



How Britain led the world in developing freedom of religion

300 YEARS AGO THE FIRST OF THE TEST ACTS WAS REPEALED IN BRITAIN

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FOREWORD

This very moment, around the world people are being persecuted for their religious beliefs, many of them will be imprisoned or murdered.

The horrifying treatment of Aasia Bibi – a Christian sentenced to death in Pakistan – serves as a powerful reminder that the battle for global religious freedoms is as urgent as ever.

It is too easy to dismiss religious persecution as the reserve of distant despots and dictatorships. In truth, as evidenced in this booklet, the struggle for religious freedom in our own nation has not been a straightforward one. After centuries of struggle, freedom triumphed. No longer was faith, irrespective of its theological character, a barrier to personal freedom, public engagement or a successful career.

This “golden era” of liberty may be ending and the United Kingdom risks regressing. Religious believers are, once again, facing increased pressure to restrict their faith to the “private sphere”. We now see regular, and increasingly unapologetic, persecution of Christians who remain committed to Biblical teaching, refusing to bow to liberal, secular orthodoxies.

Those who doubt me should ask Felix Ngole who was expelled from the University of Sheffield for defending the Biblical definition of marriage, or Sarah Kuteh, who, after 15

years’ faithful service as a nurse, was dismissed for sharing with her patients how: “*her faith in Jesus had helped her overcome adversity*”. Her Employment Tribunal insisted that: “*People should not express anything about their own beliefs without it first being raised as a question by someone else.*”

The rigidity of totalitarianism doesn’t mean that, in its application, zealots won’t target different groups. So, although it is now Bible-believing Christians who face increasing discrimination today, radical secularists are every bit as determined to undermine the freedoms of observant Muslims and Orthodox Jews.

We must do everything we can to renew our national and cultural commitment to the protection of religious liberty. More, we must reaffirm the societal value of religious practice, encouraging religious individuals and institutions to engage proactively in the public sphere, shape policy and contribute to the formation of the public’s moral consensus.

If a society will not protect the most fundamental freedoms of its people, it is destined to decline. It is the duty of everyone, religious or secular, to defend the rights of those for whom faith is everything.

Rt Hon Sir John Hayes CBE MP

INTRODUCTION

On 10 January 1719 the British House of Commons gave its third reading to a bill to repeal the Schism Act (1714), which had already passed the

House of Lords. During the debate the Solicitor General told Parliament that it must repeal this law because it infringed people's "natural rights".



The House of Commons passed the bill repealing the Schism Act on 10 January 1719, beginning a process that eventually led to the religious freedoms we enjoy in the UK and other Western nations today.

Test Acts, such as the Schism Act, were laws that made eligibility for certain jobs, public offices or even studying at university conditional on an individual affirming a particular religion or set of beliefs. Individuals were subjected to a “test” to prove they agreed with the required beliefs.

The Schism Act in England and Wales barred non-Anglicans from becoming school teachers by applying the “test” of having taken communion in an Anglican church within the previous twelve months. This effectively excluded non-Anglicans from becoming teachers. The requirement excluded Nonconformists, who differed from established Church beliefs, and Catholics – with the ultimate effect of preventing any non-Anglican schools from operating at all.

This first ever repeal of a Test Act by parliament was a crucial watershed from which we could – at least in theory – only go forward. Over the next century and a half, as other Test Acts were repealed freedom of religion or belief in Britain was gradually achieved first of all for Nonconformists, then for Catholics and Jews. Finally, with the passing of the Oaths Act 1888, even atheists were permitted to take seats in Parliament.

The movement towards this aspect of freedom of religion began to spread to other parts of the world even before it was completed in Britain. In 1787, the USA agreed its first constitution which included a clause stating:

No religious test shall ever be required as a qualification to any office or public trust under the United States.

Other countries, such as Australia, subsequently included similar clauses in their constitutions.

However, this is not simply a matter of historical interest. The freedom from being required to affirm a particular worldview, religion or set of secular “politically correct” beliefs – in order to be a teacher, hold a public sector job, stand for election or even study at university – is an essential aspect of religious freedom even today.

It should concern us deeply that there are still countries today which have restrictions that are, in effect, “Test Acts” that require those holding certain public posts, such as teachers or MPs, to affirm particular beliefs and even swear an oath to this effect. Those who cannot, for example, because of their Christian faith, are automatically excluded from such posts.

This tercentenary of the first abolition of a Test Act by the British Parliament is not merely something which we should commemorate, but something which we should celebrate as a foundational step towards the freedom of religion and belief which we enjoy in the UK and other Western nations today.

CHAPTER 1

Ending discrimination against those not holding the required beliefs of the day

The Test Acts

Although there was briefly a Test Act¹ in Scotland during what became known as the *Covenanter struggle* (1661-1688)², this was a milder aspect of the most violent period of religious persecution Britain had ever witnessed.

The Scottish Test Act was formally abolished in 1690. However, in England, Wales and Ireland the Test Acts lasted far longer and were an influence, both during their existence and in their eventual repeal, which extended well beyond the British Isles.

These Test Acts excluded those not holding the required beliefs from:

- studying at Cambridge or Oxford universities;
- being members of certain professions such as teachers, lawyers, army officers, and university academics;

- holding public office, such as being a magistrate or judge;
- and involvement in political life, such as being the mayor of a town or a member of Parliament.

Nonconformists and dissenters and the Clarendon Code

Non-Anglican Protestants, such as Baptists, Congregationalists and Methodists, were commonly referred to as Nonconformists. The term Nonconformist first appeared in a series of laws, known collectively as the *Clarendon Code*, which were introduced in England and Wales after the restoration of Charles II (1661-1685), with similar laws passed in Ireland a few years later. These required members of various professions and public office holders to publicly affirm the beliefs of the established Church of England.

Nonconformists felt unable to “conform” on conscientious grounds to the doctrines and practices of the established Church and so were excluded from public office and

various professions. They were also called “dissenters” because they did not agree with the dominant belief system of the day, which was Anglicanism.



Title page of a collection of *Farewell Sermons* preached by Nonconformist ministers ejected from their parishes in 1612

The seven foundational freedoms of religion that developed in Britain

Tracing the heritage of religious liberty takes us back more than 800 years to Magna Carta, the agreement signed between King John of England and his barons in 1215. Magna Carta's affirmation that "the English Church shall be free" was gradually worked out over the centuries into seven specific aspects of freedom of religion:

- Freedom to read the Scriptures in public (achieved 1537)
- Freedom to interpret the Scriptures without government interference (achieved 1559)
- Freedom of worship (achieved 1689)
- Freedom to choose, or change, your faith or belief (achieved 1689)
- Freedom to preach and try to convince others of the truth of your beliefs (achieved 1812)
- Freedom to establish places of worship (achieved 1812)
- Freedom from being required to affirm a particular worldview or set of beliefs in order to hold a public sector job, stand for election to parliament, work in professions such as teaching and law, or study at university (achieved between 1719 and 1888 with the repeal of the Test Acts)

Most of these freedoms were achieved by lifting various restrictions through the repeal of laws, including the Test Acts, rather than by legislation that positively affirmed freedom of religion. These freedoms are therefore vulnerable to being eroded, as we see happening today in the UK and many Western countries.

CHAPTER 2

The journey from persecution and discrimination to religious freedom

The abolition of the Test Acts was the final stage in centuries of progress towards achieving a range of critical religious freedoms in Britain that eventually spread to the wider Western world.

There were, broadly speaking, three historical phases in the development of the foundational religious freedoms in Britain:

1. Prior to 1689: enforced conformity

From the time of the Reformation until 1689 (1719 in Ireland) everyone was legally required to belong to the established Churches. Although for much of the time this aimed to be a “broad church”, everyone was expected to belong to it, with penalties for non-attendance. Those outside it, such as Catholics and Nonconformists, faced criminal penalties and,

during some periods, execution. In England and Wales, the Act of Uniformity 1662 prescribed episcopal forms of public worship. Over 2,000 clergy refused to comply and were forced to leave the Church in the “great ejection” of the same year.

2. 1689-1888: religious toleration

This time of religious toleration could more accurately be described as “toleration on sufferance”. Worship for Protestants outside the established Church was legalised with certain restrictions lifted from 1689 with the passing of the Toleration Act (restrictions on Roman Catholics were not lifted until 1791). However, various Test Acts required those studying at Oxford and Cambridge Universities, members of certain professions such as school teachers, lawyers and army officers and those holding

public posts such as magistrates and mayors to affirm the beliefs and practices of the established Church. This discriminatory legislation excluded Nonconformists and Catholics from many areas of professional, public and political life.

In 1719 the first of the Test Acts, the recently passed Schism Act 1714, was repealed. The Schism Act had excluded non-Anglicans from becoming school teachers. Then between 1828 and 1871 all remaining major Test Acts were repealed.

3. **After 1888: ending of discriminatory laws**

The Universities Test Act was passed in 1871, repealing earlier religious tests, thus allowing non-Anglicans to hold academic posts at Oxford and Cambridge Universities. Then in 1888, the Oaths Act was passed allowing anyone elected to Parliament to take a non-religious oath if they so choose, thereby allowing even atheists to take seats in Parliament.

Freedom for Nonconformists to worship outside established Church achieved by 1689

By 1689 Britain was experiencing a degree of religious freedom it had never before known. As a result of James II of England, and VII of Scotland³, fleeing to the continent

both the English and Scottish Parliaments had invited William and Mary to become joint monarchs.

Scotland had just been through a horrific time of persecution during the *Covenanter struggle* between 1661 and 1688. James VII had attempted to force episcopacy on an unwilling Scottish Presbyterian Church and a law was passed by the Scottish Parliament making it an act of treason punishable by death to hold any meeting for worship or preaching outside of the established Church of Scotland.

During the final decade of this struggle, still known in Scotland today as “the killing time”, large numbers were imprisoned, executed or simply killed on the spot because they met for worship and preaching in the hills.

In England, the punishments actually imposed were fines, imprisonment or banishment, although meeting for worship or preaching outside the established Church was still, at least theoretically, a capital offence. In 1664, twelve Baptists were sentenced to death and only escaped due to a royal pardon. John Bunyan similarly lived in the shadow of the gallows and in his autobiography tells of how he constantly imagined himself “on the ladder with the rope about my neck”. He had been sentenced to three months in prison in 1660 for preaching, but ended up being imprisoned for twelve years because he refused to agree to stop preaching. In fact, many dissenters

died in prison. Of the 8,517 Quakers imprisoned between 1660 and 1685, 450 died in prison.⁴

A Declaration of Toleration was issued in Scotland in 1687 and in 1689 a Toleration Act was passed in England and Wales. This created freedom of worship for Nonconformists who were allowed to have their own places of worship for the first time, although it took until 1791 before this liberty was extended to Catholics. In the first year alone, 143 dissenting chapels were licensed and almost 800 other locations recognised as temporary places of worship.



Statue of Nonconformist minister and hymn writer Isaac Watts near the site of the Dissenting Academy in Stoke Newington. His father was in prison for being a “dissenter” when Isaac was born

Worship in the Nonconformist chapels was different from the established Church. Hymn singing was pioneered by Nonconformist ministers such as Isaac Watts (1674-1748), author of such hymns as *Joy to the world* and *When I survey the wondrous cross*. Watts’ own history illustrates the significance of the change brought about by the Toleration Act 1689. When he was born his father was in prison for being a “dissenter”. By the time Watts was 16 years old the Toleration Act had been passed, opening a way for his ministry. He went on to become one of the best known Nonconformist ministers and hymn writers of the period.

But the Test Acts remained

Despite the passing of the Toleration Act 1689, a whole series of restrictions were still in force for anyone who was not a member of the established Church. These Test Acts excluded Nonconformists and Catholics from various aspects of professional, public and political life including attending either of the two universities in England – Cambridge and Oxford. Nonconformists wishing to obtain a university education had to travel to Scotland, where the ancient universities of Aberdeen, Edinburgh, Glasgow and St Andrews allowed anyone to study, irrespective of their faith.

Nonconformists in England began to start their own higher education institutes, known as Dissenting Academies, to train their ministers

and school teachers. They also began to set up their own schools which taught a broad range of subjects, such as history, geography and mathematics, as well as Biblical studies.

In theory, anyone acting as a school teacher had to be licensed by the local bishop and occasionally Nonconformists were prosecuted for running these schools. However,

after the Toleration Act 1689 had been passed, they were generally ignored or at worst received a fine.⁵ In fact, there had been an attempt to introduce a clause in the Toleration Act creating a specific right to run non-Anglican schools, but this had been voted down in Parliament. The right to educate your children in a manner consistent with your own beliefs was to become a central part of the struggle for religious freedom.



Philip Doddridge, the hymn writer, studied at Kibworth Academy, Leicestershire in 1719, the year the Schism Act was repealed. The repeal allowed Nonconformist academies such as this to re-open. Doddridge later taught over 200 students at the academy and in 1736 he was awarded a Doctor of Divinity degree by Aberdeen University

CHAPTER 3

The battle for religious liberty

In 1702, Queen Anne came to the throne. By this time Nonconformists were a visible minority within society. It is estimated that 6% of the population were Nonconformists by the end of her reign in 1714. They had their own chapels, and schools and higher education academies – teaching secular subjects as well as theological studies. Nonconformists were also publishing their own books and pamphlets. Many of these argued for the abolition of the Test Acts, which still excluded them from whole areas of professional and public life.⁶

Nonconformists were not the only people denied religious liberty, the situation was significantly worse for Catholics and Jews. After fleeing to continental Europe in 1688, James II, and VII had taken an army to Ireland to try to create a Catholic uprising against the newly installed monarchs William and Mary. After the death of James II in 1701 his Catholic son James III, exiled in France, made a claim on the

throne aided by a series of armed rebellions by his supporters, known as Jacobites.⁷ This included an attempted invasion of England in 1708 supported by France with whom Britain was already at war. Partly in reaction to this, a series of draconian “penal laws”⁸ were enacted against Catholics in Ireland. These included forbidding the guardianship of children, owning land or possessing arms.

An attempt to reverse religious freedoms through the control of education

During Queen Anne’s reign the fear of a foreign Catholic invasion and the growing visible presence of Nonconformists in society led some politicians and Anglican churchmen to attempt to return to the repressive days before the Toleration Act 1689, when the only worship permitted was that of the established Church of England.

Their plan was simple in that they intended to force anyone involved in education to publicly affirm the beliefs and practices of the established Church. This would close down the dissenting schools and academies, preventing the training of Nonconformist ministers and school teachers. The only schools allowed to exist would be those teaching the beliefs and practices of the established Church.

In 1703, a Test Act was introduced by the Irish Parliament that excluded Catholics, who were a majority in Ireland, from involvement in certain professions including education and, at the last moment, this was extended to exclude dissenters also.

The following year an unsuccessful attempt was made to introduce a bill to the English Parliament which would require all school teachers to be members of the established Church. Attempts continued for the next ten years until the bill was finally successful in 1714.

The arguments that they used were:

- national security depended on everyone belonging to the Church of England;
- the Dissenting Academies (independent higher education institutes) would undermine Oxford and Cambridge Universities;
- and the dissenting schools would spread error to the next generation.

Violence against Nonconformists

The attempts to create a new Test Act to force Nonconformists to conform to the beliefs of the established Church not only fanned the flames of prejudice but also led to the incitement of violence against them. The most notorious incident was a sermon preached by Dr Henry Sacheverell in St Paul's Cathedral on 5 November 1709, before the Lord Mayor and Aldermen of London, to commemorate the failure of the gunpowder plot in 1605. Dr Sacheverell's sermon against tolerance of Nonconformists was so inflammatory that he was prosecuted. However, this only fuelled prejudice still further and led to widespread rioting that targeted Nonconformists across towns and cities in England and Wales. In London, mob violence completely destroyed six Nonconformist chapels.

Apart from the Gordon riots which occurred 70 years later, these were the worst riots to occur in the entire eighteenth century.⁹ Significantly, both were acts of extreme mob violence related to Test Acts. The Sacheverell riots targeted Nonconformists and the Gordon riots targeted Catholics following the repeal of the Test Act which had excluded Catholics from becoming army officers. It is a sad fact that today, in countries where laws exclude minorities such as Christians from various public and political posts, these laws also reinforce persecutory mob violence driven by prejudice against Christians because of their faith.



After Sacheverell's prosecution in 1710, rioters destroyed Nonconformist chapels including a chapel near Lincoln's Inn in London in one of the most serious civil disturbances of the century

The crisis caused by the Schism Act 1714

The Occasional Conformity Act 1711 tightened the existing Test Acts controls still further. This excluded from "any office of magistracy or place of trust or other employment relating to or concerning the government" anyone who, despite having taken communion in an Anglican church, attended any non-Anglican place of worship even for a single service.¹⁰

Three year later, in 1714 a Test Act for teachers, known as the Schism

Act, was passed ("schism" meaning a separation from the established Church). This required every school teacher to worship only according to the liturgy of the established Church and effectively excluded all non-Anglicans from the teaching profession. It also made it a criminal offence to run any non-Anglican schools and academies.¹¹

Quite how draconian this law was can be seen from the fact that it went beyond school teachers to any "other person instructing or teaching youth in any house or family". This implied

that any Nonconformist could also face prosecution for just teaching the Bible in what would today be called a Sunday school. It also specifically prohibited Nonconformists from working as tutors in academies.

Those convicted of illegal teaching were sentenced to three months' imprisonment, without the possibility of bail. Any licensed school teacher would automatically be disqualified from the profession simply for being present at a single Nonconformist service.

There can be no doubt that this law was intended to quash dissent and force dissenters back to the established Church, thereby turning the clock back on freedom of religion to the situation before the Toleration Act 1689 was passed.

Religious freedom in Britain was now at crisis point. It could either slide back into the pre-1689 repressive era of enforced religious conformity or freedom of religion could be allowed to advance. The latter outcome prevailed when the Schism Act was repealed, just four years after it was passed, and other Test Acts were later repealed in turn bringing a watershed in the advance of religious freedom.

A dramatic event had intervened when Queen Anne died on the very day the Schism Act became law. However, it was still law and a number of dissenting schools and academies closed, some of them permanently, before it was repealed.

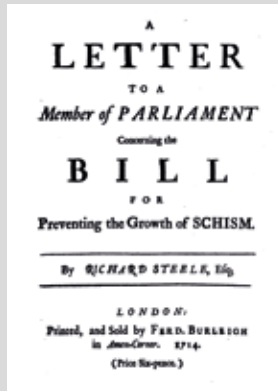
CHAPTER 4

The start of a new era: the repeal of the first Test Act in 1719

The tide slowly turned towards religious liberty after George I came to the throne in 1714. In 1715, a major Jacobite rebellion in Scotland was defeated and as a result many people were less fearful that any alternative to the established Church, whether Catholicism or

Nonconformity, would threaten national security.

King George I preferred to choose his ministers from the Whigs, a significant proportion of whom were broadly in favour of religious toleration.



Part of Sir Richard Steele's 1714 *Letter to a member of Parliament concerning the bill for preventing the growth of schism*. Both Nonconformists and sympathetic Anglicans wrote pamphlets arguing for repeal of the Schism Act

The campaign for repeal

As soon as the Schism Act was passed Nonconformists recognised that it represented a serious threat to their very existence. They began a campaign of sermons and pamphlets explaining why religious toleration was important. Prominent dissenters such as the author Daniel Defoe wrote against the Bill as did Sir Richard Steele and a number of other prominent Anglicans. Daniel Defoe's pamphlet suggested possible legal loopholes dissenting academies could use.



Portrait of Charles Spencer, 3rd Earl of Sunderland, by Sir Godfrey Kneller

The arguments they made were:

- Freedom of religion is a “natural right”, not one given by government.
- Sir Richard Steele, a prominent Anglican, argued that our right “as men and as Christians” is the right to judge for ourselves in matters of religion.
- “Nothing is more dear to a parent’s conscience than the direction of their children’s education”.¹²

The man behind repeal

The man whose efforts pushed through the repeal of the Schism Act more than anyone else was Charles Spencer, 3rd Earl of Sunderland (1675-1722).

As a young man Spencer studied at the University of Utrecht in the Netherlands, which had become a haven for dissenters fleeing persecution in Britain. While there, he formed a lasting friendship with Edmund Calamy, a leading dissenter, who, in 1713, had published a history of the persecution of Nonconformists.

Sunderland, who was a leading member of the Whig government at the start of King George’s reign, was genuinely committed to bringing in toleration of dissenters. However, the same could not be said of Parliament as a whole.



Robert Walpole 1st Earl of Orford, by Arthur Pond. Robert Walpole, Britain's first Prime Minister, opposed repeal as most MPs initially did

The Parliamentary campaign for repeal

Sunderland and his close ally James Stanhope (first Lord of the Treasury from 1717-18), as well as a number of other sympathetic MPs were for repeal. However, arrayed against them was a formidable opposition which included virtually all the Tories, as well as half the Whigs. The Whigs had split into two factions, with the faction opposed to repeal led by Robert Walpole, a formidable opponent who until 1717 was chief minister and later become Britain's first Prime Minister.

Added to this, were the Archbishop of Canterbury and most of the bishops in the House of Lords who also opposed any repeal of the Test Acts.

Dissenters who had a vote tended to vote Whig, so many Whig MPs saw it as important to help them and in March 1717 nearly 200 such MPs met at the Rose Tavern to decide what to do. For them the issue was not whether it was right to repeal the Schism Act but whether it was politically possible to do so, in particular, whether it would be possible to get a repeal bill through the House of Lords.

How Parliament was persuaded to repeal

Sunderland, who had become the King's chief minister, began an extensive but quiet, behind-the-scenes campaign of political lobbying. This included bringing the Lord Chancellor on board, as well as a number of bishops and wavering Whig MPs. But the opposition to repeal also grew and several leading ministers, including Walpole himself, resigned from his government.

By November 1718 Sunderland had persuaded a significant number of bishops as well as one of his leading Whig opponents to support repeal. He then introduced the repeal bill into the House of Lords on 13 December 1718 giving only a day's notice, making it difficult for his opponents to organise against it. Nonetheless there was strong opposition, including from the archbishops. However, a few bishops condemned the use of Test Acts as a qualification for public office and described the Schism Act as an example of "persecution".

In order to get the bill passed, Sunderland had to drop a clause that had additionally modified the Test and Corporation Acts (which excluded dissenters from public

office). The House of Lords finally passed the bill on 22 December 1718.¹³ The bill then moved to the House of Commons where it received its first reading on Christmas Eve 1718.

The arguments for repeal

Hansard, the official record of the House of Commons, described its second reading on 7 January 1719 as a "very warm debate that lasted above eight hours".

The debate did not merely focus on the fact that this Test Act excluded those who did not conform to the prevailing beliefs of the day from becoming school teachers. It also highlighted the fact that by doing so it prevented anything other than Anglican schools from even operating. As Sir William Thompson, MP for Ipswich and the Solicitor General, argued during the debate, it therefore: "depriv'd parents of their natural right of educating their children as they think proper"¹⁴.

The debate was won by 221 votes to 170 – a majority of 51. The bill was passed in the House of Commons on 10 January 1719¹⁵ before receiving the royal assent on 18 February 1719¹⁶



Emmanuel Baptist Church, Trowbridge, Wiltshire built in 1737 (left), today West Wiltshire Vineyard Church (right). Prior to the Toleration Act 1689 it is estimated there were 140-150 Baptists risking prison by meeting in Trowbridge. However, the Toleration Act and the repeal of the Schism Act led to a huge number of Nonconformist churches being built¹⁷

CHAPTER 5

The impact of repealing the Test Acts

The repeal of the Schism Act was the start of a transition from toleration on sufferance to the development of religious freedoms and full equality.

This was a gradual transition which was not finally completed in the United Kingdom until 1871. However, this first repeal of a Test Act set the process firmly in motion.

Parliament passed another law later in 1719, the year of the Schism Act repeal, that moved things a little further in the direction of religious liberty. The law allowed any Nonconformists who had managed to hold local public office, such as being a town mayor, to retain that office if no-one challenged them to conform to the Test Act within six months of their appointment.¹⁸

It was not until 1828 that Parliament formally repealed the Test and

Corporation Acts, thus abolishing those requirements altogether. However, by then the argument for Test Acts repeal had been so thoroughly won that, when a final repeal campaign was launched in 1827, it was passed so easily that “scarcely a dog barked!”, as one historian put it.

The repeal of the Schism Act also set a precedent which other parliaments followed. In the same year the Irish Parliament passed the Toleration Act 1719 which not only allowed Protestant dissenters to meet freely for worship but also specifically allowed them to run their own schools.¹⁹ The Irish Test Act, which had excluded Presbyterians, amongst others, from holding any public office, was also suspended, initially for a year, then finally abolished in 1780. But neither of these legal developments applied to Catholics in Ireland.



Homerton Academy in Hackney, London, now Homerton College part of Cambridge University (pictured), was set up to provide a university education for Nonconformists who, until repeal of the University Test Acts, were excluded from Cambridge and Oxford Universities

A Congregational Fund had been set up in London as early as 1695 to provide for the education of Calvinist ministers, and to offer an alternative to the education offered by the Universities of Oxford and Cambridge, from which English dissenters were barred by law. These dissenting academies promoted a more modern curriculum of science, philosophy and modern history than the ancient universities who took a more traditional approach to learning.²⁰ In 1826, London University was founded allowing Nonconformists and Catholics to obtain a university degree in England.

The abolition of the Test Acts

The repeal of the Schism Act in 1719 was significant because it was the first of a series of law repeals which eventually led to the development of a key aspect of religious freedom. Some of the most important of these were:

1719 Repeal of the Schism Act which had excluded Nonconformists and Catholics from becoming school teachers or operating their own schools.

1719 The Toleration Act passed by the Irish Parliament allowed dissenters to meet freely for worship and have their own schools. The Irish Test Act was also suspended.

1780 Repeal of the Irish Test Act.

1791 The Roman Catholic Relief Act repealed laws which had prevented Catholics openly worshipping, having their own schools and becoming lawyers.

1828 Repeal of the Test and Corporation Acts allowed Nonconformists and Catholics to become mayors and local councillors.

1829 The Catholic Emancipation Act²¹ allowed Catholics to become MPs.

1845 The Jewish Municipal Relief Act allowed Jews to become mayors and local councillors.

1854 The Oxford University Act abolished the requirement for students taking degrees at Oxford University to hold Anglican beliefs.

1856 The Cambridge University Act abolished the requirement for students taking degrees at Cambridge University to hold Anglican beliefs.

1858 The Jews Relief Act allowed Jews to become MPs.

1871 The Universities Tests Act abolished the requirement for fellows and professors at Oxford and Cambridge to hold specific Church of England beliefs.

1888 The Oaths Act allowed MPs to make an affirmation instead of swearing on the Old or New

Testaments, permitting atheists to become MPs.

The significance of repealing the Test Acts

The repeal of the various Test Acts, which culminated in 1888, was a watershed in the advancement of religious freedom that emphatically rejected the idea that the state can impose a particular set of beliefs on people.

It also created an impetus for other reforms. For example, the Reform Act 1832, which extended the right to vote to many people in the new industrial towns and cities, followed soon after the repeal of the Test and Corporation Acts in 1828 and the Catholic Emancipation Act in 1829.

The repeals were absolutely essential to democracy – which can only function if anyone may be elected to their local council or to Parliament, irrespective of their religious beliefs.

Finally, they were essential to combatting prejudice against religious minorities. Although prejudice against Nonconformists, Catholics and Jews sadly lasted for several generations after legal discrimination against them was removed, the repeal of these laws was a major step in tackling that prejudice. This is a lesson that we must never forget.



Article VI, section III, of the U.S. constitution promises that a religious test will never be required as a prerequisite for taking up public office

Impact on religious liberty in the USA, Australia and Canada

The effects of Britain's repeal of Test Acts extended to other English-speaking countries. Between the first Test Act repeal in 1719 and the Oaths Act 1888 in Britain, many people emigrated to what became the USA, Australia and Canada. These countries then passed laws either repealing existing Test Acts or wrote specific clauses into their constitutions stating that no future government could ever introduce a Test Act requiring people holding public office to affirm particular beliefs.

For example:

Canada

The Quebec Act 1774 repealed the Test Act thereby allowing non-Anglicans to hold public office there.

USA

Article 6 of the USA's Constitution (1787) states:

The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States

and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a qualification to any office or public trust under the United States.

In an important case in 1961, relating to the protection of freedom of religion or belief in the US constitution, the US Supreme Court ruled that “religion” in Article 6 of the constitution must also be interpreted to include other worldviews including those:

which do not teach what would generally be considered a belief in the existence of God [which] are

Buddhism, Taoism, Ethical Culture, Secular Humanism and others.²²

Australia

Similarly, section 116 of the Australian Constitution (1901), which was written only a generation after the abolition of the last Test Act in the UK, states:

The Commonwealth²³ shall not make any law for establishing any religion, or for imposing any religious observance, or for prohibiting the free exercise of any religion, and no religious test shall be required as a qualification for any office or public trust under the Commonwealth.

CHAPTER 6

Countries which have laws equivalent to Test Acts today

Just as the seventeenth-century Test Acts in Britain required people to affirm that they were members of the established Church, so some countries today exclude their citizens from key public offices unless they hold particular beliefs. This marginalises and discriminates against religious groups, just as the Nonconformists, Catholics and Jews were discriminated against in Britain in the past. Some countries require the holders of public office to swear oaths in a similar way to those people who were asked to swear in earlier centuries in Britain.

For example:

The Constitution of the Islamic Republic of Pakistan

Art.41(2) A person shall not be qualified for election as President unless he is a Muslim ...

Art.91(3) ... the National Assembly shall ... proceed to elect without

debate one of its Muslim members to be the Prime Minister.

Third Schedule, Oath of office of the President:

I,, do solemnly swear that I am a Muslim ...

Oath of office of the Prime Minister:

I,, do solemnly swear that I am a Muslim ...

The Constitution of the Republic of Maldives

Art.73. (a) A person elected to be a member of the People's Majlis shall be so qualified if he:

1. is a citizen of the Maldives;
2. is not a citizen of a foreign country;
3. is a Muslim and a follower of a Sunni school of Islam ...

The People's *Majlis* is the Parliament, so only Sunni Muslims are allowed to be members of Parliament.



Members of state-registered churches in Henan province in China were ordered to register their names with local authorities in April 2018. Chinese Communist Party leaders have described the presence of religion in the country as a "crisis"

Communist states

Communist states such as China, Eritrea and Vietnam normally require people to affirm the government ideology in order to hold public posts and sometimes even to attend university.

In 2016, a notice was sent to schools in China's central Guizhou province warning parents that if they allow their children to attend unofficial churches, known as "house

churches", the children will be barred from attending college.²⁴

India: doubly disadvantaged Dalit Christians and Muslims

In India Dalits, the lowest of the Hindu caste system and considered "untouchable", are allocated quotas for education and jobs. But, in a similar way that the UK Test Acts restricted access in these areas on the basis of religious belief, quotas are only given to those who adhere to religions of Indian origin (Hinduism, Buddhism, Sikhism or Jainism). Muslim and Christian Dalits are excluded, making their lives doubly disadvantaged.

Lebanon: religious restrictions on presidential parliamentary roles

In Lebanon, although not written in the constitution, a "national pact" agreed in 1943 is an unwritten understanding that requires the president to be a Maronite Christian. This has been the case in every electoral cycle since then, with just three exceptions when the agreement was suspended to allow Sunni Muslims to step in as acting presidents for a time. The pact also stipulates that the prime minister must be a Sunni Muslim and the speaker of parliament a Shia Muslim.

CHAPTER 7

The need to avoid creating a “Test Act” of secular beliefs in the West

The creation of a new UK “Test Act”?

Today, there is a serious risk that a new “Test” of secular humanist belief is being introduced by the backdoor in a number of Western nations. In 2004, the European Parliament rejected Rocco Buttiglione, the Italian nominee for EU Justice Commissioner, because of the theological views on the nature of marriage and family life which

Buttiglione held as a practising Catholic. The Parliament’s President suggested that his beliefs might not be such a problem if he held a less significant role, such as “if he were in charge of beetroots”.²⁵

This is exactly what the Test Acts of the eighteenth and nineteenth century did when they discriminated against Catholics, Nonconformists and Jews by excluding them from the most important public and political posts.



In 2015, academics at Sheffield University expelled Felix Ngole, a student on a social work MA course, because he had posted comments on Facebook supporting a Biblical view of marriage



In July 2018 David Mackereth, a Christian doctor, was about to take up a senior Civil Service post at the UK's Department for Work and Pensions when he was deemed "unfit to work" due to his view that gender is defined by biology. Dr Mackereth, who had worked for the National Health Service for over 26 years, said during a training session that he could not in "good conscience" deny his belief in the Biblical teaching that "God made humans male or female."

The new "Nonconformists"?

Sadly, ignorance of our heritage, including Britain's historic role in developing freedom of religion around the world, could easily lead us to repeat the mistakes of the past.

In 2016, the Casey Review into community integration in Britain, which contained many good things, nonetheless fell into this trap by recommending that there should be an oath of "British values" for all holders of public office.²⁶ At the same time,

the report attempted to define those values in secular, socially-liberal terms by redefining "extremism" as any religious view "at odds with the views of mainstream society". Almost by definition this labels all minorities as "extremists" including those holding Biblical Christian beliefs. In fact, Dame Louise Casey's review singles out the "newer Christian churches" as examples of those whose beliefs are not acceptable to her.

It should be remembered that the original Nonconformists who refused

to “conform” to the Test Acts were Bible believing Christians, whom these discriminatory laws excluded even from professions such as teaching, as well as from public and political posts.

The need to safeguard our religious freedoms heritage today

During the last 500 years we have seen substantial developments in critical areas of religious freedom, first for members of the established church, then for Protestant Nonconformists, Catholics, Jews and finally for atheists. However, one of tragedies of history is that sometimes people have argued for freedom when their particular group has been persecuted but have

subsequently sought to impose their beliefs on other groups and even persecuted those who objected!

We must remember that over the last five centuries Britain led the world in developing freedom of religion. Yet, the lack of awareness today of how freedom of religion developed in Britain, and across the world, has created a situation where it can easily be undermined.

Three hundred years ago Parliament began the process of leaving the days of religious discrimination behind. The British Parliament’s first repeal of a Test Act on 10 January 1719 was an enormously important milestone in the development of freedom of religion or belief in the UK and around the world – it is a heritage we must never forget.

TEST ACTS AND SIMILAR ACTS

England and Wales

1661-1665 Clarendon Code: a series of four legal statutes effectively re-establishing the supremacy of the Anglican Church and ending toleration for dissenting religions.

- **Corporation Act 1661:** restricting public offices to members of Church of England.
- **Act of Uniformity 1662:** requiring use of all rites and ceremonies in Book of Common Prayer in church services.
- **Conventicle Act 1664:** forbidding conventicles (religious assemblies of more than five people other than an immediate family, outside auspices of Church of England).
- **Five Mile Act 1665:** restraining Nonconformists from inhabiting in corporations.

1670 Second Conventicle Act: preventing and suppressing seditious conventicles.

1673 Test Act: serving as a religious test for public office.

1678 Second Test Act: extending the 1673 Act to peers.

1689 Toleration Act: granting freedom of worship to Nonconformists.

1695 Quakers Act: allowing Quakers to substitute an affirmation where the law previously required an oath

1701 the Affirmation by Quakers Act: extended the time period in the 1695 Act.

1711 Occasional Conformity Act: forbidding dissenters to circumvent the Test Acts by occasionally taking Anglican communion.

1714 Schism Act: preventing dissenters from opening schools.

1719 Act for repeal of Acts preventing Occasional Conformity and to hinder the growth of schism (1719): removing exclusions for Nonconformists and Catholics from becoming school teachers or operating their own schools.

1779 Nonconformist Relief Act: allowing any dissenter to preach and teach on the condition that he declared he was a Christian and a Protestant, took the Oaths of Allegiance and supremacy, and took the Scriptures for his rule of faith and practice.

1791 Roman Catholic Relief Act: relieving Roman Catholics of certain political, educational, and economic disadvantages.

1812 Places of Religious Worship Act: registration for places of worship of Protestants to be required only for meetings of more than 20 persons, other than the immediate family or servants of the person in whose house the meeting was to be held.

1828 Sacramental Test Act: repealing the Test and Corporation Acts and the requirement that government officials take communion in the Church of England.

1829 Roman Catholic Relief Act (also known as Catholic Emancipation Act 1829): culmination of the process of Catholic emancipation throughout the UK and repealing Test Act 1673 in Ireland.

1845 Jewish Municipal Relief Act: providing relief to persons of Jewish religion elected to municipal offices.

1854 Oxford University Act: abolishing requirement for students taking degrees at Oxford University to hold Anglican beliefs.

1855 Places of Worship Registration Act: registration no longer compulsory, but gives certain financial advantages and is also required before a place of worship can be registered as a venue for marriages.

1856 Cambridge University Act:

abolishing requirement for students taking degrees at Cambridge University to hold Anglican beliefs.

1858 Jews Relief Act: removing previous barriers to Jews entering Parliament.

1871 Promissory Oaths Act: removing clauses which functioned as Test Acts in historic laws passed by the earlier Irish Parliament.

1871 Universities Tests Act: altering the law respecting religious tests in the Universities of Oxford, Cambridge, and Durham.

1888 Oaths Act: oath of allegiance taken to the Sovereign may be solemnly affirmed rather than sworn to God.

Ireland

1704 Sacramental Test Act: excluding from public office all who refused to receive the sacrament according to the forms of the Established Church of Ireland.

1719 Toleration Act: exempting Protestant dissenters from certain restrictions.

Scotland

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Sources of images

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“This ‘golden era’ of liberty may be ending and the United Kingdom risks regressing. Religious believers are, once again, facing increased pressure to restrict their faith to the ‘private sphere’. We now see regular, and increasingly unapologetic, persecution of Christians who remain committed to Biblical teaching, refusing to bow to liberal, secular orthodoxies ... although it is now Bible-believing Christians who face increasing discrimination today, radical secularists are every bit as determined to undermine the freedoms of observant Muslims and orthodox Jews.”

From the foreword by Rt Hon Sir John Hayes CBE MP

Test Acts were laws that made eligibility for certain jobs, public offices or even studying at university conditional on an individual affirming a particular religion or set of beliefs.

Three hundred years ago the British Parliament began the process of leaving the days of religious discrimination behind. The repeal of the Schism Act, the first of the Test Act repeals, on 10 January 1719 was to be an enormously important milestone in the development of freedom of religion or belief in the UK and around the world.

This watershed legal moment is not simply a matter of historical interest, but the very foundation upon which rests our freedom from being required to affirm any particular belief in order participate fully in society.




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