

Dr Mark Pack examines the critical period in Irish and British history during which many of the seeds of the present troubles were sown.

# Charles James Fox, the Repeal of Poynings' Law, and the Act of Union

The repeal of Poynings' Law in 1782 brought about a short-lived period of real devolved power for the Irish parliament which lasted until the 1801 Act of Union which, despite its name, was in effect a restoration of English power over Ireland.

Poynings' Law was named after Sir Edward Poynings (1459 – 1521), a supporter of Henry VII who was sent to Ireland on his behalf in 1494. He summoned a parliament in Drogheda, which passed a variety of laws strengthening the English grip on Ireland, including the eponymous law. It made any Irish parliament clearly subservient to the English and, at its heart, it stipulated that:

No parliament be holden hereafter in the said land, but at such season as the King's lieutenant and council there first do certify.<sup>1</sup>

It meant that the Privy Council could control when and if any parliament met in Ireland. In addition, the Privy Council had to give permission for the introduction of any new legislation and the supremacy and applicability of legislation from the Westminster Parliament to Ireland was also asserted. In subsequent years the law was frequently unpopular not just with Catholics, but also with Protestants. For Catholics its unpopularity was more obvious as it was an extension of English control over Ireland. But for Irish Protestants it was also a cause of protest, as it meant power rested in England rather than with them. This particularly applied to Presbyterians (rather than Anglicans) who were also in search of an end to the religious discrimination and restrictions that afflicted both themselves and Catholics.

During the sixteenth and seventeenth centuries there had been limited English interest in Ireland. There were occasional brief bursts, usually marked by an attempt to impose a particular social order on the island, which faded away. The main English interests were in protecting the dominance of the Crown and protecting Ireland (and so England) from invasion. A similar pattern was seen with English settlement, which came in bursts, and was largely motivated by a desire to secure Ireland.

Following Henry VIII's denial of Papal supremacy and the break between England and the Papacy, Catholics were still largely willing to acknowledge the temporal authority of the monarchy. However, their unwillingness to acknowledge its spiritual authority meant they were increasingly excluded from public life.

Those two centuries did not pass without violence, in particular the intervention of Cromwell's army in 1641 and the war with the Jacobites in 1690 – 91. These left a delicate three-way political struggle between Irish Catholics, Irish Protestants and English Protestants. Irish Protestants were keen to strengthen their grip on Irish power, and used Catholic unrest as a reason. They were often suspicious of the English as being a soft touch on Irish unrest, but in turn English politicians were frequently willing to pass anti-Catholic measures, such as the removal of the vote from Catholic freeholders in 1729, in order to keep Irish Protestants happy.

It was the struggle for American Independence that returned the question of the balance of power between Ireland and England to centre stage. The

war brought together not only many of the Catholic and Protestant opponents of Poyning's Law in Ireland; it also provided a more interested audience in Ireland for their views and more willingness amongst the members of the Westminster Parliament to respond.

For the Irish, of whatever denomination, the American war also brought economic hardship through the loss of one of the few significant foreign markets for Irish produce. The late eighteenth century population boom that was causing significant strains in rural society fuelled complaints about the levels of taxation and trade restrictions. As a result demands for legislative independence increased – so that an Irish parliament could set different rules for Ireland.

And for Irish Protestants in particular, there was an obvious common cause with the Americans who were fighting for independence, as they too were seeking to loosen the shackles of rule by England. Both were hostile to the government ministers in London, critical of royal and government corruption and demanded cuts in taxation. More power for the Irish Parliament would, they believed, mean lower taxes, fewer placemen and less restrictions on trade.

For the English, the French involvement in the American War of Independence heightened fears of Ireland being used as a back door through which England could be invaded. There were also concerns that the sequence of events in America might be repeated in Ireland, with Ireland too slipping from English rule.

The Irish Volunteer Movement exploited these fears. It was founded in the late 1770s and was very much a Protestant movement – driven by the powers of Protestant landowners over their tenants and by their hostility to the French – a trait that was rarely matched amongst Catholics, for many of whom the French were a possible ally and source of relief from Protestant rule. The Movement had its roots in genuine fears of invasion from previous decades. Indeed, in 1760 a small number of French troops had landed at Carrickfergus. In response, local farmers armed and organised themselves. The sight of this organised opposition

quickly persuaded the French to abandon their plans, and retreat to their ships and back to France.

This victory inspired the creation of volunteer forces around the country, fuelled by a mix of genuine desire to oppose invasion, the social cachet available to landowners who took part and the desire to use the organisation to distract its members from other activities – drilling weavers being preferable to rioting weavers. War with America and renewed hostilities with France meant that the threat of invasion, and the popularity of moves to counter them, revived.

The political threat implicit in the Volunteer Movement was reinforced by the reduction in the number of soldiers stationed in Ireland in response to the demands of the war. By 1781 around 90,000 volunteers were under arms, but by 1782 the number of regular troops in the island had fallen to just 5,000.

The distractions of war also strengthened the position of the Volunteer Movement in other ways. English politicians generally were more ready than usual to concede to Protestant Irish demands simply because they felt they could not risk unrest in Ireland. For many Whigs in particular the Volunteer Movement was a noble, even necessary cause. In their political theology the people had the right to resort to force to preserve liberty against a dictatorship. This was an extension of the Glorious Revolution of 1688 – the people (possibly with the threat of force) had the right to exert themselves to enforce the protection of liberty. This belief resulted in views being expressed which perhaps today might more naturally sound like those of the American National Rifle Association rather than those of liberal politicians. Tierney, a later leader of the party, argued in the early nineteenth century that,

If ... an Englishman was not to be allowed to have weapons for self-defence in his possession, a most grave case indeed must be made out ... [There was an] established constitutional principle that a man had a right to have arms for his own self defence.<sup>2</sup>

Charles James Fox, one of the leading Whigs from the late 1770s through to



Charles James Fox (1749 – 1806)

his death in 1806, had a close interest in Irish events. His uncle, the Duke of Leinster, was a leading volunteer and the parallels and links with America drew him in as America was the source of much of his opposition to the King's government. In 1779 he asked,

What stripped Ireland of her troops? Was it not the American war? What brought on the hostilities of France and put Ireland in fear of an invasion? Was it not the American war? What gave Ireland the opportunity of establishing a powerful and illegal army? Certainly the American war!<sup>3</sup>

Despite his use of the phrase 'illegal army' he was happy on many occasions to support the Volunteer Movement. With his flamboyant nature, Fox was often attracted by the whiff of revolution, and spoke of how:

If one branch of the legislature becomes subservient to another, the people are at liberty to constitute themselves a new legislature.<sup>4</sup>

Force, when deployed against dictatorship, was acceptable to Fox:

The Irish Associations have been called illegal: legal or illegal, he declared he entirely approved of them. He approved of that manly determination which, in the dernier resort, flew to arms in order to obtain deliverance.<sup>5</sup>

For him, liberty relied on the willingness in extremis to use force; it depended on a people that:

Flies to arms in order to obtain deliverance ... as a defence against the possible or actual abuse of power,

political treachery, and the arts and intrigues of government.<sup>6</sup>

This was because force was to Fox a necessary bulwark against an oppressive monarchy. Restricting monarchical power was a key theme running through his personal political beliefs, and indeed had been one of the reasons for his becoming a Whig in the first place.<sup>7</sup> He believed in concessions on Irish issues to pacify Ireland – ‘unwilling subjects were little better than enemies’<sup>8</sup> – and as a result was often appealed to by Irish politicians such as Henry Grattan.

Grattan (1746 – 1820) was a lawyer and one of the best orators of his generation. He joined the Irish Parliament in 1775 and two years later struck up a friendship with Fox. Grattan campaigned for greater independence for the Irish Parliament, including the repeal of Poynings’ Law, which would open the road to tax and trade policies more amenable to him. Though this was an important source of support for his views, at their heart they were also driven by a strong belief in the rights of Ireland to have more say in her own affairs. He also, like Fox, supported a more liberal policy towards Catholics.

During 1779 tensions in Ireland rose with the congruence of the expanding Volunteer Movement, a stagnant economy and the resulting resentment at the restrictions in place on Irish trade. A free Irish parliament, with the ability to see its own trade rules, seemed the answer. For many Whigs in the Westminster Parliament, these views sat neatly with their own opposition to the King’s government, which they criticised as ineffective, governing wrongly and free of appropriate checks.

The 1779 crisis eased significantly in December when the Prime Minister, North, made considerable concessions to the demands of the Protestant Irish. Unsurprisingly, Fox and the other opposition in the London Parliament were only muted in their welcome for these concessions as they came from a deeply hostile opponent. Irish Protestants in turn were made suspicious by this lukewarm reaction – did it mean that the previous support

by Whigs for their cause was only motivated by an opposition to the King and Prime Minister rather than a genuine belief in it? The next major test came in 1782 with another upsurge of opposition. Representatives from the Ulster Volunteer regiments assembled on 15 February 1782 at Dungannon, where they resolved:

That a claim of any body of men, other than the King, Lords, and Commons of Ireland, to make laws to bind this kingdom, is unconstitutional, illegal, and a grievance.

This resolution was penned by Grattan, who also wrote two others that were adopted – one for limitation of the Mutiny Act and one for a more liberal policy towards Catholics. The meeting also reaffirmed its belief in the need to protect rights by recourse to arms, if necessary: ‘A citizen by learning the use of arms does not abandon any of his civil rights.’ Three other provinces – Leinster, Munster, and Connaught – saw similar meetings and declarations in quick succession, and by the time the Irish Parliament met in Dublin on 16 April 1782 the appearance of regiments of armed volunteers on the streets of the capital meant that an armed revolt was in effect threatened. It was, though, only a moderate threat – the emphasis continued on concessions for Catholics and on violence only as the last resort.

An unconnected event provided the opportunity for the threats to be played out peacefully and swiftly. Further setbacks in the war with America procured the fall of North’s administration and his replacement by Rockingham’s Whig ministry with Fox as Foreign Secretary. Irish pressure was required to overcome Fox’s initial instinct in his new position to play for time before committing to a course of action, but action was swift when it came. In just one day (17 May) Parliament passed a series of key measures – agreement that Ireland was not automatically bound to abide by its laws (this was done via the repeal of the Declaratory Act of 1719, 6 Geo I), the repeal of Poynings’ Law and limitations to the Mutiny Act.

Thus Irish legislative freedom was

achieved, with the concomitant weakening of the Westminster Parliament and the monarchy, which was just as important to Fox. But this legislative freedom was not accompanied by meaningful reform of the Parliament’s structure and mode of election. It continued to be dominated by a small number of large landowners, with a relatively small electorate and many pocket boroughs.

The concomitant of Parliamentary power being concentrated in so few hands was that there were few who were keen supporters of the Parliament. Even the revived volunteer movement in the 1790s was largely hostile to the Irish Parliament on these grounds. As a result, the Parliament was in a poor shape to withstand the strains following the revolution in France when Ireland was, once again, wracked by significant internal dissent and unrest. A broad alliance of forces therefore argued for Parliamentary union with the rest of the United Kingdom, believing that this would provide a governance structure more resilient to the threats of unrest and revolution. Even the leaders of the Catholic Church, hostile to the anti-Catholicism of much of the French revolution and those inspired by it, were prepared to support such an arrangement. Thus was inaugurated the 1801 Act of Union.

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- 1 *Statutes at Large*, Ireland, I, 44: 10 Henry VII, c. 4
- 2 D. Brack et al, *Great Liberal Speeches*, 2001, p. 39
- 3 1779. For the full speech see *Parl Hist XX* pp. 1116-28
- 4 S. Ayling, *Fox*, 1991, p. 72
- 5 L.G. Mitchell, *Charles James Fox*, 1992, p. 35
- 6 *Parl Hist XX* pp. 1123-8. The *Morning Post* commented on this speech that, ‘Mr Fox in his parliamentary invocation to rebellion seems to strive as hard for a halter as any gentleman ever did in his desperate circumstances’.
- 7 His mother’s family had disapproved of his parents’ marriage. Siding with his parents, he had a strongly held opposition to restrictions on the rights of people to marry. When George III tried, via the Royal Marriage Bill, to restrict the rights of the monarch’s children to marry, Fox resigned from the government and began his long career in opposition to the monarch.
- 8 D. Powell, *Charles James Fox*, 1989, p. 124