5

James II and the Three Questions

Religious Toleration and the
Landed Classes, 1687–1688

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Series Editor's Introduction:
The English Confessional State and the Continuity
of anti-Catholicism in English History

We have come a long way since the religious intolerance of the seventeenth century, although the journey has been slower and harder than we might think, so it is perhaps appropriate to explore what underpinned men's attitudes towards tolerance in the early modern period.

Invariably, men and women were guided by the Bible. The parable of the wheat and tares from Matthew 13, is the proof passage for religious liberty in the sixteenth century – though quite what sort of religious liberty the avant-garde was proposing varied a good deal. As Roland Bainton expressed it over seventy years ago, 'some stress[ed] the rationalistic argument: we do not know enough to separate the tares [or weeds] from the wheat. Others emphasize[d] the eschatological approach: we can afford to be patient because God will burn the tares [or weeds] at the harvest. Others again ma[d]e a legalistic appeal: Christ has commanded us to leave the [weeds] alone.'[1]

In contrast, the religious justification for an emphasis on Christian uniformity could be found in a number of proof texts, most notably Luke chapter 14, which at verse 23 in the Latin Vulgate has the phrase *compelle intrare*, 'compel them to enter'. The master of the house who gives a great supper, like the shepherd who goes in search of the sheep in Matthew chapter 18, can use compelling force to control other people as one controls inert objects, because both have the power to do so and consider that their cause

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1   R. H. Bainton, 'The Parable of the Tares as the Proof Text for Religious Liberty to the end of the sixteenth century', *Church History*, 1/2 (1932), 67–89 at 67.

is just. These texts are of fundamental importance to the coercive mentality, inasmuch as it is the founder of Christianity who seems to authorize what St Augustine called a 'just persecution' (*justa persecutio*) against the wicked. These texts were considered to justify, for example, Charles V's and Philip II's persecution of the Protestants in the Netherlands and the forced conversion of the Amerindians in the New World.[2]

Two contrasting proof texts, therefore: one suggesting a greater degree of tolerance towards heresy, the other the reverse. The usual picture of the rise of religious toleration in Europe is that the 'tolerationalists' were the modernists and had history on their side – by the end of the seventeenth century, with John Locke in England and the Frenchman Pierre Bayle (in exile in the Netherlands)[3] we have prominent theorists of toleration, and their ideas are supposed to have become the norm in the Enlightenment. An alternative argument which may be suggested is that even among the advocates of toleration, the main exception being Pierre Bayle, the limits of those who were to be tolerated were narrowly circumscribed. And in high office there were very few such advocates.

We find, in France in 1562, on the edge of what would end up as thirty-six years of religious warfare off and on, Chancellor Michel de l'Hospital making the case that Protestant 'heretics' who, as the Catholic Church argued, were outside the Church and therefore incapable of attaining salvation, were nevertheless Christians. Yet Michel de l'Hospital, the most highly placed in government of any of the sixteenth-century protagonists of provisional toleration, only regarded toleration of heresy as a last resort to keep the public peace. The religious ideal, even for him, was religious unity within a unified body politic – it was just that he was prepared to

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2   Dominique de Courcelles, 'The Development of *Jus Gentium* by the Theologians of Salamanca in the Sixteenth Century', *Philosophy and Rhetoric*, 38/1 (2005) 1–15 at 3.

3   Bayle wrote a discourse on *compelle intrare*: Pierre Bayle, *A Philosophical Commentary on These Words of the Gospel, Luke 14.23, 'Compel Them to Come In, That My House May Be Full'* (1686). Online Library of Liberty: <http://oll.libertyfund. org/?option=com_staticxt&staticfile=show.php%3Ftitle=163&chapter=60086& layout=html&Itemid=27>

wait quite a long time for the restoration of religious unity. It was only if and when people genuinely turned to God in humility and penitence that a true and lasting peace would be restored. His was a religious, and not a political vision: and it should be remembered that although de l'Hospital remained Chancellor in France until his death in 1573, he was in political disgrace from 1568.[4] His period of royal favour was short. The proponents of force won the argument in France, at least until the 1590s.

There was no equivalent in England to the highly placed Michel de l'Hospital. Under Mary Tudor, as every schoolchild used to know, there was a fierce Catholic response to the introduction of the Protestant Reformation under Edward VI. In people's minds, the Marian 'reaction' – the execution of some 284 Protestants (according to John Foxe in his *Booke of Martyrs*), 67 in Kent alone according to Patrick Collinson in a recent study, the highest figure outside London – was perceived to be a consequence of Catholic and Spanish control. In Foxe's judgement, 'the fire which consumed the martyrs has undermined the popedom' – the Marian persecution, in his view, was distinctly counter-productive to the Catholic cause. The recent study by Eamon Duffy has suggested rather the reverse: Cardinal Reginald Pole, who inspired and directed the Counter-Reformation in England, favoured preaching and conversion over outright persecution. Had the queen lived longer and produced an heir, and had Pole himself exercised his position as papal legate and then archbishop of Canterbury for longer, then the old religion might have made a full comeback.[5] Nevertheless

4   The outstanding study is by Loris Petris, *La Plume et la Tribune: Michel de L'Hospital et ses discours (1559–1562)* (Geneva: Droz, Travaux d'Humanisme et Renaissance CCCLX, 2002).

5   Eamon Duffy, *Fires of Faith: Catholic England under Mary Tudor* (New Haven and London: Yale University Press, 2009), ix, 129, esp. 187: 'it was the wholly unexpected double demise of cardinal as well as Queen, and not any gradual loss of direction or waning of determination, that halted the Marian project, and the Marian burnings, in their tracks.' Diane Purkiss writes: 'Duffy mines some neglected sources, but the problem he faces is that our sole source for most of the events is John Foxe's *Acts and Monuments*. Foxe is as reliable as a history of the war in Afghanistan commissioned by the Taliban.' <http://www.independent.co.uk/arts-entertainment/books/reviews/fires-of-faith-by-eamon-duffy-1708380.html>

the images of Archbishop Cranmer in London and bishops Latimer and Ridley in Oxford accepting their fate and suffering martyrdom rather than recanting the new faith, were not lightly to be forgotten. Foxe's martyrology was carefully compiled and projected to ensure indeed that they were not.[6] Whereas Edward and Elizabeth imprisoned the Catholic bishops they inherited, Mary executed the Protestant bishops who would not abjure;[7] and her regime demanded a far higher level of inward and outward conformity from her subjects than Elizabeth's.

The repeal of the heresy laws and a mere half-dozen executions for heresy in a reign of 45 years might make many (including some moderate Catholics) feel that the reign of the Protestant Elizabeth was preferable. Elizabeth was unusual in that, instead of executions, she was content for the most part to use fines (via the operation of the recusancy laws) against Catholics who failed to attend their parish service on a Sunday or a holy day. She would not countenance compulsory Catholic attendance at the Anglican Communion service, and it was said of her by Sir Francis Bacon that she would 'open no window into men's souls'.[8]

Yet there are severe limits to what might be seen as a more tolerant regime under Elizabeth I. England was not securely a Protestant country

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6   <http://www.shef.ac.uk/hri/projects/projectpages/foxeintro.html> and <http://www.hrionline.ac.uk/johnfoxe/main/1_1563_0001.jsp>

7   Diane Purkiss writes: 'Cranmer had issued six recantations of his heresy, each more abject than the one before, but still stood condemned. As the sermon was preached before his pyre, he was supposed to issue yet another. Instead, he recanted his recantations, announcing that the Pope was the Antichrist and that he intended to put his hand into the flames to punish himself for recantation. This was a cruel mistake, prompted by Mary's wish to destroy the man who had made the life of her mother, Catherine of Aragon, miserable.' Even Duffy concedes that Cranmer's execution was one of Mary's greatest mistakes (*Fires of Faith*, 81–2).

8   J. E. Neale, *Elizabeth and Her Parliaments* (London, 1957), i. 42. *Yale Law Journal* 68 (1959), 1732. It was in fact Sir Francis Bacon who said: 'Her Majesty, not liking to make windows into men's hearts and secret thoughts, except the abundance of them did overflow into overt and express acts or affirmations, tempered her law so as it restraineth only manifest disobedience ...' (J. Spedding et al. (ed.), *The Life and Letters of Francis Bacon* (7 vols; London, 1861–74), i. 43).

at the time, with the result that an Act of Uniformity was passed by the new regime in 1559 with the aim of extirpating Catholicism. The state, Lord Burghley observed, 'could never be in safety where there was toleration of two religions. For there is no enmity so great as that for religion, and they that differ in the service of God can never agree in the service of their country.'[9]

Before the Armada, there were four plots of varying significance against Elizabeth, each of which envisaged her assassination, the assumption of power by Mary Stuart, the deposed (Catholic) queen of Scotland, and the restoration of Catholicism. On 30 November 1569, the rebel earls of the north occupied Durham and had the Catholic Mass sung in the cathedral. Mary Stuart's implication in the Babington Plot finally led to her execution on 8 February 1587.

If Elizabeth was less than keen on overt persecution, the insecurity of her regime meant that the forcible restoration of Catholicism was a real possibility and that capital punishment for treason – especially against Catholic priests – was frequently implemented. Twenty-one Catholic priests were executed in the Armada year, and a further 53 between 1590 and 1603. Catholic priests, the government surmised, were needed if the Catholic Mass was to be reintroduced. Executing Catholic priests for treason is not so different from burning Protestants for heresy, except that the policy seeks to prevent the victim from becoming a martyr for the cause. The number of executions under Elizabeth was lower than under Mary Tudor, however. Even so, historical justice requires an acknowledgement of the fate of the English Catholic martyrs – though it was not until 1987, during the pontificate of John Paul II that the record was set straight and beatification took place for the 85 martyrs of Protestant persecution between 1535 and 1680 (see Appendix, p. xxv).

The slender measure of support for the conspiracies against Elizabeth demonstrates that the majority of English Catholics were loyal to the Crown even when the queen was a heretic – but their lives were made very difficult

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9   John Coffey, *Persecution and Toleration in Protestant England, 1558–1689* (Harlow: Pearson Education, 2000), 83.

by the intrusion of the papacy into English political affairs after 1570. Pope Pius V declared Elizabeth I a heretic in that year, when he released her subjects from allegiance to her and excommunicated those who obeyed her orders. Gregory XIII issued a clarification in 1580 that her subjects could obey her in civil matters but only until such time as a favourable opportunity permitted her deposition.

Then, in 1588, in the aftermath of the execution of Mary Stuart, Pope Sixtus V revoked Gregory XIII's temporary licence to be loyal, adding the crime of regicide to the list of the many offences that Elizabeth had already committed. More than this, he specifically endorsed Philip II's Armada plan and the proposed invasion of England by forces from the Spanish Netherlands under the command of the Duke of Parma, all this 'for the restitution and continuance of the Catholic religion and punishment of the usurper and her adherents'. In the language of the twenty-first century, the brief of Pope Sixtus V (or Cardinal William Allen, who probably drafted it) specifically endorsed 'regime change' in England.[10]

This intervention was ultimately disastrous for English Catholics. A century later, it enabled Pierre Jurieu, a French Huguenot exile, to argue that Protestant rulers 'cannot be assured of the fidelity of their Catholic subjects, by reason they have taken oaths of fidelity to another Prince, whom they consider as greater than all Kings. It is the Pope; and this Prince is a sworn Enemy of the Protestants. He obliges the People to believe that a Sovereign turned Heretic has forfeited all the Rights of Sovereignty; that they owe him no Obedience; [and] that they may with impunity revolt against him ...'[11] For the English Protestant divine Richard Baxter, the argument against Catholics was political, not religious, 'it being not possible that a Man should be true to the Protestants' principles, and not be loyal; as it was impossible to be true to the Papists' principles and to be

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10   A. F. Pollard, Review of Arnold Oskar Meyer, *England und die katholische Kirche unter Elisabeth und den Stuarts* (Rome: Loescher, 1911), in *English Historical Review*, 27/105 (1912), 159–161 at 161. <http://recherche.univ-montp3.fr/mambo/CERRA/ MEMED/1Sixtus5Eliz.html>

11   Pierre Jurieu, *The Policy of the Clergy of France to destroy the Protestants of that Kingdom ... in a Dialogue between two Papists ...* (London, 1681), 109.

loyal'. For Baxter, Popery was 'an error in politics'.[12] It was one of the arguments which James VI of Scotland, the future James I of England, sought to counter in *The True Law of Free Monarchies* of 1598, his principal adversaries being the English Jesuit Robert Parsons and the Scots Presbyterian George Buchanan.[13]

Because we know that, in the event, Elizabeth I survived assassination, the Armada was unable to land either in 1588 or in 1596–7, no regime change occurred, and Elizabeth and her advisers were able to arrange the succession for the Protestant James I, it does not mean that the threat of a forcible restoration of Catholicism should not be taken seriously by us any less than it was at the time.

Even after the defeat of the Armada in 1588, there remained plenty of dangers for the ageing Elizabeth and her inexperienced Scots successor to avert – the second threatened Spanish Armada of 1596–7 for one, Tyrone's Catholic rebellion in Ireland which lasted nine years (1594–1603) for another, and of course that event in 1605 which is still commemorated on Bonfire Night every 5 November, the Gunpowder Plot.

And yet, miraculously it seemed to some, the invasion of the Spaniards and the restoration of Catholicism were averted. For Protestant contemporaries it seemed to mean that God was truly on their side, indeed that God was an Englishman; the phrase on the coin struck to commemorate the miraculous escape from the Armada stated in Latin: 'God breathed and they [that is, the Spanish galleons] were scattered.'[14] A stout Puritan in Elizabeth I's Parliament, Job Throckmorton, recalled in February 1587 that a servant of the French king Charles IX, when travelling through England, had observed on hearing the news that Edinburgh castle had fallen to the

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12   William Lamont, 'False Witnesses? The English Civil War and English Ecumenism', in Richard Bonney and D. J. B. Trim (eds), *The Development of Pluralism in Modern Britain and France* (Oxford & Bern: Peter Lang, 2007), 100.

13   Peter Lake, 'The King (the Queen) and the Jesuit: James Stuart's *True Law of Free Monarchies* in Context/s', *Transactions of the Royal Historical Society*, 14 (2004), 243–60 at 258.

14   Colin Martin and Geoffrey Parker, *The Spanish Armada* (London: Hamish Hamilton, 1988), 14.

opponents of Mary Queen of Scots: 'I think God be sworn English: there is nothing will prosper against the Queen of England.' Throckmorton continued: 'we that have lived with blessings of God beyond desert' – one of which, in his view, was the execution of Mary Queen of Scots – '... confess indeed the Lord hath vowed himself to be English.'[15]

In 1644, Milton wrote: 'Why else was this nation chosen before any other, [than] that out of her, as out of Zion, should be proclaimed and sounded forth the first tidings and trumpet to all Europe? ... what does he [do] then but reveal himself to his servants, and his manner is, first to his Englishmen?'[16]

Yet events in the seventeenth century served only to confirm and strengthen Protestant fears of a Catholic invasion and forcible restoration of the old faith. We see similar fears to those of 1588 in the years after 1639 when it was rumoured that Charles I, advised by the Duke of Hamilton, had commissioned Antrim to raise an Irish army to invade western Scotland in an attempt to defeat the Scottish Covenanter army.[17] When the Irish Catholics rebelled in October 1641,[18] it was with the king's name on their lips. It has long been, and is still being, debated whether Charles I really had 'commissioned' Antrim's rebellion against his Protestant opponents in England and Scotland. But there were enough Puritans in England who believed that he had done so to justify defensive action, which unleashed

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15   My thanks to Dr Terry Hartley for drawing my attention to this passage. T. E. Hartley (ed.), *Proceedings in the Parliaments of Elizabeth I, vol. 2, 1584–1589* (Leicester: Leicester University Press, 1995), 283; Hartley, *Elizabeth's Parliaments. Queen, Lords and Commons, 1559–1601* (Manchester: Manchester University Press, 1992), 44.

16   Krishnan Kumar, *The Making of English National Identity* (Cambridge: Cambridge University Press, 2003), 107.

17   Mark Charles Fissel, *The Bishops' Wars. Charles I's Campaigns against Scotland, 1638–1640* (Cambridge: Cambridge University Press, 1994), 170.

18   The 31 handwritten volumes of testimony concerning the rebellion were hugely significant in terms of generating anti-Catholic sentiment in England, justifying Cromwell's massacres at Drogheda and Wexford and poisoning Anglo–Irish relations for centuries to come. See now the 1641 Depositions online project: <http://1641. eneclann.ie/usingthedepositions.php>

the Civil War in 1642.[19] For both Richard Baxter and Oliver Cromwell, the Civil War was about self-preservation. The Irish rebellion, for both men, explained and justified the Civil War which followed. And it was the atrocities of the Irish rebellion of 1641 which, in Cromwell's mind, justified the notorious settling of accounts in his Irish campaigns in 1649–52.

The death or exile of about fifteen to twenty per cent of the Irish population left an understandable and lasting legacy of hatred of the English in the Irish Catholic mindset. For Catholics, for whom uniquely in the England of the 1650s there was no toleration – at a time when Cromwell allowed a bewildering variety of sectarians to practise their faith and even brought back the Jews to England in 1656 (they had been expelled in 1290) – it made no difference whether the objection was political or religious. English Catholics might be left in peace, but only if they did not openly practise their faith. Worse was to happen to them with the Corporation Act of 1661 and the Test Acts of 1673 and 1678. Even the Great Fire of London of 1666 was blamed on the Catholics. Except for a brief period under James II, the inscription on the monument to the fire ascribing it to 'Popish frenzy' was not removed until 1831. The year 1679 saw more executions of Catholic priests than any other apart from the Armada year of 1588, in what was virtually the last, but also the second most intensive, bout of anti-Catholic violence. Andrew Marvell's *Account of the Growth of Popery and Arbitrary Power*, published in 1677, alleged that for many years there had been 'a design ... to change the lawful government of England into an absolute tyranny' and to 'convert the established Protestant religion into downright Popery', thus introducing 'French slavery and Roman idolatry'.[20]

And yet, all may not have been quite as disastrous for the English Catholics as the previous litany suggests. Pierre Jurieu, an exiled French Protestant pastor, dedicated to Charles II in 1681, at the time of the Oxford

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19   William Lamont, 'Richard Baxter, "Popery" and the Origins of the English Civil War', *History*, 87/287 (2002), 336–51 at 347, 351; 'False Witnesses?', 97, 105.

20   John Marshall, *John Locke, Toleration and Early Enlightenment Culture: Religious Intolerance and Arguments for Religious Toleration in Early Modern and 'Early Enlightenment' Europe* (Cambridge: Cambridge University Press, 2006), 29–30.

Parliament, a long memorandum on the fate of the Huguenots in France. In this, he has a Protestant gentleman remonstrate with a Catholic thus about the situation in England:[21]

> At London there are five and twenty Houses, without counting those of the Ambassadors of the Catholic Princes, wherein Mass is publicly said, without any search ever being made; ... the truth is, the liberty is not so great in the country[side]; but that all gentlemen had their almoners and priests in their houses, and ... all the Catholics went thither to Mass ...

Charles II was a closet Catholic, who according to the terms of the secret treaty of Dover of 1670 with Louis XIV was to declare himself a Catholic in return for a substantial cash reward – but at a date that was left unspecified because the French were aware of the extreme sensitivity of the issue in England. On his deathbed, Charles II received the last rites according to the Catholic tradition.[22] His younger brother and heir presumptive, James Duke of York was a Catholic from 1669,[23] openly practising his faith from 1673, although still attending Anglican services until 1676.

It was James's determination as king after 1685 to repeal the Test Acts and penal laws – and put his co-religionists on an equal footing with their Protestant neighbours – that destroyed the goodwill of his subjects, raising the spectre of Catholic domination and subservience to Rome, although events beyond his control, such as the Revocation of the Edict of Nantes by Louis XIV in France and the subsequent intensification of the persecution of the Huguenots, did not help his cause. Yet ironically, it was James

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21   Jurieu, *The Policy of the Clergy of France to destroy the Protestants of that Kingdom ... in a Dialogue between two Papists ...*, 107.

22   Clyde L. Grose, 'The Religion of Restoration England', *Church History*, 6/3 (1937), 223–32 at 229–30.

23   W. A. Speck, *James II* (Harlow: Pearson, 2000), 24–5. The influence on him of his life-long friend, Turenne, who converted on 23 October 1668, is almost certain (they had been companions in arms in 1652–5). They shared similar views about the excessively fissiparous tendencies of Protestantism: Susan Rosa, '"Il était possible que cette conversion fût sincère": Turenne's conversion in context', *French Historical Studies*, 18/3 (1994), 632–66 at 650 note 47. It is likely that James had been influenced by the religiosity of the officer corps in the French army.

II's canvass of the views of the gentry on the question of repeal that, as Dr Peter Walker shows in the study which follows, revealed a change in attitude, however slight, towards toleration – and revealed the more nuanced attitude of the Anglican gentry towards Catholicism.

The Three Questions put to the overwhelmingly Tory gentry in the winter of 1687–8 also showed that most Englishmen were opposed to religious toleration, if it meant a change in the law and especially a diminution of the constitutional status of the Church of England. Many also suspected, perhaps unfairly, that the king's real objective was to establish a Catholic absolutism on the model of Louis XIV's France. However, most striking were the answers to the Third Question: only half a dozen gentlemen (out of more than 1230 surviving answers) felt unable to endorse the general concept of religious tolerance. Although such positive responses have to be read in the light of the fact that, throughout the seventeenth century, persecution of religious minorities, both Catholics and Protestant Dissenters, was in proportion to their perceived political threat to the state, many of the answers went beyond the commonplace and pious notion that the private individual conscience should not be forced – even in a confessional state. The canvass also revealed those situations where tolerance survived in the teeth of the prevailing intolerance of the age.

Given time, a more flexible and patient man than James II might have been able to nurture these 'green shoots' of tolerance into something more permanent. But having alienated the vast majority of the political classes – and having belatedly and unexpectedly fathered an heir, which meant that his policies might not, after all, end with his death (as many of his subjects devoutly wished) – he found himself bereft of support when his ambitious nephew, the Protestant William of Orange, invaded the kingdom in November 1688. And with the king's subsequent exile, any hope of full toleration for Catholics was postponed for another 140 years.[24]

24 For all that precedes this on James II and the Three Questions, the editor is indebted to the comments supplied by Dr Peter Walker and his reading of earlier versions of the book which follows.

And thus England had its last, and supposedly Glorious, revolution which led, as part of the constitutional settlement, to the Toleration Act of 1689 – toleration for virtually everyone, that is, except for Catholics. Bonfire Night, 5 November, became an even more important popular commemoration in England because it came to be associated with William of Orange's landing at Torbay on 4 November. 'The spirit of 1641, and even the prospect of new massacres, had resurfaced in the 1680s. Only William III had saved the Protestants' – or so it seemed to fervent supporters of the Protestant re-establishment in England and Ireland in the years 1688–90.[25]

Even the tolerant John Locke shared the fear of French and Irish Catholic troops conquering England[26] had not William III's composite army (including Dutch Catholics and some Irish Catholics) triumphed at the Battle of the Boyne on 11 July 1690 (NS), commemorated incorrectly on 12 July by Protestants as the 'glorious 12th'. (An important, though not generally recognized point is that Pope Innocent XI, who died in 1689, had backed the League of Augsburg against France, as had his successor Alexander VIII, who held a *Te Deum* for William III's victory at the Boyne! This is not the same, however, as asserting that the papacy financed the Orangist invasion, an inaccurate claim made in the recent historical novel *Imprimatur*.)[27]

The anti-French turn in papal policy was short-lived, however, and a *rapprochement* in 1693 meant that successive popes returned to a more traditional stance of supporting the Jacobite candidate for the English

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25   T. C. Barnard, 'The uses of 23 October 1641 and Irish Protestant Celebrations', *English Historical Review*, 106/421 (1991), 889–920 at 895.

26   Marshall, *John Locke, Toleration and Early Enlightenment Culture*, 687.

27   The loan from Benedetto Odescalchi before he was elected Pope Innocent XI was made in 1672 and would have been expended long before the Glorious Revolution. Peter Popham, 'Did Pope finance the Protestant invasion of England by King Billy?', *Belfast Telegraph* and *The Independent* (13 May 2008): <http://www.independent.co.uk/news/europe/a-papal-mystery-827008.html> <http://www.belfasttelegraph.co.uk/news/world-news/article3698440.ece> The source is a historical novel by Rita Monaldi and Francesco Sorti, entitled *Imprimatur*. But the loan of 150,000 *scudi* was made in 1672, not 1688: <http://www.thefirstpost.co.uk/people,789,authors-claim-vatican-censorship-of-novel,22505>

throne as the true candidate because of his commitment to Catholicism. Both James II and the Old Pretender recognized that concessions would have to be made to the Protestant establishment if they were to recover the throne.[28] Such concessions were distrusted by the English political elite. Even before the Glorious Revolution, Gilbert Burnet compared James II's promises to those of Louis XIV towards the Huguenots, which had all been nullified at a stroke in 1685 with the Revocation of the Edict of Nantes. After the Glorious Revolution, Sir Richard Temple observed, 'we

28   In James II's exile, two groups of his supporters, compounders and non-compound-ers – those who favoured an accommodation with James's Anglican supporters in England and those who did not – vied for the king's ear. James issued two declara-tions in 1692 and 1693. The first (the influence of the non-compounders can clearly be seen here) was uncompromising and merely offered limited amnesty, protection for the rights of the Church of England and freedom of conscience). The French, incidentally, felt this did not go far enough. The second (heavily influenced by James's secretary of state, Lord Middleton – a Protestant at the time) was more moderate. In it, James offered a pardon to all those who did not oppose his restoration and promised a free Parliament, which would address grievances, provide for regular Parliaments and regulate the dispensing power. It also promised that James would protect and defend the Church of England, including its universities and schools, and would respect the Test Acts. The Restoration land settlement in Ireland would be re-established. In other words, he offered the safeguards the Tories had wanted in 1688. However, James's more extreme supporters – Catholics and the Irish – were unhappy (naturally) with this compromise and James himself had his doubts. He even sought the advice of Bossuet, who was able to reassure him that there was noth-ing in it that went against the conscience of a good Catholic. It appears that James still had misgivings (especially about the Test) which suggests some reluctance over the Protestant supremacy. Miller, *James II*, 237–8. The king's advice to his son can be found at the end of Clarke's *Life of James II* (1816), although Macaulay, as one would have expected, said that all the plum jobs would go to Catholics. Early in 1702, James III issued a set of Instructions (again influenced by Middleton), in which he promised never to attempt to change the 'legal rights, privileges and immunities of the Church of England' – i.e. no repeal of the Test and Corporation Acts – although he was explicitly opposed to any persecution of Dissenters and Catholics. My thanks to Dr Peter Walker for these points.

have found by experience that a Popish King is inconsistent with the government of a Protestant nation.'[29]

Virtually any candidate – even the Hanoverian – was regarded as acceptable provided he was a Protestant. The Act of Settlement of 1701 – controversially still on the statute books of this country – decided upon the inalienable Protestant character of the succession. The Act of Union of 1707 – which allows one for the first time to speak of the reality of 'Britain' – removed the weak Scots Parliament but left Scotland with its own law and its own Church. There might be political union; but there was no religious union, though in 1712 the British Parliament extended toleration to Scots Episcopalians. The Scots did not want Protestant religious pluralism so much as the maintenance of Presbyterian supremacy.

It was against the Protestant succession and the Act of Union that the Jacobite rebellions of 1715 and 1745 were principally directed. The uprisings were greeted with an outpouring of anti-papal sermons from the Anglican clergy. Instead of concentrating on pro-Hanoverian arguments, which were likely to divide rather than unite in 1715, when (not for the last time) the Church of England was racked with division, the focus was entirely on the safe subject of the presumed link between Catholicism, absolute royal power, the intervention of the papacy and the suppression of religious freedom in England.[30] Only gradually – in 1748, with the loss of French support, and in 1766, with the loss of papal support on the death of the Old Pretender – was it possible to make distinctions in this linkage between support for Jacobitism and the presumed restoration of Catholicism in England as the dominant faith. It thus might seem surprising that Catholic emancipation was delayed by almost 60 years.

By the 1780s both Protestant Dissenters and Catholics had launched campaigns against the penal laws. The Catholic Committee presented its

29   Steven Pincus, '"To protect English liberties": the English nationalist revolution of 1688–1689', in Tony Claydon and Ian McBride (eds), *Protestantism and National Identity. Britain and Ireland, c.1650–c.1850* (Cambridge: Cambridge University Press, 1998), 84, 95.

30   Susannah Abbott, 'Clerical responses to the Jacobite rebellion in 1715', *Historical Research*, 76/193 (2003), 332–46.

case in 1782 to the three 'friends of universal toleration', Charles James Fox, the Marquis of Rockingham and Lord Shelburne. Fox told Charles Butler, the secretary of the Catholic Committee, that 'with a person's principle no government has any right to interfere' and repeated this formula before Parliament in 1789 and again the following year. In 1792, he argued that 'the most dangerous periods, the reigns of Elizabeth and James, did not justify even one of the penal statutes that existed. If such times, therefore, did not justify them then, what arguments could be used for their existence now?' But by the following year Britain was at war with France, and Ireland's loyalty was once more suspect.[31] In the last resort, although the cause of Catholic Emancipation unified the Whigs after the death of Fox in 1806, the stumbling block remained Ireland; and uncertainties surrounding Ireland delayed Catholic Emancipation until there was no longer any choice.

Not only was Catholic emancipation delayed until 1829; but in 1828–9 it was actively opposed by those who wished to maintain as sacrosanct the Protestant constitution of 1688. The Dissenters finally obtained, as far as they were concerned, the repeal of the Test and Corporation Acts in 1828. The Catholics were quick to build their own case upon this success, with Daniel O'Connell and the Catholic Association leading the way. But so, too, did their opponents and the number of petitions to Parliament organized by the Brunswick Constitutional Clubs against Catholic Emancipation greatly exceeded those in favour of it: by 2169 petitions to 1001, according to the figures of R. A. Schweitzer. (There were more petitions on other subjects, some 1118, than there were in favour of Catholic emancipation.)[32]

The English political establishment bowed to *force majeure* organized by Daniel O'Connell in granting the Catholic Emancipation Act of 1829 (10 Geo. IV., c. 7). This allowed Roman Catholics to sit in parliament, taking, instead of the oaths of allegiance, supremacy and abjuration, a single

31 Fox is quoted in John E. Drabble, 'Mary's Protestant Martyrs and Elizabeth's Catholic Traitors in the Age of Catholic Emancipation', *Church History*, 51 (1982), 172–85 at 173.

32 <deepblue.lib.umich.edu/dspace/bitstream/2027.42/50994/1/220.pdf>

modified oath containing the substance of them expressed in a milder form. The Catholic member of Parliament (Daniel O'Connell) was required, instead of detesting and abhorring the 'damnable doctrine and position', to 'renounce, reject and abjure the opinion' that excommunicated princes might be deposed or murdered; and to disclaim the belief that the pope of Rome or any other foreign prince had or ought to have any temporal or civil jurisdiction within the realm.[33] Suffice it to say that the act of 1829 was only the beginning, not the end, of the story of true Catholic emancipation and that anti-Catholicism remained the norm in British politics at least until the 1860s,[34] while it was another century before popular bigotry was moderated except, that is, in Northern Ireland.

In his book *The Making of English National Identity*, Krishnan Kumar notes 'the unifying force of religion in the face of threats from outside'. 'It is with religion as with war', he observes.

> Distinctions that on other occasions lead people to oppose each other pale by comparison with the greater differences displayed by the enemy – 'the Other', to use the fashionable term ... It is in this perspective that we should judge the contribution of Protestantism to British identity in the eighteenth and for much of the nineteenth centuries. The essential common feature of Protestantism, the thing that gave it its unifying power, was its anti-Catholicism ... Memories and myths of the defeat of the Spanish Armada, elaborated in numerous popular texts and prints in the seventeenth and eighteenth centuries, supplied one ingredient of the potent anti-Catholic creed.[35]

However we seek to view our national past, there are aspects of it with which it is very difficult to feel other than a deep sense of shame. Nowadays we tend to think of ourselves on mainland Britain as being somehow progressive and tolerant, leaving Northern Ireland with an unenviable reputation of being backward and intolerant – at least until the Good Friday peace agreement and its aftermath.

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33   <http://www.econlib.org/library/ypdbooks/lalor/llCy772.html>
34   Kumar, *The Making of English National Identity*, 164.
35   Ibid. 161–2.

This is a convenient myth. For most of the period between 1588 and 1829, and arguably until relatively recent times, the English were every bit as intolerant as Ulstermen and women in the period of Stormont's ascendancy. Our politics was sectarian in character, not on the margins, but at its heart – because politics was dominated by a religious agenda inherited from the sixteenth century, that Catholicism was an 'error in politics'. A Catholic was politically unreliable because it was assumed that he or she owed allegiance to a foreign master – the pope at Rome; and the pope was inevitably the enemy of the Protestant establishment, occasional lapses caused by the vagaries of international politics notwithstanding.[36] There has been insufficient public acknowledgement of the 85 Catholic martyrs who refused to accept the implications of a Protestant ascendancy.

We need to rejoice in the enormous strides made in ecumenical understanding since Vatican II. What would be unfortunate, however, would be for us to forget the deeply regrettable anti-Catholic turn in English – and ultimately, British – politics that developed out of the Armada scare, and subsequent scares in 1596–7, 1641 and 1688 (leaving aside the manipulation of popular fears such as in the alleged Popish Plot of 1678–9 and the Gordon Riots of 1780).

There is a further, much broader, implication of the story of the long road towards attaining full civil rights for Catholics in this country. This is the implication for persons of other faiths in our society, and especially Muslims, because since 2001 especially they have felt increasingly under pressure and marginalized. The news might seem at first sight not very encouraging. If it took three centuries to enfranchise Catholics, without creating a genuinely tolerant society, how long will it take for Muslims to feel genuinely welcome in our society? And we need to remember that tolerance is never enough. Tolerance implies a favour granted in a spirit of condescension to a faith with which one disagrees. In origin, it is a pejorative term. Genuine religious freedom demands much more. It demands what, for a moment in 1562, Michel de l'Hospital advocated in France: a

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36   Mark Devenport, 'King Billy painting a "mixed blessing"', BBC News (18 Aug. 2006): <http://news.bbc.co.uk/1/hi/northern_ireland/5263210.stm>

civil society in which there is no clear preference between the religious choices available to citizens. Hardly surprisingly, French Catholic society was scandalized in 1562 at such a suggestion.[37] Rabaut de Saint-Etienne, the only Protestant delegate elected to the French National Assembly of 1789, advocated that the word 'toleration' should be proscribed as unjust: ideas such as tolerance and clemency, he argued, were 'supremely unjust for dissidents, for whom the difference of religion and the difference of opinion truly is not a crime ... Whoever professes [the contrary opinion] considers it as truth; to him it is truth ... and no man, no society has the right to prohibit him so to do.'[38]

Yet the story is more encouraging for Muslims and persons of other faiths in the United Kingdom than the history of anti-Catholicism might suggest. It is clear that, to all intents and purposes, the Act of Settlement of 1701 is a dead letter. It is still on the statute book, but only because no one knows quite what to put in its place. (In 2000, the *Guardian* questioned whether the Act of Settlement was compatible with the Human Rights Act,[39] while in 2007 Tory MP John Gummer tried to get it repealed by means of a 10-minute rule bill, but this failed; and in any case it was an inappropriate procedure for a constitutional amendment.)

The queen is Supreme Governor of the Church of England but again, in practical terms, her governorship has largely been devolved onto the archbishops' council. It is because it takes an active role in promoting a level playing field for other faiths in this country that the presence of bishops of the Church of England in the House of Lords is accepted as being in

37   Richard Bonney, 'The obstacles to pluralism in early modern France', in *The Adventure of Pluralism in Early Modern France*, ed. Keith Cameron, Mark Greengrass and Penny Roberts (Bern: Peter Lang, 2000), 217. Thierry Wanegffelen, *Ni Rome ni Genève. Des fidèles entre deux chaires en France au xvie siècle* (Paris: Honoré Champion, 1997), 215.

38   Brian E. Strayer, *Huguenots and Camisards as Aliens in France, 1598–1789. The Struggle for Religious Toleration* (Lewinston, NY: Edwin Mellen Press, 2001), 498. Walter C. Utt and Brian E. Strayer, *The Bellicose Dove. Claude Brousson and Protestant Resistance to Louis XIV, 1637–1698* (Brighton: Sussex Academic Press, 2003), 161.

39   <http://www.guardian.co.uk/uk/2000/dec/06/monarchy.guardianleaders>

the interest of the faiths and not just the Anglican tradition. Again, the fact that there is no agreement on how the system would be changed is the main reason why the position of the Church of England as the established church is accepted. But the Church hierarchy does not act against other faiths in the way that the Anglican hierarchy sought to act against Dissenters in the years between 1689 and 1828, before the repeal of the Test and Corporation Acts.

Some things therefore do change, although change is very slow. The important points, however, are equality before the law and equality in civil rights. In these respects, the other faiths have arrived and are truly part of society. There is, in practice, full religious freedom in the United Kingdom. It is something to be jealously guarded. It is not something which Catholics enjoyed for the best part of three centuries. But it will take longer for all the white citizens to learn that love for their neighbour extends to those of other faiths and different cultural traditions. It will be earned over time through improved mutual respect, strong community leadership and inter-cultural bridge-building efforts in the localities.

We are particularly pleased to welcome Dr Peter Walker's study into this series, because – although ultimately James II failed in his search for toleration for Catholics – it is important to document his unique attempt to canvass the views of the gentry, and to mobilize their support, in favour of religious change. Though not a religious census as such, it is the nearest that England came to such a thing before the census of 1851 and deserves the full treatment that Peter Walker's meticulous scholarship provides for it.

Appendix

The Catholic 'martyrs of England' are 85 men and women who died for the Catholic faith in the years between 1535 and 1680. They have officially been recognized as martyrs by the Roman Catholic Church and were beatified by Pope John Paul II on 22 November 1987. The vast majority were executed

under the treason laws, which were amended to make refusing to assent to the royal supremacy over the Church, or being (or harbouring) a Catholic priest, into treasonable offences. Those convicted were liable under the treason laws to be executed by a process of hanging, disembowelling while still alive, and the body then being hacked into quarters – and some of the martyrs were executed in this manner, although others were either hanged in the 'normal' way or beheaded. Sixty-eight executions took place between 1584 and 1601, and a further 25 between 1678 and 1681. More Catholic priests were executed in England during the scare of the Popish Plot in 1679 than in any other year apart from 1588, the year of the Armada.

On the background, see Patrick Barry, 'The penal laws. Understanding the era of the 85 martyrs' (*L'Osservatore Romano*, 30 Nov. 1987):http://www.ewtn.com/library/CHISTORY/PENALAWS.HTM