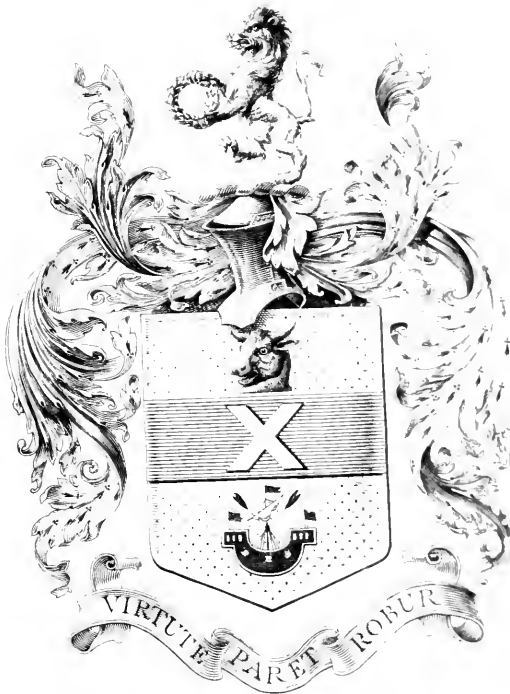


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BY

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WITH A PREFACE BY

J. B. BURY

REGIUS PROFESSOR OF MODERN HISTORY IN THE
UNIVERSITY OF CAMBRIDGE

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PREFACE

AN English historian who devoted his life to the study of the history of liberty spoke of "the dreary and heartbreaking course by which men have passed to freedom." No problem is more intricate than to trace, mark by mark, the footsteps on that weary road; and we shall only succeed in reconstructing the itinerary by investigations restricted on one hand to particular periods, and on the other to particular aspects. Professor Ruffini has limited himself to showing how the theory of religious liberty originated and developed, and how it was realised by legislation, whether fully or in the various defective forms of toleration. He excludes the painful story of persecution and keeps his eyes fixed on the positive advance, only touching on repression so far as is necessary to make the advance intelligible. He excludes the part played by rationalistic thought. He does not essay the baffling task of measuring the growth of a tolerant public opinion. He traces the direct threads which wound to so many places from Socinus, but he abstains from examining the side-influences which impinged at every point, strengthening or weakening the cord. It is significant that Hobbes, for instance, and Diderot are barely mentioned, and that Shaftesbury is not mentioned at all. It is due to these carefully considered limitations that the author has succeeded in producing such a satisfactory and illuminating contribution to the history of liberty.

The most casual reader will carry away at least two ideas. He will gain a clear conception of the two forms in which the modern State has realised religious freedom—Separation and “Jurisdictionalism.” And he will be convinced that the Italian Socinus, the denier of the Trinity, is the father of modern toleration. The significance of Socinus, as the pioneer, had been already recognised ; it had never been elucidated so fully.

It was not an accident that the only tolerant form of Christianity hatched at the Reformation was also conspicuously rationalistic, and the reader should not forget that, as Signor Ruffini explicitly warns him, he is looking at only one side of the history of religious liberty in this volume. The progress of toleration is influenced by the growth of rationalism, and it is also affected by the view which happens to prevail as to the functions of the State. If it has generally been introduced, not in obedience to principle, but for reasons of political expediency, yet it has always been facilitated by changes wrought in public opinion by rationalistic thought inside as well as outside the churches. There are particularly clear cases in the eighteenth century. The spread of rationalism among the higher classes in France smoothed the way for the Toleration Act of 1787. In England, in the reign of George III., if the emancipation of the Catholics was feasible so far as public opinion was concerned, this was due to the same cause. In Prussia, the influence operated directly ; it was responsible for the enlightened policy of Frederick II. There was, indeed, a reciprocal process between legislation and opinion ; tolerant opinion promoting legal toleration, and official toleration promoting tolerance.

The views which men take of the powers and ends

of civil government will obviously condition the treatment of religious liberty. The theory of Hobbes, which established, with amazing logic if we grant his premisses, the power of the sovereign over men's professions of belief, confirmed the principle of the Peace of Augsburg and promoted tyranny over conscience. A freethinker was here the high-priest of authority, and *Leviathan* its manual, implying an abler justification of persecution than Augustine's development of the text *Compelle intrare*. Against this theory of authority, Locke, who professed to be an orthodox believer, stepped forward and propounded the principle of government which has been the guiding maxim of English Liberalism in the nineteenth century. The doctrine that the sole function of the magistrate is to protect the lives and properties of citizens leads not only, as Locke inferred, to toleration, but to the complete separation of Church from State. The English Liberal Party drew this conclusion; they began to realise it more than forty years ago, and are to-day engaged in carrying it further. The Bill for the Disestablishment of the Church in Wales is a fruit of Locke's thought.

This Bill comes within the range of Signor Ruffini's thesis, and, like another event which happened since the publication of his work (1900)—the denunciation of the Concordat in France—it illustrates the actual interest of his subject. In France and England religious liberty, more or less complete, has prevailed for some time under a Jurisdictional system. France, in superseding this system (1905) by Separation, has returned to the system which had existed, from 1795, under the *république bourgeoise* and the *république plébiscitaire*, till Napoleon upset it

by the Concordat which his country did not want. England, after a long interval, is proceeding further on the path on which Liberalism entered in 1869. And it should be remembered that throughout the British Empire, except in Great Britain itself, Separation is the rule. Geneva followed the example of France in 1907.

Separation may be looked at from two points of view. It may be advocated as a means to ecclesiastical liberty; and it is mainly on this ground that Signor Luzzatti, the distinguished ex-Premier of Italy, applauds the action of Geneva and deplors that the proposal for Separation, brought forward in the same year, was rejected in Neuchâtel.¹ Or it may be defended as the only system logically harmonious with the secular spirit of modern times. Signor Ruffini regards it as a mistake, or, at least, as an inferior solution of the problem; and this opinion, of one who has so deeply studied the subject, will be of particular interest in England at the present moment. He considers that liberty of thought is safer under a Jurisdictional régime than under Separation. Historically, he is able to show that Socinianism, which contemplated the former system, was animated by the true spirit of tolerance, while intolerance was the motive of the Anabaptists in desiring the latter. This, however, does not prove that Separation is not actually the better system, and in reaching his conclusion Signor Ruffini seems to have been much impressed by the fact that in the United States, where Separation prevails, it has not led to general tolerance of freethought. But so far as this is true, can it be proved that it is a case of cause and effect? The question is, would the Jurisdictional system have

¹ *La Libertà di Coscienza e di Scienza* (1909), 60 seqq.

led to the growth of a more tolerant spirit? If the American Commonwealth compares unfavourably with some European countries in which Church and State have not been separated, I suspect that this difference does not depend on the legal positions of the churches, but is rather connected with differences in culture. But consider England, where public opinion is tolerant enough, yet the old laws against blasphemy are still far from being a dead letter. Within the last nine months at least six persons have been prosecuted and punished for blasphemy. When a Bill was introduced in Parliament for the repeal of these laws in 1889, it was defeated by a large majority. Then there is the disability under which rationalistic societies lie in regard to bequests. If a freethinker leaves money in his will, say to the Rationalist Press Association, the bequest is invalid in the eyes of the law, and his heirs, if they choose, can have it declared null and void. A case of this kind occurred in 1903. Mr John Beswick had left £400 to the Oldham Secular Society to be used for spreading Secular principles. The bequest, contested by his nephew, was declared to be invalid because the Society held opinions contrary to Christianity.¹ Such restrictions on freedom may not be very serious grievances, but so long as the State is officially associated with religion, there is always a danger that they may become serious, and the tendency, now perceptible, to regard the State as a paternal guardian is not reassuring.

It may readily be conceded that there are circumstances in which tolerance may be more effectively secured by keeping the Church of the majority under

¹ An account of this case will be found in Mrs Bradlaugh Bonner's useful little book, *Penalties upon Opinion* (1912).

State control, and that Jurisdictionalism has been a valuable system as a transition to Separation. I wonder whether the friends of Erastianism in England will be eager to appeal to Signor Ruffini's judgment, which is based on a profound distrust of ecclesiastical liberty. I imagine that those who stand outside the churches, and desire that (to use a phrase which he quotes) the life of the individual citizen should be allowed to "run its course from the cradle to the grave without receiving from the State any disturbance or impulse of a religious character," will pin their faith to Separation. But all who are interested in the question, whatever their opinions may be, will do well to study this work, in which the relations of Church and State are treated from a detached point of view, and with a firm grasp of the facts.

J. B. BURY.

August, 1912.

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RELIGIOUS LIBERTY

Introduction.—The Fundamental Ideas

CHAPTER I

LIBERTY OF THOUGHT. ECCLESIASTICAL LIBERTY. RELIGIOUS LIBERTY

I. IT not infrequently happens that the expression *religious liberty* is used both in lectures and writings to signify things differing widely from each other and all very far removed from the precise and technical meaning which science has assigned to that expression for some time past.

There are, in fact, many who understand it in too wide a sense, and make use of it as the equivalent of *liberty of thought*. They employ the term to indicate the emancipation of the human mind from all dogmatic preconceptions, from all the shackles of religious faith. Heretics, schismatics and apostates, sorcerers and necromancers, sceptics, freethinkers, and the *esprits forts* of all times and all places, are the standard-bearers, the champions, the martyrs of this idea; illuminism, deism, rationalism, Voltairianism, naturalism, materialism, etc. etc., are its equivalents.

On the other hand, there are many who fall into precisely the opposite exaggeration and understand

the expression in too restricted a sense, that is to say, as being the equivalent of *ecclesiastical liberty*. And for them it indicates the privilege conceded, or, rather, to be conceded, to the members of a particular Church to bring all the acts not only of their private but also of their public life into the fullest conformity with the precepts of that Church, and in such a manner as to have the State entirely and supinely subjected to demands of a religious character.

But it is very easy to see that this privilege, which is invoked in the name of the unlimited liberty of conscience and worship for a single religious confession, is at variance with the true idea of liberty, inasmuch as the latter can only exist where identical concessions are made to all religions, and where the free exercise of one finds a restraint and regulation in the equally free exercise of the others. And when it is considered that this privilege is demanded principally by the most zealous defenders of the Catholic Church, which has laid down and, as we shall see, even to this day maintains among its fundamental principles, that the State cannot concede, we will not say equal liberty and identical privileges except to herself, but not even simple toleration to other religions, then everybody must agree that this so-called *religious liberty* is as opposed as anything can possibly be to the true liberty of religion. It is almost needless to add that none of the Churches will hear a word about any kind of liberty for atheists or, in general, for freethinkers.

The latter, for their part, do not make it their supreme object to obtain the same liberty for those who do not believe as for those who do, but they aim, one and all, at undermining the foundations both of traditional and imposed beliefs. For them the

principle that thought must be left free and that opinion must not be coerced, is not an end in itself, but merely the indispensable means of prosecuting, demonstrating, and causing the ultimate triumph of their anti-religious speculations. That the liberty of religion in its technical significance is not confused with the more generic liberty of thought, and is not even a part or an aspect of it, is shown by this very significant fact better than by any argument, namely, that there have been most fervent believers who have been in every possible way favourable to religious liberty, as well as utterly prejudiced free-thinkers who have been absolutely against it. Who, indeed, could doubt the piety, I do not say of the most ancient Fathers of the Church, but of those communities of Socinians, Unitarians, and Baptists who first fought for the principle of religious liberty in the very bosom of the Reformation? And what soul was ever more ardently pious than that of Alexander Vinet, who, at the same time, was one of the most strenuous champions of religious liberty in the last century? Yet, on the other hand, it is part almost of the nature of unenlightened and unreasonable disbelief to endeavour even to compel the State to restrain the free exercise of those opinions and religious rites which it believes to be harmful to human progress and well-being. Have we not, indeed, seen the French Revolution giving to the world the supremely significant spectacle of disbelief becoming in its turn intolerant and persecuting? But there is also another reason for which religious scepticism may involve the negation of all religious liberty. The English freethinkers of the beginning of last century, not believing in religion, but holding it to be the best means of government, maintained that no

liberty should be accorded to dissidents. And Jean Jacques Rousseau, after having outlined the dogmas of his civil religion, did not hesitate in assigning to the State the duty of imposing it upon everybody, even by violence.

We certainly do not wish to deny that the progress made by the idea of religious liberty has not been usually accompanied by progress in freedom of thought, and that such progress has not usually met with its greatest obstacles in the excesses of pious fervour; but this does not alter the fact that religious liberty is an idea quite different from, and a principle entirely independent of, those which have so far been considered.

II. Religious liberty takes sides neither with faith nor with disbelief; but in that ceaseless struggle which has been waged between them since man first existed, and which will be continued, perhaps, as long as man exists, it stands absolutely apart. I do not say it stands above the conflict, since its aim is not so high; its object is not, as with faith, eternal salvation, nor, as with freethought, scientific truth. Its purpose is subordinate to these, and it is much more modest and far more practical. It consists in creating and maintaining in society such a condition of things that each individual may be able to pursue and in time to reach those two supreme ends, without other men, either separately or grouped in associations, or even personified in that supreme collectivity known as the State, being able to offer him the least impediment in pursuing those ends, or cause him the least damage on their account.

From all this it appears that religious liberty is not, like freethought, a *philosophical* idea or principle, that it is not, like ecclesiastical liberty, a *theological*

idea or principle ; but that it is an idea and a principle essentially *juridical*.

III. Yet on first hearing of religious liberty, the majority of people think only of its negative aspect. Persecutions and pyres, the Holy Inquisition and Index of Prohibited Books,¹ all the excesses and rusty arms of religious intolerance, rise immediately in their minds and encumber them in such a manner as to hide the positive aspect of the question.

Anyone, however, who reflects for a moment will easily understand that it is not the negative aspect which interests us here, and that it is not in that direction that our investigation has been made ; since, apart from every other consideration, we should only have done over again what has already been done by others in an exhaustive manner.

It has been our aim, on the contrary, to trace the rise in the most remote antiquity, the development in modern times, and the definitive triumph in our century, of the idea that nobody ought, for religious motives, to be persecuted or deprived of full juridical capacity. Hence we have studied only the positive side of this great question, and this has not been done hitherto in an adequate manner.

The literature of religious liberty, in fact, is composed almost entirely of occasional writings, polemics and apologetics, propaganda and protest, few of them,

¹ In this negative aspect of the question two points have acquired such a consistency as to form regular juridical institutions—the Inquisition and the Index. As to the first, *cf.* Lea, *A History of the Inquisition of the Middle Ages*, New York, three vols., 1888 ; Hinschius, *System der Katholischen Kirchenrechts*, vol. v., Berlin, 1893, 289–297 ; vol. vi., Berlin, 1897, 382–393. As regards the Index, *cf.* Reusch, *Index der verbotenen Bücher. Ein Beitrag zur Kirchen- und Literaturgeschichte*, Bonn, i., 1883 ; ii., 1885, which is a mine of information for modern times, and perhaps the most useful guide it is possible to have for Italian politico-philosophico-religious literature.

especially among the more recent, being purely scientific in aim. Moreover, in the latter, even in the best of them, two points have been neglected more than they deserved, namely, the historical development and the literary elaboration of the idea. But both of these aspects appear to us to be of vital importance; the first because in a dispute in which party passion is predominant it is only wise to endeavour to secure the intervention of that dispassionate judge, history; and the second because every step in the progress of religious toleration has been prepared by a wide literary movement, and also because nothing better than literature can give an exact idea of the real conditions of liberty at a given time and in a given environment where the bare letter of the law is an incomplete and uncertain document.¹

¹ *Cf.* the bibliography at the end of the volume.

INTRODUCTION.—THE FUNDAMENTAL IDEAS
(CONTINUED)

CHAPTER II

TOLERATION. LIBERTY OF CONSCIENCE. LIBERTY
OF WORSHIP. EQUALITY OF RELIGIONS

I. THE idea of *religious liberty* is susceptible of a still more precise determination, since it presents different stages in its historical evolution and different aspects even in its actual configuration. In past ages, and in many countries right down to the second half of the nineteenth century, it has always been a question of simple *toleration*, rather than of real liberty.

Toleration, or rather, in order to explain our idea more easily, intolerance, may be simply religious; and it consists in the exclusivist notion that a definite religion must be the only true one, the only one instituted by the divinity, and therefore the only one capable of procuring eternal salvation. So long as this intolerance, availing itself of purely spiritual arms, confines itself to fighting and repelling everything and everybody that opposes or disputes its fundamental dogmas, it cannot be regarded as unjustified, and certainly cannot be opposed except by purely spiritual arms. For to wish to impede it otherwise would be to do a grave injury to the principle of liberty of conscience.

But it happens that the public power places its means of external coercion at the service of this same religious intolerance, adopts its cause, and fights and

repels with material arms everything and everybody that disputes the dogmas of the religion which it has recognised as being the only one. Thus we get a new form of intolerance which should be qualified as civil-religious, but which, for the sake of brevity, is called simply civil intolerance. The latter, in contrast to the other, far from having any sort of foundation in the principle of liberty of conscience, becomes the most unjustifiable violation of it; and it is precisely against this that the earliest appeals for toleration have been made.

Toleration, moreover, is among the most elastic of ideas. There may be a purely *de facto* toleration which might be restricted only to the persons of the dissidents, in so far as they are permitted to live in the territory of the State but not to carry on religious worship there; or it may be extended to the religion itself.

But this form of toleration, in order that it may be stable and in order that the fanaticism of intolerant individuals may not disturb it, requires a legal sanction. Hence comes a very limited governmental protection of the dissidents which, however, is always liable to be capriciously revoked and which must be paid for, as witness the case of the Jews, by a thousand humiliations, all duly set forth in the laws, and is not infrequently to be purchased by hard cash.

This rudimentary form of *de jure* toleration, however, which is substituted for *de facto* toleration, starting with the simple concession of a few of the most essential civil rights and from the privilege of religious worship in private, can with the progress of time rise by degrees, and does in fact rise very slowly, to the full conferment of all civil and political rights, and finally to the granting of the faculty of exercising

the religion with all the outward signs and privileges of publicity.

Having reached this point, toleration aims at real liberty; and it will eventually be compelled to make way for it.

For, on the one hand, the voice of the most strenuous defenders of liberty will be raised against it, and Mirabeau will protest in the National Assembly: "The word toleration seems to me to be in a certain measure tyrannical, since the authority which tolerates could also not tolerate"; while Lord Stanhope will warn the House of Lords: "There was a time when the dissenters begged for toleration as a grace; now they ask for it as a right; but a day will come when they will scorn it as an insult."

And, on the other hand, the popular conscience will of itself eliminate from social intercourse a word which has become too full of mournful memories. Thus it will happen that the expression *culti tollerati* (tolerated denominations), which in Article I. of the Italian Statute was used to designate the non-Catholic religions and which was really the last act of intolerance of a régime which was deprived by the statute of all its power, will gradually and tacitly be replaced by the expression *culti ammessi* (admitted denominations), in which that same Catholic religion will be comprised, without any distinction from the non-Catholic.

Toleration, indeed, which is an admirable private virtue, has in public relationships an odious sound, and not the last cause of this is certainly the technical meaning, which it still preserves in Catholic ecclesiastical law, as a forced and opportunistic recognition of things which, nevertheless, the Church must not be understood absolutely to approve. *Tolerari posse,*

e.g., is the formula adopted both in regard to the military service in the Italian provinces of which the Roman curia does not recognise the legitimate annexation, and in regard to the non-religious schools of America, etc.

The word toleration presupposes the existence of a religious State, that is to say, of a State which believes it necessary for itself to make, as a collective person, profession of a certain religion, just as if, like its individual members, it had a soul to be saved. Hence the religion professed by it will be called, as was said at one time, and as our statute says to-day, the *only religion*, or the *official religion*, the *dominant religion*, the *established religion*, or the *religion of the State*. And the latter, compelled by necessity to admit other religions within its territory, will not be able to do so without disapproving them and regarding them with a certain pious aversion; in other words, it will *tolerate* them.

Now, this is no longer suitable for a modern State, which may have the utmost respect for religious feelings, but cannot profess itself a particular religion. The modern State can, and eventually must, bow to some of the demands of that which is the religion of the great majority of its subjects, adopting, for example, its calendar as official. But from this it must not by any means be inferred that the State should regard all the other religions of the minority with less respect and sympathy. Therefore the French Government was absolutely right when, during the negotiations for the Concordat of 1801, it would not agree to the demand of the Roman Curia that in the proemium it should be stated that the Catholic religion was the dominant and exclusive religion of France; but insisted on the simple statement that

it was the religion of the majority of the people of France. And it is precisely towards the same interpretation that Italian publicists are endeavouring to bend the letter—somewhat intractable, truth to tell—of Article I. of the Italian Statute, which declares that the Catholic religion is “the only religion of the State,” and that other denominations are “tolerated in conformity with the laws.”

To sum up: the modern State can no longer have cognisance of *toleration*, but only of *liberty*, because the former means a gracious concession made by the State to the individual; while the latter, on the contrary, is a duty of the citizen towards the State. Religion is now a domain in which the State can give nothing, but in which the citizen can claim all.

II. Religious liberty presents, as we have said, different aspects in its actual configuration.

(a) First and foremost it can be considered in relation to single individuals, and it should then be more properly called *liberty of conscience*, or of *faith*, or of *worship*.

Although it is usual to define this form of religious liberty generically as the privilege of the individual to believe in what religion he pleases, or, if he prefers, to believe in none, it does not, however, come within the juridical field under this aspect of an essentially internal privilege. As such, of course, it may be the object of pure psychological and philosophical inquiry, and therefore it would be just as superfluous and ridiculous to sanction it in the laws of liberty, as, adopting the illustration of a French writer, to proclaim the liberty of the circulation of the blood. It comes within the juridical field only in so far as it gives rise to external, and therefore legally important, demonstrations.

Under this aspect, either for the purpose of removing ancient obstacles which were at one time placed in the way of such external manifestations, or for that of ensuring their ordered liberty in the present, a threefold series of dispositions was necessary in all civil legislation.

Some are negative; and they consist in removing entirely all penalties, disabilities, and legal inequalities which were imposed for religious motives, so that the names, and the very ideas, of heresy, apostasy, and schism shall be deprived of all significance in the eyes of the law.

Others, on the contrary, are simply indirect, and they consist in arranging the relations between the State and individuals in such a manner that the life of the latter, in the picturesque phrase of Friedberg, can run its course from the cradle to the grave without receiving from the State any disturbance or impulse of a religious character. This will be obtained by a series of measures which, starting from the registration of civil status, proceed gradually to non-religious public education, the institution of civil marriage, the abolition or transformation of the political and legal oath, the secularisation of *assistance publique*, and finally, the creation of communal cemeteries.

Others, again, are positive and direct; and they consist, in the first place, of those articles of some Constitutions wherein, in spite of the stupidity already mentioned of such proclamations, the right to liberty of conscience is expressly recognised; and secondly, in those special measures¹ which various legislatures have deemed it necessary to pass in order directly to guarantee the manifestation, propaganda, and exercise

¹ E.g., Art. 141 of the Italian Penal Code; Art. 2, last paragraph, of the "Italian Law of Guarantees of the Pope."

of religious convictions, in addition to those generic measures which protect every other form of individual liberty.

Liberty of conscience cannot be subject to exclusions and limitations except such as are imposed by the common law.

(b) Religion, however, is certainly the field in which the sociable character of man expresses itself most imperiously; hence religious liberty will not be complete where there is no concession of the privilege of collective as well as individual manifestation, propaganda, and exercise of a religious belief, whether the collectivity is limited to the assumption of the transitory aspect of a meeting, or becomes fixed in the stable and continuous aspect of an association. Hence the necessity of taking a step upwards on the ladder of religious liberty with the recognition and assuring of the so-called *liberty of worship*, which Vinet once well defined as the liberty of conscience of associations.

Here also there would be no difficulty in the principle of the State contenting itself with the regulation, both by guarantees and limitations, of this liberty to a share in the common right of meeting and association. All States, indeed, have regarded it as practically necessary to assign such special guarantees and limitations.

But their application has afterwards shown that in every law it must be clearly determined what is to be understood by *worship* in the juridical sense; because in the case of religions which were historically, numerically, or socially insignificant, it would neither be opportune, nor perhaps possible, to apply a special law, made for the purpose, instead of the common law of which we have spoken. Thus, to give an

example, any three or four friends who had associated themselves together for the purpose of founding a new form of worship, and who had assigned to one member of their small association the quality of a minister, could evidently neither be subjected nor make an appeal to those penal dispositions against the abuses of ministers of religion on the one hand, or those, on the other, by which offences or injuries done to ministers of religion in the exercise of their functions are punished in a particularly severe manner.

Granted, however, that the small association, which we may call a *sect* (but divesting this word of its former odious meaning), should enjoy, under the protection of the common law of meeting and association, the same amount of privilege, and perhaps even a greater one, than the *religion* which is explicitly recognised under the special law—which is particularly protective, it is true, but also particularly limitative—can it also be said that its different legal position implies a diversity in the recognition of religious liberty in regard to the citizens belonging to the *sect* as compared with those belonging to the *religion*? In most instances this does not seem to be the case, and rightly so, in our opinion.

(c) But this smooths our way in approaching another point, still more important and much more controversial, that, namely, of the *equality*, or *parity of religions*.

This idea has so far not been clearly defined except in German law, which derives from it the principle of of so-called *Parität*. Historically, however, this principle of “parity” does not appear in Germany as connected with that of religious liberty, because at one time, by the Treaty of Westphalia, for example, only a few religions were placed in a condition of

absolute *parity*; these were the Catholic, the Lutheran, and the Reformed ; the others were not even tolerated.

Religious associations can enter into relations with the State not only in so far as the latter protects their religious liberty, but also, and principally, in so far as they, like all other associations, are organised and governed by virtue of statutes which do not merely concern faith and discipline, but also matters of a very different and entirely mundane character, such, for example, as the acquisition of property and its administration.

Hence arises the question: Since religious liberty is truly equal for all and therefore complete in one State, is it necessary that the State should treat all religious associations in a precisely identical manner, even those which conform to a purely temporal régime ?

As, however, such absolute equality of treatment does not appear—theoretically—to be possible when the State claims to maintain its ancient interference in the government of ecclesiastical affairs—since an imposing body like the Catholic Church and one of those small associations of friends of which we have already spoken cannot be governed by the same standards—and as, on the other hand, such absolute equality will undoubtedly exist when the State permits all religious associations the same unlimited power of governing themselves, ignores them all, both small and great, and declares its incompetence in regard to all—in other words, separates itself absolutely from Church or Churches, so that question is changed into this other: Since there is true and complete religious liberty in a State, must the State renounce the jurisdictional and adopt the separatist régime ?

Formulated thus, the question dates back to the

rise of the modern idea of religious liberty. We shall see, in fact, that the first champions of liberty, the Socinians, were in favour of a large measure of State interference in ecclesiastical affairs, and that, on the contrary, those who first learned the doctrine from the Socinians, namely, the Anabaptists and all their numerous affiliations, immediately began to oppose such interference in the most precise manner.

It was by these latter sects that the principle of liberty was transplanted to North America; and it is principally because of this fact that it made progress and became imposed as a principle connected with that of separatism. It is easy, therefore, to understand why the American writers are unable to conceive the idea of true liberty apart from separatism. And thus it is that *religious liberty* and *separatism* have become in America two terms which, ideally, historically, and practically, are inseparable. Such is the theory which is defended by those European writers who took upon themselves to extol the American system of *separatism* as against the European system of *jurisdictionalism* or *Erastianism*.

But of the latter, supporters have not been and are not now lacking. They have observed that not a few European states (typical example, Prussia) although remaining purely jurisdictional precisely, indeed, because they understood how to keep in check the most powerful and intolerant Churches, have succeeded in past centuries in bringing into effect a régime of religious liberty much more complete and wider than that which prevailed at the same period in the United States of America. It has also become apparent that if most advantage has been derived in recent years from the separatist régime by those Churches in America which are

most strongly organised and carry on the most active propaganda, as much cannot be said of the religious liberty of the individual, especially if it assumes the form of unbelief. For rationalism in general, and scientific freethought in particular, precisely because they are lacking in any kind of organisation, not only do not profit by separatism, but also remain isolated from and without any defence against the different organised religious associations, which under the guardianship of the separatist régime have too much freedom to display their spirit of intolerance.

And then, to that principle of justice which was solemnly invoked in favour of equality at all costs, was opposed this other principle, namely, that to regulate unequal juridical relationships in an equal manner is every bit as unjust as to regulate equal juridical relationships in an unequal manner. Hence there can be, it is said, a parity in the false sense, which is that of absolute, abstract, mathematical equality, and a parity in the right sense, which is that of relative, concrete, juridical equality, since, as Kahl¹ writes, “The true principle of parity does not say: ‘to each *the same*,’ but ‘to each *his own*.’”

By all means let the perfect equality in America, where it exists as between the various denominations, be extolled; but let us in Europe, where ancient historical differences and tremendous social inequalities even yet divide the various Churches, hold firm to the system which measures out the regulating action of the public authority for each one in proportion.

¹ Kahl, *Ueber Parität*. *Akademische Festrede*, Freiburg, 1895.

Part I.—The Precursors

CHAPTER III

CLASSICAL ANTIQUITY. THE EARLY FATHERS OF THE CHURCH AND THE PHILOSOPHICO-RELIGIOUS SYNCRETISM OF THE LAST OF THE PAGANS

I. ONE would search in vain in the literature of Greece or Rome for any trace of the idea of religious liberty; it was quite foreign, in fact, to the ideas which those peoples had formed of liberty in general; and the various forms of religious intolerance, that is to say, of the principle from which, either by opposition or by the instinct of defence, the highest affirmations and vindications of liberty of conscience and worship have arisen in all times, were quite unknown to the whole of classical antiquity.

Certainly the ancient religions were also exclusivist, but in the sense that they were held to be proper to each people, just the same as every other national institution, or, rather, every other public institution, since religion was regarded as a thing belonging more to the community than to the individual. From this followed not only the absence of any spirit of proselytism, but also the principle of a universal toleration—a principle which every religion has held to be good because it was convenient to the people which had created it.

For the rest, as Pollock¹ has well observed, the religions of Greece and Rome possessed an exuberant quantity of legends and rites, but nothing that could properly be called dogma. But religious intolerance found, and finds to-day, its firmest foundation precisely in a dogma—in the dogma of exclusive salvation: *extra ecclesiam nulla salus*.

When the idea of a single and universal God was set, first by the Hebrews and then by the Christians, against the ancient polytheism, there arose a new form of religious exclusivism, contrary to the old not less in its basis than in its effects. The gods of the other peoples were said to be false and fallen, and religion lost its national and public character, and became on the one side cosmopolitan and on the other proper to each single individual. From this followed not only an inextinguishable spirit of proselytism, but also the principle that he only could be saved who worshipped the true God; that is to say, the principle of absolute intolerance.

It will be said that there have been persecutions for religious motives in all times, even before and outside Christianity.

But whoever looks well into the matter will see that in the extreme rigour with which primitive peoples, like the savages of to-day, and like, up to a certain point, the superstitious communities among Christian and civilised peoples, are wont to punish anyone who offends the divinity, provoking and bringing down his anger upon the faithful, there is a

¹ Pollock, "The Theory of Persecution," in *Essays in Jurisprudence and Ethics*, London, 1882, p. 151. Bacon had already written (Sermon fid. III., *De Unitate ecclesie*, ed. Rawley, Londini, 1638 p. 156): "*Dissidia circa religionem mala erant Ethnicis incognita. Nec mirum cum religio Ethnicorum esset potius in ritibus, et cultu externo quam in constanti aliquo confessione et fide.*"

true motive of public defence, which, however rude and impulsive it may appear to be, is nevertheless of precisely the same nature as the motive which induces modern States to impede and punish beliefs and forms of worship which are subversive of public order.

Nor is the basis of things changed when, with the progress of culture, the dictum of Tacitus, *Deorum iniuriæ Diis curæ*, triumphs. For the Greek persecutions of the philosophers and the Roman persecutions of the Christians were not caused by what afterwards came to be known as *odium theologium*, but by reasons of quite another character.

If the accusation brought against Socrates was that of importing a new deity, this was said in order to impress the superstitious popular mind; but in the minds of his accusers, on the contrary, there existed the suspicion that the new trend of his ethico-religious investigations was liable to undermine the constitution and evoke some novelty in an oligarchic sense. For the rest, this fact is supremely characteristic and decisive, namely, that neither Socrates himself nor any of the other philosophers opposed the persecution by any appeal to the principle of the liberty of conscience.¹ Therefore Simon rightly says that in all this, religion, granted that it really entered into the matter, only served as a pretext; they spoke only of the gods, but thought of them and of something else as well.²

It is almost a tradition among the writers who consider the Roman persecutions exclusively in regard to their effects, that is to say, from the

¹ Cf. Duruy, "Lutte entre la religion et la philosophie au temps de Socrate," *Rev. des Deux Mondes*, vol. lxxxiv., 1887, p. 44-71.

² Jules Simon, *La liberté de conscience*, 5th ed., Paris, 1872.

Christian point of view, to picture them as the prototype of religious intolerance. But such they were not, if considered in regard to their motives, that is to say, from the Roman point of view. If the Romans, from the very beginning, did not treat the new religion with the same benevolent tolerance as they had observed towards other religions, it was due to the fact that they confounded it with Judaism, which had already rendered itself suspect and hateful to them by reason of its scorn of every other belief, including, naturally, the Roman. But in the refusal of the Christians to pay homage to that religion of the Imperial Genius which the Romans had created, independently of the recognition of all the national religions, as the religious symbol of that unity of the empire which had been superimposed upon, without, however, suppressing, the various constitutions of the subject States, the Romans did not punish a religious, but a political crime (*laesa maiestas*). Moreover, even the most superficial inquiry reveals immediately the politico-social origin of all the successive persecutions, whether the more general motives are considered or whether an investigation is made of the judicial basis which was gradually given to them and the form they assumed, which was, at least in the first two centuries, usually that of a police *coercitio*, and only exceptionally that of a true judicial *cognitio* as for a crime.

But if, considered in regard to its motives, the procedure of the Roman State can only be censured as an excess of political intolerance, in its results, on the contrary, it constituted an undeniable violation of the Christian's liberty of conscience. Hence it is that between intention and result, between cause and effect, one has here only a quantitative and not a

qualitative correspondence. That act of material compulsion which, in the case of the Roman, ignorant of any idea of liberty of faith, was inspired by considerations of public order, which was done, that is to say, solely for the purpose of repressing external acts which were deemed to be contrary to the public welfare, resulted, in the case of the Christian, in injuring a form of liberty much more intimate, and much more precious than that generic form which consists in doing or not doing; namely, the liberty to believe or not to believe in that which he held to be the sole, supreme, and vital truth. Thus Jules Simon again rightly says that at this point in history religious intolerance and political intolerance come into conflict, and that in this conflict liberty of conscience finds itself on the same side as religious intolerance.

II. Now, it is precisely among the primitive Christians that from the clash of these two elements—the religious intolerance which is inherent in Christian dogma, and their position as a persecuted people—that for the first time, like the spark caused by the friction of two hard stones, the idea of religious liberty appears for the first time—the sole adequate remedy for that otherwise irreducible contrast between an individual conscience, which is henceforth enlightened as to its rights, ready to make the greatest sacrifices but not to bow the knee to error, and a political preponderance which had hitherto met with no obstacles and will not recoil from the severest coercion.

In the writings of the early Fathers of the Church is to be found the first direct and conscious demand for religious liberty, and therefore the first germs of a literature on our subject.

It is begun, while the persecutions are still going on, by Tertullian in his famous passage:—

“*Humani juris et naturalis potestatis est unicuique quod putaverit colere, nec alii obest aut prodest alterius religio. Sed nec religionis est cogere religionem, quae sponte suscipi debeat, non vi: cum et hostiae ab animo libenti expostulentur. Ita et si nos compuleritis ad sacrificandum, nihil praestabitis diis vestris: ab invitis enim sacrificia non desiderabunt, nisi si contentiosi sunt; contentiosus autem deus non est.*”¹

But the new religion triumphs with Constantine, who in his famous Edict of Milan, 313 A.D., recognises it is *religio licita*,² without, however, as yet making it the official religion of the Roman State.

With regard to liberty of conscience this first edict of toleration ordains the concession “*Christianis et omnibus liberam potestatem SEQUENDI religionem, quam quisque voluisset*”; with regard to liberty of worship, it says that to everybody shall be given “*liberam atque absolutam COLENDÆ religionis suae facultatem*”; and with regard to the juridical position of the Christian Church, not only does it recognise its quality as a corporation, but ordains that all things which prove to belong “*ad ius corporis eorum, id est ecclesiarum, non hominum singulorum,*” shall be rendered “*iisdem Christianis, id est CORPORI et CONVENTICULIS eorum.*”

The triumph did not at the outset change the Christians’ love of liberty; and Lactantius, one of

¹ Tertullianus, *Ad Scapulam*, c. 2; ed. Migne, *Patr. lat.*, i. 699; ed. Oehler, Lips., 1853, i. 540.

² The Edict was preserved for us in Latin in the *De mortibus persecutorum* of Lactantius, and in Greek in the *Ecclesiastical History of Eusebius*, with few and unimportant differences. Cf. *op. cit.*, l. p. 118.

those who was persecuted by Diocletian, and was afterwards tutor to the children of Constantine, writes, when the era of the pagan persecutions had closed:—

“*Religio sola est, in qua libertas domicilium conlocavit, res est enim praeter ceteras voluntaria, nec inponi cuiquam necessitas potest, ut colat quod non vult, potest aliquis forsitan simulare, non potest velle.*”¹

And elsewhere:—

“*Defendenda enim religio est non occidendo sed moriendo, non saevitia sed patientia, non scelere sed fide . . . nihil est enim tam voluntarium quam religio, in qua si animus sacrificantis aversus est, iam sublata iam nulla est.*”²

But very soon such serene and solemn proclamations of the liberty of conscience in favour of everybody—of the victors, as well as the vanquished—had to give way once more to the solitary, mournful, impassioned invocations of the persecuted. This was when the persecutions were revived by the dissident Christian factions, which, if victorious, exercised the cruellest coercion on their adversaries, with the assistance of the civil authority, which in the meanwhile had itself become more intolerant.³

¹ *Epitome divin. Institutionum*, cap. 54; in the *Corpus script. eccles. latin.* (published by the Vienna Academy), ed. Brandt, new series, vol. iv., Mediolani (Hoepli), 1890, p. 728.

² *Divin. Instit.*, lib. v., cap. 19; *loc. cit.*, p. 465.

³ The first execution for heresy in which the ecclesiastical element directly participated was that of Priscillian and six of his followers, in 385. It was due particularly to two Spanish bishops, who compelled the imperial usurper Maximus to consent to it; but it roused the indignation even of Martin of Tours, who led the iconoclasts in his diocese, and of Ambrose of Milan, the eulogist of the decrees of Theodosius the Great, against the pagan temples and images, and of Siricius, Bishop of Rome. But already in 447 Leo the Great did not venture to excuse that act (*Epist. 15, ad Turribium*).

These beginnings of religious intolerance, which were inherent in Christian dogma, now made their first outward display with fatal effect.

Truth to tell, the bad example was given by the heterodox: the Donatists, Nestorians, Arians.¹ It is, in fact, to the most strenuous champions of the orthodox faith in the stormy and tenacious Arian controversy, that is to say, to three saints, Athanasius of Alexandria, Gregory of Nazianzen, and Hilary of Poitiers, that we are indebted for keeping alive by their example and writings that idea of religious liberty, that *dulcissima libertas*, which the last-named indicated to the Emperor Constantine as the sole remedy capable of composing the turbulent religious factions. To the same Arian persecutors, the priest Salvian of Marseilles did not hesitate to recommend toleration, saying to them:—

“*Haeretici ergo sunt sed non scientes, denique apud nos sunt haeretici, apud se non sunt; nam in tantum se catholicos esse iudicant, ut nos ipsos titulo haereticae appellationis infament . . . errant ergo, sed bono animo errant, non odio sed affectu dei, honorare se dominum atque amare credentes . . . qualiter pro hoc ipso falsae opinionis errore in die iudicii puniendi sint, nullus potest scire nisi iudea.*”²

In the course of time, however, the orthodox also expressly abjured the principle of the liberty of conscience. The deplorable revolution in the tradi-

¹ Lecky (*History of the Rise and Influence of the Spirit of Rationalism in Europe*; London, new ed., 1910, ii. p. 10) supposes, therefore, that the Arians, who once dominated the whole of Spain, planted there the first seeds of that fierce intolerance which, first finding expression, as we have seen, in the execution of Priscillian, was handed down from generation to generation, and has remained one of the most salient characteristics of that people.

² *De Gubernatione Dei*, lib. v., ii.; in *Corpus script. eccles. lat.*, ed. Pauly, vol. viii., Vindob., 1883, p. 104.

tions of the primitive Church was carried out at the time of Augustine, and it constitutes one of the strangest and most decisive points not only in his individual psychology, as well as in the general doctrine of the psychological motives for religious intolerance, but also in the history of the Church itself, indeed, of humanity as a whole.

So long as the heretics had a preponderant position in Africa, and carried on persecution, Augustine was the most fervent supporter of the orthodox liberal tendencies; but afterwards he did not scruple to invoke the aid of the civil power against the Donatists, and decidedly and explicitly to repudiate the principle of liberty of conscience.

The exposition and criticism of the passages in his works in which he defends this most extraordinary change of conduct and ideas, can be found now in numerous authors.

Undoubtedly one of the most characteristic passages is that in his letter to Vincentius, in which he says¹:—

“Mea primitus sententia non erat, nisi neminem ad unitatem Christi esse cogendum; verbo esse agendum, disputatione pugnandum, ratione vincendum, ne fictos catholicos haberemus, quos apertos hereticos noveramus. Sed haec opinio mea, non contradicentium verbis, sed demonstrantium superabatur exemplis. Nam primo mihi oponebatur civitas mea, quae cum tota esset in parte Donati, ad unitatem catholicam timore legum imperialium conversa est; quam nunc videmus ita huius vestrae animositatis perniciem detestari, ut in ea nunquam fuisse credatur.”

The splendid experiment in imperial coercion made in his town persuades him to such an extent, that elsewhere he is able to enunciate as a general prin-

¹ Ep. 93, 17; ed. Migne, *Patr. lat.*, 33, col. 329.

inciple, “*multis enim profuit prius timore vel dolore cogi, ut postea possent doceri,*” and he finds that such compulsion is not less praiseworthy than that which is exercised upon a delirious person who is about to throw himself over a precipice.

But apart from an infinity of other arguments drawn either from analogy with the gravest possible crimes, or from Old Testament examples, it is to him that are principally due (a) the appeal for the first time in support of religious compulsion to the words of the Gospel of St Luke (xiv. 23), *Compelle intrare*, which have furnished the favourite quotation and almost the word of command for all subsequent persecutions; (b) and in the second place the enunciation of the question, *Quae est enim peior mors animae quam libertas erroris?* which appeared, and still appears, to be the fundamental justification of such persecutions.¹

His example and his doctrine, which has been well summarised by Bluntschli² as follows: “When error prevails it is right to invoke liberty of conscience; but when, on the contrary, the truth predominates, it is just to use coercion.” have remained the directive doctrine and example for the Church, and although he, with an amiable inconsequence, as Lecky³ says, had practically exhorted everybody not to inflict upon heretics the penalty of death, yet the most sanguinary persecutors did not afterwards fail to draw their support from his authority.

¹ Ep. 185, *ad Bonif.*, 21, 25, ed. Migne, 33, col. 802-3; Ep. 105, *Donatistis*, § 10; *loc. cit.*, 33, col. 400.

² Bluntschli, *Geschichte des Rechtes der religiösen Bekenntnisfreiheit. Ein Vortrag*, 1867; in *Gesamm. kleine Schriften*, vol. i., Nördling., 1879, p. 105 *seqq.*; and *Allgem. Staatsrecht*, 6th ed., Stuttg., 1885, vol. vi. p. 391 *seqq.*

³ *History of the Rise and Influence*, etc., ii. p. 18.

III. Christian intolerance carried its arms not only against the dissidents, but, as was natural, also against the pagans. And this was done long before the time when Christianity, having in its turn, under Theodosius the Great, become the official religion of the Roman State, could, in its turn also, allege the political necessity of unity of faith, as had once been done by paganism; and it was done even before the pagan reaction of Julian the Apostate could justify his hostility as a defensive excess. For immediately after Constantine, a Christian writer, Julius Firmicus Maternus, advised his children ruthlessly and by all possible means to accomplish the overthrow of pagan idolatry, and composed for that purpose a regular manual of religious intolerance.¹

The reply to this on the pagan side was the reaffirmation and, indeed, the refinement of the ancient spirit of universal toleration.² And this was before paganism had ceased to be the official religion of the Roman State, and hence, long before such pagan appeals to toleration could, as had already been the case with those of the Christians, be explained as the last and desperate expedients in a fight for existence. For we find the orator Themistius of Paphlagonia speaking on behalf of the Christians, and he was a pagan!

His is the figure which, considered within the limits of our subject, rises most nobly above all others in classical antiquity, whether they be Christian or

¹ *De errore profanarum religionum*, c. 20, 28, 29; in *Corp. script. eccl. lat.*, vol. ii., ed. Halm, Vindob., 1867, pp. 109, 125, 129.

² Certainly there are exceptions in the great polemic for and against Christianity in which violence of ideas and words is not lacking either on one side or on the other; but the polemic—and this is the essential matter for us—on the pagan side never went so far as to appeal for coercive measures against their adversaries.

pagan; and by no means undeserved is the praise which Luzzatti bestows upon him for having given a more perfect demonstration of religious liberty than many of the most celebrated modern thinkers.¹

In the oration delivered by him before the Emperor Jovian in praise of that monarch's tolerant laws, and afterwards in the oration in which, before the Emperor Valens, he fought for and, according to the *Ecclesiastical Histories* of Socrates (ii. 32) and Sozomen (vi. 36), secured the abrogation of the measures which had been adopted against the orthodox Christians, he alone in antiquity was able to develop a true and complete system of religious toleration which may be briefly summarised as follows:—

“There is a domain in which no governing authority can have any efficacy; this is the domain of the virtues, and especially of the religious beliefs of individuals. Compulsion of any kind in this domain can only have the effect of causing hypocritical conversions and confessions of faith. Hence it is much better for the ruler to tolerate all beliefs; since it is only by toleration that civil discords will be removed and it will be possible for the civil law to govern both orthodox and heterodox to the common advantage of the country. Moreover, toleration is a divine law which can never be violated, as God Himself has clearly demonstrated His desire for a diversity of religions. We admire and venerate God precisely for the reason that the knowledge of Him is not open, and does not appear on the surface of things, but is hidden and not to be obtained without effort. Now, in this search it is good that emulation among men should exist, for emulation is the mainspring of every

¹ Luzzatti, “Un precursore della liberta di coscienza dimenticato,” in *Atti dell' Istituto Veneto*, tom. iii. ser. 6 (1884–85), pp. 2164–2190.

beautiful human act. And in this race by which humanity, striving along different roads, aspires to God, He alone can be the judge. God delights in the variety of the homage which is rendered to Him; He likes the Syrians to use certain rites, the Greeks others, and the Egyptians others again; and even the Syrians themselves (under which name Themistius includes the Jews and Christians) are not obliged to observe the same laws, but are divided according to their separate institutions into two sections."

Themistius, according to the opinion of Luzzatti, claimed, from the heights of ideality where divinity flashed radiantly upon him, to dominate the old religion and the new, and betrayed a certain tendency to magnify the moral character of antiquity to the disadvantage of Christianity.¹ But in this, rather than an individual claim or tendency, it is more a question of a wider aim which was common practically to all the more cultured minds of that time. It is a question, namely, of that religio-philosophical syncretism which aimed at fusing all that was morally highest and best in the various religions and in philosophy into a universal religion, one in the belief in God, multiform in the manner of worshipping Him, and rising, as Tamassia² has well said, from a confused medley of cults, through Stoic and Platonic elaborations, to a superior and almost scientific theism.

One of the clearest expressions of this, which called forth the admiration of Voltaire, is to be found in the words of the grammarian Maximus of Madaura, in the course of a discussion with Augustine which the latter has handed down to us

¹ Luzzatti, *loc. cit.*, pp. 2169-70.

² Tamassia, *L'Agonia di Roma*, Pisa, 1894, p. 30 *et seqq.*

in one of his letters¹: "God is a name which is common to all religions. Thus it is that worshipping His separate members, so to speak, under the various forms of religions, we come to adore Him in His entirety." Not less characteristic is the passage with which the grammarian, addressing the Bishop of Hippo, concluded: "Those gods can protect you, by means of whom we mortals on earth, concordant in a thousand ways in our discord, venerate and adore the Father who is common to them and to all of us."²

This idea must necessarily have led those last of the pagans to a universal toleration, which, if on the one side it still retains the ancient Roman polytheistic imprint, on another side it appears to us, as we have said already, more refined and also more conscious in so far as daily intercourse with the Christians and the cordial relations of friendship by which they were not infrequently bound to the latter, had taught the pagans something of the true essence of religious liberty.

Hence it is that beside the perfect impartiality towards the Christians of a historian like Ammianus Marcellinus, strong in his tenacious polytheism and in his superstitions, we find a rhetorician, the master and friend of Basil and John Chrysostom, Libanius.

¹ Ep. 16, ed. Migne, 33, col. 82: "*Equidem unum esse Deum summum sine initio, sine prole naturae, ceu patrem magnum atque magnificentum, quis tam demens, tam mente captus neget esse certissimum? Huius nos virtutes per mundanum opus diffusus, multis vocabulis invocamus, quoniam nomen eius cuncti proprium videlicet ignoramus. Nam Deus omnibus religionibus commune nomen est. Ita fit ut dum eius quasi quaedam membra carptim, variis supplicationibus prosequimur, totum colere profecto videamur.*"

² *Ib.*, col. 82-83. The same idea occurs in other authors; cf. Boissier, *La fin du Paganisme, Étude sur les dernières luttes religieuses en Occident au IV. siècle*, 2nd edit., Paris, 1894, vol. ii. p. 224 et seq.

who in his celebrated oration in defence of the pagan temples, adopts entirely as his own the maxim proclaimed so many times by the Christians, that religion cannot be forced but must be a matter for free, individual conviction.¹

Another to raise his voice for the protection of the pagan temples and images was the Roman senator Quintus Aurelius Symmachus, who, in the report which in the year 384, as *praefectus urbis*, he addressed to Valentinian II., asked the emperor to re-establish the altar of Victory in the Roman Senate² in the name of the glorious religion of their fathers, and as a salve to the consciences of the pagan senators, which had been offended by its removal.³ But against this request a Roman belonging to the same Aurelian *gens*, Ambrose, Bishop of Milan,⁴ wrote to the emperor objecting that the re-establishment of the altar would offend the consciences of the Christian senators, who would be compelled to witness and take part in prayers addressed to the images of another religion.

Undoubtedly the right conception of the principle of religious liberty is here on the side of the Christian. But we cannot on that account, with Boissier,⁵ who perhaps is too biassed against the pagans in his appreciation of this development and this controversy, regard Ambrose as a protagonist of religious liberty, because his intervention in the question of

¹ Περὶ τῶν ἱερῶν; in Opp., ed. Reiske, Altenb. and Leipz., 1791–97.

² The statue of Victory placed in the Senate by Cæsar had been removed by Constantius out of consideration for the Christian senators; it was replaced by Julian, but afterwards removed again definitely.

³ *Relationes*, iii. (Ep., lib. x. 3); in *Mon. Germ. Hist.*, ed. Seeck, vol. vi., Berol., 1883, p. 280.

⁴ Epp., ed. Migne, vol. xvi., col. 962 *et seq.*

⁵ *Op. cit.*, ii. pp. 279 *et seq.*, 289 *et seq.*

the altar of Victory is evidently not disinterested, and because, moreover, of his notorious incitements to Theodosius the Great to trample upon the liberty of all the other non-Christian religions, and of his explicit eulogy of the dead emperor for having removed sacrilegious errors, shut the temples, and destroyed the images.¹

On the other hand, if it is also true that in the main the ideas of Symmachus tend rather towards the supremacy than to the simple liberty of the ancient religion, nevertheless I think it is impossible to read without profound emotion these inspired and mournful words of his report² :—

“*Ergo diis patriis, diis indigetibus pacem rogamus, æquum est, quidquid omnes colunt, unum putari, eadem spectamus astra, commune coelum est, idem nos mundus involvit : quid interest, qua quisque prudentia verum requirat ? uno itinere non potest perveniri ad tam grande secretum.*”

IV. Yet all these invocations of liberty were unable to hold back that fatal progress of intolerance which began immediately after the edict of Milan.

And, in fact, Constantine himself, although respecting the idolaters, but persecuting the Christian heretics, whether they were Novatians, Valentinians, Marcionites, or Paulianists,³ exiling first Arius and then banishing Athanasius, had begun to violate religious liberty. His son Constantius, by his conduct during the Arian controversy, increased those violations.

Julian did not push the pagan reaction so far as to promulgate laws inspired by intolerant purposes, except in regard to public teaching.

Worthy of the highest praise, as has been seen

¹ *De obitu Theodosii Horatio*, ed. Maurin, Ven., 1781, vol. vii, p. 28.

² *Loc. cit.*, p. 282.

³ *Cod. Theod.*, xvi., tit. 5, c. 1, 2.

already, was the edict of Jovian promising liberty and security as much to the new as to the old religion, an edict which Valentinian I. fully respected, tolerating all the sects except the Manichæans,¹ and his colleague Valens only in part, taking sides with the Arians against the orthodox; for which reason only of the former could Ammianus Marcellinus write the eulogy (xxx. 9): "*Hoc moderamine principatus inclaruit, quod inter religionum diversitates medius stetit.*" Even Valentinian I., however, was compelled on several occasions to infringe his neutrality.

But Gratian and Theodosius the Great, dominated by the authority of St Ambrose, soon began that legislative work, hostile to paganism, which, after having deprived the latter of its quality as the official religion and conferred it upon Christianity, ended by sanctioning serious and direct restrictions of the liberty of worship of the followers of the ancient belief, although leaving them their liberty of conscience. In the latter, however, neither the heretics nor the apostates were allowed to participate;² while the Jews lost their ancient privileges.³

Finally, in the legislation of Theodosius II. and Valentinian III. the religious liberty of all the dissidents was suppressed in such a manner that even the slightest deviation from the teaching of the Church⁴ was punished as a *crimen publicum*,⁵ and in some cases with the death penalty.⁶

¹ *Cod. Theod.*, xvi., tit. v. c. 3; tit. xvi. c. 9.

² *Ib.*, xvi., tit. v. c. 5-24; tit. vii. c. 1-5.

³ *Ib.*, xii., tit. i. c. 99.

⁴ *Ib.*, xvi., tit. v. c. 28: "*Haereticorum vocabulo continentur et latis adversus eos sanctionibus debent succumbere qui vel levi argumento a iudicio catholicae religionis et tramite detecti fuerint deviare.*"

⁵ *Ib.*, c. 40: "*Voluntus publicum crimen esse, quia quod in religione divina committitur, in omnium fertur iniuria.*"

⁶ *Ib.*, c. 9; and tit. vi. c. 6.

This was a desperate effort to save at least the religious unity of the empire at the moment when its political unity was being lost for ever. And it was by this means that religious intolerance succeeded in binding to itself the power of the State by the closest bonds, and hence in transforming itself into civil intolerance and opening in the history of the world the dark chapter of more than a thousand years of religious persecutions.

PART I.—THE PRECURSORS

(CONTINUED)

CHAPTER IV

THE CHRISTIAN MIDDLE AGES. MARSILIUS OF PADUA. THE LATIN AND THE GREEK CHURCHES

THE principle that religious unity ought to be imposed in one way or another dominates the whole of the Christian Middle Ages and finds a concise and rigorous sanction in civil as well as in ecclesiastical legislation.

The Code of Justinian collects, co-ordinates, and completes all the previous imperial dispositions against heretics, schismatics, apostates, blasphemers, pagans, and Jews,¹ and furnishes, by the universal authority which it has enjoyed in Europe until our own times, the strongest support for the intervention of rulers in the defence of the Christian faith.

The Councils afterwards, accepting and legalising the Augustinian theory, make it the duty of princes to punish heretics; and of this duty Leo I. demands the observance by the Empress Pulcheria against the Eutychians,² and Pelagius I. that of Narses against the schismatics of Italy,³ while Isidore of Seville

¹ *Cod. Iust.*, i., tit. v. (heretics); tit. vii. (apostates); tit. ix. (Jews); tit. xi. (pagans); Novv. 24, 109, 115, 129, 132, 146.

² *Leonis PP. I.*, Epist. 60, ed. Ballerini, Venet., 1753, i. 981; cf. *Decr. Grat.*, c. 21, C. xxiii., q. 5; Iaffè, *Regesta*, 2nd edit., n. 448.

³ *Pelagii PP. I.*, Epist. i. 2, *ad Narsetem*, and Epist. *ad Valerianum*; cf. c. 42, 43, 44, C. (333, q. 5); Iaffè, nn. 1018, 1019, 1024, 1038.

propounds it as a general principle in his *Sententiae*.¹ On the other hand, it is of course not unknown that while in the early part of the Middle Ages the maxims of religious intolerance were firmly established, only a rare and moderate use was made of them.

On the part of the secular authority this was due to the very high conception of liberty which the barbarian conquerors had brought with them from their native Germany, so that, as Arians, they endeavoured to win over the subject peoples by respect for their religion, whereas, converted afterwards to Catholicism, they showed every consideration for those who persevered in the ancient faith.

By this is explained not only the toleration of some of the Visigoth² and Burgundian kings towards the Catholics, pagans, and Jews, but also the forbearance of Theodoric in their regard, and the splendid words which conclude his reply to the Jews of Genoa, who, between the years 507 and 511, had prayed him to permit the rebuilding of their synagogue (which was prohibited by the Roman Imperial constitutions): “*Religionem imperare non possumus, quia nemo cogitur ut credat invitus.*” These words, although they may be due to the pen of Cassiodorus,³ and are evidently inspired by those of Lactantius to

¹ *Isidori Hispalensis Sententiae de summo bono*, lib. iii. c. 51, 3-6; ed. Arevalo, Romae, 1790-1803; cf. c. 20, C. xxiii., q. 5.

² The Breviary of the Visigoths naturally could not contain the dispositions of the Roman imperial laws against Arianism, which was their own belief; it contains, on the other hand, some laws against various heresies which, however, existed only in the East, where these laws had no sort of efficacy. Cf. Hinschius, *System des Kirchenrechts*, op. cit., iv. p. 844. Subsequently, however, after the conversion of the Visigoths to the Catholic faith, the ecclesiastical and the civil legislations were combined, and heresy and paganism become public crimes. Cf. Hinschius, iv. p. 847 et seq.

³ *Varie*, ii. 27; ed. Mommsen, in *Mon. Germ. Hist.*, vol. xii., Berol., 1894, p. 62.

which we have referred above, do not on that account reflect any the less glory on the sovereign.

In the same way, always according to Cassiodorus,¹ the Gothic King Theodatus revived for a moment that noble syncretist and liberal thought which we have already encountered in Themistius:—

“Nam cum divinitas patiatur diversas religiones esse, nos unam non audemus imponere. Retinemus enim legisse nos voluntarie sacrificandum esse domino, non cuiusquam agentis imperio: quod aliter facere temptaverit, evidenter coelestibus iussionibus obviavit.”

Nor is this characteristic of some of the Germanic races alone, since the spirit of toleration is not wanting among the proud Lombards, while still more noticeable is the mildness of the Merovingians and the Carolingians, as compared with the Romans. Indeed, a prince of the latter dynasty, Charles the Bald, is deservedly famous for his condescension towards religious opinions and disputes.

On the side of the Church, if the mildness displayed towards non-Catholics by some of its greatest figures, for example, by Gregory the Great, is certainly not unknown, this is to be explained principally by the lack of opportunity, the pagans having disappeared, and heretics being very rare, either because the Latin mind has no great propensity for theological disquisitions—the source of all heresy—or because of the complete correspondence in the early Middle Ages between the ecclesiastical institution and the spirit and needs of the world at that time.

But with the close of the tenth century, when the seeds carried into the West by the slow infiltration of Eastern heresies found in the poverty and hardships of the people, and the universal dissatisfaction with

¹ *Varie*, x. 26; *ibid.*, p. 314.

the ostentation and irregularities of the clergy, especially in Upper Italy, a propitious soil for a sudden and threatening germination; when the chivalrous spirit of France, together with the Italian spirit of enterprise, gave rise to the crusades, and the crusades, rekindling religious hatreds, substituted the new figure of the infidel for that of the vanished pagan; when, finally, the distrust of the highly advanced and naturalistic culture of the Jews, developed partly by their commerce with the infidels, and the envy of their prosperity, had again drawn down upon them the malevolence of the Christians, then the Papacy and the Empire, the two great protagonists in the mediæval struggle, suspended hostilities at intervals and united their arms against the enemies of the faith.

The papal and imperial arms were directed chiefly against the heretics. For if the empire and the secular princes—more avaricious—too often preferred to find a vent for their zeal, not so much in doubtful and dangerous enterprises across the seas, as in the spoliation of the Jews, whose wealth they coveted,¹ the Holy See, on the other hand—more disinterested—was always benignant to the Jews, and endeavoured to turn the renewed tide of religious fervour towards the Holy Land.

However, Christian religious intolerance is now set in motion with all its native absolutism; and civil intolerance not merely marches behind ready for the slightest signal, but often passes to the front.

Already in the Verona agreements of 1184 between

¹ Pollock observes (*Theory of Persec.*, cit. p. 157) that in England the Jews were regarded almost as game preserved for the Crown, and that the iniquities with which they were charged served only as pretexts for extortion. Thus the Jews were never accused of killing Christian children except when the king was in great need of money.

Frederic Barbarossa and Lucius III. it is laid down that in the case of heretics the ban of the empire must accompany the ban of the Church.

And, after this, the dispositions against heresy which Gratian had collected in his *Decretum*, taking them from the most intolerant passages of the ancient Fathers,¹ receive on the part of the Church a rapid and decisive increase in the consistorial and pontifical legislation of the succeeding period, thanks to Innocent III., Gregory IX., and Innocent IV. These Pontiffs lay down new and extremely severe maxims of persecution in the definitive collection of the Decretals;² and establish for their application the Holy Inquisition, to the support of which, under the threat of excommunication, they summon the secular arm.

On the part of the State, while the renewed study of Roman law had already helped to restore the punishments against heretics, others were added, and in addition to banishment, the confiscation of goods, and perpetual imprisonment, we find for the first time in an edict of Alfonso II. (1194), and of Pedro II. (1197) of Aragon, the penalty of the pyre. This was originally a popular Germanic usage for the crimes of witchcraft and poisoning, and it became afterwards the customary punishment for heretics in Germany and northern France. Finally, through the great adversary of the Pontiffs mentioned above, Frederick II., this punishment, sanctioned at first only for Italy, passed into imperial law. Afterwards, thanks to Innocent IV., it passed into the various statutory Italian legislations, then

¹ Causa xxiii., qu. 5.

² *Decretales gregorianae*, lib. v. tit. 6, 7, 8, 9; tit. 2, 3; lib. v. of the *Sextus*, of the *Clementinae*, of the *Extravagantes communes*.

gradually became a royal law in France (1315), and the common law in England, which was the last to recognise it by legislation (Stat. 1401: *De haeretico comburendo*).

It must not, however, be supposed that the ecclesiastical legislation only sanctions extreme measures against the enemies of the faith. The graduation of punishments and other means of coercion is determined with great care and a wealth of casuistry, so that all this material could take its appropriate place in the system of canon law. The dispositions of the Catholic Church in this connection form an ascending scale of severity which starts from the relative toleration shown towards the Jews, in whom at least a part of the true belief is generously recognised, and from a certain mildness towards the infidels, who are excusable because they sin in ignorance (whence no coercion should, properly speaking, be exercised against either), and finally reaches the excommunication of schismatics and the capital punishment of heretics and apostates, towards whom any kind of compulsion appeared to be lawful.¹

The ecclesiastical legislation of the Councils as well as of the Pontiffs, after the closure of the *Corpus juris canonici* (1317), was nothing but a complement of the preceding.²

¹ The opinion of the Church in regard to the great religious revolutions, and especially in regard to the Protestant Reformation, is reflected particularly in Bellarmine, *Disputat. christ. fidei adversus huius temporis haereticos*, Rome 1581, and afterwards in Bossuet, *Exposit. de la doctrine de l'Église cath. sur les matières de controverse*, Paris, 1671; *Histoire des variations des Égl. protestantes*, Paris, 1688.

² The Bull *In coena domini*, which received its oldest version from Urban V. (1362-1370) and its most recent from Urban VIII. (1627), and which after 1568 acquired stable vigour in the Church beyond the life of the Pope by whom it was promulgated, and had to be read in all churches on Holy Thursday, renews the

And even well into the modern era there have been many theoretical reaffirmations by the Holy See of the necessity of burning heretics alive¹ as well as practical applications of that principle.²

Various authors, especially Lecky, Pollock, and Lea, have brought out by acute analysis the ultimate causes and recondite psychological motives of the universal and sanguinary intolerance of the Middle Ages, and of part of the modern era, an intolerance which was often imposed upon the Church by the people themselves, and was sometimes not unaccompanied by the exercise of the noblest virtues, as is seen in the case of Frà Giovanni da Vicenza, who, amidst truculent factions of Upper Italy, was a true

anathema against heretics, apostates, and schismatics. Cf. Phillips, *Kirchenrecht*, § 100, p. 430, n. 42 (French trans., p. 308); Friedberg, *Lehrbuch*, § 104, p. 431; Hinschius, *Kirchenrecht*, v. p. 646. The most notable instances of the intolerance of Councils are the cases of John Huss and Jerome of Prague, who were burned alive by decree of the Council of Constance, on July 6, 1415, and May 30, 1416.

¹ Cf. the Bull *Exurge Domine* of May 16, 1520 (Bullar. Rom., ed. Taurini, 1860, v. 752), by which Leo X. condemns the thesis of Luther, "*Haereticos comburi est contra voluntatem Spiritus*"; which, indeed, has already been condemned by the Sorbonne. Later on, Gregory XIII. commemorates and applauds the massacres of St Bartholomew; Clement VIII. inveighs against the Edict of Nantes; and Innocent X. condemns the articles regarding toleration in the Peace of Westphalia. Cf. Schaff, *History of the Christian Church*, vol. vii., 2nd ed., New York, 1894, § 188; *Catholic Intolerance*, pp. 693-700.

² Gibbins, *Were Heretics ever burned alive at Rome?* London, 1852; Döllinger and Reusch, *Selbstbiographie des Kard. Bellarmin*, Bonn, 1887, pp. 232-240; about Aonio Paleario, burned at Rome in 1570, cf. Young, *The Life and Times of A. P.*, London, 1860; Bonnet, *Aonio Paleario*, Paris, 1863; cf. also De Blasiis, *Processo e supplizio di Pomponio Algerio Nolano*, Naples, 1888; Berti, *Giordano Bruno*, Turin, 1889, and the wealth of literature in connection with the erection of the statue of Bruno in the Campo dei Fiori, Rome; Brigidi, *Fra Giov. Moglio arso vivo in Roma*, il 6 Sett. 1553, Siena, 1891; Corvisieri, in *Arch. della Soc. rom. di Storia patr.*, iii. 268, 449.

apostle of peace, but at the same time an implacable exterminator of heretics.

II. Such considerations as these, however, should not diminish, indeed, by the force of the peculiar contrast, they should increase, our admiration for perhaps the only mind which, amidst the fierce and universal clash of religious intransigence, was able, sometimes with gleams of truly prophetic foresight, to raise itself above all its contemporaries and the immediately succeeding age. The mind was that of Marsilius of Padua, who in this, as in all the rest of his work, was original and profound.¹

In two passages of his famous book entitled *Defensor Pacis*, that is to say, in chapters ix. and x. of the second part, he is led by the logical development of his strange system regarding the constitution of the State and the Church, and regarding their relations, to touch upon our subject.

In chapter ix.² Marsilius maintains that the divine or religious law can have no other judge than Jesus Christ himself, and no sanction in this world but only in the next. He *argues from Holy Scripture, which incites, indeed, *ad docendum, arguendum corripendum, erudiendum*, but never *ad cogendum vel puniendum*. And in a spirit which recalls that of the purest primitive Christianity he remarks: “*coactis nihil spirituale proficit ad aeternam salutem.*”

Hence his precise denial that any power of material

¹ Marsilius of Padua lived from the second half of the thirteenth century to the first half of the fourteenth century. Cf. Labanca, *Marsilio da Padova*, Padua, 1882, p. 150 *et seq.*; Kohler, *Studien aus dem Strafrecht*, Excursus vi.: *Marsilius von Padua und die Religionsfreiheit*, Mannheim, 1897, p. 732 *et seq.*

² Marsilii Patavini, *Defensor Pacis*, Francofurti, 1592, pars ii., cap. ix., p. 178 *et seq.*

coercion can possibly belong to the ecclesiastical authorities, since the latter must confine themselves to the same functions which the doctor exercises in regard to the health of the body. Hence, again, his equally precise affirmation of the non-coercibility of religious convictions, which he enunciates as follows¹:—

“Secundum veritatem igitur et apertam intentionem Apostoli atque sanctorum, qui doctores ecclesiae seu fidei extiterunt, aliorum praecepui, nemo cogi praecipitur in hoc seculo poena vel supplicio ad legis evangelicae praecepta servanda, per sacerdotem praecipue, nedum fidelis, verum etiam nec infidelis; propter quod huius legis ministri, episcopi seu presbyteri, nec quemquam iudicare possunt in hoc seculo nec quemquam ad praeceptorum divinae legis observationem . . . cogere.”

In the following chapter he puts the question clearly: By whom, and in what manner, are heretics to be punished? In accordance with the argument developed above he denies that the clergy have any such power: *“Per episcopum seu presbyterum docendus et exhortandus est homo in vita praesenti, arguendus, corripiendus peccator, atque terrendus, iudicio seu prognostico futurae gloriae, vel damnationis aeternae, nequaquam vero cogendus.”*²

Marsilius, however, does not avoid the difficulty arising from the fact that it was customary in his time for the State to legislate in the matter of heresy. Indeed, he distinguishes the case in which heretics or infidels are prohibited by the laws of the State from living within its borders from the case in which no such prohibition exists. In the latter case he does not hesitate to decide *“cuipiam non licere haereticum aut aliter infidelem quemquam iudicare vel*

¹ *Loc. cit.*, p. 183.

² *Op. cit.*, pars ii., cap. x., p. 190.

arcere poena vel supplicio reali aut personali pro statu vite præsentis."¹ In the former, however, it will be the duty of the secular judge to enforce the prohibitive provision of the human law, and it will fall to his lot not only to apply the penalty which the law provides for transgressors, but also to dispose of the property of the heretics.

Moreover, Marsilius acutely observes that violations of the divine law are not always punished by the human legislator:—

“Non enim propterea quod in legem divinam tantummodo peccat quis, a principante punitur. Sunt enim multa peccata mortalia et in legem divinam, ut fornicationis, quae permittit etiam scienter legislator humanus, nec coactiva potentia prohibet, nec prohibere potest aut debet episcopus vel sacerdos.”

And from this observation he draws the very important conclusion that the heretic is punished because he violates not a divine, but a human law:—

*“Sed peccans in legem divinam haereticus, scilicet tali peccato etiam humana lege prohibito, punitur in quantum peccans in legem humanam.”*²

Everybody must see that it is but a very short step from this penetrating thought to another, entirely modern, that liberty of conscience and worship is not susceptible to any restrictions except such as are imposed for the sake of public order and the safety and well-being of the State.

III. The Catholic point of view has not substantially changed, even to-day. For have we not seen, in 1862, two celebrated Catholic prelates, Ketteler and Martens, disputing upon the point whether or not the punishment of burning to which the Church condemned heretics in the Middle Ages, and even

¹ *Loc. cit.*, p. 191.

² *Loc. cit.*, p. 193.

later, had a dogmatic foundation? It would be ridiculous, of course, to deduce from this that the Church, relying on that dogmatic foundation, would even now decree the burning of heretics. Nor, on the other hand, is it necessary to believe that three centuries of vehement striving after religious liberty, and the slow but certain triumph of the latter in the laws of civilised people, have not modified the doctrines of the Church, at least in form. But their pivot rests, still unshaken, on its mediaeval basis.

An allusion to the latest manifestations of such doctrines on the part of the pontiffs of our century will not be out of place here, and it will serve in any case to give an immediate proof of our affirmation.

Meanwhile, however, it is to be noted that the more immediate expression of ecclesiastical doctrine, so far as modern times are concerned, is to be found not so much in the renewed approvals of the excommunication *latae sententiae* of apostates, heretics, schismatics, and freemasons, who are compared with heretics,¹ as in the direct protests against and condemnations of the new principle of religious liberty, which, triumphing, as we have said, in the laws of the civilised peoples, is plainly opposed to the enforcing of ecclesiastical decrees against those who rebel against the teachings and authority of the Church.

See how Gregory XVI., with truly mediaeval violence, defines liberty of conscience (Encycl. *Mirari vos*, Aug. 15, 1832):—

“Atque ex hoc putidissimo indifferentismi fonte, absurda illa fluit atque erronea sententia, seu potius deliramentum, asserendam esse ac vindicandam cuiuslibet libertatem conscientiae. Cui quidem pestilentissimo co errori viam sternit plena illa, atque immoderata

¹ Constit. *Apostolicae Sedis moderamini* of Pius IX., Oct. 12, 1869

libertas opinionum, quae et in sacrae et civilis rei labem late grassatur, dictitantibus per summam impudentiam nonnullis, aliquid ex ea commodi in Religionem emanare. At quae peior mors animae quam libertas erroris, inquitabat Augustinus?"

Pius IX., in his turn, confirmed this notion on the occasion of the Syllabus (Encycl. *Quanta cura*, Dec. 8, 1864), combating those who affirm—

“ Libertatem conscientiae, et cultuum esse proprium cuiuscumque hominis ius, quod lege proclamari, et asseri debet in omni recte constituta societate, et ius civibus inesse ad omnimodam libertatem nulla vel ecclesiastica vel civili auctoritate coarctandam, quo suos conceptus quoscumque sive voce, sive typis, sive alia ratione palam publiceque manifestare, ac declarare valent.”

And he, like Gregory XVI., is unable to find anything better than the argument of Augustine: “*Dum vero id temere affirmant, haud cogitant et considerant, quod libertatem perditionis praedicant.*”

One by one the Syllabus condemns the various manifestations of religious liberty, that is to say, in No. 77 the principle that the Catholic religion is not to be considered the religion of the State to the exclusion of all other religions; in No. 78 the principle that in a Catholic State it is expedient to permit foreign immigrants of another religion to exercise their own form of worship; and finally, in No. 79, the principle that everybody ought to be allowed to express his opinions in any way.

On more than one occasion Leo XIII. has given expression to his thoughts in this connection.¹

¹ Particularly Encyc. *Immortale Dei* (De civitatum constitutione christiana), Nov. 1, 1885; and Encyc. *Libertas* (De libertate humana), June 20, 1888.

For him the so-called liberty of conscience can have two meanings. According to one it signifies the liberty of the individual to follow in everything the wishes and commands of God without any hindrance on the part of the State; and then it is impossible not to approve this liberty, which is the true and laudable liberty claimed by the Apostles, sanctioned by the Apologists, consecrated by the Martyrs. But the liberals understand it in the second sense, that is to say, they rule out the observance of the divine precepts; and this form of liberty is to be highly condemned, because it is nothing but the liberty of error and of perdition.

The Pontiff admits that there must be liberty of speech, writing, and teaching, but only for the benefit of the truth, which means Catholic doctrine.¹ And thus liberty of worship must be conceded only in the case of that religion which God himself indicated and imposed as the true one.²

As can be seen, the ideas of Leo XIII., although expressed in a much milder form than is the case with the other Pontiffs, do not emerge so much as an inch from that iron circle within which the principle of revelation and the doctrine of exclusive salvation compel Catholic doctrine to revolve perpetually around itself.

His teaching, however, represents one step in practical progress as compared with that of his im-

¹ Encyc. *Libertas*, cap. xi.: "*Quae vera, quae honesta sunt, ea libere prudenterque in civitate propagari ius est, ut ad quamplures pertineant; opinionum mendacia, quibus nulla menti capitalior pestis, item vitia quae animum moresque corrumpunt, aequum est auctoritate publica diligentar coerceri.*"

² *Ibid.*, cap. x.: "*Ac si quaeratur, cum plures et inter se dissidentes usurpentur religiones, quam sequi unam ex omnibus necesse sit, eum recte ratio et natura respondet, quam Deus iusserit,*" etc.

mediate predecessors, and it consists in the fact that, renewing an idea which had already appeared some time before within the Catholic Church itself,¹ the Pontiff agrees that indulgence should be observed towards those rulers of States who, in order to avoid a greater evil or to preserve a present good, tolerate several religions within their realms as a lesser evil, and this in imitation of God himself, who, with all His goodness and omnipotence, permits many evils to exist in the world.² But this concession, it must be noted, does not go so far as to admit that the State may profess any other than the Catholic faith, remain indifferent to religion, or place all cults on a perfect equality in the eyes of the law. And as, moreover, toleration is only admissible as a minor evil, so that State will be nearer to the best, in which the amount of toleration is the smallest and in which the greatest progress is made towards circumscribing it. Toleration, therefore, according to Leo XIII., is to be neither complete nor permanent.

Of the numerous doctrinal treatises in connection with this and previous pronouncements of the Holy See, we will only mention that of the Abbé Canet. He wrote not long ago a large volume of comments upon two encyclicals of Leo XIII., in which he

¹ Fénelon, writing to James II. of England, advises him: "Sur toutes choses, ne forcez jamais vos sujets à changer de religion. Nulle puissance humaine ne peut forcer le retranchement impénétrable de la liberté du cœur. La force ne peut jamais persuader les hommes; elle ne fait que des hypocrites. . . . Accordez à tous la tolérance civile, non en approuvant tout, comme indifférent, mais en souffrant avec patience ce que Dieu souffre, et en tachant de ramener les hommes par une douce persuasion" (*Œuvres complètes*, tom. iii., 590). Nor was this the only specimen of the tolerant teaching of the illustrious prelate, who, however, did not always observe it in practice, as would appear from the documents published by Duen, *L'intolérance de Fénelon*, 2nd ed., Paris, 1875.

² Enc. *Immortale Dei*, cap. liii.-liv.; *Libertas*, c. 13.

endeavoured to demonstrate that liberty of conscience was only to be understood in the first of the two meanings given above, and that it has never been realised and never can be realised except within the bosom of the Catholic Church.¹

Can the timid step made by Leo XIII. towards an opportunistic toleration be advanced still further in the future, in the direction, that is to say, opposite to the retrograde road imagined by him? Will the Catholic Church some day, while holding firm to the religious intolerance which is one of her dogmas, completely disavow the civil intolerance which is only a consequence of the dogma?

Yes, when the living breath of modernity which is agitating the Catholic Church in the United States succeeds in crossing the ocean and arousing the Churches of the Old World. Let these Churches heed the sublime words with which Cardinal Gibbons, the leading Catholic ecclesiastic in the United States, concluded his brilliant discourse in reprobation of the works of the Spanish Inquisition:

“ Raising my voice against the coercion of the conscience, I have expressed not only my own feelings, but those also of every Catholic, whether priest or layman, in this country. Our Catholic forefathers suffered so much during the last three centuries for the sake of liberty of conscience that they would rise to condemn us if we made ourselves the advocates or defenders of religious persecution.”²

IV. Whoever considers the present condition of the Greek Church may experience a doubt similar to

¹ Canet, *La Liberté de conscience. Sa nature, son origine, son histoire, et sa pratique dans nos sociétés contemporaines d'après les encycliques de Léon XIII.*, Lyon, 1891.

² Gibbons, *The Faith of our Fathers*, 36th edit., Baltimore, 1890, p. 284 et seq.; cf. Schaff, *op. cit.*, vii. p. 399, n. 1.

that to which we have given expression above in regard to the Catholic Church.

The intolerant provisions of Roman law have passed intact through the collections of Byzantine law into the dogmatic and disciplinary books of the orthodox religion, which has remained in this respect, as, indeed, in every other, fixed in its fundamental principles as they were before the great schism, without the long period of time, now little less than a thousand years, which has been so fertile in grave and decisive revolutions in the Western Churches, having made any essential addition to its original construction.

Even the relations between the civil and the ecclesiastical powers are to-day, wherever orthodoxy is dominant, and particularly in the Russian Empire, precisely the same as they were in Byzantium; they conform, that is to say, to that principle of complete and indissoluble interpenetration of the two authorities which is usually, by Italians, defined as “*Cesareopapismo*.”

For the Greeks and the Slavs, their faith, ritual, and Church are national, and they form one body with the country. Religious unity, accordingly, is regarded as the highest expression, and, at the same time, the palladium of political unity. The most natural consequence of this is that, on principle, there can be no admission of religious liberty.

Long before the West saw Catholic fanaticism raise its pyres, the East had a martyr in the cause of the freedom of thought in the person of that Martin who, in 1157, was condemned to be burned alive for having denied the human nature of Christ, and this fact makes him the originator of the sect of *raskolniks* against whose increase to millions of adherents the

Russian government, even in recent times, has been attempting, but in vain, to oppose all the severest rigours of its implacability.

But without reviewing again the extensive and very obscure historical evolution, the ancient idea is presented to us unchanged in the most recent expressions of Russian orthodox thought, and particularly in the official theory of the Russian State and Church which Konstantine P. Pobyedonostzeff, Procurator of the Holy Synod, has not many years ago given us in his various writings.

The Evangelical Alliance sent to the Emperor Alexander III. a petition in which the Protestants of the West solicited equal and complete liberty for all the Christian religions. The Emperor sent the memorial to Pobyedonostzeff, who replied in an open letter addressed to Naville, President of the Swiss Committee of the Alliance.¹

Therein the writer defends the Russian Church, which, although tolerating the other Christian religions in its territory, and with certain limitations, absolutely forbids any proselytism on their part. Against the Roman Church he brings this charge: "Introduit par le Polonisme, avec lequel il s'est identifié par malheur, le catholicisme déclara une guerre implacable à l'orthodoxie, se mit à exterminer par tout les éléments russes au nom de la domination polonaise"; and against the Lutheran, "C'est à peu près sous des auspices semblables que la Russie fut mise en présence du Luthéranisme dans la personne des anciens chevaliers de l'ordre teutonique qui lui avait barré l'accès de la mer Baltique . . . ils suivirent les traces de leurs devanciers [the Catholics], exerçant dans le

¹ Published in the *Journal de Saint-Petersbourg* (Feb. 17-19, 1888).

pays un pouvoir arbitraire, excitant les populations lettes et finnoises contre la Russie, poursuivant l'orthodoxie comme le symbole de l'unité avec la Russie." He adds that "la Russie ayant puisé son principe vital dans la foi orthodoxe, écarter de l'église orthodoxe tout ce qui pourrait menacer sa sécurité est le devoir sacré que l'histoire a légué à la Russie, devoir qui est devenu la condition essentielle de son existence nationale."

Hence not only the prohibition of proselytism on the part of the dissidents, but also the unlimited official protection of the orthodox propaganda.

Still more recently the same Procurator of the Holy Synod examined those orthodox theories which are contrary to religious liberty in a book in which the question is treated, not from a polemical but from a purely doctrinal point of view,¹ and his conclusions, therefore, are all the more significant and important.

¹ K. P. Pobyedonostzeff, *Reflections of a Russian Statesman*. Translated from the Russian by R. Crozier Long; Preface by Olga Novicoff. London, Richards, 1898.

PART I.—THE PRECURSORS

(CONTINUED)

CHAPTER V

THE MODERN ERA. THE PROTESTANT REFORMATION AND HUMANISM

I. FROM the principles whence the Protestant Reformation notoriously derived its impulse, no modern mind, guided by logic alone, could fail to deduce the necessity of proclaiming liberty of conscience and worship at least within the orbit of Christianity; and so true is this that, merely owing to the influence of that necessary correlation, it is customary to date the advent of that form of liberty without further question from the Reformation.

But logical correlation does not imply succession of historical facts; and from those principles the Reformers themselves, owing to a variety of historical causes, did not deduce the proclamation of religious liberty.

This fact, apart from the burning of Servetus by Calvin, which has always loomed large in the Catholic polemic against the Protestants (for Calvin was neither the first nor the principal Reformer), this fact, I say, has been definitely established by the most recent researches of the writers on either side, and chiefly by those of the evangelicals.

Differences of opinion also exist in giving an adequate explanation of the fact itself, which at the first glance is doubtless very remarkable.

The solution prevalent hitherto has been to tax the Reformers with inconsequence. Vinet, for example, in conformity with what, as we shall see, was his fundamental thesis, laid the blame for it upon the union of the Church with the State,¹ Wilda upon human passions which were embittered and blinded by disputations and led astray by political considerations,² Kahl upon immaturity and the necessity of the times,³ and finally Schaff upon a complexity of causes which he sums up as follows: "The Protestant persecutions were necessary for reasons of defence in the struggle for existence. The time was not ripe for toleration. The Church had first of all to gather strength. A universal toleration would have produced universal confusion and anarchy. From anarchy to despotism is only one step; hence the only result of toleration would have been to smooth the way for popery. This does not justify the principle of intolerance, but explains its practical application."⁴

The problem arises specially in regard to Luther, not only the greatest, but from this point of view also the most mysterious figure of the Reformation.

Luther was certainly less intolerant than his trusty and gentle Melancthon, who, with the other Reformers, commended the burning of Servetus, describing it as "*pium et memorabile ad omnem posteritatem exemplum*"; he was much less intolerant than the Reformers of Strasburg, the chief of whom,

¹ Vinet (*op. cit.*, cap. v.), p. 147.

² Wilda, *Ueber Gewissensfreiheit*, p. 176.

³ Kahl, *Lehrsystem des Kirchenrechts und der Kirchenpolitik*, Freiburg, 1894, i. p. 14 *et seq.*

⁴ Schaff, *History of the Christian Church*, vol. vii., 2nd edit., New York, 1894, § 139, "Protestant Intolerance," pp. 700-712; where it is observed, however, that the Protestant persecutions violated the fundamental principle of the Reformation, since Protestantism has no right to exist except upon the basis of the liberty of conscience.

Bucer (Buzer) was an enthusiastic advocate of the burning of heretics, and infinitely less intolerant than Calvin and Beza, who applied the penalty of burning, and having done so glorified their deed in apposite writings.

Some passages in Luther's works, indeed, would appear to admit full liberty of conscience. His is the famous dictum: "God desires to be alone in our consciences, and desires that His word alone should prevail"; his is the affirmation that every law which aims at extending its power to the conscience not only usurps the kingdom of God, but does a wicked and vain work, because no one should or can be compelled to believe; his, finally, is the thesis: "Haereticos comburi est contra voluntatem spiritus," which was condemned by Leo X. and the Sorbonne.

But his, too, are certain intolerant proceedings not only against real heretics but also against Catholics, reformers, and mere adversaries, such as Erasmus; his is the advice to princes to punish those who teach doctrines which are contrary to the articles of the Christian faith; his also the subscription, as expressive as laconic, to the question which the theologians of Wittenburg had propounded, whether the Anabaptists were to be put to the sword: "*Placet mihi Martino Lutero.*"¹

¹ Rieker, *Die rechtliche Stellung der evangelischen Kirche Deutschlands in ihrer geschichtlichen Entwicklung bis zur Gegenwart*, Leipzig, 1893, p. 87. Maassen (*Neun Capitel über Kirche und Gewissensfreiheit*, Graz, 1876, p. 272), although a Catholic, writes: "I do not think it is possible to produce any certain evidence from which it can be deduced that Luther approved the temporal punishment of heretics." But, on the contrary, that Luther certainly did approve it, appears not only from the passage quoted, but also from the complacency which he openly displayed on learning the news (proved afterwards to be false) that Campanus had been hanged at Liège on account of his antitrinitarian ideas. Cf. *Corpus Reformatorum*, ii. 228; Möller, *Lehrbuch der Kirchengeschichte*, vol. iii., continued by Kawerau, Freiburg-i.-B., 1894, p. 410. See

Hence in the ideas and attitude of Luther from the earliest time to the period after 1530, Tollin recognises a profound change, and thinks he is able to find the cause of it in the sudden appearance upon the agitated scene of the Reformation of the strange personality of Servetus. For, in spite of the very great reserve which Luther maintains in regard to him, the danger which he perceived, that the doctrines of the Spaniard might cause the Reformation to be carried beyond the limits at which its initiators aimed, seems to have led him to abandon the old proposals of toleration. And forgetting, like St Augustine more than a thousand years before him, that he had evoked the aid of the principle of liberty of conscience against persecutions, he abjured it as soon as he was in a position to persecute.

There were accordingly two sides to Luther; and naturally they found their place in the controversy, to which we shall refer shortly, carried on by Martinus Bellius among the advocates, and Beza among the opponents, of toleration.

In all this, however, there is a little too much of the well-known tendency of Tollin (*op. cit.*, 120, 128) to fix the centre of the whole of the reform movement in the person of Servetus, of whom he was the biographer, but not always temperate in his appreciations.

With a judgment more worthy of consideration, Maassen (*op. cit.*, 272) brings out the two distinct aspects which can be presented by the principle of the liberty of conscience, the first of which is purely negative or internal, consisting in the individual

also p. 402 *et seq.* for various examples of intolerance but also of relative tolerance on the part of the Reformers; and Tollin, "Die Toleranz im Zeitalter der Reformation," in *Hist. Taschenbuch* of Raumer (now Richl), Leipzig, 1875, p. 115 *seq.*

faculty to believe in what one wishes, and the second positive and external, consisting in the faculty of being able to act in conformity with the fixed individual belief; and he observes that if Luther understood and proclaimed the necessity of respecting liberty of conscience under the first aspect, he did not, on the other hand, succeed in deducing therefrom with modern logical coherence the necessity of giving effect to it under the second. With regard to the latter he developed his own particular theory which leads to the negation of liberty and to *Staatskirchentum*, that is to say, in the absolute penetration of the Church into the State.

Rieker (*op. cit.*, p. 88 *et seq.*) takes up and goes deeply into this idea of Maassen. On the basis of a minute examination of the passages from Luther which are commonly adopted to demonstrate his tolerance, he proves that they not only consider religious liberty solely in the more restricted sense, but that they are also directed chiefly against the papists and non-evangelical princes, and that therefore their object is to prevent these latter from imposing their false, absolutist doctrine upon the Protestants. But with complete liberty of conscience and worship Luther would never have anything to do. For the rest, the very staunch belief that the truth was to be found only in the Holy Scriptures, the profound persuasion that a single and self-evident meaning sprang out of every passage in them, would have made the supposition that error also had to be tolerated not merely illogical but frivolous and harmful in the eyes of Luther, as well as of the other Reformers. They wanted toleration only for the truth, that is to say, for the evangelical belief, or, in the last analysis, for themselves.

In conclusion, therefore, it is undoubted that not even the leaders of the Reformation were able to break through that iron circle in which Catholic thought is enclosed, and in which, as Friedberg¹ acutely observes, their original Catholic training had placed and inextricably held them.

But Laboulaye² very justly remarks that if the men of the Reformation did little or nothing for the cause of toleration, the principles which they laid down did everything, since from these principles, at the opportune moment and in more favourable conditions as to environment, religious liberty was able to make a triumphant appearance.

II. The methods, however, by which the principles of the Reformation worked to the advantage of liberty were, according to the peoples and countries affected, extraordinarily diverse.

In the Germanic countries of the Lutheran or reformed religion they were, so to speak, the seeds, which having remained buried and inert for more than 150 years, did not develop until they received the addition of a new fructifying element, which was the theory of natural law.

On the other hand, the principles of the Reformation were, from their first manifestation, a sort of leaven which, on coming into contact with the Italian humanistic doctrine—ininitely more perfected and unprejudiced, but religiously feeble—produced therein a wonderful fermentation of ideas.

I have said that Italian humanism was religiously feeble. And, in fact, whoever considers for a moment to what daring heights humanistic specula-

¹ Friedberg, in *Deutsche Zeitschrift für Kirchenrecht*, vol. v., 1895, p. 437.

² Laboulaye, *La Liberté religieuse*, Paris, 1858, p. 84.

tion rose, especially in Italy, and its fearless procedure to the extreme logical consequences of the principles in question, so that one of the most illustrious of the humanists, Pietro Pomponazzi, did not lack the courage, even in the midst of the favours of pontifical protection, to deny the immortality of the soul; whoever considers these facts will marvel afterwards to see that these liberal theories had no repercussion on the body of dogma, and that the loftiest minds which made so large a use of liberty of thought in the philosophical field, did not experience the necessity of directly defending it in the domain of religion.

But the humanists, as Lecky observes, distinguished two fields of speculation—the field of reason and the field of faith, which they held to be absolutely separate and diverse. As philosophers, guided by the light of reason, they did not hesitate to sustain, even in regard to theological questions, opinions of the most daring scepticism; as Catholics, on the other hand, and under the impulse of faith, they calmly submitted to the doctrine of their Church. Well, therefore, does Adolf Harnack¹ say, that they hastened to rebuild with one hand that which they had just been tearing down with the other.

Nor is the psychological phenomenon so strange as it might appear to be at the first glance, for apart from the religio-scientific dualism of some great thinkers, such as Descartes and Pascal, apart from that tendency of many modern spirits—extremely significant in a time of general toleration—to place an artificial and insurmountable barrier between science and faith,² it is known of Luther himself that

¹ Harnack, *Dogmengeschichte*, III., lib. iii. cap. 3, p. 659.

² Taine, in *Rev. des Deux Mondes*, vol. cv., 1891, p. 510.

the Sorbonne condemned the proposition, among others, that the same thing could be false in philosophy and true in theology. The facile induction which ascribes this phenomenon solely to a particular attitude of the Italian conscience is, therefore, entirely wrong.

It was, then, owing to the Protestant movement that humanistic speculation was pushed into the field of religion; but humanism, in its turn, brought into the Reformation that spirit of moderation and at the same time that flight of winged and liberal philosophy in which it was lacking.

Already the very prince of humanists at that time, Erasmus of Rotterdam, in that intermediate position—so characteristic of him—which he held down to his last years, between Catholicism and the Reformation, was an untiring preacher of toleration, which he succeeded in getting accepted in the ordinances of Basle in 1527, the first but not very lasting example of the simultaneous legal recognition of several opposed religions.

And among the minor leaders of the Reformation, precisely those of the most pronounced humanistic culture and of the most immediate Erasmian derivation, such as Zwingli and Capito, had the highest reputation for tolerance. Of these, the first-named, not understanding how the other Reformers could accept the dogma of original sin, did not hesitate, in the confession published shortly before his death, to describe in inspired words the future reunion of all the saints, the heroes, the believers, and the virtuous of every epoch, of every country, and of every belief, which, naturally, could not make him otherwise than hostile to every form of persecution. The second, by his mildness, aroused the scorn of

Melanchthon, lost to Bucer the primacy of authority at Strasburg, attracted to himself the dangerous friendship of all the liberal thinkers and exiles, whom he hospitably welcomed, and received the last salutation of Servetus, whom he called friend and master.

But religious toleration does not become a fundamental principle of the ecclesiastical constitution, and opposed to the contrary doctrine of Catholics as well as Reformers—who, agreeing on this point, saw in it one of the most dangerous heresies—until the Italian humanists, banished from their country for religious motives, enter into the great current of the Reformation.

PART I.—THE PRECURSORS

(CONTINUED)

CHAPTER VI

THE ITALIAN ANTITRINITARIANS, OR SOCINIANS

I. THE meeting of the elements which burst forth suddenly from the Protestant religious reaction with those which had derived their origin from our humanistic culture, gave birth to two classes of facts which afterwards remained clearly and definitively distinct in such a way as is rarely to be found in history.

The first class comprises the action of the Reformation upon Italy, that is to say, its rapid but unequal and spasmodic propagation ; the prompt, energetic and victorious reaction of the Roman curia and the princes against it, whence only a slender trace of it remained amongst the Waldenses in the Alpine valleys, who were already predisposed thereto by their ancient and tenacious heresy. This aspect of a most important historical fact has already been, and still is, the object of careful study.

The second class comprises the exodus of those Italian reformers who did not submit or were not persecuted and killed ; their intellectual association with the leaders of the Reformation ; the part which they played as well in the dogmatic battles of the time as in the new ordering of European religious life—that is to say, the action of the Italian element upon the Reformation. This action, if, after the

exodus had taken place, it did not have even a distant and indirect effect upon the affairs of Italy, which the Catholic counter-reformation segregated entirely from the Protestant world; if upon the Protestant world itself it did not leave such an imposing mark as that, I will not say of the German and Swiss, but of the French reformers, yet it planted there a vital seed, the tenacious roots from which spread far beyond their original ground—which was Switzerland—to Transylvania, Poland, Prussia, Holland, England, France, and even to distant America.

Now, it is only by following this slender but deeply implanted thread that it is possible to reconstruct the development of the idea of religious liberty. In Italy, however, so far as I know, nobody has hitherto troubled himself about this extremely interesting development of facts and doctrines. This is a real misfortune, for, apart from the supreme importance of the matter, writers of other nations have not occupied themselves with it a great deal, or they have done so not entirely without a trace of partiality and malevolence.¹

A few brief notes by way of summary will not accordingly be out of place here.

When the numerous Italian refugees in Switzerland and the Rhinelands entered into relations with the leaders of the Reformation and founded communities in those parts, they carried with them not

¹ This remark belongs to Harnack, *op. cit.*, iii. 656. And it is quite justified. Those who have studied this matter being either Lutherans or Reformed, have been unable to divest themselves entirely of their old animosity against those dissidents, and they are reluctant to recognise the penetrating mind and the intentions which were in advance of the times. This is specially applicable after the trend given by Ritschl to the German theological schools (*cf.* Harnack, 659, n. 1).

only a propensity for speculation, but also a ready-formed mass of opinions all their own.

As Italians, moreover, they possessed the innate sense of equilibrium and moderation of their race; as laymen, too, they had a natural aversion from any excessive theological severity. Their personal position, also, was somewhat strange in comparison with that of the other Reformers. Men of the highest literary culture, they had not been able in their own country to place themselves at the head of a wide and lasting movement, and they were accordingly officers without an army, to whom doctrinal truth must necessarily have been much dearer than the consequences which such truth might have had upon the ordinary mass of believers. Calvin had already called them disdainfully “academic sceptics.”

Hence it is that when the Reformation succeeded in breaking that bond with Catholicism which, as we have seen, prevented the speculations of the humanists from freely entering the field of religion, the humanist refugees no longer hesitated in applying to religion their favourite method of unprejudiced critico-rationalistic inquiry.

The first and most striking result of their exegesis of the Holy Scriptures—a much more penetrating exegesis than that of the Reformers—was the negation of the divine character of the person of Christ, and the consequent destruction of the dogma of the Trinity, whence their name of *Antitrinitarians*.

Owing to the learned Italians, antitrinitarianism became a factor in the subsequent historical evolution, and at the same time the outstanding feature of their school. The antitrinitarian doctrine of Servetus is differentiated from that of the Italians by its pantheistic basis, and Servetus, moreover, in view of the

non-participation of Spain in the Reformation, constitutes, as Harnack says, an isolated phenomenon—a true historical paradox.

The Italian Antitrinitarians had already made proselytes among the enlightened Anabaptists who, driven away by persecution, had taken refuge (about 1540) in Venetia, and who, in 1550, held a synod at Venice at which the Venetian Pietro Manelfi was sent to support the Antitrinitarian principles. Here it was that were formed those first ties between the Antitrinitarians and Anabaptists which were destined to exercise a decisive influence upon the subsequent history of religious liberty.

But it is in Switzerland that the action of the Italian Antitrinitarians begins to spread. Among them appear the jurist Laelius Socinus of Sienna, the illustrious Saluzzese, doctor Giorgio Blandrata (Briandrata), the jurist Gribaldi Mofa of Chieri, and Giovanni Valentino Gentili of Cosenza, who were afterwards joined by the famous general of the Capuchins, Bernardino Ochino, also a Siennese. The period at which these Italian Antitrinitarians came into contact with Calvinism in southern Switzerland and Grisons was a critical moment of the highest importance for the Reformation, a moment which, if the Italian line of thought had gained the ascendant—a thing not improbable in view of the propensity of the Swiss for antitrinitarianism—might have decided the future of the great religious revolution. The decision, however, was in the hands of Calvin, who replied by declaring antitrinitarianism to be a heresy. His draconian procedure, according to the Germans, saved the Lutheran faith. Those Italians who did not succumb, like Gentili, who, condemned to death by Calvin, was afterwards de-

capitated at Berne (1566), or who did not shut themselves up in an absolute reserve, like Laelius Socinus and Gribaldi Mofa, were compelled, as was the case with Blandrata and Ochino, to take refuge in Poland.

There, however, a very different fate befell the new doctrine; and the reasons for this are to be found not only in the liberty of domestic worship which the omnipotent nobility had caused to be sanctioned, but also in the fact that the relations between Poland and Italy in the Renaissance were so close, and the Polish towns so saturated with Italian culture, that no more appropriate country could have been found in Europe in which to transplant the principles of the Italian reformers.

Antitrinitarianism, moreover, was spread in Transylvania, and in Lithuania also, by the powerful starosta John Kizka. In Transylvania, too, the energetic Blandrata managed to obtain the formal recognition of antitrinitarianism as a fourth Christian Confession beside the Catholic, the Lutheran, and the Reformed religions, whereas in Poland the Antitrinitarians were obliged at the outset to mingle with the Reformed.

But both in Poland and in Transylvania serious dissensions arose among the Antitrinitarians, who in the meanwhile had assumed the name of Unitarians, which has remained until this day one of their sects. The first cause of all the controversies was the infiltration of some purely Anabaptist doctrines, and, in general, their close connection with the Anabaptists.

One of the principal points of controversy was whether, following the example of the Anabaptists, the Antitrinitarians should sever all connection with the public authority, refuse to hold any office, have

no recourse to the tribunals, and so forth. The idea found favour among the Unitarians who had been long resident in Poland, though it clashed with the refined political sense of the Italians.

Beset by difficulties of this kind, Blandrata, in 1578, summoned to Transylvania from the Medicean court of Florence, young Faustus Socinus, nephew of Laelius, and heir to his unpublished writings. Faustus came, and displaying there, and afterwards in Poland, according to Harnack, much clearness of vision, and a natural gift of command and organisation, he succeeded in conciliating and blending the discordant elements on various points, and particularly on that of the relations with the public authority. Towards the latter he professed, and managed to induce his adherents to profess, a deference which some regarded as excessive, for he denied that it could be opposed even for the sake of defending liberty of conscience. It is chiefly owing to him that the Socinians, in contradistinction to all the numerous sections of the Anabaptists, recognised the competence of the civil authority in everything which did not directly affect dogma. And thus it subsequently became possible for the suspicion of Socinianism to fall upon the most strenuous advocate whom the State ever had of its rights in ecclesiastical affairs, namely, the famous Swiss doctor Erastus, who has given his name to Erastianism, the doctrine of State-worship.

From the chaos of the various Anabaptist and Antitrinitarian tendencies, then, Faustus Socinus was able to derive the clear and precise doctrine of *Unitarianism*, or, better, of *Socinianism*, as it was more commonly called after his uncle and himself. And the principles of the doctrine, which thanks to

him became and remained a true religious faith, distinct from the other evangelical faiths, he committed to writing in the Catechism of Rakau, which his death in the year 1604 prevented him from finishing, but which was completed and published by one of his numerous followers, the German Schmalz, in 1605 (in Latin in 1609).

However, the intolerance of the Jesuits and the Protestants was undermining the position of the Socinians in Poland, and at last it succeeded in driving them out altogether.

They repaired gradually to Transylvania and Germany, where their doctrines were banned by the University of Altdorf. They next proceeded to Holland, where they became united partly with the Mennonites and partly with the Remonstrants or Arminians, upon whose doctrine in particular they exercised an immediate and decisive influence. Yet it was not only in the Dutch religious revolutions that they played a leading rôle, but also in those which derived their impulse from Holland. To them is due, as will be seen, the first agitation among the French Huguenots in the cause of religious toleration; and the English Latitudinarianism is also of immediate Socinian descent.

From Holland the Unitarians migrated during the seventeenth century to England, and thence to America, where they at last found complete liberty, and where, in our own time, there have appeared from among them men like Channing and Parker.¹

Socinianism, moreover, has exercised an influence

¹ The works of the Socinians were collected in the *Bibliotheca Fratrum Polonorum quos Unitarios vocant*, Irenopoli (Amsterdam), post annum 1656, 8 vols. in 11; also by Sand, in *Bibliotheca Antitrinitariorum*, Freist., 1684.

not only upon religion, but also upon the subsequent development of philosophic thought, from Spinoza to Descartes and Kant.

II. What position this tendency of Italian origin occupies in the history of the modern age I am unable to determine better than is done in the following words of Harnack, the prince of living historians of dogma in Germany :

“ In antitrinitarianism and Socinianism the Middle Ages and the newer period stretch forth hands to each other across the Reformation. That which was regarded in the fifteenth century as so incapable of being formed, namely, an alliance between Scholasticism and the Renaissance, here appears concluded—in extremely different ways as regards particular points. Just for that reason there is inherent in these movements a prophetic element also. Much is already anticipated in them with wonderful definiteness, which appears, after brief advances, entirely suppressed within the evangelical churches for the time, because the interest in *religion* in the form that had once been adopted here absorbed everything for more than 150 years, and in an incredibly short time became enveloped in scholasticism. Historians of culture, and philosophers, for whom religion is a matter of indifference or a disturbing element, have therefore every reason to be deeply interested in the Antitrinitarians and Socinians, in the ‘Enthusiasts’ and Pantheists, and, in contrast with them, to deplore the melancholy half-measures of the Reformers. But it does not follow from this that, on the other hand, one who recognises in the Reformation the true progress of history, is entitled to pass by these parties unsympathetically or with disapproval. The critical elements which they

developed brought profit not only to science, but ultimately to religion also, and have themselves disappeared after Protestantism had included within itself in the eighteenth and nineteenth centuries all that they could furnish of abiding substance.”¹

Now amongst these elements which the Italian reformers foresaw, and, 150 years before the other evangelical churches, battled for and obtained, was religious toleration, in which, by the natural laws of gravitation, all their teaching was centralised.

Their starting-point, as is well known, was that the teachings of the Christian religion were all comprised in the New Testament, and that only those parts of the revelation contained therein which were accessible to human reason should be regarded as matters of faith, because in the revelation there might be many things *supra rationem et humanum captum*, but nothing *contra rationem sensumque comunem*. Therefore the mysteries, miracles, and prophecies are decisively set aside. Their attitude towards religion was thus represented: there is the book, here is human reason; and the Socinian religion has been not inaccurately defined by some as a *supernatural rationalism*, and by others as a *rational supernaturalism*, which amount to one and the same thing. But this starting-point opened two roads towards toleration; having reduced the matters of faith to a few easily understood principles of the New Testament, it was easy to

¹ Harnack—*Dogmengeschichte*, iii. p. 655 *et seq.*; *cf.* also p. 689,—where it is stated that principally by way of Arminianism, but also directly, Socinianism assisted in introducing into Protestantism illuminism (rationalism) in the good as well as the bad sense of the word. A comparison between Luther and Socinus, incisive and interesting because it comes from a Catholic, is to be found in Cardinal Hergenröther's *Handbuch der allgem. Kirchengeschichte*, 3rd ed., vol. iii., Freiburg, 1887, p. 197 *et seq.*

discover these principles in all the Christian denominations; in the second place, having established the reasoning faculty of each individual as the supreme judge of what was truly of divine inspiration in Holy Scripture, and granting the impossibility of all human minds agreeing upon the same judgment, it necessarily followed that even the most divergent opinions were entitled to equal respect; the opinion of one man, that is to say, ought to be worth precisely as much as that of another.

Again, the precise negation of the principle of predestination in face of the contrary judgment of Luther and Calvin, the denial of divine foreknowledge of free and voluntary deeds and the efficacy of grace in the determination of our acts, and the fact of having, on the contrary, claimed for man his freedom of will and therefore unlimited power and responsibility to do good or evil, caused them to give greater prominence to the human individuality and to develop as much as possible therein the moral idea of duty, as well as to attribute, for the purpose of the salvation of the soul, an infinitely higher value to the works of individuals than to their articles of faith. Hence they admitted that a person who had done good works might be saved even if he were in error at the moment of death, whereas, on the contrary, the reprobate whose faith at the last moment was irreproachable could not hope to obtain grace. All these principles evidently converge upon the idea of the liberty of conscience.

Finally, their horror of war, the death penalty, violence, revenge, and their having reached the point of denying the legitimacy of personal defence, so that a person who killed another in self-defence was held to be responsible for having prevented the possible

moral purification of his aggressor—all this was sufficient to make them irreconcilable opponents of every form of compulsion. And, in fact, they resolutely proclaimed the very widest toleration.

Their first Confession of Faith, which, it should be noted, is dated 1574, condemns all temporal punishment and all persecution of dissidents. And all their earliest writers dispute that the exercise of the disciplinary power of the Church can be confused with the punitive authority of the State, and produce, like the latter, civil damage. In the persecution of heretics they perceive a spurious derivation from the doctrines of the Old Testament, and the killing of them is opposed to Christian teaching, since the latter, according to its principles, ought not to admit the penalty of death. What man, they ask, can regard himself as fitted to condemn that which God tolerates, and to judge truth and error with certainty? Christianity ought to conquer not by arms, but by the persuasive force of truth.

Two facts deserve to be emphasised:—

1. That in the second half of the sixteenth century and the first half of the seventeenth, the principle of toleration was not affirmed except by writers of direct or very near Italian humanistic or Socinian descent or inspiration. This is so true that the oldest known writings against religious persecution were attributed by contemporaries to Socinus.

2. That the only Socinian Confession lays down toleration among its fundamental principles.

III. The condemnation of Servetus, which, as we have seen, obtained the approbation of the German, French, and Swiss reformers, was, on the contrary, severely reprobated by the Italian refugees. Camillo

Renato wrote against it a long poem entitled *De iniusto Serveti incendio*, and other poems in the same sense came from the Italian reformers of Grisons. Matteo Gribaldi Mofa, in Geneva, during the trial of Servetus, openly expressed his disapproval of punishment for religious opinions: and Bernardino Ochino, who reached that town from England the day after the execution, not concealing his dissatisfaction from those reformers, made himself disliked by them. Celio Secondo Curione of Moncalieri wrote a violent apology for Servetus, which, however, he did not publish. It is preserved at Basel in the volume containing the manuscript of Castellion against Calvin.

In March 1544, a few months after the burning of Servetus, under the pseudonym of Martinus Bellius, a pamphlet was published entitled *De haereticis, an sint persequendi, et omnino quomodo sit cum eis agendum doctorum virorum tum veterum tum recentiorum sententiae. Liber hoc tam turbulento tempore pernecessarius*. Madgeburgi, per Georg. Rausch, 1554.

In the same year a French translation was issued.¹

The work contains a preface or dedicatory letter to Duke Christopher of Württemberg, which is also the most interesting part of the treatise. In it are examined the passages from the Bible and the Fathers which are usually cited in support of and against toleration. Arguments in favour of toleration

¹ Martin Bellie, *Traicté des hérétiques, à savoir si on les doit persécuter, et comme on se doit conduire avec eux, selon l'avis, opinion, et sentence de plusieurs auteurs tant anciens que modernes: grandement nécessaire en ce temps plein de trouble, et très utile à tous, et principalement aux Princes, et Magistrats, pour cognoistre quel est leur office en une chose tant difficile et périlleuse*. Ruen, Pierre Freneau, 1554. Probably the printing was done at Lyons.

are drawn from the multiplicity of sects and from their various interpretations of the Holy Scriptures. Persecutions, it is maintained, turn Christians into hypocrites and only excite the sympathy of everybody for the victims who stoically face torture, and provoke harmful counter-persecutions, etc.

Then follow passages in favour of toleration taken from Luther, Brenz, Erasmus, Sebastian Frank, from many Fathers of the Church (Lactantius, Chrysostom, Jerome, Augustine), from Otto Brunfeld, Urban Regius, Conrad Pellican, Gaspar Hedius, Christopher Hoffmann, and George Kleinberg (pseudonym).

Finally, there is a refutation of the arguments which it was usual to bring in support of persecution by Basil Monfort (pseudonym).

The work was attributed to Laelius Socinus.

But neither Calvin nor Beza allowed themselves to be misled by false indications of the place of printing, and they at once came to the conclusion that the work had been printed (probably by Pietro Perna, an Italian refugee) at Basel, where the liberal tendencies of Erasmus were still kept alive among his followers and the many Italians there assembled. As authors of the pamphlet they indicated the Italian academicians in general and Celio Secondo Curione and Sebastiano Castellion in particular.¹

But modern criticism, if it is not averse from holding that the various quotations in the text of the work are really due to Curione, agrees in attributing the chief merit to Castellion.²

This distinguished Savoyard humanist had at one

¹ *Corpus Ref.*, xliii. 95, 97, 134.

² Buisson, *Sébastien Castellion, sa vie et son œuvre* (1515-1563), 2 vols., Paris, 1892; i. 358-413; ii. 1-28. Cf. also Lefranc, "Séb. Cast. et la tolérance au XVI. siècle," in *Rev. internat. de l'enseignement*, xii., 1892, n. 3, pp. 220-238.

time been the friend and helper of Calvin; but having quarrelled with him over dogmatic differences—Castellion refusing to accept predestination as well as those dogmas which did not assist the moral improvement of the believer—he had to retire to Basel, where he lived on the most cordial terms with the Italian refugees, of whose doctrines he fundamentally approved. He afterwards became included among the Italian liberal anti-Calvinists, because, for one reason, while he was a writer of fairly elegant Latin, he wrote French very incorrectly.¹ In his friendship with Socinus he found, according to Lecky,² the greatest comfort for the bitterness caused him by his disputes with the French reformers. Of Ochino he was not only the friend but the constant translator, and they shared their fates at the last, as we shall see. His death, of which the Swiss Bullinger wrote: "*Optime factum, quod Basileae mortuus est Castellio.*" was, on the other hand, solemnly commemorated by the Socinians of Poland, and Faustus Socinus published a posthumous edition of his works.

In regard to the famous pamphlet his most recent biographer writes that it "*était l'œuvre collective du groupe des réfugiés italiens et français de Bâle, mais il est hors de doute que Castellion en fut le principal auteur. Les collaborateurs avaient mis en commun leurs idées, leurs notes, en les faisant passer, si l'on peut dire, par la plume d'un seul.*"

We have given prominence to this point, not with the idea of taking away a single laurel from the glorious wreath which is unanimously attributed

¹ Cf. Bayle, *Dict.*, s.v. Castalion; Schweiger, *Die protestant. Centraldogmen*, Zurich, 1854, 3, 311; Schaff, vii. p. 630.

² Lecky, *op. cit.*, ii. 390.

to Castellion to-day as the courageous champion of toleration in the sixteenth century, but solely for the purpose of bringing out the very close connection and the reciprocal influences which, in the vicissitudes of his lives and in his doctrines, existed between this illustrious man and the Italian humanistic-religious movement.

Moreover, this was not the first lance which he had broken in the cause of religious liberty, nor was it the last.

Already, in fact, in the preface to his Latin translation of the Bible (February 1551) he had aroused the ire of Calvin by a warm invective against fire and torture: "*Quis non putet Christum aliquem esse Molochum aut eius generis aliquem Deum si sibi vivos homines immolari, comburique velit? Quis velit servire Christo ea conditione ut si in aliqua re inter tot controversias ab iis dissideat, qui habent in alios potestatem, vivus comburatur ipsius Christi iussu crudelius quam in tauro Phalaridis, etiamsi in mediis flammis Christum magna voce concelebret, et se in eum pleno ore credere vociferetur?*"¹

Against the writings of the supposed Martinus Bellius, as against Bellianism in general, as toleration was named for a while after him, Theodore Beza, Calvin's coadjutor, directed his famous apology for intolerance in August of the same year.²

¹ This preface was subsequently reprinted by Gluten, *De Haereticis an sint comburendi?* Argent., 1619; and in German by Crusius, *Gnomon.*, Leipzig, 1774, p. 131 *et seq.*

² Beza, *De Haereticis a civili Magistratu puniendis libellus adversus Martini Bellii farraginem et novorum Academicorum sectam*, Oliva Roberti Stephani, 1554. Reprinted in the *Tractationes Theologicae*, 2nd edit., 1582, pp. 85-169; and translated into French, *Traité de l'autorité du magistrat en la punition des hérétiques*, etc., 1560. Cf. Buisson, ii. 19. It was also translated into Dutch by Bogermann. Beza cites on p. 65, among others, the book of a certain Cleberg,

But in spite of this, Calvin himself, in the early part of 1554, having felt the necessity of defending his action against Servetus before the world,¹ a new work was published, also in 1554, entitled *Contra libellum Calvinii, in quo ostendere conatur haereticos iure gladii coercendos esse*, s. l. (Belgium?) 1554; which in some copies bears also the sub-title, *Dissertatio qua disputatur quo iure quovo fructu haeretici sunt coercendi gladio vel igne*, and which is commonly known as *Dialogus inter Calvinum et Vaticanum*.

This constitutes a refutation, perhaps even more vigorous than the preceding, of the principles on which persecutions are based.

The attribution to Socinus was this time so universal that one of our most authoritative writers of to-day does not hesitate to ascribe it to him with certainty. But on this occasion also the author was the valiant Castellion, as appears from some sheets of his manuscripts which are still preserved at Basel, in the book containing the apology of Servetus by Curione.

To Laelius Socinus, also, is attributed another book, which, however, as we shall see, belongs to Mino Celso. How, then, is it possible to explain this constant reference to him in this manner, and

where the absolute impunity of error in good faith, and the impossibility of verifying religious truths, are adduced in favour of toleration, but I have not been able, any more than Lecky (*op. cit.*, ii. 39, n. 3), to obtain any other information about it.

¹ Calvinus, *Defensio orthodoxae fidei de sacra Trinitate, contra prodigiosos errores Mic. Serveti Hispani: ubi ostenditur haereticos iure gladii coercendos esse, et nominatim de homine hoc tam impio et merito sumptum Generae fuisse supplicium*, Oliva Roberti Stephani. The French translation is entitled *Déclaration pour maintenir la vraye foy que tiennent tous Chrétiens de la Trinité des personnes en un seul Dieu. Contre les erreurs détestables de M. Servet, Espagnol. Où il est aussi monstré, qu'il est licite de punir les hérétiques; et qu'à bon droit ce meschant a esté executé par justice en la ville de Genève*.

at the same time his always remaining in the background in the violent controversy?

There must have been many reasons for it. In the first place, there was his extraordinary modesty, which, if on the one hand it could leave nobody in doubt as to his absolute disapproval of all the sanguinary proceedings, yet on the other hand, as Lecky well says, assuming the form of an excessive timidity, caused him, instead of proclaiming aloud the grand principles of religious toleration, to go about almost furtively, instilling them into the minds of trusty friends whom he had gained by his gentleness of manner in the course of his wanderings from town to town and from one university to another.¹ It is also necessary to remember that he never openly broke with Calvin, as Castellion had already done, over the question of toleration; indeed he maintained, in spite of everything, the best personal relations with the Picardy reformer, relations which, according to Schaff,² presented a curious case of reciprocal attraction and repulsion between the two systems, as also between their representatives.³

It would, however, be a grave mistake to believe that if Laelius did not possess the generous belligerent spirit of Castellion, or the courage of their own opinions which other Italians of his own belief

¹ Lecky, i. 290.

² Schaff, vii. 636.

³ Trechsel (ii. 166) thus describes these personal relations: "Although Laelius must have had experience of Calvin's harshness towards himself and others, that did not in any way diminish his respectful confidence in that extraordinary man. Just as one pole of a magnet attracts its opposite, so the negative nature of Laelius was incessantly attracted by the positive nature of Calvin, and, by a sort of instinct, the man of doubt could not do otherwise than seek his complement in the granitic man of faith, and this in spite of the fact that the absolute divergence of their two natures put any agreement of thought and opinions out of the question."

displayed at all costs, he was always a dissembler or ready to yield. Not for nothing, we repeat, does the universal consensus of present opinion point to him as one of the most decisive precursors of toleration; not for nothing does Beza, in his *Life of Calvin*, record how he alone, together with Castellion, had dared to oppose Calvin in this matter; not for nothing do we learn from a letter of the Swiss reformer Bullinger (July 15, 1555) that he, at Zurich, having compelled Socinus, who was suspected of antitrinitarianism, to sign a declaration of orthodox faith, this mildest of men submitted upon every point except upon that of the legitimacy of the capital penalty for heretics, towards whom he resolutely maintained that toleration ought to be observed.

It is Castellion himself who relates in his *Contra libellum Calvini* what has been mentioned above in regard to the disapproval of the torture of Servetus which Bernardino Ochino expressed to the reformers of Geneva, and which excited their wrath against him. Of the spirit of toleration of which the learned Capuchin had on many occasions given no dubious proofs there remains a solemn testimony in those dialogues which were the cause of his being banished from Switzerland and compelled, when he was nearly eighty years of age, to lead a wandering life from which an obscure death soon liberated him, and it was the translation of those same dialogues into Latin which brought his faithful friend Sebastian Castellion so much annoyance that he died broken-hearted.

The 28th dialogue of the collection¹ is dedicated

¹ Bernardini Ochini Senensis, *Dialogi XXX. in duos libros divisi, quorum primus est de Messia continetque Dialogos XFIII. Secundus est cum de rebus variis tum potissimum de Trinitate. Quorum argumenta in secunda utriusque libri pagina invenies.* Basileae, 1563.

to Sigismund II. of Poland, with the declaration that the author, having understood that he had opened his kingdom to the gospel, and fearing lest Satan might cause the introduction of heretical notions, thought it well to advise the monarch as to his duty in regard to the much-discussed question whether heretics ought to be punished by death. In this dialogue Pius IV. and Cardinal Morone are supposed to be speaking. The latter, as is well known, was kept in prison for a long period by the Holy Office because he was suspected of frequenting the company of heretics, and was released in 1560 only for lack of proof. In Ochino's dialogue he energetically maintains that one ought to endeavour to lead back to the right path those who err in the matter of doctrine, but never to kill them, whether they erred consciously or unconsciously. To the appeals which the Pope makes to some passages in the Old Testament which appear to prescribe the penalty of death for those who depart from the true faith, Morone replies that we, as Christians, are bound indeed to obey the moral laws of the Old Testament, but not the ceremonial laws. Moreover, he cites the example of Jesus Christ, who recommends humility and forbearance, also the parable of the tares and the wheat, from which he deduces the impossibility of punishing the wicked without at the same time hurting some of the good. In the course of the dialogue, however, Morone admits that there may be cases of such obstinate offence against the divinity as to leave society no other remedy than the application of the death penalty as a salutary example. But he afterwards restricts this concession by a series of a dozen conditions, all indispensable, and of such a kind that the practical application of the penalty becomes illusory.

With good reason, therefore, Benrath concludes that Ochino deserves to be placed beside Castellion and to receive the same praise as is bestowed upon the latter as a precursor of toleration at a time when to advocate it was not only very rare but also very dangerous.¹

A very remarkable work in favour of toleration is the book dedicated to Queen Elizabeth by the jurisconsult Jacopo Aconcio, or Aconcio, which appeared in 1565, and was erroneously included among books of magic on account of its peculiar title:—*De stratagematis Satanae in religionis negotio, per superstitionem, errorem, haeresim, odium, calumniam, schisma, etc.*, Basil., 1565.

Jacopo Aconcio, a native of Ossana, a village not far from Trent, the town of the famous Council, left his country on account of religious difficulties and settled in England about 1559. He joined the Dutch Church of Austin Friars in London and took side for the minister of that church, Adrian Hamstedius, against Archbishop Grindel. Aconcio worked as an engineer and carried on extensive works for the purpose of draining the parishes of Erith, Lesne, and Plumstead, flooded by the Thames. In 1561 letters of naturalisation were granted to him, and he enjoyed the patronage of Queen Elizabeth and of the Earl of Leicester, to whom some of his writings were dedicated.

Aconcio's *De stratagematis Satanae* is the first book, according to Hallam,² in which, pursuant to the Socinian tendency, an attempt is made to reduce

¹ Benrath, *Bernardino Ochino von Siena*, 1st (Leipzig, 1875) ed., p. 332; 2nd (Braunschweig, 1892), p. 272.

² Hallam, *Introduction to the Literature of Europe*, etc., vol. ii. p. 343; *Dictionary of National Biography*, s.v. "Aconcio."

the fundamental articles of the Christian religion to the smallest possible number, excluding, for example, that of the Trinity and all the other non-rational articles. The purpose is to find a common fulcrum, a point of universal agreement, for all the sects into which Christendom is divided, and hence a secure basis for the reciprocal toleration of all beliefs.

Aconcio raises his voice not only against the penalty of death, but also against all forms of punishment inflicted upon alleged heretics, and breaks out into the exclamation: "If the priesthood gains the upper hand, if it is granted this point, that no sooner shall a man have opened his mouth than the executioner shall come and sever all his joints with his knife, what will become of the study of Holy Scripture? It will be thought that it is not worth any man's while to trouble about it, and, if I may be permitted to say so, the dreams of the imagination will be granted as the truth. Oh unhappy times! Oh unhappy posterity, if we throw away the arms with which alone we can overcome our adversary!"

The book immediately secured a great vogue, and was translated into French, English, German, and Dutch; in the following century it enjoyed immense popularity and authority in Holland.

Amongst many other writers of his age, Aconcio is cited as a supporter of toleration in the book of Mino Celso, under which name it was thought for some time that the identity of Laelius Socinus was concealed. But it has been shown that Celso fled from Sienna in 1559, that he wandered about Grisons for three years, and then went to Basel, where he always endeavoured to bring about concord among the dissidents.¹ The work is entitled

¹ Cantù, *Eretici d' Italia*, ii. 451.

*In Haereticis coercendis quatenus progredi liceat, Celsi Mini Senensis disputatio. Ubi nominatim eos ultimo supplicio affici non debere, aperte demonstratur, Cristling., 1557.*¹

It was reprinted in 1584, without any indication of the place of publication, together with two letters of Beza and Dudicio in the opposite sense, and again in 1662 at Amsterdam, under the title *Henoticum Christianorum, seu Disputatio Mini Celsi, etc. Lemmata potissima recensita a D. Z. (Dom. Zwickero).*

It is a long and careful dissertation, in which it is maintained, among other things, that the fining and banishment of heretics is amply sufficient.

The work of Joachim Cluten, *De Haereticis an sint comburendi?* Argent., 1610, contains, in addition to Castellion's preface to his Latin Bible, a selection of passages from several writers in favour of toleration.²

A thoroughly just and moderate defence of the case for toleration is made by the German Socinian theologian Johann Crell (1590–1633) in his essay entitled *Vindiciae pro religionis libertate.*³ This was translated into French in 1687 by Le Cene, and revised by Naigeon, under the title *De la tolérance dans la religion.* According to Hallam it was again translated and published by Holbach in 1760.⁴

It consists of three chapters. In the first it is demonstrated that the Catholics ought to maintain

¹ Senkenberg, in the Appendix to the *Bibliotheca realis iuridica* of Lipenius, Lips., 1789, p. 187, records an edit. s. l. 1562. I have not been able to see the book; but such an indication would not be in accordance with the statements of others that Mino Celso quotes Aconcio.

² Of the Willichii, *Orat. de haereticis non occidendis*, Rost., 1623, I am not able to give any more than the title.

³ Crellius, *Opera*, tom. iv., Irenopoli, post annum 1656, pp. 521–531.

⁴ Hallam, *op. cit.*, cap. ii. p. 76.

the religious liberty which was promised to the dissidents, even when they have the opportunity of crushing them; in the second it is shown that the Catholics can conscientiously concede liberty of religion to the dissidents, and in the third that the Catholics are even obliged to do this.

Finally, we must not omit to mention that the organiser of the Socinian religion, Faustus Socinus, in several places throughout his works, expresses himself in favour of liberty. Here, for example, is his reply to those who asked if they should condemn those who differed from them in opinion:—

*“Alios condemnare, qui tecum per omnia non sentiant, et extra tuos coetus nullam salutem esse affirmare, hoc non est apostolicæ Ecclesiæ proprium, sed potius ab ea alienum. Quum enim multa in religione Christiana sint, quæ, licet utilia, tamen necessaria non sint ad æternam salutem: nihil prohibet, quominus plures coetus Christianorum, sive Ecclesiæ inter se aliquatenus diversæ, omnes talem doctrinam habeant, quæ satis sit ad salutem istam consequendam.”*¹

The idea of the liberty of conscience is also maintained by all the followers of the so-called Racovian school. For example, in many passages of his *Commentaries on the New Testament*, Jonas Schlichting of Bukowiec² declaims against the interference of the civil power in matters of conscience, against the coercion of heretics, against those who believe that Christian truth requires the support of material arms, and so forth.

¹ F. Socini, *Opera*, in *Biblioth. Fratrum Polonorum*, Irenopoli, post annum 1656; vol. i., *De Ecclesia*, p. 347.

² Jonæ Schlichtingii de Bukowiec, *Commentaria postuma in N. T.*, in *Bibl. F. Pol.*, Irenopoli, post annum, 1656; i. 34, 55, 300 et seq., 322.

IV. But far more important and admirable than the manifestations of the spirit of toleration above mentioned is the document in which the whole of this evolution is fixed and ratified, that is to say, the famous Socinian Catechism of Rakau, which in several places solemnly asserts the principle of liberty. That principle is the mainspring of the Catechism, and is invoked right from the introduction, which, as Harnack says, it is impossible to read without a feeling of the deepest emotion.¹

¹ *Catechismus Racoviensis, Irenopoli, post annum 1659*: "Catechesin seu Institutionem religionis Christianae, prout eam ex sacris litteris haustam profitetur ecclesia nostra, damus in lucem. Quae quia in non paucis ab aliorum Christianorum orbita discedit, non est quod quis putet, nos eam emittendo in publicum omnibus diversum sentientibus, quasi misso feciali, bellum indicere aut classicum canere ad pugnandum, atque, ut poeta ait, ad 'Arma ciere viros, Martemque accendere cantu.' . . . Non immerito et hodie conqueruntur complures viri pii ac docti, confessiones ac catecheses, quae hisce temporibus eduntur editaeque sunt a variis Christianorum ecclesiis, nihil fere aliud esse, quam poma Eridos, quam tubas litium et vexilla immortalium inter mortales odiorum atque factionum. Idque propterea, quod confessiones et catecheses istae ita proponantur, ut iis conscientiae adstringantur, ut iugum imponatur hominibus Christianis iurandi in verba atque sententias hominum, utque ea statuatur pro fidei norma, a qua quisquis vel unquam transversum deflexerit, is continuo anathematis fulmine feriatu et pro haeretico, pro homine deterrimo ac teterrimo habeatur, caeloque proscriptus ad tartara detrudatur atque infernalibus ignibus cruciandus adjudicetur. Absit a nobis ea mens, imo amentia. Dum catechesin scribimus nemini quicquam praescribimus: dum sententias nostras exprimimus, neminem opprimimus. Cuique liberum esto suae mentis in religione iudicium: dummodo et nobis liceat animi nostri sensa de rebus divinis citra cuiusquam iniuriam atque infectionem depromere. Haec enim est aurea illa prophetandi libertas, quam sacrae litterae Novi Instrumenti nobis impense commendant, et in qua apostolorum primitiva ecclesia nobis exemplo suo facem praetulit. . . . Qui vero estis vos, homiunciones, qui, in quibus hominibus deo visum est spiritus sui ignem accendere, in iis eum extinguere ac suffocare conitamini? . . . An vos soli geritis clavem scientiae, ut nihil clausum vobis sit in sacris litteris, nihil obsignatum: ut quidquid ocluseritis, recludere nemo queat et quidquid recluseritis, nemo valeat ocludere? Cur non meministis, unicum dumtaxat esse magistrum nostrum, cui ista competunt,

“In giving to the world the catechism of our Church,” they say, “it is not our intention to declare war upon anybody. With good reason pious people complain that the various Confessions or catechisms which the different churches are publishing at the present time are apples of discord among Christians, because it is sought to impose them upon people’s consciences, and to regard those who dissent from their teaching as heretics. Far be it from us to commit such a folly; our intention is neither to proscribe nor to oppress anyone. Let each one be free to judge of religion; this is imposed by the New Testament and the example of the primitive Church. Who art thou, miserable man, who would smother and extinguish in others the fire of the divine spirit which God has kindled in them? Have ye a monopoly of the knowledge of the Holy Scriptures? Why do ye not remember that our only master is Christ, and that we are all brothers, and that to none has been given power over the souls of the others? If one of the brothers is more learned than the others, yet in regard to liberty and relationship with Christ all are equal.”

What an abyss between this Confession and those of all the other Protestant Churches—Swiss, Scottish, Belgian, Saxon, which affirm the duty of the magistrate to punish heresy! “*Stringat magistratus gladium in omnes blasphemos, coerceat et haereticos,*” said Art. 30 of the Helvetic Confession!

Christum: non vero omnes fratres esse, quorum nulli potestas ac dominium in conscientiam alterius concessum est? Etsi enim fratrum alii aliis sint doctiores, libertate tamen et iure filiationis omnes aequales sunt.”

Regarding the liberal tone of this catechism, its thoroughly humanistic spirit, and the successive modifications, see Harnack, *Dogmengeschichte*, iii. pp. 653, 669; p. 655, n. 1; and p. 653, n. 1.

The statement that this was the only religion inspired by the real spirit of liberty is proved by the following extremely significant fact ; the two principal champions of the gigantic Catholic-Protestant disputation of the time, Jurieu and Bossuet, are in agreement on two points : first, in admitting that Catholics and Protestants regard it as the duty of the tribunals to proceed against dissidents and to punish heretics ; and secondly, in showering bitter reproaches upon the Socinian sect, which is alone in rejecting that principle.

Jurieu harshly condemned toleration as “ le dogme Socinien, le plus dangereux de tous ceux de la secte Socinienne, puisqu’il va à ruiner le Christianisme et à établir l’indifférence des religions.”¹

And Bossuet, in his turn, said : “ La discipline de nos Réformez permet aussi le recours au bras séculier en certains cas ; et on trouve parmi les articles de la discipline de l’Église de Genève, que les Ministres doivent déférer au magistrat les incorrigibles qui méprisent les peines spirituelles, et en particulier ceux qui enseignent de nouveaux dogmes sans distinction. Et encore aujourd’huy celui de tous les auteurs Calvinistes [that is to say, Jurieu] qui reproche sur ce sujet le plus aigrement à l’Église Romaine la cruauté de sa doctrine, en demeure d’accord dans le fond, puisqu’il permet l’exercice de la puissance du glaive dans les matières de la Religion et de la conscience : chose aussi qui ne peut estre révoquée en doute sans énerver et comme estropier la puissance publique ; de sorte qu’il n’y a point d’illusion plus dangereuse que de donner la souffrance pour un caractère de vraye Église ; *et je ne connais parmi les Chrétiens que*

¹ Jurieu, *Droit des deux Souverains en Matière de Religion, la Conscience et l’Expérience*, Rotterdam, 1687, p. 14.

les Sociniens et les Anabaptistes qui s'opposent à cette doctrine."¹

Bossuet couples the Anabaptists with the Socinians. But it is necessary to remember that he was writing at the end of the seventeenth century, when one of the noblest offshoots of Anabaptism, the Arminian Baptists, had already published in Holland their Catechism of 1611, in which the principle of religious liberty is duly ratified.

Apostles of toleration were certainly not wanting amongst the earliest initiators of the Anabaptist movement. It will suffice to mention Balthasar Hubmayer (Hübner), who, in his book entitled *Von Ketzern und ihren Verbrennern*, Hagen, 1524, said that the burning of heretics was as bad as denying Christ, because the Son of God did not come to destroy those who were in error, but to convert them.² At the same time, the bulk of the followers of this movement were unable to prevent themselves from being carried away by the communistic and frequently anarchistic fanaticism which characterised their earliest achievements to the commission of acts of the most violent intolerance. In regard to them Sleidan tells us, "Omnes non baptizatos iubent interfici, tanquam paganos et impios."³

It was only later, thanks to those among the leaders of Anabaptism who were in close intellectual intercourse with the more tolerant reformers (Hubmayer with Zwingli, for instance), or by reason

¹ Bossuet, *Histoire des Variations des Églises protést.*, Paris, 1688, ii. pp. 107, 108.

² Cf. Laurent, *Études sur l'Histoire de l'Humanité*, vol. viii., Brussels, 1862, pp. 498, 499; Comba, *op. cit.*, ii. p. 524.

³ Sleidan, *De statu religionis et reipublicæ, Carulo Quinto Cesare, Commentarij*, s. 1, 1557, lib. x., fol. 152, b.; also Lecky, ii. 43, No. 1.

of the frequent contact which the Anabaptists had with the Socinians in Italy, Switzerland, and Poland, and finally in Holland, that the spirit of toleration was spread among them. But the explicit assertion of the liberty of conscience did not become a part of their constitutions except by way of Arminianism, which, as we have already indicated, and as we shall see better further on, was a movement strongly impregnated with Socinianism.

To Socinianism alone belongs the glory of having, as early as the sixteenth century, made toleration a fundamental principle of ecclesiastical discipline, and of having determined, more or less immediately, all the subsequent revolutions in favour of religious liberty.

Part II.—The Dutch Period

CHAPTER VII

ARMINIANISM. SPINOZA

I. THE epic struggle which the Low Countries, after having embraced the Reformation, carried on for the sake of liberty of conscience against Spanish domination and the Catholic counter-reformation, did not result in establishing among the nations that liberty in the name of which victory had smiled on them, but in sundering them politically and religiously, with Belgium on one side and Holland on the other, and in kindling the flame in the former of Catholic and in the latter of Protestant intolerance.

The famous Pacification of Ghent (Nov. 8, 1576), which was conceived in a sense decidedly favourable to the Calvinistic provinces of Holland and Zeeland, in regard to which it was agreed that the reformed religion should be the only one permitted, did not, as a matter of fact, succeed in bringing pacification either to one side or to the other. Nor did a better fate attend the *Religions frid*, or Peace of Religion, of Antwerp (July 12, 1578), which was due to William the Silent, who, together with a few other moderates and tolerationists, strove in vain to raise a dam against the continual eruption of religious hatred, and who on this account truly deserves the praise which was passed upon him: “Il a la notion et le goût

de la tolérance religieuse au moment où personne ne la comprend, ni Luther. ni Charles-Quint, ni Francois I., ni Calvin.”¹ The elevated tone of that document can be gauged from these truly inspired words :

“ Et affin que, au regard de la diversité des religions, ne se povant maintenir. planter ny estre supprimez par force ny par armes, n’advienne plus quelque dissention ou question, est ordonné que, touchant, les dites religions, chacun demeurera franc et libre comme il en voudra respondre devant Dieu, de manière que l’un ne pourra troubler l’autre, ains que chacun soit ecclésiastiques ou temporal pourra tenir et possessor la sienne avec paix et repos, et servir Dieu selon l’entendement qu’il luy a donné”²

As, however, this Peace of Religion, together with many wise and minute dispositions tending to ensure the practical observation of mutual toleration, laid it down also, for reasons of distributive justice, that the Catholics should be granted the same liberty of worship in the provinces of Holland and Zeeland as had already been accorded to the Calvinists by the Pacification of Ghent, the latter were not long in showing their discontent and in appealing to the Pacification, which, they said, was violated by the new Act, while similar protests, but for other motives, were raised by Catholic fanaticism.³

¹ Paillard, *Considérations sur les causes générales des troubles des Pays-Bas au XVII. siècle*, Brussels, 1874, p. 114; Nippold, *Die römisch-katholische Kirche im Königreich der Niederlande. Ihre geschichtliche Entwicklung seit der Reformation und ihre gegenwärtige Zustand*, Leipzig-Utrecht, 1877, p. 62.

² Cf. Hubert, *De Charles-Quint à Joseph II. Étude sur la condition des protestants en Belgique (Édit de tolérance de 1781)*, Brussels, 1882, pp. 45, 169.

³ On the side of the moderates there was an attempt to overcome these objections by the following work: *Discours contenant le*

Then it was that the seven evangelical provinces concluded the Union of Utrecht (Jan. 29, 1579), by which they constituted themselves an independent Protestant Republic; and the Catholics formed the Union of Arras (on the following 8th of May), by which they allied themselves with Farnese, the Governor of Philip II., and therefore came again definitively under the dynasty of the Hapsburgs.

Belgium, it should be noted in passing, knew no more of religious toleration until Joseph II., that is to say, until 1781; since everything in this respect was reduced to stipulating, when Spain and Holland finally established peace, that the Dutch Protestants might exercise their religion when they were passing through Belgium, and to admitting that the Dutch soldiers quartered in Belgium in virtue of the so-called Barrier Treaty should enjoy the same privilege in the places determined by that treaty.¹

Nor does it appear that in Belgium, or, for that matter, in any of the other Catholic countries, there was any discussion about religious liberty.

It is not possible, on the other hand, to say as much in regard to Holland.

There the condition of the Catholics was not better, however, than that which had been created for the Protestants in Belgium. The principle that a State could exist without an official Church of its own was too foreign to that epoch, and the Catholics, on the other hand, were held in too much suspicion, as being the natural allies of Spain and therefore enemies of

vray entendement de la Pacification de Gand. . . . par lequel est clairement monstré que le Religions-fridt ne repugne pas ny ne contrairie aucunement à la dicte Pacification, 1579. The work was reprinted in 1876; cf. Hubert, 49, n. 5.

¹ Art. 19 of the Treaty of Münster, Jan. 30, 1648; Art. 9 of the Treaty of Antwerp, Oct. 4, 1714. Cf. Hubert, 63, 67 *et seq.*

the country; whence it is easy to understand that even in 1672 the States of Zeeland should declare that the Evangelical religion was the true palladium of the State, and that to concede liberty of worship to the Papists would be the same as cherishing a snake in one's bosom. Article 13 of the Union of Utrecht, by which was recognised the power of the seven provinces to accord the Catholics the free exercise of their religion, was quickly abolished, and from February 1579 there began a long series of decrees against the Catholics, and particularly against Catholic priests and Jesuits.¹ On the other hand, the position of the Catholics was considerably improved by the Peace of Westphalia, seeing that Art. 19 of the Treaty of Münster, cited above, conceded to the Catholic subjects of Belgium the power of freely exercising their religion when they were within the Dutch Republic, in exchange for the same power granted to subjects of the latter when they were in Belgian territory.²

II. The idea of religious liberty sprang from the bitter strife among the different Protestant denominations. The latter, arising right from the beginning of the Reformation owing to the struggle for predominance between the two largest Protestant bodies—the Lutherans and the Calvinists—increased with the extension of the dissident sects of the Anabaptists and the Mennonites. Nor were they appeased by the efforts of tolerant William of Orange, or the

¹ Knuttel, *De Toestand der Nederlandsche Katholieken ten tijden der Republiek*, 's-Gravenhage, pt. 1, 1892; pt. 2, 1894; i. p. 14; where (pp. 1-177) there is a very minute examination of all these ordinances or *plakkaten*.

² As to the condition of the Catholics, and especially of the Catholic clergy, in the second half of the seventeenth century, see Knuttel, *op. cit.*, i. pp. 223 *et seq.*, 246 *et seq.*

decisive predominance which, as the official religion, Calvinism managed to obtain, to the detriment particularly of the Lutherans (1568-80).

A fierce opposition to the rigid and intolerant orthodoxy of the Calvinists was raised not only by the rest of the dissident bodies, but also by the liberal element (Libertijn) of the official Church itself, in which the spirit and tendencies of Erasmus were still very much alive, and in which the example and doctrines of the antitrinitarian and Socinian liberals exercised not only much fascination, but also a direct influence. In fact, the Calvinist doctrines, against which this new opposition was directed, were the ones which had already been strenuously combated by the Socinians, namely, predestination, original sin, grace, the persecution of heretics, etc.

Already in 1554 the Dutchman Anastasius Veluanus had declared himself an opponent of the Calvinist doctrine of predestination, and of other principles of the same Church, including that of the persecution of heretics, for he wrote: "De rechte Christenheit en vervolecht niemant" ("True Christianity persecutes no one").¹ But a regular party of moderate liberal spirits was formed in the last years of the sixteenth century, the leaders being on the one hand Gaspar Coolhaes, an opponent of Calvinist predestination, a supporter, like the Socinians, of the universal brotherhood of Christians, and a defender of the authority of the State over the Church, like Faustus Socinus before him, and, on the other hand, Theodore Coornhert, a valiant opponent of the doctrine of original sin and of the legitimacy of persecution.

Justus Lipsius having maintained in one of his

¹ Veluanus, *Der leken nechwijser*, Strassburg, 1554.

books (1589) that heretics were to be proceeded against by fire and sword (*ure et seca*), Coornhert refuted him in two admirable books which were published shortly after his death (1590): *Epitome processus de occidendis haereticis, et vi conscientis inferenda*, and *Defensio processus de non occidendis haereticis*; Goudae, 1597; Hannover, 1593.

He addressed his work to the magistrates of Leyden, who, however, did not accept it, but advised everybody to read the reply written by Lipsius. Coornhert, moreover, incurred the censure of the various Christian denominations, whose exclusivism he combated, and which he desired to unite in a species of *interim*.¹

Similar conciliatory tendencies appear also in the Dutchman Franciscus Junius² and in others. But all in vain; the conflict between the liberal tendencies, of which Coornhert was the apostle, and narrow orthodoxy, inevitably broke out, and a bitter controversy was begun between the two professors of the University of Leyden, Arminius and Gomarus, upon the eternal problem of predestination. The two parties, who were called Arminians and Gomarists, changed their names when, after the death of Arminius (1609), the liberal faction, now led by Episcopius and Uytenbogaert, published on January 14, 1610, the so-called Remonstrance, which clearly laid down in five articles the points on which they dissented from the Calvinists, and when the latter, at a conference in the following year, retorted with a Counter-

¹ Lorentzen, *D. V. Coornhert, der Vorläufer der Remonstranten*, Iena, 1886; Moorrees, *D. V. d. Coornhert de Libertijn*, Schoonhoven, 1887.

² Junius, *Eirenicum de pace ecclesiae catholicae inter Christianos, quamvis diversos sententiis, religiose procuranda*, Heidelb., 1592. The book is also known as *Le paysible Chrestien*.

remonstrance. Henceforth the two parties were called Remonstrants and Counter-remonstrants.

The States tried to pacify the troubled spirits, and in 1614, on the advice of Hugo Grotius, the most eminent of the small but distinguished band of Remonstrants, issued a decree of toleration.

Unfortunately, however, political parties had gradually been grafted upon the religious parties, and Maurice of Orange, who at first had held aloof from the religious disputes, and was, indeed, bound by personal ties with the most famous of the Remonstrants, passed over with all the weight of his authority to the side of the Counter-remonstrants. The latter submitted the decision of the dispute to a Synod, to which nearly all the foreign Calvinistic Churches sent representatives, and which held no fewer than 154 sittings in Dordrecht (November 13, 1618, to May 9, 1619). That its decisions should have been in favour of the condemnation and dispersal of the Arminians need cause no surprise when it is considered that the president of the Synod was the preacher Bogermann, a zealous Calvinist and the enthusiastic translator of Beza's book on the duty of magistrates to punish heretics.

Of the Arminians, the famous Oldenbarneveld was put to death. Hugo Grotius, thanks to the astuteness of his wife, escaped from perpetual imprisonment, Episcopius and Uytenbogaert took refuge in Brabant, and others in France and Germany.

But very soon, on the death of Maurice of Orange, they were readmitted, particularly in Amsterdam, and granted the right to exercise their religion in public (1630), and to open a seminary (1634).

Meanwhile, in Holland, although the theological dissensions were still very lively, not only between

the representatives of the latitudinarians or liberals and the orthodox, but also between the latter, led by Gisbert Voet (whence the sect of the Voezians) and the supporters of the so-called Federal theology, led by Coceius (whence the sect of the Coceians), nevertheless, in the second half of the seventeenth century, a form of toleration came into practice which placed that country in a position of decided superiority as compared with other European countries, at a time when from the point of view of arts, wealth, and power, she had reached the highest point of her career.¹

Between the Socinians—followers of the Racovian school, who had taken refuge in Holland, although they were not officially recognised there²—and the Arminians the best relations were established, and a profitable exchange of ideas took place. In regard also to the doctrine of the Trinity, the point upon which the Arminians always declined to be confused with the Socinians, they could not avoid being stimulated in the course of time to make an appreciable attenuation of the Catholic dogma.

In regard to the spirit of toleration, however, complete concord existed. Episcopius restricts the body of doctrine of the Church as much as he can, following the same line and with the same intention as Aconcio, upon whose treatise he bestows the highest praise, confessing that the Remonstrants

¹ On the question of religious toleration as one of the factors in the prosperity of Holland at this period, see Douglas-Campbell, *The Puritan in Holland, England, and America: An Introduction to American History*, London (New York), 1892, vol. ii. p. 325; and Chambers, p. 96.

² On the condition of the Socinians in Holland, see a full review of all the successive ordinances from the end of the sixteenth century down to his own times in Bayle, *Dict.*, s.v. F. Socinus, notes K and L.

were following in his footsteps, as, indeed, can be seen from a comparison of their respective writings.¹ He raises an indignant voice against the infliction of capital punishment for heresy, and states that the whole Christian world held in horror the fatal precedent which Calvin had established with the burning of Servetus.² Uytenbogaert, although he had been a disciple of Beza at Geneva, had not concealed from the latter his profound disagreement upon that question.³ Grotius, who was opposed to passing the capital sentence upon heretics, proclaimed his agreement with the Socinians, with whom, and particularly with Crell, he maintained an intimate correspondence.

Not less warm in their defence of religious toleration were the Remonstrants Limborch and Le Clerc, who made it the subject of numerous contributions to the *Bibliothèque Universelle*.⁴

But there is another detail of the greatest importance which must not be left without notice. Like Faustus Socinus, and like their predecessor Coolhaes, the Remonstrants proclaimed at one and the same time the principle of religious liberty and that of the rights and the superiority of the State over the Church, whereas the Counter-remonstrants, although contending that the State should punish dissidents, held that State and Church were equal and collateral, or, as it was said much later, co-ordinate. Against

¹ Episcopius, *Opera*, Amstel., ed. 1665, i. p. 301.

² *Apologia pro Confess. Remonstr.*, c. 24, p. 241. Cf. Hallam, iii. p. 75 et seq.

³ *Epistolae*, p. 797: "Neque me pudet consentire Socino si quando is in veram veteremque sententiam incidit."

⁴ The printing was done at Amsterdam by Christoph. Conrad; being prohibited, this work had afterwards to circulate under fictitious titles.

this Uytendogaert wrote a treatise, but Hugo Grotius was always the most precise upon this point.

Things were in this condition when a solitary genius, Benedict Spinoza, wrote his celebrated *Tractatus theologico-politicus, continens dissertationes aliquot quibus ostenditur libertatem philosophandi non tantum salva pietate et reipublicae pace posse concedi; sed eandem nisi cum pace reipublicae ipsaque pietate tolli non posse.* Hamb., apud H. Künrath, 1670.¹

The whole of this work is a hymn to liberty. But in a special manner cap. xx. shows that in a free State each individual should have the right to think as he pleases and to say that which he thinks, even in matters of religion, demonstrating the advantage which the State derives from permitting this liberty, and showing that its power of guarding public order cannot reasonably suffer any diminution thereby.²

In support of his opinion Spinoza cites the example of Amsterdam, the most flourishing of all the cities of the world, and at the head of all as regards toleration. She was, indeed, about to become the refuge of the world's fugitives from religious strife, in whom the most explicit and solemn appeals to the principle of toleration subsequently arose.

¹ Luzzatti, "Spinoza e i precursori della libertà di coscienza," in *N. Antologia*, vol. xxxv., 1877, pp. 592-604.

² The question of the liberty of conscience is discussed at this period in the work, Gerh. Van der Muelen, *De iure summo potestatis circa conscientiam civium*, Ultraj, i. 1686; as to which, however, I am not able to give any further particulars.

PART II.—THE DUTCH PERIOD
(CONTINUED)

CHAPTER VIII

THE ENGLISH REFUGEES. LOCKE

I. DURING the sixteenth and seventeenth centuries Holland's relations of a religious character with England were more frequent, closer, and at the same time more fruitful than with any other European country. A special reason for this was because Englishmen, fleeing from the persecutions of Roman Catholicism, of Anglican Episcopalianism, or of Scottish Presbyterianism—all three equally intolerant—migrated to the United Provinces. And if, on the one hand, it must be admitted that from these English fugitives, particularly during the reign of Mary Tudor (1553–1558), the Dutch received strong encouragement and moral support in their epic struggle for religious liberty, it is equally true, on the other hand, that many of the subsequent and most vital religious movements in England drew their inspiration from the Dutch atmosphere, thanks to these same fugitives. It was particularly by this route that the first idea of toleration spread to England.

Certainly the most recent and profoundest student of these questions is guilty of exaggeration when, carried away by the fundamental idea of his work, which is to demonstrate that the Dutch influence on the primitive institutions of the United States of

America was wider and more efficacious than the English, he makes of the Dutch the true depositaries of Roman and at the same time of Germanic liberty, and affirms that they were teachers of liberty to England and the instructors of those Englishmen who flocked in large numbers to their universities, which were renowned for their spirit of tolerance. But many facts which formerly were commonly admitted, and upon which he throws special light, remain, nevertheless, indisputable. These facts are: the intolerant and suspicious nature which characterised in England, not only the religions already mentioned but also at first the dissenting religions, like that of the Puritans, in contrast with the Dutch Puritans, and the derivation of the party of Independents, or Separatists, from Holland, or rather, its formation in Holland.

At this point an incident occurs which is of the greatest importance for our subject, since it signalises the bursting forth, on the crest of the strongest religious wave of the time, of a tendency which had hitherto remained in the depths and, as it were, latent. We have already indicated its origin when speaking of the meeting of the specific elements of the Anabaptist and antitrinitarian faiths. If, in fact, the imperious genius of Faustus Socinus was able to reconcile, within the religion which afterwards took its name from him, his own tendency towards the respectful recognition of the public authority, with the opposite tendency of the Anabaptists, who denied that recognition and wished to cut off all relations between the State and the Church—if, from their contact with the Socinians, the Anabaptists learned the doctrines of toleration, nevertheless their principal groups had not abandoned their hostility to any

interference of the public powers in matters of religion. This hostility found an unexpected and fatal outlet when some Dutch Anabaptists, taking refuge from the cruelties of the Duke of Alba in Norfolk, propagated their doctrines in that county. A clergyman, Robert Brown, made these doctrines his own and began to preach, with much success, that the Church should be dependent only upon Christ, and that any domination of the State over the Church was the domination of Antichrist. Being imprisoned and afterwards escaping, he passed over to Holland and founded in 1581, at Middelburg and in Zeeland, communities which took from him the name of Brownists. At the same time their numbers grew in England, whence they were also compelled to emigrate to Holland. There they published their first Confession (Amsterdam and Leyden), and there also, through John Robinson, Francis Johnson, and Ainsworth, Brownism was transformed into Congregationalism. Afterwards in the course of the seventeenth century, their adversaries called them Independents.

The fundamental principles of the new religion were: autonomy of each single community without any ecclesiastical supremacy; and absolute independence of the communities from the State.

“A prince,” says one of them, “has no power to restrict by one iota the liberty of the Church or to prevent any person from doing the will of God according to His precepts.”¹ Here, however, the principle of full religious liberty does not yet appear

¹ Cf. Waddington, *History of Congregationalism*, ii. 32. Hence Brown and his followers are given the honour by various writers of having been the first to advocate the principle of separation in the English language. Cf. Douglas-Campbell, *Puritan in Holland, England, etc.*, ii. 179.

as a necessary consequence of the principle of separation, possibly because it was a principle of simple adoption and not of fundamental significance for the Anabaptists themselves. It is proscribed, in fact, not only by the description of an authority acceptable to God which has been left to us by one of the leaders of Independentism¹; but it was proscribed also by those colonies in New England which the Independents who had taken refuge in Holland proceeded to found after 1620 and who were inspired as much by the spirit of proselytism as by a desire better to preserve their English nationality.² Yet, in spite of the fact that at the beginning the ideas of toleration learned in Holland seemed destined to be put into actual practice in those colonies, it was not long before the latter gave themselves a quasi-theocratical constitution and attributed, neither more nor less than the Presbyterians, to the public authority the obligation of severely punishing blasphemy, heresy, and the diffusion of dangerous opinions, not even sparing the Anabaptists from imprisonment and perpetual slavery.

It was some time later, that is to say, when the new sect of the Baptists emerged in Holland from the Anabaptist and Independent tendencies, that the correlation of the two ideas—separation and liberty—was fully grasped and unconditionally defended. And this was due in a special degree to the Arminian Baptists.

Their Confession of Faith, which upon this particular point says, "The magistrate must not interfere in matters of religion and conscience, nor can

¹ Ainsworth, *The Communion of Saints* (before 1615), ed. Amsterdam, 1640, p. 223 *et seq.*

² Lauer, *Church and State in New England*, Baltimore, 1893, p. 19 *et seq.* (in Johns Hopkins University Studies, Series X.).

he constrain anyone to this or that form of religion," and which originates directly from that of the Independents referred to above, presents in comparison with the latter a decided advance, seeing that the non-competence of the magistrate refers not so much to the Church and its liberty as to individual consciences.

Thoroughly imbued with the ideas developed in such a new direction in Holland, Roger Williams sailed in 1631 for America, where he began to preach absolute liberty of religion, even for the Jews and heretics, and the complete separation of the Church from the State, addressing himself at first to the Independents and then to the Baptists and the Quakers, for whom he had prepared settlements in the New World.

But the Dutch liberal influence upon England made itself felt in still other directions, and more precisely through that Arminian religion which, following in the footsteps of the Socinians, had adopted the principle of religious liberty, but at the same time rejected that of the incompetence of the State. An offshoot with ancient local tendencies, but afterwards strongly impregnated with Dutch Arminianism, was the school to which, after 1660, the name of Latitudinarianism was given, and which possessed amongst its famous representatives John Hales, the King's Minister Plenipotentiary at Dordrecht, who was there converted to Arminianism, and became one of the most strenuous champions of toleration in England.

There are many other facts which attest the Arminian, and at the same time the Socinian, influence on the English liberal movement, as we shall see more fully in the succeeding chapter. Here we confine

ourselves to pointing out that to a Dutch prince, William III. of Orange, England owes the first stable edict of toleration for the Dissenters, namely, the Act of 1689.

II. But the most brilliant outcome of these relations between the two nations is to be found in the work accomplished by John Locke during the years of his exile in Holland.

According to his most faithful and immediate biographer, his contemporary Le Clerc, a Swiss but belonging to the Church of the Dutch Remonstrants,¹ Locke had to escape from the perils of the English papist reaction under James II. by fleeing to Holland. There he entered into intimate relations with a few of the leading Remonstrants, and particularly with their professor of theology, Limborch; and he gained a knowledge of the principles for which the Remonstrants fought by reading some of the treatises of Episcopius. Thus he discovered, much to his surprise, that their principles corresponded a great deal more than he had suspected with his own ideas, and he subsequently made much use of them.

Of this influence, indeed, of the Arminian doctrine, and more directly still of the doctrines of the Socinians and the Unitarians, profound traces remain in all the subsequent religious work of the great English philosopher. For the fundamental thesis of his celebrated book on the *Reasonableness of Christianity* is nothing, as has already been observed by several authorities, but an ulterior development of the

¹ Le Clerc, *Eloge historique de feu Mr Locke*, at the beginning of the edition of his works, vol. i., which contains the first Letter on Toleration, Amsterdam, 1732. This eulogy has been the basis of all subsequent biographies.

principle, which served as the basis of the Socinian movement, that there was nothing in revelation contrary to human reason.

After this it is certainly not too much to say that the Unitarian-Arminian ideas could not have been without a certain influence on what he wrote in favour of religious toleration, although it is not possible to demonstrate here, as in the case of other theories, a direct derivation.

Locke's famous first Letter on Toleration, written towards the end of 1675, when, in order to avoid being handed over to the English Government, which had requested that of Holland to deliver him together with other exiles, he was living in hiding in Amsterdam, carefully guarded by his Remonstrant friends, was dedicated to Limborch.

The letter was only published in the spring of 1689, and even then without any explicit mention of the name of the author or that of the dedicatee. It appeared as "Epistola de Tolerantia, ad clarissimum virum T. A. R. P. T. O. L. A. (*i.e.* theologiae apud Remonstrantes professorem, tyrannidis osorem, Limburgium Amstelodamensem), scripta a P. A. P. O. I. L. A. (*i.e.* pacis amico, persecutionis osore, Ioanne Lockia Anglo), Gouda, 1689."¹

The letter truly deserves the eulogy which Vinet² passed upon it: "Je doute qu'on puisse rien lire de plus satisfaisant sur la matière." It rises with a powerful flight above everything that the preceding literature had produced, and on several points is far in advance of many of the most famous productions of succeeding periods. In this letter the subject of

¹ It was immediately translated into English and reprinted twice in 1690 in London.

² Vinet, *De la lib. des Cultes*, Paris, 1826, p. 298.

speculation and discussion is not the mere injustice of killing or persecuting heretics, not the simple demand of a persecuted sect for toleration, but religious liberty in all its modern breadth and in all its internal gradations.

After having observed that persecutions are diametrically opposed to the spirit of charity, upon which the whole of the primitive Christian doctrine was founded, Locke sets himself to elucidate the spirit of toleration from an examination of the fundamental nature both of the State and of the Church. For him the former is a society of men established solely for the purpose of procuring their conservation and the progress of civil interests. The magistrate has no authority, either divine or human, to rule over souls; the external coercive means of which he disposes are, therefore, incapable of inducing that intimate conviction which is the essence of every religion, nor is it within his office to dispute with those subject to him in order to persuade them; while, on the other hand, granting that he should succeed in bending minds to a particular faith, it could never be said that he had on that account provided for the salvation of souls, a matter which ought to depend upon a free individual determination towards one belief rather than towards another. So far as concerns the Church, it is, in the opinion of Locke, a society of men who voluntarily associate themselves together for the purpose of serving God in public. From this it follows that there cannot be in the Church other laws or other authority except those to which the faithful had agreed. Hence the laws and the authority will only have a moral importance. A Church, therefore, will be free to expel or excommunicate a member, but not to accompany this

act by material damage or injury, since neither individuals nor associations have any right to wound other individuals or associations in any external manner for religious motives.¹ It matters little that the magistrate may belong to one of the Churches or to none at all, since it is not just that one should act in Europe otherwise than in, for example, Constantinople, where the Turk would say precisely the same thing of the pretension that the Calvinist should go there to oppress or drive out the Arminians. The civil power should be everywhere the same, in whatever hand it is held, whether in that of a Christian prince or that of an infidel.

Those again who have any office in the church ought not only to abstain from any violence, but also to see that the best relations prevail between the various religions; it is lawful for them to exercise all the forces of reason in the confutation of those who believe in error, but not to invoke the sword of the law in support of their arguments. The magistrate is bound to the obligation to observe toleration by the same chains as the individual, the minister of religion, or the Church. At the same time he cannot bring an accusation of negligence in regard to religion, but just as, although he may have at heart the health and economic well-being of the citizens, he is not authorised to compel them to take this or that medicine, or to take up this or that industry, but must, on the contrary, leave them to dissipate their health or squander their substance, so he cannot constrain them, so far as their souls are concerned, to take the remedies prescribed either in the Vatican or

¹ These theories of Locke's present such a remarkable resemblance to those of Marsilius of Padua, already mentioned, that they may almost be regarded as an ulterior development of them.

in Geneva, because the magistrate is not an infallible judge in the matter of moral any more than of physical medicine. Nor can it be said that the Church is a safe adviser in regard to the former, since it more often happens that the Church accommodates itself to the Court than the Court to the Church, as is shown by many examples, and particularly by the sudden changes of the English official clergy under Henry VIII., Edward VI., Mary, and Elizabeth.

Having thus shown the necessity of recognising liberty of conscience for everybody, Locke proceeds to demonstrate the equal justice of recognising liberty of worship.

As regards the latter, in the first place the magistrate has no right to impose any ceremony, since it would be ridiculous to grant anybody the right to believe in God as he pleases and then compel him to offend God by acts which he might possibly think to be offensive to the divine will; nor is it possible to find any excuse in saying that acts of this kind may be indifferent, because in the matter of religion no act is indifferent. In the second place, the magistrate must permit all religious ceremonies which do not violate the criminal or moral laws, and therefore also idolatry, so that not only must the Remonstrants, Counter-remonstrants, Lutherans, Anabaptists and Socinians be tolerated, but also the pagans, Mohammedans, and Jews. If it is permissible to enter into commercial relations with Mohammedans, if the Jews may dwell in our towns, why not allow the former to say certain prayers at particular hours of the day and the latter to build synagogues and frequent them?

The toleration of the magistrate, however, will

have to be subject to four limitations, that is to say, in regard, first, to subversive dogmas and those which are contrary to the preservation and the well-being of the State and of society; secondly, to those intolerant sects which maintain that it is not necessary to keep faith with heretics, or that an excommunicated sovereign must be regarded as deposed; thirdly, to those who pass under the dominion of a foreign sovereign because he is the head of their religion and who therefore fight against their own king; and fourthly, to atheists, because the promises, the contracts, the oaths, and the good faith which are the principal bonds of civil society do not bind atheists to keep their word, and because if the belief in a divinity were banished from the world, it would not be possible to prevent the introduction of general confusion. On the other hand, those who profess atheism have no right to toleration, seeing that their system demolishes all religions.

In regard to the relations between the State and the Church, Locke declares decidedly in favour of separation, but in the sense that the State shall have no power in purely spiritual matters and the Church none in temporal matters, so that whatever relates to the ownership of property shall fall exclusively under civil jurisdiction.¹ Hence it is evident that, far more than of the separatist doctrines, Locke's teaching was a divination of modern jurisdictionalism, which itself, in purely religious matters, is separatistic.

And this results from his four limitations referred to above, which themselves are an anticipation of modern times. The first, in fact, is what every one of the more liberal States has had to sanction down to the present time, and the second is imposed even

¹ Cf. p. 27 of the 1732 edition.

in our day wherever it has been necessary to adopt measures of special rigour against the subversive plots of some of the corporations of the Catholic Church, and particularly against the Jesuits and kindred orders. In regard to the third, which at the present time finds only rare and partial occasions for application, it is explained by the history of England in those days, and particularly by the case of one who was persecuted by the Papists, as was Locke. The last only will sound harsh and sophistical to an unprejudiced modern ear, but it is necessary to do justice to the times, and to consider that with many writers, even the most liberal, and especially among the Anglo-Saxon peoples, who, nevertheless, stand in the forefront of civilisation, atheism has not even yet succeeded in finding grace.

In the year of the publication of the Letter, 1689, Locke returned to England in the suite of the Prince of Orange. There his expressed opinions gained for him the fierce opposition of an Oxford theologian, Jonas Proast by name, to whom he replied in two other letters, in English, in 1690 and 1692. Death, which supervened in 1704, found him intent upon another reply, which was published among his posthumous works in 1706.¹

The consideration that his last piece of literary activity in favour of religious liberty is connected with the development of English literature, of which we shall speak later, induces us to say no more of it than that, in the opinion of the most competent judges, Locke added in it nothing essential to the extremely sound arguments of the first and more celebrated Letter.

¹ Laboulaye, *Histoire politique des États-unis*, i., Paris, 1855, pp. 396-399.

It must not be forgotten that Locke, faithful to the practice of his doctrinal principles, placed full religious liberty for all cults amongst the rights of citizens in the draft constitution which he was asked to compile for the American colony of the Carolines.¹

¹ See the four letters in *Works*, vol. vi., ed. London, 1812.

PART II.—THE DUTCH PERIOD

(CONTINUED)

CHAPTER IX

THE FRENCH REFUGEES. BAYLE

BEFORE the famous *dragonnades* and the Revocation of the Edict of Nantes (1685) had swept the Huguenots from the soil of France and driven them into the neighbouring evangelical countries, particularly Holland—that is to say, before the Huguenots had by these means been brought into direct contact with the Dutch liberal groups which throughout the seventeenth century had defended the principle of toleration—the din of the great battle which was being fought around that principle in Flanders had made itself heard in the schools of France and had not remained without an echo there. In France, therefore, the idea of religious liberty was not an indigenous product but an imported article.

In that country, indeed, not only did intolerance make the most clamorous exhibition of its prowess—since there is perhaps nothing in history to equal in this particular category of facts the massacre on St Bartholomew's night—but it gave there the extreme measure of its sinister power, seeing that not even those excesses were able to awaken the thought of toleration in the victims—so deeply was the Calvinistic, exclusivist, and implacable orthodoxy implanted in them! Now we are able to understand

that, in spite of their fundamental principles, the Protestants — whether they were Lutherans or Calvinists—should use every endeavour, wherever they might succeed in gaining the upper hand, to suppress the faintest appearance of dissent, whether in individuals or associations; but is it not truly astonishing to see that in France, where they constituted a meagre and insecure minority, they exhausted themselves, even when their utter destruction was imminent, in distressing domestic disputes over the determination of some insignificant point of dogma and inveighed against each other with the most virulent phraseology that canon law had used in relation to heresy?

It will be said that perhaps the persecuted Huguenots of that time did not know how to oppose those doctrines of Catholic intolerance in virtue of which they were tortured and exiled. Certainly they opposed them, and loudly demanded toleration. But only for themselves, for that which their Confessions and their synods declared to be the true faith, not for all religions. Thus they fell once again into the blind vicious circle from which, as we have seen, the earliest Reformers were unable to escape. Here also, accordingly, when an exiguous minority of the more enlightened and dispassionate among them began to favour the idea of universal toleration, the first and fiercest opposition they encountered was that of their co-religionists, that, namely, of the orthodox Calvinist majority.

Precisely when, by what way, and where this new spirit of liberty made its influence felt in the reformed Church of France, is told us by Jurieu, the most candid representative of the orthodox tendency: “Le malheureux esprit nous était inconnu avant l’an

1669. Mais il y a environ vingt ans qu'un pasteur demeurant à Saumur, homme d'ailleurs grave et sage, se laissa séduire par la lecture d'Episcopius, et s'oublia jusqu'à publier un livre sous le titre de la Réunion du Christianisme."¹

Thus a little more than fifteen years before the expulsion of the Huguenots the liberal doctrine of the Dutch Arminians had managed to cross the French frontier. However, it was not only the Arminian doctrine, but the older doctrine of the Socinians as well, as we shall see later.

The book to which allusion is made, and which initiated among the French Huguenots one of the most interesting movements in the whole of our subject, was issued anonymously, under the title *La Réunion du Christianisme, ou la manière de rejoindre tous les chrétiens sous une seule confession de foy*. Saumur, René Peau, 1670.

It was published at Saumur, where, since 1694, the Protestants had one of their most active institutions for ecclesiastical instruction, and it had been compiled by the pastor D'Huisseau with the assistance of some of the most distinguished men of that school. Perhaps because of this assistance D'Huisseau was always unwilling to admit the authorship, although, on the other hand, he would never consent to censure the work, for which reason he and the book were condemned together.

The school of Saumur had been predisposed to accept the new ideas owing to the favour with which the Cartesian philosophy had been received there. At any rate, the author of the book mentioned observes: "There has come into fashion recently a

¹ Jurieu, *Lettre pastorale aux fidèles de Paris, d'Orléans, et de Blois*, etc., La Haye, 1690; Puaux, p. 75.

more certain manner of philosophising, which consists in detaching oneself from every preconceived opinion." Thus the philosophic starting-point is Cartesian. But the same author asks immediately afterwards: "Why cannot we apply the same method to religion as well, and, releasing ourselves from all traditional opinions, get back solely and always to the Holy Scriptures?"¹

Now, this mode of theological inquiry is precisely that of the Socinians and Arminians. But the concordance with these two latter religions is to be found also in the contents of the work.

The author admits as a fundamental point only that which is laid down in the clearest and most certain manner in the word of God; and in regard to the doctrines which pretend to fathom the mysteries of the Trinity he says, "Qu'il ne faut pas les faire aller de pair, avec les vérités qui nous sont clairement révélées dans la parole de Dieu." If this is not absolutely the antitrinitarian principle, it is at least a considerable attenuation of the orthodox dogma, as among the liberals of Holland.

The restriction, which logically follows from it, of the articles of faith to a few principles, indisputable and essential for moral perfection—a restriction upon which, from the time of Aconcio onwards, the maxims of toleration were based, as upon the surest foundation—is ingeniously expressed in this work as follows. "I suppose," the author says,² "that a Christian who knows nothing but the first rudiments of religion, is cast by a storm upon an unknown island and begins to teach Christianity to the savages among whom he has fallen, imparting to them, together with the

¹ *Réunion du Christianisme*, p. 117.

² *Réunion*, p. 160 *et seq.*

fundamental principles of Christian theology, those more sublime principles of Christian morality ; perhaps the author will be asked : Are not those savages to be regarded as good Christians, indeed, as fortunate Christians, since they will not have to bear the extra burden of all those vain questions with which we are wont to amuse ourselves ? ”

La Bastide, also a Huguenot pastor, and one of the most orthodox, after having said that this was the passage in the book “ou il y avait le plus de venin,” was not very wide of the mark when he observed “c’est le grand chemin du Socinianisme.”¹

Others, like Richard Simon,² pointed out the agreement of the book with the innovating principles of the Arminians. But in the front rank of his adversaries stood the pastor Pierre Jurieu, who, with an anonymous book,³ began that campaign of his against any idea of universal toleration which he was afterwards obliged to prosecute with so much bitterness in exile.

Poor D’Huisseau, whom Elie Benoit, the most distinguished reformed historian of these changes, dared to call an imprudent and headstrong meddler, was deposed from the ministry, and the consistory and magistrate of Saumur decreed the suppression of his book.

But these excessive measures were not able to suffocate the new spirit. It rose again under the name of *Pajonisme*, after Claude Pajon, who also was at one time a professor at the Academy of Saumur. He attacked the Calvinist principle of predestination, endeavouring to harmonise divine prescience with

¹ *Remarques sur le livre de D’Huisseau*, s. l., 1670.

² *Lettres choisies de Monsieur Simon*, Amsterdam, 1730, 333, 19.

³ *Examen du livre “De la Réunion du Christianisme,” où l’on traite de la tolérance en matière de religion et de la nature et de l’étendue des points fondamentaux*, etc., s. l. (Orléans, Rousselet), 1671.

human liberty, and drawing from this new hypothesis various inferences in favour of toleration, against which his adversaries did not omit to bring the charge of Arminian heresy.

The accusations began to accumulate, and in the beginning of 1676 some travellers who were going by boat to Charenton, ventured publicly to characterise Pajon and his faithful disciple Lenfant as Arminians, and even as Socinians. The two accused, preoccupied by these hostile charges, which were reported to them, made appeal to the synod of Paris (1676), which, while exonerating them personally, severely condemned the doctrines, and took such measures as they believed were calculated to prevent the doctrines from spreading and being renewed.

But it was a vain illusion. The liberal tendency gained new adherents, like Le Cène and Allix, who kept the controversy alive and continued it in Holland after the revocation of the Edict of Nantes had driven them into exile.

Before this took place, however, an even-minded man who was outside these disputes, Henri Basnage de Beauval, the younger of the two brothers of the same name, published his treatise entitled *Tolérance des Religions* (Rotterdam, Henri de Graeff, 1684).

This, if it is not, as Puaux¹ believes, the first book in which the word *Toleration* appears—because we shall see that it was in use much earlier in Germany and England²—if, moreover, it does not present us with a complete, harmonious, and conclusive system of toleration, similar to those which are to be met with in books which appeared a little later, is, nevertheless, a glowing oration in favour of it, full of

¹ *Précurseurs français de la Tolérance ou XVII. siècle*, p. 50.

² See Part III., Chaps. XI., XII.

youthful freshness and not devoid of some profound ideas. Basnage starts from the insufficient evidence of the truth and deduces therefrom that error ought not to be combated and punished with such extreme ferocity. "What moderation," he exclaims, "should we not be taught, when we see that from heresy others can derive such a feeling of security that they can confront the approach of eternity without fear and without uneasiness! How can one hope to render the truth agreeable when it is accompanied by such violence; is not this violence only liable to generate hypocrisy and impiety? On the other hand, is heresy such a great evil? has it not, on the contrary, at all times helped to revive religious feeling and the study of sacred things?"

II. The French Catholic clergy, who had been the instigators and in part also the fanatical executors of the measures of coercion decreed by Louis XIV. against the Huguenots, had always replied to the recriminations against them by quoting the example and authority of Augustine. In the year of the revocation of the Edict of Nantes an anonymous book appeared which attempted to demonstrate the perfect conformity of the conduct of the Church of France towards the Huguenots with that which, in the dispute with the Donatists, had been adopted by the African Church on the initiative of Augustine, two of whose letters were reproduced in support of intolerance.¹

¹ *Conformité de la conduite de l'Église de France pour ramener les Protestants avec celle de l'Église d'Afrique pour ramener les Donatistes à l'Église catholique*, Paris, 1685. The author was the Archbishop of Paris, Monsieigneur De Harlai. The almost official character of the work appears from the long preface, in which it is said (p. vii) that the book emanated from those "qui avaient la principale part de la confiance du Roy, sur ce qui regardait les affaires de l'Église, et à la conduite du grand dessein qui s'exécutoit si heureusement."

The exiled Huguenots replied in the same tone with various works, and particularly with one which brought out the parallel between the treatment of the Protestants and the terrible persecutions inflicted on the Jews by the Emperor Antiochus.¹

All these writings, however, fell into the second rank upon the intervention in the discussion of one of the most cultured and satirical spirits of the time, the philosopher Pierre Bayle, a Huguenot, who had for some years been a refugee in Holland. He was by no means a novice in the battle against intolerance, for, in 1682, in connection with the comet which had appeared two years before, he had maintained that the absence of all faith was preferable to superstition, and that it was proper for the State to tolerate atheists.

Against the French persecutors, who had killed his brother, he wrote, in the year of the Revocation, an invective trembling with scorn, grief, and contempt, entitled "Ce que c'est que la France tout catholique, sous le regne de Louis le Grand."

But already in the first half of 1686, if we are to believe his nearest and most authoritative biographer²—that is to say, a few months before another great refugee in Holland had written his Letter on Toleration—Bayle had set himself with all the support of his vast learning and the pungent subtlety of his mind, systematically to confute the application which the French clergy, following in the footsteps of Augustine, made of the words attributed to Jesus in the Gospel of St Luke (xiv. 23), *Compelle intrare*.

¹ *Parallèle de la persécution d'Antiochus l'illustre contre les Juifs avec celle qu'on exerce à présent contre les Protestants*. Cologne, 1687.

² De Maizeaux, *Vie de Bayle*; in his edition of Bayle's *Dictionnaire*, Amsterdam, 1734, vol. i. p. xxii.

The work did not remain, like that of Locke, in a state of suspended animation, but appeared during the same year, 1686, yet with even greater precautions than Locke had adopted. It was issued, in fact, as a translation from the English, under the title, *Commentaire philosophique sur ces paroles de Jésus Christ: CONTRAINS-LES D' ENTRER; où l'on prouve par plusieurs raisons démonstratives qu'il n'y a rien de plus abominable que de faire des conversions par la contrainte, et où l'on réfute tous les sophismes des Convertisseurs à contrainte, et l'apologie que S. Augustin a faite des persécutions.* Traduit de l'Anglais du Sieur Jean Fox de Bruggs, par M. I. F.; à Cantorbery, chez Thomas Litwell, 1686 [printed at Amsterdam by Wolfgang].

The book contained a long "Discours préliminaire," and was divided into two parts. The reading of the apology for the doctrine of Augustine, written by the Archbishop of Paris, caused Bayle, in the following year, to issue a third part of his *Commentaire*; and the necessity of replying to the attacks upon the parts already published, particularly the attacks of Jurieu, as we shall see, compelled him to write in 1688 a "Supplément," or fourth part of the *Commentaire*.

All these productions, beginning with that of 1685, were subsequently collected in two volumes and, after the death of Bayle (1706), were published with his name and under the comprehensive and appropriate title of *Commentaire philosophique, etc. . . . ; ou Traité de la Tolérance universelle*; Rotterdam, 1713. Thus united, the various parts formed a most ample treatise on the subject, admirable both on account of the elevation and the profundity of its conceptions. In regard to it Vinet,¹ the same com-

¹ *De la liberté des cultes*, p. 298.

petent judge to whose opinion of Locke we have already referred, was able, merely from the summary given by De Maizeaux in the *Life* of Bayle, to affirm that the principal points of the subject were treated therein “avec une grande supériorité.” It is at least certain that in their campaign in favour of toleration the Encyclopedists borrowed largely, and derived their most decisive impulse, from this treatise. Thus Romilli the younger, the author of the great article in the *Encyclopédie* on the word *Tolérance*, refers the reader to the *Commentaire* as to a book which has exhausted the subject. Possibly one who judges it simply from the point of view of intrinsic value will discover a trace of exaggeration in the words of Puaux, who calls it “le plus beau titre de gloire du grand écrivain”¹; it seems to me, however, that there is too much severity in the opinion of Hallam,² who regards it as inferior to Bayle’s other writings, and brings against him several charges which are not altogether well founded, as that, for example, of not having sufficiently brought out the political advantages of full toleration.

On the other hand, what Hallam observes is true, namely, that on this point the treatment of the subject betrays a certain formal artificiality, whereby the strength of the arguments is at times diminished.

In fact, setting aside the two less important parts of the *Commentaire*, namely, the Preliminary Discourse and the Supplement—the former a “réquisitoire” and the latter purely polemical—and considering only the three integrating parts of the treatise, one finds that the scheme of their separation and the internal distribution of the matter of each is, that the first

¹ *Précurseurs français*, etc., p. 56.

² *Introduction to the Literature of Europe*, etc., iv. p. 117.

contains nine confutations of the literal sense which it was proposed to attribute to those famous words; the second consists of eight objections to the principal reasons which were usually adduced in favour of intolerance; and the third a series of forty replies to as many passages from St Augustine in which the principle of religious liberty is combated. Again, in the first part each chapter opens with a syllogism, of which Bayle proceeds to demonstrate the major or minor propositions, or both separately.

But for all this the contents are worthy of the greatest consideration.

Bayle's starting-point, also, is very close to that of Socinians and Arminians; namely, that natural reasoning is to be the prime and leading rule in any interpretation of the Holy Scriptures, and especially for that which relates to morality. On this principle he bases the first of his confutations, since it is contrary to reason to believe that external coercion should have any real effect upon religious sentiment, which is absolutely an internal matter.

To combat error, says Bayle, in his usual imaginative language,¹ one should not send soldiers, ushers, hangmen, but theologians, ministers, and professors. "Combattre des erreurs à coups de bâton n'est-ce pas la même absurdité que de se battre contre des bastions avec des harangues et des syllogismes?"

The second confutation consists in showing that violent coercion is contrary to the mildness of the doctrine of Christ and His example; and the third in demonstrating that coercion breaks down the divisions between justice and injustice, and confuses vice with virtue, thus leading society to moral ruin.

If the Christian Church were to admit the principle

¹ Part ii., chap. v., ed. 1713, vol. i. p. 342.

of compulsion, that very fact would close the way to propaganda among the heathen, to whom it would furnish a plausible pretext for driving every Christian out of their territory, for, with very good reason, Bayle supposes in his imaginary and satirical dialogue, the Emperor of China would reply to the Christian missionaries who had demonstrated their intention of converting recalcitrants by force: "Get out of my States, you who would not hesitate to cause my subjects to rebel and to wage war against me if I should not be persuaded by your reasons and should desire to persevere in my ancient faith."

Against the literal sense of the words attributed to Christ, it is objected in the fifth place that coercion cannot be exercised—and was not, in fact, exercised against the Huguenots—unless there is the accompaniment of other crimes much more serious than heresy, such as violence, robbery, mutiny on the part of the soldiery, etc.; nor is it a good excuse to say that the end cancels whatever evil there may be in the means.

Moreover, the Christians would no longer have any right to object that the Mohammedans had not been able to impose their religion upon many districts which were formerly devoted to Christianity except by using the cruellest forms of violence.

Coercion is contrary to the teaching of the earliest Fathers of the Church, and would render the complaints of the early Christians against their persecutors absolutely ridiculous, for the latter (here Bayle is ironically supposing a debate between the Christians and one of the Emperor's ministers) would have had every reason to reply: "Why do you complain of a treatment which you would have inflicted on us if you had been the stronger?"

The idea underlying the last confutation is that

the propriety of coercion having been proclaimed, the various Christian religions would be in a state of continual warfare in order to oppress each other in turn, and there would be no more peace in the world.

In justification of intolerance it is customary to say that compulsion is not used in order to oppress the conscience, but only for constraining those who are in error to give good consideration to the truth. To this Bayle objects that the state of compulsion excludes the possibility of a calm examination, and that constancy of opinion and firmness of conviction would too often be mistaken for pure obstinacy.

It is said also that the ways of God are different from those of men, who cannot, therefore, judge of them. Bayle's reply is that Jesus could never have selected means contrary to the Christian sentiments inspired by himself; that if God can make use, in order to effect the conversion of a stubborn man, of a wound which will disfigure him, or of a robbery which will make him poor, or of a calumny which will destroy his reputation and compel him to withdraw into seclusion, there to meditate upon heavenly things, this does not alter the fact that the man who wounded, robbed, or calumniated committed a criminal action; finally, that Jesus would not have chosen for His purpose an expedient so ambiguous and uncertain as coercion, which Henry VIII. had used for making England entirely Protestant, Bloody Mary for restoring the country to Catholicism, and Elizabeth for detaching it therefrom a second time and definitely.

It is said to be a malicious exaggeration to understand the command to use compulsion in the sense that it gives authority to burn, decapitate, or hang, and not simply to constrain by fine, imprisonment,

and other minor vexations. Bayle demonstrates, on the contrary, that, granted the principle, logic demands that it should be carried to its extreme consequences; for there still remains the dilemma which Tertullian put to Pliny the younger: either there is a crime, and then the greatest rigour is just: or there is not a crime, and then even mild punishment is most unjust. Not to kill heretics outright, but to persuade them by slow subterfuges and seductions, is worse than the killing itself, just as a man who violates a woman “lui fait moins de tort que s’il la tentoit, et la faisoit succomber, par ses flateries; car, par là, il la rendoit criminelle; et en usant violence sur sa corps, il lui laisse devant Dieu toute la pureté et l’innocence de son âme.”

But in condemning coercion, one must also condemn all the teaching of the Old Testament, which approves the violence of Moses against the idolaters, and that of Elijah against the priests of Baal. Bayle maintains, on the contrary, that in view of the special political constitution of the kingdom of Israel, idolatry was punished by Moses in its quality as a felony and sedition against the Government, not as a mere sin against the moral and metaphysical obligation belonging to all men to serve the true God. Motives of the same nature explain the action of Elijah.

Again, in condemning coercion, one must also condemn the wisest of the ancient emperors, who employed it, and the Fathers of the Church, who commended them for doing so; indeed, the Protestants must condemn themselves, since they do not tolerate other religions and have condemned heretics to death, *e.g.* Servetus. Bayle does not hesitate to blame the emperors for weakness, and the Fathers

for wrongful interference in public affairs. He quotes as an illustration the example of Theodosius the Great, who allowed himself to be persuaded by Ambrose not to grant the Jews of Callinicum the just reparation due to them, and already promised, for the destruction of their synagogue by the fanatical Christians under the leadership of the local bishop. As for the martyrdom of Servetus, he agrees that it "*est regardé à présent comme une tache hidieuse des premiers temps de notre Réformation, facheux et déplorables restes du Papisme.*" In regard to intolerance considered as a principle, he lays down clearly, as Locke had already done, that what has remained down to the present day a fundamental law of all civilised peoples can be excused only in so far as it constitutes an act of political necessity and social defence against those doctrines which incite to or imply sedition, robbery, murder, and perjury. But from the application of this principle he does not exclude, as we have seen that Locke did, the atheists, in regard to whom, as has already been said, he had not concealed in an earlier work a certain sense of forbearance.¹

¹ In one place, however (part ii., cap. ix. p. 429), in refuting the last objections of his adversaries, Bayle, while generally maintaining that the erring conscience has the same rights as that which is in possession of the truth, admits that such a principle cannot be invoked by an atheist for the propagation of his convictions, and this for the reason—somewhat specious, it must be confessed—that he could not say in his defence that his action had been imposed upon him by the order of a divine superior, as could be said by anybody who possessed a positive faith. Bayle also admits that such a propaganda could be suppressed by the magistrate, like any other that was contrary to the fundamental principles of the State, "*au nombre desquels on a coutume de mettre tous ceux qui ôtent la Providence, et toute la crainte de la justice de Dieu.*" The dubious tone of his appreciation of atheism is noteworthy, also the fact that it is only the propagation of it, and not the thing itself, which ought in his opinion to be repressed.

On the other hand, he, too, extends the principle of exclusion to the Papists, and this for reasons which entirely agree with those adopted by Locke. Protestant princes, he holds, do well in not tolerating a sect which subordinates the authority and the observance of the laws of the head of the State to the authority and the laws of a foreign power, and which preaches the principles of non-toleration and therefore, if it were the master in public affairs, would not hesitate to persecute all the others, including the sovereign, towards whom it would regard itself as absolved from every oath of fidelity.¹ But in any case, what a difference between the intolerance of the Protestants towards the Catholics, and that of the latter towards the Protestants! No compulsory conversions and massacres, but only a few restraints and exclusions from public affairs which are inspired by the necessity of defence; hence they are granted power to quit the State with all their property, or to remain and exercise, if not public at least domestic worship, which alone, according to Bayle, is essential to liberty of conscience.

We should not omit to observe here that the explanation of this derogation from a principle which is otherwise so strongly maintained by our author is to be found in the amount of suffering which the Papists had inflicted upon him and in what they had done in the Low Countries, while, on the other hand, the line of conduct which he attributes to the Protestant States was still in his time rather a desideratum than the rule which they actually followed.

Toleration, said his adversaries, with the consequent

¹ Cf. also Pars IV., *Supplément*, cap. xxxi., *ed. cit.*, vol. ii. p. 452 *et seq.*

multiplication of sects, must necessarily bring about the ruin of Christianity and tremendous confusion in the State. Bayle replies, reviving the syncretistic thought of the last of the pagans: the multiplicity of sects would produce, on the contrary, a noble emulation in goodness, and “la Tolérance est la chose du monde la plus propre à ramener le siècle d’or, et à faire un concert et une harmonie de plusieurs voix et instruments de différens tons et notes, aussi agréables pour le moins que l’uniformité d’une seule voix.”¹ And again: “Toutes les religions du monde, bizarres et diversifiées comme elles sont, ne conviennent pas mal à la grandeur infinie de l’Être souverainement parfait, qui a voulu qu’en matière de diversité toute la nature prêchât par le caractère de l’infini.”² If multiplicity be a disadvantage, that is due entirely to intolerance; the latter, in any case, is a much lesser evil than the massacre of heretics; and, after all, in the Roman Church itself is there not an infinite *bigarrure* of opinions, tendencies, usages, and customs? Princes ought indeed to be the protectors of the Church, but not in the sense of lending their arms for the defence of the Church’s intolerance or making themselves the avengers of offences which are supposed to have been committed against God; let them, however, take care that the Church has honest and well-instructed pastors, correct the evil customs of the latter, punish those who attack the liberty of the Church, and repress the sects which either revile the ministers of the dominant Church or endeavour to use violence against those who persevere in their ancient faith.

Once toleration is admitted, his adversaries insist, it will necessarily become universal. Precisely what

¹ Pars II., cap. vi., vol. ii. p. 358.

² *Ib.*, p. 371.

it ought to be, is Bayle's reply. Why should we not tolerate the Jews if they are admitted "même dans les païs d'Inquisition, comme en Italie"? Why not the Mohammedans, who regard Jesus as a great prophet? Why not the pagans and, *a fortiori*, the Socinians? And he proceeds to combat those whom he calls *demi-tolérans* who would like to restrict toleration to those sects which do not impugn the foundations of Christianity.

Finally, the advocates of the repression of error object, it cannot be maintained that such repression justifies the violences which are done to the truth. To this Bayle responds by developing very fully in four chapters (viii., ix., x., xi.) one of the basic ideas of the whole Cartesian philosophy, namely, that the erring conscience has precisely the same rights as that which is in possession of the truth. Only that which is in conformity with the dictates of conscience is truly good and virtuous, and to act against the conscience is always an evil, because the merit or demerit of every action originates solely from the feeling that one is conforming to an imperative situation on the superior order of the conscience.¹ Therefore, he who errs in good faith, and, obeying the orders of his conscience, persecutes one who holds the truth, is equally as justifiable and laudable as he who persecutes error. It is, therefore, necessary to withdraw all this from a subjective appraisal and lay down as a universal principle (of objective right, as a modern jurist would say)

¹ Cap. x. p. 466: "Dans la condition où se trouve l'homme, Dieu se contente d'exiger de lui qu'il cherche la vérité, le plus soigneusement qu'il pourra; et que, croyant l'avoir trouvée, il l'aime et y conforme sa vie. Ce qui, comme chacun voit, est une preuve que nous sommes obligés d'avoir les mêmes égards pour la vérité putative, que pour la vérité réelle."

applying both to the orthodox and to the heterodox, that it is not lawful to persecute anybody for religious motives.

In the two last parts of the *Commentaire* nothing substantially noteworthy is added to Bayle's extremely vigorous argumentation.

III. In the following year the leader of Calvinistic orthodoxy, Pastor Pierre Jurieu, at one time a great friend of Bayle, wrote against the *Commentaire*. Jurieu repeated the attempt—in which he had previously failed, despite his great learning and uncommon vigour as a controversialist—to reconcile these two propositions: that the Catholics of France, and in general the Papists of all countries, had no right to persecute the Protestants, and that the latter had the right to constrain heretics and dissidents and to punish them, availing themselves of the support of the secular arm. For them, accordingly, nothing could be more erroneous or more disastrous than the principle of universal toleration.

It was only too natural that the Catholics should turn this somewhat to their own advantage, observing that, after all, he merely took the sword from the ruler with one hand in order to give it back to him immediately with the other, and that they should gleefully quote from his own works an abundance of arguments in favour of the most absolute intransigence.

And it was also natural that the liberal section of the exiled Huguenots should aim at him in all the writings which were afterwards published in support of toleration.

Among the first to attack him with a violence which certainly could not be expected from the title was the author of the book *Le Protestant pacifique*,

ou Traité de la Paix de l'Église, etc. Contre M. Jurieu, par Léon de la Guittonnière. Amsterdam, 1684.

Aubert de Versé, who hid his identity under this pseudonym, was a former pastor of Burgundy, who migrated to Holland, where he was dismissed as a Socinian. His object in this work was to prove that if the members of the Reformed Church wished to remain faithful to their principles they ought to tolerate in their communion "all the Christians in the world, not excluding the Socinians and the Quakers." Moreover, in many discourses, he did not hesitate to demonstrate the necessity of ecclesiastical as well as civil toleration, this necessity appearing to him to be perfectly clear both in the light of reason and of faith.

He has also left a *Traité de la liberté de conscience, ou de l'autorité des souverains sur la religion des peuples*, par S. D. L. G. Cologne, 1687.

By the same sentiments and the same aversion from Jurieu is inspired a work due to Le Cène, who afterwards abandoned the Reformed communion, and Le Clerc, the Arminian: *Conversations sur diverses matières de religion*, à Philadelphie chez Thimothée de S. Amour, 1687.

Two of these conversations discuss the toleration which the Protestants ought to observe for each other and that which the magistrates ought to observe towards heretics, and the book concludes with a *Traité de la liberté de conscience, dédié au Roi de France et à son Conseil*.

Vinet praises it very highly, without, however, knowing the real authors

Against these writings, and against others by Allix and Papin, which were aimed directly at him,

Jurieu did not cease to declaim furiously ; and understanding thoroughly well that Socinianism was the source whence all this movement flowed, he raised his voice against it in his *Tableau du Socinianisme*, in which he attempts to make a breach in its defences. But he also is compelled to admit on the one hand that a large number of pious and well-intentioned persons had allowed themselves to be convinced by the ideas of toleration preached by the Socinians, and, on the other hand, that “tout aussitôt que le monde croira que le Socinianisme est une religion fort tolérable, il est constant que dans peu de temps l'Église sera socinienne.” And then Jurieu, seeing the insufficiency of literary attacks to stem the progress of toleration, was not ashamed to provoke the condemnation of the Synods.

Thus the discussion entered upon an acuter phase.

In August 1690 the Synod of Amsterdam, on the instigation of Jurieu, condemned erroneous propositions which, as the decrees say, were all the more dangerous because “sous les noms affectés de la charité et de la tolérance, elles tendent à faire glisser dans l'âme des simples le poison du Socinianisme et l'indifférence des Religions.” These errors are noted in nine distinct paragraphs all of which refer, more or less, to the idea of toleration, especially No. 6, which is thus formulated : “Que la piété et la raison obligent à la Tolérance, tant civile qu'ecclesiastique, de toutes les hérésies.”

In conformity with these decisions, the Synod of Leyden, in the following year, condemned the work of the pastor Gédéon Huet, *Apologie pour les vrais tolérans*, etc. ; Dordrecht, 1690, because it confirmed the most liberal opinions, and reached the conclusion that “Il n'y a point de véritable christianisme

dans les États chrétiens qu'autant qu'il y a de tolérance."

The strife thus begun, and continued by means of anonymous pamphlets, bitter recriminations, and excessive condemnations, did not cease until the withdrawal or death of some of the fiercest disputants, among whom was Jurieu. And then it became possible for progress to be made by a spirit of conciliation which, starting from a far-reaching series of concessions to orthodoxy, ended gradually by advocating the fullest toleration.

Les justes bornes de la Tolérance avec la défense des mystères du Christianisme, 1691. Such was the title of a book in which Philipot, a former pastor of Clairac, drew a distinction between three things in religion, which he said are like the soul, the body, and the clothing. The soul is internal faith, the body is the oral profession of faith, the clothing is the public exercise of the faith itself. The first two, according to him, escape from the action of the magistrate, who can only regulate the third by refusing to allow dissidents to have temples, schools, and the right of assembly. Philipot concludes, however, that "toutes les sectes du monde, quelles qu'elles soient, pourvu que leur créance n'aille pas à la ruine de la société civile doivent être laissés en repos."

But amongst the various works published with the same intention the greatest esteem was gained by that of Elia Saurin, pastor of the Church of Utrecht: *Réflexions sur les droits de la conscience, où l'on fait voir la différence entre les droits de la conscience éclairée et ceux de la conscience errante, on réfute le Commentaire Philosophique, et le livre intitulé Droit des deux Souverains, et on marque les justes bornes*

de la Tolérance civile en matière de religion. Utrecht, 1697.

Here an attempt is made, as the title clearly shows, to find as between Bayle and Jurieu, that is to say, between two extreme and contrary solutions, a middle way which might express the sentiments of the so-called "mitigated tolerationists." This *via media* is to be provided by a system which on the one hand gives the sovereign the right to interfere in matters of religion, to do all in his power for the extirpation of heresy and the triumph of the true faith, to protect the dominant religion, load it with favours and shield it from the attacks of heretics, and on the other hand does not admit that the sovereign may kill, punish, or persecute dissidents, suppress their assemblies or their civil rights. The conclusion to which Saurin comes is shortly stated in the following words: "Le magistrat doit faire pour l'établissement et la propagation de la vraie doctrine et pour l'extinction de l'erreur, tout ce qu'il peut faire sans violenter les consciences, et sans priver les sujets de leurs droits naturels ou de leurs droits civils."

But the second generation of French refugees in Holland were obliged very soon, at the beginning of the following century, in fact, to pass beyond such restrictive limitations. This is shown by various works, prominent among which is that of Barbeyrac, written to oppose the production in which the Benedictine Ceillier attempted another apology for the passages in the Fathers of the Church which appear to favour compulsion in religious matters.

Barbeyrac's book was entitled *Traité de la morale des Pères de l'Église*; Amsterdam, 1728. He had graduated in the school of Pufendorf and of Noodt,

whose famous work on religious liberty he translated into French and annotated, as we shall see in the following section. Having thus drunk deeply at the fountain of legal wisdom, he develops the idea of civil toleration more fully than any of the French writers who had preceded him. In regard to ecclesiastical toleration he advises, it is true, the greatest prudence and moderation, but as he fully understands its quite particular bearing, so he knows that it cannot be imposed. However, he deprives religious intolerance of any real efficacy by denying that the secular authority has any power to place its means of coercion at the service thereof. Masterly is his demonstration of the necessity of civil toleration, which he advocates without, however, excluding the existence of a dominant religion. The formation of human society, he says, does not require the individual to be deprived of his liberty of conscience, since religion depends upon God alone, and to admit that the sovereign has any coercive power in this matter is, in his opinion, equivalent to making religion "le jouet de l'ignorance ou du caprice des souverains." It is not true that compulsory unity of faith adds to the strength and prosperity of States. The decadence of those States where such compulsory unity is attempted—Spain, for example—and the marvellous flourishing of those which have accepted the principle of liberty, demonstrates, better than any reasoning, the absurdity of such a thesis. Therefore if it is lawful for the prince to favour the religion of the State, he must not, on the other hand, cause the least harm to the persons or the property of dissidents, whom it is his duty to protect with impartial benevolence, because, acting as they are according to the dictates of conscience, they are

doing something which is not only not censurable, but even praiseworthy.

Thus the French Huguenot literature, spreading from its place of refuge to its fatherland, becomes united to that of the Encyclopedists which immediately followed it, and for which it prepared the way and facilitated the triumph.

PART II.—THE DUTCH PERIOD

(CONTINUED)

CHAPTER X

THE STRUGGLE FOR TOLERATION IN HOLLAND DURING THE EIGHTEENTH CENTURY

I. ALTHOUGH one may not agree with Macaulay in placing the culminating point of Dutch power in Europe precisely in the year 1688, it is at any rate certain that in the succeeding century the rapid decadence of its miraculous supremacy suddenly began—a supremacy of which England as regards the dominion of the seas, and Prussia as regards the continent, became the inheritors of the greatest and best part. But it was at the same time a supremacy in artistic, philosophical, and juridical culture which was thus being broken up, to the advantage of other countries; it was more particularly a supremacy of religious influence in regard to which not Holland, but Prussia, was henceforth the most important evangelical State of the Continent. And, carrying still further the specialisation in this subject of religion, the cause itself of toleration ceases to be an eminently Dutch question. The great controversy is transported to other arenas—to Germany, France, and England. Holland, at one time the chief centre for the diffusion of ideas and generous initiatives, must not only receive light from the literature and institutions of foreign countries, but is even unable to exploit to her own advantage that patrimony of liberal principles

which the previous generation of her sons and her foreign guests had laboriously built up.

Therefore the Latin oration which was delivered in February 1706 by the famous juriconsult Gerard Noodt when he laid down the office of rector of the University of Leyden—an oration which was very celebrated at the time and afterwards, both in Holland and abroad—must be regarded as the last gleam of the expiring heroic age. The discourse, which was published the same year, bears the title, *De religione ab imperio iure gentium libera*; Lugd. Batavorum, 1706.

In the following year it was translated into French by Barbeyrac, and later into English and German, and many subsequent writers praised and made use of it.

The oration has something remarkable in the method on which the reasoning proceeds. Perhaps for the first time in Holland a jurist undertakes to discuss a subject which had hitherto been practically a monopoly of the philosophers and theologians in that country. But already in this carrying of the controversy into the juridical field the Germanic influence appears, and in particular that of Pufendorf and Thomasius. This is shown more clearly in the fact that Noodt's demonstration is based entirely upon that idea of natural law which was given its most explicit formulation a few years previously in the works of the two great German jurists.

The tone of the discourse, as was demanded by the gravity of the theme, of the occasion, and of the person, is very elevated.

Noodt begins by reminding his hearers of their illustrious ancestors, who compelled the admiration of the world by their action in shaking off the

tyranny of religious intolerance which spared no country and no man, however great and virtuous he might be. From the patriotic idea he rises immediately to this lofty humanitarian invocation: *Date igitur felicitati temporis; ut fas sit Jureconsulto, in atrio libertatis Batavae agere causam generis humani, et ex sanctissimo Naturae ac Gentium iure loqui pro libertate reipublicae illius maioris quae Dei et hominum societate coniungitur; nec fere monte aut flumine, aut exiguis spatiis, sed demum oceano et solis via terminatur.*

We derive all our impulses from Nature herself, Noodt proceeds; has she not implanted in every living being an unrestrainable need for each to act according to his own will in the search for happiness, furnishing man, moreover, with the power of reasoning, whereby he is able, by reflecting and comparing, to distinguish true from imaginary happiness? This is the beginning, this the fountain of all right, the prime and supreme law of every human community. Now, if such a law as this is observed in regard to the good of the body, and the consequent faculty to buy and sell and devote oneself to commerce, the arts, or agriculture, why not make it apply also to whatever concerns the good of the soul, to religion, the thing which is the farthest removed from any bond or consideration of material interests, and which depends, on the contrary, upon the movements of the soul and pure will?

The diversity of religions, at any rate, is infinite, and Noodt observes, with an expression which recalls the much admired one of the Roman Symmachus: "*Ad hoc tam horribile et grande secretum omnes gentes nationesque inde ab ortu solis ad occasum tam multis, tamque diversis decurrere itineribus, ut enumeraturo*

singula neque dies sufficiat, neque lingua ?” In such a variety of beliefs this alone is certain, that each person exalts his own and despises and condemns the rest.

But if the matter is probed more carefully it is easy to see that not only can no man pretend to empire over the minds of others, but that he cannot pretend to empire over his own, since the arbiter and ruler of all minds is God alone. Then is it not rebellion against Him and His authority to desire to coerce another's sentiments? What prevented the omnipotent God from including the whole of the human race in an identical religious formula, inspiring all with an exactly equal idea of religion, just as the idea of arithmetic and numeration is one and the same among all peoples, so that Belgians, Britons, Germans, Italians, Spaniards, French, Africans, Indians, Scythians, Americans, counting on their fingers, will all say that two and three make five, and neither more nor less?

Therefore let us respect that which God and Nature have placed in us all, namely, our free reasoning power, and not arrogate to ourselves a judicial faculty which has not been granted us. Let everyone be free to follow the religion which best pleases him; free also to withdraw from that which he has embraced at one time and adopt another; but in order to gain adherents to a faith or to maintain them therein, let him not make use of other means than persuasion and gentleness.

And if in the state of Nature it is given to no mortal to judge of God and His worship, by what right is that faculty assigned to the sovereign after the institution of social communities? The latter were formed, not for any religious needs, but in order to procure by united effort a better protection against

material dangers, and for that the sovereign provides, but not for that which concerns the culture, virtue, and faith of souls. Let religion, therefore, be withdrawn from the authority of princes, who in this matter have no greater powers than private persons.

It is objected that there is only one road to eternal happiness ; what, therefore, could be more proper than that the prince should urge recalcitrants to take it by the exercise of his authority ? But the reply is : In the dispute as to the knowledge of the right road, why must the prince be believed rather than others ? Religion is due to God, in whose eyes the prince is no higher than any other mortal. Nor is the position altered when he is assisted by a college of persons learned in religious matters.

It is objected : Not to know the true faith is an offence against God. But to whom rather than to God, does it belong to punish this offence ? And is it really a crime not to know that of which God has not given us knowledge, not to know, therefore, because of our infirmity, and not because of vice ? Nor can the violence which is exercised upon us for this reason be compared with that which is used to prevent an insane person from hurling himself to destruction, for spontaneous repentance alone can avail, and cruelty will always remain blameworthy when it presumes to take the place of good reasons, by which error is not shaken.

It is objected again : It is of much importance for the Republic to look after religion. That is quite true. But only in order to prevent the formation for religious motives of associations hostile to the State and contrary to public order and good conduct. No harm can come to the Republic from a new sect which respects these. For if the ruler were granted

the power to prohibit superstition and idolatry, we might have a repetition of the case of Nero, who condemned the pure Christian faith as *exitialis superstitio*; and, moreover, not everything that is unpleasing to God—such as avarice, envy, luxury, intemperance—is punished by the laws. And if the Mosaic law punished idolatry, how many other of its condemnations are no longer necessary, like that of idolatry, in the present state of the Republic? How much rather should we not praise the Emperor Valentinian and the other rulers who practised the fullest religious toleration?

Noodt concludes with an exhortation to his hearers to continue in the way pointed out by their ancestors.

Substantially no new argument is brought forward in favour of toleration, but throughout the oration there is a warmth, a solidity of thought, and a close argumentation worthy of the great jurist, for which one would probably search in vain among all previous writers on the subject.

II. Noodt's oration makes no explicit reference to the Catholics. His eulogy of universal toleration and the praise which in this regard he bestows upon the rulers of his own country might lead anyone who argued from that document alone to suppose that for the Catholics also there had been in the course of time a removal of the ancient religious restrictions. But this is not the case. Their juridical position even at this time remains unchanged. Only the application of the former rigorous measures has become more relaxed and milder with the progress of the spirit of toleration.

But not always. There is a return from time to time of the ancient severity, like the effect of a counter-blow or reaction against the bad treatment to which the Protestants were subjected in Catholic

countries. This happened in particular when Louis XIV. abolished the Edict of Nantes, and it explains the fact, apparently very strange, that sometimes the Dutch Catholics themselves interceded with their co-religionists who were dominant in Belgium to induce them to stop the persecutions which were begun against the Protestant minority in that country.

There was an increase of rigour at the time of the schism of the Church of Utrecht, which was generated by the favour which the doctrines of Jansen found with a part of the Catholic clergy of Holland. A national Dutch Catholic Church was formed, composed of the Jansenist dissidents. Opposed to it, and fighting against it in the name of Rome, was the Roman Catholic Church, governed by the Jesuit missionaries whom the Pontiffs had sent thither.

It was only natural that the Government, which was in the hands of the Reformed religion, should endeavour to favour the national party, and that the rigorous measures which had at first been adopted in Holland against Catholics in general should now be directed essentially against the Jesuits. Hence the revival of the former severity against the Jesuits and the birth of a series of new provisions to prevent the spread of the dreaded popery.

The controversy is reflected in many polemical writings of the time. Among them is that which Antony Anthony Slicher published anonymously, and in which it was demanded whether the so-called Roman Catholics could possibly pretend to the free exercise of their religion in Holland. There were two editions of the book, the first being entitled *Beredeneerde waarschuwing over het dulden der Roomschegezinde kerkdiensten in de Vereenigde Nederlanden*. Amst., 1719.

In the second it is accompanied by various other writings against the Papists, and bears the title *Herhaalde waarschouwing over het tolcreeren der Romschgez. kerkdienst. in de V. N.* Amst., 1726.

Within the Dutch Reformed Church itself during the whole of the eighteenth century there was no slackening of the ancient controversy between the orthodox and the liberals which turned upon the question of toleration. At this period the leader of the liberal faction and representative of the new and tolerant spirit was the celebrated theologian and philologist Hermannus Venema (1697–1787); against whom, and many who thought with him, Comrie, among others, fulminated in one of his dialogues, published under a feigned name, in which, calling himself Ortodoxus, he argues in favour of orthodoxy, and to which he gave the title *Examen van het ontwerp van tolerantie*. The intolerants found a more furious leader in Hofstede, against whom Nozeman was the principal combatant in favour of toleration.

Meanwhile, however, outside these internal ecclesiastical quarrels a few writings appear in the course of the century upon the question of toleration. Among them is that of Pet. Ad. Van der Mark, entitled, *Tractatus de obligatione hominis et civis ad religionem, in quo prima de religionis fundamenta ostenduntur, libertas defenditur ac tolerantia variarum religionum in republica commendatur, simulque ius circa sacra evidenter demonstratur.* Arnhemii, 1752.

The title itself sufficiently indicates the somewhat moderate idea of liberty by which the treatise is inspired.

These national works, however, did not make so much noise or obtain so much success as the Dutch

translation of Voltaire's book on toleration which appeared at Leewarden in 1764.

The clash of religious ideas, tendencies, and interests, which was still active in the second half of the century, and was such as to paralyse all initiative and exclude the possibility of any concrete result, could not be better illustrated than by the three following works, of which the first pleads the cause of the oppressed Roman Catholics, the second traverses the plea, and the third represents an exaltation of the intolerant spirit: *De Advocaat der Roomsch-Catholyke kerk*, Leyden, 1772; *De Advocaat der Protestantsche kerk*, 1772; *De Advocaat der Vaterlandsche kerk*, 1772.

Meanwhile, however, the abolition of the Jesuit order had removed the reason for many of the restrictive dispositions against the Catholics; and the influence of the English philosophers and the French encyclopedists predisposed people towards increasing patience with dissidents in the matter of religion.

But for all this, throughout the century and until the French domination, there was no explicit abolition of the ancient restrictive measures affecting the Catholic Church. Holland, at one period the land of religious liberty and its most ardent propagator, cannot therefore boast one of those acts or laws of universal toleration or emancipation of the dissidents which glorified other countries that were in the van of the illuministic current at this period. The opposition which Belgium, alone among the many dominions of the Austrian crown, offered to the decree of toleration issued by Joseph II. (1781), shows under another aspect what a retrograde step had been taken in the eighteenth century in all these countries.

Part III.—Protestant Countries in the Seventeenth and Eighteenth Centuries

CHAPTER XI

THE ENGLISH INDEPENDENTS

I. ENGLISH ecclesiastical history, when compared with that of other countries where the greatest religious struggles of the modern era took place, presents certain special characteristics.

We do not find here a single and always the same official Church constantly predominant—as was the case with the Catholic Church in France—and constantly persecuting a minority of Evangelicals. Nor do we find two or more religious factions, practically equal in number and power—as was the case with the Catholic, Lutheran, and Reformed Churches in Germany—and sometimes in turns, or even at one and the same time, persecuting and persecuted, according to changing fortunes or the predominance acquired by one or the other in a particular district at a given moment in their age-long strife.

England, on the contrary, saw the official Church constantly persecuting, whether it was neither Catholic nor even Reformed, but simply schismatic, under Henry VIII.; whether it was frankly Protestant, under Edward VI., or had again become fanatically Catholic under “Bloody” Mary, or,

finally, had returned—and this time definitively—to Protestantism under Elizabeth.

If, therefore, the history of this country cannot in the same measure as that of France provide the cause of toleration with arguments drawn from the horrors of wholesale massacre, or, like that of Germany, with arguments drawn from the incurable evils of a Thirty years' war, it lends itself to this hardly edifying but very instructive consideration of Pierre Bayle and John Locke, namely, that princes cannot adduce the opinion of the official clergy as a certain guide to the error which is to be persecuted, since the official clergy in England passed indifferently from one of the opposed parties to the other, and favoured persecutions of the most diverse character.

Moreover, the idea of toleration found its way to England by other roads and became effective there under other forms than was the case in the countries mentioned. It burst forth in the midst of great social revolutions, as a consequence of the two famous political rebellions or revolutions of the English against the House of Stuart. In England, moreover, religion and politics were always more closely united than elsewhere, for which reason Sir Frederick Pollock has been able to sum up the multiform union during the period of English history, with which we are at present concerned, by declaring that at first Anglicanism supported the rights of the Crown, then Puritanism defended the cause of the Parliament, and finally the Papists became the most tenacious promoters of the aims of the dispossessed Pretenders.

As a precursor, very remote, however, and in fact isolated from the idea of toleration in England, some

English writers mention the name of the celebrated Chancellor Sir Thomas More (1480–1535), who placed it at the basis of the fantastic constitution described in his well-known juvenile work, *De optimo reipublicae statu, deque nova insula Utopia*, lib. ii. cap. ult., *De religionibus Utopiensium*. But the entirely fictitious character of the work, and at the same time, as Lecky observes, the contradiction between what he outlines there and what he afterwards did, deprives these ideas of his of any claim to importance.

James I. relied completely upon the Anglican or Episcopal Church as upon that which, better than any other, represented the just mean between the extreme tendencies, Catholic, Presbyterian, or Puritan, all equally dangerous to his designs of absolute domination, either because they placed the Pope above the king, or else inclined too much towards liberal and republican ideas.

Towards the Catholics, however, from the time of his first speech to the Parliament, he promised mildness, and that promise he kept in the application of the laws passed against them by his predecessors. But he did not abolish those laws; indeed, the jealous control of the Puritans compelled him to maintain the so-called laws of conformity even in regard to the Catholics. The latter, who expected something different from the son of Mary Stuart, turned against him, and some of the more fanatical of them entered into the conspiracy known as the Gunpowder Plot, the purpose of which was to blow up king and Parliament (1605). For this incredible outrage the whole body of Catholics had to suffer. The laws against them were sharpened, and they had all to take the oath of allegiance. They had

to swear to recognise James as their legitimate sovereign, to acknowledge that the Pope had no power to depose the king or to absolve his subjects from their oath of fealty, and to repudiate the Jesuitical doctrine—then in full flower—which justified regicide. The Popes—Paul V. (1606), Urban VIII. (1626), and Innocent X. (1648; whose decree, however, was not published)—prohibited the taking of this oath under pain of excommunication, but the majority of English Catholics had to obey. Thereby they secured for themselves a certain amount of toleration which, under Charles I., principally owing to the queen, who was French and a Catholic, increased to such an extent as to become not the least of the charges which the Protestant dissenters brought against the Crown.

In 1647, Charles I., not being averse from a reconciliation with the Catholics, sought to induce them to admit, in addition to the points mentioned above, also the following: 1, That an oath given to a heretic was binding; 2, that it is not lawful to kill heretics and excommunicated persons. A section of the English Catholic clergy were favourable to these ideas, but they were disavowed and condemned by the Roman curia.

But the Episcopal Church, tending towards Catholicism in its dogmas, rites, and constitution, was far less oppressive to the Catholics than to the evangelical dissenters of various denominations in its attempt to reduce them to that uniformity of faith which the profoundest thinker of the time, Bacon of Verulam, extolled in one of his famous essays, maintaining that the toleration of the sectaries was contrary to the public welfare. He, however, was opposed to excesses of violence, and advised

against the use of arms *ut religionem bello propagamus aut cruentis persecutionibus vim conscientiis inferamus* except in cases of scandal, blasphemy, machinations against the State, etc.

When the official, or, to use the English phrase, the Established Church, protected by the king and dominated by Laud, Archbishop of Canterbury, tried to impose a new liturgy upon the Scottish Presbyterians, there broke out that struggle between Crown and Parliament which degenerated into civil war and ended with the execution of the king and the proclamation of the Commonwealth.

Already during the war the Parliament abrogated the episcopal constitution and, in 1643, delegated to a religious assembly which met at Westminster the task of giving a new form to English ecclesiastical affairs.

The question of toleration aroused for the first time a lively controversy in this Westminster Assembly (1643-1648), and it was subsequently fruitful in the most serious consequences. To it, indeed, is due the fact that the position of the contending parties and the field of controversy were inverted and radically changed from what they were at the beginning of the great Rebellion. Then the sole object of the vast disagreement was the episcopal constitution, which the king and the higher clergy, and all the supporters of politico-ecclesiastical absolutism—the so-called Episcopalians—wished to preserve and impose upon the Dissenters; whereas the latter desired to abolish it. United with that object in view into a formidable opposition were all the persecuted Puritans, Scottish or English, the former being advocates of the so-called Presbyterian constitution and the latter members of the numerous

sects which sprang from Calvinism. It is, therefore, well said by Douglas-Campbell that from the beginning the great civil war in England was a struggle between two parties, one the persecutor and the other the persecuted, but both equally intolerant; one the supporter of the High Church with its idea of a *divine episcopate*, and the other Presbyterian, with its idea of a *divine Church*.

But, after the Westminster Assembly, the dispute was gradually shifted from its former ground, which was that of a simple reorganisation of the English ecclesiastical constitution, and passed over to that in which it definitively remained, namely, the much vaster and more rugged terrain of religious toleration. And on this new field of battle even the Puritans at last found themselves opposed to each other, some of them becoming allied with their ancient adversaries. For the Scottish Presbyterians, and those in England who aimed at substituting for the ancient episcopal constitution a new organisation of the Church after the type of the Scottish Presbyterians, took up a position on the flank of the episcopalian majority against a group of English Puritans, at first very varied and hybrid, who at this precise period named themselves *Independents* and who, in this particular controversy over toleration, received in their turn the support of a minority among the Episcopalians, that is to say, of the so-called Latitudinarians.

Thus we find Puritans against Puritans, and Episcopalians against Episcopalians.

The causes of this disagreement were as follows. So resolutely and blindly did the Presbyterians profess the principles of the most rigid Calvinism, that they became absolutely irreconcilable with any

other religious denomination and as belligerent as the most implacable Catholic. Their supreme ideal was the realisation of the kingdom of Christ on earth. Consequently the system of relations between the civil and ecclesiastical power at which they aimed was naturally a great deal more exclusive even than the episcopalian system, since it was a pure theocracy. They had, therefore, taken up arms against the episcopal constitution, which they accused of having fallen headlong into popery, solely in order that their form of constitution might be imposed upon the country—a constitution which, according to them, was more in conformity with the pure principles of Protestantism. But nothing was more foreign to their ideas, nothing more remote from their intentions, than the principle of toleration and the proposal to substitute it for the old régime of episcopal coercion. For they would have greatly preferred the latter to the former, if nothing else was to be had. Indeed, one of them said, “If the devil were given the choice of re-establishing in this kingdom the episcopal or granting toleration, he would certainly declare in favour of the latter.” And another added, “I would rather find myself buried in the grave than live to see this intolerable toleration.”

Always bitterly opposed to it were the Scots, whose Parliament in 1645 approached that of England with an address inviting it not to give any quarter to the sectaries and schismatics, and at the same time published a solemn *Declaration against the toleration of the sects and against the liberty of conscience*.

No wonder, therefore, that in 1648 the Presbyterians were able to induce the English Parliament to approve a law by which anyone who persisted in

preaching against the dogmas of the Trinity and the Incarnation (*i.e.* the Socinians and Unitarians) should be condemned to death, and all those who taught Papistical, Arminian, Baptist, or Quaker doctrines should be imprisoned for life.¹ Nothing less!

Thus once more, within the very bosom of Protestantism, it was clearly shown that persecutions endured are not in themselves sufficient to inspire the mind with toleration for the beliefs of others.

Independency, on the contrary, as Stern declares, embraced all those in general who had not removed from their necks the yoke of the Episcopal and assumed that of the Presbyterian Church; the members of the various separatist bodies who had remained in the country and whose conventicles had not been completely destroyed even by Laud; and the new arrivals from abroad who, at the beginning of the revolution, deemed themselves sufficiently safe to return to their country. They returned either from Holland or New England, crossing the Channel or the ocean, and were laymen or clergy, differing among themselves in opinion, but all agreed in the idea of tolerating no longer the iron tyranny of a single Church and in wishing, on the contrary, that to every single community should be assured the right to carry on its own religious mission in complete independence.

II. For some years past, by various ways and

¹ Lecky, ii. 59, n. 1. Cf. Bonet-Maury, *Des Origines du Christianisme unitaire chez les Anglais*, Paris, 1881, translated into English, *Early Sources of Eng. Unit. Christ.*, London 1884, cap. ix.; Allen, *An Historical Sketch of the Unitarian Movement since the Reformation*, New York, 1894, p. 128 *et seq.* The draconian threat was provoked by an English translation of Aconcio's famous book.

diverse methods, the idea of religious liberty had penetrated this vast company of opponents.

Masson, in his learned work,¹ supposes that this had happened because religious persecutions have the effect of gradually rendering those who have to suffer them more tolerant than their persecutors, so that by a species of cumulative process the most persecuted of all end by reaching the conception of the supreme principle of toleration. But apart from the fact that too many examples show that persecutions do not tend to make the persecuted tolerant, apart from the dubiousness of the progress outlined by him (according to which, as the followers of the Episcopal Church in England were less intolerant than the followers of the Catholic Church, so the members of the Presbyterian Church were in their turn more tolerant than the Episcopalians), it will suffice to observe as against this hypothesis—beautiful conceptually, but historically unsustainable—that the Independents themselves at first admitted coercion in the matter of religion, as Masson points out (*op. cit.*, ii. 569 *seq.*) and exercised it in America when the power was in their hands.

It is necessary, therefore, to give, on the other hand, the greatest importance to a fact, which Masson himself mentions (*op. cit.*, iii. p. 101), but which others have better accentuated, and which I have already had occasion to record. I refer to the fact that in the case of the English supporters of the doctrine of the separation of the Church from the State, whether they were Anabaptists or simply Brownists and Congregationalists, in the case, that is to say, of those who were afterwards grouped under the name of Independents, the idea of tolera-

¹ Masson, *Life of John Milton*, 2nd ed., London, 1894, iii. p. 98 *et seq.*

tion, foreign at first, only penetrated gradually and painfully, and solely by means of the teaching of the Socinians and Arminians, with whom they had come in contact during their exile in Holland.

It was, in fact, as has already been seen, and as it is useful to repeat, the Anglo-Batavian Anabaptists, or, otherwise, the so-named Arminian Baptists, who were the first, in their Confession of Faith published in Holland in 1611, to lay down beside the principle of the separation of the two powers, also that of religious liberty. Thus they were the first *Separatists* to proclaim this great idea, but not the first *Christians*.

For when Masson declares that to have been the first time that the principle of liberty of conscience appeared in the world, no longer as the simple expression of an isolated individual thought, but as an article of faith among a body of Christians, he betrays his ignorance of the fact that the famous Socinian Catechism of Rakau, published in 1605, in which the same doctrine shines more clearly and embraces both religious and civil toleration, is a few years older than the Baptists' Confession of Faith.

At any rate, the modest and obscure community of the Arminian Baptists, under the guidance of Pastor Helwisse, was transplanted from Holland to England shortly after 1611, and from its midst issued the first book which, in England and in the English language, defended the idea of the liberty of conscience. It was entitled *Religious Peace; or a Plea for Liberty of Conscience*. London, 1614.

The author was Leonard Busher, "Citizen of London," as he styles himself. Masson, however, conjectures that he was one of the immigrants who came over with Helwisse, and a member of the community directed by him. Orme states that the

work contains "the most luminous and the most biblical views on religious liberty,"¹ and Masson affirms that he cannot read it without feeling his heart throb.²

Addressing himself to the king and the Parliament, the author prays them to consider that the imposition of a belief by fire and sword is quite contrary to the merciful law of Christ. Persecution may please false prophets and bishops, but not Christ, who wishes not to destroy but to save the lives of humanity. And if there be men and women who do not believe at the first hour they may do so at the eleventh, provided they are not persecuted to death before then. Neither king nor bishop can compel belief; that is reserved for God, who disposes at His pleasure of our wills and our deeds; and nobody can imprison or burn one of God's creatures to whom it has not yet been given to understand and believe. As king and bishop cannot command the wind, so they cannot command faith; and as the wind bloweth where it listeth, so works the Spirit with the souls of men. Therefore you may force anyone materially to belong to a Church, but not to acquiesce in its teaching with his conscience. King and magistrate must govern temporal affairs with the sword of their temporal kingdom; bishops and ministers must govern spiritual affairs with the word and the spirit of God, which are the sword of the temporal kingdom of Christ; but the two authorities and their offices must not be confused with each other. "I read," the author adds in conclusion, "that Jews, Christians, and Turks are tolerated in Constantinople, and that they live together in peace, in spite of the wide

¹ Cf. Hallam, *Const. Hist.*, cap. x., note 95, vol. iii. p. 101.

² Masson, iii. p. 102.

dissensions among them. If this be the case, how much more ought not Christians to keep themselves from restraining other religions? Shall we teach the Turks the persecution of Christians? Hence there can be nothing not only more ruthless but more unnatural and abominable, nay, monstrous, than that a Christian should persecute and oppress another Christian on account of religious dissensions."

Nor was this the only book on the subject. There appeared in the following year: *Objections answered by way of dialogue, wherein is proved by the Law of God, by the Law of our Land, and by His Majesty's many testimonies, that no man ought to be persecuted for his Religion, so he testifies his allegiance by the oath appointed by Law.* London, 1615.

The author, or one of the authors, of this dialogue, which in some respects is even more explicit than Busher's pamphlet, was John Murton, the assistant of Helwisse.¹

There are two circumstances, however, which must be brought out quite clearly in connection with this primitive liberal movement in England. The first is, that the other communities of Independents which transferred themselves at that time to England agreed with the Baptists in advocating the separation of the Church from the State, although they differed from them not only on the question of the baptism of infants, which was opposed by the former and accepted by the latter, but also in their unwillingness to accept the principle of toleration. And this shows that the separatist doctrines would not in themselves

¹ Masson, iii. p. 103 *et seq.* He thinks that the profound and quite peculiar idea of toleration in the LXVI. Sonnet of Shakespeare may have been derived from these writings, and not from the philosophical movement of the time.

have been sufficient to produce the great idea of individual religious liberty except for the intervention of those Socinian and Arminian influences of which we have already spoken. It is also to be noted that after 1616 there is a long period during which the liberal movement remains absolutely stationary even among the Baptists themselves, evidently on account of the tyrannical predominance of Laud, which, precisely at that epoch, reaches its culminating point.

But far beyond any other fact of those times, this is the most remarkable for us, that precisely the predominant power of Laud opened for Arminianism, and partially also for Socinianism, another indirect road by which their doctrines of toleration could be spread in England. It happened in this manner.

The Episcopal or Anglican Church, engaged in an irreconcilable struggle against the followers of Calvinism, and principally against the Presbyterians of Scotland, who were advocates of the most rigid Calvinistic doctrine, had necessarily to look with a favourable eye upon that Arminian religion which in Holland had offered the most courageous resistance to the excesses of pure Calvinism. But in addition to this reason, which I will call fortuitous, there was another substantial reason why this should happen. Of all the evangelical denominations, Calvinism is the least favourable to the public authority, because it cannot conceive any other relations with the latter except the following: either the complete subjection of the civil authority to the precepts of the Church, and therefore a theocracy; or else the absolute incompetence of the civil authority in ecclesiastical affairs, and therefore separatism. Arminianism, on the other hand, like Socinianism before it, had professed the most solemn deference to the authority

of the State, and strenuously advocated its competence in ecclesiastical affairs. It is, therefore, easy to understand why the supporters of politico-religious absolutism in England should endeavour to exploit that side of Arminianism which exactly suited their purposes, while overlooking the other side of the same doctrine in virtue of which the intervention of the public power was sought, not to oppress, as the Anglicans desired, but to assemble all religions under the protecting shield of toleration.

Laud himself favoured the Arminian tendencies, which continued to acquire under him an ever-increasing following among the Anglican clergy; and in the conferment of ecclesiastical offices he favoured those ministers who most openly adhered to the Arminian doctrines. The result was that Arminianism, which had been synonymous in Holland with meekness, reasonableness, and toleration in the matter of religion, came to be considered by all those who were persecuted and oppressed in England as the prototype of every form of intransigence, persecution, and intolerance; indeed, it was confused with Popery—then the most obnoxious religion of all. This was a serious confusion, which, as Hallam¹ correctly observes, finds its excuse in the intimate, although accidental and temporary, alliance which existed between the partisans of those new speculative doctrines and the supporters of the arbitrary power of the monarchy.

But the other fundamental and characteristic element of the Socinian and Arminian doctrines, namely, the principle of toleration, could not for long remain disowned, repressed, and inactive. And, in fact, many distinguished representatives of the official

¹ Hallam, *Const. Hist.*, chap. vii., vol. ii. p. 152.

clergy began to form an integral and genuine conception of Arminianism which gradually led them to preach, in addition to respect for the public authority, the principle also that one should endeavour to reconcile the different beliefs and respect the faith of all.

Together with this, however, the idea of toleration was finding its way into the minds of Englishmen, although not, as had happened in the case of the Baptists, under the aspect of a principle necessarily connected with the system of the separation of the Church from the State, but as an explanation of the authority of the latter in ecclesiastical affairs, and therefore not as a product of Separatism, but as an offshoot of Jurisdictionalism.

And this happened before the persecutions against the Episcopal Church could render the Socinian tendencies of the so-called Latitudinarians suspect of opportunism. Chillingworth, the founder of Latitudinarianism, had some time previously published his *Judgement of the Religion of Protestants* (Oxford, 1637), in which he shows himself to be a warm partisan not only of the toleration of the separated Churches, but also of an organisation of divine service at which all believers in Holy Scripture could attend without scruple.

In various eloquent passages he affirms that "Protestants are inexcusable if they do violence to the consciences of others," and that it is a great sin to claim to force upon others our own interpretation of the words of God, robbing them of that breadth and generality which is appropriate to them and depriving the human intellect of the liberty which was granted to it.

This is the cause of all the schisms and internal

discords of Christianity. Remove it and there will be no more persecutions, burnings, maledictions and condemnations of men because they have not subscribed to the words of other men as if they were the words of God. In support of his argument Chillingworth quotes Aconcio's book.

It is not surprising that these ideas of Chillingworth were taxed with Socinianism¹ and that a similar accusation was brought against an even more intrepid champion of the same cause, John Hales, in whose *Tractate on Schism*, published at Oxford in 1636, and in whose theology in general, there is a Racovian flavour, as Hallam remarks, which permits no doubt as to the derivation of his ideas of toleration.²

In 1640 the summoning of the Long Parliament and the bitter controversy about the constitution which was to be given to the Church caused a sudden revival of the literature in favour of toleration. This idea began to quicken not only in the pamphlets by which Milton fought against the prelates and the episcopal hierarchy, but also in the tracts and petitions of the Independents in favour and in defence of their Church and their cause.³

Henry Burton having, in a pamphlet issued in 1641 under the title *The Protestation Protested*, supported the separatist ideas of Brown together with the principle of toleration, a minister of the official Church, Thomas Edwards, launched out against him. Edwards, however, in his turn, was assailed and confuted with much eloquence and marvellous vigour by a lady, a follower of the Independents, one Catherine

¹ The charge was brought against him in many works of the time; cf. Allen, *An Historical Sketch of the Unitarian Movement*, p. 125.

² Hallam, *Introd.*, and *Const. Hist.*, chap. viii. vol. ii.

³ Cf. Masson, *op. cit.*, ii. 591 *et seq.*; iii. 109 *et seq.*

Chidley, who published a pamphlet of eighty pages entitled *The Justification of the Independent Churches of Christ: Being an answer to Mr Edwards his Book, which he hath written against the Government of Christ's Church, and Toleration of Christ's Public Worship*, etc. London, 1641.

The authoress is much more explicit than Burton in favour of religious liberty, and shows that she conceives it in a manner more nearly akin to that of the Baptists. Whence it appears that the idea of toleration had by now won over those sections of Independency which had theretofore been refractory to it.

III. But it is only on the meeting of the famous Westminster Assembly that, as we have already indicated, the discussion of the principle of toleration occupies and conquers public opinion, and forces itself upon the political life of England, thus opening a new era in its history.

The five Independents who had been permitted to take part in the Assembly presented to the latter an *Apologetical Narration* in which they set forth the arguments of their Church and asked, in moderate and very submissive terms, as the delicate occasion required, for a certain measure of toleration for Dissenters in general. They were immediately attacked by a swarm of verbal opponents and written confutations, of which the first to issue from the press was that of Adam Steuart, and the most famous that of pastor Edwards, already mentioned, entitled *Antapologia*.¹

To the rescue of the five Independents, however, came an anonymous pamphlet which did not confine itself entirely to the aims nor to the moderation of

¹ Masson, iii. 23, 130.

their Apology. The first edition bore the simple and mysterious title *M. S. to A. S.* London, 1644.

The title presents an analogy with Locke's celebrated letter, and in a second edition issued in the same year was extended thus: *Reply of Two of the Brethren to A. S., etc.; with a Plea for Liberty of Conscience for the Apologist's Churchway, against the Cavils of the said A. S.* London, 1644.

The initials A. S., remaining also in the second edition, refer to Adam Steuart. And the name of the author also became known immediately, so that Ballie, writing to a friend in Holland, was able to tell him with all certainty: "The *M. S.* who writes against *A. S.* is none other than John Goodwin, of Coleman Street. He is the bitterest enemy of Presbyterianism, and declares himself openly for full liberty of conscience in favour of all the sects, even of Turks, Jews, and Papists, and says that all ought to be still more fully tolerated than is the case with yourselves in Holland." In the second title it would seem that the author had associated somebody with himself, but all that relates to toleration is certainly his own work.¹

John Goodwin had studied at Cambridge, and had passed from the university to the Church, being appointed the vicar of St Stephen's, Coleman Street. He was held in great esteem as a man and as a preacher; but his faith very soon fell under suspicion, and in the course of 1643 he was accused of having given expression to opinions of an Arminian tendency, and, indeed, of being infected with Socinianism. That he had gradually inclined towards Independency is a pure assumption; all that can be said with

¹ Masson, iii. 120-121.

certainly is that he appears to us as a Puritan *sui generis*—a rationalist Puritan.¹

The breadth with which, exactly in the Arminian and Socinian manner, he conceived the principle of toleration is apparent from the letter quoted above; every religion, sect, or schism must be tolerated so long as there is no attempt by their authors or adherents upon the security of the State. Of Arminian and Socinian derivation also is his opinion that it is impossible to deny the civil authority the right of intervention and control in ecclesiastical affairs—a right, however, which can never be pushed so far as the suppression of religions, sects, or schisms which are held to be false, or the punishment in any way of their adherents. This distinguishes Goodwin's from the rigidly separatist doctrines of other contemporary writers. The dominant note of his tract is a courageous, calm, and austere reasoning, which from another point of view distinguishes it from the manner of similar writings,² and especially from the transcendental, mystical, and emphatic tone of the most famous of them.

By the latter I mean the anonymous work published at the same time as Goodwin's, with the sensational title *The Bloody Tenent* (i.e. *Bloody Tenet*) *of Persecution for cause of conscience, discussed in a Conferunce between Truth and Peace*: London, 1644 (republished in 1848 by the Hanserd Knollys Society, with an Introduction by Underhill).

The author of this work against the *Sanguinary Opinion of Persecution* was also immediately known. He was Roger Williams, a separatist minister who

¹ Masson, ii. 582; iii. 113, 120, n. 2, 157 *et seq.*

² One of these was entitled, *The Compassionate Samaritan unbinding the Conscience*. London, 1644.

emigrated in 1631 to America. There he was, as we have seen already, and as we shall see better further on, the first to introduce the principle of religious liberty. And now he returned, still hot from the bitter warfare which he had waged on behalf of that principle and those Baptist-Arminian doctrines which he professed so strenuously. He returned charged with a delicate mission to the English government for the benefit of the colonies which he had founded. His mission kept him in London for fifteen months (1643-44), and he was powerfully assisted in his negotiations with the government by some distinguished Independents, among whom was Sir Harry Vane.

Vane had left England when he was still young, on account of his Puritan opinions, and had sought another home across the sea. He landed at Boston, and in 1636 was elected Governor by the settlers in Massachusetts. His chief endeavour in his high position was to lead that colony of bigots to a sense of greater toleration, but in vain. He returned to England rich in experience, and as a convinced Independent and fantastic idealist was always dreaming a splendid dream of civil and religious liberty. "The bishops," he used to say, "have not only injured our religious liberty, but they have wished to deprive us also of our political liberty; they have tried to deprive us of both our eyes, as the Philistines did to Samson, in order that we may grind in their mills."¹

If this book, which Williams put together during his sojourn in England, may justly be regarded as the written and printed outcome of his frequent and intimate colloquies with Vane and the other Inde-

¹ Cf. Masson, ii. 560 *et seq.*

pendents whose names have been mentioned above, it is also a reflection of those ideas which Williams had propagated during his ten years' preaching in America and his controversy with the intolerant ministers there. And there are traces of the influence of American affairs in every part of the work, which, moreover, shows in its form the vagrant and disturbed conditions amidst which it was written.

It opens with a dedication to the Most Honourable two Chambers of the High Court of Parliament, followed by a second dedication to the most courteous reader. Afterwards comes a copy of the "Writings and Reasons" written some time previously by one of the faithful in Christ, a prisoner in Newgate, against persecution for conscience sake. This, however, is merely an extract from the treatise on Liberty of Conscience written by Murton, or another of the English Baptists, in 1620. A copy of these "Writings and Reasons," it appears, had been sent to the Rev. Mr Cotton, of Boston, in 1636, with a request that he should take it into consideration; he, however, had replied defending, on the basis of Holy Scripture, on the practice universally followed, and on the authority of Calvin, Beza, and other Reformers, the right of the civil magistrate to punish errors of religion. Cotton's reply is reproduced *in extenso* by Williams. The last part of the book consists of a first dialogue between Truth and Peace upon the doctrines expressed in this reply, and a second dialogue, also between Truth and Peace, on the sanguinary opinions in favour of persecutions set forth in other writings of the implacable pastors of New England.

A glance at the marginal summaries of the dialogues is sufficient to show the wealth and boldness

of the contents. "Church and civil State confused, end by bringing confusion everywhere." "Civil magistrates are bound to preserve the bodies of their subjects, not to vex them for conscientious motives." "The civil sword may make a nation of hypocrites and anti-Christians, but not a single Christian." "Jesus Christ, the greatest statesman that ever was, commands the toleration of the anti-Christians." "Followers of corrupt opinions, whether they be Pagans, Jews, Turks, or anti-Christians, may be obedient subjects of the civil laws." "The lilies of Christ may flourish in His Church, in spite of the abundance of weeds which are allowed to grow in the world." "The absolute sufficiency of the sword of the Spirit." "A national Church not instituted by Jesus Christ." "The civil Republic, and the spiritual Republic (the Church), not opposed, but independent of each other." "Forcing men to attend the worship of God is the greatest cause of the breaking of civil peace." "According to the Gospel, the head of a family is not bound to force all those who are under him against their consciences." "Few men, few magistrates, spiritually and christianly good: various sorts of goodness—natural, artificial, civil, etc." "It is less hurtful to compel a man to marry somebody whom he does not love than to follow a religion in which he does not believe." "Jesus Christ did not ordain that ministers should be maintained by those who were not converted and believers." "The civil power owes three things to the true Church of Christ: 1, Approbation; 2, Submission (in the sense that the civil magistrates must be personally submissive to the Church of which they are members); 3, Protection." "The civil magistrate owes two things to false religions: 1, Permission; 2, Protection."

The teaching of Roger Williams may be summed up in the formula "Purity of conscience." And in developing it he displays lyrical force, keen observation, profound views. In connection with what he calls the most deplorable statute in English law, the statute, namely, which compels everybody without distinction to attend the divine services of his parish, Williams remarks: "An unbelieving soul is dead in sin, and to drag an unbeliever from one form of worship to another is the same thing as changing the clothes of a corpse." He combated the practice of claiming forced contributions for the benefit of ministers of religion. His adversaries asked: "Is not the labourer worthy of his hire?" "Yes," Williams replies; "but only from those who have employed him." One question he treats with particular fulness, in view of the great importance which it exercised in relation to the theocratic régime prevalent in the colonies of New England. This was whether or not the magistrates should be chosen exclusively from among the members of the church. Answering decisively in the negative—after having observed that four-sixths of the world are admirably governed by their own civil laws without ever having heard of Christianity; after having laid stress upon the disturbances which would be caused in hereditary monarchies, when the succession is open, by the establishment of standards of piety; after having shown the encouragement that would be given to hypocrisy if piety were made requisite for the conferment of public office—Williams says that with such a system as this one would no longer choose a physician or a pilot because of their knowledge of medicine or navigation, but because of their theological knowledge and their rank in the ecclesiastical

hierarchy. In regard to the plurality of sects in the civil State, he claims that the captain of a ship of state knows perfectly well how to maintain order on board and make the ship follow her course regularly, even without compelling the dissenters among her crew to attend the public prayers of their companions. Thus absolutely withdrawing individual consciences from the authority of the magistrate, Williams does not shrink from the extreme consequences of his principle, and therefore roundly denies that the authority has any power to intervene in order to arrest a denomination in its decline towards heresy or apostasy. And finally, with a foresight that was truly marvellous, he was able to estimate the beneficial effects which his system would have produced in the civil society of the country of his adoption. "To free the soul from the yoke of oppression," he said, "will not only constitute a work of justice for the subject nations but, besides persuading single consciences and single interests, as well as their totality, will also ensure liberty and peace everywhere."

Henceforth the noble cause of religious liberty may find one who will develop it with greater vigour of reasoning and more copious erudition, but never one, however fervent a believer, who will excel Roger Williams in breadth of conception and sincerity of advocating that cause. And therefore it has been possible to say of him, in imaginative phrase and with perfect justice, that while other writers, in the limitations which they place upon liberty, resemble those poets who, after declaring their hero to be invulnerable, proceed to clothe him in the commonest armour, Roger Williams, on the contrary, allows Truth to stand alone, surrounded only by her armour of light.

The book which, as Masson says, Roger Williams gave to England as a remembrance before leaving her, this time for ever, did not, however, succeed in bringing peace in the great controversy. It seemed, indeed, to render the discussion more bitter than ever. The personal vexation of some of those who took a leading part in the controversy—Goodwin, for example—the preferment of the supporters of intolerance, the consciousness of the increasingly enthusiastic reception which Independency was obtaining among the people and in the army, and the less elevated character of the writers, caused the supporters of religious liberty to abandon something of their ancient serenity and temperateness of expression and to attack the intolerant majority in the Westminster Assembly and in Parliament, in a famous series of pamphlets.

One of these, issued anonymously in London with the title *The Arraignment of Persecution*, bore the following indications as to the printer and author: "Printed by Martin Scratch-Clerk for Bartholomew Spoil-Priest," and the place of sale was given as "Street of Toleration immediately opposite Persecution Court." The author was a certain John Robinson.

Special mention is deserved by one of these pamphleteers, John Lilburne, a fanatical supporter of separatism and toleration, and a friend of Cromwell, but a man of such a belligerent spirit that it was wittily said of him, "If the world were ever emptied of all but John Lilburne, Lilburne would quarrel with John, and John with Lilburne."

Against various letters in which the ministers of several places, but particularly those of London, urged the Assembly to reject any proposals of

toleration,¹ the following anonymous tract was issued, of which, however, I am not in a position to give more than the extremely significant title: *Tolleration justified and persecution condemned; in an answer or examination of the London-ministers' letter*. London, 1646.

At that time, however, toleration was not only, as the London ministers contemptuously said at the end of their letter, the "Great Diana" of the Independents and all the Sectaries, but it continued to be advocated by a section of the followers of the Episcopal Church, who then tasted the hard lot of the persecuted.

The chief work in the Latitudinarian literature in defence of religious liberty was that which the Anglican divine Jeremy Taylor wrote during the troubled period of the revolution upon the liberty of giving public expression to religious opinions. This was the *Discourse on the Liberty of Propheying*. London, 1647.

The book is based substantially on the great principle, which Taylor had deduced from the Dutch Arminians, and which the latter had taken from the Socinians and Aconcio, that the fundamental truths of Christianity can be reduced to a small number, and more particularly to the Apostles' Creed, taken in its literal sense, all the rest being uncertain, disputed, variously understood and decided in opposite senses by the Fathers of the Church, by the Councils, by

¹ *A letter from divers ministers about Colchester, Essex, to the Assembly of Divines, against a toleration of independency*, London, 1645; *A letter of the ministers of the City of London, presented the 1st of Jan., 1645, to the Reverend Assembly of Divines sitting at Westminster by order of Parliament, against toleration*, London, 1645. See also *Divine observations upon the London-ministers' letter against toleration*, London, 1646.

the various Churches, and, indeed, by the same Church at different times. "Show me the Church," Taylor asks, "which has not changed its doctrines at every age, either introducing new ones, or abandoning the old." "And how can you explain the fact," he adds elsewhere, "that even in Catholicism itself all the Dominicans are of the same opinion in regard to predestination and the Immaculate Conception, and all the Franciscans of precisely the opposite way of thinking?"

This fundamental principle is developed by Taylor in the first twelve sections of his book with an amplitude and daring unknown to the thinkers from whom he derived it. He reaches the same conclusion, however, as those authors, namely, the necessity of tolerating all opinions within Christianity.

In the succeeding sections the arguments in favour of toleration are discussed by Taylor with an extraordinary wealth of theological and historical erudition. His idea is that all religions ought to be tolerated which do not teach things contrary to public order and good conduct; and that the decision as to whether this or that body of Christians should be tolerated is a political rather than a religious question.

If Taylor's toleration, as can be seen, does not pass beyond the limits of Christianity, he nevertheless does not hesitate to extend it to the Anabaptists and even to the Papists, whom Milton, as we shall see, and Locke, as we have already shown, excluded. He discusses the Anabaptists in a special section, and examines their fundamental doctrines at great length, concluding that from the moment when those doctrines are shown to be resting on a plausible though insufficient foundation, there is no motive for not tolerating them; one will only be justified in

hindering the preaching of their other non-fundamental doctrines regarding the illegitimacy of war, oaths, and capital punishment, which would destroy the basis of all government. More noteworthy still is the section in which he advocates the toleration of Papists, whom he would only forbid to maintain that the Pope can depose the king, absolve his subjects from their fidelity, dispense from promises made to heretics, and justify regicide.

The seventeenth chapter strikes a discordant note in the whole system, because it contains much greater restrictions than those previously enunciated. Hence there would seem to be some foundation for the suspicion that he interpolated it later, when the Episcopal Church, to which he belonged, being no longer threatened by revolutionary changes, but restored to all its power, he began to advocate much less liberal ideas. This *volte-face*, which all writers on the subject deplore,¹ causes one to think again of Augustine, whose famous transformation it reproduces, but on a much smaller scale.

An infinitely higher moral significance attaches to the example of one of his contemporaries, James Harrington, who, although bound to Charles I. and faithful to him even in misfortune, advocated every form of liberty, not excluding religious. For he wrote: "Where civil liberty is entire, it includes liberty of conscience. Where liberty of conscience is entire, it includes civil liberty" (*Political Aphorismes*, 22-25). And again: "Liberty of conscience entire, or in the whole, is where a man, according to the dictates of his own conscience, may have the free exercise of his religion, without impediment to

¹ E.g., Coleridge, *Notes on English Divines*, i. 209; Lecky, ii. 63; Schaff, *The Progress, etc.*, p. 55.

his preferment or employment in the State" (*A System of Politics*, ch. vi., and in many passages of his celebrated work *Oceana*).

And it is noteworthy that with all this he did not recede either from the jurisdictionalist idea of a general competence of the State in ecclesiastical affairs, or from advocating the necessity of a true official Church, assisted, but controlled, by the civil authority (*Pol. Aphorismes*, 21).

The efforts of the five representatives of Independency at the Westminster Assembly to obtain some concession for their Church and the cause of liberty failed completely, and the party which supported the establishment of the rigid constitution of the Presbyterians triumphed. The English Parliament was also won over to the most intolerant Presbyterianism.

But a different kind of triumph afterwards smiled upon the Independents when the great controversy was transported from the floor of Parliament to the field of battle. And a movement much wider and far more significant than that outlined above was begun in favour of religious liberty when the Independents, discomfited in the Westminster Assembly and in Parliament, succeeded by other ways in making their influence felt in the public life of England.

This occurred when a Milton and a Cromwell emerged from their ranks. "It would have been strange indeed," writes Lecky, "if this great question had been untouched at a period when Cromwell was guiding the administration and Milton the intellect of England, and when the enthusiasm of liberty had thrilled through every quarter of the land."¹ The

¹ Lecky, *op. cit.*, ii. p. 58.

brief Republican period, indeed, marks the first step of that nation towards toleration.

In John Milton the noble cause found a fervent advocate, no longer among the theologians, the philosophers, or the politicians, but in the highest intellectual production of a country or an epoch—in the greatest poet of the time.

All the works of Milton, both the controversial—either religious or political—and the simply historical and poetical, glow with an inner light of the love of liberty. Thus it is difficult to indicate precisely the points where the principle of toleration is more particularly advocated. And the difficulty is increased, as in a few other similar cases, by the fact that the more the winged and vehement eloquence of a poet causes one to vibrate with admiration, the less courage one feels to summarise it in brief systematic notes as though it were the measured reasoning of a theologian, a philosopher, or a jurist.

One may, however, particularly mention the speech which, on November 24, 1644, he addressed to Parliament when the latter was discussing the imposition of a new and more serious censorship of books, and which is known simply by the name of *Areopagitica*.

Its full title is *Areopagitica; A Speech of Mr John Milton for the Liberty of unlicensed printing, to the Parliament of England*.

In this oration England unanimously recognises the highest prose that Milton ever wrote, and a monument to his genius not inferior to his great poem *Paradise Lost*.¹

¹ Masson (iii. 287 *et seq.*) recognises, however, that considered only in relation to religious liberty, the *Areopagitica*, although more celebrated, cannot bear comparison with the writings already mentioned of John Goodwin and Roger Williams.

Persecution, he says, is wholly unnecessary for the defence of the truth, "for truth is strong next to the Almighty." But besides being unnecessary, it does immense harm to the truth by preventing men from discovering it.

The truth is widely diffused among men; every system contains a small part of it mingled with veins of error; but it is grasped completely by no one; and it can only be discovered in a certain degree by means of a careful comparison of the most opposed systems. Therefore to abolish some of these systems, proscribe the press, or compel it to spread the opinion of a single sect, is to destroy the only means we possess for arriving at the truth.

Upon the subject of toleration he expresses himself in a more concrete and explicit manner in another political work published a few years later, in 1673, and entitled *On true Religion, Heresy, Schism, Toleration, and what best means may be used against the growth of Popery*.

In this book also the fundamental idea is that which, from the time of the Socinians, recurs again and again under the most varied forms: all the divergencies of opinion which exist among and divide the Protestants are upon matters which do not affect eternal salvation; and therefore all sects—Arians, Socinians, Anabaptists, etc.—should be tolerated. To the Catholics, however, Milton rigidly denies any form of toleration, and he does so on the basis of this extraordinary reasoning: "As for tolerating the exercise of their religion, supposing their State activities not to be dangerous to the State, I answer that toleration is either public or private, and the exercise of their religion, as far as it is idolatrous, can be tolerated neither way: not

publicly, without grievous and unsufferable scandal given to all conscientious beholders; not privately without great offence to God, declared against all kind of idolatry though secret."

This exclusion, which would be absolutely incomprehensible if the work of Milton were considered apart from the environment from which it sprang, and no attention were paid to the futile justification already referred to, finds its explanation in reasons of a political nature. It must be remembered that the book was written after the Restoration, when Catholicism, favoured, as we shall see, by the Stuarts, had become a serious menace to that English liberty for which Milton had battled, and for which he was then suffering in his disconsolate and needy retirement.

The exclusion of the Catholics, moreover, because they were politically distrusted, is a note common not only to nearly all subsequent English thinkers, as it was previously in the case of Locke, but also to all the tentative experiments in liberty which were made in that country.

When the Independents, under Cromwell, had the upper hand in English affairs, they did not fail to do all in their power to introduce into the laws that toleration which was bound up with their fundamental principles, and thus their behaviour in England was very different from what it was in America.

The army had been the principal factor in the victory of the Independents and of Cromwell. And this is an example, perhaps unique in history, of the spirit of liberty, amidst the intransigence in which every institution and every representative assembly in England was steeped, taking refuge in what had at

all times been the instrument of the worst forms of coercion. But it is essential to remember the absolutely unusual manner in which Cromwell, from the unwarlike mass of the English people, had created his invincible army of *Saints* which was indissolubly cemented together and incited to the most hazardous enterprises by hatred of tyranny. In the ranks of the Republican army, says Stern,¹ were many who were foreign to the theological disputes which caused so much bitterness of soul; there was rather the prevailing enthusiasm of a faith, certain of victory, which held the petty differences of religious opinion in small account.

Accordingly there arose from the intolerants a loud complaint that sectaries and heretics abounded in the army; and some officers went so far as to punish men who professed the most extreme opinions. But Cromwell reprovved them, saying: "Refrain from showing violence, and do not allow yourselves to be drawn away to use violence against those against whom the only accusation is that of not being in agreement with you in matters concerning religion. In the choice of its servants the State must take no thought of their opinions. If they serve honourably, that is enough." And after the victory of Naseby he wrote to the Speaker of the House of Commons recommending him to spare the faith of his valiant soldiers, because "whoever exposes his life for the liberty of the country, must put his trust in God and us for that which concerns the liberty of his conscience." After the capture of Bristol he declared: "Presbyterians and Independents have all in the same manner here the same spirit of faith and prayer,

¹ Stern, *Geschichte der Revolution in England* (in Onken's *Allg. Geschichte*), Berlin, 1881, p. 145 seq.

they are in concord and not divided by the names of parties: and it is a misfortune that things are different elsewhere. . . . Amongst the brethren we do not expect any other coercion in the things of the spirit, except that which comes from inspiration and reason." Thus not only was the multitude of soldiers completely persuaded that in the kingdom of God which they aimed at establishing there was to be absolute liberty of conscience, for which reason they jeered at the *black coats* of the Westminster Assembly and the Parliamentary Irreconcilables, but the most distinguished leaders of the army, such as General Fairfax, Robert Blake, the hero of the naval victories over the Dutch, and Cromwell's son-in-law, Henry Ireton, were of the same opinion.

Assisted by these and by others, such as the jurist Oliver St John and Sir Harry Vane, Cromwell succeeded in wresting from Parliament, on September 13, 1644, the Bill of Accommodation, by which it was established that in case it should be impossible to compose the differences of opinion in regard to the ecclesiastical constitution, some means should be found by which "delicate consciences which were unwilling to submit entirely to the fixed rule, should be exempted in conformity with the word of God, and for the sake of public peace." This was the first step towards toleration.

Growing ever more insistent, the petitions of the army in favour of the establishment of complete liberty rained upon Parliament. In one of these, drawn up by officers, with Fairfax and Cromwell at their head, it was declared: "We do not demand any change in the constitution of the State, nor do we desire to meddle in the question of the Presbyterian regimen of the Church but we

claim for every peaceful citizen that toleration which is in conformity with the well-being of the State and with justice." On October 28, 1647, the heads of Cromwell's army, united in council, approved the draft for a new constitution for England in which it was affirmed with regard to religious affairs that they should be left entirely to the dictates of conscience.

This is the first (and the last) time in England that a scheme of legislation affirms the innate right to religious liberty, which at the present time in that is assured in fact, although not expressly formulated as a principle.

When, however, the king having been executed and the Republic proclaimed, it came to the question of giving concrete form to the aspirations so spiritedly and constantly expressed during the struggle, Cromwell and the Independents found themselves confronted by various difficulties. And the first was to come to an understanding among themselves as to what was to be done.

One section, the most radical, desired to raze to the ground every vestige of the official Church, and, faithful to the old separatist programme, wished that in England, as in America, religious liberty should result from an absolute liberty allowed by the State to the various Churches. This was the opinion of Milton, who, chiefly in his second *Defence of the English People*, used every endeavour to bring Cromwell to the same way of thinking, asking him to follow a determined programme the principal object of which should be the separation of the Church from the State, on the lines of what had been accomplished by Roger Williams in the colony of Rhode Island.

Cromwell, on the contrary, and the majority with him, forming a better estimate of the practical and

historical needs of their country, and well understanding the difference between it and a little colony only just founded, did not propose to give the religious problem quite such a radical solution. They aimed essentially at conciliation and moderation, through removing the abuses of the official Church, without, however, abolishing it, but ensuring at the same time the largest liberty for the Dissenters. And this they accomplished.

By a very remarkable transposition of views, accordingly, that which the Independents carried into effect on coming into power was not the system of toleration of which Independency had dreamed for so many years, but the system devised and advocated by the Latitudinarians. For the latter it was a decisive triumph, since separatism had to withdraw definitely to America, while English religious liberty, from the time of its earliest realisation until the present day, has remained always firmly united to the jurisdictional régime.

In the constitution to which Cromwell took the oath when assuming the office of Protector, it was clearly indicated that religion was not to be left to the care of single private associations, but that the State recognised as its official religion the Christian faith as expressed in the Bible, with the obligation to support and the right to watch over it. To all Christians, however, who did not adhere to the dogmas and rites accepted by the State, full liberty of worship was granted, provided they did not make use of the liberty thus obtained for disturbing public order and offending morality. But the Catholics and Prelatists, or members of the old Episcopal Church, were excluded.

Cromwell himself confirmed this plan when,

addressing the Parliament which had just been summoned, he called liberty of conscience one of the most precious gifts of God; by which words he meant to warn, on the one hand, the many narrow-minded Presbyterians that he would not suffer the "unchristian spirit of intolerance" to be turned against their neighbours, and on the other hand the radical sectaries that he would not allow "the axe to be carried to the roots of the ecclesiastical tree."

But he was greatly mistaken in his attempt to establish harmony between the military power which had arisen out of the revolution and the representatives of the people. From the latter he met with serious opposition to the introduction of toleration when, a few days after his speech, the article of the Protectorate Bill relating to toleration came under discussion. The Presbyterians, in fact, many of whom had been sent to Parliament, did not attempt to reject the article, but tried to weaken its significance and interpret it in their own way. And as it laid down as a condition for toleration "faith in God through the mediation of Christ," they were not satisfied with excluding the Catholics and Prelatists from its advantages, but wanted also to keep out the other Dissenters. They appointed a committee, comprising a majority of Presbyterians, to enlighten Parliament as to the actual bearing of the formula. The committee drew up a long list of heresies, which the Parliament accepted, passing a bill which threatened with punishment not only Papists and Prelatists, but also atheists, blasphemers, heretics, and all those who impugned the fundamental truths of the Christian Church. The Parliament resolved, moreover, that the Protector could not exercise any right of veto on the bill, which it put into force at

once, imprisoning, trying, and condemning one John Biddle, who was accused of having spread Socinian opinions.

As is well known, the Parliament was dissolved by Cromwell, who reproached the representatives of the people for the hostile attitude which they had displayed in the matter of religious toleration, and began to govern in conformity with it as it was understood by him.

But he showed no moderation in regard to the Catholic religion. To Cromwell the Mass was a symbol of political hostility. A bill of January 25, 1650, placed the Papists among the *Delinquents*; and in 1654 the execution of a Catholic priest who had secretly returned from exile showed clearly that the cruel old laws were not forgotten. The members of the Episcopal Church had nothing to fear personally, but they were greatly depressed. But in addition to the Church of the State, on the establishment of which many official commissions were working, several autonomous sects maintained their existence. So long as they attempted nothing revolutionary they were not molested. The Anabaptists and the Fifth Monarchy Men were allowed to meet in community. With the Quakers, to whom at first Cromwell was not inclined to grant toleration, he ended by coming to an agreement, after he had conferred with their leader, John Fox. And after the negotiations between himself and the learned Jew, Manasseh Ben Israel, he succeeded in obtaining a partial readmission to England of the Jews who had been driven away *en masse* under Edward I. Blasphemy and atheism were left unpunished. There were no more lists of heretics, and John Biddle was acquitted.

The constitution which Cromwell accepted as King of England was based, both as regards the establishment of an official Church and toleration, upon the same principles as the former Protectorate constitution.

V. With the restoration of the House of Stuart all this was abolished, and the Episcopal or Anglican Church returned to the plenitude of its former predominance.

The Parliament which lasted from 1661 to 1679 marks the culminating point of the intolerance of the Anglican Church against the dissidents, and especially against the other Protestant Churches. The Act of Uniformity (1662) imposed the articles of faith of the Anglican Church upon all the clergy, and as many as 2000 ecclesiastics who would not accept them were deprived of their livings. The Conventicle Act (1664) severely punished all those who took part in religious meetings not in accordance with the rites of the Episcopal Church. The Test Act (1672) obliged all civil and military employees of the State to take the oath of fidelity and recognition of the supremacy of the king in matters of religion; to swear, moreover, that they did not believe in transubstantiation and, before taking up office and within three months of appointment, to receive communion according to the Anglican rite.

At this point, however, occurs one of the most remarkable facts in the whole history of religious toleration.

The restoration had resulted from an agreement between the Anglican Church party and the Stuarts. But very soon a profound misunderstanding arose between them precisely upon the question of religious toleration, and this misunderstanding, extending over

twenty-eight years, finally provoked a new revolution and caused the Stuarts again to lose the throne of England.

Already during the reigns of James I. and Charles I., as we have seen, the traditions of the house and family relationships, all inclining towards Catholicism, had sown the seeds of dissension between the Crown and English Protestants of every denomination. Under Charles II. and James II. the dissension was transformed into friction, and finally into open strife.

As soon as he ascended the throne, Charles II., who was married, like Charles I., to a Catholic princess, and secretly embraced in 1669 the Catholic religion, which he openly professed when dying in 1685, entered into secret negotiations with Rome for the re-establishment of Catholicism in England, and he did all in his power to favour it. He was not able, it is true, at one stroke, and directly, to abrogate all the laws that had been enacted against it, because the great majority of his subjects would have turned against him.¹ So he tried to reach the goal by an indirect road, proclaiming liberty of conscience for all Dissenters, in order that the Catholics might be included and take advantage of it.

Twice he made the attempt, on December 26, 1662, and March 15, 1672, issuing a Declaration of Indulgence, or decree of toleration, for the Catholics and the Protestant nonconformists. But on both occasions he was unsuccessful, for the Parliament, devoted to the official Church, forced him to rescind

¹ Cf. the interesting contrast between the ideas of Charles II. in the matter of toleration, and those of one of the most distinguished divines of the time, Baxter, in Ranke, *Englische Geschichte*, vol. iv., Berlin, 1863, p. 180 *et seq.*

the decrees, compelling him, on the other hand, to allow renewed persecutions and new restrictive measures against the Catholics, who had become the objects of greater suspicion on account of the royal support.

No sooner had James II. ascended the throne than he did away with all temporising, threw all considerations to the winds, and began to advocate the cause of Catholicism in England with a zeal which the Pope himself tried to moderate and notoriously orthodox writers have subsequently declared to be excessive.

Availing himself of the much-disputed prerogative of the king to dispense the penal laws, he promulgated on April 4, 1687, a decree suspending all penal enactments against nonconformists, stopped all the trials which had been begun for religious motives, remitted all the sentences which had already been passed, gave to every Church the free exercise of its religion, and dispensed all citizens from any special oath of fidelity or supremacy.

This far-reaching decree of toleration was renewed on April 27, 1688, and the king ordered that it should be read publicly by every member of the official Church. Seven bishops refused, and this was the beginning of the decisive struggle.

The king had believed that by the Declaration of Indulgence he would be able to win over the nonconformists, who were favoured by it. But instead of this he saw all the Protestant Churches without distinction and the representatives of every class rise against him, all being united by the same fear that the king was in favour of placing England again under the Pope. At the beginning of 1689, James II., vanquished, had to leave England, and

shortly afterwards William of Orange, who had landed in the country on November 5, 1688, received the crown (February 13, 1689).

Thereafter the fortunes of the Catholics were bound up with those of the Pretenders—a fact which placed them politically in increasingly bad odour. To the policy of James II., says Macaulay, the Catholics owe three years of illegal and insolent triumph in England, and one hundred and forty years of subjection and degradation.

A moral and not merely a political judgment of the work of James II. is not a very easy matter. The Catholic writers, deploring his bad tactics, do not venture to bestow unconditional praise upon him for having desired to proclaim, in the form of full liberty of conscience, a principle which the Church disapproved.¹ English, and in general all Protestant writers, cannot see in that act, which, considered in itself, would have done great honour to the monarch, anything but a trap which he set with the secret intention of revoking the granted liberty as soon as the Catholics were again in power at the head of affairs. And it is certainly difficult to see how a fervent and scrupulous Catholic, as James showed himself to be up to the last, could have opposed the demands of the Catholic party, which is uncompromising now, and was even more so then.

Chateaubriand seems to us to have formed a judicious opinion of this great and singular historical fact. “Thus it was,” he says, “that James finally disgusted the nation by a just and generous act. It is

¹ E.g., in Mazure, *Hist. de la Révolut. de 1688 en Angleterre*, Paris, 1825, vol. iii. p. 388, Bossuet's opinion regarding the edict of toleration of James II.

not difficult to discover the double cause of that piece of iniquity : on the one side was Protestant fanaticism, and on the other it was understood that the toleration of the king was not sincere, and that he only demanded a particular liberty in order to destroy liberties in general."

There can, however, be no doubt about the sincerity with which, by word and deed, William Penn, the most influential adviser of the king in this matter, advocated the most unlimited toleration. In his case toleration was a family tradition.¹ Macaulay,² who was otherwise so little of a benign judge of him that his opinion gave rise to an extremely lively controversy, says that the veneration of the many people to whom he had been a benefactor ended by converting him into something like a saint, a myth rather than a historical personage : and this precisely on account of that fervent and sometimes almost ingenuous apostolate in favour of idealism and liberty which he carried on in England, America, and various countries of the European continent.

All his works touch upon questions pertaining to religious liberty : and to him is principally due the fact that it became one of the fundamental canons of the new sect of Quakers, and was instituted in the colony founded by him in America.

Imprisoned for religious motives, he wrote in captivity an impassioned defence of liberty of conscience : *The Great Case of Liberty of Conscience debated*. London, 1671.

Another of his works, the aim of which is to combat more especially every form of coercion in

¹ Ranke, *Engl. Gesch.*, vol. v. p. 408, where the work of Penn is discussed in a masterly manner.

² Macaulay, *Hist. of England*, cap. iv. vol. ii.

the matter of religion, is entitled *An Address to Protestants of all Persuasions*. London, 1679.

His principal work in this connection, however, is that by which he endeavoured to win over the minds of the Court and Parliament to the projects for universal toleration which, meanwhile, Buckingham was maturing. It was called *A Persuasive to Moderation to Church Dissenters in prudence and Conscience, humbly submitted to King and his Great Council*. London, 1686.

According to him toleration should have included on the one side the Catholics and on the other side also the Protestant dissenters without any exception; since the unconditional admission of the latter would have been, in his opinion, the most natural and efficacious corrective of those excesses and that preponderance which were feared in the former. In this manner the Church of England would have found itself in an advantageous position of equilibrium between the two extremes.

After the issue of the famous Declaration of Indulgence, Penn made his views on the subject known to the three great parties—Anglicans, Catholics, and Dissenters—in another work entitled *Good advice to the Church of England, Roman Catholics, and Protestant Dissenters, in which is showed the wisdom and duty of repealing the Test Act and Penal Laws*. London, 1687.

It must not be thought, however, that during the Restoration, by reason of the revival of the Episcopal Church, the movement in favour of toleration in England was confined entirely to the Dissenters. On the contrary, it continued to gain ground also among some of the members of the official Church. This explains why the Huguenot refugees in

England,¹ who had carried on in France and Holland a great struggle for toleration against the rigidly orthodox members of their faith, and particularly against that most uncompromising person Jurieu, ended by uniting themselves with the Anglican Church under Charles II. rather than with the Presbyterians, with whom, although they had a greater affinity in regard to principles, they were in stronger contradiction as regards ideas of toleration. Lecky rightly observes² that the extraordinary spread of the doctrines of philosophical scepticism in England caused the directing classes henceforth to regard dogmatic dissensions with a certain amount of indifference. The latitudinarian theology, as had been the case previously, favoured this tendency, taking its stand on the ancient distinction between fundamental and non-fundamental teachings.

In accordance with this tendency Glanvil wrote his celebrated work *On the Vanity of Dogmatising*. London, 1661.

In demonstrating his thesis he preaches almost universal scepticism, from which he proceeds to advocate almost universal toleration. He drew up, in fact, a list of the necessary articles of faith, which was done in such a manner that scarcely anyone could be excluded, and he maintained, moreover, that no one should be punished for errors which were not of a fundamental nature.

This last idea was not without practical effect also during the Restoration, and in 1677 the Church was deprived of the power of condemning heretics to death which had been granted to it by the statute

¹ Cf. Douen, in *Revue histor.*, xviii. (1882), p. 459, and Schikler, *Les Eglises du Refuge en Angleterre*, Paris, 1893.

² Lecky, *op. cit.*, ii. 63 seq.

of 1401, *De haeretico comburendo*. Thus England, which had been the last of the civilised nations to adopt the utmost ferocity in her laws, was the first to abandon it.

Among the champions of toleration at this period mention should be made of the theologian and historian Burnet, who, becoming enamoured of it during his sojourn in Holland, through his daily intercourse with the members of all Christian denominations, advocated it after returning to his own country, not only in one of his dialogues between a conformist and a nonconformist (*Modest and Free Conference between a Conformist and a Nonconformist*, 1669), but also from his Chair of Theology at Glasgow. In that position, dissenting both from the Presbyterians and the Episcopalians, and maintaining against them the cause of the Dissenters, he finally became suspected by both sides of excessive liberalism. Compelled again to take refuge in Holland, he returned in the retinue of William of Orange, of whose enterprise in favour of English religious liberty he afterwards became the historian and eulogist.

From him we learn¹ that this prince reached his new realm already determined to establish an agreement between the Church of England and the Protestant Dissenters; that his firm opinion was that the conscience was a province reserved to God; that his experience in Holland had persuaded him that toleration was one of the most prudent measures of government; and that he was so faithful to these principles as to reassure even those who were proposing severe measures against the Papists.

Schaff opportunely shows that William had,

¹ Burnet, *History of his Own Time*, Oxford ed., 1833, iv. p. 21.

moreover, gained a profound understanding of the tolerant doctrines of the Dutch Arminians.¹ Thus he was not an unworthy descendant of William the Silent.

And this he demonstrated by his actions. Like his great ancestor in Holland two centuries before, he attempted in the first place to reconcile the various Protestant parties by the Bill of Comprehension, or, to give its full title, "A Bill for Uniting their Majesties' Protestant Subjects." In William's opinion all the English Protestants should be united in one official Church, co-extensive with the nation. In vain, however, was an attempt made by well-meaning persons to secure the acceptance of the bill *salva conscientia*, that is to say, leaving the individual conscience free in matters of detail; in vain did the latitudinarian theologians endeavour to effect a compromise on the now traditional basis of the toleration of all religions, that is to say, on the distinction between the fundamental and the non-fundamental principles of faith; the bill was defeated in the House of Commons, owing less to the repugnance of the majority of the Episcopalians to the abandonment of their hierarchical prerogatives, than to the persistence of the Independents, Baptists, and Quakers in rejecting hierarchy, ceremonies, and

¹ Schaff, *op. cit.*, p. 61. Hallam (*Const. Hist.*) says he was the surest friend of toleration in the kingdom; Stoughton (*Hist. of Religion in England*; London, 1881, v. p. 5) observes that toleration was the dominant idea in his mind. Regarding him one of his earliest biographers states that, requested by the Scots to sanction a decree for the extirpation of heresy, he replied: "*D'ailleurs je ne sçai point précisément ce qu'on entend par Hérétiques, ni jusqu'où l'on peut étendre le sens de ce terme. Mais je sçai bien, que je ne souscrirai jamais qu'on persécute personne pour sa religion, et que je n'entreprendrai de convertir qui se soit que par la voie de la persuasion conformément à l'Évangile.*" Samson, *Histoire de Guillaume III.*, La Haye, 1703, tom. ii., lib. iv., fol. 28. Cf. Böhmer, *op. cit.*, p. 25.

every outward sign of an official or established Church.¹

The attempts to introduce religious toleration having failed, William took immediate steps to ensure at least civil toleration, by means of the famous Act of Toleration (May 24, 1689), or *An Act for exempting their Majesties' Protestant subjects dissenting from the Church of England from the penalties of certain laws.*² This was passed.

At the basis of this, too, is the principle of an official Church—a principle which was at variance not only with English national traditions, but also with the personal convictions of William, who, tolerant after the manner of the Dutch Arminians, was, however, like them, far from holding separatist ideas.

The Episcopal, or Anglican, Church remained accordingly in possession of all its endowments, and of all its rights and privileges, but its jurisdiction was limited. Under certain conditions and with certain restrictions, the Protestant Dissenters were granted the free public exercise of their religion, and the power to self-government. These advantages were to be enjoyed by the Presbyterians, Independents, Baptists, and Quakers, but not by others. Hence the Socinians, Unitarians, and Papists were expressly excluded from toleration.

Judged, therefore, by modern standards of religious liberty, the Act of 1689, rather than an Act of Toleration, must be defined as an act of religious intolerance as regards the Socinians and the Catholics.

¹ Schaff, *op. cit.*, p. 62; Makower, *Die Verfassung der Kirche von England*, Berlin, 1894, p. 101.

² Cf. Schaff, *The Toleration Act of 1689*, London, 1888; this is reproduced with a few alterations as cap. vi. of the later work already cited, *The Progress of Relig. Freedom*, etc.

And yet all the English writers, even the most dispassionate and unprejudiced, such as Hallam, Macaulay, and Lecky,¹ agree in calling it the Magna Charta of religious liberty in England.

The truth is that, although, in the words of Macaulay, it is a regular chaos of contradictions and absurdities, the famous Act, nevertheless, comprises all the theoretical defects, but at the same time all the practical advantages, which usually characterise English legislation as compared with that of the Latin peoples.²

It was exclusively and precisely that which the condition of the times permitted; hence the two great advantages, that it was loyally applied and that from the position marked by it no backward step was subsequently taken; indeed, progress was constantly made, although slowly. A law of complete liberty, says Macaulay, would have been burned by the mob in every street in England, and would have rendered the very name of toleration odious to the majority.

By the precise exclusions of the Act of 1689 the road which England had to travel in order to attain complete liberty was not less precisely shown for the future.

On the one hand are the recognised Dissenters who, having lost all hope of taking the place of the Anglican body in its quality of official or established Church, and of being able to transform it according to their own ideas, directed their efforts to limiting its privileges still more and acquiring a position closer to it. Hence the struggle is no longer carried on

¹ See the review of the various opinions of this matter in Schaff, p. 66 *et seq.*

² Macaulay, *Hist.*, cap. xi., vol. v.

within the official Church, but is conducted from the outside against it.¹

On the other hand are two real Christian religions expressly excluded from toleration—the Socinians and the Catholics—who strive to shake off the hard servitude.

Finally, there are the Jews, who aspire to emancipation, and the Atheists, who demand liberty of thought.

Throughout the eighteenth century an ascensional movement proceeds, very slowly, full of strife and opposition, but always uninterruptedly, towards the same goals, which, however, are fully reached only in the nineteenth century.

VI. That of the eighteenth century was, therefore, a movement which found expression in public opinion rather than in legislation. The changes which took place in the latter were almost insignificant; whereas, on the contrary, a profound transformation, due precisely to the reawakened public conscience, was undergone by the relations between the State and the Churches, and between the various religious denominations.

The century opens with a brief period of reaction under Queen Anne, daughter of James II., supported by the *Tories* of the official Church and opposed to the Dissenters, who were again harassed by hostile decrees, such as the *Act to prevent Occasional Conformity* of 1711, and the *Schism Act* of 1714.²

¹ Cf. Makower, p. 101. In Scotland after 1690 the Presbyterian was recognised as the official Church, thus placing the Anglicans in the position of dissenters so far as Scotland was concerned.

² The first aimed at excluding the Dissenters from all offices, and by the second their whole power was confined to teaching. These Acts are classed among the most tyrannical of the century by Lecky, *History of England in the Eighteenth Century*, vol. i. pp. 103–105.

The *Whigs* having come into office under George I., the reaction was not only checked but provoked a decided counter-reaction, which found expression in the efforts—which were crowned with success—of the government of Robert Walpole to disarm the spirit of intolerance and persecution, to curb the bellicose impetuosity of the various ecclesiastical parties, and to accustom them to respect the neutral ground of free thought. What more particularly characterises the government of the *Whigs* is the absence of anything in the shape of religious fanaticism. They did not modify the laws in such a way as explicitly to recognise complete religious liberty for everybody, but they applied them so as to guarantee it in practice.

The truth of the matter is that the first and best minister of this party, Lord Stanhope, aimed at a complete emancipation of all the Dissenters, not excluding the Catholics, and proposed, indeed, in 1718, neither more nor less than the abolition of the Test Act of 1672. But the opposition which he encountered within his own party compelled him to refrain from such radical measures, and to content himself with revoking the two Acts of Queen Anne against the Dissenters which have been cited above, so that from that time forward schoolmasters and functionaries who were not of the Anglican faith were guaranteed against odious accusations and punishments.

Not even in the days of his greatest power did Robert Walpole show a disposition to abolish the Test Act and the Conventicle Act, but their application was gradually relaxed until, finally, they were forgotten. Thus the period of three months allowed by the Test Act to State employees for receiving

communion according to the Anglican rite was extended under George I. to six months, and shortly afterwards the custom was introduced of giving certificates of exoneration for those who had allowed the period of six months to elapse, it being alleged that they had been prevented from complying with that antiquated prescription "by ignorance of the law, by absence, or by *force majeure*." After George II. ascended the throne, Parliament voted the Act of Exemption from the Test Act practically every year, and the Act itself was only repealed in 1828. This practical toleration assisted in obtaining a certain conciliation between the various Protestant Churches and in causing the English people to lose the habit of religious discords far more perhaps than could have been effected by a legal equalisation of all the Dissenters, by which the slumbering intransigence of the State Church and the provincial nobility would have been reawakened.

The religious conditions in England were wittily described by Voltaire in his *Lettres Philosophiques*, or *Lettres sur les Anglais*, in which, after having described the tyrannical intolerance of the Anglicans and the fanatical intolerance of the Scottish Presbyterians, he proceeds to observe: "If there were one religion in England, its despotism would be terrible; if there were only two, they would destroy each other; but there are thirty, and therefore they live in peace and happiness."

With regard to the movement in public opinion, one circumstance should be noted here to which prominence has frequently been given by English writers. Religious liberty in England went hand in hand with political liberty, and it had, therefore, to fight against the same adversaries. And amongst

the latter—a truly strange thing, and worthy of careful consideration—were in the seventeenth and eighteenth centuries the most celebrated rationalist philosophers and the most unprejudiced and enlightened thinkers in England, such as Herbert, who, in order to prevent the disastrous dissensions among the multiplicity of religious beliefs, saw no other remedy than to force them all into his own religion of nature or reason; such as Hobbes, the supporter of absolutism in every form, and the advocate of the unlimited right of the State to determine what should be the religion of its subjects; such as Bolingbroke, who with great eloquence tried to substitute for the ideal of English liberty that of a patriot-king, and was at the same time the sturdiest support of the clerical party during the period of reaction under Queen Anne, because he saw in religion—which he personally despised—the strongest curb for restraining the masses; such, finally, as Hume, the derider of the greatest champions of liberty in the seventeenth century and at the same time of toleration, which he defined, in so far as it was a measure, as a salutary expedient, and, as a principle, a pure paradox.

Nevertheless there were some among the English freethinkers who were able, from the rationalistic, naturalistic, or deistic doctrines, to draw conclusions favourable to liberty in general, and to religious liberty in particular. The term “naturalist” was introduced by the Socinians, but did not become usual until after 1750.

The first name that occurs is naturally that of Locke, not only because his famous writings in favour of toleration—certainly the most important that had ever appeared in English literature—are intimately

associated, by their place of origin and time of publication, with the history of the Toleration Act of 1689, but also because the whole of the subsequent English literature in favour of toleration was developed upon the lines laid down by him. And Locke, as we have seen, strove for religious liberty also after he had returned to England in the retinue of the Prince of Orange, and kept up the struggle until he died.

Shortly after him the jurist Tindal published a very able defence of liberty of conscience (in which only the Atheists were excluded from toleration) entitled *Essay on the Power of the Magistrate and the Rights of Mankind in Matters of Religion*, 1684; and then a not less warm defence of the liberty of the press (*The Liberty of the Press*, 1689), in which he particularly advocated freedom of discussion in matters of religion.

Toleration was extolled, moreover, by fervent believers. Thus one of the most distinguished leaders of the Quaker sect, the theologian Robert Barclay, energetically vindicated liberty of conscience against the coercion of the authorities in the fortieth thesis of his *Theologiae verae christianae apologia*. London, 1792.

As in the time of Cromwell, so also now, the famous English humour had its part in the controversy. While on the one side Swift, with consummate irony, ridiculed the excesses and weaknesses of the various kinds of Dissenters, and advised the heads of the official Church to rebuke and punish them, on another side Defoe, the immortal author of *Robinson Crusoe*, taking his cue from an apology for persecution made by a High Church clergyman in a sermon before the University of Oxford, wrote an anonymous

work under the title *The Shortest Way with Dissenters*. London, 1702.

There is irony in the title. The "shortest way" for getting rid of Dissenters is, in Defoe's opinion, precisely that of applying to the fullest extent the principles at which the intolerants of the official Church cast longing glances. Of these principles he gives an exposition not only so faithful, but here and there touched with caricature, yet in a manner so delicate, that the poor Dissenters were terrified for a moment on the first appearance of the book. But the Anglicans were not long in understanding what a blow was struck at them by that simulated exaggeration of agreement, whereupon they sought for the author, and, having found him, obtained his condemnation to imprisonment. Defoe, however, continued to place his pen at the service of those who were persecuted in the cause of religion not only in England, but also in America.

Drawing his inspiration from the doctrines of Locke the Irishman, John Toland, the biographer of Milton and Harrington and editor of their works, in his *Anglia Libera* (1709) strenuously combated the opinion of Hobbes that the sovereign can impose a religion upon his subjects.

But the most remarkable work in favour of toleration which issued at this period from the school of the English Deists was that published by the great friend of Locke, the philosopher John Anthony Collins, on his return from a long journey in Holland. It bore the title *A discourse of Freethinking, occasioned by the Rise and Growth of a Sect called Freethinkers*. 1713.

Translated immediately into French by Crousaz (*Discours sur la liberté de penser*; Haag, 1714), the

work caused in France and on the Continent generally no less stir than in England, where refutations appeared on every hand. Böhmer,¹ the only one who, so far as I am aware, makes any mention of it in connection with our subject, and who still attributes it to an anonymous English author, refers to its contents, saying that the writer is not satisfied with demonstrating freedom of thought by various arguments, but that in section 3 he removes the objections and adduces the examples of the philosophers and Fathers of the Church.

Almost at the same time, when the philosophical camp was perturbed by this work, another controversy, touching religious liberty more closely, was begun within the Anglican Church itself by Hoadly, who in 1765 had been nominated king's preacher and Bishop of Bangor. In his *Preservative against the Principles and Practices of Nonjurors in Church and State* (1716), and afterwards in a celebrated sermon delivered in the presence of the king in 1717 and published the same year under the title of *The Kingdom of Christ*, Hoadly, with much eloquence, had sustained the following ideas: that the Church had no sort of authority to compel anyone to external communion or to decide as to the condition of individuals in relation to the favour or the anger of God; that the king had just as little power to diminish for religious motives the civil liberty of his subjects, who had the right of free, individual examination.

The controversy, called Bangorian, after the name of Hoadly's see, spread to such an extent that as early as July 1717 no fewer than seventy-four works

¹ Böhmer, "Dissertatio praeliminaris de iure circa libertatem conscientiae," at the beginning of vol. ii. of his *Jus ecclesiasticum Protestantium*; Halae, 1719, pp. 3-52.

had been written *pro* and *con*. Hoadly's ideas were exceptional, less, perhaps, on account of their daring, which was exceeded in many previous and contemporary writings, than on account of the personage by whom they were put forward.

Lecky relates¹ that in 1725 serious disputes broke out in Ireland on the subject of toleration, occasioned by a sermon preached before the Irish Parliament by a Protestant clergyman named Synge, in which he maintained that it was a Christian duty to tolerate the Catholics, and developed the principles of religious liberty with the greatest energy. The Parliament ordered the sermon to be printed. It was answered by a writer named Radcliffe, and another named Weaver defended it. Synge himself replied to his opponents.

According to the same author, an Irishman and an ecclesiastic—Bishop Berkeley—a follower in philosophy of Locke, was the first Protestant to advocate (1735) the admission of Catholics to the English universities. He proposed that they should be admitted to that of Dublin without being obliged to attend chapel or divinity lectures, and observed that the Jesuits had adopted a similar arrangement with regard to Protestants at their colleges in Paris.

Schaff records² that, fifty years after Locke, his opinions in regard to tolerance and the limitations which he would place upon it were revived by Bishop Warburton in his *Alliance of Church and State* (1736), in which he maintains that the State

¹ Lecky, ii. 96, n. 1. He says that these forgotten pamphlets had possibly been read in recent years by no human being except himself. Unfortunately he gives no bibliographical reference.

² Schaff, *Progress of Religious Freedom*, etc., p. 70.

should not have any control over religious errors as such, with the exception, however, of matters relating to the existence of a God, a Providence, and a natural difference between good and bad morals. The book was, as other writers observe, particularly intended to demonstrate the possibility of reconciling the existence of an official religion and that of complete toleration; and it provided, therefore, a powerful weapon in combating the efforts of the Dissenters to obtain perfect equality of treatment.

Precisely one hundred years after Locke, an enthusiastic reader of his works, Paley, published his *Principles of Moral and Political Philosophy* (1785), in which he went much further than his master, and advocated the emancipation of the Roman Catholics.

According to Lecky, again, perhaps the most eloquent defence of toleration written in the eighteenth century was the answer of the Irish priest O'Leary to Wesley's defence of the penal laws against the Catholics; but it is necessary to remember that O'Leary was defending his own Church.

When demands for toleration proceeded also from the ecclesiastics of the official Church they had, precisely on that account, a much greater importance. A spirit of compromise had been spreading among the English clergy, especially after *Moderatism*, a doctrine strongly impregnated with Socinian ideas, had gained the support of a large section of the Scottish preachers, about the year 1750; and many of their congregations were induced to embrace the Unitarian faith.¹

Worthy of mention also is the agitation in favour

¹ Schaff, *The Progress, etc.*, 71. Cf. especially, Fock, *Der Socinianismus*, Kiel, 1847, p. 270 *et seq.*; Allen, *Unitarian Movement, etc.*, New York, 1894, p. 146 *et seq.*

of toleration which had already been begun in the Irish Parliament—entirely composed of Protestants—by Syngé's sermon, and which, continuing there, was specially accentuated in 1782, when the War of Independence in America aroused in that legislative body sentiments of national autonomy, extinguishing at the same time those of religious antagonism. And in this connection it is to be noted that practically all the most eloquent advocates of autonomy were supporters also of the emancipation of the Catholics, while its opponents were enemies of toleration. But this union of Irish Protestants and Catholics in a common patriotic purpose, to which were due the most important provisions in favour of the Catholics in the last quarter of the eighteenth century, did not meet with an equal acceptance in England and Scotland.

When, in fact, the English and Irish Catholics—of whom the latter had already secured some advantages in their position in regard to the State by the Acts of 1771 and 1774¹—obtained from their respective Parliaments, in 1778, two Acts by which they were placed on an equality with the other Dissenters, particularly in regard to the permission for their clergy freely to exercise their spiritual functions, open chapels and schools, and wear the cassock without incurring the grave penalties in that case made and provided, serious violences against

¹ Cf. Amherst, *The History of Catholic Emancipation and the Progress of the Catholic Church in the British Isles (chiefly in England)*; London, 1886, vol. i, chap. i, pp. 50-75. The Act of 1771 relates to certain grants of land; that of 1774 permitted Catholics to express in the oath which they had to take their loyal devotion to the king. Hence it abolished no restrictions, but merely put an end officially to the spirit of hostility towards the Catholics and paved the way for subsequent Acts.

the Catholics and rebellions against the public forces were committed by the Protestants in Glasgow, Edinburgh, and afterwards in London, as a protest against these concessions.

In 1791 the English Parliament passed another bill in which further concessions were granted to the Catholics in favour of their religious orders, in the support of their chapels, the protection of their clergy and school teachers, and in various other respects; and in 1793 was passed the first Act by which the position of the Scotch Catholics was notably improved.¹

In the same year the Catholics of Ireland obtained power to elect the members of their Parliament, instead of passive electoral rights. But they had not a very wide field in which to exercise that power, because the concession, approved by the English Parliament for fear of secessionist troubles in Ireland, came to nothing when the Government found itself compelled to abolish the Irish Parliament and unite the island to England.²

¹ Butler, *Historical Memoirs of the English, Irish, and Scottish Catholics*, London, 1822, iv. p. 104 *et seq.* Cf. Amherst, i., chap. x. pp. 244, 285.

² An aspect of the Catholic question in England which is not without interest is that presented by its first relations with Canada. There the French domination had established the Catholic as the official Church. In the Treaty of Paris of February 10, 1763, by which the country was ceded to England, freedom for the Catholic form of worship was explicitly stipulated for the benefit of the inhabitants of Canada; but the clause "in so far as permitted by the laws of England" having been added, serious and long-lasting controversies arose as to its interpretation, the Canadians being unwilling to recognise the supremacy of the English sovereign over their Church. Cf. Paguelo, *Études historiques et légales sur la liberté religieuse en Canada*, Montreal, 1872, pp. 1, 85; O'Sullivan, "The Treaty of Paris, 1763, and the Catholics in American Colonies," in *Amer. Cath. Quart. Rev.*, x. (1885) p. 240; Stetson, "Church and State in Canada," in *Andover Review*, 1892, May, p. 476.

The various efforts to improve the condition of the Socinians or Unitarians (notably increased in numbers, particularly in Scotland), although they were strongly supported in Parliament by the eloquence of Fox and Smith, met with no success during the eighteenth century.¹

¹ Schaff, *The Progress*, etc., p. 70; Fock, *op. cit.*, p. 263 *et seq.*; Allen, *op. cit.*, pp. 144 *et seq.*, 152 *et seq.*

PART III.—PROTESTANT COUNTRIES IN THE
SEVENTEENTH AND EIGHTEENTH CENTURIES

(CONTINUED)

CHAPTER XII

THE SCHOOL OF NATURAL LAW IN GERMANY

I. NOTHING would be more erroneous than to regard as inspired by ideas of toleration, and therefore as documents in the history of religious liberty, those celebrated "Peaces of Religion" which, after the Reformation, the various religious bodies concluded in Germany between the middle of the sixteenth and the middle of the seventeenth century. The sentiment of toleration did not, in fact, animate the contracting parties, who, whether they were Catholics, Lutherans, or Calvinists, were opposed with equal implacability and obstinacy to every principle of liberty; they were urged solely by the necessity of a short armistice from time to time in their sanguinary struggles, in which neither side had succeeded in overcoming the other, or in restraining or completely eliminating the other's faith.

Nor is there any need to speak of those provisional peaces (*e.g.*, the religious peace of Nuremberg, 1532; Treaty of Passavia, 1552) by which a temporary recognition was granted to the Protestants until a Council had met to compose the religious differences.

But the religious peace of Augsburg (1555), the first that was concluded in a definitive manner, with

the clause that it was to be valid even in the event of the contending parties being unable to come to any agreement in the matter of religion, is a true monument to the persistent intolerance not only of the Catholics, but also of the Protestants themselves, towards the other evangelical denominations.

The peace had been arranged between the Catholics and the followers of the Augsburg Confession, *i.e.* the Lutherans. It excluded, therefore, not only all the members of the minor evangelical sects, but also the followers of Calvin and Zwingli, or the Reformed Church. Their exclusion is confirmed explicitly by Article 17 of the Treaty of Peace, and it was subsequently reaffirmed by the Imperial Diet of 1566, which ordained that by virtue of the religious peace no denomination, except the Catholic and the Lutheran, could be tolerated, but that all must be completely driven out.

Nor in the reciprocal concessions between the Catholics and the Lutherans is there a true application, however limited, of the principle of religious liberty. The concessions relate either to the heads of the innumerable States of the Empire or to the subjects. To the former was granted the power to pass over without any sort of political detriment from one of the two recognised religions to the other, and to organise the institutions of their State in conformity with such decision; but for the latter, in case they should be unwilling to accept the religion of the sovereign, the only remedy was to emigrate with their families and goods, paying a tax to the sovereign for the privilege.

The dissensions which arose from the discordant interpretations and disloyal observance of the pact and the sectarian divisions, widened by the exclusion

of the Reformed Churches—for the Lutherans were always more ready to come to an agreement with the Catholics than with the other Protestants—brought about the fateful Thirty Years' War.

Herein, and, indeed, from the beginning of the Reformation, is revealed, as was equally the case in England, the intimate connection between religion and politics. But it is to be observed that whereas in England—the practical country *par excellence*—politics dominated religion, and determined its stormy vicissitudes, in Germany, on the other hand—eminently an idealist country—it was religion that dominated politics and occasioned during the sixteenth and seventeenth centuries all its most vital changes.

The Thirty Years' War came to a conclusion with the famous Peace of Westphalia, which was signed on October 24, 1648, at Osnabrück, *Instrumentum Pacis Osnabrugense*. Innocent X. condemned this Peace and declared it to be null and void in the Bull “*Zelo Domus*” (November 26, 1648).

This time the peacemakers were three: Catholics, Lutherans, and Reformed; and to these three religions legal recognition in the empire was confined, for the instrument cited says explicitly (vii. 2): *Sed praeter Religiones supra nominatas nulla alia in sacro Imperio Romano recipiatur vel toleretur*.

Here also the concessions made by the peacemakers relate to the chiefs of States or the subjects.

The former guarantee each other the principle of *exacta mutuaeque aequalitas*, from which, in addition to other consequences as to the manner in which they should be represented in future in the Diet of the Empire, they deduce in the first place the power of every prince not only to pass without political prejudice from one to another of the three recognised

religions, but also to ordain that the chosen religion shall be the only one tolerated in his territory (*cuius regio illius et religio*). This, which the same instrument called the *ius reformandi* of the prince, had to be maintained owing to the insistence of the Catholics; and all the Protestants could do, was to limit its disastrous effects, obtaining respect in part for the status possessed by the various religions and making, as between themselves, independently of the Catholics, wider concessions. The *ius reformandi* was limited (except in Austria) by the decision that a denomination which, on any day of the year 1624 (which was therefore called the *annus decretorius*), should have enjoyed in any State the right of public or private exercise, could not be afterwards disturbed in such enjoyment. Of the *ius reformandi* the prince could make a varied application. He could expel from his territory the other two religions different from his own (*ius reprobandi*); he could, on the other hand, admit one or both (*ius recipiendi*). In this case the admitted religion was granted *exercitium religionis*, which at the pleasure of the prince could be either *publicum*—that is to say, provided entirely or in part with the external signs of publicity enjoyed by the official religion—or merely *privatum*. Yet the prince could not tolerate the other religions *per se* as constituted Churches, but only permit the various followers of them to remain in his territory (*ius tolerandi*). And in that case he had to grant them full civil and political rights, besides conceding the so-called *devotio domestica*—the power, that is to say, of exercising their own religion within the limits of their own houses.

It was established that the relations between the Lutherans and the Reformed should be regulated

according to the status possessed at the time of the conclusion of the peace; wherefore an Evangelical sovereign could not avail himself of the *ius reprobandi* as against another Protestant faith. In the event of his going over to another Evangelical denomination he could grant free exercise to the communities which became converted with him, but could not take away any of the powers of that which had theretofore been the official religion.

Those subjects who did not belong to the religion of the prince, who were unwilling to embrace it, or did not belong to a recognised religion, or who had not obtained individual toleration, had the right to emigrate: *beneficium emigrationis*.

Thus the Peace of Westphalia did not recognise full liberty of conscience or worship except for the rulers. Private persons—Catholics, Lutherans, or Reformed—might have full liberty of conscience or worship, or liberty of conscience alone, or neither the one nor the other, according to the pleasure of the prince.

Private persons of other religions—Unitarians, Anabaptists, Mennonites, etc.—were absolutely excluded from toleration, nor could the prince, even if he had so desired, have granted it to them in accordance with the terms of the treaty of peace.

The Peace of Westphalia, therefore, did not bring true religious liberty.

There was no Imperial legislation to modify this state of the law until the *Reichsdeputationshauptschluss* of 1803. But this does not mean that true religious liberty did not exist in Germany until the beginning of the nineteenth century. It is necessary to bear in mind a distinction which to non-Germans often appears to be obscure, if not harsh. Imperial legis-

lation is one thing; territorial legislation, or that of the single States composing the Empire, is another.

In the meanwhile the Peace of Westphalia had permitted the various sovereigns to form within their own territories relations between the different religions of such a kind as to ensure to Catholics, Lutherans, or Reformed the fullest religious liberty. This depended upon the manner in which they made use of their *ius reformandi*. Hence a first benefit resulting from the Peace of Westphalia, that, namely, if not of having given hospitality to religious liberty, at least of having left a door open for it.

But the Peace created such a condition of things that it was subsequently possible for a more unprejudiced doctrine, which began to elaborate the principles ratified by it in a liberal sense, and for enlightened sovereigns, who began to extend the *ius recipiendi* and *tolerandi* to other denominations than the three mentioned, to advocate and put into practice in Germany complete liberty of religion long before Imperial legislation once more intervened to sanction this radical transformation of its ancient standards.

The advent of religious liberty in Germany was not, therefore, the immediate consequence of profound religious convulsions, as in England, nor was it accompanied, as in the latter country, by the simultaneous triumph of all the individual liberties.

But the idea of religious liberty, although developing in Germany also from seeds sown a century and a half before by the Reformation, was not, as in Holland, in England, or among the French Huguenots, brought forward and advocated first and foremost by one of the more liberal evangelical denominations. Nor was it demanded by a persecuted minority.

In Germany, indeed, the question of toleration did not assume from the outset, as in the countries mentioned, the aspect of a question essentially theological, or, better still, dogmatical.

Germany was the only country in which the idea was advanced as an essentially juridical principle, and the discussion began as a controversy over the constitutional organisation of the Church and as a Protestant question of the relations between the latter and the civil authority. Hence the preponderance of lawyers in the number of those who concerned themselves with the question, whereas, in other countries, the theologians and philosophers were always in a large majority. Hence again, as an ulterior consequence, the closer, more precise and concrete handling of the matter, the tendency to look more particularly to practical effects, the avoidance of transcendental speculations—qualities which were and still remain the peculiar characteristics of German labour in this matter.

II. It was the School of natural law which paved the way for the idea of toleration in Germany.

The constitution of the various territorial Churches, especially after the Peaces of Augsburg and Westphalia had placed them under the authority of the sovereigns, was developed in such a manner in Germany that the supreme ecclesiastical government was concentrated in the hands of the rulers. To the sovereigns belonged the so-called *potestas episcopalis* over the Church, for which reason this form of ecclesiastical organisation and of relations between the two authorities was subsequently designated as "Episcopal System." But the powers of the sovereign were scarcely more than formal; the material substance of those powers was given by

the ecclesiastical class, the inspirer and support of the prince in disposing of Church matters. The chief result of this religious despotism of the princes and the omnipotence and pride of the Lutheran clergy was that the unaltered purity of doctrine, the formulas of faith, and the body of dogmas were set above everything else, and the precepts of benignity and toleration towards other religions were forgotten. Another result was that the third estate, the community of the faithful, was absolutely despised and entirely excluded from the government of the Church, so that true religious feeling among the people was gradually dried up and extinguished.

In the last quarter of the seventeenth century a strong reaction against this condition of things made its appearance from two sides : from the newest School of natural law, which began to oppose the existing organisation of legal-ecclesiastical relations, and from the so-called Pietists, who began to revive the weakened religious fervour. Both tendencies accorded with and supplemented each other, not only by reason of the fact that they were often met with in the same individual, but also because both led to the principle of toleration. This union is manifest already in Spener (1635-1705), the initiator of Pietism in Germany, who was closely connected in his youth with Grotius.

The Pietists, it must be confessed, advocated toleration, not so much because of their adherence to a well-defined principle, as because of their predisposition to universal benevolence and their inclination to avoid dogmatic diatribes, diminish sectarian differences, and respect and tolerate the opinions of others.

On the other hand, the writers of natural law (as

Rieker¹ made quite clear), deduced it, as a logical and necessary consequence, from their fundamental principles.

The school of natural law did not regard the State and the Church as two institutions placed on earth by God himself for the purpose of procuring the salvation of humanity. State and Church were, on the contrary, precisely as a thinker far in advance of his time, our Marsilius of Padua, had said, aggregations of men, the supreme power within them being delegated by the individuals composing the aggregation for their own good government. The Church, moreover, is an association placed within the State, and therefore, like any other, subject to its authority. Hence the Church will still be dependent upon the sovereign, not by virtue of any episcopal power belonging to him, but by reason of his quality as chief of the State and territorial ruler. His powers accordingly concern the external government of the Church (*ius circa sacra*), but not religious sentiments and the conscience.

From this new system, which, to distinguish it from the preceding, was called the "territorial system," its founders proceeded resolutely — like Marsilius of Padua some time before, and like John Locke at the same period—to the proclamation of liberty of conscience and worship.

They were fatally driven thereto not less by the limited power of the sovereign in spiritual matters than by the position assigned to the Church within the State. Being considered as an association similar to all the others inside the State, the Church was deprived of its transcendental and exclusivist character.

¹ Rieker, *Die rechtliche Stellung der Evangelischen Kirche Deutschlands*, etc., p. 24 seq.

Moreover, all difficulties in the way of the reception of several Churches simultaneously in one and the same territory were removed. Granting, in fact, that several Churches actually exist, that each maintains its possession of the truth, that all honour and adore God according to the best of their ability, it would be unjust to exclude them. It is impossible to say where the truth resides; it is therefore much wiser and more in accordance with probability to hold that each Church possesses a portion of it within itself. Thus the various creeds and religious opinions come gradually to be considered as equally near to the truth, of which all reflect a peculiar aspect; all, therefore, are deemed worthy of being placed on an equality in their position as regards the State, and to be treated by it with equal respect. From this idea was naturally derived the tendency to consider the truth as reposed, not in the singularities which differentiated the various denominations, but, on the contrary, in the totality of the principles upon which they were all agreed. In this totality was recognised the true kernel of religion; and thus was formed in the seventeenth century, in opposition to the various positive denominations, the idea of a natural religion composed of a few essential maxims of a moral character.

It is now superfluous to point out that we have here another manifestation of the great syncretist and sceptical idea transmitted not only by the Socinians to the Arminians, and by the latter to all the other liberal religions of the two worlds, but passed on also by the greatest Arminian master of natural law, Grotius, to the Teutonic lawyers.

First among the latter were Pufendorf and Thomasius, celebrated advocates and elaborators of

natural law, and at the same time the universally recognised founders of the territorial system.

Long and powerfully had Samuel Pufendorf fought already with the orthodox Lutheran theologians when he published his work, dedicated to the Great Elector and entitled *De habitu religionis christianae ad vitam civilem*. Brema, 1687.¹

The supposition that Pufendorf drew his inspiration from the conditions of things prevailing in the Prussian State is not wrong. However, after having in one of the first paragraphs (§ 3) clearly laid down the principle that no one, whatever his condition might be, could be compelled to embrace a given religion, he develops in § 49 the idea that it is a fatal necessity of all times that dissensions should exist within the Church, that the Saviour does not wish that they should be violently uprooted, that it is not absolutely necessary for public tranquillity that all the citizens should think in the same way in the matter of religion, since it is not these divergencies, but evil human passions grafted upon them, that are the cause of all disorders. He does not deny that it would be better if a single faith prevailed in the State, so long, however, as it is not Mohammedan, Arian, Anabaptist or Antichristian, but the true and ancient faith contained in Holy Scripture. But how establish what is the true faith, since that is precisely the

¹ I cite the 6th edition, Brema, 1727. The work was translated into French by St Amont, Francf.-s.-l'O., 1690, and by Barbeyrac, Utrecht, 1690, also into German by Webern, Frankf., 1754, and by Thomasius, who added some notes. It was also issued with notes by a pupil of Thomasius, Johann Paulus Kress, *Liber commentarius ad S. Pufendorfi Tract. de hab. rel. chr.*, Jenae, 1712. In the same sense Samuel Stryk annotated the *Jus Ecclesiasticum* of Brunnemann, attempting to bring the power of the prince in the matter of religion to the support of toleration between the various beliefs. He also dedicated his work to the Great Elector.

matter in controversy? And here Pufendorf would not be averse from the fixing of a *publica formula fidei*, a sort of creed of the vaguely defined natural religion, and imposing silence or expulsion upon those who did not accept it (*op. cit.*, p. 229 *seq.*). In § 50, however, he holds it to be more convenient to tolerate dissidents, but only if they are honest and preach nothing subversive. With all the more reason should they be tolerated if they were granted their liberty by regular stipulations, and in that case it would be sufficient to see that they did not drag others into error (*op. cit.*, p. 232 *seq.*).

Christian Thomasius discusses the subject in nearly all his general works and in a series of special dissertations;¹ and he certainly deserved the praise which was bestowed upon him of being the illuminist *par excellence*, or illuminism personified at that period.

The principle of religious liberty springs spontaneously from his fundamental conception of law. He was compelled to distinguish it from morality more clearly than his predecessors so that he could more rigidly exclude any coercive sanction, that is to say, any intervention of an external force, from the internal sphere of morals, and particularly from the sphere of religion. And to this he was moved by a practical reason: the safeguard of the interests of liberty of belief, and the defence of the Pietists from the religious vexations of the orthodox.

Thomasius makes a more immediate application of these principles when treating of heresy in a disputa-

¹ He enumerates them in his *Historia contentions inter imperium et sacerdotium*, Halae, 1722, p. 541 *et seq.* Based on his lectures, the following work was published posthumously: *Vollständige Erläuterung der Kirchenrechtsgelahrtheit oder gründliche Abhandlung vom Verhältnisse der Kirche gegen den Staat über S. Pufendorf's Tract. de hab. relig.*, etc.; Frankf. and Leipz., 2nd edit., 1744.

tion before the University of Halle, on July 14, 1697 : *Disputatio an haeresis sit crimen?* Halae, 1697.

This was written in the form of a dialogue in which one of the interlocutors, *Christianus* (*i.e.* Thomasius himself) victoriously upholds against *Orthodoxus* the impunity of heresy. In the first place, he smooths the way by excluding *a priori* any appeal to imperial or canon law, to the Fathers of the Church, or to the lawyers, only admitting as judges the Holy Scriptures and the Reason. This premised, an inquiry follows into the more usual definition of heresy, with a view to showing the obscurity and unfitness of every term in it.

Obstinate error in regard to the foundations of faith is considered as heresy, especially as distinguished from schism; but what these foundations precisely are has not yet been ascertained, nor what is the right interpretation of the Holy Scripture, nor where is the dividing line between obstinate error and firmness in one's own opinions; and therefore to decide these debatable matters on the basis of the dominant tendency in the Church is nothing but a return to Popery. It is very doubtful if a crime can be admitted without certain limitations and without a sure substance. But that heresy cannot possibly be a crime results from the fact that it is an error, that is to say, a defect of the understanding, and not of the will. Nor, overlooking the heretical internal conviction, can its external manifestation be regarded as a true crime, because it must be permissible to express in a convenient form and at a suitable moment that which it is lawful to believe. Granting, then, that heresy is not a crime, it follows that it is not liable to any punishment; the only thing that ought to be conceded to every man is the power to

hold himself personally aloof from anyone whom he may regard as a heretic.

This disputation raised a regular hornet's nest, and numerous polemical writings were issued very soon after from the theological faculty at Halle against Thomasius.¹

But he, quite unperturbed, returned on the following 11th of November to the same subject with a new disputation in which the respondent to him was Johann Christian Rubo:² *Disputatio de iure principis circa haereticis*. Halae, 1697.

Thomasius starts from the well-known contraposition of *Caesaropapismus* and *Papocaesarismus*. All are agreed that both systems are to be equally rejected, since the prince must not interfere in exclusively spiritual things nor the clergy in mundane matters. But how is one to distinguish between the two fields? The only sure criterion is this: the duty of the prince is to coerce; the duty of the clergy is to teach. Every time that an ecclesiastic makes an appeal to the secular arm and demands coercion, he falls into *Papocaesarismus*. Therefore, in combating heresy the clergy must make use only of instruction. But the prince? At this point Thomasius contents himself with showing in satirical form what the conduct of the prince would finally become if he satisfied all the desires and demands of the clergy in the matter of heresy (*ex hypothesi iuris clericalis*); since the simple exposure of this pretended penal right against heretics annihilates the contrary

¹ Following his usual custom, Thomasius included some of these writings in his volume of Programmes, placing them after the annotations and the replies. This and the subsequent disputation on heresy are to be found also, translated into German, among his Selected Works.

² Rubii, *Problema iuridicum: An haeresis sit crimen?* Halae, 1697.

pretension that the prince can place the coercion of which he is the arbiter at the service of the Church.

He treated of toleration in general in his two Programmes: *Programma de tolerantia dissidentium in controversiis religionis*. Halae, 1693; *Programma varia testimonia Martini Lutheri de tolerantia dissidentium in religione complaetens*. Halae, 1697.

Better known, however, is what he has to say on the subject in *Das Recht evangelischer Fürsten in theologischen Streitigkeiten*. Halae, 1696.

The book contains ninety-eight theses on the rights and duties of princes, which Thomasius had dictated to his classes, and to which he himself responds.

In the first he also, like Pufendorf before him, denies that unity of faith is necessary to the public peace, saying that it makes no difference to the commonweal whether a man is, for example, a Lutheran or a member of the Reformed Church, in the same way as it matters little to a master whether his servant is Lutheran or Reformed so long as he is faithful, which virtue has nothing to do with a special form of religion. The same idea, as we have seen above, was expressed in one of Cromwell's letters. But where Thomasius goes further than Pufendorf is in affirming not only that unity of faith is not desirable in a State, but absolutely a matter of indifference. All dissidents, therefore, are to be tolerated, so long as they do not disturb the public peace. Accordingly, three categories must be excluded from toleration: those who teach that there is no obligation to keep faith with heretics, those who teach that greater obedience is due to another man than the prince, and that subjects may kill a heretical

prince,¹ and those whose opinions are nothing but a disguised atheism. But the prince can do no more than enjoin such persons to quit his country with their belongings. This injunction, however, must not be confounded with banishment, since it is not, like the latter, a true punishment, but only a measure of public security. In general, every form of compulsion, and anything that even remotely resembles it, must be excluded where religion is concerned. The prince, however, has full authority over such actions of his citizens as are not imposed upon them, or prohibited, by their faith.

With good reason, noting the progress which these ideas mark from those of Pufendorf, Landsberg draws attention to the plainly apparent influence of Locke's Letters on Toleration with which the system of Thomasius agrees, particularly in the limitations which he places on toleration.² But Landsberg is less correct when he believes it possible to establish this difference between the two authors—that Locke extended toleration to all religions without distinction, not excluding the Jews, the Turks, and the Pagans, whereas Thomasius would have restricted it to the Christian religions alone. For in the already cited posthumous commentary on the celebrated work of Pufendorf, Thomasius himself says quite generically :

¹ In the posthumous work cited above, *Vollständige Erläuterung* (pt. iii. p. 349), Thomasius explicitly says that the Papists are not to be tolerated when they openly declare that a subject can with good conscience kill a prince who belongs to a different religion, and that faith need not be kept with heretics. These *principia* are hostile to the State and disturb the republic, as is seen precisely in France.

² Landsberg, *Geschichte der deutschen Rechtswissenschaft*, p. 35 *seq.* Locke's influence on Thomasius is revealed in many other places, and it was the reading of the works of the great English philosopher which, converting Thomasius to rationalism, caused his first separation from the Pietists.

“The prince must tolerate all religions, whatever they may be, even, for example, the Turkish or the Tartar.”¹

In regard to this question, Thomasius exercised the most decisive and fruitful influence on subsequent German literature.

Johann Georg Reinhard is also of opinion that religious unity is not necessary to the State, and this he deduces from the fact that God tolerates myriads of men who are of different religions.²

Among the most notable supporters of the territorial system was Justus Henning Böhmer, a pupil and disciple of Thomasius and the first canonist to understand that the matter of religious liberty ought henceforth to be incorporated in the treatises on ecclesiastical law. He discusses it at the beginning of cap. ii. of his celebrated *Ius ecclesiasticum protestantium*,³ in a dissertation of which the precise title is: *Dissert. praeliminaris de Iure circa Libertatem conscientiae*.

Böhmer begins by distinguishing liberty of conscience from the other forms of liberty, and especially from the so-called liberty of the Churches, and determining the juridical bases upon which he proposes to conduct his treatise and which are, on the

¹ *Vollständige Erläuterung*, etc., pt. i. p. 347. Regarding other works of Thomasius of the year 1723, in which the idea of toleration is considered under new aspects, see also Landsberg, *op. cit.*, p. 105.

² *Meditationes de iure principum Germaniae cumprimis Saxoniae circa sacra*, Halae, 1714, p. 70.

³ Halae, 1717, pp. 3-52. I am inclined to believe that the dissertation was composed in 1714, because in regard to the book by Collins, mentioned above, Böhmer says in his dissertation (§ xxii. p. 21): “*Quique hoc anno in gallicum translatus est sermonem.*” Böhmer himself afterwards emphasises the connection between this argument and his treatise on ecclesiastical law, which is inspired, as we know, by profoundly innovating tendencies.

one part, natural law and, on the other, the law arising from the peaces of religion, and not, on the contrary, either canon or Roman law, both being against any liberty.

He then separately discusses liberty of conscience according to natural law, and according to the positive Germanic law.

Aiming particularly at Saurin, pastor of the Church of Utrecht, he denies that it is possible to distinguish between the erring and the non-erring conscience, since the same supreme judges—the Reason and Holy Scripture—to whom appeal would be made for a decision as to what was truth and what error, have their replies misunderstood, and accordingly misinterpreted. Then will the decision have to rest with the conscience of every individual, which would be left entirely free? But this also is dangerous, because in that case one would have to respect the conscience of those who believe that it imposes regicide, and because the conscience is too often indulgent with its owner but very severe with others.

Confronted by this doubt, some believe that the decision ought to be left to the prince. But this is a doctrine which can be professed only by atheists, who despise religion, who see in it only a product of that state of nature which is contrary to every civil community, and who therefore consider religion as nothing but a means of government which must be left entirely in the hands of the prince, who will be able to dispose of it at his pleasure.¹ Such a doctrine as this, moreover, would justify all the persecutions

¹ Böhmer took this tirade against the atheists from the Arminian Le Clerc (*Bibliothèque choisie*, vol. ix. art. 2); both were thinking of the English rationalists.

and destroy divine worship, which ought to be spontaneous.

Böhmer believes, therefore, that liberty of conscience should be proclaimed, but not a boundless and pernicious liberty.

When towns were established, he asks, what human actions were placed under the authority of the prince, and what, on the other hand, left to individual appraisement? And developing a line of thought which henceforth becomes a favourite one of the school of natural law, and which we have seen brilliantly treated, *e.g.*, by Noodt, Böhmer demonstrates that the governing authority cannot possibly be extended to matters of religion and the conscience, citing and accepting the opinion of the Arminian Le Clerc¹ against that of the orthodox Saurin.

After a brief allusion to the authors who had previously maintained the same thesis, he sets out to refute the well-known doctrine of Augustine, and the arguments which are usually adduced in favour of religious coercion.² It is said: But the priests do not demand the help of the royal arm except for the good of souls. Answer: Let them have recourse, on the contrary, to the means which were used by Christ—persuasion and gentleness. It is said: Unity of faith is useful to the Republic. Answer: It is more useful to the dominant clergy than to the Republic, with which religion and divine worship have nothing in common; moreover, there are examples to show that communities flourish also with toleration, and that if they are disturbed because of religion they owe it to the misguided zeal of the

¹ *Bibl. choisie*, x, p. 335.

² In this part Böhmer has made great use of Noodt's oration, which he praised very highly.

intolerants, who on that account alone are to be oppressed and brought to respect peace and toleration. It is said: False religions are an offence to God. But who is to decide what is injurious in such a variety of doctrines? Why, moreover, does not the magistrate punish avarice, ambition, luxury, pride, which are also offences to God? It is said: Idolatry is punished by the Mosaic law. But what does that signify? Is ours a theocratical republic, like that of the Hebrews, and could it accept all the principles of the latter? It is said: Superstition is harmful to the human race and to the republic. But is there not still more harm in the hypocrisy which is induced by a religion imposed by force of arms, generating the persuasion that religion is an empty thing and accommodated to the pleasure of the prince and public interests?

And Böhmer corroborates his assertion by numerous examples ingeniously drawn from the history of all peoples and all times.

Then he examines the question of liberty of conscience on the basis of the positive Germanic law. He reviews at the outset the history of the "Peaces of Religion," and breaks out furiously against those of his Lutheran co-religionists who have so badly understood the principles of their faith as to commit acts of intolerance against members of the Reformed Church. Next he examines the terms of the Peace of Westphalia, and raises several questions in regard to the religious liberty sanctioned by it.

Many people deny that, on the basis of this Peace, a prince can tolerate in Germany even single individuals belonging to any sect which is not one of the three recognised religions. Böhmer refutes this

restriction by the following arguments: 1, The article of the peace treaty (VII., 2) speaks of religions different from those recognised, and not of their adherents; 2, now, in speaking thus of *religions*, the intention is to refer to the public exercise of worship, with which alone, moreover, the treaty is concerned, and not to liberty of conscience, which is a matter for the individual; 3, hence it is not excluded that dissidents, if they may not have public exercise, can at least be granted the privileges which spring from the principle of liberty of conscience; 4, it must also be remembered that all the restrictions in the peace treaty were inserted by the intolerance of the Catholic States, which did not want dissidents in their territory; 5, therefore a Protestant prince can tolerate dissidents without the Catholics having anything to do with the matter.

Naturally the prince will not be able to allow dissidents the public exercise of their religion, as that is prohibited by the treaty, but he can leave them their liberty of conscience and the consequent *devotio domestica*. Böhmer proceeds energetically to refute Saurin's idea that it is within the competence of the prince to extirpate heresy, and he does not recognise any right of the ruler beyond that of defending public order against sectarian disturbances.

With stronger reason it is to be held, according to Böhmer, that liberty of conscience belongs not only to the prince, as would appear from the treaty of peace, but also to the subjects.

But what are the rights which spring from liberty of conscience?

First and foremost, the free exercise of civil and political rights and the right to an honourable burial. A more particular consequence is that a

bequest conditional upon a change of religion must be pronounced invalid, since change of religion for the purpose of gain is a shameful thing. On the contrary, anyone may honestly and lawfully change his religion owing to inner conviction. There are, moreover, actions which are intimately bound up with the essence of religion, and these must be left free to everybody; there are others which are not so intimately connected with religion, and these it is lawful to regulate for the common good. And Böhmer concludes by fixing various criteria for deciding this most important distinction between acts which are, and those which are not, the inalienable consequence of liberty of conscience.¹

Thus Böhmer laid the foundations of that liberal interpretation of the Treaty of Westphalia which was subsequently to become dominant and to ensure the toleration of dissidents in Germany—a thing which was not permitted either by the letter or the spirit of that document.²

The work of elucidating the practical effects of the principle of liberty of conscience, barely outlined by Böhmer, was subsequently carried on by several writers. First among them was his pupil, Carl Heinrich Fuhrmann, who, before the Faculty of Law at the University of Halle, and under the presidency of Böhmer himself, maintained a thesis entitled *Diss. inaugur. De tolerantiae religiosae effectibus civilibus*. Halae, 1726.

¹ Böhmer also wrote *Dissert. de cauta Judaeorum tolerantia*; Halae, 1708.

² In favour of this interpretation an attempt was subsequently made (Pütter, *Gesch. des Westfälischen Friedens*, Göttingen, 1795, p. 353) to argue by analogy from the fact that the Jews were tolerated. But even before the Reformation the Jews were in an exceptional juridical situation in the empire.

It is divided into two chapters, of which the first bears the title *De natura, speciebus et fatis tolerantiae*, and is conducted partly on Böhmer's lines, while the second, *De effectib. toler. religiosae civilibus*, considers the position of heretics according to Roman, canon, and Imperial law. Fuhrmann draws a distinction between *qualified* toleration which belongs to the three religions recognised by the Treaty of Westphalia, and *gracious* toleration which is conceded by the sovereign as a special privilege to dissidents. He rigidly excludes atheists from toleration.

The idea of religious liberty continued to gain adherents among the supporters of the territorial system. Thus one of its most distinguished advocates, Johann Jakob Moser,¹ discusses the question in many of his almost innumerable writings and with the most liberal intentions, as is sufficiently clear from his definition of liberty of conscience, which has frequently and deservedly been quoted as one of the most successful: "Liberty of conscience consists above all in this, that in the matter of religion a man can think and act as he pleases without being impeded or punished on that account by the ecclesiastical or civil authorities."²

III. But the achievement of the School of natural law in favour of toleration was not restricted to merely paving the way.

A new system of organising ecclesiastical government and the relations between the State and the Church was subsequently derived from its principles and put forward as an ulterior development of the

¹ Johann Jakob Moser, "Ein Beispiel protestantischer Toleranz," in *Historisch-politische Blätter*, 1898, fasc. ii.

² *Von der deutschen Religionsverfassung*, Frankf. and Leipz., 1774, p. 36.

Territorial System. This was called, to distinguish it from the latter, the *Collegiate System*, because it accentuated more decisively the conventional character in the formation of the Church, raised the third estate, *i.e.* the community, a little higher, affirmed the independence of the Church from the State, and recognised in the case of the latter only a power of vigilance; thus ecclesiastical government belonged to the Church itself, and only by a benevolent concession could it be left to the civil authority.

Now the theologian Christian Matthäus Pfaff, the initiator of this new theory, which must not be absolutely considered as a separatist movement resembling that of the English Independents, was also one of the most strenuous supporters of toleration in Germany.

The Catholic jurist Johann Petrus Banniza having published a work by which he endeavoured to show that only some religions could enjoy toleration,¹ Pfaff undertook to refute it in a dissertation entitled *Dissertatio de zizaniis non excellendis, ad Matth. xiii. 24 sqq., seu de Tolerantia diversarum in eodem territorio religionum.* Tübingen, 1737.²

Also against Banniza the jurist Johann Christian Balser wrote his *Disquisitio de libertate religionis.* Giessen, 1738.

¹ *Dissertatio germano-historico-canonical-publica de diversarum religionum in eodem territorio tolerantia ac receptione generica et speciali;* Wirceb., 1737. Some time afterwards Banniza replied to the criticisms of Pfaff and Balser with a *Dissertatio de vera religionis libertate in tritico per zizania non suffocanda vindicata adversus binas dissertationes theologicum: De ziz. non excell., et iuridicum: De lib. relig.;* Tubingae et Giessae, Catt. editas, Wirceb., 1746.

² In Lipenius (*Bibl. realis iurid.*, Senkenberg's Supplem., Lips., 1788, p. 349) I also find cited Pfaff's *Dissertatio Compelle ad intrandum: seu de tolerandis vel non tolerandis in religione dissentientibus;* Tubingae (no date given).

Among the supporters of the episcopal system was Georg Ludwig Böhmer, son of Justus Henning, to whom also is due *Oratio de tolerandis his, qui communes doctrinas religionum in Germania approbatarum impugnant*. Gottingae, 1779.

The most apparent trace of his teachings in favour of toleration, however, has remained in the "Universal Prussian territorial law" which, guided by his extremely liberal principles in the matter of religion, he deduced above all from Böhmer.

As regards Germany the eighteenth century truly deserves to be called the century *par excellence* of religious toleration. No other question, perhaps, raised a more lively and fruitful doctrinal debate there, so that the literary production of Germany at this period undoubtedly surpasses that of all the other countries put together. And this literature maintains, as compared with foreign productions, some characteristics entirely its own, due particularly to the manner in which the movement in favour of liberty was initiated in Germany. Here the great controversy aims, immediately and before anything else, at a practical result, which is the triumph of a restrictive or extensive interpretation of those data of positive law which were furnished by the Peaces of Religion; and for this reason the whole immense collection of writings, of which it is impossible to give, I will not say a detailed analysis, but even a complete enumeration, has a stamp and a bearing conspicuously juridical rather than philosophical or theological. Now this makes it possible for us to give a systematic summary of the leading ideas.

To the partisans of coercion in the matter of religion—who were not wanting at this period—

were opposed its advocates; to the disparagers of toleration or those who would have liked to circumscribe it more or less, were opposed its supporters. The objects at which they aimed in their writings were often very diversified. Some contented themselves with combating those principles by which the advent of religious liberty was more directly or immediately hindered in Germany, and especially that which gave the sovereign power to carry his subjects over to his own religion. Others desired that the magistrates themselves should smooth the way for toleration by their acts and pronouncements. Some there are who discuss the idea of toleration and liberty, and who write a glowing defence of it. By many it is considered in relation to the positive Germanic law, and more particularly in regard to the public exercise of religion. The numerous consequences and the new forms of law which proceed from the principle of toleration are likewise studied, either as a whole, or in particular monographs for each special question, such as the free choice of one religion rather than another and its change; or the rights of parents or of tutors over the religious beliefs of children or pupils; or the possibility of imposing in a last will and testament the stipulation to remain in or enter a given church; or, again, the assistance which may be given to those who are persecuted for the sake of religion, and to co-religionists, or the manner of behaving oneself towards those belonging to other religions. Nor is consideration omitted of the special legal position of Jews and atheists, the former being tolerated according to particular conventions and privileges, and the latter resolutely repelled and punished.

IV. But it must not be thought that the highest

minds of the century¹ remained aloof from this grand movement of the Teutonic nation towards liberty of thought and toleration.

The whole literature of this period, the so-called classic German literature, is animated by a true spirit of apostleship in the cause of liberty and toleration. Herder, Wieland,² Goethe, Schiller, and, foremost of all in this regard, Lessing, helped, as Bluntschli says,³ to make of Germany intellectually the most liberal nation that then existed. And this affirmation is perfectly true when Germany is compared with the Holland and the England of those times, and also in some respects with the United States of America, which were then more in advance in the practical realisation of liberty of worship, but not in liberty of thought, as well as with France, which, although the inspirer of German illuminism, was still legislatively chained to Catholic intolerance.

Lessing deserves, as we have already indicated, something more than a passing allusion. It is no exaggeration to say that the dominating thought in his life was the toleration of religions and religious

¹ In regard to Leibnitz (whose long negotiations with the Catholics in order to reach a general reconciliation within Christendom are well known) one may consult the following book, which I have, however, not seen: *De la tolérance des religions. Lettres de M. de Leibnitz et responses de M. Pellisson; ou quatrième partie des reflexions sur les differandes de la religion.* A Cologne, de l'impr. d'Andre Pierrot, 1692.

² In his work *Gedanken über den freyen Gebrauch der Vernunft in Gegenständen des Glaubens* (1788), in *Kleinere Schriften*, Wien, Doll, 1812, i. pp. 13-106 (translated into French in 1844, with an appendix), Wieland attributes the greatness of the age to liberty of thought; but he claims it only for educated people, maintaining that for the masses it is better for a form of religion to be imposed by authority. In this he resembles the English Deists and Rousseau.

³ Bluntschli, *Geschichte des Rechtes der religiösen Bekenntnissfreiheit*, p. 127.

opinions. This is demonstrated in the most exhaustive manner in the book upon this matter written by Reinkens,¹ a bishop of the so-called Old Catholics, who extracted from Lessing's voluminous works an infinity of quotations which bear witness to his long-existing, constant, and inexhaustible love of liberty and truth. What could be more touching than this passage from one of his works? "If God held the whole of the truth shut up in his right hand, and in his left the only vivid impulse towards the truth, even if accompanied by the condition of erring eternally, and should say to me, 'Choose!' I would prostrate myself humbly before his left hand and say, 'Father, give it me! the pure truth is for Thee alone.'"²

But any kind of summary of his ideas is impossible here for many reasons. The whole of Lessing's dramatic works are impregnated with this dominant idea, beginning with his juvenile dramas "The Free-thinker" and "The Jews."

A time came, however, when Lessing was swept into a fierce controversy over his favourite idea. From a manuscript entrusted to him by the family of the philosopher Samuel Hermann Reimarus, of Hamburg, a rationalist after the type of the English and French freethinkers of the time, he took a few fragments, and feigning to have found them in the library at Wolfenbüttel, where he resided, published them under the title *Von Duldung der Deisten. Fragment eines Ungennanten*. 1774.

In 1777 and 1778 he published further frag-

¹ Reinkens, *Lessing über Toleranz, Eine erläuternde Abhandlung in Briefen*, Leipzig, 1883.

² Duplik, new ed., Lachmann, Berlin, 1853-57, vol. x, 53; cf. Reinkens, p. 3.

ments taken from the same manuscript work of Reimarus.¹

Against him, as against many other representatives of free thought at that time—Ramler, Busching, Basedow, and others—one of the chiefs of the old implacable and overbearing Lutheran orthodoxy, the pastor Johann Melchior Göze, of Hamburg, hurled his thunderbolts.²

Lessing replied, defending the rights of free thought as against blind faith in the literal interpretation of the Holy Scriptures. His rejoinder was contained in three successive works: *Nötige Antwort auf eine sehr unnötige Frage*, *Axiomata*, and *Anti-Göze*, all published at Brunswick in 1778. By their insuperable splendour of style, acuteness of reasoning, and irresistible eloquence, these works have survived the cause which gave them birth.

Although not vanquished, Lessing was reduced to silence by means of a denunciation to the Government. But he consoled himself by resuming his activity as a dramatist. "I must see," he wrote in a letter to Elisa Reimarus, "if I shall now be allowed to preach quietly from my old pulpit—the theatre."

The experiment met with wonderful success. His drama, *Nathan der Weise*, which appeared immediately afterwards (1779), propagated the idea of toleration among his contemporaries and immediate successors far more effectively than had been done

¹ It was only in 1814 that the son of Reimarus recognised his father as the author of the fragments. The whole manuscript is in the civic library at Hamburg, and the essential part of its contents was published by David Strauss: *H. Samuel Reimarus und seine Schutzschrift für die vernünftigen Verehrer Gottes*, 2nd ed., Bonn, 1878.

² Cf. Boden, *Lessing und Göze*, Leipzig, 1862; a new edition of Göze's writings against Lessing was compiled by Erich Schmidt (Stuttg., 1893).

by his polemical writings, so that Reinkens was able to write that, even in his day, it was impossible to mention the word toleration in a circle of educated Germans without recalling Lessing and his drama.¹ The fundamental idea of the latter is absolutely opposed to the exclusivism and intransigence of positive religion. It may be briefly stated as follows: "What makes the world peaceful and happy is not agreement in opinions, but concordance in virtuous actions."²

The most salient feature of the drama in relation to our subject is the famous allegory of the three rings, which Lessing took from Boccaccio (*Decameron*, first day, third story), adapting it, however, in many respects for the purpose—which was foreign to the great Italian—of causing the triumph of the principle of the equal value of all positive religions and the consequent necessity for universal toleration.³

V. It was impossible that this vehement aspiration of all the most enlightened minds of the time towards religious liberty, like an irresistible current, should not have carried along with it also the sovereigns of the numerous Germanic States, breaking the moorings by which imperial legislation tried to hold them fast to the principles laid down by the earlier "Peaces."

And the method by which the sovereigns released themselves was, as we have already said, a double one: in the first place, a liberal application of the

¹ Reinkens, p. 114. Cf. Werder, *Ueber Lessings Nathan*, Berlin, 1892.

² The correspondence between this idea and the ancient Socinian doctrine is apparent.

³ Cf. Rade, *Die Relig. in mod. Geistesleben, Mit einem Anhang über das Märchen von den drei Ringen in Lessings Nathan*, Freiburg-i.-B., 1898

ius reformandi, or, to put it better, the non-use of this extremely illiberal faculty; and in the second, an extension *praeter legem*, i.e. against the letter and spirit of the Instrumentum Osnabrugense of the *ius recipiendi et tolerandi* according to the benignant interpretation of the adherents of the School of natural law.

The representatives of the Empire, however, as had previously been the case with the imperialist writers in the theoretical camp, did not fail to oppose and hinder any innovations of this kind as best and whenever they could.

One example will suffice to prove this. On March 29, 1712, Count Ernest Casimir of Büdingen decreed that all those who wished to manufacture or trade in Büdingen should be granted full liberty of conscience, and that no one should trouble himself whether others belonged to this religion or that, or to no external religion at all, so long as they lived in an upright, moral, and Christian manner. The representatives of the Imperial Treasury, however, protested against this decree as a violation of the imperial laws; and on June 16 came a mandate from the Chancery of the Empire, condemning the Count to a fine of ten gold marks of ten grammes, and ordering the revocation of the edict.¹

Obstacles to the good wishes of the princes were also raised by the superstition of the people and the zeal of the theologians, as happened in the case of Carl Ludwig, Electoral Prince Palatine (1617–1680), who desired to heal the deep wounds from which the Rhine Palatinate, more than any other country, suffered through the great wars of religion, by

¹ Büff, *Kurhessisches Kirchenrecht*, Cassel, 1861, p. 113. Cf. Friedberg, in *Realenzykl. f. prot. Theol.*, s.v. *Toleranz*, vol. xix.

founding in Mannheim the so-called Church of Concord for the combined use of Catholics, Lutherans, and Reformed, and demonstrated his inclination to receive even the Unitarians in his territory. But he was unable to do anything.¹

It often happened, on the contrary, that political revolutions assisted the sovereigns' spirit of toleration, and this in more ways than one.

First and foremost, it occurred through territorial changes by which countries that were ruled at first by a prince of one religion, passed under a prince of another. In the treaties which regulated such changes the greatest care was taken to limit the *ius reformandi* which would belong to the new sovereign. Thus when the Emperor Ferdinand II., at Prague, in 1735, ceded Upper and Lower Lausitz to the Prince Elector of Saxony, who had theretofore been sovereign of an exclusively Lutheran country, he made it a condition that there should be no change in the rights which the Catholic Church and individual Catholic subjects had enjoyed there under the preceding government.

Or toleration was favoured by the fact that the sovereigns, for political reasons, passed over to another religion, without being able, in virtue of their power of possession, and on the basis of the so-called "normal year," to carry the population with them, and naturally without wishing to abandon authority over their subjects who remained in the ancient faith. This happened in 1697 when Frederick Augustus I. of Saxony went over to Catholicism with the intention of obtaining the crown of Poland, and in 1710 and 1713, when Duke Anton Ulrich of Brunswick and Charles Alexander of Wurtemberg became Catholics,

¹ Bluntschli, p. 122.

the latter being succeeded in 1713 by Duke Eberhard Ludwig, an evangelical.

But all these examples, and many others which could be adduced, pass into the second rank when compared with the toleration which the princes of the House of Hohenzollern—first among the sovereigns of Germany, and more constantly than the others in the seventeenth and eighteenth centuries—professed and practised in their territories with practical effects far more considerable than elsewhere.¹ This was certainly not the last cause, although remote, of their high destiny.

In 1613, when the *ius reformandi* of the sovereigns had not yet been limited, as it was by the Peace of Westphalia, John Sigismund, Prince Elector of Brandenburg, passing, on account of his internal religious convictions, from the Lutheran to the Reformed faith, solemnly renounced his supreme royal right to compel his subjects also to change their religion, because he did not believe he could arrogate to himself a power over the consciences of his subjects.

The same prince demonstrated a similar spirit of toleration towards the Catholics. On November 16, 1611, he granted to the Catholics of Eastern Prussia, who had passed from the Polish dominion to his own, the free exercise of their religion, the undisturbed possession of their chapels, and access to preferment and honours, promising, moreover, that within three

¹ Cf. Stille, *Zur Geschichte der religiösen Duldung unter den Hohenzollern*, Program., Sonderhausen, 1890; Zorn, *Die Hohenzollern und die Religionsfreiheit*, Berlin, 1896; Mirbt, *Die Religionsfreiheit in Preussen unter den Hohenzollern*, Rede, Marburg, 1897. These studies and others are based particularly on the documents published by Lehmann, *Preussen und die katholische Kirche*, six vols., Leipzig, 1878-93.

years a Catholic church should be built at his expense in Königsberg, and provided with all the outward marks of publicity.

The church was in fact consecrated on December 21, 1616. The Catholics of the Western region who already belonged to the Duchy of Jülichkleve were treated in the same way.

In the negotiations for the Peace of Westphalia, Frederick William, the Great Elector, was the most strenuous advocate of liberal principles, and to him it is due that they partially triumphed, at least in the relations of the Protestants among themselves. He declared that he had no desire to claim any empire over the consciences of his subjects; he wished to leave that entirely to God; and this he demonstrated also in regard to the Catholics. If he held so ardently to his faith that he was unwilling to decide upon conversion to Catholicism in order to acquire the crown of Poland; if, again, he was absolutely unable to reconcile himself to the idea that the two exclusively evangelical districts of Brandenburg and Pomerania should be open to Catholicism, expressing indeed in his political testament the wish that they should always remain immune from it; he nevertheless maintained and extended the dispositions already mentioned for the countries subject to him in which Catholics resided. Indeed, under him, in the county of Ravensberg, a district which was entirely evangelical, the Catholic employees outnumbered the Protestants, and he surrounded himself with many Catholics, appointing them to the highest offices. For this reason high praise was bestowed upon him by the dignitaries of the Catholic Church and by the Pope.

Moreover, he not only opened a refuge in his states

for the persecuted Huguenots,¹ but contemplated extending toleration to the Socinians, which, however, the clergy prevented him from doing.²

This prince accordingly was not unworthy of the dedication which, as we have seen, Samuel Pufendorf, the initiator of the literary movement in defence of toleration, made to him in his celebrated book.

His liberal policy was not reversed by his successors.

Frederick William I. did not, it is true, abandon his personal dislike of Catholicism; but reasons of a varied kind, mostly political, led him towards toleration. Thus the affluence of the Catholics in the city of Berlin caused him to consent to the exercise of their religion in the capital and to assign them, moreover, a house for that purpose; his love of gigantic soldiers, among whom were many Catholics, induced him to permit the holding of Catholic services in various towns, and this was of advantage, not only to the Catholic community among the soldiers, but also to the civilians.

In Tilsit the king permitted divine service according to the Catholic rite, because otherwise the colony would have had to leave the country; and in Lingen also, simply in order that "whoever wished might live in the country, and the more the better."³

¹ Ancillon, *Histoire de l'établissement des réfugiés dans les États de son Altesse Electorale de Brandenburg*, Berlin, 1690. Cf. the recent literature in Schaff, *op. cit.*, p. 42.

² Cf. Fock, *Der Socinianismus*, Kiel, 1847, p. 251 *et seq.* Regarding the position of the Great Elector in respect not only to the Lutherans, but also to the Catholics and the Jews, cf. Landwehr, *Die Kirchenpolitik Fried. Wilhelms des Grossen Kurfürsten*, Berlin, 1894.

³ Cf. Pariset, *L'État et les Églises en Prusse sous Frédéric-Guillaume I. (1713-1740)*, Paris, 1897, lib. vi. ch. 1-4. This author emphasises the idea that the question of toleration, for the period studied by him, was essentially a question of political interest.

These various measures adopted by the princes of the House of Hohenzollern, inspired essentially by a profound political purpose—since toleration alone rendered possible those acquisitions on a large scale and that policy of expansion which established their greatness—are no doubt admirable; but they would certainly not deserve the enthusiastic glorifications bestowed upon them by the writers already mentioned, not excluding Lehmann, if they had not been in the course of time completed and extended in such a manner as to become principles of general observance throughout the Prussian monarchy.

And it is precisely in this that the merit of the grandest prince of the dynasty, Frederick the Great, consists.

Let us consider him for a moment in contrast with the most significant of his predecessors, the Great Elector. The latter was a fervent devotee of the Reformed religion, whence the reason of his toleration is certainly not to be found in a feeling of indifference towards religion in itself or its various manifestations, but in a profound intuition of the advisability, for political reasons, of placing purely religious interests after those of the State.

Frederick the Great, on the other hand, was a genuine son of illuminism, of which he fully shared the somewhat one-sided and superficial idea of religion.¹ In his opinion also religion arose from the ignorance of the masses and the astuteness of the few who knew how to make use of it. Considered from the point of view of pure dogma, therefore, all religions were equivalent, and were only differentiated

¹ Cf. Zeller, Ed., *Friedrich der Grosse als Philosoph*, Berlin, 1886, pp. 124–156; and chiefly Pigge, *Die religiöse Toleranz Friedrichs des Grossen, nach ihrer theoretischen und practischen Seite*, Mainz, 1899.

one from the other by their greater or less moral substance. Hence the superiority of Christianity and, within it, of Protestantism, the founder of which, Luther, stopped, however, half way in his work of innovation, since he ought to have proceeded further—as far, in fact, as Socinianism.¹

In Frederick's case the practical consequence of this conception of religion and Christianity was the absolute necessity of the widest toleration and of religious liberty, since morality is independent of articles of faith and can be reconciled with the most widely differing dogmas. Diversity of belief must, therefore, be tolerated in the same way as diversity of form and feature.

“All religions,” he wrote in his curiously Frenchified German, “must be tolerated, and the representatives of the State must only take care to see that none of them attack the others, since here it is free to everybody to procure eternal salvation in his own manner.”² Again: “All religions are equal and good so long as those who profess them are upright people; and if Turks or Pagans should come and wish to populate the country, we would be disposed to build their mosques and temples.”³ Or again: “All these

¹ There is no longer any need to demonstrate the correspondence between many of these ideas of Frederick the Great and the principles of Socinianism. In the chapter which serves as an introduction to his *Histoire de mon temps* (ed. of 1746, published by Posner, Leipz., 1879, p. 192 *et seq.*), Frederick the Great says that his enlightened ideas about religion were derived principally from Locke, and he shows his enthusiasm for the idea of natural religion and English deism.

² “*Denn hier muss ein jeder nach seiner Façon selig werden.*” These words are on the margin of a communication of the ecclesiastical department, dated June 22, 1740; cf. Lehmann, *Preussen u. die kath. Kirche*, vol. ii., Leipzig, 1881, p. 4.

³ These words are contained in a rescript of June 15, 1740, by which the monarch removed the difficulties which were placed in

sects live here in peace, and work together in an equal measure for the welfare of the State. There is no religion which, as regards morality, is distinguishable from the others; for which reason they can all be equal in the eyes of the State, which, therefore, leaves to every individual to get to heaven by the road which pleases him best. He must be a good citizen, and that is all that can be asked of him. False religious zeal is a tyrant which depopulates provinces; toleration is a loving mother which nourishes them and promotes their well-being.”¹

And elsewhere he says that he does not demand from his subjects anything except obedience and civic fidelity, because if they observe their obligations he regards himself as obliged to concede to them equal favour, protection, and justice, without taking account of the diversity of their speculative opinions in the matter of religion. “The decision and judgment of this I leave entirely to Him to whom alone it belongs to command the consciences of men, and of whom I do not venture to form so small an idea that I could believe that for the triumph of His cause He feels the least necessity for human assistance which imagines that it furthers His aims by the exercise of violence or artifice or by other direct ways.”² Finally, in his political testament of 1751 he says: “Catholics, Lutherans, Reformed, Jews, and

the way of an Italian named Antonio Romy, who thought, contrary to the common law of Brandenburg preventing a Roman Catholic from acquiring civil rights without a special royal concession, that he would be able to take possession of the estate of his brother who had died in Frankfort-on-the-Oder. Cf. Lehmann, *op. cit.*, p. 3.

¹ In the dissertation “De la religion de Brandenburg” (in *Œuvres Fréd.*, Berlin, 1846, vol. i. p. 212).

² These words appear in one of the king’s letters to the “Empress and Queen of Hungary and Bohemia,” dated June 18, 1746; cf. Lehmann, ii. p. 585 *et seq.*

innumerable other Christian sects inhabit this State and live there in peace. I seek to unite them all, instilling into their consciences that they are all citizens of the same State and that they must love a man who wears a red coat precisely the same as him whose coat is grey." More particularly in regard to liberty of conscience the great king said, "Each one may believe what he pleases so long as he is a good man."¹

These were not exaggerated affirmations nor inconclusive boastings. "The maintenance of peace between the religious associations and the protection of individuals and of communities against any coercion in matters of faith," says Zeller, "are the dominating thoughts of his ecclesiastical policy, to which, throughout his reign, he remained so uninterruptedly faithful, that on many occasions he bore himself towards the caprices of the religious parties with a patience and towards the desires of the community with a pliancy which could hardly have been expected from so impulsive a nature as his."

Not only, indeed, did the Catholics enjoy something of the old toleration in the districts already mentioned of the extreme east and extreme west of the monarchy; not only in the provinces of Silesia and Eastern Prussia, conquered by Frederick, did Catholicism continue, as before the conquest, to be considered the official religion (for which reason it was the Protestants who then began to enjoy toleration in these provinces); but in the citadel of the monarchy and at the same time of Protestantism, that is to say, in the provinces of Brandenburg and Pomerania, the Catholics met with a most liberal reception; and the king in a benevolent decree on

¹ Lehmann, *op. cit.*, vol. iii. n. 421, iv. n. 535.

November 22, 1746, permitted then to build a church in Berlin, and presented them, moreover, with the land necessary for the purpose.

In the Prussian monarchy, therefore, the Catholics passed from a condition of pure toleration to one of complete equality with the Protestants. The prince, indeed, carried his equanimity so far as to become the protector in his States of the Jesuit order, which at that time was persecuted everywhere and afterwards suppressed.¹ It is, therefore, easy to understand the high praise which was bestowed upon him by the Pontiffs of that epoch, Benedict XIV. and Pius VI.

But it was not only towards the Catholics that he exercised the broadest toleration, but towards the Greek Catholics, the Quakers, the Bohemian Brothers, the Unitarians and the Socinians as well, that is to say, towards religions which were explicitly excluded by the Peace of Westphalia. Frederick even thought of introducing Mohammedan colonies into the more uninhabited districts of his kingdom.

The liberty granted by Frederick the Great to the dissidents was accordingly so extensive and so much in advance of the times that his successor, Frederick William II., thought it necessary to place some restrictions upon it, which he did by the so-called Religious Edict of Wöllner (July 9, 1788). The edict was, therefore, qualified as reactionary by some and by others was exalted as a just correction of a liberty which threatened to degenerate into license.²

¹ Cf. Witte, *Friedrich der Gr. und die Jesuiten*, Bremen, 1892. His benevolence towards the Jesuits was due to the services which they had rendered, and could alone render, to education in some of the Catholic districts of the monarchy.

² Rieker, *op. cit.*, p. 313, n. 1. The discrepancy in the appreciation of the edict does not only belong to these days; on its first appearance it was hotly discussed in dozens of writings, with regard

The edict establishes that the three capital religions of Christianity, namely, the Reformed, the Lutheran, and the Roman Catholic, must be placed in a condition of equality and maintained in their ancient privileges, and then, at § 2, it adds that the toleration which had hitherto been a characteristic of the Prussian State should be maintained towards the remaining sects and religious parties, so that not the least coercion could be exercised upon the consciences of anybody on any occasion, but only on these two conditions: that the dissident fulfils his obligations towards the State as a pacific and good citizen, and that—and herein is the essential matter—he should hold his own opinions for himself and take care not to propagate them or to attempt to draw other persons over to his way of thinking, causing them to wander or stumble in their ancient faith. Therefore one of the highest constituent faculties of religious liberty, that of the free manifestation and propagation of opinions, was excluded, and the edict was abolished on December 27, 1797. But already the territorial law (*Allgemeines Preussische Landsrecht*) for the Prussian States of 1794, the dispositions of which in regard to all ecclesiastical matters were formed upon the writings of Georg Ludwig Böhmer and are therefore thoroughly imbued with the principles of natural law, restored the maxims of the most complete toleration according to the spirit of Frederick the Great. The section of that celebrated code which concerns to which see Henke, *Beurtheilung aller Schriften welche durch das Religionsedikt veranlasst worden sind*, Kiel, 1793; and the *Bibliotheca realis iuridica*, of Lipenius, Supplement by Madihn, vol. iii. col. 414, 418, vol. iv. col. 290–291. *Das Religionsedikt*, a comedy in five acts, deserves special mention owing to the controversy which it aroused and the condemnation to imprisonment which it involved for Bahrdt, a theologian of an extremely unprejudiced but somewhat unbalanced mind, for having subjected the edict to ridicule.

ecclesiastical affairs (lib. ii. tit. 11) opens (§ 1) with a provision which is diametrically opposed to the *ius reformati* of the Treaty of Westphalia—the provision, namely, that the ideas which every citizen forms for himself of God and of divine things, of faith and of divine worship, can never be the object of coercive laws; and immediately after (§ 2) it is solemnly laid down that: “To every inhabitant of the State must be conceded full liberty of belief and conscience.” And subsequent paragraphs guarantee the protection of the conscience against any offence and persecution, the free passage from one religion to another, and the power of association for religious purposes and for the exercise of worship.

So far as concerns the juridical position of the various religions within the State, the Prussian territorial law for the first time lays down clearly the foundation of that system which afterwards triumphed in all countries, in which religious liberty became reconciled with Erastian principles.

In a first category stand the religions recognised by the Treaty of Westphalia, that is to say, the three capital religions of the Edict of Wöllner. These are placed in a condition of perfect “parity”¹ and endowed with the faculties of *public corporations*, viz. on the one side the patrimonial privileges inherent in that quality, and on the other of the prerogatives which characterise the public exercise of worship (churches, bells, processions, etc.).

In a second category are the religious associations whose duty it is to notify the State of their constitu-

¹ The *exacta mutuaque aequalitas* of the Peace of Westphalia (see Part III., Ch. XII.) assumes, therefore, a new meaning; it is no longer an equality which regards only the chiefs of the Germanic States in the empire, but parity of the various religious beliefs, considered in themselves, within the territory of a single State.

tions, so that it may examine them to see if they contain anything harmful or dangerous. In the event of such examination resulting favourably, the associations are tolerated, but without the recognition of a juridical personality, and without the prerogatives of publicity in the exercise of their worship.

An intermediate category, not explicitly considered by the Prussian territorial law, is formed of those religions which, like the Bohemian Brothers and the Quakers, had not the position of privileged religions, but obtained some larger concessions than the associations which were simply tolerated.

In the eighteenth century, therefore, the Prussian monarchy succeeded in completely breaking the shackles which imperial legislation had placed upon the progress of religious liberty. It was only in the succeeding century that the other Teutonic States came into line and co-operated with Prussia in modifying that restrictive legislation.

PART III.—PROTESTANT COUNTRIES IN THE
SEVENTEENTH AND EIGHTEENTH CENTURIES

(CONTINUED)

CHAPTER XIII

AMERICAN SEPARATISM

I. NORTH AMERICAN writers are fond of contrasting their own with all the other civilised countries as being the only one in which religious liberty obtained a complete triumph from the earliest times. The theory of mediæval Europe, they tell you, was intolerance and persecution; the theory of modern Europe is simply toleration: the theory of North America, on the contrary, is religious liberty and equality.

Leaving on one side for a moment what is less exact in the statement that the régime adopted by the European States deserves only the name of simple toleration and not that of true liberty, it cannot be denied that this sharp distinction between them and the great American Republic possesses this fundamental *raison d'être*: the European States have ensured to all their citizens equal liberty of conscience and worship, without, however, divesting themselves of their authority over any of the historical Churches, that is to say, without abandoning their ancient jurisdictionalist point of view; whereas in America liberty of conscience and worship were developed step by step with the separatist system and finally triumphed

in virtue thereof, that is to say, in virtue of abstention of the State from interference in the government of any Church.

Now, since the American régime is also included among the ideals of many European writers and in the programmes of many parties, so all our attention in the present study should be directed to this fundamental inquiry: Why have the principles of religious liberty and of the separation of the two powers, civil and ecclesiastical, presented themselves from the earliest times in America as two terms conceptually, historically, and practically inseparable?

Whoever considers the politico-religious condition of North America at the beginning of the seventeenth century is confronted by a difference between the colonies which owed their origin to a commercial speculation, and those established for a purpose which was exclusively, or at least mainly, religious. The former held firmly to the ecclesiastical institutions of the mother-country, whether it were, as in most cases, England, or whether it were Holland, as in the case of that territory and that city which afterwards became the State and city of New York, but which at that time were called respectively New Holland and New Amsterdam.

In fact, the most ancient constitution of Virginia (charter of 1606) explicitly laid down that in regard to religion the colonists were to take the oath of supremacy, and therefore to conform in every way to the doctrines and rites of the Anglican Church. Hence the Church of Virginia appeared as merely a branch of the Church of England. The attachment to it, and at the same time to the Crown, was so close that the Puritan revolution in England induced the Virginian colonists, through a sentiment of reaction,

to banish Dissenters from their territory, and to promulgate an Act which excluded religious liberty and put an end to the toleration which the Dissenters had formerly enjoyed. In New England itself the colony of Maine adopted at the outset the doctrines and rites of the Anglican Church, and maintained them until they had to give way to the influence of the Puritan colonies.

In New Amsterdam, on the other hand, as was only to be expected, the Dutch ecclesiastical organisations were transplanted, and these, side by side with an official Church of the Calvinistic faith, admitted other religions with great liberality. Hence there was present in New Amsterdam right from the beginning, on the example of what had occurred at the same time in the European metropolis, toleration of a cosmopolitan character which attracted thither from every country (Bohemia, France, Switzerland, England, Italy) refugees of every belief, not excluding Jews, but excluding Catholics. From Amsterdam they wrote to the Governor: "All pacific citizens should enjoy liberty of conscience: this rule makes of our town the refuge of the oppressed of all the nations; follow in the same road, and you will be blessed."¹

The existence of an official Church—intolerant in Virginia and Maine, tolerant, on the contrary, in New Amsterdam—and at the same time the continuance of the jurisdictionalist idea, that is, the supremacy of the State over the Church, must, therefore, appear to us as completely normal and easily explicable facts in all these colonies.

Abnormalities and difficulties arose when the first

¹ Cf. Douglas-Campbell, *The Puritans in Holland, England, and America: An Introduction to American History*. London, 1892, i. p. 249 *et seq.*

immigrants for the cause of religion reached New England.

The earliest were the so-called *Pilgrims*, namely, those Puritans, followers of Brown, who had sought refuge in Holland, and there, chiefly through the influence of Robinson, transformed themselves into Congregationalists, that is to say, had assumed as their principal characteristic the ecclesiastical régime under which each group of the faithful formed a distinct congregation, which nominated its own pastors and provided for divine worship by its own means, without the interference or supremacy of bishops or other rulers.

The desire of keeping their nationality intact, and still more, a few discrepancies between their beliefs and those of the Dutch—from whom, however, they had received benevolent hospitality—induced them to abandon Holland, and, with the idea of putting fully into practice in Virginia their own ideals of a Christian life, they embarked for America, where they landed on September 6, 1620.¹

Later on (1629), proceeding directly from England, successive expeditions of Puritans fleeing from the ecclesiastical tyranny of the Episcopalians, landed in Massachusetts Bay.² In these colonies also the Congregationalist régime prevailed, chiefly, it would appear, on account of the example of their neighbours, the Pilgrims of New Plymouth.

¹ They founded the colony which they called New Plymouth, and which preserved its autonomy until 1691, when it was incorporated with Massachusetts; cf. Franklin B. Dexter, "The Pilgrim Church and Plymouth Colony," in Winsor's *History*, iii. p. 257 *et seq.*; Goodwin, *Pilgrim Republic*, Boston, 1888.

² They founded or gradually occupied all the colonies forming New England, *i.e.* Massachusetts, Maine, New Hampshire, Connecticut, Rhode Island, Vermont; cf. Deane, *New England*, and in Winsor, iii. p. 295 *et seq.*

Now two very strange facts emerge immediately from the politico-religious relations of these primitive Puritan colonies. Contrary to all expectations, which would be quite natural in the case of refugees for religious motives who had had to suffer so severely from the exclusive domination of an official Church, contrary to all logical inferences, which would be quite justified in the case of adherents to the independency which, both in Holland and England, had already reached the idea of separation of the two powers, if not, indeed, the idea of religious liberty, these colonists, as soon as their hands were free, put into practice a system of relations between the Church and the State which not only excluded every principle of toleration, but which amounted to a fusion of the two powers closer even than in countries where a recognised supremacy of the civil over the ecclesiastical power existed; that is to say, they established a true theocracy in their colonies.

If the intolerance of these earliest Puritan colonists becomes indubitably apparent from the extremely severe dispositions which they adopted against the Baptists, the Quakers, the Catholics, and even against the members of the Anglican Church, who were put into a boat by the colonists of Massachusetts and sent back to England, the close union between the civil and ecclesiastical powers is shown by these not less evident signs. In 1631 the Court of Massachusetts explicitly ordained that the quality of a free man, that is to say, the enjoyment of full rights, should not be granted except to the members of one of the churches of the colony. The same exclusivism prevailed, if not everywhere as a written law, still less as a custom in the other colonies. The civil affairs of the community were settled in the con-

gregations of the faithful.¹ In the fundamental ordinances of the colony of New Haven, Connecticut (1639), it is laid down as a supreme principle that the Government must conform in everything to the word of God. The colony, as Bancroft observes, thus adopted the Bible as its fundamental statute. Moreover, the compulsion of conscience and the confusion of the two powers blemished those colonial laws which imposed serious punishments upon citizens who did not scrupulously fulfil their religious duties and punctually pay the contributions belonging to the church and its ministers.

To whoever deduces from these facts that America was not at all times, and in every respect, the ideal country of liberty, American writers are accustomed to object, not without a trace of impatience, that, after all, their forefathers were a group of convinced believers whose chief aspiration was to keep their religion pure and who had sacrificed everything for this, and not a colony of philosophers professing universal toleration and ready to admit any school of thought. They had sought refuge upon a strip of land, the legitimate possession of which was assured to them by proper charters; they formed therefore a corporation which had full right to receive only those who thought in the same manner as themselves, seeing that so much space remained in the immense American continent for those who thought otherwise. They intended to make of their land what a man has every right to make of his own house, that is to say, a place of comfort and of discipline for those who had the same ideas, the same sentiments, and the same interests.

This is all very well; but it has not prevented

¹ Masson, ii. p. 552 *et seq.*

some students from desiring to penetrate further into the fundamental causes of this fact, which is strange not only in regard to the re-awakening of intolerance amongst those who had formerly been persecuted on account of religion—for our poor human nature presents us with many other examples of the same thing—but also because it would appear that those fugitives, in crossing from Europe to America, had thrown into the sea the principle of the separation of the two powers which at one time they had accepted.

And Lauer observes that whatever may have been the idea of Brown and his immediate followers in regard to the separation of the spiritual from the civil power, it was evidently not impressed upon the minds of the rude pilgrims sufficiently to enable them afterwards to make an adequate application of it.¹

Masson penetrates more deeply into the problem and brings more clearly into view the not fully liberal, or, as he says, only semi-separatist character which Independency had in the minds of some of its founders, and particularly in Robinson, whose authority exercised a decisive influence on the religious currents of New England.²

Proceeding still further with the inquiry, Dexter, from an examination of the immense literary material relating to these primitive times, was compelled to connect the severe civil régime in those colonies with the professions of faith which formed the basis of Congregationalism.³

¹ Lauer, *Church and State in New England*, p. 26.

² Masson, *Life of John Milton*, ii. pp. 541, 545 *et seq.*; but especially p. 570 *et seq.*

³ Dexter, H. M., "Congregationalism of the Last Three Hundred Years," *etc.*, *op. cit.*, p. 403 *et seq.*

It would have been supremely fatal if those colonists, excited by religious feeling, had given to themselves a politico-ecclesiastical régime of an entirely collectivist type, formed, that is to say, of congregations independent from each other but so rigidly constituted internally as to eliminate and stifle any individual independence and initiative.

To our way of thinking, all these explanations are based upon certain considerations of a much wider bearing which it is necessary to make in regard to the manner in which the various religious denominations which sprang from Protestantism conceived their relations with the civil power.

The Puritan congregations in America were offshoots of the great Calvinistic stock. Now, it is a common opinion that the Calvinists, in contrast with the Lutherans and Anglicans, advocated, not, like the latter, union between the State and the Church, but their complete separation. But this, as Rieker notes in his learned study of the question, forms only a part of the truth, or, in other words, the fact which is enunciated in this manner is only an accessory truth. The principal truth is that the Calvinists, whenever they were able, advocated the union of the two powers, but in a manner different from that of the other Protestants.

The English Reformation—a work essentially of the civil sovereign—always sought its point of support in the sovereign; and it was therefore, under the Tudors, a follower of Erastianism, the system put forward by the German Doctor Erastus, which annihilated the Church in the State; while, on the contrary, under the Stuarts it professed the more modern theories of Arminianism, which, however, were not less favourable to a complete supremacy of

the State over the Church. The Anglican Church always wished to be, and has succeeded down to the present in being, a State Church.

The point of view of the Lutheran Reformation, in spite of the profound diversity of its origin, was not very different. Luther had neither the mind nor the intentions of a politico-social reformer and juridical organiser.¹ Dominating all his thought was the idea of the so-called Invisible Church—the union of all those who agree in the true faith without, however, any external connection. But as for the organisation of the ecclesiastical institution—that is to say, the so-called Visible Church—he defers it, almost with indifference, to the civil authority, whose intervention in the control of ecclesiastical affairs he proclaims to be perfectly legitimate. The consequence of this is that Lutheranism always advocated the system of union between the State and the Church on the basis of the mundane supremacy of the former, and hence the so-called State Church system, or “caesaropapismo.” Not even the fact that the civil magistrate in the process of time modified the form of his intervention, and certainly in a sense not more propitious to the Lutheran Church, could induce that Church to disavow the supremacy of the State and sever her connection with it. She was, in fact, quite satisfied so long as she was not prevented from preaching the Gospel and administering the Sacraments, which are the only aims of the Visible Church.

The Calvinistic reform bore itself in a very different manner. In its case the idea of the Invisible Church has a much narrower significance than with the Lutherans, while that of the visible Church is much wider. Besides being a religious reformer, Calvin

¹ Cf. Rieker, *op. cit.*, p. 387.

was a great politico-social reformer, whose conspicuous talents as a juridical organiser were directed specially towards giving his Church a constitution distinct from that of the State. In his opinion, therefore, the visible Church is instituted not only in order to facilitate the preaching of the Gospel and the administration of the Sacraments, but also for realising the kingdom of Christ on earth—*The Kingdom of our Lord Jesus Christ*, as the English Calvinists said with particular pride.

Everything in the world, and first of all the power of the State, should converge and co-operate in the Christianising work. With this end in view the State should be closely united to the Church, though not in a condition of supremacy, or even of simple equality, but in a subordinate position; since the Calvinists, reviving the ancient Catholic argument, say openly that as the kingdom of Christ is superior to every other kingdom, so the Church ought to stand above the State. The system, therefore, which Calvinism advocated is, as we shall see later on, that of a rigid theocracy, and this Calvin himself demonstrated at Geneva with the purely theocratic régime which he instituted there.

It followed, therefore, that Calvinism, far from showing the obedience and patience of the Lutherans towards the State, became uncompromising and intractable as soon as the State deviated in the slightest degree from the task assigned to it. And when Calvinism was unable to bring the State back to its old subjection, instead of adapting itself to the circumstances, it preferred to break away from the State and keep itself apart. Hence it is that, side by side with what Rieker¹ very appropriately calls

¹ *Op. cit.*, p. 395.

the primary ideal of the Calvinistic reform, namely, theocracy, there very suddenly arose within Calvinism a new politico-religious ideal, secondary or subordinate, that is to say, the famous Separatism, which, however, is sufficiently remote in appearance from all theocratic ideas. In the intention of proceeding with absolute independence to its work of Christianising, if not in the whole of civilised society, at least in the circle of its adherents, the Calvinistic Church sacrificed its position as an *official Church* and henceforth became a *free Church*.

This explains how we are able to find side by side within the Calvinist fold the theocratic Puritan of Scotland and the separatist Puritan of England. But it also explains another fact, which for the moment is more important for us.

The rapid transition of Calvinism from theocracy to separatism was made under the pressure of external circumstances contrary to the realisation of its primary ideal, and it is only natural that the step could be taken with no less readiness in the reverse direction as soon as the opposition ceased and the surrounding circumstances again lent themselves to the realisation of the primary ideal. The step, then, could be a double one: either forward from theocracy to separatism, or backwards from separatism to theocracy.

The backward step was taken by American Calvinism. And it was able to do this precisely because it had seen the triumph of separatist ideas, that is to say, the ideas of the liberty of the Church, and not those of true individual religious liberty. Those congregations of Independents which in England under the tyranny of the Anglican Church, and in Holland amidst the confusion of

the more powerful native churches, had appealed to the separatist principle in order to preserve their independence, hastened therefore to reaffirm the theocratic system with all the enthusiasm of a reconquest or a liberation as soon as the virgin soil of America was spread before them free from obstacles to the realisation of their supreme aspirations.

II. We have, therefore, once again, a manifestation of the unfitness of the pure separatist principle, which was predominant in the dissenting Churches of England, to produce, so to speak, by spontaneous generation, the high idea of liberty of conscience and worship. Here also a foreign fertilising element was necessary, and it came from Holland—the great nursery of religious liberty.

Douglas-Campbell, therefore, is perfectly correct upon this point when he claims for the latter nation the glory of having supplied America also with the first seeds of liberty of religion.¹

It is true that the great politico-religious revolution in England during the seventeenth century did not fail to arouse an echo in her colonies in the New World; but it may be said that having crossed the vast ocean, the reverberation arrived there much weakened and almost like the wide and inoffensive waves of a terrible distant storm. And there are cases even in which these events, reverberating in a new and remote atmosphere, not only lost, but completely changed their effect.

Thus the great Rebellion, which, under Cromwell, laid the foundation of religious liberty in England, instead of assisting the liberal movement which had

¹ Douglas-Campbell, "Puritans in Holland, England, and America," *op. cit.*, i. p. xxiv, and *passim*, e.g., i. p. 249; ii. p. 200 *et seq.*

already begun in America, encumbered and partly arrested it, owing to a peculiar clash of tendencies and facts which we shall very shortly bring to light. And, on the contrary, those acts of indulgence, lavished by the restored monarchy, of which the English Dissenters, rendered suspicious to their nearness to the throne, did not know what to make, were fully accepted by the Dissenters beyond the seas. And in the case of the latter the advent to the throne of William of Orange, hailed with joy by the former, was, after all, an inconvenient revolution, and partly also a disturbance of the ordered progress of their liberty.

The Dutch influence in favour of toleration was exercised in a double manner, first of all by the example of the régime established by them in their colony which afterwards became the State of New York, as has already been seen, and afterwards by means of those sects of Independents who had learned the great principle of toleration from the Arminians and Socinians of Holland. In America, as already in England, it was the so-called Arminian Baptists who first propagated separatism and, at the same time, before everything else, religious liberty. Many of their distinguished ministers, such as Hanserd-Knolly, displayed the greatest activity in this sense among the settlers of New England.

But most decisive of all was the work of Roger Williams, who landed in America in 1631, comprising as it did those new currents of liberal thought to which Arminianism had given rise among the Anabaptists and Separatists. Amongst the tyrannical collectivism of the Congregationalists of New England, amongst the incomplete separatism of the few who were unable to reconcile themselves to the

intransigence of that régime, he came to preach, with all the force of a fully-convinced mind and an exuberant youth, the principle of the widest respect for personal convictions in the matter of religion. Thus he brought a new element to the politico-religious ideas of the colony, namely, the independence not only of the single congregations but of the individuals composing them, that is to say, individualism. His propaganda was truly, as Masson¹ says, a propaganda of Independency within Independency, of Separatism within Separatism: "laborious orient ivory sphere in sphere."

He began to preach at Boston, and was afterwards elected pastor of the church in Salem. The ideas which he sustained without reservation or fear are those which have been handed down to us in his works, the contents of which we have explained elsewhere. They clashed so completely with the politico-ecclesiastical régime of the settlers in Massachusetts, that it is easy to understand why the latter, led by their uncompromising pastors, rose against him and compelled him to take shelter with the Pilgrims of New Plymouth, whom residence in Holland had at least taught ideas of *de facto* if not *de jure* toleration towards those who did not think in the same way as themselves. Recalled two years later by the faithful of the church of Salem, he intrepidly resumed his preaching against any intervention on the part of the magistrates in religious affairs. Then the General Court of the Colony of Massachusetts, assembling towards the end of 1635, condemned him a second time as a propagator of seditious ideas and banished him definitively from their territory, thus compelling him, in the middle

¹ Masson, *Life of J. Milton*, ii. p. 564.

of winter, to seek safety in the forest and amongst the Indians.

Nothing remained for him but to found a new colony (1636), to which he gave the name of Providence. And as its highest purpose Williams explicitly laid down that it was to serve as a refuge for all those who had had to suffer for the sake of conscience. The organisation which he gave to his colony was that of a pure democracy, in which everything depended upon the will of the majority, "*but only in civil things*"; because with religious affairs neither majorities nor magistrates had any concern. Thus for the first time in America separatism and religious liberty formed their fruitful and glorious alliance.

The example of Williams and his invitation excited other Dissenters to follow him. They were the supporters of the antinomian doctrines of Anna Hutchinson, who fulminated against the orthodox ecclesiastics as introducers of persecution and partisans of popery. After their protector, Harry Vane, already Governor of Massachusetts, had returned to England, they also were condemned. And then, in the island of Aquedneck (Rhode Island), in Narragansett Bay, near the colony established by Williams, they founded the towns of Portsmouth and of Newport, where they also instituted a pure democracy, proclaiming, moreover, in their statutes (1641) that the law ensuring full liberty of conscience to everybody should be perpetual.

In Narragansett Bay, and therefore in the territory which afterwards became the state of Rhode Island, a new colony was founded by another victim of Puritan intolerance, the fanatical Samuel Gorton, who also was a champion of liberty of conscience.

The Puritan colonies in Massachusetts Bay having

formed themselves into a confederation from which, owing to religious intransigence, they excluded the settlers in Providence and Rhode Island, the latter found themselves compelled to dispatch Roger Williams to England in 1643 in order to obtain a charter sanctioning the existence of the colonies which remained outside the confederation. With the assistance of Harry Vane, who, although he had left America, still defended its liberties, the charter was obtained in 1644, but its effects only became apparent in the code of laws of 1647, wherein the most complete liberty in the matter of religion was assured to all the settlers and to those who might be united with them.

But in the meanwhile the cause of religious liberty had acquired adherents in the colonies of Massachusetts, thanks to the many books which arrived from England, and of which very often the authors were Americans.

Not only Roger Williams, but Gorton also, and the pastors John Clarke and William Coddington, two of the founders of the colony of Rhode Island, carried on lively controversies on the great subject with the orthodox pastors of Massachusetts, who magnified the example and teaching of Calvin and Beza, and particularly with John Cotton.¹

One of Williams' works was entitled *Mr Cotton's Letter Examined and Answered*. London, 1644.

Also under the form of a polemic against Cotton there appeared his more famous book against the sanguinary doctrines of persecution, which we have

¹ The most complete bibliographical notes regarding the polemic between Williams and Cotton are in the appendix to Dexter, H. M., *op. cit.*; see also Deane, *New England*, p. 351 *et seq.* The works connected with the controversy, and particularly those of Williams, were republished by the Narragansett Club in six vols., 1866-74.

already fully examined. Gorton wrote a work against the magistrates in Massachusetts entitled *Simplicitie's Defense*. London, 1646.

And Clarke with the same object, *Ill Newes from New England, or a Narrative of New England Persecution*. London, 1653.

Against this work Thomas Cobbet wrote his *Civil Magistrate's Power in Matters of Religion modestly debated*. London, 1653.

And finally Coddington, *Demonstration of True Love Unto The Rulers of the Massachusetts against their Persecuting Spirit*. London, 1674.

The liberal movement began amongst the more tolerant settlers of New Plymouth, where a party was formed which proposed that the Assembly should grant "full and free toleration for all men who desired not to disturb the peace and to submit themselves to the government, without limitation or exception, for Turks, Jews, Papists, Arians, Socinians, Nicolaitans, Familists, or members of any other sect," but the proposal was not accepted. Indeed, strengthened in their political independence by the fact that, with the Great Rebellion, their co-religionists had obtained the reins of government in the mother-country, and fortified by the friendship of Cromwell, disavowing the liberal tendencies displayed by their party in England, and paying no attention to the advice which the great apostle of liberty, Harry Vane, unceasingly offered, the Puritans of Massachusetts began to pass legislation and to follow a policy which became more and more intolerant. The chief sufferers by this were the Freethinkers and the Quakers, some of whom were whipped and afterwards put to death.

This cruel treatment of the Quakers gave rise to

an abundant literature, and in addition to the work of Clarke already cited, one was published by Francis Howgill: *The Popish Inquisition newly Erected in New England*. London, 1659.

With the restoration of the Stuart monarchy in England these three facts, which are so very ordinary in human affairs that they will be immediately understood, occurred in New England: the English Government, owing to its very natural hatred of Puritanism, very quickly withdrew from the Puritans of Massachusetts the favour they had enjoyed during the Commonwealth, and began, on the contrary, to support the colonies of Dissenters which had been oppressed by them; the Puritans viewed the change of government with great disfavour, and in their intolerance they sought to resist the harsh innovation of being compelled to admit the hated Episcopal Church within their territory; the colonists of Rhode Island, on the contrary, did not hesitate to do homage to the new government, since, with their unlimited toleration, they could offer no difficulty to the admission of the Episcopal Church on the same footing as any other religion.

The colony of Rhode Island was, in fact, the first to recognise Charles II., and by means of Clarke, who had been left behind by Williams as representative of the colony, they immediately endeavoured to obtain from the sovereign a new charter in which its liberties, and, before everything else, liberty of religion, should be safeguarded. The petition laid before the king is one of the most touching documents in this connection that it is possible to read: "We have it much at heart," the colonists said, "to demonstrate by means of an efficacious experiment that there can be a very flourishing civil state, and, indeed, that it

can be better maintained, with complete liberty in the matter of religion." The king replied benignantly, saying that he would permit the colonists to continue in the enjoyment of their liberty, and that he would not allow them to be compelled to submit themselves to the Church of England. And, in fact, in 1663 a charter was granted in which the most complete toleration was sanctioned: "No one in this colony shall henceforth be molested, punished, disturbed, or brought to trial on account of any difference of opinion in the matter of religion . . . but each one at the same time shall be able freely and lawfully to hold to his own judgment and his own conscience in what concerns religious questions . . . so long as he does not violate peace and quietness, and does not abuse this liberty in a licentious and profane manner," etc.

It should be noticed also that in regard to enjoyment of political rights and the assumption of public offices, the laws of Rhode Island laid down: "Every man professing Christianity and obeying the civil magistrate, whatever opinions he may profess in religious affairs,¹ shall be able to enjoy the rights of citizenship and occupy any civil or military office

¹ In the first printed edition of this charter (Boston, 1719) and in subsequent editions, the following exception is to be found at this point, "*Roman Catholics only excepted.*" This clause, however, by which Catholics would be excluded from full religious liberty, is wanting in the oldest manuscript copies of the charter, and it is in conflict not only with the ideas of the earliest colonists but also with many of their subsequent acts and declarations. (See Bancroft, *History of United States*, ii. p. 235 *et seq.*) It is therefore certain that it was interpolated afterwards, when the Toleration Act of 1689 had, as we have seen, deprived the Catholics in England of all liberty. However, the clause remained in the laws of Rhode Island, and was only removed by the decree of the General Assembly of February, 1783. Cf. Deane, *New England*, p. 379; Stone, *Roger Williams, the Prophetic Legislator*; Providence, 1872.

in the colony." Thus we have toleration for everybody, even for non-Christians; full liberty in the sense of full enjoyment of all rights, for Christians alone.¹

The colony of Connecticut, governed then by one of the most enlightened men of the time, John Winthrop, also profited by the Restoration to obtain a more liberal charter from the English Government in 1662, and as by this charter the colony of Newhaven was incorporated with Connecticut, it was possible to withdraw the theocratical régime which, as we have seen, existed there in all its rigidity. And in 1669 an Act of relative toleration was published there.

But the Massachusetts colonists, confronted by the menace which the new order of things held for their political independence, deliberated as to whether they should hold still more closely to their uncompromising line of conduct, notwithstanding the remonstrances of the commissaries sent to America by the King of England. In that colony, therefore, religious liberty could make no progress until, its charter and its independence having been abolished, the representatives of the Crown of England published Acts of Indulgence towards the Dissenters.

III. But the most significant fact in the history of American religious liberty is undoubtedly the régime of toleration which, contemporaneously with what was happening in the Protestant colony of Rhode Island under the guidance of Roger Williams, was instituted by Lord Baltimore in the Catholic colony of Maryland.

The fact is so strange, and represents something

¹ Subsequently, however, non-Christians, and particularly Jews, are often admitted to the enjoyment of full citizenship. Cf. Deane, *op. cit.*, pp. 379, 380.

so unique in the life of the Catholic Church, that many serious writers have been unwilling to believe it; and while they do not go so far as to deny the Catholic character of the colony, or to ascribe the toleration which was introduced there to the merit of the Protestants, they have attempted to explain it, not by the liberal sentiments of the Lords Baltimore or of the Catholics who were with them, but as the result of an opportunistic political calculation. Let us look to the facts. But before explaining them we cannot refrain from a warning which may assist us towards their proper appreciation. For an instant the profound difference of opinion in regard to the ancient tolerance in Maryland, issuing from the narrow circle of students of American history, found an echo in that controversy of world-wide interest in which Gladstone and Cardinal Manning engaged in 1875 in regard to the Vatican decrees. Manning had cited the example of Maryland in order to combat Gladstone's assertion that the Catholic Church had never omitted, whenever it was possible, to use violence and torture in order to restrain religious sentiments. Gladstone replied in his *Vaticanism* that the Catholic toleration in Maryland was simply an egotistic measure of defence, since the Catholics had instituted it solely for the purpose of guaranteeing the exercise of their own religion, which was threatened by the imminent invasion of the colony by Protestants. Afterwards, in reprinting his essay under the title of *Rome and the New Religious Parties*, he withdrew that objection.¹

In the charter by which Charles I. granted the territory of Maryland to George Calvert, Lord

¹ Clarke, R. H., "Mr Gladstone and Maryland Toleration," in *Catholic World*, Dec. 1875, published afterwards as a separate work.

Baltimore,¹ and his descendants, with the same rights as if it had been an English barony (1632), it was simply stated in regard to the ecclesiastical organisation of the colony that the rights conferred upon the proprietors should never be exercised in such a manner as to prejudice the *Sacrosancta Dei vera Christiana religio*.² What precisely was indicated

¹ Sir George Calvert, scion of a noble Flemish family and Secretary of State under James I., was deeply interested, owing to his office, in colonial affairs, and had acquired from the sovereign in 1623 a charter conceding the territory of Avalon, on the coast of Newfoundland, which he afterwards abandoned owing to the inclemency of the situation. In 1624, having become converted to the Catholic faith owing to his disgust with the bitter controversies by which English Protestantism was divided, he had, on account of a scrupulous feeling which attests his loftiness of mind, resigned all his high offices, the holding of which he regarded as incompatible with his new faith. This, however, did not deprive him of the favour of the king, who conferred upon him the title of Lord Baltimore. It having occurred to him to create in America a refuge for his Catholic co-religionists, who were hated by all the English evangelical parties, he visited Virginia, where, however, as a condition of his remaining, he was required to take an oath of submission to the Episcopal Church. This he was unwilling to do. He then asked Charles I. for a charter conceding a territory bordering on Virginia; but he having died in the meanwhile, the charter was granted to his son Cecil, second Lord Baltimore. The latter proceeded to the foundation of the colony by means of an expedition led by his brother Leonard, and consisting of Catholic gentlemen and some hundred colonists. The colony, in honour of the king's wife, Mary, daughter of Henry IV., was named Maryland. Thus the first tolerant Catholic colony in America took its name from a daughter of the tolerant King of France. Cf. Bancroft, i., c. vii., p. 262 *et seq*; Brantly, "The English in Maryland," in Winsor's *History*, vol. iii. p. 517 *et seq*.; and Meaux, *L'Église catholique et la Liberté aux États-Unis*, Paris, 1893, p. 357 *et seq*., who rightly insists upon the French influence in this great event.

² See the various passages in the charter regarding ecclesiastical affairs, compared with similar passages in other charters in Petrie, "Church and State in Early Maryland," in *J. Hop. Univ. Studies*, Series X., Balt., 1892, p. 5 *et seq*. See also Lloyd Harris, "Church and State in the Maryland Colony," Inaugural Dissertation, Heidelberg, 1894. Harris did not know Petrie's work, and has fewer references.

by this—the Episcopal Church of England, the Catholic Church, or any other form of the Christian religion? This is a point which has aroused much discussion amongst the historians of America.

The Calvert brothers and their followers, at any rate, understood it in the most liberal sense, and opened their colony to everyone, whatever his opinion might be, who accepted the Christian religion. This appears not only from the explicit declarations of full toleration which were made by the earliest founders of the colony, but even more clearly from the fact that they invited the Puritans who were oppressed by the Episcopalians of Virginia, and the Episcopalians who were persecuted by the Puritans of New England, to take refuge with them. Moreover, any dispute which might give rise to religious passions was prohibited, and in the oath which had to be taken by the Governor of the colony this clause was inserted: “I promise not to cause annoyance or impedient of any kind, either personally or through others, either directly or indirectly, to anybody in this colony who professes faith in Jesus Christ . . . ; to make no distinction between persons in awarding offices or favours proceeding from the authority for religious motives . . . ; to prevent harm being done to any persons professing faith in Christ because of their religion, or any obstacle being placed in the way of the free exercise of religion,” etc. But this was not all. In order to ensure the religious liberty of everybody the lord proprietor and the Assembly of the colony subjected testamentary and matrimonial affairs to the civil authority, although, according to the English law, they should have been placed exclusively in the hands of the clergy, who in Maryland were Catholics. Other measures, very strange

for the times, were taken against the danger of the Catholic mortmain, because the Jesuits acquired from the Indians, whom they gradually converted, concessions of immense territories.

The serious opposition which broke out against the Crown in England caused the settlers in Maryland to fear for their liberty; and they attempted to protect themselves by promulgating, on April 21, 1649, the famous Act of Toleration—the first legislative decree of full religious liberty. at least for Christians, which a legally constituted assembly had ever voted.¹

This Act states: “And since the coercion of conscience in the matter of religion has often produced harmful consequences in those communities in which it was exercised, for the more tranquil and pacific government in this province, and for the better preservation of mutual love and unity among its inhabitants . . . nobody in this province who professes faith in Jesus Christ shall be disturbed, molested or persecuted in any way for reasons respecting their religion or the free exercise thereof.”

By the same Act, however, those who blasphemed the name of God or attacked the Holy Trinity or one of the three persons composing it were threatened with the penalty of death; but it does not appear that this punishment was ever applied.

There is no need to discuss here the relations which may exist between this Act and some enactments of the English Parliament, or the resemblance which it bears to certain passages of the *Utopia* of Thomas More. More essential for our purpose is an indication

¹ The religious liberty which had been proclaimed two years before in Rhode Island was sanctioned by a royal charter, and not by a deliberation of the Assembly; but it was a fuller liberty than that of Maryland, since it was not confined to Christians alone.

of the differences of appreciation which sprang from it, especially in comparison with the terms of the royal charter of 1632.

Some writers maintained that the toleration of Maryland as contained in the charter of 1632 was conceived in such terms as to embrace all the Christian denominations far more than was the case with the Act of 1649: that accordingly the merit belongs more to the Protestant prince who granted the charter than to the Catholic gentleman who accepted it for an enterprise which was exclusively commercial.¹ By other writers it is objected that the merit of toleration was ascribed not so much to the Protestant prince as to Calvert and the first settlers, who were able to adapt the terms of the charter—which, according to their general tenor, would not have excluded a restrictive and intolerant application—to a régime of complete liberty, thus paving the way for the Act of 1649.

It is replied that the merit for this Act of 1649 should be awarded in the first place to the Protestants because they constituted the majority in the colony and in the Assembly which voted it. But writers who are free from denominational prejudices have finally established: (1) that even if it be admitted that the Protestants who accepted the invitation of the founders of Maryland were so many as finally to constitute a numerical majority of the population, it is nevertheless certain that the Catholic minority (by the mere fact that the proprietor was a Catholic) had everything in its own hands, and exercised an influence and a power superior to its numerical proportion; (2) that the majority of the members of the Assembly

¹ Kennedy, *Life and Character of the first Lord Baltimore*, 1845; Allen, *Maryland Toleration*, 1855.

which voted the Act was Catholic¹; (3) that the lord proprietors not only approved the Act, but took part in the preparation of it; since amongst the proposals that Cecil Calvert sent to the colony in 1648, in order that they might be discussed in the Assembly, was a suggestion that *provision be made for freedom of conscience*.²

We cannot, therefore, honestly deprive the first Catholics of Maryland, and particularly the family of Lord Baltimore, of the glory which has been so amply recognised in the case of other Protestant innovators, of having been amongst the earliest precursors of religious liberty in the modern age, and certainly the first advocates of it amongst the Catholics. If, faithful to their armorial device which bore the Italian motto, *Fatti maschii, parole femine*, they did not advocate the great idea by noisy and verbose writings or declarations, it is impossible not to recognise that the sacrifice of everything to their faith, the holding firm to the régime of toleration, both against the excessive demands of the Puritans and the plots of the Jesuits, never shirking the practical consequences of the liberal principles upon which the constitution of their colony was based, are facts which out-value many words and which deprive the opinion, that this conduct of theirs was

¹ Petrie, *Church and State in Early Maryland*, p. 30, and Brantly, *English in Maryland*, p. 534. According to these authors, of the sixteen members composing the Assembly, six were undoubtedly Protestants and eight Catholics; the faith of the other two seems to be uncertain.

² Johnson, *Foundation of Maryland*, p. 125; Petrie, p. 26. But here also the dispute is rekindled; since Calvert having said in these proposals that they had been suggested to him, Neill (*Maryland not a Cath. Col.*, p. 10) supposes that the suggester was the Puritan pastor Harrison, while Johnson (p. 133), on the other hand, mentions the name of the Provincial Father More, a friend of Lord Baltimore.

not the outcome of profound conviction, but only of a cunning and interested policy, of any claim to consideration.¹

Plenty of evidence in favour of this manner of judging the primitive history of Maryland is to be found in succeeding events in the colony, and particularly in these two very eloquent facts: (1) that when the Protestants obtained possession of the government, they passed intolerant legislation: (2) that when the authority of the Lords Baltimore was restored, they again brought into operation the old régime of complete liberty.

The measures which were adopted at that period in Virginia against the Puritans caused the latter in large numbers to take advantage of the Act of Toleration of 1649, and they poured into Maryland, where they founded a town of their own,² and where, increasing the number of Protestants, which was already large, they ended by obtaining a majority in the Assembly. They were then seized by the idea of forming a purely Puritan government, and, encouraged by the triumph of the Puritan revolution in England, and by the support and applause of their English co-religionists,³ they rebelled against the

¹ Regarding the much-debated question of the ambiguous terms of the charter of 1632, I believe that the truth has been established by Gardiner, the profound student of the history of England in the first half of the seventeenth century, who states that the king and Lord Baltimore, in order to avoid the dangers of an explicit declaration, maintained the usual formula of other charters, secretly agreeing between themselves, however, that the Catholics and the members of the official Church should enjoy the same rights. Cf. Gardiner, *Personal Government of Charles I.*, vol. ii. p. 290; Brantly, p. 524.

² Randall, "The Puritan Colony at Annapolis, Maryland," in *J. Hop. Univ. Stud.*, Series IV., Balt., 1886.

³ The fall of the Catholic government in Maryland was hailed with joy by the fanatical Puritans in London, and in this connection

authority of Lord Baltimore, and possessed themselves of power. Of this they availed themselves to abolish immediately the *Act of Toleration* of 1649, and to substitute an *Act concerning Religion* (1654), in which, after having proclaimed that the fullest religious liberty should be granted to all who professed Christianity, they laid down that *this liberty cannot be extended to the Papists, Prelatists (i.e. Episcopalians or members of the English High Church), and those who, although professing faith in Christ, commit licentious acts.*

With the restoration of the Stuarts, the Baltimore family was reinstated in its rights, and their first proceeding was to put into operation again the Act of 1649.

But very soon they had to defend it against other enemies, namely, the Episcopalians, who were again in the ascendant, and who claimed that the Church of England should be established throughout the colony as the official Church. After a first fierce onslaught in 1676 the Episcopalians, with the accession of William of Orange to the throne, succeeded completely in their aim, and then, together with independence, the Catholic toleration of Maryland came to an end.

IV. The other North American colonies, in the period in which they enjoyed their primitive independence, and before they were reduced to the status of simple provinces of the English Crown,

a work was published: Strong, *Babylon's Fall in Maryland*, London, 1655; in reply to which Langford published his *Refutation of Bab. Fall*, etc., London, 1655. There was issued also in defence of the Catholics: Hammond, *Leah and Rachel, or the two fruitful Sisters, Virginia and Maryland*, London, 1656. Regarding the personal position of Cromwell, who disapproved the intolerant laws, but did not hinder his co-religionists in Maryland from taking their own road, cf. Bancroft, i. pp. 289-291.

were not entirely closed to the spirit of liberty. But it had reached them by their different ways, and consequently produced different effects.

From the Puritan revolution in England, Virginia received its first impulse towards the sanctioning of a religious liberty which would have been almost complete if the extremely severe laws against the Quakers had not been allowed to remain. With the restoration, however, the official Church definitively resumed its ancient position there. Favoured by the restored Stuart dynasty, however, the two proprietors of New Jersey, Lord Berkeley and Sir George Carteret, were able, for the purpose of attracting the settlers thither, to grant in the laws and concessions which they prescribed for the colony (1664) the utmost liberty of conscience and worship, reserving only the recognition of the sovereignty of the King of England and the authority of the proprietors.

When, in 1664, the English became masters of New Amsterdam and called it New York, it was only natural that in order to prevent the new domination from coming into collision with the colonists and the former Dutch rulers who remained in the town, that they should show no hesitation in respecting the toleration which they found flourishing there and in sanctioning by their first laws (1665) ample liberty in regard to religion. Hence Governor Andros, in his report of 1678, was able to say that the followers of all the religions in the world, not excluding Quakers, Anabaptists, and Jews, lived at peace in the colony.

The formula adopted in the charter of liberty which the settlers gave themselves in 1683 might, however, have excluded the Jews (at least from true liberty, if not from simple toleration); since it says

that "all pacific persons who profess faith in God through Jesus Christ cannot under any circumstances or in any manner be disturbed on account of any difference of opinion." The Catholics also (among whom was Governor Dongan) were therefore included; but this was precisely the reason which rendered the charter, and the subsequent declarations of indulgence of James II., unacceptable to the Protestant majority, and which caused them to rise against him on the first news of the rebellion in England.

In the Carolinas it can be said that the beginning of religious liberty was essentially of an economic and doctrinaire character; and this is sufficient to explain the small success with which it met. The motive for colonisation was not, as tradition required, the desire to escape from religious persecution, but as the most recent writers, guided by documentary evidence, have maintained, solely the spirit of adventure and speculation. And the eight English gentlemen to whom Charles II. gave those regions as a reward for their fidelity to him in exile were not exempt from a certain amount of emphatic exaggeration when they proclaimed in their charters of 1665 and 1667 that they would concede the fullest liberty of religion; and after all, perhaps, they did not attribute much more importance to it than to the promise of complete immunity for the debts and crimes of the settlers contracted or committed before their arrival; their only idea, probably, was to attract as many settlers as they could—even those of the baser sort—for the advantage of their enterprise.

But those eight proprietors were among the most highly cultured people in England, and included the Earl of Shaftesbury, the great protector and friend of Locke. To the latter the proprietors entrusted the

task of drawing up, with the assistance of Lord Shaftesbury, a constitution for the new colony. Locke set himself seriously to the task, and his work was ready in 1669. In 1670 the proprietors signed the constitution. Of the sincerity of Locke there can be no doubt, nor is it possible to withhold from him the praise of having endeavoured to translate into practice his profound liberal convictions in the matter of religion, not contenting himself with brilliantly developing them, as he afterwards did, in theory.

But how much the signatories to the constitution, who declared it to be eternal; how much the English educated world, who lauded it to the skies; how much Locke himself, who held it in high regard throughout his life, were mistaken as to the efficacy of the work, has already been demonstrated by many people and under various aspects. As regards religion, it is sufficient to note that the constitution granted the fullest toleration for all dissidents, not excluding Jews and Pagans. Seven individuals could form a Church and obtain its recognition so long as they professed their faith in one God and in the necessity of offering Him public worship. Every citizen on reaching the age of seventeen had to declare the Church to which he belonged in order to enjoy civil and political rights. Every offence or coercion on account of religion was severely punished.¹

Against the judgment of Locke, the proprietors

¹ Articles 95, 97, 100, 101, 102, 106, 109, 110 of Constitution. Regarding Locke's relations with Carolina, see in particular Fox Bourne, *The Life of John Locke*, London, 1876, i. p. 235. The principles laid down by Locke in this Constitution agree with the ideas advocated by him in his celebrated writings, except that in the Constitution the Catholics are not excluded. Was he moved to this by consideration for the peculiar conditions of those regions, or because he had not yet experienced exile at the hands of the English Papists?

added (Art. 96) a clause that while all dissidents were tolerated, the Anglican religion, as the only true and orthodox one, should be the national religion of Carolina, and should receive an official endowment from the parliament of the colony.

Now all this was laid down in 1670 for a country which had no minister of the official religion until 1702, and where the first church was built only in 1705; for a country in which religious liberty was guaranteed *de facto* by the scarcity of the inhabitants, who were living in something resembling a state of nature in the immense territories, and practising in that boundless freedom the most simple and diverse forms of worship according to their different places of origin. And in defence precisely of its congenital liberty of conscience and of the spontaneous separatism which the very condition of things had hitherto assured, the colony had to take the field against the constitution and afterwards, more particularly, against the intrigues and violences which the governors, on the order of the proprietors, and assisted by the English Society for the Propagation of the Gospel in the Colonies, initiated in the early years of the eighteenth century in order to implant the Anglican Church in Carolina as the official Church and reduce the Dissenters to conformity with it. The Dissenters were Presbyterians from Scotland, Lutherans from Germany, Huguenots from France, Catholics from Ireland, and Quakers of America. United in opposition to the proprietors and to the Episcopalians, they formed a majority in the colony. The result was disturbances and revolutions in what afterwards became South Carolina, where, in 1704, by an Act of the Assembly, all the Dissenters were deprived of their political rights.

English public opinion was deeply moved; and Defoe, the famous author of *Robinson Crusoe*, took the part of the Dissenters in Carolina in a work which he wrote against the bill of 1704, *Party Tyranny; or an occasional bill in miniature as now practised in Carolina*. London, 1605.

To him also is attributed another work with the still more significant title *The Case of the Protestant Dissenters in Carolina, showing how the law to prevent occasional conformity there, has ended in the total subversion of the Constitution in Church and State*. London, 1706.

The English Parliament had to intervene in order to moderate the intransigence of the proprietors. It ended, however (Acts of 1711 and 1715) by placing the Dissenters in the same condition as they were placed in regard to the Anglican Church in England by the famous Act of Toleration.

Elsewhere, again, the American colonies owed their first liberties to the initiators and leaders of the Quaker sect. Their first founder, Fox, their great theologian Barclay, and their indefatigable apostle William Penn, had already been, or still were, amongst the warmest advocates of toleration in England. They attempted to procure for their followers in New Jersey, which they partly acquired, an asylum in which they could enjoy the largest measure of liberty.¹

The same intention led Penn to found the colony which bears the name of Pennsylvania.

In the constitution (*The Trame of Government*) which he published in 1682 for his colony of Quakers it may well be said that religious liberty was the fundamental idea. Nor were things changed in the

¹ Cf. Whitehead, *op. cit.*, p. 136 *et seq.*

new Constitution compiled by him in 1701 (*Charter of Privileges*), in which he emphasises that a people, even when it is provided with the utmost civil liberty, cannot be truly happy unless it is accorded liberty of conscience. This idea recalls the profound political aphorisms of Harrington. Only faith in Christ is demanded as a condition for the occupation of the public offices, without it being necessary, however, to belong to any special denomination.

V. Thus the eighteenth century, so far as concerns religious liberty, found the English colonies in North America divided into two groups—(1) colonies in which an official or Established Church had never existed or ceased very soon to exist, and in which, therefore, the relations between State and Church were based more or less precisely on separatist principles.

The colonies in this group, which comprises Rhode Island, Pennsylvania, New York, New Jersey, and Georgia, differed from each other according to the measure in which liberty of conscience and religion was permitted by their form of separatism.

The two colonies which were of religious origin, namely, Rhode Island, founded by the Baptists, and Pennsylvania, founded by the Quakers, always showed much toleration towards the Catholics.

The clause, interpolated in the statutes of the former, by which Catholics were excluded from holding public offices, would not have deprived them of a large amount of religious liberty, even before it was cancelled. The government of that colony opposed every attempt to establish the Church of England as the official Church, and exempted every citizen from the obligation to contribute to the upkeep of any church except by voluntary contribution.

As for Pennsylvania, William Penn never omitted to give full expression to his feelings in favour of the Catholics. But here also the principle subsequently prevailed that they should be denied, if not a certain measure of toleration, at least access to the public offices, since from those who aspired thereto a written declaration was demanded that they did not believe in transubstantiation, the adoration of the Virgin, and the sacrifice of the Mass, as being superstitious and idolatrous practices. This restriction was subsequently abolished on the advice of Benjamin Franklin.

The position of the Catholics was even worse in the commercial colonies of New York and New Jersey, which excluded them from the general religious liberty sanctioned there, and they were also excluded from it in the philanthropic colony of Georgia.

(2) Colonies where an Established Church existed, which was—(a) The Episcopal Church in Virginia, Carolina, and Maryland (where the proprietor, Lord Baltimore, had in the meanwhile returned to Protestantism); (b) the Congregationalist Church in the colonies of New England, with the exception of Rhode Island, of which we have already spoken.

The Catholics were not tolerated at all in this second group, and not even in Maryland, where, in the preceding century, they had given such a splendid example of toleration.

The other Dissenters in general—and the Episcopalians counted as such in the colonies of New England, and the Congregationalists in the other colonies of the South—did not enjoy full rights there. Hence it was in the colonies of this second group that during the first three-quarters of the

eighteenth century the bitterest struggle for religious liberty was carried on.

The Dissenters in Virginia and Carolina, however, did not succeed in obtaining any well-defined or noteworthy legislative result. It was only through the war against the French in Canada and the Indians that the common danger succeeded in effecting a reconciliation between oppressor and oppressed. In Carolina the controversy, which was even more bitter there than in Virginia, served only to show that greater liberty existed there at the beginning of colonial life than at the end. Neither here nor in Maryland did the Dissenters manage to escape from the most odious of all burdens, namely, the obligation to pay taxes for the support of the Established Church.

The struggle in New England was more fruitful in results. For in Massachusetts the Episcopalians in 1742, and the Quakers and Baptists in 1747, were dispensed from paying contributions to the Established Church. This exemption was granted even earlier in Connecticut (where the Act of 1708 had already assured liberty of conscience for all dissidents), the Episcopalians receiving it in 1727, the Quakers and Baptists in 1729, and shortly afterwards the Separatists also.

But several circumstances helped towards making the English colonies of America ripe for full religious liberty. These were: (*a*) The constantly increasing number of the dissidents of all denominations and from all countries, with men of great energy and ability at their head, who managed, in spite of everything, to possess themselves of important offices. *e.g.* the direction of the establishments for higher education, even in the most intransigent countries;

(b) the great religious awakening by which towards the middle of the century the Anglo-Saxon countries were shaken, and of which we have already seen the effects so far as Great Britain was concerned. The *Great Revival* or *Great Awakening*, fighting against the bigoted and narrow formalism of the established churches, not only caused many individuals and many communities to leave them and go over to the Dissenters, and particularly to the Baptists, but, rekindling true religious feeling, helped, as had already been done by the Pietist movement in Germany, also to bring forth ideas of benign, reciprocal toleration. (c) To this was subsequently added the influence of European Illuminism in all its varied manifestations. The books of Locke had a much greater influence on these colonies than his legislative projects, since the great leaders of the American revolution referred expressly to his ideas.¹ The principles of natural law, which had been formulated particularly by Pufendorf, met with immense favour, so that the doctrines of the great jurist were used as the foundation of a work which very largely assisted in making opinions in Massachusetts much more democratic.² On its side, French rationalism, and particularly the Voltairian theories of toleration, had gained over one of the men who subsequently made the most effective use of them in the cause of American religious liberty ;

¹ From Locke, Samuel Adam derived the idea that men, by an act of free agreement, enter upon the formation of a State, an idea which inspires the proposed Declaration of Rights presented by him to the citizens of Boston on November 20, 1772. Cf. Jellinek, *Die Erklärung der Menschen- und Bürgerrechte*, Leipzig, 1895, p. 45.

² Wise, *A Vindication of the Government of New England Churches*; Boston, 1772. The author himself states, on page 22, that he had taken his fundamental principles from Pufendorf. Cf. Jellinek, p. 43 *et seq.*

this was Jefferson, who belonged to the Unitarian sect. (d) Finally, the commercial and industrial progress of the colonies assisted perhaps more than anything else in distracting those colonies from their absorbing preoccupations and their exclusivism in the matter of religion. They began to think less of the Church and more of the State and of commerce, and hence to see the enormous advantage the latter would derive from liberty. This resembled what had taken place in Holland about one hundred years earlier.

The great struggle for independence came to mingle all those separate elements and to fuse and mould them into one practical, definite effect.

A few weeks before war was declared, Thomas Jefferson wrote on behalf of Virginia his famous *Declaration of Rights*, which the Virginian parliament unanimously approved (June 12, 1776). In Art. 16, in a tone which vividly recalls the rationalistic and individualistic ideas of the Socinians and Unitarians, he said, "That religion, or the duty which we owe to the Creator and the manner of fulfilling it, can only be regulated by reason and conviction and not by force or violence; and that all men therefore have an equal right to the free exercise of religion according to the dictates of their conscience; and that it is the mutual duty of all to practise patience, love, and charity one towards the other."¹

There were other declarations of rights in the various colonies in which the principle of full

¹ Jellinek, in his scholarly study (*Die Erklärung*, etc.) demonstrates that the principle of religious liberty which was developed in the North American colonies was the chief factor in the idea of legislatively proclaiming the rights of man, and was therefore the origin of all those famous declarations of the rights of man and of the citizen which afterwards became so frequent, particularly in France.

religious liberty was decreed. This principle was afterwards accepted as one of the bases of the new constitution which the colonies gave to themselves with the proclamation of independence, beginning with the constitution of New York (April 20, 1777), in which are affirmed in a particularly energetic manner both the principle of liberty of conscience and worship, and that of the separation of the Church from the State.¹

After their independence was recognised, the colonies formed themselves into a confederation, and the Convention of Delegates from the various States, meeting in Philadelphia (May 14 to September 17, 1787), wrote in Art. 4. § 3, of the new Federal Constitution: "No declaration of faith shall be required as a condition for obtaining any public office or charge in the United States."

When the Constitution was laid for discussion before the parliaments of the various States which had to ratify it, two currents of opinion were manifested against this article, the one finding it excessive and dangerous, and the other insufficient and maimed.

It was feared by the opponents of the article that power might pass into the hands of the Catholics, the Jews, or the infidels: "even the Pope of Rome," one horrified delegate exclaimed, "might become President of the United States!" The opposition was particularly strong in Massachusetts, where the liberal idea contained in the article was combated in Parliament—strangely enough—particularly by the military party and defended by the ecclesiastics.

¹ Cf. Poore, *The Federal and State Constitutions, Colonial Charters, and other Organic Laws of the U. States*, Washington, 1877, p. 1338. In this collection, made by order of the United States Senate, are to be found other legislative documents which we have cited from time to time.

Other States, on the contrary, were unable to find in the article a sufficiently wide and certain guarantee of religious liberty, and therefore they proposed amendments which were intended to ensure it more explicitly and completely. Amongst these States was Virginia, which had already, in 1785, effected a complete separation of the two powers in the internal constitution which had been adopted.¹

In 1791 the first Congress of the United States, which discussed the various amendments that had been proposed, approved as the first amendment the famous one as follows: "The Congress will make no law which refers to the establishment of religion or prohibits the free exercise thereof."

By this the United States solemnly promised that they would never elevate any one form of belief to the rank of the official religion of the Confederation, but that, on the contrary, equal liberty would be conceded to all the Churches. It was, therefore, the most absolute separation of the two powers which the United States, at the moment of constituting themselves into a Republic, placed at the basis of their relations with the Churches, and to that separation they entrusted the guarantee of the fullest religious liberty.

There is, however, one thing which must be specially noted. The Constitution of the United States did not abolish the union between the State and the Church within those particular States in which the separation had not already taken place. Now, no separation had been effected, nor was it realised for a whole century, in the New England States. Again.

¹ This was the procedure advocated by Jefferson in Virginia, whereas Washington, on the contrary, would have been inclined to maintain the taxation of all citizens in favour of the Episcopal Church, preferred by him.

the Constitution did not guarantee full religious liberty except in federal relationships, and it did not remove those restrictions in the internal relations of single States. Now, not only did the particular constitutions contain many of these restrictions, but some, as we shall see, contain them at the present time—more than a century after that solemn proclamation.

Whoever, therefore, considers the politico-ecclesiastical relations of the United States of America in these two centuries of their historical development from single colonies to a Federal Constitution, cannot fail to see, first and foremost, that the principle of religious liberty penetrated less by means of the inward strength of the separatist system, than by means of external Socinian and Arminian influences, under the form which was still mainly theological in the beginning; under the almost exclusively rationalistic form favoured by Jefferson on the eve of the Constitution. It will be seen also that the separatist system gradually gained ground in some single States and finally triumphed in the Confederation, not so much because a broader idea of religious liberty had developed in America than in the Jurisdictionalist States of Europe, *e.g.* in Prussia, as because of the peculiar conditions in that country which imposed it. These conditions were: in the first place, the multiplicity of beliefs and sects, all different in character and nationality, diffused amongst the haphazard populations of the primitive colonies, and next the same multiplicity and tenacity of the Churches established in the various States at the moment when the latter were united into a Confederation. To put it in a few words, in America people did not become liberal because they were

separatists, nor, on the contrary, did they become separatists because they were more tolerant than in any part of Europe, but solely because, in default of a central governing power sufficiently strong to impose reciprocal toleration upon the various religious parties and hold them to it, as was done by the monarchical power in France, England, Prussia, and Austria, separatism alone could provide in America a neutral ground for the conciliation of the diverse rival forms of belief and the different Churches established in particular States. Some of them, however, still remained intolerant in spite of and after the Federal Constitution. What we have said does not, however, alter the fact that in the case of America—but only in her case—religious liberty and separatism may with good reason be regarded as two correlative terms.

PART III.—PROTESTANT COUNTRIES IN THE
SEVENTEENTH AND EIGHTEENTH CENTURIES

(CONTINUED)

CHAPTER XIV

THE TARDY TOLERATION OF SWITZERLAND
AND SCANDINAVIA

I. *Switzerland*.—"It is certainly not a glorious page in the history of Switzerland with which the period of the Reformation begins." This observation, with which a student of that history began his book,¹ might in our opinion be amplified and enunciated more generally as follows: if the history of Switzerland has given to the world many wonderful examples of a true cult of the civil liberties, as regards religious liberty, on the contrary, its internal development from the time of the Reformation to the present day only provides us in general with instances of the most persistent intolerance.

In its varied national and political combinations it is not possible to draw (as is done in the case of the United States, which it is customary to compare in every respect with Switzerland) distinctions of time and place: German or French Switzerland, the Catholic or Protestant cantons, are all to be placed in the same category as regards their constant

¹ Von Salis, *Die Entwicklung der Kultusfreiheit in der Schweiz*, Basel, 1894, p. 19. He does not, however, touch the history of French Switzerland.

opposition to every form of true liberty in the matter of religion.

The liberal tendencies of the great Erasmus and his enlightened and impartial advice were of no avail. The mandate of the Council of Basel of October 21, 1527, which stated that "every one must be free in his faith; no one can be forced to hear or not to hear Mass, to attend this or that sermon; but this must be left to the conscience of each,"¹ could still be observed so long as Basel, dominated by the genius of Erasmus, remained undecided and neutral between the two religious parties. But when, two years later, Basel resolutely embraced the Reformation, the Evangelical religion became the only one admitted there.

Nor was it of any avail that the first Swiss Reformer, Zwingli, completely imbued with the Erasmian spirit, formulated ideas of universal toleration; for, apart from the fact that the practical proposals made by him for the pacification of the public mind were not inspired by absolute impartiality according to modern views, he was unable to prevent the outbreak of the religious war in which he fell with arms in his hand.

And, finally, no trace was left in Switzerland by the humanitarian propaganda which the Italian Antitrinitarian refugees had carried on there for religious liberty, because, crushed by the tyranny of Calvin, they had to succumb or emigrate.

The fundamental cause of this fact, which places

¹ This faculty refers, however, only to the power of hearing the Catholic Mass or the evangelical preaching, and does not include true religious liberty in the modern sense. The Anabaptists, for example, were persecuted also in Basel; *cf.* Von Salis, p. 21, n. 2. A similar disposition—as we shall see—was introduced by the Confederation of Grisons.

Swiss civilisation historically in a position of great inferiority as compared with the other countries of which we have spoken hitherto, consists in this, that both Zwingli, and Calvin after him, unlike Luther, were not only religious, but also political reformers; and that the Calvinistic conception, which, after the disappearance of Zwingli, supplanted his doctrines everywhere, succeeded in universally imposing its primary ideal of the relations between State and Church which we have already discussed and which led to the most excessive and exclusive of all systems—theocracy.

The religious disunion arising out of the Reformation had the unfortunate political consequence of profoundly disturbing the glorious alliance which the different cantons had formed for the protection of their liberties. The original cantons, the mountain cantons of the heart of German Switzerland—Lucerne, Uri, Schwyz, Unterwalden, Zug—which remained steadfast in the ancient Catholic faith, on the one side, and on the other, the new cantons, the great towns of the border, with Berne, Zurich, and Basel at their head, where the new faith had triumphed, immediately displayed a tendency to form themselves into new political groups¹; but at the same time both sides entered into relations with foreign powers of their own religion, seeking their support and opening a way for their intervention. Naturally the Catholic party applied in the first instance to the Holy See, which established a permanent nunciature in Lucerne. Of supreme

¹ Wherefore a contemporary, Semler (*De republica Helvetiorum libri duo*, Tiguri, 1576, fol. 132), complained: "*Nostra vero aetate postquam Helvetia propter discrepantes de Christiana religione sententias in partes abiit, particulares quoque conventus instituti sunt.*" Cf. Von Salis, *op. cit.*, p. 19, n. 3.

importance for the Catholic restoration was the league to which the mountain cantons, in 1586, gave the very significant title of the Borromeo League, from the name of the man who inspired it, and who afterwards, in 1655, was made its saintly protector.

The religious wars between the Catholic cantons and the evangelical towns, which were protracted until the beginning of the eighteenth century, were terminated from time to time by successive *Territorial Peaces*, which, however, as we have already said in regard to the German religious Peaces, it is absolutely impossible to consider as documents attesting a victory for religious liberty. There were four of them in the course of the two centuries.

The first, that of June 26, 1529, concluded after a victory by the Evangelicals, established: (1) that the Catholic cantons on the one side and the evangelical towns on the other should be entirely free to determine what religion was to be followed by their inhabitants without fear of violence on the part of their adversaries; and (2) that in the so-called "avvocazie" or in the bailiwicks under the common government of the Catholic and Protestant States and in the territories placed under common protection, the majority of those composing the ecclesiastical communities should decide whether or not the Reformation was to be accepted, but in this sense, that if the majority were evangelical, it should be able to compel the Catholic minority to follow it in the new faith; while if the majority were Catholic, they might indeed persist in the ancient faith but not compel the Evangelicals to adopt it.

The second Peace, that of November 24, 1531, concluded after a Catholic victory, decreed in regard

to the first point precisely in the same way as the preceding one; but in regard to the second, the terms were inverted; the Catholic minorities were granted not only the power to continue in their own faith but also a proportional part of ecclesiastical properties; it was lawful, moreover, for those communities which had embraced the new faith to return to Catholicism, while, as for the Evangelicals, their status at the moment of the conclusion of peace was alone regarded as legitimate, and, therefore, they were deprived of the power of acquiring new adherents.¹

The third Peace, that of March 7, 1656, concluded after a second defeat of the Evangelicals, settled some disputes which had arisen in the application of the previous compacts, and especially established more clearly that perfect equality of treatment between the two religions in the common territories which had been established already by the Treaty of Baden, dated September 7, 1632.

The fourth and definitive Peace, that of July 18, 1712, which was concluded after a victory for the Evangelicals, put an end to disputes which had arisen owing to different interpretations of the old compacts, and strengthened the principle of perfect "parity" by means of the most minute determinations.

But here also, as we have already seen in the case of Germany, the powers which are guaranteed by the successive peaces of religion only refer to the con-

¹ The most famous case of the application of the dispositions of this Peace, conceived in a sense hostile to the Protestants, was the dispersal in 1555 of the flourishing evangelical community of Locarno, which migrated to Zurich, and there became the refuge of many persecuted Italians. Cf. Meyer, *Die evangelische Gemeinde in Locarno, ihre Auswanderung nach Zürich und ihre weitern Schicksale*; Zurich, 1836. Hence the exclusive Catholic impress which has definitely remained in a part of Italian Switzerland.

tracting parties, that is to say, to the body of Catholics and that of the Reformed Church; every other religion is excluded. Again, it is the States, as political entities or as a whole, which reciprocally guarantee liberty in the matter of religion; in the sense that each one of them is free to decide afterwards the religion which its subjects are to follow within its own territory (the so-called *ius reformandi* of the Germans). Hence there is no liberty for individuals and no true liberty of conscience either for the Catholics or for the Reformed, with this additional note of inferiority in comparison with the Teutonic Peaces, that the tyrannical *ius reformandi* is not attenuated in the least by any *ius recipiendi* or *tolerandi* belonging to the single contracting States.

As a matter of fact, however, the Peace of 1712 marks a step in advance as compared with the preceding ones, for the Protestant towns of Zurich and Berne, having in virtue of it made considerable territorial acquisitions in the Catholic cantons, agreed to place their new Catholic subjects on precisely the same footing as the Evangelicals. Here we have the first signs of a transformation of that purely *intercantonal* religious parity into a *cantonal* parity, as Von Salis remarks¹—that is to say, to an equal treatment of Catholics and Evangelicals within one and the same canton.²

¹ *Op. cit.*, p. 68; he calls it *intercantonale*.

² It must be remembered, however, that in the three allied republics of the Grisons the decree of 1526 proclaimed the full liberty of all citizens, of both sexes and any condition, to embrace one or other of the two religions, Catholic or Evangelical, to the exclusion, however, of every other faith. This recognition of a certain individual religious liberty—very notable in view of the feeling at the time in Switzerland, and superior to the peaces of religion enumerated above—could not, however, prevent the Catholic counter-reformation in proceeding resolutely in Valtellina

But it is to be noted that the town assumed its engagement only *vis-à-vis* the States with which they entered into agreement and not *vis-à-vis* the subjects, who accordingly acquired no true subjective right to individual religious liberty. Moreover, during the whole of the century there was no fertile ulterior elaboration of this first sign of a more liberal development by means of cantonal legislation such as took place in Germany through the laws of the various individual sovereigns as contrasted with the restrictions of the imperial law.

In French Switzerland, if the spirit of intolerance did not lead to deplorable internal wars of religion—since the people only had to oppose the frequent attempts of foreign powers, and particularly of the princes of Savoy, to restore Catholicism—it gave, nevertheless, very sad testimony of its existence in numerous and sanguinary repressions of all liberty of thought, thanks to the baneful example of Calvin and his ecclesiastical policy.

An attempt has been made to show that in the régime inaugurated by him in Geneva it was the State which dominated the Church, but it was

and the whole Italian side of the Alps, nor the celebrated massacre of all the Protestants of Valtellina in 1620, which was provoked by the condemnation of some Catholic clergy in Thusis, who were accused of conspiring with Spain (*cf.* Cantù, *Il Sacro macello di Valtellina. Episodio della rif. rel. in Italia*; Florence, 1853). It was stipulated in the Peace concluded at Milan in 1639 and confirmed afterwards in the Treaty of Milan of 1763: “Che nella Valtellina et duoi Contadi non habbia da essere altra religione che la Cattolica Apostolica Romana, con espressa esclusione di qualunque essercitio o uso d’ altra religione che non sii la cattolica.” *Cf.* Von Salis, p. 22 *et seq.*, note; Fetz, *Geschichte der kirchenpolitischen Wirren im Freistaat der 3 Bünde (Bisthümer Chur und Como) vom Anfang des 17 Jahrh. bis auf die Gegenwart*; Chur, 1875. Thus, from another side, was assured the exclusive Catholic character of Italian Switzerland.

victoriously demonstrated that his system was the most genuine theocracy that could possibly be imagined; and even after his time the Genevan Constitution remained theocratic, owing to the rigid orthodoxy which dominated the Church and made of it a second Rome within the Protestant camp, and owing also to the proud aristocracy which dominated the State and rendered it refractory to every liberal movement.

There is hardly any need to refer to the attempt to restore the Catholic religion which Louis XIV. made by demanding that a Catholic chapel should be built in the palace of his representative in Geneva; because there was no true Catholic counter-reformation in Switzerland, except, as we have seen, in the Italian territories and in Basel.¹

To Jean Alphonse Turretini, a Genevan divine and reformer of the beginning of the eighteenth century, but a descendant of a family of Lucca which took refuge in Geneva when the Reformation movement was suppressed in Italy, belongs the honour of having carried the first efficacious counsel of toleration into that extremely uncompromising Swiss atmosphere. He was the leading factor in securing the abolition of the *formula consensus*, which all the pastors were at first compelled to sign, and which prevented any future freedom of speculation; and he was also the most fervent apostle which that time saw, not only in Switzerland but also in Germany, of

¹ Cf. Kasser, "Die Contrareformation in Fürstbisthum Basel" (1575-1608), in Nippold's *Berner Beiträge zur Gesch. der Schweizerischen Reformationskirchen*, Berne, 1884, pp. 246-275. In the town of Basel "from time immemorial," as the documents say, Catholic worship was celebrated in the house of the Austrian minister, and a church was opened for Catholic worship in 1792. Cf. Burckhardt, "Die katholische Landeskirche des Kantons Baselstadt," in *Zeitschr. für Kirchenrecht*, vol. xvii. (1882), p. 312 *et seq.*

a universal reconciliation of all the evangelical beliefs by means of the expedient, which the Socinians had made traditional, of making a very limited number of common articles of faith the basis of conciliation.¹

In this manner, amidst a succession of acts of fanaticism which were protracted far into the century, a certain general movement towards a benevolent and reciprocal toleration began to develop,² and it ended by gaining ground even among the group of Genevan pastors, so that, guided as they still were by the peaceful and latitudinarian tendencies of Turretini, Voltaire when he entered into relations with them was able to say that they appeared to him to be neither more nor less than pure Socinians, and indifferent to mere dogmas.³

But the Swiss illuministic movement of the eighteenth century was unable to get beyond the limits traced for it by the initiative of Turretini; the marvellous intellectual activity which characterises that period of Swiss history is saturated by a religious spirit which is somewhat impatient of novelty. Now this explains not only the small echo awakened in Switzerland by the great juridical controversy in the matter of liberty of conscience raised in Germany by the school of natural law,⁴ but also

¹ Cf. Budé, *Vie de J. A. Turretini théologien genevois* (1671-1737), Lausanne, 1880.

² See the cases cited in Langhard, *Glaubens- und Cultusfreiheit*, p. 8 *et seq.*

³ Cf. Saint René Taillandier, "La Suisse chrétienne et le XVIII. siècle," in *Rev. des deux Mondes*, 1862, vol. xxxviii. p. 433. The Genevan pastors, however, were indignant at the accusation of Socinianism brought against them in the article "Genève" in the great Encyclopedia; cf. Brunetière, "Le Bilan de Voltaire," in *R. des d. M.*, 1890, vol. xcix. p. 217.

⁴ Of an anonymous book entitled *Commentatio de iure summorum imperantium in religionem et conscientiam*, Basileæ, 1757, I am not in a position to say whether it develops the argument in a sense

the hostile attitude which was shown to the French innovations—philosophical at first, legislative afterwards.

It is true that an attempt was made, particularly by Moulton, to reconcile the enlightened Swiss piety with the unprejudiced French philosophy of the time, either by attempting to bring the body of Genevan pastors to milder opinions in regard to their compatriot Rousseau, or by diminishing the very lively apprehension which had been caused by Voltaire's settlement in their neighbourhood.¹ There was indeed a moment when the Swiss pastors and the hermit of Ferney co-operated in a noble demand to secure justice and toleration in connection with the condemnation of Calas. But Rousseau's disbelief, which did not arouse him to the respect of conscience, but, as we shall see, made him a preacher of the most tyrannical coercion of every religion, and Voltaire's toleration, which was seasoned with too much sarcasm, were not calculated to find their way into minds which were filled with the most fervent faith. And the contrast could not be more clearly stated than in the words which the most powerful thinker that Switzerland had ever seen, the wisest man of his time according to Grimm, namely, Albert Haller, wrote to a friend: "I do not like toleration when it is presented to me by a Voltaire."

When, therefore, at the end of the century, Switzerland having been subjugated by French arms and reduced to a new political unit under the title of the Helvetic Republic, a constitution which

favourable to or against religious liberty. The following work, *L'intolérance ecclésiastique, ou les malheurs d'un hétérodoxe*, Neuchâtel, 1779, is nothing but a translation of two German mock-heroic poems by Thummel and Nicolai.

¹ Taillandier, *loc. cit.*, pp. 433, 438.

sanctioned religious liberty was compiled by the Tribune Ochs of Basel on French models and approved by the Supreme Council, it was received with the greatest indifference by some, and with not less suspicion by others.

The Constitution of April 12, 1798, stated in Article 6: "Liberty of conscience is unlimited; the manifestation of religious opinion is subordinated to sentiments of concord and peace. All religions are permitted so long as they do not disturb public order or put forward any claim to predominance or pre-eminence. The police shall inspect them and have the right to inquire into the dogmas and laws which they teach. The relations of a sect with a foreign authority must not be allowed to influence public affairs, or the prosperity and enlightenment of the people."

This provision, too genuinely and exclusively French in spirit and letter, with its unlimited protection of individual liberty of thought and its limited and carefully guarded liberty of worship, was certainly not calculated to agitate or to tranquillise a nation of believers who had only the very slightest notion of making use of liberty of thought and who held tenaciously, on the contrary, to liberty of worship. Public opinion was affronted by the obscure threats against religion contained in the article.¹

In the successive projects for a new constitution for the Helvetic Republic which were brought forward and discussed about three years later, an attempt was made to bring the régime of religious liberty closer to and more in accordance with the

¹ Cf., e.g., Ith, *Essai sur les rapports de l'État avec la religion et avec l'Église*, 1798; Hess, *Helvetiens neue Staatsverfassung von Seite des Einflusses der Religion und Sittlichkeit auf das Glück der Freystaaten*, Zurich, 1798.

national character, the traditions, and the true needs of the Swiss people. It was sought in the first place to give better guarantees for the free exercise of the different religions ; and secondly, to change the badly-defined separatism, which was sanctioned by the Constitution in 1798, into a régime in which the single cantons should be allowed to maintain their official Churches, but without detriment to the liberty of religion.

But no sooner had Napoleon in 1803 abolished the Helvetic Republic and left cantonal particularism a free hand, than Switzerland unanimously demolished every federal sanction of religious liberty and returned to the old régime.

II. *Denmark*.—The triumph of the Reformation in the Scandinavian countries was the product of a political calculation, and not of a spontaneous and profound change in the conscience of the people. It was promoted by the kings themselves with the idea of demolishing the excessive power of the wealthy clergy and the turbulent nobility, by which the royal authority was continually obstructed and threatened. They found in Lutheranism, so ready always to accommodate itself to the aims of the governing power, the support they desired. But from this alliance of the royal power and Lutheranism, the latter acquired and still retains in the Scandinavian countries a character more conservative, more uncompromising, more tyrannical, than in any other place.

King Christian II. of Denmark, having succeeded for a moment in acquiring dominion also over Sweden, and having, in order to consolidate the conquest, invited Lutheran preachers to go over from Germany in 1520, went afterwards so far (and

certainly not because of religious fanaticism) in the sanguinary repression of the ecclesiastical and lay aristocracy, that he ended by losing both kingdoms—that of Denmark and that of Sweden, which have remained divided ever since.

The decree which his successor in Denmark, Frederick I., proposed to the Diet of Odensee (1527), laying down that until an approaching Council the same liberties and the same privileges should be granted to Catholics and Evangelicals alike, cannot be regarded as a sincere attempt to introduce into the kingdom a régime of equality between the two religions. By this decree the king, who was a secret adherent to the Lutheran faith, but did not hesitate, in order to acquire the crown, to promise to restore the Catholic Church and disperse the disciples of Luther as heretics, was evidently only endeavouring to gain time and secure his ambiguous position. Moreover, the provisional character of the decree and the favour of the king for the Lutherans sufficed to deprive it of any importance.

From the very bitter struggle which afterwards took place between the Catholic and the Lutheran clergy, and which was carried on by writings and by political intrigues, especially when it came to the question of providing a successor to Frederick I.,¹ the Lutherans emerged victorious with the advent to the throne of Christian III. The Catholic bishops having been imprisoned, Lutheranism was imposed by the new king with violence, not only throughout Denmark but also in Norway and Iceland, which were then united to the former country. From that time Lutheranism became, and has since remained,

¹ Engelstoft, *Reformantes et Catholici tempore, quo sacra emendata sunt, in Dania concertantes*, Hauniae, 1836.

the official religion of the Danish State. Catholic clergy who dared to enter the country were threatened with the penalty of death, and Catholic subjects were deprived of all political rights.

This harsh treatment was subsequently confirmed and increased in severity by Christian IV. in the successive laws of the years 1613, 1624, and 1643. The royal law by which, in 1665, through the Lutheran clergy and the people, the most autocratic character was assured to the sovereign power, bound the king, however, to Lutheranism and its defence. The Code of Christian V. (1683) contains very severe dispensations against the Catholics. Mitigations of this régime only took place by decrees and by way of very limited exceptions, determined not so much by a liberal reaction as by economic and diplomatic considerations.

Thus it was that in order to favour the setting up of certain manufactories for which foreign workmen were required, power was granted to certain places to permit the private exercise of other religions, including the Catholic; but any public ceremonial was prohibited, and any attempt at proselytism punished. Thus it was also that from the year 1672 the right of the French ambassador to erect a Catholic chapel and Catholic cemetery in his own palace was recognised, but it was allowed under an obligation not to abuse the privilege; and in 1751 the building of a Catholic church in Copenhagen was permitted by a convention with the Empress Maria Theresa, who had, on her side, agreed to the erection in Vienna of a church for the Lutheran-Danish rite.

With these exceptions the old rigorous measures remained in force not only during the very austere régime of the bigot Christian VI., who was a devout

follower of Teutonic Pietism,¹ but also afterwards. For it does not appear that the rationalistic movement of the eighteenth century, which had a fairly strong reverberation in Denmark, caused any progress there in religious liberty, as compared with what occurred in other countries. And this is true even when, towards the end of the century, the reforms inspired by the German illuministic spirit reached full liberty in the press under Struensee, and when, under Bernstorff (the younger), they were, on the contrary, based more upon the ideas which were brought into vogue by the French Revolution.

III. *Sweden and Norway*.—The work of ecclesiastical reform in the Lutheran sense undertaken by violent means, as we have seen above, by Christian II., and prosecuted afterwards in a more direct manner by Gustavus Vasa, who succeeded him on the throne of Sweden, took deep root in the country during the reign of the latter, and for this reason Sweden not only victoriously resisted two different attempts—the first at innovation in the Calvinistic sense under Erik XIV., successor to Gustavus, and the second at a Catholic restoration under John III. and his son Sigismund—but reacted so strongly against them that Erik and Sigismund were at last compelled to give up the crown.

When, in 1593, the Synod of Upsala was assembled by Charles IX., then only regent, it absolutely rejected not only the Catholics but also the followers, as the Acts of the Synod say, of the errors of Zwingli and Calvin, and thus assured for Lutheranism, as the official religion of Sweden, an exclusive and definitive domination.

¹ Pietism, however, in Denmark was not, as in Germany and Sweden, a factor in procuring tolerant mitigations, but served only to render ecclesiastical discipline more severe.

The advent to the throne of rulers so enlightened as Gustavus Adolphus (1600–1632) and his daughter Christina (1632–1654) made no change in this illiberal régime. Geijer and others have said that “the greatest of Gustavus Adolphus’s titles to fame was his declared opposition to religious intolerance”; but this is to be understood in a partial sense as indicating that at a decisive moment of the Thirty Years’ War the great king was the saviour of German Protestantism which was threatened with destruction by the imperial arms. In reality his work in the cause of true religious liberty was limited, as also was that of Christina, to a few isolated and specific concessions in favour of a few groups of refugee reformers from France.¹ But under Gustavus as well as Christina the restrictive decrees of the Synod of Upsala remained intact. The conversion of Christina to Catholicism, which caused so much commotion, and the various attempts which she made, even after her abdication, to restore the Catholic religion in Sweden, put the Swedish Lutherans into such state of panic that they doubled their defences, that is to say, the intolerant measures. Thus in order to reinforce the synodal decrees the successive royal edicts were published in 1655, 1662, 1663, 1667, and 1672, which prohibited under the severest punishment the exercise of any religion except the Lutheran.

All liberty of conscience and worship was therefore excluded, since any Swedish subject who diverged

¹ Puaux, *Histoire de l'établissement des Protestants franç. en Suède*, Paris-Stockholm, 1892, p 36 *seq.* Christina of Sweden, some time after she had become a Catholic and abdicated, expressed the strongest disapproval of the revocation of the Edict of Nantes in a letter which was published by Bayle in his *République des Lettres* (May 1686, p. 531), and which aroused much comment (*cf.* Puaux, pp. 58, 531). But in order to estimate the value of this disapproval we shall refer to the letter again in the next chapter.

from the national religion was severely punished, and foreigners were absolutely prevented from publicly exercising or propagating an alien religion. However, the actual condition of the members of the Reformed Church, at least at Stockholm, was much better than their legal position.

In no circumstances, perhaps, was the attachment of the Swedes to the Lutheran religion shown to be so tenacious and stubborn as when, following the example of other Protestant States, they extended a welcome to the Huguenots who were driven from France after the revocation of the Edict of Nantes. The Swedes, it is true, received them; but they did not follow the praiseworthy example in everything, nor would they grant to those fugitives the free exercise of the Calvinistic religion for the sake of which they had abandoned their country. Charles XI., in order to satisfy the Lutheran clergy, who were not in the least moved by the misfortunes of the French dissenters, was unable to do anything more than erect a French Lutheran church in Stockholm, placing in charge of it Pastor Bergius, a true champion of intransigence, who hated above everything else "*la malheureuse liberté de se perdre, sous le prétexte de liberté de conscience, de tolérance, de charité,*" and who consequently exhausted all his efforts in disputing, by sermons and writings, against the doctrines of those poor reformers. When the French followers of alien religions, both Catholics and Lutherans, were accused of having attended the divine services of dissident ministers, they excused themselves by saying that, not understanding Swedish or German, they were unable to take part in divine worship in the Lutheran churches. The King then made provision for Lutheran services in French.

The religious situation of the latter improved considerably under Charles XII., because they obtained from him freedom to practise their religion in various provinces, and in 1696 were granted power to hold their services in the chapel of the English legation in Stockholm. At the beginning of the reign of Charles XII. the Catholics also endeavoured to procure from the Swedish Government a few concessions in particular cases, but they met with very little success. A Catholic priest who was taken prisoner at the battle of Narva, begged that he might be allowed to offer the comforts of religion to his wounded co-religionists; but his request was refused, as the governor, Count Gyllenstierne, thought "it would be a great scandal if a person who was captured alive, as it were by a miracle, should afterwards serve as an instrument for violating the sovereign's prohibitions." The Catholic prisoners of war could only receive assistance from the ecclesiastics attached to the French, Spanish, and Austrian legations, in which alone private chapels for private worship were permitted, but even this concession was only obtained after great difficulty. In the same way the animosity of the powerful Lutheran clergy was aroused when they saw that French, German, or Italian workmen belonging to the Catholic faith who were employed in the country could avail themselves of these religious services of a diplomatic character, and thus elude the intolerant prohibitions of the law. Hence, after the death of Charles XII. (1718), during the trial of his powerful minister, Count Gortz, among the charges which were brought against him, was that of having invested the country with Catholic workmen who had managed to bring the Jesuits behind them, and, by the exercise of their re-

ligion, violated the fundamental statutes of the kingdom.

During the so-called *period of liberty* (1720–1772), which, as is well known, was nothing but a period in which the high aristocracy imposed its will upon the Crown and in which, accordingly, it was rather a question of factious and disordered oligarchy than of true and well-established liberty, some considerable changes took place in regard to religious toleration.

These were particularly advantageous to the followers of the reformed religion who, threatened with deprivation of the divine services which they had attended at the British legation owing to the departure of the English representatives, sent a petition to the king through the minister Count Gyllenborg. And the king by a resolution of August 10, 1771 (approved on August 27 by the States), authorised them to exercise their religion in public, which all the members of the reformed religion and the Anglicans henceforth continued to do without disturbance.

From the fact that the ancient prescriptions against the Catholics were reaffirmed by the new fundamental laws at the beginning of this so-called period of liberty, and were not abrogated until after that period had elapsed, some writers are accustomed to argue that no toleration was recognised in the case of the Catholics; but they are not able to produce anything in support of their argument except reports handed down in the Acts of the Propaganda Fide, and in general from Catholic sources, which are naturally in this matter prone to pessimistic lamentations;¹ but Herman Levin, in his very learned work

¹ So, particularly, Abbé Cognat, *La Suède liberale devant l'Europe*, Paris, 1862, p. 25 *et seq.*; in which he sometimes allows himself to

(*Religionstvang och Religionsfrihet*, etc. Stockholm, 1896), has been able to present evidence drawn from many Swedish sources, and especially from the reports of the supreme Lutheran consistory of Sweden, a source which, it must be said, is somewhat prone, and quite naturally, to what may be called optimistic lamentations, that is to say, to exaggerate the advantages enjoyed by the Catholics. But they provide, in any case, the opposite extreme for a dispassionate judgment, and such would seem to be the judgment which Levin formed.

The actual condition of the Catholics at this period was quite different from, and much more favourable than, their legal condition, seeing that, adroitly taking advantage of the particular diplomatic and economic circumstances of Sweden, they succeeded in openly violating the odious restrictions. The extremely weak Swedish Government, inclining uncertainly now towards one, now towards another of the foreign Powers, was compelled, in spite of the alarmed cries of the official clergy, to shew a compliant attitude towards the Catholic States, especially France and Austria, and to close its eyes to the very active Catholic propaganda which their representatives were carrying on in the country.¹ The clergy attached to the legations and the Catholic missions began to agitate, particularly after 1741, for the liberty which had been granted to the Reformed preachers. To this was added the ever more pressing

be carried away by his polemical fury against O. Adelsvard's *La liberté de conscience en Suède*, Paris, 1861, a work which was issued when, as we shall see, the attention of Europe was attracted by the lively battle against intolerance which was being fought in Sweden at that particular time.

¹ The Austrian Emperors had established at Linz, in Upper Austria, a seminary for educating Catholic priests and supplying them to the Scandinavian States, especially Sweden. Cf. Levin, pp. 77, 81.

need of foreign workmen, who were mostly Catholics, and thus the Government was induced to make some partial relaxations of the prohibitive régime. Thus, for example, the workmen who were brought from France at the beginning of 1740 for the construction of the castle of Stockholm, received from the Government an explicit guarantee that they would be allowed to attend divine service at the foreign ministries. This advantage, moreover, was granted to all the foreign employees at the various factories which were gradually established in Sweden, and enjoyed to such an extent by the tacit agreement of the State, that the proprietor of one of these factories on engaging workmen to come from Germany, was able to assure them in good faith that the new prescriptions of 1741 sanctioned complete liberty of worship for members of the Reformed as well as of the Catholic Church. But this access to the chapels of the legations was of value only to the workmen resident in the capital, and not to those dispersed throughout the country. An agitation was therefore begun on their behalf by means of petitions to the king and diplomatic manœuvres, particularly on the part of the French Ambassador.¹

This, as may easily be expected, caused continual remonstrances from the Lutheran consistory and from the clergy, addressed now to the Chancellor, now to the sovereign. It was complained that the foreigners, not only the Catholics, but even the Lutherans who had married Catholic wives, were not baptizing and educating their children in the official religion, that they were exercising their religion in absolutely undisturbed publicity, that the Catholic propaganda was continually obtaining new proselytes amongst the

¹ *Op. cit.*, p. 92 *et seq.*

employees of the various administrations; objections were also raised against the proposal to pass laws granting full liberty of worship to the Catholics, it being affirmed that such toleration towards the foreigners had already been in practice for a long time, seeing that in Stockholm the members of the Roman Catholic and of the Greek Church were continually increasing in number and had always practised their religion in their own place of worship.¹

On parallel lines with this evolution in the position of foreign religions another movement, also liberal in character, had been taking place since the beginning of the eighteenth century within the domain of the Swedish national Church. The Swedes themselves, held firmly within the narrow limits of the Church by the serious penalties which threatened any attempt at apostasy, did not remain insensible to the new religious tendencies which were being manifested within the Lutheran fold, shaking its rigidly orthodox construction. These tendencies were at first of foreign importation, being introduced by the Pietists and the Moravian Brothers,² but subsequently, in Swedenborg, Sweden herself produced an innovator whose ideas produced a ferment throughout the Protestant world. But from Pietism further progress was made to the so-called Dippelianism, a sub-species of the former, distinctly rationalistic in tone, founded by the German Dr Dippel, who had taken refuge in Sweden from the persecutions of the Lutheran clergy of Germany. In its turn Dippelianism opened the door to all the other currents of more unprejudiced and more revolutionary religious thought, to Socinianism or Separatism, or even to simple disbelief.

¹ *Op. cit.*, p. 118 *et seq.*

² *Op. cit.*, pp. 153-228, 270-289.

From all these innovations the cause of toleration derived various advantages, because, beginning with Pietism, the various tendencies mentioned above were decidedly favourable to it, and because the rigorous measures by which orthodoxy believed it could stem the flowing tide caused, on the contrary, a strong movement of reaction among a section of the directing classes.

Already in 1706, against one of the instigators of the earliest restrictions to the detriment of the Pietists and the inspirer of their most fanatical detractors. Dippel himself had launched his most violent work, *Brutalität und Illegalität der Religionszwanges*.

But when, with special regard to the dissidents (who, it must be confessed, abandoned themselves in their meetings to excesses calculated to disturb public order and to practices of piety which had a character of epidemic morbidity), the decree of 1726 concerning conventicles was issued,¹ and when severe measures were adopted by the law of 1735 chiefly against the Dippelianists and the Separatists, all the most enlightened spirits of the time uttered a protest. Some memorials in defence of those who were persecuted were addressed to the authorities, and especially to the Diet of the kingdom of the years 1740-41. Thus one of the members of the Diet, J. Hoffmeister, brought forward a calm and carefully considered plea in which he expressed his compassion for the oppressed, and suggested that there was good cause for revising

¹ That is, the so-called *Konventikelplakatet*, which, according to Levin (*op. cit.*, p. 215 *et seq.*), some authors, arguing from the confused expressions and subtilising upon the words, wrongly consider as a step in advance upon the road to toleration, as compared with previous decrees. Against such opinions see also Broome, *I'ramställing of svenska lagstiftningen ang. statsreligion och religionsfrihet*, Lund, 1861, p. 124.

the law of 1735 and improving it in the sense that a Christian and reasonable toleration, or at least a certain liberty of conscience and worship, should be conceded to those sons of Sweden who held opinions different from those of the majority in matters of religion and yet remained quiet. He did not deny that just means, such as exhortation and instruction, might be used in the case of those who wandered in the faith; but when these brought no result, he hoped that, instead of adopting harsh and violent measures, such as imprisonment and exile, which are not calculated to eradicate a single genuine error, heretics should be allowed to depart in peace and be left to the action of divine grace.

Another protest similar in tone was made by Baron Sten Coyet, who had already in the same diet brought forward a motion in favour of the emancipation of the Reformed Church, and had assisted the oppressed Separatists on several occasions.

Now, if by reason of the counter-memorials and of the intrigues of the intransigents no decisive and immediate effects were obtained by this agitation, except perhaps a tangible mitigation of the decree concerning conventicles of 1726,¹ it nevertheless pre-disposed the public mind towards the liberal reforms which Gustavus III. initiated, after having reaffirmed and restored the rights of the Crown as against the nobility. These reforms, it must be admitted, were not of so much advantage to those who had prepared the ground for them,² as to the followers of alien religions.

¹ The liberty of the Press, sanctioned by the Diet of the kingdom (1765-66), did not, however, remove the censorship for theological books, but in practice it favoured the diffusion of free thought also in this respect. Cf. Levin, *op. cit.*, p. 134.

² The opposition to free thought assumed concrete form in 1771 in a league *Pro fide et christianismo*, and in 1772 Gustavus III., in

In fact, in the Diet of 1778-1779 the debate turned exclusively upon the religious liberty of foreigners. Contrary to what had taken place thirty years before, it was advocated only in the memorials which were circulated at the preparatory meetings of the Single Estates. Thus a short memorial by Baron Ramel proposed to the laity, nobility, bourgeoisie and peasantry, that the king should be petitioned to sanction the principle of full religious liberty for foreigners, leaving it to his prudence to take the necessary measures of precaution in this regard. To the clergy two memorials were presented by the provosts, Anders Bäckerström and Anders Chydenius. The latter, who was well known for having already defended the cause of the freedom of labour, appealed to the example of other Lutheran States, such as Prussia, where the Catholics had for a long time enjoyed complete liberty of worship without that country having lost its eminently evangelical character.

Generally speaking, the lay estates accepted the proposal, although here and there with some reservations,¹ but in the meeting of the ecclesiastical estate, in spite of the fact that demands to speak on behalf of religious liberty were made by Chydenius, by Troil, the principal Court preacher, and by Canon Fant, all discussion was stifled, and, paying no attention to the protests of these orators, the Assembly proceeded to vote, and the proposal was rejected.

an emphatic circular to the consistories, came forward as an advocate of the fear of God against the spread of indifference. Cf. Levin, *op. cit.*, p. 135 *et seq.*

¹ E.g. the estate of the bourgeoisie recommended that the Jews should not be included in the liberty which was to be conceded, on the plea that they were notorious for their bad faith in business. Cf. Levin, p. 143.

Moreover, in view of the approval of the other three estates, the clergy decided to send them a formal protest and to stir up public opinion by means of memorials and pamphlets.¹

This, however, did not prevent the Diet of the kingdom from sanctioning the liberal motion on January 26, 1779, nor did it hinder the adoption, by the decree of January 24, 1781, of more particular measures for putting it in force. This decree guaranteed to the adherents of foreign religions who might be in the country or intended to repair thither the full exercise of their religion and complete liberty of conscience under the protection of the king.² The concessions were further extended, particularly in the case of the Catholics, by the so-called Patent of Toleration of Gustavus III.,³ thanks to which a regular Catholic parish was established in Stockholm and the chapels of the legation fell into disuse.

But in spite of this there was no true religious liberty for the Swedes, since not only was State employment reserved absolutely for the Lutherans, but citizens who abandoned their national religion were still threatened with prosecution.

¹ The printed matter which came out about this period for and against religious liberty is to be found cited, with short criticisms, in Lüdeke, *Allgemeines Schwedisches Gelehrsamkeits-Archiv*, Leipzig, 1781, iv. p. 18 *et seq.*

² To the Jews, who had not hitherto had any position under the protection of the laws, and who by a royal rescript of 1685 had been forbidden to establish themselves in the kingdom or to remain there, but had nevertheless established themselves, a certain amount of liberty was granted in 1782, with a particular commercial régime. Cf. Levin, *op. cit.*, pp. 150-154.

³ See this in Theiner, *Actenstücke zur Geschichte der Emancipation* p. 77 *et seq.*

Part IV.—Catholic Countries in the Seventeenth and Eighteenth Centuries

CHAPTER XV

FRENCH RATIONALISM

I. THE story of those famous civil wars in France which accompanied the spread of the Calvinistic reformation was designated by a French writer as pre-eminently the history of *religious liberty* in France and of its *founders*.¹ But neither expression is in exact agreement with what, as it appears to us, is the true idea of religious liberty and the proper function, indeed the real mission, of its precursors and protagonists.

In France—as we have already seen in a greater or lesser degree in the case of Holland, England, Germany, and Switzerland—the successive long wars of religion and the respective short peaces which fill the sixteenth century were, first and foremost, nothing but the quarrels, renewed more fiercely after each pause, of two politico-religious parties to which the pure idea of religious liberty and the sincere intention of realising it were equally foreign. This is clearly shown by the excesses committed by the two factions both in peace and war.

It is impossible, according to the strict meaning

¹ Dargaud, *Histoire de la Liberté religieuse en France et de ses Fondateurs*, 4 vols., Paris, 1859. It stops at the Edict of Nantes.

of the words, to classify any of the chiefs or the followers of the persecuted religious party as a disinterested champion of religious liberty—certainly not the supreme leader, and the most distinguished victim of St Bartholomew's night, the great Admiral Coligny, although a German descendant of the Huguenot refugees, was pleased to count him among the standard-bearers of toleration¹; nor even the intrepid Anne du Bourg, councillor of the Parliament of Paris, who, in the presence of the wrathful and menacing Henry II., dared, at the risk of his own life, to defend the mild treatment of heretics by the so-called criminal *Chambre de la Tournelle*, which was in such strong contrast with the ruthless and sanguinary procedure of the so-called *Chambre Ardente*. Neither the one nor the other is free from the suspicion of having fought and spoken, heroically it may be, but nevertheless for his own cause.

Perhaps the passionate and intelligent sister of Francis I., Marguerite of Navarre, the indefatigable protectress of the persecuted Protestants, with whom she agreed in secret, but from whom she separated at the hour of death by professing the Catholic faith, may alone be placed² amongst the ideal figures of that grand apostolate of pacification which subsequently found many proselytes among the moderate Catholics of France.

Yet it is impossible also to express absolutely unreserved appreciation of the highly humanitarian and, for France, truly providential work of those

¹ Tollin, *Biographische Beiträge zur Geschichte der Toleranz*, Frankfurt-a.-O., 1866, pp. 73-102.

² Lenfranc (*Idées Religieuses de Marguerite de Navarre*, Paris, 1898) maintained that Marguerite's alleged fluctuations between Catholicism and the Reformation are not in conformity with the truth, and that in heart and mind she was always a Protestant.

moderate Catholics, to whom were chiefly due the various treaties of peace, not excluding that which was ratified by the Edict of Nantes. For it cannot be said with certainty that they did not primarily aim, not at the toleration of different faiths, but at the pacification of the country, being actuated by a sentiment which was very noble, it is true, but essentially patriotic. This is clearly demonstrated by the name of the party of *politicians* which was subsequently given to them. The memoirs of the time are full of this vehement desire for a sincere and assured peace, and it overflows also from the writings on the Protestant side; but just as peace was not possible without toleration, so the favourite argument of all its advocates starts from the realisation of the practical insufficiency, as was demonstrated in France, of armed coercion for the extirpation of heresy, and proceeds to the theoretical proclamation of the incoercibility of the conscience.

Here also a trace of opportunism is not lacking to which the grandest mind of that time, Montaigne, gave as usual a large background of scepticism. The manner in which, in cap. 19, lib. ii. of his *Essays*,¹ entitled *De la Liberté de Conscience*, he discusses the most burning and vital question of his era, is aptly characteristic of his singular personality. After having briefly reproved the excesses of those sincere Catholics who were persuaded of the holiness of persecution, he digresses into a glorification of the ideas and the deeds of the Emperor Julian the Apostate; this leads him finally to observe that Julian strove to guarantee to each of the various factions into which the Church of his time was split,

¹ The first two books of the *Essays* came out in 1580, the third in 1588.

full power to profess their own ideas, and to attend public worship according to the manner preferred by each ; but his secret thought and intention was that this liberty, degenerating into licence and fomenting dissensions, would drag Christianity to its ruin. The kings of France, on the contrary, Montaigne observes, availed themselves of the same expedient for precisely the opposite purpose, in the hope, that is to say, of pacifying the factions for the greater advantage of Christendom. This signifies, still according to Montaigne, that the concession of liberty of conscience, and giving the religious parties a free rein, may be regarded as a good means both of arousing and calming dissensions. And he says no more.

Hence it is that when Lecky places the oldest and firmest foundation-stone of religious liberty in the work of Montaigne¹ his judgment must be accepted with much reserve ; because the sceptical spirit served not so much to make Montaigne an advocate of toleration as to initiate the movement in those minds to which, in the eighteenth century, France afterwards owed the triumph of religious liberty.

Quite precise and explicit, on the other hand, was the father of French political science, Jean Bodin. In cap. 7, lib. iv., of his treatise *De Republica* (published in 1577, three years before the *Essays* of Montaigne) he does not dispute the right of a sovereign to regard one religion as better than all the others, but denies him the faculty to use violence in compelling his subjects to embrace that religion, advising him to use persuasion for the purpose. He recalls some traits of religious toleration of the Emperor Theodosius and the respectful procedure towards the Christian faith of the Turkish Sultan, as

¹ Lecky, *History of the Rise, etc.*, ii. p. 45 *et seq.*

well as the beautiful words of Theodoric which we have quoted above. Finally, he observes that consciences which are constrained in their faith turn in preference to atheism, which is the worst of all things for a society, and that, moreover, it is better that there should be several sects in a State than none at all.

This last idea is developed more particularly in Bodin's dialogue entitled *Heptaplomeris*,¹ in which he introduces representatives of the various opinions dominant in Catholicism, and of all the principal religions of his time, and ends by bringing forward a point of view which is superior to all the others and exactly in conformity with that syncretistic trend which, as we have seen, had already penetrated elsewhere, chiefly through the teaching of the Italian humanists. And his conclusion is that all forms of belief have a right to equal recognition so long as they contain nothing hostile to the State, to morality, and the worship of God.

It is unfortunate that this work of his—the only one, perhaps, of that time in France in which the idea of universal toleration was put forward—was not published by the author, and that he should instead have dimmed his glory by superstitious books, utterly unworthy of his enlightened mind, against witchcraft and wizards. It is still more unfortunate that Bodin, who in the assembly of the States at Blois in 1577, the year in which his *De Republica* was issued, had, as orator of the Third Estate, vigorously opposed the proposal advanced by the other two, that all subjects should be reduced by force to a single

¹ Bodin, *Heptaplomeris de rerum sublimium arcanis abditis*; first abridged edition by Guhrauer, Berlin, 1841; complete edition by Noack, Schwerin, 1857.

faith, should have passed over in 1588 to the famous League of the fanatical Catholics. In this connection it is only right to add that he made amends in 1593 by again joining the moderate Catholics and the supporters of Henry IV.

The jurist Michel L'Hôpital,¹ the great Chancellor of France, is, therefore, to be placed above Montaigne and Bodin, not on account of his genius, which was inferior to theirs, but because of the superiority of his character, in which, confronted by the sanguinary problem, there was neither scepticism nor contradiction, but an enthusiastic conviction which was never belied by deeds, in spite of the most adverse events.

His merit, therefore, was all the greater because his position in the State was higher; the responsibility which he assumed was more terrible and the clash of passions around his person more bitter.

Michel L'Hôpital had spent a portion of his youth in Italy, and for six years studied literature and law at the University of Padua. Hence it is not too much to say that the Italian humanistic philosophy, dispassionate and pacific, which, as we have seen, exercised by means of Socinianism so decisive an influence upon the course of the Reformation, had inspired him with tolerant ideas and intentions.

It should also be remembered that Michel L'Hôpital, like his great contemporary and compatriot Castellion, added to internal conviction an element in which the Italians were too often lacking, that is to say, a complete harmony of action and the

¹ Scitte, *Un apôtre de la tolérance au XVI^e siècle, Michel L'Hôpital, chancelier de France*, Montauban, 1891; Geuer, *Die Kirchenpolitik L'Hôpital's*, Leipzig, 1877; cf. the splendid apologetical pages in Dargaud, *op. cit.*, i. 340 *et seq.*, 353 *et seq.*, 354 *et seq.*; ii. 89 *et seq.*, 273 *et seq.*, 379 *et seq.*; iii. 24 *et seq.*, 177 *et seq.*, 385 *et seq.*

courage to affirm and fight for convictions, regardless of consequences.

In L'Hôpital, as was not the case in Castellion, this apostolate of toleration found expression in deeds rather than in words, as was appropriate to their different social positions.

In the year when he was elected Chancellor of France (1560), L'Hôpital, by the so-called Edict of Romorantin, prevented the establishment of the inquisition on the Spanish type in France, and assigned the trial of persons accused of heresy to the ordinary ecclesiastical tribunals, that is to say, to the French bishops, who were more conscientious and milder judges, and somewhat inclined to ideas of toleration. At the same time another edict granted a general amnesty to all those who had been condemned on account of religion.

The Chancellor did not stop at this, but used all his authority to secure the summoning of the States General, and they assembled, in fact, first in December 1560 at Orleans, then, in 1561, at Pontoise, and afterwards, in August, at Saint Germain. In his speech at the opening of the States, and frequently on other occasions, Michel L'Hôpital, while regretting that it seemed to be impossible to obtain in the State that great element of strength and harmony which comes from unity of faith, boldly expressed his conviction that anyone might be a good citizen without being a Catholic,¹ and that, accordingly, there was no

¹ From L'Hôpital's words, "It is not a question of constituting a religion but the republic; many individuals may be citizens without being Catholics," Marton (*Histoire de France*, tom. ix., Paris, 1858, p. 108, n. 2) was induced to say that he was the first to enunciate the idea of the separation of the Church from the State. But the ideas of L'Hôpital did not go so far as this; he was a long way from denying the necessity of a State religion.

need to use force against the Huguenots, but that one should, on the contrary, “les assaillir avec les armes de charité, prières, persuasions, paroles de Dieu, qui sont propres à tel combat,” and this because “la conscience est de telle nature qu'elle ne peut être forcée, mais doit être enseignée, et n'être point domptée ni violée, mais persuadée par vraies et suffisantes raisons, et même la foi, par cela seul qu'elle est contrainte, n'est plus foi.” He agrees that no good can come from persecution, because “les maladies de l'esprit ne se guérissent comme celles du corps ; l'opinion se mue par oraisons à Dieu, parole et raison persuadée.”¹

The two Estates of the nobility and the bourgeoisie accepted the idea of the Chancellor in their *Cahiers*, and pronounced in favour of toleration. The nobility said that “l'événement prouvait que la persécution était inutile, que d'ailleurs la diversité d'opinion venait du zèle que chacun avait de part et d'autre pour le salut de son âme, tous croyant pareillement en Dieu et en Jésus-Christ notre Sauveur.” The Third Estate declared even more decidedly : “Qu'il était expédient de permettre à ceux qui croyaient ne pouvoir communiquer en sainte conscience aux cérémonies de l'église romaine, qu'ils se pussent assembler publiquement, pour être instruits et enseignés en la parole de Dieu,” and added that “de toutes les créatures raisonnables l'Éternel demande le cœur et affection intérieure principalement, lequel ne peut intervenir ni être offert quand il est contraint. Si donc les huguenots sont tirés à leur regret et contre leur conscience aux cérémonies de l'Église, cela ne peut plaire ni agréer à Dieu.”

¹ L'Hôpital, *Harangues* in Œuvres, Paris, 1824-25, edited by Dufey, tom. i., pp. 324, 400, 471.

Strengthened by this support and by the result of the interview at Passy, taking advantage also of the policy of Catherine de Medici, who was then in fear of the Guises and favourable to the reformers, Michel L'Hôpital, who on April 19, 1561, had drafted a pacification edict by which the members of the two factions were prohibited from abusing each other by the names of Huguenot and Papist, and by which the liberty and the goods of all those who had been condemned because of religion were restored, succeeded in obtaining from the Queen on January 17, 1562, the first edict of toleration known as the *January Edict*.

By this the Huguenots were permitted to exercise their religion outside the towns and granted the power to hold synods with the authorisation of the sovereign. Contrary to all the hopes of the Chancellor, the edict of toleration was not, however, the first step towards pacification, but towards the wars of religion.

The intransigent Catholics accordingly do not hesitate, even at the present time, to lay the blame for the wars upon the Edict,¹ whereas the blame should fall upon the Guises, who, dissatisfied with it, provoked the massacre of the Huguenots at Vassy, which was the signal for the opening of hostilities. Henceforward wars succeeded each other at short intervals, interrupted by peaces more or less favourable to the Huguenots, according to the fortune of their arms.

The first religious war was terminated by the Peace of Amboise (March 1563), which conceded nothing to the Huguenots except the exercise of

¹ E.g. Bauer, *Hugenottenkriege, ein Werk der Toleranz*, in *Laacher Stimmen*, 1876, fasc. 7-10, p. 143 *et seq.*

their religion in certain towns. The second was terminated by the Peace of Longjumeau (March 1568). This was succeeded in August of the same year by the third war, which ended with the Peace of St Germain-en-Laye (August 1570), the terms of which were much more favourable to the reformers than the preceding ones.

But for the advantages which they gained the Huguenots had to pay very bitterly by the detestable carnage of St Bartholomew's night (August 23-24, 1572).

Michel L'Hôpital was very nearly numbered among the victims of the massacre, which spread from Paris to the provinces. Since 1568 he had been leading a retired life on his estate, having been deprived of the chancellorship because he had opposed the acceptance of the Bull by which Pius V. granted Charles IX. power to alienate ecclesiastical property on the understanding that the money thus obtained should be employed in the extermination of heretics. He died in 1573, prostrated by grief at seeing the ruin of the work of pacification to which he had devoted all his efforts. If the necessarily moderate and opportunistic character of his writings did not prevent us from showing, as is possible, for example, in the case of Bodin, that he desired a true universal religious liberty and not merely toleration of the Huguenots for patriotic reasons, Michel L'Hôpital, who is undoubtedly one of the most eminent political figures in the history of France, could rightly also be regarded as the greatest of the standard-bearers of religious liberty.

The new wars, which became more numerous after the famous massacre, terminated successively with the Edict of Boulogne (June 1573), with the Peaces

of Beaulieu (May 1576), of Bergerac (September 1577), of Fleix (November 1590), by which the Huguenots, who after 1576 were designated as "ceux de la religion prétendue réformée," gradually succeeded in obtaining greater and greater concessions.

They did not, however, obtain a stable legal position until after other uncertainties and other wars, that is to say, only when Henry IV., passing over to Catholicism in order to obtain the crown of France, bestowed upon his former co-religionists the celebrated Edict of Nantes of April 25, 1598.¹ The edict was not ratified by the Parliament of Paris, which, together with the University, offered the most obstinate resistance on every occasion to any measure of toleration, until February 25, 1599, and then only with some reservations. It was entitled *Édit du Roy sur la Pacification des Troubles de ce Royaume*, and consisted of ninety-two public and fifty-six secret or "peculiar" articles, and was described in the preamble as an *Édit perpétuel et irrévocable*.²

The edict stated that the Catholic religion was the dominant religion in the State, but that the reformers should no longer suffer persecution and should enjoy complete liberty of conscience. They were, moreover, admitted to all the public offices, to the schools and hospitals, and obtained the right to be tried by commissions, composed partially of their co-religionists, established in the Parliament of Paris

¹ The oldest work on this subject is that of the Huguenot refugee Elie Benoist (*Histoire de l'Édit de Nantes*, Delft, 1693-95, five vols.).

² Pierre de Beloy, *Conférence des édits de pacification des troubles eueus au royaume de France pour le faict de la religion, et traitez ou reglements jaiets par les rois Charles IX., Henri III., et de la déclaration d'iceux du roi Henri IV. de France et de Navarre, publiée au Parlement le 25 février 1599.* Paris, 1600.

and other cities. Evangelical services were permitted wherever they had existed in the year 1597, and power was given to erect buildings for public worship, to institute consistories, assemble synods, and open schools of theology. Finally, the taking away of the children of the reformers in order to educate them as Catholics was forbidden. On the other hand, however, the reformers were still compelled not only to recognise the Catholic festivals, but also to comply with the Catholic marriage laws and to pay tithes. Moreover, evangelical worship was excluded from Paris, from certain other territories and towns, and from the army.

Thus there was only a partial liberty of conscience and liberty of worship for the members of the Reformed Church; but no liberty for the other dissidents.

Moreover, as a guarantee for the observance of the compact—a guarantee which was not superfluous after so many peace treaties had been wantonly violated—the Huguenots were granted the power to remain in occupation of, and therefore to govern in their own way, more than two hundred towns in the State. Now this gives Jules Simon just reason to observe: “The two parties remain as they were, each one within its own camp, and they conclude, so to speak, an armed peace, reciprocally giving guarantees and hostages.”¹

It is impossible, therefore, to accept the common

¹ Simon (*Liberté de Conscience, cit.*) wrote aptly: “The Edict of Nantes is not, as might be believed, a proclamation of the liberty of conscience. The liberty of conscience implies, above all, the liberty of all religions and of all philosophical doctrines, whereas the Edict of Nantes is only concerned with the liberty which is to be granted to Protestants, and to them alone. For the Protestants, moreover, the liberty is far from being complete.”

opinion and recognise the celebrated edict as a historical document of religious liberty according to the strict meaning of the words. We are persuaded by its contents, as well as by the political and literary developments which prepared the way for it, and in which, except in the case of Bodin, no conscious and explicit enunciation of the idea of universal religious liberty appears, to consider it merely, and in accordance with its title, as an act of pacification between two politico-religious parties, and hence as an act of the same nature and the same bearing as those German and Swiss religious peaces which were arranged shortly before or shortly after it, and with regard to which we have already expressed a similar opinion.

II. With far greater precision the Edict of Nantes may be compared with that not less famous Peace of Westphalia which was signed just half a century later, and which also put an end to a long series of wars and broken treaties of peace. But they are distinguished from each other by this fact: that the Treaty of Westphalia provided Germany with a legal basis upon which not only could good relations between one religion and another be built up, but it was possible also for various liberal tendencies to arise, develop, and triumph; while the Edict of Nantes, on the contrary, if on the one hand it did not promote a true and lasting reconciliation, on the other hand it first quieted by satisfying, and afterwards extinguished, that ardent movement towards ideas of toleration which had penetrated the most exalted minds of France during the wars of religion.

Henry IV. faithfully observed the edict; but it began to be viewed with suspicion during the regency of his widow, Maria de Medici, who was entirely

devoted to the clerical party and to Spain, and during the reign of Louis XIII. Even the latter (as his mother had already done in 1610 when assuming the regency) repeatedly confirmed the edict; for example, in 1614, when he attained his majority, and two years later by the treaty of Loudun; but at the same time every endeavour was made to deprive the Huguenots of a large part of the politico-military guarantees which the treaty assigned to them.

Cardinal Richelieu completed the work which was thus begun. The politico-military independence of the Huguenots, who formed almost a State within the French State, was in direct opposition to his great designs of monarchical centralisation. So he crushed them and annihilated their prerogatives. But he at least deserves the merit of having, in the Peace of Alais (1629), and subsequently during the period of his omnipotence, scrupulously respected all the faculties of a religious character which the Edict of Nantes had conferred upon the Huguenots; and this he did in spite of the pressure brought to bear by the uncompromising Catholics, who were unable to excuse in him, a priest, so much mildness towards the heretics. According to Hanotaux,¹ his action

¹ Hanotaux, "Richelieu dans son diocèse," in *Rev. des D. Mondes*, cl., 1898, December 15, p. 779. Hanotaux's opinion represents a judicious mean between two extreme opinions, that of Fagniez (*Le Père Joseph et Richelieu*; Paris, 1894), according to whom religious preoccupations took the first place in Richelieu's thoughts, and his heretical alliances were nothing but a means of more quickly reaching his supreme intentions, namely, a crusade against the Turks, the suppression of Protestantism in France, and the toleration of the Catholics in Germany (i. pp. 243 *et seq.*, 248 *et seq.*, 419 *et seq.*; ii. pp. 54 *et seq.*, 433 *et seq.*); and that of Perrens (*Les Libertins en France au XVII^e siècle*; Paris, 1896), who shows that he was not only tolerant, indeed "un des fondateurs de la liberté de conscience" (p. 99); but, arguing from the Cardinal's benevolence towards many of the advanced thinkers of the time, believes that his observance of religion was nothing but a mask.

was due not only to reasons of political opportunism, but also to a real inclination towards the principles of toleration, which, as early as 1617, during his banishment to Avignon, he had recommended to the king in a letter in which he expressed his conviction that liberty of conscience should not be violated in any way.

A similar line of conduct was adopted by Cardinal Mazarin. It was particularly due to him that during the minority of Louis XIV. a declaration was published on July 8, 1643, to reassure the Protestants that their religious liberty would not be diminished in any way. Similar declarations were issued on May 21, 1652, and July 18, 1656, when the king had attained his majority, but while Mazarin was still at the head of the government.

There is accordingly a certain amount of exaggeration and injustice in the affirmation which is made by some Protestant historians, that the two cardinals were in sympathy with the idea of a general persecution of the Protestants, but only abstained therefrom owing to political impediments; for the passages of the intransigent Catholic writers from which this deduction is drawn, may have expressed only the pious desire of a party which, immediately after the proclamation of the *Édit* of Nantes, began to plot its destruction, and to which the two prelates were compelled from time to time to make some concessions by way of empty promises. Not all the Catholic clergy, it must be remarked in justice, were in favour of withdrawing the toleration which had been granted to the Huguenots. During the government of Mazarin, for example, one of his adversaries, Canon Claude Joly, published anonymously a book of maxims for the education of the king (1652), in

which, faithful to the liberal spirit which is to be found throughout his works, he defends the cause of liberty of worship for the Huguenots.¹

However, let us not pass judgment upon intentions, but keep to the facts. And the facts tell us that under the government of the two cardinals, France loyally maintained the edict and gave the Huguenots the power to prosper in peace and liberty, and enrich themselves to a marvellous extent; whereas no sooner was France again under the government of a lay prince, Louis XIV., than she abandoned herself to the most unrestrained persecution that the modern age has witnessed.

It began as soon as Louis XIV. personally assumed the government, on the death of Mazarin (1661), and the poor Huguenots became aware of it immediately; they saw the representatives of their clergy, who had gone, like those of all the other corporations, to offer homage to the king in March 1661, rejected by him and afterwards driven from Paris.

Shortly afterwards, the first edict against the Huguenots was issued. It was the first of a long series which reached its culmination with the revocation of the Edict of Nantes, and did not end until the second half of the following century.²

It is no part of our task to set down step by step all the stages of this Calvary of the Huguenots; suffice it to say that all the concessions and guarantees of the famous edict were abolished one after the other in a space of twenty years, until in 1681, recourse was had to the *dragonnades* or *missions bottées*,

¹ Brissaud, *Un Libéral au XVII^e siècle, Claude Joly (1607-1700)*. Paris, 1898.

² See the collection made by Pilatte, *Édits, déclarations et arrêts concernant la religion prétendue réformée (1662-1751) précédés de l'Édit de Nantes*. Paris, 1885.

or *conversions par logements*; the barbarous invention of the Intendant Marillac, which consisted in quartering detachments of dragoons in the villages and houses of the Protestants, with express orders to exercise upon their hosts every form of outrage and violence until they were induced to abjure their faith.

What could have caused this terrible change of policy, except the overbearing character of the king, and baneful personal influences, such as that (which was among the most efficacious) of the bigoted Madame de Maintenon? It may seem to be monstrous, but one of the reasons was simply and brutally financial, as has already been observed by several historians upon the indisputable evidence of the Acts of the French Episcopal Assemblies.

Taine has expressed this well, when, speaking of those subsidies for meeting the expenses of the war which the king was accustomed to demand from the clergy, who were immune from any stable and fixed taxation, he says: "Le ton commandant du roi, l'air soumis du clergé ne changent rien au fond des choses; entre eux, c'est un marché; donnant, donnant; telle loi contre les Protestants, en échange d'un ou deux millions ajoutés au don gratuit. C'est ainsi que graduellement s'est fait au dix-septième siècle la révocation de l'édit de Nantes, article par article, comme un tour d'estrapade après un autre tour d'estrapade, chaque persécution nouvelle achetée par une largesse nouvelle, en sorte que, si le clergé aide l'État, c'est à condition que l'État se fera bourreau."¹

But the king's concession to the higher clergy had another and less unworthy motive, although not less

¹ Taine, *Les Origines de la France contemporaine*, vol. i., *L'ancien Régime*; Paris, 1896, p. 80.

unjust, which Taine does not mention. It is to be found in the titanic struggle against Rome which he began as soon as he assumed the reins of government and continued until he died. The more daring the blows which he struck at the prerogatives of the Roman Church, the more necessary was it for him to be liberal towards the Church in France, in order that it should remain faithful to him and support him, and in order that the world might not suspect that his object was to demolish not only the Pontificate but religion as well. Nothing, therefore, could have been more pleasing to the French clergy, and at the same time given more clamorous testimony to his faith, than a ruthless massacre of the heretics.¹

None of the great religious movements which agitated the Church of France during the reign of Louis XIV. had any favourable repercussion on the progress of toleration such as had been exercised, for example, by Latitudinarianism in England and Pietism in Germany—certainly not Gallicanism nor Jansenism, nor, finally, the so-called Quietism.

It is almost superfluous to recall here the well-known part which Bossuet, who was among the most

¹ This explains the much-discussed attitude of the Pope towards the successive acts against the Huguenots, particularly at the time of the revocation of the edict. Cf. on this point, but in a completely Curialist sense, Gérin, "Le pape Innocent XI. et la révocation de l'édit de Nantes," in *Rev. des Quest. Histor.*, tom. xxiv. (1878) pp. 377-445. Christina of Sweden reflected very clearly the idea prevalent in Rome in the letter in which she expressed her disapproval of the revocation, and in which she said, "Croyez vous que ce soit à présent le temps de convertir les Huguenots, de les rendre bons catholiques dans un siècle où l'on fait des attentats si visibles en France contre le respect et la soumission qui sont dus à l'Église Romaine?" and she proceeds to say that the Huguenots must have been greatly surprised to find themselves persecuted by clergy, who by their declaration of the *Scandalouse liberté de l'Église gallicane* had pushed rebellion and heresy so far as to bring themselves closer to the Huguenots than to the Roman Church.

strenuous supporters of Gallican liberties, played in the great controversy with the Protestants and in their expulsion from the country. But shortly after the revocation of the edict, he was able to write to Nicole, one of the leaders of the detested Jansenists: “*J'adore avec vous les desseins de Dieu, qui a voulu révéler, par la dispersion de nos Protestants, ce mystère d'iniquité, et purger la France de ces monstres.*” Arnault, another of the Jansenist leaders, was of the same opinion. Finally, the gentle Fénelon, the greatest defender of the Quietist teachings, was unable to refuse his support to the crusade of persecution against the Huguenots, in spite of the beautiful maxims contained in his writings in favour of the incoercibility of the conscience.

But why should this cause any surprise when lay, political, philosophical, and literary opinion witnessed with indifference, if it did not explicitly approve, the persecutions?

Descartes himself, from whose method, as we have seen, the Dutch Arminians derived such a decisive impulse towards toleration, which was transmitted through them to the liberal Huguenots of France, gave to the preservation of his own apparent orthodoxy so meticulous a study, that other people have not hesitated to call it unworthy of him. And as for Pascal, all the boldness of his speculation and the vehemence of his controversy with the Jesuits did not in the least preserve him from an exaggerated asceticism which made him severe beyond measure with himself and with others in the matter of religion. For both of these, as, indeed, for other thinkers, even the most daring thinkers of that century, such as Gassendi, the reason of so striking a contrast between science and faith cannot be found elsewhere than in

that phenomenon of the philosophico-religious duplication of the conscience which we have already met with amongst our Italian humanists.

But this consideration does not suffice to explain why that extensive movement of thought—not only unprejudiced, but even irreverent, towards religion—which, started in a confused and frivolous manner under Louis XIII. by the group of the so-called *Libertins*, assumed greater consistency as the century advanced, did not give rise, as had happened in the case of faction of the same name at Geneva and in Holland, to a generous and vigorous initiative in favour of religious toleration. The reason is to be found on a lower plane, in an epicureanism either more unfeeling or more pusillanimous. The French *Libertins* preferred egotistically to enjoy that *de facto* toleration which in a time of official and somewhat hypocritical religiosity was more inclined to make concessions to the unbelievers than to the heretics, seeing that the former did not set one Church against the other and did not display—quite the contrary, indeed!—an inconvenient austerity. When, therefore, these freethinkers did not remain strictly faithful to the motto of one of their number who said, “Je ne crois ni en Dieu ni en Diable, mais je me ferais tuer pour la religion,” and therefore did not give unconditional support to the official Church as against the heretics, applauding the revocation of the edict, as was done in verse by Madame des Houlières and Fontanelle, or in prose by Madame de Sévigné and La Fontaine, who in a pamphlet addressed to the king spoke of the Huguenots as *une sottie engenie*, they contented themselves with a lukewarm defence of the persecuted. And such was the defence which is to be found in the writings of possibly the most

liberal and most daring of the *Libertins*, Saint Évremond, who has left us this passage in which all the discouraging scepticism of the time is reflected: “Je ne trouve rien de plus injuste que de persécuter un homme sur sa créance, mais je ne vois rien de plus fou que de s’attirer la persécution.” And yet Saint Évremond had spent the greater part of his life as an exile in England at the Court of James II. and William III.; while there he composed verses with the significant title, “*Sur la vanité des disputes de religion et la faux zèle des persécuteurs*”; moreover, in another place he wrote these beautiful words, “Le feinte, l’hypocrisie dans la religion sont les seules choses qui doivent être odieuses, car qui croit de bonne foi, quand il croit mal, se rend digne d’être plaint, au lieu de mériter qu’on le persécute!”

But why, we ask again, and this time with better reason, should this cause any surprise, when the majority of the persecuted Huguenots showed themselves to be ignorant of, if not fanatically hostile to, any idea of religious liberty?

We have elsewhere had occasion to say that most of the Calvinist ministers in France and most of the Huguenots offered the greatest hostility to the tendency which, about the year 1669, began to reach them from Holland by means of some liberal pastors who had become enamoured of the ideas of toleration preached by the Socinians and Arminians. The contemptuous refutations of the more influential ministers and the excessive condemnations of the synods rained upon the heads of these well-intentioned innovators; and French Protestantism, while the supreme condemnation was hanging over its head, seemed to forget itself and waste its energies in disgraceful controversies full of

theological acrimony—the worst form of bitterness. This madness continued, as we have shown, even after Louis XIV. had driven them all, orthodox and heterodox, from the soil of France, to fight bitterly both in Holland and elsewhere about a subject which ought, on the contrary, to have united them in a single purpose, I was about to say in an instinct of common defence—a subject which ought to have been sacred to all of them, namely, religious toleration.

While considering, therefore, the undeniable political crime which Louis XIV. committed on October 23, 1685, by revoking the Edict of Nantes—the famous edict declared to be perpetual and irrevocable by Henry IV. !—and thus dealing the last blow at the Protestants of France, whom he confronted with the cruel alternative of either denying the faith of their fathers or seeking safety in the mountains, forests, or foreign countries,¹ a painful doubt arises in the mind of whoever extends his vision beyond so much human misery towards the great and pure idea of religious liberty, as to whether those persecuted Huguenots would not have done the same to their Catholic persecutors if by chance they had been the stronger party. Only the Protestants of Alsace, both Lutherans and Calvinists, escaped from the cruellest of the persecutions. Since 1648 they had obtained special capitulations which placed them under the protection of the Treaty of Westphalia, and which were officially recognised by Louis XIV. in the Act of the revocation of the Edict of Nantes and confirmed by Louis XV. In Alsace, however—and this is irrefutably demon-

¹ Baird, *The Huguenots and the Rev. of the E. of N.* New York, 1895.

strated by Reuss in his writings cited above—liberty of conscience and worship were subject to serious restrictions.

III. After the death of Louis XIV. the regent, Philip of Orleans, had for a moment the idea of restoring the Edict of Nantes. The Duc de Saint-Simon mentions this in his *Memoirs*,¹ and boasts that it was he who managed to prevent "*such a deplorable measure*" by pointing out to the regent that, seeing that the late king had committed the mistake thirty years previously and Europe had consented to it, and that the Protestants could not possibly cherish any hopes in that connection, it would be impolitic, instead of profiting by the tranquillity which had been obtained by that means, to throw the country again into the midst of religious wars of such sad memory.

One of the first Acts of Louis XV. was the Declaration concerning religion of May 14, 1774, in which he said that of all the great designs formed by the late king none had been nearer to his heart than that of completely extinguishing heresy in the kingdom. In this Declaration, in fact, all the cruellest measures of Louis XIV. against the Huguenots were to be found collected together so as to form a monstrous code of persecution, and the blackest point in it was that, as Louis XIV. had already done in his Declaration of March 8, 1715, it was laid down as an unshaken principle that there were no more Protestants in France, since it was presumed, by a presumption *iuris et de iure*, that all those who were Protestants had been converted (*nouveaux convertis*). The two principal results of

¹ Chapter cexliv. of the *Memoirs*, Chureul's edition, vol. xiv. cap. i.

this supposition—one more serious than the other—were, in the first place, that any act or manifestation of the Protestant faith was punished as an act of apostasy; and secondly, that it was impossible for anybody to contract a marriage except in the presence of a Catholic priest.

Yet that legal fiction henceforth masked a solemn lie. For Protestants, laymen or ministers, who had made no act of abjuration, remained in France in thousands, and in the solitudes of the forests or the mountains (*au désert*), despising danger of death or the galleys, they attended their services, held synods, and contracted matrimony according to their own rite. In thousands those who had been converted by force returned to the ancient faith; and exiles came back to their native land, or, by means of advice, the dispatch of pastors, and assistance of every kind, co-operated with those who had remained in that reconstituted French Protestantism which, as a marvel of religious heroism, has never been surpassed except by the victory of the primitive Church in spite of Roman persecutions.

Now, the more the restoration of the evangelical Church progressed, the smaller became the number of those of its adherents who, either from fear of the serious consequences, or with a view to contracting a valid marriage, consented, under the compulsion of the laws, to recite the farcical formula of conversion, and have recourse to the Catholic clergy. And, on the other hand, the Catholic clergy themselves began to have some scruples—not, as Friedberg acutely observes, in regard to the coercion which was exercised through them upon so many consciences, but as to the uselessness of their intervention, and the profanation which was committed by enacting a

farce and administering so solemn a sacrament to feigned converts. Hence it was that while at one time under Louis XIV., in the conviction that not a trace of Protestantism would remain in France, the clergy had made no difficulty about imparting the nuptial benediction without excessive formality to as many as asked for it, now, on the other hand, under Louis XV., they began to raise difficulties and to submit the new converts to a minute and rigorous examination and to reject very many.

As will easily be understood, one of the results of this was to increase the number of simple concubinages, of so-called *adouages*, or of the marriages blessed in secret by the Calvinist pastors, the so-called *mariages du désert*; neither the former nor the latter produced any legal effect whatever, personal or patrimonial, whether affecting the parents or the progeny. Fraudulent derelictions on the part of Catholic husbands who contracted mixed marriages according to the Protestant rite; little less than a million persons deprived of a regular civil status; inheritances for which Catholic collaterals contended against Protestant descendants—these were the most serious, but not the only, social perturbations which that state of the law produced. The Government, intending to apply a remedy by the cruel ordinance of January 17, 1750, which increased the punishment against the Protestants, only succeeded in shocking public opinion, and causing it to rise in their defence. At this point a strong literary movement began, and continued, giving no truce to the State, throughout the second half of the century.

There had, however, been a certain amount of preparation for this literary movement in the first half of the century.

It was impossible to prevent a certain portion of that mass of polemical writings in which the question of toleration had been discussed in Holland by the Huguenot refugees, and therefore in the French language, from penetrating into France, in spite of all the precautions taken by the Government, and, moreover, the works of the most distinguished writers of every country, which, as we have seen, made their appearance about this time, such as those of Pufendorf, Noodt, Collins, and so on, were circulated in the country either in the original, or in French translations. But the most decisive influence exercised in this connection was that of Bayle,¹ not only because Montesquieu, Voltaire, Diderot, and Helvetius were educated in his school, but also because the philosophical tendency which Voltaire carried from England to his own country in 1730 had been to a large extent derived by the English from Bayle, who, in advance of them, had advocated with great warmth what he described as "the rights of the erring conscience."

Brunetière, therefore, in the article quoted, concludes: "Cent ans avant que d'être inscrite dans les lois, la cause de la tolérance était gagnée dans l'opinion. La révocation de l'Edit de Nantes, la persécution contre Port Royal, avaient opéré ce miracle; et après avoir applaudi à la réalisation de l'unité religieuse, dix ans ne s'étaient pas écoulés que l'on se demandait, en vérité, s'il était bien sûr que l'unité valut le prix dont on l'avait payée."

This conclusion, a trifle too concise, is weakened by the following two considerations. The sentiments of toleration, which were undoubtedly gaining more

¹ Cf. Brunetière, "La Critique de Bayle," in *Rev. des D. Mon.*, 1892, vol. cxii. p. 614 *et seq.*

and more ground, did not, however, rise to such a height in the first half of the eighteenth century as to become fixed in any legislative result, or even to be given concrete form in any new and significant work advocating or propagating the great principle.¹ On the other hand, the certain amount of contempt for religion which characterised English deistic and rationalistic thought was not wanting in the new French philosophical movement, and it led not rarely, as had already happened in England, to conclusions which were anything but propitious to the cause of religious liberty.

In this respect, the manner in which the question is treated by Montesquieu, and particularly by Rousseau, is highly characteristic.

The former, who had exposed the futility of any penal coercion in the matter of religious beliefs,² did not hesitate to conclude his argument as follows: “Voici donc le principe fondamental des Lois Politiques en fait de Religion. Quand on est le maître de recevoir dans un État une nouvelle Religion ou de ne pas le recevoir, il ne faut pas l’y établir; quand elle y est établi, il faut le tolérer.”

¹ I have not been able to obtain any trustworthy information regarding the following anonymous work: *Traité des loix civiles et ecclésiastiques contre les hérétiques par les papes, les empereurs, les roys, et les Conciles généraux et provinciaux approuvées par l’Église de Rome, avec un discours contre la persécution, traduit de l’anglais, Liège, 1725.* Friedberg, *Recht der Eheschliessung in seiner geschichtl. Entwicklung*, p. 537, n. 1, cites the following: *Lettres écrites à un Protestant de France au sujet des mariages des Réformées . . . par un P. de l’Église Réformée, s.l., 1733.*

² *De l’esprit des Loix*, lib. xxv. cap. 12; where amongst other things he says: “La Religion a de si grandes menaces, elle a de si grandes promesses, que lorsqu’elles sont présentés à notre esprit, quelque chose que le Magistrat puisse faire pour nous contraindre à la quitter, il semble qu’on ne nous laisse rien quand on nous l’ôte, et qu’on ne nous ôte rien lorsqu’on nous la laisse.”

But Rousseau goes much further. It is impossible to summarise in a few words the daring flights and subtleties of reasoning by which he reaches his conclusion. He affirms the complete liberty of individual beliefs, and shows that he detests religious intolerance more than anything else. Starting, however, from the propositions that the clergy has always dominated the civil power, that intolerance is inherent in Christian dogma and that it is folly to try to distinguish theological from civil intolerance, he reaches this result: he proposes the adoption of a purely civil profession of faith composed of a few dogmas indispensable to a well-organised social life, such as the existence of a divinity, the happiness of the just and the punishment of the wicked, the sanctity of the laws, the necessity of toleration, the penalty of exile for those who refuse to believe it, the penalty of death for those who violate after having publicly recognised it.¹

One finds, on the other hand, in many of the writings of the eighteenth century a note of respect and sometimes of true sympathy for the religious sentiment. In some cases this was quite natural. The works came from the interested parties, that is to say, from the Protestants of France. Such were the works which the soul, the hero, of the restoration of French Protestantism, Pastor Antoine Court, published from time to time. For example:

Le Patriote français et impartial, first ed. 1751, second ed. Villefranche 1753, written as a reply to a letter of the Bishop of Augen.

¹ *Contrat social*, lib. iv. cap. 8. And in other places, as well as in a letter to Christophe de Beaumont. Between Rousseau's proposed profession of faith and Pufendorf's *publica formula fidei* there is this difference, that the former would have been a purely civil creed; the second, on the contrary, religious.

Lettre d'un patriote sur la tolérance civile des Protestants de France, et sur les avantages qu'en resulteraient pour le royaume.

But the same cannot be said of the work in two volumes attributed to the Chevalier de Beaumont,¹ of which Voltaire largely availed himself: *L'Accord parfait de la nature, de la raison, de la révélation et de la politique, ou Traité dans lequel on établit que les voies de rigueur en matière de religion blessent les droits de l'humanité et sont également contraires aux lumières de la raison, à la morale évangélique et au véritable intérêt de l'état.*—*Par un gentilhomme de Normandie, ancien capitaine de cavalerie au service de S. Majesté.* Cologne, 1753.

The same author had to return to the question in order to defend himself against the attacks which were made upon his first work, and he wrote: *La Vérité vengée, ou réponse à la Dissertation sur la tolérance des prot. de France, par l'auteur de l'Accord parfait, etc., s.l., 1756.* His opponent was the Abbé of Caveirac, who was indefatigable in extolling intolerance against all the writers of the time who were favourable to religious liberty, and who published a defence of Louis XIV. and the revocation of the Edict of Nantes. His is the celebrated phrase that the total extermination of the Protestants would not, after all, have weakened France more than a little healthy blood-letting weakens a sick man who has a good constitution.

Claude Yvon, a doctor of the Sorbonne, in an anonymous work, resolutely advanced the principle

¹ The attribution is made in the excellent *Dictionnaire des ouvrages anonymes*, par Ant. Barbier, 3rd ed., revised and augmented by O. Barbier, R. & P. Billiard, Paris, 1882. I refer to this for the numerous other anonymous works.

that the State should remain indifferent in matters of religion : *La liberté de conscience reserrée dans des bornes légitimes*. London, 1754.

But the most serious, most exalted, and most touching word which had ever been uttered in France was that contributed to the great controversy by Turgot, who was then twenty-seven years of age. While he was *maître des requêtes* he wrote during the years 1753 and 1754 the following work : *Le Conciliateur ou Lettres d'un ecclésiastique à un magistrat, sur le droit des citoyens à jouir de la tolérance civile pour leurs opinions religieuses ; sur celui du clergé de repousser par toute la puissance ecclésiastique les erreurs qu'il désapprouve, et sur les devoirs du prince à l'un et à l'autre égard*. Rome, 1754.¹

In regard to toleration Turgot says in the conclusion of his work : “ A century ago these principles might have shocked many people ; but we are becoming more enlightened day by day, and we are learning to distinguish in religion that which is really essential from that which was added by man. We detest the Inquisition more than ever ; we admire the Edict of Toleration of the Empress-Queen : it seems to us that wisdom has been shown by the King of Prussia, who, although a Protestant, has granted to the Catholics the free exercise of their religion. The revocation of the Edict of Nantes disgusts us ; our troops groan when they are led against the Protestants.

¹ This first edition came out anonymously and perhaps with a shorter title. The second edition appeared in 1788, edited by J. A. Naigeon, with the name of Turgot and an announcement by the publisher. The third appeared in Paris in 1791, edited by Dupont de Nemours. It is found also in the *Œuvres* of Turgot, Paris, 1844, tom. ii. pp. 688-703. Besides the two letters of which the *Conciliateur* is composed, Turgot wrote two other letters on toleration, the one before and the other after that work ; cf. *Œuvres*, pp. 675-688.

We hope, therefore, that within a short time the mind of the country, returning to its senses, will blush for the blindness which exercised too great an influence on the conduct of the princes, and caused the sacrifice of so many men."

This is how Turgot conceived the position of the State in the question. "The prince has four classes of persons to satisfy—the Protestants, the Jansenists, the Bishops, the Parliament." He should say to the Protestants: "I grieve and must grieve to see you outside the fold of the Church; my conviction that the truth is not to be found except within the fold of the Church, and my tenderness for you, will not permit me not to grieve for your lot. But although you are in error, I will treat you as my children. Obey the laws, continue to assist the State of which you are members, and you will be protected by me to the same extent as the rest of my subjects. It is my mission to make you all happy." He should say to the Jansenists: "It is my desire that the Church should be without schisms, but it is not part of my duty to remove them; I can desire that an anathema shall not be pronounced against you; but it is not in my power either to suspend or pronounce it. All that I can do is to protect you as citizens, and I can only concern myself with you as such. Fear, therefore, neither punishment, nor exile, nor imprisonment; God grant that peace may return to the Church; but woe to me that these discords should be propagated in the State!" He should say to the Bishops: "Nobody listens with more respect to your views than I. I bow to your decisions. I shall never have any other faith than yours; but I do not interfere in the affairs of religion. If the laws of the Church had become the laws of the State, I would be willing to

swing the censer ; but as this is not the case, I have no right to demand that my subjects should think in the same manner as myself. Make use of your example and your exhortations in order to convert them, but do not count upon my assistance. If I had the misfortune of not being a Christian, should I have the right to demand that you should detach yourself from Christianity ? You have your laws for settling your differences ; I leave it to you to apply them in the manner that seems best, but I will not lend temporal arms to the spiritual authority. It is useless for you to insist that the Protestants and the Jansenists should be persecuted, that the former should be banished and the latter imprisoned or deprived of their offices. You may count upon my submission as a faithful Christian ; as a king I cannot guarantee you anything more than the same justice as I am obliged to administer to all my subjects." He should say to the Parliament : " My authority and yours are inseparable. I have entrusted my power to you, and I do not intend to deprive you of it ; but you cannot have more of it than I have myself. In spiritual matters I have no power at all ; the object of my empire is not the salvation of souls ; leave to the bishops the work of deciding religious questions ; you need only concern yourselves with the defence of my subjects in their honour, their substance, and their lives ; reserve to yourselves only that which regards them as citizens, and leave to the Church that which concerns them as faithful."

That, however, which, in the miserable condition of the Protestants in France, was constantly becoming more intolerable than ever, was, as we have already said, the irregularity of their marriages and the consequent serious confusion in the civil status of many

thousands of persons. Upon this question many juridical works were published, one of the most notable being written in collaboration, I. P. F. Rippert de Monclar, Procurator General of the Parliament of Provence, contributing the legal, and the Abbé Quesnel, tutor to the Duc de Penthièvre, supplying the theological part. It was published anonymously under the title *Mémoire théologique et politique au sujet des mariages clandestins des protestants de France, où l'on fait voir qu'il est de l'intérêt de l'église et de l'état de faire cesser ces sortes de mariages, en établissant, pour les protestants, une nouvelle forme de se marier, qui ne blesse point leur conscience, et qui n'intéresse point celle des évêques et des curés, s.l., 1755* ; 2nd edit., rev. and corr., *s.l., 1756*.

Herein it is demonstrated in general that persecutions are not in conformity with Holy Scripture, and that in any case they should not be carried so far as the suppression of the civil status of the dissidents. The authors then criticise the excessive proposals which had been put forward for the regulation of this extremely delicate point. But as Friedberg¹ well remarks, the merit of this *Mémoire* consists not so much in the acuteness of its criticism, as in the fact that, perhaps for the first time, it advanced a solution which after having aroused an infinite amount of discussion served finally as the basis for legislative reform. The solution found favour particularly because it was eminently practical. There is no demand on behalf of the reformers for the public exercise of their religion, nor is it requested that the reformed pastors should be readmitted to the country ; it is merely asked that the Protestants should be able

¹ Friedberg, *op. cit.*, p. 541 ; he does not, however, indicate the names of the authors of the Memorial.

to regularise their legal position by means of the introduction of a marriage contract carried out before the public magistrate, that is to say, a civil marriage after the fashion of that which had been introduced in Holland some time before.

The authors were violently attacked by several Catholic ecclesiastics, and particularly by the famous Abbé de Caveirac in his *Dissertation sur la Tolérance*, etc. ; but they found in another Catholic priest one who agreed with and defended them. This was the Abbé Besoygne, Professor of Philosophy, who was persecuted because he was among the appellants against the Bull *Unigenitus*. He wrote *Réponse à une Dissertation contre les mariages clandestins des Protestants de France, ou lettres à l'auteur d'un écrit intitulé: Dissertation*, etc., s.l., 1755.

Seconde réponse à des Dissertations contre la tolérance pour les mariages des Protestants, ou lettres à l'auteur de deux mémoires, etc. . . . s.l., n. d.

On the same subject Gacon de Louancy published anonymously, *Lettres de deux curés des Cévennes sur la validité des mariages des Protestants et sur leur existence légale en France*. London (Holland), 1759.

There was no lack of writings of a more general character. The historian Tailhé, an ecclesiastic and a contributor to the Encyclopedia, joined with the canonist Maultrot in writing the work, which also came out anonymously, *Questions sur la Tolérance, où l'on examine si les maximes de la persecution ne sont pas contraires au droit des gens, à la religion, à la morale, à l'intérêt des souverains et du clergé*. Geneva, 1758.

This was published afterwards with the shorter title, *Essai sur la Tolérance chrétienne*, s.l., 1750.

Against the apologists of the revocation of the

Edict of Nantes, availing himself likewise of anonymity, De la Broue, chaplain to the Netherlands Embassy in Paris, wrote *L'Esprit de Jésus Christ sur la tolérance, pour servir de réponse à plusieurs écrits de ce temps sur la même matière.* Holland, 1759; 2nd edit., *s.l.*, 1750.

IV. The abundant literary production of this first decade (1750–60) did not, however, make any headway with public opinion, or disturb the French official world. It was necessary, even at that time, that one of those *affaires* should break out which have always played such an important part in the history of France: it was necessary, even then, that a man of genius and courage should place his pen and his person at the service of the cause of the oppressed.

The *affaires* were the unjust condemnation of the Protestants Calas and Sirven; and the man was Voltaire.

Even quite recently critics who are too systematically hostile to Voltaire have attempted to deprive him of the laurels which the world had bestowed upon him for his action in these two cases. It is said that Voltaire, having for many years remained indifferent to the idea of toleration, which, in his day, was by no means new, only descended into the arena to fight for it after the great noise made by the condemnation of Calas and Sirven, and therefore, for no other purpose than to attract public attention, which was beginning to neglect him.¹ But against this accusation—which is one of the most obvious in similar cases, and also one of the most difficult to refute—I merely observe that all the noise about the

¹ Brunetière, "Le Bilan de Voltaire," in *Rev. des D. Mondes*, 1890, vol. xcix. p. 217 *et seq.*

condemnation of the two Protestants was raised precisely by Voltaire, then a septuagenarian, from his retreat at Ferney; and, for the rest, I appeal to the documents which show the nature of his conduct on these two occasions, for they vibrate with so much ardour, are replete with such self-abnegation, that no doubt as to Voltaire's sincerity can possibly be left in any dispassionate mind.

It is also said that Voltaire waited until he was an old man before fighting for an idea which was already very old. But the abstract idea of toleration was already old at the time of Bayle and Locke, to whom Brunetière would like to attribute all the merit for it. Yet it is impossible to call such an idea old, so long as the practical condition of a people is in such striking contradiction with it as was that of France in Voltaire's time. Nor did he wait until he reached his seventieth year before hurling the shafts of his vehement irony against religious intolerance; since out of the enormous mass of his literary production it is, perhaps, more difficult to select the works in which he does not, directly or indirectly, take the side of toleration, than those in which he does. Hatred of superstition, fanaticism, and intolerance, as is well known, was the dominant passion of his life. But it is perfectly true that he only took the negative or the destructive side in the great controversy, caring only for the rights of disbelief, and not for those of any honest and sincere positive belief; he hated the intransigence of the Jansenists as much and more than that of the Jesuits; he despised Huguenot as much and more than Catholic orthodoxy. Did he not write of the first announcement of Jean Calas's execution when he also believed that the victim had really strangled his son in order to

prevent his conversion to Catholicism: "Nous ne valons pas grand'chose, mais les Huguenots sont pires que nous"?

So on this occasion also Voltaire was moved solely by his old hatred of fanaticism of every kind, without knowing, as he himself said, whether he had to look with eyes of horror upon the victim or the judges. And while this, on the one hand, attests once again the sincerity of his motives, it shows, on the other hand, that if Calas and Sirven owed everything to Voltaire, he owed it to them that in the last years of his life he was able to rise to a wider and more serene vision of religious liberty.

Voltaire did not long remain in doubt as to the responsibility for the unspeakable excess of intolerance in the case of Jean Calas.¹ From the information of unprejudiced persons, from the unlikelihood of murder and the probability of suicide, from the victim's protestations of innocence even under torture and in the presence of death, from the lack of every proof, from the unheard-of irregularity in the procedure, from the negative verdict of five out of the thirteen judges, from the conversations with a son of poor Calas who took refuge in Switzerland, from thousands and thousands of other elements, Voltaire formed the firm conviction that the execution of Jean Calas, which took place at Toulouse on March 9, 1762, was a terrible aberration on the part of that town, which was always convulsed by southern fanaticism, and an unpardonable judicial mistake on the part of that parliament of impulsive irreconcil-

¹ Cf. Coquerel, Athan., *Jean Calas et sa famille*, Paris, 2nd ed., with documents, 1870; Allier, "Voltaire et l'affaire Calas," in *Revue de Paris*, v. (1898) p. 409 et seq.; Hertz, *Voltaire und die französische Strafrechtspflege im 18 Jahrhundert*, Stuttgart, 1887; Dryander, *Der Prozess Calas und die Toleranz*, Barm., 1887.

ables. From that time he had no peace; and he gave no peace to the whole of the innumerable company of his acquaintances. He called the attention of the enlightened princes of Europe, his friends, to the fact, and set the literary, fashionable, and official world of France in an uproar.

In order to predispose public opinion he published anonymously in the year following the execution of Calas his celebrated *Traité sur la Tolérance, A l'occasion de la mort de Jean Calas, s.l., 1763.*¹

To put the matter briefly, Voltaire said, wrote, and did so much, not allowing himself to be discouraged by indifference, raillery, or hostility, not permitting himself to be imposed upon by the objection that such an eminent tribunal should not be discredited for the sake of a poor unknown person, who was, moreover, a heretic, that on March 9, 1765, he obtained from the Royal Council, which had taken the affair into its own hands, a sentence by which the judgment of the Parliament of Toulouse was annulled—the memory of Jean Calas was rehabilitated and his family was pardoned and placed in possession of his property. Moreover, the king made them a handsome present.

Justice had scarcely been done to the memory of Calas before another case, perfectly identical, arose to redouble Voltaire's indignation. Pierre Paul

¹ Republished in all the editions of his works and frequently by itself, as well as in a popular edition, Paris, 1887. I quote the original edition. In the same year was published a book by the Protestant Court de Gebelin, who also aimed at stirring up public opinion in favour of the condemned Huguenots, but who by his somewhat immoderate expressions ran the risk of compromising their cause. It was entitled *Les Toulousaines, ou Lettres historiques et apologétiques en faveur de la Religion réformée et de divers Protestants condamnés dans ces derniers temps par le Parlement de Toulouse ou dans le Haut Languedoc.* Edimburg, 1763.

Sirven, a Protestant, was accused of having drowned his daughter in a well in order to prevent her going over to Catholicism. By sentence passed on March 29, 1764, and confirmed on May 5 by the very Parliament of Toulouse which had already decreed the death of Calas, he was condemned to death, together with his wife, for the crime of parricide. The accusation was even more incredible than in the case of Calas, and the procedure was, if possible, more scandalously arbitrary.¹ Pierre Sirven, unlike Calas, was only executed in effigy, having fled with the whole of his family to Switzerland, where Voltaire became acquainted with them and formed a conviction of their innocence. "Figurez vous," he says in a letter, "quatre moutons que les bouchers accusent d'avoir mangé un agneau; voilà ce que je vis." He did not hesitate to take the burden of their cause upon his shoulders, now bent with age.

It has justly been observed that in taking up the defence of Sirven he had greater merit than in the case of Calas; because he knew by then what an amount of worry and irritation such cases involved; because he had to make use again of many persons who had already, somewhat unwillingly, lent their assistance on the first occasion; because Sirven, having escaped from death, excited less pity; because a second blow dealt for the same reason at the same tribunal was bound to cause still more apprehension and dissatisfaction among the opportunists, the timid, and indifferent; because, finally, a check now would have done far more harm to Voltaire's reputation

¹ Rabaud, *Sirven, Étude historique sur l'arênement de la tolérance*, 2nd ed., Paris, 1891. Challamel (*Histoire de la liberté en France depuis les origines jusqu'en 1789*; Paris, 1886, p. 499) is not very precise when he says "Il servit de sa fortune et de son éloquence la famille de Jean Calas; les Sirven dépouillés par les jésuites," etc.

than would have been the case in the first instance. All this gave him greater reason for employing in this enterprise still greater zeal than in the other. The rehabilitation of Calas occupied three years; that of Sirven nine.

The procedure which Voltaire followed was the same, but it was applied on a much larger scale. This time also he attempted to influence public opinion in favour of his protégés by writing his *Avis au public sur les parricides imputé aux Calas et aux Sirven, s.l., 1766.*

Fortunately in this case he met with equal success. On November 25, 1771, a judgment was issued absolving Pierre Sirven, rehabilitating the memory of his wife, who had died in the meanwhile of a broken heart, and restoring the family to their former status.

On this occasion the sentence of reparation was issued by the Parliament of Toulouse, which had previously condemned him—a wonderful sign of the progress which, thanks to Voltaire, ideas of toleration had made in France in the course of the decade.

For the rest, when, in 1778, after twenty-seven years of absence, he was received in triumph at Paris, the cry heard everywhere was “Vive le défenseur de Calas et des Sirven!” and in 1791 the Convention caused these words to be carved on his tomb, “*Il vengea Calas, Labarre, Sirven et Montbailly.*”¹ Thanks to him, Calas and Sirven became favourite personages in many dramas by which, during the

¹ The Chevalier de la Barre, who was not yet twenty years of age, was tortured and executed on July 1, 1766, on the sentence of the Parliament of Paris; his only crime was not uncovering his head when a procession was passing in the street at a distance of thirty paces and of having sung licentious songs. Voltaire, who was very indignant, wrote about this very sad case on several occasions, among other works, *Affaire La Barre à Beccaria.*

revolutionary period and afterwards, religious fanaticism was held up to popular execration.¹

In the cause of toleration, therefore, Voltaire the man did more than Voltaire the writer. For, to be quite sincere, it must be admitted that all that he wrote in this connection on various occasions,² including his *Traité sur la tolérance*, considered only from the philosophical point of view, cannot stand comparison with some of the more celebrated works which have already been mentioned, as, for example, Bayle's *Commentaire* and Locke's Letter. But if Voltaire's writings did not possess the powerful and well-ordered structure of the latter, or the depth and seriousness of their reasoning, they are not, however, lacking in peculiar merits, which consist in an alertness and limpidity of phrase, a variety of illustration, and a victorious gaiety even in sarcasm which had never been seen before. In Chapter I. he states the case of Calas, and in Chapter II. shows the consequences of his execution. Chapter III. is devoted to the reasons which brought about the reformation, particularly in France; Chapter IV. describes the advantages various European, Asiatic, and American States have been able to derive from universal

¹ E.g., Lemierre D'Argy, *Calas, ou le fanatisme*, drama in four acts produced on December 17, 1790; Laya, *Calas*, etc., tragedy of five acts, produced on the following day; Chenier, M.G., *Calas ou l'école des juges*, tragedy in five acts, produced on July 9, 1791, etc.; in regard to Sirven, cf. Rabaud, *op. cit.*, p. 196 *et seq.* Voltaire also succeeded in gaining adherents in this field; for Charles George Fenouillot de Falbaire by means of his drama entitled *L'Honnête Criminel* (successfully acted in 1767, translated into Italian in 1770, and praised by Voltaire), assisted very largely in obtaining the complete rehabilitation in 1768 of a certain Jean Fabre who had been serving for six years in the galleys, having taken the place of his father, who was condemned for Protestant acts of worship.

² *Lettres inédites sur la Tolérance par Voltaire, publiées avec une introduction et des notes*, par Athan Coquerel. Paris, 1863.

toleration ; and Chapter IV. advocates the adoption of a similar régime in France.

Intolerance, it is stated in Chapter VI., does not belong to divine or natural law, and therefore it cannot belong to human law. It was unknown to the Greeks (Cap. VII.), and to the Romans (Cap. VIII.), because the history of the martyrdom of the Christians, which is separately discussed (Cap. IX. and X.), shows that it was caused by the Christians' contempt for the Roman laws, and not only by the difference of belief. Chapter XI. throws light upon the monstrous excesses of intolerance, which even reached so far as the glorification of regicide. Intolerance was not a part of divine law even amongst the Jews (Cap. XII.); indeed their history abounds in examples of toleration (Cap. XIII.). Nor does intolerance find any foundation in the doctrine taught by Jesus Christ (Cap. XIV.). There is abundant testimony against it by the writers of every age, from the earliest Fathers of the Church down to contemporary authors (Cap. XV.).

Chapters XVI. and XVII. contain two digressions ; the first, a fictitious dialogue between a dying man and an intolerant person who wants to induce the former to sign a retractation and ends by signing it himself, so that he shall not lose the merit of having made a conversion ; and the second is a supposed letter from a Jesuit, who outlines a project for the extermination of all the Huguenots and Jansenists in France. Chapter XVIII. demonstrates that intolerance is justified only in one case, viz. for the purpose of restraining the excesses of fanaticism.

Chapter XIX. contains another digression ; a supposed stormy disputation between a Jesuit, a Danish almoner, and a Dutch chaplain before a Chinese

mandarin, who ends by throwing all three into prison until they come to agreement, or at least forgive each other. Chapter XX. combats the opinion that it is right to keep the people in a state of superstition, because "la superstition est à la religion ce que l'astrologie est à l'astronomie, la fille très folle d'une mère très sage." Chapter XXI. develops once more the old Socinian theme that good works are worth more than dogmas, the number of which should, accordingly, be reduced to the smallest possible. Chapter XXII., which is entitled *De la Tolérance universelle*, is a final, ardent appeal to the reciprocal benevolence and indulgence of all men, consisting of witty digressions, brilliant illustrations, and unexpected allocutions.

The treatise concludes (Cap. XXIII.) with a truly inspired prayer to God that He should put a stop to the bloodshed, contrary to all the principles of Christianity, which had been carried on for so many centuries in His name, and make it possible for men to pass the brief moments of their existence in peace and bless Him equally in a thousand different tongues from Siam to California.

The two chapters which follow contain, the one a postscript which refutes a work in defence of persecution which had come out about that time,¹ and the other a conclusion which informs the reader of the progress made by the cause with the rehabilitation of Calas during the time that the treatise was being written.

The denunciation of intolerance and the praise of

¹ *Accord de la religion et de l'humanité avec l'intolérance civile en matière de religion*; Paris, 1762. Voltaire supposed that the Abbé de Caveirac was the author of the work; but as a matter of fact it was written by the Abbé de Malveaux.

toleration are the predominant objects of the treatise and absorb all the intellectual forces of the writer, who, as distinguished from all those who had preceded him, does not concern himself with letting us know how, in his opinion, religious liberty should be organised when it is finally obtained. Hence his idea on this point can only be traced by allusions scattered here and there; and it would seem to be this: full liberty of conscience for all so long as they do not disturb public order (Cap. XI.); but the churches and public offices and honours to be reserved for the followers of the dominant religion, that, namely, of the prince (Cap. IV. and V.). This limited conception of liberty subsequently remained the pivot of the whole of the French literary and legislative movement.

V. The subsequent agitation for religious toleration in France did not, in fact, change either its tone or its object; it only grew in intensity and spread on every side. The sovereign himself was affected by it.

Louis XV., withdrawing himself at least on one occasion and for a moment from the influence of the clergy, and concerning himself with those of his subjects who lived outside the pale of the law, gave to his Councillor of State, Gilbert de Voisins, about the year 1767, a secret order to inquire into the question of the civil status of the Protestants and to report upon it. He presented a memorial to the king in which he proposed to maintain the prohibition of public worship in the case of the Protestants, but to grant them the power of holding family prayers within their own house; and for this purpose a limited number of evangelical ministers, provided with a passport liable to be revoked, should be permitted to dwell within the State. As regards marriage,

since the most important matter was to establish mutual consent, the parties were to appear before a secular magistrate, who would draw up a certificate, or repair to the Catholic vicar, who in such cases would not act as a priest, but as a person invested with a public function. The memorial, which was examined by a committee of the Council of State and a few prelates, was not disapproved, but nothing resulted from it. It was not published until twenty years later.¹

Meanwhile, however, the question of the civil status of the Protestants was attracting more attention every day, especially in legal circles.

The various Parliaments found themselves greatly inconvenienced by the number of serious matrimonial suits in which the most elementary principles of humanity were in evident and insupportable contrast with the written law. Hence a large number of memorials and discourses by lawyers, and sentences of judges, which, passing beyond the narrow limits of the tribunals, aroused public excitement. The statements of fact were of the most varied character. The most general and common question was naturally this: "Can the marriages of Protestants be recognised as having any legal value?" On this point there are various writings, notably those of Portalis, the Abbé Guidi, and various others. Or, it was asked, "Shall those marriages be valid in France which were contracted regularly abroad?" This question was discussed by the celebrated Elia de

¹ *Mémoires sur les moyens de donner aux Protestants un état civil, composé de l'ordre du roi Louis XV., par feu Gilbert de Voisins, cons. d'État, s.l., 1778, 8vo, p. 143.* In regard to these memoirs, cf. [anon.], *L'État civil pour les non-Catholiques de France justifié, ou Observations sur les Mémoires de M. Gilbert de Voisins, cons. d'État, concernant les moyens, etc., s.l., 1788.*

Beaumont, the defender of Calas and Sirven.¹ It was also gravely asked whether it was possible for one of the parties to remarry in France in the case where the other party had been regularly married abroad. This question was discussed by the advocate Linguet.² Better known, however, are the memorials which he drew up in the case of the Vicomtesse de Bombelles, which caused a great deal of discussion at that time.³

The Vicomte, a Catholic, had married Mdle. Camp, a Protestant, with the evangelical rite, and had a daughter by her; then he remarried regularly with a Catholic, Mdle. Carvoison. The first wife laid a complaint before the Parliament. Similar questions arose every day. Such was the Roux-Robenquin case,⁴ that of the Marquise de Anglure,⁵ and others.

¹ *Question sur la légitimité des mariages Protestants français célébrés hors du royaume*; Paris, 1764. The question, it appears, was about collaterals who wished to deprive some Protestants of their inheritances, by alleging that since their parents were not regularly married they were illegitimate.

² *Mémoire à consulter et consultation pour un mari dont la femme s'est remariée en pays protestant et qui demande s'il peut se remarier de même en France, s.l.*, 1771. Against: *Reponse au Memoire et à la consultation de M. Linguet, touchant l'indissolubilité du mariage* (signed B—, docteur en Sorbonne). Paris, 1772.

³ *Mémoire à consulter et consultation sur la validité d'un mariage contracté en France suivant les usages des Protestants, pour dame Marthe Camp, vicomtesse de Bombelles*; also, *Plaidoyer pour demoiselle A. L. A. Charlotte de Bombelles, procédant sous l'autorité d'A. Monge, son tuteur ad hoc, contre le vicomte de Bombelles*; Paris, 1772. Against: *Mémoire à consulter et consultation pour Messire J. L. F. Charles, vicomte de Bombelles*, par M. Poncet Delpech, avocat, 1772.

⁴ Cf. *Discours de Servan, avocat général au parlement de Grenoble dans la cause d'un femme Protestante*. Grenoble, 1767.

⁵ Target, *Consultation sur l'affaire de la dame Marquise d'Anglure, contre les sieurs Petit, dans laquelle on traité du mariage et de l'état des Protestants*; Paris, 1787. Moreover, a memoir of Elia de Beaumont, and a Consultation signed by Henrion de Pansey, De Bonnières, De Lamalle, Lacreteille.

The parliaments, partially abandoning their anti-liberal traditions, initiated in the second half of the century, as Beauchet remarks, a course of legislation which was more consoling for the Protestants. They shut their eyes to the irregularities of the Protestant marriages, and nearly always decreed a general *fin de non-recevoir* in the actions for nullity, whether they were brought by collaterals or principals. The simple possession of status was admitted as a sufficient proof, and the children born of such marriages were recognised as legitimate. But in the case where the husband, having abandoned his Protestant wife, had become regularly united to a Catholic, the parliaments did not go so far as to declare the second union null and void, but confined themselves to condemning the bigamist to pay damages to the first wife.

Now, apart from the enormous scandal, this tacit judicial toleration was not without inconveniences; the favourable sentences were not sufficient to protect the Protestants from long, difficult, and not always certain lawsuits, and the decisions could, moreover, be quashed by the King's Council, and while the laws thus remained firm against the Protestants, their fate depended, in the administrative field, upon the momentary caprice of the provincial governors.

This state of things could not last any longer, as was shown by the spirit which the literary movement assumed after Louis XVI. ascended the throne. Although the majority of the French people were not immune from the bigotry of which it had given such evident signs under Louis XV., the advisers of the sovereign were now very different. Turgot, indeed, had attempted to secure the adoption of a formula more in agreement with the new times in the oath by

which the king, at the moment of his solemn consecration, promised to favour the Church and exterminate heretics. He did not succeed, and was driven from office before he could realise his tolerant proposals. But his influence was not forgotten by his successors, who were urged forward by the opinion of the directing classes, the latter becoming more vehement in their aspirations towards liberty, the idea of which was warmly promoted by a wealth of literary productions.

In this connection we must perforce content ourselves with a mere reference to the most notable works, such, for example, as that published anonymously by Turneau de la Morandière, the tone of which was so explicit that Grimm hailed the fact that such a work could be published in France as a mark of progress, and an evident sign of the mildness of the Government. Its title was *Principes politiques sur le rappel des Protestants de France*. Paris, 1764.

In February 1767, Marmontel published his historico-philosophical romance, *Bélisaire*, around Chapter XV. of which a regular battle was waged between the progressives and the intransigents. That chapter, which by an antonomasia was called the *Chapitre de la Tolérance*, aroused the protests of the archbishop and the theological faculty of Paris, who caused the book to be placed on the *Index*. The author returned to the charge with a new romance, *Les Incas*. Nor was this, as we shall see, the last work which Marmontel wrote concerning religious liberty.

Another of the leaders of the Encyclopedia group, Baron d'Holbach, translated the *Independent Whig*, by Th. Gordon and J. Trenchard, to which he gave

the strong title *L'intolérance convaincue de crime et de folie*. London (Amsterdam), 1769.

Raynal wrote *Du Tolératisme*,¹ and devoted an important article in the French Encyclopedia to *Tolérance*.

There were some writers who emphasised the monstrousness of the legal position of the Protestants in France, either simply explaining it or confronting it with that of foreign dissidents. or, again, making it the subject of sensational romances. Surpassing all other works of this nature was the following by Condorcet, published, however, anonymously: *Réflexions d'un citoyen catholique sur les lois de France relatives aux Protestants, s.l.*, 1778.²

This book by Condorcet was republished the same year in Maestricht and wrongly attributed to Voltaire. It made its appearance for a third time, but again anonymously, in the next year, with the following title:³ *La tolerance aux pieds du Trône*. London, 1779.

It will be sufficient to transcribe the following extract, which admirably summarises the feelings of

¹ In *Opp.*, London, 1782, vol. i. p. 272.

² It was afterwards inserted in a *Recueil des pièces sur l'état des Protestants en France*; London, 1781. The collection contained: 1, "Recit de ce qui s'est passé," etc.; 2, "Réflexions d'un citoyen," etc.; 3, "Sur les moyens de traiter les Protestants français comme des hommes sans nuire à la religion catholique, par M—, docteur en droit canon de la faculté de Cahors en Querci"; 4, "Lettres de M—, avocat au Parlement de Pau, à M—, prof. en droit civil à Cahors." According to Barbier (s. v. *Recueil*, etc., vol. iv., col. 79-80) the author of the collection was Condorcet himself.

³ Lods, *Centenaire de l'Édit du 17 Nov. 1787*; Paris (1889). In Larousse (s. v. *Tolérance*) this *Tolérance aux pieds du Trône* is attributed to Turgot. On the other hand, from some remarks by Simon (*Liberté de Consc.*), it might be supposed that he regarded Malesherbes as the author. I am not in a position to settle the question, but I favour the opinion of Lods, who has examined and collated these works more diligently than any other writer.

the tolerant Catholics of that time: "Nous ne proposons pas de tolérer les dogmes de la religion réformée, mais de cesser d'opprimer ceux qui la professent. Nous ne demandons pas que les protestants aient un culte et des ministres, nous demandons qu'ils puissent avoir des enfants. Nous ne parlons point d'introduire dans l'État deux religions, quoique la liberté des cultes publics n'ait excité aucun trouble dans les États qui l'ont établie; mais nous disons qu'il faut que tous hommes qui vivent dans un État, qui payent les impôts, qui obéissent aux lois, y jouissent des droits de l'homme et de citoyen."

But did the Protestants reconcile themselves to this minimum programme? Their aspirations went a good deal further; they aimed particularly at liberty of worship; indeed, Turgot having caused the advocate Legouvé to draw up a memorial on the marriage of Protestants, the latter refused to subscribe it because it said nothing about their other just demands. This, however, did not prevent them from joining forces, without prejudicing their rights, with the tolerant Catholics.

For the first time, on December 15, 1778, the cause of the Protestants was courageously carried into the Parliament of Paris and advocated there by M. de Bretignières. Although the majority decided "qu'il n'y avait pas lieu de délibérer, s'en rapportant à la prudence de roi," it nevertheless recognised that the measures of Louis XIV. had to be reformed, and that only constitutional reasons could prevent the Parliament from carrying out the reform.¹

Various circumstances arose about this time to remove any hesitation. They were: (a) the pro-

¹ *Recit de ce qui s'est passé le 15 Decembre à l'Assemblée des Chambres du Parlement, 1778.*

mulgation of the Edict of Toleration by Joseph II. in Austria, which exercised a great influence also in France, either because Austria has until then to be regarded as the most reactionary State, either because Marie Antoinette enthusiastically appropriated the ideas of her brother Joseph II., or because there was no omission to magnify in France the good reception which was generally given by the higher clergy in Austria to the new measures¹; (b) the close alliance between France and the United States of America and the consequent propaganda of liberalism which was carried on by the Americans sojourning in France, such as Franklin, or Frenchmen returned from America, such as Lafayette; (c) the liberty of worship granted to some colonies and that accorded to the English living in France by the Treaty of Commerce of 1785; (d) finally, and principally, the determination, henceforth unshakable, and the agreement, indeed the extremely close understanding, of enlightened and highly placed Catholics, such as the Baron de Breteuil, Malesherbes, Rulhière, De Saint-Vincent, etc., with the Protestants, and chiefly with Rabaut de Saint-Étienne.

Something, at least, was obtained with the declaration of May 12, 1782, which suppressed the claim of some curés, which was now contrary to the legislation of the parliaments, to qualify the children of Protestants in their registers as bastards and by similar names.² But this was not sufficient, as was shown clearly by the imperious titles of the books and pamphlets which were published about this time, such, for example, as :

¹ E.g., *Lettre circulaire de Mgr. l'évêque de Königgrätz en Bohême, ou Règlement de tolérance adressé 20 Nov. 1781 au clergé de son diocèse, traduit de l'original latin, s.l., 1782.*

² Cf. Beauchet, *Étude sur les formes de la cél. du mar.*, p. 675.

Le roi doit modifier les lois portées contre les Protestants. London, 1784.

Justice et nécessité d'assurer en France un état légal aux Protestants, Augsbourg, l'an du rappel 1787 (by Praband de Saint-Etienne).

La vérité rendue sensible à Louis XVI. sur le rappel des Protestants. London, 1787.

Of much greater weight, indeed, of absolutely decisive influence over the legislative work of the future, were the two published by Malesherbes: *Mémoire sur les mariages des Protestants en 1785*: and *Second Mémoire*, etc., London (Paris) 1787: republished together with the preceding in 1788.

In these the historical development of the thorny question is summarised in a masterly manner, and practical, concrete proposals are put forward upon which the law so ardently desired by everybody was afterwards based.

The law was not long delayed.

On February 7, 1787, Robert de Saint-Vincent, in the Parliament of Paris, delivered a glowing speech on behalf of the Protestants; and the Parliament decided to entrust the first President with the duty of waiting upon the king and requesting his Majesty to consider the best means of giving a civil status to the Protestants.¹ What a long road had been travelled since 1778!

On the following May 23, Lafayette addressed the Committee of the Assembly of Notables, presided over by the Comte d'Artois, the king's brother, and protested against the arbitrary acts of which the Christians in France were victims. The President wished to silence him, but Monseigneur de la Luzerne.

¹ *Réclamation du Parlement en faveur des Protestants de France*, par M. De Saint-Vincent, three editions, s.l., in the same year, 1787.

Bishop of Langres, a most tolerant prelate, intervened on his behalf and expressed the opinion that the existing state of affairs was insupportable and should be brought to an end. The committee then decided, almost with unanimity, that a motion to that effect should be presented to the king.

His Majesty received the motion with great sympathy, and Baron de Breteuil and Malesherbes immediately prepared the draft¹ of what afterwards became the celebrated Edict of Toleration of November 17, 1787. It consists of thirty-seven Articles, and was entitled *Édit du roi concernant ceux qui ne font pas profession de la religion catholique*. It would appear from this title that the edict related to all non-Catholics, but the preamble and the whole of the dispositions show that it can only refer to the members of the Reformed Church.²

¹ Rabaut de Saint-Étienne, informed of the project, made an effort in the summer of 1787 to excite public opinion and the Government in favour of granting full liberty of worship (*cf.* Schott, p. 417), by publishing a work which, unless I am mistaken, was the following (attributed to him by Lods, p. 8): *Réflexions impartiales d'un philanthrope sur la situation présente des Protestants et sur les moyens de la changer*. Paris, 1787.

² It did not, therefore, refer to the Jews. Their position had always been a very wretched one also in France (*cf.* Viollet, *Hist. du droit civil français*, p. 353 *et seq.*; Beauchet, "Étude sur les formes de la célébr. du mariage," in *Nouvelle Revue histor. de droit français*, 1882, p. 681 *et seq.*). Louis XVI., it is true, released them from certain odious personal burdens (Lemann, *L'entrée des Israélites dans la Société Française et les États chrétiens*; Paris, 1886, p. 12 *et seq.*), but in the same year he imposed upon the Jews of Alsace the even more odious obligation of formally asking the king for permission to get married. A remarkable Memoir by the great Mirabeau (*Sur Moses Mendelssohn, sur la réforme politique des juifs et en particulier sur la révolution tentée en leur faveur en 1753, dans la Grande Bretagne*; London, 1787) began to predispose public opinion in their favour, thus initiating in France that work of regeneration of the Jews to which Lessing, Mendelssohn, and Dohm had devoted themselves in Prussia. In 1787 the Royal Society of Sciences and Arts at Metz put up for competition this theme: "Est-il des moyens de

In the preamble the king admits the futility of the efforts made by his predecessors to reduce their subjects to unity of faith, acknowledges the falsity of the legal fiction according to which such a thing as a Protestant did not exist in France, and grants the necessity of regularising their position; but at the same time he solemnly declares that only the Catholic religion can be exercised in public and that the dissidents could only receive from the law "*Ce que le droit naturel ne nous permet pas de leur refuser.*"

Art. 1 grants to the Protestants the enjoyment of all the rights of inheritance, and the free exercise of every art, industry, commerce, and profession, with the exception, however, of legal and municipal offices and those connected with public instruction. Art. 2 decides that Protestants can contract legal marriages, or legitimatise those already contracted irregularly, according to forms minutely determined by the succeeding Articles, which give the Protestants power to choose whether the marriage shall be celebrated before a priest or before local magistrates. Arts. 3 and 4 prohibit any form of community amongst non-Catholics, and forbids their ministers to qualify themselves as such in any document or to distinguish themselves as such by any external sign. Other Articles regulate the matters of baptism and burial; others, again, settle the questions of the Catholic feasts which were to be observed also by the Protestants, and so forth.

rendre les Juifs plus heureux et plus utiles en France?" Many excellent essays were sent in; the best among them was that by which the celebrated Abbé Grégoire made himself known: *Essai sur la régénération des Juifs*; Metz, 1789 (Lemann, p. 461 *et seq.*). It seems that in 1788 Louis XVI. was contemplating the emancipation of the Jews and directed Malesherbes to draft a project with that object in view.

To sum up, all that the edict of Louis XVI. accomplished was to do away with the *civil death* which had been imposed upon the Protestants in France. So inferior was it to the Austrian edict of 1781, not to mention the Prussian edicts of the same year, that in order to regard it as an edict of toleration according to the strict meaning of the word, it was necessary to bear in mind the particular conditions of the country.

At first, and with good reason, the Protestants were bitterly disappointed by it; then, consoled by the indefatigable Rabaut, they gave it a hearty reception. The intolerant Catholics, on the contrary, were very angry, and since the edict before coming into force had to be sanctioned by the various parliaments, they did everything in their power to impede it. The clergy and the Parliament of Paris, which had given the first impetus to the matter, sent printed remonstrances to the sovereign, not only against the fundamental idea of the edict, but against its terms, which did not seem sufficiently to safeguard the prerogatives of the Catholic religion.

There was a deluge of writings by the irreconcilables, and the Marechale de Noailles and Madame de Genlis took the trouble to have carried round to all the members of parliament a certain *discours* entrusted by them to the Abbé Bonnaud, full of tirades against the edict and the plots of the Protestants; but for all their unseasonable zeal, they only succeeded in gaining for themselves the nickname of *Mères de l'église*.

But the enlightened and tolerant section of the Catholics did not stand with folded arms. They caused replies to the expostulations of the constituted bodies to reach the king. To the rhetorical tirades

of various intransigent orators, such as that of Duval d'Epresmenil, who, on December 7, in the Assembly Hall of Parliament, pointing to the image of Christ, asked if it were desired by approving the edict to crucify Him a second time, the convincing eloquence of Robert de Saint-Vincent and others triumphantly replied; in response to the books and pamphlets, others were written in not less abundance, and among these special mention is deserved, on account of its high merit and almost official character, by that which Rulhière composed, on the instructions of Baron de Breteuil, the minister who countersigned the edict: *Eclaircissements historiques sur les causes de la Révocation de l'Édit de Nantes et sur l'état des Protestants en France depuis le commencement du règne de Louis XIV. jusqu'à nos jours, tirés des différentes archives du gouvernement.* Paris, 1788.

It is in two parts, the second of which contains the general report made to the king by Baron de Breteuil himself.

The edict was passed by the Parliament of Paris on January 29, 1788, and shortly afterwards by the other parliaments; but remonstrances and apologies were all swallowed up in the great storm of 1789.

VI. That which the French revolution accomplished in the matter of religious liberty constitutes a unique phenomenon in history. Until that time history had only shown us the excesses of intolerance perpetrated in the name of beliefs, very diverse in character, it is true, but, at the same time, all positive beliefs; the revolution, on the contrary, showed us for the first and only time the intolerance of disbelief, or negation, at work.

But a careful examination will prove that the difference between the two phenomena is one of form

rather than of substance; since D'Alembert had already observed "*l'incrédulité est une espèce de foi pour la plupart des impies.*" And this is true not only, as Laurent, from whom this quotation is taken,¹ has brilliantly demonstrated, of those cultured minds which are able to replace religious beliefs abandoned by a conscious act of their reasoning, by a well-organised system of scientific conceptions, or at least of personal convictions, and at the same time a noble altruistic sentiment such as De Tocqueville admired in some of the rationalists of the old régime²; but it is also true, as Mosca has observed, of the uncultured, those who arrive at disbelief by the mere spirit of imitation or rebellion, and who, having cast off the ancient faiths, do not hesitate to accept others more indefinite, irrational, and superstitious with equal fanaticism, being ready to believe in the revolutionary agitator with the same blindness as they had formerly believed in the priest.³

It is also necessary to state at once that the intolerance of the revolution is indeed without a parallel in history, but only when it is considered as a collective or social phenomenon, as a politico-religious régime which was realised in practice, although only for a short time. As an individual phenomenon, as a speculative system, however, it had some very significant precedents, as we have already seen, in the liberticidal doctrine of the English deists and the French rationalists (who were direct descendants of the former), and, in fact, in the doctrine of all the supporters of the idea and the principle of a natural

¹ Laurent, *Études sur l'histoire de l'humanité*, Bruxelles, 1863, xii. p. 38 *et seq.*

² Tocqueville, *L'Ancien Régime et la Révolution*, cap. xiv., Paris, 1856, p. 238.

³ Mosca, *Elementi di Scienza politica*, Rome, 1896, p. 293 *et seq.*

religion, to whatever time or country they may belong.

It is to them, accordingly, that we must look for the first source of revolutionary legislation in matters of religion, for it is well known that the minds of all those to whom such legislation was due, had been exclusively cultivated on the writings of those philosophers, and hence, when the time came for action, they could only proceed blindly on the lines laid down by their philosophical systems.

This does not, however, justify the disbelieving intolerance of the masses, who knew nothing of philosophy. But for the masses, either I am greatly mistaken, or the matter is intuitively simple: let each one of us project on the dark Parisian background of the period the first half-dozen modern priest-haters who fall into his hands, and he will have the solution of the problem.

Add to this, as a more specific factor, the spirit of the race, which always was, and has remained, the most irreverent scoffer at religion and the bitter satirist of the opulence, greed, and pleasure-seeking of the clergy, and it will be seen that, after all, the revolution was nothing but the full-blooded pleasantry of Rabelais suddenly transformed into a sanguinary persecution.

Hence the religious régime of the revolution is restricted, in our opinion, to a phenomenon which, however strange it may appear, can easily be understood, if not always easily explained in all its details.

It had, in fact, various phases, and at every phase presents notable contradictions. A first period is marked by the continuance of Catholic intolerance. Proclaiming the rights of man on August 26, 1789,

the Constituent Assembly had already, in Art. 10, inscribed these magnificent words: "Nul ne doit être inquiété pour ses opinions, même religieuses, pourvu que leur manifestation ne trouble pas l'ordre public établi par la loi." But in the mind of the French legislator these words were far from having the wide range of those American declarations of rights which had already served as a model for them. In America the chief aim was liberty of religion; in France the liberty of the individual conscience was alone considered.

This is proved by the fact that the demand addressed to the Assembly during its sitting of August 23 by Rabaut de Saint-Étienne, then deputy for Nimes, that the public exercise of the Protestant religion should be explicitly conceded, was rejected by a large majority.¹ The Catholic religion, accordingly, retained its character as the dominant form of worship, and the dissidents possessed only the quality of tolerated religions, the word toleration assuming here the extremely restricted sense of purely private or individual exercise of religion.

Precisely against these two terms *dominant religion* and *toleration*, the great Mirabeau, during that memorable sitting, hurled the thunderbolts of his mighty eloquence: "Je ne viens pas prêcher la tolérance; la liberté la plus illimitée de religion est à mes yeux un droit si sacré, que le mot tolérance, qui voudrait l'exprimer, me parait en quelque sort

¹ Rabaut's speech consisted of a violent attack upon the word *toleration*: "La Tolérance! Je demande qu'il soit proscrit à son tour, et il sera, ce mot injuste, qui ne nous présente que comme des citoyens dignes de pitié, comme des coupables auxquels on pardonne, ceux que le hasard souvent et l'éducation ont amenés à penser d'une autre manière que nous." Cf. *Œuvres de R. de Saint-Étienne*, Paris, 1826, tom. ii. p. 149.

tyrannique lui-même, puisque l'autorité qui tolère, pourrait ne pas tolérer." And again: "*Dominant*, je n'entends pas ce mot, et j'ai besoin qu'on me le définisse. Est-ce un culte oppresseur que l'on veut dire? Mais vous avez banni ce mot, et des hommes qui ont assuré le droit le liberté ne revendiqueront pas celui d'oppression. Est-celle cult du prince que l'on veut dire? Mais le prince n'a pas droit de dominer sur les consciences ni de régler les opinions. Est-ce le culte du plus grande nombre? Mais le culte est une opinion; tel ou tel culte est le résultat de telle ou telle opinion. Or, les opinions ne se forment pas par le résultat des suffrages; votre pensée est à vous; elle est independent vous ne pouvez pas l'engager."¹ But it was in vain, and all that remained for him was to express on that occasion his grief at seeing that "The National Assembly, instead of stifling the germ of intolerance, placed it, so to speak, in reserve in a declaration of the rights of man." The Assembly, in fact, understood the reservation in Art. 10 of the Declaration of Rights, not in the more natural sense that the exercise of the various religions should not be allowed to disturb public order, but in a much more restricted and unnatural sense—in the sense, that is to say, that the exercise of the various dissident religions could never be public, *i.e.* it could not violate the monopoly of publicity in religious practices which the old laws had attributed to the Catholic Church.

How deeply Catholic intransigence was rooted in the Assembly appeared during the sitting of

¹ *Collection complète des travaux de Mirabeau l'aîné à l'Assemblée nationale*, Paris, 1792, tom. ii. p. 61; also, *Œuvres de Mirabeau*, Paris, 1825, tom. vii. p. 287. Mirabeau proceeded with great eloquence to show the advantages of a multiplicity of sects, and combated the usual objections which are made against them.

December 23, 1789, when the Comte de Clermont-Tonnerre proposed that Protestants and Jews should be declared capable of holding any public office. By a great effort the Assembly agreed that the restrictions placed upon the former by the edict of 1787 should be removed, but as to the Jews, in spite of the support given to their cause by Mirabeau, the Assembly declared its unwillingness to make any change. The Jews were not placed on an equality with other citizens in the enjoyment of all civil and political rights, except implicitly by the Constitution of September 1791, and as this was not regarded as sufficiently explicit by the special decree of September 28, 1791, a second period, quite distinct from the preceding, was initiated when the Constituent Assembly crowned its work with the Constitution of September 3 to 14, 1791, which, in Art. 1, proclaimed that it guaranteed "La liberté à tout homme d'exercer le culte religieux auquel il est attaché."

Formally the relations, it must be confessed, were still identical; there was, that is to say, still a *dominant religion*, and, side by side with it, *tolerated denominations*. But the two expressions had by now changed their meaning, the first having undergone a restriction, and the second a widening, of its significance.

Toleration, in fact, no longer referred only to the dissenting person, but also to his religion; it included, together with liberty of conscience, also liberty of worship.¹ On the other hand, the position as dominant religion no longer implied that of a

¹ [Anon.] *L'Unité du culte public, principe social chez tous les peuples*, Paris, 1789; [anon.] *De la liberté de culte*, Paris, 1791. The author of these two works was the Avocat Ath. Roux de Laborie, who opposed this innovation. Condemned afterwards for royalist plots, he played a prominent part in the Restoration.

tyrannising religion, and, moreover, it no longer belonged to the old orthodox Roman Catholic Church, but to the new heterodox Catholic Church to which the Constituent Assembly had given birth by voting the so-called *Civil Constitution of the Clergy*. For the allowances which, after the secularisation of ecclesiastical properties, were substituted for the latter in the State budget, were only paid to those of the Catholic clergy who had accepted and sworn fidelity to the Civil Constitution.

During the discussion of the Civil Constitution in the Assembly, one of its most influential advocates did not hesitate to assert this principle: "We are a national convention; we undoubtedly have the right to change the national religion, but we shall not do so; it would be a crime." Subsequent Assemblies in France, as we shall see, did not experience a similar scruple. Meanwhile, however, it is evident that the mere enunciation of the principle was an act of toleration. It was also natural that, starting from a premiss of this kind, the Civil Constitution, in its work of reforming the Catholic Church, should not stop at those juridical and economic measures which are undoubtedly within the competence of every State, and which can be sanctioned without violating liberty of conscience and worship, but that it should go further and attack the internal and purely religious organisation of the Catholic Church by measures which constitute, therefore, a new violation of the corresponding forms of liberty. And it will easily be understood how, continuing always in the same direction, the practical application of the principles of the Constitution should become transformed into a true form of persecution.

By refusing to subscribe the Constitution, the old

orthodox Catholic Church lost every right to remain the official Church, but it certainly had not lost the right—recognised by now in the case of every religion—to exist as a tolerated religion. And so the matter was understood by the orthodox, who desired to acquire new buildings in which to carry on their worship; so it was understood by the king, who, having sanctioned the Civil Constitution, believed, however, that he would be able personally to conform to the practices of the old religion; so it was understood by some of the most strenuous advocates of religious liberty under the old régime, such as Lafayette, who opened a private chapel in his own house, and Marmontel, who, at the instance of his electors in the department of the Eure, wrote an *Opinion sur le libre exercice des cultes*¹ in which—a symptomatic evolution!—he quotes on behalf of the Catholic clergy the maxim of toleration which previously in his *Bélisaire* he had quoted against their intransigence. But so it was not understood either by the Constituent Assembly, or afterwards by the legislative Assembly, or finally, and in particular, by the National Convention. By order of these bodies the ecclesiastics who refused to take the oath to the Constitution were, partly on conviction and partly on mere suspicion of conspiracy against the country, imprisoned, deported, or executed *en masse*.

A third period is marked by the destructive warfare on Christianity, and afterwards on every other positive religion, which was started towards the end

¹ *Œuvres complètes*, Paris, 1819, tom. i. p. 473 *et seq.* André Chenier also wrote in the *Moniteur* on October 22, 1791, against the Civil Constitution as being a violation of the true liberty of conscience which he would have liked to see guaranteed by a purely separatist system.

of 1791, but did not reach its culminating point until the end of 1793.

Simon shrewdly observed that the power of the State to change its religion having been laid down as a principle, the necessary logical deduction therefrom was the power to suppress religion. From the persecution of the rebellious Catholic clergy the State quickly passed to the persecution of the constitutional clergy; from hostility towards Catholicism, to hostility towards Christianity; from the destruction of Christianity to that of every other religion. Thus the external signs of any religion were gradually abolished and destroyed, and all their ceremonies prohibited. And the State, adopting the Republican calendar, snapped the last chain which bound it to the old beliefs of the country.

The new Constitution of June 1793 laid down, it is true, in Art. 7 of its Declaration of Rights, that “le droit de manifester sa pensée et ses opinions le libre exercice des cultes ne pouvaient être interdits”; but in addition to the fact that the Constitution was no longer in force, look at the estimate which the omnipotent Jacobins, through one of their orators, formed of this disposition: “Since the Convention intends to guarantee the liberty of religions, it is necessary also to pardon the rest of the generation for such weakness!”

Its indulgence did not last long.

By the institution of the worship of the Goddess of Reason, whose feast was celebrated on November 10, 1793, the Hebertists attempted to impose as the official belief of the French State not so much a true and pure materialism or atheism, as rather a new species of deism, as Aulard has well demonstrated, that is to say, a bitter and aggressive deism aiming

less at the affirmation of itself than at the negation of Catholicism.

But on November 15 a decree of the Convention, and a couple of days later one of the overbearing Commune of Paris, expressly abolished this, together with every other religion; and thus, for a moment, the pure and simple negation of every belief constituted the whole of the politico-religious régime of France! This régime, it is perhaps superfluous to state, is not to be confused for an instant with the separatist régime; since the latter consists in the State taking no active interest in the affairs of any religion, except in so far as it conceded to each one of them absolutely unlimited freedom of public exercise.¹

A fourth period is represented by the swift, indeed, immediate, reactions which these excesses provoked, even during the Reign of Terror.² For it was on November 21 that Robespierre delivered his celebrated speech in which, separating himself for the first time from the Hebertists, he inveighed against the error of those who pretended to elevate atheism into a species of religion. He said, amongst other things, that atheism, by its very nature, is an aristocratic thing, whereas the idea of a Great and Powerful Being who watches over oppressed innocence and punishes successful and boastful crime, is purely a popular idea. And on December 8 the Convention decreed that "Toutes violences et

¹ Hence Debidour (*Histoire des rapports de l'État et de l'Église en France*, cap. iv. pp. 123-152) is not quite correct when he places the whole of his otherwise accurate expositions of the relations between the Church and the State from 1793-1795 under the title *Séparation de l'Église et de l'État*.

² Regarding this movement of reaction, see Aulard, "la Politique religieuse du Comité de salut publique en Décembre 1793," in *La Révolution Française*, February 14, 1896; Debidour, p. 130 *et seq.*

measures contraires à la liberté des cultes sont défendues.”

But Robespierre did not stop at this, which, honestly applied, would have been true justice. Continuing to derive fresh ideas from the monstrously fertile principle of the omnipotence of the State in the matter of religion, he thought that, besides changing and suppressing, it could also go so far as to create a new religion. This was the worship, as conceived by him, of the Supreme Being, which became the official religion of the French State by the decree of May 7, 1794, the first article of which said “The French people recognise the existence of the Supreme Being and the immortality of the soul.” The succeeding Articles fixed more particularly the dogmas of the new religion, and proclaimed for the 8th of June that feast of the Supreme Being which was the apotheosis of Robespierre.

Robespierre’s religious creation was nothing—and the fact has been noted by many writers—but the fanatical realisation of the theoretical conception of Rousseau, his favourite master. Rousseau, however, whom Simon numbers, for some incomprehensible reason, amongst the heroes of toleration, must bear the supreme responsibility for this last excess which was perpetrated by the revolution against religious liberty.

But Rousseau, as we have already seen, would have banished whoever did not accept his profession of civil faith; and one of Robespierre’s trusty friends, Jullien, included the same enormity in an address to the Convention, suggesting that whoever did not believe in the Supreme Being should be banished from the Republic. In view of the indignation which this clause aroused, Robespierre ordered that

it should be cancelled, observing, however, that it was necessary to leave *cette vérité* in the writings of Rousseau. But in Art. 11 of the Decree of May 7, liberty of religion was once more asserted, but it was only one more empty, doctrinaire reaffirmation, since the persecutions continued everywhere.

A fifth and last period, the beginning of which is marked by the fall of Robespierre, is characterised by the satiety which so much laceration of every religious sentiment had generated in the minds of everybody, and the indifference towards religion which had been caused by so many and such radical and unexpected changes and travesties of it.

But liberty also ended by deriving advantage from this state of public feeling.¹ The exercise of religions was once more not only proclaimed in theory but regulated in practice by means of tyrannical measures, and some concessions to the various beliefs were made.

The Constitution of August 22, 1795, laid down in Art. 354 that "Nul ne peut être empêché d'exercer, en se conformant aux lois, le culte qu'il a choisi. Nul ne peut être forcé de contribuer aux dépenses d'un culte. La République n'en salarie aucun."

A law of September 28 minutely regulated the exercise of the various religions, placing them all in an identical legal position, the chief conditions of which were: vigorous surveillance of their practices by the civil authority; punishment of any attack upon them, or any violent proselytism; obligation of the ministers to swear fidelity to the laws of the republic; energetic repression of any attempt on the part of a religion to become dominant, either by obtaining the assistance of the public bodies, or by

¹ A report of the speeches of Grégoire and of Boissy d'Anglas in favour of religious liberty is given in Debidour, *op. cit.*, p. 143 *et seq.*

establishing outward marks or practising ceremonies outside the appointed limits ; severe penalties against the abuses of ministers of religion.

This was a frankly separatist system, not, however, a separatism due to benevolence and confidence, as in America, but to mute aversion and unconquerable distrust ; it was, nevertheless, a régime of equality.

By this means France, rousing herself from her nightmare of bloodshed, once more entered judicially into relations with religious liberty, but not yet in reality. For a régime of perfect equality was not in conformity with the real condition of the various religions in the country ; and, in fact, separatism did not exist there for more than a lustrum.¹ It lasted, that is to say, until Napoleon, forming a better estimate of the traditions and needs of his people, renewed — preserving liberty of conscience and worship for all citizens—the jurisdictionalist régime which has now been in force for more than a century in France.

¹ Séché (*Les Origines du Concordat*, tom. i., *Pie VI. et le Directoire* ; Paris, 1894) has demonstrated, indeed, that from the year 1795 the necessity of coming to an understanding with Rome was felt on the French side (p. 13 *et seq.*), and that a draft Concordat was prepared as early as 1796 (p. 36 *et seq.*). Hence French separatism carried within itself the germs of its own destruction from the moment of its birth.

PART IV.—CATHOLIC COUNTRIES IN THE
SEVENTEENTH AND EIGHTEENTH CENTURIES

(CONTINUED)

CHAPTER XVI

THE EPISCOPALIST MOVEMENT IN AUSTRIA

I. To the Protestant Reformation the Roman Church, as is well known, opposed a Catholic counter-reformation, or, in other words, a reconstitution of Catholicism on such a grandiose scale that it has not been surpassed in modern times by any religious fact except the Reformation itself, by which it was provoked. The Roman Church displayed in this movement an energy, constancy, sagacity, and wisdom which, if they had been employed only a few decades before in correcting the abuses which had been denounced for centuries, would certainly have saved the Church the irreparable misfortune of the great schism. The objects of the counter-reformation were two: the reorganisation of ecclesiastical discipline, and the restoration of Catholicism in places where it had been obliged to give way to the new belief. As to this second object, the counter-reformation won its most notable victories in the dominions of the house of Hapsburg. It availed itself of the victory in order, first and foremost, to abolish the régime of "parity" which, either on account of personal conviction, political opportunism, or the unavoidable necessity of the case, the princes of

that House had instituted in regard to the various dominating religions—a régime which it might, on the contrary, have been able, as in Germany, to transform gradually into a more extensive form of toleration, and finally into true religious liberty.

In spite of the fact that the Council of Trent had denied any concessions to the Protestants, Ferdinand I. did not give up all hope of reconciling the followers of the two religions, at least in his own States, and therefore he encouraged the attempts at pacification which were made by various people, and particularly by the Dutchmen George Cassander and George Witzel, who were followers of the Erasmian doctrine. Accordingly, paying scant attention to the pontifical solicitations, he maintained the old concessions made to his evangelical subjects. The condition of the latter was still further improved under Maximilian II., who was personally inclined towards Protestantism and adverse to the Jesuits. Faithful to his splendid motto, "*dominari conscientiis est coeli arcem invadere,*" he allowed the new belief to be propagated still further in Austria; indeed, on August 18, 1586, he verbally granted his nobility the free exercise of the Lutheran religion, and renewed the concession in 1571. Moreover, his brother, the Archduke Charles, was compelled to guarantee a similar liberty in Styria, Carinthia, Carniola, and Gorizia.

But the hope of inheriting the throne of Spain held Maximilian bound to Catholicism, the interests of which were resolutely upheld by his successor, Rudolph II., who had been educated in Spain by the Jesuits. The Catholic reaction began under this sovereign in 1576. Against the towns which had arrogated to themselves the liberty of religion which had been granted to the nobles, two edicts were issued

in 1578, by which the Protestant preachers were banished and it was ordained that Catholics only could be received there as citizens.

The Archduke Ferdinand, who in 1598, at Loretto, had taken a solemn vow before the altar to restore the Catholic religion at any cost as the exclusively dominant religion in his dominions, and who afterwards, as emperor, was obliged completely to carry out the promise, began in the meanwhile, in 1599, to drive all the evangelicals from the territories under his jurisdiction—Styria, Carinthia, and Carniola. And the same thing was being done gradually in other provinces.

The attempt to apply the same procedure to the kingdom of Bohemia, on the one hand, and that of Hungary, on the other, met with the most dogged resistance and caused the outbreak of serious disturbances, by which the Austrian monarchy was agitated throughout the seventeenth century, and which originated the terrible 'Thirty Years' War and the interminable wars against the Turks.

The Bohemian and Silesian dissidents obtained at the outset some very striking successes. Rudolph II. was compelled to grant the Bohemians the so-called *Majestäts-brief* of July 12, 1609, which was rightly called the most liberal religious decree of the whole of the seventeenth century.¹

In the first place, it granted the same rights to the nobles of the towns. These rights consisted in full liberty of conscience, the foundation of an evangelical consistory in Prague, the erection of churches and schools, and the institution of a tribunal for the defence of these rights. Still more extensive were

¹ Cf. Gindely, *Geschichte des Majestäts-briefes von 1609*. Prague, 1858.

the concessions contained in the *Majestäts-brief* for Silesia, dated August 28.

But neither Rudolph nor his successor Mathias, nor, finally, the fanatical Ferdinand II., maintained the concessions which had been granted. The Bohemians, having revolted, were defeated by Ferdinand in the battle of Weissenberg, near Prague (November 8, 1620), which was the beginning of the destruction of Protestantism in Bohemia and the complete subjection to the house of Austria of that country, which, owing to the incessant religious struggles by which it was torn both before and after the Reformation, Döllinger called "the Job of the Nations."¹ The so-called Edict of Restitution of 1629 confirmed the restoration of the Catholic religion as the dominant faith in the countries which have already been mentioned, and the Peace of Westphalia brought no advantage to the Protestants subject to the Austrian crown except to a very limited extent in Silesia.

The fate of Hungary and that of Transylvania was far less melancholy.

With the assistance of the princes of Transylvania, but more particularly with that of the Turks, the Hungarians were able for more than a century to baffle the attempts of the house of Hapsburg to restrict their religious liberty. When, in fact, Rudolph II., in 1604, arbitrarily attempted to add to the Articles of the Diet of Pressburg a twenty-second article restoring all its traditional prerogatives to the Catholic Church, the Hungarian nobility, led by Stefan Bocskai, Prince of Transylvania, proclaimed the perfect equality of the Catholic, Lutheran, and

¹ Döllinger, *Gesch. der relig. Freiheit*, in *Akad. Vorträge*, III, p. 289.

Reformed religions, and by the Peace of Vienna in 1606 obtained the cancellation of the arbitrary imperial article and the explicit recognition of their claims.

Throughout the century there was a succession of *coups d'autorité* on the part of the Hapsburgs in order to evade the conditions imposed upon them by the treaty of Vienna, and of outbreaks of rebellion on the part of the Hungarians, who succeeded in getting the treaty repeatedly confirmed both in peace and war. Thus they obtained its confirmation by Mathias in 1609 when they chose him as their king, and in the same circumstance, in 1618, by Ferdinand II. Other confirmations were forced from the latter monarch in 1621 by the Peace of Nikolsburg, and from Ferdinand III. in 1637 at his election. But the latter having claimed to place a restricted interpretation on the dispositions of the treaty, the Hungarians, victorious on this occasion under the command of George Rákóczy, imposed upon the king the Peace of Linz (1645), in which he was compelled to grant them complete religious liberty, with the power to build churches, ring bells, and possess their own cemeteries.

The decadence of Turkish power afforded the dominant Austrians a good opportunity for oppressing the Hungarian Protestants by excesses of persecution; *e.g.*, the sanguinary tribunal of Eperies (1687). But they did not go so far as to suppress all religious immunities—since the latter were re-confirmed in 1681 in the Diet of Oedenberg by Leopold I., and by Joseph I. in 1711, with the Peace of Szathmar. The Protestants, however, to the number of about two million, were gradually excluded more and more from the public offices, and all their prerogatives were

more and more restricted; whence, according to Döllinger, Hungary, subject to the Austrians, had good reason to envy Transylvania, which until then had remained subject to the Turks.

Religious liberty in Transylvania, as a matter of fact, had from the beginning been much more extensive than in any of the other countries which have been mentioned hitherto. For the decree of King John Sigismund of 1568, by which provision was made for assuring religious peace, embraced not only the Catholic, Lutheran, and Reformed, but also—and this was due to the Italian Blandrata—the Unitarian, as a fourth and explicitly recognised religion, to which, in 1570, the king himself assigned a church in Klausenburg.¹ The Unitarians were respected by his successor Stefan Báthori (1571–76), a soldier who was somewhat contemptuous of any religious fervour, but so considerate towards the faith of others that he was fond of calling himself “*Rex populorum, non conscientiarum,*” and of saying that he was unwilling to use coercion of any sort in the matter of religion, because “*Deus solus sibi haec tria reservavit: creare aliquid ex nihilo, nosse futura, et dominari conscientias.*” This was an admirable motto, to which, however, another Stefan, when he was elected King of Poland, as we shall see, and the successors of his family in Transylvania, were unable to remain faithful owing to the intrigues of the Jesuits, who had gained complete mastery over their minds.

The Protestants of Transylvania, however, had managed to find princes of various houses who protected not only their rights but those also of their co-religionists in Hungary. The successive domina-

¹ Fock, *Der Socinianismus*, Kiel, 1847, p. 258 *et seq.*

tions, not excluding that of the Turks, maintained the equality of treatment of the four religions, and the Austrians themselves, when they finally succeeded in acquiring the country, were compelled, in the treaties of June 29, 1686, and of October 27, 1687, as well as by the Diplomas of December 4, 1691, and April 9, 1693, and the Peace of Szathmar of 1711 already mentioned, to swear fidelity to the religious ordinances in Transylvania. This, however, did not prevent them from beginning to restrict the number of the Unitarians—the first step towards the long-desired oppression of all the Protestants, as in Hungary.

In the first half of the eighteenth century the politico-religious condition of the countries subject to the house of Hapsburg was therefore as follows: the Catholic religion was the only dominant religion in Austria and in the kingdom of Bohemia; Catholics, Lutherans, and members of the Reformed Church were recognised, but were not on an equality in Hungary; in Transylvania the Unitarians were also recognised, but by now were suffering persecution.

II. In the second half of the century a providential movement of reaction, formed within Catholicism itself against the excesses of the Catholic counter-reformation, intervened to improve the lot of the non-Catholics, who had been completely oppressed for more than a hundred years in Austria and Bohemia, and were now threatened in Hungary and Transylvania. This was the so-called episcopal movement, a tendency which was not precisely new in its fundamental idea nor peculiar to that time alone, but which was clothed precisely at that epoch in forms so peculiar and salient that it took a new name, that of *Febronianism*. And amongst the changes by which

the ancient episcopal system managed to renew and modernise itself, the most notable was that it became transformed from a system of coercion and intolerance into a system of toleration and religious liberty.

During the first phase of the episcopal movement, in fact—that is to say, in the agitated period of the Councils of the fifteenth century, when an attempt was made to check the monstrous consequences of the concentration of all ecclesiastical power in the hands of the Roman Pontiffs by vindicating the prerogatives of the episcopal body and advocating the necessity of a reasonable national decentralisation—one might search in vain for a thought about liberty. So true is this that by a decree of one of those Councils, that of Constance, John Huss and Jerome of Prague were burnt alive.

And as regards the succeeding phase of the episcopal movement, which started with the proclamation and the defence of the liberty of the Gallican Church in France, we have already seen that the clergy and the king of France not only carried on two parallel struggles—one for the destruction of heresy, and the other for keeping alive their own ecclesiastical independence—but they sought by means of increasingly harsh treatment of the heretics to heal the equally harsh blows which, at the same time, they were dealing to the Roman Curia.

The two principles of ecclesiastical autonomy, or autarchy, and religious toleration began to find themselves in less direct contrast amongst the Flemish episcopalists, but they were only completely reconciled by Johann Nicolaus von Hontheim, who is better known under the pseudonym of *Febronius*, which he assumed on publishing the celebrated work

which effected this revolution : *Justini Febronii, Jcti, De statu Ecclesiae et legitima potestate Romani Pontificis liber singularis, ad reuniendos dissidentes in religione christianos compositus*, Bullioni apud Guillelmum Evrardi, 1663 (in fact, it was printed in Frankfort, and the publisher was Esslinger).

From the title itself it is at once apparent not only that for the first time the old episcopal current is being united with the more recent irenical current, but also that the means and instrument of conciliation must be ecclesiastical decentralisation. But in what manner? Hontheim's idea is extremely simple : the excessive concentration of all ecclesiastical power in the hands of the Roman Pontiff and the consequent fatal abuses were the first cause of every schism, and continued to be the insuperable obstacle to any return of the dissidents to the bosom of the Church ; hence only the removal of all those prerogatives which had been usurped by the central ecclesiastical government, chiefly in virtue of the false decretals, and only the reconstitution of the discipline and administration of the Church in accordance with the primitive collegial, representative, democratic type, can provide a sure basis for a universal reconciliation of the diverse Christian religions. But what of the substantial dogmatic and not merely disciplinary divergences which had been growing wider and wider between the different religions? Hontheim seems either to ignore them, according to the opinion of O. Mejer,¹ the chief historian of Febronius, or to take them into little or no account. He sees and reasons more as a jurist than a theologian. And precisely for this reason, meanwhile, while

¹ O. Mejer, *Febronius, Weibischof J. N. v. Hontheim*. Freiburg-i.-B., 1885, 2nd ed., p. 48.

awaiting the much-desired liberal reconstitution of the Church and the subsequent pacification of all the religious dissensions, Hontheim begins to take his place alongside the Protestants as a champion of toleration.

The origin of this most happy alliance between episcopatism and toleration in the mind and the work of Hontheim was traced by Mejer, in the passage cited, to the following two sources: in the first place, to his profound respect for the laws of the State, the authority of which as compared with the Church he makes every effort to extol in his book. In spite of pontifical remonstrances the Imperial Germanic Peaces had imposed a certain amount of toleration for the followers of the two principal evangelical religions; and various German princes, as we have seen, had succeeded in developing the régime of true religious liberty. For Hontheim this constituted a fact worthy of the greatest consideration, but he could not withdraw himself from the illuministic tendencies then prevalent in all the more civilised countries, in accordance with which conversion should no longer be imposed by force, and faith should be left to the individual conscience. This was the second source.

This last point, which appears to us to be the more decisive, requires some further elucidation. Whence precisely did Hontheim derive the idea? We are told in the history of his juvenile studies. He began them in Treves, where he was born, continued them in the Jansenist university of Louvain, where he was at the time of Zeger Van Espen, and finished them at the Protestant university of Leyden, famous for its traditions of toleration, where he was a scholar of Noodt and Vitrianus, one of the most successful

propagators of the doctrine of natural law according to the teaching of Grotius and Pufendorf. If, accordingly, his episcopalist doctrines are to be referred immediately to Van Espen, as has already been maintained by several writers, his tendency towards toleration is a not less immediate fruit of that fertile school of natural law which had already accomplished so much in this direction in Germany. But on looking still further into the matter, that is to say, considering on the one side his precise abstraction of the dogmatic contents of the various religions, which was all the more strange because Hontheim was an ecclesiastic and, moreover, a Catholic, and, on the other side, the almost boundless power which he assigns to the State in ecclesiastical affairs, one is justified in tracing this tendency of his beyond the school of natural law to the old irenical and syncretist expedient, which by now had become traditional, of simplifying and reducing the number of dogmas and elevating the State above the differences of religion. This, as we have already sufficiently seen, constituted the guiding thread of all the systems based on conciliation and compromise which had been developed, one from the other, in various epochs—Socinianism, Arminianism, Latitudinarianism, etc.

Holland had been the first refuge of these tendencies and the most faithful depository of them; and now, still from Holland, as from an inexhaustible fountain, another current proceeded by which the whole of the politico-religious life of a great country was to be renewed. For this point is worthy of special attention here: Hontheim's acceptance of the doctrines of toleration, as coming from a Catholic ecclesiastic, was not by a long way so enthusiastic

as was that of a thousand other subsequent thinkers; indeed, was not so direct and explicit as it was in other writers of the same class as himself as, *e.g.*, in the priest J. G. Barthel, one of whose pupils, Neller, professor of canon law in Treves, was on the friendliest terms with Hontheim. Nevertheless, it is to the movement which he initiated that the cause of toleration chiefly owed its marvellous spread in Austria, and hence in the countries which were then subject to her, as, for example, in Italy, where, as we shall see, the first and loudest invocation of religious liberty after so long a silence came from the most explicit and most strenuous Italian representatives of the Febronian teaching.

III. The radical ecclesiastical reforms (in an episcopalist sense) which were advocated by Hontheim began to meet with a partial application in the territories subject to the Austrian crown during the reign of Maria Theresa. Not, however, in the part relating to toleration. To this the great empress was strongly opposed, because she was convinced that by conceding it the rulers of States would compromise their own salvation. Indeed, full as she was of fervent religious zeal, she went so far, particularly in the early years of her reign, as to commit acts of true persecution against the non-Catholics. In the course of time, however, she was brought to ideas and proposals of greater forbearance and a more compromising spirit in matters of religion. This change has been attributed to the Dutch physician Van Swieten, who was amongst the personages to whose advice the sovereign paid great attention. The merit, however, belongs more generically to the great progress which had been made by ideas of toleration in the second half of the previous century.

But the statement that the empress had the Edict of Toleration ready in her own cabinet for three years and left the publication of it to her son solely in order that she herself might die in peace, is mere gossip¹ which cannot find a more decided denial than in the complete disagreement between Maria Theresa and Joseph II. precisely on the principle of religious toleration—a disagreement of which the correspondence between her and her son, published by Arneth,² furnishes us with the proof and the elements.

Already Hubert had shown the remarkable interest of this epistolary discussion.³ It opens with a letter from the Empress, dated December 1775, in which she declares that she does not wish to assume, and hopes that none of her successors will ever assume, the grave responsibility of permitting the free exercise of any religion except the Catholic.⁴ The son replies decisively that, on the other hand, it is his firm and immutable conviction that *liberty to believe* should be granted; that human authority cannot be extended so far as to judge of the divine mercy, to save souls in spite of themselves and to command consciences, and that it belongs to the Holy Spirit alone to enlighten men's hearts, since human laws can only hinder His work.⁵ Does not this sound like an echo of the ancient tolerant mystics of England? The pious mother is deeply anxious about the eternal salvation of her son, and replies to him that toleration and indifferentism will end by ruining religion, and

¹ Frank, *Das Toleranz-Patent Kaiser Josephs II. Urkundliche Geschichte seiner Entstehung und seiner Folgen*, Vienna, 1882, p. 8.

² Arneth, *Maria Theresia und Joseph II., ihre Correspondenz sammt Briefen Josephs an seinen Bruder Leopold*. Vienna, 1867; three vols.

³ Hubert, *De Charles V. à Joseph II. Étude sur les conditions des Protestants en Belgique*, Bruxelles, 1882, p. 97 *et seq.*

⁴ Arneth, *op. cit.*, ii. pp. 94–95.

⁵ *Op. cit.*, ii. pp. 141–142.

with it everything else ; that she is opposed to it no less than to any spirit of persecution ; that she firmly trusts to see her son give up those convictions which he declared to be immutable.¹ But Joseph, in a most noteworthy letter of July 20, 1777, replies : “ It is the definition of the word *toleration* which is the sole cause of our misunderstanding. May God preserve me from thinking that it is indifferent whether one’s subjects become Protestants or remain Catholics. I would give all that I possess in order that all the Protestants of your States should pass over to Catholicism. For me the word *toleration* only means that I, in all purely temporal affairs, would employ anyone without any regard to religion, and permit him to possess property, to exercise a profession, to become a citizen of the State, so long as he was suitable and might assist the State and its industry.”² And continuing, he maintains that the free exercise of their faith would preserve the Dissenters from disbelief better than any persecution, and that, on the other hand, pacific relations with the Catholics would persuade them better than any other means of the solemn truths of the Catholic religion.

The letter is a complete embodiment of the ideas of Joseph II. on toleration. And by it, together with his attachment to his hereditary religion, with the final intention to reconcile all religions, with his toleration restricted to the orbit of pure Christianity, we perceive how nearly in this matter he approached the Febronian ideas, of which afterwards, when he had ascended the throne, he had to make not only a further application in regard to the internal reform of the Catholic Church, but also that energetic

¹ Arneth, ii. pp. 146 *et seq.*, 157–159.

² *Op. cit.*, ii. pp. 150–153.

extension which is known to everybody. The system realised by him has accordingly become known as *Josephinismus*.

The letter quoted contains the complete programme of what Joseph II. did for toleration when he became Emperor.

He began with the gradual abolition of many measures which were hostile to toleration,¹ and after mature elaboration on the part of his advisers, with Kaunitz at their head, he ended by publishing his celebrated Patent of Toleration (Toleranzpatent, Toleranzedict, Toleranzgenerale, Toleranzcirculare) of October 13, 1781.

It stated clearly that the Catholic religion should preserve its position as the dominant cult, and that only the Lutheran, the Reformed, and Uniate Greek religions should be regarded as *tolerated*.² The public exercise of religion belonged, therefore, only to the Catholic Church; while the tolerated group possessed the power of private exercise of religion, except in places where, owing to previous concessions, they already enjoyed the rights of public exercise.

¹ Frank, *op. cit.*, p. 10 *et seq.*

² The condition of the Jews (driven from Austria in 1670, in spite of the imperial protection which was guaranteed to them by Charles V.) was regulated by special dispositions in some districts, especially of Lower Austria, where they had remained or had re-established themselves. But these regulations being no longer compatible with the new times, the so-called *Judentoleranzpatent* was promulgated on February 2, 1782. Cf. Huber, *Gesammelte k. k. Verordnungen im Toleranzgeschäfte von J. 1781-83*, Vienna, 1783, p. 11; Frank, *op. cit.*, p. 60, n. 71. It is noteworthy that in a decree of June 10, 1783, Joseph II. ordered that a certain number of stripes or blows should be administered to whoever, man or woman, gave themselves out to be a deist or Jew (cf. Frank, p. 4, n. 3); but as the former related only to a particular sect which had been formed in Bohemia, so the latter, in this particular instance, indicates only a special faction within Judaism.

Moreover, the followers of the tolerated beliefs were permitted to have schools, to administer their own religious affairs and to educate their children in their own religion, even if the father alone were a non-Catholic. Finally, they were ensured the full enjoyment of all civil rights and perfect equality of treatment with the Catholics in regard to academic degrees and public offices.

The Patent was published in all the countries subject to the crown, in the Austrian Netherlands and in Lombardy. It is a question whether it was also published in the Tyrol.

In regard to Hungary, in order not to prejudice the rights which the non-Catholics already enjoyed there, a special Patent of Toleration of October 25, 1781, was published, which was confirmed by Art. 26 of the laws of the Diet of 1790-91. And in regard to Transylvania, in view of the condition of perfect *parity* in which the various religions had been for ages, thanks to the territorial laws, a special Patent of November 8, 1781, was promulgated, but only *pro notitia et publicatione*.¹

By various subsequent decrees the placing of obstacles in the way of the application of the Patent was prevented²; while other ordinances explicitly prohibited the extension of its advantages to other religions than those specially mentioned, for against sects and disbelief in religion Joseph II. displayed the utmost rigour.³

Hence it was simply a limited toleration, not true and complete religious liberty, which he established in his dominions, and he remained, therefore, a long way behind the great rival of his family, Frederick II.

¹ Cf. Frank, p. 59.

² Frank, *op. cit.*, p. 61 *et seq.* and p. 128.

³ *Op. cit.*, p. 4 *et seq.*

of Prussia. But the latter was a freethinker ; whereas Joseph II., on the contrary, was a believer and, moreover, a Catholic.

The Prussian worked in a country which was already ripe for liberty ; the Austrian, on the other hand, in a country in which, until then, liberty had been absolutely unknown. The point to which he attained along this glorious road is, we repeat, much below that to which the other was able to rise ; but in order to estimate the distance travelled, it is essential to take into account the point of departure, which was much further away ; the difficulties on the road were much greater for the emperor than for the king. Therefore, without in the least degree obscuring the dazzling glory of the latter, one can recognise the very high merit of the former in having been the first among the Catholic princes—the precedent of Henry IV. of France cannot for a thousand reasons be quoted here—to impose upon such an eminently Catholic country as Austria a decree of extensive religious toleration.

IV. The high politico-religious significance of the act of Joseph II. is made very evident by the profound repercussion which it had upon the life of the country and by the lasting traces which it left there.

We pass over the remonstrances and the reluctance of the intransigents, as well as the exultations and excesses of those who were benefited—the one and the other being too natural to deserve any further mention.

The important thing was that the edict gave finally to the moderate and enlightened spirits amongst the Catholics a mode of giving expression to their thoughts which had been suppressed for so long a

period. And it gave rise also to a vigorous literary movement.

More fully than any other, Johann Nepomucen Bartholotti, professor of theology at Vienna, taking his stand upon Holy Scripture and the Fathers of the Church, on natural law, on the art of governing, on experience, sought to demolish all the supports of intolerance. When a prince obliges dissidents to emigrate he does a certain amount of damage to the State, and a very doubtful service to the Church. The theologians who would condemn all non-Catholic Christians to perdition not only usurp the rights of the Divine Judge, but render civil decrees odious. The work of the Reformation was providential because, without it, the world would have been sunk in superstition.

His work was entitled *Exercitatio politico-theologica, in qua de libertate conscientiae et de receptarum in Imperio Romano-Teutonico religionum tolerantia, cum theologica tum politica, nec non de Disunitorum statu Graecorum disputatur*. Vindob., 1782 (translated into German by Wasserburg; Vienna, 1783).

Some writers recommend toleration out of love towards God and towards men, and others for the good of the Catholic Church itself, whose ministers adopt a better manner of life where there are mixed religions, as they fear the censure of the dissidents.

Amongst the most notable works at this period was that of the Catholic priest Anton Wittola, *Schreiben eines österreichischen Pfarrers über die Toleranz nach der Grundsätzen der katholischen Kirche*. Vienna, 1781.

He endeavours to show that the example of Christ and the teaching of the Scriptures enjoin toleration,

which, because it does not signify participation in error, is finally of assistance to the Church itself. Charity gains more souls than persecution; and it should have been exercised, rather than the means suggested by the Jesuits, in the case of the many poor Austrian, Bohemian, and Moravian peasants who were forced to emigrate and were definitely lost both by the State and the Church.

He was violently attacked, as may easily be understood, particularly by an ex-Jesuit of Augsburg, and he replied with two books: *Zweites Schreiben*, etc., Vienna, 1782, and *Text der Augsbургischen Intoleranten mit den Noten eines toleranten Oesterreichers*. Vienna, 1782.

In another work it was said: the Pope tolerates the Jews in Rome: now if he does it as ecclesiastical superior, the bishops can also tolerate Protestants and Greeks in their dioceses: if he does it as sovereign, every ruler can do the same.¹

An absolutely new idea not only for Austria, but for every other Catholic country, was put forward by Joseph Watteroth, who was afterwards professor of political sciences at the University of Vienna, in his work entitled *Für Toleranz überhaupt und Bürgerrecht der Protestanten katholischen Staaten*. Wien, 1781.

He says, with great frankness and courage: "The Protestant Reformation has been of wonderful assist-

¹ *Pro Græcis ritus non Unitis, Helveticæ ac Augustanæ Confessioni addictis in inelyta regna Dalmatiæ, Croatiae, Slavoniæ suscipiendis ac tolerandis Epistola proluxior, in qua a Rege Apostolico editum Tolerationis Decretum legi naturali et evangelicæ conformè esse ostenditur; in eundæ inter dissidentes Christianos unioni consilium Clementis XIV. Febroniano aptius profertur*, etc., by Simone Laminecio. Vienna, 1782. The appeal to Febronian ideas of conciliation is notable, although the proposed means are called in question.

ance in purifying customs and doctrines. Luther was right on many points, and if this had been recognised, a schism would have been avoided. We owe it to the Protestants that we are at last able to understand the genuine truths of the Gospel in our own language, so that they have become accessible to all. Their learned men have despoiled the history and religion of the Church of all the monkish fancies and excrescences which had been added to it; they laid the foundation of a sane philosophy based upon experience and religion; they are far in advance of us in all the branches of literature; their schools have supplied our universities with the best teachers and our institutions with worthy officials. We, it is true, have had many extremely able men; but they have been prevented from fully exercising their faculties by Catholic oppression, for which reason we are now far from being able to offer a counterpoise to Protestantism in Germany. Accordingly it is not only our duty but the supreme interest of the country to admit them as citizens." But at the same time Watteroth blamed the Protestants for some acts of fanaticism committed about that time, particularly in England, against the Catholics, and various replies were made to him.

Several authors began to write the history of the Patent of Toleration. The first was Danzer: *Joseph's des Grossen Toleranz, ein theologisches Fragment, s.l., 1782.*

All that we have been discussing hitherto, however, must give way in importance to another result of the edict. The élite of the Austrian bishops received it with open favour. There have, it is true, in other epochs and in other countries, been examples of sincere agreement on the part of enlightened ecclesi-

astics with the principles of liberty ; but never a fact so imposing and significant as this.¹

Leaving aside the Abbé Stefan Rautenstrauch, the emperor's adviser in matters of theology, one of the inspirers of the Patent and the one who furnished the earliest writers with materials for its history, the post of honour belongs to Johann Leopold von Hay, bishop of Königgrätz, a model Church dignitary who has been called the "Austrian Fénelon."² On November 20, 1781, he addressed to the clergy of his diocese a pastoral letter full of saintly words and noble maxims. "The emperor's Patent of Toleration," he says, "aims at uniting in Christian love all those whom difference of religion and the compulsion of the laws had kept apart, and at gaining for the country innumerable useful citizens and assuring the progress of the State. It is the duty of everybody to obey this edict. There may be some, however, who feel they are doing a good work in preaching bitterness against the disbelievers or acting in a similar manner. That is not the spirit of the Gospel. We should tolerate all those whom the Master tolerates ; and we should go out to meet the members of any

¹ Cf. Rautenstrauch, *Ueber das Betragen der Bischöfe in den k. k. Staaten in Rücksicht der landesherrlichen Verfügungen in geistlichen Sachen* ; Vienna, 1782. In a letter to his brother Leopold, Joseph II. mentions a conversation which he had on March 23, 1782, in his own bedroom with Pius VI., who was then in Vienna, and says that he spoke chiefly of the Edict of Toleration, and that after his Holiness had listened to what the emperor had to say, he concluded by pronouncing these noteworthy words : That if he, the Pope, had been in the emperor's position, he would have done the same. Cf. Arneth, *Joseph II. und Leopold von Toscana, ihr Briefwechsel*, Vienna, 1872, i. p. 89.

² Cf. Müller, W., *Joh. Leop. von Hay. Ein biographischer Beitrag zur Geschichte der Josephinischen Kirchenpolitik* ; Vienna, 1892. His pastoral letter was translated into French and appealed to by the French liberals in order to induce the Government to grant liberty to the Protestants.

other religion and greet them with words of love." Accordingly he recommends the clergy: first, to abstain from polemics and to attend only to the explanation of the highest truths of the Gospel and those Christian principles which are as free as possible from superfluous and superstitious additions; secondly, not to deprive anybody of any particular book or reprove him for possessing it, because liberty of conscience and worship implies also liberty to procure whatever we deem to be of comfort to the soul or necessary to the divine services; thirdly, not to disturb Protestants in their religious practices; fourthly, not to visit sick Protestants unless invited, since whoever possesses religious liberty in general must also be free to die tranquilly in his own religion; fifthly, in baptizing Protestant children, until the Protestants have ministers of their own for that purpose, to abstain from all the formulas contrary to their belief, and in the burial of their dead to avoid all purely Catholic usages; sixthly, to grant to the Protestants burial amongst other believers until the emperor has decreed regulations for this matter.

The opponents of toleration reproached the liberal prelate with having in his circular gone beyond the terms of the Patent. And at this point we stop, since to our ears the reproach sounds more like the highest praise that could be bestowed upon him.

Entirely different in tone, although completely favourable to toleration, was the pastoral letter of Johann Carl, Count of Heberstein, Bishop of Laibach. In this the Febronian ideas are entirely reflected, and consequently it is resolutely affirmed that in the first place the sovereign has full power to regulate external religious relations and ecclesiastical discipline in accordance with the needs of the State,

and consequently that the bishops have a right, descending in a direct line from Christ, to exercise within their own dioceses similar powers to those that the Bishop of Rome wields within his. Now, the dissidents must be tolerated, since they can furnish good citizens for the State and, on the contrary, do no harm to the Church. Moreover, every man has the innate right to attach himself to that religious party which, according to his conviction, and after conscientious examination, seems to be best.

Here, accordingly, not only toleration, or the liberty of worship, as in the Patent, is advocated, but full liberty of the individual conscience, of which hitherto there has been no mention.

The letter, as will easily be understood, aroused even more commotion than the preceding missive, drew a Brief from Pius VI., and cost the courageous prelate dear.¹

Count G. F. Anton von Auersperg, Bishop of Gurk, and Count G. Philip von Spaur, Archbishop of Brixen, by their circular letters dated respectively February 20 and March 21, 1782, avoiding a controversial tone, put themselves back on the road marked out by Von Hay, and went further ahead. In the same company also, as we shall see later on, were the bishops of the Italian sees.

But the one who went furthest in this truly Christian direction was G. G. Francis de Paul Colloredo-Mansfeld, Archbishop of Salzburg, with

¹ The Austrian Ultramontane Sebastian Brunner (*Die theologische Dienerschaft am Hofe Josephs II.*, Vienna, 1868, pp. 132, 139), who calls this letter a formal declaration of war against ecclesiastical institutions, relates that the episcopal see of Laibach wishing to be elevated by the Austrian Government into an archiepiscopate, the Roman Curia opposed this step, precisely on account of Heberstein's famous pastoral. Cf. Reusch, *Index*, ii. p. 952.

his pastoral of June 29, 1782, which was so full of evangelical love, an illuminism so high and unprejudiced, and practical ideas so courageous, that the emperor caused it to be distributed broadcast in all the lands under his sway. One cry arose in every quarter: "No bishop has ever before spoken like this!"

And, in fact, leaving on one side the question of toleration, whoever glances over these pastoral letters will not fail to see that for the tendencies which they represent there is no other comparison except those which are to be found in the American Catholic Church of to-day, the surprises of which were anticipated in Europe by exactly a century before the Austrian liberal movement had been diverted from its purpose by the Napoleonic whirlwind and afterwards suppressed by the restoration.

The Patent of Toleration of Joseph II. was alone saved from the hecatomb of his politico-religious reforms. His successor, Leopold II., although declaring in 1790 that the Patent could not be regarded as an immutable constitutional law of the monarchy, but only as a benign concession depending on the pleasure of the prince, maintained it, however, in vigour, and rejected every petition that the laws of toleration should be circumscribed, at least in some respects. Nor did the subsequent sovereigns abrogate it, and it is shown by numerous facts that the non-Catholics, in spite of all the revolutions which followed, did not cease to enjoy the privileges which were sanctioned by the Patent, and which were even increased.

PART IV.—CATHOLIC COUNTRIES IN THE
SEVENTEENTH AND EIGHTEENTH CENTURIES

(CONTINUED)

CHAPTER XVII

RATIONALISM AND EPISCOPALISM IN POLAND,
BELGIUM, AND ITALY

I. *Poland*.—The case of Poland, the most pitiful of all the cases recorded in the history of nations—for there was certainly nothing in modern times so monstrous as the fact of a kingdom at one time powerful and glorious being attacked at a certain moment by its stronger neighbours and ruthlessly divided between them—is, however, at the same time the most eloquent and terrifying example of the destructive effects of religious intolerance. Not only political mistakes, but religious mistakes and quarrels, had paved the way for the downfall of that unfortunate people.

The Ultramontane Catholics, and therefore the majority of the Poles, said, and say now: 'The dissidents were the cause of the national ruin; it was they who, being unable to reconcile themselves to the loss of the supremacy which they had enjoyed at one time in the country, turned to the foreigner and caused his intervention, thus placing patriotism after religious passion.'

The dissidents—Evangelicals of various denominations and orthodox Greeks—replied, and still reply:

On the contrary, the fanatical Catholics were the first cause of the country's downfall, since, having succeeded by a ruthless war lasting quite two centuries, and by the most shameless violation of the sacred laws of the kingdom and solemnly-sworn compacts, in gradually depriving us of all our liberties and all our rights, they confronted us with the cruel alternative of abandoning the country, which by now was completely enervated and falling into a decline owing to the bad government of the Jesuits, or endeavouring to reconquer the country, and at the same time our liberties and rights, with the help of our foreign co-religionists.

The dispassionate historian must add a link to this blistering chain of responsibility, and assert that the implacable Protestant intransigence and the eternal and incurable doctrinal differences amongst the Evangelicals themselves too often gave opportunities to the Catholic counter-reformation and the Jesuits for rapidly regaining and completely reducing to subjection a country which, about the middle of the sixteenth century, was certainly the most liberal in regard to religion and the most unprejudiced in the whole world.

Religious intolerance in its most varied forms—Catholic intolerance and Protestant intolerance, intolerance of the oppressor and the oppressed—was, therefore, the remote and poisonous source of all the woes of Poland, since, as a writer has said with just severity,¹ the Polish nation, discordant and divided in everything else, was, however, upon this point of religious intolerance unanimous and united.

The political situation of Poland, as is well known,

¹ Borgius, *Aus Posens und Polens kirchlicher Vergangenheit*, Berlin, 1898, p. 74.

was based entirely upon the nobility, which was omnipotent in regard to the population of the lands subject to them; omnipotent in regard to the sovereign, who, after 1573, was elective, and had to submit to the conditions imposed upon him by the nobles at the time of his election; omnipotent also in regard to the State itself, since they regarded any deliberation of the Diets as null and void in virtue of the veto which could be passed by a single member (*Liberum veto*), and because the nobles had the recognised right of uniting themselves into *Confederations*.

There was hardly in Poland any such thing as a middle class or *bourgeoisie*, because the few German artisans and merchants scattered over the various towns, owing to the uncertainty in regard to their legal position and their religious liberty, left every form of industry and commerce in the hands of the Jews, who eventually obtained practically a monopoly in that country and increased there enormously.

Now, only this very strange political situation can explain the not less singular ecclesiastical history of the country, and more particularly these facts: (*a*) the rapid spread of the evangelical reformation, because the majority of the nobility, who were accustomed to complete their studies in the German universities, having been gained over by it,¹ the majority of the nation was also gained, at least in

¹ In spite of an edict of Sigismund, dated 1534, which forbade young men to attend the universities because they were infected with heresy, and which was abolished by the Diet of Cracow in 1543. Cf. for this and the matter which follows, the various histories of the reformation in Poland, of which I have been unable to avail myself except by means of references supplied by others: Krasinski, *Historical Sketch of the Rise, Progress, and Decline of the Reform in Poland*, London, 1835; Fischer, *Gesch. der Ref. in Polen*, Grätz, 1855-1856; Ljubowicz, *History of the Ref. in Poland* (in Polish), Warsaw, 1883.

appearance; (*b*) the advantages which were enjoyed there by the Calvinistic religion as compared with the Lutheran, since the passionate and at the same time refined nobility were better suited on the one hand by the greater asperity of the former in its opposition to Rome, and on the other hand by its French origin; (*c*) the unusual good fortune which all kinds of sects encountered there, and particularly the Socinians, as we have already seen, since in the aristocratic and purely individualistic régime, and in an atmosphere which was saturated with Italian humanistic culture, the rationalism in which the Socinian doctrine was steeped, and the place of origin of the doctrine, were necessarily greatly in its favour; (*d*) finally, the facility with which the nobles had been able to obtain toleration and recognition for the most varied religions, and to procure them a refuge in their own lands; which caused Harnack to say, with a certain amount of exaggeration, that the state of the country being one of permanent anarchy, liberty of conscience was also able to find a place in the anarchy.

In regard to this special point, namely, the question of toleration, the nobility, already under the last king of the Jagellon dynasty, Sigismund II. (1548–1572), had succeeded in obtaining a decree in the Diet of Petrikau that every noble should have the right to receive in his own house the religion which he thought best. To various towns also, such as Danzig and Elbing, the king conceded the free exercise of religion. By a so-called general privilege dated from Vilna, June 6, 1563, he expressly declared that both the free exercise of religion and the *jura nobilitatis*, as well as access to all the offices and dignities of the kingdom, should no longer belong

exclusively to the followers of the Catholic Church, but, generally speaking, to all believers in Christ. And when the Catholic clergy made bitter complaints and demanded coercion against the heretics, he advised them to think of defending their cause by good reasoning, and not by violence.

The Jagellon dynasty being extinct, the Polish nobles, at the Diet of Warsaw of 1573, formed themselves into an aristocratic Republic, with an elective king, and added at the foot of the famous *Pacta Conventa*, by which the new constitution was regulated, the so-called *Pax Dissidentium*. In this, after having considered, with a foresight as prophetic as it was fruitless, that religious dissensions within the Republic were capable of leading it to destruction, they promised by oath to the followers of any religion to preserve peace between them, and not, on account of diversity of beliefs or rites, to shed blood, inflict punishments, etc.; they promised, moreover, to join in opposing whoever might show a disposition to do these things.¹

¹ "Quandoquidem autem in hac Republica non parvum reperitur Dissidium in causa Religionis Christianae, occurrendo ne ea de causa inter Incolas perniciose aliqua Seditio oriatur cuius Exempla in aliis Regnis luculenter videmus; Spondemus omnes pro Nobis et successoribus nostris in perpetuum sub Vinculo Iuramenti, Fide, Honore et Conscientiis nostris, ut qui sumus Dissidentes de Religione, Pacem inter nos conservare, et propter diversam fidem, et ritum in Ecclesiis, sanguinem non effundere, neque poenas imponere, Confiscationis Bonorum, Infamiae, Carceris, Exilii. . . . Quin imo, si aliquis illum effundere voluerit, ex ista causa, opponere se omnes tenebimur: quamvis etiam sub praetextu Decreti, vel Processus iudiciarii aliquis hoc voluerit facere. . . . Omnia hoc promittimus invicem. . . . Si vero quis hisce contrariari, et Pacem Ordinemque publicum turbare voluerit, contra eum omnes consurgemus in eius Destructionem. Actum Varsaviae in Conventu Regni Generali die 28 Januar. 1573." Cf. Borgius, *Aus Posens und Polens kirchlicher Vergangenheit*, p. 125 et seq. The Catholics endured these conditions, but not always unwillingly. One of the most strenuous supporters of the Peace was John Zamoyski, born a Protestant but afterwards converted to Catholicism on account of his disgust with the continual quarrels of the Evangelicals. He said: "I would give

The king also, at the moment of his election, had to swear to observe both the *Pacta* and the *Pax*. The latter, it must be confessed, did not sanction universal and unlimited individual religious liberty; but it did something which may be compared with the dispositions of the German religious peaces, that is to say, it sanctioned liberty of religion only for the parties to the agreement, with this difference, however, that in Germany the parties were the States of the empire, while in Poland they were the nobles, who, moreover, as was the case with the German States, had the power to determine at their pleasure what religion was to be received within their territories. Nevertheless, the Evangelicals, and in general all the non-Catholics, derived great advantage from this Peace.

But the very first king, Henry de Valois, encouraged by the Jesuits, attempted at the moment of receiving the crown to avoid taking the oath to the Peace. And he swore it only after a Protestant nobleman, resolutely seizing the crown, said, "*Si non iurabis non regnabis!*" In any case, he deemed the oath of small account, because the Jesuits, with the celebrated Cardinal Hosius at their head, were constantly telling him that he should not regard himself as bound by it; but, as is well known, Henry very soon abandoned Poland for the throne of France.

Stephen Báthori of Transylvania, who succeeded him, loyally swore the Peace, and maintained it; but, persuaded that Protestantism was an obstacle to the progress of the State, he summoned the Jesuits, and half my blood if I could cause those who have abandoned the Roman Church to return; but I would give the whole of my blood to prevent anyone being compelled to do this by force." Cf. Allen, *An Historical Sketch of the Unitarian Movement since the Reformation*, New York, 1894, cap. iv. p. 78.

thus opened the door to the Catholic counter-reformation. The latter triumphed completely during the half-century's reign of Sigismund III., of the Swedish dynasty of Vasa (1587-1632), to whom was given the title, in which he himself gloried, of "King of the Jesuits," and to whom Poland owed some ill-advised wars provoked by the daring design of bringing Sweden back to Catholicism and gaining the Muscovite empire for it.

In the internal relations of the State the first blows were struck against the Socinians or Unitarians, who, after the reformers had separated from them in 1565, were disliked and abjured by the Protestants themselves. The latter, accordingly, did not take up the defence of the Socinians when, in 1638, the Jesuits succeeded in inducing the Diet of Warsaw to decree the complete dispersal of the school of Rakau, the stronghold of Polish Socinianism. Protests were raised not only by the persecuted Socinians, but also by the conciliatory spirits amongst the Catholics themselves against this decree, which was a violation of the immunities granted to all dissidents by the constitutional agreements; but the intolerant section of the community replied that the immunities related to dissidents *in* religion, but not to dissidents *about* religion, such as those who denied the divinity of Christ. And when in 1645 Ladislaus IV., a man of eminently tolerant ideas, desired to assemble a so-called *colloquium charitativum* in Thorn for the purpose of reconciling all the Christian denominations, the Socinians who presented themselves were excluded by common consent. The conference, however, only served to increase the animosity between the Evangelicals, Calvinists, and Lutherans, for which reason it was said that rather than *charitativum* it was

really a *colloquium irritativum*. The fortunes of the Socinians fell rapidly under John Casimir, of the house of Vasa (1648–68), ex-Jesuit and cardinal. The religious fanaticism which he and all the Catholics, who were now predominant, had displayed towards the Cossacks incited the latter to rebellion, threw the State into the greatest disorder, and caused Russian intervention in Poland. At the same time a new war against Sweden, provoked by the still smouldering aspirations of the Vasas of Poland to re-conquer that country and bring it back to Catholicism, not only placed John Casimir in immediate danger of losing his crown, but brought Poland also to the verge of being divided amongst the conquerors. Far from deriving from such complete ruin a warning to moderate his fanaticism, the king, during his military reverses, took a vow that if he recovered the throne heresy should be exterminated in his dominions; and when the protection of Denmark and Austria assured peace for him, not feeling himself sufficiently strong to overcome the Protestants, who were protected by foreign sovereigns of their own religion, and deeming it inopportune to disperse the Jews, who were necessary on account of their commerce and industry,¹ he made scapegoats of the Socinians. Against them was invoked an ancient law of the kingdom which prohibited Arianism, but which had nothing at all to do with the Socinians, and in 1658 he obtained from the Diet of Warsaw a decree by which they were offered the alternative of returning to the Roman Church (they were not

¹ Hence there was good reason to say that at that time if the Jew took upon himself to free the Pole from all earthly cares, the Jesuit looked after the salvation of his soul and the education of his children.

permitted to join any of the evangelical sects), or leaving the country. They were given three years to decide and to dispose of their property. The period was shortened, and the date for their decision fixed at July 10, 1660. The Elector of Brandenburg prayed for them in vain; the Swedes, in the Peace of Oliva of May 1660, vainly stipulated that religious peace should be maintained for all dissidents, and included the Socinians in a special note. The latter, at the end of the determined period, were driven away.

The Protestants were very badly advised when, owing to their aversion from the Socinians, they regarded their destruction not merely with indifference but almost with complacency. For it marked the beginning of their own ruin.

Already in 1668 conversion from Catholicism to Protestantism was made punishable, and in 1669 the Diet, which elected a successor to John Casimir on his abdication, decreed the death penalty for whoever abjured the Catholic faith. The moderate ideas of John Sobieski were unable to effect any change in the Constitution. August II. of Saxony, as was required by tradition, formally affirmed the prerogatives of the Protestants; but so far as he was able, he excluded non-Catholics from the Senate and from other offices or honours of importance. In 1716, on the initiative of a Catholic bishop, proposals were made to the king to the effect that in the treaty with Peter the Great an article should be included which should considerably restrict the free exercise of dissident religions, both Evangelical and Greek. In view of the fierce opposition which the proposal encountered, it was necessary to issue a declaration (February 3, 1717) which, stating that the ancient prerogatives of the dissidents should

be maintained, but that *abuses* thereof should be punished, by this very clause opened the door to every form of intolerant excess.¹ And this was seen in the massacre at Thorn, where, by order of the Government, the highest magistrates of the town were executed because they had been unable to prevent the Lutheran mob from attacking the college of the Jesuits, although there was no shedding of blood.

On this occasion the Protestant Powers signatory to the Peace of Oliva made resounding appeals to the liberty which the treaty was to have guaranteed to the dissidents. On the other hand, the Russians began to complain of the increasingly serious violations of the treaty concluded by them with Poland in 1686, the object of which had been to assure the position of the Poles belonging to the Greek orthodox faith. Finally, in the Russo-Prussian treaty of September 30, 1730, a secret article stipulated the toleration in Poland of the Greek and the Protestant dissidents, "who had gradually been deprived, against all the principles of justice, of whatever privileges, liberties, and rights they had legally enjoyed for a long time, both in spiritual and temporal matters."² Thus the two Powers most directly interested in the cause of the Polish dissidents laid the foundations of that agreement which was afterwards to prove the ruin of Poland.

Blinded by Catholic fanaticism, Poland did not see

¹ In opposition to a work of George Casimir, Ancuta (*Ius plenum religionis Catholicae in regno Pol. et magno duc. Lit. iuri praetenseo dissidentium opposito, demonstrans nullam dissidentes habere capacitatem activae et passivae vocis in regno Pol. Lit.*, Vilna, 1719), there came out [anon.] *Prodromus Poloniae plenissimo iure ad serrandam dissidentibus fidem publicam, s.l.*, 1721.

² Cf. Martens, *Recueil des traités et conventions conclus par la Russie avec les puissances étrangères*, Pétersbourg, vol. v., 1880, pp. 390-91.

the danger: indeed, she rushed headlong into it with new acts of violence. The Diets of 1733 and 1736 decreed the absolute exclusion of non-Catholics from all electoral assemblies, from all public offices and honours, and from the enjoyment of the properties of the State.¹ But the Catholic party was not satisfied with this. The dispersal of the Evangelical and Greek Churches, prohibition to baptize and educate the children born of mixed marriages, and other violations, not merely of political rights, but also of the free exercise of non-Catholic religions, heaped up the measure.

It was then that by the treaty of April 11, 1764, Frederick of Prussia and Catherine II. of Russia renewed, in favour of the Protestants of the west of Poland and the Greeks of the east, the proposals already adumbrated in the treaty of 1730, and ordered Stanislaus Poniatowski to present to the Diet, which had assembled for his coronation, a proposal in favour of the dissidents—not, it should be noted, however, in order that they might be readmitted to the Assemblies and public offices, but merely in order that they should be granted the free profession of their religion.² And yet, no sooner had the Primate made allusion to the dissidents, than such a howl was raised in the Diet that it was impossible to continue the reading of the project, and the Primate himself was within an ace of being killed under the eyes of the king. The same thing occurred in 1776 at the first regular Diet of the new Government, which,

¹ *Ius dissentientium in regno Poloniae s. scrutinium iuris in re ad rem theo. iurid.*, Varsav., 1736.

² In regard to the position of the Jews, cf. Gradowsky, *La situation légale des Israélites en Russie*, tom. i. (*du règne du Czar Alexis Michailovitch au règne du Czar Nicolas I.*). Trans. from the Russian, Paris, 1891.

paying no attention to a petition from the Protestants,¹ in which they complained of the destruction of their churches, the breaking up of their funeral processions, of the title of heretics which was bestowed upon them, and the application against them of the old laws against the Arians (which, as we have seen, had already served for the Socinians), unanimously confirmed the dispositions of the years 1717, 1733, 1736 and 1764 against the non-Catholics. Then, availing themselves of the factious and dangerous expedient of forming confederations, the Protestants, at the instigation of Russia, assembled in Thorn and the Greeks in Sluz, both classes of malcontents finally forming a larger confederation at Radom. The latter, in 1767, in a treaty which they compelled the king to sign, drew up a project for a new Polish Constitution in which the dissidents were promised full equality of civil rights. The Diet which assembled on November 9, 1767, was compelled to grant to the dissidents the free exercise of their religion, direct voting in the Assemblies, access to public offices, and the reacquisition of the churches which they possessed in 1717. In this Diet one of the members, although he was a Catholic, and although he spoke in support of the theory that the king at least should always be a Catholic, recognised, however, with great frankness that the two centuries of struggle against the dissidents had brought the country into a condition of decadence, and that the most disastrous wars, the loss of the best provinces, and the serious dangers which were hanging over Poland, were all to be

¹ *Expositio iurium eorum qui dissident. Libellus supplex* (in Latin and Polish), s.l., 1766; cf. also Guil. Ern. Christiani, *Gute Sache der Dissidenten in Polen, nach den Gründen des natürlichen und allgem. Staatsrechts und der Politik*, s.l., 1767.

attributed to the spirit of persecution. He was not the only one among the Catholics who saw the necessity of a complete change; the new illuministic or rationalistic ideas had made proselytes in Poland, even, as it would seem, among the clergy.

All the concessions granted by the Diet of 1767 were reconfirmed and ratified in a treaty of February 24, 1768, which was subscribed by the Russian Ambassador and the Primate Podoski on behalf of Poland.

But the majority of the Polish Catholics, impelled by a sentiment of reaction against the power of Russia, and, at the same time, by religious fervour, which was kindled by the condemnations launched by the Roman Pontiff against the dissidents, by the exhortations of the nuncios, and by the preaching of the intransigent bishops, formed themselves at Bar into a confederation of their own, or a counter-confederation. The consequence of this was a series of literary disputes, in which each side endeavoured to saddle the other with the responsibility for the sad events and sanguinary struggles which led to the first partition of Poland in 1772.

Even this misfortune was not sufficient to inspire toleration either among the Catholics—for the constitution of the kingdom of 1775 renewed the old exclusion of the non-Catholics from every dignity and assembly—or among the dissidents themselves, since while the orthodox Greeks contended with the Uniates for the possession of the churches, the Protestants, on their side, wasted themselves in bitter disputes upon questions concerning their internal organisation.

Meanwhile, profiting by these incurable discords, the cupidity of the foreign Powers, not yet satisfied,

was prepared for the second partition of Poland in 1793, and finally the third, in 1795, which was truly *Finis Poloniae!*

II. *Belgium.*—It has already been seen that Belgium, at the time when Holland separated from her, did not preserve any other derogation from the system of exclusive recognition of the Catholic as the dominant religion except that imposed upon her by the Barrier Treaty in favour of the Dutch soldiers occupying the forts on the Belgian frontier.

Throughout the period of Austrian dominion, from Charles VI. to Joseph II., this condition of things underwent no change, and not a single official decree relating to the religious question can be discovered. Indeed, the exception in regard to the Dutch garrisons, instead of being the first nucleus around which increasing liberties could gradually be grouped, became nothing but a thorn in the side of the Catholics, whose fanaticism it continually kept awake, irritated, and ready for the most energetic reaction as soon as the Protestant almoners of the garrisons showed the least sign of carrying on a propaganda in the country. The threatened excesses of intransigence were restrained at one time by the diplomatic action of the States of Holland, at another by the threats of reprisals upon the Dutch Catholics, and again by the advice of the latter.

It must be recognised, moreover, that in general the Austrian sovereigns, their governors in Belgium, and the supreme tribunals in direct dependence upon the Government, invariably displayed much greater complacency towards the non-Catholics than was shown by the people, the civic tribunals, and particularly the clergy, because the former always endeavoured to avoid the rigorous measures, particu-

larly against the Protestants, which were demanded from time to time by the latter. On the part of the Government, accordingly, the Protestants enjoyed a tacit toleration of their individual opinions; but as against this they had no guarantees for their religion and took no part in public life.

It is an extremely important and very strange fact that the governing powers were much more advanced in ideas of toleration than the whole of the Belgian nation, as is shown by the hostile reception which was given there to the great reforms of Joseph II. and the small success which they obtained.

Shortly after he ascended the throne, Joseph II. made a tour of his possessions in the Low Countries, and on this occasion petitions were presented to him by various parties, and particularly by the celebrated Cardinal Franckenberg, Archbishop of Mechlin,¹ praying that he would not put into force in Belgium the ideas of toleration which were attributed to him. And when, paying no attention to this, he caused his famous Patent to be published in Belgium on November 12, 1781, there arose a chorus of virulent protests from all those to whom the imperial decree was addressed—from archbishops, councils of the various provinces, universities, etc.

Hubert attributes this discouraging phenomenon to the serious decadence of the intellectual life of the country at that period, and to the small amount of success that the French philosophical innovations of the time had encountered.² Hence it is that although

¹ Cf. Verhaegen, *Le cardinal de Franckenberg, archevêque de Malines* (1726-1804), Bruges-Lille, 1890.

² Hubert, *De Charles I. à Joseph II.*, Brussels, 1882, p. 186 *seq.* This author, p. 135 (but not, it would seem, the other two authors cited by him: Küntziger, "Essai historique la sur propagande des Encyclopédistes Français en Belgique," p. 109; Francotte, same title,

he took great pains to trace any literary production to which the edict certainly ought to have given birth in Belgium, as elsewhere, he only succeeded in finding a few articles and pamphlets completely opposed to the badly received novelty of toleration. Amongst the favourable writings which appeared he only cites one, a book entitled *De Tolerantia ecclesiastica et civili*, written by professors of Pavia, printed there in 1782, reprinted at Ghent in 1784, and erroneously attributed by all writers hitherto, including Hubert himself, to the Austrian Trautmansdorf—a book about which we shall have something to say later and of which Grégoire speaks as *un bon écrit connu en Belgique*.¹

The revolutionary movements to which the vast reforms of Joseph II. gave rise in Belgium, which

p. 148 et seq., both in *Mem. de l'acad. royale de Belgique*, xxx., 1880), studying the attitude of the celebrated Jesuit Feller, writer of the *Journal historique et littéraire*, towards the Patent of Joseph II., conjectures that although not making an explicit pronouncement on the matter, he inserted in the *Journal* (December 12, 1782, iii. 487) a laudatory notice of an anonymous work entitled *Éclaircissements sur la tolérance*, Rouen, 1782, which is nothing but a diatribe against toleration. If Barbier in his *Dictionnaire des ouvrages anonymes*, vol. ii. col. 7, is correct in attributing this work to the Jesuit Pierre de Doyar, whom Hubert (*op. cit.*, p. 140) sets down as the author of another work against toleration entitled *Lettres d'un chanoine pénitencier* (1786); and if it is also correct that the work was printed in Liège instead of Rouen, the conjecture would seem not only to be a thoroughly sound one, but might, not without justification, be taken still further, and it might be presumed that there was a regular understanding amongst the Jesuits of Liège for the purpose of overthrowing the edict without revealing themselves and exposing themselves to new attacks.

¹ Grégoire, *Essai historique sur les libertés de l'église*, Paris, 1818, p. 289. This author bestows the same praise upon a work (not mentioned by Hubert) published anonymously by Dupac de Bellegarde, Canon of Lyons, *Réponse aux lettres d'un chanoine pénitencier*, Lille, 1786; letters which Grégoire wrongly attributes to the Jesuit Feller (p. 283), whereas they really are by De Doyar; cf. preceding note.

was not absolutely ripe for them, overthrew, together with many others, also the Edict of Toleration, which was abolished on February 9, 1792.

Religious liberty was only restored in Belgium under the French domination, but not without the accompaniment of vexatious measures against the Catholic religion which everywhere clouded the practical application of the French liberal maxims, so beautiful and seductive in their theoretical enunciation.

III. *Italy*.—In Italy, as in Belgium, religious liberty was not due to a literary or legislative impulse or movement produced spontaneously in our national atmosphere, but was imported from abroad; we also, to adopt the expressive phrase of Schupfer,¹ “had to be taken in tow.” However, in Italy the foreign liberal innovations, and particularly those inspired by the Emperor Joseph, did not meet, even from the clergy, with that blind opposition which they encountered in Belgium: indeed, to a very large extent they were approved and extolled. Nor was there any lack of preparatory and conciliatory precedents for these novelties in our literature and our laws, pointing to tendencies in the direction, if not of true and absolute liberty of religion, at least towards extensive toleration. The latter indeed, as we have already seen, was so innate in our national genius that the whole history of Italy, in spite of thousands of inciting occasions and causes, does not furnish a single truly memorable example of excesses due to religious fanaticism. And if a few cases of collective persecution are on record, they are due to malign foreign influence. Thus, for example, the expulsion of the Jews from Sicily and Sardinia was ordered by the

¹ Schupfer, *Manuale di stor. del Dir. Italiano*. *Le Fonti*, 2nd ed., Citta di Castello, 1895, p. 637.

Spanish usurpers as a part of the system which they had adopted long before in their own territories on the Continent; and the expulsion of the Waldenses from the valleys of Piedmont was imposed upon the Princes of Savoy by Louis XIV. almost as an extension, so to speak, beyond the French frontiers of the revocation of the Edict of Nantes. It may be said that this spirit of toleration was the offspring of the proverbial Italian indifference towards matters of faith; without discussing the affirmation, we reply that in any case the child was in itself so worthy and providential as completely to cancel any alleged defects in its parentage.

Certain it is that our varied history, so disjointed in every way, and changing from place to place and from time to time, does not permit generical and comprehensive deductions even on this question. There is, for example, a wide difference in regard to the régime of toleration between the two provinces which it is most natural to place in comparison—Venice and Genoa. In the former the toleration was at a certain period so extensive that a competent judge was able to declare “in Venice there were none of those religious persecutions which filled the rest of the world with bitterness; but it was the place of peace, where everybody, whatever his religion or nationality, could peacefully attend to his own affairs.”¹ And another writer has deemed it his duty to bestow upon Venice what sounds like the supreme praise after what has been seen on several occasions in the course of our exposition, the praise, that is to say, of having taken in regard to religious toleration during the first half of the sixteenth century

¹ Ranke, “Zur Venetianischen Geschichte,” in *Gesamm. Werke*, Leipzig, 1868–90, vol. xlii. p. 33.

a position among Catholic States similar to that which was taken during the seventeenth century by Holland among Protestant countries.¹ Genoa, on the contrary, did not give to any dissidents, and not even the Jews, who were universally tolerated, the facilities which were granted them by the other commercial States and even by the Pontiffs themselves in the town of Ancona, although it may have been merely for purposes of material utility.

It is necessary, therefore, to inquire into the condition of the non-Catholics of every single region and in different epochs: but in addition, the fact that this would require a volume to itself, it is also beyond our purpose to carry out. Our sole intention is, as we stated at the beginning, to trace the development of the idea of religious liberty considered on its positive side. Hence, although there is a lack of complete monographs, and in spite of the importance and interest which would attach to such an exposition, we are unable to assign to Italy a share in the formation of modern religious liberty larger than that which naturally belongs to her as compared with other countries. We shall in any case consider, with all the fulness which the size of our work permits, and in the form of an appendix to the succeeding paragraph, all that Italy has produced from a legislative and literary point of view. For the scanty and dispersed legal provisions which sanction a certain amount of religious liberty amongst us, and the few writings which treat thereof, do not stand in any relation to, and were not a preparation or an occasion for, the others, but proceeded from causes and were

¹ Benrath, *Geschichte der Reformation in Venedig*, Halle, 1886, p. 1 *et seq.*; Comba, *I nostri Protestanti*, vol. ii.; Durante, *La Riforma nel Veneto e nell'Istria*, Florence, 1897, p. 31 *et seq.*

inspired by tendencies that were quite different and distinct. Only the foreign innovations, as we shall see, propagated amongst us towards the end of the eighteenth century, had a double, contemporary, and closely-connected legislative and literary expression.

A. ITALIAN LEGISLATIVE DEVELOPMENT.

The ancient Italian laws concerning the non-Catholic religions relate, according to the various districts, to these three classes of dissidents:—1, The Jews; 2, the Waldenses, and Protestants in general; 3, the Greek schismatics and the Orientals in general.

I. *The Jews*.—Spread at first all over Italy, the Jews were expelled in 1171 from Bologna, in 1225 from Milan, in 1492 from Sicily and Sardinia, in 1495 from Tuscany, whence having been readmitted they were driven away again in 1570, except from Florence and Sienna. They were also repeatedly expelled, after partial and transitory readmissions, from Naples in 1511, 1540, 1702, 1708, 1746. Pius V. banished them from the States of the Church, except from Rome and Ancona; Sixtus V. admitted them everywhere; Clement VIII. again expelled them from Rome, Ancona, Ferrara, and Pesaro, and his decree was never rescinded. They were driven from Venice in 1396, 1402, and 1409; but after 1436 they were allowed to live undisturbed in the territory of the Republic. Genoa rejected them on several occasions and never willingly tolerated their presence, but generally left them to the tender mercies of the Inquisition and the mob. Emanuele Filiberto banished them from Piedmont in 1560, and again a few years later, but immediately afterwards revoked the edicts of expulsion at a price. Their expulsion

was only definitive in the case of the kingdom of the Two Sicilies.

Their juridical position was based upon a series of concessions, more or less extensive, comprising the enjoyment of some civil rights but never that of political rights or the exercise of the liberal arts, with the exception of medicine. And the sovereign granted them these concessions for a determined period, usually as the result of a regular contract called *Condotta*, and in exchange for a monetary payment.

In view of this contractual basis it sometimes happened that the inferior status of the Jews in comparison with that of the Christians brought them certain advantages. Thus they alone were permitted to practise usury, which, as is well known, the Church prohibited in the case of its own members; for it was said that the soul of the Jews being already irremediably damned, usury could not do them any more harm. The Jews were granted exemptions from taxes and public burdens in Italy, but not to such an extent as to induce Christians, as is said to have been the case elsewhere, to pass over to the Jewish religion.

Amongst the other advantages of their position was also that of being able to govern the internal affairs of their community according to Jewish laws and rites and in conformity with the orders of their authorities. To the latter the governing powers not rarely granted the use of those measures of coercion which were at their disposal, as was done, for example, by the Cardinal-Vicars in Rome. Indeed in some regions—as in Piedmont and in Sicily—the Jewish autonomy or autarchy was carried so far as to enable them to assemble from all parts of the State several times a year in order to discuss the interests of the whole Jewish nation.

They were granted permission also to exercise their religion in private, and were often allowed to build synagogues, but always under severe restrictions and the threat of grave penalties for transgressors.

It was, therefore, a very limited and mutable form of toleration under which they lived, and not by any means a régime of liberty. Nor was the basis of their position substantially changed by the very wide immunities which some Italian States, on the example of what Venice had already done, and what the Pontiffs were induced to do for Ancona, conferred upon the Jews in regard to certain towns for the purpose of reviving their trade.

The earliest and the greatest concessions were those granted by Ferdinand I. to Leghorn and Pisa by the Convention of June 10, 1593, from which the prosperity of that port dates.¹ This example was followed by Carlo Emanuele I. of Savoy in a decree of September 23, 1648, relating to Nice and Villafranca²; and by the government of Sicily for the whole of the island by the *Salvacondotto* of February 3, 1740.³ The tenor of these documents is almost identical; let us summarise the Tuscan dispositions.

In the first place, Ferdinand I. granted to the Jews the privilege of the safe-conduct or, as it was called, the *Livornina*, according to which they could not be molested for debts contracted or crimes committed before they obtained the privilege; and the immunity from other crimes was so extensive that even the

¹ Cf. Cantini, *Legislazione Toscana raccolta ed illustrata*, Firenze, 1800-1808, vol. xiv. pp. 10-19.

² Cf. Duboin, *Raccolta delle leggi, editti ecc., emanati negli Stati Sardi*, ii. p. 610.

³ Cf. Giustiniani, *Nuova, collez. delle Prammatiche del Regno di Napoli*, Napoli, 1803-1805, vol. iv. pp. 102-110.

Inquisition was unable to prosecute them as apostates in cases where they had formerly made a profession of the Christian faith, but again fallen back into the Jewish *superstition*. Generally speaking, the Jews of Pisa and Leghorn were placed on an equality with the other citizens in regard to the enjoyment of civil rights and the exercise of the liberal arts, since they were permitted to study medicine and surgery in the University of Pisa and to give their services also to Christians.

They were also permitted to build synagogues in Pisa and Leghorn and to practise their religion in accordance with their own rites, to have their own cemeteries, and to establish schools; their feast days also were respected in the two towns. But they were still prohibited from attempting to spread their faith, their books had to be examined and passed by the inquisitors, and it was lawful for Christians to take away from Jewish parents children who were thirteen years of age in order to convert them, or even to baptize them, whatever age they might be, if they appeared to be in danger of death.

Precisely for this reason there was no true liberty for the Jews, without counting the fact that none of the concessions mentioned above related to the Jews of Florence and Sienna, that they were always restricted rather than enlarged by Ferdinand's successors, and that they did not prevent the Jews from continuing to form an absolutely separate nation within the State.

II. *Waldenses and other Protestants*.—(a) The Waldenses, always insecure in their retreats among the Piedmontese Alps before the Reformation (since by the Bull of April 27, 1487, Innocent VIII. proclaimed a regular crusade against them), were after-

wards able, taking advantage of the precarious and disturbed condition of the surrounding districts in the first half of the sixteenth century, comfortably to accept the evangelical reformation, or, if the phrase be preferred, simply to agree with the Reformers and place themselves in unison with their teaching.¹ But with the reconstitution of the Savoyard monarchy by Emanuele Filiberto, they had immediately to feel the blows which the Catholic reaction was dealing against Protestantism all over Italy and outside.

From Nice, his first residence, Emanuele Filiberto, giving way to the pressing appeals of the Pope, and in spite of the fact that his wife, Marguérite de Valois, was somewhat inclined towards the Reformers, issued on February 15, 1560, an edict against the Waldenses by which they were prohibited from listening to the preaching of the reformed ministers under pain of perpetual condemnation to the galleys.² Against the carrying out of the edict the Waldenses offered a fortunate resistance,³ which procured for them the Edict of Vercelli of February 10, 1561, and afterwards the Peace of Cavour of June 5, 1561. The latter guaranteed the Waldenses the free exercise of their religion in certain specifically named places

¹ Regarding this variety of appreciation, *cf.* Ruffini, "la chiesa ev. Valdese," appendix to lib. i. of his Italian edition of Friedberg's *Treatise of Church Law*, Turin, 1893, p. 146 *et seq.*

² See the various measures of the sovereigns of the house of Savoy against the Waldenses in Borelli, *op. cit.*, pp. 1259-1287; Duboin, *op. cit.*, ii. pp. 109-279; and in *Raccolta degli Editti delle A. R. delli sereniss. Duchi di Savoia sopra gli occorrenti delle valli di Lucerna*, etc., Turin, 1678; *cf.* also cap. lxxxiv. of Pinerolo's *libro degli Statuti*, Turin, 1602, and Montalcini, *l'icende delle pubbliche Libertà in Piemonte dai primi tempi di Casa Savoia ad Emanuele Filiberto*, Turin, 1884, pp. 65-83.

³ *Cf.* Rivoire, "Alcuni documenti relativi alla persecuzione del 1560-1561," in *Bullettin de la société d'histoire l'autoise*, La Tour, n. 10 (1893), p. 3 *et seq.*

in the valleys, and as regards other places on the mountain side, permitted the pastors to exercise some of the more essential offices of their spiritual charge for the benefit of their co-religionists. The Catholic religion, however, was perfectly free in every place, and the duke reserved to himself the right to banish the evangelical ministers from his territory, leaving the Waldenses, however, power to replace them by others of their own choice. Meanwhile, however, their Calabrian colonies were exterminated, and in Piedmont very severe decrees were issued against those Protestants who lived outside the places mentioned in the peace treaty.

Thus the great Prince continued until his death constantly struggling in his relations with his evangelical subjects against Catholic remonstrances on the one side, and, on the other, against the representations which were made to him by the Protestant Powers, and he was therefore always hesitating between rigour and a certain amount of toleration.

Carlo Emanuele I. reassured the Waldenses by promising them that he would take no steps against their liberty of conscience and the free exercise of their religion; but during his reign disagreements arose in regard to the interpretation of those concessions of the Peace of Cavour which concerned the Waldenses residing outside the valleys. The question became embittered when, by the edict of May 15, 1650, the Waldenses were ordered to return to their valleys, and their public worship in various places was prohibited by decrees issued in succeeding years. Negotiations were opened, pending which, however, the government of the regent Maria Christina did not hesitate to send into the valleys a body of troops which, in April 1655, carried out the massacres

which are known under the name of *Pasque Piemontesi*, and which—exaggerated, it must be confessed, by the Waldensian refugees—aroused the indignation of the Protestant world, and especially that of Cromwell and Milton.

Foreign intercessions, and more particularly the courageous defence made by the Waldenses, led to the Peace of Pinerolo of August 18, 1655, the treaty of which was called *Patenti di Grazia*. It granted liberty of religion in the places mentioned, amnesty for crimes committed during the late disturbances, exemption for five years from taxes as compensation for the damage suffered, permission to those who had made a forced abjuration to return to their old faith, and licence to dwell in the commune of San Giovanni but not to exercise public worship there. Now, Leger, the moderator of the Waldenses, having decided to officiate in the latter place, was condemned as a rebel, and new disturbances arose which provoked the condemnation of the whole people for rebellion by the edict of August 10, 1653. But the Waldenses having on this occasion also victoriously repulsed the ducal troops, the Patents of Grace were ratified on February 3, 1664, and a general amnesty was granted.

But a still more terrible blow against the Waldenses was being prepared. Having revoked the Edict of Nantes, Louis XIV. wrote to his ambassador in Turin: "I have prohibited any exercise of the pretended reformed religion in my kingdom, and it will be a great pleasure to me if the Duke of Savoy is able to profit by this auspicious event to bring his subjects back to our religion." As the duke hesitated, the king threatened that he would not tolerate the fact of the Huguenots being permitted to

take refuge on the frontiers with the Waldenses. Vittorio Amedeo II. was then obliged to give way, and on January 31, 1686, and April 9, he issued edicts against the Waldenses modelled on the famous French revocation. Having thus abolished the ancient privileges, he ordered that all meetings should cease, that the churches should be pulled down, and that ministers should be exiled if they did not become converted within fifteen days, or suffer the penalty of death; abjuration was imposed upon everybody, and the giving up of their children. Caught thus between the united force of France and Savoy, the Waldenses, after some resistance, were obliged to surrender, and were all taken prisoners and afterwards driven into Switzerland. But there they united together again in 1689. Under the leadership of Pastor Arnaud, the strongest of them marched across the mountains to the reconquest of their valleys, defeating the French and Piedmontese garrisons, and carrying out that deed, amongst the most admirable in our ecclesiastical and military history which, with fully justified pride, they celebrate under the name of the *Glorioso Rimpatrio*.

A diplomatic event providentially intervened to consolidate their reconquest. This was the rupture between Louis XIV. and Vittorio Amedeo II., because the latter did not think it proper to entrust the protection of the Alpine passes against France to those bellicose inhabitants. He reassured them by good words and promises, and finally, by the edict of May 23, 1694, revoked that of 1686. The edict of revocation begins with these very significant expressions: "Having been compelled by the reiterated and pressing demands of a *foreign power* to publish the edicts of January 31 and April 9,

1686, against our faithful and pious subjects of the valleys," etc.; and proceeds to recall the intercession of England and Holland in their favour. It then proclaims a complete amnesty for the Waldenses, the liberation of prisoners, the restitution of their children, and the restoration of their property. It grants full religious liberty in the valleys to the Protestants, not only the Waldenses, but also to foreigners who should take an oath of fidelity, unless, however, they were French, in whose case that concession was restricted to the duration of the war, and when that was over it should be granted only to those "who had left France because of their religion and were not subsequently re-established there." The same privileges were granted to the Waldenses resident in the valley of Pragelato, but only for a period of ten years.

This restriction was the source of fresh bad feeling and new vexatary measures, which England endeavoured to remove, but without avail, until the Treaty of Utrecht of 1713 ordained that Louis XIV. should cede the valley of Pragelato to the Duke of Savoy, but only on the understanding that no novelty in the matter of religion should be tolerated there. This was followed by the instructions of Vittorio Amedeo to the Senate on June 20, 1730, which prohibited any exercise, public or private, of the pretended reformed religion in that valley.

As regards the other valleys, however, there was no subsequent change in the juridical position of the Waldenses. But with the progress of the century they began to feel that the small geographical circuit within which the prerogatives already mentioned were rigidly and meticulously circumscribed was too narrow and oppressive, particularly after a more

liberal tendency, pronouncedly Socinian in character, began to be spread amongst them by those of their students who returned from the schools of Germany and Geneva. Hence it will easily be understood that they hailed with joy the new ideas which arose in France at the end of the century.

(b) By the Catholic reaction the Italian Protestants were dispersed and oppressed in all the other regions of Italy, not excluding the Venetian Republic, where, however, they remained for a longer time. The mildness in the matter of religion for which credit has already been given to Venice must be strictly confined to the first half of the sixteenth century, and it must not be regarded as a lasting and general principle of her policy, although some Venetian writers have shown an inclination to interpret it as such. Students who have investigated the documents of the Venetian Inquisition have irrefutably demonstrated that the State assisted the Catholic reaction and combated any spirit of heterodox innovation on the part of the citizens no less for political than for religious reasons.¹ Hence, for example, the so-called *Savii dell'eresia*, whom the Venetian Government appointed to attend the trials by the Holy Office, did not, as has generally been said, exercise a moderating influence upon the excessive zeal of the clericals in the religious field, but simply a control over their usurpations in the political field, their object being to safeguard the jurisdictionalist rights of the State rather than the conscience of the individual.

The same, however, cannot be said in regard to the foreign Protestants, who, repulsed not less than

¹ Cf., for example, Elze, "I Protestanti a Venezia," in *Rivista Cristiana*, Florence, 1865, p. 20 *et seq.*

the native Protestants from every other State in Italy, were tolerated in Venice alone.

The considerations which in this matter, as also in that of their relations with the Jews and the Greeks, determined the attitude of the Venetian Government, were entirely commercial or of a similar nature. It was a matter of vital importance to Venice that the German Lutheran merchants should not desert her market, or, residing in the city, should continue to keep alive their traffic with Germany, to which the rest of Italy was now closing her doors¹; it was also of importance that the students of German nationality should continue, even if they were not Catholics, to carry on their studies at Padua, increasing the fame of the university and the prosperity of the town, and therefore she assured the position of such foreign heretics either by permanent laws or by measures adopted from time to time.

The German merchants continued therefore to go to Venice and live there undisturbed, and in 1649 they acquired the right of burial in the church of St. Bartholomew. Shortly afterwards, in 1657, they were granted permission to build a chapel in the so-called *Fondego dei Tedeschi*, and to bring pastors from Germany in order to exercise their religion in private. In 1718 their cemetery was transferred to one of the islands of the estuary; and in 1780 the Senate granted power for the baptism of Protestant children to take place in the Catholic churches.

¹ Although the articles of the law of Ferdinand I. of Tuscany of 1593 only mention the Jews, the preamble is addressed to men of all religions; hence its privileges should have been common to all foreigners, including the Evangelicals. Cf. Forti, *Istituzioni Civili*, Firenze, 1863, ii. p. 87. In fact, at Leghorn in 1607 a chapel was established for the German and Dutch merchants; cf. Witte, *Das Evangelium in Italien*, Gotha, 1861, p. 14.

The German evangelical students at Padua, on the contrary, met with much annoyance from the inquisitors and from the bishop of the city, against whom they offered the most resolute and daring resistance.¹ From every page of the annals of their nation, as Brugi well observes, emerges the intention to obtain liberty, to profess their own religion, to withdraw themselves from the censorship of the bishop and the Inquisition, and to enjoy the toleration which was granted to the German merchants in Venice. From the chief magistrate they obtained at first nothing but good words and a few decrees, issued from time to time, to curb the bellicose intolerance of the clergy.

But in 1587 the university of the German student of law succeeded in obtaining from the Doge letters addressed to the directors of studies and their successors, by which the Germans were granted immunity from the molestations of the clergy, so long as they lived without causing scandal. Moreover, in 1616 for the University of the Arts, and in 1635 for that of Law, colleges were instituted with power to confer doctorates without the candidate being compelled to make that *professio fidei Catholicae* which had been imposed by the Bull of Pius IV., dated November 13, 1564, for all aspirants to the degree, but which the Germans had always energetically refused. The Pope protested, but the Republic, on the advice of Fra Paolo Sarpi, did not allow itself to be moved from its tolerant decision.

¹ Brugi, "Gli Studenti tedeschi e la S. Inquisizione a Padova nella seconda metà del secolo xvi.," in *Atti del R. Istit. Veneto*, tom. lli., series 7, tit. v., Venice, 1893-94, pp. 1015-1032. Cantù (*Gli Eretici d' Italia*, vol. iii., Turin, 1866, pp. 144-45) mentions the following as being in the Vatican archives: *Scrittura fatta sotto Federico Cornaro, vescovo di Padova, circa il tollerare o non tollerare la licenza della Nazione germanica.*

III. *Greeks and Orientals.*—Christians of the oriental rite are met with especially in Venice and in the kingdom of the Two Sicilies.

From the most ancient times the best relations had existed between Venice and the Armenians, and there is no record of any dispute between the Armenian community and the ecclesiastical authority until the eighteenth century, when, on the instigation of the Catholic clergy, the Venetian Government compelled the community to conform to the Roman rite; and the Greeks on October 4, 1511, demanded from the Venetian Senate the same concessions as had been granted to the Armenian heretics; a provision which is evidently not unconnected with others which were issued about the same period in relation to the schismatic Greeks.

The relations of the Venetian State with the latter present some very curious and highly characteristic aspects. Already in ancient times the Greek rite was tolerated in settlements and in the metropolis itself, although not very favourably in the latter. This is shown by the fact that in 1456, on the intercession of Pope Calistus III., and under the influence of the transient union between Latins and Greeks, which took place at the Council of Florence, the latter were indeed granted a piece of land upon which to build a church for worship according to their own rite. But afterwards, in 1479, in answer to their requests that the church might be built, they were told to frequent the churches of the Latin rite. Some years later, permission was given to form a confraternity of St Nicholas of the Greeks, but only on condition that the number of members did not exceed two hundred and fifty.

Finally, on April 30, 1514, authorisation was given

for the Greeks to erect a church of their own, and Pope Leo X. sent his approbation and permitted the Greek community to choose their own priest and exempted their church in perpetuity from the jurisdiction of the Latin ordinary. In 1542 the Senate had decreed that the Greek chaplains, before being admitted to the celebration of divine service, should undergo an examination and obtain the approval of the Patriarch of Venice, and, moreover, such chaplains were accustomed to make the profession of faith of the Council of Florence. But for all this, in 1574, the Greek chaplain went to Constantinople in order to receive episcopal consecration from the Greek schismatic Patriarch of that city.

Thus we have the strange condition of things that the Popes and the Venetian State permitted Greek prelates to officiate and protected them up to a certain point, regarding them as good Catholics and sincere adherents to the union sanctioned by the Council of Florence, while these same prelates, although formally and verbally making a declaration of adherence to the Catholic Church, actually obtained their consecration from the Patriarch of Constantinople, and recognised their dependence upon him. Now the latter, from the time of the capture of the city by the Turks, had broken off all relations with Rome, and by a Synod of Constantinople held in 1472 had solemnly revoked the momentary union obtained by the Council of Florence. The misunderstanding, if such it can be called, lasted for more than a hundred and fifty years, and was so complete that the Venetians themselves were accustomed through their representative, or bailiff, at Constantinople to solicit the approval of the Patriarch for each new election.

The matter is explained on the part of the Roman Church by the fear that the Protestant revolution might also involve the Greek dissidents, and by the interest which the Venetians had in keeping on friendly terms with the Greeks of the East, whether they were uniates or schismatics. But when these two reasons were no longer operative, the abnormal state of affairs also changed. Through the nuncios the Pontiffs began to make remonstrances to the Government about the liberties granted to the Greeks; and the Venetians, seeing that the Greeks had now come to an understanding with the Turks and the Russians, began on their side to demand, and to control with the utmost rigour, the profession of Catholic faith and subjection to the Latin Patriarch mentioned in the decrees of 1542. The Greek community then presented a memorial, dated February 12, 1707, in which they asked that "liberty of conscience, the most precious of all treasures," should be respected; but the Senate remained firm, and was not moved even by the intercession of Peter the Great. This harsh régime lasted for the first half of the century, and it was only by means of dissimulation that the Greeks were able to remain in Venice.

In the second half of the century another change took place; the Venetian Government finally saw the danger arising from the dissensions of which the increasingly bold Slav propaganda was taking advantage, and therefore, paying no attention to the Papal protests, decreed that a new head should be elected for the Greek community and that he should obtain the approbation of the Patriarch of Constantinople. But the latter at first refused, and then placed upon his consent conditions which were offensive to the Latin Church. The Venetians were still searching

for a solution of this most intricate controversy when their city was occupied by the French.

In Naples the Greek worship was introduced after the fall of the Empire of the East by Christian refugees to whom Leo X. granted permission to continue the exercise of their rites, guaranteeing them also against the zeal of the Catholic bishops, who immediately attempted to reduce them to the observance of the Latin rite. Amongst these refugees was Tommaso Assan Paleologo, who, with the consent of Alfonso I. of Arragon, erected a church for the Greeks in Naples, which, in 1518, was conceded by the Emperor Charles V. to the Metropolitan of Corone, who at that time had taken refuge in Naples with the majority of his community and the Greeks of other towns which had fallen into the hands of the Turks. He had ample power to carry on religious services according to the Greek oriental rite under the immediate protection of the king.

From that time onwards, for quite three hundred years, the Greek community had to fight incessantly against the archiepiscopal Curia of Naples, which could not bear to see a schismatic Church established within its jurisdiction. The Greeks had recourse to the Popes and to the State, and it was only after much trouble that their religious immunities were safeguarded by successive rigorous provisions. Their immunities, it may be noted in passing, remained unchanged until 1828, when the Archbishops of Naples succeeded in obtaining the satisfaction of their long cherished desire to bring the Greek community into subjection.

The Greek community took its stand upon the statutes of 1561, 1593, and particularly of 1764, all of which had received the royal assent.

The Greek community in Messina had a similar origin, enjoyed equal concessions, and underwent the same fate.

The Greek schismatics obtained immunities similar to those which were granted the Jews in the maritime towns of Leghorn, Ancona, and Nice.

The Saracens were, generally speaking, placed on a par with the Jews as regards the rigorous and vexatious treatment to which the latter, as we have seen, were usually submitted.¹

In the whole of this collection of measures and provisions which we have passed in review there is not one, as has been seen, which was not based upon the consideration of political or commercial interests—none, that is to say, which was determined by a disinterested conviction on the part of the legislator in regard to the moral superiority of liberty as compared with compulsion. All these measures were, moreover, strictly limited both geographically and personally; they only applied to special cases, particular places, and certain categories of non-Catholics; *e.g.*, to the Lutheran merchants in Venice, and not to the whole body of Evangelicals; to the Jews of Leghorn and Pisa and not to those of Tuscany in general, and there is not one which by an extensive concession to principle embraces all kinds of dissidents, so long as they are honest and upright.

We owe the first law relating to true religious liberty to a foreign ruler. This was the famous Patent of Toleration of Joseph II., which was published in Lombardy on May 30, 1782, but had been preceded already by other measures which were intended to prepare for the triumph of the noble cause. The Italian episcopate, as Frank, the historian of the

¹ Pertile, *op. cit.*, p. 218 *et seq.*; Scaduto, *op. cit.*, p. 495 *et seq.*

Patent, observes,¹ received it with special favour, and, by means of pastoral letters and sermons, warmly recommended the scrupulous observance of it to the clergy and faithful of their own dioceses. Thus the first and most expressive manifestation of assent to the liberal innovations came—to the eternal dishonour of lay thought—from Catholic ecclesiastics. But the clergy had already been predisposed by the reforms of Maria Theresa, and well understood the new episcopalist tendencies which had been proclaimed in the Austrian dominions by the Theological Faculty of the University of Pavia.

Some people, however, are doubtless already asking themselves the question: Why, if such an unusual liberal crop is chiefly due to the good seed sown by Febronian ideas, why, I repeat, were not similar results shown in Tuscany, where, under Leopold I., brother of Joseph II., exactly the same reforms were being introduced as in the Austrian dominions, and the Italian episcopalist movement found its most intense manifestation in the action of Bishop Scipione dei Ricci and the Synod of Pistoia?

Witte observes that both Leopold, and more particularly his adviser Scipione dei Ricci, although ecclesiastically unprejudiced, were, nevertheless, anxious firmly to maintain their orthodox character and remain within the fold of the Catholic Church, their object being to refute the charge brought against them by the authorities in Rome, of desiring, by means of their reforms, to open the way to the Lutheran heresy.² In my opinion, however, Scaduto more nearly touches the mark when, in regard to the

¹ Frank, *Das Toleranz-Patent Kaisers Josephs II.*, pp. 58–59, 146–147.

² Witte, *Das Evangelium in Italien*, Gotha, 1861, p. 13.

Patent of Joseph II., he says that "in Tuscany there was no pressing need of it, because the Jews were already in the enjoyment of its privileges, and there were very few other heterodox people, so that it was not worth while to provoke such a storm as broke out in Austria on the part of the Curialists. . . ." ¹ Leopold, in fact, did not fail loyally to respect the principles of toleration proclaimed by his brother as soon as he succeeded to the imperial throne. And in regard to Bishop Scipione dei Ricci, what a flood of light is thrown on his most intimate feelings by the simple fact that in his pastoral letter of 1783 he inserted an extract from the famous pastoral of the Bishop of Salzburg, issued in the preceding year, which related to the Patent, and which was declared by all the liberals in Austria, as we have seen, to be the finest thing in connection with toleration that a bishop had ever written!

As for the rest, not only the edict of Joseph II., but also the example of Bishop Scipione dei Ricci exercised, outside the Italian territories in which their action was more directly felt, an extensive influence on the development of ideas, directing them towards principles of toleration and liberty.

From the legislative point of view, however, the French rationalistic innovations and the laws of universal toleration, which were derived from them, had a much greater effect in Italy, owing to the much greater extent of the French conquests. The introduction of the new principles, however, was not accomplished here and there in Italy without serious opposition, enforced delays, and important attenuations.

¹ Scaduto, *Stato e Chiesa sotto Leopoldo I.*, Florence, 1885, p. 374.

The first Italian Constitution, modelled on the French Constitution of 1795, was that of the Cispadane Republic of March 27, 1797. In Art. 4 it said: "The Cispadane Republic preserves the religion of the Catholic Apostolic Roman Church. It does not permit the public exercise of any other religion. Only the Jews are permitted to continue the free and public exercise of their religion throughout this territory. It does not wish, however, that any citizen or inhabitant of this territory, so long as he is obedient to the laws, shall be molested on account of religious opinions."¹

The various dispositions of this Article, which are somewhat contradictory, are fully explained by the special conditions in the districts concerned. From the most ancient times there had been Jews in Bologna, Ferrara, Modena, and Reggio, by special permission of the Holy See, and it was natural that they should be granted every liberty. But there were absolutely no other non-Catholics, and especially no Protestants, and, therefore, equally natural was the general dislike, and the fear, on the part of the Church in particular, lest under the new régime they should come into the country and spread their doctrines. Hence those restrictions which, tacitly but none the less directly, were aimed at the Protestants. But the new ideas could not possibly permit the continued existence in those districts of inquisitorial proceedings against the liberty of thought; and hence the last clause of the Article.

Comparing the Constitution with the régime which

¹ "Raccolta degli Statuti politici proclamati in Italia e delle corrispondenti leggi elettorali," in *Bibl. dei Comuni ital.*, two vols., Torino, 1852; vol. i. p. 201.

had been introduced into Lombardy by the Patent of Joseph II., it is impossible not to recognise how serious would be the friction between the two systems which were derived from two developments so diverse as French rationalism and Austrian episcopalism. In the latter it is a believing legislator who, on account of his profound respect for the faith of others, assures, and by minute dispositions regulates, the exercise of those other specific religions which had shown themselves to be worthy of consideration besides the official religion; the liberty of individual disbelief is not taken into consideration. In the former it is a disbelieving legislator who is not concerned with the positive faith of others, and who, therefore, does not trouble about liberty of worship, respecting it only as a political necessity in so far as the established religions are concerned, but whose chief care is to guarantee for individuals the privilege of not believing, and that of withdrawing themselves from the observance of religious precepts.

In the successive constitutions the inspiring idea remains substantially the same.

The Constitution of the Cisalpine Republic of July 9, 1797, in fact, takes care, before everything else, to guarantee in Art. 354 the liberty of individual thought and the faculty to give expression by speech and writing to individual opinions. And the following Article No. 355 says: "No one can be impeded in the exercise of the religion he has chosen so long as he conforms to the laws. The executive power watches over the carrying out of the laws and prevents those ministers of any religion who prove themselves to be unworthy of the confidence of the Government from exercising their functions. No one

can be compelled to contribute to the support of any religion."¹

The provision in the second of these three clauses, which clearly betrays the French official malignity against the Catholic clergy, was omitted from the new Constitution of the Cisalpine Republic, which was revised by the French authorities and published on September 1, 1798, evidently in consequence of the disturbances which fear for the hereditary religion had caused in Lodi, Monza, Pavia, and other districts, such as Bologna, which, previously belonging to the Cispadane Republic, were now joined to the Cisalpine.² The new Constitution of the latter, after having sanctioned liberty of thought in Art. 348, proceeds in Art. 349 to state simply: "To everyone is guaranteed the free exercise of the religion which he has chosen, so long as he conforms to the laws. No one can be forced to contribute to the support of a religion."³

The great care which is taken here to safeguard liberty of worship is explained by the fact that in places which had formerly been under Austrian subjection it was impossible to turn back from the

¹ *Raccolta degli Statuti politici*, etc., pp. 142, 143. The French Constitution of 1795 said, on the contrary, as we have seen, that the State would not support any religion.

² Coppi, *Annali d'italia*, ii., Rome, 1829, s.a.o., 1797, n. 27, p. 128. To what extent the spirit of persecution against the Catholic Church, imported by the French into Italy, succeeded in Lombardy in preventing the favourable reception of the principle of religious liberty, is shown by many episodes and many writings of the time, in one of which it is said of the French that they put forward a constitution which tolerates every religion and the exercise of every form of worship and then destroy the churches and persecute the dominant religion. In regard to all this see Calligaris, "A Milano nel 1798," in *Arch. stor. Lombardo*, Anno xxv. (1898), series 3, vol. x. pp. 117-184.

³ *Raccolta degli Statuti*, i. p. 193.

point which had already been reached with the Patent of Joseph II.

But in the districts which were grouped together under the name of the Roman Republic and the Parthenopean Republic there were no such precedents, and no such measures were required, owing to the absence of non-Catholics. Hence the constitution of the former (March 20, 1798) after having sanctioned liberty of thought (Art. 344) in the same terms as the Constitution of the Cisalpine, is silent in regard to liberty of religion,¹ and the same is to be said of the Parthenopean Constitution of 1799² which was drafted by Mario Pagano but never promulgated.³

More characteristic than anything else, however, is what took place in the Ligurian Republic. There the provisional government had entrusted a commission, one of the members of which was Bishop Solari di Noli (the strenuous defender of the ideas of Scipione dei Ricci and the opponent of the Bull *Auctorem Fidei* by which the synod of Pistoia was condemned) with the task of preparing a draft constitution. In August 1797 the commission suggested the following Articles. Art. 4: "The Ligurian Republic preserves the Catholic religion and its public exercise." Art. 5: "It does not permit anyone to be molested on account of religious opinions, or because of the private exercise of other religions."⁴

But this provision, together with others relating to ecclesiastical properties, provided a section of the clergy with an opportunity for inducing the inhabitants

¹ *Op. cit.*, ii. p. 47.

² *Op. cit.*, ii. p. 114; Art. 398 guaranteed the liberty of thought.

³ Cf. Sclopis, *Storia della Legislaz. Ital.*, vol. iii. (or i. of the *History of the French Revolution*), Turin, 1864, p. 27.

⁴ Cf. *Progetto di Costit. per il popolo ligure, presentato al Governo provvisorio dalla Commissione governativa*, Genoa, 1797.

of the country to believe that an attempt was being made to undermine the religion of which they had at all times been most observant, and to stir them to an armed rising, which was suppressed with much bloodshed in the early days of September. Of no avail were the assurances of the other section of the clergy who were inclined to the principles of liberty, or some books on the subject which made their appearance about that time and of which we shall speak later. In order to tranquillise the minds of the population it was necessary, besides omitting some projected measures in regard to the properties of the Church, that it should be explicitly stated in Art. 4 of the Constitution of December 2, 1797, that "The Ligurian Republic preserves intact the Catholic religion, which it has professed for ages." Nothing is said about the liberty of other religions. Thus also the succeeding Constitution of June 29, 1802, stated simply in Art. 13: "The Catholic Apostolic Roman religion is the religion of the State."¹

This persistent silence with regard to the liberty of religions, which appears also in the Constitution of 1802, acquires importance from the fact that the new Constitution of the Italian Republic which, by a decree of the assemblies of Lyons to the Cisalpine with Bonaparte as president, succeeded, as is known, that Constitution of January 26, 1802, which served as a model for the Ligurian constitution, after having said in Art. 1, "The Catholic Apostolic Roman religion is the religion of the State,"² added, however,

¹ See *Raccolta degli Statuti*, i. 258; ii. p. 206. The same Art. 13, however, speaks of a future organic law of religions which appears to show an intention of reviving toleration. The annexation of Liguria to the French empire, which occurred three years later, removed all doubt.

² *Raccolta degli Statuti*, ii. p. 118.

in Art. 117, "The private exercise of his own religion is free to every inhabitant in the territory of the republic."¹

From this it is evident that the French also had learned to take into account the greater or less preparedness or inclination of the different Italian peoples for a régime of religious liberty.

Hence it is that while, for example, in the Constitution of Naples and Sicily of June 30, 1808, the system adopted in Liguria was maintained, that is to say, on the one hand the proclamation of the Catholic religion as the religion of the State (§ 1: Concerning Religion), and, on the other hand, absolute silence regarding liberty of religion, the same was not done, on the contrary, in the case of Piedmont. In 1802 the King of Etruria had made large concessions to the clergy and promised by means of legislation "to protect religion in the unity of dogma and discipline."

By a decree of December 19, 1798, the provisional government of Piedmont had already declared that the ordinaries were henceforth deprived of any *external coercive* power in regard to religious matters,² and by a decree of January 28 and 30, 1799, it consequently abolished the tribunals of the Inquisition,³ thus demonstrating once more that its chief pre-occupation was the liberty of the individual conscience.

The Government then turned its attention to the Waldenses, who had been able to captivate French sympathies, and abstained from any act of reprisals

¹ *Raccolta degli Statuti*, ii. p. 131.

² Cf. *Raccolta delle leggi, provvidenze, e manifesti, pubblicati dai Governi francese e provvisorio, e dalla Municipalità di Torino, unitamente alle lettere pastorali del citt. Arciv. di Torino*, Torino; Davico, p. 42, *Nuova Legislaz. del Piemonte*, etc., Ivrea, anno xiii. (1805), i. p. 25.

³ *Raccolta delle leggi*, p. 183 *et seq.*; *Nuova Legislaz.*, i. p. 44.

against the fugitives of that nation during the vicissitudes of their military position in Piedmont in the last years of the century, and a decree of December 31, 1798, abrogated all the privileges granted by the late Government to the Catholics and the converts of the valleys because, it stated, "diversity of religion should not introduce among a free people any difference either of rights or of the duties between one citizen and another."¹ A subsequent decree of November 19, 1800, granted to them the property of the Hospice of the Catechumens of Pinerolo, which the Catholics had built there for the purpose of propaganda and conversions, which were too often compulsory.²

A provision applying generally to all religions, and one of much wider range, was that of the Law, which was discussed by the Consulta of Piedmont on October 21, 1800, on the proposal of the executive commission, and published by the latter on October 25. Owing to its incisive terms it is worth while to give the text of this law as a conclusion:—

"The Consulta of Piedmont." etc.. "Considering, 1, that the exclusion of anyone from the exercise of civil rights is repugnant to the principles of liberty and equality; 2, that the free exercise of equal rights forms the basis of social strength, promotes the perfection of the sciences and arts, and while favouring commerce, assures the defence of the State; 3, that the law of the late Government condemned

¹ *Raccolta delle leggi*, p. 89; *Nuova Legislaz.*, i. p. 33. Art. 18 of the law of December 19, 1798, had already laid down that "Diversity of religion shall not henceforth be an obstacle to the acquisition of property; all laws to the contrary are revoked."

² *Raccolta di leggi, decreti, proclami, manifesti, circolari, etc., delle autorità costituite*, vol. ii., Torino: Davico and Piceo, p. 165 *et seq.*; *Nuova Legislaz.*, i. p. 235.

to degradation a portion of the people born and brought up on the soil which we inhabit: decrees, 1, diversity of religion shall not henceforth cause any distinction between one individual and another in the exercise of civil rights or in the fulfilment of social duties; 2, all the laws, decrees, and provisions contrary to the present are abrogated.”¹

Piedmont also, which was shortly afterwards united to France, was placed under the imperial Napoleonic legislation in regard to religion, of which we shall speak in the following chapter.²

B. THE ITALIAN LITERARY MOVEMENT.

During the furious storms of the Catholic reaction Italy certainly did not lack independent and heterodox writers, and even martyrs, in the cause of liberty of thought. This company, by no means small, naturally found occasion to censure the terrible doctrine justifying the compulsion which was exercised on their consciences. As early as July 3, 1553, Matteo di Aversa, before the fathers of the Inquisition, made profession of this heretical opinion: “I hold the belief that heretics should not be burned but *vivant et convertantur*.”³ Giordano Bruno, according to one of his biographers, took a dislike to the Calvinists during his sojourn in Geneva in 1577 precisely because he “was unable to adapt

¹ *Raccolta di leggi, decreti, proclami, cit.*, ii. p. 100; *Nuova Legislaz.*, i. p. 226.

² Meanwhile the Protestants and the Jews had a church in each one of the principal places where their communities were to be found. In Turin the Church of the Trinity was assigned to the former. Cf. Morardo, *La Chiesa subalpina nell'anno xii. della Repubblica francese*, Torino, anno x. (1808), p. 17 *et seq.*

³ Cf. Bruto Amante, *Giulia Gonzaga contessa di Fondi e il movimento religioso femminile nel secolo, xvi.*, Bologna, 1896, p. 235.

himself to their doctrine by which power was granted to the State to punish with the sword those who dissented from the approved dogmas.”¹

It would not be difficult to collect a long series of similar quotations.

But from this current of unprejudiced and rebellious thought there never arose, either then or in the subsequent centuries, until the second half of the eighteenth century, an explicit and conscious affirmation of the liberty of beliefs and worship, and therefore we have no literature of religious liberty to compare with the contemporary foreign literature.

On the other hand, we have a large body of writings in which religious toleration is opposed, but of these, in view of the purpose of our work, we shall not speak except in the case of a name which is too dear to Italians to be passed over in silence. I refer to Ludovico Antonio Muratori.

In 1709 he was contemplating the publication in Italy of one of his works which afterwards, fearing that it would be placed on the *Index*, he decided to print in France, and under an assumed name.² It was entitled *Della moderazione degli spiriti nelle cose di religione*.

The title, however, is not to be understood, as is done by some people, in the sense that Muratori recommends moderation in the matter of religion to the fanatics, but in the opposite sense, namely, as a recommendation to the free spirits to observe moderation in their theological speculations. This, however, does not imply, as, indeed, transpires from the preface, that Muratori's mind had not been disturbed by the suspicion that in a country like Italy, and at that

¹ Berti, *Giordano Bruno da Nola*, Turin, 1889, p. 99.

² Lamindi Pritanii, *De ingeniorum moderatione in religionis negotio*, Lutetiae Parisiorum, 1714.

particular time, it was not perhaps more appropriate to speak *de ingeniorum libertate* and to use, as he says, spurs rather than reins upon the Italian minds of that day. But his polemical fervour against the Protestants induced him to adopt the negative rather than the positive point of view, and he was inspired chiefly by the reason which gave origin to the book, that is to say, the intention of refuting what the Arminian theologian Jean le Clerc, under the pseudonym of *Johannus Phereponus*, had written against the teaching of St Augustine, and particularly against his famous theory of persecution.

Let us be clearly understood ; the breadth of view which is to be found in all the other writings of Muratori on the religious question is not wanting in this work.¹ The precautions which he took in publishing it, the diatribes of the intransigents which rained upon him, and the fact that he did not avoid the greatly feared *Index* except out of regard for Benedict XIV.,² are more than sufficient proof of this assertion. But his heterodox hardihood is traced in other parts of the extremely varied contents of the great volume, not in Chapters VII., VIII., IX., X., XI., XII., XIII. of Book II., which are those in which he treats of our question. In the first of the chapters mentioned he defends point by point the genuine Augustinian theory against the blows which, amongst thousands of others, had been struck at it by Le Clerc, and he is not able to take a single step outside the vicious circle within which the thought of Augustine gyrates, and in which the official

¹ Cf. Landau, *Geschichte der italienischen Litteratur im achtzehnten Jahrhundert*, Berlin, 1899, p. 72 *et seq.*

² Cf. Rensch, *Der Index der verbotenen Bücher. Ein Beitrag zur Kirchen- und Litteraturgeschichte*, Bonn, 1885, ii. pp. 839-847 ; Cantù, *Gli Eretici d' Italia*, ii., Turin, 1866, p. 302 ; Landau, *op. cit.*, p. 74.

doctrine of the Catholic Church continues to enclose itself. With the most deplorable sterility of argument he maintains that coercion or persecution is unjust if it is undertaken in the name of error, that is to say, by any belief except the Catholic, but just, on the contrary, and rightful when undertaken in the name of the Catholic Church, which is the depositary of truth. Proceeding in Chapter XIII. to examine the practical consequences of these premises, Muratori, a remarkably gentle man, does not hesitate to recognise the right of a secular prince to go to the length of capital punishment against those whom the ecclesiastical authorities point out to him as inveterate and incorrigible heretics. He would only desire that, following the example of St Augustine, the clergy, after having denounced the guilty, should be persistent in recommending the prince to show mercy, and should do so *Semper ex animo, et non interdum ex consuetudine*. He would also prefer that greater consideration were shown for the Gentiles, Mohammedans, Jews, and non-Christians in general, since they cannot be regarded as traitors, felons, renegades from the true faith; that, as regards the Christians, care should be taken to distinguish the various species of heresy, and that indulgence should be shown to those who were born in error. Finally, he would desire that the charge of being heretical should not be too lightly brought against individual opinions in philosophy, history, astronomy, and even in theology, which diverge slightly from the prevailing teaching. All this, it cannot honestly be denied, does not amount to much,¹ but perhaps one could not honestly

¹ And, as will be understood, it was attacked upon this point; e.g., Lud. Antonii Muratorii, *Comment de iure summorum imperatorum in religionem et conscientiam civium*, Berol., 1748, *recus. cum refutatione*, 1757.

ask more from a Catholic ecclesiastic of that time and of that country, when a lay contemporary, Giambattista Vico, the greatest philosopher then living in Italy, carried away, as Ferrari¹ well says, by the gravitation of his system, ended by affirming the paradoxical and monstrous principle that "the nations, unless they are steeped in the utmost liberty of religion, which does not happen except in the last days of their decadence, are naturally cautious about receiving foreign deities."²

This outburst of ill-humour against religious liberty gradually became epidemic in the course of the century amongst our writers.³ Is there not, for example, something grotesque in this tirade of Spedalieri, who loudly proclaims that the philosophers "have laboured for many years to inspire not only the peoples but even the rulers with the fanaticism of toleration"?

It is therefore extremely fortunate that at the beginning of the century we meet with at least those splendid *Discorsi* (XIV., XV., XVI., and XVII.), on the Annals of Livy which poor Giannone wrote in prison, whither he had been sent by Catholic intransigence, and where he died. They contain such a warm advocacy of the tolerant ecclesiastical policy of the Romans, and such an eloquent demonstration

¹ Ferrari, *Prefaz. ai Principii di una Scienza nuova*, ed. Classici ital., n. 155, Milan, 1844, p. 7, but more particularly in the Naples edition, 1859.

² Vico, *Principii di una Scienza nuova*, lib. ii., *Della Sapienza poetica*, § *Dell' Astronomia poetica*, ed. dei Classici ital., p. 424.

³ Landau, *Geschichte der ital. Litteratur im XVIII. Jahrh., s.l.*, says that the Church "in its unlimited predominance for two centuries had acquired such a mastery over all minds and had impregnated them so completely with its intolerance, that in the writings of such men as Apostolo Zeno, Fontanini, Muratori, indeed, in the second half of the century in the case of Gozzi and Verri, manifestations are to be found of intolerance against the Protestants and other heretics."

of the character and the motive (not exactly religious) of their persecutions of the Christians, that they throw the highest light upon his intimate liberal convictions, and would have furnished to enlightened minds the material for inferences full of instruction drawn from ancient and modern times.¹

But if, after him, one searches for another advocate of the same ideas, one will only find brief, scattered, and incidental references made by those unprejudiced Italian writers who, more fortunate than Giannone, succeeded in finding a refuge abroad amongst foreigners, from whom they derived the various conceptions of religious liberty which happened to be dominant. I mention some of the more remarkable.

The Piedmontese Count Alberto Radicati di Pesserano e Cocconato, a friend of the most illustrious English freethinkers of the beginning of the century, reproduces in his writings their somewhat contemptuous manner of regarding religion, and in the parts which concern our subject supports his argument by English quotations, particularly from Collins. He relies, in fact, upon the latter's book on the liberty

¹ Giannone, *Opere inedite*, vol. i. : "Discorsi storici e politici sopra gli Annali di Tito Livio," Turin, 1859, pp. 390-460. This praising of the toleration of the Romans was an expedient to which other Italian writers subsequently resorted when they were unable directly to attack contemporary intolerance. This had already been done by Doria (*La Vita civile*, 1710; in regard to him see Landau, *op. cit.*, p. 114 *et seq.*), as he did not dare openly to express his tolerant opinion; and many years later, in the *Saggio sopra la politica e la legislazione Romana* of the Conte B—— di C——, *s.l.*, 1772 (the author is the Conte G. Ugo Botton di Castellamonte), cap. xiii. p. 110, after having praised the decision of the Roman Senate that offences against the gods should be left for the gods to punish, the author exclaims that this maxim should be engraved on the heart of every legislator. Regarding Botton and his book see Cavalli, "La Scienza politica in Italia," in *Memorie dell' Istituto Veneto*, vol. xx. (1876) p. 101 *et seq.*; Carutti, *Storia della Corte di Savoia durante la Rivoluz. francese*, Turin, 1892, ii. pp. 3, 4.

of thought, when he attacks the persecuting doctrine of the *compelle intrare*.¹

Marchese Giuseppe Gorani of Milan, on the other hand, is full of German ideas and citations which he learned during his sojourn in Germany, from his intercourse with the deists of that country. In one of his works he advocates complete liberty of thought and writing,² and in another he places the toleration of any religion amongst the four expedients which he advises the sovereign to adopt against sacerdotal tyranny.³

Carlantonio Pilati, of Trent, is perhaps the most diffuse and radical of our writers on this subject, and this may easily be understood in view of his native town and the stormy incidents of his life. He devotes to our subject a chapter, "Della tolleranza in punto di religione,"⁴ and begins by firing a broadside against the Inquisition, which, he says, had driven all the best intellects from Italy, greatly to the detriment of all the arts and industries. And he continues: "Now it is impossible to remedy all these misfortunes except by tolerating every religion and permitting everyone to do as he pleases in this

¹ A. Radicati, Comte de Pesserano, *Recueil de pièces curieuses sur les matières les plus intéressantes*, Rotterdam, 1736, Disc. IV. pp. 71-73; Disc. I. p. 25. Cf. concerning him, Cantù, *op. cit.*, iii. p. 422 *et seq.*; Cavalli, *op. cit.*, vol. xix. (1876) p. 60; Reusch, *op. cit.*, ii. p. 874.

² [Anon.] *La Scienza del Governo*, Lausanne, 1778, xi. c. 62, p. 290 *et seq.* Cf. concerning him, Cantù, iii. 391; Cavalli, xx. (1876), 552; Reusch, ii. 991; Landau, p. 205 *et seq.*

³ [Anon.] *Il vero dispotismo*, London (in reality Milan), 1770.

⁴ [Anon.] *Di una Riforma d' Italia, ossia dei mezzi di riformare i più cattivi costumi e le più perniciose leggi d'Italia*, Villafranca (in reality Venice), 1767; 2nd ed. in two vols., 1770; another edit. in three vols., London (Lugano), 1786, with notes; Paris, anno iv.; concerning him see Cantù, iii. 388; Cavalli, xx. 512; Reusch, ii. 922; Landau, p. 191 *et seq.*

matter, so long as he abstains from causing evil and disseminating doctrines which are contrary to the moral virtues and the welfare of the State." Then he expresses the singular opinion that "the diversity of equally tolerated religions produces indifference, indifference produces peace and quietness, and reciprocal love." He proceeds to say that every religion, so long as it is moral, is good and worthy of respect; that God alone should be the judge of theological error; and that religion cannot be imposed except by persuasion, and he recalls the example of the Fathers of the Primitive Church.

Pilati appeals to the same example in another work published the following year,¹ illustrating it with numerous citations from ecclesiastical writers who were opposed to forced conversions. He says that the ruler is not right in not granting the free exercise of its religion to every society which does not teach or profess doctrines opposed either to the rights of the sovereign or the welfare of the people; but at the same time he attributes to the prince a very wide faculty in judging of this matter, and an absolute discretionary power to reject or admit a religion on the basis of such judgment, and to interfere in the organisation of ecclesiastical affairs. By this it can be seen how fully he understood those ideas which formed the basis of the great Austrian reforms under Maria Theresa and Joseph II.

But if these and various other Italian writers have pushed their speculations very far into the field of religious liberty, they were absolutely wanting, so

¹ [Anon.] *Riflessioni di un Italiano sopra la Chiesa in generale, sopra il clero sì regolare che secolare, sopra i Vescovi ed i Pontefici romani e sopra i diritti ecclesiastici dei principi*, Borgo Francone (Venezia), 1768, pp. 216 *et seq.*, 287 *et seq.*

far as we have been able to discover, in a perception of the timeliness with which an apposite work on the great question would have come from the Italian side to enlighten the minds of the period, to release them from the traditional narrowness, and point out the only road towards a truly fertile awakening in the sciences and the whole of social life.

Such a work did not appear in Italy until after the publication of the Patent of Toleration of Joseph II., and on its direct inspiration. The exact title of the work is: Thaddaei, S. R. I., comitis de Trautmansdorf (Metropolitanae ecclesiae Olomucensis canonici, Imperialis collegii germ. et hung. Ticinensis alumni), *De Tolerantia ecclesiastica et civili. Ad Josephum II. Augustum. Ticini, in typographeo Petri Galeatii, Praesid, Rei litter, permitt. Anno MDCCLXXXIII.*¹

Trautmansdorf is not a pseudonym but the name of a young canon of Olmütz, then a student at Pavia. But the prelates of Rome were far too astute to allow themselves to be beguiled into attributing such a work to him, and in their *Giornale Ecclesiastico*, immediately after the publication of the book, they designated Giuseppe Zola and Pietro Tamburini as the authors. The latter were two of the celebrated professors of the Theological Faculty of Pavia, two of the most strenuous champions of episcopalist ideas in Italy. Tamburini indeed, together with Vincenzo Palmieri, of whom we shall have something to say later, was subsequently the compiler of the decrees of the famous Synod of Pistoia of 1786.²

¹ There are 14 pages consisting of a dedication to the emperor and index, and 367 pages of text. In an appendix of 14 pages are the theses which Trautmansdorf presented in order to obtain the doctorate of theology at the University of Pavia on July 5, 1783.

² Cf. De Potter, *Vie et mémoires de Scipion de Ricci*, Paris, 1826, tom. ii. p. 232; Reusch, *op. cit.*, p. 967.

After that the matter remained in a state of simple supposition based upon the indications which the author gives in his preface of the assistance afforded him by the two professors (p. ix.), and conversely upon the allusion which Tamburini made to the book in one of his subsequent works¹ as well as upon other similar but indecisive indications.² Reusch has finally placed the question beyond doubt.³ He tells us that when in 1795 Trautmansdorf was about to be appointed bishop of Königgrätz, Pope Pius VI. declared he could not confirm the appointment on account of that book. The Austrian ambassador Herzan arranged the matter by means of a declaration on the part of Trautmansdorf, in which the latter gave an assurance that he had had no hand in the book except in so far as it had been printed at his expense and under his name.

We have, accordingly, to take account of the book as an Italian production. And it is worth while. The value of the work is sufficiently shown by the number of times it was reprinted and translated,⁴ by the great success with which it met outside Italy, and especially in Belgium, and by the praise which a most competent critic, Lecky, bestowed upon it as one of the most notable books which a Catholic ecclesiastic had published in favour of toleration in the eighteenth century.⁵

¹ Tamburini, *Lezione di Filosofia morale*, tom. iv., Pavia, 1806, Lez. xvi. p. 101.

² Thus *Dizionario delle opere anonime e pseudonime di scrittori italiani*, di G. M(elzi), Milano, 1859, tom. iii. p. 167; Cantù, *op. cit.*, iii. p. 467.

³ Reusch, *Der Index*, etc., pp. 956, 964.

⁴ In 1784 it was reprinted in Ghent; in 1785 an Italian edition was published in Modena; and a French translation was published in 1796.

⁵ Lecky, *History of the Spirit of Rationalism in Europe*, cap. iv.,

In all this there is no occasion for surprise in view of the learning and the character of the authors. Perhaps the greater merit for the work is to be attributed to Tamburini. It was he who took up the defence of the book against the violent attacks of Cuccagni,¹ whom he refuted in an anonymous production,² and it was he again who in his *Lezioni di Filosofia morale* openly supported the same theories, appealing to the now famous tractate *De Tolerantia*.

Its contents are as follows. It begins (Cap. I.) with a review of the various meanings which are attached to the word *toleration*, and draws a distinction between *ecclesiastical* and *civil toleration*, the first of which belongs to the Church and consists in the administration of the sacraments, while the second depends upon the prince and consists in the enjoyment of the rights of civil society.

In regard to the first, he combats in two chapters (II. and III.) the opinions of the heretical sects, and particularly those of the more rationalistic among them, such as the Arminians and Socinians, according to whom no importance should be attached to dogmatic differences, and even the most fantastic deviations from the orthodox teaching should be received into the ecclesiastical community.

however, believes that it was by Trautsmendorf. It is strange that Frank, who is otherwise so painstaking, does not include it in his review of the writings which were called forth by the Austrian Patent of Toleration.

¹ In the book dedicated to a nephew of Pope Pius VI., *De mutuis Ecclesiae et Imperii officiis erga religionem et publ. tranquillitatem tractatus*; and afterwards in a work added to the book already mentioned: *Laminii theologi Argivi, ad Tadd, comit. de Trautsmansdorf, contra librum De Tolerantia, epistolae tres*, Roma, 1785.

² *Riflessioni del Teologo Piacentino sul libro dell' abate Cuccagni: De mutuis, etc.* Piacenza, 1785.

Let us remember—in order to understand in its proper sense this opposition to the standard-bearers of toleration—that the writer was a Catholic ecclesiastic; hence it was only too natural that he should be anxious, in the first place, to affirm the perfect conformity of his belief with the dictates of the Church in regard to dogma, especially as he was on the point of detaching himself not less clearly from those in regard to discipline. And this, on the other hand, far from diminishing the value of the subsequent demonstration of the necessity of toleration, greatly increased its strength; since the assent to it, coming from a convinced and scrupulous believer, is far more valuable than that coming from a disbeliever.

The succeeding chapter (IV.) hastens, indeed, to lay down that the Church should tolerate many things for the love of peace and for the sake of that unity of which she is the depositary, rather than break the peace with those who disagree with a few points of her teaching. The five following chapters (V.–IX.) demonstrate acutely and with much erudition what an amount of mildness and patience towards wanderers or heretics and towards strangers and infidels was contained in the pure doctrine and the genuine tradition of the Church at all times; and this affords the writer an opportunity for bewailing and reproaching the manner in which the dissidents of the Church of Utrecht had been treated. From these considerations a natural transition is made to the subject of Chapter X., in which it is demonstrated that nothing is more contrary to the spirit of the Church of Christ than the power of material coercion which the intolerants would like to assign to it. The writer confesses that he has never been able to understand how such an opinion was able to arise

and spread and obtain the support of so many pious and learned men, and finally to become imposed as the official ecclesiastical and civil doctrine; and he says it can only be explained by the fact that this opinion appeared in times of greater barbarity when the Church was compelled to fashion itself in many matters upon the existing political institution and accept many antichristian elements. This is a profound and striking observation which we do not remember having met with previously.

In a manner which recalls that of Locke and the German writers on natural law, he clearly separates the Church's sphere of action from that of the State: any intermingling of the spiritual with temporal things can only have the effect of altering the nature of the two institutions. Thus it is wrong to argue, as is done by some writers—Muratori, for example—from the fact that the sovereign punishes and condemns to death rebels and those who betray the State, that the Church should also be able to punish those who attempt to withdraw themselves from her power. The Church, on the contrary, can only deprive them of the benefits which she herself confers, and these do not include liberty, personal integrity, the possession of property, or the enjoyment of political and civil rights.

In this and in the succeeding chapter (XI.) the writer proceeds to show that both in the ancient Church and subsequently there is an abundance of testimony against the theory of persecution. When he is discussing St Augustine he endeavours to acquit him of the charges which are brought by his critics, especially by Bayle, and to show that the principle laid down by him must not be taken as a general and perpetual maxim against all the dissi-

dents—as a maxim, that is to say, justified merely by their erroneous religious conviction—but only as an expedient of the movement against the Donatists and those heretics who were the first to render themselves guilty of intolerance, and therefore as an expedient which was called forth by socially dangerous opinions and the disturbances caused thereby (Chap. XII.).

We shall not say that the defence of St Augustine was as successful as that made by Muratori, of which we have already spoken; the important thing is the intention, which, in the case of Muratori, is to show that Augustine did well in being intolerant, while in the present case it is to show that Augustine was tolerant in every phase of his much-discussed conduct.

Chapter XIII. is a vigorous attack upon the tribunals of the Inquisition, and a defence of those princes who banished them from their States. Both the attack and the defence are carried on with a courage and a warmth for which one could search in vain for a parallel in other Catholic ecclesiastics before it was not long ago, as we have seen, offered by Cardinal Gibbons.

A discussion of civil toleration begins in the following chapter. The starting-point is the same as that of all the writers on natural law. A society of men has no other *raison d'être* except that of making the best provision for their security and happiness. The person, therefore, whether individual or collective, to whom the members of the society delegate the exercise of public authority, cannot have more extensive powers than those required for the two objects mentioned. Can the so-called *iura in sacra*—that is to say, the faculty of looking after ecclesiastical affairs—be included among these powers? Undoubtedly, in view of the close connection which

exists between religion and the welfare of society. And here the author, who, in his ideas and terminology, has already shown that he is deeply versed in the German literature on the subject, adopts as his own one of the leading principles of German doctrine, and, showing that he has completely understood the spirit of the reforms suggested by Febronius and realised by the Austrian princes, he establishes the necessity of such *iura regiae maiestatis in sacra* and the basis which is to be found for them both in Mosaic and Roman law, as well as in all subsequent codes.

But in what form and to what extent shall the prince exercise such rights in the matter of religion? The answer to this question forms the subject of Chapter XV., in which the author, reverting to the principle laid down at the beginning of the treatise, maintains that the sovereign should only make provision for whatever affects public security. There are actions by individuals, which, although vicious, do not injure any public or private right; they constitute a moral, not a civil transgression. These, accordingly, do not come under the action of the sovereign, and amongst them are errors of opinion and every form of heresy. The latter may threaten public security under two aspects: *Ratione habita erroris*, or *ratione habita errantis*. If the error is of such a nature that it tends to the overthrow of the social virtues, the royal rights, the sanctity of the laws (and the writer does not hesitate to include atheism among such errors), then the ruler not only can but must repress it. If, however, a person who errs, apart from the dangerousness of his error, conducts himself in such a manner as to become a source of anxiety, a persecutor or disturber of society and the dominant public religion (and the

writer includes heretical propaganda amongst such censurable proceedings), then the ruler not only can but must coerce him. But the gentle author hastens to add that all this is to be done with great discernment, discretion, and patience, bearing always in mind that only the civil transgression is to be punished, since the punishment of the moral transgression is within the competence of God alone. And it must always be remembered that if the diversity of religions can cause any confusion, greater confusion still is caused by the vain disputations of theologians and the spirit of persecution. There is no need for seditions and massacres on the pretext of preventing others committing such acts. This is a matter to which attention should be given by those who rule over several nations of diverse faiths. In the observance of sworn compacts or in the maintenance of concessions granted, they should not allow themselves to be swayed by the suggestions of an intolerant clergy or even by the threats of Pontiffs.

These and other minor questions and refutations of adverse arguments are discussed separately in Chapter XVI., the last, which finishes with a warm defence of Joseph II. and his edict, of which a translation is given.

The conception of religious liberty contained in the book is precisely that of the edict—an official or dominant religion, provided with all privileges, strong in the favour and protection of the prince; but side by side with it a wide toleration of honest and pacific religions. But what one admires more than anything else in the book is the serenity of the reasoning, the moderation and urbanity of the controversial method, whether it is conducted against the Protestant rationalists or against the intolerant Catholics, and,

finally, a breath of vigorous philosophy and a throb of love for mankind which we do not remember meeting with elsewhere, except in Locke's famous letter and in the writings of Vinet.

The doctrines professed a few years later by Tamburini in the *Lezione* already mentioned, agree, often verbally, with what has just been discussed, of which, indeed, here and there, they mark an ulterior elaboration in a more liberal sense. He lays greater stress, for example, on the limits for the action of the prince which are to be deduced from the idea of public utility, and less importance is given, on the contrary, to the dominant religion; and if atheism is opposed, there is at the same time a very symptomatic indication of the disputes which were, and still are, carried on in regard to the civil toleration which is to be accorded also to it.¹

The wave of French innovations had passed over the stratum of episcopal ideas, and not without leaving some trace behind, in spite of the essential difference between the two tendencies.

The same phenomenon is displayed to a much greater extent in that company of Ligurian Jansenists, or Episcopalists, who had grouped themselves around Bishop Solari di Noli with the idea, in the first place, of defending the reforms which, in Italy, had found their principal champion in Bishop Scipione dei Ricci, and then to strive for harmony between religion and the French liberties.²

¹ Tamburini, *Introduz. allo studio della Filosofia morale. col Prospetto di un corso sulla medesima e dei Diritti dell' uomo e della società*, vol. i., Pavia, 1803; Prospect, cap. ii. n. 38, p. 201; and vol. iv., Pavia, 1806; *Lez.*, xvi. p. 90 *et seq.*

² In regard to these see Bigoni, "La caduta della Repubblica di Genova," in *Giornale Ligustico*, 1897, p. 251 *seq.*; De Gubernatis, *Eustacchio Degola, il clero costituzionale e la conversione della famiglia Manzoni*, Firenze, 1882.

It has already been seen that in Liguria the introduction of the principle of toleration of religions had, together with other ecclesiastical reforms, stirred up the bitterest conflict which Italian history of that period records. As might be expected, the conflict found a distinct echo in the writings of the time, of which—among those, of course, which advocate toleration, for it is not my purpose to speak of the others—I find recorded works by Davide Morchio, Giacomo Massa, etc. But I have not been able to trace them, and this is unfortunate, because the first named has undoubtedly contributed an ardent glorification of the most unlimited liberty of conscience and worship to the great controversy.

Very notable is a pamphlet by Gian Felice Calleri in the form of *Lettera apologetica della commissione legislativa, s.l., et a* (Genoa, 1797).

He defends the proposed Constitution against the criticisms of the priest Giuseppe Maria Cerisola, which relate chiefly to the provisions of Articles 4 and 5 of that project. The writer reminds the ecclesiastic of the Christian precepts of charity towards those who err, and the maxims of toleration which follow therefrom, and admonishes him not to excite the religious fanaticism of the masses, which is more unbridled and dangerous than any atheistic or unbelieving doctrine. He denies that the protection of princes has ever been to the advantage of Christianity, and refutes the arguments which are usually adopted to demonstrate that the rulers must use force in preventing their subjects from throwing away their salvation and dragging others to perdition. He advocates liberty of thought, and observes that if in England, where it had been in vigour for a long time, it produced a great number of sects, on the other hand it gave

occasion at the same time for splendid defences of Christianity. As for liberty of worship, he admits that publicity is not an essential and necessary circumstance for its existence, although the concession of its private exercise is indispensable. In any case it can be left to political prudence to decide whether public or only private exercise is to be conceded. Proceeding to apply these principles to the peculiar conditions of the Genoese Republic, Calleri shrewdly observes that there is something frivolous about the whole dispute so far as the Republic is concerned. For the stronger minds "will never inconvenience the Government on account of the public exercise of a religion, when in reality they have none." And he adds: "If the question is transferred to those foreigners of a different communion who frequent our ports for commercial motives, it is equally inopportune, for so long as Genoa has had commercial relations with different places which do not recognise our religion, so long as Protestant ships have sailed our sea, nobody, so far as I know, has asked us for a temple in which to hear the preaching of a minister or to celebrate the Lord's Supper. But when the welfare of the nation should demand, what it certainly does not demand at present, namely, the public toleration of the Protestant religion, I see no reason why a great fuss should be made about it" (p. 38). Are not the Jews tolerated everywhere, even in Rome itself? Have they not more important engagements with us even than the Reformers? But atheism? The writer says he is unable to imagine that a real atheist exists; but, in any case, if he confine himself to the pacific expression of his ideas, why not tolerate him? It would be different if he agitated, attacked, or offended the dominant religion. In that case he

should be made responsible for the harm done to the community.

This wise, courageous, and well-written book closes with a short but pregnant review of the historical vicissitudes of toleration, and with an examination of the proposed Ligurian Constitution.

In the book of the Oratorian Vincenzo Palmieri, a Genoese, is reflected a phase of the question of toleration which is not only new but most interesting, both in relation to Liguria in particular, and Italy in general. Palmieri had occupied a chair at the University of Pavia. He had been, together with Tamburini, a compiler of the decrees of the Synod of Pistoia, and in 1797 had returned to his own district, where he entered with Solari, Degola, Molinelli, and other Genoese constitutional priests into the most intimate community of ideas and intentions. It will be understood that his conception of religious liberty as presented in his book (which, after the treatise of Zola and Tamburini, *De Tolerantia*, is undoubtedly the most thoughtful and broad-minded work on the question that our literature contains) corresponds fundamentally with that of the other Italian Jansenists or Episcopalists, and particularly of the writers of the celebrated treatise. But the tone is altogether different—calm, moderate, benevolent, as we have seen in the latter; vivacious and at times vehement and aggressive in Palmieri, the result of a different character as well as of changed conditions. The greatest difference consists precisely in this: Zola and Tamburini advocated the tolerant ideas of the liberal Catholics as against the intransigence of the Curialist Catholics; the task of Palmieri is entirely different, the space of fifteen years has radically changed it; he has to advocate

the same ideas against new adversaries, that is to say, against the Italian innovators who were infatuated by the French antireligious principles.

The two currents of which we have already shown, when speaking of legislation, both the diverse origin and the different composition, meet in him. On the one side is the semi-tolerant believer of the Austrian type, and on the other the semi-tolerant disbeliever of the French type.

Among the representatives of the latter type, so far, at least, as I am able to deduce from the references of others, were in Liguria, Davide Morchio, already mentioned, and in Lombardy, Giuseppe Poggi of Piacenza, author of the anonymous work *Il Repubblicano Evangelico*. Milan, 1797.¹

Their fundamental idea is that in a Constitution no mention should be made of religion, since in all times it has been the greatest usurper of the governing power and the destroyer of the natural liberties of the Government. Hence the new order of things absolutely prohibits the sanction of something, in any sense, in the matter of faith, which should be left absolutely to the choice of individuals and their conscience. In practice Morchio contended, while the famous Ligurian Constitution was being drafted, that the sovereign Genoese nation had the right to proclaim the Catholic religion as the religion of the State; and the evangelical Republican quarrelled with the legislators of the Assembly of Modena, because, as he said, in their Constitution for the Cispadane Republic "they had been able to bring together two opposite extremes—dominant religion and toleration."

¹ The attribution is made by Melzi, *Dizionario delle opere anonime*, Milan, 1859.

It is, therefore, pure separatism which makes its appearance amongst us in such writings, but, let us be clearly understood, a separatist system on the French model, a child of disbelief, born of hostility to and distrust, open or concealed, of Catholicism. For in the works mentioned there is no dissimulation of the fear that Christian and religious ideas in general may pervert the Republican virtues and bring about the degeneration of the new principles.

In other innovators of the French type such as Ranza¹ the antichristian spirit is displayed in a much more unbridled manner; but, precisely as had happened already amongst the strong minds of England and France, with bursts of intolerance which might almost be called impulsive. Ranza himself, to say nothing of the others, answered the request which was addressed to the National Assembly by the Jews by saying that they ought to be excluded from religious liberty until they had given up the exercise of usury.²

It will readily be understood that harmony between these innovators and the liberal Catholics could not last long. The prelates of Rome purposely embraced revolutionaries and episcopalists in one and the same aversion, and in their *Giornale Ecclesiastico* they designated Ranza as a pupil of the theologians of Pavia; Reusch maintains that this is the same as calling Voltaire a pupil of the Jesuits.³ The fact is that Palmieri started a controversy with Ranza, and,

¹ Cf. Roberti, "Il Cittadino Ranza," in *Miscellanea di storia Italiana*, xxix. p. 54.

² Cf. Ferrero, "Alcune dimostrazioni antisemitiche subalpine nel secolo passato," in *Curiosità e Ricerche di Storia subalpinam Puntata*, xix. pp. 390-392.

³ Reusch, *Der Index*, etc., ii. p. 1016 *et seq.*

to return to our subject, directed his book on toleration against the French rationalistic current.

He published it, like some of his other works, under the pseudonym of "Niceta Tiro," pretending that the publisher was his friend Fenicio, and gave it the title *La Libertà e la Legge, considerate nella Libertà delle opinioni e nella Toleranza dei culti Libertose*, Genova stamperia Ogliati, 1798.¹

The pivot of all his reasoning is this: No society can be governed without a clear and distinct idea of what is just and right, which it cannot have without a belief in the existence of a Supreme Being. This belief can and must be laid down as the constitutional basis of every society. The society has, therefore, the right to choose a special and determined system of religious worship, because if it is lawful for each individual to do this, it must *a fortiori* be lawful for the collection of individuals, that is to say, the State. A well-organised society can have a *dominant religion*, which is not the same thing as an *intolerant religion*; for *dominant religion* and *toleration* do not represent, as is claimed by the more advanced innovators, two antithetical terms, but are, on the contrary, the very essence of every true religion, entirely spiritual, and opposed to any compulsion. The dominant religion, however, as being that of the majority in the State, can alone claim public exercise and relegate all the others to private exercise; and thus it can claim for itself the right of education. The supervision of the press, the liberty of which must not be without restraint, is entrusted, on the contrary, to an appropriate tribunal,

¹ There are 15 pages addressed by the publisher to the reader, and by the author to the publisher; and 342 pages of text and index. The work is divided into 44 short chapters and a conclusion.

which will keep the expression of religious opinions within those limits which have been adopted for toleration.

But what will be those limits? The legislature must not tolerate a religion which is repugnant to reason, combats the foundation of morality and honesty, or is in contradiction with the maxims which are recognised by the civilised nations as true and necessary for the happiness of the State. Thus idolatry, epicureanism, atheism and materialism, will be excluded, the latter, however, only if they carry on a public propagation of their doctrines. Deism also should be circumscribed by proper limitations.

The author proceeds to draw a distinction between civil and ecclesiastical toleration, which gives him an opportunity of returning to an idea already expressed above, that it is impossible to imagine a true religion which is not tolerant, and that hence it is useless, according to the strict meaning of the words, to speak of religious toleration or intolerance, since the use of these terms implies a confusion with the absolutely different conceptions of civil toleration and intolerance.

The book concludes with a defence of Christianity.

Now summing up all these data scattered over the Italian intellectual movement in the matter of religious liberty, we are compelled to admit that the greater and the best part of them come to us from ecclesiastics, who had, it is true, rendered themselves suspect by the Curia, and were liberals, but Catholics nevertheless. From the non-ecclesiastical side there came nothing but writings devoid of any scientific importance and slavishly copying French extravagances and Utopianisms so far as their contents are concerned. The ideas of the former, representing

a true and gradual evolution, would have been able gradually to win our country over to toleration ; the antireligious excesses of the latter, being a radical revolution and a break with the ancient traditions of our people, terrified them and caused them to look with distrust, indeed with enmity, upon liberty of religion.

Moderate lay thought is silent, and strange indeed is this tardiness and apathy on account of which Italy is indebted to Catholic ecclesiastics for that first impulse towards ideas of religious toleration which England, on the contrary, received chiefly from her philosophers, Germany from her jurists, France from her *littérateurs*.

Epilogue

CHAPTER XVIII

THE NINETEENTH CENTURY

I. VERY modest was the part which the nineteenth century played in the development of the idea of religious liberty. At the beginning of that period, religious liberty presents itself as developed to the fullest breadth and depth of which it is susceptible. In the whole literature of the present age on this question it would, I think, be very difficult to find a single thought or fact, in explanation or defence of the great principle of religious liberty, which it would not be possible to find in the writings either of the liberal Anglo-Saxon theologians, or of the German jurists of the school of natural law, or of the philosophers of France, or, in general, of any of the apostles and apologists of the preceding centuries.

This does not mean, however, that apostles and apologists of religious liberty were altogether lacking in the nineteenth century, and in the second half thereof. And it was their highest title to fame that they not only kept the sacred torch of religious liberty kindled in every storm of reaction, but also spread its light among peoples who were still wrapped in the darkness of intolerance and religious despotism. Many of such apostles and apologists who are worthy of particular mention are to be found outside those

great nations which truly deserve to be regarded as the leaders in this field, namely, the Anglo-Saxon, the German, and the French. In Italy, to give only one example, an illustrious statesman and man of science, Luigi Luzzatti, laid the foundation of all his ideas of constitutional law in the principle of religious liberty, a subject to which he has devoted considerable attention, studying it under the most varied aspects and in the most remote countries and periods, from the Far East to the Far West, from antiquity down to our own time.¹

More immediately and truly representative of our epoch, however, are those books in which the subject of religious liberty is considered not from the apologetical point of view, but essentially for the purpose of scientific culture. And the historical formation of the idea has also been studied as one of the most solemn aspects of the evolution of culture, or perhaps it would be no exaggeration to say, as the supreme index of the civilisation of a people.

But this reflective activity around the idea of religious liberty is being carried on in a form which is still more symptomatic, and under an aspect which is no longer reflective, but in a certain sense negative. This is the work of the most recent literature which has begun to fix its attention upon a principle which is antithetical to that of religious liberty—the principle, namely, of intolerance, or of religious persecution, of which an effort is made to trace the underlying motives and discover the constituent elements. Thus, not to give more than a few examples, since 1882 the illustrious English jurist Sir Frederick Pollock, in a penetrating essay which attracted also the attention of foreigners, studied the “Theory of Persecution.” An

¹ Luzzatti, *La Libertà di Coscienza e di Scienza*, Milan, 1909.

English divine, Bishop Creighton, made "Persecution and Toleration" the subject of a course of lectures at the University of Cambridge in the scholastic year 1893-94. In Italy a philosopher, Marchesini, published in 1909 a book upon "L'Intolleranza e i suoi presupposti." And an historian of the Sorbonne, A. Bouché-Leclercq, took as the subject of one of his books, published in 1911, "L'Intolérance religieuse et la politique." There are many more.

II. Nor, descending from the field of ideas to that of facts, is it possible to say that the part which the nineteenth century played in the practical application of the principle of religious liberty presents any great originality.

The task which that century had to perform was a double one: to place the coping-stone on the building of religious liberty in those countries in which previous centuries had not already firmly laid its foundations, and, on the other hand, to urge other nations which had not yet abandoned their traditional religious exclusivism to come into line with the rest and sail towards the high seas of liberty.

Now, in regard to the first part of this task, the nineteenth century did no more than develop those theses which were virtually contained in the great acts of toleration and liberty of the preceding centuries.

When, for example, by the Act of 1813, the Unitarians were admitted to a régime of liberty in England, and when, by the celebrated Act of 1829, the Catholics were granted similar advantages, the State did no more than abolish two fundamental reservations which had been added to the Act of Toleration of 1689, and hence, in the last analysis, it merely restored to the latter its implicit power of expansion. Neither the bitterly contested fight which,

as is well known, the Jews and the Freethinkers had to carry on for the full exercise of their civil and political rights, nor all the other changes gradually introduced into the English public law, down to the recent amendment of the formula of the Sovereign's oath, can be regarded as anything but an inevitable result of the idea which had for centuries inspired and directed the progress of English liberty.

The whole history of religious liberty in the United States of America can be summed up in this proposition: remoulding the Constitutions of the single States upon the model of the Federal Constitution, and, consequently, gradual abolition of the various Churches established in the different States, and the introduction into the latter of the Separatist principle. This enterprise has been carried out slowly, not without some difficulty, and not without a few reservations or exceptions remaining here and there.

If we turn our attention to the Teutonic world, an almost identical consideration is imposed upon us. In Germany the nineteenth century opens with that *Reichsdeputationshauptschluss* of 1803, which, on the eve of the dissolution of the Holy Roman Empire of the West, consecrated by Imperial laws that extension in a liberal sense of the concessions of the Peace of Westphalia which the princes of the house of Hohenzollern had already brought into operation in their States. The Imperial Act of 1803, indeed, gave to the various Teutonic sovereigns the power to extend the advantages of religious liberty to those Churches which were not expressly considered by the Peace of Westphalia, and therefore removed the serious obstacle which that treaty placed in the way of such Churches becoming participants in full religious liberty. When the matter is carefully examined it

will be seen that it was the same phenomenon as was being witnessed contemporaneously in the United States of North America. In America the liberal principles of the Federal Constitution were being extended to the single States; in Germany, on the other hand, the liberal principles, adopted already by a single State, were being raised to the dignity of general or Imperial law. The period between 1803 and 1848 represents for Germany nothing but the gradual application which the various States made of the power granted them by the Imperial Act of 1803. The great movement obtained its consecration, first with the declaration—mainly theoretical, it must be confessed—of the Fundamental Laws of the German people, promulgated in 1848, and then with the dispositions of the law of the Germanic Confederation of the North of July 3, 1869, which has since definitively become a part of Imperial legislation.

In Austria also, in the past century, the limits of religious liberty remained precisely as they were fixed by the Act of Toleration of Joseph II. The ephemeral declarations of full religious liberty contained in the constitutions of the revolutionary epoch obtained no force until the Imperial Constitution of December 21, 1867.

The whole of the development of French politics and legislation during the nineteenth century also finds its abridgement in the effort of the liberal elements to defend the acquisition of religious liberty proclaimed in the famous Declaration of Rights. Indeed, to be more exact, we should say that the whole of the effort was concentrated in reviving the extremely detailed conception of religious liberty which, as we have seen, had been advanced by the men of the Revolution. And this was directed

specially against the attacks of the clerical reaction, which became more and more dangerous in the last years of the Restoration under Charles X. and after the *Coup d'État* of December 2. From every point of view the régime which the Third Republic instituted by the Separation Law of December 9, 1905, is nothing but a renewal of the Separatist system which had already been put into force by the great Revolution. One might say that France desired to cancel a whole century in the history of her national life.

With regard to the second practical task which fell to the century, a very few words are sufficient. Even a summary sketch of the more important acts by which the countries that had remained outside the great liberal currents gradually brought themselves into line, would really prove rather tiresome, and perhaps not very instructive. For in these movements of adhesion one would have great difficulty in discovering the contribution of original ideas or independent systems. The régime of religious liberty which was realised in those countries very tardily, under considerable difficulties, and in some of them, even at the present day, in a very fragmentary and imperfect manner, is for the most part devoid of any national characteristic, deficient, one might say, in a true *style*, and is, in the main, nothing but the very composite and variegated result of the most diverse influences. One could find no more striking proof of this truth than in the consideration of the example of Italy. The leading advocate of the first realisation of religious liberty which found expression in the Piedmontese Statute of 1848, was Count Cavour. In a first period of his youth he drew his inspiration from the example of

Geneva, and more particularly from the ecclesiastics of that Church, who, adhering to the Socinian or Unitarian confession, were necessarily carried towards a wide toleration of all forms of dissent. Still, from Switzerland, and more particularly from the exhortations of Alexander Vinet, he derived the first germs of his celebrated Formula, "*Libera Chiesa in libero Stato*," which was inspired by a truly liberal Separatism. And it was only afterwards that the study of American influences and the influence of the so-called liberal Catholicism had any effect upon the mind of this statesman, who was not only the greatest factor in the political reconstitution of Italy, but also the most effective inspirer of her ecclesiastical legislation down to the present day.¹

¹ Ruffini, "Le Origini elvetiche della Formula del Conte di Cavour, 'Libera Chiesa in libero Stato,'" in *Beiträge zum Kirchenrecht. Festschrift für E. Friedberg*, Leipzig, 1908, pp. 199-220. Ruffini, *La Giovinezza del Conte di Cavour*, Turin, 1912, vol. ii. p. 363.

EPILOGUE

(CONTINUED)

CHAPTER XIX

RELIGIOUS LIBERTY AND SEPARATISM

I. IF, however, the nineteenth century, as we have said, did not contribute anything original and absolutely new to the elaboration of the idea of religious liberty, it nevertheless brought out into high relief the most important practical problem in relation to religious liberty and its complete realisation that can still occupy the mind of the thinker and compel the attention of the statesman. The nineteenth century, that is to say, brought on the tapis the question—vital beyond any other—of the connection which can and must exist between the principle of religious liberty on the one side, and the system of the relations between the Church and the State on the other. We have already briefly mentioned this question towards the end of our introduction, and it is our purpose to return to it here not so much in order to treat it in an exhaustive manner, because that would require another volume, as to show how far the facts which have been gradually brought to light in the course of our work can assist in solving the problem.

The question is: For the *full* realisation of *true* religious liberty in a particular country is it necessary

that the relations between the State and the Church should be regulated there according to that system which at the present day is generically termed Separatism? Or can there be *full* and *true* religious liberty, and not simple *toleration*, where such relations are regulated according to any of the other traditional systems which are designated in the various countries by the names of Erastianism, Gallicanism, Josephism, Royalism, Jurisdictionalism, etc.? In other words, and to state the problem in an English form: Can full and true religious liberty exist under the régime of an established Church?

Only those who are able to read the English language are fully able to understand the importance of the problem; for if it was formulated in modern times by the younger of the two great Anglo-Saxon nations, that is to say, the North American Republic, it afterwards found its loudest echo in the more ancient of the two nations, that is to say, in the British Kingdom. An indication of the extreme importance of the question for the Anglo-Saxon peoples is to be found in the imposing wealth of the literature in the English tongue upon *Disestablishment*, which enormously exceeds all that has been written by other nations concerning questions of this kind.

But it may be said inversely—and not merely for the sake of making a paradox—that the mind of the English reader is less free than that of any other from serious preoccupations, and is, therefore, less able to appreciate the importance of the problem in a dispassionate manner, and less able to give it a scientifically objective and lucid solution. For this there are two reasons. The first is the exceedingly sharp manner in which the Americans stated the

problem, and the extremely simple and particularist manner in which they solved it. The second reason is that, as was the case with no other people, the necessity of accepting the solution proposed by their brethren across the ocean involved for a large section of the English a most painful sacrifice of dear memories and sacred traditions, that is to say, of elements most intimately bound up with the history of their country and most deeply rooted in the national spirit.

The peoples of the continent of Europe, accordingly, and perhaps the Germans in particular, are in a much better position for appreciating the problem. For the Germans the problem has so far had nothing more than a purely theoretical importance; and, moreover, the Germans have had more help than any other people towards a clear understanding of the problem in their literature, wherein, thanks chiefly to the great German canonists of the nineteenth century, the whole of the matter has been elaborated from a point of view essentially legal, and therefore, from its very nature, more objective than the philosophical, religious, or political point of view. Considered in the light of their teaching, the problem may be formulated in this manner: In order that *true* and *full* religious liberty may exist together with the most unlimited liberty of conscience guaranteed to all citizens, and together with the widest liberty of worship granted to all religious creeds which do not disturb public order, is it not necessary to establish a régime of absolute *Parität*, as they say in Germany, or absolute *Uguaglianza* (Equality), as they say in Italy, in the juridical treatment by the State of the various Churches considered as legal organisations? And since it is absurd to think that the State can

realise such parity or equality by raising even the smallest religious body to that position of public institutions which is occupied in the States of the continent of Europe by the principal historical Churches, will not the State inevitably be compelled to adhere to the opposite form of parity, that is to say, will it not be obliged to reduce the great historical Churches to the position of simple private associations, which is precisely the essential result of Separatism ?

II. At this point it becomes necessary to recall some of the most salient results of our historical exposition.

From two slender contemporaneous sources—the Socinian or Unitarian movement and the Anabaptist movement—there burst forth, as we have seen, from the imposing mass of the Protestant Reformation, the first thought of the religious liberty of the modern period. But the second of these movements advocated, in respect to the relations between the State and the Church, a doctrine of a decidedly Separatist character, and hence it was the point of departure for all the subsequent Separatism. The Socinian or Unitarian movement, on the other hand, firmly maintained the system of union and agreement between the State and the Church ; indeed, it advocated the Erastian doctrine of the juridical subordination of the spiritual to the temporal power.

The two movements were never arrested, and they gave origin to two tendencies in favour of religious liberty, alike in their ultimate aim, but absolutely distinct in their presuppositions and their mode of propaganda. The fact that at times the two currents became united, giving rise to a teaching and course of action which we may call eclectic, is of small

importance. (Of such a fusion no more significant example than that of Roger Williams could be adduced.) The fact, we repeat, is of small importance, because in their general development through the centuries the two currents always remained distinct, and it is easy, indeed, to discover and separate their particular features even where they appear to be confused.

No people is in a better position than the English to understand this duplication of the currents of thought in favour of religious liberty. For in the course of various centuries the English people has seen, together with the action by the Nonconformists, the Independents, and the Separatists in general, the parallel development of a similar action, not less sincere and vigorous, on the part of some of the highest minds belonging to the Church of England, and in particular on the part of the followers of Latitudinarianism.

Hence it is not permissible, so far as regards historical origins, to consider the first movements in favour of liberty as exclusively the outcome of Separatist theories.

Nor can it be said—still remaining in the historical field—that, where the Separatist system was first applied, the resulting régime of religious liberty was fuller and more sincere than it was in places where the system of the authority of the State over ecclesiastical affairs—the so-called *iura circa sacra*—remained in force. Had this been the case it would mean, to give only one example, that the religious liberty which the American citizens enjoyed before the Confederation was formed, and that which they obtained from the Federal Constitution, and in particular from the famous first Amendment, was

greater and more sincere than that which, at the same period, the subjects of Frederick the Great and the Prussians in general possessed under the régime of their Territorial Law. The truth, on the contrary, is that the liberty of religion which was assured to all Prussians by that law was without exceptions or reservations of any kind: while the liberty which the first Amendment conferred upon the Americans was limited in actual practice by many important reservations and exclusions coming from the particular legislation of the single colonies.

III. It is not less instructive to observe the manner in which, in the one field as in the other, the principle of religious liberty was understood, and the necessity of one or the other of the two systems of relations between the State and the Church was deduced from it.

In order to obtain a complete grasp of this matter, we have only to compare the two Confessions, or Catechisms, in which the principle of religious liberty was proclaimed for the first time within the orbit of Christianity.

These were the Socinian Catechism of Rakau of 1607, and the Congregationalist Confession of 1611. The followers of the Socinian or Unitarian movement, and those of similar movements—Arminianism, for example—start from the deep persuasion that they do not possess a monopoly of absolute religious truth; and, consequently, they are inspired by respect, indeed, by a feeling of generous love, for all the other beliefs, however opposed these may be to their own. Hence they endeavour to do away with any sense of intolerance towards the faiths of others, and to proclaim a sincere and universal toleration towards all.

From this point of departure, completely subjective

and individual, they make a first advance towards well-intentioned persons belonging to other beliefs or denominations, and invite them to discover a method for realising the spiritual harmony and union of all the beliefs and denominations, and they offer as the platform for this universal concord that which, as we have seen, was the principal instrument of all the "Irenists," by whatever name they were called. Their proposal was the reduction of the articles of faith to a few principles so limited, self-evident, and essential, that they could meet with the assent of all Christians.

The time, however, did not appear to be ripe for such a splendid ideal. The cruel experience of facts demonstrated the impossibility of reviving the spirit of toleration, and the intractability, not only of the Catholic, but also of all the more important Evangelical Churches, which would not have shrunk for a moment from ruthless oppression whenever they had the power in their hands. So those apostles saw that their idea of toleration was nothing but a dream. They found themselves under the necessity of seeking assistance and support for their propaganda of pacification in the sole power which was in a position to impose peace—that is to say, the State. And it is for this reason that, according to their teaching, the State cannot detach itself from ecclesiastical affairs, but must maintain and exercise its authority—the so-called *iura circa sacra*—over them, naturally not with the intention of favouring a particular religion or helping it to impose its supremacy on the others, but solely for the purpose of keeping all the religions in check, and of imposing upon all, willing or unwilling, the principle of universal toleration and reciprocal respect. Sub-

stantially, it was the same thought which urged Voltaire to recommend the maintenance of a State religion: "Afin de réprimer les entreprises des fanatiques et les désordres qui en résultent."

Directly antithetical upon every one of these points was the conception of the Separatists of every confession or denomination.

They were deeply and steadfastly persuaded that they, and they alone, possessed absolute religious truth, and hence that they formed a chosen people. Not less deep and steadfast was their contempt for all the other religions, and, consequently, their religious intolerance was unlimited and immutable.

From this point of departure, also subjective and individual, the followers of such doctrines were fatally impelled, not to agreement with the other religions and denominations in order to realise universal unity and concord in religion, but to advocate a system of absolute segregation of each confession or denomination, indeed, of each single religious community. For, resolved not to abandon a single detail of their particular religious conceptions, it was only by such segregation that they could promise themselves the possibility of fully realising their ideas. The most absolute particularism had, therefore, necessarily to be their goal. And Congregationalism, as it is called, that is to say, the breaking up of the Church into definite congregations, each independent of the other, became the system of ecclesiastical constitution which they advocated.

Firmly resolved, as we have seen, to concede nothing to the other confessions or denominations, they were naturally even less disposed to make the smallest concession to the civil authority. To the State, therefore, they offered the choice between two

alternatives: either to bend itself supinely before the Church, scrupulously modelling all its laws and its every action upon the Church's dictates, and affording the Church without question the support of its material forces; or to hold itself completely aloof, not interfering in religious affairs, and recognising its absolute incompetence in regard to them. In other words, the dilemma was: Theocracy or Separatism. There was no middle course. Amongst the primitive Anabaptists the aversion from the State and the public magistracy, as is well known, came very close to the extreme limits of a teaching and an action that were decidedly anarchistic. And even in the subsequent Separatist movements a certain amount of this aversion and rebellion against the State was always maintained under the form of the doctrine of the legitimate opposition of the people to the sovereigns who trampled down their ecclesiastical liberty, and finally the doctrine of the legitimate slaying of tyrants.

Now, it is impossible not to see that while in the first current of thought which sprang from the Socinian or Unitarian confession, religious liberty was desired in and for itself, because of a sincere love of harmony, or, one might say, because of the beauty of the idea; in the second current, on the contrary, in that, namely, of remote Anabaptist origin, liberty was advocated essentially as a means to an end, that is to say, as the sole means of safeguarding the intangibility of an internal and unconquerable feeling of absolute religious intolerance.

The followers of the first current were never false to their convictions, neither when they were in an insignificant minority and oppressed, and when their advocacy of liberty might have been suspected of

opportunism, nor when, on the contrary, they found themselves in the position of a dominant majority as happened in the case of the members of the Established Church in England, and when, therefore, their love of liberty could shine with all the disinterestedness of a pure ideal. But it is impossible to say as much of the followers of the second current—the Separatists—who, as we have already shown, no sooner found themselves with their hands free, as happened in the first colonies of North America, than their first thought was to establish a purely theocratic régime, and, consequently, the most intolerant régime that it is possible to imagine.

Nor does this profound difference disappear with the progress of time. To return to the example which we have already adduced above, nobody can possibly deny that there is a very great difference between Frederick the Great and the successive Prussian legislators on the one hand, and the American legislators of the Federal Constitution on the other. For the former, having in their hands the material force, and, consequently, the possibility of being intolerant, and having, indeed, an impulse towards intolerance in the Imperial legislation itself, as well as in the example of some of the other Teutonic princes, nevertheless sanctioned the principle of the most unlimited toleration; while the latter, excepting a noble minority, certainly did not write the magnificent words of the first Amendment out of a spontaneous, altruistic love of religious liberty, but essentially out of a dread of seeing a religious belief that was not their own assume the position in the Confederation of a dominant Church. They acted, accordingly, with the firm purpose of changing nothing in the internal constitution of the single colonies,

which at that time, as we have seen, were mostly opposed to the principle of true liberty.

At this point we can grant to the apologists of the Separatist system that the régime anterior to its complete realisation was not, as they say, a régime of true *religious liberty*, but of simple *toleration*. But we must be allowed, in our turn, to qualify the admission by saying that that which they magnify as a régime of true *religious liberty* was at the beginning, and for some time afterwards, nothing but a régime born of a feeling of pure *intolerance*.

We can also grant—going back to the distinction drawn in the first chapter of this book—that the system of *religious liberty* advocated by the Socinians, Arminians, Latitudinarians, etc., leaned too much towards that other nearly related but distinct idea which is known as *liberty of thought*. But, at the same time, we must be permitted to bring against all the various schools of the Separatists the charge that that which stood nearest to their hearts, and that which they desired, was not true *religious liberty*, but that other form of liberty, closely related, but distinct and sometimes, indeed, absolutely contrary, which is known as *ecclesiastical liberty*.

Finally, we can admit that in the fundamental conception of the followers of the first current, and throughout their work, there transpired the dominant and characteristic note of the whole of their mentality—that is to say, *Scepticism*. But here also we must bring against Separatism the charge of never having been able to divest itself completely of the character which was imprinted upon it at its birth—the character, let it be said without irreverence, of *Fanaticism*.

EPILOGUE

(CONTINUED)

CHAPTER XX

REVOLUTIONARY SEPARATISM IN ENGLAND AND FRANCE

I. IN connection with this last point I cannot refrain from inviting the patient reader to direct his attention for a moment to a singular historical fact which, so far as I am aware, has not been brought into prominence hitherto. I must remark at the outset that I make no pretension to reveal to the reader a historical truth or even the probable result of an investigation systematically conducted and supported by documentary evidence. I merely invite him to reflect upon a few facts and ideas which have left the most profound impression on my mind. And I shall be very glad if this summary outline should induce others to make that patient, and by no means easy, research which would be necessary before the simple sketch could be changed into a truly scientific treatment of the important question.

As everybody knows, the comparison of the English Revolution of the first half of the seventeenth century with the great French Revolution of the second half of the eighteenth century is a sort of commonplace with all the writers who concern themselves with the one revolution or the other, and it must be admitted that some of these comparisons have become classical.

Now in none of them, not even in the most meticulous, have I ever found that any light has been thrown upon one point of resemblance between the two revolutions. It is this: The great English Revolution was the occasion when, for the first time in the Protestant world, the principle of separation as between the State and the Church appeared not as the simple project of some solitary thinker, nor as an article in the confession of faith of some religious minority, but as the politico-ecclesiastical programme of a great party, indeed, of the party which emerged victorious from the revolution. This was the party of the Independents, and it was due entirely to the hesitation of one of them, that is to say, of Cromwell, that the programme was not actually brought to realisation. The French Revolution, on the other hand, was the occasion when, for the first time in the Catholic world, the principle of separation as between the State and the Church appeared, in this case also, not as the manifestation of a solitary thought, but as the politico-ecclesiastical programme of the victorious party, which, as we have seen, carried it into effect at least for a few years.

And now a great historical problem arises: Was the coincidence purely fortuitous, or did it possess an essential *raison d'être*?

The problem may be considered under a first aspect which we may call the genetic. Can the English revolutionary Separatism of the first half of the seventeenth century be regarded as one of the factors of the French revolutionary Separatism of the second half of the eighteenth century? It is known that an inquiry closely related to this was instituted by Jellinek in his work, which we have cited on many occasions, concerning the famous "Declaration of

the Rights of Man and of the Citizen of the French Revolution." Jellinek's thesis is as follows: The Declaration of the French citizens is drafted literally upon the Bills of Rights of some of the North American colonies. But these Bills trace their descent in a direct line from the Declarations of Religious Liberty of the English revolutionary period. Consequently the first source of the French Declaration of Rights is to be discovered in the English Declarations of Religious Liberty.

This thesis met with wide assent, but at the same time with strong opposition, not only on the part of French writers who were, perhaps, not entirely free from a certain amount of patriotic prejudice, but also on the part of the writers of other nationalities, who criticised the judgment as being rather one-sided.

We do not make any attempt to pass an opinion upon the controversy. It is sufficient for us to observe, as we have already done in the course of our special argument, that when we were seeking a mediate nexus between the English and the French Revolutions, that connecting link would be found in the great North American rebellion of the second half of the eighteenth century; since it was precisely by the American colonies, united after the victory into a Confederation, that the Separatist system was put into practical operation in a great State. And in this connection it is also to be noted that one of the champions of religious liberty during the preparatory period of the French Revolution, the Marquis de Condorcet (to whom his most recent biographer does not hesitate to attribute the pompous title of "Guide of the French Revolution"¹), was the most decided

¹ Alengry, *Condorcet, Guide de la Révolution Française*, Paris, 1904.

supporter and possibly the only theoretical advocate in France at that time of the Separatist principle. He was, indeed, the author of the book entitled *Sur l'intérêt des princes à séparer la religion de l'État*.¹ Now the manner in which he develops his argument shows a striking analogy with the famous book, and in general with the system, of the chief of the American theorists of the Separatist doctrine, namely, Roger Williams.²

II. But apart altogether from the success of such an inquiry, we believe that a wider road might be opened in the task of seeking in Rousseau, the spiritual father of the French Revolution, and particularly in his *Contrat Social*, the points of contact between the French Separatist policy and the Protestant Separatist movements of about a couple of centuries before. In this one would certainly avoid the charge of one-sidedness which has been brought against Jellinek, who thought that in order to give his thesis the maximum of importance, it was his duty roundly to deny the influence of Rousseau upon the French Declarations of Rights.

The influence of Rousseau upon the Revolution, on the contrary, has now been so thoroughly demonstrated as to be impossible of denial. And it is supremely instructive to find that it is admitted both by those who find in it Rousseau's greatest merit and by those who impute it to him as the worst of his sins. Most direct and immediate was that influence upon the successors of the authors of the Revolution, and in particular upon the contrivers of its most clamorous achievements; that is to say, upon the

¹ Condorcet, *Œuvres*, vol. xviii.

² Rothenbücher, *Die Trennung von Staat und Kirche*, Munich, 1908, p. 69 *et seq.*

Terrorists, and in particular upon Robespierre. With brutal emphasis Michelet did not hesitate to call the latter "Un triste bâtard de Rousseau." Now it is to be noted that the connection between Rousseau and the Terrorists is nowhere closer and more apparent than it is in the field of ecclesiastical policy; for all the different systems of relations between the State and the Church which the French Revolution endeavoured to realise in practice, from the Civil Constitution of the Clergy to Separatism, were derived, one and all, from the famous *Religion Civile* proposed and advocated by Rousseau in his *Contrat Social*.

But the further one goes into the study of Rousseau's politico-religious ideas, the more evident does it become that they must be debited not only in general to the indestructibly Calvinistic turn of his mind, but more particularly to the ecclesiastical régime established by Calvin in Geneva, the place of Rousseau's birth. The part which Geneva played in the formation of Rousseau's mind and, in a more special manner, the part which the Genevan politico-ecclesiastical institutions played in the construction of his philosophico-political system, are now universally recognised.¹ Here also the agreement in recognising these facts is all the more significant since it comes both from those, on the one hand, who derive therefrom new motives for execrating the foreign thinker who disturbed the genuine development of French life and thought, and who hold him responsible for all the worst aberrations of the Revolution,²

¹ For studying this Genevan influence on Rousseau, see the work of the Russian Alexieff, *Études sur Rousseau*, Moscow, 1887.

² Cf., e.g., Dide, *J. J. Rousseau, Le Protestantisme et la Révolution Française*, Paris, s.a. (1910).

and, on the other hand, from those who find in it a new title of glory for Rousseau and a source of honour for his native land.¹

Thus, through Rousseau, the most conspicuous religious creations of the French Revolution become connected with the Protestant Reformation, and in particular with Calvinism. But through the latter, as everyone must see, they are carried back to the same source whence the most important English religious creations of the great Puritan Revolution derived their origin. From a love for antithesis the non-religious and generally the negative aspect of the French Revolution has hitherto been too much exaggerated. But for some years past, and with good reason, hand in hand with the more careful and complete study that has been bestowed upon the most peculiar and salient products of the Revolution in the politico-ecclesiastical domain—that is to say, the Civil Constitution of the Clergy, the worship of the Goddess of Reason, the worship of the Supreme Being, Theophilanthropy, and finally Separation—a much more penetrating conception of the religious side of the revolution has been coming to the front and acquiring favour. According to this, all the ecclesiastico-religious phenomena — ephemeral it is true, but very significant all the same — must be valued as a positive product and as the most notable exponents of the spirit which animated the revolutionary movement in all its phases.²

This being granted, French revolutionary Separatism can also, in the last analysis, be traced back to

¹ Vallette, *J. J. Rousseau, Genévois*, Paris et Genève, 1911.

² The merit for this belongs principally to the various studies of Aulard and Mathiez. See also Milligan Sloane, *The French Revolution and Religious Reform*, New York, 1901.

Calvinism, the great source of Separatism, from which all the Separatist movements in every country derived their origin.

III. It is, however, in any case certain that French Separatism of the revolutionary epoch presents many of those characteristics which our book has by now accustomed us to consider as the essentially peculiar and absolutely typical notes of the Separatism of all the reformed religions.

The point of departure of all the Separatist systems and régimes was always, as we have seen, the desire of being able to establish a truly Christian republic, of being able to bring every act, both of public and private life, into conformity with the teachings of the Gospel. Let it suffice to remember that the first North American Pilgrims recognised in the Gospel the fundamental charter of their colonies. Now it is necessary to bear in mind that, at the beginning, the great French Revolution did not assume, as most people think, an immediately antireligious and anti-christian character, but signified, on the contrary, a true revival of the religious sentiment. The members of the Constituent Assembly were pleased to imagine that they were aiding the restoration of the primitive Church and treading in the footsteps of the Apostles. And the Commissaries of the Convention said to the Vandéans: “L’institution d’une république fondée sur l’Evangile est le plus grand bienfait dont la divinité puisse favoriser l’espèce humaine.”¹ Does one not seem to read in this the French translation of the first articles of all the constitutional charters of the primitive congregational colonies of North America?

In the course of our study we have repeatedly

¹ Champion, *La Séparation de l’Église et de l’État en 1794*, Paris, 1903, p. 241 *et seq.*

brought out the immediate and inevitable correlation that exists between the two systems, apparently antithetical, of Theocracy and Separatism, of which the first is the primary ideal of the Separatists and the second merely a secondary provision or expedient in view of the manifest impossibility of establishing the Theocracy. Did not the Separatists, indeed, immediately transform themselves into a Theocracy whenever circumstances permitted? Now this characteristic note is also present in the French revolutionary Separatism. It was, in fact, the last expedient upon which the leaders of the revolutionary movement in France fell back in desperation as soon as they beheld the miserable failure of their attempt to give the republic a truly national cult and an ecclesiastical constitution of its own. Separatism is immediately followed by those attempts to introduce into France the worship of the Goddess of Reason and then the worship of the Supreme Being. Those attempts represented, it is true, the extreme aberration of minds which were overcome by the newest form of fanaticism—that of disbelief and antichristian hatred—but nevertheless they would have ended, if fortune had smiled upon them, in establishing in France nothing else than a Theocracy upside down—a caricature of Theocracy, but a Theocracy all the same.

Other common marks, however, were imprinted by Calvinism upon the English revolutionary Separatism of the first half of the seventeenth century and the French revolutionary Separatism of the second half of the eighteenth.

It is now an uncontroverted opinion among students of political and ecclesiastical history that Calvinism gave birth to that theory of the right of the people

to rise against the sovereign who trampled upon their liberties, and particularly their religious liberty, which the more inflammatory of the followers of the reformed religion exalted and exacerbated until they created the theory of Tyrannicide, or the legitimate slaying of the monarch. Now it is necessary to remember that the advocates of this doctrine, to whom in 1600 Barclay gave the very significant and most appropriate title of *Monarchomachi*, were recruited from the beginning exclusively from the followers of the reformed religion, and more particularly from the Anglo-Saxon Puritans and the French Huguenots.¹ Classical antiquity had justified and even glorified the slaying of tyrants. But for the ancients the tyrant was only he who had usurped his powers; that is to say, who had illegitimately imposed his domination upon a free people. For the Calvinistic *Monarchomachi*, on the other hand, the tyrant was also the legitimate sovereign if he made himself the oppressor of the liberties and in particular of the consciences of his subjects. Doubtless our readers are already thinking of the trials and capital punishments of Charles I. and Louis XVI., which were the most solemn and, indeed, the only examples of the full, carefully considered, and implacable application of this theory—for the killing of other princes by single individuals, although it might have been inspired by the dreadful teaching of the *Monarchomachi*, did not bear the characteristics of a legal and collective application of that teaching.

But in bringing out in a still more striking and significant manner the perfect parallelism enunciated above, we are assisted by a circumstance which is of the greatest importance for us. This is the part,

¹ See particularly Treumann, *Die Monarchomachen*, Leipzig, 1895.

certainly very great, if not precisely decisive, which was played in the two memorable events, in England by the *Independents* and in France by the *Terrorists*. The former were the party which would have made use of their victory to establish *Separatism*, and to the latter were due in the first place the attempts at an antichristian Theocracy of which we have spoken, and afterwards *Separation*.

We would, however, be disposed to grant, in order not to prolong the discussion, that those historical connections which we have endeavoured to point out do not exist between the two movements. In any case, we have demonstrated the identity of the process and almost of the psychological mechanism, if we may use the phrase, by which the two forms of Separatism, Anglo-Saxon and French, came into existence; and this provides the explanation of the powerful and tenacious leaven of intolerance and fanaticism which has penetrated, perhaps inextricably, into the essence of the Separatist idea.

EPILOGUE

(CONTINUED)

CHAPTER XXI

RELIGIOUS LIBERTY IS INDEPENDENT OF ERASTIANISM AND SEPARATISM

I. WHAT has been said above may perhaps assist towards the understanding of a thing which, superficially considered, might seem to be incomprehensible; it is the fact that under the same name of Separatism it is possible at the present day to collect two politico-religious systems which are so diametrically opposed in their manifestation as the modern North American Separatism and the modern French Separatism; that is to say, the Separatist systems of the two greatest *Republics* in the world. So far, and not without reason, we have insisted upon the designation of *Republics*. For there is not yet an example of a completely Separatist monarchy. Hence one might be tempted to say that something of the old *monarchomachic* spirit still clings to the system. Of this, indeed, most striking evidence might well be found in the recent events in Portugal, where Separatism arose from Regicide and has become established with the Republic.

The point of interference of the North American and French forms of Separatism lies in what, from our point of view, is an imperfect or at least one-sided conception of religious liberty. And the reason for

this conception, still according to our opinion, is to be found in the persistent leaven of the original Separatist fanaticism.¹

Too precisely to require anything more than the mere mention have the authors of the French Separation Law of 1905 proclaimed their purpose of reverting to the religious traditions of the Great Revolution; too patently have they demonstrated their final intention of *dechristianising* France for the fact to need any further proof.

In a diametrically opposite sense North American legislation, whether Federal or special to the single States, and still more, custom have preserved an impress too conspicuously denominational, and therefore hostile to individual free thought, to enable one to say that all citizens are assured, without distinction, of an equal religious liberty, the latter being understood in all the breadth which we have laid down in our introduction. In proof of this it is sufficient to point to the exclusion of disbelievers from public office, which is still sanctioned by some laws and more widely by custom; to the holiday repose which is made obligatory for religious motives; to the punishment of blasphemy; to the regulations in the matter of marriage, education, etc. The proclamation in which many American writers delight to indulge, that theirs is a separation of the State from the Church, but not from Christianity, is the most evident proof of what we have said. In his celebrated book on the relations between the State and the Church in the United States of America, Schaff

¹ Perfectly correct accordingly is what Luzzatti had already written in regard to these two forms of Separatism (*op. cit.*, p. 3): "Both are the psychological product of the same moral deformity: intolerance."

summed up the whole of the American system of religious liberty by saying that it is liberty *in* religion but not *from* religion, just as true civil liberty is liberty *in* the law but not *from* the law. One might object that the comparison does not hold good, because the State and the Civil Law are one and the same, and cannot be otherwise in a given territory, whence the inevitable consequence that civil liberty can only find expression *in* the law; while the Church and Religion are, and must be able to be, multiplex in the same territory, and can even not exist at all, so that the consequence in this case falls to the ground. But all that concerns us is to point out that this is the most striking confirmation of the defective and one-sided manner in which religious liberty is conceived in America.

For the rest, as we have already shown in our introduction, it is truly innate in the Separatist system that it must end by being principally of advantage to that religious feeling which is manifested in a collective form, and is able to organise itself to the utter detriment of individual and disorganised religious feeling. In the main the State, under Separatism, merely abandons the religious field to the action of single individuals. And then it is inevitable that, given a free hand, the many should end by oppressing the few, and chiefly the individual. *Vae solis* has never been so true as in this case. For individual religious belief, or disbelief, has never been able, save in a few exceptional and transitory cases, to form an association and oppose organisation by organisation. But more than this. Left to their own initiative—we were about to say to their instinct—the first use which religious associations will make of their liberty is to satisfy without limitation all the

demands of their religious law, and organise themselves in a manner not only exclusive but hostile to any form of rival organisation, and above all, to independent religious thought, especially if the latter takes the form of disbelief. This provides the explanation of the pertinacious exclusion *de jure*, and still more *de facto*, of the freethinkers from any sphere of action whatever in which the State recognises the free initiative of individuals. This is a fact upon which all the learned men of the Continent who have visited the North American Universities have been compelled to lay emphasis, and which, in their opinion, was detrimental to the full development of scientific thought. Evidently Universities like the German, for example, and still more the Italian, where, in the same Faculty, and often in neighbouring chairs, the hardened materialist and the scrupulous Catholic, whose books are printed with the *visé* of the episcopal authority, give instruction side by side, would be a sort of *mirabile monstrum* in America.

But since I have fallen into a comparison between the North American Republic and Italy, let me be allowed to continue it in regard to another point.

In Italy the fact of nearly the whole of the population belonging to the Catholic faith and that of having accorded to the Holy See a sovereign position by the famous Law of Guarantees of 1871, has not prevented a member of a religious minority which is numerically almost insignificant, from becoming within recent years, without the necessity of conversion, President of the Council of Ministers. I refer to Luigi Luzzatti, a Jew. In America the indelible character, not merely Christian but essentially Protestant of the political constitution makes it impossible, by the law of custom, that a Catholic—

we do not say a Jew — should regard himself as capable of becoming the President of the Republic. As against this fact, however, another stands out in singularly strange contrast. It is the fact that the same Catholic Church, which must, in regard to its members considered individually, endure this note of clamorous political inferiority, has nevertheless, thanks to its iron organisation, and ably and energetically availing itself of the freedom conceded to it by the Separatist system, succeeded in obtaining in America a far larger amount of effective power than it enjoys in Italy.

For the belief which is entertained by the majority of Europeans that the Catholic Church in the United States of America is organised on the lines of the true common law affecting all other associations is a great mistake. It will be sufficient to recall the law of the State of New York of 1895, which afterwards served as a model, according to the assertion of Monsignor Ireland, for the organisation of the Catholic Church in nearly all the other States. To the particular demands of the Catholics, thanks above all to their electoral power, as Bryce observes, this law made important concessions which constitute so many sharp deviations from the common law. I mention the principal ones. The foundation of an “incorporated religious society” is not left to the free initiative of the faithful, as required by the common law. Such a thing is not possible except through the bishop and with his sanction. This means that the possibility of societies of dissident or simply independent Catholics being legally constituted and obtaining incorporation is absolutely excluded. Moreover, once the “incorporated religious society” of Catholics is constituted, it cannot freely elect its trustees, as

the common law also provides. For the trustees are the Catholic ecclesiastical superiors. By all this the lay element is reduced to a minority so exiguous and so bound in comparison with the ecclesiastical element that it counts for nothing. But even this does not suffice. The subsequent legal and ecclesiastical activity of the "incorporated religious society" does not depend upon the free deliberation of the members but is indissolubly subordinated to the authoritative will of the ecclesiastical superiors. In short, the iron, absolutist hierarchy of the Catholic Church is recognised and protected in the United States in such a manner as rigidly to exclude any democratic or representative velleity of the lay element, and hence in a manner which has no parallel in the European States unless one goes back to the Middle Ages. The consequence is that in the alleged régime of full religious liberty and of common law, the laity, in the administration of its societies, has a power infinitely inferior to that which, for example, the Prussian laws of 1875 assign to it in parochial administration, and even to that which is attributed to laymen in Italy in the so-called parochial vestries (*Fabbricerie parrochiali*).

To conclude: in Separatism the individual is nothing, the organisation is everything.

II. It is only just, and a duty imposed upon us by the very nature of the theme of our book, to discuss the other side of the problem with an equally objective frankness.

It is undeniable that in a system of Jurisdictionalism or Erastianism, while, on the one hand, free thought, both in its positive expression as individual belief and in its negative expression as disbelief, has nothing to suffer from the exercise of the *iura circa sacra* of the State, which cannot concern itself with individual

opinions and actions, the same cannot be said, on the other hand, in regard to the collective and organised faiths which fall within the sphere of action of those *iura*. Now, however limited, reasonable, and circumspect the exercise of the latter may be, there will always result from it certain limitations of the liberty of the single churches. The members of them, from whom it cannot be demanded that they should make the clear distinction which, as we have seen, exists between ecclesiastical and religious liberty, will perhaps feel that they suffer injury in the latter.

Again. The modern Jurisdictionalist States, although having given up all exclusivism in the matter of religion, and having solemnly declared full religious liberty, even for those religions which are not regarded as official or treated as public institutions, have nevertheless to a slight extent neglected in practice to ensure by adequate instructions the enjoyment of that liberty by the free religions or churches. This happens in a certain measure in Italy, for example. Here the most unlimited and real liberty of conscience and worship is guaranteed to every individual and every religion, and, consequently, the same protection is given by the laws to the adherents, the ceremonies, the buildings, and the ministers of all denominations. But the duty of deciding, case by case, what a denomination precisely is, and therefore of deciding upon the application of the protective rules, is left to the judgment of the magistrate. And the latter, very naturally, will find no difficulty in applying the rules when it is a question of the Catholic religion or of any of the religions which have an historical position in the country. But he will be found to hesitate when he is confronted by new religions or denominations. This

happened, for example, in the case of the Salvation Army, in relation to which contradictory judgments were delivered by the Italian Courts.

It is necessary also to recognise that the *iura circa sacra* exercised by the magistrates of a State which is undenominational, but liberal and indifferent to all creeds—as is the case with several European countries—and exercised, therefore, in very many cases by magistrates who are freethinkers, or at least unprejudiced—as happened particularly in France before the separation—cannot always work out to the real advantage of the Church and in conformity with its aspirations. One might almost say that the ancient impress of *Scepticism* which, as we have seen, has characterised Jurisdictionalism or Erastianism from the time of the Socinians down to our own day, has remained indelibly impressed upon it; as happened in the opposed system with *Fanaticism*.

Thus, if we are to be just, we must come to the conclusion that any and every system of relations between the State and the Church contains inherent defects in regard to liberty of religion. And in order to see precisely in what this defectiveness consists we have only to turn to the ideas laid down in our introduction. There we have seen that *religious liberty* has a double aspect. Considered in regard to single individuals it finds expression in *liberty of conscience*; considered, however, in relation to creeds, denominations, or churches, it finds expression in *liberty of worship*. Now, it is indubitable that if Separatism is scarcely favourable to the liberty of the individual conscience, especially if the latter assume the form of disbelief, it is, nevertheless, the most suitable system for full and absolute liberty of worship. Conversely, Jurisdictionalism or Eras-

tianism, less favourable practically, as we have shown, to this latter form of religious liberty, is, on the contrary, more widely favourable to the former. Hence, considering the matter from the scientific, and particularly from the legal point of view, one may conclude that the two systems are equivalent. But this statement does not exhaust the subject.

In States where the Jurisdictionalist or Erastian system prevails the members of the denominations which are not recognised as public institutions, and in particular some of their ministers, display a feeling of discontent towards the denominations which enjoy such prerogatives, just as if that diversity of treatment signified a diminution of their dignity, and therefore also a different measure in the enjoyment of religious liberty. One can find examples of this feeling everywhere in the writings and works of the Nonconformists, of the Dissidents, of the followers of the so-called Free Churches. The fact is revealed in the most striking manner in Italy, where not a few ministers of the non-Catholic denomination are never tired—agreeing in this with the followers of the most extreme and anticlerical and political parties—of demanding the abolition of the Law of Guarantees which grants prerogatives of a sovereign character to the head of the Catholic Church.

But in order to estimate the importance of this objection we must set aside for a moment the very exceptional, indeed unique, conditions in which the Italian State is placed. And it would perhaps be as well, as we have already indicated, that the English reader should set aside the idea that a Church, considered as a public institution, is of necessity a Church established according to English law; or, in other words, a dominant Church which desires to impose its

authority upon those who do not belong to it, and claims pecuniary support from them.

It is necessary to appeal to that which is the essence of the modern Jurisdictionalist system, namely, the Jurisdictionalism which is no longer absolutist or religious, but liberal and unprejudiced. It consists merely in treating as simple private societies those religious associations whose action does not pass beyond the sphere of private life, and in treating as public institutions those religious associations which for historical, numerical, social, or any other reasons, pass beyond the sphere of private and enter that of public life.

Now the treatment of a Church as an institution of public law implies the enjoyment by it of a privileged régime. But it is necessary to bear in mind the teaching of the old lawyers, according to which *privilegia* are not only *favorabilia*, but also *odiosa*. And, in fact, if we carefully consider in what the régime of the German States towards the historical Churches of those countries consists, if we carefully consider the condition in Italy of the Catholic episcopates or parishes, which are regarded as institutions of public law, we shall see that those historical Churches, or the Italian episcopates and parishes, still enjoy some prerogatives and certain powers of a public character, but that this advantage is amply discounted by a subjection to the authority of the State which can extend from the approval of the ministers of the religion to all the most minute acts in the administration of ecclesiastical property. That which is in operation here is a régime of favour, but, at the same time, one of tutelage and very often of suspicion. The free evangelical communities, on the other hand, existing, for example, in Italy, enjoy in relation to the State an absolute independence; that

is to say, a liberty which is even greater than that which is to be found in America. For in Italy, to give only one instance, their property is free from any control, and is not subject to those so-called laws of mortmain under which it is placed by the legislation of all the States of the North American Republic.

But leaving this also out of consideration, it is hardly necessary to observe that a perfect equality of legal treatment must presuppose an equality in the actual conditions. This equality can indeed be regarded as existent up to a certain point in the United States of America, the country which has a number of religious denominations infinitely greater than that in any other country on the Continent, and in which the historical Churches have a diffusion and a following which approximately counterbalance the others. But to speak of an equality of conditions is simply ridiculous in many countries of the European Continent—in Italy, for instance, where all the non-Catholic organisations represent a tiny minority of a few thousands of followers as against the millions of members of the Catholic Church. In these circumstances, in order to realise a perfect parity or equality it would be necessary that the State, in homage to pure abstractions and theories, should ignore the concrete reality of facts—which the State cannot possibly do, since it is an entity which lives and works exclusively in the world of reality. And from another point of view, an equality of legal treatment, in actual conditions so monstrously dissimilar, would not constitute practical justice, but merely abstract justice, for those reasons of equity to which we have alluded above.¹

Now, as it is simply Utopian to think that in

¹ See above, p. 17.

Italy such actual conditions can change so radically as to render possible—as some Evangelicals hope—the constitution of non-Catholic religious bodies strong enough to measure themselves, even remotely, with the Catholic Church (the truth being that outside the Catholic Church a gradual increase can only be made of the amorphous and hopeless mass of the indifferent and the unbelievers), it would be necessary to conclude, if the absolute and indissoluble nexus between Separatism and religious liberty were really a necessity, that Italy, and the other countries which are in an identical situation, should resign themselves to remaining for ever excluded from a régime of full and true religious liberty.

It is enough to enunciate such an idea in order to cause every mind that is not preoccupied by religious and doctrinal prejudices to come to the conclusion that true and complete religious liberty can exist also apart from Separatism. When the State has assured full liberty of belief or disbelief to its own citizens, without this implying the least prejudice in the enjoyment of their rights as citizens; when the State has guaranteed to religious associations full liberty for the manifestation of their forms of worship, protecting them against any sort of attack, the State has done all that can be demanded of it in regard to religious liberty. For when from the purely religious field the associations for worship extend their activity to the field of juridical life, it must be recognised that the State has the right to regulate the new relations according to the supreme interests of its own existence; that is to say, according to those concrete necessities of the social life, the political constitution, the psychology and the history of its own people, which it may regard as essential both for the defence

of its own action and for the best and most effective guarantee of the liberty of conscience and worship.

The members of the various denominations may reproach themselves for the diversity of the legal structure of the organism of which they form a part; they may reproach themselves if birth or their own choice has made them participants in a collectivity so insignificant that the State in relation to them practises the traditional *de minimis non curat praetor*; they may blame themselves if they are particles of organisations so formidable—like that of the Catholic Church—that confronted by them the State, especially in countries where the action of this Church is developed in a sense hostile to the State itself, cannot do otherwise than firmly uphold its traditional means of surveillance and defence.

But to pretend, despite all these disparities, that the inability to enjoy, in addition to the same liberty of belief or disbelief, in addition to the liberty of individual or collective public manifestation of their own belief or disbelief, also a legal treatment on the part of the civil law perfectly equal in every other respect, implies a diverse measure in the enjoyment of religious liberty, would be precisely the same as if the inhabitant of a tiny English village were to pretend that he did not enjoy an equal amount of civil and political rights as the citizen of London, simply because the latter lives under a régime of municipal administration absolutely different from that of his village—an administration, that is to say, proportionate to the historical traditions, the numerical importance, and all the peculiar elements of the life of the English Metropolis.

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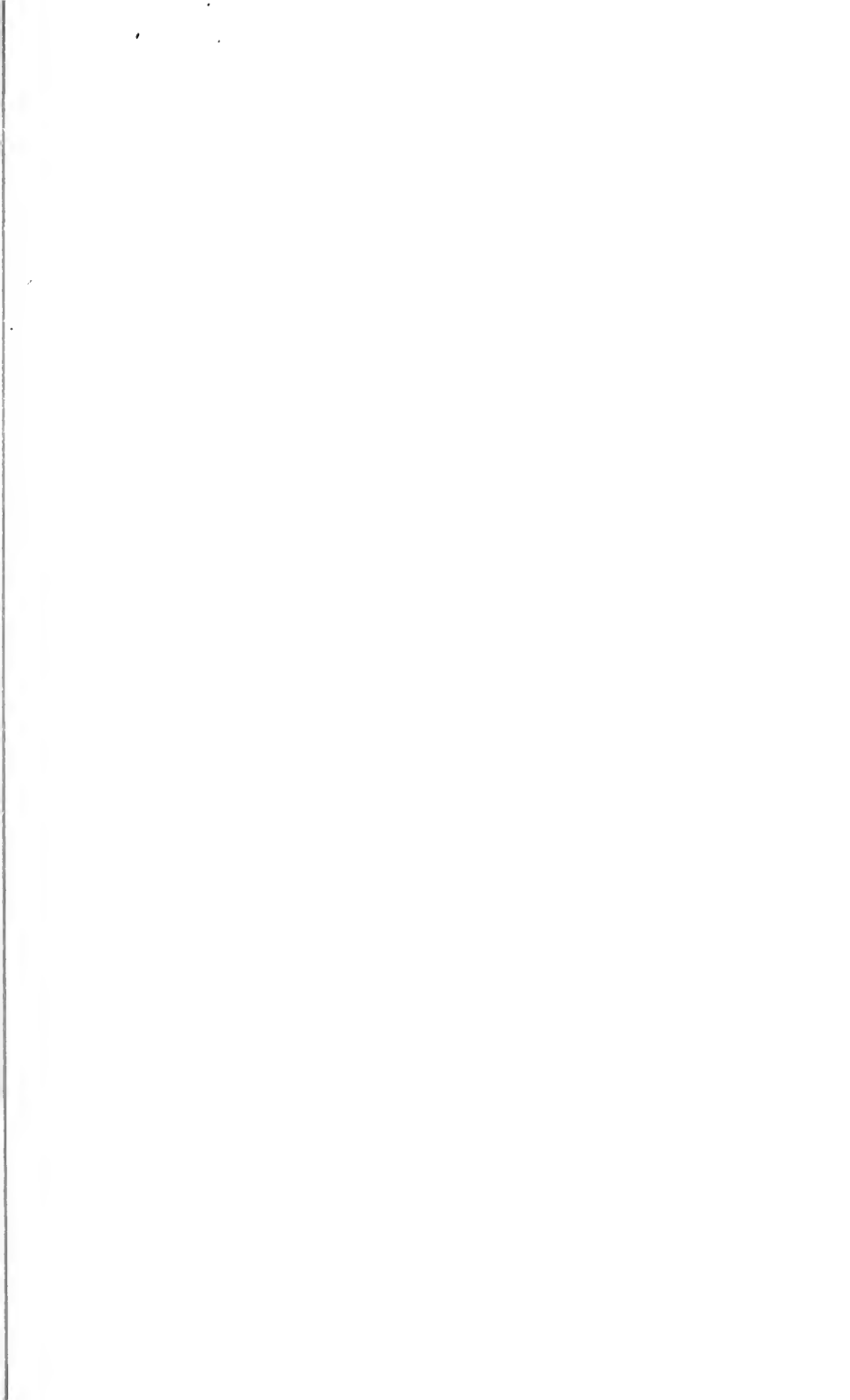
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