Bishop John England, Pioneer American Catholic Spokesman on Church-State Relations

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BISHOP JOHN ENGLAND, PIONEER AMERICAN CATHOLIC
SPOKESMAN ON CHURCH-STATE RELATIONS

by

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of Loyola University in Partial Fulfillment of
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LIFE

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CHAPTER I

BACKGROUNDS

To understand and properly to gauge Bishop England's writings on Church-State relations it is necessary to understand the religious scene in America and the civil status of the American Church as England found them upon his arrival in Charleston on December 27, 1820. In turn, the religious scene in America and particularly the civil status of the American Church of 1820 are best appreciated when seen as the culmination of fifty years of momentous changes which had begun around 1770, with the first murmurs of the approaching conflict of the American colonies with Great Britain.

This treatment of backgrounds will center upon three points: (1) the fluctuating status of American Catholicism through the period, 1770-1820, which is the key to the Catholic mentality and needs of 1820; (2) a brief survey of the advent of legal toleration and of legal separation, which, while shedding light upon the changing status of Catholicism during the period in question, will also acquaint us with the whole trend in which England was to be caught up, the mentality he was to study, and the tradition
to which he would attempt to reconcile Catholicism; (3) the views of two major American Catholic churchmen who attempted a Catholic approach to the problem of Church-State relations prior to the work of Bishop England, views which will serve as a measure of Bishop England's achievement and stature.

"The Roman Catholics in what is now the United States were, generally speaking, badly treated prior to the Revolution."¹ At the beginning of the revolutionary era Catholicism had legal title to exist and function only in the colonies of Maryland, Pennsylvania, and Delaware.² The Catholics scattered through the rest of the colonies may have enjoyed periods of local, popular tolerance, but such periods were apt to end abruptly with strict enforcement of the anti-Catholic statutes still unrepealed. Even in the colonies in which Catholicism was tolerated by law the situation was sometimes very unsatisfactory in actual practice, the future never certain.

The depressed status of American Catholicism at this time is echoed in the timidity which Catholics exhibited on more than one occasion in the years just preceding the Revolution. In 1763, for instance, Bishop Richard Challoner, the Vicar Apostolic of the

¹Anson Phelps Stokes, Church and State in the United States (New York, 1950), I, 787.

London District, under whose jurisdiction American Catholics had been placed, wrote to Rome suggesting that since Canada was now British, "the Bishop of Quebec might, with the consent of our court, have his jurisdiction extended by the Holy See to all the English colonies . . . in America." This suggestion brought the protest of 250 colonial Catholic laymen known as the Laity Remonstrance, in which, after pointing out that none of the British colonies had ever even had a Protestant bishop, they asked rather pathetically: "Would not our setting the first example of that kind appear very bold and presuming, if not also even daring and insulting . . .?" The same year Charles Carroll of Annapolis, describing for Bishop Challoner the opposition to the projected erection of an Anglican bishopric in the colonies, asked, "If such is the aversion of Protestants to a Protestant bishop, with what an eye will they look upon an Apostolic Vicar . . .?" Even though living in a colony which tolerated Catholics by law Father Farmer found it necessary to warn Bishop Briand of Quebec in 1773 against undertaking a proposed visitation of the colonies on the grounds that such a visit would "lead to riots and cause the Catholics . . . to lose what little privilege they enjoyed

3Stokes, I, 787.
4Quoted Ibid.
5Quoted Ibid., I, 788.
The approaching break with England, far from bringing any immediate amelioration to Catholics, actually worsened their condition for the time being. When the terms of the Quebec Act became known in the colonies, the outburst against the granting of legal toleration to Catholicism in Canada matched the fury which the colonists displayed at the extension of the boundaries of Quebec Province. This "concession to Popery" became one of the religious motivations which helped launch the Revolution. It was denounced in the various colonial addresses to the King and to the people of Great Britain, and even found its way into a revolutionary state constitution. When the First Continental Congress dispatched the two Carrolls on the mission to Canada "to explain . . . our desire . . . to share the blessings of civil and religious liberty," much of the coolness with which this overture was greeted by the Canadians was due to the violence of the American outbursts against toleration for Catholics in Canada.

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8 Sister Augustina, 315-321.
Justified though the Canadian reaction was, actually the Address to the Inhabitants of Canada, with its offer of universal religious toleration, marks the beginning of a change in American thinking on Catholicism and in the position of Catholicism in America. Through the early years of the war, it is true, patriot leaders and the patriot press continued to lean heavily upon anti-Catholic feeling to inflame hostility toward Great Britain, with the charge that the King was in league with the Pope to destroy the religious and civil liberties of the American colonies. 9

"Except for Franklin, Jefferson and Washington, few colonial leaders failed to denounce Catholics more or less strongly at one time or another." 10 However, Washington and other colonial leaders worked with increasing success to check, for diplomatic reasons, the spread of anti-Catholic sentiment. Through Washington's orders the celebration of Pope Day, which had spread far and wide in the wake of the Quebec Act, ceased to be observed after 1775. 11

As the war progressed the critical position of Catholics improved, due partly to the need for internal unity which the colonial leaders felt, but mainly to the necessity of winning the

9Ibid., 333-338.
10Stokes, I, 786.
11Billington, 19.
support of Catholic France and Spain. The Treaty of 1778 brought an abrupt change for the better. Now the Tory press took up the "no-Popery" cry in a vain attempt to discredit the French alliance, just as the patriot press had earlier used the same tactic. However, "the patriots refused to be duped . . . and for the duration . . . remained mute, if not actually more tolerant . . . ." This change of heart, originating in the exigencies of the war, endured after the end of hostilities for several reasons. The war had afforded American Protestants an opportunity to become acquainted with representative Catholics. The experience changed their attitude toward the individual Catholic, considerably, no matter how strongly they might continue to loathe the dogmas of Catholicism. Furthermore, the singularly important contribution of Catholic Europe to America's independence naturally suggested the propriety of granting religious toleration to the American co-religionists of America's French and Spanish allies. There was also arising a significant minority of thinking Americans who realized the inconsistencies between the idealistic professions of the political and religious rights of man as expressed in the revolutionary bills of rights, and the actual

12 Ibid.

13 Ibid., 20. Sister Augustina feels that "in practice Americans had grown more tolerant of the 'Papist.'"

14 Sister Augustina, 348-349.
denial of these same rights to dissenting groups in general, and
to Catholics in particular.\textsuperscript{15}

By the end of the Revolution, therefore, Catholics in all the states were free to practice their religion publicly, to teach, and to build schools, though it remained imprudent for them to attempt to exercise these rights in areas where public opinion still lagged behind the growing liberality of the law.\textsuperscript{16}

\textsuperscript{15}Ibid., 350. Also see Greene, 76-77.

\textsuperscript{16}Sister Augustina, 378. Universal religious toleration found its way into the new state constitutions in the following years:

1776 Virginia. This was a thorough and very influential grant. Pennsylvania.
Delaware.
Maryland.
North Carolina. An earlier attempt to write a constitution in 1775 had failed because of the opposition of the Scotch-Irish Presbyterians to granting religious toleration to Catholics at all. Ibid., 352.

New Jersey.

1777 Vermont.

New York. The provision guaranteeing universal religious toleration was not written into the constitution, however, until it had weathered the sustained attack of an opposition group led by John Jay. This group made several more or less overt attempts to effect the exclusion of Catholics from any religious toleration provisions which might be written. That these attempts were defeated, and the original clause granting full freedom of worship passed, was largely due to the strenuous efforts of Governeur Morris. Ibid., 356-358.

Georgia.

1778 South Carolina.
1780 Massachusetts.

1783 Rhode Island. When the colonies broke with England, Rhode Island did not adopt a constitution, but merely retained its old colonial charter of 1663. As it stood in 1776, this charter provided complete religious freedom to all, "Roman Catholics only excepted." According to Stokes this exclusion clause "is . . .
The utterances of Catholic leaders of this period leave no doubt that Catholics felt a great insecurity about their possession of this newly-won religious liberty. In 1784, for example, twenty-two of the American Catholic clergy expressed to Father John Carroll, their newly-appointed superior, their opposition to the appointment of a bishop for the United States. "The majority of the Protestant population here are averse to a Roman Catholic prelate and for this reason the episcopal office, if introduced, would most likely awaken their jealousy against us." In 1785 the French charge d'affaires in the United States wrote regarding the same subject and pointed out that Article VI of the Articles of Confederation might very possibly be extended to militate against Americans accepting ecclesiastical offices. He concluded that "religion would lose more than it would gain by the nomination of a bishop." Carroll, himself, entertained similar misgivings as to the possible application of the Articles to include ecclesiastical offices.

wanting in the early manuscript copies of the charter, and is in conflict with many statements of Roger Williams and some of the other colonists." The anti-Catholic proviso, he concludes, "was evidently interpolated when the Toleration Act of 1689 in England deprived Catholics of religious liberty." Stokes, I, 197.

1784 New Hampshire.

17Stokes, I, 795.

18Ibid., 796.

19Ibid.
Catholics had reason for this cautious attitude regarding the future of their religious rights. The period after 1784 was a critical period for American Catholic religious rights as well as a critical period in the national history. The improved position of Catholics after 1778 had, after all, been largely the result of a wartime policy of expediency on the part of an insecure and unsettled nation. There was reason enough to fear that the somewhat abrupt abandonment of the previous anti-Catholic policy would not prove permanent. The blunt and out-spoken opposition in some of the state constitutional conventions, such as those of New York and North Carolina, to granting Catholics even a minimum of religious rights served to confirm this fear and sense of insecurity. Finally, there was the fact that many of the new state constitutions, while granting Catholics the right to practice their religion publicly, displayed a deep-seated animosity against Catholics which expressed itself in such repressive constitutional provisions as those forbidding Catholics the right to vote, forbidding them the right to hold state offices, impeding the process of naturalization, conceding to Protestants as a group, or to some single Protestant denomination, special legal recognition or privileges. The effect of such measures was to make Catholics

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20Eight of the states fall into this category even after 1784. Connecticut, through her colonial charter and statutes, which, with certain revisions, remained in force until 1818, made Congregationalism the established Church, made Church attendance and support obligatory, but allowed the major Protestant sects to apply the religious tax to the support
painfully conscious of the precarious position of their religious
rights, and to wonder whether even the constitutional grants of
toleration would survive many years.

of their own ministers. Catholics, who were practically
non-existent in Connecticut at this period, did not figure
in these arrangements, which were not completely terminated
until 1818.

New Jersey in the Constitution of 1776 restricted the vote and
officeholding to Protestants, the first restriction lasting
until 1844, the second until 1912. Stokes, I, 435.

North Carolina in the Constitution of 1776 restricted office­
holding to Protestants. Warmly contested in the convention
and a dead letter from the day of its promulgation, this
provision was largely the work of the Scotch-Irish
Presbyterians of Mecklenberg County, a group which had been
loudest in denunciation of the old Anglican establishment.
The restriction remained on the books until 1835. Ibid.,
402.

Georgia in the Constitution of 1777 restricted membership in the
legislature to Protestants, a restriction which was removed
in 1798. Ibid., 440.

New York in the Constitution of 1777 made it impossible for
Catholics in conscience to be naturalized, thereby barring
them from officeholding, a restriction which was not re­
moved until 1806. Ibid., 406.

Vermont in the Constitution of 1777 restricted membership in the
State House of Representatives to Protestants. Ibid., 441.

South Carolina in the Constitution of 1778 restricted membership
in the legislature to Protestants and made Protestantism the
established religion. The first restriction lasted until
1790. Ibid., 434.

Massachusetts in the Constitution of 1780 provided for the public
support of Protestant ministers. Other legislation effec­
tively barred Catholics from holding office and omitted them
from the law which allowed dissenters from the established
Congregationalism to apply the compulsory religious taxes to
their own ministers. These arrangements were not completely
terminated until 1833. Ibid., 428; also Sister Augustina,
367.

New Hampshire in the Constitution of 1784 made provision for the
public support of Protestant ministers. New Hampshire also
restricted membership in the State legislature to
Protestants, a restriction that was not removed until
Yet, as the period progressed a trend began in the direction of continued religious toleration for Catholics and of greater equality of treatment before the law for them. This amelioration was signalized by a marked trend in some of the new state constitutions after the war toward provisions for absolute equality of all denominations before the law, an equality best guaranteed by constitutional prohibitions against union of Church and State; by a similar policy on the part of the successive central governments; and, after 1789, by amendments in other state constitutions, removing the remaining constitutional provisions embodying some denial of religious equality before the law to one or another minority religious group.

When in 1783 Rhode Island removed from her colonial charter the clause which excluded Catholics from the broad religious liberty and religious equality provisions of the charter, the last and only trace of connection between Church and State was obliterated, for, beyond the exclusion of Catholics from these guarantees, the State had long remained separate from any legal tie with the churches and vice versa. 21

In 1785 one of the major steps in the history of separation of Church and State in America was taken in Virginia, where the original agitation of dissenters early had blossomed into a struggle to achieve complete separation of Church and State and

21 Ibid., 197.
complete equality of religious denominations before the law. 22 It is commonly felt that this separation was finally effected by the bill for religious freedom first introduced by Jefferson in 1779, but not acted upon until 1785. 23 The revival of Jefferson's bill was occasioned by a reaction against a measure introduced by Patrick Henry in 1784, which would give tax support to "teachers of Christian religion." Widely supported by the common people of the state and by a number of prominent Virginians—Washington, Marshall and Richard Henry Lee—its passage was first delayed and finally defeated through the strenuous efforts of James Madison. Henry's measure, in the opinion of the opposition, would have effected a broad, but real, union of Church and State in Virginia. 24 As a permanent countermeasure against such a union being easily effected in the future, Madison brought about the resurrection of Jefferson's tabled

22 Sister Augustina, 362.
23 Stokes, I, 383.
24 Gaillard Hunt, "James Madison and Religious Liberty," American Historical Association Proceedings (December 1901), I, 168-169. It is significant that the Virginia Presbyterians, who had been in the vanguard of the anti-Anglican forces demanding complete separation of Church and State in 1776, were now, in 1784, strongly for state aid to selected churches. Of them Madison had strong things to say. In a letter in November, 1784, he wrote: "The Presbyterian Clergy had remonstrated against any narrow principles, but indirectly favor a more comprehensive establishment." On April 12, 1785, he wrote that the Presbyterians "seem as ready to set up an establishment which is to take them in as they were to pull down what which shut them out. I do not know a more shameful contrast than might be found between their memorials on the latter and former occasions." Stokes, I, 392.
Bill for Establishing Religious Freedom. A statutory embodiment of the principle of separation of Church and State, this law not only guaranteed unconditional freedom to practice all forms of religion not contrary to civil order, but it forbade the government to enforce financial support of, or conformity to, the creed or worship of any church or churches. The move was one of great significance, due to the national prestige of Virginia and to the caliber of the men behind the measure, men who were to play prominent roles in the formation of the new national constitution within a few years. 25 It is not until that new constitution had been written that we find the next instances of amelioration in the Church-State provisions of the various state constitutions.

In Georgia, for instance, not until 1789 was the clause of the 1777 constitution restricting civil office to Protestants removed by the new constitution. This same document of 1789, in addition to a prohibition of compulsory support of another denomination, provided that "no one religious society shall ever be established in this State, in preference to another . . . ." 26

South Carolina, in its constitution of 1790, by providing for complete religious freedom without distinction, abrogated the broad official connection of the State with Protestantism which

25 Ibid., I, 394.
26 Ibid., 440.
had resulted from the constitution of 1778, and granted Catholics full political rights. 27

In Vermont the new constitution of 1791 omitted all test oaths and thus ended the restriction of membership in the State House of Representatives to Protestants. 28

Thus, by 1791 the policy of religious equality before the law, through separation of Church and State, had been adopted widely in the individual states. 29 By the same date a similar policy on Church-State relations had been forged under the successive central governments which had come into existence between 1778 and 1789. Although the Church-State provisions of the various state constitutions were of greater immediate importance than those of the national constitution in the attainment of religious equality through separation of Church and State, it was the policy of the national government in regard to this problem which, in time, would prove to be of far greater significance and influence. For this reason a brief sketch of the development of this national policy is in order.

27Ibid., 434.
28Ibid., 442.
29After 1791 the major exceptions to this statement are to be found in the predominantly Calvinistic states: Massachusetts and Connecticut, which retained established churches supported by tax money; New Jersey, North Carolina, and New York, which curtailed the political rights of Catholics; and New Hampshire, which retained a broad type of connection with Protestantism. Maryland retained her restriction on the political rights of Jews.
The religious policy, which was to be defined for the federal government by the constitution, had been foreshadowed by the practice of the Continental Congress, and by that of the Congress of the Confederation, in their attitude on religious matters. This attitude of the Continental Congress "may be described as one of sympathy with religion in general and the Christian religion in particular. At the same time, every effort was made to conciliate the various religious groups."\(^{30}\) The government of the Confederation showed a "similar disposition to encourage religion without special reference to any particular denomination."\(^{31}\) Thus, when, in 1784, the Papal Nuncio at Paris broached to Benjamin Franklin the project of a bishopric for the United States, and sought the approval of Congress, he was informed, through Franklin, that "the . . . subject . . . being purely spiritual, is without the jurisdiction and powers of Congress, who have not authority to permit, or refuse it, these powers being reserved to the . . . states individually."\(^{32}\) In one of its last acts, the passage of the Northwest Ordinance, the Congress of the Confederation, while acknowledging in general the need of religion, wrote into the Ordinance an article guaranteeing complete freedom of worship in the new territory. This act is

\(^{30}\)Greene, 82.

\(^{31}\)Ibid.

\(^{32}\)Sister Augustina, 383.
"rightly regarded as one of the fundamental documents in the history of American religious freedom. This was partly because its guarantees . . . were taken as precedents in drafting legislation for other areas, and partly because it insured religious liberty in all the states later carved out of the original Northwest Territory." 33

When the delegates to Philadelphia in 1789 turned to write a constitution for the new federal government, every consideration of precedent and of common sense argued against the inclusion of an ambitious program dealing with the religious rights or with the Church-State relations. In the first place, the religious disparity of the nation at large made a positive approach to religious issues impractical. The less said in the convention about religion, the less occasion for division. In the second place, the states had de facto exercised the right to determine matters of religious rights and of Church-State relations for themselves ever since colonial times. Any attempt to write into the law of the land a broad and liberal religious program modelled after Virginia's Bill for Establishing Religious Freedom would have met with the firm resistance for such states as Massachusetts, Connecticut, and New Hampshire. If such an issue did not split the convention wide open, there was every likelihood that it would doom ratification in the state conventions.

33Stokes, I, 613.
Finally, the example of the strides made by other states such as Virginia, Delaware, Pennsylvania, and Rhode Island seemed to hold promise that, given time, all the states would arrive by their own initiative at a policy of complete equality before the law for all religious bodies.

As a result, discussion of religion played a small part in the deliberations of the convention. The single, brief Article VI, prohibiting religious tests for federal offices, was all that the new Constitution had to say about religion or Church-State relations. Yet, brief though this provision was, it "went far in thwarting any State Church in the United States. . . ."³⁴

Reaction to Article VI in the state ratifying conventions ranged "from that of the liberal pragmatists at one end of the scale to that of the religious partisan at the other."³⁵ The most frequent criticism concerned the lack of a bill of rights containing a more positive statement of religious and other civil rights. As a matter of fact, an effort had been made before the dissolution of the Constitutional Convention to prefix to the new Constitution a Bill of Rights, including a guarantee of complete religious freedom, but the move failed.³⁶ Indeed, not everyone was convinced of the need of such positive guarantees.

³⁴Ibid., 527.
³⁵Sister Augustina, 376.
³⁶Stokes, I, 538.
Edmund Randolph and James Madison, for example, argued for the adequacy of the Constitution as it stood and against the need for additional guarantees, on the grounds that the vast diversity of sects in the United States constituted a very strong guarantee against the establishment of any one sect at the expense of the others, and against all attempts to infringe upon religious liberty. 37

Five of the ratifying states had urged an amendment to the new Constitution which would give a positive guarantee of religious freedom. The first Federal Congress, therefore, was quick to take up the question of a Bill of Rights which would, in Madison's words, "expressly declare the great rights of mankind secured under this Constitution." 38

Although the phrasing of the religious liberty provision of the Bill of Rights was the subject of a good deal of discussion, the underlying principles met with no opposition. The provision in Article I of the Bill of Rights was passed in September, 1789, and was sent to the states for ratification, which was completed in 1791. Article I not only effected complete separation of Church and State on the national level, but positively and explicitly guaranteed freedom of belief and worship. The moral influence which this new provision, in conjunction with the

37 Ibid., 533.
38 Ibid., 538.
previous stipulation of Article VI of the Constitution, had throughout the new nation, can be seen in the liberalizing changes which took place during the next several years in the religious provisions of some of the state constitutions, and in the fact that within half a century of the ratification of the First Amendment almost every state in the union had brought its basic legislation into harmony with the system of Church-State relations expressed in the Constitution.

By 1790 there could be little doubt in the minds of American Catholics that they had successfully weathered a critical stage in their progress toward attainment of full religious freedom and equality before the law in the states and in the new Republic. The adoption of the First Amendment in September, 1789, "must have allayed the fears which Carroll had entertained only a few years previously regarding the position of Catholics in the Republic." It is true that even in the uncertain days of the Critical Period signs of a new age for American Catholicism had begun to appear. In 1782 the first parochial school in the United States was opened in Philadelphia. In 1788 Mass was celebrated in public for the

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39Cf. changes in the constitutions of Georgia, South Carolina, and Vermont after 1789 supra, 13-14.


41Stokes, I, 822.
first time in Boston—and without incident. Soon afterwards was begun the building of the first Catholic church in Boston, where none would have been tolerated a scant twenty years previously. But the clearest sign of the changing status of Catholicism in America undoubtedly was the absence of any significant public reaction either to John Carroll's appointment as Prefect Apostolic in 1785, or to the establishment of an American hierarchy with the confirmation of Carroll's election as bishop for America in November, 1790.

Having attained equality before the law under the national government, in the new western states, and in a considerable number of the older eastern states, Catholicism had made a gain which eventually was to outweigh the strong forces of animosity, which had traditionally run against, and would continue to run against, the religious rights of American Catholics. At this point, around the year 1790, the Catholic Church in America entered upon a period of almost thirty years in which she was to enjoy her new rights in a calm which was to be disturbed but rarely.

With the passage of the Alien and Sedition Acts at the end of the 1790's, there was an outbreak of anti-Catholic

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42Ibid., 799.
43Sister Augustina, 383.
sentiment. But the potential threat to Catholic religious rights, which these measures had opened up, ended with the removal from power of the party responsible for them in the Jeffersonian victory of 1800. In the new century, "under the influence of the bills of rights and with a liberal in the presidency, anti-Catholic prejudice died down." 46 "For the most part the people had been won over to the program of toleration . . . . There were only a handful of Catholics in the country and they were obviously not to be feared. . . ." 47 Symptomatic of this religious Era of Good Feeling was the outcome of the Kohlmann case in New York in 1813. Whereas in the New York constitutional convention of 1777 the very toleration of Catholics had met violent objections, in 1813 a court of four Protestants, headed by De Witt Clinton, decided that, under the terms of the religious freedom guarantee of the New York state constitution, Father Kohlmann should not be compelled to testify in court concerning confessional matter on the grounds that "whether he lies or

45 Stokes states: "It was largely fear of Catholic growth" which led to the passage of these measures." I, 800. It is necessary, however, to assign the chief importance to non-religious motives. Yet, as Billington points out, "it was no accident that . . . an Irish Catholic was the first to suffer under the Sedition Act nor that the alien riots in Philadelphia were staged just outside a Catholic church." 24.

46 Stokes, I, 800.

47 Billington, 24.
whether he testifies the truth, he is wicked, and it is impossible for him to act without acting against the laws of rectitude and the light of conscience."\footnote{48}

Amid all these signs of relaxed relations between Catholics and Protestants in the young Republic, a basic hostility lay close beneath the surface of events during the whole period, to burst forth in the second quarter of the new century. Writing of the period after 1800, Father Gorman points out that "\textit{Although religious harmony still was said to exist in 1813, it is evident from the books written or published during . . . the decade that ingrained prejudice was manifesting itself again and that some hostility was arising due to the unwonted contact with Catholicism.}"\footnote{49} The religious Era of Good Feeling began to dissipate after 1820, and with its fading Catholic religious liberties were again to be questioned and threatened. Behind this disruption of the "religious peace" lay several factors. On the one hand, Catholicism had fast become a power in America. The approximately 25,000 unorganized Catholics of 1787 had, by the time of Archbishop Ambrose Maréchal in 1820, become almost 100,000 strong, organized into five dioceses,\footnote{50} with a visibly expanding

\footnote{48}{Stokes, I, 847.}

\footnote{49}{Robert Gorman, Catholic Apologetical Literature in the United States, 1784-1858 (Washington, 1939), 15.}

\footnote{50}{Not including the area embraced by New Orleans.}
system of parishes, schools, and other Church institutions. Such striking growth on the part of American Catholicism did not recommend itself to certain segments of American Protestantism. On the other hand, American Protestantism had emerged from the revival of the early 1800's with a missionary outlook which almost necessarily was to involve an attack upon Catholicism. "The formation of the American Bible Society in 1816 which was undenominational in its aims and support, and of the various national Protestant missionary and educational societies all meant that Protestantism was prepared to strengthen its position, and to oppose if need were what it considered the enemy at the gates."51 This was the America, and this was the status of Catholicism in America, which met Bishop England when he arrived in Charleston in 1820.

The period, 1784-1820, which saw rapid progress in the attainment of equality before the law for all religious groups, and which saw a noticeable amelioration in the status enjoyed by Catholicism in America, also witnessed the earliest attempts of American Catholicism to declare itself on the issue of Church-State relations, a task at which Bishop England was later to work assiduously.

John Carroll was the first prominent American Catholic churchman to attempt an explanation of the attitude which

51 Stokes, I, 818.
Catholicism in America would adopt toward the American system and philosophy of Church-State relations. In Carroll's day much of this system and philosophy was just beginning to crystalize for the nation at large. At the same time, so ingrained in popular thought was misrepresentation of Catholic doctrine and practice on Church-State questions that Catholics must have felt that their own counter-assertion of the truth might be well-nigh useless. By Bishop England's time many obscurities would have been clarified, Catholic loyalty would have been concretely demonstrated for a quarter of a century or more, so that Catholic spokesmen could speak and demand a serious hearing.

One of the strong points in Carroll's leadership of the nascent American Church was his understanding of the American Protestant mentality and his obvious appreciation of the Protestant susceptibilities of the majority of his fellow citizens. For instance, in his attempt to render the prospect of episcopacy more palatable to Americans, he requested that the Holy See permit the American clergy to elect their own bishops. In a similar vein, he delayed his consecration in order to await an answer to his request that Rome allow him to drop "the objectionable medieval phrase exterminare haereticos . . . from the

52 Ibid., 327.
enumeration of the bishop's duties in his oath of consecration." The same understanding approach to the problems of the Catholic position in America is to be seen in two matters which he suggested to an English theologian for study: "the ascertaining of the boundaries of the spiritual jurisdiction of the Holy See" and "the use of the Latin tongue in the publick liturgy." It is not surprising that he adopted a sympathetic attitude toward the Church-State policies which were developing in America after the Revolution.

Bishop Carroll undeniably encouraged the growing trend of popular thought favoring religious liberty and religious equality. The minimum religious freedom he would recognize consisted in complete religious toleration, a toleration which Carroll demanded as due by natural right. Tolerance and separation of Church and State he saw as the only practicable solution of the problem of Church-State relations in America, especially since, in separation lay the best guarantee of continuing toleration. He even contended that equality of all religious groups before the law was the only just arrangement. He speaks of "the sacred rights of conscience" and of "the luminous principles on which the rights of conscience and liberty

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53 Ibid., 331. The request was granted.
54 Ibid., 330.
of religion depend." As early as 1784, in his Address to the Roman Catholics in the United States of America, which was a reply to the attacks of an ex-priest, Dr. Wharton, Carroll speaks of "the harmony now subsisting amongst all Christians in this country, so blessed with civil and religious liberty: which, if we have the wisdom and temper to preserve, America may come to exhibit a proof to the world, that general and equal toleration, by giving a circulation to fair argument is the most effective method to bring all denominations of Christians to a unity of faith." Three years later he writes to the Columbian Magazine: "Thanks to genuine spirit and Christianity, the United States have banished intolerance from their system of government, and many of them have done justice to every denomination of Christians, which ought to be done to them in all, of placing them on the same footing of citizenship, and conferring an equal right of participation in national privileges."

While it is clear that Carroll viewed religious liberty and religious equality in America as due to all groups by right and not by mere positive concession of government, he did not fail to appreciate the magnanimity and liberality which, in view of the Eighteenth Century background of America, was involved in the

55 Ibid., 330.
56 Ibid., 327.
57 Ibid., 330.
extension and guarantee of these religious rights to Catholics by Protestant Americans. Of this Protestant achievement he was proud. It was in such a vein that he pointed out, in writing to Rome in 1783, that "in these United States our religious system has undergone a revolution, if possible more extraordinary than our political one. In all of them free toleration is allowed to Christians of every denomination . . . ."58

Bishop Carroll was aware of the problems involved in supporting a system of religious equality, and of separation of Church and State. So, in his first sermon in America after consecration as bishop, he set himself not only to preserve in the heart of his people "a warm charity and forbearance toward every other denomination of Christians," but at the same time "to preserve them from that fatal and prevailing indifference which views all religions as equally acceptable to God and salutary to men . . . ."59 To speak, therefore, of Carroll's "support of separation of Church and State, with its resulting religious freedom . . . .," is correct, for Carroll himself spoke of "an earnest regard to preserve inviolate for ever in our new empire, the great principle of religious freedom."60 However, it is necessary to keep in mind that in his few brief utterances

58 Ibid., 327.
59 Ibid., 331.
60 Ibid., 330.
regarding Church-State relations Carroll was thinking primarily of the concrete American scene—invoking a religiously mixed population. The inevitable result of religious liberty and equality, for him, would be the return of all Christians to a unity of faith. What form Church-State relations should then assume he does not say, and nowhere does he give indication of having thought about the matter.

The very year of Carroll's death, 1815, saw the Reverend Demetrius A. Gallitzin publish A Defence of Catholic Principles in reply to the sermon of a Protestant minister in Pennsylvania, attacking Catholics as national enemies. The Defence was the first of a series of apologetical-polemical works which Gallitzin was to write, and in which some of the problems centering around Church-State relations were to come under discussion.

Gallitzin, born at The Hague in 1770, was the son of the Russian minister to Holland. Although not a Catholic by birth, he followed his mother, a Prussian princess, into the Church in 1787. Five years later, in the course of travels in the western hemisphere which were intended to be a part of his education, he entered the newly established Sulpician seminary of St. Mary's in Baltimore, and in 1795 was ordained by Bishop Carroll. Four years later he arrived in western Pennsylvania to begin the backwoods apostolate which he was to pursue until his death in

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61 Ibid., 327.
In 1817 the minister who had occasioned the publication of the *Defence* published a reply to Gallitzin's work which was so offensive in tone that Gallitzin did not answer him directly, but took his case to the public with *An Appeal to the Protestant Public*, which appeared before 1819. In 1820 he published the *Letter to a Protestant Friend*, which was likewise intended to answer the attacks of his opponent of 1815. Not until 1834 did his next polemical work appear, *Six Letters of Advice to the Gentlemen Presbyterian Parsons*. In 1836 he published *The Bible: Truth and Charity*, a Subject of Meditation for the Editors of Certain Periodicals Miscalled Religious Publications. These works clearly reflect the reactionary changes which had taken place in the area of Protestant-Catholic relations with the passing of the *Era of Good Feeling*, and with the revival of militant Protestantism. 62 Gallitzin's later writings are contemporary with the second decade of John England's episcopate,

62 In 1836 Gallitzin wrote: "I have often, when musing on the subject of Protestantism, asked myself, What is the Protestant religion? Proteus-like, it appears under so many different shapes, teaches so many different and contradictory doctrines, that I nearly despaired of ever finding a definition which would embrace the whole of the Protestant sects; when, suddenly, my mind settled on the following definition: PROTESTANTISM IS THE HATRED OF CATHOLICISM." Demetrius A. Gallitzin, "The Bible: Truth and Charity," in Grace Murphy (ed.), *Gallitzin's Letters* (Loretto, 1940), 267.
and, not unnaturally, show a similarity of approach to questions of Church-State relations with that found in the writings of Bishop England.

For Gallitzin, as for Carroll, and in time for Bishop England, the complete religious toleration which Catholicism enjoyed under the Constitution was about the most precious possession of the American Church. In the relatively peaceful days of 1815 Gallitzin was able to write of the American policy of complete religious toleration as one, the desirability of which, few Americans would question. Twenty years later, however, when certain groups were calling into question the very wisdom of continuing to grant Catholics such toleration, it was no longer enough for Catholics to praise the American system which provided for religious toleration. It was now felt necessary to show proof positive that Catholicism stood for religious toleration throughout the world. Writing in 1836, Gallitzin points to the Irish patriot, Daniel O'Connell, who "although a strict Roman Catholic, is as well as was our Washington, the great advocate of perfect liberty of conscience" for Protestants as well as

63"Catholics and Protestants are united in considering civil toleration an invaluable blessing, especially in a country like ours where there were so many different denominations at the time its constitution was formed. We all agree in believing that no authority merely human possesses any right in controlling the consciences of men." Ibid., 96.
Catholics. O'Connell's principle, writes Gallitzin with obvious approval, is "hands off on all sides: let every one worship God according to the dictates of his own conscience . . . ." Gallitzin's own experience in Europe gave him sufficient ground to assert that even where the Catholic Church is dominant, religious toleration is to be found:

Living for fifteen years (before I embarked for America) in the Catholic province of Munster, in whose bishop both the civil and ecclesiastical powers were united, I had a very good chance of acquiring a thorough knowledge of the principles of the Catholic Church. Not only did I see them exhibited in black and white, without ever discovering even the most remote tendency or encouragement to persecution, but I saw them practically illustrated in the numberless charitable institutions . . . and especially in the charity and forbearance shown to Protestants, who, although not amounting to one-hundredth part of the population, and living under a Catholic ecclesiastical government, where the Church was in full power, were never molested, never compelled to go to mass, but enjoyed the same protection, the same privileges, and had the same chances of promotion to office as the Roman Catholics. So it was, I am told, in all the ecclesiastical Electorates of Germany; and so it is to this day in the Emperor's dominions, where the small body (only two or three millions) of Protestants, far from being persecuted, are protected in their persons, their property, and their worship.65

In conclusion, Gallitzin proposed that "where we are compelled to disapprove of our neighbor's doctrine, let our disapprobation fall upon his doctrine only, not upon his person." 66

64 Ibid., 262.
65 Ibid., 272-273.
66 Ibid., 290.
Certain Protestant forces were entirely unwilling that American Catholics be judged on their loyalty to this nation, but insisted upon invoking the pages of history (often as distorted by the bias of Protestant polemicians) to the effect that the Catholic Church, as the Church of Canossa, of the Inquisition, of Mary Tudor, and of the Duke of Alba, by its very "existence and prevalence . . . in this country, endangers our civil and religious institutions." Gallitzin, therefore, felt compelled to take up the issues of papal supremacy and civil allegiance, of the Inquisition, and of the record of the Catholic Church and persecution.

To many Protestant minds the presence of Catholicism in America put free American republican institutions under the specter of papal interference. As early as 1815 Gallitzin finds it necessary to point out that it is unfair to picture Catholics as holding for an article of faith "that the Pope has power to absolve subjects from their oaths of allegiance to their lawful sovereigns or governments." Through history, it is true, individual Popes, "giving way to pride and ambition, have claimed that power [of absolving subjects from civil allegiance] and even the power of deposing kings"; but such claims were abuses.

67Quoted by Gallitzin, ibid., 227.
68Ibid., 80.
69Ibid.
While Catholics submit to the Pope's jurisdiction, that jurisdiction is "merely spiritual and not of this world . . . ."\textsuperscript{70} American Catholics would "draw the sword to oppose any encroachment attempted even by the Pope himself, as a temporal prince, upon the government, whether Catholic or Protestant, that protects us."\textsuperscript{71} As a matter of fact, he points out in a later work, Church history shows "only two or three instances of Popes setting up the extravagant and ridiculous claim to power of absolving subjects from their allegiance to government."\textsuperscript{72} Even in these cases, particularly in that of Elizabeth of England, Catholics "paid no more attention to the Pope's dispensation than they would to a sentence of the Alcoran."\textsuperscript{73} Therefore, in view of the fact that papal claims over temporal government were never widely acknowledged by Catholics, and of the fact that the Popes themselves had abandoned all such claims three hundred years previously, "it is highly ridiculous, at the present time, to make mention of the extravagant claims of some ambitious Popes of former times, and thereupon to found your fears for the safety of

\textsuperscript{70}Ibid.

\textsuperscript{71}Ibid., 91.

\textsuperscript{72}Ibid., 275. He mentions Henry IV and Elizabeth. Catholic loyalty to Elizabeth is all the more eloquent, he felt, in view of her severe persecution.

\textsuperscript{73}Ibid.
Catholic ascendancy was so commonly pictured in the popular Protestant mind as the prelude to the Inquisition that early Catholic apologists, such as Gallitzin and England, found it necessary to take a public stand on the Inquisition. Treating the subject in 1815, Gallitzin wrote that, if the Inquisition had been established "in order by tortures . . . to force the consciences of men," then it was "a monument of barbarism and of the infernal spirit of religious fanaticism and bigotry." However, without attempting to whitewash the institution, he points out in 1836 that Protestant writers have "very much misrepresented the Inquisition." No longer functioning by this date, it had been, he claimed, a purely civil tribunal, not an agency or organ of the Church, and in practice it was confined to a small part of the Catholic world. Protestantism, as a matter of fact, had its own version of the Inquisition, at least in England, for such was the Elizabethan Court of High Commission. Citing the authority of the Protestant Maclaine, Gallitzin describes this Court as "empowered to make inquiry, not only by legal methods, but also by racks, tortures, inquisition, and imprisonment; and . . . the fines and imprisonment were limited by no rule but

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74 Ibid., 276.
75 Ibid., 202.
76 Ibid., 271.
its own pleasure."  

Perhaps hardest to counteract was the persistent contention of Protestants, reared in the tradition of Foxe's *Book of Martyrs*, that Catholicism was historically committed to the encouragement of persecution. It is true, admitted Gallitzin, that there had been instances through history of Protestants suffering persecution at the hands of Catholics. "But to be fair we must ascribe their acts ... to the real cause, viz. to their own sanguinary disposition, or to their ill-judged policy--but by no means to the Catholic Church." Indeed, if the true attitude of the Church toward the policy of religious persecution is anywhere manifest, it is in the careers of churchmen and prelates. "The Catholic Church so much abhors persecutions for the sake of religion, that the clergymen of that church have upon all occasions exerted their zeal to prevent it and oppose it," a contention which is supported even by the testimony of Protestant historians. Some of the strongest opposition to Mary Tudor's persecution came from orthodox churchmen. Thus, the papal legate, Cardinal Pole, is described by the Protestant historian, Burnet, as strongly opposing repressive measures, urging priests to reform themselves first. Alphonso de Castro, chaplain to Philip II, preached

against the persecution of the English Protestants as un-Christian. The Catholic clergy of France took a similar stand on the St. Bartholomew Massacre, asserts Gallitzin, although this issue, too, was clouded by political complications. The Bishop of Lisieux, in refusing to cooperate with the King's orders against the lives of the Calvinists, is quoted as having replied: "It is the duty of the good shepherd to lay down his life for his sheep, not to let them be slaughtered before his face. They are my sheep, though they have gone astray, and I am resolved to run all hazards in protecting them." Elsewhere, "thousands of those poor ... victims found shelter in the houses of Catholic bishops and priests, upon which many of them embraced the Catholic faith." Later repressive moves by the French government were opposed by such bishops as Fenelon and St. Francis de Sales.

While Gallitzin was ready to criticize the persecution of Protestants by Catholics wherever necessary, he also felt that it was "high time that Protestants should be undeceived and should know the whole truth; which is, that, from the very beginning of the pretended Reformation, the pretended Reformers have in the most cruel manner persecuted unto death the Roman Catholics,

80 Ibid., 269.
81 Ibid., 205.
wherever they had it in their power to do so." Beginning with England, he traces the history of Protestant persecution of Catholics from the time of Henry VIII, through Elizabeth's reign, to the penal period, where he gives a detailed account of the penal code which was aimed at rooting Catholicism out of the land. Turning to the continent he shows that the French Calvinists shed the blood of Catholics without great regrets, while in Holland and Munster the Protestant treatment of Catholics was at least as savage and unrelenting as anything of which the Catholics had been accused.

Thus Gallitzin attempted to show that neither Catholics nor Protestants had been completely without guilt of persecuting their religious opponents. He concluded that "Catholic or Protestant potentates who abused their power, in order to force the consciences of men, and by tortures to oblige them to embrace their own creed, were monsters and not Christians."84

Certainly the record of Catholicism in America during and

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82 Ibid., 271.

83 "It is indeed a curious fact . . . that, wherever we find the Reformation (so called) introduced, we almost constantly find it blended with rebellion against lawful authority. Not content with embracing peaceably opinions differing from the doctrine of the ancient Church, and suffering their Catholic fellow citizens to continue to worship God according to the dictates of their own conscience, the Reformers have almost always begun with overturning the long-established institutions in Church and State . . . ." Ibid., 270.

84 Ibid., 204.
since the Revolution had given American Protestants no grounds for dissatisfaction. Their charges against the Church proven false, there is a deeper explanation of the efforts of certain Protestant groups to deprive Catholicism of her religious liberties. The attack on Catholicism in the United States is nothing less than part of an ambitious plan to restore certain Protestant groups to a position of ascendancy over government, a position which would disrupt the whole system of separation of Church and State built since the Revolution. The threat to American republican institutions, contends Gallitzin, is from a Protestant, not a Catholic, direction. "I venture to assert that, were the real principles of Catholics . . . generally adopted by the citizens of the United States, it would ensure a stability of our Government which certain principles laid down in some of your religious periodicals, and certain facts intimately connected with them, rather threaten to shake to its foundations . . . ." Citing the very words of a Pittsburgh evangelical publication, he openly accuses these Protestant groups of attempting to effect a new union of Church and State. "'Victory or Death,'" he writes, "is your watchword. 'The Presbyterian Church will be the established Church of the Union, or she will wade through blood to attain that just prerogative . . . .' Here, then, your intention, which I have never seen disavowed, is

85Ibid., 260.
plain, to overturn the Constitution, which knows no distinction of creeds, and upon its ruins to establish your ascendancy." 86

As the 1830's progressed and the Church's prospects for peace in America steadily darkened, there came moments when the very existence of Catholicism in America seemed doomed. It was in such a moment that Gallitzin penned a question which should have suggested to Protestant extremists the histories of Ireland, England, and the Low Countries. "Do you really think that if you could ever persuade the people of the United States to alter their Constitution, so as to deprive the Catholics of their citizenship, and by laws enacted for that purpose, have them reduced to beggary and subjected to the punishment of death, for hearing Mass or for going to confession, do you really think that you would then get your ends accomplished?" 87

86Ibid., 290.
87Ibid., 239.
CHAPTER II

BISHOP ENGLAND'S VIEWS ON
CHURCH-STATE RELATIONS

John England was born at Cork in Ireland on September 23, 1786. Little is known of his family or of his boyhood. In 1802, after two years of law studies, he entered the seminary at Carlow to begin studies for the priesthood. Six years later, at the age of twenty-two, he was ordained under dispensation by Bishop Francis Moylan of Cork.

From the time of his ordination in 1808 until 1817 he led a very active priestly life in Cork. A chaplain at one of the convents in Cork for ten years, he also served as president of the Diocesan Seminary, lectured in philosophy and theology in the same seminary, and served as chaplain to the city prison. During this period he made two attempts to come to the United States as a missionary, but was unable to obtain the consent of his Bishop. In May, 1817, he was transferred to the small town of Bandon near Cork, where he served as parish priest until 1820. It was in

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Bandon on August 12, 1820, that John England received the briefs
of his appointment to the new See of the Carolinas and Georgia.

Bishop England was to utilize various experiences of his
Irish career to a considerable degree in his American episcopate.
While he found applications in a number of areas of his work in
America for his brief legal training and his experience as a
seminary professor, it was his connection with the Veto Contro-
versy, which, for our purposes, was most significant in his Irish
background.

"The Veto controversy may be defined as the problem 'which
arose about the question whether or not the British Government
should be allowed the right of interference in the filling of
vacant [Irish] Catholic Sees, or in the appointment of
bishops."'2 The controversy, which went through several stages
between 1775 and 1825, periodically threw Catholic Ireland into
an uproar, and, on several occasions, led to heated division
within the Irish hierarchy, between the Irish hierarchy and the
Irish laity, and between the Irish and English Churches. Between
1808 and 1813 public opinion in Ireland ran high over the support
which Bishop John Milner had allegedly given, in the name of the
Irish hierarchy, to overtures on the part of the British Govern-
ment to grant Catholic Emancipation in return for a negative power
by the Government over episcopal nominations. With the failure of

2Ibid., 98.
this frontal assault in 1813, the pro-Veto party attempted to
maneuver Rome into coming out in favor of a Veto agreement, and
thus gain their point. This phase of the controversy, which
lasted from 1814 until Rome sidestepped the issue with finality
in 1818, was the phase in which Father England actively partici-
pated on the side of the anti-Veto forces. As a result of his
anti-Vetoist leanings he had, in 1813, accepted the trusteeship
of the Cork Mercantile Chronicle. Although he was not the editor,
Father England did write articles for the Chronicle, which at this
period was an avowed organ of the anti-Vetoist party. "To be at
the head of a leading Irish newspaper," observes Guilday, "was
equivalent in those days to national prominence, and Dr. England's
years as chief of the Cork journal brought him out before the
nation . . . as an uncompromising opponent of the Veto . . . ." 3
Perhaps the surest measure of England's rising prominence was the
fact that he attracted the notice of the great Daniel O'Connell.
The connection between him and O'Connell grew as the Veto Con-
troversy wore on. Even after England had come to America he and
O'Connell exchanged letters on the situation in Ireland, and the
two met again in the course of one of England's later trips to
Europe.

John England was consecrated Bishop of Charleston on
September 21, 1820, and arrived in Charleston on December 27 of

3 Ibid., 111.
the same year to take possession of his see. Although the Veto controversy continued for several more years, England's departure for America naturally ended his direct participation in the struggle. However, as a result of his participation in the anti-Vetoist movement, England came to America "better equipped with an accurate knowledge of the condition of affairs, political and ecclesiastical, in Ireland and in Europe than any of his contemporaries in the United States." It was not inappropriate that one of the first causes which John England espoused in his long career as a champion and spokesman of the Church was a question of Church-State relations.

England came to a diocese which covered an area of perhaps 900,000 square miles. In all this area, embracing the states of Georgia, North Carolina, and South Carolina, he found just four churches, three priests, and 375 communicants, although he estimated that the Catholic population went as high as 5,000.

One of Bishop England's first acts was to undertake an extensive visitation of the region, to familiarize himself with

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4 Ibid., 121. Guilday adds that the Irish churchmen whom England had known "were among the greatest intellectual leaders Ireland has ever seen," and he speaks of the impression which their "profound theological learning, their hold upon the canonical teaching of the Church, ... and above all, their love of liberty" must have made upon the young Father England.

5 Ibid., 506.
his diocese at first hand. Scattered through the three states embraced by the diocese he found a poor, timorous flock, spiritually paralyzed by the great lack of priests and of organized Catholic parochial life. In some regions people who had been next-door neighbors for years discovered for the first time during one of these visitations that they were also fellow Catholics. In the course of this first visitation, and also the later ones which he made, England followed the same pattern of searching out the Catholics of the backwoods communities, organizing them into parishes, which would enjoy periodic priestly ministrations, and where the Catholics would gather each Sunday, in the absence of a priest, to read the Mass prayers in common. The Bishop would also preach, often enough in the local Protestant Church, administer the sacraments, baptize, and rectify marriages, thus maintaining at least a minimal contact between these scattered members of the Church and its sacramental life.

In an attempt to instill some sense of unity and direction in his subjects, and to provide at the same time against the revival of the property and disciplinary conflicts which trustee-ism had caused in Charleston and in most other major Catholic centers of the nation prior to his arrival, Bishop England determined to organize his diocese upon a constitutional basis.

The Constitution of the Diocese of Charleston was published in September, 1823. Although branded as "democratic" and a dangerous precedent by Archbishop Maréchal of Baltimore and by
Bishop Conwell of Philadelphia in letters to Rome, the Roman authorities, once they had studied a secret copy of the document, could not be induced to take any steps against Bishop England's constitutional approach to diocesan affairs. 6

Divided into seven main sections, the Constitution treats such major topics as Church doctrine, government, property, and membership, and makes provision for an annual Diocesan Convention. 7

The sections dealing with Church government and Church property were carefully and skillfully drawn with the help of legal advisers. Stressing the primacy of episcopal power over diocesan affairs, these provisions obviated in Charleston a repetition of the disgraceful episodes which abuses of the trustee system had precipitated in the American Church. 8

The sixth section of the Constitution provided for the annual convocation by the Bishop of a Diocesan Convention to be composed of a House of the Clergy and a House of the Lay Delegates. This Convention was not considered a part of the ecclesiastical government of the Diocese. Rather, in England's own words, it

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6 Conwell wrote to Rome in 1825: "If this Constitution or democratic method of ruling the Church be approved by the Holy See, it might be necessary to extend it to all the dioceses here, and it would mean the quick collapse of the American Church." *Ibid.*, 362.


was "a body of sage, prudent, and religious counsellors to aid the proper ecclesiastical governor of the church in the discharge of his duty, by their advice and exertions in obtaining and applying the necessary pecuniary means to those purposes which will be most beneficial, and in superintending the several persons who have charge thereof; to see that the money be honestly and beneficially expended ... ." 9 Both houses met separately, elected their own officials, and followed their own agenda. Acts of the Convention became binding only when passed by a majority of both houses and approved by the Bishop. The Constitution expressly denied to the Convention any authority over such matters as Church doctrine, Church discipline, or ecclesiastical appointments. 10

Until 1830 separate conventions were held for South Carolina (1823-1838) at Charleston, for North Carolina (1829-1831) at Fayetteville, and for Georgia (1826-1835) at Augusta. In 1839, 1840, and 1841 General Conventions at Charleston took the place of the local gatherings. After Bishop England's death no further conventions were held.

9Ibid., 375.

10Speaking fourteen years later, England said of the Constitution: "By its provisions the limits of our several powers and duties are accurately defined; it has prevented discord, it has banished jealousy, it has secured peace, it has produced efforts of co-operation, and established mutual confidence and affection between our several churches, as well as between bishop and the churches . . . ." Ibid., 377.
Although the conventions were rich in discussion of Church problems of the day, they were a disappointment to Bishop England in their failure to obtain adequate financial support for the Diocesan Seminary and for the United States Catholic Miscellany. Writing in 1850, Orestes Brownson observed that, whatever the shortcomings and failures of these annual conventions, they did have one significant achievement to their credit.

The trustee system, which had inflicted such dire evils in the diocese of Charleston, as well as in several other dioceses of the Union, was curbed and broken; the unlimited control of laymen over church property and funds was subjected to the provisions of a constitution which regulated their rights and privileges; and the representative system was adopted in a way to satisfy the cravings of a few for distinction, and yet to make them weary of the trouble and formality. 11

Bishop England took steps in another direction to strengthen the Catholic life of his diocese by inaugurating a program of Catholic elementary and higher education, in the hope, not only of creating a more intelligent laity, but also of providing the diocese with the priests it so badly lacked. His educational efforts began to take definite form with the opening, in January, 1822, of the Philosophical and Classical Seminary of Charleston, offering pre-college courses in English, belles-lettres, classics, mathematics, and philosophy. 12 The academy, which he aimed to make one of the outstanding prep-schools in

11Quoted Ibid., 379.
12Ibid., 334.
the South, got off to a fine start, and by the second year had an enrollment of ninety boys. In its early years the academy enjoyed the support of some of the leading Protestant families of Charleston, but this patronage ended in the 1830's with the upsurge of anti-Catholicism in America.

Intimately connected with the academy was the Diocesan Seminary, which also opened its doors in 1822. Although the Sulpician seminary of St. Mary's had been in existence for several decades, Bishop England undertook the burden of opening and supporting his own Diocesan Seminary because he believed that the French regimen of St. Mary's was "unfitted to create a clergy distinctly American." From his first days in America Bishop England was convinced that the interests of the Church in this country would best be served by a clergy which understood and respected the non-Latin mentality of Americans. The formation of an American-trained, American-minded clergy remained one of the Bishop's major objectives throughout his episcopate. Indeed, only the strongest of convictions on this point could have moved England to continue an institution which was such a drain on the meager resources of his diocese. Despite its straightened finances and the fact that it was understaffed to the point where the Bishop, himself, was forced to take up a good share of the teaching burden, the Seminary did have its success. By 1829

13Ibid., 476. The words are Guilday's.
England reckoned that he had ordained some twenty from the Seminary to one or more of the major orders, and, although only eight of this number eventually remained to labor in the diocese, such an increase in the body of dependable priests in the diocese was a sign of great hope. Unfortunately, funds never quite kept pace with applications, and, in the 1830's, the Bishop found himself forced to turn away otherwise acceptable young men.

Although his main educational efforts were directed toward boys and candidates for the priesthood, the Bishop of Charleston also made provision for the education of girls. In January, 1830, the School for Young Ladies was opened in Charleston, to afford young girls an elementary education. The School was conducted by the Sisters of Mercy of Charleston, a diocesan congregation formed under Bishop England in 1829. In 1834, he brought the Ursulines from Ireland, who, the following year, opened the Ursuline Academy for the secondary education of girls.

By the end of the first decade of his episcopate, Bishop England felt conditions in his diocese sufficiently secure to allow him to make his long-overdue visit to Rome. This was the first of several trips which he was to make to Europe in the 1830's in which he not only strengthened his connections at the Vatican, but also secured priests, nuns, and financial support

\[\text{Ibid., II, 135, 147.}\]
for his diocese. In addition, England was able, in the course of these travels, to supplement his knowledge of European affairs, and in particular to gain first hand experience of certain aspects of Church-State relations in Europe.

From 1833 until 1837 Bishop England held the post of Apostolic Delegate to Haiti, an assignment which took him to Europe several times, kept him away from Charleston, and gave him a thorough schooling in the vagaries through which Church-State relations can sometimes pass. The Haitian government had opened negotiations with Rome in 1832 for the restoration of the hierarchy, which had been destroyed in Haiti by the revolutions of l'Ouverture and of the emperor, James I. Gregory XVI asked England to undertake the mission, and England acceded to the request, carrying on the tiresome talks for the better part of four years. Finally, in 1837, the clear determination of the Haitian government to retain an un-canonical hold over the local hierarchy brought Bishop England's mission to a fruitless conclusion.

While his primary concern was for the welfare and progress of his own diocese, Bishop England attained national prominence in America, both within and outside of the Church. The fact that he was Bishop of one of the poorest and least significant sees in the nation did not prevent him from maintaining an active interest in the well-being and progress of the entire American Church.

15 Ibid., I, 273.
Discipline and order, he felt, were among the Church's greatest needs at this period, and to this end, from his first years in Charleston he urged upon Archbishop Maréchal the convocation of a National Synod "in which we might all encourage each other and fix upon some common rule of conduct." Obviously he had in mind the example of the Irish hierarchy, with its frequent meetings to plan policy, and, in case of need, concerted action. His attempts to promote a similar program in the American hierarchy did not bear fruit until 1829, when, at the insistence of Rome, Archbishop Whitfield, Maréchal's successor in Baltimore, convoked the First Provincial Council of Baltimore. In this and the ensuing provincial and plenary councils England played an active role, and lived to see his efforts rewarded by the inner strength which these gatherings gave to the American Church.

England's efforts for a national council and his enthusiasm for republican ways early estranged him from Archbishop Maréchal and the "French party," an estrangement which his outspoken opposition to French influence in the American Church did nothing to heal. The French clergy, for all their zeal and learning

16Ibid., II, 79.
17Ibid., 117, 253.
18For examples of the painful character of England's relations with Maréchal see Guilday, ibid., 489, 537.
and holiness, were hurting, not helping, the Church in America, he contended. Their failure with the language, while a minor point, had the effect of labelling Catholicism as a foreign import. More serious, he felt, was the hostility, or at best, the apathy, of these men for the political and social forms of their adopted country. As a result, England, while he became a man of prominence in the American hierarchy, never exerted any wide influence upon his fellow bishops.

Among non-Catholic Americans Bishop England's prominence and influence stemmed from two sources: he was the most vocal of the American Bishops of his day, utilizing both pulpit and press to explain and defend the Church and its teachings; at the same time he had an appreciation and loyalty for America and its ways the like of which had not been seen in a Catholic Bishop since the days of John Carroll.

It was the United States Catholic Miscellany which first brought John England to the attention of America, for the Miscellany could well be called John England in print. The first issue appeared on June 5, 1822. From the start Bishop England conceived of the Miscellany--the first permanent Catholic periodical in the United States--as a national organ of the

American Church, with the same function as the religious publications which almost every denomination in America had "for the exposition of its doctrine, the communication of facts, and, if necessary, the vindication of its tenets." 20

Over the years pursuance of these objectives brought from England's pen to the pages of the Miscellany a large number of very capable essays, often in serial letter form, explaining Church doctrine, dealing with areas of Catholic-Protestant conflict, treating the course and problems of Church history. In the course of a number of these essays Bishop England took occasion to express views on various problems of Church-State relations, in some essays just incidentally, in others at great length. To the latter category belong Bishop England's "Letters on Political Measures About Ireland," and "The Republic in Danger." The series of eleven "Letters on Political Measures About Ireland" appeared in the summer issues of the Miscellany for 1825. The letters are addressed to England's old friend, Daniel O'Connell, and were occasioned by his position in the most recent phase of the Veto Controversy, which had opened since the Bishop had left Ireland. In particular O'Connell's support of a scheme for subsidization of the Irish Catholic clergy by the British government drew the Bishop's criticism. The series of

twelve letters entitled "The Republic in Danger" appeared in the summer and early fall numbers of the Miscellany for 1831. One of England's fullest treatments of Church-State questions, this series took its title from an anti-Catholic article which had appeared in the July 1, 1831, issue of the evangelical Southern Religious Telegraph of Richmond, Virginia, attacking Catholicism as a threat to American liberties and rebuking those Americans who were willing to continue to grant Catholicism religious liberty.

Commenting on the character of England's work for the Miscellany, Foik writes:

None of his Catholic contemporaries had his profound grasp of doctrine, nor had they the lofty tone with which he embellished his writings. Possessed as he was of a very high order of talent, and a quick, clear perception of his opponent's weak points, he presented his facts in so lucid and logical an order as to disarm all resistance and convince even the most skeptical. He was called upon by the exigencies of his time to make a defence of the Catholic Faith. But for such a task he possessed the faculty of presenting his ideas in a vigorous, persuasive, yet inoffensive style, which so perplexed his antagonists, that in turn they were compelled to soften the tone of their own writings, and at the end of their controversies with him, they learned to admire his candor, his matchless courage, and his firmness and gentleness of character.21

Despite the high level at which the Miscellany was conceived and conducted, it never received the whole-hearted support of American Catholics that it deserved. From the very start

21 Paul J. Foik, Pioneer Catholic Journalism (New York, 1930), 78.
subscriptions were small in number and frequently in arrears. The paper was hardly six months old when England was forced to suspend publication in November, 1822, for lack of funds. With the resumption of publication in January, 1824, the *Miscellany* was able to maintain a precarious existence, thanks largely to the contribution of money and labor which England, himself, his sister, and several of his clergy made, although it continued to lack general Catholic support, and even met with opposition in Catholic and clerical circles. England continued to edit the *Miscellany* until his death on April 11, 1842.

The other source of England's prestige in America was his power in the pulpit, a power which brought him a rare honor in the history of the American episcopate—an invitation to speak before Congress. "The Address Before Congress" was not delivered before a regular session of Congress, but at a Sunday religious service. In the early years of the Nineteenth Century Sunday religious services were held in the hall of the House of Representatives, and were attended by figures prominent in government and Washington society. England was invited to speak

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22Ibid., 39.

23After Bishop England's death the *Miscellany* was continued by his two successors in the See of Charleston, Bishop Ignatius Reynolds and Bishop Patrick Lynch. In 1861, however, a great fire in Charleston destroyed the office of the *Miscellany* as well as the Cathedral and the Bishop's House. After this disaster publication was not resumed.
at such a service on January 8, 1826, as a result of a sermon which he preached on Christmas Day, 1825, in St. Patrick's church in Washington. In this sermon he had dealt with an anti-Catholic address which John Quincy Adams, now President, had delivered while Secretary of State in 1821. Bishop England, himself, has left us a picture of the scene that January day.

On the day I filled the Speaker's chair I was indeed a show, and all Washington must have thought so, for the throng was so great that the President found it very difficult to get in, and when in, much more so to get a seat. Upon my arrival . . . I found vast numbers returning without a hope of getting upstairs, so as even to see in,--and for once I must own I felt ashamed at hearing my own name proclaimed by my friends Haynes and Hamilton of South Carolina, who formed my bodyguard, whilst in all the pomp of Prelacy I struggled through and heard the proclamation renewed still to make way for me to enter . . . When I was done I certainly felt a very extraordinary gratification at the intense attention with which I was heard, and that every face seemed to say 'go on.' But I thought two hours enough for them and for me.--I made the sign of the cross, and my gratification was indeed increased by the vast and respectable portion of the assembly that exhibited its faith. 24

The present text of the "Address" was not necessarily the one followed by England on the actual occasion, for it was not committed to writing until after the event, the Bishop relying upon his memory and the aid of some notes taken on the spot. The "Address Before Congress" ranks with the "Letters on Political Measures About Ireland" and "The Republic in Danger" as a major

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source of Bishop England's Church-State views. A frank and courageous airing of several Church-State problems occupied a good deal of the "Address," and the views expressed are rendered all the more weighty in view of the circumstances under which they were uttered. It is to a detailed consideration of these views that we now move.

In a religiously mixed society the basic problem of Church-State relations is the issue of religious toleration: shall the law make allowance for the co-existence of more than one religious denomination within the same civil society? Permission by law to exist and function as a group is perhaps the greatest benefit which any body of dissenters, whether religious or political, can attain in a civil society. Conversely, one of the strongest weapons which a political society can wield against political or religious dissenters is the weapon of intolerance: the denial by law of the very right of the group to exist.

In early Nineteenth Century America the Catholic Church, as the major group in dissent from the prevailing Protestantism of the nation, found the question of religious toleration an important one, that of religious intolerance a pressing one. As a group charged with the hypocrisy of demanding toleration for herself in America, while she denied that same toleration to dissenting groups wherever she reigned supreme, some answer had to be found. Bishop England was the first American Catholic churchman of prominence to attempt a fairly comprehensive
treatment of these fundamental relations of Church and State—religious toleration, persecution, union of Church and State.

It should be noted from the start that Bishop England is clearly aware of a false form of liberalism which results in the compromise or denial of truth. The liberality of the Roman Catholic "is not that unreasonable, unmeasured abandonment of every principle of common sense, and of religion, which places truth and falsehood upon a level . . . ." 25

Bishop England poses the problem of religious toleration by asking whether any government can "require any man to sustain a religion by an act that he believes to be contrary to God's law or revelation, or subject him to any inconvenience for refusing to sustain it . . . .?" 26 The answer demands first an analysis of the general power which government has to enforce any given course of action. The course of action which a government wishes to enforce first must be morally good; it must be injurious only to a few and beneficial to the many; and so necessary for the attainment of the end of the government, that, if not enforced, that end "can scarcely, if at all, be attained . . . ." When such conditions are all verified, "the individual or the few


26 Ibid., IV, 487-488. It is not of the right and the duty of the Church to sit in judgment upon questions of doctrinal rectitude that Bishop England speaks when he treats the question of religious toleration.
Dissenters are obliged to conform or leave the community." 27 Applying these principles to the sphere of religious legislation, Bishop England attempts to describe the powers of religious legislation which a government may possess on occasion. At the heart of religious legislation lies the presupposition that God has revealed a particular manner in which He wishes to be worshipped. Religious legislation sets for its purpose the enforcement of conformity to that system on the part of all citizens, but a government may so legislate legitimately only when it satisfies certain conditions. In the first place, it must be "infallibly certain that the law or revelation is exactly what the government proclaims, and has no ground whatever that the recusant is in error." 28 Without such infallible certainty, no government can hold a man to any act which he finds conscientiously objectionable, nor punish him for refusal to so act. Even when a government may be said to have such certitude about the unique truth of the religious system it proposes, still it cannot interfere "with the conscientious rights of individuals, nor can it restrain their profession or acts, except it be specifically charged with this duty by that power whence it derives its authority ...." 29 Now the author of the Christian

27 Ibid., 488.
28 Ibid., 489.
29 Ibid.
religion, continues the Bishop, never gave to any civil government "any such power by delegation special or general; consequently, if any government claims such power, it must be shown that it is derived, like all the other powers which it possesses, from those who created it."30

There is one further principle which must guide a government pursuing a policy of religious conformity, even when that government has met all the conditions just mentioned. The principle is this: "when religious error has made considerable progress in the state, and . . . it is impossible peaceably to correct the evil, the government must permit its existence even though it do not approve of, or countenance the same: for even a considerable minority possess rights of which they cannot be divested; and, in this case, the evil of oppressing a large body of citizens, who, though in religious error, yet are otherwise in the peace of the state, would produce serious evils to the community at large."31 Even Christ, says England, subscribed to this principle. The case is that of the tares sown through the wheat; "both spring up together: and yet the Saviour declares that we must leave the time of separation to his own harvest . . . ."32

30Ibid.
31Ibid., 490.
32Ibid. The text cited is a classic one and had been used to the same purpose by John Milton and Roger Williams, although there is no indication of what influenced Bishop England to adopt it.
In summary, the Bishop would allow religious intolerance, or enforced conformity by the government, upon the fulfillment of three conditions: such unanimity of government and people on the matter of religion "that there could scarcely be found any body of dissenters worth notice"; again, certainty, based upon infallible testimony, of the unique truth of the religious system enforced; and, finally, the acquiescence in such a policy of those who are the source of political power in the nation. 33

It is the second of the conditions which renders the very idea of a government enforcing conformity with any Protestant creed an absurdity.

We can understand how an infallible church might feel warranted in drawing up a formulary to be received; but we are totally at a loss to know how a body which claims no infallibility can presume to say: 'Though we are fallible, yet we are so certain that we give you what God has revealed, that unless you receive it, you are in gross error . . . .' Catholics, whilst they laid down doctrine, claimed to be infallibly correct:--all the separatists laid down the doctrine with equal precision, and said--'Neighbors, we are certain we are right, though we say not that we are infallible; and we are quite certain that Rome is wrong; and we are quite certain that all other separatists are wrong. We alone are right!' 34

33 Ibid., 491.

34 Ibid., I, 25. He goes on to say: "The world could not tempt them to say that they were infallible; but they always acted as if they were, and they killed more Catholics for not yielding to their infallibility, than Catholics killed separatists for denying their's."
On the other hand, it is theoretically possible for religious conformity (legal intolerance) to be a government policy where the Catholic Church is the religious system to be enforced. Even in this case, however, once the dissenters from Catholicism become numerous, even though they should be "only a feeble minority, the first condition ceases to exist; and, if in addition... the public will should be dissatisfied at the continuance of this power in the government," the government should cease immediately to enforce conformity.

Although government enforcement of religious conformity could be justified under the conditions prescribed, it was Bishop England's conviction that persecution of dissenters was never justified. For, as he said in the "Address to Congress," he knew "of no power given by God to man, or to any body of men, in the Christian dispensation, to inflict any penalty of a temporal description upon their fellow-men for mere religious error." Perhaps the most suasive argument against the use of force for attaining religious conformity lay in the evil consequences often attendant upon its use. "Persecution has frequently made hypocrites," he observed to O'Connell in 1825, "I doubt whether it ever made a convert." Governments have, under the

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35 Ibid., IV, 492.
36 Ibid., VII, 35.
37 Ibid., VI, 15.
pretext of protecting religion, "enacted laws too cruel for
Christian governments to execute, indulged the spirit of rapine
and revenge, and committed in the name of God deeds incompatible
with his attributes . . . ." 38

Turning his attention to the policy of the Catholic Church
and the use of force, he observes that the spirit of religion
should be one of peace and mercy. God commissioned the Church
"to teach his doctrine, but he did not commission her to
persecute those who would not receive it . . . ." 39 Following
the example of Christ, the Apostles went forth "in the simplicity
of their testimony . . . to convert the world. They gave freely
their own blood . . . but they shed not the blood of their
opponents . . . ." 40 Again, the Church "has no divine authority
to make a law which shall strip of their property, or consign to the executioner, those whom she convicts of error." 41
Bishop England was familiar with the counterassertions of
Protestants that it is a doctrine of the Catholic Church that
heretics are to be persecuted. He defied anyone "to produce a
single doctrinal decree of any Pope in favour of persecution for

38 Ibid., IV, 491.
39 Ibid., VII, 35.
40 Ibid., 36.
41 Ibid., 38.
heresy." Although some Catholic theologians have asked the question "whether it is lawful for temporal rulers to make laws against heresy as an evil, and to punish those who would establish or perpetuate it," they are divided, and as yet the Church has never decided for or against either party. The Church "rejects, detests, condemns, and reprobates heresy, and not heretics." In proof of his contentions, Bishop England cites the policies of those countries where Catholicism reigned supreme. Most categorically he states that "Protestants never contended for the right of conscience in Naples, and never sealed it with their blood in that region or in Sicily, nor in the states of the Church, nor in Brazil; yet in these and several other spots of the universe, Roman Catholics may and do leave their Church, and openly profess having thrown off their mental allegiance." On the other hand persecution for religious error has been "laid down by [the Protestant Churches] as the principle by which they themselves are guided. It is to be found expressly embodied in their confessions of faith . . . ."

Although Bishop England adamantly contends that the

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42 Ibid., III, 191.  
43 Ibid., 185.  
44 Ibid., V, 511.  
46 Ibid., 373; also IV, 479.
Catholic Church in no way inflicts persecution for errors of faith, he does admit that "Roman Catholic temporal governors and legislators did at times inflict punishments, not generally for error, but for its consequences to civil society." So, while the Bishop of Charleston was for closely circumscribing the activity of the civil power in enforcing religious conformity, he does not deny the right and duty of good government to suppress and punish dissenters "if . . . the peace of society is disturbed, or the public morality corrupted . . . ." This is a power belonging to the civil government by its very constitution, independently of any connection with religion.

In Bishop England's treatment of Church-State relations the issue of religious toleration seems to be concerned primarily with the conscience rights of the individual and of minority groups. But his treatment of Church-State relations, as expressed under the alternative aspects of union of Church and State and separation of Church and State, seems to concern itself primarily with the full and proper functioning of the Church as a perfect society with its own peculiar end, and of the State as a perfect society with its special end.

The Bishop understands the term union of Church and State to apply to situations beyond the classic type of union in which a

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47 Ibid., II, 361.
48 Ibid., III, 191.
single religious denomination is recognized by the law as the official and subsidized religion of the state. He would include under the term any arrangement whereby the clergy or hierarchy of a Church would be rendered directly dependent upon civil government.

He expressed his general attitude on union of Church and State most emphatically in his letters of 1825 to Daniel O'Connell. Referring to the proposal of the British government to subsidize the Irish Catholic clergy, he brands it as equivalently uniting the Church to the State in Ireland, and, in his opinion, "a total separation from the temporal government is the most natural and safest state for the church in any place where it is not, as in the papal territory, a complete government of churchmen." 50

Behind this assertion lay England's conviction that "there never was a union of church and state which did not bring serious evils to religion." Whatever compensations there may have been to counterbalance these evils, England merely recalls that "the Founder of our Faith did not unite the church and state . . . ." Historically he contends, the Church acquiesced in a union with the State only because she was faced with a set

49Ibid., VI, 77.

50Ibid.
of circumstances in which union was the lesser of two evils. It is his further conviction that in modern times schemes for the union of Church and State have been the work of civil governments rather than the desire of the Church. And, with rare exceptions, the object of every government in taking the Church under its protection has been to use the Church for its own political ends.

The unhappy consequences both to Church and to civil society which have followed from union of Church and State should be "landmarks for the reflecting." The "dark blots of papal immorality and ecclesiastical simony" staining the pages of history are, in Bishop England's opinion, the result of union of Church and State. To union is ascribable the worst persecutions which the Church has had to endure, and from it has come "great power of inflicting injury upon religion." Even to unite Church and State just to the extent of supporting the clergy by government subsidy is to make "too strong a combination against the people and . . . dangerous to civil liberty . . . ." Elsewhere he notes that a clergy financially independent of the government is, and throughout history has been, a barrier of defence for the rights of the common people. Union of Church and State

51 Ibid.
52 Ibid.
53 Ibid., 79.
54 Ibid., I, 286.
opens the door to persecutions, for more than once statesmen have used religious zeal as a pretext for carrying out political aims.

Personal observation of "the operation of the principle of a church under the control of a lay power, leaves no doubt whatever upon my mind, but that it is, and must inevitably be, most injurious to religion." 56 An arrangement of Church-State relations such as obtains in America, where the government "happily does not interfere with the religion of the people," clearly appealed to Bishop England, and was an arrangement which, he told Congress in 1826, it would "be wisdom and prudence and safety to continue . . . ." 57

In his criticism of union of Church and State Bishop England obviously emphasizes the danger of the subversion of the Church to the political aims of the state. At the same time, he did not fail to see the possibility of a type of union in which some Church would dominate the State—ranging from the theocracy of the Calvinist states to undue interference by the representatives of the Catholic Church in the purely civil concerns of political society. Bishop England, as we shall see later, strongly attacked the Calvinist sects on this score, charging that by their very confessions of faith they were explicitly committed to a theory

55 Ibid., VII, 36.
56 Ibid., VI, 78.
57 Ibid., VII, 32.
of Church-State relations in which the Church would completely swallow the State. It was on such grounds that the Catholic Church was frequently attacked in early Nineteenth Century America as a menace to the political freedom of the Republic. Sometimes the danger was attributed to the strong allegiance in which every Catholic is held to the Pope, sometimes to the presumption that Catholics acknowledged in the Pope the power to dispense them from their civil allegiance.

This allegation of interference with civil allegiance by the Pope had occupied a prominent place in the traditional Protestant propaganda against Catholicism, corroborated, as it apparently was, by the history of the reign of Queen Elizabeth in England. American Protestants, at any rate, made the charge that the Pope had such a power, though with what sincerity it is impossible to say. The charge was a serious one, and, if made with impunity, could have called into question the very wisdom of continuing to allow such a body as Catholics to exist in the Republic. For this reason Bishop England felt compelled on several occasions to discuss the matter quite at length. In 1825 he writes: "God never gave to St. Peter any temporal power, any authority to depose kings--any authority to interfere with political concerns. And any rights which his successors might claim for any of these purposes must be derived from some
other source." On several occasions he cited in detail the
questions submitted by Prime Minister Pitt in 1788 regarding the
power of the Holy See in civil matters, and the replies of the
six Catholic Universities of Europe, which were unanimous in
denying that the Pope or the Holy See had any power whatsoever
in civil matters. He explained that when certain Popes in the
Middle Ages released subjects from their civil allegiance they
were not exercising a power which was theirs in virtue of their
position as successor of St. Peter, but which was theirs by a
common, positive grant of all the Christian rulers of the time. However, "it by no means follows, that at this time, in this
country, in violation of custom, right, and law, the Pope, who
never made a contract with the people or government of this
country, in violation of custom, right, and law, the Pope, who
never made a contract with the people or government of this
country, in violation of custom, right, and law, the Pope, who
never made a contract with the people or government of this
country, in violation of custom, right, and law, the Pope, who
never made a contract with the people or government of this
nation, has any right, directly or indirectly to interfere in
its concerns . . . ." The most important occasion on which he
dealt with this matter of papal supremacy and civil allegiance
was, in his "Address to Congress" in 1826. Here he reiterated
that it is not "a doctrine of our Church that the Pope has been
divinely commissioned either to depose kings or to interfere with
republics, or to absolve the subjects of the former from their

58 Ibid., III, 176.
59 Ibid., II, 391-395.
60 Ibid., 160.
61 Ibid., III, 398.
allegiance, or interfere with the civil concerns of the latter." 62

In the same address Bishop England answered the related charge that Catholicism opened America to external political interference, because the allegiance which Catholics owed the pope could be used by Rome and the courts of Europe for political ends in America. Already, in 1825, he had written that even should a general council make a law "requiring, under pain of excommunication, the Roman Catholic citizens of the United States to vote for no candidate for office unless he was a Roman Catholic, the Papists of this Union would disobey the law . . . for the law would have been made respecting a subject not within the jurisdiction of the council . . . ." 63 To Protestant readers the example was, no doubt, more plausible than to Catholic readers. Reiterating his stand that same year, he asserted: "Let the Pope and Cardinals, and all the powers of the Catholic world

62Ibid., VII, 41. Of the "Address to Congress," Stokes writes: "Of all the addresses at the Sunday services . . . in the hall of the House of Representatives probably none is more significant than that of the Catholic Bishop of Charleston, the widely respected John England . . . [H]is address] was a model of courtesy, courage, and clear reasoning, and was devoted to the cause of religion and the Church. The preacher discussed frankly the 'essential distinction between the Roman Catholic Church and every other . . . ' Bishop England's statement is of special value both because of its occasion and his high standing. It helps to fill a gap in the scarcity of authoritative statements on the theory of Church-State relations in this country from the American hierarchy." Church and State, I, 503-504.

63Works, III, 151-152.
united, make the least encroachment on the constitution, we will protect it with our lives .... We deny to Pope and council united, any power to interfere with one tittle of our political rights ...." 64 The spiritual power of the Pope "does not and cannot destroy the claims which the government has" upon the citizen. 65 In 1826 such protestations were novel—no doubt hardly more than protestations in the minds of many Protestant Americans—and therefore to be discounted as mere propaganda. Only time, and the proven record of loyalty on the part of Catholic Americans, could make them more than protestations. The behavior of Catholics in America's two struggles with "Catholic" nations in 1846 and 1898 would go far to provide that record of loyalty.

In some respects Bishop England's views on the various problems of Church-State relations which we have here treated were greatly clarified in his discussions of these problems as they are found in the past history of the Church. Bishop England had two reasons for dealing with the historical aspects of Church-State problems. In the first place he naturally leaned toward using history in order to learn the lessons of the past as aids to understanding the present and as guides for the future.

64 Ibid., 174.
65 Ibid., 176.
In the second place, history had been twisted not infrequently to represent Catholicism as the Church which traditionally had stood for intolerance and persecution. Some consideration, therefore, should be given Bishop England's observations on Church-State relations through history.

Bishop England felt that the tradition inherited by the early Church left no place for union of Church and State. Christ had not united Church and State. The early Christians, following the example of the apostles, shed their blood but not that of their religious opponents and "were successful by that imitation." When we find the Christian princes of the Dark Ages using force on infidel barbarians, we must realize that they were acting to protect their own people and property, not, as some historians have asserted, "for the purposes of religion at the instigation of those who laid down their own lives in the conversion of those barbarians." 66

About this time "the Church of Rome was obliged . . . to form a union with the Emperor of the Romans; the alliance was originally useful, but ultimately mischievous; yet perhaps it was a lesser evil than would be the ravages, the depredations, the tyranny of the Italian princes . . . ." 67 This was also the period in which the Greek Church enjoyed the protection of the

66 Ibid., VII, 36.
67 Ibid., VI, 77.
Greek Emperors. Comments England: "We have in the history of the Greek Church ... one of the strongest and most melancholy exhibitions of the fatal consequences of the domination of worldly power over the affairs of the church ... ." Economically, the medieval Church was brought into too close a dependence upon the civil state by the introduction of the feudal system of benefices. Had this never happened, the Church "would have been poorer, she might have been oppressed," but she would not be haunted by the memory of the "debased churchmen" which the system begot.

About this time the Popes began to exercise the power to depose princes and to absolve subjects from their civil allegiance. This power was due to "a grant made by most of the sovereigns of Europe at several periods, when they were members of a common church; they appointed him, who was their spiritual head, as their common arbiter, and armed him with power to execute the common law of nations ... ." That is why "by the customs of the age, by acquired rights, by well-known laws, and in the opinion of every jurist," the Pope had a right to depose such sovereigns as

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68 Ibid., IV, 374. He adds: "If religion be made to depend for its support upon worldly means, or the power of princes or states, it will become the sport of human folly, and the prey of human passion."

69 Ibid., VI, 77.

70 Ibid., II, 160.
Henry IV of Germany and Elizabeth of England. 71

It is an established fact, contended England, as he took up the question of the enforcement of religious conformity which prevailed during the Catholic ages of Europe's history, that all the peoples and governments of Europe at that time believed that there was but one Church to whose care had been entrusted the whole revelation and power of the New Testament; and whose hierarchy was infallible when assembled in a general council. Therefore, at this period, all the conditions required to justify the enforcement of religious conformity were fulfilled. Accordingly, there was "no impropriety, when they were unanimous in this belief, in their vesting a power in the government to protect the church, and in making it part of the duty of the civil magistrate to prohibit the introduction of what all were certain must be error: and this not only because of its mere religious incorrectness, but also because of the schisms, strifes, violence, and breaches of the peace which necessarily accompanied such innovations." 73

The question of persecution naturally suggests itself whenever conformity in religion is enforced. American Protestants in

71 Ibid., III, 398.
72 Ibid., IV, 490.
73 Ibid., 490-491.
Bishop England's day, following the traditional line of the British anti-Catholic propagandists in charging that Catholicism necessarily involved persecution, often cited, by way of proof, the history of the Middle Ages, and, in particular, the enactments of the Fourth Lateran Council of 1215. Bishop England gave these charges a thorough public hearing in the course of his "Address to Congress," in which he posed the question with Protestant bluntness: "Did not the great Lateran Council, in 1215, command all princes to exterminate all heretics? If then, we are not persecutors in fact, it is because we want the power, for it is plain that we do not want the disposition." The apologetic import of the question was great.

The Bishop's reply followed the line he had taken the previous year in his study of the problem in Letter VI of the series, "Catholic Doctrine Misrepresented." The Lateran Council, he observes, condemned the Albigensian heresy in its first canon, and excommunicated the heretics in the third canon. "Then follows a direction, that the heretics so condemned are to be given up to the secular powers ... to be duly punished." Temporal lords were enjoined to clear their domains

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74 Ibid., VII, 35.
75 Ibid., III, 148-157.
76 Ibid., VII, 37. He quotes the Latin text of the canon on III, 155.
of heretics within a year, under pain of deprivation; a superior
lord, failing to comply with this injunction, was to be excom-
municated, and, if he remained intransigent, his subjects were to
be absolved of their allegiance and his territory to be delivered
to orthodox Catholics "who, having exterminated the heretics,
shall remain in peaceable possession."77

In this directive, notes Bishop England, the Church's power
ended with the condemnation of the heresy and the excommunication
of the heretics. Beyond this the Church claims no authority.
The council could, by right, make the doctrinal decision as to
the existence of the heresy, but it had no right to make the
temporal enactment. 78 As a matter of fact, he contends, a close
study of the records of the Council will show that the temporal
enactment was never intended as a canon of the Church, and that
the Church had not, in fact, gone beyond "her constitutional
jurisdiction." The Lateran Council, he explains, was "not merely
a council of the Church, but it was also a congress of the
civilized world." The spiritual and the civil power each had its
own legislative body which did "its own business by its own
authority; and very generally the subjects which were decided
upon by one body in one point of view, came under the consideration

77Ibid., VII, 37.
78Ibid., 38.
of the other assembly in a different point of view . . . ." The separate decisions were sometimes preserved distinct and separate, "but copyists for their own convenience, brought together all the articles regarding the same subject, from what source soever they were obtained." This explains how the canons of the Lateran Council came to include the injunction regarding the repression of heretics. In the ecclesiastical council the third canon had actually terminated with the excommunication of heretics; "the ancient records give no more as the portion of its enactments." The remaining part of the canon was the enactment of the "congress of the temporal powers . . . and thus, this penal and civil regulation was not an act of the council, but an act of the congress; and it is not a canon concerning the doctrine of the church . . . ." 79 Concluding with a reference to the record of American Protestantism, England actually excuses the repressive clauses on the grounds that "passed by the Congress of ambassadors, [they were] by the law of nations good and valid: which, from the circumstances of the times seems to have been very necessary, and is more defensible upon just reasoning . . . than the clauses which disqualify Catholics for offices in North Carolina and New Jersey." 80

79Ibid., 39.
80Ibid., III, 153.
At the time of the Protestant Revolt there was hardly a European government which, to Bishop England's knowledge, "had not upon the ground of the co-existence of the above-mentioned three conditions, been the 'nursing fathers' to the Roman Catholic Church." Adverting to the repressive measures which these Catholic governments adopted against the infant Protestant movement, the Bishop writes that, no matter what the sincerity of the innovators, the Catholics were firmly convinced of the truth of their system. "They had received it from their progenitors, they freely professed and practiced, they were in possession. The churches were their's, the property was their's, they were warranted in holding and defending them against the aggressions of a newly risen and scarcely organized minority, whom they looked upon to be equally innovators for error and aggressors upon their rights." It was this riotous and anarchical element, so prominent in the early activities of the reformers, which, in Bishop England's eyes, justified the repressive measures taken against them by civil authorities.

Once an obvious stalemate had been reached between the forces of Catholicism and organized Protestantism, however, all

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81 Ibid., IV, 491. He adds: "In some instances they took good wages for their care . . . ."

82 Ibid., I, 233-234.
attempts to enforce religious conformity should have ceased.

Yet, it is a fact of history that with the rise of the two great religious parties, "strife ensued, persecution wielded her destructive implements, hatred, contention, war, and rapine desolated the fairest portions of the civilized world." Without examining the grounds upon which to justify their action, governments gradually assumed and exercised the power of enforcing different religious systems. Both Catholics and Protestants went back to the Jewish theocracy for precedent and authority, thus assuming to found their respective claims upon an analogy which never did and never could exist."83 But most reprehensible and unwarranted was the policy of those governments which undertook to enforce conformity to one or other brand of the new Protestantism.

One of the favorite assertions of apologists for Protestantism was that the Protestant Revolt had introduced separation of Church and State into Europe. Bishop England was equally insistent that, far from separating Church and State, the rise of Protestantism, and particularly of Lutheranism, united the two most firmly. State support and control of religion was one of the foundation stones upon which the Lutheran and Anglican innovations

83 Ibid., IV, 492.

84 Ibid.
were built, while in the areas where Calvinism was triumphant the State found itself absorbed by an all-powerful Church.

For the benefit of Protestant Americans Bishop England quotes a letter of 1539 to Philip of Hesse signed by Luther, Melancthon, and Bucer, along with several lesser lights of the reform movement: "Your highness is not ignorant in how great need our poor miserable little and abandoned church stands of virtuous princes and rulers to protect her . . . ." This early union of the Lutheran Church with the various national states lasted down to modern times, so that even to his own day, England contends, "the civil magistrate had the Lutheran clergy of Europe . . . under his control."

The chief reason why the princes and civil magistrates of Europe supported Lutheranism or any other of the new sects was political: by crushing the Church they would not only be enriched by the seizure of Church property, but they would rid themselves of the last great opponent of political despotism. This spoliation of the Church, by depriving the clergy of financial independence, reduced them to such direct dependence upon the government that they became little more than agents of the government. The Lutherans, he concludes, "have in the principles

85 Ibid., I, 224.
86 Ibid.
87 Ibid., I, 285-286.
of ... religious changes, done more to encourage, to support, to flatter, and to uphold tyranny, than had been done in Europe for centuries before . . . ." What is said about the Lutheran Church applies equally to the Anglican Church and to the Presbyterian Church in Ireland.\footnote{\textit{Ibid.}, VI, 68-69.}

Clearly, Bishop England declared himself fully in sympathy with the principle of religious liberty, "which would give emancipation to the Catholic in Great Britain . . . to the Protestant in Spain and to the Christian in Constantinople."\footnote{\textit{Ibid.}, 14-15.} While we must continue to maintain the distinction between objective religious truth and error, nevertheless "such a declaration on our part does not involve as its consequence that we believe dissenters and heretics\footnote{\textit{Ibid.}, VII, 37.} ought to be persecuted."\footnote{\textit{Ibid.}, VI, 15.}

While God will punish the criminal unbeliever in the next world, He has "left man's conscience free as regards society . . . ."\footnote{\textit{Ibid.}, VI, 15.} Thanks to such civil and religious liberty in America, the Catholic Church in the United States during the half-century prior to 1831 had made astonishing progress, and there was not in all Christendom a country in which "the 'laws of the papal communion' . . . have less impediment cast in the way of
their administration, by the civil government, than amongst us." 92

CHAPTER III

BISHOP ENGLAND'S VIEWS ON CHURCH-STATE
RELATIONS IN THE UNITED STATES

Bishop England had a deep interest in America's religious history. The legal position of dissenters, especially Catholics, in colonial America, and the process by which universal toleration and equality of religion emerged in the revolutionary era as realities of American state policy, were topics which obviously engrossed him, limited though his knowledge was because of inadequacy of sources.

His historical studies, particularly those which dealt with the religious situation prior to the Revolution, and with the great revolutionary changes, provided him with a wealth of apologetical material on questions of religious liberty and religious equality. Again and again he answered Protestant charges of Catholic intolerance with a reference to the repressive religious measures of the colonial legislatures. "The object of my study of history," he wrote O'Connell in 1825, "is to argue by analogy."

Works, VI, 54.
The second reason for his study in this area of history was that he might better understand his own times and the forces at work in them. "The true key to the explanation of many of the difficulties blocking the advance of the Church in America is to be found in a history which is overlooked or undervalued. No one will venture to assert that a generation is unaffected by the position of that which preceded it: and the vast majority of the Catholic population of the United States are descendants of those men, of whose struggles ... for the preservation of their religion ... I have endeavored to trace an outline."² His treatment is indeed but a sketch, almost exclusively concerned with Catholic toleration, but one which presents a picture the general outlines of which remain true even today.

Everywhere in colonial America "there was positive, direct exclusion of everything Catholic."³ Several factors may have contributed to this situation, but in the final analysis it was mainly the result of the unending, politically-motivated British propaganda against Catholicism. Bishop England was convinced that this distortion of Catholic doctrine and practice, the chief factor in making persecution and intolerance of Catholicism possible in colonial America, was politically inspired.

²Ibid., IV, 274.
³Ibid., 278.
"History has been perverted ... to palliate the crimes committed by the dominant party in Great Britain." Again, because Catholic France and Spain threatened to block England's westward expansion in America "it became a part of the settled policy of the British government ... to excite to the highest pitch this sectarian antipathy." Protestant sects had their differences and their conflicts in colonial America, "but all agreed in a common determination of not tolerating Catholics." 

In colonial Pennsylvania there were no legal restrictions on any man for his religious convictions, but "it was not until after a considerable lapse of time that any Catholics ... settled there." Speaking of the reception of the Catholics who fled to Pennsylvania from Maryland at the time of the Protestant persecutions there, England remarks: "nor was the term 'religious liberty' sufficiently understood by the Quakers to comprehend Catholicity. It is true, that they neither hanged, whipped, banished nor fined the members of our Church for their

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4 Ibid., 299-300.
5 Ibid., 301.
6 Ibid., 268. It is noteworthy that Bishop England exonerates the colonists of responsibility for their own intolerance. "However we may deplore the sad mistakes of a people thus systematically misinformed and excited, we must abstain from their condemnation." Ibid., 302.
7 Ibid., 269.
faith...but there is that solemn, distant, cold, systematic avoidance which proclaims, in a way sufficiently intelligible, the dislike and condemnation which one avoids to express by words. 8 He complains, lastly, that Catholics in Pennsylvania became liable to the penalties of English penal law in 1696 when the Pennsylvania legislature failed to extend to Catholics the benefits of the act of William and Mary exempting Protestant dissenters from non-conformist penalties. 9

Naturally enough Bishop England devoted a good deal of attention to the history of religious liberty in Maryland. 10 For Bishop England religious liberty in America had its birth in Maryland—Maryland, the living testimony that Catholicism and religious liberty can coexist. "This little Catholic society made perfect religious liberty for every Christian the basis of their legislation, and were the first who gave the example of establishing religious freedom at this side of the Atlantic..." The Virginia dissenter and the New England Protestant Episcopalian were hospitably received...and not only

8 Ibid., 277.

9 Ibid., 421. As a matter of fact, Catholics did continue to enjoy a begrudged toleration as Bishop England, himself, shows when he recounts the request of the Philadelphia congregation early in the Eighteenth Century to build a church. The request was subjected to interminable delays and red tape. Ibid., 277.

10 Cf. Ibid., 219-221 where Bishop England displays a thorough acquaintance with the major legislation dealing the religious rights from 1638 through 1715.
protected in their civil rights, but admitted to a full participation of political power; and it was thus that Maryland, Catholic Maryland at that time, led the way to the temple of religious liberty and to the concord of brethren.\textsuperscript{11} As a contrast he cites the record of the Maryland Protestants after their accession to power. Within a quarter of a century of arrival "the Catholics of Maryland found themselves deprived of their civil, religious, and political rights. This is but a faint outline," he observes, "of the misconduct of that party which taunts Catholics with bigotry and illiberality, and which boasts of the great edifice of civil and religious freedom, which they allege was raised in our republic by the genius of Protestantism."\textsuperscript{12} By the eve of the American Revolution Catholics had been reduced to a handful in Maryland.

In Virginia, writes Bishop England, the Anglican settlers from the first "embodied . . . in their code, all the ferocious laws of England against the Catholics."\textsuperscript{13} In New York, first under the Dutch, and then under the English, the same policy of

\textsuperscript{11}\textit{Ibid.}, 269. Nowhere does Bishop England advert to Rhode Island's grant of complete religious liberty to all groups. Explaining the exclusion of the Jews from civil rights in Maryland, he says that "the Hebrews were not known in the country, and were not adverted to, we should suppose, merely upon that ground . . ." \textit{Ibid.}, III, 325.

\textsuperscript{12}\textit{Ibid.}, IV, 275.

\textsuperscript{13}\textit{Ibid.}, 269.
intolerance toward Catholics was followed "unflinchingly."\textsuperscript{14}

In New England the Puritans "would not permit those who differed from them in religious opinions to remain in their colony."\textsuperscript{15} In Connecticut Catholic priests were forbidden to enter the colony and all citizens were empowered to arrest them without a warrant.\textsuperscript{16} The keeping of saints' days and the prohibition against the use of the \textit{Book of Common Prayer} show the narrow sectarian character of religious liberty in that colony. Heresy was punishable under civil law, and all were forbidden by civil law to give food or lodging to heretics. Conversion to a heretical sect, such as the Society of Friends, was punishable by banishment, with death for any banished person who returned.\textsuperscript{17}

It was the South, the Carolinas and Georgia, that Bishop England knew best. He had travelled through the region and knew it and its history firsthand. In the Carolinas the Anglican Church "was fostered with peculiar care in the first settlements\textsuperscript{18}

\textsuperscript{14} \textit{Ibid.}, 268.

\textsuperscript{15} \textit{Ibid.} Although Bishop England does not do so, an exception to this statement should be made for the case of Rhode Island.

\textsuperscript{16} \textit{Ibid.}, 470. There was only an occasional Catholic in colonial Connecticut, while the first Catholic chapel was not built until after 1820. Louise M. Greene, \textit{The Development of Religious Liberty in Connecticut} (New York, 1905), 340.

\textsuperscript{17} \textit{Works}, IV, 471. Bishop England's remarks are true particularly of the period prior to the third decade of the Eighteenth Century.
made in the vicinity of Charleston: parishes were laid and ample provision secured for the maintenance of the clergy: the laws against Catholics formed a portion of the colonial code, though indeed they were inoperative for the want of subjects against whom they could be enforced.  

In Georgia an act of 1689, notes the Bishop, provided that "all Christians (Papists only excepted) shall enjoy the full, free, and undisturbed liberty of their consciences." Anti-Catholic sentiment in the Carolinas was strengthened by the presence of large numbers of Scotch-Irish, and of Huguenot refugees exiled from France by the revocation of the Edict of Nantes. In Georgia, bordering on Spanish Florida, the "enmity arising from border warfare and occasional depredations, was . . . superadded to the sectarian hatred . . . ; all seemed to merge itself in the single difference of religion."  

Colonial history gives "ample evidence of the degradation of the Catholics of the United States at the period of the Revolution. They were sunk below the level of the negroes and of the Indians: few, poor, despised . . . objects of suspicions, victims of persecution . . . ."

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18 Ibid., 299.
19 Ibid., 419. He adds: "It was the same in the other provinces at this period, as far as I can ascertain . . . ."
20 Ibid., 301.
21 Ibid., 416.
Undoubtedly Bishop England discussed the period of the American Revolution and its impact upon religious liberty and Catholicism with the last great survivor of that era, Charles Carroll. Writing of these years he shows his awareness of the anti-Catholic aspect of the early revolutionary movement. The most palpably unfounded of the colonial complaints against Great Britain, he writes, "was the charge put forth by some of the colonies in their list of grievances, that the king of Great Britain was a tyrant because he sought to destroy the liberties of the other colonies . . . by favoring and sustaining, some of them went so far as to say, by tolerating, Popery in Canada." This course of action naturally resulted in Canada's remaining loyal to England.

Despite the part intolerance of Catholicism had played in fanning the flames of revolt against Britain, the war itself was responsible for the advent of complete religious toleration in America. "As Great Britain herself was led by her fear and her necessities to relax her persecution of Irish Catholics, so too, the United States forgot the tyranny of tolerating the Catholic religion, in their fear that without Canadian aid they

22 He tells us that his information regarding the mission to Canada came "from the lips of Charles Carroll." Ibid., 280.

23 Ibid., 280.
might not be successful." But what began as a policy of expediency survived after the war, for "not only had Catholics fought and fallen in the revolutionary struggle; but Catholic France had aided with her army and navy; her Catholic Chaplains had celebrated our offices in the camps and in the cities"; Catholics had received the public praise of General Washington; and the nation at large had benefited from the sacrifices and services of such Catholic leaders as Charles Carroll and John Carroll.

Although the post-revolutionary decades saw the old prejudices against Catholics lessen considerably, most of the states "retained in one way or the other the old principle of excluding Catholics from places of trust or of emolument . . . ." The reason for this anomaly was that "public opinion may demand the abolition of an obnoxious, or of a disgraceful statute, and yet the private opinion be, in great measure, unchanged as to the supposed causes which produced the discarded provision." In Bishop England's mind the gradual change which was taking place in the attitude of American Protestants toward Catholics was due to two factors in the post-war national scene. First, many

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24 Ibid., 281.
25 Ibid., 282.
26 Ibid., 302.
27 Ibid., 303.
respectable members of Protestant sects had become Catholics.28

Secondly, the number of born-Catholics in the colonies was being swelled with the immigration of German and Irish Catholics which had set in during the last decade of the Eighteenth Century. These were not the sole sources of new blood. The revolution in San Domingo brought numbers of French Catholics and their priests to the southern United States. A sense of humanity and hospitality prevailing over their inborn prejudices, American Protestants welcomed these "Papists" and soon learned to forget "the imagined abominations of the religion of these people."29

The French Revolution brought to America an impressive number of French refugees. Bishop England recalls how poorly equipped they were, particularly the refugee priests, to make a favorable impression for Catholicism upon American Protestants--ignorant of the language, knowing nothing of American customs, "scarcely recovered from the terrors of the atrocities with which their . . . infuriated countrymen had disgraced the name of liberty, and smarting under the wound inflicted upon them in the name of republicanism . . . ."30 Yet, the opportunity merely to live in peace and practice their religion was enough, says England, to

28Ibid., 449.
29Ibid.
30Ibid., 448.
enable these priests and laypeople to prove to the Protestants who tolerated them, that they, too, were men of Christian virtue. Even New England mellowed under this influence, and Bishop England could write that "the names of Matignon and Cheverus are affectionately recollected by the sons of the Pilgrims."\textsuperscript{31}

Lastly, the accession of Louisiana and Florida to the union brought into the Republic areas thoroughly Catholic in culture without ill effects. Within fifty years' time, concludes the Bishop, due to the working of these various influences. "have common sense, and common observation . . . Protestant intelligence and Protestant honour made a serious encroachment upon ancient Protestant prejudices, and folly, and injustice."\textsuperscript{32}

Bishop England was also a keen observer of problems of Church-State relations of the America of his own day, as well as a student of the history of those relations. In 1824 the Mt. Zion Missionary, a Protestant publication from Georgia, in discussing the current attempt in the Maryland legislature to remove the restriction of civil rights in the state to those professing belief in the doctrine of the Holy Trinity, added its own comment: "This is Catholic Maryland--free Catholic Maryland of which Bishop England boasts so much:--the only state in the Union where

\textsuperscript{31}Ibid., 449.

\textsuperscript{32}Ibid.
a religious test is in force." England replies that by this time Maryland was more Protestant than Catholic. "Be the present Constitution good or otherwise, it is not the work of Catholics." In 1831, three years after the restriction had been repealed, he referred to the former exclusion of the Jews from full political rights as "ridiculous and unbecoming." 

In 1830 Bishop England drew the attention of President Jackson to what he considered two unwarranted intrusions by the federal government into Church matters. The second of these cases had occurred in 1828 when two troublesome Dominicans, Rev. William Harold and Rev. John Ryan, in response to ecclesiastical orders to leave Philadelphia, appealed to the Department of State and to the President, who "directed a letter to be written from that department, in which the cause of these two priests was countenanced by the government." What Bishop England strongly objected to was the fact that the government had acted "in such a manner as appears to interfere with the freedom of agency of the spiritual head of the Roman Catholic Church, and to cause several citizens to dread that repetition of such conduct would be the commencement of a union of church and state, as well as an unconstitutional meddling with the affairs of our

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33 Ibid., III, 325.
34 Ibid., IV, 492.
ecclesiastical body . . . ."35 The Bishop writes that in an interview the President "expressed his coincidence with" the views which the Bishop had expressed in his letter. It was during the course of the Harold Case that Bishop England first learned of the earlier alleged interference in Church matters by the government from a remark of Fr. Harold claiming that the Jesuits had appealed to the State Department after Pope Pius VII decided against them in favor of the Archbishop of Baltimore in the dispute over the Whitemarsh farm. According to Fr. Harold, the Jesuits had succeeded in having instructions sent to an American diplomat in Europe "to interfere in such a manner as to exhibit the opposition of the federal government to the papal decree . . . ."36 Contended England, "There does not appear to have been any constitutional ground for . . . interference: yet it is believed that such interference has taken place . . . ."37 However, subsequent investigation at the State Department failed to reveal any records of the earlier incident, while the government failed in the second case to pursue the matter to any great length.

Article XXXII of the constitution of North Carolina stipulated that any person "who denied the truth of the Protestant

35Ibid., VI, 490.
36Ibid.
37Ibid., 489.
religion" was to be excluded from all offices of trust in the State. Bishop England, who repeatedly taunted Protestant critics with this provision, had the satisfaction of seeing its repeal in 1835. He writes that for some years prior to the actual repeal public opinion had considered the clause dead. He personally knew of four cases in which Catholics were knowingly elected by their Protestant neighbors to public office despite the presence of this restrictive clause in the statutes. Similar clauses in the New Jersey constitution depriving Catholics of the right to vote and of the right to hold office he attacked with equal vigor, but did not live to see their repeal.

In 1841 Bishop England's only known publication on the growing controversy stirred up in New York by Bishop Hughes' demand for a Catholic share in the school fund appeared in the Miscellany. He reprinted addresses by Bishop Hughes and Father John Power, but contented himself with a few general remarks on the subject. Referring to the denial of the Bishop's request for funds, he wrote: "For our own parts, we were not disappointed by the result of the application to the School board. Indeed we expected nothing else. We write deliberately

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38 Stokes, I, 402.
39 The right to vote was not granted until 1844; the right to hold office not until 1912. Ibid., 435.
when we state that, probably, there is not a town or city council in the United States that would have not decided in the same way. Do we then think the decision just? No. Do we think the council dishonest? That is not the ground of our opinion. What then is it. We do not think it likely that a public body can be found in the United States which does not, without its own consciousness or suspicion, think and act under the influence of great prejudice against Catholics, their claims, their rights, their principles, their religion . . . .”

Bishop England's most thorough and interesting analysis of contemporary Church-State issues was made in the series, "The Republic in Danger." The theme of the article in the Southern Religious Telegraph which had occasioned the series was the familiar one in which the religious opponents of Protestantism were linked with the forces of immorality, irreligion, and political decay. Americans are warned that the Republic is in extreme danger because of public immorality and the growth of Roman Catholicism. The rapid rise of the nation's prosperity, far from being the assurance of an enduring republic, has only increased the danger by causing widespread complacency regarding the dangers of drink and Catholicism. 41 "Let good

40 Works, V, 74.
41 Ibid., IV, 412.
citizens look around them . . . at the encampment of the enemy, and see the hostile powers arrayed against the republic . . . ." 42

Intemperance, the first of these hostile powers, has destroyed hundreds of thousands of Americans within the preceding decade, while a mere 300,000 out of 12,000,000 Americans "have enlisted in the ranks of those who have solemnly resolved to drive out the enemy." 43 Popery, the second great enemy, "has invaded the land and is laying the foundation of an empire" with which "the republic and its liberties cannot coexist." There are Protestants complains the writer of the article, who are ready to tolerate the existence and spread of the kingdom of the Beast in the United States, but who take offense at the "bigoted rules" of good, patriotic Presbyterians. "It is well known that the anti-Christian moralists of our times have more sympathy for the monster that is forging chains to bind them, than they have for any denomination of enlightened Christians in the land . . . ." The writer then takes to task those tolerant Protestants who regard Popery "as differing little from the religion of the Bible . . . ." The truth is, concludes the writer, that if the laws of the papal communion are allowed to be put into effect in America, "liberty must die; from the nature of things, it is

42 Ibid.
43 Ibid.
impossible for them to flourish together." The bad man injures not himself, but the community as a whole. More so is this true of an institution like the Catholic Church, with its "power to excite the imagination, captivate the senses, and enslave the mind to forms of superstition, while no truth is brought to bear on the conscience or the heart . . . ." 

What, then, is to be done about the danger to the Republic from intemperance, Popery, Sabbath-breakers, gamblers, and "votaries of dissipation"? It is the officials of the civil government, insists the writer, who have the responsibility of correcting the situation. Thrusting at the Jacksonians, he warns: "The danger to the republic from men of this stamp has been increased by the fact that they fill some of its important places of trust; so many of them had, by some means, obtained such stations a year or two since, that no Christian could speak plainly of the dangers to which this country was exposed, without being charged with the crime of mingling with politics." The Jacksonians "seemed to regard the wise provisions of the Constitution [prohibiting] the establishment of religion by law as an

44 Ibid., 413.
45 Ibid.
46 Ibid., 414.
ordinance to consign the world of politics to the dominion of infidelity."

With this outspoken statement in mind, Bishop England proceeds to investigate the ideal state of national affairs which the evangelicals seemed to envisage. The reign of morality and religion was their ostensible goal. Morality, they presumed, could and should be legislated by government. As they understood it, morality was not the morality merely of the natural law, but morality as detailed by the creed of some particular Protestant denomination or bloc of denominations. "The instructions and ordinances of the Church of Christ, they unblushingly aver, is the only efficient means which has ever been known for saving a people from gross ignorance, wickedness, and superstition." Clearly, then, these ordinances must be incorporated into the law of the nation. To attain this end the only possible course of action would be to exclude unacceptable men from public offices, and "fill them with persons who would encourage others, by their

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Ibid. Stokes has the following description of the attitude of the evangelicals toward Jackson. "A goodly number accused him, as they had Jefferson, of being anti-religious. This was due to several factors: his general liberalism and independence; his opposition to the anti-Sunday mail campaign; and his refusal to issue the usual fast-day proclamation. His attitude on these and similar matters was due not to a lack of respect for religion but to his determination to keep religion out of politics and to advance the cause of democracy." I, 702.

Works, IV, 414.

Ibid., 475.
precept and example, to reduce to practice the instructions and ordinances of the evangelical association..." Thus, the approach to moral reform was to be primarily political, through the ballot box. The evangelicals, contends England, really plan nothing short of gaining ascendancy over government policy by excluding from office all religiously undesirable candidates. This they will accomplish by nothing other than the creation of a Christian party in politics "to consist of those whom they consider sanctified or converted." The power of this party, charges Bishop England, was to be built up through Sunday schools and other evangelical religious organizations such as mission boards and temperance societies.

The reformation of public morals by law would attain only half the aim of the evangelical party. There still remained the enemy infiltrating from without, the Catholic Church. Clearly and in no uncertain terms, it must be outlawed and destroyed. This was to be brought about in two ways, says England. First, the Catholic Church must be identified with infidelity.

50 Ibid., 468.
51 Ibid., 475.
52 England justifies this condemnation of the temperance societies on the grounds that non-Catholic Southerners had told him of their refusal to join such societies "because they looked upon them to be only means used for extending the influence and upholding the power of what is intended to be a 'religious party in politics.'" Ibid., 441.
Ironically, such a charge had a certain plausibility at this period in American history. Until the 1820's there had existed a small but vociferous free-thought movement in the United States. Because of the link between political rights and religious profession which existed in some of the states, many adherents of the free-thought movement were subjected to political disabilities. Naturally, infidels and free-thinkers were prominent in the movement to destroy this link between civil rights and religious profession wherever it remained. As we have seen, Catholics, and often Jews, as the only other major groups still to suffer restriction of their civil rights on religious grounds, were also interested in breaking this bond. As a result, they were often found fighting for the same proximate objectives as infidels, atheists, and freethinkers, and stood to profit from whatever success the latter groups achieved. It was very easy, then, for propagandists to identify the Catholic Church with these groups in the popular mind. The second means to be used to disenfranchise the Catholic Church in the United States was to be a propaganda campaign emphasizing the allegedly anti-republican, anti-democratic character of the Catholic Church. Since continued toleration of Catholicism must destroy liberty, Catholicism could no longer be allowed to enjoy religious toleration.\footnote{Ibid., 469.}
Let us now take up Bishop England's attack on this whole movement. The writer in the *Southern Religious Telegraph* had complained that demands that the federal government institute a program of moral reform were met with the charge that such demands constituted a clerical meddling in politics. He protested against such a charge as unfounded, for the reformers were not seeking to bring about any union between their Church and the Federal government. The aim, counters England, was more serious than this; nothing less than "to take Congress under the direction of the Church" by "exclusion from political power of every one who is not of the brotherhood." England goes on to attack this attempt at Church-State union on two grounds: its unconstitutionality and its absolute lack of theoretical justification. He contends that the attempt springs from a false theology and from theocratic principles which are European in origin.

On the question of unconstitutionality, England asserts that for all their talk about preserving the liberties of the Republic

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for their children, the evangelicals, in their attacks on both
the government and American Catholicism, are clearly attempting
to undermine the religious-liberty guarantees of the Constitution,
one of the foundation stones of the Republic.

As for the program for the reform of morals, England indicts
it likewise on constitutional grounds. He interprets the attack
of the evangelicals on government as implying that government
officials should show their support of morality by legislating
for the benefit of temperance societies, and even of mission and
Sunday-school societies. Congress has no such power, he answers,
"to interfere directly or indirectly with the temperance
societies or education or missionary societies, or with the conduct
of individuals in respect to either."\(^5^5\) The scope of the federal
government's authority has been closely defined by the people,
and the people, recalls Bishop England, never gave the national
government "any power to regulate or protect morals or religion."\(^5^6\)
Under the Constitution "it never was conceded that the law of God

\(^5^5\) Our General Government has not power either to enact
that we shall abstain from meat on Friday or Saturday, nor that
we shall eschew whisky on Sunday ... ." Works, IV, 479. He
carefully and explicitly confines his remarks to the federal
government because, firstly, "the efforts of the [evangelical]
associates are directed to the action of the federal govern-
ment ... ." and, secondly, "a contest might with more facility
be maintained, to show that perhaps the state governments are not
altogether bereft of a power of religious jurisdiction, and it
could, I think, be established that they are clothed with juris-
diction to preserve and to guard the public morals . . . ."
Ibid., 486.

\(^5^6\) Ibid., 484.
as understood by any one division or any number of divisions, 
was to be given as a rule to guide or restrain the legislation 
. . . of the general government."  

As a result, even if the government were to come entirely into the hands of "Catholics or Jews or Universalists," they would have no right to "denounce nor to inconvenience" other denominations "by legislating according to their own special religious notions."  

Indeed, in the view of the Bishop, few, if any, of the States would have sufficient power to implement the reforms envisaged by the evangelicals.  

Bishop England's strictures on the evangelicals' moral reform program might seem secularistic in tendency today, but it should be considered in terms of the social scene of over a century ago. There still prevailed in American society a rather general adherence to natural law, even among those who were losing their religious beliefs. This adherence, felt England, would sufficiently guarantee that degree of public morality which is necessary even for civil well-being and prosperity. Furthermore, when he objected to government enforcement of morality, he had in mind, not so much that basic minimum code of morality, the natural law, but those more detailed codes of conduct which were

57 Ibid.
58 Ibid., 485.
59 Ibid., 478.
strongly based upon particular denominational theologies. He seems to have felt that when the evangelicals spoke of morals they had in mind a stringent and extremely Protestant code such as had prevailed in New England. Such conception of the type of morality to be enforced by government was objectionable because sectarian, and dangerous because it could be exploited to gain an ascendency over the government. "Give them exclusive political power," writes England, "and then, of course, they will use it for legislative purposes ... . The reform may indeed commence at the post-office, but where is it to stop?"

60 Ibid., 469. "In 1810 an act of Congress had provided that post offices should open on every day that the mail arrived, Sundays included. An organized attempt to block delivery of the mails on Sunday got under way as early as 1814. During the ensuing twenty years Congressional attention was directed to the issue of the Sunday mails more than once. With Congressional reiteration of the Sunday mail legislation in 1825 the controversy flared up anew. In 1828 a committee was organized in New York which petitioned for the closing of the post office on Sundays and the discontinuance of the Sunday mails. Some 25,000 signatures were obtained to this and similar memorials ...." Stokes, II, 14. Since Charleston, S. C., was one of the petition centers, Bishop England's attention must have been drawn to the issue early in the campaign. These petitions were referred to a Senate committee on post offices and post roads under the chairmanship of Senator Richard M. Johnson of Kentucky. In January, 1829, this committee reported unfavorably on the requests for discontinuance of the Sunday mails.

Johnson's report, termed by Stokes "the most noteworthy religious-liberty statement of the Jacksonian period," has a special pertinence for us because many of the views Bishop England expresses in dealing with the Christian party in politics greatly resemble ideas contained in Johnson's report, and may have been inspired by that report. "A variety of sentiments," the report opens, "exists among ... citizens ... on the subject of the Sabbath day; and our Government is designed for the
protection of one as much as for another . . . . With these different religious views the committee are of the opinion that Congress cannot interfere. It is not the legitimate province of the Legislature to determine what religion is true or what is false . . . . All citizens, no matter what their religion are alike entitled to protection from the Government . . . .

The petitioners for [the discontinuance of the Sunday mails] appear to be actuated from a religious zeal, which may be commendable if confined to its proper sphere; but they assume a position better suited to an ecclesiastical than to a civil institution. They appear, in many instances to lay it down as an axiom, that the practice is a violation of the law of God. Should Congress, in their legislative capacity, adopt the sentiment, it would establish the principle that the Legislature is a proper tribunal to determine what are the laws of God. It would involve a legislative decision in a religious controversy, and on a point in which good citizens may honestly differ in opinion . . . . If this principle is once introduced, it will be impossible to define its bounds . . . .

Extensive religious combinations to effect a political object are, in the opinion of the committee, always dangerous. This first effort of the kind calls for the establishment of a principle, which in the opinion of the committee, would lay the foundation for dangerous innovations upon the spirit of the constitution, and it is to be apprehended that the future measures of Government will be strongly marked, if not eventually controlled, by the same influence. All religious despotism commences by combination and influence; and when that influence begins to operate upon the political institutions of a country, the civil power soon bends under it . . . .

Nor can the committee discover where the system could consistently end . . . . We shall, if consistent, provide for the erection of [churches] . . . and for the support of Christian ministers, if we believe such measures will promote the interests of Christianity. [The committee is convinced that the only way to avoid these increasing complications is] to adhere strictly to the spirit of the constitution which regards the General Government in no other light than that of a civil institution, wholly destitute of religious authority.

Let the National Legislature once perform an act which involves the decision of a religious controversy, and it will have passed its legitimate bounds . . . . Our constitution recognizes no other power than that of persuasion for enforcing religious observances . . . [Christians'] moral influence will . . . do infinitely more to advance the true interests of religion, than any measures which they call on Congress to enact . . . .

Stokes, II, 15-16.
By way of answer to his own question Bishop England reviews the history of the Puritan enactments in Connecticut and avers that the present evangelical campaign of reform will result in the same type of legislation. Quoting from the "ordinances under which the evangelicals formerly regulated the liberties of Connecticut," Bishop England draws an imaginary picture of the state of affairs which would exist should the evangelicals ever gain the power they seek over the federal government. No one who is not "sound of faith" will be able to hold office. Once they achieve the power which "they calculate themselves upon acquiring through the instrumentality of their associations ... they will inevitably have the moral power of making this provision constitutional." Then they will revive the penalty for voting for persons disapproved by them; for the first such offense the punishment will be a fine, for the second, disenfranchisement. The transition will be easy from veto over candidates to the enactment that "No one shall be a freeman or give a vote unless he be converted, or a member of one of the churches allowed ... ." Not only would Catholics be banned if the evangelicals were to come to power, but other Protestants would have much to fear. Anglicans had been proscribed in Connecticut,

61 Works, IV, 470.
62 Ibid.
while Quakers had been denied the right to vote, even the right to live in peace. "The same restless spirit, the same grasping ambition, the same sectarian domination ... will urge them to proceed; and they will re-enact that 'No food and lodging shall be afforded to a Quaker ... or other heretic.'" 64 England ends

63 England was familiar with the contention that the variety of sects in America ruled out the possibility that any one sect could usurp control over the national government; the argument left him unconvinced. "When it is said that the variety of sects precludes the possibility of usurpation, I am led to consult my experience rather than my imagination. I know many villages, especially in our Southern States, in which at their origin, the inhabitants were of various Protestant sects, and I may ... say, generally evangelical. Neither the numbers nor the means of the sects warranted the erection of separate churches and the maintenance of different settled pastors; they united their efforts to build a common church, in which the pastors of all would have equal rights. They went on harmoniously for a time, and each pastor, as he visited, was welcomed to the church; but year after year began to give a greater singleness of character to the trustees; though the church was open to divers preachers, yet he [who] was taught in accord with the great body of the trustees, always had a preference, and occasionally a stipend. His services were more frequent; he then became a resident; and he appeared statedly in the pulpit ... The other pastors could now seldom find an opportunity of holding forth, save on some week-day, and not always then. Disgusted, disappointed, and uniformly outvoted, the few dissident trustees resigned ... The board of trustees was now filled up, and they were for the first time, all members in accord with the preacher ... I could reckon up several churches whose history is here described, and almost in every instance they have fallen into the hands of one sect, and that the one which most frequently put forward the fact of the diversity of sects ... as the guarantee ... of equal rights ..."

64 Ibid., 471.

Ibid., 471.
his historical argument with a catalogue of the puritanical provisions of the blue codes, warning that all these will return if the evangelical program of reform materializes.

Realizing the sensational ring which his charges against the Christian party in politics might have, Bishop England reminded his readers of the meteoric rise of the Presbyterians to power in England toward the end of the reign of Charles I. The evangelicals, he feared, were of essentially the same spirit, and would, if given the power, revert to type. In 1645 and 1646, he reminds his readers, the Presbyterians were already damning religious toleration, even before they had attained complete control over Parliament. "Toleration," he quotes from one of their works, "was the appointing a city of refuge in men's consciences for the Devil to fly to; a toleration of soul murther, the greatest murther of all others." England then goes on to quote their general doctrine on Church-State relations as expressed by John Cartwright. "Princes must remember to subject themselves to the church, and to submit their scepters . . . before the

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65 "I would ask whether any civilized nation, except under the dominion of this sect, ever submitted to such a code?" Ibid., 472.

church . . . ."67  Juxtapose with this statement, says England, the present complaints of the evangelicals that the infidels apparently claim exclusive right to reign in the political world and that the ordinances of the Church are disregarded at large, and the conclusion is obvious.

It is this theocratic element, so central to the creed of the Calvinist sects, that England hits heavily. For, as he shows, the confessions of numerous American Protestant Churches contain and inculcate the same outlook on Church-State relations as that which gave rise to the Puritan regimes in England and in New England. Absolutely basic to the evangelistic approach to Church-State relations is the idea that it is "the duty of the civil magistrate to protect the church of our common Lord."68  This is the attitude toward government, observes England, "which was preached in so many parts of Europe by the churchmen of all denominations . . . ."69  The use of the epithet, "European,"


68 Works, IV, 480-1. Quoted from "the confession of faith of the Presbyterian Church . . . chapter xxiii. article iii."

69 Ibid., 479. England adds: "It is not my business to examine here how far this might or might not have been the duty of any European or other government. I merely content myself with denying that such a power has been given to the Congress of the United States." Our American institutions are so different that no analogy with European situations can tell us anything about the powers of the American government. Ibid., 481.
is to be noted. American nationalism was still waxing strong at this period, and all that was European was looked upon with distaste and distrust. The term was constantly being applied opprobriously to Catholicism. England justifies the use of the epithet in connection with Protestant policy on Church-State relations, by showing that the creeds of the evangelical sects are not only European in origin, but "European" in outlook, and in their tendency to result in theocracy. The texts of Scripture, he notes, which are quoted to justify the Calvinist approach to Church-State relations "are precisely the same which in Europe, the advocates of the divine right of kings have adduced to sustain their position; and they are equally inapplicable in one case as in the other . . . ." 70

The basic Church-State platform of the Calvinist denominations is to be found, Bishop England feels, in a statement in the Confession of Faith of the Presbyterian Church. "As nursing fathers it is the duty of civil magistrates to protect the church of our common Lord." 71 While there is one sense in which this statement is unobjectionable, the interpretation given it by the Presbyterians is unsatisfactory. According to this interpretation, continues the Bishop, quoting from the same Confession, "God hath

70 Ibid., 480-481.

71 Ibid., 481.
ordained the civil magistrate to be under him, over the people, for his own glory and the public good." 72 Now, as the promoter of God's glory, the magistrate must use his legislative power to maintain piety. It is with the notion of piety and its interpretation that the problem lies. The false assumption that the civil magistrates have the duty to be nursing fathers to the Church is common to the Associate, the Scotch, and the Reformed Churches, as well as the Presbyterian Church. Thus, the Dutch Reformed Church in article XXXVI of her Confession of Faith elucidates this injunction by enumerating the duties of the civil magistrate toward the Church: "to protect the holy church service; to prevent and extirpate . . . all false worship; to destroy the kingdom of the anti-Christ . . . and to take care that God may be honoured and worshipped by everyone as he commands." 73 It is here that the chief problem with the evangelicals lies. For, to ensure that men worship God as He commands, is to go beyond the role of mere protector of Church liberties, for the Calvinist confessions construe the instruction—"putting no hindrance in the way of God's law"—to mean a positive "carrying into execution among other sects the construction which some pre-eminent religious societies might give to the divine

72 Ibid., 480.
73 Ibid., 481.
For the "true intent and meaning" of the divine law "are plainly exhibited in the instructions and ordinances of the [evangelical] church of Christ" in the view of the evangelicals.

It is true that there are provisions in the Protestant confessions guaranteeing religious liberty. The Presbyterian Confession, for example, provides that the civil magistrates should protect the Church "without giving the preference to any denomination of Christians above the rest, in such a manner, that all ecclesiastical persons whatever shall enjoy the full, free and unquestioned liberty of discharging every part of their sacred functions without violence or danger." However, it is evident from other clauses in this Confession, that this is not quite the sweeping guarantee it seems to be. For Catholics are in no way recognized as a denomination of Christians having a claim to the magistrates' protection. Indeed, in another article of the Confession, Catholics are expressly reprobated as members of the anti-Christ and subjects of the "Beast." Supposing for the sake of argument, however, that Catholics could be said to be protected by this clause, what, then, are we to make of the

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74 Ibid., 483.
75 Ibid., 485.
76 Ibid., 482.
evangelicals' attack on the Catholic Church and their demands for its repression in the United States? Pursuing this point, England finds that the last clause of this article in the Confession guaranteeing religious liberty reads: "It is the duty of the civil magistrates to protect the person and good name of all their people in such an effectual manner, as that no person be suffered, either on pretence of religion or infidelity, to offer any indignity, violence, abuse or injury to any other person . . . and to take order, that all religious and ecclesiastical assemblies be held without molestation or disturbance." Therefore, if there is any complaint of remissness to be made against the officials of the federal government, it is that they have failed to take steps, not against drunkards and "subjects of the Beast," but against "the calumny and vituperance of the saints" who classify Catholics with drunkards and blasphemers and accuse them falsely of plotting against the liberties of the Republic. Apparently, says England, the function of the magistrate as "nursing father" has been given an ambiguous interpretation by the evangelicals. For purposes of propaganda the magistrate in the Calvinist state is pictured as the guarantor of religious minority rights; in actual practice he turns out to be a sectarian proselytizer.

77 Ibid., 482-483.
Bishop England concludes that it is no matter of astonishment "that persons who believe as an article of faith, that the civil magistrate has the power here described, and is bound by his office to act as has been indicated, should find fault with government officials for not extirpating Catholicism. His investigation of the confessional basis of the evangelical party platform shows a fundamental disharmony between the tendencies of this platform and the provisions of the American Constitution on Church-State relations. Far from considering government officials to be "nursing fathers" to the Church, the people of the United States refused to give the government any power with regard to religion. Far from enforcing "piety" as understood by the confession of any single Church, "the principle of our government is, that each denomination is to follow its own interpretation, and government is not to interfere with them in their construction, nor place any ... hindrance to their own observance of that law so interpreted," so long as public order is not violated. 78 However, for a member of one denomination to tell the civil magistrate, for example, that God "forbids his transmitting the mail-bag on a particular day, and entrusting it to be so conveyed by another ... and declare to that magistrate that he is

78 Ibid., 483.
guilty of a high crime, and violation of the law of God, and that
his human law is therefore to be nullified, as being in violation
of the constitution of Jesus Christ: this sectarian goes out of
his sphere . . . ." Such a position is as extreme as that of
the Jew or Seventh-Day Baptist "who should insist on the legislator
following his interpretation of the divine law . . . and force
the evangelical saint to travel with [the mail] on the Lord's
Day." 79

From the first Bishop England recognized the peculiar
character of the American religious scene and attempted to accommodate his thought to the unique Church-State relationship which resulted. The Church-State arrangement provided by the Constitution he considered an ideal solution to a complex situation. That arrangement, as Bishop England interpreted it, was not atheism on the part of the federal government, but merely a precision on its part from committing itself at all on religious questions. Sufficient provision would be made for religion by the people as private citizens, while the states could protect and encourage the morality of the natural law. 80

The granting of full religious liberty to Catholics, he asserted, in answer to a common Protestant attack, had neither

79 Ibid., 483, 484.
80 Ibid., 486.
endangered the growing tradition of separation of Church and State, nor the religious liberties of American Protestants. Neither the political freedom of Catholics nor their national loyalty had been compromised by their allegiance to Rome, for the jurisdiction of Church and Pope were closely and clearly limited to the sphere of the spiritual. Neither did Protestants have anything to fear from Catholics in the future. So long as the requisite majority of Americans remained satisfied with the existing constitutional arrangement of Church-State relations, Catholics must and would dutifully abide by that arrangement. And should the day come when Catholics were in the vast majority in America, they would do well to retain that arrangement. So far as Catholicism itself was concerned, Bishop England felt that the American system of Church-State relations had enabled the Church to flourish as it never flourished before, and with a healthy independence that it had rarely known. In 1839, even in the midst of growing manifestations of Protestant hostility, he described this system of Church-State relations with an obvious sense of satisfaction:

"The state not only did not give the general government any authority in religious concerns, but expressly stipulated that 'Congress shall make no law respecting

81 Ibid., III, 176.

82 Ibid., IV, 459."
the establishment of religion, or prohibiting the free exercise thereof.' Thus, whatever authority a government may rightfully possess in this respect, resides in the several state sovereignties; and in fact, they all at present act upon the principle of the above prohibitory enactment. The state does not then interfere with religion, which it considers to be the concern of each individual in his private capacity. The state also considers religion to be useful to society.

Accordingly, the state grants religious groups the right to draw up constitutions and by-laws and "it recognizes their force within that body." Should litigation arise, the courts "govern their decisions by the constitution and by-laws of the religious society itself," provided these laws be not incompatible with the laws of the particular state or of the United States. Under such a system of law, Catholics without difficulty can "voluntarily bind themselves ... to maintain and observe the whole doctrine and discipline of their church ..." In conclusion, Bishop England writes that he does not know "any system more favorable to the security of religious rights ... than that of the American law ... I prefer it to the law of almost every Catholic country with which I am acquainted."

Bishop England lived to see a decided change in the trend of Church-State relations in the United States. The Era of Good

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83 Ibid., 239-299.
84 Ibid., 290.
85 Ibid., 289.
86 Ibid.
Feeling during which he had come to America had extended even to the sphere of religion. But, after 1820 the friendliness and broadmindedness of many American Protestants gave way to the influence of a revitalized and aggressive Protestantism which manifested itself in a series of puritanical movements for reform and in anti-Catholic outbursts. The single voice of a John Quincy Adams publicly attacking Catholicism in 1821—and answered with a rebuttal in the very halls of Congress by Bishop England—had by the end of the 1830's swollen into a chorus of evangelical demagogues and bigots. The optimism of England's panegyric of American Protestants to O'Connell in 1825, with its benign apology for their inherited, but unintended, hostility to Catholicism, changed in the 1830's to a growing impatience with the growing tide of Protestant vituperation and misrepresentation. Describing conditions toward the end of his life in 1841 he writes: "We have seen in later times a disposition to forget the great lesson ... inculcated by the Constitution and Bill of Rights in their provisions for religious toleration and separation of Church and State, and to revert to a persecuting spirit ... It is a spirit which ... induces mutual mistrust. It may even graft itself upon political feeling or partisanship—it may cause political principles to be blended with religious distinction—and then we have at once a union of church and state, the
But Bishop England did not despair for the future. Equality before the law had been attained, an achievement which would not easily be nullified. Catholics "have pens: let them be used, not to vilify others, but to defend themselves; they have rights, let them be asserted. But it will require time, exertion, and patience. Let Catholics be devoted as they should be, and truth and justice must be successful. Already the omens are favorable ... we shall have affection, and charity, and justice, succeeding to hatred, and bigotry, and oppression."  

87Ibid., VII, 72-73.

88Ibid., V, 74.
CHAPTER IV

CONCLUSION

This study has examined the contribution which Bishop England made to American Catholic literature dealing with issues of Church and State, a literature which was called forth by the very circumstances under which the American Church received its freedom and under which it was long to exist. England wrote with varying degrees of thoroughness upon a variety of Church-State topics, among them religious toleration, religious intolerance, religious persecution, union of Church and State, separation of Church and State, papal deposing power, and papal supremacy in matters spiritual. Although he frequently treated these issues from both a theoretical and a historical point of view within the same work, this study has given separate consideration to his work on Church-State issues from each of these two angles.

Approaching the question of religious toleration and religious intolerance, from the theoretical point of view, Bishop England found justification for religious intolerance in the fulfillment of three conditions: infallible certitude that the system to be enforced is the one true religious system.
revealed by God; almost complete religious unanimity of government and people on religion, and the absence of any sizeable, organized body of dissenters; and popular consent of the government's pursuing a policy of religious intolerance.

Of these conditions the third is the most intriguing because of the role it gives to the popular will in the justification of religious intolerance. And, since one of the foremost types of union of Church and State involves governmental enforcement of religious conformity, Bishop England would be introducing the element of popular approval into the question of union of Church and State.

It is the first of the three above-mentioned conditions which is the most important, and the one which should be kept in mind when estimating the justice of England's strictures on Protestant intolerance, and his seeming blindness to Catholic intolerance. Grant his contention that only a religious system grounded on infallible certitude may be enforced by government, and you must grant the legitimacy of intolerance on the part of Catholic nations, while all justification is stripped from Protestant attempts, past, present, and future, to enforce religious conformity.

Finally, it is worthy of note that the principles which Bishop England invoked to arraign the injustice of Protestant intolerance, and to justify historical Catholic intolerance, did not, at the same time, commit the Church to insist in the present
or future that Catholic governments adopt a policy of religious intolerance. This was important, for Bishop England personally was convinced that religious toleration was the better policy, so long as it did not lead to anarchy or to the destruction of public morality. Schemes involving government enforcement of religious conformity almost invariably, he felt, worked to the detriment of religious purity, and often enough to the positive harm of the Church.

In the course of his treatment of government policy of enforcing religious conformity Bishop England had admitted that, where all the prescribed conditions are fulfilled, the religious dissenter might be obliged to conform or leave the community. But he denied that government or any institution on earth had the power to inflict further temporal punishments for purely religious error. Making due allowance for that twilight area where religious error has social repercussions, England denied that past or present Church doctrine countenanced persecution of religious non-conformists by the government. This denial he reinforced through his discussions of the Church's record on this score. While he candidly admitted that history did exhibit a few cases of Catholic governments persecuting dissenters for which no defense could be made, he denied that such rare cases reflected the true mind of the Church, and interpreted them rather as politically-motivated intrusions by government into the purely religious sphere. The relative rarity of such instances he took
as proof of his contention that Catholicism did not countenance religious persecution. The best preventive against the recurrence of such unfortunate cases was to deny government any connection with the enforcement of religious observance. Any other policy was very likely to have a corrupting influence upon religious sincerity.

Union of Church and State is a term which in the writings of Bishop England may refer to either of two situations. In one form the government obligates itself to give special recognition to a particular Church, sometimes to the point of subsidizing that Church and enforcing conformity to its creed, a type of union which England shows can be legitimate. The looser form of union includes any scheme which would make any Church or group of denominations dependent upon government, particularly for support of the clergy.

It is clear that Bishop England considered neither type of union in any light other than that of historically evolved expedients, which enjoyed no more than a pragmatic sanction. England's own position on union of Church and State was one of briefly, but most emphatically, declared opposition. Separation—and by separation he had in mind an arrangement such as that obtaining in America whereby government remained friendly toward religion but took no steps to support it directly—had his approval as the arrangement best calculated to protect the legitimate rights and interests of both Church and State. While
he was ready and able to defend the justice and right of the Church's past practice of union with the State, all his sympathy for the present and future lay with the American experiment of separation of Church and State. However, it was on the reasons behind his preference that England expressed himself most fully. The strongest arguments against union lie in the evil effects to which it has so frequently given rise in the past. Politics and religion are too often confused, and a program of politically-inspired persecution can easily result. The Church, having become an avenue to political power, is weakened and corrupted by adventurers and politicians turned cleric. The common people lose their strongest protection against despotic government when their clergy loses its financial independence. The all-sufficient proof, felt England, of the good that results from a friendly separation of Church and State is to be found in the thriving condition of Catholicism in America, a condition unmatched by that of Catholicism anywhere else in the world.

Solicitous for the rights of the State as he was for the rights of the Church, England discussed possible threats to the State's legitimate freedom from undue Church interference, particularly the dangers supposedly inherent in Catholicism. One source of danger lay in the alleged power of the Pope to depose temporal rulers. That the Church did not consider the Pope as vested by divine commission with such a power, England on several occasions took opportunity to explain, going into an
account of the positive origin of this power in medieval practice and denying it any significance in his own day. More plausible was the threat to the State's legitimate independence which many claimed to discern in the spiritual allegiance in which the Pope held all his spiritual subjects. England met this difficulty by sharply demarcating the claims of papal authority to the strictly spiritual realm, and by categorically denying the binding force of this authority if used for purposes of political interference. But it was not with Catholicism that the real threat to the rightful independence of the State lay in America, he claimed. Rather it was with the theocratic Calvinist sects, and particularly with the Christian party in politics, and its program that tended to bring the national government under the tutelage of a vociferous Protestant bloc.

History both inspired and supported England's views on Church-State issues. In large measure these views were expressed as a part of his historical apologetics, a field which England dominated in the period between Carroll and the days of Purcell and Hughes.

History showed union of Church and State as originating in expediency; as eventually working greater evil than good in the Church; as prevalent in Europe during the Ages of Faith, and with justification, but continued into the era of the Wars of Religion, without justification; as espoused by both the rising Protestantism and the rising despotisms; as the worse of two
courses open to the Church in the present and in the future.

History showed persecution as the fate, not the policy of the earliest Church; as not at any time an injunction of Catholic doctrine; as often the result of union of Church and State and a political weapon in the hands of the latter; as a familiar instrument of Protestant governments and Churches.

History was used by Bishop England to demolish the myths and silence the slogans of the Protestant apologetic. He pointed to Great Britain and to the Lutheran countries where the State had long since swallowed up the Church; he pointed to the strongholds of Calvinism, where theocracy had annihilated political freedom—exposing the myth of Protestantism, the cradle of separation of Church and State. He pointed to Protestantism's persecution of Catholicism in Germany, the Low Countries, Scandinavia, Great Britain, and the British colonies in America; to the persecution which one Protestant sect or bloc had practiced upon another—silencing the slogan of Protestantism, as champion of religious liberty and of freedom of conscience.

Bishop England was a born democrat in the best sense of the term, and, as such, his devotion to America, the most democratic nation on earth was strong. He had an equally deep allegiance to the Church and its teachings, an unfaltering devotion to its interests, so that the sight of this Church and its interests flourishing as nowhere else in the world encouraged his unbounded enthusiasm for the nation and the system under which such
prosperity was possible. No doubt it was the experiences of England's first years in America which proved to be formative of his whole subsequent attitude toward his adopted nation and its institutions, an attitude of admiration which not even the dark days of the Protestant Crusade were to destroy. England had entered America in the closing days of the Era of Good Feeling, when vocal anti-Catholicism was far less in evidence than was Protestant expansiveness and liberality toward Catholicism, and he was accorded a reception by Protestants as well as Catholics truly remarkable in view of the historic attitude of Protestant America toward the Church. It was an attitude which his knowledge of British policies in Ireland readily enabled him to appreciate, and an attitude which his study of American religious history quickly spelled out in great detail. The miserable status of American Catholicism in colonial times held a peculiar fascination for Bishop England, no doubt because he saw in it the price with which Catholicism's freedom in his own day had been dearly bought. At the same time he evinced a cool and detached appreciation of the Protestant magnanimity involved in granting toleration. In his works occur some of the earliest expressions of viewpoints which were to become classical in the Catholic interpretation of American history--Maryland's primacy of honor as a pioneer in establishing religious freedom; the anti-Catholic motivation which was partly responsible for the Revolution; recognition of the peripheral Catholic contributions to early American culture.
Knowing as he did the staying-power of the old prejudices, the recurring outbreaks of the 1830's did not take Bishop England by surprise. The inherent tendency of these outbursts, however, he did view as serious. The whole trend of Protestant anti-Catholic demonstrations pointed to a renewal of persecution. Nowhere was this more obvious, he felt, than in the nature and aims of the Christian party in politics. Calvinistic in origin and character, the Christian party in politics, despite all attempts to enlist broad Protestant support, was intended to exercise a narrow, sectarian veto over political candidates, and eventually to bring the national government under its tutelage, at the same time that it worked for the nation-wide proscription of Catholicism. His indictment of this movement found contemporaries outside the Church who concurred in the strictures levelled against the Christian party in politics, while the alarming success which political Nativism subsequently enjoyed showed that Bishop England's charges were not far off the mark.

If Bishop England was ready to indict the anti-Catholic movements of his own day for the impact they might have in the area of Church-State relations, he was equally anxious to remove all unnecessary causes of Protestant-Catholic friction, and, to his mind, one of the foremost of these causes was the needless foreignism of the American Church. This conviction can be seen behind his fight for a native clergy and hierarchy for the United States. It likewise helps to explain his eagerness to express
publicly his devotion as a Catholic bishop to America and its institutions. This outspoken devotion strongly foreshadowed England's far better known successor in the hierarchy, James Cardinal Gibbons.

England and Gibbons loom large in the American Catholic literature on Church and State, a literature which began almost immediately after independence had been achieved, with the work of John Carroll, and has grown to the present time, the creation of the most illustrious names in American Catholicism—Carroll, Gallitzin, England, Purcell, Hughes, Brownson, Hecker, Ireland, Gibbons.

Although any attempt to make a final evaluation of Carroll's contribution to this literature must await the full publication of his works, certain conclusions seem warranted on the basis of present information. It is clear that Carroll attempted to meet the overwhelmingly Protestant nation of his day at least half-way in the area of Church-State relations. Carroll's "patriotism, breadth, and character . . . probably did as much as anything else to create a more favorable public attitude during the first two decades of the new century."¹ He praised the liberality of his countrymen in granting Catholics religious liberty, although he considered this liberty their due in justice. He praised the

¹Stokes, I, 800.
American system of separation of Church and State, although he considered it as but a temporary expedient, justified only by the mixed religious character of the nation. But with Catholicism in America until so recently suspect and despised, and still faced with the prejudice of generations, Carroll was understandably reluctant to indulge in any unnecessary discussion of Church-State topics. Silence remained the surest preservative of Catholicism's hard-won liberties in America.

While the same reticence is noted in the early works of Gallitzin, he did strike a note generally missing in Carroll—a confidence, born of experience, in the future of Catholicism's rights in America. His writings which appeared before 1820 were sparing in their comment on Church-State topics, content with praising the American system of granting toleration to all, hoping that this toleration would continue, and treating briefly the question of papal supremacy and its effect on the political freedom of Catholics. But in Gallitzin's later works, in 1834 and later, Church-State issues enjoyed greater prominence, perhaps not untouched by the influence of Bishop England's thought. However, these writings did not become milestones in the American Catholic literature on Church and State, partly because Gallitzin enjoyed none of the prominence of a John England, but mainly because for a decade and a half prior to 1834 England had been dealing with Church-State topics with a breadth which overshadowed the best of Gallitzin's work. Only in his personal
recollections of the Church-State relations obtaining in his native part of Europe did Gallitzin improve substantially upon England's contribution.

Bishop England's place in this American Catholic literature on Church and State is a major one. It is with England that the Church is for the first time made to seem fully at home with the American idea. No American Catholic churchman in a position of his responsibility had hitherto written on so wide a range of Church-State topics, nor with such obvious sympathy for the American experiment. It can truthfully be said that his was the pioneer exposition of many of the Church-State attitudes which later were given such prominence by Cardinal Gibbons and his admirers. England's Church-State views were not theoretical in origin, and, if he, and others like him, exalt the American system of Church-State relations to a degree that seems to run counter to the classical theological position on the question, it was only because they were most impressed by practical results, and the contrast between the results of the American system and the results of what England termed "European modes" of Church-State relations was so strongly in favor of the former. It is true that this outspoken admiration for American institutions caused uneasiness in some quarters of the American hierarchy, and perhaps, feels Guilday, with some justification.  

times England's positions—e.g. the role he assigns popular approval as a condition for justifying governmental enforcement of religious conformity, and his unqualified opposition to union of Church and State to the point where he seems to consider separation as preferable to union—would seem to invite further consideration in the light of traditional theology. No one who reads England's works to any degree could fail to be convinced of his desire, above all, to remain completely within the bounds of Catholic orthodoxy; whether or not he succeeded when discussing Church-State topics is a question which is beyond the scope of the present study.

Bishop England's writings on Church and State were graced by many of those qualities which had helped elevate him to a position of intellectual leadership among the American Catholics of his generation. He was a man who not only possessed unmistakable talents as a writer and a speaker, but one who also had the energy to utilize these talents tirelessly for the advance of the Church in America. "It is no exaggeration to say that no member of the American hierarchy before or since his day wrote upon so many themes and with such uniform scholarship and brilliancy. He wrote with uncommon ease, from a mind well-stocked with ecclesiastical literature, and with a profound knowledge of the Fathers and of history . . . ."³ These intellectual qualities

³Ibid., 405.
were admirably complemented by the liberal-mindedness, the intellectual honesty, and the courage which characterized him. These were qualities which left their mark even on his approach to Church-State issues, and the frankness and courage of his treatment of such delicate chapters in the Church's history as the legislation of the Fourth Lateran Council with which he dealt in his "Address Before Congress" have been the subject of remarks by historians who have written of him.

American Catholic discussion of Church and State did not terminate with Bishop England. The areas which he had marked out for discussion were broadened by his successors, and the discussion progressively deepened. From Purcell and Hughes came works of historical apologetics which were "among the most valuable in the English language," and successful to a remarkable degree. Hughes furthermore faced Church-State issues far more concrete than England ever met, and was forced to decisions which were to leave an enduring imprint on Church-State policies in the United States for years to come. Toward the middle and third quarter of the century Brownson carried the subject beyond the meager bounds of apologetics, and pursued it with the abstraction

\[4\]Ibid., 54; Stokes, I, 503.

\[5\]Peter Guilday, "Historians in the American Hierarchy," The Ecclesiastical Review, XCII (February 1935), 115.
of a political philosopher. In the present century Gibbons extended a powerful patronage and new dignity to many of England's most cherished opinions on the subject.

But if men such as these made substantial additions, Bishop England remains the outstanding founding contributor to the American Catholic literature on Church and State. Some may have broached the subject before him, but he first opened it wide to a probing discussion, realistic enough to see in it a problem which would not brook postponement; farsighted enough to attempt to accommodate the Church, if possible, to the obvious direction of history, at a time when most churchmen were content loudly to lament the passing of the old order. For the pioneer writings which came from his hand on Church and State topics alone John England would deserve the praise of a century ago when he was hailed as perhaps the first "to give Catholicity a literature and a status in the United States."
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The final copies have been examined by the director of the thesis and the signature which appears below verifies the fact that any necessary changes have been incorporated, and that the thesis is now given final approval with reference to content, form, and mechanical accuracy.

The thesis is therefore accepted in partial fulfillment of the requirements for the degree of Master of Arts.

June 27, 1958
Date

Signature of Adviser