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HERESY
ITS ANCIENT WRONGS
AND MODERN RIGHTS



ALEX. GORDON

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**HERESY, ITS ANCIENT WRONGS AND
MODERN RIGHTS, IN THESE KINGDOMS**



HERESY

**Its Ancient Wrongs and Modern
Rights
In these Kingdoms**

—
ESSEX HALL LECTURE

14 May, 1913

BY

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The true and wise course is, not to deal out religious liberty by halves, by quarters, and by fractions; but to deal it out entire, and to leave no distinction between man and man on the ground of religious differences.—
W. E. GLADSTONE.



CONTENTS

	PAGE
PREFACE	7
LECTURE	9
NOTES	52
CHRONOLOGICAL TABLE	82
INDEX	85

PREFACE

THE immediate occasion of this Lecture, the approaching centennial of the Trinity Act, 21 July, 1813, will account for an obvious limitation of its survey. In dealing with a topic of vast extent and complexity, it was fitting to concentrate on such points as might be presumed to concern most nearly those relieved by this Act from civil disabilities.

While working mainly on these sectional lines, there has not been absent from the Lecturer's mind the consciousness of a larger duty. Any value this Lecture may possess, must depend on the evidence it may afford of the Lecturer's intention to uphold, with all the strength he has inherited, the honour of an honest conviction, in whatever strange conditions it may chance to be found; and, concurrently, his determination to emphasize, with all the force at his command, the discredit of a repressive temper, however and wherever it may be shown.

The Lecture is printed with no augmentation of an unwonted longitude which tried the patience of its auditors. Notes are now added, with a view to justify, and in a few cases to expand, the statements of the text.

A. G.

26 *June*, 1913.





HERESY, ITS ANCIENT WRONGS AND MODERN RIGHTS, IN THESE KINGDOMS

NEWS had come of the death at Florence of Theodore Parker. Next Sunday morning¹ after service, strolling across Hampstead Heath in the breezy atmosphere of Edwin Field, the talk turned on this event. Field² had less sympathy with the theological attitude than with the philanthropic work of Parker, who relied, he said, on his own instincts. Then, in a characteristic flash, 'After all the real question is: *Do you believe that heresy is the salt of the earth?*'

'Earth' is a wide expression. For present purposes it is enough to affirm that Heresy has always been the Salt of the Church, including in that term something more than the insular Anglican schism. She—I call the Church 'she' partly because she likes it, partly because I view her as claiming a voice in all human affairs, and not above making a blaze to get it—she has greatly profited from time to time by heretical aids,

utilised both for word and for substance of doctrine. Are proofs required? From Sabellius comes the term 'persons' in relation to the Godhead. 'Homoousios' was heretical before it became offensively orthodox.

3 Of two forms of the doctrine of the Trinity between which the Church has wavered, one is an extension of Arianism with its trilogy of individuals, the other an extension of Sabellianism with its triplicity of functions. Newman, on the eve of his flight to the shelter

4 of infallibility, questioned 'whether any Antenicene Father distinctly affirms either the numerical Unity or the Co-equality of the Three Persons, except perhaps the heterodox Tertullian, and that chiefly in a work written

5 after he became a Montanist.' 'Trinitarian' in Papal bulls is the name of a heresy; an

6 arch-heretic it was who fastened it more appropriately on the Church herself. By a

7 heretic the first Canon of the New Testament was framed; the historian who did most to

8 bring the Canon near to its present standard was no paragon of orthodoxy. 'Forgive us our trespasses' in Catholic manuals of devo-

9 tion is a gloss accepted from the reforming hand of Henry VIII.

In the Anglican community, every phase

of its existing claim to be abreast of the times, in matters whether of Biblical criticism and interpretation or of theology proper, rests upon its adoption, with scant avowal, of methods pursued and results attained by ¹⁰ heretics in past days. The like is true of other bodies. Their assimilation of heresy, if slow, is sure. In their case also, heresy has been theology in the making. Take a cardinal instance. Not fifty years ago, armed with ancient precedent and contemporary approval, one of the main founders of the Free Kirk limited the reality of the Divine Fatherhood to the adopted in Christ, in other words to Calvinistic Christians and their cognates. Heresy has done something for ¹¹ the Free Kirk since 1870.

What then is heresy? A lucid article in the *Catholic Encyclopedia* endorses the definition of St. Thomas Aquinas who specifies 'two ways of deviating from Christianity: the one by refusing to believe in Christ himself, which is the way of Infidelity, common to Pagans and Jews; the other, by restricting belief to certain points of Christ's doctrine, selected and fashioned at pleasure, which is the way of Heretics.' Hence the author of ¹² the article affirms that 'the heretic always

retains faith in Christ.' Otherwise he is an Apostate. 'Apostasy,' says a Catholic canonist, 'differs from heresy, which is a partial, as opposed to a total defection.'

Heresy, again, may be involuntary, due to lack of knowledge or lack of judgment; in which case theologians term it 'material.' To be culpable it must be deliberate, embraced with 'pertinacity of will'; and then it is termed 'formal.' In short, it is not easy to improve upon the dictum of an anonymous 'Rational Dissenter' of 1716: 'Heresy is an error (in some matter of faith) which is obstinately maintained after due means of correction.'

Even this error may originate in an over-devotion to some truth. Conceding to Unitarians and to Presbyterians the use of their distinctive names, Newman remarks that 'Error is generally partial truth.' He goes on to say that 'the principle that it is a duty "to follow and speak the truth" really means that it is no duty to fear error.'

The 'duty to fear error' was understood by the Church as warranting in grave cases the extermination, unless they recanted, of any rash advocates of the unqualified 'principle that it is a duty "to follow and speak

the truth.”’ Several considerations pointed in this direction: the safeguarding of the truth itself, the preservation of the interests of the Church, a deterrent to other bold misguided spirits, last (by no means least) the need of averting the wrath of Almighty God, supposed to visit heretic-harbours with various forms of disaster. Such extermination we are in the habit of supposing was normally effected by the process of burning alive, so that the follower of Christ in the unadorned simplicity of his teaching was only too likely to realise without a metaphor the import of an uncanonical saying attributed to the Redeemer: ‘He that is near me is near the fire.’ England, ¹⁵ however, till the rise of Lollardy, was singularly free, as from heresy, so from the cremating of heretics. In 1166 sundry foreign heretics of Manichaeian type were whipped, branded, and expelled from English ¹⁶ soil, some of them dying from starvation and exposure. In 1210 an Albigensian was actually burned in London, but we have no ¹⁷ details.

This brings us near to an important case occurring in the year 1222 A.D. On 17 July of that year, Stephen Langton, Archbishop

of Canterbury, opened at Oseney Priory (nigh to Oxford) a Council of his province. Among the disciplinary canons then and there agreed upon was one founded on that of the Fourth Lateran Council (1215) which ordained that no clergyman should take any
18 part, however subordinate, in the judicial shedding of blood. Yet that same Lateran Council had ordained that heretics, when condemned by the ecclesiastical authorities, should be handed over to the secular arm, and if the temporal lord neglected to purge his land of heresy, he was to be excommunicated ; if that failed to bring him to his
19 duty within the year, his vassals were to be absolved from allegiance. Now the Oseney Council had before it for trial the case of an unhappy deacon (born in my native city) who, for love of a Jewess whom he married, had embraced the Hebrew faith,
20 undergone circumcision, and defiled the Cross. After degradation by Langton he was handed over to the lay power, residing for the moment in the person of the Sheriff of Oxfordshire, Falkes de Bréauté, 'an able, unscrupulous,
21 and godless man,' says his biographer. Like other godless men, this Norman military adventurer was not averse to obeying the

Church's behest, when it gave him pleasure to do so. The deacon was forthwith committed to the flames. His Jewish wife escaped, to the chagrin of Falkes, who roundly exclaimed, 'I am sorry that this fellow goes to hell alone.' Observe, however, that the deacon's offence was one of apostasy; and it is specifically for apostasy, not for mere heresy, that Bracton, referring to this ²² case, lays it down that a convicted clerk is to be first degraded and then burned.

That same Oseney Council had further to deal with a lad at Banbury who, fancying himself to be Christ, had pierced his own hands, side, and feet, and had accepted adoration from a couple of women. The elder of these, calling herself Mary, had bewitched him to the commission of his impiety; the younger, his sister, had disclosed the affair to the authorities, and was let off. Of the guilty pair, neither was burned. Both were immured for life and fed on water and ²³ dry crusts. In inflicting this penalty Langton (says the late Professor Maitland) was copying the proceedings of foreign inquisitors.

The point to be noted is that, although the deacon's case was treated in the reigns of Edward VI and Elizabeth as a precedent for

the burning of heretics at Common Law, it had nothing to do with Common Law, nor was it the burning of a heretic. No further case of burning, for any offence, is on record till we come to the year 1401. Meanwhile, in 1382, a Bill dealing with heresy appears on the Rolls of Parliament (it is not a Statute, ²⁴ for the Commons never gave their assent). It is directed against Lollards (though not by that name) accusing them, on the evidence of the provincial Council of Canterbury, of 'divers predications containing Heresies and notorious Errors,' and 'divers matters of slander to cause discord and dissension between divers Estates of the realm.' Sheriffs and other sufficient persons, acting on the certifications of prelates, are to imprison these offenders 'till they justify themselves according to reason and the law of Holy Church.' Doubtless this order, if acted upon, would lead to consequences identical with those in the case of the deacon aforesaid, though no hint of burning is actually given.

We have here the explanation of the case of William Sautre (otherwise Chatrys) in 1401. On 25 February, 1400-1, a writ was issued by 'the King and council in parliament,' addressed to the Mayor and Sheriffs

of London, and setting forth that a prisoner in their custody, William Sautre, some time chaplain, had been condemned and degraded, as a manifest and relapsed heretic, by the provincial Council of Canterbury, and then left to the secular forum. The King accordingly enjoins that Sautre be burned in some ²⁵ public and open place within the liberties of the City. Smithfield was the chosen scene. Sautre's eight heresies had begun with a refusal to adore the true cross and had ended with a denial of transubstantiation. On his first trial he had got off by a recantation before the Bishop of Norwich; the second time he had set up an ingenious defence, ²⁶ arguing his points in vain with Archbishop Arundel.

The execution of Sautre on 2 March was speedily followed on 10 March, 1400-1, by the Act commonly called *De Heretico Comburendo*, passed in response to a petition of the clergy, calling for measures to be taken against 'a certain new sect,' preaching 'divers new doctrines and iniquitous, heretical, and erroneous opinions.' The Act granted all the measures asked for. Heretical ²⁷ books were to be confiscated; heretical persons were to be tried by their diocesan bishop,

and unless they abjured, and did not relapse, were, on the writ of the sheriff of the county, or mayor and sheriffs (or bailiffs) of the town, to be burned *coram populo in eminenti loco*. This was followed in 1414 by an Act directed
28 against 'Lollardrie' by name, forfeiting to the crown the properties of persons dying convict of heresy.

Under the operation of the Act *De Heretico Comburendo* falls the case of William Tailour, an Oxford M.A., of Worcester diocese, burned
29 at Smithfield on 2 March, 1422-3. Tailour was a much more troublesome Lollard than Sautre, though he did not go so far as expressly to deny transubstantiation. He had been convicted in 1419-20 and had abjured; he had been condemned to perpetual imprisonment in 1421 and been pardoned; in 1422-3 he vented his heresies once too often.

I mention him especially, because through a misunderstanding he has been claimed as belonging to that very miscellaneous and precarious class of persons, the Unitarian Martyrs. I am really sorry that my friends should have been compelled to part with him, for (with the solitary exception of Bidle, who was not actually put to death) he is the only one who has ever figured on their list

as Master of Arts of Oxford—always a backward place. Tailour maintained *quod Christus non est exorandus ratione humanitatis* (not to be prayed to in his humanity), that is to say he was to be worshipped not as Man but only as God—a doctrine common to all Protestants, excepting the followers of Servetus and of Socinus, who retained the Catholic sentiment.

Traces of Christological heresy are indeed faint and rare in this country till we come to the sixteenth century. The earliest which I have come across is in 1481, when Margery Coyte, of Ashbourne, Derbyshire, was examined before John Hales, Bishop of Coventry and Lichfield, on the charges of denying transubstantiation, asserting that Christ was not the son of a Virgin, but of Mary and Joseph, and that the child of Christian parents needs no baptism. Here, certainly, is Christological heresy; yet, as even the Athanasian ' Creed ignores the Virgin Birth, its definite rejection by Margery Coyte is hardly sufficient evidence of distinctively Anti-trinitarian heresy on her part.

The first Englishman known to have been charged with such heresy was John Assheton, parson of Shiltelington in Lincoln diocese, of

whom it was proved, 28 December, 1548, that in his preaching he had declared that the doctrine of the Trinity was the work of
32 Athanasius; that Jesus Christ, while conceived of the Virgin, was not God; that the Holy Ghost was only a Power of the Father, and that the sole fruit of Christ's passion was to bring men to a knowledge of God by the testament. Admitting the charges, he recanted and very handsomely withdrew his 'damned opinions,' as he now deemed it the part of prudence to term his theological discoveries.

By this time, however, important legislative and ecclesiastical changes had taken place. Under the policy of Henry VIII the Act *De Heretico Comburendo* of 1401—though it had done good service in Henry's earlier
33 years—was repealed by the Act of 1533-4. This confirmed the supposed Statute of 1382, also the confiscating Act of 1414, but required not the sheriff's but the King's writ, for the burning of a heretic. Then came the Act
34 of 1539 (slightly amended in 1543) known as the 'whip with six strings.' Taking, for the first time, the definitions of orthodoxy and of heresy out of the hands of the Church, this Act confirmed Catholic doctrine on six points

by authority of Parliament, and made heresy on the points specified an offence against Statute law; thus transferring the trial of a heretic to the civil court, and abolishing the remedy of recantation. It was under this Statute that Anne Askewe, after being tortured on the rack, was burned in 1546 (16 July). The position of secular Pope assumed by Henry, is further seen in the Act of 1542-3, restricting the use of the 35 Scriptures in English. Any versions, containing anything contrary to the doctrine set forth, or 'to be set forth,' by the King, are to be abolished; and any spiritual person, maintaining anything contrary to the King's instructions or determinations 'made or to be made,' is for the third offence to be burned.

All this legislation was swept away by the long repealing Act of 1547, in Edward VI's first Parliament; so that by the time when Assheton spoke his mind from the pulpit there was no legislation against heresy on the Statute book. Accordingly when, about the date of Assheton's outburst, the case of Johanna Bocher (or De Kente), friend of Anne 36 Askewe, arose for the second time, there was a difficulty about the mode of procedure. Articles had been drawn up against this lady

in 1543, when Henry VIII had himself stopped proceedings. On 12 April, 1549, she was excommunicated by Cranmer, and kept in prison. After more than a year's incarceration, an order of the Privy Council (27 April, 1550), when neither Edward VI nor Cranmer was present, directed the Lord Chancellor Rich to issue a writ to the Sheriff of London for her execution. She was burned in Smithfield on 2 May, 1550. By a singular perversity of misconstruction this distinguished sufferer has been placed in Tailour's company among the constituents of the Unitarian martyr-roll. She maintained that Christ 'did not take flesh of the Virgin,' holding an opinion, not then very uncommon, that our Lord's body, while conveyed into this world through that of the Virgin, was in itself of purely celestial make. A doggrel poet, who just after the execution wrote rude rhymes in confutation of this opinion, enquires :

- 37 ' Where came he by thys flesh which amongst vs he brings ?
Had he fethers as well as flesh, and came down with winges ? '

Next year, however, we have an undoubted Anti-trinitarian burned at Smithfield.

This was George van Parris, a naturalized Fleming who spoke no English, and had come as a surgeon from Maintz to London. Excommunicated by the Dutch Church, he was condemned on 7 April, 1551, by the Privy Council for affirming that Christ was not very God. He was burned on the 25th April, 38 probably by royal writ.

Mary, on coming to the throne, had expressed her intention to compel no man in the matter of religion. Yet, under Philip and Mary, the supposed Statute of 1382, with the Acts of 1401 and 1414, were forthwith revived. That was in November, 1554. 39 I need not dwell on the horrors of the next four years. They have left on the English imagination an impression which is indelible. Efforts to minimise the number of the Marian victims have missed the real ground of this impression. Not the mere arithmetic of the persecution, but its indiscriminate ruthlessness, was the feature which outraged public feeling. It was a policy neither of conversion, nor of deterrence. Wherever it was carried out (six dioceses were free from burnings) it struck not simply at the leaders. Humble, unlettered, withal loyal subjects, unless they saved themselves by recanting,

were hurried to the murderous flames. A few Anti-trinitarians of mild type in Kent sheltered themselves by recanting, but the fellmonger, Patrick Pakingham, was burned at Uxbridge in August, 1555, though the
40 chronicler who records the fact charitably gives him credit for renouncing his Arian opinions before he died.

With the accession of Elizabeth the Statute book was again cleared of all Acts authorizing the burning of heretics. Yet heretics were
41 still burned. The repealing Act (1558) authorized a Court of High Commission empowered *inter alia* 'to visit . . . all such . . . heresies' as an ecclesiastical court could take cognizance of. The opinion prevailed (based mainly on a misconstruction of the case of the Judaising deacon in 1222) that a writ *de heretico comburendo* was available at Common Law. The case of the two Dutch Ana-
42 baptists, burned on 22 July, 1575, deserves particular mention, by reason of the strong protest made by Foxe the martyrologist against the death penalty for heresy, a view at that time unshared in this country, except indeed by the heretics themselves. Anti-trinitarian heresy at this date had its seat in the Norwich diocese, and is traceable to

the influence of Erasmus. For a season it was burned out in the persons of Hamont, the ploughwright (1579), with his followers Lewes (1583) and Cole, the tanner (1587); lastly (1588-9) the mystical millenarian, Francis Kett, a Cambridge M.A. All these 43 cases, relating to men whose marked religious character was enriched by constant Scripture study, were due to the vigilance of the Norwich bishop (Edward Scambler).

That we do not find the penalty of the stake applied under Elizabeth to any but these abnormal religionists, is due to the policy which treated her Catholic and her Puritan victims simply as political offenders. Campion (1581) and Penry (1593) were not ostensibly condemned for their religious ideas, but for sedition. They were not burned; Campion was hanged, drawn, and quartered; Penry was hanged. No doubt they stood in the way of Elizabeth's aim at an ecclesiastical uniformity; but to Elizabeth that was a political rather than a religious aim.

To Anti-trinitarians belongs the honour of culminating in 1612 the list of English victims of the stake. In the prosecution of Legate, the cloth merchant, and of feather- 44

brained twice-burned Wightman (who like Cranmer recanted his recantation, though he had felt the fire) James I took personally an active part, on purely theological grounds. The Polish Socinians had committed the dangerous folly of dedicating to him their
45 Racovian Catechism (1609), thus provoking him to a militant orthodoxy, displayed in the burning of books, and later of human beings. The proceedings taken against Legate and Wightman were as follows. Each was tried before his own diocesan ; King, of London, in the one case ; Neile, of Coventry and Lichfield, in the other. Condemnation having been reached, James issued his warrant to the Lord Chancellor Ellesmere for a writ under the great seal. The writs were addressed to the Sheriffs of London and of Lichfield respectively, and wound up with the affirmation that a condemned heretic ' according to the laws and customs of our Kingdom of England ought by custom in this part to be consumed by burning with fire (*in hac parte consuet' ignis incendio comburi debere*). These last words are copied from the writ for the execution of Sautre ; but torn from their context, where *in hac parte consuetudinariae*, is not (as in Ellesmere's

writs) a superfluous tautology. In the writ of 1401 the words run: *juxta legem divinam, humanam, canonica instituta, et in hac parte consuetudinariae ignis incendio comburi debere*. The appeal in Ellesmere's writs to English laws (*juxta Leges & Consuetudines Regni* ⁴⁶ *Nostri Angliae*) is without any justification from the then existing Statute book.

In the Wightman case, William Laud, then Neile's chaplain, had taken a willing hand. As Archbishop of Canterbury, he directed the fourth of the abortive Canons of 1640 against ⁴⁷ Socinian books; *ipso facto* excommunicating their printers, importers, and readers; with some privileged exceptions, which condoned the perusal of Socinian books by clerical gentlemen of high grade, who might be likely to worry the writers. When the Long Parliament took up the consideration of these Canons a memorable criticism of the one in question was contributed (9 February, 1641) by Nathaniel Fiennes. He spoke of ⁴⁸ it as 'determining a heresy not determined by law.' He went on thus: 'They say it is a complex of many heresies, condemned by the four first Councils, but they do not say what those heresies are; and it is not possible that Socinianisme should be formally con-

demned in those Councells, for it sprung up but of late. Condemning Socinianisme for an heresie, and not declaring what is Socinianisme, it is left in their own breasts whom they will judge and call a Socinian. I would not,' he adds, 'have anything that I have said to be interpreted as if I had spoken it in favour of Socinianisme, which (if it be such as I apprehend it to be) is indeed a most vile and damnable heresie.'

One unanticipated consequence of the action of Convocation in 1640 was that the ecclesiastical courts fell (not to be revived till 1661, and then without the help of the *ex-officio* oath). It was now the turn of the Presbyterians to show the world how to deal with heresy. All over the country with 'harmonious consent' they testified against Toleration, starting with the London Ministers' letter, addressed (18 December, 1645) to the Assembly of Divines, proclaiming a general Toleration to be 'a great impiety,'
49 and culminating in the Lancashire manifesto (3 March, 1647-8), a document unmatched in literature for sheer malignity of expression.

No ambiguity is to be found in the Par-
50 liamentary Ordinance of 2 May, 1648, against blasphemies and heresies. It sets

forth a workmanlike and comprehensive scheme of orthodoxy, every single point of which is of equal value. It adds a string of sixteen heresies, all on a like level of impiety. To deny any of the one, or maintain any of the other, is to be a felon; who must 'suffer the pains of death' unless he recant; and, if he recant, must remain a prisoner, till he find sureties that he will not maintain the same any more; if he relapse, 'death as before.'

This is one of the few measures chargeable on the Presbyterian party which Zachary Grey, in his caustic examination of Neal's 'Puritans,' does not cavil at, evidently think- 51
ing it needed by the times. Cromwell thought otherwise. Hence, while Bidle's book was burned, the Westminster Assembly's appeal for his blood was ineffective. The particular blasphemy for which James Nayler was condemned (1656) had not been anticipated in the schedule of 1648. Still, Parliament took 52
seven days to debate the question of a capital sentence, negating it at length by the small majority of eight. The clemency of Parliament showed itself in tender mercies which recall a Biblical dictum. After two hours pillory, Nayler was whipped by the hangman

from New Palace Yard to the Exchange. Next day but one, after two hours pillory at the Exchange, his tongue was pierced with a hot iron, and B (for blasphemer) was branded on his brow. Thereafter he was ridden through Bristol with his face to the horse-tail, and whipped through the city on the way back. Lastly he was kept in Bridewell during Parliament's pleasure, at hard and solitary labour without pen and ink, and with nothing to eat but what his labour earned.

It appears to me that, under the restored Stuart regime, heresy was better off than during the Parliamentary period. Latitudinarian ideas found favour at Court. All conventicles, it is true, were made illegal; and these, quite irrespective of their theology, were on political grounds pursued with a relentless ferocity sharpened by vindictive malice. Individuals were rarely persecuted for their opinions; though Penn was sent to the Tower (1668) for his 'Sandy Foundation Shaken.' In the year of Indulgence (1672-3) the avowal of heresy, under
53 the name Unitarian, first appears in print; in the year (1687) of James II's dispensations, that name first figures on the title page of a

book. Furthermore it was during this period (1677) that the Act was passed ordaining⁵⁴ 'That the writ commonly called *Breve de haeretico comburendo* . . . and all punishment by death, in pursuance of any ecclesiastical censures, be . . . utterly taken away and abolished; any law, statute, canon, constitution, custom, or usage . . . notwithstanding.' To ecclesiastical courts was still reserved the power to excommunicate, deprive and degrade 'in cases of atheism, blasphemy, heresy, or schism, and other damnable doctrines and opinions'; and excommunication then was a very real disablement, as many a Nonconformist throughout England, Wales, Scotland, and Ireland knew to his pain and cost.

It was after and in consequence of the Toleration Act (1689) that heretics got into⁵⁵ new and serious trouble. This Act not only deprived of toleration all who should deny in preaching or in writing the doctrine of the Trinity as declared in the Thirty-nine Articles, but compelled all preachers to declare approbation of and to subscribe those Articles, omitting only the parts relating to government and ceremony. This drove heretical writers to anonymity, and

deprived pulpit-teaching of its legitimate development. At that date Nonconformists could, as a rule, with less compunction than Conformists, sign allegiance to the Calvinism of 1562. It is true there were Arminians in the Baptist branch, but not so many as in the Establishment. From that date the temptation was to resort to the device which, I see, doctors recommend for weak hearts, namely, going upstairs backwards—a compromise between progression and facing t'other way. Real theology means real progress. The only effect of getting to the top-rung of your theology is that you want a longer ladder.

The activity of Firmin's anonymous tract-writers, and the discord among the defenders of the Trinity (who wrote as vigorously against each other as against the common foe) naturally led to alarms about the spread of Socinianism. In 1697 a deputation of Dis-
56 senting ministers (lately rent by the Crispian controversy) asked William III to forbid the printing of Socinian books; on this controversy they were, or thought they were, in agreement. Next year (1698) came 'An Act
57 for the more effectual suppressing of blasphemy and prophaneness.' Observe well

this title. This Act is careful to avoid any whisper of the name of heresy. For of heresy the Church is judge. To define it is her function and hers alone. Though Henry VIII through his Parliament, and the Parliament of the Commonwealth sitting in the seat of Henry VIII, did in fact assume the right to define heresy, and be its judge, this was a manifest usurpation of that which by divine right belonged exclusively to the Church. Hence the reason for avoiding the mention of heresy, and for falling back on the accusation of blasphemy. In its meaning and intent, the Act of 1698 was expressly directed against Socinians and Deists. This its terms make quite evident, though neither Socinians nor Deists are mentioned. The Act applies only to persons 'having been educated in, or at any time having made profession of the Christian religion within this realm.' These it penalises, if they 'shall by writing, printing, teaching, or advised speaking, deny any one of the persons in the Holy Trinity to be God, or shall assert or maintain there are more gods than one.' The Socinian theology broke the first of these orders, by denying the Holy Ghost to be God. It also broke the second, by affirm-

ing that, while the Father is the Most High God, Jesus also is God in subordination to the Father. Deists are struck at in the following clauses, which penalise such as 'shall deny the Christian religion to be true, or the holy scriptures of the Old and New Testament to be of divine authority' (clauses unrepealed to this day). The penalties are, for the first offence, incapacity for any office or employment, ecclesiastical, civil, or military, an incapacity removable by renunciation of the error; for the second offence, perpetual outlawry, and three years' imprisonment without bail. Information must be within four days, and prosecution within three months, of the alleged offence. This Act (I take it) was never very popular, and it was seldom that any use was made or attempted to be made of it. Still it was there *in terrorem*.

What I have said of the comparative leniency towards heresy in the second period of the Stuart regime does not apply to Scotland. Scotland in early days burned heretics, just as in England, on the principle of handing to the secular arm the miscreant condemned in the ecclesiastical court. In 1661
58 an Act of the Scottish Parliament 'against the crime of blasphemie,' ordained the death-

penalty for any person who 'not being distracted in his wits, shall rail upon or curse God, or any of the Persons of the Blessed Trinity,' or 'shall deny God, or any of the Persons of the blessed Trinity, and obstinately continue therein'—a very singular enactment, inasmuch as it implies that the offence of railing upon or cursing God was not unknown across the border at that date.

This Act was confirmed by another Act (28 June, 1695) when penalties were attached to all persons 'who shall in their writing or discourse deny, impugn, or quarrel, argue, or reason against the being of God, or any of the Persons of the Blessed Trinity, or the authority of the Holy Scriptures of the Old and New Testaments, or the providence of God in the government of the world.' The penalties were, for the first offence, imprisonment till he do public penance in sackcloth; for the second, the same with the addition of a fine; for the third 'death, as an obstinate blasphemer.'

Under these statutes occurred (8 January, 1697) the judicial murder of the medical student, Aikenhead, on the ground of random expressions, distorted by a fellow student, and completely retracted by the stripling himself

who died in the Christian faith. The Presbyterian ministers then in Edinburgh (including
61 Lorimer, first in the list of Dr. Williams's trustees) 'spoke and preached for cutting him off.' The effect of the murder was to reduce these draconic statutes to the dead letter level. By the Scottish Parliament they were not, however, repealed.

Ireland is commendably free from prosecutions for heresy. Of the death penalty but a single instance is known, as far back as
62 1327, when the Anti-trinitarian Adam Dubh (black) of the O'Tooles, was burned at Dublin as a heretic and blasphemer. It may be remembered that capital punishment was unknown to the native Irish law (Brehon law). A murderer was fined to the value of his victim, and anything further was left to the prowess of the next of kin, as avenger of blood.

63 The trial of Emlyn at Dublin in 1703 was (nominally at any rate) not for heresy, but in the Queen's Bench, for publishing a blasphemous libel. His prosecutor intimated that if acquitted Emlyn might be proceeded against in the ecclesiastical court. This was not found necessary. The case was thus tersely summed by Bishop Hoadly: 'The

Nonconformists accused him, the Conformists condemned him, the secular power was called in, and the cause ended in an imprisonment and a great fine, two methods of conviction of which the Gospel is silent.'

The Irish Toleration Act, delayed till 1719,⁶⁴ imposed no subscription (an exemption said to be due to the personal action of George I) though, as in the English Act, persons preaching or writing against the Trinity as defined in the Thirty-nine Articles were excluded from its benefits. No embargo was laid, as in the English Act of 1698, on 'advised speaking'; perhaps they did not expect to find any on that side of St. George's Sea. It is remarkable that when, in 1724, Thomas Nevin refused to declare his belief in the Deity of Christ, he was cut off from ministerial fellowship by the Ulster General Synod,⁶⁵ yet was not excommunicated, nor deprived, nor deposed; and when, in 1726, the Synod purged itself of members who declined a voluntary subscription, it excluded them from jurisdiction but not from communion. The Irish Presbyterians were never as bitter as their English allies, and were worthy of the status which became theirs when the incubus of Establishment was removed.

The Act of 1698 marks the culmination of English legislative enactments for the suppression of heresy. Henceforward the course of legislation, tardy but not retrograde, was in the direction of relaxation of stringency and exemption from penalties. By the
66 revised Toleration Act of 1779 there was granted to Nonconforming heretics that relief from subscription to the Articles which had been denied, seven years before, to Conforming heretics ; though these latter were both numerous and influential. A declaration of acceptance of the Scriptures as the divine rule of doctrine and practice was now substituted in the case of Dissenters (if they so pleased) for subscription to the Articles.
67 It was not till the Act of 29 July, 1812, that every person officiating in a certified Meeting-house was bound to make and subscribe this declaration ; and then only when specially and individually called upon to make it, by a justice of the peace, in writing. The penalty for refusing is a fine 'not exceeding ten pounds nor less than ten shillings' leviable 'every time he shall so teach or preach.'

In 1792 it seemed to the Whig leaders that the time was come for the repeal of legislation pressing adversely upon Unitarians ;

who now occupied considerable space in the public eye, and whose claim for equal civic treatment might have been deemed worthy of some recognition, if only as a protest against the disgraceful outrages at Birmingham in the previous July. In the spring of 1792, Fox was entrusted with a petition for relief of Anti-trinitarians, signed by Christians of different denominations, including Calvinistic clergy and laity. He opened the matter in the House by a motion, not by a Bill, in consequence of a standing order of 30 April, 1772, that no Bill relating to 68 religion should be brought before the House, until the proposition should have been first considered in a Committee of the whole House, and agreed unto by the House. Fox's motion (11 May, 1792) for the repeal of certain penal 69 statutes respecting religious doctrine was of the broadest scope, and would (if carried) have swept away the whole body of such statutes, whether they directly affected Anti-trinitarians or not. As Pitt put it, the motion 70 would 'do away with the whole system of laws relating to religion.' Indeed, it was well said by a contemporary pamphleteer, 71 'It is not one sect but many, that are striving to break their chains, disagreeing in

a variety of respects but uniting in a firm and unvaried attachment to the principles of civil and religious freedom.' 'There could
72 be no great harm,' Fox had averred, 'in removing from the Statute Book that which we are afraid, or ashamed, to enforce.'
73 Burke in reply admitted it was 'no longer a theological question, but . . . a question of legislative prudence.' He argued it imprudent to accept the motion, because 'Unitarians are associated for the express purpose of proselytism,' aiming 'to collect a multitude sufficient by force and violence to overturn the Church,' and this 'concurrent with a design to subvert the State.' In a fine strain of mock-heroics, he implored the House not to wait 'till the conspirators met to commemorate the 14th July shall seize on the Tower of London and the magazines it contains, murder the governor and the mayor of London, seize upon the King's person, drive out the House of Lords, occupy your gallery, and thence, as from an high tribunal, dictate to you.' With some pertinence did William Smith ask, after this sample of 'advised speaking' by an Irishman, why Mr. Burke had not prosecuted these conspirators. Smith further maintained that the penal

Statutes were the mischievous agencies which had fomented the riots both of 1780 (against Catholics) and of 1791 (against Unitarians).

Relief for the Unitarians came in 1813. In their petition to Parliament, on 8 March, 1792, they had stated that they conceived it to be 'their duty to examine into and interpret the Holy Scriptures for themselves, and their right, publicly to declare the result of their enquiries.' I like to remember that in 1813, on 9 April, William Smith was the man entrusted to present to the House a petition from the Three Denominations for the promulgation of the Christian religion in India. Other similar petitions followed, but this seems to have been the first.

The Trinity Bill was introduced in the ⁷⁴ Commons on 5 May, 1813. It was read a third time on 29 June, when it was '*Ordered*, That Mr. William Smith do carry the Bill to the Lords, and desire their concurrence.' This he did on the following day. In the Lords it was thrown out in Committee (7 July) on the ground of informality. It contained the words, 'and of all and any other Act or Acts of the English, Scotch, British, Irish, or United Parliaments, as impose penalties on those who interpret the Holy

Scriptures inconsistently with the doctrine of the Holy Trinity as laid down in the Thirty-nine Articles.' No Act, the Lords maintained, can be regularly repealed, unless it is distinctly specified. Was the objection a genuine one? I am not sure. For I notice that the wording of the Act abolishing (1677) the *Breve de haeretico comburendo* practically repeals laws not specified. I think the Lords bore in mind the sweeping nature of Fox's motion of 1792 (which *did* specify a lengthy series of penal Acts to be in part repealed) and were determined that the Unitarians should emancipate no one else, under cover of their own freedom. Hence the new Bill, introduced on 10 July, while repealing the exclusion from toleration of persons preaching or writing in denial of the Trinity, and repealing *in toto* the Scottish Acts of 1661 and 1695, still left untouched, in the Act of 1698 against blasphemy and profaneness, the clauses directed against Deists. It repealed only such part (not specified) of the Act of 1698 as affected 'persons denying as therein mentioned, respecting the Holy Trinity' and it ignored the Irish Toleration Act of 1719 (this, however, was amended on 7 July, 1817).

The truth is, the new Bill had been hastily

and, I think, imperfectly drawn. The Act of 1698 exhibits the phrase 'persons denying the Trinity' only in the marginal summary, which I understand to be no part of the Act itself. Many of the early pioneers of Unitarian heresy, those of the Arian school, had repudiated the charge that they were 'denying the Trinity.' On the contrary, they claimed to hold the true, the scriptural, doctrine of the Trinity, and the fashion continued. Thus Emlyn styled himself 'a true Scriptural Trinitarian' (1708); Samuel Clarke, at a later date, published his heresy under the title of 'The Scripture Doctrine of the Trinity' (1712). Now the Act of 1698 was not directed against Arians, but, as I have said, against Socinians. It condemns those who make statements about the Trinity: namely, denying that one of the Persons is God, and affirming that more than one is God (in different senses). Do you tell me that this last notion was, by 1813, entirely out of fashion? Well, in 1808, and again in 1817, Belsham, in the 'Improved Version,' adopted the rendering 'the Word was a god,' and defended, in a note, the reference to Jesus Christ.

The amended Bill passed both Houses

without debate. Passed in the Commons
75 on 14 July (a memorable anniversary) it was
taken to the Lords on the same day. On
the third reading in the Lords (20 July) a
76 couple of bishops put forward the view that
the Bill, which they had not the least inten-
tion of opposing, 'had not been called for
by any attempt to inflict penalties upon or
impede the worship of Unitarians, to whom
liberty of conscience, in their peculiar inter-
pretation of the scriptures, was extended as
amply as to other Dissenters, in that tolerant
spirit which characterised the Church of
England.' Just so.

Be good enough to observe the title of this
77 Act, which received the royal assent on 21
July. It is not an Act for the relief of Unit-
arians, but 'An Act to relieve persons who
impugn the doctrine of the Holy Trinity from
certain penalties.' With his usual sagacity,
Belsham perceived that this was a relief Act
for Dissenters generally. Every Anglican
was still bound by law to be a Trinitarian,
whereas the sum total of Tolerated Dissent
was now freed from this statutory obligation.
It was now possible and proper, so thought
Belsham, for Unitarians to take their places,
simply as an influential ingredient, in the

larger whole of Protestant Dissent. Hence, to the righteous indignation of a correspondent of the *Monthly Repository*, the building⁷⁸ in which I am now tiring you to death, the building labelled in 1813 'Unitarian Chapel' had blossomed into 'Essex Street Chapel' by February, 1814. Lindsey had been sanguine of a large outcome from the Anglican body, as the result of the rejection of their petition in 1772. Belsham was sanguine of a large proclamation of Unitarian sentiments throughout Dissent, invited by the Act of 1813.

He forgot the trust deeds. Since the Act was not retrospective, the problem of the trust deeds soon became acute ; as Unitarians discovered, to their cost, within four years of the passing of the Trinity Act. It was laid down by Lord Eldon that a trust for the worship of God pure and simple is a trust⁷⁹ for the Church of England ; and this seems reasonable enough, so long as we maintain a privileged sect, investing it with a claim to be the Church of the Nation. A trust for Protestant Dissenters is necessarily governed by the conditions on which the law tolerates such Dissenters. Thus, between 1689 and 1779, it imports subscription to the Articles ;

after 1779, and up to the present moment, it imports allegiance to the Scriptures. In the older trusts, those for endowment usually specify something more ; doctrine, denomination (often bracketing Presbyterian and Independent), sacramental qualification for membership, and so on. Towards the later years of the eighteenth century, liberal Dissenters, unable to frame a legal trust for their Arian views, resorted to a curiously elaborate scheme of exclusion in regard to the minister who might be chosen. He must not be a Calvinist, a Methodist, an Independent, and so on, but one of the class 'commonly called Presbyterian.' After 1813, express and formal Unitarian trusts, various in their phraseology, were the rule till 1854. That they then ceased, was due to the publication
80 in 1856 of the rules of the Rawdon Fund, which excluded from benefit all ministers the trust deed of whose Meeting-house contained any doctrinal stipulation except the acknowledgment of the Scriptures as the rule of faith and practice. This could hardly be excluded, as this was and is the condition of Toleration ; but the whole theory of the exclusion was manifestly unjust. For, what responsibility had the impecunious minister

for the trust deeds of his chapel, or of his endowments; or indeed, as a rule, what knowledge of them?

The Dissenters' Chapels Act of 19 July, 1844, which applies equally to all Noncon-⁸¹formists, amended the Trinity Act by making it retrospective. It did not, as the Unitarians asked, give them the property of the chapels they occupied, nor did it sanction any changes in church government; but it confirmed existing occupiers in their occupancy, if the trust deed had no precise doctrinal stipulations which excluded them, and if they could show the undisputed usage of twenty-five years in favour of the opinions they held and taught. They continued, as I have said, to put distinctive doctrinal stipulations into their trust deeds for another decade. The Unitarians, in their petitions, had rarely⁸² rested the case for the Act of 1844 on any broad general ground. They had asked for it because they fancied they could find traces of Anti-trinitarian opinion in their congregations from the beginning, a fancy illustrated by the remark of a worthy lady on the opening of the Manchester Memorial Hall: 'Two thousand Unitarian ministers ejected! And how is it there are now so few?'

83 From 1860 we may date the rise and progress of the lulling myth of the 'Open Trust.' I have never met with a trust which I should call truly open except in the case of one or two Baptist foundations, in which the property is left to be applied to any charitable uses at the discretion of the trustees. Religious uses, of course, come under the general designation of charitable. Human nature being what it is, I do not hesitate to express my opinion that this is the only safe trust, the only one likely to be permanently carried out. Tie them up as tightly as you may try to do, trustees will 'use their discretion,' whether they have got any or not. Some of them received a shrewd knock the other day, in the Weigh House judgment, which told them to mind their own business of conserving the property, and understand that the religious life of the congregation was not their province as trustees.

I am aware that the lawyers, when the terms of a trust are awkward, have expedients for its improvement, especially when a rebuilding is on hand; expedients which, by the frivolous lay mind, are thought to bear some resemblance to a shuffling of the cards for a new deal. Some say these expedients are

safe, which others doubt. Anyway, it is clear that we ought not to be in continual debt to an ingenuity of this kind. We are not alone in the need for drastic legislation to remove this dead weight of limitation placed, by good men gone, on the developing thought and action of their successors; restrictions burdensome to men's consciences, whether they choose the path of fidelity to the servitude of the letter, or indulge a preference for the newness of the modern spirit. Edwin Field, I believe, was perfectly right in maintaining that as a man is not allowed by law (since 28 July, 1800) to tie up his property ⁸⁴ for more than a certain term of lives, or years, so neither ought he to have legislative sanction for the permanent endowment of his 'whim'—Field's own word.

As for Heresy's 'modern rights,' the phrase is little better than a concession to the enemy. Heretics, as such, have no rights, and demand no privilege. Now Toleration is privilege. From the standpoint of those who tolerate, it is privilege grudged, and seasoned with humiliation; to those on whom it may be bestowed it is humiliation perpetuated under a varnish of privilege. As citizens, and in virtue of their citizenship,

and of this alone, are heretics entitled to equal rights with all others, in matter of religion ; every man having it as his common right and duty to hold, express, and conform to his own view of religion and of theology, so long as he does not by his action injure his neighbour. Toward this conclusion, as we have seen, the whole course of our history (in its varied record of furious and fatuous failures to suppress the vitality of the human mind by killing men, obliterating books, and paralysing speech) has been gradually, not without fluctuations, yet very definitely, tending. On the side of liberty of thought and of expression is enlisted to-day the sure force of public opinion ; which, after all, is our only potent earthly lawgiver. That our Statute book, with its many provisions now antiquated and outgrown, requires further amendment, none can doubt. The position is vastly improved, but it points to a fairer improvement. Exactly 140 years have passed
85 since Priestley thus challenged the peddling aim of a mere petition by Dissenters, craving a measure of relief for themselves alone. ' You have hitherto,' said he, with his usual fearless emphasis, ' preferred your prayer as Christians ; stand forth now in the character

of men, and ask at once for the repeal of all the penal laws which respect matters of opinion.'

We are glorying to-day in the Relief Act of 1813. We are honouring the memory of men whose fidelity to conviction was thus rewarded. Yet, ere we imagine that their work and our work is done, let us look back for a moment to a much earlier date, and a much darker period in the annals of Christian story. From the camp outside Milan, just 1,600 years ago, issued the rescript of Constantine, not yet more than a semi-Christian, and of his colleague, Licinius the pagan, a rescript which conveyed 'both to Christians, ⁸⁶ and to every man, the free faculty of following the religion which each man should have chosen of his own will.' The date of the Milan edict, 313 A.D., is marked by ecclesiastical historians as a golden day, the day of 'the peace of the Church.' Nor will either the Church or the World have peace, or deserve to possess it, till the spirit of that ancient but ever-fresh proclamation, ensuring freedom for the mind and heart, has won, by the grace of God in Christ, its perfect triumph over man's misunderstanding of man.



NOTES

1. Theodore Parker, *b.* 24 Aug. 1810; *d.* 10 May, 1860.

2. Edwin Wilkins Field, *b.* 12 Oct. 1804; *d.* 30 July, 1871, 'was the mainspring of the agitation which secured the passing of the Dissenters' Chapels Act in 1844'; the provisions of the Hibbert Trust (19 July, 1847) 'were mainly due to Field's suggestions. He induced Hibbert to modify his original plan in favour of what has become practically an endowment for research.' Robert Hibbert called his endowment 'the Anti-Trinitarian Fund' and 'determined on insisting that all recipients should be heterodox,' his intention being 'to elevate the position and the public influence of the Unitarian ministry.' *Dict. Nat. Biog.* Field would have preferred to draw the line at the Atonement rather than the Trinity; however, the Hibbert Scholars, during the first twenty years of the Trust, were compelled to sign a declaration of disbelief 'in any doctrine of the Trinity commonly considered orthodox.'

3. Even infallibility does not know its own mind on this momentous doctrine. The Fourth Lateran Council in 1215 pronounced it heretical to say there are three persons in God with a common essence, for that makes four. The penny *Catechism*, with the *imprimatur* of Cardinal Vaughan, says: 'as in one God there are three persons, so in my one soul there are three powers.'

4. John Henry Newman, *An Essay on the Development of Christian Doctrine*, 1845, pp. 14, 17n, 71.

5. See *Bullarium Romanum*. The *Bulla Coena Domini* as issued by Gregory XIII, 4 Ap. 1583, anathematizes 'Anabaptistas, Trinitarios,' etc.; as issued by Paul V., 8 Ap. 1610, it anathematizes 'Anabaptistas, Trinitarios et a Christiana fide apostatas,' etc.; and so the bull ran till it was discontinued by Clement XIV. in 1770. Louis Anastase Guichard, a Franciscan tertiary, author of the anonymous *Histoire du Socinianisme*, Paris, 1723, enumerating (p. 6) the different names given to Socinians by orthodox persons, states: 'Ils les appellerent *Trinitaires* . . . mais nous devons ajouter que c'est improprement qu'on les appelloit *Trinitaires*' ; yet the Papal bull was still doing this.

6. Michael Servetus, in his earlier works (1531-2) uses the term *Tritoita*, a word of his own coining, suggested probably by the *Unionita* of his countryman Prudentius. In his *Christianismi Restitutio*, 1553, he first employs *Trinitarius* in its modern sense. Hence in the list of charges against him at Geneva, prefixed to the sentence of death, the fifth runs: *il appelle ceux qui croyent en la Trinite trinitaires et atheistes*, Joannis Calvini, *Opera*, ed. Baum, Cunitz et Reuss; vol. viii. (1870) p. 827.

7. 'Marcion . . . fixed a definite collection of Apostolic books as the foundation of his system. The Canon thus published is the first of which there is any record.' Brooke Foss Westcott, *A General Survey of the History of the Canon of the New Testament*, 1896, p. 318.

8. 'Eusebius received as "Divine Scriptures" the Acknowledged books, adding to them the other books in our present Canon, and no others . . . he was un-

decided as to the authorship of the Apocalypse. Westcott, *ut sup.*, p. 431. 'Eusebius was an Arian.' Newman, *ut sup.*, p. 14. He means the historian, as the context shows, and perhaps he is a little hard upon him, for the historian, though inclined that way, did not go so far as his namesake of Nicomedia.

9. It appears in *A Goodly Prymer*, 1535, and has become general from its presence in *King Henry's Primer*, 1545, along with the further variant, 'let us not be led into temptation'; see Edward Burton, *Three Primers put forth in the reign of Henry VIII*, 1834.

10. The open assimilation of heresy in the Establishment (unaccompanied by any change in the formularies) dates from 1864, when Lord Westbury 'dismissed hell with costs.'

11. Robert Smith Candlish, D.D. (b. 1806; d. 19 Oct., 1873) published in 1865, *The Fatherhood of God: being the first course of the Cunningham Lectures delivered before the New College, Edinburgh, in March, 1864*. This came to a fifth edition (with supplementary volume, in answer to objections) in 1870. The chief use of the Declaration of Faith and Order (1833), still embalmed in the current issue of the *Congregational Year Book*, is to exhibit how the land lay before heresy broke a path from George Redford to Reginald John Campbell.

12. *The Catholic Encyclopedia*, vol. vii [1910], p. 256, art. *Heresy*, by Joseph Wilhelm, D.D., then pastor at Battle, Sussex, now of Montzen, near Aachen (see *Catholic Who's Who*, 1913).

13. Ethelred Taunton, *The Law of the Church, a Cyclopaedia of Canon Law for English-speaking Countries*, 1906, pp. 30, 358.

14. *The Rational Dissenter, Soberly professing his*

Stedfast Belief in Thirty Nine Articles. By J. C., 1716, p. 4 (Art. III).

15. 'Ait autem ipse Salvator : Qui juxta me est, juxta ignem est ; qui longe est a me, longe est a regno.' Origen, *Hom. in Jerem.* xx, 3. Harnack's improvement on this reminds one of the felicity with which Bentley has amended Milton, and the Variorum editors have given lessons to Shakespeare.

16. The fullest account (Willelmi Parvi, Canonici de Novoburgo, *Hist. Rerum Anglicarum*, ed. Richard Howlett, 1884, ii., 131 sq.) says there were over thirty Germans, men and women, led by one Gerard ; they called themselves Christians, but, failing to satisfy a council at Oxford, they were branded on forehead and chin ; then, their clothing having been cut away to the waist (in winter time) they were scourged out of the city with crack of the whip (*flagris resonantibus*). Willelmus calls this ' pious rigour ' ; and mentions with pride that, while Britain of old had produced a heresiarch, from such pests England had ever been immune.

17. *De Antiquis Legibus Liber*, Camden Soc., 1846, p. 3. (a compilation of A.D. 1274, which has been assigned to Alderman Arnald Fitz-Thedmar) has this under marginal date M^o CC^ox, (the Sheriffs being Stephen le Gros and Adam de Wyteby) : ' Hoc anno concrematus est quidam Ambigensis apud Londonias.' Two points may arise out of this brief entry. (1) ' Ambigensis ' (a blunder of some kind) is by Maitland and others, rendered ' an Albigensian,' for which the Latin forms are ' Albiensis,' ' Albigiensis,' and ' Albigensis.' In the translation by Henry Thomas Riley (*Chronicles of the Mayors and Sheriffs of London*, 1863, p. 3.) the rendering is ' a certain Angevin,' but the Latin form for this is ' Andegavensis.' (2) Personal inspection

of the original MS. (in the Record Room of the Town Clerk's Office, Guildhall) shows that the last word, very clearly written, is 'Londoñ' (each *n* is quite plain, and quite distinct in form from *u*). The editor for the Camden Society (Thomas Stapleton) has expanded all the contractions, and has rightly expanded this one 'Londonias.' 'Londoniarum civitas,' which occurs elsewhere in the same MS., is a recognized Latin form for London; and it is with London affairs that the chronicle deals. I mention this, in view of a suggestion that the place of concrementation was not London, but Loudun (Vienne); the idea being that King John, himself of heretical proclivity, would not sanction the burning of a heretic. As I have endeavoured to show, recourse to royal authority in such matters dates from 1401; in this case we may presume that the Sheriffs took the responsibility. Moreover, the Latin forms for Loudun are 'Juliadunum,' 'Losdunum,' and 'Lausdunum'; where 'Lodunum' occurs, it means Laon (Aisne), being a variant of 'Laodunum' or 'Laudunum'; see J. G. T. Graesse, *Orbis Latinus*, 1909 (ed. F. Benedict).

18. 'Auctoritate quoque generalis concilii districtius inhihemus, ne quis clericus . . . literas pro poena sanguinis infligenda scribere vel dictare praesumat, vel ubi iudicium sanguinis tractetur, aut exerceatur, intersit'—Concilium Oxoniense, can. ix. (Wilkins, *Concilia*, 1737, i., 586). The Lateran decree to this effect prohibits even the use of cautery or incision to the clerical surgeon (Mansi, *S. Conciliorum Collectio*, vol. xxii. (1778) p. 1007).

19. Not only so, 'et terram exponat catholicis occupandam, qui eam exterminatis haereticis sine ulla contradictione possideant' (Mansi, *ut sup.*, p. 987).

The heretics, whom Innocent III was anxious thus to get rid of, were the Albigenses; on whom, however, the death penalty was 'inflicted too freely,' in the modest judgment of Prof. N. A. Weber (*Cath. Encyclop.* vol. i. 1907, p. 269).

20. For the understanding of this case, and its contrast with that of the Banbury fanatics, I am indebted to the exhaustive essay on *The Deacon and the Jewess*, by Frederick William Maitland, in *Roman Canon Law in the Church of England*, 1898, pp. 158-179.

21. William Hunt, art. Bréauté, Falkes de (*d.* 1226), in *Dict. Nat. Biog.*

22. 'Satis enim sufficit ei pro poena degradatio . . nisi fortè convictus fuerit de apostasia, quia tunc primo degradetur, & postea per manum laicalem comburatur secundùm quod accidit in concilio Oxoñ,' etc. (Henrici de Bracton, *De Legibus et Consuetudinibus Angliae*, ed. Travers Twiss, 1879, ii. 300).

23. The statement 'jussi sunt inter duos muros incarcerari quousque deficerent' (Radulphi de Coggeshale, *Chronicon Anglicanum*, ed. Joseph Stevenson, 1875, p. 191) has been taken to imply that they were bricked up to die. Maitland, who says (p. 175) this statement 'is almost all that is to be found about immurement in any English records,' interprets it, on foreign analogy, as meaning close imprisonment for life with water and hard bread as the fare.

24. *Rolls of Parliament*, iii, 124-5. The penalty is 'de les tenir en arest & forte prisone tan q̄ ils se veullent justifier selonc reson & la Loy de Seinte Eglise.' In the *Statutes at Large*, 1762, ii, 251-2, is an English version, 5 R. 2, St. 2, cap. 5, with marginal comment 'Not a statute, the commons never assenting thereto,' and reference to Sir Matthew Hale, *Historia*

Placitorum Coronae, who calls this statute, 5 R. 2, cap. 5, a 'pretended law.' Hale's editor, Sollom Emlyn (edn. of 1778, p. 394) says: 'Our author here calls it a *pretended law*, and lord *Coke* calls it a *supposed act*, because the commons never consented to it, for which reason in the next session of Parliament it was annull'd, altho by the prelates means it hath been continually printed, and the act, which annull'd the same, hath been from time to time kept from the print. 12 *Co. Rep.*, p. 57.' At this last reference, *Reports of Sir Edward Coke, in English*, 1777, vii [57], the statement is: 'In the next Parliament the Commons preferred a bill, reciting the said supposed act, and constantly affirmed, that they never assented thereunto, and therefore desired that the said supposed statute might be aniented and declared to be void; for they protested, that it was never their intent to be justified by, and to bind themselves and successors to the prelates, more than their ancestors had done in times past; and hereunto the King gave his royal assent in these words *Pleist au Roy*. And mark well the manner of the penning of the act, for seeing the Commons did not assent thereunto, the words of the act be, "it is ordained and assented in this present Parliament, that," etc. And so it was, being but by the King and the Lords.' A note by the editor, George Wilson, adds: 'See Colton's Records, 285. That this statute was never assented to by the Commons, and therefore the King at their prayer revokes it by a statute 6 R. 2. But yet the power of the Prelates was such (as Mr. Rymer observes in his MS. of Parliamentary proceedings (penes W. Bohun) p. 149): That the Statute of Repeal was never formed into an act, or published, so as the former ordinance continued to be enforced by the clergy (whereby many

godly men were cruelly burnt) till it was repealed by a special act of Parliament, 1 Ed. 6.' The actual petition of the Commons, in French, with the royal response, will be found in *Rolls of Parliament*, iii. 141.

25. Thomas Rymer, *Foedera*, 1709, viii, 178. [At the top of the page, right-hand column, is the misprint 'A.D. 1501.'] The writ, dated 26 Feb. is endorsed 'Per ipsum Regem & Concilium in Parlamento'; it was not issued till 2 March, 1400-1, the date of the execution (see James Gairdner, *Lollardy and the Reformation in England*, 1908, i., 49, 51).

26. Wilkins, *Concilia*, 1737, iii, 254 sq. The provincial Council of Canterbury met at St. Paul's on 29 Jan., 1400-1, and, on account of the meeting of Parliament, adjourned to 12 Feb., when articles were exhibited against 'Dominus Will. Chatrys, alias dictus Sawtre, capellanus parochialis sanctae Sythe virginis London.' The condemnation was on 19 Feb. Proof was given on 23 Feb., that Sautre, convicted of similar heresies at Southelm on 30 Ap., 1399, had abjured them on 25, 26, and 30 May, 1399, and was therefore a relapsed heretic. Accordingly he was further condemned as such on 26 Feb., the date of the writ. His execution was not without its effect. On 28 Feb. John Purney, chaplain in Lincoln diocese appeared at St. Paul's with seven heresies laid to his charge; he prudently abjured them, at handsome length, on 5 March.

27. *Rolls of Parliament*, iii, 466-7. 'Quas quidem petitiones prelatorum et cleri superius expressatas Dominus noster Rex, de consensu magnatum et aliorum procerum regni sui in praesenti Parlamento existentium, concessit, etc.' In the *Statutes at Large*, 1762, ii, 415-8, a translation (not exact) is given as 2. H. 4. cap. 15. The date (10 March) is important, inasmuch

as biographers of Sautre have usually assumed (e.g., *Dict. Nat. Biog.*, art. Sawtrey, William, by Miss A.M. Cooke) that he suffered under this Act.

28. *Rolls of Parliament*, iv, 24-5; translated from the French in *Statutes at Large*, 1762, iii, 22-5, as 2. H. 5, St. 1, cap. 7.

29. Wilkins, *Concilia*, 1737, iii, 404-13; a long and interesting narration; (the ecclesiastical sentence of degradation, deposition and committal to the secular court was pronounced on 27 Feb., 1422-3. The execution was on 2 March (see Gairdner, *ut sup.*, i, 128). The coincidence of month and day for the executions of Sautre and Tailour is not without interest.

30. That Tailour held the doctrines of the Trinity and of the two natures in Christ, is clear from his very able letter in reply to the Bristol priest, Thomas Smyth (Wilkins, *ut sup.*, pp. 407-8).

31. See statement from the Episcopal Registers, in *Guardian*, 21 Oct., 1908.

32. Wilkins, *Concilia*, 1737, iv, 41-2. Brought before Cranmer, Assheton confesses that he had 'thought, believed, said, held, and presumptuously affirmed . . . that the trinitie of persons was established by the confession of Athanasius declared by a psalme "quicunque vult, etc."' This and his other 'errours, heresies and damned opinions' he sets out fully, and after making an explicitly orthodox confession, he abjures 'the said errours and all other heresies, false doctryne, and damned opinions in generall.' Shil-telington is Shillington, Bedfordshire; formerly a rectory in Lincoln diocese, now a vicarage in Ely diocese. It seems to have been a family living. Matthew Asscheton, canon of York and Lincoln, died rector of Shillington in 1400. Peter Ashton died priest there in 1538. (*Victoria Hist. Co., Bedford*, 1908, ii, 299).

33. In the *Statutes at Large*, 1762, iv, 278-9, is only an imperfect summary of this Act of 1533-4, 25 H. 8, cap. 14. It is entitled 'An acte for punyshement of heresie.' Convicted heretics 'shalbe committed to lay power, to be burned in open places for example of other, as hath bene accustomed, the kynges writte, *De haeretico comburendo*, fyrst had and obteyned for the same.' (See *Anno XXV. Henrici VIII. Actis made*, etc. [1534] fol. xxi-xxii).

34. This 'whip' of 1539, 31 H. 8, cap. 14 (*Statutes at Large*, 1762, iv, 468-71) is entitled 'An act for abolishing of diversity of opinions in certain articles concerning christian religion.' Any one denying transubstantiation 'shall be adjudged an heretick, and suffer death by burning, and shall forfeit to the king, all . . . as in case of high treason.' Any one contravening one of the remaining five articles, is to 'suffer death, and forfeit lands and goods, as a felon.' The amending Act of 1543, 35 H. 8, cap. 5 (*Statutes, ut sup.*, v. 206) ordains that no one is to be put on trial for the above offences except upon an accusation brought within a year, by the oath of twelve men before authorised commissioners; a preacher must be accused within forty days. For the case of Anne Askewe, see art. by James Gairdner in *Dict. Nat. Biog.*; also his *Lollardy, ut sup.*, ii, 426-66.

35. In *Statutes at Large*, 1762, v, 129-30, is a summary of this Act of 1542-3, 34 and 35 H. 8, cap. 1. The repealing Act of 1547 is 1 E. 6, cap. 12. (*Statutes, ut sup.*, pp. 259-67).

36. For Johanna Bocher, see Wilkins, *Concilia*, 1737, iv, 43-4. James Gairdner calls her Joan Baron of Canterbury, 'apparently a butcher's wife' (*Lollardy, ut sup.*, ii, 272); but see art. by Sir Sidney Lee in *Dict.*

Nat. Biog. It is curious, however, that on 11 May, 1549, 'Michaelle Thombe of London bocher' renounced the same error about Christ not taking flesh of the Virgin (Wilkins, *ut sup.*, iv, 42). That the heresy was rife may be gathered from the fact that the Act of 1540, 32 H. 8, *cap.* 49, had excepted from pardon those holding 'that Christ took no bodily substance of our blessed Lady.'

37. Edmund Becke, *A breffe Confutacion*, 1550; reprinted by John Payne Collier, *Illustrations of Early English Popular Literature*, 1863, vol. ii.

38. For van Parris, see Wilkins, *Concilia*, 1737, iv, 43-4; and *Dict. Nat. Biog.*

39. 1 and 2 P. and M. *cap.* 6; just noticed in *Statutes at Large*, 1762, vi, 32.

40. Robert Crowley's continuation of Thomas Lanquet's *Epitome of Chronicles*, 1559 [the British Museum has two copies, both imperfect, and wanting the sheet Gggg.i. in which the statement occurs]. Crowley calls him 'Partrike Patingham,' and places his execution on 29 Aug., 1555, at Uxbridge. There is nothing about it in any edition of Cooper's *Chronicle*, though this is the reference commonly given. A printed sheet of 1590, reprinted in *Notes and Queries*, 17 Aug., 1878, p. 121, gives 'Patrick Packhingham b[urnt] Aug. 28 at Saffronwalden.'

41. 1 El. *cap.* 1. 'An act to restore to the crown the ancient jurisdiction over the estate ecclesiastical and spiritual, and abolishing all foreign powers repugnant to the same,' *Statutes at Large*, 1763, vi, 107-17. See § 18. See also § 36, which ordains that the Commissioners 'shall not in any wise have authority or power to order, determine, or adjudge any matter or cause to be heresy, but only such as heretofore have been deter-

mined, ordered, or adjudged to be heresy, by the authority of the canonical scriptures, or by the first four general councils, or any of them, or by any other general council wherein the same was declared heresy by the express and plain words of the said canonical scriptures, or such as hereafter shall be ordered, judged, or determined to be heresy by the high court of parliament of this realm, with the assent of the clergy in their convocation.' This High Commission Court was abolished in 1641 by 16 C. 1, *cap.* 11.

42. The victims were John Peeters and Henry Turwert, Flemings born. The writ for their execution, dated 15 July, 1575, issued under royal warrant directed to Sir Nicholas Bacon, states 'hujusmodi haereticos in forma praedicta convictos et damnatos, juxta leges et consuetudines regni nostri Angliae, in hac parte consuetas, ignis incendio comburi debere' (Wilkins, *Concilia*, 1737, iv. 282). Words are here borrowed from the writ for Sautre's execution (see p. 27). There were not at this date any such 'leges' on the Statute book (see Note 46). The autograph draft of Foxe's protest is in Harl. MSS. No. 416, p. 151. Thomas Fuller prints the protest (*Church Hist.* ed. Brewer, 1845, iv, 387 sq.) with this introduction: 'to reprieve them from so cruel a death, a grave divine sent the following letter to queen Elizabeth, which we request the reader to peruse, and guess at the author thereof.' Having given it, Fuller goes on: 'This letter was written by Mr. John Fox (from whose own hand I transcribed it) . . . But though queen Elizabeth constantly called him her father Fox, yet herein was she no dutiful daughter, giving him a flat denial. Indeed damnable were their impieties, and she necessitated to this severity, who having formerly punished some traitors, the world

would condemn her, as being more earnest in asserting her own safety than God's honour'—satisfied, it seems, when these two Anabaptists 'died in great horror with crying and roaring.' Foxe had another opinion of 'Dei clementia.' He urged the sparing of their lives; he thought banishment enough; but observed that there were other possible punishments; he strongly deprecated rekindling the flames of Smithfield; and pleaded for at least a month or two's respite, in hopes that the Lord might bring these erring ones to a saner mind; a present death would mean an eternal doom for their souls. Robert Wallace reprints the letter (*Anti-trin. Biog.* iii, 554).

43. For Matthew Hamont (with his followers, John Lewes and Peter Cole) and for Francis Kett, see *Dict. Nat. Biog.*

44. For Bartholomew Legate and for Edward Wightman, see *Dict. Nat. Biog.*

45. The Racovian Catechism, drafted (1603) in Polish, by Fausto Paulo Sozzini (Socinus) and Peter Stoienski (Statorius) the younger, was (after their deaths) completed by Valentine Schmalz (Smalcus) and Jerome Moskorzowski (Moscorovius), with some assistance from John Volkel (Volkelius); it was published in Polish, 1605. Moskorzowski, a wealthy and cultured Polish magnate, skilled in medicine and in the chemistry of his time, made the Latin version of the Catechism, and published it in 1609, prefixing his address to James I, as patron of purer religion, and a most competent critic of the work. This first Latin edition, a neatly printed duodecimo, may be known by its date in Roman figures M.DC.IX.; later editions (with the Errata corrected) also bear date 1609, but in Arabic figures. We have no account of its reception by James.

46. So in the writ for Legate's execution ; in that for Wightman's the words run : *juxta leges & consuetudinem Regni nostri Angliae*, etc. These warrants and writs were first published as an appendix to *The Narrative History of King James*, 1641 (' their most Blasphemous Heresies and false Opinions, being part of them the very same which our Ranters in these times profess to be their *New Lights* '); reprinted in 1692 ; also in James Greenshields' *Brief Hist..Revival ..Arian Heresies*, 1711 ; and in Somers' *Tracts*, 1809, ii, 400, etc. ; in Robert Wallace's *Anti-trin. Biog.*, 1850, iii, 565 (for Wightman only) ; and elsewhere. The writs, issued by Ellesmere, appear, like the writ for the execution of Peeters and Turwert (Note 42) to have been drafted under royal direction. James' warrants (like that of Elizabeth) directed the writs to be made out ' according to the Tenor in these Presents ensuing,' then follows the writ. The date of issue of both these writs is 9 March, 1611-12.

47. The Canons of 1640 may be seen in Wilkins, *Concilia*, 1737, iv, 543-53. The fourth canon ' Against Socinianism,' ordains, among other provisions, ' that no student in either of the universities of this land, nor any person in holy orders (excepting graduates in divinity, or such as have episcopal or archidiaconal jurisdiction, or doctors of law in holy orders) shall be suffered to have or read any such Socinian book or discourse, under pain (if the offender live in the university), that he shall be punished according to the strictest statute provided there against the publishing, reading, or maintaining of false doctrine ; or if he live in the city or country abroad, of a suspension for the first offence, and excommunication for the second, and deprivation for the third, unless he will absolutely and " in terminis "

abjure the same.' Printers and importers are to be proceeded against 'according to the late decree in the honourable court of Star-chamber, against the spreaders of prohibited books.'

48. *Speeches and Passages of this Great and Happy Parliament*, 1641, p. 55; the speech is reprinted in *A Landskip: or a Brief Prospective of English Episcopacy*, 1660, pp. 6-13. Respecting Hon. Nathaniel Fiennes (1608 ?-16 D. 1669) M.P. for Banbury in the Long Parliament, see art. by Charles Harding Firth in *Dict. Nat. Biog.* See also, a valuable character-sketch in John Langton Sanford, *Studies and Illustrations of the Great Rebellion*, 1858, pp. 391-2—'His great and special merit is the firm stand which he made in favour of religious liberty against the narrow bigotry of the Presbyterian party. His views of church government agreed generally with those of the Congregationalists; but his chief antipathy was to ecclesiastical rule.'

49. The Ministers of Suffolk and Essex, in their 'Humble Petition' (29 May, 1646) to the House of Peers, prayed 'that Schismaticks, Hereticks, seducing Teachers, and soul-subverting Books, be effectually suppressed.' Similar documents kept coming from the press, 1645-8. 'The Scots Declaration against the Toleration of Sects and Sectaries and the Liberty of Conscience,' 1647, denounced 'Libertie of Conscience, the Nurse of all Heresies and Schismes.' The glory of this charming series is: 'The Harmonious Consent of the Ministers of the *Province* within the *County Palatine* of Lancaster, With their Reverend Brethren the Ministers of the Province of London . . . against the Errours, Heresies, and Blasphemies of these times, and the Toleration of them,' 1648. This document was 'Subscribed the 3d of March, 1647, by us . . . *John Harper*

Pastor of *Bolton*, *Richard Goodwin* Minister of the Gospel at *Bolton* . . . *Robert Bath* Pastor of *Rachdal* . . . *John Angier* Pastor of *Denton* . . . *William Walker* Minister of the Gospel at *Newton-heath* Chappel . . . *John Joanes* Min. of *Eccles* . . . *Peter Bradshaw* Min. of *Cockey* . . . *Robert Yates* Pastor of the Church at *Warrington*,' and seventy-six other Presbyterian progenitors. Among other genial sentiments, they remark that 'a Toleration would be the putting of a sword into a mad mans hand ; a cup of poyson into the hand of a child ; a leting loose of mad men with firebrands in their hands ; an appointing a City of refuge in mens consciences for the devil to fly to ; a laying of the stumbling block before the blind ; a proclaiming liberty to the wolves to come into Christ's fold to prey upon his lambs ; a Toleration of soul-murder (the greatest murder of all other), and for the establishing whereof, damned souls in hel would accurse men on carth.' Equally virulent is a lame concession which follows : ' though we shal easily grant, men are not to be punished by the Magistrate for their internal opinions which they do not discover, yet with our reverend brethren we do here profess to this Church, and to all the Churches of God throughout the whole world, *That we do detest the forementioned Toleration.*'

50. Scobell, *Collection of Acts and Ordinances*, 1658, pp. 145-50. It is entitled ' For punishing Blasphemies and Heresies.'

51. Daniel Neal, *Hist. of the Puritans*, 1736, iii, p. 497, had termed this ' one of the most shocking Laws I have met with.' Quoting this statement, Grey (*Impartial Examination of the Third Volume of . . . Neal's . . . Puritans*, 1737, p. 331) appropriately reminds the reader ' what monstrous Opinions prevailed in those

Times,' and refers him to Appendix lxxviii, giving 'The Opinion of John Fry of the Trinity.' On Fry, see *Dict. Nat. Biog.*

52. For James Nayler, see *Dict. Nat. Biog.*

53. See art. *The Unitarian Name*, in *Christian Life*, 10 May, 1913, for account of Henry Hedworth (1626-1705) and his Unitarian publications of 1672-3. Such publications were in defiance of the Act 13 & 14 C. 2, cap. 33, which took effect 10 June, 1662, and was continued to June, 1692; this imposed penalties on the printing or importing of 'any heretical, seditious, scandalous, schismatical, or other dangerous or offensive book or books.' It is noteworthy that when (Aug. 1682) a couple of 'philosophers' brought a Unitarian Address for presentation to Ahmet ben Ahmet, ambassador from Morocco in London, while the Address was confiscated (and is now in the Library at Lambeth Palace) no proceedings were taken against its authors or their agent (see *Christian Life*, 24 Sept., 1 and 29 Oct., 1892, for the document in full, with introduction). The *Brief Hist. of the Unitarians, called also Socinians*, 1687, is by Stephen Nye (see *Dict. Nat. Biog.*).

54. 29 C. 2, cap. 9, 'An act for taking away the writ de haeretico comburendo' (*Statutes at Large*, 1763, viii, 417).

55. 1 W. and M. cap. 18, 'An act for exempting their Majesties protestant subjects, dissenting from the church of England, from the penalties of certain laws' (*Statutes at Large*, 1763, ix, pp. 19-25). Lord Mansfield's speech in the Lords, 4 Feb., 1767 (reported by Philip Furneaux, revised by Mansfield, and first printed in full in Furneaux, *Letters to Blackstone*, 2nd ed., 1771, pp. 257-83) declares that by this Toleration Act 'the Dissenters way of worship . . . is not only

exempted from punishment, but rendered innocent and lawful ; it is established : it is put under the protection, and is not merely under the connivance, of the law.' Yet all that the Act itself contemplates, in its preamble, is ' some ease to scrupulous consciences in the exercise of religion.'

56. I have failed to find the text of this Address. It is mentioned by Theophilus Lindsey, *Hist. View*, 1783, p. 302, and by Robert Wallace, *Anti-trin. Biog.*, 1850, i, pp. lxxx, 384 ; both seem to rely on Thomas Emlyn, *Remarks on a Book . . . by Four London Ministers*, 1719, p. 9 ; reprinted, *Works*, 1746, ii, 374 : ' King William was not willing to be made a Persecutor, tho the Dissenters lay hard at him, in their Address by Dr. Bates, to stop the Press, Anno 1697.' William's reluctance seems to have given way, to some extent, in the following year, when the Commons (17 Feb., 1697-8) addressed him ' for the suppressing all pernicious books and pamphlets, which contain in them impious doctrines against the Holy Trinity,' etc. (*Wallace, ut sup.*, p. 385).

57. 9 and 10 W. 3, cap. 32 (*Statutes at Large*, 1764, x, 177-8). Its little effect may be measured by the circumstance that Emlyn, immediately following his reference to William III, as ' not willing to be made a Persecutor ' (see Note 56), proceeds : ' And therefore, tho one discouraging Act was passed, the *Anti-Trinitarians* continued to grow numerous still.' The evident implication is that William meant the Act to be *brutum fulmen*.

58. *The Laws and Acts of the First Parliament of . . . Charles the Second . . . Holden at Edinburgh the first of January*, 1661. Edin. 1661, p. 44 (Act xxi).

59. *The Laws and Acts made in the Fifth Session of*

the First Parliament of . . . William, etc. Edin. 1695, pp. 27-8; it is entitled 'Act Against Blasphemy.'

60. For Thomas Aikenhead, a minor, son of James Aikenhead, surgeon, deceased, see art. by Sir Leslie Stephen in *Dict. Nat. Biog.* See further in John Gordon, *Thomas Aikenhead: A Historical Review*, 3rd edn. and supplement, 1856. The most curious point in the latter pamphlet is the proof that the Free Kirk organ, *The Witness*, of 13 F., 1856, stung by Macaulay's statement of the case, actually invented the lying statement that Aikenhead 'was in the habit . . . of calling Christ a — imposter.' See also the Notes by Robert Brook Aspland in *Christian Reformer*, Jan. 1856, pp. 35-8.

61. William Lorimer, M.A. (Jan. 1640-1—27 Oct., 1722) a native of Aberdeen, in Anglican orders, who had joined the English Presbyterians, was in Edinburgh in 1696, the year in which the General Assembly of the Scottish Kirk passed an Act 'Against the Atheistical opinions of the Deists, and for establishing the confession of faith.' The Act required 'that ministers deal seriously' with 'seducers' who 'go under the name of deists,' so that 'after sufficient instruction and admonition they may be proceeded against, as scandalous and heretical apostates use to be.' The prosecution of Aikenhead immediately followed. While he was under sentence of death, Lorimer preached before the Lord Chancellor and other judges and chief magistrates, from Matt. xxi, 37. He published the sermon in *Two Discourses*, 1713, with a preface in which he made a transparently thin defence of his action, claiming that he 'did not in the least excite the Government to Severity against that poor Man,' (p. vi). Well, in his sermon, the theme of which was reverence for

Christ, he had said : ' At this time it is more especially necessary, because now there are many Mouths opened against him, to dishonour him ; some saying that he is but a Man that was born of a Virgin, and had no Being before ; others saying, that he was not born of a Virgin, but in the ordinary way of natural Generation, and that he was no good Man, but a very ill Man, and a great Impostor. Both these sorts of Adversaries blaspheme and dishonour him, and the second sort especially, they do it very spitefully and maliciously. . . But he will destroy them that corrupt and destroy the Earth. He will in flaming Fire take Vengeance on them that know not God, and obey not the Gospel ' (pp. 75, 78). In the Salters' Hall division (1719) Lorimer was Moderator of the seceding Subscribers.

62. For Adam Duff O'Toole see art. by Thomas Olden in *Dict. Nat. Biog.*

63. For Thomas Emlyn, see *Dict. Nat. Biog.* It is not there mentioned that, while spared the pillory, he was marched round the Four Courts in Dublin, with a placard on his breast, declaring him a blasphemer.

64. 6 G. 1, *cap.* 5 (*Statutes at Large, Ireland, Dublin, 1786, iv, 508-16*), ' An Act for exempting the Protestant Dissenters of this Kingdom from certain Penalties, to which they are now subject.' Care was taken to prevent Roman Catholics from creeping under the shelter of this Act, by exacting a very stiff renunciation of their doctrines ; and the Act was not to ' be construed to extend, to give any ease, benefit or advantage . . . to any person, who in his preaching or writing shall deny the doctrine of the Blessed Trinity, as it is declared in The Thirty Nine Articles.' The Act passed both Houses on 24 Oct. 1719 (*Votes of the House of Commons, Ireland, Dublin, 1719, p. 193*). The date of the Act

(1719) is the date of the rise of the Non-subscription controversy in the Irish Presbyterian Church, a sequel to the Salters' Hall division in London, earlier in the year.

65. For Thomas Nevin, see *Dict. Nat. Biog.*; see also *Narrative of Seven Synods*, 1726.

66. 19 G. 3, *cap.* 44, 'An act for the further relief of protestant dissenting ministers and schoolmasters' (*Statutes at Large*, 1778, xxxii, 258). The Toleration Act of 1689 (Note 54) had dealt specially with members of the Society of Friends, describing them, however, simply as 'certain other persons, dissenters from the church of England, who scruple the taking of any oath.' It was enacted that 'every such person' (not their preachers only) 'shall subscribe a profession of their christian belief in these words: I A.B. profess faith in God the father, and in Jesus Christ his eternal son, the true God, and in the holy spirit, one God blessed for evermore, and do acknowledge the holy scriptures of the Old and New Testament to be given by divine inspiration.' The new Toleration Act of 1779, while not repealing the disability which attached to deniers of the Trinity in preaching or writing, now offered to every 'preacher or teacher of any congregation of dissenting protestants,' in lieu of subscription to the Articles, the alternative to 'make and subscribe a declaration in the words following; *videlicet*, I A.B. do solemnly declare, in the presence of almighty God, that I am a christian and a protestant, and as such, that I believe the scriptures of the old and new testament, as commonly received among protestant churches, do contain the revealed will of God; and that I do receive the same as the rule of my doctrine and practice.' This relief would not be available by the Society of

Friends, who scrupled the opening formula, as equivalent to an oath; hence they had, in another case, been specially relieved from such formula by 8 G. 1, *cap.* 6 (1721). Looking at the words which follow, it is difficult to avoid the suspicion that their ambiguity is deliberate. The meaning of 'protestant' is no doubt to some extent secured by the oath of supremacy (called 'the declaration against popery'), retained from the Act of 1689; but the meaning of 'christian' (like that of 'Socinian' in the Canon of 1640) is 'left in their own breasts.' What liberal Dissenters had in their breasts peeps out when they argue that the Scriptures 'contain' the revealed will of God, embedded in much other matter, and that they receive 'the same,' *vide licet*, the will of God (not the Scriptures at large) as their rule.

67. 52 G. 3, *cap.* 155, 'An Act to repeal certain Acts, and amend other Acts relating to Religious Worship and Assemblies and Persons teaching or preaching therein,' 29 July, 1812 (*Statutes at Large*, 1812, pp. 871-7). Whereas in the Act of 1779 the declaration about the Scriptures (Note 66) was offered as an alternative to subscription to the Articles it is now (given certain circumstances) demanded. According to §5, 'every Person, not having . . . subscribed the Declaration . . . who shall preach or teach at any Place of Religious Worship certified in pursuance of the Directions of this Act, shall, when thereto required by any one Justice of the Peace, by any Writing under his Hand or signed by him, take and make and subscribe, in the Presence of such Justice of the Peace, the Oaths and Declarations' of the 1779 Act; 'and no such Person who, upon being so required . . . shall refuse to attend the Justice requiring the same, or to

take and make and subscribe &c. shall be thereafter permitted or allowed to teach or preach in any such Congregation or Assembly for Religious Worship . . . on Pain of forfeiting, for every time he shall so teach or preach, any sum not exceeding Ten Pounds nor less than Ten Shillings, at the discretion of the Justice convicting for such Offence.' This is not usually called the Five Mile Act, yet it might be, for, in §6, it further enacts ' That no Person shall be required by any Justice of the Peace to go to any greater Distance than Five Miles from his own Home, or from the Place where he shall be residing at the time of such Requisition, for the Purpose of taking such Oaths as aforesaid.' In §7 it is provided that ' any of His Majesty's Protestant Subjects ' may produce to ' any one Justice of the Peace ' a ' printed or written Copy ' of the Declaration, and require him to administer the same, attest, and deliver it to the Clerk of the Peace. The Justice must further, by §8, ' forthwith give to the Person having taken made and subscribed ' &c. a certificate under his hand, in a form set out ; for which certificate ' such Justice shall be entitled to demand and have a Fee of Two Shillings and Six pence, and no more.' Such is still the law ; it might be construed as applying to Sunday school teachers, if they teach in a certified place of worship, and open with hymn and prayer. Places of worship are now usually certified under the permissive Act, 18 & 19 V. *cap.* 81 (30 July, 1855) which has reference to registration for marriages, says nothing about ministers, and repeals no provision of 52 G. 3, *cap.* 155.

68. *Commons Journals*, xxxiii, 714 (30 Ap., 1772) ' Resolved, *Nemine contradicente*, That no Bill relating to Religion, or the alteration of the Laws concerning

Religion, be brought into this House, until the Proposition shall have been first considered in a Committee of the whole House, and agreed unto by the House. *Ordered*, That the said Resolution be made a standing Order of the House.'

69. *Commons Journals*, xlvii, 787-9 (11 May, 1792) 'The House was moved' that certain Acts be read, and read they were, thirty-two of them, being the following : 9 & 10 W. 3, *cap.* 32; 1 E. 6, *cap.* 1; 1 M. Sess. 2, *cap.* 3; 1 El. *cap.* 2; 5 El. *cap.* 1; 13 El. *cap.* 2; 23 El. *cap.* 1; 27 El. *cap.* 2; 29 El. *cap.* 6; 35 El. *cap.* 1; 35 El. *cap.* 2; 1 J. 1, *cap.* 4; 3 J. 1, *cap.* 1; 3 J. 1, *cap.* 4; 7 J. 1, *cap.* 6; 3 C. 1, *cap.* 2(3); 3 C. 1, *cap.* 4(5); 12 C. 2, *cap.* 14; 13 & 14 C. 2, *cap.* 1; 13 & 14 C. 2, *cap.* 4; 17 C. 2, *cap.* 2; 22 C. 2, *cap.* 1; 30 C. 2, *cap.* 1; 1 W. & M. *cap.* 9; 1 W. & M. *cap.* 15; 1 W. & M. *cap.* 18; 7 & 8 W. 3, *cap.* 27; 1 A. Stat. 1, *cap.* 30; 10 A. *cap.* 2; 1 G. 1, Stat. 2, *cap.* 47; 5 G. 1, *cap.* 4; 26 G. 2, *cap.* 33. 'And a Motion being made, That Leave be given to bring in a Bill to repeal and alter sundry Provisions of the said Acts . . . the Question being put, That the said Motion . . . be referred to the Consideration of a Committee of the whole House; The House divided.' Yeas, 63; Noes, 142. 'So it passed in the Negative.'

70. *Parliamentary Hist.*, 1817, xxix, 1399.

71. *The Pamphleteer*, 1813, ii, 5.

72. *Parliamentary Hist.*, *ut sup.*, pp. 1372-81.

73. *Parliamentary Hist.*, *ut sup.*, pp. 1381-95. The portions quoted are from Burke's own manuscript; see his *Works*, 1812, x, 41-61. Burke's notion of religious liberty smiles at one in the new test he had prepared when, in 1790, the question of the repeal of the Test Acts was before Parliament: 'I A.B. do, in the presence of God, sincerely profess and believe that

a Religious Establishment in this State is not contrary to the Law of God, or disagreeable to the Law of Nature, or to the true principles of the Christian Religion, or that it is noxious to the Community ; and I do sincerely promise and engage, before God, that I never will, by any conspiracy, contrivance, or political device whatever, attempt or abet others in any attempt to subvert the Constitution of the Church of England, as the same is now by Law established, and that I will not employ any power or influence, which I may derive from any Office Corporate, or any other Office, which I hold, or shall hold, under His Majesty, His Heirs and Successors, to destroy and subvert the same ; or, to cause Members to be elected into any Corporation, or into Parliament, give my Vote in the Election of any Member or Members of Parliament, or into any office for or on account of their attachment to any other or different religious opinions or Establishments, or with any hope that they may promote the same to the prejudice of the Established Church, but will dutifully and peaceably content myself with my private liberty of conscience, as the same is allowed by Law. So help me God.' (*Works, ut sup.*, pp. 61-2).

74. For the progress of the Bill, see *Commons Journals* and *Lords Journals*, at the dates mentioned.

75. It is certainly remarkable that the Bill should have passed the Commons on the very month and day on which the Birmingham Riots had begun, twenty-two years before.

76. *Parliamentary Hist.*, 1813, xxvi, p. 1222. These prelates were Charles Manners-Sutton, Archbishop of Canterbury, who 'steadily opposed all concession to the Roman Catholics, but generally voted in favour of the claims of the Protestant Dissenters' (*Dict. Nat.*

Biog.) ; and George Henry Law, then Bishop of Chester, son of Edmund Law, the latitudinarian Bishop of Carlisle, the inscription on whose monument records his conviction *religionem simplicem et incorruptam nisi salva libertate stare non posse* (*Dict. Nat. Biog.*). When, however, what was known as the 'Unitarian Marriage Bill' (rejected 4 May, 1824) was before the Lords, and Archbishop Manners-Sutton had strongly supported it, affirming that 'scruple of conscience is the ground on which we are to entertain this Bill as a matter of justice,' Bishop Law as strongly opposed, having discovered that 'toleration had its limits.' Indeed he went on to say that 'he knew not why the Unitarians objected to comply with the established law and customs of their country. They had an example for so doing in the Apostle of the Gentiles, and even in our blessed Lord himself, who, though he objected and protested against the doctrine and discipline of the Sanhedrim, and the accustomed worship of the Temple, conformed to the institutions of his country.' (*Monthly Repository*, 1824, pp. 242, 305.) His immediate promotion from Chester to the vacant see of Bath and Wells was not unnatural.

77. The Trinity Act was repealed by the Statute Law Revision Act, 36 & 37 V. *cap.* 91 (5 Aug., 1873), the Toleration Acts having been amended in accordance with its provisions ; but looking at the revised edition of the Blasphemy Act (1698) I observe that the clause penalising the affirmation of more Gods than one (which certainly should have been excised) is retained. This clause has always been a puzzle to persons unskilled in the Socinian theology. A nearly contemporary pamphleteer notes 'this surprising thing, That the Parliament of England, after so many hundred years

since the destruction of Paganism in almost all the civilis'd World, have seen a necessity of laying severe Penalties on those that shall assert that there are more Gods than one.' (*The Orthodox Trinitarian*, 1701, p. 22). The same Act of 5 Aug., 1873, dealing with the Trinity Act (Ireland) of 1817, while repealing the part which refers to the Irish Toleration Act of 1719, leaves the Toleration Act of 1779, and the Trinity Act of 1813, to have 'full force and effect' in Ireland.

78. *Monthly Repository*, 1814, pp. 151-2; letter of 'A Way-faring Man,' who remarks: 'We are apt, perhaps too apt, to think that what is done in London is right, because it is done there.'

79. On 17 July, 1817, at a stage of the Wolverhampton Chapel case, Lord Eldon said, in the course of his judgment in Chancery: 'I take it that, if land or money were given (in such a way as would be legal notwithstanding the statutes concerning dispositions to charitable uses) for the purpose of building a church or a house or otherwise for the maintaining and propagating the worship of God, and if there were nothing more precise in the case, this Court would execute such a trust, by making it a provision for maintaining and propagating the Established Religion of the country.' See J. H. Merivale's Reports, 1819, iii, 409. Similarly, on 19 July, 1860, in the Ilminster School case, Lord Chancellor Campbell, in the House of Lords, said: 'There can be no doubt that *religion* was to be taught in this school; and what other religion could have been intended, except the religion of the Church of *England*?' See Charles Clark's House of Lords Cases, 1862, viii, 505. [For this last reference I am indebted to the kindness of Prof. Kenny.]

80. The object of the Ministers' Stipend Augmenta-

tion Fund (initiated by Christopher Rawdon, see *Dict. Nat. Biog.*) is 'to encourage the faithful ministers of congregations in England statedly assembling for the public worship of God, the members, ministers or communicants whereof shall not be required to subscribe or assent to any articles of religious belief, or to submit to any test of religious doctrine, unless it be the simple acknowledgment of the Scriptures of the Old and New Testaments as containing a record of divine revelation.' *Christian Reformer*, 1856, p. 573.

81. 7 & 8 V. *cap.* 45 (Royal Assent, 19 July, 1844). In the Bill, as introduced into the Lords (7 March, 1844) by Lord Chancellor Lyndhurst, the terms were: 'And be it enacted, That in all cases in which no particular religious doctrines or opinions shall, in the deeds declaring the trust of any such meeting-house as aforesaid, be in express terms required to be taught therein, the usage of years of the congregation frequenting such meeting-house shall be taken as conclusive evidence of the religious doctrines or opinions for the preaching or promotion whereof the said meeting-house, with any burial-ground, Sunday or Day School, or minister's house, attached thereto, was established or founded.'

In the Bill, as finally passed, on 15 July, 1844, the terms are: 'And be it enacted, That so far as no particular religious doctrines or opinions, or mode of regulating worship, shall on the face of the will, deed, or other instrument declaring the trusts of any Meeting-house for the worship of God by persons dissenting as aforesaid, either in express terms, or by reference to some book or other document as containing such doctrines or opinions or mode of regulating worship, be required to be taught or observed or be forbidden to

be taught or observed therein, the usage for twenty-five years immediately preceding any suit relating to such Meeting-house of the congregation frequenting the same, shall be taken as conclusive evidence that such religious doctrines or opinions or mode of worship as have for such period been taught or observed in such Meeting-house, may properly be taught or observed in such Meeting-house, and the right or title of the congregation to hold such Meeting-house, together with any Burial-ground, Sunday or Day School or Minister's house attached thereto; and any fund for the benefit of such congregation or of the Minister or other officer of such congregation, or of the Widow of any such Minister, shall not be called in question on account of the doctrines or opinions or mode of worship so taught or observed in such Meeting-house: Provided nevertheless, That where any such Minister's house, School or Fund as aforesaid shall be given or created by any will, deed, or other instrument, which shall declare in express terms, or by such reference as aforesaid, the particular religious doctrines or opinions, for the promotion of which such Minister's house, School or Fund is intended, then and in every such case such Minister's house, School or Fund shall be applied to the promoting of the doctrines or opinions so specified, any usage of the congregation to the contrary notwithstanding.' See *Parliamentary Debates on the Dissenters' Chapels Bill*, 1844, pp. 401, 406.

82. One of these petitions is thus summarised (*Parl. Debates, ut sup.*, p. 458), 'Unitarian doctrines have been preached for ninety years and upwards, a fact which can be evidenced by the testimony of a petitioner aged 80. † This petitioner died during the progress of the Bill.' The secret of testifying to prenatal affairs

seems to have died about the same time. Curiously enough this petition comes from a place from which, just fifty-seven years before, an inhabitant had written twice to Priestley 'to desire that something may be done to establish an Unitarian interest there.' J. T. Rutt, *Life and Corresp. of Priestley*, 1831, i, 412.

83. The general use of the phrase 'Open Trust' was an outcome of the controversy aroused by James Martineau's letter of 6 Aug., 1859, addressed to Simon Frederick Macdonald *On the Unitarian Position* (see *Inquirer*, 27 Aug., 1859, and *Christian Reformer*, 1859, pp. 603 sq.). Those who continue to employ the phrase, connect it with chapel trusts; and seldom refer to endowment trusts. It was the wording of the endowment trust which proved fatal to the Unitarian claim to hold the Wolverhampton property, the subject of the primary attack in 1817.

84. By 40 G. 3, *cap.* 98 (28 July, 1800) no person, by deed or will, can cause the rent or produce of any property to accumulate for a longer period than twenty-one years after the testator's death. This was in consequence of the will of Peter Thellusson (27 June, 1737—21 July, 1797) a naturalized Frenchman, who left six or eight hundred thousand pounds to accumulate during the lives of his existing great-grandchildren. What the lawyers had left of his property was divided among three persons in 1859 (*Dict. Nat. Biog.*).

85. *A Letter of Advice to those Dissenters who conduct the Application to Parliament for Relief from certain Penal Laws*, 1773. (*Works*, xxii, 442).

86. ET CHRISTIANIS ET OMNIBUS LIBERAM POTESTATEM SEQUENDI RELIGIONEM QUAM QUISQUE VOLUISSET. L. Caecilii *De Mortibus Persecutorum*, *cap.* 48, in Lactantii *Opera*, 1897, ii, 229.

CHRONOLOGICAL TABLE

- A.D.
- 313 (January ; promulgated, June). Edict of Milan.
1166. Foreign heretics expelled from England.
1210. Albigensian burned in London.
1215. Fourth Lateran Council (under Innocent III).
1222. Apostate burned at Oxford ; fanatics immured at Banbury.
1327. Adam O'Toole burned at Dublin.
1382. Supposed Statute imprisoning heretical preachers.
- 1401 (2 March). William Sautre burned at Smithfield.
- 1401 (10 March). Act *De Heretico Comburendo*.
1414. Act forfeiting property of convicted Lollards.
- 1423 (2 March). William Tailour burned at Smithfield.
1481. Margery Coyte denies the Virgin Birth.
1534. Act of 1401 repealed ; those of 1382 and 1414 confirmed.
1539. Act making heresy on six points a capital offence.
1543. Act making Henry VIII the judge of doctrine.
1543. Act amending Act of 1539.
- 1546 (16 July). Anne Askewe burned at Smithfield.
1547. Act repealing Acts of 1534, 1539, and 1543.
- 1548 (28 Dec.). John Assheton, convicted of Anti-trinitarian heresy, recants.
- 1550 (2 May). Johanna Bocher burned at Smithfield.
- 1551 (25 Ap.). George van Parris burned at Smithfield.
- 1554 (Nov.). Act reviving Acts of 1382, 1401, and 1414.

- 1555 (Aug.). Patrick Packerham burned at Uxbridge.
1558. Act repealing Act of 1554, and authorising High Commission against heresy.
1575 (22 July). John Peeters and Henry Turwert burned at Smithfield.
1579 (20 May). Matthew Hamont burned at Norwich.
1583 (18 Sept.). John Lewes burned at Norwich.
1587. Peter Cole burned at Norwich.
1589 (14 Jan.). Francis Kett burned at Norwich.
1612 (18 March). Bartholomew Legate burned at Smithfield.
1612 (11 April). Edward Wightman burned at Lichfield.
1640. Canon against Socinian books.
1641. Act abolishing High Commission Court.
1648 (2 May). Ordinance against blasphemies and heresies.
1656 (16 Dec.). James Nayler sentenced by Parliament.
1661. Scottish Act against blasphemy.
1668 (12 Dec.). William Penn sent to the Tower.
1677. Act abolishing Writ *De heretico comburendo*.
1689. Toleration Act excludes Romanists and Anti-Trinitarians.
1695 (28 June). Scottish Act against blasphemy and heresy.
1697 (8 Jan.). Thomas Aikenhead hanged outside Edinburgh.
1698. Act against blasphemy and profaneness.
1703 (16 June). Thomas Emlyn imprisoned and fined.
1719. Irish Toleration Act.
1779. Amended Toleration Act, with new subscription.
1792 (11 May). Fox moves for repeal of penal Acts.
1812 (29 July). Act making the subscription of 1779 (in certain circumstances) compulsory.

- 1813 (21 July). Trinity Act.
- 1817 (7 July). Acts of 1779 and 1813 extended to Ireland.
1824. Unitarian Marriage Bill.
- 1844 (19 July). Dissenters' Chapels Act.
- 1873 (5 Aug.). The Statute Law Revision Act repealed the Act of 1813 (the Acts of Toleration and against blasphemy having been amended in consequence of its provisions). It repealed also that part of the Act of 1817 which amended the Irish Toleration Act of 1719, but left the Acts of 1779 and 1813 as still operative in Ireland.

INDEX

- Act of 1382—16, 20, 23, 57-9
 „ 1401—17-18, 20, 23,
 59-60
 „ 1414—18, 20, 23
 „ 1534—20, 61
 „ 1539—20-21, 61
 „ 1540—62
 „ 1543—20-61
 „ 1547—21, 59
 „ 1554—23
 „ 1558—24
 „ 1641—63
 „ 1648—28
 „ 1661—34, 42, 69
 „ 1662—68
 „ 1677—31, 42, 68
 „ 1689—31, 68, 77
 „ 1695—35, 42, 69-70
 „ 1698—32, 37, 38, 42, 77
 „ 1719—37, 42, 71, 78
 „ 1779—38, 72, 73, 77-78
 „ 1812—38, 73
 „ 1813—41-44, 51, 77, 78
 „ 1817—42
 „ 1844—47, 79-80
 „ 1873—77-78
 Adoration of the Cross 17
 Ahmet ben Ahmet 68
 Aikenhead, Thomas 35-6, 70
 Albigensians 13, 55, 57
 Anabaptists 24
 Angevin 55
 Angier, John 67
 Anglican body 9-11, 32, 44, 45
 Anti-trinitarians 19, 22, 24, 25,
 36, 39, 47, 69
 Apostasy 12, 15, 57, 70
 Aquinas, St. Thomas 11
 Arianism 10, 24, 43, 46, 54
 Arminians 32
 Articles, Thirty-nine 31-2, 37
 38, 42, 45, 71
 Arundel, Abp. 17
 Ashton, P. 60
 Askewe, Anne 21, 61
 Aspland, R. B. 70
 Asscheton, M. 60
 Assheton, John 19-20, 21, 60
 Athanasian Creed 19
 Athanasius 20
 Atonement 52
 Bacon, Sir N. 63
 Banbury fanatics 15, 57
 Baptists 32, 48
 Bates, William 69
 Bath, Robert 67
 Becke, Edmund 22, 62
 Belsham, Thomas 43, 44-5
 Bentley, R. 55
 Bidle, John 18, 29
 Birmingham riots 39, 41, 76
 Blasphemy 28, 29, 31, 32, 33
 34, 35, 36, 42, 70
 Bocher, Johanna 21-22, 61-2
 Bracton, H. de 15, 57
 Bradshaw, P. 67
 Bréauté, Falkes de 14-15
 Brehon law 36
 Burke, Edmund 40, 75-6
 Burning of heretics 13, 15-18,
 20, 21, 22, 23, 24, 25, 36
 Burton, Edward 54
 Caecilius 81
 Calvin, John 53

- Campbell, Lord 78
 Campbell, R. J. 54
 Campion, E. 25
 Candlish, R. S. 11, 54
 Canon, New Testament 10, 53
 Canons, 1640—27—8, 65
Catholic Encyclopedia 11, 54
 Christ worship 19
 Christian 73
 Christological heresy 19, 22
 Clarke, Samuel 43
 Clement XIV 53
 Coke, Sir E. 58
 Cole, Peter 25, 64
 Collier, J. P. 62
 Common Law 16, 24
 Congregationalists 66
 Conscience, liberty of 66—7, 76
 Constantine 51
 Conventicles 30
 Cooke, A. M. 60
 Cooper's *Chronicle* 62
 Coyte, Margery 19
 Cranmer, Abp. 22
 Crispian controversy 32
 Cromwell, Oliver 29
 Crowley's *Chronicle* 62
 Deacon and Jewess 14, 24, 57
 Declaration of Faith and Order 54
 Deists 33, 34, 42, 70
 Dissenters' Chapels Act 47, 79—80
 Ecclesiastical courts 28, 31
 Edward VI 15, 21, 22
 Eldon, Lord 45, 78
 Elizabeth, Queen 15, 25, 63, 65
 Ellesmere, Chancellor 26—7, 65
 Emlyn, Sollom 58
 Emlyn, Thomas 36, 43, 69, 71
 Erasmus 25
 Error 12, 16
 Essex Street Chapel 45
 Eusebius of Caesarea 10, 53—4
 Eusebius of Nicomedia 54
 Excommunication 31
 Fatherhood of God 11, 54
 Feathers Petition 45
 Field, E. W. 9, 49, 52
 Fiennes, N. 27, 66
 Firmin, Thomas 32
 Firth, C. H. 66
 Fitz-Thedmar, A. 55
 Five Mile Act 74
 Fox, C. J. 39—40, 42
 Foxe, John 24, 63—4
 Fry, J. 68
 Fuller, Thomas 63
 Furneaux, P. 68
 Gairdner, James 59, 60, 61
 George I 37
 Gerard 55
 Goodwin, R. 67
 Gordon, J. 70
 Gordon riots 41
 Graesse, J. G. T. 56
 Gregory XIII 53
 Grey, Z. 29, 67
Guardian, The 60
 Guichard, L. A. 53
 Hale, Sir M. 57
 Hales, Bp. 19
 Hamont, M. 25, 64
 Harnack, Adolf 55
 Harper, J. 66
 Hedworth, H. 68
 Henry VIII 10, 20—21, 22, 33, 54
 Heresy 9, 11—12, 17, 28, 30, 31, 33, 36, 38, 49
 Heretical books 17, 66, 68, 69
 Heretics, foreign 13
 Hibbert Trust 52
 High Commission Court 24, 63
 Hoadly, Bp. 36

- Homoousios* 10
 Howlett, R. 55
 Hunt, W. 57
 Ilminster School case 78
 Immuration 15, 57
Improved Version 43
 Independent 46
 India 41
 Indulgence 30
 Infallibility 10, 52
 Infidelity 11
 Innocent III 57
 Inquisitors, foreign 15
 Ireland 36
 Irish Act, 1719—37, 42, 71, 78
 James I 26, 64, 65
 James II 30
 Joanes, J. 67
 John, King 56
 Kett, F. 25, 64
 King, Bp. 26
 Lactantius 81
 Langton, Abp. 13—15
 Lanquet's *Chronicle* 62
 Lateran Council, 1215—14, 52, 56
 Laud, Abp. 27
 Law, Bishop E. 77
 Law, Bishop G. H. 44, 77
 Lee, Sir Sidney 61
 Legate, B. 25—7, 64, 65
 Lewes, J. 25, 64
 Licinius 51
 Lindsey, Theophilus 45, 69
 Lollards 13, 16, 18
 London 13, 55—6, 78
 Lord's Prayer 10
 Lorimer, William 36, 70—1
 Loudun 56
 Lyndhurst, Lord 79
 Macaulay, Lord 70
 Macdonald, S. F. 81
 Maitland, F. W. 15, 55, 57
 Manichaeans 13
 Manners-Sutton, Abp. 44, 76—7
 Mansfield, Lord 68
 Marcion, 10, 53
 Martineau, James 81
 Mary, Queen 23
 Milan Edict 51
Monthly Repository 45, 77, 78
 Moskorzowski, J. 64
 Nayler, J. 29—30, 68
 Neal, Daniel 29, 67
 Neile, Bp. 26
 Nevin, T. 37, 72
 Newman, J. H. 10, 12, 53
 Non-subscription 72
 Norwich diocese 17, 24
 Nye, S. 68
 Olden, T. 71
 Open trust 48, 81
 Ordinance, 1648—28
 Origen 55
Orthodox Trinitarian, The 78
 Oseney Council 14
 O'Toole, A. 36, 71
 Pakingham, P. 24, 62
 Parker, T. 9, 52
 Parliament, Long 27, 66
 Parris, G. van 23, 62
 Peeters, J. 24, 63, 65
 Penn, William 30
 Penry, John 25
 Philip and Mary 23, 62
 Pitt, William 39
 Presbyterian 12, 46
 Presbyterians 28, 29, 66
 Presbyterians, Irish 37, 72
 Priestley, Joseph 50, 81
 Protestant Dissenters 44—5, 71, 72—3
 Prudentius 53
 Public opinion 50

- Purney, J. 59
 Quakers 72-3
 Racovian Catechism 26, 64
 Radulphus de Coggeshale 57
 Ranters 65
Rational Dissenter, The 12, 54
 Rawdon Fund 46, 78-9
 Redford, G. 54
 Rich, Chancellor 22
 Riley, H. T. 55
 Rymer, T. 58, 59
 Sabellius 10
 Salters' Hall schism 71, 72
 Sanford, J. L. 66
 Sautre, W. 16-17, 18, 26, 59-60, 63
 Scambler, Bp. 25
 Schmalz, V. 64
 Scotland 34
 Scottish Act, 1661-34, 42, 69
 " 1695-35, 42, 69
 Scriptures in English 21
 Servetus, Michael 10, 19, 53
 Smith, William 40-1
 Smithfield 17, 18, 22, 25, 64
 Smyth, T. 60
 Socinian books 27, 65, 68
 Socinianism 28, 32, 33-4, 73, 77
 Socinians 19, 26, 33, 43
 Sozzini, Fausto Paulo 64
 Stapleton, T. 56
 Star-chamber 66
 Stephen, Sir L. 70
 Stoienski, P. 64
 Stuart regime restored 30
 Subscription 31, 37, 38, 45-6, 52, 71, 72, 73
 Tailour, W. 18-19, 22, 60
 Taunton, E. 12, 54
 Tertullian 10
 Thellusson, P. 81
 Thombe, M. 62
 Three Denominations 41
 Toleration 28, 31, 45, 46, 49, 66-67
 Toleration Act, 1689-31, 45
 " 1779-38, 46
 " (Irish) 1719-37, 42
 Transubstantiation 17, 18, 19
 Trinitarian 10, 53
 Trinity, denial of 31, 33, 35, 42, 43, 44, 69, 71
 Trinity, two forms 10, 52
 Trinity Act 41-44, 51
 Trust deeds 45-49
 Turwert, H. 24, 63, 65
 Ulster Synod 37
 Unitarian 12, 30, 68
 Unitarian Marriage Bill 77
 Unitarian martyrs 18, 22, 23, 25, 26
 Unitarian trusts 46
 Unitarians 38, 40-47, 77
 Vaughan, Cardinal 52
 Virgin Birth 19, 71
 Volkel, J. 64
 Walker, W. 67
 Wallace, Robert 64, 65, 69
 Weber, N. A. 57
 Weigh House Chapel 48
 Westbury, Lord 54
 Westcott, B. F. 53
 Westminster Assembly 28, 29
 Wightman, E. 26-7, 64, 65
 Wilhelm, J. 11, 54
 Willelmus Parvus 55
 William III 32, 69
 Wilson, G. 58
Witness, The 70
 Wolverhampton Chapel case 78, 81
 Writ *De heretico comburendo* 24, 31, 42, 68
 Yates, R. 67





