THE CASE

AND

CLAIMS ON THE BRITISH GOVERNMENT

OF THE

Irish College at Paris

UNDER

THE TREATIES WITH FRANCE.

BY HIBERNICUS HISTORICUS.

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TO

THE MOST NOBLE

THE MARQUIS OF CLANRICARDE,

K.C., P.C., K.S.P., L.G.

&c.

My Lord,

As I perceive by the public journals that your Lordship has called attention in the House of Peers to the claims of the Irish College at Paris under the Treaties with France upon the British Parliament, I avail myself of the occasion to address the following pages explanatory of those claims to a nobleman, who has ever been pre-eminently distinguished for his zealous devotion to every question connected with Ireland, and whose rank and political position must always command consideration.

The subject is associated with a period as well as with memorable events of deep historic interest, and the details will be found to disclose a grievous public wrong, which, so long as it is unredressed, must remain not only a violation of the faith of treaties, and as such a reproach to the honour of the nation, but also a moral and pecuniary obligation of the State.

The facts on which the claims are based, and their assertion sustained, are all authenticated by documents presented to Parliament, and amongst its printed records; for the opinions expressed, the arguments adduced, and the deductions drawn, the Writer is alone responsible.

While the Roman Catholics of Ireland will await with anxiety to learn on what grounds ample reparation can be now resisted or refused, they may rest assured that in confiding the case to the guidance, energy, and advocacy of your Lordship, the course has been adopted best calculated to insure ultimate success.

I have the honour to be,

My Lord,

Your faithful and obedient servant,

HISTORICUS HIBERNICUS.

London: 10*th May* 1870.

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THE retired and comparatively quiet district of the French Capital, historically known as the ancient Latin Quarter, has been for ages celebrated as the seat and centre of the Educational Institutions of Paris. It is at this day distinguished as the site of that splendid temple, the Panthéon, or the church of Ste. Geneviève, and within its precincts also stand the venerable churches of the Sorbonne and of St. Étienne du Mont. In the immediate vicinity of the Panthéon, a silent narrow street, bearing the name 'Rue des Irlandais,' attracts the attention of the passing stranger, who naturally anticipates that he has reached a locality which in days gone by, had been the asylum of some, at least, of the exiled natives of Ireland. The inscription, 'Collége des Irlandais,' over a lofty gateway, surmounted by a harp, with oak and palm branches, informs him that he then views the exterior of that establishment, the origin of which dates from the sixteenth century. During the reign of Elizabeth, in the year 1587, after the disendowment of their ancient church, the Reverend John Lee, an Irish Ecclesiastic, arrived in Paris with a small band of students, all banished from their native land for their adherence to the faith of their fathers. From this humble beginning arose an institution which, during the long and dreary years of the penal laws, supplied the Roman Catholic people of Ireland with a pious and exemplary priesthood.

Many Irish families of ancient lineage followed the last of our Stuart Kings to France, at a period, when, in the language of Edmund Burke, alluding to the expulsion of the Huguenots from that country, and of the Irish Roman Catholics from their homes, 'our doors were kindly and bountifully thrown open to foreign sufferers for conscience, while through the same ports were issuing fugitives of our own, driven from their country for a cause, which to an indifferent person would seem to be exactly similar.' Combining with an heroic fidelity to their fallen sovereign a pious attachment to the religion in which they had been reared, the banished families, and their connections at home, devoted portions of the moneys which they had rescued from confiscation in Ireland, to the endowment of their native clergy, who, being denied by barbaric laws education at home, were driven to seek it in seminaries abroad. For this purpose, and with funds also supplied from the dioceses of the several provinces of Ireland, what were termed *burses* were founded, the capital being inscribed in the Great Book of the Public Debt of France, and the interest, or dividends, payable on the invested capital, which were called *rentes*, formed the principal revenues of the future establishments. With these burses, and with money derived from the charity of France, seminaries were established at Bordeaux, Toulouse, Nantes, and in other French towns as well as in Paris.

The ancient college of the Lombards, erected in 1333, had been long famous among the Parisian schools; but the rising reputation of the Italian universities having interfered with its prosperity, the house was fast falling into ruin, when in 1677, the Irish Superiors applied for permission to occupy the abandoned and dilapidated building. The request having been conceded, eleven original burses, which had been in existence for nearly a century, with other contributions from home, were applied to the re-edification of the ancient structure; and within these precincts the 'Collége des Irlandais' may be said to have first obtained 'a local habitation and a name.' In 1769 the site of the present college was purchased with its own funds, it subsequently became the parent educational institution, and is the only one that has survived the horrors of the French Revolution.*

* Burses continued to be founded by individuals resident both at home and abroad for the separate provinces of Ireland during a considerable portion of the last century; and in the Appendix, No. I., will be found a record of the names of eighty of the donors to the Irish College at Paris. This return is, however, necessarily imperfect, as the papers from which alone accurate information could be procured, were seized, scattered and destroyed when the Superiors and the Irish priesthood were forced to fly the soil of France.

At the commencement of that eventful period, the community had, irrespective of other rights, acquired by long and undisturbed possession, a prescriptive title to the site which they then occupied, and still occupy, as well as to other fixed property, as valid and indefeasible, although in France, as if the property was in England; the English Privy Council having, in 1829, decided that the law of prescription was the same in both countries.*

One of the earliest legislative acts of the Revolution was the decree of the National Assembly of November 2, 1789, by which all ecclesiastical property was declared to be confiscated and at the disposal of the State. A memorial was then presented by the Rev. Dr. Walsh, the Superior of the College, protesting against the enactment, and claiming an exemption on behalf of the community, as their property was not French, but British, and purchased with the money of British subjects. The claim was sustained by a remonstrance from Earl Gower, then our ambassador at Paris—acting, it may be presumed, under instructions from the Cabinet of St. James's, and the intervention was successful. A committee was appointed to inquire into the subject, and in consequence of a report presented by M. Chassey on October 28, 1790, a decree was passed on November 7, by the Assembly, exempting the establishment from the operation of that law, and legalising the property it possessed. That report, after recognising the College by name, recommended that the members of it should be permitted to preserve the property which they had acquired through their own fellow-citizens (*concitoyens*), and declared that it never could be consistent with their principles to prevent strangers from acquiring within the dominion of France.† It thus recommended, and that decree adopted, precisely the same policy which had previously governed the councils of England in inviting the Protestants of France and the inhabitants of the Palatinate, as well as of other German States, to settle in

* Benest *v.* Pipon, 1 Knapp's *Reports of Privy Council Cases*, pp. 69–72.

† This report is published at length in the *Moniteur* of October 29, 1790. The words in the original are :—'Rien ne paroît s'opposer à ce qu'ils conservent ceux qu'ils ont acquis de leurs deniers ou de ceux de leurs concitoyens. Il ne peut pas entrer dans vos principes de prohiber aux étrangers d'*acquérir* sous la domination françoise. Les rentes qu'ils se sont créées sont pour la grande partie continuées sur les fonds publics.' The terms are so general as apparently to authorise the acquiring of any or every description of property by strangers without regard to religious distinctions.

Ireland, where legislative protection, but exclusive as to the creed of the religionists, was given to any property they might acquire, either by purchase or from parliamentary grants.

It was thus conclusively determined by the concurrent acts of the two Governments that the Irish College at Paris was not a French establishment. The National Assembly, immediately after, further affirmed that conclusion, for on June 14, 1791, an order was issued that the civic oath and other formalities required by law of French ecclesiastics should not be demanded from the members of that College. They were even exempted from other revolutionary decrees, but while the intervention of the British Minister had thus impressed upon its inmates the character, and for a time secured for them the immunity of British subjects, to that intervention their future calamities may also be in a great measure traced.

When the storm of the Revolution burst forth in all its fury, the Irish College, during the Reign of Terror, was assailed and wrecked by a ferocious and sanguinary mob. The Superiors had fortunately escaped by flight, but it was believed that three of the students perished in the outrage. The National Convention had then succeeded the Assembly, and its destructive industry may be estimated from the fact that during its brief existence, from September 22, 1792, to October 26, 1795, it issued no less than 8,363 decrees, realising the remarkable expression of Tacitus—*Usque antehac flagitiis, ita tunc legibus laborabatur.** Amongst those decrees were some at which, in the language of Lord Macaulay, 'all Christendom stood aghast;' and not the least atrocious was that of the 19 Vendémiaire (An II.), October 10, 1793. By the first Article it was declared that all property, movable and immovable, credits, rentes, and generally all the goods, moneys, and effects whatsoever belonging or due in France or in the French colonies to the English, Scotch, *Irish*, and Hanoverians of either sex, and generally to the subjects of the King of Great Britain, are confiscated to the profit of the Republic, and shall be from the receipt of the present decree seized and taken into the hands of the managers of the national domains. Section IV. then decreed that all the subjects of the king of Great Britain, including, by name, '*tous les Irlandois*,' of either sex, who were then actually within the extent of the Republic, should be on the instant of the receipt of the present decree placed in a state of arrest in places of safety, and that seals should be placed on their papers. Section VII. then excepted workmen,

* Ann. III. 25.

British-born subjects, who had been for six months preceding actively employed in the manufactures of France, and children in French schools under the age of twelve years; but seals were nevertheless to be placed upon their papers. Section VIII. provided that this decree should be forwarded to all the departments by extraordinary couriers.

The Convention was in its turn superseded by the still more infamous Committee of Public Safety, and the produce of the confiscations that followed the series of decrees which that Committee rigidly enforced by every act of pillage, constituted the main available resources of the Directory. Under that decree, aimed especially at British subjects, unattached, immovable, or landed property of ecclesiastical establishments, including some belonging to the Irish College, was sold; and over one of the principal doors of the Lombard College, which belongs to the Collége des Irlandais, may be seen even to this day, printed in large letters, *propriété nationale à vendre*—national property for sale. It was providential, but has never been fully explained on what grounds the Irish College itself was spared; but the payment of the *rentes*, its proper revenue, was for a time wholly suspended, the capital being for the four years intervening between 1792 and 1796 altogether unproductive, and two-thirds of that capital were afterwards entirely lost by the financial fraud which substituted *assignats* for property of value.

As the natural result of protracted wars, France had been in 1798 brought to a state of actual bankruptcy, and driven to the resource of reducing to one-third the capital of all funds placed under the Government guarantee. This reduction was compulsory on the College, but in order to preserve some semblance of national honour, it was proposed that the proprietors should be reimbursed in the other two-thirds. That reimbursement was, however, a mockery, for it was made in the paper money once so notorious under the appellation of *assignats*, the value of which was merely nominal. If the College was subsequently, in the course of years, enabled by economy and savings, with bequests from its Superiors, somewhat to increase its income, it is not indebted in the least degree for these accretions to the French Government.

The members of the priesthood who had survived the revolutionary massacres * fled with the refugee loyalists to England,

* In allusion to those massacres, Pius VI., then Pope, made the following remarkable declaration, 'Le Clergé Gallican a fourni au ciel plus de martyrs que tout le reste de l'Europe ensemble.'

whence those who had been inmates of the Irish College returned to Ireland, and assumed in their own country their religious mission. So thoroughly was the principle of nationality then acknowledged by Great Britain, that even before the legislative union of the two countries, native officers of the Irish brigade were admitted into the British army with the same military rank which they had held in the French service. While the members of the College were also received with kindness, and fully acknowledged at home, the building in the 'Rue des Irlandais,' so far as related to its original institution for ecclesiastical training, remained closed until the Consulate. An order of the 19th Fructidor (September 7), 1801, at length authorised the re-establishment, with greatly diminished resources, of the Irish College, which, in the language of that document, had been despoiled during the storm and converted into barracks and national magazines—'*pendant l'orage, et converti en casernes et magasins nationaux.*'*

On the first restoration of the Bourbons, one of the earliest acts of the British Government, which had expended millions in procuring that restoration, was to claim from France compensation for the property of British subjects which had been confiscated during the Revolution. By the Treaty of Peace, May 30, 1814,† it was agreed that a mixed commission should inquire into those claims; the French Commissioners were accordingly appointed by a Royal Ordinance of June 8, and they met the English Commissioners in Paris. An attempt having been made on the part of France to reduce the demand, the Duke of Wellington, in a letter dated 'Paris, January 5, 1815,' thus addressed the Commissioners representing this country: 'I cannot admit the pretensions set up by the French Commissioners to pay the British creditors of the French Government with one-third of the amount of their several credits, and can-

* Although applied to such 'vile uses,' much historic interest still attached to the ancient building. When the revolutionary storm had in some measure subsided, the Abbé McDermot, an Irish ecclesiastic, was permitted to occupy a portion of the college as a school for the education of youth. It is not a little remarkable that he numbered among his pupils within its walls Jerome Bonaparte and Eugène Beauharnais, the paternal and maternal uncles of the present Emperor of the French. Many additional particulars will be found in an interesting publication by the late Mr. O'Reilly, who was for many years the Paris correspondent of the *Times*, 'Reminiscences of an Emigrant Milesian, The Irish at Home and Abroad,' &c. &c., vol. ii. pp. 237–245. London, 1853.

† A copy of this treaty will be found in Hertslet's *Treaties*, vol. i. p. 249.

not believe that his Most Christian Majesty will consider such payment to be a performance of his engagement to appoint Commissioners, in concert with others to be appointed by his Britannic Majesty, to examine and *liquidate the claims of his subjects for the value of their property confiscated* by the French Government, *as also for the partial* or total loss of their credits and other property illegally detained under sequester since 1792, and to act towards British subjects in the same *spirit of justice* which French subjects have experienced in Great Britain.' His Grace, on the same day, addressed another letter to the Comte de Laucourt, the French Minister, in which he distinctly stated that what was in contemplation during the negotiations was, 'to restore to these unfortunate persons the *total amount* of what the Commissioners should find had been *unjustly* and *tyrannically* taken from them.'* Opinions thus deliberately and decidedly expressed by so eminent an authority may be taken as a guide to the sound and liberal construction of the future conventions by which the nation was constituted a trustee for members of its own community, and to which conventions our illustrious fellow-countryman was a subscribing party.

The Most Reverend Dr. Murray, then Roman Catholic Coadjutor Archbishop of Dublin, being at that time in Paris, presented a remonstrance to the French Government against any claim it might make to interfere in the management of property belonging to the Irish establishment. A Royal Ordinance of January 16, 1815, was in consequence issued, by which it was ordered that the Sieur Ferris, a French official, should resign the functions of Administrator of the College, and hand over all the papers and property to the Rev. Paul Long, an Irish ecclesiastic, who, being a British subject, was put into possession as Administrator-General.† The inquiries as to the claims were necessarily suspended by the return of Napoleon from Elba, but after his final overthrow at Waterloo negotiations were renewed, and a definite treaty was concluded on November 20, 1815, which bears the signatures of Wellington and Sir Charles Stuart, afterwards Lord Stuart de Rothsay, then British Ambassador at Paris.‡ Article I., in Convention No. 7, provided, that the subjects of his Britannic Majesty, having claims, who since January 1, 1793, had suffered by the confiscations (*par les effets*

* *Wellington Despatches*, vol. vii. pp. 631–636.

† *Annual Register*, 1815, p. 10 of Chronicle.

‡ A copy of this treaty and of the several conventions will be found in Hertslet's *Treaties*, vol. i. p. 277.

de la confiscation) or sequestrations decreed in France, should 'themselves, their heirs, or *assigns*,' 'be indemnified *when their claims shall have been admitted as legitimate*, and when the amount of them shall have been ascertained.' Article V., regulating the evidence to sustain a claim in respect of immovable (landed) property, provided that, 'in default of all proofs in writing, considering the circumstances under which the confiscations and sequestrations took place, and those which have since arisen,' such other proof shall be admitted as the Commissioners of Liquidation shall judge sufficient. The French Government further engaged to facilitate by every means the production of all titles (*titres*) and proofs serving to substantiate the claims. Article VI. regulated the proof as to movable property, sequestered, confiscated, and sold, directing that the Commissioners should proceed according to the principle established in the preceding Article. Article IX. then provided a fund for compensation, viz., that a capital producing an interest of 3,500,000 francs (*rentes*) commencing from March 22, 1816, should be inscribed in the Great Book of the Public Debt of France, in the name of Commissioners chosen by the respective Governments, who should receive the interest every six months; and directed that they should hold it in deposit, without having the power of negotiating it; that they should be further bound to place the amount of it in the public funds, and to receive the accumulated and compound interest of the same for the profit of the creditors.

The claim of the Irish College, comprising twenty-three several items, for arrears of *rentes*,* reimbursement of capital, and loss by the sale of certain land as national property, had in February 1816, and within the time prescribed by the Convention, been presented in the name of the Rev. Paul Long, as such Administrator-General.† It was then duly registered with the Commissioners, and having been 'admitted as *legitimate*,' was taken into account in the approximate valuation finally fixing the amount necessary for the entire of the indemnities. By that claim, composed of the value of the immovable property confiscated and sold, estimated at 228,944 francs, with the unpaid arrears and the unliquidated defalcation of capital,

* The diminution of annual income alone caused by the Revolution and its consequences amounted to 64,065 francs, equal, at 25 francs to the pound, to 2,562*l.* 12*s.* British sterling. The particular items are given in Appendix II.

† It appears by an official document, Par. Pap., Sess. 1818 (181), vol. xiii. p. 293, that the claims under the Convention No. 7 were comprised in 1,046 schedules.

all calculated to March 22, 1816, it was stated that the College was then entitled to an inscription of 84,969 francs in *rentes*, equal to an annual income of 3,398*l.* 15*s.* 2*d.* British sterling. The resources of France being at that time greatly exhausted by the protracted wars of the first Empire, and by the demands of other powers, a disposition was shown by England to deal leniently with that country in the exaction of the stipulated funds. Accordingly Lord Castlereagh, then Foreign Minister, on March 22, 1818, made the following announcement in the House of Commons:—'On the subject of the private claims, three millions and a half had been paid into the hands of the Commissioners, and he thought it was much more desirable to have accepted this specific amount from France, than to have left the matter open to a number of individual adjustments on the merits of each particular case.'* The amount so provided to meet the private claims was altogether exclusive of the further pecuniary indemnity fund which France was to pay for the British Contingent of the Allied Army of occupation. Another Convention was afterwards signed at Paris on April 25, 1818, expressly 'for the final arrangement of the claims of his Majesty's subjects,' and 'in order to effect the payment and *entire extinction as well of the capital as of the interest thereon due to them.*'† Several commissions were also from time to time issued in England to distribute the amount so accepted, and to carry into effect the terms and stipulations of the Convention, but after the admission of the claim of the Irish College as legitimate it would seem that, under the terms of the Convention, the only duty of the Commissioners, at least in that instance, was to ascertain the amount.

It is remarkable that the papers presented to Parliament purporting to furnish information on the subject, are almost invariably headed 'French Claims,' which was in itself a misapplication of terms; the words implying claims on the part of France, whereas the title ought properly to have been British claims on France! It, however, appears by reference to some of those papers, that in addition to the capital sum so originally transferred, considerable sums were subsequently received in the shape of dividends, thereby, of course, augmenting the distributable amount.‡ The general rate of interest allowed on claims by the Commissioners was three per cent.; but that would seem to have been raised to five per cent. by the Privy

* Par. Deb., 1818, vol. xxxviii. p. 901.
† Hertslet's *Treaties*, vol. i. p. 329.
‡ Par. Pap., 1831 (151), vol. xvii. p. 651.

Council, in certain favoured cases.* It is unnecessary, for present purposes, to enter into further details of the conventions and of the proceedings under the commissions, for any information which these pages do not supply, will be found in the recitals and enactments of the statute 59 Geo. 3. c. 31, (1819,) an Act specially passed for the purpose of carrying into effect the provisions of the treaties. It is, however, deserving of observation, that the Commissioners to whom the duties of 'Liquidation, Arbitration, and Award' were thereby confided, had been all nominated by the Government, of which Lord Liverpool was the head, at a time when Lord Eldon was Lord Chancellor of England, two influential functionaries, who had always exhibited intensely bigoted opposition to the political rights of the Roman Catholics. It is believed that no member of that commission had any connection or acquaintance with Ireland; this, however, is certain that no one of them was a Roman Catholic; individuals of that body having been, at that period, excluded from almost every office of trust. The Act of Parliament of 1819, by Section X., allowed an appeal from any award, judgment, determination, or order of the Commissioners of Liquidation, Arbitration, and Award to his Majesty in Council, subject to certain conditions and restrictions. The members of that council, at that period, notoriously took their tone from the prejudices of the Court; and it is to be deplored that the adjudications were more frequently governed by the narrow and bigoted views of intolerant lawyers, than by more enlarged principles of jurisprudence based upon the comity of nations.

The Commissioners for their general guidance had early consulted Sir Christopher Robinson, then King's Advocate-General, and who afterwards succeeded Lord Stowell as Judge of the Court of Admiralty, in reference to a claim made by the Marchioness of Wellesley; and in his opinion, dated August 6, 1821, he stated as follows:—'I have always been of opinion on this subject, that his Britannic Majesty must be understood to have stipulated for compensation for *all* seizures of the property of persons living under his protection, as *subjects* in the popular and general sense.' The remonstrance of Earl Gower had been made expressly in right of that protection, and it would have been for the honour of England, as well as for the interests of those entitled, if the Commissioners had adhered to the advice of that eminent civilian. In the commencement of the Revolution, and before that event had been disgraced by

* Par. Pap., 1830–1 (488), vol. xiv. p. 13.

any frightful excesses, Mirabeau had publicly declared that in order to its success, it would be necessary first to uncatholicise France, '*il faut premièrement décatholiser la France.*' When it had reached its utmost height, we have the high authority of Edmund Burke, that the Jacobin French were the enemies of all religions, but more especially of the Roman Catholic. The Commissioners would seem to have caught the peculiar contagion, for it will be seen by their public notice in the *London Gazette*, of the January 31, 1826, that with one 'fell swoop,' they had swept away the claims of every institution, English, Scotch, and Irish, with which the name Roman Catholic was in any way associated, and amongst them of course the claim of the Collége des Irlandais.* Can there exist a doubt, if that College had been a Protestant establishment, its members British subjects, founded and endowed by British money, and entitled to property similarly pillaged and spoliated, that, although it might be even subject to the French laws regulating the Huguenot Church, its claim would have been readily recognised, and liberal compensation awarded?

An attempt might, perhaps, be made to justify the course adopted in a majority of the cases, on the ground that the establishments in respect of which the claims were made, had long ceased to exist; and that, therefore, the right of succession and representation was extinct, or only traditionary; but that reasoning could not possibly apply to the 'Collége des Irlandais,' which then as now retained its position in its ancient site, on its primitive foundation, and devoted to its original object. The summary rejection in this instance was the less defensible, when it may be seen, by a notice of the Commissioners, published in the *London Gazette* of July 19, 1823, and also by a return under the head, 'French Claims,' ordered by the House of Commons on July 29, 1840, to be printed, that large sums, comprising no less than twenty-five separate items, were awarded and paid by these same Commissioners, as compensations to the Roman Catholic bishop of Quebec, and other Roman Catholic religious institutions in Canada,† thus

* The particulars of the claim of the Irish College, so rejected, were entered in the Book of the Commissioners known as the 'Register of Claimants,' but as the awards and proceedings were all printed, and as those particulars would seem to have been generally stated in the awards, they can, if necessary, by the production of the award, be easily ascertained. Some of the details will be found in the subsequent notice of the memorial afterwards presented to the French Government.

† Par. Pap., Sess. 1840 (564), vol. xxix. p. 453.

recognising, in that respect, their corporate as well as their ecclesiastical capacity. Amongst the numerous institutions so recognised, we find convents of Ursuline and other nuns, and '*Les supérieurs, directeurs et professeurs du Séminaire de Quebec,*' furnishing a perfect precedent for adoption in the case of the superiors, directors, and professors, of the Irish College in Paris. It would be difficult at this day to account for and reconcile so marked a distinction having been made between the French Canadians and the Irish subjects of the same Crown, there being no pretence whatever for an allegation, that the terms of the Treaty of Paris by which France ceded the Canadas to Great Britain, justified such a distinction.*

The earliest and one of the grossest misappropriations of the indemnity fund was the transfer, in direct violation of the Convention, of 250,000*l.* of the capital, the exclusive property of the claimants, in order to indulge the profligate profusion and tasteless extravagance of George IV. This money was expended in erecting in front of Buckingham Palace the marble gateway, which, having been afterwards removed, now forms, under the name of 'The Marble Arch,' the northern entrance to Hyde Park.† Notwithstanding this misapplication, and in consequence of the rejection of the legitimate claim of the Irish ecclesiastical seminary, the Commissioners found themselves in possession of a large surplus, and a new set of claimants, until then unknown and unacknowledged, the great majority of whom were foreigners, were permitted by a succession of Treasury Minutes bearing date May 2 and 26, 1826, June 8, 1830, and March 15, 1833, to claim to the exclusion of the College whose claim had been registered and had been recognised as 'legitimate' in the calculation of the original estimate.

The appeal given by the Act of 1819 to the King in Council was to a body which had not then attained the high character

* See the declaration of Lord Brougham in 1845, Hansard, 3d Ser., vol. lxxx. p. 1370.

† This misapplication was admitted by the late Mr. Spring Rice when Chancellor of the Exchequer, on May 25, 1837, and afterwards, when Lord Monteagle, in the House of Lords, on June 11, 1842.—Hansard, N.S. vol. xxxviii. p. 1082, and 3 Ser., vol. cxxii. p. 494. It would appear by a return made to the House of Commons in 1833, and printed by order, that the amount of the principal had been replaced by ten instalments, the last of which was under date February 26, 1833, but that a sum of 34,822*l.* 10*s.* due for interest was still unaccounted for.—Par. Pap., Sess. 1833 (219), vol. xxxiv. p. 59. The refunding of this arrear cannot be very clearly traced through the published papers.

of the present Judicial Privy Council, and scarcely, if at all, contained amongst its members a man of liberal opinions. To this tribunal, so constituted, an appeal was presented against an award of the Commissioners rejecting the claim of ecclesiastical establishments not then in existence, on behalf of the Rev. John Daniel, who had been president of the English college at Douay, the Rev. John Ben, who had been superior of the English seminary at Paris, and others, surviving administrators of the English college at St. Omer, who, as they did not represent existing institutions, offered to invest any moneys they might receive in founding similar seminaries in England. It appears by the printed report that Lord Eldon and Lord Tenterden, then Lord Chief Justice of England, who had been an equally inflexible opponent of the Catholics, both sat to hear the case. The appeal of Roman Catholic institutions was, therefore, judicially to men who were publicly pledged to perpetuate, and whose political prospects, perhaps even the very existence of whose party—the high Tory party—at the time depended on the perpetuation of the penal laws against the Roman Catholics. Its fate was consequently foredoomed. The ground of rejection appearing on the award of the Commissioners was that 'these establishments had lost their corporate character by the laws of France; so that in consequence of the dissolution of the ancient charter, and the creation of a new one for similar purposes, the claimants were not at the time the real members composing such new corporation, and not entitled in their individual capacity to claim the property which belonged to the ancient corporations.' They omitted, however, to add this all-important fact, that these institutions had been deprived of that former corporate character by the same act of outrage and violence which had robbed them of their property. Some light may, perhaps, be thrown on the pretexts which the Commissioners had seized by a letter of the Right Rev. Doctor Poynter, then vicar-general of the metropolitan diocese, addressed to the Marquis of Londonderry, dated London, April 9, 1822, in which he asserted that the opposition came from a French *bureau gratuit*, which claimed the administration of the property belonging to the *British* seminaries, but whose interference was repudiated. That bureau, which was established by Napoleon I., was not composed of British subjects, and he complained that it was 'peculiarly hard that, after the Government, at the time of the Revolution, had destroyed our English seminaries, had confiscated the property which was attached to them, and had imprisoned the superiors because they were British subjects, a new board, which originated in Bonaparte's

hostile views against England, and which had alienated' [a portion] 'of our ecclesiastical property from its proper destination, should stop the progress of a regular claim, under pretence that it should have the administration of the property.'* This claim of interference, although it probably influenced the Commissioners, could not possibly apply to the Irish seminary, all pretext for French intervention in the affairs of that establishment having been abandoned and extinguished in 1815 by the Royal ordinance of that year. Even in respect of the English seminaries, it was opposed to every principle of justice, and to every maxim of jurisprudence, to permit the redress of wrongs committed in 1793 to be controlled or defeated by an act of Napoleon I. in 1806, with which the parties aggrieved had no connection, and the authority of which they altogether denied and disclaimed.

On that appeal, it was urged for the appellants, that a case so unlike any other that ever arose for decision would necessarily be met with many technical difficulties, which were more to be dreaded in a court of positive law than in a court governed by the law of nations. If the treaties had left these claims to the adjudication of a French tribunal, it must have decided in favour of the appellants, for that they were natural born British subjects was a fact which could not have been disputed. No pretext of the illegality of these establishments could have been urged before such a tribunal, for in France institutions for the education of Roman Catholic priests were perfectly consonant with its laws. According to the established principle of international law, whatever transaction is lawful in the country in which it originated must be ever after treated as valid in all other countries. If the penal laws of England should be relied on as impeding the acknowledgment of these claims to the indemnities, it was established as a general rule that penal statutes of extreme severity, avowedly, by their preamble, framed to meet temporary emergencies, are in after times to be limited by the most rigorous construction. Ireland and Canada were also referred to, where such seminaries were not only legalised, but supported by Government grants. The judgment was delivered by Lord Gifford,† then Master of the Rolls, on

* *Memoirs and Correspondence of Robert Stuart, 2nd Marquis of Londonderry*, 3rd Series, vol. iv. p. 460.

† The impartial character of the judicial medium selected by the Council to propound their conclusions may be estimated by the opinion expressed of him by Lord Campbell, that in the event of Lord Eldon's retirement, 'Lord Gifford, who had conformed himself in all things to Lord Eldon's views, had been the destined anti-Catholic Chancellor.'—

November 25, 1825, in which he stated that 'the institutions on behalf of which the claims were made, although their members were British subjects, and their property derived from funds contributed by British subjects, were in the nature of French corporations; they were locally established in a foreign territory, because they could not exist in England. Their end and object were not authorised by, and *were directly opposed* to British law, and the funds dedicated to their maintenance were employed for that purpose in France because they could not be so employed in England.' 'We think, therefore, that they must be deemed *French establishments*;' and, 'looking at the occasion and object of those treaties, we think it was not, and could not have been, in the contemplation of the contracting parties *that the British Government should demand, or the French Government grant, compensation for property* held in trust for establishments in France, and for purposes inconsistent with British laws.'* The appeal, as might have been anticipated, was dismissed, but it is observable that while the Commissioners rejected the claim because these establishments had lost their corporate character, the appellate jurisdiction affirmed their award on the ground that they were in the nature of French corporations. It is manifest that the construction thus attempted to be put upon the treaties is not only irreconcilable, but wholly at variance with the acts of the two Governments, the negotiations, the intentions of the contracting parties, and the language of the Conventions. Reserving for the present any observations in refutation of the reasons assigned, it does seem startling that objections which might have been fairly raised by France, but which were waived, should be put forward and relied on by the British authorities to the prejudice of their own subjects; but perhaps, with the phantom of popery flitting before their eyes, the judicial advisers of the Crown, in the intolerant spirit of the times, might have become

Lives of the Lord Chancellors, vol. viii. p. 41. Contempt for his legal capacity may be also inferred from the following expressions of Lord Brougham, 'In order if possible to make this person the victim of what Sir Robert Walpole called political ingratitude, he is pointed out as the individual to whom the Lord Chancellor means to leave his office by way of legacy.'—Same vol. p. 348.

* The appeal in the Douay Case will be found fully reported in Knapp's *Reports of Privy Council Cases*, vol. ii. pp. 23–50. A copy of the judgment was ordered by the House of Commons in 1845 to be printed, and will be found, under the head, 'Douay College,' in the Par. Pap., 1845 (309), vol. xxxv. p. 775.

alarmed at the prospect of the money being invested in the endowment of similar institutions in England.

This apprehension did not even arise in the case of the Irish College, for that establishment did not contemplate or propose any settlement in England. It will be presently seen that the state of the law relating to Roman Catholic education with regard to Ireland was not only distinguishable, but essentially different from that of England. The Appeal of the English College of Douay was rejected in 1825, a period remarkable for inveterate hostility to the removal of Roman Catholic disabilities. A marvellous mutation had taken place in the legislature in the interval between that period and 1832, when the appeal of the Irish College before the same tribunal was destined to share the same fate. In that interval the Roman Catholics had been raised to an equal participation in political rights with their protestant fellow-countrymen. Parliament, to whose consideration the case of the Irish College has never yet been submitted, cannot therefore be charged with the same spirit of bigotry which continued to govern the English Privy Council, that body having alone remained stationary in its intolerance. There were also other marked, although minor distinctions between the two cases; it did not even appear that the claim of the Douay College had been made within the time prescribed by the treaties, nor admitted as legitimate by the joint Commissioners at Paris. That admission, combined with the acceptance of the money which France had specially allocated for the satisfaction of the claim of the Irish College, in strictness reduced the question to this simple issue, whether the claimant on behalf of that institution represented British subjects or not. Before proceeding to rely by appeal on those obvious distinctions, and in order to prevent any future controversy as to the accuracy of the items of which the original claim was composed, a report of its revenues, carefully prepared, specifying the losses and reduction of income which had resulted from the revolutionary outrages, was in 1828 submitted by the Superiors of the Irish College to the French Minister, M. de Martignac, and, on September 29, was approved of by him, the approval being contained in an official letter of that date. Upwards of twelve years had then elapsed between the presentation of the original claim and the date of that report, the amount due had therefore considerably increased, as well by the accumulation of interest on the original sum, the payment of which was provided for by the Conventions, as by the continuing reduction of income.

A memorial was subsequently (February 12, 1830) presented

by the Rev. Doctor McSweeny, then President of the College, to the French Minister, Secrétaire d'Etat au Département de l'Intérieur. That document, which may be considered a State paper, after referring to the intervention of Earl Gower, to the concurrent acts of the two Governments which followed that intervention, and to claims (*réclamations*) put forward in its favour by the British Ambassador, Lord de Rothsay, by his letters in 1818 and 1822, in obedience to the orders of his Government, set forth that, as it had been ruled that the representatives of the original founders were not entitled to claim in respect of endowments with which they had irrevocably parted for the purposes of the foundation,* the duty of demanding justice for the wrongs which he was prepared to prove had devolved on him. The memorial proceeded to specify the particulars of the claim as acknowledged by the proper French department, its admitted legality by having been introduced into the estimate for liquidation, and then stated that the amount due formed as of course a proportionate part of the sum of 1,005,365 francs of perpetual *rentes* admitted by the *London Gazette* of July 20, 1823, to be still undisposed of and under the control of the Commissioners. The memorialist accordingly prayed that his Excellency would recognise the importance of the demand which he had the honour to address to him in the name of the Catholics of Ireland, and that he would use his influence to obtain by diplomatic arrangement a satisfactory settlement, uniting his efforts with the benevolent dispositions of the Minister for Foreign Affairs, who was acquainted with the case. To this memorial were attached strong separate recommendations in support of its prayer, bearing the signatures of three of the most eminent public characters of that day—Marshal MacDonald, Duke of Tarentum; the Duke of FitzJames; and Count Lally Tolendal.† Not one of the allegations of that memorial has ever been controverted or denied. The answer of the French Government was that which might naturally have

* The names of the provinces of Ireland as well as of the dioceses from which the money which founded many of the burses was derived, with the names of some of the persons and families of the donors, extracted from a copy of the report printed in Paris in 1829, which also contains a copy of the letter of approval of M. de Marsignac, will be found in Appendix No. III. Reference has been previously made to a 'Summary of the Reduction of Income to the College caused by the Revolution and its Consequences.'

† Several of the documents from which many of the above facts have been extracted were found, after his death, among the papers of the Most Reverend Doctor Murray, R.C., Archbishop of Dublin.

been expected, namely, that they had fully recognised and acknowledged the claim; that they had paid and transferred the necessary funds to satisfy it to the British Government, who, by the very terms of the treaties, had released France from all demands, and the claimants were therefore referred to their own country, of which they were subjects, for redress. It was believed that if Mr. Canning had lived, the case would have been reopened and reconsidered in accordance with the more liberal and enlightened national policy, conceived and first adopted by that distinguished statesman, which still guides and governs our relations with foreign states.

The exclusively Protestant Parliament of Ireland had been more tolerant than that of England towards the Roman Catholics; the very preamble of the Act 21 and 22 Geo. III. Ir. (1781-2), passed in aid of education in Ireland, contained the following recital:—'Whereas several of the laws made in this kingdom relative to the education of Papists, or persons professing the Roman Catholic religion, are considered as too severe.' In the memorial presented in 1794 to the Earl of Westmorland, then Lord-Lieutenant, by the Irish Roman Catholic bishops, they distinctly put forward the destruction of the ecclesiastical colleges of France as the ground of their prayer 'for the endowment of academies,' 'for educating and preparing young persons to discharge the duties of Roman Catholic clergymen in Ireland under ecclesiastical superiors of their own persuasion.' In consequence of that prayer, Mr. Grattan, on the opening of the next session (1795) and during the popular administration of Earl FitzWilliam, announced in the Irish Parliament, that 'it was intended that a plan should be submitted for colleges for the education of the Roman Catholic clergy who were now excluded from the Continent.'* The Act for the Establishment of Maynooth, passed during the subsequent viceroyalty of Earl Camden, may be fairly considered as merely a measure of substitution for the foreign seminaries, and its erection and endownent in those intolerant days by an exclusively Protestant but native Parliament of Ireland, furnish conclusive proof of the high estimation in which the clergy educated in a continental school were then held by all classes.

The state of the law being, therefore, different in the two countries, and the case of the Irish College being so very distinguishable from that of Douay, a petition was presented for liberty to appeal from the award which had been made on the claim presented by, and in the name of, the Reverend Paul

* Par. Deb. (Ireland), vol. xv. p. 10.

Long, as Administrator-General.* On the hearing of that appeal, in addition to the arguments formerly urged, it was contended that the Irish Roman Catholics had been always treated differently from the English; that their secular clergy had been invariably tolerated, and that the relieving statutes had ever received in that country a liberal construction, especially on the subject of Catholic education. The dissimilarities in the enactment affecting the two countries were pointed out in a review of the statutes of both Parliaments; and as the decision in the Douay case was mainly based on the assumed state of English law, it was insisted that at the time of the confiscation of the property in respect of which the claim was made, institutions for ecclesiastical education abroad were perfectly consistent with the law as existing in Ireland. No one member of the tribunal by whom the question was to be decided had, however, any connection with that country, or acquaintance with the peculiar legislation of its Parliament. Sir John Leach, then Master of the Rolls of England, who has been sneeringly described by Lord Campbell 'as one of the most expeditious judges that ever sat on the Bench,' on this occasion presided. The celebrated Sir Samuel Romilly had publicly complained of 'the *swift injustice* of' Lord Eldon's '*deputy*.' Predetermined to cut the matter short, with an indecent contempt of appearances, while seemingly recognising the distinction as to the state of the law, and without calling for an answer from the opposing counsel, on February 27, 1832, he delivered the judgment. 'We are,' said he, 'most clearly of opinion that we are precluded by the Douay case from any further consideration of the subject,' and this decision, adopting all the reasons of Lord Gifford, was declared by the statute to be final.† From the tolerant spirit which had been exhibited by the Irish Parliament in respect of Roman Catholic education, it may be confidently assumed that if the appeal had been to that assembly, or even to the Irish Privy Council at the time, over which Lord Plunket, the great advocate of religious freedom, would as Lord Chancellor have then presided, the judgment must have been essentially different. It still remains to be seen whether a reformed

* In Appendix No. III. will be found the particulars of the claim as it stood prior to the presentation of the petition of appeal, which particulars are taken from a return made by the Commissioners to Parliament.—Par. Pap., Sess. 1830 (200), vol. xxix. p. 457.

† The report of the appeal case of 'Long *v.* the Commissioners' will be also found in the 2nd volume of Knapp's *Reports of Privy Council Cases*, pp. 55–59.

Imperial Parliament at the present day will concur and acquiesce in its soundness or its justice.

It was distinctly laid down by the high legal authority of Lord Lyndhurst, who had been twice Lord Chancellor of England, when moving in the House of Lords on June 11, 1852, for a select committee to inquire into the case of the Baron de Bode in respect of a claim also on the same French indemnity fund, that all the evidence required under Article 7 of the Convention, 'and which was specifically stated, was, that the party was a British subject; that he was entitled to property, and that the property had been confiscated. The evidence to support the claim was *actually stated* in that mode,'* and the claim of the Irish College was made under that very article. The two judgments of the Privy Council contravening this declaration must be read together, and it is inconceivable how that tribunal could have ventured to proclaim to the world that the Irish claimants, at least, belonged to a religion directly opposed to British law, when they must have known that in the exclusively Protestant Parliament of Ireland, by the Act of the 35 Geo. III., c. 21, Ir. (1795), the highest Protestant functionaries of the State were associated with Roman Catholic archbishops and bishops as trustees of the College of Maynooth, established expressly 'for the education of persons professing the Roman Catholic religion.' They might have further ascertained that that statute had been confirmed by one of the last Acts of that same Parliament, 40 Geo. III., c. 85; and that both had been adopted as English law, at least for all purposes of judicial knowledge, by the treaty and Act of Legislative Union. They might also have seen that that seminary had been further legalized by an Act of the United Legislature passed in 1808 (48 Geo. III., 145), and by annual grants voted by and included in the several appropriation statutes of the Imperial Parliament.

The allegation that the Irish College at Paris was a French establishment altogether fails, for it will be found that it had never been placed among the colleges of France, as may be seen by reference to their records preserved in the Imperial archives. The Abbé Lager, in his recent History of the Church of France, expressly states that there existed treaties between England and France recognising the college and seminary of the Irish in Paris. '*En vertu des traités faits entre la France et l'Angleterre, il y avait à Paris deux établissements étrangers, le*

* Hansard, 3rd Ser., vol. cxxii. p. 483. A revised report of the speech of the learned and venerable lord was subsequently published by L. Booth, 307 Regent Street, W., 1860. The extracts in these pages are taken from the revised report.

*collége et le séminaire des Irlandais.'** If these treaties can be traced, their violation still further aggravates the injustice, as an additional breach of national faith. That the college was or is under the control of the French Government has been conclusively refuted by the following answers to questions submitted, in 1854, by the Earl of Clarendon, then Foreign Minister, through the British Ambassador, Lord Cowley, to the French Ministry, and published in 1855, in the 'Report' presented to Parliament 'of Her Majesty's Commissioners appointed to inquire into the management and government of the College of Maynooth.'

Q. 'Does the Irish College still exist in Paris? Is it in any way connected with the University of Paris? What number of students are there at present therein?'

A. 'The Irish College still exists in Paris. It is entirely independent of the University of Paris. The number of its students is at present 104.'

Q. 'Is there an Irish College at St. Omer or at Bordeaux at the present time, and if so, what is its present condition? Does it receive any contribution from the State?'

A. 'There is no Irish College at St. Omer, or anywhere in France, but in Paris.'

An official letter to Lord Cowley of February 13, 1854, from M. Fourtoul, then Minister of Public Instruction and Worship, expressly 'relative à l'éducation du Clergé séculier en France et au Collége des Irlandais,' informs the British Government that the ecclesiastical establishments for education, 'both in respect of discipline and teaching, are exclusively placed under episcopal jurisdiction. Government does not interfere in the interior management of ecclesiastical houses; their control belongs to the bishops alone in their respective dioceses.'† The Imperial policy is therefore in strict accordance with the Royal Ordinance of 1815. Although canonically within the visitations of the Most Reverend Monseigneur Darboy, the present highly liberal and enlightened Archbishop of Paris, the Irish College is

* *Histoire de l'Église de France pendant la Révolution.* Paris, 1852, vol. ii. p. 441.

† Extracts from the original:—'Les établissements d'éducation ecclésiastiques, sous le double rapport de la discipline et de l'enseignement, sont exclusivement placés sous la jurisdiction épiscopale.' 'Le Gouvernement n'intervient donc pas dans le régime intérieur des maisons ecclésiastiques; la direction en appartient aux évêques seuls dans leurs diocèses respectifs.' See for questions and answers, as well as communication from the French Minister, Par. Pap., Session 1854–5, vol. xxii., Appendix X. to Report, pp. 215–6 of Report, and pp. 287–8 of vol.

only subject to the same foreign authority which rules at Maynooth.

That the system of education which would seem to have been viewed so favourably by the Irish Parliament before the Union still prevails in the Irish College at Paris, is placed beyond question by the following testimony, before the Royal Commission of 1854, of that distinguished prelate the Right Rev. David Moriarty, now Roman Catholic Bishop of Kerry, who had been four years Vice-President of that Institution, and six years resident in France. That system 'begets,' said he, 'a habit of politeness towards superiors and even of affection, and at the same time engenders in the students a more manly bearing.' 'I also consider that the circumstances in which our country is placed require that greater attention should be paid to the formation of a meek and gentle Christian character.' 'I have observed the Irish character under that system in the Irish College at Paris; I have seen Irish students "so" trained, and I have always observed that that system produced in them the most beneficial results. So far from there being any peculiarity of character, that would render that system unadvisable to be adopted with Irish students, I think that whatever peculiarities of character they possess renders the adoption of that system the more necessary.' * The two natives of Ireland, members of the Roman Catholic priesthood, of whom that country is to this day most justly proud, namely, the Rev. Arthur O'Leary and the Rev. Henry Essex Edgworth, the one for his literary reputation, the other for his heroic devotion, both graduated in French seminaries.† Such testimony and such facts ought to disarm the hostility of the most inveterate religious prejudices.

* This evidence is necessarily epitomised, but it will be found at length in Appendix No. X. to Report; Par. Pap., Sess. 1854–5; vol. xxii. p. 133 of Minutes of Evidence; and p. 489 of vol.

† Mr. Grattan thus eulogised Arthur O'Leary in the Irish Parliament:—'A man of learning, a philosopher, a Franciscan, did the most eminent services to his country in the hour of its greatest danger. Poor in everything but genius and philosophy, he had no property at stake, no family to fear for; but descending from the contemplation of wisdom, and abandoning the ornaments of fancy, he humanely undertook the task of conveying duty and instruction to the lowest class of the people. If I did not know him to be a Christian clergyman, I should suppose him from his works to be a philosopher of the Augustan age.' Even in the days of penal persecution he received for his eminent services to the State a pension of 300*l.* a year from the Crown on the Irish Establishment, which he enjoyed to his death. The celebrated apostrophe of the Abbé Edgworth, who attended the ill-fated Louis XVI. on the scaffold, 'Fils de St.-Louis, montez au ciel!' asso-

The same living authority, in his evidence before the same Royal Commission, distinctly stated that the rules which govern the Irish College at Paris had been 'framed by the late most Rev. Dr. Murray,' Roman Catholic Archbishop of Dublin, and the late 'Right Rev. Dr. Doyle,' Roman Catholic Bishop of Kildare and Leighlin, two of the most eminent and exemplary prelates that ever adorned the Irish Church.* The authors of those rules will long be remembered in Ireland for their sincere and zealous efforts to mitigate and subdue the exasperating demarcations of caste and creed, and irrespective of the prevailing distinctions of religion and race, to conciliate all classes in that mixed community. They have both bequeathed in the records of the Imperial Parliament to their successors in Ireland the fervid admonitions of their enlightened piety, and to the Empire at large incontrovertible testimonies of their devoted attachment to the connection between the sister islands under the British Crown. What, then, becomes of the pretext on which *alone* its claim was disallowed, that a college so founded, so endowed, so regulated, and so governed, with all its superiors, all its professors, and all its students, from its earliest origin to the present hour British subjects, was unlawful as being 'in the nature of a French establishment?'

The members of the college, by assuming or aspiring to assume the sacerdotal character, indisputably did not forfeit that of British subjects, for the recent report of the Royal Commissioners on 'the Laws of Naturalization and Allegiance' has emphatically declared, that 'the allegiance of a natural-born British subject is regarded by the common law as indelible.'† The principle that 'he who is once under the allegiance of the English Sovereign remains so for ever' has been inflexibly adhered to by our highest criminal courts in the

ciated as it is with that tragic and eventful scene, has rendered his name memorable. Having unexpectedly escaped the same fate as the martyr-king, he received from Mr. Pitt a pension of 500*l.* a year for life, but the beneficent donor died before he could acknowledge it; a death which he declared in one of his published letters, 'in my opinion, is a public calamity, not only for England but Europe at large.' It is also remarkable that that other clergyman who with equal fortitude assisted on that appalling occasion was the Abbé Kearney, President of the Irish College at Paris at the time of the expulsion of the great majority of its community.

* Appendix X. to Report. Page of minutes of evidence 124 and p. 490 of vol.

† Report of the Royal Commission presented to Parliament, Sess. 1869, p. v.

cases of the Fenian conspirators, natives of Ireland, who had become naturalized citizens of the United States.* In reference, therefore, to the allegation that the Irish College was in the nature of a French corporation, are the advisers of the British Crown, while insisting that the original impress of allegiance is indelible, and enforcing the penalties attached to violations of that allegiance, now prepared to proclaim that native subjects born in Ireland, whether naturalized citizens or not, by becoming members of a lay or ecclesiastical corporation in the United States, thereby forfeit, and for ever, all the rights, even of property, incident to that allegiance? A Bill has been introduced by the Government during the present session of Parliament for regulating the Law of Naturalization, which proposes to legalise the acquisition of landed property in these countries by the native-born subjects or citizens of foreign States. In alluding to the measure which has now become law—leading members of the Cabinet acknowledged that France and other nations had been more liberal in this respect than Great Britain. It is believed that in the whole range of our jurisprudence no case can be found, except that of the Irish College, in which a British judicial tribunal disallowed and rejected the claim of British subjects to their share of a fund arising from or in respect of *landed* property, the acquisition of which was lawful in the country where that property was situated. The adoption of a precedent need not even be apprehended, for the Irish College was then, as well as it is now, the only existing institution which could assert or maintain a claim in that right upon that special fund.

Our highest judicial tribunal has been recently called upon to decide what charities of London were entitled, in participation with similar charities of Paris, to share in bequests contained in the will of Lord Henry Seymour, who had been domiciled, and died in 1859, in France.† Still more recently, we have bestowed almost regal honours on the mortal remains of a benevolent citizen of the United States, for an act of princely munificence to our metropolitan poor. If either of these benefactors of mankind had devoted a portion of his wealth to the endowment abroad of an educational institution for British subjects, would a bequest for such a purpose be annulled and rejected on the vague and futile allegation that its object was in the nature of

* Appendix to Report, pp. 47–9, and Warren's Case, Addenda F., p. 90–1.

† 'Wallace *v.* The Attorney-General, 33 Beavan R., p. 384; and 35 Beav. p. 21.

a foreign establishment? On what pretext, therefore, can an adjudication, both intolerant and insulting, be defended, which deprived the parties entitled to endowments, created by the bounty of British subjects, of the ultimate benefits to be derived from those endowments? If the moneys of the donors, instead of having been inscribed in the great book recording the public debt of France, had stood invested in the names of the superiors of the college in the English funds, would the British Government have been warranted, during a time of peace, in repudiating that portion of our National Debt, or applying the amount to the general service of the State? Such an act would indeed be Jacobinical and alarming; it would deserve all the epithets which Sydney Smith applied to a similar attempt at repudiation, as 'broad, blazing, refulgent, meridian fraud,' and would justly shake the credit of England with all the nations of the globe. The most acute casuistry cannot trace any perceptible distinction between the two cases; rejection in the one was on every principle of probity as unjustifiable as repudiation would be in the other. A fund entrusted to the national faith ought to be held equally sacred in both.

On purely pecuniary merits, the case of the college in respect of the several descriptions of property is equally incontrovertible. That same Privy Council of England, on June 27, 1834, reversing an award of the Commissioners, decided in the case of Count Wall that the son of a British father who had entered into the service of France, although he was himself born in France of a French mother, had served in the French army, and had even been an emigrant, was entitled under the treaties to compensation; and it was referred back to the Commissioners to ascertain the amount of the loss sustained.* It is plain, therefore, that naturalization would not have injuriously affected the claim; but it is remarkable that no member of the college—president, professors, or students—who are and have always been exclusively natives of Ireland, has ever yet become a naturalized subject of France. The students being bound by a solemn obligation to return to Ireland, they do not even acquire a domicile in France; their sojourn there is merely temporary; their future destiny being the discharge of their religious duties in their native land. The title to recover in respect of the landed property is also in the contemplation of English law recognised by the term 'assigns' in the convention, and the very question as to the right arose in the case of Mr.

* The case is reported in the third volume of Knapp's *Reports*, pp. 13–22.

Fanning, a native of Ireland, who had purchased a large estate in France without any license from the British crown, and had obtained not only French letters of naturalization, but also of nobility. After he had fled to England his estate was sequestered as the property of an emigrant, and part of it sold. The Commissioners having rejected the claim, their award was reversed by the Privy Council, at which Sir William Grant, then Master of the Rolls, one of the most eminent judges that ever adorned the English Equity Bench, presided; and a direction was given to compensate Mr. Devereux as the representative of the deceased claimant.* It can scarcely be pretended that English gentlemen cannot, by purchase or otherwise, acquire such titles to mansions in France, or commercial companies to factories, or collegiate institutions to their residences, as would be recognised in English Courts of Justice; and still such a title to landed property was ignored altogether in the summary rejection of the claim of the Irish College.

The validity of the claim in respect of the deterioration of income by the fraudulent substitution of assignats, a ground of redress referred to in the convention, was also concluded and completely set at rest, in Pilkinton's case, by the same high judicial authority. After observing that, although the question had not been directly brought before the Council by the adjudication of the Commissioners, 'it may be better to prevent future controversy,' Sir William Grant laid down the following propositions:—'The professed object of the treaty, the declared intention of France in this treaty, was to treat the subjects of England with the same justice with which the subjects of France had been treated in England; but the subjects of France had not suffered by confiscation in England.' 'Here,' he added, 'is a wrongful act done by the French Government; then they are to undo that wrongful act, and to put the party in the same situation as if they had never done it.' 'It is the case of a wrongdoer who must undo, and completely undo, the wrongful act he has done. If he has received the assignats at the value of 50*d.* he does not make compensation by returning an assignat which is worth only 20*d.*; he must make up the difference between the value of the assignat at different times.' 'That proceeds upon the principle, that if the act is to be undone, it must be completely undone, and the party is to be restored to the situation in which he was at the time the act to be undone took place.'† The special claim of the College, therefore, in

* This case is cited in 2 Knapp's *Reports*, pp. 300 and 306; and 3 Knapp's *Reports*, pp. 16 and 18.

† Pilkinton's Case, reported in 2 Knapp's *Reports*, pp. 7-22

respect of the assignats, was thus finally determined by this solemn adjudication. With regard, however, to the general claim, if there was any foundation for the reasons assigned for its rejection, the British Government was bound by every obligation of national honour, and even of common honesty, to have remitted the portion of the money properly applicable to that demand back to the French Government, with a declaration to this effect:—'France has paid to England a large sum upon a special trust, to compensate for wrongs inflicted upon British subjects; but although we fully recognise the claimants in that character, we are advised that our intolerant laws prohibit its application, in this instance, to the object for which it was designed. We therefore feel ourselves bound to refund so much of it as was intended for that express purpose, in order that you may apply it according to the original intention.' Having pretermitted that opportunity, the case now resolves itself into a question of simple justice, dependent on the exertions of those whose duty it is to see that justice done. If France, adopting the doctrine of Lord Gifford, were even now to reclaim the money, what answer consistent with national honour could England give to a demand of restitution, except that Parliament was prepared still to fulfil the intent and stipulations of the treaties?

The energy and perseverance with which the case of the Baron de Bode had been repeatedly pressed in both Houses of Parliament, by English peers and English members, contrasts strongly with the apathy and marked neglect of the claims of the Irish College by those who have been for a long series of years selected, and who assume, to represent the interests of Ireland in the British House of Commons. The adverse award of the Commissioners, and the affirmance of that award with costs so far back as the 23rd of June 1823,* were not permitted by Parliament to preclude the careful consideration of the claim of the foreign baron. Although, in consequence of the earnest exertions of its zealous advocates, that case was submitted in 1852 to select committees of the two legislative chambers, it ultimately failed on grounds which bear in their leading features no analogy whatever to that of the College. It arose in respect of a fief or feudal claim to lands and mines situated in the former German province of Alsace, and it was even questioned whether the locality was French territory within the meaning of the treaties. The main grounds on which

* Return of Appeals presented to the House of Commons Ses. 1832.

the claim was resisted were, first, that the claimant never was a British subject, but was in effect a subject of France; and secondly, even supposing that he established his claim to be recognised as a British subject, that the estate in right of which he claimed had been *forfeited*, and not *confiscated*, and that such forfeiture arose not in respect of his naturalization, but under the decree passed in 1793 against the emigrants. That decree had been aimed at the Royalist nobles who were then seeking an alliance with Austria with the design of invading France, and it declared that persons owing allegiance, who emigrated without license, should be deemed traitors to the State. The claimant having become an *émigré*, he thereby rendered himself subject to all the incidents attached by the law of France to French property, and was not therefore within the contemplation of the treaties. The claim was opposed in the House of Commons on the 21st of June, 1854, by Sir Alexander Cockburn, then Attorney-General, and now Lord Chief Justice of England, who while 'he trusted that he had established a clear distinction between such a case and the cases intended to be provided for by the Treaty of Paris of 1815,' made the following impressive declaration:—'If the Baron had failed in obtaining redress upon technical grounds, and could show that upon *moral grounds he was entitled to the consideration of the Government*, it would be a totally different case!' * The present Prime Minister, Mr. Gladstone, then Chancellor of the Exchequer, on the same occasion avowed that, 'with respect to the case of the Baron de Bode, he had no other wish than that *it should be decided strictly on its merits!*' † When the subject was still more recently again revived in the Commons on the 4th of June, 1861, Lord Westbury, who has also been Lord Chancellor of England—then Sir Richard Bethel, Attorney-General—while maintaining that the claimant was not a British subject nor the property British, declared 'that the treaty, the conventions, and the Act of Parliament all proceeded upon the principle that the property for which the French Government was to give us compensation should be *British property, held by persons who were at the time of the forfeiture subjects of the British Crown*, and that the property so taken should be considered as *unduly* and *illegally* taken *by the French Government!*' 'What,' said he, 'was meant in the treaty by the words "subjects of his Britannic Majesty?" Those words meant persons who at the time of the forfeiture were *de facto* subjects

* Hansard, 3rd Ser., vol. cxxxiv. pp. 401–6.
† Same vol. p. 423.

of England; were recognised in that character.' He added that 'he had met the case as if it had been *unaffected by any judicial decision*' and '*unprejudiced by any lapse of time.*'* Lord Palmerston resisted the claim with a direct negative. 'The simple question,' said he, 'is, whether the Baron de Bode is a British subject or not?' 'His father was not British, his family was not British, the property was not British.' 'It is not the case of a man belonging to a British family, with a British name, whose parents were born in England, but were for the moment domiciled in France.' 'In the cases of the persons which have been cited, their property was confiscated, not because they were considered French subjects in rebellion, but *because they were aliens, belonging to a country which was at war with France.*' The noble lord, who had been a member of the Administration that concluded the treaties, finally declared that there was 'no foundation for an application for a large sum of money for compensation to a Frenchman for the confiscation of *French property*, by the act of the French Government, *on French grounds alone.*'† In the Report of the Select Committee of the Lords, of which Lord Lyndhurst was chairman, they stated amongst their reasons for recommending the case to 'favourable consideration' that the property was unduly confiscated by the French revolutionary authorities, that the late claimant presented his claim for compensation within the time limited by the convention, that after payment of all other claims presented within the time limited there remained a surplus more than sufficient to satisfy the claim, and that the rejection of this claim originated principally in a mistake of the Commissioners.‡ In the case of the Irish College every one of these separate elements is present and patent, while it is distinguished by those which were absent, in the case of the foreign Baron; it being indisputable that the claimants were and are all British subjects, that the property confiscated was all British property, and that it was confiscated not because the owners were in rebellion against their own country, but because 'they were aliens belonging to a country which was at war with France!' The present appeal is therefore irresistible; all that is now demanded of the British Parliament is that, in the language of those eminent and influential advisers of the Crown, it should be considered 'upon moral grounds,' and 'that it

* Hansard, 3rd Ser., vol. clxiii. p. 592.

† Same vol. p. 593–4.

‡ House of Lords Papers, Session 1852 (194), vol. vii. of Reports.

should be decided strictly upon its merits,' 'unaffected by any judicial decision,' and 'unprejudiced by any lapse of time!'

It would indeed ill become the dignity of a great nation to refuse to be just because the parties whom it had aggrieved had suffered for a time from the injustice. Any delay in this instance cannot be construed into submission; it was not voluntary, it was coerced by the following arbitrary announcement in a Treasury Minute of March 15, 1833, that 'My Lords cannot admit that any claim shall be now entertained which, having been heard before the late Commissioners of French claims and rejected, had a right of appeal' 'of which they did not avail themselves; and still less that any claim should be entertained the disallowance of which was affirmed upon appeal to the Privy Council.'* To pretend, in the face of such a declaration from the Government of the day, that parties had slept over their rights would, in the indignant language of Lord Lyndhurst, 'be a cruel mockery and an insult!' That Treasury Order being still in force, necessitates and justifies an appeal to Parliament as the *dernier ressort*. The Government of France did not condescend to rely on any limitation of time, in providing by the treaties for wrongs which had been inflicted more than twenty years before. Neither was that objection permitted to stifle the recent parliamentary inquiries into the case of the Baron de Bode, although the award of rejection was affirmed so far back as June 23, 1823. On the principle that length of time can never sanctify a wrong, remote attainders, unjust in their inception, have been reversed after the lapse of longer periods. 'I know of no rule,' said Lord Alvanley, M.R., in the case of a charitable trust, 'that has established that length of time will bar;'† and we have recently had the high authority of Lord Hatherley, the present Lord Chancellor of England, affirming an established principle of equity, that 'the Statute of Limitations, of course, can never be set up in a question in this Court between a trustee and his *cestui que* trust.'‡ That statute by analogy has been occasionally adopted from the Common Law, by our Courts of Equity; but it has never yet been imported into that higher code which governs the law of nations. Such being the legal aspect of the question, one of its many political phases here presents itself to our notice. We have lately heard English

* Par. Pap., Sess. 1834 (76), vol. xli. p. of pap. 4, p. of vol. 500.

† Pickering *v.* Lord Stamford, 2 Ves. Jun. 283.

‡ 'Story *v.* Gape,' 2 Jur. N.S., p. 706. See also the still later case of 'Buttlebank *v.* Goodwin,' 5 Law Reports, Equity Series, vol. v. p. 553.

Ministers holding the highest official positions, and professing the most liberal opinions, enunciating the doctrine that time does not affect or efface either the wrongs or the duties of nations. We have seen them still further, with the assent of Parliament, carrying that principle into practice by recalling from the past, reviving and redressing, grievances which had been allowed, even in Ireland, to slumber for centuries. The same policy ought now to prevail with the same Ministers and the same Parliament, in sustaining the just claims of its own subjects to participate in a fund confided to the State upon an express trust for them. Lord Truro, who had also been Lord Chancellor of England, on April 1, 1853, declared in the House of Lords, that 'the nation was pledged to the French Government to apply the fund entrusted to it to the specific purpose of the treaty; and especially not to divert any portion of that fund to other purposes than those of the treaty, while a claimant within the treaty remained to be satisfied.' *

So early as February 15, 1816, Sir James Mackintosh, apparently apprehensive of misapplications, insisted in the House of Commons that the disposal of the money was a question of constitutional practice and subject to the control of Parliament.† It seems strange, however, that by the 17th section of the Act of 1819, which conferred upon them the powers to dispose of so large a fund, it is expressly enacted 'that the said Commissioners . . . . shall not, nor shall any such Commissioners be deemed public accountants in respect of any such sums;' the duty to account being thereby cast upon the Treasury. This may, perhaps, explain the reason why no debit and credit account, such as would satisfy a commercial firm or a judge of an Equity Court, would seem to have been as yet submitted to the public. Serious charges of misappropriation have been repeatedly made in Parliament; Mr. Montagu Chambers asserted in the House of Commons, on June 21, 1854, that 'as to the fund being duly appropriated or entirely expended, the misapplications, as appeared from authentic returns, were startling and notorious; for instance, 23,000*l.* to Monsieur Labédat; upwards of 200,000*l.* to the Bordeaux claimants; 68,000*l.* for claims not sanctioned by the Commission, and gratuities to the Commissioners themselves, of an additional year's salary, after the termination of their duties.'‡ Lord Truro had, on the occasion previously referred to, thus denounced the above payment to a

* Hansard, 3 Ser., vol. cxxix. p. 1091.
† Par. Deb. (1816), vol. xxxii. p. 575.
‡ Hansard, 3 Ser., vol. cxxxiv. p. 425.

French subject:—'As to certain parts of that fund, it is clear it has been applied to the payment of a demand or debt due from the English Government, and which debt ought to have been paid out of the public purse, and ought not, by an abuse of trust, to have been paid out of the fund "earmarked" for the claimants under the treaty. The English Government had caused the property of persons represented by M. Labédat to be improperly or unjustly seized, and they were bound to restore the property or make compensation; and they did accordingly pay a part of the compensation out of the public purse. The amount of 23,700*l.* was actually taken out of this trust fund, and paid to M. Labédat. How can the nation with any decency retain that sum?'* It is impossible to conceive a grosser breach of trust than that of a party to whom a specific fund has been confided for a special fiduciary purpose, applying any portion of it to the liquidation of demands which he was himself bound to discharge out of his own resources.† The

* Hansard, 3 Ser., vol. cxxix. p. 1091.

† The noble and learned lord would seem to have understated the amount of this misappropriation, the particulars of which appear in papers presented to Parliament in 1824, under the title 'French Pecuniary Indemnity.'—Par. Pap., Sess. 1824 (195), vol. xvi. 195, page of volume 405. In No. 3, p. 7 of papers and 411 of volume, the case will be found at length, and was briefly as follows:—'In 1793, silver bullion being deposited in the Bank of England on French account, proceedings were instituted in the Court of Exchequer with a view to its condemnation to the use of the Crown, it being supposed to belong to the then existing French Government. That Court decided that the amount should be placed to the credit of the British Treasury. An appeal to the House of Lords being threatened, an arrangement was entered into with some of the private claimants, that they should receive by grace and favour a portion of the proceeds, amounting to 50,512*l.* 16*s.*, but the balance, 108,777*l.* 17*s.* 8*d.* was in 1807 and 1808 paid into the Exchequer. After the restoration of peace in 1814, M. Labédat, a French subject, came to this country and presented a claim, which being recognised, an account was prepared, showing the amount and value of the bullion when seized, with interest at three per cent. from the date when the principal was invested in the English funds. From this was deducted the previous payment with interest at the same rate, and the balance, amounting to 99,331*l.* 4*s.* 7*d.*, was, as the official paper states, "*paid to him out of French indemnities accordingly.*"' By No. 5 of the same papers, p. 9, and pp. 412 and 413 of vol., it also appears that a further sum of 60,000*l.* sterling was paid to the French East India Company, which had at the commencement of the war a sum in the hands of agents in London, who became bankrupts. The return to Parliament states that 'the strict legality of this claim was not admitted by the law officers of the Crown to whom the case

complaints of these misappropriations have not been confined to England, for it has been stated in print that, during the period of the Indian Mutiny, a memoir was addressed by a French advocate, M. Le Baron, to the Emperor of the French, in which the course adopted by our authorities was closely scrutinized; and it was maintained, that Imperial France had a right to insist upon the just application of the large sums which had been wrung from her in the days of her adversity, as compensation for those who had suffered in the Revolution. Some of the abuses in its distribution, as opposed to the declared intentions of France, and in violation of the faith of nations, have also been repeatedly made the subject of severe comment in the Chamber of Deputies, by M. Belmontet, Député (Tarne-et-Garonne), an eminent member of that assembly.

Irrespective altogether of the several alleged misappropriations, it appears, by a return made to Parliament in 1835, that there still remained in the Bank of England to the credit of French claims, Convention 7, a sum of 277,200*l.* principal, cash balance of interest thereon 6,528*l.* 1*s.* 7*d.*, and a further sum of 2,694*l.* 1*s.* 3*d.* for interest on Exchequer bills, part of the above,* these three sums making at that date an aggregate of 286,422*l.* 2*s.* 10*d.* sterling. The Baron de Bode having presented a petition of right to the Queen, a Commission was issued under the Great Seal, and an inquisition having been held in June, 1842, at which the Right Honourable Edward Vaughan Williams, late one of the justices of the Common Pleas, and now one of the members of the Judicial Privy Council, presided as one of the Commissioners—on an inquiry which occupied four days, the jury, amongst other things, found that, after payment of all the claims of the duly registered claimants which have been established, a large surplus—to wit, the sum of 482,752*l.* 6*s.* 8*d.*—remained in the hands of the Commissioners

was referred. But the result of a negotiation between the two Governments led to an agreement that the loss should be borne in equal proportions by each of them, and the sum of 60,000*l.* was consequently paid by Great Britain on December 10, 1819, as her proportion of the sum due to the claimants *out of the pecuniary indemnities*.'—Page 9 of papers, and pp. 412 and 413 of vol. Any obscurity as to the peculiar indemnities can of course be cleared up by reference to the original documents, but if it should be found that these two latter sums, which greatly exceeded the claim of the Irish College, were paid either in the whole or in part out of the special fund provided for private claims of British subjects on France, the misappropriation to that extent is clearly established.

* Par. Pap., Sess. 1835 (296), vol. xxxvii. p. 647 of vol.

of deposit, of which surplus a sum of 200,000*l.* and upwards was applied to satisfy claims which had been tendered after the time limited by the ninth article of the convention, and not admitted until the authority of the Treasury was given for that purpose; and the residue, a sum of upwards of 200,000*l.*, was paid into the Bank of England on the Government account, by direction of the Treasury, in pursuance of the Act of 1819.* It might be fairly contended that voluntary payments made through the generosity of the Crown to claimants who had no demand under the treaty, and amongst the persons so paid appear many French names, could not affect the rights of parties legally entitled; but if an ample surplus remains, it is unnecessary to raise that question. True it is that the inquisition was subsequently traversed by the Attorney-General, but it was afterwards asserted in Parliament on the 4th of June, 1861, by the Honourable Mr. Denman, Q.C., 'that there still remained a sum of 200,000*l.* not in any way to be considered due under the Commission.' †

As the claim of the Baron de Bode may be now assumed to be set at rest by the adverse vote of the House of Lords on the 1st of August, 1853, as well as by the subsequent opposition of the Government in the House of Commons, it may be treated as abandoned. If that fund remains, every difficulty of providing for the claim of the Irish College is removed. If, on the other hand, without imputing any financial juggle, it shall be found to have vanished, the replacing of the portion of the principal which was sunk in the front of Buckingham Palace, and which must have been provided for out of the national revenues or the taxation of the country, furnishes a precedent for a similar indemnity. There are besides special circumstances which entitle those representing the Irish College, on well established principles of equity, to follow the fund which had been specially earmarked for payment of its claim. It appears by the return presented to Parliament, bearing date April 19, 1833, previously referred to, that the 250,000*l.* was expressly advanced 'out of funds received from the GOVERNMENT OF FRANCE in liquidation of BRITISH CLAIMS thereon,' and that 'interest amounting in the whole to 34,833*l.* 10*s.* is yet to be paid; but it is proposed that the whole DEBT shall be extinguished in the course of the present year.' Here, then, is the British Treasury trading with the trust fund and charging interest upon it. If

* For the finding on this inquisition see Papers of the House of Lords, Sess. 1852 (194), p. 40 of Appendix to Report.

† Hansard, 3 Ser., vol. clxiii. p. 572.

the sum due for interest, which is thus admitted to have been a debt, has not been paid, it is a clear case of default on the part of the Treasury. If, on the other hand, it was received by the Treasury, the liability of that department is equally clear and precisely the same as in the case of money lost by its default. That liability was thus defined in a leading case by Lord Romilly, M.R.: 'If a trustee employs the money for his own benefit or advantage, he will be charged either with the profits actually obtained from the uses of the money, or with interest at 5 per cent. per annum, and also with yearly rests, that is to say, with compound interest.'* The same principle also applies to the payment in 1819 of the 99,331*l.* 4*s.* 7*d.* by the Treasury in discharge of its own debt in Labédat's case, as well as to the payment of the 60,000*l.*, also in 1819, to the French East India Company, all which payments were equally flagrant breaches of trust, such as would in the case of an ordinary trustee entitle the defrauded party to rank in an English Court of Equity as a special creditor in the administration of assets, for the amounts with interest from the date of such misappropriations.† Let the members of the Cabinet consult their noble and learned colleague who advises them on legal matters, and learn from him how, when presiding in his own court, he would deal under similar circumstances with delinquent or defaulting trustees, and then let 'even-handed justice' determine the same question between the British Treasury and the Irish College.‡ If a searching inquiry should be fairly conducted, on the principles to be thus laid down, it is highly probable that a portion of the original fund may be still traced and be now forthcoming amply sufficient to satisfy the demand.

The principle of repairing a public wrong, if established against a nation or its authorised agents, has been fully recognised by England in the protracted negotiations, not yet perhaps concluded, in respect of what are so notorious as the 'Alabama' claims. Parliament has itself ratified the principle in the person of a British subject, by voting compensation to Mr. Barber, who had suffered unjustly by the sentence of one of our highest criminal tribunals. Still more recently, by the 3rd section of the Act of the 24 & 25 Vic. c. 103 (1861), after reciting that Lieutenant-Colonel John Henry Keogh had sustained a pecuniary loss 'by the *neglect of*

* Jones *v.* Foxall, 15 Beav. p. 392.

† Holland *v.* Holland, L. T. N. S. vol. xxxviii.

‡ The above sum of 34,833*l.* 10*s.*, so admitted in 1833 to be due, would now, with compound interest at the rate of only three per cent., amount to a sum of upwards of 100,000*l.* sterling.

an officer of the Incumbered Estates Court,' it was enacted that with the sanction of the Treasury he should be, and he was, fully indemnified out of funds applicable to the public service. The period seems singularly propitious, as legislation has now fortunately placed at the disposal of Parliament ample available funds from a source which could scarcely have been anticipated. The arrangement proposed by the late Sir Robert Peel in 1845 had fixed the annual charge for the future endowment of the College of Maynooth at a sum of 26,360*l.* a year, equal to the interest at 3 per cent.—the Government rate—in Consolidated annuities at par, of a capital of 878,666*l.* 13*s.* 4*d.* By 'The Irish Church Act, 1869,' 32 & 33 Vic. c. 42, par. 8, sec. 40, that annual sum is to be capitalized by the payment of fourteen times its amount, equal to 369,040*l.*, the interest of which in Consols will only be 11,071*l.* 4*s.* The British Treasury, subject to the release of an inconsiderable debt due by the trustees, will therefore be gainers to the extent of the differences in interest and principal, in the former case of interest to the annual amount of 15,288*l.* 16*s.*, and in the latter case in capital to the amount of 509,626*l.* 13*s.* 4*d.* sterling, upwards of half a million.* The guardians of the public purse need not therefore in this instance exhibit the alarm which would seem to have seized that department, at the magnitude of the claim put forward by its zealous and influential advocates in the case of the Baron de Bode. The reduction in the income of Maynooth, nearly proportionate to that caused in the revenue of the Irish College at Paris by the substitution of the assignats, must necessarily diminish the capacity for instruction in the home establishment, and it will indeed be humiliating if any of the subjects of Great Britain, a country holding so exalted a rank amongst nations, should again, reviving the painful traditions of former days, become to any extent dependent for an eleemosynary education on the charity of France. It has, however, been thus conclusively shown that, if Parliament should now feel disposed to be just in the tardy reparation of a grievous wrong, it can scarcely be open to the imputation of being generous. Lapse of time cannot possibly furnish a pretext for not dealing with funds which special legislation has so recently placed at its disposal. A large surplus is also to be expected from the disendowment of the Established Church, and although it is declared by the statute that such surplus should

* This amount is of course exclusive of the saving to the Treasury by the absorption of the *Regium Donum*, which is regulated by the same Act of Parliament.

be 'mainly,' it does not say that it should be *exclusively*, applied to the objects in the 68th section. The scheme of appropriation indicated by the Act met with marked disapproval even from the most ardent supporters of the measure, and they would gladly support a reasonable modification. As Parliament has reserved its control even over this casual source of revenue, here are ample funds, present and prospective, available from two distinct sources both relating to Ireland; and it must be conceded that, if driven to resort to either of those sources, an adequate portion of one or other of those funds cannot be more properly or equitably applied by the nation than in the discharge of a long overdue debt both of justice and of honour!

If the stepdame austerity with which England too long treated the claims of Ireland is ever to be forgotten and forgiven, the gracious concession of the present claim may be an auspicious inauguration of the amnesty, while the tardy acknowledgment of a national obligation cannot offend either the principles of the most zealous advocate of the voluntary system, nor the prejudices of the most rigid Nonconformist. The extreme of intolerant bigotry will scarcely venture at the present day to contravene the memorable axiom of Edmund Burke, who was well acquainted with the clergy educated in the French seminary, that 'in Ireland particularly the Roman Catholic religion should be upheld in high respect and veneration, and should be provided with the means of making it a blessing to the people who profess it.' The Royal Commissioners of 1854, while recording the results of their anxious inquiries in page 67 of their Report, thus called 'special attention to the returns from foreign colleges which have in view the same end for their several countries which the College of Maynooth has in relation to Ireland. In those colleges provision appears to be made, on the one hand, for a more enlarged and more complete system of theological and general instruction, and, on the other hand, for a more practical training in pastoral duties, for which there appears to be no equivalent in the existing arrangement of Maynooth.' The adoption, therefore, of a just and liberal policy, while tending to redeem the credit of the nation, must necessarily enlarge the means as well as the sphere of an improved education for the priesthood. If, however, the judgment of the English Privy Council in the case of the Irish College, is to be defended by any members of the present Ministry, it is clear that that decision must be upheld on grounds materially different from those assigned, or rather referred to, by that tribunal. A final appeal to the Imperial Parliament, which is fully competent

still to review and reverse that decision, cannot more appropriately conclude than by adapting to the present claim the emphatic language of Lord Lyndhurst: 'I urge,' said he, 'this case on the principle of common honesty and common fairness. I press it not "alone" for the sake of the claimants, but for the honour, character, and dignity of this great nation.' Are we to 'suppose for a moment that a great and powerful nation like this will seek upon a point of form to avoid payment of its pecuniary obligations? How unworthy of the nation! Shall it be said, shall it be charged upon us, that a foreign Government having placed in our hands a large sum of money to be applied for the relief of persons who had sustained injustice, that we shall apply it to "other" than its intended objects? *Fiat justicia, ruat cœlum,* is only a strong way of expressing that love of justice which is inherent in the national character!'

APPENDIX I.

A Return of the Provinces in Ireland, and of the several dioceses, in respect of which Burses were formed by legal acts for or in connection with the Endowment of the Irish College in Paris; and also the names of the Persons or Families who founded the same; extracted from the Report of 1828, *and approved by the French Minister, M. de Martignac.*

TABLE I.—FOUNDATIONS OF THE PROVINCE OF MUNSTER.

Dioceses.	Names of Founders.	Dates of Acts, and Evidences.
Lismore ...	Connery ...	1761, April 24.
Cashel ...	O'Carrol ...	1724, August 5; 1725, April 15.
„ ...	Butler ...	1777, October 28.
„ ...	O'Meagher ...	1774, August 23.
Cork ...	O'Crowly ...	——, September 30.
„ ...	Callanan ...	1779, October 2.
„ ...	Henegan ...	1774, May 12.
Killaloe ...	O'Molony ...	Declaration of Walsh, of the 15 Fructidor, An IV.
Killaloe and Kilfenora ...	Murry ...	1761, September 7.
Limerick ...	Heuraghan ...	1781, February 11.
„ ...	O'Keeffe ...	1704, September 9.
„ ...	MacCarthy ...	1729, August 27. State of the Burses, 1788.
Kerry ...	O'Connell ...	1775, July 23.
„ ...	Macdonogh ...	1780, December 23.
„ ..	Malone ...	1784, June 25.
„ ...	Aheme ...	1748, June 17.
„ ...	Moriarty ...	1753, December 29.
„ ...	Moore ...	1738, July 24; 1740, September 26.
Cloyne and Ross	Mackenna ...	1760, December 10.
„ ...	O'Brien ...	1764, March 19.
Kerry ...	Moore ...	Declaration of Walsh, of 15 Fructidor, An IV.
Cloyne ...	Duff O'Brien...	„ „ „
„ ...	Macroom ...	„ „ „

TABLE II.—FOUNDATIONS FOR THE PROVINCE OF LEINSTER.

Dublin ...	Fagan ...	Declaration of Walsh, of 15 Fructidor, An IV.
„ ...	FitzHerbert ...	1763, July 5. State of the Burses, 1788.
„ ...	Byrne ...	1766, September 16.
Kildare ...	MacCormack...	1748, October 12 and 14.
„ ...	Rousse ...	1781, August 1.

FOUNDATIONS FOR THE PROVINCE OF CONNAUGHT.

Tuam	...	Brown and the United parties	1788, Declaration of Walsh, of the 15 Fructidor, An IV.
„	...	Lynch ...	1711, March 15. Declaration of Walsh, of the 15 Fructidor, An IV.
„	...	Flyn ...	1754, October 1; 1770, August 12. State of the Burses, 1788.
Clonfert	...	Merrick ...	1733, September 22.
Elphin	...	Daly ...	1785, March 9.
„	...	Stafford ...	1781, April 4.
„	...	Plunkett ...	1785, November 17.
Achonry	...	Moreveinagh...	Declaration of Walsh, of 15 Fructidor, An IV.
Tuam	...	The Old Curates	Declaration of Walsh, of 15 Fructidor, An IV.
Galway	...	The Church of St. Nicholas	Declaration of Walsh, of 15 Fructidor, An IV.

TABLE III.—FOUNDATIONS FOR THE PROVINCE OF ULSTER.

Armagh	...	Banan ...	1755, January 21.
Ardagh	...	MacBrady ...	1774, May 8. State, 1788.
„	...	MacCabe ...	1761, December 4.
Clogher	...	MacMahon ...	1714, June 28; 1748, December 12.
„	...	O'Neill ...	1751, May 7.
„	...	Duffy ...	1767, July 1.
Kilmore	...	Farelly ...	1768, March 4.
Dromore	...	Maginn ...	1682, July 3.
Meath	...	Plunkett ...	Declaration of Walsh, of 15 Fructidor, An IV.
„	...	Barneval ...	Declaration of Walsh, of 15 Fructidor, An IV.

FOUNDATIONS OF BURSES ON THE NOMINATION OF THE ADMINISTRATOR.

Lannau	...	1731, July 21.
Austin	...	1728, June 21; July 20, 1788. State, 1788.
O'Rourke	...	1779, May 29.
Walsh, Joseph.		1732, September 15.
Walsh, Tobie...		1715, 15 July.

TABLE IV.—DONATIONS MADE TO THE COMMUNITY.

By Cahill ...	... ...	Page 9 of State of the Revenues of the Irish College in 1788.
„ Perrotin	... ...	1744, September 26.
„ Power	... ...	1755, March 21; 1758, May 25.
„ Kelly, du Saint-Esprit.		1769, March 18. State, 1788.
„ Brady, Bishop of Ardagh,		1772, October 10.
„ Stafford of Avignon ...		Page 35 of State of the Revenues in 1788.
„ Murry ...	... ...	1761, September 7.

By 14 contracts on the aids and Gabelle	State of the Foundations and Revenues in 1788.
„ 2 contracts on the Estates of Britanny ...	
„ 8 contracts on the Hides	
„ Actions on the Company of India	
„ Rescription on the capital of £28,039 3*s.* 9*d.*	
„ Rents of the College of Lombards	

FOUNDATIONS FOR RELIGIOUS PURPOSES, ETC.

Of Dublin	Declaration of Walsh, of September 1, 1796, and additional declaration of July 20, 1799.
„ Hoffeman	
„ Mahon	
„ Stapleton and Banan.	
„ Murry	1761, September 7.
„ The Ladies of None...	1737, November 27.
„ The Widow Andrews	1777, December 4.
„ Taylor	1775, August 18.

SUMMARY TABLE.

	Francs.
Table I.—Foundations for the Province of Munster ...	26,425
Table II.—Foundations for the Province of Leinster ...	2,029
„ Foundations for the Province of Connaught	3,681
Table III.—Foundations for the Province of Ulster ...	5,410
„ Burses on the Nomination of the Administrator...	1,957
Table IV.—Revenues proper of the College	12,026
„ Foundations for pious purposes	1,518
Total ...	53,046

All the *rentes* of the Irish College in France, consisted of 84 inscriptions, amounting altogether to the annual sum of 53,046 francs on the Royal Treasury of France, equal to £2,121*l.* 1*s.* 9*d.*

APPENDIX II.

Showing the actual Reduction of Yearly Revenue to the Irish College at Paris in consequence of the French Revolution, exclusive of other claims.

	Revenue before the Revolution. Francs.	After the Revolution. Francs.
Burses of Ulster	10,093 ...	3,428
„ Munster	43,310 ...	14,418
„ Leinster	3,766 ...	1,259
„ Connaught	5,635 ...	1,876
„ Administration ...	3,641 ...	1,242
„ Other Revenues ...	29,774 ...	9,931
Annual Revenue	96,219	32,154
	32,154	
Actual loss	64,065	

2,562*l.* 12*s.* 0*d.* British sterling.

APPENDIX III.

Particulars of the Claim of the Irish College previous to the Appeal, as appearing upon an Official Paper presented by the Commissioners to Parliament, dated March 26, 1830, *under the title, 'French Claims—Return of all* unsettled *demands on the funds provided by the Government of France, under the Conventions of November* 20, 1815, *and April* 25, 1818, *for* liquidating *the claims of British subjects.*'—Par. Pap., Sess. 1830 (200), vol. xxix. p. 457.

		Amount of arrears claimed.			Rente perpétuelle.		
		Francs	*cents.*		*Livres*	*s.*	*d.*
1.	Irish College of Paris ...	150,108	80	...	6,456	1	0
2.	„ „ ...	2,479	50	...	108	0	0
3.	„ „ ...	650	36	...	28	7	4
4.	„ „ ...	3,742	76	...	163	0	0
5.	„ „ ...	121,481	00				
6.	„ „ ...	1,185	18				
7.	„ „ ...	261,376	00				
8.	„ „ ...	39,358	50	...	1,714	0	0
9.	„ „ ...	35,363	95	...	1,540	0	0
10.	„ „ ...	1,627	40	...	76	0	0
11.	„ „ ...	18,204	92	...	792	16	0
12.	„ „ ...	8,223	20	...	358	3	4
13.	„ „ ...	27,898	27	...	1,202	8	0
14.	„ „ ...	137,823	80	...	6,002	0	0
15.	„ „ ...	114,421	56				
16.	„ „ ...	597,326	90				
17.	„ „ ...	37,592	33				
18.	„ „ ...	274,312	50				
19.	„ „ ...	44,951	20				
20.	„ „ ...	304,000	00				
21.	„ „ ...	12,351	54	...	525	0	0
22.	„ „ ...	18,821	73				
23.	„ „ ...	2,167	11				
		2,215,468	51		18,965	15	8
Value of the rente perpétuelle, at twenty years' purchase, in livres 379,315, or francs *		374,632	00				
		2,590,100	51; or, in sterling, at 25 francs per £, 103,604*l.*				

* *Note by Writer.*—81 livres were equal to 80 francs.

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