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## THE CENTENARY OF ROMAN CATHOLIC EMANCIPATION.

BY J. W. POYNTER.

**D**URING the spring of this year occurs the hundredth anniversary of the passing of the "Catholic Emancipation Act," by which the Roman Catholics of these islands were freed finally from the penal laws under which they had lain for two centuries and three-quarters. Naturally, the centenary will be celebrated with great zeal by the Roman Catholic community. Indeed, not only will the occasion be celebrated with rejoicings, but there is evidence that it may be made one for advancing demands for further financial assistance for Roman Catholic schools at the hands of the State: a demand amounting practically to one that those schools shall be provided compulsorily by the public authority, at the public expense, although they will not be under public control. As the Roman Catholic Bishop of Nottingham said (see *The Tablet* newspaper, December 29, p. 899) in his Advent Pastoral: "Finally, if this is not too wild a dream, dare we not hope and pray that the chivalrous sympathy of our fair-minded fellow-countrymen may go out to us Catholics on the occasion of our forthcoming centenary? A hundred years ago their tolerant English spirit led them to remove the ban which had hung over our religion in this country for wellnigh three hundred years. Might not Parliament now graciously resolve to avail itself of this fitting opportunity to complete our release by emancipating our education also, and thus put us on a level of equality in this matter with all other sections of the community? Towards us Catholics, a religious minority, who have suffered much in the past for our Faith, this would indeed be a magnanimous act worthy of a great and enlightened people. To Catholic parents it would be an inestimable boon to know that the Education Department of the Government, when reasonably called upon to do so, was obliged by law to provide, at least on lease, suitable buildings for the elementary education of their children by Catholic teachers under due Catholic supervision and control."

Without going into any aspects of the vexed "education question," one may make note of declarations such as the foregoing, the logic of which is that the religious liberty of Roman Catholics is not complete until their sectionary schools are provided at the expense of the public purse while not being controlled by the public authority; and that the centenary of the 1829 Emancipation Act would be a suitable time for "a great and enlightened people" to make that liberty complete by such a system of endowment. Evidently the Emancipation centenary is to be a time for seeking material gains as well as for rejoicings. However, this is not the place to go into such aspects: for the subject of this article is mainly historical.

The centenary not only is historically interesting, but also has significance which in some respects may be in danger of being overlooked when, as in these times, controversies, formerly highly exciting to the public, tend to fall into neglect. The Roman Catholics, of course, will depict the Emancipation Act simply as the placing of them on a footing of equality after a long period of iniquitous penalization. This, however, is an imperfect appreciation of causes and effects. True, the penal laws were very drastic, and, from the point of view of abstract liberty, seem to have been outrageous, especially in the case of Ireland, where they applied to the religion of the majority of the people. In England, Roman Catholics became, relatively soon, a small minority. To quote the able Roman Catholic writer Mr. Denis Gwynn : <sup>1</sup> "The penal code, which in Ireland failed to achieve its object in spite of its complete and elaborate system, had in England practically accomplished its purpose ; and even the small remnant of Catholicism which survived around the old families who adhered to the faith was continually diminishing, through the operation of various laws which gradually undermined the hereditary property of the Catholic families, and through the continual desertion of individuals under pressure of a social ostracism which did not cease even after the process of relaxation had begun." The number of Roman Catholics in England and Wales "appears, by the returns made in the House of Lords in 1780, to have been 69,376." <sup>2</sup> Sir George Savile's Relief Act of 1778 had removed some of the severest of the penal laws imposed on Roman Catholics after the Revolution of 1688. An oath of allegiance was framed which numbers of Roman Catholic aristocrats and gentlemen found acceptable to their consciences. All participation in the public life of the country, however, was barred against them. In the internal economy of even this small Roman Catholic body there were vexatious disputes. Those concerning the rights of jurisdiction of the Vicars Apostolic were largely settled by a Bull of Pope Benedict XIV in 1753 ; but even thereafter the laity tended to be "minimist" as to Papal authority. English Roman Catholics, then, were reduced to a small, divided body "of dependants gathered around the aristocratic families."

The difference between the position of Roman Catholics in England and in Ireland, under the penal laws, is, in fact, the clue to some important historical problems. In England, Roman Catholics were gradually but surely dying out. In Ireland, they were the great majority of the population. In England, Roman Catholics were simply dissenters from the accepted religion of the nation of which they formed part. In Ireland, however, the penal laws, besides being imposed on the majority, had the added element of racial antagonism. To quote Professor Lecky : <sup>3</sup> "[The penal code] was not the persecution of a sect, but the degradation of a

<sup>1</sup> *The Struggle for Catholic Emancipation* (London, 1928), p. 3.

<sup>2</sup> Husenbeth, *Life of [the R.C.] Bishop Milner*, p. 91.

<sup>3</sup> *Ireland in the Eighteenth Century* (London, 1892), i. 169-70.

nation. It was the instrument employed by a conquering race, supported by a neighbouring Power, to crush to the dust the people among whom they were planted." The significance of the distinction between Roman Catholicism in England and in Ireland must be stressed ; for the fact is that Roman Catholics in England not only undoubtedly owe to their co-religionists in Ireland their own emancipation from the penal laws, but also probably they owe to them the very existence of any Roman Catholics (except isolated individuals) in England now.

The very severity of the penal code makes it easy to depict it as mere wanton persecution of long-suffering Roman Catholics by triumphant Protestants ; or, in Ireland, as a combination of that and racial dominance. Indeed, that is the picture which is constantly put forward by Roman Catholic advocates. For example, in a leaflet annually distributed broadcast to the onlookers at its " march from Newgate to Tyburn in honour of the Catholic martyrs executed under the penal laws," the Guild of Ransom says : " They were no traitors. They were martyrs in the cause of Faith and Freedom, and deserve the homage, not only of their Catholic brethren of to-day, but also of every man, whatever his views on religion, who holds that the Tudor and Stuart sovereigns had no right to enforce conformity with the Established Church by the prison, the rack, the halter and the knife. . . . Newgate was not the only London prison which, in the days of persecution, was crowded with prisoners for conscience' sake." In short, the penal laws were simply the cruel Protestant oppression of the consciences of Roman Catholics.

Such a view does not go deeply enough into the problem. Laws of so drastic a nature must have had grave occasion for their enactment. We must, then, look at the roots of things. Accurate history depicts not effects only, but also causes.

The Reformation was a break with a politico-religious polity founded on a theocratic conception centring in the Papacy. To quote Mr. Hilaire Belloc : <sup>1</sup> " The world upon which the Reformation fell, and which it in part destroyed, was the creation of the Catholic Church acting as a leaven for fifteen hundred, as a world-wide authority for a thousand, years." That is to say, the political system of mediæval Europe was bound up with the Papal supremacy. Mr. Belloc, of course, looks at that fact from the Roman Catholic point of view, which idealizes <sup>2</sup> the mediæval system as " happy because it was in tune with itself," as contrasted with the " new, uneasy and unhappy thing," Protestantism. However, that is his personal interpretation. As to the broad fact, that the Papal supremacy was an integral and dominating part of the mediæval political system (whether or not it was desirable it should have been so), he is, of course, however, quite right. What, then, follows from

<sup>1</sup> *How the Reformation Happened* (London, 1928), p. 10.

<sup>2</sup> *Ibid.*, p. 19 (Yet—pp. 23 and 29-30—he admits that the Middle Ages were chaotic : " It was all peril, all conflict, and all recurring imminence of disaster ; the final catastrophe just barely staved off time after time.")

that fact? Surely, that liberation from the Papal theocracy must necessarily have been a process of battle.

The essential principle of that theocracy was expressed in 1302 by Pope Boniface VIII in the Bull *Unam Sanctam*, which, besides defining, as an article of faith, that "it is a necessity of salvation for every human creature to be subject to the Roman Pontiff" (a declaration which Roman theologians interpret as having reference only to spiritual matters, and not to politics<sup>1</sup>), also laid down that "there are two swords, the spiritual and the civil, and both are in the power of the Church: the first to be wielded by the priests, and the other by kings and magistrates, but at the beck and permission of the priest." That is,<sup>2</sup> "the Bull also proclaims the subjection of the secular power to the spiritual as the one higher in rank. . . . This is a fundamental principle which had grown out of the entire development in the early Middle Ages of the central position of the Papacy in the Christian national family of Western Europe." As a natural consequence of that state of affairs, religious dissent was regarded as the worst of crimes, and was minutely searched out and relentlessly repressed. "The duties and powers of inquisitors are minutely laid down in the [mediæval] canon law, it being always assumed that the civil power will favour, or can be compelled to favour, their proceedings. Thus it is laid down that they 'have power to constrain all magistrates, even secular magistrates, to cause the statutes against heretics to be observed,' and to require them to swear to do so; also that they can 'compel all magistrates and judges to execute their sentences, and these must obey on pain of excommunication'; also that inquisitors in causes of heresy 'can use the secular arm,' and that 'all temporal rulers are bound to obey inquisitors in causes of faith.'"<sup>3</sup> Obviously, release from such a system must needs have been by way of struggle. That, when the penal laws against Roman Catholicism were first imposed by Queen Elizabeth, the imposition was in self-defence against the above system, is patent upon the face of things, and nowhere clearer than from statements of her opponents. For example, Cardinal William Allen, the founder of the Douai College for training priests for the English mission, published in 1584 his attack on Elizabeth's government: *A True, Sincere and Modest Defence of English Catholics*. As to his view of tolerance, it is unmistakable:<sup>4</sup> "Queen Mary against the Protestants executed only the old laws of our

<sup>1</sup> See *The Catholic Encyclopædia* (New York and London, 1912), xv. 126: "The translation by Berchtold of the expression *humanæ creaturæ* by 'temporal authorities,' is absolutely wrong."

<sup>2</sup> *Ibid.*

<sup>3</sup> Addis and Arnold, *Catholic Dictionary* (London, 1928), p. 457.

<sup>4</sup> *Defence* (Manresa reprint, London, 1914, two vols.; i. 49-50; this reprint has a preface by Cardinal Bourne, who in no way opposes, therein, any of Allen's principles). By the way, in regard to Queen Mary's burnings, Mr. Belloc (*How the Reformation Happened*, p. 151) says: "Had Mary lived we do not know how much longer the persecution might have continued, nor what further number of victims it might have made. I suggest that they would have been at least double in number before the repression had had its final effect."

country, and of all Christendom, made for punishment of heretics, by the canons and determination of all Popes, Councils, Churches and ecclesiastical tribunals of the world, allowed also and authorized by the civil and imperial laws, and received by all kingdoms Christian besides ; and who then hath any cause justly to be grieved ? Why should any man complain or think strange for executing the laws which are as ancient, as general, and as godly against heretics, as they are for the punishment of traitors, murderers, or thieves ? ”

It is true that, previous to the Reformation, the civil powers had frequent conflicts with the Papacy. The *spirit* of Henry VIII's statute of the Royal Supremacy was by no means new. “ The same spirit declared itself publicly and legislatively in the Constitutions of Clarendon, A.D. 1164 ; and again A.D. 1246 ; in the Statute of Carlisle, A.D. 1297 ; in the Articles of the Clergy, in the Statutes of Provisors, A.D. 1350, A.D. 1363, and A.D. 1389 ; of Mortmain and of Præmunire, A.D. 1391-2.”<sup>1</sup> However, so long as the Papal Supremacy was recognized as a part of Europe's religion, such conflicts were merely matters of limits of jurisdiction of Popes and Kings. The mind of the people remained unliberated. Clearly, only a deadly struggle could lead to the liberation of the European mind from the mediæval theocracy. The conflict having begun, it would necessarily develop by the enactment of penal laws. This is regrettable, but its cause must be sought in the mediæval polity which regarded religious dissent as a capital crime, and the obedience of the civil rulers to Papal canon-law as a duty. A foremost English Roman Catholic author<sup>2</sup> has put the position succinctly ; “ The Church and the Empire—an ecclesiastical order with its own courts, jurisdiction, properties, immunities, facing a secular order with its tenures, claims, ambitions ; and above each its crowned representative supreme : such is the shape into which Christian society falls during the Middle Ages.”

The position, then, *in general*, was that, if the mediæval theocracy was not to be permanent—if, that is, the mind of Europe was to achieve the right of private judgment, and thus to make progress,—a deadly struggle was unavoidable. The position, *in particular* (that is, in regard to England), clearly was that the penal laws against Roman Catholicism were imposed in self-defence. It is argued, indeed, by Roman Catholic critics of Queen Elizabeth, that, by her policy of separation from Rome, she herself was really the rebel, by placing herself in antagonism to the age-long polity of Europe ! What is that, however, but to say England had not a right to self-government ? Having asserted that right in the religious field, she was clearly under the necessity of passing laws to defend it. As Cardinal Hergenröther<sup>3</sup> said : “ It was the universal conviction, not alone of the Catholics of England but of all the Catholic nations of Europe, that she thereby [i.e., *Elizabeth*, by

<sup>1</sup> Bishop Ch. Wordsworth, *Theophilus Anglicanus* (1857), p. 186.

<sup>2</sup> Canon William Barry, *The Papacy and Modern Times* (London, 1911), p. 20.

<sup>3</sup> *Katholische Kirche und christlicher Staat* (English trans. 1876), ii. 389.

siding with the Reformation] forfeited all claim upon the English Crown, and that her subjects were no longer bound by the oaths taken to her." On that assumption, Pope Pius V, in 1569, declared the Queen deposed. "He releases her subjects from any oath of fealty they had taken to her, and from all obedience and submission to her whatsoever. Those who obey her and her laws are bound and implicated in 'the like sentence of anathema.'"<sup>1</sup> The terrible struggle went on, undecided, for 128 years: from Elizabeth's accession and assertion of English independence, till the flight of James II in 1688. It involved penal laws in England and Ireland; civil wars; foreign attacks (the Armada of Philip II being the chief); plots of all kinds; and, finally, the fatuous effort of James II to restore Roman Catholicism by the stealthy assertion of his prerogative: an effort which cost him his throne.

The terrible nature of the struggle cannot be denied. We have quoted Lecky as to how in Ireland it involved a deadly racial war. However, is it not a fact that the Popes regarded Ireland as a basis of attack on England? To quote a Jesuit writer:<sup>2</sup> "On December 1, 1571, the Cardinal Secretary wrote to his chief representative in Spain, the Legate Cardinal Alessandrino, saying that the Pope had heard with pleasure of Stukely's plans [to invade Ireland for war on England], and that if the King did not wish to involve his own name in supporting these plans, the Pope would allow them to be started in his, always recognizing that the responsibility for action must rest entirely (*in tutto et per tutto*) with the King." The tragic story of the penal laws cannot be denied, and it was especially tragic in Ireland, as being the story of an attempt to repress the religion of the majority of the people; but the fact remains that, by Roman canon-law, a religious question had been made inseparable from politics. Ireland was a part of Elizabeth's dominions; the Pope had declared her deposed, and had made it a duty to rebel against her; Ireland was used as a jumping-off ground for attacks on England; can it be denied, then, that the prime cause of the penal laws was the Papal claim to dominate States, depose monarchs, and foment war against dissenters?<sup>3</sup> Moreover, if the penal laws in these islands against Roman Catholicism were terrible, what of the penal laws against heretics in Roman Catholic countries: "laws as ancient, as general, and as godly against heretics, as they were for the punishment of traitors, murderers, or thieves"? (as Allen expressed it). What of the Inquisitions? What of Alva?<sup>4</sup>

<sup>1</sup> Addis and Arnold, *Cath. Dict.*, 265.

<sup>2</sup> Rev. J. H. Pollen, S. J., *Eng. Caths. in Reign of Eliz.* (London, 1920), p. 195.

<sup>3</sup> It is sometimes argued (for example, in *The Universe*, November 30, 1928, p. 11) by Roman Catholics that Pope Pius V's Bull deposing Elizabeth was suspended by Gregory XIII. The fact is, he declared that "it always obliges her [Elizabeth] and the heretics; as for the Catholics, it obliges them in no way, while affairs stand as they do; but will only do so in the future, when the public execution of the Bull can be made" (Pollen, *Eng. Caths.*, 293-4). In short, Elizabeth remained deposed, but Roman Catholics could pretend to be loyal until treason was likely to succeed!

<sup>4</sup> Pope Pius V urged Alva to invade England; but Alva knew better! (Pollen, p. 144.)

However, the penal laws were tragic, and in course of time came the question of their repeal. As we have seen, by the end of the eighteenth century the Roman Catholics of England had become negligible in numbers. In Ireland, however, they formed the majority of the people. By the end of the eighteenth century the time was ripe for the repeal of the penal laws. In England, not only were Roman Catholics few in number, but also they were divided in opinion, the aristocratic laymen tending to minimise Papal power. Those laymen tried in every way to conciliate the English Government. They were willing to allow the State to have a right of veto on the selection of individuals for Roman Catholic bishoprics. They were ready to pledge themselves to support the Established Church as a national institution.<sup>1</sup> By the Relief Act of 1791 many penal laws were removed; but Roman Catholics still remained legally excluded from the public life of the country.

The full emancipation was brought about by the agitation initiated by a few *laymen* (the Irish Roman Catholic bishops, scared by the French Revolution, were timid of all agitation), and forced to a conclusion by the "legal illegality" of Daniel O'Connell's "Catholic Association."

O'Connell based his demands on the rights of liberty of conscience. In fact, Roman Catholic Emancipation was really a logical development of the Protestant principle of that liberty, triumphing over vested interests. True, the Duke of Wellington supported Emancipation in 1829 only as the alternative to civil war. None the less, logic is logic, and the logic of the British and Protestant principles of liberty and private judgment must eventually be adverse to penal laws in matters of religion. Only in stress of deadly struggle can they be justified; and the aim must be towards toleration and freedom. Daniel O'Connell, in fact, appealed to a *Protestant* principle when he demanded Emancipation in the name of "universal liberty." That is not a *Roman Catholic* principle: for, even so recently as in 1888, Pope Leo XIII declared: <sup>2</sup> "Justice itself forbids, and reason forbids, the State to be godless, or to adopt a line of action tending to godlessness: namely, to treat the various religions (so-called) alike, and to bestow upon them equal rights and privileges. Since, then, the profession of one religion is necessary to the State, that religion must be professed which alone is true" (i.e., Roman Catholicism). And: "Although, in the extraordinary condition of these times, the Church usually acquiesces in certain modern liberties, she does so not because she prefers them in themselves, but as deeming it expedient to permit them until, in happier times, she can exercise her own liberty."

Roman Catholics, in short, in celebrating the centenary of their emancipation, are celebrating a development (however gradually

<sup>1</sup> See the R.C. Bishop Ward's *Dawn of the Catholic Revival* (1909), for details of this "minimisation."

<sup>2</sup> Encyclical *Libertas Præstantissimum Donum*; see English translation in *The Pope and the People: Select Letters of Leo XIII* (London, Catholic Truth Society, 1913), pp. 117-18, 125.

realized) of the logic of the Reformation. The long centuries of intolerance made the full realization of the rights of freedom of conscience a slow and difficult process ; but nevertheless it was always implied in the logic of Protestantism, whereas, on the other hand, on Papal principles the only thing essentially wrong about the penal laws was that they were enacted *against*, and not *by*, Roman Catholics : and the Roman Church still holds to the principle of such laws if directed (when "expedient") against heretics. In celebrating their emancipation, would it not be good for our Roman Catholic fellow-citizens to aspire for a time when their own Church will abandon principles of (not merely *dogmatic*, but—as an ideal at least—even *State*) intolerance ?

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The Islington Conference held last January dealt with a subject of supreme interest to Churchpeople at the present time. Under the title "The Spirit and the Churches" the Conference considered the movement towards reunion and the needs of the Mission Field. The divisions of the subject at the morning session were "Jerusalem 1928 and Edinburgh 1910," "Jerusalem 1928 and Lambeth 1920," and "Jerusalem 1928 and Lausanne 1927." These were in the competent hands respectively of the Rev. E. F. E. Wigram, the Rev. C. H. Boughton and the Rev. T. J. Pulvertaft. At the afternoon session the subjects were "The Holy Catholic Church," which was ably treated by Archdeacon Thorpe ; Episcopacy, on which the Rev. G. T. Manley wrote with his usual ability ; and "Intercommunion," which was in the hands of the Rev. J. P. Thornton-Duesbery. The closing paper, on "The Basis of Holy Scripture," was given by the Rev. S. M. Warner. This valuable series of papers, together with the Presidential Address by Prebendary H. W. Hinde, has been issued by Messrs. Chas. J. Thynne & Jarvis, Ltd., at the small cost of 1s. Many of our readers will no doubt desire to have these papers in this permanent form.

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Mr. J. Ellis Barker has made cancer a subject of special study, and has already published the results in a number of volumes dealing with health questions. He now adds a further study : *Cancer, the Surgeon and the Researcher* (John Murray, 7s. 6d. net). As cancer is becoming the great human scourge, any help to its alleviation is welcome. Sir Arbuthnot Lane warmly commends Mr. Barker's work.