

flight to the Far West. And is it not most fitting that it should have been so? Of all those who in succession have held the Empire of the Sea—

First of the throng, with enterprising brow,  
The keen Phœnician steered his shadowy prow.<sup>1</sup>

The mariners of this coast showed the way to Columbus. The ship that took St. Paul from Sidon contained the hopes of the world. The Christians of America know what they have received from the East; and I suppose we should rightly interpret their beneficial action here, if we were to say that the light they have been rekindling on these shores is partly an expression of their earnest gratitude.<sup>2</sup>

The reality of a conversion of the heart—the diligent exercise of useful philanthropy—the firm maintenance of religious truth in the spirit of conciliation—the possession of an ardent missionary enthusiasm—these are four components of Christian character. And they ought to exist in combination, each helping and strengthening the others. Let us remember that we have been taking a glance at the biography, not of four men, each illustrating a separate point of character, but of one man, in whom they were united—whom, therefore, we must imitate at all points, if we are to be “followers of him even as he also was of Christ.”<sup>3</sup>

J. S. HOWSON.



## ART. II.—THE CLAIMS OF THE CONVOCATIONS OF THE CLERGY AS TO THE PRAYER BOOK.

*(Continued from page 305.)*

**T**HE circumstances attending and following the King's reference to the Convocations, in 1661, will show that no constitutional precedent was then made or intended.

Before the King's Restoration, he made a Declaration from Breda, on the 14th of April, 1660, which was read in both the

<sup>1</sup> Poem on “The Empire of the Sea,” which obtained the Chancellor's Medal at Cambridge, in 1835, by T. Whytehead.

<sup>2</sup> The American College at Beyrout, with its branch-work in the Lebanon, is an institution of the highest importance, providing varied education, and opening out useful careers, to a very large number of students.

<sup>3</sup> 1 Cor. xi. 1.

Houses of the Convention Parliament, and was entered on the journals of both of them, and formed the basis of their determination to restore the King.<sup>1</sup> One of its clauses was this:—

*We do declare a liberty to tender consciences; and that no man shall be disquieted or called in question for differences of opinion in matters of religion which do not disturb the peace of the kingdom; and that we shall be ready to consent to such an Act of Parliament as, upon mature deliberation, shall be offered unto us, for the full granting that indulgence.*

As soon as the King had returned to England, the two Houses of the Convention became a Parliament, with the King at their head; and, upon the continued faith of this Declaration of Breda, and in accordance with its terms, both Houses passed an Act of Indemnity from punishment for political offences (with such exceptions as the King and they agreed to be consistent with it), and also an Act, which, while it restored the dispossessed Episcopalian incumbents of benefices, if they were still living, *confirmed in the possession of their benefices all the existing Presbyterian incumbents, if there were no living Episcopalian claimants.* This was the Statute 12 Car. II., c. 17, "An Act for the Confirming and Restoring of Ministers."

The number of Presbyterian incumbents thus quieted in their possession must have been upwards of two thousand, because as many as that number of such incumbents eventually relinquished their benefices, rather than adopt the terms which the next Parliament imposed upon them; and there must have been at least some, and perhaps many, of such incumbents who *did* adopt those terms. The Royal Assent was given to this Statute of Confirmation on the 13th of September, 1660.<sup>2</sup> There is ample evidence, in many ways, of the truth of what Rapin says of the Convention Parliament,<sup>3</sup> in these words:—

This Parliament is, therefore, to be looked upon as an assembly where the Presbyterians had certainly a superiority of voices, and it was this Parliament that restored the King to the throne of his ancestors, and during their short continuance, gave him very real marks of their zeal for his service, and the re-establishment of peace and tranquillity in the kingdom.

On the 13th of September, 1660 (just mentioned), the Convention Parliament was adjourned to the 6th of November, on which day it re-assembled; and it then continued sitting until

<sup>1</sup> This declaration will be found in full in Professor Swainson's "Parliamentary History of the Act of Uniformity," and in other places mentioned by him, and also in the second vol. (folio) of Rapin's "History of England," pp. 616, 617.

<sup>2</sup> See Rapin's "History of England," vol. ii., folio, p. 621.

<sup>3</sup> Vol. ii. p. 619.

the 29th of December, 1660, on which day the King dissolved it. During this last-mentioned sitting, various Acts of Parliament were passed, and received the Royal Assent; but none of them are material for the present purpose.

The King's reasons for dissolving a Parliament so devoted to his interests have been the subject of much controversy. It is very likely that Rapin<sup>1</sup> is right in attributing the dissolution to the great hatred against the Presbyterians, which Lord Clarendon, the King's Prime Minister and Lord Chancellor, undoubtedly had. It is certain that the King's Ministers took great care to have a majority of members of anti-Presbyterian views returned to the new House of Commons for the next Parliament, which did not meet until the 8th of May, 1661.

It is necessary to consider what was the legal position of the quieted Presbyterian incumbents, after the passing of the Quiet-Act of the 13th of September, 1660.

The effect of the King's Restoration was to treat as invalid all Acts of Parliament which had been made since King Charles I. had given the Royal Assent to the earlier Statutes of the Long Parliament. But one of the Statutes, so assented to, was an Act to abolish Queen Elizabeth's Court of High Commission; and another was an Act to deprive the Bishops of their seats in the House of Lords. The former contained some additional provisions, by which it was considered, by many persons, that the jurisdiction of the Bishops' Courts had been entirely abolished; and that opinion was very prevalent, until it was put an end to by an Act of the Parliament which met in May, 1661 (13 Car. II., c. 12), which declared the authority of the Bishops' Courts to be restored, but upon the terms of not putting in force any Canons, or other Ecclesiastical Law that had not been in force in the year 1639. No Statute, however, which had been passed with the Royal Assent, had repealed Queen Elizabeth's Act of Uniformity, or the orders issued in pursuance of it, or the obligations of the Book of Common Prayer which it had established. The consequence of the Restoration, therefore, was, to restore the force of those things at once, so far as their obligation went; but the means of putting the obligation in force, adversely, were, at present, defective. The Bishops' Courts were the proper means of so doing; but many of the Sees of the Bishops had been vacant at the Restoration, and were now only in the course of being filled; and as to the Courts of all the Bishops, old and new, the difficulty occasioned by the probable repeal of their authority, which has just been mentioned, must have been felt.

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<sup>1</sup> P. 621.

It was well known that the Presbyterian incumbents, who had thus been quieted in their possession by the Convention Parliament, objected to use some parts of the Book of Common Prayer, and that they also very strongly objected to wear the surplice, and to "sign with the sign of the Cross" in baptism. There could be no doubt that, as the Elizabethan law then stood, both the surplice and the sign of the Cross were obligatory. It is not intended, in these observations, to speak of the question, lately adjudicated upon, whether, after the Restoration, any other "ornaments of the minister" than the surplice, were either obligatory or permissible. The only "ministerial ornament" *then* made the subject of objection was the surplice; and, against it, the feeling was so strong, that, before the King returned to England, he was entreated by some Presbyterian ministers not to allow it to be used even in his own chapel; to which his answer was, that he would not be himself deprived of that liberty which he intended to grant to others. This took place shortly after the Declaration from Breda, and was understood to be not inconsistent with it, as regards the surplice, but merely as a confirmation of it, and an assurance that the surplice should not be compulsory anywhere, except in the King's own chapel.<sup>1</sup>

No effectual relaxation of the obligations of the Elizabethan law could be made without the authority of Parliament. This, both the King and the Presbyterians perfectly well knew; but the very least which the Declaration from Breda, followed by the Quieting Act, could have amounted to, must have been, and been known to be, a promise by the King that he would do all that he could to induce Parliament to concur with him in making such relaxations of the Elizabethan law as would enable the Presbyterian incumbents to conform to it.

In accordance with this view, the King issued the Declaration of the 25th of October, 1660, which is mentioned in the preamble to the present Act of Uniformity. That Declaration promised a revision of the Liturgy, and a present indulgence from the obligation to use it, and to comply with the Elizabethan ceremonial requirements; and, in particular, it promised that a minister should not be obliged to sign with the sign of the Cross in baptism, if he permitted another minister to do it, when the parents of the baptized child required it; and, as to the surplice, the King meant it to be used in his own chapel, and in cathedrals, and collegiate churches, and in college chapels, but not elsewhere, unless by choice.<sup>2</sup>

At this time, the Convention Parliament was in existence,

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<sup>1</sup> See 2 Rapin, 617, and Tindal's Note.

<sup>2</sup> See the details given in Swainson, p. 7.

and, apparently, likely to exist; but the King dissolved it on the 29th of December, 1660.<sup>1</sup>

It was in pursuance of the Declaration of the 25th of October, 1660, that the Savoy Commission, of the 25th of March, 1661, was issued. We are expressly told this, in the preamble to the Act of Uniformity.

The Declaration from Breda, the Declaration of the 25th of October, 1660, and the Savoy Commission, all promised "liberty" or "satisfaction" to "*tender consciences*," sometimes called "private consciences;"<sup>2</sup> and the preface to our present revised Book of Common Prayer tells us that the "review" which the Revisers there present to us, has been made, in consequence of the importunities made to his Majesty for such a revision, alterations, and additions "as should be thought requisite for the ease of *tender consciences*."

When the four months limited by the Savoy Commission for its own duration, expired, without the Joint Commissioners having been able to agree upon any report, common honesty, on the King's part, required that another Joint Commission should be issued, which should be composed in such a manner as the experience of the former Commission had shown to be more likely to give relief to the "*tender consciences*," to whom the King was so much indebted for his Restoration; but when the four months of this first attempt came to an end, effectual means had been found of "keeping the promise to the ear, while breaking it to the hope;" and the new Parliament of the Presbyterians' enemies had met.

If the Savoy Commissioners had reported to the King some amendments to the Book of Common Prayer as being desirable, and the King had approved them, there is no reason to suppose that he would not have recommended them to Parliament, either with or without some qualification or exception; and there is no reason to suppose that the King would not have approved them, provided that they did not affect the services in his own chapel, and in non-parochial places of worship, as mentioned in his Declaration of the 25th of October, 1660. *If he had made a recommendation to Parliament, grounded, wholly or in part, on the advice of the Savoy Commission, there is no reason whatever for supposing that any reference to the two Convocations, or to either of them, would have been made.*

On the 25th of June, 1661, while the Savoy Commission was still in force, and had still a whole calendar month more to run, the House of Commons resolved, that a Committee should be appointed of all the members of the House who were "of the

<sup>1</sup> 2 Rapin, 621.

<sup>2</sup> See Swainson, pp. 4, 7, 8.

long robe," that is, of all its barristers and serjeants-at-law, to "bring in a compendious Bill, to supply any defect in the former laws, and to provide for an effectual conformity to the Liturgy of the Church for the time to come," and the preparation of the Bill was especially recommended to the care of Mr. Serjeant Keeling.<sup>1</sup>

The same Resolution of the House of Commons (June 25, 1661), directed the same Committee to "make search whether the *original book of the Liturgy* annexed to the Act passed in the fifth and sixth years of the reign of King Edward VI. be yet extant." This was the Act of 1552, establishing Edward VI.'s Second Prayer Book; and the reason for thus referring to that Act, obviously, was, that the Act of Queen Elizabeth, 1 Eliz. c. 2, which was now in force, did not annex any book to itself, but merely provided that the services should be conducted

in such order and form as is mentioned in the said Book, so authorized by Parliament in the said fifth and sixth years of the reign of King Edward VI., with one alteration or addition of certain Lessons to be used on every Sunday in the year, and the form of the Litany altered and corrected, and two sentences only added in the delivery of the Sacrament to the communicants, and none other, or otherwise.

Professor Swainson seems to consider it clear that "the book annexed to the Act of Edward, of the year 1552, could not be found, and that that of James was used," and was shortly afterwards annexed, by the Commons, to a Bill of Uniformity prepared in pursuance of the Resolution of June 25; and then he says that "the Prayer Book annexed, was a book printed in the year 1604; measures having been taken for the 'taking out and obliterating' of certain prayers 'inserted before the reading Psalms'" (p. 11). This Book of 1604 must have been that edition of the Prayer Book of Elizabeth which the 80th Canon of 1603-4 orders the Churchwardens of every parish to get, and which it describes as "the Book of Common Prayer, lately explained in some few points by His Majesty's authority, according to the laws and His Highness's prerogative in that behalf;" but neither laws nor prerogative gave the King any authority to explain the Prayer Book, or to cause it to be explained; and neither this edition nor any other Book of Common Prayer put forth in King James's name was ever sanctioned by Parliament; and, therefore, the Act of Uniformity of 1662, in its final shape, very properly treats the Book of Elizabeth as being the only Prayer Book then in force, and as being the Book which was to continue in force, until the revised Book annexed to the Act should have come into operation on the Feast of Saint Bartholomew then next ensuing.

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<sup>1</sup> "Commons' Journals," as quoted by Swainson, p. 11.

The Book of 1604 seems to have contained some additional prayers, besides the explanations mentioned in the 80th Canon; but it would answer the present purpose of the House of Commons as well as the old editions of the Book of Elizabeth, provided it did not contain anything which the House thought objectionable, *as to which (as we have seen) they exercised their own judgment*, by "taking out and obliterating" certain prayers.

The Bill of the Commons was carried up by them to the Lords, on the 10th of July, 1661, with the title of "An Act for the Uniformity of Public Prayers and Administration of the Sacraments."

It has been clearly ascertained [*see* Professor Swainson, p. 12] that the Bill thus carried up by the Commons was, in fact, that part of our present Act of Uniformity which requires that the Book annexed to it should be the only form of Divine Service in all places of public worship in England; that every *present* incumbent should declare his assent to the use of it before a certain day (which was then intended to be Michaelmas Day next); and that every *future* incumbent should declare his assent to the use of it within a certain time after his possession of his benefice; and that the consequence of default in either of these obligations should be deprivation.

This would be quite enough to dispossess present objecting incumbents, and to disqualify future objectors; but the special form of giving assent to the use of the Book, which is set forth in the present 4th Section, was not prescribed. The substance of the severe enactments against lecturers, in s. 19 and 21, seem, however, to have been in the Bill of the Commons.<sup>1</sup>

*The bold initiative thus taken by the Commons influenced everything else that was afterwards done*, either by the Lords or by themselves, either by the King or by his Ministers, either by the nominal Revisers or by the actual Revisers, either by the Convocations or by the Bishops, down to the passing, and, at last, the enforcement, of our present Act of Uniformity of 1662.

The Commons very probably knew, when they prepared their Bill, that the Savoy Commission was likely to fail, for want of agreement amongst its members in the short time allowed for their agreement; but they also knew that the Commission might be renewed as often as the King pleased, and that changes of the component members of the Commission might easily be made, if difficulties of temper, or other causes, had shown the desirableness of them; and that one failure of one Commission, limited to the short duration of four months, could not honestly be considered a performance of a Royal promise,

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<sup>1</sup> See Swainson, p. 12.

upon the faith of which such great constitutional events had been allowed to take place. They determined, however, to prevent the promise being any further performed, and, with that view, to force on a Bill of Uniformity of their own, and, if possible, to procure the assent to it, both of the House of Lords and of the King. We know these to have been the principles by which they were actuated, because *they expressly declared them* in a Conference with the Lords, on May 5, 1662, which will be hereafter stated. The construction which they then put, in that Conference, upon the King's Declaration from Breda, is so extremely like the false construction of it which Lord Clarendon has given in his "Own Life," namely, that the promise was only that the King would assent to an indulgence to tender consciences, *if* Parliament should advise him to do so, that it is highly probable that the Commons' Bill of June, 1661, really originated with Lord Clarendon, who was then the King's Prime Minister, as well as being Lord Chancellor. We know, also, from the same Conference, that this House of Commons ridiculed the notion that the consciences of the Presbyterians or Puritans could justly be called "tender," or anything else but "schismatical," and insisted that there were, in fact, no such consciences as the King had supposed, when he used the word "tender," as applied to them; and that, if he had supposed that there were such, he was mistaken.

The House of Commons evidently considered that, being in possession, however acquired, of a certain share of the supreme legislative power, they might consider themselves as not being bound by anything done before their own election in the spring of 1661. They therefore determined to put an end to all notions of such a revision of the Prayer Book as might make it capable of being adopted by the Presbyterian incumbents, whom the Convention Parliament had quieted in their possession; and, for that purpose, they sent up to the Lords a Bill of their own, which, in substance (as we have seen) required all those incumbents to adopt the *unrevised* book, immediately, upon pain of deprivation.

Ten days had sufficed to pass this Bill through all its stages in the Commons, from the 29th of June, when it was brought in, to the 9th of July, when it was read a third time and passed.<sup>1</sup> On the 10th of July, the Commons carried their Bill to the Lords.<sup>2</sup> The Lords sat twenty days more, before the summer adjournment of the 30th, and so also did the Commons; and if the Lords had been as expeditious as the Commons, in this matter, there would have been time to pass this Bill during

<sup>1</sup> See Swainson, p. 11.

<sup>2</sup> *Ibid.*



those twenty days; but the Bishops had not yet resumed their seats there, and a Bill for restoring them was then in progress, and did not receive the Royal Assent till the 30th of July; and therefore they could not become, practically, members of the House of Lords, until the resumption of business, which was not intended to be, and was not, until the 20th of November; and it cannot be for a moment doubted, that Lord Clarendon, Lord Chancellor and Prime Minister, the bitter enemy of the Presbyterians,<sup>1</sup> saw that a better opportunity for passing a Bill which should extinguish Presbyterianism in the Established Church would be afforded *after* the adjournment, than before; because, *after* the adjournment, the Bishops would be present in the House of Lords, and would form a large and influential part of it; and, also, because there would be an opportunity of obtaining such a revision of the Book of Common Prayer, in the interval, as would, at the very least, not remove those parts of it to which the Presbyterians objected, and might even make it more distasteful to them than at present. Even if no material alteration in principle should be introduced into the Book, it would be easy to make so many verbal alterations, particularly in the services not of daily use, as would make it practically impossible (as eventually proved to be the case) for many men of scrupulous minds to satisfy themselves as to the justice of the variations; and the same observations would apply to the introduction of additional forms of prayer, for special occasions, or particular purposes, which the experience of a hundred years since the last Act of Uniformity had shown to be desirable.

Whether Clarendon had then in view any further revision than that upon which the Bishops worked (as he tells us in his "Own Life") during the sixteen weeks of the adjournment, and which, as we shall see, they had probably begun already, or whether he intended that a still further multiplication of alterations should be afforded by a reference to the Convocations, cannot now be ascertained; but it is beyond all possible doubt that the Bishops' revision was by his wish and concurrence. We may see this in his description of it in his "Own Life," independently of the certainty that such proceedings could not be carried on without his concurrence, who was both Lord Chancellor and Prime Minister. The King, also, must have known of the failure of the Savoy Commission, and must have known that *something* else in its stead had become necessary; and as he did *nothing* else, he must have availed himself of the excuse of the Bishops' revision.

Lord Clarendon also probably wished to impose further burdens upon the Presbyterian incumbents, in the shape of Re-

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<sup>1</sup> See 2 Rapin, *passim*.

Ordination and the "Threefold Declaration," both of which we find in the Act of Uniformity. These burdens the Lords inserted in the Bill; and the Commons not only adopted them, but extended the Threefold Declaration to other classes of persons besides Church incumbents.

It will be presently seen, that the subsequent proceedings of the Commons showed that they were indifferent as to the precise contents of *the Book*, whether altered or not, when their Bill of Uniformity came back to them with its amendments; and that all that they cared about, with respect to the contents of the Book, was, that those contents still remained such as the Presbyterian incumbents would not adopt.

Meanwhile, we return to the 30th of July, 1661.

All attempt at joint revision having now been abandoned by the King and his advisers, an exclusively Episcopalian revision was made, for recommendation, first to the King, and afterwards to Parliament. The manner in which that exclusive revision was set on foot, and prosecuted, will be presently stated. It is a most significant circumstance, that that exclusive revision is authoritatively set forth in the preface to our present Prayer Book, as being made in consequence of "great importunities," to the King, for such a revision as "*should be thought requisite for the ease of tender consciences;*" *the exact expression used in the Declaration from Breda, and in the Declaration of the 25th October, 1660.*<sup>1</sup>

In like manner, the Act of Uniformity, in substituting the revised Book of 1662 for the Book of Elizabeth, recites the Declaration of the 25th of October, 1660, and says that it was "according to" it, that the Commission now called the Savoy Commission was issued; and then, in the same sentence, it tells us of the "authority and requisition" given to the Convocations to present recommendations to the King, for his further allowance or confirmation; thus, apparently, founding the Declaration of October, the Savoy Commission, and the authority and requisition to the Convocations upon the same Royal wish to give ease to tender consciences.

The King's personal wish to do this cannot be doubted, in the presence of the indications he repeatedly gave of his uneasiness under the conviction that he was *not* doing it. The reason of his not doing it, and the mode in which he was prevented from doing it, while doing it was still in his power, will be perfectly plain to any one who reads the history of this crisis in Lord Clarendon's account of his "Own Life."

*It nowhere appears that the Episcopalian laity required any revision of the Prayer Book to be made.* But if a new revision

<sup>1</sup> See those Declarations in Swainson, pp. 4, 7, and 8.

must still be made, and if the Convocations were the only proper revisers whose revision could be constitutionally submitted for Parliamentary adoption, and if a mistake in that respect had been made by inviting the Savoy Commissioners to make such a revision, *now was the time*—namely, at the adjournment of Parliament, on the 30th July, 1661, for sixteen weeks certain, to set the preliminaries right, by immediately referring the revision to the Convocations. They had been sitting during more than the last two months of the Savoy Conference, and they were sitting still, ineffectually trying to make or mend Canons, and more effectually resolving to give the King a “Benevolence;” which last object they accomplished two days after the 25th of July, the day on which the Savoy Commission expired. The impending failure of that Commission must have been known to Lord Clarendon, Prime Minister and Lord Chancellor, and intimate friend of some of the Bishops upon it, for a good while before it happened; and a Royal licence or direction, or even a Commission (if preferable), to the Convocations, to proceed with the work of revision, might well have been issued before the adjournment of Parliament, and, consequently of the Convocations, on the 30th of July, 1661.

That which was done, in fact, during the sixteen weeks of this vacation, from the 30th of July to the 20th of November, we are told by Lord Clarendon,<sup>1</sup> in these words:—

*The bishops had spent the vacation in making such alterations in the Book of Common Prayer as they thought would make it more grateful to the dissenting brethren—for so the schismatical party called themselves—and such additions as, in their judgment, the temper of the present time and the past miscarriages required.*

Then he proceeds, at once, to give a justification for presenting the revision to “Convocation,” *which we must presently examine*, and a description of what the consequences of this presentation were. His words are these:—

It [i.e., the Book, with the alterations and additions which he had just mentioned] was necessarily to be presented to the Convocation, which is the national synod of the Church; *and that did not sit during the recess of the Parliament, and so came not together till the end of November*, when the consideration of it took up much time; all men offering such alterations and additions as were suitable to their own fancies, and the observations which they had made in the time of confusion. *The bishops were not all of one mind.* Some of them, who had had the greatest experience, and were, in truth, wise men, thought it best to restore and confirm the old Book of Common Prayer, without any alterations and additions.

We know, from the result, that those Bishops whom Lord

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<sup>1</sup> “Own Life,” vol. ii. p. 118. Oxford ed., 1827.

Clarendon here describes as having the greatest experience, and being, in fact, wise men, were over-ruled, in their wishes, by the others; but his reason for stating this difference of opinion amongst them probably was, to account for the delay in presenting the revised book to the King, and in the King's recommending it to the House of Lords. The Commons were impatient at this delay, and complained of it several times to the Lords, and indirectly to the King.<sup>1</sup>

It is important to observe, that Lord Clarendon, when speaking of "Convocation," attributes everything to the bishops, just as when, before, he had spoken of the bishops spending the vacation in making alterations and additions. The Lower House of Convocation, whether of Canterbury or of York, is treated as of no practical account. It is probable that there were some Presbyterian Proctors in the Lower House; but they are not likely to have been many, as representatives of the parochial clergy, because the system of election would, in some instances, have enabled the bishops (as at present) to decide which of several elected candidates should sit; and the bishops were pretty sure to decide for Episcopalians, in preference to Presbyterians. It is said that, in fact, Bishop Sheldon, of London, rejected Baxter and Calamy, who had been returned with two others for that Diocese.<sup>2</sup>

It was an after-thought of Clarendon's to say, in writing his account of these times, that the revision was "necessarily" to be presented to "Convocation;" and also an inaccuracy to state that "Convocation" is the "national synod of the church." There is no constitutional authority for thus speaking of "Convocation" in the singular, as one single body for the whole of England, even if "the Church" is to be spoken of in its inaccurate popular sense, of the Clergy of the Church, instead of its accurate sense, of the Church itself. There are two Convocations, one for each province, and they have no constitutional unity; and it will be presently seen that they were separately, and not jointly, consulted by the King on this occasion.

That the "necessity" of this "presentation" was an after-thought of Lord Clarendon's, is conclusively proved against him, by his having put the Great Seal to the Savoy Commission, whose powers of recommending alterations and additions to the King, were substantially as extensive as those in which the King

<sup>1</sup> By messages to the Lords of the 16th Dec. 1661, and the 28th Jan. 1662, and further signs of dissatisfaction, which the king personally answered by summoning the Commons to him on the 1st March, 1662. See Swainson, 17, 18, 20, and 2 Rapin, 628.

<sup>2</sup> See Neal's "History of the Puritans," vol. iv. p. 350. Ed. of 1796. See also Mountfield's "Church and Puritans," p. 76, third ed., 1881, and authorities there cited.

afterwards consulted the two Convocations;<sup>1</sup> and if the Savoy Commission had made recommendations to the King, and he had approved them, it must be supposed that those recommendations would have been adopted and forwarded by the King to Parliament, without reference to the Convocations, or to any other advisers, except his own Ministers.

If the "necessity," which Lord Clarendon suggests, had existed, it must have been created either by the Common Law or by the Statute Law; *but the English Liturgy is wholly a creature of the Statute Law, in derogation of the Common Law*, which, if it had been still in existence as to the system of public worship, would have prescribed the Roman Catholic Ritual, as it existed at the time which legal principle fixes for everything of Common Law existence, namely, in the year 1189, the period of "legal memory," to which everything regulated by the Common Law must relate. *That part of the Statute Law which regulated public worship from 1559 to 1662 (except during the Interregnum), was simply and entirely Queen Elizabeth's Act of Uniformity, and the Book to which that Act referred;* and it has been already shown that to that Act, and that Book, neither the Convocation of Canterbury nor the Convocation of York can possibly have assented at the time of the passing of the Act and the adoption of the Book, because every one of the then Bishops, constituting the whole of the Upper House of Convocation of both the Provinces, most strenuously objected to them. The nation alone, therefore, through its Parliament, and in opposition to "Convocation," had prescribed the national system of public worship, and the forms for conducting it, and for conducting all other offices of religion requiring the intervention of the clergy, even including the manner in which the clergy of all ranks, bishops, priests, and deacons, should be consecrated or ordained.

It is quite possible that the Bishops, or some of the other members of the two Convocations, may have *wished* to establish a precedent, for what Lord Clarendon represents as being "necessarily" done, in "presenting" the revised book to "the Convocation;" and that they may have therefore expressed the notion of this necessity to Lord Clarendon, and that, in so doing, they may have called "Convocation" "the national synod of the Church;" but no wishes of this kind, and no descriptions of "Convocation," could create the necessity thus suggested, if it did not really exist. It has been already shown that it could *not* possibly exist.

*We can hardly fail to see that the consultation of the two Convocations was merely an expedient for delay, in order to obtain*

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<sup>1</sup> We know this from the preamble to the present Act of Uniformity, and from the exact words of the Savoy Commission in 2 Rapin, 624.

*further time for that revision which Lord Clarendon has told us that the Bishops were engaged upon, and which it was soon seen that they could not finish in time for the reassembling of Parliament on the 20th of November; shortly after which, the Commons would be sure to urge the Lords to proceed with the Bill of Uniformity which had been sent up to them on the 10th of July.*

As regards the King, the Act of Uniformity shows, on the face of it, that he did not consider the Convocations the exclusive bodies to be consulted; because it recites his consultation of the other set of advisers there referred to, and now called the Savoy Conference, and also because it shows that the very form in which he consulted the Convocations reserved to himself the absolute power of approval and allowance of their advice.

As regards both Houses of Parliament, it is clear that *their* primary object, in passing the Act of 1662, was to dispossess the Presbyterian Incumbents, and, for that purpose, to enforce the principle of absolute uniformity of divine service in every place of public worship throughout the realm, and that the revision of the existing Book for regulating that uniformity was *merely an incident in the progress of the new Act of Uniformity* through the two Houses of Parliament; and that no revision at all had been intended by the House of Commons, up to the time at which it sent the new Bill of Uniformity to the Lords, except that they struck out two prayers, of no parliamentary authority, from an already existing book, to which they made their Bill relate; and that the eventual adoption of a revised book was due only to the King's recommendation to the House of Lords.

At first, the King's reference was made to the Convocation of Canterbury only. The form of it was a letter or warrant from the King to the Archbishop of Canterbury, Dr. Juxon;<sup>1</sup> and it authorizes and requires the Archbishop and other Bishops and Clergy of the Province of Canterbury to "review, or cause review to be had and taken, both of the Book of Common Prayer and of the Book of the form and manner of making and consecrating of Bishops, Priests, and Deacons;" which were, in fact, at that time, only one book; and then the requisition proceeds thus: "And after mature consideration, that you make such additions or alterations in the said Books respectively, as you shall deem meet and convenient: which our pleasure is that you exhibit and present unto us, in writing, *for our further consideration,*

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<sup>1</sup> It is set out at length by Professor Swainson (p. 15) from "The Domestic Entry Books," vol. vi. p. 7; "Ecclesiastical Business," in the State Paper Office.

*allowance, or confirmation.* And for so doing, this shall be your warrant."

The most important words of this reference are those which, at its conclusion, state its object, namely, "our further consideration, allowance, or confirmation;" which words are repeated in the recital of this reference in the present Act of Uniformity, except the word "consideration;" but the word "consideration" is an additional and material proof of the merely deliberative character of the reference itself, meant only to assist the King in forming his own opinion.

The date of this reference to the Canterbury Convocation is the 10th of October, 1661; but we know, from what Lord Clarendon has told us,<sup>1</sup> that "Convocation did not sit during the recess of the Parliament, and so came not together 'till the end of November." The King's letter or warrant to the Archbishop of Canterbury must, therefore, lie, useless, in his possession, from the 10th of October till the 20th of November (at least); except that the existence of it, when made known to the Bishops who were then engaged in the revision, would assure them that they would have plenty of time to complete it; and this time they accordingly had, as we know, from the records of what passed in the Upper House of the Canterbury Convocation, when it met, on the 21st of November, and when it gave authority to various Bishops, as a committee, to proceed with the revision upon which they had been at work during the sixteen weeks of vacation, and which they had not yet finished.

But the Convocation of Canterbury did not, of itself, constitute "the Convocation," of which Lord Clarendon speaks; and accordingly, we find that the "Domestic Entry Books," immediately after copying the King's letter or warrant (already stated) to the Archbishop of Canterbury, of the 10th of October 1661, contain an entry in these terms: "The like letter directed to the Archbishop of York, dated the 22nd day of November, *mutatis mutandis.*"<sup>2</sup>

Thus, each Convocation was separately authorized and required to present such additions or alterations, as, to it, should seem meet and convenient, for the further consideration, allowance, or confirmation of the King. *But what if the additions or alterations, thus presented by one Convocation, should be inconsistent with the additions or alterations presented by the other Convocation?* It is, obviously, quite possible that this might be the case; and the mere existence of this possibility is conclusive proof that the reference which the King made to the two Convocations was merely an inquiry for his own information, and not an authority to exercise a power of revision, which, being given in equally full terms to

<sup>1</sup> *Ubi supra.*

<sup>2</sup> See Swainson, 16.

each Convocation, separately and distinctly, would be absurd, on the face of it; to say nothing of the absurdity of one Province having an absolute power of regulating the public worship of the other Province.

No authority was even purported to be given, to the Convocations of the two Provinces, to blend themselves into one Convocation, for the purpose of revision, or of advice.

That the consultation of the two Convocations was, in this case, a mere pretext, is abundantly proved, by the records of the Upper House of Canterbury, which are stated by Professor Swainson (p. 13 *et seq.*), and of which a separate and independent statement is made by Lord Selborne, in his "Notes" upon Mr. James Parker's "Introduction," and also by a letter from the Bishops of the Province of York to the Lower House of Convocation of that Province, which is also stated by Lord Selborne, and by the proceedings upon it. The records of the *Lower House of Canterbury* were burnt in the Fire of London in 1666.<sup>1</sup>

From the particulars thus given by Professor Swainson and Lord Selborne, it is evident, that the business of the revision was continued after the re-assembling of the Convocations in November, not primarily or really by either Convocation itself, but by the Bishops, who had been doing it during the Vacation (as Lord Clarendon says), and by some more Bishops now added as a committee, and that their labours were adopted by the Upper House of Canterbury, as a matter of course, and by the Lower House almost in the same perfunctory manner; and that, as regards the Province of York, its bishops sat with the Canterbury Bishops, when they pleased; and that one of the York Bishops, Bishop Cosin of Durham, was allowed to be a reviser from the first, or very nearly from the first, and afterwards to act, as one of a few, for all the Bishops of England; and that, as regards the *Lower House of York*, they were persuaded by the Bishops of that Province (including Cosin) to appoint certain members of the Lower House of *Canterbury* to act in their stead. Thus, it is evident, that there was no real revision by the Convocation of York at all, except so far as it may be considered that Bishop Cosin of Durham was their representative. He had been the Domestic Chaplain of Charles II., during exile, and must have been well acquainted with the King's wishes, if he had any.

What Lord Selborne says is this:—

When we turn to the official records of the Acts of the Convocation, we find that the whole Liturgy, properly so called,<sup>2</sup> passed through

<sup>1</sup> See Swainson, 13.

<sup>2</sup> Note, by Lord Selborne: "Excluding the Prefaces and Calendar, the Psalms, the Ordination Services, the General Thanksgiving, and the Prayers for Use at Sea, which were afterwards added."



the Upper House, in five days, and was sent down by them to the Lower House, part on the 23rd and the rest on the 27th of November. To enable this to be done, a committee of eight Bishops was appointed *on the 21st of November, the first day of their meeting*, not merely (as Mr. Parker seems to think) to prepare matter for the subsequent consideration of the whole body, but really to continue every day's work, at Bishop Wren's house, after five o'clock in the afternoon, the Convocation sitting only from 8 to 10 A.M. and from 2 to 4 P.M. on each day, and itself making progress, in the same work, during those hours. The Committee consisted of six of the twelve Bishops who had been Savoy Commissioners—Cosin, Wren, Morley, Henschman, Warner, and Sanderson—and two, Skinner and Nicholson, who were not.<sup>1</sup> There is no trace of their having even made any reports or report,<sup>2</sup> and the terms of their appointment show that they were entrusted with powers making this unnecessary; for the Upper House "*commisit vices suas eisdem, aut eorum tribus ad minus, ad procedendum in dicto negotio; et ordinavit eos ad conveniendum apud palatium reverendi patris domini Episcopi Eliensis [Wren], horâ quintâ post meridiem cujuslibet diei (exceptis diebus dominicis), donec dictum negotium perficiatur.*"<sup>3</sup> Nor can such a delegation of powers (amounting, really to a continuation of the sittings of the Upper House by some of its most trusted members after business hours) seem extraordinary, to those who know what was, at nearly the same time, done, to obtain the concurrence of the Convocation of York. On the 23rd of November, the Archbishop of York and the Bishops of Durham [Cosin], Carlisle, and Chester addressed a letter to their own Lower House, saying that all possible expedition was necessary; that they were themselves sitting in consultation with the Bishops of the Province of Canterbury;<sup>4</sup> and that the ordinary course of proceeding would be too dilatory; and, upon those grounds, asking the clergy of their Province, on behalf of their whole Lower House, to appoint the Prolocutor of Canterbury, the Deans of Westminster and St. Paul's, and some others of the clergy of Canterbury, their proxies—"to give your consent to such things as shall be concluded here, in relation to the premisses"—which the Lower House of York accordingly did; adding only one other name to the Prolocutor of Canterbury and the two Metropolitan Deans.<sup>5</sup> *In this way, and in this only, the Convocation of York was a party to the Revision of 1661.*<sup>6</sup>

<sup>1</sup> Query, whether Wren, then very old, was on the Savoy Commission? But the other five were.

<sup>2</sup> Note, by Lord Selborne: "The House would, of course, be informed, every morning, of the progress made at the last evening's sitting of the Committee; and any points reserved, or otherwise arising for consideration, would be then discussed."

<sup>3</sup> *Introductio*, p. 88. Gibson "*Syn. Angl.*" Cardwell's ed., Oxford, 1854, p. 214.

<sup>4</sup> Note, by Lord Selborne: "The Northern Bishops first sat with the Southern on the 21st of June, 1661."—See "*Syn. Angl.*," p. 210.

<sup>5</sup> Kennet's "*Register*," pp. 564, 5.

<sup>6</sup> Lord Selborne's "*Notes*" on Mr. James Parker's "*Introduction*."

What can more clearly show, than an examination of these facts and dates does, the illusory nature of the references to the two Convocations ?

First, we have the date of the 21st of June [1661], as that at which "the Northern Bishops first sat with the Southern," which is also the date given by Professor Swainson (p. 14), from the Canterbury Records, as that upon which the Archbishop of York (Frewen) and the Bishops of Durham and Chester (Cosin and Walton) "joined the Convocation" of Canterbury; and Professor Swainson tells us that, on the same day, the preparation of a series of Visitation Articles was entrusted to six Canterbury Bishops, "with the assistance of the Bishops of Durham, Carlisle and Chester."<sup>1</sup> This does not seem to be properly Convocation business. It seems, rather, to be merely Episcopal business. But it is probable that the Canterbury Bishops were already engaged, and that, after the York junction, the Bishops of *both* Provinces were engaged in preparing additions or alterations *in the Prayer Book, independently of the still existing Savoy Commission*, which was not to expire till the 25th of July; for which they had not yet received any authority from the King, beyond that given by the Savoy Commission itself; for we learn from Professor Swainson's Extracts from the Records of the Upper House of Canterbury,<sup>2</sup> that on *May 18*, "the Bishops of Salisbury, Peterborough and St. Asaph, with six of the Lower House, nominated by the Prolocutor, were deputed to draw up a *Service for the baptism of adults*;" and that on *May 31st* "the service was submitted and approved." He interjects the observation, that "it is difficult to reconcile this with the position of the Liturgical question at the time." What his precise difficulty is, he does not explain; but probably he meant to intimate the difficulty, which unquestionably exists, of justifying this proceeding of the Upper House of Canterbury with the fact that nine of its members were at that time professing to make a joint revision of the Prayer Book with the Presbyterians, with "such alterations and additions" as they and the Presbyterians should "think fit to offer;"<sup>3</sup> and yet the Service for Adult Baptism, which must have been intended by the Bishops to be added, and was in fact added (as we see), was being prepared separately and independently from the body of Commissioners whom the King had requested to make all necessary additions, *and which body comprised two of the very preparers of this new Service*, the Bishop of Salisbury (Henchman) and the Bishop of Peterborough (Laney).<sup>4</sup>

<sup>1</sup> P. 14.

<sup>2</sup> See p. 14.

<sup>3</sup> See the words of the Preamble to the Act of Uniformity.

<sup>4</sup> See the Lists in Neal's "History of the Puritans," vol. iv. p. 337, ed. of 1796.

It is to be borne in mind that all the Northern Bishops were members of the Savoy Commission. Their joint sittings with the Canterbury Bishops, thus beginning long before the King's reference of the Prayer Book to either of the Convocations, could not be for the general business of the Convocation of Canterbury; for it would be both irregular and illegal for the Bishops of one Convocation to sit as part of the Upper House of the other Convocation; because, whether greater or less in number, their votes might turn the scale upon a division; which might have the effect of making the canons of a body of which they were not members. Whatever the Northern Bishops did, in conjunction with the Southern, must, therefore, have been as part of an assembly of Bishops of all England, and not as part of the Convocation of a Province.

R. D. CRAIG.

(*To be continued.*)

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### ART. III.—CHURCH COURTS.

*Church Courts.* An Historical Inquiry into the Status of the Ecclesiastical Courts. Second Edition. Revised, with Appendix. By LEWIS T. DIBDIN, M.A., of Lincoln's Inn, Barrister-at-Law. Hatchards. 1882.

**I**N this well-written pamphlet Mr. Dibdin has discussed the status of our ecclesiastical courts, and the objections taken to them by the Ritualists, in a candid and conciliatory spirit, and with a considerable amount of research. The present edition has been materially improved and added to, and contains a new appendix, in which various disputed points are discussed, and a good many little known authorities are brought together.

The principal point Mr. Dibdin endeavours to establish is that there is nothing Erastian in ecclesiastical courts deriving their authority solely from Parliament, nor is this any violation of that Reformation settlement to which the leaders of the Ritualists have appealed, and which both the Bishops and the Government have made the starting-point for the Ecclesiastical Courts Commission. For this purpose Mr. Dibdin insists on the distinction between matters of faith and matters of discipline, between the doctrine and ritual of the Church and the machinery by which this doctrine and ritual are maintained unaltered; and contends that the true constitutional theory and that which has been in substance adhered to ever since the separation from Rome, is that, while no change in doctrine,