DISESTABLISHMENT AND DISENDOWMENT, WHAT ARE THEY? PP. 1-53

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DISESTABLISHMENT

AND

DISENDOWMENT

WHAT ARE THEY?

BY

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PREFACE TO THE SECOND EDITION.

It is ten years since these papers first appeared in the columns of a newspaper, and were presently reprinted in the shape of a small book. The book has now been for some while out of print. But the lapse of time seems hardly to have changed the position of the controversy. The assertion of the same plain facts seems as much in place now as it was then. It is hardly needful to say that the papers were not written at first, and that they are not reprinted now, to support the practical conclusion of either side in a dispute on which no judgement is given on either side. Their object, then and now, is simply to clear away confusions on both sides, and to enable both sides to discuss more easily the really simple ground of controversy between them. The question in truth comes to this; A great change in the law is proposed, a change which, like any other change, it is any time within the power of Parlia-

ment to make. Are there, or are there not, good grounds for making that change? To that question these papers give no answer; their object is the humbler one of clearing the ground for their discussion. They appear as they did in the first edition with only a few verbal changes. In two or three places the meaning has been made clearer; in two or three places a few words have been changed where things were spoken of which were present in 1874 but which are past in 1885.

SOMERLEAZE, WELLS,
8th January 1885.

DISESTABLISHMENT

AND

DISENDOWMENT.

I.

WE have lately heard with one ear that the disendowment of the Irish Church has as yet brought no funds to the purposes to which its surplus revenues are to be applied, and we have lately heard with the other ear that the cry for the disestablishment and disendowment of the English Church is again rising as loudly as ever. This then is not a bad time to stop and ask what the words "disestablishment" and "disendowment" really mean. And this question involves the earlier one, What is the "establishment" and the "endowment" of which "disestablishment" and "disendowment" are the opposite? The answer to these questions involves an examination of one or two common confusions by which the subject is often clouded over.

First of all, there is a lurking unwillingness in the disputants on both sides, as indeed there is in

most speakers on all subjects, to acknowledge the simple principle that, in every political community, the supreme power of the State, wherever that supreme power may be placed, may do whatever it thinks good. We say this, of course, with the necessary limitations, both physical and moral. A law may be, as we hold, unjust; this means that, if we were members of the assembly in which that law was passed, we should vote against it. Or, at the outside, it means that we should deem it our duty to resist the law in obedience to some supposed higher law. This is all; a man may suffer what he thinks a wrong at the hands of the supreme power; but that wrong is something wholly different from a wrong done by a private person. The difference is not merely that redress may be had in the case of a wrong done by a private person, while it cannot in the case of a wrong or alleged wrong done by the supreme power. For it may happen that a private man may by some act, as for instance by what we think an unjust will, do us what we hold to be a wrong, but for which there is no redress. All acts of the supreme power come under this last head. However much we may disapprove of them and suffer from them, they answer, at the worst, not to the act of the burglar or the forger, but to the act of the father who bequeaths something which he has a right to bequeath, but bequeaths it in a way which some of his children think unjust. Every act of the supreme power is in its own nature lawful. The

form of the supreme power differs in different countries. In England it is King, Lords, and Commons acting together. In England then the act of the supreme power must take the form of an Act of Parliament. An Act of Parliament may be unjust, but it is unjust in the same sense as the unjust will of the father, not in the same sense as the act of the burglar or forger, which is unlawful as well as unjust. An Act of Parliament may be unjust, but it cannot be unlawful. We mean, for instance—to take the extremest case of all—that the most unjust bill of attainder passed by a Tudor Parliament, though it was a crime in every member who voted for it and in the King who gave his assent to it, was a perfect justification for the Sheriff, the executioner, and any one else who acted ministerially in carrying it out. In this sense the State may do anything and deal with anything; and, as it may deal with anything, so it may deal with Churches and with all that belongs to them. Disestablishment and disendowment are therefore acts which may be either just or unjust. If they cannot be shown to be for the common good of the nation, they are unjust acts; but they are acts which, if done by the supreme power, are perfectly lawful. They are acts which it is open to King, Lords, and Commons to do, whenever they think good.

It is necessary to lay down this principle, truism as it may sound, because it is practically set aside by the disputants on both sides, whenever the ques-