

## Erskine May, Vol. II, Chapter X, pp. 368-383

### The Catholic Association: The Press under George IV

#### The Catholic Association

The government had soon to deal with a political organisation more formidable than any which had hitherto needed its vigilance, the Catholic Association in Ireland. The objects, constitution, and proceedings of this body demand especial notice, as exemplifying the bounds within which political agitation may be lawfully practised. To obtain the repeal of statutes imposing civil disabilities upon five-sixths of the population of Ireland, was a legitimate object of association. It was no visionary scheme, tending to the subversion of the state: but a practical measure of relief, which had been urged upon the legislature by the first statesmen of the time. To attain this end, it was lawful to instruct and arouse the people, by speeches and tracts, and by appeals to their reason and feelings. It was also lawful to demonstrate to Parliament the unanimity and earnestness of the people, in demanding a redress of grievances; and to influence its deliberations by the moral force of a [369] great popular movement. With these objects, organisation, in various forms, had been at work for many years.(1) In 1809, a Catholic Committee had been formed in Dublin, of which Mr. O'Connell,—destined to become a prominent figure in the history of his country,—was a leading member. Active in the preparation of petitions, and holding weekly meetings, it endeavoured, by discussion and association, to arouse the Catholics to a sense of their wrongs. In 1811, it proposed to enlarge its constitution by assembling managers of petitions, from all parts of Ireland: but this project was arrested by the government, as a contravention of the Irish Convention Act, which prohibited the appointment of delegates or representatives. The movement now languished for several years; and it was not until 1823 that the Catholic Association was formed on a wider basis. It embraced Catholic nobles, gentry, priesthood, peasantry; and though disclaiming a delegated authority, its constitution and objects made it, in effect, the representative of the Catholic body. Exclusively Catholic, its organisation embraced the whole of Ireland. Constantly increasing in numbers and influence, it at length assumed all [370] the attributes of a national parliament. It held its 'sessions' in Dublin, appointed committees, received petitions, directed a census of the population of Ireland to be taken; and, above all, levied contributions, in the form of a Catholic rent, upon every parish in Ireland. Its stirring addresses were read from the altars of all Catholic chapels. Its debates,—abounding in appeals to the passions of the people,—were published in every newspaper. The speeches of such orators as O'Connell and Sheil could not fail to command attention: but additional publicity was secured to all the proceedings of the Association, by contributions from the Catholic rent.

In 1825, its power had become too great to be borne, if the authority of the state was to be upheld. Either the Parliament at Westminster, or its rival in Dublin, must give way. The one must grant the demands of the Catholics, or the other must be silenced. Ministers were not yet prepared for the former alternative; and determined to suppress the Catholic Association. This, however, was a measure of no ordinary difficulty. The association was not unlawful; and was engaged in forwarding a legitimate cause. It could not be directly put down, without a glaring violation of the right of discussion and association. Agitation was not to be treated as lawful, so long as it was impotent; and condemned when it was beginning to be assured of success. [371] This embarrassment was avoided by embracing in the same measure, Orange Societies and other similar bodies, by which political and religious animosities were

fomented.

## **Its Suppression Unsuccessful**

The king, on opening Parliament, adverted to 'associations which have adopted proceedings irreconcilable with the spirit of the constitution;' and a bill was immediately brought in to amend the laws relating to unlawful societies in Ireland. This bill prohibited the permanent sittings of political societies,—the appointment of committees to continue more than fourteen days,—the levying of money for the redress of grievances,—the affiliation and correspondence of societies,—the exclusion of persons on the ground of religion,—and the administration of oaths. It was strenuously resisted. Ministers were counselled to stay agitation by redressing grievances, rather than by vain attempts to prevent their free discussion. But so perilous was the state of Ireland,—so fierce the hatred of her parties, and so full of warning her history,—that a measure, otherwise open to grave constitutional objections, found justification in the declared necessity of ensuring the public peace. Its operation, however, was limited to three years.

The Catholic Association was dissolved in obedience to this act: but was immediately replaced by a new association, constituted so as to evade the provisions of the recent law. This society professed to be established for [372] promoting education, and other charitable objects; and every week, a separate meeting was convened, purporting to be unconnected with the association. 'Fourteen days' meetings,' and aggregate meetings were also held; and at all these assemblies the same violent language was used, and the same measures adopted, as in the time of the original society. While thus eluding the recent statute, this astute body was beyond the reach of the common law, being associated neither for the purpose of doing any unlawful act, nor of doing any lawful act in an unlawful manner. It was equally unscathed by the Convention Act of 1793, as not professing a representative character. In other respects the new association openly defied the law. Permanent committees were appointed, and the Catholic rent was collected by their own 'churchwardens' in every parish. The government watched these proceedings with jealousy and alarm: but perceived no means of restraining them. The act was about to expire at the end of the session of 1828; and, after very anxious consideration, ministers determined not to propose its renewal. It could not have been made effectual without such restraints upon the liberty of speech, and public meetings, as they could not venture to recommend, and which Parliament would, perhaps, have declined to sanction.

## **Victory of the Catholics**

No sooner had the act expired, than the old Catholic Association, with all its organisation and [373] offensive tactics, was revived. At the same time, the Orange Societies were resuscitated; and other Protestant associations, called Brunswick Clubs, were established on the model of the Catholic Association, and collected a Protestant rent.

Meanwhile, the agitation fomented by the Catholic Association was most threatening. Meetings were assembled to which large bodies of Catholics marched in military array, bearing flags and music, dressed in uniforms, and disciplined to word of command. Such assemblages were obviously dangerous to the public peace. Ministers and the Irish executive watched them with solicitude: and long balanced between the evils of permitting such demonstrations, on the one side, and precipitating a bloody collision with excited masses of the people, on the other. They were further embarrassed by counter demonstrations of the Protestants, and by the hot zeal of the Orange Societies, which represented their cautious vigilance as timidity, and their inaction as an abandonment of the functions of government. They were advised that such meetings, having no definite object sanctioned by law, and being assembled in such numbers and with such organisation as to strike a well-grounded fear into peaceable inhabitants, were illegal by the common law, even when accompanied by no act of

violence.(2) And at [374] length they determined to prevent such meetings, and to concert measures for their dispersion by force.(3) A proclamation being issued for that purpose, met with a ready obedience. It formed no part of the scheme of the Catholic leaders to risk a collision with military force, or with their Protestant rivals; and the association had already begun to discourage these dangerous assemblages, in anticipation of disorders injurious to their cause. The immediate object of the government was secured: but the association,—while it avoided a contest with authority,—adroitly assumed all the credit of restoring tranquillity to the country.

But the proceedings of the association itself became more violent and offensive than ever. Its leaders were insolent and defiant to the government, and exercised an absolute sway over the Catholic population. In vain the government took counsel with its law officers. Neither the Convention Act of 1793, nor the common law could be relied on, for restraining the proceedings of an association which the legislature itself had interposed, three years before, to condemn. Peace was maintained, as the Catholics were unwilling to disturb it: but the country was virtually under the dominion of the association.

In the following year, however, the suppression of [375] this and other societies in Ireland formed part of the general scheme of Catholic Emancipation.(4) The Catholic Association was, at length, extinguished: but not until its objects had been fully accomplished. It was the first time a measure had been forced upon a hostile court and reluctant Parliament, a dominant party and an unwilling people, by the pressure of a political organisation. The abolition of the slave trade was due to the conviction which had been wrought by facts, arguments, and appeals to the moral and religious feelings of the people. But the Catholic cause owed its triumph to no such moral conversion. The government was overawed by the hostile demonstrations of a formidable confederacy, supported by the Irish people and priesthood, and menacing authority with their physical force. It was, in truth, a dangerous example; and threatened the future independence of Parliament. But how ever powerful this association, its efforts would have been paralysed without a good cause, espoused by eminent statesmen, and an influential party in Parliament. The state would have known how to repel irrational demands, however urged: but was unable to resist the combined pressure of parliamentary and popular force, the sympathies of many liberal Protestants in Ireland, and the steady convictions of an enlightened minority in England. In our balanced constitution, political agitation, to be successful, must be based [376] on a real grievance, adequately represented in Parliament, and in the press,—and supported by the rational approval of enlightened men. But though the independence of Parliament remained intact, the triumph of the Catholic Association marked the increased force of political agitation, as an element in our constitution. It was becoming superior to authorities and party combinations, by which the state had hitherto been governed.

## **Improvement of the Press**

During the short reign of George IV., the influence of public opinion made steady advances. The press obtained a wider extension; and the people advanced in education, intelligence, and self-reliance. There was also a marked improvement in political literature, corresponding with the national progress. And thus the very causes which were increasing the power of the people, were qualifying them to use it wisely.

It was not by the severities of the law that the inferior press was destined to be improved, and its mischievous tendencies corrected. These expedients,—after a trial of two centuries,—had failed. But moral causes were in operation by which the general standard of society was elevated. The church and other religious bodies had become more zealous in their sacred mission:(5) society was awakening to the duty of educating the people; and the material progress of the country was developing a more general and active intelligence. The classes

most needing elevation had begun to desire sound and [377] wholesome instruction; and this inestimable benefit was gradually extended to them. Improved publications successfully competed for popular favour with writings of a lower character. and, in cultivating the public taste, at the same time raised the general standard of periodical literature. A large share of the credit of this important work is due to the Society for the Diffusion of Useful Knowledge, established in 1826, and to the exertions of its chief promoters, Lord Brougham, Mr. Matthew Davenport Hill, and Mr. Charles Knight. The publications of this society were followed by those of the Society for promoting Christian Knowledge, and by the admirable serials of Messrs. Chambers. By these and other periodical papers,—as well political as literary—an extraordinary impulse was given to general education. Public writers promptly responded to the general spirit of the time; and the aberrations of the press were, in great measure, corrected.

The government, however,—while it viewed with alarm the growing force of public opinion, which controlled its own authority,—failed to observe its true spirit and tendency. Still holding to the traditions of a polity, then on the very point of exhaustion, it was unable to reconcile the rough energies of popular discussion with respect for the law, and obedience to constituted authority. It regarded the press as an obstacle to good government, instead of conciliating its support by a bold confidence in public approbation.

## Prosecutions

[378] This spirit dictated to the Duke of Wellington's administration, its ill-advised prosecutions of the press, in 1830. By passing the Roman Catholic Relief Act, ministers had provoked the resentment of the Tory press; and foremost among their assailants was the 'Morning Journal.' One article, appearing to impute personal corruption to Lord Chancellor Lyndhurst, could not be overlooked; but the editor having sworn that his lordship was not the person alluded to, an information against him was abandoned. The attorney-general, however, now filed no less than three *ex-officio* informations against the editor and proprietors, for this and two other articles, as libels upon the king, the ministers, and Parliament. A fourth prosecution was also instituted, for a separate libel upon the Duke of Wellington. So soon as the personal character of a member of the administration had been cleared, ministers might have allowed animadversions upon their public conduct to pass with impunity. If the right of free discussion was not respected, the excitement of the times might have claimed indulgence. Again, the accumulation of charges against the same persons, betrayed a spirit of persecution. It was not justice that was sought, but vengeance, and the ruin of an obnoxious journal. So far as the punishment of their political foes was concerned, ministers prevailed.(6) But their success [379] was gained at the expense of much unpopularity. Tories, sympathising with writers of their own party, united with the opposition in condemning this assault upon the liberty of the press. Nor was the temper of the people such as to bear, any longer, with complacency, a harsh execution of the libel laws. The unsuccessful prosecution of Cobbett, in the following year, by a Whig attorney-general, nearly brought to a close the long series of contests between the government and the press.(7)

## The End of Prosecutions for Libel

Since that time, the utmost latitude of criticism and invective has been permitted to the press, in discussing public men and measures. The law has rarely been appealed to, even for the exposure of malignity and falsehood.(8) Prosecutions for libel, like the censorship, have fallen out of our constitutional system. When the press errs, it is by the press itself that its errors are left to be corrected. Repression has ceased to be the policy of rulers; and statesmen have at length fully realised the wise maxim of Lord Bacon, that 'the punishing of wits enhances their authority; and a forbidden writing is thought to be a certain spark of truth, that flies up in the

faces of them that seek to tread it out.'

### 'Taxes on Knowledge'

[380] Henceforth the freedom of the press was assured; and nothing was now wanting to its full expansion, but a revision of the fiscal laws, by which its utmost development was restrained. These were the stamp, advertisement, and paper duties. It was not until after a struggle of thirty years, that all these duties were repealed: but in order to complete our survey of the press, their history may, at once, be briefly told.

The newspaper stamp of Queen Anne had risen, by successive additions, to fourpence. Originating in jealousy of the press, its extension was due, partly to the same policy, and partly to the exigencies of finance. So high a tax, while it discouraged cheap newspapers, was naturally liable to evasion. Tracts, and other unstamped papers, containing news and comments upon public affairs, were widely circulated among the poor; and it was to restrain this practice, that the stamp laws had been extended to that class of papers by one of the Six Acts.(9) They were denounced as seditious and blasphemous, and were to be extinguished. But the passion for news and political discussion was not to be repressed; and unstamped publications were more rife than ever. Such papers occupied the same place in the periodical press, as tracts printed, at a former period, in evasion of the licenser. All concerned in such papers were violating the law, and braving its terrors: the gaol was ever before their eyes. This was no honourable calling; and none but the meanest would engage in it. Hence [381] the poor, who most needed wholesome instruction, received the very worst, from a contraband press. During the Reform agitation, a new class of publishers, of higher character and purpose, set up unstamped newspapers for the working classes, and defied the government in the spirit of Prynne and Lilburne. Their sentiments, already democratic, were further embittered by their hard wrestling with the law. They suffered imprisonment, but their papers continued in large circulation; they were fined, but their fines were paid by subscription. Prosecutions against publishers and vendors of such papers were becoming a serious aggravation of the criminal law. Prisons were filled with offenders;(10) and the state was again at war with the press, in a new form.

If the law could not overcome the unstamped press, it was clear that the law itself must give way. Mr. Lytton Bulwer and Mr. Hume exposed the growing evils of the newspaper stamp; ministers were too painfully sensible of its embarrassments; and in 1836, it was reduced to one penny, and the unstamped press was put down. At the same time, a portion of the paper duty was remitted. Already, in 1833, the advertisement duty had been reduced; and newspapers now laboured under a lighter weight.

Meanwhile, efforts had been made to provide an antidote for the poison circulated in the lowest of the unstamped papers, by a cheap [382] and popular literature without news:(11) but the progress of this beneficent work disclosed the pressure of the paper duty upon all cheap publications, the cost of which was to be repaid by extensive circulation. Cheapness and expansion were evidently becoming the characteristics of the periodical press; to which every tax, however light, was an impediment. Hence a new movement for the repeal of all 'taxes on knowledge,' led by Mr. Milner Gibson, with admirable ability, address, and persistence. In 1853, the advertisement duty was swept away; and in 1855, the last penny of the newspaper stamp was relinquished. Nothing was now left but the duty on paper; and this was assailed with no less vigour. Denounced by penny newspapers, which the repeal of the stamp duty had called into existence: complained of by publishers of cheap books; and deplored by the friends of popular education, it fell, six years later, after a parliamentary contest, memorable in history.(12) And now the press was free alike from legal oppression, and fiscal impediments. It stands responsible to society for the wise use of its unlimited franchises; and learning from the history of our liberties, that public virtue owes more to freedom, than to

jealousy and restraint,—may we not have faith in the moderation of the press, and the temperate judgment of the people?

### Limits on the Influence of the Press

The influence of the press has extended with its liberty, but it has not been suffered to dominate over the independent opinion of [383] the country. The people love freedom too well to bow the knee to any dictator, whether in the council, the senate, or the press. And no sooner has the dictation of any journal, conscious of its power, become too pronounced, than its influence has sensibly declined. Free itself, the press has been taught to respect, with decency and moderation, the freedom of others.

Opinion,—free in the press,—free in every form of public discussion,—has become not less free in society. It is never coerced into silence or conformity, as in America, by the tyrannous force of a majority.(13) However small a minority: however unpopular, irrational, eccentric, perverse, or unpatriotic its sentiments: however despised or pitied; it may speak out fearlessly, in full confidence of toleration. The majority, conscious of right, and assured of its proper influence in the state, neither fears nor resents opposition.(14)

### Footnotes.

1. The first association or committee was formed so far back as 1760.—Wyse's Cath. Asso., i. 69; O'Connor's Hist. of the Irish Catholics, i. 262. Another committee was arranged in 1773.—Wyse, i, 91; and a more general committee or association in 1790.—Ibid., 104.
2. Opinion of attorney and solicitor-general of England.—Sir R. Peel's Mem., i. 225; Queen v. Soley, 11 Modern Reports, and King v. Hunt and others.
3. The correspondence of Mr. Peel with Lord Anglesey and the Irish executive, discloses all the considerations by which the government was influenced, under circumstances of great embarrassment.—Sir R. Peel's Mem., i. 207-232.
4. See Chap. XIII.; 10 Geo. IV. c. 1.
5. See Chap. XIV.
6. Verdicts were obtained in three out of the four prosecutions. In the second a partial verdict only was given (guilty of libel on the king, but not on his ministers), with a recommendation to mercy,—Mr. Alexander, the editor, being sentenced to a year's imprisonment, a fine of £300, and to give security for good behaviour during three years; and the proprietors to lesser punishments.—Ann. Reg., 1830, p. 3, 119; Hans. Deb., 2nd Ser., xxii. 1167.
7. He was charged with no libel on ministers, but with inciting labourers to burn ricks; Ann. Reg. 1831, Chron, p. 95. In the same year Carlile and Haley were indicted; and in 1833, Reeve, Ager, Grant, Bell, Hetherington, Russell, and Stevens. Hunt's Fourth Est., ii. 67; Roebuck's Hist. of the Whig Ministry, ii. 219, n.
8. The law was also greatly improved by Lord Campbell's Libel Act, 6 and 7 Vict. c. 96.
9. 60 Geo, III. c. 9; supra, p. 358.
10. From 1831 to 1835 there were no less than 728 prosecutions and about 500 cases of imprisonment.—Mr. Hume's Return Sept., 1836, No. 21: Hunt's Fourth Estate, 69-87.
11. Supra, p. 376.
12. Hans Deb. 3rd Series, cxxv. 118; cxxviii. 1128; cxxxvii. 1110, etc. Supra. p. 108.
13. 'Tant que la majorité est douteuse, on parle; mais dès qu'elle s'est irrévocablement prononcée, chacun se tait, et amis comme ennemis semblent alors s'attacher de concert à son char.'—De Tocqueville, Democr. en Amer., i. 307.
14. In politics this is true nearly to the extent of Mr. Mill's axiom; 'If all mankind, minus one, were of one opinion, and only one person were of the contrary opinion, mankind

would be no more justified in silencing that one person, than he, if he had the power, would be justified in silencing mankind.'—On Liberty, 33.

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