

A Sketch  
of the  
History and Proceedings  
of the  
Deputies

1713

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**SKETCH**

OF

**THE HISTORY AND PROCEEDINGS**

OF THE

**DEPUTIES**

APPOINTED TO PROTECT

**THE CIVIL RIGHTS**

OF THE

**Protestant Dissenters,**

TO WHICH IS ANNEXED

**A SUMMARY OF THE LAWS**

AFFECTING

***PROTESTANT DISSENTERS.***

WITH

**AN APPENDIX**

OF

**STATUTES AND PRECEDENTS OF LEGAL INSTRUMENTS.**

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LONDON:

PRINTED FOR SAMUEL BURTON, 156, LEADENHALL STREET.

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1813.

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## PREFACE.

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**M**ORE than seventy years have elapsed since the first annual appointment of Deputies, by the several congregations of the Protestant Dissenters of London and its vicinity, for the purpose of protecting their civil rights. In the long interval of time, which has thus elapsed, they have, agreeably to the high trust, so delegated to them, directed their attention to every circumstance that in any degree affected the interests of religious liberty.

They have, from time to time, printed short accounts of their proceedings; and have circulated among the Protestant Dissenters such information, and such documents, as were calculated to answer the important objects of their appointment.

In the present volume, will be found a concise sketch of the transactions of the Committee of Deputies, from their first appointment to the present time; including not only their various efforts to procure a repeal of all those laws, by which religious liberty has hitherto been restricted; but also com-

prehending a brief statement of very numerous legal proceedings, which have at different times been instituted, and in general successfully prosecuted, by the advice, and very frequently with pecuniary assistance from the Committee.

To this sketch of their transactions, the Committee have subjoined a digest of the Laws relating to Protestant Dissenters, and which comprises the following particulars.

1. A summary of the Penal Laws, in force against *Dissenters in general*, subject to the Toleration Acts; together with their privileges and duties.

2. The qualifications, privileges, and exemptions of *Protestant Dissenting Ministers*; the oaths, declarations, &c. &c. to be made and taken by them.

3. The Law concerning *Protestant Dissenting Schoolmasters*, and their situations, as regulated by various acts of parliament.

4. Miscellaneous laws and regulations, affecting the *Places of Worship* of Protestant Dissenters; their liability to taxes; the power of courts of law over Trustees; the best mode of securing the benefit of such places for their religious worship, &c.

In preparing this summary of the existing laws, the utmost care has been bestowed, to state them with brevity and perspicuity; and such remarks have been introduced, as might tend to elucidate the construction of the different statutes.

To this Summary is added an Appendix, containing the principal Acts of Parliament at length, which



are cited in the course of the work ; together with the oaths and declarations, necessary to be taken and made by Protestant Dissenters, as well as precedents of legal instruments, for want of which much inconvenience has often been experienced.

From the preceding statement it will be obvious, that the present volume comprehends a great variety of important information ; to the attentive perusal of which the Protestant Dissenters are invited, in full confidence that it will not mislead them. And the Committee of Deputies will consider their labours abundantly recompensed, if they shall contribute to secure and extend the interests of **CIVIL AND RELIGIOUS LIBERTY.**

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PS. The Sketch of the History and Proceedings of the Deputies is brought down to the autumn of 1811. At the close of that year, and early in 1812, applications were made to the Prince Regent's ministers, by the **SOCIETY OF METHODISTS**, by the **PROTESTANT SOCIETY FOR THE PROTECTION OF RELIGIOUS LIBERTY**, and by the **COMMITTEE OF THE DEPUTIES**, for their consent to a repeal of the Conventicle and Five-Mile Acts, and to the unequivocal establishment of those privileges which the Dissenters had considered as secured to them by the Toleration Act, and the 19 Geo. III. but which had been lately in many instances invaded by magistrates in the country. The result of these applications was the Statute

of 52 Geo. III. cap. 155 ; the form of which was furnished by the society of Methodists.

In the last session of Parliament, 1813, Mr. WILLIAM SMITH succeeded in obtaining an Act of Parliament, (53 Geo. III. cap. 160,) intituled, " An Act to relieve Persons who impugn the Doctrine of the Holy Trinity from certain Penalties;" which has extended toleration to a respectable class of Protestant Dissenters, who were before tolerated by the liberality of their countrymen but not by law.

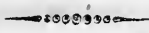
Almost the whole of this book was printed in the summer of 1812, when a delay occurred in the publication, in consequence of the lamented death of the gentleman who had prepared the legal part of it, and had superintended the printing. Advantage has been taken of this delay to re-compose, and consequently to re-print a considerable part of the Appendix, for the purpose of incorporating the enactments of 52 G. III.

Mr. WILLIAM SMITH'S Act is added to the Appendix.

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ERRATUM.

Page 190, note †, line 1, for *repealed* read *repeated*.

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# SKETCH,

&c.

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**T**HE annual appointment of DEPUTIES, by the several congregations of Presbyterians, Independents, and Baptists, in and within ten miles of London, to protect the Civil Rights of the Protestant Dissenters, originated in the following manner.

On the 9th of November, 1732, a general meeting of Protestant Dissenters was held, at the meeting-house in Silver-street, London, to consider of an application to the legislature for the repeal of the Corporation and Test Acts. At this meeting a Committee of twenty-one persons was appointed, to consider, and report to a subsequent meeting, when, and in what manner, it would be proper to make the application. Another general meeting being held on the 29th of the same month, the Committee reported, that they had consulted many persons of consequence in the state; that they found every reason to believe such an application would not then be successful; and therefore could not think it advisable to make the attempt. This report was not very cordially received. The Committee was enlarged by the addition of four other gentlemen, and instructed to reconsider the subject. It was at the same time resolved, that every congregation of the three denominations of Protestant Dissenters, Presbyterians, Independents, and Bap-

tists, in and within ten miles of London, should be recommended to appoint two Deputies; and to a general assembly of these Deputies, the Committee were instructed to make their report. An assembly of Deputies thus appointed, was accordingly held on the 29th of December; and the Committee, after mature deliberation, were obliged to make a report very similar to the former. The object, however, was not abandoned. The Committee was continued; and the appointment of Deputies renewed. It soon became evident, that whatever might be the fate of their attempts to procure a repeal of the Corporation and Test Acts, the Dissenters would derive considerable advantage, in other respects, from establishing a permanent body to superintend their civil concerns. It was accordingly resolved, at a general meeting of the Deputies, held at Salter's Hall meeting-house, on the 14th of January, 1735-6, "That there should be an annual choice of Deputies to take care of the Civil Affairs of the Dissenters." In order to carry this resolution into effect, it was further resolved, "That the chairman do write to the ministers of the several congregations, some convenient time before the second Wednesday in January next, to return the names of their Deputies to him fourteen days before."

The first meeting of the Deputies, elected in pursuance of these resolutions, was held at Salter's Hall meeting-house, January 12, 1736-7, when Dr. BENJAMIN AVERY was called to the chair.\* The meeting, after some pre-

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\* Mr. HOLDEN had been chairman of the Committee from its first institution, in November, 1732, to the October meeting in 1736, when he resigned.

Dr. AVERY continued chairman of the Deputies, and of their Committee, from the time of his first election, for twenty-seven years; and by his indefatigable activity obtained the applause of every person interested in the



liminary business, adjourned for a fortnight, to give each member time to determine upon the most proper persons to form a Committee of twenty-one, on whom the principal business of the year was to be devolved. Accordingly, on the 26th of the same month, the Deputies met, and elected their Committee by ballot. These several elections,—of the Deputies by the congregations, and of the Committee by the Deputies,—have been continued annually from that time to the present.

The Committee, appointed in 1732 to reconsider the subject of an application for the repeal of the Corporation and Test Acts, and to make their report to the first assembly of Deputies, repeatedly waited upon the leading men in administration; and it appears, from the minutes of their proceedings, that such an application would at that time have scarcely had a chance of success.

In the year 1735, soon after a general election, in which the Dissenters had used all their efforts in behalf of the existing administration, which might be considered as the surest pledge that could be given of attachment to the House of Hanover, a Committee was appointed again, to consult Sir ROBERT WALPOLE on the subject. He returned for answer, “ That on account of the situation

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cause of the Dissenters. On the death of Dr. AVERY, July 23, 1764, JASPER MAUDUITT, Esq. was called to the chair, which he filled very honourably till his death in 1771. He was succeeded by THOMAS LUCAS, Esq., who resigned, on account of ill health, in 1777. WILLIAM ROWDEN, Esq. was then elected to the office, which he sustained two years, and dying, was succeeded by NATHANIEL POLHILL, Esq. From the death of this gentleman in 1782, the office was held by GEORGE BROUGH, Esq. till his death in 1785. He was succeeded by EDWARD JEFFRIES, Esq., who filled the situation till the year 1802, when his removal to a distant county obliged him to resign; and EBENEZER MATTLAND, Esq. was elected in his stead. This gentleman resigned in 1805; and was succeeded by the present chairman, WILLIAM SMITH, Esq., Member of Parliament for the City of Norwich.

of public affairs, both foreign and domestic, His Majesty's servants were not of opinion that the time was then proper; but as the Dissenters had more than once deferred their application, in deference to the wishes of ministers, and in the late elections had behaved so exceedingly well, they would leave it to them to make the attempt, if they saw fitting, the next session." On this it was resolved to persist; the heads of a bill were drawn, and measures taken to secure success. After many months exertion, on the part of the Committee, the report was again unfavourable. They say, "From the administration, so far as we know their minds, we have not the least encouragement; but on the contrary, must expect opposition from them. Those members of parliament, now out of power, tell us the attempt will be vain unless the administration concur, and decline giving us the promise of their assistance." "Others," say the Committee, "though the number be small, declare their readiness to assist us in all events." It was at length resolved, that an appeal to parliament should be made; and, accordingly, on the 12th of March, 1735-6, Mr. PLUMER, the distinguished member for the county of Herts, moved for leave to bring in a bill for repealing the Test and Corporation Acts. After a debate of considerable length, in which he was supported by a number of gentlemen, who were known friends to the established church, the question was lost by a majority of 251 to 123.

This defeat was not unexpected by the Committee. They say in a circular letter, soon after it happened, that their friends in general, who were of the greatest weight and influence, dissuaded them from the attempt; but that the generality of Dissenters being of a contrary opinion, they judged it necessary to make the experiment.

Soon after their regular appointment, the Committee of Deputies were called upon, in various instances, to protect the civil rights of their brethren. In April, 1737, some Dissenters of the parish of St. Olave, Southwark, applied to them respecting certain clauses in a bill then depending in parliament for rebuilding the parish church, which tended to subject the Dissenters in that parish to certain new and unreasonable rates on burials. In this and two similar cases, viz. at St. Leonard's, Shoreditch, and St. Mary's, Rotherhithe, the Committee determined to give the complainants all the assistance in their power. Petitions were accordingly drawn up and presented to the House of Commons; and, in each case, redress was obtained. In the instance of St. Leonard's, Shoreditch, the bill had actually passed into a law, without the knowledge of those who considered themselves aggrieved by its several provisions; but the parish being obliged to come to parliament again for an extension of their powers, the business was then opposed, and all the clauses which affected the interests of the Dissenters were repealed.

The Committee began, now, to feel the importance of the office to which they had been appointed; and in a letter to their friends, in the several counties of England, dated Nov. 17, 1738, they say, "You well know that the Corporation and Test Acts were the important business that gave rise to our thus meeting. But though this be the chief, it is not the only thing we would have in view. We would willingly attend to every thing that may remedy or prevent any inconveniency to the cause of civil and religious liberty; and we have the satisfaction to inform you, that we have already seen some desirable fruits of this our watchfulness and care."

In reference to the bills brought into the House of Commons for rebuilding the churches, they observe,

that, "In the first draughts of these bills there were several clauses which would have subjected many of the inhabitants of the parishes above named, and particularly such of them as dissented from the established church, to new and unreasonable exactions: and these seemed, to us, designed as precedents and rules for the drawing and modelling all future acts of parliament of a like nature. These therefore we thought it nearly concerned us to oppose, and have been so happy as to get those clauses struck out of each of the bills before they passed into laws. In our attendance upon these affairs, we found that the want of a proper attention and of a timely notice had manifestly occasioned many of the inconveniences we have laboured under. We judged it, therefore, a matter of great consequence to engage a solicitor, who should make it a part of his stated business to acquaint us with any thing that may fall under his notice, which he apprehends can any way affect the cause of civil and religious liberty, which the Protestant Dissenters have always professed to have at heart: and we have accordingly retained a person in this character, who is thought to be well qualified for the purpose; and though we have had but a short trial of it, yet we are already convinced, by our experience, of the usefulness of this measure."

The principal occasion, however, of this letter, was to communicate the information, that the Deputies, at a general meeting, held on the 8th of the same month, had unanimously resolved upon applying to parliament, the ensuing session, for the repeal or explanation of the Corporation and Test Acts; and to entreat the zealous co-operation of their friends in the country.

To forward this fresh attempt, application was made to the leading members of both houses; and a treasurer

was appointed to receive the voluntary contributions of the several congregations, and others, towards defraying the past and future expences of the Deputies and Committee, in their attention to the civil affairs of the Dissenters.

A Committee having been elected, January 10, 1738-9, Dr. AVERY was appointed the chairman, and also treasurer of the fund. At an early meeting of this Committee, some of its members were instructed to prepare a paper concerning the repeal of the Corporation and Test Acts; which being done, it was ordered to be printed, and a copy to be delivered to each member of the House of Commons. This paper was as follows :

*“ Reasons for repealing or explaining so much of the Corporation and Test Acts as relates to the taking the Sacrament of the Lord’s Supper as a Qualification for Offices.*

“ By the Statute, 13 Car. II. cap. 1. commonly called the Corporation Act, To the end that the succession in corporations may most probably be perpetuated in the hands of persons well affected to His Majesty and the established government, It is among other things enacted, That no person shall be chosen into any office of magistracy, or other employment relating to corporations, who shall not, within one year next before such election, have taken the sacrament of the Lord’s supper according to the rites of the church of England.

“ By the Statute, 25 Car. II. cap. 2. commonly called the Test Act, For preventing dangers that may happen from Popish Recusants, It is enacted, That every person who shall be admitted into office or trust under His Majesty, shall, among other things there required, receive the sacrament of the Lord’s supper according to the usage

of the church of England, within three months after his admittance into such office, under very severe penalties.

“ The Protestant Dissenters can and do readily take the oaths of allegiance and supremacy required by these acts ; but some of them scruple receiving the sacrament after the manner of the church of England ; and many of them refuse to take the sacrament, after the manner of any church, as a qualification for an office.

“ It is humbly hoped, therefore, that so much of these acts as relates to the taking the sacrament as a qualification for offices, may be repealed, for the following reasons :

“ 1. Every man has an undoubted right to judge for himself in matters of religion. No one therefore ought to be punished, by being deprived of any of the common rights of subjects, and branded with a mark of infamy, merely for exercising this right in things that no way affect the public welfare and prosperity of the kingdom.

“ 2. The sacrament of the Lord’s supper was appointed only for religious purposes ; and the using it as a qualification for civil offices, seems, in a great measure, to have occasioned that disregard and contempt of this institution in particular, and of religion in general, of which all good men have so long and justly complained.

“ 3. As the Dissenters are universally acknowledged to be well affected to His Majesty and the established government, they think it hard, that by the Corporation Act they are rendered incapable of holding offices in the corporations where they live, though in many places their property is at least equal to that of their neighbours ; especially since many of them have been fined for not taking upon them such offices ; and in particular, as a very large fine is now insisted on, by the city of London, from a known Dissenter, for not serving the office

of sheriff, and a prosecution for the same is actually commenced.

“ 4. Many persons of substance and capacity being excluded by this act, the government of several corporations has fallen into the hands of the meaner sort of people, to the great prejudice of such corporations, the discouragement of industry, and the decay of trade.

“ 5. The Test Act was designed wholly against POPISH RECUSANTS, as the title shews. At that time the nation thought itself in great danger of Popery, from the prince on the throne, and the presumptive heir. The receiving the sacrament according to the usage of the church of England, was then thought some security. But when circumstances are so much varied, and we have a prince on the throne, and the succession fixed in a house, zealously concerned to support the Protestant religion, surely such a provision can no longer be thought necessary.

“ The Dissenters, from their zeal against Popery, and fearing lest the Papists should have made any advantage of their refusal or opposition, generously acquiesced in having this restraint laid on them, not doubting but such disinterested conduct would in gratitude, justice, and good policy, have long since intitled them to relief.

“ The Act of Toleration will hardly be thought to have weakened either the church or the state:—the whole nation seems sensible of the benefits that have accrued from it. The removal of this cause of uneasiness will probably prove an additional strength to both, and effectually secure them against their only formidable enemies: for nothing seems more likely to heal our divisions, put an end to party names and distinctions, and unite the friends of liberty, than removing these incapacities from a body of men, whose dissent is founded on the right of private judgement, and who are confessedly a great sup-

port and security to the religion and liberties of this kingdom.

“It is therefore humbly hoped, that those clauses of these acts which require the taking the sacrament as a qualification for offices, will be repealed, or so explained as may be necessary to give relief in the premises.”

On the 30th of March, 1739, and after the printed “Reasons,” &c. had been circulated among the members of parliament, a motion was made in the House of Commons, for leave to bring in a bill to repeal so much of the Test Act, as obliges all persons who are admitted to any office, civil or military, to receive the sacrament of the Lord’s supper within a time limited by the said act:

It does not appear by whom the motion was made, or who the persons were that vindicated the rights of conscience on this occasion. According to the Parliamentary Debates, (vol. xvii. p. 311, printed in the year 1741,) the motion occasioned a long debate; but the particulars of it not having been made public, no farther account is given, than, that in consequence of many members having retired from parliament, and most of those concerned in the administration being against the motion, it was rejected by a majority of 188 to 89: Though the numbers that divided on this occasion were very different from those that had divided before, yet the proportions were nearly the same, and indeed rather more unfavourable to the Dissenters.

The Deputies were summoned for the 11th of April, to receive the report from their Committee: who then stated, that the motion for the repeal was very well supported, by a fair and candid representation of facts, and a great variety of strong and conclusive reasonings; that the cause of truth and liberty could not, as they conceived, have suffered any prejudice by the motion; but, on the



contrary, that it must surely be advantageous to have a question of so much importance, which hitherto had been too little understood, and which a few years ago could hardly obtain a hearing, so freely and thoroughly canvassed in such an assembly.

The Committee were desired to keep in view a fresh application for the same object, whenever a fit opportunity should offer; and for this purpose were recommended to continue and improve their correspondence with the Dissenters in the country, and take measures to obtain representatives from them, who might be present at the annual meeting of the Deputies, the first Wednesday in April.

A letter was soon afterwards circulated by the Committee, giving an account of their exertions and the unsuccessful issue. In this letter, they say, "We had the satisfaction, in our application to gentlemen, before the affair was brought into the House, to find the greatest part of them own, that what we asked was a reasonable thing." Farther on, in answer to a supposed insinuation, that they had been prompted by the enemies of the public peace, in order to distress the administration, they add, "surely nothing can be advanced with less foundation or regard to truth. The motion was made and seconded, and the debate entirely supported, by known and approved whigs, and most of such as are also upon good terms with the administration."

In October, 1739, another letter was circulated, to give information, that a general meeting of the Deputies would be holden on the first Wednesday in April, every year, to which, if the Dissenters; in the several counties of England, would please to send persons properly authorized, it would be highly acceptable to the

Deputation in London, and highly serviceable to the Dissenting Interest.

Notwithstanding these steps, which were undoubtedly intended as preliminary to a new application to parliament, nothing more was done in it for nearly half a century.

In the course of the same year, applications were made to the Committee in the case of a watch-rate being levied on certain meeting-houses in London; and in the instance of Mr. CALEB EVANS, who had been cited to appear before the bishop of Landaff's court, for keeping a school at Pontypool, in Monmouthshire, without a licence. In answer to the first of these applications, the Committee advised the rate to be resisted, promising their support, should the question be brought into court; and they likewise agreed to support Mr. EVANS, in defending himself against the prosecution. As nothing farther appears concerning these cases, in the minutes of the Committee, they were probably abandoned; when the assessors in the one instance, and the prosecutors in the other, found that the Dissenters had friends both able and willing to defend their rights.

At the next annual meeting in April, several Deputies were returned from the country, in pursuance of the former resolutions, and the invitation of the Committee. One of these gentlemen requested the advice of the Deputies respecting the refusal of certain magistrates in Montgomeryshire, to register places designed for public worship under the Toleration Act. The Deputies, desirous at all times of procuring the redress of grievances in the most pacific and least expensive manner, laid the case before the Attorney General, and transmitted his opinion into the country; which being perfectly satis-

factory, as to the duty of the magistrates to register the places, appears to have produced the desired effect. In many other cases of the same kind, at different periods, the Committee have been obliged to apply to the Court of King's Bench for a *mandamus*.\*

Very soon after the appointment of the Deputies, they received complaints from various quarters, of clergymen refusing the rites of burial to those who had not been baptized according to the forms of the established church. In 1740 they took the opinion of the Attorney General upon this subject, and received instructions how to proceed for the future in cases of the same kind. An account of the course which the Committee have pursued in the numerous cases † in which they have since been applied to, and a full report of the judicial determination which the question has lately received, will be found in a subsequent part of this Sketch.

In the month of October, 1740, the Committee of Deputies were applied to by Dr. COLEMAN and his brethren, in New England, respecting some injurious claims set up against them, with regard to their glebe lands. The Committee gave them seasonable advice, and received a vote of thanks in the following year.

The Committee of Deputies was now regarded as a body qualified, by its wisdom and experience, to give advice and assistance in every weighty affair among the Dissenters, in all parts of the British dominions. In November, 1743, a letter was transmitted from Mr. JONATHAN LAW, the governor of Connecticut, relating to certain disorders and confusions, introduced, by a particular class of persons, in their religious services. To sup-

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\* Some of these cases will be particularized in the Supplement.

† For particulars of many of the cases, see the Supplement.

press these, the American government had enacted some new statutes, which, it should seem, had been severely reprobated by Dr. AVERY. Mr. LAW's letter, was a long and laboured attempt to justify the measures adopted by the government of Connecticut. To this the Committee replied, in a letter so completely in harmony with the true principles of toleration, that it seems to deserve being inserted at length.

“Honoured sir,—Your letter of November, 1743, to Dr. AVERY, and the papers which accompanied it, have been imparted to us by the doctor: and as we all feel, so your honour will allow us to express our joint concern and sorrow, for the ecclesiastical and religious disputes which prevail among the inhabitants of your province.

“We all of us have a great dislike to those principles which we hear, from other hands, as well as from your honour's, have with too great eagerness and success been propagated in those parts. We see the tendency of these principles, and of the way that is taken to spread them; they plainly tend to create feuds and animosities, and to destroy that peace, unity, and mutual good will, so amiable among neighbours, so essential among Christians. We fear that such opinions and practices, as you justly complain of, will not only lead many weak persons into enthusiastic delusions, but will likewise much abate that spirit of industry and application to business, which is well known to be absolutely necessary to the prosperity of the colony.

“We are sensible that by the propagation of such sentiments as have lately crept in among you, the minds of many must be unhinged, endless doubts and perplexities will arise, and scepticism or infidelity seem likely to be the unhappy issue.

“ But great and manifest as these mischiefs are, we cannot be of opinion that the magistrate has any thing to do in this matter, but to see the public peace is preserved; that there are no riots or tumults; and that his subjects are not allowed to assault, hurt, maim, wound, plunder, or kill one another in these religious contests.

“ We apprehend the making laws against these opinions, and those who avow them, can answer no valuable purpose. It is no way that God has appointed to inform the judgements of men, or alter their way of thinking. It will neither enlighten their understandings, nor procure their esteem or good will. It will exasperate them, —drive them to a greater distance and disaffection; and it will be apt to move compassion in disinterested bystanders, and thereby increase the number of those eager enthusiasts and ill-informed zealots.

“ For such reasons as these, we imagine, it is, that both church and state have connived at the irregular, unseasonable, and perhaps sometimes almost tumultuous assemblies of the same kind of mistaken men in this country. The governors both of the state and church well know, that they have laws in being, to the penalties of which these men make themselves daily obnoxious. But not one of these laws has been put in execution against them. No attempt of that nature has been made. Nay, when any have offered to abuse or disturb them in their assemblies for worship, which possibly were not strictly legal, the magistrate has interposed, and punished such who have presumed to insult them. And it is visible that this method of connivance has had a very desirable effect. Expostulations and entreaties, attended with strong reasoning and a steady persevering lenity and forbearance, promise great good in contests of this kind. Force can do nothing but mischief.

“ We find, sir, it is apprehended to be injurious treatment, when your law, particularly that act in May, 1742, is represented as of a persecuting nature.

“ We firmly believe that your honour, and the majority of the legislature, who enacted that law, did think it quite consistent with all the just rights which the inhabitants of Connecticut had any claim to, and that it was likely to be serviceable to the country; or else we cannot persuade ourselves that you would ever have proposed, encouraged, framed and passed it.

“ But you must allow us to add, that this thing appears to us in a very different light. The three penalties, of which you seem to think and speak so lightly, appear to us very grievous: we well know we should think them so, were the case our own. And the instances of conduct which are threatened with these penalties, are not necessarily, and in their own nature, violations of that public peace and tranquillity which the magistrate is obliged or concerned to preserve. We mean, that a man, whether settled minister, inhabitant, or foreigner, may, without any breach of the public peace, cognizable by the civil magistrate, at the request of any number of its inhabitants, preach in any parish or town to which he does not stand related as their stated minister. And if this be not true, we cannot see how Christianity at first, or the Reformation since, could have claimed or obtained a fair hearing.

“ It may possibly not appear to the majority in Connecticut any way hard or injurious, to lay a restraint, by public authority, on parents and guardians in educating their children. But we well know, and shall not easily forget, what we felt on a like occasion. We were greatly alarmed and disquieted by an attempt, made here about thirty years ago, to deprive us of the liberty of educat-

ing our children in the way most agreeable to our judgments and consciences. Through the goodness of God, the threatened storm blew over. The act, though passed, was never executed, and was soon repealed. And we have lived to hear the gentlemen, of the most forward zeal and greatest bigotry, who were principally concerned in making that attempt, reflect upon their own conduct in that affair, and censure it as unreasonable and not to be defended. And it cannot fail of giving us great uneasiness should we hear it said, that what the most zealous high church men profess now to be ashamed of here, should be copied and imitated by our Presbyterian and Congregational brethren abroad, in their conduct to persons of their own, or indeed of any denomination of Christians.

“ In short, whether we consider this matter in a religious or political light, it seems every way most advisable to let these men alone, how wildly erroneous soever both you and we may take their sentiments to be. Any penalties, incapacities, fines, imprisonments, banishments, or vexatious prosecutions, will not fail of being represented here, to our, as well as your disadvantage. And if on such accounts as these, any such complaints should be made to the king and council, we should not be able, and indeed it would but ill become us to endeavour, to vindicate such proceedings. Perhaps we do not know every circumstance that attends your situation distinctly enough, to take upon us to advise you what part it will be most prudent for you to act on this occasion. But we think nothing can be more clear, than that it is absolutely necessary you should avoid all kinds of rigour and severity in your methods of procedure.

“ We heartily wish you, sir, health, happiness, a lasting and growing usefulness and reputation. May you,

sir, your council, and the House of Representatives, be directed from above how to behave in this arduous and critical juncture.—We shall rejoice to hear that the province is settled on the sure and lasting foundation of truth, righteousness, and peace.—Signed in the name and by order of the Committee,—B. AVERY, chairman.”

This letter was the means of restoring harmony among the contending parties, and the wisdom of the counsel contained in it, occasioned various applications to the Committee to obtain the redress of different oppressions; in all which, either by prosecuting the modes they suggested, or through their influence with persons then in power, the desired relief was obtained.

A still stronger proof of the reputation which the Committee had acquired across the Atlantic, and of their influence at home, is to be found in the affair, so long in agitation, relative to the introduction of bishops in America. In the year 1749, it was generally believed that there was a scheme in contemplation to make two new bishops, one for Barbadoes, and the other for Virginia, for the alledged purpose of conferring orders on candidates for the Christian ministry, who had been educated in America, without giving them the trouble of coming to England. The views of the establishment, as explained by Archbishop SECKER to Sir ROBERT WALPOLE, were, that these bishops, sent over by the English government, should exercise such jurisdiction, temporal as well as spiritual, over the clergy of their communion in America, as had been conferred on the late bishop of London's commissaries, or *should be conferred on any future commissaries*. This report having created much alarm, and the measure appearing likely to be very obnoxious and prejudicial if carried into execution, the Committee appointed their chairman and another member



to communicate their sentiments upon the subject to some of His Majesty's ministers. These gentlemen accordingly waited upon the Dukes of Bedford and Newcastle, the Lord Chancellor, and Mr. PELHAM, all of whom concurred in declaring, "that the affair was far from being concluded on, and that nothing would be done in it without the maturest deliberation, and that they should be very willing to hear objections thereto from persons of any consequence." In return for their seasonable exertions in this business, the Committee received a letter of thanks, in the following September, from the House of Representatives of the province of Massachussets Bay, signed by the speaker, in which they were requested to continue their assistance.

After this scheme had lain dormant for nearly twenty years, letters were received from Massachussets, representing, that circumstances had occurred which excited great apprehensions there, that the attempt was about to be revived with increased vigour. A letter upon this subject, dated, Boston, January 4, 1768, and signed by four ministers in the name of the Congregational pastors of the provinces, in which the evils that would arise from such a measure were strongly pictured, having reached the Committee, they had another interview with several members of the administration; and receiving the most positive assurances that no such intention existed, had the satisfaction of removing all the apprehensions which had been entertained by their friends in the province. It does not appear that any farther interference of the Deputies, in regard to this affair, took place during the few remaining years of the connexion between Great Britain and America. Since the separation of the two countries, the introduction of bishops has been partially carried into effect, but with an entire restriction

of their authority to concerns purely ecclesiastical. The liberal and amicable reception they met with in America, may be considered as a proof that the resistance made by the Dissenters originated in no principles of intolerance towards episcopacy, but simply in a just fear of its influence when allied with temporal power.

In December, 1741, it was referred to a Sub-committee of the Deputies, to consider of some method for registering the baptisms or births of the children of Protestant Dissenters; and after many discussions on the subject, it was agreed, "That if a general register of the births of the children of Protestant Dissenters of the three denominations, could be kept where constant recourse might be had, it would be of advantage to the Dissenting Interest." Application was made to the trustees of the late Rev. Dr. DANIEL WILLIAMS'S estates, and permission obtained from them, that the register should be kept at their house and library, for one year; and that it should be under the superintendance of the librarian, upon a small remuneration being made to him for his trouble. At first the expence of registering the birth of a child was sixpence, which sum being found inadequate to the necessary expences of books, parchments, &c. it has been lately increased to one shilling.\* For a considerable time the Dissenters did not, generally, avail themselves of the advantages which were likely to result from this plan; but of late years it has come much more into use, and few persons, now, among the three denominations, neglect a practice which may be of essential importance to the children and connexions of families, concerned in establishing a title to property by descent. Though peculiarly designed for the accommodation of

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\* Particulars of this Register will be found in the Appendix B. No. 4.

Dissenters, it is equally open to all classes of the community. Since the period just referred to, a motion has been, and still is, annually made at one of the general meetings of Dr. WILLIAMS'S trustees, to allow the register to be kept in their library, and it is now under the superintendance of their librarian, the Rev. THOMAS MORGAN.\*

The Committee were applied to, in 1742, for their advice respecting a claim of fees, † by a clergyman, for churching the wives of Dissenters in his parish, though they had not been at church; for marriages, though solemnized in another parish; and for burials in the burying ground belonging to the Dissenters. The parties were recommended to refuse payment, and the clergyman abandoned his claim. Many similar attempts at oppression have since been made, in which the advice of the Committee has been followed with success. ‡

In the year 1745, when the nation was not only threatened with a serious rebellion, but when the adherents of the Pretender were actually in arms, and making a rapid progress towards the metropolis, the Committee of Deputies met on the 27th of September, and resolved unanimously, "That it be recommended to the body of Protestant Dissenters to express their utmost zeal and readiness to join with any number of His Majesty's subjects, in order to support His Majesty's person and government in the present time of danger, in any legal

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\* It appears upon the minutes of the Deputies, that a general Register of the births and baptisms of children was opened at the Herald's Office; the idea of which was probably taken from the Register thus adopted by the Dissenters. It did not, however, meet with great encouragement; and on the passing of an Act, in the year 1783, for imposing a duty on the registration of baptisms, was nearly abandoned, though it still is occasionally resorted to for that purpose.

† See Summary of the Laws, Part 1. ch. v.

‡ For particulars of some of these cases, see the Supplement.

way that shall be most effectual." They also wrote a circular letter to all the congregations in the country, a copy of which is inserted here, as a proof of that steady zeal in favour of the House of Brunswick, by which the Protestant Dissenters have always been distinguished.

"Sir,—The Committee of the Protestant Dissenters, in and about London, having taking into their consideration the present dangerous situation of affairs in these kingdoms, by reason of the unnatural rebellion raised against His Majesty, King George, in favour of a Popish pretender supported by the power of France, the natural and avowed enemy to the religion, liberty, and trade of this country, have unanimously come to the following resolution, viz.: That it be recommended to the body of Protestant Dissenters to express their utmost zeal and readiness to join with any number of His Majesty's subjects, in order to support His Majesty's person and government in the present time of danger, in any legal way that shall be thought most effectual. I am therefore directed by the Committee to communicate to you the above resolution; and they earnestly desire that you would use the utmost of your influence with all your friends, to induce them to act in the most zealous manner, agreeably thereto.—Signed by order of the Committee,—BENJAMIN AVERY, chairman."

It was, probably, in consequence of this well-timed letter, that armed associations of Dissenters were formed, and that some of the principal people among them accepted of commissions from the King. By this loyal and patriotic conduct, however, they became liable to the penalties of the Test Act. The government, therefore, not insensible of its obligations to their active aid, in a moment of the utmost danger to the reigning family, caused an Act of Indemnity to be passed, by which the rebels, and those who had thus associated to suppress

the rebellion, were included in the same amnesty. This statute has, however, been succeeded by a series of annual Acts of Indemnity that have been uniformly passed in parliament, by the operation of which the Corporation and Test Acts have been kept, to a certain degree, suspended, from that period to the present.\*

The minutes of the Committee record numerous cases of riots and disturbances in different parts of the country, in which the Dissenters experienced much ill treatment. Wherever it appeared that the meeting-houses, in which the riots were excited, were properly registered, according to the provisions of the Toleration Act, the Committee readily lent their assistance in bringing the offenders to justice. In some instances the bills of indictment which were preferred, were thrown out by the grand jury. In others, as in the case of Mr. REES,† a minister in Wales, whose life had been in imminent danger from the violence of a bigoted mob, it was found impossible to proceed, because no attorney in the neighbourhood could be prevailed on to act, and it does not appear to have occurred to the Committee, at that time, to despatch an attorney for the purpose from London. The Committee have, for the most part, however, procured all the redress they desired.‡ The knowledge that a body existed in the metropolis, for obtaining the protection of the law in favour of Dissenting Minis-

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\* See Summary of the Laws, &c. Part 1. ch. 3.

† This worthy minister was the father of the present Dr. ABRAHAM REES. He used to make frequent excursions from Llanbrynmaire, in Montgomeryshire, where he resided, to various parts of the counties of Merioneth and Carnarvon, often travelling by night to avoid the assaults he was exposed to by day. Such was the success of his labours, that he lived to see meeting-houses built in those very districts where his life had been in the most imminent danger.

‡ For particulars of many of these cases, see the Supplement.

ters, served, in a considerable degree, to restrain the violence of their persecutors. The improvement, also, which their preaching produced in the disposition and manners of the lower classes, gradually rendered it less easy for persons of superior rank to find instruments to execute the hostile purposes, which in those days they were too ready to entertain, and did not scruple to avow.

The Committee conceived it their duty, however, not to interfere in cases where the requisitions of the Toleration Act had not been complied with. A case of this sort occurred in 1752, at Silverton, in Devonshire, where an insult was committed on several Dissenters, by a mob, while attending the public services of a Methodist preacher, in an unregistered house. The grand jury having thrown out the bills against the rioters, and the rioters having prosecuted the Dissenters themselves for being present at an unlawful meeting, and for an assault, application was made to the Committee, who resolved, that the case appearing indefensible, on account of the place of meeting not having been registered, they could afford no assistance.

The experience the Committee had acquired on legal subjects, and their readiness to procure the best professional advice, occasioned frequent applications to them, at an early period, when disputes arose between congregations and their ministers, or other persons, though merely of a private and local nature. A case of this sort occurred in 1744, where the minister of a congregation at Wolverhampton, when he was dismissed, refused to deliver up possession of the meeting-house and dwelling-house belonging to the congregation. A bill in Chancery being filed, at the recommendation of the Committee, possession was delivered up. In other in-

stances the Committee have had the satisfaction of procuring an accommodation of differences without resorting to the courts of law.\*

Several instances appear upon the minutes, about this period, in which the influence of the Committee in parliament was vigilantly and successfully exerted, though in a private manner, for the benefit of the Dissenters. In 1743, they prevented the conferring upon the corporation of London, a discretionary power to assess meeting-houses to a rate for lighting the streets; and, in 1752, procured the omission of an objectionable clause in the Act of Indemnity.

About the same time, the Committee laid a case before the Attorney General, respecting a regulation adopted by the trustees of a free-school at Hitchin, for excluding children who did not attend at church; the Attorney General being of opinion that the regulation was illegal, the trustees agreed to suspend it; and the Dissenters in the neighbourhood received assurances that it should not be carried into effect.

It is now time to give an account of the proceedings in what has been called the Sheriff's Cause; the commencement of which was not noticed before, that the whole might be related without interruption. In the year 1742, Mr. ROBERT GROSVENOR, a Protestant Dissenter, who had never taken the sacrament according to the usage of the church of England, and who scrupled to do it as a qualification for an office, was chosen sheriff of London and Middlesex. The Committee encouraged Mr. GROSVENOR to refuse the office, apprehending that the Corporation Act,† which requires that qualification, was an

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\* For further particulars, see the Supplement.

† 13 C. 2. stat. 2. ch. 1. See Summary of the Laws, &c. Part 1. ch. 1.

effectual bar to his election, and that the Toleration Act would protect him in refusing to qualify. Judging this to be a point of great importance to the Dissenters, not only in London, but in every corporation in the kingdom, the Committee determined to support him against any measures which the City might pursue, to force his compliance, or punish his refusal. They accordingly entered into a subscription to defray the expences, which was soon after increased by a general subscription of the Deputies.

In the first instance, the City moved the Court of King's Bench for an information against Mr. GROSVE-NOR. The Committee engaged several eminent counsel on his behalf, and the court unanimously refused the information.\* The City then brought an action of debt against him, which they shortly afterwards abandoned. Here the affair ended for a time; and when fresh attempts were made, they appear to have been rendered unavailing by the vigilance and activity of the Committee.

The City, being at length convinced that the existing bye-laws could not reach the Dissenters, in the year 1748 made a new law, with a view, as they alledged, of procuring fit and able persons to serve the office of sheriff: and thereby imposed a fine of four hundred pounds and twenty marks upon every person, who, being nominated by the Lord Mayor, should decline standing the election at the Common-hall; and six hundred pounds upon every one who, being elected by the Common-hall, should refuse to serve the office. It was notorious that this bye-law was contrived for the double purpose of oppressing the Dissenters, and raising money. The fines were expressly appropriated towards defray-

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\* This is reported in Strange, 1193.



ing the expence of building the Mansion-house. Many Dissenters were nominated and elected to the office, not because their services were wanted,—for some were wholly incompetent, through age or infirmity,—but because it was known they would rather submit to the fine, than serve an office, for which, they supposed, they were disqualified by law, except upon a condition with which they could not conscientiously comply. Numbers of them, accordingly, paid their fines; and above fifteen thousand pounds were thus obtained by the corporation of London.

The oppression growing so serious, the legality of this bye-law, and the proceedings under it, became the subject of anxious consideration: and as the Corporation Act had enacted that no person should be capable of serving an office in a corporation, who had not taken the sacrament according to the usage of the church of England, within a year previous to his election, and the Toleration Act appeared to have removed all the penal consequences of non-conformity, it was thought this system of exaction might be effectually resisted.

In 1754, three Dissenters, MESSRS. SHEAFE, STREATFIELD, and EVANS, were elected to this office; and on applying to the Committee for advice, were encouraged to refuse serving. The City, upon their refusal, brought separate actions of debt against each, in the Sheriff's Court, the judges of which are persons appointed by the Common Council. That against Mr. STREATFIELD could not be maintained, as he was found to be out of the jurisdiction: and the City refused to accept his offer of trying the merits of the cause in the courts above. The actions, however, against Mess. SHEAFE and EVANS, were carried on; and after much delay and expence (the City having made it necessary for the defendants to ap-

ply to the Court of Chancery for authority to inspect the books of the corporation upon the subject) both causes came on for judgement in September, 1757, and were determined in favour of the City. The defendants then brought writs of error, returnable in the Court of Hustings, of which the Recorder of London is sole judge, and where the former judgements were affirmed in October, 1759. The defendants then sued out a special commission to examine and correct errors, directed to Lord Chief Justice WILLES, Lord Chief Baron PARKER, Mr. J. FOSTER, Mr. J. BATHURST and Mr. J. WILMOT. The records being brought by *certiorari* before this court, called the Court of St. Martin's, from having been formerly held in the church of St. Martin's le Grand, counsel were heard several days, partly at Serjeant's-Inn Hall, partly at Guildhall; and at length, the several commissioners, with the exception of Chief Justice WILLES, who died before judgement was given, delivered their opinions *seriatim*, July 5, 1762, at Guildhall, and unanimously reversed the judgements of the Sheriff's Court and Court of Hustings, in both causes.

The opinions of the judges were taken down in short hand, and are preserved at length in the minutes of the Committee, (vol. 1. p. 518—548). Their respective arguments contained very judicious and forcible reasonings in support of their decision; all of them declaring, that the operation of the Toleration Act extended not only to remove the direct *penalties*, but also the *guilt* of non-conformity. In Mr. Justice FOSTER's argument, taken from his own notes,\* are the following observations:

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\* These notes were communicated by MICHAEL DODSON, Esq., the nephew of this excellent judge, to Dr. FURNEAUX; and published in the second edition of the Doctor's Letters to Mr. J. BLACKSTONE. See DODSON's *Life of Sir M. Foster*, p. 89.

“ It hath been said, that the construction now contended for is over-partial to the Dissenters; it excuseth them from offices of burthen. But doth it not at the same time exclude them from all offices attended with honour and profit? And it would sound extremely harsh to say, that the same law which, for the reasons given in the preamble, excludes them from the one, as persons unworthy of public trust, hath still left them liable to the other, be the trust that attends the office what it may. The shrievalty is indeed an office of burthen, but we all know that it is likewise an office of great importance and signal trust. The present defendant hath properly pleaded it, (the Toleration Act) and shewn himself intitled to the benefit of it. And he doth not plead it in order to excuse one fault by another, but in order to shew that the Rubric which requires all persons to communicate with the established church three times at least in the year, is not now obligatory on him. The Toleration Act, he saith, hath taken away the force and effect of the Rubric with regard to him. Whether it hath or hath not done this remains to be considered. And I am clearly of opinion with my brothers who have spoken before me, that it hath. This opinion I ground, not barely on some particular branches of the act, but likewise on the spirit and general frame and tenor of it. It is not to be considered merely as an act of connivance and exemption from the penalties of former laws; it doth, in my opinion, declare the public worship among Protestant Dissenters to be warranted by law, and intitled to the public protection. It no less than four times, upon different occasions, speaks of the religious worship practised among them as a mode of worship permitted and allowed by that act. What is this but saying, that it is warranted by law? The magistrate may sometimes connive, where he cannot punish or reform; but what the legislature

permits, allows, and takes under its protection, ceaseth from that moment to be an offence. I conclude, therefore, that the Corporation Act being prohibitory on the electors, every election made in contravention to it, with notice of the incapacity of the candidate, and of his legal excuse founded on the Toleration Act, is a mere nullity: and that the act having dispensed with the defendant's conformity to the Rubric, the judgement against him must be reversed."

The corporation, however, not contented with this solemn decision, brought both the causes, by writ of error, before the House of Lords; but Mr. SHEAFE dying, only one of them, intitled Sir THOMAS HARRISON, Knt. Chamberlain of the City of London, against ALLEN EVANS, Esq. came on to a hearing. On the 21st and 22nd of January, 1767, this cause was argued at the bar of the House of Lords, by Mr. YORKE and Sir FLETCHER NORTON for the plaintiff, and Mr. Attorney General DE GREY and Mr. Solicitor General WILLES for the defendants. Lord MANSFIELD then observed to their lordships, that he knew no difference between a person's being *elected*, and being *duly elected*; and that no person who had not taken the sacrament according to the rites of the church of England within twelve months before, was eligible to a corporation office, whatever might be his motive. He said he was desirous, however, that their lordships might draw the line between the *bona fide* Dissenter, and the occasional Conformist, the Infidel, and the Profligate; and that it might be so determined in their journals, as to prevent all future application to parliament, either from corporations or *bona fide* Dissenters. He would therefore propose, with their lordships' leave, the following question to be put to the judges: viz. "Whether, upon the facts admitted by the pleadings in this cause, the defendant is at liberty, or

should be allowed, to object to the validity of his election, on account of his having not taken the sacrament according to the rites of the church of England within a year before, in bar of this action."

On the 3rd and 4th of February, all the judges who had not sat as commissioners, (except Mr. J. YATES, who was ill, and Lord MANSFIELD himself) delivered their answers and reasons, *seriatim*, beginning with the junior, according to the usual course where there is a difference of opinion. These judges were Mr. Justice HEWITT, Mr. Justice ASTON, Mr. Justice GOULD, Mr. Baron ADAMS, Mr. Baron SMYTHE, Mr. Justice CLIVE, and Mr. Baron PERROTT. All, except Mr. Baron PERROTT, were full and clear in stating it as their opinion, "That the defendant is at liberty, and should be allowed to object to the validity of his election on account of his having not taken the sacrament according to the rites of the church of England within a year before, in bar of the action."

Lord MANSFIELD then rose in his place, as a peer, and delivered a most nervous and eloquent speech, which is recorded in the minutes of the Committee, and which was afterwards published, with his lordship's permission, by Dr. PHILIP FURNEAUX, as an appendix to his Letters to Mr. Justice BLACKSTONE.\* A few extracts may not improperly be inserted here.

"In moving," said his lordship, "for the opinion of the judges, I had two views. The first was, that the House might have the benefit of their assistance, in forming a right judgement in this cause before us. The next was, that the question being fully discussed, the

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\* It is stated by Mr. DODSON, that this speech was brought away, *memoriter*, by Dr. FURNEAUX.

grounds of our judgement, together with their exceptions, limitations, and restrictions, might be clearly and certainly known, as a rule, to be followed hereafter, in all future cases of the like nature." Here his lordship stated the question, and continued, "In every view in which I have been able to consider the matter, I think this action cannot be supported.

"If they rely on the Corporation Act, by the literal and express provision of that act no person can be elected who hath not within a year taken the sacrament in the church of England: the defendant hath not taken the sacrament within the year; he is not therefore elected.—Here they fail.

"If they ground it on the general design of the legislature in passing the Corporation Act, the design was to exclude Dissenters from office, and disable them from serving. For in those times, when a spirit of intolerance prevailed, and severe measures were pursued, the Dissenters were reputed and treated as persons ill-affected and dangerous to the government: the defendant, therefore, a Dissenter, and in the eye of this law a person dangerous and ill-affected, is excluded from office, and disabled from serving.—Here they fail.

"If they ground the action on their own bye-law; since that law was professedly made to procure fit and able persons to serve the office, and the defendant is not fit and able, being expressly disabled by statute law:—here too they fail.

"If they ground it on his disability being owing to a neglect of taking the sacrament at church, when he ought to have done it; the Toleration Act having freed the Dissenters from all obligation to take the sacrament at church, the defendant is guilty of no neglect, no criminal neglect.—Here therefore they fail."

His lordship then took up all the objections and arguments produced by Mr. Baron PERROTT, to which he gave the most masterly and decisive answers. "It is now," said his lordship, "no crime for a man to say he is a Dissenter; nor is it any crime for him not to take the sacrament according to the rites of the church of England: nay, the crime is if he does it contrary to the dictates of his conscience.

"If it is a crime not to take the sacrament at church, it must be a crime by some law; which must be either common or statute law, the canon law enforcing it depending wholly upon the statute law. Now the statute law is repealed as to persons capable of pleading that they are so and so qualified; and therefore the canon law is repealed with regard to those persons. If it is a crime by common law, it must be so either by usage or principle. There is no usage or custom, independent of positive law, which makes non-conformity a crime. The eternal principles of natural religion are part of the common law: the essential principles of revealed religion are part of the common law; so that any person reviling, subverting, or ridiculing them, may be prosecuted at common law. But it cannot be shewn from the principles of natural or revealed religion, that, independent of positive law, temporal punishments ought to be inflicted for mere opinions with respect to particular modes of worship. Persecution for a sincere, though erroneous conscience, is not to be deduced from reason or the fitness of things; it can only stand upon positive law. It hath been said, that "this being a matter between God and a man's own conscience, it cannot come under the cognizance of a jury." But certainly it may: and though God alone is the absolute judge of a man's religious profession, and of his conscience, yet there are some

marks even of sincerity ; among which there is none more certain than consistency. Surely a man's sincerity may be judged of by overt acts. It is a just and excellent maxim, which will hold good in this as in all other cases, "By their fruits ye shall know them." Do they—I do not say go to meeting now and then—but do they frequent the meeting-house? Do they join generally and stately in divine worship with Dissenting congregations? Whether they do or not, may be ascertained by their neighbours, and by those who frequent the same places of worship. In case a man hath occasionally conformed for the sake of places of trust and profit, in that case, I imagine, a jury would not hesitate in their verdict. If a man then alledges he is a Dissenter, and claims the protection and the advantages of the Toleration Act, a jury may justly find, that he is not a Dissenter within the description of the Toleration Act, so far as to render his disability a lawful one. If he takes the sacrament for his interest, the jury may fairly conclude, that his scruple of conscience is a false pretence when set up to avoid a burthen. The defendant in the present cause pleads, that he is a Dissenter within the description of the Toleration Act; that he hath not taken the sacrament in the church of England within one year preceding the time of his supposed election, nor ever in his whole life; and that he cannot in conscience do it. Conscience is not controllable by human laws, nor amenable to human tribunals. Persecution, or attempts to force conscience, will never produce conviction; and are only calculated to make hypocrites, or martyrs. My lords, there never was a single instance from the Saxon times down to our own, in which a man was ever punished for erroneous opinions concerning rites or modes of worship, but upon some positive law. The common law of England, which



is only common reason or usage, knows of no prosecution for mere opinions. For atheism, blasphemy, and reviling the Christian religion, there have been instances of persons prosecuted and punished upon the common law; but bare non-conformity is no sin by the common law: and all positive laws inflicting any pains or penalties for non-conformity to the established rites and modes, are repealed by the Act of Toleration; and Dissenters are thereby exempted from all ecclesiastical censures. What bloodshed and confusion have been occasioned from the reign of Henry the Fourth, when the first penal statutes were enacted, down to the Revolution in this kingdom, by laws made to force conscience! There is nothing certainly more unreasonable, more inconsistent with the rights of human nature, more contrary to the spirit and precepts of the Christian religion, more iniquitous and unjust, more impolitic, than persecution. It is against natural religion, revealed religion, and sound policy. Sad experience, and a large mind, taught that great man, the President DE THOU, this doctrine: Let any man read the many admirable things which, though a Papist, he hath dared to advance upon the subject, in the dedication of his History to Harry the Fourth, of France, (which I never read without rapture), and he will be fully convinced, not only how cruel, but how impolitic, it is, to persecute for religious opinions. I am sorry, that of late his countrymen have begun to open their eyes, see their error, and adopt his sentiments. I should not have broke my heart, (I hope I may say so without breach of Christian charity), if France had continued to cherish the Jesuits, and to persecute the Huguenots. There was no occasion to revoke the Edict of Nantz; the Jesuits needed only to have advised a plan similar to what is contended for in the present

case:—make a law to render them incapable of office;—make another to punish them for not serving. If they accept, punish them, (for it is admitted on all hands, that the defendant, in the cause before your lordships, is prosecutable for taking the office upon him): if they accept, punish them; if they refuse, punish them; if they say yes, punish them; if they say no, punish them. My lords, this is a most exquisite dilemma, from which there is no escaping; it is a trap a man cannot get out of; it is as bad a persecution as that of Procrustes:—if they are too short, stretch them; if they are too long, lop them. Small would have been their consolation to have been gravely told, the Edict of Nantz is kept inviolable; you have the full benefit of that Act of Toleration; you may take the sacrament in your own way with impunity; you are not compelled to go to mass. Was this case but told in the City of London as of a proceeding in France, how would they exclaim against the Jesuitical distinction! And yet in truth it comes from themselves: the Jesuits never thought of it; when they meant to persecute, their Act of Toleration, the Edict of Nantz, was repealed. This bye-law, by which the Dissenters are to be reduced to this wretched dilemma, is a bye-law of the City, a local corporation, contrary to an act of parliament, which is the law of the land; a modern bye-law, of very modern date, made long since the Corporation Act, long since the Toleration Act, in the face of them: for they knew these laws were in being. It was made in some year of the reign of the late King: I forget which; but it was made *about the time of building the Mansion-house*. Now if it could be supposed the City have a power of making such a bye-law, it would entirely subvert the Toleration Act, the design of which was to exempt the Dissenters from all penalties; for by such a bye-law

they have it in their power to make every Dissenter pay a fine of six hundred pounds, or any sum they please; for it amounts to that. The professed design of making this bye-law, was to get fit and able persons to serve the office: and the plaintiff sets forth in his declaration, that if the Dissenters are excluded, they shall want fit and able persons to serve the office. But were I to deliver my own suspicion, it would be, that they did not so much wish for their services, as for their fines. Dissenters have been appointed to this office, one who was blind, another who was bed-ridden;—not, I suppose, on account of their being fit and able to serve the office. No; they were disabled both by nature and by law. We had a case lately in the courts below, of a person chosen mayor of a corporation, while he was beyond the seas, with His Majesty's troops in America; and they knew him to be so. Did they want him to serve the office? No; it was impossible. But they had a mind to continue the former mayor a year longer, and to have a pretence for setting aside him who was now chosen, on all future occasions, as having been elected before. In the cause before your lordships, the defendant was by law incapable at the time of his pretended election: and it is my firm persuasion, that he was chosen because he was incapable. If he had been capable, he had not been chosen; for they did not want him to serve the office. They chose him, because without a breach of the law, and an usurpation on the crown, he could not serve the office. They chose him, that he might fall under the penalty of their bye-law, made to serve a particular purpose: in opposition to which, and to avoid the fine thereby imposed, he hath pleaded a legal disability, grounded on two acts of parliament. As I am of opinion that his plea is good, I conclude with moving your lordships, that the judgement be affirmed."

The judgement was immediately affirmed *nemine contradicente*: which was accordingly entered on the journals in the following words: “Mercurii, 4th of February, 1767, It is ordered and adjudged, by the lords, spiritual and temporal, in parliament assembled, that the judgement given by the Commissioners Delegates, appointed to hear the errors in a judgement given in the Sheriff’s Court, London, and affirmed by the Court of Hustings, reversing the judgement of the said Sheriff’s Court and Court of Hustings, be, and the same is hereby affirmed; and that the record be remitted.”\*

By this decision, the important question, in which the property, not to say the liberties, and even the lives of Protestant Dissenters were so much involved, was finally set at rest.

At the first meeting of the Committee after the decision, the chairman gave an ample report of the whole business; and he added, that several of the noble lords were disposed to give the Committee costs, and that he had, on such a hint being thrown out, furnished one of them with an account of the various artifices employed by the City to increase their expences, in the hope that the Committee would be tired out, and compelled to give up the contest. When, however, that nobleman inquired whether a motion should be made for costs, the chairman, in the name of the Committee, informed his lordship, that as the House of Lords never allows more costs than £200,† and as the suit, though carried on in a single name, was of a public nature, they were not desirous of pressing that claim.

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\* Lord’s Journ. xxxi. 475. Reported in 3 Bro. Parl. Ca. 465, 2nd edition.

† The House of Lords enforces payment of the costs of appeal by means of a recognizance to the King, which the appellant is required to enter into, in the penalty of £200, conditioned for the payment of such costs as the House shall appoint, in case the appeal is disallowed.—*Order*, 27th January, 1710.

The chairman having through the whole business, which had lasted so many years, been exceedingly active in promoting its success, the Committee unanimously voted him their thanks.

At a general meeting of the Deputies, on the 11th of March, 1767, the chairman delivered an excellent address, in reference to the recent triumph of the Dissenters, and the general prosperity of their concerns. He particularly observed their obligation to the favour of Providence, in lengthening out "the dying life of the defendant," Mr. EVANS, just far enough to sustain the cause till it was judicially determined. Mr. EVANS's life was at that time so precarious, and an object of such importance to the Dissenters, that numerous inquiries were continually made at his house respecting the state of his health. He was sufficiently sensible, when the cause was determined, to receive the information, and to express, with a faint smile and faltering accents, the satisfaction it afforded him in the immediate prospect of death. He was a man of considerable opulence, and great respectability; and had been several years a member of the Committee.

The Committee were appealed to, about the year 1770, respecting some differences among a congregation of Dissenters at Shrewsbury, as to the choice of an assistant minister. The adherents of one candidate applied for the assistance of the Committee in regard to the temporalities belonging to the congregations alledging that the other had been elected by a minority. On this, the Committee directed their secretary to write for a statement from the other party, with properly authenticated documents. Before any progress could be made in the investigation, the elected candidate died; and the chairman of the Committee wrote to one of the principal

people connected with the congregation, urging him by all means to endeavour to unite both parties. The Committee highly approving of his conduct, came to the following unanimous resolution, which is strongly recommended to the attention of those who may in future be interested in similar cases:

“ That it is the opinion of this Committee, that differences like those above mentioned, weaken the Dissenting Interest, and tend to bring Dissenters into contempt; and strengthen the hands of those who watch opportunities to dissolve the Deputation:—a Deputation that reflects great honour on the Dissenters; and has been of the utmost utility and advantage to the Dissenting Interest, and without which several of their congregations must have fallen a prey to their adversaries. For Providence has, in several instances, favoured the attempts of the Deputation and Committee, to defend the legal civil rights of the Dissenters against oppression. This is their proper business, and not to settle disputes and controversies in particular churches, which should be always adjusted with a spirit of meekness and humility by the congregations themselves, or their friends and neighbours.

“ That as it is the undoubted right of every congregation of Protestant Dissenters in England to choose their minister, they have also the sole right to fix the qualifications of an elector.—And therefore it is the opinion and resolution of this Committee, that it be recommended to the congregation at Shrewsbury, and to all other congregations, that before they come to the choice of a minister, it should be plainly settled by them what kind of persons should have a vote.”

At a meeting of the Committee, in March, 1772, the Rev. Mr. PICKARD, Dr. FURNEAUX, and Dr. STENNETT, deputed by the general body of Protestant Dissenting

ministers, attended to solicit advice and assistance, in an application to parliament, for taking off the subscription required, by the Toleration Act, from Protestant Dissenting Ministers, and to obtain relief in the case of tutors and schoolmasters.

By the Toleration Act, Protestant Dissenting Ministers were exempted from the penal laws made against non-conformity, only on condition of taking the oaths of allegiance and supremacy, subscribing the declaration against Popery, and subscribing also the articles of the church of England, excepting the 34th, 35th, 36th, and part of the 20th. Of course those who could not subscribe the doctrinal articles of the church of England were, at the period in question, excluded from all the benefit of the Act of Toleration, subjected to the most grievous restrictions, and liable to severe punishment by fine and imprisonment.\*

To relieve persons of this description, the ministers resolved to apply to parliament, and, instead of subscription to the articles, they proposed to make the following declaration: "That we believe that the Holy Scriptures of the Old and New Testament contain a revelation of the mind and will of God, and that we receive them as the rule of our faith and practice." To assist them in this affair, they had recourse to the Committee of Deputies, who unanimously approved of the application, and expressed their hearty concurrence.

In the month of April, a bill was brought into the House of Commons, by Sir HENRY HOUGHTON, for the further relief of Protestant Dissenters, and was seconded by Sir GEORGE SAVILLE. The administration supporting the measure, and bearing ample testimony to the

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\* See Summary of the Laws, &c. Part II.

loyalty and affection of the Dissenters, the bill passed the House of Commons. But in the upper House, though zealously supported by the Lords Mansfield, Camden, Chatham, Shelburne, &c., it was lost by a majority of 86 to 28. "It is no reflection," says the editor of the Parliamentary History and Debates of that period, "to say, that the ability of the speakers, and the force of argument, were on the side of the bill." Besides the noble lords already mentioned, the Dukes of Richmond, Devonshire, Portland, Northumberland, Athol, and Newcastle: the Marquis of Rockingham: the Earls of Coventry, Tankerville, Talbot, Hardwicke, Besborough, Buckinghamshire, and Northington: the Viscounts Say and Sele, and Torrington; and the Lords Despencer, Romney, Lytton, Trevor, and Milton, and the Bishop of Lincoln, divided in favour of the bill to give further relief to the Dissenters.

Seven years after this, the Bishop of Exeter, Dr. Ross, in his Sermon before the House of Lords, January 30, 1779, openly and handsomely expressed his wish that religious toleration were extended, and that Protestant Dissenters might have a legal security for the free exercise of their worship. This hint was not suffered to be lost; and on the 10th of March Sir HENRY HOUGHTON, after an excellent speech in favour of an extended relief to Dissenters, moved,—“That the House do resolve itself into a Committee, to consider of granting further relief to Protestant Dissenting Ministers and Schoolmasters.” The motion was ably supported, and carried without a division.

The bill was accordingly brought in again; and passed into a law with little opposition. By this act,\* Dissenting

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\* 19 G. 3. c. 44.—See the Act in Appendix A.



Schoolmasters were at length relieved from the penalties \* to which they had been exposed for not being licensed by the bishop, or taking the sacrament at church. The Committee, though they could afford no protection, had very liberally furnished legal advice and pecuniary assistance, in numerous cases of this description, in which they had been solicited to interfere.

On the 19th of January, 1776, a case of great oppression was brought before the Committee. At Hackleton, in Northamptonshire, there was a meeting-house, at which about two hundred persons, chiefly poor people and labourers, usually attended; who, on account of their poverty, had been obliged to mortgage the house for £40. The money had been called in on the preceding Christmas, and as they were unable to raise the sum, the lady of the manor, an enemy to the Dissenters, endeavoured to get the mortgage into her own hands, with a view of converting the place of worship to some other purpose. The same lady had already turned several poor families out of their dwellings for attending the meeting: had beat down a wall belonging to the meeting-house premises, grubbed up a hedge, and made a carriage road, where it could be proved there had been no road for eighty years. The Committee immediately directed their secretary to acquaint the lady that if she did not repair the damage done to the ground, and make satisfaction to the parties, an action would be commenced. It is probable that, by this time, she was aware of the impropriety of her conduct, and compromised the matter; as by the advice of the minister of the place, nothing further was done by the Committee.

Information was laid before the Committee, May 31,

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\* See Summary of the Laws, Part III.

1776, that Mr. AUSTIN, a Baptist minister, at Sutton Coldfield, had been appointed to serve the office of overseer of the poor, although he carried on no trade,\* and had qualified agreeably to the Toleration Act. Doubts having arisen as to the best mode of proceeding, the Committee directed a case to be drawn and submitted to counsel: who advised Mr. AUSTIN not to appeal to the Quarter Sessions against the order of the two justices, as the parish would then have no remedy but by indicting him for not taking upon him the office of overseer; and, in case an indictment should be found at the Sessions, to remove it by *certiorari*, that it might be tried at the next assizes, and to plead the Toleration Act. Mr. AUSTIN was accordingly indicted; he pleaded as he had been advised, and counsel were retained by the Committee on his behalf. The prosecutors, seeing that the defence was indisputable, did not venture to try the cause, nor did they even reply to the defendant's plea: he accordingly signed judgement, which put an end to the affair.

The Committee have from time to time had before them several cases relating to marriage. In 1769, a clergyman, in the county of Durham, refused to marry a couple, because they were born of Baptist parents, and had not been baptized. The young people having, as they imagined, no other resource, were married in Scotland; but on their return, the clergyman demanded his fees, for a duty which he had refused to perform. The fees being denied him, he actually instituted proceedings in the Spiritual Court; but on the interference of the Committee, the matter was dropped.

In 1777, the Committee were applied to for advice and assistance, in a case where a couple had been married in

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\* Carrying on trade makes no difference in this respect.---See Summary of the Laws, Part II. ch. 3.

a meeting-house, at Barton on the Beans, Leicestershire, so long ago as the year 1752. Some question of property rendering it necessary that the validity of the marriage should be ascertained, application was made to the Committee, who immediately determined that it did not come under their cognizance: the Dissenters having no right, by law, to perform the marriage ceremony, and the supposed marriage being consequently void, and the children illegitimate.

In 1783, a clergyman in Derbyshire having refused to solemnize a marriage between unbaptized persons, a case was drawn up, and laid before Mr. DODSON, who gave it as his opinion that the refusal could not be justified; and upon sight of this opinion, the clergyman readily acquiesced.

In the year 1786, the Committee were applied to by the Rev. Dr. PECKWELL, respecting the conviction of a Dissenting minister, and four other persons, at Hecklington, in Lincolnshire, upon the Conventicle Act,\* the minister having been guilty of praying and expounding the Scriptures in an unregistered place, in the presence of five persons. The Committee had, previously to this, in no instance given countenance to persons who had not taken the oaths according to the due forms of the law, or who officiated in places not properly registered; but upon the present application, they laid the case before Mr. LEE, who gave it as his opinion, that there was no remedy, and of course the Committee could not interfere.

A bill of costs was sent to the Committee, about the same time, relating to several suits, instituted by the parish clerk and sexton in the Archdeaconry Court of Car-

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\* 22 C. 2. c. 1.—See Summary of the Laws.

marthen, against ten poor persons, at Swansea, for the non-payment of certain ecclesiastical dues, to which they were not liable, amounting to £43. 14s. 5d. In consequence of suffering judgement to go against them by default, they had all been excommunicated, and would have been sent to prison, had not the demand been satisfied. The Committee, therefore, resolved to pay the plaintiff's bill of costs; but before the sentence of excommunication was taken off, new demands were made, and the Committee actually paid nearly £80 to put an end to the affair, which, without their interference, might have subjected the defendants, on account of their poverty, to perpetual imprisonment. They determined, at the same time, to undertake the defence of these unfortunate persons against any future demands of the same kind.

A long interval had now elapsed, since the last application to Parliament for a repeal of the Corporation and Test Acts. During this time, the justice and expediency of a perfect toleration had been so powerfully taught, and so generally admitted, as a doctrine of political science; the bitterness of controversy had in so great a degree given way to the mild and liberal spirit of Christianity; and the conduct of the Dissenters at large, both as private individuals, and as members of the body politic, had been so highly respectable and meritorious, that it was hoped some extension of religious liberty might at length be obtained without much opposition. Accordingly a special meeting of the Committee was held on the 29th of December, 1786, to consider the expediency of applying to Parliament for the repeal of the Corporation and Test Acts, so far as they affect Protestant Dissenters. The opinion of the Committee, that if the proper course was pursued, there was a considerable probability of suc-

cess, was afterwards sanctioned by a general meeting of the Deputies; who resolved unanimously, that an application should be made, as soon as possible. For the purpose of conducting this application, the Committee held special meetings, independent of those for the general business of the Deputation, and added to their number several distinguished individuals. In their addresses to the public, they styled themselves "The Committee appointed to conduct the application to Parliament, for the repeal of the Test and Corporation Acts." In January, 1787, they waited on the Chancellor of the Exchequer, Mr. PITT, and upon several other leading members of both Houses, soliciting their attention to the subject, and stating the claims of the Protestant Dissenters, upon the justice and liberality of the Legislature. "None of His Majesty's subjects," they observe in a letter addressed to Mr. PITT, "are more loyal, nor more faithfully attached to the constitution, laws, and liberties of their country. They cannot, therefore, but feel it to be a grievance that they should remain stigmatized, by these two Acts, from which no single benefit results, as they conceive, either to the church or state."

Having settled their plan, the Committee obtained the assistance of HENRY BEAUFOY, Esq. to bring forward the business in the House. On the 28th of March, 1787, the motion was made. It was seconded by Sir HENRY HOGHTON, and supported with great force and eloquence by Mr. FOX, Lord BEAUCHAMP, and Mr. W. SMITH; but being opposed by Mr. PITT and Lord NORTH, it was lost, after a debate of seven hours, by a majority of 78, the numbers being 100 in favour of the proposition, and 178 against it. The Committee, in their report on the business, say, "Notwithstanding the opposition met with, our friends had clearly the advantage, in point of reason

and argument. No small impression in our favour seemed to be made on the minds of many persons, and it has certainly been of much advantage to have the subject so ably discussed.”—“Conscious,” they add, “that the Protestant Dissenters have ever been ardent friends to the legal constitution and government of this country; zealous adherents to the House of Hanover, and faithful subjects to his present Majesty; conscious at the same time, that they solicit nothing but what is just and reasonable to be asked, and what it would be safe and honourable for the Legislature to grant, the Committee unanimously and zealously recommend that this great object be pursued with a prudent but steady assiduity, with a decent but manly firmness and fortitude, till the redress sought shall be obtained.”

It was eventually determined, however, that the application should not be renewed till the Session of 1789, and that the interval should be employed in adopting suitable methods to secure success. In the former discussion, it had been stated as an objection, that the Dissenters at large were neither earnest in their exertions, nor unanimous in their wishes for redress. On this account, the Committee thought it right to solicit the avowed concurrence of their brethren in every part of the kingdom. In a printed letter, which was widely circulated on this occasion, they express themselves in the following terms: “Nothing but the circumstance of proximity to the seat of power, can ever induce those Dissenters who constitute what is here called the General Body, to act upon any occasion independently of their brethren in the other parts of the kingdom, and that only upon sudden emergencies, on which the sentiments of the Dissenters at large cannot be collected.—But as a common interest must dictate similar feelings, we are con-

fidest that in general we express your sentiments whenever we declare our own. On the present occasion, we think it impossible, whatever diversity may exist in our religious persuasions, that we should not have one and the same wish. We feel alike as fellow-citizens unjustly deprived of civil privileges, and are equally sensible that what we claim is not a favour, but a right. The more this subject is considered and discussed, the more clearly must the hardship of our present situation in the community be seen. And be assured that with this fixed persuasion, and with your concurrence and support, we shall steadily persevere in the pursuit of our object, confident of success in the end, and even of the applause of those, who, through the course of long continued prejudice, may for a time oppose our just application for relief."

A Committee was now appointed for the purpose of circulating books and pamphlets in favour of the repeal. The attention of the Dissenters at large was excited; meetings were called in the different counties, and resolutions passed expressing a warm concurrence in the proceedings of the Committee, and highly approving the intended application to Parliament. In some instances, the Dissenters in the country were anxious that the application should extend not only to the repeal of the Test and Corporation Acts, but to the general abolition of all penal laws on the subject of religion.

On the 8th of May, 1789, Mr. BEAUFOY moved in the House of Commons: "That this House will immediately resolve itself into a Committee of the whole House, to consider of so much of the act of the 13th of Charles II., for the well governing and regulating of Corporations, and of the act of the 25th of Charles II., for the preventing of dangers which may happen from Popish Re-

cusants, as requires persons before they are admitted into any office or place in corporations, or having accepted any office, civil or military, or any place of trust under the crown, to receive the sacrament of the Lord's supper according to the rites of the church of England."

This motion was seconded by Sir HENRY HOUGHTON, and most ably supported by Mr. FOX, Mr. W. SMITH, and other friends of civil and religious liberty. Upon the division of the House, there were 104 votes in favour of the motion, and only 124 in opposition to it.

With so small a majority against them, the Committee seem to have had no doubt of succeeding in the next attempt. They therefore came to an immediate resolution to renew their application in the following Session. They advised the several Dissenting congregations in the country to form institutions similar to that of the Deputies, for such districts as should be found convenient. They also recommended to all Dissenters who had votes for Members of Parliament, to apply to their respective representatives, and request their attendance and support in the House of Commons, when the motion for the repeal of the Test and Corporation Acts should again be made.

Towards the close of the year 1789, and early in 1790, meetings of the Committee were frequently held; and many of them were attended not only by Delegates from the Dissenters of the several counties, but by various other gentlemen, who, though members of the establishment, were zealous friends of civil and religious liberty. At one of these meetings, January 13, 1790, it was unanimously resolved, "That every Test calculated to exclude Protestant Dissenters from civil and military offices, on account of religious scruples, is a violation of their rights as men and citizens of a free state, inconsistent with the



principles of the constitution of this country, and repugnant to the genuine spirit of true religion, subjecting a large number of deserving members of the state to a species of persecution, not more injurious to them than dishonourable to the government of which they are useful and loyal subjects.”

Early in 1790, Mr. Fox was solicited to bring forward the motion in the House, at such time as he should judge most convenient. To this request he readily acceded, though he foresaw there was but little chance of success. The Revolution in France had occasioned such a ferment among the people of this country, and excited such alarms in the minds of many who were otherwise of liberal principles and dispositions, that the smallest change in favour of liberty was regarded with the utmost apprehension. In many parts of the country, every possible exertion was made, both by the clergy and laity, to convene meetings for the purpose of opposing the repeal of the Test and Corporation Acts, as threatening destruction to the established church. Representations of this kind, frequently conceived in violent and inflammatory language, were circulated with the utmost activity. In many cases, it was scarcely safe to be known as a Protestant Dissenter; and nothing but the power seemed wanting, to renew all the horrors of persecution.

Under these most discouraging circumstances, notice was given by Mr. Fox, on the 15th of February, 1790, of a motion for leave to bring in a bill for the repeal of the Test and Corporation Acts. Mr. PITT immediately moved for a call of the House on the day preceding Mr. Fox's motion. His object was, evidently, to destroy all the hopes of the Protestant Dissenters, by an overwhelming majority. The plan succeeded. The call of the House took place on the 1st of March, and on the

following day Mr. Fox made his motion. "The power of truth, reason, and eloquence," said the Committee in their subsequent report, "was so conspicuous in the speech with which he opened, and in the reply with which he closed the debate, that his defence of religious liberty, in its fullest extent, made the strongest impression upon the House of Commons." Means were taken, however, both before and during the debate, to spread jealousy and alarm among the members, by circulating printed papers, fabricated to suit the purposes of the moment; so that, on the division, though 105 persons voted for the repeal, there were 294 against it. Mr. Fox concluded the debate, by congratulating himself that he had been selected to vindicate the rights of conscience, and to defend the principles of religious liberty; declaring that, "so sincerely was he a friend to the cause, that he should be ever ready, on any future occasion, to take the field again, under the clearest conviction that the complaints of grievance and oppression, in the present instance, were well founded."

The Committee, sensible of their obligations to this great statesman, presented to him their unanimous thanks, for his inflexible perseverance in the cause of civil liberty, and for the singular ability and energy which he displayed on this particular occasion, when the superiority of reason and truth consoled them for the triumph of numbers; and they begged him to be assured, that the Protestant Dissenters never would desert a cause which had invited such a defender, and which they were convinced would ultimately prevail, in defiance of all opposition.

Though defeated in their object, the Committee were satisfied that much good would eventually arise from the discussion, and they indulged the hope that the period could not be very distant when they might confidently

look for complete success. With this view they recommended that a standing Committee composed of Delegates from all parts of the kingdom should be appointed, to meet in London, for the purpose of concerting and pursuing measures for obtaining relief from the Legislature, on the subject of the Test Laws; and that the proportion of Delegates, in this Committee, should be twenty-one on the part of the Deputies of the congregations in and near London, and forty-two for the remainder of the kingdom.\* They also circulated an able and spirited paper, intitled "An Address to the People of England." In this they observed, that their late application to Parliament appeared so clearly founded on the unalterable principles of reason and justice, that they could not but regard the manner in which it was defeated, and the violent spirit that had been raised against them, not only as an injury to themselves, but as a discredit to the character of a free and enlightened nation. They claimed nothing from the country, but to be delivered from ignominious disqualifications imposed by laws which deprived them of their rights as men and as citizens; and which, under certain circumstances, placed them nearly in the situation of proscribed out-laws. "Was it to be expected," they ask, "that we should continue for ever

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\* In pursuance of this resolution, several meetings of gentlemen appointed to form the permanent Committee, were held early in the year 1791; and the first general meeting of this Committee, including twenty-nine delegates from different counties, was held on the 24th of January, 1792, when it took the title of "The Deputies and Delegates from the Protestant Dissenters of England and Wales, appointed to obtain a repeal of the Test Laws." It held frequent meetings, and circulated several addresses, during the two following years; but found every thing, in the circumstances of the times, to discourage the renewal of an application to Parliament. The last annual address of this body, was in 1794. Most of its leading members are still living.

silent under such grievances, thus disgraceful and galling to every liberal mind? If we had not sought for the redress of them, we should have been wanting to the dignity and feelings of free men." They next enter into a defence of their principles; and, in justification of their conduct, appeal to their own practice, as the uniform and zealous defenders of the House of Hanover; and conclude with saying, "We are not discouraged by our late defeat; but shall cherish the confidence that when the application for relief from our grievances is renewed, we shall not be censured as obstinately persisting in fruitless attempts. The time will speedily arrive when a generous nation, that of late has been misled by false alarms and insidious and bigoted representations, shall return to calmer feelings and more sober reflections. A restoration to our rights must necessarily result from the progress of truth, justice, and sound policy. Great Britain, which has so long appeared with such distinguished splendor in the annals of civil and religious liberty, will not suffer her ancient and well-earned glory to depart from her. She will not permit herself to be exceeded by other countries in the regards which are due to the rights of men and of citizens, and to the claims of faithful and loyal subjects."

These hopes were, unfortunately, but too sanguine. The suspicion and alarm which had been excited in the country, instead of subsiding, grew still more violent; and prevailed in so great a degree, for a long period of time, as to repress almost every effort to advance the cause of humanity and freedom.

In the month of November, 1792, an association was formed at the Crown and Anchor Tavern, by Mr. JOHN REEVES and others, which attracted a large share of public notice. Its avowed object was, "The protection

of liberty and property against the attempts of republicans and levellers;" but the natural tendency, not to say the real design of its measures, appears to have been to excite prejudice and suspicion against all who were favourable to public liberty, however warmly attached to the English constitution. In one of their papers, they charged the Dissenters with having been the authors of the American war, and of the consequent taxes. "*Our national debt,*" say they, "*for which we are now paying such heavy taxes, was doubled by the troubles of America, all brought upon us, from the beginning, by the Dissenters there and here. Did not Dr. PRICE write for them? And did not the Birmingham Doctor encourage them, and write Mob-principles of Government to justify them? Yet these people, who brought our burdens upon us, are they that rail most at the expensiveness of our government, and use it as a handle for overturning it,*" &c.

To repel these atrocious calumnies, the Deputies judged it expedient, at a special general meeting, held for that purpose, December 13, 1792, to declare their adherence to the constitution of the country, as by law established. The following declaration having accordingly been prepared, was adopted unanimously, and was afterwards extensively circulated by means of the morning and evening papers.

"We feel ourselves called upon, at the present period, publickly to declare our firm attachment to the constitution of Great Britain; being persuaded that it is excellent in its principles, and wisely framed for the extension of solid happiness and real liberty.

"It always has been, and still continues to be, our determined resolution, to contribute our best endeavours to maintain and preserve, by all the means in our power,

the constitution of this kingdom, consisting of King, Lords, and Commons ; at the same time we rejoice as Britons, that one great merit of this invaluable constitution is, that it contains within itself the means both of reform and of improvement.

“ Having thus in the most unequivocal manner declared our sentiments at this critical juncture, it is a pleasing reflection that this declaration is in perfect consistency with the conduct of the Protestant Dissenters ever since the glorious Revolution of 1688, which we consider as the basis of the constitution, and which happily conduced to the establishment of the present Royal Family on the throne.—Signed,—EDWARD JEFFRIES, Chairman.”

This declaration, which certainly contained the unequivocal sentiments of the great body of Dissenters, throughout the kingdom, excited the attention of Mr. REEVES's association ; and they disavowed that part of the above quotation which is printed in italics. In a letter, dated December the 18th, from Mr. REEVES to the chairman of the Deputation, inclosing a new edition of the paper in which the obnoxious passage originally stood, he says, “ You will see that the paper published by us contains nothing that could possibly give offence to the Dissenters. In truth the original paper did contain some harsh reflections ; these we disapproved, and we accordingly left them out,” &c. In reply to this letter, Mr. JEFFRIES said, “ that the Deputies would probably have taken no notice of it, but for the sake of explaining themselves by repelling the charge contained in the printed paper, ‘ That the Dissenters were the cause of the American troubles,’ as both false and injurious.” “ I am directed,” said he, “ by the body unanimously, to say that they consider the expression, as it stood in

the first edition, a gross calumny; and the alteration since made, so trifling as scarcely to merit attention,—the allusion remaining the same.”

Shortly after this meeting, the attention of the Committee was called to a case of very serious importance. A meeting-house at Guilsborough, in Northamptonshire, was burnt down in the night of Christmas-day, 1792, and several circumstances led to the belief that it was the result of design. The Committee being applied to, obtained an authenticated statement of facts, which they laid before His Majesty's ministers, who readily offered a reward of £200, by public advertisement, to any person or persons, for bringing the offenders to justice. No discovery was made; but the vigilance of the Committee, and the prompt attention of His Majesty's government to their representations, were probably the means of preventing farther outrages in other parts of the kingdom.

In the year 1796, some recent Acts of Parliament led the Committee to inquire whether places of public worship among Protestant Dissenters were liable to the payment of the Laud-Tax, Poor Rate, Watch and Lamp Rate, &c. The result of the inquiry, founded upon the opinions, given at different periods, by four able lawyers, who afterwards rose to the most distinguished stations, viz. MESSRS. DUNNING, WALLACE, WEDDERBURN, and MACDONALD, was entered on their minutes, in the following words.

1. “As to the Land-Tax.—If the ground upon which the meeting-house is built was previous thereto subject to the Land-Tax, it is so still; but if it produces no profit to any person beyond the rent reserved in the lease of it, that rent ought to be the measure of the assessment. But where no rent is reserved, or the trustees have the

inheritance of the meeting-house, and no profit is made of it by any person, it is not rateable at all.

2. "As to Poor Rates.—This is a tax on the occupier; and if any profit is made of the meeting-house, by letting the seats or otherwise, whoever makes that profit, whether the trustees in whom the lease is vested, or the preacher, may be considered as the occupier, and rated as such. But if the meeting-house is only used as a place of meeting for religious worship, and no profit arises from it to any body, no one can be considered as having any such occupation of it as will subject it to the Poor Rate.

3. "As to the Watch, Scavenger, Lamp, Sewer, or any other Parochial or Ward Taxes, these will depend upon the several laws under the authority of which these taxes are collected: but if they are taxes upon the occupier they will fall under the same consideration as the Poor Laws."

On two important occasions, the Deputies considered it their duty, as in some sort the representatives of the Dissenters in general, to approach the throne with expressions of loyalty and affection: first, on His Majesty's recovery, in the year 1789, and afterwards, on his providential escape from assassination, in 1795. In 1789, addresses both to the King and Queen, signed on behalf, and at the unanimous request, of the general body of Deputies, by a Sub-committee, consisting of Mr. JEFFRIES, the chairman, and three other members of the Committee, were presented by those gentlemen, at Windsor, on the 18th of April. They were very graciously received, and the gentlemen of the Sub-committee had the honour of kissing their Majesties' hands. The answer returned by His Majesty, was in the following terms: "Your dutiful and affectionate congratulations on my



recovery from my late severe indisposition, and your expressions of attachment to my family and government, are very agreeable to me. The Protestant Dissenters will always experience my favour and protection." On the subsequent occasion, an address to His Majesty alone, signed in like manner, by Mr. JEFFRIES, was presented at St. James's, by two gentlemen of the Committee, appointed for that purpose. They were most graciously received, and had the honour of kissing His Majesty's hand.

About the same time, one of the members of the Committee, W. SMITH, Esq. M. P., procured the insertion of a clause in the bill then pending, "for preventing political lectures," whereby it was declared not to extend to the academies and seminaries of the Dissenters.\*

In 1797, a person was indicted for disturbing a congregation at Reigate. He was tried, and found guilty, at the Surry Assizes, before Mr. Justice BULLER, whose speech to the jury upon summing up the evidence having been taken down, a copy of it was presented to the Committee, and entered on their minutes. It is as follows :

"This is an indictment founded on a statute which passed in the reign of King William and Queen Mary, and known by the name of the Toleration Act. The object of that statute was, what every man in his heart must commend, to leave every man to worship God in his way, to follow the dictates of his own conscience, and to observe them in such a manner as he thinks right, he not doing mischief to any other member of the community. It is undoubtedly to be wished that that indulgence should be granted to all ranks of men.

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\* This is but one of the very numerous and important services, for which the Protestant Dissenters are indebted to the vigilance, ability, and public spirit of the honourable Member for Norwich.

“ The ground of this prosecution is, that when this Dissenting Congregation were met for the purposes of worship, the defendant YEOMAN thought fit to go into this congregation, disturb them in that worship, and, according to the evidence, to insult and abuse the minister to a great degree.

“ Having proved what I may call the introductory parts of this case, namely, that this place was registered, and that the minister had a certificate granted to him, which is also required, for the purpose of the government of the country knowing who are intitled to the exemptions given by the statute, and who not; they proceed to state what passed on the 4th of December, when the congregation were assembled.”

[Mr. Justice BULLER stated the evidence, and then proceeded.]

“ This is the evidence on the part of the prosecution, and this evidence is not contradicted.

“ To be sure, there cannot be more insolent or more abusive conduct than that proved on the defendant. It is said by his counsel, that he did not mean to disturb the congregation. Disturbing the minister, who was then performing his duty as the minister of that congregation, was the greatest insult that could be offered to that congregation. The others who were silent were not the objects of abuse: the most likely object of abuse was the minister in the act of preaching.

“ It is proved that there were no words used on the part of the minister that should give him any provocation.

“ It should be remembered, that where people are assembled together in a place of worship for the purpose of paying their duty to the Divine Being, a man who does not agree in opinion with them is not at liberty to go into that assembly and quarrel with the minister

because he does not happen to utter the doctrine which is agreeable to his mind. The object and purpose of their being allowed to have such a meeting-house, is because they do not agree with the established church.— They have ideas peculiar to themselves, and they have as much right to be pleased with their mode of worship as we have with ours, and they are protected by the law in worshipping God in their own way, if they comply with the requisites of the law, as much as we are.

“ Then these people were doing no more than by law they had a right to do when this man chose to go into this chapel, insult the minister, and disturb the congregation in the manner you have heard. I am bound to tell you the evidence brings this man’s offence clearly within the Act of Parliament: and if you believe the evidence, it is your duty to find the defendant guilty.”

A proper apology being made by the defendant, he was not called up for judgement. The Committee, though they did not carry on the prosecution in this cause, contributed above £40 towards the costs.

On the 27th of April, 1804, the attention of the Committee was called to an Act of the Assembly of Jamaica, passed in December, 1802, by which very severe punishments were enacted against persons who should presume to teach or preach without a licence. It was stated to the Committee, that licences had been refused, by the magistrates, to those persons who had been accustomed to preach before the passing of the Act; that, with a single exception, the Toleration Act might be considered as totally suspended in that island; no public preaching, or even meetings for social prayer, among the Dissenters, being permitted; and that one person, who, on being refused a licence, had ventured to preach without one, had suffered a rigorous imprisonment.

On this representation, a Sub-committee was appointed, to make inquiry into any circumstances affecting the rights of the Protestant Dissenters in the island of Jamaica. In the report of this Sub-committee, there is a copy of a memorial on the subject drawn up and addressed, by Mr. BOOTH, Mr. FULLER, and Mr. HALL, three Dissenting ministers, to the lords of the Committee of His Majesty's Privy Council, praying that their lordships would be pleased to advise His Majesty not only to disallow the present law, but also to refuse his assent to any and every proposed modification of it which would recognize a power in the magistrates to refuse licences either to preachers or to places of worship. In support of the facts contained in the memorial, many authentic proofs were adduced. The memorialists were informed, in answer, that the act was disallowed by the Privy Council, but that a new law would be recommended by them to the legislature of Jamaica, to prevent designing men from collecting assemblies of blacks and people of colour, under pretence of religious worship, and concerting schemes of public mischief.

The Committee of Deputies now addressed a memorial to the Committee of the Privy Council, beseeching their lordships not to permit any instructions to be forwarded to Jamaica that might have a tendency to abridge the Toleration Laws, without affording them an opportunity of stating their objections to it. This memorial was presented in June, 1804, and in the following April the Committee were informed that in consequence of the order of His Majesty in Council, disallowing the Act of Assembly, the preachers in Jamaica had resumed their social meetings.

The Committee heard nothing more upon this subject till August, 1807, when the chairman read an extract of

a letter from a Baptist preacher in Jamaica, (himself a person of colour) with a copy of an Ordinance passed by the Common Council of the town of Kingston, in that island, on the preceding 15th of June, under which no Protestant Dissenting house of worship was permitted to be opened in that place, except the Methodist chapel. The Committee directed this Ordinance to be laid before the Attorney General and Mr. STEPHEN, who were of opinion, that it was illegal; and in case of any conviction upon it taking place, they advised an appeal to the Supreme Court of Judicature in that island. In conformity with this advice, the Committee of Deputies recommended the preacher above-mentioned to re-open his place of worship, assuring him that they would defend him in the exercise of his right, and supply him with money, if necessary, to meet the expences of a prosecution.

On the 25th of March, 1808, the Committee were informed that by a new consolidated Slave Law, passed by the Governor, Council, and Assembly of that island, on the 28th of November, 1807, and which took effect the 1st of December following, Dissenters of every denomination were prohibited from preaching to the slaves. It was not, however, till March, 1809, that the Committee felt themselves justified in addressing a memorial to government, requesting that the consolidated Slave Law might not be sanctioned by His Majesty; and in the following month the chairman reported, that he had received information from Lord BATHURST, the president of the Board of Trade, that the Act passed by the Legislature of Jamaica, in which a provision was introduced contrary to the principles of toleration prevailing in these kingdoms, had been disallowed by His Majesty in Council.

A general meeting of the Deputies was now summoned, to express their dutiful thanks to His Majesty's government, for the attention which had been paid to the wishes and interests of that part of the community with which they were more particularly connected. At the same time, the Committee were enabled to lay before the meeting, a copy of the report made to His Majesty by the lords of the Committee of Privy Council, and a copy of an instruction which had been issued in pursuance of that report. The latter document is in these words:

*“ Additional Instruction to the Governors of His Majesty's Islands in the West Indies.*

“ It is our will and pleasure, and we do hereby require and command, that you do not on any pretence whatever give your assent to any law or laws to be passed concerning religion, until you shall have first transmitted unto us, through our principal secretary of state, the draft of such bill or bills, and shall have received our royal pleasure thereupon; unless you take care, in passing such bill or bills, that a clause or clauses be inserted therein, suspending and deferring the execution thereof until our will and pleasure shall be known thereupon.”

The minutes of the Committee, as has been already mentioned, record a multitude of cases, in which they have been called upon to assert the right of Dissenters to burial according to the service of the church of England. This right is founded upon the principle, that all persons, except those who die *unbaptized*, excommunicate, or by their own hands, are intitled to burial according to the established form; and that baptism administered in the usual manner, is, in the estimation of

the church of England, *valid*, though the person officiating be not a minister of the church. No doubt upon this subject appears to have been entertained by ecclesiastical lawyers; but many of the clergy having imbibed a contrary opinion, have refused to perform the burial service, or permit the interment of Dissenters in the churchyard.

The course which the Committee have pursued, upon applications of this sort, has been, to inquire of the clergyman whether the complaint made against him were true, and, in that case, whether he intended to persist in his refusal for the future. If he replied, admitting the fact, but promising to alter his conduct for the time to come, the answer was deemed satisfactory; but if he persisted, an application was made to the bishop of the diocese, requesting his interference, which has been for the most part readily granted, the bishops usually expressing a pointed disapprobation of the conduct of their clergy in refusing.

In the year 1798, the Committee were favoured with the copy of an opinion which had been obtained, upon a case of this nature, from Sir WILLIAM SCOTT, then Judge Advocate. A Dissenter, at Coventry, on the death of one of his children, who had been baptized by a Dissenting minister, applied to the curate of the parish to bury it: on receiving for answer that the curate would have nothing to do with it, he applied to the vicar, who declined to interfere, saying he paid the curate handsomely, that he was of such a violent temper he did not know what to do with him, and that the laws were open. The curate being again applied to, said the child was no Christian, and concluded by addressing the father in these words: "You may lay your child by the rest of your family, but I will not bury him, nor shall any one else;

—I will bury no Dissenter. I will only bury Roman Catholics and Churchmen." The afflicted parent was obliged to make a grave in the church-yard, and bury his infant with his own hands.

The question stated, upon this case, was as follows: "Whether the curate has not acted improperly and illegally in refusing to bury the child? and whether he is not liable to a prosecution, and in what court, for so doing? and whether the vicar is in any, and in what degree implicated with him, in the impropriety of the transaction?"

The learned civilian having been informed, in answer to a question proposed by himself, that it was the practice of Dissenters in general, who use infant baptism, to have their children baptized by a Dissenting minister, with water sprinkled on the face in the name of the Father, of the Son, and of the Holy Ghost,—expressed his opinion in the following terms: "I am of opinion, that if reasonable proof was offered to the clergyman complained of, that the child had been baptized in the manner described in the answer to the question proposed by me, he acted illegally and improperly in refusing to bury it, and that he might be prosecuted with effect in the ecclesiastical court for his refusal.—The vicar had no right to consider himself as totally discharged from the obligation of performing a parochial office, when applied to upon an illegal refusal of his own curate to perform it; it is a duty that must be done, and if it is a duty which he could do, upon the refusal of the curate, properly signified to him, I think he had no right to leave it undone, and to refer the parties to their penal remedy against his curate; at the same time, I do not think that the refusal on his part was attended with such circumstances as would render him the proper object of



a public prosecution, though liable to the just censure of his ordinary.—The ground upon which I hold the refusal of the curate to be unjustifiable is, that the child was *not unbaptized*, in the sense and intention of the compilers of our Liturgy and Rubric; what that sense and intention was, is very much a question of fact and history;—and I think that that history has been collected by different writers, but particularly by Bishop FLEETWOOD, with sufficient accuracy to authorise the legal conclusion I draw.”

The opinion of Sir WILLIAM SCOTT, however, though intitled to the highest respect, on account of his splendid talents and profound learning, could not certainly be presented to the public as deciding the question in dispute. Instances of refusal by the clergy, in similar circumstances, to perform this part of their duty, were brought before the Committee at almost every meeting. It became, therefore, absolutely necessary to obtain a judicial recognition of the right so often disputed; and the denial of which, especially in the numerous instances where there was no burial ground appropriated to the Dissenters, was found extremely inconvenient and distressing. The only competent mode of redress, was that of proceeding in the ecclesiastical court against some clergyman, whose persevering refusal might diminish the reluctance the Committee naturally felt to adopt hostile measures.

In the month of August, 1808, the Rev. JOHN WIGHT WICKES, rector of Wardly cum Belton, Rutlandshire, refused to bury the infant child of two of his parishioners, JOHN and HANNAH SWINGLER. A letter was written to him on the subject by the secretary of the Committee, to which he paid no attention. Application was then made to his diocesan, the Bishop of Peterborough. His lord-

ship admitting the right of Dissenters to Christian burial, according to the established forms, informed the secretary of the Committee, that he had sent Sir WILLIAM SCOTT'S opinion to Mr. WICKES, with which he did not seem satisfied; that he should not further interfere in the business himself; and, therefore, that the Committee would proceed against Mr. WICKES as they should think proper, upon his refusal, on that, or any other occasion.

The Committee immediately caused proceedings to be instituted in the Arches Court of Canterbury; and, the admission of the articles having been opposed by Mr. WICKES, upon the ground that the facts stated did not constitute any offence, the question of law came on for decision in that stage of the cause, at Doctors' Commons, on the 1st and the 11th of December, 1809. After Dr. ARNOLD and Dr. SWABEY had been heard for the promoter or prosecutor, and Dr. ADAMS and Dr. EDWARDS for the defendant, judgement was given for the Dissenters, in a most able and liberal speech, by the Official Principal, Sir JOHN NICHOLL.

Although the Committee have taken the best means in their power to circulate this judgement, by publishing it in a separate tract,\* it may, nevertheless, be proper to introduce a concise abstract in the present publication.

The learned judge began by stating that it was alledged by the articles, and must in that stage of the cause be taken for true, that the defendant, Mr. WICKES, had re-

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\* "The Judgement delivered, December 11, 1809, by the Right Hon. Sir JOHN NICHOLL, Knt. LL. D. Official Principal of the Arches Court of Canterbury, upon the admission of articles exhibited in a cause of office promoted by KEMP against WICKES, clerk, for refusing to bury an infant daughter of two of his parishioners, who had been baptized by a Dissenting minister.—Taken in short-hand by Mr. GURNEY. London, 1810."—Octavo, price 1s. 6d; royal, 2s. 6d.—Sold by BUTTERWORTH, CONDER, &c,

fused to bury the infant daughter of two of his parishioners, which infant had been baptized by a Dissenting minister, in all respects qualified according to law, with water, and in the name of the Father, the Son, and the Holy Ghost; and that Mr. WICKES was sufficiently apprised of such baptism, and expressly assigned the same as the ground of his not complying with the application; that he did not doubt of the fact that the child had been so baptized, but refused to bury it upon the ground of law, namely, that he was not bound to bury a person of that description.

Sir J. NICHOLL then proceeded to observe, that “the canon \* *prohibits* the refusal of burial in all cases except in the case of excommunicated persons, and *punishes* such refusal.”† The Rubric, however, or directory part of the Book of Common Prayer, which, since the Book of Common Prayer was approved and confirmed by Parliament,‡ is part of the statute law of the land, “adds two other exceptions expressly, and forbids the office of burial ‘to be used for any that die *unbaptized*, or excommunicate, or have laid violent hands upon themselves.’” “It is not matter of option, or of expediency and benevolence,” says the learned judge, “whether a clergyman shall administer the burial service, or shall refuse it: for the Rubric expressly enjoins him not to perform the office in the specified cases; and the question is, whether this infant, baptized with water, in the name of the Father, the Son, and the Holy Ghost, by a Dissenting minister, who is qualified according to the regulations of the Toleration Act, did die unbaptized within

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\* The 62th Canon.

† The punishment is suspension for three months.

‡ 12 and 14 C. 2. c. 4.

the true meaning of the Rubric. If the child died unbaptized, the minister was not only justified in not performing the burial service; but was enjoined by law not to perform it. If the child did not die unbaptized, then he has violated the canon, by a refusal, neither justified by any exception contained in the canon, nor by any subsequent law."

The whole question being, therefore, reduced to this, viz. the meaning of the term "unbaptized," as it stands in the Rubric, the learned judge examines that meaning by the ordinary rules of construction; and after observing that according to the obvious and general sense of the term, it was plain the child in this case did not die *unbaptized*, he next inquires whether it has any peculiar meaning in the Rubric, which is to be ascertained either from the context, or the history of the law itself.

From the context, in which it appears that the *unbaptized* are ranked with excommunicated persons and suicides, the term is construed to apply, not to all persons whatever except members of the church of England, but to those only who are to be considered as in no sense Christians at all—as totally destitute of the Christian character, and separate from the Christian church.

Sir J. NICHOLL observes that it is another rule of construction, that the general law is to be construed favourably, and the exception strictly. "Here the general law is, that burial is to be refused to no person. This is the law not only of the English church; it is the law not only of all Christian churches; but it seems to be the law of common humanity, and the limitation of such a law must be considered *strictissimi juris*." He then adds, that "exceptions not being to be extended by mere implication, so as to limit the general law, it would be necessary, in order to give to the exception the meaning which has

been contended for in argument, that it should have expressed it, not only by the term ‘unbaptized,’ but by the terms—‘persons who have not been baptized according to the form prescribed in the Book of Common Prayer.’ It has not done so, at least in express terms.”

It then becomes necessary to ascertain from the history of the law, whether the term “unbaptized” *has* this peculiar limited meaning as understood by the church of England, or whether that church does not in fact recognize baptism with water and the invocation of the Trinity, as *valid*, though not administered by one of her own ministers.—It is, in short, the question of the validity of lay-baptism.

In pursuing this investigation, Sir J. NICHOLL observes, that “the law of the church of England, and its history, are to be deduced from the ancient general canon law,—from the particular constitutions made to regulate the English church,—from our own canons,—from the Rubric, and from any Acts of Parliament that may have passed upon the subject; and the whole may be illustrated, also, by the writings of eminent persons.” From a careful examination of all these authorities, he clearly shews, that the church of England has always considered *lay-baptism* as *valid*, however *irregular*; and hence that persons who have received such baptism cannot be regarded, in the sense of the church of England, as “unbaptized.” The old Canon Law expressly declares, ‘*Non reiteratur baptismum quod in nomine Sanctæ Trinitatis ministratur;*’—‘*Valet baptismum etsi per laicos ministratur.*’ From the Legatine and Provincial Constitutions, the proofs to the same effect are equally clear. The character of the person who administered baptism, had no effect upon its validity; the application of water, and the invocation of the Trinity, were considered as

the substance of the rite : and baptism so administered, even by a heretic, by a layman, or a woman, was received as valid, lest the invocation of the Holy Trinity should be treated as of no effect.

Thus stood the law of the church at the time of the Reformation: and it has not been materially altered since. The Rubrics of Edward VI., and Elizabeth, give the following direction, concerning the private baptism of infants;—“ Let those that be present call upon God for his grace, and say the Lord’s Prayer if the time will suffer: and then *one of them* shall name the child and dip him in the water, or pour the water upon him, saying these words,—‘ I baptize thee in the name, &c.’” “ The same Rubric,” says Sir J. NICHOLL, “ although it enjoins people not to baptize their children at home, *except* in cases of necessity, expressly directs the pastors to instruct their parishioners in the form of doing it.” In fact it appears, that down to the time of James I. all *private* baptisms were administered by the laity. In the Hampton-Court conferences, that prince expressed his disapprobation of lay-baptism: but neither he nor his prelates contended that it was *invalid*; and he expressly declared—“ I utterly dislike all *re-baptization* on those whom women or laics have *baptized*.” As he thought it more orderly, however, for baptism, even in private, to be administered by a clergyman, the Rubric of the service for private baptism was altered, and it was directed to be performed by the “ lawful minister.” Lay-baptism, then, even in cases of necessity, became irregular; but was not declared invalid. In the same manner, marriages solemnized between minors, and in a private house, though prohibited by the laws of the church, and exposing the parties to punishment, were nevertheless *valid*, previous to the Marriage Act, by which it was ex-

pressly declared that such marriages should in future be void. The concluding part of the Rubric of baptism, as settled under James I., represents only two things as essential,—the use of water, and the invocation of the Trinity: in case it shall not appear certain that *these* essentials have been complied with in the private baptism, *then* the clergyman is to baptize the child in the church in the conditional form prescribed,—“If thou art not already baptized, I baptize thee,” &c. No alteration of the Rubric, respecting baptism, has taken place since that time.

The *practice* of the church of England, in this respect, is stated to have been conformable to the *law*. After the Restoration, great numbers of persons who had been baptized by Presbyterian ministers, under the commonwealth, were confirmed, ordained, and buried, without any scruple, by the bishops and ministers of the episcopal establishment. “The practice, also, has always been, if Presbyterians, or any other Dissenters from the church of England, have come over to that church, and have become members of it, nay, have become ministers of it, they have never been re-baptized.\* The same practice has prevailed with respect to Catholic converts; they have never been re-baptized.” “Papists, who, ever since the Reformation, have been considered as much more widely separated from the reformed church than Protestant Dissenters, are not only permitted to be buried by our church, but are required to be buried in the church or church-yard, or a penalty is incurred by their representatives; and this not by putting the body into the ground without the ceremony being performed, but the

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\* This was the case with two illustrious prelates of the last century,—Archbishop SECKER, and Bishop BUTLER: the former of whom baptized his present Majesty, George the Third, and most of his royal issue.

minister is to read the service; our church knowing no such indecency, as putting the body into the consecrated ground, without the service being at the same time performed."

The Rubric, made upon the Restoration, introduced the words, "unbaptized, and persons who had laid violent hands on themselves," into the preamble to the burial service. Now it seems incredible, from the circumstances of the times, already referred to, that the word "unbaptized" could have been introduced, to exclude all those who had not been baptized according to the form of the church from the right of Christian burial. "In every view of this subject," says the learned judge, "and the more accurately and fully it is considered, the more clearly it appears, that burial cannot in such a case be refused; and it should in no view of the subject be forgotten, that the question is a question of disability and exclusion from the rights which belong to His Majesty's subjects generally,—an exception from the general law."

The learned judge next considers the subject in connexion with the Toleration Act. "By that Act, an important change was worked in the situation of His Majesty's Protestant Dissenting subjects; and the baptisms now administered by Dissenting ministers stand upon very different grounds from those by mere laymen. There were many laws, both of church and state, requiring conformity to the church, creating disabilities, imposing penalties, and denouncing excommunications upon all non-conformity. Now, supposing that during the existence of these disabilities it could be maintained, that in point of law no act of non-conformists could be recognized in a court of justice; and, therefore, that a baptism administered by such persons could not be no-



ticed at all, either by the church or by the courts administering the law of the church; yet, could it be maintained, now, that such a baptism was to be considered as a mere nullity? If such could have been considered as the view of the law before the Toleration Act, yet that Act would change the whole shape of the thing: that Act removed the disabilities; it allowed Protestant Dissenters publicly to exercise their worship in their own way under certain regulations; it legalized their ministers, it protected them against prosecutions for non-conformity.

“Now, their ministers and preachers being allowed by law, (and so far as that goes they are lawful ministers for the purposes of their own worship),—their worship being permitted by law,—their non-conformity being tolerated,—could it any longer be said that rites and ceremonies performed by them are not such as the law can recognize in any of His Majesty’s courts of justice, provided they are not contrary to, nor defective in, that which the Christian church universally holds to be essential, that is, provided they are Christians? This appears to be a necessary consequence of the Toleration Act.”

The learned judge then adverted to the manner in which that Act has been considered by the courts of law, and particularly to the sentiments expressed upon the subject, by Lord MANSFIELD and Mr. Justice FOSTER, in the case of EVANS *v.* the Chamberlain of London, already stated.\* He adds, “Acts of non-conformists are now legalized; and they are to be recognized, and were upon that occasion recognized, in courts of law. Indeed, the legislature itself has recognized the baptism of Dissenters; for stat. 23 George III. cap. 67, which

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\* See p. 27, &c.

laid a duty upon registers of baptisms by the church, was extended, by stat. 25 George III. cap. 75, to the registers of baptism of Protestant Dissenters. Both are now repealed, but the passing of that second statute is a recognition of baptism by Protestant Dissenters."

Having examined the law itself, the learned judge briefly observed, that the opinions of ecclesiastical writers upon the subject, led to the same conclusion. He noticed the high authority of the learned HOOKER, as well as those of Bishop FLEETWOOD, Bishop BURNET, and WATSON in his Clergyman's Law. He added,—"If what has been related of a very eminent and learned prelate of the church, the late Bishop WARBURTON, be true, he is another practical authority. The circumstance I allude to was this. A person who had applied for holy orders, but was rejected, went into the country pretending that he was ordained, and he performed various sacred functions, and among others he administered baptism in very many instances. When it was at length discovered that he had not been ordained at all, the parents of the children who had been baptized by him felt considerable uneasiness, and wished the minister of their parish to re-baptize their children. The clergyman of the parish very properly consulted his diocesan, Bishop WARBURTON; but the Bishop charged him on no account to re-baptize the children, for that the baptism already administered, though performed by a mere layman, was a valid baptism, and that the church did not allow a re-baptization. This fact, if it be true, (and the court has no reason to doubt it) at the same time that it does honour to a distinguished prelate, by shewing how accurately he had studied the law and the constitution of the church of which he was a ruler, is another authority in opposition to the almost only autho-

rity which has been relied upon on the other side, and that is Mr. WHEATLY.

“ Now, if the character and the reputation of the different writers were to be matter of consideration, there could not be any great doubt whether the weight lay with HOOKER and FLEETWOOD, and the other persons who have been referred to, or with Mr. WHEATLY; but if the writings themselves be examined, the difference may perhaps be still more striking. In the former writers, particularly in HOOKER and FLEETWOOD, there are not only great powers of reasoning, but accurate references to legal authority. In the latter, there is a great deal to be found that rests upon assertion, and assertion only. This writer, among other things, maintains, that no person is to be buried but those who are baptized by the established church; nay, he seems to go further, that no persons are to be buried but those whose baptisms have been registered; for his words are these, ‘ all persons are supposed to die unbaptized but those whose baptisms the registers own, and therefore, the registers not owning Dissenting baptisms, those who die with such baptisms must be supposed to die unbaptized.’ Now this is assertion, but nothing more; for there is no authority whatever referred to in support of it,—there is no law to be found which so declares,—there is no practice which justifies this as being the rule. And to what extent,—to what monstrous length would this go? No foreigners who are in this country,—not only no Catholics, but no persons born in any Protestant country in Europe, coming into this country and dying here, could be buried according to the forms of the church of England, because they are persons clearly not registered in this country, clearly not baptized by a lawful minister of this country, or according to our Book of Common Prayer. Not only

these, but none of His Majesty's Scotch Presbyterian subjects could be buried here, no member of the church of England whose baptism has been by omission neglected to be registered in his parish;—nay, a person born in one part of the kingdom, if he happened to die in another and a distant part of the kingdom, could not receive Christian burial, from the want of facility to procure the register of his baptism.”

“ It has been asked,—If you do not require proof from the register, what other proof can you have? How are the clergy otherwise to find out who are baptized, and who are not? To that it may be properly answered, they must be satisfied with reasonable evidence—with what a person acting fairly, and not captiously, would require; for if a clergyman meant to act vexatiously, and, under the pretext of not being satisfied of the fact, when, taking all the circumstances of the case together, no doubt could reasonably be entertained upon the subject, refused burial, he would not only be liable to the punishment of the law, but exposed to that punishment in its utmost extent. In the present case there appears, however, no difficulty of the sort: for the articles assert, that the child was baptized according to the form generally observed among that class of Dissenters;—that Mr. WICKES stood upon the fact as the ground of his refusal. This was acting, certainly, much more properly, than pretending to doubt a fact of which he had no conscientious doubt; and though he has, perhaps, unfortunately mistaken the law, it was much more honourable not to state a doubt of the fact, but to act upon the existence of his doubt of the law.”

In answer to an observation of Mr. WHEATLY, that the Dissenters may have separate places of burial, or be content without requiring the prayers of a minister, the

learned judge says, “ Mr. W. is not explaining the law, but he is making the law ; and he is making it, not with the tolerant spirit of the church of England, but with a considerable degree of intemperance and mistaken zeal.” “ Its principle is to bring over by conciliation, not to force away by severity ;—to extend its pale, not to contract it by unnecessary exclusion.” He then asks, whether it be just to exclude those from its rites, as far as their consciences will allow them to join, who are obliged to pay their Tithes, Church Rates, Easter Offerings, and other dues, and contribute to the support of the church and its ministers. He corrects another of Mr. WHEATLY’S errors, by observing that “ persons intitled to be buried in the church-yard can be buried there only by the intervention of a minister of the church.” He adds, that “ the proofs of the rights of property and pedigrees, and the validity of marriages, frequently depend upon the register of burials, and therefore that on grounds of public policy, burials at the church, merely for the sake of their being registered, ought to be encouraged.” Of Mr. WHEATLY, Sir J. NICHOLL says, “ he may be a very learned, and a very sound divine, (of that the court does not presume to form any judgement) : but he cannot very safely be followed as a sound ecclesiastical lawyer, and his writings may possibly have misled this very clergyman, and have exposed him to the present prosecution.”

“ It has been said,” continues the learned judge, “ that the present case is important, both to the interests of the Dissenters and of the church. It may be important to the Dissenters, that their right of church burial should be established, and that their baptisms should be recognized, and should not be considered as mere nullities, for that goes far to the denial of their being Christians

at all; and every thing which savours of disability and exclusion is of importance to any subjects of His Majesty; and, if the law does not exclude them from church burial, no blame whatever can be imputed either to the individual, or to the body, if the body countenance the individual, in the attempt now made to assert the right of burial by the institution of the present suit; but how the object of the suit can be that, which has been suggested by the counsel, namely, for the purpose of establishing their ministers as "lawful ministers," is difficult to be imagined. As lawful Dissenting ministers, they are already established; for the law allows them, and recognizes them as such; and the event of this suit cannot by possibility make them lawful ministers of the church of England, episcopally ordained; nor can it in any manner alter their station and character in the political society of the country.

"The importance of the suit, to the interests and dignity of the church, is not less difficult to be apprehended. If the legal rights of the church were affected, it would not be more the duty than the inclination of the court to uphold them. The suit may be interesting to individuals who have been embarked in controversy and contest; it may be interesting to the clergy in general, who are doubtful what the law is, that the law should be ascertained by a judicial decision: but why the rights and interests of the church are to be affected by the considering of Dissenting baptisms as Christian baptisms,—by allowing persons so baptized the common right of being buried according to the ordinary forms of the church, and by a minister of the church, to whose support they are bound to contribute, has not been explained. If the law has not excluded them from this ordinary right of Christianity and humanity, the ministers of the church

will not surely be degraded by performing the office. On the contrary, the generality of the clergy, it may be presumed, will rejoice that in this last office of Christian charity there is no separation between the church and their Protestant Dissenting brethren. It is by a lenient and a liberal interpretation of the laws of disability and exclusion, and not by a captious and vexatious construction and application of them, that the true interests and the true dignity of the church establishment are best supported.

“ Upon the whole of the case, and for the reasons assigned, the court is of opinion, that the minister, in refusing to bury this child in the manner pleaded in the articles, has acted illegally. The suit is probably brought for the sake of deciding the question, rather than punishing the individual. The minister may have acted, and it is presumed has acted, from a sense of his public duty: for, upon his understanding of the law, it was his duty, and he was bound, not to perform the service, which he might most willingly have performed if he had more correctly understood the law. The court has, therefore, thought it proper to state its opinion, and the grounds of that opinion, the more fully, in the hope of setting the question at rest, and of putting an end to the suit. If the facts are truly stated, and the decision now given upon the law should be acquiesced in, it may reasonably be expected from the spirit of candour which has been avowed on the part of the promoter, that he would be satisfied in correcting the error, and in establishing the right; and that the suit might end here, and harmony be restored between these parties, each of them recollecting, that, however they may differ upon certain points, either of doctrine or of ceremony, still they are both equally bound by Christian charity to dismiss, as quickly as possible,

from their minds, all feelings of animosity, and to return to the exercise of mutual kindness. The court, upon the grounds already stated, has no doubt at all in admitting these articles, and does admit them accordingly."

The law of the case being thus decided against Mr. WICKES, and the facts being admitted, he became liable, under the 68th Canon, to suspension for three months, besides being condemned in costs. The Committee, however, having no other wish than to obtain a decision of the point, forbore to pray for more than an admonition, which was accordingly pronounced when the cause came on for final judgement, February 15, 1810, and the court was pleased to express its approbation of the moderate spirit which had dictated that prayer.

About the time of instituting this suit in vindication of an important general right of the Dissenters, the Committee were called upon to assist in maintaining another right, of a more confined and private nature, enjoyed in a particular district under a local Act of Parliament. As a similar right, however, is possessed in most other parts of the country, under statutes of the same kind, the case may with propriety be mentioned here. By an Act of the 47th of His present Majesty, c. 49, for amending certain roads in the county of Suffolk, it is enacted, that no toll shall be demanded or taken, at the gates therein mentioned, from "any person going to or returning from his proper parochial church, chapel, or other place of religious worship tolerated by law, on a Sunday, or on any other day on which divine service is ordered by authority to be celebrated." In 1809, several Dissenters who were going to a meeting-house at Halesworth, on the Lord's day, through one of these gates, were compelled to pay toll. The Committee, on being applied to for advice, ordered the case to be laid before Mr. Serjeant LENS.



His opinion being that the demand was illegal, and that the money might be recovered back, an action was brought for that purpose, and at the Summer Assizes, at Bury St. Edmunds, in 1809, the plaintiff obtained a verdict. The Committee contributed £20 towards the expences incurred by the plaintiff beyond the amount of the costs recovered.

The Committee have not been unmindful of the interest of the Dissenters, as liable to be incidentally affected, from time to time, by the acts of the legislature. Their interposition, in several cases of this kind, especially respecting the Militia and Local Militia Acts, and the Indemnity Act, has not been less effectual than if it had been forced upon the public attention. In 1803, they procured the omission of a clause in the Bermondsey Road Bill, which would have subjected meeting-houses to assessment. Directions were given for an application respecting the Charitable Donation Bill, in 1809, but were superseded by its early withdrawal.

The last affair which it falls within the design of this abstract to particularize, is the unsuccessful attempt of Lord Viscount SIDMOUTH to put the toleration of Protestant Dissenters on a new footing. A succinct account will therefore be subjoined of the various steps taken by the noble viscount on the one hand, and the Deputies on the other, in reference to this important subject, down to the final triumph of the Dissenting cause.

On the 2nd of June, 1809, Lord SIDMOUTH delivered a speech in the House of Lords, in which he stated, that he had reason to believe many persons took out licences as Dissenting ministers, under the Toleration Act, for no other purpose than that of obtaining an exemption from parish offices and the militia; and that some explanation of those statutes was become necessary

in order to preserve them from abuse. His lordship, therefore, moved for an account of *licences*\* granted in each year, in the respective counties of England and Wales, at the Quarter Sessions, and in the Bishop's Registries, from the year 1780, to the end of the year 1808, under the Acts of 1st William and Mary, and 19th George III. Lord HARROWBY expressed his regard for the prosperity of the established church, and his conviction that it was not to be promoted by imposing restrictions upon the Dissenters, whose increase he attributed, in many instances, to the want of accommodation in the parish churches: his lordship concluded with suggesting that the returns should commence from the year 1760. The motion thus altered being agreed to, the returns were ordered accordingly,

At the next monthly meeting of the Committee of Deputies, June the 30th, Lord SIDMOUTH's intentions were canvassed, and a Sub-committee was appointed to propose a conference on the subject with the Dissenting Ministers of the three denominations, residing in and near London. A conference accordingly took place, at which it was agreed to recommend the Ministers and Deputies, individually, to procure as much information as possible, during the recess of Parliament, respecting the sentiments of the Dissenters in general throughout the country, as to any changes in the Acts of Toleration. In consequence of this recommendation, various reports

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\* The use of this word, even for convenience sake, is equally invidious and unwarrantable. No such word is used in either of the Acts of Parliament. The legal rights which the Dissenters obtain by qualifying and registering, in no degree depend upon the discretion of the courts in which those formalities are to be complied with, nor on the granting of the certificate which the law has directed to be given to them as evidence of such compliance.

were made to the Committee in the course of the winter, which concurred in reprobating any design to explain or alter the law so as to abridge the freedom in religious matters then enjoyed by the Dissenters, but differed as to the description of persons who, it was thought, might reasonably expect from the legislature the advantages of Dissenting ministers. The general opinion appeared to be, that no alteration in the law was desirable, except to render the operation of the Act of His present Majesty co-extensive with that of 1st William and Mary, and to establish the right of students in divinity to the same advantages as regular ministers.

In the next Session, February 27, 1810, Lord SIDMOUTH observed that the returns which had been made were by no means satisfactory. A new order therefore was given; and other returns were made, in obedience to it, in a few days.\*

At a special meeting of the Committee, on the 11th of May, a Sub-committee was appointed to wait upon Lord SIDMOUTH, to ascertain what alterations his lordship intended to propose in the Toleration Acts. The Sub-committee accordingly obtained an interview with Lord SIDMOUTH, in which his lordship very frankly communicated his own views and wishes. The first object, it appeared, for which his lordship thought it necessary for parliament to interfere, was to require some species

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\* The first return stated the number of persons qualified, and places registered, in England and Wales, in *each year*, not distinguishing in which county or diocese. It was ordered to be printed, February 21, 1810. The second return, made in consequence of Lord SIDMOUTH'S motion on the 27th of February, distinguished the *counties* and *dioceses*, but not the years. It was ordered to be printed, March 6, 1810. The totals of both are the same. The following results are drawn from the first return; the chronology of the subject being much more important, as to this discussion, than the geography of it.—N.B. No returns were transmitted from the counties

of testimonial to the abilities and moral character (especially the latter) of those who should qualify as Dissenting teachers; such testimonial to be given by persons of their own sect and persuasion, and not left to any discretion of the magistrate; to subject any teacher, whose conduct should be found immoral, to a forfeiture of his qualification, which should not be renewed without a fresh testimonial; and also to fix a certain age, under which none should be allowed to qualify.

On these points, the Sub-committee represented to his lordship, that any new restrictions upon persons who

of Worcester and Carnarvon, nor from the diocese of St. David's; and many of the returns commence at periods long subsequent to 1760.

Number of persons who have taken the oaths and subscribed the declarations prescribed by 1st W. and M. c. 18, and 19th G. 3. c. 44, at the Quarter Sessions, in periods of seven years, and in each year of the last period.

From 1760 to 1766 . . . .	80	In 1802 . . . .	105
1767 to 1773 . . . .	38	1803 . . . .	188
1774 to 1780 . . . .	179	1804 . . . .	113
1781 to 1787 . . . .	379	1805 . . . .	114
1788 to 1794 . . . .	610	1806 . . . .	171
1795 to 1801 . . . .	1318	1807 . . . .	162
1802 to 1808 . . . .	1068*	1808 . . . .	215
	3672		1068*

Number of places of worship registered, or recorded, conformably to the Act of 1st W. and M. c. 18, at the Bishop's Registries, or the Quarter Sessions, in periods of seven years.—N. B. Many of these places have long ago ceased to be used for public worship.

	Bp.'s Reg.	Qr. Sess.	Total.
From 1760 to 1766 . . . .	387 . . . .	284 . . . .	671
1767 to 1773 . . . .	391 . . . .	193 . . . .	584
1774 to 1780 . . . .	652 . . . .	246 . . . .	898
1781 to 1787 . . . .	665 . . . .	213 . . . .	878
1788 to 1794 . . . .	1486 . . . .	386 . . . .	1872
1795 to 1801 . . . .	3185 . . . .	393 . . . .	3578
1802 to 1808 . . . .	3328 . . . .	292 . . . .	3680
	10154	2007	12161

wished to qualify as Dissenting teachers would be very objectionable to the Dissenters at large, and therefore ought not to be imposed without adequate cause: that no evidence had been, or, as they conceived, could be produced, to shew a necessity for new restrictions: that though unworthy individuals might be found among those who had qualified, their moral character was, in most cases, an ornament to their profession, and would not suffer from a comparison with any other description of ministers whatsoever: that a minister whose conduct was found to be immoral was almost invariably dismissed from his situation, and seldom could get appointed to any other, or even obtain permission to preach; so that no interposition of the legislature was necessary even in the rare case of immorality: that, as to other qualifications, most ministers of congregations had received a competent education, and that some were men of the most eminent talents and attainments: that although it might be true that some, who qualified, were ill-informed, or, as had been alledged, perhaps even incapable of writing, they were still competent to give some instruction to their neighbours who could not read, and who were in other respects still more ignorant than themselves: and that, in short, the degree of learning which Dissenting teachers possessed was not an object that deserved the attention of the legislature: that to require a testimonial, would sometimes prove very inconvenient and vexatious: that where it did not degenerate into an empty form, it would confer upon ministers, if *they* were to grant it, a new and obnoxious authority; or, if to be granted by a man's neighbours, would lay him at their mercy: that it might often be difficult for a man, before he could safely exercise his talents, to obtain a respect-

able testimonial that he possessed talents: that, in case a man's views of religion should happen to be different from those of all existing sects, it would either bind him to silence, or expose him, if he preached, as he probably would, to all the severities of the penal laws: that it could scarcely fail of investing the Quarter Sessions with some discretionary authority, in judging of the sufficiency of the testimonial, and that this would be to subvert the very basis of toleration: that any such regulation would be directly at variance with a leading principle among the Dissenters, who held that every man had a right to propagate what he himself believed to be truth, without craving permission from others, and without being liable to any penalties, unless he infringed upon the peace and good order of society: that, as to limiting the age of preachers, so few persons, if any, were found to qualify at an unsuitable age, that no legal provision was requisite, and that some particular individuals might probably be capable of preaching in certain situations, at an earlier age than it might be thought proper to fix as a general standard.

Another object, which his lordship said had engaged his attention, was imposing some restriction, either by separate licence, or otherwise, on itinerant preaching.

On this point, the Sub-committee assured his lordship, the Dissenters would feel particularly jealous: that though their own regular ministers were in general stationary, most of them occasionally preached in neighbouring villages, or distant parts of the country: that it would be a serious grievance to the Wesleyan Methodists, whose ministers were mostly itinerant, and would be strenuously opposed, upon principle, by all the Dissenters, though not so liable to be affected by it them-

selves : that it would only have the effect of harrassing and irritating itinerants, for they would not be prevented preaching when they considered it their duty, except by being thrown into prison : that in fact itinerant preachers were often the most useful ones ; and that whatever their faults or defects might be, their labours were upon the whole highly beneficial, in civilizing the lower ranks, and rendering them sober, industrious, and religious.

The third object which his lordship had in view, and which he appeared to consider particularly important, was preventing lay-preachers from claiming exemption from burthensome offices, and military service.

The Sub-committee observed, upon this subject, that none but ministers of congregations were intitled to these exemptions by the law as it now stood, (1st W. and M. c. 18. s. 11) : that to suppose any person could gain exemption by merely qualifying as a preacher, without being *bona fide* the minister of a congregation, was an evident mistake, and consequently that no alteration in the law was necessary to preserve it from abuse : that in fact not a single instance had been made out, in which it had been so abused : that to take away the exemption from ministers of congregations who were engaged in trade, without which their scanty income would not suffice to keep their families from want, would be a most grievous hardship, and operate as a direct punishment for being poor and industrious : and that the number of persons who claimed exemptions under the act, appeared by the returns to be too inconsiderable, to produce any material inconvenience, or require the interference of Parliament.

There was another point which his lordship mentioned, but without appearing to lay any great stress upon it : this was, to require some more formal and public notifi-

cation of the places that were registered for worship under the Act.

The Sub-committee observed that such a regulation would be invidious and offensive, while it appeared altogether unnecessary and useless.

On the whole, the Sub-committee strenuously endeavoured to persuade his lordship to abandon his design. They observed, that whatever might be his lordship's disposition, if a bill were to be brought into the House, it might perhaps assume a form still less favourable to their liberties; that the established church and the Dissenters were at present on friendly terms, but would certainly be set at variance by bringing the question before the public; that nothing but necessity should curtail the operation of a law which had continued undisturbed for one hundred and twenty years, and that, so far from such a necessity existing, the general conduct of the Dissenters had proved them worthy of every benefit they enjoyed.

The noble viscount listened with great patience and attention to the objections of the Sub-committee, and expressed very liberal opinions on the subject of toleration in general. He declared that instead of harbouring any hostile intentions towards the Dissenters, he had entertained great hopes of their concurrence in his views; and that though he might be ill-informed or mistaken, he did not mean to attempt any measure which he did not think he should be desirous to support if he were a Dissenter himself.

On the 25th of May the Sub-committee made their report of the conference they had held with Lord SIMMOUTH, observing, that though they could not flatter themselves with the hope of having prevailed upon him to abandon his design of bringing the subject before



Parliament, they had, upon the whole, derived much satisfaction from the interview.\*

Although there appears reason to believe, from the subsequent measures of the noble viscount, that this conference had a considerable effect on his mind, it certainly did not induce him to abandon the whole of his designs. On the 18th of June, his lordship made several remarks in the House, respecting the abuses of the Toleration Acts; he asserted that these abuses were disapproved of by many of the Dissenters themselves; and concluded with giving notice of his intention to bring in a bill to prevent any person taking out a certificate as a preacher or teacher, unless he had attained the age of twenty-one, was appointed to a congregation, and could produce testimonials of his fitness for the office from some persons of the same religious persuasion.

On the 29th of March, 1811, the Committee authorized a Sub-committee to wait upon such of the peers and members of the House of Commons, as they should think proper, in order to secure their support in the event of Lord SIDMOUTH bringing forward his intended bill.

On the 9th of May, the noble viscount rose according to notice, to propose "a Bill to explain and render more effectual the Acts of 1st William and Mary, and the 19th George III. so far as relates to Dissenting ministers." The reasons his lordship urged in favour of the measure, were chiefly founded on the abuses which he stated to have arisen from the interpretation given to the law in

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\* It is believed that the substance of what passed at this interview is correctly given; though it must be taken subject to the qualifications, which a statement from recollection requires.

most parts of the country; and the description of persons, who, under that interpretation, had obtained *licences* as preachers and teachers, without any inquiry as to their moral or intellectual qualifications. This, he contended, was an abuse. It was not so in the counties of Devon, Buckingham, and Norfolk, where a different interpretation of the law prevailed, and where licences were not granted unless the persons applying were actually the ministers of Dissenting congregations. To shew the description of persons who now frequently obtained licences, he quoted the returns of two Archdeaconries, by which it appeared these persons consisted of tailors, pig-drovers, chimney-sweepers, &c. He did not object to their situation of life, if they were considered by Dissenters as fit and proper persons to preach and teach: but what he objected to was the self-election by which they chose to consider themselves as fit and proper persons for that purpose, and without any other authority obtained a licence. He was utterly averse to any measure that could in the least infringe upon a just and enlightened toleration; but he thought it was absolutely necessary to declare, in this instance, what the law was, not only that there might be no doubt in the minds of the magistrates, but also with a view to the direction of Dissenters themselves. He had had communications with several Dissenters upon the subject, and it was but justice to them to say, that they had given him valuable information, and shewn a liberal and candid spirit. After stating the remedies he proposed in the Bill for the evils and abuses he had complained of, he went on to observe, that when it was considered that persons obtaining licences were exempt from serving upon juries, from serving parish offices, and other duties to which their fellow-

subjects were liable, it was surely requisite that some caution and circumspection should be used. His lordship then took a view of the state of the established church: observing, that from the deficiency of accommodation in its places of worship, many persons were driven to Dissenting meeting-houses, as the only places where they could receive religious instruction. It was highly important that some means should be taken to prevent us from having a nominal established church, and a sectarian people. In the reign of Queen Anne fifty new churches were directed to be built in the metropolis, of which only ten were erected. At the present time, to provide for the increase of population of the metropolis, one hundred new churches were required; and he thought such an object loudly called for the attention of Parliament. Grants should be made out of the public purse in aid of the exertions of individuals; and every measure adopted to support the established church, which was a part of the constitution, and upon which so greatly depended the sound morality of the country. His lordship concluded by moving the first reading of his Bill.

Lord HOLLAND said he would not act so irregularly, as to oppose the first reading of the Bill, but he thought it right to state that he could not agree in the opinion which his noble friend seemed to adopt as the basis of it, viz. that it was only by the permission of government that a man was intitled to preach the religious doctrines he maintained. He, (Lord H.) on the contrary, was of opinion, that every person had a right to preach those religious opinions which he conscientiously believed. He regretted that the noble viscount had spoken invidiously of persons in inferior situations of life becoming

preachers; for surely they were as much intitled to preach their own religious principles, as those who enjoyed the rich endowments of the church. He regretted also that his noble friend should have interfered with the subject at all, as in his opinion it could only tend to excite dissensions. No case had been made out, which called for the interference of Parliament. The exemptions from civil duties, of which the noble viscount complained, could only apply to a few persons; and it was better that these few persons should have their exemptions, than that Parliament should run the risk of exciting dissensions and alarms, which must be created by meddling with the Toleration Act. He agreed with the noble viscount as to the propriety of increasing the number of churches; but, whilst he had no objection to a grant by Parliament for that purpose, he thought that the church itself ought to be called upon to contribute to an object, in which its interests were so materially involved. He would not enter further on the subject till he had read the Bill: but to the object stated by the noble viscount, he was decidedly hostile, as he thought it infinitely the wiser course to leave the Toleration Act untouched.

Lord SIDMOUTH having explained,—Earl STANHOPE stated it as his opinion, that the noble viscount had better begin by some measure for building places of worship to accommodate those members of the established church who were now, as he alledged, for want of that accommodation, obliged to frequent meeting-houses; and not dabble with the Dissenters.

The Bill was read a first time, and ordered to be printed: and Lord SIDMOUTH gave notice of his intention to move the second reading on the 17th instant.

The Chairman immediately summoned a meeting of the Committee for the 13th. A copy of the Bill was procured by the secretary, and two thousand copies printed off.\*

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\* “ *A Bill, intituled an Act to explain and render more effectual certain Acts of the First Year of the Reign of King William and Queen Mary, and of the Nineteenth Year of the Reign of His present Majesty, so far as the same relate to Protestant Dissenting Ministers.*

“ WHEREAS by an Act made in the first year of the reign of King William and Queen Mary, intituled, *An Act for exempting their Majesties' Protestant Subjects, dissenting from the Church of England, from the Penalties of certain Laws*, persons dissenting from the church of England in holy orders, or pretended holy orders, or pretending to holy orders, and preachers or teachers of any congregation of Dissenting Protestants, in order to their being intitled to certain exemptions, benefits, privileges, and advantages, by the said Act granted, are required to declare their approbation of and to subscribe to certain articles of religion: and whereas by another Act, made in the nineteenth year of the reign of His present Majesty, intituled, *An Act for the further relief of Protestant Dissenting Ministers and Schoolmasters*, it is enacted, that every person dissenting from the church of England in holy orders, or pretended holy orders, or pretending to holy orders, being a preacher or teacher of any congregation of Dissenting Protestants, if he shall scruple to declare and subscribe as required by the said first recited Act, may make and subscribe the declaration in the said last recited Act set forth, in order to his being entitled to the exemptions, benefits, privileges, and advantages, granted by the said first recited Act, and to certain other exemptions, benefits, privileges, and advantages, granted by the said last recited Act: and whereas doubts have arisen as to the description of persons to whom the said recited provisions were intended to apply, and it is expedient to remove the said doubts; may it therefore please your Majesty that it may be declared and enacted, and be it declared and enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that every person being a Protestant dissenting from the church of England in holy orders, or pretended holy orders, or pretending to holy orders, who shall be appointed or admitted to be the minister of any separate congregation of Dissenting Protestants, duly certified and recorded or registered according to law, shall be, and is hereby declared to be a person entitled to qualify himself to be a Dissenting minister, within the intent and mean-

On the 13th of May the Committee met. After hearing the Bill read, they resolved unanimously, that a petition ought to be presented to Parliament against its

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ing of the said recited provisions of the said Acts; and that no other than such person as aforesaid is so entitled within the intent and meaning of the same.

“And be it further enacted, that from and after the passing of this Act, upon the appointment of any person, being a Protestant dissenting from the church of England, and being in holy orders, or pretended holy orders, or pretending to holy orders, to be the minister of any separate congregation of Dissenting Protestants, duly certified and recorded or registered according to law, and upon his admission to the peaceable possession and enjoyment of the place of minister of the said congregation, it shall be lawful for any                    or more substantial and reputable householders belonging to the said congregation, in order that the said minister may duly qualify himself according to this Act, to certify the said appointment and his admission to the peaceable possession and enjoyment of the said place, by writing under their hands and proper names, in the form set forth in the schedule of this Act marked A., to be directed to the justices of the peace at the general session of the peace to be holden for the county, riding, or place where such congregation shall be established; and every such minister, who shall cause the certificate to him granted as aforesaid to be recorded at any general session of the peace to be holden as aforesaid, within                    after the date of the said certificate, in the manner directed by this Act, (proof being first made on the oath of                    or more credible witness or witnesses of the hand-writing of the several persons of the said congregation whose names are subscribed to the said certificate), shall be and is hereby allowed, without further proof, to take the oaths and to make and subscribe the declaration against Popery required to be taken and made by the said Act passed in the first year of the reign of King William and Queen Mary, and also the declaration set forth in the said Act, passed in the nineteenth year of the reign of His present Majesty; and after taking the said oaths, and making and subscribing the said declarations, in manner and upon proof aforesaid, every such minister shall be and is hereby declared to be entitled to all the exemptions, benefits, privileges, and advantages granted to Protestant Dissenting ministers by the said recited Acts or either of them, or by any Act in the said recited Acts or either of them mentioned or referred to.

“Provided always, and be it further enacted, that nothing herein-before contained shall affect or impeach, or be construed to affect or impeach,

bill passing into a law; and ordered a general meeting of the Deputies to be summoned for the 15th instant. A Sub-committee was also appointed, to meet a Committee

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any provision or exemption, or any qualification or modification thereof, contained in any statute made since the said recited Acts, and now in force, relating to the militia, or the local militia, of this kingdom.

“ Provided also, and be it further enacted, that nothing herein-before contained shall affect or impeach, or be construed to affect or impeach, the title or claim of any Dissenting minister, who before the passing of this Act shall have taken the oaths and subscribed the declarations mentioned or set forth in the said recited Acts, or either of them, to have and enjoy the exemptions, benefits, privileges, and advantages granted by the said Acts, or either of them.

“ And whereas it is expedient to exempt from certain penalties other persons herein-after described, who shall make and subscribe the declaration set forth in the said Act of the nineteenth year of the reign of His present Majesty, be it further enacted, that in case any person, being a Protestant dissenting from the church of England, and in holy orders, or pretending to holy orders, but who shall not have been appointed or admitted the minister of any separate congregation of Dissenting Protestants, shall be desirous of qualifying himself according to this Act, to preach and officiate as a Dissenting minister, it shall be lawful for any or more substantial and reputable householders being respectively Dissenting Protestants of one and the same sect or persuasion with the person applying, to certify, on their consciences and belief, by writing under their hands and proper names, in the form set forth in the Schedule of this Act marked B., to be directed to the justices of the peace at the general session of the peace to be holden for the county, riding, or place, where the said householders, or the major part of them, shall reside, that such person is a Protestant Dissenting minister of their sect or persuasion, and has been known to them and every of them for the space of at the least before the date of the said certificate, and that such person is of sober life and conversation, and of sufficient ability and fitness to preach or teach and officiate as such Dissenting minister; and every person to whom such last-mentioned certificate shall be granted, who shall cause the same to be recorded at any general session of the peace to be holden as aforesaid, within after the date of the said certificate in the manner directed by this Act, proof being first made on the oath of or more credible witness or witnesses of the hand-writing of the several persons whose names are subscribed to the said certificate, shall be, and is hereby allowed, with-

of the Dissenting Ministers, in and near London, on the 14th, and acquaint them with the proceedings of the Committee, which was accordingly done.

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out further proof, to take the said oaths, and make and subscribe the said declarations in the said recited Acts mentioned or set forth; and every such person, after taking the said oaths, and making and subscribing the said declarations in manner and upon the proof aforesaid, may from thenceforth preach and officiate as a Dissenting minister in any congregation of Dissenting Protestants duly certified and registered or recorded according to law; and every person so qualifying himself as last aforesaid, shall be wholly exempted from all and every the pains, penalties, punishments, or disabilities inflicted by any statute mentioned in the said recited Acts, or either of them, for preaching or officiating in any congregation of Protestant Dissenters for the exercise of religion permitted and allowed by law.

“ And be it further enacted, that upon the appointment or admission of any person of sober life and conversation to be a probationer for the exercise during a time to be limited of the functions of a Protestant Dissenting minister, it shall be lawful for any or more Dissenting ministers who shall have taken the said oaths, and made and subscribed the said declarations pursuant to the said recited Acts or either of them, or this Act, to certify the said appointment or admission by writing under their hands, in the form set forth in the Schedule of this Act marked C. to be directed to the justices of the peace at the general session of the peace to be holden for the county, riding, or place where the said ministers, or major part of them, shall reside, and that the person so appointed or admitted is of sober life and conversation, and has been known to them for the space of before the date of the said certificate, and every person to whom such last-mentioned certificate shall be granted, who shall cause the same to be recorded at any general session of the peace to be holden as aforesaid, within after the date of the said last-mentioned certificate in the manner directed by this Act, (proof being first made on the oath of or more credible witness or witnesses of the hand-writing of the said ministers whose names are subscribed to the said certificate), shall be and is hereby allowed without further proofs to take the said oaths, and to make and subscribe the said several declarations in the said recited Acts mentioned or set forth; and every such person, after taking the said oaths, and making and subscribing the said declarations, may from thenceforth, during the period specified in such certificate, and not exceeding next ensuing, preach and officiate as such probationer in any congregation of Dissenting Protestants duly certified and registered or recorded according to law; and



At the general meeting of the Deputies on the 15th, after the Bill had been read, the following Resolutions were unanimously agreed to:

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every person so qualifying himself as last aforesaid shall be and is hereby declared to be during the space of \_\_\_\_\_ exempted from all and every the penalties, punishments, and disabilities inflicted by any statute mentioned in the said recited Acts, or either of them, for preaching or officiating in any congregation of Dissenting Protestants for the exercise of religion permitted and allowed by law.

“ Provided always, and be it enacted, that nothing herein contained shall be construed to authorise or enable any person to qualify more than as such probationer.

“ And be it further enacted, that the justices of the peace, to whom any such certificate as aforesaid shall within the time herein limited be tendered at their general session, shall, and they are hereby required, after such proof in verification thereof as is herein directed, to administer the said oaths and declarations to the person producing such certificate, upon his offering to take and make and subscribe the same respectively, and thereupon to record the said certificate at the said session, and thereof to keep a register: Provided always, that any declaration required to be subscribed by the said recited Acts, or either of them, shall be subscribed in open court, with the proper christian and surname and names of the person making such declaration in his own hand-writing, and in the usual manner of his writing the same in words at length, and not otherwise: Provided always, that in the body of every certificate granted by the said officer or officers of the said court to any person as such probationer and not as minister, there shall be expressed the limitation of time for which such certificate shall be in force by virtue of this Act.

“ And be it further enacted, that every certificate of appointment or admission of any such minister, or of any person to officiate as such minister, or of any such probationer pursuant to this Act, shall be subscribed with the respective proper names of the several persons granting the same, in their own hand-writing, and in the usual manner of their writing and subscribing the same, and in the presence of the person or persons who is, or are to be the witness or witnesses, to verify the same before the court of general session of the peace in the manner herein directed.

“ And be it further enacted, that this Act shall be deemed and taken to be a public Act, and shall be judicially taken notice of as such by all judges, justices, and others, without being specially pleaded.

“ That liberty of conscience, comprehending the freedom of public assemblies for religious worship and instruction, in such forms, and under such teachers, as men

*Schedules to which this Act refers.*

SCHEDULE (A).

“ *Certificate of appointment or admission of a Minister to a separate congregation.*

“ To the justices of the peace at the general session of the peace to be holden for the county, (riding, city, or town, *as the case may be*), of We, whose names are hereunto subscribed, being respectively substantial and reputable householders, belonging to the separate congregation of Dissenting Protestants of the sect or persuasion denominated [*Here describe the sect or persuasion of Dissenters*] duly certified and recorded, or (registered) according to law, to be holden at [*Here insert the house, chapel, or place, and the parish, town, and county where the congregation assemble*] do certify that A.B. of being in holy orders, (or pretended holy orders, or pretending to holy orders, *as the case shall require*) hath been appointed minister of the said separate congregation, and has been admitted and is in the peaceable possession of the place of minister of the same. Given under our hands this     day of     in the year of our Lord

“ Signed and subscribed by the above-named C.D., E.F.,  
G.H., I.K., L.M., and N.O., in the presence of P.Q.,  
of     the day above written.

“ (Signed)  
C. D. | I. K.  
E. F. | L. M.  
G. H. | N. O.

SCHEDULE (B).

“ *Certificate of Appointment or Admission of a sufficient Person to preach and officiate as a Dissenting Minister.*

“ To the justices of the peace at the general session of the peace, to be holden for the county, riding, city, or town. [*as the case may be*], of We, whose names are hereunto subscribed, being respectively substantial and reputable householders and Dissenting Protestants of the sect or persuasion denominated [*here describe the sect*], do certify on our consciences and belief, that A.B. of     is a Protestant Dissenting minister of our sect or persuasion, and one of our congregation, and that we have and each of us hath known the said A.B. for the space of     at the least, before the     date of this our certificate, and that we truly believe in our consciences that the said A.B. is a person of sober life and conversation, and of sufficient ability and fitness to preach or teach, and officiate as a Dissenting minister. Given under our hands this     day of     in the year of our Lord

“ Signed and subscribed by the above-named C.D., E.F.,  
G.H., I.K., L.M., and N.O., in the presence of P.Q.,  
of     the day above written.

“ (Signed)  
C. D. | I. K.  
E. F. | L. M.  
G. H. | N. O.

SCHEDULE (C).

“ *Form of the Certificate of Appointment or Admission of a Probationer.*

“ To the justices of the peace at the general session of the peace to be holden for the county of     We, whose names are hereunto subscribed, being respectively Dissenting ministers, duly qualified according to law, of the sect or persuasion denominated [*here describe the sect*], do certify that A.B. of     is a person of sober life and conversation, and has been known to us for the space of     before the date of this our certificate, and hath been appointed or admitted by us as a probationer for the exercise of the functions of a Protestant Dissenting minister for the term of     after qualifying himself as required by law. Given under our hands this     day     in the year of our Lord

“ Signed and subscribed by the above-named C.D., E.F.,  
G.H., I.K., L.M., and N.O., in the presence of P.Q.,  
of     the day above written.

“ (Signed)  
C. D. | I. K.  
E. F. | L. M.  
G. H. | N. O.”

shall for themselves approve, is the inalienable right of all; in the peaceable exercise of which they are not justly controllable by the civil magistrate.

“ That this liberty has been generally recognized in the practice of the British Government, since the æra of the Revolution, under the construction of the statute commonly called the Toleration Act. Thus, whatever may have been the letter of the law, the spirit of toleration has been extended, and a large portion of religious liberty actually enjoyed.

“ That we have beheld with great concern a Bill lately brought into Parliament, designed, as appears to us, to abridge such religious liberty, and having a tendency to deprive the lower classes of the community of those opportunities which they have so long enjoyed, to attend public worship and religious instruction under teachers of their own choice.

“ That as deputed by large and respectable bodies of Protestant Dissenters to attend to their civil rights, it becomes our bounden duty immediately to protest against the principle of such a measure, and to point out the unjust and vexatious operation of the aforesaid Bill, as now brought into Parliament.

“ That a petition against the said Bill, grounded on the principles of the foregoing resolutions, be signed by the members of this meeting, and presented to the legislature.

“ That the foregoing resolutions be signed by the chairman, and inserted in all the public papers.”

A Petition which had been prepared by the Committee, was then read and adopted. It was as follows:

*“ To the Right Honourable the Lords Spiritual and Temporal, in Parliament assembled:*

“ The humble Petition of the undersigned Protestant Dissenters, residing in and near London, sheweth,

“ That your petitioners, deeply impressed with a sense of the incalculable importance of religious liberty, in the fullest extent of that phrase, are ever most willing gratefully to acknowledge the large and valuable portion of that blessing which they have been accustomed to enjoy, and are at the same time anxious that this advantage should be transmitted undiminished to their posterity.

“ That your petitioners have therefore learned with great regret, the introduction of a Bill into your lordships’ House, intituled, ‘ An Act to explain and render more effectual certain Acts of the 1st William and Mary and the 19th of His present Majesty, so far as the same relate to Protestant Dissenting ministers,’ which they fear will tend to impair that great principle of religious liberty which they are above all things desirous to vindicate and maintain, and to infringe on rights which have long been held sacred and inviolable.

Your petitioners therefore humbly pray your lordships will be pleased in your wisdom to reject the said Bill.— And your petitioners shall ever pray.”\*

The further management of the opposition to the Bill was then referred to the Committee.

It was accordingly resolved by the Committee, that one thousand copies of the Resolutions and Petition

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\* This Petition was signed by the Deputies only, it being then expected that the Bill would come on for a second reading on Friday the 17th, which would not have allowed time for obtaining the signatures of the individuals composing the different congregations, which the Deputies represent.

should be printed; that the Resolutions should be inserted in all the public papers; and that a copy of the Resolutions, Petition, and Bill should be forwarded by the secretary in a circular letter to every Dissenting Minister whose address he was acquainted with. These Resolutions were immediately carried into effect.

The Sub-committee appointed for that purpose, waited upon several noble lords who were known to favour the cause of religious liberty, and endeavoured to impress on their minds the legitimate grounds of Protestant dissent; and also furnished them with a copy of some observations, in which it was pointed out in what manner the intended Bill would operate to render the toleration at present enjoyed by the Dissenters less extensive, and throw difficulties in the way of taking the benefit of it. There appeared however no reason to apprehend, from the best information the Sub-committee could procure, that the Bill would be favoured by His Majesty's ministers, or finally adopted by the House.

On Friday the 17th, the second reading of the Bill was unexpectedly postponed till Tuesday the 21st. This afforded an opportunity of procuring signatures to petitions, which was so well employed by a Committee, which had been appointed at a meeting of Dissenters and other friends to religious liberty, at the London Tavern, (to which the Committee of Deputies had sent two hundred copies of the Bill), and also by the Wesleyan Methodists, that when the Bill came on for a second reading, above seven hundred petitions were ready to be presented to the House of Lords against its passing into a law.

Accordingly, on the 21st of May, Earl STANHOPE presented a petition against the Bill, signed by upwards of two thousand persons; and said he had no doubt, if it was

persisted in, that the petitioners, instead of thousands, must be counted by millions. On the question of receiving the petition, the Earl of LIVERPOOL said he had not the slightest intention of opposing the motion. His object in rising, was, if possible, to save the time of the House. He was perfectly convinced that his noble friend (SIDMOUTH) had been actuated by the purest and best motives in bringing forward the Bill which was now before the House, and he was satisfied that the object of the Bill had been by many persons much misconceived and mistaken. It was, however, a consideration of great importance, whether the object sought to be attained was equivalent to the inconvenience arising from the agitation and alarm that had prevailed since the measure had been before the House. If there was any one subject more than another, in which he thought it impolitic for the legislature to interfere, without a real and absolute necessity, it was on religious subjects. However laudable the object of his noble friend might be, still it ought to be considered that the good to be attained by the change proposed was trifling, and that the inconvenience sustained in consequence of the agitation and alarm that prevailed was very great. Under these circumstances, he suggested to his noble friend the expediency of withdrawing the Bill.

Lord Viscount SIDMOUTH said he felt very forcibly the importance which must be attached to what had been stated by his noble friend, particularly as he knew that his noble friend spoke the sentiments of government upon this subject. Still, however, he did not think that his noble friend had made out a case to call upon him (Lord SIDMOUTH) to withdraw his Bill. His noble friend had spoken of misconception and mistake; and certainly there had been much misinterpretation and misconcep-

tion; but if the Bill was allowed to go into a Committee, every thing that had given rise to misconception might be remedied.

His lordship was proceeding to explain the objects of the Bill, when Lord HOLLAND said he had heard the noble earl (LIVERPOOL) opposite with much satisfaction, but regretted that the noble earl had not delivered those sentiments when this measure was first announced, which might have prevented much of that agitation and alarm that had since prevailed.

The petition presented by Earl STANHOPE was then ordered to lie on the table. The petition from the Deputies was presented by Lord HOLLAND, who stated that the persons who had signed it were the representatives of the great body of the Dissenters in and near the metropolis. A petition was presented by Earl GREY, from the Dissenting Ministers of the three denominations, in and near London. Another, presented by the Marquis of LANSDOWNE, was from a number of persons who had met in London, consisting of nine hundred and sixty, many of whom, including the chairman, his lordship stated, were members of the church of England, and some of them beneficed clergymen, who felt the importance of preventing those dissensions to which this measure, if persisted in, must unhappily give rise, and were anxious to live in peace and harmony with their fellow subjects, the Dissenters. Some of the petitions from the country were presented by the same noble lords; and others, by the Earls of MOIRA, ROSSLYN, and LAUDERDALE, and Lord ERSKINE. A few of the petitions were read at length, stating a serious apprehension that the Bill would materially affect the privileges enjoyed by the Dissenters under the Acts of the 1st William and Mary and 19th George III., and praying to be heard by counsel against

it. The rest, which were stated to be of the same tenor, were read short, merely specifying the names of the places from whence they came, and, in several instances, the number of signatures.

After the petitions had been presented, and ordered to lie on the table, the order of the day was read for the second reading of the Bill, and Lord Viscount SIDMOUTH again rose. His lordship expressed his regret at the misinterpretation and misconception, and he was afraid he must add misrepresentation, of the objects and provisions of the Bill, which had gone abroad. The chief object of it, he contended, was merely to give an uniform sense to the Toleration Acts, and to prevent them from being differently construed in different counties. One of its principal objects, at the same time, was to prevent persons without any moral or intellectual qualifications from electing themselves to the exercise of the most important duties that could be exercised by man, and the proper exercise of which was of incalculable importance; and, still further, to prevent persons from obtaining *licences* as preachers and teachers, merely for the purpose of exempting themselves from those civil duties to which their fellow subjects were liable. Relative to the qualifications of those who sometimes applied for licences, his lordship cited an instance at Stafford Sessions, where a man who could neither read nor write, took out a licence as a preacher and teacher. As to the point of moral qualifications, his lordship read a letter he had received, stating an instance of great depravity in a preacher who had obtained a licence. It was to prevent, as far as possible, these abuses, that he had framed this Bill; and requiring the certificate of six householders, of the sobriety of life and conversation of the person applying for a licence, was, he had conceived, so moderate a measure,



that he had no idea it could be resisted. With respect to the ministers of separate congregations, it was provided in the Bill, that there should be a certificate of six members of the congregation of which the person applying for a licence was minister. With respect to itinerant preachers, the object proposed was, that there should be a certificate of six householders; whether the words should be 'reputable and substantial,' or merely 'householders,' might be easily settled in the Committee, so as to obviate all objection. With respect to probationers, it was proposed that they should have a licence for a limited period, and he had an idea of substituting for six householders the certificates of three Dissenting ministers. In proposing remedies for what was an acknowledged evil, he had conceived that he was proposing what would be considered beneficial. Far be it from him to object to the low situation in life of the persons applying for licences. Upon that ground he never had the slightest intention of urging any objection; his object being, that there should be a security, as far as it could be applied, for their moral fitness for the exercise of the important duties of religious instruction. He had had communications upon the subject from several magistrates, complaining of the situation in which they were placed with respect to the construction of the law; and he had understood, from the communications he had had with several respectable Dissenters, that they were desirous that some such measure as this should be adopted, or at least that they approved of it. He was much astonished, after this, at seeing Resolutions advertised upon the subject, with the name of a member of Parliament to them, with whom he had also had communications. He had not the remotest intention, in proposing the Bill, of infringing upon the Toleration Laws. He

rather wished to make the Bill one of comprehension, than one of exclusion; and if it was thought that its provisions tended to exclude any class of Dissenters, he was most desirous that other provisions should be so framed as to include them. He conjured their lordships to allow the Bill to go into a Committee, where, he was convinced, all the objections to it might be obviated. His lordship concluded by moving that the Bill be now read a second time.

The Archbishop of CANTERBURY, although satisfied that if it had not been conceived the Toleration Act was infringed on, the present Bill would not have been so much opposed, was convinced that no such infringement was in reality intended. But although no persecution was intended, and although some misconception might exist on the subject, the flood of petitions which had been laid upon the table ought to convince their lordships of the necessity of stopping short for the present. However he might lament what he conceived to be the errors of Protestant Dissenters, it was to be recollected the Bible was the foundation of their religious belief, as well as of that of the established church, and was, or might be, in the hands of every member of the empire; and it was to be recollected *that the best of INTERPRETATIONS were but the interpretations of MEN, and that the best of men were liable to error.* He was sure that so long as the church of England should endure as a church, the Dissenters would not be disturbed by the church of England; and as he was no prophet, he did not wish to foretel what might happen to them after it was no more. As to the Bill itself, it was stated to have two objects: 1st. To procure an uniform construction of these Acts of Parliament, which were inconsistent with one another; and 2dly, to secure a more respectable

description of teachers to the Dissenters than they had at present. The noble viscount, who brought in the Bill, stated that he brought it in, as he conceived, under the sanction of the Dissenters. But the Dissenters had thought fit to oppose it; and they must be allowed to be the best judges of what was for their own interests. His grace therefore conceived that more injury than good would result from persisting in the measure; and thought it would be better not to attempt to press the Bill against the opinions of the Dissenters.

Lord ERSKINE said, that the evidence which they had had in the multiplicity of petitions which he had had the honour to present to them against the Bill, left no doubt as to the opinion entertained by the Dissenters on the subject. But it was to be observed, that a small part only of the petitions had yet arrived; and that if a longer time had been allowed, ten times the number would have been presented. If his noble friend would attend but for a few moments, he was confident that he himself would be of opinion that he (Lord ERSKINE) was justified in thinking that the second reading of the Bill should be put off till that day six months. He said he had no doubt of the purity of the motives of the noble lord (SIDMOUTH). Their lordships would have imagined, from the discourse of that noble lord, that his Bill was necessary to relieve the Dissenters from errors and misconceptions in their construction of statutes so justly called the palladium of British religious liberty. But the Act of the noble lord was merely a declaratory Act; and what it declared was a direct infringement and contradiction both of the letter and spirit of the Toleration Act. He had formed this opinion after he had been asked by his noble friend to examine these statutes, before he knew that this Bill was to be opposed by the

Dissenters, and that he should have to present two hundred and fifty petitions against it. The Act was a direct repeal of the most important parts of the Toleration Acts, as they had been uniformly explained for one hundred and twenty years; and he believed that no court, and no judges in the country, would agree in the construction put on them by the noble lord. Would they suffer a Bill to pass, declaring that to be law which was not law? It was not only necessary to look into the Toleration Act, but to the intolerant statutes which preceded it. The noble lord then went into some of these Acts, and concluded by wishing to God that all of them could be buried in eternal oblivion. His noble friend, he observed, had confounded sections in the Toleration Act, which were totally distinct from one another. The 8th section was intended only to exempt from penalties. Who were intitled to be exempted? The first Act says, that no person in holy orders, or pretended holy orders, or pretending to holy orders, nor any teacher or preacher, who should subscribe certain articles of religion, and should give a general security, not of householders, but in a declaration to be made by himself, should be subject to the penalties of the law. But if they were to adopt the noble lord's construction, this section would be repealed. By the 10th section certain provisions were made for extending the benefit of the Act to the Baptists and Quakers; and by the 11th section it was stated, that every person in holy orders, or pretended holy orders, being a preacher or teacher of a congregation, who should take the oaths and subscribe the declaration, should be exempted from serving on juries, or as churchwardens, &c. Now supposing that the statute of the 19th of the King had never been passed, the present Bill was directly contrary to this section. Nothing could be more

distinct than the 8th and 11th sections. Supposing the petitions out of the question, he asked them if they would make a declaration in the teeth of the law?—After a variety of other arguments against the Bill, he concluded with moving, that the second reading should be postponed to that day six months.

The Lord CHANCELLOR said, the Bill was no infringement, and he was confident was intended as no infringement on the Toleration Act. But when the Toleration Laws had been made the grounds of different judicial decisions in different counties, both with respect to the penalties and exemptions, it became necessary to establish their meaning beyond a doubt. It had been said by his noble friend, (Lord ERSKINE) if any difficulties should arise, they would at once be settled by a *mandamus*. But if such difficulties were only to be settled by a *mandamus*, he would venture to say they would never be settled. The objections stated by the noble lord (ERSKINE) against the terms of the Bill, were not conclusive against going into a Committee. A curious circumstance happened with regard to himself: when he was drawn for the militia he was ashamed to avail himself of his degree of Master of Arts, but he was gravely pressed to qualify himself, by the payment of 6d., as a Dissenting teacher.\* Upon the whole, he thought it more advisable that the Bill should not be farther pursued at present.

Lord HOLLAND maintained that every man had a right to preach, as well as print, what he conceived was for

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\* It is not a little remarkable, that the first Law Officer of the state should be represented as relating an anecdote, which seems to imply the palpably erroneous opinion, that in order to obtain exemption from the militia it is *not* necessary to be *the minister of a congregation!* See Summary of the Laws, Part 2. ch. 2.

the good of his fellow-creatures ; and that if he should injure the tranquillity of his country, he was liable to punishment : in the same manner as every man was intitled, without a licence, to carry arms, though it did not follow that he was intitled to employ them to the injury of another. If any person thought he knew the meaning of the Scriptures, it was his duty to communicate his opinions. He agreed with LOCKE that the Toleration Act was not a complete measure, but was the first step merely. There were two parts of the Toleration Act ; one part was a boon, the other was merely an admission of what the Dissenters were intitled to. He did not wonder that the Dissenters misconceived the noble viscount's Bill : no person could have imagined from the notices of that noble viscount, till they saw the present Bill, that its terms would be what they now appeared. After a variety of arguments against the Bill, his lordship concluded with declaring his determination to support the motion of his noble friend (ERSKINE).

Earl STANHOPE said, he did not now rise to oppose the Bill, because it had already got its death-blow. He hoped, however, it would be followed up by a measure of a very different nature. Never, since he had been a member of Parliament, had he received so much pleasure as this day, at observing the number of petitions, so numerously signed, which had been presented against this most wretched Bill. The event had shewn, that there was still a public opinion in this country, and that, when called into action, it could manifest itself speedily, and with effect. He was one of those who detested that Act, which they called the Toleration Act, and for this reason, because it did not go far enough. He believed he might say, that he was one of those who had read as many statutes on the subject of religion, not as the lawyers

only, but, he might say, as my lords the bishops. He had gone through them with a professional man by his side; and with his pen had abstracted and marked off three hundred laws about religion; and he ventured to assert they were of such a nature, as would make their lordships disgusted with the Statute Book, and ashamed of their ancestors who could have enacted them. An Act, however, was passed in 1st of Edward VI., (who might fairly be said to be the first Protestant prince who had ever reigned in this country, for King Henry the Eighth, that Defender of the Faith, could hardly be said to be a real Protestant), by which they were all shoveled away at once; and justly so: for what need had religion for Acts of Parliament? He gave notice, that he should, early in the next Session, introduce a Bill in place of that, of which he trusted they had seen the last glimpse that night, founded on the equitable principle he had now alluded to. To toleration, as it now existed in this country, he was, as he already said, a decided enemy; but, to religious liberty, he was the most decided friend, convinced that no restraint should be put on religion, unless in so far as it might seem to endanger the state.

Earl BUCKINGHAMSHIRE, though he did not disapprove of the determination of his noble friend (SIDMOUTH) not to persevere in the Bill, after the opposition that had been manifested towards it, was still convinced that, if the Bill had been suffered to go into a Committee, it would have come out free from the objections under which it now laboured, and in such a state of improved regulation, as would have satisfied many of those who now appeared hostile to it.

Earl GREY said, though he perceived that his noble friend (SIDMOUTH) did not mean to press the Bill far-

ther, yet, after what had fallen from his other noble friend (Lord BUCKINGHAMSHIRE) he could not allow the question to be put without declaring his unchangeable objection, both to the details and to the principle of the Bill, to which no modifications could ever reconcile him. The principle of the Bill was restraint—restraint vexatious and uncalled for. That it was a Bill of restraint, even his noble friend (SIDMOUTH) himself had not denied, or attempted to disguise. He (Earl GREY) was against all restraint. He went along with his noble friend (Lord HOLLAND) in thinking, that every man who was impressed with the belief that he had a call to preach, ought to have every liberty allowed him to do so. One inconvenience, stated to result from this unlimited liberty, was of a purely civil nature; that it afforded facilities to men not actually preachers, but who pretended to be so, to avail themselves of that character, to escape certain obligations imposed on their fellow-subjects. Judging from the papers on the table, he could not see the force or justice of this observation. For the last 40 years, the number of persons who had qualified appeared to have been about 11,000. He should take, however, the last twelve years; dividing it into two equal parts, it appeared that, in the six former years, the number was 1,100; and, in the latter six years, 900; so that the number had diminished, instead of increasing; and the present measure, instead of being thereby more peculiarly called for, had become so much the less necessary.

Lord SIDMOUTH, in reply, observed, that he would not be deterred by any thing that had fallen from the noble lord who had just sat down, from bringing before their lordships whatever his own sense of duty



suggested, as worthy their attention. He left it to their lordships to decide, whether the law on this subject ought to continue in its present state of uncertainty.

Lord **ERSKINE**'s motion being then put, was agreed to without a division, and the Bill was therefore lost.

On the 24th of May, the Committee of Deputies met, pursuant to a summons of the chairman, who reported what had passed in the House of Lords. It was then resolved, that a general meeting of the Deputies should be summoned, to receive the report of the Committee.

At the general meeting of Deputies, on the 28th of May, the chairman reported the proceedings of the Committee, and the defeat of the Bill; upon which the following resolutions were unanimously agreed to:—

“ That this Deputation, in conformity with the deep interest which they must always feel in every question affecting the civil and religious concerns of the Protestant Dissenter, do, in the names of those by whom they are deputed, offer to their brethren throughout the kingdom, their sincere congratulations on the rejection of the above-mentioned Bill, and especially as connected with the opinions so generally expressed in the House of Lords, of the inexpediency and injustice of infringing on the liberty of the subject in religious matters.

“ That the thanks of this Deputation be gratefully offered to the Marquis of **LANSDOWNE**, to Earl **STANHOPE**, Earl **MOIRA**, Earl **GREY**; to Lord **HOLLAND**, and to Lord **ERSKINE**, for their able and distinguished support of the cause of the Dissenters, and of the great and important principles of religious liberty, in the debates on the Bill lately introduced by Lord **SIDMOUTH** into the House of Lords.

“ That the thanks of this Deputation be given to all those members of that Right Honourable House who co-operated in rejecting the said Bill.

“ That this Deputation are extremely happy in the opportunity of expressing their high satisfaction at the just and liberal sentiments respecting the right of private judgement in religious matters, delivered in that debate by his grace the Archbishop of CANTERBURY.

“ That WILLIAM SMITH, Esq. M.P. the chairman of this Deputation, be desired to accept our warmest thanks, for his vigilant attention to the subject of the late measure ever since it was first announced in Parliament; for his ready and obliging communications with the Committee, in their attempts to dissuade the noble author from actually bringing the same forward; and for his able and active assistance in obtaining its rejection. And that this Deputation entertains a strong and grateful sense of his constant and zealous support of civil and religious liberty, and of the rights of Protestant Dissenters on all occasions.

“ That this Deputation feel themselves highly indebted and express their best acknowledgements to JOHN GURNEY, Esq. their deputy chairman, for the zeal and ability which he on various occasions has manifested in defence of the rights and privileges of Protestant Dissenters; for his disinterested attention to the objects of this Deputation, and particularly for his great exertions upon the present occasion, in clearly and forcibly stating to various members of the legislature the highly objectionable tendency of the Bill lately brought into Parliament.

“ That the cordial thanks of this Deputation be given to the Committee, for the zeal and promptitude which they have so long and so constantly manifested, in the protection of the civil rights of Protestant Dissenters,

both in the metropolis and in the country, from every part of which applications on the subject have been so frequently received; for their watchful and anxious regard to these important interests ever since Lord SIMMOUTH announced his intention respecting the Toleration Act; and especially for the unshaken firmness with which they have maintained the unalienable rights of conscience, and deprecated the interference of magistrates in matters of religion, as a violation of those sacred principles which (in their judgement) human laws ought never to control.

“That the following Address to the Protestant Dissenters of England and Wales, now read, be approved.

“That the said Address be signed by the chairman, and printed for general circulation.”

The Address referred to in the foregoing Resolutions was as follows:

“*To the Protestant Dissenters of England and Wales.*

“*The Address of the Deputies.*

“When, in the years 1787, 1789, and 1790, the Dissenters applied to the legislature for a repeal of the Corporation and Test Acts, it was not surprising that, on a subject so deeply interesting to them, considerable warmth should have exhibited itself both in discussion and in action. Disappointed at last in expectations which they thought reasonable, and therefore dissatisfied, in their own opinion justly, they have yet forborne since that period to renew their application, unwilling uselessly to revive animosities; and preferring to wait till time and reason should have overcome prejudice and fear. In this interval, instances of local intolerance and vexation have frequently happened; which, when without legal remedy, as in some cases, have been patiently endured; or, as in far the greater number, by the at-

tention and interference of the Deputies, have been quietly and legally suppressed; but, as no general or prevailing disposition to abridge the religious liberties or disturb the peace of the Dissenters has been manifested, nothing has occurred affecting them as a body to excite much general interest, if we except a late pertinacious attempt to withhold the rites of burial from all such as had not been baptized according to the forms of the establishment; which, by the same interposition, having been brought to trial in the Court of Arches, where it was decided in their favour, has been laid before the public.

“ And much longer might this state of things have lasted, but for the recent proposal of Lord SIDMOUTH; which indeed excited a very great and general alarm, the reasons for which will appear when we advert to the previous situation of the Dissenters, and examine the provisions of his Bill as offered to the House of Lords. The amendments which it might have received in its subsequent stages, are here out of the question, because, however they might have improved the original measure, or how far soever they might have exculpated the noble mover from having been disposed intentionally to infringe on religious liberty, it was impossible to calculate on such alterations: nor could they, even in their greatest extent, have prevented all violation of the first, great, and leading principle on which all Dissenters found themselves, and which they never can concede, the right of every man to teach to others those religious opinions which he himself entertains. Freedom of thought the magistrate has it not in his power to control; it is only in abstaining from interference with the *communication* of opinions, that he has the opportunity of proving his wisdom or his justice.

“ The Dissenters cannot be supposed to have regarded the Toleration Act itself, as satisfying their just claims. It was indeed scarcely to be hoped, that a law enacted at that period should have proceeded on those sound and comprehensive views of the subject, which deeper examination and more dispassionate discussion have since afforded. Still even by that law much was gained:—and though it was then deemed expedient to demand subscription to the articles as the condition of its protection, yet from the imperfect records of the debates in Parliament, it seems probable that subscription was required rather under some vague idea of preventing writings against the establishment, than with any deliberate intention of limiting toleration to those only who believed all the doctrines of the church. On the contrary, the description in the act, of the persons intitled to avail themselves of its protection, is most comprehensive; and the spirit in which, from the very first, it has been almost uniformly administered, strongly confirms this view of its design. Still, however, further legal relief was wanting: the growing spirit of religious inquiry rendered subscription to creeds and articles every day more burthensome; while the legislature became more sensible to the injustice of impositions not countervailed by any corresponding and peculiar benefits.—Then came the Act of 1779, and, by the joint operation of the two laws, interpreted in unison, and agreeably to what appeared to have been the original spirit of both, practical religious liberty has been ever since enjoyed in this country, uninterrupted, till of late, but by accidental ebullitions of imprudence or malevolence. In this state of things it was not possible that Lord SIDMOUTH’S Bill, which did not profess to abrogate one penal law, and which did enact new restrictions, should be favourably

received: unfortunately for its popularity, it was the first attempt of such an aspect since the accession of the present Royal Family; nor, however innocent, or even beneficial it might appear in the eyes of its author, was it free from great and obvious objections: It confined the protection granted by the Toleration Act within narrower limits than either the words of that law, its original object as collected from history, or the uniform practice upon it would justify:—It broke in afresh upon the principle of religious liberty, and it opened a door for the exercise of discretion by the magistrate in cases where, hitherto, he had been bound to act only ministerially; a change so important, as, if once permitted to creep in, would rapidly destroy every vestige of religious freedom, and place every future candidate for admission into the Dissenting Ministry in dependence on the pleasure of a Quarter Sessions.

“ That such is the apparent tendency of some parts of the Bill, as introduced, cannot be denied; and, notwithstanding the present imperfection of our religious liberties, that a measure in its principle sapping their foundation, and particularly restricting them in practice, should have been warmly opposed, is extremely natural. Nor do we believe that any Dissenters encouraged his lordship to imagine, that such infringements on their ancient and accustomed possessions could ever meet with the approbation of their body. Their objections have also been further strengthened, by the deficiency of adequate cause for legislative interference; the evils complained of as arising from the preaching of persons alledged to be improper or ill qualified for the function, being rather assumed than proved; and the inconvenience to the state, of exemptions from burthensome services having been obtained by some few persons not intitled to the privilege,

being already remediable, and in most cases actually remedied by law : to which it may be added, that such unwarrantable claims have not been sanctioned by the Dissenters.

“ On the prompt and unanimous feeling, so favourable to the maintenance and advancement of our common interests and liberties, which this attempt has excited, and on the success of our resistance, we most cordially congratulate our brethren : and we think we discover equal cause of satisfaction in those unequivocal declarations against every species and degree of persecution, against every intolerant principle, which in the course of this discussion, short as it has been, have been drawn from persons of the highest rank, the brightest talents, and the most efficient public stations in the country.

“ From symptoms so favourable, arising, in our opinion, not from any accidental circumstance, but from the gradual and silent increase of just and liberal sentiments, we cannot but augur the happiest results. We trust that the present laws will continue to be administered with that liberality which we have so generally and so long experienced. We cannot but anticipate the speedy approach of that fortunate period, when the legislature shall expunge from that Statute Book which they now disgrace—all penalties, restrictions, and disabilities on account of Religion: and we earnestly hope that nothing will occur to defeat these expectations, or by exciting a hostile spirit even to postpone a consummation on every account so devoutly to be wished.

“ Signed, by order of the Meeting, WILLIAM SMITH,  
Chairman.”

It was finally resolved, at a subsequent meeting of the Committee, June 12, 1811, to circulate the Address and Resolutions, together with a circular letter, announcing

that the Sketch of the History and Proceedings of the Deputies from the year 1732, which had been for some time in preparation, would shortly be published.

It ought not to be omitted, in closing the account of this transaction, that the Committee have had the pleasure of receiving from different parts of the kingdom, the most gratifying testimonies of approbation, for their attention in this, as in former instances, to the interests of their Protestant Dissenting brethren. They have, also, thankfully to acknowledge the receipt of several pecuniary contributions, which their expences, not merely in resisting Lord SIDMOUTH'S Bill, but in the continual discharge of their various duties, have rendered absolutely indispensable; and, for want of which, they have occasionally been constrained to pay only a part of the expence attending different prosecutions, when they would have gladly defrayed the whole.



## Supplement.

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IN order to afford a better idea of the labours of the Committee of Deputies, and convey useful information, it has been thought advisable to give a concise account of the principal cases in which they have interfered, but which could not be stated at length without an improper extension of the volume, nor be introduced into the foregoing narrative, without perplexing the reader's attention by an incessant change of subject. The heads under which these cases have been arranged, are as follows:—Unjust Demands and Prosecutions; Riots, Assaults, and Disturbances; Refusals of Magistrates to execute their Office; Refusals of Clergy to perform Duty; Parochial Disputes; Private Disputes.

### UNJUST DEMANDS AND PROSECUTIONS.

1740. A Dissenting minister, who had been named as churchwarden, was supported with effect in refusing to serve.

1749. *Carmarthenshire*. A demand being made on the Dissenters there for fees on baptizing their children, though baptized by Dissenting ministers; and some of them being cited into the Spiritual Court for refusing to pay those demands; through the interference of the Committee, the prosecutions were dropped, and the clergyman who instituted them was obliged to pay costs.

1763. *Merionethshire*: Prosecutions against a Dissenting minister for baptizing a child, and against the mother for not coming to be churched, successfully resisted,

1769. *Hamsterleys*. A clergyman demanding marriage-fees of persons, who, on his refusal to perform the service, had been married in Scotland; the claim was successfully resisted.

1764. *Oswestry*. Several Dissenters having been cited into the Spiritual Court for not bringing their children to church to be christened, and their wives to be churched; and Dissenting ministers also, for baptizing; the Committee interposed, and prevented farther proceedings.

1750. *Cirencester*. 1764. *Welford*. 1769. *Newcastle*. 1780. *Wendens*. 1781. *Harborough*. 1785. *Soham*. Demands of fees, for burials in the Dissenters' burial-grounds, and for churching the wives of Dissenters, by the advice of the Committee successfully resisted.

1766. *Tregony*. A justice who had ordered a distress on the goods of a Dissenter under the Conventicle Act, refusing to make satisfaction to the party, the Committee, on the opinion of counsel, advised an action to be brought against him; on trial it was ordered, that the justice should pay costs, and the amount of the goods which had been sold, and that what remained unsold should be returned to the plaintiff.

1772. *Oxford*. A Dissenter there having been summoned to undertake the office of common-council-man, was supported in refusing to serve.

1788. *Veryan* near *Tregony*. A Dissenter, being prosecuted in the Archdeacon's Court for not going to church, went to the Quarter Sessions to take the oaths, and qualify as a Protestant Dissenter, but being an ig-

norant man, and unable to give his reasons for dissenting, was not permitted, in consequence of which he was excommunicated; by the interposition of the Committee, on another attendance the oaths were administered and the excommunication removed.

1796. *Leicester*. A mortuary of 10s. having been demanded by the clergyman of the parish upon the death of a Dissenter as the head of a family, though buried in the burial-ground belonging to the Dissenters, the clergyman was informed by the Committee that demands of a similar nature had been found improper, and that if a prosecution was commenced it would be resisted.

1798. *Towcester*. The curate of the parish having made a demand of Easter dues, the Committee took Mr. Serjeant HEYWOOD'S opinion upon the subject, which being that the demand could not be supported, it was communicated to the parties, and the matter dropped.

1800. *South Weald*. The vicar having threatened a prosecution for non-payment of burial-fees of a Dissenter, though buried in the Dissenters' ground by their own minister, the Committee interfered, and the demand was given up.

1802. *Brigg*. The vicar having demanded a mortuary of 17s. upon the death of a Dissenter, which had not been customarily paid in that parish, the Committee advised the party not to pay it; and if cited in the Spiritual Court, to appear and pray a copy of the libel, and inform the Committee.

1804. *Bedford*. The parish-clerk having made a demand upon a Dissenter for sweeping his pew at church, although he never attended worship there; and having summoned him to appear at the County Court; and it appearing the Dissenter had made default by not causing an appearance to be entered, the Committee advised the

arrears to be paid, and a written declaration delivered at the same time before witness, (an attested copy of which was to be kept) protesting against the legality of the claim, and giving notice that it would in future be resisted.

1805. *Bilderston*. A minister was convicted under the Conventicle Act, in the penalty of £20, for preaching in a house which had not been registered on account of the certificate sent to the Archdeacon's Court that the house was intended for religious worship not being signed by the person who took it. The Committee gave their opinion that the case did not admit of relief.

1807. *Flock, Cornwall*. A person having been prosecuted in the Spiritual Court, by the clergyman, for not attending at church, which he had left to frequent a Dissenting meeting-house, and fined £4, application was made to the Committee. On further investigation it appeared, that previous to the prosecution neither the place was registered, nor had the minister taken the oaths. The defendant had since qualified as a Dissenter. The case not admitting of relief, the amount of the fine and other expences was paid by the Committee.

OTHER CASES SUITABLY ATTENDED TO BY THE  
COMMITTEE.

1740. *Pontypool*. 1745. *Biddeford*. 1748. *Suffolk*.  
1749. *Henley*. 1753. *Sudbury*. 1757. *Malden*. 1751.  
*Haverford-west*. 1764. *Cheltenham*. 1770. *Royston*.  
1771. *Hinckley*. 1775. *Wing*. 1777. *Kirksby Wood-*  
*house*. *Bridgstock*. *Durham*. 1778. *Basingbourne*.  
1785. *Framlingham*. 1792. *Nottingham*. *Abingdon*.  
1806. *Canterbury*. *Godmanchester*. 1807. *Denton,*  
*Norfolk*. 1809. *Maldon*. 1811. *Swanley, Kent*. *Gla-*  
*morganshire*.

## RIOTS, ASSAULTS, AND DISTURBANCES.

1741. *Stratton*. Several rioters having insulted the congregation of Baptists, and barbarously abused a family belonging to it, were prosecuted, by which the peace of that place and neighbourhood was restored.

1743. *Anglesea*. An information was obtained against several rioters who had disturbed and abused the Dissenters there.

1751. *Walsal*. The meeting-house having been pulled down by some rioters, government, on the representation of the Committee, undertook to prosecute the offenders.

1760. *Clapham*. The Dissenting minister having been insulted whilst preaching, and part of the meeting-house demolished, the Committee interposed, and procured the repair of the damage, and proper satisfaction to the minister.

1772. *Midhurst*. Great damage having been done to the meeting-house in a riot, the Committee undertook to prosecute the rioters, but were prevented by their absconding.

1772. *Dartmouth*. A congregation having been disturbed, and the mayor of the town having refused to grant warrants against the offenders, he was threatened with a prosecution, which produced the desired effect.

1775. *Lewes*. There having been several riots at a meeting-house at St. Thomas's, near that town, a warrant against one of the rioters was obtained and served, on which he made satisfactory submission.

1781. *Staines*. 1782. *Peterborough*. Rioters prosecuted for disturbances.

1783. *Anglesea*. A minister having been attacked and insulted while administering the rite of baptism, the offender was threatened with prosecution, on which he submitted to the terms imposed.

1785. *Grimsby*. An attorney of that place, having disturbed the Dissenting congregation during divine service, by cursing, swearing, and other ill-behaviour, a letter was written to him, on which he made suitable submission.

1785. *Beaumaris*. An assault having been made upon the minister, the offender was written to on behalf of the Committee, and compromised the affair upon their terms.

1787. *Llanryllyn*. A violent outrage having been committed, by seven men masked, on the Dissenting minister and two of his friends, the Court of King's Bench was moved for an information against the rioters. It being afterwards determined to proceed by indictment, true bills were found; and four, being all who could be taken, submitted to the Committee's terms.

1795. *Needham and Stowmarket*. Four persons having been found guilty on an indictment for a riot at a meeting of Dissenters, and sentenced to six months imprisonment in the county goal, the Committee contributed to the expences of the prosecution.

1797. *Sawbridgeworth*. A person having been prosecuted under the direction of a member of the Committee and the secretary, for a disturbance of public worship, and being found guilty, the expences were defrayed by the Committee.

1799. *Smith Green, Essex*. A person indicted for a riot at a meeting-house there, was tried and found guilty, but discharged by the magistrate with only a reprimand. The parties were reimbursed the expences of the prosecution by the Committee.

1800. *Dartmouth*. A disturbance having been made at the meeting-house, the Committee interfered; upon the offenders making submission, and paying all expences, the affair was settled.

1801. *Downham*. The Committee paid the expences incurred in prosecuting several persons for a disturbance, the congregation being poor.

1802. *Aston Abbott*. A magistrate having disturbed the congregation during the time of worship, and also personally assaulted the minister, the Committee advised a prosecution for both offences. Indictments were according preferred at the assizes, and true bills found; but the party making submission, and paying all expences, the prosecution was stopped.

1802. *Bracknell*. A person found guilty of a disturbance was unable to pay the penalty; the congregation being poor, the expences of the prosecution were defrayed by the Committee.

1805. *Brixham, Devon*. A riot and disturbance having been made at a house properly registered, at Stoke Gabriel, during divine worship, the house damaged, and the minister and several of the congregation assaulted on their way home, the Committee interfered, and ordered an indictment to be preferred against the offenders. The only one however that could be found, making an apology in the newspaper, paying all expences, and giving £10 to the Exeter Hospital, the prosecution was dropped.

1806. *Burnham, Essex*. A person having disturbed the Baptist congregation there, the Committee preferred an indictment against him at the Quarter Sessions, which was found a true bill, and removed by *certiorari* into the Court of King's Bench. On the defendants applying to settle the affair, discharging the costs, and paying

a donation of 5 guineas to the parochial-school, proceedings against him were stayed.

1807. *Brixham*. Complaint was made to the Committee of a person grossly insulting the members of the congregation as they passed to and from the meeting-house, raising a mob, and creating a disturbance during the time of worship both at and within the meeting doors. The Committee ordered him to be indicted, and a true bill was found for the disturbance. The trial came on at the assizes, and the defendant was acquitted on the ground of insanity.

1808. *Aylsham, Norfolk*. Several persons guilty of disturbing the public worship of the Dissenters there, and personally ill-treating the minister, were indicted by order of the Committee. At the trial, the defendants offered to make a public apology and pay the costs. The proposition being acceded to, they were reprimanded by the judge, who observed, that if the affair had not been compromised, and the defendants had been found guilty, the sentence of the court would have been very severe.

1809. *Norton St. Philips, Somersetshire*. The Dissenting congregation having been disturbed and assaulted during divine worship by several persons, the offenders were indicted and found guilty. The congregation being poor, the expences were defrayed by the Committee.

1810. *Reigate*. A person who had disturbed the Dissenting congregation there, was indicted by order of the Committee; and on a true bill being found, pleaded guilty and paid the penalty of £20.

#### OTHER CASES.

1773. *Oxford*. 1777. *Titchfield*. 1792. *Uttoxeter*.  
1793. *Guildenburgh*. 1794. *Woodstock*. 1797. *Reigate*.  
1798. *Mere, Wilts*. 1799. *Essex*. 1810. *Mere*.  
*Wickham Market*. 1811. *Broseley*.



REFUSALS OF MAGISTRATES TO EXECUTE THEIR OFFICE.

1743. *Radnor*. The justices refusing to register places of worship, the Committee obtained a rule to shew cause why a *mandamus* should not issue, which produced compliance.

1763. *Anglesea*. A similar refusal; compliance enforced by a *mandamus*.

1766. *Derbyshire*. A similar refusal as to several places, and likewise as to granting certificates to ministers; compliance enforced by *mandamus*.

1769. *Berkshire*. A refusal to register places of worship, on pretence that the parties had not obtained the bishop's certificate; compliance obtained by application from the Committee.

1770. *Merionethshire* 1774. *Sussex*. 1774. *Rutland*. 1781. *Carmarthen*. Similar refusals; compliance enforced by *mandamus*.

1789. *Hereford*. A similar refusal on the ground of the certificate not having been applied for by motion of counsel; compliance was obtained by the interference of the Committee.

1791. *Brecknock*. The justices having refused to register some places, and also to grant certificates to ministers; complied at the instance of the Committee.

1791. *Lincolnshire*. Similar refusals as to places and ministers, and also to permit laymen to qualify as Dissenters: the justices complied on being threatened with a *mandamus*.

1796. *Broughton*. The justices refusing to register a meeting-house without a motion by counsel, and the clerk demanding exorbitant fees, justice was obtained by the Committee.

1798. *Wrexham*. The justices having refused to administer the oaths to a minister who applied to qualify under the Toleration Acts, counsel's opinion was taken: but the minister having exposed himself to a prosecution under the Conventicle Act, the Committee did not recommend applying for a *mandamus*.

1799. *Taunton*. The justices refusing to admit a Dissenting minister to qualify, the Committee interposed; and under their advice a second application was successful.

1799. *Bristol*. Several students at the academy having been refused admission to take the oaths, suitable advice was given to the parties.

1802. *Kirk-Ella*. The justices having refused to admit a person to qualify, because he carried on the business of a farmer, application was made by the Committee to the chairman, which produced the desired effect.

1806. *Ipswich*. The magistrates having refused admitting a person to take the oaths as a Dissenting teacher, unless the leading men of the congregation certified in writing that he was their minister, the Committee took the opinion of counsel, who advised applying for a *mandamus*; but further steps proved unnecessary.

1809. *Bucks*. The refusal in this case was on the ground of the person who offered himself not being the minister of any congregation: an application to the chairman of the Quarter Sessions was successful.

1809. *Axminster*. Some of the students of the academy not being allowed to qualify, suitable advice was given by the Committee.

1811. *Haddenham, Bucks*. In consequence of a complaint that the magistrates had refused to admit the minister to qualify, on the ground that he was not regularly settled over the congregation, and was not prepared

with a certificate of his being their pastor; counsel's opinion was taken, and on a fresh application the object was attained.

OTHER CASES.

1792. *Oxfordshire. Glyn-Ceriog.* 1794. *Nottingham.* 1799. *South Petherton. Chichester.* 1802. *Yorkshire.* 1806. *Ipswich.*

REFUSALS OF CLERGY TO PERFORM DUTY.

1748. *Watesfield.* Burial was refused to the children of some Dissenters, on account of their not having been baptized according to the rites of the church of England. The Bishop of Norwich, on application by the Committee, wrote to the clergyman, and expressed his hope that no occasion would be given for such complaints in future.

1748. *Isle of Wight.* A clergyman refusing to bury a child without a certificate of its baptism, was written to by the Bishop of Winchester, on the application of the Committee, and no further complaint was made.

1764. *Llanvigan.* The minister refusing to bury a child, because it was baptized by a Dissenting minister, the Committee interfered, and he made satisfaction.

1769. *Marshfield.* The vicar having refused to bury a child baptized by one who was not an ordained Dissenting minister, and insisting he had done right, was reprimanded by the Bishop of Llandaff, and ordered for the future to perform the service.

1772. *Mears-Ashby.* The clergyman having refused to bury two children who had been baptized, was reprimanded by the Bishop of Peterborough, and promised to do his duty for the future.

1792. *Margate*. The vicar refused burial to a parishioner who had been baptized by a Dissenting minister, and bade the friends of the deceased go and bury the corpse in the fields. It was however buried in the church-yard, but the vicar would neither read the burial service himself, nor suffer his curate to read it. The case being laid before the Archbishop of Canterbury, his grace expressed great disapprobation of the vicar's conduct, and was pleased to say he should be reprimanded, and left to the course of the law for any future misbehaviour of that kind.

1796. *Harrington*. The curate of the parish having refused to bury the child of one of his parishioners, baptized by a Dissenting minister, the Committee interfered, on which the curate performed the service.

1798. *Towcester*. The curate having refused to bury the children of two of his Dissenting parishioners because they had not been baptized by him, but by a Dissenting minister, he was written to by the Bishop of Peterborough, on the application of the Committee, and accordingly performed the duty.

1800. *Staines*. In this case, the *churchwarden* refused to permit the bell to be tolled at the death or burial of Dissenters' children, or the corpses to be brought into the church prior to the interment. A letter being sent by the Committee to apprize him that his refusal was illegal, and that if he repeated it proceedings would be instituted against him in the Ecclesiastical Court, no further complaint was made.

1801. *Brigg*. The vicar refusing to bury a child baptized by a Dissenting minister, the Bishop of Lincoln, on the application of the Committee, desired him to comply, observing that he should give the same direc-

tions to the other clergy of his diocese whenever there should be occasion.

1804. *Llanthelley*. The rector, on a similar refusal, was written to by the bishop, and enjoined to perform the duty in future.

1805. *Malmsbury*. The curate of Lea, on a similar refusal, was desired by the Bishop of Salisbury not to refuse in future.

1807. *Gloucestershire*. The rector of Coates having refused to read the burial service, in a similar case, and declaring, in answer to an application from the Committee, that he had done right, and was ready to abide by the consequences; the Committee, in pursuance of the best opinions in Doctors' Commons, instituted a prosecution against him in the Consistorial Court of Gloucester: but, in consequence of the depositions being taken down in an improper manner by the officer of the court, judgement was given for the defendant.

1805. *Enderby, Leicestershire*. There being no officiating curate, and the rector living many miles off, the churchwarden refused to permit the burial of a Dissenter's child in the church-yard. The case was laid before Sir J. NICHOLI, who gave it as his opinion, that the refusal was justifiable, the churchwardens not being bound to procure a minister to perform the service.

## OTHER CASES.

1745. *Biddeford*. 1748. *Billingborough*. 1778. *Mat-tishall*. 1781. *Frome*. 1784. *Cheshunt*. 1791. *Ring-shall*. 1796. *Staines*. 1798. *Eaton, Northamptonshire*. 1799. *Burwell*. 1800. *Kent*. 1801. *Morton. Kibworth. Broadway. Ware*. 1805. *Lca*. 1806. *New Camford, Essex. Isle of Thanet. Barnet. Hertford*. 1808. *East*

*Lydford, Somersetshire. Ipswich. Birch, Essex. Penally, Pemb. Milford. 1809. Chumleigh, Devon. Burwell, Camb. Sherborne. 1811. Northamptonshire.*

PAROCHIAL DISPUTES.

1748. *Yarmouth.* The Dissenters complaining of a rate for the support of an organ erected by voluntary contribution, the Committee procured the best opinions both in Doctors' Commons and Westminster Hall, and the affair was satisfactorily settled.

1764. *Rotherhithe.* A distress having been made on a meeting-house, for a scavenger's rate, was recovered by the Committee.

1772. An attempt having been made to remove a Dissenting minister as a pauper, counsel's opinion was taken, on which he procured full redress.

1778. *Lymington.* The Dissenting minister desiring to know if he could be compelled to take a parish child for an apprentice, was informed that the Toleration Act did not exempt him, but advised to appeal.

1783. *Framlingham.* The Dissenting minister making a complaint on the same subject, was likewise recommended to appeal.

1787. *Southwark.* A meeting-house having been assessed to the House, Window, and Commutation Tax, on account of the pew-opener residing in part of it, redress was obtained on appeal.

1789. *Lewes.* The Dissenting minister being threatened with removal from the parish, on pretence that he was likely to become chargeable, the Committee advised that his friends should offer to indemnify the parish. On his attending at the Sessions, the justices refused to

make the order, and reprimanded the parish officers for their conduct.

1794. *Hare Court, London.* The meeting-house having been rated for the repairs of Aldersgate Church, the parties, under Mr. Serjeant HEYWOOD'S opinion, entered an appeal, which was allowed, and the rate confirmed with regard to the cellar only.

1795 *Kensington.* The Hornton-street Chapel being assessed to the poor-rate; and it appearing that no profit was derived from it, the rate was appealed against with success; and upon the trustees applying to be reimbursed their expences, the Committee contributed £25.

1798. *Stockbridge.* A house there properly registered and from which no profit or advantage was made, being assessed to the poor-rate, the Committee took counsel's opinion on the case, and the demand was given up.

1806. *Essex.* The churchwardens not permitting a poor man in the workhouse to attend divine service among the Dissenters, and insisting that he should attend at church, counsel's opinion was taken, by which it appeared they had no authority for so doing. A copy of the opinion being sent to the party, no further complaint was made.

1808. *London.* The meeting-house in the New-road being assessed to a parochial rate, the opinion of counsel was taken: by which it appeared that the assessment being made pursuant to a local Act, under which churches and chapels were also rateable, payment could not be resisted.

1810. *Jewin Street, London.* The meeting-house being assessed to the poor-rate, (as well as the cellar below, from which only a profit was derived,) and the seats not being let, but the subscriptions entirely voluntary and solely applied to the support of the minister

and keeping the place in repair; the Committee advised the parties to appeal, which they accordingly did with success.

## OTHER CASES.

1777. *Whitechapel*. 1777. *Crediton*. 1796. *Grantham*. 1800. *Little Wild Street*. 1801. *Aldermanbury Postern*. 1802. *Axminster*. 1805. *Blandford Street*. 1807. *Little Wild Street*. 1808. *Bath*. 1809. *Great Alie Street*. 1810. *Croydon*.

## PRIVATE DISPUTES.

1744. *Brentwood*. An encroachment having been made on the premises belonging to the congregation, the Committee procured immediate redress.

1747. *Maes-y-rony*. The trustees of a legacy of £20, left to the minister of a Dissenting congregation, refusing to pay it, complied on the interference of the Committee.

1753. A legacy of £500 to trustees for the benefit of the minister of a Dissenting congregation being claimed by one of the trustees as next of kin, on the pretence that the legacy was forfeited by the congregation removing to another place of worship, was recovered by a suit in Chancery under the advice of the Committee.

1765. *Tredweston*. Payment of an annuity to the congregation was obtained by the Committee.

1771. *Bicester*. £100 being bequeathed to a person for the use of the minister of the Dissenting congregation, and that person dying before the testatrix, the Committee took the opinion of Mr. BICKNELL on the question, whether the legacy was lapsed. His answer being in the negative, the executor agreed to pay it to



the trustees of the meeting, for the use of the minister, upon having an entry made in their books, appointing the deacons and trustees to invest the property.

1771. *Westbury*. Payment being refused of £20 a year, bequeathed to the congregation, the Committee interfered, and the affair was amicably settled.

1771. *Nailsworth*. Payment being refused of a legacy of £4 per annum, for the support of the minister of the Dissenting congregation, was obtained by the interference of the Committee.

1772. *Andover*. Payment of a legacy of £100 left to the minister of the Dissenting meeting-house there, the interest of which had been regularly paid for many years, being refused, was obtained on filing a bill in Chancery.

1783. *Norwich*. Two separate legacies, of £1200 each, were bequeathed to six trustees for the use of a congregation in Norwich. The testator died in 1778. Payment being evaded by the executor, was obtained by a suit in Chancery.

1783. *Leicester*. The heir at law of a person who had given a meeting-house to a congregation there, threatened to resume it, and forbidding any alterations to be made without his consent, counsel's opinion was taken, which put an end to the dispute.

1784 *Biggleswade*. The only surviving trustee of the meeting-house, which was copyhold, refusing to surrender it, complied on the interference of the Committee.

1785. *Swansea*. A sum of £100, held in trust for the congregation, being detained from their use, the parties were threatened with a suit in Chancery, on which they submitted, and assigned over the trust.

1785. *Falmouth*. A clergyman having obtained possession of the trust deeds of the meeting-house, and re-

fusing to deliver them up, a bill in Chancery was filed against him by advice of the Committee, on which he submitted, and paid the costs.

1787. *Fordingbridge*. In a similar case, the party submitted at the instance of the Committee.

1797. *Brigg*. Under the advice of the Committee, a piece of ground, on which a meeting-house formerly stood, and which had been seized and built upon by an individual, (the congregation having been extinct twenty years) was recovered, and the congregation re-established.

1798. *Gloucester*. One of the two surviving trustees of the Southgate meeting-house having refused to join in a conveyance to new trustees, agreeably to the trust deed, was written to on behalf of the Committee, and the business amicably settled.

1799. *Sidbury*. Payment being refused of an annuity of £10 per annum, (bequeathed prior to the Statute of Mortmain, to the minister of the Presbyterian meeting, out of certain freehold and leasehold premises,) after having been paid upwards of sixty years, the Committee took counsel's opinion on the case, and obtained payment.

1799. *Neath*. The trust deeds of the meeting-house being improperly withheld, and two members of the congregation keeping possession of the place, advice was sent to the trustees. On another application respecting disputes among the congregation, the Committee declined interfering; but recommended a reference to the tutors of the academy at Carmarthen.

1801. *Highgate*. A dispute respecting the meeting-house, for the recovery of which an ejectment had been brought by an individual as being part of an estate he

had purchased, was amicably adjusted through the interference of the Committee.

1806. *Dudley*. A suit in Chancery was instituted by the Committee to recover back certain premises containing about ten acres of land, which had been conveyed by deed, in 1782, to trustees, for the support of the minister or pastor for the time being of the Baptist church, at Dudley, and which two of the trustees afterwards purchased of the others at a low price: the suit is still proceeding with every probability of success.

1806. *Whitehaven*. A dispute with the trustees of the meeting-house, who had refused to shew the trust deeds, and otherwise acted improperly, was by the Committee's interference brought to an amicable termination.

1806. *Kingswood, Gloucestershire*. Application being made to the Committee for advice and assistance in settling the concerns of the meeting-house, new trust deeds were prepared at their expence.

1807. *Stroud*. The minister, who had voluntarily quitted his office, continuing to keep possession of the dwelling-house belonging to the congregation, the dispute was settled through the interference of the Committee.

1812. *Kirkstead, Lincolnshire*. DANIEL DISNEY, Esq. the lord of the manor, and possessor of a large estate at Kirkstead, by deeds dated the 23d and 24th of June, 1720, stating, that for a competent provision and maintenance for the Dissenting minister and ministers of Kirkstead, successively, a yearly sum of £30 was intended by him to be allowed and paid to the minister of Kirkstead, as by his consent had been some time received by such minister, either in money or by the rents of certain hereditaments belonging to the manor; and for the discharge of which annual payment, Mr. DISNEY for

the confirming and settling the same, did convey the several lands and hereditaments therein particularly described unto the four persons therein named as trustees, and their heirs, to the intent that they should suffer the Rev. JOHN TAYLOR, the then present minister of Kirkstead, to let and dispose to his own use all the premises, and receive the rents for his life, or so long as he should continue to exercise the ministry there; and after his death or removal, that the trustees should stand seized of the premises for succeeding ministers in like manner, to be from time to time nominated by the trustees, and appointed in manner therein mentioned: and power was thereby given to the surviving trustees from time to time to appoint others in case of the death of the then present or any succeeding trustees.

Mr. DISNEY by his will, dated the 6th of April, 1732, ratified and confirmed the above settlement, and did thereby devise to the trustees therein mentioned the use of the chapel at Kirkstead, and the benefit of the chapel-yard belonging to it, as usually separated from the other chapel grounds, for the benefit of the ministers of Kirkstead successively that should be duly chosen, so long as they continued the exercise of the ministry there. And he did also devise and will that in case none of his grandsons, who should be in possession of that estate at Kirkstead, or of some part of it, should desire to dwell in the hall at Kirkstead, that Mr. TAYLOR the then minister, or any ministers that should succeed him there might dwell in it (upon the same terms on which Mr. TAYLOR then did) during their continuance in the ministry there, maintaining the same in good and sufficient repair.

After the death of Mr. TAYLOR, a Mr. HARRISON was nominated minister by the trustees, and continued

to officiate as such until about the year 1759, when he left the place, and Mr. DUNKLEY was appointed minister in his stead.

In the year 1792, RICHARD ELLISON, Esq. became the purchaser of the manor and estate at Kirkstead, from LEWIS DISNEY FYTCHE, Esq. grandson of the testator; and being thus in possession of the estate, and wishing also to get possession of that part which was held by Mr. DUNKLEY, as minister of Kirkstead, he prevailed upon Mr. DUNKLEY to accept him as his tenant, and by these means acquired possession of the trust lands mentioned in the deeds of 1720.

Mr. DUNKLEY continued to be the minister at Kirkstead, until the time of his decease, which happened about the month of December, 1793; and Mr. ELLISON, upon Mr. DUNKLEY's death, engaged with a clergyman of the Church of England to do the duty at Kirkstead at a regular salary of £50 a year.

The trustees who resided at various places, all distant from Kirkstead, had no knowledge of DUNKLEY's death for several years; when they became acquainted with it they demanded of Mr. ELLISON possession of the trust lands; which he refused either to deliver up, or to account for the rents of the same. The trustees applied to the Committee for their advice and assistance. Under their direction an action in ejectionment was commenced against Mr. ELLISON, in order to recover possession of the trust property withheld by him; and the cause having been tried at the last Summer Assizes for the County of Lincoln, a verdict was found for the lessors of the plaintiff: in consequence of which the trust lands, to the extent of about one hundred and forty acres, are recovered to the trustees; and the Committee are now about to commence the necessary proceedings against

Mr. ELLISON, in order to recover the arrears of rents, &c.

The value of the whole of the trust property which has been withheld, is estimated at about £7,000.

## OTHER CASES.

1755. *Woolwich. Neath.* 1770. *Newport Pagnell.*  
 1773. *Chishull, Essex. Motteshall.* 1774. *Falmouth.*  
 1774. *Frome. Bushell, Wiltshire.* 1779. *Bucks.* 1780.  
*Newbury.* 1786. *Downton.* 1787. *Coningsby.* 1792.  
*Coedy-Cymmer. Swalwell.* 1793. *Burham.* 1799.  
*Neath. Henley, Warwickshire. Melksham.* 1800.  
*Brigg.* 1801. *Great Yarmouth, Dartmouth.* 1802.  
*March, Isle of Ely.* 1804. *Penruddock.* 1806. *New-*  
*castle-upon-Tyne. Bewdley. Morpeth. Red-cross*  
*Street, London. Aylesbury.* 1807. *Newcastle, Gla-*  
*morganshire.* 1808. *Coningsby, Edmonton, Rotherfield,*  
*Sussex. Croscombe. Ilfracombe.* 1810. *Barnstaple.*  
*Cotherstone, York. Southill. Grimsby. Coedy-Cym-*  
*mer, Brecon. Plymouth. Nevin, Carmarthen.* 1811.  
*Falmouth.*

A

## SUMMARY OF THE LAWS

AFFECTING

### Protestant Dissenters.

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THE common law of England, which is only common reason, or usage, knows of no persecuting for mere opinions.\*

There is no usage or custom, independent of positive law, which makes non-conformity a crime. The eternal principles of natural religion are part of the common law: the essential principles of revealed religion are part of the common law; so that any person reviling, subverting, or ridiculing them, may be prosecuted at common law. But it cannot be shewn from the principles of natural or revealed religion, that, independent of positive law, temporal punishments ought to be inflicted for mere opinions with respect to particular modes of worship. Persecution for a sincere, though erroneous conscience, is not to be deduced from reason or the fitness of things: it can only stand upon positive law. †

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\* Lord MANSFIELD'S speech in the House of Lords, February 4, 1767, in the case of HARRISON v. EVANS. See Sketch, p. 35.

† Ibid. See Sketch, p. 33.

The positive laws, however, of this kingdom, including the statutes and canons, as administered by its courts of judicature, place Protestant Dissenters from its religious establishment in a situation, which differs in many important respects from that of their fellow subjects in general. In order to afford a distinct view of these laws, it will be convenient to divide the present Summary of them into four parts; the first of which will comprise those relating to Protestant Dissenters in general; the second, those relating to their Ministers; the third, those relating to their Schoolmasters; the fourth, those relating to their Chapels, or Places of Worship, &c.

It has been judged expedient to advert, under some of these heads, to a few points, in which the legal situation of the Protestant Dissenters is *not* altered by their religious persuasion; but on which some information may, for various reasons, be found acceptable.



## PART I.

LAWS RELATING TO PROTESTANT DISSENTERS  
IN GENERAL.\*

## CHAP. I.

PENAL LAWS IN FORCE,† SUBJECT TO THE TOLERATION  
ACT AND SUBSEQUENT STATUTES.

§ 1. *PROCURING any Minister to officiate otherwise than according to the Common Prayer Book.* By 2 and 3 Ed. VI. c. 1, Any person procuring or maintaining any person or other minister in any church, chapel, or other place, to sing or say any common or open prayer, or minister any sacrament otherwise than is mentioned in

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\* None of the laws mentioned in this Summary extend either to Ireland or Scotland. The Toleration Act of Ireland, 6 G. I. c. 5, (Ire.) places Protestant Dissenters in that country almost exactly in the situation of the Protestant Dissenters in England, after the 10 Anne, c. 2, (Eng.) except that no subscription to the articles is required. There was no law, it appears, to exclude them from corporations. The Irish Test Act, 2 Anne, c. 6, (Ire.) was repealed, as to them, by 19 and 20 G. III. c. 6, (Ire.) It was also repealed by 33 G. III. c. 21, (Ire.) except as to certain high offices, in favour of Roman Catholics, on condition of taking the oaths of that Act, and of 13 and 14 G. III, c. 35, (Ire.) abjuring the tenets which are considered incompatible with fidelity to the state.

† Many of these laws were chiefly levelled against Papists, but affected all Non-conformists indiscriminately.

the Common Prayer Book, is liable, on conviction by a jury, his own confession, or notorious evidence of the fact, for the first offence to pay £10, or be imprisoned three months; for the second, £20, or be imprisoned six months; and for the third to forfeit all his goods and chattels, and be imprisoned for life.

The Statute 1 Eliz. c. 2. § 9, 10, 11, 12, 13, re-enacts the same law, with heavier penalties for the first and second offence, viz. 100 marks, or six months imprisonment; and 400 marks, or twelve months imprisonment.

§ 2. *Non-attendance at Church.* By 1, 5, and 6 Ed. VI. c. 1. § 2; and 1 Eliz. c. 2. § 14, declared to be in force by an expired Statute, 16 C. II. c. 4,\* Every person not resorting to his parish church or chapel, or (upon reasonable hindrance thereof) to some usual place of common prayer, on every Sunday and holiday, is liable to ecclesiastical censures, (*i. e.* fine and costs) and (by the Statute of Eliz.) forfeits 12d. for each offence. § 14.†

By 23 Eliz. c. 1, Every person above the age of sixteen, not resorting to some church or chapel, or usual place of common prayer, incurs a forfeiture of £20 for every month's absence; and if so absent for twelve months, is to be bound to good behaviour, with two sureties, in the sum of £200 at least, till he submits in manner mentioned in the Act. § 5.

By 29 Eliz. c. 6, Every offender in not repairing to church, having been once convicted, becomes liable,

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\* See below, §. 4. p. 150.

† It is clear that the Ecclesiastical Court has jurisdiction under the Act of 1 Eliz. c. 2; and it seems that it has an original jurisdiction to enforce attendance at church, and taking the sacrament, by virtue of the ancient canons, *BRITTON v. STANDISH*, 6 Mod. 188.

without any other process, to pay half-yearly into the Exchequer £20, for every month afterwards till he conform, § 3; and if he fail to make such payment, the king may seize all his goods and two-thirds of his lands and leases. § 40. Or, by 3 J. c. 4, the king may refuse the £20 a month and take the two-thirds of the land. § 11. By 3 J. c. 5, No person so convicted may enjoy any public office, or practice law or physic, under penalty of £100 for each offence, § 8; nor be executor, administrator, or guardian, § 22.

By 35 Eliz. c. 1, Any person above sixteen, having neglected to resort to church, for a month, who shall persuade another to impugn the king's authority in matters ecclesiastical, or to abstain from coming to church or to the communion, or who shall be present at any unlawful assembly, meeting, or conventicle,\* under pre-

\* This term, which in strictness only signifies a *small* assembly, has generally been employed to denote an *unlawful* one. Since the Toleration Act, however, as Lord Mansfield once said, it cannot with any propriety be applied in this sense, to the meetings of Dissenters.

The first time it occurs in the Statute Book, appears to be in reference to the schools of WICKLIFFE, 2 H. IV. c. 15. In this Act (which was repealed by 25 H. VIII. c. 14, and revived by 1 and 2 Ph. and M. c. 6, which was repealed by 1 Eliz. c. 1. § 15,) it is recited, that "divers false and perverse people of a certain new sect, of the faith of the sacraments of the church, and the authority of the same, damnably thinking, and against the law of God and the church usurping the office of preaching, do perversely and maliciously, in diverse places within the said realm, under the colour of dissembled holiness, preach and teach in these days, openly and privily, divers new doctrines and wicked heretical and erroneous opinions, contrary to the same faith and blessed determinations of the holy church: and of such sect and wicked doctrine and opinion they make unlawful conventicles and confederacies, they hold and exercise schools, they make and write books, they do wickedly instruct and inform people," &c. In order, therefore, "that this wicked sect, preachings, doctrines and opinions

tence of any exercise of religion, is to be imprisoned till he conform, § 1; if he do not conform within three months, he must abjure the realm, § 2; if he refuse to abjure, or after abjuration do not depart the kingdom, in manner specified in the Act, or after such departure return without licence, he will be guilty of felony without benefit of clergy, § 3. Whether he abjure or not, he forfeits his goods absolutely, and his lands during life. § 13.

§ 3. *Attending at any other manner of common prayer, administration of sacraments, or ordination, than mentioned in the Book of Common Prayer.* By 5 and 6 Ed. VI. c. 1, Any person so offending, upon conviction by a jury, or his own confession, or otherwise, at the Assizes or Sessions, is for the first offence to be imprisoned six months; for the second, a year; and for the third, during life, § 6.

§ 4. The rigour of the foregoing laws cannot but strike the attention of every observant reader; nor was that rigour mitigated until the year 1812. In the last

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should *from henceforth cease and be utterly destroyed,*" it is there ordained that persons suspected might be arrested and imprisoned, and on conviction in the Ecclesiastical Court receive sentence of imprisonment and fine; and might also, on refusing to abjure their errors, or on relapsing after abjuration, be left to the Secular Court, and the sheriffs, &c. "them shall receive, and them before the people in a high place do cause to be *burnt*, that such punishment may strike in fear to the minds of others." PICKERING'S Edit. 1762. In the later editions, this Statute is omitted. It was the first which authorized the burning of heretics.

The term "conventicle" occurs in a more favourable, or, however, in a less specific sense, in Stat. 21. H. VIII. c. 16. § 6. "That none of the said strangers, artificers, or handicraftsmen, &c. shall assemble in any company, fellowship, congregation, or *conventicle*, but only in the common hall of their crafts."

session of Parliament, on the application of this Deputation and other Bodies, the toleration of the Protestant Dissenters was advanced by the statute 52 G. III. c. 155; by the first section of which the 13 and 14 C. II. c. 1, 17 C. II. c. 2, and 22 C. II. c. 1, were respectively repealed: the last of these statutes had lately been enforced, in many instances, in a most oppressive manner. In order that the importance of the late Act of Parliament may be duly appreciated, it is necessary to advert to the statutes which it repeals, and to state their regulations with as much brevity as the nature of this work will admit.

Almost immediately on the restoration of CHARLES II. in 1661, an Act was passed, (13 and 14 C. II. c. 1) intituled “*An Act for preventing the Mischiefs and Dangers that may arise by certain Persons called Quakers, and others refusing to take lawful Oaths.*” By this statute it was enacted, that any person refusing to take a judicial oath, persuading another to refuse, maintaining it to be unlawful, and any of the persons commonly called Quakers, sixteen years old, assembling to the number of five, under pretence of joining in religious worship, not authorized by the laws of the realm, shall, on conviction, for the first offence forfeit £5; for the second £10, to be distrained for; or, if that is not paid within a week, shall be *kept to hard labour* in the house of correction or common gaol, for the first offence, three months; for the second, six months; and for the third offence shall abjure the realm, or be liable to transportation.

Three years afterwards, viz. in 1664, the 16 C. II. c. 4, was passed, intituled “*An Act to prevent and suppress seditious Conventicles.*”

By this statute, any person attending a conventicle or

meeting, under pretence of any exercise of religion, in other manner than according to the Liturgy and practice of the church of England, shall on conviction for the first offence be imprisoned not longer than three months, unless he *pay down* the fine imposed, not exceeding £5; for the second offence, be imprisoned not longer than six months, unless he pay down the fine imposed, not exceeding £10; for the third offence shall be imprisoned till the next Sessions or Gaol Delivery, indicted, and, if found guilty, shall be transported for seven years to any of the plantations *except Virginia and New England*; his goods, in that case, to be sequestered to re-imburse the sheriff his expences, unless indemnified; and for default of such re-imbursing, the sheriff may contract with any master of a ship, merchant, or other person, at the best rate he can, for transporting the offender, who may be detained and employed by such person *as a labourer*, for five years. Conviction to be made on confession, *oath of witness*, or notorious evidence of the fact, by two justices; and the fines to go to the churchwardens, for the relief of the poor.

The same penalties attached to the *crime* of suffering conventicles to be held: and justices were empowered to *employ military force*, and break open suspected houses on denial of admittance!!! Married women were liable to the penalties denounced against the first and second offences. £5 a year real property, or £50 a year personal property, exempted from imprisonment in the *house of correction*. Persons legally required to take an oath, and refusing, were liable to transportation for seven years, unless they abjured the opinion that oaths are unlawful.

This Act (which is not printed in the modern editions of the Statutes,) was limited to three years, and the end

of the then next Session of Parliament; and was suffered to exist during the whole period to which it was limited.\*

In the next year, 1655, was passed the 17 C. II. c. 2, intituled “*An Act for restraining Non-conformists from inhabiting in Corporations;*” and which has in some cases been called the *Oxford Act*, but popularly, the *Five-Mile Act*.

By this Statute, no person in holy orders, or pretending to holy orders, who has not declared his unfeigned assent and consent to every thing contained in the Book of Common Prayer, and subscribed the declaration required by the Act of Uniformity,† and shall not take the oath therein mentioned,‡ nor any person who shall take upon him to preach or teach in any conventicle, shall (unless only in passing upon the road,) come within five miles of any city or town corporate, or borough that sends burgesses to Parliament, on pain of forfeiting £40, —one third to the king, one third to the poor, and one third to him that shall sue in any court of record at Westminster, or at the Assizes or Sessions.

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\* This oppressive Statute was tacked to a Money Bill, which the House of Commons had just passed: in presenting it for the royal assent, the Speaker concluded a speech replete with bitterness, with the following *merciful* declaration: *Immedicabile vulnus ENSE RESCINDENDUM, ne pars sincera trahatur.* RAPIN, vol. xi. p. 261.

† This is the declaration prescribed in 13 and 14 C. II. c. 4, § 9; which as altered by 1 W. and M. st. 1, c. 8, § 11, is as follows; I *A. B.* do declare that I will conform to the Liturgy of the church of England, as it is by law now established.”

‡ “I *A. B.* do swear that it is not lawful upon any pretence whatever, to take arms against the king; and that I do abhor that traititious position of taking arms by his authority against his person, or against those that are commissioned by him in pursuance of such commissions; and that I will not at any time endeavour any alteration of Government either in Church or State.”

And no person so restrained, or any other person that shall not frequent divine service established by the laws of the kingdom, and carry himself reverently, decently and orderly there, shall teach any public or private school, or take any boarders, on pain of forfeiting £40, to be recovered and applied in like manner.

Any two justices, on oath of any offence against this Act, may commit the offender for six months without bail; unless upon or before such commitment he take the oath required by this Act, and subscribe the oath and declaration above mentioned.

Upon the expiration of the Act 17 C. II. c. 2, the 22 C. II. c. 1, was passed, and intituled "*An Act to prevent and suppress seditious Conventicles*. By this Statute, (commonly called the *Conventicle Act*) if any person sixteen years old is present at any conventicle at which five or more persons, besides the household, are present, (if in a house where there is a family) or at which five or more persons are present, if in a place where there is no family; every justice is required (on pain of forfeiting £100, half to the informer) on proof of such offence, to make a record of the same under his hand and seal, to be afterwards certified to the Sessions, and such record to be a full conviction, and the offender to be fined 5s. for the first, and 10s. for every other offence, to be levied on his goods, or, in case of poverty, *on the goods of any other person then convicted of the like offence*, so as not to levy on any one person, on account of the poverty of others, more than £10 for one meeting: one third of the fine to the king, one third to the poor of the parish, and one third to the informer, or such other person as the justice shall appoint, regard being had to their diligence in dispersing conventicles. Penalties of 5s. and 10s. on married women may be levied



on the goods of their husbands. Persons suffering any conventicle to be held on their premises, to forfeit on conviction £20, to be levied and disposed of in like manner, or in case of poverty upon the goods of other persons convicted of being present, not exceeding £10 on any one such person.

When the sum charged upon any person offender, exceeds 10s. he may within one week after the penalty paid or levied, appeal in writing to the Quarter Sessions, and have the money returned, and be tried by a jury, but if he fails he shall pay treble costs; and no other court shall intermeddle with such appeal.\* Appellant must leave his appeal with the person convicting, at the time of making it, and enter into a recognizance, before him, to prosecute the same.

Justices, constables, &c. and military officers, are *empowered to break open doors* where they shall be *informed* any such conventicle is held, take any persons assembled into custody, and by the best means they can, dissolve, dissipate or prevent such unlawful meetings. Constables, &c. neglecting to enforce the Act, to be fined £5.

Every preacher or teacher, preaching in such conventicle, &c. (as above mentioned) to forfeit for the first offence £20, and for every other £40, to be recovered and levied in the same manner, and with the same privileges

\* The design of the framers of this most oppressive clause was, evidently, to prevent the unfortunate victims of its severity from having any redress from a higher tribunal. It was however, frustrated: for it has been determined that these negative words were not sufficient to deprive the Court of King's Bench of its jurisdiction to remove proceedings by *certiorari*; which can only be done by express terms. The conviction by the justice of the peace, and also the proceedings on appeal, (where that is given) even after judgement might therefore be removed into the King's Bench. *The KING v. MORLEY*, 2 Burr. 1040. 1 Bl. 231.

of appeal and remedy by *certiorari*, as in the case of conviction for attending at or suffering conventicles.

This Act to be interpreted most beneficially for suppressing conventicles, and no proceedings under it avoided for defect of form. Offenders are to be prosecuted within three months.

Posterity will learn with surprise, that such Statutes as the 13 and 14 C. II. c. 1, 17 C. II. c. 2, and 22 C. II. c. 1, remained on the Statute Book, unrepealed, until the 29th of July, 1812.

*Harbouring a Non-conformist.* By 3J. c. 4. § 32, 33, Harbouring, or retaining in service, a person who has, without reasonable excuse, neglected to attend at church, or other usual place of common prayer, for a month, incurs a penalty of £10 for every month of such harbouring or retaining:

*Keeping a Non-conformist Tutor.* By 23 Eliz. c. 1, The penalty for this offence is £10 a month.\*

## CHAP. II.

### EFFECT OF THE TOLERATION ACT, AND SUBSEQUENT STATUTES, ON THE FOREGOING LAWS.

“ THE Toleration Act is grounded on natural rights; and the highest natural right is that of the conscience. The Statute ought to receive a large and liberal exposition.”†

“ It is of the utmost importance,” said Lord MANSFIELD, “ that all the consequences of the Act of Tolera-

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\* See Part III. *infra*.

† Lord Chief Justice WILLES, in *KENWARD v. KNOWLES*, Willes's Reports, 463.

tion should be pursued with the greatest liberality in ease of the scrupulous consciences of Dissenters on the one hand; but so as those scruples of conscience should not be prejudicial to the rest of the king's subjects. For a scruple of conscience intitles a party to indulgence and protection, so far as not to suffer for it; but it is of consequence that the subject should not suffer too."\*

§ 1. *Qualification under the Toleration Act.* The penal laws above mentioned, though still in force, are virtually repealed, *under certain conditions*, by the Stat. 1 W. and M. c. 18, commonly called the Toleration Act. By that Statute, (which by the 10 Ann. c. 2, is ratified and extended, and by the 19 G. III. c. 44, is declared a public Act,)+ all the foregoing laws, and all other laws against Popish Recusants, except 25 C. II. c. 2, (the Test Act) and 30 C. II. st. 2, c. 1, (the Act enjoining the declaration against Popery,) are declared not to extend to any person that shall, at the General Sessions of the peace, for the county or place where he lives, take the oaths of allegiance and supremacy, and subscribe the declaration against Popery; ‡ nor shall such person be prosecuted in the Ecclesiastical Court for Non-conformity; except that persons assembling in any place for religious worship, with the doors locked, barred, or bolted during any time of such meeting, or not certified in manner prescribed by the Act, will not be intitled to the benefit of it, but be liable to all the pains and penalties of the foregoing laws, for such meeting.§

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\* *ATCHESON v. EVERITT*, Cowp. 388.

† An objection had been made, in the case of the *KING v. LARWOOD*, in 1694, that the Act of 1 W. and M. c. 18, was not a public Act, and must therefore be pleaded specially. Salk. 167. 4 Mod. 274.

‡ See the Statute, together with the oaths (1 W. and M. c. 1) and declaration, (30 C. II. st. 2. c. 1) in Appendix A. No. 1.

§ See Part IV.

A Register is to be kept at the General Sessions, of the taking the oaths, and making the declaration. No more than 6d. is to be paid for making the entry thereof in the Register; nor more than the further sum of 6d. for a certificate of the same, to be made out and signed by the officer of the court. § 2.

Persons scrupling to take any oath, may obtain a like exemption by subscribing the declaration of fidelity, and profession of christian belief set forth in the Act,\* in addition to the declaration against Popery. § 13. But no person having refused to take the oaths the first time shall be admitted to subscribe the two declarations, unless within thirty-one days after tender of such declarations to him, he can produce two sufficient Protestant witnesses to swear that they believe him to be a Protestant Dissenter; or produce a certificate under the hands of four Protestants, who conform, or who have taken the oaths, and subscribed the declaration; and unless he also produce a certificate under the hands and seals of six or more sufficient men of the congregation to which he belongs, owning him for one of them. § 14; and in the mean time, such person must enter into a recognizance with two sureties in the sum of £50, for producing the same, or be imprisoned till the same he produced. § 15.

§ 2. *Refusing to take the Oaths, &c.* Persons who go to any meeting for exercise of religion, refusing, when required by a justice of the peace, to subscribe the declarations against Popery, and take the oaths, or subscribe the declaration of fidelity, are to be committed to prison till the next General Session; and then re-

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\* See the Statute, Appendix A. Note to No. I. By 2 G. 1. c. 6, for relief of Quakers, another declaration of fidelity is substituted. See the Statute, Appendix A. Note to No. I.

using, are to be taken for Popish Recusants convict, and suffer accordingly; and incur all the penalties of the foregoing Acts. § 12.

§ 3. *Qualifying after Prosecution commenced.* By 10 Anne, c. 2, Any person dissenting from the church of England, (*not in holy orders, or pretended holy orders, or pretending to holy orders, nor a preacher or teacher of any congregation*) who at any time during any prosecution under any of the penal statutes, from which exemption is granted by the Toleration Act, qualifies under that Act as above mentioned, or before any two justices, (who are required to take and return the same to the next Quarter Sessions to be there recorded) is as fully intitled to the benefit of the Toleration Act as if he had duly qualified within the time prescribed by that Act; and is thenceforth exempted and discharged from all the penalties and forfeitures incurred by force of any of those penal statutes. § 8.

§ 4. *Papists, and Deniers of the Trinity, excepted.* No Papist or Popish Recusant, or person that shall deny, in his preaching or writing, the doctrine of the blessed Trinity, as declared in the articles of religion, is to have any benefit of the Toleration Act. § 17.

§ 5. *Persons not entitled to the benefit of the Toleration Act.* "If a man be a professed churchman, and his conscience will permit him sometimes to go to meeting, instead of coming to church, the Act of Toleration shall not excuse him; for it was not made for such sort of people."\*

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\* HOLT, C. J. in *BRITTON v. STANDISH*, 6 Mod. 190. Salk. 166. And see above, Lord MANSFIELD'S Speech, Sketch, 34. There is no express decision, however, upon this point.

## CHAP. III.

## PENAL LAWS NOT ALTERED BY THE TOLERATION ACTS.

§ 1. *Not taking the Sacrament, as a Qualification for Office in Corporations.* By 13 C. II. st. 2. c. 1, This Statute, (commonly called the Corporation Act) is not affected by the Statute 1 W. and M. but continues in full force, except as it is altered by 5 G. 1. c. 6. By this Act, no person may be placed, or elected, in or to any office or offices of magistracy, or places, or trusts, or other employment relating to the government of any corporations, cities, towns, boroughs, cinque ports, and their members, or other port towns, who has not within one year next before such election taken the sacrament of the Lord's Supper according to the rites of the church of England, and who will not also take the oaths as therein mentioned, and such election is declared void. § 12.\*

But, by 5 G. I. c. 6, No person chosen to, or placed in such office, is to be removed or prosecuted for want of having taken the sacrament; nor is any incapacity or forfeiture incurred; unless within six months such person be removed, or prosecution commenced and carried on without delay. § 3. Such election is not void; but

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\* Dissenters are also disabled, on the ground of scrupling the Sacramental Test, to be called to the bar by the Honourable Society of Gray's Inn; that Society having an order or bye-law, which requires a candidate for that degree to produce a certificate of having taking the sacrament. The other Inns of Court have no such law.

only voidable, in case of removal, or prosecution commenced within the time limited.\* There is no penalty incurred, except the removal from office.

It is to be observed, however, that by this Act any mayor, bailiff, or other magistrate, knowingly or willingly resorting to, or present at any public meeting for religious worship, other than the church of England, in his gown, or other peculiar habit, or with the ensigns or ensign of his office, on conviction thereof, is disabled to hold such or any other public office or employment, § 2.

§ 2. *Not taking the Sacrament, as a qualification for Office under the Crown.* By the 25 C. II. c. 2, commonly called the Test Act, (which is expressly excepted, by the Toleration Act, § 2, out of the Statutes, from which Protestant Dissenters were by that Act to be relieved,) as altered by 9 G. II. c. 26. § 3. and 16 G. II. c. 30. § 3. every person that shall be admitted into any office, or receive any pay by reason of any patent or grant of His Majesty, or hold any command or place of trust under, or by his authority, or by authority derived from him, in England and Wales, Berwick, the royal navy, or the islands of Jersey and Guernsey, must within six months take the oaths of allegiance, abjuration, and supremacy, and subscribe the declaration against transubstantiation, in manner specified, and must also receive the Sacrament of the Lord's Supper according to the usage of the church of England, within six months after receiving his authority or employment, in some public church, on some Lord's Day commonly called Sunday, immediately after divine service and sermon. § 2. And of this he must produce a certificate under the hands of the minister and churchwarden, and make proof of

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\* Lord MANSFIELD, in 2 Burr. 1013. So. 1 Bl. 229.

the truth thereof by the oath of at least two credible witnesses, at the time of taking the oaths as specified in the Act. § 3. Any such person neglecting or refusing to take the oaths or the sacrament as directed, shall be, *ipso facto*, adjudged incapable to occupy or enjoy the said office or offices, and the same shall be void. § 4. And any person so having neglected or refused, and having been convicted of executing any such office after the time specified for taking the oaths and sacrament, is disabled to sue in any court, to be guardian, executor, or administrator, to take any legacy or deed of gift, or bear any office in England, &c. and is liable to a penalty of £500. § 5. But any person having so forfeited an office, by neglecting to comply with this Act, may by a new grant of such or any other office, if not at the time granted to or enjoyed by another person, be capable to have and hold the same again, on complying with the requisitions of the Act, § 14.

Persons holding offices of inheritance may execute the same by deputy, duly qualifying under the Act. § 11.

The Act does not extend to make any forfeiture or disability by or in non-commission officers of the navy, who subscribe the declaration against transubstantiation in manner therein directed, § 15; nor to the office of high constable, petty constable, overseer, churchwarden, or any like inferior civil office, or to any office of forester, bailiff, or any like private offices. § 17.

An annual Act,\* however, (called the Indemnity Act) is now regularly passed, early in every Session of Parliament, for indemnifying and discharging persons, who

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\* The first of this Series of Annual Acts was passed in 1745, 18 G. II. c. 11. Acts partly or wholly for the same purpose had been passed before; as 1 G. I. st. 2. c. 13; 2 G. II. c. 31; 9 G. II. c. 26; 16 G. II. c. 30.



shall, previous to a certain time there prescribed, (which is now the 25th of March in the following year,) qualify according to the Corporation and Test Acts, and several other Acts, from all penalties, forfeitures, incapacities, and disabilities, incurred by omitting so to qualify *previous to the passing* of the Bill; and for making such qualification as effectual, to all intents and purposes, as if they had qualified in the manner appointed by those Statutes.

But this annual Act does not extend to indemnify any person, against whom final judgement shall have been given, in any Court of Record, for neglecting to qualify: nor any person whose obligation to qualify commences subsequently to the passing of the Act. The last Act is 52 G. III, c. 26. It received the royal assent, March 25, 1812.

§. 3. *Not subscribing and declaring assent to the Thirty-nine Articles.\* Not declaring unfeigned assent to every thing contained in the Book of Common Prayer. Not obtaining Episcopal Ordination, &c.* It is unnecessary here to specify the Statutes which, by enjoining these and other compliances, exclude Dissenters from office and emolument in the church.

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\* By the Statutes of the University of Cambridge, no member can be admitted to take a degree, without first declaring and subscribing his assent to the thirty-nine Articles; and by the Statutes of the University of Oxford, no person can even be matriculated, or admitted a member, without first making such subscription and declaration.

## CHAP. IV.

## PRIVILEGES UNDER THE TOLERATION ACTS.

AFTER stating the restrictions and disabilities imposed upon Protestant Dissenters, it is proper to mention two instances in which the law has incidentally given them an advantage.

§. I. *Exemption from burthensome Offices, to which the Sacramental Test is annexed.* Under the Corporation and Test Acts, these offices cannot be held by Non-conformists. Since the Toleration Act, conscientious Non-conformity is no crime; and may therefore be legally alledged as a ground of ineligibility to civil offices.

Non-conformists are consequently not only excluded from such of these offices as are desirable: but are at the same time exempt from those which, notwithstanding the influence, profit, or honour attached to them, are in certain cases considered as burthensome. A contrary doctrine was held by the Court of King's Bench, in 1694,\* but this point has been conclusively decided in favour of the Dissenters on appeal in the House of Lords.†

§. 2. *Right of serving certain Offices to which no Sacramental Test is annexed by Deputy: as Churchwarden, &c.* By the Toleration Act, a Dissenter who is appointed

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\* The KING v. LARWOOD, Salk. 157.

† HARRISON, Knt. v. EVANS, 4th February, 1767. 31 Lords' Journals, 475. 3 Bro. Parl. Ca. 465. 2nd. Ed. See Sketch, p. 38.

to any parochial or ward office, and who scruples to take upon him such office, in regard of the oaths or other matter or thing required by law to be taken or done in respect of such office, shall and may execute the same by a sufficient deputy to be provided by him, to comply with the laws on that behalf, and to be allowed and approved as such officer should have been allowed and approved. § 7.

The design of this clause, with regard to Dissenters in general, seems doubtful, unless it was apprehended, that they might object to serving the office, or taking the oath of churchwarden. The design of it, with regard to Quakers, is evident.

## CHAP. V.

### COMMON RIGHTS AND DUTIES.

IN other respects, Protestant Dissenters stand upon the same footing with the rest of the subjects of the realm.

They are not excluded from the Sacrament of *Baptism*, nor (if baptized by any person with water, and in the name of the Father, the Son, and the Holy Ghost,) from the Sacrament of the *Lord's Supper*, or the rites of *Burial*, according to the forms of the established church;\* nor, it seems, from the solemnization of *Matrimony*, though unbaptized.

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\* 68th Canon. Rubric. *KEMP v. WICKES*, in the Arches Court, December 11, 1809. See Sketch, p. 67.

They cannot contract a valid marriage, however, in England, without the intervention of a clergyman in the usual way; as the Marriage Act, 26 G. II. c. 33, declares all other marriages void, except only those where both parties are Quakers or Jews. § 18.

They are not intitled to any exemption from tithes, or any other parochial duties, or any other duties to the church or minister; an express provision to that effect being inserted in the Act of Toleration. § 6.

Although they are liable, it should seem, to pay all ecclesiastical fees, legally due by custom,\* yet no custom can be supported for demanding fees where the *particular service* for which they are demanded, as burying, churching, &c. has not been performed; such a custom being unreasonable, and therefore contrary to law. It is only by custom that any demand of a fee for burial, or baptism, or marriage, can be supported. No fee is due by canon or common law.†

Dissenters are intitled to exemption from tolls, in going to their usual place of worship on the Lord's Day, where there is an express provision to that effect in a local turnpike Act:‡ but not otherwise. There is no *general* exemption, on this ground, for any class of persons.

Extracts or certificates from the Register of Births, kept at Dr. WILLIAMS'S library, Red-cross-street,§ are admitted in a certain degree as evidence in a court of law; though the Acts of 23 and 25 G. III. requiring

\* Willes, 629.

† Co. Litt. 113. Salk. 332, 334. Lutw. 1030, 1059. Hob. 175. Lindwood, 678. Raymond, 1558. 9 Bl. Com. 90. Willes, 538, 622.

‡ See Sketch, p. 82.

§ See Appendix B. No. IV.

them to be stamped, are repealed. This register is only considered, however, as a private entry, and not as a public record.\*

A Register of burials, kept at a meeting-house, is regarded in the same light, and certified extracts from it are to the same extent admissible evidence.

One consequence of the Act of Toleration, has been the clear recognition of the Dissenters, as persons in whose favour the courts of law will interpose. In the reign of James II. 1684, a bequest by the Rev. ROBERT MARGOT, a beneficed clergyman, to the celebrated RICHARD BAXTER, of the sum of £600, to be distributed among sixty pious ejected ministers, not for the sake of their non-conformity, but because he knew many of them to be pious and good men, and in great want, was decreed incapable of taking effect; and the disposition of it consequently vesting in the king, it was adjudged to be applied to the maintenance of a chaplain for Chelsea Hospital.† In 1689, however, after the revolution, the decree, upon a rehearing, was reversed, and the money in court ordered to be paid to Mr. BAXTER, to be distributed according to the directions of the will.‡

Since that time, the charitable intentions of testators have been frequently carried into execution by the Court of Chancery, in favour of the Dissenters.

An annuity was given to “the minister belonging to the meeting-house at M....., but if the said house at

\* Sir JOHN NICHOLL's Judgment, in *KEMP v. WICKES*, p. 44. An entry in a father's family Bible—an inscription on a tomb-stone—a pedigree hung up in the family mansion—are all good evidence. Lord MANSFIELD, in *GOODRIGHT ex dem. STEVENS v. MOSS*. Cowp. 594.

† Attorney General *v. BAXTER*, 1 Ves. 247.

‡ Attorney General *v. HUGHES*, 2 Ves. 105.

M..... should not be used as such after the testator's decease, then to the minister of any other place the Protestant Dissenters called Baptists should meet in, within the parish of H....." This charity was established by Sir J. STRANGE, M. R. for the benefit of the minister for the time being; the Baptists, as he stated, being persons the legislature have thought proper so far to countenance as a denomination of Christians, as to extend the toleration to them.\* The court refused, however, to carry into execution a bequest for supporting the Jewish worship.† Where copyhold lands had been devised for a charity for the Quakers, (previous to the Mortmain Act) Lord HARDWICKE decreed that the want of a surrender to the use of the testator's will should be supplied.‡ A legacy in trust for augmenting the charitable collections which should be made for the benefit of the poor Dissenting Ministers of the gospel in England, to be paid to the treasurer or treasurers of such charitable societies or fund for the time being, has also been interpreted by the court, upon evidence, as a bequest to the Presbyterian, Independent, and Baptist Funds, and decreed to be paid accordingly.§

By the Statute of Mortmain, however, (9 G. II. c. 36) which passed in 1736, any devise of landed property, or bequest of money, secured upon or to arise from land, or of money or stock, or other personal property, to be laid out in land for a charitable or religious purpose, is absolutely void. The terms of the Act extend to every

\* Attorney General *v.* COCK, 2 Ves. 273.

† DA COSTA *v.* D'PAYS, cited 2 Ves. 274. See also LLOYD *v.* SPILLET, 2 P. W. 344. 2 Atk. 142.

‡ Attorney General *v.* ANDREWS, 1 Ves. 225. 1 Ves. 273.

§ WALLER *v.* CHILDS, Amb. 524.

description of real estate; to advowsons; to leasehold property; rents; money lent on mortgage,\* even on the security of tolls;† and to money given for the purpose of paying off a mortgage on a chapel.‡

But land, or property to be invested in land, &c. may be given for any of the above purposes by a deed of gift irrevocable, executed twelve months before the death of the grantor, and enrolled in Chancery within six months after execution; it being required that stock in the public funds should also be transferred six months before the grantor's death, including the days of transfer and death. Such grant must be made to take effect, in possession for the charitable use intended, immediately; and there must be no reservation, trust, or agreement, for the benefit of the grantor, or any claiming under him.

Personal property, however, may be given by will, to be laid out in erecting or repairing buildings for charitable or religious purposes, if it distinctly appear that such application of the bequest is not to include the purchase of the land.§

A proper form of a legacy, with variations adapted to different circumstances, is inserted in the Appendix.||

The Court of Chancery will execute a charitable bequest for the benefit of Dissenters, *cy pres*, i. e. as near as circumstances will admit, to the probable intention of the testator, where the fund is more than adequate to the purpose expressed. Where money was given to

\* WHITE *v.* EVANS, 4 Ves. 21.

† KNAPP *v.* WILLIAMS, 4 Ves. 430. n.

‡ CORBYN *v.* FRENCH, 4 Ves. 418

§ Attorney General *v.* DAVIES, 2 Ves. 535.

|| See Appendix B. No. 5.

apprentice children of members, of a particular congregation, residing in a particular parish, the surplus was ordered to be applied to apprentice children of persons of the same denomination in other parishes, rather than children of other persons in the same parish.\*

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\* *Attorney General v. WANSEY*, 15 Ves. 231.



## PART II.

### LAWS RELATING TO PROTESTANT DISSENTING MINISTERS.

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#### CHAP. I.

##### PENAL LAWS IN FORCE, SUBJECT TO THE TOLERATION ACT AND SUBSEQUENT STATUTES.

§ 1. *ADMINISTERING the Sacrament.* By 13 and 14 C. II. c. 4, commonly called the Act of Uniformity, No person shall consecrate and administer the Lord's Supper before he is ordained priest according to the form prescribed in the Book of Common Prayer, on pain of forfeiting for every offence £100; one moiety to the king, the other in equal parts between the poor of the parish, and him that shall sue. § 14.

§ 2. Protestant Dissenting Ministers were formerly exposed to severe fines for preaching publicly, and also for teaching privately in schools, and were further prohibited from taking boarders, &c. But as these oppressive regulations have been repealed by the 52 G. III. c. 155, it will be sufficient to refer the reader to Part I ch. I. § 4, (pp. 150, &c.) where a concise history of them is given.

By the 52 G. III. c. 155. § 3, Every person who shall teach or preach in any congregation, in any place, without occupier's consent, shall forfeit for every offence not less than 40s. nor more than £30, at the discretion of the convicting justices.

## CHAP. II.

### EFFECT OF THE TOLERATION ACT AND SUBSEQUENT STATUTES ON THE FOREGOING LAWS.

§ 1. *QUALIFYING under the Toleration Act.* By 1 W. and M. c. 18, No person dissenting from the church of England, in holy orders, or pretended holy orders, or pretending to holy orders, nor any preacher or teacher of any congregation of Dissenting Protestants, that shall make and subscribe the declaration against Popery, and take the oaths of allegiance and supremacy,\* at the General or Quarter Sessions of the Peace, for the county, town, part or division where he lives, (which such court is empowered to administer) and also declare his approbation of and subscribe the Thirty-nine Articles, except the 34th, 35th, and 36th, and these words of the 20th article,—“the church hath power to decree rites and ceremonies and authority in controversies of faith,”—shall be liable to the penalties of the Five-Mile Act, or those of the Conventicle Act,† for preaching at any meeting, or the penalty of £100 in the Act of Uni-

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\* See Appendix A. No. I. notes.

† These two Acts are now repealed by the 52 G. III. c. 155, § 1.

formity, for officiating in any congregation allowed by this Act, § 8;\* and (for the relief of those who scruple the baptizing of infants) every person in pretended holy orders, or pretending to holy orders, or preacher or teacher, is allowed to except part of the 27th article, touching infant baptism, in taking the oaths and subscribing the declaration above mentioned; 1 W. and M. c. 18. § 10; 52 G. III. c. 155, § 8. It is provided, however, that such persons shall not at any time preach in any place with the doors locked, barred, or bolted, on pain of the officiating ministers forfeiting, for every time any such meeting shall be held with the doors locked, barred, bolted, or otherwise fastened, not less than 40s, nor more than £20, at the discretion of the convicting justices, 52 G. III. c. 155, § 11.

The making and subscribing the declaration, and taking the oaths, &c. as above, shall be entered on record of the court, for which 6d. shall be paid to the clerk of the peace, and no more; 1 W. and M. c. 18, § 9.

But now, by the 52 G. III. c. 155, § 7, 8, Any person may appear before a justice, and produce to him a written copy of the said oaths and declaration, and require him to administer such oaths, and tender such declaration, who shall attest the same, and transmit them to the clerk of the peace, and give a certificate thereof to the Dissenting Minister so applying; taking for such certificate 2s. 6d. which shall be conclusive evidence accordingly.† °

\* This Act, therefore, does not remove the prohibition to preach in a church. See above, Chap. 1. Sect. 2.

† See the Act, Appendix A. No. 3.

Although the Act (1 W. and M. c. 18) does not "require," but only "empower," the justices at the Sessions to permit such persons as above described to make the declarations and take the oaths, nor give any directions as to a certificate, yet the Court of King's Bench has interfered by *mandamus* to enforce compliance with the evident intention of the Act, especially since the Statute 10 Anne, c. 2.\*

§ 2. *Preaching in a different County.* It was held by the Court of King's Bench, in 1704, that a qualification in one county would not protect a minister preaching in another.†

By the Statute 10 Anne, c. 2, passed a few years afterward, Any preacher qualified according to the Toleration Act is allowed to officiate in any congregation duly certified and registered or recordered, § 9.

But such preacher, if required, must produce a certificate of his having qualified, under the hand of the clerk of the peace for the county or place where he qualified, which such clerk is required to make: and such preacher must also, if required, make and subscribe the declaration, and take the oaths mentioned in the Toleration Act. § 9. This however is now modified by the 52 G. III. c. 155. § 8, which makes the justice's certificate conclusive evidence that the party named therein, has duly qualified.

§ 3. *Qualifying under the Statute 19 G. III. c. 44, (not extending to any Person who is not a Teacher or Preacher of a Congregation)* For the relief of those who scruple to subscribe the Articles as required of ministers qualifying under the Toleration Act, it is enacted,

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\* See the next Section.

† *The Q..... v. PEACE*, Salk. 572.

by the 19 G. III. c. 44, that every person dissenting from the church of England, in holy orders, or pretended holy orders, or pretending to holy orders, *being a preacher, or teacher of any congregation of Dissenting Protestants*, who shall take the oaths and make and subscribe the declaration against Popery above mentioned,\* and also make and subscribe another declaration contained in the Act,† shall be intitled to all the benefit of the Acts of 1 W. and M. c. 18, and 10 Anne, c. 2. The justices at the General Session of the Peace for the county or place where such minister lives, are *required* to administer the last mentioned declaration upon his offering himself, and to keep a register; and such minister shall not pay above 6d. for the entry of his making the declarations, and taking the oaths, nor above 6d. for any certificate thereof, to be made out and signed by the officer of the court. § 1.

Such persons shall be exempted from any punishment, under the Act of Uniformity, or the Statute of 15 C. II. c. 6; (explaining and confirming that Act) for preaching or officiating in any congregation of Protestant Dissenters, for the exercise of religion allowed by law.‡ § 1. A Dissenting Minister qualifying under this Act, is protected from all prosecutions for teaching or instructing youth,|| § 2; whereas it may be doubted whether qualification under the Toleration Act would be a defence against a prosecution under the 13 and 14 C. II. c. 4, or in the Ecclesiastical Court.

\* See the oaths and declaration, Appendix A. No. 1. notes.

† See the Act, Appendix A. No. 2.

‡ But not for officiating in a church. See above, Ch. I. Sect. 2.

§ See Part III. Ch. 1.

|| See 1 W. and M. c. 18, § 8, above, Ch. 2. § 1; and 13 and 14 C. II. c. 4, below, Part III. Ch. 1.

*Ex post facto qualification not allowed*, ministers, being expressly excepted, in the 10 Anne, c. 2, § 8,\* cannot protect themselves against prosecution by a qualification subsequent to the alleged offence.

In concluding this chapter, it will be neither incurious nor uninteresting to the conscientious Dissenter, to trace the gradual developement of liberality of sentiment displayed in the different Acts passed by the British Legislature, relative to Protestant Dissenting Ministers.

The *first Toleration Act*, 1. W. & M. c. 18. (§ 1 p. 172, *supra*) required subscription to nearly all the *Thirty-nine Articles*; the 19 G. III. c. 44, (§ 3. p. 175, *supra*) required subscription to a general declaration. But both required, that the oaths and declaration should be taken and made at the Quarter Sessions; in consequence of which requisition, persons were compelled to take long and inconvenient journies.

The general declaration of 19 G. III. c. 44, is retained in the new Act of 52 G. III. c. 155, (which may justly be called the *New Toleration Act*), for the purpose of qualifying under it: but, by the eighth section of that (*supra*, p. 173) it is not necessary to apply to the Quarter Sessions for the oaths may be taken, and the declaration may be made before any justice of the peace.

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\* See above, Part I. Ch. 2. § 3.

## CHAP. III.

## PRIVILEGES GRANTED BY THE TOLERATION ACT, AND SUBSEQUENT STATUTES, TO MINISTERS OF CONGREGATIONS.

CONSIDERABLE differences have been made by various Acts of Parliament, in respect of the exemptions of Dissenting Ministers, from burthensome offices.

§ 1. (*Privileges under the Toleration Act.*) Thus By 1 W. and M. c. 18, Every teacher, or preacher, in holy orders, or pretended holy orders, *that is a minister, preacher, or teacher of a congregation*, having qualified under this Act, is thenceforth exempt from serving on any jury, or being chosen or appointed to bear the office of church-warden, overseer, or any other parochial or ward office, or other office in any hundred, &c. § 11.

The exemption under this Statute has been held to extend to all parish offices, though created since; and so to the office of collector of rates for building a church, under a local Act, Statute 10 G. II. c. 18, § 2. It is no objection that the party is engaged in trade.\*

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\* *KENWARD v. KNOWLES*, Easter, 17 G. II. May 1, 1744. Willes 463. The judgement in this case, as preserved in a MS. note of Mr. Justice ABNEY's, was partly in the following terms. Per Curiam. This is an extremely clear case. This is a parochial office in the nature of it; the Statute 10 G. II. calls it an office. It is appointed to by the parishioners, and exercised in a parish. The addition of the plaintiff being a merchant, or a dealer in hops, varies not the case. The Toleration Act exempts teachers from all offices.

As the Militia was not in existence at the time the first Toleration Act of 1 W. and M. c. 18, was granted, provision was made for relieving Protestant Dissenting Ministers from being drawn for serving in the Militia, by the 19 G. III. c. 44, which however did not extend the description of persons on whom the privilege of exemption was conferred.

§ 2. (*Privileges under the 19 G. III. c. 44.*) Every person dissenting from the church of England, in holy orders, or pretended holy orders, or pretending to holy orders, *being a preacher or teacher of any congregation of Dissenting Protestants*, having qualified under this Act, is intitled to all the privileges of the Toleration Act, and is also exempt by this Act from serving in the Militia. § 1.

§ 3. (*Privileges under subsequent Acts.*) By 42 G. III. c. 90, No teacher "licensed" within the county, riding or place, to teach in some separate congregation, whose *place of meeting* shall have been duly registered *within twelve months* previous to the yearly meeting appointed to meet in October, for the purposes of the Act, is liable to serve personally, or provide a substitute, to serve in the Militia, § 43. This Act is amended by the 43 G. III. c. 10, which enacts that no "licensed" teacher of any separate congregation, *who* shall have been "licensed" *twelve months at the least* previous to the yearly general meeting appointed by the Act, to be held in October, shall be liable to serve personally, or provide a substitute to serve in the Militia.

But for several years past, the temporary Defence Acts, which have been passed respecting the Supplementary and Local Militias, have confined the exemptions (*as far as relates to those services only*) to ministers of congregations *not carrying on trades*. Accordingly, by the



latest of these Acts, 52 G. III. c. 38. § 38. No person being a “teacher or preacher in holy orders, or pretended holy orders, (*not carrying on any trade, or exercising any other occupation for his livelihood, except that of a school-master,*) having taken the oaths and made and subscribed the declaration required by law, from the teacher or preacher of **Dissenting Protestants**, and being *bona fide* the teacher of any congregation, whose places of meeting shall have been duly registered, at least twelve months previous to the general meeting appointed by this Act,” to be annually held in October, shall be liable to serve in the Local Militia.

By the late Act of 52 G. III. c. 155, the exemption is still further extended. It enacts, that every Dissenting Minister, duly qualified, *who shall employ himself solely in the duties of a teacher or preacher, and shall not follow or engage in any trade or employment whatever*, EXCEPT THAT OF A SCHOOLMASTER, and who shall produce a certificate from some justice of his having taken the oaths, and made and subscribed the declaration, required by the Statute, shall be exempt from the civil services and offices specified in the 1 W. and M. c. 18. § 11. (*supra* p. 177.) and from being balloted to serve, and from serving in the Militia, or Local Militia of any county, town, parish or place, in any part of the united kingdom. § 9.

And every person producing a false or untrue certificate for the purpose of obtaining such exemption from civil and military offices, shall forfeit £50 for every offence, recoverable by any person that will sue for the same, in any court of record at Westminster, or the courts of great Sessions in Wales, or the courts of the counties palatine of Chester, Lancaster, and Durham, as the case shall require. § 10.

In order that Dissenting Ministers may fully avail themselves of all the privileges which the Legislature has conferred upon them, it should be remarked, that this last Act of 52 G. III. c. 155, extends to all persons who are really and bona fide *Ministers*; that is, who employ themselves *solely* in ministerial duties, provided they follow no secular occupation, except that of a schoolmaster. But it must be kept in mind, that it does not exempt the minister of a congregation, who carries on trade, from serving in the Militia, or in the Local Militia: it only exempts such ministers generally from the *civil services and offices specified in the 1 W. and M. c. 18*. And as the 52 G. III. c. 155, is an enlargement of the Toleration Act, and has not repealed either of the former Statutes, it will still be necessary for such a person, in order to avail himself of them, to qualify under the 19 G. III. c. 44. Any person therefore, who is engaged in trade, must still go to the Quarter Sessions, and take the oaths, and make the declaration required by that Statute.\*

#### CHAP. IV.

##### OATHS TO BE TAKEN AFTER ADMISSION TO THEIR OFFICES.

BY 9 G. II. c. 26, (referring to 1 G. I. St. 2. c. 13, and 2 G. II. c. 31,) All preachers and teachers of separate congregations, in common with schoolmasters and

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\* Some further remarks on the principles of this last Toleration Act, which affect Dissenting Ministers and Laymen, collectively will be found *infra*, part IV. ch. I. § 6.

ushers, and persons in almost every kind of office, are required within six months after admission to, or taking upon them their respective offices, to take and subscribe the oaths of allegiance, supremacy, and abjuration, in either of the four courts at Westminster, or at the General or Quarter Sessions for the county or place, &c. where they reside, between the hours of nine and twelve in the forenoon, § 3. And 1 G. I. Stat. 2. c. 13. § 1.

Such persons, refusing or neglecting to take and subscribe these oaths, are (by the Stat. 1. G. 1.) adjudged *ipso facto* incapable and disabled to occupy or enjoy their offices, which are adjudged void. § 7. But on taking the oaths they are again rendered capable, and may be restored their offices, if not granted to others. § 14, 25.

Persons so refusing or neglecting, who execute their offices after the time allowed for taking the oaths, are, (by the same Statute) upon conviction in the courts of Westminster, or at the Assizes, disabled to sue, to be guardian, executor, or administrator, to take a legacy or gift by deed, to be in any office, to vote for members to serve in Parliament, and also incur a forfeiture of £500 to him that shall sue for the same. § 8.

By the 52 G. III. c. 155, Every person *not having* taken the oaths and subscribed the declaration therein specified, who shall preach at any place of worship certified pursuant to the directions of this Act, shall, when thereto required by any one justice, by any writing under his hand or signed by him, take and make and subscribe in the presence of such justice, the oaths and declaration contained in the 19 G. III. c. 44. And no person refusing to attend the magistrate to take the oaths and make the declaration when so required by him as aforesaid, shall thereafter teach or preach, until he have taken such oaths and made such declaration as aforesaid,

on pain of forfeiting for every offence not more than £10, nor less than 10s. at the discretion of the convicting magistrate. § 5.

But no person shall be required by any justice to go more than five miles from his own home, or from the place where he shall be residing at the time of such requisition, for the purpose of taking such oaths as aforesaid. § 6. And any person may require a justice to administer the oaths, &c. under this Act, who shall give him a certificate of his having made the oaths and signed the declaration required by this Act, taking 2s. 6d. for making and signing such certificate, which shall be conclusive evidence thereof. § 7. And the production of such certificate shall exempt the duly qualified minister from all civil services and offices, and from the Militias: but if any one produce a *false certificate*, he will incur a forfeiture of £50, recoverable by any person that will sue for the same. § 8, 9.

## PART III.

LAWS RELATING TO PROTESTANT DISSENTING  
SCHOOLMASTERS.

## CHAP. I.

PENAL LAWS IN FORCE, SUBJECT TO THE STATUTE  
19 G. III. c. 4†.

§ 1. *TEACHING without licence; not subscribing Articles.* By the 77th Canon, no man is to teach, unless allowed under the hand and seal of the bishop or ordinary, and unless he subscribes the 1st and 3d articles of religion, and the two first clauses of the second articles.\*

§ 2. *Absence from Church.* (23 Eliz. c. 1.) Any schoolmaster who neglects to repair to church for a month, and is not allowed by the bishop, is liable to a year's imprisonment. Any person keeping such schoolmaster forfeits £10 a month.

§ 3. *Teaching without licence, and subscribing declaration of conformity.* (13 and 14 C. II. c. 4.) Every school-

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\* The Canons, allowed by JAMES the First, in 1603, were never confirmed by Parliament; and it is therefore conceived that they do not "in certain instances, and *ex proprio vigore*, bind the laity." Sir J. NICHOLL dict. in *KEMP v. WICKES*, p. 2.

master keeping any public or private school, and every person instructing any youth in any house or private family, without having subscribed the declaration mentioned in the Act,\* before the archbishop, or ordinary of the diocese, is disabled to teach. § 8, 9, 10, 12.

And any schoolmaster, or other person, instructing or teaching youth in any private house or family as a tutor or schoolmaster, who shall instruct or teach any youth as a tutor or schoolmaster, before licence obtained from his respective archbishop, bishop, or ordinary, according to the laws and statutes of the realm, (for which he shall pay 12d. only) and before such subscription, shall for the first offence be imprisoned three months. For every subsequent offence he imprisoned three months, and forfeit £5 to the king. § 11.†

## CHAP. II.

### EFFECT OF THE STATUTE 19 G. III. c. 44.

§ 1. *QUALIFYING under this Statute.* No person dissenting from the church of England, who shall qualify as before mentioned,‡ shall be prosecuted in any court whatsoever, for teaching and instructing youth as a tutor or schoolmaster, § 2.

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\* See Part II. chap. 2. § 3. p. 175.

† By the 17 C. II. c. 2, (now repealed) Dissenters were prohibited, under very severe penalties, from teaching in private schools or taking boarders, unless they frequented church and took the oath against resistance to the King. See the provisions of this Act abridged, *supra* Part I. ch. 1. p. 154.

‡ See Part II. c. 2. §. 2. p. 175, *supra*.

But the Act does not enable any dissenter to obtain or hold the mastership of any college or school of royal foundation, or of any other endowed college or school for the education of youth, unless founded since the 1st. of W. and M. c. 18, for the immediate use and benefit of Protestant Dissenters. § 3.

It does not appear that schoolmasters can defend themselves under the 10 A. c. 2. § 8\*, against a prosecution, by a subsequent qualification.

§ 2. *Oaths to be taken after entering upon their offices.* Schoolmasters and ushers are required within six months after taking their office upon them, to take the oaths in the same manner as ministers and other persons in office, and are subject to the same penalties in case of neglect.†

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\* Vide *supra*. Part II. c. 2. §. 3. p. 175.

† See Part II. c. 2. §. 3. p. 175.

The first part of the book is devoted to a general history of the United States from its discovery to the present time. It is written in a simple and plain style, and is intended for the use of schools and families.

The second part of the book is devoted to a detailed history of the United States from the discovery to the present time. It is written in a simple and plain style, and is intended for the use of schools and families.

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## PART IV.

### LAWS RELATING TO THE PLACES OF WORSHIP OF PROTESTANT DISSENTERS, &c.

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#### CHAP. I.

##### MISCELLANEOUS LAWS AND REGULATIONS CONCERNING PLACES OF WORSHIP AND DISSENTERS IN GENERAL.

§ 1. *THE Places of Worship must be certified and registered according to the Toleration Acts.* (1 W. and M. c. 18; 52 G. III. c. 155, § 2.) No assembly for religious worship is allowed under these Acts, *until* the place of such meeting is certified,\* either to the bishop of the diocese, the archdeacon, or the justices at the General or Quarter Sessions for the county or city, &c. and registered in the bishop's or archdeacon's court, or recorded at the Sessions; the registerer or clerk of the peace is required to register the same, and to give a certificate thereof to such person as shall demand it, taking no greater fee than 2s. 6d. by the 52 G. III. c. 155.

§ 2.

It seems that any person may deliver in a certificate of a place being appointed for religious worship.†

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\* See form of certifying Appendix B. No. 3.

† GREEN v. POPE, 1 Raymond, 125.

In case the bishop's registrar,\* or the justices at the Quarter Sessions,† refuse to register or record such certificate, they may be compelled by *mandamus*. The court of Quarter Sessions is merely ministerial. An action will be for a false return to the *mandamus*, and all who sue for it should join; but the action should be in the King's Bench, in order to have a peremptory *mandamus*.‡

Every person who shall knowingly permit any congregation to meet in any place occupied by him, until the same shall have been duly certified, shall forfeit for every time such congregation shall meet contrary to this Act, not less than 20s. nor more than £20, at the discretion of the justices convicting for such offence. 52 G. III. c. 155. § 2.

And every person who shall teach or preach in any congregation, in any place, without the occupier's consent, shall forfeit for every offence not less than 40s. nor more than £30, at the discretion of the justices who shall convict for such offence. 52 G. III. c. 155. § 3.

All preachers in, and persons resorting to, any congregations or assemblies for religious worship, duly certified under this or any other Act, are exempt from all penalties imposed by any Acts relative to religious worship, in the same manner as persons taking the oaths under the Stat. 1 W. and M. c. 18; 52 G. III. c. 155. § 4.

§ 2. *Doors must not be bolted or barred.* No meeting or congregation for religious worship, shall be held in any place with the door locked, bolted or barred, or otherwise fastened, so as to prevent any persons from

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\* 1 Raymond, 125.

† The King *v.* the Justices of Derbyshire. 1 Bl. 606.

‡ 1 Raymond, 125.

entering during the time of such meeting. And the minister officiating therein shall forfeit for every time the door shall be so fastened, not less than 40s. nor more than £20, at the discretion of the justices convicting for such offence. 52 G. III. c. 155. § 12.

§ 3. *Disturbance of Congregations in certified places.* Any person, who shall willingly and of purpose maliciously or contemptuously *come into* a chapel or other congregation permitted by the Act, and disquiet or disturb the same, or misuse any preacher or teacher, upon proof thereof before any justice of the peace by two or more sufficient witnesses, shall find two sureties to be bound by recognizance in the penal sum of £50, or in default of such sureties be committed to prison till the next General or Quarter Sessions; and upon conviction at the Sessions, shall forfeit £20 to the king.\* 1 W. and M. c. 18. § 18.

The offence provided for, and the penalty imposed by the 1 W. and M. have been very beneficially extended in favour of the Protestant Dissenters by the 52 G. III. c. 155. The former Statute merely went to protect them from being disturbed during divine worship by persons *coming into* their meetings and molesting them: but by the 52 G. III. c. 155. § 12, it is enacted that, if any persons at any time after passing this Act, shall wilfully and maliciously or contemptuously *disquiet* or *disturb* any congregation assembled for religious worship under this or any other Act, or *shall in ANY WAY disturb, molest, or misuse any officiating minister of such congregation, or any persons there assembled*, the offenders, on proof thereof before any justice, by two or

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\* For the proper form of an indictment on this Act, see Appendix B. No. 2.

more credible witnesses, shall find two sureties to be bound by recognizances in the penal sum of £50, to answer for such offence. And in default of such sureties, the offenders shall be committed to prison until the next General or Quarter Sessions; and on conviction of the said offence at such Sessions, they shall suffer the penalty of £40.

Upon conviction of several defendants for one such offence, each is liable to the whole penalty.\*

§ 4. *Pulling down a Chapel registered under the Toleration Act.* (1 G. I. st. 2, c. 5, the Riot Act.) Riotously demolishing or pulling down, or beginning to demolish or pull down, any chapel or meeting-house certified and registered under the Toleration Act, is a capital felony. § 3. †

The damages may be recovered in an action in the courts at Westminster, by the persons damnified, against the hundred, &c. § 6. ‡

§ 5. *General Clauses of the 52 G. III. c. 155, applicable to Protestant Dissenters, collectively.* (1) Nothing herein contained shall affect the ecclesiastical jurisdiction of the united church of Great Britain and Ireland; or shall extend to the people called Quakers, or any of their meetings for religious worship, or alter or repeal any Act concerning them, (except the 13 and 14 C. II. c. 1, and 22 C. II. c. 1) 52 G. III. c. 155. § 13, 14.

(2) Offenders against this Act may be convicted before two or more justices, acting in and for the place where

\* *REX. v. HUBE*, 5 T. R. 542.

† As the Stat 52 G. III. c. 155, has not repealed this enactment respecting places of worship certified and registered under it, *it is advisable to certify and register under the Toleration Act*, (1 W. and M. c. 17) *as well as under the 52 G. III.*

‡ As to the mode of levying money, is recovered, see 5 Term Rep. 541.

the offence is committed; and all penalties incurred under this Act may be levied by distress under the hands and seals of such two justices of the place where the offence was committed, or the *forfeitures were incurred*; and, when levied and paid, such fines shall go—one moiety to the informer, and the other moiety to the poor of the parish wherein the offence was committed. In case of no sufficient distress whereby to levy such penalties, the convicting justices may commit the offender to prison, for any time not exceeding three months, at their discretion. § 15.

(3) Persons convicted under this Act, conceiving themselves aggrieved, may appeal to the next General or Quarter Sessions, on giving to the convicting magistrates notice in writing within eight days after such conviction, of such their intention to appeal: and the justices at such Sessions shall proceed to hear and determine such appeal, and make such order therein, and award such costs to be paid by or to either party, as they in their discretion shall think fit. § 16.

(4) All penalties under this Act must be sued for and prosecuted within six months after the offence committed: and no person, who shall suffer any imprisonment for non-payment of any penalty, shall thereafter be liable to the payment of such penalty or forfeiture. § 17.

(5) If any action shall be brought against any person for any thing done in pursuance of this Act, every such action shall be commenced *within three months after the fact committed, and not afterwards, and shall be brought in the county where the cause of action accrued, and not elsewhere*: and the defendants in such action may plead the general issue, and give this Act and the special matter in evidence on any trial to be had thereupon; and that the same was done in pursuance and by au-

thority of this Act; and if it shall appear to be so done, or if any such action be brought after the time limited, or in any other county, city, or place, in such case the jury shall find for the defendant or defendants: and upon such verdict, or if the plaintiff shall become non-suited, or discontinue his or her action, or if a verdict shall pass against the plaintiff, or if upon demurrer judgment shall be given against the plaintiff, the defendant shall recover treble costs, and have the like remedy for the same as any defendants have for costs of suit in other cases by law. § 18.

(5) This Act shall be deemed a public Act, and be judicially noticed as such by all judges, justices, and others, without specially pleading the same. § 19.

§ 6. *General Observations on the Principles and Construction of the Toleration Act, 52 G. III. c. 155.*

Although, in the preceding pages of this volume, we have offered various remarks, tending to illustrate the principles and tenor of the Toleration Act lately passed; yet, as several observations have suggested themselves, applying to Dissenters *generally*, their insertion (it is apprehended) will not be found irrelevant in this place.

Those obnoxious Statutes, the Five-Mile and Conventicle Acts, being repealed by the first section of the 52 G. III. c. 155. professed Dissenters and all other persons, who do not worship according to the forms required by the established church, are delivered from the *punishments*, to which they had hitherto been exposed, for worshipping God agreeably to the dictates of their conscience. But all places, (it is required by the second and eleventh sections) wherein more than twenty persons shall be convened for divine worship, *must be notified as heretofore* to the clerk of the peace of the county, or to the bishop's or archdeacon's register, within whose

jurisdiction such places shall be situated; and during divine worship their doors shall be unbarred. The penalties imposed by the Conventicle Act, extended, notwithstanding the former Acts of Toleration, to every assembly for religious worship in an unregistered place, where more than *five* persons were convened; but this Act supersedes the necessity of any registration, where the number assembled does not exceed *twenty*.

The ministers of religion are also placed in circumstances more suited to the sacred office; for, by the fifth section, all persons, who are *teachers* at such registered places of worship, shall, *if required by a magistrate*, take the oaths of allegiance and supremacy, and sign the declaration that they are Protestants, inserted in the 19 G. III. c. 44. And to prevent the issuing of any arbitrary mandate, it is further provided.

1. That such *requisition must be IN WRITING*.

2. *No person*, who has once taken the oaths, and made the declaration either under the 52 G. III. c. 155, or the 19 G. III. c. 44, *will be subject to a second requisition*.

3. No fee can even then be demanded by any magistrate; who must *gratuitously* supply a certificate to the person who has so complied with the requisition which he made.

4. No person can be compelled to go more than five miles for the purpose of taking such oaths.

Further, the exemption from parochial offices and military duties, which had before been given to *ministers of congregations* only, is by the late Act extended to all persons who *preach to one or more congregations*, (if they follow no secular employment,—that of schoolmasters excepted) provided they take the oaths and make the declaration prescribed. And they are authorized to

require any one magistrate, on payment of 2s. 6d. to administer such oaths,—to attest such declaration,—and to certify such proceedings as evidence that the person claiming the exemption has complied with the requisites of the Statutes.

It should also be recollected, that the former Acts required, both from laymen and ministers, (previously to their becoming entitled to toleration) an inconvenient, and in many instances an expensive attendance at the Sessions of the Peace. This oppressive and absurd requisition is removed by the late Act.

Again, the immunities and exemptions, bestowed on preachers by former Acts, were by them confined to the stated ministers of *separate* congregations; but they are now more beneficially and extensively diffused. The judicial and discretionary power, which before was asserted by magistrates, is entirely swept away.

Lastly; another great advantage is, that the security of religious worship is completely provided for. Under the Toleration Act of William and Mary, no persons were liable to penalties for disturbing a congregation, *unless they entered the place where the congregation was assembled*; but the Statute 52 G. III. c. 155, makes them liable to punishment if they disturb a congregation, whether they do or do not enter the place of worship.



## CHAP. II.

## ON THE LIABILITY OF PLACES OF WORSHIP TO RATES AND TAXES.—TRUSTEES OF CHAPELS.—THE ADMISSION AND REMOVAL OF MINISTERS.

§ 1. *Rates and Taxes.* Where any profit is made of a place of worship by letting pews or seats, or where it is inhabited as a dwelling house, it is rateable to land-tax and parochial and assessed taxes; but not otherwise.\*

A rate made upon the ministers,† or the trustees,‡ for a meeting-house of which no profit was made, cannot be supported. They are not to be considered as beneficial occupiers. Neither, it seems, are pew-holders, any more than patients in a hospital.§

§ 2. *Trustees of Chapel.* The legal property of a Dissenting chapel or meeting-house is usually vested in trustees, who are in most cases empowered to assign it over to a new set of trustees when they are reduced to a certain number.

Great difficulties having frequently arisen from the inaccurate and improvident manner in which trust deeds have been constructed, an approved precedent, with

\* *REX v. WOODWARD*, 5 T. R. 79.

† *The King v. St. Thomas*, Southwark, Str. 745. Fortesc. 306.

‡ 5 T. R. 79.

§ See 2 Burr. 1053, and 4 Burr. 2435; as to trustees and patients of a hospital.

suitable variations to adapt it to different cases, is introduced in the appendix.\*

§ 3. *Jurisdiction of Chancery over Trustees of Chapels.* The Court of Chancery will interfere to enforce the execution of the trusts of a chapel for the benefit of a Dissenting congregation; and to settle disputes among the trustees, or between them and the congregation. †

The Court will also, upon regular application, restrain an improper person from receiving pew-rents, and appoint a receiver during the suit: but this cannot extend to subscriptions or contributions of a voluntary nature. The Court, however, on a late occasion, strongly recommended to the parties “the weighty consideration, —whether it is not better to compose their temporal differences, which cannot subsist without great hazard to their religious concerns; and to endeavour at least to settle their disputes without calling upon this Court to interpose its jurisdiction. ‡”

§ 4. *Admission of Ministers when elected.* The Court of King’s Bench will grant a *mandamus* to compel trustees of a chapel to admit a minister duly elected according to the trust deed though no endowment. The use of the pulpit is a right incident to the function. ||

§ 5. *Removal of Ministers.* Ministers in general are removable at the discretion of the same authority which appointed them. It has been suggested by high authority, (though the contrary appears to be the sounder opinion) that where a place is endowed, and a minister

\* See Appendix B. No. 1.

† Attorney General *v.* FOWLER, 15 Ves. 22.

‡ Lord ELDON in same Case, May 7. 1808.

|| *REX. v. BARKER*, 3 Burr. 1265. Mr. J. FOSTER: “Here is a legal right. Their ministers are tolerated and allowed; their right is established therefore as a legal right, and as much as any other legal right.”

has a certain interest in his office, not depending on the voluntary contributions of the people, he is not removable without reasonable and sufficient cause, as for immoral conduct, &c. In such a case, however, the Court of King's Bench will at its discretion interpose by *mandamus* to restore him, if wrongfully removed; but in making an application for that purpose, he must shew that he had been regularly put into full possession of his office according to the usual forms of the denomination to which he belongs.\*

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\* The King v. JOTHAM. 3 T. R. 575.



## APPENDIX A.

### No. 1.

Statute 1 W. and M. c. 18, usually called

#### THE TOLERATION ACT.

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*An Act for exempting Their Majesties Protestant Subjects, dissenting from the Church of England, from the Penalties of certain Laws.*

FORASMUCH as some ease to scrupulous consciences, in the exercise of religion, may be an effectual means to unite their Majesties Protestant subjects in interest and affection; be it enacted by the King and Queen's most excellent Majesties, by and with the advice and consent of the Lords Spiritual and Temporal, and the Commons, in this present Parliament assembled, and by the authority of the same, that neither the Statute made in the three and twentieth year of the reign of the late Queen Elizabeth, intituled, *An Act to retain the Queen's Majesty's Subjects in their due Obedience*; nor the Statute made in the twenty-ninth year of the said Queen, intituled, *An Act for the more speedy and due Execution of certain Branches of the Statute made in the Three and twentieth Year of the Queen's Majesty's Reign*, viz. the aforesaid Act, nor that branch or clause

of a Statute made in the first year of the reign of the said Queen, intituled, *An Act for the Uniformity of Common Prayer, and Service in the Church, and Administration of the Sacraments*; whereby all persons, having no lawful or reasonable excuse to be absent, are required to resort to their parish church or chapel, or some usual place where the Common Prayer shall be used, upon pain of punishment by the censures of the church, and also upon pain that every person so offending shall forfeit, for every such offence, twelvecence: for the Statute made in the third year of the reign of the late King James the First, intituled, *An Act for the better discovering and repressing Popish Recusants*; nor that other Statute made in the same year, intituled, *An Act to prevent and avoid Dangers which may grow by Popish Recusants*; nor any other Law or Statute of this Realm made against Papists or Popish Recusants, except the Statute made in the five and twentieth year of King Charles the Second, intituled, *An Act for preventing Dangers which may happen from Popish Recusants*; and except also the Statute made in the thirtieth year of the said King Charles the Second, intituled, *An Act for the more effectual preserving the King's Person and Government, by disabling Papists from sitting in either House of Parliament*; shall be construed to extend to any person or persons dissenting from the church of England, that shall take the oaths mentioned in a Statute made this present Parliament, intituled, *An Act for removing and preventing all Questions and Disputes concerning the assembling and sitting of this present Parliament*,\* and shall make and subscribe the decla-

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\* 1 W. and M. c. 1. See the oaths mentioned in the above clause in note (a) to this Statute.

ration mentioned in a Statute made in the thirtieth year of the reign of King Charles the Second, intituled, *An Act to prevent Papists from sitting in either House of Parliament* ;\* which oaths and declaration the justices of peace, at the General Sessions of the peace, to be held for the county or place where such person shall live, are hereby required to tender and administer to such persons as shall offer themselves to take, make, and subscribe the same, and thereof to keep a register : and likewise none of the persons aforesaid shall give or pay, as any fee or reward, to any officer or officers, belonging to the court aforesaid, above the sum of six-pence, nor that more than once for his or their entry of his taking the said oaths, and making and subscribing the said declaration ; nor above the farther sum of six-pence for any certificate of the same, to be made out and signed by the officer or officers of the said court.

II. And be it further enacted by the authority aforesaid, that all and every person and persons already convicted, or prosecuted in order to conviction, of recusancy by indictment, information, action of debt, or otherwise, grounded upon the aforesaid Statutes, or any of them, that shall take the said oaths mentioned in the said Statute made this present Parliament, and make and subscribe the declaration aforesaid, in the Court of Exchequer, or Assizes, or General or Quarter Sessions to be held for the county where such person lives, and to be thence respectively certified into the Exchequer, shall be thenceforth exempted and discharged from all penalties, seizures, forfeitures, judgements, and executions incurred by force of any the aforesaid Statutes, without any composition, fee, or farther charge whatsoever.

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\* See Note (b) to this Statute.

III. And be it farther enacted by the authority aforesaid, that all and every person and persons that shall, as aforesaid, take the said oaths, and make and subscribe the declaration aforesaid, shall not be liable to any pains, penalties, or forfeitures, mentioned in an Act made in the five and thirtieth year of the reign of the late Queen Elizabeth, intituled, *An Act to retain the Queen's Majesty's Subjects in their due Obedience*; nor in an Act made in the two and twentieth year of the reign of the late King Charles the Second, intituled, *An Act to prevent and suppress seditious Conventicles*; nor shall any of the said persons be prosecuted in any Ecclesiastical Court, for or by reason of their nonconforming to the church of England.

IV. Provided always, and be it enacted by the authority aforesaid, that if any assembly of persons dissenting from the church of England, shall be had in any place for religious worship with the doors locked, barred, or bolted, during any time of such meeting together, all and every person or persons that shall come to and be at such meeting shall not receive any benefit from this law, but be liable to all the pains and penalties of all the aforesaid Laws recited in this Act for such their meeting, notwithstanding his taking the oaths, and his making and subscribing the declaration aforesaid.

V. Provided always, that nothing herein contained shall be construed to exempt any of the persons aforesaid from paying of tythes or other parochial duties, or any other duties to the church or minister, nor from any prosecution in any Ecclesiastical Court, or elsewhere, for the same.

VI. And be it farther enacted by the authority aforesaid, that if any person dissenting from the church of England, as aforesaid, shall hereafter be chosen, or



otherwise appointed to bear the office of high constable, or petit constable, churchwarden, overseer of the poor, or any other parochial or ward office, and such person shall scruple to take upon him any of the said offices in regard of the oaths, or any other matter or thing required by the Law to be taken or done in respect of such office, every such person shall and may execute such office, or employment, by a sufficient deputy, by him to be provided, that shall comply with the Laws on this behalf. Provided always the said deputy be allowed and approved by such person or persons, in such manner as such officer or officers respectively should by Law have been allowed and approved.

VII. And be it further enacted by the authority aforesaid, that no person dissenting from the church of England, in holy orders, or pretended holy orders, or pretending to holy orders, nor any preacher or teacher of any congregation of Dissenting Protestants, that shall make and subscribe the declaration aforesaid, and take the said oaths at the General or Quarter Sessions of the Peace to be held for the county, town, parts, or division, where such person lives, which court is hereby empowered to administer the same; and shall also declare his approbation of, and subscribe the articles of religion mentioned in the Statute made in the thirteenth year of the reign of the late Queen Elizabeth, except the thirty-fourth, thirty-fifth, and thirty-sixth, and these words of the twentieth article, viz. (*the Church hath Power to decree Rites or Ceremonies, and Authority in Controversies of Faith, and yet*) shall be liable to any of the pains or penalties mentioned in an Act made in the seventeenth year of the reign of King Charles the Second, intituled, *An Act for restraining Non-conformists from inhabiting in Corporations*; nor the penalties mentioned in the afore-

said Act made in the two and twentieth year of his said late Majesty's reign, for or by reason of such persons preaching at any meeting for the exercise of religion; nor to the penalty of one hundred pounds mentioned in an Act, made in the thirteenth and fourteenth of King Charles the Second, intituled, *An Act for the Uniformity of Public Prayers and Administration of Sacraments, and other Rites and Ceremonies; and for establishing the Form of making, ordaining, and consecrating of Bishops, Priests and Deacons, in the Church of England*, for officiating in any congregation for the exercise of religion permitted and allowed by this Act.

VIII. Provided always, that the making and subscribing the said declaration, and the taking the said oaths, and making the declaration of approbation and subscription to the said articles, in manner as aforesaid, by every respective person or persons herein-before mentioned, at such General or Quarter Sessions of the Peace, as aforesaid, shall be then and there entered of record in the said Court, for which six-pence shall be paid to the clerk of the peace, and no more. Provided that such person shall not at any time preach in any place, but with the doors not locked, barred, or bolted, as aforesaid.

IX. And whereas some Dissenting Protestants scruple the baptizing of infants, be it enacted by the authority aforesaid, that every person in pretended holy orders, or pretending to holy orders, or preacher, or teacher, that shall subscribe the aforesaid articles of religion, except before excepted, and also except part of the seven and twentieth article touching *infant baptism*, and shall take the said oaths, and make and subscribe the declaration aforesaid, in manner aforesaid, every such person shall enjoy all the privileges, benefits, and advantages, which

any other Dissenting Minister, as aforesaid, might have or enjoy by virtue of this Act.

X. And be it farther enacted by the authority aforesaid, that every teacher or preacher in holy orders, or pretended holy orders, that is a minister, preacher, or teacher of a congregation, that shall take the oaths herein required, and make and subscribe the declaration aforesaid, and also subscribe such of the aforesaid articles of the church of England, as are required by this Act, in manner aforesaid, shall be thenceforth exempted from serving upon any jury, or from being chosen and appointed to bear the office of churchwarden, overseer of the poor, or any other parochial or ward office, or other office in any hundred of any shire, city, town, parish, division, or wapentake.

XI. And be it farther enacted by the authority aforesaid, that every justice of the peace, may at any time hereafter, require any person that goes to any meeting for exercise of religion, to make and subscribe the declaration aforesaid, and also to take the said oaths or declaration of fidelity herein-after mentioned, in case such person scruples the taking of an oath, and upon refusal thereof, such justice of the peace is hereby required to commit such person to prison without bail or mainprize, and to certify the name of such person to the next General or Quarter Sessions of the Peace to be held for that county, city, town, part, or division, where such person then resides, and if such person so committed, shall upon a second tender at a General or Quarter Sessions, refuse to make and subscribe the declaration aforesaid, such person refusing shall be then and there recorded, and he shall be taken thenceforth, to all intents and purposes, for a Popish Recusant Convict, and suffer

accordingly, and incur all the penalties and forfeitures of all the aforesaid Laws.

XII. And whereas there are certain other persons, Dissenters from the church of England, who scruple the taking of any oath; be it enacted by the authority aforesaid, that every such person shall make and subscribe the aforesaid declaration, and also this declaration of fidelity following, viz.

“ I *A. B.* do sincerely promise and solemnly declare before God and the world, that I will be true and faithful to King William and Queen Mary. And I do solemnly profess and declare, that I do from my heart abhor, detest, and renounce, as impious and heretical, that damnable doctrine and position, *that Princes excommunicated or deprived by the Pope, or any Authority of the See of Rome, may be deposed or murdered by their Subjects, or any other whatsoever*; and I do declare that no foreign prince, person, prelate, state, or potentate, hath, or ought to have, any power, jurisdiction, superiority, pre-eminence, or authority, ecclesiastical or spiritual, within this realm.”

And shall subscribe a profession of their christian belief in these words:

“ I *A. B.* profess faith in God the Father, and in Jesus Christ his eternal Son, the true God, and in the Holy Spirit One God blessed for evermore: and do acknowledge the Holy Scriptures, or the Old and New Testament, to be given by divine inspiration.”

Which declarations and subscription shall be made and entered of record, at the General Quarter Sessions of the Peace for the county, city, or place, where every such person shall then reside; and every such person that shall make and subscribe the two declarations and

profession aforesaid, being thereunto required, shall be exempted from all the pains and penalties of all and every the aforementioned Statutes made against Popish Recusants, or Protestant Non-conformists, and also from the penalties of an Act made in the fifth year of the reign of Queen Elizabeth, intituled *An Act for the Assurance of the Queen's Royal Power over all Estates and Subjects within her Dominions*; for or by reason of such persons not taking or refusing to take the oath mentioned in the said Act; and also from the penalties of an Act, made in the thirteenth and fourteenth years of the reign of King Charles the Second, intituled, *An Act for preventing Mischiefs that may arise by certain Persons called Quakers refusing to take lawful Oaths*; and enjoy all other the benefits, privileges, and advantages, under the like limitations, provisoes, and conditions, which any other Dissenters shall or ought to enjoy by virtue of this Act.\*

XIII. Provided always, and be it enacted by the authority aforesaid, that in case any person shall refuse to take the said oaths when tendered to them, which every justice of the peace is hereby empowered to do, such person shall not be admitted to make and subscribe the two declarations aforesaid, though required thereunto, either before any justice of the peace, or at the General or Quarter Sessions, before or after any conviction of Popish Recusancy, as aforesaid, unless such person can, within thirty-one days after such tender of the declarations to him, produce two sufficient Protestant witnesses, to testify upon oath that they believe him to be a Protestant Dissenter, or a certificate under the

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\* See Note (c) annexed to this Statute.

hands of four Protestants who are conformable to the church of England, or have taken the oaths, and subscribed the declaration above mentioned, and shall also produce a certificate under the hands and seals of six or more sufficient men of the congregation to which he belongs, owning him for one of them.

XIV. Provided also, and be it enacted by the authority aforesaid, that until such certificate, under the hands of six of his congregation, as aforesaid, be produced, and two Protestant witnesses come to attest his being a Protestant Dissenter, or a certificate under the hands of four Protestants as aforesaid, be produced, the justice of the peace shall, and hereby is required, to take a recognizance, with two sureties, in the penal sum of fifty pounds, to be levied of his goods and chattels, lands and tenements, to the use of the King and Queen's Majesties, their heirs and successors, for his producing the same; and if he cannot give such security, to commit him to prison, there to remain until he has produced such certificates, or two witnesses aforesaid.

XV. Provided always, and it is the true intent and meaning of this Act, that all the laws made and provided for the frequenting of divine service on the Lord's Day, commonly called Sunday, shall be still in force, and executed against all persons that offend against the said laws, except such persons come to some congregation or assembly of religious worship, allowed or permitted by this Act.

XVI. Provided always, and be it farther enacted by the authority aforesaid, that neither this Act, nor any clause, article, or thing herein contained, shall extend, or be construed to extend, to give any ease, benefit, or advantage to any Papist or Popish Recusant whatsoever;

or any person that shall deny in his preaching or writing, the doctrine of the blessed trinity, as it is declared in the aforesaid articles of religion.

XVII. Provided always, and be it enacted by the authority aforesaid, that if any person or persons, at any time or times, after the tenth day of June, do and shall willingly and of purpose, maliciously or contemptuously, come into any cathedral or parish church, chapel, or other congregation permitted by this Act, and disquiet or disturb the same, or misuse any preacher or teacher, such person or persons, upon proof thereof before any justice of peace, by two or more sufficient witnesses, shall find two sureties to be bound by recognizance in the penal sum of fifty pounds; and, in default of such sureties, shall be committed to prison, there to remain till the next General or Quarter Sessions; and upon conviction of the said offence, at the said General or Quarter Sessions, shall suffer the pain and penalty of twenty pounds, to the use of the King and Queen's Majesties, their heirs and successors.

XVIII. Provided always, that no congregation or assembly for religious worship shall be permitted or allowed by this Act, until the place of such meeting shall be certified to the bishop of the diocese, or to the archdeacon of that archdeaconry, or to the justices of the peace at the General or Quarter Sessions of the Peace for the county, or place, in which such meeting shall be held, and registered in the said bishop's or archdeacon's court respectively, or recorded at the said General or Quarter Sessions; the register or clerk of the peace whereof respectively is required to register the same, and to give certificate thereof to such person as shall demand the same, for which there shall be none greater fee nor reward taken than the sum of sixpence.

(a) *Oaths of Allegiance and Abjuration imposed by 1 W. and M. c. 1. (Referred to p. 157, 158, 172.)*

“ I *A. B.* do sincerely promise and swear, that I will be faithful, and bear true allegiance to their Majesties, King William and Queen Mary.—*So help me God.*”

“ I *A. B.* do swear that I do from my heart abhor, detest and abjure, as impious and heretical, that damnable doctrine and position, that princes excommunicated or deprived by the Pope, or any authority of the See of Rome, may be deposed or murdered by their subjects, or any other whatsoever. And I do declare that no foreign prince, person, prelate, State or potentate hath, or ought to have any power, jurisdiction, superiority, pre-eminence or authority ecclesiastical or spiritual within this realm.—*So help me God.*”

*Oaths of Allegiance, Abjuration and Supremacy, imposed by 1 G. 1. St. 2. c. 13. (Referred to p. 157, 172, 173, notes.)*

“ I *A. B.* do sincerely promise and swear, that I will be faithful, and bear true allegiance to his Majesty King George.—*So help me God.*”

“ I *A. B.* do swear, that I do from my heart abhor, detest, and abjure, as impious and heretical, that damnable doctrine and position, that princes excommunicated or deprived by the Pope, or any authority of the See of Rome, may be deposed or murdered by their subjects, or any other whatsoever. And I do declare, that no foreign prince, person, prelate, State, or potentate, hath, or ought to have any jurisdiction, power, superiority, pre-eminence, or authority, ecclesiastical or spiritual, within this realm.—*So help me God.*”

“ I *A. B.* do truly and sincerely acknowledge, profess, testify, and declare in my conscience, before God and the world, that our sovereign Lord King George is lawful and rightful King of this Realm, and all other his Majesty's dominions and countries thereunto belonging. And I do solemnly and sincerely declare, that I do believe in my conscience, that the person pretended to be Prince of Wales, during the life of the late King James, and since his decease pretending to be, and taking upon himself the stile and title of King of England, by the name of James the Third, or of Scotland, by the name of James the Eighth, or the stile and title of King of Great Britain, hath not any right or title whatsoever to the crown of this Realm, or any other the dominions thereto belonging: and I do renounce, refuse, and abjure any allegiance or obedience to him. And I do swear, that I will bear faith and true allegiance to his Majesty King George, and him will defend, to the utmost of my power; against all traitorous conspiracies and attempts whatsoever, which shall be made



against his person, crown, or dignity. And I will do my utmost endeavour to disclose and make known to his Majesty, and his successors, all treasons and traitorous conspiracies which I shall know to be against him, or any of them. And I do faithfully promise, to the utmost of my power, to support, maintain, and defend the succession of the crown against him the said James, and all other persons whatsoever; which succession, by an Act intituled, *An Act for the further Limitation of the Crown, and better securing the Rights and Liberties of the Subject*, is and stands limited to the Princess Sophia, Electoress and Duchess Dowager of Hanover, and the heirs of her body, being Protestants. And all these things I do plainly and sincerely acknowledge and swear, according to these express words by me spoken, and according to the plain and common sense and understanding of the same words, without any equivocation, mental evasion, or secret reservation whatsoever. And I do make this recognition, acknowledgment, abjuration, renunciation, and promise, heartily, willingly and truly, upon the true faith of a christian.—*So help me God.*”

(b) *Declaration against Popery, required by 30 C. II. Stat. 2, c. 1. (Referred to p. 157, 172, 175, notes.)*

“ I A. B. do solemnly and sincerely in the presence of God, profess, testify and declare, that I do believe that in the Sacrament of the Lord's Supper, there is not any transubstantiation of the elements of bread and wine into the body and blood of Christ, at or after the consecration thereof, by any person whatsoever: (2) And that the invocation, or adoration of the Virgin Mary, or any other saint, and the sacrifice of the mass, as they are now used in the church of Rome, are superstitious and idolatrous. (3) And I do solemnly in the presence of God, profess, testify and declare, that I do make this declaration, and every part thereof, in the plain and ordinary sense of the words read unto me, as they are commonly understood by English Protestants, without any evasion, equivocation, or mental reservation whatsoever, and without any dispensation already granted me for this purpose by the Pope, or any other authority or person whatsoever, or without any hope of any such dispensation from any person or authority whatsoever, or without thinking that I am, or *can* be acquitted before God or man, or absolved of this declaration, or any part thereof, although the Pope or any other person or persons, or power whatsoever, shall dispense with or annu. the same, or declare that it was null or void from the beginning.”

(c) *Declaration of Fidelity for Quakers, imposed by 1 G. I. c. 6. (Referred to p. 158, note.)*

“ I A. B. do solemnly and sincerely promise and declare, that I will be true and faithful to King George; and do solemnly, sincerely, and truly

profess, testify and declare, that I do from my heart abhor, detest, and renounce, as impious and heretical, that wicked doctrine and position, that princes excommunicated or deprived by the Pope, or any authority of the See of Rome, may be deposed or murdered by their subjects, or any other whatsoever. And I do declare, that no foreign prince, person, prelate, State, or potentate, hath, or ought to have, any power, jurisdiction, superiority, pre-eminence, or authority, ecclesiastical or spiritual, within this Realm."

" I A. B. do solemnly, sincerely, and truly acknowledge, profess, testify, and declare, that King George is lawful and rightful King of this Realm, and of all other his dominions and countries thereunto belonging. And I do solemnly and sincerely declare, that I do believe the person pretended to be the Prince of Wales, during the life of the late King James, and since his decease, pretending to be, and taking upon himself the stile and title of King of England, by the name of James the Third, or of Scotland, by the name of James the Eighth, or the stile and title of King of Great Britain, hath not any right or title whatsoever to the crown of this realm, nor any other the dominions thereunto belonging; and I do renounce and refuse any allegiance or obedience to him. And I do solemnly promise, that I will be true and faithful, and bear true allegiance to King George, and to him will be faithful against all traitorous conspiracies and attempts whatsoever, which shall be made against his person, crown, or dignity. And I will do my best endeavour to disclose and make known to King George, and his successors, all treasons and traitorous conspiracies which I shall know to be made against him, or any of them. And I will be true and faithful to the succession of the crown against him the said James, and all other persons whatsoever, as the same is and stands settled by an Act, intituled, *An Act declaring the Rights and Liberties of the Subject, and settling the Succession of the Crown*, to the late Queen Anne, and the heirs of her body, being Protestants; and as the same, by one other Act, intituled, *An Act for the further Limitation of the Crown, and better securing the Rights and Liberties of the Subject*, is and stands settled and intailed, after the decease of the said late Queen, and for default of issue of the said late Queen, to the late Princess Sophia, Electoress and Duchess Dowager of Hanover, and the heirs of her body, being Protestants. And all these things I do plainly and sincerely acknowledge, promise, and declare, according to these express words by me spoken, and, according to the plain and common sense and understanding of the same words, without any equivocation, mental evasion, or secret reservation whatsoever. And I do make this recognition, acknowledgment, renunciation, and promise, heartily, willingly, and truly.

(A.)

No. 2.

Statute 19 Geo. III. c. 44.

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*An Act for the further Relief of Protestant Dissenting  
Ministers and Schoolmasters.*

WHEREAS, by an Act of Parliament made in the first year of the reign of King William and Queen Mary, intituled, *An Act for exempting their Majesties Protestant Subjects, dissenting from the Church of England, from the Penalties of certain Laws,*) persons dissenting from the church of England, in holy orders, or pretended holy orders, or pretending to holy orders, and preachers or teachers of any congregation of Dissenting Protestants, are required, in order to be entitled to certain exemptions, benefits, privileges, and advantages, to declare their approbation of, and to subscribe, the articles of religion mentioned in the Statute made in the thirteenth year of the reign of Queen Elizabeth, (except as in the said Act, made in the first year of the reign of King William and Queen Mary, is excepted.) And whereas many such persons scruple to declare their approbation of, and to subscribe the said articles not excepted as aforesaid: for giving ease to such scrupulous

persons in the exercise of religion, may it please your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that every person dissenting from the church of England, in holy orders, or pretended holy orders, or pretending to holy orders, being a preacher or teacher of any congregation of Dissenting Protestants, who, if he scruple to declare and subscribe as aforesaid, shall take the oaths and make and subscribe the declaration against Popery, required by the said Act, in the first year of the reign of King William and Queen Mary, to be taken, made, and subscribed by Protestant Dissenting Ministers, and shall also make and subscribe a declaration in the words following: viz.

“ I *A. B.* do solemnly declare, in the presence of Almighty God, that I am a Christian and a Protestant, and as such, that I believe that the Scriptures of the Old and New Testament, as commonly received among Protestant churches, do contain the revealed will of God; and that I do receive the same as the rule of my doctrine and practice:”

shall be, and every such person is hereby declared to be, entitled to all the exemptions, benefits, privileges, and advantages, granted to Protestant Dissenting Ministers by the said Act, made in the first year of the reign of King William and Queen Mary; and by an Act made in the tenth year of Queen Anne, intituled, *An Act for preserving the Protestant Religion, by better securing the Church of England, as by Law established; and for confirming the Toleration granted to Protestant Dissenters by an Act, intituled, An Act for exempting their Majesties Protestant Subjects, dissenting from the Church of England,*

*from the Penalties of certain Laws; and for supplying the defects thereof; and for the further securing the Protestant succession, by requiring the Practisers of the Law in North Britain to take the Oaths and subscribe the Declaration therein mentioned; and the justices of the peace at the General Session of the Peace to be holden for the county or place where any Protestant Dissenting Minister shall live, are hereby required to tender and administer the said last-mentioned declaration to such minister, upon his offering himself to make and subscribe the same, and thereof to keep a register; and such minister shall not give or pay, as a fee or reward to any officer or officers belonging to the court aforesaid, above the sum of six-pence for his or their entry of such minister's making and subscribing the said last-mentioned declaration, and taking the oaths, and making and subscribing the declaration against Popery, required by the said Act, made in the first year of the reign of King William and Queen Mary, to be taken, made; and subscribed by Protestant Dissenting Ministers; nor above the sum of six-pence for any certificate thereof to be made out and signed by the officer or officers of the said court; and every such person, qualifying himself as aforesaid, shall be exempted from serving in the Militia of this kingdom; and shall also be exempted from any imprisonment, or other punishment, by virtue of an Act, made in the thirteenth and fourteenth years of the reign of King Charles the Second, intituled, *An Act for the Uniformity of public Prayers, and Administration of Sacraments, and other Rites and Ceremonies; and for establishing the Form of making, ordaining, and consecrating, Bishops, Priests, and Deacons, in the Church of England*; or by an Act made in the fifteenth year of the same reign, intituled, *An Act for Relief**

*of such Persons as by Sickness, or other Impediment, were disabled from subscribing the Declaration in the Act of Uniformity, and Explanation of Part of the said Act; for preaching or officiating in any congregation of Protestant Dissenters, for the exercise of religion permitted and allowed by law.*

And be it farther enacted by the authority aforesaid, that no Dissenting Minister, nor any other Protestant dissenting from the church of England, who shall take the aforesaid oaths, and make and subscribe the above-mentioned declaration against Popery, and the declaration herein-before mentioned, shall be prosecuted in any court whatsoever, for teaching and instructing youth as a tutor or schoolmaster; any Law or Statute to the contrary notwithstanding.

Provided always, that nothing in this Act contained shall extend, or be construed to extend, to the enabling of any person dissenting from the church of England to obtain or hold the mastership of any college or school of royal foundation, or of any other endowed college or school for the education of youth, unless the same shall have been founded since the first year of the reign of their late Majesties King William and Queen Mary, for the immediate use and benefit of Protestant Dissenters.

And whereas it hath been doubted whether the said Act, made in the first year of the reign of King William and Queen Mary, be a public or private Act; be it enacted and declared, that the said Act, and also this present Act, shall be adjudged, deemed, and taken to be public Acts; and shall be judicially taken notice of as such, by all judges, justices, and other persons whomsoever, without specially pleading them, or either of them.

(A.)

No. 3.

Statute 52 Geo. III. c. 155.

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*An Act to repeal certain Acts, and amend other Acts relating to Religious Worship and Assemblies, and Persons teaching or preaching therein:*

WHEREAS it is expedient that certain Acts of Parliament, made in the reign of his late Majesty King Charles the Second, relating to Non-conformists and Conventicles, and refusing to take oaths, should be repealed, and that the Laws relating to certain congregations and assemblies for religious worship, and persons teaching, preaching, or officiating therein, and resorting thereto, should be amended; be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that from and after the passing of this Act, an Act of Parliament made in the Session of Parliament held in the thirteenth and fourteenth years of his late Majesty King Charles the Second, intituled, *An Act for preventing the Mischiefs and Dangers that may*

arise by certain Persons called Quakers, and others, refusing to take lawful Oaths; and another Act of Parliament, made in the seventeenth year of the reign of his late Majesty King Charles the Second, intituled, *An Act for restraining Non-conformists from inhabiting in Corporations*; and another Act of Parliament, made in the twenty-second year of the reign of the late King Charles the Second, intituled, *An Act to prevent and suppress seditious Conventicles*; shall be and the same are hereby repealed.

II. And be it farther enacted, that from and after the passing of this Act no congregation or assembly for religious worship of Protestants (at which there shall be present more than twenty persons besides the immediate family and servants of the person in whose house or upon whose premises such meeting, congregation, or assembly, shall be had) shall be permitted or allowed, unless and until the place of such meeting, if the same shall not have been duly certified and registered under any former Act or Acts of Parliament relating to registering places of religious worship, shall have been or shall be certified to the bishop of the diocese, or to the archdeacon of the archdeaconry, or to the justices of the peace at the General or Quarter Sessions of the Peace for the county, riding, division, city, town, or place, in which such meeting shall be held; and all places of meeting which shall be so certified to the bishop's or archdeacon's court, shall be returned by such court once in each year to the Quarter Sessions of the county, riding, division, city, town, or place; and all places of meeting which shall be so certified to the Quarter Sessions of the peace shall be also returned once in each year to the bishop or archdeacon; and all such places shall be registered in the said bishop or archdeacon's court respec-



tively, and recorded at the said General or Quarter Sessions; the registrar or clerk of the peace whereof respectively is hereby required to register and record the same; and the bishop or registrar or clerk of the peace to whom any such place of meeting shall be certified under this Act shall give a certificate thereof to such person or persons as shall request or demand the same, for which there shall be no greater fee nor reward taken than two shillings and six-pence; and every person who shall knowingly permit or suffer any such congregation or assembly as aforesaid to meet in any place occupied by him, until the same shall have been so certified as aforesaid, shall forfeit for every time any such congregation or assembly shall meet contrary to the provisions of this Act, a sum not exceeding twenty pounds, nor less than twenty shillings, at the discretion of the justices who shall convict for such offence.

III. Provided always, and be it farther enacted, that every person who shall teach or preach in any congregation or assembly as aforesaid, in any place, without the consent of the occupier thereof, shall forfeit for every such offence any sum not exceeding thirty pounds, nor less than forty shillings, at the discretion of the justices who shall convict for such offence.

IV. And be it farther enacted, that from and after the passing of this Act every person who shall teach or preach at, or officiate in, or shall resort to any congregation or congregations, assembly or assemblies, for religious worship of Protestants, whose place of meeting shall be duly certified according to the provision of this Act, or any other Act or Acts of Parliament relating to the certifying and registering of places of religious worship, shall be exempt from all such pains and penalties

under any Act or Acts of Parliament relating to religious worship, as any person who shall have taken the oaths, and made the declaration prescribed by or mentioned in an Act, made in the first year of the reign of King William and Queen Mary, intituled, *An Act for exempting their Majesties Protestant Subjects, dissenting from the Church of England, from the Penalties of certain Laws*, or any Act amending the said Act, is by law exempt, as fully and effectually as if all such pains and penalties, and the several Acts enforcing the same, were recited in this Act, and such exemptions as aforesaid were severally and separately enacted in relation thereto.

V. Provided always, and be it farther enacted, that every person not having taken the oaths, and subscribed the declaration herein-after specified, who shall preach or teach at any place of religious worship certified in pursuance of the directions of this Act, shall, when thereto required by any one justice of the peace, by any writing under his hand or signed by him, take and make and subscribe, in the presence of such justice of the peace, the oaths and declaration specified and contained in an Act, passed in the nineteenth year of the reign of his Majesty King George the Third, intituled, *An Act for the farther Relief of Protestant Dissenting Ministers and Schoolmasters*; and no such person who, upon being so required to take such oaths and make such declaration as aforesaid, shall refuse to attend the justice requiring the same, or to take and make and subscribe such oaths and declaration as aforesaid, shall be thereafter permitted or allowed to teach or preach in any such congregation or assembly for religious worship, until he shall have taken such oaths, and made such declaration as aforesaid, on pain of forfeiting, for every

time he shall so teach or preach, any sum not exceeding ten pounds nor less than ten shillings, at the discretion of the justice convicting for such offence.

VI. Provided always, and be it further enacted, that no person shall be required by any justice of the peace to go to any greater distance than five miles from his own home, or from the place where he shall be residing at the time of such requisition, for the purpose of taking such oaths as aforesaid.

VII. And be it farther enacted, that it shall be lawful for any of his Majesty's Protestant subjects to appear before any one justice of the peace, and to produce to such justice of the peace a printed or written copy of the said oaths and declaration, and to require such justice to administer such oaths and to tender such declaration to be made, taken, and subscribed by such persons; and thereupon it shall be lawful for such justice, and he is hereby authorised and required to administer such oaths and to tender such declaration to the person requiring to take and make and subscribe the same; and such persons shall take and make and subscribe such oaths and declaration in the presence of such justice accordingly; and such justice shall attest the same to be sworn before him, and shall transmit or deliver the same to the clerk of the peace for the county, riding, division, city, town, or place for which he shall act as such justice of the peace, before or at the next General or Quarter Sessions of the Peace for such county, riding, division, city, town, or place.

VIII. And be it farther enacted, that every justice of the peace before whom any person shall make and take and subscribe such oaths and declaration as aforesaid, shall forthwith give to the person having taken, made, and subscribed such oaths and declaration, a certificate



Mary, and from being ballotted to serve and from serving in the Militia or Local Militia of any county, town, parish, or place in any part of the united Kingdom.

X. And be it farther enacted, that every person who shall produce any false or untrue certificate or paper, as and for a true certificate of his having made and taken the oaths and subscribed the declarations, by this Act required for the purpose of claiming any exemption from civil or military duties as aforesaid, under the provisions of this or any other Act or Acts of Parliament, shall forfeit for every such offence the sum of fifty pounds; which penalty may be recovered by and to the use of any person who will sue for the same by any action of debt, bill, plaint, or information in any of his Majesty's Courts of Record at Westminster, or the Courts of Great Sessions in Wales, or the Courts of the Counties Palatine of Chester, Lancaster, and Durham (as the case shall require); wherein no essoin, privilege, protection, or wager of law, or more than one imparlance shall be allowed.

XI. And be it farther enacted, that no meeting, assembly or congregation of persons for religious worship, shall be had in any place with the door locked, bolted, or barred, or otherwise fastened, so as to prevent any persons entering therein, during the time of any such meeting, assembly, or congregation; and the person teaching or preaching at such meeting, assembly, or congregation, shall forfeit for every time any such meeting, assembly, or congregation, shall be held with the door locked, bolted, barred, or otherwise fastened as aforesaid, any sum not exceeding twenty pounds, nor less than forty shillings, at the discretion of the justices convicting for such offence.

XII. And be it farther enacted, that if any person or persons, at any time, after the passing of this Act, do and shall wilfully and maliciously or contemptuously disquiet or disturb any meeting, assembly, or congregation of persons assembled for religious worship, permitted or authorized by this Act, or any former Act or Acts of Parliament, or shall in any way disturb, molest, or misuse any preacher, teacher, or person officiating at such meeting, assembly, or congregation, or any person or persons there assembled, such person or persons so offending, upon proof thereof before any justice of the peace by two or more credible witnesses, shall find two sureties to be bound by recognizances in the penal sum of fifty pounds to answer for such offence, and in default of such sureties shall be committed to prison, there to remain till the next General or Quarter Sessions; and upon conviction of the said offence at the said General or Quarter Sessions, shall suffer the pain and penalty of forty pounds.

XIII. Provided always, and be it farther enacted, that nothing in this Act contained shall affect or be construed to affect the celebration of divine service according to the rites and ceremonies of the united church of England and Ireland, by ministers of the said church, in any place hitherto used for such purpose, or being now or hereafter duly consecrated or licensed by any archbishop or bishop or other person lawfully authorized to consecrate or licence the same, or to affect the jurisdiction of the archbishops or bishops or other persons exercising lawful authority in the church of the united Kingdom over the said church, according to the rules and discipline of the same, and to the Laws and Statutes of the Realm; but such jurisdiction shall remain and continue as if this Act had not passed.

XIV. Provided also, and be it farther enacted, that nothing in this Act contained shall extend or be construed to extend to the people usually called Quakers, nor to any meetings or assemblies for religious worship held or convened by such persons; or in any manner to alter or repeal or affect any Act, other than and except the Acts passed in the reign of King Charles the Second herein-before repealed, relating to the people called Quakers, or relating to any assemblies or meetings for religious worship held by them.

XV. And be it farther enacted, that every person guilty of any offence, for which any pecuniary penalty or forfeiture is imposed by this Act, in respect of which no special provision is made, shall and may be convicted thereof by information upon the oath of any one or more credible witness or witnesses before any two or more justices of the peace acting in and for the county, riding, city, or place wherein such offence shall be committed; and that all and every the pecuniary penalties or forfeitures which shall be incurred or become payable for any offence or offences against this Act, shall and may be levied by distress, under the hand and seal or hands and seals of two justices of the peace for the county, riding, city, or place, in which any such offence or offences was or were committed, or where the forfeiture or forfeitures was or were incurred, and shall when levied be paid one moiety to the informer, and the other moiety to the poor of the parish in which the offence was committed; and in case of no sufficient distress whereby to levy the penalties, or any or either of them imposed by this Act, it shall and may be lawful for any such justices respectively before whom the offender or offenders shall be convicted, to commit such offender to

prison for such time not exceeding three months, as the said justices in their discretion shall think fit.

XVI. And be it farther enacted, that in case any person or persons who shall hereafter be convicted of any of the offences punishable by this Act, shall conceive him, her or themselves to be aggrieved by such conviction, then and in every such case it shall and may be lawful for such person or persons respectively, and he, she, or they shall or may appeal to the General or Quarter Sessions of the Peace holden next after such conviction in and for the county, riding, city, or place, giving unto the justices before whom such conviction shall be made, notice in writing within eight days after any such conviction, of his, her, or their intention to prefer such appeal; and the said justices in their said General or Quarter Sessions shall and may, and they are hereby authorized and empowered to proceed to the hearing and determination of the matter of such appeal, and to make such order therein, and to award such costs to be paid by and to either party, not exceeding forty shillings, as they in their discretion shall think fit.

XVII. And be it farther enacted, that no penalty or forfeiture shall be recoverable under this Act, unless the same shall be sued for, or the offence in respect of which the same is imposed is prosecuted before the justices of the peace or Quarter Sessions, within six months after the offence shall have been committed; and no person who shall suffer any imprisonment for non-payment of any penalty shall thereafter be liable to the payment of such penalty or forfeiture.

XVIII. And be it farther enacted, that if any action or suit shall be brought or commenced against any person or persons for any thing done in pursuance of this Act,



that every such action or suit shall be commenced within three months next after the fact committed, and not afterwards, and shall be laid and brought in the county wherein the cause or alleged cause of action shall have accrued, and not elsewhere; and the defendant or defendants in such action or suit may plead the general issue, and give this Act and the special matter in evidence on any trial to be had thereupon, and that the same was done in pursuance and by authority of this Act; and if it shall appear so to be done, or if any such action or suit shall be brought after the time so limited for bringing the same, or shall be brought in any other county, city, or place, that then and in such case the jury shall find for such defendant or defendants; and upon such verdict, or if the plaintiff or plaintiffs shall become nonsuited, or discontinue his, her, or their action or actions, or if a verdict shall pass against the plaintiff or plaintiffs, or if upon demurrer judgement shall be given against the plaintiff or plaintiffs, the defendant or defendants shall have and may recover treble costs, and have the like remedy for the same, as any defendant or defendants hath or have for costs of suit in other cases by law.

XIX. And be it farther enacted, that this Act shall be deemed and taken to be a public Act, and shall be judicially taken notice of as such by all judges, justices, and others, without specially pleading the same.

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 The third is the fact that the...  
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 The nineteenth is the fact that the...  
 The twentieth is the fact that the...

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It is to be noted that the...  
 The following is a list of the...  
 The first of these is the fact that the...  
 The second is the fact that the...  
 The third is the fact that the...  
 The fourth is the fact that the...  
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 The twentieth is the fact that the...

## APPENDIX B.

### No. 1.

#### FORM OF A TRUST-DEED.

(Referred to p. 196, note.)

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**THIS INDENTURE,\*** made the \_\_\_\_\_ day of \_\_\_\_\_ and in the year of our Lord one thousand eight hundred \_\_\_\_\_ **BETWEEN** (*Donor*) of the one part, and (*Trustees*) of the other part, **WITNESSETH**, that, for promoting the Christian Religion, as professed by Protestant Dissenters of the denomination of \_\_\_\_\_ at \_\_\_\_\_ and for enabling the professors of the same religion, of the denomination aforesaid, more conveniently to exercise the forms of their religious worship, and other ordinances of their persuasion at \_\_\_\_\_ afore-

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\* An Indenture is essentially necessary; and this deed must be executed in the presence of two or more credible witnesses, and be enrolled within six calendar months at the latest, to comply with the Statute of 9th G. II. c. 36, and within six lunar months when lands of freehold tenure, and for a freehold estate are conveyed, and no lease for a year is used, thus complying with the Statute of enrollments of bargains and sales.

said: AND also, in consideration of five shillings,\* of lawful money current in Great Britain, to the said (*Donor*) now paid, the receipt whereof is hereby acknowledged, the said (*Donor*) HATH given, granted, bargained, and sold, and, by these presents, DOTH give, grant, bargain, and sell, unto the said (*Trustees*)† and all other persons, (if any) parties hereto of the second

part, their  $\left\{ \begin{array}{l} \text{Administrators} \\ \text{Heirs} \\ \text{Executors} \end{array} \right\}$  and Assigns, ALL [*here*

*describe the parcels, omitting the usual clauses of reversion, &c. for the sake of brevity*] TO HAVE and TO HOLD the said and hereditaments, hereby bargained and sold, with their appurtenances, unto and to the use of the said (*Trustees*) and all other persons (if any) parties hereto of the second part, their Heirs and Assigns for ever,‡ UPON THE TRUSTS, and for the

\* No other consideration must be introduced, except when there is a purchase of land, then the consideration should be expressed, and the purchasers should, in all cases be directing parties.

† These words are inserted to guard against the accidental omission of one of many names.

‡ Freehold and leaseholds may be comprised in the same deed, and even in the same clause of grant. But, there should be two clauses of Habendum, one for the freehold, the other for the leasehold, and all the estate of the Grantor must pass: no estate, rent, or benefit, by way of condition, or otherwise, may be reserved. See 9th G. II. c. 36.

When there are leaseholds, let the Habendum be to the Trustees, their executors, administrators, and assigns, henceforth, for and during the residue of a certain term of years, which the said (*Donor*) hath therein, being a term which was created by Indenture, bearing date on or about the day of one thousand eight hundred and and made between of the one part, and of the other part, at the yearly rent of and to be computed from the day of

When there are copyhold, add—AND THIS INDENTURE FURTHER WITNESSETH, that, for the considerations herein-before expressed, the

ends, intents, and purposes, herein-after expressed, declared, and contained, of and concerning the same. And it is hereby declared and agreed, that the said hereditaments so  $\left\{ \begin{array}{l} \text{bargained or sold} \\ \text{surrendered} \end{array} \right\}$  as aforesaid, are respectively  $\left\{ \begin{array}{l} \text{bargained or sold} \\ \text{surrendered} \end{array} \right\}$  UPON THE TRUSTS herein-after declared, that is to say, UPON TRUST, that the Trustee or Trustees, for the time being, shall, from time to time, and at all times hereafter,\* permit the said [*Meeting House*] and premises to be used, occupied, and enjoyed, as a place of public religious worship for the service of God, by the society of Protestant

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said        did, on the day of the date of these presents, being a Surrender in effect but an Indenture in form, prepared for complying with the provisions of the Act of Parliament, made in that behalf, personally go before        Steward of the Manor of        in the County of        and did, out of court, by the rod, surrender out of his hands, into the hands of the lord of the said Manor, by the hands and acceptance of the said Steward, according to the custom of the same Manor, ALL, &c. TO THE USE AND BEHOOF of the said, &c. and other persons, (if any) parties hereto, of the second part, their heirs and assigns for ever: NEVERTHELESS, to be held by them upon the trusts, and for the ends, intents, and purposes, herein-after expressed, declared, and contained, of and concerning the same.

\* Forms frequently required are the following :

Permit a meeting-house, vestry-room, or other offices, to be built on the said piece of ground, and to be used, occupied, and enjoyed, as and for a place of public religious worship, &c. such meeting-house, and other erections, to be built at the expence of such members of the said society of Protestant Dissenters, and such other persons as shall think fit to subscribe to the same, and according to such plan as the said society, or the trustees thereof, shall adopt for that purpose.

Permit and suffer the said piece of ground, to be from time to time, and at all times hereafter, used as a burial-place for the interment of deceased members of the said society of Protestant Dissenters and others, according to the regulations to be prescribed by the majority of the men-members for the time being of the society attending the said meeting-house being sub-

Dissenters, of the denomination called \_\_\_\_\_ and, also, by such other persons as shall hereafter be united to the said society, and attend the worship of God in the said meeting-house. AND, ALSO, at all times for ever hereafter, permit the said room, called the vestry-room, to be used with and be appendant to the said meeting-house, as a vestry-room; and the said piece of ground, called the burial-ground, to be used with and be appendant to the said meeting-house as a burial ground; and the said \_\_\_\_\_ to be used and inhabited by the officiating minister, for the time being, for his residence, or otherwise to be let, as the major part of the men-subscribers to the said meeting, being members thereof and communicants therein, shall, at a meeting, duly held for that purpose, declare: AND permit such person or persons as shall be nominated, by the men-subscribers for the time being to the said meeting-house, or the major part of them, being members of the said society and communicants therein, at any meeting for that purpose duly assembled, to receive and take all such voluntary subscriptions, and other sums of money, as shall;

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scribers thereto, and communicants therein, and being present at a church-meeting to be convened for that purpose.

If the premises are intended to be used as an academy, then, say,

Permit and suffer the said message or tenement, and hereditaments, hereby  $\left. \begin{array}{l} \textit{bargained and sold} \\ \textit{surrendered} \end{array} \right\}$  to be used, occupied, and enjoyed, as and

for an academy, or school, or place of classical and religious instruction for young men, devoted to the ministry among Protestant Dissenters; or otherwise, in such manner, and under such regulations, and with full power to alter and vary such regulations, as the major part of the Trustees for the time being, together with the major part of the men-subscribers for the time being to such academy, who shall have been subscribers thereto for twelve preceding calendar months, shall, at any public meeting to be convened for such purpose, and held after a week's previous notice thereof, from time to time, order and direct.

from time to time, be paid or subscribed by any person or persons whomsoever, towards the support of the public worship of God in the said { *chapel,*  
*meeting-house,* } and for defraying the expences and charges attending the same, or as shall be contributed for the benefit or support of the minister, for the time being, officiating therein; AND permit to officiate in the said { *chapel*  
*meeting-house* } such person or persons, of the denomination of Protestant Dissenters, called \_\_\_\_\_ as the said subscribers, or the major part of them, men or women, being members of the said society and communicants therein, at a meeting, duly assembled for that purpose, shall, from time to time, elect, to officiate, as their minister or pastor, in the said { *chapel,*  
*meeting-house,* } according to the usual order and customs of societies of Protestant Dissenters of the denomination aforesaid; AND UPON THIS FURTHER TRUST, that the said Trustee or Trustees for the time being, shall, at any time or times, when thereunto requested by the major part in number of the men-subscribers for the time being, members of the said society and communicants therein, and who shall be attending at a meeting duly assembled for that purpose, raise such sum or sums of money as shall be directed by the men-members present at such meeting, or the major part of them, by a mortgage of all or any part of the said Trust-Estate, and make any { *Conveyance*  
*Assignment* }\* for that purpose; AND, ALSO, when { *Surrender* }

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\* The words in a parenthesis are to be used thus: "Conveyance," if the premises are Freehold; "Assignment," if Leasehold; and "Surrender" if Copyhold.

thereunto requested by the major part in number of such men-subscribers, being members and communicants as aforesaid, attending at a meeting duly assembled for that purpose, absolutely make sale of the said Trust-Estates, or any part thereof, and the  $\left\{ \begin{array}{l} \text{Fee simple and Inheritance thereof;} \\ \text{Residue of the Term therein,} \end{array} \right\}$  either by public auction or by private contract, and in such manner as such men-subscribers, being members and communicants as aforesaid, or the major part of them, for the time being, attending such meeting, shall think fit, and  $\left\{ \begin{array}{l} \text{Convey} \\ \text{Assign} \\ \text{Surrender} \end{array} \right\}$  the same Trust-Estates, when sold, to the person or persons who shall agree to become the purchaser or purchasers thereof: AND, ALSO, at any time or times, at such request as aforesaid,  $\left\{ \begin{array}{l} \text{Convey} \\ \text{Assign} \\ \text{Surrender} \end{array} \right\}$  the said Trust-Estates, or any part thereof, to any person or persons in exchange for, or in lieu of, any other hereditaments, to be situate within  $\quad$  miles of (*the town*)  $\quad$  aforesaid, as to the said Trustee or Trustees, for the time being, with the consent of such men-subscribers, being members and communicants as aforesaid, or the major part of them, present at any meeting convened for that purpose, shall appear more convenient for the purposes aforesaid or any of them; AND UPON THIS FURTHER TRUST, that the said Trustee or Trustees, for the time being, shall stand and be  $\left\{ \begin{array}{l} \text{seized} \\ \text{possessed} \end{array} \right\}$  of the hereditaments, (if any) which shall be taken in exchange as aforesaid, upon the same or the like trusts, and to and



for the same or the like ends, intents, and purposes, as are herein-before expressed and declared concerning the

hereditaments hereby  $\left\{ \begin{array}{l} \textit{bargained or sold,} \\ \textit{surrendered,} \end{array} \right\}$  or as near

thereto as may be, and the nature of the hereditaments to be so taken in exchange, and the purposes of convenience for which they shall be taken in exchange, will admit; AND UPON THIS FURTHER TRUST, that the said Trustee or Trustees, for the time being, shall stand possessed of the money, which, from time to time, shall be received on any sale, or mortgage, or exchange, which shall be made under the Trusts herein-before declared, UPON TRUST, to invest, lay out, or dispose of the same, in such manner, and for such purposes, for the benefit of the said society of Protestant Dissenters, of the denomination aforesaid, or for the improvement of the Trust-Property, or the enlargement, repair, or rebuilding, of the Trust-Premises, or any of them, or otherwise, as the major part, in number, of the male subscribers, being members of the said society and communicants therein as aforesaid, and present at a meeting, to be called for that purpose, shall direct; AND UPON THIS FURTHER TRUST, that, in case the said society shall be totally dissolved or dispersed, and the public worship of God in the said meeting-house discontinued for the space of two year together, then the said Trustee or Trustees, for the

time being, shall  $\left\{ \begin{array}{l} \textit{Convey} \\ \textit{Assign} \\ \textit{Surrender} \end{array} \right\}$  and assure the said Trust-

Estates, hereby  $\left\{ \begin{array}{l} \textit{bargained or sold,} \\ \textit{surrendered} \end{array} \right\}$  and, also, the hereditaments, to be received in exchange as aforesaid, unto such person or persons in such manner and for such

purposes, either religious or civil, as two-thirds in number of those men-members of the said society of Protestant Dissenters, who, at the time of such dissolution or dispersion, shall be, and, for one year then next preceding, shall have been, subscribers to the support of the public worship of God in the said { *chapel,* } and { *meeting-house,* } and during the like period shall have been members of the said congregation and communicants therein, shall appoint by any writing under their hands; AND the said (*Donor*) doth direct, and the other parties do hereby agree, that the person or persons who shall become the purchaser or purchasers, or take a mortgage or mortgages of all or any part of the said Trust-Estates, his, her, or their, heirs, executors, or administrators, shall not be obliged to see to the application of the money to be advanced or paid by him, her or them, respectively, as the consideration of such purchase or purchases, mortgage or mortgages, nor be answerable or accountable for the misapplication or non-application of the same money, or any part thereof, after the same shall have been paid to, or to the order of, the said Trustee or Trustees for the time being, under these presents; AND that every receipt which shall be given by the said Trustee or Trustees, for the time being, for such purchase or mortgage money, or any part thereof, shall be a good, valid, and sufficient acquittance and discharge for the sum or sums of money which therein or thereby respectively shall be acknowledged or expressed to or to have been received; AND that every sale and mortgage which shall be made, and contract for sale which shall be entered into, and conveyance which shall be executed, by the said Trustee or Trustees for the time being, pursuant to the trusts herein-before declared,

shall be binding and conclusive on all persons claiming any benefit or interest under the trusts herein-before contained. PROVIDED FURTHER, and it is directed, that when and as often as, or at any time after, there shall be only five acting Trustees of the said Trust-Estate, the vacancy in the number of Trustees shall be supplied by the appointment of so many additional persons, being Protestant Dissenters by profession, as will make up the number of thirteen Trustees; such appointment to be made by the major part of the men-subscribers to the said { *chapel,*  
*meeting-house,* } being members and communicants as aforesaid, who shall be present at a meeting convened for that purpose, and with the consent and approbation of the surviving and continuing Trustees or Trustee; And that all such conveyances shall be made and executed, (at the expence of the Trust-Estate, or the funds of the congregation attending the said meeting-house,) as shall be necessary or deemed advisable for vesting the said Trust-Estates in the then acting Trustee or Trustees, jointly, with such additional Trustees; And that, of every meeting, for the purposes aforesaid, there shall be public notice given on the Sunday preceding, during the time of divine service; and that the meeting shall not be held earlier than the Wednesday succeeding such Sunday, and that no person shall be entitled to vote on any of the matters aforesaid unless such person shall have been a subscriber to, and a member of, the said society, and a communicant therein, twelve calendar months prior to such meeting; and that the Trustee or Trustees for the time being shall be entitled to deduct and retain all the costs, charges, and expenses, of and attending the execution of the trusts reposed, or to be reposed, in him or them, under or by virtue of these presents. IN WITNESS, &c.

This draft is drawn in the most concise form. It must be varied in the trusts as circumstances and the intention of the donor may require. The deed must be enrolled within the limited time, and all the circumstances required by the Statute of 9th G. II. c. 36, must be observed. Covenants (if any are deemed necessary) should be inserted in a separate instrument.

RICHARD PRESTON,  
*Inner Temple.*

(B.)

No. 2.

*Indictment for disturbing a Congregation of Protestant Dissenters.*

(Referred to p. 189.)



MIDDLESEX }  
 to wit. } THE Jurors for our Lord the King, upon  
 their oath present that C. B. late of the parish of  
 in the county of Middlesex,  
 labourer, on the            day of            in the  
 year of the reign of our Sovereign Lord George  
 the third, by the grace of God of the united  
 Kingdom of Great Britain and Ireland, King,  
 defender of the Faith, with force and arms, at  
 the parish aforesaid, in the county aforesaid, did,  
 during the time of divine worship, unlawfully,  
 wilfully, maliciously, and contemptuously disquiet  
 and disturb a certain congregation of Protestant  
 Dissenters from the church of England, being  
 then and there duly and lawfully assembled for  
 the purpose of religious worship, in a certain  
 chapel, situate, standing, and being in the parish  
 aforesaid, in the county aforesaid, the said chapel  
 being then and there duly certified and registered,

pursuant to the Statute in such case made and provided, in contempt of public worship to the evil example of all others in the like case offending against the form of the Statute in such case made, provided, and against the peace of our

2d Count. said Lord the King his crown and dignity. AND the Jurors aforesaid, upon their oath aforesaid, do further present that the said C. B. afterwards, (to wit) on the said        day of        in the        year of the reign aforesaid, with force and arms, at the parish aforesaid, in the county aforesaid, did during the time of divine worship, unlawfully, wilfully, maliciously, and contemptuously disquiet and disturb a certain other congregation of Protestant Dissenters from the church of England, being then and there duly and lawfully assembled for the purpose of religious worship, in a certain other chapel, situate, standing, and being in the parish aforesaid in the county aforesaid, the said last-mentioned chapel being then and there duly certified and registered pursuant to the Statutes in such case made and provided in contempt of public worship, to the evil example of all others in the like case offending against the form of the Statutes in such case made and provided, and against the peace of our

3d Count. said Lord the King his crown and dignity. AND the Jurors aforesaid, upon their oath aforesaid, do further present that the said C. B. afterwards, (to wit) on the said        day of        in the        year of the reign aforesaid, with force and arms, at the parish aforesaid, in the county aforesaid, did during the time of divine worship, unlawfully, wilfully, maliciously, and contemptuously

disquiet and disturb a certain other congregation of Protestant Dissenters from the church of England, being then and there duly and lawfully assembled for the purpose of religious worship, in a certain other chapel, situate, standing, and being in the parish aforesaid, in the county aforesaid, the said last-mentioned chapel being then and there duly certified and registered pursuant to the Statute in such case made and provided, in contempt of public worship, to the evil example of all others in the like case offending against the form of the Statutes in such case made and provided, and against the peace of our said Lord the King his crown and dignity.

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If the place of worship be certified and registered as a "MEETING-HOUSE," then that term should be used instead of "CHAPEL."

If the place of worship be certified and registered for the religious worship of "PROTESTANTS," (not describing them as "PROTESTANT DISSIDENTERS FROM THE CHURCH OF ENGLAND,"—which it may be under the 52 G. III.) then the Indictment should describe the congregation, as a "CONGREGATION OF PROTESTANTS *being then and there, &c.*"

(B.)

No. 3.

*Form of Certificate of a Chapel or Meeting House.**(Referred to p. 187.)*

—

*THE Certificate of a Building, to be used as a Chapel or Meeting-House, may be addressed either to the Justices of the General or Quarter Sessions of the Peace for the county, city, or place, in which it is situated, or to the Bishop of the diocese, or to the Archdeacon of the archdeaconry.—It should be signed by two or three of the congregation.*

## FORM OF CERTIFICATE TO THE QUARTER SESSIONS.

TO the Worshipful, His Majesty's justices of the peace, acting in and for the county of \_\_\_\_\_, in General Quarter Sessions of the Peace for the said county assembled, We, whose names are hereunder written, do hereby certify that a certain building situate in the parish of \_\_\_\_\_, in the county of \_\_\_\_\_, in the possession or occupation of \_\_\_\_\_, is intended to be used as a chapel for religious worship by Protestant



Dissenters from the church of England, and of the denomination of  $\left\{ \begin{array}{l} \text{Presbyterians;} \\ \text{Independents,} \\ \text{Baptists,} \end{array} \right\}$  under and by virtue of the Statute of the first year of King William and Queen Mary, intituled “*An Act for excepting their Majesties’ Protestant Subjects dissenting from the Church of England from the Penalty of certain Laws,*” and also by virtue of the Statute of the fifty-second year of King George the third, intituled “*An Act to repeal certain Acts, and amend other Acts relating to religious Worship and Assemblies and Persons teaching or preaching therein.*” And we request that this certificate may be registered and recorded by the clerk of the peace.

*Dated this      Day of                      18*

(Signed) A. B.

C. D.

E. F.

FORM OF CERTIFICATE TO THE BISHOP.

TO the Right Reverend Father in God  
by divine permission Lord Bishop of                      , We whose  
names are underwritten, do hereby certify that a certain  
building situate in the parish of                      , in the county of  
                    , in the diocese of                      , in the possession  
or occupation of                      , is intended to be used  
as a chapel for religious worship by Protestant Dissenters  
from the church of England, of the denomination of  
 $\left\{ \begin{array}{l} \text{Presbyterians,} \\ \text{Independents,} \\ \text{Baptists,} \end{array} \right\}$  under and by virtue of the Statute of  
the first year of King William and Queen Mary, intituled





(B.)

No. 4.

*Form of Certificate of Birth for Registration, with  
Observations.*

(Referred to p. 166.)

THE Deputies of the several congregations of Protestant Dissenters, in and near London, finding that a General Register of Births of Dissenters' Children was much wanted, and would be of great utility, established one, in the year 1742, with the consent of the Trustees, at Dr. WILLIAMS'S Library, in Red-cross Street, near Cripplegate, London. This Register has been continued from that time, and certificates may be had of the Librarian, who also keeps the Register, any Tuesday, Wednesday, Thursday, or Friday, between the hours of ten and three, except in the month of August, and the Whitsun and Christmas weeks, when the Library is shut up.

FORM OF THE CERTIFICATE.

*THESE are to certify, that A. B. Son (or Daughter)  
of C. D. and E. his Wife, who was the Daughter of F. G.  
was born at \_\_\_\_\_ in the Parish of \_\_\_\_\_  
in the City (or County) of \_\_\_\_\_ on the \_\_\_\_\_ Day of \_\_\_\_\_  
18 \_\_\_\_\_ at whose Birth we were present.*

I. K.

L. M.

*Registered at Dr. WILLIAMS'S Library, Red-cross Street, Cripplegate,  
London, the \_\_\_\_\_ Day of \_\_\_\_\_ N. O. Register.*

Two of these certificates must be carefully filled up; the *date* of the birth being in *words at length*, and not in figures; and they must be signed where the letters I.K. and L.M. are placed, by two or more persons, who were present at the birth; and, if such persons cannot write, but only make their marks, those marks should be attested by at least two credible persons, who shall add their places of abode to their names, in order to authenticate such certificates, (in case it should be necessary after the deaths of the persons present at the birth,) whose marks it might otherwise be impossible to prove to the satisfaction of a court of justice.

Great care should be taken to write the certificate accurately and plainly, in order to prevent mistakes in entering it in the Register Book, which might render the entry useless, at the time when it may be wanted, and when no other proof can be obtained.

Any person may have a child registered while the witnesses to the birth are living; but the sooner it is done after the birth the better.

The certificates being entered in the Register Book, and attested by the keeper of the Register, one of them is filed at the Library, and the other is returned to the parents or friends of the child. The expence is one shilling, which must be paid when the certificates are applied for.

And this Register being under the inspection of the Deputies, they are warranted in asserting it to be accurately kept.

The Deputies recommend the use of this Register to the Protestant Dissenters in general, who frequently suffer very great inconveniences and losses from the neglect of it, (though it is open to all others who may choose to use it,) as it not unfrequently happens, that

there is either no Register kept in the meeting-house to which they belong, or only an imperfect one, which often renders it impossible to prove the birth of their children, when necessary.

The use of this Register by no means precludes the use of others, where such are kept.

As a Register of *Births*, it will be peculiarly useful to Dissenters of the Baptist denomination; and to all others it will have this recommendation, that, the *birth* being registered instead of the *baptism*, the age of the child is ascertained with the utmost precision; which it cannot be where the time of *baptism* only is registered, which usually does not take place till some time after the birth.

The expence of searching the Register Book, to ascertain whether any individual has been entered therein, is one shilling; and that of a certificate of an entry in the same, is also one shilling.

(B.)

No. 5.

*Form of Legacy for Charitable Purposes, with  
Remarks.*

(Referred to p. 169.)

SEVERAL Instances having lately occurred wherein *Legacies, left to Dissenting Ministers, or to Dissenting churches or congregations, for the use of the ministers, or for the benefit of the poor, or for the general carrying on the public worship of God in such churches and congregations, have been LOST, by reason of the respective Testators having, unfortunately, made them payable out of real estates, or out of the rents of houses or lands, (either freehold or leasehold) instead of charging them wholly on their personal estate.*

*The Committee, think it their duty to apprize their Dissenting brethren, in general, and in the country in particular, of the necessity of attending to this distinction in framing their Wills, as otherwise, any Legacies they bequeath, payable out of real estates, or out of houses or lands, (whether freehold or leasehold) or the rents and profits thereof, for the benefit of any of their churches or congregations, will be void by the Statute of Mort-*

main, and, consequently, their intentions will be frustrated.

And, in order to assist (as far as possible) persons who may be desirous of leaving any part of their property to such purposes, the Committee have thought fit to subjoin the form of different clauses applicable thereto, which, if adopted, will be the means of securing such Legacies going according to the *intentions of the respective donors*.

Legacy for the use of the Minister.

I give and bequeath the sum of £                    to be raised by my executors out of my PERSONAL ESTATE, and to be paid to the *Deacons*, for the time being, of the church or congregation of Protestant Dissenters, under the pastoral care of Mr.                    in                    whose receipt shall be a sufficient discharge to my executors for the same, to be by the said *Deacons* laid out and invested, in their joint Names, in the public funds, UPON TRUST, to pay and apply the interest and dividends thereof as the same shall, from time to time, be received, to the minister, for the time being, of the said church or congregation, for his own use and benefit. Or,

(As above.) Then, say,

Legacy for the use of the Poor.

unto and amongst *such poor persons, members of the said church or congregation*, as the said *Deacons*, for the time being, shall, in their discretion, think fit. Or,

(As above.) Then, say,

Legacy for the use of the Place.

Towards the expences of carrying on the public worship of God in the said place, as the said *Deacons*, for the time being, shall, in their discretion, think fit.

\* \* In those congregations where *other officers* are appointed instead of *Deacons*, the word "*Deacons*" must be varied accordingly.



(B.)

No. 6.

Statute 53 Geo. III. cap. 160.

*An Act to relieve Persons who impugn the Doctrine of the Holy Trinity from certain Penalties.*

WHEREAS, in the nineteenth year of his present Majesty an Act was passed, intituled *An Act for the further Relief of Protestant Dissenting Ministers and School-masters*; and it is expedient to enact as herein-after provided: be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that so much of an Act passed in the first year of the reign of King William and Queen Mary, intituled *An Act for exempting his Majesty's Protestant Subjects dissenting from the Church of England, from the Penalties of certain Laws*, as provides that that Act, or any thing therein contained, should not extend or be construed to extend to give any ease, benefit, or advantage to persons denying the Trinity as therein mentioned, be and the same is hereby repealed.

II. And be it further enacted, that the provisions of another Act passed in the ninth and tenth years of the reign of King William, intituled *An Act for the more*

*effectual suppressing Blasphemy and Profaneness, so far as the same relate to persons denying as therein mentioned respecting the Holy Trinity, be and the same are hereby repealed.*

III. And whereas it is expedient to repeal an Act, passed in the Parliament of Scotland in the first Parliament of King Charles the Second, intituled *An Act against the Crime of Blasphemy*; and another Act, passed in the Parliament of Scotland in the first Parliament of King William, intituled *Act against Blasphemy*; which Acts respectively ordain the punishment of Death; be it therefore enacted, that the said Acts and each of them shall be, and the same are and is hereby repealed.

IV. And be it further enacted, that this Act shall be deemed and taken to be a public Act, and shall be judicially taken notice of as such by all judges, justices, and others, without being specially pleaded.

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