the unlimited resources of his empire. Fortune did not favour him, save by

Plunket's
panegyric
on William
III.

¹ Sheil's Legal and Political Sketches, vol. ii.

CHAP.
LXVIII.

throwing the *lustre of adversity over all his virtues*. He sustained defeat after defeat, but rose *adversa rerum immersabilis unda*. Looking merely at his shining qualities and achievements, I admire him as I do a Scipio, a Regulus, a Fabius—a model of tranquil courage, undeviating probity, and armed with a resoluteness and a constancy in the cause of truth and freedom which rendered him superior to the accidents that control the fate of ordinary men.’

Mr. North's
speech for
the de-
fence.

The traversers were most ably defended by Mr. North, one of the most eloquent members of the Irish Bar, and a staunch supporter of the Protestant ascendancy. Alluding to the panegyric on William III. by Plunket, he said:— ‘The Attorney-General has pourtrayed the character and sketched the history of William III. I shall not attempt to follow him there; I shall not enter into any such vain and foolish emulation. I might as well think to shoot arrows at the sun. Gentlemen, you have heard that fine description. The Attorney-General has laid his offering on the altar of King William—an offering of his own workmanship, fresh from the mint of his transcendent genius, and glowing with all those divine attributes and godlike qualities which the powers of a sublime eloquence enabled him to stamp upon it. But let him not, therefore, sneer at the poor offerings of humbler men to the same object of their worship; his gift was one every way worthy of him, suited to his extraordinary talents, his refined tastes, and superior education; but we are taught to believe that the rude wonder of the shepherds was as acceptable as the gold, frankincense, and myrrh of the Eastern kings. The Attorney-General has taunted these poor men with their want of taste; the sashes and scarfs with which they decorated the statue were not pleasing to him, were tawdry and vulgar, and the mantua-maker of King William, as he termed him, did not adjust his millinery as well as he might. But, gentlemen, it is not a point of taste, it is a matter of feeling; the soldier in the field of battle clings with as much devotion and fidelity to his tattered colours as if they displayed the painting of

Rubens or the designs of Raphael. I therefore claim for these men what the Attorney-General claimed for himself. I claim for them the right to express, in their own homely dialect and tasteless manner, if you will have it so, their respect for the memory of King William, and their gratitude for the benefits which he has conferred upon them and on their country.’

CHAP.
LXVIII.

When such a brilliant speech was made for the defence to a very sympathising jury, we can hardly be surprised if the trial proved abortive; and, though a strong case was made for the Crown, the jury was discharged, being unable to agree to a verdict.

Jury disagree, and are discharged.

The malignity of party assailed Plunket for having filed *ex-officio* informations in this case; and Mr. Brownlow, afterwards Lord Lurgan, brought the subject before the House of Commons. Mr. Plunket, in a speech delivered with the impressiveness of a man defending a reputation dearer than life, showed conclusively he had done nothing but what was strictly his duty, and thus concluded:—‘ My public conduct and private character have been alike assailed. I will retire, so that the House may more freely and unrestrainedly consider the question. My public conduct I consign to the justice of this House, my private character I leave to its honour.’¹

Plunket attacked in Parliament.

Plunket defends himself.

Plunket had the satisfaction of finding that the Attorney-General of England expressed his full concurrence in the course pursued by the learned Attorney-General for Ireland.

On Tuesday, April 30, 1822, Mr. Canning introduced into the House of Commons a Bill to remove the disabilities of Catholic Peers as to votes and seats in Parliament. When the question was very fully debated, Mr. Plunket considered that the subject was already so completely exhausted that he should attempt to add nothing to it but a single observation. This was, that as he had given notice of a motion upon the same subject for early in the next Session, he feared that if he were silent, it would

Debate on the Disabilities of Catholic Peers.

Mr. Plunket's speech.

¹ Life by his grandson, vol. ii. p. 122.

CHAP.
LXVIII.

appear that he considered the motion of his right honourable friend as interfering with the general measure, and that he was therefore not friendly to it. It was principally for the purpose of negating this inference, that he at all rose to speak in the debate. He must, therefore, begin by stating that he cordially and entirely concurred in the motion. He did so, not only because he thought it one step towards the attainment of the whole of the Catholic claims, but because he considered it an essential act of justice. Although he had last Session carried through that House his Bills on this great question, yet he had been considerably embarrassed by the details of these measures. These details were rendered so extensive, from a desire to accompany the measure with an entire class of securities calculated to gain the confidence of the House; and the enemies of the Catholics were greatly encouraged from the opposition made by them to the accompanying securities. Indeed, there was no side to which they could turn that they were not involved in these details. The present measure, however, was perfectly relieved from all objection on that score. It was a distinct and reasonable proposition. It proposed to restore the Peers of Ireland to their hereditary honours and privileges; to render those who had by an Act of the Legislature been restored as the counsellors and advisers of the Crown, to be counsellors and advisers to the public. In the opposition which had been made to it, he did not find any argument addressed to the wisdom, the justice, or the safety of the measure. He did not find that any danger was predicted from it, and the opposition seemed to be wholly confined to points of etiquette and forms. It was said that it was part of the general measure. To this a House which had already sanctioned the general measure could make no objection. He could not see how the objection to this partial measure was to spring from a body which had already decided, in the case of five millions of its fellow-subjects, that it was a matter of right and justice. With respect to the other House, he should be glad to see them

called upon as judges, as gentlemen, and as legislators, for their decision in this question. When they put their shoulders to the door to shut out the hereditary rights of others, those who advised them so to act would do well to show how their rights were to be maintained, if some Titus Oates of the day were to attack them. This measure was no more than reversing bills of attainder, obtained by the most abominable and disgusting artifices. His right hon. friend (Mr. Peel) said that this measure did not rest alone on the abominable falsehoods of Titus Oates, but that there was besides a plot against the Government. The Catholics in the time of Charles II., it was true, were not well affected towards the State, and that might be the cause of the measure being resorted to. But that reason for continuing those severe penalties did not now exist. The Catholics of this day were not disaffected to the Throne or to the State. These were two accidental causes which were now both removed. His right hon. friend (Mr. Peel) seemed to feel that he could not rest upon the time of Charles II., and therefore he came down at once to the time of the Revolution and its laws. But when he talked of the laws of the Revolution, he must beg to ask what was meant? Did he mean that all the laws that were before the Revolution were part of the laws of that time? If so, we have been doing away our glorious Revolution for the last half-century. That Act which forbade the Catholics to see the face of Westminster Abbey, or come within ten miles of it, was part of the laws of the Revolution. The 10th and 11th of William III., that most odious measure which deprived the Catholic of his property if he did not take certain oaths after the age of eighteen, and forbade him from educating his children at home, was part of the Revolution. The history of this Act had been given by Burnet, and was commented on by Burke. The memory of King William had been extremely perverted to purposes of faction, whose whole life was a struggle against intolerance. This Bill was brought in by the enemies of King William, in order to

CHAP.
LXVIII.

cast upon him the odium of rejecting it, and creating a suspicion of his favouring the Papists. It was therefore sent to the Commons loaded with severity. In the Commons the Court party, to protect the King, filled the Bill with absurdities, in the hopes that the Lords would of themselves throw it out. They however kicked it back again to the Commons, and it was sanctioned by the King, who, absurd and severe as was the Bill, was afraid to exercise his prerogative. If therefore they were not to go by the laws which preceded or followed the Revolution, what were they to do? Certainly to be decided by the spirit of the Revolution. And he would take leave to say that there was no greater mistake than to suppose that the spirit and principles of the Revolution, which placed the Brunswick family on the Throne, sanctioned the exclusion of a great portion of our fellow-subjects from their natural rights. In whatever shape this question was brought forward he should support it. It was a debt of justice, and he should consider he paid more or less of it in proportion as the measure embraced more or less of what that House had already decided should be granted. As had been said, it would be received by Ireland as matter of grace and favour. It was said they interfered with the privileges of the Lords; but last year, when they sent them a joint measure, it was rejected, and now that it was separate it was objected to. This was a claim of right and justice. The House were to see whether there was any public reason for rejecting it. If there was not, they ought to send the proposed measure to the Lords, and it would be for that body to do their duty. Mr. Wetherall spoke against it; Mr. Canning replied; when, on division, the numbers were—

Ayes	.	.	.	.	.	.	.	249
Noes	.	.	.	.	.	.	.	244
								5
Majority for the motion								

On the motion for the second reading of the Alien Bill in the House of Commons, June 14, 1822, Mr. Plunket

replied to a very able speech from Sir James Mackintosh, who moved that the Bill be read a second time that day six months. Mr. Plunket said it was impossible for his hon. and learned friend (Sir J. Mackintosh) to address that House or any assembly without rivetting their attention, and the power which he possessed of commanding approbation for that which on the surface would be condemned in any other person as irrelevant, had perhaps never been more strikingly displayed than it was by the uninterrupted attention which he had received, and the applause which at its close had flowed in upon him from all parts of the House. It would be his (Mr. Plunket's) humble duty to call back the attention of the House to the question before them, and to remind them that it was not for them on this occasion to consider in what relation this country might stand to other Powers at future periods of her history, but simply to determine whether it is proper that the Act which passed in 1820 ought now to be continued for two years longer. The House would recollect that the measure now before them had passed in four successive Parliaments, and that some of the wisest men who had ever sat in the House had concurred in it. They would also bear in mind that in all this time no complaint had been heard from the people in this country on the subject. No petition had been sent to them, with the exception of one from the people of Westminster. These things remembered, his fears diminished when he felt that he had the Parliament and the people at his back. He would take then the sense of the honourable and generous people of this country. He was not aware that to mention the honourable and generous character of the people of this country could justly provoke a sneer. ('It was an expression of acquiescence,' a Member remarked.) When he could distinguish between acquiescence and reproof so expressed, he would shape his course accordingly. While he was supported by the honest and generous feelings of the people of this country, he must consider that the attack of the learned gentleman on this measure was

CHAP.
LXVIII.
Mr. Plunket in reply to Sir J. Mackintosh on the Alien Bill.

CHAP.
LXVIII.

founded in error. Before stating what that Bill did, he would state what it did not do. His hon. and learned friend had spoken of it as if it put 25,000 subjects out of the pale of the law. From the assumption of his learned friend, it might be supposed that the Bill took from the alien, Trial by Jury, the benefit of the Habeas Corpus Act, and left him in a state of slavery. He took the liberty to say that the alien while here enjoyed the rights of a British subject in the highest degree. The power of removing aliens was claimed by every State, whether arbitrary or free, monarchical or republican, Liberal or despotic. Instead of being a new measure, this law, though the mode of executing it was new, was founded on the most ancient usages known to our Constitution. It rested with the Crown to admit an alien into the country, and the Crown had therefore the right of sending aliens out. It was a part of the Royal prerogative. He did not say that prerogative was not to be regulated by Parliament, but what he had stated was sufficient to prove that this measure was not to be cried down as a novelty. If this power had lain dormant from the time of the Revolution down to 1793, it was because the dangers to which the country was exposed in the intermediate periods had not arisen from aliens. But in 1793 a war of principles commenced, and foreign emissaries were sent to this country to corrupt British subjects. The Alien Bill was then resorted to, and many of those who opposed it then, and who were no more, would, were they alive, confess themselves to have been mistaken. He would say that had those measures not been adopted, he did not believe that they would now be debating there. He appealed to the House if the door of the country had ever been closed against foreigners flying from persecution. When they arrived, having given in their names, with certificates to prove they were what they represented themselves to be, they were allowed to go to any part of the country. He knew it was contended that the forms of which he had spoken were inconvenient, but were these sufficient to

justify the comparison which had been made between Middlesex and Morocco? It was said the alien who was removed had no trial. Why should he have one? He was removed for no positive crime, but his being sent away was simply a measure of policy. Whether we should continue that law which had been thought necessary since 1815 depended upon two considerations—the first respecting the state of the people in this country, the other relating to the situation in which this country stood with respect to other Powers. As to the first, he was free to say that the state of the people of this country was very different from that in which they were found in 1793. He believed this to result from the wisdom and vigour of those measures which had been resorted to at that time; but, however, he believed the people—the constituency of the country at this time—to be perfectly sound. He now came to look at the state of the country with respect to the subjects of other Powers. At present there were from twenty to thirty thousand foreigners in England. Of those persons, he believed there were many valuable and useful men among them, many who had fled from calamity, and these would always meet with a friendly and hospitable reception; but among them there was, he doubted not, many desperate revolutionary and dangerous characters. In the case of persons like those to whom he had alluded, he would not give up the right of sending them out of the kingdom. His hon. and learned friend had argued as if this country was made entirely for the convenience of aliens. The hon. and learned gentleman had said that this Bill might be abused, but he had argued as if such abuse was the object of the measure. As if it were the object of the Government to frighten the alien from our shore. It was impossible that any gentleman could ever be entrusted with the government of this country who would act such a part. Even if we had a Government sufficiently dead to honour and to feeling to act in the way supposed, we could never have an Administration so blind to their own interest as to take that course which he assumed it to be

CHAP.
LXVIII.

the object of this Bill to sanction. Much had been said by his hon. and learned friend respecting the conduct of his Majesty's Government in relation to its conduct towards foreign States. Interference was justifiable only on the ground that the State which interfered was likely to be affected by the matter of internal regulation of the State which was interfered with. The right hon. gentleman here referred to late events in Switzerland respecting the demand or request that certain delinquents should be given up by that country. He contended that the demand of criminals could only be considered as an appeal to the courtesy of other nations, and might be complied with or rejected at pleasure. We occupied a high station in the councils of Europe, in consequence of the share we had taken in rallying Europe round the standards of freedom and justice. He perfectly understood the cheer of the hon. gentlemen. He alluded to the share we had taken in the overthrow of Napoleon, and the destruction of his projects of military despotism. That our station would be best preserved by refraining from making this country the theatre of conspiracy against existing Governments. The right honourable gentleman expressed his intention of supporting the Bill.

Mr. Plunket was followed by one of the most eminent Nisi Prius advocates at the English Bar. As a specimen of his Parliamentary speeches, I give his address to the House :—

Mr. Scarlett¹ contended that the law of nations had no reference to the present question. His right honourable friend had described the power of the Crown to issue a writ of *ne exeat regno* ; but had he ever known such a writ to be issued except on application to a Court of Justice ?

¹ Mr. Scarlett was so distinguished for his success at the Bar that he acquired the epithets of the 'Verdict-Getter,' and 'Thirteenth Juryman.' His income was stated to have reached 17,000*l.* a year. Sir James Scarlett was appointed Attorney-General in 1828, Chief Baron of the Exchequer in England, 1834 ; created Baron Abinger in 1835 ; and died April 7, 1844, aged seventy-five years. A very interesting sketch of this eminent lawyer is contained in Whiteside's Early Sketches.

To show that the right of sending away aliens was not a prerogative of the Crown, it was only necessary to refer to an Act of Parliament passed in the reign of Henry V., empowering the King to send away certain Bretons who were in the kingdom. His right honourable friend had glossed over the most odious parts of the present Bill. He had treated it as if it were a measure for the protection of aliens. It gave an arbitrary power over the liberty of a number of individuals; and it was the more objectionable, since this was a power without responsibility. It had no one single character or feature of justice about it. He objected to the putting of such a power in the hands of any Minister, over even the meanest person in the country. But even supposing that there might originally have been a plausible reason for passing this Bill, his honourable and learned friend (Sir James Macintosh) had clearly shown that the reason upon which it had passed no longer existed. The honourable and learned member declared his intention to support the Amendment.

On division for second reading . . .	108
For Sir J. Macintosh's amendment . . .	74
	<hr/>
Majority for the Bill	34

CHAP.
LXVIII.
Speech
of Mr.
Scarlett.

The appointment and revision of Justices of the Peace in Ireland has been one of the most responsible and delicate duties of the Lord Chancellor of Ireland. With so many conflicting interests, so many prejudices, it has been a most trying and difficult task. If a magistrate is appointed on account of his capacity for business, evinced by having raised himself by a life of industry, accompanied with rectitude of conduct, the aristocrats of the Bench are up in arms, and indignant remonstrances made for allowing a *parvenu* to sit

Magist-
erial ap-
pointments
in Ireland.

Betwixt the wind and their nobility.

If a person of respectability is chosen who has any peculiar political tendency, he is regarded with suspicion. The state of magistrates and police in Ireland in 1822 may be

CHAP.
LXVIII.

Speech of
Mr. Goul-
burn.

judged from the discussion in the House of Commons on June 7, when the Right Honourable Mr. Goulburn moved the second reading of the Constables' Bill. He said:—

‘He would not detail the instances of improper persons appointed by the Grand Juries—he would not advert particularly to the inadequate reward of the constables, which was from 8*l.* to 20*l.* a year—he would not enumerate the difficulties with which they had to contend in the apprehending of criminals—nor would he mention the particular instances, of which he was sorry to state there were not a few, in which the conduct of the constables had been influenced by private ends. If, however, there was any desire to make the law respected, the administration of it ought to be placed in the hands of proper persons. He had to state, that the placing of the power of appointing constables in the hands of the Government was giving to the Government no new power, for Government had always had such a power in cases of emergency. It was useless to object to this as taking away a check from Government; but he thought that the check on the Government was that House. It was the duty of the constables to hunt out and follow up to justice criminals of all descriptions; and as the Irish were rather averse to assist in such matters, it was necessary that the constables should be men who could and would do their duty. It was well known that the magistracy of Ireland was likewise very defective, and a very great object would undoubtedly be attained by placing better subordinate instruments in their hands. As compared with the Justices of the Peace in England, those in the sister country stood greatly in need of all the incidental aid and active co-operation which could be devised. In that way much of the present inconvenience might be removed; but it was obvious that the number of absentees made it impossible to select those, who, from their rank, property, character, and independence, were the fittest persons to act in the capacity of magistrates. The choice, therefore, sometimes fell of necessity upon individuals whose

Irish
magis-
trates.

qualifications would not otherwise have been deemed sufficient.'

CHAP.
LXVIII.

Sir Henry
Parnell.

Sir Henry Parnell concurred with much of what had fallen from the Right Honourable Secretary, but could not help regarding as still more grievous the consequences of that neglect which had marked the proceedings of those to whom the government of Ireland had been hitherto confided. In that country there was still visible a sort of lawlessness which seemed to indicate that the effects of early conquests were not yet terminated. Among the more immediate causes of confusion, however, he might mention the want of a proper system of communication between the executive authority and the different counties. In England this branch of the civil power was in full vigour, and there were individuals in every county with whom Government might correspond, and derive, through these means, timely information with regard to all that was passing or likely to occur. Another material defect of this measure, in his opinion, was, that it offered no enactment for improving the present state and character of the magistracy in Ireland. Its sole purpose was to provide for a new mode of appointing constables, and the Bill in effect might be considered as tending to invest greater powers in the hands of magistrates who were already notorious for doing all they could to bring the law into disrepute. It was but recently that one of them was convicted of turning every process that came before him to his own private emolument. From his own knowledge of the country, he (Sir H. Parnell) might say that it was no uncommon case for a Justice of the Peace to derive 200*l.* or 300*l.* a year from his office. The first object, therefore, was to reform the magistracy; this ought to be done immediately; his Majesty's Ministers ought to take courage to do it. Of the existing body of magistrates some held considerable tracts of land, and having themselves tithes to pay to a large amount, had been detected in encouraging and fomenting the tumults which had proceeded from that cause. It was not surprising,

Profits of
an Irish
Justice
of the
Peace.

CHAP.
LXVIII.

therefore, that the police should be defective; and such were its defects, that outrages and murders were often committed with impunity, or if indicted, the requisite evidence was not forthcoming, and deaths were adjudged to be manslaughter that had, beyond all doubt, originated in private animosity. The same defect, and not the excise regulations, might be assigned as the cause of the undue collection and inadequate produce of the revenue, another ill consequence flowing from which was, that it impaired general credit, and often subjected individuals to wants and hardships that were foreign to a commercial country, and might even subject people to starve in the midst of plenty. Now the new system which the right honourable gentleman proposed to introduce, appeared to him (Sir H. Parnell) to be a system of military police, or at least he did not know where to trace the distinction between it and the police of France. Why, if they took care to reform the magistracy, should they not, in the first instance, try the constitutional police of this country. He had no doubt that if the whole system were assimilated to the English, there would then be an efficient civil power in Ireland.

Mr. Plun-
ket.

Mr. Plunket rose to submit a very few observations to the House. Upon the necessity at once of improving the police of Ireland, no difference of opinion, he apprehended, could exist. The honourable baronet admitted the necessity of an immediate change, and that admission alone answered his proposal for a Committee. Whether the measure now proposed was the fittest to be adopted, it was for the House to determine; but it was the unanimous opinion of those persons with whom he (Mr. Plunket) had conferred, that a change in the police must be the first step towards the promotion of prosperity in the country. To examine, then, some of the arguments of the honourable baronet opposite, whose observations, almost all of them, confirmed the necessity of some measure, and the propriety, indeed, of exactly that kind of measure which at present was proposed. The honourable baronet had

most correctly spoken of Ireland as governed for many years by little else than measures of emergency; and the object was now, instead of having a relaxation of law one moment, and a paroxysm of violence the next, to have a steady, vigorous, and efficient police—a police which should not only act to punish crime, but to prevent it; and which, by habituating the people to obey the law, might probably in the end have the effect of attaching them to it. But the honourable baronet treated the measure as unconstitutional. How was it unconstitutional? and upon what principle? It was not a measure which proposed any new law, or created any new crime, or introduced any new officer, or set up any new authority. How, then, was it unconstitutional? The difference proposed in the mode of appointments was this: the constables were now appointed by the Grand Juries; and under the new system they would be nominated directly by the Crown. Surely there was nothing unconstitutional in that. As the Crown was the fountain of all executive power, what difference could it make whether the Crown appointed the magistrate and the magistrate the constable, or whether the Crown appointed the constable directly? And if it was possible that the projected system might become a job, this was quite certain—the existing system was notoriously and avowedly a job. He meant to cast no reflection upon the Grand Juries of Ireland; but where the power of appointment was divided among twenty-four persons, each of whom was exempt from responsibility, and shifted all blame upon his next neighbour, the appointment could not fail to resolve itself into a job; it was a job from the nature of the system, and not from any fault in the parties who worked it. But in the new system there was far less probability of such a consummation. The Lord Lieutenant might be open to occasional imposition (from his high station, it could not be supposed that he would be a party to it); but if abuse did arise, the monthly return of the inspector gave, under the new system, the opportunity of correcting it; while under the old one, a gentleman upon a grand jury

Grand
Jury
appoint-
ments
necessarily
jobs.

CHAP.
LXVIII.

Benefits
conferred
on the
County of
Longford
by Lord
Forbes.

appointed some servant or dependent, who was better provided for as a barony constable than as a hanger-on upon his (the appointer's) bounty; and, whatever was the man's conduct, he continued to act as constable for a period of six months, until the Grand Jury sat again. The honourable baronet spoke of his knowing resident magistrates who would be disposed to take offence if they were displaced by the Bill; but did the honourable baronet suppose that the provisions of the Bill were imperative; and that the Lord Lieutenant, because he had the power of appointing, was bound to appoint in all places? The exercise of the power was entirely optional; and he (Mr. Plunket) should view it as an abuse of the power, if it were used in all places, without reference to existing circumstances. There was one instance in particular to which he could not forbear alluding, and that was to the present state of the county of Longford. Gentlemen must remember, within their own experience, when Longford had been remarkable for the non-execution of the law, for the supineness of the magistracy, and for the prevalence of crime. But since a noble Lord (Lord Forbes) had exerted himself in that county, he had made it the best regulated and most orderly in Ireland. Now, the House could not suppose that the noble Lord alluded to would be superseded in his office by a police magistrate, nor that changes, generally, would be made where resident gentlemen were efficient. With respect to expense (Mr. Plunket continued), the measure would be really a measure of economy. The number of baronies in Ireland was 250. Take the scale of one chief constable to every barony, and the probable cost under the new system would be this:—

	£
Chief constables	32,500
Petty constables	175,000
Inspectors, 4 at 500 <i>l.</i> a year	2,000
Police Magistrates, 10 at 800 <i>l.</i>	8,000

Total 217,500

Now, what was the real expense under the existing system ?
It was for the last year :—

CHAP.
LXVIII.

	£
Baronial constables	28,907
Extraordinary Police	102,113
Preventive Revenue Police	23,104
Military assistance to the revenue	24,550
	<hr/>
Total	178,674

Now the question was, not whether the existing expense was too much, but it was a comparison between the expense of the two systems. The new system would be dearer by about 40,000*l.* a year; and if against that were set the various advantages which would accrue—the saving in expense of several prosecutions—the saving of time now given up to the watching for and to the prevention of crime, the account would be nearly balanced; but if the House took into its consideration the saving of public morals, and the probable restoration of peace, obedience, and sober habits to the country, the advantage in favour of the new system would be prodigious. The measure, however, was one (Mr. Plunket concluded) intended as a remedy for an immediate and pressing evil. However he now recommended its adoption, he should rejoice in the appearance of circumstances which should make its operation no longer needful. Many of the suggestions of the honourable baronet opposite would be found highly valuable when the House went into Committee, but he must oppose the reference of the Bill to a Committee above stairs.

On December 17, 1824, O'Connell spent part of the day in the Four Courts, and towards evening went to the Catholic meeting in the Corn Exchange. Here he delivered a speech which cheered the people, aroused the attention of the aristocracy, and made an epoch in his history. In this speech he eulogised the editors of the 'Examiner,' a weekly newspaper published in London. 'They had devoted themselves to martyrdom,' he said, 'in the cause of public liberty. They had evinced for the Roman Catholics the same feelings which they had

O'Connell's
Bolivar
speech.

CHAP.
LXVIII.

expressed for the cause of the Greeks. The Greeks were engaged in warfare for the recovery of their rights; they (the Roman Catholics) trusted that their ends would be procured through more peaceable means. Nations had been driven mad by oppression. He hoped that Ireland would never be driven to the system pursued by the Greeks. He trusted in God they would never be so driven. He hoped Ireland would be restored to her rights; but if that day should arrive—if she were driven mad by persecution—he wished that a new Bolivar might arise, that the spirit of the Greeks and of the South Americans might animate the people of Ireland!

The
Attorney-
General
directed to
prosecute
O'Connell.

The party hostile to O'Connell seized upon this speech with avidity—all their Orange partisans were, next day, babbling and flurrying everywhere throughout the city about its latent treason; the Attorney-General was directed to make it the subject of a prosecution. O'Connell had returned after a hard day's work in the courts and in the committee of the Catholic Association, on the evening of Monday, December 20. It was about half-past five, and O'Connell was about to resign himself to those domestic enjoyments which constituted the principal charm and relaxation of his laborious life, when a loud knocking took place at the door, and, to the astonishment of his alarmed family, the police-magistrate Alderman Darley and police-constable Farrell walked into the hall. They were shown into the study, where they acquainted O'Connell with the nature of their business. 'I have been directed by the Attorney-General,' said Alderman Darley, 'to call on you to enter into recognizances to appear at the next sessions. It will save you the trouble of appearing at the police-office, if you enter into these recognizances now.'

'Upon what charge, Mr. Darley?' asked O'Connell, somewhat surprised.

O'Connell
charged
with
sedition.

'Upon a charge,' replied the Alderman, 'of having spoken seditious words at the last meeting of the Catholic Association.'

'What words am I charged with having spoken?'

‘I am not at liberty to inform you,’ said Darley; ‘you must apply to the Attorney-General.’

CHAP.
LXVIII.

‘Can I even know the name of the informer?’

‘I am not at liberty to tell you; you must apply to a higher quarter. I come merely to inform you that legal documents have been laid before me, that authorise me to require from you a recognizance to appear at the next sessions. I wish to give you the least possible trouble.’

‘Then, Mr. Alderman, I submit at once. I will enter into the recognizance, though I am not to know for what.’

O’Connell accordingly executed the recognizance which Darley produced, observing at the same time that it would interfere with a journey to London which he had intended to make. ‘Can you not take it as for the sessions after next?’

‘I have no discretion upon this subject,’ replied the Alderman; ‘upon that also you must apply to Mr. Plunket.’

‘One thing you will admit,’ said O’Connell, with a smile—‘the Attorney-General will have no difficulty in procuring a grand jury to find the bills against me.’

The alderman made no reply, but taking up his hat, shook hands with O’Connell and left the house.

An incident occurred in connection with this prosecution which reflects great honour on the reporters of Dublin. Alderman Darley fancied that, by issuing summonses and assembling them in his office, he could convert them into informers. He found himself grievously mistaken.

The
gentlemen
of the
Dublin
press.

‘Were you present at this meeting, Mr. Vousden?’ asked the Alderman, addressing the reporter of the ‘Dublin Morning Post.’

‘I was,’ replied the reporter.

‘Pray, what were the precise words which O’Connell used with reference to Bolivar?’ asked the alderman.

‘I have not my notes about me.’

‘Oh! but surely you can recollect.’

‘I have no accurate recollection on the subject,’ replied

CHAP.
LXVIII.

the reporter, 'and even if I had, I do not think the press the proper medium through which the business of a common informer should be transacted.'

'Do you think that Charles O'Flaherty, the other reporter for your paper, was present?'

'Yes, I am quite sure he was present.'

'Was he present when O'Connell mentioned Bolivar?'

'I do not know. Mr. O'Flaherty is quite competent to answer for himself. I suppose he will, in courtesy to the magistrates, attend on the letter which you have addressed to him.'

'Free-
man's
Journal.'

Mr. Leech, reporter for the 'Freeman's Journal,' was subjected to a similar examination by the same magistrate. He admitted that he was present at the meeting in question.

'Do you remember reporting the speech of Mr. O'Connell?'

'Mr. O'Connell made several speeches,' replied Mr. Leech.

'I allude to the speech about Bolivar.'

'That speech did not appear in the "Freeman's Journal."'

'I did not ask you if it did. What I desire to know is, did you take notes of that part of his speech which referred to South America?'

'I really cannot say without referring to my note-book, which I have not got about me.'

Mr. Haydn, the editor of the 'Star,' here presented himself before the magistrates, and protested against the press being rendered accessory to the purposes of the Attorney-General.

'It is quite evident,' said Alderman Darley, 'that the gentlemen of the press have no disposition to give us any information on this subject.'

Bills
ignored.

When the bills against O'Connell had been ignored, a Dublin wit dubbed the Attorney-General *Ignoramus* Plunket. As any proceedings against the great tribune O'Connell were sure to call forth reprobation, it was not likely the Attorney-General would escape; and, in ad-

dressing the Catholics, the brilliant orator Richard Lalor Sheil thus spoke :—

CHAP.
LXVIII.

‘ Good God ! what motive could have suggested this extravagant proceeding ? When Mr. Plunket read the words attributed to Mr. O’Connell, did he ask himself, “ What is the provocation given to this man ? Who is he, and what am I ? Who is his Majesty’s Attorney-General, the Right Hon. William Conyngham Plunket ? ” I know not whether he administered that personal interrogatory to himself ; but if he did, this should have been his answer : “ I raised myself from a comparatively humble position, by the force of my own talents, to the first eminence in the state. In my profession I am without an equal. In Parliament, I once had no superior. When out of office, I kindled the popular passions—I was fierce, and virulent, and vituperative. At last I have won the object of my life : I am Attorney-General for Ireland. I possess great wealth, great powers, great dignity, and great patronage. If I had been a Roman Catholic, instead of being an enfranchised Presbyterian, what should I have been ? ” I can tell him. He would have carried up and down a discontented and repining spirit ; he would have felt like a man with large limbs who could not stand erect—his vast faculties would have been cribbed and cabined. And how would he have borne his political degradation ? Look at him, and say how would that lofty forehead have borne the brand of Popery ? How would that high demeanour have worn the stoop of the slave ? How would he have been tame, and abject, and servile, and sycophantic ? No ! he would have been the chief demagogue—the most angry, tumultuous, and virulent tribune of the people. He would have superadded the honest gall of his own nature to the bitterness of political resentment. He would have give utterance to ardent feelings in burning words, and in all the forms of passion. He would have gnawed the chain from which he could not break. And is this the man who prosecutes for words ? If (to use a vulgar phrase) the tables were turned—if Mr. O’Connell

Sheil’s
speech on
Plunket.

CHAP.
LXVIII.

were Attorney-General and Mr. Plunket the leader of the people—if Anthony were Brutus, and Brutus, Anthony—how would the public mind have been inflamed; what exciting matter would have been flung among the people. What lava would have been poured out! The very stones would rise in mutiny. Would to Heaven that not only Mr. Plunket, but every other Protestant who deplores our imprudence in the spirit of a fastidious patronage, would adopt the simple test of nature and make our case his own; he would confess that, if similarly situated, he would give vent to his emotions in phrases as exasperated, and participate in the feelings which agitate the great and disfranchised community to which it was his misfortune to belong. There is no man of ordinary candour who will not rather intimate his wonder at the moderation than his surprise at the imputed violence of O'Connell. With fortune, rank, and abilities of the first class, enjoying pre-eminence in his profession and the confidence of his country, he is shut out from honours accessible to persons whom nature intended to place infinitely behind, and whom their religion has advanced before him.¹

Plunket's
Parliamentary
life.

During the years 1823, 1824, and 1825 Plunket's time was much occupied by his Parliamentary duties, and his political career has been so fully traced and published by his able and eminent biographer,¹ that I have no excuse for adverting to it here at any length. His speeches on the Irish Church question, May 6, 1824; on the Catholic Association, February 11, 1825; and on Sir Francis Burdett's Bill, February 28, 1825, are such as only Plunket could have delivered.

An old
almanack.

The way in which Plunket likened history to an *old almanack*, which might almost serve as a counterpoise to Macaulay's celebrated artistic *New Zealander*, was thus: During the debate on Sir Francis Burdett's motion for a Committee on Catholic Claims, February 28, 1825,² he said, 'Time, as has been said by one of the clearest

¹ Vide *Life* by his grandson, vol. ii. chapters ii. iii. iv. v.

² Hansard's *Parl. Deb.* vol. xii. N.S. p. 808.

observers of it, was the greatest innovator of all. While man would sleep or stop in his career, the course of time was rapidly changing the aspect of human affairs. All that a wise Government could do was to keep as close as possible to the wings of time, to watch its progress, and to accommodate its motion to their flight. Arrest its course they could not; but they might vary the forms and aspects of their institutions, so as to reflect its varying aspects and forms. If this were not the spirit which animated them, philosophy would be impertinent, *and history no better than an old almanack.*¹ The riches of knowledge would serve them no better than the false money of a swindler, put upon them at a value which once circulated, but had long since ceased.'

Mr. Peel in reply said, 'My right honourable friend says, he would not convert the philosophy of history into a miserable almanack, or represent experience as a swindler passing base money upon mankind. I agree with him, and I look back to history for the instructive lesson it affords, and consult experience upon the abuses of power in all ages.'

It was in July, 1825, Sir Walter Scott visited inland Ireland. From Dublin, he tells us in his Diary, he made an excursion of some days into the County Wicklow, and was greatly charmed with the scenery, as well as the hospitality he received. He spent a night with Sir Philip Crampton at his charming villa, and Sir Walter says the Surgeon-General (Crampton) struck him as being more like Sir Humphrey Davy than any man he ever met, not in person only, but in the liveliness and range of his talk.

Sir Walter
Scott's
visit in
1825.

¹ The phrase, 'History is no better than an almanack,' is not original. In Boswell's Johnson, vol. iii. p. 41, Croker's edition, 1831, we read:—

'JOHNSON.—We must consider how very little history there is; I mean real authentic history. That certain kings reigned, and certain battles were fought, we can depend upon as true; but all the colouring, all the philosophy of history, is conjecture.

'BOSWELL.—Then, sir, you would reduce all history to be no better than an almanack—a mere chronological series of remarkable events.'

Mercer, in his *Nouveau Tableau de Paris*, observes also that Malet de Pace's and such-like Histories of the Revolution are no better than an old almanack.

CHAP.
LXVIII.

Having explored Loch Bray and the Dargle, the Wizard of the North went to Plunket's seat, where a large and brilliant party, comprising the *élite* of Dublin literary society, was assembled.

Sir Walter
Scott visits
Glenda-
lough.

While staying at Old Connaught Plunket brought the great novelist to see the wonders of Glendalough, and having conducted him

By the lake whose gloomy shore
Skylark never warbled o'er,

Scott insisted on visiting St. Kevin's Bed, and, undeterred by the rough rocks and dangerous pathway, climbed into the narrow cell. Lockhart, who was of the party, writing to his wife, daughter of Scott, says: 'It is a hole in the sheer surface of the rock in which two or three people might sit. The difficulty of getting into this place has been exaggerated, as also the danger, for it would only be falling thirty or forty feet into very deep water. Yet I was never more pained than when your papa, despite my remonstrances, would make his way into it, crawling along the precipices. He succeeded and got in; the first lame man that ever tried it.'¹

When Sir Walter had left the cave, Mr. Plunket told Kathleen, the guide, 'that the lame gentleman was a poet.' Kathleen's notion of the title was not very exalted.

'Poet,' she repeated indignantly, 'the devil a bit of it, faith; he's a fine daycint gentleman; he gave me half-a-crown.'²

Sir Walter
Scott's
estimate of
Plunket.

Plunket stood very high in Scott's estimation. Lockhart says: 'The acute logic and brilliant eloquence of Plunket he ever afterwards talked of with high admiration; nor had he, he said, encountered in society any combination of qualities more remarkable than the deep sagacity and broad, rich humour of Mr. Blake. In Plunket, Blake, and Crampton he considered himself as having gained three real friends by this expedition; and I think I may venture to say, that the feeling on their side was warmly reciprocal.'

¹ Lockhart's Life of Scott, vol. vi. p. 57.

² Ibid, p. 58.

CHAPTER LXIX.

LIFE OF LORD PLUNKET, LORD CHANCELLOR, FROM HIS APPOINTMENT AS LORD CHIEF JUSTICE OF THE COMMON PLEAS TILL HIS SPEECH ON LORD WICKLOW'S MOTION IN 1832.

IN March 1827, the Tory Ministry being unable to hold together, Lord Liverpool resigned and Mr. Canning was sent for. The King commanded him to form a Cabinet, and he was not slow in obeying the Royal mandate. Mr. Plunket then naturally expected to be appointed Lord Chancellor of Ireland, but the prejudices of King George IV. were too strong against the great champion of the Catholics, and he would not sanction the appointment. The King commanded the Archbishop of Canterbury to write to Lord Manners, the Lord Chancellor of Ireland, in the King's name, and to signify his Majesty's desire that Lord Manners would continue to hold the Great Seal of Ireland for *another year* in order to afford time to his Majesty to make an arrangement for placing it in proper hands.¹

Lord Manners, who intended to resign, signified his obedience to his Majesty's command. This at once was a great disappointment to Plunket, but not the only one; for when Mr. Canning then appointed him Master of the Rolls in England, the English Bar signified their determination not to allow any one who was not called to the English Bar to hold a judicial appointment in England, and I have already given the letter which Plunket wrote to his friend John Lloyd, stating that he was not in office.² Mr. Canning, thus twice baffled, was under too deep obligations to Plunket not to provide for him. Accordingly he resolved to induce Lord Norbury to leave the Bench, to

CHAP.
LXIX.

Mr. Canning Prime Minister.

George IV. refuses to appoint Plunket Lord Chancellor of Ireland.

The English Bar resist Plunket's appointment as Master of the Rolls.

¹ Life of Lord Plunket by his grandson, vol. ii. p. 245.

² Ante, p. 377.

CHAP.
LXIX.

Description of
Chief
Justice
Lord
Norbury.

which he was no credit, and place a valuable judicial appointment at his disposal.

‘It is humiliating to think,’ says Mr. Fitzpatrick,¹ ‘of the low state to which the administration of justice was reduced in the days of Lord Norbury. He had earned the ermine as a violent political partisan; and for the many years that he wore it, he also undisguisedly wore his old prejudices and passions. With all this, he might have made some attempt to support the dignity and gravity befitting the Bench; but Lord Norbury supremely scorned all forensic order or judicial decorum. Frequently the bully, and always the buffoon, he browbeat those who differed from him in religion, and joked even in the act of sentencing culprits to the drop. Long before Lord Norbury’s usual hour for coming into Court, it was daily crowded to excess by the laughter-loving portion of the unemployed public. The very outward man of the Chief Justice was enough to set what he called his “racket court” in a roar. With cheeks red as Bacchus, and inflated like those of Æolus; with a waddle not unsuggestive of a corpulent drake, Lord Norbury, at eleven o’clock precisely, would enter the Court of Common Pleas, and bow histrionically to the assembled auditory. In less than half an hour a deafening uproar, which continued uninterrupted until evening, filled the Court.

The drollest prologue that had ever inaugurated a comedy was nothing to his Lordship’s charge. ‘Flinging his judicial robe half aside,’ says Sheil, ‘and sometimes casting off his wig, he started from his seat and threw off a wild harangue, in which neither law, method, nor argument could be discovered. It generally consisted of narratives of his early life which it was impossible to associate with the subject, of jests from Joe Miller mixed with jokes of his own manufacture, and of sarcastic allusions to any of the counsel who had endeavoured to check him during the trial.’

The retirement of Lord Norbury being effected, Mr.

¹ Life of Right Rev. Dr. Doyle, Bishop of Kildare and Leighlin, vol. i. p. 259.

Canning appointed Mr. Plunket Chief Justice of the Court of Common Pleas with the title of Baron Plunket of Newton, County Cork, in the Peerage of the United Kingdom. He lost no time in bidding farewell to his constituency in the University of Dublin, whom he had represented for fifteen years. This letter is already in print, and I have only to refer to it.¹

CHAP.
LXIX.

Lord
Plunket,
Chief
Justice
of the
Common
Pleas.

The most remarkable case which Lord Plunket heard while presiding as a Common Law Judge was one the circumstances of which I have already detailed.² It was an action for libel brought by James Croke, Esq., Barrister-at-Law, against Darby O'Grady and Michael Bevan, Esqs., Magistrates of the County of Limerick. In the course of this case a curious point arose. When the plaintiff's counsel, Mr. Perrin, had stated his client's case, and detailed the libel contained in the letter sent by the defendants to the Lord Chancellor in justification of their conduct in ordering Mr. Croke into the dock at Bruff Court-house—Mr. Long, the Lord Chancellor's Secretary, was produced to prove that the document, containing the libel, had reached the Chancellor from the defendants. Mr. Long stated, 'the Lord Chancellor considered that, under the circumstances in which the letter had come to his Lordship's hands, he did not think it ought to be produced;' but his Lordship intimated that if Lord Plunket thought differently, he, the Lord Chancellor, would yield to the opinion of the Chief Justice of the Common Pleas.

Croke v.
O'Grady
and Bevan.

The Lord
Chancellor's
difficulty.

Mr. Holmes, who was also counsel for the plaintiff, contended that his client was entitled to the production of this document. He submitted it rested with the Chief Justice to determine the point, and not for any witness, however respectable.

Mr.
Holmes
contended
the docu-
ment
should be
produced.

Lord Plunket admitted Mr. Holmes' law was right, but said it was impossible not to remember who was substantially the witness here. How could he refuse to pay attention to the scruples of the Keeper of the Seals. He

The Lord
Chief
Justice
respects
the Chan-
cellor's
scruples.

¹ Life of Lord Plunket by his grandson, vol. ii. p. 247.

² Vide Life of Lord Chancellor Sir Anthony Hart, antè, pp. 391-398.

CHAP.
LXIX.

Mr. Ben-
nett, K. C.

felt that, whatever might be his own opinion, he should defer to the opinion of the Lord Chancellor. He would do so with less reluctance as the party who might consider him wrong could appeal to the full Court. Mr. Bennett, K.C., contended this was a privileged communication, and relied on *Wyat v. Gore*¹ and *Hone v. Bentinck*.²

Holmes, in reply, argued this was neither a confidential nor privileged communication, and referred to a case in 1st Saunders, p. 131. Lord Plunket said that when so high a judicial character as the Lord Chancellor conceived this document to be a privileged communication, it would ill become him to decide the contrary, at least without an interview with him on the subject, which he proposed having, and adjourned the Court for the purpose.

Lord
Plunket's
sugges-
tion.

On re-entering Court, Lord Plunket said, 'that the Chancellor adhered to the opinion he ought not to produce the document. He (Lord Plunket), therefore, could not rule against that opinion, but he begged the party nonsuited would apply for the opinion of the Court. He, however, suggested that the case should be tried on consent that a copy of the document be taken as original, subject to the point that if the Court was of opinion that the original document ought not to have been produced, the evidence on the copy should go for nothing. This being agreed to, the trial proceeded, and resulted in a verdict for the plaintiff, 500*l.* damages, and sixpence costs.'³

Verdict
for the
plaintiff.

There was a regular break-up amongst Ministers when Lord Liverpool ceased to be Premier. The accession of George Canning put the staunch Tories to the test, and accordingly the Duke of Wellington, Sir Robert Peel, and their eccentric Attorney-General—Sir Charles Wetherell—resigned their places. Sir Charles was an uncompromising Protestant, 'No truce with Rome' was inscribed on his flag, and he would give up the most cherished dream of a lawyer's ambition rather than lower it an inch. We learn,

Sir Charles
Wetherell.

¹ Holt's *Nisi Prius*, p. 290.

² 3rd Bingham.

³ Law Recorder, vol. iv. p. 42.

when the Duke re-appointed Sir Charles the Attorney-General for England in 1828, King George IV. informed Lord Eldon that he had consented to allow Ministers to submit to Parliament a Bill for Catholic Emancipation, if the members of the Cabinet could persuade themselves to take such a step. The King's speech at the opening of Parliament invited the consideration of the removal of the disabilities of Roman Catholics, and whether it was consistent with the full and permanent security of our Establishment in Church and State, and with the maintenance of the reformed religion established by law, and the rights and privileges of the Bishops and Clergy of the realm, and of the Churches committed to their charge.

It must have been very annoying to the Ministry, who had resolved upon doing tardy justice to their Catholic fellow-subjects, to be abused and accused of all manner of backsliding and inconsistencies by their own Attorney-General. An extract from his speech will give my readers a specimen of his vigorous style of speaking, and of the 'No surrender' principles from which he, at least, never swerved:—

'He was asked to draw this Bill. He would not condescend to stultify himself by the composition of such a Bill. He cared little for being attacked. He had no speech to eat up—no apostasy to explain. He had no paltry subterfuge to resort to. He had not to say a thing is black one day and white another. He was not in one year a Protestant Master of the Rolls, and in the next a Catholic Lord Chancellor. He would rather remain as he was, the humble Member for Plymton, than be guilty of such apostasy—such contradiction—such unexplainable conversion—such miserable and contemptible apostasy.'

Sir Charles
Wetherell's
vigorous
style.

This speech naturally caused considerable sensation, and, of course, an official holding views so antagonistic to the rest of his colleagues could not have been a pleasant person to confer with. Sir Charles felt this, and at once resigned his high office, which was speedily conferred on a more pliant politician—Sir James Scarlett.

CHAP.
LXIX.

Lord Plunket appointed Lord Chancellor, Dec. 23, 1830.

Lord Plunket remained Chief Justice of the Common Pleas until the Reform agitation caused the break-up of the Duke of Wellington's Ministry, in 1830, and on December 23 he, at last, received the Irish Great Seal as Lord High Chancellor, from King William IV.

During the time he occupied the judicial position, the great measure which he supported for so many years—Catholic Emancipation—had passed; his efforts had been unremitting, and are fully detailed in the Life by his grandson. It is my province now to follow him to the Court of Chancery, where he presided for ten years.

The selection of Lord Plunket in the place of Sir Anthony Hart as Lord Chancellor of Ireland was soon made the cause of an attack on the Government. His Lordship's arrangement respecting the officers of his court, and also the circumstance of various members of his family filling many important and lucrative appointments, were certain to challenge remark. The appointment of Secretary was conferred by the Lord Chancellor upon his nephew, Mr. M'Causland; but Mr. Long, who had filled that very responsible office in the time of Lord Chancellor Sir Anthony Hart, had won the esteem and regard of all who practised in the Court of Chancery, and such representations were made to the Lord Chancellor of his efficiency and ability, that an arrangement was made to retain the services of Mr. Long as Joint-Secretary on a salary of 500*l.* a-year.

Appointment of Secretary.

Mr. Long retained as Joint-Secretary. The claim of the Master of the Rolls to appoint his Secretary renewed.

The claim of the Master of the Rolls to appoint his Secretary, which had been raised in the time of Sir Anthony Hart and adjudicated against by that Chancellor,¹ was renewed when Lord Plunket was Keeper of the Great Seal. We may remember how fully the subject was then considered, and cannot but feel some surprise at the course taken by Lord Chancellor Plunket when the claim was again made. Instead of relying upon the order of Lord Chancellor Hart, as that Chancellor had done upon the order of Lord Chancellor Ponsonby, he made the following offer:—

¹ Antè, p. 383.

‘ Let the order of the Lord Chancellor Hart of 13th day of December, 1827, be made the subject of an appeal to the House of Lords, and all objections to the jurisdiction be waived, and let the appeal be proceeded in as if the order had been pronounced in a case in which Mr. Shaw was plaintiff, and Messrs. Long and M‘Causland defendants, but on *this express condition, that any order to be pronounced on such appeal shall in nowise affect the Secretaries of the present Lord Chancellor.* If this proposition be not satisfactory to the Master of the Rolls, the Chancellor has no objection to the adoption of any other course of proceeding which the Master of the Rolls may suggest for the trial of the right, subject to the above condition.’

CHAP.
LXIX.
Offer of
Lord
Chancellor
Plunket.

This offer was communicated to his Honour the Master of the Rolls by Mr. Stanley,¹ then chief Secretary for Ireland. Sir William M‘Mahon replied as follows :—

‘ Warren’s Hotel, Regent Street, Sept. 30, 1831.

‘ My dear Sir,—I have just had the honour of receiving your letter of this morning, and I most anxiously and willingly accord with the proposition made by Lord Plunket, that the right should be decided upon in an appeal to the House of Lords, from the order of Sir Anthony Hart, of the 13th December 1827, and all objections to the jurisdiction waived, by treating it as a proceeding in a cause; but I lament to find that this privilege of having my title decided by an uninterested tribunal, which would appear to me to be *ex debito justitiæ*, is to be only conceded to me upon this express condition—“that any order to be pronounced on such appeal shall in no wise affect the Secretaries of the present Lord Chancellor,” who will be the respondents in the appeal. This condition, permit me to submit for your consideration, is not, as it appears to my humble understanding, consistent with the ordinary and established principles of justice—for as to any objections of vested rights or surprise in the assertion of title, I conceive that there is no ground for the application of either consideration to sustain such a condition. As to vested rights, it is not the solicitation

Reply of
the Master
of the
Rolls.

Not con-
tent with
the Chan-
cellor’s
offer.

¹ The late Earl of Derby.

CHAP.
LXIX.

of a new law to take from the office of the Chancellor rights lawfully belonging to his office; but it is the assertion of title by my appointee, Mr. Shaw, since November 1827, to recover by a superior adversary title a right which belongs to my office (if I have the right), and to which the Lord Chancellor's Secretaries have no right, and the very question to be decided will be whether my appointee or they have the vested right. With respect to surprise, I have only to refer to my letter to Lord Melbourne, of the 3rd of December, 1830, which detailed the measures adopted by me from December 1827, for the reclamation of the rights of my office, and for a remedy to try my title—to my letter to Lord Plunket, dated the 9th of December, 1830, enclosing a copy of this letter before his Lordship's appointment—to my letter to Lord Anglesey, enclosing another copy of this letter, and to the formal judicial protest and assertion of title entered in the Register's office, and made the moment Mr. M'Causland presented himself to act as Secretary at the Rolls Court, and before he commenced to act (a copy of which I beg to subjoin). As to this condition very strong objections occur to my mind on the first perusal of it. First, if by my contract such a condition were made, neither appellant nor respondent would have any interest in a question of title to be decided; but by this condition stipulated for, the parties would agree that the decision should be without any other effect than to decide a speculative question of title without interest to either party; and as a decision upon this speculative question, it would be wholly vain, for a succeeding Chancellor would have a right to say, that by a decision made in a case where by contract the respondents had no interest to defend, his rights would not be bound, and a succeeding Master of the Rolls, in language not complimentary to my memory, would perhaps denounce my act in seeking to have this speculative question decided, while I contracted to exclude myself from interest in the subject; secondly, I would carry on a litigation contracting that I would not exercise

the right and title if established; and thirdly, every succeeding Chancellor would, in like manner, say that the question should never be tried with *his then* secretary, except upon the same condition, and thus there could never be any fair trial between parties interested. Without burdening you with further observations on this condition, and with the greatest deference for the opinions of yourself and of the two personages named in your letter, I beg leave to express my regret, after having consulted my law friends, that I cannot, either as a judge or an individual possessing an independent mind, submit to this condition; and that therefore I must reluctantly trouble Parliament with the consideration of the subject. I propose to arrange to have notice given on Monday to move on Tuesday next for leave to bring in the Bill, and I grieve to add, that the lamented death of Mr. North will put it into the hands of some other gentleman.

‘I have the honour to be, &c., &c., &c.,

‘WILLIAM M‘MAHON.

‘The Right Hon. E. G. Stanley, &c. &c. &c.’

A Bill was then introduced to give the power of appointing a Secretary to the Master of the Rolls, and the debate on the motion for the Speaker leaving the chair, in order that the House might go into Committee on the ‘Master of the Rolls (Ireland) Bill,’ came on February 22, 1832. It is extremely interesting, from the fact that no party feeling influenced the speakers. Thus, in the division, the names of O’Connell, Sir Robert Peel, Ruthven, Shaw, Sugden, Goulburn, Hume, John Campbell, and Knight—Whig and Tory, Liberal and Conservative—were united in support of the claim of the Master of the Rolls. It was contended by Mr. Stanley, and those who resisted the Bill, that it was an invasion of the rights of the Lord Chancellor of Ireland, as the Master of the Rolls of that country never enjoyed the patronage, but that it was always possessed by the Lord Chancellor. The Master of the Rolls, in his answer to questions put by the Commissioners of Enquiry, in 1816, made no mention of the right now claimed of

Master of
the Rolls
(Ireland)
Bill.

Mr. Stan-
ley opposes
the Bill.

CHAP.
LXIX.

appointing the Secretary to his own court. There was no analogy whatever between the duties of the Master of the Rolls' Secretary in England and those of the Secretary in the Rolls' Court in Ireland, and therefore no inference could be drawn from the practice in England. The right honourable gentleman concluded by moving, as an amendment, that the Bill should be committed that day six months.

The discussion was very much a repetition of the arguments of counsel in the case before Lord Chancellor Hart; but I must give the argument of O'Connell, which deserves to be placed fully before my readers.

O'Connell
supports
the Master
of the
Rolls.

Mr. O'CONNELL said: 'If this, sir, were merely a case between individuals, I should not feel it my duty to interfere or take any part in the debate; but I feel that it is a case that involves the character of this House and the interests of public justice in Ireland. If this was a mere question that lay between the parties, without involving public interests, there might be no cause to look upon it with any extraordinary feeling; but if ever a case called loudly for the attention of this House, it is the present, when an attempt is made to obstruct the course of justice and prevent the trial of individual rights. Now, sir, the very proposition made by the Master of the Rolls would be a very considerable saving to suitors at large, for it would considerably lessen the expense of proceedings in that court. The Lord Chancellor issued his ordonnance that orders should not be made unless on petitions, the cost of which proceeding is 2*l.* 10*s.*; but if a motion were made, and an order granted upon it, it would be a saving to the suitor of 2*l.* 2*s.* The Master of the Rolls makes that proposition to the Lord Chancellor, which is refused; the question involves a right between them; the Master of the Rolls makes every effort to have that right decided, but the Chancellor, as judge in his own cause, decides upon the right, and refuses to let the question be determined by a disinterested tribunal. This, sir, is certainly a very extraordinary case, and one that reflects no credit on those who are the more prominent actors in it. I beg,

sir, to be permitted to allude to what fell from the right honourable secretary for Ireland. That gentleman certainly has not displayed a very profound knowledge of history; he seems to have dipped very little into the history of that period of the Union to which he has referred. Certainly he has given us a piece of intelligence that we never had before, when he tells us that the Union could not be carried without the consent of Mr. Dwyer, the Chancellor's secretary. Why, sir, he might as well set about telling us that the Union could not be carried without the consent of his cook or his porter, as to make the assertion that has escaped him. Indeed he knows very little of the history of that period, or of the means by which the Union was carried, if he supposes that it was necessary to give Mr. Dwyer 600*l.* a-year to carry the Union. Oh, sir, this is a monstrous case. The fact of Mr. Dwyer's receiving that pension I shall show to bear out the case of the Master of the Rolls; for that pension was given to Mr. Dwyer by the commissioners appointed at the time to make compensation to those who had suffered losses by the Union. What, sir, is the case before us? Here we have the Lord Chancellor of Ireland, one of those officers who is said to be the keeper of the King's conscience, and the highest equity judge in Ireland, placed in this most painful position by the Government, who say to him: "You shall resist this claim of right—you shall obstruct this demand for justice—you shall refuse to remove those bars to the trial of this right." Oh, sir, it is monstrous. And what are we to think of the character of that judge who, the moment a paltry and pitiful claim of 2*l.* 10*s.* is set up in dispute between him and another, sets himself up the arbitrator in his own case, and shuts the door of justice against the trial of that claim? I ask this House what reliance can be placed on the conscience and integrity of a judge who acts in this way? But I will not utter such a calumny against the Lord Chancellor as to suppose that he is a willing party to this opposition. He is urged on by those who have advised him to this

CHAP.
LXIX.

course. If, indeed, I could be at all astonished at any act of the Irish Government, I should feel astonishment how they could think of placing the Lord Chancellor of Ireland in this most unenviable position. How they could place him in the position of one resisting the course of justice is what I certainly should find it most difficult to reconcile, did not the act proceed from the Irish Government, at any acts of which I could not be in the least surprised. Does this honourable House know that it was one of the boasts of this Government that they had appointed a Chancellor who had been distinguished as the advocate of popular rights; and what shall be thought of them when they now seek to destroy the character of that very man by making him appear in the light of one attempting to oppose the course of justice? What can we think when they make that Lord Chancellor come forward and say to the claimant for justice, "You may have that right or you may have it not, but that right I am determined you shall not try?" If a man stands up and says that he has a right to try, but that he cannot try that right until a bar is removed—suppose that a man has a right to an acre of land, but cannot try that right until a bar is removed, where is he to apply to have that bar removed but to the Chancellor, whose duty it is to mitigate the strictness of the law, and to remove bars to the trial of rights. If a man went and made such an application to a Chancellor, and the Chancellor should refuse to set aside that bar, what would be thought of him? The public indignation would point to him as unfit for the office that he held, and he would deserve to be dragged from the bench that he disgraced, or if he were permitted still to continue, the character of public justice would be injured, and its administration in his person suspected and despised. Yet the Government want to place the Irish Lord Chancellor almost in this very position. A claim of right is set up, to which a bar exists, and all that is sought for is the removal of that bar. What the Master of the Rolls has asked for is, that he should be permitted

Duty of
the Lord
Chancel-
lor.

to have a trial of that right. The Lord Chancellor, being more powerful, takes care to refuse that, and the Lord Chancellor prevails. The Chancellor issues an order that no petitions shall be signed by the Secretary of the Master of the Rolls that are not countersigned by his Secretary, and then it is said that in this way the question might be brought to an issue:—That the Secretary of the Master of the Rolls should violate the order, and stand upon the right. If he did so, the Chancellor would send him to Newgate, and he should then be brought by a *habeas corpus* under the adjudication of the King's Bench. I do not think that this is the course that could with propriety be followed. The exact point on which the question turns is this:—An order of the Lord Chancellor prevents the question being put in such a course as that it might be referred to a jury to try it. The Master of the Rolls does not want the House of Commons to try the case. I do not want the House of Commons to try it. The House of Commons is not the place to try it. All that is sought for is the removal of the bars that exist to prevent its being tried. This is the whole sum and bearing of this case. And, gracious God! is this House to be called upon to shut the door of justice? Is this House to be called upon to interpose itself between the adjudication of the disputed right of two individuals? Will this House be prevailed on to act in this way? I anticipate no such result. I utter no such libel on the House of Commons as to suppose that such can be the result. I will not follow the right honourable Secretary for Ireland throughout the entire course of the very artful speech that he has made, but it is somewhat singular that in that speech he has left out everything that was reported, and he has alluded to everything that was not in the report. I do not want to question the right of that individual to advocate the cause of the Lord Chancellor, but this House is not to be influenced to do an act which is unjust, with all the ingenuity that has been used in arguing this case—with all the pains that have been taken to interweave Mr. Curran, and

CHAP.
LXIX.

The House
of Com-
mons
called on
to inter-
pose.

CHAP.
LXIX.

Question
between
the Master
of the
Rolls and
Lord Chan-
cellor.

Tribute to
the Master
of the
Rolls.

Chancellor Ponsonby, and Sir A. Hart. It is not, and the House is not to be deluded into the regarding of this as a question between Sir William M'Mahon and Lord Plunket. It is no such thing. It is not a point at issue between those individuals as the life-occupants of those two high situations. But it is a question essentially between the Master of the Rolls in Ireland and the Lord Chancellor of Ireland. The rights that belong to those offices are not connected with the conduct of the life-occupants. The rights belong to the office, and I deny that they can be at all affected by the conduct of whatever individuals may fill those offices. The Master of the Rolls demands to have this right determined—he asks to do so, and the Lord Chancellor refuses his consent. The Master of the Rolls comes forward to ask this House to remove the bars that exist—and the Irish Government comes forward to ask of this House to join them in resisting the course of justice. I ask, Will the House act in this way? I am sure it will not. I am not a party in this case. I have been thirty-two years at the Bar, and I never yet gave an opinion, or was asked to give an opinion, upon the question. I never was consulted by either of the parties. I cannot be said to be influenced by party feeling, for the Master of the Rolls is known not to entertain political opinions that I entertain, but whatever opinions he does entertain are of an opposite character. I therefore cannot, in the advocacy of this case, lie under any imputation. The Master of the Rolls is not, I believe, a party man. I at present know the Master of the Rolls only as a Judge, and a more painstaking, assiduous, and indefatigable Judge is nowhere to be found. Indeed, formerly I had the pleasure of knowing Sir William M'Mahon—we went circuit together for many years when we were young men, and a more good-natured or amiable young gentleman I never knew than he was at that period of our acquaintance. I have no interest in this case, but as an independent Irish Member of Parliament I feel it my duty to protest against the course attempted to be urged upon this House, and which, if adopted, I do think calculated

to prejudice the interests of public justice in Ireland. The right honourable Secretary for Ireland has gone into the history of this office. I won't detain the House by entering at any length into this part of the subject. The office appears to have been founded in the reign of James I., which was certainly a very early period of the history of the Irish Court of Chancery. The office was founded to assist the business of the Court of Chancery. For a long period the office was merely ministerial. It afterwards became judicial as well as ministerial. In the reign of George III. the office was given to a gentleman who made himself useful, and through motives of policy, the office and salary were given to a gentleman who had served the Government by voting for them. The honourable gentleman has said that the judicial office was enacted by the statute of George IV.—a position so utterly absurd that if any lawyer in a court of justice had taken upon him to rest upon it, there is no Judge upon the Bench who could have patience enough to bear with him. The Act of Parliament on which the honourable gentleman has relied is, if he will take the trouble to look a little deeper, an Act to repeal the statute of Henry VII., which made the office hold only during the king's will and pleasure. I will just read the preamble of the Act to which he has referred. (The honourable gentleman here read the preamble of the Act referred to,¹ which set forth the expediency of repealing the statute of Henry VII., which had relation to that office.) When the business of that Court (after the office became judicial as well as ministerial) had accumulated to a great extent, and the number of bills was very much increased, the Master of the Rolls, finding the necessity for such an officer, very properly appointed one, for it was necessary for the proper discharge of the business of the Court, either that the Court should appoint such an officer, or that an officer should be appointed to that situation for the assistance of the Master of the Rolls. The Master of the Rolls, therefore, did appoint a Secretary. In 1802, when Sir M. Smith

CHAP.
LXIX.

Office of
the Master
of the
Rolls in
Ireland.

¹ 41 George III. c. 25.

CHAP.
LXIX.

held that office, he appointed his own Secretary; and that act was acquiesced in, and that right to so appoint submitted to by certainly as authoritative a personage as ever held the Great Seal. The Lord Chancellor then being admitted the right, and the consequence was that Mr. Dwyer, the Chancellor's Secretary, submitted his case to the Commissioners appointed to make compensation to those who suffered in consequence of the Union, and those Commissioners, in consideration of the loss he suffered by the Master of the Rolls appointing his own Secretary, reported him entitled to 500*l.* a year compensation, and that sum he continued to receive for twenty-two years. If, therefore, the right was not admitted, why was this compensation given to Mr. Dwyer, who suffered by the exercise of that right; and it was in consequence of that that he put 11,000*l.* of the public money into his pocket during the twenty-two years he continued to receive this salary? The next who held this situation was Mr. Curran, who, though the most eloquent man that ever lived, was certainly, it must be admitted, not a good practical lawyer. He appointed his Secretary, and that appointment was disputed by the Chancellor Ponsonby. The question between Mr. Curran and Chancellor Ponsonby was peculiar. Never was there a man more disinterested or less influenced by selfishness than Lord Chancellor Ponsonby, and, as a proof of his disinterestedness, whilst he disputed the authority of Mr. Curran to appoint his Secretary, he, whilst he lived, settled 500*l.* a year out of his own property upon the dismissed officer. I mention this circumstance in order to show that, whilst I impugn his judgment, I give full credit to the goodness of his heart. That order was made by him without discussion, and certainly in a moment of irritation. Mr. Curran, to whose great talents I have paid my tribute of admiration, not being a very good practical lawyer, or through carelessness, or some cause which it is not necessary for the discussion to enquire, suffered the right to lie in abeyance and did not prosecute it. This continued to 1814. When

Case of
Mr. Curran
and Lord
Chancellor
Ponsonby.

Sir William M'Mahon came into the office of Master of the Rolls, he did not remove the Secretary who was in the office; but when the vacancy occurred, he did claim his right to the appointment of his Secretary. Why the claim was suffered to lie in abeyance, I am not called upon to explain. I am not here as his advocate; but whatever be the explanation, I say, *valeat quantum*; for I deny that the conduct of Sir William M'Mahon can at all affect the right of the Master of the Rolls. I utterly deny that any act of Sir William M'Mahon, or of his predecessor, can at all affect the right of the Master of the Rolls. The report of the Commissioners appointed to enquire into the duties of the Rolls Court in Ireland has been relied upon. But what does it amount to? The entire examination amounted to five or six questions, as to facts. He was asked how many officers were employed in doing the business of the Court; what were the duties of those officers; what was the amount of their several salaries; what were his own duties; what was the amount of the salary he received; and because he was asked those questions, it is urged that he was at that time called on to state the constitution of his Court and his own jurisdiction. Sir A. Hart made the order, I believe, in chamber, but the order was removed, after some discussion, into Court. I can imagine nothing more painful than to see a Judge sit to determine in a cause in which he himself is a party. I admit that Sir A. Hart was a most able lawyer, and as impartial a judge as ever sat upon a bench of justice, but certainly he was not a strong-minded man. It was not, as far as I could ever learn, a principle of the old constitution that a man should sit as judge in his own cause. I may, as a lawyer, be allowed to quote Coke, who says, that if an Act of Parliament were made empowering a man to sit as judge in his own cause the Act would be void. The gentlemen who oppose the new constitution and stand out for the old, seem sometimes in want of an argument; but certainly if it be a principle of the new constitution to make a man judge in his own cause, I think it supplies a very strong argument. I know that I, as one of those assisting

Report of
the Com-
mission-
ers.

CHAP.
LXIX.

the makers of the new constitution, would be very unwilling to recognise the principle that a man should be empowered to act as judge in his own cause. This is the very thing that the Irish Government want for the Lord Chancellor. I can imagine nothing more unjust or monstrous than that this House should be called upon, by refusing to go into Committee upon this Bill, to say

Sic volo, sic jubeo, stet pro ratione voluntas.

It is not to be endured that such a thing should be attempted. That the Lord Chancellor of Ireland, the highest Equity Judge in that country, should set this example, and that this House should be called upon to support it, is an extreme of adventurous enterprise upon this House that cannot be sufficiently condemned. I cannot anticipate that this question of right and justice will be met by a majority in this House; but this I know, that, even though we should be met with a majority in this House, we shall have a mighty majority outside of this House—we shall have a majority in the indignant sentiment of the British nation, who will protest against this House becoming a party to prevent an act of justice, and sanction the refusal of a right, even though that right be withheld by a Lord Chancellor, whom his Majesty's Ministers have shown themselves so very anxious to uphold.²

It is stated in the journals of the time that this able address was rewarded with loud and continued cheering from all parts of the House, with the exception of the Treasury benches.

Reply
of the
Attorney-
General
for Eng-
land.

O'Connell was replied to by the Attorney-General for England, who contended the order originated, not with Lord Plunket, but with Lord Chancellor Ponsonby, one of the most disinterested and honourable men that ever lived. He contended that now for the first time, so far as he was aware, in legal or Parliamentary history, such an Act as this was called for.¹

The claim of the Master of the Rolls of Ireland was shortly afterwards brought forward in the House of Com-

¹ On the question being put, the Bill was defeated by a majority of four. Hansard's Parl. Deb. vol. x. p. 663.

mons in a violent attack upon the Lord Chancellor made by the Right Hon. Mr. Dawson on March 6, 1832. He complained bitterly of the Irish Chancellor, accusing him of neglecting his duty in the Court of Chancery, of spending his time in England, stating that during some of the Terms his judicial functions had been discharged by the Master of the Rolls, and that the manner in which the Lord Chancellor of Ireland had treated the notice which, on a former evening, he (Mr. D.) had given, brought him to the course he now thought it right to follow. He would have now contented himself with moving, as he had given notice, for papers relating to the appointment of Mr. W. M'Causland and Mr. Robert Long, as joint Secretaries to the Lord Chancellor of Ireland, but for the insulting observations which the Lord Chancellor was stated in the public journals to have made respecting him (Mr. Dawson) and the notice which he had given.

CHAP.
LXIX.

Attack on
the Lord
Chancellor
by Mr.
Dawson.

Mr. STANLEY rose to order. He could not conceive that the rules of the House would allow a gentleman to justify his deviation from a course which he had marked out, by referring to newspaper reports of what had taken place in another House, to which it was disorderly even to allude.

Mr. Stan-
ley rose
to order.

Mr. G. DAWSON had received the correction to order from the right honourable Secretary with great surprise. He had given a sufficiently long notice of his motion, and in rising to make it, he had now gone no further than to say that, in consequence of what he saw reported of the observations of the Lord Chancellor of Ireland, not as having fallen from that noble and learned person incidentally, but as having been said expressly in consequence of the notice which he (Mr. Dawson) had given, and to which the learned Lord called the attention of the other House of Parliament.

Mr. Daw-
son.

The SPEAKER said that it was certainly out of order to allude to what had passed in the other House of Parliament.

The
Speaker.

Mr. DAWSON would content himself then with saying

CHAP.
LXIX.

Mr. Dawson enumerates the offices held by the Chancellor and his family.

that he saw in the newspapers observations which he would read, and he would leave it to the House to conjecture where they were made. He was sure that when he read them, no gentleman of proper feeling would object to the course which he intended to pursue. (The learned gentleman here read an extract from a speech of Lord Plunket.) The conduct of Lord Plunket, as the political Chancellor, had not been such as to raise his character. When mention had been made of the number of the learned Lord's relations who held lucrative offices, the learned Lord, if correctly reported, made observations and used language which could only excite disgust. Now he (Mr. Dawson) had been favoured with an account of the situations which that gentleman and his family held, and of the sums which they drew from the public. He was not now going to speak, as the noble Lord had spoken, from newspaper reports, but from a statement which had been sent to him by a gentleman whom he considered to be of the highest authority. That statement was a curiosity in the annals of office, showing the offices which were held by the family of the gentleman at present Lord Chancellor of Ireland. They were as follows:—

The Lord Chancellor (Plunket), with a salary of 8,000*l.*

The Hon. P. Plunket, his Lordship's purse-bearer, 800*l.*

The Hon. P. Plunket again, as Secretary of Bankrupts, 900*l.*

The Hon. P. Plunket again, as Counsel to the Chief Remembrancer, 300*l.*

The Hon. D. Plunket, as Prothonotary to the Court of Common Pleas, 1,500*l.*

The Hon. D. Plunket again, as Examiner to the Court of Common Pleas, 100*l.* ('For,' said Mr. Dawson, 'nothing is too little for these gentlemen.')

There were besides three offices under that gentleman, each worth 500*l.* a-year; a second assistant at 200*l.*; and five other clerks, whose united salaries amount to 1,000*l.* a-year; in all, 2,700*l.*

The Hon. John Plunket, as Commissioner of Enquiry as to the Fees of the Courts of Justice, had 1,200*l.*

CHAP.
LXIX.

The same Hon. J. Plunket, as Assistant Barrister, 700*l.*
And, in another situation, 800*l.*¹

The Hon. and Rev. T. Plunket, as Dean of Down, had 2,500*l.*

The Hon. and Rev. T. Plunket, as Vicar of Bray (a very appropriate title, by the bye), 800*l.*

Mr. W. M'Causland, jun., the Lord Chancellor's Secretary, 2,000*l.*

Mr. Long, 500*l.*

Mr. W. M'Causland, sen., brother-in-law of the Lord Chancellor, and father of the young gentleman who held the office of secretary (as law agent to the Board of Charitable Bequests), 1,500*l.*

Mr. W. J. M'Causland, another son of the last-named gentleman, Secretary to the Schools on the foundation of Erasmus Smith, 500*l.*

Added to those one or two other offices, the statement which he (Mr. Dawson) had received, made the emoluments of that ill-paid family appear to be about 27,850*l.*

The right honourable gentleman then proceeded to notice the first acceptance of office by Lord Plunket, when he was appointed Attorney-General at the time that he was considered as belonging to the Grenville party; his retirement from official life when Mr. Perceval became Prime Minister, on the ground that he would not be connected with any set of men not willing to remove the disabilities under which the Roman Catholics laboured; his subsequent acceptance of office under the Liverpool Administration, though they were equally indisposed as their predecessors to remove those disabilities, which caused him to make his retirement before a point of conscience; his continuance in office under Mr. Canning when his cry was 'no reform,' and now his acceptance of the office of Lord Chancellor of Ireland, and declaration with the

Summary
of Lord
Plunket's
official
career.

¹ This most probably referred to the Crown Prosecutorship of the Munster Circuit, which the Hon. John, now Lord, Plunket held for many years.

CHAP.
LXIX.

present Ministry that he would have reform and nothing but reform. No doubt he (Mr. Dawson) might be loaded with reproaches for the part he had taken, but no calumnies should deter him from pursuing the course which he had resolved to adopt. He should then conclude by moving for a 'copy of the appointment or appointments of W. M. M'Causland and Robert Long as joint Secretaries of the Lord Chancellor of Ireland, or, if appointed verbally, the date and terms of the appointments, the ages of the respective parties at the time of their appointment, the total amount of the emoluments of the office of secretary since their appointment, by whom the same have been beneficially received, and in what proportions, and the number of days in every week in which such secretaries have been employed in the duties of their office, distinguishing the attendances of each.'

Mr.
Crampton's
(Solicitor-
General)
defence of
the Lord
Chancellor.

Mr. CRAMPTON¹ rose for the purpose of protesting against the statements contained in the speech of the right honourable gentleman who had just sat down, and for the purpose of informing the House that nothing could be more inaccurate than the information—the anonymous information—

Mr. DAWSON : It is not all anonymous.

Mr. CRAMPTON. Whether it was anonymous or not, he could not help saying that in the whole course of his life he never heard a grosser mis-statement of law and facts than that which proceeded from the right honourable gentleman opposite. He had told the House that the Lord Chancellor of Ireland, instead of attending to his duty in the Court of Chancery, had been spending his time in England, and occupying his attention with politics. He had told the House that during last Hilary Term the duties of the noble and learned lord had been discharged by the Master of the Rolls for Ireland—of whose judicial talents it would be impossible for any one

¹ He was then Solicitor-General. He continued a Judge of the Court of Queen's Bench, Ireland, until 1859, when he resigned, and died about the year 1864—not 1846, as mentioned ante, p. 401.

to speak too highly. But what was the fact? It was anything but in accordance with the statement of the right honourable gentleman opposite. Never had he been more untruly informed than when he made the statement which the House had just heard respecting the conduct of the Lord Chancellor. He (Mr. Crampton) was a practitioner in the Court of Chancery, and without disparaging any of the predecessors of the noble Lord, he should say, that not a man who attended that court would hesitate to bear testimony to the fact, that never had its duties been discharged with more talent, diligence, or dispatch than they had been by the noble and learned Lord whose conduct had been this night brought under discussion. Never had those duties been discharged with more satisfaction to the suitors and to the Bar than since the acceptance of the Chancellorship of Ireland by the noble and learned Lord who now held the seals. As to the statement that the noble and learned Lord was absent during any part of Hilary Term, there could not be a grosser error. He was not absent from Ireland during any part of Hilary Term, neither was he absent from the sittings after term—he did not leave a single case unheard. What, then, became of the information of the anonymous informant of the right honourable gentleman? And in the former year his conduct was precisely similar; he did not leave the Court of Chancery until all the causes were disposed of. Hence, then, he should be fully justified in saying that the absence of the Lord Chancellor did not impose any increased duties upon the Master of the Rolls. He did not know whether the honourable gentleman opposite had been supplied with the baptismal registry of Mr. M'Causland, but he (Mr. Crampton), though he did not mean to betray his own years, could state that he knew that gentleman from his earliest years; that he was now only twenty-three; that he had been educated for the Bar, and that he would probably soon be called to the Bar. But be that as it might, there was no one connected with the profession of the law who would

CHAP.
LNIX.

Attention
of Lord
Plunket to
his duties
as Equity
Judge.

CHAP.
LXIX.

not be ready to declare that he was in every respect most competent to discharge the duties of the office to which he had been appointed. The honourable and learned gentleman then went into a detail of the circumstances under which Mr. Long was appointed a joint secretary, as already before the public, adding that it was at his own desire, backed by the request of Sir Anthony Hart, that he was made joint instead of assistant secretary, and that nothing but the kindness and good nature of Lord Plunket led to that result. He was sure that, by that time, the right honourable gentleman regretted having brought forward the present motion; and he surely would never have ventured upon it had not his mind been clouded by prejudice and blinded by party feeling. In his law and his fact he was grossly mistaken; he had taken a step odious and unworthy of his station, in becoming the accuser upon a charge such as that he had brought forward on the present occasion.

Mr. H. GRATTAN also defended Lord Plunket, and described the sums paid to the Plunket family as grossly exaggerated. He moved for similar returns as respected Lord Chancellor Hart and Lord Chancellor Manners.

Sir E. B.
Sugden.

Sir E. B. SUGDEN observed that the absence of the Lord Chancellor from his Court was a very grave and serious matter, and should not — if there was any ground for such an accusation — be lightly or carelessly adverted to. Upon such a statement as that which had come from his honourable and learned friend, he was bound to suppose that there was some mistake; and he, therefore, felt called upon to suspend his judgment for the present. He did not, however, lay any blame on his right honourable friend, for if he had been in his situation he should have felt called upon to make the same statement. He had seen a statement to the effect that the business of the Hilary Term was not transacted by the Lord Chancellor, but by the Master of the Rolls; but, at the same time, he was still bound to bear in mind that his honourable and learned friend had stated that the Lord Chancellor had never been absent from his Court.

Mr. CRAMPTON said, that his honourable and learned friend had somewhat misunderstood him. He had not stated that the Lord Chancellor had never been absent; what he had stated was, that the Lord Chancellor had been present during the whole of the Hilary Term, and had heard the whole of the causes.

CHAP.
LXIX.

Sir E. SUGDEN said, that he certainly had understood that. His honourable and learned friend had certainly led him to believe that he intended to assert that the Lord Chancellor had never been absent. How was it with respect to Trinity Term?

Mr. CRAMPTON said, that he did not know exactly how it was with respect to Trinity Term, but what he intended to assert was, though the Lord Chancellor might have been absent, he had always in the end heard all his own causes, and never transferred them to the Master of the Rolls.

Sir E. SUGDEN said, that it was quite clear, after what had passed, that a further investigation must take place. He did not refer personally to any individual, but he must always regret that the judicial and the political office were combined.

Sir C. WETHERELL said, that so far from his thinking the speech of the Solicitor-General for Ireland triumphant, it seemed to him that he had fallen into the most grievous inconsistencies; and after much complaint had been made of attacking the absent Lord Plunket, the right honourable gentleman had followed it up with attacking the absent Lord Eldon. A wretched and miserable majority of four had prevented the fair adjustment of the question with respect to Lord Plunket, but he trusted that the friends of the Master of the Rolls would not allow the question to rest there, but would adopt some other means of pressing it forward.

Sir C.
Wetherell.

Mr. DAWSON replied—In spite of what the honourable and learned gentleman had said, he could prove that out of the twelve months that Lord Plunket had held his office, his Lordship had been absent from Ireland for six

CHAP.
 LXIX.

months. As to the point of the oppression of business that had in consequence occurred to the Master of the Rolls, as the case stood at present, one assertion was as good as another; and he would therefore content himself with saying that this case could not rest where it was at present; and that when it came more distinctly before Parliament care should be taken to show—not only that there had been this accumulation of business, but that the Master of the Rolls—the very person whom privileges had been taken away from by Lord Plunket, had made a remonstrance against that accumulation. His right honourable friend (Mr. S. Rice) had not attempted to answer the statement made against Lord Plunket, but had tried to encounter it by producing a parallel event under a former Government. He (Mr. Dawson) was surprised a Government so pure as the present should condescend to argue in that way; and he could tell the honourable gentlemen opposite, who had cheered so loudly, that he doubted whether they would be able to justify their cheers or their voting to their constituents—not even the noble Member for Sussex, who was asleep.

A dormant
 M.P.

Lord G. LENNOX rose to order. He was not asleep, not even though he had been in the House since a quarter past three, without the interval of one hour—not even (which was still more wonderful) though he had listened to the dull speeches of the right honourable gentleman.

After a few more words from Mr. G. DAWSON, the motion, with the amendment, was agreed to.¹

Comments
 on the
 Lord
 Chancellor
 by the
 Press.

The conduct of Lord Plunket was much commented upon by the press. Those who considered him free from an imputation wrote after this fashion:—There is great profligacy in the renewed endeavours to fasten a stigma on the character of Lord Plunket on account of the offices conferred on his family. This is particularly exhibited in the gross and manifest exaggeration in the estimate of the aggregate emoluments of these offices. Mr. George Robert Dawson, who has contrived to put his brother

¹ Hansard, Par. Deb., vol. x. p. 1219.

into the Deanery of St. Patrick's, has not hesitated to set them down at 27,850*l.*, making up the sum by items, many of which he must have known to be false, or else he is ignorant of facts the most easily ascertained, and of which a person of official opportunities should, of all others, be most cognisant. A single instance will suffice. He puts the vicarage of Bray into his catalogue, making it the subject of a threadbare and stupid joke. He says it is worth 800*l.* a-year. Now, if it were his cue to defend tithe-rating, it is fifty to one that a politician of his stamp would allege that it was 50 per cent. under the actual amount. And what is the real amount of this vicarage? There was a plurality in the time of the former possessor—Bray and Old Connaught. If our memory do not deceive us, it was dissolved on the appointment of Lord Plunket's son, by that admirable disciple of Mr. Dawson's school, Dr. Magee, so famous for his episcopal parsimony towards his own family. Lord Plunket (God forgive him) made an Archbishop of Dr. Magee, and the Doctor, if we do not grievously mistake, made amends by refusing to assent to the Reverend Mr. Plunket's appointment to an union, one-half of which was in the patronage of the Crown, and the other in that of the Archbishop of Dublin. Probably we are wrong in our notion of any demur having arisen on the part of Dr. Magee to the appointment—probably the Honourable and Reverend Mr. Plunket is at this time Rector of the two parishes of Bray and Old Connaught; we have not time at present, or an opportunity to enquire into the matter; but we have time to refer to the Parliamentary return of compositions, ordered to be printed by the House of Commons on the 10th of last month, and there we find that the income of Bray is 230*l.* a-year, and the income of Old Connaught 240*l.* Bray is the parish in the gift of the Crown, and that we believe to be the only one held by the Honourable and Reverend Mr. Plunket. If we be right, he has a great deal less than a *third* of what Mr. Dawson debits him with: if he have both parishes, he enjoys 470*l.* a-year, and this the ingenuous

Vicarage
of Bray.

CHAP.
LXIX.

brother of the very Reverend and Most Venerable the Dean of St. Patrick's reckons as 800*l.* a-year! Further, we believe, we need not go in illustration of the absolute and extravagant falsehoods propagated relative to the acquisitions of the Plunket family. We have found fault with many things Lord Plunket has done, but we never grudged him his share of the loaves and fishes, taken, be it observed, in advanced life, and many years after they were thrown at his feet. His sons, as far as we could ever learn or observe, are excellent, unaffected citizens, who have their hearts in their true place with regard to measures and to men. We know not whether his Lordship burdened himself with a Peerage voluntarily, or for a State purpose. We believe he might have uttered a very sincere *Nolo Episcopari* on receiving the coronet. As, however, he is raised to the patrician rank, with a fortune positively diminished by politics, until he accepted, in the dawn of the hopes of his country, a lucrative place, he is the more excusable in availing himself of legitimate opportunities of placing his sons in a situation at once of personal independence and employment. The obligations of some of them were to their personal friends, and before their father was Chancellor: there are none of them who might not have expected equal preferment under auspices far less distinguished than those of Lord Plunket.

It certainly appears to have been a mistake on the part of Lord Plunket, when assenting to the introduction of a legislative measure for the purpose of enabling the Master of the Rolls to try the right of the appointment of his Secretary, to have stipulated for the security of the very appointment which he, Lord Plunket, had made. This was the view taken of it by the 'Times,' in the following article:—

The
Times.

'It is disagreeable to observe the position in which Lord Plunket appears to have been placed, or to have placed himself, before the House of Commons, with regard to the Secretaryship to the Master of the Rolls. If his Lordship assented to the introduction of a legislative

measure, for the sake of enabling Sir William M'Mahon to try his legal right, then, undoubtedly, in point of high feeling, he ought not to have qualified that assent, by stipulating to save the pocket of an individual whom he had himself appointed, from the results, whatever they might be, of a decision upon the question of right. The Master of the Rolls must establish the right, or have it given against him. In the latter case, the Lord Chancellor's nominee would have nothing to fear, and he had no need of any preliminary protection; in the former case—namely, that of the question being determined against the Chancellor—he ought not to make any condition which would deprive the Master of the Rolls of his present right, and transfer it *pro hoc vice*, and in defiance of law, to himself. The taste of the House of Commons, on this occasion, evidently revolted against the Irish Chancellor. We repeat it is a disagreeable business.'

CHAP.
LXIX.

Of course the opposition journals were resolved to make political capital out of the debate.

'Lord Plunket has been an enormously dear bargain to the present administration, and we might add, to the country; but the latter of course, in these reforming times, is a consideration to which it would be altogether unfashionable to advert. The evils which have been inflicted upon the community on account of the noble and learned Lord we therefore postpone in deference to the spirit of the hour, or regard them only in their inseparable connection with the loss of character, popularity, and power, which Earl Grey and his colleagues have been so infatuated as to undergo, in order to obtain and preserve the assistance of *such* a judicial minister and *political* agent in Ireland, and *such an advocate* in the British House of Lords, as Lord Plunket has proved himself. His Majesty's Ministers purchased the services of Lord Plunket at the outset by an act which proved, to the satisfaction of all mankind, the utter hollowness and insincerity of those professions of economy to which they had been mainly

Morning
Post.

CHAP.
LXIX.

indebted for the acquisition of power. By displacing Sir Anthony Hart to make room for the present holder of the Seals, a man of tried and proved integrity, sound learning, exemplary moderation, indefatigable diligence, possessing the unbounded respect of the Bar, and the full confidence of the community, to place his high office in the hands of Lord Plunket, whose integrity, learning, moderation, diligence, and disinterestedness were all of a character different from those of his venerable predecessor, and all precisely such, to adopt the explanation of Earl Grey, as eminently qualified him for the confidence of his Majesty's present Government—by effecting this change, at an expense to the country of several thousands a year, the Administration was self-convicted of the most wanton, unprincipled, and revolting disregard of the pledges of rigid economy in the expenditure of the public money, by means of which they had forced themselves into place.'¹

Bill introduced by the Chancellor.

Shortly after Lord Plunket's appointment to the office of Lord Chancellor of Ireland, he introduced a Bill into Parliament entitled 'An Act for the better execution of Decrees and Orders made in the Court of Chancery and Exchequer in England and Ireland respectively.' The results likely to flow from the measure appeared so injurious to the legal profession in Ireland, that both the Bar and Solicitors strongly protested against it. Josias Dunn, Esq., being the head of the Attorney profession of Dublin, presented the memorial of his profession, remonstrating with the Chancellor, and received from his Lordship the following reply:—

' Dec. 11, 1831.

Reply to the Memorial of the Irish Solicitors.

'DEAR SIR,—I received yesterday a memorial signed by a number of highly respectable gentlemen of your profession on the subject of the Bill which I introduced in the late session. I cannot say that I feel the full force of the arguments which they allege against its principle, or that I apprehend the mischiefs which they anticipate from its adoption; but I beg you will be so good as to assure them from me, that I shall pay every attention to their

¹ Morning Post.

suggestions, and that I will certainly take no further steps on the subject without full communication with them.

CHAP.
LXIX.

‘I beg you to believe me, dear Sir,

‘With much regard, your friend and servant,

‘PLUNKET.

‘Josias Dunn, Esq., 8 Kildare Street.’

Subsequently a requisition on the part of the Bar was addressed to Mr. Smith, the father of the Bar, who convened a meeting in the Court of Common Pleas to consider the subject. The meeting was well attended, but the stuff gowns were much more numerous than silk. Only four King’s Counsel—Jackson, French, Daniel, and Gilmore were present. Mr. Smith, the father of the Bar, presided, and many speeches were made.

Meeting
of the Bar
to consider
the Chan-
cellor’s
Act.

Mr. FRENCH addressed the meeting,—I have, I own, and I do not regret it, been active in procuring signatures to this requisition. But if any suppose that in doing so I have been influenced by any feelings of hostility to the noble Lord, they much mistake my disposition and my motives. No man has been more pleased than I have been by his elevation to the high and dignified situation he now so ably fills. I hailed with delight the accession of such powerful talents to the first law office under the Crown, and by the elevation of that noble Lord I even felt that the country was raised to a prouder eminence. He has displayed capabilities of the first order in his new situation, and manifested such a perfect knowledge of the principles of equity as ought to make the country proud in the acquisition of a man so adequate to the discharge of the important duties he is intrusted with. I have viewed the noble Lord’s conduct since he has been raised to his present dignity, and I do repeat that my observations made me feel proud of his elevation, and although there is now a great distance between us, I would even feel happy in aspiring to copy so great an example. I hold, thank heaven, an independence that places me above the reproach of being influenced by unworthy motives in

Mr.
French.

CHAP.
LXIX.

the praise I bestow ; and, as I court not the smiles, so I shall never be awed by the frowns of any man, but will fearlessly raise my voice when I see my country assailed. In a question of this sort I fling away the interests of the Bar. To be sure I may not have got a great deal of business, but whatever share of business I have had, it is to my understanding I am indebted for all ; and I am, thank God, as independent as the noble Lord, or Brougham, with 25,000*l.* at his back. Now allow me to proceed to the Bill, and first I will read the Lord Chancellor's reply to the solicitors. (Here the learned gentleman read the letter printed already.) This all-important measure has been brought forward by public advertisement. Independent of the many evil consequences of the Bill, it is even contrary to one of the articles of the Union, and God knows there have been many bad measures besides this since the Union. That boasted reciprocity of interest said to be received by the articles of the Union, is nothing now but a mere mockery and illusion. Every person of experience knows that English capitalists have lent money exclusively on Irish landed property, and to what incalculable inconveniences will not the lender be subjected by this Bill. Is it fair to say to the latter, ' Sir, although there is a court established here to settle your claims, yet the creditor residing in London must be accommodated, and you must travel over there to adjust all matters touching your property ? ' Is it fair to give that English capitalist such unfair advantage ? I think not. But look at the difference of equity as administered between that mortgager and the mortgagee. In England the party has only to draw a bill to foreclose on the estate, be it ever so great or small ; and thus it might be taken away from the mortgager and put into the pocket of the mortgagee ; the creditor is paid by the costs, &c., and the surplus is given back. And yet he might not be a resident in the country, although at the head of 20,000*l.* a year.—Is that or is it not an important measure to be considered ? Is it fair that the debtor on a small estate—for it may be either a

Evils of
the Lord
Chancel-
lor's Bill.

great or a small one—should be obliged to go to London to prove his debts? Is this a just measure to Ireland? Is not the great complaint, the great source of all the evils of this country, absenteeism? And will not this only increase the miseries already derived from the evil? I own I like to reflect on my country as an independent country; and, were it to be considered as anything else, I could not answer for the continuance of the link that binds those two countries together. I would wish that link to be permanent that binds Ireland to England—but that link is already fading fast away, and ere long those eyes will cease to behold it, if my country continues to be scourged by the hand of injustice. I fondly thought that this time twelve months was the dawn of happy days for Ireland; and I confidently trusted in the liberality and kindness of England, in paying that eternal debt which the great Wilberforce said England owed to Ireland. But how has that debt been paid? By a bill for the improvement of the administration of justice! And what was this improvement? To be idle in the long days and to work in the short days; to be doing nothing by the daylight, and to toil by candle-light. The next measure is one on which I have already descanted; and I will now read the resolutions I have prepared on the subject, and it will be for you to say whether you will adopt them or not. There has been one put into my hand by the father of the Bar, relating to the eighth article of the Union, which I will take the liberty of reading to you. (Mr. French then read the resolution, and continued.)—By that article you see that all the courts shall be stationary here, now this measure defeats that article of the Union. I shall read the resolution again. The learned gentleman having read this and the other resolutions, concluded by expressing his determination to use every exertion in his power to prevent the evil consequences of this Bill.

Mr. Romaine seconded Mr. French's resolution; and some other members of the Bar having spoken, a very distinguished barrister, whose early death prevented reach-

CHAP.
LXIX.

Absentee-
ism.

CHAP. LXIX.

Mr. Brady. ing the highest honours of his profession at home, which his learned and amiable brother did abroad,¹ JAMES CHARLES BRADY, said, 'He was not disposed to take part in the present proceedings, where there were men of greater standing than himself present, and he should not have done so if others who were not his seniors had not delivered their opinions. He did not think that the Bar was in the same situation now as if the meeting had never been held; but, having now been held, it was necessary for them to reflect what course they ought to take, and they should not now dissolve without consulting what would be most proper for them to do, or what would be most conformable to the dignity of the Bar.' After denouncing the present Bill as one most injurious to Ireland, and as calculated to increase the great evil of the country—absenteeism—'he thought it would not be proper to send a deputation merely to learn Lord Plunket's opinion. He did not agree with the construction put on Lord Plunket's letter to the solicitors; if that expressed anything, it manifested that Lord Plunket's mind was wavering, and the expression of their opinion ought to have its effect upon his wavering mind. The resolution commenced with a word—"apprehension"—to which he was decidedly opposed. He approved of Mr. French's resolutions, because they gave expression to no feeling whatever; but if he (Mr. Brady) were to embody his feelings in a resolution, they would not be those of "apprehension," but of "indignation." He should prefer the first course—that of Mr. French—as the most bold and manly; and whenever, as a member of the Bar, two courses were proposed to him, one of them straightforward, bold, and manly, the other complimentary, mean, and sycophantic, he should choose the former.' After ridiculing the idea of a deputation to wait upon the Lord Chancellor, to know if he had come to a determination after he had declared he had not, Mr. Brady concluded, amid continued cheering, by saying that

¹ Sir Francis Brady, brother of this eminent barrister, until very recently filled the important office of Chief Justice of Newfoundland.

he supported Mr. French's resolution, as decided, manly, and, at the same time, respectful, and becoming the independence and dignity of the Bar. He thought, however, that the proposition might be viewed in two ways. He thought that a deputation at present, before the Bar had come to any decision, was a piece of supererogation, but he was not averse to a deputation going to Lord Plunket, with the expressed opinion of the Bar conveyed in those resolutions.

Mr. HICKSON: I rise to offer a few observations on the amendment and the resolutions. As I was one of those who signed the requisition for the meeting, I did so without asking who else had signed it, and without cloaking myself under the names of any individuals, but because I thought the Bill injurious to the country. I therefore attached my signature to it. We have now met to consider this measure, and I would entreat the gentleman to withdraw the amendment—that a deputation do wait on Lord Plunket to represent the danger that must result to the country from the Bill. There is only one resolution before the meeting, couched in language that cannot be disrespectful, but mild as it possibly can be. We are told that some who signed the requisition are now absent, and if they have changed their opinions have they not a right to be absent? But it is not for any individual, no matter how high he may be, to say that he will guide the entire mind of the Bar. I trust, and I am sure of it, that there is no individual but who respects the Chancellor of Ireland. Every man admits his great talents. I admire his powerful—I will say his supernatural talents; I admire him as a legislator; and I agree with Mr. French, that he fills his present high situation with dignity as an Irishman, that reflects credit on us all. Conceiving that Lord Plunket will not further proceed with the Bill, but finding that his mind is wavering on the subject, I will support these resolutions; and as to sending a deputation, I think it would be totally unnecessary. I propose the meeting will, at least, pass the

Mr.
Hickson.

CHAP.
LXIX.

Mr. M.
O'Connor.

resolution first, and then let the amendment be put—that a deputation be sent to the Lord Chancellor.

Mr. MATTHEW O'CONNOR said that Mr. Hickson's resolution might have been unnecessary, but as it had been proposed, it should have his support. The rejection of it would go to the public as a slight on Lord Plunket, and would reflect no credit on the Bar. Lord Plunket was no ordinary personage; he was the head of the profession, and the resolutions of the profession on a subject so important should be conveyed to him, not through the ordinary channel of communication. It was said the Bill originated with him; if so, it originated in profound views of legislation, and as the Bar differed from him, it should communicate its views to him by deputation of their body. Besides being Chancellor, he was entitled to every respect as a senator and statesman. Such elevated genius—such transcendent talents, and such unequalled eloquence, were an ornament to the country, and demanded the most respectful acknowledgments of the public. He (Mr. O'Connor) was not in the habit of obtruding himself on public meetings, yet the subject forced him to make those observations.

Mr. Hickson's resolution was eventually carried.

Lord
Wicklow's
motion in
the House
of Lords.

In 1832 the Irish Magistrates refused to pay fees on taking out their new commissions, and Lord Wicklow brought their case before the House of Lords, concluding with an enquiry whether they were to continue to act as magistrates, or would the Government appoint stipendiary magistrates in every part of the country.

Reply of
Lord Chan-
cellor.

Lord PLUNKET said that he was sure the noble Earl put the question with the most friendly intention, and he would answer him with the utmost readiness, though he had much reason to apprehend that what he had to say would not altogether satisfy the noble Earl, particularly as the state of the case had materially altered since he last brought it before the House. With respect to the magistracy of Ireland, he was not aware that any stigma had been thrown on them. They had, it was true, refused

to pay the fees on their commissions. Their objection was not founded on that of illegality, but they stated that there was great injustice in calling on them to pay fees which the magistrates of England did not pay under similar circumstances. He could only say, so far as the law of the case went, that the law in Ireland was different from that in this country. He was not prepared to enter into a discussion on the policy of the Act of the 1st of William IV., which regulated these matters in Ireland. It was an Act passed during the time of the late administration, and the Treasury minute which accompanied it was also drawn up under the late administration. He did not say this in order to excuse his Majesty's present Government, or to lessen their responsibility, but he mentioned it only to show that he had nothing to do with the law, and that his duty lay in following it as he found it existing. By that law, compensation was awarded to persons deprived of the fees which they had been entitled to on the decease of the Crown, on the principle of remuneration for the loss of fees, and for the labour expended in preparing the new documents. That law was acted upon by the Lords of the Treasury, and a minute was drawn up to which he would call the attention of the House in a short time. It was only within the last week he was informed that it was said the fees were illegally demanded. To that he would reply, that though he had no concern with the fees, yet as this passed through an office which was under his control, he would not have allowed any fees to be taken which were not strictly legal; and if any person had said that the fees in question were illegal, he would have taken care to have made such enquiries as must have satisfied him on the subject. But the question of illegality had never been brought before him till his arrival in town, and until then he had no reason to question their legality. They were divided between the secretary of the Lord Chancellor, the purse-bearer, the train-bearer, and the hall-porter of the Lord Chancellor; and they had been so appointed by the Commissioners of

Division
of fees
amongst
Chan-
cellor's
officers.

CHAP.
LXIX.

Enquiry into the Fees of the Courts of Justice in Ireland, and they had remained so for years, and, indeed, they were in the office in 1734, or as long as there were any records of it. Their legality was never doubted, and in all ordinary cases of issuing commissions they were unhesitatingly paid. Indeed, nothing could persuade him that the fees were either illegal or doubtful; and when any person said that he was influenced by the consideration that some of those fees went to a member of his own family, his reply was, such an insinuation was unworthy of his character, and the whole experience of his life contradicted it. He personally had no interest in these fees, and he was at a loss to know what a learned person meant in saying that ‘as he (Lord Plunket) allowed 500*l.* a-year to his secretary, it was worth enquiry what became of the rest of the fees.’ He trusted that the learned individual did not mean to insinuate any thing against him, but he would place the facts of the case before their Lordships, and allow them to be judged by themselves. On the removal of his noble and learned friend (Lord Manners), whom he now saw with pleasure in the House, Sir Anthony Hart was chosen Lord Chancellor of Ireland, and he appointed, as his secretary, a Mr. Long, a gentleman of talent and activity. When he (Lord Plunket) received the high office, he nominated one of his nephews to the place of secretary, a person fully qualified to perform its duties; but several persons having spoken to him of the abilities and excellent character of Mr. Long, he applied to that gentleman to know if he would give his assistance in the office if it were desired. Mr. Long having consented, he desired that he should receive 500*l.* a-year from the secretary out of his fees; and, in consideration for the feelings of Mr. Long, he directed that he should be named as joint-secretary, instead of being considered clerk in the office. These were the facts of the case, and it was unnecessary for him to condescend to say that he had not been a sharer in the emoluments of any person appointed by him; he would not lessen himself in his own mind so

Statement
respecting
his ap-
pointment
of Secre-
tary.

much as to deny it. With regard to the legality of the fees, he had to say one or two words more. It was said that though the fees were payable on the warrants in a renewed commission, the warrants were not made out in every case, and, therefore, fees should not be demanded in every instance. Notwithstanding that objection he still thought the demand legal, for though the warrants were but thirty-two in number—one being issued for the entire magistracy of every county—each particular magistrate had to receive a warrant from the Chancellor's secretary, not signed by the Chancellor, which he had to take to the Hamper Office, and there he received the dedimus to be sworn in as a magistrate. That was the course pursued, and certainly he thought it legal; and never heard anything to the contrary until he came to London, when he desired the opinion of the Attorney-General for Ireland to be taken on that head. He had no control over the fees; he had neither the power nor the will to interfere with them; and the secretary who received them took as his authority the Treasury minute of September 1830; and certainly, if employment entitled him to them, he could bear witness to the constant occupation which the secretary had for the last four months in preparing lists of magistrates and corresponding with the lord-lieutenants of counties. The Treasury minute referred to was dated in September, 1830, and by it the Lords of the Treasury ordered that the remuneration on the taking out of all commissions should be grounded on the calculation of an average rate for ordinary service, and with a view to the quantity of labour done, altogether not to exceed a moiety of such fees as were paid in similar cases previously. It was not long since, however, that he had a correspondence with a noble friend (Viscount Melbourne), who communicated another minute, to which the Lords of the Treasury agreed in November, 1831, and by which the remuneration for the taking out of commissions was fixed at such a rate as would be sufficient to compensate the officers for the actual time and labour expended in

CHAP.
LXIX.

Treasury
minute.

CHAP.
LXIX.

preparing the documents. When he saw this minute it struck him that it must be the rule for all future cases, but his secretary was of a different opinion, and he wrote to Sir William Gossett, who transmitted his application to the Secretary of State for Ireland. Since his arrival in London another Treasury minute, dated January 31, was placed before him, by which it was declared that compensation only was to be made for the practical labour incurred. If that minute had been made in November instead of in January, all the disorder and confusion which had since occurred would have been prevented. On seeing it, however, he had ordered that the fees paid on commissions to the train-bearer and purse-bearer should be discontinued, and returned in all cases where they had been taken. In consequence of the Treasury minute, the nature of the case was changed since the noble Earl opposite called the attention of the House to it, and it only remained to be seen what effect the promulgation of it would have in Ireland. He had acted under erroneous impressions upon the subject, and on discovering this, he had hastened to make the necessary corrections.¹

¹ For further report of the debate, vide Hansard, Par. Deb., vol. x. p. 249.

CHAPTER LXX.

LIFE OF LORD PLUNKET CONTINUED.—HIS CAREER AS LORD CHANCELLOR.
—THE GREAT SEAL IN 1841.

LORD PLUNKET'S career as an Equity Judge, though on the whole satisfactory, was not without serious mistakes, which were corrected by the Appellate Jurisdiction of the House of Lords. During the ten years of his Chancellorship no less than thirty-nine of his decrees were appealed from, and of these twenty were reversed. This is certainly a large proportion. It is stated in his 'Life,' by his learned and distinguished grandson, that 'his fearless spirit led him sometimes to push a principle far, or even to break through a slight cordon of adverse decisions, in order to get at a result practically desirable.' This may have been the practice in former times, when, as we have seen, Archbishop King complained 'that Lord Chancellor Lord Gawsworth never failed to decree according to his inclination, having no other rule to guide him;' but, since the days of the great Equity Lawyer, Lord Nottingham, equity has not depended upon the individual opinion of the presiding Chancellor. The principles and practice of the Equity Courts have been accurately defined, and, whenever Lord Plunket outstripped or overlooked the proper restrictions and landmarks, and, relying on his own notions of what was justice and equity, pronounced a decree contrary to, or conflicting with, the established formula to which he should have adhered, the consequence was an appeal to the Lords, in which his decision was often reversed. The judgments of Lord Plunket, while Lord Chancellor of Ireland, are contained in the New Series of the 'Irish Law Recorder,'—in the Reports of Messrs. Lloyd and Goold; of Messrs. Drury and Walshe;

CHAP.
LXX.

Lord
Plunket
as Lord
Chan-
cellor.

Lord
Plunket's
reported
decisions.

and the first, second, and third volumes of the Irish Equity Reports. Many of these judgments are remarkable for the clearness of their views, the soundness of their doctrine, and the principles of equity on which they rest.¹

Want of
care in
preparing
his Judgments.

In Mr. Ferguson's valuable note on the 'Sketch of Lord Plunket,' by Chief Justice Whiteside,² he remarks with reference to Lord Plunket's shortcomings as Chancellor,— 'I fear it must be admitted that Lord Plunket, like his distinguished contemporary, Lord Lyndhurst, latterly gave way to an easy indolence, and to some degree of carelessness. He would not stoop to the mechanical drudgery of writing out his judgments whenever he could possibly avoid it; and he was indifferent as to their revision and correction; nor, so far as appears from his own judgments, did he take much trouble to acquaint himself with the decisions of contemporary Judges.' He had for many years, before he became Chancellor, ceased from the ordinary run of practice in the Court of Chancery; he only appeared there occasionally, and in great cases; and, when he came to preside in it, he neglected to inform himself respecting the details of the business he was conducting; hence he was led into errors, from which the quick apprehension, prodigious memory, and sagacious intellect of Lord Lyndhurst—the indomitable industry, and almost universal aptitude of Lord Brougham, to a great extent saved them. His judicial course consequently was marked by an amount of protest, in the shape of appeals, to say the least, unusual.

Sir Edward Sugden, now Lord St. Leonards, succeeded Lord Plunket as Lord Chancellor of Ireland in January, 1835; but after three months Lord Plunket was again the Keeper of the Great Seal. Sir Edward Sugden was a second time Lord Chancellor of Ireland in October, 1841.

¹ Vide *Humphrey v. Arabin, Lloyd, and Goold*, Rep. Temp. Plunket, 318. *Patterson v. Williams*, *ibid.* p. 95.

² See the observations of Lord Cottenham, when giving judgment in *La Touche v. Lord Lucan*, 7 Cl. and Fin. 772, as to the doctrine established in *Wallwyn v. Coutts*, 3 Mer. 707, and *Garrard v. Lord Lauderdale*, 2 Rus. and Myl. 451.

Mr. Ferguson adds :—‘ It was the fate of Lord Plunket and Lord St. Leonards to have alternately succeeded each other. Before the establishment of the Court of Appeal formed by the Chancellor and Lord Justice of Appeal in Chancery, a common practice prevailed with suitors dissatisfied by the decrees of the outgoing Chancellor to apply to his successor for a rehearing. These appeals from the decision of one Chancellor to another necessarily invited criticism on the learning and legal knowledge of each, and led the Bar to draw conclusions which, in the case of *Plunket v. Sugden*, most unquestionably proved the great superiority of the latter, admittedly the first Equity lawyer of his day.

CHAP.
LXX.

Rehear-
ings.

It is but fair, however, to Lord Plunket to state, that in some causes in which these two Chancellors decided adversely, the House of Lords, or rather the Law Lords, on appeal, held Lord Plunket right.

In *Shaw v. Lawless*,¹ the Lords affirmed the decree of Lord Plunket, pronounced in 1833, and reversed that of Sir Edward Sugden, who disagreed with Lord Plunket in 1835. The marginal note in this Appeal case is as follows :—‘ A testator devised certain real estates to trustees for the use of W. S. for life, with remainder over, and he directed the residue of his personal estate to be invested in the purchase of other real estates. He gave a legacy of 100*l.* to B. E. L. as a token of esteem. The will then contained this clause: “ And it is also my particular desire that my said executors while acting in the management of all or any of my affairs under this my will, as also my friend W. S., when he shall enter into the receipt and perception of my said rents of K. V. and K., shall continue the said B. E. L. in the receipt and management thereof, and likewise shall employ and retain him in the receipt, agency, and management of the rents and issues of such other lands and premises as shall and may be purchased and settled in pursuance and direction hereinbefore contained, at the usual fees allowed to agents, he

Case of
Shaw v.
Lawless.

¹ 5 Cl. and Fin. 139.

CHAP.
LXX.

having acted for me since I became possessed of the said estates, fully to my satisfaction. HELD by the House of Lords, reversing the judgment of the Court below, That these words did not contain a trust in favour of B. E. L.”’

It was also decided that, as the case might have been discussed upon demurrer without any enquiry into the fitness of B. E. L. for the situation of agent, the costs incurred by an enquiry of that sort in the Court below had been needlessly incurred, and should not be paid by B. E. L. to W. S., but that each should, in that respect, bear his own costs.

Lord
Plunket
as Appel-
late Judge.

Lord Plunket rarely sat as Appellate Judge in the House of Lords. It might not have been considered good taste for him to sit when Appeals from his own decisions were being disposed of. Yet when he did sit it was his lot to be in this predicament; and, in our own Court of Appeal, the Lord Chancellor usually sits to decide upon the propriety or otherwise of decrees he pronounced. In the cases heard before Lord Plunket in the House of Lords, his own judgments were in three cases those appealed from.¹

Case of
Stokes v.
Heron.

In *Stokes v. Heron*,² Lords Cottenham, Brougham, and Campbell agreed with the decision of Lord Plunket, and reversed the decree of Sir Edward Sugden. The will in question was one disposing of personalty only, and thus concluded:—‘My will is, that whatever I die possessed of, or in any way entitled to, together with whatever property my wife may be any way entitled to, shall produce to my wife an annuity of 100*l.* per annum, to each of my daughters 100*l.* per annum for themselves and their children, and to my wife’s mother an addition to any property she may possess, so as to make up to her during her life an annuity of 100*l.* per annum, said annuities after the decease of my wife and her mother to be equally divided amongst my three children, William, Mary, and Julia

¹ *Vandeleur v. Vandeleur*, 3 Cl. and Fin. 82. *Shaw v. Lawless*, 5 Cl. and Fin. 129, and *Lord Miltown v. French*, 4 Cl. and Fin. 276.

² 12 Cl. and Fin. p. 161.

Louisa; all the rest and residue of my property and possession I give and bequeath to my son William.' At the date of the will and of the testator's death, his daughters had no children.

CHAP.
LXX.

In this case the decision turned upon the rule in Wild's case—6 Coke's Reports, 17, deciding if A. devise his lands to B. and to his children or issue, and he hath not any issue at the time of the devise, the same is an estate tail, and the rule is equally applicable to personal as to real property.

Coke's
Reports.

Sir Edward Sugden considered Lord Plunket misapprehended the nature of this rule. Lord Brougham, when giving judgment, said, 'I must really in justice to that learned person (Lord Plunket) state this is altogether a mistake; for he laboured under no misapprehension whatever. Sir Edward Sugden states the mistake to be this—that Lord Plunket considered the cases to be perfectly analogous, while there is really a great distinction.' Lord Brougham added 'Lord Plunket was perfectly accurate, as accurate as it was possible to be, in his reference to the case; and that Sir Edward must have thought him wrong probably by looking to the margin instead of the case.'

Observa-
tion of
Lord
Brougham.

Sir Edward Sugden, in reference to this observation, says: 'The learned Lord Brougham actually confounded the *decision* in Wild's case with the *resolution*, which was probably a dictum invented by Lord Coke himself;' and adds, 'the only edition of "Coke's Reports" that Sir Edward Sugden ever had, is one in which there are no marginal notes.'

Reply of
Sir Edward
Sugden.

In *Sheehy v. Lord Muskerry*,¹ there was a regular conflict

Sheehy
v.
Lord
Muskerry.

¹ House of Lords Cases, 576. The cause was first heard by Lord Plunket, in 1832. He directed a case for the opinion of the Court of Common Pleas, who held the leases were not warranted by the power. The cause was then heard before Sir E. Sugden, in February, 1835, upon the certificate of the Common Pleas, and he held the leases valid. The cause was reheard in June, 1835, by Lord Plunket, who reversed the decision of Lord Chancellor Sugden, and was fortified by the opinion of the Judges of the Common Pleas and Queen's Bench (Ireland). This judgment went to the House of Lords on appeal, and the Lords agreed with Sir Edward Sugden, as above.

CHAP.
LXX.

of judicial decisions. One Chancellor and seven Judges of Ireland opposed to a Chancellor, eight English, and one Irish Judge. In this much-litigated case, the questions arose out of the following circumstances:—Husband and wife, by a post-nuptial settlement, conveyed part of the wife's estates to a trustee for the use of the husband for life, remainder to the eldest son for life, &c., with an ultimate remainder in fee to the husband, and a power to him to lease 'for any time or term of years or lives, and with or without covenants of renewal; and in case of the determination of all or any of the aforesaid lease or leases, to make new or other leases in manner aforesaid, and with or without any fine or fines, as he should think fit.' The husband was also empowered to raise money by sale or mortgage, and to charge the premises therewith for such uses as he should appoint, and for younger children. The husband and wife executed three leases for terms of 999 years, upon which fines were taken. These leases permitted the lessee to graff and burn the surface of the ground, and cut timber. HELD, on appeal, that all the leases were valid in law, as being authorised by the power in the settlement, and could not be impeached in equity; and that regard is to be had to the objects of the settlement, when the power is of doubtful construction; but no such consideration is to control powers expressed in clear terms, according to their ordinary acceptation.

Case of
Smyth
v.
Nangle.

Equity
pleadings
in Ireland
and Eng-
land.

In *Smyth v. Nangle*¹ there was a strong case for equitable relief. An agreement in a lease for lives 'that upon the renewing or inserting of any life or lives, a certain sum shall be paid by the lessee, his heirs and assigns, to the lessor, his heirs and assigns,' was held not to amount to a covenant for perpetual renewal. In giving judgment, Lord Chancellor Cottenham said:—'It would be very dangerous to listen to certain arguments used at the Bar, that a different rule of pleading is to be followed regarding matters of equity, when the cause comes from the Courts in Ireland, from the rule that is followed when the cause comes

¹ 7 Cl. and Fin. p. 405.

from the Courts in England. An adherence to the rules of pleading for this purpose is essential to the administration of justice, in order to give to each party the opportunity of knowing the case which he has to meet.' His Lordship then proceeded to consider the order made by Lord Plunket, which he, Lord Cottenham, thought could not be sustained, and advised the Lords to reverse the decree and dismiss plaintiff's bill with costs.

CHAP.
LXX.

When concurring in Lord Cottenham's judgment in this case, Lord Brougham added :—' It has been said that certain inattention, or negligence, or slovenliness, as was stated in one part of the observations at the Bar, has been found to prevail in other parts of the United Kingdom in the drawing of pleadings, and that, on that account, your Lordships ought to apply a rule to cases coming from that Kingdom different from the rule you apply to cases coming from nearer home. I should say if there was such negligence or slovenliness (which I very much doubt), that it would be an exceedingly dangerous course for your Lordships to take ; for it would be the means of perpetuating that negligence which it is suggested there exists. *I do not believe it exists* ; but, if it does, your Lordships, by having one rule of pleading for Ireland and another for Westminster Hall, would, undoubtedly, perpetuate it. But I see no evidence whatever of this negligence in the present case. I see nothing whatever of that defect in the present pleadings. The defect is not in the draftsman, but in the party ; not in the bill, but in the case.'

Lord
Brough-
am's
tribute to
Irish
Equity
Pleadings.

In *Persse v. Persse*,² Lord Plunket strained the limits of Equitable jurisdiction to include a case which was beyond the ancient landmarks. This was a cause between father and son, in which the latter, by a deed of arrangement, sought to deprive his father of the remnant of his estate, having previously procured from him the greater part. Lord Plunket's judgment is given at page 297 of Messrs. Clarke and Finnely's seventh volume. One sen-

Case of
Persse
v.
Persse.

¹ 7 Cl. and Fin. p. 433.

² 7 Cl. and Fin. p. 279. House of Lords, 1840.

CHAP.
LXX.

tence from this judgment shows how Lord Plunket desired to give relief: 'I am told this is a family transaction, and receives a different complexion from the connection of the parties in the case; but I cannot see that any difference exists in it from any other case, except that it is more unnatural for a son to force upon his father the execution of such a harsh and fraudulent contract. I cannot forget that his father has bountifully given him by far the larger portion of his property, and that he now seeks to strip him of the remainder. Such ungenerous avarice must, to his father's kind heart, be sharper than a serpent's tooth.' The judgment of Lord Plunket, refusing to enforce the contract, was reversed upon appeal by the Lords.

De Mont-
morency
v.
Devereux.

Lord Cottenham, one of the best Equity lawyers of his age, ably vindicated the efficiency of the Irish Bar as Equity pleader. In *De Montmorency v. Devereux*,¹ the question arose between trustee and *cestui que trust*. A trustee and executor, who had been agent and receiver to the testator without settling accounts for years, upon his death obtained from the *cestui que trust* and residuary legatee an agreement to continue him in the agency, and in case of removal without just cause, to allow him the same salary; and also a deed granting to him part of the same estates. The agreement and the deed were prepared by the agent, who was an attorney, and executed by the principal and *cestui que trust* without legal advice; and this deed recited, untruly, 'that it was granted by last request of the testator, in consideration of the agent's services,' and also in full discharge of all accounts between them. The new agency terminated in a year and a half by mutual desire of the parties; and after a settlement of accounts to the satisfaction of the principal's legal advisers, he executed a deed approved by them confirming the former deed, and wrote letters subsequently to the agent claiming the benefit of the latter deed, and expressing his satisfaction at having given the estate. Lord Plunket held, and his decision was confirmed on appeal,

¹ 7 Cl. and Fin. p. 221.

that on a bill filed to set aside the deeds, and to take the executorship and other accounts, that although the deed of gift was voidable in its origin, and could not be sustained if it stood by itself, and was impeached in reasonable time, yet the subsequent deliberate acts of the party impeaching it, assisted by his legal advisers, made it valid and binding on him. It is to be assumed that legal advisers, in discharge of their bounden duty to their clients, examine into every suspicious circumstance, and satisfy themselves such deeds are conducive to the interests of their clients before they approve of them. A very proper ruling was made on this appeal, that when a transaction of a suspicious nature originally can only be protected by subsequent acts of confirmation, the party so sustaining it must pay his own costs of the investigation into the circumstances. When sustaining the judgment of Lord Plunket, the Lord Chancellor of England, Lord Cottenham, said : ‘ It is very important, considering the order we have to propose to the House to make, and for the benefit of those who may not be conversant with the pleadings in Courts of Equity, as the Bar of Ireland are represented as not being, I believe without any foundation ; for I see no grounds to suppose that the rules of Courts of Equity are not attended to there with great fidelity. I believe that the decisions of this House and the rules of Courts of Equity regulate their proceedings ; but it is very important that all parties should have their attention drawn to all parts of the case.’

CHAP.
LXX.

Lord Cotten-
tenham's
remarks
on the
Bar of
Ireland.

The issue directed in the great cause of *Malone v. O'Connor*,¹ was brought to a hearing when I was called to the Bar. It turned upon the same point as the famous *Yelverton* case in later days, viz., the validity of a marriage of a Protestant and Catholic by a Catholic priest ;² and four claimants sought to establish title each as heir-

Malone
v.
O'Connor.

¹ 6 Cl. and Fin. p. 183.

² By Statute enacted in the year 1870 Amendment of Marriage Law of Ireland, sect. 38, this great mischief has been remedied, and the religious ceremony of marriage, a sacrament in the Roman Catholic Church, can no longer be violated with impunity.

CHAP.
LXX.

Lord
Plunket's
order.

Appeal.
Lord
Plunket's
order
reversed.

Condition
of the
Irish Bar.

Its ancient
fame.

at-law of the Right Hon. Anthony Malone, whose career I have noticed in this work. The issue was directed to try the fact of a marriage between the claimant, Richard Malone, and Bridget Moore. The trial lasted eight days, and the plaintiff got a verdict. The defendants then applied to the Lord Chancellor of Ireland to set aside the verdict, and grant a new trial on the grounds of surprise and admission of improper evidence. The Lord Chancellor Plunket made an order refusing the motion to set aside the verdict, but granting a new trial, with liberty to the plaintiff to give the former verdict in evidence as he might be advised. This order having been appealed from to the House of Lords, the Lord Chancellor Cottenham took great pains with the case on account of a difference in the practice of the Courts of Equity in Ireland and in England; and proposed to the Lords to reverse so much of the order of the Lord Chancellor of Ireland as directs the setting aside the first verdict, and giving the first verdict in evidence upon the second trial, and leave the order as a simple direction that the parties shall proceed to a new trial. The question of costs reserved.¹

The condition of the Irish Bar during the close of Lord Plunket's judicial career was not unfairly described in a publication, started with a view to promote the interests of the Bar,² 'to create and foster public opinion in Ireland, and make it racy of the soil; to expose the errors of adventurous legislation; defend the rights and advocate the claims of the Irish Bar.' In an article on the 'Present Condition and Future Prospects of the Irish Bar,' we read:—'We have with pride looked back to the glorious days of the Bar; we have seen that as time rolled on, as trade glided from our shores, and manufactures passed to the more enterprising and happy sister island, that the Four Courts became the rallying point for all the aspiring talent of the country. Holding, as the profession does,

¹ Lords' Journ. 1839, p. 347.

² The Irish Quarterly Review.

a high place in the society of Ireland, social, gay, and educated; and anxious as all men are to enjoy the society of the great, the Bar have taken advantage of their position, and have become the regular attendants at the Castle, and the *habitués* of the Viceregal Lodge. Thus exposed, they have been the easy dupes of the Viceroy of the time, and their political feelings have been made the chief medium of their political enslavement.' The writer then proceeds to show how the two great bodies into which the Bar, like other portions of the community, was divided—Whig and Tory—were played off against each other. Incompetent Catholics pushed into office by one Viceroy, unqualified Protestants by another, political services being the claim of each. That the want of unity in the Irish Bar rendered them weak, and that party dissensions and political divisions made them powerless. That while jealousy, dissension, and division weakened the Irish Bar as a body, no attention would be paid to any remonstrance¹ which they might make as a party, not an united Bar. 'The legal profession,' urged another writer, 'is too much divided into cliques, each pursuing its narrow views and interests, and fearful of embarking in honest politics for the good of Ireland: this is the defect of the men of the law; they seem wanting in *esprit de corps*, and their attachment for place is suspected to be superior to their love of country.'²

CHAP.
LXX.

Modern habits.

Bar split into Whig and Tory sections.

Disastrous effects of division.

The lament of a junior barrister appropriately closes this chapter. It is in Tennysonian metre, and worth preserving for its talent:—

THE FOUR COURTS' HALL.*

The Lament of Littleton Coke O'Shaughnessy.

Juniors, leave me here, I pray you; leave me here to pine alone—
Close beside O'Loughlen's statue I will sit and sadly moan:
'Tis the place, and well I know it—dome, and courts, and clock and all—
Whilst attorneys, rushing by me, prove it is the Four Courts' Hall,

¹ Irish Quarterly Review, p. 75.

² Dublin University Magazine, p. 155, year 1851.

³ Irish Quar. Rev. vol. i. p. 151.

CHAP.
LXX.

Four Courts' Hall, that tow'ring grandly, riseth o'er the city roofs,
 'Mid a wild and jarring jangle, shouting men and clatt'ring hoofs.
 Here about the Hall I've wandered, musing o'er the cases old,
 All that Ventris, Viner, Comyn, Saunders, Vesey, East have told.
 Many a day, at Term's commencing, here I've seen the Judges come,
 Gravely, staidly, slowly musing, whilst the tipstiffs all looked grum;
 Many a day I've seen the lawyer, toiling onward like a drudge,
 All his goal, the Bench before him—all his prize, the title Judge.
 Oh! the weary, weary labour—oh! the bright years cast away!
 Can the ermine, reached at sixty, bartered joys of youth repay?
 Here, in Term, my daily musings used to turn on thoughts of fees—
 Now I hoped for Declarations, and I hoped for Special Pleas.
 Here I'd pace the Hall, and smiling, think on bills or notes unpaid,
 With a long, long list of actions, all their venues yet unlaid;
 Think on all the sad ejectments of that injured ancient Doe,
 Feel my indignation swelling at the deeds of lawless Roe.
 Here I've felt the deep elation of a quick and vivid hope,
 That the Chancellor might hear me say, 'The plaintiff's bill I ope.'
 Here I've seen the kind attorneys, rushing towards me from the Quay,
 With a pile of easy motions, 'gainst the hurried junior day.
 Oh! those smiling hours have vanished! Fortune, jilting jade, doth frown;
 So I pace the Hall, but bearing empty bag, and wig, and gown.

CHAPTER LXXI.

LIFE OF LORD PLUNKET, LORD CHANCELLOR, CONTINUED, TILL HIS
RESIGNATION OF THE GREAT SEAL.

WHILE the Irish Bar was thus divided, its members were passed over, and English barristers appointed Lord Chancellors. An extract from the publication referred to¹ shows the state of feeling when Lord Plunket was coerced to resign:—‘Next came Campbell: to make way for him Plunket was jockeyed into resignation. It was of no moment whatever that the Irish Bar was insulted in the person of their head. It was of no consequence that when Plunket was appointed Master of the Rolls in England, the Bar of *that* country indignantly, and properly, repelled the glaring outrage. It was not worth a moment’s thought, that the Irish Chancellor was the last great man of a mighty era. Campbell, the Government *protégé*, was to be provided for; the Ministry was tottering; the Irish Chancellorship was the only available gift within their grasp: so the Irish lawyer was set aside, the Scotch importation hurried into office, from which he retired in three months.’

CHAP.
LXXI.
The Great Seal given to Lord Campbell.

The correspondence which led to the retirement of Lord Plunket is published in the *Life* by his grandson.² I make a few extracts. In a letter from the Viceroy, Lord Ebrington, to Lord Plunket, dated from Exeter, October 15, 1839, his Excellency communicates the following, addressed to him by Lord Melbourne:—

Correspondence respecting Lord Plunket’s resignation.

‘I now write on the subject of Lord Plunket. We hear from various quarters that he would not be unwilling to retire, but nothing from himself, nor which can be im-

Lord Ebrington, Lord Lieutenant, to Lord

¹ Irish Quar. Rev. vol. i. p. 76.

² Vol. ii. p. 330.

CHAP.
LXXI.

Plunket,
with ex-
tract from
Lord
Melbourne.

plicitly relied on. I should be very unwilling to propose anything which could hurt his feelings, or be inconsistent with his own objects and wishes. But it would be convenient to us if we could now get the Irish Seals for the Attorney-General.¹ Do you know anything of Lord Plunket's wishes, or do you know any means of sounding him, without giving him uneasiness ?'

Lord
Plunket's
reply.

To this pretty strong hint, Lord Plunket replied to the Lord Lieutenant, informing him that 'though at his (Lord Plunket's) time of life the wish to retire would be natural, he never expressed such a wish to any person, nor at the present juncture should he have thought it becoming, either with respect to himself or to the Government, from whom he received so many marks of regard and confidence. He considered it clear that, after such a communication from the Prime Minister, he could not retain office; but it was merely for that reason he came to that conclusion.'

Lord Mel-
bourne's
letter to
Lord
Plunket.

Lord Melbourne, upon hearing of this reply, at once wrote to assure Lord Plunket 'how rejoiced he was at hearing the reports were untrue,' and added, 'I most highly estimate the truly manly, honourable, and patriotic motives by which you are actuated; but I should have considered your retirement at the present moment highly disadvantageous to the Government, and beg of you to think no more of what has passed than if it had never taken place.'

Private
letter from
Lord Mel-
bourne.

This letter could not fail of being perfectly reassuring to the Lord Chancellor, and he said so in a reply to Lord Melbourne. But what was his sorrow and mortification, to receive, in the month of June, 1841, a letter marked *Private*, in which Lord Melbourne earnestly implored of him to enable the Government to provide for the Attorney-General by retiring. He certainly adds, 'If it is repugnant to your feelings, say so at once, and there is an end of the matter. If you accede, you will add to the gratitude which we already owe you for the support and assistance you have rendered us.' Lord Plunket did not hesitate to meet Lord Melbourne frankly. Accordingly he replied, 'I have many and insuperable objections, utterly uncon-

Lord
Plunket's
frank
answer.

¹ Sir John Campbell.

nected with anything personal to myself, to prevent my being a willing party to such an arrangement as you suggest; but as you candidly tell me to say, at once, whether such an arrangement would be repugnant to my feelings, I think it the most straightforward course to say *that it would be so.*' On June 13 the Lord Chancellor explained to the Viceroy his reasons for being unwilling to resign, and on the 17th, the Viceroy solicited his resignation *as a personal favour to himself.* To this Lord Plunket yielded, and the happy tidings of having compelled Lord Plunket to give the Government his office was communicated to the Prime Minister without a moment's delay. It was at once conferred upon Lord Campbell.

CHAP.
LXXI.

The Viceroy solicits the Chancellor's resignation.

I now approach the closing scene of Lord Plunket's judicial life. I was then a junior at the Bar, and with the natural feelings of youth when age is trifled with and a great man is dishonoured—when past services are slighted, and a kingdom despised, I felt, in common with hundreds of others, that the reluctant resignation of the Lord Chancellor was a circumstance which the Bar of Ireland should resent. We had no personal hostility to John Lord Campbell, the Chancellor-elect. We were aware of his high rank as a Common Law lawyer; that, by persevering industry and great professional learning, he had risen from the lowest rung of the ladder to the proud position of England's Attorney-General. We were perfectly aware that he was a steady Whig, and that his defence of Lord Melbourne, under very *peculiar* circumstances, earned him the gratitude of that nobleman and his party; but we did not consider Lord Campbell's services gave the British Government any right to hustle from the Irish Bench the Irish Lord Chancellor Plunket—the veteran soldier who had so nobly fought in the ranks, and won honour and fame. Thus felt the Junior Bar. Outside the pale of the profession the like feelings prevailed. Every Roman Catholic deeply grieved that the man who had helped to loosen the chains which persecution had heaped upon him, was now to be a mark for contumely. Every nationalist sighed as he

Feelings of the Junior Bar of Ireland.

Those feelings shared by the Irish people.

CHAP.
LXXI.

remembered how, in early days, Plunket's voice rose, trumpet-tongued, denouncing a measure which placed the country beneath the feet which now spurned him from the judgment-seat, and the whole country denounced the affair as a 'Whig job' of the worst description. We were determined to hold a Bar meeting and complain, and accordingly eighty-five of us signed a requisition to the then Father of the Bar, Thomas Dickson, Q.C., for the purpose of protesting against the appointment of any other than an Irish barrister as Lord Chancellor of Ireland.

Last day
of sitting.

The day before our meeting the Chancellor sat for the last time, and I well remember the way in which the Court of Chancery was literally packed on that Monday, June 21, 1841. His Lordship disposed of the list, and referred to his successor as 'the person who was to succeed him in the office he then filled,' while referring one or two cases which stood over. He asked if there was any other business, and was informed none. When the Court was about to rise, Mr. Serjeant Greene addressed his Lordship:—

Farewell
address to
Lord
Plunket,
pro-
nounced
by Serjeant
Greene.

'I presume, my Lord, it is not your Lordship's intention to sit again in this Court; I therefore rise, as the senior in rank of the members of the Bar now present, and with the full concurrence of my brethren of my profession (here we all rose together), to address your Lordship a few words before your retirement from that Bench over which your Lordship has for many years presided. (Lord Plunket then rose from his seat and stood near the front of the Bench.) My Lord (continued Serjeant Greene), we are anxious to express to your Lordship the sense we entertain, not only of the ability, the learning, the patience, and the assiduity which have marked your Lordship's administration of the high and important functions committed to your Lordship's charge, but also, my Lord, of the courtesy, kindness, and attention which we have all personally experienced at your Lordship's hands in the discharge of our professional duties in this Court. We gratefully acknowledge, my Lord, the dispo-

sition you have ever shown to accommodate us all—a disposition by which we all admit your Lordship was ever actuated, without regard to personal circumstances or to our political feelings or predilections. We trust, my Lord, it will be said that this feeling on our part will be as general and as universal as the kindness on your part has been uniform and uninterrupted. My Lord, it is needless for us to dwell here for the purpose of commenting upon the talents and endowments which have raised your Lordship to the high position from which you are about to retire. *They are, my Lord, recorded in our history, and they will long live among the proudest recollections of our countrymen.* From a sense of these, we offer to you our present tribute of the profoundest admiration and respect; and, my Lord, it is gratifying for us to add, that at no period of your Lordship's career have they ever shone in greater lustre than at this moment. My Lord, with warmest wishes for your Lordship's happiness in that retirement, which none is more fitted than your Lordship to adorn, we respectfully bid your Lordship farewell.'

The noble Lord was much affected during the delivery of this graceful tribute, from one so highly respected as my dear and lamented friend, then Serjeant (afterwards Baron) Greene.

When the Solicitors' address had been read, amidst the stillness of the silent Court, Lord Plunket replied with deep feeling :—

'It would be great affectation on my part if I were not to say that I do not feel to a considerable degree at the prospect of retiring from a profession at which I have for a period of more than fifty years of my life been actively engaged—a period during which I have been surrounded by friends, many of them warm ones (his Lordship here paused, overcome by emotion), without exception: many of them are now no more; some of them, nay, many of them, I see at this moment around me. This retirement from the active scenes in which I have been so long engaged, and which have become, as it were,

Lord
Plunket's
reply.

CHAP.
LXXI.

incorporated with my life, I cannot help feeling, and feeling deeply. It has, however, in some degree been alleviated by the prospect of the repose which is probably better suited to this period of my life, and which perhaps would have earlier induced me to retire, but for events of a particular description which have latterly occurred; but independent of this, I must say that any pain I would have felt has been more than alleviated by the kind and affectionate address which has been offered to me by my friend, Serjeant Greene, and which has been so cordially assented to by the members of both professions. I am not unconscious that in the discharge of these duties, my ability for which has been so overrated by my friend, Serjeant Greene, I have been led into expressions of impatience which had been much better avoided: for any pain that I have given in doing so, or for any feelings that I have hurt, I sincerely apologise, and am grateful to the profession for not having attributed to inclination any such observations; and I must say that whatever any such expressions may have been, they never have influenced me. It is a sentiment that I trust never will influence me; and I am now able to say, that in retiring from the profession, I do not carry with me any other sentiment than that of affectionate consideration for all and every member of the profession.

‘Now, with respect to the particular circumstances which have occurred, and the particular succession which is about to take place in this Court, it will become me to say very little. For the individual who is to occupy the situation I now fill, I entertain the highest political and personal respect—no one can feel it more so; but I owe it as a duty to myself and the members of the Bar to state that, for the changes which are to take place I am not in the slightest degree answerable; I have no share in them, and have not directly or indirectly given them my sanction. In yielding my assent to the proposition which has been made for my retiring, I have been

governed solely by its having been requested as a personal favour by a person to whom I owe so much, that a feeling of gratitude would have rendered it morally impossible that I should have done otherwise than resign. When I look at the Bar before me, and especially the number of those who might have sat efficiently in this judicial place, I am bound to say that for all those great ingredients which are calculated to enable them to shine as practitioners and as members of the Bar, or as gentlemen, for candour, for courtesy, knowledge, and ability, I challenge competition—I challenge the very distinguished Bars of either England or Scotland, and I do not fear that those I have the honour of addressing would suffer in the comparison. To them, for their repeated kindnesses, I am deeply indebted. I do assure them that when I retire into quiet life, I will cherish in my heart the affectionate kindness and attention which I have experienced at their hands.'

His Lordship, who was deeply affected whilst delivering this farewell, having bowed to us, left the Court leaning on the arm of Sir Michael O'Loughlen, Master of the Rolls.

On Tuesday, June 22, 1841, the day following the farewell address to Lord Plunket, the meeting of the dissatisfied members of the Bar assembled in the Admiralty Court. Thomas Dickson, Q.C., Father of the Bar, presided. He was a curious compound of learning and levity. The meeting was composed almost exclusively of the Outer Bar; for the seniors, having experience, and aware of the disastrous consequences of patriotism in Ireland, absented themselves. Thus the individuals present were eager and enthusiastic young men, whose flushed cheeks and earnest countenances denoted the feelings with which they regarded the projected insult to the Bar and to Ireland.

The requisition calling the meeting had been entrusted to a very zealous and patriotic barrister, Mr. Hercules Ellis, more known in literature than in law, and Messrs.

Meeting of requisitionists to protest against the appointment of Lord Campbell.

CHAP.
LXXI.

George Crawford¹ and Torrens M'Cullagh² were appointed secretaries. The requisition having been read, the Chairman thus addressed the barristers present :—

Opening
address of
the Father
of the Bar.

‘ Before I enter upon the business of the meeting, I wish to announce that Lord Plunket will hold a farewell levée for the Bar at his house in Stephen’s Green to-morrow morning at eleven o’clock, and I feel perfectly sure it is only necessary to make that announcement to induce every gentleman here to respond to it. I have also to state that it is the opinion of every gentleman of the Bar with whom I have conversed on the subject, that the most respectful manner in which we can appear at his Lordship’s levée is in full dress and Bar costume. I think it necessary to state this because, this being a farewell levée, it might otherwise be supposed unnecessary to appear in Bar dress.’³

The
seniors.

‘ I regret to state that, with the exception of Mr. M'Donnell, the requisition by which the meeting is convened was not signed by a single senior. When I speak of seniors, I do not mean the members of the Inner Bar alone, but those gentlemen whose long standing and experience in the profession entitled them to seniority. With respect to the distinction between the Inner and the Outer Bar, I would not upon any occasion be the first to come forward and acknowledge it. I feel it peremptory upon me to state that gentlemen of the longest standing and greatest experience at the Bar—nay more, I have been directed to state, upon behalf of those gentlemen, that they entertained no objection to this meeting entering into any such resolutions as it may think proper, provided they did not purport to be the resolutions of the Bar as a

¹ Mr. Crawford, now Registrar of Joint Stock Companies, is highly esteemed for his courtesy as an official, and his personal worth as a member of the Bar of Ireland.

² Now Mr. M'Cullagh Torrens, M.P. He has been a distinguished author as well as senator. His *Life of Richard Lalor Sheil* is a very able work.

³ The farewell levée was attended by the Bench and the Bar. Owing to some accident, I was late when I drove to the Chancellor’s house, but, on learning my old circuit friend, his son John (now Lord Plunket) was with him, I went upstairs, and was most cordially received. Thus I am the member of the Irish Bar who, in Bar costume, last addressed Lord Plunket.

body, but the resolutions of the requisitionists; otherwise there would be counter-meetings and counter-resolutions. This, in my opinion, would be fraught with disagreeable results to the Bar. It had been stated at the time Sir Anthony Hart was removed from the Chancellorship of Ireland, that one of the reasons alleged for his removal was, that the office of Chancellor was not merely judicial, but that it was a State office, connected with the Ministry of the day. Therefore, there was a great distinction between the office of Lord Chancellor and any other judicial office. The situation of any other Judge was merely administrative, but the office of Lord Chancellor was connected with the political departments of the State. That argument was urged upon both Houses of Parliament upon the occasion of Sir Anthony Hart's removal, and therefore there appeared a strong difference between the office of Lord Chancellor and any other Judge.'

CHAP.

LXXXI.

Peculiar nature of the office of Lord Chancellor.

Mr. Hercules Ellis then moved the following resolution:—

'That inasmuch as all judicial appointments in England are made from the English Bar, so all judicial appointments in Ireland ought to be made from the Irish Bar.'

Mr. H. Ellis moves the first resolution.

In the course of his speech he could hardly have omitted to notice the way in which Lord Plunket's appointment to the office of Master of the Rolls in England had been met. 'I have said that no appointment of an Irish lawyer to the English Bench was ever effected. One such appointment was indeed attempted. The case is notorious. In 1827, Lord Plunket, who is now ignominiously thrust out of office to make way for a Scotchman, was appointed to the Mastership of the Rolls in England. How did the English Bar act in that case? The English Bar upon that occasion declared, "that no judicial appointment in England ought to be made except from the English Bar;" and so just and true was that declaration then thought to be, and so fully and strongly did the public opinion in England support the English Bar upon that occasion, that a strong Government was forced to yield to it, and Lord Plunket resigned the office. Is this principle true and

Conduct of the English Bar to Lord Plunket.

CHAP.
LXXI.
Like case
like rule.

just in England but not in Ireland? Yes, it is true and just also in Ireland, and nothing is wanting to its maintenance but a manly and united assertion of it. As the English Bar acted in the case of Lord Plunket, let the Irish Bar act in the case of Lord Campbell—not to make a precedent, but to follow one which has been already made, and which has proved successful.’

Mr. J. L.
Fitz
Gerald.
Mr. Tor-
rens
M'Cullagh.

Mr. John Lloyd Fitz Gerald seconded this resolution.

Mr. Torrens M'Cullagh supported it by a very powerful address. Adverting to the pending appointment, he said, ‘And are there no solid objections to Sir John Campbell? What does this stranger know of Equity? What does he know of the peculiarity of the Irish Statute law? What does he know of the customs or things such as he would have daily to adjudicate upon? What right on earth has he to thrust himself upon a hostile Bar? Sir, it is no mean element of the due administration of justice that mutual respect and goodwill should subsist between the Bench and the Bar; but what goodwill can be imagined towards a man who must be held down upon the Woolsack by the sheer power of the Crown? Or what respect can the accomplished practitioners of our Chancery Bar feel towards a man whom they will have to school in the rudiments of Equity practice before he can venture on the most ordinary decisions? Or is it because this intruder on our legitimate honours and emoluments has submitted to be passed over in his own country that he is to be flung to us? Sir John Campbell was Attorney-General in 1837 when the English Mastership of the Rolls became vacant—why was he not made an Equity Judge then? Sir John Campbell was Attorney-General when the English Seals were given away—why was he not made Chancellor of England then? And are we to be told that any offcast from the Bar of England is good enough for the highest place before our Bench? If you want your profession to regain the lofty rank it once enjoyed, if you desire the Bar of Ireland to be that which it formerly was when Plunket thundered, and Bushe shed exceeding light, and

Curran pierced the gloom of unhappy times with an eloquence rending and scathing as the lightning—if you have a memory, or a pride, or a hope in you for the honour of the Irish Bar, I call on you to pass this resolution as one man.’

CHAP.
LXXI.

The resolution was then put by the Chairman and carried unanimously.

Mr. John Francis Waller¹ then proposed that a Committee be appointed to prepare an address to her most gracious Majesty, embodying the spirit of the foregoing resolution. This was seconded by Mr. Molesworth.²

Mr. Waller.

Mr. W. E. Hudson³ said he had heard it objected by a senior member of the Bar that while he (Mr. Hudson) held the office of Taxing Officer in Common Law business, it was not decorous to attend a meeting of the Bar. He did not acquiesce in that opinion. There was no statute or rule of law to prevent his practising, and he was at liberty especially to continue his Equity practice, in relation to the appointment of the Chief Judge of the Equity Court they had that day met. He had for the present voluntarily retired, and was not removed or prohibited, from his practice. But he desired the proceedings at their meeting should be free from objection, and therefore abstained, though requested, to propose any resolution. But he considered it due to himself, as a member of the Bar, to declare his opinion at this meeting, and to express his full concurrence in the opinion, that from the Irish Bar alone should selections be made for the Irish Bench. He had conversed with several of the senior members of the Bar who were not attending this meeting, and he did not doubt but that the entire Bar of Ireland concurred, as far as the principle of the question went, though some of its members

Mr. W. E. Hudson.

¹ This talented gentleman is well known in literary circles by his *nom de plume*, Jonathan Freke Slingsby. He is a charming poet, as well as prose writer.

² Author of the Treatise on Registration. Now a Judge in Melbourne, Australia.

³ One of the Taxing-Masters, now deceased. He was ever in the front of those who sought to uphold the rights and privileges of Ireland.

CHAP.
LXXI.

raised an objection to the joining in a particular call to remonstrate against the appointment of the stranger who now filled the office of Chancellor, after the appointment had taken place. That was a doctrine from which he entirely dissented.

Mr. Battersby.

Mr. Battersby¹ was of opinion it would be better not to pass the resolution then under discussion, as it would have the appearance of a direct attempt to interfere with the prerogative of the Crown. He respected old age, and was willing to admit that seniority, when it combined judgment matured by experience, with the confidence and decision of character which a life of independent exertion confers, entitles the possessor to all the deference that youth could bestow. Yet, if from old age too much advanced to retain any vigour, or from that over-caution or too anxious concern for personal interests which sometimes attend the decline of life, those who ought to lead shrink from their proper place, he thought it no reproach if juniors stepped forward and occupied the posts which their natural leaders deserted. He therefore would abide by the terms of the first resolution. It is disheartening and degrading to find the honourable distinctions which have been looked forward to as the just reward of a life of meritorious exertion conferred on strangers, without any demerit on our part, unless, indeed, our birth in Ireland be such. We every day see the result of this course. A gentleman arrives from England who can scarcely pronounce our names, much less know our characters, and then, either at random, or for some cause which nobody but himself can divine, promotes obscure persons above those deserving. This is our situation, no matter what party is at the head of affairs.

Quidquid delirant reges plectuntur Achivi.

Fair and honourable competition is denied us in all cases alike, principally owing to our own paltry and disgusting feuds, which render each of the parties that dis-

¹ Now Chancellor and Judge of the Provincial Court of the Diocese of Dublin.

tract the country ready to submit to any indignity, provided it confer a temporary advantage over its opponent. In England it is otherwise; and when an Irishman was appointed Master of the Rolls there, the Bar unanimously resisted what they thought an encroachment. Had they admitted Lord Plunket, there would have been reciprocity at least; but they can hardly blame us if we follow the example they have set. Our leaders, it seems, fear to resist; but if we must submit, it should not be without complaint, that last and most pitiful resource of the aggrieved. Her Majesty has the undoubted power of nominating the individual, and to use the words ‘rights of the Bar’ might seem to imply that those rights were invaded by the Crown; and he thought the most respectful course they could adopt would be to send such an address, after having taken the steps they had already decided on. If they publicly came to a declaration in opposition to an appointment by the Crown, and did not afterwards follow it up by a respectful address to her Majesty, they would be, he thought, decidedly not acting with that degree of respect and attention which would be expected from them.

While objecting to the resolution he concurs in the propriety of the Address.

Mr. Henry Grattan Curran strongly censured the course taken by the seniors of the Bar. Neither could he concur with those who objected to addressing the Queen. ‘Nothing,’ he contended, ‘could be more proper—nothing more constitutional, than for those whose rights and interests are invaded to appeal for protection to the Crown. Away then with the idle fear that we invade our Queen’s prerogative by our prayer—that we complain of this appointment as an invasion of our rights! The act of her Majesty’s responsible advisers, ratified by her royal sanction, has made it irreversibly our right. They made it ours when they placed upon that grand eminence the luminary that now arrests all eyes—withdrawn, but yet unset. They made it ours when, despite of many precedents, they enabled a Plunket to register the ascendant height to which the national genius had swelled up; and

Mr. H. G. Curran.

CHAP.
LXXI.

confirmed our title when, lifting the crown of satisfied ambition from his venerable brow, and challenging the other portions of the empire to make a better if they could, he inscribed the name of IRELAND on that high place, and rebuked the strange intruder upon that heritage consecrated to the unsullied integrity, the erudition and intellect of his native land. He has left you a glorious tradition; do you relinquish or renounce it? If there was anything calculated to augment the pride of his profession, it was found in the emphatic words in which that great man commended the treasure to your care. If you lose it, indelible will be your disgrace, and eternal will be the scorn that will pursue you for the loss of that which taxed you not to acquire it, but only to preserve.'

The resolution was adopted.

The resolution then adopted was put from the chair, and carried with an overwhelming majority.¹

A Committee of the Irish Bar, Mr. Ellis chairman, was appointed to carry out the objects of the meeting. Their instructions were—

First—To disclaim all intention of interfering with the prerogatives of the Crown.

Second—To embody the resolutions of the Bar.

Third—To avoid all party topics.

The members met in the gallery of the Law Library, Four Courts, on Wednesday, June 23, 1841, and drew up the following address :—

To the Queen's Most Excellent Majesty.

THE HUMBLE ADDRESS OF THE BAR OF IRELAND.

Address to the Queen.

'Your Majesty's loyal and faithful subjects, the members of the Bar of Ireland, approach your Majesty with the deepest attachment to your Majesty's person and throne. The members of the Bar of Ireland assure your Majesty that they view with the deepest respect every branch of your Royal prerogative, and acknowledge with gratitude your Majesty's gracious anxiety to regard, in

¹ Memoranda of Irish Matters, p. 67.

the exercise of that prerogative, the interests and wishes of every class of your Majesty's subjects, when founded on justice, and known to your Majesty. The highest judicial office in Ireland having lately become vacant (an office heretofore occasionally filled by members of the English Bar), the members of the Bar of Ireland beg leave most respectfully to submit to your Majesty, that inasmuch as all judicial offices in England are uniformly filled by members of the English Bar, so, in justice to your Majesty's faithful Irish subjects, all judicial offices in Ireland ought to be filled uniformly from the Irish Bar; and they trust that amongst that body will always be found persons worthy to fill such offices, and deserving of your Majesty's confidence.

CHAP.
LXXI.

‘THOMAS DICKSON, Q.C.,

‘*Father of the Bar of Ireland.*’

The Committee lost no time in forwarding this address to the Home Secretary for presentation to her Majesty. The receipt was acknowledged by the following letter addressed to the Chairman of the Committee:—

The
address
sent to
London.

‘Whitehall, June 30, 1841.

‘Sir,—I am directed by the Marquis of Normanby to acknowledge the receipt of the address to the Queen from the Irish Bar, which you have transmitted to his Lordship for presentation to her Majesty.

‘I have the honour, &c.,

‘S. M. PHILIPS.

‘Hercules Ellis, Esq.,

‘8, Hardwicke Place, Dublin.’

But nothing came of this manly and spirited effort to show that the feelings of the Irish Bar, in the person of the noble Lord Chancellor, could not be slighted with impunity. I believe the address never was presented. The unhappy dissensions and divisions which from the days of Roderic O’Conor to the present time have frittered away the strength only existing in union, defeated the members of the Bar who voted the address. On June 30,

Dissension
amongst
the Bar.

CHAP.
LXXI.

Protest
from the
dissen-
tients to
these pro-
ceedings.

the very day the Secretary of State for the Home Department acknowledged the receipt of the address, the following protest was published in a highly influential political journal, the 'Dublin Evening Mail:—'A statement has been published in "Saunders's News-letter" of the 23rd day of June instant, which is understood to be substantially correct, that a meeting, purporting to be a meeting of the Irish Bar, was held on the previous day in the Court of Admiralty, at which Thomas Dickson, Esq., presided as chairman. From that statement it appears that a resolution was passed by the gentlemen of the Bar then assembled: "That inasmuch as all judicial appointments in England are made from the English Bar, so all judicial appointments in Ireland should be made from the Irish Bar." It further appears, pursuant to a second resolution of the above meeting, that a Committee was appointed to prepare an address to her Majesty embodying the spirit of the preceding resolution; which address, when prepared, was to be signed by the Father of the Bar, and forwarded to the Secretary of State for the Home Department. Having considered these resolutions, we, the undersigned, members of the Irish Bar, deem it incumbent on us to state that we were not present at the above meeting, that we were adverse to the holding of it, and that we do not approve of the principle of its proceedings. In thus declaring our opinion as opposed to that of a respectable portion of our profession, we do so in a spirit of perfect good-feeling towards them; and we think that the most direct, plain, unequivocal, and manly course we can take, is to give our names to the public, and simply to express our individual but concurrent dissent from those resolutions.' Then followed, first, members of the Inner Bar, comprising such honoured signatures as— R. W. Greene,¹ George Bennett, F. Blackburne,² William Brooke, H. D. Grady, Richard Keatinge,³ A. Brewster,⁴

¹ Afterwards Baron of the Exchequer, deceased.

² Afterwards twice Lord Chancellor of Ireland, deceased.

³ Since Judge of the Probate Court.

⁴ Subsequently Lord Chancellor.

James Henry Blake, Stephen Collins, T. B. Cusac Smith,¹ Thomas Staples, Baronet, &c. Then a long list of outer barristers, enumerating the truly eminent names of Robert Holmes, Henry H. Joy, Peter Barlow, John Adair, J. Hastings Otway, A. E. Gayer, LL.D., Robert R. Warren,² Mountiford Longfield,³ Francis McDonagh, T. Rice Henn, James Whiteside,⁴ Thomas De Moleyns, Henry Martley,⁵ Joseph Moore La Barte,⁶ H. M. Pilkington, Dominick McCausland, Fred. Lindsay, Edward Pennefather, jun., E. Molyneaux, Robert Longfield, J. F. Townsend,⁷ R. J. Lane, &c., &c. The protest was signed altogether by one hundred and forty-four barristers; and the consequence of so large and influential a section of the Irish Bar declaring themselves adverse to the course taken by the rest of the body, showed the British Government they might do as they pleased. Besides those who were active on one side or the other, there was a considerable number who held aloof from signing either the address or the protest. The most eminent of these gentlemen were—Edward Pennefather,⁸ Thomas Lefroy,⁹ James Henry Monahan,¹⁰ David R. Pigot,¹¹ Richard Moore,¹² John Hatchell,¹³ William Brooke,¹⁴ Joseph D. Jackson,¹⁵ Gerald Fitz Gibbon,¹⁶ and, though I name him last he certainly is not least, Jonathan Henn.¹⁷

¹ For many years Master of the Rolls, deceased.

² Now Judge of the Probate Court.

³ Late Judge of the Landed Estates Court.

⁴ Now Lord Chief Justice of the Queen's Bench.

⁵ Late Judge of the Landed Estates Court; deceased.

⁶ Now Librarian of the King's Inns.

⁷ Now Judge of the Admiralty Court.

⁸ Afterwards Lord Chief Justice of the Queen's Bench; obiit.

⁹ Afterwards Baron and then Chief Justice of the Queen's Bench; obiit.

¹⁰ Now Chief Justice of the Common Pleas.

¹¹ Now Chief Baron of the Exchequer.

¹² One of the Judges of the Queen's Bench; obiit.

¹³ Commissioner of the Court for Relief of Insolvent Debtors; obiit.

¹⁴ Now Master in Chancery. ¹⁵ A Judge of the Common Pleas; obiit.

¹⁶ Now Master in Chancery.

¹⁷ This is probably the only opportunity I may have of expressing my respect for this great man. There was no rank at the Bar for which he was not suited, and might easily have gained, had he sought or wished for place.

CHAP.
LXXI.

Of course, when political capital was to be made out of this occurrence, it was too important to neglect, and when an opportunity offered on February 20, 1844, the late Sir Robert Peel thus held to odium the Whig Government of 1841:—

Observations of Sir Robert Peel on the removal of Lord Plunket.

‘The noble Lord (J. Russell) had the good fortune to be connected with a man who had long been the faithful friend of the Whig party—the pride of the Bar of Ireland—the ornament of the British senate—the friend of Grattan; the noble Lord had the happiness of being connected with Lord Plunket, whose name will be handed down to remote posterity as one of the brightest stars in the constellation of Irish eminence. Lord Plunket is the son of a Presbyterian minister, and he raised himself to the office of Lord Chancellor in his own country; the Irish Bar rejoiced at his elevation. The noble Lord thinks it necessary to consult the prejudices, and conciliate the feelings of the people of Ireland, and he taunts us with making an English appointment, overlooking the claims of the Irish people. He had a Chancellor, the most eminent man the Bar of Ireland had produced, and six weeks before he (Lord J. Russell) quitted office—he who is so sensitive on behalf of Ireland, so jealous of offence to that country, so opposed to the preference of Englishmen—having that man, a connection with whom was the pride and boast of the Whig party, in the situation of Lord Chancellor, signified to Lord Plunket—the Irishman, the Lord Chancellor—that it would be expedient for him to retire; and for what? So far as the public is apprised, that he might gratify the vanity of, certainly, an eminent and distinguished lawyer—of one, of whom I wish to speak with the respect I feel for him—by a six weeks’ tenure of office; and, an insult I will not call it, but an affront to Ireland, which, whatever the noble Lord may think of my disposition towards that country, I would not have put upon it, and continued in office one hour.’¹

¹ Memoranda of Irish Matters. It must be borne in mind that when Sir Robert Peel held office in September, 1841, Sir Edward Sugden was appointed Lord Chancellor of Ireland, over the heads of the protesting Irish Equity lawyers.

Returning to the subject of my memoir, I find the following letter, written shortly after the farewell address to Lord Plunket, by his noble and learned successor :—

CHAP.
LXXI.

‘ New Street, June 26, 1841.

‘ Dear Lord Plunket,—I hope I need not say I am extremely distressed to learn that you have expressed dissatisfaction with the circumstances attending your resignation of the Great Seal of Ireland.

Letter
from Lord
Campbell
to Lord
Plunket.

‘ I can solemnly declare, that when it was proposed to me to be your successor, I believed you were desirous to be released from the fatigues of office, and that no opposition would be offered to my appointment. What has happened cannot be recalled ; and nothing remains except that I should repair to the scene of my duties and perform them to the best of my ability.

‘ I think it respectful and proper to announce to you that, according to the wishes of the Lord Lieutenant, I intend to be in Dublin on Monday next. I shall always remember with gratitude the kind terms in which you mentioned me personally in your parting address to the Bar ; and I shall ever be eager to testify my respect to one of the greatest lawyers, orators, and statesmen who have adorned our country.

‘ I am, dear Lord Plunket,

‘ Yours very faithfully,

‘ CAMPBELL.’¹

To this letter Lord Plunket replied by giving in detail the various letters and communications which passed between the Viceroy, the Premier, and himself. He thus concludes :—

‘ I thought myself bound when addressed by the Bar on the day of my last appearance in Court, to assure them that I had not in any degree concurred in the opinion which has been acted on on this occasion ; and that I had been actuated solely by my deep sense of gratitude to his Excellency. Farther than this, which I felt due to them

Reply
from Lord
Plunket.

¹ Life, Letters, and Speeches of Lord Plunket, vol. ii. p. 340.

CHAP.
LXXI

and to myself, I am not aware that I ever expressed any dissatisfaction on the subject.

‘ I beg to repeat my sentiments of personal respect for yourself, and to express my confident expectation that you will find in the learning, and talents, and courtesy of the accomplished Bar of the Court of Chancery, the most effectual and cheerful assistance for the discharge of the duties which now devolve upon you.

‘ I am, dear Lord Campbell,

‘ Yours faithfully,

‘ PLUNKET.’

Lord
Campbell's
short hold
of the Irish
Great Seal.

On June 28, 1841, Lord CAMPBELL reached Dublin as Lord Chancellor of Ireland, and occupied apartments at the Bilton Hotel, in Sackville Street, during his brief sojourn. He sat in the Court of Chancery on July 2, and, having only some ‘ short causes ’ in his list, got through the business without any hesitation. Mr. Collins was the only counsel who started any technical difficulties, and he informed the Chancellor that the Master, in his report, had referred two points for the decision of his Lordship.¹ This rather disconcerted the Chancellor, but his natural shrewdness helped him at his need. He said: ‘ If you agree upon the decree, good. If not, I shall take home the pleadings and Master’s report.’

The parties agreed on the decree, and thus saved his Lordship any trouble. He only sat until July 13, when he concluded his Irish labours.²

¹ Stephen Collins, Q.C., was popularly called the ‘ Chitty of the Irish Bar.’ He was in great practice, and might be said to live on law. He was a leader upon the Munster Circuit for some years after I joined, so I had excellent opportunity, both on circuit and during the Terms, of observing his great legal learning and ability. But he was more suited to Courts of Common Law than Equity, and often received severe rebukes from Sir Edward Sugden, when Lord Chancellor, for what appeared to that distinguished Judge as want of candour, in not fully opening his case at first. These rebukes, which I always heard with pain, were caused entirely by the peculiar astuteness of Mr. Collins’ mind. He was another of the constellations of the Irish Bar, too soon missed from the firmament.

² It is unnecessary to inform my legal readers that Lord Campbell subsequently became Lord Chief Justice of England, and died suddenly while Lord Chancellor of England.

CHAPTER LXXII.

LIFE OF LORD PLUNKET CONCLUDED.

FOR many years after Lord Plunket left the Bench the great ex-Chancellor resided at his country-seat, Old Connaught, Bray. His great pleasure was to cap Latin verses with such of his old friends as, like himself, loved the old tomes. He went for some time to Italy, and was delighted with the Eternal City, which recalled to his remembrance the books he loved in youth. When the fourscore years and ten pressed upon his brain, they caused a lethargy to fall upon this master-mind which defied the doctors' skill, and he gradually sank into a stupor which was truly sad to witness. On January 4, 1854, in the ninetieth year of his age, the greatest man who ever, till then, adorned the Irish Woolsack was no more. His honoured remains are interred in Mount Jerome Cemetery, near Dublin.

The character of Plunket has been truthfully portrayed by the younger Grattan:—'Plunket was a deep reader, a profound thinker, and a sagacious observer. He could learn quicker than any man; at one view he perceived the tendency of a measure, and saw from afar its errors and its consequences. His power of perception was great; his power of discrimination greater, and the clearness of his intellect was surprising. He was full of sense and judgment; he was a close and acute reasoner, a powerful debater, and most argumentative even when most eloquent. His speeches were iron-bound on all sides, solid and compact; never exposing a weak point to his adversary. His eye discovered not merely reflection, but command, and his irony was most effective and most to be dreaded; it was not simply dissecting the human body, but flaying it

CHAP.
LXXII.

Last years
of Lord
Plunket.

Death of
Lord
Plunket
in 1854:
buried in
Mount
Jerome
Cemetery.
Character
of Plunket.

CHAP.
LXXII.

alive. When he arraigned Lord Castlereagh for his plan to buy the Members, by a million and a half to be expended for the purchase of the boroughs, it was more than the denunciation of an injured and indignant mortal—it was fire snatched from above; he soared beyond the low region where he was placed, to draw from a superior armoury the fittest weapons to defend his country, and poured down on the devoted head of her implacable foe the storm, and tempest, and lightning of his anger. All his speeches were remarkable, but his finest speeches were most finished performances; they were masterpieces of oratory; they contained profound views, and answered everything. His speeches on the Catholic question in the Imperial Parliament will long be remembered. He put forward the strength of their case in a manner that not only caught the auditory, but drew from one of their greatest opponents the remark, that Plunket had done more to advance their cause in the House than any of their advocates. Take him altogether, he was an extraordinary man. The son of a worthy Presbyterian clergyman in the north of Ireland, possessed of a small fortune, who died leaving a large family with little to support them, and this individual, then a very young child. Deprived of his father, he managed to procure for himself the best education, and to gain the highest name in the University of Dublin—so high, that he would not even accept a Fellowship if it had been conferred upon him. He then raised himself at the Bar, and became a most distinguished advocate. He then got into Parliament of both kingdoms; the Irish Parliament first, the Imperial Parliament afterwards. He was advanced to the highest offices of the State—Attorney-General, Chief Justice, Lord Chancellor of Ireland. He was offered the Rolls in England, and finally received a British peerage. All this he did, not by dint of art or money—not by stooping to the vulgar ways of low ambition or of crafty pride—not as Lord Clare did, by abusing and selling his country; he excelled everywhere, and succeeded in almost everything.

Epitome
of his
career.

He upheld the rights of Ireland, defended her cause, and advanced himself solely by his gigantic abilities and fearless energy.'

CHAP.
LXXXII.

Lord Plunket's career as a public man may perhaps not be deemed quite appropriate to these pages; but as an Irishman and a Catholic I am impelled, not alone by a sense of pride, but of gratitude, to add my opinion to those of more competent authorities who have spoken in his praise. He did his best for his country. To her interest and service he devoted the enthusiasm of his early life; to the cause of his Catholic fellow-countrymen he directed the power and ability of his maturer years. He had, it may be, a keen eye to his own interest, and did nothing to peril his position, while so many of his contemporaries at the College Historical Society perilled all. Is he to be blamed for this? Surely not. But when earnest and legitimate efforts were to be made for Ireland, he was ever foremost to make them. He was a consistent Liberal throughout his life, and though his conduct upon some occasions, such as Emmet's trial, and the debate on the Manchester riots, was made the subject of much animadversion and severe comment, when we consider calmly the course he took, and his reasons for taking it, who will say these reasons are not perfectly satisfactory?

Lord
Plunket's
public
character.

The sallies of wit and humour of such a man as Plunket are worth preserving, and I have gleaned all I could meet with.

In 1827 the poet Moore noted some witticisms, communicated by a mutual friend, Mr. Corry:—"Corry told me a good deal about Plunket, of his amiableness and even playfulness, when one comes to know him, notwithstanding that repulsive look and manner of his. Described a merry day with him and the Chief Justice (Bushe) at the Pigeon House; their endeavours to outpun each other: "Well, that's as bad as his; isn't it?" "No, no! mine was the worst; I appeal to all around." Con

Bon mots
of Plunket.

CHAP.
LXXII.

Lyne¹ was one of the party, and on his undertaking to recite something, Plunket said, "Come, come, Lyne, stand up while you do it, and nobody at least can say you're *Con seated* (conceited)."

Some mutual acquaintance, who was not remarkable for his brilliancy, was spoken of as having foretold an event.

'I always knew he was a *bore*,' remarked Plunket, 'but did not know he was an *augur*.'

One of the officials of the Court of Chancery named Moore was noted for his peculiar writing, his *caligraphy* as he called it; while one of the most eminent practitioners, seldom absent during the sittings, was a dandy solicitor named Morris. One day, while several of the King's Counsel were waiting for the Lord Chancellor's coming, Bushe asked Plunket, 'Why should this Court remind them of Chester?'

'I give it up,' replied Plunket.

'Don't you see,' rejoined Bushe, 'we are near *Penman Moore* (Penmanmaur).'

'I was stupid, indeed,' was Plunket's reply, 'and ask you in return why it reminds us of North Wales?'

Bushe was unable to solve the riddle; so, pointing to the dandy solicitor, Plunket jocosely said, 'Why, there's *Beau Morris*.'

On a learned Serjeant, more remarkable for late sitting than early rising, having been appointed a Judge of the Common Pleas, when that Court, unlike its present position, had little business—'It's the very Court for him,' said Plunket; 'it will be *up* every day before himself.'

Among the specimens of Plunket's ready wit the following deserves mention. At a dinner-party given by the Archbishop of Dublin, Dr. Magee, a young Fellow of College wished to attract observation by narrating a dif-

¹ A very social and convivial Irish barrister, who loved the report of a Champagne flask better than a Report of Law. 'Any relation,' asked a stranger, 'to Con of the Hundred Battles?' 'No,' replied Lord Plunket, 'but he is Con of the Hundred *Bottles*.'

ference of opinion between two celebrated men of science, Dr. Brinkley, the great astronomer, and Dr. Pond. The gentleman being asked to mention the cause of controversy, replied:—‘Brinkley says that the parallax of *a* lyræ is three seconds, and Pond contends that it is only two. Each maintains his own opinion with the most obstinate pertinacity; and, in short, I do not know how it will end, the quarrel is so keen between them.’

‘Upon my word, Sir,’ said Plunket, with a grave comic face, that to those who knew him portended a joke, ‘it must be a very bad quarrel *when the seconds cannot agree.*’

A somewhat solemn dinner-party was ranged at opposite sides of the well-furnished table at Holland House. Statesmen and literary celebrities mingled with beauties without wit, and wits without beauty, in the select coterie. Hume was there, and full of dry statistics, pouring tables of figures into the unwilling ears of his next neighbour, and his hard Scotch voice could be heard for a considerable distance. ‘Don’t you think Mr. Hume a great bore?’ enquired a fair daughter of the aristocracy, who sat next to Plunket. ‘Indeed, I do, Lady ——,’ was the reply; ‘a great Caledonian boar.’

During the interval between Bushe ceasing to be Solicitor-General and becoming Lord Chief Justice of the King’s Bench, he dined with a large party at Plunket’s, who thus proposed his health:—‘Gentlemen, I am going to give you a toast; and it will be necessary for me to say a word or two before I tell you what it is. If I were to say that I am going to give you the Solicitor-General, perhaps you would be at a loss to know whom I mean. And if I were to say I am going to give you the Chief Justice, I would certainly mention a very respectable and most distinguished individual; but it is not exactly him I mean at present. In order, therefore, that there should be no ambiguity, that you may all perfectly understand who it is I do mean, I beg leave to give you *the ornament of the Irish Bar*—the man who has endeared himself to all who know him, not merely by the richness of his genius—

Plunket’s
speech on
proposing
the health
of Bushe.

CHAP.
LXXII.

not merely by the splendour of his eloquence—not merely by the captivations of his manner—not merely by the extent and variety of his erudition; but by the essential goodness of his heart and nature, which eclipses them all.’ I need hardly say with what enthusiasm a toast so proposed was received.

Bushe's
speech in
returning
thanks.

It required almost equal talent to reply becomingly to such a preface. When the cheering subsided, and the toast was duly quaffed, Bushe rose to acknowledge the compliment. ‘After such a tribute,’ he said, ‘he could not continue silent: the post of Solicitor-General he had just relinquished, that of Chief Justice was one he hoped soon to enjoy; but he rejoiced in the interregnum between his two titles, inasmuch as it gave him an opportunity of claiming for that period a distinction of which he was prouder than of either, and that is,’ said he, turning round, and placing his hand on Plunket’s shoulders, ‘that I am *the friend of this man.*’¹

Plunket's
address
when
proposing
the health
of Peter
Burrowes.

Few discharged the duties of host better, or were more ready at after-dinner speeches, which, neatly done, give such spirit to social reunions. As we have just seen, some of these *post prandial* effusions of wit and sentiment have been preserved. I have spoken of the intimacy which for years subsisted between him and Peter Burrowes. In proposing the health of this truly childlike, amiable, and excellent man, he said, ‘I know no one who has more to answer for. He has spent his life in doing acts of kindness to every human being but himself. He has been prodigal of his time, and his trouble, and his fortune, for his friends, to a degree that is quite inexcusable. In short, I know no way of accounting for such an anomaly, but by supposing him utterly destitute of the instinct of selfishness.’²

Among the acts of kindness Lord Plunket performed must be remembered his promoting Peter Burrowes to the

¹ Dub. Univ. Mag. vol. xv. p. 264. We cannot be surprised at the eloquence already displayed by the grandson of two such orators, the Hon. David Plunket, Q.C., M.P.

² Dub. Univ. Mag. vol. xv. p. 264.

judicial office of Commissioner of the Court for the Relief of Insolvent Debtors in Ireland, which he held for many years.

CHAP.
LXXII.

I have now concluded my labours in tracing the Lives of the LORD CHANCELLORS OF IRELAND. With two exceptions all who have held the Great Seal of Ireland since Lord Plunket's time are still alive, and I trust shall continue, for many years, enjoying that respect and esteem which they have so well earned. But I cannot part with those who have been my companions for nearly half a lifetime without deep anxiety as to how they shall be received by the extensive acquaintance to whom I now entrust them, happily under the best possible auspices. Into the close relationship to which they stood to me I cannot expect the public will enter; excuses for their shortcomings and their actions will not be made, and their conduct and my treatment of it shall, I doubt not, be severely and justly criticised; but when writing for the public, I have ever been controlled by a sense of duty, and have spared no pains to perform my work in a truthful and conscientious manner. These 'Lives' have formed my most agreeable occupation, morning and evening, for a great many years, while my days were passed in the monotony of official routine, *in nearly the same labours for twenty years*, uncheered by the prospect of promotion; or, if a hope still clung to Pandora's box, it was hitherto doomed to speedy and certain disappointment. As my official duties have been to the best of my ability most honestly and punctually discharged, so, I hope, my literary labours partake of the same character; and, however modified by the creed I profess, and the love of country which has grown with my life, I trust a favourable opinion may be entertained of the way in which I have written the LIVES OF THE LORD CHANCELLORS OF IRELAND.

THE END.

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