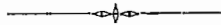


these marvels will always be a stumbling-block, a *σκάνδαλον*, to the natural heart and intellect of man. Marvels, because they are marvellous, are hard to receive. But when the soul—humbly receiving God's testimony concerning our "earthly things," the things of our sin, our ruin, our death—has revealed to it by God's Spirit the "heavenly things" of Christ's redemption, so marvellously adapted to our need, then the marvels of our difficulties are turned into marvels of Divine grace and wisdom and love. And we recognise that it could only have been by marvels, with difficulties and Divine workings very strange to us, the working of thoughts and ways higher than our thoughts and ways, that condemned sinners, the children of God's wrath, could have been made the children of grace, and translated into the kingdom of God's dear Son.

The working of that which is not human at all, but all Divine, is to be seen in providing the salvation, the food which the sinner man, in his great need, could never provide for himself. But the hungering and the feeding, the thirsting and the drinking, is that which pertains and must pertain to each individual soul, in which no other soul can share or co-operate. In this matter every man should prove his own work, that he may have rejoicing in himself alone, and not in another: "For every man shall bear his own burden" (Gal. vi. 5).

N. DIMOCK.



ART. V.—THE REFORM OF CONVOCATION.

(Concluded from page 401.)

REFERENCE was made last month to the efforts of the Lower House of the Southern Convocation to bring about a better representation of the clergy in Convocation, and we saw the difficulties which stand in the way of that reform being effected by the body from which it might most naturally be looked for, namely, Convocation itself. We will now proceed to consider the question of its being carried out by one of the other three authorities who were mentioned as possibly having jurisdiction in the matter, namely, the Archbishop, the Crown, and Parliament.

It has been suggested that the Archbishop of the Province, as President of Convocation, has an inherent power of summoning to it such of the inferior clergy of his Province, either in person or by their proctors, as he may from time to time think proper. He has, no doubt, a certain power and jurisdiction as to the constitution of the Lower House of Convocation. While, on the one

hand, it has been held that the Courts of the land will take cognizance of and determine disputes respecting the rights of individuals to vote at an election of proctors to sit in that House (*Randolph v. Milman*, Law Rep. 2, Com. Pleas, 60; 4 *ib.*, 107), it has been decided, on the other hand, that the Archbishop, as president, has the absolute and uncontrolled right of determining all disputed elections to the House, and that the Courts have no power to overrule or even call in question his ruling in reference to them (*The Queen v. The Archbishop of York*, Law Rep. 20, Queen's Bench Div., 740, cited last month). As a matter of fact, when new dioceses and new archdeaconries have been created, he has summoned to Convocation not only the Bishops and Archdeacons of the newly-formed ecclesiastical divisions, but also proctors for the clergy within the newly-constituted dioceses. This has happened in the Southern Province with respect to the dioceses of Truro, St. Albans, and Southwell, and the archdeaconries of Oakham, Kingston-on-Thames, Southwark, Bodmin, Cirencester, and the Isle of Wight. In so acting, however, the Archbishop has merely interpreted and carried out the existing law and custom of the realm, and his conduct, therefore, cannot be urged as a precedent to warrant him in departing from that law and custom. It is true that the royal writ directing the Archbishop to summon Convocation does not prescribe the mode in which the inferior clergy are to be represented in it; but the understanding come to in 1315, and the uniform practice of succeeding centuries, have established a method of complying with the writ from which it would, to say the least, be perilous in the extreme for the Archbishop to deviate. It may be safely concluded that no Primate would venture, of his own authority, to summon to Convocation an increased number of proctors for the parochial clergy, when the step, if challenged, could scarcely fail to be set aside as illegal. Nor could we wish it to be otherwise; for it would be a serious matter in theory, and one which in practice might conceivably lead to grave mischief, that the composition of Convocation should be liable to alteration from time to time at the arbitrary discretion of a single individual, however exalted his position.

But if the Archbishop cannot reform the constitution of Convocation, has the Crown power to do it by an act of the Royal Prerogative? The affirmative answer to this question has a little, though not much more, to be said for it than could be urged in favour of the view which we have just dismissed as untenable. In tracing back, as we did last month, the present representation of the inferior clergy in Convocation to the *Præmunientes* clause inserted in the Parliamentary writs at the end of the thirteenth century, we admitted that the Sovereign was the author of the precise details in the form and

extent of that representation which have continued down to our own day. But it by no means follows that, because the Crown inaugurated them then, it has, therefore, power to change them now. The Crown in the same century prescribed the original number of knights of the shire and burgesses who were to represent the counties and boroughs in Parliament. But the notion that in the present day the Sovereign could at pleasure alter the composition of the House of Commons is, of course, too absurd to be even suggested; and the fact that the prerogative no longer survives in reference to Parliament furnishes a strong ground for concluding that it is equally gone in reference to Convocation. At any rate, after a non-use of six centuries, they would be bold, not to say rash, Ministers who should advise the Sovereign to exert it now. The Royal Supremacy does not assist in the matter; for that can only be exercised in a constitutional manner, and the whole question is whether such an exercise of it as is under discussion would be constitutional or not. To repeat the remark with which we closed the consideration of the Archbishop's possible jurisdiction, it is surely for the interest of the Church that the Sovereign should not be deemed to have the prerogative power of changing the constitution of Convocation, since its exercise would never be hailed with universal satisfaction, and might at some future time be attended with positive abuses.

All other avenues, therefore, being closed, we are driven, in the last place, to look to Parliament as the body by the authority of which a reform of Convocation can be effected. This is the view expressed by Lord Selborne in the Memorandum which was mentioned last month; and it is this view which the Convocation Committee, in the Report to which reference was also made, have strenuously endeavoured to overthrow.

It is suggested in the memorandum (they say) that the only power competent to reform or extend Convocation is Parliament. To this your committee emphatically demur. If there is no precedent for Convocation passing a canon having reference to its own representation, there is certainly no precedent for Parliament interfering with its structure, and such an interference would be productive, it is believed, of the most lamentable and far-reaching results. . . . Your committee, in conclusion, would declare their unanimous judgment that it would be far wiser for the Lower House of the Convocation of Canterbury to continue as it is than to request or to accept the aid of Parliament, even in order to secure the much-desired increase of the representation therein of the parochial clergy (Fourth Report of the Committee of the Lower House of the Canterbury Convocation on Election of Proctors to Convocation, pp. 25, 26).

Whether the power of reforming Convocation resides elsewhere or not, it cannot, of course, be for a moment questioned that, as a matter of law, Parliament possesses that power; and

though we may be tolerably sure that Parliament will not interfere except by the express desire of Convocation, yet if, under any combination of circumstances, it were to take the oppressive step of exercising the power against the wish of Convocation, it would not be possible for the Lower House to refuse "to accept the aid" of the Legislature, or to repudiate the reform which was thus thrust upon it. On the other hand, the Convocation Committee have not exaggerated the inexpediency of procuring from Parliament an alteration in the constitution of Convocation. We may remember that, according to Lord Coleridge, Convocation is "as old as Parliament, and as independent" (see above, p. 396). It would not only be derogatory to the body itself, and destructive of its independence, but also damaging to the interests of the whole Church, for the structure of Convocation to be remodelled by the civil Legislature. While it is impossible to agree with the opinion of the Committee as to the power of Convocation to reform itself, it is equally impossible to disagree with their view as to the undesirability of that reform being effected by Parliament. It would be decidedly objectionable for Parliament to enact the details of any new representation of the clergy in Convocation; but it would be scarcely less objectionable for Parliament to pass an Act expressly empowering Convocation to settle those details. In either case the reformed body would rest upon a Parliamentary basis. It would be thenceforward no longer possible to speak of Convocation as being equally independent with Parliament itself. Its ancient and venerable *status* would have been sacrificed and lost for ever.

Are we, then, shut up to this dilemma, that the only advisable mode of improving the representation of the clergy in Convocation is impracticable on account of its actual or supposed illegality, while the only practicable method of procuring that improvement is so inadvisable that the idea of resorting to it cannot for a moment be entertained? So, apparently, thought the Convocation Committee in 1885; and so, too, thought the recently-appointed Committee of the House of Laymen, when they presented their report, which was mentioned last month. In that report they expressed it as their opinion that no effectual reform of Convocation could be carried out without the intervention of Parliament, and therefore they did not consider it expedient that further action should be taken at present. But is this view correct? Is there not a middle course open which will relieve us from the spectre of illegality on the one hand and the ogre of expediency on the other? I venture to think that there is. In order that the constitutional difficulties may be removed, while at the same time the independence and dignity of Convocation are maintained unimpaired, I would

suggest that Parliament should be asked to pass, not an Act altering the constitution of Convocation, nor even an Act purporting to confer on Convocation the power of making this alteration, but a declaratory Act affirming the inherent power of Convocation to make, with the Royal assent and license, canons for altering its own constitution.

How, it may be asked, would such an Act differ in substance from an Act empowering Convocation to reform itself? Is not the distinction between the two merely one of form and language? By no means. The substantial difference between a merely declaratory Act and an Act which effects some alteration in the law of the land is clearly recognised in our jurisprudence. Blackstone, in the Introduction to his "Commentaries on the Laws of England" (sect. 3; vol. i., p. 86), mentions certain respects in which Acts of Parliament differ from one another, and then proceeds as follows:

Statutes also are either *declaratory* of the common law or *remedial* of some defects therein. Declaratory where the old custom of the kingdom is almost fallen into disuse, or become disputable, in which case the Parliament has thought proper *in perpetuum rei testimonium*, and for avoiding all doubts and difficulties, to declare what the common law is and ever has been. . . . Remedial statutes are those which are made to supply such defects and abridge such superfluities in the common law as arise either from the general imperfection of all human laws, from change of time and circumstances, from the mistakes and unadvised determinations of unlearned (or even learned) judges, or from any other cause whatsoever.

As might be expected from the nature of things, declaratory Acts are of comparatively rare occurrence in our Statute Book. The greater number have been passed in connection with the marriage law; to remove doubts which have arisen in particular cases as to the validity of marriages, owing to the place or circumstances or form of their solemnization. But there have also been declaratory Acts on important constitutional subjects. In 1766 a statute of this nature was passed, declaring the subordination of the British colonies and plantations in America to the Imperial Crown and Parliament of Great Britain. In 1783, after the establishment of Grattan's Parliament in Ireland, the right of the Irish people to be bound only by laws enacted by that Parliament was established by a declaratory Act. Again, in 1865, an Act was passed for removing doubts respecting the validity of divers laws enacted, or purporting to have been enacted, by certain colonial legislatures, and respecting the powers of those legislatures. This Act contains, among other provisions, a clause to the effect that every colonial legislature shall have and be deemed at all times to have had full power within its jurisdiction to establish courts of judicature and to alter the constitution of those courts; and that every representative colonial legislature shall

have, and be deemed at all times to have had, full power to make laws respecting its own constitution and its powers and procedure in matters relating to the colony under its jurisdiction. These instances furnish appropriate precedents for a declaratory Act on the subject of the power of Convocation over its own constitution. The form of such an Act would be somewhat as follows :

Whereas doubts have arisen as to the power of the Convocations of the Provinces of Canterbury and York to make canons, constitutions, or ordinances with respect to the representation of the clergy in such Convocations : Therefore, for removing all doubts respecting the same, be it declared by the Queen's most excellent Majesty, etc., that the Convocation of each of the said Provinces has power to make canons, constitutions, or ordinances with respect to the representation of the clergy of the Province in such Convocation, so as every such canon, constitution, or ordinance be made with the Royal assent and license.

The passing of such an Act, so far from being the assertion of a claim on the part of Parliament to control the power of Convocation in the matter of self-reform, would be a distinct disclaimer and repudiation by the Legislature of any such right of interference. It would be similar in kind (though more efficacious, because absolute and indisputable) to a judicial decision that no such right had ever existed, and that the power of reforming its own constitution was inherent in Convocation, subject, of course, to the license of the Crown. If Convocation would not be compromised by a judicial declaration on the subject in its favour, it is difficult to see how it could be injured by a similar declaration of the High Court of Parliament, which would at once set the matter finally at rest, without liability to challenge or appeal.

While these pages have been preparing for the press the matter has again received the attention of the House of Laymen of the Province of Canterbury. It was mentioned last month that the Committee which had been appointed to investigate the subject reported to the House in February, and that the House referred the matter back for reconsideration. They presented their further report to the House on May 9, but were unable to arrive at a different conclusion than that which they had previously expressed. They reported that no reform of Convocation could be effected without the intervention of Parliament, either by direct legislation or else by removing the doubts which beset the subject. They did not consider that at the present time Parliament could be asked, with any hope of success, to pass either an enacting or a declaratory statute which should have the effect of enabling Convocation legally to reform itself, and they consequently recommended that no immediate step should be taken in the direction of the desired reform. In this recommendation the House of Laymen acquiesced.

Unless Convocation are prepared, to some extent, to accept the aid of Parliament, and Parliament, on the other hand, may be expected to render that aid in such a manner and form as will not be distasteful to Convocation, it is useless to stir in the matter. We can only wait and hope that unforeseen circumstances may hereafter arise which will open a way for a solution of the present deadlock.

In this position of affairs it seems hardly worth while to enter upon a detailed consideration of the lines on which the reform of Convocation would properly proceed if the obstacles in the way of its being undertaken were removed. A brief indication of them, however, will not be out of place. Three objects have to be kept in view: (1) To redress the balance between the two classes, which for convenience may be called that of the nominative and that of the elective members; (2) to apportion the representation among the dioceses with some regard to size and population; and (3) to secure a representation for the unbeneficed clergy. The first two of these points have already received the attention of the Lower House of the Southern Province. That House has not suggested any reduction in the nominative members. But it is proposed that the number of elective members shall be raised from 48 to 104. This would still leave the others in a majority of eight; and to many persons the scheme will, therefore, seem wholly inadequate. To those, however, who do not regard exact numerical and proportional representation as necessarily in every case an absolute panacea, the proposal will probably commend itself for its moderation. Excess of caution will certainly be an error on the right side; and it must be remembered that if the power to effect a reform be once clearly recognised, and the precedent for it established, it will always be possible afterwards to repeat the process upon bolder and more sweeping lines, if that course appears desirable.

With regard to the second point, the clergy of each diocese in the Southern Province at present return two proctors, irrespective of the size or population of the diocese or the number of clergy within it. The diocese of Bangor, in which there are 141 beneficed clergy, having the charge of less than a quarter of a million of souls, has an equal representation with that of London, in which the number of benefices is 511, and the population nearly three millions. If we take the total number of clergy unbeneficed as well as beneficed, the discrepancy is still more startling; for the number of curates employed in the Welsh diocese is only 80, while in the Metropolitan diocese it is 638. It is evident that no reform will be satisfactory which does not, to a certain extent, remedy this anomaly. In the scheme of reform which has been approved by the Lower House,

a different number of proctors is assigned to the various dioceses. The increased number of 104 proctors would provide one representative for about every 145 of the parochial clergy in the Province, including those who are unbeneficed; and though the admission of the latter to the franchise has not been contemplated, the readjustment of the representation has been framed, roughly speaking, upon the basis of making this provision. Thus, to mention again the two dioceses at the opposite extremities of the list, it is suggested that London should send seven proctors to the reformed Convocation, and Bangor two.

The third point, that of the representation of the unbeneficed clergy, has not as yet been touched by the Lower House of Convocation. While proposing that the number of proctors for each diocese should bear a rough proportion to the total number of clergy, unbeneficed as well as beneficed, in the diocese, it has not been suggested that the unbeneficed clergy should be admitted to a voice in their election. This has been owing, not to any prejudice against the curate class, but to the idea that while the other features of reform could be adopted without the sanction of Parliament, the admission of the unbeneficed clergy to the Convocation franchise clearly could not, as involving too serious a change in the constitution of the body. Not that the *Præmunientes* clause in terms confined the representation of the clergy to those who held benefices. But the licensed curates had not then sprung into existence; so that the incumbents of benefices were, as a matter of fact, the only original electors, and when the race of unbeneficed clergy appeared at a later date, they never obtained a footing in the representation. When, however, Convocation once accepts the fact that all the three points of reform stand in the same position in respect of their constitutional bearing, and that the two first are not one whit more easy of accomplishment than the third, we may conclude that it will adopt as part of the programme of reform the concession of the franchise to the unbeneficed clergy, who form about one-third of the whole number. The question will then arise whether the franchise should be extended to deacons, and whether the unbeneficed clergy, deacons as well as priests, should be admitted to vote for the same proctors as their beneficed brethren, or should be separately represented.

Into these points it is at present clearly premature to enter. The point to which would-be reformers of Convocation have at present to direct their energies is not the shape which the reform shall take, but the removal of the two great obstacles which lie in the way of any reform, namely, the avowed unwillingness of Convocation to seek the aid of Parliament, and the anticipated unwillingness of Parliament to grant the aid if solicited. Unless.

Convocation will abandon its *non possumus* attitude in this respect, we must clearly be content to remain as we are, and accept the attendant disadvantages of the situation. The extent of these was strikingly illustrated in one of the discussions which took place in the London Diocesan Conference at the end of April. A proposal was brought forward of altering the law of the land so as to permit changes in the Rubrics to be effected by the Convocations of the two Provinces, provided the changes, after being published for a twelvemonth, were ratified by the Queen in Council, and laid on the table of both Houses of Parliament for forty days without evoking an adverse address to the Crown from either House. This proposal had been approved by both Houses of the Convocation of the Province of Canterbury, and by the House of Laymen of that Province; but it was strenuously opposed in the Conference, and was rejected by a very large majority. The principal cause of this rejection was, no doubt, as the speeches in the discussion indicated, the consideration that the Convocations as at present constituted were not satisfactorily representative of the Church. One distinguished and influential member of the Conference went so far as to say that to entrust such a power as was proposed to assemblies which could not be regarded as forming an adequate legislative body for the Church would be almost a criminal act.

But it may be asked, What would be the use of Convocation applying to Parliament? Parliament would never entertain a proposal which would open the way for Convocation reforming itself. So it seems to be assumed; but the experiment remains to be made; and till it is made the issue cannot be certainly known. This is not the line of action which has been adopted by enthusiasts on other subjects. They have not waited to approach Parliament till they had a probable chance of carrying their measures. Session after Session they have persistently introduced their proposals, with the absolute certainty of rejection. Undaunted by defeat, they have persisted, and in many cases their pertinacity has been ultimately crowned with success. If there were a little more of this dogged determination in pressing ecclesiastical legislation upon the attention of Parliament, we should have less cause than we have in the present day to lament the continuance of recognised, but unremedied, blemishes in the Church of England.

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