

Constitutional Problems of N. Ireland

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NORTHERN IRELAND IS A PRISONER of its own turbulent history and the complex tangle which linked the Irish people to the rest of Britain through nearly a millennium are living factors which have to be understood in any attempt at a rational appraisal of Northern Ireland's current agony and constitutional problems. If "Remember 1690" is the most popular slogan in the Shankill, it serves to illustrate the thesis that familiarity with Irish history is a necessary qualification to any attempt at a constitutional study of the current problems affecting Northern Ireland and Anglo-Irish relations. There is, however, an even wider context of international conventions and treaties which are relevant by reason both of Irish (The Republic of Ireland) sovereignty and its membership alongside the United Kingdom, of the United Nations Organization.

Thus the opening paragraph of the most authoritative work on the Irish Rebellion against English Rule in 1798 underlines the root cause of current dissensions, without which no study can exist other than in vacuum.

The Rebellion of 1798 is the most violent and tragic event in Irish history between the Jacobite Wars and the Great Famine.

In the space of a few weeks 30,000—peasants armed with pikes and pitch forks, defenseless women and children—were cut down or shot or blown like chaff as they charged up to the mouth of the cannon.

The result of the Rebellion was no less disastrous. Britain imposed a Union on terms that proved unacceptable to the majority of the Irish people, and there was a legacy of violence and hatred that has persisted to the present day.

Indeed, the Act of Union 1801, incorporated Ireland into the United Kingdom as an integral part of the nation. It nevertheless failed in its attempt to extinguish the ideal of Irish separatism.

Many of the leaders of the 1798 Rebellion were Protestants, influenced as much by the philosophy of the French Revolution as by the idea of Irish nationhood. The same was true of the "Young Irelanders" of 1848, and the two dates reflect a revolutionary upsurge throughout Europe and more particularly in France. The men of '48 were to bequeath the tricolor of orange, white and green, representing the religions of Ireland and influenced by the French symbol of liberty. Similarly, the parliamentary giant of home rule and land agitation, Parnell, was from the Protestant gentry. But the mass of "rebels" were poor Catholic peasants and artisans with a few professional men and landowners.

Their methods became increasingly conspiratorial and the high water mark of this type of activity was the formation of the Fenian Movement, or Irish Republic Brotherhood, much of whose activity was conducted in the United States. In 1867 an abortive rising led to disaster.

Thereafter, Parnell and Davitt, through the Land League and parliamentary agitation, campaigned for agrarian reform allied to the objective of home rule. Meanwhile the legacy of the Fenian Movement crystallized among a new generation inspired by the veterans of the early Fenian Movement. The

culmination of this ferment was the formation of the "Irish Volunteers" and the "Irish Citizen Army," which led the Easter rising of 1916, the first serious revolt against British colonialism since the American War of Independence. Doomed to failure, the bravery of these men who proclaimed the formation of the Irish Republic to the people of Ireland was to inspire a movement which led ultimately to the creation of that Republic, "not free merely but Gaelic; not Gaelic merely, but free."

Its leaders like Pearse and James Connolly were shot, the latter sitting wounded in a chair. The Irish had more than their share of martyrs from Theobald Wolfe Tone in 1798 to the Manchester Martyrs in 1867. The executions of 1916 served only to inflame sentiment and create a more broadly based rebellion, to the point that in 1920 a new constitution for Ireland was embodied in the Government of Ireland Act of that year.

The new constitution was dictated largely by the counterweight to separatism from the mainly Protestant and "loyalist" North, exemplified by the Curragh incident which has its modern equivalent in Rhodesia's unilateral declaration of independence against the wishes of the majority of the population. From the Protestant ascendancy over three centuries with its traditions of loyalty to the Crown (while also providing many leaders in the struggle for Irish independence) came the "backlash" which resulted in the division of Ireland into North and South. It is from this division that the current problems facing the British government arise and which gave rise to a convention of non-interference in Northern Irish affairs from Westminster, while retaining its six counties as a Protestant Laager within the United Kingdom.

THE TREATY WHICH PARTITIONED IRELAND led to a fratricidal war in which those who accepted the treaty fought its opponents with a ferocity formerly reserved for the British. It is not extravagant to suggest that, given the worst possible combination of circumstances, the Republic of Ireland could once again become the scene of such strife. Already leading Ministers have been placed on trial for alleged gun running to help the nationalist (Catholic overwhelmingly) minority in the North. Accusations are flung at the Republic's Prime Minister, Mr. Lynch, that he is acting in collusion with the British government in hunting down so-called "Irish Patriots." The situation in which the Campaign for Social Justice in Northern Ireland and the Westminster based Campaign for Democracy in Ulster fought for civil rights against the Unionist establishment is now a part of history.

Already, terrorist attacks by unknown elements (attributed to sections of the Irish Republican Army) are alienating sympathy for the Irish cause, which was built up so painstakingly between 1964 and 1969 by those who are now the white liberals of Northern Ireland, at a time when romantic revolutionaries and mindless militants hold many of the reins at the grass roots. The IRA, split into right wing activists and more responsible left wing elements, is unlikely to have been involved in explosions but there are even more extreme splinters. On the other hand, the Ulster Volunteers, an extremist Protestant group has done its share in the explosion stakes and may well be acting to discredit the Chichester Clarke Unionist government. Meanwhile, Northern Ireland is swept under a khaki carpet with periodic eruptions of violence and even death.

At the same time, Mr. Craig, the Lardner Burke of Ulster, thunders at the more pliant Chichester Clarke and wants the clock turned back in order to arm the police. Irish Maoists shout for arms, presumably to use against their fellow Protestant workers, and by the time this article is published the relatively moderate Unionists may well have been toppled so as to leave Britain with the alternative of a near Fascist province or direct rule from Westminster. The ideological and factional differences which exist among the minority now endanger all the gains of the civil rights movement which has been the most remarkable phenomenon in the history of Northern Ireland. Concerned less with practical solutions and more with preconceived ideological formulae, figures like Bernadette Devlin who brought hope and optimism now represent despair and destruction of all that made her entry into the political stage possible.

The danger is that Northern Ireland, where the left-right division cuts across the issue of loyalty to Britain or the Republic, will become a battleground for mindless militants. The only bright news in recent months has been the formation of a new left of center party at Stormont uniting at least half the opposition. Curiously, both the loyalist Labor Party and the Republican Labor Party have disowned their Parliamentary representatives who were sensible enough to sink their differences. But it does provide a glimmer of hope for a realistic united opposition to the half century of one party sectarian rule which has existed in spite of the fact that Northern Ireland is legally and constitutionally the responsibility of Westminster.

PERHAPS THE MOST FASCINATING CONSTITUTIONAL DEVELOPMENT in half a century of Anglo-Irish relations has therefore been the steady erosion and apparent sweeping away of the constitutional conventions which effectively prevented any serious matters concerning Northern Ireland from being raised in any but the most indirect and devious manner at Westminster. This has broken the hold of traditional Unionism and kindled the medieval fires of the Paisleyites and Orange Lodges. It has not only forced hesitant, reluctant men to embark on reforms; it has released long pent up forces, some of which are healthy and others ugly in their sectarianism. Not surprisingly, it has brought clambering onto the bandwagon those who talk glibly of an all Ireland Workers State and who denigrate the men and women whose work created the atmosphere in which Northern Ireland is no longer as remote as outer Mongolia. It has shaken the Green Tories of the Nationalist Party who accepted their role within the system and has shown the Northern Ireland Labor Party to be impotent because of its refusal to accept a United Ireland as the ultimate aim of any progressive movement, however irrelevant that unity may be to immediate issues of social, economic and civil rights.

Now British forces maintain an uneasy surface calm, straddling the dividing lines in a situation that may recall Cyprus, India, mandated Palestine or Aden. The movement which united Protestants and Catholics in the single obtainable demand for equal rights has been replaced by sectarian tribalism which has nothing in common with the republican ideals for which heroic men of both faiths gave their lives through so many tragic generations. Every provocation by the minority only makes it more difficult to isolate and destroy the Paisleyites and Orange extremists who stand in the way of Ireland's progress. However, the situation cannot continue indefinitely although it seems likely

that British troops will be occupying barracks in Northern Ireland long beyond their withdrawal from the Persian Gulf. It has one advantage, in that British M.P.'s can pry more deeply into events in Northern Ireland. But to describe this as a colonial situation is to misunderstand that for good or ill, a majority of the population has real and often hysterical fears of union with the Republic. The fears are politically unfounded as anyone conversant with the easy going tolerance of the South will know. But it is Ulstermen rather than Englishmen who today prevent the peaceful union of that Island—and peaceful it must be if the Republic is not to take on the mantle of suppressing a large majority—which has so far been the prerogative of the Unionists.

INDEED, THE PROBLEM OF THE CONVENTION is illustrated by a recent letter which I received from the Speaker of the House of Commons: "He [the Speaker] is still firmly of the opinion that the administration of justice in Northern Ireland is a matter for the Government of that province and not of the United Kingdom." The whole tragi-comedy of this absurd situation stems from the Government of Ireland Act about which it has been said:

The Government of Ireland Act became law on December 23rd. It was to be brought into operation early in May. It was understood that for refusal to work it the penalty would be the Crown Colony Government in Ireland. (*The Irish Republic* by Dorothy Macardle.)

Indeed, the Government of Ireland Act, 1920, partitioned Ireland more effectively than any subsequent treaty and conferred on the Six Counties a new status that combined a high degree of internal self-government with ultimate authority vested in Westminster. The anomaly lasted half a century, during which a convention operated which effectively debarred elected representatives at Westminster from probing into the way in which Ulster was being governed. In this, the fiftieth year of its operation, a funeral oration to that convention is already overdue, for it is now as dead as the Act of Union.

In 1964, with a majority of between three and five, Britain's Labor Members of Parliament were particularly resentful at the influence of the twelve Ulster Unionists, without whom the Opposition would have presented a far less serious challenge at Division time. The election of Mr. Gerry Fitts as Republican Labor Member for West Belfast, and the overwhelming Labor majority in 1966, diverted attention away from the convention but simultaneously focused it more directly upon grievances within Northern Ireland itself.

Whereas Ulster Unionists had gone into the Division lobbies to vote against a Rent Act that did not apply to Northern Ireland, and even against the Manchester Corporation Act, it was impossible to raise discrimination on public bodies appointed by the Government of Northern Ireland or issues such as housing in Dungannon on the floor of the House of Commons. Also, a new generation of M.P.s concerned about human rights—and not least in their own back yard—had arrived in the political stage.

The very first debate on Northern Ireland on February 22, 1965 foreshadowed what the Unionists could expect from them and was a turning point in Anglo-Northern Ireland relations. Not a word came from the front benches about issues which within five years were to leave streets smouldering and leave the stench of death on the pavements of Belfast. The Speaker made the extra-

ordinary ruling that "What is quite clear is that we cannot in this House in this debate refer to matters which are the responsibility of the Minister here. In effect we are debarred by statute from doing so and it is necessary to insist upon the rule."

No doubt he based his ruling on various precedents, the first of which was in 1922 when the Speaker ruled on a question by Mr. Joseph Devlin (a familiar name), relating to attacks on people in Belfast: "The reason why I did not accept the Question sent to me by the Honorable Member is this. By statute, Parliament has transferred the responsibility for law and order in a certain part of Ireland to the Northern Ireland Parliament; and it is therefore in that Parliament that questions relating to that administration shall be raised."

AS LONG AS IRELAND AND ENGLAND WERE ACQUIESCENT it was possible for the convention to retain its credibility but a new generation and a new upsurge for elementary human rights was simmering like a pot on the boil. Irishmen in Derry and Belfast, Manchester and London were working together with liberal minded Englishmen in the face of blanket denials from Ulster Unionists who within a short space of time were to claim to be in the vanguard of righting the wrongs which they had told us were a figment of our imaginations or cunning concoctions by the I.R.A. Later they were even to express pleasure at participating in debates that were taboo a few years earlier.

Meanwhile, the International Commission of Jurists at Geneva in June 1969, underlined the U.K. government's responsibility in the following words:

The United Kingdom is a party to the European Convention on the Protection of Human Rights and Fundamental Freedoms. It is also the signatory of the two United Nations Covenants on Human Rights. The provisions of the Special Powers Act and the policies of discrimination are clearly incompatible with the U.K.'s international obligations. . . . It is unfortunate that the policies of the Northern Ireland government and the reactions to them should place the U.K. government in the invidious position of derogating from its international obligations. . . ."

It went on to refer to "the interesting question of whether the nation in this case is the "United Kingdom of Great Britain and Northern Ireland" which is the state that is a party to the Convention, or "Northern Ireland" which is only part of that State."

Clearly, however republican one's sentiments, the Unionists could not have it both ways: Northern Ireland was an integral part of the U.K. from a juridical point of view.

Earlier, in a report on April 29, 1967, which to a remarkable degree foreshadowed the official Cameron Report, Dr. Maurice Miller, M.P., Stan Orme, M.P. and I submitted to the Home Secretary the findings of our visit to Northern Ireland earlier that month. We emphasized "how near the surface violence lies in current political life," outlined the various grievances and ended with a plea for a Royal Commission.

The visit evoked a warm response and intense interest in a large section of the people of Northern Ireland. Allegations of discrimination in housing allocations were examined and there can be little doubt that this exists on a wide scale, particularly where a dispersal of the population would result in

a changed political balance as, for example, in Derry. Discrimination on political and religious grounds is alleged and substantiated by figures previously provided by the Northern Ireland Labor Party and other sources, and confirmed by all those with whom this was discussed. This applies in relation to government appointments, for example, in the legal profession, in local government and in sections of industry. In the legal profession, for instance, there are only 11 Catholics holding judicial offices out of a total of 142. In many public bodies, Catholic, Labor and trade union representatives are excluded.

In Derry there is irrefutable evidence of gerrymandering in order to perpetuate minority control and it is feared that proposed boundary changes may perpetuate this in another form. At present, the Corporation has eight Nationalist members with a 63% majority of the population, whereas the Unionists have twelve representatives with a 37% minority, and thus control the city.

The electoral franchise which excludes 250,000 voters from local government elections and allows business and company votes (up to six) is an anomaly in the U.K. Unemployment varies between under two and over 30% in various areas. Catholic areas, and more particularly, the areas west of the Bann, e.g. Derry and Strabane, are affected most. Urgent help is needed for areas like Strabane where 29½% of the male population is unemployed. There are also pockets like Newry within the more prosperous areas.

On that visit, the need for a united opposition and action by the people of Northern Ireland themselves were continually stressed and it was not until these millions of television viewers saw Gerry Fitt with his head streaming with blood following an R.U.C.* baton charge that the convention was shattered. A Nationalist M.P. from Stormont, now in Fitt's new Party, Austin Currie, was to blockade himself in a house, John Hume and Ivan Cooper were to join hands across the Boyne for the cause of civil rights. A steady stream of solid factual information was pouring into the mail bags of M.P.s from the McCluskey's Dungannon-based Campaign for Social Justice in Northern Ireland.

Our own Campaign for Democracy in Ulster, born after the initial 1965 debate, was striking roots in various parts of England and attracting support on a non-sectarian basis under the able secretaryship of Paddy Byrne. Catholic, Protestant, Jew and humanist, we worked together and poignantly illustrated our concern for the totality of human rights by inviting Dr. Pitt, a West Indian, to chair a crowded delegate conference of the Labor movement in London. "We Shall Overcome" was now heard in Derry and Deptford with an Irish lilt that was never expected in Alabama.

And so on April 21, 1969, I flew down post haste from Manchester to initiate the debate in which Bernadette Devlin made her remarkable maiden speech after strenuous efforts to persuade her to attend. She pronounced a funeral oration to the convention, killed before her arrival, and was to introduce a new note of militancy, refreshingly iconoclastic but depressingly unconstructive, imprisoned in the framework of an ideology irrelevant to Ireland.

Nevertheless, she was to be a formidable ally and opponent when, following the Hunt Report, the House sat up all night on the Committee Stage of the Ulster Defense Regiment Bill during which the Northern Ireland "lobby"

* Royal Ulster Constabulary of Northern Ireland.

divided the House four times and Miss Devlin brandished a nailed club from the battle of Burntollet. The House rose at 9:40 A.M. with speaker after speaker sounding like ghosts of their forbears who introduced such debates to the House a century earlier.

Half an hour before the debate concluded, Mike McGuire (whom I shall always remember for his remark in the Division lobby: "If our Saviour himself were to walk through this lobby, those Bs in the tea room would still vote for the government gave the House a quiet warning: "I welcome the abolition of the convention and look forward to giving closer scrutiny in the future to what is going on in Northern Ireland." There is little doubt that it will.

THE TRAGEDY IS THAT VIOLENCE and not common sense interpretation of the law was to burst the dyke. If the Campaign for Democracy in Ulster had been successful in making a few holes, it was not until serious explosions forced the subject upon a hitherto unwilling government that Northern Ireland became a fit subject for debate on the same level as other parts of the U.K.

No single person or group can claim the credit: the C.D.U., Connolly Association or United Ireland Association in Britain; the small dedicated group of the Campaign for Social Justice in Dungannon which fed M.P.s with information; the students of Queens or the workers of Derry. Each fertilized the other and the two preconditions which we emphasized during the 1967 tour had coincided. The first was the absolute necessity for united action by all who stood for civil rights whatever their political, religious or constitutional viewpoint. The second was the need for the people of Northern Ireland to stand up for their rights themselves. When the first was acted upon, Mid-Ulster was wrested from the Unionist grasp; when they rose to their feet in the streets of the Six Counties, the convention crumbled to fragments.

But if the movement itself fragments or aimless violence takes over from political action, then no amount of convention bashing at Westminster will save Northern Ireland from another half century of Unionist hegemony or direct rule removing it even further from rapprochement with the Republic. The antics of extremists in the Civil Rights movement or attacks on British troops will not help. The alliance forged between English radicals and Irish civil workers must not be smashed and sacrificed on the altar of sectarian political bigotry which can be as destructive and divisive as the religious dissensions it is attempting to overcome.

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Book



Reviews

KATE MILLETT AND HER CRITICS

SEXUAL POLITICS, by Kate Millett. Doubleday & Company, Inc., Garden City, N.Y., 1970, 393 pp., \$7.95.

KATE MILLETT's *Sexual Politics* HAS ELICITED awe, praise and sober criticism, but proof of its effectiveness is the appearance of a variety of articles and reviews marked by utterly unselfconscious vulgarity, philistinism and venomous hostility.

"These are not normal women. I think they are freaks. Besides, they are dead wrong in their assumption that most women detest men, marriage and housework so much they can't wait to be liberated from them so they can rush out to work all day in factory, shop or office. . . . Most women have a strong nesting instinct and they *like* taking care of their homes." So writes Helen Lawrenson in the January 1971 issue of *Esquire*, a publication which has been trying manfully to change its "girlie" image since its editors realized years ago that it could not compete successfully with *Playboy*. The Lawrenson article, "The Feminine Mistake," characterized by breezy ignorance and the social yahooism of small town babbitttry ends by bringing the reader *Esquire's* message: "So you see, no matter how you slice it, it's the same old sex game. Liberate me, daddy, eight to the bar." Even the idiom is dated.

Midge Decter's response to women's liberation is a "fable" called "The Liberated Women" which appeared in the October 1970 issue of *Commentary*, written in the form of a prolonged whine. Its whimsy cannot conceal its essential vulgarity:

To judge from what she says and does, however—finding only others at fault for her predicaments, speaking always of herself as a means of stating the general case, shedding tears as a means of negotiation—the freedom she truly seeks is of a rather different kind. It is a freedom demanded by children and enjoyed by no one: the freedom from all difficulty. If in the end her society is at fault for *anything* [my emphasis, P.J.], it is for allowing her to grow up with the impression that this is something possible to ask. Even the good fairies who attended her birth would never have dared so far.

Miss Decter's claim to fame is that, in addition to being the executive editor of *Harper's* magazine, she is in the words of the biographical squib accompanying the article, "married and is the mother of four children." It failed to add that she is married to the editor of *Commentary* which is surely the only explanation for an article of no merit whatsoever appearing in that journal's pages.

Harper's, the magazine of which Miss Decter is the executive editor, selected for its reviewer of *Sexual Politics* a man whose polemical writing is