

'The Case of the Parliament of Ireland'.

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Till the reign of Henry II Ireland was divided amongst many Kings & Lords without any common Parliament. Then one of those Kings viz^t Dermot Prince of Leinster, being beaten by his neighbours obtained succours of some English Lords by the consent of King Henry II who was then busied in Aquitain, & by their assistance recovered his territories. And a little after viz^t in November 1172 King Henry went into Ireland with an Army, & the Kings Lords & Prelates of Ireland being terrified by the late successes of the English arms submitted & swear fealty & homage to the King & confirmed the kingdome of Ireland to him & his Heirs by Letters with seales pendent after the manner of Charters. And thereupon the King convening the Irish at Lismore caused them to receive the Laws of England & to swear to be governed thereby, & in like manner calling a Council of the Irish Clergy at Cashal he made them promis conformity to the English Church, & in April following viz^t 1173 returned into England. Molyn. p. 6, 7, 9, 9, 10, 11, 12, 28, 36, 37.

About five years after in a Parliament held at Oxford the King created his younger son Iohn then 12 years old, Lord of Ireland & at his death left the Kingdom of England to his elder son Richard I but by the death of Richard & succession of Iohn the Lordship of Ireland became again united to the Crown of England, & hath ever since continued so. Mol. p. 39, 40, 43.

King Iohn about the 12th year of his reign over England viz^t Iun 28 1210 went into Ireland & the Irish Princes being affrighted did him homage & fealty & he granted & enjoined them the English Laws & Customes by a Charter or Statute under his Seale swearing them thereunto & placing Sheriffs & other Ministers who might judge the Irish according to those Laws. Whence they have to this day Courts of Chancery, Kings Bench, Commons Please & Exchequer as in England. Afterwards Henry III the son & successor of King Iohn in the 12^t year of his reign sent a Mandate to Richard de Burgh then Iustice of Ireland to conve{ne} the Irish & cause to be read to them the Charter or Statute which his Father King Iohn had ordeined & caused them swear unto concerning the Laws & Customes of England to be observed in Ireland & that he should cause the Irish firmly to receive & keep the said Laws & Customs & the same to be proclaimed & obeyed in every County of Ireland forbidding in the Kings name that no man pres{illeg}e to act contrary to this his Mandate. Mol. p. 44, 52. The words of the Mandate run thus. Rex Dilector et Fideli suo Richardo de Bu{illeg}go Iustic' suo Hibern. salutem. Mandamus vo{illeg} firmiter præcipientes quatenus certo die et loco faciatis venire coram v{acis} Archiepiscopos Episc{illeg}os Abbates Priores Comites <456v> & Barones Milites & libere Tenentes & Balivos singuloriam Comitatum & coram eis publice legi faciatis Chartam Domini Ioannis Regis PATris nostri cui sigillum suum appensum est quam fieri fecit & jurari a Magnatibus Hiberniæ de Legibus & Consurtudinib' Angliæ observandis in Hibernia. Et præcipiatis eis ex parte nostra quod Leges illas & Consuetudines in Charta prædicta contentas de cætero firmiter teneant & observent & hoc idem per singulos Comitatus Hiberniæ clamari faciatis & teneri prohibentes ex parte nostra & super foris facturam nostram nequis contra ho Mandatum nostrum venire præsumat &c Teste meipso apud Westm' 8 die Majj An. Regn. nostri 12. Mol. p. 53.

Thus did the Kings of England in these Reigns by their absolute & sole authority as Conquerors impose Laws on Ireland even without a Parliament, the Irish hitherto assembling not to make laws but to submit & swear to the laws on them by the Kings command. And therefore the present Irish Parliament is of no further authority then what it derives from the grant of the Crown of England & by consequence of no authority against an Act of an English Parliament.

Some would derive the Parliament of Ireland from a Grant of Hen. II called *Modus tenendi Parliamentum*, but this is of suspected authority. King Iohn & Henry III seem the first who granted Charters & Privileges to Ireland. Edward I neare the beginning of his reign summoned them by Writs to the Parliament of England & these summons continued till towards the end of the reign of Edward III or longer. p. 95, 96, 97. Whence the Lordship of Ireland was as much annexed & united by law to the crown & Kingdom of England as the Principality of Wales is at present. For Ireland is so firmly annexed to the crown of England (even by Acts of Parliament of both nations & particularly by Poynings Act) that whoever is King of England is ipso facto Lord or King of Ireland p 43, 44, 127. Whence Acts of an English Parliament for settling the succession to the crown are of force in Ireland without the authority of an Irish Parliament & an Irish Act of settlement can be no more then declarative for publishing & putting in execution the Law of England & must derive its authority from that Law. And for the same reason an English Parliament has power to impose laws on Ireland for preventing or suppressing rebellions & conserving the possession of Ireland to this Crown.

When the Irish had seen the manner of Parliaments in England the King began to summon them at home, & Edward III granted them Councils & Parliaments by his Letters Patents confirmed afterward by Rich II, p. 161, 162, 163. These Parliaments examined the English statutes not yet imposed on the Kingdom by Royal authority & by degrees received them all till the 10th year of Henry VII p. 64, 68, 69. At which time their Parliaments by Poynings Act gaining a negative voice to the Kings broad <457r> seal (p. 160, 161, 166, 167)) they began to make their private Statutes with less regard to ours, & in the next reign aspired from the title of a Lordship to that of a kingdom.

However, in memory of their ancient subjection to our laws, their Courts of Iustice remain to this day subordinate to ours. For a writ of error still lies from the Kings Bench of Ireland to the Kings Bench of England & thereby the Iudges of our Kings Bench are Interpreters of all the Irish Laws. For we are to judge them by their own Laws whether those Laws were received from us or made originally in their own Parliament. And since a writ of Error lies from our Kings Bench to our House of Lords, this House & much more the King & both Houses together are Interpreters of all the Irish Laws p 71, 87, 88, 130, 131, 132, 133, 134, 135, 136, 139. So then it lies in the breast of an English Parliament to interpret & declare the meaning extent & force of all the Irish Laws not excepting those by which they claim any power to themselves.
