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As Chancellor, FitzGibbon had a formidable array of responsibilities. His court administered trusts, wills in probate, and the property of widows, orphans and lunatics. As a matter of course, any disputes over wills and trusts came before him. In addition, the assets, if any, of bankrupts came under the jurisdiction of the Court of Chancery. FitzGibbon determined which creditors were to receive satisfaction and the priority of the various claims. In yet another capacity, the Lord Chancellor was in a position to rule on the propriety and correctness of judgments referred from other courts, both lay and ecclesiastical. These cases usually involved property or testamentary disputes of one kind or another. In his judicial capacity, the Lord Chancellor made no determinations on criminal cases. Nonetheless, as a Privy Councillor, FitzGibbon had a powerful influence on the issue of pardons in cases of murder and rebellion. Moreover, in 1798, he did play a prominent role in one of the more spectacular murder trials of the time. As Lord High Steward, he presided over Lord Kingston's trial in the House of Lords. Other responsibilities combined both politics and law. Buckingham noted the Chancellor's crucial role as speaker of the House of Lords. In this capacity, FitzGibbon not only directed debate on political matters, he presided over appeals from the courts, his own included. Finally, FitzGibbon had a profound influence on the character of the Irish judiciary. He appointed magistrates on the advice of county magnates, and he himself advised the lord-lieutenant on candidates for judicial promotion.

Assessments of FitzGibbon the Chancellor varied as sharply as assessments of FitzGibbon the politician. At one extreme stood Jerome Alley, a clergyman cum versifier. Shortly after FitzGibbon's death, Alley produced a long poem of tribute. As this excerpt shows, FitzGibbon inspired intense admiration, if not immortal verse:

> Clare is no more! The statesman and the sage,
> Whose mighty mind explored each depth of law,
> And by whose voice determined Justice spoke
> Her chaste decree....[1]

Yet many of FitzGibbon's most bitter detractors admitted, with various degrees of reluctance, his ability and his integrity as a judge. In 1792, during the deliberations of the Wexford freeholders, Edward Sweetman denounced FitzGibbon's sectarian politics while

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1 Jerome Alley, *The Judge, or an Estimate of the importance of the judicial character, occasioned by the death of the late Lord Clare, Lord Chancellor of Ireland*, (London, 1803), p. 35

paying this convoluted and grudging tribute to his administration of justice:

> If such a man as I have here portrayed, had not carried the audacious impurities of the senate to the judgment seat, but administered law in justice and in mercy as became his great abilities, the circumstance should be a drawback on the detestation of his countrymen, it should take but little from the distrust of the character. [2]

The *Morning Post*, an avowedly pro-Catholic, radical and hence short-lived newspaper, not unexpectedly took a highly unfavorable view of FitzGibbon overall. Nonetheless, the same paper published a spirited defense of him as a judge and as a statesman. He was "a high judicial character of eminent talents, of vigorous, investigating mind, of firm and independent spirit and unimpeached integrity." This writer, in the aftermath of the Convention Act and of the various other measures of repression against Catholic agrarian rebels and middle class radicals, still could praise FitzGibbon for displaying a "mixture of firmness in the public cause, together with lenity to the deluded instruments of the secret mischief of others...rigour of justice with that mercy becoming a man who feels for human frailty and with the liberality of a gentleman."[3] The presumably pro-Catholic and liberal readers of the *Morning Post* took such a liking to this particular essay that they requested a reprint.[4] Shortly before Fitzwilliam's arrival, the *Morning Post* expressed satisfaction that FitzGibbon would remain as Chancellor, in spite of the change in administration:

> The Lord Chancellor certainly retains the Seals amidst the approaching change of men and measures---a continuation much to the public satisfaction, and highly conducive to an impartial dispensation of equity.[5]

The *Dublin Evening Post*, throughout FitzGibbon's life an unrelenting critic, nonetheless published a posthumous tribute to his judicial ability, though it could not rival Alley's fervor:

> On the judgment seat, his integrity stands [unimpeached?] His facility lay in a quick discernment and the utility of it in a familiar acquaintance with the modes of common life, and particularly with such of our habits as more especially *national* than others...The practice of his court he improved by his exactness, and its

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2 *The Speech of Edward Sweetman, Captain of a Late Independent Company at a Meeting of the Freeholders of the County of Wexford convened by the Sheriff in September of 1792 to take into consideration Mr. Edward Byrne's letter, recommending a plan of delegation to the Catholics of Ireland in order to prepare a humble petition to the legislature*; (Dublin, 1792), p. 5

3 *Morning Post or Dublin Courant*, 25 March, 1794

4 *Morning Post or Dublin Courant*, 12 April, 1794

5 *Morning Post*, 18 December, 1794

reputation by the alacrity with which its business was transacted.[6]

During the 19th century, a similar reluctant admiration emerged from the most critical monographs. The urbane J.R. O'Flanagan recoiled from FitzGibbon's arrogant manner and his political antagonism toward Catholics. At the same time he acknowledged, with gentlemanly good grace, that FitzGibbon "did much to establish equity practice in Ireland on a solid basis." In particular, O'Flanagan continued, "he reformed abuses with no niggard hand and purged the court of much that called for reform. Fraud fled before him, for when grasped, he punished it with relentless vigour."[7] In a similar vein, C.L. Falkiner deprecated his "Cromwellian sternness" while paying tribute to his liberality as a judge, and particularly his protection of the poor and the dispossessed, the tenant and the Catholic.[8]

Chancellor FitzGibbon's detractors were as numerous and as vocal as his adherents. The arrogance and arbitrariness that inspired hatred in the political realm had the same effect in the judicial. In addition to fierce defenses of FitzGibbon, the *Morning Post* ran its share of equally fierce attacks. One "Somers", in particular, contrasted FitzGibbon unfavorably with his predecessor Lifford:

> He was courteous to one profession without *partiality* and made the other respectable without *persecution.* His slowness was deliberation, his deliberation wisdom and he held a middle course between the flippancy of precipitate judgement and the dilatoriness of protracted decision, saw when the infirmity of exhausted nature occasioned reluctant procrastination. Conscious of the imperfection of human intellect, he courted the revision of his opinions and free from the vanity of fastidious infallibility, he could admit error and assent to the reversal of his own decrees. He had honour without insolence---dignity without ostentation---pride without arrogance---in a word possessing every good quality that could adorn the administration of justice.[9]

In another word, FitzGibbon possessed all the opposite qualities. He displayed the "flippancy of precipitant judgment", and he had besides insolence without honour, ostentation without dignity and arrogance rather than honest pride.

Lord Aldborough made perhaps the strongest attacks on FitzGibbon during his lifetime, for which he paid the harsh and degrading price of a prison term. In the draft of

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6 *Dublin Evening Post*, 13 February, 1802; later reprinted as a pamphlet entitled *The Character of the Late Earl of Clare*, (Dublin:1802)

7 *O'Flanagan II*, p. 280

8 C.L. Falkiner, *Studies in Irish History and Biography, mainly of the 18th Century*, London:1902, p. 123, 139

9 *Morning Post*; March 13, 1794

an address to the House of Lords, he not only made the usual accusations of haste and arrogance, he questioned FitzGibbon's competence as a judge by noting the large number of appeals from his decrees. He made the still more serious charge that FitzGibbon used the Court of Chancery to further his own political and personal ends. In this particular literary effort, one of many, Aldborough framed his accusations with elaborate and ironic disclaimers:

> Let us now, my Lords, attend to his conduct as Chancellor, where vindictiveness, rancour, partiality and revenge have no sway on the bench. He is courteous and attentive to every barrister. No marked distinctions or prejudices warp his complacent demeanor on the bench. He don't [sic] create rotten foundations to erect unstable structures on...Thus my Lords, I have given our present speaker all the tribute due to his merit. But...sometimes Homer nods; for we find numberless appeals from his decrees, justified by the opinions and signatures of the best and ablest counsel at the bar, to what cause owing, I am not competent to conjecture. I will not say, like some in his situation, that he prejudges cases before they are heard, because one party is his neighbor or rector of his parish, or subservient to his intrigues, county interests or politics or that he wishes to convert the House of Lords into a court of Chancery and domineer and dictate in both. No, my lords, this chancellor is superior to such paltry base acts.[10]

Sir Jonah Barrington made equally damning condemnations of FitzGibbon's conduct as a judge, though he made them many years after the Chancellor's death, and thus he evaded Lord Aldborough's unhappy fate. Like Aldborough, Barrington accused FitzGibbon of using the office of Lord Chancellor, not to dispense justice, but to intimidate his political opponents, to promote his own creatures, and to extend his powers of patronage wherever and whenever possible:

> He commenced his office with a splendor far exceeding all precedent. He expended four thousand guineas for a state carriage; his establishment was splendid and his entertainments magnificent. His family connections absorbed the patronage of the state and he became the most absolute subject that modern times had seen in the British Islands. His only check was the Bar, which he resolved to corrupt. He doubled the number of bankrupt commissioners; he revived some offices---created others---and under pretense of furnishing each country with a local judge, in two months he established 32 new offices of about six or seven hundred pounds per annum each. His arrogance in court intimidated many whom his patronage could not corrupt and he had no doubt of overpowering the whole profession.[11]

Barrington himself claimed to be one of the brotherhood of the Bar whom FitzGibbon had attempted to corrupt. He had, or so he claimed, been offered the place of solicitor general

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10 PRONI, Aldborough Papers, T3300/13/16/4

11 Sir Jonah Barrington, *Historical Anecdotes of the Legislative Union between Great Britain and Ireland II*, (London,1835) p. 286

on condition of supporting the union. Barrington refused the condition and with it, the office. In addition to these general claims of political corruption, Barrington accused FitzGibbon of conniving at a gross miscarriage of justice. The victim, James Fitzpatrick Knaresborough, had been convicted and sentenced to death for the attempted abduction of a Miss Barton. Although Barrington had acted as counsel for Miss Barton, he became convinced of his client's mendacity and of Knaresborough's innocence. Under the conviction that Knaresborough had been unjustly convicted, he went first to the Lord Lieutenant, Westmorland, and to Chief Secretary Hobart. They in turn referred him to FitzGibbon. After setting forth his case, Barrington received this bloodcurdling response from FitzGibbon:

> That may be all very true, Barrington! but he is a rascal and if he does not deserve to be hanged for this, he does for a former affair right well![12]

FitzGibbon then presented Barrington with "affidavits and evidence on a former accusation (from which Knaresborough had escaped by lenity) for snapping a pistol at the father of a girl he had seduced."[13] However much of a roughneck young Knaresborough was, hanging him for a past offense, for which he had been acquitted, was little better than murder, without the dignified appellation of "judicial." In relating this damning anecdote, Barrington admitted that FitzGibbon agreed to commute the sentence to transportation. Knaresborough himself regarded transportation as no mercy. He begged to be hanged instead, but this favour was refused.

Finally even Roche, who genuinely loved FitzGibbon, tempered praise for his intellect with criticism of his general demeanor on the bench:

> ...he possessed a commanding energy and great intellectual powers; but...this energy too often betrayed, in its official appliance both on the bench and in executive rule, a deep tinge of overbearing temper and despotic authority, and..his intellectual powers were not always regulated in their direction or action, by prudence or considerate reflection.[14]

The more outrageous allegations, particularly on the part of Barrington and Aldborough, call for a large measure of skepticism. Both had bitter personal grudges against him: Barrington because FitzGibbon had allegedly stalled his advancement and Aldborough because FitzGibbon had decided against him in two Chancery suits. Indeed,

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12 Sir Jonah Barrington, *Personal Sketches of his Own Time I* ,(London, 1827) p. 367

13 *Barrington I*, p. 368

14 *Roche II*, p. 113

some of Barrington's harshest criticism inadvertently reflect credit on FitzGibbon. The appointment of additional judges, which Barrington regarded as evidence of deep-dyed corruption, to a less prejudiced and embittered observer, seems like an enlightened effort to increase the accessibility and effectiveness of justice. Even the grisly tale about Mr. Knaresborough has a more creditable aspect. FitzGibbon could well have made the comments which Barrington attributed to him. He had a cruel streak, and as attorney general he had already demonstrated his relentlessness toward perceived wrong-doers. Nonetheless, under the circumstances, a commutation to transportation was perhaps the only recourse open to FitzGibbon. A jury, with the aid, it must be mentioned, of Sir Jonah's eloquent pleading, had freely and openly found Knaresborough guilty. FitzGibbon could not overturn a legitimate verdict simply because of intimations on the part of the former prosecuting counsel. His comments to Barrington were as brutal as they were ill-advised, but he took the most merciful course of action possible.

This varied and conflicting evidence suggests only that FitzGibbon, in exercising the duties of his office, displayed many of his best qualities and a few of his worst. On the positive side, he dedicated himself to his work with an almost mystical fervor. He allowed neither the press of political business, nor his own frequent bad health to interfere with the efficient, speedy dispatch of the causes that came before him. His decisions displayed remarkable intellectual clarity, precision, and legal learning. Unfortunately, his foul temper and his moral and intellectual arrogance blighted his judicial, as well as his political, dealings.

First and foremost, FitzGibbon displayed a maniacal diligence. By his own account, he heard 700 to 800 cases a year. [15] While the *Freeman's* was admittedly a hired government newspaper, and thus particularly prone to fawning exaggeration, its account of FitzGibbon's fierce concentration has an unusual element of accuracy:

> Monday, the Right Honorable, the Lord Chancellor, attended at so early an hour as ten o'clock in the court of chancery; his lordship proceeded to the hearing of such cases as were ready---and what has not taken place for many years past in that court was, at this sitting accomplished---vis, the discharge of peremptories---a species of rule motion and proceeding which prevented suitors, however just their claim, from receiving redress of remedy for years together. This conduct must reflect high honour and credit on Lord FitzGibbon.[16]

FitzGibbon himself revealed his intensive dedication to Chancery business in a letter to a friend of Hamilton Rowan's. This gentleman had requested FitzGibbon to consider a

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15 *Freeman's Journal*, 9 February, 1797; Parliamentary Reports: House of Lords, 7 February, 1797

16 *Freeman's Journal*, 3-5 November, 1789, "Postscript" for 3 November, 1789

petition for a pardon, which Rowan hoped to present to the King. FitzGibbon was certainly sympathetic. He was already acting as an unofficial financial and legal counsellor to Rowan's wife. But his business in Chancery necessarily took precedence over any other concern, however worthy of attention:

> My dear sir---the weight of business which presses upon me in the Court of Chancery at this time renders it impracticable for me to attend to any other subject. I can readily conjecture the object of the petition which you wish to show to me, and [I] do not hesitate to say that patience under his most unpleasant situation, for a few months, will be the best policy on the part of Mr. H. Rowan.[17]

Lord Redesdale, FitzGibbon's successor, suggested that his ferocious application to business not only led to some mistaken decisions, it cost him his life. In the case of Chamley v. Lord Dunsany, which involved a maddeningly complicated series of judgment debts, and which finally ended up in the English House of Lords, Redesdale took issue with FitzGibbon's sweeping refusal to consider some exceptions to a Chancery report on the matter. Redesdale attributed this faulty ruling to exhaustion and illness brought on by overwork:

> It was probably a misfortune to him and to the public that he persisted in transacting the business of the court during the term in which he made that order; perhaps a valuable life would have been saved to the country if he had not done so. It was the last term in which he sat and the state of his health at that time rendered it impossible for him to examine any difficult or entangled case. It was one of the last orders he made and in a day or two after it was made, he became unable to leave his house.[18]

Dispatch, along with dedication, characterized FitzGibbon as Chancellor. In a speech to the corporation of Drogheda, he himself declared his overmastering intention to eliminate the "law's delay" from his court:

> ...my best exertions shall be made speedily to extend the protection of the law to those who are suitors for it; and to correct the spirit of vexatious and oppressive litigation which has too long impeded the course of justice in this country.[19]

His decrees and rules demonstrated his determination to make the procedures of the Chancery court simpler and speedier. In June of 1799, for example, he ruled that a suit

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17 *O'Flanagan II* , p. 281

18 *Schoales and Lefroy, II*, p. 704; The entire case can be found in *Schoales and Lefroy II*:, pp. 690-720]

19 *Dublin Evening Post*, 16 March, 1790

which had been in abeyance for over twenty years could not be revived without special leave from the Court of Chancery.[20] In yet another ruling, FitzGibbon placed stringent limitations on crossbills or countersuits filed by defendants against the plaintiffs. FitzGibbon required affidavits that such crossbills did not originate in gratuitous attempts at delay. He also required the counsel submitting a crossbill to sign a certificate that "in his opinion it is necessary for the attainment of justice in the cause." [21]

Nonetheless, dispatch sometimes became an end in itself. The otherwise favorable obituary in the *Dublin Evening Post* tempered its praise of his "alacrity" with the observation: "...he sometimes seemed as if he valued himself not much less on a quick dispatch of the cause than on the merit of the decree."[22]

Lord Redesdale found it necessary to clarify some of his predecessor's decrees made in haste. In the case of Browne v. O'Dea, Redesdale simply reworded a decree more precisely. This case concerned a disputed lease. FitzGibbon had decreed that the lease claimed by the tenant was fraudulent, but he directed the Master of the Rolls to take an account of any improvements made by the lessee and to balance the cost of such improvements against any outstanding rents or debts owed to the lessor.[23] Redesdale affirmed FitzGibbon's' decree in its essentials, but he directed the Master first to investigate whether any alleged improvements had lasting benefits to the landlord's property. Only then should the Master take them into account.[24]

In the matter of John Roche and the widow of Crosbie Morgell, Redesdale reversed FitzGibbon's decision altogether. In this cause, Mrs. Morgell claimed that in a series of transactions with took place between 1788 and 1794, Roche had systematically defrauded her husband of large sums of money and an estate, Clonmeen. In her original suit, Mrs. Morgell had requested a full account of all transactions between her late husband and Roche, and the setting aside of the sale of Clonmeen. In response, Roche submitted a bill of release dated May 21, 1791. In this document, Morgell had acknowledged two debts to Roche of £4500 and £4437 and two bonds to secure those debts. Apart from these sums, the two men agreed to waive any other outstanding claims. Roche insisted that Morgell had freely signed the release. In December of 1798, FitzGibbon accepted the validity of the release and Roche's plea. The widow then appealed to Redesdale, who immediately reversed FitzGibbon's decree in favor of Roche. Redesdale based his judgment on the fact

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20 Hughes, *The Practice of the Court of Chancery in Ireland*, (Dublin:1837), p. 1
21 Ibid., p. 20
22 *Dublin Evening Post*, 13 February, 1802
23 *Schoales and Lefroy I*, p.117
24 *Schoales and Lefroy I* , pp.120-122

that the deed of release only covered transactions *up to* May 27, 1791; it did not include the day itself, a point overlooked by FitzGibbon in his original ruling. Therefore, a transaction made on that day was subject to discovery, and such discovery would necessarily encompass past transactions covered by the deed of release. Furthermore, accusations of fraud *required* investigation, notwithstanding the release. If fraud had indeed taken place, it necessarily impeached the whole transaction. Roche in his turn appealed to the Imperial House of Lords in 1809, whereupon Redesdale reiterated his original arguments. In so doing, he generously attributed FitzGibbon's error to the haste of a busy, hard-pressed man acting during a time of crisis. As tactfully as he could, Redesdale also suggested that even under the best of circumstances, FitzGibbon perhaps lacked the necessary knowledge to make an appropriate judgment:

> When he [Redesdale] looked at the date of the order which he had reversed, he felt that the mind of Lord Clare must have been at that time so occupied with the extraordinary events which had recently passed and were then passing in *Ireland;* that it was scarcely at leisure to attend to such a subject, and indeed it was a subject upon which the mind of Lord Clare had never been very attentively employed, and it was, on the contrary, a subject on which his own mind had been most attentively employed from his first entrance in the profession.[25]

His fellow peers took Lord Redesdale at his word and upheld the decision in favor of Mrs. Morgell.

The less charitable Lord Aldborough implied that FitzGibbon decided cases quickly because he prejudged them according to his own selfish interests or passions. Consequently, the Lords heard more appeals from his court than from Lifford's.[26] Probably the fact that FitzGibbon decided more cases than Lifford, and consequently increased the number of potential appellants, accounted for this alleged increase in appeals. But there was perhaps a small glimmer of truth in Aldborough's dark malice. FitzGibbon was prone to error, but through an excess of virtue, rather than vice in the form of arrogance and corruption. His laudable desire to cut through obfuscation and chicanery, and indeed his superb ability to grasp the essentials of complex matters, do appear to have caused him to disregard subtle but important points. To his credit, FitzGibbon took reversals of his decrees with considerable good grace.[27] He declared to Aldborough in his own defense:

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25 *Schoales and Lefroy II*, p. 724; for account of entire case, see pp. 721-31

26 Aldborough Papers, 1330/13/16/4, op. cit]

27 See for example, *Ridgeway III*, pp.376-430, "Inchiquin v. Burnell"

> I am no egotist. God knows that if I was sensible of having erred in the judgment seat, I could not sleep until such judgment had been corrected. [28]

FitzGibbon may have been somewhat mistaken about his lack of egotism, but he indeed deserved credit for the scrupulousness that made him both quick in judgment and quick to accept reversals of his judgments if legitimately founded.

Not surprisingly given his own precision of mind, FitzGibbon maintained exacting standards in his court. No item, however minute, escaped his attention. He established a rigid dress code for barristers who argued in his court. The *Dublin Evening Post* described the new sartorial rule:

> The Lord Chancellor, with a most laudable tenacity for the respect due to his Court, has signified his desire that no practitioner should appear therein in colored clothes, or without his professional gown, thus maintaining as well the respectability of professional conduct, the violation of which his Lordship has on so many occasions marked his upright determination to punish.[29]

His moral indignation and reforming zeal extended to the custom of putting money into a box on motion days; this money was later distributed to the poor. Evidently many individuals used the box to dispose of bad coinage, which offended both FitzGibbon's scrupulous sense of honour and his equally scrupulous sense of what was due to the poor:

> Lord FitzGibbon took notice of a wicked and improper practice used, his Lordship supposed, by some young men to cheat the poor, who received the money paid into the box on motion days. It had become a trick to put down bad money and in the course of the last term, his Lordship remarked that the sum collected in this way amounted to seventeen guineas, of which, on examination, not less than ten were found to consist of bad shillings---purchased as his lordship imagined, for the purpose of imposing on the poor. His Lordship was justly severe on such abominable conduct and humanely gave orders for the prevention of the like cheat being practiced in the future.[30]

In a further effort to improve the tone of the Court, FitzGibbon banished casual visitors and mere curiosity seekers from his court, as the *Hibernian Journal* reported:

> The regulations at present going forward in our High court of Chancery under the auspices of the Lord Chancellor add ornament and dignity to that venerable seat of Justice, at the same time that the restrictions on persons not immediately interested in the proceedings in that court, from being admitted, will prevent the intrusion of

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28 *Freeman's Journal*, 7 February, 1797; Parliamentary Reports/House of Lords, 6 February, 1797

29 *Dublin Evening Post*, 9 July, 1796

30 *Hibernian Journal*, 31 August, 1791; Dublin news for August 30, 1791

> troublesome persons, on the serious proceedings of those immediately concerned.[31]

The *Hibernian* did raise one, self-interested objection to this otherwise laudable attempt to raise the tone of the Court:

> The only disagreeable consequence is that intelligence and legal information is to be withheld from those whose situations in life are such as ought not to be precluded from these advantages.

In other words, journalists could no longer observe proceedings in Chancery, under this new rule. Considering his past relations with the press, FitzGibbon probably would have seen no particular "disagreeable consequence" in their absence.

FitzGibbon did not confine himself to minor administrative reforms. He made sweeping efforts to improve the caliber of lawyers who prepared and who argued causes in Chancery. He had a bitter enmity towards attorneys who victimized their clients through unnecessary delay or through simple professional ignorance and incompetence. The *Dublin Evening Post* took due note of this aversion:

> The brotherhood of attorneys must particularly call for purgation; for the pettifoggers in this branch of the law are really a curse to society and a pest to common honesty. The Chancellor holds a vigilant eye on the conduct of certain fortunate knaves of this class and the first that is caught tripping in Court may expect to be held up to view, for the good example of his brethren.[32]

FitzGibbon himself spoke contemptuously of solicitors "versed in the science of collecting costs."[33] On 1 January, 1791, he introduced an ambitious and stringent set of regulations binding on those solicitors practicing in Chancery. No solicitor could practice in Chancery who was not also enrolled in the King's Bench, the Common Pleas or the Exchequer. FitzGibbon also required aspiring solicitors in Chancery to have a fixed residence in Dublin. They were to obtain a certificate attesting both to residence in Dublin and to general professional fitness. The certificate was to be signed by the senior Master in Chancery, and the registrar of the court or his deputy. All solicitors thus admitted to Chancery practice were next to sign a roll kept by the Master or his deputies. Alphabetical lists of the solicitors who had signed the roll were to be posted in the offices of the

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31 *Hibernian Journal*, 13 November, 1789, "Postscript" column for 11 November, 1789

32 *Dublin Evening Post*, 5 December, 1789

33 *Ridgeway III*, p. 62

Registrar and the Master of Keeper of the Rolls "for the inspection of every person who shall desire to inspect the same." FitzGibbon took measures not only to impose stricter registration of solicitors who practiced in Chancery, but to increase their accountability. They were obliged to sign all pleas and their names were entered on all writs. Finally, he took measures to instill his own standards of diligence in the attorneys who enrolled in his court. Every solicitor in Chancery, according to this decree, "shall regularly attend the Court from the first day of the Seal before each term to the last day in every year respectively, on pain of being suspended or struck off from the roll of solicitors."[34]

The rules were as clear-sighted as they were exacting. FitzGibbon's characteristic empathy for the situation of poorer, more ignorant suitors marks each one of them. He wanted to ensure that any solicitor pleading a suitor's case would be readily accessible to the supervision of the Chancellor or his deputies, hence the requirement of residence in Dublin. A solicitor in the depths of the countryside could presumably get away with chicanery or ignorance more easily. The required enrollment in other courts ensured at least a measure of legal experience while the certificates and roll of qualified solicitors gave some measure of protection against incompetents or imposters. The required attendance in court served to prevent solicitors from neglecting their cases.

The Act of Union required FitzGibbon to institute further reforms in the Court of Chancery to ensure that the business of the Court would continue during his anticipated absences in England. The Office of Master of the Rolls, which had long served as a sop to great aristocrats or to the relations of lords-lieutenant, became under FitzGibbon's capable direction, a fully functioning deputyship. In consultation with Pepper Arden, who held the equivalent office in England, FitzGibbon endowed the Mastership with all the effective powers of the Chancellor, including the hitherto reserved powers of presiding over commissions of bankruptcy and lunacy.[35] In keeping with the greater responsibilities of the position, FitzGibbon also improved the methods of remuneration. In a letter to Castlereagh, he revealed that practices which he had tacitly accepted as Buckingham's dutiful attorney general, he abhorred as Chancellor:

> There has, however, been a shabby perquisite of the office, arising from an open sale of the situations of six clerks and examiners of the Court of Chancery which certainly ought to be abolished.[36]

Grenville, it will be recalled, made this same objection, with no known support from

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34 Hughes, pp. 429-430

35 NLI, FitzGibbon Papers, 8343/7, Richard Pepper Arden to FitzGibbon, 21 November, 1800

36 *O'Flanagan II*, p. 271

FitzGibbon. Apparently, he knew too well Lord Buckingham's quite opposite views. Securely established in his desired office, FitzGibbon now recommended, in lieu of this "shabby practice", an annual remuneration of £3,000, including fees.[37] In short, FitzGibbon made every effort to ensure that suitors would not suffer delays for want of an effective, suitably remunerated deputy. This particular arrangement, in FitzGibbon's case, was short-lived. His English parliamentary career consisted of one very unsatisfactory session.

His efforts to improve the order, propriety and integrity of the Court of Chancery were praiseworthy indeed. Nonetheless, FitzGibbon himself, while always demonstrating the highest integrity, failed to show an equal order or propriety in his behavior. He terrorized the diffident, the unprepared or the honestly mistaken barristers who appeared before him. The editorial in the *Morning Post* suggested that during FitzGibbon's term as Chancellor, his detractors looked back longingly to the easy-going, amiable Lifford. An editorial in the *Dublin Evening Post*, published after his death, eagerly anticipated the return of civility and *politesse* under Redesdale:

> ...from the specimen which the Irish Bar has received of Lord Redesdale's manners, it is evident that while stern justice may govern his conduct with regard to the public, they may always expect to be treated with respectful indulgence and courteous affability. The man of modest merit will not be depressed by hauteur or caprice.[38]

If political enemies appeared in his court FitzGibbon lapsed from mere bad manners to childish sadism. Curran, not surprisingly, was a favoured target. In one instance, while his great antagonist was making a plea, FitzGibbon ostentatiously played with a favorite Newfoundland dog, no doubt brought to court especially for this insulting purpose. Curran, no mean master of spite himself, did get the better of FitzGibbon. He abruptly paused in his argument, and when FitzGibbon asked the reason, Curran responded, "I thought your Lordships might have been in consultation." Curran also claimed that FitzGibbon's known hatred for him deprived him of clients and of Chancery briefs worth £30,000.[39] This accusation is somewhat dubious. Curran's forte was courtroom forensics, not the dry intricacies of Chancery law. But if FitzGibbon did not actively conspire against Curran, he did behave with extraordinary impropriety in dragging the antagonisms of College Green into the Court of Chancery. His conduct toward Curran and

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37 Ibid.

38 *Dublin Evening Post*, 6 May, 1802

39 *O'Flanagan II*, p. 205

toward other, lesser lights who got into his bad graces presents a mournful contrast with his legal knowledge, his devotion to his office and his reforming zeal.

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Although he often behaved shamefully when hearing cases, he as often displayed his finest qualities when deciding them. Catholic suitors did indeed find a fair and frequently favorable hearing from him, as Falkiner claimed. In cases concerning tenures he was not as inevitably favorable to tenants as Falkiner believed. But he always strove to impose order and regularity on the surreal confusion of land title and tenure in Ireland. A passion to protect the rights of individuals and an unfailing compassion for the poor and hard pressed also characterized his decisions. Moreover, the anonymous editorialist of the *Dublin Evening Post* rightly noted his remarkable insight into human, and specifically Irish human nature.

With some exceptions, FitzGibbon gave Catholic claimants every possible benefit of the doubt, often at the expense of Protestants. His protectiveness and his generosity undoubtedly arose from that sense of past wrong that always haunted him. By offering them strict and certain justice in his courts, he tried to offer some redress for the violence and dispossession of the past, and to reconcile them to present English and Protestant rule.

For example, he dismissed the Protestant Lord Trimelston's attempt to repudiate two judgment debts on the grounds of religion. Trimelston had argued that the parties concerned, his father, another kinsman, and a merchant named Dillon, were all Catholics. FitzGibbon agreed that the religion of the parties may have affected the validity of the judgments; but he required stringent proofs that the parties were indeed Catholic and in this respect, Trimelston had manifestly failed to establish his case. As FitzGibbon tartly put it: "Not a tittle of proof of the religion of either [parties to the debt] was made in that cause, or suggested at the hearing of it in the Court of Chancery." [40] Because of this lack of crucial proof, and because of other absurdities and inconsistencies in Trimelston's case, FitzGibbon ordered him to pay the debts, amounting to nearly £4500, to the Catholic relation claiming them.[41]

Shortly after his elevation to the Seals in 1789, FitzGibbon dismissed a motion calling for the removal of a Catholic as guardian of a ward of the court. Although the Preston case remained in a state of tense deadlock, FitzGibbon dismissed the objection to

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40 *Ridgeway III*, p. 56

41 Ibid., pp. 24-79

this particular Catholic guardian as "groundless and frivolous." [42]

James Roche may have found FitzGibbon's manner on the bench a little too imperious for his taste, but his father Stephen certainly benefited from the judgment of their family friend. A Protestant discoverer had claimed an estate bequeathed to Stephen Roche by a brother. The brother had spent most of his life in Holland and had died in that country. Consequently, he had never taken the oaths of loyalty which in theory, if not in practice, were required of Catholics before they could benefit from the relief acts of 1778 and 1782. On this basis, the discoverer argued that the bequest to Stephen had no legal standing. FitzGibbon gave his decision in favour of Stephen. He had taken the required oaths and therefore had every right to inherit the property, regardless of his brother's negligence or simple incapacity.[43]

In the case of Cockburne v. Hussey, his scrupulousness in providing impartial justice to Catholic and Protestant alike led him to rule against a Protestant who certainly had a powerful moral, if not legal, claim. The case originated in the business transactions of one James Hussey. James, a resident of Drogheda, had conformed in Dublin in 1751. His father Stafford, consequently, became a tenant for life on the two family estates, Rathkenny and Galtrim. In 1767, James sold the reversion of Rathkenny to George Cockburne; six years later Cockburne purchased the reversion of the second estate, Galtrim. After James' death, Stafford took issue with the legitimacy of these sales. He argued that the certificate of conformity supposedly issued to his son gave his name as "James Hussey of Drogheda". Hussey maintained that his son had never gone by that name. Therefore, the certificate of conformity belonged to some other James Hussey. Since there was no proof of his son's conformity, Stafford claimed to be the rightful owner of the property, and not a tenant for life. Cockburne, and after his death, trustees acting for his son, set out to prove that James Hussey was indeed of Drogheda, and therefore, was the individual named in the certificate of conformity. No sooner had they established this fact, when they learned that if James Hussey was in fact of Drogheda, his conformity in Dublin had no validity. Conformity could take place only in the diocese of residence. James had clearly anticipated such a difficulty. He established residence in Dublin, and in 1762 he conformed again. Unfortunately, when the suit to eject Stafford Hussey finally came before Justice Henn in 1790, he refused to admit the evidence of James' second conformity. According to the case as it stood, James Hussey was of Drogheda and he had conformed, invalidly, in Dublin. Consequently, the flaw in his conversion invalidated the

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42 *Hibernian Journal*, 13 November, 1789; "Postscript" Column, 11 November, 1789

43 *Dublin Evening Post*, 31 December, 1789

sales to Cockburne. The Husseys remained in possession.[44]

Cockburne the younger then applied to FitzGibbon to allow a new trial, thus giving him a chance to establish James Hussey's residence in Dublin and the validity of his second conversion. FitzGibbon refused two such applications and in 1792 Cockburne appealed to the House of Lords. In accounting for his decision, FitzGibbon expressed great sympathy for Cockburne's situation:

> This case has certainly been attended with considerable loss and hardship for the appellant. His father had purchased the estate in question from James Hussey at considerable price as now appears, upon a bad title.[45]

Although he never said as much, FitzGibbon probably regarded old Stafford Hussey as a particularly loathsome example of a chicaning Popish father. But he could not allow Cockburne to disprove his old case and prove another which would support his title. To do so would impeach the integrity of all judicial evidence:

> This application, I will venture to say, stands unexampled in a court of Equity; it struck me as monstrous, and I refused it with costs---However, it was renewed in the next term, when I again rejected it with costs, conceiving it to be a most dangerous and unprecedented experiment; and that compliance with it must have subverted the first principles of justice. I cannot suppose, that the appellant's object is to fabricate evidence to meet the objection to his title which has prevailed in the Court of Law; but if I were to make the precedent for *him* it must be plain to every man of common reason that it would open the door to gross perjury and injustice.[46]

To preserve the "first principles of justice", to maintain inviolate the rule of law for everyone, regardless of religion, FitzGibbon was willing to allow even such as Stafford Hussey to prevail.

Nonetheless, there were some notable exceptions to FitzGibbon's favorable judicial demeanor towards Roman Catholics. In the case of Fauconberg v. Birch, heard on appeal in the Irish House of Lords in 1790, the law as it stood did not allow him to make a more favorable ruling. In the matter of a disputed estate claimed by the Hovenden family, which was Roman Catholic, FitzGibbon's fears and antagonism, in this instance got the better of him. Even his successor, himself no friend of the Catholics, found FitzGibbon's ruling highly dubious.

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44 *Ridgeway II*, pp. 504-33 offers a complete narrative of the case.

45 *Ridgeway II*, p. 533

46 *Ridgeway II*, p. 528

The case of Fauconberg v. Birch concerned the validity of a judgment debt between two Catholics, contracted in 1745, when the penal laws were in full force. FitzGibbon ruled that the judgments represented an attempt to evade what were legitimate laws. No money had changed hands; the debt was simply a ploy to allow one of the parties to claim an estate which he could not legally purchase outright. In short, a transaction which in 1790 may have been perfectly legal was, in 1745, a fraud. Although FitzGibbon himself, with varying degrees of enthusiasm had supported the repeal of the penal laws affecting property, the circumstances of the case obliged him to uphold such laws after the fact. Even the impeccably pro-Catholic Yelverton was of this opinion.

However much it rested on a strict point of law, FitzGibbon's opinion had curious echoes of his truculent, anti-Popery speeches of 1778. He raised once again the spectre of the ruthless, bigoted Catholic father preying on his convert son:

> ...by the act of passing judgments to the amount of £40,000 conformity to the established church was struck at, as it might be in the power of a father to cut off a son from his inherent right, insomuch that instead of a large estate, by such conveyance, he might not find himself worth ten pounds a year on the day of his conformity.[47]

None of the parties concerned in the case seem to have entered into the judgment out of paternal spite, at least according to published reports of the matter.[48] It would appear that FitzGibbon's visceral dread of Popish fathers made an irrational incursion on his legal reasoning.

His equal dread of dispossessed Catholics, waiting in "sullen indignation" to seize their lost estates, led in the Hovenden case to outright bad law, at least in the opinion of Lord Redesdale. This case involved estates claimed by three separate parties, the Hovendens, Lord Annesley, and Annesley's ter-tenants, the Saunders family. The Hovendens based their claim to the property on a decree of innocence awarded to an ancestor under the Act of Settlement. This decree, they argued, gave them precedence over Annesley, who claimed under a parallel grant of lands made, with extraordinary carelessness, by Charles II, and over the Saunders, who claimed on the basis of an alleged conveyance made by Annesley. In spite of his past attacks on the innate injustice of the Act of Settlement, FitzGibbon saw fit to deny those benefits of the act claimed by the Hovendens. A mere decree of innocence could not establish their claim. It merely left them at liberty to establish their title in a court of law: "...without such a prosecution of his

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47 *Freeman's Journal*, March 2-4, 1790, Parliamentary Report/House of Lords,March 1, 1790; *Ridgeway II*:, pp.147-75; Ridgeway does not record FitzGibbon's opinion

48 *Freeman's Journal*, op. cit.; *Ridgeway II*, pp. 147-175

right at law or such a patent, the claimant could never have gotten possession under the decree." [49] In effect FitzGibbon, who had in the past denounced the act for compelling Catholics to prove their innocence, increased the burden of proof. According to his ruling, Catholics were obliged to prove title to lands that himself admitted should never have been taken from them without conclusive evidence of treason or rebellion. A compelling fear of rapacious Catholics appearing in droves to claim lands under such decrees prompted this ruling: "...if his Lordship [FitzGibbon] were to decree title merely on the decree of innocence, he would shake to the foundation almost all the estates in the Kingdom." [50] In addition, he made this ruling in 1799, a year after a major Popish rebellion. No doubt he was particularly sensitive about the security of Protestant property. In a later appeal, Redesdale also dismissed the Hovendens' claim, but in so doing, he dismissed FitzGibbon's reasoning: "The ground on which he [FitzGibbon] is stated to have dismissed it is one which...did not appear to me as clearly tenable."[51] Redesdale himself ruled against the Hovendens on the more straightforward grounds that the innocent Papist of 1661 was outlawed in 1690 and that his descendents moreover had long allowed other parties to remain in possession of their alleged property.[52]

His decisions in suits involving tenants do not appear to fall into any particular pattern of favor, *pace* Falkiner. In a laudable effort to give FitzGibbon his due, Falkiner seemed to suggest that he unfailingly championed small, struggling farmers. Yet in most of the reported cases, the suitors were wealthy holders of long leases. FitzGibbon tended in such cases to emphasize strict adherence to fair, freely entered, and open agreements on the part of tenant and landlord alike. No doubt he was reacting to the entropy of Irish land tenure, where leases frequently lapsed without due renewal and where tenants frequently assumed the rights of owners.

For example, he refused a renewal claimed by lessees of an Irish estate held by the Duchess of Chandos, because the agreement in question lacked the consent of one of the parties. The original owner of the estate, George Brydges, had granted these leases in 1729. The previous year, he had sold the reversion of the estate to the Duke of Chandos. When the leases came up for renewal, the Duke refused to renew on the grounds of *laches* [neglect] and fraud. The lessees claimed that the original covenant with Brydges had stipulated a renewal. When Chandos died, the tenants revived the suit against the Dowager Duchess and her young daughter, Lady Anne Eliza Brydges. (By the time the case was

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49 *Schoales and Lefroy II*, p.611, footnote (b)

50 Ibid.

51 *Schoales and Lefroy II*:, p. 611

52 Ibid*II*, pp.73-109; *II*, pp. 607-641

heard, first in Chancery and then on appeal in the Irish House of Lords, the Duchess had gone mad. It is uncertain whether the confused state of her Irish affairs contributed to her mental collapse.) FitzGibbon maintained that Brydges had never informed Chandos of this particular encumbrance on the Irish estate. Since he had never acted as a party to the original agreement, neither he nor his descendents had any obligation to carry it out.[53]

This same preoccupation with the integrity of agreements appears to have shaped another decision against a tenant. The suitor, George Berney, actually was a small sublessor of 15 acres. Berney claimed that his head landlord, owing to an election grudge, had conspired with Berney's father and uncle to eject him from his lease for supposed non-payment of rent. The father and the uncle failed to pass on rent that Berney had paid for his share of the leasehold. Notwithstanding this allegation of fraud, Berney entered into an agreement with the head landlord, one Moore, to pay fines and arrears by a certain date, in return for reinstatement to his tenure. Moore then claimed that Berney had failed to pay the agreed upon sum at the agreed upon time and again revoked his lease. The case as reported by Ridgeway, is singularly confusing and contradictory; to make matters worse, the report includes no comment by FitzGibbon, who had a genius for elucidating obscurity that Ridgeway was sometimes content to leave unplumbed. FitzGibbon simply may have concluded that Berney had failed to keep his end of the bargain to which he had freely agreed; whatever injustices and oppressions he had suffered in the past, he therefore lost his right to the tenure.[54]

As the matter of the Blundell estate reveals, FitzGibbon could rule as readily in the tenant's favor, if he believed the landlord was reneging on a just claim. The landlord, or rather the landlords, were the heirs of Lord Blundell. They comprised Anna Maria Blundell, Mary, Lady Robert Bertie and the Earl and Countess of Hillsborough. The tenant in question, one MacCartney, had leased the manor of Dundrum from Lord Blundell for £700 per annum. Landlord and tenant soon fell out. MacCartney failed to keep up on his rent, and in spite of a covenant to renew in the original lease, Blundell's heirs denied a second lease. MacCartney, in response, refused to give up possession of Dundrum. After a long, tedious series of suits and countersuits, Anna Maria Blundell and her co-heirs made an offer to FitzGibbon, who had inherited the suit from Lifford. They would take the suit to the Court of Common Pleas. That court could then weigh MacCartney's claims for damages for the broken lease against theirs for "tortious possession" of Dundrum. This comparison was to result in an equitable settlement of all outstanding damages. FitzGibbon

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53 *Ridgeway II*, pp. 410-11;427; narrative of entire case, *III*, pp. 345-434

54 *Ridgeway II*: p. 317; narrative of entire case *II*, pp. 310-332]

agreed and the issue was tried. The verdict proved highly disappointing, not to say shocking, to Anna Maria Blundell and her co-suiters MacCartney's award far exceeded not only their own for "tortious possession", but the total assets of Lord Blundell's estate. Claiming that their lawyers had misled them, they appealed to FitzGibbon to set aside the agreement. FitzGibbon refused and the Blundell heirs took the matter to the Irish House of Lords. In defending his judgment, FitzGibbon once again appealed to the inviability of agreements, his guiding theme in determining all property and tenure suits:

> ...if your Lordships should establish such a precedent and reverse a leading order made by consent, upon the appeal of one of the parties to that consent, in my opinion, you will establish a most dangerous and unwarrantable precedent, more particularly as no objection has been made or can be made in this case to the leading order of the Court of Chancery as injurious in itself to the appellants---No; the injury of which they complain, if it exists, has arisen from their own deliberate act in another court---an act which was altogether their own, as the order of the Court of Chancery left it wholly in their option whether the make the set off or not in the the Court of Law.[55]

His fellow peers upheld the contract and the decree.

If FitzGibbon the politician gained a reputation for a tyrannical contempt for individual rights, his conduct as chancellor gives exactly the opposite impression. In his judicial conduct, he spared no effort to uphold political, civil and legal rights to their fullest extent. In Page in Error v. the King, heard before the Irish House of Lords in 1792, FitzGibbon disallowed the admission of two freemen to the borough of Dundalk, because, among other irregularities, the bailiff had failed to notify one qualified voter of the impending election. According to FitzGibbon, the bailiff's negligence not only deprived one man of his right to vote, it deprived his fellow electors of opinions and insights that might have influenced the election in another direction:

> ...though his vote could not make a majority, yet his reasons might have influenced a majority.[56]

Again, FitzGibbon's eloquence and his scrupulous notions of the rights of electors prevailed. The election was disallowed.

During Lord Kingston's trial for murder in May of 1798, FitzGibbon showed an equal scrupulousness for the rights of the lordly defendant. The circumstances of the murder were deliciously corrupt and thunderously melodramatic, in the finest tradition of

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55 *Ridgeway II*, pp. 590-1; narrative of entire case *II*, pp. 557-623

56 *Ridgeway II*, p. 501; narrative of entire case *II*, pp. 445-503

Irish aristocratic scandal. Colonel FitzGerald, an illegitimate relation, had seduced and eloped with Lord Kingston's daughter, Lady Mary King. Kingston and his son Robert duly tracked down the erring daughter and her seducer. Robert King defended his sister's honour in an inconclusive duel with FitzGerald. Lord Kingston, meanwhile, brought Lady Mary back to the virtuous seclusion of Mitchelstown. Kingston soon discovered that Colonel FitzGerald, unchastened by duel and disgrace, had followed Lady Mary to inveigle her into a second elopement. Kingston, again accompanied by an avenging brother, tracked FitzGerald down to a nearby inn. In the angry confusion that followed, FitzGerald aimed a pistol at young King, and Kingston, to defend his son, shot and killed FitzGerald. In the capacity of Lord High Steward, FitzGibbon presided over the trial in the House of Lords. His address to Lord Kingston generously set forth several possible defenses and offered tactful and kindly reassurances:

> Robert, Earl of Kingston, you are brought here to answer one of the most serious charges that can be made against any man---the murder of a fellow subject. The solemnity and awful appearance of this judicature must materially discompose and embarrass your lordship. It may therefore not be improper for me to remind your lordship that you are to be tried by the laws of a free country, framed for the protection of innocence and the punishment of guilt alone, and it must be a great consolation to you that you are to receive a trial before the supreme judicature of this nation, that you are to be tried by your Peers, upon whose unbiased judgment and candour you can have the firmest reliance...It will also be a consolation to you to know that the benignity of our law has distinguished the crime of homicide into different classes. If it arise from accident, from inevitable necessity, or without malice, it does not fall within the crime of murder, and of these distinctions, warranted by evidence, you will be at liberty to take advantage.[57]

Lord Kingston had no need to make use of the elaborate defenses FitzGibbon offered to him. His fellow peers quickly came to the conclusion that regardless of accident, necessity or malice, Lord Kingston had acted as became any wronged father, and they accepted his plea of "not guilty."

FitzGibbon's loveliest quality, his compassion for the poor and hard-done by graced many of his decisions. The *Hibernian Journal* reported one instance of both pity and promptness of decision:

> The humanity and attention of his Excellency the Lord Chancellor was exemplified a few days in a very extraordinary manner. A trader who by various misfortunes in trade had been reduced to a state of bankruptcy, and against whom a commission had issued and who had complied with every requisite specified in the act for the relief of bankrupts, was arrested at the suit of an unrelenting and severe creditor (the debt by no means originating with the bankrupt) and thrown in jail. Under

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57 *O'Flanagan II*, p. 243; for O'Flanagan's own highly charged version of the case, see *II*, pp. 235-45

> these circumstances, together with his having a summons from the commissioners named in the Commission which had issued against him, to attend them on a future day, the bankrupt was advised to petition the Lord Chancellor, which he did, and verified his petition by affidavits. The Lord Chancellor on reading the petition and the affidavit, instantly made an order in his own handwriting, that the bankrupt should be immediately discharged out of custody, and he was discharged accordingly.[58]

The matter of the dreadful Redington family offered yet another conspicuous example of FitzGibbon's compassion, as well as his penetrating common sense. The parties in the suit comprised the widow and children of one Michael Redington, a bankrupt merchant, Michael's brothers Nicholas and Thomas, and Thomas's son and namesake. The hard dealing of old Thomas Redington, father of Michael, Nicholas and Thomas, was the root of the case. Redington, apparently a Protestant himself, had married a Catholic lady and had reared his children in their mother's religion. Therefore, he was a Catholic, to all intents and purposes, under the penal laws. Redington, who emerged from the reports of the case as an extraordinarily mean-spirited, rapacious and unscrupulous individual, undertook an elaborate serious of schemes to evade the consequences of his legal status. He encouraged two sons, Nicholas and Michael, to convert to the established church. Through the agency of Nicholas, who acted as the nominal buyer, Old Redington acquired the estates of Lisinalla and Kilcornan. He bestowed Lisinalla on Nicholas and Kilcornan on Thomas, his remaining Catholic son. Michael set up as a merchant in Cork, and soon he too was purchasing property on his father's behalf. Through his agency, Old Redington acquired two additional estates, Cahirowen and Reyhill.

In 1775, Michael started having financial difficulties. His father refused to give him any assistance. Instead, he compelled Michael to enter into an enormous judgment debt that would have made his father his premier creditor in the event of a bankruptcy. Old Redington, of course, did not give Michael a penny of this supposed loan. He aimed above all at protecting his investment in the two estates which Michael had allegedly bought. Michael eventually did go bankrupt. He fled the country, and by the time the case came before FitzGibbon, he was presumed dead. Old Redington then came into possession of Michael's estates as chief creditor. His callousness toward the son fortunately did not extend to the son's widow and children. They lived with old Redington until his death in 1780.[59]

Old Redington's second son and namesake then paid Mrs. Michael a maintenance of £93 6s 8 d, which amounted to one third of the rents of Cahirowen and Reyhill. Mrs.

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58 *Hibernian Journal*, 2 December, 1789; Dublin news, 1 December, 1789

59 *Ridgeway III* , pp. 106-113

Michael accepted this money under the impression that she was receiving her legal share from property that old Thomas had left to her husband and to her children. Thomas Redington II, who seems to have inherited many of his father's more unlovely traits, later claimed he had paid this odd sum strictly out of friendship for his unfortunate sister-in-law.[60] In 1788, Michael's oldest son, also named Thomas, came of age and claimed the two estates of Reyhill and Cahirowen. Like his mother, this Thomas Redington assumed that his grandfather had rescued the estates from bankruptcy for the benefit of Michael's widow and children. His uncle and namesake and his uncle Nicholas opposed this claim. They declared that Michael in fact had purchased the estates in trust for his brother and for his nephew. It was a particularly hard claim, since Thomas the son of Michael had nothing, while his uncle Thomas possessed a tidy estate of his own, and his cousin had inherited the bulk of old Redington's huge personal fortune.[61]

The suit went first to Chancery and then to the Irish House of Lords in 1794. In both his court and in the Lords, FitzGibbon upheld the claims of Michael's family. In his superb elucidation of this squalid and confusing case, FitzGibbon appealed to the principle of Fauconberg v. Birch. If Michael had indeed purchased the properties in trust for his Catholic father and brother, he had violated the laws of the time. Thus the whole transaction was therefore void. [62]

Apart from the limitations of the penal laws, Thomas, as the supposed beneficiary, had a compelling obligation to offer proof of any trust. He had manifestly failed to support his bare assertion of the trust's existence. On the contrary, his public actions all suggested that he, in fact, was acting as trustee for Michael and his family. For example, he had given a bid for the property on his brother's behalf, since Michael could not attend the auction in person. Michael, in return had given Thomas £100 for his services as agent. Whatever his claims of friendship, Thomas had paid his sister-in-law the precise sum of her dower right to the property, another indication that he knew perfectly well that Michael and his family were the rightful owners. FitzGibbon dismissed as "wild and fantastical" any claim that Thomas was pretending to act as trustee for his own trustee.[63]

Above all, the claims against Michael's hapless family simply violated all notions of

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60 Ibid, pp. 114-5, 170

61 Ibid., p. 115

62 Again FitzGibbon did not specifically mention Fauconberg v. Birch, though his reasoning was clearly in the same spirit. He drew on the precedent of Bowes v. Shrewsbury, which directly addressed the issue of Catholic property trusts. (*Ridgeway III*, pp 184-6) Nonetheless, FitzGibbon did turn a blind eye to Thomas Redington's acquisition of Kilcornan through the agency of his other Protestant brother, Nicholas.

63 *Ridgeway III*, pp. 187-88

sense and decency. Even a man as crabbed and selfish as old Redington would not have consigned Michael's wife and children to beggary, after having received them in his house.[64] Moreover, his will strongly suggested a settlement of some kind.[65] FitzGibbon contemptuously brushed aside the claim of the Redington brothers that their father had been referring to money advanced to Michael when he set up as a merchant. To suggest that old Redington would have considered this lost money a provision was ridiculous.[66] Moreover, in his account book, he had indicated that the advances to Michael were "on account," which surely meant that he intended to make a further provision.[67] In addition, old Redington had suggested that Michael and Nicholas had received equivalent settlements. Since Nicholas had received an estate from his father, however dubiously, then the same held true for Michael.[68]

FitzGibbon's statement of the case is striking, not only for the clarity and power of his statement of the facts, but for his obvious pity for the hapless Michael. In one particularly felicitous and stinging turn of phrase, FitzGibbon noted old Redington's displeasure at Michael for "the crimes of poverty and misfortune."[69] FitzGibbon brought this wretched tale of penal law corruption to the most satisfying possible conclusion. The House of Lords upheld his ruling and confirmed Michael's son in the ownership of Cahirowen and Reyhill.[70]

His rule of the 2nd of December, 1800 seems out of FitzGibbon's usual compassionate character. It declared that if a pauper plaintiff failed to appear for the hearing of his cause, "in such case the defendant in such cause shall be entitled to have his costs of the day against such plaintiff, notwithstanding such plaintiff being a pauper." [71] FitzGibbon undoubtedly reasoned that poor suitors ultimately benefited the most from the swift determination of causes. Therefore, he had to discourage any kind of delay, even if that delay came from pauper plaintiffs who otherwise merited his compassion.

FitzGibbon had a remarkable gift, not only for making cogent summaries of confused facts, but for penetrating the darker mysteries of human motivation. The sharp, cynical observations which enliven his opinions suggest that he could have made a very fine novelist, had he cared to pursue the literary life. His opinions often read like a bleakly

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64 Ibid., p. 199
65 Ibid.
66 Ibid.
67 Ibid., p. 191, 193
68 Ibid., p. 199
69 Ibid., p. 197
70 The complete narrative of this very complex case can be found in *Ridgeway III*, pp. 106-203
71 Hughes, p. 223

humorous novel of high life and low life in Georgian Dublin. In dismissing the will of Dorothea Napper, FitzGibbon executed an acute pen portrait of a half-crazed alcoholic spinster, vulnerable to every kind of trickery and undue influence:

> Upon inspecting the proofs in this cause, it appears to me that the said Dorothea Napper had been for some years before her death of a very capricious and extravagant turn of mind, and much addicted to the excessive and intemperate use of spirits. Considering her, therefore to have been a probable subject for imposition, I am humbly of opinion that there is sufficient ground for the objection, inasmuch as the evidence of her original instructions for this will is extremely defective and suspicious and the will does not correspond with the instructions which are alleged to have been given by the deceased for preparing it.[72]

The matter of Kiely v. Monck gave FitzGibbon a pretext to denounce paternal tyranny and to elucidate at length the financial plight of marriageable men in Ireland. The father of Ann Kiely, the plaintiff, had bequeathed her her £1800 on two conditions: she was to receive permission for any marriage from both her mother and her uncle, and she was to confine her choice to a man who had a freehold estate of £500 per annum, clear of encumbrances. If she failed to meet either or both of these requirements, she could not inherit. Ann married the Reverend Mr. Kiely after obtaining her mother's and her uncle's permission, as specified. Unfortunately, she apparently failed to ascertain his financial position carefully enough. When she applied to her brother for her legacy, he refused, on the grounds that Mr. Kiely, whatever his other charms and graces, did not meet their late father's financial criterion. To FitzGibbon's mind, the old man's conditions were so unreasonable as to prevent Ann from marrying altogether. Few, if indeed any, men could claim an estate of £500 per annum, free and clear of encumbrances. His account of the economic situation of young middle-class bachelors has the social realism of a Trollope or a Balzac:

> How many particular professions are virtually excluded by that condition? What man of the profession of law has set out with a clear, unencumbered real estate of £500 a year, or has acquired such an estate for years after his entry into the profession? How many men of the other learned professions can come within this condition? It will in effect exclude 99 men in 100 of every profession, whether civil, military or ecclesiastical. It in effect excludes nearly every mercantile man in the kingdom, for let his *personal* estate be never so great, unless he is seized of *real* estate of the ascertained description, he is excluded. Every man who has an estate in remainder only, be the value what it may, is excluded.[73]

In short, this "weak old man" [Ann's father] had gone far beyond the legitimate authority

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7 2 HO 100/32/f180-3

7 3 *Ridgeway II*, pp. 263-4

of a parent and had virtually condemned Ann to spinsterhood. His action clearly violated legal precedent which prohibited unreasonable conditions in restraint of marriage. Ann's father had moreover, left a miserable legacy of family discord, which FitzGibbon described with his wonted moral indignation and novelistic power:

> And I cannot but say that the scenes of enmity and discord and disunion which has now prevailed for years in this family, ought to teach any man who hears me the mischievous folly of attempting to judge his narrowness, and caprice, even after he has sunk in the ground.[74]

FitzGibbon's powers of observation sometimes failed him. In the case of John Magee, publisher of the *Dublin Evening Post*, FitzGibbon possibly allowed his own personal enmities to affect his judgment. In the autumn of 1789, Magee had become embroiled in feud with Francis Higgins, the government's hired hack, and with Lord Clonmell, the Lord Chief Justice of the King's Bench. His two formidable adversaries retaliated with a libel suit, which they won. Clonmell, flushed with legal victory, subjected Magee to a succession of imprisonments and fines. Magee faced additional legal anxiety when his brother, appalled at his reckless defiance of authority and at other instances of mental instability, sued to commit him as a lunatic. FitzGibbon dismissed the brother's suit. Magee, he argued, had undoubtedly shown extraordinary folly in many of his actions, but such behavior hardly constituted grounds for a claim of lunacy:

> ...there was no occasion---there was not a shadow of a ground for his issuing a commission, supposing all the charges true---they only amounted to acts of extravagance and indiscretion----but that was no ground for a Commission of Lunacy---if he was to grant one against every man who was to do an extravagant, an unwise, or even a bad thing, he was afraid he would have a great many wards of the court.[75]

For a brief period after this judgment, the *Dublin Evening Post* surpassed even *Falkiner's Dublin Journal* and Francis Higgins' *Freeman's Journal* for fawning, both in prose and in verse:

> Long mayst thou reign upon the judgment seat
> Long mayst thou be the guardian of the land
> Long mayst thou live to keep thy country great
> Esteem'd, entrusted with its chief command.[76]

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74 *Ridgeway III*, pp. 263-4; for a complete narrative see pp. 205-66

75 *Dublin Evening Post*, 3 October, 1789

76 *Dublin Evening Post*, 13 October, 1789

FitzGibbon may have dismissed the lunacy suit , not because of his wisdom and benevolence, but because he saw an opportunity to snub his enemy Clonmell, who was in hot legal pursuit of Magee. Whatever FitzGibbon's motives, his decision proved disastrously mistaken. By 1797, Magee had lapsed into unmistakable madness and his newspaper came under the jurisdiction of the Court of Chancery.[77]

FitzGibbon's precision and pride of intellect made him sharply critical of his peers when they erred. At various times in his career as Chancellor, he directed his wrath toward a Judge of the Prerogative Court, the already sullied Baron Hamilton, Baron Power, and his old associate Patrick Duigenan. Their respective faults of judicial error, carelessness, financial impropriety and simple undignified mischief-making provoked his anger and his judicial intervention.

In the case of the judge of the Prerogative Court, FitzGibbon took issue with his handling of the disputed will of one James Goodwin, and he petitioned the King at length to grant a commission of review. Goodwin's nephew William had originally petitioned the Prerogative Court, an ecclesiastical tribunal which shared jurisdiction over wills and testaments. He requested this court to set aside a will disinheriting him and benefitting instead one Theodore Giesler. Shortly before his death, in August of 1788, Goodwin had abruptly left the home which he had long shared with relatives, and took up residence in the house of Giesler, "a native of Germany and an utter stranger to him." Giesler first prevailed on the ailing and confused old man to grant him a loan, on a very questionable security. Then, on the day before his death, Goodwin hastily drew up a will in Giesler's favor. FitzGibbon account of the case gives an unmistakable impression of psychological pressure, not to say intimidation: Goodwin was "surrounded by Giesler and his immediate friends and connections."[78] To complete the suspicious picture, FitzGibbon observed that Esther Patrickson, "who is nearly related to the wife of Giesler", acted as the old man's amanuensis. William Godwin's counsel noted the contradictions between the evidence of Patrickson and of the two witnesses to the alleged will, and called for its condemnation as a fraud. Instead of making a ruling on the proofs as they had already been presented, the judge, whom FitzGibbon discreetly left unnamed in his petition to the King, took "a most unwarrantable course of proceeding."[79]

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7 7 An excellent and thorough account of Magee's ill-fated legal battle with Clonmell and Higgins appears in Brian Inglis's *Freedom of the Press in Ireland*, pp. 55-6 and 75-9; Inglis makes the very plausible suggestion of FitzGibbon' s motives for dismissing the case on p. 77

7 8 Privy Council Papers (PC), 1/13/44

7 9 He was probably Stephen Radcliff, who was called to the bar in 1752, and who served as judge of the Prerogative Court until 1792

The anonymous judge permitted Giesler's counsel to subject Patrickson to a *viva voce* examination, with a view to clarifying the contradictions in her earlier testimony. He then called for an examination of the two subscribing witnesses, again by Giesler's counsel. In his legitimate desire to establish the facts and to clear up inconsistencies, the judge in effect gave Patrickson and the other witnesses an opportunity to re-frame more convincing stories with appropriate guidance by sympathetic counsel. As FitzGibbon noted, Esther Patrickson could have been present in court to hear the objections presented by William Goodwin's counsel. By implication the two witnesses of the will as easily could have heard Patrickson's public *viva voce* examination and adjusted their testimony accordingly. FitzGibbon allowed that the judge could rightly examine the witnesses privately to "inform his conscience." But advocates in the cause were totally unsuited to do so; their examinations inevitably would "be influenced by their zeal for the interests of their client." In short the judge had badly undermined the integrity of the evidence with this unwarranted procedure. It was enough to madden FitzGibbon, who was a stickler for both rules of evidence and for correct procedure, and his appeal to the King clearly shows his irritation:

> From every inquiry which I have been able to make, this proceeding stands unexampled in this county and in my humble opinion, if it shall be drawn into precedent, must have the most dangerous consequences to the jurisprudence of your majesty's ecclesiastical courts in this kingdom. To re-examine the witness *viva voce* at the hearing, to supply a defect or to explain a contradiction in the testimony originally given which may bear directly upon the merits of the cause is a proceeding in my humble opinion, subversive of the first principles of justice.[80]

In addition to allowing impeached evidence, the judge had overlooked a significant item of information in the testimony of Charlotte Higgenbottam, with whom the old man had lived before he fell in with Giesler. She declared that the signature, J. Goodwin, was a forgery. According to Mrs. Higgenbottam, Goodwin had always signed either his full Christian name or he had used the abbreviation "Jas". The judge, nonetheless, gave more weight to the testimony of Patrickson and her confederates and had upheld the validity of the will. In a separate letter to Loughborough, FitzGibbon all but declared that the Judge of the Prerogative Court had behaved like a senile old fool and had put to shame the entire system of Irish ecclesiastical courts:

> Your Lordship will, I trust, upon reading my report, be of opinion that I could not in justice have done otherwise. But as it contains a statement which I am sorry to say does not reflect much credit upon that particular branch of jurisprudence in this

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80 PC 1/13/44

> country, I wish to apprise your Lordship that the late Judge of the Court of Prerogative, at the time he heard this cause, was considerably impaired in his faculties and that he retired from his situation very soon after he had pronounced sentence in it.[81]

He made a still harsher indictment of the Court of Delegates, whither Goodwin had carried an appeal. FitzGibbon faulted the judges for refusing Goodwin's request for a delay of one day to examine the record of past proceedings and to prepare his plea. Consequently, Goodwin was unable to present his case adequately, and the Court of Delegates re-affirmed Giesler's claim. To FitzGibbon, this decision weighed particularly harshly on Goodwin, whose "extreme state of poverty" prevented him from consistently pursuing his case. Goodwin, in fact, was entitled to more time than he had actually requested:

> When a record is removed from any of your Majesty's Courts of Law by writ of error, the plaintiff in error has four days allowed to him to assign errors, to the end that he may have an opportunity of inspecting the record, and if it has not been faithfully certified to the court of error, of alleging diminution.[82]

The Court of Delegates not only willfully prevented Goodwin from examining the record of the earlier trial, they themselves carelessly disregarded that same record. FitzGibbon implied that any reasonably careful examination of the "transmiss" would have revealed flaws in the evidence and in the proceedings:

> ...as they had determined to pronounce final judgment upon the appeal submitted to them, without affording to the appellant an opportunity of being heard by his advocates and counsel upon the merits of his cause, in my humble opinion, it was their duty minutely to have inspected the whole transmiss and to have weighed attentively all the proofs which had been made in the cause and were certified to them, before they ventured to pronounce a sentence which must ultimately conclude the rights of the parties.[83]

In short, the conduct of the Court of Delegates offended not only his strict sense of judicial propriety, but his sense of the courts as a certain refuge for the poor. FitzGibbon laid the greatest share of blame on Baron Hamilton, who had acted as one of the delegates; he "was at times induced to expedite the decision of a court somewhat more than as perfectly consistent with due attention to its merits." [84] Apparently, Hamilton had learned nothing

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8 1 HO 100/56/f25-6

8 2 PC 1/13/144

8 3 Ibid.

8 4 HO 100/56/f25-6

from the affair of David FitzGerald in 1788. His old slapdash habits of business persisted. The existing records do not indicate whether Goodwin obtained a re-examination of his cause. It is clear that FitzGibbon made a powerful case both for Goodwin's rights and for the weaknesses of the judges' decisions.

Baron Power literally preferred to die rather than face censure from FitzGibbon. In addition to serving as a judge of the Exchequer Court, Power held the position of Usher of the Court of Chancery. Traditionally, the Usher had the right to claim the interest from all monies held in trust by the Court of Chancery. Power exceeded the limits of this perquisite when he appropriated the interest on the Irish rents of the Duchess of Chandos, who was not only a suitor but a ward in Chancery. According to the agreement made with her tenants and with her trustees, both rent and interest were to remain in trust. When the Chandos tenants and trustees learned that Power had made the interest over to himself, they complained to FitzGibbon. He promptly issued a characteristically peremptory order for Baron Power to appear in the Court of Chancery to account for the appropriated money. To Power, a haughty man who, in company with many others, detested FitzGibbon, this order constituted the worst humiliation. He did humble himself enough to plead his rank as a fellow judge and the long-standing practice of his office. Powers' rank had little weight with FitzGibbon, who prided himself on upholding the law without fear or favor. Nor did FitzGibbon, with his fastidious standards of judicial integrity, find Powers' claims of long-standing usage convincing. He had appropriated money in violation of a clear decree in Chancery, and he was obliged to account for it, as ordered. Power evaded his relentless colleague by the only means possible. The Sunday before his decreed appearance in Chancery, Power rode his horse to a pier near Ringsend. He dismounted, turned the horse over to the keeping of his servant, and walked off the pier. His body was washed ashore several days later.[85] In one of his few acts of patronage to a family member, FitzGibbon later bestowed the office of Usher in Chancery on his son Richard, the profits of which were to provide him with a portion of £20,000.[86]

Patrick Duigenan's antics as King's Advocate in the Court of Admiralty aroused the displeasure of his former counsellor. The case which set them at odds originated in events occurring before and during the naval war with Spain in 1796-7. A captured Spanish vessel, the *Descada.* was the source of contention. Sir William Scott, the eminent judge of the English Admiralty, had condemned the *Descada* as a prize of war, which made all merchandise on board royal property. Duigenan, from the venue of the Irish Admiralty

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85 *O'Flanagan II*, pp. 208-11

86 PRONI, 3244/11/1 (FitzGibbon's will)

Court in Dublin, intervened in the case on behalf of two Irish merchants resident in Havana, René and Edward Payne. They had insured goods belonging to one Allwood, another merchant, presumably Irish as well, resident in Havana. In so insuring Allwood's merchandise, they paid the rates demanded for neutral shipping. In return for payment of the insurance and in satisfaction of debts which Allwood owed to them, the Paynes were to receive the proceeds from the sale of the goods in Hamburg. Unfortunately, while the *Descada* was enroute to Hamburg, hostilities again resumed between Spain and England. Evidently, Duigenan had instituted a suit on behalf of René and Edward Payne to declare the ship and its cargo *British* and not Spanish property. In so doing, according to FitzGibbon, Duigenan acted "not only without authority from the Irish government, but against the strong remonstrances of Lord Camden [then lord lieutenant] from the first moment he heard of them." In response FitzGibbon again wrote to Loughborough and promised to put a curb on Duigenan's proceedings. He again indulged himself in castigating the indiscretion and foolishness of another of his colleagues in the Irish judiciary: "It seems necessary for me to state that his Majesty's Advocate is not a very right headed nor yet a very practicable man." [87] FitzGibbon would make every effort to "bring him to reason." But if Duigenan persisted in his trouble-making, FitzGibbon expressed perfect willingness to see him removed from office.[88] In passing, he also had some unkind words for Jonah Barrington, who, in spite of his patriotic principles, had managed to secure an appointment as admiralty judge. Barrington "shelters himself under the proceedings carried on by Dr. Duigenan and alleges with some appearance of reason that so far as the suit has gone, he could not but entertain it, when prosecuted by the King's Advocate in the name and on behalf of His Majesty." Yet Barrington knew perfectly well that the suit was frivolous and spurious. Clearly FitzGibbon more than reciprocated Barrington's contempt. Duigenan apparently allowed himself to be brought to reason. Six months after these proceedings, he and FitzGibbon purged Trinity College of United Irishmen, with every appearance of harmony.

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Above all, FitzGibbon displayed an absolute intolerance toward any aspersions on his conduct as a judge. He condemned the Redington family not only for callous greed but for publishing their own version of the suit, including highly critical comments on the Lord

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87 HO 100/70/f363-4

88 Ibid.

Chancellor's decision of it. In their case, he merely threatened prosecution if they, or any other suitor repeated the offense.[89] Others were not so lucky. In 1799, FitzGibbon brought suit against one Parry, the proprietor and editor of an English radical newspaper called the *Courier*. Parry's accusations of corruption on the bench distressed FitzGibbon as much, if not more, than the alleged editorial calls for his assassination.[90] He refused all offers of a mere apology and requested damages of £2,000. The English jury placed a somewhat lower valuation of £1,000 on FitzGibbon's reputation.[91] Nonetheless, he pursued Lord Aldborough, a fellow peer, far more relentlessly than he did semi-convert gentry or English journalists.

The business started on January 16, 1797, when Aldborough, an eccentric as well as a hot-tempered man, introduced an address to the King. It was an odd, rambling production recommending, among many other things, the increased manufacture of rope and sailcloth, the improvement of Irish coinage and the maintenance of a fleet off the Irish as well as the English coast.[92] FitzGibbon refused to receive the address, because Aldborough had presented it out of the usual order of business. All of the other peers who spoke on the matter, notably Dillon and Clonmell, supported FitzGibbon. Piqued, Aldborough entered the rejected address on the Journals as a protest.[93]

Four days later, Aldborough presented another address, thanking the yeomanry of Ireland for their loyal good service. This composition too his fellow peers rejected, first because it duplicated portions of the Speech from the Throne, and secondly because it made invidious distinctions between the yeomanry on one hand and the regular forces and the militia on the other. Aldborough's pride, already sore from the first rejection, rebelled at this second. He made the curious rejoinder that he had the"highest respect" for the regular forces and the militia, but "they are composed of the very refuse of society." Quite apart from militiamen and regulars of low degree, a "noble lord, high in station" provoked Aldborough. FitzGibbon, he claimed, had "beckoned to one or two other noble lords, his friends, to oppose me." Aldborough proceeded to attack FitzGibbon for this perceived insult to a fellow peer:

> The learned lord and I are at issue; he is not my friend and I am not his friend; and however high the ministerial situation of the learned lord, it was unparliamentary to treat a Peer of this realm with disrespect or set his face against this motion, for all

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89 *Ridgeway III*, pp. 202-3

90 *Hibernian Journal*, 10 May, 1799

91 Ibid., 10 July, 1799

92 *Freeman's Journal*, 17 January, 1797; Parliamentary Reports/House of Lords, 16 January, 1797

93 *Journal of the House of Lords (Ireland) VII*, pp. 493-4

he may be carried about in ever so much state.[94]

In his response, FitzGibbon cast ridicule on Aldborough's addresses on his claims that he had resorted to a "*beckoned* opposition": "Did any possible cause exist why I should be afraid to stand up in my place and express with freedom my sentiments on any motion of his?"[95] FitzGibbon then suggested the true reason for Aldborough's anger: he had previously decided two suits in Chancery against Aldborough himself. One of the suits involved actions taken against Aldborough's sister, Lady Elizabeth Tynte. The second concerned a sale of property, which had adversely affected Aldborough. FitzGibbon claimed further that Aldborough, while the matter of the Tynte estates was pending in Chancery, had tried to influence his judgment:

> ...I will beg leave to set the noble Earl right in this respect, and probably he will agree in the correction if his memory serves him relative to a correspondence with which his lordship was pleased to honor me about two sessions ago---a cause was then pending in the Court of Chancery in which a near relation of the noble earl was concerned. [Lady E. Tynte] On this subject the noble earl wrote me a letter of such a nature that when I perceived its tendency, I committed it to the flames.
>
> I received another letter on the same subject, and he even attempted to press it on me in the street. I took no other notice then of such an indignity offered to me and to justice, then merely telling the noble earl that many men were induced to acts of impropriety by female influence.---notwithstanding, the solicitations were renewed by letter, and I was obliged to order my porter to write the noble earl a card, prohibiting the further honor of his correspondence; and had he persisted, I will now tell the noble earl, that I would have laid his estates under sequestration and made him feel the indignation and integrity of justice.[96]

Aldborough made no recorded public reply to these remarks. Instead, he resorted to a printed vindication of his own conduct and a ferocious attack on FitzGibbon's public and private character. He accused FitzGibbon of willful corruption in judging suits in Chancery, of arrogance and impropriety in presiding over the House of Lords, and of the arbitrary removal of perfectly honest magistrates from their commissions in Wicklow. In particular, he gave his own highly charged version of the causes to which FitzGibbon had alluded. In the matter of Lady Elizabeth Tynte, FitzGibbon had abruptly changed the receiver of the rents of her late son's estate; this action he took without any consultation with Aldborough, a trustee of Sir James Tynte. In addition, FitzGibbon had seized Lady Tynte's jointure and personal property out of mere personal, arbitrary spite. This last

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94 *Freeman's Journal*, 21 January, 1797; Parliamentary Reports/House of Lords, 20 January, 1797

95 Ibid.

96 Ibid.

action, as Aldborough noted in another of his many commentaries on the case, "reduced a widow lady of respectability to beggary." As for the second suit, Alborough accused FitzGibbon of deliberately preventing him from purchasing an estate and of favoring instead the claims of his relation, Marcus Beresford. He crowned these accusations with an anecdote about an extortionate Dutch skipper whom Aldborough had allegedly encountered in his travels. According to this tale, Aldborough had brought suit against the skipper for his various frauds, only to find, when he arrived in court, that the skipper himself was acting as judge. The skipper of course decided in his own favor. Aldborough then expressed a determination to appeal, but he soon dropped the matter when he learned that the skipper would preside over that suit as well. Of course, the tale had nothing to do with the perils of Dutch jurisprudence, and everything to do with the Court of Chancery in Ireland.[97]

According to Aldborough's own characteristically muddled and self-serving account, he had intended to distribute these printed copies privately to his friends. One of them, whom Aldborough never named, betrayed him and showed a copy to FitzGibbon. FitzGibbon then dispatched Marcus Beresford to the printer to purchase a copy. The printer informed Beresford that "he had none to sell." The printer unfortunately committed the indiscretion of leaving copies not only in full view but within reach of Beresford, who peremptorily seized one. The day following this transaction, FitzGibbon rose, appropriated pamphlet in hand, to denounce "one of the most infamous and daring libels ever uttered either against any individual or legislative Assembly."[98] FitzGibbon made an elaborate pretense of attributing the infamous and daring libel in question to the hapless printer, who, he pretended to believe, had misappropriated Aldborough's name. But he knew full well the true identity of the "reptile of a libeler." His supposed misapprehension gave him the liberty to indulge his fury to the full.

FitzGibbon adverted first to the charge that he had cheated Lord Aldborough out of an estate which was being sold to settle the claims of a suit in Chancery. In response, he read records of the Court indicating that had in fact, kept the sale open at Lord Aldborough's request, even after three other men had made bids and deposits on it. Lord Aldborough had promised to come forward, within two weeks with £280 more than the other bidders. Although he failed to keep his part of the bargain, he nonetheless applied again to FitzGibbon to keep the sale open. The fact that the estate adjoined his own

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97 Aldborough Papers,T3300/13/16/4 and T3300/13/15/4; I have not been able to locate a copy of the actual print. I have extrapolated the contents from rough drafts of speeches in the Aldborough papers and from his lordship's own descriptions of the offending print in the same collection.

98 *Freeman's Journal*, 9 February, 1797; Parliamentary Reports/House of Lords, 6 February, 1797

accounted for Aldborough's persistence in the matter. As FitzGibbon explained to the Lords:

> "[he] urged as a principal inducement to my holding open the sale that the possession of the estate would give him considerable influence at the next general election and materially preponderate against that of a noble Lord his neighbor, in possession, but not residing in this kingdom; he urged in excuse for not coming forward agreeable to the condition [by] which I had made the order for keeping open the sale, that he was building a great house near Dublin, which employed all his money and where he hoped he should frequently have the pleasure of seeing me, with much more matter to this effect." [99]

In justice to the other parties, who were anxious to settle the business, FitzGibbon decreed the estate to the highest of the original bidders, Dominic McCausland, who "paid the full purchase money and was put in consequent possession."

As for the claims about wholesale and unjust dismissals of magistrates, FitzGibbon offered this explanation:

> I do recollect that there was a period when the legislature of this country thought it expedient to issue afresh the Commissions of the Peace; in doing so, and I am sure, adhering to the intention of such regulation, I remember having omitted the name of a distiller in Baltinglass, and mainly because I did not think any man in his situation sufficiently independent of all influence to be entrusted with so very important a function as that of magistrate. I am not sensible of any other instance of this kind with could affect the noble earl.[100]

FitzGibbon's account of the matter of Lady Elizabeth Tynte suggested not a wronged woman arbitrarily deprived of her just maintenance, but an incompetent and a dishonest spendthrift:

> ...on the demise of the late Sir James Tynte's father, Lady Elizabeth Tynte was appointed executor; that the birth of Sir James having been posthumous, a minority of 21 years consequently ensued; that certain heavy encumbrances affected the estate, none of which were removed, that he dying and some circumstances occurring added to the suits instituted in the Court of Chancery for recovery of these encumbrances, his Lordship [FitzGibbon] had appointed receivers to the estates, and the consequence was, by the prudent and judicious management of the receivers, the incumbrances were nearly all discharged and that by the time the children of Sir James shall have arrived at age, their...possessions will devolve to them undiminished instead of being wasted away...as they would have been were they suffered to remain in the hands from which the libeler [calls] their act of removal an injustice. To state the foundation in truth of this opinion, his Lordship

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99 Ibid.

100 Ibid.

> said that during all the time of Sir J's minority and since his death to this very day, Lady E Tynte could not by any means be brought to account for the receipt of the estates for that period... and were it not for the indulgence of the opposite party, he must have been obliged by the rules of his court to enforce her compliance by ordering her ladyship to prison.

FitzGibbon played the charade to the end by moving that the printer of the libel be ordered to the bar of the House of Lords. Aldborough, in response, asserted both his own authorship, and the truth of what he had written:

> The Earl of Aldborough said he would prove every word in what the noble earl called a libel to be founded in fact and to contain nothing but the most literal truth.

Halpern, the printer, did make a token appearance before the Lords, to confirm Aldborough's self-incriminating statements. Lord Aldborough, he informed the Lords, had indeed given him the material in question. With a supreme lack of curiosity, Halpern had never examined the original manuscript; he simply passed it on to his workmen. In answer to an inquiry from Clonmell, he stated that he had never sold any copies of Aldborough's work. Aldborough had intended them only for the private consumption of his friends and supporters. In response to these statements, FitzGibbon declared his conviction of Halpern's innocence and requested his discharge without fees. The Lords agreed and Halpern was discharged. [101]

Next, they requested Aldborough to withdraw. In response, Aldborough reiterated his complaints about the sale of the estate and the dismissal of magistrates. Although his complaint on the latter business had originally concerned the Wicklow magistracy, his field of indignation had, within a day, widened to Kildare, where he also had an estate. He produced a list of magistrates in that county who had lost their commissions. He apparently did not mention this fact in the House, but in his later self-justifying writings, he emphasized that FitzGibbon had replaced these men, good Protestants all, with a pack of Roman Catholics. FitzGibbon replied that he had stricken their names from the roll of magistrates because of non-residence. The Duke of Leinster came to the defense of his long-time political antagonist by volunteering that he himself had identified them to FitzGibbon as non-resident. Aldborough's appeals to his own wrongs and the wrongs of the magistrates failed to save him. Nor were his pleas for mutual Christian forgiveness and forbearance any more effective. He was obliged to retire.[102]

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101 *Freeman's Journal*, 9 February, 1797;Parliamentary Reports/House of Lords, 7 February, 1797

102 Ibid.; see also Aldborough Papers, T3300/13/15/3 for accusations concerning Roman Catholic magistrates.

In his absence, FitzGibbon moved for Aldborough's prosecution for a libel on the House of Lords. He assured the House that were he alone concerned, he "never should have though it [the libel] worth his notice. But Aldborough had impugned, not only FitzGibbon's integrity, but that of his fellow peers:

> It [Aldborough's writing] represented their lordships as ready to ratify unjust decrees made in the Courts below, which was an imputation as base and undeserved as could possibly be made.[103]

In an abrupt contradiction of his earlier expressions of lofty contempt, FitzGibbon closed by declaring his intention to take additional action against Aldborough for the insults to himself:

> ...I have no objection to commit myself to the noble Lord with a jury of my country. I shall in the first instance bring a civil action against him for the libel so far as it respects myself and I am not sure that I will not also proceed criminally against him for the libel which charges me with the foulest crime, that of prostituting the authority which I hold in the scale of justice and making unjust decrees for my own personal emolument.[104]

A prolonged and highly undignified game of legal and parliamentary cat and mouse ensued between FitzGibbon and Aldborough. Aldborough made a frivolous effort to prosecute the editor of a minor Dublin newspaper for misrepresenting the charge against him as "seditious libel" rather than mere libel. When FitzGibbon accepted the wretched man's plea of innocent error and dismissed him with a mild reprimand, Aldborough once again resorted to the Journals. There, he expressed his displeasure at FitzGibbon's leniency to a lying hack and unaccountable harshness to a fellow peer.[105] Two weeks later, on February 27, he entered a second protest against FitzGibbon's refusal to drop the prosecution.[106] He then withdrew the protest, when several more discreet fellow peers hinted that he was only causing further, potentially prosecutable, offense.[107]

Wolfe, the attorney general, duly filed an information against Aldborough in Easter term of 1797. The matter then descended into a confused stalemate. FitzGibbon was preoccupied with disarming the rebels in Ulster and in the general business of repression.

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103 *Freeman's Journal*, 9 February, 1797; Parliamentary Reports/House of Lords, 7 February, 1797

104 Ibid.

105 *Journal of the House of Lords (Ireland) VII*, pp. 509-10

106 Ibid., p. 515

107 Aldborough Papers, T3300/13/14/4; one of the peers in question was Yelverton. Though the others were not specifically named, they may have included Agar and Dillon, both of whom Aldborough later consulted as mediators; *JHL, VII*, p. 516

Aldborough seems to have absented himself discreetly for the remainder of that fatal session. On its last day, July 3, 1797, he made a final ineffectual attempt to resolve the quarrel with a general apology to the House of Lords and to FitzGibbon for any offense given by his writing or his other protests. He later claimed that FitzGibbon purposely prolonged the business of the House until the lord-lieutenant appeared to close the session. Thus, Aldborough had no chance to appeal to the mercy of his fellow peers.[108] The newspaper accounts suggest that Aldborough, on the contrary, did have an opportunity to speak, but whatever apology he offered failed to satisfy FitzGibbon: "...he had not heard anything from the Noble Lord (Aldborough) inclining to or that could be construed into contrition for the libel." [109]

FitzGibbon later made his own position brutally clear. No mere apology could appease him. He demanded nothing less than a full public recantation in the House of Lords or a written one "signed by his Lordship to the same effect, which I may if I think fit, make public in Great Britain and Ireland."[110] FitzGibbon admitted that no man of "Lord Aldborough's rank and station" could accept such conditions: "On the contrary, I think that no earthly consideration ought to induce him to submit to such a degradation."[111] In short, Aldborough's honor, as well as FitzGibbon's, compelled a trial and whatever consequences ensued.

From July of 1797 to January of 1798, Aldborough struggled desperately to avoid this prospect. He appealed variously to Lords Dillon, Yelverton, Powerscourt, Somerton (Agar) and Pery to mediate with FitzGibbon. He met with varying responses. Dillon was sympathetic and expressed his private opinion that Aldborough had made a perfectly adequate apology for any offense to the House of Lords. But he shied away from entanglement in the business. He chose to believe that any dispute between FitzGibbon and Aldborough was " a business of a private nature for an alleged libel on the Chancellor." Dillon added "...this being a matter of a private nature, I am not warranted by any intimacy with the Chancellor to interfere on so delicate a subject."[112] Yelverton also pleaded a lack of influence with FitzGibbon. [113] Powerscourt, Agar and Pery showed more hardihood and did try to mediate, but they had no success.

At the same time that he was recruiting his fellow peers to make his peace with

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108 PRONI, Powerscourt Papers, T3244/8; Aldborough Papers, T3300/13/14/12

109 *Freeman's Journal*, 4 July, 1797

110 Powerscourt Papers, T3244/8/1

111 Ibid.

112 Aldborough Papers, T3300/13/14/5

113 Ibid.

FitzGibbon, Aldborough eased his feelings and amused himself with additional, private attacks on his enemy. FitzGibbon's private coach was "much finer than the viceroy's" and was moreover, purchased "at the public expense, thereby adding a very unnecessary onus on the people." (Luckily Aldborough did not publish this particular claim, as it appears that FitzGibbon, on the contrary, paid for his ostentatious coach himself.) [114] Although FitzGibbon spared himself no personal indulgence, he was stingy in his official hospitality to his fellow Lords. Unlike Lifford, who "hospitably and convivially" entertained his fellow peers "frequently each session," FitzGibbon, in mean contrast, "[knocked] them off with one official dinner, two or three of which serves for all."[115] FitzGibbon himself had libelled the House far more blatantly than Aldborough. Specifically, FitzGibbon had delivered a "most virulent Philipic against a committee's report of that House on the conduct and mismanagement and partial letting of the Board of Commissioners of the Public Streets and Ways". For the virulent philippic in question, Lord Farnham, the chairman of the committee demanded and received an apology.[116] Aldborough also amassed a collection of choice FitzGibboniana contributed by other enemies of the Chancellor. They included a copy of George Nugent Reynold's famous letter, which alluded to the St. Omer education of FitzGibbon *pere* and the horns of FitzGibbon *fils*, and a repulsive, clumsy poem about Anne FitzGibbon's alleged adultery with Lord Ormonde.[117] Above all, Aldborough maintained the perfect truth of his claims of FitzGibbon's corruption.[118]

Meanwhile, the suit followed a desultory course through the courts. The trial met with two delays. Aldborough later claimed that FitzGibbon engineered these delays to prevent any merciful intervention by the House of Lords. In his aggrieved egotism, Aldborough never considered the possibility that the court dockets were already overburdened with the trials of suspected rebels.

When the trial finally came up for the 21st of November, 1797, Aldborough himself lost his preference for dispatch and pressed for another delay. He hoped to present Agar, who was in England, as a favorable witness. In his unsuccessful attempts at mediation, Agar had obtained from Aldborough two formal apologies, both to FitzGibbon and to the House of Lords. Presumably, Agar was to present this favorable evidence on Aldborough's behalf. Aldborough received a postponement until November 30, but

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114 Aldborough Papers, T3300/13/16

115 Ibid.

116 Ibid.

117 Aldborough Papers, T3300/13/18/1 and 3300/13/18/2

118 Aldborough Papers, T3300/13/15/3

unfortunately, Agar sent word that he would not be returning to Ireland until after the Christmas holidays. His second application for a delay, in Aldborough's own aggrieved words, "was refused, while those of felons and traitors were admitted and trial put off for two terms on their affidavit of the absence of a witness." [119]

Aldborough made no defense at his trial. In keeping with the general tenor of his writing, his own account of his reasons is maddeningly confusing. Apparently, he first agreed to make no defense on the advice of John Dwyer, FitzGibbon's secretary. Why Dwyer intervened Aldborough never deigned to explain with any clarity. Whatever his motives, he gave Aldborough the impression that no defense, in addition to a suitably humble letter, would finally placate FitzGibbon. Dwyer either misled Aldborough, or FitzGibbon, if he did indeed initiate this meeting, abruptly recovered from his fit of magnanimity. The effect of Dwyer's advice "was the reverse" of what Aldborough had expected. FitzGibbon took advantage of Aldborough's compliance to hasten the trial and the desired guilty verdict.[120]

In spite of this failure to conciliate FitzGibbon, Aldborough persisted in making no defense, on the grounds that the charges against him were framed incorrectly. Nothing in his publication, he believed, could be construed as a "libel against the House of Lords, in whose name the information was brought." He also took issue with the words, "seditious libel" which appeared in the information against him. The original order from the House of Lords had never contained that particular charge. Aldborough bolstered his case further with a rather confused memory of his own actions against a newspaper which had incorrectly reported that he was to be tried for seditious libel . The House of Lords had reprimanded not only this printer, but two others who had copied the same story. Aldborough came to the hopeful, if dubious conclusion that these reprimands amounted to a dismissal of any charge of seditious libel against Aldborough.[121] His memory was weak on this point. Not only was the reprimand very mild, FitzGibbon had maintained that the story was fundamentally correct and that Aldborough's writings were very seditious indeed.[122] The King's Bench placed no weight on Aldborough's interpretation of his own writings or on his interpretation of the transactions with the printers. The court found him guilty as charged. His failure to appear at his own trial was taken, not as a sign of meek innocence, as Aldborough had intended, but of assent to the charge.[123]

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119 Aldborough, T3300/13/14/12

120 Ibid.

121 Ibid.

122 *Freeman's Journal*, 14 February, 1797; Parliamentary Reports/House of Lords, 12 February, 1797

123 Aldborough Papers, T3300/13/15/8

The events following the verdict were murkier, if that could be possible. Early in January of 1798, FitzGibbon gave a second sign of relenting. He declared his willingness to drop the whole matter, if the Lords themselves chose to address the lord lieutenant for a *nolle prosequi*. Initially, Aldborough had the extraordinary notion that FitzGibbon himself would propose such an address. FitzGibbon quickly disclaimed any such intention, but Aldborough got the impression that "he would make no opposition to such a motion and that he had no obloquy to me." [124] FitzGibbon's reasons for this and for the earlier overture through Dwyer are, like so much else in the business, utterly obscure. He may very briefly have wavered because of the scandal which the prosecution of a fellow peer would cause at a time of revolutionary unrest. If so, his sense of the worse scandal of Aldborough's claims prevailed in both cases. On January 10 of 1798, FitzGibbon accosted Aldborough in a shop on Dame Street and informed him that he did not intend to "relax one tittle , or such effect, that I [Aldborough] was very much deceived and so indeed I was, as far as I can understand words spoken to me."[125] FitzGibbon brushed aside all attempts by Aldborough's latest set of mediators, Powerscourt and Pery, to revert to his original merciful intentions. He informed Powerscourt that only a public admission of falsehood from Lord Aldborough would suffice.[126] He made a still more abrupt reply to Pery. Aldborough's note to Pery received the following endorsement:

> Under all the circumstances which have passed, the Chancellor feels it impossible on his part to say anything upon the subject of Lord Aldborough's message.[127]

Either FitzGibbon himself scribbled this peremptory message on the note, or Pery recorded his verbal remarks.

Aldborough himself made threats and appeals of his own. He again reverted to the alleged flaws in the information and argued that such injustice to a fellow peer justified a counter-suit for breach of privilege. His threat left FitzGibbon sublimely unmoved. He cooly referred Aldborough to the King's Bench to rectify any alleged flaws in the original information. In addition, he reminded Aldborough that he was in no position to menace him legally. He had not forgotten his earlier public promise to bring another suit for personal damages:

> ...he [FitzGibbon] said he intended bringing an action against the Noble Earl, on

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124 *HMC Emly*, p. 199

125 Ibid.

126 Powerscourt Papers, 3244/8/1, FitzGibbon to Lord Powerscourt, 12 January, 1798

127 *HMC Emly*, p. 199

> the trial of which he would have an opportunity of proving and thereby justifying the several charges in the printed paper, and the Earl of Clare said he would stake his reputation as Chancellor, as a Lord of Parliament and as a Gentleman that he would prove each and every of the charges to be groundless and false.[128]

His last chance of settlement gone, Aldborough had no choice but to suffer the consequences of the verdict. On the 12th of February, he received sentence of a year's imprisonment in Newgate, to commence that same day.

Aldborough remained in prison until March 29, 1798, when he received a pardon. The material circumstances of his imprisonment were perfectly comfortable. Lady Aldborough loyally joined him in prison, and he even had the diversion of a light domestic comedy. Lady Aldborough's companion formed an attachment to none other than young Knaresborough, whom FitzGibbon had wanted so badly to hang.[129] But comfort, conjugal companionship and occasional amusement hardly compensated for his humiliation at the hands of a "vindictive reptile." [130] In his journal, he could barely write of the experience:

> Let from the 12th of February to the 29th of March be blotted from my calendar unless to humble myself before my God and gracious deliverer.[131]

He emerged from prison to face the prospect of still more law suits: FitzGibbon's potential one for personal and punitive damages and another affecting his elaborate and elegant new Dublin town house. The circumstances of this latter suit, are, like everything else connected to Aldborough's affairs, a nightmare of confusion. Both Barrington and Aldborough's 20th century biographer, Ethel M. Richardson, claim that during the construction of this house , he became embroiled in a boundary dispute with Marcus Beresford. [132] FitzGibbon's decision in Beresford's favor provoked the fatal pamphlet. Yet all accounts of the dispute, both in Aldborough's personal writing and in the newspapers, contain not the slightest allusion to this particular case. To add to the confusion, Marcus Beresford had died in 1797, so he could not possibly have been party to a suit originating in 1798. The best that can be made of this curious development in Aldborough's affairs is that he got into a second, later dispute with another party. Barrington, and following him

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128 Aldborough Papers, T3300/13/15/8

129 Barrington, *Personal Sketches I*, pp. 369-71; Knaresborough, still on his personal quest to hang, had returned from transportation in 1798

130 Aldborough Papers, T3244/8/2

131 Ethel M. Richardson, *Long Forgotten Days*, (London, 1928), p. 320

132 Barrington, *Personal Sketches I*, pp. 359-60; Richardson, pp. 317-327

Richards, confused this suit with the other *causus belli* involving Marcus Beresford.

Aldborough at first reacted to this new FitzGibbon trouble with his accustomed pugnacity. In May of 1798, he dashed off a letter to Lord Fitzwilliam, long his bitter rival in County Wicklow politics; he suggested an alliance against FitzGibbon, based on their past wrongs at his hands. Aldborough even suggested calling in Grattan:

> I am assured Mr. Grattan can point out various abuses of this upstart, under whose implacable malice, insolence, oppression and influence in every department of the state and constitution I have already smarted. If he succeeds in this, his second attack, which I am told aims at possession of the house I have lately erected in this metropolis, and if a mere officer of the Crown be permitted to direct and influence the Bar, the courts below, the legislature and the executive power, he may then be considered as perpetual viceroy of this kingdom and will render it no residence for any man of mirth, freedom, loyalty or independence.[133]

But sheer weariness, and possibly the dread of another stay in the "enchanted castle" of Newgate finally broke even Aldborough's fighting spirit.[134] In November of 1798, he finally made a painful disavowal of all his accusations regarding the disputed estate in Wicklow and the Tynte business. He closed with this weary and syntactically obscure remark:

> I hope I have now fully met Lord Clare's desire in being ready to withdraw the plea of justification and to acknowledge my present opinion from his Lordship's assertion that any matter in the paper complained of reflecting on him is unfounded.[135]

FitzGibbon appears to have been either satisfied at last or equally weary of the matter, since he took no further proceedings against Aldborough.

How much truth was there to the claims that Aldborough so obstinately maintained? The existing information on the two cases is incomplete and moreover comes from two highly irascible, arrogant men, each intent on serving their own personal purposes. Nonetheless, the weight of proof, slight as it is, does seem to favor FitzGibbon. In the matter of Tynte, Aldborough waxed at length about Lady Elizabeth Tynte's poverty and about FitzGibbon's arbitrary cruelty in depriving her of her personal property. But he never offers an explanation beyond mere tyranny and spite on FitzGibbon's part. Any familiarity with FitzGibbon's other dealings in the court of Chancery makes nonsense of Aldborough's claims. No one was more rule-bound, no one less likely to deprive a genteel

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133 Aldborough Papers, T3300/13/14/19

134 Aldborough's own personal euphemism. See Richardson, p. 320

135 Aldborough Papers, T3300/13/14/25

widowed lady of her money and personal property for no good reason. The missing accounts of rents, to which FitzGibbon alluded in his speech, possibly offer a key to his conduct toward Lady Elizabeth Tynte. He may have sequestered her jointure to compel her to produce the accounts. Aldborough's one surviving letter to FitzGibbon about the Tynte affair never touches on this important matter. His silence suggests an uneasy realization that she was not entirely blameless.

Aldborough's own surviving correspondence on the disputed estate sale also bears out FitzGibbon's version of events. So far as matters can be comprehended, a certain Francis Eardley needed to sell an estate to pay off a mortgage. One Dominic McCausland offered the highest bid, but Eardley found him an undesirable purchaser. He disdainfully described McCausland as a "beltmaker" or a "saddler". In October of 1795, Eardley opened negotiations with Aldborough in the hope that he would purchase the estate instead of the socially objectionable McCausland.[136] FitzGibbon agreed to open the sale again, as he declared in his own statement in Parliament, and as Aldborough's own personal correspondence confirms. Nonetheless, he insisted that Aldborough pay the entire purchase price of £9,000 by February of 1796. Aldborough was unable to come up with £9,000 in ready money. He proposed instead making a partial payment of the purchase price and deferring payment of the balance for 10 or 12 months. This request FitzGibbon refused. In his later, self-justifying accounts of the transaction, Aldborough gave the impression that his habits of paternalistic generosity to his tenants left him strapped for ready cash:

> I prayed time till my March rents falling due would enable me to call in the Michaelmas one, my custom being to leave a back half-year in my tenants' hands.[137]

In a letter of appeal to FitzGibbon, written on December 30, 1795, Aldborough gave quite a different reason for his lack of money. He was "engaged in building a very expensive town house... and which I pay weekly for, as it rises and have but £3000 I can at present spare from it."[138] Again, his own correspondence supported FitzGibbon's version of events.Aldborough couched this confession of improvidence in appeals to the Protestant cause:

> I know not whether you will permit me to regard you as my friend, but I know you

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136 Aldborough Papers, T3300/13/12/2 and 3

137 Aldborough Papers, T3300/13/14/1

138 Aldborough Papers, T3300/13/12/7

> to be a staunch Protestant, and I believe not well inclined to let our late, short-lived viceroy [Lord Fitzwilliam] put the Co. Wicklow in his pocket, which I am told is his intention, by bringing in Mr. Grattan and another gentleman who are known only by name but have no property in it, to represent that county in Parliament on the ensuing general election.
>
> I am the second interest to his Lordship's and hope with little aid to be able to frustrate his designs. I opened a sale of Eardley's estate by your Lordship's permission last term, on which I think 18, and I would increase to 50 registered freeholders by next election which would bring me within four score of his Lordship's. [139]

He also resorted to simple flattery, also recalled with accuracy by FitzGibbon: he hoped he would often "be favored with your Lordship's company" at his splendid and expensive new Dublin town house. It was a singularly ill-advised appeal to FitzGibbon, who had a fine house of his own and who, moreover, resolutely tried to keep sectarian politics out of his court. He closed the sale to Dominic McCausland, the purveyor of fine leather goods.[140]

Aldborough's accusation of corruption rested on the fact that McCausland seems to have been acting as a broker or agent for Marcus Beresford, FitzGibbon's kinsman. While McCausland was closing the sale, Beresford was requesting the deeds to the estate to conclude the negotiations on his marriage settlement; six months after the sale was concluded with McCausland, Beresford took possession of the estate.[141]

Aldborough immediately concluded that FitzGibbon made a corrupt and partial decision in favor of his kinsman. FitzGibbon himself felt some delicacy about this circumstance. He avoided mentioning the connection between McCausland and Beresford in the version of events which he gave to the House of Lords.[142] Yet FitzGibbon had no need to be coy and Aldborough had no firm foundation on which to build a case of corruption. McCausland, whatever his connection with Marcus Beresford, had offered the highest bid, and more important, had the ready cash to back it up. FitzGibbon had given Aldborough an opportunity to purchase the estate instead of McCausland. Aldborough's own extravagance, not FitzGibbon's favor for Marcus Beresford or his agent, lost him the estate.

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139 Aldborough Papers, T3300/13/12/7

140 Aldborough, T3300/13/12/12

141 Aldborough, T3300/13/12/9. Beresford was applying to Eardley for a map of his estate on 22 March, 1796, just over a week after Eardley's estate was decreed to McCausland. Aldborough, T3300/13/12/8 On March 14 of 1797 Beresford came into formal possession. I can only assume from this very confused appearance of a common interest in the same estate at the same time, that McCausland either carried out the bids on behalf of Beresford, or he sold the estate to Beresford soon after coming into possession of it.

142 *Freeman's Journal*, , 9 February, 1797; Parliamentary Reports/House of Lords, 6 February, 1797

FitzGibbon's very tender sense of his own importance no doubt compelled him to pursue Aldborough so relentlessly. But Aldborough's claims went beyond mere personal insult. They struck at the mystique which he had tried to create for his court. He expected, and indeed he often brutally compelled the submission and deference of Catholics and of the lower orders in general. But he tried in return to offer unfailing, compassionate and above all disinterested justice to them. In suggesting that FitzGibbon's justice was, on the contrary, fraudulent and tainted, Aldborough threatened his authority as surely as any United Irishman. The very fact that he was an aristocrat and a Protestant of the Established Church made his claims all the more dangerous and FitzGibbon's retaliation all the more relentless.

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Buckingham made his escape from Ireland and the Irish in June of 1789. FitzGibbon, in company with Foster and the Archbishop of Dublin, served as Lord Justice until the arrival of the new lord-lieutenant, Westmorland, the following January.[1] His appointment as one of the lords justices, effectively one of the three governors of an interim administration, reflected both his standing and the administration's confidence in him. This seven-month interval saw a major war of wills between the English and the Irish governments. FitzGibbon in particular showed an unaccustomed, though short-lived and reluctant, assertiveness. The events pointed to his self-confidence and to his readiness to employ the authority of his office. A transport of Irish convicts to Newfoundland ignited this particular Anglo-Irish conflict.

The notorious police act of 1786 permitted the shipment of convicts to English plantations in America, or more generally, to any place outside of Europe.[2] The Act was soon to come into conflict with English penal practice which evolved in the wake of the treaty of 1783 with the United States. The English government put an end to penal settlement in America and by 1789, it had established Australia as the new destination for transported convicts.*

assumption that since the act in question had received the approval of the British Privy Council, convict shipments to America were still permissible. At a cost of appalling suffering to the unfortunate convicts, the Irish government learned differently.

*The Irish government acted on the

The shipmaster acted callously and brutally, even for a man involved with the callous and brutal trade of transporting human cargoes. He left the convicts in Newfoundland without making the most minimal provisions for food, for clothing or for shelter from the climate, which even in summer was inclement. Not surprisingly, some of the convicts, already weakened by the hard conditions of their Dublin imprisonment and of the voyage, died.[3]

The Dublin government eventually received word of the cruel and inadvertent death sentence suffered by some of the convicts. To his credit, FitzGibbon investigated the possibility of prosecuting the captain of the ship. He came to the regrettable conclusion that government could not take any legal action against the shipmaster, however reprehensible his actions.[4] Neither he nor any of his colleagues seem to have inquired whether conditions for the survivors had improved. They apparently assumed that the survivors would somehow fend for themselves; therefore, the Irish government could safely forget the whole unpleasant affair.

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1 *HMC Fortescue I*, p. 480, Lady Buckingham (writing on Buckingham's behalf) to W.W. Grenville, 13 June, 1789; HO 100/27/170, Buckingham to Grenville, 26 June, 1789

2 Ibid., p. 545, Robert Hobart to W.W. Grenville, 1 December, 1789

3 HO 100/27/216-19, 27 July, 1789, Sydney or Grenville (unclear in document) to Buckingham

4 BM Add. MS., 40180/f138-9, FitzGibbon to Buckingham, 20 July, 1789

The surviving Irish convicts lingered miserably in Newfoundland until October, when the governor of the colony, Admiral Milbanke, loaded them on another ship bound for Spithead. He then informed the English Privy Council of his actions, and cited as justification the fears of the settlers and their inability to support this unwelcome and unconventional batch of Irish immigrants.[5]

Once he received this troubling news, W.W. Grenville immediately consulted the English Chancellor, Lord Thurlow. He suggested re-directing the ship to Ireland. Thurlow showed a rather careless grasp of the situation by adding that the convicts, once in Ireland, could "be dealt with according to the law, as their sentence seems not to have been executed." [6] Grenville was obliged to remind Thurlow that the convicts already had been tried, and the abortive journey to Newfoundland had constituted their sentence. He did acknowledge the "novelty and peculiarity of this case" and recommended a special meeting of the British Privy Council to consider it.[7] Thurlow, who still took a very dismissive view of the whole matter reluctantly agreed, though he recommended a small gathering, "for it would elevate the thing too much to make it the subject of *eclat*."[8]

On November 25, 1789, Grenville informed Chief Secretary Hobart of the decision of this small discreet meeting of the Privy Council. The Irish government was about to receive custody of those convicts, 80 in number, who had been shipped to England, courtesy of Admiral Milbanke. Grenville recommended confining the convicts until the Irish Parliament could make provisions to ship them to the new penal colony in New South Wales. He blandly accompanied his dictates with an estimate of costs. The Irish government should expect to pay £17 a head for the privilege of shipping convicts to New South Wales; in addition, they were to share the costs of the garrison stationed in Australia.[9]

If Thurlow had hoped to avoid "*eclat*" he badly underestimated Lord Justice FitzGibbon and his colleagues in the Irish government. The news of the English Privy Council's decision elicited vehement protests, both legal and political. In keeping with his habitual demeanor toward his masters in London, FitzGibbon adopted a conciliatory, if faintly reproachful tone in his letter of reply dated November 28, 1789. He acknowledged that the English government certainly had every right to bar the Irish from sending convicts to the American colonies. But he reminded Grenville that

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5 *HMC Fortescue I*, pp. 539-40, Grenville to Thurlow, 17 November, 1789; p. 542, Thurlow to Grenville, ? November, 1789; pp. 542-3, Grenville to Hobart, 25 November, 1789

6 Ibid., p. 540

7 Ibid., p. 540, Grenville to Thurlow, 18 November, 1789

8 Ibid., Thurlow to Grenville, same date

9 Ibid., pp. 542-3

convicts from Ireland had been dispatched to America "for time immemorial." [10][sic] With studied respect and implied rebuke, he added that if the English government had had objections to penal convoys going to America, they ought to have indicated as much during the parliamentary session, when appropriate legislative action could have been taken:

> ...if an objection had been stated whilst our Parliament was sitting, certainly we should have been bound to make some provision for the disposal of our convicts which could not be deemed injurious to Great Britain or her colonies. [11]

He also pointed out to Grenville the terrible legal dilemma raised by the convicts' return. In one respect the English Government had placed the convicts in grave legal jeopardy: if they set foot in Ireland before their sentences expired, they faced death, whatever the circumstances of their return. The action of the English Government had raised a worse possibility, as their return of the convicts could be construed as a virtual pardon:

> If they [the convicts] are sent back to us by order of the British government, I do not know of any law which will warrant our magistrates to detain them in custody.[12]

Moreover, not only the convicts, but the shipmaster bringing them back to Ireland, could face prosecution and a possible death sentence. He closed by begging Grenville to keep the convicts in England until the Irish government could decide what to do about them.

Hobart, writing three days later, had no compunction about showing his anger. He reminded Grenville that the British Privy Council had approved the act of 1786, and this approval extended to the provision for sending convicts to America, or so the Irish Government had believed. He added sarcastically, "...it is presumed [the Act] was considered by his Majesty's ministers in England previous to the Great Seal being put to it." Hobart's allusion to the reaction of the Irish Parliament accounts for his extraordinary degree of rage:

> As the matter now stands, Admiral Milbanke has superseded an Irish Act of Parliament and you may will imagine what a ferment that will create in the Irish House of Commons.[13]

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10 Ibid., p. 544

11 Ibid., p. 544

12 Ibid.

13 Ibid., p. 546; R. Hobart to Grenville, 1 December, 1789; entire letter pp. 544-6

As a bruised veteran of the great battle over the Regency, Hobart had good reason to dread another outburst of wounded national pride.

FitzGibbon followed immediately on Hobart's epistolary heels with a second letter. He put forth the same arguments, though again, he did not feel at liberty to assume the same peremptory tone of voice. He began by pointing out that neither he nor any other member of the Irish government was aware of a prohibition against the transport of convicts to America. Like Hobart, he complained of the apparent contradiction of the Privy Council's actions. By returning the convicts to Ireland, the British government was over-riding a law which it had supposedly examined and approved:

> This whole proceeding [shipment of the convicts to America] was had under the authority of a law which was passed with the approbation of the British Ministry so late as the year 1786, and now they are to be returned to us in body by an act of that very Government which had assented to the law under which they were transported.[14]

He also touched on the political turmoil which the action could cause, though he was careful to lay the onus on Milbanke, rather than FitzGibbon's own masters and friends in the Privy Council. However justified he may have been in expelling the "wretches", Milbanke had committed a grave indiscretion by sending them to England. Had he sent them anywhere else; indeed had he sent them directly to Ireland, "we could easily have managed matters so as to prevent any serious difficulties to Irish government." By superseding the authority of the Irish government, and appealing instead to the English, Milbanke had raised again the volatile issue of Irish sovereignty. FitzGibbon had as compelling reason as Hobart to remember the horrors of the Regency Crisis and to dread their repetition:

> "...if we are driven to the necessity of defending their return to us under all these circumstances, I freely own to you that it appears to me to be as difficult a task as could be assigned to the friends of Government in this Country."[15]

FitzGibbon begged Grenville, if possible, not to return the convicts under the authority of the British government. He suggested instead using Milbanke as the scapegoat. The broils of Irish politics could not affect him, secure in the fastness of Newfoundland:

> Let the act of returning them to us, if they must be sent here, be the act of

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14 Ibid., p. 547, FitzGibbon to Grenville, 2 December, 1789; entire letter pp. 546-8

15 Ibid., p. 548

> Governor Milbanke. Probably he will never come to Ireland, and I do not suppose that he will very much feel any comments which our worthy Whigs may make upon him.[16]

He closed on a characteristically obsequious note:

> I should ask you a thousand pardons for troubling you with this very long letter; but I really feel very strongly the difficulties which must necessarily occur if these rogues are to be landed here in custody of one of your messengers by your warrant.[17]

Grenville's response to FitzGibbon's initial communication was very much in a tone of *de haut en bas*. He countered FitzGibbon's legal qualms with the higher authority of Lord Thurlow and the English judges of the King's Bench. The English judiciary held the opinion that the Privy Council had no other recourse but to ship the convicts to Ireland. The Irish judges of the King's Bench could have no difficulty in remitting the convicts to the various county prisons until Parliament or the courts of gaol delivery could dispose of them. Furthermore, Grenville informed FitzGibbon, America had ceased to served as a penal colony since the peace treaty with the United States in 1783. The remaining British colonies in North America "had all expressed a decided resolution not to receive them [shipments of convicts.]" The Irish government had behaved with particular impropriety in sending convicts to Newfoundland, which was, strictly speaking, a fishing depot, not a colony. The "uniform tenor of our laws" and the King's instructions, restricted settlement, apart from the temporary residence of fishermen. Finally, Grenville pointed out that whatever the dangers and dilemmas of sending convicts to Ireland, the English authorities faced a far greater share of both. The convicts, in the eyes of English law, "have committed no crime and incurred no sentence." They had only one other course of action, aside from sending the convicts to Ireland, and that was "letting loose upon the people of this country a set of desperate ruffians who could have no recourse here but that of depredations upon the property of others."[18]

Before Grenville's rather schoolmasterish letter reached Dublin the Irish government sent a revenue cruiser to intercept the convict ship and to prevent its landing in Ireland.[19] This action had a quality of boldness and defiance utterly unlike FitzGibbon's past conduct toward the English government, and more important, utterly

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16 Ibid.

17 Ibid.

18 Ibid., p. 548-9, Grenville to FitzGibbon, 2 December, 1789

19 Ibid., p. 550, Grenville to Westmorland, 5 December, 1789; pp. 550-1, Grenville to Hobart, same date

unlike the cautious tone of his communications with Grenville. Possibly his recent elevation to long-desired office, in addition to a fear of another political crisis, gave him an unusual degree of mastery. But it seems more likely that Hobart and Foster took the initiative, and FitzGibbon very reluctantly went along. Hobart and Foster would have borne the brunt of any parliamentary uproar over the matter. Consequently, they would have been more resentful of the English government's action and the more forceful in trying to thwart it. Foster may have had an additional motive. He always had a far more finely developed sense of Irish consequence than FitzGibbon.

Whatever the origins and motives of this action, it aroused predictable outrage in England. Grenville wrote to Westmorland, the viceroy in the wings, "I cannot enough lament the precipitation of this ill-advised step It is however, now to be considered what are the measures which must be taken in consequence of it."[20] Thurlow was the more vehement: sending out the revenue cruiser was an "impertinent order" given by a "foolish Government."[21]

The show of independence by the Irish cabinet was fleeting. According to his own account, FitzGibbon immediately ordered the recall of the revenue cruiser when he received Grenville's letter of explanation.[22] In spite of its rather self-serving taint, his account seems likely. He probably was the last to agree to the order and the first to insist on its withdrawal. Hobart too fell in line, though his tone remained surly and defiant:

> If, notwithstanding the representations made from here, you persevere in your intention of sending the convicts, they will of course be received; we must get out of the scrape as well as we can.[23]

Grenville and FitzGibbon engaged in further desultory correspondence on the legal niceties of the business. Grenville attempted to close any discussion of Milbanke's actions. At this point, he argued, the questions about the propriety of Admiral Milbanke's actions were simply irrelevant. It sufficed that the English statutes uniformly pointed to a policy of forbidding settlement in Newfoundland. He reiterated again that the English government could have sent the convicts to no other place but Ireland. They had no legal right to hold the convicts in custody in England. Nor could Grenville see any grounds for prosecuting the convicts for returning to Ireland or for prosecuting the ship's captain and the Privy Council's messenger for cooperating in their return. The convicts, in fact had never begun to serve their sentences, and thus

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20 Ibid., p. 550
21 Ibid., p. 551, Thurlow to Grenville, 6 December, 1789
22 Ibid., p. 554, FitzGibbon to Grenville, 14 December, 1789
23 Ibid., p. 551, Hobart to Grenville, 9 December, 1789

they could not in logic or in fairness be considered illegal returnees. They were in exactly the same position as any convict committed to gaol prior to transportation. As for the individuals who had carried out the Privy Council's order, the King's pardon could easily correct matters "if any magistrate of Dublin was so absurd as to commit them."[24]

FitzGibbon the legal purist could not take Grenville's cavalier view of Milbanke's judgement:

> You will not, I trust, be offended that I cannot agree in opinion with you that in this business it is not material whether Governor Milbanke was right or wrong...If I can but satisfy myself that he was right in sending these convicts to England, I should feel no difficulty whatever upon the subject. [25]

In the same letter, FitzGibbon, the rather piqued legal authority, corrected Grenville on the point of Newfoundland settlement:

> I have looked into the statute of the 10th, 11th William III for encouraging the trade to Newfoundland, and I observe that advantages with respect to a temporary property in the stage at Newfoundland is given to the ships which shall first arrive there in order to fish; but I have not been able to find any Act passed in 1773 [sic] on the subject. [26]

He also held fast to the point that the convicts and the persons concerned with returning them could have faced unmerited legal dangers:

> With respect to what I mentioned to you that the person landing them here might be prosecuted for a capital felony, you will see that I stated that to be one objection against others to proceeding against the convicts as felons returned from transportation within the times limited by their sentence. If they were to be proceeded against in that way, I mentioned to you that the messenger and the captain might be prosecuted as accessories to the felony should any person be so mischievous as to swear information against them.[27]

Apart from these assertions of judicial authority, FitzGibbon made clear to Grenville that the Irish government would receive the convicts and that he himself would take the lead in defending the action of the English Privy Council. Indeed, he was prepared to go to fantastic lengths to present an act of bureaucratic browbeating as an act of grace and favour:

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24 Ibid., pp. 552-3, Grenville to FitzGibbon, 9 December, 1789

25 Ibid., p. 554, FitzGibbon to Grenville, 14 December, 1789

26 Ibid. Presumably FitzGibbon meant 1783

27 Ibid., p. 555

> ...if they do come back, you may be assured, whenever the matter may become the subject of public discussion , I shall be very anxious to prove their return to be a mark of high respect on your part to the people of Ireland. [28]

The business ended with unexpected calm. The revenge-minded Whig opposition showed more interest in re-fighting the battles of the Regency crisis than in investigating the subtleties of criminal law or of colonial jurisdiction. Parliament quickly passed a law authorizing transport to New South Wales.

The fate of the survivors of the Newfoundland voyage remains unknown. Presumably they were among the first to make the journey from Ireland to Australia. Of course, no one, FitzGibbon included, spared much thought for these "rogues" and "wretches" as they wrangled over their bounds of authority. The English and the Irish governments could just as well have been arguing over a disputed shipment of American tobacco or East India muslin.

Apart from its intrinsic tragedy, the affair of the convicts again exposed the fragile and uneasy relationship between the English and the Irish governments. In forbidding shipments of convicts to Newfoundland, and in preventing their arrival in England, Grenville, Thurlow and their colleagues acted out of broad imperial interests. Unfortunately, they rode roughshod over the fears and sensibilities of their Irish servants. In a sense, the business of the convict transports prefigured the far larger conflict over Catholic emancipation.

(ii)

With the arrival of Westmorland in January of 1790, FitzGibbon surrendered his role as Lord Justice. Westmorland quickly became an initiate into the great viceregal cult of FitzGibbon. It was perhaps inevitable that Westmorland would succumb to FitzGibbon's influence. He was a slightly duller version of the Duke of Rutland: young and amiable, unintellectual and unimaginative, and above all, utterly ignorant of Ireland. FitzGibbon did not need to go through a political crisis to win Westmorland's confidence, as he did with the prickly Buckingham. On the contrary he established his hegemony almost immediately. By 1791, Westmorland took the King's refusal to promote Colonel Fremantle as an insult to himself as well as to FitzGibbon.[29] By 1793, in the wake of the Catholic issue, Westmorland's

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28 Ibid., p. 554

29 HO 100/31/252 Westmorland to Dundas (?), 5 August, 1791; "If the Chancellor of England had a nephew in ye Army, no government who were (sic) obliged to consult him daily wd chuse to put [on?] him what he might term a slight but wd be happy I believe to embrace an opportunity of keeping him in good humour"

correspondence bore the unmistakable stamp of long and frequent conversations with FitzGibbon. In his first accounts of the militia riots, he wrote to Dundas:

> In truth ye people of property and lower order here are as distinct sects as ye gentoos and Mahomedan, ye lower order of Irish consider themselves as plundered and kept out of their property by English settlers and on every occasion are ready for riot and revenge.[30]

The dark drama of the Popish dispossessed waiting to take their bloody revenge on English Protestant settlers was, of course, FitzGibbon's political leitmotif. His sybaritic hospitality (and his political opponents claimed, his adroit pimping), secured his hold over Westmorland. The bond did not break when Westmorland retired from Ireland. He, like Eden, became a recipient of FitzGibbon's sniping gossip and doom-ridden reports on the state of Ireland.[31]

As easily, the chief secretary, Robert Hobart, became a warm personal friend. They had already established a close working relationship during the Regency Crisis, and Hobart too became a frequent recipient of FitzGibbon's hospitality at Ely Place and at Mount Shannon. [32] If FitzGibbon found another pliable, amiable Rutland in Westmorland, he found in Hobart another romantic, glamorous William Eden. Like Eden, Hobart was polished, handsome, and English, and he had the additional luster of a military commission. In short he was exactly the sort of man FitzGibbon admired most. He carried his admiration to the point of naming his younger son for Hobart.

FitzGibbon found it as easy to establish hegemony in the House of Lords. The practice of awarding peerages to government supporters made it a relatively tame body. The opposition peers, led by Charlemont and Leinster, were few in number and they were no match for FitzGibbon's intellectual and rhetorical powers. Consequently, the House of Lords was a quieter, if duller place. The session of 1790 certainly presented a contrast between FitzGibbon's old and new parliamentary venues. In the Commons, the opposition battled the government over the same tired issues of pensions, places and police. Grudges from the Regency Crisis enhanced the vindictiveness of these battles. Nonetheless, because newly restored government majorities quashed these issues in the House of Commons, the turmoil barely touched the House of Lords. Leinster raised some protest over Lord Strangeford's loss of a pension for voting against the government during the Regency Crisis. FitzGibbon handily replied that

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30 HO 100/43/319, Westmorland to Dundas, 24 May, 1793

31 See for example, Westmorland Papers, Carton 1/f114, FitzGibbon to Westmorland, 25 March, 1795

32 The *Dublin Evening Post*, alluded to their close relationship frequently, referring to the nefarious combination of "Lord Jacky", "Major Bobsy" [Hobart] and "Cooking Ned" [Edward Cooke]. See 13 November, 1792 and 20 November, 1792; See also Sneyd Muniments, 22 June, 1799 for continue friendly contacts after Hobart's departure from government.

Strangeford, as a beneficiary of the Crown, had, very properly received a request to support it "on that great emergency." If he found the request of the Government offensive, "it did not follow that he had a right to complain at any wound offered to the delicacy of his feelings on this head or publicly to complain of a matter which was in his own power to remedy by resigning his pension." The votes followed FitzGibbon. Leinster's motion to censure the government for Strangeford's loss was defeated by a margin of 33-13.[33]

FitzGibbon had as easy a time with the only other major opposition issue to obtrude on the House of Lords. During the session of 1790, the Government introduced a bill to place the entire country under the jurisdiction of the "Act for the Better Execution of the Laws", better known as the Magistracy Act. This time Lord Portarlington took up the opposition standard. He brought up all the complaints and all the accusations of 1787: the measure represented an attempt by the government to increase its tyrannical power by imposing an armed police force on the countryside. It also strengthened the government's corrupt powers of patronage in the guise of assistant barristers. In 1790, FitzGibbon personally had no county election to face and no outraged Limerick gentlemen to placate. Secure in his long-sought office, he could support the extension of the act, with the same arguments he had used in 1787. The bill entrusted peacekeeping to constables under the direction of the local magistrates, surely a far milder and more humane practice than the standard one of calling out the military. FitzGibbon indulged in rather murky antiquarian romanticism to support his argument. The freest government in English history, the Saxon had relied on a similar type of peacekeeping force. In short, the act represented no more and no less than an effort to police the countryside more effectively and more mildly. It was above all an Irish matter in which the English government could have no concern or interest. As for the barristers, they provided a useful service at a minimal salary. £300 a year hardly increased the government's expenses or its power to corrupt. Very few barristers with a reasonably good practice would find that salary tempting. Above all, he insisted on the key amendment to the act, which extended its jurisdiction to the entire country. To make exceptions would only encourage lawlessness in areas where the act did not apply. Once again, his arguments or the government's majority in the Lords prevailed.[34]

The remainder of FitzGibbon's parliamentary business in his first session in the Lords was desultory and mundane. Such matters as the regulation of charity schools and the licensing of the internal carriage trade took up the bulk of FitzGibbon's time. In the matter of the charity schools, he pressed for the appointment of two inspectors.

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33 *Freeman's Journal*, 6-9 February, 1790, Parliamentary Report/House of Lords, 8 February, 1790

34 Ibid. 9-11, 11-13 March, 1790;Parliamentary Reports/House of Lords, 9 and 10 March, 1790

These officials would visit schools and certify that masters were applying bequests and endowments properly.[35] As for the licenses, FitzGibbon, in a mild dispute with Lord Farnham, maintained that they were a fine idea. They were cheap, they were easy to obtain, and they protected honest traders from the unfair competition of smugglers.[36] The session was as short as it was dull; parliament adjourned on April 4, within four months of opening.[37]

(iii)

The quiet of his first parliamentary session as Lord Chancellor was illusory and brief. He may have missed out on the post-Regency crisis duels with the opposition in the House of Commons; but he soon received the dubious compensation of a central role in an extra-parliamentary dispute over the mayoral election of 1790. On one level, the dispute represented another skirmish in the dismal, desultory war over the Police Act. On another, it represented a naked attempt by both radical and government factions to control the outcome of the approaching general election. The mayor, along with the sheriffs, judged the qualification of voters, and they presided over the tally of votes.[38] In short, whichever party controlled the chief municipal offices controlled the outcome of the election for city members. Unfortunately, FitzGibbon's intervention exacerbated rather than resolved the crisis and brought him considerable discredit, not only with the usual political opponents, but with the English government.

Ordinarily each alderman served as Lord Mayor in rotation. The term of office was one year. Nonetheless, a law of 1759 permitted the popular branch of city government, the Common Council or Commons, to refuse a particular candidate.[39] On April 16 of 1790, the Dublin Commons, under the leadership of that perennial radical Napper Tandy, denied the election of Alderman James. The fact that he was a commissioner of the hated police accounted for his rejection. The Commons expected the next in rotation, James' brother-in-law Howison, to receive appointment instead. But the Aldermen, resentful over the high-handed treatment meted out to James, proposed every other alderman *but* Howison. Not unexpectedly the Commons rejected every alternative *but* Howison.[40] Howison's virtues appear to have been

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35 Ibid., 25-27 February, 1790, Parliamentary Reports/House of Lords, 25 February, 1790

36 Ibid., 6-9 March, 1790, Parliamentary Reports/House of Lords, 6 March, 1790

37 Ibid., 6-8 April, 1790, Parliamentary Reports/House of Lords, 5 April, 1790

38 My thanks to Professor L.M. Cullen for bringing this detail to my attention. Of course, none of the accounts of the dispute, either in the contemporary newspapers, or in the younger Grattan's memoirs, took any notice of this motive.

39 *Irish Statutes VII*, "An Act for Better Regulating the Corporation of the City of Dublin", Clause IX, p. 753

40 *Freeman's Journal* , 13-15, 1790, "Postscript" for 16 April, 1790; there is also the younger

entirely negative. He was *not* a police commissioner and he did *not* have the approbation of the Board of Aldermen. Therefore he became the paragon and the paladin of a Commons determined to assert its power and to control the outcome of the parliamentary elections.

Three days later, in keeping with another provision of the act of 1759, the Commons met at the Thosel to elect their own candidate. In spite of the isolated opposition of John Gifford, the government's hired newsman, the Commons stood by Howison. John Binns, Tandy's ally in the great initiative against James, then proposed laying the dispute before the Privy Council for a final judgment. He also suggested the inevitable side effect of all protracted disputes, a report. The Commons agreed to both proposals.[41]

The hearing took place on April 26. Two leading luminaries of the Whig Club, George Ponsonby and John Philpot Curran, took the part of Howison. James retained Counsellors Smith and Downes, both of whom later received appointments to the Bench. Already a municipal dispute had become a factional dispute among national parties. The Privy Council, with FitzGibbon in the lead, threw out Howison's election and called for a new one.[42] FitzGibbon's motives were obvious. He saw the election dispute as a partisan troublemaking at its most absurd, and he hoped that sense, calm, and order would prevail at a new election.

In the meantime, the parliamentary elections, the true *raison d'etre* for the whole contretemps, took place. In spite of their frustrations, the radical faction could take satisfaction in the results of the election: Henry Grattan and Lord Henry FitzGerald were duly returned as members for the city.[43] But the quarrel over the municipal elections raged on, with bad consequences for FitzGibbon. During a riot following the parliamentary elections his house suffered damage.[44] In a public advertisement, he gave an indignant account of the evil work done by this "riotous and tumultuous mob." They "broke down the windows and window shutters and poured showers of bricks and paving stones into every part of it they could reach." He offered a reward of £100 "for the discovery of persons concerned in the said outrage, or any of them as I may be enabled to prosecute him or them to conviction."[45] The reward was handsome, and FitzGibbon's determination strong, but he never seems to have discovered, much less "prosecuted to conviction" the culprits. What connection the attack had FitzGibbon's Privy Council decision is unclear. The attack may simply have arisen from sheer

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Grattan's account, *Grattan IV*, pp. 1-7

41 *Freeman's Journal*, 17-20 April, 1790

42 Ibid., 24-27 April, 1790

43 *Dublin Evening Post*, 13 May, 1790

44 Ibid.; *Freeman's Journal*, 13-15 May, 1790

45 *Freeman's Journal*, 13-15 May, 1790

mischief-making, drunken euphoria, and a popular dislike that persisted in spite of the nationalistic satisfaction with his elevation.

If the mob had indeed intended to express dissatisfaction over the decision of the Privy Council, FitzGibbon was unshaken. The new mayoral election ended in the same stalemate. The Aldermen proposed James and the Commons rejected him. When the frustrated Board of Aldermen asked for an explanation, the Commons gave an answer both laconic and shamelessly partisan: "they [the Commons] had acted according to the law, and did not think it incumbent on them to assign any cause."[46] The Commons then called for the nomination of another candidates, but the Alderman withdrew from the farce. Left to their own triumphant devices, the Commons elected Howison a second time.[47]

For a second time the parties appeared before the Privy Council, with one minor change in the *dramatis personae*: Patrick Duignan replaced Downs as one of James' advocates. FitzGibbon repeated his earlier action by dismissing the election and calling for another.[48]

The subsequent election followed its inevitable and childish course: the Aldermen proposed James, the Commons rejected him in favour of Howison, and the dispute was brought before the Privy Council for a third time.[49] The ever unreliable memoir of Grattan *fils* gives a full account of this particular hearing. Curran distinguished himself by a florid billingsgate which even the pious younger Grattan had to admit was self-defeating. His speech, blithely ignored the main legal question raised by the election, to wit, whether the Commons had a limitless right to reject candidates proposed by the Board of Aldermen. Instead, he indulged in a harangue against government in general and FitzGibbon in particular. When FitzGibbon interrupted a history of past Privy Council iniquities, Curran launched into this barely concealed assault on his old enemy's character:

> Alas, my lords, by what argument could any man hope to reclaim or dissuade a mean, *illiberal* and unprincipled minion of authority, induced by his profligacy to undertake and bound by his avarice and vanity to persevere.[50]

Upon hearing this forensic production, FitzGibbon no doubt regretted his poor marksmanship during the duel of 1785. Nonetheless, he showed an admirable, and uncharacteristic forbearance in his response; he simply asked Curran to stick to the legal

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46 *Freeman's Journal*, 27-28 May, 1790

47 Ibid.

48 Ibid., 8-10 June, 1790

49 Ibid., 24-26 June, 1790; 10-13 July, 1790; the election took place on 24 June and the hearing before the privy council on 10 July, 1790

50 *Grattan IV*, p. 6

point:

> Surely Mr. Curran, a gentleman of your eminence in your profession must see that the conduct of former Privy Councils has nothing to do with the question before us. The question lies in the narrowest compass, whether the Commons have a right of arbitrary and capricious rejection or are obliged to assign a reasonable cause for their disapprobation. To that point you have a right to be heard, but I hope you do not mean to lecture the Council. [51]

Curran failed to take the hint and responded with more personal invective:

> I mean, my Lords, to speak to the case of my client, and to avail myself of every topic of defense which I conceive applicable to the case. I am not speaking to a dry point of law, to a single judge on a mere forensic subject. I am addressing a very large auditory consisting of co-ordinate members, of whom the far greater are not versed in law...I am aware, my lords, that truth is to be sought only by slow painful progress; I know also that error is in its nature flippant and compendious; it hops with airy and fastidious levity over proofs and arguments and perches upon assertion which it calls conclusion.[52]

Grattan the younger gloatingly recorded that FitzGibbon ordered the Council Chamber cleared of spectators, once he realized the drift of Curran's speech.[53] Curran may well have succeeded in scoring a petty personal point, but he failed his client. FitzGibbon upheld James' claim and he informed the Commons that if they still were dissatisfied, they could take their case to the King's Bench. He added "...by the time that the Commons *had amused themselves there for three or four years, it was probable they would be tired of it and wish themselves out of the dispute*." [54]

Young Grattan inferred from these comments that FitzGibbon had acted out of mere arbitrary caprice: "Such was the solemnity of his judicial decisions."[55] But FitzGibbon's decision was perfectly solemn and perfectly in character. He loathed party and judicial wrangling, particularly if aided and abetted by the Whigs. To his mind, James was a perfectly suitable candidate, and whatever rights of election the Commons might claim, they had no right to deny him an office to which he was otherwise entitled out of sheer partisan perversity. In short, his biases in favour of order and established procedure prompted him more that strict judicial reasoning. Anger at Curran and habits of irritable haste may have played no small part as well. Whatever his motives, FitzGibbon undoubtedly believed or hoped that if confronted with a firm decision against them and the prospect of a long lawsuit if they pursued the

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5 1 Ibid., p. 7
5 2 Ibid.
5 3 Ibid.
5 4 Ibid.
5 5 Ibid.

matter, the anti-James, anti-police partisans would back down.

Once again he miscalculated. Retaliation for his decision was swift. Three days after the meeting of the Privy Council, the Guild of Merchants met, with none other than Napper Tandy in the chair. The members voted to withdraw the congratulatory address and the freedom granted to FitzGibbon in the happy, heady days following his appointment as Chancellor.[56] The following day, July 14, the Commons proposed a long list of resolutions, attacking both Alderman James and FitzGibbon's decision in his favour.

Among other things, they asserted that since the Aldermen had failed to provide a suitable alternative to James (in the person of Howison), the law of 1759 vested the right of an election exclusively in the Commons. The Privy Council, by over-riding this right and by upholding James' election "did as far as their power extended, *dispense with the law of the land.*" Since James had assumed office illegally, the Commons declared themselves under no obligation to recognize him as mayor. On the contrary, they would "by every legal means oppose him in the execution of the office of Chief Magistrate." To drive home its point, the Commons barred James from the use of the Mansion House, they resolved to deny him any public funds, and they threatened to turn civic ceremonies into humiliating farces by refusing their attendance.[57] Finally, and most ominously, the Commons resolved to turn a municipal squabble into a drive for the purge of national government, and especially for the purge of FitzGibbon:

> That as Alderman James had by the Privy Council been declared Lord Mayor for the ensuing year, we do hereby direct an application to be made to all corporate cities and towns, to concur with us in an humble address to His Majesty, laying before His Majesty that whereas there had been a *violent infringement of our right* by the illegal exercise of the powers vested in the Lord Lieutenant and Privy Council, and praying that His Majesty will *remove from his Councils* those who advised that measure.[58]

The resolutions passed overwhelmingly. A certain Mr. Wilson raised the sole voice of dissent by suggesting that the call for a petition to the King might create "injurious alarm."[59] No fears of injurious alarms intruded on the enthusiastic support given to the resolutions by a subsequent meeting of the freeholders and freemen of Dublin. The irrepressible Sir Edward Newenham was in his prime, as he denounced the "infringements made on the rights of the Commons of the City of Dublin."[60] The future United Irishman, Hamilton Rowan, made one of his first public appearances as

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56 *Freeman's Journal*, 13-15 July, 1790; the meeting took place on 13 July, 1790

57 Ibid., 15-17 July, 1790

58 Ibid.

59 Ibid.

60 Ibid., 20-23 July, 1790; Dublin news column dated 21 July, 1790

chairman of the freeholders' meeting.[61] Inevitably, the Whig Club took advantage of the uproar to add polemical as well as legal assistance to the Common Council:

> That the Whig Club cannot possibly have witnessed what has lately passed respecting the election of a Lord Mayor without expressing the deepest concern and declaring that they will, both individually and as a body, co-operate with their fellow citizens in every legal and constitutional measure which may tend to vindicate the law and to support the rights of the metropolis.[62]

The Whig Club later published this resolution. Grattan's signature, as pro-secretary, appeared on it, as did the gilt-edged Whig names of Charlemont and Moira.[63]

FitzGibbon probably would have responded to the resolutions of the Commons and the Dublin freeholders with the contemptuous indifference he had displayed in 1784, during the great uproar over attachments. But the resolution of the Whig Club, and especially the participation of Moira and Charlemont, exacerbated his ever present resentment against the propertied and the well-born, who gratuitously disturbed public order for party purposes. An emergency meeting of Parliament, prompted by an impending war with Spain, gave FitzGibbon an opportunity to express his displeasure and to defend his actions. The speech was a typical FitzGibbon production, forceful, closely reasoned, and liberally laced with brutal invective. While making an elaborate pretext of disbelief that Moira and Charlemont would lend their names to such a proceeding, FitzGibbon cruelly and strikingly ridiculed their closest political associates:

> Now my Lords, if this resolution had appeared only under the authority of the Whig Club, signed by their secretary or pro-secretary, I would have treated it as I would any other resolution of any other eating or drinking club; but when a charge is made, or strongly insinuated, when that charge is, that an act to which my name is signed, an attack has been made on the rights of this metropolis, and an invasion of the law of the land---when it appears authenticated by the names of two of the Hereditary Councillors of the Crown, two of the Hereditary Judges of the land, it becomes necessary to know whether they have really submitted to have their names placed to it? [64]

When Moira and Charlemont affirmed that they had indeed signed the resolution of this particular "eating and drinking club", FitzGibbon launched into an elaborate history of the city government of Dublin, beginning with the reign of Richard III no less; in essence his history made the rather irrelevant point that the Commons had not always

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61 Ibid.

62 *Grattan IV*, p. 8

63 Ibid.

64 *Freeman's Journal*, 27-29 July, 1790, Parliamentary Reports/House of Lords, 24 July, 1790; all subsequent quotes from the speech are from this same source

had the power of approbation and that traditionally the Aldermen alone had selected the mayor. This historical groundwork established, he offered an equally elaborate defense of himself. In essence, he maintained that his supposed act of arbitrary partisan illegality had in fact been an act of the most scrupulous judicial neutrality. He had simply referred the dispute to its proper sphere, the Court of King's Bench, which alone had the authority to decide on the merits of the election. If that decision came into dispute, it could, like any other, be appealed to the House of Lords. To set this judicial process in motion, the Privy Council chose that candidate who was "well-affected to Church and State" (in other words a suitably qualified Protestant) and who moreover appeared to have the best *prima facie* title. This practice "has been always considered as almost a matter of course in cases of double returns." On no account was this power of approbation a judicial power. FitzGibbon lambasted his present and absent auditors in the Whig Club for their legal ignorance on this point:

> It was preserved for the peculiar sagacity of the Irish Whigs to transform this right of approbation into a judicial power, which indeed, is such a perversion of sense and meaning as could only arise from the greatest confusion of ideas that ever distracted the brain of man.

Although he himself was of opinion that Alderman James had the best claim, FitzGibbon maintained his fundamental open-mindedness on the matter:

> I have spent the greater part of my life in endeavoring to acquire a knowledge of the law, and this is the opinion which I have formed upon the best consideration of the subject; yet when it comes to the Bar of this House for decision, if anything appears in argument sufficient to change that opinion, I shall not be ashamed to retract it.

After reiterating that the Courts alone could determine the validity of the election FitzGibbon closed with another warning against the danger and the folly of partisanship. Order and the rule of law existed only precariously in Ireland; the Whig Club and their allies in the Dublin Common Council were acting with criminal irresponsibility by subverting both in their selfish pursuit of power:

> Suppose the law other than as I conceive it; is the question to be decided by clamour and noise? Are they, the hereditary judges of the land, instead of appealing to the Court of King's Bench in the first instance, and to this House in the *dernier resort*, are they, I say, to appeal to the Whig Club, or to the Aggregate Body, or to men with National Cockades in their hats? If so, what is to become of property? My Lords, this country is, I am afraid, driven upon the verge of a precipice, and I am well aware there is a set of discontented men who would push her on to ruin. Good God! Is it not manifest? Who are the men who would invade the laws, the Lord Lieutenant and the Council who send the Question of right to a legal decision, or those who would shut up the Courts of Justice and appeal to the Whig Clubs, Aggregate Meetings or men with arms in

> their hands and national cockades in their hats? It has been much the fashion to decide questions by clamour, you may shut the Courts indeed and leave every peaceable honest man without redress; for every question that ever came before the King's Bench, the Exchequer, the Common Pleas or the Chancery may as well be decided by clamour as that between the contending parts of the the Corporation of Dublin, and if so, what becomes of the law?

The government newspapers were predictably lavish in their praises of FitzGibbon's performance. *Faulkner's Dublin Journal* reprinted the speech at length, and the *Freeman's Journal* declared that FitzGibbon's arguments were so forceful and so sound that his Whig opponents, in and out of Parliament, "were struck dumb by the assertion of truth and the most uncommon strength of legal argument. Nothing was returned but silence and the admissibility of error." [65]

In actuality, FitzGibbon may have labouring under an uneasy sense of his own admissibility of error. For all his taunts at the "peculiar sagacity" of the Whigs, FitzGibbon, like Curran before him, evaded the central legal issue of the conflict, the interpretation of the statute of 1759. He retreated into claims of uncertainty: "...there are amongst wise and able men a variety of opinions on the subject---some adhering to the strict letter of the statue of the 33rd of George II, others construing the statute by general known principles of common law."[66] His claims of lofty neutrality and his appeals to the orderly procedure of the law amounted to *ex post facto* rationalizations. With characteristic haste and irritability, he had decided the Commons was abusing its right of approbation. However right he may have been and however absurd the Commons, his interpretation of the law was dubious. The plain wording of the statute in question gave the Commons the right to refuse a candidate without any qualification whatsoever, as he himself had to admit.[67] By the time he delivered this speech, FitzGibbon may have recognized that he had overstepped the mark; he could never of course admit as much, so he transformed his flawed judgment on a clear point of law into a mere opinion on a doubtful point.

Worse, his speech, far from silencing anyone, needlessly prolonged the whole miserable business. Five days after he delivered it, Alderman James, notwithstanding

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65 Or so Sir Edward Newenham claimed. He claimed at a subsequent meeting "I have in my hand a kind of pamphlet, published in Faulkner's Journal ." See *Freeman's Journal*, 3-5 August, 1790. Actually, the speech appeared in all the major Dublin prints in one form or another. For the quote from the *Freeman's Journal*, see July 29-31, 1790, Dublin news for 29 July, 1790.

66 *Freeman's Journal* , 27-29 July, 1790, House of Lords Parliamentary Debate, 24 July, 1790

67 Ibid.; See also *Irish Statutes VII*, p. 752: "And be it enacted by the authority aforesaid, That the name of every person who shall hereafter be elected by the lord mayor and aldermen of the said city or the usual quorum of them to serve in the office of place of lord mayor to the said city, shall be returned to them by the commons of the common council of the said city for their approbation; without which approbation such person shall not be capable of serving in the office or place of lord mayor..."

his strong *prima facie* case, resigned the mayoralty in favour of Howison.[68] Ostensibly, he resigned to restore harmony to the city, but he undoubtedly did so out of sheer weariness. His opponents on the Common Council failed to show a similar magnanimity. At another meeting of the freeholders held on August 4, Sir Edward Newenham criticized James for not admitting the illegality of his election when he resigned. "Mr. McNally" (probably the future government spy cum United Irish defense counsel) compared Alderman James with King James: "the latter having given up a Crown under as contemptible circumstances as the other resigned his crown." [69] The Commons might have been sated with this public display of mean-spirited exultation, had FitzGibbon's speech not offered a new pretext for outrage and agitation.

Again, Sir Edward took the rhetorical lead. Borrowing a device from FitzGibbon himself, he made an elaborate pretext of disbelieving printed versions of the speech in the House of Lords. His remarks alluded to old grievances over attachments, to renewed grievances over the police and the mayoral election, and to FitzGibbon's supposed paternal connection to the Jesuits, a persistent and perhaps willful delusion of Sir Edward's:

> This pamphlet is said by the printer to contain the speech of Lord FitzGibbon, Lord High Chancellor of Ireland...so far the printer put his Lordship's imprimatur to it----it may not, it cannot be genuine, but as it has been printed, reprinted and most assiduously circulated, and as no printer has been taken up, no information filed, no attachment issued in consequence of the publication, every man is at full liberty to answer it...Nothing can be more trifling or partial than curtailing so material a clause of an act of Parliament---it might answer the scholastic chicanery of a disciple of Ignatius Loyola, the artful founder of the Society of the Jesuits, who skimmed the surface of truth, but never adhered to the substance, it must, however, be an error of the press, or a false conception of the parliamentary reporter, for it is impossible that the Lord High Chancellor could sink or curtail the essence of an act of Parliament to answer the degrading views of a police junto.[70]

The Whigs did their part to sustain the great uproar against FitzGibbon. Far from lapsing into silent consternation, they met, they drew up a predictable list of resolutions denouncing FitzGibbon, and they published their resolutions in the form of a pamphlet.[71] They too adopted the well-worn ruse of assuming FitzGibbon was not in fact the author of the speech in question. The Whigs declared that they would have ignored the publication "if [the] empty paper did not affect to call itself the speech of the

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68 *Freeman's Journal*, 29-31 July, 1790, Dublin news, 29 July, 1790

69 Ibid., 3-5 August, 1790

70 Ibid.

71 *Grattan IV*, pp. 9-18

Chancellor."[72] They then defended the actions of Charlemont and Moira for acting, not as mere hereditary judges but as "hereditary freemen---bound by interest---bound by affection... and now by the offenses of His Majesty's ministers and their contumely---bound more than ever to make common cause with their countrymen."[73] Gleefully, the pamphlet seized on the irrelevancies and inconsistencies in FitzGibbon's argument. FitzGibbon was drily informed that the history of Dublin corporation was perfectly well known. The Whigs, and indeed, the people of Dublin, asked for no more than their *current* chartered rights, permitted by an express act of Parliament.[74] As for his claims that the Privy Council had made no judicial decision, the Whig Club pamphlet observed that FitzGibbon had certainly given that impression. He had limited Curran to the discussion of a point of law, and he had enquired into the circumstances of the election in an exceedingly judicial manner. Simply by declaring that Alderman James had the best *prima facie* case FitzGibbon had made a judicial decision.[75] FitzGibbon's referral of the matter to the Court of King's Bench, and his unhappy turn of phrase in doing so also came under attack. Far from offering any redress, the decision was maliciously calculated to thwart opposition:

> But though the author informs us there is redress at law, yet the person whose name he assumes also informs us that 'such redress would be a grievance and that the city after amusing itself for three years in the courts of justice would be heartily sick of the experiment.' Our respect for decency prevents us from going so far as to cast a damp and despondency on appealing to the law of the land, yet we do agree that the forcing the city to that appeal was a very great injury, because the redress might be very tedious, the interim might be very disturbed and the period of the mayoralty expire before the point could be settled.[76]

FitzGibbon's rhetorical excess in general inspired indignant prose. His remark about the Whigs' "peculiar sagacity" in confusing a judicial power and a power of approbation provoked as merciless a rejoinder: he had displayed "gross and manifest presumption in making in so gross a manner so unfounded a clause."[77] The pamphlet alluded as well to FitzGibbon's past verbal bad manners and in particular to his infamous remarks following the rejection of the commercial propositions:

> We cannot avoid expressing our disapprobation of such a malapert way of addressing the people, a disregard for whom, under any government is unwise, under a free government graceless, and in a minister disqualification to hold the

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72 Ibid., p. 10
73 Ibid., pp. 11-12
74 Ibid., p. 12
75 Ibid., p. 13
76 Ibid., p. 14
77 Ibid., pp. 15-16

> reins of power. We have not forgotten the gross language once before offered to the people; it was when they defended their country against the famous propositions. We flattered ourselves that we should never again be witness to the like froward discussions.[78]

Above all, the Whig Club pamphlet ridiculed FitzGibbon's interpretation, or rather his failure to interpret the Act of 1759. The Whigs had no such compunction:

> ...as from the speech under consideration, no trace whatever of the merits of the question appears, we think it proper to state from the act of the 33rd George II the following obvious inference---that by the Act no man can be mayor of the city who is rejected by the Commons; that the right of rejection in the Commons is co-extensive with the right of election in the board, both being limited by one and the same proviso, which only requires that the Board shall elect and the Commons approve of some one of the Board.[79]

It was a devastating and fundamentally sound critique of FitzGibbon's action. It also caused him profound offense. Grattan, who had the main responsibility for drafting the pamphlet, commented," The Chancellor is, I believe, vexed, but could he expect to abuse us as a pack of blockheads and not to meet retaliation?"[80] Grattan's son later made the rather melodramatic claim that the pamphlet ended his father's boyhood friendship with FitzGibbon.[81] The Regency Crisis and its aftermath already had created a rift between the two. FitzGibbon's dismissive comments about the pro-secretary of the Whig Club, who was none other than Grattan himself, suggest as much. Moreover, Curran may have contributed as much, if not more to the offending pamphlet.[82] But the pamphlet was unquestionably harsh, and FitzGibbon may well have looked upon Grattan's collaboration in such a bitter personal attack as a betrayal which no political difference could justify. It was not perhaps the sole cause for the end of their friendship, but it was perhaps the inevitable *coup de grace*.

FitzGibbon's actions in the mayoral election of 1790 appear to have had other, and to him, more serious consequences than a broken friendship and some ugly verbal duelling in Parliament and in print. Grattan was ultimately unimportant, and FitzGibbon was well used to political brawls. But his reputation with the English government, and especially with Pitt, seems to have suffered. Lord Donoughmore hinted at a loss of favour:

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7 8 Ibid., p. 10

7 9 Ibid., p. 17

8 0 Ibid., p. 25, Grattan to Rev. Edward Berwick, 3 September, 1790

8 1 Ibid.

8 2 Grattan also seems to have asked Berwick to ask the advice of Charlemont, also no great friend of FitzGibbon.

> ...The Chancellor will certainly wish to be sole Minister as long as he can. But how far his Dublin stretches of power and consequent retreat may have increase the premier's confidence in him, I can only judge from what things ought to be.[83]

Admittedly, Donoughmore may have been displaying an element of partisan *schadenfreude* in these remarks. But rumors of a rift between FitzGibbon and Pitt over the former's conduct were so persistent that the Irish government felt compelled to issue a disclaimer through its mouthpiece, the *Freeman's Journal*:

> By the last accounts from London, we read that so far from any misunderstanding existing between the Lord Chancellor and the British Minister, both these exalted characters had in the greatest harmony waited on our Royal Sovereign with whom they had a private audience. This strengthens the caution which we have *already given* not to place any credit on those *political lies* with which the factious prints continually team.[84]

Nonetheless, there may have more to the rumors than Whiggish malice or the mendacity of factious prints. Even the Bishop of Ferns, who was neither a Whig nor a radical journalist, thought FitzGibbon's decision faulty, and he communicated his opinion to no less a personage than Lord Kenyon, the English Lord Chief Justice:

> No unlearned man who reads the 33rd of George II which regulates the election of a Chief Magistrate can suppose it possible that Alderman James could be duly elected.[85]

Kenyon may have passed this opinion on to the English ministers, including Pitt. Pitt, never favorably disposed to FitzGibbon, may have resented him for engaging in an embarrassing political brawl for no good legal reason. He longed above all to restore the equilibrium of *Hibernia non movere*. His premier Irish servant on the other hand, seemed more inclined to create a state of *Hibernia agire*. Nonetheless, FitzGibbon appears to have suffered nothing beyond some chilly interviews at Downing street. He no doubt employed his considerable powers of blandishment to smooth things over. More importantly, whatever his personal flaws and errors of judgment, he was simply too experienced, too knowledgeable and too reliable to be dismissed. The English government was to endure a great deal more for a very long time, before deciding that FitzGibbon was more trouble than he was worth.

(iv)

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83 *HMC Donoughmore*, p. 324, Lord Donoughmore to John Hely Hutchinson, 2 October, 1790

84 *Freeman's Journal*, 7-9 December, 1790

85 *HMC Kenyon*, p. 531

1790 was something of an *anno mirabilis* for absurd, trivial and overheated political issues. FitzGibbon had barely extricated himself from *L'Affaire James* when he became embroiled in another controversy, this time over his new state carriage. FitzGibbon had an established reputation as a connoisseur of smart equipages and good horseflesh. [86] Shortly after his appointment as chancellor, a trait that had once served as another object of mockery became, in the general FitzGibbon *manie*, another virtue. *The Dublin Evening Post* expressed a hope that FitzGibbon would replace Lifford's seedy carriage with one in keeping with the dignity of the "speaker of the House of Lords." The paragraph went on to declare:

> As his [FitzGibbon's] horses are remarkably handsome and well-appointed, the fashion and display of his carriage will be suited to them [state processions] and the whole correspond to his liberal spirit and exalted station.[87]

FitzGibbon fulfilled the fond expectation of the *Dublin Evening Post*.. His new equipage, which was completed and delivered in September of 1790, was a massive, gaudy contraption, encrusted with gilt.[88] It epitomized FitzGibbon's own exalted sense of his station, his appetite for luxury, and his glaring lack of taste.

Unfortunately, FitzGibbon did more than offend good taste. He again offended sensitive national feelings by ordering his new carriage from England. Suspicion and resentment of England's commercial superiority and a belief that every Irishman ought to patronize home manufactures had long been essential articles of the patriot/opposition creed. These articles FitzGibbon had flaunted on a grand scale. As a result, he brought on himself and on his carriage a month's worth of hostile comment in the two main opposition papers, the *Dublin Evening Post* and the *Hibernian Journal*. The *Dublin Evening Post* claimed that the population in general was bored with it. (To judge from the volume of commentary, the contributors to the *Dublin Evening Post* were less *blasé*.)[89] The same paper sneered at the fact that the carriage was so large that it could not pass through the narrow streets surrounding the Four Courts. This circumstance, it noted, defeated the purpose of the carriage, which was to convey the Lord Chancellor to his court.[90] Both the *Dublin Evening Post* and the *Hibernian Journal* compared it

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86 See for example the *Dublin Evening Post*, 4 March, 1784; in a mock Last Will and Testament FitzGibbon bequeaths, among other things, "my cranky phaeton and my four wildest and unruly horses." For a more complimentary picture of FitzGibbon as a smart figure in a phaeton see the same publication for 4 May, 1784

87 *Dublin Evening Post*, 20 June, 1789

88 An advance description of the carriage appears in the *Dublin Evening Post* , 24 July, 1790. The description was apparently based on reports from the workshop in London.

89 *Dublin Evening Post*, 6 November, 1790

90 Ibid., 9 November, 1790

unfavorably to the quality and the elegance of the Lord Mayor's Irish-made carriage.[91]

In the eyes of the government press, of course, FitzGibbon could do not wrong, either as a politician or as a patron of the decorative arts. Both the *Freeman's* and *Faulkner's* praised the beauty and workmanship of his carriage.[92] The *Freeman's* even tried to suggest that FitzGibbon was promoting Irish manufactures with his English-made carriage. Its workmanship would serve as a standard of emulation for Irish craftsmen.[93]

Compared with the high melodrama of FitzGibbon's past political career and compared with those in which he was to appear, the matter of the state carriage was a minor farce. If anything, it illustrated how completely he had exhausted the fund of good will from 1789. FitzGibbon probably came to the very proper conclusion that the *Dublin Evening Post* and the *Hibernian Journal* had no business dictating where and how he should purchase his own personal carriage. He could not have spared much thought for this particular controversy, even had he been so inclined. He had far more ominous turns in public opinion to address. As he and the Whigs bickered over the niceties of Dublin municipal government, the French Revolution was adding a potent new leaven to the flat, stale discontents of Irish politics.

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91 *Dublin Evening Post*, 20 July, 1790; *Hibernian Journal* , 22 September, 1790

92 *Freeman's Journal*, 6 November, 1790: "...a Voiture of the first elegance of construction, and the most magnificent of execution..."; *Faulkner's Dublin Journal*, 21 September, 1790: "The Chancellor's state coach is the admiration of every man of science who has seen it."

93 *Freeman's Journal*, 23-25 September, 1790: "Let Irishmen profit by the example and not grumble, when a good example is brought to their doors for profit and improvement."

(i)

FitzGibbon's initial reaction to the French Revolution was characteristically acerbic:

> By the way, our good neighbor the French King is now reaping the full fruits of his attachment to American liberty. If there exists anything in the shape of political gratitude, surely America will now send General Washington to the assistance of their great and good ally. [1]

By 1790, he surely must have recognized that the French-American disease of revolution was arousing a fever of euphoria and expectation in Ireland. The controversy over the mayoral election may have originated in electoral intrigues and old grievances over the police, but that same controversy saw the introduction of novel, French-inspired methods of protest and mobilization. The adherents of the Commons and of Howison took to wearing a national cockade in imitation of the French. At the meeting of the freeholders which followed the Privy Council's final decision in favour of James, someone, in jest or in earnest, pinned one of these cockades on a statue of the King.[2]

The government immediately responded to the provocation with menaces from the *Freeman's Journal,* though the *Freeman's* chose to rattle the old skeletons of the Gordon Riots rather than allude to the more current disturbances in France:

> In the present situation of affairs, it [wearing the cockade] is nearly an overt act of high treason. They will recollect that a display of a few blue ribbands under Lord George Gordon in London kindled a flame which threatened destruction to the metropolis and which after the ruin of men of property could not be extinguished but in the blood of the people.[3]

The French fever showed far graver manifestations than green tin party favours. The Volunteers, the bellweathers of radical political sentiment, emerged from their post-Rutland moribundity to drill and parade again. Many of them added the new national cockade to their uniforms.[4] The massive, frenzied political changes in France gave a new lease on life to thwarted demands in Ireland for parliamentary and tithe reform, and the Volunteers took their accustomed and long vacant place at the forefront of radical

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1 Falkiner, p. 149

2 *Freeman's Journal,* 20-22 July, 1790, "Postscript" for 20 July, 1790; 20-23 July, 1790, Dublin news for 21 July, 1790

3 Ibid., 22-24 July, 1790

4 Ibid.

agitation. On the 29th of September, a so-called Volunteer Association met in secret committee and raised the old call for constitutional reform. The Association also resolved "...that the unlawful Exactions of Tithes are a national disgrace and grievance and ought to stand foremost for Redress and that we will to the utmost of our Power use every Exertion and act in conjunction with our fellow citizens to procure a total abolition thereof." [5] The ubiquitous names of Tandy and Newenham appeared on this set of resolutions.

Belfast took its accustomed place in the political *avant garde*. The so-called "Constitutional Compact" of October 1, 1790, drawn up by the Belfast Constitutional Society, praised the French for adopting the "wise system of Republican Government," and for "abrogating that enormous power and abused influence which the Clergy of that Kingdom had for years past usurped." The compact called on the people of Ireland to imitate the "bright example" of the French.[6]

French-inspired radical agitation did not show any sighs of letting up in 1791. On the contrary, the publication of Paine's *Rights of Man* provided a new tool for mobilization of public opinion. The *Freeman's Journal* took due and doom ridden note of the active dissemination of Paine's "King Killing" doctrines in Dublin.[7] Anniversary celebrations of Bastille Day also kept the French Revolution and its possible applications for Ireland, alive in the public realm. That anniversary served as a gala occasion for Volunteer parades and maneuvers. The Dublin celebration of 1791 culminated in a massive window breaking campaign against those citizens who had failed to illuminate their houses.[8] Drink and mob excitement, rather than revolutionary fervor, probably set off the riot, and the Volunteers, led ironically by Hamilton Rowan, helped in the arrests of some rioters.[9] But the celebrations of the Revolution offered a new and powerful forum for venting popular discontent with the structure of government and society in Ireland. Again, Belfast took the adventurous lead. Its citizens observed Bastille Day with resolutions in enthusiastic support of the new government in France.[10] Such praise more than faintly damned the old established government of Ireland.

According to the *Freeman's*, Paine's insidious doctrines were also spreading into the countryside. A correspondent from Kilkenny complained that the lower orders had lost all their former deference and peaceableness, thanks to the spread of Painite ideas through the medium of "parish clerks, schoolmasters, poor scholars and

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5 Dublin: ISPO, Westmorland Papers, Carton 1/ff 8

6 ISPO, Westmorland Papers, Carton 1/ff 8

7 *Freeman's Journal*, 14-16 April, 1791, news item dated 14 April, 1791

8 *Freeman's Journal*, 16-19 July, 1791; 19-21 July, 1791, "Postscript" for 19 July, 1791

9 *Freeman's Journal*, 19-21 July, 1791, "Postscript" for 19 July, 1791, op. cit.

10 Ibid., 28-30 July, 1791, item dated 28 July, 1791

others"[11] But the Defenders above all manifested the spread of revolutionary ideas throughout the countryside.

Probably no force for unrest more baffled and unnerved the government. The Defenders originated in Armagh in the 1780's and specifically in one of the consequences of Armagh Volunteer politics in 1784. Catholic attempts to carry arms, in spite of laws to the contrary ignited conflicts with some of their Protestant neighbors, which in turn served as a starting point for protracted and often obscure lower order politics.[12] The inflammatory nature of this issue cannot be over-estimated or over-emphasized. The furor which the prospect of armed Catholics aroused in Rutland, in Orde and in FitzGibbon himself has already received attention. For their part the Catholics bitterly resented restrictions on what was considered a premier right of every freeborn man. By asserting the right to bear arms, they brought into question the remaining civil and political restrictions against them, as well as inspiring the old fears of their capacity for massacre. In Armagh this political conflict led to the rise of two factions: the Protestant Peep O' Day boys and the Catholics Defenders. As the encounters between the two became more widespread and more elaborately orchestrated, the government was forced to take notice. Not surprisingly, FitzGibbon took the lead, and not surprisingly, he expressed particular concern about the presence of large bodies of armed Catholics. Nonetheless, even he was not inclined to take immediate action, preferring to cling to that vain and elusive hope that the magistrates would take suitable action to quell disorders.[13] The perennial government hope that the trouble would simply die away again proved vain. Defenderism spread first to Down, Meath and Louth, and later beyond. It acquired in the process an elaborate Masonic-style organization, complete with the baroque mummery of codewords and rituals, as well as a distinctly revolutionary programme, which went far beyond the abolition of petty restrictions on firearms.

The French Revolution added a new, potentially disruptive dimension to the Catholic quest for further political rights, thwarted by the hostile Rutland administration and briefly eclipsed during the brittle, self-indulgent wrangling of the Regency Crisis. It was a welcome *deus ex machina.* for the Catholics. An item which appeared in the *Freeman's Journal* on 31 March, 1789 epitomized their still precarious standing. In the Rutland-Orde tradition of captious bullying, the *Freeman's* criticized

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11 *Freeman's Journal*, 19-21 July, 1791, item dated 24 June, 1791

12 See L.M. Cullen, "Late eighteenth century politicization in Ireland: problems in its study and its french links", pp.137-145 in *Culture et Pratiques Politiques en France et en Irelande XVI e-XVIIIe Siecle: Actes du Colloque de Marseille 28 septembre-2 octobre, 1988*; see also David W. Miller, ed., *Peep O'Day Boys and Defenders: Selected Documents on the County Armagh Disturbances: 1784-96* (PRONI: Belfast, 1990)

13 *HMC Charlemont II*, p. 105, FitzGibbon to Charlemont, 16 July, 1789

the Catholics for tardiness in presenting an address of congratulations to the King for his recovery. The *Freeman's* attributed this unbecoming delay to "certain ambitious individuals amongst themselves, who direct their counsels and who prevent this great body of people coming forward in due time to testify their loyalty and dutiful attachments to the Representatives of the Illustrious House of Brunswick." This particular correspondent certainly demanded an extraordinary alacrity and zeal from the Catholics. The King's recovery had received official confirmation scarcely three weeks before, and most Protestant corporations and grand juries had not yet presented addresses of congratulation. Presumably the elaborate *Te Deum* offered by Bishop Troy (and attended by two of FitzGibbon's sisters, Arabella Jefferyes and Elinor Trant) satisfied this particular correspondent.[14]

Buckingham's wife was an Irish Roman Catholic, but in practical terms, her religion meant nothing. She remained aloof from politics, and she left Ireland savagely indignant at the treatment meted out to her beloved husband by "my dirty countrymen".[15]

Nor could the Catholics hope for much from the Whig Club. Many of its most prominent members doubted the wisdom of giving concessions to the Catholics or had very strong principles against doing so. The glaring absence of tithe reform from the Whig Club agenda reflected the internal divisions of its members on the subject of Catholics. While Grattan was an enthusiastic champion of reform, Whig manifestos avoided the subject out of consideration for the high church sympathies of the club's most reluctant member, Lord Shannon. The *Freeman's* taunted the Whigs for their rather discomfited attitude toward tithes, which given the government's equal reluctance to address the issue, was a particularly shameless bit of propaganda. [16]

The Catholics did receive approaches from someone in the anti-James camp, approaches which probably came from their old fair-weather friend of 1784, Napper Tandy. Whatever its origin, Bishop Troy was alarmed enough by the attempted alliance to issue a pastoral calling on the Catholics of Dublin to stay out of the dispute between the Commons and the Aldermen.[17] The *Freeman's* expressed its approbation of this sentiment with a banner headline. In so doing, the *Freeman's* alluded to the new tactics and rhetoric that the Revolution had introduced into Irish

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14 *Faulkner's Dublin Journal* reported this more sympathetic news item on 6 May, 1789. This item was perfecly in keeping with *Faulkner's* fundamentally hostile attitude; it gave an impression of sectarian harmony, which in turn strengthened the implication, much emphasized by reactionaries within government and without, that Catholics had no reason to look for further rights.

15 *HMC Fortescue I*, p. 419; Lady Buckingham to W. W. Grenville [February ?] 1789

16 *Freeman's Journal* 3-5 August, 1790, essay by "Ormonde"; see also 17-19 August, 1790, essay by "Plain Truth"

17 *Freeman's Journal*, 24-27, 1790, Dublin news, 24 July, 1790

politics. Such tactics and rhetoric had a potentially dangerous appeal to Catholics, hence the official flattery:

> LOYALTY OF THE ROMAN CATHOLICS
> Great hopes were formed by seditious characters on a late occasion, of cooperation in their schemes against the government on the part of the great Roman Catholic body. The example of France was repeatedly mentioned, in order to impress the idea of *revolution*--- but the known zeal and loyalty of that numerous and respectably body were not to be temporized with or shaken and the expectation ended as it should, in disappointment.[18]

More radical reformers, particularly the Presbyterians of Belfast, showed more interest and more astuteness than the Whigs. The spectacle of the bastion of Popery and tyranny adopting a free republican government with full religious liberty revived their interest in an alliance with the Catholics. The Revolution gave new hope that Catholics were not uniformly bigots and slaves. The members of the Belfast Constitutional Society declared that "Protestant Dissenters" were "fully convinced of the Constitutional Principles of their Brethren the Roman Catholics and of their zeal to support and defend the liberty of their country."[19] The gentlemen of the Constitutional Society, in company with other radicals, were probably as fully convinced that without the support of Catholic numbers, their hopes of reform were doomed from the start. The Revolution gave additional validity to the political mathematics of 1783-4 ,and revived the thwarted hopes of 1783-4 for an alliance. Resolutions for an abolition of tithes were obviously an appeal to the Catholics. But the Belfast Constitutional Society, in keeping with the traditions of its native city, shattered the usual reticence and hesitation on the subject and declared its intention to support "their [the Catholics] just claim to the Enjoyment of the Rights and Privileges of freeborn citizens entitled to fill every office and serve in whatever situation their country may think proper to call them."[20]

Radical reform aspirations reached their culmination in November of 1791 with the formation of the Society of United Irishmen. The Society's manifesto powerfully articulated a new vision of Ireland that challenged the exclusively Protestant radicalism of the Dungannon tradition, the tired reformism of the Whig Club, and above all, the establishment in Church and State which FitzGibbon had so long and so vigorously defended. It also articulated, with unprecedented forcefulness, the old resentments of English domination:

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18 Ibid., 31 July-3 August, 1790

19 ISPO, Westmorland Papers, Carton 1/f8, op. cit

20 Ibid.

> ...as the weight of English influence in the government is so great as to require a cordial union among all the people of Ireland, to maintain that balance which is essential to the preservation of our liberties and the extension of our commerce
>
> ...the sole constitutional end by which this influence can be opposed is by a complete and radical reform of the representation of the people in Parliament
>
> ... no reform is just which does not include Irishmen of every religious persuasion[21]

(ii)

In October of that year, Westmorland reported that the Catholics were planning to present a petition for the repeal of some penal laws during the upcoming session of Parliament. In his comments to Pitt, he noted the overtures being made to the Catholics by "ye dissenters and ye lower order of Whigs." But he expressed confidence both in the Catholic's fundamental loyalty and in the government's ability to fend off any untoward claims:

> There can be no question that ye spirit of change and disaffection prevails amongst ye dissenters and ye lower order of Whigs and that a desire to obtain further privileges might induce ye Catholics to cooperate with any party that gave them reason to expect further concessions, but at present I believe ye Committee of ye Catholics are resolved peaceably to give their aid to ye government, but mean, if my intelligence does not mislead me, to make application to Parliament for further privileges in ye next session...In what context any of these schemes may be proposed or pressed, I cannot yet ascertain, but I shall of course know in due time and shd hope we may be able to get rid of them without much trouble as ye business of government here seems to be to keep everything as quiet as possible.[22]

It was the old Rutland strategy of blocking any Catholic progress beyond the concessions of 1782. Westmorland differed only in the comparative lack of paranoia which he displayed at this stage.

Pitt's decision to support a relief bill on behalf of the very small, ultra-obsequious body of English Catholics made it very difficult for Westmorland to "get rid" of the Catholic issue in Ireland. The introduction of the English bill, which granted the rights to plead at the bar, sit on juries and bear arms, inevitably raised expectations among Irish Catholics that they could expect similar concessions from their own government. Indeed, it is hard to imagine that a bill was introduced without Cabinet

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21 R. Madden, *The United Irishmen, Their Lives and Times*, (Dublin, 1857), p. 223

22 London: PRO, Chatham Papers, 30/8/26, Westmorland to Pitt, 12 October, 1790

advertence to its larger imperial implications. This circumstance would in turn explain why the British government in late 1791 responded to promptings in the direction of Ireland and with no internal conflict in the cabinet.

On February 18, 1791, the Catholics of Dublin, who were the political voice for the Catholics of Ireland, resolved to petition for further relief. The post-Rutland mood of timidity prevailed and the resolution left the question of how much and what relief to the "wisdom and justice of parliament."[23] In response to the renewed Catholic political activity, Westmorland tentatively sounded out leading Irish Protestants on the possibility of granting further concessions. He met with an exceedingly discouraging response. In spite of the meek demeanor of the Dublin Catholic Committee, in spite of Westmorland's own conviction that "as far as I know the Catholics are good loyal subjects," he found that "ye Protestants here are much afraid of the Catholics."[24]

FitzGibbon stood foremost as an opponent of further relief. According to Westmorland, he made a blunt and emphatic answer when the subject came up: "...he told me that...ye Catholics must not be given further priviledges." [25] His answer was perfectly in character. The Catholics had every possible privilege and benefit as things stood: security of property and the protection of his court. FitzGibbon undoubtedly believed that granting even minor concessions would only create a demand for rights and privileges incompatible with the Protestant Establishment in Church and State. He probably reasoned as well that raising the subject during a time of unrest and revolution was especially dangerous. FitzGibbon's sensitivity to Catholic violence also may have played a part in his reluctance. He seems to have impressed his grim perceptions on Westmorland. On March 5, 1791, only two days before his conversation with FitzGibbon, Westmorland had declared for a second time his faith in the fundamental peaceableness and loyalty of the Catholics. He emerged from his *tete a tete* with FitzGibbon to write "There has been a great deal of private meeting...and some cruelty from ye lower Catholics during ye year both North and South. There is nothing serious or alarming at ye same time that it is unpleasant and it is not easy to know how far ye contagion extends."[26] The cruelty in the North clearly was the work of the Defenders. That in the South is less easy to identify, but the cruelties in question were probably commonplace, isolated acts of agrarian violence. FitzGibbon would naturally have feared that Catholic political agitation would encourage unrest in the lower orders

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23 Westmorland Papers, Carton 1/f12

24 Westmorland Papers, Letter Book, Westmorland to Pitt, 5 March, 1791

25 Ibid., Letter Book, Westmorland to Pitt, 7 March, 1791

26 Ibid. (in the letter book incorrectly dates this letter 1792. Internal evidence suggests 1791, especially the allusion to the political activities of English Catholics to gain relief: "The Catholics insist to obtain further privilidges (sic) (which they understand they are to be given in England by ye agitation of that Question..."

and as naturally, he would have instilled his fears into Westmorland.

FitzGibbon not only tried to discourage any actions in favour of the Catholics in Ireland, he may have tried even earlier to thwart concessions to the English Catholics, through the medium of his old friend Eden, recently elevated to the peerage as Lord Auckland. On January 7, 1790, Auckland wrote an urgent letter to Pitt, begging him to postpone any new legislation on behalf of English Dissenters and Catholics. He made the usual disclaimers made by every adherent of the Establishment, no matter how virulent: "I trust I have neither a narrow or prejudiced mind on this subject." As proof of his broad and unprejudiced mind, he cited his past services on behalf of the Catholics in Ireland: "...I went to great lengths respecting it [Catholic relief] in 1781 [sic]" But he urged Pitt to resist "in gentle expressions but in the firmest and most decided manner every part of this business in the ensuing session." [27] Of course, it is always a temptation in a biographer to see the fine hand of the beloved subject in everything. Auckland remained a diehard champion of the Establishment throughout his political career and only altered his opinion before his death in 1814. He could have written this letter solely of his own volition. At the same time, he corresponded closely with FitzGibbon, who was his chief source of information on Irish affairs. FitzGibbon would have seen very early and very clearly the Irish implications of any concessions to English Catholics or English Dissenters. There is at least a possibility that he suggested to Auckland the need to discourage Pitt on the subject or that he strongly encouraged Auckland's own impulse.

If he acted in secret against the English Catholics, FitzGibbon initially seems to have wanted to keep his opposition to Irish Catholic claims a secret as well. In reporting FitzGibbon's answer on the subject, Westmorland added, "...you will take care not to mention his name, as perhaps he would not wish that the Catholics shd know how decided his opinion was on that subject." [28] Westmorland's phrasing is somewhat ambiguous. He may have been assuming a discretion on FitzGibbon's part that he did not in fact possess. Or FitzGibbon may have had genuine scruples about making known his opposition to further concessions. This rare display of discretion by no means originated in tenderness for the sensibilities of Roman Catholics. Certainly, FitzGibbon had never displayed such consideration hitherto. FitzGibbon probably recognized his notorious reputation in Catholic circles, and feared that if word of his own opposition got out, they would grow all the more intransigent and violent in pressing for concessions

The private warnings and discouragement from FitzGibbon and from other frightened Irish Protestants had their effect. When a Catholic delegation met with Chief

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27 *HMC PV Smith*, p. 367

28 Westmorland Papers, Letter Book, 7 March, 1791, op. cit.

Secretary Hobart on March 24, 1791, they received nothing beyond polished evasions and commonplaces. Hobart, a suave, adroit man, showed far more skill at this sort of operation than the charmless Orde. Any petition, he told the Catholics, should consist of a general request for relief and not of a list of specific requests. The government would then "reflect on the situation of the Catholics and how far they merit relief." The Catholics in response seem to have shown a satisfactory servility. According to a memorandum of the meeting with Hobart, they declared "...they do not approach to demand or to press government, but to supplicate humbly that *some part* of their present inconvenience may be removed. "[29] Much to the government's relief, the Catholics presented no petition, however general and obsequious, during the parliamentary session of 1791.

Westmorland and Hobart also received satisfactory reassurances from England that the government there did not expect the Irish parliament to produce a duplicate Catholic bill. They were free to act as circumstances in Ireland dictated. W.W. Grenville wrote

> With respect to the Catholics, that business seems to me to be put to you exactly on its right footing. I by no means think that the consideration of what is done here ought to influence government in Ireland, because I have ever held that question to be a matter of expediency, not right.[30]

In spite of Hobart's blandishments, in spite of their own initial timidity, the Catholics remained active and hopeful throughout the summer of 1791. Westmorland testily remarked to Dundas "I am sorry to say that ye indulgence to ye English Catholics will produce very serious difficulty here." He criticized Pitt and even the indulgent Grenville for failing "to consider us at ye time ye Bill passed", and he made the gloomy and accurate prediction, "I am afraid we shall have much correspondence on that subject hereafter." [31]

The Catholics meanwhile were tentatively considering other alliances and other strategies, having met with so little encouragement from the government. In July of 1791, they approached Grattan in the hopes that the hitherto aloof Whigs might add their cause to the standard one of pensions, placemen and police. According to young Grattan, his father expressed great sympathy and interest, albeit through a third party.[32] Indeed, Grattan would have had every reason to do so. His interest in the question of tithes naturally would have inclined him to consider other Catholic

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29 Dublin: ISPO, Rebellion Papers, 620/19/23

30 Westmorland Papers, Carton 1/ff 13, Grenville to Westmorland, 24 March, 1791

31 Westmorland Papers, Letter Book, 12 August, 1791

32 *Grattan IV*, p. 41

grievances. Moreover, Grattan had a true crowd pleaser's instincts, and he must have sensed that the Whigs were being left behind in the post-revolution political arena. A handbill distributed in Belfast during the previous month had denounced the Whigs as little more than a selfish aristocratic faction, and while he may not have seen this particular production, Grattan may well have received other indications of growing indifference and contempt.[33] In addition, the English party leader, Fox, had already seen the potential in the Catholic issue and had tried to exploit it. During debates on the English Catholic bill, Fox had made the provocative suggestion that the same privileges ought to be extended to Catholics throughout the British Empire.[34] In the end, Grattan suggested to the Catholics that they continue to press their claims through the government.[35] It was the best and the only advice he could have given. His own party was simply too ineffectual and too divided on the subject to act as an effective advocate.

The old fear of a Catholic-Presbyterian alliance continued to haunt Westmorland during the summer of 1791. On August 26, he informed Dundas, "The language and Bent of ye Conduct of these dissenters [in Belfast and in Newry] is to unite with ye Catholics and their union wd be very formidable." He remained hopeful that the "union is not made" and that "it never wd be."[36] But Catholics in Ulster and as far afield as County Roscommon seem to have picked up the prevailing radical spirit and responded. The Belfast Volunteers acknowledged an address from a delegation of Catholics "assembled at Jamestown on the 23rd and at Elphin" and expressed hope for continuing correspondence "on every occasion where our joint efforts may tend to restore to IRISHMEN---their long lost rights." [37]

The breakthrough for the Catholics came when the Dublin Committee opened communication, not with temporizing Whigs, or with enthusiastic but marginal Presbyterians, but with the English government itself. In October of 1791, Edmund Burke's son Richard contacted Dundas and Pitt and showed them a letter "from a body of Roman Catholics empowering him to converse with government and to communicate through him on their wishes and the views of the government to them."[38] As an agent Burke had definite drawbacks, not the least of which was his unfailing ability to incur the loathing of everyone he met. Only his adoring father seems to have seen any good

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33 Rebellion Papers, 620/19/24 "The Whig Club is not a transfusion from the People. We do not thoroughly *understand* that Club and they do not *feel* for us."

34 Westmorland, Letter Book, Grenville to Westmorland, 24 March, 1791; "Fox is to move to extend the provisions to all Catholics"

35 *Grattan IV*, p. 41, op. cit.

36 Westmorland Papers, Letter Book

37 Rebellion Papers, 620/19/28

38 Westmorland Papers, Letter Book, Dundas to Westmorland, 6 October, 1791

in the unfortunate Richard. Even his Catholic clients wearied of him and discreetly replaced him with the more astute and personable Wolfe Tone.[39] But in spite of his difficult personality, Burke was diligent and devoted to his clients' cause, and he was by no means ineffective. Although Dundas summarily refused to have any independent contact with Burke and referred him to the Irish government, the magic of his father's name certainly made an impression. In Dundas's view, the mere fact that the Catholics had hired Edmund Burke's son suggested a fundamental conservatism and loyalty which, if properly cultivated, could strengthen government and prevent a much to be dreaded alliance with the Presbyterians.[40]

From his vantage point, Westmorland saw more to fear from Anglican jealousy of the Catholics than from Presbyterian fraternalism. He made vague promises of devising "some plan for proceeding" on the Catholic issue. [41] But rather peremptorily, he demanded that Dundas play the informant and supply him with the names of the Catholics who had hired Burke. He also requested him not to have any further communications with the Catholics, either directly or through agents. Above all, he instructed Dundas, "...you must be as quiet as possible...ye Subject is of ye utmost difficulty here and opinions are divided."[42]

In spite of Westmorland's admonition, the tension increased between a British government strongly inclined to encourage Catholic loyalty by granting concessions and an Irish government struggling to placate hostile and suspicious Anglicans who feared encroachments on their power and privileges. Dundas rather sharply informed Westmorland that he retained the right to receive information from any source he saw fit: "I could have had no difficulty in receiving from Mr. Burke any information as to his Catholic employers that I pleased."[43] He showed the direction of his own thoughts by adding, "...I hope your Irish friends will not be too illiberal on ye subject [further Catholic relief]"[44] Even Grenville, so understanding in March, had come to favour additional concessions by October. Rather apologetically he wrote to Westmorland:

> I am very sensible how imperfect my ideas are likely to be on a subject on which so much more local and personal knowledge than I possess [is] required in order to enable anyone to form a correct judgment. But I cannot help feeling very great anxiety that such measures may be taken as may effectively counteract the union between the Catholics and the Dissenters at which the latter are evidently aiming---I may be a false prophet, but there is no evil that I should not prophesy if that union takes place in the present moment, and on principles

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39 Marianne Elliot, *Wolfe Tone: Prophet of Irish Independence*, (New Haven, 1990), pp. 154-155

40 Westmorland Papers, Letter Book, Dundas to Westmorland, 6 October, 1791

41 Westmorland Papers, Letter Book, Westmorland to Dundas, 11 October, 1791

42 Ibid.

43 Westmorland Papers, Letter Book, Dundas to Westmorland, 12 October, 1791

44 Ibid.

on which it is endeavored to bring it about.[45]

By December, the pressure on the Irish government to grant concessions was well nigh irresistible. Pitt, who had hitherto remained aloof, personally urged Westmorland to grant the Irish Catholics at least the same privileges as those granted in England, on the grounds that such concessions were "not liable to any real objection in Ireland more than in England."[46] But Dundas, consistently the most favorable, consistently the most fearful of an alliance between Catholics and Presbyterians, had become positively radical on the subject. In a lengthy memorandum dated December 26, Dundas suggested giving suitably qualified Catholics the franchise in addition to the rights to practise law, sit on juries and to bear arms. He also called upon Westmorland to consider the repeal of any and all laws which discriminated against Catholics in the areas of education and intermarriage.[47]

Westmorland, in response, emphasized his own difficulties and embarrassments. He repeatedly pointed out that the Protestants felt betrayed and abandoned by this sudden show of favour for the Catholics. They felt that the English government was playing "ye Catholic Game" to intimidate them and to punish them for past acts of defiance on the part of the Irish Parliament. He insisted that he himself had no objection to reasonable conciliation of the Catholics. But concessions would not benefit the English government if in the process the Protestants, the mainstays of the Empire in Ireland, were alienated.[48]

The increasingly strident and radical tone taken by some Catholics and by their Protestant advocates added to Westmorland's reluctance. The Burkes, father and son, were particular *betes noirs* . If Dundas saw the involvement of Burke as proof of Catholic conservatism, Westmorland, on the contrary blamed them both for encouraging radical expectations.[49] It was certainly a startling view of Burke, and indicative of the extraordinary siege mentality articulated by Westmorland. To his

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45 Ibid., Letter Book, Grenville to Westmorland, 20 October, 1791

46 Westmorland Papers, Carton 1/ff 25, Pitt to Westmorland, 22 December, 1791

47 Ibid., Carton 1/ff 27

48 Ibid., Carton 1/f41, Westmorland to Dundas, 11 January, 1792 "...if the suspicion shall be confirmed (a suspicion too much strengthened by your Dispatch and the ...questionable language and situation of Mr. [Richard]. Burke) that the British Govt. means to take up the Catholics and play what is called a Catholic Game...a stand will be taken by ye Protestants without distinction against ye government in their own Defence. No administration will be able to conduct His Majesty's business without expressly stipulating a different policy and His Majesty's government will be laid at the feet of those aristocratic following which are at present in [opposition] to it."

49 Westmorland Papers, Carton 1/ff 42, Westmorland to Dundas, 14 January, 1792; "Mr. Burke has written a most impertinent letter demanding a categorical (?) answer from government; he is ye agent of ye most violent set of agitators, his Language has been most imprudent and he's done much mischief here."; see also, Letter Book, Westmorland to Dundas, 17 December, 1791

fearful Castle advisors, advocacy of Catholic political enfranchisement or the advocacy of any Catholic political rights amounted to an incitement to revolution. This maxim extended even to the author of *Reflections on the French Revolution.*

A pamphlet calling for the complete abolition of all remaining laws against the Catholics and for their full and equal admission to all political privileges and offices confirmed to Westmorland the essential untrustworthiness of the Catholics. The author was a young physician by the name of Theobald McKenna. (Westmorland persistently misspelled the name in his correspondence, rendering it variously "McKinnon" or "MacKennon") Ominously, McKenna was also a member of "ye brotherhood", Westmorland's term for the United Irishmen. Westmorland was convinced that "McKennon" received the assistance and encouragement of his ill-affected associates in compiling the pamphlet. [50]

Attempts to intimidate leading Catholics into publicly repudiating McKenna's work failed, adding to the suspicions and the reluctance of Westmorland's government. Hobart applied his considerable powers of silken menace, threatening to refuse any further concessions until the Catholics as a body made a public disavowal of McKenna's pamphlet. But his "address" (to use an 18th century term) had considerably less effect this time. Hobart met with the same sort of aggrieved refusal which Orde had faced when he tried to force the Catholics as a body to apologize for isolated instances of radicalism. The Catholic gentlemen who called on Hobart agreed that the pamphlet was ill-advised and they promised to express their private abhorrence and detestation of McKenna's political errors to all the Protestant gentlemen of their acquaintance. But they declared an unwillingness to "exasperate" the "violent" men among their co-religionists. In other words, they did not want to create further bad feeling and division in their own ranks to ease the feelings of Mr. Secretary Hobart. They also made it clear that whatever danger Dr. McKenna posed to the Protestant Ascendancy in Church and State, they had resentments of their own against the Protestant Ascendancy in the marketplace. They resented in particular their exclusion from positions in the Bank of Ireland, the Royal Exchange and the Ballast Office. The meeting ended inconclusively and with much mutual dissatisfaction.[51]

The purge of that familiar government reliable, Lord Kenmare, exacerbated the government's sense that the Catholics were beyond conciliation and beyond control. Kenmare had singlehandedly tried to dissociate the Catholics from the radicals and to restore the old public demeanor of compliant servitude by means of a petition which he circulated in his territory, County Kerry. The language of the petition followed the servile tradition of the past; it assured the government of the perfect loyalty of the

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50 Westmorland Papers, Letter Book, Westmorland to Pitt, 1 December, 1792

51 Rebellion Papers, 620/19/37; the date of conversation was 26 November, 1791

Catholics, their perfect abhorrence for agitation and disorder and their perfect willingness to accept whatever concessions the Irish parliament saw fit to grant, however insignificant or minor.[52] This language was no longer acceptable to the more assertive wing of the Catholic Committee, led by John Keogh and other substantial businessmen. Many of them, including Keogh, found the language of the United Irishman, not abhorrent, but very appealing. Moreover, their own earlier exercise in Kenmare-style obsequiousness had brought nothing but smooth prevarication from Chief Secretary Hobart. Lord Westmorland was aware of the impending battle within the ranks of the Catholic Committee. He reported to Hobart on December 12, 1791, "The Democratic Catholics are violent at Lord Kenmare's address and a terrible battle is to be fought at their meeting on Saturday."[53] The terrible battle resulted in a rout for Lord Kenmare, and his expulsion from the Catholic Committee, accompanied by a humiliating public denunciation. 68 other members of the committee, including Lord Fingall and the great incendiary of the Rutland years, Sir Patrick Bellew, also withdrew, earning for themselves and their party the name "Seceders".[54]

Westmorland fretted over the ascendancy of the "violent and daring" Catholics and the *Freeman's Journal* scolded "...we warn them [the Catholics] against becoming instruments in the hands of faction. We warn them against submitting to be the dupes of designing men."[55] But in a sense the coup against Lord Kenmare was as much the fault of the government as of "ye Brotherhood" and "ye Democratic Catholics".[56] Since the time of the Rutland administration, the English government in Ireland had treated moderate, compliant Catholics with studied neglect at best and contemptuous bullying at worst. For nine years, they made no concessions which might have given the moderates credit and standing. Finally and too late, Westmorland recognized the urgency of concessions to gratify "ye better sort of Catholics". [57]

The English government in the meantime was showing as much restiveness as the rump of the Catholic Committee. Westmorland's remonstrances about the dangers of "ye Catholic game" had provoked rather then given pause. Pitt angrily denied that he or any of his colleagues were engaged in designs against the Protestants of Ireland: "The idea of our wishing to play what you call a 'Catholic Game' is really extravagant."

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52 A complete text of this petition appears in *Grattan IV*, p. 42

53 Westmorland Papers, Letter Book

54 Westmorland Papers, Carton 1/f196; See also *An Address from the General Committee of the Roman Catholics to their Protestant Fellow Subjects and to the Public in General* (Dublin, 1792), which offered a justification of the purge.

55 20-22 December, 1791, Dublin news for 20 December, 1791, op. cit.

56 For allusions to "Democratic Catholics" see Westmorland Papers, Westmorland to Dundas, 12 December, 1791; for allusions to "Clubs of Brotherhood" see the same letter and Carton 1/ff 57, Westmorland to Dundas, 28 November, 1791

57 Westmorland Papers, Carton 1/f42, Westmorland to Dundas, 14 January, 1792

He was as outraged at any suggestion that he had succumbed to the pro-Catholic machinations of Edmund and Richard Burke. He had never "yielded to the suggestions of Mr. Burke arising from his supposed partiality to the Catholic Persuasion." Indeed, neither he nor anyone else in the English cabinet "had a syllable of communication" with the elder Burke on the subject.[58] Dundas added his assurances that he had no desire to play a "Catholic Game". He admitted his agreement with Richard Burke on the desirability of preventing a union between Catholics and Dissenters formed on "levelling principles". But he too insisted that he had given young Burke no countenance or encouragement.[59]

By January 14, 1792, Westmorland could report that his closest advisors had agreed to consider a relief bill. Only the egregious Charles Agar, Archbishop of Cashel, remained "unwilling to relax at all." [60] As for FitzGibbon, he almost certainly played a part in fuelling fears and suspicions about the abandonment of the Protestants. He in fact may have been the first to suggest that Pitt was taking revenge against the Protestants for their fractious behavior since 1782. Vindictive himself, FitzGibbon naturally would have assumed that similar impulses moved Dundas and Pitt. Nonetheless, whatever his own private doubts, FitzGibbon was among the first to agree to grant Irish Catholics "ye English concession". However ill-advised, "ye English concession" as yet posed no fundamental threat to the Establishment. And FitzGibbon was undoubtedly anxious to avoid provoking his English masters in the wake of the election fiasco of 1790. In a curious foreshadowing of the emancipation activities preceding the act of Union, Westmorland concealed from FitzGibbon the more extreme ideas entertained in England. A suggestion from Dundas that FitzGibbon travel to London to consult in person on Catholic claims, prompted this response from Westmorland: "he [FitzGibbon] is much better here."[61]

"Ye English concessions" as agreed upon by FitzGibbon and his equally reluctant colleagues, did not include the unlimited right to carry weapons or to serve on juries. The habitual lawlessness of the "lower orders", the bulk of whom were Catholics, precluded any relaxation of laws relating to arms: "The Point of conceding [to] the Roman Catholicks an unlimited right to carry arms was considered *in itself dangerous*." Moreover, any respectable Roman Catholic could receive a license to keep a weapon, upon applying to the Privy Council and taking the prescribed oaths. Westmorland's faithful advisors made more dubious and desperate claims in support of their position. They claimed an equal dislike of "Roman Catholic gentlemen of

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58 Westmorland Papers, Carton 1/f50, Pitt to Westmorland, 29 January, 1792

59 Westmorland Papers, Carton 1/f49, Dundas to Westmorland, 29 January, 1792

60 Westmorland Papers, Carton 1/f42

61 Westmorland Papers, Letter Book, Westmorland to Hobart, 17 December, 1791

Property" for the widespread use of arms among their poorer co-religionists, and they claimed Catholics had never placed much emphasis on this particular concession.[62] In light of the events in Armagh, this last claim was startling, to say the least. As for serving on juries, and in particular on grand juries, "it was admitted to be a point which considered by itself abstractedly might be...proper and becoming to be granted." At the same time, Westmorland noted that Grand Juries raised "great sums of money for various county purposes," and Protestants derived considerable prestige and power from controlling and allocating this money. A provision requiring them to share this power with numerically superior Catholics could well stir up so much jealousy as to jeopardize the entire bill.[63] As for the suggestion about the right of suffrage, Westmorland reported that "it seemed to cause much apprehension and discontent that such a proposal should have been listened to at all by the British Cabinet." [64] In effect, granting Catholics the right to vote would "give them a complete command in counties with a few Exceptions to Northern Counties where the Dissenting Interest prevails and thus put them in possession of the pure and popular part of the Representation."[65] In the view of the Irish Cabinet, the Catholics would inevitably use their votes to promote subversive ends with the help of equally disaffected Presbyterians. They would "soon be enabled to make a successful attack on the Tythes and established clergy so odious to themselves and the the Presbyterians; if they should not *indeed* be enabled to go further as their Power gradually increased and with it their hopes and their ambitions." Their hopes and their ambitions ultimately encompassed the complete overthrow of the Act of Settlement.[66]

Westmorland did receive assent to a proposed bill that would open the Bar to Catholics, and remove any restrictions on education and intermarriage.[67] Even this comparatively innocuous bill inspired intense anxiety and extravagant ploys to make is passage as smooth and unobtrusive as possible. To avoid any preliminary debate or controversy, Westmorland and the Irish Cabinet decided to avoid any mention of Catholic concessions in the speech from the throne.[68] Dundas found this decision extremely dubious: "To whatever interest it may be thought right to go in point of concession, it seems proper that the grace of the suggestion should belong to Government."[69]

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62 Westmorland Papers, Carton 1/f41, Westmorland to Dundas, 11 January, 1792
63 Ibid.
64 Ibid.
65 Ibid.
66 Ibid.
67 Ibid.
68 Westmorland Papers, Carton 1/f42, Westmorland to Dundas, 14 January, 1792
69 Westmorland Papers, Carton 1/f43, Dundas to Westmorland, 16 January, 1792

He added somewhat sourly, "This however I must leave to your Excellency's determination aided by the local opinions of those with whom you are to consult."[70] Sir Hercules Langrishe was to have the responsibility of springing the bill on the Commons, once the preliminary business of opening Parliament was complete. The "respectable" Catholics trusted him, and he was an experienced and adroit member, capable of seeing the bill through Parliament with the hoped for minimum of fuss.[71]

In his account of the consultations on the bill, Westmorland presented the collective opinions of his Irish advisors. He did not attribute insights or ideas to any one individual. Nonetheless, FitzGibbon undoubtedly took an active and vigorous part in a subject near, if not particularly dear, to his heart. In particular, the emphatic rejection of the unlimited right to bear arms and of the right of suffrage bear his stamp, as does the allusion to the Act of Settlement, always a sensitive point with him. Although Westmorland himself hoped to avoid any explicit declaration that this bill marked the end of all concessions, FitzGibbon laboured under that impression. In an effort to reassure his worried fellow Protestants, and in an effort to make certain that the English government would never again propose mad, bad Catholic schemes, FitzGibbon, in company with Westmorland, met with the "friends of government" shortly before the meeting of Parliament. At this gathering, "...the Chancellor acquainted them that it was the Resolution of Government to resist the demand for arms and suffrage."[72] It never entered FitzGibbon's mind that the English government would ever put him in the terrible and humiliating position of going back on his word.

The bill itself passed through the Commons with comparatively little opposition. Certainly Westmorland expressed considerable relief both at the successful completion of the business and at the fact that there had been no explicit resolution against further claims on the part of the Catholics.[73] Westmorland himself certainly had no desire to press for further claims; but he wanted to avoid rankling or provoking the Catholics as much as wanted to ease the feelings of the Protestants.

Unfortunately, Westmorland, with typical obtuseness, overlooked the full, insulting implications of the one dramatic incident arising from debates on the bill. During the proceedings, the rump of the Catholic Committee presented a petition requesting the franchise. They met with a humiliating response. David La Touche made an unprecedented motion to reject the petition out of hand, since the request could never meet with compliance.A ferocious debate then ensued, with many angry comments on the presumption of the Catholics and the dangers of allowing them

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70 Ibid.

71 Westmorland Papers, Carton 1/f46, Westmorland to Dundas, 21 January, 1792

72 Ibid.

73 Westmorland Papers, Letterbook, Westmorland to Pitt, 24 February, 1792

even to entertain such a notion. Even those who spoke against La Touche's motion did so, not because they favoured the request of the petition, but because they felt that rejecting it out of hand . violated the right of any subject, however wrongheaded, to receive a full and fair hearing on their claims. The vote was cruelly lopsided: 208 votes in favour of outright rejection and 28 against. The numbers in favour of rejection included prominent government members, including Hobart, Wolfe, and Toler.[74]

The most violent in support of LaTouche was probably Sir Boyle Roche, who delivered a florid philippic against the petition and against its vulgar, middle-class, signatories. They were, he claimed little better than alcoholic incendiaries:

> Who were they, he asked, who affected to be the representatives of the Roman Catholics of Ireland? Were there amongst them any of the ancient nobility, or the gentry of Ireland? Was there a single man of respectability and character? No, not one. There was indeed Mr. Edward Byrne, a sugar baker, a seller of wines and other commodities, and he was the first name and put in the front of the battle. There was another, John Keogh, and who was he? Why he was a retailer of poplines [sic] in Dame Street. These men met at a chop-house, at Derham's chophouse in particular, where the former of them in his cups happened to dream that he was a nabob of Ireland. As for the rest of them, they were so obscure, that he could neither recollect nor describe them. Were these the representatives of the Roman Catholic nobility and gentry? No. Was there one respectable name amongst them? No. These fellows, he maintained, represented themselves and misrepresented the Roman Catholics of Ireland. Neither the Catholic nobility, the Catholic gentry, nor the Catholic clergy had anything to do with it, and he considered it to be both an insolent and a degrading petition.[75]

Family feeling, as well as habits of subservience to government, no doubt dictated Sir Boyle's remarks. Kenmare was his uncle, and Uncle Valentine's generous contributions had made it possible for Sir Boyle to find a new career in Parliament after his very unrewarding military service in the American War of Independence.[76]

Westmorland took the view that La Touche's rejection of the petition had fortunately prevented debates on its actual merits and a possible resolution barring Catholics from the suffrage forever. He also laboured under the impression that the Catholics had been well and properly taught a lesson about where their true interest lay: with the government, and not with ill-judging hot-heads like Richard Burke and the Keogh-dominated Catholic committee:

> Last night's proceedings must convince all Catholics that they are indebted to Government for what they obtain; that by the Strength and moderate

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7 4 The debate appears in full in *A report of the Debates in both Houses of Parliament on the Roman Catholic Bill*, (Dublin, 1792)

7 5 This quote is taken from the official *Parliamentary Report* for 1792, pp. 185-6; in the report cited above, Sir Boyle's speech was rendered in a high Kerry accent (pp. 144-7)

7 6 Edward M. Lysaght, ed., *The Kenmare Manuscripts*, (Dublin, 1940 and 1970), pp. 79-80

> Management of Government only the Bill was carried and that the Rub they have received is to be attributed to the indiscretion of some of their body and their advisor, Mr. Burke.[77]

The idea never penetrated Westmorland's mind that the Catholics, and specifically the wine dealers and poplin merchants of the Catholic Committee, would look upon this "Rub" as a goad for further activity. Nor did he entertain the possibility that some Catholics would not see "moderate management" in Mr. Secretary Hobart's speeches against their petition.

Thanks to FitzGibbon's moderate management, the bill passed quickly and with virtually no debate through the House of Lords. The only hint of acrimony came from his Grace of Cashel, who made his memorable claim that Roman Catholicism was a religion fit only for fools and knaves.[78] While he could not impose a vow of silence on Cashel, FitzGibbon successfully thwarted any lengthy speeches and amendments, both favorable and unfavorable. He stopped the pro-Catholic Lord Donoughmore from opening a discussion on the philosophical desirability of emancipation, and he thwarted a minor mutiny by the decidedly anti Lord Aldborough.[79] Aldborough took issue with a subordinate feature of the bill which relieved Catholic schoolmasters from the necessity of obtaining a license from the local Protestant bishop. He felt that Protestant schoolmasters should have a similar freedom. FitzGibbon's response reveals his near desperate attempts to maintain a benevolent demeanor and to convince the Catholics that the bill was a willing, unanimously agreed upon act of generosity by the government, in keeping with the mild traditions of English law:

> For his part, he was, and always had been ready to concur in the repeal of the penal statutes as far as was consistent with the safety of the Establishments in Church and State. The removal of this hardship, he was convinced, would be productive of no danger to either, and therefore, he most heartily agreed to it. In the packets of the day, he said, he had observed an action had been brought against a Popish schoolmaster in England for teaching school without a license---but the prosecutor had been coldly treated by the court, and the Judge, with a liberality that did him honour had laid hold of an informality in the proceedings to non-suit the plaintiffs---This circumstance indicated the liberal sentiments of the people of England on this point---he though this country ought to imitate them, especially as the Catholics had this indulgence much at heart, and there was none that could be granted with more safety.[80]

He had agreed to the bill with the greatest reluctance. He fully intended it to be the last

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77 Westmorland Papers, Letter Book, Westmorland to Dundas, 21 February, 1792

78 *Report of the Debates in both Houses of Parliament on the Roman Catholic Bill*, (Dublin, 1792), p. 245

79 *Dublin Evening Post*, 1,3, 6, March 1792

80 *Dublin Evening Post*, 3 March, 1792

of its kind. At the same time, he hoped to placate once and for all, the English government and the Catholics whom that government had so ill-advisedly encouraged.

Nonetheless, signs of the old FitzGibbon emerged, in spite of his heroic restraint. During debates on a separate bill pertaining to loyalty oaths, he had menacing words for any Catholic who presumed to make further demands on the generosity of government:

> ...he could not help...expressing his astonishment that after a bill, bestowing on the Catholics very considerable favours, had so recently passed both Houses of Parliament without a single dissentient voice, some members of that body had come forward in the public prints and, instead of gratitude for these indulgencies, had spoken of the legislation in terms of indignation for not having gone further---and had not scrupled even to assert that the right of suffrage was the inalienable right of every Irishman. The enemies of that body could not take any means more effectual to injure them than to hold such language. He sincerely hoped they would no longer make use of any such declarations, for if they did, they would assuredly do that body very essential disservice, by affording to their fellow subjects just grounds for doubt and suspicion.[81]

His actions against Graydon's Combination Bill may even have been a subtle exercise in sectarian politics. This particular bill represented a response to a spate of frequently violent combinations which had occurred in 1790 and 1791. Most notably, the bill required a journeyman leaving his master to produce a certificate of good conduct, and it decreed fines and whippings for runaway apprentices. FitzGibbon denounced the bill as a system of vasselage which was more likely to drive apprentices to crime than to discourage them from combining against their masters. Thanks to his influence, the House of Lords threw out the bill.[82]

His opposition to the combination bill bewildered many of his political colleagues and outraged those newspapers which ordinarily held advanced views on parliamentary reform and Catholic rights. The *Dublin Evening Post* expressed an ironic hope that FitzGibbon's sudden concern with constitutional liberty would extend to other issues:

> It was not unpleasant to observe the *beginning* of a regard for constitutional liberty which was yesterday evening manifested by a great Law Lord on the Combination Bill. We most sincerely hope he may "grow in grace and in knowledge and love of constitutional liberty"---and that a speedy falling off may not evince his having commenced the champion of freedom from party motives.[83]

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8 1 *Freeman's Journal*, 20-21 March, 1792, Parliamentary Report, House of Lords, 21 March, 1792

8 2 *Dublin Evening Post*,, 21 March, 1792

8 3 *Dublin Evening Post*, 22 March, 1792

The *Hibernian Journal*, while willing to give FitzGibbon credit for good intentions, took an equally dubious view. One paragraph went so far as to accuse FitzGibbon of disturbing the public peace, a novel charge:

> I do mean to insult your Lordship by accusing you of having been *willfully* the patron of the most dangerous combinations ever before known to this kingdom. No, my Lord, I can readily distinguish an error committed with a good intent, from one originating in an evil one. I am certain your Lordship is by this time fully aware of the prejudice which has arisen to the manufacture of this kingdom from the interest you lately took in its welfare and hope you will be in the future directed by your late acquired experience to use your utmost endeavors to suppress that spirit of combination which your Lordship has unintentionally sanctioned.[84]

Even the government papers expressed reservation. *Faulkner's Dublin Journal* made this ambiguous statement:

> Had Mr. Graydon's Combination Bill or (in the words of the Lord Chancellor) "an Act for the encouragement of Outlawries and Highway Robberies" passed into a law, the measure *might* have produced consequences which though not immediately tending to the peace and happiness of the country would however have served the cause to which no doubt it was intended.[85]

In many respects, FitzGibbon's actions in throwing out the bill were perfectly consistent. He never missed a chance to step into the well-beloved and well-worn role of champion of the oppressed. As the *Dublin Evening Post* hinted, he may also have been taking advantage of an irresistible opportunity to score points against the Whig Club.[86] Mr. Graydon, the originator of this particular system of vasselage, was a member.[87]

But FitzGibbon's action also had an ugly sectarian undertone. He may have been trying to win favour with Protestant workmen and apprentices, particularly in the Liberties, who feared either Catholic or radical employers who wanted to break combinations. By throwing out the bill, he could win their support for the Protestant Establishment and diminish the seductive allure of radical appeals for a union of all religions against "oligarchy". A fugitive piece in the *Morning Post/Dublin Courant* suggests that FitzGibbon did enjoy a measure of popularity as the champion of Protestant workmen:

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84 *Hibernian Journal*, 26 September, 1792

85 *Faulkner's Dublin Journal*, 14 April, 1792

86 *Dublin Evening Post*, 22 March, 1792; the Dublin Evening Post expressed the ironic hope that his "speedy falling off may not evince his having commenced the champion of freedom from party motives, rather than a sincere regard for constitutional principles."

87 *Faulkner's Dublin Journal*, 19 June, 1792

> The combining shoe blacks of Dublin who now insist for a double price, call themselves "de Prodistin Iscendancy". Their corporation assembles at a *whiskey forge* in Essex Street after morning service. The test of union to tip off de Prodistin Iscendancy in a full facer of de native stans pede in uno. They have changed their favourite oath from "the holy Saint Peter" to the "jolly St. George" to obviate all symptoms of Popery and crying out for de L_____d Ch_____r by *de holy* and the rights of *de people* swear they will work no longer for half price *like the bloody paphishes*.[88]

The author may have been engaging in a piece of Swiftian satire, suggesting first, that anyone however lowly, could play at the game of Protestant ascendency and secondly that FitzGibbon had encouraged combination and rebellion. But a spy's report also confirms that there were strong anti-Popish, anti-republican sympathies among Dublin workers. Writing in December of 1792, he reported to Edward Cooke that the "Protestants almost to a man in the Earl of Meath's Liberties breath nothing but perfect loyalty."[89] Of course, FitzGibbon may well have had not other motives apart from the usual ones of protecting the poor and dishing the Whigs. But he was certainly clever enough and ruthless enough to recognize the Protestant sympathies in the Liberties and to exploit them.

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The notorious circular of Edward Byrne and the subsequent Catholic Convention destroyed any hope that the Catholics could be cajoled or menaced into silence. The circular, dated May 26, 1792, called upon Catholics to assemble in chapels and to select two "respectable" electors. The electors would in turn choose delegates to a an expanded general committee. This new committee was to petition for the rights denied in the recent bill, and in particular for the right to vote and the right to serve on juries.[90] The exact origins of this plan remain unclear. Edward Byrne suffered months of public condemnation for merely signing the thing, though it was generally assumed that he and his fellow members of the Catholic Committee had acted under the direction of their renegade Protestant agents. Richard Burke and Wolfe Tone received credit, or rather blame, depending on which of them was the target of government attention or loathing.[91] In fact, the members of the Catholic Committee

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88 *Morning Post or Dublin Courant*, 10 July, 1792

89 Rebellion Papers, 620/19/114, report dated 30 December, 1792

90 Westmorland Papers, Carton 1, ff 55

91 Westmorland of course immediately blamed Richard Burke. See Westmorland Papers, Carton 1/f56, Westmorland to Dundas, 7 June, 1792; "It is likewise possible that this paper, like all ye other Papers ye Committee have produced, may have no effect on ye minds of ye Catholics and that ye country people may continue as little moved by this agitation as by ye other meas of ye same gentlemen with ye assistance of Mr. Rcd. Burke may have attempted." FitzGibbon, for his part, attributed the idea to Tone. See his letter to Pitt, dated 14 May, 1793 (PRO, Chatham

may not have needed inspiration from either Burke or Tone. They could have drawn on their own precedents and traditions. As early as 1760, Catholics in Dublin especially had held meetings in chapels and elected delegates to the committee. Thomas Orde had received a copy of an announcement of one such meeting in 1784. While he preserved it with his usual meticulousness among his papers, he paid curiously little attention.[92] The circular simply suggested transforming a Dublin practice into a national one.

The motives behind the circular were shrewd and practical. By expanding membership of the committee and by promoting the use of elections as a means of selection, Byrne and his fellow Committee members hoped the make their organization more accountable to more of the Catholic population and to prevent it from again falling under the domination of a single, self-interested faction. The circular's elegant disquisition on the obligations of representatives contained delicate but pointed allusions to Kenmare and the other seceders:

> Men appointed by others must hold themselves accountable to those from whom they derive their trust, and therefore must regulate their conduct by the standard of general opinion or if they be unwilling to take such a standard for their rule, or to obey the instructions of their constituents, they must be removed from the places they hold to make room for others more practicable and less inclined to set the dictates of private sentiment or private interest in opposition to the general will and the public good. Under a Constitution which is thus REPRESENTATIVE and where the trust is removable at pleasure, SEDUCTION cannot again be practiced, nor can DIVISION again take place, or at least the remedy is sooner the evil, that too little danger is to be apprehended from either.[93]

The dissatisfaction of the more active Committee members with the Bill of 1792, and above all the feeling that Westmorland and his minions at the Castle had cheated the Catholics of concessions that the English government had wanted to give, prompted this upsurge of activity. Westmorland had alluded to this last sentiment in a letter to Dundas written three weeks before the appearance of Byrne's circular. The perceived unfairness and the blindness of the Catholic Committee radicals rankled:

> My public letter conveys to you an address from ye Roman Catholics signed by almost all ye [principal] people of ye country; Mr. Burke's tools ye committee are very much dejected at their expression of thanks, particularly as they

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Papers, 30/8/327,f843): "He was also the original projector of the Catholic Convention." Tone himself attributed the idea to Myles Keon of Roscommon. (*Tone I*, p. 62) If Keon was indeed the father of the convention, his role represented an ironic turn of events indeed; he had been one of of the more obsequious Catholics in 1784 and had tried, unsuccessfully, to organize a loyal petition from the Catholics of Connacht. See Bolton MS, 16,350/62, Mile Keon to Thomas Orde, 2 November, 1784

92 Bolton MS, 16,350/23 (dated 2 July, 1784) and 16,350/24 (dated 28 September, 1784)

93 Westmorland Papers, Carton 1/f55

> endeavor as much as possible to represent that the English government wish to give them everything and that they were only stopped by my misrepresentations. The principal people are sensible that to govt. only are they indebted for what has passed but after Burke's conduct, it is not easy to satisfy ye others as they do not or will not see ye inveteracy, jealousy and obstinacy of Parliament on that subject.[94]

Byrne's circular indeed gave the distinct impression of powerful friends and sympathizers in the English government, waiting only for the united voice of the Irish Catholics to take up their claims:

> We have the FIRST AUTHORITY for asserting that this application will have infinite weight with our gracious sovereign and with Parliament if our friends are qualified to declare that it is the universal wish of EVERY CATHOLIC in the nation.[95]

The emphatically capitalized first authority was probably Richard Burke. Far from making tools of "ye committee", he was under considerable pressure from his clients to produce results, and in spite of the determined distance of Pitt and Dundas, he could easily have learned of the split between London and Dublin.[96] In desperation, he made promises of a more favorable hearing in England, and his clients in the Catholic committee, bitter over Castle reluctance and College Green "Rubs", readily believed him.

The prospect of a "Popish Congress" inevitably aroused Pandemonium among Westmorland's advisors. Most of them remembered the fearful days of 1784, when an exclusively Protestant reform congress had shaken the Rutland administration. FitzGibbon, the scourge of the 1784 reformers, naturally took the lead in advocating a similarly forceful approach to the proposed Catholic convention. Along with the attorney general, he urged that government "take some notice." Westmorland, as always terrified of confrontation, pressed him to hold back for the time being: "...I thought it very possible little or no attention might be paid by ye body of Catholics and that any proceeding wd only bring ye Committee more notice."[97] FitzGibbon reluctantly agreed, possibly regretting the opportunity to make a dramatic appearance at Derham's Chop-house, in the tradition of his grand entrance at the freeholders' meeting of 1784. With his usual incisiveness, he immediately seized on the underlying cause of the Committee's activity, and he strongly recommended immediate public

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94 Westmorland Papers, Carton 1/f61, Westmorland to Dundas, 2 May, 1792

95 Westmorland Papers, Carton 1/f55

96 For instances of the pressures on Burke see, Dublin: National Library of Ireland, Melville Papers, MS 54a/ff 57, Edward Byrne to Richard Burke, 28 May, 1792 and ff/60 Burke to Dundas, 5 June, 1792

97 Westmorland Papers, Carton 1/f56, Westmorland to Dundas, 7 June, 1792

discouragement of further Catholic claims from England:

> The Chancellor in ye most anxious manner desired I wd be prepared from you to assume support against these innovators. He stated that a great deal of their agitation was owing to misrepresentations of Mr. Rd. Burke and others of English opinion and he was convinced that of these agitators understood they had no hope from that quarter their agitations would cease.[98]

Westmorland, FitzGibbon and the Attorney General considered possible measures to take if the planned convention proceeded. FitzGibbon and Wolfe suggested a proclamation, similar to one recently issued in England against seditious meetings, "with words hinting at this delegation." They also agreed on the possible uses of personal as well as public intimidation: "...we talked of private information to ye Roman Catholic body that by concerning in such election or assembly, ye Roman Catholics wd forfeit ye favour of government to whom they were indebted for every privilidge [sic] they had acquired."[99] Unfortunately neither studied neglect nor private information had the desired effect. Elections started taking place early in the summer of 1792, in response to Byrne's circular.

If Westmorland was incorrect in predicting Catholic indifference to the circular, he was perfectly accurate in his predictions of the Protestant response: "Whenever these papers become public, the Protestants will...take alarm and we shall learn of them from ye grand juries and assizes."[100] During the months of July and August of 1792, resolutions from grand juries all over Ireland crammed the columns of the newspapers. As a whole, they followed the same dismal pattern, combining patently insincere expressions of love and well wishes for "our Catholic fellow subjects" with deadly earnest denunciations of Edward Byrne, his circular and any proposed innovations in the constitution in Church and State.

Inevitably, a requisition denouncing Byrne and any further concessions came from County Limerick. Ostensibly it expressed the sentiments of a meeting of Protestant freeholders summoned by the high sheriff, one John Waller. The resolutions themselves differed little from similar productions of outraged Protestants in other counties. The effort of the Limerick Protestant freeholders made invidious comparisons between the proposed "Popish Congress" and the French National Assembly. It warned of dire threats to the present "happy establishment in Church and State" from this "Popish Democracy" proposed by "turbulent and seditious men." After assuring their "fellow subjects of the Catholic religion" of their "best wishes", the freeholders warned them against participating in "any such illegal and unconstitutional

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98 Ibid.
99 Ibid.
100 Ibid.

association as has been recommended by the said Edward Byrne and the said Sub-committee." The same resolution implied that they risked violent retaliation if they participated in the so-called "Popish Congress": any such activity "must lead to a renewal of those religious animosities which so long and so unhappily disturbed this country." Finally, the Limerick freeholders made it clear that they would instruct their representatives in Parliament to oppose any further relaxation of the "Popery Laws" if such a congress was elected or met, and they would , under all circumstances, "oppose any proposition which may be made for extending to Catholics the right of voting for Representatives in Parliament, a franchise which in the present situation of the Country, we are decidedly of opinion, cannot be extended to them with safety to the Protestant Establishment of Ireland in Church and State."[101]

This supposed spontaneous expression of local Protestant gentlemen in Limerick was, of course, nothing of the kind. It was unquestionably FitzGibbon's production from beginning to end. The meeting was packed with his friends and relatives, including his private secretary, John Dwyer, Valentine Quin and Vere Hunt. According to newspaper accounts, he appeared in his most elegant country deshabille--- "a brown hob-Beresford, buck boots, Carlow spurs and a cutting horsewhip"--- and prompted Waller.[102] Whatever the truth of this story, the resolutions were redolent of FitzGibbon's peculiar turns of phrase and of his *idees fixes*. Considering his visible office, he showed considerable indiscretion in taking so public and so extreme a stand on a sensitive and by no means settled issue. But his action, however unwise, was inevitable, given FitzGibbon's innate fears and given the amazing self-control he had displayed for almost two years. Edward Byrne had given him a much-desired pretext to revert to character.

FitzGibbon and the various Protestant grand jurors and freeholders who met and resolved during the summer of 1792 were all acting on an assumption articulated by Sir John Parnell: "...there was nothing to fear from the Catholics;...they always receded when met."[103] The Catholics did not recede. According to Westmorland, the members of the Committee were, initially taken aback by the great Protestant wind of grand jury and requisitioned sentiment.[104] But a legal opinion provided by Richard Burke's discreet successor Wolfe Tone, that Byrne's plan violated no known law, steadied the Committee's shaken resolve.[105] A particularly arrogant and insulting resolution from the Dublin Corporation, declaring the eternal primacy of Protestant

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101 For the entire text of the resolutions see the *Dublin Evening Post*, 25 August, 1792

102 *Hibernian Journal*,, 27 August, 1792

103 Westmorland Papers, Carton 1/ f57, Hobart to Westmorland, 25 June, 1792

104 Westmorland Papers, Carton 1/ f62, Westmorland to Dundas, 19 September, 1792; Carton 1/ff 69, same to same, November 18, 1792

105 Elliot, p. 184

King and Protestant Parliament, provided an added spark of defiance.[106] By November, Westmorland was reporting to Dundas that 28 counties had already elected delegates. He also gave an overheated account of the efficiency, relentlessness and vast hegemony of the Committee:

> But whatever may be the conduct of this assembly, the Circumstances of its formation, existence and continuance are in my mind highly alarming, as it tends to create a Government of Roman Catholics entirely distinct from the Protestant Government, totally unconnected with it, and completely republican. The General Catholic Committee have already exercised most of the functions of a Government; they have levied contributions, they have issued orders for the preservation of the peace, a circumstance perhaps more dangerous than if they direct the Breach of it, they maintain the Cause of Individuals accused of public crimes---their mandates are considered by the lower orders as laws, their Correspondences and Communications with different parts of the kingdom are rapid, carried on not by the post, but by secret channels and Agents.[107]

Westmorland saw only one logical conclusion to the efficient defiance of the Catholics. Their secret government within a government, taxing, keeping the peace, exercising judicial activity on behalf of the Defenders, would, if unchecked, subvert English and Protestant rule in Ireland:

> If their General Committee have acquired this degree of power, what may not be apprehended from the Power of the Convention, if their existence shall be long suffered and if their peaceable demeanor in the outset should afford them the means of continuing a Regular Progress towards acquiring a complete Dominion over the whole Roman Catholic body, more especially if any objects should be attained by their means. There is nothing which may not be ultimately demanded from their influence.[108]

Westmorland had to admit that hitherto, the Catholic Committee had not assumed one of the premier functions of government, raising an army. Westmorland had heard rumors that the Catholics were importing arms, but "I have made the strictest Inquiry upon this subject and particularly in the North, but do not find the rumors founded."[109]

In response to this activity, Westmorland did the inevitable: "...I have fully consulted with the Chancellor and the other confidential servants of his Majesty with respect to the different measures which it would be advisable to pursue."[110] The

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106 Ibid., p. 185; see also *Proceedings at the Catholic Meeting of Dublin Convened October 31, 1792, with the letter of the Corporation of Dublin to the Protestants of Ireland*, (Dublin, 1792) which contains a full text of the resolutions and the Catholic response.

107 Westmorland Papers, Carton 1/f69, 18 November, 1792

108 Ibid.

109 Ibid.

110 Ibid.

response of FitzGibbon and his colleagues was as inevitable: they recommended intimidation, repressive legislation and, as a last resort, physical force should the Convention prove as violent and revolutionary as its French equivalent.

Specifically, they recommended a stern affirmation in the Speech from the Throne that the King's government in both England and in Ireland "was determined to support the Protestant Establishment in Church and State." [111] Contrary to FitzGibbon's hopes earlier that summer, the English government still had made no explicit refusal of further claims. The declaration in the Speech from the Throne, it was hoped, could serve as a belated, but still effective damper on Catholic expectations. FitzGibbon and his colleagues also recommended backing up this declaration with armed intimidation in two guises: an augmentation of the regular army, and the arraying of a Protestant militia, the abandoned but now desired panacea of the Rutland administration. Westmorland observed that volunteering was continuing to grow worrisomely, with some hands fueled by radical sentiment and others by the fear that they were being abandoned by the British government. The master obsession of the Rutland administration now gripped Westmorland: increased volunteering, for whatever reason, increased the possibility that arms would fall into the hands of the Catholics. A militia would put an end to this dangerous development by reassuring frightened conservatives and by thwarting radicals, both Catholic and Protestant.

As for the legal loopholes pointed out by Wolfe Tone and ably exploited by the Catholic Committee, Westmorland's Irish advisors "were of opinion that some new law should be prepared for ye consideration of Parliament to meet the point", that is to prevent any similar conventions for Catholic or for other purposes.[113] In addition to an act specifically banning conventions of elected delegates, 17th century English jurisprudence offered a precedent of a second, reinforcing law: "...it might be advisable to pass an Act here similar to the Act of Charles II for preventing tumultuous Petitioning."[114] FitzGibbon's contribution shows with particular clarity here. He was the chief law advisor, and he had been reading up on 17th century English history during the summer.

A more drastic solution to restore stability in Ireland appeared in the correspondence between Westmorland and the English government. On November 18, 1792, Pitt raised the possibility that the violent sectarian antagonism aroused by the Catholic issue could have a fortunate outcome:

The Idea of the present fermentation gradually bringing both parties to think of a

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111 Ibid.
112 Ibid.
113 Ibid.
114 Ibid.

> Union with this country has long been in my mind.[115]

A union would remove any objections to granting the vote to Catholics since they would become a minority in an empire governed by a Parliament, the "decided majority" of which would necessarily be Protestant. Catholics, in short, could have their desired rights and privileges, and Protestants could enjoy the security of numerical superiority. Pitt was under no illusions that such an idea could be carried easily, even in the "present fermentation":

> I hardly dare flatter myself with the hope of its taking place, but I believe it, tho' itself not easy to be accomplished, to be the only solution for other and greater difficulties.[116]

The other and greater difficulties presumably were those created by the fractious and unreliable Irish parliament, troublesome in the best of times and positively dangerous at a time of crisis.

Westmorland's mind had apparently been running along a similar track, to judge by Pitt's comments: "I am heartily glad that it [a union] is at least in your thoughts." Pitt had left it to Westmorland's discretion to "judge where and to whom the Idea can be confided."[117] He wrote back to Pitt with an encouraging response:

> An Union is certainly at present not looked to or talked of with disapprobation [amongst?] ye leading people.[118]

The Catholics would probably favour the idea since it would "put them on a Line with ye Protestants and open to them ye State."[119] (At this point apparently both Westmorland and Pitt envisioned that full political rights for Catholics would accompany a union.) As for the Protestants, the "great men dread very much ye Ruin of themselves and ye Establishment" and were therefore "not impracticable."[120] But he warned about the dangers of raising the subject prematurely. Rumor was already circulating that the English government was encouraging the Catholics with an eye to a union:

> Such an Idea [may] be suspected for if it took a wrong turn, one cannot tell

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115 Westmorland Papers, Carton 1/f71
116 Ibid.
117 Ibid.
118 Dublin: National Library of Ireland, MS 886, Westmorland to Pitt, 28 November, 1792
119 Ibid.
120 Ibid.

> what mischief it might produce---as it is generally considered here that this Catholic question is of English making, the Irish have imagined that the English government wd not have raised such a Flame but to serve their own purposes, this being one has now and then been charged and therefore we must be particularly cautious.[121]

If an excess of religious jealousy and suspicion could destroy the hopes of a union, their absence would have the same effect: "...if the Protestants shd get over their Catholic prejudices, adiew to that cure for this country." [122] Evidently, the trick was to manage religious hatreds to the best advantage of British government.

This correspondence exonerates FitzGibbon from the grandiose accusations of his enemies that the union was exclusively his evil brainchild. Presumably, Westmorland regarded him as a reliable person to whom he could broach the subject and presumably, FitzGibbon was one of "ye great men" who found the idea of a union preferable to "ye Ruin of themselves and of ye establishment." But he does not seem to have demonstrated any overwhelming urgency or enthusiasm, or Westmorland would surely have made note of it. At this point, he seems to have thought of a union, at best, as a desperate last resort. At worst, talk of a union may have confirmed his own earlier fears that the English government was bent on punishing the Irish Protestants, by destroying the framework of their power. The sentiments which he had revealed to Lord Carlisle years before probably still held: he had no great love for the Irish Parliament, much less for the Irish nation. But he may have looked upon its abolition as a reflection on his skills as a political manager. He still believed that if left to his own devices, he could eventually bully the Protestant Parliament into submission and the Catholics into their former silence and passivity. To prove as much he redoubled his efforts to preserve the existing structure of government, by redoubling his menaces against the Catholics. At the same time, he undertook an extraordinary campaign of subtle intimidation against the very English government he wanted to preserve. FitzGibbon was willing to risk even renewed alienation from Pitt and Dundas, rather than accept the failure in the guises of Catholic power and the humiliating refuge of a union.

He made a studious, and in the wake of the Limerick resolutions, unconvincing display of neutrality and moderation on the subject:

> The Chancellor professes himself indifferent on the subject except as a servant of English government, to which he considers himself bound, and to his Mind, the concession under the present circumstances is so fatal to the English

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121 Ibid.

122 Ibid.

> connection that every risk shd be run rather than yield.[123]

Every risk included sectarian warfare. When Westmorland asked him "in very strong terms" whether he was prepared to risk a rebellion "in the North and the South at the same instant" from disappointed Catholics, FitzGibbon, the raging prophet of Popish insurrection, was inclined to dismiss such a threat:

> he said (in which I suspect he was right) that he did not apprehend there was much Danger of either, that Gentlemen were very bold on paper, but very shy of risking either their Lives or their Fortunes.[124]

Nonetheless, he remained cooly prepared for violent retaliation against the Catholics. Indeed, he suggested to Westmorland that "England had better undertake a war in Ireland whilst the Protestants were her friends that when she had no friends in this country, which could be the case after the repeal of the Popery Code."[125] This cryptic comment had two possible interpretations: either the Protestants would stand back in sullen spite while the Catholics established a "Popish Democracy" in Ireland, or they would take matters into their own hands and resist both the Catholics and the English government. FitzGibbon probably never seriously entertained either possibility; he was merely trying to frighten the English government out of their unsuitable Catholic schemes. He was not the first unionist; he was not a unionist at this time. But he had discovered the uses of that ploy of later unionists, conditional loyalty.

The Catholics, meanwhile, continued to be very bold and not at all shy. The convention met early in December of 1792, and the debates often took a strident, defiant tone. Luke Teeling, the delegate from Antrim, went to the extremes desired by his circle of Presbyterian/United Irish friends in Belfast. He objected to any limitation on Catholic demands and to any petition "which might sanction by anything which could be construed into acquiescence on their part, to one fragment of that unjust and abominable system, the penal code." He then moved for a paragraph "praying that the Catholics might be restored to the equal enjoyment of the blessings of the constitution."[126] His fellow delegates showed somewhat more caution. They refused for example to receive a delegation from the United Irishmen, although that organization included many members of the Committee and many delegates to the convention, including Teeling and Keogh.[127] In their debates, the members of the

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123 Westmorland, Letter Book, Westmorland to Pitt, 14 December, 1792

124 Ibid.

125 Ibid.

126 Tone, *Life I*, p. 77

127 Elliot, p. 196; Westmorland Papers, Letter Book, Westmorland to Pitt, 10 December, 1792

Convention instead chose to emphasize their long-suffering and deserving loyalty and their impeccable constitutionalism. Nonetheless, their proposed petition took the radical direction proposed by Teeling. They called, not only for the rights denied in the bill of 1792, but for full political equality.[128]

The presentation of the petition was as provocative as its substance. It was undertaken in a way deliberately calculated to insult Westmorland and the government of Ireland, including FitzGibbon, the inciter of county freeholders. The delegates of the Catholic convention chose to present their petition directly to the King rather than through the Lord-Lieutenant, as was the usual practice. They took additional revenge for the humiliations of the past summer by choosing the notorious Edward Byrne to lead the delegation to London. He travelled in company with John Keogh, another figure of dread in Castle reports, and James Edward Devereaux, noted both for his outspokenness and for his libertinism. The presence of two solid members of the Catholic gentry, Bellew and French, hardly compensated for the deliberate offensiveness of their colleagues. As a final gesture of defiance, they travelled, in company with their United Irish secretary, via quasi-republican Belfast.[129]

Westmorland's response to Catholic "Rubs" was typically dense. He claimed that the delay in making him a Knight of the Garter, and not his supineness before Protestant reaction, was at the bottom of the Catholics' action. He wrote petulantly, "...you now probably see ye consequence of having so long delayed ye garter."[130] Only Westmorland know through what alchemy the garter would have restored the respect of the Catholics.

The Convention did not merely express its displeasure with Westmorland. It gave its approval to a pamphlet written by Wolfe Tone entitled *A Vindication of the Catholics of Ireland*. With his characteristic force and elegance, Tone not only vindicated the Catholics, he condemned their most notable opponents, especially FitzGibbon.[131] The attacks on FitzGibbon in particular concerned a few of the more conservative delegates. They had no love for FitzGibbon himself, but they wanted to avoid open disrespect to a high official, and possible retaliation. Edward Sweetman, who had already made a bold attack on FitzGibbon in his native Wexford, dismissed these lingering traces of Kenmare-style timidity. In the process he denounced FitzGibbon as a bully and a coward:

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128 Westmorland Papers, Carton 1/f79, Westmorland to Pitt, 7 December, 1792; Tone, *Life I*, p. 77

129 Westmorland, Letter Book, Westmorland to Pitt, 14 December, 1792; Carton 1/f79 Westmorland to Pitt, 7 December, 1792, Elliot, p. 198

130 Westmorland Papers, Carton 1/f79, Westmorland to Pitt, 7 December, 1792

131 It was ordered printed by authority of the convention on 7 December, 1792 and eventually published in January, 1793

> What...are we to spare [this man] who made it his public and profligate boast that he would prostrate the chapels of the Catholics? We know that man [FitzGibbon] the road to his favour is through his fears. Let us become formidable to him and we shall be respected. He is the calumniator of the people, and therefore, he has our hatred and contempt. Loyalty itself becomes stupidity and vice where there is no protection, and are we to tender a gratuitous submission to men who have held us in fetters and in mockery and in scorn? 132

J.E. Devereaux, Sweetman's kinsman and fellow delegate from Wexford, supported him, and the convention came to a unanimous opinion to adopt the pamphlet as it was, without sparing the lord high chancellor's feelings.[133]

Such criticism in an official Catholic publication was a remarkable sign of assertiveness. Hitherto, FitzGibbon had never met with any open criticism from the Catholics. Like Lord Killeen, they had vented privately any resentment aroused by his insulting remarks and conduct. At the most, FitzGibbon's outrageous chapel wrecking clause provoked a very obsequious and very general petition of protest from Kenmare and servile company.[134] Some public demonstrations against FitzGibbon did take place in Limerick following the freeholder resolutions, but a mixed crowd of Protestants as well as Catholics participated.[135] Tone's pamphlet, and the debates which it sparked in the convention revealed publicly and officially that the Catholics, at least the politically assertive Catholics of the Convention, hated FitzGibbon as bitterly as he hated them.

Far more shattering to FitzGibbon was the reaction of the English government to the delegation from the Catholic Convention. Dundas and Pitt not only received the delegates, they agreed to lend their support to another relief bill, granting the rights denied in 1792; only seats in parliament and high government and judicial office remained proscribed. The communication of this decision on the part of the British government was as abrupt as its formation. On January 3 of 1793, Dundas sent Westmorland two dispatches containing, not a ringing declaration of support for the Protestant establishment in Church and State, but a recommendation for the further relief of His Majesty's subjects professing the Roman Catholic religion. In this and in a subsequent dispatch written the following day, Dundas also sent justifications, old and new, for the English government's decision. First of all, he dismissed Westmorland's lurid reports about the members of the delegation; to Dundas, they were

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132 Tone, *Life I*, p. 85

133 Ibid.

134 Maureen Wall, "The Catholics and the Establishment, 1782-93", in Gerard O'Brien, ed., *Catholic Ireland in the Eighteenth Century: Collected Essays of Maureen Wall* (Dublin, 1989), p. 159

135 *Morning Post or Dublin Courant*, 8 September, 1792

not wild-eyed Jacobins, but respectable subjects with a perfectly respectful petition. Therefore, the English government had no legitimate reason to refuse their petition or to deny them access to the King. He acknowledged that by rights, the English ministers should have made their decision in conjunction with their Irish colleagues. According to Dundas, the delegates had expressed their own willingness to consult with any Irish ministers who cared to make the journey to England. But, Dundas noted, there was no probability of representatives of the Irish government arriving in good time, and the delegates "expressed a considerable degree of uneasiness at the apparent delay." Moreover, the Irish government itself had shown no particular willingness to engage in such a conference. The lack of response, in addition to the decision to open the Irish parliament at the earliest possible opportunity, left "no alternative but to form our own decision." He repeatedly assured Westmorland that the King's ministers had made no definite promises to the delegates. They could not dismiss Keogh and the rest of the Catholic delegation with "a sullen silence, calculated to aggrieve the jealousy which unfortunately seized on the minds of the Catholics of Ireland." Nonetheless, in making their polite answer, the English government had tried to show "every attention..to the Government of Ireland by referring the Catholics to the wisdom and liberality of the Irish Parliament."[136]

Dundas's explanations were flimsy, to say the least. Both he and the delegates must have recognized the futility of any discussions with the Irish ministers. Certainly if the Catholic delegates had expressed any such desire, they did so out of mere politeness or as a further show of moderation. It is difficult to imagine Devereaux or Keogh having any serious resolution of meeting with FitzGibbon. Moreover, although he claimed that the Irish government was free to act as it saw fit, Dundas left little room for choice. In spite of Westmorland's dispatches, filled with reports of Protestant defiance and Catholic rebellion, grand jury resolutions and secret republics, Dundas and his fellow ministers remained firm on the necessity for further concessions to restore peace and to stem the tide of revolutionary sentiment. Indeed, the impending war with France made them all the more anxious to lay to rest a troublesome distracting issue. Dundas even went so far as to declare that he had been wrong to acquiesce in the limited Irish bill of 1792, and that the belated and grudging concessions were already doomed to failure:

> I must refer your Excellency to the reasoning contained in my letter of the 29th of December 1791, in every word of which I am confirmed by events which have since taken place. I there stated for the consideration of His Majesty's government in Ireland, the grounds which induced me to be of opinion that the

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136 For the entirety of this dispatch, see Westmorland Papers, Carton 1/f87, Dundas to Westmorland, simply dated, January 1793; his cover letter for the dispatch is dated 3 January, 1793 (Carton 1/f86)

> Roman Catholics of Ireland were less likely to concur in disturbing the existing frame of Irish Government, where they were permitted to participate in the Franchise of that Government, than they were when compelled to live under a total seclusion from those essential benefits which must be most dear to men living in a country where the Powers of an Independent Parliament have been distinctly recognized. My reasoning did not satisfy the Government of Ireland, and of course the experiment was not made, and not having been made, it is perhaps idle to express any conviction that if it had, it would have succeeded. I pretend not to say that it now will. I am rather of opinion that the same concessions which would have quieted the question are not now likely to do it.[137]

Notwithstanding his personal doubts, Dundas made it impossible for the Irish government to refuse or to neglect a new Catholic bill without suffering grievous humiliation. His bland, official prose carried an implicit threat: frame a bill and support it in good faith or leave the King's Government in Ireland in a false, ridiculous position:

> If it is the determination of the Irish Parliament to refuse all further concession, I admit that the recommendation from the Throne must be embarrassing, as it must exhibit to the public view a difference of feeling in His Majesty and His Irish Parliament on a subject of such momentous concern. But if, as I trust there is, a universal sentiment prevalent both in the British and Irish Government, to connect all lovers of order and good Government in a union of resistance to all abetters of anarchy and misrule, I cannot discover any embarrassment that can arise from that sentiment being universally known.[138]

Even Westmorland had to take the hint. Hobart dutifully cobbled together a bill giving Catholics the right to vote, to serve on juries, to serve in the army and in the navy, to hold commissions up to the rank of general, to take degrees at Trinity College, and to be admitted as freeholders and as members of corporations. In keeping with Dundas's own guidelines, they remained excluded from Parliament, from the Bench and from the position of King's Counsel and from the higher Revenue offices.[139]

It is difficult not to sympathize with Westmorland as he struggled to reconcile a British government bent on settling a bothersome issue before undertaking a war, and the Irish Protestants, who felt betrayed and abandoned. As he himself declared with great poignancy: "My situation is most difficult and unpleasant every leader displeased with English government, what cabals will be made I cannot prophesy." [140] He pleaded for the complete support of English government as he tried to carry out what he

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137 Ibid.

138 Ibid.

139 For a full text of the bill, see *A Collection of Statutes which have been enacted during the Reign of his present majesty for the Relief of English and Irish Catholics, and a short account of the disabilities to which they are still subject*, (London, 1812), pp. 134-5

140 NLI MS 886, Westmorland to Pitt, 11 January, 1793

considered a risky and ill-advised policy: "...we shall probably pay dear for what you have put on me and therefore you must give me ye strongest support." He could not resist a flash of anger: "... if you had left me alone, I cd have carried ye Measures with much less difficulty."[141] In light of his own voluminous accounts of recalcitrant Irish ministers, it was an extraordinary statement. In light of FitzGibbon's sentiments in particular, it was sheer fantasy.

He fought a desperate rearguard action up to the bitter end. On December 26, Westmorland reported, "I had a long conversation with him [FitzGibbon] this morning; he admits that if concession of the two points [arms and suffrage] would bring content, he would readily give them up, but he is convinced of the contrary."[142] Given his views of Catholic treason and triumphalism, he would indeed have been convinced of the contrary. Given his frequently lonely and always courageous battle to maintain English Protestant authority in Ireland, he inevitably would have felt rage bordering on madness when that very authority stooped to negotiations with its most inveterate enemies.

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His remarks on the speech from the throne, made at the opening of Parliament on January 10, offered a foretaste of the rhetorical wrath to come. He set the tone by denouncing the petition of grievance which the Catholics had presented to the King as "a gross and malignant deception on the father of his people."[143] The grievances in the petition were spurious and the demands outrageous. Most notably, he warned publicly, as he had warned in private counsel, of the dangers of allowing Catholics to bear arms, one of the main points of the petition. Still more impertinent, objectionable and dangerous was the petition's call for the right of suffrage. FitzGibbon made the obligatory disclaimers of personal prejudice against the Catholics, disclaimers which were doubly obligatory in his case:

> I do most solemnly protest that as an individual I never have, nor will I ever enquire what may be the religion of any man---if he be an honest man, whatever his religion may be, it shall never influence me in my private dealings and the more zealously any man is attached to any religion which he professes, the greater confidence I shall always be inclined to place in him.[144]

Furthermore, if the Catholics had any genuine grievances affecting their persons or

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141 Ibid.

142 Westmorland Papers, Letter Book, Westmorland to Dundas

143 *Freeman's Journal*, 10-15 January, 1793; Parliamentary Reports/House of Lords, 10 January, 1793

144 Ibid.

their property, no one was more anxious than he to redress them:

> If there be a clause in the statute book which renders their characters, their persons or their property less secure than the characters, the persons or the properties of the Protestants, let it be repealed.[145]

But Catholics, given their fanatical devotion to their own religion, and their overwhelming numbers, could never exercise "efficient power" in a "free Protestant government." Nor could they be trusted to maintain the connection with the "Protestant Empire of Great Britain." They would inevitably attempt to subvert British and Protestant rule and to establish the dominion of their own church. The result could only be a recurrence of the sectarian wars of the 17th century:

> If unfortunately for this country we shall ever be induced to make so fatal an experiment, we may rest assured that the maintenance of a Protestant establishment and of our connection with Great Britain must once more be put to the issue of the sword.[146]

Above all, he declared his own determination to resist the fatal experiment, and his confidence that his fellow peers would do the same:

> ...whenever the subject recommended to us from the Throne shall come into debate, I will state without reserve, the grounds upon which I have framed that opinion. I trust, however, that no degree of lenity, rashness or timidity will ever induce the Parliament of Ireland to yield her best security for the peace and prosperity of the country committed to their care, whatever events may arise, I will persevere in defending the present Constitution of this country and transmitting it to posterity.[147]

It was an unprecedented act of defiance on the part of FitzGibbon. Not since he was a young opposition backbencher had he so vehemently opposed a government measure. Nonetheless, he opposed, not to gain notice or to make gratuitous trouble, as in the past, but out of a sincere, if headlong, desire to protect the English government from its own fatal self-deception. There were, nonetheless, dangerous measures of wounded pride and vainglory in FitzGibbon's action as well. Already he had come to believe that he alone truly understood Ireland, particularly benighted Popish Ireland. It was his duty to remind the English government that Ireland was an integral part of the British Empire, but a precarious and easily jeopardized part. The fact that Pitt in particular would so completely discard his opinion, and the fact that Pitt in particular

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145 Ibid.

146 Ibid.

147 Ibid.

would allow his views on Ireland to be influenced by rebellious Papists like Keogh or fatuous instigators like Richard Burke hurt FitzGibbon deeply.

FitzGibbon did not long maintain his stance of wounded defiance. In spite of his habitual mental dimness, Westmorland predicted as much and in the process, he delivered what is probably the most complete and striking summation of FitzGibbon's master motives ever made:

> The Chancellor spoke yesterday; he confined himself not to giving ye RC's [further privileges] however he is violent for ye moment, but I am sure he has no other God but English government and will not distress us.[148]

Fear as well as reverence may have restored FitzGibbon to submission. Naked defiance brought with it a risk that he would lose either his office or indeed his remaining influence with the English government. Without his guidance, worse Popish follies might ensue. He may also have submitted because he he had received assurances that a union would eventually accompany these concessions to Catholics. Dundas's private papers contain this cryptic statement in a memorandum of a conversation with Edward Cooke, one of FitzGibbon's confidant s: "Mr. Cooke Stated Ld. FitzGibbon's readiness to grant everything short of seats in Parliament, Corporations, and Sheriffs and to give a qualified right of carrying arms if such concessions should be blended with the system of final settlement."[149] The cryptic phrase "final settlement" can have no other meaning. If he had been comparatively indifferent, even reluctant, before, he was now in frantic earnest. In the end, FitzGibbon had no interest in contesting the form of Irish government. That was best which protected the Protestants best. With justice, he saw that an independent Irish Parliament could no longer guarantee Protestant privilege and power, and Pitt and Dundas were perfectly ready to accept his conversion and his terms.

Nonetheless, while the English government could now count on his vote and his cooperation in the House of lords, his anger and his sense of betrayal remained unabated. He seized the opportunity to rage and to warn again when the bill emerged from Commons, aided in its stormy course by bandwagon-hopping Whigs, reluctant government members, and members in the interest of Lord Abercorn, self-appointed patron of the Catholics and Keogh's favoured shadow viceroy.[150] When the bill came up for committal in the House of Lords on March 13, 1793, the initial reaction was, on

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148 NLI MS 886, Westmorland to Pitt, 11 January, 1793

149 NLI, Melville Papers, 54A/f74, "Memorandum of the Conversation which passed with Mr. Dundas at Wimbledon on the 21st and 22nd of January, 1793 in the presence of Mr. Pitt

150 For the rather abortive negotiations with Abercorn, see M. Elliot, pp. 187-88,201-2; See also HO 100/43/15, Cooke to Nepean, 26 February, 1793 and HO 100/43/21-23, Hobart to Nepean, 26 February, 1793

the whole, compliant and even, in the case of the Bishop of Killala, enthusiastic. He welcomed the repeal of the penal laws which were the product of a "bigoted and persecuting age," and which had been imposed with equal "impolicy and injustice to a loyal body of subjects, whose conduct for that period was a full refutation of every argument that could be offered in support of that code." Killala proceeded to praise the bill as sound Christianity and as sound policy:

> He felt it his duty to declare fully his sentiments on these points, because he looked upon his Roman Catholic brethren as fellow subjects and fellow Christians, believers in the same God and partners in the same redemption. Speculative differences in some points of faith were with him of no account. They and he had but *one* religion, the religion of CHRISTIANITY. Therefore, as children of the same father, as travellers on the same road---and seekers of the same salvation, why not love each other as brothers? It was no part of Protestantism to persecute the Catholics and without justice to the Catholics, there could be no security for the Protestant Establishment. As a friend, therefore, to the permanency of this establishment, to the prosperity of the country, and the justice due his Catholic brethren, he should chearfully give his vote that the bill be committed.[151]

This speech, full of kindly 18th century platitudes, re-opened FitzGibbon's mental wounds. The speech was not only delivered by a Bishop of the Established Church, but by an Englishman. Poor good-natured Killala became the personification of what FitzGibbon perceived as the fatuous naivete and irresponsibility of the English. He became, consequently, the convenient target for the rage FitzGibbon dared not direct toward the treacherous, but still adored Pitt. He held fire while Glandore, Portarlington and Waterford delivered their dutiful remarks in support of the bill.[152] He then delivered an extraordinary, and in many ways a masterful philippic against the Roman Catholics of Ireland and against his L[illegible] of Killala's notion that they both deserved and could be trusted with political rights.

It was, arguably, his greatest speech. It is impossible not to admire the comprehensive array of arguments which he marshalled against the claims of the Catholics. The speech abounded in striking, forceful, and eminently quotable turns of phrase. Indeed, in terms of anti-Popish propaganda points, the speech offered such an *embarras de richesses* that adherents of the constitution in church and state reprinted the speech in 1813.

First and foremost, his politics were his religion. FitzGibbon paid a great deal of lip service to Christianity as taught by the Church of Ireland. In his will, for

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151 *Freeman's Journal*, 14-16 March, 1793, Parliamentary Reports/House of Lords, 13 March, 1793

152 For their remarks and the full debate see the *Freeman's Journal*, 14-16 March, 1793, 13 March, 1793

example, he dutifully parroted the standard Protestant formula for redemption:

> I earnestly entreat for the pardon of my sins from the mercy of Almighty God. I am truly sensible of, and grateful for, the many blessings which through his mercy and goodness I have enjoyed in this world and bow with resignation as becomes me to such difficulties as have been visited upon me, hoping through the mercy and mediation of my redeemer, his most blessed son, for salvation in the next world.[153]

In his visitation at Trinity in 1798, he warned, not only against the political unorthodoxies of the United Irishmen, but of religious unorthodoxy in the guise of necessitarianism: "...it [necessitarianism] must lead not only to deism, but atheism and must have the worst effects, particularly on weak minds."[154] No doubt he had as comprehensive a knowledge of the Book of Common Prayer as he did of the Common Law. But he was fundamentally a hard, sensual, practical and thoroughly unimaginative man. He had no patience with the spiritual exultations of Methodism. He later characterized one unfortunate general who had earned his disfavor as a "mad Methodist."[155] Still more objectionable were the extremes of private judgment exercised by dissenting Protestants, and especially by the detested Presbyterians. A "restless and republican spirit" tainted that religion.[156] In his great speech on the Act of Union, he described with compendious loathing the various religious unorthodoxies of the Cromwellian settlers, whom he detested as much as any "old Irish Catholic":

> And thus a new Colony of new Settlers, composed of all the various sects which then infested England, Independents, Anabaptists, Seceders, Brownists, Socinians, Millinarians and Dissenters of every description, many of them infected with the leaven of democracy, poured into Ireland and were put in possession of the ancient inheritance of its inhabitants.[157]

Oddly enough, in his uninquiring dogmatism, he resembled his own caricature of an Irish Roman Catholic. It is doubtful whether he engaged in any theological speculation or contemplation outside the decreed orthodoxies of the state church. Indeed, the speech of 1793 suggests that FitzGibbon adhered less to Anglicanism and more to a sort of imperialist Manicheanism.

The British Empire was for FitzGibbon a Kingdom of Light offering law and civilization to a benighted world and especially to benighted Ireland. The prop of

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153 PRONI, T3244/11/1

154 PRONI, T3247/2139

155 Sneyd Muniments, FitzGibbon to Auckland, 11 January, 1797

156 Camden Papers, FitzGibbon to Camden, 28 August, 1798 (TCD microfilm, C/183)

157 *Act of Union Speech*, (1800 print) p. 17

Empire was the Church as by Law Established. Submission to the Empire necessarily entailed submission to its state religion. In short, religion was less a theological and ritualistic system purportedly revealing great universal truths than the premier instrument of conquest and subjugation. But FitzGibbon, as always, expresses himself best:

> I consider civil allegiance to my Sovereign to consist in an explicit acknowledgement of the powers which the constitution has entrusted to him, and in prompt and implicit obedience to the laws, civil and ecclesiastical by which he governs his subjects.[158]

Unfortunately a formidable and extensive Kingdom of Darkness perpetually threatened the authority of the Empire and the authority of its Church. That was, of course, the "Court of Rome" and its multitudes of savage, superstitious adherents in Ireland. FitzGibbon spared no effort to paint as dark and as grim a picture as he could of Roman Catholicism and its rival dominion in Ireland. He allowed no room for nuance, for exceptions to the rule, or even for the possibility that Irish Roman Catholics may have had legitimate grievances. They always had been, were now and always would be, fanatical and superstitious in their devotion to the Roman Catholic religion and vicious and perverse in their resistance to the benevolent authority of England:

> ...I am sorry to say, and my opinion is formed from general and promiscuous habits of intercourse with the people for more than twenty years, that religious bigotry is as rank in Ireland as it was at any one period...Nay more, I am satisfied that a very great majority of the inhabitants of Ireland are as zealously and superstitiously devoted to the Popish faith as the people of Spain, or Portugal or any [sic] the most bigotted [sic] districts of the German Empire.[159]

It was the sole, overriding wish of the Catholics of Ireland, whatever their professions of loyalty, to overthrow the rule of the British Empire, to destroy the established church and to "restore the ancient pomp and splendour of their religion."[160] Their past record clearly demonstrated their evil intentions. Acting at the behest and the direction of the Court of Rome they had rebelled in 1641[161]; during the brief domination of the Catholic Jacobite parliament, Protestants had suffered attainder and confiscation, while their churches were converted to barracks and prisons.[162] In light of their past

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158 *The Speech of the Right Honorable John, Lord Baron FitzGibbon, Lord High Chancellor of Ireland, Delivered in the House of Peers on the Second Reading of the Bill for the Relief of His Majesty's Roman Catholic Subjects*, (Dublin, 1798), p. 31

159 Ibid., p. 3

160 The quoted phrase appears on p. 21; on evil intentions of old Irish see pp. 37-38

161 p. 6

162 Ibid.

behavior, "hard necessity" (a frequent FitzGibbonism) compelled the Irish parliament to impose the penal code, "to abridge the power and influence of the old Irish Catholics." [163] In short, it was a just retribution for their crimes of rebellion and bigotry, and the Irish Catholics owed any mitigation of it, not to any inherent right, but solely to the mercy and magnanimity of the Protestants. What concession was granted was "but ill-requited by that body of men who had profited by it."[164]

Indeed, FitzGibbon suggested, the authority of the Protestant Empire existed only precariously. The Roman Catholic church in fact exercised a judicial and political authority over its subjects that frequently over-rode or defied the Protestant Government. Its priests and bishops acted as the omnipotent and domineering agents of that authority. Particularly abhorrent to FitzGibbon, who adored the Common Law as ardently as he adored the British Empire, was the rival jurisdiction of canon law. He indignantly cited some anecdotal evidence showing the extent of the legal usurpation exercised by the Catholic clergy:

> ...A Popish priest who acts as judge in the Consistorial Court of Elphin in the month of December 1791, cited parties who had lived together as man and wife to appear in his court in a cause of nullity of marriage; they had been married by a priest and had co-habited---however, the marriage contract was pronounced null and void, and the woman was turned loose upon the world. On her complaint to a neighboring gentleman, one of the representatives of the county, he remonstrated against this proceeding---but in vain: the consistorial judge persisted in enforcing his sentence, and in justification of himself enclosed to this gentleman a decree of the Council of Trent under which he had proceeded and in the course of his correspondence upon this subject, which is now in my possession, he very gravely stated that an attack upon the laws of their church would be an attack upon the whole body of Roman Catholics. This being a clear case, he had full and final jurisdiction.[165]

The Pope reigned supreme over this alternative empire of domineering clergy and savage, superstitious laity. FitzGibbon did not take the rather patronizing and complacent 18th century view of the Pope as a decayed, and rather ludicrous, Italian potentate. He took a grimmer, but at the same time more respectful view of His Holiness's powers. It had always been and was still the aim of the Holy See to impose a secular as well as a religious tyranny over all the world. Toward this end, the Court of Rome had continually disrupted the peace of society and had plunged Europe into religious warfare.[166] So long as Irish Catholics remained in thrall to this ecclesiastical tyrant, and to his minions the priests and bishops, their claims of loyalty meant nothing:

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163 p. 13
164 Ibid.
165 p. 28
166 pp.23-26

> ...I know that canonical obedience to the Pope as enjoined by the Court of Rome is utterly inconsistent with the duties of civil allegiance to my sovereign as enjoined by the laws and constitution of the British Empire[167]

And since Catholics could not be truly loyal, it followed that they had no right to any power and privilege in a Protestant state. They existed in the British Empire only on sufferance, and for the safety of the empire, they must necessarily remain, like the Beast of the Apocalypse, permanently bound by the adamantine chains of exclusionary laws.

In spite of his claims to right and reason, FitzGibbon's religion rested on a foundation of gross intellectual dishonesty. His claim that the "Court of Rome" fomented the rebellion of 1641 was, to put it mildly, a highly imaginative fabrication. He was as unscrupulous in his use of contemporary sources. His treatment of John Troy's pastoral, *On the Duties of a Christian*, was a case in point. Troy had attempted to show that papal authority in no way interfered with secular authority. His weighty and pedantic tome was notably unsuccessful. Liberals, Protestant and Catholic alike, found its dogmatic tone embarrassing, while FitzGibbon found proof for his own contrary claim that papal authority posed an insidious threat to British imperial authority. In describing the procedure by which Irish bishops were selected, Troy stated that the bishops and selected priests nominated candidates and the Pope and College of Cardinals approved them.[168] FitzGibbon seized on this incidental thread of information and wove from it a Jacobite plot. The cardinals' exercise of approbation became a "Cabinet of Cardinals at Rome for the ecclesiastical government of Ireland." In this cabinet there could be only one overriding influence and voice:

> I presume Cardinal York is at the head of it and therefore there can be no doubt that the mild, superintending spiritual influence of this Cabinet upon the Irish Catholics will have the best effects in cultivating their hereditary attachment to the British government and the British nation and their natural affection for the established constitution in Church and State.[169]

Yet the speech reflected, not only the flaws, but many of the virtues of this troubled and contradictory man. He could certainly claim the virtue of consistency. He had always taken this grim and fearful view of Irish Catholics. He had simply never had the opportunity, or sufficient provocation, to express it so fully and so comprehensively.

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167 p. 31

168 *On the Duties of Christian* (Dublin, 1793), p. 96; for the supremely unenthusiastic response, see Elliot, p. 204

169 FitzGibbon, Speech on Catholic Bill of 1793, p. 31

Nor did he blame the Irish Catholics entirely for unrest and agitation. Protestant political irresponsibility had encouraged the innate rebelliousness of the Catholics. Repeating again his premier and very accurate observation of 1789, he warned that their divisions and their quarrels with England had set a bad and dangerous example:

> Till modern Irish patriots had succeeded in foment/ing party heat and rancour and in dividing the Protestants of Ireland into opposite and inveterate factions, contending with each other, we never heard of any claim of political power advanced by the Irish Papist.[170]

He also played on an old theme from 1784, the dangers of a political alliance between the Papists, and those no less obnoxious religious rebels, the Presbyterians. If allowed to unite and gain control of Parliament, Catholics and "Puritans" would "join in sacrificing the established church; I have very little doubt that to one other point they will also agree, and that they will join in fomenting a quarrel with Great Britain." The result, FitzGibbon noted with sardonic *schadenfreude*, would not be to the advantage of the Presbyterians:

> And if they shall succeed in the ultimate object of both, which I know to be separation, these wise Puritanical reformers will then find themselves precisely in the situation of the horse in the fable; they will be obliged to carry their new allies; and when they are once fairly mounted, they will have to lament in vain their restless levity and infatuation.[171]

His observations on the effects of opposition political agitation and on the fundamental instability of a Catholic-Presbyterian alliance had large elements of truth. And he was certainly correct in recognizing that the bill would not satisfy Catholic demands. FitzGibbon rightly pointed out the fundamental illogic of granting the power of suffrage and at the same time, withholding the contingent power of holding office:

> Should the Parliament of Ireland once admit the claims of the Irish Papists to political power on the ground of right, I desire to know where else to draw the line? If the Papists have a right to vote for representatives in a Protestant Parliament,
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> they have a right to sit in Parliament; they have a right to fill every office in the state, they have a right to pay tithes exclusively to their own clergy, they have a right to restore the ancient pomp and splendor of their religion, they have a right to be governed exclusively by the laws of their own church, they have a right to seat their Bishops in this House, they have a right to seat a Popish prince on this Throne, they have a right to subvert the established government and to make this a Popish country, which I have little doubt is their

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170 Ibid., p. 20

171 Ibid., p. 36

ultimate object.[172]

Wolfe Tone had much the same opinion of the bill, though of course, his language was less highly colored and he had different reasons for disliking it: "If the Catholics deserved what had been granted, they deserved what has been withheld."[173]

Even at his most absurd and self-serving, FitzGibbon could hit on an essential home truth. In the course of his speech, he assumed the well-worn rhetorical cloak of indignant paternalism. Not only were the Catholics bigoted toward the Protestants, they were harsh toward their own. He painted a lurid picture of the financial exactions which the Catholic Committee and its Convention levied on the peasantry: "...the taxes repeatedly levied upon the poor under the authority of this convention have in many districts reduced them to very great distress."[174] In fact, the Catholic Committee and the Catholic Convention were funded less by pennies extorted from the peasantry and more by the pounds of its wealthy mercantile members. But there was a kernel of sense buried in this melodramatic nonsense, which could be construed fancifully or otherwise as a * community of interest between Mr. Keogh of Mount Jerome or Mr Sweetman of Stephen's Green and the peasantry. FitzGibbon articulated this idea more cynically and precisely during his examination of Dr. McNeven, when he questioned whether the Irish people cared "the value of this pen or the drop of ink it contains for Parliamentary Reform or Catholic emancipation?"[175]

FitzGibbon was also very right in perceiving the rooted inveteracy of religious antagonism in Ireland. The Defenders, who were at the height of their activity, proved his point. Revanche against the Protestants was, or became, an element in their sometimes millenarian political creed.

Nor did FitzGibbon hold his ideas in solitary malevolence. Many honorable and well-intentioned Protestants believed that any grant of political power to Catholics would endanger their own rights, property and lives. The Swiftian rage of his convictions set FitzGibbon apart. Ironically, in his ardent feelings on the subject of Irish Catholics, FitzGibbon had much in common with Edmund Burke. Both were Irish outsiders who held a quasi-mystical reverence for the British Empire and the British Constitution. Unlike FitzGibbon, of course, Burke's vision of Empire incorporated the Catholics, whom he never ceased to perceive as inherently inclined to monarchy, aristocracy and hierarchy. His warm and fast ties with his Catholic relations, the Nagles, also certainly influenced his views. FitzGibbon, in his way, had

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172 Ibid., pp. 21-22

173 Elliot, p. 207

174 FitzGibbon, Speech on Catholic Bill of 1793, p. 39

175 Madden, p. 223

as intimate a knowledge of Irish political realities, but he had no such ties of intimacy or affection with Catholics. At best, he was the lordly, domineering patron. Hence he could the more readily see Catholics as a force for instability, and he could the more easily demonize and detest them.

(v)

The speech itself had little effect on its principal target, Killala, and indeed, on those Lords who favoured the bill, out of conviction or out of expediency. Killala made perhaps the most devastating response, given FitzGibbon's supreme self-importance and utter lack of a sense of humor: he made a joke of the speech and a joke of its deliverer:

> Much has been asserted as to the Romish belief, of the Pope's infallibility; but he saw it was not impossible men might in argument become *Popes* themselves and assert an infallibility of their own.[176]

Dunsany "most chearfully supported the bill", and Lord Westmeath gave his "hearty support." Leinster both declared his support and ventured to put FitzGibbon right on a point of religious history:

> The noble Lord had said there was no instance in any state where Protestants and Catholics agreed in any one system of government; an instance of the contrary was the Electorate of Saxony...where the Prince was a Catholic and his Administration Protestant...and in other Principalities of Germany there were many similar instances...[177]

Only the egregious Cashel spoke on FitzGibbon's side.[178]

FitzGibbon was proud enough of his production to submit it for publication. The response outside of parliament was predictable. The *Freeman's Journal* praised FitzGibbon for his intellectual versatility and for his talents as an amateur theologian, a novel species of flattery:

> The Lord Chancellor's speech, just published, is as close and powerful a piece of reasoning as ever came from that exalted character, and does equal credit to the ingenuity of his mind and the depth of his research. His acquaintance with the canonists seems profound and much more extensive than would be expected from a modern judge; but the versatility of his talents is as striking as the

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176 *Freeman's Journal*, 14-16 March, 1793, Parliamentary Report/House of Lords, 13 March, 1793

177 Ibid.

178 Ibid.

perseverance of his application is to be admired.[179]

Grattan, who had fervently and openly embraced the Catholic cause, and who as fervently and as openly detested FitzGibbon, wrote to Richard Burke: "The Bishop who had no law was the Statesman---the Lawyer who had no religion was the bigot."[180]

As one opposition newspaper put it, FitzGibbon himself "condescended to vote against his own speech."[181] Even as he warned against the danger and the futility of the bill, he too voted for its committal. His god demanded submission to the heresy of Catholic emancipation, and he would therefore recant for the time being. Once the bill was committed, he worked steadily and honorably to steer it through the Lords. Westmorland wrote of his conduct in a rapture of praise and gratitude:

> I cannot do full justice to his conduct during ye present session, thinking what was proposed injurious to ye English connection in ye first instance, he acquiesced in ye wishes of government, discountenanced ye innumerable cabals that were at work, encouraged ye timourous and to his spirit and decision may in great degree be attributed ye successful stand we have made.[182]

He also recommended a promotion in the peerage for FitzGibbon as a reward for his meritorious actions.

FitzGibbon did press for one major revision to the bill. The Commons had limited the right to bear arms to those Catholics possessing property worth £100. FitzGibbon successfully pressed for a high qualification of £300:

> The Lord Chancellor opposed this arrangement and though willing to put arms into the hands of £10 freeholders, his Lordship thought that a man's personal property of £100 did not put him on the same footing and the qualification of personal property should be at least £300. To give a man arms who hold a real property was but reasonable, but to put arms in the hands of men who had no property would be only to induce them to murder each other and to rob their neighbors; consequences which his Lordship felt were to be apprehended in the county where he resided, where year after year, merely on account of what were called *old grudges* from one town or family to another, and who instead of cudgelling each other very well, as they now usually do, if firearms were put into their hands would proceed to murder.[183]

With an eye to Presbyterian troublemaking in Armagh, he later declared his own belief

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179 *Freeman's Journal*, 2 April, 1793

180 *Burke Correspondence VII*, p. 363; the letter is dated 20 March, 1793

181 The turn of phrase appeared somewhat later, in an editorial in the *Dublin Evening Post*, dated 3 January, 1795

182 HO 100/43/127, Westmorland to Dundas, 21 March, 1793

183 *Freeman's Journal*, 16-19 March, 1793, Parliamentary Reports/House of Lords, 15 March, 1793

that the same qualification ought to apply to the lower order of Protestants, though he never displayed the courage of this particular conviction and attempted to put it into legal effect.[184]

However compliant his behavior with respect to the relief bill itself, FitzGibbon spared no effort to get revenge on the Catholics, and particularly the members of the Catholic Committee who had outmaneuvered him. Even before the bill had passed, FitzGibbon fired the first salvo in his campaign of revanche. The report of the Secret Committee of the House of Lords of February 1793, which was largely FitzGibbon's creation, implied, if it did not prove, a link between the Catholic Committee and the Defenders. He made his intentions amply clear in his speech in support of the formation of such a committee:

> The perpetrators of these outrages act upon system and under order; They proceed day after day in the accomplishment of their work and they are day after day enforced; they have been opposed and numbers have fallen before the military, yet the growth of this evil has not stopped; no man can shut his eyes against the fact; it is vain to butcher these deluded persons unless we can come at their advisors. My lords, I approve of a Secret Committee, and I would have it vested with powers to send for and examine all persons capable of furnishing any information by which we may trace the authors of this mischief to their lurking places whence I would rather drag one of them to the bar of a Court of Justice than sacrifice twenty of the wretches whom they have deluded; for though culpable, they are so in a secondary degree.[185]

A Louth grain merchant by the name of Coleman was one of the persons called upon to trace the authors of Defender mischief to their lurking place. Coleman implicated a very influential and radical Catholic indeed: John Sweetman, a wealthy brewer and a pillar of the Catholic Committee. Sweetman had written to Coleman the previous August enquiring whether a man accused of Defenderism was entitled to bail. The letter itself was perfectly straightforward; but FitzGibbon with the same ruthless ingenuity which he had used against Dr. Troy, presented it in such a way as to imply that Sweetman was one of the lurking authors of mischief:

> Several seditious and Inflammatory papers published in Dublin and dispersed through the country seem to have countenanced and encouraged the Defenders in their proceedings, and it appears that the Letters were written by a Member of the Committee of the Roman Catholics at Dublin previous to the last summer assizes to a person resident at Dundalk, in one of which the said person in the name of the Roman Catholic Committee directed Enquiries to be made touching the offenses of which the Defenders then in confinement were accused[186]

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184 Ibid.

185 *Dublin Evening Post*, 14 February, 1793

186 Westmorland Papers, Carton 1/f88, Report of the Committee of Secrecy dated 5 February, 1793

FitzGibbon added a final touch of chiaroscuro to the portrait of John Sweetman, aider and abetter of the Defenders, by adding, "...it does appear that the said person to whom the letter was addressed at Dundalk, did employ at considerable expense an Agent and Counsel to act for several persons who were accused of being Defenders, and were indicted for offenses committed by them in the County of Louth..."[187]

FitzGibbon used the same method of guilt by association through prose to implicate the entire Catholic Committee. In his account of the rise of Defenderism, FitzGibbon stated his *a priori* conclusion about their leadership:

> Their [the Defenders] Measures appear to have been concerted and conducted with the utmost secresy and a degree of regularity and system not usual in People of such mean condition and as if directed by Men of a superior rank.[188]

The report then abruptly shifted to a discussion of the Catholic Committee's methods of raising funds:

> Sums of money to a considerable amount have been levied and still continue to be levied upon the Roman Catholics in all parts of the Kingdom by Subscriptions and Collections at their Chappels [sic] and elsewhere.[189]

The report re-printed a prosaic circular from the Catholic Committee, submitting a plan for a general subscription "for defraying the many and growing Expenses incurred by the General Committee in Conducting the affairs of the Catholics of Ireland."[190] Although FitzGibbon never made any explicit declaration to that effect, he obviously intended to suggest that the many and growing expenses included the expense of arming and inciting the Defenders.

In his recommendations for restoring peace and order, FitzGibbon again emphasized this supposed link between the Catholic Committee's subscriptions and the Defenders. He made relatively mild and indeed hackneyed recommendations for the appointment of "a sufficient number of active, resolute and steady magistrates." These gentlemen would not only "exert themselves to maintain the public peace", they would "cut off from these Deluded People all hope or Expectation of support of Defense arising from a Common Fund to be levied on persons of their Communion."[191]

FitzGibbon made rather perfunctory expressions of faith in the innocence and peaceableness of the generality of the Catholics, but even when making this verbal

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187 Ibid.
188 Ibid.
189 Ibid.
190 Ibid.
191 Ibid.

gesture of moderation he cast further aspersions on his true target, the Dublin-based Catholic Committee:

> ...The Committee think it their duty to state that nothing appeared before them which would lead them to believe that the Body of the Roman Catholics in this Kingdom were concerned in promoting or countenancing such disturbances, or that they were privy to this Application of any part of the money which had been levied upon them, however suspicious the conduct of Ill-Disposed Individuals of their Persuasion resident in Dublin may have been.[192]

Some of FitzGibbon's fellow peers expressed indignation at the patent unfairness of the Secret Committee and its report. During a later debate on quite a different matter, Lord Dunsany, who had the traditional sympathies of a convert, offered a more benign explanation for the collections: they were intended to benefit emigre French clergy. He also added indignantly, "He had heard much of the Secret Committee; he knew that the Committee was intended to injure the Roman Catholics."[193] FitzGibbon, as indignantly, defended his committee and his report:

> It had never been the intention of the committee to affect the Roman Catholics' interest, on the contrary, the Committee in its report had distinguished between the acts of the few and the many. It appeared to a demonstration that the Defenders had been encouraged and maintained by certain members of the Roman Catholic Committee[194]

Indeed, the *Catholic,* as opposed to the Secret, Committee had injured the whole body of their co-religionists by committing illegal and seditious acts in their name. The Secret Committee had magnanimously chosen to disregard such claims, "though it had the authority of the Roman Catholics to justify it."[195]

FitzGibbon clearly hoped that Sweetman and his colleagues on the Catholic Committee would respond to the report with the terror and supineness of the Catholics of his youth or of the 1780's. He was wrong, particularly about John Sweetman, a man of great intrepidity and intelligence. Sweetman and the Committee shrewdly waited until the Catholic bill was securely passed before mounting an attack on FitzGibbon and a defense against his charges.

On April 2, the Catholic Committee published a public denial that it had ever raised money "for improper purposes and among others for the purpose of assisting the insurgents."[196] The Committee maintained that they had indeed communicated with

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192 Ibid.

193 *Dublin Evening Post*, 26 March, 1793

194 Ibid.

195 Ibid.

196 *Defence of the Sub-committee of the Catholics of Ireland from the Imputations attempted to be*

the Defenders, but they had done so only after consultation with a group of Protestant gentlemen in County Down and they had confined themselves to appeals to keep the peace so as not to endanger the prospects of the relief bill.[197] Furthermore, the Committee had offered to assist only those Catholics who had suffered attack from the Peep O' Day boys and who would "dutifully appeal to the law of the land for redress." [198] The Committee made clear that it would "in no case undertake the defense of any man who shall assist in any riotous or disorderly meeting or who shall not behave himself soberly, peaceably and honestly."[199]

The Committee also publicly came to the defense of John Sweetman and of his dealings with the Defenders. At the suggestion of Coleman, his Dundalk correspondent, Sweetman had indeed met with one Nugent, the brother of an accused Defender. Nonetheless, since Nugent had questions about the legality of bail, which Sweetman did not feel qualified to answer, he referred the man to a "professional gentleman." [200] This unnamed professional gentleman declared himself unable to offer any advice "the examinations in which the offense was specified not appearing."[201] Sweetman soon became convinced that Nugent was not a desirable object of assistance, even ineffectual assistance:

> ..and with regard to Nugent himself, on examining him closely, good reason was found to doubt his being a person of the description mentioned in the Address of the General Committee dated July 25, that is "one who if attacked in his house, property or person, should dutifully appeal to the law of the land for redress and who never assisted in any riotous or disorderly meeting.[202]

Having decide Nugent was a bad lot, Sweetman and those he consulted dismissed him "without advice or assistance or promise of either."[203]

As for the calls for subscriptions and the extraordinary expenses which FitzGibbon had found so suspicious, the Committee maintained that the Catholics had always been in the practice of subscribing money to defray the costs of lobbying and of presenting their cause in England. They had done so at least since the great dispute over quarterage fees.[204] The Committee then cited some of the extraordinary

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thrown on that body, particularly from the charge of supporting the Defenders (Dublin, 1793), p. 1

197 Ibid., p. 3

198 Ibid., pp. 3-4

199 Ibid., p. 4

200 Ibid., pp. 6-7

201 Ibid., p. 7

202 Ibid.

203 Ibid.

204 Ibid., p. 8

additional expenses which they had incurred. They had, for example, paid £2000 to a "professional gentleman of great respectability" for his services as an agent in England.[205] This professional gentleman was presumably Richard Burke, who had not yet lost his position, either formally or informally. With the most implicit of sarcasm, the Committee suggested that FitzGibbon himself had known about this particular application of money:

> ..this expenditure happened with the knowledge of a noble lord high in legal situation and a member of the present Committee of Secresy[206]

The Committee had incurred heavy advertising and printing expenses as well. They had been obliged to publish responses to an "Address presented in 1791, striking at the existence of the general committee" (in other words Lord Kenmare's address) and to "attacks on the public press...by a variety of bodies of men and individuals." (including the Limerick resolutions framed by Lord FitzGibbon.) [207] The expense of the delegation to the King constituted another extraordinary burden requiring extraordinary donations. The Committee gave an account of its disbursement procedures to prove that neither Sweetman, nor any other member could have made an unauthorized, illegal use of common funds, even had they been so inclined. The nature of their procedures precluded any such abuse:

> But not to rest on the reason of the case, if they were so foolish or so wicked as to endeavor to misapply this money, they have not the power. No man nor body of men has dominion over the funds of the General Committee, but the General Committee itself; not a shilling can be drawn from the treasurer but by their order, except in particular cases, when they authorise the Sub-Committee to a limited amount and for a special purpose.[208]

Moreover, John Comerford, of the great mercantile house, currently managed the funds of the Committee, and his predecessor had been another commercial magnate, Mr. McDermott. Their names, the Committee declared, "it is sufficient hereby to mention to satisfy the nation that they would not be concerned in so base a misapplication of the public contribution as that which is affected to be at present apprehended." [209] The financial organization of the Committee both revealed its domination by commercial men and offered perhaps the greatest single explanation for its success: simple businesslike efficiency and not rabble-rousing among the Defenders.

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205 Ibid.
206 Ibid.
207 Ibid., p. 9
208 Ibid, pp. 10-11
209 Ibid.

John Sweetman published his own personal vindication at the same time. He gave a similar account of his dealings with Nugent, and he emphatically denied an further involvement, financial or otherwise, with the Defenders:

> ..I never sent any money nor ordered any money to be paid to the Defenders, nor to any person for their use, directly or indirectly, either in my individual or official capacity. That I never corresponded or communicated with any Defender nor with any person for the purpose of holding such correspondence or communication with any of them. Nor did I in any manner whatsoever abet or encourage or take any part in abetting or encouraging the Defenders or their proceedings but on the contrary have used every means in my power both publicly and privately to express my abhorrence of their proceedings. I never employed either an attorney or barrister to oppose any prosecution carried on against them, nor did I ever order any person, whether professional or otherwise, to be employed in their behalf.[210]

Sweetman as emphatically denounced the Secret Committee's report, with considerable accuracy as "nothing more than a chain of ingenious insinuations founded upon surmise and supposition, for the sole purpose of attempting to prove one proposition, namely that certain Catholics in Dublin did take measures to disturb the peace and happiness of the country."[211] Sweetman also expressed his contempt for the chain's master-forger, though he prudently avoided mentioning FitzGibbon's name. He simply declared his lofty intent not to follow FitzGibbon's shoddy example:

> I hope I shall not forget myself, nor being hurried away by the force of imitation ascribe to others those opprobrious motives which have been so unhandsomely imputed to me.[212]

FitzGibbon took no notice of these defenses and denunciations. On the contrary, FitzGibbon repeated the same charges against John Sweetman and against the Catholic Committee in 1798.[213] No doubt the fact that Sweetman and many other members of the Committee had indeed become rebels convinced FitzGibbon on the fundamental rightness of his original claim.

In justice to FitzGibbon, he did have some grounds for his accusations. Sweetman's response, however brave and spirited, was fraught with prevarication. For example, the Rathfriland meeting to which he had alluded was scarcely the

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210 John Sweetman, *A Refutation of the charges attempted to be made against the Secretary for the Sub-committee of the Catholics of Ireland*, (Dublin, 1793), p. 2; for his account of his dealings with Nugent see pp. 2-6

211 Ibid., p. 8

212 Ibid.

213 See his regurgitation of the same charges in *The Speech of the Right Honorable John, Earl of Clare, Lord High Chancellor of Ireland, on a motion made by the Earl of Moira, February 19, 1798*, (Dublin, London, 1798), pp.18-19

spontaneous act of concerned County Down squires. It was, in fact orchestrated and heavily attended by Belfast United Irishmen. Certainly Sweetman was a radical, committed United Irishman, even at this stage, and scarcely the injured, peaceable trader he made himself out to be. In addition, the Catholic Committee's contacts with Defenders probably were far more extensive than the odd bit of legal consultation. In short, FitzGibbon's instincts and perceptions were quite sound, but his methods blatantly violated the rules of evidence. He relied instead on innuendo and on the systematic and broad exaggeration which characterized much of his conduct on law and order issues. In consequence, he brought further discredit on himself and gave John Sweetman an opportunity to make a clever and effective *ad hominem* counterattack.

FitzGibbon took more effective revenge against the Committee later that summer with the passage of the so-called "Act to prevent the Election or appointment of unlawful Assemblies under pretence of preparing or presenting public petitions or other Addresses to his Majesty or the Parliament." [214] The bill made the election of delegates "for the pretended purpose of petitioning" illegal. Magistrates had full powers to dissolve any such elected bodies and to arrest those who refused to comply. Following the precedent of the chapel-wrecking clause, FitzGibbon introduced draconian provisions, only to withdraw them in a show of moderation. The original draft of the bill had included a provision imposing a penalty of transportation on any such illegal delegates who refused to disperse within a half hour after being so ordered by a magistrate.[215] No doubt FitzGibbon would have relished the thought of shipping Devereaux, Sweetman, and Keogh off to the new colony of Botany Bay. But he settled instead for mere terror. He also asserted his fundamental respect for the "legal right of the subject to petition in a mild becoming manner for the redress of grievances"; along with this assurance, he made the ingenious argument that his act in fact enhanced rather than limited liberty by preserving the aristocratic independence of Parliament from tyrannical "multitudes" like those who dominated the "newfangled Government in a neighboring Kingdom." [216] This tired apologia for the blessings of oligarchy was fundamentally a sham. FitzGibbon was less concerned with preserving the liberty of the people than with depriving the Catholic Committee of a potent political tool. He had long detested this particular form of agitation. He had intended to take this particular legislative action since November of 1792.[217] A revival of the reform congress proposed by the United Irishmen gave him an additional, if entirely superfluous, reason to press for the bill. It certainly served its purpose well. In 1812,

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214 *Irish Statutes XVI*, p. 794

215 *Dublin Evening Post*, 11 July, 1793

216 Ibid.

217 Westmorland Papers, Carton 1/ff 69, 18 November, 1792

William Saurin, who held FitzGibbon's old office of attorney general as well as his fervent anti-Catholic views, applied the bill precisely as its late framer would have wished. He prosecuted members of the revived Catholic Committee for holding illegal and seditious meetings as defined by the convention act. It remained a chilly menace until Daniel O'Connell devised a method of organization that evaded its restrictions and that destroyed at last FitzGibbon's cherished sectarian oligarchy.

FitzGibbon showed his displeasure over the Catholic bill in other, more petty ways. During debates on the Militia Bill, for example, he supported an abortive provision confining militia commissions to Protestants. In justification, he reiterated his *idee fixe* that the Catholics were still collecting funds for nefarious purposes, and he, for one, did not want to extend further privileges until they had ceased this practice. He also argued that the constitution had gone through too many drastic changes already: "...it would be wise to go no further until the Legislature had an experience of so great an alteration in the Constitution."[218] He fought his rearguard action in his capacity as vice chancellor of TCD as well. During commencement in the summer of 1793, he apparently objected when a college official tried to dispense with the oaths which had hitherto prevented Catholics from taking degrees. According to the *Dublin Evening Post*, FitzGibbon finally gave in to a combination of persuasion and threats applied by the Reverend Miller and by Whitley Stokes, the two college representatives presiding at the commencement:

> ...after hearing the arguments advanced in support of the position by Mr. Miller and Mr. Stokes, and after a declaration of Mr. Millar that if the oath were insisted on, he would in consequence of the power invested in him, break up the Assembly, the Vice Chancellor yielded.[219]

The story may have been exaggerated or even fabricated. It was, after all, preceded by the dubious phrase "we hear". But if FitzGibbon did indeed raise this objection, he displayed not only a persistent malice, but outright absurdity. He had, it is true, initially expressed objections to admitting Catholics to Trinity.[220] But once the bill was passed, he had himself altered the statutes of the College to allow them to be admitted and to take degrees.[221]

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218 *Dublin Evening Post*, 26 March, 1793

219 *Dublin Evening Post*, 1 August, 1793

220 *Freeman's Journal*, 16-19 March, 1793, Parliamentary Reports, House of Lords, 15 March, 1793 "...although it would be highly indecent for any House of Parliament to meddle with the charter of the present Trinity College, which by the will of the founder was established peculiarly for Protestants, yet his idea was that any future College to be founded should not be for Catholics exclusively, but open both to them and Protestants and to admit indiscriminately fellows and professors of both religions."

221 HO 100/44/240 Westmorland to Dundas, 11 July, 1793; for the clause itself see HO 100/44/263

FitzGibbon's antagonists on the Catholic Committee matched FitzGibbon, provocation for provocation. Its business purportedly done, the Committee officially disbanded in April of 1793; before doing so, its members fired a Parthian shot at the hated, FitzGibbon-dominated government, by openly coming out in support of the once shunned United Irishmen and their plan of Parliamentary reform.[222] In their address of thanks to the King, they pointedly neglected to mention Westmorland's name.[223] As provocatively, they voted £500 to Simon Butler, their United Irish advocate, who had been fined precisely that amount by FitzGibbon for libelling the House of Lords and its hated Secret Committee.[224] In August, Keogh, Sweetman, McCormick and other leading members of the defunct committee took advantage of a social occasion to vent their contempt for the Lord Chancellor. They gave a public dinner to honour their leading supporters. The guests included Moira and Leinster, both of whom had firmly incorporated Catholic rights into their programme of Whig opposition. Moira, expressing his own well-known sentiments toward the man who had publicly dressed him down three years before, as well as the sympathies of his Catholic hosts, proposed a toast to "the memory of Lord Chancellor Jeffries, may those who would imitate his policies take warning by his fate."[225] They made their discontent known through private as well as public channels. In July, Richard Burke, still operating under the pathetic delusion that he was acting for the Catholics, sent Dundas a letter from a Limerick correspondent. This gentleman blamed continuing unrest and discontent squarely on FitzGibbon:

> "I don't think the country will ever be quiet while the Chancellor retains the power and weight he does at present."[226]

Burke added complaints of his own in a second letter:

> The Chancellor and his associates seem to have no other view than to defeat in all their beneficial consequences the measures taken in favour of the Catholics and in the next place to revenge themselves upon all who were instrumental in them.[227]

Burke's comments were characteristically over-charged, but they did have a large measure of truth. Moreover, many members of the English government itself, and not

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222 HO 100/43/238, Sackville Hamilton to Hobart, 25 April, 1793
223 HO 100/43/234-5, Sackville Hamilton to Hobart, 22 April, 1793
224 HO 100/43/238
225 *Dublin Evening Post*, 20 August, 1793
226 HO 100/46/75, [unknown] to Richard Burke, 18 July, 1793
227 NLI, Melville Papers, MS 54A/f80,Richard Burke to Dundas, 21 July, 1793

merely Catholics and their associates, seem to have had the same opinion of FitzGibbon's activities.

Probably his harshest critic was the English chancellor, Lord Loughborough. Loughborough especially disliked the report of the Secret Committee. Like Sweetman, he considered it a deliberate and none too convincing effort to defame the Catholics, "who are indirectly supposed to have contributed to the existence of the disorders."[228] Loughborough's use of the word "supposed" shows what little weight he attached to FitzGibbon's conclusions. FitzGibbon may have encountered renewed hostility and resentment on the part of the faithless, beloved Pitt as well.

During a parliamentary recess in April, he had travelled to England to consult on trade legislation. He almost certainly favoured Pitt with a private version of his speech in March and warned again of Catholic treachery and treason. Shortly after his return to Ireland in May, he pursued the same theme in a long letter. In it, he gave Pitt a detailed account of the latest seditious activities of the Catholic Committee, including their resolution in favour of Parliamentary reform, and their vote of money to Simon Butler. He also presented their payment of £1500 to Wolfe Tone as the clinching, irrefutable proof "that their ultimate object is to separate this country from Great Britain." [229]

FitzGibbon and Tone already had a brief and not very friendly acquaintance. Tone had expressed reservations about FitzGibbon as early as 1789, and FitzGibbon, for his part, had good reason to dislike Tone's politics and his cavalier attitude toward his profession.[230] Apparently, the two were relations by marriage: Tone's long-suffering wife was a remote cousin of FitzGibbon's, and Marianne Elliot suggests that FitzGibbon shared the horror of Matilda Tone's family at her impulsive marriage.[231] But political considerations probably played a far greater part in the denunciation to Pitt. The English government had dismissed FitzGibbon's claims of a Catholic Committee-Defender conspiracy led by John Sweetman. To vindicate himself and his claims of Popish disaffection, he seized on the links between the Catholic Committee and the United Irishmen in the person of Tone.

FitzGibbon perhaps deserved credit for recognizing Tone's leadership ability, but his portrait of the man was characteristically distorted. Tone became, in the letter to Pitt, not only the evil genius of the Catholic Committee, but the sole founder and leader of the United Irishmen. Rather dubiously, considering his own modest, shabby

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228 HO 100/43/97-8;endorsed note dated 16 March, 1793 on the subject of Hobart's dispatch of 12 March, 1793

229 Chatham Papers, 30/8/327,ff 843, FitzGibbon to Pitt, 14 May, 1793

230 Tone, *Life I*, p. 138, "FitzGibbon's want of temper and undoubted partiality will let in his resentments and his affections to bias his decisions."

231 Elliot, p. 69

genteel ancestry and his family relationship to the man, FitzGibbon held Tone's antecedent s as well as his politics up to contempt:

> They [the Committee] have voted fifteen hundred pounds to Mr. Tone, who is their cabinet minister and Advisor---who first proposed an alliance between the Puritans and Catholics, whose great object will be explained to you by the paper which I have the honour to enclose to you much better than any comment of mine upon the Subject---This Gentleman has been called to our Bar. He is the Son of a Bankrupt Tradesman and has the Merit of being the Founder of the Society of United Irishmen---He was also the original projector of the Catholic Convention, drew up the circular letter issued in the course of last summer in the name of Mr. Edward Byrne, and composes most of the seditious and treasonable libels which are put forth by the Society of United Irishmen.[232]

Mr. Tone, in short, was a bad, busy man, who was singlehandedly responsible for both Catholic and Republican agitation in Ireland. As proof of his treasonable intentions, FitzGibbon enclosed a copy of the first declaration of the Society of United Irishmen, and an indiscreet letter of Tone's, dating from 1791, expressing his sense of the evils of the English connection. [233]

It was a standard FitzGibbon production, yet there was an underlying tone of hesitancy, even of abjection: "I am confident you will forgive me for troubling you upon a Subject on which I had the honour of some Communication with you when I was last at London." [234] The very fact that he felt compelled to pursue the matter suggests that Pitt, either openly or implicitly, had shown dissatisfaction with FitzGibbon's actions and demeanor toward the Catholics. As Pitt's own conduct in 1801 suggests, he remained fundamentally unconvinced by FitzGibbon's arguments.

Possibly as a result of this dissatisfaction, FitzGibbon showed some signs of relenting and moderation in 1793. He made sporadic gestures to appoint magistrates in the summer and early autumn of 1793. Within a six-month period, he appointed nine new Catholic magistrates, a very modest number.[235] Nonetheless, this half-hearted posturing earned him the cautious praise of the *Dublin Evening Post,* and the same newspaper expressed hope that FitzGibbon had had a change of heart.[236] He also

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232 Chatham Papers, 30/8/327, op. cit.

233 Ibid.

234 Ibid.

235 They were James Plunkett in Monaghan (*Dublin Evening Post*, 9 July, 1793), James Scully in Tipperary (*Dublin Evening Post*, 18 July, 1793) Edward Bellew in Louth (*Dublin Evening Post*, 8 August, 1793), James Archbold, Richard Dease, Dominic O'Reilly, and Thomas FitzGerald, all of Kildare (*Hibernian Journal*, 7 August, 1793), and Hugh O'Beirne of Leitrim (*Dublin Evening Post*, 11 December, 1793) I am listing only those men who were explicitly named as Roman Catholics or, in the case of O'Beirne, can be assumed to be Roman Catholics by the highly unreliable criterion of name. There may have been others buried in the newspaper columns that I missed, or assumed, again by the highly unreliable criterion of name, to be Protestant.

236 *Dublin Evening Post*, 25 July, 1793

went out of his way to show public cordiality toward safe, reliable Catholics. For example, when young Lord Southwell appeared in the Court of Chancery to take the oaths required by the new act, FitzGibbon "was particular in his politeness and attention to him."[237] After 1793, an unaccustomed moderation and nuance appeared in his public remarks on the Catholic issue. He never abandoned his belief in the fundamental incompatibility of Catholic rights and a Protestant state. His private remarks remained as bloodcurdling as ever.[238] But he avoided portraying the Catholics as, without exception, ferocious, savage bigots, beyond hope or beyond redemption. Instead, he portrayed them as harmless, good natured, rather doltish sorts, perfectly content until the Whigs, the United Irishmen and the atheists, freethinkers and republicans of the Catholic Committee stirred up trouble.[239] The great coronation oath argument was a positive godsend, as it allowed FitzGibbon to elevate resistance to Catholic claims to a question of abstract, immutable law. However slight and minor, these acts of grace and favor suggest an awareness that the open bullying and intimidation he had so freely practiced toward Catholics throughout his career were no longer acceptable to those whose opinion he valued most.

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The year 1793 offered a cruel abundance of crises, both political and economic for the Westmorland administration. In May of 1793, a commercial panic struck the economy. Two of the greatest mercantile concerns and most extensive employers, Comerford and O'Brien and Cope and Binns, stopped payment, with the consequence that "numbers of manufacturers" were "turned out of employment."[240] The prospect of masses of unemployed turned loose in an already politically inflamed capital city inspired a brief display of unity between the government and the opposition. When the Privy Council met to consider the situation, members who habitually opposed the government and rarely attended, to wit, Grattan, Conolly and the Duke of Leinster, showed both their faces and a rare degree of cooperation.[241] The Privy Council report, released on May 8, called for the release of L200,000 by the Bank of Ireland to restore confidence and to replace currency withdrawn in the initial stages of the crisis.

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237 *Morning Post or Dublin Courant*, 4 September, 1793

238 See for example his remarks to Lord Camden in a letter dated 7 September, 1796 (TCD microfilm, C/183), where he suggests that the government should keep an especially close eye on the Catholics in the event of any invasion attempts by the French

239 His speech to Lord Moira contained a classic example of his new public rhetoric on the Catholic issue. See pp. 18-19

240 HO 100/43/284-6, Westmorland to Dundas (?), 7 May, 1793

241 Ibid., see also HO 100/43/294-6, Privy Council memorandum dated 8 May, 1793

[242] The Bank complied with this suggestion the very next day, and some measure of calm eventually returned.[243]

Westmorland admitted his own uncertainty about the causes of the panic, though he speculated that it originated in cyclical economic stagnation, in the hardships imposed by the embargo, in the uncertainty created by the political agitations of the past year, and in sheer mass panic among businessmen and financiers:

> I cannot pretend to fix on ye precise cause of ye present mischief, whether from unwise speculation, from ye stagnation of credit in England, from ye want of market, from ye embarrassments of ye war...or from ye general distrust which ye political agitations of ye year threw on all ...dealings, I think but from ye general operation of these different causes.[244]

FitzGibbon inevitably took a major part in compiling and writing the report. He did not display Westmorland's diffidence about assigning causes for the panic. Far more than Westmorland, the report of the Privy Council blamed political agitation in Dublin and in Belfast for the economic panic.[245] FitzGibbon would naturally have favoured this conclusion and he would have given it particular emphasis. He never had much of a mind for economic subtleties; above all, he saw the report as yet another way to discredit his enemies on the Catholic Committee and to a lesser extent the Presbyterians in their den of iniquity, Belfast. By deserting their proper sphere, trade, and dabbling in politics, they had plunged the country into economic as well as civil ruin. He repeated this same theory in later parliamentary speeches.[246] It was a charge much favoured by Protestant reactionaries. John Foster had made use of it earlier in his own comprehensive and damning speech against the emancipation bill.[247]

The year 1793 confronted Westmorland not only with novel economic troubles, but with the accustomed political ones. Elements of the Volunteers continued to combine the practice of arms with the practice of political agitation, particularly in Belfast. As always, Westmorland watched anxiously for any sign of an alliance

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242 HO 100/43/294-6, op. cit.

243 HO 100/43/299, Westmorland to Dundas, 9 May, 1793

244 HO 100/43/284-6

245 HO 100/43/294-6: "The evil first began to show itself in November last and it arose principally, if not entirely from the distressed situation of the Kingdom and the Fears which were then entertained of its Tranquillity being interrupted... In the town of Belfast in particular the prospect of a local tumult there induced a sudden withdrawal of Deposits from the Banks there and had given an almost universal check to credit."

246 *Freeman's Journal*, 13 July, 1793, Parliamentary Report/House of Lords, "Everyone saw the mischievous consequences that had arisen to this country, by the injury that public credit experienced from the sedition propagated through the nation by a petty congress that existed in this metropolis."

247 *An Accurate Report of the Speech of the Right Honorable John Foster, Speaker of the House of Commons* (Dublin, 1793) p. 29

between radical Volunteers and radical Catholics. Early in November of 1792, he entertained the hope, much beloved of the English government, that sectarian animosity, particularly on the part of northern Presbyterian volunteers, would prevent such a catastrophe:

> By other accounts which I have, these republicans are far from agreed respecting Catholic Emancipation....I believe more bigoted (pardon ye word) Protestants do not exist and their army is [set?] against ye Papists.[248]

A spy's report submitted on November 30 suggested that on the contrary, some of the the newer elements within the Volunteers welcomed both Catholic emancipation and Catholic recruits to their ranks. According to this report, a new corps was forming in Dublin with the exclusive intention of agitating for both emancipation and parliamentary reform. Recruits swore an oath declaring that they would not lay down their arms until both were granted.[249] The new corps' external trappings were as subversive as its political agenda. It took as its model the French National Guard, and its very name, the National Battalion, evoked the citizen army of the revolutionary government. Even the uniforms were an exercise in sartorial provocation. The buttons were embossed with the national symbol of Ireland, but the English crown, which usually surmounted it, was conspicuously, defiantly absent. [250]

In spite of the new unit's blatant radicalism, Westmorland expressed some reservations about proceeding against it. The "old Volunteers", might take offense, not because they favoured the aims of the new corps, but because the suppression of one corps might lead to the suppression of all.[251] Nonetheless, five days after receiving the spy's report, Westmorland issued a proclamation forbidding the array of the new Volunteer unit.[252] His dread of an armed, avowedly radical, non-sectarian force, ultimately outweighed his fears about the sensibilities of the "old Volunteers". Since most of them were Protestants, Westmorland hoped that class and sectarian interest would outweigh any lingering *esprit de corps*.

The new corps did not accept its demise passively. After a prudent period of dormancy, small bands attached to the "National Battalion" attempted to parade and drill. The maneuvers consisted mainly of marching to Dublin Bay and firing off rounds of ammunition. After one such incident on January 20, Westmorland and the Dublin magistrates agreed on a plan to thwart further maneuvers and thus to

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248 Westmorland Papers, Carton 1/f68, Westmorland to Pitt, 3 November, 1792
249 Rebellion Papers, 620/19/112, spy's report dated 29 November, 1792
250 Ibid.
251 Westmorland Papers, Carton 1/f76, Westmorland to Pitt, 1 December, 1792
252 Westmorland Papers, Carton 1/f77, Westmorland to Pitt, 4 December, 1792

demonstrate the government's determination. The showdown took place little more than a week later, on January 28. The Lord Mayor, Alderman Warren, and the chief commissioner of police met a detachment of the National Battalion marching off for a second round of seaside target practice. The battalion did not immediately obey the order to disperse. According to Hobart, who provided an account to the Home Office in London, they deliberated for five hours before choosing compliance over defiance.[253]

This incident gave the final impetus to long-mediated legislative measures to restrain volunteering. In February, the government introduced and carried the so-called Gunpowder Act, which forbade the private acquisition or internal movement of gunpowder, artillery and other arms and ammunition by private subjects.[254] Henceforth, only the regular army could acquire and transport large quantities of arms and ammunition. The bill's effects were obvious. The Volunteers could no longer arm themselves on the massive scale of professional armies. If they choose to appear in array, they could now do so only with sporting guns or pistols, the only weapons which the bill allowed to civilians.

The Militia Bill, introduced into Parliament on March 8, made even this inferior version of the citizen's army impossible. [255] The concurrent Catholic legislation made it impossible to confine the militia exclusively to Protestants, as had been the intention of the Dublin government as recently as the winter of 1792. Instead, the ranks of the militia were to be filled by all able-bodied men, regardless of religion, chosen from their parishes by lot. Parish priests took on a central role, drawing up and posting lists of all men in their respective parishes who were eligible for militia duty.

FitzGibbon's role in this particular item of legislation was comparatively minor. Lord Hillsborough, a kindred political spirit, took the chief responsibility for framing the bill. [256] As has been noted earlier, FitzGibbon confined himself to an unsuccessful attempt to deny Catholics commissions. As things turned out, he need not have bothered. The choice of officers fell to Protestant gentry, still resentful of Catholic agitation and concessions. With some exceptions, the most startling being John Foster in Louth, most of them took revenge on Keogh and the Catholic Committee for their political success by selecting only Protestant officers.[257]

The legislation passed with comparative unanimity and ease. Even the Whigs welcomed the end of potentially revolutionary citizens' forces.[258] But the act,

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253 HO 100/42/214-15, Hobart to Nepean, 28 January, 1793

254 HO 100/43/9; the bill received the royal assent on 26 February, 1793

255 HO 100/43/71-3 Hobart to Nepean, 8 March, 1793

256 Ibid.

257 *Dublin Evening Post*, 3 September, 1793

258 HO 100/43/87, Hobart to Nepean, 9 March, 1793; HO 100/43/117-119, Same to Same, 19

which aimed at defusing Volunteer military radicalism, had quite the contrary effect: it ignited a popular uprising unsurpassed in scale and violence. In May, Westmorland, declaring himself "beyond measure mortified", reported to Dundas a growing resistance to militia enrollment. Although he stated, "I shall be very happy if in a day or two I can send ye accounts of this mutinous spirit being subdued", he seemed prepared for the worst. He requested Dundas to "send us what recruits you can."[259] Events confirmed his pessimism. By mid-summer, resistance to militia enrollment had spread throughout Ulster, (particularly Presbyterian Down), Connacht, Munster and even hitherto placid Leinster.[260] Westmorland, his mind as always bearing FitzGibbon's characteristic stamp, was at first inclined to blame the inveterate discontents of the Catholic "old inhabitants".[261] But the rioters were as inclined to terrorize their own. They attacked priests who attempted to comply with the law, and in Westmeath they insulted and harassed "Mr. O'Reilly", one of the few Catholics entrusted with a militia commission.[262] Denis Browne, an MP for Mayo, saw a more recent influence than atavistic grievances: the revolutionary philosophy of the United Irishmen, which, he claimed, had spread to the countryside via shopkeepers. These men, Browne claimed, travelled to Dublin to stock their shops and returned, not only with their accustomed merchandise, but with a supply of seditious literature, notably *The Rights of Man.*[263] The rioters do seem to have had some knowledge of the political ferment in the capital. Those who taunted Mr. Reilly, for example, told him that they would have done worse by Lord Westmeath had he been present.[264] They apparently resented Westmeath's conduct toward Simon Butler during the latter's trial earlier that year for libeling the Lords Committee of Secrecy. Westmeath had acted with particular malice and vigor against Butler.[265] Others blamed the oppression and arrogance of government, and not the agitation of the United Irishmen or the Catholic Committee. Richard Burke wrote a long letter to this effect to an oblivious Dundas.[266] Perhaps the simplest and most plausible explanation came some years later from a priest who had emigrated to the United States: "...the militia law was very

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March, 1793

259 HO 100/43/319, Westmorland to Dundas, 24 May, 1793

260 HO 100/43/323-8; this document, which bears no date, is an account, by county, of the disturbances.

261 HO 100/43/319, op. cit.

262 HO 100/43/323-8

263 HO 100/44/115-19; this document consists of memoranda on the disturbances, submitted by various magistrates and anonymous sources. Denis Browne's memorandum is dated 6 June, 1793

264 HO 100/43/323-8

265 Ibid.

266 Melville Papers, 54A/f80, Richard Burke to Dundas, 21 July, 1793

much and very generally disliked."[267] The nuisance, the poor compensation and the fears of many conscripts that they would be compelled to serve abroad stirred this great and general dislike. The ideas and rhetoric which trickled into the countryside from Dublin gave their local grievances a novel vehicle for expression.

FitzGibbon, not surprisingly, had a great deal to say on the subject. His own county of Limerick saw one of the most violent episodes of the summer, the sack of the town of Ballyorgan by rioters trying to rescue their jailed fellows.[268] Westmorland, as has been observed, was the beneficiary of one of his early theories on the origins of the riots. FitzGibbon later seems to have adopted Denis Browne's notions concerning the ill-effects of seditious literature. In a speech made in July of 1793, he made something of the same claim, though he blamed, not shopkeepers, but evil minded urban incendiaries, who ventured into the countryside and left seditious pamphlets and handbills to poison the minds of the peasantry.[269] FitzGibbon in turn received his share of blame for the outbreaks of violence. An anonymous correspondent of Richard Burke's, possibly a Limerick Catholic with scores of his own to settle, attributed the riots in the main to FitzGibbon's tyranny : "...I can't think the country will every be quiet while the Chancellor retains the power and weight he has at present."[270]

The riots eventually abated toward the end of the summer, though FitzGibbon's rhetorical exertions had nothing to do with the restoration of peace. Some hasty ameliorative legislation, assurances that the militia would serve strictly as a home force, and above all, the relentless application of force by the regular army suppressed the rioters. The riots suggested to a terrified government the terrifying ease with which order and authority could break down in Ireland. They became all the more determined to eliminate perceived threats to both.

In government reports and in the government imagination, the United Irishmen appeared as the first cause of all the unrest and all the rebellion besetting the country. At their instigation, Defenders stole arms and met by night, Catholics abandoned their counting houses for republican politics, and the Volunteers got notions of armed revolution. Their skill at writing and disseminating seditious literature assumed heroic and fearful proportions in the minds of FitzGibbon, among many others.

Their actions in late 1792 and in 1793 certainly befitted a radical organization bent on agitation and confrontation. In January of 1793, William Drennan proposed a plan of Parliamentary reform which drastically extended the franchise and which barely

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267 William Duane, *A Report of the extraordinary transactions which took place at Philadelphia in February 1799, in consequence of a memorial from certain natives of Ireland to Congress, praying for a repeal of the alien bill*, (Philadelphia, 1799)

268 HO 100/44/287, Westmorland to Dundas, 18 July, 1793

269 *Dublin Evening Post*, 18 July, 1793

270 HO 100/46/75 ? to Richard Burke, 18 July, 1793

acknowledged any role at all for English authority or English administration. Drennan merely stated that under his revamped plan of government, "All matters and things relating to the well governing of this kingdom which are properly cognizable in the Privy Council, shall be signed as such as advise and consent to the same."[271] He remained silent on what matters were "properly cognizable", but they were probably few and insignificant. Their practical tactics were on a par with their theories. They proposed a convention on the late Catholic model to cast their proposals into legislative form and to petition for their adoption.[272] In addition to anticipating a better government to come, the United Irishmen kept up their attacks on the bad one currently in place. During the fiscal crisis of May 1793, Hamilton Rowan allegedly printed a distributed a broadside blaming the loss of work and money on the British war with France.[273] The implication was that Ireland should declare a separate peace, and free herself from British diplomatic as well as economic tyranny. Yet the government refrained from taking direct measures against the United Irishmen. It chose to rely instead on indirect intimidation and on indirect legislation.

Belfast, the capital city of United Irish sedition, became the chief object of baleful official attention. The Lords' Committee Report made as many dishonorable mentions of Belfast and of the United Irishmen as it did of Dublin and its committee of Defender-inciting Catholic businessmen. The report alluded to the menacing behavior of the Northern volunteers and of their chaplains. Prayers, the report alleged, "have been offered up at Belfast, from the Pulpit for the success of [French] arms, in the presence of Military Associations which have been newly levied and arrayed in that Town."[274] The pulpits were obviously Presbyterian, the mother-church of all republicanism and disaffection.

Matters escalated, notwithstanding the public denunciations of the House of Lords. In March an altercation broke out between some citizens of Belfast and a detachment of soldiers who took it upon themselves to deface public portraits of Benjamin Franklin, General Dumouriez and other French and American revolutionary heroes. In spite of indignant complaints about military brutality and the arbitrary destruction of property, the government chose not to inquire too closely into the matter. They took the word of the duty officer that his soldiers, while perhaps somewhat excessive in their measures, were high-spirited loyal lads driven by a sense of

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271 Rebellion Papers, 620/20/1

272 Ibid., "Let the national convention draw up 1st a DECLARATION OF RIGHTS personal, political, religious, national, and 2ndly, a PETITION OF RIGHT from the People of Ireland and the kind of Ireland."

273 HO 100/44/15, Cooke to Nepean, 29 May, 1793 and 100/44/17

274 Westmorland Papers, Carton 1/ff 88

indignation at such blatant sedition. [275] On a small scale, the government was already resorting to "vigor beyond the law." Along with private encouragement of military force, Westmorland and the council issued a proclamation which repeated, frequently word for word, the various charges against Belfast in the Lords' Committee, and which called upon the citizens "to abstain" from distributing and reading seditious literature, drilling "by day and night", etc. Hobart even went so far as to suggest playing off the proverbial Northern passion for gain against the Northern passion for sedition:

> [The] violent spirit of the North might be somewhat compos'd by a hint from any of their London Correspondents that the agitation of the North must necessarily affect their credit [and?] ultimately be highly injurious to their Linen Manufacture.[276]

Finally, legislation against the Catholics could serve a double purpose. The Convention Act thwarted potentially conventioneering Presbyterian and United Irish reformers as well as further Catholic Back Lane parliaments.

FitzGibbon certainly would have given his approval to extraordinary military vigor applied to the citizens of Belfast. The Secret Committee Report and the Convention Act, both of his framing, allowed him to indulge more directly his antagonism for United Irishmen and especially Northern, Presbyterian United Irishmen. FitzGibbon's nature being what it was, his political antagonism also found expression in personal vendettas against individual United Irishmen.

His pursuit of Wolfe Tone continued. Having made a private denunciation of him to Pitt in May, he proceeded to make a public one in open Parliament in July. During the debates on the Convention bill on 10 July, he brandished a private letter written by "a gentleman who wears a bar gown, one of the leading members of the worthy Society of United Irishmen."[277] The gentleman wearing the bar gown was none other than Tone; the letter in question was the same that FitzGibbon had copied and sent to Pitt as proof of Tone's early inclinations toward rebellion, republicanism, and separation from England. FitzGibbon completed the identification by alluding to the L1000 awarded to Tone by the Catholic Convention, and he implied that Tone, in company with like-minded associates, already had plans to overthrow the government:

> ...I have not a doubt that the moment the allied armies retreated last year from France, a serious design was entertained to rebel against Great Britain and to

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275 HO 100/43/89-90, Hobart to Nepean, 12 March, 1793;HO 100/43/103, General Whyte to Cooke, 17 March, 1793

276 HO 100/43/67, Hobart to Nepean, 6 March, 1793

277 *Freeman's Journal*, 13 July, 1793, Parliamentary Reports/House of Lords, 10 July, 1793

form a republic connected with France.[278]

Using the sympathetic pages of the *Dublin Evening Post*, Tone angrily refuted the claims made in FitzGibbon's Catilinarian oration.[279] His converted readership in the *Dublin Evening Post* probably believed his claim that he was the innocent victim of ministerial malice, but FitzGibbon remained unconvinced and undeterred. Within that week he had proceeded to other game, in the persons of the Sheares brothers, John and Henry.[280]

On July 18th, less than a week after dispatching Wolfe Tone, he denounced the Sheares brothers as Jacobin agents:

> There were in this city two persons who were members of the French Jacobin Club, and who, his Lordship believed, were in the pay of that society, to foment sedition."[281]

While FitzGibbon did not mention either brother by name, he gave broad hints of their identity to his auditors in the House: "One of their names appeared at the head of a printed paper published last month by the United Irishmen, to which society they also belonged."[282]

Henry Sheares lost no time in making a refutation and a denunciation of his own. Rather than limit himself to the columns of a newspaper, as had Wolfe Tone, he

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278 Ibid.

279 Elliot, pp. 227-8

280 The Sheares brothers were the sons of a Cork banker. John, the younger, was apparently the more intelligent and forceful of the two. Notwithstanding their differences in temperament, they were devoted to each other and to revolutionary ideas, which they had imbibed during a sojourn in France. FitzGibbon had an early and intimate acquaintance with the two brothers. O'Flanagan, whose biography of FitzGibbon is embellished with charming, if sometimes questionable, anecdotes, claimed that FitzGibbon and Henry Sheares had both courted the same young lady. She chose Henry Sheares over FitzGibbon, then a "young briefless barrister". (*O'Flanagan II*, p. 217) It is by now impossible to determine the truth of this poignant bit of sentimental comedy. If FitzGibbon was indeed disappointed in love, the experience does not seem to have wounded him very deeply; up to and even after his marriage, he seems to have found plenty of amorous consolation. Moreover, he could easily have found other opportunities to become acquainted with the Sheares brothers in the tiny, claustrophobic social milieu of 18th century Ireland. FitzGibbon attended TCD at roughly the same time as the Sheares brothers, and they shared a common acquaintance with the Roche family. (*O'Flanagan II*, p. 219) It is true that FitzGibbon took an inordinate amount of interest in the Sheares brothers, and a romantic might conjecture or hope that memories of his lost love inspired him to look after the well-being of her widower and her brother-in-law. But FitzGibbon may simply have wanted to save Henry Sheares, and incidentally his brother, for their own sakes. The elder Sheares in particular seems to have had a feckless charm that appealed to the protective instincts of a good many people, including the elder Mr. Roche and Jonah Barrington. Whatever the foundation for this curious relationship, FitzGibbon's conduct toward the two brothers in the summer of 1793 displayed no marks of sentiment

281 *Freeman's Journal*, 20 July, 1793, Parliamentary Reports/House of Lords, 18 July, 1793

282 Ibid.

chose a more inflammatory and efficient means of agitation, a handbill. In it, he denied that he or his brother were Jacobins or in the pay of the French Jacobin Club. He also divulged that he had written a private letter to FitzGibbon, calling on him to retract the claims he had made in the House of Lords. When he received no reply, he deemed it "a duty I owe to myself, to the Society to which I belong and to the Public in general, to lay the circumstances of this transaction before the nation." [283] In fact, the Sheares brothers were enthusiastically Jacobin in their sympathies, whatever their formal relations with the club itself. Daniel O'Connell, then a schoolboy refugee, supposedly witnessed a gruesome manifestation of their true political views. He claimed that while making the cross-Channel voyage with the two brothers, he saw them exultantly displaying a handkerchief dipped in the blood of the King of France.[284] Nothing further came of FitzGibbon's own encounter with the Sheares brothers. It seems to have ended as so many of FitzGibbon's quarrels did, in undignified anti-climax.

FitzGibbon ran into more serious trouble when he took on Simon Butler. Butler, a younger son of Lord Mountgarret and a barrister, was articulate, ambitious and above all, well-born. The advocates of brotherhood and political equality were not immune to the feverish snobbery of 18th century Ireland, or to the glamour of the Butler *nomen*. Drawing on his training as a barrister, Butler had compiled the so-called *Digest of the Popery Laws*, a comprehensive list of all laws against Catholics still in effect in 1792. His work, which became something of a bestseller, revealed the number and the petty, galling nature of the laws in force.

His later exercises in propaganda received a somewhat less favorable reception. With the collaboration of Oliver Bond, Butler drew up and published a denunciation of the Committee of Secrecy. Their pamphlet questioned the right of the Committee to summon witnesses at all, and criticized its "inquisitorial" methods of interrogation.[285] The Committee naturally would have attracted the propagandistic ire of the United Irishmen. John Sweetman, who was both a prominent member of the Catholic Committee and an early initiate into the brotherhood, had, after all, suffered the humiliation of the public printing of his private correspondence. As inevitably, the House of Lords retaliated against Butler and Bond for the attack on its authority and dignity.

FitzGibbon, the prime mover of the Secret Committee, was certainly the prime mover of this action as well. During the trial itself, he showed something like moderation. FitzGibbon originally proposed a fine of L50 and a term of three months

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283 Rebellion Papers, 620/20/23

284 Oliver MacDonagh, *The Hereditary Bondsman: Daniel O'Connell 1775-1829*, (New York, 1988), p. 26

285 HO 100/43/42, Hobart to Nepean, 1 March, 1793

in Newgate prison.[286] His colleagues on the secret committee demanded a more draconian penalty of L500 and a prison term of six months. Their view and their sentence prevailed. Although he tried to moderate his colleagues' zeal in the matter of assigning a penalty, he gave free rein to his own habits of rhetorical excess when pronouncing sentence. Largely ignoring Bond, he gave Butler a brisk dressing-down before the assembled peers:

> "...you, Simon Butler, cannot plead ignorance in extenuation, your noble birth, your education and the honorable profession to which you belong, his Majesty's gown which you wear and to which you now stand as a disgrace, gave you the advantages of knowledge and are strong circumstances of aggravation of your guilt." [287]

This particular speech was perfectly in keeping with FitzGibbon's past rhetorical traditions and with his most deeply rooted political prejudices. Nothing infuriated him more than members of the Protestant elite who deserted their own interests in favour of popularity, or worse in favour of visionary political schemes. Butler was just another, more dangerous, specimen of the aristocratic irresponsibility that created the Regency crisis and the Whig Club.

If FitzGibbon had hoped to instill in Simon Butler a salutary sense of caution and shame, he badly underestimated his antagonist. However radical his political opinions, Butler fully retained his aristocratic pride and his aristocratic habits. Eschewing the journalistic weapons of his middle-class colleagues, Tone and Sheares, he chose to avenge his honour by challenging FitzGibbon. Of course, he could not act on his resolution immediately. His imprisonment caused an unavoidable delay. FitzGibbon's absence from Dublin through the early part of autumn further thwarted Butler from issuing a challenge. Finally, on October 4, FitzGibbon returned to Dublin to be with his wife, who was in the final stages of pregnancy. One week later, perhaps delaying out of polite respect for the happy event in the Lord Chancellor's household, Butler wrote to FitzGibbon to intimate his intentions:

> My Lord, Having a matter to communicate to your Lordship through the medium of a third person, I request to know whether a Gentleman on my behalf may have the honour of a private interview with your Lordship.[288]

FitzGibbon fully understood the meaning of the letter and responded in the same spirit:

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286 HO 100/43/42, Hobart to Nepean, 1 March, 1793

287 Rebellion Papers, 620/20/28

288 Ibid.

> Sir, If you have any matter to communicate to me, and chuse that the communication shall be made through the medium of a third person, I will see any Gentleman whom you may send to me tomorrow at twelve o'clock.[289]

Hamilton Rowan, the man designated by Butler as his second, duly turned up at Number 6 Ely Place. There, Hamilton Rowan presented his friend's grievances:

> My friend Mr. Butler has been the occasion of my waiting on your Lordship. It is in your Lordship's recollection that Mr. Butler, having been sentenced to imprisonment and fine by the House of Lords, your Lordship, in pronouncing the sentence of the House, made use of expressions toward him which must have been very offensive to the feelings of any gentleman. Mr. Butler conceives that in using such expressions, you were not delivering the sense of the House, but making a spontaneous attack upon him.[290]

FitzGibbon's response showed no trace either of trepidation or of regret. On the contrary, he admitted to everything and apologized for nothing:

> Mr. Hamilton, when I passed sentence on Mr. Butler and Mr. Oliver Bond, I did not more than, as Chancellor, I felt to be my duty. I made use of the words "that he could not plead ignorance, that his noble birth and profession, to which he was a disgrace had aggravated the crime."[291]

The remaining dialogue of this little black comedy offered variants on this initial exchange. Hamilton Rowan, all polished garrulity, pleaded the insult and injury to Simon Butler. FitzGibbon, terse, grim and obdurate, maintained the justice of his comments. Indeed, he declared that were the "matter to be done again", he would speak and act the same, though he did add the slight qualifier "perhaps." The interview ended with FitzGibbon telling Rowan that he and Butler could do as they pleased, and abide the consequences: "As to what you are to do, that remains with yourself to determine, you know best, you know my situation."[292]

While not overly bright, Rowan did not need many more hints that FitzGibbon was not about to treat the challenge as a private gentleman. If Butler persisted, he intended to retaliate as Lord Chancellor and subject his late United Irishman antagonist to further legal penalties for threatening the King's peace as well as the King's servant and conscience in the person of FitzGibbon. Rowan, in turn, pleaded with Butler to drop the matter; Butler, who was as intelligent as he was spirited, yielded to

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289 Ibid.
290 Ibid.
291 Ibid.
292 Ibid.

persuasion.[293] Clearly, he was not to have the satisfaction of taking pot-shots of gentlemanly outrage at FitzGibbon, and having recently emerged from prison, he was not anxious to return. FitzGibbon had no further encounters with Butler. Debts, as well as political harassment compelled Butler to retire to Edinburgh, where he died in 1797.

Madden and other nationalist historians have made it an article of faith that the United Irishmen were pure-hearted, pure-minded reformers who were driven into rebellion by the harassment and brutality of FitzGibbon and his coterie of reactionaries and captive viceroys. Outside the realm of myth, it is difficult to sort out precisely when the United Irishmen adopted the course of armed revolution, though such a change probably took place sooner than their hagiographers preferred to believe. But there were never any doubts in FitzGibbon's mind; he believed from the start that the ends of the United Irishmen were to subvert the Protestant establishment in Church and State and to break the connection with England. And indeed, given FitzGibbon's peculiar mentality and his past political habits, he could have reacted to the United Irishmen in no other way. Acutely sensitive to the inherent instability of the government in Ireland, he dreaded change and agitation of any kind, be it in the form of Volunteer plans for parliamentary reform or Whig notions of parliamentary independence. The avowed United Irish political programme, however laudable, could only have inspired dread, loathing and legal retaliation from FitzGibbon. As he so clearly saw, English rule depended on economic subservience, on sectarian exclusivity, and on a small, much bribed and pampered, political elite. The United Irishmen from their inception avowed their opposition to these keystones of English rule. In FitzGibbon's mind, they were revolutionary in intention regardless of when they became so in fact: hence the harassment and intimidation of individual United Irishmen; hence the tireless efforts to link the United Irishmen with treason, with republicanism, with intrigues with France.

The Jackson affair offered FitzGibbon and his government a perfect opportunity to give weight to their claims about the United Irishmen. Jackson was an English clergyman who succumbed to the new revolutionary faith of *liberte, egalite and fraternite*. During a sojourn in France, he had evidently made some contacts with the French government, and had agreed to report on the degree of revolutionary potential in England and in Ireland. Unfortunately, Jackson's discretion did not equal his enthusiasm. After some desultory travels in England, he was enroute to Ireland when he fell in with one George Cockayne, an attorney. Jackson favoured his travelling

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293 *O'Flanagan II*, p. 216-217; according to O'Flanagan's account, one of FitzGibbon's social intimates, one Colonel Murray, passed on a hint to Rowan of the risk he was running. Rowan undoubtedly passed this intimation on to Butler.

companion with a full account of his mission. He made a serious error in his choice of confidant s. Cockayne informed the Home Office, and received instructions to remain with Jackson, with the purpose of reporting on his actions and his contacts in Ireland. Unaware that he now was travelling in company with a government spy, Jackson arrived in Dublin. There he encountered Hamilton Rowan and Wolfe Tone. Since his adventure with FitzGibbon and Simon Butler, Rowan had ended up in prison for printing and distributing seditious writings. His ventures in private publishing had caught up with him at last. Undeterred by his present circumstances, he freely confided to Jackson the promising state of discontent and rebellion in Ireland. Tone, equally undeterred by his experience with FitzGibbon, favoured Jackson with a memorandum which essentially paraphrased the letter which had received so much exposure the previous summer. Jackson, of course enthusiastically introduced his charming and informative Irish acquaintances to Cockayne, and repeated their comments, written and spoken, on the potentially revolutionary state of Ireland. Cockayne, in turn reported everything to the English government, which passed promptly passed the information on to Dublin Castle.[294]

By May of 1794, the Irish government felt confident enough about the weight of evidence against Jackson to arrest him. He was formally arraigned on a charge of treason on May 23, but the trial was put off until November. The end of the legal term was fast approaching, leaving little time for the procedures required to plead the indictment and to summon witnesses (to wit Cockayne, who had scuttled back to England.)[295] During the hiatus the government faced some nerve-wracking difficulties in preparing its case, mainly because Cockayne, out of fear or out of shame at the unsavory role of star witness and informant, started having convenient lapses of memory. In the case of Tone, for example, he claimed that he could not give "positive testimony" about his conduct. He had, or so he claimed, "only caught the substance [of Tone's conversations with Jackson] by Hints and accidental words."[296] In June, Cockayne, claiming that his memory needed refreshing, requested to see copies of the letters he had sent to Pitt. Jackson's lawyers quickly seized on Cockayne's unpromising character as a witness. Sylvester Douglas, who succeeded Hobart as Westmorland's chief secretary, reported that there were "attempts making to get at facts, which if not anticipated and explained might tend to discredit the characters of the principal witnesses against Jackson."[297] A conviction for perjury in Cockayne's past

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294 HO 100/46/148-9, Spy's report to Dundas (?), 10 April, 1794; see also Elliot, pp. 239-245

295 HO 100/52/138-9, S. Hamilton to Evan Nepean, 3 July, 1794

296 HO 100/52/46-7, Westmorland to Dundas, 12 May, 1794

297 HO 100/52/230, S. Douglas to John King, 23 October, 1794

was presumably one of these facts which required anticipation and explanation.[298] Nonetheless, Cockayne, however seedy and uncooperative, was the linchpin of the government's case against Jackson. They helpfully provided him with copies of his past correspondence and they defended his character as best they could. Westmorland described the position of the government with his blend of muddy prose and occasional flashes of shrewdness: "...with how bad an appearance of evidence, we should go into court, not a Person in Court but would attribute ye whole scheme to a snare and ye government would be sadly disgraced."[299]

The conduct of the principal defendants helped relieve the government of some embarrassment. Their conduct gave a very strong appearance of guilt. Rowan escaped from prison and fled first to France, and then to a discontented exile in the United States. Tone agreed to divulge his own role in the affair, in return for immunity and exile. As for Jackson, he committed suicide shortly after the commencement of his trial in January of 1795. The rumor persisted that his wife had brought poison to him, allowing him to evade conviction and a more public death. Mrs. Jackson herself seems to have suffered no repercussions.[300]

FitzGibbon had dealings with other subordinate players in the affair. Throughout he seems to have displayed considerable moderation. The Rowans, husband and wife, in particular benefited. He took on the role of legal and financial advisor to Mrs. Hamilton Rowan, especially in the matter of mitigating her husband's legal status. The lady was a persistent, and sometimes rather pesty, supplicant. Some years later, FitzGibbon, good-naturedly, if rather wearily, referred to her as "my almost daily oratrix".[301] She even made a descent on FitzGibbon at Mount Shannon, with no other apparent purpose but to keep up the pressure on him.[302] FitzGibbon's mass of responsibilities, legal and political, as well as the pressure of events, apparently delayed action on the matter for some years. Only in 1799 did he manage to draft an appeal on Rowan's behalf, not for a full pardon, but for some mitigation of his exile. Rowan found the realities of republican life in the United States appallingly dull and coarse,

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298 HO 100/52/232-3, King (?) to Douglas, 24 October, 1794,

299 HO 100/52/46-7, Westmorland to Dundas, 12 May, 1794

300 *Beresford II*, p. 29, Marcus Beresford to John Beresford, 2 May, 1794; HO 100/57/229, Pelham to J. King, 30 April, 1795. Not surprisingly considering her exposure to courts and lawyers, she later married a young Irish barrister. According to those two superb reconteuses, Somerville and Ross, FitzGibbon himself intervened to protect the young man's legal career, which was apparently threatened by his marriage to the wife of a notorious traitor. Obviously, he placed no credence in the stories of her merciful murder of her husband, and he referred to her, no doubt with the appreciation of a true connoisseur of such things, as "a handsome jade." This very charming anecdote appears in *An Incorruptible Irishman, being an account of Chief Justice Charles Kendal Bushe and his wife Nancy Crampton and their times, 1763-1843*, (London, 1932)

301 *Rebellion Papers*, 620/47/41, FitzGibbon to Cooke, 13 August, 1799

302 Chatham Correspondence, 30/8/256, Westmorland to Pitt, 21 October, 1794

accustomed as he was to the aristocratic pleasures of Dublin. He begged to be allowed to return, if not to Ireland, then to some country in Europe, where he would have better access to civilization and to his family. FitzGibbon could see "no objection to allowing [Rowan] to quit America" and he agreed to provide assurances to Rowan "that if he should be intercepted by a British cruizer [sic] on his passage that he shall not be brought home and hanged."[303] FitzGibbon explained his own kindness to the Rowans, husband and wife, with the observation that Rowan "certainly has some merit in not being so abandoned as some of his colleagues."[304]

He was similarly moderate toward his antagonist Tone. Family pressure helped somewhat in his case. Tone was friendly with Marcus Beresford, a younger son of John the commissioner of revenue, and by all accounts a pleasant young man. Beresford wrote a letter to FitzGibbon pleading on his friend's behalf.[305] Acting largely on young Beresford's suggestion, FitzGibbon and Westmorland framed an agreement with Tone, whereby he could go into exile in return for disclosing all the details of his involvement with Jackson.[306] There wasn't much to tell, as FitzGibbon himself appears to have recognized. Westmorland, no doubt after consultation with FitzGibbon, reported that the Crown had only a slight case against Tone.[307] Through the arrangement of a confession in return for exile, they could get rid of an able malcontent, without an inconclusive or dubious trial.

FitzGibbon's conduct toward Rowan and Tone set the tone for his later treatment of United Irish prisoners. Except in very blatant cases of treason, he generally preferred to bargain for information rather than enforce the full penalty of the law. A cynical sense of the grudge-creating power of Irish history, rather than any overflowing kindheartedness, may have accounted for his habits of moderation. He preferred to send would-be revolutionaries into penurious and discredited exile, rather than add them to the long list of national saints and martyrs.

Shortly after the arrest and indictment of Jackson, the government finally took measures to "disperse" the society of United Irishmen and to seize their papers. It was a comparatively easy business to accomplish. The government's long-time informant Collins provided public testimony to the aldermen, which allowed the government to frame a warrant. Collins was suitably pensioned off, and the government retreated into

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303 Rebellion Papers, 620/47/41

304 Ibid.

305 *Beresford II*, pp. 29-31, Marcus Beresford to John Beresford, 7 May, 1794

306 Young Beresford seems to have been Tone's chief negotiator with the government. The agreement with Tone appears to have been taken from suggestions outlined in his letter to his father of 7 May, 1794, cited above.

307 HO 100/52/46-7, Westmorland to Dundas, 12 May, 1794

comparative unconcern.[308] However another government informant reported that the Sheares brothers were continuing to play host to meetings of the United Irishmen. At one such gathering in July, they allegedly entertained members of the hard-pressed Scottish societies.[309]

308 HO 100/52/72-3 Cooke to Nepean, 26 May, 1794

309 HO 100/52/159, S. Hamilton to Nepean, 14 July, 1794

(i)

In spite of the turmoil aroused by Catholics, Defenders, United Irishmen, and rioting militia protesters, the government had not lost sight of those more established agitators, the Whig opposition. They dreaded the potential for trouble from the Whigs and from the Shannon interest, temporarily in "exile" because of Lord Shannon's stand on the regency question. The government especially dreaded the Whig/Shannon reaction to the Catholic relief bill, and especially the possibility that the Whigs would court the high Protestant party by adopting a staunchly anti-Catholic posture. While the Duke of Leinster had expressed his favorable sentiments early on, the other factions within the party, notably the Ponsonbys and Lord Shannon, were notoriously anti-Catholic.[1] During the deliberations of the Whig Club in 1791, the Ponsonbys had opposed a measure introduced by Napper Tandy, calling for the equality of all Irishmen.[2] In addition, the government was concerned for an impending bill on East Indian trade, which in return for a greater measure of Irish participation in Indian trade, confirmed the monopoly of the East India Company. Trade contention had always been a Whig strong-point.[3]

To the administration's relief, the Ponsonbys chose to throw their support behind the relief bill, although Lord Shannon remained a true blue die-hard.[4] The curious action of Thomas Conolly suggests the reason for the sudden and startling change of heart on the part of many hitherto indifferent or antagonistic Whigs. Conolly voted against the bill, not because it gave concessions to the Catholics, but because it did not give *enough* concessions. He also expressed his hope that the Catholics would join in the movement for Parliamentary reform.[5] It was clear from his remarks that the Whigs, having suffered an eclipse as popular champions by the United Irishmen and other radical competition, had belatedly joined the race for the Catholic. As the Volunteers and the United Irishmen had long since learned, Catholic numbers could give a new lease on life to otherwise oft-defeated causes, such as parliamentary reform.

George Ponsonby more explicitly articulated the hope of the Whigs that by outdoing government concessions, they could dissolve any Catholic loyalties to government and win them over to the opposition. As Hobart reported to Nepean:

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1 Westmorland Papers, Carton 1/f42, Westmorland to Dundas, 14 January, 1792

2 HO 100/34/35, Westmorland to Pitt, 1 January, 1792

3 Westmorland Papers, Carton 1, f79, Westmorland to Pitt, 7 December, 1792;Carton 1, f78, Westmorland to Dundas, 5 December, 1792

4 HO 100/43/21-23, Hobart to Nepean, 23 February, 1793

5 HO 100/42/246, Hobart to Nepean, 5 February, 1793

> The great point made by opposition, Mr. George Ponsonby particularly, was to impute a change of sentiment in the Irish Parliament to what he termed *base English influence*. and recommending the adoption of the Catholics into the constitution as a means of strengthening Ireland and weakening the influence of Great Britain.[6]

Hobart expressed hope that the Whigs would receive their just deserts for for such shameless political opportunism:

> I am happy to say that the force of it was much diminished by the conviction that no man in the country was more averse to the Catholics than the gentleman who press'd the House to grant everything to them, and that his conduct upon the most interesting question that could rise in the country was solely directed by resentment against the government. He will not easily be forgiven by the Protestants and he will certainly be despised by the Catholics.

At the same time, Edward Cooke suggested that had there been enough high Protestant feeling on the subject, Ponsonby would have been willing to revert to the more traditional stance of his family.[7]

Nonetheless, the government could not afford entirely to despise the Whigs. They could still contribute their troublesome share to the general atmosphere of agitation, particularly on issues of trade and the conduct of the war against France. The Westmorland government accordingly acted to eliminate the whole *raison d'etre* for opposition, and to unite all parties in parliament against the French revolutionary government and against aspiring revolutionists in Ireland. In the winter of 1793, the government announced its intention to introduce a series of bills intended to end long standing sources of Whig discontent, notably pensions, places, the disbursement of public money, and in June, Parnell brought forward the finished product.[8] The long-agitated responsibility bill suspended the hereditary revenue, and established a civil list, which encompassed the customs and barracks offices. The monies for maintaining the civil list, to the sum of L269,000, were to accrue after payments were made on the national debt. In addition, the bill abolished the treasurer and vice treasurerships; instead the bill placed the Treasury under the authority of a Board of Commissioners. The Commissioners were to issue money only for the expenses of the civil list or for other purposes stipulated by Parliament, upon presentation of a royal warrant. A second bill limited expenditure on pensions, while a third prohibited some office-holders from sitting in Parliament, though revenue

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6 HO 100/43/21-23, op. cit.

7 HO 100/43/15, Cooke to Nepean, 26 February, 1793

8 HO 100/43/71-73, Hobart to Nepean, 8 March, 1793; HO 100/44/125-7, Hobart to Nepean, 11 June, 1793

officers, the chief bugbears of the opposition, remained firmly eligible.[9]

The bills passed handily, though habits of opposition died hard. There were quibbles about the allegedly excessive sums of money allowed for pensions. Forbes, who had long made government expense and responsibility his pet issues, took the lead. He wanted some offices, notably, those attached to the customs, removed from the civil list and placed under direct parliamentary review, where their expenses could be further reduced, if need be. He also wanted the sum allotted for the concordatum reduced from L10,0000 to L5,000. Hobart resisted Forbes' first proposal, but agreed to the second, to create unanimity and to preclude any further troublemaking on this issue.[10]

The prospect of obtaining their heart's desire made the Whigs happily compliant when the much dreaded East India bill came up for parliamentary review, shortly before the final readings of the place, responsibility and pension bills. After much negotiation, the Irish government had managed to secure provisions for an East India warehouse in Cork, and for twice yearly calls by ships bound for India. In return, the bill confirmed the monopoly of the East India company.[11] Westmorland reported with evident relief that the bill passed through committee "unanimously and with a Degree of Chearfulness and Liberality which I must say does very great honour to the House of Commons."[12] Although the government officially insisted that no thoughts of a *quid pro quo* had influenced this action, the liberalization of the navigation acts by the English parliament in the prior session considerably sweetened tempers. [13] Westmorland also observed the lack of opposition on the part of the "Mercantile Interest", which further reduced any incentive to parliamentary grandstanding on the issue.[14]

Probably most gratifying in the government's eyes was the reaction of Grattan, who had long made opposition to various pieces of trade legislation a staple. With his unerring instinct for the dramatic and the erratic, he not only supported the East India bill, he called for a revival of the once detested commercial propositions of 1785. He cited the adjustment of the navigation act, the proposed establishment of the Irish civil list and the current settlement of East Indian trade as the reasons for his amazing change of heart. He also pointed out that under Eden's treaty of 1787, French goods enjoyed more favorable

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9 For the provisions of these various bills, see HO 100/44/125-7, Hobart to Nepean, 11 June, 1793; HO 100/44/227-29, Hobart to Nepean, 11 July, 1793 and HO 100/45/166-7, Hobart to George Rose, 29 November, 1793

10 HO 100/44/227-9, Hobart to Nepean, 11 July, 1793

11 HO 100/44/172-3, Hobart to Dundas, 21 June, 1793

12 HO 100/44/268-9, Westmorland to Dundas, 5 July, 1793

13 Ibid.

14 Ibid.

terms than Irish in the English market.[15] His reasoning was rather curious, as trade with France was virtually at a standstill. But the Irish government had no desire to quibble with Grattan's faulty logic on the subject. Although they rejected his request to combine adoption of the East India bill with a consideration of new propositions, they were delighted that Grattan had raised the subject. As Hobart stated the matter, the Whigs handed the government a perfect opportunity to settle long-standing trade disputes. He predicted that the government would enjoy any "credit and popularity" ensuing from a commercial settlement, while Grattan and the Whigs "must be answerable for that part of the unpopularity which might attend it."[16] The attending unpopularity presumably would come from "the friends of protecting duties," and according to Hobart's reasoning, the Whigs would suffer the more because they had hitherto raised so much opposition.[17]

The opening months of 1794 saw an unprecedented outpouring of mutual admiration on both sides. In February of that year, Edward Cooke reported to Evan Nepean that Shannon and Grattan had been reconciled to the government. Only a small and disreputable rump remained: Curran, Duquerry, Egan and Parsons, whom Cooke described as "the disciple of Flood's with much of his policy and little of his ability." He also alluded to the long standing antagonism between Parsons and Grattan.[18] Grattan's old dislike for Parsons and his new support for government became apparent during debates on the war with France. During the course of the debate, Parsons called for a review of all past treaties of the English government with foreign powers. According to Cooke, he intended first to assert some sort of equal partnership for Ireland in foreign policy and secondly "to make Grattan unpopular."[19] Not surprisingly Grattan took the lead in opposing this motion. According to another dispatch, this time from Sylvester Douglas, he spoke "with great power", no doubt the power of anger and dislike, against this particular proposal.

> He [Grattan] called it an artificial motion, which under pretence of calling for papers solicited the Discussion of the propriety of the war.[20]

He then reminded Parsons of "that principle which had been unanimously approved by the House on the first day of the session, viz: that this Kingdom would stand or fall with Great

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15 Ibid.
16 HO 100/44/214-17, Hobart to Nepean, 7 July, 1793
17 Ibid.
18 HO 100/46/161-4, Cooke to Nepean, 7 February, 1794
19 Ibid.
20 HO 100/51/159-160, Sylvester Douglas to Nepean, 5 February, 1794

Britain."[21] In short, he reminded Parsons that if he truly had doubts about the war, he had missed his opportunity to speak, and he must now hold his peace, if not forever, at least until the next session.

Edward Cooke hoped that with careful management and flattery from Pitt himself, Grattan could add his luster of mass popularity to the government:

> What should be made of this conjunction? My first opinion is that Grattan is the most important character in Ireland and that attaching him to Mr. Pitt's government would be essential. This is difficult. He is very high minded and resentful and suspicious. He is however very steady and honourable and will act up to his professions. He has great sway over the public mind and he must play such a part as not to lose his authority. He wants not, perhaps wants not to take, Situation: he would stipulate for measures if any compliment were shown to him, he would take it immediately from Mr. Pitt. In the uncertainty of events, his conduct here might be decisive and therefore he should be early thought of. Government is strong in numbers. They want not aristocratical addition. They want the chief of the people.[22]

All was not sunshine and happiness. Grattan continued to pursue the issue of new commercial propositions, much against the wishes of government, which wanted above all to avoid major items of legislation, even those which might be of benefit.[23] Forbes continued to call for further reductions in government expense, for the disenfranchisement of more placeholders and for greater parliamentary control over certain offices.[24] Lord Shannon, in spite of the court paid to him, and in spite of his new place as a First Lord , remained resentful over Catholic emancipation. In a letter to Westmorland, written in December of 1793, Shannon made this sulky rejoinder to a request for his opinion on the militia: "...indeed, before I can be prepared to give an answer to any question from Government, I should, with all due respect, first, by permission to ask what support are the Protestants of Ireland to expect from Administration after the experience of the last session of Parliament?" [25]

In spite of desertions by their old regency crisis associates, the Ponsonbys continued to make trouble. During the debates on Parsons' motion, George Ponsonby made the startling declaration that Ireland existed in a "federal" union with Great Britain, and therefore had an independent right to examine any treaties of alliance with foreign

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21 Ibid.
22 HO 100/46/161-4,
23 HO 100/51/192-3, Sylvester Douglas to Nepean, 17 February, 1794
24 HO 100/51/244-9, Douglas to Nepean, 11 March, 1794
25 NLI, MS 886, Shannon to Westmorland, 14 December, 1793

powers. He did not try to carry his unusual constitutional theories into effect, preferring instead to support Grattan.[26] He also dragged in a bill for parliamentary reform, which government wielded its majority to postpone until August 1.[27] Finally, Ponsonby applied for leave to act as Jackson's counsel, which, as king's counsel he was required to do before he could represent an accused traitor.[28] By choosing to oppose the government in an inflammatory political trial, Ponsonby certainly continued his habits of provocation. In accounting for Ponsonby's erratic behavior during the debates over treaties, Cooke displayed again his astuteness and his mordant wit:

> It must be remembered that winds having been averse, he had not at that Time received the ultimate decision of the Duke of Portland and his connections in England. [29]

At the time, Cooke was merely poking cynical fun at George Ponsonby's political tergiversations. Unwittingly, he also pinpointed the fatal flaw that would destroy any hope of a rapprochement between the government and the Whig opposition.

FitzGibbon's own relations with the Whigs underwent similar fluctuations during the period between 1792-4. By 1792, he appears to have been on friendly dining and visiting terms with the Duke of Leinster, George Ponsonby and their respective relations. Relations with George Ponsonby soured during the session of 1792, when Ponsonby revealed FitzGibbon's efforts to detach him from the Round Robin. FitzGibbon was understandably "much incensed" over this public revelation of private negotiations. Westmorland could see some benefits accruing from FitzGibbon's mortification: "...it [Ponsonby's speech] will have the good effect of breaking up an appearance of friendship between him and the Ponsonbys which created great jealousy to many people."[30] But in March of 1793, FitzGibbon transcended his usual vindictiveness and made personal overtures, not only to the Ponsonbys, but to the long-alienated Grattan. No doubt he felt that in the current crisis of authority, all Protestants, whatever their past differences, should join in resisting any further change and in restoring order. According to Westmorland, "Grattan wd. not meet with ye chancellor." [31] He would not relinquish either his grudge against FitzGibbon, or his fondness for disruption. George Ponsonby's later conduct shows that FitzGibbon was equally unsuccessful in any appeals he may have made to his

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26 HO 100/46/161-4
27 HO 100/51/227-9, Sylvester Douglas to Nepean, 5 March, 1794
28 HO 100/52/82-3, Sackville Hamilton to Sylvester Douglas, 2 June, 1794
29 HO 100/46/161-4
30 Westmorland Papers, Carton 1/f58, Westmorland to Pitt(?), 10 March, 1792
31 Chatham Correspondence, 30/8/191, Westmorland to Pitt, ? March, 1793

erstwhile dinner party intimate.

In his turn, FitzGibbon seems to have relapsed into profound cynicism about the possibility of ever placating the Whigs. His memoranda on the place and responsibility bills perhaps reflected this disenchantment. He criticized the pension bill for encroaching on the King's prerogative to grant pensions, while the clumsy drafting of the responsibility bill affronted his professional fastidiousness.[32] The bill, he complained, arbitrarily set up a civil list while failing to repeal past laws which had granted the king hereditary revenues. He also insisted on a very narrow interpretation of the powers of the new treasurers. They could not refuse any request for payment made under royal warrant, FitzGibbon insisted, unless the king's government attempted to withdraw money "in any manner not strictly warranted by law." Moreover, the commissioners of the treasury had no authority over the lord-lieutenant, who could demand any sum of money necessary to carry out the duties of his office.[33] His comments were of a piece with his passion for legal preciseness and his equal passion for inviolate precedent. But it is doubtful he would have liked any responsibility or pension bill, however impeccably framed. He probably looked upon these bills as he did on the Catholic bill; they were ill-advised gestures of appeasement which could only increase rather than silence unrest.

(ii)

An event that seemed to mark the end of Whig-government discords instead revived them. In 1794, that branch of the English Whigs under the direction of the Duke of Portland broke with Charles James Fox over the latter's continued opposition to the war with France. The defection of such a substantial part of the opposition party was nonetheless a mixed blessing. On one hand, it had the obvious benefit of bringing votes and electoral interests to Pitt's government. On the other hand, Pitt had to make some provision for the influx of ex-Whigs. In particular the Portland faction had their sights set on Ireland: specifically, Portland wanted Ireland for his nephew, Lord Fitzwilliam. His grace was still smarting over his ignominious departure from that country over a decade before; he had moreover, close familial and political ties with members of the Irish opposition, especially with the *gens* Ponsonby, who never could get over their sense that the management of Ireland rightly belonged to them. The mutual sense of resentment and

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3 2 For his comments on the pension bill see NLI, Melville Papers, 54/3, FitzGibbon to Dundas, January-April (?), 1793

3 3 The comments on the Responsibility Bill appear in a memorandum from FitzGibbon to Westmorland, dated 7 April, 1794. (Edinburgh: Advocate's Library, Glenbervie Letterbooks, pp. 40-5)

lost opportunity following the Regency debacle had further strengthened ties between the English and Irish oppositions. In short, to strengthen the stability of the new coalition in England, Pitt was faced with the unpleasant prospect of handing Ireland over to the very people who had inveterately opposed his past men and measures in that country.

Nor had Portland been innocently dormant since 1789. On the contrary, as recently as 1792, he had been fishing in the muddy waters of Irish politics. The Catholic Committee, in the person of Edward Byrne, had made some overtures to Portland. Evidently Byrne and his fellow committeemen, like Westmorland, had feared the possibility of the Whigs playing the Protestant card. Nothing seems to have come of these negotiations. Byrne gave Portland a highly selective list of Catholic demands. Some, such as the right to serve as magistrates and as jurors, later appeared on the Catholic petition; others, such as a request for publicly funded seminaries, never appeared; yet others, notably the franchise, Edward Byrne tactfully avoided mentioning at all. His prudence was well justified. Portland remained tepidly favorable at best to the demands Byrne did see fit to mention: they seemed to him "reasonably salutary and beneficial". Nonetheless, he emphatically opposed permitting Catholics to vote. In Portland's view the franchise could only "create more than alleviate" discontent.[34] There do not seem to have been any further contacts, *sub rosa* or otherwise, between the Catholic Committee and the Whigs, English or Irish. Although Portland expressed his intention to communicate his thoughts to George Ponsonby, his cautious views on Catholic emancipation, fundamentally no different from Westmorland's, obviously had no influence on his Irish kinsman and colleague. Nonetheless, these contacts with Irish parties, however fleeting, showed a disturbing habit of mind among the Whigs on both sides of the water. They saw themselves as a shadow government, waiting only for the proper moment to come into their own.

Westmorland certainly took this view of the Portland Whigs. As soon as he got wind of the coalition and the ensuing negotiations for office, he bombarded Pitt with epistolary warnings about the danger of giving the government of Ireland to a family and to a party so closely connected to the Irish opposition and so prone to past intrigue. Such a move could only revive partisan wrangling just when it seemed on the wane:

> If ye expectation of his [Fitzwilliam] coming is held out at all, ye mischief to your government is evident and from ye different expectations, this kingdom will be in a most uncertain and dangerous state. No man will dare oppose himself to ye vengeance of ye dictators of that party, the Ponsonbys, or attend to ye injunctions of an imagined expiring government. Catholics, reformers...every Politician will mount his hobby...how cd you admit such people to your councils without security

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34 Sheffield Public Library, Fitzwilliam Papers, (uncataloged, NLI microfilm p. 5642), Portland to Fitzwilliam, 17 October, 1792

> for their good behavior? [35]

More letters to the same effect followed, throughout the summer and autumn of 1794. In July, Westmorland requested Pitt not to allow Portland to receive any communication on Irish matters, except official dispatches.[36] In October, Pitt received this reproach and this advice on the proper management of Ireland:

> This kingdom wants troops and a strong government, not a party game and speculative measures.---It was quiet till these gentlemen thought proper to disturb it.[37]

No doubt old Ireland hands, who had grudges of a 1782 vintage against Portland and his party, cultivated such fears in Westmorland. Given his past history , FitzGibbon certainly would have been chief among them.

But Westmorland, and the established servants of government did have legitimate reason for concern. Fitzwilliam's own private correspondence revealed vast, indeed high-handed, schemes to change the face of Irish government. Above all he had ambitious plans for the Catholics. Not for him his uncle's tepidness on the subject of Catholic rights: Fitzwilliam was convinced that only the removal of all remaining political restrictions on the Catholics could assure stability and loyalty in Ireland.

His chief preceptors on this particular issue were Edmund Burke, who had a long standing and passionate dedication to the subject, and Dr. O'Beirne. O'Beirne had abandoned Catholic for Protestant holy orders, and for the time being, he had abandoned his clerical career altogether for service as Portland's private secretary. Westmorland looked upon O'Beirne as Fitzwilliam's evil *eminence grise* and described him to Pitt as "a Popish recusant and political runner of no very good moral character."[38] No evidence exists to suggest that O'Beirne was immoral in any strict sense of the word, and his conversion to Protestantism seems to have been perfectly sincere. His moral faults probably lay in his extreme sympathy for the political aspirations of his former co-religionists, and in his success in instilling the same sympathy in Lord Fitzwilliam.

In addition to the removal of all remaining Catholic disabilities, Fitzwilliam committed himself to the removal of certain office-holders who either threatened his premier policy or who were, in his judgment, "corrupt". In particular, he signaled out

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35 Chatham Papers, 30/8/218, Westmorland to Pitt, 1 April, 1794

36 Chatham Papers, 30/8/248, Westmorland to Pitt, 18 July, 1794

37 Chatham Papers, 30/8/271, Westmorland to Pitt, 23 October, 1794

38 Chatham Papers, 30/8/278, Westmorland to Pitt, 30 November, 1794

FitzGibbon as the premier Protestant reactionary and John Beresford as the avatar of corruption.[39]

John Beresford had received unfavorable attention before this time, though in an encoded form. When the parliamentary opposition made attacks on the extravagance of the [illegible] revenue board, they were, in effect, attacking John Beresford. The Catholic Committee later adopted this same tack to discredit a notorious opponent and a notorious connection of the hated FitzGibbon. Beresford did indeed hold a lucrative office as the chief commissioner of the revenue, but he was no mere drone idling away his time in a well-paid sinecure. On the contrary, he laboured diligently and often thanklessly in the barren fields of Anglo-Irish trade. He had played a central role in drafting every notable piece of trade legislation from the commercial propositions to the late India bill. His memoranda on the subject display an admirable sense, lucidity and mastery of detail. He also had a genius for civic planning. His vision and his determination lay behind the two greatest surviving glories of Georgian Dublin, the Custom House and the Four Courts. In his private life, his letters reveal an amiable man of simple habits, fond of pottering about his garden and greenhouse in his rare moments of leisure. His life had its share of the dark and the dubious. His wife, a great fashionable beauty, was apparently prone to nervous depression, and his son John Claudius demonstrated a flair for torture during the rebellion. But the the private demons of his family do not detract from the overall impression of a diligent, dedicated public servant.

Beresford was hated, not only because he held high and lucrative office, but because many members of his family did. They were represented in the Church in the person of William Beresford, John Beresford's brother and FitzGibbon's brother-in law. His two sons, Marcus and John Claudius also enjoyed lucrative positions. John Claudius's many offices included one that sounded very pleasurable as well as profitable, taster of wines. But the accusations of Beresford rapacity appear exaggerated. The truth seems to have been more mundane and obvious: they were a large family (Beresford alone had ten children) and they were loyal to government. It naturally followed that they would hold a large number of offices. In so doing they were the natural rivals of the equally large, office hungry Ponsonby clan and their collaterals. This simple, stark arithmetic of power lay behind all the cries of corruption. George Ponsonby's brother William admitted as much, shortly after Fitzwilliam's arrival in Ireland. Admittedly, Edward Cooke, who recorded this anecdote for Westmorland's benefit, was scarcely a detached observer, but if the story is at all true, wine, as well as power, went to "Billy's" head, leading to this *in*

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39 See for example Fitzwilliam Papers, O'Beirne to Fitzwilliam, 1 November, 1794

vino veritas revelation:

> The Ponsonbys are all powerful and Billy cannot contain himself. The other day at Lord Shannon's he got pretty drunk...and burst out. He said he had long been in despair, floating on the surface, buffeted about and almost ready to sink, but at last he was successful, he had got the Power of the country and by g-d he would use it.
>
> On Friday at Parnell's he burst out again. Parnell had run out on the folly and cruelty of dismissing Beresford and had expatiated on his Integrity and diligence and knowledge and temper etc. Yes, says Billy, I admit it all. I know Beresford to be a very honourable man and a good officer and in all my private dealings with him he has been fair and honest but if I had allowed him to remain at the Revenue Board how could I have got the power of the country.[40]

Fitzwilliam was not as nakedly opportunistic as the Ponsonbys. His motives for attacking the Beresfords were at once loftier and more chilling. He had convinced himself, on the basis of highly biased views of Edmund Burke and of the Ponsonbys, that the Beresfords were harpies of corruption. Signs of trouble came even before Fitzwilliam set fatal foot in Ireland. In March of 1794, during the period of comparative harmony between Whigs and government, Forbes tried to introduce another set of improvements on the government's manner of managing and disbursing money. After calling for the abolition of the offices of Receiver-General and Paymaster General, Forbes raised objections to John Beresford's presence on the newly created Treasury Board. Supposedly his tenure in this office conflicted with his position of as Commissioner of Customs. The attack quickly faltered. Beresford pointed out that he had not sought the position on the Treasury Board; he had been appointed. Sylvester Douglas observed that Beresford was only one of six Treasury Commissioners, and one of nine on the Revenue Board. Therefore, he scarcely exercised undue influence in either office. Parnell in the meantime, made the first of many defenses of Beresford's character. This initial attack ended quickly. Forbes withdrew the bill and his remarks.[41] But as the rumors of Fitzwilliam's appointment spread, it could scarcely have escaped Beresford's attention that he was a marked man.

According to O'Beirne, Beresford travelled to England shortly after the official announcement of Fitzwilliam's appointment, in September. Ostensibly he was attempting to settle the terms of a lease on a copper mine, but according to O'Beirne, he also wanted to appeal to Pitt for protection from "persecution".[42] Later, in November of 1794, O'Beirne made claims that the "Faction", presumably meaning Beresford, FitzGibbon and other old

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40 Westmorland Papers, Carton 1/f132, Cooke to Westmorland, 18 January, 1795

41 HO 100/51/244, Douglas to Nepean, 11 March, 1794

42 Fitzwilliam Papers, O'Beirne to Fitzwilliam, 6 September, 1794

government hands, had "fled to the K___ with their complaints and their fears, their past services and their threatened persecutions."[43] O'Beirne was as prejudiced an observer on his side as Cooke was on his. But in light of the King's later decisive role in the downfall of Fitzwilliam, it does seem plausible that FitzGibbon and Beresford, among others, made tentative approaches to the King. Nonetheless, only later did this particular avenue of appeal take on importance. In the meantime, Westmorland continued to send minatory letters from Ireland. No doubt FitzGibbon contributed many ideas and even phrases to these productions.

In the midst of all this heartburning and agitation, Pitt tried to maintain a measure of equity and balance. He stood by Fitzwilliam's appointment out of loyalty to his new Portland allies. At the same time, he assured his old supporters in Ireland that they need not fear any drastic changes, either in their positions or in the policy of government in Ireland. At a series of meetings in October of 1794, Pitt,William W\ ndham, Portland and W.W Grenville established what they thought were universally agreed upon guidelines for Fitzwilliam's conduct in Ireland. Pitt later wrote a soothing account of these meetings to Lord Westmorland: any rumors of a viceregal revolution in men and measures were more the result of "Indiscretion, both in the principals and their Irish Connections, than of any settled Plan." His own experience had convinced him that "our new friends", far from acting the part of wild-eyed incendiaries, were, in their conduct "perfectly cordial and satisfactory and , under all the misfortunes abroad, they seem thoroughly inclined to take fairly their full share of the Difficulties of the Crisis and to persevere in all the unprecedented efforts which it requires." On a less cajoling note, Pitt emphasized his need for the Portland Whigs to bolster his beleaguered war policies: "Under these circumstances, I feel that to force them to a Breach, if it can be avoided with Honor, is to expose the Public and the King's service to an additional Risk which...cannot be justified, and I trust on Reflection you will concur with me in that opinion." In other words, as a reward for their good behavior on the matter of the war, the dearest wish of the Portland Whigs would be fulfilled and Fitzwilliam was going to Ireland; Westmorland had no choice but to resign himself to that fact. In closing, Pitt repeated his promises that the status quo would remain intact: he had, or so it seemed, persuaded Fitzwilliam to surrender "all Idea of a new System of Measures or new Principles of Government in Ireland, as well of any separate and exclusive right in the department of Ireland different from any other in the King's service." This pledge clearly encompassed Catholic measures. In addition, Fitzwilliam agreed that "Lord FitzGibbon and all supporters of government should not be

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43 Ibid., O'Beirne to Fitzwiliam, 1 November, 1794

displaced, on the Change, nor while they continue to act fairly in support of such a system as shall be approved here." Finally, Fitzwilliam was not to assume office until "adequate provision", meaning an office greater than or equal to his current one, had been made for Westmorland himself.[44]

If Pitt thought the matter had ended there, he badly underestimated Fitzwilliam's obstinacy or the junto's determination not to give ground. Although nothing more seems to have been said on the subject of Beresford, Fitzwilliam retained the extraordinary notion that Pitt had given his tacit consent to his old friend's dismissal. According to his own later and dubious account, he had mentioned his intention to dismiss Beresford to Pitt, and had received no explicit objection.[45] If Pitt indeed was silent, as Fitzwilliam claimed, it was no doubt because he hoped to avoid a subject, which he thought had already been settled in quite a different way. FitzGibbon remained an open subject of contention well into November of 1794 which suggests that Fitzwilliam had not relinquished his Catholic projects, either, whatever his disclaimers to Pitt. He was still determined to get rid of their most notorious and obdurate opponent. On this point, Pitt remained adamant, even to the point of threatening to revoke Lord Fitzwilliam's appointment to Ireland, "which in some views would be the best [course] of all." [46] No personal love or loyalty directed Pitt's actions in this case. Retaining FitzGibbon served above all a gesture of conciliation and continuity. To remove him would be dangerous and impolitic because it would cast aspersions on past governments, and it would give the impression of a revolution in men and measures.[47] There is a possibility that Pitt would have liked above all for FitzGibbon to retire quietly and of his own free will, with suitable remuneration. In December of 1794, shortly before his departure for Ireland, Fitzwilliam received the following ambiguous letter from Portland:

> Lord Westmorland has sent over recommendations of peerages, but the only one he pressed or seems to care about is an Earldom for FitzGibbon. Pitt showed me Ld. W.'s letter and said it might probably tend to facilitate other matters.[48]

What the "other matters" may have been remains unclear. Pitt may have been suggesting that the appointments of former members of the English and Irish opposition might go over better if a notable member of the old order received a gaudy new title. Or he may have

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44 Chatham Papers, 30/8/325, Pitt to Westmorland, 19 November, 1794

45 HO 100/56/270-1, Fitzwilliam to Portland, 13 February, 1795

46 Chatham Papers, 30/8/325, Pitt to Westmorland, 19 November, 1794

47 Pitt articulated these sentiments with particular clarity in a letter to Westmorland dated 19 October, 1794 (Chatham Papers, 19 October, 1794)

48 Fitzwilliam Papers, Portland to Fitzwilliam, 4 December, 1794

hoped that a new title might sweeten FitzGibbon's temper, and make him either more cooperative, or more willing to make a voluntary departure.

Whatever Pitt's ultimate desires or intentions, O'Beirne expressed considerable foreboding about FitzGibbon's continued presence in government: "It was from the Dint of that quarter that I chiefly apprehended danger and to that I shall chiefly ascribe the final failure of the hopes I had conceived for this ill-fated country, should that be the issue of the business."[49]

Fitzwilliam duly arrived in Ireland in January of 1795. In one of his first dispatches, he claimed that he faced irresistible pressures from the Catholics to remove any and all disabilities:

> "I tremble about the Roman Catholicks, I mean about keeping them quiet for the session because I find the question already in agitation and a [Committee] appointed to bring forward a petition for a repeal of the penal and restrictive laws.[50]

As always, Fitzwilliam's reality was not that of other men. It did not take into account the fact that his confidante O'Beirne, in union with Grattan, had deliberately whipped up Catholic expectation.

The Catholics had kept up a measure of activity even after the supposed final concessions of 1793. According to a spy's report, a group of Catholics met at the home of one "Dr. Mcnavan" (doubtless a Castle variant on the name of William James McNeven), who according to report, aspired to the discredited Keogh's place as leader of the Catholics. It was also possible that McNeven, a United Irishman, hoped to keep the radical spirit alive among the Catholics. No sustained plan of action resulted, but this outcome by no means reflected either quiescence or contentment.[51]

On the contrary, if a letter of John Keogh to Dundas is any indication, a mood of bitter resentment seemed to prevail among politicized Catholics. Keogh wrote in response to a bizarre letter purporting to be from Evan Nepean, which hinted at further Catholic relief and which requested a meeting with Keogh, Byrne and "some other intelligent Gentlemen of weight in that Party."[52] Demonstrating his near-legendary cunning and caution, Keogh recognized the letter as a forgery and forwarded it to Nepean, with promises to help the government trace the author. At the same time, he favoured Nepean with an account of

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49 Fitzwilliam Papers, O'Beirne to Fitzwilliam, 1 November, 1794

50 HO 100/46/259-60, Fitzwilliam to Portland (?), 8 January, 1795

51 HO 100/51/201-2, S. Douglas to Nepean, 20 February, 1794; HO 100/51/225, Douglas to Dundas, 1 March, 1794

52 HO 100/46/152, Nepean to Keogh (purportedly), 28 March, 1794

Catholic fortunes since passage of the relief act. According to Keogh the "contrivances and tricks" of the "enemies" of the Catholics, kept them from enjoying the benefits and privileges of the acts of 1792 and 1793. He signalled out the Corporation of Dublin for particular dishonorable mention. Keogh also complained about the high proportion of militia officers drawn from the ranks of "Grand Juries who voted for our perpetual slavery", and he alluded with barely concealed rage to John Foster's prosecutions in Louth.[53] Of course, Keogh did not speak for all Catholics. He undoubtedly suffered particular disillusion because he had the misfortune to live in Dublin, home of the obdurate corporation, and perhaps because he had unduly grandiose expectations for himself. But to judge from later events, many Catholics, while quiescent for the time being, were by no means placated or content.

Certainly Grattan met with an enthusiastic response when he returned from a meeting with O'Beirne in London bearing tidings of the great things Lord Fitzwilliam was prepared to do for Catholics. According to Grattan, the Catholics only needed to make their wishes known, through petitions, and the new Whig government was prepared to grant their every wish.[54] The Catholics took him at his word. They had successfully put pressure on the reluctant Westmorland administration; they seemed virtually guaranteed success with this new, far more sympathetic and enthusiastic administration. Less than a week after his arrival, on January 15, Fitzwilliam received the desired petition from the Catholics.[55] He made a great play of caution: "I have endeavored to keep clear of any engagements whatever" but a dispatch dated that same day revealed a man clearly set on granting the plea of the petition.

The upsurge of Defender violence in Meath, Westmeath, Longford and Cavan gave Fitzwilliam another pretext to pursue his much desired scheme. In response, he pressed for the formation of yeomanry corps, similar to those currently in array in England. Fitzwilliam intended that "the better orders of the people" regardless of religion, should comprise the yeomanry; but he claimed to have some apprehensions about putting arms in the hands of Catholics without at the same time granting them full political rights. In his letter to Portland, he fully revealed both his absolute *a priori* convictions, and his purported fears of Catholic disaffection:

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5 3 HO 100/46/154-7, Keogh to Nepean, 15 April, 1794

5 4 The evidence for Grattan's incitement comes, admittedly, from two highly biased sources: see Westmorland Papers, Carton 1/f115, Cooke to Westmorland, 11 March, 1795 and Sneyd Muniments, FitzGibbon to Auckland, 25 March, 1795; but the fact that Grattan took management of the "Catholic business" suggests the truth of claims made by FitzGibbon and Cooke (HO 100/56/222-28, Fitzwilliam to Portland, February ? 1795)

5 5 HO 100/46/259-60, Fitzwilliam to Portland (?), 15 February, 1795

> Convinced as we are of the Necessity as well as the fitness of the Measure taking place at no distant period, to attempt to defer it is to incur the certain inconvenience of rendering the Catholics useless at least, if not dangerous, of making them unwilling to act for external defence, unsafe to have committed to their hands the means of restoring Law, Order, and tranquillity, which can only be restored by means of a strong Police universally established under the Mask of a Yeomanry Cavalry, about which, as I stated before, there is not to be found a second opinion, provided relief to the Catholics precedes it.[56]

In the meantime, the anti-Fitzwilliam forces alternated between busy defiance and despair. In April of 1795, an intimate of Lord Downshire, one John Pollock, gave a gloating account of a uniform, united Protestant resistance to Lord Fitzwilliam. According to Pollock, all the leading Protestants, FitzGibbon, Shannon, and Speaker Foster, stood prepared to make a bold resistance. Under their leadership "perfect discipline was established" and a majority of 120 stood pledged to oppose any relief bill introduced by Grattan.[57] But Pollock was writing in triumphal retrospect. The reality suggests instead that members of the junto faced an uncertain future as long as Fitzwilliam was lord-lieutenant. Cooke, writing closer to events, took note of the resistance of Hillsborough, Shannon and the Speaker, but he added "I never saw an instance that Government would not carry a single Measure if there was no general opposition and of that I see no probability."[58] According to Fitzwilliam, even FitzGibbon admitted that "if it was my intention to give support to the petition, there was not a doubt of its being easily carried."[59] The unease of FitzGibbon, Cooke and others about the parliamentary outcome of debate of the Catholic question derived from the narrow belief, immortally articulated by Edmund Burke himself, that the loyalties of members of parliament could be bought and sold by the dispensers of patronage. They could only hope that the resentment engendered by Fitzwilliam's actions among loyal supporters of the status quo would eventually prevail even over the power and patronage of government.

Back in London, Fitzwilliam's uncle and colleague was expressing his shock that the whole issue was even being bruited. He was unconvinced by Fitzwilliam's axiom that a yeomanry made up of contented, fully emancipated Catholics equalled security for Ireland. A good old fashioned augmentation of the navy and of the regulars seemed to Portland at least as effective, with this advantage: "I understand that the increase of the Army Establishment and the grant to the Navy stand clearly and distinctly upon separate

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56 HO 100/46/264-7, Fitzwilliam to Portland, 15 February, 1795

57 Westmorland Papers, Carton 1/f111, John Pollock to Westmorland, 15 April, 1795

58 Westmorland Papers, Carton 1/f133, Cooke to Westmorland, 23 January, 1795

59 HO 100/46/268-70, Fitzwilliam to Portland, 28 January, 1795

ground and in no respect whatever depend upon any measure connected with any changes, by which the political situation of the Roman Catholics can be affected."[60] Portland did not rule out further concessions altogether, but he begged Fitzwilliam to consider other, less drastic ways of winning over the Roman Catholics. Specifically, he alluded to the prospective seminaries "that have been so long in contemplation and are now as I conceive in considerable forwardness." As another possible crowd-pleasing measure, he also proposed state support of the Catholic clergy, "by which they would in some degree be removed from the state of dependence in which they are kept by even the lowest order of their parishioners [and the removal from people of the burden of maintaining the clergy]."[61] In supreme Home Officese, an oracular language at which Portland excelled, he summed up the desired policy of the English government: stick to minor concessions and hold out the prospect of bigger ones in the eternally near future:

> ...by these means you might have gained an opportunity sufficient to digest and concert the measures which will be necessary to enable you to gratify the wishes of the Roman Catholics and to secure to them in common with their fellow subjects of every other denomination the most essential and permanent advantage.[62]

Unfortunately, in addition to his indiscreet behavior on the Catholic question, Fitzwilliam continued to pursue his vendetta against John Beresford. He not only dismissed him, he dismissed Edward Cooke from his his position as undersecretary. In spite of this blow, Cooke kept up his correspondence with Westmorland, who then forwarded his letters to Pitt with the comment, "in two words, a complete Revolution." [63] The removal of the two premier members of the old governing junto contributed as much, if not more, to Fitzwilliam's undoing He, or more accurately, his allies had raised both Catholic and Whig expectations in Ireland; at the same time, he rendered himself incapable of meeting those expectations. His actions created a solid and fatal cohesion between the English government, alarmed at Fitzwilliam's precipitancy, and the angry, revenge-minded members of the old junto.

Counter-revolution was swift in coming: on February 23, Portland informed Fitzwilliam: "I have the King's commands to inform your Excellency that it having been represented to HM that circumstances may possibly arise which may satisfy you that the welfare of HM's service requires that you shd withdraw yourself from the Admin. of the

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60 HO 100/46/237-42, draft memorandum dated February, 1795, unsigned, but probably Portland

61 Ibid.

62 Ibid.

63 Chatham MS, 30/8/324-5, Westmorland to Pitt, 15 February, 1795

Govt. of his Kingdom of Ireland.."[64] Fitzwilliam received his *conge* with a surpassing gracelessness and petulance. His lofty sense of himself and of his own infallibility had suffered a jarring and unaccustomed blow. His first impulse was to appoint the usual Lords Justices, Foster, FitzGibbon and the Primate, and to bolt. With great difficulty FitzGibbon, in company with Foster and the Primate, prevailed on him to stay in Ireland until the appointment of his successor. The news of the recall had aroused furious reaction in Dublin, at least among disappointed Catholics and Whigs, and FitzGibbon warned Fitzwilliam of efforts to "extend the Mischief to every part of the country." Such circumstances, he continued, "render it peculiarly necessary to preserve the Executive Government in its full strength, which certainly cannot be effected if it be committed to the Lords Justices." [65] Fitzwilliam reluctantly agreed, but his conduct during the interim seemed calculated to undermine the strength of the incoming Executive Government. He wrote up an apologia for his administration, which in essence portrayed him as a fearless champion of reform and religious toleration, destroyed by entrenched jobbers in the Castle and by bad faith at Westminster. He employed various Castle clerks to make fifty copies of this production, which he then distributed among his friends and supporters. [66] Later, he published it in the form of letters to Lord Carlisle. In his headlong indiscretion, or perhaps, in a petulant desire to create mischief for his successor, he published an excerpt from one of Portland's confidential memoranda, which seemed to imply plans within the British cabinet to use the Catholic issue to win support for a union.[67] Of course, it was by no means a new idea and as has been noted, Pitt himself had originally proposed such a conjunction of measures two years before. But Fitzwilliam's letter caused rage and panic, not only because it indiscreetly revealed a fond, but secret hope, but because it gave a false impression of the English cabinet's original intentions, which from the start had been to preserve the status quo, not to engage in any ambitious constitutional alterations.

Nor did Fitzwilliam's manner of departure merit the encomium, "he nothing common did or mean upon that memorable scene." He snubbed Pelham, the new chief

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64 HO 100/56/290-1, Portland to Fitzwilliam, 23 February, 1793

65 Fitzwilliam Papers, FitzGibbon to Fitzwilliam, 7 March, 1795

66 Westmorland Papers, Carton 1/f114, FitzGibbon to Westmorland, 25 March, 1795; the published apologia appeared under the title, *A Letter from Earl Fitzwilliam, recently retired from this county, to the Earl of Carlisle* (Dublin and London, 1795)

67 Ibid.; for the discussions of a union between Fitzwilliam and Portland see HO 100/56/292-7, Fitzwilliam to Portland, 20 February, 1795; in this dispatch, Fitzwilliam queries Portland on why he would delay concessions and suggests that a union would be the only possible pretext. He adds "...doubtless the end is most desirable and perhaps the safety of the two kingdoms may finally depend on its attainment, but are the means wished such as are justifiable or such a s any man would wish to risk in hopes of attaining the end---through such a medium I look for a union I am ready to grant, but it is not the union of Ireland with Great Britain, but with France..."

secretary, at a levee, and dithered between leaving discreetly or with eclat.[68] FitzGibbon who had a particular interest in playing down popular upheaval, urged a quiet departure, and as an inducement, he had offered Fitzwilliam the use of his house in Blackrock. From there he could make a quiet departure in the vice-regal yacht. Fitzwilliam at first agreed, then abruptly changed his mind in favour of a more public departure. FitzGibbon's own account gave the impression that Fitzwilliam was sadly disappointed in his hopes of a vast outpouring of public sympathy:

> Everything was perfectly quiet. Not even a Hiss from the Mob in the Streets addressed to any of the Men who followed him. At the College a set of fellows who had been planted there took his Horse from his coach and drew him from thence to the Pidgeon House---Much to the Annoyance of Lady Fitzwilliam, who I was told, [went] into Histericks. After he had got into the Boat which conveyed him to the Yacht, he waved his Hat and bowed most graciously to the [Navies?] who had [conveyed] him to the Pidgeon House and so the ceremony ended.[69]

FitzGibbon's letter suggests that reality, like beauty, is in the eye of the beholder. Accounts in the radical press and from other, less biased observers contradict his claims of apathy and idle curiosity on the part of the mob. Indeed, FitzGibbon's admission that there was a mob, hissing or not, seems to suggest a considerable depth of popular feeling.

In his dealings with Fitzwilliam, FitzGibbon made no pretence of his opposition to "Popish projects." In Fitzwilliam's own words, he "entered fully and earnestly, but with perfect temper, on the subject [of further concessions] and stated strongly his alarms and the grounds of them." [70] Not only was Fitzwilliam unconvinced by the chancellor's arguments, they "entre nous tended exceedingly to confirm my own genuine opinion, for I never felt less led to doubt my own opinion but by an able statement on the other side than this." [71] According to John Pollock, who favoured Westmorland with the happy, triumphal account of Fitzwilliam's fall, FitzGibbon had been at the forefront of the dedicated Protestants who had allegedly formed together to oppose Lord Fitzwilliam in Parliament. In Pollock's version of events, FitzGibbon, in conjunction with Speaker Foster, had wrung from Fitzwilliam a pledge that concessions to Catholics would not be a measure of government, and that every man had the right to act as he saw fit on the issue. Having won this concession, they then recruited their parliamentary phalanx of 120

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68 HO 100/56/467-9, Pelham to Camden, (?) March 1795; Westmorland Papers, Carton 1/f114, FitzGibbon to Westmorland, 25 March, 1795

69 Westmorland Papers, Carton 1/f114, op. cit.

70 HO 100/46/268-70, Fitzwilliam to Portland, 28 January, 1795

71 Ibid.

Protestants good and true to oppose the issue.[72] Pollock's claim is dubious, to say the least. No where in his own candid accounts to Westmorland or to Auckland does FitzGibbon mention such a Protestant coalition. It is a mark of FitzGibbon's own uncertainty on the subject that he broached the idea of a union to Fitzwilliam. In his own later account of their transactions to Lord Westmorland, he stated that in the course of a conversation with Fitzwilliam on his "Popish projects" "...I stated to him distinctly my opinion that a union with the Parliament of England was the only Measure which could give Great Britain a chance of preserving this country as a member of empire." He then made the dubious and rather self-important claim that Fitzwilliam had then passed his opinion on to Portland, who in turn gave the "private and confidential intimation which Lord Fitzwilliam has thought fit to publish to the world.", e.g. Portland's own hints of an eventual union. FitzGibbon insisted to Westmorland that he had made an important qualification to this suggestion: "I told him, however, that till Great Britain was at peace and we had a strong army in Ireland, it would be impossible to carry out such a measure."[73] But the very fact that FitzGibbon raised the subject during a conversation about "Popish projects" suggests that he admitted at least the possibility of Lord Fitzwilliam getting his way; he fell back on the scheme of a union as the last remaining hope for Protestant supremacy in Ireland. In other words, he was prepared to concede in 1795 what he bitterly contested in 1801, Catholic emancipation in conjunction with a union.

FitzGibbon later suffered much opprobrium for allegedly poisoning the mind of the king against Lord Fitzwilliam and against further concessions to the Catholics. It is true that, in conjunction with his crony Auckland, he convinced the King that admitting the Catholics to Parliament and to office would violate his coronation oath. According to the argument as set forth by FitzGibbon, such an action would amount to a virtual repeal of the Acts of Supremacy and of Uniformity and of the Bill of Rights, the legal foundations of the established church of England and of Ireland. To do so would violate his coronation oath, which included a promise before God to uphold the Protestant Church as by law established. Unions being much on his mind, FitzGibbon also drew in the Act of Union with Scotland. In those articles, too, the English crown was obliged to "maintain the Protestant religion as by Law Established in England, Ireland and Berwick upon Tweed." The implication, as FitzGibbon drew it, was grim and apocalyptic: "...a repeal of the Test Act or the Act of Supremacy or the Act of Uniformity in favour of the Papists would in my opinion be a breach of the Articles of Union."[74]

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7 2 Westmorland Papers, Carton 1/f111, Pollock to Westmorland, 15 April, 1795

7 3 Westmorland Papers, Carton 1/f114

7 4 Sneyd Muniments, FitzGibbon to Auckland, 25 March, 1795

The argument made a number of dubious assumptions: that forms of government, or at least the form of government established at the Revolution, were fixed forever and that changing circumstances, political expediency and mere common sense could never alter them. It also presupposed that the ecclesiastical privileges of the Church of England and Ireland necessarily depended on the political monopoly of its adherents. It would indeed have been problematic to allow Catholic members of an Irish, an English or a united Parliament to adjudicate or frame statues involving the established church. But the coronation oath argument rested on the curious assumption that it was beyond the ingenuity of either the Irish or the English parliament to impose restrictions on the power of Catholic or indeed any non-conformist legislators, to alter or affect the Church's position. Moreover, it could be argued that the king had already breached his oath by assenting to the act of 1793. After all, Catholics could as easily undermine the Church by voting in Protestant members willing to attack the sacrosanct Acts of Uniformity and Supremacy.

Whatever its flaws and absurdities, the coronation oath argument was admirably suited to ensnare George III's dim mind and over-sensitive conscience. It was simple, it was high-toned, and it allowed the king to indulge his own natural stubbornness by upholding the supposed political will of God as set forth by the parliaments of 1688 and 1708. Moreover, as Anthony Malcomson has suggested, the King was already opposed to extending further rights to Catholics.[75] The coronation oath argument, however dubious, provided him with a much desired pretext for digging in his heels. It became a fortieth article to George III. He used it to resist Catholic concessions until his own final descent into madness. His despicable son would later fall back on it, without the old king's misguided integrity or success. In short, the coronation oath argument effectively stalled final concessions to the Catholics for over forty years.

While it must be acknowledged that FitzGibbon articulated the coronation oath argument and that he did communicate it to the king, he probably did not originate it. That sort of elaborate ratiocination was not his style. Hitherto he had relied on the simple, blood and thunder imagery of Papist revanche and massacre. John Foster, in many ways a more effective practical politician, had presented a version of it in his speech on the Catholic bill of 1793.[76] Charles Agar of Cashel also took a keen interest in this line of thought, and he may have been responsible for one of its first public appearances in the *Freeman's Journal* of 10 October,1792. That edition included a paragraph claiming that the king would violate his coronation oath if he agreed to the Catholic franchise. Agar had

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7 5 APW Malcomson, *John Foster: the Politics of the Anglo-Irish Ascendancy*, (Oxford, 1978), p. 425

7 6 *An Accurate Report of the Speech of the Right Honorable John Foster, Speaker of the House of Commons* (Dublin, 1793), p. 18

protegees at the *Freeman's* and it is possible that he suggested the idea, or that he wrote the paragraph himself.[77] In addition, he seems to have been developing the argument on his own, if an elaborate sketch in his private papers is any indication; it is heavily scored and marked over, which suggests a man laboriously collecting his thoughts, not copying from another source.[78] Despite their uneasy relations, FitzGibbon may well have consulted with Agar to refine and reinforce his own ideas on the subject.

Nonetheless, where he fell short in theoretical originality, FitzGibbon certainly excelled in the mechanics of intrigue. He set up an elaborate network to communicate his borrowed ideas, making use, not only of Auckland, but of a very willing John Beresford and of Lord Loughborough, the English lord chancellor.[79] It is important to emphasize, not only his plagiarism, but his timing: FitzGibbon seems to have done much of this meddling with the King's conscience *after* Fitzwilliam's departure. Both Portland and Pelham, some weeks after Fitzwilliam's recall, made exasperated note of FitzGibbon's communications with the King.[80] Fitzwilliam, who had wanted so badly to dismiss FitzGibbon, would assuredly have been the first to complain had he suspected any such closet intrigue on the part of the lord chancellor.

On the whole, FitzGibbon seems to have tried to maintain reasonably civil and straightforward relations with Fitzwilliam, as indeed, he would. As a lover of office he was hardly likely to put it at risk. Fitzwilliam did not return the favour. To his mind, FitzGibbon's position as chancellor was all the more galling, as he could not take direct initiative in getting rid of him. In consequence, he resorted to more indirect means of undermining FitzGibbon's reputation and his powers. Most significantly, he took issue with FitzGibbon's manner of appointing magistrates, a major area of patronage for the lord chancellor, as this position, while comparatively lowly bestowed great influence and

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77 My evidence of Agar's connection with the Freeman's is admittedly retrospective. During the Aldborough affair, the printer of the *Freeman's*, one Robert Ross, appealed to him to answer Aldborough's frivolous charges of libel and misrepresentation. *Normanton Papers* , PRONI/T3719/631/10 But the very fact that Ross would have contacted Agar suggests friendship or patronage of some standing

78 PRONI, Normanton Papers, T3719/C29/6; Cashel to Westmorland, 2 March, 1795 (draft); for a fair copy of same, see T3719/C29/7

79 For an excellent account of FitzGibbon's use of English contacts to spread the gospel of the Coronation Oath see Malcomson, pp. 424-7

80 BM Add MS 33101/f2159/12, P[ortland] to Pelham, 12 March, 1795 "I cannot but inform you for the purpose of putting you on your guard that we have learnt from the most unquestionable authority that a correspondence has been carried out, or at least letters have been written by Lord FitzGibbon to the King (to whom they have been delivered by Lord Westmorland) with a view and with more effect than could be wished to prejudice his mind and *to alarm his conscience* against the concession to the Catholics." For Pelham's response, dated 30 March, 1795, see HO 100/57/37-8: "The different correspondences that subsist between individuals in this country and in England is beyond all belief."

prestige. Fitzwilliam's claim that FitzGibbon "takes the casual Recommendation of any man who is so good as to give it" was a crude attempt to get rid of FitzGibbon on other political grounds, apart from the Catholic issue.[81] In addition, Fitzwilliam seems to have encouraged old enemies of FitzGibbon in the press and at the bar to act as his proxies. An editorial in the *Hibernian,* which portrayed FitzGibbon as a pimp, a lecher and a sadist, who delighted in the flogging and hanging of the hapless poor, was so crude and embarrassing that Fitzwilliam felt obliged to make a public disavowal and apology to FitzGibbon.[82] But according to Cooke he did offer his patronage to one Hoare, "who had written the abusive Pamphlets against the Chancellor", as well as to a man whom FitzGibbon had refused to make King's Counsel.[83]

In the renewed partisan warfare that followed, all ambiguity, all evidence in FitzGibbon's favour disappeared from consideration. Fitzwilliam became the upright hapless victim of an evil junto led by FitzGibbon and the Beresfords. The popular press lapsed into frightened quiescence after the brief renaissance of scurrility under Fitzwilliam, but the twenty-year propaganda war against FitzGibbon still raged in the form of ephemeral broadsides. One such production took the form of a parody of the creed:

> I believe in the Holy Earl of Clare, in the Holy Orange Lodges, in the Communion of Commissioners, in the forgiveness of sins by acts of indemnity, in the Resurrection of the Protestant Ascendency and Jobbing Everlasting Amen.[84]

Another neatly distilled every possible propaganda point against FitzGibbon, from his low, turn-coat Popish ancestry, to his supposed pimping for Westmorland, to the supposed unchastity of Anne FitzGibbon:

Oh my Jacky, my Jacky
Hey my Jacky, my Deary
Such a damned peevish Kitten
Is neither far nor neary
Then have they vex'd my child
And have they made him pout
Get agan naughty Fitzwilliam
That threatened to turn him out
And are the Papist so mad
To throw stones at my Jacky's gold chariot?
Is it because that his Dad

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8 1 HO 100/46/263, Fitzwilliam to Portland, 10 January, 1795

8 2 The editorial appeared on 14 January, 1795; for Fitzwilliam's apologies, conveyed through O'Beirne, see Chatham Papers, 30/8/110, Beresford to Auckland, 19 January, 1795

8 3 Westmorland Papers, Carton 1/f127, Cooke to Westmorland, 13 January, 1795

8 4 ISPO, Miscellaneous Papers, IA-80-6

Forsook them like Judas Iscariot?
Jacky is grown so big
That all other Babys [sic] he scorns
And Jacky now wears a big wig
To cover his long pair of horns
And Westmorland was such a good boy
In making my Jacky an Earl
And when he comes back here again
My Jacky will get him a girl.[85]

The popular feeling against FitzGibbon took a more violent turn on the day Lord Camden arrived in Ireland. As he was returning from the reception and ceremonies at the Castle, a mob armed with paving stones attacked his carriage. Although he tried to protect himself with the purse containing the great seal, a stone struck his forehead.[86] A great deal of FitzGibbonesque self-dramatization surrounds this particular episode. Arabella Jefferyes' largely fictional account has already been recounted, while FitzGibbon himself claimed that he had only narrowly escaped death.[87] His enemies, on the other hand, tended to minimize the damage. According to Charlemont, FitzGibbon had suffered a minor graze from some "blackguard" boys who were taunting him.[88] The truth seems to have been neither a melodramatic escape from near death nor a minor street comedy. Camden, a sympathetic, but reasonably detached witness, records that FitzGibbon did suffer an injury from the mob, but the wound was not of such magnitude that he was unable to attend a levee the following day.[89] A man by the name of O'Brien was later arrested for participating in the riot, and some attempt was made to identify him as FitzGibbon's attacker. Rather than retire in lofty dignity and let the law take its course, FitzGibbon, displaying again his habits of self-dramatization and vindictiveness, personally interrogated the man. To judge by his own account, he resorted to subtle intimidation to extract a confession from O'Brien; he told O'Brien that he had received information from one of the Aldermen which strongly suggested his guilt and which would lead to his "infallible conviction." O'Brien insisted on his innocence, and at his trial FitzGibbon had

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85 Normanton Papers, T3719/C29/45, p. 2; however much they may have agreed on the issue of Protestant supremacy, it would appear that Cashel detested FitzGibbon, since he kept a copy, not only of this poem, but of George Nugent Reynolds' famous philippic. (T3719/C29/45, p. 1) No doubt after aggravating Privy Council meetings with FitzGibbon, his Lordship perused these in his private hours with much pleasure.

86 HO 100/57/41-44, Camden to Portland, 1 April, 1795; HO 100/57/45-46, Pelham to King, 1 April, 1795

87 *Beresford II*, p. 103, FitzGibbon to John Beresford, 18 April, 1795

88 *HMC Charlemont II*, p. 259, Charlemont to Haliday, 2 April, 1795

89 HO 100/57/41-44, Camden to Portland, 1 April, 1795. Camden did, however, repeat FitzGibbon's claim that if the stone had not come in a "slanting direction" the would might have been fatal.

to admit that he could not "from his knowledge, say the traverser was one of the rioters."[90] Habits of legal scrupulousness prevailed ultimately prevailed over his habits of vindictiveness.

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90 An account of O'Brien's trial and of FitzGibbon's testimony appears in the *Hibernian Journal*, 10 July, 1795

(i)

The new government was in a delicate position. They faced not only restive, bitter Catholics and a newly revived opposition, but suspicious, truculent Protestants. Nonetheless, the government quickly went to work to re-assert the status quo, not only by restoring the old power group, but by giving them additional recognition and honors, and by adopting most, if not all of their particular political agenda. First and foremost, the new administration went to work to defeat the Catholic bill. Even with the drastic shift in government weight and prestige, it was a closer vote than Camden would have liked. He apologized to Portland about the large margin of votes in favour of Catholic emancipation, and attributed this residue of support to past promises.[1] At the same time, Camden's administration, in keeping with its instructions, tried to coat this pill of rejection with a show of generosity and moderation in other matters. The government hurried through the bill establishing Maynooth on the heels of the rejection of the Catholic bill.[2] Camden also cajoled Foster and FitzGibbon into abandoning resolutions which they wanted to introduce into their respective legislative fiefs of Commons and the Lords. The resolutions in question asserted the eternal inviolability of the Protestant Establishment in Church and State and the perfect state of freedom which Catholics presently enjoyed.[3] Camden certainly wanted to maintain the Protestant establishment, if not forever, at least so long as it served the interests of the government in London. But he shrank from the arrogant triumphalism implicit in FitzGibbon's and Foster's resolutions. Fortunately for him, Foster and FitzGibbon felt secure enough in victory to dispense with embarrassing celebratory displays. With the Whig opposition, Camden and Pelham adopted a similar stance of evasion and conciliation. After engineering the defeat of Grattan's Catholic bill, they met other opposition initiatives with either silence or with strategic retreat. Efforts to discuss Fitzwilliam's recall, or the subject of the union all met with resolute silence on the part of the government.[4] In a similar spirit, the new administration made no attempt to

1 HO 100/57/249, Camden to Portland, 5 May, 1795

2 HO 100/57/123-6, Camden to Portland, 14 April, 1795; HO 100/57/127 (list of trustees of college); Ho 100/57/129 (draft of Maynooth bill)

3 The evidence on the point of the resolutions is maddeningly contradictory. Camden submitted the proposed resolutions to Portland for his approval, and initially seemed dubious, but willing to allow them to be moved and discussed. (See HO 100/57/148-9, Camden to Portland, April 1795; for the resolutions themselves see HO 100/57/150-1) But he soon changed his mind, if the evidence of his letter of 4 May, 1795 is any indication. He alludes to "my discouraging the resolutions" (HO 100/57/245-6) Pelham was certainly favorable the resolutions. He seemed to think they were essential to end years of enhanced expectation among the Catholics as well as to calm the fears of Protestants. HO 100/57/152-3 Pelham to Portland, 20 April, 1795

4 HO 100/57/169-70, Camden to Portland, 22 April, 1795

block the repeal of the police bill, once such a source of contention, or to interfere with the inquiries into the Commission on Wide Streets, the aim of which was to discredit John Beresford, by establishing his alleged dishonesty in the awarding of building contracts.[5] The government even went so far as to confirm the Duke of Leinster in the office of Clerk of the Hanaper, asking only his neutrality on the momentous questions.[6] As they pursued this combined programme of retraction and resilience, Camden, Pelham, as well as various other government men such as Lees, sent self-serving letters assuring London of the peaceful apathy which pervaded the country.[7]

The avowed aim of the new government was to restore the mystique of the English government as a force,which preserved the political monopoly of Anglicans, but in all other respects maintained impartiality and fairness to all religious parties. Unfortunately, the Camden administration quickly replicated the dismal pattern of all its predecessors: it was headed by a well-meaning but limited young aristocrat dominated intellectually and emotionally by FitzGibbon. Camden's readiness to take up the cause of FitzGibbon's peerage demonstrates the startling speed with which FitzGibbon was able to establish his hegemony. Within a month after his arrival, he, like Westmorland before him, was pressing the government to grant FitzGibbon an advance in the peerage. He displayed some diffidence on the subject; he seemed aware that FitzGibbon was, to say the least, a controversial figure, and any display of favour to him might undermine the government's desire to sooth the wounded, agitated feelings of Whigs and Catholics.[8] But he argued that the measure was perfectly in keeping with FitzGibbon's "high professional character" and with the government's policy of equity. Yelverton, who was notoriously favorable to the Catholics, was in line for a peerage. It seemed only just "that a mark of the King's favour should be shown at the same time to a person who has always pursued a different line upon these Questions."[9] The Protestants, Camden argued further, "are in want of every encouragement, for in consequence of what has passed for the last two years and of

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5 HO/100/57/21-28, Pelham to Portland, 30 March, 1795; HO 100/57/57-81, Portland to Camden, April 1795

6 HO 100/58/63-64, Camden to Portland, June, 1795

7 See for example HO 100/57/247-8 and 249, Camden to Portland, 5 May, 1795; Pelham made the slightly more pessimistic comment "The force that is in this country keeps it quiet, tho it does not prevent occasional meetings and swearings of Brothers and defenders, not do I think that anything will secure the peace of the country but some continued and regular system for the better administration of justice." HO 100/58/99-100, Pelham to Portland, 28 June, 1795; for Lees' comments see NLI, Townshend Papers, 394/170/23, Lees to Townshend, 9 May, 1795 "All in Peace and Order here."

8 HO 100/57/243-4 Pelham reported Camden's feelings to Portland, 3 May, 1795

9 HO 100/57245-6, Camden to Portland, 4 May, 1795

my discouraging it [FitzGibbon's and Foster's resolutions] they are hardly yet persuaded government is in earnest upon this measure" [the prevention of future Catholic concessions] Moreover, FitzGibbon's sufferings at the hands of the mob made him a worthy object of consideration.[10] After some delay, the English government granted Camden and presumably FitzGibbon their dearest wish. FitzGibbon acquired the title by which he became most notorious, the Earl of Clare. His accession to a higher grade of the peerage was marked with dinners at Ely Place and summer invitations to Mount Shannon. In effect the beginning of the Camden administration marked the plenitude of his power. The Whigs and Catholics were in disarray, and the resurgence of the Defenders and of the United Irishmen, while disturbing, seemed as yet amenable to the usual tactics of repression. In short, there appeared to be no significant challenges either to his power or to the power of the Protestant oligarchy.

Nonetheless, FitzGibbon's hegemony did not go unchallenged, even at its apogee. There were voices of doubt and resentment, both in Dublin and in London. The most surprising and unexpected of the doubtful voices belonged to the chief secretary, Pelham. He was not entirely antagonistic to FitzGibbon. He added his voice to Camden's in requesting a further elevation in the peerage.[11] But unlike Camden, he did occasionally venture a criticism of FitzGibbon. As noted before, FitzGibbon's communications with the king on constitutional law exasperated him.[12] He does not seem to have had any personal grudge against FitzGibbon

Pelham objected to FitzGibbon's communications with the king because he more than anyone else took seriously the mission of the Camden administration to remain above sect and above faction. He did not want Castle men drawing the King into their party quarrels, any more than he wanted the Catholics and Whigs to exploit their various partisan ties.

This same distaste for factional antagonism made Pelham seriously propose the dismissal of Beresford. Again, no personal vindictiveness prompted this suggestion. On the contrary, his own brother was married to Beresford's niece. But to his mind, Beresford, whatever his personal or public merits, had become such a focus of partisan hatred that in the interests of peace, if not of strict justice, he should be dismissed with suitably handsome remuneration. [13]. Whether Pelham ever raised the issue of the closet

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10 Ibid.

11 HO 100/57/243-4, op. cit.

12 HO 100/57/37-8, Pelham to Portland, 30 March, 1795, op. cit.

13 HO 100/56/467-9, Pelham to Portland, [written shortly after Pelham's arrival in late March 1795 and

communications with FitzGibbon himself remains unknown. Apparently he either refrained or he framed his objections with masterful tact, as no denigration of Pelham appears in FitzGibbon's surviving correspondence.

On a more serious level, efforts to remove FitzGibbon from power revived in 1797. The initiative came from a predictable quarter: one French Laurence, who was an intimate of Edmund Burke. Laurence contacted Fitzwilliam who of course agreed that FitzGibbon's objectionable presence in government was at the bottom of Irish discontent.[14] But Laurence did not confine himself to the usual partisan suspects in pursuing this scheme to oust FitzGibbon. He also contacted William Windham, an English MP, much admired for his integrity and independence. According to French, some extracts from FitzGibbon's no-popery speech of 1793 convinced Windham of "the impossibility of doing anything through the present men in Ireland." [15] Laurence went further afield and sounded Lord Carlisle and Sir Walter James, a relative of Camden himself. Even these otherwise sympathetic men thought it desirable to remove FitzGibbon, if such was the price of peace in Ireland. This admission was particularly startling in Carlisle, since, by his own admission, he looked upon FitzGibbon as a *protege*.[16] Nonetheless, Laurence's initiative came to nothing, for the same reason that had stood FitzGibbon in good stead throughout his career: there were no suitable alternatives, only a much travelled mediocre careerist, Serjeant Adair.[17] Burke, who had so many reasons to detest FitzGibbon, admitted as much. Burke also made the amazing admission that FitzGibbon, as a bigot and a reactionary, was in fact, "less mischievous" than Foster.[18]

(ii)

It is not necessary for the purposes of this work to give a full account of the complex horrors of the late 1790's. Other, better historians have already covered that ground capably and thoroughly. The biographer of FitzGibbon has a comparatively simple task:

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dated simply Tuesday night]

14 *Burke XI*, pp. 349-353

15 Ibid., p. 350

16 Ibid., pp. 297, 350

17 Ibid.

18 Ibid., p. 355 FitzGibbon never seems to have come to a similar grudging respect for his long-time adversary. He spoke with considerable contempt of Burke in his letters to Auckland. In a letter dated 23 March, 1798, he felt obliged to apologize for a burst of marginal obscenity in a copy of one of Burke's pamphlets which he forwarded on to Auckland. (*Auckland III*, p. 394) In fairness to FitzGibbon, he always appeared at his most unlovely in his letters to Auckland. More creditable, kindly sentiments may have appeared in his lost correspondence.

relating his actions as the government's architect of repression and his speeches as the government's apologist of repression. Admittedly there is little or no direct documentary proof of FitzGibbon's role, if only because decisions at the Castle seem often to have been made in casual conversation, rather than through written memoranda. But framing acts of repression had consumed the chief part of FitzGibbon's career as a politician: he had set the pattern with the Police and the Whiteboy acts of the 1780's. It would have been extraordinary indeed if he had *not* taken the brutal initiative in the measures taken against the Defenders and the revolutionary, conspiratorial version of the United Irishmen which took shape after 1795. Moreover, the mere fact that he dominated Camden, as he had dominated Camden's equally good-natured and limited predecessors Westmorland and Rutland, lends credence to an overwhelming influence on policy.

Camden's papers contain a positive piece of evidence suggesting FitzGibbon's central role in the campaign of repression: a draft of a proclamation aimed at the Defenders in Connacht,which heralded Lord Carhampton's campaign in that district. The draft of the proclamation, framed by another of FitzGibbon's proteges, Attorney-General Wolfe, was certainly harsh enough. It gave the commanding officers the authority by an "immediate and effectual Exertion of Troops...to suppress the Tumults" In other words, the disturbed areas of Connacht were laid wide open to unlimited force by the military. In anticipation of one of the provisions of the Insurrection Act, it called upon all "his Majesty's loving subjects" to "keep themselves, their Children, Servants and Apprentices within their Dwellings , at Night." Any individual who was absent, with the exception of those "called forth to assist in preserving the Peace...may justly incur the Suspicion of being engaged in these dangerous associations." In other words, the proclamation made the assumption that all the inhabitants of Connacht were guilty of Defenderism, unless they proved their innocence each night by staying under lock and key at home.[19] FitzGibbon made some characteristic editorial changes, deleting excess verbiage in the opening preamble. He also strengthened Wolfe's implication that the inhabitants of the disturbed areas of Connacht would ultimately be held accountable *in toto* for Defender disturbances. Where Wolfe's original draft read that the inhabitants of Connacht, if discovered abroad at night, "may expose themselves to the Mischiefs which the further Continuance of such tumultuous proceedings may bring upon the guilty." FitzGibbon substituted "dangers" for "mischiefs" and emphasized that continued disturbances "must involve the Inhabitants of the Districts in which they have unhappily prevailed." Above all, he inserted the word

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19 TCD, Camden Papers, C183 (microfilm), FitzGibbon to Camden, 10 August, 1795

"traitorous" in all phrases referring to Defender activities. Where Wolfe had defined the Defenders' conduct merely as "lawless proceedings", FitzGibbon rendered them "traitorous, lawless proceedings". Again, where Wolfe alluded to "dangerous associations" FitzGibbon referred to them as "dangerous, traitorous associations." [20] The warning was clear: unless the inhabitants of Connacht either desisted from or avoided Defender activities, they suffer, not the usual punishments for disorderly conduct, whipping, fines and imprisonment, but death or transportation as traitors. Moreover, the military would not be overly precise about distinguishing the guilty from the innocent. Carhampton fully took advantage of the license which this proclamation gave to him. With grim euphemism, the government later referred to his campaign of devastation as "vigor beyond the law."

In a cover letter which he sent with his annotations, FitzGibbon was blunt to the point of ingenuousness in accounting for the changes: "If such a proclamation is followed up by military Execution in the disturbed districts, I have strong hopes that the unfortunate wretches who have been levied to disturb the public peace will be terrified into submission."[21] All the familiar elements of FitzGibbon's past policy were encapsulated in this remark: the assumption that the lower orders were too stupid and indolent to undertake a major rebellion on their own---they were necessarily "levied" by disaffected better elements---and the conviction that a consistent policy of terror would restore peace. The same spirit infuses the Acts of Indemnity, which protected both magistrates and soldiers from suits of complaints resulting from excessive force, and the . It is almost certain that FitzGibbon played the same part in framing these acts that he did in drafting the proclamation: clarifying, solidifying and above all, increasing the quotient of terror.

In addition to his legislative activities, FitzGibbon displayed an active interest in reports about lawlessness, and in one case at least, involved himself directly. He corresponded extensively with the re-instated Edward Cooke on the subject of a certain corporal Bourke or Burke. Bourke, a Limerick militiaman, had evidently come under the influence of the United Irishmen while stationed in the North. They had tried to use him as an agent to promote republicanism and desertion among his comrades. FitzGibbon offered to help Cooke entrap Bourke and obtain evidence from him. He was well qualified to do

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20 Ibid.

21 Ibid.

so, having a personal acquaintance with Bourke's family.[22] His motive was obvious. He wanted to protect his home county from the United Irish/Ulster bacillus. On a more squalid and pathetic level, he also intervened to see that one John Treacy, of Loughur, Co. Limerick, received his due reward for giving information against one Patrick Keating, who had evidently been administering oaths, though whether they were United Irish or Defender is unclear.[23] Like Peacham, he clearly believed that it was important to pay spies promptly.

Not surprisingly, considering his already mordant attitude toward Ulster, FitzGibbon regularly received Castle reports on the state of the North.[24] The news was not encouraging. In December of 1796, he informed Agar that the "rebels in the North are in my poor opinion more formidable than ever." The Insurrection Act, which had been passed at the beginning of that year, had momentarily "warned" the northern rebels into "a deceitful tranquillity", but they still retained large stockpiles of arms. FitzGibbon, sarcastically commented that the northern magistrates "wisely" refrained from confiscating these arms because "they say that the people remain quiet."[25] His own sense that the apparent peace of the north represented a lull before a well-armed storm undoubtedly prompted him to press for the forced disarming of Ulster, a policy for which he claimed the initiative and the credit in open parliament.[26] There is no reason to doubt his claim. It was characteristic, both of his policy and of his general attitude toward Ulster. No doubt he only regretted that a similar policy had not been initiated in 1783 or 1784.

FitzGibbon even appears to have managed his own personal network of informers; at any rate, he had enough contacts in the shadowy world of professional spies to recommend an agent to the English government. The man seems to have performed very satisfactorily; certainly Portland spoke very highly of his abilities and services and expressed an interest in employing him again.[27]

No evidence of suspicious conduct or disaffection was too trivial or absurd for his interest. Two incidents, one involving an itinerant priest and another involving a

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22 Rebellion Papers, 620/24/155, FitzGibbon to Cooke, 29 August, 1796

23 Rebellion Papers, 620/30/161, John Treacy to FitzGibbon 21 April, 1797; this folio also contains a report of the Privy Council dated 25 May, 1797, recommending that Treacy be paid L100

24 Rebellion Papers, 620/51/260; no date (1797?) FitzGibbon to Camden "The enclosed is a copy of a Northern Treasonable Dispatch, which has been just put in my hands. The Gentleman who gives it to me says that no time should be lost in apprehending the persons named and that on searching the house of those whose names are marked, great quantities of arms and ammunition will be found."

25 PRONI, Normanton Papers, C30/1, FitzGibbon to Agar, 16 December, 1796

26 *Freeman's Journal*, 21 March, 1797, Parliamentary Reports/House of Lords, 20 March, 1797

27 HO 100/75/325-7, Portland to Camden, 27 March, 1798

Portuguese masquerading as a Turk, resemble absurdist *opera buffa*. He came upon the priest on the turnpike road while travelling to Mount Shannon in the early autumn of 1796. He was an old Frenchman of destitute appearance, and FitzGibbon, apparently out of pity, "asked him a few question in his own language." As FitzGibbon related the incident, the turnpike keeper happened to overhear what may have been a very halting, mutually uncomprehending exchange and helpfully offered the information that the old man spoke both English and Irish. His suspicions aroused, FitzGibbon proceeded to "interrogate the gentleman somewhat particularly," which probably meant that he shifted from abrupt kindliness to the manner that so terrified Chancery barristers. During this interrogation, it transpired the man had come from Belfast, but he remained otherwise evasive: "He would not say where he had lived during that time, nor how or by what route he had come from Belfast." Other helpful bystanders, no doubt attracted by another self-created FitzGibbonesque drama, provided the information that the mysterious man had only recently celebrated mass for them in the English and Irish language. Finally the man did admit to some knowledge of English, which, according to FitzGibbon, he spoke "very intelligibly" His reticence, his past residence in Belfast, his evasiveness about his linguistic skills and possibly his status as a priest all prompted FitzGibbon to commit him to the gaol. In typical FitzGibbon fashion, he combined harshness with kindness, giving his prisoner the sum of five shillings for his immediate maintenance. He then gave Mr. Holmes (the local magistrate) instructions to confine the man until he gave "full satisfaction that he was really what he appeared to be, a miserable decrepid [sic] old beggar."[28] The ultimate fate of the old priest remains unknown. FitzGibbon made no other recorded mention of him, nor did Camden. It would appear that he sufficiently proved his misery and decrepitude to Mr. Holmes and went on his mysterious way. The whole action smacks of slightly absurd excess. FitzGibbon seemed incapable of entertaining the possibility that anyone, much less a Frenchman and a priest, could live in Belfast in perfect innocence. He also failed to consider that the French and the Republicans might have preferred to employ more sophisticated and less obtrusive spies than old mendicant priests. Finally, he never considered the effects of his own terrifying mien, which even today makes viewing his later portraits an unnerving experience. The old man may well have been contradictory and reticent because he was terrified out of his wits by FitzGibbon, not because he was concealing guilty knowledge.

The episode of the Turk was as trivial and silly, but FitzGibbon acted with the same

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28 The whole of this episode may be found in the Camden Papers, (microfilm C/183), FitzGibbon to Camden, 3 September, 1796

deadly earnestness. The man was a Portuguese who adopted an ingenious confidence scheme. In FitzGibbon's own words, "he was a mere imposter who, by letting his beard grow, and putting on a Turkish habit, meant to impose on the credulity of the natives", presumably by telling fortunes and doing minor magic tricks.[29] His suspicious appearance and questionably activities apparently led to his arrest in Nenagh, which in FitzGibbon's correspondence for this time appears to have been a hard town for misfits and outcasts.[30] For reasons obscure, he was removed from Nenagh and brought to Limerick City for interrogation. Manifesting again his extraordinary energy and his still more extraordinary habit of busy minuteness, FitzGibbon personally attended the interrogation. Since Portuguese was not numbered among FitzGibbon's linguistic accomplishments, two Limerick merchants undertook to interrogate the man.[31] FitzGibbon then ordered him to be returned to prison in Nenagh, along with instructions to the worthy Mr. Holmes"to have an eye to him" as well as to his female companion, who was arrested and imprisoned with him.[32] Mr. Holmes apparently decided he was essentially a harmless scoundrel and released the *faux* Turk along with his paramour. The man was soon arrested again in County Clare, not far from Mount Shannon. A laborer had informed the local magistrate that the Turk had prophesied that the French were coming to Ireland. FitzGibbon reported to Cooke that he was planning to ride over to the magistrate's house to "see that the Turk is safe", that is safely imprisoned.[33] Like so many of FitzGibbon's adventures, this one ends in frustrating obscurity. What transpired and what became of the Turk and his companion are unanswered questions. Though slight in itself, the tale of the Turks reveals FitzGibbon's relentless energy and his readiness to pursue subversion and disorder, even at the expense of his considerable stores of innate pride and common sense. There is a certain quality of *infra dig* in the spectacle of the Lord High Chancellor of Ireland acting the part of police magistrate, especially when the subject was so innately petty and pathetic. That a man so acutely conscious of his own dignity would participate in such a scene suggests FitzGibbon's profound suspiciousness and fear at this time.

FitzGibbon also took a minute interest in military matters. His letters from the period 1795-98, especially to Auckland, are full of critiques of various naval and military officers. In the aftermath of the failed invasion at Bantry Bay, he criticized "my friend"

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29 Irish State Paper Office, Misc. letters, 620/18/8, 19 September, 1796

30 Ibid.

31 Ibid., FitzGibbon to Cooke, 18th September, 1796; Camden Papers, C/183 (microfilm), FitzGibbon to Camden, 22 September, 1796

32 ISPO, Misc Letters, 620/18/8; FitzGibbon to Cooke, 18 September, 1796

33 Ibid., FitzGibbon to Cooke, 19 September, 1796

Admiral Colpoys for allowing the bulk of the French fleet to escape capture.[34] (Nonetheless, while he allowed himself the liberty of attacking Colpoys in private, he dutifully defended the actions of the British fleet when the subject came up for indignant comment in the House of Lords.)[35] The military too came in for harsh criticism . He dismissed Lieutenant-General Edward Smith, who commanded a detachment at Limerick, as a "gothick" and as a "mad Methodist". Another, Major-General Amherst, "utters more treason than any United Irishman." (Amherst may have suggested, as did many British officers, among them Sir John Moore, that the Irish lower orders had good reason to rebel).[36] Although FitzGibbon reckoned the Irish militia a fine body of men, he condemned the negligence of their officers.[37]

The premier military *bete noir* was assuredly Ralph Abercromby, who had ventured to criticize the military operations with the famous phrase that the army had "rendered itself formidable to everyone but the enemy." FitzGibbon's indignation knew no bounds; given his own personal advocacy of strong military exertion, he would have had little tolerance for any suggestions of moderation or limits to force. His anger against Abercromby was no doubt further encouraged by the reaction of Lord Abercorn. By this time, Abercorn had abandoned his flirtation with Catholic radicalism and had become an adoring intimate of FitzGibbon. As the presiding colonel of the Tyrone militia, he took Abercrombie's remark as a personal insult and threw over his command. Afterwards, he favoured FitzGibbon, as well as Camden, with a flood of indignant comments about the insult to his honor and to his name.[38] FitzGibbon in the meantime favoured Auckland with his own denunciations of Abercromby; among other things he referred to him as a "Scotch beast". [39] Abercromby soon paid the price for his blunt epigram. In the face of reactionary uproar, he resigned his command and was replaced by General Lake. Lake promptly adopted techniques more to the taste of FitzGibbon and his compeers.

FitzGibbon's interest in the state of the military was understandable. However harsh and comprehensive his legislation, he clearly recognized that Protestant domination and Protestant security ultimately depended on military force. Moreover, many of his

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34 Sneyd Muniments, FitzGibbon to Auckland, 2 January, 1797

35 *Freeman's Journal*, 19 February, 1797, Parliamentary Report/House of Lords, 17 January, 1797

36 Sneyd Muniments, FitzGibbon to Auckland, 11 January, 1797

37 Ibid., Same to Same, 2 January, 1797

38 For this absurdly self-important man's reaction or perhaps more accurately, over-reaction, see, for example, PRONI, Abercorn Papers, T2541/1K16/94, Abercorn to FitzGibbon, 26 March, 1796; he later retracted his resignation (Abercorn MS, D623/A/80/99, Abercorn to Camden, 1 May, 1798)

39 *Auckland III*, p. 395

remarks and judgments were quite sound. For example, he esteemed General Dalrymple, one of the most steady and capable officers in the regular forces in Ireland.[40] But it is possible that an element of frustration played into this interest. FitzGibbon seems to have liked the company of military men, quite apart from his rational concerns as a statesmen. Like his arch-enemy, Tone, he may have had an inclination for the military life, but abandoned these aspirations under paternal pressure. This speculation is not entirely fanciful. He certainly had the makings of a fine military officer: immense personal courage, decisiveness, ruthlessness and, at least in his youth, dashing good looks.

FitzGibbon's possible intervention in the Armagh disturbances of 1795-1796 offers a novel complexity in the otherwise dismal monotony of the pre-rebellion years. Indeed the nature of the struggle created an exquisite dilemma for FitzGibbon and for the government. The resurgence of Defender-Peep O'Day conflicts in 1795 had culminated in the defeat of the Defenders at Battle of the Diamond; the victors, were, to say the least ungenerous in victory. A wholesale campaign of expelling Catholics, whether or not they had any ties to the Defenders, ensued. The appearance of the allusive placard "To Hell or Connacht" frequently preceded the forced expulsion. The government naturally took an interest in these events. A good many Defenders were indeed going to Connacht, bringing their turbulent philosophy and their resentments to a barely pacified area. [41] To make matters worse, the Orange order had emerged, a more overtly political body with an ideology of extreme loyalty in opposition to the revolutionary messianism of the Defenders. The connivance of some sympathetic gentry in Armagh and the skillful propaganda of the United Irishmen convinced a growing number of poorer Catholics in Armagh and elsewhere that the government was not merely indifferent to their fate, but actively encouraging the Orangemen in their depredations. It was a belief which the Camden administration devoutly wished to eradicate, if only to avoid adding further recruits to the ranks of the United Irishmen and the Defenders. In fairness, there was a genuine desire on the part of Camden, at least, to act justly and to put an end to the attacks on the Catholics. His correspondence breathes an anxiety to prove in Armagh, if not elsewhere, that while his administration opposed Catholic emancipation, it was not unfriendly to Catholics.[42]

The government's response was an evenhandedness at once macabre and ludicrous. Attorney General Wolfe travelled to Armagh in person for the spring assizes of

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40 Sneyd Muniments, FitzGibbon to Auckland, 11 January, 1797

41 HO 100/65/89, Camden to Portland, 28 October, 1796

42 See for example PRONI, Gosford Papers, D/1606/1/1/182, Camden to Gosford, 19 January, 1795 and D1606/1/1/100B, Camden to Gosford, 7 November, 1795

1796. There, he "selected from a great number of cases before me two of the same nature and both of capital crimes, one in which two defenders were charged, the other in which three Orangemen were charged with taking arms by force out of dwelling houses" [43] The two Defenders, and two of the three Orangemen were convicted and condemned to death. Isaac Corry, who accompanied Wolfe to the Armagh assize, was full of optimism that the spectacle of judicial murder inflicted on Orangemen and Defenders alike would restore the loyalty and affection of the lower orders for the government:

> The circumstance of an equal number of each body being convicted at the outset, tho' at other times of little moment is at this period probably not without considerable effect. The Mob will take the equality of number as a more indisputable proof of the equality of justice than any other that could be given to them.[44]

In addition to judicial theater, the government also passed an act which allowed victims of sectarian attacks to apply for compensation.[45]

As was the case of all measures by the Camden administration, whether coercive or conciliatory, those directed toward Armagh failed. The violence reached a new peak in the summer of 1796, after Wolfe's essay in evenhanded punishment. Even Cooke, that hardened, cynical soul, was shaken by the violence in Armagh: his letter to Gosford on the subject was uncharacteristically fervid:

> My Lord-lieutenant learns with the utmost regret that the outrages still continue in the County of Armagh, that those persons who style themselves Orange Boys are persecuting the lower orders of the Catholics with great cruelty, burning and posting their houses and threatening the lives of those who employ them. Your Lordship will see the necessity of checking at once these disgraceful proceedings, of giving full protection to every description of his majesty's subjects, and of bringing to immediate punishment those who shall violate the law.[46]

The sequel to the story is dismally familiar. The United Irishmen and the Defenders flourished, whilst the Orangemen entered the ranks of the militia and the yeomanry in increasing numbers.[47] With the mounting tide of rebellion, all too many frightened gentry

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43 Rebellion Papers, 620/23/62, Wolfe to Camden, 1 April, 1796

44 Ibid., 620/23/61, Isaac Corry to Cooke, 1 April, 1796

45 HO 100/62/262-3, Camden to Portland, 13 October, 1796

46 PRONI, Gosford Papers, D1606/1/1/185A, Cooke to Gosford, 7 July, 1796

47 For appeals of United Irishmen to Catholics fearful of the Orangemen, see PRONI, Downshire Papers, D607/D/102, 16 July, 1796, Lane to Downshire. "That a flame may end and will burst forth is surely to be apprehended. The emissaries of the United Irishmen are astir in every quarter. When they apply to Catholics, they give them the alternative of taking the oath and being protected or of

and hard-pressed military officers were prepared to welcome men who at least were dependably loyal, however squalid and brutal their origins and past behavior. Simultaneously, Orangeism attracted adherents from the gentry and aristocracy. Even some of their past critics in the government adopted a more favorable attitude, notably Edward Cooke. In June of 1798, Cooke rather prematurely congratulated the government for the quiet in the North, and attributed this unexpected state of affairs to "the Popish tinge" of the rebellion in Wexford. He also credited the "formidable" force of the Orange yeomanry for keeping order.[48]

A letter from General Dalrymple shows how closely and how early FitzGibbon watched the situation in Armagh. In August of 1795, Dalrymple, who was stationed in Armagh, made a report to Pelham on the situation in that county. He painted a sorry picture of frightened Catholics preparing to take flight to America or Connacht and indolent, if not actively Orange, magistrates. He even complained that the government was insufficiently aware of the seriousness of the situation: "All this I have stated many times to the government, but no answers have I received. At this moment almost all are absent and business sleeps." According to Dalrymple, only one figure of note in government seemed prepared to listen to him and to recognize the dangers of the upheavals in Armagh:

> Lord Clare was with me, is master of the subject, and sees the confined state I am in, laws exist, but their explanation and execution are in the hands of those who approve not of them.[49]

FitzGibbon of all people would have found the situation in Armagh disturbing. The reports of indolent or partial magistrates affronted his most cherished belief that the gentry should protect the poor and maintain order. The fact that the attacks were on Catholics also touched a nerve. Much as he feared and hated them, he piqued himself on the lofty administration of equal justice and equal protection to them. It was obvious from Dalrymple's reports that Catholics in Armagh were getting neither equal justice nor equal protection. Also, FitzGibbon more than anyone else would have recognized the explosive implications of Catholics getting driven off their lands with the Cromwellian benediction "Hell or Connacht". No one was more troubled by Catholic resentment over past

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being burnt out and sent to Hell or Connacht" In other words, they suggested that without the protection of the United Irishmen, they would be at the mercy of Orangemen. See also Rebellion Papers, 620/24/161, Pollock to Colonel Ross, 27 August, 1797. For defenses of the Orangemen, see Rebellion Papers, 620/24/106, Thomas Knox to Pelham, 13 August, 1796

48 HO 100/77/21-22, Cooke to Wickham, 2 June, 1798

49 BM Add MS 33101/f2142, Dalrymple to Pelham, 9 August, 1795

dispossession. No one would have wanted more to put an end to lawless dispossession in an area already marked by the plantations of the seventeenth century. No one would have dreaded more the effect such dispossession would have had on United Irish strength in the north. Finally, although the troubles of 1795 took place largely in Anglican areas of Armagh, the Presbyterians bore the brunt of the blame in FitzGibbon's eyes. His prejudices against them naturally inclined him to portray them as habitual rebels. In this respect, or so he believed, they were as bad, if not worse, than the Papists. Moreover, he had long feared an alliance between Catholics and Presbyterians. To sabotage such a dread development, he seized any pretext, however dubious, to present the Presbyterians as the natural persecutors and enemies of Catholics. This mordant and highly distorted view was revealed most clearly in his famous speech to Lord Moira, where he blamed the Presbyterians for setting off the original Peep O'Day-Defender quarrels. At the same time, he minimized the equal provocations of the Catholic Defenders, again portraying them as the helpless dupes of the United Irishmen.[50] His absorbing interest in Armagh and his close association with Wolfe make it virtually certain that he suggested the double hanging strategy. No doubt he took particular pleasure in recommending the salutary execution of Presbyterians. In short, if disturbances persisted, it was not because of lack of zeal or secret favour for the Orangemen on his part.

FitzGibbon does not seem to have warmed toward Orangeism even in its respectable and Anglican manifestations. An exchange during his visitation at Trinity College Dublin is revealing. The subject of Orange societies came up when Whitley Stokes made the claim that a lodge existed in the college, and that the oath contained expressions of hostility, and indeed of murderous intent toward Catholics. One Moore, a student who claimed membership in an Orange Lodge, made the contrary claim that "There is nothing of hostility against the Roman Catholics in their oath. Its principal object is to express their loyalty and attachment to the constitution." [51] A copy of the oath provided by a Sizar Smith seemed to confirm Moore's testimony. The oath simply required prospective Orangemen to swear that they were not Roman Catholics.[52] Both Moore and Smith also added that there were no Orange Lodges within the college, though students did belong to extra-mural branches, either in Dublin or in the North. FitzGibbon waxed indignant at

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50 *The Speech of the Right Honorable John, Earl of Clare, Lord High Chancellor of Ireland on a motion made by the Earl of Moira, Monday, February 19, 1798* (Dublin and London, 1798), pp. 23-4 (This speech will be referred to as "Moira" in later citations)

51 PRONI, T237/2/f 20, (this document is a transcript of the examinations conducted by FitzGibbon and Duigenan at Trinity in April of 1798)

52 Ibid., f30

Stokes for his implications about the murderous nature of the Orange oath. In response to Smith's rather dubious claim that the Orangemen made it a point to "entertain no animosity toward any man on account of his religious opinion", FitzGibbon made the smug and equally dubious observation, "This is the great distinction of the Established Church."[53] He added "It was exceedingly improper in Dr. Stokes to make the observation he did yesterday to the contrary respecting the Orangemen, unless he was well-founded." [54] However, when another helpful Orange witness, Blacker, tried to provide a justification for his organization, FitzGibbon abruptly cut him short.

> Blacker: "It [the Orange Society] was founded for self-defense."
>
> Vice-Chancellor: It is unnecessary here to enter into any account of the origin of such institutions. If you consider yourselves as associates only in a learned seminary, you will be learned men, you will be religious men, you will be great men.[55]

When Blacker in response avowed on behalf of his fellow Orangemen that they were "resolved never to meet within the walls of the College, and to obey the statues in every respect, as far as we can," FitzGibbon laconically replied, "You are perfectly right."[56] Toward Moore, the other College Orangeman, he was still more explicit in his distaste: "However proper it may be to express your sentiments of loyalty, any association united by an oath is highly improper."[57] In short, FitzGibbon had no quarrel as such with basic Orange principles. They were his own. But he disliked the semi-conspiratorial feature of the oath, however loyal and peaceable;it smacked too much of the methods of the United Irishmen, the Defenders, and the uncouth prototypes of the Orangemen, the Peep O'Day boys. If he defended the oath against the implications of Dr. Stokes, it was mainly because the United Irishmen had made such a huge propaganda success by making similar claims about the murderous agenda of Orangemen. The visitation at Trinity offered him a last-ditch opportunity publicly to refute such fatally persuasive claims.

An exchange between Portland and Camden in the spring of 1798 more indirectly suggests FitzGibbon's coolness toward the Orange organization. In March of 1798, Portland reported to Camden that he had learned of the formation of an Orange Society in

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53 Ibid., f31
54 Ibid.
55 Ibid., f32
56 Ibid.
57 Ibid., f20

Ulster, consisting of 170,000 and purporting to defend "the King and our happy constitution." Under ordinary circumstances he would have been suspicious of such organizations, and of the fact that they were bound by a secret oath. Nonetheless, under the present circumstances, Portland thought it might be useful to harness this loyal force and use it to restore order in the South, if need be. The orderly deployment of Orangemen, he continued, would set a good example and serve as an inspiration to the well-disposed. Portland ended with these comments: "If this spirit shall have gone forth and can be managed and directed in the way which I have suggested for your Excellency, I shall most sincerely congratulate you upon it and consider it as one of the happiest and most fortunate events which has happened in the course of your administration."[58] Portland evidently seemed unaware that large numbers of Orangemen had already enlisted in militia and yeoman units. Similarly, he did not seem to recognize that the presence of avowed Orangemen in the forces of order served as a terror and a discouragement to Catholics. It was perhaps happier and more fortunate that Camden responded as he did:

> ...altho' it is possible they may be useful, if the disorders in this country should take a still more serious turn, at present any encouragement of them much encreases the jealousy of the Catholics; and I should therefore think it unwise to give open encouragement to their Party...[59]

Nonetheless, Camden added that it was "inexpedient" to suppress the Orangemen altogether, and he was perfectly happy to continue the unofficial array of Orangemen by encouraging their enlistment in regiments either of the regular army or of the militia.[60] Considering FitzGibbon's influence over Camden, it is difficult to believe that he did not have a hand in this response. It is particularly significant that Camden ended this letter with comments on the disaffection of even the most loyal Roman Catholics, who "wait with some hope that a Revolution in Ireland will restore them to those possessions and that consequence they have lost." [61] These remarks are so characteristic of FitzGibbon that they suggest a recent discussion on the subjects of Catholics and Orangemen. FitzGibbon was probably less concerned than Camden about offending Roman Catholics. Like Portland, the presence of an autonomous armed body bound by oath troubled him. But unlike Portland, he was not prepared to ignore their potential for disorder and subversion.

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58 HO 100/75/285-7, Portland to Camden, 24 March, 1798

59 HO 100/75/331-4, Camden to Portland, 29 March, 1798

60 Ibid.

61 Ibid.

Possibly, he saw disturbing parallels with the Volunteers. The Volunteers had started out in precisely the same way, as an organization of Protestants bound to defend the country and constitution from the French and from the Papists. His instincts for order and precedent, and his past troubles with the Volunteers, would naturally have inclined him to dislike the Orange organization. He preferred to pursue the Orange political agenda through the established organs of government, and to route Orange zeal into the existing armed services.

Throughout the pre-rebellion years, FitzGibbon continued to act in his accustomed capacity as the premier apologist for government. There was one curious exception: his silence during the debates on the Insurrection Act. Why FitzGibbon felt obliged to hold his peace about an act that was undoubtedly his creation is a mystery. In the past, he had positively relished affronting the sensibilities of Whigs, Catholics and other opponents. He may simply have felt that the act had enough support in the House of Lords to pass without any rhetorical effort from him. If such were his instincts, he certainly was right to follow them. The Insurrection Act passed through the Lords with near-unanimity and with the most feeble opposition.[62]

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As was often the case in FitzGibbon's political career, the activities and intrigues of the Whigs inspired his most notable efforts. The recall of Fitzwilliam had restored them to their usual position of marginal futility. Grattan, Ponsonby and their small parliamentary coterie, continued to pursue their chosen agenda of Catholic emancipation and parliamentary reform, with predictable failure and growing discredit. Many once sympathetic Protestants associated both with the terrifying specter of a United Irish secular and democratic republic, complete with redistributed land.

The situation of the English opposition, under the leadership of Fox, was equally desperate. Pitt's government still held firm, in spite of military setbacks and financial troubles. The disturbed state of Ireland offered the Foxite party, as it had in the past, a means of embarrassing a government from which they were frustratingly and seemingly permanently excluded. In March of 1797, Moira in the Lords and Fox in the Commons introduced resolutions calling on the King to "remedy the discontents which unhappily prevailed in his majesty's kingdom of Ireland" (Moira's words) and "to adopt such healing and lenient

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6 2 The debate on the Insurrection Act in the House of Lords appears in *Freeman's Journal*, 6 March, 1796; the debate itself took place on 3 March, 1796

measures as may appear to his majesty's wisdom best calculated to restore tranquillity and to conciliate the affections of all descriptions of his majesty's subjects in that kingdom to his majesty's person and government." (Fox's words) [63] Fox also defined the proposed healing and conciliatory measures as Catholic emancipation and parliamentary reform. The resolutions suffered inevitable and lopsided rejection. Few members of either house wanted to get embroiled in the thankless morass of Ireland. They readily grasped at the excuse offered by Pitt in the Commons and Grenville in the Lords, that it did not behoove the English parliament to intervene in the affairs of a sister kingdom.[64]

The following year, in February of 1798, Lord Moira took measures to answer the plea of Irish autonomy. He raised the subject again in the Irish Parliament, where he also had a seat. There he denounced the system of "coercion and severity...by which this kingdom is ruled." He then introduced yet another variant on his resolution of the previous year: "His Lordship, after commenting at much length on the efficacy of union in the present contest against France and the attainment of that union through the concession of Catholic emancipation and parliamentary reform, moved that an humble address be presented to his excellency the lord lieutenant recommending the adoption of conciliatory measures in place of those extraordinary powers which he had exercised and which Parliament had invested him."[65]

FitzGibbon inevitably rose to respond. It was but one more battle in his endless war with the Whigs on both "sides of the water". Indeed, he had been preparing for this encounter for a long time. He apparently anticipated some trouble from the Whigs even before Fox and Moira introduced their resolutions in the English Parliament. In January of 1797, during the opening of parliament, he alluded to the irresponsible opportunism of the Whigs and assigned to them a large share of blame for the present disorders:

> It was not, his Lordship said, to the petty traitors of the land alone, that a French invasion was to be ascribed and with which we have been threatened originated---it was the to the folly of the better kind of people in this country adopting an interest in British party politics, that we owe the treason of the United Irishmen, the subverting sympathy and the daring hopes of France---What have we to do with the parties which agitate British politics? What is it to us whether Mr. Pitt or Mr. Fox leads the Administration of England, let us confine our cares to our own country and labour to maintain indissoluble that connection with the sister Kingdom which Heaven has pronounced upon by every natural and social relation, and which I trust Heaven will forever preserve.

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63 *Cobbett's Parliamentary History XXXIII*, p. 127 (Moira), p. 155 (Fox)

64 Ibid.; for the entire text of the debate in the Lords, see pp. 127-139; for the debate in the Commons, see pp. 143- 165

65 *Freeman's Journal*, 20 February, 1798, Parliamentary Report/House of Lords, 19 March, 1798

> For a number of years, continued his Lordship, the members of a a disappointed opposition have endeavored to wound the administration by representing this country as discontented, through detracting from the strength and reputation of one part of the empire in proportion as they calumniated the other this was echoed by their friends here and at length gave birth to a species of legislators, who more artful and more wicked, would have made these *political hypochondriacs* subservient to the ruin of the country.[66]

In many respects, FitzGibbon was as disingenuous in his comments on Irish party politics as he was pompous in his appeals to Heaven. (Pious sentiments clearly did not come naturally to him.) From the start of his public career, he was as involved in party intrigues as any Whig, English or Irish. It mattered a great deal to him personally whether Mr. Pitt or Mr. Fox was at the head of administration, because Mr. Fox would have had no compunctions about dismissing him. As thin were his appeals to Irish autonomy. Less than three weeks before, in a letter to Auckland dated December 22, 1796, FitzGibbon had declared "I have long been of opinion that an union with the Parliament of England can alone save us."[67] But whatever his prevarications, he aimed at one ruthless, open purpose: to portray the Whigs in both England and Ireland as aiders and abetters of treason, if they ventured to criticize the campaign of repression, in whatever Parliament.

If he was indeed engaging in a preemptive strike against the Whigs, he not only failed, he suffered a measure of rhetorical defamation in return. In defending his resolution, Fox made the claim that "a regular system was then devised for enslaving Ireland". He then alluded to FitzGibbon as one of the devisers, and cited some remarks which FitzGibbon had allegedly made during the regency crisis: "A person of high consideration was known to say, that half a million of money had been expended to quell an opposition in Ireland and that as much more must be expended to bring the legislature of that country to a proper temper." [68] In actuality, or at least in the *Parliamentary Report*, FitzGibbon had made a grim jest rather than a corrupt threat. In the debate of February 25, 1789, Brownlow had expressed a fear that Buckingham would follow the precedent of Lord Townshend and prorogue Parliament prematurely to prevent passage of the proposed short-money bill. FitzGibbon had confirmed that Townshend had indeed issued an early prorogation, and when Parliament next met, a majority "voted him an address of thanks, which address cost this nation half a million of money." Presumably the £500,000 had been the sum required, in pensions and offices, to create the desired majority for

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66 Ibid., 17 January, 1797; Parliamentary Report/House of Lords, 17 January, 1797

67 This letter appears in the Sneyd Muniments.

68 *Cobbett XXXIII*, p. 143

government. FitzGibbon then stated, *not* that Buckingham's administration was planning to spend a similar amount of money, as Fox suggested, but that he hoped "to God that I shall never again see half a million of the people's money employed to procure an address from their representatives." [69] Fox's misrepresentation badly rankled FitzGibbon. He even went so far as to write a reproachful note to Fox, which he requested Lord Henry FitzGerald to deliver. This letter seems to have disappeared, but if his accompanying letter of explanation to Lord Henry is any indication, the tone combined aggrievement with avowals of his own honesty, priggish lectures on the fairness which one gentleman owes to another, and warnings about the dangers of such misrepresentations to the security of Ireland:

> "Will you excuse the liberty I take with you in requesting that you will be the bearer of the letter with which I trouble you. I have sent it to you under a flying seal that you may see it contains nothing unbecoming me to write, nor unpleasant, as I hope to you to communicate to your friend and kinsman, and therefore, when you have read it I shall thank you to close the seal then give it to Mr. Fox.
>
> My reason for troubling you is that, if explanation can be necessary for my writing to him upon the subject, you know me well enough to be enabled to satisfy him that I am neither such a fool or madman as to mean him offense or to proceed in the discreet spirit of my country to express anything like anger at what has passed. I do not think it is in his nature wantonly to injure or insult any man, much less one who is placed in the defenceless situation in which I stand. In this instance, he has certainly been misled into a statement highly injurious and dishonourable to me and most utterly untrue. All that I desire or expect of him is that in future, when he makes allusions so very personal to me, and in terms which cannot be mistaken, that he will have the goodness first to assure himself of the accuracy of his information.
>
> I might have hoped reasonably that my name would not have been held up as the avowed profligate who had publicly recommended a system of enslaving the Irish parliament, when I am conscious to myself that I never harboured, much less inculcated such an idea. If Mr. Fox knew me, he would know that I hate jobbing and jobbers and he will look back on my political life, he will find it hard to fix upon me any one act of jobbing or corruption. I have heretofore endeavored to preserve the connection between Great Britain and Ireland. How long their best friends may be enabled to preserve it I cannot say.[70]

What response Fox made, if any, is unknown. But the personal attack on him by Fox gave a new urgency to his response to Lord Moira. He knew that he had come to symbolize the forces of brutality and oppression. In defending the policies of government, he defended himself.

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69 *PR* (1789), p. 181

70 PRONI, De Ros Papers, D638/132, FitzGibbon to Lord Henry FitzGerald, 28 March, 1797

FitzGibbon's speech in answer to Lord Moira ranks in greatness with his speech on the Catholic bill of 1793 and his speech on the Act of Union of 1800. Certainly it was an eloquent and comprehensive apology. His basic argument was stark and brutal: the social order was collapsing and only the most stringent measures could restore peace. If the government failed to perform its most fundamental duty of providing security, then it would be responsible for far greater bloodshed that any currently taking place. In alluding to the disarmament of Ulster, for example, he declared:

> The Minister who issues such an order is deeply responsible for the act; if he does it wantonly and on light grounds he is highly criminal; but if the occasion demands such an exertion of authority for the preservation of the state, the Minister who withholds it is responsible for all the evil which may arise from such an act of timidity.[71]

FitzGibbon then took it upon himself to trace the origins of the present discontents. Elaborating on the theme which he had set forth in January of 1797, he blamed the present rebellion squarely on the disruptive activities of the opposition in both England and Ireland over the past twenty years:

> It has long been the fashion of this country to drown the voice of truth and justice by noise and clamour and loud and confident assertion; and since the separation of America from the British empire, where the noble Lord well knows some British politicians had successfully played a game of embarrassment against Lord North's administration, they had been pleased to turn their attention to Ireland as a theater of political warfare, and to lend their best countenance and support to every motley faction which has reared its head in this country to disturb the public peace for the most selfish and mischievous purposes." [72]

In other words, Whig faction had led to United Irish treason. The allusion to the activities of Moira's Whig associates during the American war was a particularly acute *ad hominem* dig: Moira was a distinguished veteran of that conflict. FitzGibbon would return to the uncomfortable subject of the American war again.

Having made the claim that the Whigs had set an example of disaffection, he held them up as proof of the failure of any policy of conciliation. He ran down the list of concessions that the British government had already made to meet opposition discontent: the opening of the West Indian trade in 1779, the constitutional concessions of 1782 and the Act of Renunciation of 1783. In this particular re-telling of Irish history, FitzGibbon

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71 Moira, p. 31

72 Ibid., p. 4

presented the rejection of the Commercial Propositions as the quintessential act of Whig factional perversity: not only did the generous concessions of the past fail to satisfy them, they wantonly rejected the substantial privileges which the English government had offered in a spirit of generosity and conciliation:

> This offer [the propositions] was wisely rejected by the Irish House of Commons, under a silly deception put upon the people of Ireland, who were taught to believe that the offer thus made to them was an insidious artifice of the British Minister to revive the legislative authority of the British Parliament, which had been so recently and unequivocally renounced; and under this gross and palpable deception,were the solid interests of Great Britain and Ireland, their mutual peace and harmony of indissoluble connection sacrificed in the House of Commons of Ireland on the altar of British and Irish faction. [73]

The Regency Crisis marked the culmination of Whig folly, and, FitzGibbon claimed, the fatal point at which selfish factionalism paved the way for outright treason:

> "I pass by the events of that disastrous period and shall only say that the intemperate, illegal and precipitate conduct of the Irish House of Commons upon that critical and momentous occasion, has, in my opinion, in all its consequences, shaken to its foundation our boasted Constitution and eminently contributed to bring this country into its present dangerous and alarming situation."[74]

From the Whig Club, it was only a short step to the evils of the United Irishmen. As FitzGibbon related the history of the 1790's, the United Irishmen were a more fatal and effective version of the Whig Club. They had succeeded where the Whigs had often failed and created a universal anarchy of violence and disaffection throughout Ireland. They had started with the Catholics. In 1793, FitzGibbon had chosen to portray them as bloodthirsty fanatics acting as the willing tools of the Pope and their priests. By 1798, he had learned the limitations of such rhetoric and he chose instead to portray them as essentially loyal, peaceable souls, willingly submitting to the steady direction of their gentry and aristocracy. Then the United Irishmen and their minions on the Catholic Committee intervened:

> The first object of this Jacobin institution was, to detach the Catholics of Ireland from a committee composed of the principal noblemen and gentlemen of their communion and to place them under the management of a Directory composed of men of a very different description. They saw that so long as the great body of Catholics were directed by men of rank and fortune and approved loyalty, their allegiance had remained unquestioned and that under such influence, it would be a

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73 Ibid., p. 13

74 Ibid., p, 17

> vain attempt to shake it.[75]

FitzGibbon then repeated the old charges of the Secret Committee of 1793: the new Catholic "Directory", having destroyed the influence of the nobility and gentry, incited their poorer co-religionists to "associate under the title of Defenders." FitzGibbon was a bit more coy in framing these charges than he was in 1793, but it was clear from his remarks that he remained absolutely and inviably convinced that the Defenders were the *enrages* of the Catholic Committee and of the Committee's ultimate masters, the United Irishmen:

> I will not say that this system of robbery and outrage which was struck out for an ignorant and deluded populace was first devised by the Catholic Directory: But your Lordships are in possession of full proof that some of the unfortunate men who were capitally indicted as Defenders in the Summer of 1792 were patronized and protected by them and that considerable sums of money were paid out of their stock purse to defray the expense attending the trials of some persons who were then convicted in the county of Louth.[76]

The "full proof" was, of course, the infamous letters of John Sweetman, who was, by 1798, every bit of the revolutionist FitzGibbon had more dubiously claimed in 1793.

Having aroused the disaffection of the Catholics to a satisfactory pitch, the United Irishmen corrupted the Dissenters by appealing to their favorite cause, Parliamentary Reform.[77] They also encouraged both Catholics and Dissenters to engage in volunteering.[78] Through these various well-coordinated activities, the United Irishmen had succeeded well and thoroughly in importing all the terrors of the French Revolution into Ireland.[79]

In the face of such a determined and ruthless revolutionary conspiracy, FitzGibbon maintained, any suggestion of conciliation was absolutely ludicrous. He provided a highly colored picture of rebel murder and atrocity, dwelling in particular on the assassination of magistrates. It is pointless to relate all of his anecdotal evidence. It served above all to buttress another of his central arguments: mere reform was not about to satisfy men bent on the destruction of all government and order. Only vigorous force could prevent the dreaded aims which the United Irishmen had cherished from the beginning: separation from

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75 Ibid., p. 19
76 Ibid., pp. 18-19
77 Ibid., p. 19
78 Ibid.
79 Ibid., p. 20

England and a democratic secular republic, which to FitzGibbon was tantamount to unthinkable anarchy.

He also maintained that the government, in exercising its necessary duties to restore order, had behaved with all possible restraint and moderation. In a statement that must have surprised many inhabitants of Ulster, he declared that Lake, in carrying out the disarming campaign, had acted "will all the moderation, ability and discretion which have always marked his character as a gentleman and an officer." [80] In what became one of the most notorious passages of his speech, FitzGibbon defended the the half-hanging of a blacksmith, who under the influence of near-asphyxiation, revealed the location of a store of pikes. FitzGibbon admitted the cruelty of such methods, but argued that it would have been crueller to allow the pike to fall into the hands of "banditti" who would have used them on their peaceful, law-abiding neighbors:

> Let me here request of the noble Lord to reflect on the number of probable murders which were prevented by this act of military severity and appeal to his candour and good sense, whether the injury done to society in putting Mr. Shaw [the pike making blacksmith in question] on the picket is in any degree to be put in competition with the injury which must have arisen in leaving two hundred pikes of his manufacture in the hands of the rebels and assassins of that disturbed district? I deplore as sincerely as the noble lord can do these necessary acts of severity, but the Executive Government was reduced to the painful alternative of using the force entrusted to it in defense of the King's peaceable and well-affected subjects of tamely giving them up to the fury of a fierce and savage democracy.[81]

FitzGibbon also resorted to clever *ad hominem* attacks to underline his point about the brutal, determined nature of the rebellion and the necessity of force. He alluded to Moira's own harsh actions in South Carolina during the American war; in particular, FitzGibbon revived the unhappy memory of Moira's summary execution of Isaac Haynes, an American officer who in violation of his parole had encouraged guerilla activities.[82] The point was, of course, that Moira had not always been an advocate of mercy and gentleness in the face of rebellion. He also made the claim that Ballinahinch, the main town on Moira's estate, "may vie in treason with the town of Belfast" [83] In short, if Moira spent less time dabbling in Whig intrigue and more time on his estate, he would see the extent of the rebellion and the necessity of force.

FitzGibbon strove mightily to prove that the government's acts of repression were

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80 Ibid., p. 33
81 Ibid., pp. 39-40
82 Ibid., p. 30
83 Ibid., p. 33

not only moderate and necessary, but absolutely even-handed. He dwelt with particular force on the sensitive subject of Armagh, which Moira had also raised in his denunciation of the Irish government. To him in particular, any implication that the government had encouraged the actions of the Orangemen was absolutely intolerable. His description of the events of 1795 and 1796 reduced them to a matter of United Irish intrigue and Orange excess. According to FitzGibbon, the violence in Armagh, was the result of the

> "wicked machinations of the Irish Brotherhood, and with unblushing effrontery represented by them as a government persecution instituted against the Northern Catholics. I will state the short history of this religious quarrel, and the noble lord will see the grievous indiscretion into which he has been betrayed upon this head of his accusation against the Irish government. Many years since, the Protestants in a mountainous district of the County of Armagh, associated under the appellation of Peep O' Day boys to disarm their Catholic neighbors who associated for their common defense under the title of Defenders. This feud however was soon composed and for years there was not a revival of it; but when the general system of robbing Protestants of their arms was established by the Irish Union, and the lower orders of Catholics, assuming their old appellation of Defenders, undertook this service, the Protestants formed under the appellation of Orangemen to protect themselves, and got the better of the Catholics; in so doing, they did commit many very grievous excesses, which I lament as much as the noble lord."[84]

If he blamed the United Irishmen for reviving the conflicts between Peep O'Day boys and Defenders, he put as great a share of blame on the gentry of Armagh, and in particular on the magistrates of that county, for keeping sectarian antagonism alive for their own electioneering purposes. In short, the bloodshed in Armagh was the fault of the United Irishmen, the magistrates, over-reacting Protestants and credulous Catholics, the fault of everyone *but* the government, which had tried throughout to restore order and to administer justice fairly.

Not only were the measures Moira proposed, Catholic emancipation and parliamentary reform, ineffectual in the face of widespread disorder, they were dubious in and of themselves. With regard to Catholic emancipation, FitzGibbon again maintained his judicious good manners and refrained from the excesses of his 1793 speech. He confined himself to constitutional abstractions: "...the altar was the pillar of the throne"; to undermine the Act of Supremacy and the other statutes which maintained the political monopoly of the Established Church would undermine the state itself. These acts could hardly be construed as harming the interests of Catholics; they already enjoyed the most perfect protection for their lives, liberty and property. The laws maintaining the establishment in church and state

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84 Ibid., pp. 23-4

"bind us all indifferently." [85] FitzGibbon did venture on the old ground of the dangers of allowing Catholics to exercise power in a Protestant state; nonetheless he framed these arguments with startling and effusive flattery for the Catholics themselves, at least in one account of his speech:

> No man in this country or out of it can entertain a higher respect for the Catholics of Ireland than I do---From this respect partly proceeds the fear that I would feel to admit them to these offices. I know the firmness of their religious attachments and that no conscientious Catholic can take or observe these oaths.[86]

His position had not changed one jot from 1793, but Moira, if he succeeded in nothing else, had forced him to play an unaccustomed role: the friend and admirer of the Catholics reluctantly forced by the clear dictates of the constitution to exclude them from parliament and office.

As for the demands for parliamentary reform, they were essentially pointless:

> ...experience has proved that in the midst of popular turbulence and in the convulsions of rancorous and violent party contests, the Irish Parliament as it is now constituted, is fully competent to all practical and beneficial purposes of government, that it is fully competent to protect this, which is the weaker country, against encroachment and to save the empire from dissolution by maintaining the constitutional connection of Ireland with the British Crown."[87]

As in 1797, FitzGibbon was not speaking in full candour. He had long since decided that the Irish Parliament was not competent to do anything, much less secure Ireland for the British Empire, and he was secretly anxious for its dissolution. But it would not have done, of course, to have revealed his own disaffected purposes. For purposes of the attack on Lord Moira, it suited him to play the part of constitutional champion, not only of the Church, but of the Irish parliament.

But FitzGibbon had not yet run out of arguments against Moira's proposals. Not only were his suggestions of doubtful constitutional value, granting them at this particular point would teach the lower orders a dangerous lesson: if they threatened enough, they could get what they wanted: "If we are to make such a precedent for the encouragement of

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85 Ibid., p. 59-60

86 This particular rhetorical flourish appears in the *Freeman's Journal*, 21 February, 1798; FitzGibbon did not see fit, however, to be quite so elaborately complimentary in the published version of his speech.

87 Moira, p. 63

rebellion, I beg of the noble Lord to say, where are we to draw the line?[88]

Finally, he made a masterful reversal of Moira's central premise, that the government, and by implication, FitzGibbon himself, was brutal and tyrannical. Moira and his fellow Whigs were by no means acting out of disinterested compassion for the suffering people of Ireland. On the contrary, they were cynically exploiting the ignorance and credulity of the Irish to re-establish the aristocratic tyranny that Lord Townshend had broken:

> If the noble lord wishes to know the genuine source of ostensible Irish grievances, he will be enabled to trace it to some of his political friends and connections in Great Britain and Ireland. The genuine source of Irish complaint against British government is, that they will not second the ambitious views of some gentlemen who claim an exclusive right to the public mind and to monopolize to themselves and their dependents the power and patronage of the Crown. The genuine cause of complaint against the British Cabinet is, that they will not suffer these gentlemen to erect an aristocratic power in Ireland which shall enable them to dictate to the Crown and the People, which shall enable them to direct and control the administration of Great Britain, by making the country of this government impracticable by any but their political friends and allies.[89]

In other words, the true champions of liberty and of the people of Ireland were in fact the government, and by implication of course, FitzGibbon. They were trying under the most difficult circumstances to restore order and to provide security to the law-abiding. The Whigs' seductive promises of Catholic emancipation and parliamentary reform masked their schemes to re-instate their own party tyranny.

Moira's answer was brief, if only because it would have been difficult indeed for even the most ready orator to have responded to such a flood of refutation, ridicule, and outright denunciation. He either had not seen FitzGibbon's letter to Fox or he had not been convinced by it, since he alluded once again to the famous remark about the £500,000.[90] FitzGibbon almost gleefully seized on Moira's comment, not only to establish his innocence, but his gentlemanly credentials as an Oxford scholar: "As to the transactions in Lord Townshend's time, he could have spoken of them merely from report as at the time they took place he was at the University of Oxford."[91]

FitzGibbon took great pride in his response to Moira, and he honored Pitt,

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88 Ibid.
89 Moira, pp. 66-67
90 Ibid., p. 69
91 Ibid.

Auckland and other of his English and Irish intimates with published copies.[92] In actuality, the speech probably did little to change opinions either way. He no doubt gave great assurance to fellow reactionaries who thought the United Irishmen, and the Catholics, whether Committee men or Defenders, should be hanged before they succeeded in guillotining or assassinating Protestant men of property. It appears to have had no effect whatsoever on the Whigs. On the contrary, if Lady Holland's journal is any indication, FitzGibbon's speech confirmed their own conviction of his shameless bloodlust. The Speech of the Honorable John, Earl of Clare, Lord High Chancellor of Ireland etc., etc. was known in fashionable Whig circles, simply as the "rope speech."[93]

FitzGibbon probably could have cared less what Lady Holland or any or her political or social intimates thought. But he could not maintain this air of lofty indifference when it became apparent that he had offended the premier Whig, the Prince of Wales. In ridiculing Moira's claims that he had publicly addressed his tenants and instilled in them a salutary sense of loyalty, FitzGibbon suggested that Moira had instilled, not loyalty to the king and constitution, but Whig partisan loyalty to the prince:

> ...he [Moira] says that he explained to his tenants in the town and its vicinity the horrors of republicanism, the many advantages of the Government and constitution under which they live, and above all, they he explained to them the splendid virtues of the heir apparent of the crown, that they all made to him the most unbounded professions of loyalty in which however, he would not have put implicit confidence if he had not observed the countenance of every man to whom he had addressed himself beam with joy and triumphant affection when he mention the name and the splendid virtues of his Royal Highness the Prince of Wales. Giving the noble lord full credit as a physignomist, I must conclude, if he will excuse me for a little professional pedantry, that the loyalty of his town of Ballanahinch is in *abeyance* during the life of his present majesty. [94]

It was a typical FitzGibbon *jeu d'esprit,* brutal and graceless. Unfortunately it could be taken, not only as a gibe at Lord Moira, but as an insult to the Prince. FitzGibbon inadvertently suggested not only that the Prince, as well as his Whig intimates, hoped to benefit from Irish disorder. In the wake of his supposed triumph over Lord Moira, FitzGibbon found himself in the humiliating position of offering apologies and explanations to the Prince through the good offices of Lord Abercorn.[95] Unfortunately,

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92 He complained to Auckland of the "beastly blunders committed in the printing office"; *Auckland III*, p. 395, FitzGibbon to Auckland, 23 March, 1798

93 Elizabeth, Lady Holland, *Journals I*, Earl of Ilchester, ed. (London, 1909), p. 131

94 Moira, p. 33

95 *Correspondence of George Prince of Wales III*, pp. 419-20

the Prince, upon receiving this communication, chose to consult Lord Moira, who was an intimate boon companion, but not a very detached or favorable judge. Not surprisingly, Moira made very harsh comments on Lord Clare's letter, his character and his veracity. While not magnanimous, Moira's sentiments were perhaps understandable: FitzGibbon had after all recently portrayed him a partisan intrigante. He did, nonetheless, encourage the Prince to make a non-committal, if not a conciliatory reply. He wisely saw that neither the Prince nor the Whigs could afford another imbroglio with a man who, however despicable, retained a large measure of power and influence and who had a positive genius for embarrassing them all.[96]

FitzGibbon himself seemed far more aware of his vulnerability than of his strength, to judge by the letter itself. Although he wrote with angry bravado to Auckland, complaining of the Prince's blind reliance on Moira, he did not forget that the King, while malleable, was also frail and aging.[97] He could not afford to alienate the Prince, if only because he could suddenly change from Lord Moira's dupe to the King of England. His letter, consequently was exceedingly long, and exceedingly abject, not to say cringing:

> But above all, I felt and earnest and anxious desire to relieve myself from the pressure of an imputation which lay heavy upon me, that I had been so lost to all sense of duty and decorum as to mention the name of your Royal Highness with levity and disrespect in the House of Lords of Ireland. Your Royal Highness will I hope believe me to speak with the genuine sentiments of my heart when I assure you that abstracted from every personal feeling for your Highness, I would cut out my tongue if it could give utterance to the feeling of disrespect for the family of my King. If I know myself, ingratitude is not among the vices of my nature, and surely I must be a monster of ingratitude if I were capable of treating your Highness with levity or disrespect in public or in private. I can never forget the unmerited attention with which I have been honored by your Royal Highness from the first day when I had the honor of being presented to you, and it will be the pride of my life to prove to the world that I feel most sensibly the duty by which I am bound to you. [98]

The letter makes for sad reading, if only because it suggests a fundamental lack of self-respect in FitzGibbon. Clearly, he shrank from no act, however degrading to himself or to others, to preserve his power from even the most remote threat, whether inflicted or self-inflicted.

On a lesser level publicly, but on a very serious level privately, he also offended his dear friend Lady Louisa Conolly. In giving an account of the rebellious savagery of the

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96 Ibid., p. 423, (letter no. 1343) Moira to Colonel J McMahon, 16 April, 1798

97 *Auckland III*, p. 395, FitzGibbon to Auckland, 23 March, 1798

98 *Correspondence of George, Prince of Wales III*, pp. 419-20 (letter 1340)

lower orders, he observed that even Lady Louisa Conolly, in spite of her many acts of benevolence, was living in a state of virtual siege at Castletown.[99] Lady Louisa's servants and tenants evidently took this as a slight on their loyalty and she in turn wrote to FitzGibbon, defending their conduct. His letter of response illuminated FitzGibbon's kindlier qualities. He assured Lady Louisa that his remarks about her servants had been misrepresented, and he had never intended to cast aspersions on them. He then requested her "in my name [to] set their minds at perfect ease on this subject." He closed with singularly gracious and eloquent expressions of esteem: "Be assured that I never can think or speak of you without affectionate admiration and that I am with the truest respect and regard always your Ladyship's faithful humble servant." [100]

As for the content, as opposed to the effect of the speech, it would be possible perhaps to fault FitzGibbon for over-simplification. The United Irishmen, while certainly as ruthless and as well-organized as he suggested, may not have been at the bottom of every rural outrage in the 1790's. No 18th century political organization, particularly no 18th century Irish political organization, could have exercised that degree of control and discretion. Though they certainly saw the advantages of an alliance with the Defenders, FitzGibbon's claim that the Defenders were little more than subordinate auxiliaries of the United Irishmen from the very start is open to some question. While fundamentally correct about the government's role in the Armagh business, as has been noted, he was not always judicious or careful in assigning blame. For his own cynical and prejudiced purposes, he let the Defenders off too lightly, and laid too great an onus of blame on both the Presbyterians and the United Irishmen. Even his portrayal of the Whigs is open to dispute. They were reckless and eager for office; they had indeed set an example of contentiousness and extra-parliamentary agitation that the United Irishmen and the Catholic Committee imitated with dangerous effect. They were indeed naive to believe that Catholic emancipation or limited parliamentary reform would have satisfied the radical aspirations of the 1790's. But FitzGibbon himself was as partisan as any Whig, as ruthless in grasping power as they were in seeking it, and as unscrupulous in promoting his own private agenda of a union. He also disregarded the genuine, if frequently wrongheaded and disastrous, idealism of Whigs such as Fitzwilliam and Grattan. Moira himself could scarcely be dismissed merely as a hypocrite and opportunist with a short memory. Toward the end of his life he governed India with great competence and benevolence. But however easy it may be to quibble with FitzGibbon's interpretation of history, it is impossible to doubt his

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99 Moira, pp. 22-3

100 PRONI, Peake Papers, T3048/B, FitzGibbon to Lady Louisa Conolly, 3 March, 1798

insight, his striking, if sometimes maladroit, turn of phrase and above all, his brave consistency. He never backed down and he never wavered, no matter how formidable his enemies, be they aristocratic Whigs, Catholics, United Irishmen.

As for the policy which he defended at such great length, it is pointless to tax FitzGibbon with brutality. He was the avenging angel of the British Empire, locked in eternal conflict with the forces of republican darkness, Catholic, United Irish, Defender, French and American. Any means, from mock hanging to martial law, were worth the end, the preservation of British and Protestant civilization in Ireland. There was no room in his moral universe for the possibility that violence and repression can easily consume and corrupt the ends they are supposed to preserve. Nor could he admit the possibility that the United Irishmen, or even the Defenders, in their crude way may have had legitimate criticisms of the established order. His rule was necessarily right. FitzGibbon was trapped not only by his own moral arrogance, but by the assumptions of his time. Pitt and his successor Liverpool were every bit as ruthless in their response to discontent, and Camden looked longingly at the harsh measures allowed by Scottish law.[101] It was simply a given that sedition and rebellion merited only the responses of coercion and force. It was left to the Whigs of the early 19th century to prove their point that judicious reform can silence discontent while leaving the structure of power fundamentally intact.

If it is foolish to have expected FitzGibbon to have transcended his personality and time, it is as foolish to claim, as Whig historians later did, that he engineered his policies of repression with the deliberate intention of encouraging a rebellion and with it an excuse for union.[102] His entire career was marked by a terror of disorder, by a sense of Irish history as a relentless and bloody cycle, with 1641 just a revolution away. He wanted a union as a protection against further upheaval; he would never have encouraged upheaval to obtain a union.

(iv)

FitzGibbon acted busily and vigorously up to the outbreak of the rebellion to root out Jacobinism and republicanism. In April, in company with Patrick Duigenan, he made his visitation to TCD. There he hectored a succession of cowed or defiant collegians into admitting their own or others' involvement in United Irish activities. In the process, he

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101 HO 100/75/162-9, Camden to Portland, 6 March, 1798 "[I] conceived it to be very fortunate that the Laws of that Kingdom [Scotland] are framed as to enable the Government to act with vigor"

102 The younger Grattan, of course, articulated this charge; see *Grattan IV*, p. 349

subjected his captive student audiences to a variety of his opinions on matters ranging from the insidious evils of necessitarianism to the value of evening lectures as a means of keeping impressionable youths out of mischief. His *modus operandi* was characteristic: he was lenient toward students who admitted to involvement in the United Irishmen, and more important, identified others. Toward those who chose to keep their counsel, or those, like Emmet, who defiantly refused to appear for interrogation, FitzGibbon was relentless. Not only did he order their expulsion, he announced his intention of writing to the chancellors of Oxford and Cambridge, providing a list of the student expelled and preventing the miscreants from infecting English seats of learning with their evil principles. It was a characteristic piece of over-reaction on FitzGibbon's part. It is doubtful that many of the students in question had the inclination or the religious background for Oxford or Cambridge.

The visit ended in the expulsion of 19 students. They ranged in age from 13 to 21; the greater number of them, seven in all, were sons of farmers; the next largest group consisted of the sons of "private gentlemen", followed in number by the offspring of merchants. The most notorious expellee, Robert Emmet, was the premier exception: he was the son of a physician. Religious affiliation was listed for only six of the students: five Roman Catholics and one Protestant. Nonetheless, it did not necessarily follow that students for whom no religion was listed were Protestants. George Keogh, the son of John of Catholic Committee fame, obviously was Roman Catholic, though no religious affiliation was listed by his name. To go by the very unsound criteria of name, family background and county of origin, the total of expelled students possibly came to ten Protestants and nine Roman Catholics. In effect, the students were typical of the United Irishmen as a whole, middling to well-to-do as far as income went, and fairly evenly divided between Catholics and Protestants.[103]

FitzGibbon thought the students he expelled were a very bad lot. (His own term for them was "pestilent".)[104] Yet it is impossible not to recognize and admire the fact that they were very brave as well. Those who refused their cooperation stood firm before threats, questions and verbal bullying that had broken more mature men in the courts and in parliament. At one point, FitzGibbon took it upon himself to remind John Browne of Belfast, "You know the consequences, Sir, of your refusal". Browne responded with true northern forthrightness, "If the consequence was instant death, I would not take the

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103 See the attached Appendix for a list of students expelled, their social backgrounds and their religious affiliation.

104 PRONI, Trinity Visitation, T3247/2/f76

oath."[105] George Keogh, who gave his age as fifteen, maintained his silence even when FitzGibbon gave him this sententious warning: "Think what must become of you in manhood, when at fifteen years old you have secrets in your breast which you are ashamed or afraid to reveal." [106] Little George was no doubt acting out of a contempt instilled by his father, not out of fear or shame.

FitzGibbon in contrast appeared throughout as a pompous bully, and sometimes as a ridiculous one. One Dogherty not only refused to reveal the name of a student who tried to recruit him to the United Irishmen, he also deprived FitzGibbon and Duigenan of the satisfaction of expelling him: "I am resolved to quit this country. I have no friend here. I will go to America." To which FitzGibbon responded, "You will never get forward there without money", a statement that as easily could have applied to Ireland as to money-worshipping America. [107] Probably the best that can be said in FitzGibbon's defense is that he was occasionally more moderate and conciliatory than Patrick Duigenan. For example, over Duigenan's strenuous objections, he permitted one student to keep his counsel about the names of his United Irish acquaintance, on the grounds that they were well known already. [108] He even had the grace, however briefly, to express his admiration for Dogherty's bearing, as well as regret at the necessity of expelling him.

But FitzGibbon went after bigger game than mere adolescent dabblers in rebellion. He expended much interrogatory energy on Whitley Stokes, a distinguished junior fellow and physician. He had already suffered FitzGibbon's attentions in 1797, when he testified before another Committee of Secrecy on the activities of the United Irishmen. Stokes had indiscreetly joined the United Irishmen at their foundation. According to his own account, he had left the society in 1792 and since that time had been "strictly a neutral man." [109] But FitzGibbon as well as his confederate attacked Stokes for keeping up contact with such United Irish unregenerates as Richard McCormick and Thomas Russell. Not only his personal, but his financial contacts with the society came under scrutiny. " Stokes at first balked at Duigenan's query, "Did you ever subscribe money to the funds of the Society of United Irishmen" :

> Dr. Stokes: I cannot answer that question. I am not obliged to answer questions that may criminate myself.

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105 Ibid., f18
106 Ibid.
107 Ibid., f62
108 Ibid., f70-71
109 Ibid., f13

> Dr. Duigenan: Sir, you are bound by your [sic] statutes to answer every question which your Visitors shall propose to you.
>
> Dr. Stokes: The oath ex officio is taken away by the act of King Charles II.
>
> Dr. Duigenan: That act holds only in England.
>
> Dr. Stokes: Lord Yelverton's act re-enacts in this country all English acts relative to oaths, but [sic] the act of Charles II relates to oaths. Therefore it is of force in Ireland.[110]

FitzGibbon intervened to warn Stokes that if he refused to answer questions, "it is our business to remove you." However, showing more tact and skill at cross-examination than Duigenan, he rephrased the question:

> Have you any objections to say whether you advanced any money to the United Irishmen since the year '92?[111]

Stokes was able to make the emphatic response: "I certainly did not since the year '92. " Unfortunately, Stokes was a bit hazy in his chronology: toward the end of the visitation, it was established that Stoke had contributed to the prison expenses of Oliver Bond and Simon Butler in 1793. Not only was the date incorrect, Stoke's charity had gone to a cause guaranteed to antagonize FitzGibbon [112]

Nonetheless, Stokes managed the amazing feat of convincing FitzGibbon that his contacts with United Irishmen after 1792 were on the whole brief and innocuous: he had contacted McCormick only to explain some testimony which he had given to the Committee of Secrecy, and he had acted as Russell's physician, not as his fellow conspirator. The warm testimony of Stokes's colleagues, as well as his activity in organizing a college yeomanry corps also stood him in good stead. If Stokes balked at answering questions, gentlemanly distaste for the role of informer, however inconsequential the information, as well as distaste for the tone of the proceedings themselves accounted for his reluctance, not guilty knowledge.[113] But he paid a high price for his moral fastidiousness, as well as for his early enthusiasm. FitzGibbon allowed him to retain his fellowship, but he placed harsh

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110 Ibid., f12

111 Ibid.

112 Ibid., f77

113 Tone's journal provides strong evidence of Stoke's dissociation from the later trends of the United Irish movement. He complained that Stokes was too afraid of bloodshed ever to act on his strongly radical convictions. *Tone I*, p. 41

restrictions on his future advancement:

> We have, therefore, determined that he shall have no pupils, nor be raised to the board of senior fellows for the space of three years. We have fixed on that period, that when we come down to our next triennial visitation, we may see whether he has abjured all intercourse with these traitorous associations and wiped himself clean as a person countenancing a system of treason for the subversion of the established government of this country.[114]

Stokes survived this ignominy to enjoy a distinguished career, and his son later made an even greater name for himself as a physician. But the impression remains that Stokes was punished less for his indiscretion than to set an example to the other tutors and fellows of the university. FitzGibbon, in effect, expected them to operate as unpaid spies, on the watch for any future indiscretion in their students, when they were not engaging in salutary evening lectures and assigning additional translations of Longinus and Tacitus, FitzGibbon's other recommendations for keeping young minds out of mischief.[115] If they were reticent or reluctant as was Stokes, their careers would suffer like his.

The newspapers, even the erstwhile opposition ones, reported that FitzGibbon left Trinity in triumph, cheered on by the purged and loyal student body.[116] No doubt, in some respects it represented a great triumph indeed to break any United Irish organization in Trinity, however rudimentary it appeared to be. Not only was Trinity the premier center of learning in the country and the school where future public men were formed, it was physically strategic. With some foresight, FitzGibbon recognized the danger of a band of collegiate United Irishmen seizing control of buildings so close to the Parliament and the Castle. But in light of the deluge that broke out less than a month later, the great purge of Trinity takes on an air of theatrical futility.

During the rebellion itself, FitzGibbon, like most members of the government, was confined to Dublin. Since the business of repression now lay exclusively with the military, and not with the parliament or courts, he was largely relegated to the role of correspondent and commentator. Auckland was the chief recipient of his accounts, though the problematic Malone correspondence contains some fugitive letters on the subject as well. As was his wont, he acted the armchair general and criticized Walpole's incompetence.[117] And of course, he gave a full account of the sectarian atrocities

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114 Ibid., f78

115 Ibid., f74-75

116 *Faulkner's Dublin Journal*, 24 April, 1798; *Dublin Evening Post*, 20 April, 1798

117 *Auckland III*, p. 436

committed by the Catholic rebels in Wexford.[118] Yet there is a curious quality of detachment in FitzGibbon's letters on the subject of events in Wexford, along with an absence of the rhetorical excess that sometimes marked his speeches on Catholic issues. He seemed to recognize that he had no need to resort to any device beyond simple narrative: the brutality of the rebels in Wexford proved his point about Catholic inveteracy and savagery as years of speechmaking never could.

Given FitzGibbon's own past attitudes, he ought to have been at odds with the Marquis Cornwallis, who arrived in July to replace the exhausted and discredited Camden. For one thing, Cornwallis did not fit the usual pattern of Pitt's viceroys, that is to say he was not an ignorant, inexperienced and intellectually modest young aristocrat. He was on the contrary, a mature and experienced man with a distinguished civil and military career. He endured service in the American war of independence, and most Americans remember him only as the losing general at the much over-rated battle of Yorktown. But American myopia and self-importance aside, his career in India as governor-general of Bengal is probably of far more significance. There, he won military victories over a far more formidable foe than General Washington, Sultan Tipoo of Mysore. He also promulgated an ambitious land reform scheme in Bengal, which was humane and ambitious in conception, if not always practical in application. As early as 1797, Pitt had considered sending him to that other troubled pole of empire, Ireland, but Cornwallis had refused, mainly because he disagreed with the central premise of Irish policy at the time, the denial of further political rights to the Catholics. He felt that without "very great concessions little if at all short of what is termed Catholic Emancipation", military coercion was futile.[119] The demands of 1798 put these disagreements in abeyance: nothing seemed more suited to the circumstances of rebellious Ireland than a lord-lieutenant who was also a capable soldier. In addition to his military experience, he brought qualities which had been absent from Irish government for many years: firmness, humanity, moderation and independence of mind. From the start he made it clear that he would not tolerate sectarian triumphalism or gratuitous attacks on Catholics. In both his official and his private correspondence, he insisted on attributing the rebellion to Jacobinism, rather than Catholicism, as had become the habit of the more rabid loyalists.[120] His determined fair-

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118 Ibid., p. 437; Prior, *Life of Malone*, pp. 249-50

119 HO 100/69/379-83, Portland to Camden, 10 June, 1797; Camden, in response, suggested that the demand for further concessions to the Catholics, was merely a ploy and that Cornwallis simply did not want to accept a subservient position. HO 100/69/412-17, Camden to Portland, 20 June 1797

120 HO 100/77 200-1, 28 June, 1798, Cornwallis to Portland, 28 June, 1798

mindedness inevitably enraged many loyalists, some of whom took to calling him "Croppy-Wallis".[121] Others attributed his leniency towards Catholics to concupiscence: according to one avid loyalist gossip: "Corny is snug at the Park [Phoenix Park] and... he has a *Papist* girl."[122]

FitzGibbon might have been expected to join, if not lead, the ranks of loyalist detractors. Yet by July, Cornwallis had come to the startling conclusion that FitzGibbon was "the most moderate and right-minded man among us." [123] Still more extraordinary was this letter, which Cornwallis directed to Portland in September of 1798:

> The principal personages here who have been in the habit of directing the councils of the Lord-lieutenants, are perfectly well-intentioned and entirely attached and devoted to the British connection, but they are blinded by their passions and prejudices, talk of nothing but strong measures, and arrogate to themselves the exclusive knowledge of a country of which from their own mode of governing it, they have in my opinion proved themselves totally ignorant.
>
> To these men I have shown all the civility and kindness in my power and have done for them all the ordinary favours which they have asked, but I am afraid that they are not satisfied with me, because I have not thrown myself blindly into their hands. With the Chancellor, who can with patience listen to the words *Papist* and *Moderation* , I have inevitably talked on all public points which have occurred...[124]

Much of what Cornwallis said of these unnamed "principal personages" could as easily have applied to FitzGibbon in his past career. He had been no stranger to passions and prejudices, his speech to Lord Moira had been a long series of variations on the theme of strong measures, and he too had frequently piqued himself on his superior knowledge of Ireland. And yet Cornwallis arrived in Ireland to find a soul mate of moderation and magnanimity.

In part, FitzGibbon's usual habit of ingratiating himself with the lord-lieutenant shaped the persona which he presented to Cornwallis. Unlike cruder, less intelligent reactionaries, FitzGibbon saw from the start that Cornwallis had come to conciliate, not to aid and abet the Protestants in their campaign of revenge against Catholic rebels. To retain his hegemony at the Castle, he adopted the same language of moderation. But it would be profoundly unjust and inaccurate to attribute his actions solely to his exquisite instincts for getting and keeping power. He also acted out of habits of mind that had existed long

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121 PRONI, Downshire Papers, D607/F/502, Robert Ross to Lord Downshire, 29 October, 1798

122 Downshire Papers, D607/G/15, 12 January, 1799, R. Johnson to Lord Downshire

123 HO 100/66/350-1, Cornwallis to Portland, 26 July, 1798

124 HO 100/78/352-4, Cornwallis to Portland, 16 September, 1798

before he came into contact with Lord Cornwallis. His view of the lower orders as the hapless stupid tools of "intelligent treason", while perhaps a degrading oversimplification, nonetheless made him merciful as well. He always preferred to blame and to retaliate against their leaders. Secondly, FitzGibbon felt himself in a position to afford mercy. He was convinced that after the rebellion, which to borrow Cooke's phrase, was largely of a "Popish complexion", the English government would never again seriously entertain either Catholic emancipation or any other reform that could undermine Protestant supremacy. Better still, the rebellion gave new credibility to his own secret radical agenda, the dissolution of the Irish parliament and union with Great Britain. Thirdly, FitzGibbon's keen sense of Irish Catholic historical memory may have inclined him to exercise moderation in the aftermath of the rebellion. The arbitrary and frequently unjust acts of retaliation following the rebellion of 1641, to his mind, had created a permanent sense of grievance that had contributed in large part to the rebellion of 1798. He wanted to avoid adding to the cumulative weight of historical resentment and thus to avoid future rebellion.

Such considerations prompted him to co-operate fully in a legislative campaign of amnesty. He enthusiastically cooperated in framing the so-called Act of Grace, which gave a free pardon to those rebels who surrendered their weapons and took an oath of allegiance. This act of grace was not comprehensive; if nothing else, such sweeping generosity would have outraged loyalists. In the initial stages of the legislation, FitzGibbon had left blanks in the clause for exceptions. The intention was to allow the beneficial provisions of the act of grace to go into effect as soon as possible, while allowing various magistrates, military officers and others with more extensive local knowledge to suggest exceptions. [125] But the English cabinet and in particular FitzGibbon's English counterpart, Loughborough, objected to giving assent to an incompletely drafted bill. [126] In response to these criticisms, FitzGibbon, presumably in consultation with Castlereagh, Cornwallis's chief secretary, Cornwallis himself, Cooke and Wolfe, added general categories of those exempt from pardon. Exceptions encompassed persons guilty of murder or conspiracy to murder solders, yeomen who either deserted or administered United Irish oaths, those having "direct communication or correspondence with the enemy", and those United Irishmen who had served as members of the executive, provincial and county committees, as well as those holding the rank of captain. Members of this last class of exception were offered the opportunity to surrender themselves by a certain date and go into exile, rather than face trial

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125 HO 100/77/315-16, Cornwallis to Portland, 30 July, 1798

126 HO 100/77/280-3, Wickham to Cooke, 23 July, 1798; for Loughborough's comments on the bill see HO 100/79/213-3, Loughborough to FitzGibbon, 23 July, 1798

and execution. Much correspondence was expended on the inclusion of United Irish captains in the list of exceptions to the general amnesty. Cornwallis took an almost apologetic tone as he explained to Portland why men who held what appeared to be a comparatively modest rank were excepted: "...I should not have inserted those who in the general organization of the conspiracy, received only the appointment of captains and who in most of the counties were men of very little consideration, if I had not understood that in some few counties these Captains were the leaders in the Mischief, and the most powerful agitators of treason." [127] But far more important than all this activity spent on determining exceptions is the reason behind it: Cornwallis and FitzGibbon wanted to present the parliament with a *fait accompli* in the form of a few broad categories of exemption. They dreaded above all the prospect of the Irish Parliament, in a revenge-minded fury, drawing up long and detailed lists of exceptions, based on the prejudices or private feuds of individual members. The strategy seemed to work: the act did pass with comparatively few rumblings, as both Cornwallis, and FitzGibbon himself had hoped.

Although the government expressed its intention to punish the ringleaders of the rebellion, their most singular act of mercy affected men of a very high rank indeed: the United Irish leaders in Leinster, notably Thomas Addis Emmet and William James McNeven. They had not had the opportunity to participate in the various rebellions that broke out in the spring of 1798. In March of that year, the government had arrested them and seized their papers.[128] Insofar as FitzGibbon was concerned, the arrests resulted in one of the more colorful and violent scenes in a life littered with assaults on his carriage and house, duels and challenges to duels. After the arrests of Emmet, McNeven and their confederates, FitzGibbon again confronted that commonplace of his political life, an angry mob, while enroute to a meeting of the Privy Council at the Castle. He displayed great bravery, and on a less edifying level, his full repertory of coarse language. Apparently, the display of a pistol rather than his inventive expletives eventually dispersed the crowd.[129]

The business of putting down rebellion in the field delayed any legal measures against the "Directory", but by July, the government had set into motion the grim

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127 HO 100/77/315-16, Cornwallis to Portland, 30 July, 1798; see also Castlereagh to Wickham, 30 July, 1798

128 HO 100/75/213-14, Camden to Portland, 12 March, 1798

129 Thomas Moore, *The Life and Death of Lord Edward FitzGerald II*, (London, 1831), p. 26; extract from the journal of Lady Sarah Napier: "By this time I heard from the *others* that all Dublin was in consternation on Monday morning, that upon the papers [belonging to the Leinster United Irishmen] being carried to council, the Chancellor was sent for *at the Courts* to attend it, that he dashed out in a hurry and found a mob at the door, who *abused* him and he returned the abuse by cursing and swearing like a madman. He met Lord Westmeath, and they went into a shop and came out with pistols and the Chancellor thus went *on foot* to Council."

machinery of prosecution. Oliver Bond, FitzGibbon's erstwhile judicial victim of 1793, was found guilty of treason and condemned to death in company with William Michael Byrne, adored by the United Irish hagiographers, Madden and Teeling, for his youthful courage and gallantry, condemned by the government as a renegade yeoman, one of the proscribed classes of United Irishman.[130] The condemnation of Bond in particular unnerved some of his fellow members of the United Irish directory. The 19th century hagiographers attributed the subsequent actions of the state prisoners to comradely feeling for Bond and pity for his wife and children.[131] Such considerations may have played a part, but more important perhaps, Bond's condemnation alerted the state prisoners to the government's earnestness and to their own danger. In an effort to avert the executions of Bond and Byrne and to prevent further prosecutions and death sentences, the prisoners approached the government with a proposal: in return for their testimony about their revolutionary and diplomatic activities, they would go into voluntary exile. In addition, their testimony was to have certain limits. They would testify only to their own actions; they would not implicate or testify about others. William James McNeven was especially anxious to initiate such negotiations, as there was much evidence of his negotiations with the French, another major category of hangable United Irish offense.[132] Arthur O'Connor was reportedly more reluctant, but he could afford the luxury of defiance.[133] He had already escaped the clutches of English justice at Maidstone, and the Irish government had far less of a case against him.

Cornwallis and Castlereagh were initially willing to consider the proposal. Nonetheless, their premier apostle of clemency and moderation, FitzGibbon, was at Mount Shannon, convalescing from his latest bout of ill health. In his absence, there was "no other of our political friends who was likely to have temper to hear even the statement of the question I sent." [134] A consultation with a group of law officers and judges, among them Carleton, Kilwarden, the Attorney and the Solicitor General and the prime serjeant, did not provide the sort of judicial detachment which Cornwallis had apparently expected. The response of Chief Baron Carleton, whom Cornwallis described as "a cool and temperate man", was highly influenced by the political climate and highly unfavorable: he

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130 Charles Hamilton Teeling, *History of the Irish Rebellion of 1798 & Sequel to the History of the Irish Rebellion of 1798* (reprinted, Dublin, 1972), pp. 297-299

131 See for example Teeling's reference to "the humane intentions of his fellow prisoners", p. 299

132 HO 100/66/350-1, Cornwallis to Portland, 26 July, 1798 "...Dr. McNeven (sic) might possibly be convicted."; See also *Auckland IV*, p. 38, FitzGibbon to Auckland, 1 August, 1798

133 HO 100/66/391-7

134 Ibid.

"gave his opinion in the most decided manner against listening to the proposal, and declared that it would have such an effect on the publick mind, and that he did not believe if Byrne and Oliver Bond were not executed, that it would be impossible to condemn another man for high treason."[135] He also added his conviction that some to the state prisoners who had signed the proposal, particularly McNeven, could conceivably be convicted, while the others "might be liable to pains and penalties by proceedings against them in Parliament." According to Cornwallis, "Kilwarden and the Attorney General spoke to the same effect."[136] In the face of so much overwhelming judicial opposition, Cornwallis backed down and rejected the proposal. Byrne, slated for execution first, was hanged immediately afterwards.

FitzGibbon's reappearance in town revived negotiations and brought a new respite for Bond, the remaining candidate for the gallows. He of course favoured the plan. He had no pity for the state prisoners as he did, in a fitful, condescending way, for the rebels in the field. On the contrary, he held them all in the utmost contempt. It would appear that he particularly despised McNeven. In a letter to Auckland, he sneered at McNeven's apprehensions as his own trial and probable execution approached.[137] But FitzGibbon's historical sense came to the rescue of the state prisoners, as it had come to the rescue of more obscure participants in rebellion. He had no wish to create martyrs, even of the reluctant Dr. McNeven. Martyrs kept alive the spirit of resentment and disaffection, and inspired further rebellion in honor of their sacred memory. More important, FitzGibbon welcomed the opportunity to obtain testimony from the prisoners themselves. He anticipated using their admissions of negotiations with the French and of other revolutionary activity not only to discredit the United Irishmen, but to protect the government form the accusations of liberal Protestants that its harsh measures had been unjustified. He could associate Catholic emancipation and parliamentary reform, the two great forces of unrest of the past two decades, with Jacobinism, atheism, bloodshed and chaos. Thus, he could confirm the prevailing order forever.

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135 Ibid.

136 Ibid.

137 See *Auckland IV*, p. 38 1 August, 1798 "...McNeven (sic) who was one of their ambassadors to the directory in the last summer, seems very apprehensive and with some reason, that if he is brought to trial he stands a fair chance of being convicted." McNeven himself on the contrary developed an odd respect for FitzGibbon. Years later, he would contrast FitzGibbon's "warm" Irish sensibilities with the cold calculation of Castlereagh and Grattan. (Madden, p. 240) It is difficult to account for this extraordinary judgment, apart from McNeven's possible desire to score off Grattan, not a popular figure with many United Irishmen. There is the possibility as well that FitzGibbon showed civility and a glimpse of his hearty charm to McNeven in person, while skewering him in his private correspondence.

FitzGibbon's influence over-rode that of his colleagues Kilwarden and Carleton. At his urging the government again entered into negotiation with the prisoners and agreed to their conditions, testimony about their own activities in return for their permanent exile in any country not at war with the King of England. As Kilwarden had predicted, many loyalists were infuriated that high-ranking United Irishmen had cheated the gallows with government connivance.[138] FitzGibbon nonetheless held firm to his conviction that the deferred pleasures of public discredit were preferable to the immediate pleasures of violent judicial revenge.

Disappointed loyalists could at least take some satisfaction in Bond's fate. As a result of the successful negotiations with the government, he avoided the fate of his young companion Byrne. But he celebrated his deliverance with such enthusiastic excess that he died a few days after his reprieve.[139]

The state prisoners fulfilled their end of the bargain by testifying before committees of secrecy in both the House of Commons and the House of Lords. One such show had already taken place, in 1797, prompted by the discovery of a cache of United Irish papers. The resulting report, which FitzGibbon had of course drafted, had already established the government line: the United Irishmen were revolutionary conspirators bent on overthrowing the government, effecting a separation from England and establishing a republic with the aid of the ambitious, godless French. The appeals to Catholic emancipation and parliamentary reform were simply empty slogans used to dupe the ignorant and credulous to join their treasonous ranks.[140] The Secret Committees that sat in the autumn of 1798 had no other purpose but to re-assert the same premises. They differed from the Committee of 1797 only in having the cooperation of high-ranking United Irish witnesses. The state prisoners, for their part, also had motives other than the mere recitation of whom they had seen in Paris and how they had obtained arms: they hoped to portray themselves to the public in both England and in Ireland as honest, well-intentioned reformers, driven into rebellion by the cruelty and excess of the government.

FitzGibbon played his part in this rather empty farce in his usual style. As he did at the Trinity visitation, he reveled in the role of comple polymath. For example, FitzGibbon seized the opportunity to demonstrate again his much self-vaunted knowledge of the Irish Catholic lower orders as well as a smattering of the Irish language. In an effort to show that the lower classes were not necessarily violent bigots, Dr. McNeven observed

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138 HO 100/66/355 Castlereagh to Wickham, 31 July, 1798

139 Teeling, p. 299

140 The report of 1797, which was issued on 12 May, 1797, can be found in HO 100/72/444-5

that they hated Protestantism only because they associated it with the English conqueror, not because they had any theological objections as such. When McNeven, a native Irish speaker, pointed out that the Irish word for both Protestant and Englishman was *Sassanach*, FitzGibbon quickly confirmed the truth of his observation, something presumably that none of the other honorable lords on the committee could have done.[141]

In the midst of these diversions, FitzGibbon never lost sight of his fixed purpose, which was to bring as much discredit as possible on the United Irishmen and their dangerously seductive programme. He set the tone of his interrogation by asking McNeven whether the common Irish cared "so much as a drop of ink from this pen" for Catholic emancipation and parliamentary reform. McNeven admitted that many did not, but he emphasized that just as many of the poorer Irish had access to newspapers, and had formed both an understanding and an opinion on both issues.[142] FitzGibbon of course disregarded the finer nuances of McNeven's response and in his final report he repeated once again the old verity:

> "As to Catholic Emancipation (as it is called) it was *admitted* by them all to have been a mere Pretence from the first Establishment of the Irish Union..."[143]

The hapless McNeven's testimony provided FitzGibbon with another opportunity for misrepresentation and distortion. At one point, McNeven tried to explain the opposition of the United Irishmen to all Church establishments. He would, he declared, "as soon see the "Mahometan" religion established as the Catholic."[144] In writing up his report, FitzGibbon willfully took this to mean that McNeven was bent on destroying, not *religious establishments* but *religion itself*, Catholic as well as Protestant.[145] McNeven, in fact was a dutiful Catholic; years later, his elaborate requiem mass astounded and delighted New York City.[146] But FitzGibbon succeeded in portraying McNeven as a bloodthirsty infidel, and himself, for one brief amazing moment, as the defender of the Catholic religion.

The final printed versions of the reports infuriated the prisoners. Their feelings

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141 Madden, p. 223

142 Ibid., pp. 223-4

143 *Journals of the House of Lords VIII*, p. 144

144 Madden, p. 223

145 *Journals of the House of Lords VIII*, p. 144 "...their plan of Reform and Revolution...would have involved in it equally the destruction of the Protestant and Popish religion. The said McNeven having distinctly acknowledged that the Intention was to abolish all Church Establishments and not to have any established religion, and that for his own Part, he would as soon establish the Mahometan as the Catholic Religion, though he was himself a Roman Catholic"

146 Madden, pp. 247-8

were perhaps understandable, though they surely must have recognized that a report on the United Irishmen authored by FitzGibbon would hardly be a model of balance, nuance and fair-mindedness. Anger led to indiscretion: the chief witnesses published an advertisement denouncing the reports of the secret committees and denying their validity.[147] Much outraged letter-writing on the part of various government functionaries ensued, as well as some threats to proceed with trials and hangings in the wake of this display of bad faith on the part of the prisoners.[148] In the end, the government took the less drastic course of re-convening the committees of secrecy in both houses.[149] The prisoners were then called upon to specify those points they considered false or misleading. Their objections turned out to be few and minor. O'Connor quibbled about the date of his initial negotiations with the French, while McNeven, already identified by FitzGibbon as a Catholic infidel, denied that it had ever been his intention to pay debts to France by selling the lands of the established church.[150] This episode did little to increase enlightenment on the subject of the United Irishmen and much to sour tempers on both sides. It became the overriding wish of the government to get rid of the lot.

In this wish, the Irish government was thwarted. Cooke, Castlereagh and the other Castle habitues had assumed that the prisoners would retire in obscurity and discredit to America. They had not reckoned on the vagaries of American foreign policy. The United States was preparing to go to war with France in the wake of a diplomatic insult. Consequently, the American minister to England, Rufus King, adamantly refused to accept the United Irish state prisoners because of their past intrigues with France. To King's nervous, Francophobic mind, the Irish state prisoners could as easily side with the French against the American government. [151] The Irish government had no choice but to comply with King's wishes. Faced as he was with overcrowded prisons, Castlereagh did express some irritation at King's inconvenient fastidiousness:

> It is perfectly natural that America should be very jealous of receiving Irish convicts but unless she prohibits emigration from this country altogether, she will infallibly receive United Irishmen and the majority of our prisoners are not more dangerous

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147 HO 100/66/363-4

148 HO 100/66/363 Castlereagh to Wickham, August ?, 1798 [nd]; HO 100/66/364-5, Pitt to Castlereagh, 1 September, 1798

149 HO 100/66/365-6 Castlereagh to Wickham, 5 September, 1798

150 HO 100/66/399-400, Minute of a conversation between Alexander Marsden and O'Connor, Emmet and McNeven, 29 August, 1798

151 HO 100/66/369, King to Portland, 13 September, 1798

than the general class of American settlers.[152]

The bulk of the state prisoners were simply released once Loyalist passions had died down. Nonetheless, the most prominent and notorious prisoners, including O'Connor, McNeven and Emmet, remained in custody until 1802. McNeven and Emmet eventually settled in the United States, once the tide of Francophobia and xenophobia had abated. There, they took a belated but no less satisfying revenge on King. Emmet successfully mobilized Irish voters to defeat King in his bid for the New York Assembly in 1808.[153]

FitzGibbon also had dealings with various individual rebels and alleged rebels, in addition to his *en masse* actions toward prominent United Irishmen and their anonymous followers. In some cases, he was openly vindictive, as only FitzGibbon could be. The Auckland correspondence contains an instance so grisly that Auckland's fastidious Victorian descendant edited it out of the 19th century published version. FitzGibbon simply could not understand why, after Wolfe Tone's sadly botched suicide attempt, the provost marshall could not haul him off and hang him anyway, severed throat and all.[154] There is little that can be said in FitzGibbon's defense. He was no doubt angry that a man to whom he had shown clemency used his life and liberty to engage in extreme acts of arch-rebellion. Nor was he alone in expressing a belief that Wolfe Tone should hang, whatever his self-inflicted wounds. Some of the officers who oversaw Tone's imprisonment were similarly disgruntled.[155] At any rate Tone's death, was fully as agonizing as FitzGibbon would have wished, even without the hangman's intervention.[156]

FitzGibbon also received blame from Francis Plowden for allegedly persecuting Francis Arthur, a wealthy Limerick Catholic. Arthur, a yeomanry officer, was accused among other things, of receiving letters from Lord Edward FitzGerald, of storing arms and of enrolling United Irishmen in western Limerick. The chief witness against him was a

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152 HO 100/66/377-8, Castlereagh to Wickham, 29 October, 1798

153 For a truly superb example of Emmet's political invective against King during that election, see Charles R. King, ed., *Rufus King: His Life and Correspondence V*, pp. 15-23 Emmet, among other things accuses King of being an accessory in his brother Robert's death.

154 BM Add MS 34455, f38-9, FitzGibbon to Auckland, 26 November, 1798, "...after he [Tone] was brought up to be tried by a military tribunal in Dublin upon what principle was his execution delayed from Saturday to Monday? Nay more, there was fully time to execute him on Monday, after it was known that an application would be made to the King's Bench and before it was made. And what do you (sic) surgeon's mate that a man whose throat was cut could not die of hanging." The discreetly censored version of this letter appears in *Auckland IV*, pp. 70-2)

155 Elliot, p. 400

156 Ibid., pp. 398-399

man called Maum, but according to Plowden, there were more powerful men behind him, FitzGibbon among them. Plowden made claims of an animus against Arthur for political, religious and personal reasons:

> With that gentleman [Arthur] Lord Clare was personally acquainted, and no man better knew the extent and weight of Mr. Arthur's property and influence in the country. His Lordship's interests had felt the power of their opposition, his pride had been galled by the contraction of his arbitrary despotism, from the liberal and constitutional principles of a man of independence. Thenceforth he was a marked object of proscription and persecution. He had moreover, given private displeasure to his Lordship and was a Roman Catholic. The ministers of public terror were let loose upon him and by their ingenuity of torturing have exhibited in their native colors, the spirit and tactics of the system.[157]

Plowden also made the lurid suggestion that the notorious Judkin FitzGerald of Tipperary had had a hand in Arthur's troubles. According to Plowden Maum, already convicted for various acts of rebellion, was on his way to Botony Bay when he was stopped and brought before FitzGerald. "In what particular manner he was tampered with cannot be traced further than that the [name]...of Arthur [was] then suggested to him,... of whom it appears he had not the least knowledge. It appears also that some assurance was given to him by the High Sheriff of the County of Tipperary (Thomas Judkin FitzGerald) which made him perceive an interest in convicting some persons, under the description of accomplices with him." [158]

Plowden's lurid melodrama aside, the case against Arthur does appear to have been rather flimsy. Maum did make the claim that Lord Edward FitzGerald entrusted him with letters for Arthur; he claimed further that Lord Edward had named Arthur as a particular intimate. Nonetheless, the only evidence that Arthur had even received such letters came from two military officers, Captain Brand and Lieutenant-Colonel Cockerell. They claimed to have heard from a certain Joseph Anderson that he had pointed out Arthur's house to Maum, so that he could deliver the letters. These claims Anderson denied: "The witness is positive that Maum did not ask him to point out Mr. Arthur's House" [159] Nor could the assembled court-martial obtain any evidence of the more violent acts alleged against Arthur, collecting arms and recruiting United Irishmen, apart from hearsay repeated by the same Joseph Anderson. He was no doubt anxious to make up for his earlier failure as star

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157 Francis Plowden, *The History of Ireland from its Union with Great Britain in January 1801 to October 1810 I*, (Dublin, 1810), p. 122

158 *Plowden I*, p. 283

159 Rebellion Papers, 620/17/14; transcript of Francis Arthur's trial before a court martial, 23 June, 1798

witness by offering other, safely unprovable allegations.[160] The court-martial could not convict Arthur of treason and hang him, but at the same time, it could not entirely repudiate evidence offered by high-ranking officers. Consequently, it entered the verdict that he was "guilty in part of the crime laid to his charge", presumably that he had received correspondence from FitzGerald. In the absence of evidence capable of sustaining a capital charge, the court-martial ordered him to pay a fine of £5,000 "in to the Treasury for the use of his Majesty" after which he was to be transported for life.[161]

The evidence suggests that General Morrison, who commanded the army stationed in Limerick, was absolutely convinced that Arthur was deeply involved in treason and was a dangerous man. Morrison does not seem to have been an inordinately bloodthirsty or violent man. In summarizing the Arthur case to Castlereagh, he added, that in conducting the courts-martial, he had tried to extend "lenity, Forgiveness and even Tenderness...to the deluded."[162] But he insisted that Maum had prevaricated about the key point of the whole trial, his inquiries for directions to Arthur's house. He also insisted that Arthur had "*endeavored* to prove an alibi", the implication being that he had tried to devise or create an alibi where none had existed. Morrison's letter also contains the sole, single item of evidence of FitzGibbon's involvement in the case: "...in regard to his character, I have understood him to be a most dangerous man and as I am a stranger in the country, will only refer his excellency to the Lord Chancellor and Gen'l Massey (now in Dublin) whose country residences are in this neighborhood." [163] In other words, FitzGibbon, when asked by Morrison, had described Arthur as a dangerous character. FitzGibbon did behave with supreme irresponsibility in making such an assessment of Arthur. He seems to have forgotten that he was Lord Chancellor, with a tremendous amount of influence and a responsibility to behave with equity both in and out of his court. By indulging in this bit of private character assassination, he not only harmed Arthur, he abused his office. Nonetheless, his indiscreet display of personal animus does not amount to a deliberate plot by FitzGibbon to destroy and frame him, as Plowden suggested.

The aftermath of Arthur's case seems to suggest that on the contrary FitzGibbon may actually have intervened to mitigate the terms of Arthur's sentence. Again the evidence is slight and indirect. Arthur appealed his sentence, and Castlereagh made the following summary of his case as the government viewed it:

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160 Ibid.

161 Ibid.

162 Rebellion Papers, 620/17/14, Morrison to Castlereagh, 26 June, 1798

163 Ibid.

> In addition to my official letter of this day, I must be permitted privately to mention to you that the proceedings of the Court Martial on Mr. Arthur are not transmitted in such a form as can enable my Lord Lieutenant to make an adequate judgment on the case. No treasonable matter is alleged against Mr. Arthur, but Mr. Maume's [sic] deposing that Lord Edward had told him Arthur was one of his confidentials, which is mere hearsay evidence and is inadmissible. The mere delivery of letters is not treasonable without proof of the tenor of the letters---and Mr. Arthur's offering Mr. Maume [sic] money in consequence of Ld. Edward's letter is not treasonable unless it be proved that Arthur knew that Maume was employed in treasonable practices by Lord Edward and that the money was given for these purposes. All these circumstances justify suspicion but do not prove guilt.[164]

In light of the absence of convincing evidence, the government reduced Arthur's sentence from transportation to temporary banishment. He was simply to absent himself from Ireland for the duration of the rebellion. He was also obliged to pay the massive fine decreed by the court martial.[165] The analysis of the evidence against Arthur suggests a professional competence far beyond anything Castlereagh, no lawyer, could have managed on his own. It seems likely, if not certain, that he consulted a knowledgeable professional man who moreover knew intimately the circumstances and people of Limerick. Only one person in the Irish government could have fit that description.

Moreover, Arthur's trial and sentence took place at the end of June and the beginning of July, shortly after Cornwallis's arrival. He would surely not have commented on FitzGibbon's moderation and right-mindedness if he had arrived in Ireland to find the lord high chancellor actively pursuing a legal vendetta against a prominent Limerick Catholic. If FitzGibbon did indeed help to frame the opinion which Castlereagh relayed to Morrison, such an action would surely have contributed to Cornwallis's initial high opinion of him.

FitzGibbon may indeed have detested Arthur; he may indeed have put in a bad word for him with General Morrison, at some time in the past. But the nature of the government communications suggests that once Arthur was convicted and sentenced, FitzGibbon recognized the fundamental legal unsoundness of this action and intervened to help, rather than harm, Arthur. If he stayed discreetly in the background, he may have done so to avoid embarrassing Morrison, who had formed his own opinion of Arthur from FitzGibbon's own observations.

Finally, James Roche once again serves as a witness in FitzGibbon's favour. As a

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164 Rebellion Papers, 620/18/9/3, Castlereagh to Portland, 27 June, 1798

165 Rebellion Papers, 620/39/22, Castlereagh to Morrison, 4 July, 1798

prominent member of the Limerick merchant community, he surely knew Francis Arthur very well. Yet he declared, without any exception or reservation, that FitzGibbon had saved many people, now very respectable, "from the lash and the halter", in spite of the undeniable guilt of some of them.[166] Roche was very old and possibly mildly senile when he penned his charming, if rambling memoirs. But even in his dotage, he could not have forgotten the tribulations of a rich and noted member of his own community. Still less would he have forgotten FitzGibbon's part in them, if any. The fact that he made no comment about Arthur suggests that Roche numbered him among those FitzGibbon had intervened to save.

One charge of cruelty against a fallen rebel even Grattan the younger found hard to swallow, though of course, he felt obliged to include the charge in his father's memoirs. Evidently there were claims that FitzGibbon had proceeded in "great state" in his carriage to watch the execution of Dr. Esmonde, who was hanged from the Carlisle Bridge with grisly incompetence. Grattan the younger made the observation that FitzGibbon was probably caught in the crush of observers while on his way from the Four Courts and was perforce, a witness of the spectacle.[167] FitzGibbon had taken some interest in Dr. Esmonde, if only because he served as such a useful example of the cruelty and rebellion ingrained the "old inhabitants" of all ranks. In one of his epistolary commentaries on the rebellion, he made a point of mentioning to Auckland that Esmonde was a Roman Catholic with an income of £1,000 a year.[168] But whether FitzGibbon would have gone out of his way to see this particular rebellious Catholic "old inhabitant" dispatched is certainly open to doubt.

Along with the well-documented example of his harshness to Tone, and the more dubious instances of alleged cruelty to Arthur and Esmonde, FitzGibbon engaged in highly visible acts of mercy. Roche claimed that before the rebellion FitzGibbon had met with the Sheares brothers to warn them about the dangers of dabbling in revolution, with no success and with mutual anger and frustration.[169] The brothers were captured and condemned to death for, among other actions, inciting troops to desert. Sir Jonah Barrington continued the melodramatic saga of the Sheares brothers with the story of his own appeal to FitzGibbon to permit a stay of execution. According to this tale, FitzGibbon read a letter from Henry Sheares, and offered the comment, "What a coward he is!" Nonetheless, he agreed to obtain a respite for Henry, though he insisted "John Sheares cannot be spared."

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166 *Roche II*, p. 115

167 *Grattan III*, p. 401, ftnote

168 *Auckland IV*, p. 19, FitzGibbon to Auckland, 14 June, 1798

169 *Roche II*, p. 112

FitzGibbon does not seem to have pursued the matter any further than to offer his half-hearted and contemptuous cooperation. Barrington, according to his own account, spent a hair-raising and futile day racing about the corridors of the Castle, trying to obtain the necessary documents to spare Henry's life. He arrived at the prison to find the executioner severing the head of his old college friend and holding it aloft with the ritual proclamation, "Here is the head of a traitor."[170]

FitzGibbon's role in Lady Louisa Conolly's final interview with Lord Edward FitzGerald was perhaps his most notable act of grace. Years later, Sir Charles Napier, a great nephew of Lady Louisa, who inherited all the political prejudices of his FitzGerald relations, gave this grudging but candid account of FitzGibbon's conduct in a letter to Madden:

> I abhor Lord Clare the more because of his actions and [mercy?] in evil...but truth is truth and Lord Clare behaved like a man of feeling and generosity on that occasion."[171]

He did so by allowing Lady Louisa to visit her nephew's deathbed, a request refused by all the other major figures of government. FitzGibbon himself had initially refused any requests by family members to see Lord Edward, but when Lady Louisa, accompanied by her niece Sarah Napier, appeared on his doorstep at night to press her case once more, he was unable to resist her dramatic and pathetic appeal. He called for his own carriage and accompanied Lady Louisa to Newgate. There he waited for three hours, the duration of their final interview, which ended in Lord Edward's death. Reportedly, the sight of Lady Louisa encountering her doomed nephew brought tears to FitzGibbon's eyes.[172] His tears were a mark of his grief for Lady Louisa, no doubt, but they may also have been a sign that the carnage of the 1790's could sicken and weary even Lord Clare.

FitzGibbon later suffered much blame from the younger Grattan for following this act of grace and pity with an act of attainder against Lord Edward. Infected by the melodrama which inevitably seemed to surround the affairs of Lord Edward, as well as by his own pious antagonism for FitzGibbon, young Grattan painted a picture of FitzGibbon forcing the attainder through the House of Lords, in spite of the whispered pleadings of his colleague Lord Avonmore.[173] The FitzGerald family inevitably took the view that the

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170 Barrington, *Rise and Fall of the Irish Nation*, pp. 356-7

171 Trinity College Dublin, Madden Papers, f415

172 PRONI, McPeake Papers, T3048/B/51 Account of the death of Lord Edward FitzGerald, written by Emily Bunbury, daughter of Lady Sarah Napier, August 1832

173 *Grattan V*, p. 167

attainder represented an act of gratuitous judicial cruelty against their beloved black sheep. Recruiting Charles James Fox and other prominent relations, they appealed to Pitt, to Cornwallis and to the King, on the grounds that Lord Edward could not suffer attainder, since he had not lived to stand trial.[174] The appeals failed and the attainder passed. But young Grattan, in attacking FitzGibbon for this act of cruelty to Lord Edward's family, naturally failed to take into account FitzGibbon's awkward position at the time. He had already, in the face of much opposition, agreed to clemency for a group of notorious rebels. He simply could not afford to defy loyalist opinion any further, in spite of his love for Lady Louisa, his sorrow over Lord Edward's misspent career and his feeling for the FitzGerald family. The government needed to make an example of at least one prominent rebel to placate loyalist opinion. Also, the younger Grattan failed to mention that FitzGibbon had made arrangements to sell Lord Edward's meager property to his step-father, Ogilvie, at a nominal price.[175] Ogilvie was then to hold the property in trust for Lord Edward's children. FitzGibbon also seems to have had every intention of reversing the attainder at some time in the more peaceful future.[176] His own sudden death prevented him from taking this much desired step. Owing mainly to the law's delay and not to any lingering malevolence against Lord Edward, the attainder remained in effect until 1819.

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174 *Moore II*, pp. 225-280
175 Ibid., p. 281
176 Ibid., pp. 281-2

Appendix: List of Students Expelled from Trinity College by FitzGibbon and Duigenan: 21 April, 1798

Name of Student	Father's Rank or Profession	Age when admitted to TCD	Where Born	Religion
Thomas Robinson	Merchant	20	Co. Dublin	Protestant
Thomas Corbett	Not given	19	Not Given	*Protestant**
William Corbett	Farmer	18?	Co. Cork	*Protestant*
David Shea	Farmer	16	Co. Limerick	*Roman Catholic*
John Carroll	Farmer	21	Co. Limerick	Roman Catholic
Dacre Hamilton	Private gentleman	15	Co. Dublin	*Protestant*
Arthur Newport	Merchant	15	Co. Waterford	*Protestant*
John Browne	Merchant	16	Co. Antrim	*Protestant*
Peter McLoughlin	Farmer	15	Co. Mayo	*Roman Catholic*
George Keogh	Private gentleman	15	Co. Dublin	**Roman Catholic****
Bernard Killin	Farmer	24	Co. Fermanagh	*Protestant*
Edmund Barry	Farmer	19	Co. Cork	*Roman Catholic*
Thomas Bennett	Merchant	18	Cork City	*Protestant*
Robert Emmett	Physician	15	Dublin	**Protestant**
James Thomas Flinn	Merchant	22	Dublin	Roman Catholic
Michael Ferrall	Farmer	19	Co. Longford	Roman Catholic
John Pennefather Lamphier	Private gentleman	18	Co Tipperary	*Protestant*
Patrick FitzGerald	Private gentleman	15	Co. Kerry	Roman Catholic
Martin John Ferrall	Private gentleman	21	Co. Cork	Roman Catholic

*Notations in italics indicate my own guesses or speculation; the religion of the boy in question was not officially noted on the list of expellees

**Notations in bold indicate that the religion was not given on the official list of expellees, but it is obvious from other circumstances or facts.

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The rebellion finally gave Pitt the pretext he had long been seeking to make a public introduction of the idea of a union. He assumed that there was enough mutual hatred between the various religious factions and enough general disillusionment with the political structure in general to render the idea of union a matter of indifference, if not of outright rejoicing. Protestants would find themselves in a safe majority, while Catholics and Presbyterians presumably would find domination from Westminster less irksome than the contemptible familiarity of domination from Dublin. Accordingly, in the autumn of 1798, Pitt summoned the leading members of the Irish government to London to discuss the idea. FitzGibbon, of course, was among the first to make the journey to London.[1]

His support for the union probably garnered for FitzGibbon his greatest degree of infamy in the eyes of generations of nationalist memoirists and historians. Yet he played a comparatively minor role in the actual passage of the great act. Because the House of Lords was a secure government preserve, he was not obliged to engage in a great campaign of corruption, *a la* Castlereagh. Nonetheless, there were some struggles, notably a short-lived contretemps over the status and number of Irish peers in the Union House of Lords.[2] The government also suffered the unexpected and unpleasant surprise of Lord Downshire's defection on the question.[3] Nonetheless, the smaller numbers in the House of Lords made it easier for the government to manage discontents and to minimize the effects of disaffection. FitzGibbon sponsored a petition in his home county of Limerick: predictably FitzGibbons and Furnells numbered heavily among the signatories.[4] He also bore most of the expenses for this outpouring of loyal, unionist sentiment in Limerick. In 1802, the printer was dunning his estate for the as yet unpaid costs of making copies of the petition. [5] FitzGibbon did have some procedural disagreements with the government's approach to the union. He would have preferred to have made use of parliamentary commissioners to negotiate the terms of union, after the pattern of the Scottish Act of Union, rather than a forced bill.[6] While a rabid and eager unionist, he also had some qualms about pursuing the matter in a time of war. [7] But whatever his doubts about timing and method, there is no

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1 HO 100/78/27-28, Cornwallis to Portland, 8 October, 1798
2 Sneyd Muniments, FitzGibbon to Auckland, 16 March, 1800
3 Ibid., FitzGibbon to Auckland, 26 August, 1799
4 *Limerick Chronicle*, 14 September, 1799
5 PRONI, Official Papers, T3245/5/OP/121/3, A. Watson to John Dwyer, February-March, 1802?
6 Malcomson, p. 389
7 Ibid.

question that he welcomed the measure, that it had been the desire of his heart since 1793, that he saw no choice between union and the chaos of government by a weak feckless Protestant elite, perpetually endangered by Popish "projects" and Presbyterian Jacobins.

The matter of Popish projects accounted for most of the drama and complication in this episode of FitzGibbon's life. From the start, there was a fundamental misunderstanding between FitzGibbon and the English government about the nature of the union. To FitzGibbon the union was no more and no less than a means to secure Protestant supremacy forever. The incorporation of Ireland into the United Kingdom would secure a solid Protestant majority, which majority was unlikely ever to pass an act of emancipation. The English government was not so consistent or so rigid. Most English statesmen with any influence over Irish affairs, seem to have accepted the likelihood that the remaining Catholic disabilities would eventually be removed. They saw the union not as a means of permanently deferring Catholic emancipation, but as a necessary condition for passing such an act with safety to the Protestant interest in Ireland. Pitt and Westmorland had both taken such a view of the union as early as 1792, and even Pelham flirted with the notion of some sort of a "final settlement" of the Catholic issue, with or without a union.[8] Certainly Cornwallis, Castlereagh, and Edward Cooke thought that emancipation would eventually follow a union, though they were unwilling initially to unite the two issues.[9] A union along Protestant lines was to take place before any discussion of emancipation. Emancipation following quickly on the heels of a Catholic rebellion could have angered Irish Protestants and, by making them more recalcitrant toward the union, could have impeded its progress.

It would appear that FitzGibbon's colleagues in government prudently concealed their true sentiments about the relationship between the union and Catholic emancipation. Nonetheless, to tax Cornwallis, Castlereagh, and Cooke with deceit would be an exaggeration. Probably they hoped that once the union passed, FitzGibbon, like other Protestant diehards, would abandon his morbid fears of the Irish Catholics and comply with a final emancipation bill. Nor was such a belief entirely fanciful. FitzGibbon after all had supported the bill of 1793, which was passed under far more dangerous and turbulent

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8 For Pelham's views see Rebellion Papers, 620/30/136 Pelham to the Bishop of Ossory; Pelham drafted two replies; the first, dated 23 May, 1797 alluded to a "compact upon some known and acknowledged principle that might be intelligible to all that were concerned." He also suggested that the Pope be "made a party to the settlement"; in the letter which he actually sent, dated May 26, 1797, he alluded only to "some permanent settlement in Church and State...that as far as human wisdom is capable of discerning such a measure, a system calculated to anticipate all future claims"

9 See, for example Charles, Lord Cornwallis, *Correspondence III*, Charles Ross, ed., (London, 1859), p. 146 and p. 175

circumstances. Moreover, FitzGibbon's public demeanor toward the Catholics between 1795 and 1798 had been, at least by his standards, remarkably polite and moderate. For example, in 1796 he had expressed his hope to Frederick Trench that "Catholic gentlemen of good principles" would raise yeomanry units. He went on to add that the true struggle was not between Catholic and Protestant, but between "good order and protection" and "Anarchy and Plunder".[10] In a similar spirit, he defended the officers of the newly revived Irish Brigades from aspersions cast on their loyalty and their religion by Lord Blaney.[11] There was also his moderate conduct in the aftermath of the rebellion, which had convinced Cornwallis of FitzGibbon's fundamental "right-mindedness". In private, of course, FitzGibbon's comments remained more in character. At the same time that he was making encouraging noises to Frederick Trench about Catholic yeomen, he was implying to Lord Camden that the chief purpose of the yeomanry was indeed to keep a close watch on the Catholics.[12] As for his defense of the Irish Brigades, it was a comparatively cheap gesture of good will. The Duc de FitzJames and the Comte Walsh de Serrant were not interested in equal political rights or a reform of parliament. Moreover, the brigades were in fact deeply resented by the majority of Irish Catholics. Poorer Catholics looked upon the officers as emigre crimps, while Catholic gentlemen resented that fact no similar commands had been offered to them.[13] In short, FitzGibbon was as antagonistic as ever toward Catholics. He had simply acquired a modest degree of prudence in venting his prejudices. Even during the initial negotiations about the union, he had continued to play the part of moderate man of good will. There was, for example this amazing account by George Canning of his encounter with FitzGibbon in London in 1798:

> Chapter 1: Lord Clare's arrival in London. Lord C. himself very reasonable. Confesses he fears nothing himself from the Catholics having everything but it is

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10 NLI, Trench Papers, (microfilm p. 4910, uncataloged), FitzGibbon to Frederick Trench, 22 October, 1796

11 *Hibernian Journal*, 7 February, 1797

12 Camden MS, C/183, FitzGibbon to Camden, 7 September, 1796, In discussing the claims of radical Catholics that the yeomanry corps were aimed at them, FitzGibbon had these words of wisdom to offer Camden: "I cannot but think that it will dangerous in the extreme to damp the ardor of those who may be depended upon, under an Apprehension that their zeal may become the subject of misrepresentation by the Catholicks, who, I will freely own to your excellency are in my opinion the body of all others in this country at the present moment, who ought to be watched most narrowly if a foreign enemy were to make a descent upon us."

13 On the reaction of the native Catholic gentry see HO 100/46/261-2, Fitzwilliam to Portland, 7 January, 1795: "I hear the Roman Catholic gentlemen themselves are not pleased: they fancy they might themselves as well have been the Cols if Roman Catholic Regts were to be raised."; for lack of enthusiasm among the general Catholic populace see *Dublin Evening Post*, 13 October, 1795

impossible to carry the point in Ireland.[14]

His claim of indifference on the subject of Catholic emancipation was, to put it bluntly, a lie, as his own behavior after the union amply proves. He no doubt felt he could afford to make such remarks because he would never be called upon to prove his sincerity. In short, if FitzGibbon was "deceived" on the subject of Catholic concessions, he had no one to blame but himself. He had engaged in considerable deceit himself, giving his colleagues in government the distinct impression that he was not the bigoted die-hard of the past, but a moderate and pragmatic man, who could be persuaded of the the necessity of emancipation when the time was ripe.

FitzGibbon's conduct over the Maynooth bill of 1799 exploded this particular delusion. A bill confirming a new grant to the college had passed through the Commons with comparative ease, and the Irish government expected simply as a matter of course that there would be virtually no debate on it in the Lords. Instead, FitzGibbon proposed throwing out the bill. In so doing, he made a ferocious speech denouncing the institution of Maynooth as "worthless". He criticized the application of past grants, and he complained about the government's lack of power over the institution itself. But he reserved his most severe comments for the calibre of students at Maynooth. Because education at Maynooth was provided at government expense, it attracted the most undesirable elements of the Catholic population: the "lower and middling" orders. Catholic gentlemen would avoid sending their sons to Maynooth because of its proletarian character. Consequently, candidates for the priesthood were deprived of the good influence of their "polish" and "liberality" of manners. Most devastating of all, FitzGibbon seized the opportunity to remind his fellow lords of the conduct of many Catholic priests during the rebellion. Instead of warning their flocks about the evils of treason and inculcating proper sentiments of loyalty, they had remained either indifferent, or they had actively participated in the rebellion. This ugly reminder of the "Popish complexion" of the rebellion had a proper effect. The Lords willingly complied with FitzGibbon's proposal to throw out the bill.[15]

His arguments against the Maynooth bill were frivolous, tactless and often illogical. The trustees of Maynooth were outraged at FitzGibbon's implications of mismanagement

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14 BM Add MS 3784/273, f4; quoted in Peter Dixon, *Canning: Politician and Statesman*, (London, 1963), p. 61

15 This speech was of course widely reported in all the Dublin newspapers. I myself have relied on the version in the *Dublin Evening Post*, April 15, 1799

and hastened to present their accounts in vindication. FitzGibbon managed the considerable feat of provoking the spirit and the anger of Lord Kenmare. The other Catholic gentlemen and peers were as indignant.[16] Clearly, they were not placated by FitzGibbon's suggestion that their offspring would exercise a civilizing influence on their low-born fellow classmates. Considering the reactionary politics of the Catholic gentry and aristocracy, and their alienation from their poorer co-religionists, it is highly doubtful there could have been much refining and liberalizing contact between the sons of the grandees and their less exalted classmates at Maynooth. FitzGibbon's allusions to the conduct of some priests during the rebellion, while powerful and effective, had no bearing whatsoever on the Maynooth grant. While the main purpose of Maynooth had been to produce loyal Catholic clergy, the activities of the rebel priests scarcely proved that the college had failed in its mission, as FitzGibbon claimed. The most notable or notorious, Father John Murphy, had, after all been educated in Spain.

But FitzGibbon was not interested in solid, legitimate criticism of Maynooth's administration and funding. Ultimately, Maynooth served as a pretext for a larger act of sabotage aimed at another "Popish Project" of the English government's. At this same time, Robert Hobart, the former chief secretary, was engaged in negotiations with the Vatican and with the Irish and English Catholic clergy; the English government was seriously considering a state subsidy for the Catholic clergy in return for a measure of control over ecclesiastical appointments in the British Isles.[17] These negotiations had nothing whatsoever to do with the bedeviling issues of emancipation. The English government was simply interested in gaining more influence over the Catholic clergy and in turn more effectively using them as agents of political and social control in Ireland. But a Catholic clergy under the control of government, dutifully inculcating sentiments of loyalty to King and Constitution in return for a subsidy, could effectively undermine claims of the subversive nature of the Roman Catholic Church, one of the premier arguments against emancipation. Their close friendship makes it virtually certain that Hobart informed FitzGibbon about his activities. FitzGibbon was far too shrewd not to see the full implications of his friend's negotiations. No doubt to his mind, negotiations for clerical subsidies could lead all too easily to negotiations for further political rights for the laity. Maynooth offered a very convenient cover for motives that FitzGibbon could never admit to his dear friend in particular or to the English government in general.

Whatever his motives, FitzGibbon paid a high price for his actions. Cornwallis,

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16 *Cornwallis III*, p. 92

17 For a summary of these negotiations see PRONI, Castlereagh Papers, D3030/1448/1

who had been doing his utmost to cultivate Catholic support for the union without any outright promise of emancipation, was, predictably, furious. He berated FitzGibbon as though he were a clumsy subaltern, reproaching him for giving pernicious encouragement to the "violent Protestants."[18] The fact that Cornwallis was probably the first lord-lieutenant ever to cross FitzGibbon is not the only point of interest. The allusion to "violent Protestants" suggests that Cornwallis had thought of FitzGibbon as his most staunch ally against this undesirable element, and that he looked upon FitzGibbon's actions on the Maynooth bill as a betrayal of common principles. FitzGibbon in his turn blustered: he had been grossly misquoted by the newspapers. In the speech as he had actually delivered it, he had "distinctly and repeatedly" maintained the necessity for a "well-regulated academy" for Roman Catholics.[19] Cornwallis was perfectly unmoved by FitzGibbon's tribulations with the press. He insisted that FitzGibbon make an immediate public declaration of his and the government's support for Maynooth. FitzGibbon duly took the next opportunity in open Parliament to declare that the rejection of the Maynooth bill did not mean the demise of the college:

> His Lordship stated that it had erroneously gone abroad that the House of Lords wished to overthrow the entire establishment. Nothing had fallen from him to warrant such an opinion. He thought the institution a useful one and under proper control and management of great national consequences.[20]

In the meantime, Castlereagh scrambled to undo the damage of FitzGibbon's action. FitzGibbon believed, or had claimed to believe, that the bill could simply be returned to the Commons for further debate. Whatever his true understanding of legislative procedure, he made an extraordinary blunder for a parliament man of over twenty years' standing. Bills could not be returned from the Lords for further consideration once they had passed in the House of Commons. Consequently, Castlereagh was forced to introduce a hastily framed piece of legislation extending the grant for Maynooth.[21] Having created much trouble and bad feeling on the subject, and having suffered as well a sufficient degree of humiliation, FitzGibbon allowed this bill to pass through the House of Lords.

As a result of this episode, the Catholic clergy and the institution of Maynooth became the chief targets of his hatred for Irish Catholicism. As his speech of 1793

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18 *Castlereagh II*, p. 279

19 Ibid., p. 277

20 *Dublin Evening Post*, 25 April, 1799; Parliamentary report/House of Lords, 18 April, 1799

21 *Castlereagh II*, p. 279

indicated, he had always looked upon the ecclesiastical institutions of the Church with hostility. But this particular hostility had always been overshadowed by his greater loathing for the Jacobin atheist merchants on the Dublin Catholic Committee. To be sure, in 1797, he had made hostile allusions to Hussey's infamous sermon on the sufferings of the Catholic faithful, but he seems to have despised Hussey more as a minion and intimate of Edmund Burke than as a priest.[22] As for the institution of Maynooth itself, he probably accepted it only grudgingly. FitzGibbon had made some hostile rumblings to Beresford on the subject: he suggested that the establishment of Maynooth possibly represented yet another violation of the almighty Coronation Oath.[23] He did not pursue this line of argument further. Calculated acquiescence to Camden and Portland, who saw Maynooth as an essential sop to hostile Catholic opinion, and satisfaction at the more essential success of defeating Catholic emancipation probably accounted for his restraint . But after 1799, priests and Maynooth became the lightening rod for FitzGibbon's feelings of anger at the humiliation he had suffered at Cornwallis's hands. FitzGibbon had received a jarring reminder that Cornwallis was not as malleable as past viceroys. He was a mature and experienced statesman who was not afraid to exercise control and discipline over subordinates, even FitzGibbon himself. That he had exerted authority over FitzGibbon on the matter of the Catholics added to his humiliation. FitzGibbon considered himself the premier government expert on Catholics and their evil ways. In addition, he was determined never to allow a recurrence of the dreadful events of 1793 when his known opinion was so blatantly disregarded. Cornwallis's action reminded him that the English government, not he, ultimately determined Catholic policy, for better or for worse. FitzGibbon retaliated for his humiliation in the usual manner, epistolary backbiting and legislation. In a letter to Camden, dated May 7, 1799, he blamed the priests for the continuing unrest in Ireland; he then blamed the government, and by implication Cornwallis himself, for not keeping the alleged clerical terrorists in line:

> The system of the United Irishmen seems to have given way in a great degree to the revival of Defenderism, which I am confident is universally encouraged by the Papist clergy. Will the British government ever learn the necessity for assuming a tone of Authority over that body of Men? At present we seem to counteract their

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22 Sneyd Muniments, FitzGibbon to Auckland, 19 May, 1797; "This gentleman [Hussey] is a pet of Mr. Edmund Burke's and to him we are indebted amongst other favours conferred upon us for his presence in Ireland." FitzGibbon later adopted the more general hostility of Sir Richard Musgrave and other extreme Protestants. See Sneyd Muniments, FitzGibbon to Auckland, 23 May, 1797; in this letter FitzGibbon again alludes to the "composition" of Dr. Hussey and adds "It seems to be a good sample of the Moderation of the Popish Clergy in Ireland."

23 *Beresford II*, p. 73, FitzGibbon to Beresford, 14 February, 1795

> system of terror only but the most scrupulous and punctilious ceremony in everything which may affect their passions and prejudices. The truth is they have for some time been dealt with as with the predominant power of the state, and if they are dealt by in the same manner much longer, they will certainly become predominant.[24]

He himself assumed a tone of authority in the form of an act altering the governing structure of Maynooth College. In the original bill, the lord chancellor and the senior judges had acted as trustees, along with the Catholic bishops and leading members of the Catholic aristocracy and gentry. FitzGibbon transformed the judges into visitors. In effect, the judges were no longer the Protestant firsts among equals, acting in cooperation with the Catholic senior hierarchy and gentry; they were now to exercise a supervisory, authoritarian role over their Catholic subordinates.[25]

Apart from the aberration of Maynooth, FitzGibbon worked harmoniously enough with Cornwallis on the union. As always, whenever a major government issue was at stake, FitzGibbon spoke. His speech on the act of union was unquestionably his greatest rhetorical achievement. In a succession of powerful images, he offered a profoundly nihilistic vision of Ireland and of Irish history. All the familiar stock figures from his past speeches made an appearance, draped in phrases of grim, somber eloquence. The Catholics, of course, loomed large in his rhetorical landscape. With that strange combination of loathing and shrewdness which characterized his perceptions, FitzGibbon portrayed them both as savages and as tragic victims. He attributed their addiction to the errors of Popery to natural savagery and ignorance, as was his wont, but he also blamed the tactical errors of the English reformers for the failure of Protestantism to take hold in Ireland. In keeping with his own views of religion as a political, rather than a theological, system of control, FitzGibbon suggested that it would have been better to have allowed the Irish to retain the customs and practices of Catholicism in return for renouncing the authority of the Pope. Imposing Protestant ritual and Protestant theology by force served not only to create "hypocrites and martyrs", it also served to create a nation of rebels.[26] Resentment of English ecclesiastical authority led all too quickly to resentment of English political authority. In what is probably the most perceptive explanation for Irish sectarian conflict, FitzGibbon portrayed Irish Catholicism not as a religion, but as an endemic rallying point for forces of resistance against the alien English ruler:

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24 Camden Correspondence, C/81/1

25 *Cornwallis III*, pp. 374-5

26 *Act of Union*, pp. 8-9

> ...it is a melancholy truth that...all have clung to the Popish religion as a common bond of union and an heredity pledge of animosity to British settlers and the British nation.[27]

Having established the tragic antagonism between savage, rebellious Irish Catholics and misguided English Protestant zealots, FitzGibbon once again unfolded a story, which he had told countless times in speeches from his earliest political career. Repeated Irish Catholic rebellion had ended in repeated defeat, the seizure of rebel lands, and the settlement of English Protestants on alienated Catholic estates. Unconsciously or not, FitzGibbon took revenge for years of taunts at his own dispossessed Catholic ancestry by portraying the English settlers, many of whose descendents comprised his audience, not as standard bearers of Protestant enlightenment and civilization, but as rapacious freebooters. He reserved his most telling denigration for the Cromwellian settlers, who combined greed with two other characteristics much loathed by FitzGibbon, Protestant heterodoxy and political radicalism:

> And thus a new colony of new settlers composed of all the various sects which then infested England ---Independents, Anabaptists, Seceders, Brownists, Socinians, Millenarians and Dissenters of every description, many of the infected with the leven of democracy---poured in Ireland and were put into possession of the ancient inheritance of its inhabitants.[28]

His obvious contempt was not much mitigated by his disclaimer of respect:

> I speak with great personal respect of these men when I state that a very considerable portion of the opulence and power of the kingdom of Ireland centers at this day in the descendents of this motley collection of English adventurers.[29]

The centuries of sectarian warfare had ended in an impasse. The Protestants had conquered the land, but not the Irish Catholics. The country remained in a state of endemic civil war, which no concession and no gesture of conciliation could still. Only the military power and protection of England kept further rebellion in check. In what is perhaps his most memorable rhetorical turn of phrase, FitzGibbon presented a nightmare of Irish history from which there was no waking:

> What then was the situation of the Revolution and what is it at this day? The whole

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27 Ibid., p. 13

28 Ibid., pp. 16-17

29 Ibid.

> power and property of this country has been conferred by successive monarchs of England upon an English colony, composed of three sets of English adventurers who poured into this country at the termination of three successive rebellions. Confiscation is their common title; and from their first settlement they have been hemmed in on every side by the old inhabitants of this island, brooding over their discontents in sullen indignation...What then was the security of the English settlers for their physical existence at the Revolution? and what is the security of their descendents at this day? The powerful and commanding protection of Great Britain. If by any fatality it fails you are at the mercy of the old inhabitants of the island.[30]

Along with obdurate, revenge-minded Catholics, FitzGibbon also blamed feckless, irresponsible Irish Protestants, another stock collective character of his rhetoric. He once again launched into the old familiar tale of foolish aspirations and foolish defiance, of misguided, kindly English concession leading to still more unreasonable demands. He once again made claims of an irresistible progression from the Volunteers, to the Whig Club, to the United Irishmen, to the Catholic rebels of Wexford. To underscore his claim, FitzGibbon made veiled accusations that Henry Grattan had treasonous contacts with the United Irishmen, notably Samuel Neilson.[31] Unquestionably FitzGibbon displayed dubious morality and still more dubious legality in making such claims. While the belief that Grattan was up to his neck in treason prevailed widely in government circles, nothing had ever been established beyond the fact that he had had some indiscreet interviews with Samuel Neilson.[32] But the absolute truth of his claims mattered not a whit to FitzGibbon. Grattan's dubious conduct provided him with an irresistible rhetorical opportunity: the premier champion of Irish Protestant Whiggery plotting treason with his spiritual sons, the United Irishmen.

Given the unrelenting bleakness of his historical vision, FitzGibbon displayed a curiously child-like optimism in his discussion of the union. In the rhetorical universe of his speech, it served as the irresistible *deus ex machina* in the bloody tragedy of Irish history. Wise and firm English rule would protect Protestants and Catholics alike from anarchy. On the vexed subject of emancipation, FitzGibbon dutifully hewed to the official Cornwallis line, that the subject could be discussed with safely only in the calm dispassionate atmosphere of a union parliament:

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30 Ibid., p. 22

31 His entire speech is littered with such dark hints; see in particular pp. 31, 54 and 59-60

32 Cornwallis, a man not given to paranoia, certainly believed Grattan guilty of misprision; see HO 100/78/379-80, Cornwallis to Portland, 24 September, 1798; for Grattan's own rather unconvincing claim that Neilson, in company with John Sweetman, stopped by Tinnehinch for a chance visit, see *Grattan IV*, pp. 412-13

> If the Catholics of Ireland are not satisfied with the indulgence which they have already experienced and are determined to press their demands of an unqualified repeal of the Test Laws and the Act of Supremacy, let them be discussed upon their solid merits in the imperial Parliament, where the question will not be influenced by passion and prejudice.[33]

Nonetheless, he gave a hint of his own sentiments, and incidentally, indulged in covert rhetorical revenge against his new hate figures, the Roman Catholic clergy and their stronghold, Maynooth:

> My unaltered opinion is, that so long as human nature and the Popish religion continue to be what I know they are, a conscientious Popish ecclesiastic never will become a well attached subject to a Protestant state and that the Popish clergy must always have a commanding influence on every member of that communion.[34]

But if, as he implied, the union would put to an end forever the hope of emancipation, it would also force Irish Protestants to stop their self-destructive habits of political contention and turn their attention to their true responsibilities as landlords. As he had in the distant days of the Tenantry Bill of 1780, FitzGibbon scolded his fellow Protestants and landlords on their neglect and carelessness

> I wish to withdraw the higher orders of my countrymen from the narrow and corrupt sphere of Irish politics and direct their attention to objects of national importance, to teach them to improve the internal energies and extend the resources of their country, to encourage manufacturing, skill and ingenuity and open useful channels for commercial enterprise and above all, seriously to exert their best endeavors to tame and civilize the lower orders of the people...to relieve their wants and correct their excesses; unless you will civilise your people, it is vain to look for tranquillity or contentment.[35]

He also indulged in wildly fantastic promises of English capital pouring into a newly tamed and civilized Ireland, claims that the more clear-headed anti-unionist, Foster, effectively questioned, and that later history resoundingly refuted.[36] Above all, he made the still more exalted and dubious claims of a new era of wise, steady English rule, in spite of the past policy mistakes which he had so tellingly noted at the beginning of his speech. He even went so far as to make the claim that he would willingly trust Ireland to the direction of an

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33 *Act of Union*, pp. 69-70

34 Ibid.

35 Ibid., p. 84

36 Ibid., p. 74

English Parliament, even if there was not a single Irish member in it.[37] FitzGibbon of course, could easily make such a declaration, since he had an assured place in the union parliament. In 1799, he had been awarded the English title, Lord FitzGibbon of Sidbury.[38]

In the end, bribes and promises of peerages and offices probably carried more weight with FitzGibbon's fellow peers than his superb, if flawed speech. Nor did his speech elicit much public reaction. Grattan, of course, responded with a pamphlet defending his good name and retelling the same dismal history from the perspective of an embattled Whig.[39] Cornwallis was highly complimentary, as was Edward Cooke, though he did take some exception to FitzGibbon's remark aspersing the loyalty of Catholic priests.[40] Unlike FitzGibbon, who saw the union as the premier measure of repressing Catholic political agitation once and for all, Cooke was anxious to maintain dubious Catholic loyalties for his and for the government's secret agenda. But such was the chill on public opinion in the aftermath of the rebellion, that his "besotted nation" comments of 1785 garnered more controversy than this more complete and detailed denunciation of Ireland and the Irish.

The Catholic emancipation crisis, culminating in the resignations of Pitt in England and Cornwallis and Castlereagh in Ireland, shattered FitzGibbon. It is impossible to exaggerate his rage, his bafflement, his sense of betrayal and his despair. Probably Edward Cooke gives the best indication of FitzGibbon's state of mind following the revelations of Pitt's and Cornwallis's true sympathies on the bedeviling subject. He wrote to Castlereagh:

> I received a rather warm letter last night from the Chancellor. He is hurt at your not having consulted with him. I wrote for answers and I send you the copy...

Cooke affected to treat the whole matter with contempt. He requested Castlereagh to return

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37 Ibid., p. 58

38 For his rather coy gloating on this titular acquisition see once again the invaluable Sneyd Muniments, FitzGibbon to Auckland, undated but probably September 1799: "What you have mentioned from the warmth of your feelings for me would certainly be a very honorable and flattering mark of favour to me. But to that or any other object I shall never look at a time when the attainment of it can throw a difficulty in the way of Mr. Pitt in his progress to the great object of settling this country. Whenever he feels the time to have come when such a mark of distinction can be conferred upon me, I should be much wanting if I were not to thank him for it as the most honorable reward that I could receive."

39 Henry Grattan, *An Answer to a Pamphlet Entitled the Speech of the Earl of Clare on the Subject of the Legislative Union between Great Britain and Ireland*, (Cork, 1800)

40 *Cornwallis III*, p. 184

the copy of his letter to Lord Clare, "with your best thanks, for I can assure you the copying of it has bored me much more than the mailing can bore you." [41] In other words, Lord Clare and his temper were tiresome and petty matters. But Cooke's postscript revealed that he was more nervous than he let on. He requested Castlereagh to avoid mentioning that he had knowledge of the letter.[42] FitzGibbon's formidable rage would wax exponentially if he knew that Cooke was showing copies of their correspondence to Castlereagh. With the latter gentleman FitzGibbon would not deign either to write or to speak. As for Cornwallis, FitzGibbon made this assessment of the man he had once admired so extravagantly:

> That preposterous old Mule who has just quitted the government of Ireland did more mischief here than he could repair if he were to live to the end of the new century.[43]

But nothing could compare to his rage against the proposed beneficiaries of emancipation, the Irish Catholics themselves. In a letter to Lord Shannon, a most receptive auditor indeed, FitzGibbon inveighed against the madness, the stupidity and the sheer evil of "rebel schemes of emancipation". In particular, he dwelt on the Catholic capacity for sectarian cruelty and republican revanche. He assured Lord Shannon that if the rebel schemes for emancipation had passed, both of them would have been hanging from lampposts.[44]

FitzGibbon closed his letter to Lord Shannon with a sort of embittered bravado. In spite of the stupidity and irresponsibility of Pitt, Cornwallis, and the other ministerial traitors, their schemes for Catholic emancipation would never succeed. The forces of the established church would stand firm, and the King would oppose, as would *"all of his sons"* (FitzGibbon's emphasis). FitzGibbon could no doubt make such assurances, having done his work so well with the king, though he was on slightly more shaky ground with respect to *all* the sons. Sussex and Kent tended to be rather liberal on the subject, when they thought of it, and the fickle Prince of Wales was again wooing Mrs. Fitzherbert at this time. But FitzGibbon's assessments of the royal family are secondary. More important is the sense of dread and failure beneath these assurances to Lord Shannon. The union, rather than destroying forever the hope of emancipation, only gave the subject a

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41 PRONI, Castlereagh Papers, 3030/1597,Cooke to Castlereagh, 10 February, 1801

42 Ibid.

43 Sneyd Muniments, FitzGibbon to Auckland, 10 August, 1801

44 PRONI, Shannon Papers, 2707/A/2/2/156, FitzGibbon to Shannon, 13 February, 1801

new lease on life. The Catholics had been left, willfully or otherwise, with the impression that emancipation would soon follow the union. They would never let the subject rest. FitzGibbon no doubt suspected that the English government would eventually succumb, as they did in 1793, if only out of weariness. In effect, he had failed, even though the forces of emancipation had lost office. Worse, he had received crushing proof that 1793 was no mere aberration. In spite of his services and his loyalty, the English government would willingly sacrifice his known opinions and his feelings if it suited their larger imperial purpose.

(ii)

His first major appearance in the union House of Lords, a debate over the extension of martial law in Ireland, was a tired revival of the Lord Moira drama of 1798. The protagonists, the antagonists and the speeches were familiar. Moira and Fitzwilliam took the lead in protesting the measure's constitutional impropriety, excessive harshness and hasty introduction. These arguments, introduced by these men, provoked a predictable response from FitzGibbon. He insisted, on the contrary that martial law was absolutely necessary, given the innate savagery and obduracy of the Irish and their addiction to rebellion. Although this speech was later re-printed in the *Annual Review*, it was not one of FitzGibbon's better efforts. Absent was one of the salient features of the great speeches of 1798 and 1800, the insight, however partisan and distorted, into the causes of Irish discontent. FitzGibbon resorted instead to the simple-minded and highly dubious claim that the rebellion resulted from sheer perversity, and not from any legitimate motive, however mistaken:

> It did not, as some former rebellions had done, proceed from misplaced loyalty, religious zeal, or party difference, all principle had been subverted, every laudable feeling stifled and suppressed, and no other object cherished than a rivalship in domestic treason, relentless murder and cowardly assassination.[45]

Always one for the telling anecdote, FitzGibbon alluded to the murder of his steward, Mr. Allen, an incident which had taken place in 1799. Several of FitzGibbon's household servants, including a man who had been in service to the family since old FitzGibbon's time, were convicted and hanged for the crime. FitzGibbon declared to his fellow peers that the unfortunate man was murdered "merely because he was an

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45 *Woodfall's Parliamentary Reports*, (1801), p. 539

Englishman."[46] No doubt the crime was shocking, and no doubt it was profoundly disillusioning to find that old family retainers were guilty. But the sad truth was that FitzGibbon was as guilty of cynical misrepresentation. In his initial accounts of the murder, FitzGibbon, having no pressing political reason to lie, attributed the crime, not to fanatic Irish nationalism but to mere greed. A number of his servants were participating in a combination to keep local milk prices at an artificially high level; they made midnight raids on farmers who refused to cooperate and beat them. The steward, accidently discovered them while they were preparing for one such expedition, and they killed him in a panicked effort to prevent him from revealing their activities to their formidable master.[47] In short, the servants in question do not seem to have had any premeditated designs against Allen as an Englishman; on the contrary, they acted only to preserve their places , and of course, to avoid prosecution and conviction. But in his disillusion and anger, FitzGibbon willfully distorted this sad, commonplace crime, creating for himself and for his like-minded auditors a useful paradigm for the irredeemable savagery of the Irish. FitzGibbon, the skilled and cynical barrister, no doubt well knew what chills this sort of a remark would sent down the spines of backwoods peers and squires in England. He also added the claim that Allen's murder set off a major rebellion in Limerick, which hitherto had "remained quiet during the early part of the rebellion." The murder of Allen was to have been the beginning of a mass killing of local gentry and aristocracy. FitzGibbon himself, or so he claimed, headed the list of the prospective targets of assassination. The ringleader, the treacherous servant of long-standing, allegedly confessed to a priest "that a list of twenty had been made, whom it was resolved to murder, and that his master [i.e. FitzGibbon] was of the number, whom, to use their own phrase, he had sworn to *sweep,* in one of his evening walks around his farm." [48] FitzGibbon was quick to assure his auditors that the native Irishry had no reason to hate him or to wish for his demise:

> He was the only person who gave employment and bread to the poor in that neighborhood, and without him they must be reduced to the greatest wretchedness.[49]

There could, therefore be only one motive for their designs, "merely a pure love of

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46 Ibid., p. 542

47 For FitzGibbon's initial, and true, account of Allen's murder, see Sneyd Muniments, FitzGibbon to Auckland, 17 June, 1800

48 *Woodfall*, p. 542

49 Ibid.

blood."[50] FitzGibbon, who had aimed his remarks at Lord Fitzwilliam in particular, pointedly alluded both to his status as an absentee landlord and to his alleged naivete about Irish affairs:

> If the noble Earl...could find time to visit his estates in the county of Wicklow, he would see that these representations were not exaggerated. He would there behold nothing but traces of desolation, and signs of the renewal of these horrors.[51]

Having transmogrified his steward's murder into a cross between Beaumarchais and de Sade, and having satisfactorily belittled Lord Fitzwilliam, the ignorant absentee, FitzGibbon went on at length to prove that martial law, far from imposing a tyranny on the country, was in fact not as effective as it could be. Conniving attorneys regularly subverted the judgments of military tribunals by filing writs of habeas corpus and attempting to transfer jurisdiction of cases to the royal courts, which were actually open. FitzGibbon alluded to the case of Wolfe Tone, to illustrate his point.

> Theobald Wolfe Tone, whose name made a conspicuous figure in the secret committee, had been taken in arms in a French ship of war, and condemned by a military tribunal. The Court of King's Bench was then sitting, however, under a military guard, and a worthy limb of the law discovered that it could not be open without being compelled to interfere. He therefore applied for a write of *Habeas Corpus* which of course was granted. The consequence was that Mr. Tone had an opportunity to cut his throat with a razor and to disappoint the justice of the country. Immediately after, the petty solicitors flocked to Dublin from every part of the kingdom and procuring writs of *Habeas Corpus*, prevented the trial of the rebels.[52]

Clearly Tone's death still rankled, though FitzGibbon refrained in this instance from expressing his sentiments that a man with a cut throat still could conceivably hang.

He ended with a few more anecdotes about Irish savagery, and he defended himself from a charge widely circulated since 1798 and repeated in particular by Moira, that he was an advocate of torture. He reiterated the tale of the pike-making blacksmith who after some momentary discomfort on a pickett, divulged the hiding place of his productions. He made the same defense that he had made to Lord Moira in 1798: "...he would say that is should be maturely considered whether society would suffer most from the murder of two or three hundred loyal and well-disposed men, which was probably thus prevented, or from a rebel

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50 Ibid.

51 Ibid.

52 *Woodfall*, pp. 540-1

blacksmith being placed half a minute on the picquet [sic]?"[53]

The young Grattan later claimed that this particular production inspired universal disgust among the honest, straightforward and humane English. They found FitzGibbon's fawning demeanor toward them and his brutality toward his own countrymen alike disgusting. Nor did he enjoy his customary rhetorical dominance in the union House of Lords. Even a comparatively insignificant figure, Lord Caernarvon, '*pinioned*' FitzGibbon in the House, or so the younger Grattan phrased it.[54] There were some elements of truth in this assessment. Wilberforce, a far more reliable witness, reported that Pitt, an auditor at the debate, did leave the audience in disgust during FitzGibbon's speech.[55] But Pitt had always disliked FitzGibbon, a dislike no doubt confirmed by a forced and turbulent personal interview with FitzGibbon following the Catholic emancipation crisis.[56] On the other hand, Westmorland and Grenville, FitzGibbon's friends from his days at the Castle, far from exhibiting disgust, strongly supported him, and one English peer, Lord Mulgrave, declared that FitzGibbon had fully convinced him of the need for martial law.[57] Mulgrave was probably not the only one. In spite of his exaggerations and his shameless lies, FitzGibbon probably convinced a goodly number of English Tories that Ireland was a bloody maelstrom of Popery and rebellion. Lord Caernarvon did indeed give a very spirited speech which included number of sarcastic allusions to FitzGibbon and his servant problems, but he did not, unfortunately, *pin ion* the votes to defeat the bill to extend martial law.[58] On the contrary, it passed resoundingly.

Nonetheless, in spite of his inimitable combination of high Victorian moralizing and anti-unionist *schadenfreude*, the younger Grattan was at least partially right. FitzGibbon, who had risen so spectacularly and so effortlessly for the pa$t seventeen years, had indeed reached the limits of his power. In spite of his loyal service in Ireland, his tireless efforts on behalf of the union and his like-minded views, FitzGibbon did not receive a position in Addington's new no-Popery cabinet, the next logical step in his advancement. The reason for his exclusion was so patently ironic that it bordered on the ludicrous.

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53 Ibid., p. 544

54 *Grattan III*, p. 402

55 Ibid.

56 See FitzGibbon's own allusions to their conversations in the letter to Lord Shannon previously cited.

57 For Lord Grenville's supporting remarks see *Woodfall*, p. 552; for Westmorland, see pp. 559-60; Mulgrave's remarks appear on p. 546

58 *Woodfall*, pp. 552-7

FitzGibbon was simply too notoriously anti-Catholic, or so Addington informed Lord Glenbervie:

> ...efforts had been made to place Lord Clare in this Cabinet and I [Glenbervie] said I had clearly seen that to be his aim. [Addington] said it would be declaring too strongly to the Irish Catholics that the power which had been employed against them was only transferred to London.[59]

In other words, anti-Catholicism, which had hitherto served FitzGibbon so well, now became the chief cause of his failure in England. FitzGibbon's knack of influencing others, another key to his past advancement, played against him as well. Addington feared FitzGibbon's potentially disruptive influence over Hobart who did obtain cabinet office.[60]

To compound the irony, FitzGibbon seemed utterly unaware of the reason for his exclusion. On the contrary, if the debate over Taylor's divorce bill is any indication, FitzGibbon continued to angle for a place in Addington's government by resorting to precisely those tactics that had led to his initial exclusion: a rabid, and indeed rather inappropriate display of anti-Popery.

The bill itself originated in a squalid sentimental comedy involving the eponymous Mr. Taylor, his wife and a young clergyman who had seduced and impregnated her. Mr. Taylor, not surprisingly, sued for divorce, and when the bill came up for debate, several bishops and lay lords chose to include a provision forbidding the marriage, not only of the guilty pair, but of any adulterous clergyman and his paramour.

FitzGibbon opposed the clause, and in so doing, he presented the view that the Church, while an essential prop of the state, was nonetheless subservient to the secular power of the Common Law. Any jurisdiction which the Church of England exercised over marriage was solely owing to an accident of statute law at the Reformation. Even when the Church declared a marriage invalid, only the intervention of secular authority in the guise of a parliamentary statute effectively ended the union. In short, marriage was exclusively a civil contract over which the Church had no binding authority.[61]

FitzGibbon combined this crudely Erastian disquisition with an attack on the "strange corruptions of the Romish Church and the impure practices of it, of the tyrannous authority and dominion the See of Rome assumed, and the gross impositions it laid on the minds of men, contending among other absurd pretensions, for the infallibility of the

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59 *The Later Correspondence of George III, III*, p. 515 [footnote]

60 Ibid.

61 *Woodfall*, pp. 76-77

church as undeniably arising from the infallibility of the Pope." [62] Precisely what relation His Holiness's impositions and pretensions had to the subject at hand is unclear. FitzGibbon may have been venting spleen left over from the great Catholic emancipation debacle. He may also have included this rhetorical flourish to remind Addington of his anti-Popish credentials and of his ideological worthiness of a place in the cabinet.

FitzGibbon's unexalted view of the Church as the humble tool of the state no doubt offended a good many high churchmen. More important, this speech probably confirmed the decision to exclude him from the cabinet. Certainly Eldon, FitzGibbon's fellow chancellor and fellow anti-Catholic, found his views dubious and subjected him to a condescending correction on points of law and of Church doctrine:

> The Lord Chancellor left the woolsack to speak to the law points mentioned by his noble and learned friend, who, he said though he perhaps pursued his studies and inquiries into the decision of the Law Courts, and laws themselves with better advantage than he had, yet he undoubtedly had not quite so long an experience of both as he had possessed...With regard to marriage being a civil contract, it undoubtedly was a civil contract, but his noble and learned Friend must recollect that it was in the whole view of it, and even in the ritual itself, declared to be a divine ordinance, and had ever been so considered by the Ministers of the Church of England and by all polemical writers.[63]

FitzGibbon, of course, brooked no contradiction, even from a superior firmly in cabinet office:

> Lord Clare said a few words also in explanation, but adhered to his opinion that marriage was ever since the reformation a civil contract and nothing more.[64]

But except to exert his authority in Irish affairs he never spoke at length after this debate. Perhaps he prudently avoided speaking because of an unfamiliarity with larger English and imperial political issues. Yet the possibility does exist that he recognized that Eldon had humiliated him, and he maintained a general reticence out of mortification.

According to the younger Grattan, FitzGibbon loitered disconsolately in London after the closing of parliament, still hoping vainly for English office.[65] There may have been a more uxorious reason for FitzGibbon's continued stay in London. It was, after all,

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62 Ibid.
63 Ibid., p. 81
64 Ibid.
65 *Grattan III*, p. 402

the height of the London season and he had his fashion-mad wife *en suite*, not a lady to brook a premature return to newly provincialized Dublin. Moreover, FitzGibbon was a very astute and very proud man. He would have recognized a lost cause when he saw one, though he never seems to have recognized the true reason for his failure.

Whatever his reasons or his schemes, a dangerous riding accident inadvertently prolonged FitzGibbon's stay in London more than even he might have desired. According to the fullest and most reliable accounts, FitzGibbon had been exercising his horse in Hyde Park. When he took his mount to a pond to give it water, it suddenly bolted.[66] The newspapers of the time delicately avoided mentioning the exact nature of his injuries, but appears that he suffered a strangury, the result of blows to his groin and genitals from the pommel of his saddle. FitzGibbon did survive the accident, and more miraculously, he survived the surgery which his doctors performed to relieve his condition. But he was bed-ridden for two months and was only able to return to Ireland in July. The otherwise intelligent and fair account of FitzGibbon which appeared in the *Dictionary of National Biography* later attributed FitzGibbon's death to this accident. In fact, by August, FitzGibbon was reporting to Auckland that he was fully recovered and , no doubt a great relief to this avid horseman and hunter, he was able to "ride nearly as well as ever."[67] FitzGibbon did indeed die very shortly after the accident, but overwork or drink probably did him in, not his high strung horse.

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If FitzGibbon had hoped to make up for his disappointment in England by exercising his accustomed authority in Ireland he was quickly disappointed. Cornwallis's successor Hardwicke had received due warning from no less a personage than the King to avoid domination by FitzGibbon:

> The King recommends the Lords Primate and the Chancellor as men that will not deceive the Lord-Lieutenant, but he should not deal with the openness necessary if he did not hint that the latter may be a useful instrument in the Earl of Hardwicke's hands, but if not attended to may attempt to guide, which can neither be expedient

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66 The fullest account of his accident that I could find appears in the good old *Times*, 26 May, 1801; the *Times* coyly stated that FitzGibbon had been "bruised in a manner to endanger his life." *Faulkner's Dublin Journal*, edited by the inimitable Gifford, used FitzGibbon's accident as an excuse to indulge in loyalist paranoia: "There needed little more than the malicious satisfaction at his Lordship's danger, which was not even concealed by the enemies of the Empire, to convince us how precious his life must be to every man who has at heart the true interests of Ireland." (28 May, 1801)

67 Sneyd Muniments, 19 September, 1801

nor creditable.[68]

Unlike Addington, George had little concern about the sensibilities of Irish Roman Catholics. With the curious, fitful acuity of the simple-minded, George saw FitzGibbon's habits of domination, not his political/religious opinions as a threat to the stability and the reputation of government. In this assessment he was remarkably prescient.

In spite of the King's warning, Hardwicke initially was anxious for FitzGibbon's recovery and eager for his presence and his advice.[69] Unfortunately, his good intentions and his hopes of a harmonious working relationship with FitzGibbon were alike disappointed. FitzGibbon returned from England a restless and disillusioned man. Whatever self-consoling explanations he had given himself, the fact remained that he had failed to advance in England, and he was firmly confined to a position which, as a result of the union, was much diminished in responsibility and prestige. Moreover, he was still smarting over the flouting of his opinion and his authority on the vexed issue of Catholic emancipation. Given FitzGibbon's suspicious and prickly mood, only abject deference and absolute submission to his direction would have placated him. Unfortunately, Hardwicke had too much a sense of duty and dignity to allow FitzGibbon to act as *de facto* lord lieutenant. Nor was the new chief secretary, Charles Abbot, more amenable. He had too much self-importance and too much self-will. FitzGibbon was soon engaged in a series of undignified squabbles with both and in particular with Abbot. Hardwicke he merely despised as a weak dupe. Arguably, he detested Abbot more than Wolfe Tone, John Sweetman or any of his multiplicity of past antagonists.

FitzGibbon did have some reason for his antagonism. Abbot was an authentically obnoxious individual: self-satisfied, self-important, domineering and busily fretful over minutiae. Nonetheless, he was genuinely dedicated and genuinely intent on providing fair and efficient administration. Nor was he necessarily the worst English official character with whom FitzGibbon had dealings. He was no more fretful than Thomas Orde and no more grating in his manner than Lord Buckingham. But conduct which FitzGibbon had tolerated in his dizzying rise to power, he found unbearable in the wake of his baffling failure and frustration following the union. He raged endlessly about Abbot in letters to his extraordinarily patient confidante, Auckland. Abbot, he declared, "...is without

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68 *Later Correspondence of George III*, III, p. 530

69 BM Add MS 35,771, f4-6, Hardwicke to Abbot, 8 June, 1801 "...I rejoice too at the prospect of Lord Clare's recovery, for I was very apprehensive that though his life might have been saved by the skill of his surgeons and by his own firmness in submitting to a dangerous operation he would not entirely recover the effects of his unfortunate accident."

competition the most arrogant, presumptuous, empty prig I have ever met with or heard of."[70] But Abbot. rankled less than the gnawing sense that he had lost his grip on Irish policy and on power. The final stage of his career was an increasingly desperate and pathetic fight to preserve what influence yet remained. Abbot 's obnoxious manner was a subordinate *ca sus belli.*

Hardwicke and Abbot inadvertently increased the provocation with their tactless, though well-meant, interventions in two particularly sensitive areas for FitzGibbon: Limerick and law. The administration of martial law was at the bottom of the matter of Limerick. During the rebellion and in the period of unrest immediately following, FitzGibbon had convinced Cornwallis to waive the requisite review of court martial sentences passed on offenders in Limerick. Cornwallis, no doubt convinced that his right-minded chancellor would not request such a drastic measure without good reason had agreed. Hardwicke, a humane man, had requested Sir James Duff, the commander in that district, again to refer any sentences from courts martial in Limerick to the lord-lieutenant for confirmation. At the same time, he kept this particular order confidential. He thought that if word of his proposed lenity spread, it might actually encourage an upsurge of violence. In short, martial law was to be mitigated, but the fear of its full severity was to remain in the minds and hearts of the populace of Limerick. For his proposal to have any effect, Hardwicke was necessarily obliged to keep it a secret even from the premier magnate of Limerick and premier advocate of strict courts martial, FitzGibbon himself. Unfortunately for Hardwicke, FitzGibbon, ever cunning and astute, did learn about the new policy and promptly revealed both the order and his fury at it. Inevitably, he attributed the order, not to Hardwicke's humanity, but to Abbott's malignant meddling:

> This power has been revoked within the last week by Mr. Abbott, without the slightest communication with me, although it is notorious that the power was given to Sir Jas. Duff at my recommendation, and that it has done more to restore quiet in this country than any measure taken since the Disturbance broke out.[71]

Indeed, the plan to modify martial law in Limerick had all the earmarks of the Catholic emancipation infamy: an act of indulgence performed in secrecy. Hardwicke, for his part, was mortified at FitzGibbon's display of temper and at his indiscretion.

In matters legal, FitzGibbon's already sore feelings suffered affronts most notably

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70 Sneyd Muniments, FitzGibbon to Auckland, September 19, 1801

71 Sneyd Muniments, 19 September, 1801, op. cit.; for Hardwicke's motivation and justification for his actions see BM 35,771, f158-62

over the matter of a successor for Baron Metge, who had recently resigned from the Court of Exchequer, and over the matter of Sir Henry Hayes' reprieve. In the matter of Metge, FitzGibbon took offense, not at the lack of consultation, but at the manner in which Hardwicke sought his opinion on a possible successor. Hardwicke, no doubt acting from motives of efficiency, requested FitzGibbon to submit three candidates whom he considered most suitable to succeed Metge. FitzGibbon interpreted Hardwicke's gesture as another insidious move to increase Abbot's domination rather than as an honest effort to solicit his opinion:

> ...I received a letter from him [Hardwicke] to desire that I would return to him three persons for his scrutiny and selection or rather for the scrutiny and selection of Mr. Abbott. Feeling that his excellency meant to give me precisely that degree of credit which is extended to a sheriff going out of office, I did in very peremptory terms refuse to make the return which he required of me as degrading to the situation which I hold. [72]

To have satisfied FitzGibbon's irritable sense of punctilio, Hardwicke was obliged either to accept his recommendation without "a scrutiny of it by any man" [meaning Abbott] or to submit his own candidates to FitzGibbon for comment and recommendation. Poor Hardwicke was doomed never to get it right about FitzGibbon. In an effort to placate FitzGibbon, Hardwicke had promised to send any recommendation he might make directly to the King. In so doing, he provoked this polite, but critical response from Pelham, the former chief secretary and now a member of Addington's administration:

> Your excellency's conduct toward the chancellor on the subject of Baron Metge's resignation, must be highly gratifying to him and certainly such as his high professional character, professional experience and attachment to the interests of Great Britain and Ireland justly entitle him to; at the same time you will forgive me if I observe that it appears to me that it might have been sufficient if your Excellency had asked him for his opinion without pledging yourself to forward his recommendation to his majesty.[73]

No doubt as a result of FitzGibbon's activities in 1795, Pelham shared the conviction of the King and the prime minister that FitzGibbon had exercised too much dominance for too long in Ireland. Nonetheless, the letter showed an amazing obtuseness toward Hardwicke's miserable situation. Hardwicke knew all too well how little gratification FitzGibbon found in any conduct of his, least of all his conduct on the matter of Baron

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7 2 Sneyd Muniments, 19 September, 1801

7 3 BM Add MS 33,114, f39, Pelham to Hardwicke, 22 September, 1801

Metge's successor

FitzGibbon himself gave the best account of the case of Sir Henry Hayes and of his own cause for grievance in this particular instance:

> Sir Henry Hayes and Murphy were indicted and tried on the same statute, for carrying off a woman by force with intent to marry her. Murphy succeeded in ravishing his lady...Sir Henry Hayes attempted to ravish his, but did not succeed because the cock would not fight. He was at length brought to trial, found guilty and respited by Mr. Day upon a silly doubt in his mind on a point of law...Poor Murphy has been hanged and Sir Henry Hayes has been pardoned...Certainly if every any crime deserved capital punishment in a civilized society, Mr. Murphy's and Sir Henry's did merit it. But it will be difficult to persuade the lower orders of the people that equal justice has been administered to rich and poor.[74]

In his indignation that his opinion was again was ignored, and no doubt in his laudable desire to assure that equal justice was meted out to rich and poor, FitzGibbon seems to have overlooked several essential points. In the first place, the recommendation of the jury, not a "silly doubt" had influenced Justice Day.[75] Probably the most telling point in Hayes' favour was, to borrow FitzGibbon's own inimitable turn of phrase, his cock had not fought. He had moreover made every effort to treat his victim, Miss Pike, kindly during her enforced captivity, and she had eventually returned to her father *virgo intacta*.[76] Murphy on the other hand, was hanged, not because he was poorer than Sir Henry Hayes, as FitzGibbon suggested, but because he was more potent.

FitzGibbon's festering sense of grievance sometimes took an absurd and childish turn. For example, in a brief note to Abbott concerning a candidate for Judge Advocate of the courts martial, FitzGibbon declared the man's fitness for the post. He then addressed his note to Mr. Charles Abbot, Chief Secretary, and he followed this title with a long line of et ceterae, making in effect a veritable hieroglyph of contempt.[77] Clearly dignity in adversity was not one of FitzGibbon's more notable virtues.

FitzGibbon also continued to bombard Auckland, Hobart and his other remaining friends in England with indignant accounts of his slights and mistreatment. Hobart and Auckland were suitably distressed by these highly colored letters, but there was little they could do apart from making an occasional protest.[78] Hardwicke in the meantime did not

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74 Sneyd Muniments, 19 September, 1801

75 BM Add MS 45,031, f32, Hardwicke to FitzGibbon, 28 August, 1801

76 BM Add MS 45,031, f32, op. cit.; BM Add MS 33,114/f36-7, Kilwarden to Hardwicke, 15 September, 1801

77 Rebellion Papers, 620/59/15, FitzGibbon to Abbot, 29 August, 1801

78 For the responses of Auckland and Hobart see *Auckland IV*, p. 144 and 146

remain passive. He wrote long frustrated letters to Addington, complaining of FitzGibbon's unreasonableness, uncooperativeness and indiscretion.[79]

With a neat irony redolent alike of Greek tragedy and of cheap fiction, the Catholics were the unwitting instruments of FitzGibbon's final undoing. His always formidable loathing for Catholics waxed as his influence waned, and his letters of 1801 were full of sulphurous references to their bigotry, cruelty and general bad principles.[80] He could not retaliate against the English government for the betrayal of the principles of the union, but he could retaliate against the Catholics with petty harassment and with frequent assertions of dominance. Indeed, the Catholic menace gave his flagging political career its one remaining *raison d'etre*. In one of his restless, miserable letters to Auckland, he expressed his intention to postpone any return to England, unless, of course, there was a resurgence of "Popery projects", in which case he would bestir himself sooner.[81]

A second Maynooth crisis of FitzGibbon's own making revealed to him that he could no longer exercise his accustomed power even over the Catholics. The crisis originated in the vague clumsy framing of the original act of 1795, which had established Maynooth. Unquestionably, Maynooth had come into existence to provide a safe reliable supply of Catholic priests trained under government control and at government expense. Portland and Camden certainly stated that aim very clearly in their various dispatches on the subject.[82] But the actual wording of the bill never explicitly stated that Maynooth was, in effect, a government sponsored seminary. It simply declared that Maynooth was a school for the better education of Papists, and it set aside the previous laws which prohibited Catholics from establishing schools exclusively for members of their own denomination.[83] The reasons for this statutory coyness are unclear. Possibly, Camden, Pelham and Portland wanted to avoid offending the high Protestant party by explicitly declaring intentions which might give an impression either of establishing Roman Catholicism or of

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79 BM Add MS 35,771, f158-62, op. cit.

80 See for example his letter to Auckland dated 22 October, 1801 and 17 November, 1801 in the invaluable Sneyd Muniments. In that latter missive, FitzGibbon complained not only of general Popish disaffection, aided and abetted by the clergy, but of a "treasonable Protestant Committee of Irish Correspondence at Paris".

81 Sneyd Muniments, 22 October, 1801

82 See for example HO 100/57/123-6, Camden to Portland 14 April, 1795; in this dispatch, Camden alludes to "seminaries for the education of Priests of the Roman Catholic persuasion"; see also HO100/46/301-9, a draft dated 26 March, 1795; in this draft, Portland sets forth proposals not only to establish "Seminaries for the Education of Persons of the Catholic Persuasion who may be disposed to devote themselves to the profession of the Church" but to provide maintenance for the Roman Catholic clergy.

83 See HO100/57/129 for a draft of the bill.

putting it on an equal footing with the Church of Ireland.

They may temporarily have placated feelings in 1795, but they laid the ground for FitzGibbon's cavil and meddling after 1799, when he abruptly seized on the notion that Maynooth was to educate not only the Catholic clergy, but the laity. His anxiety about lay education unquestionably originated in his desire to incorporate a strong gentry presence at Maynooth, ostensibly to "civilize" humbler students, but more likely to provide a reactionary counterweight to any radical opinion. He also knew the pliancy of the Catholic gentry and aristocracy. If they were present in force in the student body as well as on the board of trustees, the government could manage Maynooth all the more effectively. Above all, FitzGibbon was in the grip of a new phase of his loathing for Catholics; the objects at this stage were country or hedge schoolmasters, who FitzGibbon claimed, had been prominent in the rebellion. Those who had not been hanged or shot had re-established their schools, which were, to use FitzGibbon's own lurid phrase, "seminaries of treason." The clergy encouraged these schools by threatening to ex-communicate any parents who sent their children to any school not directed by a Catholic. In most country districts, Catholic schools were necessarily rebel schools. [84] By opening Maynooth to lay students, FitzGibbon no doubt hoped to educate at least a handful of Catholics under government control. But FitzGibbon involved himself in Maynooth above all because he wanted to assert his control over Catholic issues in general. Maynooth, which had already been the cause of much frustration and humiliation, no doubt had a certain symbolic significance.

FitzGibbon had hinted at his views as early as 1799; in making his apologies and excuses to Lord Cornwallis, he referred to it not as a clerical seminary but as an "academy" for Roman Catholics in general.[85] Nonetheless, the lay school does not seem to have come into existence until late 1800 or 1801. The circumstances behind its inception are sketchy and obscure. By his own admission, FitzGibbon himself was a prime mover, persuading Archbishop Troy to set aside monies for an expansion for lay pupils.[86] He may also have enlisted the aid of Lord Fingall, one of the lay Catholic trustees. If he did indeed employ Fingall as his ally and as his mouthpiece, he chose well. Fingall was amiable, impeccably loyal, impeccably subservient to government and impenetrably stupid. He also had a son of school age. There is a good likelihood that FitzGibbon, who had no mean talent for flattery and ingratiation, persuaded Fingall that his charming boy would

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84 Sneyd Muniments, 22 October, 1801

85 *Castlereagh II*, p. 277

86 BM Add MS 35,771, f135-8; "Substance of a conversation between Lord Hardwicke and Lord Clare" on the subject of Maynooth

have a good influence on the uncouth seminarians at Maynooth. The school may have had other proponents acting on entirely different motives. But by the autumn of 1801, Lord Fingall's son was duly enrolled as a lay student at Maynooth. And FitzGibbon who up to this point had never had any but the most remote contact with the Catholic gentry or aristocracy, was suddenly on very cordial terms with Lord Fingall. Fingall had invited FitzGibbon to his house in London, and FitzGibbon for his part sent an extraordinary note to Fingall, giving him virtual *carte blanche* to appoint magistrates in County Meath, a sensitive, much disturbed area.

> I shall always be happy to attend to any recommendation from you, and write by this post to Mr. Dwyer, my secretary to sent me down a warrant for Mr. Johnson's appointment to the commission of the peace and in future, you have only to send any recommendation you may wish to forward to me to Mr. Dwyer and the appointment shall take place of course.[87]

Of course, FitzGibbon could safely make such a gesture. Lord Fingall, who had massacred a detachment of rebels on Tara Hill, could be counted on to recommend safely reactionary magistrates. But the letter certainly represented a startling turnaround in their relations. The same Lord Fingall, when Lord Killeen, had made hostile comments in 1787 about the malign intentions of Attorney-General FitzGibbon.[88] For his part, FitzGibbon had expressed considerable displeasure with the same Lord Fingall in 1794 for attempting to reverse his attainder in the English Courts and the English House of Lords.[89] FitzGibbon's schemes for Maynooth may have accounted for this sudden change in their relationship from remote hostility to mutually flattering cordiality.

Nonetheless, FitzGibbon had not seen fit to inform his fellow visitors, Lord Kilwarden and Lord Avonmore, of his new conception of Maynooth. They had no knowledge of the school's existence until a visitation which took place in the autumn of 1801. They had completed a tour of the more established seminary and while amicably strolling in the garden with the director, they happened to see a new building in the process of construction. When they asked its purpose, the director informed them that the building was to serve as a dormitory for lay students. Kilwarden and Avonmore, who never mistook Maynooth for anything other than a government-controlled seminary, immediately

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87 NLI, Fingall Papers, 8023/6, FitzGibbon to Fingall, 1 October, 1801; in this same letter FitzGibbon expresses regret that he could not call on Fingall in London, which suggests a standing invitation of some sort.

88 NLI, Fingall Papers, 8022/10, Fingall (then Lord Killeen) to Patrick Bellew, January 1787

89 HO 100/52/56-58, Westmorland to Dundas, 16 May, 1794

informed the director that the presence of a lay school deviated from the original purpose of the foundation. They requested him to stop any further outlay on the school until the government could consider the matter. Kilwarden and Avonmore then consulted with Hardwicke, who agreed with them that a school for the laity at Maynooth would interfere with the eleemosynary aims of that institution. He also feared that it would discourage enrollment at Trinity and with it any irenic contact between Catholic and Protestant boys. While Hardwicke gave no order to dissolve the school outright, he confirmed the directive of Kilwarden and Avonmore to suspend any further outlay or enrollment.[90]

When he got wind of the government's actions, Fingall immediately sought out his patron FitzGibbon. Either poor dim Fingall got the purport of the order wrong, or FitzGibbon willfully chose to misunderstand. At any rate, FitzGibbon descended on Lord Hardwicke in another display of indignation, demanding to know why the government was arbitrarily closing the lay school and dispersing the pupils, Lord Fingall's son among them. Hardwicke patiently explained that the school was to be phased out gradually, not disbanded and he presumably explained the opinion of FitzGibbon's fellow visitors, Kilwarden and Avonmore. Hardwicke apparently believed that this latest skirmish with FitzGibbon was over. At any rate, FitzGibbon seemed placated, and Lord Fingall, ever pliant, assured Hardwicke and Abbott that he would enroll his son in an English school.[91]

Unfortunately, Hardwicke underestimated FitzGibbon's determination and his desperation. In December, FitzGibbon was again meddling in affairs at Maynooth. Having lost control of Lord Fingall, he turned his powers of persuasion and intimidation on Dr. Troy. According to Troy, FitzGibbon summoned him specifically to complain about the imminent demise of the lay school:

> ...the Chancellor sent for me and asked me how things were going on at Maynooth. I told him no alteration had taken place. He said it was the most absurd and extravagant thing that ever entered the mind of man to prevent laymen being educated at the College and that every country schoolmaster might teach and why not those who were better qualified and under the control of Government?[92]

Troy responded to this onslaught with an appeal to another authority:

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90 For details of the lay school contretemps, see *Cornwallis III*, p. 365-7 and Charles Abbot, Lord Colchester, *Diary and Correspondence* (London, 1861), *III*, pp. 335-6

91 *Cornwallis III*, pp. 366, 367; see also FitzGibbon's hasty allusions to Fingall's appeals and to his previous conversations with Hardwicke: BM Add MS 35,771, f135-8

92 BM Add MS 35,771, f134; the other quotations from Dr. Troy appear in this same manuscript which was a memorandum or dictation taken either by Abbott or by Alexander Marsden

> ...My Lord, I understood that it was Lord Kilwarden who made the representation to Government against the establishment of the school.

To which FitzGibbon responded with this extraordinary re-interpretation of recent transactions:

> No such thing...I have asked Lord Kilwarden about it and he told me that in conversation with Lord Hardwicke he had mentioned his visitation to the College and how very much to his satisfaction he found everything there and that he noticed the school merely as a matter of conversation, without in any degree complaining of it.

According to his own later account of the conversation, Troy took this remark to be an unmistakable directive to continue the lay school. FitzGibbon reinforced this impression with his peremptory remarks of dismissal:

> The Chancellor desired me to write down to Maynooth to go on just as usual and to take no notice. I accordingly wrote to Dr. Dunn and I thought the matter was over and we should hear no more about it.

Troy was to hear more than he ever cared to about the subject. Dr. Dunn, understandably confused by this flat contradiction of a previous government order, apparently wrote to Hardwicke for an explanation. Troy received a summons to the Castle, where he repeated his particular version of events to Hardwicke and Abbott. Four days later, on December 21, FitzGibbon was requested to call on Lord Hardwicke. Hardwicke and Abbott then presented him with a copy of Troy's affidavit, and asked him to explain what was, to all appearances, an attempt to suborn Troy and to subvert a government directive.

It is impossible not to admire FitzGibbon's bravado and resourcefulness in the face of this humiliating confrontation. He blustered: "This old gentleman has very much misunderstood and misrepresented me." He prevaricated, insisting that he had merely repeated the established government line on the lay school: "That in regard to the order which had been sent, I had understood from the lord lieutenant that no money was to be laid out nor any change made till the determination of government should be signified to him on the subject." Skillfully applying the time honored precept that the best defense is a good assault, he launched into a rambling and varied denunciation of Maynooth, former chief secretary Pelham, Bishop Troy, Bishop Caulfield of Ferns and the savage, bloody-minded Catholics in general. It was a waste of public money, he declare, to maintain "a monastery for the education of Two Hundred priests at the expense of L8,000 per annum"; he would far rather "send them back to Salamanca", which presumably to his mind was a

cheaper solution. FitzGibbon blamed Maynooth's transformation into an L8,000 per annum monastery on Pelham and Troy. They had intrigued behind the backs of the visitors and the other trustees to pervert the original character of Maynooth, which he insisted, had always been intended as a mixed institution. (Thus did FitzGibbon settle scores with Troy for informing on him, however reluctantly.) With a relevance known only to his own enraged, humiliated mind, FitzGibbon also launched into a denunciation of Troy's pastoral brother Caulfield, who had recently written a pamphlet defending himself from Sir Richard Musgrave's charges of complicity in the late rebellion. FitzGibbon's full comments do not appear in the record of this particular conversation, but he probably declared a conviction that Caulfield was a liar and that Sir Richard's allegations were correct. He made ominous noises about reviving the penal laws against priests, presumably to prevent them from writing pamphlets and from interfering, however inadvertently, in his grand conception of Catholic education. Finally, he insisted that the Catholics were still engaged in a systematic campaign of sectarian murder, particularly in Kildare, though again, only FitzGibbon knew the relevance of this information to the subject of Maynooth.[93]

Hardwicke remained perfectly unmoved by FitzGibbon's diatribe. With great patience and no doubt with great weariness, Hardwicke reminded FitzGibbon that whatever the precise intentions of Maynooth, the education of priests in Ireland under government control was certainly its premier, if not exclusive intent. He also emphasized again that neither he nor anyone in government had intended to dissolve the lay school abruptly and arbitrarily. He had merely requested further consultation on the subject and no further outlay of funds. As for FitzGibbon's claims about continuing Catholic atrocities, Hardwicke, upon investigation found that most of the crimes to which FitzGibbon had alluded had taken place over 18 months before. Moreover, FitzGibbon himself had apparently not been unduly worried about Catholic savagery and rebellion. He had fully agreed to a plan to try any as yet imprisoned offenders in a specially commissioned civil court, rather than by the more drastic and severe court martial. Hardwicke was too kind and too magnanimous to mention the obvious conclusion: if Catholic murderers still stalked abroad in Kildare, FitzGibbon's own lenity was at least partially responsible.[94]

There were other flagrant absurdities and inconsistencies which, if he took notice of

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93 BM Add MS 35,771, f135-8; this manuscript consists of a transcript of Lord Clare's remarks, interspersed with Hardwicke's weary qualifications and explanations; for Abbott's blunter expressions of skepticism, see *Colchester I*, p. 334; Abbott wrote on his copy of FitzGibbon's version "Query---if there was a doubt, why did he not send Dr. Troy to His Excellency or to his Secretary...for an explanation?"

94 Ibid.

them, Hardwicke refrained from mentioning. There was, for example, FitzGibbon's apparently willful obliviousness to the opinion, not only of Hardwicke, but of his fellow trustees. Even his close friend Kilwarden opposed any introduction of a lay school at Maynooth. Hardwicke also tactfully passed over FitzGibbon's bullying of Dr. Troy and his gross misrepresentation of Troy's role. Far from intriguing in secret to turn Maynooth into a monastery, Troy had, in fact, cooperated with FitzGibbon until it became clear that the government wished otherwise. The wretched man was perfectly indifferent on the subject of lay pupils. He was simply sick unto death of the whole subject, and anxious to extricate himself from the miserable position in which he found himself, bullied by the Earl of Clare on one side and rebuked by the lord-lieutenant on the other. Hardwicke also refrained from observing that FitzGibbon had missed an opportunity to clarify the status of Maynooth in 1800, when he revised the nature and duties of the governing board. (On the other hand, knowing the sentiments of the other judges, FitzGibbon may simply have allowed the opportunity to slip, preferring instead to bully or flatter the Catholic trustees in secret to get his way.) Above all, Hardwicke refrained from pointing out that FitzGibbon had lied. His disclaimers and his largely pointless denunciations of Catholic villainy could not conceal his indisputable attempt to coerce Dr. Troy into keeping the lay school in existence, in direct contradiction of the known opinion of the government. Quite apart from the unlikelihood that Troy would have either the malice or the hardihood to slander FitzGibbon, his entire account, down to the chancellor's characteristic turns of phrase, rings true.

The interview ended on a characteristic note of inconclusiveness and placation. Hardwicke asked FitzGibbon to submit a memorandum on Maynooth. FitzGibbon then departed for what must have been a dismal Christmas at Mount Shannon. FitzGibbon sent off a memorandum on Maynooth to Hardwicke a week after the ill-fated interview at the Castle. It said nothing of particular novelty or interest. He merely reiterated his claims that Troy and the other Catholic bishops had secretly perverted the true character of Maynooth, and he made the obvious statement that it was essential to come to some kind of agreement about the future direction of the school.[95]

Hardwicke, in the meantime, sent another exasperated letter to Addington on the vexed subject of FitzGibbon:

> He [FitzGibbon] seems to me, with a great share of cleverness and vivacity, to be

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95 *Cornwallis III*, pp. 371-2

> very deficient in consistency and precision in his ideas.[96]

He also made this startling statement, given the exhaustive anti-Popish diatribe which FitzGibbon had delivered not a week before:

> It would be curious if after all that has passed Lord Clare should be attempting to acquire popularity with the Catholics at the expense of government.[97]

It is difficult to know just which Catholics FitzGibbon had been attempting to court. Certainly Bishop Troy had no reason to love the thought of a lay school or to love FitzGibbon for so high-handedly sponsoring it. FitzGibbon's patronage of Lord Fingall may have prompted this remark. If so, Hardwicke had no reason to fear that Lord Fingall would join in a confederacy with FitzGibbon. No doubt it was very flattering to receive calls, friendly letters and a share of County Meath patronage from the lord chancellor. But once Fingall understood the government's sentiments, he promptly abandoned FitzGibbon and the lay school. However dim and pliant he was, Fingall knew where power and authority ultimately rested.

But however correct Hardwicke may have been about FitzGibbon's "vivacity" and his inconsistency on the subject of Maynooth, he overlooked FitzGibbon's over-riding and very consistent motive for setting off the whole contretemps, his own devastating sense of insignificance and marginality. In the course of his last interview with Hardwicke, FitzGibbon made this poignant *cri de coeur:*

> ... he had for sixteen or seventeen years been the scapegoat of English government...and that he felt that summary order upon the subject [of the lay school] ought not to have been given without his consent.[98]

It is perhaps the final irony of the whole business that FitzGibbon's view did prevail. The lay school at Maynooth remained in existence until 1817. In addition, the loathsome Abbott was soon transferred from Ireland to England where he assumed the post of Speaker of the House of Commons. But FitzGibbon did not live to see these triumphs. He died a little more than a month after the interview with Hardwicke.

FitzGibbon's final illness was sudden in its onset and mysterious in its nature. On

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96 Ibid., p. 368

97 Ibid., p. 368

98 BM Add MS 35,771, f135-8

11 January, 1802, he reported to Auckland that his nose had bled for almost 13 hours and that he was feeling extremely weak and debilitated.[99] At the urging of his doctors in Limerick, he went to Dublin for further consultation on his condition, as soon as he had the strength to travel. His friend Auckland urged him to come to London, in the belief that English doctors were superior to any in either Dublin or in Limerick. FitzGibbon himself seemed to think that he was at least strong enough to last out the end of the current chancery term in March, at which time he planned to resign his office and travel to the south of France to convalesce. But after a week or so of trying to conduct Chancery business with uneven results, Hardwicke, genuinely concerned for FitzGibbon's well-being, decided to ask for his immediate resignation. FitzGibbon was spared what would have been a final, if well-intentioned, humiliation. Edema and congestive heart failure set in before Hardwicke could formally request the seals. FitzGibbon sank into a coma and died on 28 January, 1802.

The suddenness of his illness is startling. It is true that FitzGibbon's letters were full of accounts of various illness. He seems in particular to have been prone to gout, as were many of his contemporaries.[100] But as striking was his amazing physical resilience. He quickly recovered from an accident that would have incapacitated many others. Moreover, he was a vigorous active man who loved riding, hunting and other outdoor sports. He also had an extraordinary capacity for hard work. In short, he had a remarkable constitution that had weathered many worse crises, both emotional and physical. Mentally, he was still ready to do battle with Hardwicke, Abbot, Troy and all the legions of Popery. It is certainly possible that his constitution simply gave out after a lifetime of hard living, burdensome work and emotional turbulence. But FitzGibbon's wife inadvertently raised another possibility. In one of her many letters lamenting her fast approaching widowhood and destitution, she stated that her husband was dying of a "liver complaint".[101] FitzGibbon's symptoms, massive bleeding, edema and congestive heart failure, all characterize one liver complaint in particular, cirrhosis. To put the matter bluntly, there is at least a possibility that FitzGibbon drank himself to death. He was a notorious drinker, even in an age when over-indulgence was a given of gentlemanly life.

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99 Sneyd Muniments

100 Examples of FitzGibbon's bouts of illness are legion. See in particular his letter of 10 September, 1796 to Camden (Camden Papers, C/183) where he complains of gout and nervous exhaustion and he makes the claim that for the past several months he had not been free of illness for more than a few days. At the same time, he declared his willingness to come to Dublin if needed, which suggests that FitzGibbon never allowed illness to stand in the way of his exercise of power.

101 Westmorland Papers, Carton 1/f140, Lady Clare to Westmorland, 26 January, 1802

He may have hit the bottle particularly hard after the Maynooth incident and surpassed even his own amazing capacity. If he was indeed suffering from cirrhosis, his doctors were singularly ignorant of it. They allowed him to drink watered down Madeira up to the very end.[102]

Whether he died of exhaustion or of a more squalid illness, there is no question of his courage, stoicism and dignity in the face of death. The pettiness and rage that characterized the final months of his life dissolved. He accepted the grim verdict of his doctors with calm, and probably with some relief. He then methodically set about completing what he could of unfinished chancery business. The end was an agonizing process of slow suffocation, but he never complained.[103]

Plowden later portrayed FitzGibbon's deathbed as a scene of frenzied religious devotion and attempted apostasy:

> After Lord Clare understood (as his friends reported of him) that his cause was helpless, he gave his mind to devotion and three times on the same day partook of the holy sacrament from the hand of his brother-in-law the Archbishop of Tuam. In the latter part of his illness, he is said to have expressed a wish to be attended by a Catholic priest, which was not complied with.[104]

No doubt it was immensely satisfying to Plowden, a Catholic, to imagine the Earl of Clare crying out vainly for a priest in his final desolate hours. But this bit of hearsay is probably groundless. At most FitzGibbon, like many rabid anti-Catholics, had a sneaking and morbid fascination with the ritual splendors of Popery. But his calm and his presence of mind on his deathbed make it unlikely that he attempted a sudden and radical rejection of his long-held political and religious opinions. If he had deathbed doubts, he probably would have suppressed them. The case of Lord Dunboyne had recently entered the docket of the chancery court. FitzGibbon was too worldly a man, too cautious a lawyer and too conscientious a husband and father to follow Lord Dunboyne's dangerous example. Pace Plowden, FitzGibbon probably died convinced that the Church of Ireland was the surest path to advancement in Heaven, just as it had been the surest path to political and social advancement on earth.

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102 *Freeman's Journal*, 30 January, 1802

103 Ibid.; while undoubtedly a biased source, there seems no reason to believe that he didn't meet his death calmly. In a sense, he had nothing left to do but to curse, if not God, the English government and die.

104 *Plowden I*, p. 121, footnote. The *Freeman's Journal* also reported that FitzGibbon received the sacrament three times on his deathbed, though of course, no mention was made of his requests for a priest (February 3, 1802)

Official accounts of the funeral in government newspapers gave the impression of a grand and somber occasion, marked by dignified mourning for a departed statesman and judge.[105] The reality was a grotesque public carnival. Both Lord Cloncurry and Thomas Parsons recalled the crowds milling around the house at Ely Place, yelling execrations and cheering when the coffin emerged for the funeral procession.[106] Years later, another witness reported that passersby had pelted the coffin with dead cats, an insult alluding to an alleged claim of FitzGibbon's that he would render the Catholics as tame as cats (or variously, geld cats).[107] None of the other observers remarked on this singular incident. Chance, rather than crude deliberate mockery, may have accounted for this story. Possibly the mob pelted the hearse and coffin with debris which happened to include one or more dead cats. Even in the safety of the churchyard of St. Peters, FitzGibbon's remains suffered another, if inadvertent indignity. Water suddenly filled the grave as FitzGibbon's coffin was lowered, engulfing the remains with mud.[108] In 1983, his remains were again disturbed. St. Peter's was demolished, and the bodies in the churchyard were removed to Mount Jerome, where they were buried in a mass grave. FitzGibbon's remains were included in the anonymous heap.

A poignant entry in the *Dublin Evening Post* reveals the terrible evanescence of both his fame and his infamy. It reported briefly and without comment that his grand carriage, once the subject of so much praise and blame had been sold to a Russian nobleman.[109] All the trappings of rank and power had disappeared, leaving only his enigmatic character to baffle and divide later historians as sharply as it did his contemporaries.

It is, of course, impossible to know precisely what direction FitzGibbon's career would have taken had he lived. He indubitably would have remained in eclipse during the Duke of Bedford's administration, and he possibly may have enjoyed something of a revival of influence during the triumvirate of Richmond, Manners and Saurin. But it is doubtful that FitzGibbon would have had a second chance at a larger career in England. George Canning's perceptive and graceful epitaph for FitzGibbon acknowledged him as a

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105 See the account in the *Freeman's Journal* , 2 February, 1802, which makes a rather ludicrous and probably false claim that "An unfeigned sorrow, decent and dignified, pervaded every countenance, which spoke at once the feelings of the living and the worth of the dead."

106 *Cloncurry*, pp. 123-4; PRONI, Rosse Papers, T3498/D/5/41, Thomas C. Parsons to Parsons, 1 February, 1802

107 TCD, Madden Papers, f518, narrative of William Fisher

108 Ibid.

109 *Dublin Evening Post*, 11 September, 1802

true friend of the English interest, but one who, by nature and temperament, no longer could serve that interest adequately:

> He was a man amongst all his countrymen the most suited to his time. Perhaps the time is past when his character was of the kind to be most beneficial, and that in the feeling of gratitude, as we look back and compare the past and the present, we may be authorized to sink some portion of our regret.[110]

His massive unpopularity in Ireland would not, in and of itself, have hampered FitzGibbon's prospects in England. Of greater harm was the fact that most of the ranking and influential men in English government had come to perceive him as an over-bearing troublemaker. Certainly his actions and demeanor toward Lord Hardwicke would have confirmed such a reputation. It seems most likely that FitzGibbon would have ended up like Duigenan, a marginal and slightly ridiculous figure.

His vision of Ireland as an integral part of the Protestant British empire survives in an embattled form, though it would be interesting to know what FitzGibbon would have made of the fact that Ulster Presbyterians man the last bastion of unionism. Of course, in the part of Ireland he most loved, after his fashion, his ideas met with complete rejection, and the thing he most dreaded did occur: for better or for worse southern Ireland became an independent Catholic state. In fact, during the war of independence, the republican forces in Limerick made two dramatic, physical gestures of renunciation and contempt: they burned Mount Shannon, even though it had long since passed into the ownership of an American speculator, and they blew up a statue of FitzGibbon's grandson, the Crimea hero. Yet much to FitzGibbon's credit was ignored in this ferocious campaign of oblivion. Unfortunately, FitzGibbon lived at a time when his own fragile social identity and the imperial order were under constant challenge. In his various struggles, his most ruthless and harsh qualities dominated his public persona. Had FitzGibbon lived in more stable political times, his unquestionable virtues, his passionate sense of justice, his compassion for the poor and his untiring dedication to his public duties, might have been more prominent and of greater benefit to Ireland. And to serve Ireland always was FitzGibbon's aim, however destructive his social and religious hatreds, however wrong-headed and brutal his measures and methods.

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110 *Falkiner*, p. 140

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