

## Erskine May, Chapter I, pp. 103-118

### The King and Lord Grenville: The Dissolution of 1807

#### Death of Pitt

[103] The death of Mr. Pitt, in the midst of defeats, and disasters to the European cause in which he was engaged, once more forced upon the king an administration, formed from a party in whom he had no confidence. It was necessary to accept the ministry of 'all the talents,' under Lord Grenville and Mr. Fox: and personal intercourse went far to overcome the king's antipathy to the latter.(1) Lord Sidmouth had a strong body of parliamentary friends, who,—to use the words of his biographer,—'constituted a species of armed neutrality, far too powerful to be safely overlooked;' and was 'understood to enjoy the favour and confidence of the king, and to be faithfully devoted to his Majesty's interests.' His alliance was necessary: and he was induced to join a party with whom he had neither connection, nor political sympathies. The king's friends were not to be neglected, and were amply provided for. Lord Sidmouth himself, 'not wishing to excite jealousy by very frequent intercourse with the king,' declined the presidency of the Council, and accepted the less prominent office of privy seal.(2)

As there was a difficulty in admitting Lord Sidmouth's political friends to the cabinet, Lord Ellenborough, the Lord Chief Justice of England, was associated with him, in [104] order to give weight to his councils.(3) It had been the policy of our laws to render the judges independent of the crown; and now the first criminal judge became one of its confidential advisers. Ministers were strong enough to defend this appointment in Parliament, where the precedent of Lord Mansfield was much relied on: but it was severely censured in debate, and condemned by public opinion.

#### Differences between the King and the Ministry

Before the new ministry was completed, the king was alarmed at a supposed invasion of his prerogative. On the 1st February, Lord Grenville proposed to his Majesty some changes in the administration of the army, by which the question was raised whether the army should be under the immediate control of the crown, through the commander-in-chief, or be subject to the supervision of ministers. The king at once said that the management of the army rested with the crown alone; and that he could not permit his ministers to interfere with it, beyond the levying of the troops, their pay and clothing. Lord Grenville was startled at such a doctrine, which he conceived to be entirely unconstitutional, and to which he would have refused to submit. For some time it was believed that the pending [105] ministerial arrangements would be broken off: but on the following day Lord Grenville presented a minute to his Majesty, stating that no changes in the management of the army should be effected without his Majesty's approbation. To the doctrine thus amended, there could be no reasonable objection, and the king assented to it.

The Grenville ministry maintained its ground, so long as it was tolerated at court: but when it ventured to offend the king's religious scruples, it fell suddenly, like that of Mr. Pitt in 1801. To conciliate the Catholics they proposed to remove some of the disqualifications of officers in the army and navy, being Roman Catholics and Dissenters: but in framing the measure, ministers either neglected to explain its provisions with sufficient distinctness to the king, or failed to make themselves understood. After the bill had been introduced, as they believed, with his 'reluctant assent,' his Majesty's distaste for it became inflamed into violent disapprobation. To propose such a measure, however just and politic, was a strange

indiscretion. Knowing the king's repugnance to every concession to the Catholics, they might have profited by the experience of Mr. Pitt. The chancellor foresaw the danger they were incurring; and with Lord Ellenborough and Lord Sidmouth, protested against the measure. The friends of the government called it an act of suicide.(4)

[106] The king's friends, and the opponents of the ministry, did not neglect this favourable opportunity of turning his Majesty's well-known religious scruples to account; but soon directed his personal influence against his ministers. On the 4th March, Lord Sidmouth 'apprised his Majesty of the nature and details of the measure;' said he should himself oppose it, and soon afterwards tendered his resignation to Lord Grenville. On the 12th, the Duke of Portland wrote to the king, expressing his belief that the measure had not received his Majesty's consent, and that it could be defeated in the House of Lords. 'But for this purpose,' said his grace, 'I must fairly state to your Majesty, that your wishes must be distinctly known, and that your present ministers should not have any pretext for equivocating upon the subject, or any ground whatever to pretend ignorance of your Majesty's sentiments and determination, not only to withhold your sanction from the present measure, but to use all your influence in resisting it.' Writing on the same day, his [107] grace said: 'His Majesty has signified his orders to my nephews, Lords George and James Thynne, to vote against it.' On the following day a person came to Lord Malmesbury from the Queen's house, authorised to say, 'that his Majesty's wishes, sentiments, and intentions, respecting every measure which may lead to alter the legal restrictions the Catholics are liable to, are invariably the same as they always have been, and always will be so.' The king himself also intimated to Lord Grenville, that 'he should certainly think it right to make it known that his sentiments were against the measure.'

### **Dismissal of the Ministry**

Hence it appears that courtiers and intriguing statesmen were still as ready as they had been twenty-five years before, to influence the king against his ministers, and to use his name for the purpose of defeating measures in Parliament; while the king himself was not more scrupulous in committing himself to irregular interference with the freedom of parliamentary deliberations. On this occasion, however, opposition to the ministry in Parliament by the king's friends, was averted by the withdrawal of the measure. On announcing its abandonment to the king, ministers committed a second indiscretion,—far greater than the first. They reserved to themselves, by a minute of the cabinet, 'the right of openly avowing their sentiments, should the Catholic petition be presented, and of [108] submitting to his Majesty, from time to time, such measures as they might deem it advisable to propose.'(5) The king not only desired them to withdraw this part of the minute, but demanded from them a written declaration that they would never, under any circumstances, propose to him further concessions to the Catholics, or even offer him advice upon the subject. To such a pledge it was impossible for constitutional ministers to submit. They were responsible for all public measures, and for the good government of the country; and yet, having abandoned a measure which they had already proposed, they were now called upon to fetter their future discretion, and to bind themselves irrevocably to a policy which they thought dangerous to the peace of Ireland. The king could scarcely have expected such submission. Ministers refused the pledge, in becoming terms; and the king proceeded to form a new administration under the Duke of Portland and Mr. Perceval. He had regarded this contest with his ministers as 'a struggle for his throne;' saying, 'he must be the Protestant king of a Protestant country, or no king.' Such fears, [109] however, were idle in a monarch who could cast down ministers and sway Parliaments, at his pleasure. He had overcome the giant power of Mr. Pitt, and Lord Grenville was now at his feet.

### **Debates on the Dismissal**

The dismissal of ministers, and the constitutional dangers involved in such an exercise of the

prerogative, did not pass without animadversion in Parliament. They were discussed in both houses on the 26th March; and on the 9th April, Mr. Brand moved a resolution in the Commons, 'that it is contrary to the first duties of the confidential servants of the crown to restrain themselves by any pledge, expressed or implied, from offering to the king any advice which the course of circumstances may render necessary for the welfare and security of the empire.' In support of this motion it was argued, that the king being irresponsible, if ministers should also claim to be absolved from responsibility, by reason of pledges exacted from them, there would be no security for the people against the evils of bad government. Had ministers agreed to such a pledge, they would have violated their oaths as privy-councillors, and the king would have become absolute. Nor did the conduct of secret advisers escape notice, who had counteracted the measures of the public and responsible advisers of the crown. On the other side it was contended that the stipulation proposed by ministers, of being at liberty to support in debate a measure which they had withdrawn,—[110] and of which the king disapproved,—was unconstitutional,—as tending to place the king in direct opposition to Parliament,—an evil which was ordinarily avoided by ministers refraining from supporting any measure to which the king might hereafter have to give his veto. The late ministers were even charged with not having, in the explanation of the causes of their retirement, arraigned their sovereign at the bar of Parliament. Mr. Perceval denied that the king had conferred with any secret advisers until after the ministers were dismissed; and said that, in requiring the pledge, he had acted without any advice whatever. Ministers, he declared, had brought the pledge upon themselves, which would never have been suggested, had they not desired to impose conditions upon his Majesty.

Sir Samuel Romilly went so far as to maintain that if ministers had subscribed such a pledge, they would have been guilty of a high crime and misdemeanour. With regard to Mr. Perceval's statement, that the king had acted without advice, Sir Samuel affirmed, that there could be no exercise of prerogative in which the king was without some adviser. He might seek the counsels of any man, however objectionable: but that man would be responsible for the advice given, and for the acts of the crown. There was no constitutional doctrine more important than this, for the protection of the crown. 'History had unfolded the evils of a contrary principle [111] having prevailed.' It was also well observed by Mr. Whitbread, that the avowal of ministers that the king had acted without advice, amounted to a declaration on their part, that they disowned the responsibility of the act complained of, and left his Majesty to bear the blame of it himself, without that protection which the constitution had provided: but that from this responsibility they could not escape; for by accepting office, they had assumed the responsibility which they had shown so much anxiety to avoid.

But Lord Howick denied that the king had acted without advice, and asserted that there had been secret advisers, who had taken pains to poison the royal mind. On the Saturday before the pledge had been required, Lord Eldon had an audience; and both Lord Eldon and Lord Hawkesbury were consulted by the king, before measures were taken for forming a new administration. They were, therefore, the king's responsible advisers. In answer to these allegations, Mr. Canning stated that Lord Eldon's visit to Windsor had taken place on Saturday se'nnight, preceding the change of ministry; that it had reference to a matter of extreme delicacy, unconnected with these events, and that before he went, Lord Eldon had explained to Lord Grenville the object of his visit, and promised to mention no other subject to his Majesty.(6) He added, that the Duke of Portland, Mr. Perceval, [112] and himself, had endeavoured to prevent the separation between the late ministers and the king, by amicable explanations. Mr. Canning concluded by saying, that the ministers were 'determined to stand by their sovereign, even though circumstances should occur in which they may find it their duty to appeal to the country.'(7) In answer to this threat, Lord Henry Petty said that a great constitutional wrong had been done, and that no such intimidation would induce the House to refrain from expressing their sense of it. During the division. Lord Howick addressed the members in the lobby, and said that, being nearly certain of a majority,(8) they must follow up

their success with 'an address to the throne, to meet the threat which had been thrown out that evening,—a threat unexampled in the annals of Parliament.'(9) But the king and his adherents were too strong for the opposition, whose friends, already looking to the court, left them in a minority of thirty-two.(10)

On the 13th April, a discussion was raised in the House of Lords upon a motion to the same effect, proposed by the Marquess [113] of Stafford. The most remarkable speech was that of Lord Erskine, who had already expressed his opinions on the subject, to the king himself. Not being himself, on account of religious scruples, favourable to the Catholic claims, he yet ridiculed the argument that the king had been restrained by his coronation oath, from assenting to the late measure. He had assented to the Act of 1793, which admitted Catholic majors and colonels to the army, without perjury:—how then could his oath be violated by the admission of staff-officers? On the question of the pledge he asked, 'Is it consistent with the laws and customs of the realm that the king shall make a rule for his own conduct, which his councillors shall not break in upon, to disturb with their advice?' If it were, 'the king, instead of submitting to be advised by his councillors, might give the rule himself as to what he will be advised in, until those who are solemnly sworn to give full and impartial counsel, and who are responsible to the public for their conduct as his advisers, might be penned up in a corner of their duties and jurisdiction, and the state might go to ruin.' Again, as to the personal responsibility of the king, he laid it down that 'the king can perform no act of government himself, and no man ought to be received within the walls of this House, to declare that any act of government has proceeded from the private will and determination, or conscience of the king. The king, as chief magistrate, [114] can have no conscience which is not in the trust of responsible subjects. When he delivers the seals of office to his officers of state, his conscience, as it regards the state, accompanies them.' 'No act of state or government can, therefore, be the king's: he cannot act but by advice; and he who holds office sanctions what is done, from whatever source it may proceed.'

By Lord Harrowby the motion was represented as placing the House in the situation 'of sitting in judgment upon the personal conduct of their sovereign.' But perhaps the best position for the crown was that assumed by Lord Selkirk. The king, he said, could not be accountable to Parliament for his conduct in changing his advisers; and the proposed pledge was merely a motive for such a change, beyond the reach of parliamentary investigation. Another view was that of Lord Sidmouth. Admitting that for every act of the executive government there must be a responsible adviser, he 'contended that there were many functions of the sovereign which, though strictly legitimate, not only might, but must be performed without any such responsibility being attached to them, and which must, therefore, be considered as the personal acts of the king. Of these the constitution does not take cognisance.' It was the object of this ingenious argument to absolve from responsibility both the king, who could do no wrong, and his present advisers, who, by accepting office, had become responsible for [115] the measures by which their predecessors had been removed. This unconstitutional position was well exposed by the Earl of Lauderdale, who felicitously cited the example of Lord Danby, in support of the principle that the king can have no separate responsibility. Lord Danby, having been impeached for offences committed as a minister, had produced in his defence, a written authority from the king himself, but was yet held responsible for the execution of the king's commands: nay, the House of Commons voted his plea an aggravation of his offences, as exposing the king to public odium. The same argument was ably enforced by Lord Holland. That for every act of the crown some adviser must be responsible,—could not, indeed, be denied: but the artifice of putting forth the king personally, and representing him as on his trial at the bar,—this repeated use of the king's name, was a tower of strength to the ministerial party. Lord Stafford's motion was superseded by the adjournment of the House, which was carried by a majority of eighty-one.(11)

The question, however, was not yet suffered to rest. On the 15th April, Mr. W. H. Lyttleton

renewed the discussion, in proposing a resolution expressing regret at the late changes in his Majesty's councils. The debate added little to the arguments on either side, and was [116] brought to a close by the House resolving to pass to the orders of the day.(12)

As a question of policy, it had obviously been a false step, on the part of the ministers, to give expression to their reservations, in the minute of the cabinet. They had agreed to abandon the bill which had caused the difference between themselves and his Majesty; and, by virtue of their office, as the king's ministers, were free, on any future occasion, to offer such advice as they might think proper. By their ill-advised minute, they invited the retaliation of this obnoxious pledge. But no constitutional writer would now be found to defend the pledge itself, or to maintain that the ministers who accepted office in consequence of the refusal of that pledge, had not taken upon themselves the same responsibility as if they had advised it.

## **Parliament Dissolved**

Meanwhile, though this was the first session of a new Parliament, a speedy dissolution was determined upon. Advantage was taken of the prevalent anti-Catholic feeling which it was feared might subside: but the main issue raised by this appeal to the country was the propriety of the recent exercise of prerogative. In the Lords Commissioners' speech, on the 27th April, the king said he was 'anxious to recur to the sense of his people, while the events which have recently taken place are yet fresh in their recollection.' And he distinctly invited their opinion upon them, by declaring that 'he at once demonstrates, in the most unequivocal [117] manner, his own conscientious persuasion of the rectitude of those motives upon which he has acted, and affords to his people the best opportunity of testifying their determination to support him in every exercise of the prerogatives of his crown, which is conformable to the sacred obligations under which they are held, and conducive to the welfare of his kingdom, and to the security of the constitution.' The recent exercise of prerogative was thus associated with the obligations of his coronation oath, so as to unite, in favour of the new ministers, the loyalty of the people, their personal attachment to the sovereign, and their zeal for the Protestant establishment. Without such appeals to the loyalty and religious feelings of the people, the influence of the crown was alone sufficient to command a majority for ministers; and their success was complete.

## **The King's Will Prevails**

On the meeting of the new Parliament, amendments to the address were proposed in both Houses, condemning the dissolution, as founded upon 'groundless and injurious pretences;' but were rejected by large majorities.(13)

The king's will had prevailed, and was not again to be called in question. His own power, confided to the Tory ministers henceforth admitted to his councils, was supreme. Though there was still a party of the king's friends, his Majesty agreed too well with his ministers, in [118] principles and policy, to require the aid of irresponsible advisers. But this rule, once more absolute,—after the struggles of fifty years,—was drawing to a close. The will, that had been so strong and unbending, succumbed to disease; and a reign in which the king had been so resolute to govern, ended in a royal 'phantom,' and a regency.(14)

### **Footnotes.**

1. Twiss's Life of Eldon, i. 510; Lord Holland, however, states 'The king watched the progress of Mr. Fox's disorder. He could hardly suppress his indecent exultation at his death.'—Mem. of Whig Party, ii, 49.
2. On the death of Mr. Fox, he became President of the Council.
3. Wilberforce's Life, iii. 256. Lord Rous said: ' Lord Sidmouth, with Lord Ellenborough by his side, put him in mind of a faithful old steward with his mastiff, watching new servants, lest they should have some evil designs against the old family mansion.'—

Pellew's Life of Lord Sidmouth, ii. 417

4. 'It seems to me as if there was some fatality or judicial blindness affecting all we do.' Mr. C. Yorke to the Speaker.—Lord Colchester's Diary, ii. 101. Wilberforce said they had no excuse, for they had run upon a rock which was above water.—Ibid., 109. Sheridan said 'he had often heard of people knocking out their brains against a wall, but never knew of anyone building a wall expressly for the purpose.'—Moore's Life, ii. 349. Lord Holland explains fully the difficulties of ministers in relation to the Catholics, and elaborately vindicates their conduct; but fails, I think, to show its prudence.—Mem. of Whig Party, ii, 160-215.
5. In reference to this minute Lord Palmerston wrote in his Journal, 'ministers insisted upon retaining both their places and their opinions.'—Bulwer's Life, i. 75.
6. Lord Eldon himself expressly denied having had any communication with the king on the Catholic Question or the Ministers.—Twiss's Life, ii. 36-38.
7. Hans. Deb., 1st Ser., ix. 346. According to Sir S. Romilly, Mr. Canning said 'he had made up his mind, when the Catholic Bill was first mentioned, to vote for it if the king was far it, and against it if the king was against it. Every art was used to interest persons for the king; his age was repeatedly mentioned, his pious scruples, his regard for his coronation oath, which some members did not scruple to say would have been violated if the bill had passed.'—Romilly's Life, ii. 194.
8. A majority of twenty was expected.—Romilly's Life, ii. 195.
9. Han. Deb., 1st Ser., ix. 348. It was intended to follow up this motion, if carried, by resolutions expressing want of confidence in the ministers.—Romilly's Life, ii.194; Lord Colchester's Diary, ii. 119.
10. Ayes, 258; Noes, 226.
11. Contents, 171; Non-contents, 90. Hans. Deb. 1st Ser., ix. 422.
12. Ayes, 244; Noes. 198. Hans. Deb., 1st Ser., ix. 432-475.
13. In the Lords by a majority of 93, and in the Commons by a majority of 195,—Hans. Deb., 1st Ser., ix. 557-658.
14. See [infra, p. 207](#).

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