

The Penal Laws Era

Was Elizabeth I setting the tone for England's oppressive reign in Ireland when she said: *Should we exert ourselves in reducing Ireland to order and civility, it might soon acquire power, consequence and riches. The inhabitants will be thus alienated from England; they will cast themselves into the arms of some foreign power, or erect themselves into an independent state. Let us rather connive at their disorder, for a weak and disordered people can never attempt to detach themselves from the Crown of England*"? Did the Queen foresee the Celtic Tiger which has made Ireland, a nation independent from England, one of the most affluent countries in the world? Did her words encourage the Penal Laws and the restrictions on commerce in the Penal Laws Era?

Queen Elizabeth and so many of her colonial administrators failed to see that, in fact, "a weak and disordered people" are an explosive charge waiting to detonate. When the Penal Laws of the late 17th and early 18th centuries, enacted by the Irish Parliament, criminalized the Irish Catholic people's Bishops and priests and barred Irish Catholics from careers in the law, seeds of lawlessness were sown among the 75% majority of the population. W.E.H. Lecky in his *A History of Ireland in the Eighteenth Century* makes this point about injustice: "They were educated through long generations of oppression into an inveterate hostility to the law, and were taught to look for redress in illegal violence or secret combinations." Lecky's words help to explain why the Ned Kellys, the Billy the Kids, the Wild Soldier Boys become rebel heroes to their people. The historian S.J. Connolly refers to these rapparees as "social bandits" who acted as the poor man's champion against an oppressive social and political order. They were rewarded by the commoner's support and hero worship. In the second half of the 18th century, the Whiteboys emerged as an instrument of "street justice" for an impoverished people. They rode the countryside tearing down fences, ham-stringing cattle, and burning barns. They committed criminal violence against informers and tithe and rent collectors. They terrorized residents in manor homes by destroying property and firing rifles through windows. The Whiteboys, the Ribbonmen, the Rightboys and the Shanavests forced the justice system to pay attention, which had until now followed the counsel of Lord Chancellor Bowes and Chief Justice Robinson who said from the bench, "The law does not suppose that any such person to exist as an Irish Roman Catholic." The British Parliament began to take notice of the existence of Irish Roman Catholics with the passage of acts in 1793 relieving Catholics of many of their disabilities and began working toward the Act of Union. When the "weak and disordered people" rose in rebellion in 1798 with an assist from France (The Year of the French), Ireland most assuredly had England's attention.



Though the Irish Parliament's attempt to suppress the Roman Catholic Church in Ireland was not successful, other laws enacted by British and Irish Parliaments were successful. Lecky says that these laws were "intended to check any rising spirit of enterprise that might appear among them, and to prevent any ray of hope from animating their lot." One contemporary voice, Archbishop Synge, doubted that there was any sincerity in the religious conversion initiatives of the Penal Laws Era: *There are too many among us who had rather keep the Papists as they are, in an almost slavish subjection, than have them made Protestants, and thereby entitled to the same liberties and privileges with the rest of their fellow subjects.* In the last forty years of the 17th century, the Parliament in London passed laws which strangled Irish enterprise, Irish and Anglo-Irish both. The Navigation Acts prohibited exportation of goods to colonies unless they were carried in English ships with English crews. The Cattle Acts outlawed the importing of Irish livestock into England. The Woolen Act of 1699 forbade the exportation of Irish woolen goods to any country. England, of course, was protecting its home industries from competition. Colonial empires thrive on the exploitation of subject colonies' raw materials, the consequence of which is a native population which is jobless and hopeless, starving, begging and turning to crime. The Protestant

clergyman and writer Jonathan Swift said about this strangle hold on Irish commercial enterprise, “Ireland is the only kingdom I have ever heard of or read of, either in ancient or modern story, which was denied the liberty of exporting their native commodities and manufactures wherever they pleased.” The protectionism of British policy almost extended to the Irish fishing industry. Fortunately, when English fishing interests sought protection from competition from Irish fishing fleets, they were rebuffed.

Lecky is convinced that the policies of the Penal Laws Era were rapacious rather than religious: “The penal code, as it was actually carried out, was inspired much less by fanaticism than by rapacity and was less directed against the Catholic religion than against the property and industry of its professors.” Native Irish ownership of land had been rapidly declining since the Settlement of Cromwell. When Cromwell came to Ireland in 1649, Catholics owned 59% of the land, and good land it was, extremely fertile, among the richest in Europe . However, like its excellent harbors which could not be exploited for shipping, or its famous cattle which could not be exported, or its best-in-Europe wool which was denied export, Irish land was too good to be left in native Irish ownership. By 1685, the Irish Catholics owned 22% of Ireland ‘s land; by 1704, 14%; and by 1780, only 5% of Ireland ‘s land was owned by Irish Catholics.

Many of the Laws in Ireland for the Suppression of Popery effected a transfer of lands from Catholic hands. For instance, for violation of the law restraining education abroad, the penalty was forfeiture of land. For violation of the law against intermarriage between a Catholic and Protestant, the bride’s estates would be seized. Catholics were forbidden to buy, receive as a gift or inherit land from a Protestant. They could not lease land for longer than thirty-one years or lease land whose profits exceeded one-third of the rent. Estates of Catholic landowners upon their deaths would be divided equally among heirs assuring very small plots, unless the eldest became a Protestant, in which case he inherited all of the land. No wonder then that Irish poetic fury excoriated the landlord, as in this verse (1732) by John Clarach MacDonnell from “On the Death of Dawson”:

*Beneath these stones grey Dawson lies.
A churlish blackguard gorged with blood;
He loved to hear his victim’s cries;
May he now rot in Irish mud.*

We cite John Mitchell in his *History of Ireland* to sum up: “It is plain that the object of the Ascendancy was not so much to convert Catholics to Protestants as to convert the goods of Catholics to Protestant use.”

During this era, the Georgian architecture which visitors to Dublin see in the stately doors of Dublin and in many of its majestic buildings, such as the Four Courts, was the popular style among the Ascendancy. But the native population lived in “a brutish, nasty condition” (Petty, 1672) in hovels “no better than many nests” (Archbishop of Tuam, 1752) as spacious “as English hogsties, but not so clean” (John Dunton, 1699). In 1735 Bishop Berkeley asked, “whether there be upon the earth any Christian or civilized people so beggarly, wretched and destitute as the common Irish.” Even the colonists in pre-Revolutionary America of 1738 lived better than the Irish. The great revivalist preacher George Whitefield, who had just returned from missionary work in America , observed, “If my parishioners in Georgia complain to me of hardship, I must tell them how the Irish live.” No surprise in this environment that when famine struck, the poor Irish suffered grievously, as they did in the 1840’s even after the Act of Union joined Ireland to England, Scotland and Wales. It was the famine of 1728-29 which inspired Jonathan Swift’s biting satire “*A Modest Proposal*.” Swift’s “proposal” was that the English fatten the emaciated Irish children as a food export. The Archbishop of Dublin (1718) was more direct than Swift about the misery of the lives of the common Irish when he observed, “your Hogs in England and Essex Calves lie and live better than they.”



Jonathan Swift

Edmund Burke called the Penal Code “a machine as well fitted for the oppression, impoverishment and degradation of a people, and the debasement in them of human nature itself, as ever proceeded from the perverted ingenuity of man.”

A fitting summary of the laws of the Penal Era can be found in Professor Lecky’s book *A History of Ireland in the Eighteenth Century*:

- \$ *The Roman Catholic was forbidden to receive education.*
- \$ *He was forbidden to enter a profession.*
- \$ *He was forbidden to hold public office.*
- \$ *He was forbidden to engage in trade or commerce.*
- \$ *He was forbidden to live in a corporate town or within five miles thereof.*
- \$ *He was forbidden to own a horse of greater value than five pounds.*
- \$ *He was forbidden to purchase land.*
- \$ *He was forbidden to lease land.*
- \$ *He was forbidden to accept a mortgage on land in security for a loan.*
- \$ *He was forbidden to vote.*
- \$ *He was forbidden to keep any arms for his protection.*
- \$ *He was forbidden to hold a life annuity.*
- \$ *He was forbidden to buy land from a Protestant.*
- \$ *He was forbidden to receive a gift of land from a Protestant.*
- \$ *He was forbidden to inherit land from a Protestant.*
- \$ *He was forbidden to inherit anything from a Protestant.*
- \$ *He was forbidden to rent any land that was worth more than thirty shillings a year.*
- \$ *He was forbidden to reap from his land any profit exceeding a third of the rent.*
- \$ *He could not be guardian to a child.*
- \$ *He could not, when dying, leave his infant children under Catholic guardianship.*
- \$ *He could not himself educate his child.*
- \$ *He could not send his child to a Catholic teacher.*
- \$ *He could not employ a Catholic teacher to come to his child.*
- \$ *He could not send his child abroad to receive education.*

Queen Elizabeth I expressed a preference for a “weak and disordered” Ireland . The leadership of England and Ireland in the 17th and 18th centuries worked sedulously to achieve her aim. Professor Lecky, taking a wide historical view, places the laws of the Penal Era at the apex of infamy: “but it would be difficult, in the whole compass of history, to find another instance in which such various and such powerful agencies concurred to degrade the character and to blast the prosperity of a nation.”

(Written by John Walsh, April 2007)

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