

Erskine May, Vol. III, Chapter XIII, pp. 156-172

Catholic Emancipation Achieved

In 1827, the hopes of the Catholics, raised for a time by the accession of Mr. Canning to the head of affairs, were suddenly cast down by his untimely death.

At the meeting of Parliament in 1828,(1) the Duke of Wellington's administration had been formed. Catholic emancipation was still an open question: but the cabinet, [157] represented in one House by the Duke, and in the other by Mr. Peel, promised little for the cause of religious liberty. If compliance was not to be expected, still less was such a government likely to be coerced by fear. The great soldier at its head retained, for a time, the command of the army,—and no minister knew so well as he how to encounter turbulence or revolt. In politics he had been associated with the old Tory school; and unbending firmness was characteristic of his temper and profession. Yet was this government on the very eve of accomplishing more for religious liberty than all the efforts of its champions had effected in half a century.

The Test and Corporation Acts

The dissenters were the first to assault the Duke's strong citadel. The question of the repeal of the Corporation and Test Acts had slumbered for nearly forty years,(2) when Lord John Russell worthily succeeded to the advocacy of a cause which had been illustrated by the genius of Mr. Fox. In moving for a committee to consider these Acts, he ably recapitulated their history, and advanced conclusive arguments for their repeal. The annual indemnity Acts, though offering no more than a partial relief to dissenters, left scarcely an argument against the repeal of laws which had been so long virtually suspended. It could not be contended that these laws were necessary for the security of the church; for they extended neither to Scotland nor to Ireland. Absurd were the number and variety of offices embraced by the Test Act; non-commissioned officers [158] as well as officers,—excisemen, tidewaiters, and even pedlars. The penalties incurred by these different classes of men were sufficiently alarming,—forfeiture of the office,—disqualification for any other,—incapacity to maintain a suit at law, to act as guardian or executor, or to inherit a legacy; and, lastly, a pecuniary penalty of £500. Even if such penalties were never enforced, the law which imposed them was wholly indefensible. Nor was it forgotten again to condemn the profanation of the holy sacrament, by reducing it to a mere civil form, imposed upon persons who either renounced its sacred character, or might be spiritually unfit to receive it. Was it decent, it was asked,

'To make the symbols of atoning grace
An office key, a pick-lock to a place?'(3)

Nor was this objection satisfactorily answered by citing Bishop Sherlock's version, that receiving the sacrament was not the qualification for office, but the evidence of qualification. The existing law was defended on the grounds so often repeated: that the state had a right to disqualify persons on the ground of their religious opinions, if it were deemed expedient: that there was an established church inseparable from the state, and entitled to its protection; and that the admission of dissenters would endanger the security of that church.

Mr. Peel,—always moderate in his opposition to measures for the extension of religious liberty,—acknowledged that the maintenance of the [159] Corporation and Test Acts was not necessary for the protection of the church; and opposed their repeal mainly on the ground that they were no practical grievance to the dissenters. After a judicious and temperate discussion

on both sides, the motion was affirmed by a majority of forty-four. The bill was afterwards brought in, and read a second time without discussion.

The government, not being prepared to resign office in consequence of the adverse vote of the of the Commons, endeavoured to avoid a conflict between the two Houses. The majority had comprised many of their own supporters, and attached friends of the established church; and Mr. Peel undertook to communicate with the Archbishop of Canterbury and other prelates, in order to persuade them to act in concert with that party, and share in the grace of a necessary concession. These enlightened churchmen met him with singular liberality, and agreed to the substitution of a declaration for the sacramental test. Lord John Russell and his friends, though satisfied that no such declaration was necessary, accepted it as a pledge that this important measure should be allowed to pass, with the general acquiescence of all parties; and the bill now proceeded through the House, without further opposition.

In the House of Lords, the Archbishop of York, expressing the opinion of the primate as well as his [160] own, 'felt bound, on every principle, to give his vote for the repeal of an Act which had, he feared, led, in too many instances, to the profanation of the most sacred ordinance of our religion.' 'Religious tests imposed for political purposes, must in themselves be always liable, more or less, to endanger religious sincerity.' His grace accepted the proposed declaration as a sufficient security for the church. The bill was also supported, in the same spirit, by the Bishops of Lincoln, Durham, and Chester.

But there were lay peers more alive to the interests of the church than the bench of bishops. Lord Winchilsea foresaw dangers, which he endeavoured to avert by further securities; and Lord Eldon denounced the entire principle of the bill. He had little expected 'that such a bill as that proposed would ever have been received into their Lordships' House;' and rated those who had abandoned their opposition to its progress in the Commons. This stout champion of the church, however, found no supporters to the emphatic 'Not content,' with which he encountered the bill; and its second reading was affirmed without a division.(4)

In committee, the declaration was amended by the insertion of the words 'on the true faith of a Christian,' an amendment which [161] pointedly excluded the Jews, and gave rise to further legislation, at a later period.(5) Some other amendments were also made. Lord Winchilsea endeavoured to exclude Unitarians; and Lord Eldon to substitute an oath for a declaration, and to provide more effectual securities against the admission of Catholics: but these and other amendments, inconsistent with the liberal design of the measure, were rejected, and the bill passed. The Lords' amendments, though little approved by the Commons, were agreed to, in order to set this long-vexed question at rest, by an act of enlightened toleration.

This measure was received with gratitude by dissenters; and the grace of the concession was enhanced by the liberality of the bishops, and the candour and moderation of the leading statesmen, who had originally opposed it. The liberal policy of Parliament was fully supported by public opinion, which had undergone a complete revulsion upon this question. 'Thirty years since,' said Alderman Wood, 'there were only two or three persons in the city of London favourable to the repeal: the other day, when the corporation met to petition for the repeal, only two hands were held up against the petition.'

The Catholic Claims Revived

The triumph of dissenters was of happy augury to the Catholic claims, which in a few days were again presented by Sir Francis [162] Burdett. The preponderance of authority as well as argument, was undeniably in favour of the motion. Several conversions were avowed; and the younger members especially showed an increasing adhesion to the cause of religious liberty. After a debate of three nights, in which the principal supporters of the measure expressed the greatest confidence in its speedy triumph, the motion was carried by a majority of six. A resolution was agreed to, that it was expedient to consider the laws affecting Roman

Catholics, with a view to a final and conciliatory adjustment. Resolutions of this kind had, on former occasions, preceded the introduction of bills which afterwards miscarried; but Sir Francis Burdett resolved to avoid the repetition of proceedings so tedious and abortive. This resolution was accordingly communicated to the Lords, at a conference. The Marquess of Lansdowne invited their Lordships to concur in this resolution, in a most forcible speech; and was supported in the debate by the Dukes of Sussex and Gloucester, by Lord Goderich, the Marquess of Londonderry, Lord Plunket, the Marquess of Wellesley, and other peers. It was opposed by the Duke of Cumberland, the powerful Chancellor,—Lord Lyndhurst,—the ever-consistent Lord Eldon, the Duke of Wellington, and an overpowering number of speakers. After two nights' debate, the Lords refused to concur in this resolution, by a majority of forty-four.

Ireland

[163] But while these proceedings seemed as illusory as those of former years, popular agitation was approaching a crisis in Ireland,(6) which convinced the leading members of the administration that concessions could no longer be safely withheld. Soon after this discussion, an event of striking significance marked the power and determination of the Irish people. Mr. Vesey Fitzgerald having vacated his seat for the county of Clare, on accepting office, found his re-election contested by an opponent no less formidable than Mr. O'Connell. Under other circumstances, he could have confidently relied upon his personal popularity, his uniform support of the Catholic claims, his public services, and the property and influence which he enjoyed in his own county. But now all his pretensions were unavailing. The people were resolved that he should succumb to the champion of the Catholic cause; and, after scenes of excitement and turbulence which threatened a disturbance of the public peace, he was signally defeated.(7)

Perhaps no one circumstance contributed more than this election, to extort concessions from the government. It proved the dangerous power and organisation of the Roman Catholic party. A general election, while such [164] excitement prevailed, could not be contemplated without alarm.(8) If riots should occur, the executive were not even assured of the fidelity of Catholic soldiers, who had been worked upon by their priests. They could not be trusted against rioters of their own faith. The Catholic Association, however, continued to be the chief embarrassment to the government. It had made Ireland ripe for rebellion. Its leaders had but to give the word: but, believing their success assured, they were content with threatening demonstrations.(9) Out of an infantry force of 30,000 men, no less than 25,500 were held in readiness to maintain the peace of Ireland. Such was the crisis, that there seemed no alternative between martial law and the removal of the causes of discontent. Nothing but open rebellion would justify the one; and the Commons had, again and again, counselled the other. (10)

In the judgment of Mr. Peel, the settlement of the Catholic question had, at length, become a political necessity, and this conviction was shared by the Duke of [165] Wellington, the Marquess of Anglesey, and Lord Lyndhurst. But how were ministers to undertake it? The statesmen who had favoured Catholic claims had withdrawn from the ministry. and Lord Anglesey had been removed from the government of Ireland.(11) It was reserved for the Protestant party in the cabinet to devise a measure which they had spent their lives in opposing. They would necessarily forfeit the confidence, and provoke the hostility of their own political adherents; and could lay no claim to the gratitude or good will of the Catholics.

But another difficulty, even more formidable, presented itself,—a difficulty which, on former occasions, had alone sufficed to paralyse the efforts of ministers. The king evinced no less repugnance to the measure than his 'revered and excellent father' had displayed, nearly thirty years before;(12) and had declared his determination not to assent to Catholic emancipation.

The Duke of Wellington, emboldened by the success of Mr. Peel's former communications with the bishops, on the Sacramental Test, endeavoured to persuade them to support concessions to the Catholics. Their concurrence would secure [166] the co-operation of the church and the House of Lords, and influence the reluctant judgment of the king. But he found them resolutely opposed to his views; and the government were now alarmed, lest their opinions should confirm the objections of his majesty.

The Government Decide to Proceed

It was under these unpromising circumstances that, in January 1829, the time had arrived at which some definite course must be submitted to the king, in anticipation of the approaching session. It is not surprising that Mr. Peel should have thought such difficulties almost insuperable. 'There was the declared opinion of the king,—the declared opinion of the House of Lords,—the declared opinion of the church,—unfavourable to the measures we were about to propose;' and, as he afterwards added, 'a majority, probably, of the people of Great Britain was hostile to concession.'

Mr. Peel, considering the peculiarity of his own position, had contemplated the necessity of retirement: but viewing, with deep concern, the accumulating embarrassments of the government, he afterwards placed his services at the command of the Duke of Wellington.

At length, an elaborate memorandum by Mr. Peel having been submitted to the king, His Majesty gave audience to those members of his cabinet who had always opposed the Catholic claims; and then consented that the cabinet [167] should submit their views on the state of Ireland, without pledging himself to concur in them, even if adopted unanimously. A draft of the king's speech was accordingly prepared, referring to the state of Ireland, the necessity of restraining the Catholic Association, and of reviewing the Catholic disabilities. To this draft the king gave a 'reluctant consent;' and it was, accordingly, delivered at the commencement of the session.

The government projected three measures, founded upon this speech,—the suppression of the Catholic Association, a Relief Bill, and a revision of the elective franchise in Ireland.

The first measure submitted to Parliament was a bill for the suppression of dangerous associations or assemblies in Ireland. It met with general support. The opponents of emancipation complained that the suppression of the Association had been too long delayed. The friends of the Catholic claims, who would have condemned it separately, as a restraint upon public liberty, consented to it, as a necessary part of the measures for the relief of the Catholics, and the pacification of Ireland. Hence the bill passed rapidly through both Houses. But before it became law, the Catholic Association was dissolved. A measure of relief having been promised, its mission was accomplished.(13) When this bill had passed the Commons, Mr. Peel [168] accepted the Chiltern Hundreds, in order to give his constituents at Oxford an opportunity of expressing their opinion of his new policy. The Protestant feeling of the university was unequivocally pronounced. He was defeated by Sir Robert Inglis, and obliged to take refuge at Westbury.

The Bill Introduced

The civil disabilities of the Catholics were about to be considered, on the 5th of March, when an unexpected obstacle arose. On the 3rd, the king commanded the attendance of the Duke of Wellington, the Lord Chancellor, and Mr. Peel on the following day. He then desired a more detailed explanation of the proposed measure. On finding that it was proposed to alter the oath of supremacy, his majesty refused his consent; and his three ministers at once tendered their resignation, which was accepted. Late the same evening, however, he desired them to withdraw their resignation, and gave his consent, in writing, to their proceeding with the proposed measure.(14)

This last obstacle being removed, Mr. Peel opened his measure of Catholic emancipation to the House of Commons. In a speech of four hours, he explained the various circumstances, already described, which, in the opinion of the government, had made the emancipation of the Catholics a necessity. The measure itself was complete: it admitted Roman Catholics,—on taking [169] a new oath, instead of the oath of supremacy,—to both Houses of Parliament, to all corporate offices, to all judicial offices, except in the ecclesiastical courts; and to all civil and political offices, except those of regent, lord chancellor in England and Ireland, and lord-lieutenant of Ireland. Restraints, however, were imposed upon the interference of Roman Catholics in the dispensation of church patronage. The government renounced the idea of introducing any securities, as they were termed, in regard to the Roman Catholic church, and its relations to the state. When proposed at an earlier period, in deference to the fears of the opponents of emancipation,(15) they had offended Roman Catholics, without allaying the apprehensions of the Protestant party. But it was proposed to prevent the insignia of corporations from being taken to any place of religious worship except the established church,—to restrain Roman Catholic bishops from assuming the titles of existing sees,—to prevent the admission of Jesuits to this country, to ensure the registration of those already there, and to discourage the extension of monastic orders. After two nights' debate, Mr. Peel's motion for going into committee of the whole House was agreed to by a majority of one hundred and eighty-eight.(16) Such was the change which the sudden conversion of the government, and the pressure of circumstances, had effected in the opinions of Parliament. Meanwhile, the church and the Protestant party throughout the [170] country, were in the greatest alarm and excitement. They naturally resented the sudden desertion of their cause, by ministers in whom they had confided.(17) The press overflowed with their indignant remonstrances; and public meetings, addresses, and petitions gave tokens of their activity. Their petitions far outnumbered those of the advocates of the measure;(18) and the daily discussions upon their presentation, served to increase the public excitement. The higher intelligence of the country approved the wise and equitable policy of the government: but there can be little question, that the sentiments of a majority of the people of Great Britain were opposed to emancipation. Churchmen dreaded it, as dangerous to their church; and dissenters inherited from their Puritan forefathers a pious horror of Papists. But in Parliament, the union of the ministerial party with the accustomed supporters of the Catholic cause, easily overcame all opposition; and the bill was passed through its further stages, in the Commons, by large majorities.

The Bill in the Lords

On the second reading of the bill, in the House of Lords, the Duke of Wellington justified the measure, irrespective of other considerations, by the necessity of averting a civil war, saying: 'If I could avoid, by any sacrifice whatever, even one month of civil war in the country to which I am attached, I would sacrifice my life in order to do it.' He added, that when the Irish [171] rebellion of 1798 had been suppressed, the Legislative Union had been proposed in the next year, mainly for the purpose of introducing this very measure of concession; and that had the civil war, which he had lately striven to avert, broken out, and been subdued,—still such a measure would have been insisted upon by one, if not by both Houses of Parliament.

The bill was opposed by the Archbishop of Canterbury,—Dr. Howley,—in a judicious speech, in which he pointed out the practical evils to which the church and the Protestant religion might be exposed, by the employment of Roman Catholics as ministers of the crown, especially in the office of secretary of state. It was also opposed in debate by the Archbishops of York and Armagh, the Bishops of Durham and London, and several lay peers. But of the Protestant party, Lord Eldon was still the leader. Surrounded by a converted senate,—severed from all his old colleagues,—deserted by the peers who had hitherto cheered and supported him,—he raised his voice against a measure which he had spent a long life in resisting. Standing almost alone among the statesmen of his age, there was a moral dignity in his isolation which commands our respect. The bill was supported by Mr. Peel's constant friend,

the Bishop of Oxford, the Duke of Sussex, the Lord Chancellor, Lord Goderich, Earl Grey, Lord Plunket, and other peers. The second reading was affirmed by a majority of one hundred and five. [172] The bill passed through committee without a single amendment: and on the 10th of April the third reading was affirmed by a majority of one hundred and four.

Meanwhile the king, whose formal assent was still to be given, was as strongly opposed to the measure as ever; and even discussed with Lord Eldon the possibility of preventing its further progress, or of refusing his assent. But neither the king nor his old minister could seriously have contemplated so hazardous an exercise of prerogative; and the Royal assent was accordingly given, without further remonstrance. The time had passed, when the word of a king could overrule his ministers and Parliament.

Footnotes.

1. Lord Goderich's ministry had been formed and dissolved during the recess.
2. Supra, p. 105.
3. Cowper's Expostulation, Works, i. p. 80 (Pickering).
4. Hans. Deb., 2nd Ser., xviii. 1450. Lord Eldon, in his private correspondence, called it 'a most shameful bill,'—'as bad, as mischievous, and as revolutionary as the most captious dissenter could wish it to be.' And again: 'The administration have, to their shame be it said, got the archbishops and most of the bishops to support this revolutionary bill.'—Twiss's Life of Lord Eldon, iii. 37-45; Peel's Mem., i. 99.
5. On the third reading Lord Holland desired to omit the words, but without success.
6. Supra, Vol. II. 373.
7. Mr. Vesey Fitzgerald, writing to Sir R. Peel, July 5th, 1828, said: 'I have polled all the gentry and all the fifty-pound freeholders,—the gentry to a man,' 'All the great interests broke down, and the desertion has been universal. Such a scene as we have had! such a tremendous prospect as it opens to us!' 'The conduct of the priests has passed all that you could picture yourself.'—Peel's Mem., i. 113.
8. Peel's Mem., i. 117-122, et seq. 'This business,' wrote Lord Eldon, 'must bring the Roman Catholic question, which has been so often discussed, to a crisis and a conclusion, The nature of that conclusion I do not think likely to be favourable to Protestantism.'—Twiss's Life, iii. 54.
9. Supra, Vol. II. 374.
10. In each of 'the five parliaments elected since 1807, with one exception, the House of Commons had come to a decision in favour of a consideration of the Catholic question;' and Mr. Peel had long been impressed with the great preponderance of talent and influence on that side.—Peel's Mem., i. 146; *Ibid.*, 61, 288, 289.
11. The circumstances of his removal were fully discussed in the House of Lords, May 4th, 1829.—Hans. Deb., 2nd Ser., xx. 990.
12. Peel's Mem., i. 274, 276. The king assured Lord Eldon that Mr. Canning had engaged that he would never allow his majesty 'to be troubled about the Roman Catholic question.'—Peel's Mem., i. 275. But Sir R. Peel expresses his conviction that no such pledge had been given by Mr. Canning (*Ibid.*); and even Lord Eldon was satisfied that the king's statement was unfounded.—Twiss's Life of Eldon, iii. 82.
13. On Feb. 24th, Lord Anglesey said it was 'defunct.'
14. Peel's Mem., i. 343-349. The king gave Lord Eldon a different version of this interview, evidently to excuse himself from consenting to a measure of which his old councillor disapproved so strongly.—Twiss's Life of Eldon, iii. 83.
15. In 1813. Supra, p. 141.
16. Ayes, 348; Noes, 160. Hans. Deb., 2nd Ser., 727-892.
17. Supra, Vol. II. 193.
18. See supra, Vol. II. 66.

[Next](#)

[Contents](#)

[Previous](#)