

Comment: *The Act of Settlement*

According to the Act of Settlement (1701), it is decreed that ‘all and every Person and Persons that then were or afterwards should be reconciled to or shall hold Communion with the See or Church of Rome or should professe the Popish Religion or marry a Papist should be excluded and are by that Act made for ever incapable to inherit possess or enjoy the Crown and Government of this Realm and Ireland and the Dominions thereunto belonging or any part of the same or to have use or exercise any regall Power Authority or Jurisdiction within the same And in all and every such Case and Cases the People of these Realms shall be and are thereby absolved of their Allegiance’.

This is the only remaining piece of anti-Catholic legislation on the British statute books. The others have all been repealed, bit-by-bit, by the Relief Act of 1793, the Roman Catholic Relief Act of 1829, and the Removal of Clergy Disqualification Act of 2001. It has recently come under fire. For months *The Guardian* has run a campaign against this ‘discrimination’ — and against the ‘injustice’ of male primogeniture. The Liberal MP Evan Harris, himself not a religious person but concerned with ‘equality’, introduced a private member’s bill into Parliament — bound not to get anywhere but enough to put the question on the agenda. It then turned out that the Prime Minister has actually discussed the matter with the Queen, in one of his weekly chats. She, so we are reliably informed, was not totally opposed to the idea.

Nobody can quite fathom why, in the midst of unprecedented economic problems, Gordon Brown spares time for this issue (‘It does not make sense to say that the king cannot marry a Catholic’) — unless, of course, as has been mischievously suggested, he wants to make up ground with Catholics in Scotland whose traditional support for Labour (absolutely necessary for his re-election next year) has been gravely eroded by a whole series of measures: the refusal to allow Catholic adoption agencies to opt out of placing children with homosexual couples; the introduction of the most liberal embryological research laws in Europe; and so on.

Cardinal Cormac Murphy-O’Connor, in one of his last interviews before vacating Westminster, spoke in favour of repealing the Act: ‘The heir to the throne can marry anyone he likes, a Jew, a Hottentot,

a Muslim, and not a Roman Catholic' — adding, however, that repeal is not high on the church agenda. That may be true for Catholics in England. Speaking, back in February 2005, at the 'Summit on Secularism' hosted by Scotland's then (Labour) First Minister Jack McConnell (West of Scotland Catholics complain a good deal about discrimination), Cardinal Keith Patrick O'Brien welcomed the initiative, and said, referring to the Act of Settlement: 'Although it may be argued that this is a piece of arcane legislation very unlikely to affect any of Scotland's Catholics directly — that would be to miss the point, which is that its effect is indirect — it causes offence and is hurtful. No other religious group in the UK is similarly excluded or stigmatized in law'.

It's a sorry history. By 1700, the future Queen Anne, in her thirty-fifth year, heir apparent to the throne of the United Kingdom since her elder sister Queen Mary II and brother in law King William III were childless, had been pregnant at least eighteen times: thirteen times she miscarried or gave birth to stillborn children. Of the remaining five children, four died before reaching the age of two years. Her only son to survive infancy died at the age of eleven on 29 July 1700. This precipitated a crisis. Anne was the only person in the line of succession established in 1689 by the Bill of Rights. If the line were totally extinguished, then it would have been open for her father, the deposed King James II of England and VII of Scotland (in exile in France, aged 67, though to die next year) or his son, a boy of twelve, brought up since his father's conversion (thus unlike his older half-sisters) as a devout Catholic, to claim the Crown. Thus, to preclude a Catholic from doing so, Parliament enacted the Act of Settlement, which provided that, failing further issue of Anne or of William III by any future marriage (thus giving up on Mary's fertility), the Crown would go to Sophia, Electress of Hanover, and her descendants, who descended from James I of England and VI of Scotland through his daughter Elizabeth. William died on 8 March 1702 and Anne was crowned on 23 April.

Of course there is much more to the story. Assuming that the heir to the present heir to the Crown weds his long-time girl friend Kate Middleton, that they become King and Queen one day, and have children, it will be fifty years before there is a young person on the brink of marriage who might or might not want to choose a Catholic. Meanwhile, in the most secular society in Europe as Britain allegedly is, it's by no means certain that beginning to undo this particular piece of anti-Catholic legislation would not provoke (think condoms, abortion, faith schools, divorce, holy communion, etc.) much deeper, atavistic and quite unsettling sectarianism.

Fergus Kerr OP