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A

HISTORY

OF

THE PENAL LAWS

AGAINST THE

IRISH CATHOLICS ;

FROM THE TREATY OF LIMERICK TO THE UNION.

WITH AN INDEX.

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BY SIR HENRY PARNELL, BART. M. P.

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NEW EDITION, CORRECTED FOR THE PAMPHLETEER  
EXCLUSIVELY.

LONDON :

1822.

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A  
HISTORY  
OF THE  
PENAL LAWS,  
&c. &c.

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WILLIAM III.

WHEN James II. abdicated the throne of England, he retired to France, to solicit the aid of Louis XIV. to enable him to secure the possession of Ireland, where he was still acknowledged as the lawful sovereign. On the 12th of March, 1689, James landed at Kinsale with about 1200 of his own subjects in the pay of France, and 190 French officers. He was received with open arms, and the whole country seemed to be devoted to him, for although the Protestants in the north had declared for the new government, their strength and number were inconsiderable, when compared with the forces of the Lord Deputy Tyrconnel. This minister had disarmed all the other Protestants in one day, and assembled an army of 30,000 foot, 8,000 cavalry.<sup>1</sup> Addresses were poured in upon James from all orders of the people. The established clergy among the rest, congratulated him upon his arrival, a certain sign that his chance of success was not contemptible.

James continued to govern Ireland, without any interruption from William, till the 13th of August,<sup>2</sup> when Schomberg landed at Belfast with an English army of 10,000 men. To oppose him, James collected his forces, amounting to 30,000, at Drogheda.<sup>3</sup> Schomberg who had arrived at Dundalk, thought it prudent to advance no farther; and instead of reducing Ireland, after having lost one half of his army by sickness, he at the end of the campaign was under the necessity of entrenching himself against an

<sup>1</sup> Smollett, i. 36.

<sup>2</sup> Leland, v. 3, b. 6. c. 6.

<sup>3</sup> Ib.

enemy, which he had been taught in England to despise, and of confining his operations to the protection of the northern province.<sup>1</sup>

On the 14th of June in the year following, William landed with reinforcements at Carrickfergus. The distracted state of England, and the formidable preparations of France, inclined him to a vigorous prosecution of the war in Ireland.<sup>2</sup> He advanced towards Dublin with an army of 36,000 men. James collected his forces amounting to 33,000 at Drogheda, and by an unaccountable infatuation resisted the advice of his general officers, to act on the defensive against William; who would then have had to contend, at the same time, against a threatened foreign invasion of Britain, the insurrection which his own subjects were plotting, and the difficulty of maintaining his Irish army in an unfriendly climate, without provisions or succours.

Though William obtained a decided victory at the Boyne, the Irish army had fought with courage and obstinacy; and, in consequence of having at one time repulsed the centre of the English army, were able to retire in good order, with the loss of only 1500 men.<sup>3</sup> The subsequent defeat of General Douglas before Athlone, and of William himself before Limerick, left James, at the end of the campaign, in possession of nearly one half of Ireland, and well supported by an army inured to war, and commanded by able and experienced generals. William experienced still greater embarrassments on the continent and in England. A victory had been gained by Luxemburgh, in Flanders, over Prince Waldeck and the confederate army; Tourville had defeated the united fleets of England and Holland; and great dejection and discontent were visible among his British subjects.

William having returned to England in the autumn of 1690, General Ginckle, with an army inferior to that of St. Ruth, who now commanded the Irish forces, commenced the campaign by the capture of the fort of Baltimore. Having afterwards taken Athlone, and defeated St. Ruth at the battle of Aughrim, he laid siege to Limerick on the 25th of August, 1691. The fortifications had been strengthened since William was repulsed before it in the preceding year; the garrison was healthy, well supplied, and in numbers equal to the assailants, and strong succours were daily expected from France.<sup>4</sup> The besiegers, on the other hand, were too few for the undertaking, the season of the year was far advanced, and they had no expectations of receiving any reinforcements.

Week passed away after week without Ginckle's obtaining any

<sup>1</sup> Leland, v. 3, b. 6. c. 6.

<sup>2</sup> Ib.

<sup>3</sup> Ib.

<sup>4</sup> Ib.

advantage over the besieged; at length he made a lodgment on the West side of the Shannon. But, notwithstanding this success, it was debated whether the siege should be carried on, or converted into a blockade; such were the difficulties foreseen in reducing the town. It was dangerous for the besiegers to continue in their present station on the approach of winter, and hazardous to divide an army sufficient only for assailing the town on one side; and yet the only effectual way of reducing it was to invest it on all sides, by cutting off the garrison from all intercourse with the county of Clare.<sup>1</sup>

William, in the mean time, was so sensible of the necessity of obtaining the surrender of the Irish army, in order to secure his newly acquired throne, and the success of the revolution, that he sent instructions to the Lords Justices to issue a proclamation, offering to the Catholics still more liberal terms than those which they afterwards accepted; and he gave Ginckle urgent directions to terminate the war on any conditions.<sup>2</sup> Fortunately, however, for William and the revolution party, but most unfortunately, as events have since proved, for the Catholics, the garrison of Limerick beat a parley on the 29th day of the siege. A cessation of three days was granted; and, on the last day of it, the Irish generals proposed terms of capitulation. They required an act of indemnity for all past offences, with a full enjoyment of the estates they possessed before the present revolution, freedom for the Catholic worship, with an establishment of one Romish ecclesiastic in each parish. They also required, that Catholics should be declared fully qualified for every office, civil and military; that they should be admitted into all corporations; and, that the Irish army should be kept up and paid in the same manner with the king's other troops, provided they were willing to serve.<sup>3</sup> Ginckle refused to accede to their proposal; but being desired to offer such terms as he could grant, he proposed conditions which were accepted by the garrison, and which are contained in the following civil and military articles.

Three days after they were signed, the French fleet arrived in Dingle Bay.<sup>4</sup>

<sup>1</sup> Leland, v. 3. b. 6. c. 6.

<sup>2</sup> *Ib.* and Harris's *Life of William*, p. 372.

This was called the secret proclamation, because, though printed, it never was published, in consequence of the Lords Justices being informed of the inclination of the garrison to treat for their surrender.

<sup>3</sup> Leland, v. 3. b. 6. c. 6.

<sup>4</sup> See Note A.



## THE CIVIL AND MILITARY ARTICLES OF LIMERICK,

*Exactly printed from the Letters Patent, wherein they are ratified and exemplified by their Majesties, under the Great Seal of England.<sup>1</sup>*

GULIELMUS et Maria Dei gratia, Anglæ, Scotiæ, Franciæ et Hiberniæ, rex et regina, fidei defensores, &c. Omnibus ad quos presentes literæ nostræ pervenerint salutem: inspeximus irrotulament. quarund. literarum patentium de confirmatione, geren. dat. apud Westmonasterium vicemo quarto die Februarii, ultimi præteriti in cancellar. nostr. irrotulat. ac ibidem de recordo remanem. in hæc verba. William and Mary, by the grace of God, &c. To all to whom these presents shall come, greeting. Whereas certain articles, bearing date the third day of October last past, made and agreed on between our justices of our kingdom of Ireland, and our general of our forces there on the one part; and several officers there, commanding within the city of Limerick, in our said kingdom, on the other part. Whereby our said justices and general did undertake that we should ratify those articles, within the space of eight months or sooner; and use their utmost endeavours that the same should be ratified and confirmed in parliament. The tenor of which said articles is as follows, viz.

## ARTICLES AGREED UPON THE THIRD DAY OF OCTOBER, ONE THOUSAND SIX HUNDRED AND NINETY-ONE.

Between the Right Honorable Sir Charles Porter, Knight, and Thomas Coningsby, Esq. Lords Justices of Ireland; and his Excellency the Baron De Ginckle, Lieutenant General and Commander in Chief of the English army; on the one part.

And the Right Honorable Patrick Earl of Lucan, Piercy, Viscount Gallmoy, Colonel Nicholas Purcel, Colonel Nicholas Dusack, Sir Toby Butler, Colonel Garret Dillon, and Colonel John Brown; on the other part:

In the behalf of the *Irish Inhabitants in the City and County of Limerick, the Counties of Clare, Kerry, Cork, Sligo, and Mayo.*

In consideration of the Surrender of the City of Limerick, and other agreements made between the said Lieutenant General Ginckle, the Governor of the City of Limerick, and the Generals of the Irish army, bearing date with these Presents, for the

<sup>1</sup> The date of the ratification of these articles, is 5th of April, 1692, that is four years after their Majesties had taken the coronation oath.

Surrender of the City, and Submission of the said Army : it is agreed, That,

I. THE Roman Catholics of this kingdom shall enjoy such privileges in the exercise of their religion, as are consistent with the laws of Ireland ; or as they did enjoy in the reign of King Charles the Second ; and their Majesties, as soon as their affairs will permit them to summon a Parliament in this kingdom, will endeavour to procure the said Roman Catholics such further security in that particular, *as may preserve them from any disturbance upon the account of their said religion.*

II. All the inhabitants or residents of Limerick, or any other garrison now in the possession of the Irish, and all officers and soldiers, now in arms, under any commission of King James, or those authorised by him, to grant the same in the several counties of Limerick, Clare, Kerry, Cork, and Mayo, or any of them ; and all the commissioned officers in their Majesties' quarters, that belong to the Irish regiments now in being, that are treated with, and who are not prisoners of war, or have taken protection, and who shall return and submit to their Majesties' obedience ; and their and every of their heirs, shall hold, possess, and enjoy, all and every their estates of freehold and inheritance ; and *all the rights, titles and interest, privileges and immunities, which they, and every or any of them held, enjoyed, or were rightfully and lawfully entitled to in the reign of King Charles II.* or at any time since, by the laws and statutes that were in force in the said reign of King Charles II. and shall be put in possession, by order of the government, of such of them as are in the King's hands, or the hands of his tenants, without being put to any suit or trouble therein ; and all such estates shall be freed and discharged from all arrears of crown rents, quit rents, and other public charges, incurred and become due since Michaelmas 1688, to the day of the date hereof : and all persons comprehended in this article, shall have, hold, and enjoy all their goods and chattels, real and personal, to them, or any of them belonging, and remaining either in their own hands, or in the hands of any persons whatsoever, in trust for, or for the use of them, or any of them : and all, and every the said persons, of what profession, trade, or calling soever they be, shall and may use, exercise, and practise their several and respective professions, trades and callings, as freely as they did use, exercise, and enjoy the same in the reign of King Charles II. provided that nothing in this article contained, be construed to extend to, or restore any forfeiting person now out of the kingdom, except what are hereafter comprised ; provided also, that no person whatsoever shall have or enjoy the benefit of this

article, that shall neglect or refuse to take the oath of allegiance,<sup>1</sup> made by act of Parliament in England, in the first year of the reign of their present Majesties, when thereunto required.

III. All merchants, or reputed merchants of the city of Limerick, or of any other garrison now possessed by the Irish, or of any town or place in the counties of Clare or Kerry, who are absent beyond the seas, that have not bore arms since their Majesties' declaration in February, 1688, shall have the benefit of the second article, in the same manner as if they were present; provided such merchants, and reputed merchants, do repair into this kingdom within the space of eight months from the date hereof.

IV. The following officers, viz. Colonel Simon Lutterel, Captain Rowland White, Maurice Eustace of Yermanstown, Chieveas of Maystown, commonly called Mount-Leinster, now belonging to the regiments in the aforesaid garrisons and quarters of the Irish army, who were beyond the seas, and sent thither upon affairs of their respective regiments, or the army in general, shall have the benefit and advantage of the second article, provided they return hither within the space of eight months from the date of these presents, and submit to their Majesties' government, and take the above-mentioned oath.

V. That all and singular the said persons comprised in the second and third articles, shall have a general pardon of all attainders, outlawries, treasons, misprisions of treason, premunires, felonies, trespasses, and other crimes and misdemeanors, whatsoever, by them, or any of them, committed since the beginning of the reign of King James II. and if any of them are attainted by Parliament, the Lords Justices, and General, will use their best endeavours to get the same repealed by Parliament, and the outlawries to be reversed gratis, all but writing-clerks' fees.

VI. And whereas these present wars have drawn on great violences on both parts; and that if leave were given to the bringing all sorts of private actions, the animosities would probably continue that have been too long on foot, and the public disturbances last: for the quieting and settling therefore of this kingdom, and avoiding those inconveniences which would be the necessary consequence of the contrary, no person or persons whatsoever, comprised in the foregoing articles, shall be sued, molested, or impleaded at the suit of any party or parties whatsoever, for any trespasses by them committed, or for any arms, horses, money, goods, chattels, merchandizes, or provisions whatsoever, by them seized or taken during the time of the war. And no person or

<sup>1</sup> I A. B. do sincerely promise and swear, that I will be faithful, and bear true Allegiance to their Majesties King William and Queen Mary. So help me God.

persons whatsoever, in the second or third articles comprised, shall be sued, impleaded, or made accountable for the rents or mean rates of any lands, tenements, or houses, by him or them received, or enjoyed in this kingdom, since the beginning of the present war, to the day of the date hereof, nor for any waste or trespass by him or them committed in any such lands, tenements, or houses : and it is also agreed, that this article shall be mutual and reciprocal on both sides.

VII. Every nobleman and gentleman comprised in the side second and third articles, shall have liberty to ride with a sword and case of pistols, if they think fit ; and keep a gun in their houses, for the defence of the same, or for fowling.

VIII. The inhabitants and residents in the city of Limerick, and other garrisons, shall be permitted to remove their goods, chattels and provisions, out of the same, without being viewed and searched, or paying any manner of duties, and shall not be compelled to leave the houses or lodgings they now have, for the space of six weeks next ensuing the date hereof.

IX. The oath to be administered to such Roman Catholics as submit to their Majesties' Government, shall be the oath abovesaid, and no other.

X. No person or persons who shall at any time hereafter break these articles, or any of them, shall thereby make, or cause any other person or persons to forfeit or lose the benefit of the same.

XI. The Lords Justices and General do promise to use their utmost endeavours, that all the persons comprehended in the above-mentioned articles, shall be protected and defended from all arrests and executions for debt or damage, for the space of eight months next ensuing the date hereof.

XII. Lastly, the Lords Justices and General do undertake, that their Majesties will ratify these articles within the space of eight months, or sooner, and use their utmost endeavours that the same shall be ratified and confirmed in Parliament.

XIII. And whereas Colonel John Brown stood indebted to several Protestants, by judgments of record, which appearing to the late Government, the Lord Tyrconnel, and Lord Lucan, took away the effects the said John Brown had to answer the said debts, and promised to clear the said John Brown of the said debts ; which effects were taken for the public use of the Irish, and their army : for freeing the said Lord Lucan of his said engagement, past on their public account, for payment of the said Protestants, and for preventing the ruin of the said John Brown, and for satisfaction of his creditors, at the instance of the Lord Lucan, and the rest of the persons aforesaid, it is agreed, that the said Lords Justices, and the said Baron De Ginckle, shall intercede with the

King and Parliament, to have the estates secured to Roman Catholics, by articles and capitulation in this kingdom, charged with, and equally liable to, the payment of so much of the said debts as the said Lord Lucan, upon stating accounts with the said JOHN BROWN, shall certify under his hand, that the effects taken from the said Brown amount unto; which accompt is to be stated, and the balance certified by the said Lord Lucan, in one and twenty days after the date hereof :

For the true performance hereof, we have hereunto set our hands,

Present,

SCRAVENMORE.

H. MACCAY.

T. TALMASH.

CHAR. PORTER.

THOS. CONINGSBY.

BAR. DE GINCKLE.

And whereas the said city of Limerick hath been since, in pursuance of the said articles, surrendered unto us. Now know ye, that we having considered of the said articles, are graciously pleased hereby to declare, *that we do for us, our heirs, and successors, as far as in us lies, ratify and confirm the same, and every clause, matter, and thing therein contained.*—And as to such parts thereof for which an act of Parliament shall be found to be necessary, we shall recommend the same to be made good by Parliament, and shall give our royal assent to any bill or bills that shall be passed by our two Houses of Parliament to that purpose. And whereas it appears unto us, that it was agreed between the parties to the said articles, that after the words Limerick, Clare, Kerry, Cork, Mayo, or any of them, in the second of the said articles, the words following, viz. “And all such as are under their protection in the said counties,” should be inserted, and be part of the said articles. Which words having been casually omitted by the writer, the omission was not discovered till after the said articles were signed, but was taken notice of before the second town was surrendered: and that our said justices and general, or one of them, did promise that the said clause should be made good, it being within the intention of the capitulation, and inserted in the foul draft thereof. Our further will and pleasure is, and we do hereby ratify and confirm the said omitted words, viz. “And all such as are under their protection in the said counties,” hereby for us, our heirs and successors, ordaining and declaring, that all and every person and persons therein concerned, shall and may have, receive, and enjoy the benefit thereof, in such and the same manner, as if the said words had been inserted in their proper place, in the said second article; any omission, defect, or mistake in the said second article in any wise notwithstanding. Provided always,

and our will and pleasure is, that these our letters patents shall be enrolled in our court of Chancery, in our said kingdom of Ireland, within the space of one year next ensuing. In witness, &c. witness ourself at Westminster, the twenty-fourth day of February, anno regni regis & reginæ Gulielmi & Mariæ quarto per breve de privato sigillo. Nos autem tenorem premissor. predict. Ad requisitionem attornat. general. domini regis & dominæ reginæ pro regno Hiberniæ. Duximus exemplificand. per presentes. In cujus-rei testimonium has litteras nostras fieri fecimus patentes. Testibus nobis ipsis apud Westmon. quinto die Aprilis, annoq. regni eorum quarto.

BRIDGES.

Examinat. {	S. KECK.	} In Cancel.
per nos {	LACON WM. CHILDE.	} Magistros.

*Military Articles agreed upon between the Baron de Ginckle, Lieutenant-General and Commander in Chief of the English army, on the one side—*

*And the Lieutenant-Generals De Ussoon and De Tesse, Commanders in Chief of the Irish army, on the other; and the General Officers hereunto subscribing.*

I. That all persons, without any exceptions, of what quality or condition soever, that are willing to leave the kingdom of Ireland, shall have free liberty to go to any country beyond the seas (England and Scotland excepted) where they think fit, with their families, household-stuff, plate, and jewels.

II. That all general officers, colonels, and generally all other officers of horse, dragoons, and foot guards, troopers, dragoons, soldiers of all kinds, that are in any garrison, place, or post, now in the hands of the Irish, or encamped in the counties of Cork, Clare, and Kerry, as also those called Rapparees, or volunteers, that are willing to go beyond seas as aforesaid, shall have free leave to embark themselves wherever the ships are that are appointed to transport them, and to come in whole bodies as they are now composed, or in parties, companies, or otherwise, without having any impediment, directly or indirectly.

III. That all persons above-mentioned, that are willing to leave Ireland and go into France, shall have leave to declare it at the times and places hereafter mentioned, viz. the troops in Limerick, on Tuesday next in Limerick; the horse at their camp on Wednesday, and the other forces that are dispersed in the counties of Clare, Kerry, and Cork, on the 8th instant, and none other, before Monsieur Tameron, the French intendant, and Colonel Withers;

and after such declaration is made, the troops that will go into France must remain under the command and discipline of their officers that are to conduct them thither; and deserters of each side shall be given up, and punished accordingly.

IV. That all English and Scotch officers that serve now in Ireland, shall be included in this capitulation, as well for the security of their estates and goods in England, Scotland, and Ireland, (if they are willing to remain here,) as for passing freely into France, or any other country, to serve.

V. That all the general French officers, the intendant, the engineers, the commissaries at war, and of the artillery, the treasurer, and other French officers, strangers, and all others whatsoever, that are in Sligo, Ross, Clare, or in the army, or that do trade or commerce, or are otherways employed in any kind of station or condition, shall have free leave to pass into France, or any other country, and shall have leave to ship themselves, with all their horses, equipage, plate, papers, and all their effects whatever; and that General Ginckle will order passports for them, convoys, and carriages, by land and water, to carry them safe from Limerick to the ships where they shall be embarked, without paying any thing for the said carriages, or to those that are employed therein, with their horses, cars, boats, and shallops.

VI. That if any of the aforesaid equipages, merchandise, horses, money, plate, or other moveables, or household-stuff belonging to the said Irish troops, or to the French officers, or other particular persons whatsoever, be robbed, destroyed, or taken away by the troops of the said General, the said General will order it to be restored, or payment to be made according to the value that is given in upon oath by the person so robbed or plundered: and the said Irish troops to be transported as aforesaid: and all other persons belonging to them, are to observe good order in their march and quarters, and shall restore whatever they shall take from the country, or make restitution for the same.

VII. That to facilitate the transporting the said troops, the General will furnish fifty ships, each ship's burthen two hundred tons; for which the persons to be transported shall not be obliged to pay, and twenty more, if there shall be occasion, without their paying for them; and if any of the said ships shall be of lesser burthen, he will furnish more in number to countervail; and also give two men of war to embark the principal officers, and serve for a convoy to the vessels of burthen.

VIII. That a commissary shall be immediately sent to Cork to visit the transport ships, and what condition they are in for sailing: and that as soon as they are ready, the troops to be transported shall march with all convenient speed, the nearest way, in order to embark there: and if there shall be any more men to be trans-

ported than can be carried off in the said fifty ships, the rest shall quit the English town of Limerick, and march to such quarters as shall be appointed for them, convenient for their transportation, where they shall remain till the other twenty ships be ready, which are to be in a month; and may embark on any French ship that may come in the mean time.

IX. That the said ships shall be furnished with forage for horse, and all necessary provisions to subsist the officers, troops, dragoons, and soldiers, and all other persons that are shipped to be transported into France; which provisions shall be paid for as soon as all are disembarked at Brest or Nantz, upon the coast of Brittany, or any other port of France they can make.

X. And to secure the return of the said ships (the danger of the seas excepted) and payment for the said provisions, sufficient hostages shall be given.

XI. That the garrisons of Clare-castle, Ross, and all other foot that are in garrisons in the counties of Clare, Cork, and Kerry, shall have the advantage of this present capitulation; and such part of those garrisons as design to go beyond seas, shall march out with their arms, baggage, drums beating, ball in mouth, match lighted at both ends, and colors flying, with all the provisions, and half the ammunition that is in the said garrisons, and join the horse that march to be transported; or if then there is not shipping enough for the body of foot that is to be next transported after the horse, General Ginckle will order that they be furnished with carriages for that purpose, and what provisions they shall want in their march, they paying for the said provisions, or else that they may take it out of their own magazines.

XII. That all the troops of horse and dragoons that are in the counties of Cork, Kerry, and Clare, shall also have the benefit of this capitulation; and that such as will pass into France shall have quarters given them in the counties of Clare and Kerry, apart from the troops that are commanded by General Ginckle, until they can be shipped; and within their quarters they shall pay for every thing, except forage and pasture for their horses, which shall be furnished gratis.

XIII. Those of the garrison of Sligo that are joined to the Irish army, shall have the benefit of this capitulation; and orders shall be sent to them that are to convey them up, to bring them hither to Limerick the shortest way.

XIV. The Irish may have liberty to transport nine hundred horse, including horses for the officers, which shall be transported gratis; and as for the troopers that stay behind, they shall dispose of themselves as they shall think fit, giving up their horses and arms to such persons as the General shall appoint.

XV. It shall be permitted to those that are appointed to take



care for the subsistence of the horse, that are willing to go into France, to buy hay and corn at the King's rates wherever they can find it, in the quarters that are assigned for them, without any let or molestation, and to carry all necessary provisions out of the city of Limerick; and for this purpose the General will furnish convenient carriages for them to the places where they shall be embarked.

XVI. It shall be lawful to make use of the hay preserved in the stores of the county of Kerry, for the horses that shall be embarked; and if there be not enough, it shall be lawful to buy hay and oats wherever it shall be found, at the King's rates.

XVII. That all prisoners of war that were in Ireland the 28th of September, shall be set at liberty on both sides; and the General promises to use his endeavours that those that are in England and Flanders shall be set at liberty also.

XVIII. The General will cause provisions and medicines to be furnished to the sick and wounded officers, troopers, dragoons, and soldiers of the Irish army, that cannot pass into France at the first embarkment; and after they are cured, will order them ships to pass into France, if they are willing to go.

XIX. That at the signing hereof the General will send a ship express to France; and that besides, he will furnish two small ships of those that are now in the river of Limerick, to transport two persons into France that are to be sent to give notice of this treaty; and that the commanders of the said ships shall have orders to put ashore at the next port of France where they shall make.

XX. That all those of the said troops, officers, and others, of what characters soever, that would pass into France, shall not be stopped on account of debt, or any other pretext.

XXI. If, after signing this present treaty, and before the arrival of the fleet, a French packet-boat, or other transport-ship, shall arrive from France in any other part of Ireland, the General will order a passport, not only for such as must go aboard the said ships, but to the ships, to come to the nearest port to the place where the troops to be transported shall be quartered.

XXII. That after the arrival of the said fleet, there shall be free communication and passage between it and the quarters of the above-said troops; and especially for all those that have passes from the chief commanders of the said fleet, or from Mons. Tameron, the Intendant.

XXIII. In consideration of the present capitulation, the two towns of Limerick shall be delivered and put into the hands of the General, or any other person he shall appoint, at the time and days hereafter specified, viz. the Irish town, except the magazines and hospital, on the day of the signing of these present articles; and

as for the English town, it shall remain, together with the island, and the free passage of Thomond-bridge, in the hands of those of the Irish army that are now in the garrison, or that shall hereafter come from the counties of Cork, Clare, Kerry, Sligo, and other places above-mentioned, until there shall be convenience found for their transportation.

XXIV. And to prevent all disorders that may happen between the garrison that the General shall place in the Irish town, which shall be delivered to him, and the Irish troopers that shall remain in the English town and the island (which they may do, until the troops to be embarked on the first fifty ships shall be gone for France, and no longer), they shall entrench themselves on both sides, to hinder the communication of the said garrison: and it shall be prohibited on both sides, to offer any thing that is offensive; and the parties offending shall be punished on either side.

XXV. That it shall be lawful for the said garrison to march out all at once, or at different times, as they can be embarked, *with arms, baggage, drums beating, match lighted at both ends, bullet in mouth, colors flying, six brass guns, such as the besieged will chuse, two mortar pieces, and half the ammunition that is now in the magazines of the said place*; and for this purpose an inventory of all the ammunition in the garrison, shall be made in the presence of any person that the General shall appoint, the next day after these present articles shall be signed.

XXVI. All the magazines of provisions shall remain in the hands of those that are now employed to take care of the same, for the subsistence of those of the Irish army that will pass into France: and if there shall not be sufficient in the stores, for the support of the said troops whilst they stay in this kingdom, and are crossing the seas, that upon giving up an account of their numbers, the General will furnish them with sufficient provisions at the King's rates; and that there shall be a free market at Limerick, and other quarters where the said troops shall be; and in case any provision shall remain in the magazines of Limerick when the town shall be given up, it shall be valued, and the price deducted out of what is to be paid for the provisions to be furnished to the troops on ship-board.

XXVII. That there shall be a cessation of arms at land, as also at sea, with respect to the ships, whether English, Dutch, or French, designed for the transportation of the said troops, until they shall be returned to their respective harbours; and that on both sides they shall be furnished with sufficient passports both for ships and men: and if any sea commander, or captain of a ship, or any officer, trooper, dragoon, soldier, or any other person, shall act contrary to this cessation, the persons so acting shall be punished on either side, and satisfaction shall be made for the wrong that

is done ; and officers shall be sent to the mouth of the river of Limerick, to give notice to the commanders of the English and French fleets, of the present conjuncture, that they may observe the cessation of arms accordingly.

XXVIII. That for the security of the execution of this present capitulation, and of each article therein contained, the besieged shall give the following hostages—and the General shall give—

XXIX. If before this capitulation is fully executed, there happens any change in the government, or command of the army, which is now commanded by General Ginckle ; all those that shall be appointed to command the same, shall be obliged to observe and execute what is specified in these articles, or cause it to be executed punctually, and shall not act contrary on any account.

Oct. 19.

BARON DE GINCKLE.

If this treaty is only considered according to those rules of common morality, which influence the conduct of man to man ; if, in proportion to the great advantages which England derived from it, she was bound to construe it with liberality, as well as to execute it with good faith ; then the Irish Catholics must be considered as placed by it in a situation of complete equality with their Protestant countrymen. The free exercise of their religion was granted in the most unqualified manner : security of property was as fully confirmed to them. In regard to personal security, they were pardoned all misdemeanors whatsoever, of which they had been guilty, and were restored to all their rights, liberties, privileges, and immunities, which, by the laws of the land, and customs, constitutions, and native birth-right, they, any and every of them, were equally, with every other of their fellow subjects entitled to.<sup>1</sup> The practice of the several trades or professions was secured to them. They were allowed the use of arms, some of them specially, but all of them in consequence of no limitation or exception to the contrary ; and they were left at liberty to vote for members of Parliament, and to sit in Parliament.<sup>2</sup> Even the laws which were in force against the Catholics, when the treaty took place, ought, according to the

<sup>1</sup> Sir Theobald Butler's speech.

<sup>2</sup> The articles of Limerick were signed by De Ginckle on the 3d of Oct. 1691. The English Parliament that passed the 3d W. and M. c. 2. by which Irish peers and members of parliament were first required to take the oath of supremacy, met on the 22d Oct. 1691. According to the constitution of Ireland as granted by Henry II. and confirmed in 1782, this act of the 3d W. and M. c. 2. was not binding in Ireland, and though the Catholics submitted to it, they were not legally excluded from parliament till the 22d year of the reign of George the Third. This act was in direct violation of the treaty of Limerick.

first article, to have been repealed;<sup>1</sup> because their Majesties engaged, by this article, to obtain for the Catholics such further security, in respect to the exercise of their religion, *as might preserve them from any disturbance on account of that religion*. It is impossible for any other fair construction to be given to this article, than that which is here given. It would be beneath the dignity, and wholly inconsistent with that character for good faith, of which it has always been the pride of England to boast, to attempt to apply any other meaning to it. No doubt there are those who would wish to act, on all occasions, towards the Catholics, according to that system of perverted morality which the powerful always impose on the weak: but, so long as the true principles of justice shall have their due influence, the majority of mankind can never consider this first article of the treaty of Limerick in any other light, than as a complete and perpetual exemption of the Irish Catholics from all political and religious disqualification on account of their religion. This treaty has been very accurately described as the great charter of the civil and religious liberty of the Catholics;<sup>2</sup> and though not hitherto observed as such by the English Government, the Catholics have a right (which time cannot efface, nor perfidy destroy) to recur to its stipulations.<sup>3</sup>

Though William had bound himself by this treaty to call a Parliament as soon as his affairs would admit, and to obtain from it the ratification of it, he dissolved the first Parliament of his reign,

<sup>1</sup> These laws were, 1st, an act against the authority of the See of Rome. It enacts, that no person shall attribute any jurisdiction to the See of Rome; that the person offending shall be subject to a premunire; and, that all who have any office from the King, every person entering into orders, or taking a degree in the University, shall take the oath of supremacy.

2d. An act restoring to the Crown the ancient jurisdiction over the State, ecclesiastical and spiritual. It likewise enacts, that every ecclesiastical person, every person accepting office, shall take the oath of supremacy.

3d. An act for the uniformity of Common Prayer. It enacts, that every person, having no lawful excuse to be absent, shall, every Sunday, resort to some place of worship of the established Church, or forfeit 12d.

4th. An act by which the Chancellor may appoint a guardian to the child of a Catholic.

5th. An act by which no Catholic schoolmaster can teach in a private house, without a license from the ordinary of his diocese, and taking the oath of supremacy.

6th. The new rules, by which no person can be admitted into any corporation without taking the oath of supremacy.

This statement is taken from the Report of the Committee of the House of Commons, appointed in 1697, to consider what penal laws were then in force against the Catholics.—*Com. Jour. of Ireland*, v. 2.

<sup>2</sup> Smollet.

<sup>3</sup> The 9th Volume of Mr. Burke's works, which was published some time after this history of the Penal Laws, contains a complete justification of the view here taken of this treaty of Limerick. See p. 387.

which had met on the 5th of October, 1692, in Sept. 1693, without proposing to them any such measure. He was further guilty of a want of attention to his engagement, by not summoning another Parliament till the 27th April, 1695; and, when this Parliament did meet, he seems to have entirely forgotten that his own faith, and the faith of the English nation, was plighted to the Catholics by a solemn treaty; for, instead of recommending to them, in the speech of his Lord Deputy, to proceed to confirm the articles of Limerick, he told them that he was intent upon the great work of a firm settlement of Ireland upon a *Protestant* interest.<sup>1</sup> The Parliament were not backward in promoting his object. They first of all passed an act to deprive the Catholics of the means of educating their children either at home or abroad, and of the privilege of being guardians either of their own or of any other person's children.<sup>2</sup> Then they passed an act to disarm the Catholics,<sup>3</sup> another to banish their priests,<sup>4</sup> and, strange as it may appear, they then thought proper in the year 1697, to pass an act to *confirm the Articles of Limerick*.<sup>5</sup>

Of this act it is to be observed, in the first place, that the very title of it is a proof of its injustice; for it is styled "an act for the confirmation of *articles*," and not, as it ought to be, "of *the articles*" made at the surrender of Limerick."

The preamble affords further evidence of the intention of the framers of it to evade its proper objects. It runs thus: "That the said articles, or *so much of them* as may consist with the safety and welfare of your Majesty's subjects of this kingdom, may be confirmed," &c.

But the whole act goes to convict the Parliament, and (as this Parliament was completely under the control of the Lord Deputy)<sup>6</sup> even William himself, of gross injustice towards the Catholics. For the first article of the treaty is wholly omitted, which guaran-

<sup>1</sup> Comm. Journal, 2. 279.

<sup>2</sup> 7th W. III. c. 4. Of this act Mr. Burke says, "Whilst this restraint upon foreign and domestic education was part of a horrible and impious system of servitude, the members were well fitted to the body. To render men patient, under a deprivation of all the rights of human nature, every thing which could give them a knowledge or feeling of those rights was rationally forbidden. To render humanity fit to be insulted, it was fit that it should be degraded. Indeed I have ever thought the prohibition of the means of improving our rational nature, to be the worst species of tyranny that the insolence and perverseness of mankind ever dared to exercise.—*Letter to a Peer of Ireland*."

<sup>3</sup> 7th W. III. c. 5. see §. 8. Catholic apprentices.

<sup>4</sup> 9th William III. c. 1.

<sup>5</sup> 9th William III. c. 2.

<sup>6</sup> "He (Lord Capel, the Lord Deputy) carried the projects of the Crown in Parliament, and was recommended as an excellent Governor, in a special address sent by the Commons to the King."—*Macpherson's Hist.* c. 2. 94.

tees to the Catholics the free exercise of their religion, and an exemption from all disturbance on account of it; and each clause of the act has the effect of limiting the terms of the other articles, and depriving the Catholics of the benefit of them, instead of ratifying and confirming them.

The first clause, which refers at once to the second article, explains who are entitled to the benefit of it, and the rights conferred upon them; assuming as a fact, for which there could be no foundation, that this article required explanation. With respect to the persons entitled to the benefit of the treaty, a most remarkable difference occurs between the words of the second article, and those of this clause, in describing them. In the ratification of the treaty by William, there is the following passage: "and whereas it appears to us, that it was agreed between the parties to the said articles, that after the words Limerick, Clare, Kerry, Cork, and Mayo, or any of them, in the second of the said articles, the words following, viz. 'And all such as are under their protection in the said counties,' should be inserted and be part of the said article; Our further will and pleasure is, and we do ratify and confirm the said omitted words." These words, according even to the strict letter of the article, extended the benefit of the treaty to the whole Catholic population of these counties, which certainly was the object of the treaty, as it may be collected from the preamble to it, in which it is stated that the Irish Generals acted in behalf of the Irish inhabitants of these counties. But in this clause of the act of Parliament to *confirm* the treaty, these words are omitted, and therefore the benefit of the treaty is limited, by this explanatory and confining act, to the Irish army and the inhabitants of the city of Limerick, and a few more garrison towns: a limitation in every respect most perfidious, and wholly unjustifiable upon any plea of ambiguity in the language of the article, even if such a plea could for a moment be allowed.

With respect to the rights conferred by the second article, this clause affords a striking proof of the paltry subterfuges to which the legislature of that day could have recourse, in order to defeat the ends of justice, and to oppress the Catholics. The second article declares, that all those comprised in the treaty, "shall hold, possess, and enjoy, all and every their estates of freehold and inheritance; and all the rights, titles and interests, privileges and immunities, which they, every, or any of them held, enjoyed, or were rightfully and lawfully entitled to in the reign of King Charles II." The clause of the act corresponds with the article except in these most material points; after the word "inheritance" the stop, instead of being a semicolon, as it is in the original treaty, is altered to a comma; and after the words "privileges and immunities,"

the words "to the said estates" are inserted; and thus the meaning of the second article is wholly altered, and the words "rights, privileges, and immunities," made to refer to the estates of the Catholics, instead of to their persons and liberties, to which only, by the original article, they can refer. If any authority were wanting to maintain this construction, a very unquestionable one may be adduced from the speech of Sir Theobald Butler, before alluded to, who was in Limerick when it surrendered, and was the person employed to draw up the treaty.

This act for *confirming* the treaty, wholly omits that part of the second article which guarantees to the Catholics the exercise of their several trades and professions. It also omits the fourth article. It limits the benefit of the indemnity granted by the sixth article to a period subsequent to the 10th of April, 1689, and enables all persons, who suffered any injuries between the 5th of November, 1688, and this period, to bring their actions for the same until the first of September, 1691, by declaring that the commencement of the war referred to in the article, was the 10th of April, 1689, and not the 5th of November, 1688, and it omits the 7th, 8th, 9th, and 10th articles. Being in short an act that, under the name of conferring favors upon the Catholics, really placed them in a worse condition than that in which they were before it passed into a law.

The other acts of this reign, relating to the Catholics, are, an act to prevent Protestants from intermarrying with Papists,<sup>1</sup> and an act to prevent them from being solicitors.<sup>2</sup> A clause was introduced in an act for the preservation of game, prohibiting papists from being employed as game-keepers.<sup>3</sup>

How it is possible to defend William and his ministers from the charge of having acted with perfidy towards the Catholics, it is not easy to discover. That they were guilty of violating the treaty no one can deny. The excuse that has been made for William, that he was obliged to submit to the power of the anti-catholic party, is not sufficient. Why did he not refuse his consent to these laws, on the ground of their being contrary to his solemn engagements to the Catholics? He had exercised this prerogative in the case of one Scotch,<sup>4</sup> and of one English bill.<sup>5</sup> But even this extremity might have been avoided, because the law of Poynings required that every bill should be approved by the King and Council of England, before it could pass the House of Commons; and if a

<sup>1</sup> 9th William III. c. 3.

<sup>2</sup> 10th William III. c. 13.

<sup>3</sup> 10th William III. c. 8:

<sup>4</sup> For excluding from any public trust all such as had been concerned in encroachments of the late reign.

<sup>5</sup> Concerning free and impartial proceedings in Parliament.

bill was exceptionable, by withholding their approbation, a very common proceeding, it fell of course to the ground.

But if William and his ministers were guilty of perfidy towards the Catholics, his successor far outstripped him. Nor has any succeeding prince been free from the blame of having been an accessory to his crime, in proportion as he has neglected or refused to repeal those penal laws, which are so many glaring violations of the treaty of Limerick, which are a scandal to the boasted good faith of the English nation, and a mockery of that equitable religion, whose precepts are founded upon the purest principles of justice and humanity.

### ANNE.

On the 4th of March, 1704, the royal assent was given to the *act to prevent the further growth of popery*; being the first of those two famous acts, which have most deservedly been termed by Mr. Burke, the ferocious acts of Anne.

By the third clause of this act the popish father, though he may have acquired his estate by descent from a long line of ancestors, or by his own purchase, is deprived of the power, in case his eldest son, or any other son, becomes a Protestant, to sell, mortgage, or otherwise dispose of it, or to leave out of it any portions or legacies.

By the 4th clause, the popish father is debarred, under a penalty of 500*l.* from being a guardian to, or from having the custody of, his own children; but if the child, though ever so young, pretends to be a Protestant, it is to be taken from its own father, and put into the hands of a Protestant relation.

The 5th clause provides that no Protestant shall marry a Papist, having an estate in Ireland, either in or out of the kingdom.

The 6th clause renders Papists incapable of purchasing any manors, tenements, hereditaments, or any rents or profits arising out of the same, or of holding any lease of lives, or other lease whatever, for any term exceeding 31 years. Even with respect to this advantage restrictions are imposed on them, one of which is, that if a farm produced a profit greater than one-third of the amount of the rent, the right in it was immediately to cease, and to pass over entirely to the first Protestant who should discover the rate of profit.

The 7th clause deprives Papists of such inheritance, devise, gift, remainder or trust, of any lands, tenements, or hereditaments, of which any Protestant was, or should be seized in fee simple, absolute or fee tail, which, by the death of such Protestant, or his



wife, ought to have descended to his son or other issue in tail, being Papists, and makes them descend to the nearest Protestant relation, as if the Popish heir and other Popish relations were dead.

By the 10th clause, the estate of a Papist, for want of a Protestant heir, is to be divided, share and share alike, among all his sons; for want of sons among his daughters, and for want of daughters among the collateral kindred of the father.

By the 15th clause, no person shall be exempt from the penalties of this act, that shall not take and subscribe the oath and declaration required by this act to be taken.

By the 16th clause, all persons whatsoever, who shall receive any office, civil and military, shall take and subscribe the oath and declaration required to be taken by the English act of 3d Wm. and Mary; and also the oath of abjuration required to be taken by another English act of 1st Anne; and also shall receive the sacrament.<sup>1</sup>

The 23d clause provides, that no Papist, except under particular conditions, shall dwell in Limerick or Galway.

The 24th, that no persons shall vote at elections without taking the oaths of allegiance and abjuration.

And the 25th clause, that all advowsons possessed by Papists shall be vested in her Majesty.

The Catholics, who had submitted in silence to all the unjust transgressions of the last reign, felt it necessary, when this act was first brought before Parliament, to use their utmost exertions to prevent it from passing into a law. They, however, appealed in vain to the English Cabinet to respect the solemn engagements of the treaty of Limerick, and were obliged to have recourse to a petition to the Irish Parliament.

Sir Theobald Butler was heard, as counsel for the petitioners, at the bar of the House of Commons, on the 22d February, 1703. He stated, "that the bill would render null and void the articles of Limerick; that those articles had been granted for the valuable consideration of the surrender of that garrison, at a time when the Catholics had the sword in their hand, and were in a

<sup>1</sup> Upon this clause of the bill Bishop Burnet makes the following observations: "A clause was added (in England) which they (the Roman Catholics) hoped would hinder its being accepted in Ireland: The matter was carried on so secretly, that it was known to none but those who were at the Council, till the news of it came to Ireland, upon its being sent thither. It was hoped, by those who got this clause added to the bill, that those in Ireland, who promoted it, would be less fond of it, when it had such a weight hung to it." *Hist.* v. 2. p. 214.

This clause has since been called the Sacramental Test, the first imposed on dissenters in Ireland. It was repealed without any opposition in the Sessions of 1782.

condition to hold out much longer; and when they had it in their power to demand and make such terms as might be for their own future liberty, safety, and security: that the allowing of the terms contained in these articles were highly advantageous to the government to which they submitted, as well for uniting the people that were then divided, quieting and settling the distractions and disorders of this miserable kingdom, as for the other advantages which the government would thereby reap in its own affairs, both at home and abroad, when its enemies were so powerful, both by sea and land, as to render the peace and settlement of these countries a circumstance of great uncertainty: that these articles were ratified by their late Majesties, for themselves, their heirs, and successors; and the public faith thereby plighted to all those comprised in these articles, in the most binding manner it was possible for faith to be plighted, and than which nothing could be more sacred and solemn: that, therefore, to violate and break those articles would, on the contrary, be the greatest injustice possible for any one people of the whole world to inflict upon another, and contrary to both the laws of God and man." He then proceeded to show that the clauses of the bill which take away from Catholics the right to purchase, bequeath, sell, and inherit estates, were infringements of the 2d article of the treaty; that the 9th clause of the bill, imposing upon Catholics new oaths, was another manifest breach of the articles, for that, by the 9th article, no oath is to be administered to, nor imposed upon, such Catholics as should submit to government, but the oath of allegiance, appointed by an act made in England in the first year of the reign of their late Majesties; that the clauses for prohibiting Catholics from residing in Limerick or Galway, from voting at elections without taking certain new oaths, and from possessing advowsons, were likewise infringements of the treaty. "For if," concludes Sir Theobald Butler, "there was no law in force in the reign of Charles II. against these things, as there certainly was not, and if the Roman Catholics of this kingdom have not since forfeited their right to the laws that then were in force, as for certain they have not, then, with humble submission, all the aforesaid clauses, and matters contained in this bill, entitled, *An Act to prevent the further growth of Popery*, are directly against the plain words and true intent and meaning of the said articles, and a violation of the public faith."<sup>1</sup>

In consequence of the passing of this act, and of those other acts which were passed of a similar tendency in the reign of George the Second the Catholics were deprived of all those privileges and immunities, which they trusted had been secured in consequence of a

<sup>1</sup> Sir Theobald Butler's speech.

King of England having bound himself, his heirs and successors, to fulfil the conditions of the treaty of Limerick. In place of being the free subjects of a prince, from whom they were taught to expect only justice and mercy, they were made the slaves of every one, even of the very meanest, of their Protestant countrymen. They saw the English government, on whom they had claims for protection against their own parliament, directing its fanatic councils, and confirming its crimes. By the treaty of Limerick they were left at liberty to educate, and to act as guardians to their own children : by the penal laws they neither can send them to be educated abroad, or have them educated at home, or be guardians to their own, or the children of any other persons.

By the treaty of Limerick, the free exercise of their religion was guaranteed to them. By the penal laws their chapels are shut up, their priests are banished, and hanged if they returned home.

By the treaty of Limerick, their noblemen and gentlemen were specially allowed the privilege of wearing arms, and the whole body were equally entitled to the same privilege, because, when it was executed, no law existed to the contrary. By the penal laws, no Catholic is permitted to have the use of arms, except a very few even of those who were specially comprised in the treaty.

By the treaty of Limerick, Catholics might intermarry with Protestants. By the penal laws this privilege is removed.

By the treaty of Limerick, the profession of the law was open to them ; by these laws it is taken from them.

By the treaty of Limerick, the Catholics could purchase, sell, bequeath, and inherit landed property. By the penal laws they can neither purchase, sell, bequeath, or inherit landed property, take annuities for lives secured on lands, or any longer lease of land than for 31 years ; nor could they lend money on mortgage<sup>1</sup> or vest it in public securities.

By the treaty of Limerick, the Catholics were left in full enjoyment of every political franchise, except those of holding offices under government, and of becoming members of corporations. By the penal laws, they cannot vote at vestries, serve on grand juries, act as constables, or as sheriffs or under-sheriffs, be magistrates, vote at elections, or sit in Parliament.<sup>2</sup>

<sup>1</sup> By a construction of Lord Hardwicke.

<sup>2</sup> "The exclusion from the law, from grand juries, from sheriffships and under-sheriffships, as well as from freedom in any corporation, may subject them to dreadful hardships, as it may exclude them wholly from all that is beneficial, and expose them to all that is mischievous in a trial by jury. This was manifestly within my own observation, for I was three times in Ireland from the year 1760 to the year 1767, where I had sufficient means of information concerning the inhuman proceedings (among which were many cruel

By the treaty of Limerick, they were protected from being called upon to take any other oaths besides the oath of allegiance of the 1st William and Mary. By the penal laws they are required to take the oaths of abjuration and supremacy, and to subscribe declarations against the principal tenets of their religious faith.

By the treaty of Limerick, they were acknowledged as the free subjects of a British King; by the penal laws they are placed in the double capacity of slaves and enemies of their Protestant countrymen. Had they become mere slaves, they might have experienced some degree of humane treatment; but, as the policy which made them slaves, held them out at the same time as the natural and interested enemies of their masters, they were doomed to experience all the oppression of tyranny, without any of the chances, that other slaves enjoy, of their tyrants being merciful, from feeling their tyranny secure.

This statement will be sufficient to convince those who really form their political opinions upon principles of justice, that the penal laws never should have been enacted; and that it is the duty of every upright statesman to promote the instant repeal of the whole of them: because it proves a solemn compact entered into between the Catholics and the English Government, and the breach of that contract by the English Government, notwithstanding the Catholics fulfilled their part of the agreement. How can men gravely and zealously contribute to make perpetual the political disabilities of the Catholics, which were the base and perfidious means adopted by a wicked legislature to influence men's consciences by corrupt motives, and tempt and bribe them to apostasy?

As there are, however, no small number of politicians who, though they would think it an edifying exhibition to see a Catholic occasionally consigned to martyrdom, yet would be scandalised at the bare idea of breaking faith with him in any affair of barter, particularly if they had already received from him their consideration, and that a valuable one. It will be necessary to make some further observations upon the violation of the treaty of Limerick, in order that no one may have a pretext on which he can escape the fair conclusion that ought to be drawn from what has been advanced, that the English Government and Nation are, at this day, bound to make good to the Catholics of Ireland the stipulations contained in that treaty. For, if ever there was an instance in which the consideration that formed the basis of a treaty, should have secured a liberal and a just fulfilment, it was the instance of this treaty of Li-

murders, besides an infinity of outrages and oppressions, unknown before in a civilised age) which prevailed during that period, in consequence of a pretended conspiracy among Roman Catholics, against the King's Government." *Burke's Letter to a Peer of Ireland.*

merick. In the course of the three campaigns, during which the war lasted in Ireland, the English army had been defeated on several occasions. In the North under Schomberg; before Athlone under Douglas; and before Limerick under William himself. The victory of the Boyne was the result of the personal failings of James, not of any deficiency in the number of his army, or of any want of courage on their part. "Exchange Kings," said the Irish officers, "and we will once more fight the battle." St. Ruth had won the battle of Aughrim, and had exclaimed, in an ecstasy of joy, "Now will I drive the English to the walls of Dublin," at the moment the fatal ball struck him. And, at the time the garrison of Limerick capitulated, the Irish army was in a condition to hold out at least another campaign, with a good prospect of being able to restore the fallen fortunes of James. The besieging army had made no impression on the principal part of the city; it was inferior in numbers to that of the garrison; winter was fast approaching, and at the very moment French succours were on the coast, yet all these advantages did the Irish army forego, in consideration of the terms which were granted to them by the treaty of Limerick. On the other hand, in granting these terms, the English Government and Nation obtained advantages of the utmost importance. For so long as James had a powerful army in Ireland, and nearly one half of the kingdom under his dominion, the great work of the revolution was neither accomplished nor secured. The fair way, therefore, of judging of the value of the treaty of Limerick to England, is to consider how far it contributed to promote this inestimable object. If the treaty of Limerick, in any degree, led to the establishment of the revolution, the vast importance of this event should incline the people of England to act with justice, at least, towards the Catholics. But if their submission contributed essentially to crown the brilliant efforts of the friends of liberty with success, then indeed the people of England should feel zealous to act towards the Catholics, not on a cold calculation of what was merely just on their part, but with that kindness with which we always regard those who have promoted our prosperity, whether intentionally or not. That the submission of the Irish Catholics did so contribute to complete the revolution is plain, from the means which they possessed of continuing the war; from the opportunity it afforded William to bring his whole forces to bear against Louis; and from the termination it fixed to the hopes and the conspiracies of the adherents of James in England. Yet, notwithstanding the great concessions which the Catholics, on their part, made by their submission, in order to obtain the terms of the

treaty of Limerick, and the great advantages which the English nation, on the other hand, acquired by it, twelve years only elapsed before the Catholics were deprived of every right and privilege which was solemnly guaranteed to them by that treaty.

The only species of justification that could, under any circumstances, have been brought forward for acting in this manner towards the Catholics, would have been, the proof of the forfeiture, by misconduct, of their right to the fulfilment of the treaty. That any thing which they did prior to the treaty, could have, in justice, any influence on measures passed subsequent to its taking place, is quite impossible; because the treaty admitted their acts to be those of open and honorable enemies, and specifically pardoned them.<sup>1</sup> As to their conduct afterwards, even their most inveterate and most unprincipled enemies did not charge them with a single transgression against the State, from the year 1691 to the year 1704, when the act to prevent the farther growth of Popery was passed. And it is very plain that no such charge could be maintained, from the paltry attempt that was made in Parliament to justify this act. It was said, "That the Papists had not demonstrated how and where, since the making of the articles of Limerick, they had addressed the Queen or Government, when all other subjects were so doing; and that any right, which they pretended was to be taken from them by the bill, was in their own power to remedy, by conforming, as in prudence they ought to do; and that they ought not to blame any but themselves."<sup>2</sup> No circumstance can possibly illustrate more clearly the innocence of the Catholics, and their loyalty and good conduct, from the treaty of Limerick to the passing of this act, than this mockery of justification; nor could any thing bring to our understandings an accurate comprehension of the perfidy and baseness of that Government, and of that Parliament more distinctly, than so silly an excuse for such stern and crafty oppression.

<sup>1</sup> "The peculiar situation of that country, (Ireland)" says Macpherson, "seems to have been overlooked in the contest. The desertion, upon which the deprivation of James had been founded in England, had not existed in Ireland. The Lord Lieutenant had retained his allegiance. The Government was uniformly continued under the name of the Prince, from whom the servants of the Crown had derived their commissions. James himself had, for more than 17 months, exercised the royal function in Ireland. He was certainly *de facto*, if not *de jure*, King. The rebellion of the Irish must, therefore, be founded on the supposition, that their allegiance is transferable by the Parliament of England. A speculative opinion can scarcely justify the punishment of a great majority of a people. The Irish ought to have been considered as enemies, rather than rebels."—*Hist. Great Britain*.

<sup>2</sup> Debates on the Popery Laws.



