The Penal Laws in Limerick
1670-1684

LEONARD HOWARD

Recent research, notably Mrs Maureen Wall's booklet, *The Penal Laws*, has shown that the enforcement of anti-Catholic measures varied considerably in intensity from time to time and from place to place. Before we may hope for an adequate history of the application of the Penal Laws throughout the whole country, the question must be investigated at county and, indeed, at parish level. This article deals with one county, Limerick, during the second half of the reign of Charles II, a period which witnessed the fear and confusion caused by the so-called Popish Plot. Any consideration of the actual laws enacted or the proclamations issued which affected Limerick's Catholics has been omitted. The text of these laws and proclamations may be found in the various collections of the Irish statutes and in R. Steele, *A Bibliography of Royal Proclamations of the Tudor and Stuart Sovereigns and Others Published under Authority*, Vol. II, Oxford 1910, pp. 77-110.¹

As an introduction to this study it is necessary to discuss two members of the Irish executive whose names will crop up again and again in this discussion of law enforcement in Limerick. Ormonde was the Lord Lieutenant from 1677 to the end of the period under review, while the Earl of Orrery was the President of Munster. The former, contrary to public opinion, was by no means a fanatical persecutor of Catholics. ² His unswerving loyalty to his monarch and to his Faith was matched by his reluctance to take strong measures against Catholics because of their beliefs. Orrery, on the other hand, was an extreme Protestant, opposed to any conciliatory

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¹ The essay which introduces this work contains a good deal of valuable information on law enforcement in Ireland during the sixteenth and seventeenth centuries.
² Soon after his arrival in Ireland in 1677 he wrote to Sir Henry Coventry, the principal Secretary of State from 1672 to 1680:

> To endeavour to reform so obstinate a multitude by putting the laws in execution against them [i.e. the Dissenters] on a sudden after so long a time of indulgence, and to let these laws sleep in reference to the Roman Catholics (against whom they seem to have been principally provided) would produce great and unreasonable clamour, and slack and ineffectual prosecution; and to execute them against both (if it should have no worse effect) would soon fill all, and more than all, the prisons in Ireland, and would drive so many from their homes and from their labour that much of the kingdom would be laid waste, and His Majesty's revenue would unavoidably sink in all the branches of it. ... I shall presume to lay before His Majesty ... that for the present nothing be changed in relation to them, but that the liberty they have gained by some years' indulgence may still be connived at ... [Ormonde MSS N.S.4 (1906) p. 38].

Ormonde did not persecute his Catholic relatives:

> I am taught by nature and also by instruction that difference in opinion concerning matters of religion dissolves not the obligations of nature ... Ormonde to Sir Robert Southwell, Clerk of the Privy Council in England (1664-78), 30 Nov. 1678. Ormonde MSS sep. 7 (1899), p. 280. Maurice Lenihan, *Limerick; its History and Antiquities*, Dublin 1866, p. 199.
measures. He had been largely responsible for the termination of Ormonde's appointment as Viceroy in 1669, and resumed his intrigues when the latter returned in 1677. O'rrery and his friends continually spread stories of proposed French invasions, landings of arms, or the defenceless condition of the country in the event of an Irish uprising. The slightest reluctance on the part of Ormonde to act on even the wildest rumours was liable to be construed by O'rrery and his associates as indicating a lack of zeal for the safety of the 'British interest and the Protestant religion.' Since these insinuations were circulated in England, Ormonde was compelled to take steps to avoid misrepresentation, steps which sometimes led to the oppression and imprisonment of Irish Catholics.

The City of Limerick

Except for a period during the Popish Plot scare, the City of Limerick enjoyed comparative peace. During the Viceroyalty of Lord Berkeley (1670-2), a liberal and kindly man, Catholics in Limerick were not interfered with. The old Limerick merchants returned to trade in the city and once again the weekly market was held within the city walls. In 1671, however, the Earl of O'rrery, who had been appointed Governor of Limerick and President of Munster shortly after the Restoration, issued an edict against the clergy in the cities of Cork and Limerick, prohibiting their saying Mass in either of these cities. Archbishop Oliver Plunket of Armagh (1669-81) was of the opinion that O'rrery had issued this decree not so much to oppress the Catholics as to try to injure Berkeley, so that should the Viceroy recall the edict he should be accused of favouring Catholics. Within a year Berkeley's enemies had succeeded in obtaining an order for his removal.

In September 1672 a Catholic, John Halpin, was elected Sheriff of Limerick and he remained in office for almost four weeks until, on refusing as a Catholic to take the required oath, he was deposed. His appeal to Berkeley's successor, Essex (1672-7), against this deposition was unsuccessful.

The Popish Plot

In 1678 the discovery of the Popish Plot in England resulted in the publishing of a proclamation by Ormonde, who had become Viceroy in the previous year, banishing

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3 State Papers, the Ormonde MSS, and Rev. T. Morrice (ed.), State Letters of the Earl of Ormonde, Dublin 1743, contain many examples of these stories and allegations.
4 He was appointed President of Munster in 1660 and Governor of Limerick in 1684. Lehan, op. cit., p. 293.
5 Oliver Plunket to the internuncio, 9 Aug. 1671. P. F. Moran, Memoir of the Venerable Oliver Plunket, 2nd ed. Dublin 1896, p. 221. This work will be hereinafter referred to as Moran, Memoir.
6 In 1685 a clause had been inserted in the Acts of Settlement and Explanation by which the Viceroy and Privy Council were empowered to establish, within a limited period, rules for the better regulating of all cities, towns and corporations in Ireland. John T. Gilbert, Calendar of the Ancient Records of Dublin, vol. V, Dublin 1895, p. v.
7 Letter from same, 28 Sept. 1671. Moran, Memoir, p. 60.
9 National Library of Ireland MS 89, p. 40.
the Catholics from Limerick City. It must be emphasised that the fact that a proclamation was issued is not proof that it was applied and, in point of fact, the very wording of some contemporary proclamations provides evidence that they were not strictly enforced. In the case of this proclamation, Orrery informed Ormonde that in his opinion it would have little effect, considering that 'multitudes of loose Irish Papists' had moved into the city about six months previously. However, all the Catholics did not go unscathed. Begley and Lenihan give accounts of Fr. Jasper White, parish priest of St. John's, who was arrested while saying Mass in his parish. He was led in his vestments to the guard-house by a young lieutenant and a company of soldiers, and there detained for some hours until Sir William King, who became mayor in 1679, happened to visit the place and, on recognising the prisoner as Fr. White, immediately ordered his release.

Some of the clergy were not as fortunate as Fr. White. Two priests discovered saying Mass within the walls were arrested and imprisoned. Sir William King then sought instruction from the Council in Dublin. He was ordered to discharge his prisoners if they seemed to be diocesan priests who had not exercised foreign jurisdiction, but to forbid them for the future to say Mass within the walls. King was also instructed how to deal with two Dominican friars who had surrendered themselves since the publication of a proclamation in 1678 ordering all archbishops, bishops, religious, and all exercising papal jurisdiction, to leave the country, and whom he had imprisoned.

... it is the Council's pleasure that they be secured until there be an opportunity of transporting them with the Titular Bishop of Limerick and the other friars [sic] mentioned in your letters, which you will write be sent away next week and it is our pleasure that the persons who harboured them be proceeded against at the next Quarter Sessions.

The 'Titular Bishop of Limerick' was Dr. James Dowley (or Duley) who ruled as vicar-apostolic from 1660 until he was provided as bishop for the diocese on 4 May 1676. When archbishops, bishops and religious were banished in October 1678, he, being old and stricken with rheumatism, surrendered himself to the authorities. Despite the Council's orders, he was not transported. He was neither imprisoned nor subjected to close supervision but was given permission to remain in any part of his diocese. In 1680 he was ordered to give sureties to appear when called on by the

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18 *Ibid*.
19 He had been appointed vicar-apostolic in 1657, but for various reasons it is most unlikely that he took office until 1669. See B. Millett, O.F.M., "Rival Vicars: Disputed Jurisdiction in Limerick, 1654-71," in E. Rynne (ed.), *North Munster Studies*, Limerick 1967, pp. 281-2.
Government. Less than five months later Sir John Davys ordered Gerald FitzGerald, High Sheriff of Co. Limerick, to bind Bishop Dowley to appear at the next assizes in Limerick. According to Canon Power, the editor of the letters of Archbishop Brennan of Cashel, Dr. Dowley was tried in 1680 when, on account of his age and infirmities, his case was dismissed and instructions were given for his deportation. Canon Power does not give any source for this statement. It seems highly unlikely that any effort was made to deport the bishop, even though informers had implicated him in the Popish Plot. Archbishop Brennan wrote on the feast of St. Teresa, 1681, that 'the Bishop of Limerick is weighed down with years and, on this account, he is allowed to remain.' On the first of May of the following year, the same writer informed the secretary of the Congregation of Propaganda Fide that Dr. Dowley was living in his diocese, tolerated on account of his advanced old age. He was still at work in Limerick in August 1683.

The proclamation of 1678 had forbidden Catholics to assemble for the purpose of hearing Mass, a fact emphasized by the Council in a mandate to the mayors and sovereigns of the cities and towns not to permit the public celebration of any Catholic service. In Limerick no real effort was made to enforce these orders, at least on a permanent basis. On 30 August 1683, the Earl of Longford wrote to the Earl of Arran that he had spoken with the Protestant Bishop and with the Mayor of Limerick about suppressing both the conventicles and the Mass-houses and that they had promised to do this effectually 'very soon.'

The Arrest of Dr. Peter Creagh

In 1680 Dr. Peter Creagh, the Catholic Bishop of Cork and Cloyne, came to the notice of the authorities. Due to the insecurity of the times he decided to fly to Co. Clare where he took refuge with his brother, John. Early in March 1680, Dr. Creagh was accidentally discovered, arrested, and sent to Limerick to be transported.

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16 Sir William King to Henry Gascoigne, secretary to Ormonde, 21 May 1680. Ormonde MSS N.S.1 (1908), p. 233: 'The titular Bishop of Limerick has pursuant to his Grace's order entered security to me to be forthcoming at his Grace's pleasure.'

17 Burke, Irish Priests, p. 98. Burke states that this is the last reference to the bishop in government correspondence.


21 Moran, Memoir, p. 361.

22 Brennan, Letters, pp. 77-8.

23 R. Steele, op. cit., no. 855.

24 Burke, Irish Priests, p. 67.

25 Ormonde MSS N.S.7 (1912), p. 121.

26 Canon Power states that 'to avoid capture the bishop had, for two years, led the life of a hunted outlaw in the woods and mountains of his diocese.' Brennan, Letters, p. 69. Fr. Canon Mooney, O.F.M., claims that the bishop 'had to go into hiding in the hills and woods. Three times he barely succeeded in escaping. When the pursuit eased off a little, he went to live quietly with his brother John ...' The Library of Archbishop Piers Creagh' in Repertorium Novum, I (1855), p. 119. Unfortunately, neither account quotes a source. While accepting these accounts as being probably true, I must point out that I have found nothing to support or disprove them.

27 Ormonde to Sir Lionel Jenkins, Secretary of State (1680-4), 23 May 1680 Cal. S. P. dom. 1679-80, p. 491.
Ormonde had been kept fully informed of the proceedings and, on 10 April 1680, he wrote to Secretary Coventry to tell of Creagh’s apprehension. Meanwhile, John Roane, the Protestant Bishop of Killaloe, informed Primate Boyle about the capture. The Primate, in turn, communicated with the Council who ordered Sir William King not to transport Creagh but to keep him in custody until further orders should arrive. These came on 13 April, and King was ordered to send the bishop, carefully guarded, to Dublin. A medical certificate that the bishop was unfit to travel was sent to Dublin but this was regarded as unsatisfactory, when it was discovered that the doctors who had written this certificate were Catholics. Orders were given that the bishop should be examined by a Protestant doctor and a report sent to the Council. Evidently the bishop’s ill-health was genuine, because a doctor’s certificate was sent to the Council. King was then directed to await further orders before sending him to Dublin. Concern was expressed in England regarding Dr. Creagh since he had featured in the testimonies of some of the Irish informers, and Secretary Lionel Jenkins, who was obviously somewhat out of touch with events in Ireland, ordered Ormonde to arrest the bishop. The Lord Lieutenant replied in rather exasperated tones that he had intimated to Henry Coventry, the Secretary of State, a long time previously that Dr. Creagh was in gaol in Limerick.

According to Fr. Burke, Bishop Creagh was kept in strict custody while evidence of his complicity in the Popish Plot was being sought. When Fr. Burke does not quote a source his statements are invariably suspect, since he continually exaggerates the sufferings of the Irish Catholics, both clergy and laity. In this case, Dr. Creagh was in fact released on bail sometime in May 1680, possibly on account of his ill-health. While the bishop was out on bail, a man named Brian Sweeney came forward to give evidence against him and his deposition was forwarded for examination to the Mayor of Limerick.

Early in February 1681, the bishop was sent to Dublin and later transferred to Cork. After a spectacular trial he was released in 1682.

The County of Limerick

In the county area, Catholics had been appointed Justices of the Peace in 1671.

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23 Ormonde MSS N.S.6 (1908), p. 300
22 20 March 1680. Burke, Irish Priests, p. 95. Creagh may have been released on bail for a short
21 Burke, Irish Priests, p. 95.
33 Ibid.
35 28 May 1680. Ibid., p. 491. Ormonde’s letter to Coventry had been sent on 10 April 1680.
Ormonde MSS N.S.6 (1908), p. 300.
36 Burke, Irish Priests, p. 96.
34 Tanari, the Catholic internuncio in Brussels, to the Secretariate of State, 1 June 1680. Collectanea Hibernica, III (1900), p. 75.
38 Ibid.
33 See Chief Justice Davys to the Protestant Primate Boyle, 25 Aug. 1682. Ormonde MSS N.S.6
(1911), p. 428. Also Davys to Boyle, 29 Aug. 1682. Ibid., pp. 432-3. A graphic account of the trial
is given in Mooney, op. cit., pp. 119-20. An account may also be found in Lenihan, op. cit., p. 305.
In 1678, the High Sheriff of the county had a Sub-Sheriff who was a Catholic. Even Orrery, when reporting this to Ormonde, displays no surprise at a Catholic holding such an office.

The Popish Plot altered the whole situation. After various informers had told of a plot for a French invasion of Ireland, warrants were issued for the arrest of Lord Bourke of Brittas, his relative, the well-known Col. Pierce Lacy of Bruff, Sir John FitzGerald of Springfield, and many others. Brittas immediately surrendered himself and was imprisoned. He was tried at the next Co. Limerick assizes by a Grand Jury of seventeen men, the evidence of his accusers was examined, and a verdict of ignoramus was returned. He was released on bail by the Lords Justices on the instructions of Ormonde. When the news reached London it occasioned severe displeasure and Coventry, the principal Secretary of State, wrote to Ormonde on 21 February 1680, that a committee for Irish affairs in London had been surprised that the persons accused had been allowed bail, and their re-arrest was ordered so that their trials might be held without delay. Three days later Francis Gwyn, Clerk of the Privy Council in England and Commissioner of Revenue in Ireland, reminded Ormonde of the order that the Council had sent him to re-arrest the accused. At a meeting of the English Privy Council on 20 March 1680, the king was asked to name a High Steward for the trial of the Earl of Tyrone and Lord Brittas. Ormonde, however, did not arrest Brittas but, instead, bound him over to attend a future court. His action met with approval in London. Within a month, however, a new wave of fear and apprehension struck the accused Limerick gentlemen, when David FitzGerald told his story to the Council in London. It was then ordered that a new indictment be brought against them and that particular care be taken that no Catholic should serve on any of their juries. Ormonde was of the opinion that it would be useless to have the accused prosecuted in Limerick according to the direction of the Council, unless the informer, FitzGerald, were in Ireland for some time before the trial and unless he could produce more evidence than his own. Apparently no trial was held as, before the end of the year, it was ordered that Brittas, Col. Lacy and Sir John FitzGerald be brought in custody to London because it was felt that more information could be obtained there than in Limerick. Sir Thomas Southwell, of Rathkeale, since he was a Protestant gentleman with a good estate, was not arrested but was summoned to appear. Orders were sent to arrest eight gentlemen and to take bonds of some

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40 Those appointed had all regained some of their lands after the Restoration and in Limerick, as in England, dislike for Catholicism was restrained by respect for property. The J. P.'s included Sir John FitzGerald, who was imprisoned during the Popish Plot scare. Begley, op. cit., p. 278.
42 On account of his faithful service to him, Charles II had restored Col. Lacy by statute to his estates at the Restoration. 14 and 16 Charles II, c.2.
43 'Ignoramus' was formerly written by a Grand Jury on the back of a rejected indictment.
44 Petition from Brittas to the Lord Lieutenant, Cal. S. P. dom., 1832, p. 17.
45 Ormonde MSS N.S.5 (1908), p. 278.
46 Ibid., p. 281.
48 Ossory to Ormonde, 17 April 1680. Ibid., p. 305.
49 David FitzGerald's narrative may be found in the Journal of the House of Lords, XIII, 650-2.
52 Arran to Ormonde, 8 Nov. 1680. Ormonde MSS N.S.5 (1908), p. 478.
An effort was made to arrest Brittas, but he had gone into hiding and could not be found. In a petition presented two years later to the Lord Lieutenant and Council in 1682, he explained that as a lord he maintained that he was entitled to trial by his peers and he believed that if he were tried by strangers in England he would lose the benefit of his peerage. Col. Lacy and Sir John FitzGerald were duly despatched to London. The celebrated contemporary Gaelic poet, Dáibhidh Ó Bruadair, in a little poem beginning 'Dé bhfaicte mo phríonnsa,' expressed his conviction that a single glance at the chivalrous countenance of Sir John, his friend and patron, would immediately banish from the mind of Charles II all possible doubts of his loyalty.

An honest face did not suffice to convince the king, and Sir John and Col. Lacy were brought before the House of Lords on 4 January 1681. They denied the charges laid against them but, despite this, the House passed a vote that 'there was and is a dangerous plot in Ireland.' On 5 January 1681, the House of Lords ordered that Sir John be committed to the Gatehouse in London. In an effort to obtain his release he wrote a number of letters to various influential people in London, asking them to use their good offices on his behalf. He appealed to the House of Lords, who promised to investigate the matter, but unfortunately parliament was dissolved a few days later. He was eventually sent back to gaol in Ireland, sometime during the following year. He was released by Lord Chief Justice Keating sometime around the end of April or the beginning of May 1682, and the poet, Dáibhidh Ó Bruadair, in commemoration of the event, sent a letter of thanks to the justice. Ó Bruadair's letter implies that Sir John was discharged absolutely but, in fact, it would seem that he was either released on bail or soon re-arrested. Three months later Lord Chief Justice Davys informed Primate Boyle that

... at Limerick Sir John FitzGerald did petition to be brought to his trial; summonses were issued for the evidences against him, but they kept out of the way and would not appear, nor could they be brought in; wherefore the Court did not hold it safe to proceed to the trial of him.

A short time later Sir John's case was heard. By this time the Popish Plot had been thoroughly discredited and it is likely that Sir John was soon set at liberty.

All the while Col. Lacy was kept a prisoner in Newgate in London. On 23 March 1681 he sent a petition, seeking a discharge, to the House of Lords. This document contains an account of the trials and tribulations which the colonel had been compelled to endure. When his bill of indictment was ignored by the Grand Jury at

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53 Ormonde to Arran, 18 Dec. 1680 Ibid., p. 583.
54 Same to same, 21 Dec. 1680 Ibid., p. 585.
60 Journal of the House of Lords, XIII, 750-1.
61 Text of letter in MacErlean, op. cit., vol. I, pp. xxxiii-v. It is dated 5 May 1682, and was sent by the Limerick post eleven days later.
Limerick, he was released on bail by the Lord Lieutenant and Council. Upon the king’s command to appear before His Majesty and the Council in England, he was found to be so weak and unfit for the journey that leave was given to him to stay until his health had improved. In spite of this, in his anxiety to clear himself, he maintained, he left for London. There, a bill preferred against him was ignored by the Grand Jury at Westminster, but a habeas corpus for which he sued at the Old Bailey sessions was denied him because he had been committed by the House of Lords. Thereupon he petitioned the king, enclosing a medical report certifying that he was very ill and in danger of death due to his imprisonment, but nothing was done about his petition. The House of Lords then decided to appoint a committee to investigate the matter and report back to them but, as happened in the case of Sir John FitzGerald, since parliament was dissolved a few days later, no recommendation was issued.\textsuperscript{64} I have been unable to locate any definite information concerning Col. Lacy’s subsequent fate. Presumably it was similar to that of Sir John FitzGerald.

In the meantime the third Limerick gentleman, Lord Brittas, had presented a petition to Ormonde and surrendered himself. Thereupon Ormonde and the Council informed Secretary Jenkins that they had

\ldots ordered his committal to a pursuivant. He having since applied to us for bail, we ordered the Lord Chief Justice of the King’s Bench to take recognizance of him with sureties in £2,000 to appear at the next co. Limerick assizes, where the matters alleged against him are properly cognizable and where the witnesses are bound over to prosecute.\textsuperscript{65}

This course was approved, at least in part, in England. The king signified that it was not his intention that the Lord Brittas should be sent over to receive his trial in England, but to leave him to stand or fall according to the merits of his cause in that country, where there can be no disputeimaginable raised about the competency of the jurisdiction of that court, where your Grace [Ormonde] hath bound him over to answer.\textsuperscript{66}

Brittas, meanwhile, remained in prison. Arran, Ormonde’s son, wrote to his father, who was in London, asking that the prisoner be released on bail.\textsuperscript{67} Ormonde made representations to the king on his behalf and as a result a warrant was issued to the Lord Chief Justice of the king’s bench in Ireland ordering him to take bail from Brittas to appear at a future court.\textsuperscript{68} This court showed no signs of convening and in September 1682 Brittas petitioned the Lord Deputy, Arran, to arrange a speedy trial or else to command the Attorney-General of Ireland to enter a nole prossequi on the indictment for high treason.\textsuperscript{69} At the end of the month, Brittas wrote to Secretary Jenkins in a similar tone, claiming that all his so-called accomplices had been tried.\textsuperscript{70}

\textsuperscript{61} Journal of the House of Lords, XIII, 750.
\textsuperscript{62} 8 Jan. 1682. Cal. S. P. dom., 1682, p. 16.
\textsuperscript{64} Jenkins to Ormonde, 21 Jan. 1682. Ormonde MSS N.S.6 (1911), p. 299.
\textsuperscript{65} 27 June 1682. Ibid., p. 392.
\textsuperscript{66} Charles II to Arran, 4 July 1682. Cal. S. P. dom., 1682, pp. 283-4.
\textsuperscript{67} Ibid., p. 443.
\textsuperscript{68} Ibid., p. 444.
Meanwhile Ormonde, who was in London, was doing his best to have Brittas released. Arran wrote to his father on 10 October 1682:

I showed your Grace's letter of the 3rd to my Lord Chief Justice Davys and he will by the next post give your Grace satisfaction in both matters that concern him in that letter, and do find by the discourse I had with him upon my Lord of Brittas's case that he cannot without going against law free him absolutely from bonds upon the Lords of the Council's letters to us in answer to ours upon that subject which we were very favourable to him in, and that the only way is to get the king's commands to his Attorney-General here to enter a _nolle prosequi_.

The legal aspects of the case were carefully examined and a decision was eventually reached. The king wrote to Arran, the Lord Deputy, asking him to find out if Brittas's 'accomplices' had been released. The Lord Deputy was ordered to enter a _nolle prosequi_ on Brittas's indictment if he felt that Brittas would have been set free if he had been a commoner. Brittis presumably gained his liberty; the last time that he was mentioned in the _State Papers_ was on 22 June 1683 when himself, his wife, and a male and a female servant, were given a pass to go abroad.

Lord Brittis and the other Catholic gentlemen were not the only Limerick Catholics who suffered on account of the Popish Plot. On 4 January 1681 warrants were sent to the Sheriff of Limerick to apprehend Fr. Teige O'Coffey, parish priest of Cola, Fr. Teige O'Hea, parish priest of Iough, and Fr. Connor O'Coffey, parish priest of Doon. An examination of the relevant government papers yielded no information concerning the subsequent fate of these three priests. It is possible that they were sent to join those Catholics who had been committed to Limerick gaol. These were kept in custody since, in the words of Sir John Temple,

> The judges of the Munster circuit have, it seems, been very wary in not either discharging any of the prisoners at Limerick, leaving, as I hear, many of them in prison, where an _ignoramus_ was returned upon the indictments against them, and putting it upon your Grace [Ormonde] to order them to be bailed, to whom I think it did not so properly belong as to them.

The 'judges of the Munster circuit' were Sir Henry Hen and Sir Standish Hartstonge. O Braudair, in one of his poems, castigated their timidity which prevented

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72 See _Cal. S. P. dom._, 1682, pp. 624, 548, 555.
74 Ibid.
75 _Cal. S. P. dom._, 1682-84, p. 189.
76 Burke, _Irish Priests_, p. 71. Does 'Iough' come from the Irish name for Emly?
78 This is the way in which he himself wrote his name. It also appears as Henn, Hene, and Herne.
79 Short biographies of both appear in MacErlean, _op. cit._, vol. II, pp. 272-3.
them from exposing the perjuries of the informers. On 23 February 1682 the prisoners were still in custody. On that date Lord Chief Justice Keatinge sought assistance from Ormonde and the Council in the case of the great number of gentlemen and others of inferior degree, who have lain in close confinement at Cork, Limerick and Ennis, some since the last Assizes and others since this time was twelve months on suspicion of their being guilty of the late horrid Popish plot. The Grand Juries have found bills against some of them this time was twelve months and against others the last Assizes, but they have not been brought to trial by reason that the King’s evidence did not appear. It will be unreasonably hard to keep such a number of his Majesty’s subjects in close restraint after two Assizes, because the evidence for the King will not appear, though under recognizance so to do, so possibly it will be prudent to expect bail from them.

These prisoners were released a month later.

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Before reaching any conclusions about the enforcement of anti-Catholic legislation in Limerick between 1679 and 1684, two points must be emphasised. Firstly, the material available to the historian is limited; we do not know how much has disappeared with the passage of time. The Penal Code, as Burke has pointed out, formed part of the ordinary law of the country; consequently we can study its operation adequately only in the records of the inferior courts, and these are no longer available. However, the fairly detailed information presented in this article concerning Lord Brittas and the others, suggests that there is less likelihood than usual that a substantial part of the evidence dealing with law enforcement in Limerick, at least as far as the Upper classes are concerned, has been lost. Secondly, it is necessary to underline the fact that any study of law enforcement must investigate the extent to which legislation was not enforced, as well as the degree to which it was. This normally proves difficult—law officers seldom publicise their shortcomings in carrying out their duties. It is evident, therefore, that any conclusions arrived at must be regarded as tentative.

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80 MacErlean, op. cit., vol. II, pp. 272-5. Part of the poem reads in translation:
First the barons of the King’s Exchequer
Come to Munster’s wide-extending plains;
Two or three excursions, fruitless labour,
That did not put an end to Banbha’s woe.
Hen and Hartstone, those were the two Barons,
The judgment of whose lips restrained them not;
After them the hacking spread still further
No one knew whose treason was the worst.

It was not because they hated justice
That the Barons, as I hear, wore weak
Towards those whose fury ne’er grew colder,
But fear of being charged like all the rest.

81 Ormonde MSS N.S.6 (1911), p. 326.
82 Burke, Irish Priests, p. 298.
Conclusions

Even a cursory study of the proclamations issued during the reign of Charles II shows that little attention was paid to them. The very wording of many of them provides ample proof that neither sheriffs, justices of the peace, nor constables were willing to carry out the duties thrust upon them. For example, a proclamation issued in 1673 forbade Catholics to carry guns without a licence and all who possessed arms were obliged to surrender them within a month, yet on 2 November 1678 it was proclaimed that many Catholics still bore arms; the deadline was extended until November 20. In the following month, nevertheless, a further proclamation maintained that its predecessor had not been carried out and would be put into execution forthwith. Within two years it was again proclaimed that several Catholics had not yet brought in their weapons. Statutes were also disregarded on numerous occasions. In the field of education, to take an example, the law was quite explicit. A clause in the 1665 Act for the 'uniformity of public prayers and administration of sacraments' laid down that all schoolmasters were to take the Oaths of Allegiance and Supremacy and to obtain a licence from the Protestant ordinary. There is a good deal of evidence that this particular law was not strictly enforced in Limerick or, indeed, throughout the country.

A strict interpretation and a consistent implementation of anti-Catholic measures in Limerick would have resulted in widespread arrests, imprisonments, and deportations. Even during the 1673 scare and the Popish Plot period, when 'everybody was prepared to swear treason against anybody,' the actual number of arrests seems to have been small. Those arrested frequently belonged to the upper classes. The many injustices which they suffered were grave; the distress which they felt must have been very real. Few seem to have really believed in their guilt, but in a situation where 'it was dangerous not to be or not to seem to be afraid' even fewer were willing to risk their own liberty in order to ensure that justice was done. It is fairer to attribute their privations to the false accusations of informers and to the moral cowardice of the authorities, than to actual persecution on account of their religious beliefs.

Nothing must be allowed to obscure the fact that while few Catholics in Limerick were actively persecuted, all were the victims of bitter discrimination. They were, at best, second-class citizens, debarred from holding public offices, obliged legally to support the established church while their own religion was proscribed. Any concessions granted were temporary, liable to be revoked at the whim of the authorities. The distress and mental anguish which these stresses and uncertainties must have caused to Limerick Catholics is obvious. But all in all, while Catholics were certainly discriminated against, they did not suffer severely during the period under review.

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82 R. Steele, op. cit., no. 845.
83 Ibid., no. 861.
84 Ibid., no. 868.
85 Ibid., no. 817.
86 17 and 18 Charles II, c 6
87 This question has been discussed in Leonard Howard, "Irish Catholic Education, 1669-85," Studies, LIXII (1989), 191-205 and 309-321
88 Cal. S. P. dom., 1681, p 277
89 Letter from Ormonde, 12 March 1681. Ibid., p. 211

51
Perhaps the best evidence for this conclusion is the fact that contemporary Catholics felt themselves reasonably well treated. When negotiating the famous Treaty of Limerick, the religious assurance which they themselves sought\textsuperscript{01} was that they should 'enjoy such Privileges in the Exercise of their Religion ... as they did enjoy in the Reign of King Charles the II.'\textsuperscript{02}

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02 \textit{Ibid.}, p. 19.
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