

CONTEST BETWEEN THE KING'S PURVEYORS AND THE SECULAR  
CLERGY OF MEATH, IN THE 3 EDW. II.  
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THE following transcripts have been made from the Memoranda Roll *ex parte Capitalis Rememoratoris* of the Irish Exchequer, of the third year of Edward the Second, which, with other ancient records of that court, is deposited in the Exchequer Record Office, Four Courts, Dublin.

The circumstance to which these records relate is set forth in two proceedings, by attachment, taken on the part of the Crown against eight of the secular clergy of the diocese of Meath. By the first record, which is marked No. I., it appears that Edward the Second, having occasion for supplies for his army which was about to advance against the Scotch, despatched one of his purveyors to Ireland, for the purpose of obtaining provisions there. In compliance with his instructions, the purveyor, when he arrived, appointed one of the king's sergeants to attach the corn that was placed in a haggard at Sherlockstown, in the county of Meath, and which was the property of a chaplain. The officer accordingly proceeded to the haggard, bringing with him four assistants, namely, two thrashers and two keepers or caretakers. The chaplain, who is the defendant in the action, as soon as he perceived the sergeant and his assistants in the act of seizing his corn, at once proceeded to the archdeacon of Meath, of whom he had purchased it, and requested him to cause the sheriff, sergeant, thrashers, and keepers, and all others intermeddling with his property, to be excommunicated; whereupon sentence of excommunication was pronounced upon them by three chaplains and the like number of clerks, to the manifest injury and contempt of the king.

The defendant in his answer says, that he was not at home when the sergeant attached his corn, and that as soon as he returned, he went to his haggard, where he found the thrashers and caretakers, and asked them "who sent them there?" and "why they were thrashing his corn?" and when they answered that they were commanded so to do by the sergeant, for the king's use, he forthwith proceeded to the archdeacon, and told

him that he would be unable to pay him the money due for the corn unless he were permitted to retain and derive a profit from it; and at the same time he requested him to send some of his people to speak to the men; whereupon the archdeacon sent six chaplains and clerks to speak to and treat with them; but he denies that they were excommunicated, or hindered from thrashing his corn.

Jurors having been summoned to inquire into the truth, say that the chaplain was, as he avers, from home, and that when the sergeant ordered his men to pull down the stacks and thrash the corn, they answered that "they did not dare to do so, through fear of the sentence of excommunication;" the sergeant thereupon instantly pulled down one of the stacks, and caused the men to thrash the corn with all possible haste; that when the defendant returned, he asked the men "why they were thrashing his corn without his leave," and having received the answer above mentioned, he went to the archdeacon and requested him to send some of his people to speak to and frighten the men away; that thereupon the archdeacon sent the said chaplains and clerks to Sherlockstown, where the chaplains, at the defendant's request, put on their sacerdotal vestments, and the clerks, with cross erect, and candles lighted, went to the men who were in the haggard, advised them to go away, spoke some words in Latin, which the men thought were the words of a sentence of excommunication, extinguished the candles, which they then cast from them, and told the men that they and the sheriff,<sup>a</sup> sergeant, and the rest, were all excommunicated, so that through fear they immediately departed. And the jurors further found, that on the following Sunday the defendant was in the parish church of Sherlockstown, and would not celebrate the mass whilst any of the caretakers and thrashers were there, because they were excommunicate, and they were therefore obliged to leave the church. The judgment of the Court was, that the defendant should be sent to prison; but he was subsequently released and finally pardoned in consideration of his saying, either personally or by deputy, twenty masses for the soul of Edward the First, the king's father.

The second record, which is marked No. 2, is a similar proceeding, on the part of the Crown, against the chaplains and

<sup>a</sup> One Richard Telyng was the Sheriff of Meath at this time.

clerks who had pronounced the sentence of excommunication. In this case, as in the former, the defendants deny the truth of the statements made on the King's behalf; and the jury find that the chaplains, when in their white gowns and accompanied by the clerks, went to a town near to Sherlockstown, for the purpose of burying a deceased person, and that the defendant in the first cause begged of them to come to his haggard, with their vestments upon them as they then were, and with cross and candles, to frighten away the thrashers and caretakers by saying something to them; and that they thereupon went to the haggard and pronounced some words in Latin which the men thought were words of excommunication; and through fear they immediately went away. The jurors being asked whether they had excommunicated the men by the words of the sentence of excommunication, answered that "they had not," but that they had repeated a certain question of Donatus, such as "*Adverbia localia sunt*," and so on. The defendants in this action also are sent to prison, but were afterwards released at the request of the Archdeacon of Meath.

These records afford one of many proofs of the antagonism which has often existed in Ireland between the clergy when acknowledging a foreign power as their director, and the officers of a British monarch. It must however be admitted, on behalf of the clergy, that their property appears at all times to have been invested with many privileges which did not extend to that of the laity. By the councils which sat at Rathbrazail in the year 1118, at Kells in 1152, and at Cashel in 1172, it was established that the possessions of the Church should be exempt from all temporal exactions; by the Great Charter of Ireland it was provided that "the Church should be free and have its rights entire, and its liberties undiminished;" by the first clause of subsequent ordinances it was enacted that "holy church should be free," and by charters of donation and endowment it was ever granted that it should hold its lands freed from all secular demands. Madox, in his History of the Exchequer, says that "in the reign of Edward I. a statute was made to prevent the committing of trespasses upon the clergy, by capture of their corn, victuals, catell, or other goods, against their will;" and that "in the tenth year of Edward II. a letter patent of the great seal was issued to enforce the said statute and put it in execution, which

letter patent is intituled, *Litera patens super prisis bonorum cleri.*"—(Tot. Stat. Vet., p. 2, fol. 62a.)<sup>b</sup> When therefore we find men, so obnoxious as purveyors, proceeding in a summary manner to deprive of their property a class so peculiarly circumstanced, it would be perhaps unjust to condemn them for resorting to such means as appeared to them to be the most effectual for their protection. On the other hand we find a monarch involved in war, and so much in need of money to carry on that war, and to suppress the never-ending rebellion of Ireland, as to be obliged to mortgage his Customs' revenue to foreign merchants, and to seek loans of his subjects<sup>c</sup> at a time when, owing to his unfortunate partiality for his favourite Gaveston, and his incessant demands for aid, the king was probably held in but little estimation by either peer or peasant; and at the same period of time, it affords us pleasure to find that the freeholders of the county of Meath by their verdicts, and the Court of Exchequer by its judgment, were able to maintain the royal prerogative in opposition to a foreign priesthood.

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No. I.

MIDIA.

*Inter Dominum Regem et Willielmum Burgeis.*—Memorandum quod cum Willielmus Burgeis capellanus attachiatus fuisset ad respondendum domino Regi de eo quod ubi Edmundus de la Mare clericus domini Regis quem idem dominus Rex per literas suas patentes assignavit ad diversa victualia in hac terra pro expeditione guerre sue Scotie providenda et emenda, assignasset Galfridum Telyng servientem domini Regis

<sup>b</sup> Madox's History and Antiquities of the Exchequer, vol. i. p. 765.

<sup>c</sup> It appears, by the printed Calendar of the Patent and Close Rolls of the Irish Chancery, that Edward the Second had borrowed a sum of 500*l.* of Adam le Blund of Callan and his wife towards the payment of the wages of those who had gone from Ireland to aid him in his war against the Scotch, and that a sum of 4000*l.* was due to Richard Earl of Ulster for his services in that war; and it is a somewhat curious circumstance that upwards of one-half of this sum was repaid to the Earl at the request of Piers de Gaveston, when Lord-Lieutenant of Ireland, who was expelled, or recalled at least from Ireland, in consequence of the Earl's dislike to or jealousy of that royal favourite. (Calendar to Patent and Close Rolls, pp. 6, 7 *b.*)

"In all the ancient pipe rolls (says Sir John Davys) in the times of Henry III., Edward I., II., and III., between the receipts and allowances, there is this entry, *In Thesaurio nihil.*"

in Croceis<sup>d</sup> Midie ad attachiandum quedam blada, videlicet, frumentum et avena inventa in quodam hagardo apud Scurlaggeston, pro expeditione providentie predictæ, et dictus serviens ibidem adduxisset Richardum Broun et Henricum le Hayward pro bladis illis trituran- dis, et constituisset Davidum de Scurlaggeston et Thomam le Despenser custodes ultra predictos trituratores. Predictus Willielmus Burgeis, qui hagardum predictum emerat de magistro Willielmo de Sydan archidiacono Midie, adivit predictum archidiaconum apud Trim,<sup>e</sup> et nunciavit ei qualiter predictus serviens apposuit trituratores et custodes, pro bladis suis predictis trituran- dis, ad opus domini Regis pro providencia sua predicta, et tantum procuravit erga eundem archidiaconum quod ipse excommuni- care fecit, in ecclesia sancti Petri de Trim, vicecomitem Midie et pre- dictum servientem et similiter trituratores et custodes predictos, nomi- natim, et etiam alios quoscunque qui de dictis bladis attachiandis et trituran- dis se intromiserunt, seu consilium ad hoc faciendum prestarunt ; et nihilominus per suam procuracionem venire fecit ad predictam villam de Scurlaggeston, Galfridum de Trim, Johannem Corkan de Trim, Johannem de Kilcoly capellanos, Adam Fynchyn, Henricum Marks et Johannem le Cauntour de Trim clericos, ad pronuntiandum ibidem pre- dictam sententiam excommunicationis in predictos vicecomitem, servientem, et alios, in forma predicta, ad grave dampnum et contemptum domini Regis manifestum, necnon et retardacionem providentie sue predictæ.

Predictus Willielmus Burgeis venit et dicit quod ipse non fuit ad hospitium, tempore quo predictus serviens attachiavit blada sua predicta, set quando ipse venit ad hospitium, ipse venit ad hagardum suum pre- dictum, et invenit ibidem predictos trituratores et custodes blada sua triturantes, et quesivit ab eis quis eos venire fecit ibidem, et qua de causa blada sua triturarunt ; et cum ipsi custodes et trituratores retulissent

<sup>d</sup> "The king's writ did not run in those counties (palatine), but only in the church lands lying within the same, which were called the Cross, wherein the king made a sheriff."—Sir John Davys's Historical Tracts, p. 107.

<sup>e</sup> A few short months before the date of these Records Piers de Gaveston landed as Lord-Lieutenant in Ireland, and while, as Leland informs us, "with a magnificent retinue, which served to captivate the general eye, he raised expectations of some extraordinary effects from his government, Richard Earl of Ulster in particular was alarmed at the consequence which he displayed. The governor assumed all the pride and state of superiority. The Earl, with equal pride and state, affected to vie with the governor. His numerous followers were collected, and appeared not only a magnificent, but a formidable body. He held his court at Trim with a parade and ostentation highly offensive and alarming ; he feasted his attendants with all the splendour of a sovereign, and conferred the honour of knighthood on two persons of the family of De Lacy. He is said to have even threatened Gaveston with open hostilities ; but, before their jealousies could produce any violent effect, the favourite was suddenly recalled."

ei quod ipsi appositi fuerunt ad blada illa trituranda per predictum servientem domini Regis, pro expeditione providentie predictæ, ipse statim adivit predictum archidiaconum, de quo ipse hagardum predictum emerat, demonstrans ei qualiter blada sua in hagardo predicto triturrata fuerunt ad opus domini Regis, et asserens se eidem archidiacono non posse respondere de summa pecunie, in qua ei tenebatur, pro bladis illis, nisi eadem blada habere posset in pace, et de eisdem proficuum suum facere; et supplicavit predicto archidiacono, quod ipse aliquos de suis ibidem mittere vellet ad loquendum cum predictis trituratoribus et custodibus, ita quod ipse blada sua habere posset in pace, et de pecunia in qua eidem archidiacono tenebatur pro eisdem bladis competenter satisfacere valeret. Qui quidem archidiaconus ad ejus rogatum misit predictos capellanos et clericos ad loquendum et tractandum cum predictis custodibus et trituratoribus, super negotio predicto, ita quod per eorum verba et consilium dicti trituratores et custodes, de propria voluntate sua, ulterius se non intromiserunt de bladis illis triturandis. Et quod nullam sententiam excommunicationis in predictum vicecomitem et alios in predicta ecclesia sancti Petri de Trim, nec etiam apud Scurlaggeston, pronuntiari fecit, seu quoquo modo fieri procuravit, nec predictos servientem, custodes, et trituratores in aliquo impedivit, quo minus dicta blada triturasse potuerunt, si voluissent, nisi ut predictum est.—Petit quod inquiratur per patriam.

Ideo preceptus est vicecomiti, quod venire faciat hic, die sabbati proximo post mediam quadragesimam, duodecim, &c. per quos, &c. et qui predictum Willielmum nulla affinitate attingant, ad inquirendum super premissis plenius veritatem.

Ad quem diem venit predictus Willielmus, et similiter juratores, qui dicunt super sacramentum suum quod quando predictus serviens venit ad predictum hagardum pro bladis ad opus domini Regis attachiandis, predictus Willielmus Burgeis non fuit ad hospitium, et predictus serviens venire fecit ibidem predictos trituratores et custodes, pro bladis illis triturandis, sicut predictum est, precipiens eis quod ipsi tassos fringerent, et sine dilatione triturarent blada illa; et ipsi responderunt ei, quod non audebant hoc facere propter metum sententie excommunicationis, per quod dictus serviens statim fregit unum de tassis, et fecit dictos trituratores blada illa triturare, cum omni festinatione qua potuit. Et cum predictus Willielmus Burgeys venit ad hospitium, ipse venit ad predictum hagardum suum, quod emit de predicto archidiacono, petens a predictis trituratoribus et custodibus quare ipsi blada sua taliter triturarunt sine sua licentia, et cum ipsi retulissent ei quod ipsi assignati fuerunt et appositi ad blada illa trituranda ad opus domini Regis, per predictum Galfridum Telyng servientem, &c. pro expeditione providentie predictæ,

ipse Willielmus Burgeis statim ivit ad predictum archidiaconum apud Trim, demonstrans ei qualiter blada sua, que ab eo emerat, triturrata fuerunt ad opus domini Regis, et asserens se non posse satisfacere eidem archidiacono de pecunia in qua ei tenebatur pro bladis predictis, nisi ea habere posset in pace, et proficuum suum inde facere, per quod supplicavit predicto archidiacono quod ipse aliquos de suis ad predictos custodes et trituratores mittere vellet, ad loquendum cum eis, et ad terrendum eos, per aliqua verba, ut ipsi custodes et trituratores sic, ob eorum verba et terrorem, inde citius abirent, et ulterius de bladis suis triturandis se non intromitterent. Et dictus archidiaconus, ad ejus rogatum et procurationem, misit predictos capellanos et clericos ad predictam villam de Scurlaggeston, una cum predicto Willielmo Burgeis, ex causa predicta. Et quam cito ipsi venerunt ibidem, dicti capellani per procurationem predicti Willielmi Burgeis, vestibus sacerdotalibus induti, et similiter predicti clerici cum cruce erecta et candelis accensis, venerunt ad predictos custodes et trituratores in hagardo predicto, monentes eos quod ipsi inde abirent, et pronuntiaverunt ibi quedam verba, in verbis latinis, que predictis custodibus et trituratoribus, et aliis laicis ibidem existentibus, fore videbantur verba sententie excommunicationis, et candelas extinctas a se projecerunt, ad modum sententie excommunicationis pronuntiande, prout moris est, dicentes eos excommunicatos esse, unacum predictis vicecomite et serviente et omnibus aliis, qui de dictis bladis attachiandis et triturandis se intromiserunt, seu consilium ad hoc faciendum prestarunt. Ita quod dicti custodes et trituratores ob terrorem dictorum capellanorum et clericorum, et maxime ob metum sententie taliter in eos late ut ipsi intelligebant, blada aliqua ibidem extunc triturare non audebant, set statim inde abierunt. Et nihilominus die dominica proximo sequente, predictus Willielmus Burgeis, in ecclesia parochiali predictæ villæ, missam celebrare noluit, dummodo aliquis dictorum custodum et trituratorum in predicta ecclesia existeret, pro eo quod ipse asserebat eos excommunicatos esse, ex causa predicta; ita quod oportuit eos ecclesiam predictam exire, dum ipse missam celebraret, affirmando quod predicti capellani ipsos custodes et trituratores excommunicarunt ut premititur.

Ideo consideratum est quod predictus Willielmus Burgeis pro contemptu et transgressione predictis committatur prisone, ad voluntatem domini Regis, et exinde redimatur, &c.

Postea de gratia, &c. predictus Willielmus Burgeis dimittitur per manus Roberti filii Willielmi, Radulphi clerici, Ade de Banbury de Swerdes, Stephani de Banbury de eadem, et Gregorii Burgeis de eadem, de essendo hic, in quindena Pasche, ad satisfaciendum domino Regi, &c. Ad quem diem predicti manucaptores produxerunt hic predictum Wil-

lielmuū Burgeis, et ipsum reddiderunt in seaccario hic, in forma qua ipsum manuceperunt. Et ipse commissus est custodie marescalli, custodiendus quousque, &c.

Postea per predictos Thesaurarium et Barones predicti contemptus et transgressio pardonantur predicto Willielmo Burgeis, pro viginti missis pro anima domini Edwardi Regis patris, &c. celebrandis per ipsum Willielmum, vel per alium ex parte ipsius Willielmi, &c.

[The next entry upon the roll is a similar proceeding, though more condensed, against the Archdeacon of Meath. The record, however, is so much defaced, that little more can be discovered than that the judgment of the Court is in his favour.]

#### No. 2.

##### MIDIA.

*Inter Dominum Regem et Galfridum de Trym et alios.*—Memorandum quod cum Galfridus de Trim et Johannes de Kilcooly capellani, Adam Finchyn, Henricus Marks et Johannes le Chauntour de Trim clerici, attachiati fuissent ad respondendum domino Regi, de eo quod ubi Edmundus de la Mare clericus domini Regis, ad diversa victualia in hac terra pro expeditione guerre Scotie providenda et emenda assignatus, assignasset Galfridum Telyng servientem domini Regis in croccis Midie, ad diversa blada attachianda et trituranda, in comitatu predicto, et idem serviens attachiasset quedam blada inventa apud Scurlaggeston, videlicet, frumentum et avena, ad opus domini Regis, in hagerdo cujusdam Willielmi Burgeis capellani, pro expeditione predictę providencie, et ibidem venire fecisset quosdam triturores et certos custodes pro bladis illis triturandis, predicti capellani et clerici, ad procuracionem predicti Willielmi Burgeis, venerunt ad predictam villam de Scurlaggeston, vestibis sacerdotalibus induti, cum cruce crecta et candelis accensis, et vicecomitem Midie, una cum predicto serviente trituratoribus et custodibus ibidem existentibus, nominatim excommunicaverunt, et similiter omnes illos qui ad blada predicta, ad opus domini Regis, attachianda et trituranda se intromiserunt, seu consilium ad hoc exhibuerunt; ita quod dicti triturores et custodes de bladis illis triturandis ulterius se non intromiserunt, nec se inde intromittere non audebant, ad grave dampnum domini Regis et contemptum manifestum, necnon et retardacionem providencie predictę.

Predicti Galfridus et alii venerunt, et dicunt quod ipsi non excommunicaverunt predictum vicecomitem, nec aliquos alios, qui de eisdem bladis attachiandis seu triturandis se intromiserunt, nec etiam predictos tritu-



ratores et custodes in aliquo impediverunt, quo minus dicta blada triturasse potuerunt, sicut eis imponitur. Et hoc petunt quod inquiratur per patriam.

Ideo preceptum est vicecomiti quod venire faciat hic a die Pasche in quindecim dies, duodecim, etc., per quos, etc., et qui predictos Galfridum, Johannem et alios nulla affinitate attingant, ad recognoscendum in forma predicta.

Ad quem diem venerunt predictus Galfridus et omnes alii, per attornatum suum; et similiter juratores, qui dicunt super sacramentum suum, quod predicti Galfridus et Johannes capellani, vestibus albis induti, una cum predictis clericis, veniebant ad quendam villam prope predictam villam de Scurlaggeston, pro corpore cujusdam defuncti ibidem sepeliendo, et predictus Willielmus Burgeis hoc perpendens, venit ad eos, et supplicavit eis, quod ipsi venire vellent secum ad hagdardum suum predictum, in vestibus suis quibus ad tunc erant induti, una cum cruce et candelis, prout ipsi corpus dicti defuncti sepelierant, ad terrendum trituratores et custodes predictos, qui blada sua triturarunt, per aliqua verba que ipsi versus eos dicerent, ut ipsi sic abirent, et de bladis suis triturandis ulterius se non intromitterent. Et dicti capellani et clerici hoc ei concedentes, venerunt secum ad hagdardum predictum, et pronuntiaverunt ibidem quedam verba, in verbis latinis, que dicti trituratores et custodes putaverunt fore verba sententie excommunicationis, et ob metum hujusmodi sententie, dicti custodes et trituratores statim abierunt, et ulterius ibidem blada predicta triturare non audebant. Quesiti si dicti capellani eos excommunicaverunt per verba sententie excommunicationis, dicunt quod non, set dicunt quod ipsi repetebant ibi quendam demandam de Donato; videlicet, Adverbia localia sunt, etc. Quesiti si iidem capellani et clerici veniebant ibi ad rogatum predicti Willielmi ad impediendum dictos custodes et trituratores, ne blada sua triturarent, ad opus domini Regis, pro expeditione providentie predictae, an alia ex causa, dicunt quod ipsi non venerunt ibidem ex aliqua alia causa nisi tantum ad impediendum dictos trituratores et custodes, ne blada sua predicta triturarent.

Ideo consideratum est quod ipsi committantur prisone pro contemptu et transgressione predictis, et exinde redimantur, etc.

Et quia placitaverunt per attornatum, ideo fiat breve seneschallo libertatis de Trim ad capiendum eos, etc.

Postea per ipsum Thesaurarium et Barones predicti contemptus et transgressio, ad instantiam predicti magistri Willielmi de Sydan archidiaconi Midie, pardonantur predictis Galfrido, Johanni, et aliis.

*Note upon the rite of Excommunication, and its employment as an instrument of litigation, particularly in Ireland.*

It is said by our ablest lawyers that excommunication is the highest ecclesiastical censure which can be pronounced by a spiritual judge against a Christian, as thereby he is excluded from the body of the Church, and disabled to bring any action, or sue any person, in the common law courts; he ought to be taken by the whole multitude of the faithful as a heathen and publican; he cannot be a witness in a cause, or an attorney, or procurator.<sup>f</sup>

The form of the sentence of excommunication was of old thus, "Auctoritate Dei Patris Omnipotentis et Filii et Spiritus Sancti et Beatae Dei Genetricis Mariæ, omniumque sanctorum, excommunicamus, anathematizamus, et a limitibus sanctæ matris ecclesiæ sequestramus illos malefactores *Richardum Telyng*, etc., consentaneos quoque et participes, et nisi resipuerint et ad satisfactionem venerint, sic extinguantur lucerna eorum ante Viventem in sæcula sæculorum, Fiat, Fiat, Fiat, Amen:" but the clerks of the Archdeacon of Meath did not proceed to the extremity of repeating this denunciation, which they probably would not have dared to do, on their own responsibility, without authority issued in the due form of ecclesiastical law. They ventured, however, so far as to turn this awful ceremony into a jest, by making believe that they pronounced the sentence of excommunication whilst they really repeated (as they said) one of the rules which they remembered from their Latin grammar.<sup>g</sup> Their hearers were accustomed to prayers in an unknown tongue; and were equally credulous in the efficacy of curses, apparently so similar in sound. The dicta of the grammarian had as terrific an effect upon the thrashers and keepers as if they had been excommunicated in due form. The King's Serjeant, however, seems to have been a less compliant member of the Church, and would in all probability, had he been well supported, have prevented Mr. Burgeis from deriving that profit from his haggard which he had expected.

As the exercise of this rite of excommunication appears to have prevailed in Ireland at a very early period, and to have been continued with more or less effect in that country so long as its ceremonies were performed in a language unknown to its people, and as occasional

<sup>f</sup> Co. Litt., 134; Gibson's Codex, 435, 1096-7; Co. Lit., 133; 8 Co. 63; 1 Roll Abbr., 883.

<sup>g</sup> Ælius Donatus was a celebrated grammarian of the fourth century, and his grammar was long used in schools, even down to the time of Caxton and Wynkyn de Worde, by whom editions were printed.

mention has been made by the writers of Irish history of this somewhat interesting subject, we proceed to lay before the reader such notices of it as have fallen in our way, premising that we do not vouch for the truth, in all its details, of the following relation as to St. Columba, although our extract is taken from one of the best of the Roman Catholic writers upon Irish Church History; who tells us that in the year 550 "a certain synod had issued a sentence of excommunication, not justly, as afterwards appeared, against Columba, on account of some venial and excusable proceedings. On his arrival at the said synod, Brendan, who had seen him at a distance, rose up, saluted him with great respect, and embraced him. Some of the elders then, taking Brendan apart, expostulated with him for his having shown such attention to a person whom they had excommunicated. He replied, 'If you had seen what the Lord has been pleased to make manifest to me this day concerning this elect of His, whom you are dishonouring, you would have never passed that sentence; whereas the Lord does not in any manner excommunicate him in virtue of your wrong sentence, but rather exalts him still more and more.' On their asking how this could be, he told them that he saw a luminous pillar advancing before this man of God when on his way, and holy angels accompanying him through the plain. 'Therefore,' he added, 'I dare not treat with contempt him whom I see pre-ordained by God as a guide of nations to life.'"<sup>h</sup>

Doctor Lanigan also informs us that "when St. Columba was engaged in converting and civilizing the inhabitants of the Hebrides, he was at times obliged to struggle in their defence against certain desperadoes, calling themselves Christians, who made a trade of plundering them. Having excommunicated some of the ringleaders, who were members of the royal family of the British Scots, one of their adherents, determined on putting him to death, rushed against him with a spear, but providentially without effect. That they were Christians is plain, not only from their having belonged to the royal family, but likewise from the sentence of excommunication pronounced against them, which necessarily presupposed their having been considered as members of the Church."<sup>i</sup>

It is now, we believe, admitted to be an established fact that England was subject to papal influence and control long prior to its extension to Ireland, and at a time when Ireland had an independent Church; in fact, that Ireland is indebted to England for her present position in relation to Rome, whose emissaries, aided by Henry II.'s barons, knights, and soldiers, gave Ireland to that monarch. In the time of William the Conqueror, therefore, Ireland was not subject to Rome, but England was, and we find that monarch forbidding the English

<sup>h</sup> Lanigan's Ecclesiastical History of Ireland, ii. 150.

<sup>i</sup> Ibid. pp. 163 and 171.

Bishops "ut aliquem de baronibus suis aut ministris, sive incesto, sive adulterio, sive aliquo capitali crimine denotatum publice nisi ejus præcepto implacitaret aut excommunicaret." This command was afterwards ratified by the seventh article of the famous parliamentary council of Clarendon, A.D. 1164, whereby it was thus enacted, "Nullus qui de Rege teneat in capite, nec aliquis dominicorum ministrorum ejus excommunicetur."

Doctor Hanmer, in his *Chronicle of Ireland*, says that, "anno 1144, William Bishop of Winchester, by authority of Pope Celestine II., in a councell held at London, brought in the use of cursing with bell, booke, and candle, which liked the Irish priests well, to terrifie the laytie for their tithes." The Doctor gives Foxe as his authority for this statement, which appears to cast an imputation upon the Irish clerks of the time of King Stephen of such a nature as to lead to the supposition that one of the pope's contrivances, at least, for the advancement of his and the Church's interests had met with a ready adoption in the "*Insula Sanctorum*."

Subsequently to the conquest of Ireland, and when Henry II. was King, the clergy for a time were obliged to bend to the over-ruling power of his vicegerents; for we are told that when Philip of Worcester was Lord Deputy in Ireland, "a man whose sole object was to enrich himself by plunder and oppression, he marched through different parts of the kingdom with a formidable body of troops, enforcing his exactions with the utmost rigour. At Armagh he spent six days feasting and revelling in mid-lent, to the great scandal of that seat of piety, and extorting money from the clergy with the most unrelenting severity. In vain did the sufferers plead that, by the articles of the Synod of Cashel, they were exempt from military exactions; they had no resource but to denounce the judgments of heaven against their ravager." In Armagh "he was taken with a sudden pang, and the same so vehement, that it was supposed he should never have recovered it. When he came to himself a poor man standing by said, 'Let him alone, he must have breath till he come to the divell, and then the divell will have him, and all that he extorted from us.'"<sup>1</sup>

Hamo de Valois was appointed Deputy of Ireland in the year 1197—"a period of the utmost public confusion and distress. To supply the urgent necessities of a distressed and enfeebled government he could devise no more immediate and effectual expedient than an invasion of the ecclesiastical possessions. He began his administration (possibly by the instruction of John Earl of Moreton) with seizing several lands which had been granted to the see of Dublin—an act of violence the

<sup>1</sup> Hanmer's *Chronicle*, p. 320.

most odious and offensive at a time when the rights of ecclesiastics were accounted infinitely more sacred than those of other subjects. Comyn, the archbishop, was too nearly interested not to inveigh against such usurpation with the utmost bitterness. He remonstrated, expostulated, and denounced the vengeance of heaven against the abominable sacrilege, yet without redress. He professed to consider such obstinacy as a violent expulsion from his pastoral charge, and resolved to abandon his diocese rather than seem to acquiesce in the profane usurpation of its rights. He repaired to his cathedral in all the solemn affliction of a confessor weighed down by persecution. Books, chalices, images, and all the gaudy apparatus of public service were removed. With a strain of blasphemous hypocrisy he ordered the crucifixes to be crowned with thorns and laid prostrate on the ground (as if the passion were renewed, and the majesty of heaven dethroned by a contest about the paltry property of an ecclesiastic), and laying the tremendous sentence of interdict upon his diocese, departed from the kingdom."<sup>k</sup>

Leland, in his *History of Ireland*, when describing the reign of Henry III., says,—“The very exactions made on the Irish clergy were the means of increasing their turbulence and presumption. In imitation of their brethren in England, they excommunicated the most dignified personages of the kingdom the moment they presumed to dispute the litigious claims of the Church.” And he adds in a note,—“Stephen Longespee, the king’s own natural brother,<sup>l</sup> was excommunicated, with all his train, by the Archbishop of Dublin, as appears by a Close Roll of the 36th of this reign.”

William Mareschal, Earl of Pembroke, who died in 1231, previous to his decease “tooke away by strong hand and injuriously from an holy bishop two mannors or lordships belonging to his Church. The bishop, after many admonitions, and receiving many froward answers, thundred against him (and not without cause) the sentence of excommunication, the which the earle despised. Within a few yeeres after the earle ended the way of all flesh, and was buried in the new Temple at London. The bishop hearing of this (for he was the Bishop of Fernes, a Cistercian monke, by birth Irish, and famous for sanctity), not without great paine in travaile, he went unto the king, who was then in London, exhibited a grievous complaint of the injury done unto him, and how that hee had justly excommunicated the earle, and humbly besought the king that, by his soveraigne authority and princely mandat, and

<sup>k</sup> Leland, vol. i. pp. 163-4.

<sup>l</sup> Stephen Longespee was not the King’s brother, but a son of William Longespee, Earl of Salisbury, bastard son of King Henry II. EDIT.

also for the good of the said Earle William's soule, he would see his mannors restored unto him, that in so doing (though he were dead) yet he might reape the benefit of absolution. The king with this was moved, and willed the bishop to repaire to the earle's grave and absolve him, and he would diligently labour for his satisfaction. The bishop, together with the king, went to his tombe, and in the hearing of all that were present, as if they had been both alive, said, 'O William, that here lyst interred and wrapped in the bonds of excommunication, if the thing which thou hast injuriously taken away from my Church bee restored by the king or by thine heire, or by some one of thy kindred or friends, with competent satisfaction, I absolve thee; otherwise I doe ratifie the said sentence—that thou, being ever wrapped in thy sinnes, maiest remaine damned in hell.' The king, hearing this, was moved, and sharply rebuked the immoderat rigour of the pontificall prelate. To whom the bishop replied, 'My lord and dreade soveraigne, marvaile not, though I be out of patience, for he hath spoiled my Church to his great commoditie.' The king, having secretly conferred with the earl's eldest son and his brethren, besought them to deliver their father's soul by restoring the manors; and William, the heir, answered, 'I doe not beleve, neither is it to be credited, that my father tooke them injuriously, for that which is gotten by the sword may lawfully be enjoyed; for if that old and doting bishop hath given a wrong sentence, let the curse light upon his own pate.'"<sup>m</sup>

It has been said of the laws that they are like cobwebs, for, although small flies are caught, great flies break through them; and the same observation may be, perhaps, with equal truth applied to the sentence of excommunication. We have seen, by what has been said, that the *magnates* of Ireland were not to be so easily frightened as the thrashers of the county of Meath; but subsequent records show the growing power of the Church at a time when the Crown, involved in a foreign war, had not the power of resistance. Hanmer says that, "in anno 1229, Maurice FitzGirald, being Lord Justice, (Mathew Paris and Holinshed write the storie,) one Stephen, chapplen and nuntio to Pope Gregory, came to King Henry with the pope's apostolike mandates and procuracy letters, requiring of spirituall and temporall throughout England, Ireland, and Wales, the tenth of all their moveables, to the maintenance of his warres against Fredericke the Emperour. At the day and place appointed, when the king and the lords spirituall and temporall met together, and the nuntio had read his letters, the king was silent, and

reputed (saith mine author) as consenting thereto. The earles and barons (saith Paris) and all the laytie said flatly, that they would give the pope no tenths, neither subject their baronies and local possessions to the Church of Rome. The clergie, after three or foure dayes' deliberation, fearing the thunderbolts of excommunication, with grudging and murmers, and many a bitter curse, yeilded; yet Ranulphus, Earle of Chester, alone stood stoutly in the cause, and would not permit the clergie of his country to become in bondage, neither to contribute the said tenths, though England, Wales, Scotland, and Ireland were compelled to pay. Ireland sent likewise, after their money, Irish curses; for they were driven, at the worst hand, to sell unto the merciless merchants their cowes, hackneyes, caddoes,<sup>a</sup> and *aqua vitæ* to make present payment, and were driven, in that extremitie, to pawne and sell their cups, chalices, copes, altar-clothes, and vestments."<sup>o</sup>

"In the year 1240, Petrus de Supino came from Pope Gregory into Ireland with an authenticke papall mandate, requiring, under paine of excommunication and other censures ecclesiasticall, the twentieth part of the whole land, besides donatives and private gratuities, to the maintenance of his warres against Fredericke the Emperour, where he extorted, saith Mathew Paris, 1500 marks, and above, saith Florilegus; at which time, also, one Petrus Pubeus, entitled the pope's familiar and kinsman, and both bastards, saith Bale, filled in like sort his fardles in Scotland."<sup>p</sup>

"Into these troubled waters (says Sir John Davys) the bishops of Rome did cast their nets, and drew away all the wealth of the realm by their provisions and infinite exactions, whereby the kingdom was so impoverished as the king was scarce able to feed his own houshold and train, much less to nourish armies for the conquest of foreign kingdoms."

We find that in England, by the Act of the 25 Edward I. cap. 4, it was enacted, "that all archbishops and bishops should pronounce the sentence of excommunication against all those that by word, deed, or counsel should do contrary to the charters of Magna Charta, or that in any point should break or undo them; and that the said curses should be twice a-year denounced and published by the prelates aforesaid;"<sup>q</sup> and in the same reign the Archbishop of Canterbury excommunicated the Prior of St. Oswald's in Gloucester, for opposing his visitation thereof, as exempt from his jurisdiction, being the king's free chapel; but his excommunication was afterwards revoked by the king's precept.

<sup>a</sup> i. e. bed-covers, *hodie* counterpanes.

<sup>p</sup> Hanmer's Chronicle, p. 391.

<sup>o</sup> Hanmer's Chronicle, p. 380.

<sup>q</sup> Gibson's Codex, Cod. 1098.

At this period the Irish clergy combined together and formed an association for mutual protection.

"The violent and unruly spirit of the prelates of those times (says the Rev. Robert King), already illustrated in these pages by various instances, is further strangely exemplified in a sort of ecclesiastical association or club, formed in the year 1291, among the bishops and clergy of the Irish church. This association, which was promoted and headed by the Primate Nicholas Mac Molissa, included also the other three archbishops, all the bishops, all the deans and chapters, and the other orders and degrees of the clergy. And these all unanimously engaged in a confederacy, not only under their hands and seals, but confirmed moreover by the sanction of an oath, wherein they swore first, that if they or any of them, their churches, rights, jurisdictions, liberties, or customs, should by any lay power or jurisdiction whatever be impeded, resisted, or grieved, they would at their common expense, in proportion to their respective incomes, support, maintain, and defend each other in all courts, and before all judges, either ecclesiastical or secular, &c. Other articles of the agreement pledged them to mutual co-operation in enforcing sentences of excommunication, and enacted heavy penalties and forfeits against such as should be negligent in carrying out the terms of the agreement, they engaging and promising to complain of such offenders to the pope."<sup>r</sup>

Upon this newly-acquired strength the Romish Church so far relied as to attempt to oppose the collection of the Crown's revenue, for we find that in 1346, a parliament holden in Kilkenny, having granted King Edward III. a supply of money for the exigencies of the state, Ralph Kelly, Archbishop of Cashel, opposed its being levied within his province, and held moreover an assembly of his suffragans at Tipperary, at which were present Maurice Bishop of Limerick, Richard Bishop of Emly, and John Bishop of Lismore, where they decreed that all beneficed clergymen contributing to the subsidy should be *ipso facto* deprived of their benefices, and rendered incapable of obtaining any other preferment within that province; that any of the laity, their tenants, contributing, should be *ipso facto* excommunicated; and that their children to the third generation should be incapable of being promoted in the province to any ecclesiastical benefice. In order the more solemnly to enforce these decrees, the archbishop and the other bishops came to Clonmel, and in their pontifical robes, in the middle of the street, openly excom-

<sup>r</sup> King's Primer of Church History, vol. ii. p. 627. Ware's Bishops, p. 70. Mant's History of the Irish Church, vol. i. p. 16.



municated all those who granted or advised the said subsidy, and every one concerned in levying the same; and particularly William Epworth, clerk, the king's commissioner in the county of Tipperary, for gathering the said subsidy. These violent proceedings the archbishop attempted to justify by alledging that neither he nor his provincial bishops granted any subsidy, and that by Magna Charta the Church was to be free, and all infringing her liberties therein granted to be excommunicated.\* The record states that the Bishop of Emly, "in medio ville de Clonmell, excommunicavit et excommunicatos pronuntiavit omnes et singulos dictum subsidium concedentes, imponentes et procurantes, vel talliagium facientes, necnon scribentes, dictantes, levantes, recipientes, vel eisdem considentes, auxilium vel favorem prestantes."<sup>1</sup> For these proceedings the Crown sued the bishop for damages, which were laid at 1,000*l*. The bishop pleaded not guilty, but was convicted. Richard Bishop of Ossory excommunicated the king's officers who collected the subsidy granted by this parliament, for which he was indicted, found guilty, and his temporalities sequestered into the king's hands.

Again adverting to England, we find that Edward III. by his charter dated at Westminster, on the 16th of July, in the 30th year of his reign, granted a power to the Chancellor of Oxford to have the correction "*de omnibus venditoribus victualium, de carnibus sive piscibus putridis, ac vino putrido et corrupto, &c. per censuras ecclesiasticas, &c.*" and likewise to excommunicate such as refused to cleanse the streets from filth, and which might infect the air, or to pave them before their doors.<sup>2</sup>

We have thought it unnecessary to bring down our short history of excommunication to a later period. It is a rite that still exists, but for widely different purposes, in the Protestant Church.

The writer of this paper has now before him a manuscript book of precedents of the Court of Arches, collected by Francis Clerke, a proctor of that court, and which appears to have been written in the time of Elizabeth. In this book are contained the various modes of proceeding in the several causes which come within the jurisdiction of that court, including those to which the sentence of excommunication is extended, and mention is here made of this MS. merely for the purpose of making known to the public the fact of its existence.

J. F. F.

\* King's Primer of the Church History of Ireland, vol. ii. p. 651. Ware's Bishops, p. 478. Phelan's Policy, p. 60.

<sup>1</sup> Plea Roll 21 Edward III. Betham's Feudal Dignities, p. 293.

<sup>2</sup> Prynn's Fourth Institute, p. 239.