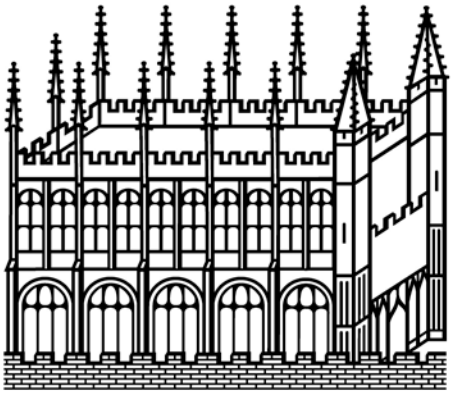

A LETTER

TO THE

MEMBERS

OF

THE HOUSE OF COMMONS

OF THE

UNITED KINGDOM

OF

GREAT BRITAIN AND IRELAND.

BY

DANIEL O'CONNELL, Esq.

Member for the County of Clare.

LONDON:

JAMES RIDGWAY, N° 169, PICCADILLY

MDCCCXXIX.

"And be it enacted that from and after the commencement of this Act it shall be lawful for any Person professing the Roman Catholic Religion being a Peer, or who shall after the commencement of this Act be returned as a Member of the H. of Commons to sit & vote in either House of Parliament respectively being in all other respects duly qualified to sit and vote therein upon taking & subscribing the following oath, instead of the oaths of Allegiance, Abjuration & Supremacy —

LONDON:
PRINTED BY T. BRETTELL, RUPERT STREET, HAYMARKET.

A LETTER,

&c.

GENTLEMEN,

IT is my intention to take my seat in the House, and to perform, to the best of my judgment, the duties which I owe to my constituents and to my country.

As my situation is peculiar, I deem it respectful to obviate any possible opposition to my taking my seat, by stating, as succinctly and as plainly as I can, the grounds on which I conceive that my right to take my seat is perfectly clear, and beyond any reasonable controversy.

Let me premise, by admitting, as I candidly do, that the question upon my right is one which relates solely to my constituents and myself,—one which can never be drawn into a precedent—one which does not decide or necessarily affect any one public or important principle. It is a purely personal and individual question. It affects but one man: it relates to only one seat in Parliament. Should I be excluded by that which, for the present, I may take the liberty of treating as an illegal vote, the consequence will be only a personal persecution, beneath the dignity of any great assembly, and inconsistent with the feelings of dignified and honourable men.

It is but just that I should commence by making this admission, although I feel that it creates the

necessity of offering an excuse for agitating any question upon the right of a person of so little public importance as myself. I am, however, ready to offer that excuse, and to submit it to the favourable interpretation of candid men.

My excuse is two-fold. *First*, I owe it to the honest, the fearless, the moral, and the genuinely loyal men who have done me the high and immortal honour of returning me to Parliament, to assert their rights rather than my own. *Secondly*, I am convinced—pardon me—that my being in Parliament would tend to advance the conciliation and consolidation into one mass of all His Majesty's subjects in Ireland. It would certainly afford great and unmixed satisfaction to the millions of Irish Catholics. I really do not think it would offend any of my Protestant countrymen. During the contest, which has now gone by for ever, I had, of course, many virulent opponents and bitter foes; but I do not think I had one single private enemy. If I knew of such, I would not allow the sun to set on our anger without taking every means in my power to terminate our personal resentments.

My taking my seat would not, I think (I may be mistaken, but I do think it would not), irritate any of my Protestant countrymen, whilst I venture to say it would be hailed with rapturous delight by myriads of Catholics and liberal Protestants in Ireland.

These opinions may be erroneous, but they are sincere, and being so, I am bound to act upon them: my judgment may be impeached, but my motives will, I trust, be uncondemned.

The line of conduct I mean to pursue is this:—So soon as this letter has been circulated in the shape of a pamphlet, and shall have reached every member of the House of Commons, I mean to communicate to the Speaker my intention to take

my seat, and I will then proceed to take my seat in the most unostentatious manner.

I have already taken the oaths of allegiance and abjuration—I intend to take the oath provided for Catholic members by the Relief Bill lately passed. I will take that oath according to the provisions of the 20th section of the Relief Bill, before I go to the House.

I will not take the oath or declaration commonly, but improperly, called the oath of supremacy, for two reasons,—*first*, because I am convinced that it is not necessary for me to take that oath; and *secondly*, because if it were necessary to take it, I could not take it with a safe conscience, it not being true either in fact or in law. I would prefer to sacrifice any advantage rather than take that oath. Even if I were a Protestant, I would refuse to take it.

I do hope that I shall be permitted to take my seat thus without any obstacle, and at my own risk: for let it not be forgotten, that if I thus take my seat without having taken any oaths which the law may require, I am, if those who may differ with me be right, thereby liable to the most serious and almost awful penalties, the smallest of which is a pecuniary fine of 500*l.*

The day after I take my seat, any man in the community may bring an action against me for 500*l.* penalty. If he should succeed in that action, then, by the judgment of a court of law, I should be disqualified to hold any office or place of trust, civil or military, and my expulsion from the House would be a necessary and inevitable consequence.

The courts of law are open to every human being who may choose to put my right into a train of legal investigation. In those courts, however, I am entitled to make a full defence, and to take

the opinion of the superior courts by appeal until I have the judgment of the court of dernier resort in these countries. By leaving the matter to the courts of law there cannot be a failure of justice at either side. All I desire is, that if there be a question of right, it should be left by the House to be tried by the courts of law, and that the House will not by a vote take away my defence, and deprive me of my right of appeal to all the Judges in the highest court in the land.

My desire is simply this,—that the House of Commons should leave any question of law on my right to sit and vote to be decided by the known legal tribunals: that is all I ask: it is at my risk,—it is at my peril. Why should the House interfere summarily?

It is perfectly plain that I cannot have any doubt upon my mind that the law is in my favour, otherwise I should never be so insane as to risk all my property and prospects in life for a seat in any assembly, however honourably composed. I have been thirty years at the bar in considerable practice. It will at least be believed that I am myself deeply convinced that I can take my seat without being subject to any forfeiture, pains, penalties, or disabilities whatsoever.

Having this conviction deeply impressed on my mind, I trust I shall be able to convey to others an adequate notion of the process of reasoning which seems to me to establish my right beyond a doubt.

1*st*. Let it be recollected that I have been regularly elected by the free and spontaneous choice of an overwhelming majority of the electors of the county of Clare. I say *free* and *spontaneous* emphatically, because the only assertion of undue influence on the minds of the electors was that of the Catholic clergy. Now it is a part of history that the highest in rank, and second to none in

character, of the Catholic clergy in Clare, were to be found amongst the friends of my opponents: such an election as mine is one which will not, I trust I may say cannot, be nullified by any flippant vote or summary declaration of the House.

2ndly. Let it be recollected that my right to be elected was submitted to a Committee of the House,—a Committee whose decision is, by the express law of the land, final and conclusive,—a Committee whose final and conclusive decision was in my favour, although it was proved before them expressly, and not controverted or denied, that I had at the public hustings, before and during the election, declared that I would not take any oath in or out of Parliament inconsistent with the Catholic religion. I trust that a final and conclusive decision of this nature, made on the merits, will not be nullified by any flippant vote or summary declaration of the House.

3rdly. Let it be recollected, *that I am ready to take all the oaths which any other Catholic member can now by possibility be required to take.*

I respectfully insist, that I am not bound to take any other oath.

I respectfully insist, that the House has not any right to refuse to allow me to sit upon taking the new oath.

I respectfully insist, that the House has not any right to expel me from the House, and to issue a new writ, by reason of my refusal to take the oath called of supremacy, or any other oath inconsistent with the Catholic religion.

This last assertion raises the real and important question—whether the House can expel me for so refusing; because, unless the House be entitled to declare my seat vacant, on my refusal to take the

oath of supremacy, they surely cannot exclude me from sitting and voting.

I think I may defy any man to assert, that the House can now proceed to expel me, and to issue a new writ, by reason of my refusal to take the oaths of supremacy; yet, if that cannot be asserted or done, where is the man so ridiculous as to form an idea of a kind of sub-power in the House to leave me Member for Clare, but at the same time to prevent me from sitting and voting,—a specie of aerial suspension, like the fabled coffin of Mahomet, between the adverse attractions of election on the one hand, and expulsion on the other!

Every difficulty can be avoided, and every obstacle obviated, by allowing me to sit and vote at my own peril, and by leaving the law open to every body—that is, to me as well as to my adversaries—on the trial of any question touching my sitting and voting without taking the oath of supremacy.

On this subject I wish to establish this proposition—

First, that the question on my right is one of law, and not of privilege.

If I be right in this position, the question should be decided in the courts of justice, and in these alone: it should not be decided by any vote of the House.

It is not the privilege of the House to decide on any matter respecting oaths. The House of Commons cannot frame an oath for its members, nor require an oath of its members. Nay, it has not the power or authority to administer an oath to any person, unless expresslyauthorized to do so by particular act of Parliament

It follows of inevitable necessity, that the House cannot expel any Member for not taking an oath, unless there be an act of Parliament requiring the House so to do.

If, therefore, there be not a positive act of Parliament requiring the House to expel me for not taking the oath of supremacy, the House cannot do so on the allegation that the refusal on my part to take the oath is a breach of privilege.

I am fully aware that Parliamentary usage may have the force of a law—may be equally binding on the House with any statute: but it is only one species of Parliamentary usage that has that force —namely, usage " to the contrary of which the memory of man runneth not." It is, then, evidence of a power or authority at common law. But usage of a modern date, the origin of which can be traced, has no such force; and especially an usage which has commenced under and by virtue of a recent statute, and which, in fact and truth, is nothing else but a conformity with, or rather an obedience to, a recent statute; such usage as this is of no force or value to create any species of Parliamentary privilege, or to give any power or authority to the House of Commons, save what it derives directly from the statute law itself.

For example, the power to administer the declarations against transubstantiation and the sacrifice of the mass, and the invocation of saints, was given to the House by the statute the 30th of Charles II.

The usage to administer those declarations commenced with that statute. It was not a Parliamentary privilege to administer those declarations. It was a mere duty and obedience to a legislative provision. The right to expel a Member for refusing to make those declarations was not a Parliamentary privilege. It was a duty imposed on the House of Commons by that statute.

Those declarations are all repealed by " the Relief Bill," and therefore the right to require these declarations, and the duty of expelling Members for not making these declarations, are all at an end.

No parliamentary privilege can, therefore, be created by the usage and practice since the 30th of Charles II. of the House of Commons to require oaths or declarations. It is not an usage or practice that can at present confer on the House any, even the smallest right or privilege whatsoever.

My question, therefore, cannot be treated as a question of privilege, enabling the House to expel me by a vote; at least it cannot be so treated without the grossest injustice to me and to my constituents.

Whilst I am on this subject let me refer, Gentlemen, to the excellent definition, or at least description, of Parliamentary privilege, as given by Lord Clarendon, in the second volume of his *History of the Great Rebellion*, at page 195, and the following pages.

The House of Commons had at that time insisted that it was the privilege of the Members of that House to be exempt from all arrests, even for treason, felony, or breach of the peace, unless the leave of the House was first obtained.

They said, "we are confessed to be sole judges of our own privileges; therefore, whatever we declare to be our privilege is such."

Lord Clarendon has very properly and justly censured this reasoning, and shown that the House was judges of its own privileges only in the limited sense,—"that is to say" (I use his own words), "upon the breach of those privileges WHICH THE LAW HATH DECLARED TO BE THEIR OWN, AND WHAT PUNISHMENT IS TO BE INFLICTED UPON SUCH BREACH. BUT THERE CAN BE NO PRIVILEGE OF WHICH THE LAW DOTH NOT TAKE NOTICE, AND WHICH IS NOT PLEADABLE BY AND AT LAW."

The law has not given or declared any such privilege, as that of the House of Commons to

require, nay, much less to administer any oath. It has not given or declared any privilege of the House to expel for not taking any oath. The House, therefore, cannot in my case usurp the privilege of expelling me for refusing to take the oath of supremacy.

It is quite another question, whether the House be required by statute law to expel me for not taking that oath. All I now contend for, is, that there is no privilege or usage that can warrant or justify such expulsion, unless it be directed by the express words of the statute law.

Thus contending, as I think I can do successfully, that the exposition of the statute law belongs to the courts of justice, and not to the House, I do not mean to rest my case on this point alone. My case is too strong to put it exclusively on what may be called a technical objection to the jurisdiction of the House; but, in truth, it is a substantial objection, because, as the opposition to my right to sit and vote must be founded on alleged provisions in, and constructions of, the statute law, I do respectfully submit, that a large popular assembly of men, unaccustomed to the modes of legal argumentation, is, for many reasons, unfit for the trial of such legal questions.

But let me suppose, that the House will assume that this is a question of privilege.

Yet the House ought to decide in my favour.

I respectfully insist that the House cannot decide against me without a plain and palpable violation of every principle of law and justice.

This is a strong assertion: I proceed to establish it.

First,—I rely on the arguments contained in my letter of the 2nd of February last, to the Members of the House of Commons. The conclusion contained in that letter was founded on principles

of penal law, as applicable to the Irish Union Act, and being prior to "the Relief Bill," was, of course, unconnected with the legal effects of that Bill.

Secondly,—I rely on the legal effects of the Relief Bill itself. This is the ground I most desire to take. I am better pleased to owe to the Relief Bill the enjoyment of the right to sit and vote than to any decision on the anterior law. The Relief Bill is, in itself, a measure of so much wisdom and beneficence, that I greatly desire to derive from it alone all the political advantages, which, as a Catholic, I may ever enjoy. I therefore cheerfully rely on the legal effects of the Relief Bill.

To render my reasoning on this point more distinct, I will, for the present, disembarrass it of every connexion with the Union Act, and treat it, in the first instance, as if the laws respecting parliamentary oaths were unchanged by the Act of Union.

The law of parliamentary oaths before the Union stood thus:—No member could sit or vote in the House of Commons until he had taken in the House itself the oath of allegiance and supremacy, and the oath called the declarations against transubstantiation, the sacrifice of the mass, and the invocation of the Virgin Mary and other saints.

If any person sat or voted without taking these oaths, he incurred many pains, penalties, and disabilities,—amongst them, a fine of 500*l.*; and the House was enjoined by the statute to expel such Member, and to issue a new writ.

Such was the state of the law in the British Parliament.

I take up the Relief Bill as operating on that state of the law.

To understand that operation, we must analyse

the ingredients which constitute this law before the Relief Bill.

The first and principal, and we shall presently see the *sole potential* ingredient, was the statute of the 30th Charles II. Every other was only ancillary to that statute or ingrafted on it as on the parent and solely sustaining stock.

The statute of the 30th Charles II. did this:—it enacted, that the oath of allegiance and supremacy, and the declarations against transubstantiation, the sacrifice of the mass, and the invocation of the Virgin Mary and other saints, should be taken in the House. The subsequent statute of 1st William and Mary did nothing more in this respect than alter the form of the oath of allegiance and supremacy to be so taken.

The statute of the 30th Charles II. enacted by express words the penalties I have above alluded to,—amongst them the fine of 500*l.*

Observe, the principal object of the statute of the 30th Charles II. was to enforce the taking of the declarations against transubstantiation, &c. Whoever took that oath would not hesitate to take the oath of supremacy, such as it is at present framed.

Observe also, that the refusal to take the several oaths formed but one aggregate offence, and required but one penalty. The oaths could not be taken separately or severally under these statutes; the refusal to take them formed but one offence, and gave but one penalty.

For example, although there were several oaths to be taken in the House, there was but one penalty. Take up the 500*l.* penalty as illustrative of all. There was not one penalty of 500*l.* for omitting to take the oath of allegiance; another 500*l.* penalty for omitting to take the oath of

supremacy; another 500*l.* penalty for not taking the declarations against transubstantiation, &c.

No, there were not several penalties,—there was but one penalty. All the oaths were to be taken at one time—there could be but one refusal. The principal, and indeed the vital, portion of the *corpus delicti* was the refusal to make the declarations against transubstantiation, &c.

Now mark, these declarations are totally and entirely repealed, and for ever abolished, by the first section of the Relief Bill.

That is, the principal, the vital, the most important part of the offence, of the *corpus delicti*, is taken away by positive enactment. Is the entire punishment to remain?

I ask that question of any lawyer in the House—I ask it of any person possessing common sense. An answer in the affirmative would bespeak more absurdity, if possible, than injustice.

Take up the pecuniary penalty. The legislature gives a penalty for omitting to take five oaths—one penalty for the entire omission: then the legislature abolishes three out of the five, and does not attribute the penalty to the remaining two. Now, if it were possible for any man to assert that the penalty remained, I would ask him whether it must not at least be apportioned, and part of it at least abolished. It is true that, as to the pecuniary penalty, it may be possible to make a division or apportionment of it by calculation; but whoever heard of an apportionment of a penalty for a part of a crime—a fractional portion of an offence?

But I need not dwell on the absurdity and ridiculous nature of any assertion that the penalty, or any part of it, remains. Let me, however, remark, that although it is possible to apportion the pecuniary

penalty, you cannot apportion or divide the penalty of expulsion. There cannot be two-thirds of an expulsion; unless, indeed, two-thirds of the man were to be turned out of the House, and the other third part left sticking in the honourable House.

This, then, is the plain legal effect of the first section of the Relief Bill. It has destroyed the essence of the offence, and the far greater portion of its component parts. It has of course, and *à multo fortiori*, annihilated the pains, penalties, and disabilities attached to the offence.

To the mind of any lawyer, this view of the legal effect of the Relief Bill is perfectly plain; I trust it will be equally intelligible to every member of the House; if so, there can be no hesitation to admit me to the full enjoyment of my right to sit and vote.

I wish to obviate one objection which may possibly be made. It is not probable that such an objection will be made, but if it should, it is right to have the reply ready.

It may, and probably will be at once conceded, that the effect of the Relief Bill is to extinguish the penalties in the 30th of Charles II.; but the statute 1st of William and Mary, altering the oath of supremacy, may be resorted to as creating a new and distinct penalty for not taking that oath. But that objection totally fails, because the statute 1st of William and Mary creates no new penalty or disability whatsoever. On the contrary, it mentions penalties and disabilities only as being those contained in the 30th of Charles II. Thus the fact annihilates the objection.

Therefore, now, after the Relief Bill has totally abolished, for all the King's subjects, Protestants as well as Catholics, the declarations in the 30th of Charles II., to expel me from the House, merely because I refuse to take the oath of supremacy,

might, I most respectfully submit, be deemed as gross an act of injustice to an humble individual as was ever perpetrated upon greater occasions by the usurping House of Commons of the Long Parliament, which hurried on to rebellion, and ended in regicide.

But, after all, perhaps I am unpardonable in dwelling so long on the *legal effect* of the Relief Bill, when the *positive enactment* of another part of that Bill provides for me the undisturbed, and, I think, indisputable exercise of my right to sit and vote in Parliament.

Let me carry the attention of the reader to the statute as it is framed, so as to put an end to all controversy.

The first section, as already stated, abolishes the declarations against transubstantiation, &c. The second section enacts, " that any Catholic being a Peer, or *who shall after the commencement of this act be returned as a member of the House of Commons*," shall be qualified to sit or vote upon taking the new oath in that act, instead of the oaths and supremacy and abjuration.

This section certainly enables all Catholics returned as members after the commencement of the act, to sit and vote on taking the new oath. I may for the present concede that it does not touch the case of a person who was returned as a member before the commencement of the act, although it is quite clear that a man returned as a member before the act continues to answer the description of and to be returned as a member after the act has passed.

The third section relates to the name of the reigning monarch, and is immaterial to our present purpose.

The fourth section only provides, and that in an exceedingly clumsy way, for the taking of the new

oaths. This section would give occasion to much observation, if it was necessary to dilate upon its clumsiness, but as I am ready to take the new oath, I pass it over without further comment.

The fifth, sixth, and seventh sections relate to the voting by Catholics at elections.

The eighth section relates exclusively to Scotland.

The ninth section excludes Catholic priests from Parliament.

I have entered into these details in order to come to the tenth section, which is so clear and so decisive in favour of my exercising my right to sit in Parliament without taking the oath of supremacy, that I must quote it at full length.

Let me premise by saying that the right to sit in Parliament is clearly a civil right;—that, I think, is a position which nobody can venture to deny. Yet if to sit in Parliament be a civil right, then I must sit without taking the oath of supremacy. These are the words of the 10th section *ipsissimis verbis*:—

"10*th*. And be it enacted, that it shall be lawful for any of His Majesty's subjects professing the Roman Catholic religion to hold, exercise, and enjoy all civil and military offices and places of trust or profit under His Majesty, his heirs, or successors, AND TO EXERCISE ANY OTHER FRANCHISE OR CIVIL RIGHT, *except as hereinafter excepted*, upon taking and subscribing, at the times and in the manner hereinafter mentioned, the oath hereinbefore appointed and set forth, instead of the oath of allegiance, supremacy, and abjuration, and instead of such other oaths as are or may be now by law required to be taken for the purpose aforesaid by any of His Majesty's subjects professing the Roman Catholic religion."

Nothing can be more distinct and complete.

Observe, that there is no reference to any precedent clause, matter, or thing in the statute, save the new oath,—not the least.

The exercise of every civil right is allowed, *except as thereinafter excepted*; so that every civil right thereinbefore mentioned is necessarily, and by force of the very words, included.

Now the only matters capable of being called exceptions thereinafter contained, are the offices enumerated in the 12th section, of Regent, Lord Lieutenant, Lord Chancellor, and one or two other high offices; and those expressed in the 15th and 16th sections as to ecclesiastical livings and offices.

This is so clear, that any attempt at illustrating it only seems to create a difficulty. It is like proving that two and two make four.

Suppose the 10th section of the statute enacted that Catholics shall enjoy every civil right without taking the oath of supremacy, provided they took the new oath. In that case, is it not as clear as the sun at noon-day that I should, as a Catholic, be entitled to sit in Parliament without taking the oath of supremacy, provided I take the new oath?

That is quite clear: yet this section is still more clearly in my favour, because it is more particularly and precisely so; for it grants the exercise of every civil right by taking the new oath, and without taking the oath of supremacy, EXCEPT such as are thereinafter enumerated. Now that enumeration is made in the subsequent sections, and does not contain any exclusion of the right of a duly elected member to sit and vote in Parliament. It amounts, therefore, to a legislative declaration of two classes of civil rights. All in the enumerated class are excluded. All those, of every kind of civil rights, not enumerated are necessarily included.

But this case, on the particular point of the civil right to sit in Parliament, is still more clear,

because that right is mentioned in the precedent part of the statute. Now no right mentioned in the precedent part of the statute is at all excepted; but, on the contrary, the exception commences with, and is exclusively confined to, matters in the subsequent parts of the statute.

It may be said that the second and tenth sections are thus rendered contradictory; or that at least there is an implied contradiction. It is not so at all. At least all appearance of contradiction ceases, if the second section be construed as excluding me from its benefit.

In that view, the second section relates only to persons to be returned after the passing of the act. Persons who may thereafter, by such return, acquire the right to sit in the House, are thus contemplated by the second section; and the tenth section relates to persons in my situation, who had already acquired that right, but were prevented from exercising it by the necessity of taking the oath of supremacy. In other words, the Earl of Surrey comes within the meaning of the second section: I come within the meaning of the tenth.

I am really ashamed of arguing any thing so plain as the operation of the 10th section of this act. To a legal mind it affords neither doubt or difficulty. To any man it is almost an insult to suppose that he can need argument to convince him of my right to sit in Parliament without taking the oath of supremacy, as I shall have taken the new oath in the law courts before I go down to the House, and shall take it again in the House.

The law and facts of my case stand thus:—

1*st*. I have been duly elected member for the county of Clare, and that election has been ratified by the decision of a committee of the House of Commons.

2ndly. That election has given me the right to sit and vote in the House of Commons; and that right was and is a civil right, and nothing but a civil right.

3rdly. The exercise by me of that right has heretofore been impeded by the necessity, or at least the alleged necessity, of taking the oath of supremacy, and making the declarations against transubstantiation, &c.

4thly. These declarations have been for ever abolished by the first section of the Relief Bill.

5thly. The new oath has been substituted for the oath of supremacy by the 10th section of the Relief Bill, save in the cases thereinafter excepted.

6thly. The right to sit in Parliament is not one of the cases thereinafter or therein at all excepted.

No man before me was ever called on to argue a case so completely in his favour in all its parts, being so demonstrative as to render the use of argument or illustration quite superfluous.

Under those circumstances, shall I be *deprived*, I had almost said *defrauded*, of my just right? I omit the harsh word out of respect to those whom I address, but I do earnestly implore that there may not, in the presence of the British empire, and in particular to the listening ear of long-oppressed and often—ah, how often—deluded Ireland! be any opposition given to my exercising this my plain and palpable right.

I can afford to give up many arguments which I should consider it my duty to address to a court of justice, were I to argue the case as a counsel retained only by his feelings and conviction.

For example, what is the meaning of the words in the second section, a person "*who shall, after the commencement of this act, be returned as a member of the House of Commons?*" Mere laymen would smile at the many arguments which

could be adduced to show that I come within that description — arguments which might persuade judges accustomed to similar investigations.

My forensic habits induce me to remark, that this description is not tantamount to what it would be if the words were "*whose return as a member shall be made at any time after the passing of this act.*" These are not the words, nor any thing like them; yet I think the construction which should exclude me would require some such words as I have last mentioned.

I am also compelled to remark, that the use of the word "returned" brings me within its exact meaning. I am returned as a member to the House now, am I not? I am now, after the passing of this act, as much a returned member as I was before.

I do not like to urge this topic farther; but I cannot avoid informing such members as are unlearned in the mysteries of the law, that it is quite certain that an estate may be devised or limited to a son of A. B. thereafter *to be by him begotten*, and yet that a son of A. B. long theretofore begotten and born may take the estate under that description. This is not mere judicial caprice, but is founded on reasons which I shall not investigate, but which originate in the principle of giving efficacy to the vesting of rights.

There is yet one more view of the effect of the Relief Bill, which, if it stood alone, would enable me to sit and vote in Parliament.

To make this last view of the effect of the Relief Bill the more easily understood, I beg to remind those whom I address of the exact state of the law regarding Parliamentary oaths, as I have proved it by my letter of the 2nd of February last to have existed prior to the passing of this Relief Bill.

The law of Parliamentary oaths did at that time

depend, and indeed must have depended, on the statute passed in Great Britain on the one hand, and in Ireland on the other, for the legislative union of both countries.

By these Union Acts, the oaths theretofore taken in the British Parliament were directed to be taken in the United Kingdom Parliament.

The Union Acts directed and required the oaths to be taken, but those acts did not impose any penalty for not taking the oaths, neither did they create or continue any incapacity to sit or vote by reason of not having taken them.

Such was the state of the law respecting Parliamentary oaths before the passing of the Relief Bill. There was a direction by an extinct legislature, that the oaths should be taken: nothing more.

The words of the enactment directing the oaths to be taken are these:—"That every member of the House of Commons shall, UNTIL THE PARLIAMENT OF THE UNITED KINGDOM SHALL OTHERWISE PROVIDE, take the oaths, and make and subscribe the declaration," &c. &c.

It is quite obvious that this direction to take the oaths was not contemplated by the Irish Parliament to be perpetual; on the contrary, it was in express words a mere temporary direction.

It was temporary. Be pleased to mark that. It was limited in point of time.

Now, what was the limit? Before I answer that question, let me remark that the limit might have been for a precise number of years, or until the happening of a particular event.

The Irish legislature might have fixed that limit as it pleased, but it could not continue its own authority for one moment, or in any one respect, after the formation of the new legislature—the United Kingdom Parliament.

In limiting the direction to take the oaths, the Irish Parliament had to choose between the mode of limiting its duration for a given number of years, or until the happening of a particular event.

The legislature chose the latter course. They did limit the direction, not to any given number of days or years, but until a particular event should have happened.

The legislature might have directed the oaths to be taken until the reigning monarch should land in Ireland. If the Union Act had so limited the time, the direction to take the oaths would have terminated in August 1821.

The legislature might have directed the oaths to be taken until the 23rd of April, 1829. If the Union Act had so limited the time, then that day would have terminated the direction to take the oaths.

I now reply to the question—What was the limit in the Union Act?

It was — UNTIL THE PARLIAMENT OF THE UNITED KINGDOM SHALL OTHERWISE PROVIDE.

Now the Parliament of the United Kingdom HAS ACTUALLY PROVIDED OTHERWISE.

The event has happened: the period has arrived: the limit is attained.

There is, therefore, an end to the direction in the Union Acts. The Relief Bill is that termination, and we must now look to the Relief Bill, and to that alone, for any obligation to take any Parliamentary Oaths.

Now the Relief Bill abolishes the oath called the declaration against transubstantiation, &c., altogether; and for all Catholics, in order to the enjoyment of civil rights, it requires a new oath.

It contains no enactment by which any former oath is now required to be taken.

To render any oath at present necessary, it should be directed by the Relief Bill. There is no such direction, save as to the new oath: I am ready to take that oath.

I respectfully and confidently submit, that, upon this view of the law alone, I am entitled, by means of the Relief Bill, to sit and vote by taking the new oath. I am entitled to make this assertion with perfect confidence. The matter is, in plain truth, quite clear.

Be pleased to observe particularly, that the Union Act does not direct the oaths to be taken, *save as the same may be altered or qualified by the United Parliament;* neither does it direct that the oaths shall be taken, *so far only as the United Parliament shall leave the same unaltered.* That is not all the frame of the Union Act. Let not the two things be confounded—*It was not* a power to alter or qualify the oaths which the Union Act gave to the United Parliament.

It was simply a limitation of its own enactment, until the United Parliament should make any other provision.

Observe, it was time that was limited—not authority or jurisdiction in the United Parliament.

Let not these two most dissimilar things be confounded—TIME and AUTHORITY. The time was limited, the authority was left uncontrolled.

Now, the limit in point of time has passed, the authority is silent as to directing any oath inconsistent with Catholic tenets, and that authority has framed and directed a new oath to be taken which I am willing to take.

I am, therefore, entitled to avail myself of the termination of the direction in the Union Act: I am ready to submit to the direction of the Relief Bill.

I insist that the direction in the Union Act to take the old oaths has expired, and is quite defunct. It may, perhaps, be said that it is not quite dead—that it has only got a kind of paralytic stroke, and that a fragment of such direction still survives. Shall this be said? If so, we will ask what fragment or fractional part. It cannot exceed one-eight-millionth part. There are 8,000,000 of Catholics in the United Kingdom. The direction in the Union Act is certainly dead as to all the others save one, and in honour of me the one-eight-millionth part is to be alive and mischievous!

This absurdity is, however, the only mode of resisting my right on the point of time alone; but this absurdity becomes still more glaring by requiring those additional supports to enable it to stand for one moment.

First, That it should be held that just so much of the Union Act remains in force as regulates my case, and mingles itself in order to make law with the Relief Bill, thus leaving the direction of the act of the Irish Parliament to fill up a small cranny of the Relief Bill.

Secondly, One must alter the frame of the enactment of the Union statute: the word "until" must be blotted out, or transposed; or added to by some new words, and in some new arrangement of phrase.

Thirdly, The tenth section of the Relief Bill must be expunged altogether.

It might be quite in character, in poetic fancy, to annihilate time and space, to make lovers happy. But it would ill suit the gravity of legal discussion to suggest any apprehension of a similar summary destruction and annihilation in a matter of so unromantic a nature as Acts of Parliament.

I have but one fear on my mind, and it is this

—lest I should have weakened the effect of my case by dilating too long upon topics, each of which separately, and by the simple statement of its merits, would abundantly suffice to establish my right.

Let me therefore sum up, by an abstract of the principal points on which I rely. I shall take them in a different order from that in which I have discussed them.

First, I rely on the enactment of the Union Act—namely, that it contained only a direction to take the old oaths, without authorizing the infliction of any pains, penalties, or disabilities whatsoever. This position I endeavoured to sustain by my letter of the 2nd of February last. To that letter I refer. I have only to add, that if that letter made any impression before the Relief Bill passed, it ought now be rendered more persuasive, when only a fragment of the Union Act can by possibility be in force.

This first position is the only one that rests on the state of the law, before the passing of the Relief Bill.

Secondly, I rely on the operation and effect of the Relief Bill, in having terminated the limit appointed by the Union Act for the duration of its direction to take the old oaths.

Thirdly, I rely on the operation and effect of the Relief Bill, in having abolished the declarations against transubstantiation, &c., and thereby necessarily taken away all the pains, penalties, and disabilities, created by the 30th Charles II.

Fourthly, I rely that I am at this moment, after the commencement of the Relief Bill, *returned as a Member of the House of Commons*, according to the legal effect of the words of the second section of that Bill. This proposition I entirely submit to the practised lawyers of the House.

Fifthly, I rely on the express enactments of the Relief Bill. The first section annihilates the declarations against transubstantiation, &c. The tenth section expressly concedes the exercise of every civil right on taking the new oath, and without taking the oath of supremacy.

Thus these two sections do away every possible objection to my taking my seat, unless, indeed, I come within the exceptions in the tenth section. That section confers the exercise of every civil right, without taking the oaths of supremacy, *except as thereinafter excepted.*

Now there can be but two questions remaining.

First, Is the right to sit and vote in Parliament thereinafter excepted?

My answer is simple and decisive—IT IS NOT.

Second, Is the right to sit and vote in Parliament a civil right?

I will not take the trouble to answer this question in the affirmative. Indeed, one ought to travel ten miles to see the man who, being out of Bedlam, could assert that the right to sit and vote in Parliament is not a civil right.

So clear, so plain, so palpable, is my right to sit and vote in Parliament.

I claim the exercise of this right. I claim it confidently. I claim it respectfully, but firmly, and having the full knowledge that to refuse it to me would be enormous and undignified injustice. I claim it with the full expectation that it will not be resisted or retarded.

I may be asked why, with so clear a case, I have delayed so long to assert my right. My answer is ready. I felt it desirable to allow the first ferment which might have succeeded the Relief Bill to subside, before I brought forward any discussion on any subject of Catholic right.

That ferment has totally subsided, or, indeed, I

should say, and I do say it, to the credit of the good sense and good feeling of the Protestants of Ireland, that ferment scarcely existed at all, and that it existed only amongst a few undignified and unnoticeable persons, whose apprehensions for the contingent loss of some small corporate monopoly infinitely exceeded their zeal for religion of any kind.

The time is arrived when I should assert my right, and take upon me the duties belonging to that important right. I trust I have demonstrated that right; but of this I am quite certain, that no question of privilege,—no point to be decided by the vote of any set of men, however respectable,—can arise in the discussion of my right, if it shall be discussed.

I ought not to conclude without referring to the authority of Lord Tenterden, the Lord Chief Justice of England. If we may credit Parliamentary reporters and documents, he proposed to add a clause in the Relief Bill expressly to exclude me; could he possibly give a more strong, a more convincing proof that he thought and felt with me that the Relief Bill did not exclude me, than by proposing a clause for that purpose? He must have been sensible that to legislate against an individual was not a dignified proceeding, and still less dignified could it have been in a high judge to stain his unspotted ermine with the dust of personal conflict, which mistaken notions of religion may cause a good man to raise. Oh no, he never would have placed the Lord Chief Justice of broad England in the attitude of personal enmity with an insignificant individual, if he had not been deeply convinced that such exposure was absolutely necessary in order to effectuate the purpose he had then in view. I give him the fullest credit for the purity of his motives. I heartily thank him for the manly

candour of his personal opposition, and I gladly avail myself of his high legal authority.

It may be vanity, but yet I do know that Ireland awaits with impatient expectation the final establishment of my right to sit and vote as a representative of the people. The people, with and through me, claim the full benefit of the Relief Bill. Is that Bill to be a mere dead letter, or are its provisions to be frittered away by any sophistications? Is there any undefined and undefinable authority to interpose between the subject and the exercise of his legal rights? God forbid any one of these questions should be answered in the affirmative, or that a shadow of doubt should be flung upon what I consider free from all suspicion,—namely, the straightforward and manly course which in the Relief Bill itself all parties exhibited who supported it through both Houses of Parliament. It matters little what becomes of me; but it is of great and vital importance that the King and the Parliament should not at this moment of great distress and coming difficulties, lose any portion of that confidence and gratitude of the people of Ireland which they have obtained by the Relief Bill.

I have the honour to be, &c.

DANIEL O'CONNELL,

Member for the County of Clare.

London, May 9, 1829.

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