

“A MELANCHOLY RECORD”: THE STORY OF THE NINETEENTH-CENTURY IRISH PARTY PROCESSIONS ACTS

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1. INTRODUCTION: THE DEATH OF ASCENDANCY AND THE BIRTH OF CONTENTIOUS PARADING

Late one night in 1832, Edward Stanley, chief secretary of Ireland, stood before Parliament in Westminster and read the Party Processions Bill for the first time. When Stanley took to his feet it was 1.30 a.m. and, at the end of a very long parliamentary day, the Bill can hardly have attracted much interest from the remaining members who had battled against sleep to attend. The Bill passed both houses and effected a complete ban on processions or parades of a “party” character in Ireland. In later years its object and method of passage would be interpreted as evidence of the neglectful treatment of Irish business in London from the passing of the Act of Union in 1801.¹

Stanley, later Lord Derby, would enjoy two brief spells as prime minister some years after he had completed his tenure in the political proving ground that was Dublin Castle. At the time of his appointment to Earl Grey’s ministry in 1830, the view from the Castle was bleak. In the midst of a tithe war and in the immediate aftermath of a highly divisive political campaign that had resulted in Catholic emancipation, the country was still in a turbulent state. Stanley probably shared the prevailing view that the grant of Catholic freedoms under the Emancipation Act 1829 would emasculate the increasingly popular O’Connellite movement and mollify the more troublesome political elements in the country. This would not prove to be the case, however. Emboldened by their success, the movement grew in strength and ambition, and as the century progressed it became clear that the Catholic population would no longer accept their position as the subject caste of Irish society.² Over the course of the century, privileges that Protestants had hitherto taken for granted were torn away, one by one, yet many were still unwilling to accept that the ascendancy was doomed.

The formation of the Orange Order and the celebration of July 12 by parading provided an outlet for an increasingly isolated and threatened class

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1. Isaac Butt, *Irish federalism, its meaning, its objects and its hopes* (Dublin, 1870), p.84.
2. D.G. Boyce, *Nineteenth-Century Ireland: The Search for Stability* (Dublin, 1990), pp.1–9.

to express its cultural identity, to assert its opposition to the reforming zeal of Parliament and to mount political campaigns against the erosion of Protestant freedoms. Inevitably, violence thrived in such a contentious environment and one of the major flashpoints for these new sectarian clashes were party—invariably Orange—processions. Violence surrounding the traditional parade on “the Twelfth” was becoming endemic by the time Stanley arrived at the Castle. He believed a firm line ought to be taken as it was widely feared in government circles that a sectarian clash between Orange and Green elements could spark widespread insurrection, as had occurred in 1798. Orange and Green party disputes had multiple causes, stemming from both local issues and national politics, and the problem of preventing such incidents with the relatively blunt instrument of legislation is one that survives to this day. The Party Processions Act 1832 represented the most extreme legislative response to contentious parading ever witnessed on the island of Ireland. In its severity it eclipsed any modern attempt to circumscribe parades, introducing, as it did, a total ban on such displays.

Government hostility towards the Orange marching tradition developed in the years following the Act of Union and was intimately linked to the increasingly fractious relationship between the Orange Order and Dublin Castle. The Order had been founded in Armagh in 1795 as a counter-force to the economic and military threat posed by the Catholic Defenders operating in that county. The Order’s objective was to maintain and celebrate the Protestant ascendancy, a role it was called upon to fulfil during the rebellion of 1798. The support given to the government by Orange militia during the rebellion generated enormous goodwill for the organisation in government circles during its nascent years. This would not last. Prior to the 1790s, parading on July 12 was not attended by anti-Catholicism. The defeat of popery and the maintenance of ascendancy was part of what William had achieved at the Boyne that fateful day in 1690, but it was not necessarily the most important part.³ He had also saved his people from the imperialist ambitions of a French despot in the form of Louis XIV, and had enshrined the liberties of the citizen in the Bill of Rights 1689.⁴ In the eighteenth century, the July 12 celebrations were akin to the St Patrick’s Day celebrations—the latter characteristically being more a national, as opposed to a nationalist, display. There is even evidence that Catholics participated in July 12 parades as late as 1811.⁵

However, a number of concessions to Catholic emancipationists had engendered a more isolationist mentality among Orange traditionalists. Many of the Penal laws were repealed in 1778 and 1782 and the Catholic

3. Jacqueline Hill, “National festivities, the state and ‘protestant ascendancy’ in Ireland 1790–1829” in *Irish Historical Studies*, xxiv (1984–1985) pp.30–33.

4. *ibid.*, p.30.

5. Lieutenant-Colonel Verner, *Report from the select committee appointed to enquire into the nature, character, extent and tendency of Orange Lodges, associations or societies in Ireland*, H.C. 1835 (377), xv, 1 at p.22.

Relief Acts of 1792 and 1793, which enfranchised 40-shilling freeholders and led to intense competition with Catholics for leases. It was also widely held that Catholic weavers were causing a depression in Protestant wages. The uprisings in 1798 and 1803 served only to facilitate and encourage the sectarianising of the political environment, and as the new century progressed an increasingly active Catholic political class presented an ever-growing threat to the ascendancy in Ireland. Thus, Orange commemorative parades were now taking place in a more confrontational political atmosphere and were heavily influenced by this fact.⁶

This perceived threat from the papist majority led Protestants to cling to their cultural heritage more tightly than ever. There were few external manifestations of this heritage that could match the visceral impact of a Williamite parade—a marching mass of people with drums beating and feet stamping to the victory of 1690. Now, the victory itself was transmuted. William was no longer celebrated as the king who had secured civil liberties and deliverance from French despotism for his subjects. He was now solely remembered for the defeat of popery and preservation of ascendancy. According to the Orange factions of the 1790s, that was the real victory that had been secured at the Boyne.

Nowhere was this sectarian mood more pronounced than in Armagh, the county that gave birth to the Orange Order and contributed to the transformation of commemorative parading from an inoffensive communal diversion to an exclusive show of Protestant strength and an assertion of the Protestant ascendancy. This was very much related to the unique demography of the area: it was the most densely populated county in the country and its three religious denominations—Catholic, Protestant, and Presbyterian—were represented in roughly equal numbers. This created what one commentator described as “cultural frontiers”, areas that became flashpoints for inter-communal sectarian strife.⁷ In a situation where no one ethnic group was dominant, secret “defensive” societies were numerous. Petty and violent incidents became common as a means of asserting the strength of a particular religious group. For instance, in the late 1780s, Peep O’Day Boys frequently raided Catholic homes for guns and smashed looms in an effort to remove both the military and economic threat from that section of the population. It was in this volatile atmosphere that processions began to be used for similar purposes by all sides: the Catholics demonstrated with large gatherings of Defenders on important religious feast days; the Protestants with parades and manoeuvres by volunteer units on the July anniversaries.⁸ In the early 1790s, the Catholic Defenders were

6. James Kelly, “The emergence of political parading 1660–1800” in T.G. Fraser (ed.), *The Irish Parading Tradition* (London, 2000), p.9.

7. Jim Smyth, “The men of no popery: the origins of the Orange Order” in *History Ireland*, iii, no. 3 (1995), p.48.

8. David Miller, “The Armagh troubles 1784–95” in *Irish Peasants: Violence and Political Unrest 1780–1914* (Manchester, 1983).

increasingly becoming more well-organised and thereby more effective. Their raids posed a serious threat to Protestant military dominance in the county. After a particularly bloody incident in Armagh in 1795—affectionately referred to in Orange folklore as the “Battle of the Diamond”—the Defenders were repelled from the pub of James Sloan and took heavy casualties. It was at this place that the Orange Order was formed. Organised along Masonic lines and avowedly anti-Catholic from the start, its bloody beginnings foreshadowed its future development. The first parades organised by the Order took place in July 1796 and were remarkable for their relative peacefulness. Sibbert remarks that “the Orangemen had crept out along bye-roads, like children learning to walk.”⁹

The surge in Defender activity in the 1790s meant the Catholic population of the county lost the support of the Protestant gentry. The “‘near miss’ at Bantry Bay”¹⁰ in 1797 when the French attempted invasion, combined with the increasing strength of the United Irishmen, was also influential. The need for a counter-revolutionary force threw Dublin Castle into the arms of the Orange Order, giving the Order free reign to repress and expel many Armagh Catholics with little fear of official retribution. Orange parading increased dramatically in 1797, with some estimates putting the figure for parade participation at up to 30,000 people. When Catholics rebelled in 1798, many of the Orange yeomanry saw service in defence of the country.

However, the year of rebellion marked a watershed for the Orange Order and for official attitudes towards Williamite parading. The final defeat of the rebels, the decrease of the threat from France and the passing of the Act of Union removed many of the reasons the government had for supporting the Order. The next few years saw a deterioration in the government—Order relationship, and gratitude for the Order’s support during the rebellion, was soon forgotten as Westminster lost patience with the frequent violence of the annual July 12 celebrations.¹¹ Within 20 years of the passage of the Act of Union, the attitude of the Castle had gone from disinterest, to disdain, to outright hostility towards the activities of the Order. The annual procession to celebrate the Twelfth in Dublin was banned by the Castle in the early 1820s; a decision that enraged the Dublin lodges. One night, while the viceroy, Marquis Wellesley, was attending the Theatre Royal, a group of Orangemen distributed leaflets mocking his short stature and, in a moment of passion, hurled a glass bottle at the viceroy’s box. The Castle was outraged by the affront and a firm hand was used to deal with the perpetrators of what was seen as a scandalous act.

9. R.M. Sibbert, *Orangeism in Ireland and Throughout the Empire* (2 vols., Belfast, 1914), i, p.214. A newspaper report of the day remarked on the good order of the demonstration: *Belfast Newsletter*, July 15, 1796.

10. Whelan, “Origins of the Orange Order”, p.27.

11. Ruth Dudley-Edwards, *The faithful tribe: an intimate portrait of the loyal institution* (London, 1999), p.173.

The Order was also attracting the ire of the government in London. Secret associations within the army were frowned upon in Westminster, as they were deemed to present a serious threat to discipline. Despite this, a number of military Orange lodges were founded, much to the distaste of the administration. A rumour was also spreading of an Ultra-Tory conspiracy to oust the king and put the Duke of Cumberland, grandmaster of the Orange Order, on the throne, with a view to repealing the Catholic Emancipation Act. In London, it was felt that the sole use of the Orangemen, as a counter-revolutionary force, had disappeared with the failure of Robert Emmet's insurrection in 1803. In Parliament, the tone of government spokesmen was hostile towards the Order.¹² This parliamentary hostility towards secret societies, and in particular the Orange Order, finally resulted in legislative action that curbed the ability of such organisations to operate. The Unlawful Oaths Act 1823 rendered many Orange regulations illegal. The Order responded by changing its rules and reconstituting itself in a legal manner the following year. However, the act achieved its purpose and the organisation was greatly weakened.

The Protestant gentry that led the Orangemen became increasingly anxious not to provoke the anger of a hostile government. However, their efforts to save the Order from dissolution were to cost them the support of the ordinary membership. One of the most unpopular measures in this regard was the passage of a resolution by the Grand Lodge in May 1824 recommending that all Orangemen desist from celebrating the Twelfth by marching.¹³ Such a public disavowal of the troublesome custom of parading by the gentrified Orange leadership was seen as a betrayal by many of the working-class Protestants who formed the grass-roots following of the organisation. Disillusioned, the Williamites sought leadership elsewhere and found it in the formidable character of Samuel Grey.

Grey came to prominence by successfully opposing Catholic emancipationist marches headed by Jack Lawless in 1828. Daniel O'Connell's Catholic Association had been growing in strength since its formation in 1823. Lawless had previously made clear his stance *vis-à-vis* the Orange Order by calling for an end to all religious processions.¹⁴ However, this view did not prevent him from planning and co-ordinating massive marches by emancipationists. O'Connell's organisation had not been met enthusiastically in the north of the country and Lawless planned to change this by organising mass demonstrations in towns throughout Ulster. His aim was to collect the Catholic rent through powerful demonstrations of Catholic numbers. After moderate success in Drogheda, he moved on to Ballybay, County Monaghan, with a huge following: one estimate put his train at 250,000 as he approached the town. However, the

12. Hereward Senior, *Orangeism in Ireland and Britain 1795–1836* (London, 1966), p.213.

13. *Select committee report on Orange lodges*, p.23.

14. *Hansard* 3, xi, 1434.

emancipationists were quite unprepared for what followed.¹⁵ Orange lodges, marshalled by Grey, marched in from remote districts and there was a strong military force posted to the town with the object of keeping Lawless and his supporters out. Presented with this impressive resistance, Lawless capitulated. Conflict was avoided by the narrowest of margins, a fact not lost on those charged with protecting the public peace. The huge numbers that would have been involved in any clash could have brought the country to civil war; the forces of law and order intervened quickly. The Newry magistracy passed a resolution banning all such assemblies. This was followed by a proclamation from the lord lieutenant declaring such meetings to be illegal, as they were a threat to the public peace. Lawless had suffered a humiliating failure; Samuel Grey had won a famous victory that would enter into Orange myth.

The events of 1828 had another effect. Previously, political marching had been viewed as a minor irritant, an annoyance that was an occasional and relatively insignificant threat to public order. Lawless had now demonstrated that such marches could present a threat to the peace of the entire country. Legislative action seemed imminent, but was deferred. Many believed that the Catholic Emancipation Act 1829 would cool sectarian passions. The widely held view among liberal Protestants was that the causes of Catholic resentment towards Orange parading would evaporate when the Act restored the papists to a position of equality. They were to be sorely disappointed.

The organisation that had been formed to protect the Protestant ascendancy was now presented with a piece of legislation aimed at destroying it. In typical fashion, parading was employed to vent the anger of the brethren and July 12, 1829 saw massive demonstrations throughout the North. Any hope that Catholic emancipation would usher in a period of peace and harmony was quickly dashed as Orange party processions grew larger than ever.¹⁶ The new militancy of the Orangemen was confirmed in 1830 by an affray at Maghera, County Derry. It seems the Orangemen were still unwilling to bow to authority and the Riot Act was becoming more honoured in the breach. The frustration of the magistracy at these marches was clear, while the justices of the peace were feeling increasingly powerless to control Orange displays. Additionally, the law relating to unlawful assembly created onerous obligations on magistrates who sought to prevent such meetings. First, they were obliged to “satisfactorily ascertain upon oath that such processions (were) likely to lead to consequences dangerous to the public peace.”¹⁷ Once this requirement had been satisfied, a positive

15. Sibbert, *Orangeism in Ireland*, ii, pp.312–313.

16. *ibid.*, ii, pp.338–339.

17. Legal opinion of the Solicitor General and Attorney General on the legality of Freemason and Orange processions, *Appendix to the third report from the select committee appointed to inquire into the nature, character, extent and tendency of Orange Lodges, associations or societies in Ireland*, H.C. 1835 (476), xvi, 275, p.142.

duty then existed upon the law officers to disperse the procession. The Attorney General and Solicitor General gave advice to the magistracy to the effect that every justice of the peace, being satisfied that an intended procession was a danger to the public peace, was under a duty to “use every legal means to repress so great an evil”.¹⁸ It seems that this cumbersome method, which required the swearing of informations, was ineffective to prevent these displays.

In the 1832 debate on the Processions Bill, Edward Stanley acknowledged that the law was inadequate. He was dissatisfied with the fact that the crime of unlawful assembly constituted a mere misdemeanour and with the requirement that an informer take an oath to the effect that he believed the assembly tended towards a breach of the peace. As Stanley pointed out, this obligation often led to mistakes whereby lawful processions were broken up while illegal ones were allowed to proceed.¹⁹

The Processions Act was eventually passed after the July celebrations of 1832. Faced with the Sword of Damocles hanging over their parading tradition, the Orangemen were determined to make their voices heard and there were widespread disturbances throughout the north on July 12 that year. There was a riot in Newry, collisions were narrowly avoided in Monaghan and Leitrim and the author of the Bill, Chief Secretary Stanley, was burned in effigy in Omagh. In Drumquin, near Omagh, 5,000 Orangemen marched and shots were fired at the house of the parish priest. A collision was avoided, but the patience of the Omagh Catholics was wearing thin. The magistracy of the town was feeling nervous and wrote to the Lord Lieutenant, the Marquis of Angelsey, to express its concern.²⁰

At Lissanoure, County Antrim, 5,000 Orangemen had marched. Soon after they left, about 500 Ribbonmen (a Catholic agrarian organisation descended from the Defenders) walked to a nearby field. There, in an act of defiance, they hoisted a white flag and fired off a number of shots into the night.²¹ Both sides had now set out their stalls, and a point of reconciliation was not easily discernible.

2. THE FIRST PARTY PROCESSIONS ACT

The Party Processions Bill encountered little opposition as it passed through the Commons and Lords in 1832. The two measures enacted in 1832²² and 1850²³ were virtually identical in drafting, the only distinction being that

18. The opinion of the Attorney General and Solicitor General respecting public processions, *ibid.*, p.142.

19. *Hansard* 3, xxxii, 718.

20. The Omagh magistracy to the Marquis Angelsey, *Appendix to the third report*, p.101.

21. Chief Constable Somerset Corry to Chief Magistrate Jones, *ibid.*, p.102.

22. 2 & 3 William IV c. 118.

23. 3 & 4 Vict. c. 2.

the first was not perpetual and had to be renewed every five years. It prohibited all assemblies where participants carried firearms or “any banner, emblem, flag or symbol, the display whereof which may be calculated or tend to provoke animosity between different classes.” At any such assembly a proclamation, similar to that used for the Riot Act, would be read out and any person remaining 15 minutes after it was heard was guilty of a misdemeanour. The use of the phrase “calculated or tend to provoke animosity” represented a major inroad on the common law right of procession. It meant the offence operated as one of strict liability since “calculated”, as a legal term of art, means “likely” and imports no specific intent on behalf of the marchers to offend the Catholic community. This clause also suggests that the Act did not impose a total ban upon such marches, as was the common perception. For example, an Orange parade in an Orange district could hardly be described as likely or tending to create sectarian strife. The view of everyone concerned, however, seemed to be that the ban was absolute.

The Act represented all the worst aspects of Irish legislation since the Act of Union. It was one of a number of statutes that Home Rulers pointed to to demonstrate the inadequacy of direct rule from London. Writing almost 40 years later, Isaac Butt observed that:

“Our statute book is a melancholy record of arms acts! Insurrection acts! Acts for suspending the *habeas corpus*! For suppressing party processions! For prohibiting public meetings! As if brute force was the one expedient of Irish government and the highest object of Irish statesmanship was to crush down the spirit of the nation. ... Anyone who knows the way in which Irish business that is done is transacted, will scarcely regret that so much of it is left undone. At the close of every session in the small hours of the morning a number of small bills are introduced ... and they generally pass through their stages when the grey dawn of morning is struggling of the Bude-light through the stained glass windows of the Commons Hall. ... By bills passed in this manner, many of them unquestioned, powers have been clandestinely given which may have frittered away every free principle of Irish law.”²⁴

“Special” or “exceptional” legislation for Ireland, as it was called, was a major source of grievance to Irish Home Rule politicians. Although Butt was sympathetic to the Orange tradition, this does not fully explain his inclusion of the Processions Act in this class of unsatisfactory statute. It also shows the hostility among “Repealers” towards any law that would restrict freedom of assembly. The ability to gather and march in large numbers had been the life-blood of the Repeal Movement in the 1840s.

24. Butt, *Irish Federalism*, pp.83–84.

Indeed, the movement's strength had been greatly reduced by the prosecution of O'Connell, and the political consequences of the *Liberator's* brief imprisonment would have been to the fore in Butt's thinking. His criticism also has particular relevance for the Processions Bill. It was introduced to the house by Stanley in the early hours of the morning and was viewed as a major infringement on the right of subjects to assemble in large groups. However, Butt's criticisms should not be taken as proof that the Processions Act was draconian. The early 1830s was a time of great disturbance in Ireland and many of the Acts complained of (such as the Peace Preservation Acts and the suspension of *Habeas Corpus*) were the exceptions and not the rule. The extraordinary nature of social conditions at the time is evidenced by the fact that a report was commissioned on the disturbed state of the country in 1831.²⁵ Viewed against the background of the tithe war, Lawless's efforts in the North and Orange resurgence in the face of Catholic emancipation, the Processions Act and other measures devoted to the maintenance of public order seem far less oppressive than Butt would lead us to believe.²⁶

Many viewed the partiality with which the Act was applied as a far greater injustice. Despite the generality of its wording—it could, in theory, apply to both Orange and Green party processions—it was used almost exclusively against parades on the Twelfth. Although political parading had developed as a predominantly Protestant institution in the early nineteenth century, the Catholic population was not averse to engaging in such displays. The most common of these was, of course, the annual St Patrick's Day celebrations, which had not been marred by sectarianism in the same way as Williamite commemorations. The feast day had retained its festival atmosphere and was perceived as being of little threat to the public peace. However, Catholics also frequently participated in demonstrations to protest against the holding of certain Orange parades, particularly in the north of the country. These demonstrations sometimes invited as much trouble as the Orange marches they were opposing, and served to reinforce party divisions in the towns where they took place. However, the law officers of the Crown focused their attention, almost exclusively, on the Protestant parades, as these were believed to be the root of the public order problem. This double standard in the application of the law sowed a bitter seed in the minds of Orangemen. In the eyes of the Grand Lodge, Catholics appeared to enjoy an unjustifiable immunity from prosecution under the new law. The continuance of "papist" displays was a clear indication that government policy was to be directed firmly and solely against the Williamites. The wording of the new Act was not specific to

25. *Select committee report on the disturbed state of Ireland*, H.C. 1831–1832 (677), xvi, 1.

26. See the comments of W.E. Vaughan, "Ireland c. 1870", in W.E. Vaughan (ed.), *A New History of Ireland v: Ireland Under the Union 1801–1870* (Oxford, 1989), p.774.

any party and would have been quite effective in putting an end to all political processions, without bias to any particular tradition. The failure of the administration to apply it in this way fuelled the grievances of the working-class Protestants of the Orange tradition.

This sense of victimisation was reinforced by the huge public meetings in the summers of 1843 and 1845, organised by the Repeal Union and addressed by its leader, Daniel O’Connell. These meetings represented the peak of O’Connell’s political career and were planned with enormous ambition. In terms of size, they were unmatched, but were carried off with remarkable peace and good order.²⁷ The Union retained “repeal police” to expel drunkards and troublemakers, and at every available opportunity its leaders warned that acts of violence served only to damage the movement. At an initial glance, it would seem that the anti-processions law would not have applied to such meetings and that Castle officials should have concerned themselves with the law relating to unlawful and seditious assembly, if they wished to examine the question of legality. However, each monster meeting commenced with a grand parade.²⁸

O’Connell, a lawyer, would have been well aware that the Processions Act forbade marching while displaying party flags or emblems. Were his followers to march with such party symbols, it would give the Castle a reason to put an end to the meetings. As one of O’Connell’s biographers writes, they were watching every meeting carefully for any such violation of the Act:

“Every meeting of O’Connell’s was attended by the Castle’s shorthand writer, alert for any slip which would put him within reach of the law. [O’Connell] treated [Castle officials] with distinguished consideration. At Skibbereen he ushered them to places of honour in the front row, satisfied himself that they had every facility, and then, when their note books were open and their pencils poised, addressed the meeting in Irish.”²⁹

Initially, the problem was circumvented by ripping up greenery in the fields surrounding the meetings and using it instead of flags. However, O’Connell was forced to plead with his followers to desist from this practice because of the damage caused to nearby estates.³⁰ However, such an ingenious way of flouting the law was not easy to do away with and many of the processions

27. Dónal McCartney, “The world of Daniel O’Connell” in Dónal McCartney (ed.), *The World of Daniel O’Connell* (Dublin, 1980), p.5.

28. Gary Owens, “Constructing the repeal spectacle, monster meetings and people power in pre-famine Ireland” in *People Power: Proceedings of the Third Annual Daniel O’Connell Workshop* (Dublin, 1993), p.82.

29. Charles Chenevix Trench, *The Great Dan: A Biography of Daniel O’Connell* (London, 1984), pp.272–273.

30. *Freeman’s Journal*, August 10, 1843.

formed outstanding floral displays. Owens details a remarkable instance of such “subtle evasion of the law” during a repeal meeting in Cork in 1845. A victuallers company displayed a float with a large live bull, covered in flowers and ribbons and accompanied by two butchers pretending to slaughter the animal—the macabre play-acting clearly intending to symbolise the destruction of John Bull under the knife of the Repeal Union.³¹ The failure of the constabulary to act in these cases can be explained by the fact that the use of metaphor and allegory in making seditious statements provided obstacles to legal intervention and, as one sociologist observes:

“... what permits subordinate groups to undercut the authorised cultural norms is the fact that cultural expression by virtue of its polyvalent symbolism and metaphor lends itself to disguise. By the subtle use of codes one can insinuate into a ritual, a pattern of dress, song, a story, meanings that are accessible to one intended audience and opaque to another audience the actors wish to exclude. Alternatively, the excluded... audience may grasp the seditious message in the performance but find it difficult to react because that sedition is clothed in terms that also can lay claim to a perfectly innocent construction.”³²

The meetings’ organisers were also well aware of the divisive feeling caused by the playing of party tunes, and Orange songs were often played as a show of respect to the “other side”. The “Protestant Boys” was played at the procession on the way to the Tuam meeting, and the first words O’Connell uttered in his address at Kilkenny was a request for all bands to present for a rendition (subsequently delivered) of God Save The Queen. O’Connell was aware that the police kept a vigilant eye on the meetings to see if any infringement of the Processions Act had in fact taken place. This is evident from the report of a deputy head constable from 1845, who noted that it “did not appear ... any regularity which might be termed “‘Marching in Procession’ was observable” from the conduct of the meeting. He annexed a list of the flags carried by those attending, very few of which were dominated by the colour green. The Repealers could not be accused of displaying such a “party” colour in contravention of the Act.³³ It seems that O’Connell’s political acumen was matched by his legal skill, and the Castle felt that any prosecution of the Repeal Union under the Processions Act would fall outside the letter of the law while at the same time violating its spirit. Thus, the very high level of organisation evident in these Catholic mass meetings and marches rendered them immune to the application of

31. Owens, “Constructing the repeal spectacle”, p.91.

32. James C. Scott, *Domination and the Arts of Resistance* (New Haven, 1990), p.158.

33. PROI, CSORP, Outrage Reports, Meath 22/10731.

the Act. In any event, such precautions may not have been necessary at the Repeal meetings of 1845, as the government had failed to renew the Processions Act in 1844. Orange party processions were attracting less attention during the 1840s and the hardship the country suffered during the Famine years (1845–1850) led to a cooling of sectarian tensions.

This relative peace would be shattered in the summer of 1849 by a serious sectarian clash near Castlewellan in County Down. The Battle of Dolly’s Brae, as it is affectionately known in Orange folklore, would lead directly to the reintroduction of the Processions Act in 1850, this time as a perpetual measure. The “Battle” certainly merits the name; it was a serious sectarian clash where one side was hopelessly outnumbered and out-gunned by the other. Contemporary estimates place the number of Orangemen at between 1,500 and 6,000, and it was reported that the Williamites outnumbered the Ribbonmen by three to one. While the loss of life incurred was greater than the Young Irelander’s rebellion of the year before, the incident has merited only passing attention in the story of Orange and Green during the period.³⁴ However, its importance should not be underestimated for, as Seán Farrell remarks, “the clash at Dolly’s Brae resonated much further than this rather obscure rural locality in the southern part of Co. Down”.³⁵ Indeed, it is somewhat ironic that the incident should be remembered so fondly by Orangemen, since it led to the introduction of a new Party Processions Act, the dismissal of three Orange magistrates and the disgrace in Parliament of Lord Roden, a magistrate, landowner and grand master of the Orange Lodge.

During these middle years of the century, the Ribbonmen were the main force of opposition to the Orangemen. At the end of the 1840s, a number of sectarian clashes had taken place in south County Down, greatly fuelling sectarian animosities in the area.³⁶ This was not the first time that the pass had played host to sectarian violence. At the beginning of the nineteenth century, a Catholic had been killed at the Brae—a hilly and exposed stretch of the road—in a party fight and local lore had it that his mother’s dying words commanded to “never let the Orangemen pass”.³⁷ Conscious of the elevated state of tension in the county at this time, the local magistracy prevailed upon the Orange marchers to parade by a route that would take them away from Mahermayo, through which lay the traditional route of the march. Despite the agreed rerouting, the Catholic inhabitants of the town resented the resumption of Orange parading in their locality and took to taunting the Orangemen for their cowardice in changing the route of the

34. Christine Kinealy, “A right to march? The conflict at Dolly’s Brae” in D.G. Boyce and Roger Swift (eds.), *Problems and Perspectives in Irish History since 1800: Essays in Honour of Patrick Buckland* (Dublin, 2004), p.54 at p.78.

35. Seán Farrell, *Rituals and Riots: Sectarian Violence and Political Culture in Ulster 1784–1886* (Kentucky, 2000), p.4.

36. Kevin Haddick-Flynn, *Orangeism: the Making of a Tradition* (Dublin, 1999), p.274.

37. Farrell, *Rituals and Riots*, p.2.

march; a ballad was even composed for the purpose. In the face of such insults, it became a “point of honour” that the Orangemen would march the old road and through the pass at Dolly’s Brae on July 12, 1849. Signs of trouble were ominous and a letter was sent to the magistracy threatening violence if the march went ahead on that route.³⁸ Dublin Castle was becoming nervous and despatched an experienced magistrate, Tabateau, who warned Lord Roden of his fears of a collision and advised him of the further, unsettling fact that armed men, presumed to be Catholic, had been sighted on the evening of July 11 proceeding in the direction of Dolly’s Brae. However, the Orange magistracy took no steps to discourage the marchers from proceeding along the contested route.³⁹ On the day, Roden hosted a reception on his estate for the processionists and, it was alleged, supplied them with 30 barrels of beer to enjoy before setting off on the march.

In contrast, the two Roman Catholic clergymen had been pleading (although to little effect) with the ever-increasing Catholic crowd, which had gathered on the hill overlooking the road, to disperse. After the reception, Lord Roden made a speech to the marchers as they prepared to return by the old road.⁴⁰ Soon after the procession left Roden’s demesne, both sides started exchanging fire. It was unclear where the first shot had originated from, and there was conflicting testimony on the matter in evidence before the subsequent inquiry. Regardless of the initial impetus, indiscriminate firing quickly erupted on both sides. The police decided to dislodge the body of men on the hill and ran up it, firing as they went. At the same time, the Orange party attacked the hill from the transverse side, firing at the Ribbonmen as they retreated. The police then interposed between the two bodies to prevent a further clash. However, as this was going on, the Orangemen were engaged in what can only be described as brutal acts of retaliation. Catholic homes were set on fire and old and young alike were the subject of beatings and stabbings that would result in several fatalities. None of the Orangemen engaged in these activities was arrested.⁴¹

When the incident came to be debated in Westminster, Catholic anger was palpable and it was observed by one MP that the Catholic majority in Ireland viewed the incident as a “wanton, malicious, sectarian and party conspiracy to deprive the people of their lives”.⁴² The finger of blame for the incident was pointed squarely at Roden. As the senior magistrate in the area, he had sat as judge in his own cause and refused to indict any Orange party member for unlawful assembly. This conflict of interest, combined

38. *Papers relating to an investigation held at Castlewella into the occurrences at Dolly’s Brae on the 12th July 1849*, H.C. 1850 (1143), li, 331, p.44.

39. *Papers relating to Dolly’s Brae*, p.6.

40. *Hansard* 3, cviii 1134–1135.

41. *Papers relating to Dolly’s Brae*, at pp.8–9.

42. The remarks were made by the member for Dublin City, J. Reynolds: *Hansard* 3, cvii 1007.

with his support for the parade, led the Lord Lieutenant, the Earl of Clarendon, to recommend to the Irish Lord Chancellor that Roden and his two colleagues be dismissed from the magistracy. Roden died in 1870, a year before the repeal of the Processions Acts, and hardly participated in Orange affairs after the events of July 1849.⁴³

In the House of Lords, the Marquis of Lansdowne called for the reintroduction of the Party Processions Act.⁴⁴ There was little dissent from the proposal; even Roden expressed his support for it. As to why such a Bill had not come before the House at an earlier date, the view was expressed that the government had felt it could rely on the good sense of the parties to exercise restraint—a tactic that could clearly no longer be employed. Accordingly, on March 12, 1850 a new Party Processions Act entered into force in Ireland. Processions, such as those at Dolly’s Brae, were once again on the wrong side of the law. The events of that day would not be forgotten by the Orangemen, however. The Battle of Dolly’s Brae entered into the pantheon of Orange “legends”, taking its place next to the Boyne and Aughrim. There is even some evidence to suggest that cries of “Remember Dolly’s Brae” could be heard on the battlefields of the Somme in 1916, as another generation of Ulstermen charged to their deaths under the withering fire of battle.⁴⁵

3. THE PARTY EMBLEMS ACT 1860

The reintroduction of prohibitive measures directed at Orange celebrations, in the form of the Party Processions Act 1850, did not prevent colourful displays of Orange flags from Protestant churches throughout the north of Ireland around significant anniversaries; indeed the flag-raising was often accompanied by the church bells ringing out partisan tunes. Such use of the house of God as a triumphalist beacon caused as much aggravation as any parade ever had. It was also felt, in some circles, that the display of party emblems on the Twelfth added salt to the already wounded pride of the Catholic community, and at that time of year when Catholic feelings were particularly raw.

The new Processions Act was notable for the single fact that it attracted so few prosecutions. A reluctant magistracy combined with a preponderance of Orange jurymen stripped its provisions of any real effect. The decline in processions throughout the North during the 1850s was attributable in the main to the disinterest of many of those normally involved in such displays, and was connected to a general lull in party tensions during this period. Parliamentary interest was attracted only on those rare occasions when a very public outrage was committed against the Catholic community in the

43. Haddick-Flynn, *Orangeism: The Making of a Tradition*, p.279.

44. *Hansard* 3, cviii 1136.

45. Kinealy, “A right to march?”, p.78.

course of an Orange parade, or when a member of the government was affronted by the self-styled defenders of the Crown. Examples of both incidents occurred in 1860 and Parliament was stung into action in an effort to appear to be addressing the problem. A riot at Derrymacash, County Armagh, was followed by a very public stand-off at the Fermanagh assizes between the Orangemen and a Catholic member of the judiciary; these incidents led directly to the amendment of the Processions Act by the Party Emblems Act.

On July 12, 1860, at Derrymacash, representatives of several lodges had gathered at a public house, from where they proceeded to the town.⁴⁶ The day's events were well underway by the time they arrived and they were met by an Orange drumming and fife performance that was in complete disregard of the law. Soon after, and perhaps influenced by their time in the public house, an idea was hatched to march on to the local Catholic church. Two hundred of the group left the town by the Portadown Road and proceeded towards the church at Moyntag, near Derryadd. The local priest, Fr Morgan, was sensible enough to realise the danger presented by the situation and he locked the church doors before the troublemakers arrived. As the Orange party drew nearer, they realised that a group of local Catholics had gathered in a nearby field, fully intent on opposing the progress of the march.⁴⁷

A riot broke out when a shot was discharged at the cross on the church gable. The Orange party began repeatedly firing at the Catholics, who were unarmed.⁴⁸ In the ensuing violence, 16 men were wounded and one, Thomas Murphy, was killed. When the head constable of Lurgan arrived at the scene, Fr Morgan was administering the last rites to Murphy and another man (who subsequently recovered), Charles McCann. McCann had been shot in the back as he attempted to flee. Two dying declarations revealed that the Orangemen had been armed by Samuel Tait—a fact that would later lead to his prosecution for murder.⁴⁹ However, these token prosecutions could only ease tensions to a certain extent, and London was forced to respond. Within 10 days of the incident, a new Bill was presented in Parliament, the purpose of which was to amend the Processions Act. It was quite clear that the violence of the day was largely attributable to the ability of the Orangemen to legally procure arms. Daniel O'Connell had been a vociferous critic of this perceived inequality in the law since the early 1830s, but still the government failed to act; a ban on flags and music was substantially easier to enforce than a ban on firearms.

46. A summary of events appears in *Dublin Evening Post*, July 14, 1860.

47. *ibid.*

48. *ibid.*

49. *Informations and dying declarations in relation to cases of homicide, riot, illegal or party processions alleged at Derrymacash, in County of Armagh, July 1860*, H.C. 1861 (315), lii, 505 (hereafter referred to as *Informations in relation to Derrymacash*).

Consequently, the new Bill was introduced solely for the purpose of making illegal the display of party emblems and the playing of party tunes. The amendment could, at best, be described as a token gesture. The proceedings at Derrymacash clearly fell under the scope of the Processions Act 1850 and probably constituted an unlawful assembly at common law. The problem, it seemed, was not the state of the law, but rather the failure to enforce it. Such reluctance was, perhaps, understandable in light of the polarised opinions that still existed on the subject and the potential unpopularity of such an enforcement.

At the Armagh spring assizes of 1861, prosecutions were brought against the Orangemen for murder and for engaging in illegal processions.⁵⁰ The case for illegal procession was concerned primarily with the meaning of the Processions Act itself. The argument was advanced that the word "processions" should be interpreted as restricting the measure to a group of people marching in a military style. It was contested that the group in question was "merely going to church en masse" and illegality could not attach to such an assembly, as they were not marching in military formation. The prosecution rejected this, arguing that the party was a compact mass, moving in a particular direction with a common purpose and should therefore be covered by the Act. Baron Fitzgerald, in his charge to the jury, appears to have accepted the latter view of the law. The instructions he gave to the jurists were threefold: first, they had to be satisfied that the group formed part of an assembly; secondly, that they were engaged in a parade or procession; and thirdly, that they had in their possession some firearms or symbol that tended to provoke animosity among her Majesty's subjects. An affirmative answer to the first two criteria was insufficient to make out the offence: there had to be some element that, in its nature, tended to provoke a breach of the public peace.

The presence of a Roman Catholic element on the jury was clearly to the forefront in the thinking of defence counsel, McMicken, when formulating his arguments for the trial. He presented the Processions Act as a measure imposed on Ireland by Westminster, as a "badge of slavery and degradation", as a ploy by foreign politicians to curry political favour in Ireland by stirring animosity amongst its inhabitants. He then drew attention to the manner of the Act's passing:

"Gentlemen, music is not a crime. Those who slander our country, on the other side of the water, and impute every sort of vice, folly, fraud and infamy to the Irish may be led to call it a crime. Perhaps, at the hour of midnight, when scarcely forty members can be kept together, with glimpses of the moon stealing cautiously between the benches, some artful Attorney General, expectant judge, who is undergoing the purgatory of Parliamentary life ... may bring this

50. *ibid.*

bill ... and he may concentrate the prejudices of one class of Her Majesty's subjects against another by showing unusual activity in extending the Processions Act."⁵¹

Defence counsel stated that the Bill had been passed by organised deception and that Roman Catholics only complained out of boredom, intimating that "there is nothing for the poor Irish to do but drink whiskey". The Catholic party was described as a group of men who were once in the service of James II and who, following his defeat at the Battle of the Boyne, had little else to do but cause mischief and violence under any pretext. The statute itself was described as containing loose language that gave an arbitrary power to the constabulary.⁵² Catholics, it was further stated, had no reason to resent the defeat at the Boyne as they "were conquered into freedom and happiness". Indeed support for this view was adduced from none other than Daniel O'Connell himself, who had spoken against the Party Processions Act when it was introduced as a Bill in 1832.⁵³

The prosecution's response was not nearly so extravagant. The Solicitor General pointed to the fact that, for the rest of the year, the Irish people lived in peace—excluding those contentious days on which the displays "which are supposed to be associated with certain party triumphs, which recalled recollections of the days when the Orange party had a certain supremacy over the Roman Catholics, excited to animosity and then man is put against man."⁵⁴ The jury members were asked to focus on the text of the Act itself and ignore the motivation in its passing—a request by which they seemed to abide when they returned a verdict of guilty.⁵⁵

The reaction to the outcome of the successful prosecutions seems to have been favourable on both sides of the community. Liberal Protestant opinion was relieved to see that an example had been made of those who had caused them so much embarrassment. Perhaps this was the beginning of the end for such petty disputes, which had cost the Protestant gentry so much political clout in Westminster. "Justice had been thoroughly vindicated," according to one commentator, a sentiment widely shared amongst the Catholic population. The leniency of the sentences and the token nature of the prosecution seemed to sink completely unnoticed in this wave of relief. Living under the dark cloud of sectarianism for so long had led many to clutch at straws; therefore, any minor incident that seemed to announce its decline was seized upon fervently. The Derrymacash prosecutions were, in fact, one of many false dawns for those who believed religious harmony was just over the horizon.

The momentum for an amendment to the Processions Act had also come

51. *Informations in relation to Derrymacash*, p.145.

52. *ibid.*, p.146.

53. *ibid.*, p.148.

54. *ibid.*, pp.179–182.

55. *ibid.*, p.186.

from other sources. On July 20, 1860, eight days after the riot at Derrymacash, Lord Chief Justice Monahan, a Catholic, opened the assizes at Fermanagh by criticising the practice of flying party flags from churches.⁵⁶ The foreman of the grand jury on the day, Mervyn Archdall MP, was an Orangeman and he immediately impressed upon the judge that the Orangemen intended no insult.⁵⁷ The courtesy with which Archdall registered his protest was not followed by other members of the Orange Order. As the Lord Chief Justice was leaving the courthouse, the church bells started "to ring out attempts at the most aggravating party tunes".⁵⁸

More was to follow. On the judge's return to the court the following day, he encountered a large Orange flag flying over the entrance hoisted the previous night by the Apprentice Boys. The constabulary's attempts to remove it were thwarted by the strange disappearance of the key to the room from which it was flying. Eventually, the door was broken down and the flag removed, although it was resurrected the following night and had to be removed again at the request of the mayor.

In the House of Commons it was made clear that the insult afforded to the judges by the hoisting of the flag and ringing of the church bells was to the fore in their consideration when introducing the new Bill.⁵⁹ Concern at a possible infringement of civil liberties was the common thread running through the speeches of those who wished to dissent from its passing. Yet again, the government would curtail the rights of its Irish subjects in ways it would not dare propose for England or Scotland, inciting the ire of many Irish MPs. Despite these concerns, the amending Bill passed through both houses with little strife and was entered into law—in Ireland alone.⁶⁰ In addition to the prohibition on parades of a party character, it criminalised the public display of any banner, flag, or party emblem that was calculated or tended to cause animosity between different classes of the Queen's subjects. Such was the state of the law at the beginning of the turbulent 1860s, a decade when both sides of the sectarian divide rediscovered the value of mass parading in pursuit of a political goal.

4. WILLIAM JOHNSTON AND THE CAMPAIGN FOR REPEAL OF THE PROCESSIONS ACTS

One of the main causes of this radicalising of the political environment was the foundation of the Fenian movement in 1858 in New York by Irish exiles from the rebellion of 1848. Throughout the 1860s, their activities had been closely followed by the Catholic majority in Ireland and contributed

56. *Dublin Evening Post*, July 28, 1860.

57. *The Irish Times*, July 30, 1860.

58. *Dublin Evening Post*, July 28, 1860.

59. *Hansard* 3, clx 1153.

60. 23 & 24 Victoria, cap. 141.

to a reinvigorated nationalist, patriotic fervour. Catholics quickly regained the taste for mass marching that had been instilled in them by O'Connell during the struggles for emancipation and Home Rule. When a prominent member of the failed rebellion of 1848, Terence Bellew McManus, died in exile in San Francisco in 1861, it was decided to bring his remains back to Ireland for burial. His funeral procession was as extravagant as anything that had been witnessed during O'Connell's time, and 8,000 people marched to Glasnevin cemetery in Dublin.⁶¹ This was soon followed, in July of 1862, by a procession of over 100,000 people (according to some estimates) to Drumcondra to lay the foundation stone for a Catholic university. Many Orangemen considered this to be a direct affront to them and to their religion, as the procession took place during the hours of Protestant worship. The parade sparked rioting in Belfast.⁶²

The procession was described in Protestant circles as "a flagrant violation of the Sabbath" and an "intentional insult to Protestants", but calls for prosecutions were ignored. The Orangemen decided that such insults could no longer be tolerated. Under the guidance of William Johnston of Ballykilbeg, a County Down landlord, a huge demonstration was planned for the Botanic Gardens in Belfast in early August 1862 to protest against the government's refusal to enforce the Processions Acts against Catholics. This was the beginning of a political campaign for repeal of the impugned Acts that would last almost a decade, and Johnston was seen as the man who would lead his Orange brothers without compromise and without concern for the possible personal consequences. Over 30,000 Protestants sympathetic to these views attended the meeting in the Botanic Gardens the following month and it went off peacefully. A unanimous resolution was passed stating that the failure to apply the Processions Acts to Catholic marches was repugnant to the British Constitution and a copy of the Party Emblems Act was torn to shreds in a clear display of contempt for the law.⁶³

The meeting attracted little notice. In 1864, a huge procession was organised to lay the foundation stone of the statue of Daniel O'Connell on what was then Sackville Street (now O'Connell Street). *The Times* of London reported that:

"The procession occupied three and a half hours in passing any given point, and was estimated to amount from sixty to eighty thousand men. Every man wore some ribands of white and green, either a rosette, a band on his hat or a scarf, sometimes all three. ... There were one hundred and thirty four large banners, more or less green, and many thousand bannerettes, all green. ... The barrier in Sackville

61. R.V. Comerford, "Conspiring brotherhoods and contending elites, 1857–1863", in W.E. Vaughan (ed.), *A New History of Ireland V*, p.425.

62. NLI, Larcom Papers, Ms. 7625, document no.10.

63. *The Irish Times*, September 18, 1862.

St. was kept by the coal porters, carrying sticks adorned with green ribbons. ... There were twenty or thirty bands of music and tunes, well known as party tunes, such as ‘Garryowen’ and ‘The White Cockade’ were played.”⁶⁴

It seemed to the Orangemen that this demonstration was, in every respect, of a “party” character and that the police and magistracy should have enforced the law and banned it. The McManus funeral and the Catholic university procession escaped such censure because it could be argued that they were religious, not party occasions. This could not be said of the O’Connell monument procession, however. As far as the Orangemen were concerned, the Catholics of the country were blatantly flouting the Processions Acts, while the authorities, it seemed, were turning a blind eye to these violations, while rigidly enforcing the law in relation to Orange marches.⁶⁵

The failure of the police and magistracy to intervene on such occasions was certainly not down to neglect, or even partiality for the Catholic cause. The Castle viewed these demonstrations with the same contempt as their Protestant counterparts and officials desired an end to them as much as any display on the Twelfth. At the O’Connell monument procession, there was a number of policemen who had been instructed to make detailed notes of any possible legal infringement and, after considering these reports, the Attorney General gave his opinion that the meeting was perfectly within the law. He remarked that:

“... the conclusion arrived at was that there was no ground whatsoever for treating it as a party procession, within either of the Party Processions Acts, or as an assembly illegal at the common law. There was no display of party banners or emblems, no party tunes, no firearms, the meeting was peaceful and orderly, and no person ever swore, or ... tendered an information, that it was calculated to create animosity between different classes of Her Majesty’s subjects or tended to create a breach of the peace.”⁶⁶

A clear distinction was drawn between this type of procession and an Orange demonstration. The Castle did not regard the colour green as a party or partisan emblem because it was the national colour of Ireland. Furthermore, every effort was made by those in authority to maintain order: there was no breach of the peace and no injury caused to anyone despite the numbers present at the march. The Attorney General observed that the parade was

64. *The Times*, February 18, 1865.

65. R.V. Comerford, “Gladstone’s first Irish enterprise, 1864–70”, in W.E. Vaughan (ed.), *A New History of Ireland V*, p.444.

66. Legal opinion of the Attorney General, NLI, Larcom Papers, Ms. 7627, document no.4.

as lawful as a recent procession in London to welcome the deliverance of Italy by Garibaldi. As to the allegations that the law was being enforced in a biased way, he noted that:

“The Government adopted precisely the same course with respect to this procession as they have always done with respect to Orange processions in the north ... the constabulary are directed to attend in sufficient force to prevent any breach of the peace, to take the name of the Justice attending and consult them in case there should be any violation of the law. These were the instructions given in respect of the O’Connell procession, but as the police suspected that there had been no violation of the law ... it is plain the Government could not have instituted any proceedings.”⁶⁷

The procedure for the enforcement of the law was indeed very thorough, and between 1860 and 1864 magistrates received detailed instructions on the manner in which the law should be applied to suspect processions.⁶⁸ Irrespective of these detailed guidelines and the legitimate legal reasons for the perceived inequality in the law, the procession in Dublin sparked off yet more trouble in Belfast. The evening after the Dublin march, a group of Protestants attempted to parade, with an effigy of O’Connell at their head, from their homes in Sandy Row to The Pound, a Roman Catholic area, and were only halted by the presence of armed policemen blocking the way. The group then positioned themselves on the bridge near the railway station. Upon the arrival of the Dublin train, the Protestant party hurled sticks, stones and insults at the Catholic travelers below. Before the Catholics were able to make an exit, they were treated to the sight of their Orange neighbours setting alight the effigy of the Liberator. After this, attempts were made to bury the “remains” in the Catholic graveyard, with Orangemen dressed as “papish clergy”. This plan was thwarted by the caretaker, his shotgun and his willingness to use it should he be disobeyed; the Orangemen opted instead to tip the “remains” into the river. They were forced to content themselves with stoning the Celtic cross that stood at the entrance to the graveyard, before retiring home.⁶⁹ This incident sparked days of rioting in Belfast City.

A commission of inquiry was set up to investigate the originating causes of the disturbances and it was anticipated that, when the blame was apportioned, the Orangemen would fare worst and the campaign to repeal the Processions Acts would be greatly damaged. In what one newspaper described as a “counter-mine” in anticipation of the report of the commissioners, Hugh Cairns—later to become Lord Chancellor—introduced a

67. Opinion of the Attorney General, *ibid.*

68. *Copies of instructions issued to magistrates or constabulary in Ireland relative to the Processions Act between 1860 and 1864*, H.C. 1865 (134), xlv, 361.

69. Andrew Boyd, *Holy War in Belfast* (Tralee, 1969), pp.45–47.

motion in Parliament calling for attention to be drawn to the unequal enforcement of processions law.⁷⁰ Cairns noted a number of problems that had arisen with the Act: it had raised the suspicion of partiality in legal administration; any convictions were petty in nature; and minor Orange processions were persecuted while major Catholic ones, such as the march to the O’Connell monument, were not.⁷¹ Indeed, he argued that the law actively encouraged troublemakers. In Cairns’s eyes, the discretion given to juries, if they believed the law was being applied partially, would be used to acquit all those who stood accused.

Robert Peel rebutted these allegations, contending that the actions of the government had proceeded “along strictly constitutional lines”. He accepted that the legislation of 1832 was supposed to be applied impartially; however, he contended that the Act of 1850, which was passed in direct response to the affray at Dolly’s Brae, was different and was meant to apply to the Orangemen alone.⁷² Responding to queries about how to define a party tune for the purposes of the Act, Peel took a novel line by suggesting it was those songs which “led to broken heads and black eyes”. He maintained that green was not a party colour within the meaning of the Act. He also stood alone in defending the Emblems Act, which had been criticised in all quarters as unworkable.⁷³ Peel’s eloquence was backed by the *Freeman’s Journal*, which observed that “numbers do not constitute illegality, nor do banners or symbols or music, if they be not of a party character”.⁷⁴

At this time, Fenianism was reaching its peak across the Atlantic. The success of the rebels at the Battle of Ridgeway in Canada merely signalled the beginnings of a decline for the movement, a decline which would accelerate with the end of the American Civil War in 1865. However, the fact that over 50,000 Fenians were willing to take part in an invasion did not go unnoticed by the authorities in Ireland. *Habeas corpus* was suspended in 1866 and hundreds of arrests were made. The prisoners enjoyed widespread sympathy throughout the country. In 1867, three men were executed in Manchester for taking part in the jail-break of a Fenian prisoner in which a policeman died. The fate of the “Manchester Martyrs”, as they came to be known, led to uproar in Ireland. Protest demonstrations were held throughout the country in the form of mock funerals for the dead men, yet despite the anger this provoked at Dublin Castle, no prosecutions were brought. The Chief Secretary of Ireland, the Earl of Mayo,⁷⁵ had consulted the original author of the Processions Act, Stanley (now Lord Derby), on the matter and they had agreed that these displays were not covered by the

70. *Northern Whig*, February 10, 1865.

71. *The Times*, February 18, 1865.

72. *ibid.*

73. *ibid.*

74. *Freeman’s Journal*, February 20, 1865.

75. Mayo would be appointed viceroy to India in 1869.

legislation and it would be unwise to embark upon a legal proceeding that would strain the law.⁷⁶

In spite of the clear willingness of the Castle to prosecute the Catholic processions, no proceedings were taken, much to the frustration of the chief secretary.⁷⁷ Castle officials were wearying of such displays and were beginning to appreciate the Orange viewpoint on the matter. Mayo wrote:

“There is some plausibility in the supposition that a green rebellion is allowed while an Orange legal one is made a subject of prosecution— It is illogical and easily answered but it is not the less likely to rouse intense excitement and dissatisfaction among those to whom in the Government of Ireland we most principally look to for strength and assistance.”⁷⁸

It was clear that the Castle would be willing to give tacit support to law reform. The stream of telegrams that passed between the Lord Lieutenant, Lord Chancellor and Attorney General prior to the mock funeral processions in 1867 highlighted the extreme difficulty of applying the processions law and the reluctance of senior Castle officials to invoke the measure.⁷⁹ Mayo had been reduced to urging his colleagues to “look to the Clontarf precedent”—a clear reference to O’Connell’s prosecution at common law for unlawful and seditious assembly, with an implied acceptance that the Processions Acts were ineffective in restricting undesirable gatherings of people. It should be noted, however, that the reason for the Castle’s frustration with the state of the law stemmed from the well-organised, peaceful and well-policed nature of the Catholic marches. In the tradition of Catholic parading, there had been no hint of any breach of the peace. Even the police, sent out with the express intention of condemning the events of the day, could not help but notice this fact.⁸⁰

All of these Catholic political marches throughout the 1860s galvanised Protestant resistance to the Processions Acts. In their eyes, the partial administration of the measure had turned from a sore point to an open wound. The ordinary Orangeman, alienated from the gentrified leadership since the early 1830s, had discovered a new leader who would fight for his rights in parliament: William Johnston of Ballykilbeg.

Johnston’s star had been rising steadily throughout the 1860s as he brought all of his efforts to bear on one single issue: the injustice of applying a general statute—the Processions and Emblems Acts—exclusively to one class of people—the Orangemen. The injustice, it seemed to Johnston, was

76. Mayo to Larcom, December 6, 1867, NLI, Ms. 11202(1).

77. *ibid.*

78. *ibid.*

79. NLI, Ms. 11202(1).

80. The information of Edward O’Connor, inspector, Dublin police, December 8, 1867, NLI, Ms. 11202(8).

plain to see. In the midst of processions where thousands of Catholics marched, unopposed by the police, decked in revolutionary green, carrying pikes and crownless harps to the gravesides of revolutionaries and seditionists, the Castle still doggedly pursued every marching Orangeman for the pettiest and most innocuous offences. A particular gripe for Johnston was the prosecution, at the Down spring assizes of 1864, of eight Gilford mill-workers who had proceeded before pipes and drums when returning home from work the previous July. Judge Hayes, who had appealed, unsuccessfully, to the Lord Lieutenant for the men to be pardoned, sentenced six of the offenders to three months’ imprisonment.⁸¹

After the display at the O’Connell monument, Johnston pushed a resolution through his Down Lodge seeking to repeal the Processions and Emblems Acts. This was a very public break with the policy of the Grand Lodge, which was still anxious to appease hostile interests in London. The latter only went so far as to recommend repeal of the Emblems Act while maintaining its traditional policy of discouraging Williamite marching. Johnston, however, was not a man who was easily discouraged and he organised a Grand Protestant demonstration in Ballykilbeg on July 12, 1866, against the wishes of the Castle. To safeguard the participants, he ensured that no party emblems were worn, except in private, so that the meeting’s legality could not be impeached. The campaign reached its peak in 1867 with his arrest and conviction for partaking in an illegal Orange procession from Newtownards to Bangor. His mind firmly set on martyrdom, he refused to give recognizances for good behaviour and served the full two-month sentence that was imposed on him by the court. A planned triumphant release to cheering crowds was thwarted by the prison authorities, who sent him home a few days early for “health reasons”.

Despite this minor setback, Johnston was elected to Parliament as member for Belfast in 1869 on the single issue of the repeal of the Processions Acts. The Orangemen had finally found a gentryman leader who was unconcerned with the personal and political isolation that followed from opposition to that hated act, and they were not to be disappointed. In June 1869, he introduced an unsuccessful private member’s Bill seeking repeal of the Act.⁸² By doing so, he placed the Orange issue firmly back in the forefront of parliamentary minds. The inaugural speech of the new Chief Secretary in Ireland, Chichester Fortescue, further helped his cause by highlighting the discontent with the Act that had been felt in government circles for some time. The Castle believed that the Act was ineffective in putting an end to undesirable and troublesome marches. However, the Chief Secretary did not hold Orange marching in very high esteem and believed that parading gave rise to “very grave and serious evils”.⁸³ Thus, the momentum for reform was gathering speed not because of sympathy for

81. Aiken McClelland, *William Johnston of Ballykilbeg* (Lurgan, 1990), p.25.

82. *Hansard* 3, clxxxxvii 864.

83. *ibid.*, col. 865.

Protestant liberties but because of a desire to curb them more effectively. In any event, it was clear to Fortescue that the Act ceased to have any practical application in many parts of the country and was effectively a dead letter. There was a number of problems with the measure: it was difficult to identify who was taking part, for the purpose of prosecutions; the intervention of an armed force often produced “greater evils”; and the magistracy was far too reluctant to apply the law. However, the government still declined to assent to Johnston’s repeal bill. It had readily accepted that the Act was in need of reform, but was unwilling to remove the powers of the magistracy to prevent these displays at a time so close to the July celebrations. Johnston was thwarted, but not for much longer.

Pressure was mounting heavily on the government in each successive year. In 1870, Johnston reintroduced the private member’s Bill and would not be dismissed as easily this time. Fortescue had promised a commission of inquiry on the matter 12 months earlier but had failed to deliver on it. He was therefore forced to make some attempt at reform and consequently struck a deal with the Orange MPs: if he enjoyed their support on a government measure of his making—the Processions (Ireland) Bill 1870—the government would, in turn, support their bill for repeal of the Processions Acts. Johnston naively agreed without inspecting Fortescue’s measure. His support was soon withdrawn when he realised what it entailed: giving far more draconian powers to magistrates to suppress Orange and Green processions alike. All through his campaign for repeal during the 1860s he had fought for the remedy of one single injustice—the partial administration of processions law. In a cunning piece of political trickery, Fortescue had given him just that—both Orange and Green party processions would be equally repressed, Orange and Green liberties would be equally infringed. The Catholic processions of the 1860s, which had lit the fuse under the Williamites to petition for repeal, would be no more. The Chief Secretary announced to Parliament that:

“The distinction between this bill and the Party Processions Act might be described in this way—the Act now in force was an act to prevent party processions; the bill was directed against processions of all kinds in Ireland which were calculated to endanger the public peace.”⁸⁴

Fortescue’s goal was to “reenact the essence of the Processions Act”, but with improvements. The ban on party tunes and flags had been particularly problematic and would be omitted; controversy had raged over the meaning of “tune” and the question of whether the green flag was a party colour, and this had rendered the legislation vague and uncertain. He promised that the Act would be confined to real and serious matters and the jurisdiction

84. *Hansard* 3, ccii 1677.

of the magistracy would be excluded, as this had led to difficulty in enforcing the Processions Act when allegations of Orange bias were frequently levelled against local magistrates.

Furthermore, magistrates had often treated the enforcement of that Act as a purely discretionary matter and the Act had fallen into widespread disuse. Under the new Bill, proceedings could only be taken by law officers of the Crown at assize time. Most importantly, the Bill would apply to processions of every kind.⁸⁵ The main provision stated that:

“Every assembly of persons who, without lawful authority in that behalf from Her Majesty, shall meet and parade together or join in procession and who shall bear or have amongst them any fire-arms or other offensive weapons and every procession parading together of persons which may be calculated or tend to provoke animosity between different classes of Her Majesty’s subjects, or to provoke a breach of the peace, or to encourage treason or sedition, shall be unlawful assemblies.”⁸⁶

Johnston was stung. His ambitions were to be thwarted for yet another year by a government seemingly hell bent on oppressing the Irish—whatever the colour of their party flag. Even worse, his reputation had been dealt a blow by the political conniving of the government.

The most perceptive comment made about Fortescue’s Bill that day was the complaint by one honourable member that the proposal did little to advance the common law position (a fact that could also be said to pertain to the Processions Acts).⁸⁷ The Solicitor General, Richard Dowse,⁸⁸ accepted that many processions were already reached by the law, but argued that the addition of the term “animosity” created a much wider net in which to catch undesirable proceedings.

In any event this discussion was inconsequential, as the Bill had failed to garner the support of the Orange MPs it was meant to appease. Fortescue’s ploy had failed. When the issue came up for debate again, in mid-1871, it was decided to assent to repeal of the Processions Acts. It was eminently clear that the special legislation that had been introduced in 1850 and 1860 had not only failed to improve upon the common law position but had markedly worsened the problems it had been designed to remedy. The Castle had eventually come to the realisation that special legislation drafted to take account of party differences in Ireland would be impossible to enforce impartially. The common law, it now became apparent, would have to

85. *ibid.*, cols. 1679, 1680.

86. *Bill to amend law relating to certain processions in Ireland*, H.C. 1870 [170], iv, 49.

87. *ibid.*, col.1688.

88. Later Attorney General and Baron of the Court of Exchequer.

suffice, as it had in the years prior to 1832. The Act was repealed in time for the celebrations of the Twelfth to take place, legally, in 1872.⁸⁹

There were huge demonstrations across Ulster as Orangemen celebrated the return of their cherished right to parade. Ironically, William Johnston, the man who had strove so long to see this day, did not attend as he was in Canada.⁹⁰ Twenty thousand spectators turned out to witness the display in Belfast. Their enthusiasm was undiminished by the heavy rain that fell intermittently throughout the early morning and afternoon. There was certainly anxiety in some Orange quarters that the day would be marred by violence, and many Williamites were fearful that those who had questioned the wisdom of repealing the Processions Acts would be vindicated. The official program for the Twelfth celebrations in Lurgan, County Armagh, is indicative of this. It requested that the drumming be kept under strict control and that drums not be given to brethren to do as they pleased. It also expressed the desire that the celebration not be “disgraced by drunkenness” and ordered that “if there be any weak brethren, let them abstain upon this day, so that our enemies will be deprived of all occasion to point at us the finger of scorn”.⁹¹ It was not just the Orangemen who were anxious for the day to pass over peacefully—in many towns publicans were required to cease serving for the duration of the anniversary. While the processions were seen by some as being of an “imposing character” and the repeal of the legislation as a “hazardous experiment”, the more widely held opinion was that Gladstone’s land reforms, combined with the disestablishment of the Irish Church, would be sufficient to remove many of the causes of resentment which had led to violence on party occasions.⁹²

Although one man was killed in County Down, the North’s Roman Catholics did not interfere with the vast majority of Orange marches that took place that day. Retaliation was to take a different form. It would be wrong to say that the Processions Acts did not have an inhibiting effect upon Catholic marches in the country. The organisers of O’Connell’s mass meetings of the 1840s and the various monster parades of the 1860s had always been anxious about committing a possible infringement of the Act. Much of the cause of this anxiety had now disappeared with the repeal of the Act. Now Catholic and nationalist Irishmen took to parading with the same exuberance and fresh enthusiasm exhibited by the Orangemen. No longer need their demonstrations be confined to the civic occasion of St Patrick’s Day, as it was clear that the authorities could not chastise more overtly political displays.

In Belfast, a procession was planned for August 15, the feast of the Assumption of the Blessed Virgin, or “Our Lady’s Day” as it was commonly known. The date would become known as the “papish Twelfth”. This was

89. Party Processions (Ireland) Act Repeal Act, 35&36 Vict. c.22.

90. *Belfast Newsletter*, July 13, 1872.

91. *Northern Whig*, July 12, 1872.

92. *ibid.*, July 13, 1872.

an unapologetically political march and distinct from St Patrick’s Day celebrations, which, with some exceptions, were civic and national occasions. The marchers demanded the release of Fenian prisoners and advocated Home Rule. In an interesting move, however, the leaders of the procession advised that no sectarian emblems be worn.⁹³ The march began close to Sandy Row and a rumour spread that a Protestant church would be attacked. The magistracy warned the processionists to stay away from the church, but this was to no avail. For the first time in many years a line of green snaked through the streets of Belfast on an autumn day.⁹⁴ The processionists also displayed slogans, such as “Let Érin remember” and “Ireland still has work to do.” Despite these militant sentiments, it was remarked that in every other respect the procession was strikingly similar to its Orange counterparts. The enthusiasm of the Castle for these displays had not increased with the repeal of the Processions Acts. In supporting repeal the new Chief Secretary, the Marquis of Hartington, had commented that:

“Her Majesty’s government have shown their anxiety to remove all exceptional legislation and to rely upon the common law of the land for the suppression of illegal assemblies ... it would give [the lord lieutenant] a subject of sincere gratification if all parties in Ireland could be induced to forget their party distinctions, to come towards each other in a spirit of mutual forbearance by abstaining from all displays and demonstrations, which are calculated to give offence to any portion of their fellow country men.”⁹⁵

This was a political assurance designed to appease the Orangemen in the face of the Catholic “Our Lady’s Day” parade. It contained the tacit promise that such displays would no longer be the subject of special legislation if the parties behaved themselves on the various anniversaries they chose to celebrate. Some appreciated this *quid pro quo*, and the Derry Liberal Defence Association agreed not to interfere with the Apprentice Boys’ celebrations of August 12 on foot of this assurance. The Apprentice Boys, through John Rea, their honorary solicitor, also urged restraint and forbearance.⁹⁶

In spite of the canniness of the Derrymen in following the government’s advice, the majority of both parties showed little restraint that day in August.

93. Andrew Boyd, *Holy War in Belfast* (Belfast, 1987), p.90.

94. *ibid.*

95. *Belfast Newsletter*, August 10, 1872.

96. *Belfast Newsletter*, August 15, 1872. Rea had a chequered career. He had clear Orange sympathies, but was imprisoned for involvement in the Young Irelanders’ rebellion in 1848 and represented the Catholics at the Dolly’s Brae inquiry and Michael Davitt in 1879. He also brought an action against Belfast Municipal Corporation, claiming misappropriation of funds. He shot himself in 1881.

Undeterred by the magistrate's warning, the procession attempted to march past the Protestant church. They were stopped by a line of policemen, which was, in any event, fortuitous as a crowd of between 5,000 and 10,000 Protestants had gathered to defend St Enoch's Presbyterian Church at Carlisle Circus. After the procession halted at the police barricade, a small party approached and was refused permission to pass. It was then that shouts went up from the marchers and stone-throwing commenced on both sides. When serious trouble seemed imminent, the march was allowed to continue on.⁹⁷ At the Brickfields, a no-man's-land between the Shankill and Falls roads, missiles were thrown at the marchers, their ranks broke and a number of scuffles ensued before the police intervened.

One hundred and fifty of the processionists went to the boarding place of the ferry to Queen's Island and marched past the predominantly Protestant men who were working in the shipyards. The police dispersed them, but it was too late. Five hundred Queen's Islanders grouped together and marched through the town, only to be met by a line of constables who charged them with fixed bayonets. There were many injuries before the procession was finally dispersed. Violent incidents continued throughout the day and into the following week.⁹⁸ There was numerous other demonstrations throughout the North that day: 10,000 marched at Swanlibar in County Cavan and an Orange counter-march was held at Ballygawley in County Tyrone. After a week of rioting in Belfast, 91 people were in police custody. The *Belfast Newsletter* was accused of inciting a riot for preaching hostility to the Belfast procession.

Many people chose to blame the Orangemen for the violence. It was widely believed that they had been extremely ungracious in failing to show the same restraint towards the Catholic parade as had been shown them on the Twelfth.⁹⁹ This view was not entirely fair, as it ignored the deliberately provocative nature of some of the displays in the North that day. The processionists tried to invade Protestant districts and the Williamites regarded many of the emblems displayed as a calculated insult. High-minded argument regarding the fairness of allowing the Home Rulers to march was soon forgotten when the monster procession passed. As one observer noted:

“No amount of twaddle about equal processional rights will ever reconcile the loyal men of Ulster to seditious displays. They will concede to their neighbours every right to which they can fairly lay claim, but they will never concede to any man or body of men the right to openly insult the Crown by separating it from the Harp ... they will submit to the marshalling of any procession, or the display of any colour, which Irishmen chose to adopt, providing the

97. *ibid.*, August 16, 1872.

98. *ibid.*

99. *Northern Whig*, August 17, 1872.

procession and colour, and the devices on it, are not antagonistic to the Queen and Constitution of this land.”¹⁰⁰

It was felt in Orange circles that the Catholics had no glorious anniversary to celebrate in August and thus should refrain from marching. Nor should they march, it was believed, for political reasons, especially if those reasons were contrary to Orange beliefs and aspirations. With this in mind, the Apprentice Boys were credited with the patience of Job in allowing a Catholic procession that marched through Derry singing “Derry is our own boys”.

In London, the *Times* issued a scathing criticism of the government for repealing the Acts. This had led naturally, it argued, to a general revival of the demonstrations that had previously been suppressed. Since the Orange party had been allowed to hold its anniversary “without let or hindrance on the part of the authorities or their political opponents, it was natural that the Roman Catholic party should desire to exercise the same right”.¹⁰¹ All hopes that the repeal of the Acts would be followed by a period of peace and tranquillity were dashed by the events of mid-August. Indeed, if anything, repeal had only revived those undesirable displays and *The Times* rebuked the government for allowing it:

“The events of the last few days in Belfast and its vicinity prove, unhappily, that the repeal of the Party Processions Act last session was a dangerous experiment. The generous confidence which the Government reposed in the orderly and peaceable spirit of all classes has not been justified by the conduct of at least one of the two great factions into which the population is divided. ... The revival can be traced directly to the removal of the restrictions which experience had shown to be necessary for the preservation of the public peace.”¹⁰²

The paper called for a firm hand and suggested a policy of repression be reinstated. It believed that the reason for the repeal of the Acts was the expectation that Catholic acquiescence to displays on the Twelfth would be reciprocated. This was now proved to be a false assumption.

Government hopes for 1872 to pass off peacefully, without any party disturbances, may have been dashed, but there was some consolation in the fact that the *Times* later withdrew most of its criticisms. Gladstone was anxious that the Castle should demonstrate that such matters would still be dealt with firmly, and he wrote to his secretary in Ireland, compelling him to spare no effort in putting down the riots that had started in Belfast.¹⁰³

100. *Belfast Newsletter*, August 17, 1872.

101. *The Times*, August 17, 1872.

102. *ibid.*

103. Gladstone to Lord Hartington, August 21, 1872, in H.C.G. Matthew (ed.), *The*

Perhaps *The Times* had realised, as many others had before, that the old law could be just as ineffective as the new one. However, the repeal of the Acts was not as serious a misjudgment as early indications may have suggested. Eight years after the passage of the repeal Bill, a study was conducted into the number and nature of parades held after 1872.¹⁰⁴ Unsurprisingly, Ulster was the scene of the overwhelming majority of these displays. The most striking aspect of the statistics is the infrequency of trouble at these marches. Barely a dozen fatalities were connected with the commemorations in the 1870s, despite such displays numbering well into the hundreds. Furthermore, less than one in 10 marches was interfered with—a figure at odds with the common perception of marching, and particularly Orange marching, as inseparable from rioting.

5. CONCLUSION

The Processions Acts were passed because of the perceived inadequacy of the common law and the Riot Act to deal with parades that were likely to stir sectarian strife. While it is true that many of the most troublesome marches could have been dealt with by the existing law, the procedure was cumbersome and required the swearing of an information to the effect that the assembly would lead to a breach of the peace. The Riot Act required the reading of a proclamation, after which the marchers had one hour to disperse. On the other hand, by enacting a ban on marches of a “party” character, the Processions Acts made their prevention far less troublesome for the magistracy and police, who did not have to engage in an inquiry as to whether the procession was likely to lead to a breach of the peace. If they wished to disperse a meeting, they could read a proclamation that allowed only a quarter-of-an-hour for those present to return peacefully to their homes. The Acts also clarified an area of law that was beset by uncertainty, namely, what precisely constituted an unlawful assembly? However, the major flaw in the legislation was the failure to take account of the differences between marches and parades that bore superficial similarities.

Fraser has divided political and commemorative parades into three basic types: demonstration of strength on behalf of the nation state; a means of protest; and a means of expressing cultural identity, particularly when that identity is under threat.¹⁰⁵ Orange party processions of the nineteenth

Gladstone Diaries with Cabinet Minutes and Prime-Ministerial Correspondence (14 vols., Oxford, 1982), viii, p.198.

104. *Returns as far as are practicable of all Party Processions whether Orange, Nationalist, Amnesty, 'Martyr' or other specifying those which did not suffer molestation, which have taken place in Ireland since the repeal of the Party Processions Act in 1872*, H.C. 1880 (380)(389), lx, pp.395, 435.

105. T.G. Fraser, “Introduction” in T.G. Fraser (ed.), *The Irish Parading Tradition* (New York & London), p.3.

century share elements of all three of these types. The factors that motivated the men who marched through Dolly's Brae in 1849 were very different from those, for instance, that drove on those who marched with William Johnston of Ballykilbeg. A further distinction could be drawn between those processions and the many hundreds that occurred throughout the North each year without incident or comment. They still retained much of the simple pageantry and festivity that had been common in the eighteenth century. The passage of the Processions Acts drew no distinction between all of these different and varied types of procession. Few would disagree that a deliberately provocative march, routed through a Catholic or Protestant area for no other reason than to provoke tumult and disturbance, could be justifiably forbidden. In contrast, the banning of a quiet annual local parade on the Twelfth, which had never attracted trouble, could obviously, and quite justifiably, lead to a great deal of resentment in certain sections of the community. Furthermore, Catholic marches were seemingly immune from its application, due to the clever organisation of many of the meetings and the perception that green was not a party but a civic colour. This perceived injustice merely served to fuel resentment in the Orange ranks. In those areas through which contentious Orange marches were routed, successful prosecutions under the Acts were rare due to a magistracy that was reluctant to enforce the measure and a preponderance of Orange jurymen. Catholics were also enraged by this perceived injustice. It seemed that the operation of the legislation contributed to sectarian tension, an irony given that it was precisely this occurrence that the Acts were intended to prevent.

In conclusion, this attempt to use legislation to deal with the difficult and divisive issue of commemorative, sectarian and political parading on the island of Ireland was, ultimately, a failure. Much of the blame must be laid at the door of the parliamentary draughtsman, who failed to direct his attention to the prevention of specific troublesome parades. The attempt to impose a blanket ban on all Orange marches meant that the Act inevitably failed to garner the support of many of the more moderate members of the Protestant community, a fact that rendered the Acts unenforced and unenforceable in the north of the country. It was not until the establishment of the Parades Commission in 1997, over a century later, that the problem was seriously addressed by legislation¹⁰⁶ and it took until then to establish a regulatory system for parades that does, perhaps, seem to have a chance of gaining widespread support in both sections of the community in the coming years.

106. Public Processions (Northern Ireland) Act 1998.