

A partial defence of Henry VIII

In the synthetic debate about so called Henry VIII clauses in the EU Withdrawal Bill all seem agreed that Henry was a tyrant who ruled without reference to Parliament. Ignorance of history is clearly one of the pre requisites for the opposition to implementing the referendum. Whilst Henry during his reign did make decisions using royal prerogative that we would find unacceptable today, what is remarkable about his decision to reduce and then remove the power of Pope over English taxpayers and churchgoers was how he preceded at every step by Act of Parliament. He escalated the conflict when the Pope did not respond to the opening pressures, designed to allow England to stay in the Catholic Church whilst securing some independence for the secular government. It was a failed lengthy negotiation leading to schism.

Wanting Rome to consent to his divorce, he widened the disagreement by bringing in issues over dealing with the crimes of the clergy and having to pay taxes to Rome. Public opinion was ready to submit clerics to the same criminal law as everyone else, and willing to send less tax to the Papal see. To bring this about MPs sympathetic to the King proposed and promoted the 1529 Act to remove legal privileges of the clergy, the 1532 First Act of Annates to reduce the annates tax to the Curia, the 1533 Act in restraint of appeals to cancel the power of the Roman court over English courts, the 1534 Act concerning Peters pence to cancel another Papal tax and finally the 1534 Act of Supremacy to create the King as Head of the Church in England.

Today we are proceeding also by a series of Acts of Parliament for the things that matter and where we wish to change current practice and EU law. The EU Withdrawal Bill or continuity bill, will be followed by primary legislation on customs, trade, fishing and farming, and migration. The secondary legislation will not take the form of royal proclamations by-passing Parliament, but will be Parliamentary regulations subject to debate and vote where Parliament wants that.