

**THE LETTERS APOSTOLIC OF POPE  
PIUS IX. CONSIDERED,  
WITH REFERENCE TO THE LAW OF  
ENGLAND AND THE LAW OF  
EUROPE**

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The letters apostolic of Pope Pius IX. considered, with reference to the law of England and the law of Europe by Travers Twiss

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*Curia*

THE LETTERS APOSTOLIC

OF

POPE PIUS IX.

CONSIDERED,

WITH REFERENCE TO

THE LAW OF ENGLAND

AND

THE LAW OF EUROPE.

BY TRAVERS TWISS, D.C.L.,

OF DOCTORS' COMMONS;

FELLOW OF UNIVERSITY COLLEGE, OXFORD;

AND COMMISSARY-GENERAL OF THE BISHOP OF CANTERBURY.

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" Quod ad me de Litteris Apostolicis ? " ait Rex: " Jura regni mei nolo amittere."  
WILL. DE MALM.

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LONDON:  
LONGMAN, BROWN, GREEN, AND LONGMANS.  
1851.

12160

## P R E F A C E.

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THE title of the present work may have sufficiently prepared the reader for a discussion of a purely legal and political character. But lest the reader's attention should not have been arrested by the title-page, the Author thinks it right to state, that he has endeavoured, as far as the subject would admit, to keep clear of the religious question involved in the principles of the Reformation, as contrasted with those of the Papacy. Conscious that his own convictions on this head are beyond the reach of argument, he has refrained from assailing with argument the convictions of others. Besides, he feels that the subject is out of his province, and should be left to other pens, more competent than his own, to fathom its difficulties. Accordingly the reader must be prepared to find many questions examined exclusively from the point of view which they occupy as historical facts, and not in subordination to any general theory. The Author's object has been rather to supply premises from which others may reason, than to impose his own conclusions upon the judgment of the reader.

It is a singular coincidence, that almost immediately upon the bearer of the Papal Brief landing

on the shores of England, the Bible of Wycliffe should have come forth from the press of the University of Oxford, as it were to confront its ancient adversary. Let the omen be accepted! The Rock of the Scriptures shall still prove the fortress of Protestant England:

*"Signifer, statue signum: hic manebimus optime."*

The object of this treatise is to examine the late proceeding of Pope Pius IX. in its bearings upon the law of England, and the law of Europe. The result of the inquiry seems to show conclusively, that the Brief, in one of its provisions, entails a direct violation of the Statute Law of the land, with reference to the title of the See of St. David's, and that in its general object of erecting Sees for Bishops in Ordinary within the dominions of an independent Sovereign, without the consent of the Crown, it involves a departure from long-established practice, which in such matters constitutes the law. On either ground the Brief is most objectionable.

After discussing the law, the Author has ventured to notice, briefly and very imperfectly, some of the numerous arguments, which have been mooted in various quarters, as to the necessity of assimilating the condition of England in accordance with the provisions of the Papal Brief, to the condition of Ireland, as founded on an immemorial usage, as well as to the propriety of abandoning the outwork thrown up in 1829, as having served its purpose to notify the aggressive advances of the Papal Power.

It is well known that the legislative arrangement of 1829 was a hurried measure, and that the Cabinet



of the Duke of Wellington, almost immediately after the Emancipation Act was passed, retired from office. The ancient frontier was thus somewhat hastily abandoned without any well-defined lines of future defence having been marked out, worthy of the great genius which conceived the defence of the lines of Torres Vedras; a few outworks alone were here and there thrown up, which, as the Duke well observed, could not serve the purposes of real security at all. One of those outworks has now been assailed, and the Papal Power has endeavoured to effect a lodgment in it. The first question is, shall the Papal Power be permitted to retain its position, or shall the gauntlet, which it has thrown down in the face of the law of the land, be taken up?

This question, however, although it involves a principle of great importance, for the law of the land has been violated, may be of comparatively minor consequence in a practical point of view for determining the issue of the contest, upon which the Papacy has avowed itself to be embarked. That contest must be fought, if it is to be fought successfully, in the School-room, not in the House of Commons. The Bible, and not the law of the land, is the weapon with which our forefathers won the victory. The law of the land secured to them, in a manner and for a time, the victory which they had earned, and there may be again danger that, reliance having been placed upon the law of the land under very different circumstances, a false issue should be raised in the House of Commons, and the question be supposed to be set at rest by an Act of the Legislature, adapted to meet the emergency of the moment.

Whatever the wisdom of Parliament may devise, one thing should be kept in mind, that the Emancipation Act has been accidentally left incomplete. There is now a great opportunity for marking out broadly and clearly the boundary, across which the Papal Power shall not be allowed to intrude itself. The true meaning of the movement throughout England is, that there is a general sense of existing insecurity against the inroads of the Papal Power. The instinct of self-defence suggests a cry of alarm. Let it be the future glory of the Statesman, who may have to guide the vessel of the State through the present crisis, to have satisfied that instinct not by a paltry palliative, but by a great and comprehensive measure, which, whilst it confirms the religious liberties of the Roman Catholic subjects of her Majesty, shall place the religious liberties of her Majesty's Protestant subjects in security from alarm, and beyond the reach of future aggression.

A series of documents has been annexed in the Appendix to elucidate the general argument. A copy of the Latin edition of the Brief of Pope Pius IX., from the press of the Propaganda at Rome, will be found amongst them, which edition may be presumed to contain the substance of the Brief, although not authenticated, as an authorised copy is required to be, by the seal of an Ecclesiastical dignitary. The earlier Briefs are extracted either from the Roman edition of the Bullarium, or from the best historical sources. It will be seen that these earlier Briefs were addressed "with personal limitations," and, in that respect, differ altogether from the Brief of Pope Pius IX.

Selections from Reports laid before the House of Commons on the subject of Bishops in the British Colonies have been subjoined, with some legal and historical extracts in illustration of the Royal Placet and the Exequatur of the Crown. A few diplomatic papers, illustrating the relations between the Great European Powers and the Holy See, complete the list.

Doctors' Commons,  
Jan. 16, 1851.