

judges, the Chancellor Sir Thomas More, was beheaded for denying that supremacy and maintaining the Pope's.

"In the year above mentioned, 1829, an act was passed and became law, which is familiarly known as the Catholic Emancipation Act. By this Catholics were freed from all obligation of swearing to, and consequently of acknowledging, the Royal ecclesiastical supremacy, and an oath of allegiance was framed peculiarly for them, which excluded all declaration of belief in that principle.

"A Catholic, therefore, before 1829, in the eye of the law, was a person who did not admit the Royal supremacy, and therefore was excluded from full enjoyment of civil privileges. A Catholic after 1829, and therefore in 1850, is a person who still continues not to admit the Royal supremacy, and nevertheless is admitted to full enjoyment of those privileges.

"The Royal supremacy is no more admitted by the Scotch Kirk, by Baptists, Methodists, Quakers, Independents, Presbyterians, Unitarians, and other dissenters, than by the Catholics. None of these recognize in the Queen any authority to interfere in their religious concerns, to appoint their ministers for them, or to mark the limits of the separate districts in which authority has to be exercised.

"None of these, any more than Catholics, recognize in the bishops appointed by our gracious Queen, in virtue of her supremacy, any authority to teach them or rule them. The real away, therefore, of this spiritual prerogative is confined to that body of Christians who voluntarily remain subject to the ecclesiastical establishment called the Church of England. Any one can, when he pleases, separate himself from this body, and from that moment he ceases to consider the bishop appointed by the Crown as his pastor, superior in spirituals, or master in faith.

"While the State reserves for that establishment, within the limits of which the Royal supremacy is strictly and fully exercised, all dignity, honour, pre-eminence, and endowment, it freely grants to all who choose to live out of its domination, as their equivalent, perfect toleration, complete freedom to practise their religion, whether new or old, according to its principles and to its perfect development, so long as the practice is within the bounds of law and trenches upon no other's rights.

"When, therefore, the Sovereign appoints a new bishop to see, the Catholic, and I suppose the dissenter, divides the act between two distinct powers. As Sovereign, and as dispenser of dignities, the King or Queen bestows on the person elected, dignity, rank, and wealth; he is made a Lord of Parliament, receives a designation and title, becomes seized of certain properties which entitle him to fines, rents, and fees. To all this they assent; they may protest, but they do not refuse the honours due to one whom the King is pleased to honour. The title is accorded, be it 'his Lordship' or 'his Grace'; his peerage is admitted, with all its consequent distinctions, and his fines and fees are paid as to any other landlord.

"But further, in virtue of the spiritual supremacy, the same Sovereign confers on that person spiritual and ecclesiastical jurisdiction; and this, in fact, is acknowledged only by those who are members of the Church of England. Thus, if, in virtue of this commission, the bishop publicly teaches or denies, as the case may be, the doctrine of baptismal regeneration, a Catholic no more heeds his teaching than he does that of a dissenting minister. If he comes into a town, and invites all to come and be confirmed by him on a given day, no Catholic takes more notice of the call than he does of the parish beadle's notices among which it is fastened on the church door. If he appoints a triennial visitation for correction of abuses and hearing of complaints, no Catholic troubles himself about his coming. And what the Catholic does in regard to these functions of an Anglican bishop, the Independent does just as much.

"It follows that a marked distinction exists between the authority possessed by a bishop and that of any other functionary named by the Queen's excellent Majesty. If she appoint an admiral, or commander-in-chief, or governor of a colony, or judge, every one is bound to obey that person in all that belongs specifically to his office, and any one would be punishable if he refused. But in regard to a bishop it is exactly the contrary. Precisely in those very matters which appertain to his office we are not bound to obey him. No one is obliged to seek doctrine from his teaching, sanctification from his ministrations, or grace from his blessing. This anomalous difference arises from the circumstance that the commission given to civil and military officers flows from the temporal sovereignty, which none may impugn; while that to the ecclesiastical functionaries proceeds from the spiritual jurisdiction, which may be, and is, lawfully denied.

"When a dissenter denies the Royal supremacy (always meaning by this term the spiritual or ecclesiastical jurisdiction attributed to the Crown), he substitutes, perhaps, for it some other authority in some synod or conference, or he admits of none other to take its place; but when the Catholic denies it, it is because he believes another and a true ecclesiastical and spiritual supremacy to reside in the Pope, or Bishop of Rome, over the entire Catholic church. With him the two acts resolve themselves into one—denial of the Royal supremacy and assertion of the Papal supremacy. And as it is perfectly lawful for him to deny the one, so it is equally lawful for him to assert the other. Hence Lord Chancellor Lyndhurst, in the House of Lords, May 11, 1846, spoke to the following effect:—

"He said, that it was no crime in the Roman Catholic to maintain and defend the supremacy of the Pope; but that if he did it for mischievous purposes, and circulating immoral doctrines and opinions, he was liable to punishment by the common law; but if he merely maintained and defended, as he was bound to do, the spiritual authority of his superior, and then he said that he was guilty of no offence against the laws of the country. The Right Rev. Prelate (the Bishop of Exeter) had asked his opinion and that of the learned judges as to the right of the Roman Catholics to maintain and defend the supremacy of the Pope in spiritual matters. He said that it was no offence at common law for them to do so; but, on the other hand, if any person improperly, wantonly, or seditiously called in question the supremacy of the Crown of England—and that, it was to be observed, included the temporal as well as the spiritual power of the Crown—if any, from any improper motive or purpose, or in any improper manner, questioned the

supremacy, then that person would be liable to a prosecution at the common law; and there could be no doubt, if the learned judges were consulted, they would so determine."

"In the present contest it is of great importance to keep these maxims in mind. For both in the papers, and still more in addresses, it is almost assumed that Catholics have now, for the first time, denied the authority of Anglican bishops, or impugned the spiritual supremacy of the Crown. The bishops and clergy are of course turning the crisis to their own best advantage, and associating their pretensions with the rights of the sovereign. They are endeavouring, and will endeavour, to regain that influence which they have lost over the hearts of the people, and think to replace, by one burst of fanaticism, the religious ascendancy which years have worn away. But this will not be permitted them by a people too much enlightened on the subject of religious toleration, as enjoyed in England, to be easily fooled out of the privileges which it possesses. The nation will watch with jealousy any attempt to curtail or to narrow them, even though Catholics be the victims. Believe me, at this moment, the danger to the religious and civil liberties of Englishmen is not from any infringement on them by the Pope, in granting to English Catholics what I hope to show you that they had full right to obtain from him, but from those who are taking advantage of the occurrence to go back a step if they can in the legislation of toleration, and taken away from a large body of Englishmen what at present is lawful to them in regard to the free exercise of their religion.

I proceed, therefore, to examine in
"I. WHAT WAS THE EXTENT OF RELIGIOUS TOLERATION GRANTED TO CATHOLICS? HAVE THEY A RIGHT TO POSSESS BISHOPS OR A HIERARCHY?"

"The Act of Catholic Emancipation was considered, not only by those whom it benefited, but by all who consented to it, as an act of justice rather than of favour. It was deemed unjust to exclude from fair participation in constitutional rights any Englishman on account of his religious opinions. By this act, therefore, preceded and followed by many others of lesser magnitude, the Catholics of the British empire were admitted to complete toleration—that is, were made as free as any other class of persons to profess and practice their religion in every respect. The law made a few exceptions, but the enumeration of these only served to prove that in every other respect but these the law recognized no restrictions. 'If the law,' observed Lord Lyndhurst, 'allowed the doctrines and discipline of the Roman Catholic Church it should be allowed to be carried on perfectly and properly.'"

"Hence to have told Catholics 'You have perfect religious liberty, but you shall not teach that the church cannot err; or, you have complete toleration, but you must not presume to believe holy orders to be a sacrament,' would have been nugatory and tyrannical.

"Now, holy orders require bishops to administer them, consequently a succession of bishops to keep up a succession of persons in orders.

"Hence the Catholic church is essentially episcopal; and to say, 'You Catholics shall have complete religious toleration, but you shall not have bishops among you to govern you,' would have been a complete contradiction in terms—it would have amounted to a total denial of religious toleration.

"When, therefore, emancipation was granted to Catholics, full power was given them to have an episcopate—that is, a body of bishops to rule them in communion with the Pope, the avowed head of their church.

"Now, government by bishops in the Catholic church may be of two kinds.

"First, the regular, ordinary, proper, and perfect form of episcopal government consists of a local hierarchy—that is, a body of bishops having their sees in the country with an archbishop similarly holding his see. Such is the episcopacy where constituted in its ordinary form.

"Secondly, where this proper form is not attainable, a temporary and less perfect mode of providing bishops for a country is adopted. The Pope names bishops to ancient sees situated now in infidel countries, as Turkey or Barbary, and gives them jurisdiction in the country to be provided for, as his own immediate vicars. Hence such bishops are called Vicars Apostolic.

"When emancipation or full religious freedom was granted to Catholics, it in this was included full liberty to be governed by bishops according to the constitution and ordinances of their own church, it follows that they were at perfect liberty to have it governed according to the regular and ordinary form of their constitution, as much as by the temporary and irregular; and that is, by a hierarchy of local bishops.

"To have said to Catholics, 'You are perfectly free to practise your religion and to have your own church government, but you shall not be free to have it in its proper and perfect form, but only in the imperfect form in which it has been tolerated while you had not liberty of conscience,' would have been a tyranny, and, in fact, a denial of that very liberty of conscience.

"But the fact is a simple and plain one, that the law did not say so, and did not put on any such restriction; and we are to be governed by law, and not by assertions. If the Catholics are at liberty by law to have bishops at all they are as much at liberty to have local bishops as to have vicars apostolic.

"Nay, more than this, the law plainly foresaw and provided for our having regular bishops one day instead of vicars.

"First, as Lord Lyndhurst, already quoted, has observed, 'if the law allowed the doctrines and the discipline of the Roman Catholic Church, it should be allowed to be carried out perfectly and properly.' This is in the spirit of every legislation. Our church system would not be allowed to be carried out perfectly and properly, if it was understood (where not expressed) that it was only to be allowed to be carried out in its imperfect and less proper form. Suppose a man has kept possession for years of a house which he had built for himself on my land without my permission, and then we had come to an amicable arrangement, and I gave him leave, without any restriction, to have a

* Hansard, vol. lxxviii, p. 330.
† Speech in the House of Lords, April 20, 1846, Hansard, vol. lxxv, p. 1261.

It is clear that no difference whatever is made in this enactment between England and Ireland. Indeed the word "assuming" seems to apply to the former, "using" to the latter. 10 George IV, chap. 7, sec. 34.

house there; could I complain, if when his old one required rebuilding, he made it of brick or stone, and say that I always meant he was only to keep up a wooden or temporary house? If any Sovereign granted to any distant country its independence, and power to rule itself by a monarchical government, would it be just, when that form of jurisdiction was established, to complain and say, that by the concession was only meant a perpetual state of regency, such as existed until the King was chosen? Now, if Catholics at their emancipation were allowed to build up their church according to its avowed proper plan, which is episcopal, what right can any one have to say, 'Yes, but it was meant that you should only build it of temporary and imperfect materials, such as we have tolerated in you during your oppression and exclusion.' And then, government of a church by vicars apostolic is to its normal state just what a regency is to a monarchy.

"Secondly, the law did put on a restriction. There is an axiom in law, '*Exclusio unius est admissio alterius*.' That is, if you specifically exclude or deny the use of one particular thing, you thereby admit the lawful use of that which is not denied. To take the instance above given; if I had said in my agreement with the householder that he might not in building make any use of sandstone, this would have implied that he might employ granite, or limestone, or any other stone but the one excluded. Now, if the law of emancipation did make one exclusion and prohibition respecting the titles of Catholic bishops, it thereby permitted, as perfectly within law, whatever in that respect came not under that exception. The Act of Emancipation forbids any one assuming or using the style or title of any bishopric or archbishopric of the established church in England or Ireland.* From this it follows that they are allowed to assume any other titles. The Bishop of London himself has seen this, and, in his answer to the Chapter of Westminster, acknowledges that the new Catholic bishops cannot be touched by the law as it stands; but he wishes Parliament to be petitioned for a new law, which will narrow the liberty here given us.

"I conclude, therefore,
"First, that Catholics, by law, had a right to be governed by bishops.

"Secondly, that no law, or authority, bound them to be forever governed by vicars apostolic, and that they were at liberty to have a hierarchy, that is, an archbishop and bishops, with local titles, or titles from places in the country.

"Thirdly, that accordingly such titles are not against any law, so long as they are not the actual titles held by the Anglican Hierarchy.

"Fourthly, that all these conditions having been exactly observed in the late erection of the Catholic Hierarchy, this is perfectly legal, perfectly lawful, and unassailable by any present law.

"Then why all the clamour that has been raised? On what ground does the attack—made upon us rest? Why have we been denounced—why held up to public hatred? Why pointed out to public fury? I have not seen one paper which, during the violence of the storm, thought it worth while to look into the question of law, and calmly inquire—'Have the Catholics violated or gone beyond the law of the land? If not, why should they be thus perseveringly abused?'

"Is it because the church of England is supposed to be attacked by this measure of the Catholic church, or that its securities are threatened? This is the great and natural grievance of the Anglican clergy in their remonstrances. To this I reply—first, that even when in the Emancipation Act Catholic bishops were restrained from taking the very titles held by the Anglican, this restriction was not intended or supposed to give the slightest security to the English church. Speaking of the Duke of Wellington remarked that 'the (restrictive) clause was no security; but it would give satisfaction to the united church of England and Ireland. According to the laws of England, the title of a diocese belonged to persons appointed to it by His Majesty; but it was desirable that others appointed to it by an assumed authority should be discountenanced, and that was the reason why the clause was introduced. This was one of the instances which showed how difficult it was to legislate upon this subject at all. He was aware that this clause gave no security to the established church, nor strengthened it in any way, but it was inserted to give satisfaction to those who were disturbed by this assumption of title by the Catholic clergy.'

"Even, therefore, our being restrained from adopting its very titles could give no security to the established church; so that we may conclude that still less security would be given to it by our being forbidden to assume titles which are not theirs. The legislation on this subject had clearly no bearing on the security of the Church of England; and if we are to be considered guilty of an aggression against her, and have to be dealt with by fresh penal legislation for the purpose of propitiating her up, I do not see where you can stop consistently short of forbidding Catholics to have any bishops at all. You cannot make a law that they shall only be governed by vicars apostolic, which would be acknowledging directly the Pope's power in the realm (which the Protestant bishops, under oath, cannot do); still less can you proceed to forbid them to have bishops of any sort, which would put them back into a worse condition than they were during the operation of the penal laws. Any step backward is a trenching on the complete toleration granted to us.

"2. The appointment of a Catholic Hierarchy does not in any way deprive the English establishment of a single advantage which it now possesses. Its bishops retain, and, for anything that the new bishops will do, may retain forever, their titles, their rank, their social position, their pre-eminence, their domestic comforts, their palaces, their lands, their incomes, without diminution or alteration. Whatever satisfaction it has been to you till now to see them so elevated above their Catholic rivals, and to have their wants so amply provided for, you will still enjoy as much as hitherto. And the same is to be said of the second order of clergy: not an archdeaconry, or deanery, or canonry, or benefice, or living will be taken from them or claimed by the Catholic priesthood. The outward aspects of the two Churches will be the same. The Catholic episcopacy and the Catholic priesthood will remain no doubt poor, unnoticed by the great, and by the powerful (so soon as the present commotion shall have subsided,) with-

out social rank or pre-eminence. If there be no security for the English Church, in this overwhelming balance in its favour of worldly advantages, surely the exclusion of Catholics from the possession of local sees will not save it. It really appears to be a wish on the part of the clerical agitators to make people believe that some tangible possession of something solid in their respective spheres has been bestowed upon the new bishops—'something territorial' as it has been called. Time will unmask the deceit, and show that not an inch of land, or a shilling of money has been taken from Protestants, and given to Catholics.

"3. Nor is an attempt made to diminish any of the moral and religious safeguards of that establishment which views our new measure with watchful jealousy. Whatever that institution has possessed or done to influence the people or attach its affections, it will still possess and may continue to do. That clear, definite, and accordant teaching of the doctrines of their church, that familiarity of intercourse and facility of access, that close and personal mutual acquaintance, that face to face knowledge of each other, that affectionate confidence and warm sympathy, which form the truest and strongest and most natural bonds between a pastor and his flock, a bishop and his people, you will enjoy, to the full, as much as you have done till now. The new bishops will not have occasion to cross the path of the prelates of the Anglican establishment in their sphere of duty. They will find plenty to do, besides their official duties, in attending to the wants of their poor spiritual children, especially the multitudes of poor Irish, whose peaceful and truly Catholic conduct under the whirlwind of contumely which has just assailed them, proves that they have not forgotten the teaching of their church—not to revile when reviled, and when they suffer not to threaten.

"4. But, in truth, when I read the frequent boasting of the papers, and the exulting replies of bishops, that this movement in the Catholic church, instead of weakening, has strengthened the established church, by rousing the national Protestantism and awakening dormant sympathies for its ecclesiastical organisation, I cannot but wonder at the alarm which is expressed. The late measure is ridiculed as powerless, as effete, as tending only to the overthrow of Popery in England. Then act on this conviction; show that you believe in it; give us the little odds of a title, which bestows no power, rank, wealth or influence on him that bears it, and keeps undisturbed those other realities, and let the issue be tried on these terms, so much in your favour. Let it be a fair contention, with theological weapons and fair arguments. If you prevail and Catholicity is extinguished in the island, it will be a victory without remorse. It will have been achieved by the power of the Spirit, and not by the arm of flesh; it will prove your cause to be divine. But if, in spite of all your present advantage, your religion does advance, does win over to it the learned, the devout, and the charitable—does spread itself widely among the poor and simple—then you will not check its progress by forbidding a Catholic bishop to take the title of Hexham or of Clifton.

"But it will be no doubt said, that many who do not greatly sympathize with the establishment are indignant at the late measure, not because Catholics have obtained a hierarchy, but because its appointment is the work of the Pope. This interference of Rome has aroused so much public feeling. Let us, then, inquire into this point.

"§ III. HOW COULD CATHOLICS OBTAIN THEIR HIERARCHY?"

"We have seen that, not only we possess a full right by law to be governed by bishops, but that we have an equal right to be governed by them according to the proper and perfect form of episcopal government, that is, by bishops in ordinary having their sees and titles in the country.

"If we have a perfect right to all this, we have no less a perfect right to employ the only means by which to obtain it.

"We have seen that Catholics are allowed by law to maintain the Pope's supremacy in ecclesiastical and religious matters, and one point of that supremacy is that he alone can constitute a hierarchy or appoint bishops. Throughout the Catholic world this is the same. Even where the civil power, by an arrangement with the Pope, names, that is proposes, a person to be a bishop, he cannot be consecrated without the Pope's confirmation or acceptance; and if consecrated already, he can have no power to perform any functions of his office without the same sanction.

"If, therefore, the Catholics of this country were ever to have a hierarchy at all, it could only be through the Pope. He alone could grant it.

"This is no new or unknown doctrine; it has long been familiar to our statesmen, as well as to every one who has studied Catholic principles.

"Lord John Russell, in his speech in the House of Commons, August 6, 1846, thus sensibly speaks on the subject:—'There is another offence, of introducing a bull of the Pope into the country. The question is, whether it is desirable to keep up that, or any other penalty, for such an offence. It does not appear to me that we can possibly attempt to prevent the introduction of the Pope's bulls into this country. There are certain bulls of the Pope which are absolutely necessary for the appointment of bishops and pastors belonging to the Roman Catholic church. It would be quite impossible to prevent the introduction of such bulls.'

"Lord Chancellor Lyndhurst: 'They tolerated the Catholic prelates, and they knew that these prelates could not carry on their church establishments, or conduct its discipline, without holding communication with the Pope of Rome. No Roman Catholic Bishop could be created without the authority of a Bull from the Pope of Rome; and many of the observances of their church required the same sanction. The moment, therefore, that they sanctioned the observance of the Roman Catholic religion in this country they, by implication, allowed the communication [with the Pope] prohibited by this statute, and for which it imposed the penalties of high treason. If the law allowed the doctrines and discipline of the Roman Catholic church, it should be permitted to be carried on perfectly and properly; and that could not be without such communication. On these grounds he proposed to repeal the act.' (13th Eliz.)

"These quotations prove that in both Houses of Parliament the principle has been clearly laid down, that if the Catholics are to have bishops at