# ORIGINAL DOCUMENTS ILLUSTRATIVE OF IRISH HISTORY. No. 6.

## PLANTATION OF ULSTER.

### ORIGINAL LETTER FROM SIR JOHN DAVYS,

GIVING AN ACCOUNT OF THE INQUISITION ON THE FORFEITED LANDS IN THE COUNTY OF COLERAIN, A.D. 1609.

[The following Letter, which is now for the first time made public, is copied from the original in the State Paper Office; where it will be found in the collection marked "*Irish, June to Decr.*, 1609," No 122. It will be read with interest by all who are desirous of tracing out the details of the great revolution known in history as the Plantation of Ulster, the most important event in our annals since the Invasion of 1172; yet one about which less of accurate knowledge exists than respecting the transactions of Strongbow and De Courcy. The document illustrates, in a very striking manner, the circumstances connected with the transfer of the land in the present county of Londonderry from the native proprietors to the Twelve Guilds of the city of London; which has been briefly alluded to in Mr. Porter's paper on the Sept of the O'Cathains of Ciannachta, in our last number, [p, 143.] The writer was the celebrated Sir John Davys,—(commonly but erroneously written *Davies*,)—who was Attorney-General in Ireland in the reign of King James I., and Speaker of the House of Commons in the Irish Parliament which met in the year 1613, commonly called the Lord Deputy Chichester's Parliament. Sir John was born at Tisbury in Wiltshire, about the year 1570; studied at Oxford and the Middle Temple; and was called to the bar in July, 1595. About two years afterwards, he was expelled from the Temple, by a unanimous vote of the benches, for an outrage of which he was guilty, in bastinading a fellow member while they were at dinner together in the Temple-hall. He turned his rustication to good account, by availing himself of the leisure time which it afforded, to compose his celebrated poem on the immortality of the soul, entitled *Nosce Teipsum;* which was published in 1599. Soon after, he gave to the world twenty-six *Acrostics* in praise of Queen Elizabeth; (one for each letter of the alphabet;) all of them so artificially constructed that the initial letters of their separate lines put together make the words ELIZABETHA REGINA. The compliment was well accepted by her majesty, on whom no compliment was altogether lost, and who, being now far advanced in years, seemed to think it more especially incumbent upon her to reward, with smiles at least, men of genius who celebrated her wit, beauty, grace, and accomplishments. Davys was also befriended by Cecil, the Secretary of State: and, being chosen a member of Parliament, in 1601,—an appointment which added not a little weight to the recommendations of his patrons,—he was, on submission and apology, restored to his former rank in the Temple. If he expected any more solid mark of favour from his royal mistress, he was disappointed, for none such was conferred: we cannot be surprised, therefore, to find that when her death drew near, he was among the many courtiers who posted down to Scotland "to worship the rising sun." By King James he was re-

ceivedwith distinguished favour; and when he succeeded to the English crown in 1603, he immediately appointed Davys Solicitor-General for Ireland. No sooner had he arrived in Dublin than he was advanced to the post of Attorney-General. In this situation he was trusted and consulted by the Government both in England and Ireland; not merely on professional questions, but on all matters of Irish policy; and had a large share both in the good and ill by which the Irish administration of King James was distinguished. Of his abilities as a lawyer he has left a splendid record in his *Report of Cases and Matters in Law, adjudged in the King's Courts in Ireland,* published by himself in 1615, in Norman, or rather Law French; and afterwards in an English translation, (though without the author's learned and elegant preface,) in the year 1762. As this work abounds in materials most valuable to the Irish antiquarian, and not elsewhere to be met with, and as it is also become rather a scarce book ,it may be useful here to enumerate the cases which are reported in it: they are,—1, *The Case of Proxies Ecclesiastical; (Exch.)*— 2, *The Case of Customs payable for Merchandise; (K. B.)*—3, *The Case of Mixed Money; (Pri. Co.)*—4, *The Case of Tanistry, (K. B.)* —5, *The Case of the Dean & Chapter of Ferns, or De Capitulariter Congregatis; (K. B.)*—6, *The Case of the Irish Custom of Gavelkind; (Pri. Co. by advice of all the Judges.)* —7, *The Course of Trial of Legitimation and Bastardy; (Court of Castle Chambers.)*—8, *The Case of the Royal Fishery of the Bann; (Pri. Co.)*—9, *The Case of the County Palatine of Wexford; (Exch.)*—10, *The Case of a Commenda; (C. P.)*—11, *The Case of Premunire; (K. B.)*—This last Case, it may be observed, was originally published in English.

Besides the foregoing, Sir John Davys published several treatises on the laws of England which are here omitted, as not relating especially to Ireland, though of course affecting it as a member of the empire. He gave to the world, in 1612, a valuable historical essay entitled *A Discovery of the True Causes why Ireland was never entirely subdued till the beginning of His Majesty's Reign*—which was frequently reprinted, both during his life and afterwards. Along with the last edition, (Dublin, 1787, 8vo,) the editor published, for the first time, (1) *A Letter to the Earl of Salisbury,* (i. e. Robert Cecil, Lord Treasurer of England,) *on the state of Monaghan, Fermanagh and Cavan, in the year* 1607. In the beginning of this letter, Sir John refers to *several previous communications* from himself to the same noble lord; but whether they are still in existence is uncertain. (2) *A Letter to the Earl of Salisbury concerning the Plantation of the Escheated Counties in Ulster,* dated at Dublin, 8th Nov. 1610. This relates chiefly to the county of Cavan, and treats more especially of the legal difficulties of the case.—And (3) *A Speech to the Lord Deputy, on his approbation of him as Speaker of the House of Commons,* 2 May, 1613. Another letter from Sir John Davys to the Earl of Salisbury, (dated Camp near Colerain, 8th of August, 1608,) and containing much curious historical matter, has been printed in a preceding number of the *Ulster Journal of Archæology,* (vol. iii. pp. 167—171:) and three Charges addressed by him to Grand Juries, in England or Ireland—for he went circuit in both countries, as Judge of Assize, being the first magistrate who ever dispensed English laws in several of the territories in Ireland—exist in MS. in the British Museum. It is greatly to be wished that search were made for all his papers relating to the public affairs in which he was engaged, and that a collected edition of them were printed.

In the Irish House of Commons of 1613, Sir John Davys sat as a member for the county of Monaghan, in which he had received a considerable estate by royal grant: he was the first who ever represented that county in Parliament. He necessarily resigned his office of Attorney-General on being confirmed as Speaker; and on the prorogation, returned to England, where he resumed the practice of the law, in the rank of King's Sergeant, to which he had been raised. He was chosen a member of the English Parliament which met in 1620, and distinguished himself by the zeal and ability with which he defended the interests of Ireland. It has been said that he became one of the English Judges, and was appointed Lord Chief Justice; but both statements are erroneous. It is indeed true that on the very last day of his life, he received an assurance from the Lord Keeper, Coventry, that he would be appointed to the high office of Lord Chief Justice of England in the room of Sir R. Crewe; but his sudden death by apoplexy on the 7th Dec. 1626, prevented the fulfilment of the pledge.]

S. P. O. Irish. June to Dec., 1609. No. 122.

It may please yr Lp.; wee ar now in the county of Colrane,[a] wch conteyneth Ochane's fruitfull cuntrey; and is the Third Stage in or Journey: from thence I am bold to give yr Lp. this Third Aduertisement[b] of our proceeding.

Wee[c] pursue our first course in describing and destinguishing the land. Our Geography hath had the speedier dispath heer, for that the County is but little, consisting only of three Baronies;[d] and for that wee sent 2 surveyors before, to perambulate the cuntry, and to præpare the Busines by gathering noates of the names, scites, and extents of the Townelands; wch they performed well and readily, being accompanied but wth a slender guard. I speake of a guard, as of a necessary circumstance; for though the cuntry bee now quiet, and the heades of greatnes gone; yit our Gographers do not forgett what entertaynement the Irish of Tirconnell gave to a map-maker about the end of the late great Rebellion: for one Barkeley being appoynted by the

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[a] Called, since the year 1615, the county of Londonderry,—by joining together the names of two cities, one of which became the principal purchaser of the territory a very short time after the date of this letter; the other was the chief, and apparently the only town in the territory itself. The county of Coleraine was first constituted by royal authority in the first year of King James I. deriving its name from one of the two places of strength, within its precincts, that were then actually subject to the English power. The lands comprised within it had formerly been declared to be "Shire ground," and included in the so-called "county of Tyrone," by return to a commission under the Great Seal, in the year 1591; but owing to the rebellion of Hugh O'Neill, the last earl of Tyrone, this appointment never took effect: and on the accession of King James, the lands included in the county of Tyrone, as defined in 1591, were divided into the counties of Tyrone and Coleraine. The latter has since changed its name, and has received the addition of a barony: in other respects the boundaries remain as then settled.

[b] It would be extremely desirable to ascertain whether the two former communications here referred to still exist. It is probable that a farther search in the State Paper Office, the British Museum, and the family mansions of the house of Salisbury, would not be altogether fruitless; and it is evident that Sir John Davys in this letter passes over some topics hastily, as having sufficiently discussed them in his previous dispatches.

[c] That is, the commissioners appointed by Letters Patent under the Great Seal of Ireland, dated the 21st of July, 1609; and enrolled *Rot. Pat. Canc.* 16 *Jac. I.* 2 *da. p.m.* 1. *d.* addressed to Sir Arthur Chichester, *Lord Deputy*; Thomas, Archbishop of Dublin, *Chancellor*; Henry, Archbishop of Armagh, *Lord Primate*; George, Bishop of Derry, Clogher, and Raphoe, (*sic*;) Sir Thomas Ridgeway, *Treasurer;* Sir Richard Wingfield, *Marshall;* Sir Humphry Winche, *Chief Justice of K. B;* Sir John Denham, *Chief Baron of Exch.;* The Master of the Rolls; Sir Oliver St. John, *Master of the Ordinance;* Sir Oliver Lambert, *Privy Councillor;* Sir Henry Power, *do.;* Sir Gerald Moore, *do.;* Sir Adam Loftus, *do.;* Sir Richard Cooke, *Chief Secretary;* Sir John Davys, *Atty. General;* Wm. Parsons, Esq., *Surveyor General;* and George Sexton Esq., *Escheator of Ulster;* commanding them to inquire of and concerning escheated lands in the counties of Armagh, Tyrone, Coleraine, Donegall, Fermanagh and Cavan; and to divide and applot the same into parishes, precincts, and proportions; with the exception of the church lands; and the church lands, with consent of the Lord Deputy and the three Prelates; to rectify mistakes in former Inquisitions; and to do all manner of things necessary to the Plantation; &c., &c., &c. For their guidance, particular *Instructions* were drawn out; which, with the Letters Patent, and the Inquisitions taken in consequence, will be found in the Appendix to the volume published by the Record Commissioners, entitled *Inquisitionum in Officio Rotulorum Cancellariæ Hiberniæ Asservatarum, Repertorium, vol.* ii. 1829, *fol.*—It appears from the signatures appended to the finding for the county of Coleraine, that the following Commissioners were present when it was taken; viz, Sir A. Chichester, the Archbishop of Armagh, the Bishop of Derry, Sir T. Ridgeway, Sir H. Winche, Sir J. Davys, and W. Parsons.

[d] The three baronies of which the county then consisted were, as appears from the finding of the Commissioners and Jurors, those of Coleraine, Kenaght, and Annagh, (now Tirkeerin.) The Barony of Loughinsholin, the largest in the present county of Londonderry, was, in the year 1609, annexed to the county of Tyrone, as appears from the Inquisition for that county in the volume above referred to. The district now called the North-west Liberties of Derry, situated W. of the Foyle, was then a distinct jurisdiction, and was the subject of a separate Inquisition.

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late earle of Devonshire to draw a trew and perfect mapp of the North parts of Vlster (for that the old mappes were false and defective) when hee came into Tirconnell, the enhabitants tooke of his head, bycause they would not have their cuntrey discovered.

For the distinctions of the Church lands in this county, wee had a Jury of clerke or scholers for the Jurors; 15 in number. 13 of them spake good Latin, and that very readily. These clerks, being chosen in the præsence of the lo: primate, by reasonable præsumption shold rather bee partiall for the Clergy then for the King.[e]

They conceaved their verdict or præsentment in a singular good forme and methode, and gave vs more light than ever wee had before touching the originall and estate of Herenaghes and Termon Lands.[f]

Heer at length after long expectation the lo: Bishop of Derry[g] came to the

[e] The names of the Jurors were as follows: they are here given because they appear to have been gentlemen of good education and family, belonging to the principal septs then inhabiting the county.

Manus McEvally,
John O'Heney,
Fardorogh O'Mullane,
Richard McOwen O'Cahan,
Owen McCawell,
Patrick McRedy,
Rory McAnalle,
Owen grome McGillegan,
Gilleduffe O'Mullen,
Dermot O'Chane,
James O'Mullane,
Gilledufle McHerenagh McCloskie,
William McAtagart
Patrick oge McEtegart
Morrice McCowell.

That thirteen out of the fifteen jurors could speak Latin fluently and well, is a proof that *in some things* education has not made the progress which we sometimes flatter ourselves it has:—for it may be doubted whether the whole county could now produce thirteen men who could make themselves understood in extemporaneous Latin.

[f] The part of the finding, here referred to, seems to be the following. "And further touchinge the originall and difference of Corbes and Herenaghes, and of the Termon lands of the said county of Coleraine, the said jurors doe, uppon their oathes, finde and say, that Donell McHugh O'Neale, kinge of Ireland, did, long before any bushopps were made in the said kingdom of Ireland, give unto certaine holy men, whom they call *sancti patres*, severall portions of land, and a thirde part of all the tiethes; to th'end that they should say praiers, and beare a thirde parte of all the chardge of repairinge and mainteyninge the parishe church; (th'other two third parts beinge borne by the parson and viccar to whom the rest of the tiethes is yerely paied;) and alsoe for their owne honor and sustentation; and that afterwards the said holy men did give unto severall septs severall proportions of the said lands; and placed one or more of them in every parishe, to hould both the said land and the third parte of the tiethes, for ever, according to the course of Tanistrie, free from all exactions; and that for that cause the land was called *Termon* or *free*, and the tennant thereof sometimes called Corbe and somctimes Herenagh; and that the said Corbe or Herenagh was to beare a third parte of the chardge in repairinge and maynteyninge the parishe church; and that the said portion of land and the third part of the tiethes so contynued free unto the Corbe or Herenagh for many years, untill the church of Rome established bushopps in this kingdom, and decreed that every Corbe or Herenagh should give unto the bushopp (within whose diocese he lived) a yerely pension, more or less, according to his proportion, out of his entire Erenachie, consisting of the said land and the said third parte of the tiethes; and that thereunto the said Corbes and Herenaghs submitted themselves; but held their Herenachie free for ever; and could not be removed by any of the temporall or spirituall lords or by other person whatsoever. And further the said jurors doe, uppon their oathes, finde that the difference of Termon, Corbe, and Herenagh consisteth onlie in this, that the Termon is the name of the land; and all Termon-land is Herenagh-land, and hath all the priviledge of Herenagh-land; but all Herenagh-land hath not alwaies as ample priviledges as the Termon-lands."

[g] The Right Rev. George Montgomery, next brother to Hugh Montgomery, laird of Braidstanes, in the kingdom of Scotland. This laird had ingratiated himself with K. James I. before his accession to the crown of England; and shortly after that event, was, through the king's favour, and the urgent intercession of his brother, then Dean of Norwich, endowed with one-third of the lands possessed by Con O'Neill, of Castlereagh, in the County of Down; and was created Lord Montgomery of the Ards. The Dean was soon afterwards

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campe, and was præsent at the giving vp of the Jurors Præsentment; wherein bycause it was found that the lands possessed by the Herenaghes and their septs, were their proper enheritance and not the enheritance of the BBs.; and that the BBs. had only Rents out of those lands, and not the lands themselves; (though heerin they did concur with the verdicts given in Tirone and Ardmagh this yeare, and wth all the præsentments made the last yeare, being indeed a manifest and infallible Truth.)

Yet bycause it doth contradict his Lps. suggestion made in England wth great confidence and assurance—viz., that these lands were the very demeasne lands of the BBs; oppon wch suggestions his Matie was specially moved to conferr all those lands to their severall seas; therefore his Lp. tooke exceptions to that part of the Verdict; affirming that hee would not beleeve that they did all agree in that poynt; and therevppon he did examine them by the poll, before the lo: Deputy and the rest of the commissioners; and though he did expostulate wth them somewhat roundly and sharply (wch might have altered such poore men as must live under his Jurisdiction) yet every one held his opinion constantly, and every one severally gave such plaine and probable reasons of his opinion as the commissioners were fully satisfied, and the præsentment receaved. [h]

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advanced to the episcopal bench, being made Bishop of Derry, Clogher, and Raphoe; in all which Sees he was the first Protestant prelate. He is commended by his grand nephew, the writer of the *Montgomery MSS.* for his zealous exertions to secure adequate maintenance for the clergy of the church to which he belonged, and is censured by many of his contemporaries for his neglect of the spiritual wants of his diocese, and his eager pursuit of the temporalities. Sir John Davys does not scruple to mention him with contemptuous censure on this account, on various occasions. Thus, in his *Letter to the Earl of Salisbury on the state of Monaghan, Fermanagh, and Cavan*, (written A. D. 1607,) he says, after mentioning the deplorable condition of the church in these counties—"It was thought meet to suspend and stay all proceedings thereupon until the bishop of Derry, Clogher, and Raphoe, (which three dioceses comprehend the greatest part of Ulster,—albeit they be now united for one man's benefit,) shall arrive out of England; whose absence, being two years since he was elected by his Majesty, hath been the chief cause that no course hath been hitherto taken to reduce this poor people to Christianity; and therefore *majus peccatum habet*" (*Historical Tracts*, p. 241.)

[h] If, as appears to have been the fact, the following passage was written by Bishop Montgomery after the finding of this Inquisition, (he himself being one of the Commissioners, taking an active part in the proceedings, and attesting the office by his signature,) his conduct must be regarded as very extraordinary. It occurs in a memorial which he presented to King James, complaining of the Jurors, and the effect of the commission generally; praying that all Termon and Herenagh land in his three dioceses may be declared to be the property of the several Sees, and that the parochial glebes should be taken, not out of the Herenach land, but out of what he calls the Temporal lands escheated to the Crown. His very first allegation, is that "all these offices, whereby the patrimony of the church hath byn thus caryed awaye, were found *in the vacancy of these Sees,—when no Byshop was to clayme the right of the church,—or when the Byshops were not of the commission; nor called to showe their right as in other commissions is used:* and therefore ought not, in the Byshop's judgment, under correction, to be prejudiciall unto the church."—(*Ordnance Survey of the County of Londonderry*, vol. I., p. 53.)—The reader is not to suppose that in this contest between the bishop and the crown lawyers, the Herenach had the slightest interest. If the lands were found to have been the property of the septs, they were held to be forfeited to the Crown by the Act of 1567, in consequence of Shane O'Neill's rebellion. If they were found to have been the property of the Sees, the bishops entered upon possession as a matter of course. In either case the natives were to be expelled: as they were, soon afterwards.

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In this little county wee have had a great Gaol-delivry, but no execution of any prisoner; for my lo: Deputy hath spared and reserved them all to fill up the companies that are to bee sent into the warrs of Swethen.[i]

The Londoners ar now come and exceeding welcome unto vs.[j] Wee all vse our best Rhetorick to persuade them to go on wth their plantation; wch will assure this whole Iland to the Crowne of England for ever. They like, and praise the countrey very much; specially the Banne,[k] and the Rvr of Loghfoyle: one of the Agents is fallen sick, and would faine return; but my lo: Deputy and all the rest heer do vse all meanes to comfort him and to retayne him; lest this accident should discourage his fellow-cittizens.

Thus wth the humble præsentation of my duty and service to yor Lp. I desire yor Lps. pardon for my boldnes in giving so many rude and illwritten letters to yor Lop, wch this rude place and distraction of busines may excuse. I remayne yor Lps. in all duty,

Jo: Davys.

The Camp neer Limevaddy in Ochane's Cuntrey, 28 Augst 1609.

The direction is in the handwriting of Sir J. Davys.

Directed—"To the right honourable my very good lord my Lord the Earle Salisbury lord high Treasorrer of England."

Endorsed—"A letter from Atturny of Ireland to my lord, 28 Augst 1690, from the Campe neer Limevady."

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i This is a new fact, not mentioned in any history of the time, so far as we are aware.

j Deputies sent over by the city of London, to examine the forfeited land in the counties of Colrane and Tyrone, before accepting the purchase of them on the terms proposed by the king in council. Their report was favourable; and the bargain was concluded soon after they returned home. The charter by which the estates were conveyed was formally executed in 1613. It is to be observed that it did not convey any portion of the Herenagh or Termon lands to the Undertakers; on the contrary, all of them were annexed to the Sees of Derry and Armagh in *frankalmoign*, and the London companies were required to endow the parish churches with 60 acres of glebe each.

k See, upon this subject, the Report of the *Case of the Bann*, in the volume of Sir John Davys' *Law Reports*, (Dublin ed. 1762, p. 149.)