

## **Erskine May, Vol. III, Chapter XII, pp. 107-119**

### **Advance of Toleration, to the Union with Ireland**

#### **Scotland**

In the debates upon the Test Act, the peculiarity of the law, as affecting members of the church of Scotland, had often been alluded to; and in 1791, a petition was presented from the [108] General Assembly, praying for relief. On the 10th of May, Sir Gilbert Elliot moved for a committee of the whole House upon the subject. To treat the member of an established church as a dissenter, was an anomaly too monstrous to be defended. Mr. Dundas admitted that, in order to qualify himself for office, he had communicated with the church of England,—a ceremony to which members of his church had no objection. It would have been whimsical indeed to contend that the Scotch were excluded from office by any law, as their undue share in the patronage of the state had been a popular subject of complaint and satire: but whether they enjoyed office by receiving the most solemn rites of a church of which they were not members, or by the operation of acts of indemnity, their position was equally anomalous. But as their case formed part of the general law affecting dissenters, which Parliament was in no humour to entertain, the motion was defeated by a large majority.

In 1792, Scotch Episcopalians were relieved from restraints which had been provoked by the disaffection of the Episcopalian clergy in the reigns of Anne and George II. As they no longer professed allegiance to the Stuarts, or refused to pray for the reigning king, there was no pretext for these invidious laws; and they were repealed with the concurrence of all parties.

#### **Unitarians**

In the same year Mr. Fox, despairing, for the [109] present, of any relaxation of the test laws, endeavoured to obtain the repeal of certain penal statutes affecting religious opinions. His bill proposed to repeal several Acts of this nature:(1) but his main object was to exempt the Unitarians, who had petitioned for relief, from the penalties specially affecting their particular persuasion. They did not pray for civil enfranchisement, but simply for religious freedom. In deprecating the prejudices excited against this sect, he said, 'Dr. South had traced their pedigree from wretch to wretch, back to the devil himself. These descendants of the devil were his clients.' He attributed the late riots at Birmingham, and the attack upon Dr. Priestley, to religious bigotry and persecution; and claimed for this unpopular sect, at least the same toleration as other dissenting bodies. Mr. Burke, in opposing the motion, made a fierce onslaught upon the Unitarians. They were hostile to the church, he said, and had combined to effect its ruin: they had adopted the doctrines of Paine; and approved of the revolutionary excesses of the French Jacobins. The Unitarians were boldly defended by Mr. William Smith,—a constant advocate of religious liberty, who, growing old and honoured in that cause, lived to be the Father of the House of Commons. Mr. Pitt declared his reprobation of the Unitarians, and opposed the motion, which was lost by a majority of seventy-nine. Mr [110] Pitt and other statesmen, in withholding civil rights from dissenters, had been careful to admit their title to religious freedom: but this vote unequivocally declared that doctrines and opinions might justly be punished as an offence.

#### **Catholic Relief in Ireland**

Meanwhile the perilous distractions of Ireland, and a formidable combination of the Catholic body, forced upon the attention of the government the wrongs of Irish Catholics. The great

body of the Irish people were denied all the rights of citizens. Their public worship was still proscribed: their property, their social and domestic relations, and their civil liberties were under interdict: they were excluded from all offices civil and military, and even from the professions of law and medicine.(2) Already the penal code affecting the exercise of their religion had been partially relaxed:(3) but they still laboured under all the civil disqualifications which the jealousy of ages had imposed. Mr. Pitt not only condemned the injustice of such disabilities: but hoped by a policy of conciliation, to heal some of the unhappy feuds by which society was divided. Ireland could no longer be safely governed upon the exclusive principles of Protestant ascendancy. Its people must not claim in vain the franchises of British subjects. And accordingly in 1792, some of the most galling [111] disabilities were removed by the Irish Parliament. Catholics were admitted to the legal profession on taking the oath of allegiance, and allowed to become clerks to attorneys. Restrictions on the education of their children, and on their intermarriages with Protestants, were also removed.

In the next year more important privileges were conceded. All remaining restraints on Catholic worship and education, and the disposition of property, were removed. Catholics were admitted to vote at elections, on taking the oaths of allegiance and abjuration: to all but the higher civil and military offices, and to the honours and emoluments of Dublin University. In the law they could not rise to the rank of king's counsel: nor in the army beyond the rank of colonel: nor in their own counties, could they aspire to the offices of sheriff and sub-sheriff: their highest ambition was still curbed; but they received a wide enfranchisement, beyond their former hopes.

## And in Scotland

In this year tardy justice was also rendered to the Roman Catholics of Scotland. All excitement upon the subject having passed away, a bill was brought in and passed without opposition, to relieve them, like their English brethren, from many grievous penalties to which they were exposed. In proposing the measure, the [112] lord advocate stated that the obnoxious statutes were not so obsolete as might be expected. At that very time a Roman Catholic gentleman was in danger of being stripped of his estate,—which had been in his family for at least a century and a half,—by a relation having no other claim to it, than that which he derived, as a Protestant, from the cruel provisions of the law.

## Quakers

The Quakers next appealed to Parliament for relief. In 1796, they presented a petition describing their sufferings on account of religious scruples; and Mr. Sergeant Adair brought in a bill to facilitate the recovery of tithes from members of that sect, without subjecting them to imprisonment; and to allow them to be examined upon affirmation in criminal cases. The remedy proposed for the recovery of tithes had already been provided by statute, in demands not exceeding £10; and the sole object of this part of the bill was to ensure the recovery of all tithes without requiring the consent of the Quakers themselves, to which they had so strong a religious scruple, that they preferred perpetual imprisonment. At that very time, seven of their brethren were lying in the gaol at York, without any prospect of relief. The bill was passed by the Commons, but was lost in the Lords, upon the representation of the Archbishop of Canterbury that it involved a question of right of very great importance, which there was not then time to consider.

[113] In the next session the bill was renewed, when it encountered the resolute opposition of Sir William Scott.(4) 'The opinions held by the Quakers,' he said, 'were of such a nature as to affect the civil rights of property, and therefore he considered them as unworthy of legislative indulgence.' If one man had conscientious scruples against the payment of tithes to which his property was legally liable, another might object to the payment of rent as sinful, while a third

might hold it irreligious to pay his debts. If the principle of indulgence were ever admitted, 'the sect of anti-tithe Christians would soon become the most numerous and flourishing in the kingdom.' He argued that the security of property in tithes would be diminished by the bill, and that 'the tithe-owner would become an owner, not of property, but of suits.' It was replied that the tithe-owner would be enabled by the bill to recover his demands by summary distress, instead of punishing the Quaker with useless imprisonment. The very remedy, indeed, was provided, which the law adopted for the recovery of rent. The bill was also opposed by the solicitor-general, Sir John Mitford, who denied that Quakers entertained any conscientious scruples at all, against the payment of tithes. The question for going into committee on the bill was decided by the casting vote of the speaker: but upon a subsequent day, the bill was lost by a majority of sixteen.

## **The Militia**

Such had been the narrow jealousy of the state, [114] that Roman Catholics and dissenters, however loyal and patriotic, were not permitted to share in the defence of their country. They could not be trusted with arms, lest they should turn them against their own countrymen. In 1797, Mr. Wilberforce endeavoured to redress a part of this wrong, by obtaining the admission of Roman Catholics to the militia. Supported by Mr. Pitt, he succeeded in passing his bill through the Commons. In the Lords, however, it was opposed by Bishop Horsley and other peers; and its provisions being extended to dissenters, its fate was sealed.(5)

## **Ireland and the Union**

The English ministers were still alive to the importance of a liberal and conciliatory policy, in the government of Ireland. In 1795, Lord Fitzwilliam accepted the office of lord-lieutenant, in order to carry out such a policy. He even conceived himself to have the authority of the cabinet to favour an extensive enfranchisement of Catholics: but having committed himself too deeply to that party, he was recalled. There were, indeed, insurmountable difficulties in reconciling an extended toleration to Catholics, with Protestant ascendency in the Irish Parliament.

But the union of Catholic Ireland with Protestant [115] Great Britain, introduced new considerations of state policy. To admit Catholics to the Parliament of the United Kingdom would be a concession full of popularity to the people of Ireland, while their admission to a legislature comprising an overwhelming Protestant majority, would be free from danger to the established church, or to the Protestant character of Parliament. In such a union of the two countries, the two nations would also be embraced. In the discussions relating to the Union, the removal of Catholic disabilities, as one of its probable consequences, was frequently alluded to. Mr. Canning argued that the Union 'would satisfy the friends of the Protestant ascendency, without passing laws against the Catholics, and without maintaining those which are yet in force.' And Mr. Pitt said: 'No man can say that in the present state of things, and while Ireland remains a separate kingdom, full concessions could be made to the Catholics, without endangering the state, and shaking the constitution of Ireland to its centre.' . . . But 'when the conduct of the Catholics shall be such as to make it safe for the government to admit them to a participation of the privileges granted to those of the established religion, and when the temper of the times shall be favourable to such a measure, it is obvious that such a question may be agitated in a united Imperial Parliament, with much greater safety than it could be in a [116] separate legislature.' He also hinted at the expediency of proposing some mode of relieving the poorer classes from the pressure of tithes, and for making a provision for the Catholic clergy, without affecting the security of the Protestant establishment.(6)

In securing the support of different parties in Ireland to the Union, the question of Catholic disabilities was one of great delicacy. Distinct promises, which might have secured the hearty support of the Catholics, would have alienated the Protestants,—by far the most powerful

party,—and endangered the success of the whole measure. At the same time, there was hazard of the Catholics being gained over to oppose the Union, by expectations of relief from the Irish Parliament. Lord Cornwallis, alive to these difficulties, appears to have met them with consummate address. Careful not to commit himself or the government to any specific engagements, he succeeded in encouraging the hopes of the Catholics, without alarming the Protestant party.(7) The sentiments of the [117] government were known to be generally favourable to measures of relief, but Mr. Pitt had been forbidden by the king to offer any concessions whatever;(8) nor had he himself determined upon the measures which it would be advisable to propose.(9) He was, therefore, able to deny that he had given any pledge upon the subject, or that the Catholics conceived themselves to have received any such pledge: but he admitted that they had formed strong [118] expectations of remedial measures after the Union,—of which indeed there is abundant testimony.

These expectations Mr. Pitt and his colleagues were prepared to satisfy. When the Union had been accomplished, they agreed that the altered relations of the two countries would allow them to do full justice to the Catholics, without any danger to the established church. They were of opinion that Catholics might now be safely admitted to office, and to the privilege of sitting in Parliament; and that dissenters should, at the same time, be relieved from civil disabilities. It was also designed to attach the Catholic clergy to the state, by making them dependent upon public funds for a part of their provision, and to induce them to submit to superintendence.(10) It was a measure of high and prescient statesmanship, worthy of the genius of the great minister who had achieved the Union.

## **Resignation of Pitt**

But toleration, which had formerly been resisted by Parliament and the people, now encountered the invincible opposition of the king, who refused his assent to further measures of concession, as inconsistent with the obligations of his coronation oath. To his unfounded scruples were sacrificed the rights of millions, and the peace [119] of Ireland. The measure was arrested at its inception. The minister fell; and in deference to the king's feelings, was constrained to renounce his own wise and liberal policy.(11)

But the question of Catholic disabilities, in connection with the government of Ireland, was too momentous to be set at rest by the religious scruples of the king, and the respectful forbearance of statesmen. In the rebellion of 1798, the savage hatred of Protestants and Catholics had aggravated the dangers of that critical period. Nor were the difficulties of administering the government overcome by the Union. The abortive rebellion of Robert Emmett, in 1803, again exposed the alarming condition of Ireland; and suggested that the social dislocation of that unhappy country needed a more statesmanlike treatment than that of Protestant ascendancy and irritating disabilities. For the present, however, the general question was in abeyance, in Parliament. Mr. Pitt had been silenced by the king; and Mr. Addington's administration was avowedly anti-Catholic. Yet in 1803, Catholics obtained a further instalment of relief,—being exempted from certain penalties and disabilities, on taking the oath and subscribing the declaration prescribed by the Act of 1791.(12)

## **Footnotes.**

1. Viz. 9 and 10 Will. III. c. 32 (for suppressing blasphemy and profaneness); 1 Edw. VI. c. 1; 1 Mary, c. 3; 13 Eliz. c. 2.
2. Some restrictions had been added even in this reign.
3. Viz. in 1774, 1778, and 1782; 13 and 14 Geo. III. c. 35; 17 and 18 Geo. III. c. 49; 22 Geo. III. c. 24 (Irish).
4. Afterwards Lord Stowell.
5. Wilberforce's Life, ii. 222. The debates are not to be found in the Parliamentary History. 'No power in Europe, but yourselves, has ever thought, for these hundred

years past, of asking whether a bayonet is Catholic, or Presbyterian, or Lutheran; but whether it is sharp and well-tempered.'—Peter Plymley's Letters; Sydney Smith's Works, iii, 63.

6. Mr. Pitt and Lord Grenville agreed generally upon the Catholic claims. 'Previously to the Union with Ireland, it had never entered into the mind of the latter that there could be any further relaxation of the laws against Papists: but from that time he had been convinced that everything necessary for them might be granted without the slightest danger to the Protestant interest.'—Abstract of Lord Grenville's Letter to the Principal of Brazenose, 1810.—Lord Colchester's Diary, ii. 224.

7. Jan. 2nd, 1799, he writes: 'I shall endeavour to give them (the Catholics) the most favourable impressions without holding out to them hopes of any relaxation on the part of government, and shall leave no effort untried to prevent an opposition to the Union being made the measure of that party.'—Corr., iii, 29.

And again, Jan, 28th, 1799 : 'I much doubt the policy of at present holding out to them any decided expectations: it might weaken us with the Protestants, and might not strengthen us with the Catholics, whilst they look to carry their question unconnected with Union.'—Corr., iii, 55. See also Ibid., 63, 149, 327, 344, 347.

8. June 11th, 1798, the king writes to Mr. Pitt: 'Lord Cornwallis must clearly understand that no indulgence can be granted to the Catholics farther than has been, I am afraid unadvisedly, done in former sessions, and that he must by a steady conduct effect in future the union of that kingdom with this.—Lord Stanhope's Life of Pitt, iii. App. xvi.

Again, Jan. 24th, 1790, having seen in a letter from Lord Castlereagh 'an idea of an established stipend by the authority of government for the Catholic clergy of Ireland,' he wrote: 'I am certain any encouragement to such an idea must give real offence to the established church in Ireland, as well as to the true friends of our constitution; for it is certainly creating a second church establishment, which could not but be highly injurious.'—Ibid., xviii.

9. Mr. Pitt wrote to Lord Cornwallis, Nov. 17th, 1788 : 'Mr. Elliot, when he brought me your letter, stated very strongly all the arguments which he thought might induce us to admit the Catholics to Parliament and office, but I confess he did not satisfy me of the practicability of such a measure at this time, or of the propriety of attempting it. With respect to a provision for the Catholic clergy, and some arrangement respecting tithes, I am happy to find an uniform opinion in favour of the proposal, among all the Irish I have seen.'—Lord Stanhope's Life of Pitt, iii. 161. See also Castlereagh Corr., i. 73; Lord Colchester's Mem., i. 250, 511.

'Lord Camden told me that being a member of Mr. Pitt's government in 1800, he knew that Mr. Pitt had never matured any plan for giving what is called emancipation to the Roman Catholics.'—Lord Colchester's Diary, iii, 326.

10. The Irish Catholic Bishops had consented to allow the crown a veto on their nomination.—Butler's Hist. Mem., iv. 112-134.

11. *Supra*, Vol. I. 93-97.

12. 43 Geo. III, c. 30.

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