GOVERMENT BY FORCE

(Continued from page 4.)

ly and executively, the case in Ireland.

ENGLAND, "THE PREDOMINANT PARTNER," GOVERNS IRELAND AS A SUBJECT COUNTRY.

The truth is, that Ireland lives under a pretended, but not a real system of liberty and equal rights; and the union under a common Parliament lacks the essential securities of freedom. For how does it work? It gives to England, the predominant partner, the power, habitually used, of imposing her legislative and executive pleasure on the weaker island, and of governing her in all local matters as a subject people.

What, after all, is the essential element of political freedom? It is this: That a people should be ruled under laws which are made by their own elected representatives, and administered by their own chosen officers; both legisfature and executive being responsible to the people whom they rule.

But the Parliament which legislates for Ireland has for generations systematically refused to listen to argument, and has in the end been forced, not through conviction of its soundness, but only from fear of the consequences of longer refusal, to concede legislation for which four-fifths of the Irish people pressed, while it has imposed on her legislation to which four-fifths objected. We are 80 out of 100 representatives of Ireland; but there are 570 representatives of Britain. They do with us what they will; and the voice of the twenty Irish anti-Nationalist members is with them more powerful than that of the eighty Nationalists.

NO CONCESSION TO IRELAND EVER GRANTED VOLUNTARILY.

As to the making of laws, judge by the course of events: It took a generation, a tremendous agitation, and the imminence of civil war, to obtain Catholic emancipation; and then it was accompanied by an extensive measure of disfranchisement.

It took near two generations, great violence, and a tithe war, to remedy the abuse under which the Catholic majority were forced, out of their poverty, to pay for the luxurious support of the church of the minority, itself rich in all save congregations.

It took over two generations, with the same accompaniments—and with dynamite and Fenianism—to disestablish and partly disendow the church of the minority.

It took nearly three generations, with the most tragic national history in the world—with a sad, but yet not surprising record of violence and crime, to accomplish a great, but yet only partial and unsatisfactory redress of the killing land system.

It took near four generations, with all the dreadful accompaniments to which I have alluded, to convince a great man (who, after all, failed to convert the whole of his political party) of the fundamental justice and indestructible vitality of the Irish claim for self-government. And even now, after his heroic efforts, great and lasting as have been their effect, a majority in Britain as yet remains unconvinced, and pronounces against the allowance of that claim.

I have told you how we stand legislatively as to higher education, taxation, and the land.

Where, then, upon this survey of a long century, where in the legislative department does there shine one ray of real freedom, of that freedom which engenders loyalty to the constitution as it stands, which should justify the abandonment of our claim for Home Rule?

There shines no such ray. On the contrary, the brightest gleam of hope from legislative actions springs out of the great movement of Parnell and Gladstone, which gave us two governments and one House of Commons favorable to Home Rule; and a by-product of which was the grant of county and rural government to Ireland, a tremendous gain, the reluctant result of pledges made by the Tories to avert that worse thing, national government.

That splendid gleam still lightens the vista which these leaders cleared; it reveals a great and cheering element of sympathy, acknowledgment, and resolution at last evoked in the mind of a large proportian of the British democracy; and it makes plain the true direction of our Parliamentary efforts, encouraging us, so long as we are firmly backed by the Irish people, in whom is our strength, to continue our exposure of misgovernment and our demand for freedom.

I believe that, though for a while overcast, that gleam is brightening now, and will in due time shine more and more unto the perfect day.

I have dealt so far with the making of the laws; and now what as to their administration?

The whole Executive system in Ireland is excessively centralized, and worked without any responsibility to Ireland, by the Chief Secretary, acting through his office, and through various boards, and largely by the agency of the Royal Irish Constabulary, an army in the guise of a police force, playing an arbitrary party and exercising a despotic authority over Ireland, wholly inconsistent with the dignity and freedom of the people. Too often the constable's baton is the only law for the peasant.

I add that the laws, made as I have described, have been administered in the spirit of their makers by officers of those English statesmen who impose them—officers mainly drawn from the ranks of the Irish minority.

Now, in a country truly free, where the laws are the expression of the settled popular will, their enforcement is generally a safe and easy operation. The people aid in the administration of the laws they themselves have made. They are the ready executors of their own will.

But, even in these happy conditions, so great is the danger of executive oppression, so imminent the risk of the individual suffering when at issue with the State, so grave the need of securing justice in the administration of those laws to which the people have assented, and of preventing their perversion to tyrannical uses, that these points have long been primary objects of free governments.

"ETERNAL VIGILANCE IS THE PRICE OF LIBERTY."

In England herself, at any rate for herself, in this great Republic, in the Dominion of Canada, in the Commonwealth of Australia, constitutional securities have accordingly been established. And these securities are maintained against a constantly present danger inherent in human nature, and demanding even to-day continued vigilance against aggression.

Let no man say that the risk exists no longer, or that the old securities may now be abandoned. Do not in the heyday of freedom vacate the old fortresses of liberty your fathers built.

DANIEL WEBSTER ON THE WITNESS STAND.

I am tempted in this city — the scene of his most splendid triumphs—instead of any real words of mine, to adopt those of one of the very greatest expository reasoners your Republic has produced, I mean Daniel Webster. Let me quote some fragments, which I pray you to contrast presently with the sad facts of the day. Webster said:

"The first object of a free people is the preservation of their liberty; and liberty is only to be preserved by maintaining constitutional restraints and just divisions of political power. Nothing is more deceptive or more dangerous than the pretense of a desire to simplify government. * * * The spirit of liberty is, indeed, a bold and fearless spirit, but it is also a cautious, sagacious, discriminating, farseeing intelligence; it is jealous of encroachmnet, jealous of power, jealous of man. It demands check; it seeks for guards; it insists on securities, it entrenches itself behind strong defences, and fortifies itself with all possible care against the assaults of ambtion and passion.

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"The contest for ages has been to rescue liberty from the grasp of executive power. Whoever has engaged in her sacred cause, from the days of the downfall of those great aristocracies which have stood beeween the king and the people to the time of our own independence, has struggled for the accomplishment of that single object. On the long list of the champions of human freedom there is not one name dimmed by the reproach of advocating the extension of executive authority; on the contrary, the uniform and steady purpose of all such champions has been to limit and restrain it.

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"I know not whether a greater improvement has been made in government than to separate the judiciary from the executive and legislative branches, and to provide for the decision of private rights in a manner wholly uninfluenced by reasons of state, or consideration of party or of policy. It is the glory of the British constitution to have led in the establishment of this most important principle. It did not exist in England before the Revolution in 1688, and its introduction has seemed to give a new character to the tribunals. It is not necessary to state the evils which had been experienced in that country from dependent and time-serving judges. In matters of mere property, in causes of no political or public bearing, they might perhaps be safely trusted; but in great questions concerning public liberty or the rights of the subject they were in too many cases not fit to be trusted at all. Who would now quote Scroggs, or Saunders, or Jeffreys, on a question concerning the right of the habeas corpus, or the right of suffrage, or the liberty of the press, or any other subject closely connected with political freedom?

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Please remember this when I tell you of (Anglo) Irish judges presently:

"In our country," Webster adds, speaking of the United States, "it was for years a topic of complaint, before the Revolution, that justice was administered in the Colonies by judges dependent on the British crown. The Declaration of Independence itself puts forth this as a prominent grievance among those grievances which justified the Revolution. The British King, it declares, had made judges dependent on his own will alone for the tenure of their offices.

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"Written constitutions sanctify and confirm great principles, but the latter are prior in existence to the former. The Habeas Corpus Act, the Bill of Rights, the Trial by Jury, are surer bulwarks of right and liberty than written constitutions. The establishment of our free institutions is the gradual work of time and experience, not the immediate result of any written instrument."

Again, please remember this when I tell you of Irish juries presently. Webster continues:

"The trial by jury is the popular teacher of our system; the aegis of protection to individual rights, the shield and defense against the encroachments of power. Why call a jury? say some. Let a judge, a learned, virtuous, impartial judge, decide. But no! Let the judge give the charge to the jury on the law, but let the people in the jury-box adjudge the facts of the case.

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"There can be no better tribunal than the people brought together in the jury box, under the solemn sanction of an oath, and acting under the instructions of enlightened judges. In what a vast majority of cases do they decide right! I am attached to this mode of trial, and will never consent to give it up."

It is, as Webster remarks, the just boast of England that she first developed and applied these principles; it is her shame that she repudiates them in Ireland to-day.

Now let me summarize some main elements of the securities for freedom.

There is the invaluable writ of Habeas Corpus. There is the protection of a great, free, and independent bar, on whose importance in the service of liberty I would like, did time permit, once more to quote Webster. And there is the security of the recognized function, as a minister of justice, of the prosecutor for the State, whose duty it is to see that the accused gets fair play.

Other leading features are these:

First, there must be a clear, plain and precise written charge, disclosing the alleged offense.

Next, and chiefly, the question of guilt or innocence, upon the facts, must be decided by a fairly impaneled jury of the people.

Lastly, and only second to the trial by jury, the trial must take place under high-class, independent and impartial judges permanently engaged in the general administration of the law.

But all these securities, sacred in England for England, are by England almost habitually wrested from Ireland.

First, as to the condition, even under the ordinary law, while that is allowed to prevail. Instead of an independent Bar, which may cherish honorable aspirations to the Bench of Justice, to be realized by the proof of capacity and public spirit, and by the acquisition of public confidence, you find a system under which the Bar is bribed by the establishment of a scandalously overpaid and overstaffed Judiciary, offering to the profession dignity, light work, secure tenure, and large pensions. Now, barristers anywhere in the rest of the world, would, of course,, and do, for the dignity, security, ease and pensio, gladly accept a much lower income than their precarious earnings at the Bar, the fruit of great exertion, and which illness or loss of fashion might any day destroy. But in Ireland all these things are given, and to them is added a salary which is, I believe, generally double or treble their earnings at the Bar.

And the road to these great positions has been, with the rarest exception, one road alone. It is not the National road.

TO BE A GOOD IRISHMAN IS A BAR TO ADVANCEMENT IN IRELAND.

The result is substantial proscription of the Nationalist element, and a practical choice of almost the entire Bench out of the ranks of the anti-Nationalists. This necessarily has a grave effect on the condition of things at the Bar and on the Bench. How different is the condition from the days when the overwhelming majority of the whole Irish Bar, headed by its greatest leaders, protested against the Union! Do not misunderstand me. There are, thank God, able and brilliant Nationalists at the Irish Bar, but they are practically under a ban. There are just and well-intentioned judges on the Irish High Court Bench; but they are, as a rule, of one political complexion, and that the anti-Nationalist complexion; and they live, move, and have their being in that element alone. Everyone must see, without more words, the injurious results of the system I have described, on Bar and Bench and prosecuting officers alike.

'PACKING THE JURY" A STEADY BUSINESS IN IRELAND.

But the greatest interference, under the ordinary law, with the fair administration of justice consists in the packing of the jury. This practice, which public opinion would not allow to be pursued for a day in England, is in agrarian and such like cases systematically adopted by England in Ireland. The jury panel is struck. Let us presume it is fairly struck. Take the case of a county in which, as often happens, there is a great majority—running sometimes to 90 per cent. or more—of Catholics. Naturally, a fair panel will contain a vast preponderance of Catholics. The names in each case tried are drawn by lot. As each man is called, the Crown claims the right to say "Stand by" without cause shown or reason given. Thereupon the man is set aside and another name is drawn. This goes on till twelve names suitable in the view of the Crown are drawn, and these twelve form the jury. And (not, of course, by design, oh, no! they say they never inquire, and do not know the religion) by some miraculous chance it turns out that the fifty or sixty men set aside were Catholics, and the twelve men left are Protestants. So the jury is struck; so the prisoner is tried; and so convictions are obtained. So justice is administered; and Englishmen wonder that the masses of the Irish people have profound distrust, a deep contempt, a burning hatred of such administration!

IRELAND, UNDER ENGLAND, ALMOST ALWAYS GOVERNED BY COERCION ACTS.

But this is not enough. More, much more, has to be done in order to accomplish the purposes of the English Government. There is, even so, an occasional mistake on the part of the Crown; an occasional disagreement of the jury. How are these evils, in view of England, to be remedied? This is her way. During the greater part of the last hundreds years Ireland has been governed, not even under the form of freedom, but by means of Coercion Acts, Acts suspending the Habeas Corpus, and such like devices. There are, I believe, eighty-seven such monuments to freedom recorded in the statute books, an average of one a year.

A PERPETUAL COERCION ACT.

But latterly, in the year 1887, a permanent law, the "Crimes Act," was passed, which enables the Executive, by proclamation, to suspend whenever and wherever it pleases the operation of the cardinal provisions of the ordinary law; which provides (even when a jury trial is still allowed) that it shall, at the instance of the Crown, be at a place selected by the Crown, and by a special jury, meaning in Ireland a jury of the minority party; which creates also some new crimes, and provides for the trial and punishment of these and other crimes under a very summary procedure, without any jury at all, and by specially chosen magistrates alone.

There is a further provision which, of itself, at once and without proclamation has permanently deprived all Ireland of the ordinary securities, and applies these obnoxious provisions in charges of unlawful assembly or riot; charges, I need not tell this audience, which may touch cloest the most fundamental popular rights of free and public meeting, speech and resolve.

ALL SECURITIES FOR JUSTICE ABOLISHED.

It is by a review of the actual working of this system that one can learn most clearly the hollowness of the pretense that Ireland is free any more in administration than in legislation, and realize the sad truth that the main securities for justice are abolished.

What, then is the system under which, in matters pertaining to public justice, Ireland, is, at the will of the Executive, being ruled to-day?

For two years past frequent use has been made of the permanent section—that is, the standing Coercion clause, and scores of summary prosecutions have taken place under its arbitrary provisions.

Under the powers of the same act great districts, comprising nearly half of Ireland, have been recently proclaimed,

Thus the constitutional protections of the subject in vital matters have ceased; and new crimes have been created.

Thus it is no longer necessary that there should be a clearly framed charge against the accused. The proceedings being summary, it is decided that a charge lacking the distinctness necessary for a good indictment is yet good enough to convict the accused under the Crimes Act.

Thus no longer is the question of guilt or innocence to be decided on the evidence by a jury of fellow citizens. Packing is not a sufficient weapon for the Crown.

The people, it is said, will not convict. And what is to follow on the refusal to convict? A remedy of the grievance? Reluctance to prosecute meanwhile? Adequate reform of the law? No! But take away the right of trial by jury, and commit to the hands of one or two magistrates both facts and law, the whole question of guilt or innocence; and so fix the fate of the accused!

THE SORT OF MEN ENGLAND APPOINTS TO JUDGE IRELAND.

To the hands of what matter of magistrates? To those of judges of the rank, learning and independence of tenure which, with whatever drawbacks, yet relatively mark the high courts of the land? No! To the hands of inferior men, called resident magistrates, not generally chosen from the ranks of the Bar, mainly taken from that very constabularly on whose practices and evidence they are called to decide, and from the military and naval services—with about the very worst kinds of training for just conclusions on such issues!

What is their tenure of office? They are absolutely dependent. They are removable at the will of the Executive on payment of three months' salary, and they are besides liable to punishment and amenable to reward by transfer at pleasure to less or more eligible districts.

And how do they come to take charge of any particular case?

Not on a general plan or rota in the discharge of their usual duty. But the Executive in each case in which it directs a Crimes Act prosecution, chooses and sends down the particular magistrate it thinks most suitable for the work in hand. And so this ex-constable, thus chosen, takes the evidence, often that of constables, mayhap of old comrades in the force, and decides the facts and the law, and gives the sentence; he is judge and jury rolled into one.

THE POLICE IN IRELAND PRACTICALLY A BRITISH MILITARY FORCE.

And this is a country where the police are practically a military force, drilled to arms, and accustomed to arbitrary action and the free use of violence toward the people—in a country in which we know from sad experience that there is such a thing as police-manufactured crime and perjury, culminating in the conviction of the innocent.

Now, what kinds of issues are these which are to be so decided? Are they police court questions? Questions of a petty debt, or a common trespass, or an ordinary contract? No. They involve points of fact and law, at once of the greatest difficulty, and of the highest importance to a free people; the right of public meeting; the right of free speech; the right of a free press; most delicate points as to motive and intent, as to malice, as to the nature of admissible evidence, as to lawful or unlawful assembly, as to criminal conspiracy, as to the limits permissible in political agitation, the point at which words or conduct transgress the permissible line, cease to be political and become criminal, the point at which one man's rights become another's wrongs.

All these are to be decided on the facts and the laws by these gentry. I say there is no class of cases which, in the interest of the State and of the individual, more urgently require than these—the maintenance of those very securities which have been abolished.

They suggest that there may be an appeal. We are entitled to a fair and constitutional trial, not such a trial as this, even were the finding subject to appeal. But such appeal as exists is taken, not to the high court, but only to an inferior judiciary, far less satisfactory, in the conditions of the country, than would be the high court.

Nor does the right exist in all cases. On sentences up to a month there is no appeal.

And then, a system of torture is now applied, under which sentences of six or twelve months or more may be added. How is this managed? There is an old law of King Edward III., directed against rogues and vagabonds and such disorderly persons, which authorizes a magistrate to order such persons to give bail to be of good behavior for a term, and, in default, to be imprisoned. This antiquated law, introduced into Ireland by Poyning's Act, is now being brought into play for uses undreamed of when it was passed.

Even if the main charge fails, the magistrates frequently use this law to inflict this penalty. And when they convict on the main charge they may sometimes give a short unappealable sentence for the crime, to which they tack on this further penalty for a longer term. And all this is a matter so far in the discretion of the magistrates as to be practically almost final. By this device there may be a sentence of a month, unappealable, and a second sentence of six or twelve months more, also unappealable.

And, after having managed, by executive action, to provide that sen-

(Continued on page 8.)