

In our own native land, in defence of the freedom that is our birthright, and which we ever enjoyed till the late violation of it — for the protection of our property, acquired solely by the honest industry of our forefathers and ourselves, against violence actually offered, we have taken up arms. We shall lay them down when hostilities shall cease on the part of the aggressors and all danger of their being renewed shall be removed, and not before.

With an humble confidence in the mercies of the Supreme and impartial Judge and Ruler of the universe, we most devoutly implore his divine goodness to protect us happily through this great conflict, to dispose our adversaries to reconciliation on reasonable terms, and thereby to relieve the Empire from the calamities of civil war.

## HENRY FLOOD



HENRY FLOOD, an eminent Irish orator and politician, who made his chief reputation as a member (1759-1780) of the Irish Parliament. He was a son of the Rt. Hon. Warden Flood, chief-justice of the Queen's Bench in Ireland, and was born in 1732, and died at Farmley, Ireland, Dec. 2, 1791. Educated at Trinity College, Dublin, and at Oxford, he studied law for a time at the Inner Temple, London; but returning to Ireland he entered the Irish House of Commons as member for Kilkenny and made there a high reputation as an orator and debater and leader of the Opposition or popular party. With Grattan and other notable Irishmen, Flood strenuously fought the Government party in Parliament until the appointment of Lord Harcourt as lord-lieutenant of Ireland, when he veered round and accepted the office of vice-treasurer of Ireland, with a seat in the Irish privy council of the period, an act which for a time lost him favor with the people. Five years later (in 1780), his sympathies with the cause of Irish independence led him to resign the vice-treasurership, and the government removed him from the Council. He then crossed to England and entered the imperial Parliament in 1783, but his success there was not such as he enjoyed in Ireland and he retired from public life in 1790, dying on his Irish estate at Farmley at the close of the following year. In his political career, Flood fought one duel, in which he mortally wounded his opponent, and in the quarrel he had with his old-time ally, Grattan, he came near to having a duel with his brother Irish statesman. Flood's speeches are notable for their display of erudition and eloquence, as well as for his active sympathies with the cause of Irish independence. His "Life and Correspondence," edited by W. Flood, appeared in 1838, and he has also written considerable verse.

### FIRST RENUNCIATION SPEECH

[In the sixth year of the reign of George I the British Parliament passed an act declaring that it had, hath, and of right ought to have the power of making laws binding on Ireland. This right was publicly denied in the Irish House of Commons by Mr. Grattan in the year 1782, and he was supported in this opinion by Henry Flood and by most of the principal speakers of that time. After many violent protests the British Parliament repealed this act. Flood insisted that the mere repeal of this act was not sufficient, it being only declaratory of what the law was supposed to be before its enactment, and that therefore the repeal should be accompanied by a renunciation of the alleged right. Mr. Flood, in two speeches, of which the following is the first, treated this matter in an eloquent and masterly manner.]

NOTHING ever was more judicious than the conduct of Great Britain on this occasion. She was so embarrassed abroad, and you were so strong at home, that she could not deny the repeal of the declaratory law. Yet  
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it must ever be her wish to retain the principle of it, because it is the principle of power, which no nation has ever relinquished while it could maintain it. What then has she done? By seeming to yield unconditionally to you she seized on the generous credulity of your nature and took full advantage of a change in her own administration. Her first step was bold, in order to strike your imaginations with something that seemed to be decisive.

She resolved that the declaratory law ought to be repealed: she did not say, however, that it ought to be repealed as having been a false and erroneous declaration of law; far from it; not a man in the British Parliament held such an idea: the very mover and seconder of the resolution said the contrary. I mention them both with honor; I mention the ministry, the Parliament, and the people of Great Britain, with all honor. I lament, but cannot blame their sentiment on this subject.

They declared the constitutional right of the British Parliament to make laws for every part of the empire; one of them said externally; and the other both externally and internally. One said the repeal must be accompanied by a final adjustment, and the other that the law could only be repealed on a principle of compact.

Now this is so far from a renunciation that it is the very contrary, and a repeal without a renunciation leaves you in effect only where you were. It is a first principle of law, that a declaratory act only declares the law to be what it was before; that is to say, that it only declares, and that it does not alter the law.

What follows? That as making a declaratory act does not alter law, so neither can the mere unmaking of such an act alter law. Or in other words it follows that if a declaratory act is not pronounced to have been an erroneous declaration of

law, the bare repeal of it can do no other than leave the law in that state in which the declaratory act did declare it to have been before such declaratory act passed. An enacting statute alters the law when it is made, and consequently when it is repealed it alters the law; that is to say, its enactment makes law, and therefore its repeal unmakes law.

Inconsiderate people confound this idea of an enacting, with that of a declaratory act, and are imposed on to believe that the repeal of a declaratory act unmakes and alters the law in like manner as the repeal of an enacting statute does; but this is utterly false. The repeal of a declaratory law (unless it contains a renunciation of the principle) is only a repeal of the declaration, and not of the legal principle.

The principle remains behind in full force unless it be renounced. This is universally true, and it is strengthened in this case by this circumstance. Many acts have been made by the British Parliament binding Ireland, some of them before the declaratory law of George the First. Now whilst one of these remains there is an exercise and a proof of the right, stronger by much than the declaratory law. A simple repeal, therefore, of the declaratory law, is no vindication of your legislature.

But it is argued that because in your first address you declare that the British Parliament has no such right, therefore the repeal joined to this will be equal to a renunciation by England. But what man in his senses can believe that our renunciation of the British claim can be equal to her own renunciation of it, or that in any controversy an assertion of a party in his own favor is equal to the admission of his antagonist? If Britain renounces it, no other power on earth can pretend to maintain it.

But if all the rest of the world were to deny her pretension,

yet as long as she maintains it our rights are unvindicated, and our constitution is in danger. Will any man say that if I ask a thing on a particular principle, that therefore if I obtain it at all it must follow that I obtain it on my own principle? There is no such inference in law, in logic, or in reason; it would only appear that the two Parliaments had agreed in one point, that of the bare repeal, but it never would appear without an express renunciation that they agreed in the renunciation also, and we knew the fact to be, that they do not agree with us in that principle.

But to put this argument to a decisive proof, let us suppose that after such a simple repeal, that at a future day the British Parliament should revive the principle and make a law for us. Suppose that Ireland should remonstrate on this—suppose she should read that paragraph of her address, and quote the British repeal of the declaratory law, and should argue from both that England had forever renounced her claim, do you think that England would listen to such an inference, or that any reasoner in Europe would allow the force of the argument? Would she allow you to piece your address to her act of Parliament? If you questioned her declaratory act, would she not question your declaratory address? Would she not appeal to the language held by her own members? Would she not appeal to words upon your journals? Would she not appeal to the silence of her law of repeal, and to your acquiescence under that silence? Would she not say that that was virtually a national relinquishment of any idea of renunciation, so that the principle remained not only unrenounced, but the equity of it impliedly admitted by Ireland at a moment when she was the ablest to contest it?

But I shall be asked (though the repeal of the declaratory

law should be simple and imperfect) whether I think that England will ever revive the claim? I answer, I cannot be certain that she will, neither can I be certain that she will not; and I ask in return whether any man will be surety that she will not; and if any man is weak enough to say that he will be so I will tell him that this nation will not be weak enough to accept of his surety (no mortal is adequate to such a business).

I add that England either has or has not a possible notion of such a revival; if she has not, she will not quarrel about renouncing it; and if she has, the renunciation is absolutely necessary. I add that if she does not renounce the claim, she certainly may revive it; but that if she does renounce it, she certainly cannot revive it.

Yes, you will say, for she might even repeal an act of renunciation; and to argue everything fairly I will admit that in the utmost range of possibility such an outrage is not unimaginable; but what do I infer? Not that I should be the more negligent, but that I ought to be the more careful; that it is my duty to make it impossible if I can; and if I cannot do so, that it is my duty to make it next to impossible. It is absurd to say, because I cannot make a thing physically impracticable, that therefore I should leave it morally easy; but it is good sense to say that I will make a thing as difficult as I can, though I cannot make it as difficult as I would, and that if I cannot make a thing impossible I will make it next to impossible.

Indeed, on what principle did we enter into this business? It was not surely on the silly notion of getting the force or the good will of England to act on our side and against herself in this question. That was impossible. What then was our pursuit? To obtain the utmost security that law could

give; certain that if at such a time of extremity we did not obtain it we never should be able to obtain it; we had but an alternative; either to rely on the liberality of England, and then to suffer her declaratory law to remain as a thing impotent and never to be exercised; or in a matter of such stupendous consequence we were to say that we would not trust the generosity even of Great Britain, but that we would have solid and legal security. The latter is certainly the strongest, and the most rational dependence, but though the former be weaker, it is better than neither.

Now, in desiring even the repeal of the declaratory law, you forfeit the liberality of England, because you do not confide in it; and if you do not carry the matter on until you obtain legal security you in effect relinquish both. That is to say, you do the very worst thing the case is capable of, so that it would be difficult to say whether your attempt was the most glorious, or the conduct of it the most inadequate and disgraceful.

But the pride of England will be hurt. I should be sorry for it; either, however, her pride is contrasted to our security, or it is not; if it is not, our effectuating our security will not hurt her pride; and if it is contrasted to us we must choose one of two things, either to hurt her pride in order to obtain our security, or to relinquish our security in order not to hurt her pride; but if there be a pride on one side there is a pride also on the other; if there be a pride of England there is a pride of Ireland too.

Now I ask which ought to give way, for one must, and I answer impartially, that which has the worst foundation. Now which is that? The pride of England in this case is the pride of wrong and the pride of usurpation. The pride of Ireland is the pride of right, the pride of justice, the pride

of constitution. I will not ask you, after that, which ought to give way; but it is wrong to put this question principally upon pride. England, it is true, has a pride in the matter, but she has what she values more, a principle of power. Ireland, too, has a pride in the matter, but she has what she ought to value much more, a principle of permanent security.

Now that nation will be the wisest in this transaction that sacrifices her least object to preserve her greatest, and England will do this precisely if she can prevail on you to accept of a simple repeal without a renunciation; for in that case she will sacrifice a little pride to preserve all her power; whereas you will, for a petty sacrifice to your pride, forfeit all your security.

But a confidence in the present administration ought to stop us. I deny it, not that I mean to deny or diminish any one of their virtues; I will allow them to have as much ability, power, popularity, and patriotism as any of their predecessors: to fortify my argument, I will suppose them to have more of every excellence than all their predecessors together, and what do I say then? I ask, are the wisest, and greatest men of Ireland the men that would soonest relinquish what they thought to be the rights and dignities of Ireland? Certainly not. Are then the wisest, honestest, and greatest men of England the likeliest to relinquish what they think the rights and dignities of England? Certainly not — either then the ministry are such men as I have been describing, or they are not; if they are not such men they do not deserve our peculiar confidence in anything; and if they are such men they cannot deserve our peculiar confidence in this point unless their principle and conviction be on our side. Now we know it to be decidedly against us.

Why does any country wish for a strong administration,

I ask? Because it makes the country strong. Now was it from the strength of England that we have gained our advantages or from her weakness? From her weakness undoubtedly. How then do we argue? The great strength of administration gives great strength to England, but the great strength of England in this case is the weakness of Ireland; and yet the strength of administration is her security — these things are impossible.

This brings me to what fell from Mr. Fox — he said the measure of the repeal could not stand alone, but must be accompanied by a final adjustment and by a solid basis of permanent connection between these kingdoms; he said that some plan of this sort would come from the servants of the crown in Ireland to the Irish Parliament, that when the result of Parliament was known, a treaty might be begun, if necessary; if a treaty should proceed, then it would be to be ratified by the two Parliaments, and finally to be completed by irrevocable acts of the respective legislatures.

Now, I say, if we are to negotiate at present we are to depart from our original principles; it is not five weeks ago that we all declared that we had made this as a peremptory demand and that we had nothing in it to negotiate; were we now to begin to negotiate we should negotiate after great advantages had been obtained against us; for instance, we were desired to specify our wrongs that they might be redressed; we did so, and as we specified for redress we made our specification as narrow as possible in order to facilitate redress; but had we specified with a view to negotiation we must have made our specification as broad as possible in order to have the greater advantage in negotiation.

Our second address is another advantage gained against us, that is represented even here, and still more will it be held in

England to be a repeated restriction on the requisitions of this country. What follows? That if we were to negotiate now we must negotiate all on one side, bound up not to make demands, and open only to make concessions. Now a negotiation in which one may give everything and gain nothing may be called a negotiation by some men, but by most men it will be called folly; in this, too, we are to propose, though this proposition is to be against ourselves, and we are to propose this through the servants of the crown, which is still more against us.

Now the servants of the crown will not propose terms for England till our Parliament is properly prepared for the subject, and we know what that means. If the servants of the crown and the Parliament cannot be got to go far enough for England, then a treaty is to be begun in which England will have advantage as to matter, and command as to time. In the stage of ratification she will have more, and in that of completion and consummation still greater advantages in all of these stages; all the cabinet and parliamentary councils of England will be unanimous on one side, namely, that of England.

But the cabinet and parliamentary councils of Ireland will not be unanimous in favor of Ireland, but will in general have a decided majority in favor of England. What equity can there be in such a result? Here are five stages marked out by Mr. Fox, in each of which there may be a final difference of sentiment, and in each of which there may be a necessity for some and an opportunity for greater delay, without any management; this must be dilatory, and with a little dexterity it can easily be spun out to a piece.

Now I ask you what it is that has given you everything: is it not time? And as time has given you everything, reflect